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Date: April 24, 2013

To: Planning Commission

From: Cary Teague, Community Development Director

Re: Zoning Ordinance Amendment Consideration – Residential Redevelopment (Issues Identified)

Based on the discussion at the April 10, 2013 Planning Commission meeting, attached is a draft of an ordinance amendment that would regulate the issues discussed on April 10th.

A summary of the Ordinance is as follows:

- Regulations for drainage, retaining walls and site access. The Ordinance makes the drainage regulations clear; prohibits redirection of water to adjacent properties; requires a building permit and a three foot setback for retaining walls taller than four feet; and requires a three foot pedestrian access from a front yard to a rear yard.
- Building Coverage. Building Coverage has been revised to be uniform throughout the City. Building coverage shall be 25%. Building coverage for lots in an Edina Heritage Landmark District that are less than 9,000 square feet in size may remain with a 30% building coverage.
- Building Coverage requirements. Building Coverage requirements have been moved to one place within the Ordinance.
- Side Yard Setbacks. (See examples on pages A1b–A1e.) Requirements have been revised as follows:
 - Lots 49 feet wide or less = 5 feet on each side
 - Lots 50-59 feet wide = 12 feet total, with no less than 5 feet on one side.
 - Lots 60-74 feet wide = Increase the required setback 4 inches for each foot the lot exceeds 60 feet, with no less than 6 feet on one side.
 - Lots 75 feet wide and above = No change; 10 feet on each side.

Revisions increase the side yard setback requirement by two feet for all lots 5-74 feet in width. The second story setback increase based on height has been eliminated.



- **Building Height.** Maximum height to the ridge line for lots less than 75 feet in width has been reduced from 35 to 30 feet. Lots over 75 feet in width remain 35-40 feet. (See attached examples on page A1 and A1a for what the height regulation might look like.)
- **Egress windows wells** now require a 5-foot setback.
- **Nonconforming Front yard setback.** For a lot with an existing dwelling unit with a nonconforming front street setback, the existing nonconforming front street setback may be maintained for an addition or a tear down and rebuild of a new home, as long as the new construction is not closer to the front lot line than the existing nonconforming structure and shall not be closer than 30 feet to the front lot line.
- **Front Facing Garage.** A front facing garage on lots less than 75 feet in width. Garage doors that face a public street shall be no more than nine (9) feet in height and twenty-four (24) feet in width and shall not exceed 50% of the width of the principal structure. (See attached examples on pages A2–A6d.)

Attached are examples of this regulation from Lacy Washington, Plainfield Indiana, Portland Oregon, Minneapolis and St. Paul. (See pages A2–A6.)

- **Sidewall Articulation for a Principal Structure.** The following language is suggested: A side wall of any building shall not extend in an unbroken plane for more than twenty-five (25) feet along a side lot line without a projection or recession of at least four (4) feet in depth and ten (10) feet in length.

This regulation was taken from a proposal in the City of Wayzata. The City considered this as a code amendment, but it was NOT adopted.

Attached are other examples of “articulation” requirements from the City of Alamo Heights, and Los Angeles. (See pages A7–A12.)

- **Accessory Buildings and Structures Used for Dwelling Purposes.** This provision is stricken, as the City Code does not allow accessory building to be used for dwelling purposes in the R-1 District.
- **Tree Ordinance.** As requested by the Planning Commission, attached is the draft Ordinance from Energy and Environment Commission (See pages A13–A23) and the City of Minnetonka Ordinance. (See pages A24–A38.)

ORDINANCE NO. 2013-__

AN ORDINANCE AMENDMENT REGARDING THE R-1, SINGLE-DWELLING UNIT DISTRICT REQUIREMENTS FOR BUILDING COVERAGE, SETBACK AND HEIGHT

The City Council Of Edina Ordains:

Section 1. Subsection 850.07. Subd. 7. is hereby amended as follows:

Subd. 7. Drainage, Retaining Walls & Site Access.

1. **Drainage.** Existing drainage patterns shall not be altered to redirect water to adjacent properties. No person shall obstruct or divert the natural flow of runoff so as to harm the public health, safety or general welfare. Surface water runoff shall be properly channeled into storm sewers, watercourses, ponding areas or other public facilities. All provisions for drainage, including storm sewers, sheet drainage and swales, shall be reviewed and approved by the city engineer prior to construction or installation.
2. **Retaining Walls.** Retaining walls must be shown on a grading plan as part of a building permit application. Plans must demonstrate materials to be used for the retaining wall construction. Retaining walls taller than four (4) feet require a building permit, and must meet a three (3) foot setback.
3. **Site Access.** Retaining walls shall not be constructed to prevent pedestrian access from front yards into rear yards. A clear pedestrian access of at least three (3) feet in width is required on one side of a single or double dwelling unit.

Section 2. Subsection 850.11. Subd. 6. is hereby amended as follows:

Subd. 6 Requirements for Building Coverage, Setbacks and Height.

A. Building Coverage.

1. ~~Lots 9,000 Square Feet or Greater in Area.~~ Building coverage shall be not more than 25 percent for all buildings and structures. On lots with an existing conditional use, if the combined total area occupied by all accessory buildings and

Existing text – XXXX
Stricken text – ~~XXXX~~
Added text – XXXX

structures, excluding attached garages, is 1,000 square feet or greater, a conditional use permit is required.

2. Lots Less Than 9,000 Square Feet in Area **within an Edina Heritage Landmark District**. Building coverage shall be not more than 30 percent for all buildings and structures, provided, however, that the area occupied by all buildings and structures shall not exceed 2,250 square feet.

~~2.~~ 3. The combined total area occupied by all accessory buildings and structures, excluding attached garages, shall not exceed 1,000 square feet for lots used for single dwelling unit buildings.

3. **Building Coverage shall include all principal or accessory buildings, including, but not limited to:**

a. **Decks and patios. The first 150 square feet of an unenclosed deck or patio shall not be included when computing building coverage.**

b. **Gazebos**

c. **Balconies.**

d. **Breezeways.**

e. **Porches.**

f. **Accessory recreational facilities constructed above grade, such as paddle tennis courts.**

The following structures and improvements shall be excluded when computing building coverage:

a. **Driveways and sidewalks, but not patios.**

b. **Parking lots and parking ramps.**

c. **Accessory recreational facilities not enclosed by solid walls and not covered by a roof, including outdoor swimming pools, tennis courts and shuffleboard courts; but facilities which are constructed above grade, such as paddle tennis**

courts, shall be included when computing building coverage.

d. Unenclosed and uncovered steps and stoops less than 50 square feet.

e. Overhanging eaves and roof projections not supported by posts or pillars.

B. Minimum Setbacks (subject to the requirements of paragraph A. of Subd. 7 of this Subsection 850.11).

	Front Street	Side Street	Interior Yard	Side Yard	Rear Yard
1. Single dwelling unit buildings on Lots 75 feet or more in width.	30 ^{**}	15'	10'		25'
2. Single dwelling unit buildings on lots more than 60 feet in width, but less than 75 feet in width.	30 ^{**}	15'	The required interior yard setback of 5 feet—12 feet total shall increase by 1/3 foot (4 inches) on each side for each foot that the lot width exceeds 60 feet. With no less than 6' on one side		25'
3. Single dwelling unit buildings on lots between 50 and 60 feet or less in width.	30 ^{**}	15'	5'—12' total, with no less than 5' on one side.		25'
4. Single dwelling unit buildings on lots less than 50 feet in width.	30 ^{**}	15'	5'		25'

Existing text – XXXX
Stricken text – ~~XXXX~~
Added text – XXXX

4. Buildings and structures accessory to single dwelling unit buildings:

a. detached garages, tool sheds, greenhouses and garden houses entirely within the rear yard, including the eaves.	--	15'	3'	3'
b. attached garages, tool sheds, greenhouses and garden houses.	30'	15'	5'	25'
c. detached garages, tool sheds, greenhouses and garden houses not entirely within the rear yard.	--	15'	5'	5'
d. unenclosed decks and patios.	30'	15'	5'	5'
e. swimming pools, including appurtenant equipment and required decking.	30'	15'	10'	10'
f. tennis courts, basketball courts, sports courts, hockey and skating rinks, and other similar recreational accessory uses including appurtenant fencing and lighting.	30'	15'	5'	5'

Existing text – XXXX
 Stricken text – ~~XXXX~~
 Added text – XXXX

g. all other accessory buildings and structures.	30'	15'	5'	5'
h. egress window wells.	30'	15'	5'	5'

C. Height

- | | |
|---|--|
| 1. Single dwelling units buildings and structures accessory thereto. | 2 ½ stories, or 30 feet whichever is less for maximum height see #4 below. |
| 2. Buildings and structures accessory to single dwelling unit buildings, but not attached thereto. | 1 ½ stories or 18 feet whichever is less |
| 3. All other buildings and structures | 3 stories or 40 feet whichever is less |
| 4. The maximum height to the highest point on a roof of a single or double dwelling unit shall be 35 30 feet. For lots that exceed 75 feet in width, the maximum height to the ridge line shall be 35 feet, and the maximum height may be increased by one inch for each foot that the lot exceeds 75 feet in width. In no event shall the maximum height exceed 40 feet. | |

Section 4. Subsection 850.11. Subd. 7.A. is hereby amended as follows:

Subd. 7 Special Requirements. In addition to the general requirements described in Subsection 850.07, the following special requirements shall apply.

A. Special Setback Requirements for Single Dwelling Unit Lots.

1. Established Front Street Setback. When more than 25 percent of the lots on one side of a street between street intersections, on one side of a street that ends in a cul-de-sac, or on one side of a dead end street, are occupied by dwelling units, the front street setback for any lot shall be determined as follows:

Existing text – XXXX
 Stricken text – XXXX
 Added text – XXXX

- a. If there is an existing dwelling unit on an abutting lot on only one side of the lot, the front street setback requirement shall be the same as the front street setback of the dwelling unit on the abutting lot.
- b. If there are existing dwelling units on abutting lots on both sides of the lot, the front street setback shall be the average of the front street setbacks of the dwelling units on the two abutting lots.
- c. In all other cases, the front street setback shall be the average front street setback of all dwelling units on the same side of that street.
- d. For a lot with an existing dwelling unit with a nonconforming front street setback, the existing nonconforming front street setback may be maintained for an addition or a tear down and rebuild of a new home, as long as the new construction is not closer to the front lot line than the existing nonconforming structure and shall not be closer than 30 feet to the front lot line.

2. Side Street Setback. The required side street setback shall be increased to that required for a front street setback where there is an adjoining interior lot facing on the same street. The required side street setback for a garage shall be increased to 20 feet if the garage opening faces the side street.

~~3. Interior Side Yard Setback. The required interior side yard setback shall be increased by 6 inches for each foot the building height exceeds 15 feet. For purposes of this subparagraph, building height shall be the height of that side of the building adjoining the side lot line and shall be measured from the average proposed elevation of the ground along and on the side of the building adjoining the side lot line to the top of the cornice of a flat roof, to the deck line of a Mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch-type roof, to the average distance of the highest gable on a pitched roof, or to the top of a cornice of a hip roof.~~

3.4 Rear Yard Setback - Interior Lots. If the rear lot line is less than 30

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 Added text – XXXX

feet in length or if the lot forms a point at the rear and there is no rear lot line, then for setback purposes the rear lot line shall be deemed to be a straight line segment within the lot not less than 30 feet in length, perpendicular to a line drawn from the midpoint of the front lot line to the junction of the interior lot lines, and at the maximum distance from the front lot line.

4. Rear Yard Setback - Corner Lots Required to Maintain Two Front Street Setbacks. The owner of a corner lot required to maintain two front street setbacks may designate any interior lot line measuring 30 feet or more in length as the rear lot line for setback purposes. In the alternative, the owner of a corner lot required to maintain two front street setbacks may deem the rear lot line to be a straight line segment within the lot not less than 30 feet in length, perpendicular to a line drawn from the junction of the street frontages to the junction of the interior lot lines, the line segment being the maximum distance from the junction of the street frontages.

5. Through Lots. For a through lot, the required setback for all buildings and structures from the street upon which the single dwelling unit building does not front shall be not less than 25 feet.

~~6. Accessory Buildings and Structures Used for Dwelling Purposes. Subject to the requirements of paragraph B. of Subd. 7 of this Subsection 850.11, if any accessory building or structure (including, without limitation, garages), or if any addition to or expansion of (including, without limitation, an additional story on) an accessory building or structure (including, without limitation, garages), is used or intended for use, in whole or in part, for residential occupancy, then such accessory building or structure or such addition or expansion, shall comply with all of the minimum setback requirements for a single dwelling unit building.~~

B. One Dwelling Unit Per Single Dwelling Unit Lot. No more than one dwelling unit shall be erected, placed or used on any lot unless the lot is subdivided into two or more lots pursuant to Section 810 of this Code.

~~C. Decks and Patios. Notwithstanding the provisions of Subsection 850.07, the first 150 square feet of an unenclosed deck or patio shall not be included when computing building coverage.~~

- C. Basements. All single dwelling unit buildings shall be constructed with a basement having a gross floor area equal to at least 50 percent of the gross floor area of the story next above. The floor area of accessory uses shall not be included for purposes of this paragraph.
- D. Minimum Building Width. No more than 30 percent of the length, in the aggregate, of a single dwelling unit building shall measure less than 18 feet in width as measured from the exterior of the exterior walls.
- E. Parking Ramps Prohibited. No parking ramp shall be constructed in the R 1 District.
- F. Temporary retail sales of evergreen products from Conditional Use properties
 - 1. The Manager may grant a permit for temporary retail sales of evergreen products, if:
 - a. the owner of the property or other non-profit group approved by the owner conducts the sale.
 - b. the duration of the sale does not exceed 45 consecutive days and does not start before November 15 in any year.
 - c. the sale area is located in a suitable off-street location that does not interfere with traffic circulation on the site or obstruct parking spaces needed by the principal use on the site.
 - d. the sale area is not located within 200 feet of a property zoned and used for residential occupancy.
 - e. the hours of operation do not extend beyond 10:00 p.m.
 - f. signage is limited to one sign per street frontage with an aggregate sign area not exceeding 100 square feet.
- G. Additions to or replacement of, single dwelling unit buildings and buildings containing two dwelling units. For additions, alterations and changes to, or rebuilds of existing single dwelling unit buildings and buildings containing two dwellings, the first floor elevation may not be more than one foot above the existing first floor elevation. If a split level dwelling is torn down and a new home is built, the new first floor or entry level elevation may not be more than one foot above the front entry elevation of the home that was torn down. Subject to Section

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 Added text – XXXX

850.11 Subd. 2. I. the first floor elevation may be increased more than one (1) foot. The provisions of this paragraph shall apply to all single dwelling unit buildings and buildings containing two dwelling units including units in the flood plain overlay district. Any deviation from the requirements of this paragraph shall require a variance.

H. Front Facing Garage on lots less than 75 feet in width. Garage doors that face a public street shall be no more than nine (9) feet in height and twenty-four (24) feet in width and shall not exceed 50% of the width of the principal structure.

Attached are examples of this regulation from Lacy Washington, Portland Oregon, Plainfield Indiana, Minneapolis and St. Paul.

I. Sidewall Articulation for a Principal Structure. A side wall of any building shall not extend in an unbroken plane for more than twenty-five (25) feet along a side lot line without a projection or recession of at least four (4) feet in depth and ten (10) feet in length.

The above regulation (I) is from the City of Wayzata. They considered this as a code amendment, but the City Council did NOT adopt it.

Attached are other examples of "articulation" requirements from the City of Alamo Heights, and Los Angeles.

Section 4. This ordinance is effective immediately upon its passage and publication.

First Reading:

Second Reading:

Published:

ATTEST:

Debra A. Mangen, City Clerk

James B. Hovland, Mayor

Existing text – XXXX

Stricken text – XXXX

Added text – XXXX

Debra A. Mangen, City Clerk

James B. Hovland, Mayor

Please publish in the Edina Sun Current on:
Send two affidavits of publication.
Bill to Edina City Clerk

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Ordinance was duly adopted by the Edina City Council at its Regular Meeting of _____, 2013, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this _____ day of _____, 2013.

City Clerk

Existing text – XXXX
Stricken text – ~~XXXX~~
Added text – XXXX

Debra A. Mangen, City Clerk

James B. Hovland, Mayor

Please publish in the Edina Sun Current on:
Send two affidavits of publication.
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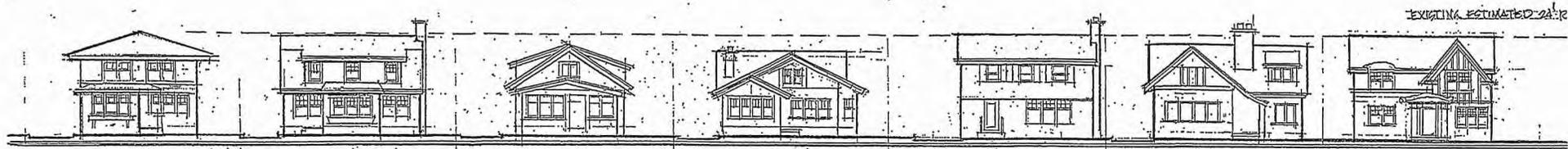
CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Ordinance was duly adopted by the Edina City Council at its Regular Meeting of _____, 2013, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this _____ day of _____, 2013.

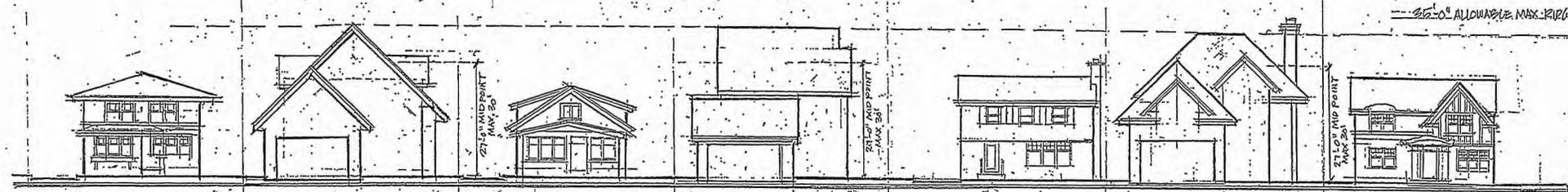
City Clerk

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EXISTING ESTIMATED 24:1

EXISTING STREET SCAPE 1"=20'-0"
WITH TYPICAL 50'-0" WIDE LOTS



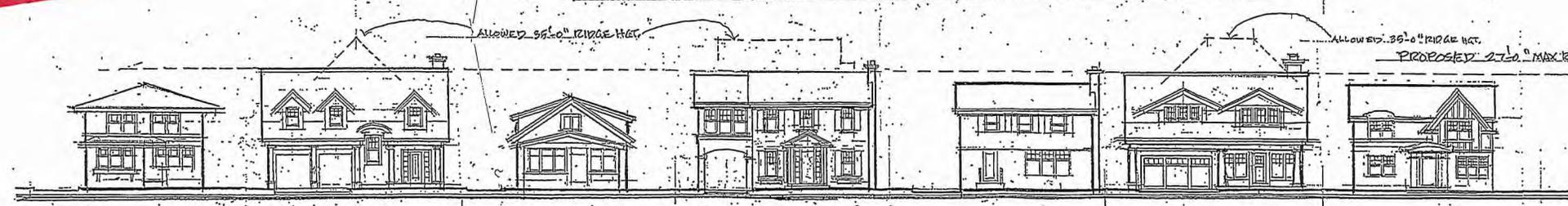
35'-0" ALLOWABLE MAX. RIDGE

ALLOWABLE NEW HOUSE

ALLOWABLE NEW HOME

ALLOWABLE NEW HOME

ALLOWABLE STREET SCAPE WITH CURRENT ZONING RESTRICTIONS 1"=20'-0"



ALLOWED 30'-0" RIDGE HGT.

ALLOWED 35'-0" RIDGE HGT.

PROPOSED 27'-0" MAX. R

PROPOSED NEW HOME

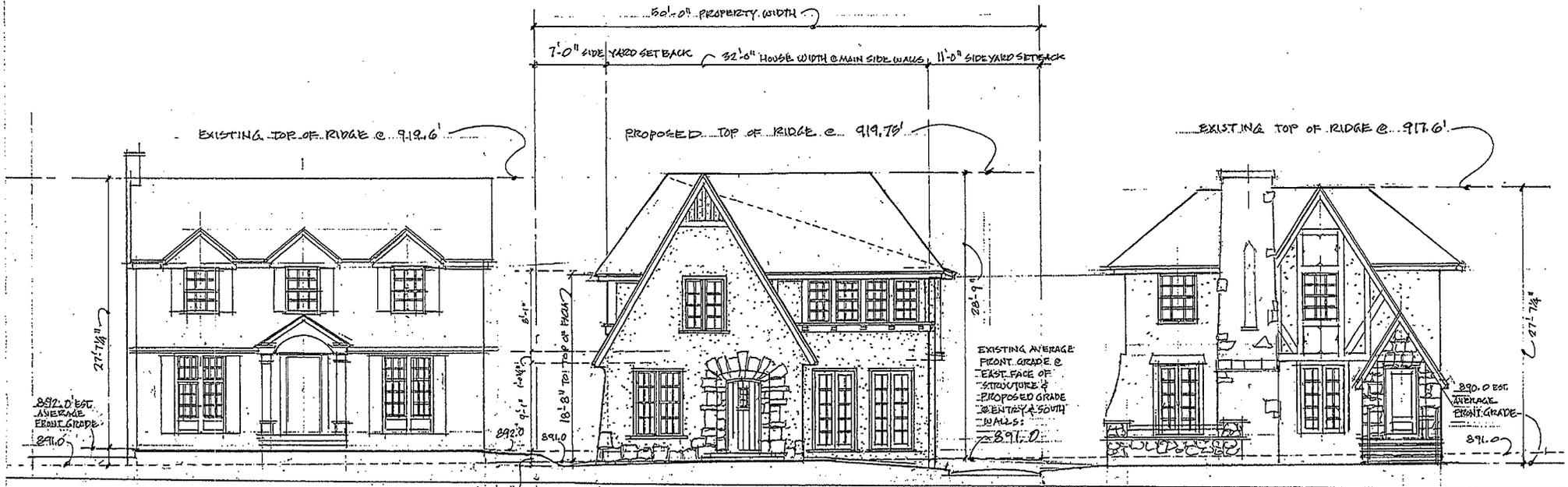
PROPOSED NEW HOME

PROPOSED NEW HOME

EDINA STREET SCAPE/ZONING COMPARISON
GREAT NEIGHBORHOOD HOMES / NPHD 3.9.13

PROPOSED STREET SCAPE WITH 30'-0" MAX. RIDGE HEIGHT & NO. SIDEYARD HEIGHT RESTRICTIONS 1"=20'-0"

EXAMPLE OF STREETSCAPE WITH 30' RIDGE HT.



4626 EXISTING HOME 4624 PROPOSED NEW HOME 4622 EXISTING HOME

4626 TO 4622 BRUCE AVENUE SOUTH STREET ELEVATION

1/8" = 1'-0"

4624 BRUCE AVE SOUTH, EDINA

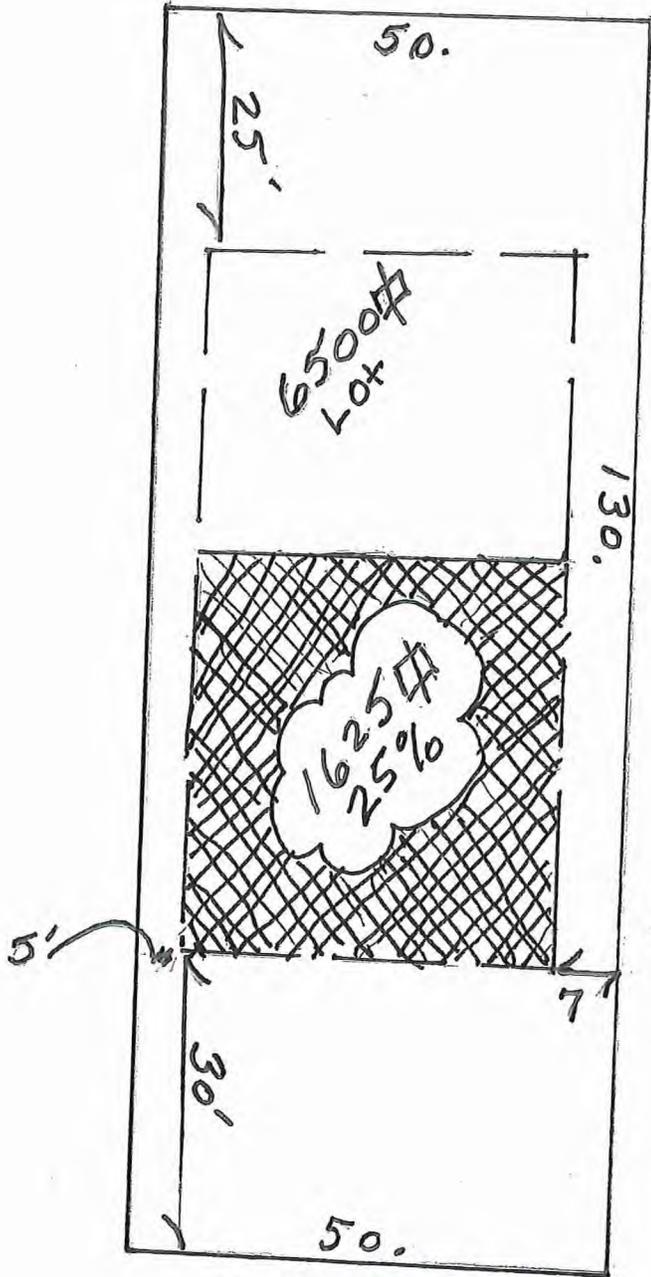
DONNAY HOMES

6-31-12

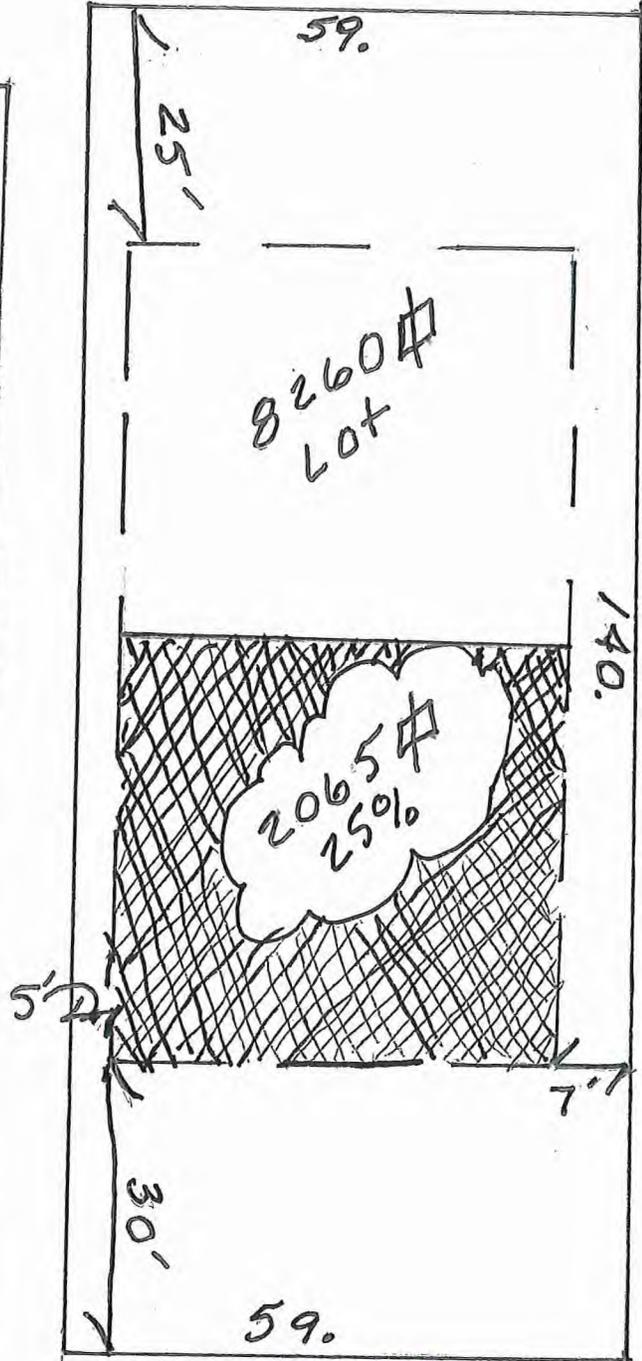


A-1

PROPOSED CODE EXAMPLES



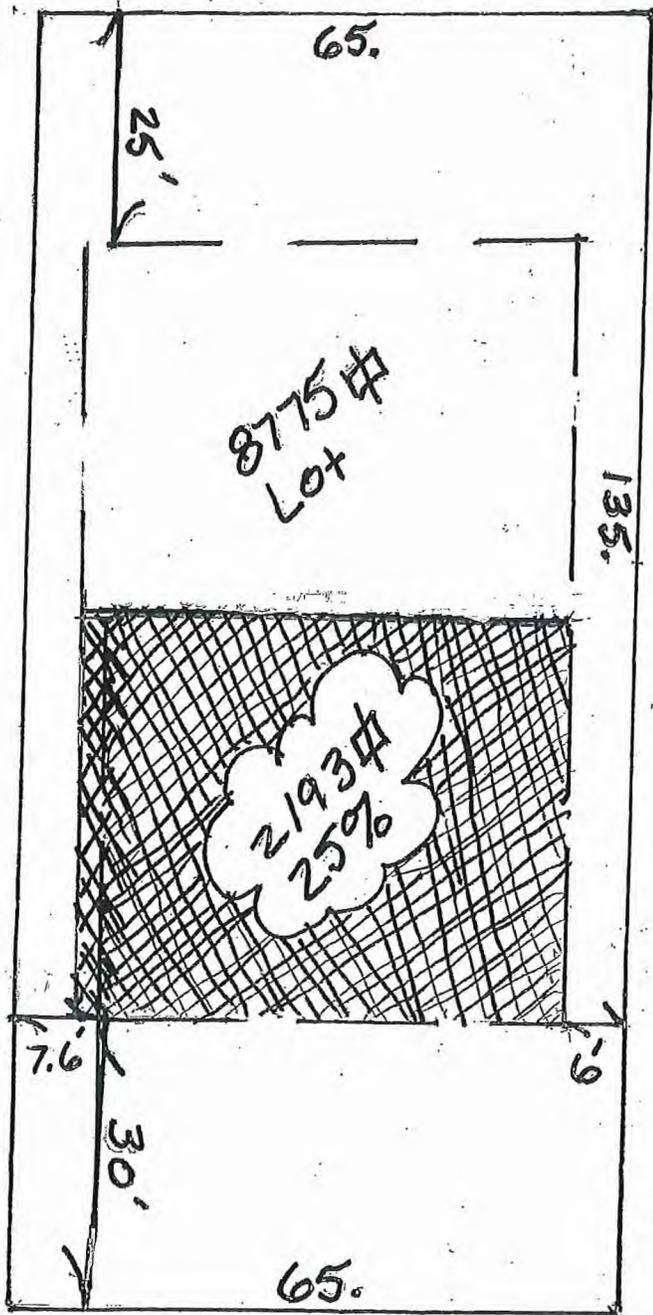
Lot: 50. x 130
 AREA: 6500 sq ft
 25% = 1625 sq ft



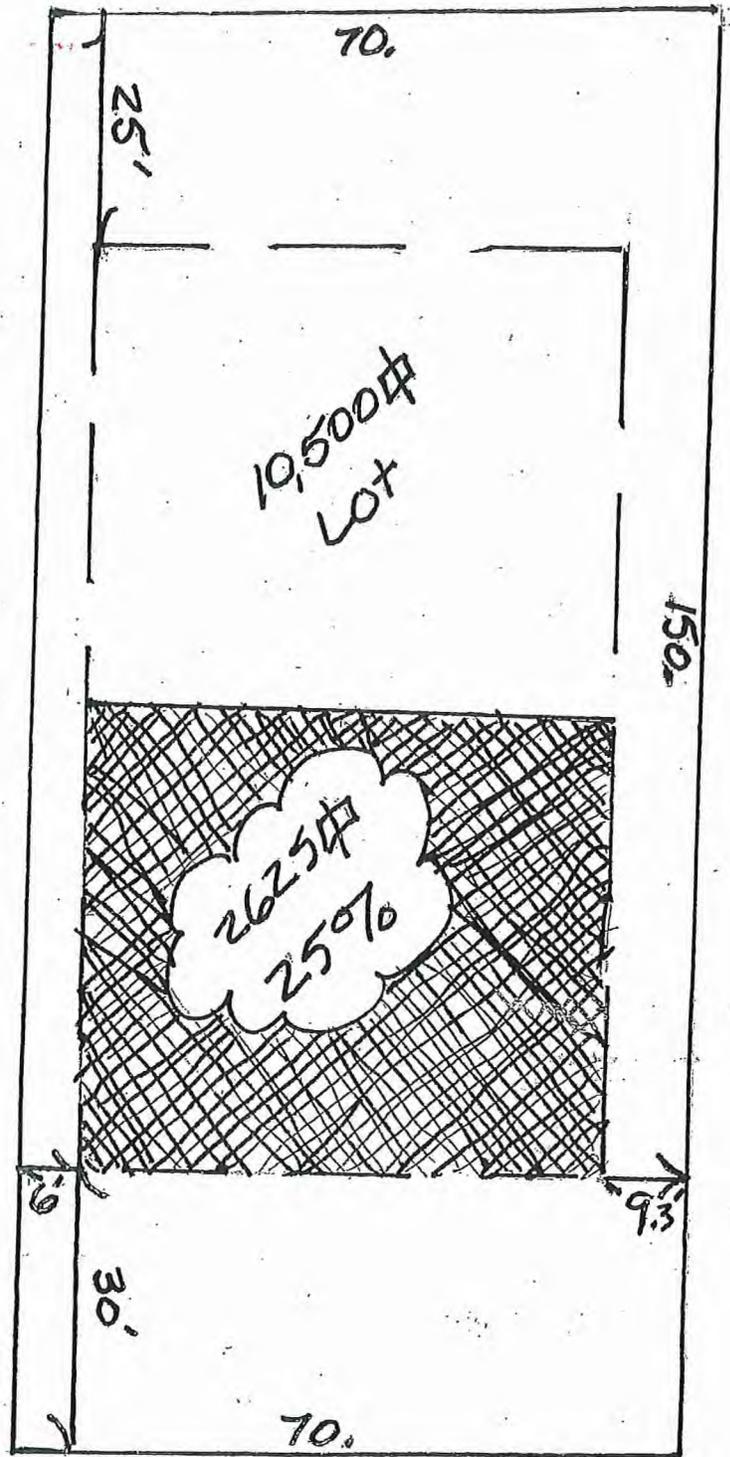
Lot: 59. x 140.
 AREA: 8260
 25%: 2065 sq ft

A 16

PROPOSED CODE EXAMPLES



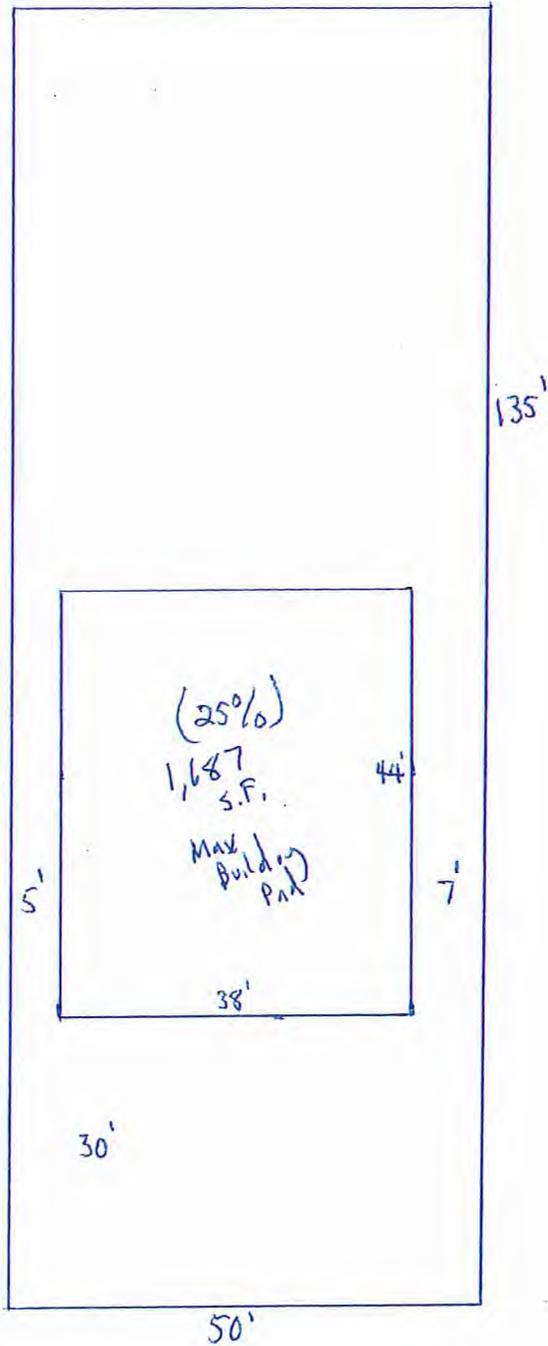
Lot: 65. X 135
AREA: 8775 sq ft
25% = 2193 sq ft



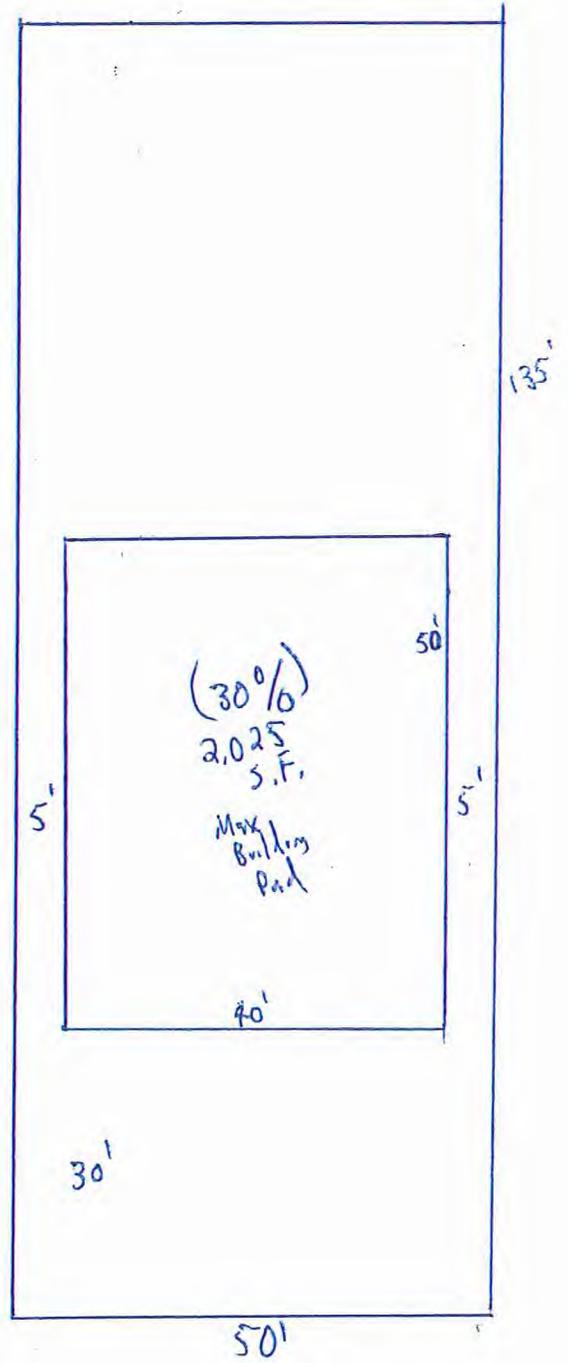
Lot: 70. X 150.
AREA: 10,500 sq ft
25% = 2625 sq ft

A/C

PROPOSED CODE



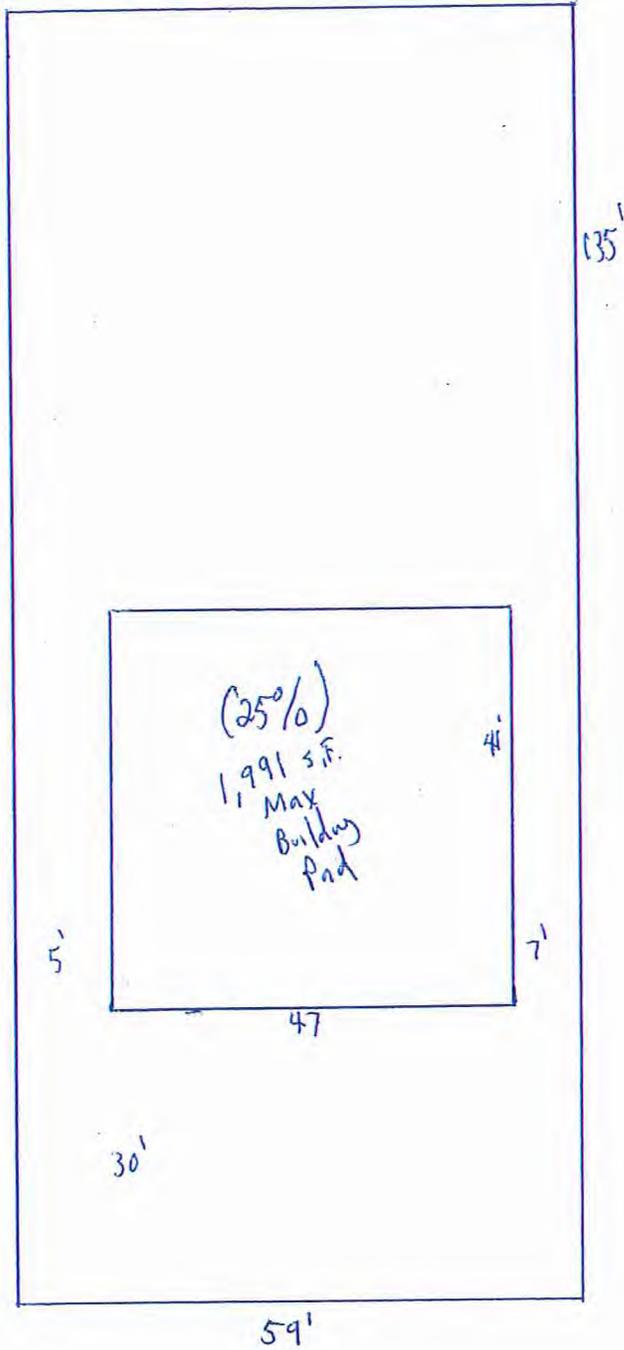
EXISTING CODE



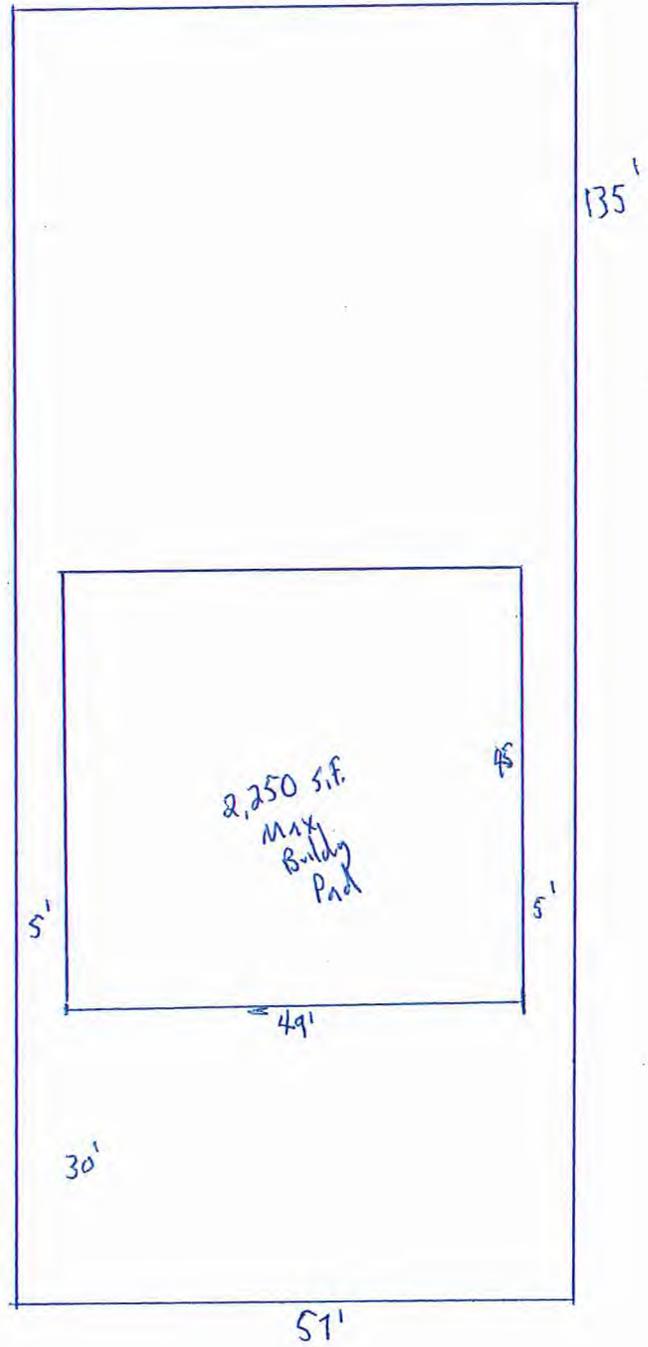
50-FOOT LOTS (6,750 s.f.)

A 1d

PROPOSED CODE



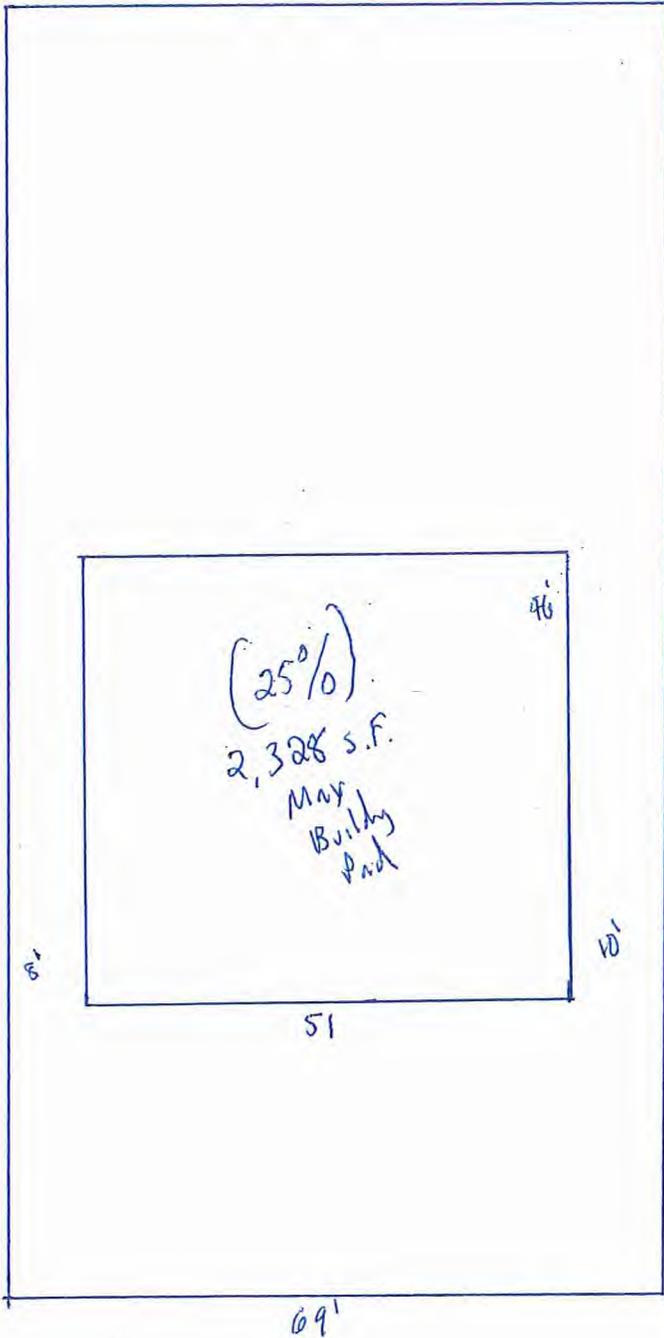
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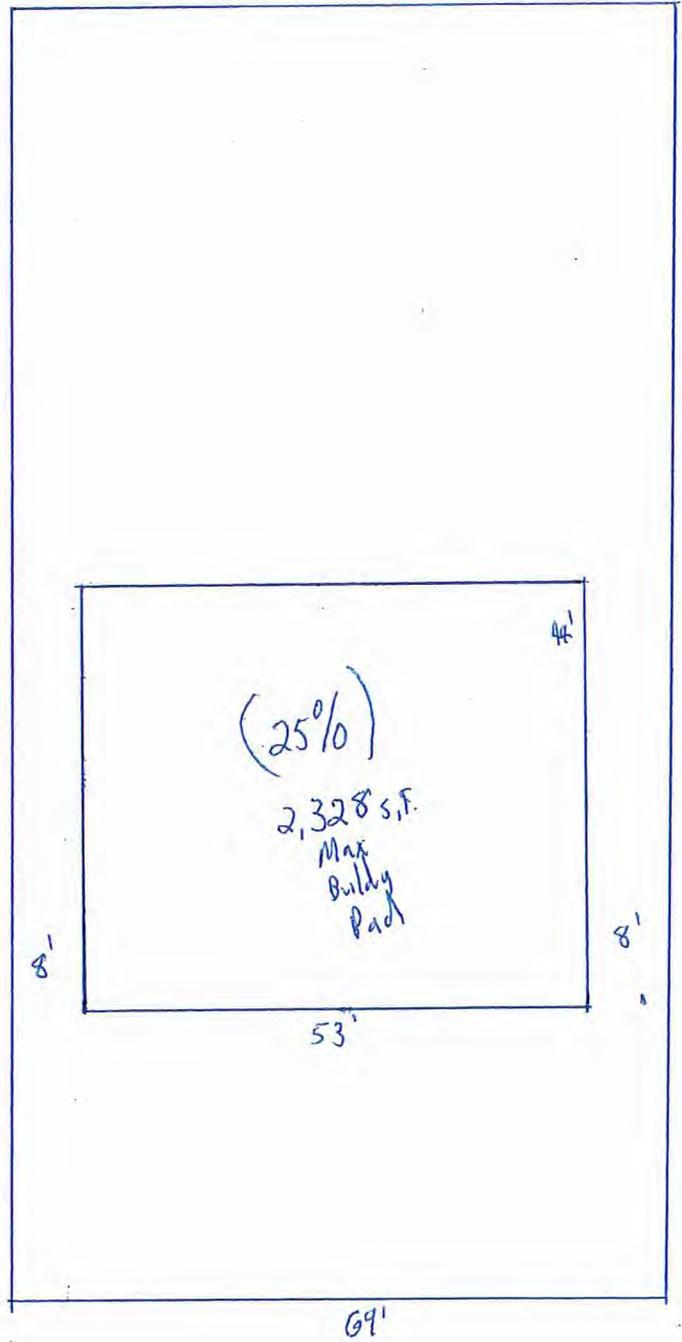
59-FOOT LOTS (7,965 s.f.)

Ale

PROPOSED CODE



EXISTING CODE



69-FOOT LOTS (9,315 s.f.)

If

537.50. Maximum height. (See height definition and Maximum Height Diagram.) (a) *In general.* The maximum height for all accessory structures shall be limited to the maximum height requirements for principal structures in the district in which the accessory structure is located, except as otherwise provided in this zoning ordinance.

(b) *Accessory structures located in the residence and OR1 Districts.* A detached accessory structure, accessory to a principal use located in a residence or OR1 district shall not exceed the height of the principal structure or twelve (12) feet, whichever is less. The maximum height may be increased to sixteen (16) feet or the height of the principal structure, whichever is less, where the primary exterior materials of the accessory structure match the primary exterior materials of the principal structure and the roof pitch matches the primary roof pitch of the principal structure, and provided the wall height shall not exceed ten (10) feet from the floor to the top plate.

(c) *Accessory structures located in all other districts.* Structures accessory to a structure originally designed or intended as a single or two-family dwelling or a multiple-family dwelling of three (3) or four (4) units, shall not exceed the height of the principal structure or twelve (12) feet, whichever is less. The maximum height may be increased to sixteen (16) feet or the height of the principal structure, whichever is less, where the primary exterior materials of the accessory structure match the primary exterior materials of the principal structure, and provided the wall height shall not exceed ten (10) feet from the floor to the top plate.

537.60. Maximum floor area. (a) *In general.* The floor area of any accessory structure shall be included in the total allowable floor area permitted on the zoning lot.

(b) *Accessory uses and structures located in the residence and OR1 Districts.*

(1) *Single and two-family dwellings.* The maximum floor area of all detached accessory structures, and any attached accessory use designed or intended to be used for the parking of vehicles, shall not exceed six hundred seventy-six (676) square feet or ten (10) percent of the lot area, whichever is greater, not to exceed one thousand (1,000) square feet. Detached accessory structures greater than six hundred seventy-six (676) square feet in area shall utilize primary exterior materials that match the primary exterior materials of the principal structure and the roof pitch shall match the roof pitch of the principal structure.

(2) *All other uses.* The maximum floor area of all detached accessory structures, and any attached accessory use designed or intended to be used for the parking of vehicles, except for a parking garage within the building, entirely below grade or of at least two (2) levels, shall not exceed six hundred seventy-six (676) square feet or ten (10) percent of the lot area, whichever is greater.

(c) *Accessory uses and structures located in all other zoning districts.* The maximum floor area of all detached accessory structures and any attached accessory use designed or intended to be used for the parking of vehicles, accessory to a structure originally designed or intended as a single or two-family dwelling or a multiple-family dwelling of three (3) or four (4) units, shall not exceed six hundred seventy-six (676) square feet or ten (10) percent of the lot area, whichever is greater.

537.80. Distance from dwelling. No detached accessory building or open parking space shall be located closer than six (6) feet from a dwelling of any type. Detached parking garages serving residential uses shall be located entirely to the rear of the principal residential structure.

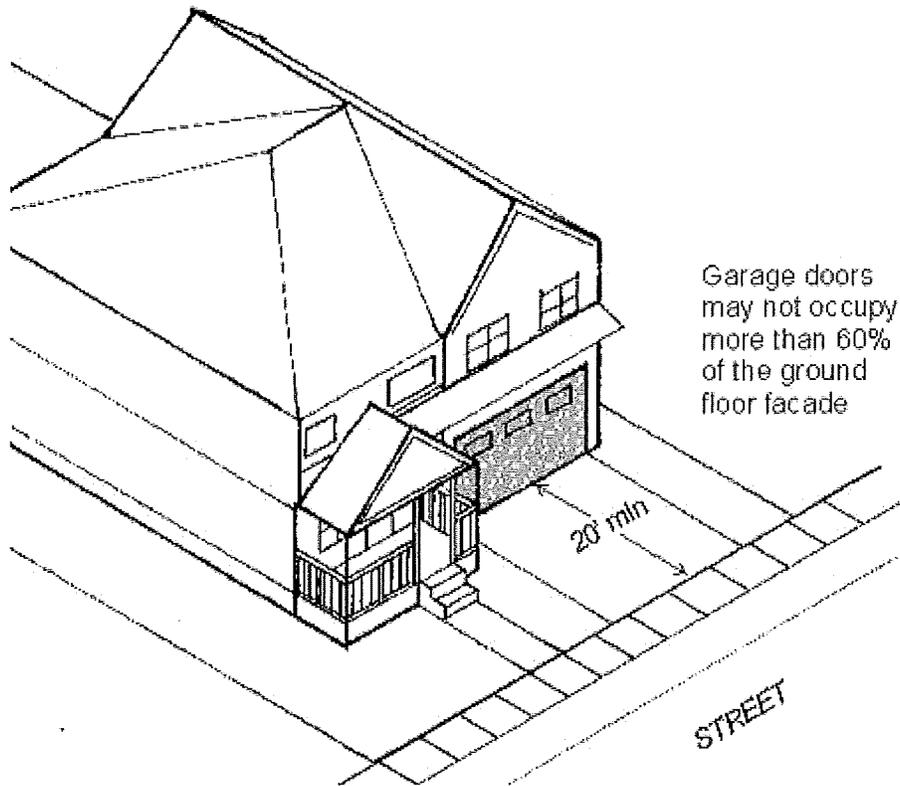
535.90. Minimum size and width, principal entrance and windows, and location of attached garage requirements for residential uses. (c) *Attached garage facing the front lot line.* Attached accessory uses designed or intended for the parking of vehicles accessory to single and two-family dwellings and multiple-family dwellings of three (3) and four (4) units shall extend no more than five (5) feet closer to the front lot line than the facade of a habitable portion of the dwelling when the garage door or doors face the front lot line. In addition, the width of the garage wall facing the front lot line shall not exceed sixty (60) percent of the width of the entire structure.

535.280. Obstructions in required yards² (See Required Setbacks Diagrams.) (d) *Interior side yards for detached buildings accessory to dwellings.* The interior side yard requirement for a detached accessory building

² A minimum 6-inch setback from the property to the eave edge is also required. The building code may require a larger setback or shorter eave based on distance to property line.

TABLE 14T-25

(Referred from LMC 14.23.072)



Garage doors facing the street may not occupy more than sixty percent of the ground floor facade.

[View Web Version](#)

A3

f. Additional Siding Materials: Those portions of a wall area not required to utilize a brick or stone veneer may use other durable siding materials.

Siding materials such as: "HARDIPLANK(R)" Siding by James Hardie, "Weatherboard(R)" by Certaineed, or other similar fiber cement products; wood clapboard siding; wood beaded siding; or, stucco/dryvit/E.I.F.S, shall be considered acceptable siding materials. Aluminum siding less than 0.024 thickness shall not be permitted (except in soffit areas). Vinyl siding shall not be permitted (except in soffit areas), unless complying with provisions of Table 7A - Specifications for Use and Installation of Vinyl Siding.

g. Compatibility of Garages: Garages should use exterior siding materials and architectural elements consistent with and in the same proportions as required for the primary building.

If a residential developer / builder desires to not follow the basic standards desired by the Town of Plainfield for single family or two family residential developments, then the design guidelines and design features set forth below are recommended.

B. Design Guidelines and Design Features.

The Town of Plainfield encourages developers / builders to use the following guidelines to create variety and interest in all elevations of a home. The Town also strongly encourages builders to exceed the recommendations contained in these guidelines on all model homes built in a subdivision.

1. Garages - All single family dwellings and two family dwellings with accessory garages, either detached or attached, should comply with the following guidelines:

a. Design Features for One or Two Car Garages - All one or two car garages, either detached or attached, should utilize at least one (1) of the following three (3) design features:

 (1) Garage Off-Set - Development of single family dwellings or two family dwellings in which the front facade of an attached or detached front loading garage is off-set and stepped back from the front building line by at least ten (10) feet.

 (2) Garage as Percent of Facade - Garage doors shall not comprise more than forty (40) percent of the linear length of the ground floor, street facing facade of the primary building containing a dwelling unit.

 (3) Side or Rear Loaded Garages - Utilization of a side loaded or rear loaded garage to minimize the impact of the garage doors on the streetscape.

(See pages 2-2 and 2-3 of the pdf version of this section for photographs and drawings of appropriate design features for One or Two Car Garages.)

b. Additional Design Features:

 (1) More than Two-Car Garages - No more than two (2) one-car garage doors nor one (1) two-car garage door should be located on the same architectural plane of a front elevation. Architectural planes for additional sets of garage doors on a front elevation should be off-set by a minimum of twelve (12) inches.

(2) Maximum Driveway Width - No driveway should exceed twenty (20) feet in width at the sidewalk.

AA



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

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ZONING REGULATIONS FOR RESIDENTIAL USES GARAGE, SHED, ACCESSORY STRUCTURES AND PARKING SPACES

Sec. 63.501. - Accessory buildings and uses.

Accessory buildings, except as otherwise provided in this code, shall be subject to the following regulations:

- (a) When the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this code applicable to main buildings.
- (b) Accessory buildings, structures or uses shall not be erected in or established in a required yard except a rear yard. The following additional standards shall apply to residential parking:
 - (1) Access to off-street parking shall be from an abutting improved alley when available, except where it is determined in the review of a site plan application that there are circumstances unique to the property that make this impractical, unreasonable, or harmful to the public safety. On corner lots, access to parking may be from the side street.
 - (2) Off-street parking spaces shall not be located within the front yard.
 - (3) Garages shall be set back from the front lot line at least as far as the principal structure (in the case of attached garages, this refers to the non-garage part of the structure).
 - (4) Except in the rear yard, garage doors that face a public street shall be no more than nine (9) feet in height and shall not exceed sixty (60) percent of the width of the principal structure facing the same street.
 - (5) Passenger vehicles may be parked on an approved driveway in front or side yards provided the driveway leads to a legal parking space.
- (c) On corner lots, accessory buildings, structures or uses shall be set back from the street a distance equal to that required of the principal structure.

When an accessory building, structure or use is constructed in a rear yard which adjoins a side yard or front yard, the accessory building, structure or use shall be set back from the interior lot line a distance equal to the minimum side yard required of the principal structure.

On all other lots, accessory buildings shall be set back at least three (3) feet from all interior lot lines, and overhangs shall be set back at least one-third (1/3) the distance of the setback of the garage wall or one (1) foot, whichever is greater.

- (d) This setback requirement from all interior lot lines for accessory buildings in rear yards shall be waived when a maintenance easement is recorded as to the affected properties, when proof of such recorded easement is provided at the time of application for a building permit and when the accessory building is located at least three (3) feet from any building on an adjoining lot. The recording of the maintenance easement shall be interpreted to mean that

Garage regulations (doors and width of structure)

3. Garages shall be set back from the front lot line at least as far as the principal structure (in the case of attached garages, this refers to the non-garage part of the structure).
4. Except in the rear yard, garage doors that face a public street shall be no more than nine (9) feet in height and shall not exceed sixty (60) percent of the width of the principal structure facing the same street.



Garage is not set back at least as far as non-garage part of structure



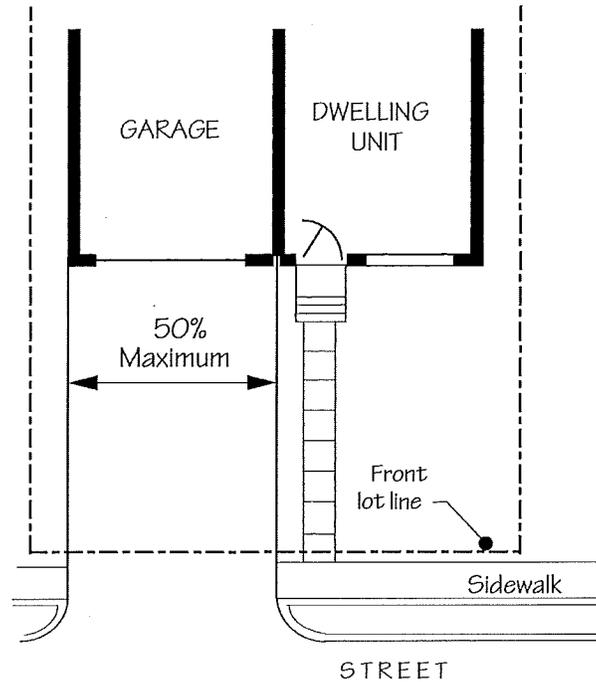
Garage is over 60% of width of house

A6

3. Length of street-facing garage wall.

- a. Generally. The length of the garage wall facing the street may be up to 50 percent of the length of the street-facing building façade. See Figure 130-3. On corner lots, only one street-facing garage wall must meet this standard.

Figure 130-3
Length of Street-Facing Garage Wall



AG

Commentary

33.130.250.E. Garages (continued)

3.b. Exception.

All houses—regardless of their width—are guaranteed a 12 ft. wide attached garage. On buildings less than 24 ft. wide, if the garage exceeds more than 50 percent of the length of the building's street-facing façade, then there must be interior living area or a covered balcony above the garage. The balcony or living area may not be located more than 4 feet behind the garage wall. This dimension is required to ensure that these areas above the garages are large enough to bring the living area of the house closer to the street on narrow houses where the garage dominates the length of the street-facing façade.

Figures 130-4.

This figure will be included in the *Zoning Code*. It illustrates a typical development scenario of a dwelling less than 24 ft. wide that meets the length of street-facing garage wall standard by providing living area over the garage.

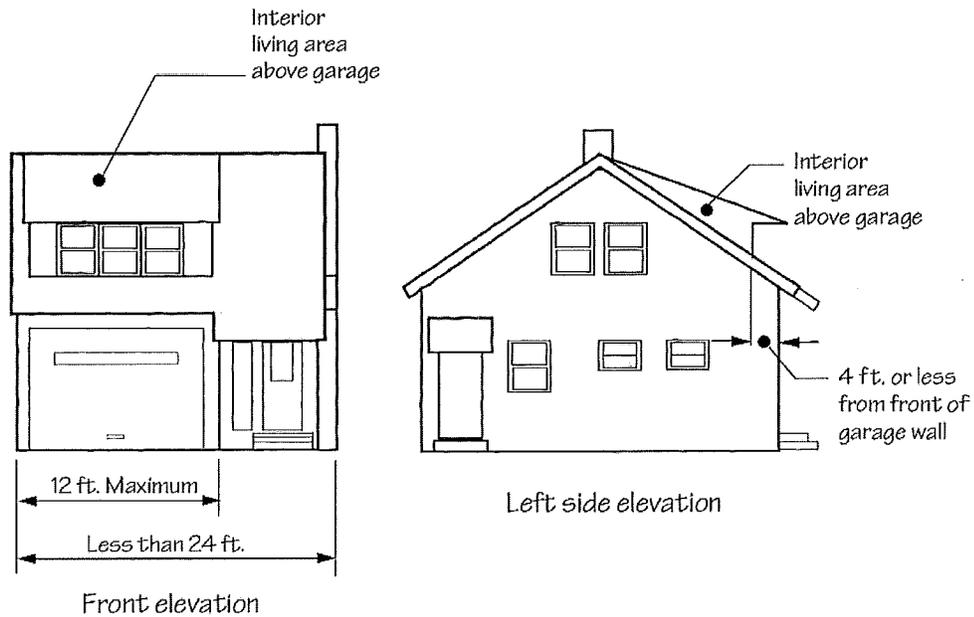
b. Exception. Where the street-facing façade of the building is less than 24 feet long, the garage wall facing the street may be up to 12 feet long if there is one of the following. See Figure 130-4.

(1) Interior living area above the garage. The living area must be set back no more than 4 feet from the street-facing garage wall, or

(2) A covered balcony above the garage that is:

- At least the same length as the street-facing garage wall;
- At least 6 feet deep; and
- Accessible from the interior living area of the dwelling unit.

**Figure 130-4
Length of Street-Facing Garage Wall Exception**



Abc

Commentary

33.130.250.E. Garages (continued)

4.a. Generally.

The street lot line setback garage standard requires that the garage be no closer to the street than the longest street-facing wall of the dwelling unit. (The *Zoning Code* describes the dwelling unit as the portion of a building that is living area. The garage is not included; it is an accessory structure.) Requiring the garage to be flush with, or behind, the longest street-facing wall of the dwelling unit ensures that the living areas are as close, or closer, to the street than the garage. This strengthens the connection the living areas have to the public realm.

Initially, the proposed standards required the garage to be at least 3 ft. behind the longest street-facing wall of the dwelling unit. The Planning Commission changed the general requirement to allow a garage to be flush with the street-facing wall. The Planning Commission made these changes based on public testimony they heard. Their recommended standard allows more design flexibility.

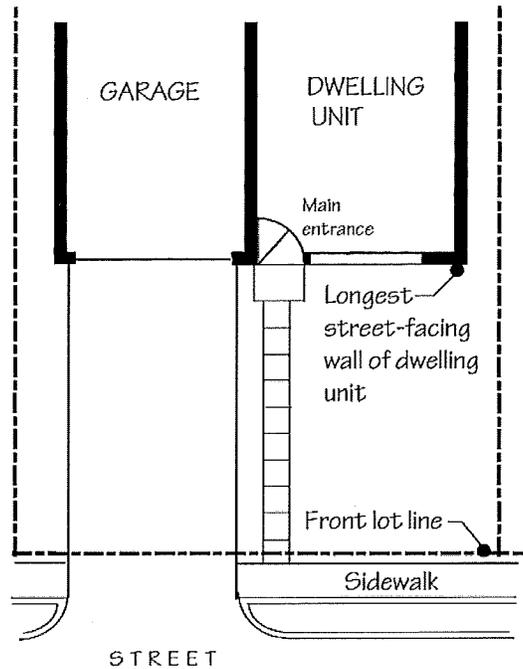
Figure 130-5.

This figure will be included in the *Zoning Code*. It illustrates a typical development scenario that would meet the street lot line setback standard for garages. Although the garage is flush with the longest street-facing wall of the dwelling unit, it could also be located behind it.

4. Street lot line setbacks.

- a. Generally, A garage wall that faces a street may be no closer to the street lot line than the longest street-facing wall of the dwelling unit. See Figure 130-5.

**Figure 130-5
Street Lot Line Setback**



A6e

**Single-Family Districts Zoning Code
City of Alamo Heights Code of Ordinances**

five (25) feet, except as specifically provided in section 3-81, special front yard regulations.

Maximum front yard setback

No building, structure or use shall hereafter be located, erected or altered in the SF-A District so as to have a greater front yard than thirty (30) feet.

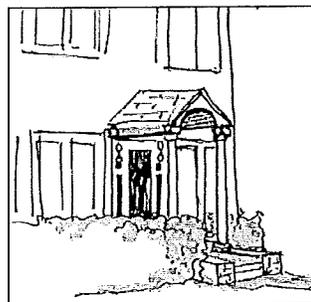
SF-A and SF-B Districts.

Main Structure Articulation: The maximum exterior front wall plane width without a minimum of a two (2) foot by ten (10) foot offset is thirty (30) feet or a combination of one (1) of the following architectural or utilitarian features every thirty (30) feet to break up the monotony of the facade:

1. Projecting bay or box windows, cantilevered, rather than supported by a permanent foundation (not to exceed twenty-five (25) percent of the façade length)

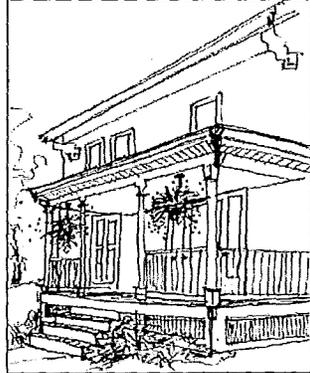


2. Stoops



**Single-Family Districts Zoning Code
City of Alamo Heights Code of Ordinances**

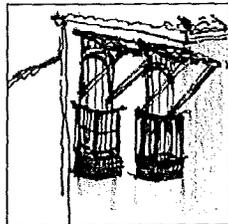
3. Porches (covered and unenclosed)



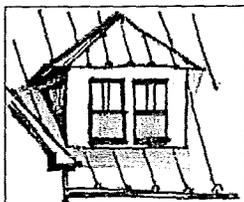
4. Balconies



5. Structural window awnings or canopies

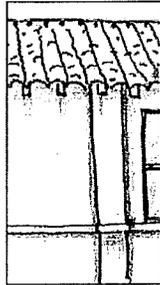


6. Roof dormers



**Single-Family Districts Zoning Code
City of Alamo Heights Code of Ordinances**

7. Pilasters



8. Chimneys (minimum depth of one (1) foot and not to exceed twenty-five (25) percent of the façade)



9. A second-story roof overhang (at least twenty-five 25 percent of the façade length)



**Single-Family Districts Zoning Code
City of Alamo Heights Code of Ordinances**

Exception: A one-story unenclosed roofed front porch up to fifteen (15) feet in height may encroach into the required front yard setback up to six (6) feet if it is at least six (6) feet deep.

(Ord. No. 1750-C, § 2, 1-28-08)

Sec. 3-15. - Side yard setbacks and side articulation.

SF-A and SF-B Districts.

No building, structure or use shall hereafter so as to have a smaller side yard on each side of a building than hereinafter specified, except as specifically provided in section 3-82, special side yard regulations.

(1) The minimum side yard setback for the main structure on the driveway side is ten (10) feet.

(2) The minimum side yard setback for the main structure on the non-driveway side is six (6) feet.

(3) The minimum side yard setback for an accessory structure is three (3) feet.

Main Structure Articulation: The maximum exterior side wall plane width without a minimum of a two (2) foot by ten (10) foot offset is thirty (30) feet or a combination of one (1) of the following architectural or utilitarian features every thirty (30) feet to break up the monotony of the façade:

1. Projecting bay or box windows cantilevered, rather than supported by a permanent foundation (not to exceed twenty-five (25) percent of the façade length)
2. Stoops (not to exceed twenty-five (25) percent of the façade)
3. Porches (covered and unenclosed, not to exceed twenty-five (25) percent of the façade)
4. Chimneys (minimum depth of one (1) foot and not to exceed twenty-five (25) percent of the façade)
5. Structural window awnings or canopies (not to exceed twenty-five (25) percent of the façade)
6. Roof dormers

**Single-Family Districts Zoning Code
City of Alamo Heights Code of Ordinances**

7. Pilasters
8. A second-story roof overhang (at least twenty-five 25 percent of the façade length)
9. Porte-cocheres (see definition in Sec. 3-2 and Sec. 3-21. *Required Off-Street Parking exception #4*)

Exception: The minimum an air conditioning unit or pool unit can be located from a property line or fence is three (3) feet and air conditioning units must be located as close as possible to a main or accessory structure.

(Ord. No. 1750-C, § 2, 1-28-08)

Sec. 3-16. - Rear yard setbacks.

SF-A and SF-B Districts.

No building, structure or use shall hereafter be located, erected or altered so as to have a smaller rear yard than hereinafter specified, except as specifically provided in section 3-83, special rear yard regulations.

(1) The minimum rear yard setback for the main structure is twenty (20) feet for the first story and thirty (30) feet for a second story.

(2) The minimum setback of a garage from a main structure is four (4) feet.

(3) The minimum rear yard setback of an accessory structure is three (3) feet.

Exceptions:

(1) The minimum an air conditioning unit or a pool unit can be located from a property line or fence is three (3) feet and air conditioning units must be located as close as possible to a main or accessory structure.

(2) For purposes of calculating rear yard setbacks for the main structure, a covered breezeway attached to both the accessory and main structures shall not be considered part of the main structure. The breezeway must be no more than eight (8) feet wide and twelve (12) feet tall, must be unenclosed, must be

This ordinance also prevents the irreversible adverse impacts associated with the new construction and additions at the current 3:1 FAR which result in out-of-scale structures that will otherwise be permitted by-right, and further degrade the quality of life in existing single-family residential neighborhoods.

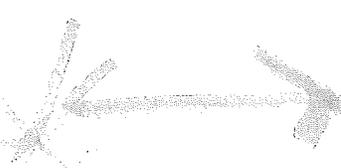
Another reason for the proliferation of out-of-scale structure is the use of Buildable Area to determine maximum development potential on a single-family zoned lot. The proposed solution utilizes the lot area as a base from which FAR is determined, rather than the Buildable Area currently used in the Municipal Code. By tying development potential directly to lot size and to individual zones, the ratio of house size to lot size is maintained proportionally across different lot sizes within each zone, and the development standards for each of the eight zones are further distinguished.

New Floor Area Ratios for Each Single-Family Zone

There are eight distinct single-family zones affected by the proposed ordinance. The proposed solution reflects the differences in the eight zone designations and establishes a base floor area ratio for each zone, based on lot size. As a direct result, two-story structures will automatically have larger setbacks than single-story structures of the same floor area.

Under the current code standards, setbacks do not increase by default as the lot size increases. This has resulted in the construction of two-story homes on large lots with little air space between neighboring structures. To remedy this, the reduced floor area ratio is tied directly to lot size and is in addition to setback requirements in the zone, resulting in larger setbacks on two-story structures.

The new base Floor Area Ratios ranging from 0.25:1 on RA lots to 0.5:1 on R1 lots respect the characteristics of these zones and address most of the factors that contribute to Mansionization.



Articulation Bonus

The purpose of the Articulation Bonus is to encourage quality design of single-family homes. There are two ways of achieving the bonus. The Proportional Stories method allows for slightly larger two-story structures by granting a floor area bonus of 20% of the maximum Single-Family Residential Floor Area as long as the stories other than the Base Floor are not greater than seventy-five percent of the Base Floor. This tool will provide a floor area incentive that encourages articulation by requiring that the second floor be smaller than the first floor, thereby changing the perception of size and scale of a structure. The Facade Modulation Bonus allows for slightly larger two-story structures by granting a floor area bonus of 20% of the maximum Single-Family Residential Floor Area as long as 25% of the building frontage facing the street is stepped back from the front façade by a minimum of 20% of the total building depth. To ensure that the FAR reduction does not result in inequitable restrictions on substandard R1 lots, the Bonus is raised to 30% in order to allow for reasonably-sized homes that are also well-designed on the exterior. Both the Proportional Stories method and the Facade Modulation method are flexible in terms of design, allowing the property owner to determine where this area is to be used.

b) Amend Height Limits for Single-Family Zones

Roofs are a defining characteristic of single-family homes; articulated roofs add visual interest to a structure and provide transitions between properties. Therefore, the proposed ordinance establishes new standards to differentiate between sloped and flat roofs. The proposed ordinance lowers the allowable

*Cary - FYI
This is what I received from Dianne P. L. -
Tom*

City of Edina Ordinances Related to Trees

Revised 3-06-13

Section 810 - Plats and Subdivisions

810.09 Application; Fees; Charges; Application Requirements.

Subd. 4 Application Data. The applicant shall file with the application the following information which is required for all proposed plats and subdivisions, and which shall be shown on the proposed plat or subdivision or other accompanying document:

Y. The number and location of overstory trees then existing on the property proposed to be disturbed by public or private improvements, having a diameter of six inches or more as to deciduous trees, and having a height of six feet or more as to coniferous trees.

History: Ord 804 adopted 12-13-89; amended by Ord 1998-5 8-26-98, Ord 2006-01, 03-06-06; Reference: M.S. 462, 505; Cross Reference: Sections 445, 850; Subsections 100.09, 850.21

Section 830 - Tree Removal, Grading and Excavations

830.01 Purpose. The Council finds and declares that the lands and vegetation of the City are a valuable resource requiring protection from the effects of urbanization. The purpose of this Section is to regulate land disturbing activities to prevent undue loss of the urban forest, reduce erosion and sedimentation and enhance the natural beauty of the City in the interest of the health, safety and welfare of the residents.

830.02 Definitions.

Subd. 1 Terms Defined in Section 850. The following terms shall have the meanings stated in Section 850 of this Code:

District.

Lot.

Parcel.

Principal Building.

R-1 District.

R-2 District.

Subd. 2 Terms Defined in this Section. Unless the context clearly indicates otherwise, the following terms shall have the meanings as stated:

Earth. Soil, rocks, rip-rap, gravel, sand, soil, and all similar material.

Grading. Any movement of earth, including without limitation, any excavation, stockpiling, land disturbing activity, cutting, filling, or any combination of movement.

Open Pit or Excavation. Any grading creating a depression exceeding 200 square feet in area, the bottom or lowest point of which is two feet or more below the immediately adjoining unexcavated land. A swimming pool as defined by Section 450 of this Code is not an open pit or excavation for purposes of this Section.

Tree. A woody, perennial plant usually with one main stem or trunk and with many branches, which has a diameter of greater than six inches when measured at a point four feet above ground level.

830.03 Activities Requiring a Permit. Except as provided in Subsection 830.04, no person shall engage in any of the following activities without first obtaining a permit:

Subd. 1 Tree Removal. Removal of a living tree or trees from a lot or parcel not improved with a principal building.

Subd. 2 Grading. Grading in connection with any one project involving more than:

Ten cubic yards of earth in the aggregate on a lot located in the R-1 District or R-2 District which lot is used or intended to be used for a single dwelling unit or double dwelling unit building.

100 cubic yards of earth in the aggregate on two or more lots in the R-1 District or R-2 District, or on any lot, parcel, or development site in any other District.

Subd. 3 Open Pit or Excavation. The creation or maintenance of an open pit or excavation.

830.04 Exempt Activities. The provisions of this Section shall not apply to:

Subd. 1 Special Permit. Activities for which a special permit has been granted in accordance with Subsection 850.21 of this Code.

Subd. 2 Restored Ground. Grave digging, well drilling and utility excavations where the ground will be restored.

Subd. 3 Diseased Trees. Removal of trees with Dutch Elm disease, oak wilt or other diseases requiring tree removal.

Subd. 4 Top Soil. Top soil placed for top dressing purposes which is immediately spread and which does not materially change the elevation of the lot or parcel.

830.05 Permit.

Subd. 1 Application. Prior to engaging in any activity requiring a permit, an application shall be submitted to the Building Official on forms provided by the Building Official. The application shall be accompanied by a schedule for the commencement and completion of the work. The application shall also be accompanied by a plan drawn at a scale of not less than one inch equals 30 feet which contains the following information:

Location of trees to be removed.

Existing and proposed buildings and structures.

Existing and proposed contours.

Provisions for temporary and permanent erosion control.

Proposed re-vegetation of disturbed area.

Provisions for temporary and permanent drainage.

Sub. 2 Fees and Surcharges. Applications for permits pursuant to this Section shall be accompanied by the fees set out in Section 185 of this Code.

A. Other Permit Related Fees. Re-inspection fees, inspections outside normal business hours, inspections for which no fee is specifically indicated and fees for additional plan review required by loss, changes, additions or revisions to plans shall be in the amounts set forth in Section 185 of this Code.

B. Investigation Fee. If work for which a permit is required by the Code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work. An investigation fee, as authorized by MSBC Chapter 1300.0160 Subp. 8, shall be collected, and is in addition to the required permit fees. The investigation fee shall be equal to the permit fee.

C. Outside Consultant Fees. Plan review, inspections and/or consultation fees for outside consultants may be collected and shall comprise the actual costs to the City.

D. Surcharge. In addition to the fees charged pursuant to Subd. 1 of this Subsection, each applicant for a permit shall pay a surcharge to the City in the amount set forth in M.S. 16B.70 to be remitted to the State Department of Administration pursuant to M.S. 16B.70.

830.06 Standards and Guidelines. No permit shall be issued unless the above required plan is submitted to and approved by the Building Official and unless the proposed activity complies with the following standards and guidelines:

Subd. 1 Grading Activities.

The plan shall be fitted to the topography and soils so as to create the least erosion potential.

Permanent vegetation and improvements such as streets, storm sewers or other features of the development, capable of carrying surface water runoff in a safe manner, shall be installed to the extent possible before removing the vegetation cover from any area.

Wherever feasible, natural vegetation shall be retained and protected.

Permanent vegetation shall be established as soon as possible after grading.

Not more than the smallest practical area of land shall be graded or exposed at any one time during development.

When vegetation is removed during development, the exposed condition of land shall be kept to the shortest practical period of time, but not longer than 60 days.

Critical erosion areas graded or exposed during construction shall be protected with temporary vegetation, mulching or by other means acceptable to the Building Official.

Sediment basins, debris basins, de-silting basins or silt traps shall be installed and maintained to remove sediment from surface water runoff from land subjected to grading.

Diversions shall be installed to divert surface water runoff from slopes of ten percent or steeper.

Provisions acceptable to the Building Official or Engineer shall be made to accommodate the increased surface water runoff caused by changed soil and surface conditions during and after completion of grading.

Cut and fill slopes shall not be steeper than two feet horizontal to one foot vertical unless stabilized by a retaining wall, cribbing or rip-rap, or other means acceptable to the Building Official.

During grading operations, measures acceptable to the Building Official shall be taken for dust control.

Subd. 2 Tree Removal. Trees shall be removed only by reason of:

A15

Poor health or dangerous condition of the tree.

Construction of improvements being made to the property.

Subd. 3 Open Pits and Excavations.

Fences must be installed or other provisions acceptable to the Building Official must be made to prevent persons from inadvertently entering the pit.

Banks must be constructed at slopes not steeper than three feet horizontal to one foot vertical.

Provisions acceptable to the Building Official shall be taken to prevent stagnation of water.

Excavated materials must be spread on adjoining ground and re-vegetated or completely removed from the area.

830.07 Issuance of Permit; Appeal.

Subd. 1 Approval or Denial. The Building Official shall review the plan and application and shall approve or deny the application based upon the standards and guidelines set forth in Subsection 830.06 together with the purpose and intent of this Section. If the application is denied by the Building Official, written notice of the action specifying the date of denial, together with the reasons for denial, shall be mailed to the applicant at the address shown in the application. If approved, the Building Official shall issue the permit. The Building Official may impose conditions in connection with issuance of the permit to ensure compliance with this Section and to protect adjacent properties. The Building Official, as a condition to the permit, may require the permit holder to submit topographic surveys on an as-built basis to verify conformance with the approved plans.

Subd. 2 Permit Nontransferable; Duration. Any permit granted pursuant to this Section shall be nontransferable and shall expire six months from date of issuance.

Subd. 3 Appeal. Any applicant may appeal an alleged error in any order, requirement, decision or determination made by the Building Official in the administration of this Section, to the Council in the manner set forth in Subsection 160.06 of this Code.

830.08 Conformance with Plan. All activities undertaken pursuant to a permit issued under this Section shall conform to the approved plans and schedules and to any conditions imposed by the permit.

830.09 Security. The Building Official may require the permit holder to file security to ensure that all work is undertaken in accordance with the permit and approved plans and schedule set forth in the application. The security shall be in the form prescribed by

Subd. 2 of Subsection 405.01 of this Code. Such security may be used by the City to undertake work as provided in Subd. 3 of Subsection 405.01 of this Code.

History: Ord 817 adopted 4-4-74; Ord 821 codified 1970; Ord 822 codified 1970, amended by Ord 822-A1 10-7-71, Ord 822-A2 10-24-74; Ord 823 adopted 4-4-74 ; Ord 2004-04 adopted 4-29-04

Cross Reference: Sections 185, 850; Subsections 160.06, 405.01, 850.21

850.10 Landscaping and Screening.

Subd. 1 Landscaping.

A. Application of Requirements. All properties shall comply with the requirements of this Section except for single dwelling unit or double dwelling unit lots, public parks, playgrounds and athletic facilities, and public and private golf courses, except that club houses, parking areas and other structures accessory to the golf courses shall comply.

B. Landscape Plan Requirements. Landscape plans shall be prepared by a landscape architect or other qualified individual acceptable to the Planner. Landscape plans shall be drawn to a scale of not smaller than one inch equals 30 feet and shall include the following information:

1. Boundary lines of the property with accurate dimensions.
2. Locations of existing and proposed buildings, parking lots, roads and other improvements.
3. Proposed grading plan with two foot contour intervals.
4. Location, approximate size and common name of existing trees and shrubs.
5. Planting schedule containing (i) symbols; (ii) quantities; (iii) common names and botanical names; (iv) size of plant materials, (v) root condition, and (vi) special planting instructions.
6. Planting details illustrating proposed locations of all new plant material.
7. Locations and details of other landscape features including berms, fences and planter boxes.
8. Details of restoration of disturbed areas including areas to be sodded or seeded.
9. Location and details of irrigation systems.
10. Details and cross sections of all required screening.

C. Minimum Requirements. All open areas of a lot which are not used and improved for required parking areas, drives or storage shall be landscaped with a combination of overstory trees, understory trees, shrubs, flowers and ground cover materials. At least 50% of such plantings shall be Minnesota native plants as listed on the Minnesota Department of Natural Resources web site.

1. ~~Minimum Number of Overstory Trees. The number of overstory trees on the lot or tract shall be not less than the perimeter of the lot or tract as measured in feet divided by 40.~~
2. Understory Trees and Shrubs. In addition to the ~~required number of overstory trees~~, a full complement of understory trees and shrubs shall be provided to complete a quality landscape treatment of the site.
3. ~~Minimum Size and Root Condition of Required Overstory Trees. The living overstory and understory canopy shall cover that portion of the lot, which has been disturbed by improvement including the parking lot, with an objective of 50% - 75% canopy coverage when the trees are at maturity, excluding the footprint of the building or other structures.~~

Minimum Amount of Required Trees

_____ Building Height _____ Front

Tree Type _____ Deciduous _____ Coniferous _____ Less than 24' _____ 24' or Greater

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~~Ornamental — 2" or less — 5' or less — 5% — 5%~~

~~Complimentary 2½" or greater — 6' or greater — 60% — 25%~~

~~Accent 3½" or greater — 8' or greater — 20% — 25%~~

~~Primary — 4½" or greater — 10' or greater — 10% — 20%~~

~~Full — 5½" or greater — 12' or greater — 5% — 20%~~

Calculations to determine minimum number of trees are always rounded up. Tree size, as to deciduous, is the diameter of the tree measured 6 inches above the ground. Tree size, as to coniferous, is measured in height.

All new overstory trees shall be balled and burlapped or moved from the growing site by tree spade.

4. Species.

a. all required overstory trees shall be composed of species which are classified as overstory trees by the American Nurseryman's Association. ~~Trees which are considered as half trees, shrubs, understory trees or ornamental trees shall not be included in the count of required overstory trees;~~

b. not more than ~~50~~10 percent of the required number of ~~overstory trees~~ shall be composed of one species;

c. no required overstory trees shall include (i) all species of the genus Ulmus (elm) with the exception of Dutch Elm Disease resistant elm cultivars; (ii) box elder; (iii) all species of the genus Populus (poplar) with the exception of Aspen as well as seedless Cottonwood cultivars, or ~~(iv) ginkgo — female only~~(v) ash; and

d. all plant materials shall be indigenous to the hardiness zone of the area in which the City is located.

5. Credit for Existing Trees. ~~The total number of required new overstory trees may be offset by the retention of existing overstory trees on the lot provided that the trees satisfy the requirements of this Subdivision 850.10 as to size and species.~~ The Planner shall determine the amount of the credit for existing trees based upon their location and distribution on the lot.

6. Ground Cover. All unimproved portions of the lot or tract shall be sodded or planted with groundcover plants. Provided, however:

a. areas reserved for future approved building expansions may be seeded;

b. undisturbed areas containing existing viable natural vegetation which can be maintained free of weeds may be left undisturbed; and

c. slopes steeper than 3:1 may be seeded or planted with groundcover plants.

D. Landscaping Inspection Fee. A landscaping inspection fee in the amount set out in Section 185 of this Code shall be paid to the City at the time a building or other permit is issued for work to be done on the same property as the landscaping work, and as a condition to the issuance of the permit, this shall include the fees of a City approved Arborist who will review implementation of the Preservation Plan per Subdivision XXXX.

Subd. 2 Screening.

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A. Screening Required. The following uses shall be screened in accordance with the requirements of this Subdivision 850.10:

1. Non-residential principal buildings or structures, and any building or structure accessory thereto, shall be screened from lots in the R-1 District which are used for single dwelling unit buildings and which are located within 200 feet of the non-residential use. The distance shall be the shortest distance between the non-residential building or structure to be screened and the nearest lot line of the R-1 District lot, but shall not extend across a street;

2. Principal buildings or structures, or any building or structure accessory thereto, located in the Planned Industrial District or Planned Commercial District shall be screened from lots used for any residential purpose which are located within 200 feet. The distance shall be the shortest distance between the PID or PCD building or structure to be screened and the nearest lot line of the residential lot, but shall not extend across a street;

3. Off-street parking facilities containing six or more spaces and all loading facilities shall be screened from streets located within 50 feet, and from lots which are used for any residential purpose which are located within 50 feet. Said distance shall be the shortest distance between the parking facility or loading facility and the nearest part of the street or the nearest lot line of the residential lot;

4. Trash storage facilities including recycling storage facilities shall be screened from all lot lines and public road rights-of-way; and

5. All mechanical equipment accessory to any building, except single dwelling unit and double dwelling unit buildings, shall be screened from all lot lines and streets.

B. Responsibility. The owner of the principal or accessory building or structure to be screened shall install and maintain all screening required without cost to the City.

C. Materials. Required screening may be achieved with fences, walls, earth berms, hedges and other landscape materials. All walls and fences shall be architecturally harmonious with the principal building. Earth berms shall not be steeper than 3:1. All materials, including landscaping, shall have a minimum opacity of 90 percent year round.

D. Location. All required screening shall be located on the lot occupied by the use, building, facility or structure to be screened. No screening shall be located upon any public road right-of-way, or within 20 feet of the traveled portion of a street.

E. Height. The minimum height for screening required by this Section is as follows:

1. Screening required by subparagraphs 1 and 2 of paragraph A. of Subd. 2 of Subsection 850.10: ten feet above property line;

2. Screening required by subparagraph 3 of paragraph A. of Subd. 2 of Subsection 850.10: four feet above level of parking lot and ten feet above level of loading facility; and

3. Screening required by subparagraphs 4 and 5 of paragraph A. of Subd. 2 of Subsection 850.10: high enough to completely screen from property lines, but not less than five feet or greater than ten feet in height.

Subd. 3 Maintenance.

A. Responsibility. The owner of the lot upon which the required landscaping or screening is located shall maintain all materials in a sightly and healthy growing condition without cost to the City.

B. Security. Security shall be filed with the Planner in accordance with Section 405 of this Code to guarantee the installation and vigorous growing condition of all landscape elements and required screening. The security shall remain in effect for two full growing seasons. Lots provided with an irrigation system covering 100 percent of the area improved with landscaping need provide security for only one growing season. The growing season guarantee period for plant material installed after June 1 shall begin the following year.

Section 1200 - Use and Maintenance of Streets,

Alleys, Sidewalks, Easements, Parks, and Other City Owned Property

1200.02 Encumbrances or Obstructions.

Subd. 1 Prohibited Encumbrances or Obstructions. Except as provided in Subd. 2 of this Subsection, no person shall obstruct, encroach upon, encumber, or interfere wholly or partially, with any street, boulevard, alley, sidewalk, easement, park or public ground by placing or installing any of the following:

...

H. Trees and other plantings which overhang the traveled portion of streets or sidewalks, provided that no portion of such tree or planting is less than 16 feet above the traveled portion of the street or less than 8 feet above the sidewalk.

...

Subd. 2 Exceptions. The following are exceptions to Subd. 1 of this Subsection:

F. Shade trees planted on boulevards, provided that the following species are prohibited unless permission is granted in writing by the Park Director:

1. Willows.
2. Elms, with the exception of Dutch Elm Disease resistant Elm cultivars.
3. Box Elder.
4. ~~Cottonwood~~ Poplar (with the exception of seedless cultivars of cottonwood), ~~aspen~~, poplar or other members of the genus Populus, with the exception of aspen.
5. Pine, spruce, fir, yew or other conifers.
6. Silver maple.
7. Ash.

G. Trees, shrubs, landscape materials, fences, driveways and parking lots installed on easements held by the City for underground utility purposes.

H. Trees and other plantings which overhang the traveled portion of streets provided that no portion of such tree or planting is less than 16 feet above the traveled portion of the street.

I. Grass clippings and leaves placed in containers on boulevards subject to Subsection 705.04 of this Code.

...

1200.06 Work Undertaken by the City.

Subd. 1 Items of Work. Pursuant to Chap. 59, State Laws of 1988, the City may undertake the following items of work:

- A. Removal of snow, ice and rubbish, including litter, from sidewalks, streets and alleys and public parking facilities.
- B. Elimination of weeds, including aquatic weeds, from sidewalks, streets, alleys, waterbodies and other public or private property.
- C. Sweeping, oiling, sprinkling or other dust treatment of public streets or alleys, including incidental maintenance work.
- D. Trimming and care of trees and the removal of unsound or diseased trees on streets or alleys.

History: Ord 1201 codified 1970; amended by Ord 1201-A 12-6-73, Ord 1993-5 4-28-93, Ord 1994-6 12-27-94; Ord 1995-6 8-17-95; Ord 2003-12 12-16-03; Reference: M.S. Chapter 59, State Laws of 1988; 429.101, Subd. 2 & 3, 463.15 to 463.26

Cross Reference: Sections 705, 721, 1050, 1205, 1400; Subsections 705.04, 1230.01, 1230.07

Section 1050 - Maintenance of Vegetation

1050.01 Purpose. It is the purpose of this Section to prohibit the uncontrolled growth of vegetation, while permitting the planting and maintenance of landscaping or garden treatments which add diversity and a richness to the quality of life. There are reasonable expectations regarding the proper maintenance of vegetation on any lot or parcel of land. It is in the public's interests to provide standards regarding the maintenance of vegetation because vegetation which is not maintained may threaten public health, safety and order, and may decrease adjacent property values. It is also in the public's interests to encourage diverse landscaping and garden treatments, particularly those which restore native vegetation which requires less moisture and place a lower demand on the public's water resources. The City enacts this Section to balance these competing interests.

1050.02 Definitions. Unless the context clearly indicates otherwise, the following terms shall have the stated meanings.

Native Grasses and Forbs. Grasses, including prairie grasses and flowering broad-leaf plants which are indigenous to the State.

Natural Area. Any wetland or floodplain designated by Section 850 of this Code, or any area of mature woodland, prairie and meadow vegetation native to the State.

Ornamental Grasses and Groundcovers. Grasses and groundcovers not indigenous to the State. Ornamental grasses and groundcovers do not include turf grasses.

Planned Landscape Area. An area where ornamental grasses and groundcovers or native grasses and forbs are planted pursuant to a plan.

Restoration Area. An area where native grasses and forbs are being or have been intentionally re-established.

Turf Grasses. Grasses commonly used in lawn areas, including any blue grass, fescue or rye grass blends or any other similar grasses.

Weed. (i) Any plant which is identified by the State Commissioner of Agriculture as a noxious weed or secondary noxious weed pursuant to M.S. 18.171, Subd. 5, or (ii) any volunteer plant, except trees and other woody vegetation, which is not customarily or intentionally planted.

1050.03 Where Planted.

Subd. 1 Ornamental Grasses and Groundcovers. Ornamental grasses and groundcovers shall be planted only in a planned landscape area.

Subd. 2 Native Grasses and Forbs. Native grasses and forbs shall be planted only in a planned landscape area or a restoration area.

1050.04 Location of Restoration Areas and Planned Landscape Areas.

Subd. 1 Setback. A restoration area or a planned landscape area must provide the following minimum setbacks: Front Street or Side Street (as measured from the traveled portion of the street) 20 feet

Side Yard or Rear Yard 5 feet

Provided, however, that a required side yard or rear yard setback may be reduced to 0 feet if:

A. A fully opaque fence at least five feet in height is installed on the lot line adjoining the restoration area or planned landscape area, or

B. The restoration area or planned landscape area abuts (i) a restoration area on any adjoining lot, (ii) a public park or open space, (iii) a vacant lot, (iv) a wetland, pond, lake or stream, (v) or natural area, or

C. The restoration area or planned landscape area is located on slopes equal to or greater than three feet horizontal to one foot vertical (3:1).

Subd. 2 Composition of Setback Area. The setback area required by Subd. 1 of this Subsection shall be composed of pavement, rock, gravel, wood chips, regularly mowed turf grasses, trees or shrubs.

1050.05 Maintenance Standards. Every owner of property shall maintain the vegetation growing thereon according to the following minimum standards:

Subd. 1 Turf Grasses. Turf grasses shall be regularly cut such that no individual plant shall exceed, at any time, ten inches in height or length as measured from its base at the ground to the tip of each stalk, stem or blade. Provided, however, that turf grasses (i) located on slopes equal to or steeper than three feet horizontal to one foot vertical (3:1) or (ii) within 20 feet of a wetland, pond, lake or stream, need not be maintained in accordance with this Subd. 1.

Subd. 2 Weeds. Weeds shall be regularly cut or controlled such that no individual plant shall exceed at any time ten inches in height or length as measured from its base at the ground to the tip of each stalk, stem, blade or leaf. Noxious weeds as defined by the State Commissioner of Agriculture shall be eradicated.

Subd. 3 Planned Landscape Areas and Restoration Areas. Planned landscape areas and restoration areas shall be cut at least once between May 1 and August 1 of each year to a height no greater than ten inches. Provided, however, that planned landscape areas and restoration areas (i) located on slopes equal to or steeper than three feet horizontal to one foot vertical (3:1) or (ii) within 20 feet of a wetland, lake, pond or stream, need not be cut as required by this Subdivision. No person shall permit ornamental grasses and groundcovers growing on the person's property to invade adjoining properties.

1050.06 Non-Conforming Planned Landscape Areas and Restoration Areas. Any planned landscape area or restoration area which lawfully existed prior to the effective date of this Section may continue to exist and need not comply with the requirements of Subsection 1050.04, but shall comply with Subsection 1050.05. Any expansion or addition to a non-conforming planned landscaped area or restoration area shall comply with all provisions of this Section.

1050.07 Exemption. Parks and natural areas owned by the City and rights-of-way owned by the County and State shall be exempt from the requirements of this Section.

1050.08 Abatement.

Subd. 1 Nuisance. Any vegetation which does not meet the requirements of this Section is declared to be a nuisance.

Subd. 2 Conditions Allowing Inspector to Enter Property. Entry by the weed inspector or assistant weed inspector for the purpose of cutting, removing, destroying or eradicating vegetation shall be done only after written notice is served upon the owner, and the occupant if other than the owner, of the property to be entered, and failure of the owner or occupant to cut down, remove, destroy or eradicate vegetation declared to be a nuisance, within the time, and in such manner, as the weed inspector or assistant weed inspector shall designate in the notice. The notice shall be given in the manner prescribed by M.S. 18.271, Subd. 2, and shall allow a minimum of seven days for the property owner or occupant to comply with requirements of the notice.

Subd. 3 Owner's Responsibility for Costs Incurred. The costs and expenses incurred by the City in connection with entering a property pursuant to Subd. 4 of this Subsection and cutting, removing, destroying and eradicating vegetation declared to be a nuisance, shall be paid by the owner or occupant of the property entered pursuant to a notice containing the information and served as prescribed by M.S. 18.271, Subd. 4. If the City is not paid the amount stated in the notice within 30 days or before the following October 1, whichever is later, such amount shall become a lien in favor of the City and a penalty of eight percent shall be added to the amount due as of that date and the total cost, expenses and penalties shall be certified to the auditor of Hennepin County for entry as a tax upon such property for collection as other real estate taxes are collected, all pursuant to the provisions of M.S. 18.271, Subd. 4.

History: Ord 1031 codified 1970; amended by Ord 1031-A1 1-3-80, 1031-A2 6-29-83, 1031-A3 3-28-90; amended by Ord 1993-4 4-5-93 Reference: M.S. 18.171, 18.271 Cross Reference: Section 850

ORDINANCE NO. 2008-24

AN ORDINANCE AMENDING CITY CODE §300.28, SUBD. 19
REGARDING TREE PROTECTION

The City of Minnetonka Ordains:

Section 1. Existing city code §300.28, subd. 19, a copy of which is attached as Exhibit A, is repealed, and a new city code §300.28, subd. 19 is adopted to read as follows:

19. Tree Protection.

a) Purpose. The goal of this subdivision is to preserve as much as practical Minnetonka's highly valued tree natural resources, ecosystems and viewsheds, while allowing reasonable development to take place and not interfering with how existing homeowners use their property. This subdivision provides incentives for property owners who wish to subdivide areas that include woodlands and high priority trees to use planned unit development (PUD), which allows the flexibility to both protect woodlands and property rights. Standards governing the preservation, protection, and planting of trees are necessary to:

- 1) prevent tree loss by eliminating or reducing compaction, filling or excavation near tree roots;
- 2) prevent or reduce soil erosion and sedimentation and stormwater runoff;
- 3) improve air quality and reduce noise pollution;
- 4) enhance energy conservation through natural insulation and shading;
- 5) control the urban heat island effect;
- 6) increase and maintain property values;
- 7) maintain buffers between similar land uses and establishing and maintaining buffers between conflicting land uses; and
- 8) preserve as much as practical the diversity and extent of the trees and woodlands that are an integral part of this city's identity, while allowing reasonable development and allowing existing homeowners freedom to use their land.

b) Definitions. For the purposes of this subdivision, certain terms and words are defined as follows:

The stricken language is deleted; the underlined language is inserted.

ADA

- 1) "Basic Tree Removal Area" - consists of the following:
- a. within the areas improved for reasonably-sized driveways, parking areas and structures without frost footings and within ten feet around those improvements;
 - b. within the footprints of, and 20 feet around, buildings with frost footings; and
 - c. in areas where trees are being removed for ecological restoration in accordance with a city-approved restoration plan.
- 2) "Canopy" - The uppermost layer of a forest, formed by tree crowns.
- 3) "Critical root zone" – the minimum area around a tree that must remain undisturbed. The critical root radius is calculated by measuring the tree's diameter at breast height. For each inch of tree diameter, 1.5 feet of root zone radius must be protected. For example, if a tree's dbh is 10 inches, then its critical root zone radius is 15 feet (10 x 1.5 = 15).
- 4) "Diameter breast height (dbh)" – the diameter of a tree measured at 4.5 feet above the base of the tree. Multi-stem trees are considered one individual tree and each stem must be measured 4.5 feet above the base of the stem and added together to determine the diameter of the multi-stem tree.
- 5) "Protected tree" – a tree that is in a woodland preservation area, or is a high priority tree or significant tree.
- 6) "Redevelopment" -- reconstruction of the principal structure if it includes the removal of the principal structure by more than 50% of the square footage of the building footprint or an increase of the square footage of the building footprint by more than 50%.
- 7) "Sapling" - A young tree.
- 8) "Understory" - The trees, shrubs, and herbaceous plants that grow in the shade of the forest canopy, including trees that could potentially grow to reach the canopy.
- 9) "Woodland preservation area" - a remnant woodland ecosystem that is at least two acres in size regardless of property boundaries, is generally mapped in the city's Minnesota Land Cover Classification System, and although it may be degraded it generally meets the criteria for one of the following types of ecosystems as reasonably determined by the city:
- a. "floodplain forest" – an area populated by deciduous tree species

tolerant of seasonal flooding and deposition of silty or sandy soils. The canopy cover is extremely variable, and mature trees are typically greater than 70 feet tall. The dominant tree species in the canopy are silver maple and eastern cottonwood. In floodplain areas with severe flooding, the understory will be sparsely vegetated. Trees in the understory include saplings from the canopy species, green ash, black willow, slippery elm, American elm, boxelder, and hackberry;

b. "lowland hardwood forest" - an area with a flat terrain populated by deciduous tree species tolerant of periodic soil saturation from seasonally high water tables. The soils are moderately well to poorly drained. The dominant tree species in the canopy are American elm, black ash, basswood, bur oak, red oak, white oak, quaking aspen, paper birch, and red maple. Trees in the understory include saplings from the canopy species, slippery elm, green ash, butternut, sugar maple, quaking aspen, balsam poplar, and American hornbeam. The large shrub or small tree layer of the understory is typically dense and can include ironwood, pagoda dogwood, prickly ash, American hazelnut, gray dogwood, and speckled alder;

c. "maple basswood forest" - an area with well drained soils and populated by a variety of shade-tolerant, fire sensitive, deciduous tree species. The mature trees are straight with narrow crowns greater than 60 feet tall. The dominant tree species in the canopy are basswood and sugar maple but mesic species such as slippery elm, red oak, bur oak, green ash, white ash and black ash may be found as well. Trees in the understory include saplings from the canopy species, bitternut, black cherry, and ironwood. The large shrub or small tree layer of the understory is composed of primarily tree seedlings and herbaceous plants;

d. "mesic oak forest" - an area populated by tall, single stemmed deciduous trees greater than 60 feet tall that lack spreading lower branches. Mesic oak forests may have a moderately moist habitat, but can be dry depending on the slope and aspect of the forest. The dominant tree species in the canopy include red oak, white oak, and bur oak. Trees in the understory include saplings from the canopy, and fire-sensitive species such as basswood, green ash, bitternut hickory, big-toothed aspen, butternut, northern pin oak, black cherry, paper birch, American elm, boxelder and red maple. The large shrub or small tree layer in the understory tends to be sparse with greater herbaceous plant diversity but can include ironwood, chokecherry, prickly ash, American hazelnut, prickly gooseberry, red-berried elder, nannyberry, juneberry/serviceberry, and pagoda dogwood;

e. "oak woodland brushland" - an area with a canopy more open than a forest but less open than a savanna. It is characterized by open-grown trees and a distinct shrub layer in well-drained sandy, gravelly soils. The dominant tree species include red oak, northern pin oak, white oak, bur oak, and aspen. When it exists, the trees in the understory include saplings from the canopy, black cherry and red cedar. The large shrub or small tree layer can include American hazelnut, ironwood, juneberry and chokecherry;

f. "tamarack swamp" – an area that is a forested wetland community dominated by patches of tamarack, a deciduous coniferous tree. The dominant tree species in the canopy include tamarack, black spruce, paper birch, and red maple. The trees in the understory include saplings from the canopy and the large shrub or small tree layer can include speckled alder and red osier dogwood; or

g. "willow swamp" – an area that is a forested wetland community or an area with seasonally flooded soils and scattered-to-dense shrub cover. The dominant tree species in the canopy include black willow and speckled alder. The trees in the understory include saplings from the canopy and the large shrub or small tree layer can include several species of willow and dogwood.

10) "High priority tree" – a tree that is not in a woodland preservation area but is still important to the site and the neighborhood character, that is structurally sound and healthy, and that meets at least one of the following standards:

a. a deciduous tree that is at least 15 inches dbh, except box elders, elm species, poplar species, willow, silver maple, black locust, amur maple, fruit tree species, mulberry, and Norway maple.

b. a coniferous tree that is at least 20 feet in height, except a Colorado spruce that is not in a buffer as described in subparagraph (b)(10)(c); or

c. a tree that is in a group of deciduous trees that are at least eight inches dbh or coniferous trees that are at least 15 feet in height, that provide a buffer or screening along an adjacent public street, and that are within 50 feet of an arterial road and 35 feet of a minor collector, local, or private street and a trail.

11) "Significant tree" – a tree that is structurally sound and healthy and that is either a deciduous tree at least eight inches dbh or a coniferous tree at least 15 feet in height.

c) City authority. To preserve protected trees, the city may:

1) require and enforce a tree preservation plan as described in paragraph (d) below;

2) specify trees or groups of trees for preservation;

3) specify grading limits;

4) require the clustering of buildings or the relocation of roads, drives, buildings, utilities or storm water facilities when this would preserve protected trees;

5) grant variances;

6) specify time periods in which tree cutting, trimming or injury may not occur in order to prevent the spread of disease; and

7) require conservation easements or other legal means to ensure that woodland preservation areas or groups of high priority trees or significant trees are not intentionally destroyed after the development has been approved.

d) Tree Preservation Plan. A tree preservation plan is required as part of an application for a preliminary plat, lot division, conditional use permit, variance, grading permit, site and building plan review, wetland/floodplain alteration permit, or building permit, except a grading permit and building permit for R-1 property when no tree mitigation is required under (e)(1) below. If the exception applies and if the property owner retains a contractor to do the work, the contractor must submit a plan showing the proposed construction limits on the property and must not remove any trees outside the specified construction limits. A tree preservation plan must include:

1) a tree inventory that meets the following criteria:

a. The species, sizes, and locations of high priority trees, significant trees, and trees in woodland preservation areas must be shown, regardless of health. Dead or structurally unsound trees should be noted as such in the inventory.

b. Canopy species that exist in woodland preservation areas, including those that are in the understory, must be inventoried if they are four inches dbh or larger. Understory trees, excluding canopy species, and large shrubs that exist in woodland preservation areas must be inventoried if they are two inches dbh or larger.

c. The size of high priority trees and significant trees must be inventoried regardless of location.

d. The size of coniferous trees must be recorded in dbh and approximate height.

e. Invasive species such as buckthorn and honeysuckle should not be inventoried.

2) a site plan that shows the dbh, location and size of the critical root zone for each protected tree, the trees to be removed, the trees to be preserved, the proposed construction limits, and the proposed tree protection methods in addition to construction limit fencing. If grading or construction limits are outside of a woodland preservation area, the trees in that woodland preservation area may be grouped together.

e) Tree Removal and Preservation. Removal of protected trees is prohibited except as follows:

1) Existing Structures.

a. R-1 zone: On property that is zoned R-1 and that has an existing principal structure, protected trees may be removed without any mitigation if the principal structure has been in existence and not externally expanded for at least two years after (1) a final building permit inspection or a certificate of occupancy was issued and (2) all of its final landscaping or ground cover was installed.

b. All other zones: On property that is not zoned R-1 and that has an existing principal structure, protected trees may be removed subject to the same standards applicable to R-1 property if no site improvements are undertaken and the owner complies with the required tree preservation and landscape plan for the property.

2) Existing Vacant Parcels of Land, Redevelopment, Site Improvements.

a. R-1: For the construction of a principal structure on a vacant R-1 lot or for redevelopment of an existing R-1 lot, protected trees may be removed with no mitigation only within the "basic tree removal area".

b. All other zones: On property not zoned R-1, for the construction of a principal structure on a vacant lot with no principal structure, for redevelopment of an existing lot, or for site improvements to an existing lot, protected trees may be removed with no mitigation only:

1. within the basic tree removal area; and

2. within the width of required easements for public and private streets and utilities, except that only significant trees may be removed in areas of required surface water ponding. The removal of woodland preservation area trees or high priority trees for surface water ponding must be mitigated.

c. The removal of protected trees under this subsection 2 must also comply with the general removal requirements under subsection 4 below.

3) Subdivisions.

a. Significant trees may be removed for any construction in a subdivision of land without mitigation only:

1. within the basic tree removal area; and

2. within the width of required easements for public and private streets and utilities, including areas required for surface water ponding.

b. If more than 35% of the site's high priority trees or more than 25% of a woodland preservation area on the site are to be removed for any construction in a

subdivision of land, there can be no more than one lot per developable acre of land. High priority trees and trees within a woodland preservation area may be removed for any construction in a subdivision of land without mitigation only:

1. _____ for the basic tree removal area; and
2. _____ for the width of required easements for public and private streets and utilities, except in areas of required surface water ponding. The removal of high priority trees or trees in woodland preservation areas for surface water ponding must be mitigated.

c. A subdivision of land that proposes to remove more than 35% of the site's high priority trees or more than 25% of a woodland preservation area on the site can be developed up to the full density normally allowed under other development regulations in the applicable zoning district if the property is developed under an approved planned unit development (PUD). There is no minimum size required for a PUD in this situation. In reviewing a PUD application, the city will consider the extent to which steps are taken to preserve protected trees, such as:

1. using creative design, which may include the clustering of homes, reducing lot sizes, reducing or expanding normal setbacks, custom grading, retaining walls, buffers, and establishing the size and location of building pads, roads, utilities and driveways;
2. preserving the continuity of woodland preservation areas by developing at the edges of those areas rather than at the core;
3. exercising good faith stewardship of the land and the trees both before subdivision and after, including the use of conservation easements when appropriate; and
4. minimizing the impact to the character of the existing landscape and neighborhood.

d. The removal of protected trees under this subsection 3 must also comply with the general removal requirements under subsection 4 below.

4) General removal requirements. The removal of protected trees under subsections (2) and (3) must also comply with the following general requirements:

a. Principal structures and associated facilities must be located to maximize tree preservation. The city may specify the location of the principal structures and associated facilities in order to ensure a reasonable amount of tree preservation.

b. Any tree removed outside of the specified allowable tree removal areas must be mitigated as specified below.

c. The applicant must comply with any approved tree preservation or landscape plan.

d. Trees required to be saved as part of a subdivision approval must remain on a lot for two years after the final building permit inspection or certificate of occupancy is issued for the principal structure, whichever is later. Any tree that dies solely of natural causes such as disease or wind is exempt from this section.

e. Each protected tree that is removed in violation of ordinance requirements is a separate violation of the city code.

5) Greater Public Good. The city council may allow the removal of protected trees contrary to the provisions in subparagraphs (1) – (4) if it determines that there is a greater public good such as:

a. providing reasonable use or access to the property;

b. providing affordable housing;

c. allowing for the creation or rehabilitation of a public road or trail;

d. providing for a public utility service, such as a transmission line, ponding or a water tower;

e. allowing for the creation or rehabilitation of a public park; or

f. enabling redevelopment in a designated redevelopment area.

f) Tree Mitigation.

1) When tree mitigation is required, the applicant must submit a tree mitigation plan for staff review and approval. The plan must indicate the number of inches or feet of mitigation trees, the species and quantity of each species, and the caliper size or feet and location for each replacement tree. The plan may not be comprised of more than 25 percent of the same species or size unless approved by the city. The plan must comply with the mitigation standards required below. The applicant must implement the tree mitigation plan approved by city staff.

2) Specific mitigation standards. Mitigation for tree removal of trees in woodland preservation areas, high priority trees, and significant trees must meet the following specific standards;

a. Mitigation rate.

1. A tree or large shrub that is in a woodland preservation area

or is a high priority tree must be replaced at the rate of one inch for each inch in diameter of a deciduous tree that was removed and at the rate of one foot for each foot in height of a coniferous tree that was removed; and

2. A significant tree must be replaced with one two-inch tree.

b. Mitigation species.

1. Trees and large shrubs in woodland preservation areas must be replaced with species found in that eco-type as specified on the list of acceptable replacement species on file with the city;

2. High priority trees must be replaced with species of a similar type that are normally found growing in similar conditions and that are included on the list of acceptable replacement species on file with the city;

3. Significant trees may be replaced with any tree species other than ash, box elder, silver maple, willow, Norway maple, amur maple and Colorado spruce, as approved by city staff; and

c. Mitigation size.

1. Replacement sizes for woodland preservation areas and high priority trees are:

a) not less than one and one quarter inches but not more than three inches dbh for deciduous balled and burlapped trees, and not less than three inches but not more than six inches dbh for spade-moved deciduous trees;

b) not less than 7 gallon stock for understory or small trees and not less than 3 gallon stock for shrubbery; and

c) not less than six feet but not more than eight feet in height for balled and burlapped coniferous trees; and not less than eight feet but not more than 14 feet in height for spade-moved coniferous trees.

2. The city may allow larger balled and burlapped or spade moved trees if these trees are accompanied with a three year guarantee. Other size substitutions, based on site characteristics, may be allowed at the reasonable discretion of the city.

3. Replacement size for a significant tree is not less than a two-inches dbh.

3) General mitigation standards:

a. All replacement trees and shrubs must meet the American Standard for Nursery Stock and the American National Standard relating to planting guidelines, quality of stock and appropriate sizing of the root ball for balled and burlapped, potted and spade-moved trees.

b. If the city determines in its reasonable discretion that there is no appropriate location for some or all of the required replacement trees, those trees may not be required.

c. Replacement trees must be planted on the same property or development area from which the trees were removed.

d. A tree will be considered removed if girdled, if 30 percent or more of the trunk circumference is injured, if 30% or more of the crown is trimmed, if an oak is trimmed between April 1st and July 15th, or if the following percentage of the critical root zone is compacted, cut, filled or paved: 30 percent of the critical root zone for all species, except 40 percent for ash, elm, poplar species, silver maple and boxelder.

e. Development that is subject to landscape requirements in sections 300.27 and 300.31 must meet the minimum landscape requirements of the applicable section. Trees planted as part of a required landscaping plan may be counted as replacement trees under this section, at the city's discretion.

f. The required mitigation trees must be replaced by the current property owner if the trees have died, have severely declined or have been damaged after the end of the second full growing season following installation. A tree will be considered to be severely declined if more than 25 percent of the crown has died.

g. The city may require an escrow deposit to ensure the required planting and continued existence of the mitigation trees. The city will release the escrow deposit after the end of the second full growing season following installation of the mitigation trees and any replacement trees.

h. A tree or shrub that was required by the city to be saved but was removed must be replaced at a rate of 2:1 based on dbh for deciduous species and height for conifers. The city may also impose a financial penalty equal to \$500.00 for each inch of dbh or foot of height removed, not to exceed \$5000 for each tree or shrub. This provision also applies to a conservation easement area that is disturbed during or after development.

g) General tree protection standards.

1) Before construction, grading or land clearing begins, the city-approved tree protection fencing or other method must be installed and maintained at the critical root zones of the trees to be protected. The location of the fencing must be in conformance with the approved tree preservation plan. This fencing must be inspected

by city staff before site work begins.

2) No construction, compaction, construction access, stock piling of earth, storage of equipment or building materials, or grading of any kind may occur within the critical root zone areas of trees to be protected.

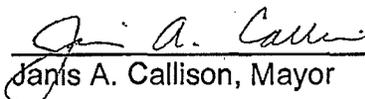
3) A healthy protected tree that was not a hazard to personal safety or property damage and that was removed or otherwise destroyed by unnatural causes within three years before a development application will be regarded as if it were present at the time of construction or a development application. This provision does not apply if the number of protected trees removed is less than 5% of the protected trees existing five years before the application.

4) An area of new or compensatory water storage may not be located where there are woodland preservation areas, high priority trees or significant trees, unless approved by the city. Mitigation will be required for the loss of woodland preservation areas and high priority trees due to ponding. The compensatory storage area must be created in a manner that prevents erosion into any nearby water resource.

Section 2. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 3. This ordinance is effective upon adoption.

Adopted by the city council of the City of Minnetonka, Minnesota, on August 25, 2008.



Janis A. Callison, Mayor

ATTEST:



David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: April 21, 2008
Date of adoption: August 25, 2008
Motion for adoption: Schneider

A34

Seconded by: Allendorf
Voted in favor of: Allendorf, Callison, Ellingson, Schneider, Wagner, Wiersum
Voted against: Hiller
Abstained:
Absent:
Ordinance adopted.

Date of publication: *September 2, 2008*

CERTIFIED COPY:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on August 25, 2008.

David E. Maeda, City Clerk

Exhibit A

Repealed Section §300.28, subd. 19

19. Performance Standards Regulating Tree Removal.

- a) Standards governing the preservation, protection, and planting of trees are necessary to:
- 1) prevent tree loss by eliminating or reducing compaction, filling or excavation near tree roots;
 - 2) prevent or reduce soil erosion and sedimentation and stormwater runoff;
 - 3) improve air quality and reduce noise pollution;
 - 4) enhance energy conservation through natural insulation and shading;
 - 5) control the urban heat island effect;
 - 6) increase and maintain property values;
 - 7) protect privacy by maintaining buffers between similar land uses and establishing and maintaining buffers between conflicting land uses; and
 - 8) preserve the variety and extent of trees which exist in the city and which are an integral part of this city's identity.
- b) A certain amount of tree removal is an inevitable consequence of the urban development process. Nevertheless, construction of streets, utilities, driveways, parking lots, buildings, and other facilities must be located in a manner to save as many significant trees as possible.
- c) In enforcing this ordinance, the city may give preference to the preservation of higher quality significant trees over less desirable trees. A tree may be considered of higher quality based on its species, size, location, or other relevant factors. The city forester will establish a list of species that are considered less desirable, and this list will be kept on file in the planning department.
- d) The city may require that a property be rezoned and developed as a planned unit development to utilize flexible development standards to preserve significant trees; the city may require the clustering of buildings where this would preserve significant trees.
- e) significant trees may be destroyed for development, without any required replacement, in the following areas:
- 1) within the width of required easements for public streets and utilities and

the required areas for surface water ponding;

2) within the areas improved for reasonably-sized driveways, parking lots, and structures without frost footings and within ten feet around those improvements; and

3) within the footprints of buildings and 20 feet around buildings with frost footings.

If a significant tree is removed in other areas, trees must be planted to meet the number of significant trees which existed in those other areas before development, subject to the conditions in paragraphs (f) and (g) below.

f) the provision of replacement trees is subject to the following.

1) The applicant will not be required to raise the number of trees above 25 trees per acre.

2) If the applicant and the city agree that there is no appropriate location for some or all of the replacement trees, those trees will not be required.

3) In calculating the number of replacement trees, only trees meeting the minimum sizes in subparagraph (g) below may be counted. Notwithstanding the above, any development that is subject to section 300.27 must meet the minimum landscape requirements of that section.

g) Any trees required to be planted must be varied in species, must be primarily species native to the area, may not include any species that are subject to disease epidemic or are on the list of less desirable trees established by the city forester, and must be hardy under local conditions. They must be at least 2½ inches in diameter for deciduous trees and 6 feet tall for coniferous trees, except that for property located in the planned I-394 district they must be at least 3½ inches in diameter for deciduous trees and 10 feet tall for coniferous trees. The required trees must be replaced by the property owner or original developer if they die within one year after installation.

h) Before any construction or grading takes place, snow fencing, erosion control fencing, or similar device must be placed around the drip lines of significant trees that are to be preserved or that are located nearby on adjacent property. No construction, compaction, or grading of any kind may occur within these drip lines, except when necessary to save additional significant trees and when the risk to the trees designated for preservation is minimal. The developer must place signs on the fencing prohibiting construction, compaction, or grading.

i) A significant tree that was removed or otherwise destroyed within two years before a development application must be replaced in the same general location by two trees meeting the requirements of paragraph (g) above. The replacement trees will be considered significant trees existing at the time of the development application and may be removed and relocated on the site only if the original significant tree would have

been allowed to be removed under this ordinance.

j) The area of any compensatory water storage may not be located where there are any significant trees, unless approved by the city. The compensatory storage area must be created in a manner that prevents erosion into any nearby wetland.

k) Tree removal on property with an existing home or other principal structure shall be exempt from this subdivision, except as stated in paragraph (j) above, unless the tree removal is to accommodate new development or the expansion of the existing development.