



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 25, 2014

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Municipal Code Amendments Regarding Fences, Screens, Walls And Hedges

RECOMMENDATION: That Council:

- A. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Sections 28.87.170 and 28.90.050 of the Santa Barbara Municipal Code Relating to Fences, Screens, Walls and Hedges; and
- B. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara to Approve Fences, Screens, Walls and Hedges Guidelines Consistent with Santa Barbara Municipal Code Section 28.87.170.

EXECUTIVE SUMMARY:

For many years the Planning Division has identified Santa Barbara Municipal Code (SBMC) §28.87.170 (Fences, Screens, Walls and Hedges), originally adopted in 1957, as needing review and possible revision. After eight public hearings on the matter over 11 months, a large majority of issues surrounding the ordinance have been discussed and resolved, and the proposed amended regulations, including administrative authority to grant exceptions to the standards, have the support of staff, the Planning Commission, the Ordinance Committee, and the public. Also supported is the adoption of guidelines to help implement the regulations through the use of layperson's terms, photos and diagrams. Opinions are more varied when it comes to whether or not the City should regulate hedges and, if so, the desired height limits and mechanism to enforce those regulations.

DISCUSSION:

Background

On November 25, 2008, City Council adopted an ordinance to suspend for two years the enforcement of Municipal Code Sections 28.87.170.A and 28.87.170.B.1 as they

apply to hedges to allow time for a comprehensive amendment to Section 28.87.170. The suspension was extended on March 15, 2011 for three additional years and will expire March 23, 2014.

Current Standards

SBMC §28.87.170 regulates the height and location of fences, screens, walls and hedges on private property in the A, E, R, C-O, and C-X Zones. Specifically, it limits the height of those elements to eight feet (8') in required setbacks; and to three and one-half feet (3½') within 10 feet of a front lot line, within 10 feet of either side of driveway for a distance of 20 feet back from the front lot line, or within 50 feet of a street corner.

Public Input

Since 2008, Staff has maintained a list of parties interested in this subject and notified them by mail of all relevant public hearings. As part of this recent work effort, eight public meetings were held:

- April 17, 2013 – Joint City Council/Planning Commission Work Session
- June 25, 2013 - City Council Ordinance Committee
- August 14, 2013 - Neighborhood Advisory Council
- September 23, 2013 – Single Family Design Board
- December 5, 2013 – Planning Commission
- December 18, 2013 – Historic Landmarks Commission
- January 23, 2014 – Planning Commission
- February 25, 2014 – Council Ordinance Committee

Additionally, in July 2013, a page on the City's website was dedicated to this subject where background material and notices of upcoming hearings could be readily accessed by the public. Notifications were also posted on the website, NextDoor, requesting subscribers to participate in the ordinance amendment process.

Overall, public input has maintained a general and constant theme – the City should continue to regulate the height of fences and walls for the general safety and welfare of the community, while allowing staff to approve exceptions to the standards when appropriate. Opinions are more varied when it comes to whether or not the City should establish a height limit for hedges and, if so, how it should be enforced. These issues are further discussed below.

Proposed Amendments

The purpose of the proposed amendments is to develop regulations consistent with the community's values that can be regularly and fairly enforced. A large majority of the amendments, including the proposed administrative authority to grant exceptions to the height limits, have the support of staff, the Planning Commission, the Ordinance Committee, and the public. The one issue that warrants further discussion is the extent to which the City should regulate hedges.

Driveways

The current 3½' height limit for all elements within 10 feet of driveway for a distance of 20 feet back from the front lot line is excessive in many cases. The proposed amendment would reduce the area subject to that 3½' height limit to a smaller triangular area (as opposed to a rectangle). As proposed, when a driveway directly abuts a street improved with a sidewalk and parkway, the visibility triangle is measured on two sides by a distance of 10 feet from the side of a driveway and 10 feet back from the front lot line. Otherwise, the triangular area is measured on two sides by a distance of 20 feet from the side of a driveway and 10 feet back from the front lot line. Diagrams depicting these areas are in the proposed *Fences, Screens, Walls and Hedges Guidelines* (see Attachment to Resolution).

Notwithstanding the above, pursuant to SBMC §28.87.170.B.2, the Public Works Director could further restrict the height of any fence, screen, wall or hedge if it obstructs the sightlines required for the safe operation of motor vehicles.

Street Corners

Based on initial direction from the Ordinance Committee, staff developed templates for various stop-controlled intersection scenarios that establish the area within which elements on corner lots must adhere to a 3½' height limit. Rather than require a uniform triangular area that does not necessarily reflect site-specific conditions, staff and the public can refer to the "Intersection Sight Distance" diagram referenced in the proposed ordinance and included in the *Fences, Screens, Walls and Hedges Guidelines*.

Fences and Walls

There is general support to retain the existing height limits for fences and walls, with the understanding that flexibility will be allowed through a new administrative review process. As recommended by the Ordinance Committee, fences and walls would be limited to 8 feet in all required setbacks and 3½' within 10 feet of a front lot line. The administrative review and approval process would allow staff to grant up to an additional 4 feet in height in these areas if the required findings (SBMC §28.87.170.E.1) can be made. If a wall or fence more than four feet taller than the standard is proposed, it may be considered through the Modification hearing process that currently exists.

Guardrails, Decorative Elements and Arbors

Staff has received positive feedback on the proposal to allow building code-required guardrails to exceed the fence or wall height limit by the minimum amount necessary, and to allow decorative elements (e.g., finials, posts, lighting fixtures) to exceed the allowed height of a fence or wall by not more than 12 inches; provided, such features are spaced not less than 6 feet apart. Similarly, there is general support to allow an entryway arbor, not taller than 8 feet in height, in front yards to announce the pedestrian entrance to the property.

Hedges and Screens

Many community members believe that hedges should be regulated differently and, in many instances, allowed to extend higher than fences and walls. Before considering the desired height to which the City may limit hedges, Council should first determine if the City should regulate hedges at all. Staff has suggested it is important because even though hedges are plant material and different than walls or fences in some ways, hedges are most often used as a barrier or means to identify a property boundary in a very similar fashion as fences and walls. For that reason, regulating a hedge height would serve the same public purpose as regulating the height of a wall or fence. The fact that hedges grow, die off, change shape, and require periodic maintenance in order to remain at a compliant height does present regulatory challenges. Similarly, because hedges do not require a building permit to install, they have a higher likelihood of being established in areas not allowed or extending to noncompliant heights without City approval or awareness, until a complaint is filed. That doesn't mean, in staff's opinion, that they should not be regulated. Many believe hedges are more aesthetically pleasing than walls, which may make them a more desirable option in many cases; however, they can be just as much, if not more, of a public nuisance when allowed to grow up or out of control.

Any established height limit will not address every situation perfectly in a community with varied topography and lot sizes, and highly valued public and private views. This is the primary reason why staff had, up until the Ordinance Committee meeting on February 25, proposed maintaining the current hedge height limits of 8 feet within required setbacks and 3½ feet within 10 feet of front property lines, with administrative approval authority to consider exceptions (up to an additional 4 feet) based on site-specific factors.

If Council agrees that hedge heights should be regulated, the location of a hedge is a primary factor in determining an appropriate height. Currently, the ordinance designates two areas on private property that warrant different heights: required setbacks and the area within 10 feet of a front lot line.

Required Setbacks (including along interior property lines)

For discussion purposes in past meetings, staff asked the public and decision-makers to consider allowing hedges to extend to 10 or 12 feet along interior property lines. Some expressed concern with increasing the height limit, stating that even the current limit of 8 feet can impede one's access to sunlight and air on smaller lots; others suggested that interior hedges be allowed to extend as high as consenting neighbors agree and that the City only enforce a codified limit along interior property lines if "directly-affected" neighbors complain. Although a minority opinion, some suggested the City not establish a height limit and instead allow neighbors to determine an acceptable height. In that scenario, if neighbors could not agree, the City would not have a standard upon which to enforce and the disagreeing parties would have to settle the matter themselves, possibly relying on the View Dispute Resolution Process (SBMC Chapter 22.76).

On January 23, 2014, the Planning Commission ultimately recommended that hedges be allowed to extend to 12 feet in all required setbacks, with administrative authority to grant up to an additional 4 feet in height if the required findings can be made, including compliance with the City's solar access regulations (SBMC Chapter 28.11). On February 25, the Ordinance Committee voted 2 to 1 to maintain the current 8-foot height limit in setbacks with the same administrative authority provision. Staff believes the Ordinance Committee's recommendation offers enough flexibility to resolve a large majority of situations where strict adherence to the code would not serve a public benefit, without increasing to a great extent, or entirely eliminating, a standard upon which many people rely for the enjoyment of their properties.

If a height limit is established, staff does not support allowing only "directly-affected" parties to file a complaint, as it is a highly subjective term and may not take into account people affected by hedges as they visit or travel through neighborhoods other than their own. Furthermore, the City does not currently apply that practice to any other aspect of Municipal Code enforcement.

Within 10 Feet of Front Lot Lines

Unlike hedges within required setbacks (including those along interior property lines), more people are exposed to, and potentially affected by, hedges within 10 feet of front property lines. With the public's safety adequately addressed by limiting all elements to 3½ feet in height adjacent to driveways and certain street corners, establishing a height limit along front lot lines is primarily a matter of community desire and balancing the interface between the public realm and private property. Maintaining hedges at a reasonable height may also help ensure that the overall shape of the hedge is controlled, in the public interest of keeping it from extending out into the sidewalk or street. For that reason, staff believes that a height limit should be established; however, the public appears divided on the preferred height, evidenced both by public comment and what one sees in various neighborhoods.

On January 23, 2014, the Planning Commission recommended that hedges within 10 feet of a front lot line be allowed to extend to 7½ feet, with administrative authority to grant up to an additional 4 feet in height if the required findings can be made. The Ordinance Committee agreed. Staff believes that 7½ feet was chosen by the Planning Commission as a combination of staff's recommendation of 3½ feet plus the 4 feet allowed by administrative authority. If Council agrees with the concept of a limit higher than 3½ feet, staff would recommend a height that is either equal to, or more distinct from (e.g., 6 feet), the recommended 8 feet allowed within setbacks.

Enforcement

While staff is not proposing a change to our current enforcement policy that allows anyone to request the city to investigate a potential code violation, the proposed increase in allowed hedge height along front lot lines will inherently lessen the potential for violations and the administrative approval process will offer a much-needed remedy for abatement. Given that hedges do not require a building permit, unlike walls or fences

over 3½' in height, staff is reconsidering the practice of routinely asking property owners to identify their location and height on project plans and will also consider whether or not over-height hedges should be listed on Zoning Information Reports as violations.

Regardless of the outcome of this amendment process, staff has no intention to change our practice and begin proactively enforcing hedge heights, unless deemed a safety hazard. Thus, the large number of hedges currently out of compliance with the existing or future height limits could presumably remain in place until such time that a complaint is filed and enforcement action results in a lower height.

Administrative Authority

An administrative approval process is proposed to allow exceptions to these standards if necessary findings can be made. The intent is to provide flexibility in applying the regulations to unique sites, with topographical or other physical challenges, without requiring a Modification (SBMC §28.92.110) and hearing before the Staff Hearing Officer for relatively minor exception requests. Of particular note is the requirement that adjacent property owners agree to allow a fence, screen, wall or hedge to exceed the height limit along an interior property line prior to staff considering the exception request. The authority for the administrative review and approval process is included in the Municipal Code and the proposed guidelines (discussed below) provide some examples for which staff may consider exceptions to the standards.

Relationship to View Dispute Resolution Process

After the Ordinance Committee reviewed the draft ordinance, the City Attorney's Office proposed a new Subsection G to Section 28.87.170. The proposed subsection explains the relationship between the standards specified in Section 28.87.170 and the View Dispute Resolution Process established in Chapter 22.76 of the Municipal Code. The newly proposed subsection does not alter either ordinance, it merely reiterates the City's past reconciliation of the two independent ordinances.

Proposed Guidelines

The proposed *Fences, Screens, Walls and Hedges Guidelines* are intended to assist in the implementation of the Municipal Code. Beyond amending the regulations to better reflect the community's values and the current pattern and style of development, staff and the public could benefit from guidelines to further clarify certain aspects of the regulations best explained in layperson's terms, diagrams and pictures. The guidelines also describe how regulations are applied in unique circumstances, the basic parameters to grant administrative approval, and the triggers for design review and the extent to which staff may rely on the input of design review boards when considering an exception request.

CONCLUSION:

Nearly every aspect of the proposed amendments, including the recommended visibility triangle adjacent to driveways and street corners, allowed height for fences and walls, provision for decorative elements and arbors, and administrative authority to grant exceptions to the height limit, has the support of staff, the Planning Commission, the Ordinance Committee, and the public. Staff recommends the Council consider and, if necessary, take action on those aspects of the proposed amendments separately, to focus the deliberation primarily on the hedges, which is the one issue that warrants further public discussion. With the hedge suspension ordinance set to expire at the end of the day on March 22, 2014, the codified standards of SBMC §28.87.170 will be in effect from March 23, 2014 until the effective date of any ordinance amending Section 28.87.170.

Under the provisions of the California Environmental Quality Act (CEQA) Guidelines Section 15305, the adoption of minor ordinance amendments related to fences, screens, walls and hedges has been determined by staff to qualify for a Categorical Exemption.

BUDGET/FINANCIAL INFORMATION:

No significant expenditures are required for the staff work required to implement amendments to SBMC §28.87.170 and 28.90.050.

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SUBMITTED BY: Bettie Weiss, City Planner/Acting Community Development Director

APPROVED BY: City Administrator's Office



SBMC §28.87.170

Fences, Screens, Walls & Hedges

City Council

March 25, 2014



Background & Purpose

- ◆ SBMC §28.87.170 adopted in 1957
 - Suspension Ordinance expired March 23rd
- ◆ Purpose of Amendments
 - Re-evaluate relevance of regulations
 - Allow flexibility
- ◆ Create guidelines to help implement the ordinance

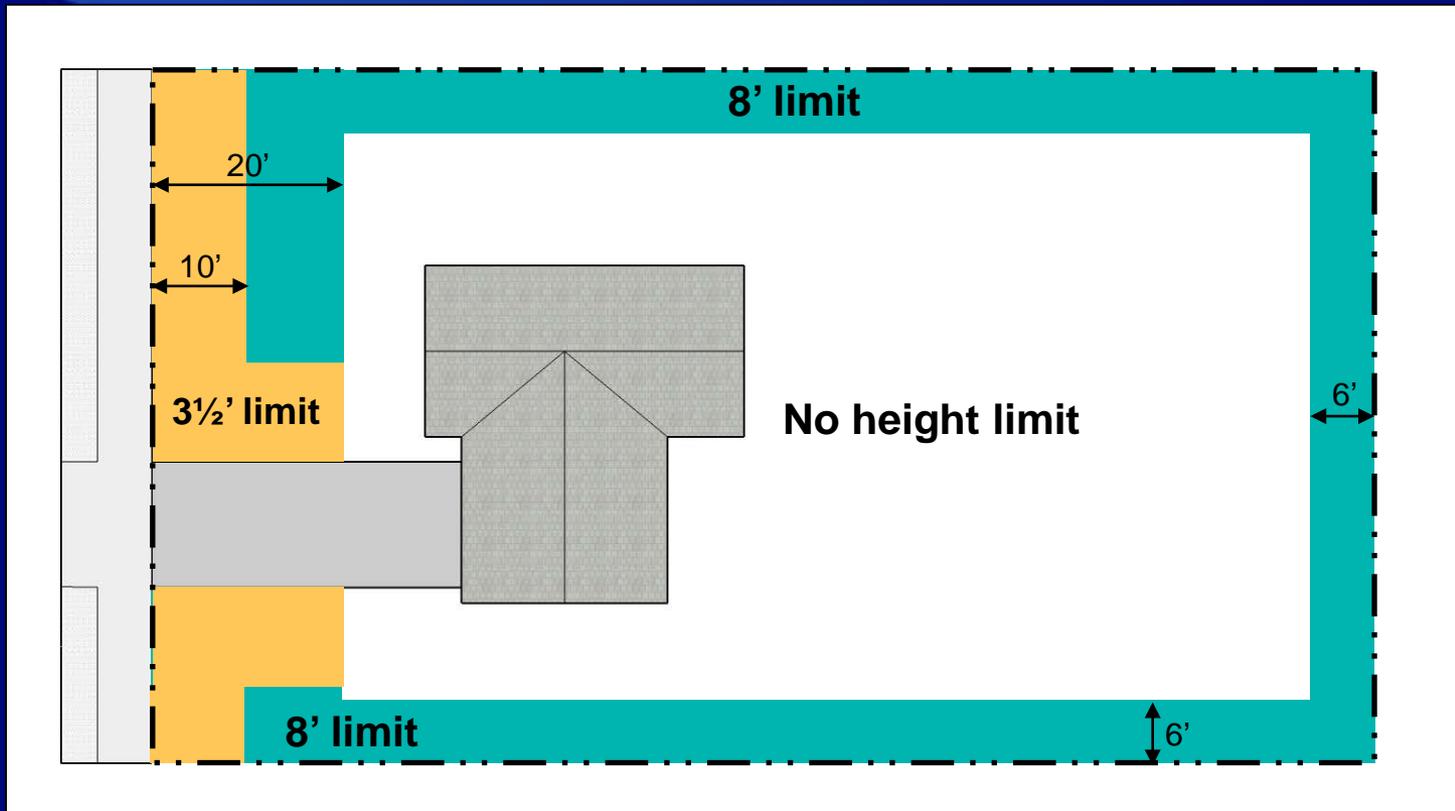


Current Regulations

- A. **Required Setbacks.** No fence, screen, wall or hedge located in the required setbacks shall exceed a height of 8'.
- B. **Front Lot Line, Side of Driveway.** No fence, screen, wall or hedge exceeding a height of 3 ½' shall be located:
1. Within 10' of a front lot line
 2. Within 10' of either side of a driveway for a distance of 20' back from the front lot line.
- C. **Corner.** No fence, screen, wall or hedge located within 50' of a street corner...shall exceed a height of 3 ½'.

Current Regulations

- ◆ E-3 Zone = 20' front & 6' interior setbacks





Public Input

◆ Public Meetings

- April 17th - Council/PC Meeting
- June 25th – Council Ordinance Committee
- August 14th – Neighborhood Adv. Council
- September 23rd – Single Family Design Board
- December 5th – Planning Commission
- December 18th – Historic Landmarks Commission
- January 23rd – Planning Commission
- February 25th – Council Ordinance Committee

◆ City Website

◆ NextDoor Website



Public Input

- ◆ City should continue to regulate height
 - Consider regulating by neighborhood
- ◆ Support flexibility when appropriate, and for decorative elements (e.g., arbors, pilasters)
- ◆ Support reducing driveway/street corner visibility areas
- ◆ Agreement between neighbors should play a role in height limit along interior property lines
- ◆ Many believe hedges should be regulated and enforced differently



Proposed Amendments

- ◆ Hedges will dominate the discussion
- ◆ Majority of amendments have support
 - Driveways
 - Corner Lots
 - Fences and Walls
 - Guardrails, Decorative Elements, Arbors
- ◆ Administrative authority and Guidelines also strongly supported



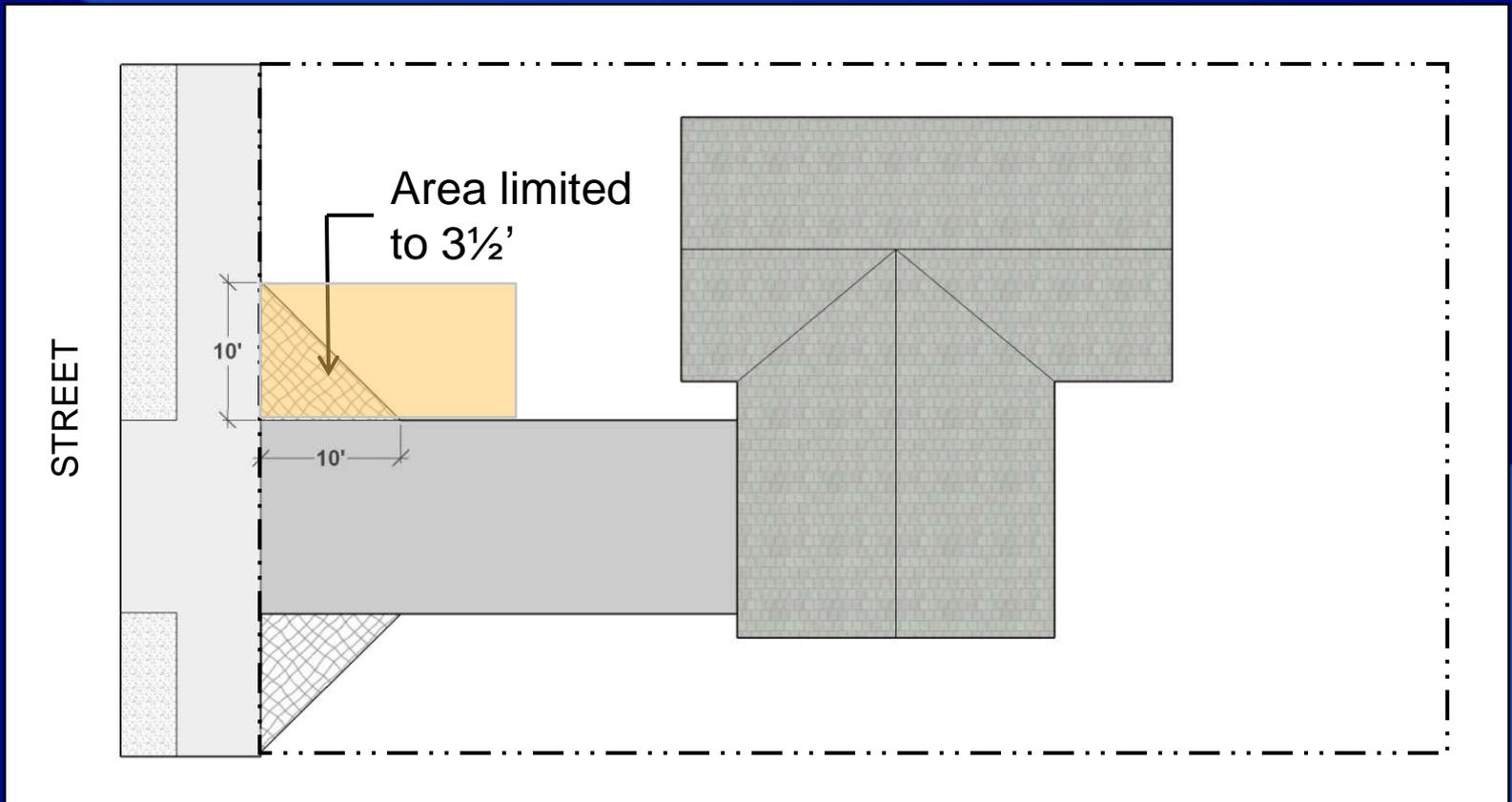
Proposed Amendments

Driveways

- ◆ Revise visibility area next to driveways
 - ◆ 3½' height limit within a 10' x 10' or 10' x 20' triangle
- ◆ Administrative approval would allow up to 7½' if findings are made
- ◆ Public Works can require less than 3½' for safety purposes

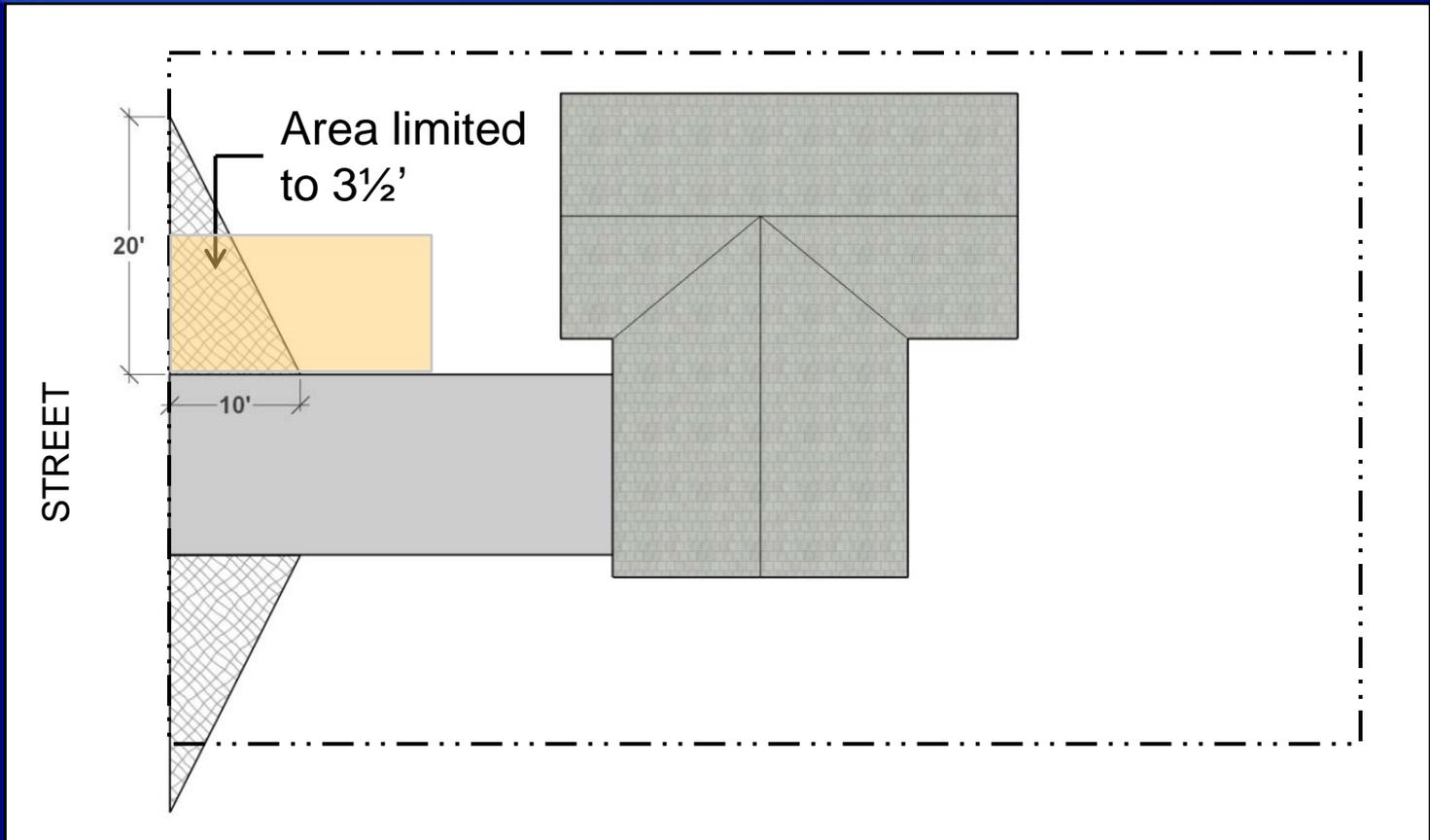
Driveways

- ◆ When abutting a sidewalk & parkway



Driveways

- ◆ Without a sidewalk & parkway





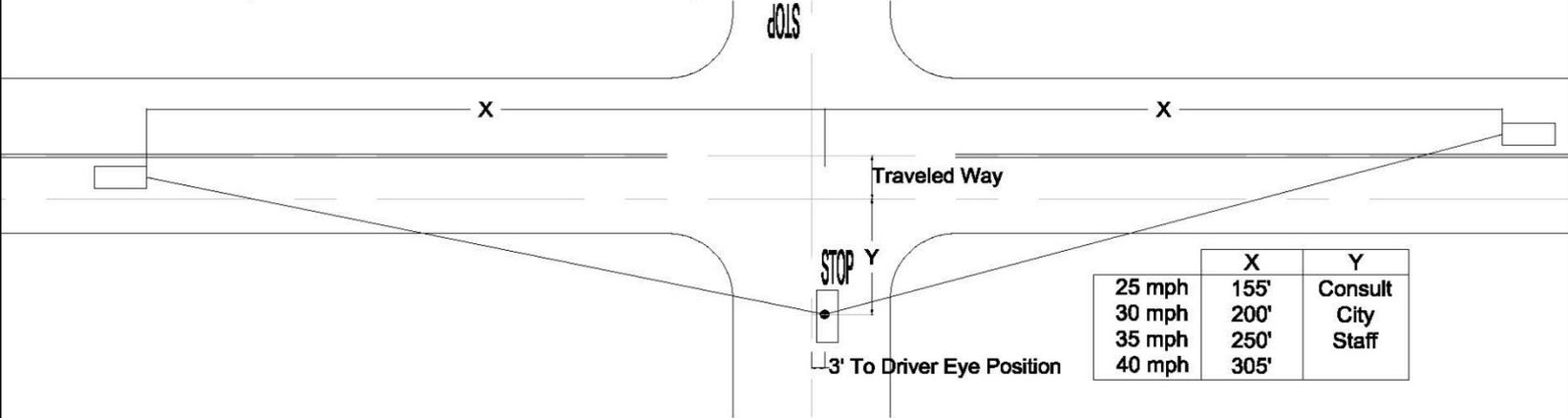
Proposed Amendments

Corner Lots

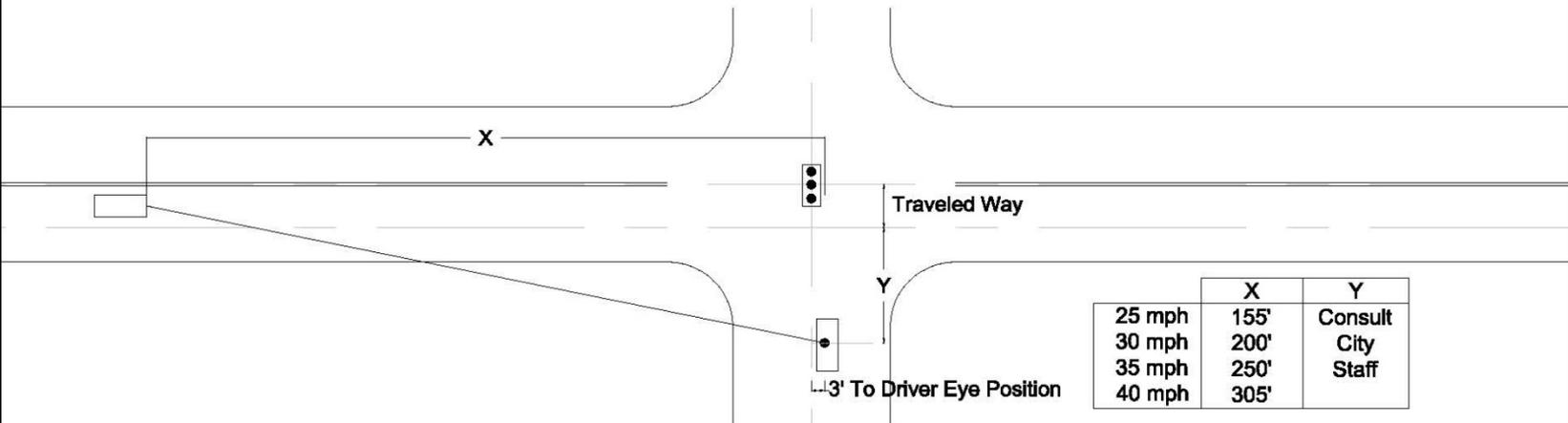
- ◆ Refer to “Intersection Sight Distance” in Guidelines for most corner lots
- ◆ Allow Admin. Approval for Minor Exceptions
- ◆ Public Works can require reduction for safety purposes

Corner Lots

Case 1 - Intersection Sight Distance for Tee Intersection or Two Way Stop Control



Case 2 - Intersection Sight Distance at Traffic Signals (Right Turn on Red)



Case 3 - All Way Stop Control. No restrictions on hedge heights for traffic sight lines.



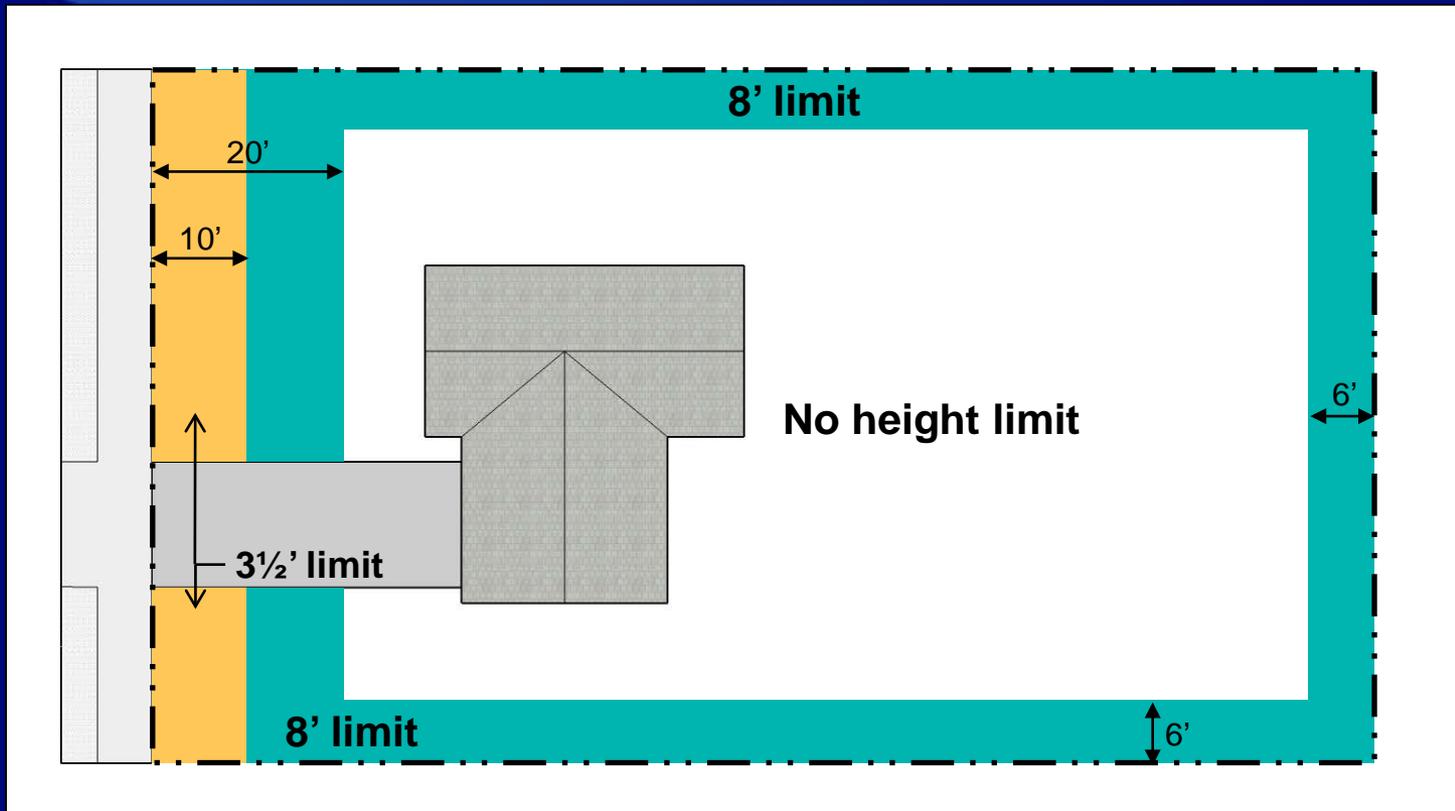
Proposed Amendments

Fences & Walls

- ◆ Maintain 8' limit in required setbacks
 - ◆ Administrative approval would allow up to 12' if findings are made
- ◆ Maintain 3½' limit within 10' of front lot line
 - ◆ Administrative approval would allow up to 7½' if findings are made

Fences & Walls

- ◆ E-3 Zone = 20' front & 6' interior setbacks



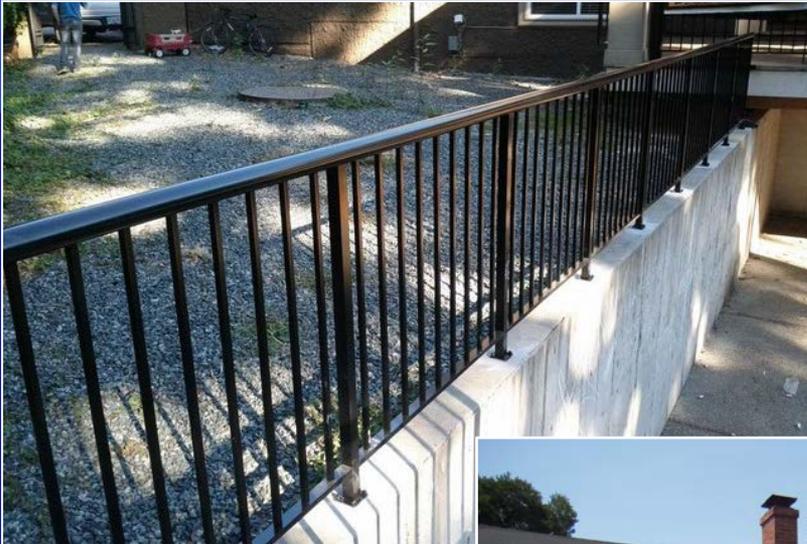


Proposed Amendments

Guardrails & Decorative Elements

- ◆ Allow code-required guardrails
- ◆ Allow decorative elements (posts, finials, light fixtures) within parameters
- ◆ Allow entry arbors in front yards
- ◆ Allow Administrative Approval for Minor Exceptions

Guardrails & Decorative Elements





Administrative Review & Approval of Minor Exceptions

- ◆ Community Development or Public Works Director may grant exceptions
 - Allows discretion and flexibility not currently available
 - Requires specific findings
 - Ministerial decision
- ◆ *Fences, Screens, Walls and Hedges Guidelines* provide general parameters for consideration



Administrative Review & Approval of Minor Exceptions

- ◆ Factors that may warrant an exception:
 - Abrupt difference in elevation on either side of the fence, screen, wall or hedge
 - A retaining wall or series of retaining walls
 - A desire/need to secure a secondary front yard
 - A desire/need to buffer noise from busy street
 - A desire for additional privacy or security, with the agreement of adjacent property owner(s)
 - The need to install a code-required security fence or wall around a pool



Administrative Review & Approval of Minor Exceptions

- ◆ Findings for Fences and Walls (paraphrased)
 - a. If located within an interior setback, the adjacent property owner(s) have agreed to the requested exception;
 - b. ...Will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles;
 - c. ...Will be compatible with other similarly situated and approved structures in the neighborhood; and
 - d. ...Will not be detrimental to the use and enjoyment of other properties in the neighborhood.



Administrative Review & Approval of Minor Exceptions

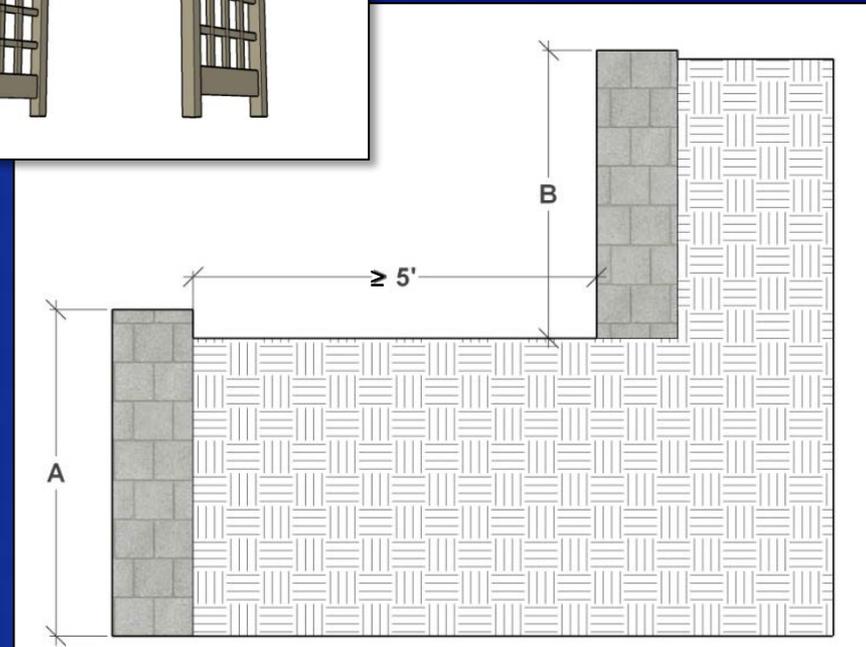
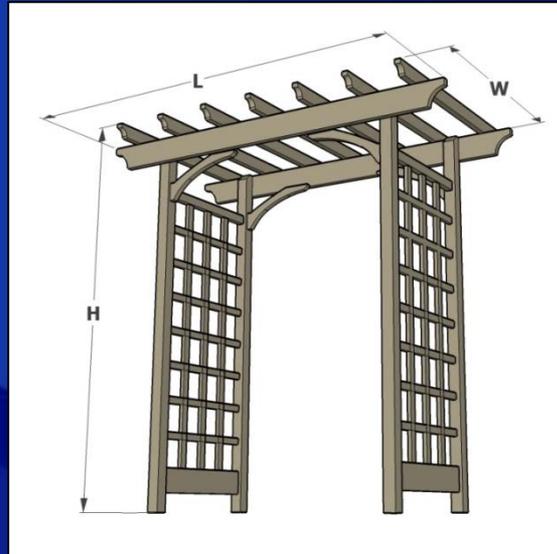
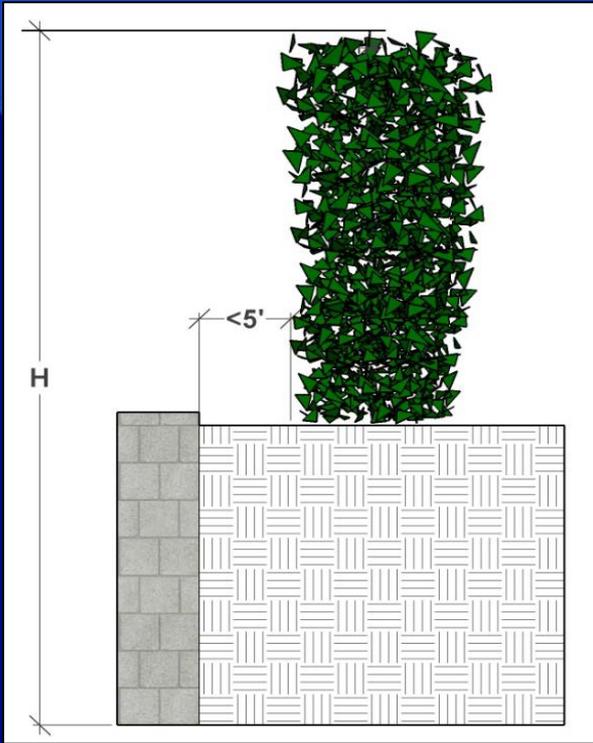
- ◆ Findings for Hedges and Screens (paraphrased)
 - a. If located within an interior setback, the adjacent property owner(s) have agreed to the requested exception;
 - b. ...Will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles;
 - c. ...Will be compatible with the character of the neighborhood;
 - d. ...Will respect height limitations for structures, as specified in the Solar Access Ordinance; and
 - e. ...Will not be detrimental to the use and enjoyment of other properties in the neighborhood.



Proposed Guidelines

- ◆ Provide guidance in implementing regulations
 - User-friendly terms and explanations
 - Photos & diagrams
- ◆ Provide parameters for exceptions to height limits
- ◆ Describe triggers for design review

Proposed Guidelines



Hedges





Proposed Amendments

Hedges & Screens

- ◆ Currently regulated with fences and walls
- ◆ Varying degree and manner of regulation suggested:
 - ◆ View Dispute Resolution Process
 - ◆ Solar Access Ordinance
 - ◆ Limit complaints to “affected party”
 - ◆ **Establish higher limits w/ flexibility**
 - ◆ Establish higher limits w/o flexibility
 - ◆ Maintain current limits w/ flexibility
 - ◆ Maintain current limits w/o flexibility



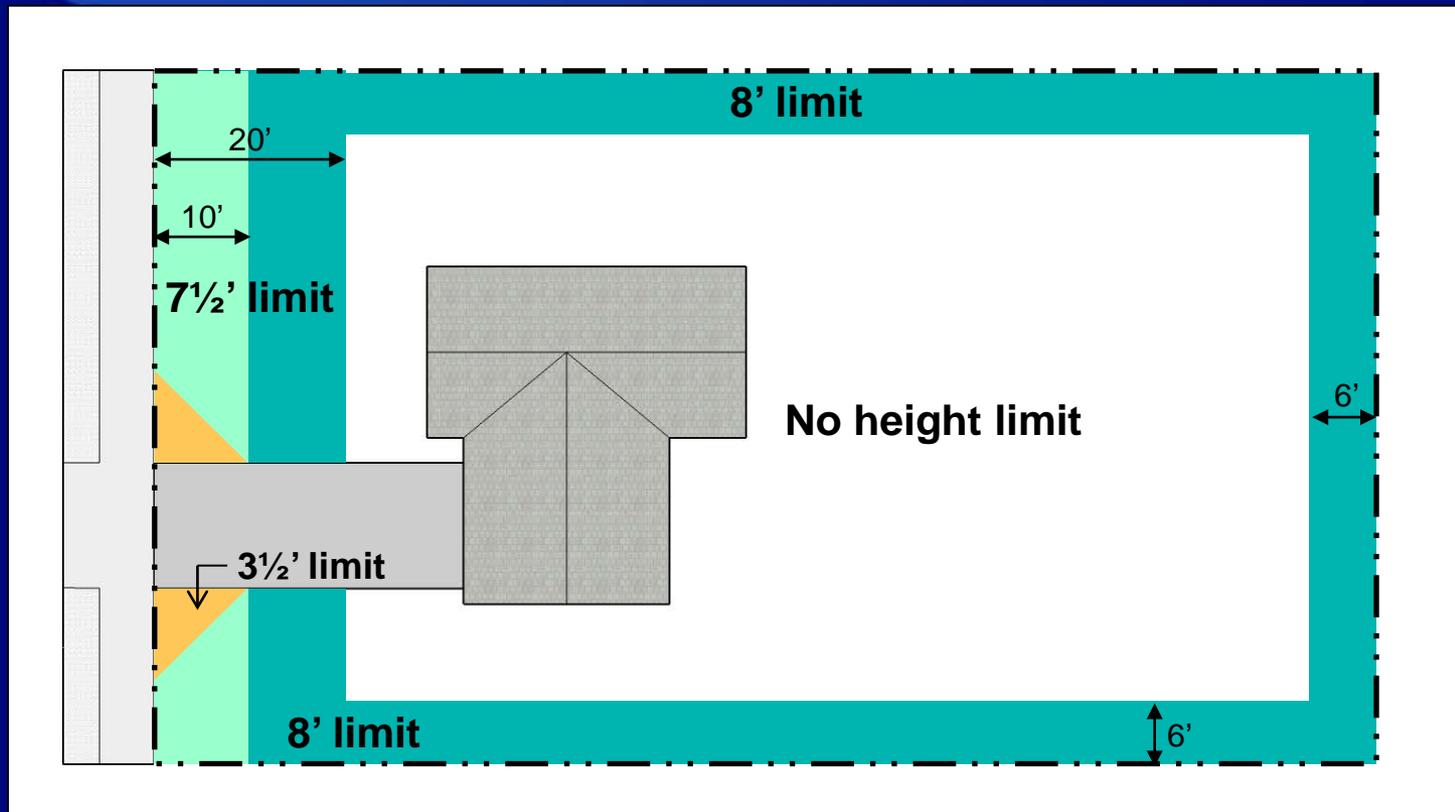
Proposed Amendments

Hedges & Screens

- ◆ Maintain 8' limit in required setbacks
 - ◆ Administrative approval would allow up to 12' if findings are made
- ◆ Allow up to 7½' within 10' of front lot line
 - ◆ Administrative approval would allow up to 11½' if findings are made

Hedges & Screens

- ◆ E-3 Zone = 20' front & 6' interior setbacks





Staff Recommendation

- ◆ Introduce Ordinance amending Municipal Code Sections 28.87.170 and 28.90.050 related to fences, screens, walls and hedges
- ◆ Adopt Resolution approving the *Fences, Screens, Walls and Hedges Guidelines*