

**CITY OF ALBANY  
PLANNING AND ZONING AGENDA  
STAFF REPORT**

Agenda date: 4/14/09  
Prepared by: JB  
Reviewed by: AC

**ITEM/**           6c

**SUBJECT:**    **Resolution of Intention of the Planning and Zoning Commission to Initiate Amendments to the Planning and Zoning Code to Correct and Clarify Development Regulations.**

**SITE:**         City-wide

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**RECOMMENDATION**

That the Commission recommends that the City Council approve the draft ordinance containing proposed amendments to the Planning and Zoning Code.

**BACKGROUND**

The Planning and Zoning Code requires that amendments to the Planning and Zoning Code be initiated by the Commission by acting on a Resolution of Intention. Ultimately, the Commission shall provide a written recommendation to the Council including specific findings. The attached draft Resolution of Intention (Attachment A) is intended to fulfill the initial process requirements.

The last discussion on the amendments occurred at the Planning and Zoning Commission public hearing on March 24, 2009. The following are items that the public and Commission wanted to discuss in further detail. The items are listed in no particular order or preference:

1. 20.24.080.C. Mechanical appurtenances on buildings.
2. 20.24.110.C.2. Fences, landscaping and screening on residential properties.
3. 20.20.130. The appropriate place of review for live entertainment permit review. Should the review be completed at the Planning and Zoning Commission or City Council?
4. Diagrams for amended sections 20.24.070 and 24.24.110. (see attachment E)
5. Further discussion on massing, particularly in regards to MC 20.24.070. What types of setbacks, daylight planes or development requirements do neighboring or comparable cities have for mixed-use developments?

The City of Oakland has a few zoning districts that allow mixed-use development, all of which require a setback for mixed-use abutting a residential district. The rear yard setback requirement for the Neighborhood Commercial Zone is 10'. The rear yard setback requirement for the Local Retail Commercial Zone is 15'.

The City of Emeryville allows mixed use in the M-U (Mixed-use district) where a 10' rear yard setback is required for developments abutting residential districts. An additional two feet of setback is required for each one foot, by which the height of the building on the commercial lot exceeds three (3) stories.

The City of El Cerrito has three zoning districts that allow mixed-use development. These include CN (Neighborhood Commercial), TOM (Transit-Oriented Mixed Use), CC (Community Commercial). A rear yard setback is required only when adjacent to a residential district, in which case a 35' height limit with a 45-degree daylight plane is required. See Figure 19.07-B (attachment D). Exceptions to the above requirements are permitted for a one-story parking or garage structure that does not exceed 10 feet in height in a side or rear yard that does not front on a street.

Staff recommends that the Commission open the public hearing, discuss the draft ordinance, direct staff to make revisions as deemed appropriate and recommend to the Commission City Council approve the draft ordinance containing proposed amendments to the Planning and Zoning Code.

#### *Attachments*

- A. Resolution of Intention
- B. Minutes from September 23, 2008, October 14 and 28, 2008, December 9, 2008
- C. Figure 19.07-B from the City of El Cerrito Zoning Code
- D. Draft diagrams for Zoning Amendments
- E. Massing study diagrams, distributed November 11, 2008



1  
2 a. **Yard, front** means a yard of uniform depth extending across the full  
3 width of the lot inward from the front lot line. **The front yard of a corner lot is the**  
4 **yard adjacent to the shorter street front shall be determined by the Community**  
5 **Development Director.**  
6

7 **Section 2:** Chapter XX of the Albany Municipal Code, Section 20.12.040, Table 1  
8 titled “Permitted land uses by district,” is hereby amended to include the following  
9 text:

10 Day Care Home, Residential

Land Use	R-1	R-2	R-3	R-4	RHD	SC	SPC	CM X	PF	W F
b) Large Family 19	<b><u>UP-M</u></b>	<b><u>UP-M</u></b>	<b><u>UP-M</u></b>	<b><u>UP-M</u></b>	<b><u>UP-M</u></b>	-	-	-	-	-

12  
13 **Section 3:** Chapter XX of the Albany Municipal Code, Section 20.12.040, Notes,  
14 Table 1 is hereby amended to add the following text:

15 19. Refer to Section 20.20.020.B.2.d. for special process of notice  
16 and hearing.

17 **Section 4:** Chapter XX of the Albany Municipal Code, Section  
18 20.20.020.B.2.d, Notes, Table 1 is hereby amended to add the following text:

19 d. Public Notice and Hearing. At least ten (10) calendar days prior to a  
20 **decision-administrative public hearing** on a Minor Use Permit for a Large  
21 Family Day Care Home, notice of the proposed use and public hearing shall be  
22 mailed or delivered to owners of property within one hundred (100) feet of the  
23 exterior boundaries of the proposed day care home. **No hearing shall be held**  
24 **on the application unless a hearing is requested by the applicant or other**  
25 **affected person prior to the announced time of the decision. Upon request**  
26 **for a hearing, public notice shall be provided in the manner and form**  
27 **described in subsection 20.100.010.E, except that notice shall not be mailed**  
28 **or delivered beyond one hundred (100) feet of the exterior boundaries of**  
29 **the proposed day care home.**  
30

31 **Section 5:** Chapter XX of the Albany Municipal Code, a new section shall be  
32 adopted, **Section 20.20.130, titled “Live Entertainment Permits,” is hereby**  
33 **adopted to include the following text:**

34  
35 **A. Purpose.** This section establishes regulations for the  
36 **granting of an entertainment permit. The standards are in addition to the**  
37 **requirements of Albany Municipal Code Section 5-11.**

38  
39 **B. Use Permit Required.** A major use permit shall be required  
40 **for any place where entertainment is provided within a bar, cocktail**

1 lounge, tavern, café, restaurant, hotel, motel, or public place where food,  
2 alcoholic or other beverages, or other refreshments are served.

3  
4 \* Appropriate amendments shall also be made to corresponding chapter in  
5 Municipal Code, 5-11. \*

6  
7 **Section 6:** Chapter XX of the Albany Municipal Code, Section 20.24.020 Table 2.A.,  
8 titled “ Site Regulations by District: Residential,” Note 14 is hereby amended to  
9 include the following text:

10  
11 Maximum building height ~~is three stories, or 35 feet, above natural or finished~~  
12 grade, whichever is lower, except that the maximum height allowed at the front  
13 setback line shall be 28 feet plus a 45-degree daylight plane. (See subsection  
14 20.24.070.B.)

15  
16 **Section 7:** Chapter XX of the Albany Municipal Code, Section 20.24.020. Table  
17 2.A. titled “Site Regulations by District: Residential,” Note 19(a), is hereby amended  
18 to include the following text:

19  
20 19. Exceptions to setback requirements may be made in the case of a second story  
21 addition to a single-family dwelling, as follows:

22 (a) Nonconforming walls shall be allowed to extend up over an existing wall  
23 or foundation. A second story addition may be built over an existing wall  
24 or foundation which does not conform to the required setbacks, subject to  
25 design review by the Planning and Zoning Commission and obtaining a use  
26 permit. Existing walls which do not conform to the existing side or rear yard  
27 setbacks may be extended, in an existing vertical or horizontal plane,  
28 subject to design review by the Planning and Zoning Commission and a use  
29 permit. Such extensions shall not further encroach on any required setback,  
30 (i.e., a nonconforming wall which encroaches one (1) foot into a required  
31 setback shall not be permitted to encroach two (2) feet) nor shall any  
32 extension create a new encroachment in another direction.

33  
34 **Section 8:** Chapter XX of the Albany Municipal Code, Section 20.24.020. Table 2.B.  
35 Note 3, titled “Site Regulations by District: Nonresidential,” is hereby amended to  
36 include the following text:

37  
38 3. Same as R-3 District, See note 79 – Site regulations, Table 2A:Residential.

39  
40 **Section 9:** Chapter XX of the Albany Municipal Code, Section 20.24.020 Table  
41 2.B. Note 4, titled “Site Regulations by District: Nonresidential” is hereby amended to  
42 include the following text:

43  
44 Maximum building height is ~~three stories, or 38 feet,~~ above grade, except that where  
45 the rear property line abuts a residential district, a maximum height or at the rear  
46 setback line shall be 20 feet plus a 45 degree day light plane, or at the rear

1 property line shall be 12 feet plus a 45 degree daylight plane. twelve (12) feet,  
2 above the of natural or finished grade, whichever is lower, at the line of the  
3 minimum required setback, inclined away from the vertical at a thirty-five (35)  
4 degree angle. There shall be no projections or appurtenances in the day light  
5 plane. (See subsection 20.24.070.A., Figure 1)  
6

7 **Section 10:** Chapter XX of the Albany Municipal Code, Section 20.24.050 B.1.c,  
8 titled "Floor-Area-Ratios" is hereby amended to include the following text:  
9

10 c. Any covered area on or below the first or main floor, ~~for which the~~  
11 ~~average height of the four (4) corners is greater than six (6) feet, shall be~~  
12 ~~included in the calculation of gross square footage, shall be calculated in the~~  
13 ~~floor-area ratio if the average height of the perimeter is greater than four (4)~~  
14 ~~feet, except a single parking area may be excluded as provided in paragraph a,1(b)~~  
15 ~~above. Measurement of height shall be taken from the lower of natural or~~  
16 ~~finished grade to the top of finished floor of the first, main or story above.~~  
17

18 **Section 11:** Chapter XX of the Albany Municipal Code, Section 20.24.070 A, titled  
19 "Setbacks with Daylight Planes, Interior Property Lines Abutting Residential District  
20 Boundaries," is hereby amended to include the following text:  
21

22 Interior Property Lines Abutting Residential District Boundaries: The minimum  
23 setback where an interior lot line of a property in a Solano Commercial or San Pablo  
24 Commercial District abuts a residential district boundary shall be five (5) feet on the  
25 side ~~and ten (10) feet on the rear.~~ An additional setback for any portion of any  
26 structure extending above ~~twenty (20) twelve (12) feet~~ in height, up to the maximum  
27 height permitted in the Commercial District, shall be defined by a daylight plane  
28 extending from a base point located ~~twenty (20) twelve (12) feet~~ above the **ground**  
29 **plane lower of natural or finished grade** at the line of the minimum required  
30 setback, inclined away from the vertical at a ~~forty-five (45o) thirty-five (35) degree~~  
31 ~~angle. (See Figure 1.a., below.) Alternatively the base point for the daylight plane~~  
32 ~~may be located twelve (12) feet above the ground plane at the property line that~~  
33 ~~abuts a residential district, with no setback from the property line required.~~  
34 ~~(See Figure 1.b., below.)~~  
35

36 *Insert Diagram 20.24.070 A. Figure 1.*  
37

38 **Section 12:** Chapter XX of the Albany Municipal Code, Section 20.24.070, titled  
39 "Setbacks with Daylight Planes, Interior Property Lines Abutting Residential District  
40 Boundaries," is hereby amended to include the following text:  
41

42 **A2. The minimum setback, where an interior lot line of a property in a higher**  
43 **density residential district abuts a lower density residential district, shall be five**  
44 **(5) feet on the side and fifteen (15) feet on the rear. An additional setback for**  
45 **any portion of any structure extending above twenty (20) feet in height, up to the**  
46 **maximum height located twenty (20) feet above the ground plane at the line of**

1 the minimum required setback, inclined away from the vertical at a forty-five  
2 (45) degree angle.

3  
4 **Section 13:** Chapter XX of the Albany Municipal Code, Section 20.24.070 B, titled  
5 “Setbacks with Daylight Planes, Exterior Property Lines at Streets Abutting  
6 Residential Districts,” is hereby amended to include the following text:

7  
8 2. Where a property in a Residential Medium Density District (R-2) or a  
9 Residential High Density District (R-3) has an exterior lot line ~~on either Kains~~  
10 ~~Avenue or Adams Street that abuts a residential district~~, the minimum setback  
11 from such lot line shall be fifteen (15) feet. An additional setback for any portion of  
12 any structure extending above twenty-eight (28) feet in height, up to the maximum  
13 height permitted, shall be defined by a daylight plane extending from a base point  
14 located twenty-eight (28) feet above the line of the minimum required setback,  
15 inclined away from the vertical at a forty-five (45) degree angle. See Figure 2. below.

16  
17 **Section 14:** Chapter XX of the Albany Municipal Code, Section 20.24.080 B, titled  
18 “Height Limits and Exceptions,” is hereby amended to include the following text:

19  
20 B. General Exceptions. Subject to approval of a ~~use permit design~~  
21 ~~review~~, towers, spires, cupolas, chimneys, elevator penthouses, water tanks,  
22 monuments, flagpoles, theatre scenery storage structures, fire towers, and similar  
23 structures may be erected to a height not more than ten (10) feet above the height  
24 limit prescribed by the regulations for the district in which the site is located,  
25 provided that no such structure shall be used for habitable space or advertising  
26 purposes, and provided that the aggregate of such structures does not cover more than  
27 ten (10%) percent of the roof area of the top floor of the structure to which they are  
28 attached. All structures that exceed the height limit shall be subject to design review.

29  
30 **Section 15:** Chapter XX of the Albany Municipal Code, Section 20.24.080 C, titled  
31 “Height Limits and Exceptions,” is hereby amended to include the following text:

32  
33 B. **Mechanical Appurtenances.** Mechanical appurtenances covering not  
34 more than twenty (20%) of the roof area of the top floor of any **nonresidential**  
35 **structure** to which they are attached may exceed the height limit prescribed by the  
36 regulations for the district in which the site is located by six (6) feet subject to design  
37 review and provided that such structures are screened in accordance with subsection  
38 20.24.110, and further provided that no screening is located within ten (10) feet of the  
39 perimeter of the plate line of the top story.

40  
41 **Section 16:** Chapter XX of the Albany Municipal Code, Section 20.24.110 C.2, titled  
42 “Fences, Landscaping, Screening” is hereby amended to include the following text:

43  
44 2. In any R District any fence, wall hedge, or other visual obstruction shall not  
45 exceed three (3) feet in height within any front yard, or within fifteen (15) feet of any  
46 front property line, whichever is less; except that in no case shall such visual

1 obstruction exceed three (3) feet in height within ten (10) feet of the front property  
2 line any property line abutting a street.

3  
4 **Section 15:** Chapter XX of the Albany Municipal Code, Section 20.24.110 C.2 and,  
5 titled “Fences, Landscaping, Screening,” is hereby amended to include the following  
6 text:

7  
8 Exception to height limit in front yard: A structure designed to provide a decorative  
9 gateway, such as an arbor, trellis or pergola, may occupy an area not to exceed twenty  
10 (20) square feet, with a maximum horizontal dimension of six (6) feet and a  
11 maximum vertical dimension of ten (10) feet, subject to granting of a zoning permit  
12 administrative design review approval based on all of the following findings:

- 13  
14 a. The structure is not attached to the principal structure or any other  
15 structure other than a fence.  
16  
17 b. Structural bulk is minimized by the use of open materials such as lattice.  
18  
19 c. The location of the structure does not create a sight  
20 distance problem with respect to driveways or street intersections.  
21  
22 d. The design of the structure is appropriate to the main building and the  
23 landscaping of the property.  
24

25 **Section 17:** Chapter XX of the Albany Municipal Code, Section 20.24.080 E.5, titled  
26 “Height Limits and Exceptions,” is hereby amended to include the following text,  
27 which will be repeated from Municipal Code Section 20.24.020 Table 2.A. Note 12:

28  
29 **E.5. Planning and Zoning Commission, subject to Design Review criteria,**  
30 **may grant a use permit to allow greater height for second story additions, up to**  
31 **35 feet, measured in accordance with subsection 20.24.080, and based on at least**  
32 **one of the following findings:**

33 **a. The existing house has a partial ground story that causes an increase in the**  
34 **overall height of the building, and there are sound design reasons from considering**  
35 **a roof line which exceeds twenty-eight (28) feet.**

36 **b. The natural downward or upward topography of the site causes an increase in**  
37 **the overall height of the building. The minimum roof pitch has been maintained on**  
38 **the addition to be consistent with the existing architectural design of the house. The**  
39 **height has been measured from the natural or finished grade to the highest point**  
40 **on the roof.**

41 **c. The existing architectural character and design of the house is maintained.**  
42 **Design factors have been considered to offset or minimize the increase height,**  
43 **such as breakup in the mass and bulk, offsetting one or more portions of the**  
44 **addition from the ground story wall line, and adding architectural details and**  
45 **elements such as horizontal trim or other features to create interest.**  
46



1 **Section 17:** Chapter XX of the Albany Municipal Code, Section 20.24.130 H, titled  
2 “Accessory Buildings,” is hereby amended to include the following text:

3  
4 H. Setbacks. Accessory buildings ~~located in rear setback areas~~ shall be within  
5 six (6”) inches of the side or rear lot line, or shall be set back at least three (3’)  
6 feet, and shall be subject to the following provisions:

- 7  
8 1. Accessory buildings shall not have openings (windows, doors, and vents)  
9 within three (3) feet of the property line. This includes openings on walls  
10 that are perpendicular to a property line. An exception shall be made for  
11 garage (vehicle) doors.  
12 2. Accessory buildings located on the street side yard of corner lots are  
13 required to meet the minimum setback requirements for the main building.  
14 3. ~~Accessory buildings on the interior side yard shall not encroach into~~  
15 ~~the required side yard setback.~~

16  
17 **Section 18:** Chapter XX of the Albany Municipal Code, Section 20.28.050 c and  
18 Table 6, titled “Parking Area Standards,” is hereby amended to include the following  
19 text:

- 20 b. Open Parking. The minimum dimensions for an open parking space  
21 meeting the parking requirements for a newly constructed single-family  
22 dwelling shall be eight (8) feet six (6) inches in width and eighteen (18)  
23 feet in length. The minimum width dimension for a double-car open  
24 parking space shall be sixteen (16) feet. ~~All minimum width~~  
25 ~~dimensions shall be increased by an additional one (1) foot of width~~  
26 ~~adjacent to each wall, fence, property line or other fixed obstruction~~  
27 ~~that restricts access abutting the long dimension of the parking~~  
28 ~~space.~~  
29

<b>Table 6. 20.28.050 Residential Parking Dimensions.</b>			
<b>Type of Parking</b>	<b>Width</b>	<b>Length</b>	<b>Height</b>
<i>Enclosed Parking:</i>			
Single space	8'6" <sup>*</sup>	19'	7'
Side-by-side spaces	16' <sup>**</sup>	19'	7'
<i>Covered Parking:</i>			
Single space	8'6" <sup>*</sup>	18'	7'
Side-by-side spaces	16' <sup>**</sup>	18'	7'
<i>Open Parking:</i>			
Single space	8'6" <sup>*</sup>	18'	N/A
Side-by-side spaces	16' <sup>**</sup>	18'	N/A
<i>Driveways</i>			
Single	7'	N/A	N/A
Double	15'	N/A	N/A

~~\* One (1) additional foot in width shall be provided on each side abutting any wall, fence, property line, or other fixed obstruction that restricts vehicle access.~~  
~~\*\* Minimum side-by-side, or double, parking space width is double the minimum single width minus one (1) foot. Additional width for obstructions is applicable.~~

**Section 19:** Chapter XX of the Albany Municipal Code, Section 20.28.050 Table 6, titled "Residential Parking Dimensions," is hereby amended to include the following text:

~~\* One (1) additional foot in width shall be provide on each side abutting any wall, fence, property line, or other fixed obstruction that restricts vehicle access.~~  
~~\*\* Minimum side-by-side, or double, parking space width is double the minimum single minus one (1) foot. Additional width for obstruction is applicable.~~

**Section 20:** Chapter XX of the Albany Municipal Code, Section 20.40.080 titled "Housing Provisions" is hereby adopted to include the following text:

- A. A developer of any project subject to the requirements in this chapter may appeal to the city council for a reduction, adjustment, or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of the development and either the amount of the fee charged or the inclusionary requirement.
- B. A developer subject to the requirements of this chapter who has received an approved tentative subdivision or parcel map, use permit or similar discretionary approval and who submits a new or revised tentative subdivision or parcel map, use permit or similar discretionary approval for the same property may appeal for a reduction, adjustment or waiver of the requirements with respect to the number of lots or square footage of construction previously approved.

1 C. Any such appeal shall be made in writing and filed with the city clerk  
2 not later than ten (10) days before the first public hearing on any  
3 discretionary approval or permit for the development, or if no such  
4 discretionary approval or permit is required, or if the action  
5 complained of occurs after the first public hearing on such permit or  
6 approval, then the appeal shall be filed within ten (10) days after  
7 payment of the fees objected to. The appeal shall set forth in detail  
8 the factual and legal basis for the claim of waiver, reduction, or  
9 adjustment. The city council shall consider the appeal at the public  
10 hearing on the permit application or at a separate hearing within sixty  
11 (60) days after the filing of substantial evidence to support the appeal  
12 including comparable technical information to support appellant's  
13 position. No waiver shall be approved by the city council for a new  
14 tentative subdivision or parcel map, user permit or similar  
15 discretionary approval on property with an approved tentative  
16 subdivision or parcel map, use permit or similar discretionary permit  
17 unless the council finds that the new tentative subdivision or parcel  
18 map, user permit or similar discretionary approval is superior to the  
19 approved project both in its design and its mitigation of  
20 environmental impacts. The decision of the council shall be final. If a  
21 reduction, adjustment, or waiver is granted, any change in use within  
22 the project shall invalidate the waiver, adjustment, or reduction of the  
23 fee or inclusionary requirement  
24

25 **Section 21:** Chapter XX of the Albany Municipal Code, Section 20.100.080.C.1.  
26 titled "Administrative Actions Appealable." is hereby amended to include the  
27 following text:

- 28 1. Any person aggrieved by a decision to grant or deny a permit or action  
29 taken by the Planning staff or any other City Official under the  
30 provisions of this chapter, or any person aggrieved by an  
31 administrative determination or interpretation made in conjunction  
32 with a decision to grant, deny or comply with a determination made  
33 pursuant to a provision of this ~~code~~ **chapter**, may appeal such action  
34 to the Planning and Zoning Commission.  
35

36 **Section 22. Severability.**

37 If any section, subsection, sentence, clause or phrase of this ordinance is for  
38 any reason held to be invalid, such decision shall not affect the validity of the  
39 remaining portions of the ordinance, and each section, subsection, sentence, clause or  
40 phrase thereof, irrespective of the fact that any one or more sections, subsections,  
41 sentences, clauses or phrases be declared invalid.  
42

43 **Section 23: Publication and Effective Date.**

44 This ordinance shall be posted at three public places within the City of Albany  
45 and shall become effective thirty days after the date of its posting.  
46

1  
2  
3  
4  
5  
6

**PASSED AND ADOPTED** by the City Council of the City of Albany at its meeting on the \_\_\_ day of \_\_\_, 2009, by the following vote:

September 23, 2008 Minutes

**Resolution of Intention of the Planning and Zoning Commission to Initiate Amendments to the Planning and Zoning Code to Correct and Clarify Development Regulations**

*Staff recommendation: open public hearing and provide feedback and direction to staff on proposed amendments.*

Planning Manager Bond introduced the item and the Commissioners agreed to go through the items one-by-one. Vice Chair Maass opened the public hearing.

20.08.020

Commissioner Moss liked option 2, and noted that fences should be low on both sides of a corner lot at the corner, for motor vehicle safety. Commissioner Arkin agreed. Ed Fields, Kains Avenue, recommended changing a later section of the code (about fence height) so that it referred to "exterior" property lines rather than the "front" property line. Commissioner Gardner recommended combining option 1 and option 2 and adding that it would be in unusual circumstances that the Community Development Director would be called upon to make a determination.

20.12.040

Commissioner Moss recommended these uses require a major, rather than minor, use permit. Commissioner Arkin recommended there always be a public hearing, whether major or minor. Planning Manager Bond wanted to research this issue further. Mr. Fields wanted all notices to be 300 feet (none to be 100 feet). Commissioner Arkin agreed.

20.20.130

Vice Chair Maass pointed out 20.20.070, and Planning Manager Bond thanked him.

20.24.020

Clay Larson, Albany resident, wanted to hear from the City Attorney regarding statutory interpretation. Planning Manager Bond opined it is easier to measure height in feet than in stories. There was a lengthy discussion on the intent of the ordinance.

On extending non-conforming setbacks, there was a lengthy discussion on the intent of the ordinance.

Commissioner Gardner noted that table 2b, footnote 3, should refer to note 9, table 2a. Commissioner Maass recommended that the wording from the code be included the conditions of approval.

20.24.050

The Commissioners did not believe this section needed to be revised. Clay Larson believes that the purpose in FAR limits are the same for residential as they are commercial.

**ATTACHMENT B**

20.240.050B.1.c.

All agreed with proposed wording for revision of the text.

20.24.050

The Commissioners generally agreed with the proposed changes in the staff report. Following this discussion the Commission agreed to revisit the zoning amendment changes at the next meeting.

Vice Chair Maass closed the public hearing.

## October 14, 2008 Minutes

### **a. Amendments to the Planning and Zoning Code to Correct and Clarify Development Regulations.**

*Staff recommendation: continue Commission discussion initiated at the September 23, 2008, meeting. Provide feedback and direction to staff on proposed amendments.*

Commissioner Arkin showed a drawing demonstrating the choice between a zero setback and a ten-foot setback. He stated that Clay Larson would disagree with his assertion that the idea was to offer a trade-off of square footage. He recommended correcting the drawing on the left and modifying the drawing on the right. He noted the code should be consistent, so that this part of the code would work with other parts of the code, such as FAR.

Planning Manager Bond asked whether the Commissioners wanted a massing study. They did. Vice Chair Maass asked why the angle was 45 degrees. Commissioner Moss thought, to encourage setbacks. Commissioner Arkin supports the use of daylight planes and suggested that 30 degrees may be appropriate. Commissioner Moss echoed that a 30 degree may be a good compromise. Vice Chair Maass wondered whether the setbacks would be dead zones and added that walls at property lines have aesthetic impacts on neighbors and should not be left blank. Commissioner Arkin added that the daylight planes should be applicable in both R-2 and R-3 districts. All three Commissioner concurred with drafted language in the staff report.

In regards to building height, Municipal Code Section 20.24.080, Commissioner Moss stated that mechanical equipment should be included in exceptions. Commissioner Arkin concurred. All three concurred with the drafted language for 20.24.080B, and allowing height exceptions with Design Review instead of Conditional Use Permits.

All three Commissioners concurred with draft language for both Municipal Code Sections 20.28.110.C.2. and 20.24.130.

Commissioner Arkin stated that carports are a code enforcement issue, in discussion of Municipal Code Section 20.28.020. All concurred that more restrictive/specific language should be added to regulate such structures. Commissioner Moss added that restriction on canvas car covers was excessive. Commissioner Arkin stated that a structure greater than 3' should not be permitted in the front yard, except for entry gateways/arbors.

## October 28, 2008 Minutes

### **b. Resolution of Intention of the Planning and Zoning Commission to Initiate Amendments to the Planning and Zoning Code to Correct and Clarify Development Regulations**

*Staff recommendation: continue Commission discussion initiated at the September 23, 2008, and October 14, 2008, meetings. Provide feedback and direction to staff on proposed amendments.*

The Commission discussed daylight planes, MC 20.24.070. Commissioner Arkin provided diagrams showing the daylight planes with a 0', 15' and 25' setback for buildings in an R-3 district abutting an R-1. Clay Larson stated that buildings cannot have windows on the property lines and that setbacks should be separate from day light planes.

Commissioner Arkin stated that zoning has changed and that making a 10' setback apply to a 100' deep lot makes it challenging to design for. Clay Larson also stated that in the CE district a 10' side yard setback was required for side yards and the Commission was able to make exceptions.

Commissioner Panian stated that a 0' lot line would have to address the awkwardness of decks for neighbors. Ed Fields likes the idea of a 10' rear yard setback. Commissioner Panian added that a definition for daylight plane should be included.

Commissioner Maas stated that it seemed that privacy seemed to be the biggest issue. Commissioner Panian suggested two clear alternatives that does not allow exceptions. Commissioner Arkin suggested the discussion be continued once a massing study is done to provide clearer representations of potential impacts.

## December 9, 2008 Minutes

### **a. Discussion of Amendments to the Planning and Zoning Code to Correct and Clarify Development Regulations**

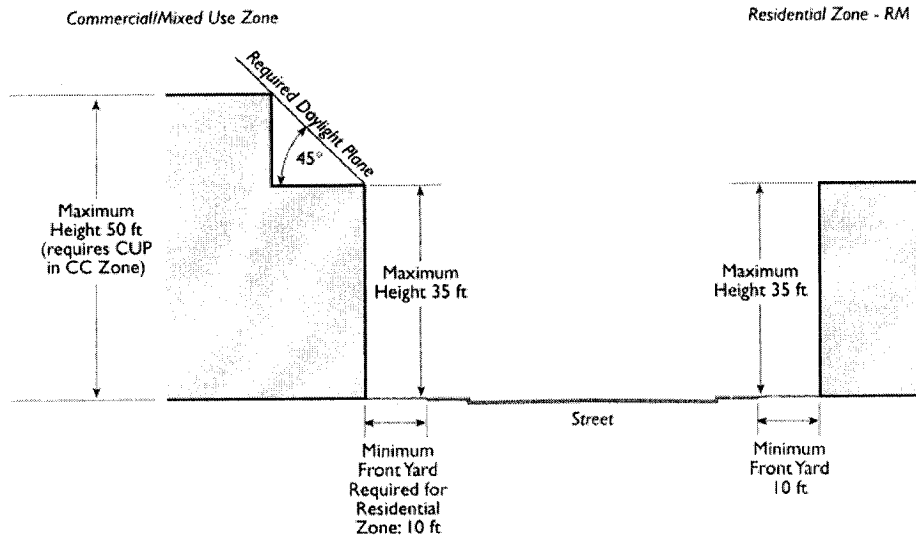
*Staff recommendation: continue Commission discussion initiated at the September 23, 2008, October 14, 2008 and October 28, 2008 meetings. Provide feedback and direction to staff on proposed amendments.*

The Commission unanimously agreed that project sites should be posted with a public notice.

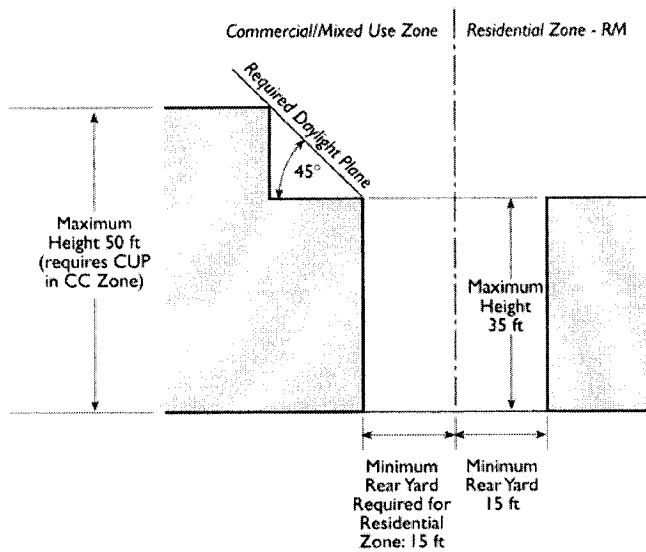


FIGURE 19.07-B: BUILDING TRANSITION ZONE ADJACENT TO RESIDENTIAL DISTRICTS

*Commercial/Mixed Use Across the Street from Residential*

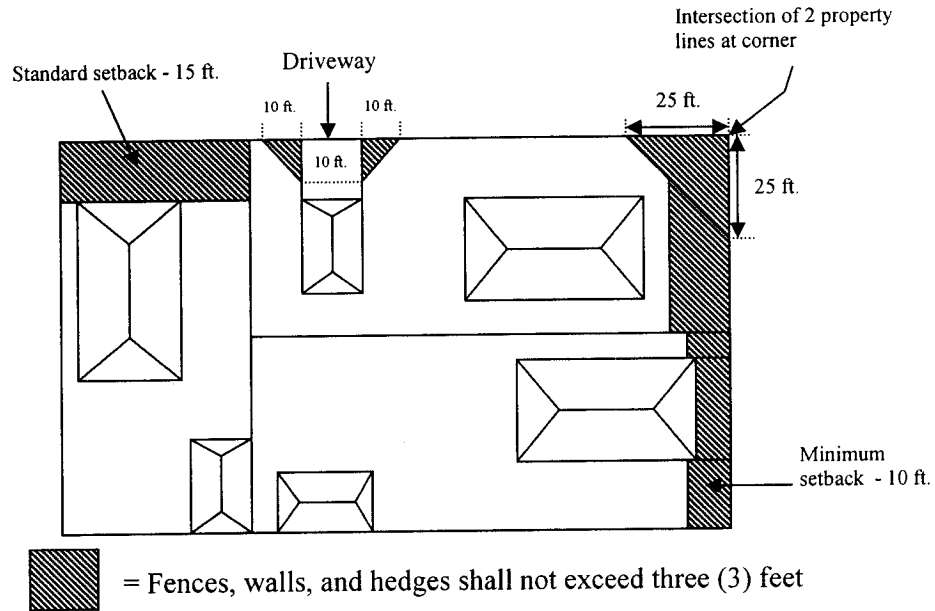


*Commercial/Mixed Use Rear Yard Abutting Rear Yard of Residential*

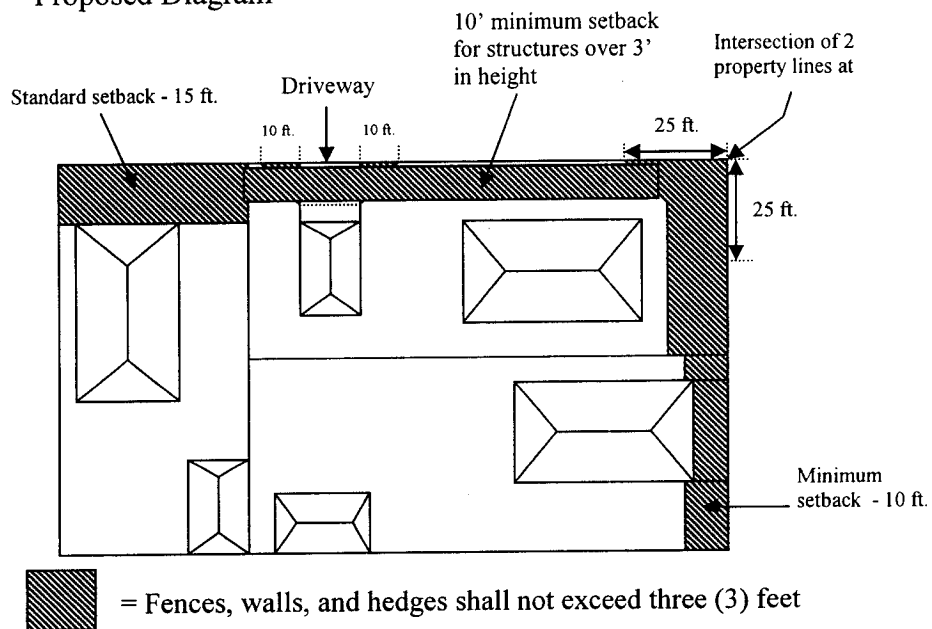


20.24.110.C.2

Current Diagram

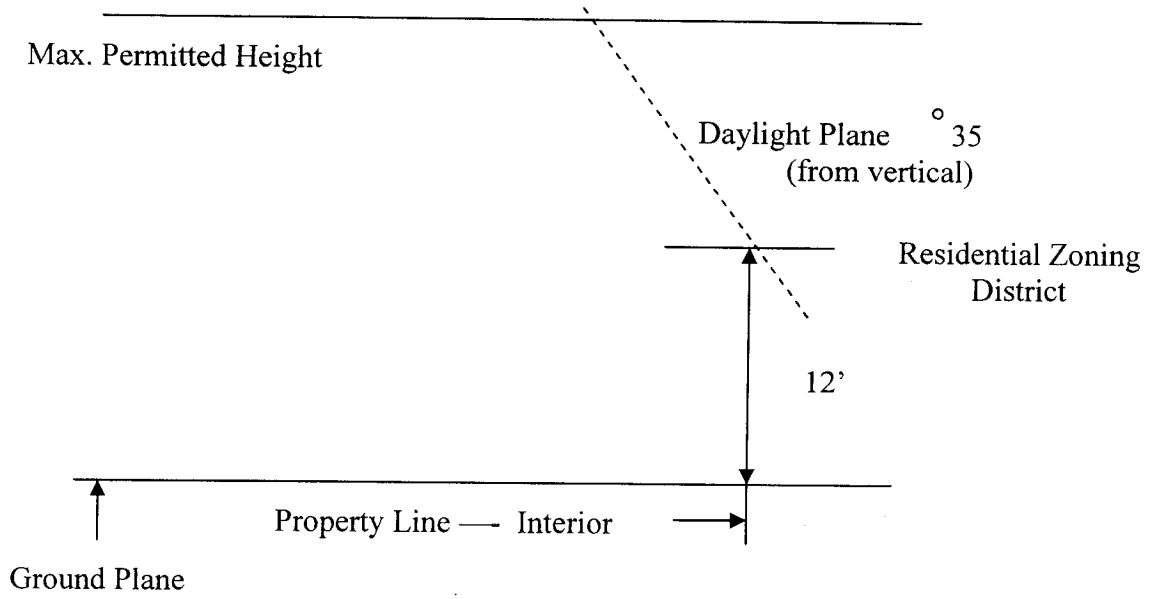


Proposed Diagram

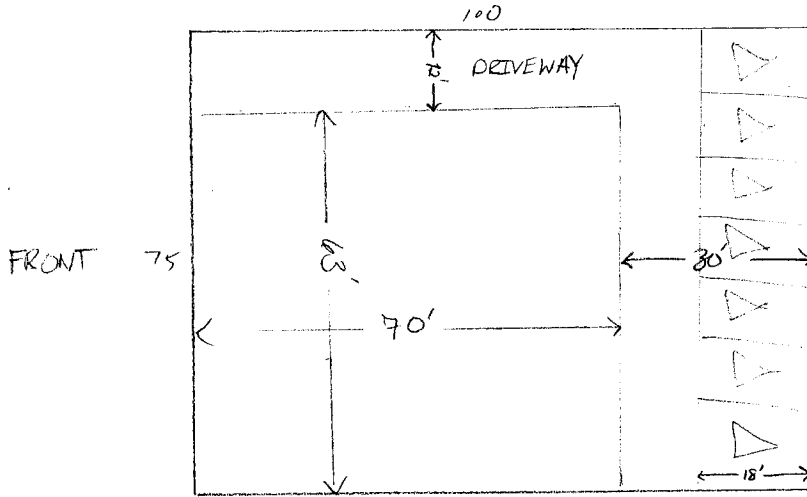


ATTACHMENT D

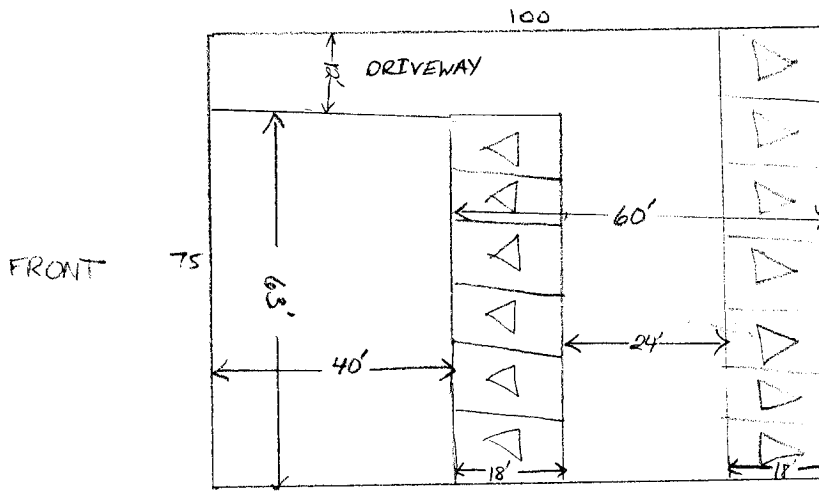
20.24.070



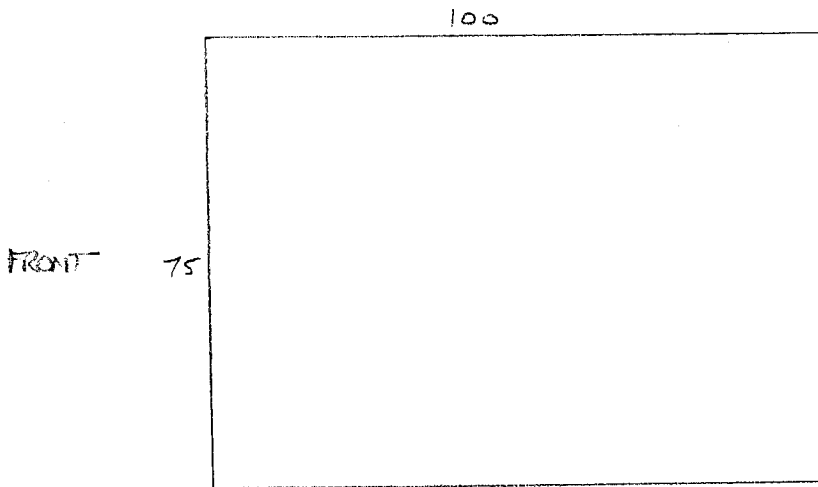
# OPEN, REAR YARD PARKING



- MAXIMUM ALLOWABLE FAR = 16,875 sq. ft.
- 3-STORIES OVER FOOTPRINT = 13,230 sq. ft.
- CANTELLIVER = 3,646 sq. ft. TO ACHIEVE MAX FAR (25' CANTELLIVER = DAYLIGHT PLANE ISSUE)
- MAXIMUM PARKING SPACES 7 SPACES = 3 UNITS

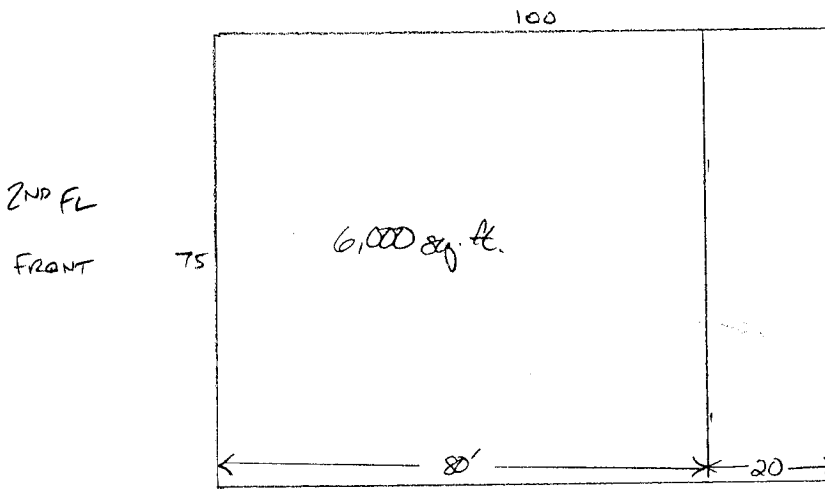
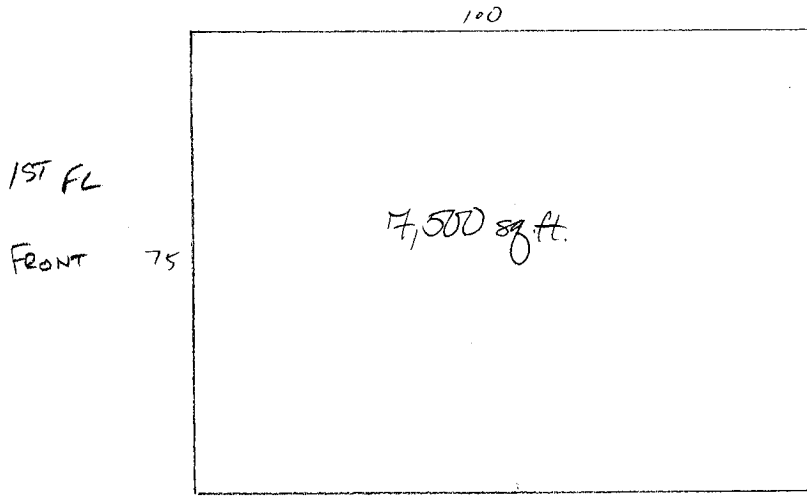


- MAXIMUM ALLOWABLE FAR = 16,875 sq. ft.
- 3 STORIES OVER FOOTPRINT = 7,560 sq. ft.
- CANTELLIVER = 9,315 sq. ft. (TOO LARGE TO CANTELLIVER)
- MAXIMUM PARKING SPACES 13 SPACES = 6 UNITS
- POSSIBLY NO SPACE FOR COMMERCIAL, ALL RESIDENTS WOULD HAVE TO BE ON 2nd & 3rd FLRS.

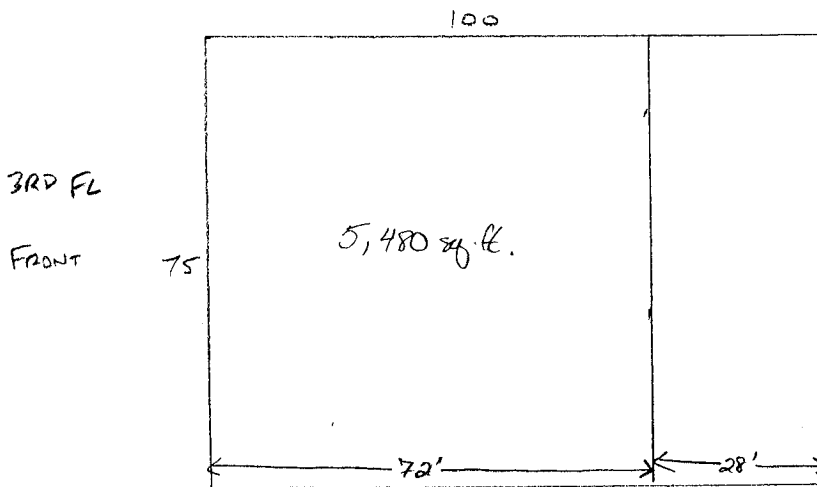


1" = 20'

• 35° DAYLIGHT PLANE WITH NO REAR YARD SETBACK.

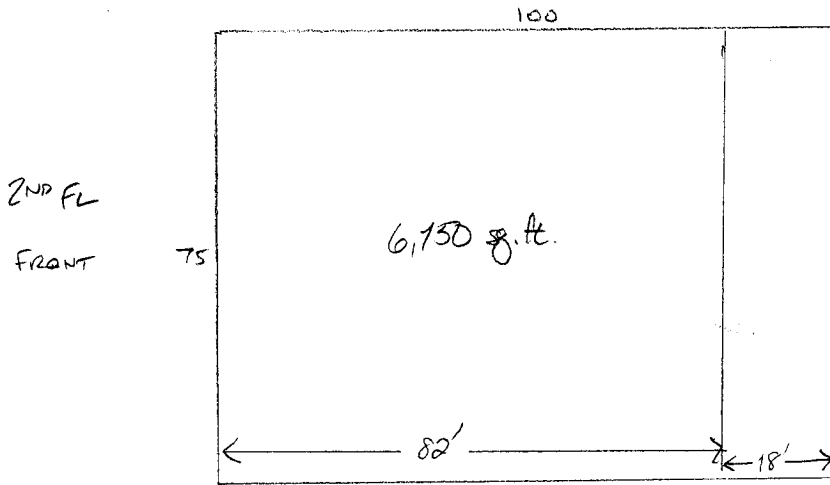
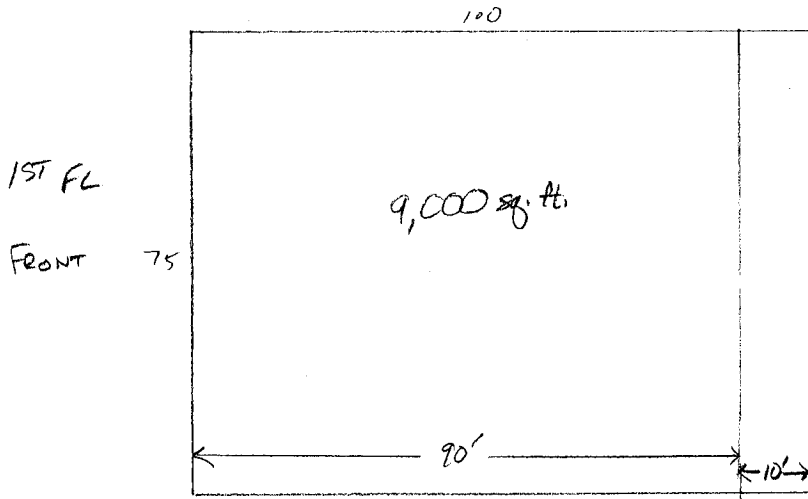


18,900 sq. ft. total  
16,875 max sq. ft. allowed  
2,025 OVER

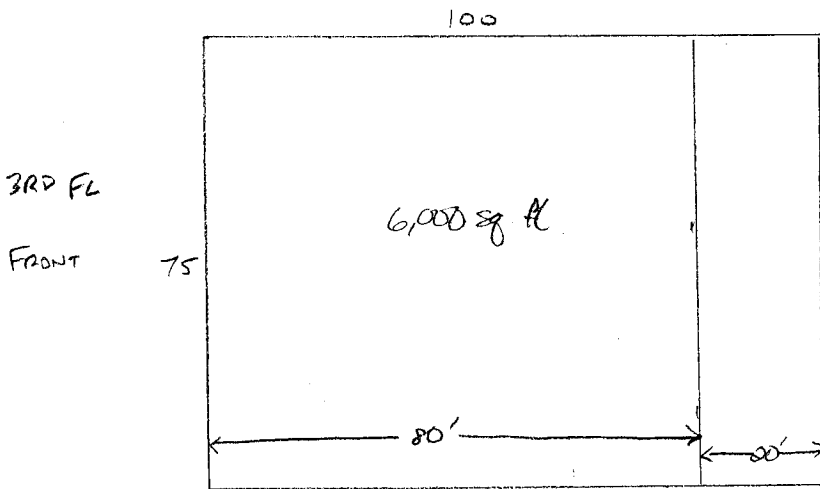


1" = 20'

• 45' DAYLIGHT PLANE W/ 10' REAR YARD SETBACK •



21,150 sq. ft. total  
 16,875 max. sq. ft. allowed  
 4,275 OVER



1" = 20'

- 45 CMX

- 40' PF  
- 38' SPC

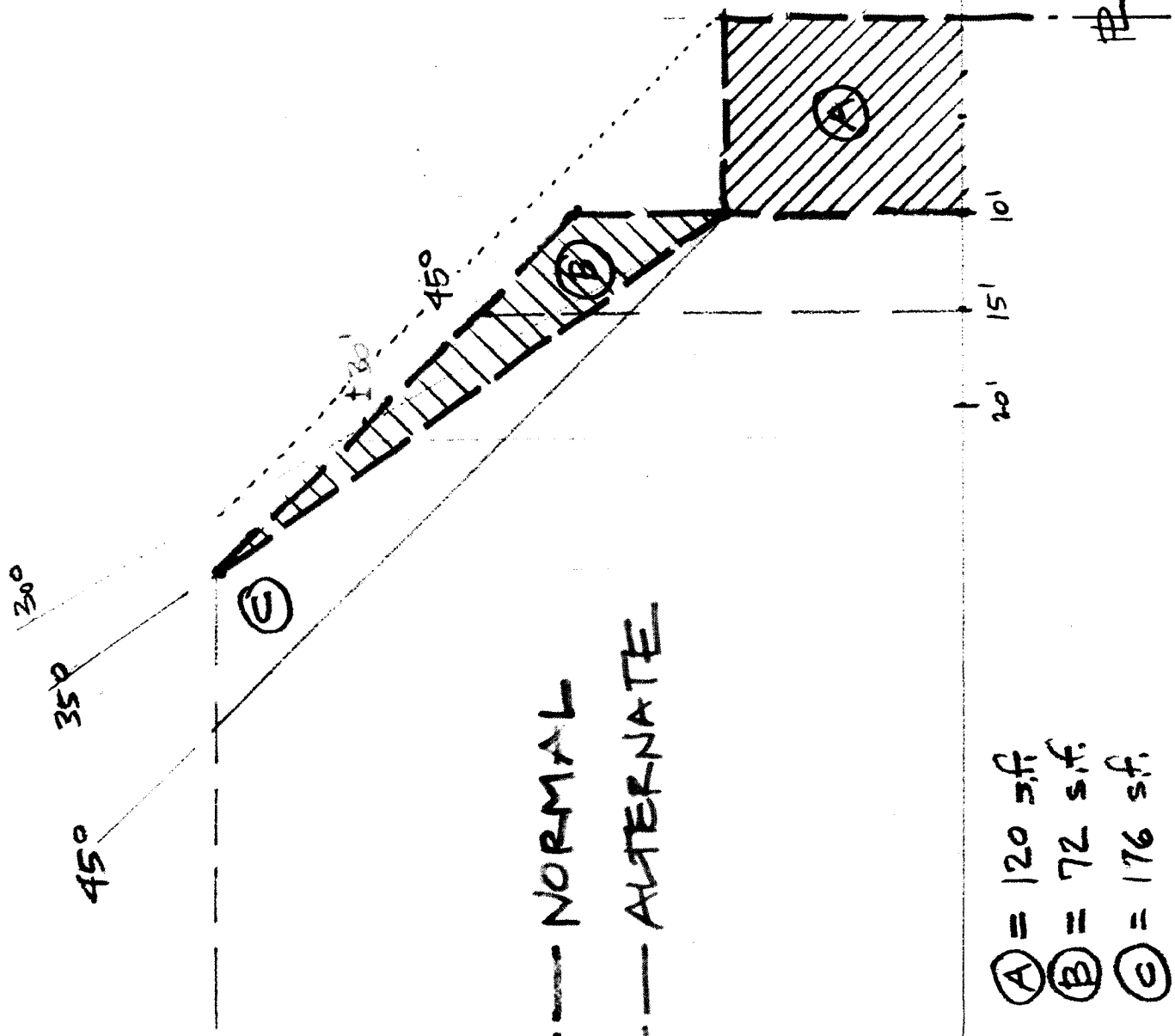
- R-3, SC

- 30' R-2  
- 28'

- 25'

- 20'

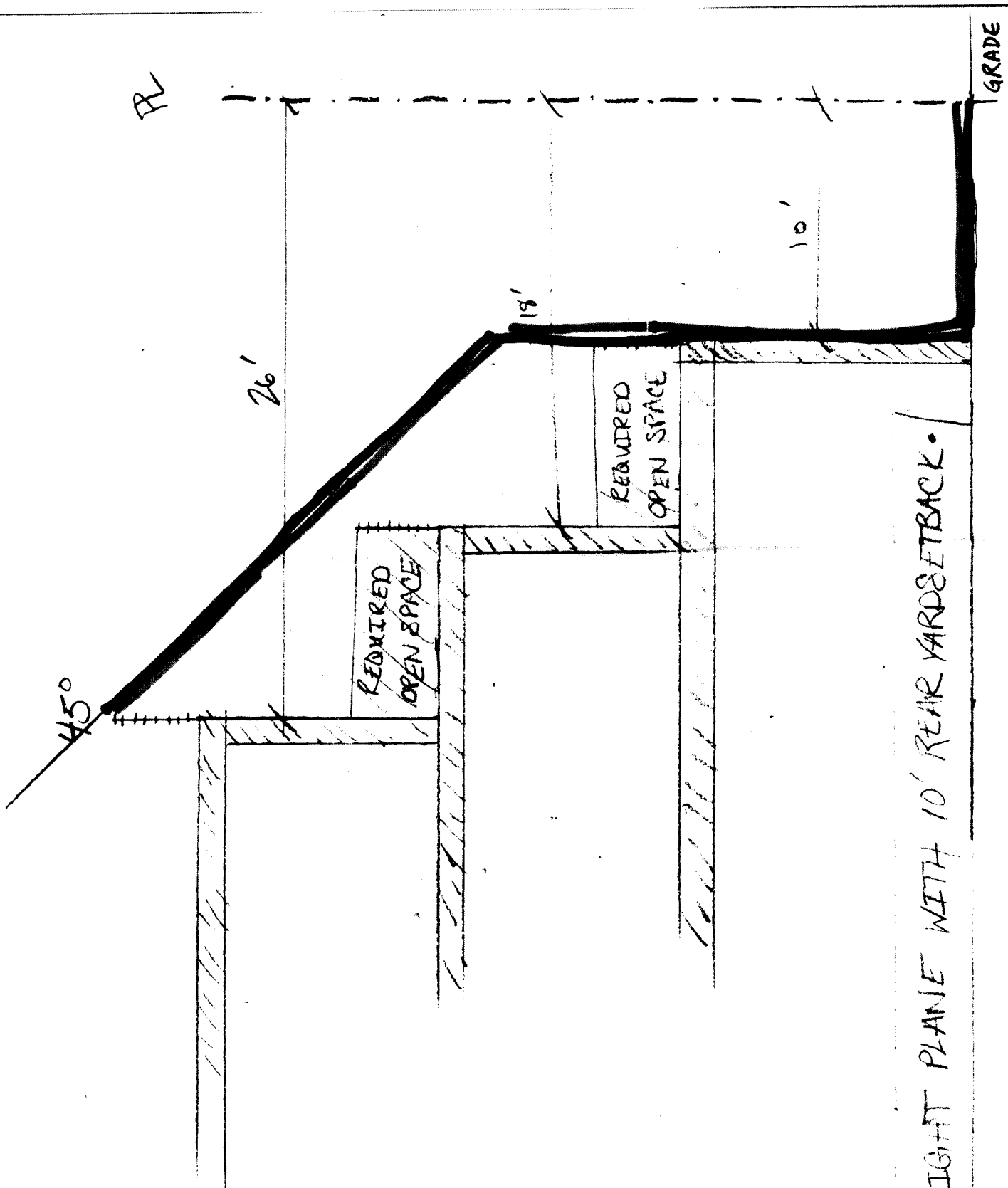
- 12'  
- 10'



- - - - - NORMAL  
 - - - - - ALTERNATE

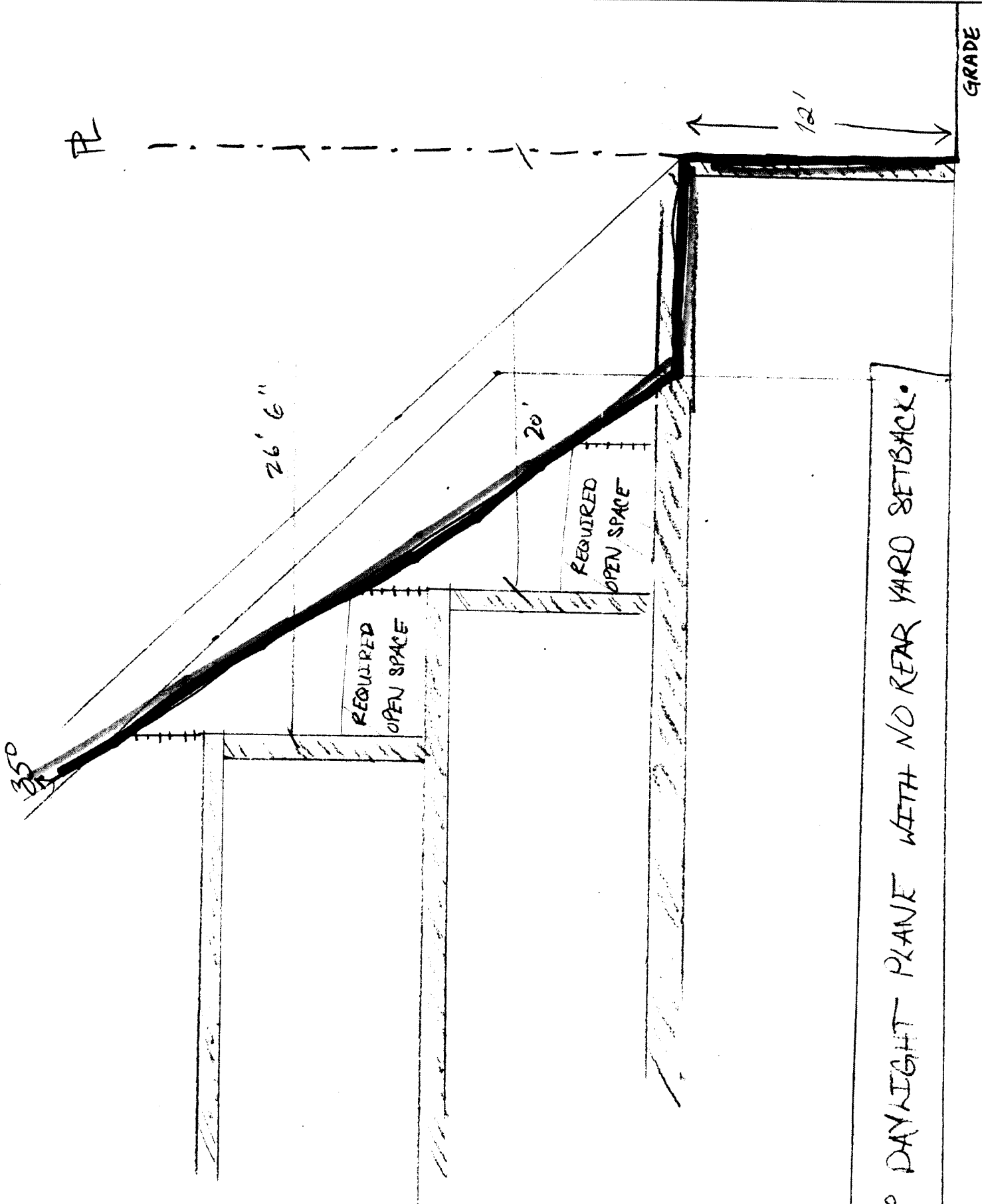
(A) = 120 s.f.  
 (B) = 72 s.f.  
 (C) = 176 s.f.

DAYLIGHT PLANES  
 10.08



• 45° DAYLIGHT PLANE WITH 10' REAR YARDBETBACK.





• 35° DAYLIGHT PLANE WITH NO REAR YARD SETBACK.