

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	<u>UP-M</u>	<u>UP-M</u>	<u>UP-M</u>	<u>UP-M</u>	<u>UP-M</u>	-	-	-	-	-

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 ~~7 9~~ – 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.
26

27 ~~The minimum setback at the rear shall be one of the following two options: 1)~~
28 ~~An additional setback for any portion of any structure extending above twenty~~
29 ~~(20) feet in height, up to the maximum height permitted in the Commercial~~
30 ~~District, shall be defined by a daylight plane extending from a base point located~~
31 ~~twenty (20) feet above the ground plane at the line of the ten (10) foot required~~
32 ~~rear yard setback, inclined away from the vertical at a thirty-five degree angle~~
33 ~~(See figure 1.a., attached); 2) The base point for the daylight plane may be~~
34 ~~located twelve (12) feet above the ground plane at the property line that abuts a~~
35 ~~residential district, with no setback from the property line, inclined away from~~
36 ~~the vertical at a forty-five degree angle (see figure 1.b., attached).*~~
37

38 ~~and ten (10) feet on the rear. An additional setback for any portion of any~~
39 ~~structure extending above twenty (20) twelve (12) feet in height, up to the~~
40 ~~maximum height permitted in the Commercial District, shall be defined by a~~
41 ~~daylight plane extending from a base point located twenty (20) twelve (12) feet~~
42 ~~above the ground plane lower of natural or finished grade at the line of the~~
43 ~~minimum required setback, inclined away from the vertical at a forty five (45o)~~
44 ~~thirty-five (35) degree angle. (See Figure 1.a., below.) Alternatively the base~~
45 ~~point for the daylight plane may be located twelve (12) feet above the ground~~

1 plane at the property line that abuts a residential district, with no setback from
2 the property line required. (See Figure 1.b., below.)

3
4 *Insert Diagram 20.24.070 A. Figure 1.*

5
6 **Section 12:** Chapter XX of the Albany Municipal Code, Section 20.24.070, titled
7 “Setbacks with Daylight Planes, Interior Property Lines Abutting Residential District
8 Boundaries,” is hereby amended to include the following text:
9

10 **A2. The minimum setback, where an interior lot line of a property in a higher**
11 **density residential district abuts a lower density residential district, and**
12 **Municipal Code Section 20.24.030 does not apply, shall be five (5) feet on the**
13 **side. An additional setback for any portion of any structure extending above**
14 **twenty (28) feet in height, up to the maximum height permitted in the**
15 **Commercial District, shall be defined by a daylight plane extending from a base**
16 **point located twenty (28) feet above the ground plane at the line of the five (5)**
17 **foot required side yard setback, inclined away from the vertical at a forty-five**
18 **degree angle (See figure 2.a., attached).***
19

20 **The minimum setback, where an interior lot line of a property in a higher**
21 **density residential district abuts a lower density residential district, and**
22 **Municipal Code Section 20.24.030 does not apply, shall be fifteen (15) feet on the**
23 **rear. An additional rear yard setback for any portion of any structure extending**
24 **above twenty (20) feet in height, up to the maximum height located twenty (20)**
25 **feet above the ground plane at the line of the minimum required setback,**
26 **inclined away from the vertical at a forty-five (45) degree angle (See figure 2.b.,**
27 **attached).***
28

29 **Section 13:** Chapter XX of the Albany Municipal Code, Section 20.24.070 B, titled
30 “Setbacks with Daylight Planes, Exterior Property Lines at Streets Abutting
31 Residential Districts,” is hereby amended to include the following text:
32

33 2. Where a property in a Residential Medium Density District (R-2) or a
34 Residential High Density District (R-3) has an exterior lot line ~~on either Kains~~
35 ~~Avenue or Adams Street that abuts a residential district~~, the minimum setback
36 from such lot line shall be fifteen (15) feet. An additional setback for any portion of
37 any structure extending above twenty-eight (28) feet in height, up to the maximum
38 height permitted, shall be defined by a daylight plane extending from a base point
39 located twenty-eight (28) feet above the line of the minimum required setback,
40 inclined away from the vertical at a forty-five (45) degree angle. See Figure 2. below.
41

42 **Section 14:** Chapter XX of the Albany Municipal Code, Section 20.24.080 B, titled
43 “Height Limits and Exceptions,” is hereby amended to include the following text:
44

45 **B.** General Exceptions. Subject to approval of a use permit design
46 review, towers, spires, cupolas, chimneys, elevator penthouses, water tanks,

1 monuments, flagpoles, theatre scenery storage structures, fire towers, and similar
2 structures may be erected to a height not more than ten (10) feet above the height
3 limit prescribed by the regulations for the district in which the site is located,
4 provided that no such structure shall be used for habitable space or advertising
5 purposes, and provided that the aggregate of such structures does not cover more than
6 ten (10%) percent of the roof area of the top floor of the structure to which they are
7 attached. All structures that exceed the height limit shall be subject to design review.

8
9 **Section 15:** Chapter XX of the Albany Municipal Code, Section 20.24.080 C, titled
10 “Height Limits and Exceptions,” is hereby amended to include the following text:

11
12 **B. Mechanical Appurtenances.** Mechanical appurtenances covering not
13 more than twenty (20%) of the roof area of the top floor of any **nonresidential**
14 **structure** to which they are attached may exceed the height limit prescribed by the
15 regulations for the district in which the site is located by six (6) feet subject to design
16 review and provided that such structures are screened in accordance with subsection
17 20.24.110, and further provided that no screening is located within ten (10) feet of the
18 perimeter of the plate line of the top story.

19
20 **Section 16:** Chapter XX of the Albany Municipal Code, Section 20.24.110 C.2, titled
21 “Fences, Landscaping, Screening” is hereby amended to include the following text:

22
23 2. In any R District any fence, wall hedge, or other visual obstruction shall not
24 exceed three (3) feet in height within any front yard, or within fifteen (15) feet of any
25 front property line, whichever is less; except that in no case shall such visual
26 obstruction exceed three (3) feet in height within ten (10) feet of the front property
27 line-any property line abutting a street.

28
29 **Section 15:** Chapter XX of the Albany Municipal Code, Section 20.24.110 C.2 and,
30 titled “Fences, Landscaping, Screening,” is hereby amended to include the following
31 text:

32
33 Exception to height limit in front yard: A structure designed to provide a decorative
34 gateway, such as an arbor, trellis or pergola, may occupy an area not to exceed twenty
35 (20) square feet, with a maximum horizontal dimension of six (6) feet and a
36 maximum vertical dimension of ten (10) feet, subject to granting of a zoning permit
37 administrative design review approval based on all of the following findings:

- 38
39 a. The structure is not attached to the principal structure or any other
40 structure other than a fence.
41
42 b. Structural bulk is minimized by the use of open materials such as lattice.
43
44 c. The location of the structure does not create a sight
45 distance problem with respect to driveways or street intersections.
46

- 1 d. The design of the structure is appropriate to the main building and the
2 landscaping of the property.
3

4 **Section 17:** Chapter XX of the Albany Municipal Code, Section 20.24.080 E.5, titled
5 “Height Limits and Exceptions,” is hereby amended to include the following text,
6 which will be repeated from Municipal Code Section 20.24.020 Table 2.A. Note 12:
7

8 **E.5. Planning and Zoning Commission, subject to Design Review criteria,**
9 **may grant a use permit to allow greater height for second story additions, up to**
10 **35 feet, measured in accordance with subsection 20.24.080, and based on all**
11 **three (3) of the following findings:**

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

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

20 **c. The existing architectural character and design of the house is maintained.**
21 **Design factors have been considered to offset or minimize the increase height,**
22 **such as breakup in the mass and bulk, offsetting one or more portions of the**
23 **addition from the ground story wall line, and adding architectural details and**
24 **elements such as horizontal trim or other features to create interest.**
25

26 **Section 17:** Chapter XX of the Albany Municipal Code, Section 20.24.130 H, titled
27 “Accessory Buildings,” is hereby amended to include the following text:
28

29 H. Setbacks. Accessory buildings ~~located in rear setback areas~~ shall be within
30 six (6”) inches of the side or rear lot line, or shall be set back at least three (3’)
31 feet, and shall be subject to the following provisions:
32

- 33 1. Accessory buildings shall not have openings (windows, doors, and vents)
34 within three (3) feet of the property line. This includes openings on walls
35 that are perpendicular to a property line. An exception shall be made for
36 garage (vehicle) doors.
37 2. Accessory buildings located on the street side yard of corner lots are
38 required to meet the minimum setback requirements for the main building.
39 3. ~~Accessory buildings on the interior side yard shall not encroach into~~
40 ~~the required side yard setback.~~
41

42 **Section 18:** Chapter XX of the Albany Municipal Code, Section 20.28.050 c and
43 Table 6, titled “Parking Area Standards,” is hereby amended to include the following
44 text:
45

- 46 b. Open Parking. The minimum dimensions for an open parking space
meeting the parking requirements for a newly constructed single-family

dwelling shall be eight (8) feet six (6) inches in width and eighteen (18) feet in length. The minimum width dimension for a double-car open parking space shall be sixteen (16) feet. ~~All minimum width dimensions shall be increased by an additional one (1) foot of width adjacent to each wall, fence, property line or other fixed obstruction that restricts access abutting the long dimension of the parking space.~~

Table 6. 20.28.050 Residential Parking Dimensions.

Type of Parking	Width	Length	Height
<i>Enclosed Parking:</i>			
Single space	8'6"*	19'	7'
Side-by-side spaces	16' **	19'	7'
<i>Covered Parking:</i>			
Single space	8'6"*	18'	7'
Side-by-side spaces	16' **	18'	7'
<i>Open Parking:</i>			
Single space	8'6" <u>±</u>	18'	N/A
Side-by-side spaces	16' <u>±</u> **	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.~~

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 19: 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

1 or similar discretionary approval and who submits a new or revised
2 tentative subdivision or parcel map, use permit or similar
3 discretionary approval for the same property may appeal for a
4 reduction, adjustment or waiver of the requirements with respect to
5 the number of lots or square footage of construction previously
6 approved.

7 C. Any such appeal shall be made in writing and filed with the city clerk
8 not later than ten (10) days before the first public hearing on any
9 discretionary approval or permit for the development, or if no such
10 discretionary approval or permit is required, or if the action
11 complained of occurs after the first public hearing on such permit or
12 approval, then the appeal shall be filed within ten (10) days after
13 payment of the fees objected to. The appeal shall set forth in detail
14 the factual and legal basis for the claim of waiver, reduction, or
15 adjustment. The city council shall consider the appeal at the public
16 hearing on the permit application or at a separate hearing within sixty
17 (60) days after the filing of substantial evidence to support the appeal
18 including comparable technical information to support appellant's
19 position. No waiver shall be approved by the city council for a new
20 tentative subdivision or parcel map, user permit or similar
21 discretionary approval on property with an approved tentative
22 subdivision or parcel map, use permit or similar discretionary permit
23 unless the council finds that the new tentative subdivision or parcel
24 map, user permit or similar discretionary approval is superior to the
25 approved project both in its design and its mitigation of
26 environmental impacts. The decision of the council shall be final. If a
27 reduction, adjustment, or waiver is granted, any change in use within
28 the project shall invalidate the waiver, adjustment, or reduction of the
29 fee or inclusionary requirement
30

31 **Section 20:** Chapter XX of the Albany Municipal Code, Section 20.100.080.C.1.
32 titled "Administrative Actions Appealable." is hereby amended to include the
33 following text:

- 34 1. Any person aggrieved by a decision to grant or deny a permit or action
35 taken by the Planning staff or any other City Official under the
36 provisions of this chapter, or any person aggrieved by an
37 administrative determination or interpretation made in conjunction
38 with a decision to grant, deny or comply with a determination made
39 pursuant to a provision of this ~~code~~ **chapter**, may appeal such action
40 to the Planning and Zoning Commission.
41

42 **Section 21. Severability.**

43 If any section, subsection, sentence, clause or phrase of this ordinance is for
44 any reason held to be invalid, such decision shall not affect the validity of the
45 remaining portions of the ordinance, and each section, subsection, sentence, clause or

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phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

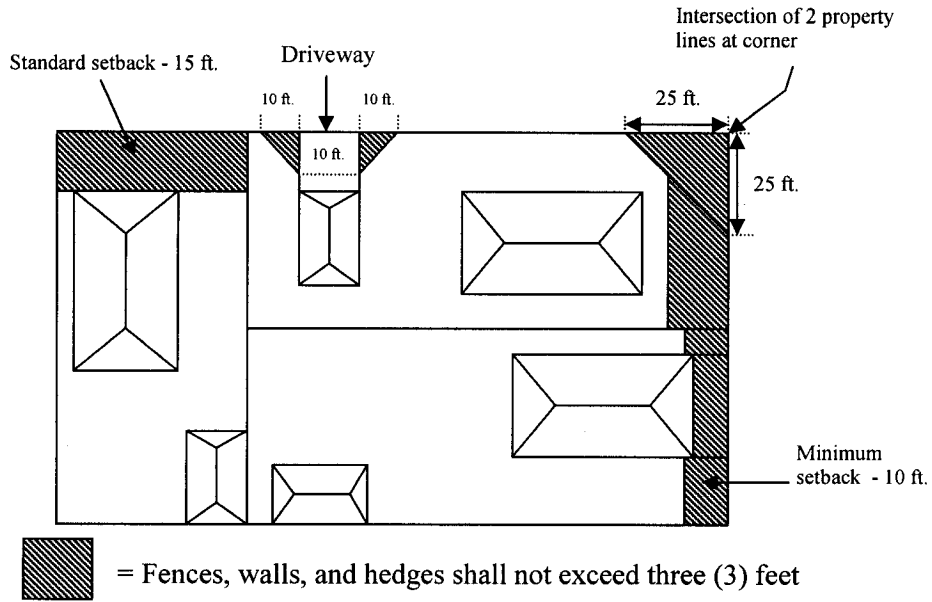
Section 22: Publication and Effective Date.

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

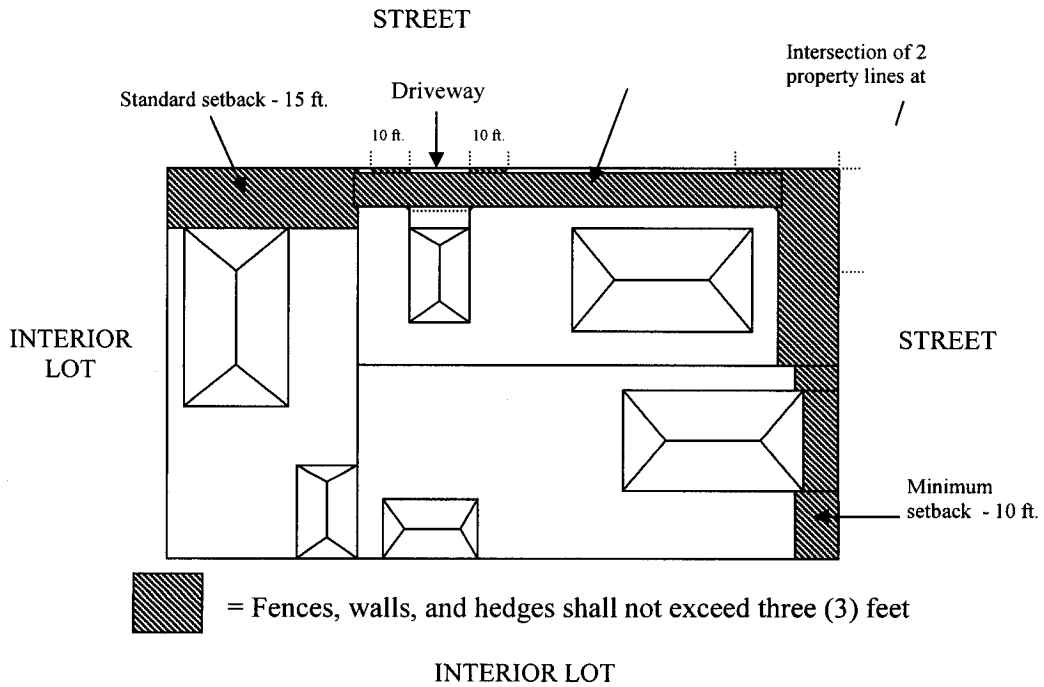
PASSED AND ADOPTED by the City Council of the City of Albany at its meeting on the ___ day of ___, 2009, by the following vote:

20.24.110.C.2

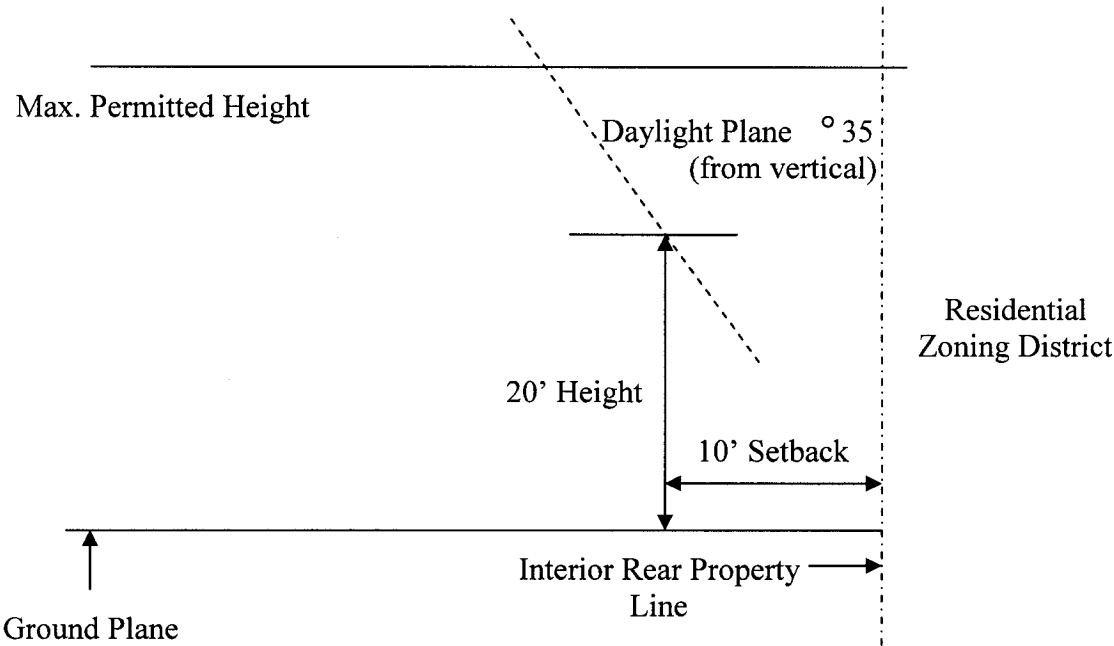
Current Diagram



Proposed Diagram

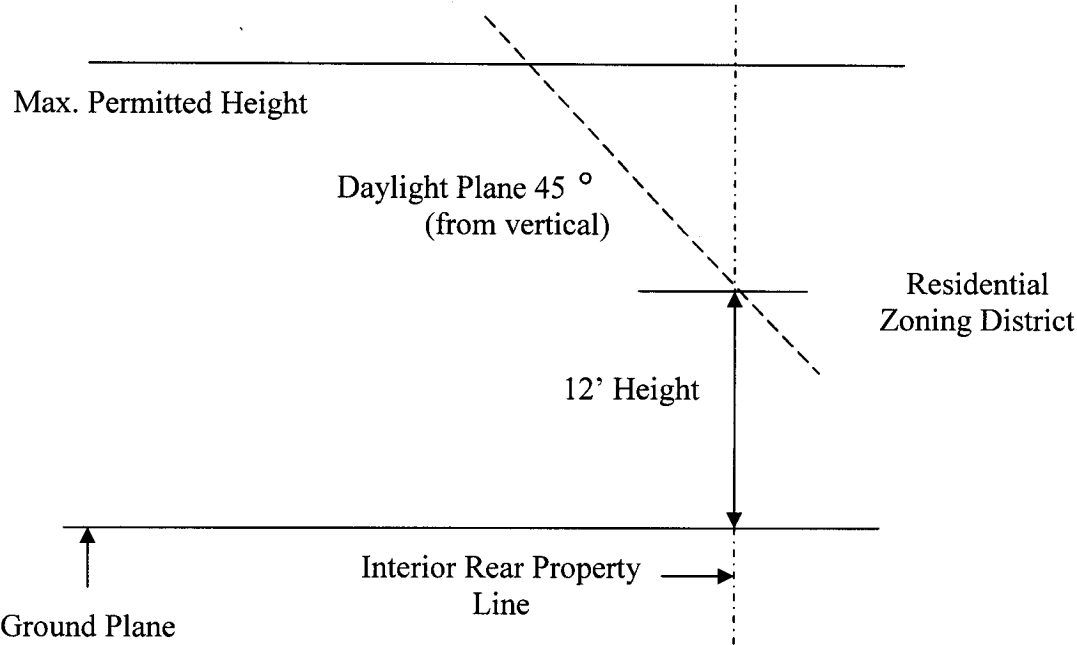


20.24.070 Figure 1.a.



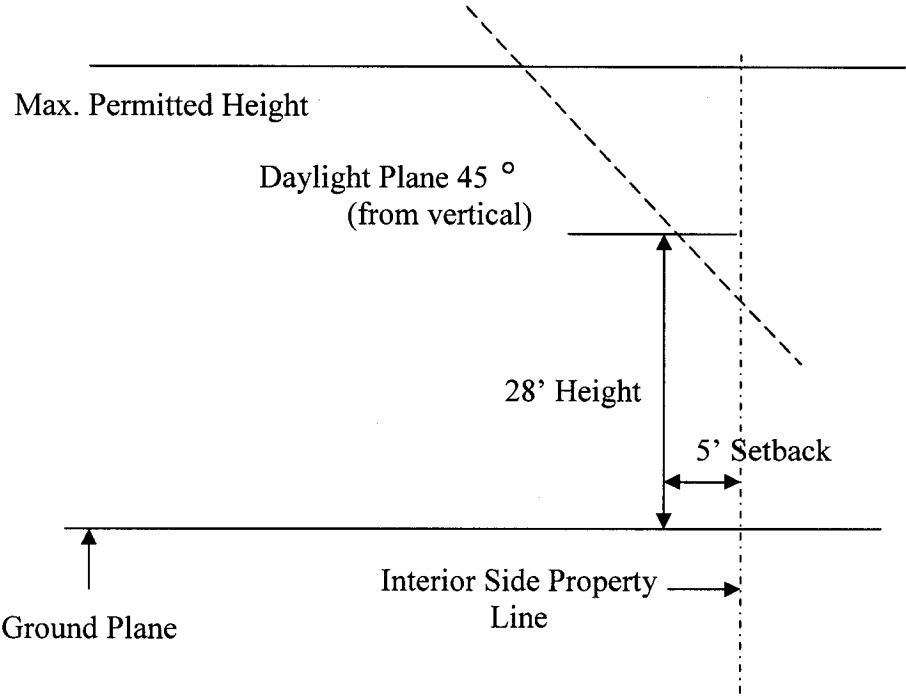
* If there is a difference in grade planes between two adjacent properties at the rear, the average of the discrepancy between the two heights shall be used as the point at which to measure the building height.

20.24.070 Figure 1.b.



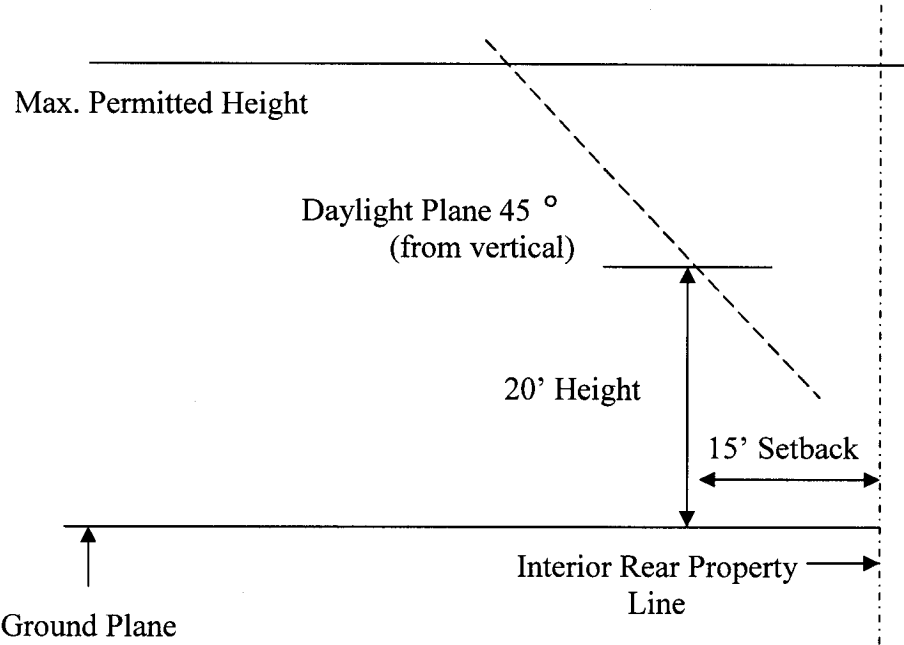
* If there is a difference in grade planes between two adjacent properties at the rear, the average of the discrepancy between the two heights shall be used as the point at which to measure the building height.

20.24.070 Figure 2.a.



* If there is a difference in grade planes between two adjacent properties at the rear, the average of the discrepancy between the two heights shall be used as the point at which to measure the building height.

20.24.070 Figure 2.b.



* If there is a difference in grade planes between two adjacent properties at the rear, the average of the discrepancy between the two heights shall be used as the point at which to measure the building height.