



Agenda Item No. \_\_\_\_\_

File Code No. 640.09

# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** July 29, 2008  
**TO:** Mayor and Councilmembers  
**FROM:** Planning Division, Community Development Department  
**SUBJECT:** Proposed Municipal Code Amendments

### **RECOMMENDATION:**

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Sections 6.08.010 and 15.24.020 and Titles 28 and 29 of the Santa Barbara Municipal Code Related to Zoning Setbacks and Miscellaneous Zoning Standards.

### **DISCUSSION:**

A number of Municipal Code amendments are proposed ranging in complexity from simple numbering corrections to clarifications and revisions of more complicated Municipal Code provisions. Three public hearings were held before the Planning Commission on the proposed amendments. The first review by the Planning Commission occurred in 2004 as part of the Process Improvement Amendment package that established the Staff Hearing Officer process. More recently, over the last ten months, the Ordinance Committee has held six public hearings/workshops on the proposed amendments. Given the scope of the amendments, the topics were divided into smaller groups to facilitate the discussion. The dates the topic areas were discussed by the Ordinance Committee are included in parenthesis after the topic area below. Staff and the Ordinance Committee have considered the public comments received and the Ordinance responds to those comments and direction from the Ordinance Committee.

The Ordinance contains both substantive and non-substantive amendments, as described below. The substantive amendments relate to new or revised zoning standards. The non-substantive changes relate to reformatting of existing text for clarity, providing further clarification of existing provisions, minor changes to existing provisions and other minor clean-up amendments. Please refer to the Ordinance Committee Agenda Report included as Attachment 1 for a detailed explanation of the proposed amendments.

### **Substantive amendments**

- ◆ Definitions – new definitions for: front yard, primary front yard, secondary front yard, remaining front yard, driveway and street; and, revised definitions for: alley, boarding house, front lot line, and front yard (Ordinance Committee, October 2, 2007).
- ◆ Revisions to the open yard requirements in the Single-Family and Two-Family zones, including: allowing cut and fill slopes, decks less than 36 inches in height and secondary front yard areas to be included in the required open yard area; and, to allow small single-family zoned lots to provide the required open yard in several smaller areas (Ordinance Committee, October 2, 2007).
- ◆ Revisions to the R-3/R-4 Zone including: increase private outdoor living space requirements to require a new 15 foot by 15 foot common open area; clarify the regulations for remodeling non-residential buildings, structures and uses; revise and simplify the third story setback requirement; and, reduce the interior setback for garages and carports, subject to the granting of a waiver by the appropriate design review board (Ordinance Committee, March 18 and June 24, 2008).
- ◆ Revisions and additions to the allowed yard encroachments (Ordinance Committee, January 15, 2008).
- ◆ Eliminate the Conditional Use Permit requirements for:
  - Educational Institutions in the C-2 and C-M zones
  - Churches in the C-2, C-M, and M-1 zones
  - Convents and monasteries in the R-O, C-O, C-P, C-L, C-1 and C-2 zones
  - Banks in the C-O Zone
  - Medical Equipment and Supply Stores in the C-O Zone
  - Birth Centers in most non-residential zones, except R-O and C-X (Ordinance Committee, March 18 and June 24, 2008).
- ◆ New provisions for seasonal holiday sales (Ordinance Committee, March 18, 2008).
- ◆ Clarify the setbacks for development along alleys and private streets (Ordinance Committee, October 2, 2007).
- ◆ Revise/clarify parking standards/requirements:
  - Revise allowance for parking within the interior setback for multi-family dwellings to be 3 or more units on a lot (Ordinance Committee, March 18, 2008).
  - Add “and/or disabled or handicap tenants” to the definition of Low Income Senior Housing Development (Ordinance Committee, June 24, 2008).
  - Require unregistered vehicles to be stored in a garage (Ordinance Committee, March 18, 2008).
- ◆ Add provisions for Reasonable Accommodations to: allow the conversion of existing parking spaces to disabled parking spaces and the encroachment of accessible improvements into a required setback without triggering the requirement for a modification; and, to allow modifications for accessible improvements (Ordinance Committee, March 4, 2008).

### **Non-substantive amendments**

- ◆ Clarify the term “Yard” - Change all references to “yard” to the actual term it denotes. This composes a significant bulk of the Ordinance (Ordinance Committee, June 24, 2008).
- ◆ New minor definitions and delete redundant and unnecessary definitions (Ordinance Committee, October 2, 2007 and June 24, 2008).
- ◆ Clearly state where storage cannot occur on residentially zoned lots (Ordinance Committee, March 18, 2008).
- ◆ Clarify the procedures for determining non-conforming fences, walls, screens, and hedges and define “repair and maintenance” of these structures (Ordinance Committee, January 15, 2008).
- ◆ Minor additions and revisions to Allowed Uses in certain zones (Ordinance Committee, March 18, 2008).
- ◆ Clarify modification provisions regarding distances between buildings (Ordinance Committee, March 18, 2008).
- ◆ Reformat existing development standards from paragraph to tabular form (Ordinance Committee, June 24, 2008).
- ◆ Clarify that slope density applies to accessory dwelling units in the R-2 zone (Ordinance Committee, June 24, 2008).
- ◆ Delete 28.87.150.1, Interior Yards for Dwelling Units in Non-Single Family Zones, pertaining to interior setbacks for mixed-use projects (Ordinance Committee, March 18 and June 24, 2008).

### **Environmental Review**

Staff has determined that the proposed amendments qualify for an exemption from the California Environmental Quality Act under Section 15305, Minor Alterations to Land Use Limitations, because they do not result in any changes in land use or density and do not change planned uses in an area.

### **RECOMMENDATION:**

The proposed amendments represent important improvements to the Municipal Code. Adopting the proposed amendments would establish appropriate standards and result in more consistent applications of Municipal Code provisions. Therefore, Staff recommends the Council introduce and subsequently adopt the Ordinance regarding the proposed Municipal Code amendments.

**ATTACHMENT:** Ordinance Committee Agenda Report dated June 24, 2008  
(except Attachment 1)

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**SUBMITTED BY:** Paul Casey, Community Development Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## ORDINANCE COMMITTEE AGENDA REPORT

**AGENDA DATE:** June 24, 2008  
**TO:** Ordinance Committee  
**FROM:** Planning Division, Community Development Department  
**SUBJECT:** Proposed Title 28 Zoning Ordinance Amendments

### **RECOMMENDATION:**

That the Ordinance Committee review a Draft Ordinance amending the City's Zoning Ordinance and forward it to Council with a recommendation for introduction and adoption.

### **EXECUTIVE SUMMARY:**

Staff proposes a number of Municipal Code amendments in this package that range in complexity from simple numbering corrections to clarifications and revisions of more complicated Municipal Code provisions. We have culled through numerous amendment recommendations from Staff and the public, and selected the amendments in this package to move forward with at this time. The major portion of the current amendment package is a clarification of all aspects of "yards" (setbacks, open yard, private outdoor living space, building separation, definitions, etc.). Other proposed amendments relate to: setbacks along alleys and private streets; boarding houses; parking; storage; fences; family day care; Conditional Use Permits; allowed uses; Modifications; temporary seasonal uses; and some minor/miscellaneous changes. Public hearings have been held before the Planning Commission and Ordinance Committee on the proposed amendments. Staff and the Ordinance Committee have considered the public comments received and the Draft Ordinance responds to those comments and direction from the Ordinance Committee.

### **BACKGROUND:**

Over the years, Staff and applicants who regularly use the City's Zoning Ordinance have discovered a variety of ambiguities or uncertainties created by the Code, resulting in the increasing need for Staff interpretations of the Zoning Ordinance. As a result, there is a risk that the Code could be inconsistently applied to projects. Additionally, because a majority of the Zoning Ordinance was written in 1957, the language is dated in some cases. Planning Staff often receives comments from the public regarding the complex and confusing format of the language of the Zoning Ordinance, and we agree with this sentiment. We believe a full re-writing of the Zoning Ordinance would be beneficial; however, that would not occur until after the completion of "Plan Santa Barbara."

In addition to clarifying existing provisions, amendments are proposed to existing provisions to reflect current development patterns and the existing built environment. These provisions were developed for standard flat rectangular lots which are not the typical lots we deal with today. Clarifying and changing these Code provisions is an important first step in creating a more “user-friendly” Zoning Ordinance and more consistent application of its provisions.

### **Planning Commission Review**

The Planning Commission reviewed the proposed amendments on several occasions and recommended that the City Council adopt the majority of them. The Planning Commission expressed concern regarding the proposed amendment to eliminate the requirement for Conditional Use Permits (CUPs) for educational institutions in non-residential zones but was supportive of the other proposed amendments. We discussed the Planning Commission’s concerns with the Ordinance Committee and the Ordinance Committee supported a proposed change that would allow educational institutions in the C-2 and C-M zones without a CUP, but to continue to require CUPs in the other non-residential zones.

### **Ordinance Committee Review**

The Ordinance Committee held a series of workshops on the proposed amendment package. The Ordinance Committee was supportive of the proposed amendments. The Committee recommended minor revisions to the proposed revised setback for garages, carports, and uncovered parking in the Multi-Family zones and the proposed revisions regarding CUPs. These revisions are discussed further below in the subject topic areas.

### **DISCUSSION:**

The attached draft Ordinance contains the entire amendment package. In general, new zoning standards are underlined and deleted text is ~~strike through~~ in the draft Ordinance. However, many of the proposed changes merely reformat existing text. Responding to a request from the Ordinance Committee, staff has omitted some of the underlining and has highlighted the text where substantive changes are occurring. Existing text that has been deleted in its entirety and reformatted is not underlined in order to simplify the ordinance text where possible. Additionally, in many instances, page numbers are included below to point out the page numbers in the Draft Ordinance where the subject amendment can be found.

### **Proposed Changes**

#### Yards

Each zone contains provisions regarding yards. The major changes to yards involve definitions, open yard areas in the single family and R-2 Zones, and revised setbacks for garages/carports and third-story elements in the multiple-family and some commercial zones. The following summarizes the proposed changes to yards.

### *Clarification of Yard Areas*

Currently, the term “yard” is used in the Zoning Ordinance to describe various requirements such as setbacks, open yard, distance between buildings, or common outdoor living space. This has resulted in a lack of clarity in certain requirements. To clarify what the term “yard” means, Staff is proposing to change all references to the word “yard” to the actual term it denotes. Therefore, if a regulation pertains to setbacks, then the word “yard” will be changed to “setback.” If the regulation pertains to open yard, then it will be changed to open yard, and so forth.

### *Definitions*

The more substantive changes to the definition section include, but are not limited to:

- ◆ Revise the definition of front yard. Slight changes are proposed to the location of the front yard. If a main building is located within the front setback, then the front yard would terminate at the front setback line. Additionally, the location of the front yard at the sides of a main building and on irregularly shaped lots will be clarified. (See page 9 of Attachment 1 and see Attachment 2 for illustration)
- ◆ Revise the definition of open yard to exclude the detailed standards. The existing basic definition would remain. However, the standards for open yard will be moved into the appropriate locations within the regulatory portions of the Code with more information on the required size and allowed location and configuration of the open yard. (See pages 6, 10, 14, 15, 17, 18, and 19 of Attachment 1)
- ◆ Revise the existing definition of alley. (See page 2 of Attachment 1)
- ◆ Define driveway, street, and private street. As part of the amendments related to setbacks along private streets and alleys, definitions for these terms are necessary. (See pages 4, 8 and 9 of Attachment 1)
- ◆ Define primary and secondary front yard. These definitions are needed as part of the proposed amendments to allow the open yard in a portion of the secondary front yard. (See page 10 of Attachment 1)
- ◆ Revise the existing definition of boarding house. (See page 2 of Attachment 1)
- ◆ Delete definitions of terms that are no longer used in the Zoning Ordinance.

### *Single Family and Two Family Zones (A, E, R-1 and R-2)*

Several changes/clarifications are proposed to the open yard requirements in the single family and two family zones. The proposed changes are as follows:

- ◆ **Sloped Areas.** Currently, open areas can count towards the open yard requirement, regardless of their slope. However, cut and fill areas with slopes greater than 20 percent are not allowed to count towards the open yard requirement. An amendment is proposed to allow cut and fill slopes greater than 20 percent to count towards the required open yard. However, if the slope of the open yard (natural or cut and fill) exceeds an average slope of 20 percent, a flat area of at least 160 square feet will be required somewhere on the property. This change would recognize that sloped areas can provide visual open space, while still requiring some useable area on steeply sloped parcels. (See pages 14 and 17 of Attachment 1 and see Attachment 3 for illustration)

- ◆ **Contiguous Areas.** All contiguous areas, regardless of retaining walls or changes in grade, slope or elevation would be counted toward the open yard requirement. (See pages 14 and 18 of Attachment 1)
- ◆ **Decks.** Decks no higher than 36" (not including the railing) would be counted towards the open yard requirement. This change would recognize that decks can make an open yard more useable. (See pages 14, 18, and 29 of Attachment 1 and see Attachment 4 for illustration)
- ◆ **Lots with Multiple Street Frontages.** Currently, the open yard cannot be provided in the front yard. This standard poses a hardship for lots with multiple street frontages. An amendment is proposed to allow lots with multiple street frontages to provide the required open yard in the secondary front yard, up to 10 feet from the secondary front property line. The ten-foot distance is consistent with the current limitations on fence height. This amendment would not significantly change the visual appearance of the front yard from the street and would allow for more flexibility in meeting the open yard requirement and would result in a better design. (See pages 15 and 19 of Attachment 1 and see Attachment 5 for illustration)
- ◆ **Exception for Small Lots.** The Planning Commission recommended an amendment to allow the required open yard for properties with a lot area of less than 7,500 square feet and an average slope of less than 20 percent, be provided in one or separate areas of not less than 400 square feet each. The Planning Commission recommended this amendment because it allows for a more creative design while maintaining useable open yard for residents. This is similar to what is currently allowed in the R-2 zone. The lot size of 7,500 square feet was suggested as this is the minimum lot size of the E-3 zone; however, it was recognized that the maximum lot size could be reduced in the draft ordinance based on review of the size of lots which requested an open yard modification.

Staff researched the size of lots which received open yard modifications and determined that the median size was 7,000 square feet. When we discussed this proposed lot size with Planning Staff, concern was raised that the provision could lead to over building of a site. Staff's opinion is that a lot which meets, or is close to, the minimum lot size requirements of the zone should be able to meet the existing open yard requirement. Staff recommended that the lot size for this new exception to the open yard standard be a maximum of 6,000 square feet to truly reflect the size of lots that may not be able to meet the existing open yard requirement. Staff believes that this revised recommendation is consistent with the Planning Commission's intent to allow small constrained sites flexibility in providing the required open yard while not leading to overbuilding of a site. Therefore, Staff recommends that the Ordinance Committee specify the maximum lot size as 6,000 square feet. (See pages 14 and 15 of Attachment 1 and see Attachment 6 for illustration)

*Multi-Family and Multi-Family/Hotel/Motel Zones (R-3/R-4)*

The proposed changes to the R-3/R-4 yard requirements are:

- ◆ **Private Outdoor Living Space – Small Common Area Required.** Currently, development in the R-3/R-4 zones must provide either private outdoor living space or common open yard area per §28.21.081, Outdoor Living Space, of the Santa Barbara Municipal Code (SBMC). A new requirement is proposed for an additional 15'x15' common open area when using the private outdoor living space alternative. This open area can be provided on the ground floor, upper floors, or on a roof deck. The intent of this change is to provide common areas for children to play or for other uses by residents, not for additional on-grade open space. The Planning Commission has requested this type of open area during recent project reviews. (See page 28 of Attachment 1 and see Attachment 7 for illustration)
- ◆ **Private Outdoor Living Space – Multi-Story Units.** An amendment is also proposed to clarify that if a residential unit occupies multiple floors, the private outdoor living space could be provided on either floor as long as it meets the minimum size and dimension specified for the floor on which it is proposed to be located. This amendment codifies long-standing City policy. (See page 27 of Attachment 1)
- ◆ **Open Space.** The 10% open space regulations for multi-family residential developments are proposed to be clarified, and moved from the Lot Area section to the Outdoor Living Space section. Properties zoned R-3 or R-4, or subject to those standards, will continue to require the 10% open space. (See pages 25 and 28 of Attachment 1)
- ◆ **Regulations for Non-residential Buildings, Structures and Uses.** Currently, non-residential uses in the R-4 Zone require double setbacks, and maximum lot area coverage of 25% (SBMC §28.21.085). Due to a quirk in the language, wholesale conversions of residential units to hotels etc. are exempt from the double setback and coverage rules, but remodels of existing hotels, motels and bed & breakfast (B&Bs) facilities are not exempt. Therefore, the double setback and maximum lot area coverage regulations in the R-4 for non-residential uses are proposed to be changed to allow remodels of existing hotels, motels, B&Bs and other non-residential uses specifically allowed in the R-4 Zone without triggering those requirements. (See pages 29 and 30 of Attachment 1)
- ◆ **Three-Story Building Front Setback.** The current front setback in the R-3/R-4 zone reads as follows:
  - “10 feet for one- and two-story buildings and 15 feet for three-story buildings provided, however, that if one-half or less of the ground floor area of a proposed building is three stories and said third story is constructed no closer to a front yard than one-third the ground floor building dimension measured perpendicularly to that front yard, the setback conditions for a two-story building for the front yard shall apply.”
- ◆ This provision is confusing. An amendment is proposed to simplify the front setback to be a fixed distance from the front property line. For one- and two-story buildings the setback would continue to be ten feet. For three story buildings, the general rule would be a setback 15 feet for all three floors. An exception to the general rule

would be allowed if the net floor area of the third floor is less than fifty percent (50%) of the net floor area of the first floor. In these cases, the first and second floors would have a setback of ten feet (10') and the third floor would have a setback of twenty feet (20'). This change is also proposed for the R-O, Restricted Office, and C-O, Medical Office Zones. (See page 23, 37, 39 and 40 of Attachment 1 and see Attachment 8 for illustration)

- ◆ **Interior and Rear Setbacks.** The current interior and rear setback for garages, carports and uncovered parking in the R-3/R-4 zones is six feet. An amendment is proposed to reduce this setback to three feet outside of the front yard. This new setback is consistent with the most recent amendment in the R-2 Zone and amendments to the single family zones as part of the recently completed Neighborhood Preservation Ordinance (NPO) update (§28.18.060.B and §28.90.100.G.1.b respectively). Roof projections (eaves, cornices, etc.) could only extend 12 inches further into the setback, per the California Building Code. (See pages 23 and 24 of Attachment 1 and see Attachment 9 for illustration)

The Ordinance Committee reviewed the proposed changes to the R-3/R-4 zone requirements and agreed to incorporate them into the Zoning Ordinance Amendment package with some changes to the proposal for reduced interior and rear setback for garages and carports. The Ordinance Committee's changes were:

- ◆ Applies to lots less than 55 feet wide
- ◆ No electrical or gas meters, etc. allowed within the 3 foot setback
- ◆ Need to provide an allowance for landscaping and/or trees within the reduced setback
- ◆ Limit the garage depth to a maximum of 20 feet interior clear space

Staff incorporated the Ordinance Committee's changes related to the width of qualifying lots and to limiting the maximum depth of the garage. However, Staff recommends not including the changes regarding allowance for landscaping and prohibiting electrical or gas meters within the setback. The provision of landscaping pockets could result in a longer building. The required minimum interior depth of a garage is 20 feet. Therefore, where landscaping pockets are provided in the building, the interior depth of the building would have to be reduced and would not meet the minimum 20 foot interior garage dimension. Therefore, that area could not be utilized for a garage. Additionally, site and landscape plans for multiple family developments are subject to review and approval by the Architectural Board of Review (ABR) or Historic Landmarks Commission (HLC). Staff believes that the ABR or HLC should have the discretion to review those plans and require appropriate landscaping and screening for the building in this reduced setback. In regards to the meter location, in some instances it is preferred to have meters located on the sides of buildings where they are not visible from the street. Therefore, Staff would prefer to allow flexibility in the location of the meters.

*Yard Encroachments* (See pages 65-66 of Attachment 1)

Currently, Section 28.04.430.5 (definition of "Open Yard") allows an unenclosed patio cover, summer house, arbor, canopy or other similar structure, except where attached to a wall of a main building, to encroach into the required open yard provided the structure does not occupy more than 20% (250 square feet) of the required open yard. If the existing open yard is less than 1,250 square feet in area (i.e. nonconforming to size), then a structure would be allowed to occupy no more than 20% of the provided open yard. These provisions are being moved from the Definition section to the General Provision section, and being joined to Section 28.87.062 (Yard Encroachments), which specifies the types of structures that currently can encroach into a required yard. (Attachment 10)

The existing provisions for yard encroachments are proposed to be changed or clarified, as follows:

- ◆ Allow decks no more than ten inches in height above grade in the setbacks. This is codification of a long-standing City policy. (Attachment 10)
- ◆ Allow window seats which are at least three feet above grade or the finished floor (whichever is higher) to encroach up to two feet into the front setback. The reason why the window seat must be at least three feet above finished grade or finished floor is so that additional floor area is not provided within the front setback. (Attachment 11)
- ◆ Allow a small entrance landing (either covered or uncovered) and/or entrance stairs to encroach a total of 3 feet into the required front setback. The purpose is to allow a small landing or stairs to get to an elevated front door, not for usable porch/patio areas within the front setback. (Attachment 11)
- ◆ Clarify that if the open yard is provided in more than one area, then the 20 percent encroachment applies to each individual area.
- ◆ Clarify that unenclosed structures attached to a wall of a main building may encroach a maximum of 20 percent into the required open yard. Currently this provision is ambiguously worded. (Attachment 11)
- ◆ Clarify the existing provision that allows cantilevered architectural features to encroach no more than two feet by specifying that the cantilevered architectural feature must be at least three feet above finished grade or three feet above the finished floor if the feature is proposed on an upper floor. The purpose of this amendment is to ensure that the encroachment is an architectural feature that does not provide additional floor area.
- ◆ Clarify that roof eaves cannot be located closer than two feet from any property line. (Attachment 10)
- ◆ Allow the following types of structures to encroach into the required minimum distance between main buildings on the same lot. This is a codification of City policy. (Attachment 12)
  - Detached accessory structures (as long as the 5 foot minimum distance between main buildings and accessory buildings is maintained)
  - Uncovered parking
  - Planters less than 10 inches in height from grade
  - Paving

- Fences, hedges, and walls
- Uncovered bicycle parking areas including bicycle racks and posts, excluding bicycle locker parking
- The following structures can encroach a maximum of three feet into the required distance between buildings:
  - Balconies, decks, porches and terraces on the first or higher floor, that do not provide additional floor area. These improvements may be roofed or unroofed. However, any structure that is located on an upper floor must be cantilevered and may not be enclosed below.
  - Structures built to enclose trash, water heaters, or water softeners.
  - Exterior stairways on the first or higher floors that are unenclosed by solid walls.

### Conditional Use Permits (CUPs)

#### *Churches*

Currently, churches, convents, monasteries and educational institutions require CUPs in all zones, except where another section of the Zoning Ordinance specifically allows the use in the zone. In those instances, a CUP is not required (SBMC §28.94.030). The C-2 Zone allows “Church (temporary revival)” as a permitted use. The term “temporary revival” is not defined in the Zoning Ordinance. Based on this allowance, Staff practice has been to allow churches in the C-2, C-M, and M-1 zones without a CUP. An amendment was originally proposed to codify this practice of allowing churches in the C-2, C-M and M-1 zones. However after discussion with the Planning Commission, Staff amended the proposal to only allow churches in the C-2 and C-M zones without the requirement for a CUP. Churches proposed in any other zone would continue to require a CUP. The Ordinance Committee agreed to allow churches in the C-2 and C-M zones without a CUP. (See pages 51, 56, and 84 of Attachment 1)

#### *Monasteries and Convents*

An amendment is also proposed to include monasteries and convents as an allowed use in the R-O, C-O, C-P, C-L, C-1, C-2, and C-M zones. The Planning Commission concurred that monasteries and convents should be an allowed use in these zones. However, they stated that monasteries and convents should not be included as an allowed use in the M-1 zone given the prohibition of residential uses in the M-1 zone. The Ordinance Committee concurred with the Planning Commission’s recommendation regarding convents and monasteries. (See pages 57 and 84 of Attachment 1)

#### *Educational Facilities*

Currently, trade schools, art schools, dance schools, language schools, and other types of vocational, music, and arts-related schools are allowed in most non-residential zones without a CUP. Educational institutions, such as private schools that provide education for students in grades K-12 (like Anacapa School), and private colleges (Antioch, Brooks), or private schools of advanced learning (Santa Barbara College of Law, Fielding Institute), require a CUP in any zone. (See pages 57 and 84 of Attachment 1)

Staff believes that the intensity of use of an educational institution is equivalent to uses already allowed in most non-residential zones (retail, office, commercial, and restaurant). In addition, the CUP findings for educational facilities are currently covered by statutory requirements and Design Review. Therefore, Staff was proposing that educational institutions be an allowed use within the M-1, C-M, C-2, C-1, C-P, C-L, C-O, and R-O Zones; thus removing the requirement for a CUP in those zones. The Planning Commission did not agree with the proposal, and felt that CUPs should continue to be required for all educational facilities. The Ordinance Committee discussed this issue and based on input from the public, recommended that the proposal be revised to allow Educational Facilities in the C-2 and C-M zones without a CUP. Educational Facilities in any other zone would continue to require a CUP. Staff concurs with this recommendation.

#### *C-O Zone*

Two changes are proposed to the allowed uses in the C-O (Medical Office) Zone. The first is to allow branch banks without a CUP because they support the uses allowed in the C-O zone and are similar to the other allowed uses. The second change is to allow medical equipment and supply stores (formerly called "Businesses Specializing in Sick Room Supplies") without a CUP, as they are closely related to the Medical Office use of the C-O Zone.

The Ordinance Committee agreed to allow banks and medical equipment supply stores in the C-O zone. However they requested Staff to explore limiting the size and intensity of these types of uses. In the amendments, Staff is proposing to limit the size of banks to 1,000 square feet and medical equipment supply stores to less than 3,000 square feet. If a larger bank or medical equipment and supply store wanted to be located within the C-O Zone, a CUP would have to be pursued. (See pages 39 and 87 of Attachment 1)

#### *Birth Centers*

Currently, birth centers require a CUP in the C-O, C-P, C-1, C-2, C-M and M-1 Zones. The proposed change would allow birth centers in these zones without a CUP, because it is similar to other allowed uses in these zones, in terms of intensity of use. Additionally, the birthing center use is similar to outpatient surgery centers, which do not need CUPs. (See pages 39 and 89 of Attachment 1)

#### Seasonal Holiday Sales

Currently, the Zoning Ordinance does not have provisions for temporary seasonal uses, such as Christmas tree lots and pumpkin patches. The Planning Division's administrative practice has been to allow these temporary uses in the C-P, C-2, C-M, M-1, and P-D zones. The proposed amendment would codify which land use zones the seasonal holiday sales would be allowed in, the time period (maximum of six weeks) that the use is allowed to remain, and establish a process that is required for review and approval of the seasonal holiday sales event. Any seasonal holiday sales event would have to obtain a permit from the Community Development Department and comply with

all requirements of the City's Building and Safety Division, Fire Department, Police Department, business license section and other agencies, including ABR, HLC, and/or the Sign Committee as needed. (See page 71 of Attachment 1)

#### Setbacks Along Alleys and Private Streets

Currently, the Zoning Ordinance is not clear on the required setback for development adjacent to alleys and private streets. In the past, both the interior and front setbacks have been applied to new development along alleys and private streets, which has led to discrepancies and disparity in setbacks between adjacent properties. To clarify the required setbacks, amendments are proposed to specify that an interior setback is required for new development along an alley, and that a front setback is required from a public or private street. This is consistent with recent Planning Commission requirements for new development along a street, whether or not the street is public. (See pages 2, 4, 5, 7 and 8 of Attachment 1)

#### Renting of Rooms in Single-Family Zones

From time to time, the City receives complaints from neighbors that single-family homes in their neighborhood are being rented to several individuals as a boarding house. In the past, the City and other jurisdictions attempted to regulate boarding houses by distinguishing between related and unrelated persons in setting occupancy limits for single-family homes. In 1980, the California Supreme Court ruled that distinctions based on family relation violated the right to privacy in the State Constitution.

Following the court decision, the City amended the definition of boarding house (SBMC §28.04.100) to remove the distinctions based on family relation. The revised definition has been difficult to enforce. Staff has investigated regulatory solutions attempted in other jurisdictions and found the other examples to be ineffective or administratively burdensome. Staff recommends revising the definition of boarding house to focus on function rather than occupancy. (See page 3 of Attachment 1)

For complaints of room rentals in houses, Staff would continue to enforce the noise ordinance, parking requirements, setback and open yard standards. Concerns relating to overcrowding and illegal garage and room conversions would continue to be enforced upon by Community Development Department staff.

#### Parking

The proposed amendments to Chapter 28.90, Automobile Parking Requirements, relate to multi-family dwelling unit definition, parking requirements for disabled/handicapped developments, and the storage of unregistered vehicles.

*Three or More Units on a Lot*

Currently, parking is prohibited in any required setback except that uncovered parking or turnaround areas are allowed in the required interior setback in the R-3 or less restrictive zone for multi-family dwellings if at least five percent of the area used for parking/turnaround is landscaped. A multi-family dwelling is defined as three or more attached units. An amendment is proposed to allow this exemption to apply to R-3 zoned properties that have three or more residential units on one lot, whether or not the units are attached. (See page 73 of Attachment 1)

*Handicapped/Disabled Residential Unit*

The parking requirement for low income senior housing is proposed to be amended to include disabled persons. This proposal was requested by the Housing Authority, in order to remove a conflict between the U.S. Department of Housing and Urban Development's (HUD's) requirements and the Parking Ordinance. HUD requires the Housing Authority to allow disabled persons equal access to low income senior housing units, which have a reduced parking requirement of ½ space per unit. The Parking Ordinance requires that additional parking spaces be provided for this change of occupancy, because disabled housing units do not currently have a reduced parking requirement. The Housing Authority does not have the ability to provide the additional parking spaces, and thus is caught between conflicting regulations. The proposal would allow disabled persons to occupy low income senior residential units. (See page 77 of Attachment 1)

*Unregistered Vehicles*

Currently, vehicles incapable of movement under their own power must be kept in a garage or carport. For enforcement purposes, the proposed change would extend the applicability of this provision to include unregistered vehicles, and require that these vehicles be stored in a garage and not a carport. (See page 73 of Attachment 1)

Storage

This section is proposed to be clarified so that the locations where storage is not allowed are stated explicitly. This amendment will specify that no portion of any front yard or required setback, open yard, private outdoor living space or front porch shall be used for the permanent storage of items such as appliances, motor vehicles, trailers, boats, loose rubbish, garbage or rubbish receptacles, building materials, compost pile, or any similar item for 48 or more consecutive hours. Additionally, an existing provision regarding storage on corner lots is proposed to be deleted, as it is not clear in its meaning and therefore has never been used. (See page 68 of Attachment 1)

### Reasonable Accommodation

State and Federal law requires local governments to make reasonable accommodations (modifications or exceptions) to their land use regulations and practices, when necessary, to provide disabled persons an equal opportunity for housing. In response to this law, the City of Santa Barbara Housing Element (2004) includes strategy 1.1.5 which states *“The City shall amend the Municipal Code to provide persons with disabilities seeking equal access to housing to request reasonable accommodation in the application of City zoning laws.”* Amendments to the parking standards, yard encroachments, and allowed modifications are proposed to implement Housing Element Strategy 1.1.5. to enable people with disabilities flexibility in zoning standards when seeking access to housing.

#### *Parking*

Currently, the Planning Division’s administrative practice is to allow existing required parking spaces to be converted from a standard parking space to an accessible space or access aisle without triggering the requirement for a modification. This is true even if the conversion results in fewer spaces than required by the Zoning Ordinance as long as the accessible parking requirements are not triggered by an expansion of an existing use or new development. An amendment is proposed to codify this existing administrative practice. (See page 76 of Attachment 1)

#### *Yard Encroachments*

Presently, if a structure or improvement is proposed within one of the required yards, an applicant must seek approval of a modification of the zoning standard. An amendment to the Zoning Ordinance yard standards is proposed to allow certain accommodating structures and improvements, such as accessible parking spaces, access aisles or accessibility ramps, to be placed within required yards without the need of a modification. This proposed change would not change the requirements for a building permit, building code compliance, or design review. (See page 65 of Attachment 1)

#### *Modifications*

Currently, the modification process is available to applicants requesting relief from zoning standards. Staff recognizes that it may not be possible to anticipate every potential accessibility improvement in order to revise the zoning standards to allow for accessibility improvements as a matter of right. Therefore, Staff recommends amending Section 28.92.110 of the Municipal Code to allow for modifications to any zoning standard when necessary to make an existing residential unit accessible to persons with a disability. (See page 84 of Attachment 1)

### Fences, Walls, Screens, and Hedges

Currently, nonconforming fences, walls and screens are allowed to remain, provided there is no physical change except necessary repair and maintenance. However, there is no definition of “necessary repair and maintenance.” As a result, entire fences (posts, stringers and boards) have been demolished and rebuilt, which is contrary to the intent

of the Zoning Ordinance, which is to eliminate over-height fences and replace them with conforming fences. The proposed changes to this section would add language that would define this phrase to be the replacement of up to 10% of the existing wall length, and codify existing policy on how to determine whether a hedge is nonconforming. Staff believes that these changes would, over time, reduce the number of nonconforming fences, walls and hedges, as those in need of replacement of more than 10% of their length would need to be rebuilt to meet current standards, or apply for a Modification.

The following summarized the proposed changes:

- ◆ No more than 10% of the length of any nonconforming fence, screen or wall may be replaced per year.
- ◆ A hedge shall be determined to be nonconforming upon receipt of sufficient supporting evidence, as determined by the Community Development Director, indicating that a hedge existed in 1957, the year when the hedge height restrictions became effective.

Staff would like to attempt to address the overall issues of fence/hedge height in a future Zoning Ordinance amendment, and such a comprehensive discussion has not yet occurred with the Planning Commission. When a full discussion takes place it is likely that varied opinions will be expressed, and some controversy generated. Therefore, at this time, the proposed amendments are limited to quick fixes to assist in the enforcement process. (See page 68 of Attachment 1)

#### Allowed Uses – Additions and Revisions

A wholesale updating of the permitted uses in various land use zones will take place in a future Zoning Ordinance amendment. However, a few changes are proposed at this time.

#### *C-P and C-L Zones*

- ◆ Add child care centers to the C-L Zone (allowed by policy, but not specifically listed). (See page 45 of Attachment 1)
- ◆ Add “other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director with a substantial conformance determination pursuant to the adopted Planning Commission’s Guidelines.” This language is proposed to be added to all the permitted use sections of the non-residential zones we are amending. (See pages 39, 43, 45, 49, 52, 54 and 58 of Attachment 1)

#### *C-1 Zone*

Add child care centers (allowed by policy, but not specifically listed). (See page 48 of Attachment 1)

#### *C-2 Zone*

Add health club/spa/gym. (See page 51 of Attachment 1)

### *C-M Zone*

- ◆ Add Car Wash (a new definition is also proposed). (See pages 3 and 54 of Attachment 1)
- ◆ Add Automobile Paint Shop. (See page 53 of Attachment 1)

### Modifications

The proposed change to the Modification section would specifically state that a modification of the required minimum distance between buildings may be granted subject to the standard yard findings. This change is consistent with existing administrative policy and numerous actions by the Planning Commission and Staff Hearing Officer. (See page 83 of Attachment 1)

### Minor and Miscellaneous Revisions and Clean-Up

As part of the amendment package, staff is proposing minor revisions and clean-up amendments. These amendments include:

1. The deletion of language that is either redundant or no longer used.
2. The addition/revision of definitions for terms that relate to the proposed amendments in this package.
3. The reformatting of existing development standards from paragraph to tabular form for clarity.
4. The clarification that slope density regulations apply to accessory dwelling units in the R-2 zone.
5. The deletion of Section 28.87.150.1, Interior Yards for Dwelling Units in Non-Single Family Zones. The removal of this Code Section has always been included in this amendment package as it is viewed as a clean-up amendment in that it should have been deleted in previous Zoning Ordinance amendments, but was missed. When the Mixed-use Development Ordinance was adopted by the City Council in 1996, it was very clear that no setbacks would be required for mixed-use projects in the C-2 and C-M zones. This Section was discussed at the Ordinance Committee meeting on March 18, 2008 and the Ordinance Committee expressed understanding for the history and rationale behind this amendment. (See page 66 of Attachment 1)

### **RECOMMENDATION:**

Staff recommends that the Ordinance Committee review the Draft Ordinance and forward it to the Council with a recommendation for Introduction and Adoption. The Ordinance Committee has reviewed the scope and context of the proposed amendments at several public hearings. At these public hearings, the Ordinance Committee moved to include the proposed amendments in the Draft Ordinance with the changes as discussed above. The Draft Ordinance responds to the direction given by the Ordinance Committee. Therefore, Staff recommends that the Ordinance Committee review the Draft Ordinance and focus the discussion on particular areas of interest or

areas of question. If needed, a subsequent public hearing with the Ordinance Committee has been scheduled for July 1, 2008.

**NOTE:** Copies of the following attachments are available for public review on the City's website and in the City Clerk's Office.

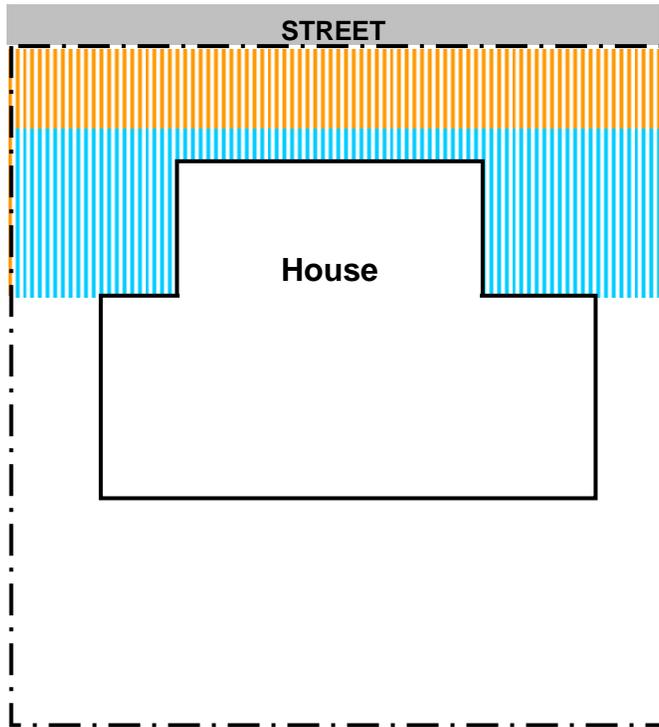
- ATTACHMENTS:**
1. Draft Ordinance Amending Sections 6.08.010 and 15.24.020 and Titles 28 and 29 of the Santa Barbara Municipal Code Relating to zoning setbacks and miscellaneous zoning standards
  2. Illustration showing "Proposed Front Yard Area" and "Proposed Front Yard – Towers and Curved Lot Lines"
  3. Illustration showing "Open Yard – Sloped Lot"
  4. Illustration showing "Open Yard – Sloped Lot with 36" High Deck"
  5. Illustration showing "Single Family Zones Open Yard Multiple Street Frontages - Corner Lot," "Single Family Zones Open Yard Multiple Street Frontages – Through Lot," and "R-2 Zone Open Yard – Corner Lot"
  6. Illustration showing "Single Family Zones Open Yard – Less than 6,000 s.f. and 20% Slope"
  7. Illustration showing "Proposed 15'x15' Common Open Yard"
  8. Illustration showing "R-3/R-4/R-O/C-O (E) Third Floor Setback Requirements," "R-3/R-4/R-O/C-O (P) Third Floor Setback Requirement," and "R-3/R-4/R-O/C-O (P) Third Story Setbacks"
  9. Illustration showing "Sample R-3 Zoned Parcel –Four Unit Condominium"
  10. Illustration showing "Existing Allowed Yard Encroachments"
  11. Illustration showing "Proposed Yard Encroachments"
  12. Illustration showing "Encroachments in Required Distance Between Buildings"

**PREPARED BY:** Susan Reardon, Senior Planner and Danny Kato, Senior Planner

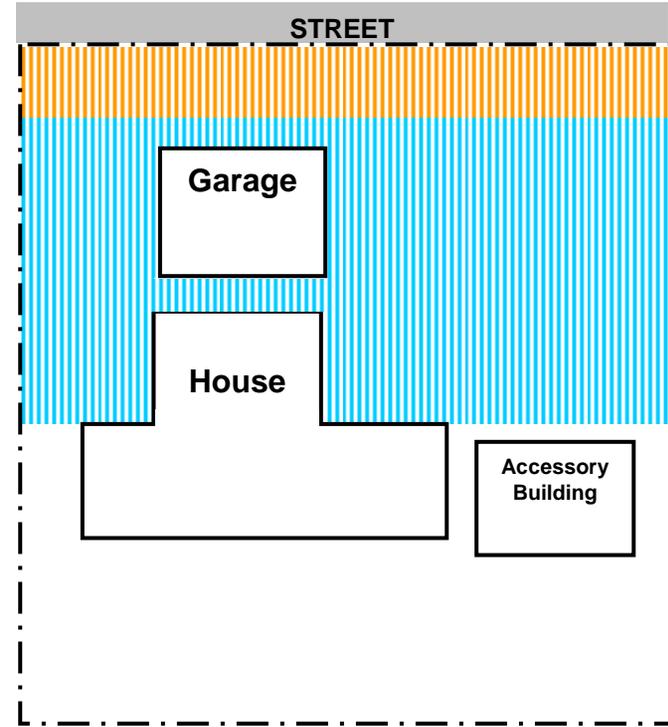
**SUBMITTED BY:** Paul Casey, Community Development Director

**APPROVED BY:** City Administrator's Office

# Proposed Front Yard Area



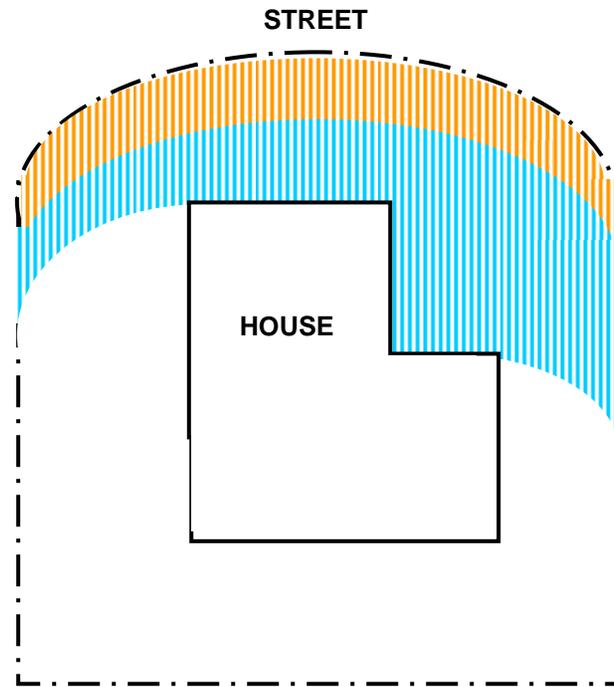
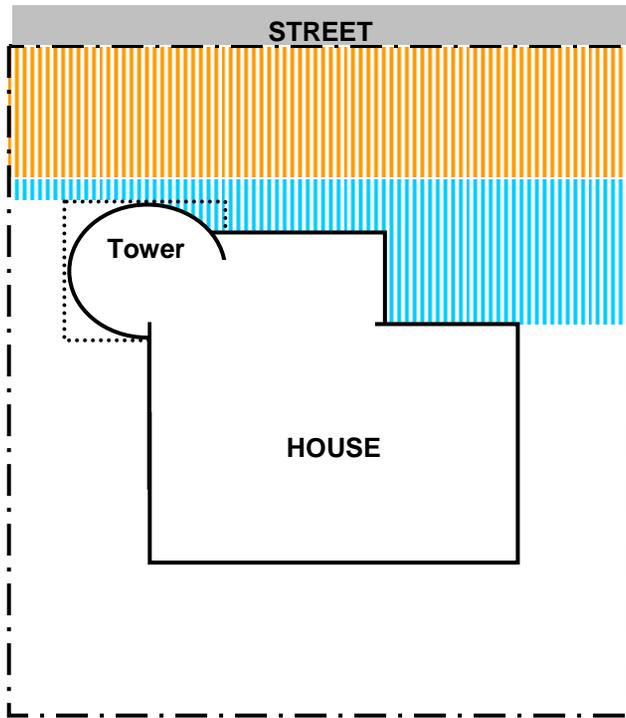
 Front Setback  
 Remaining Front Yard



 +  Front Yard

Not To Scale

# Proposed Front Yard – Towers and Curved Lot Lines



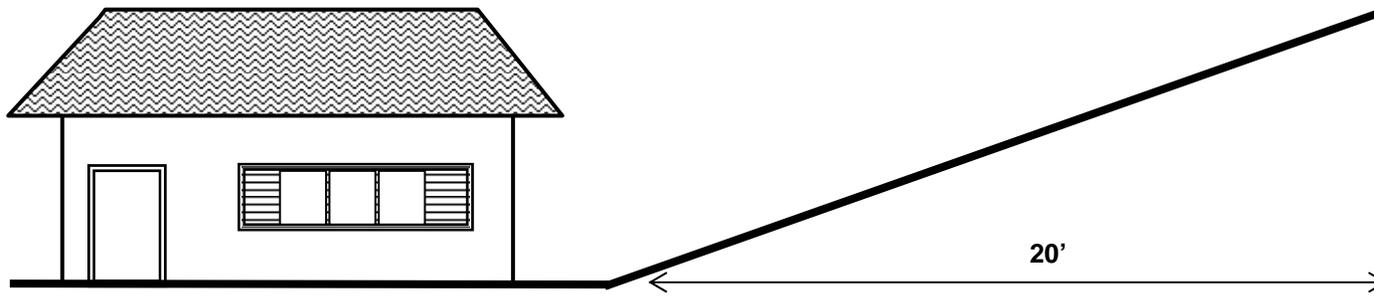
 Front Setback  
 Remaining Front Yard

 +  Front Yard

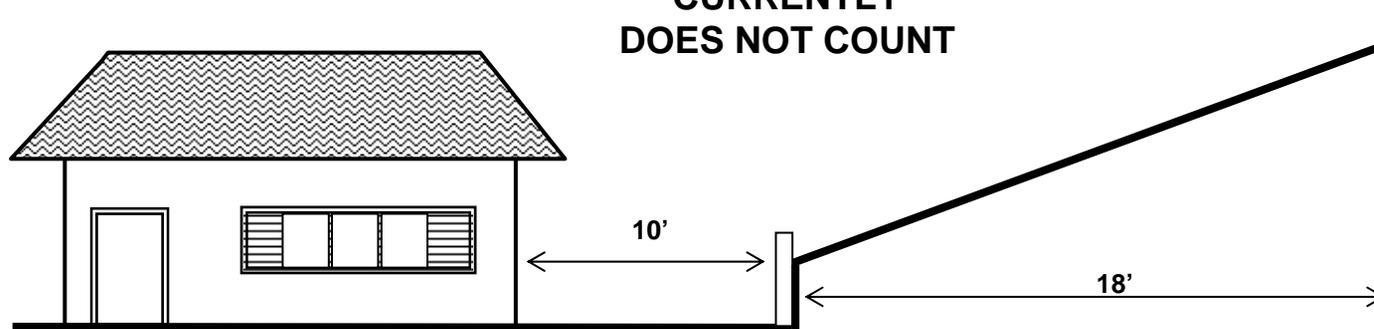
Not To Scale

# Open Yard – Sloped Lot

CURRENTLY COUNTS

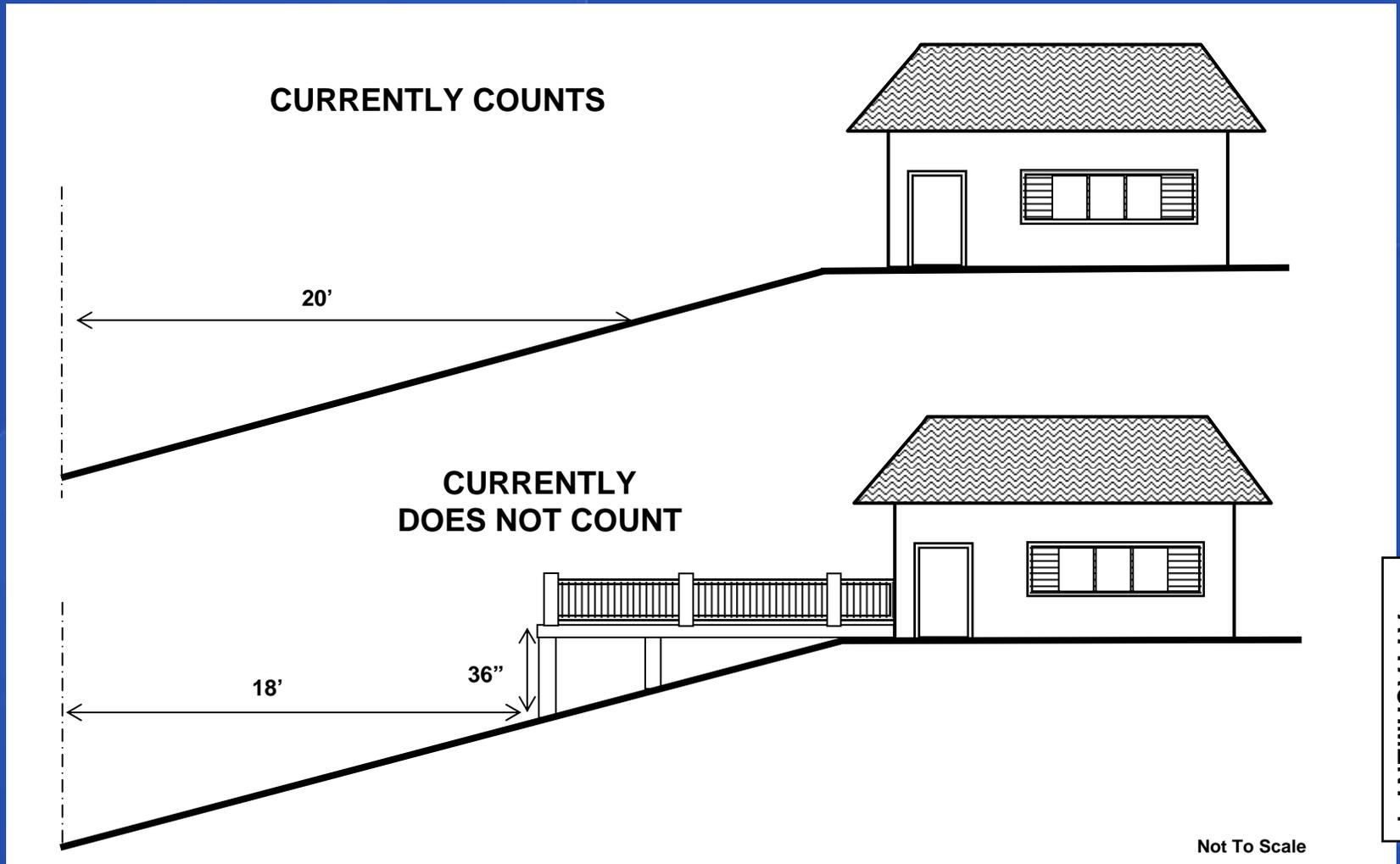


CURRENTLY DOES NOT COUNT



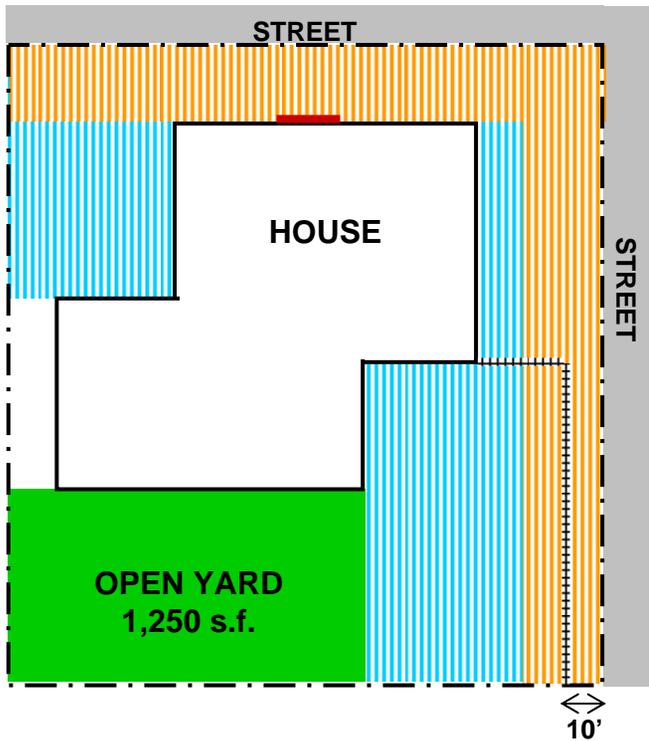
Not To Scale

# Open Yard – Sloped Lot with 36" High Deck



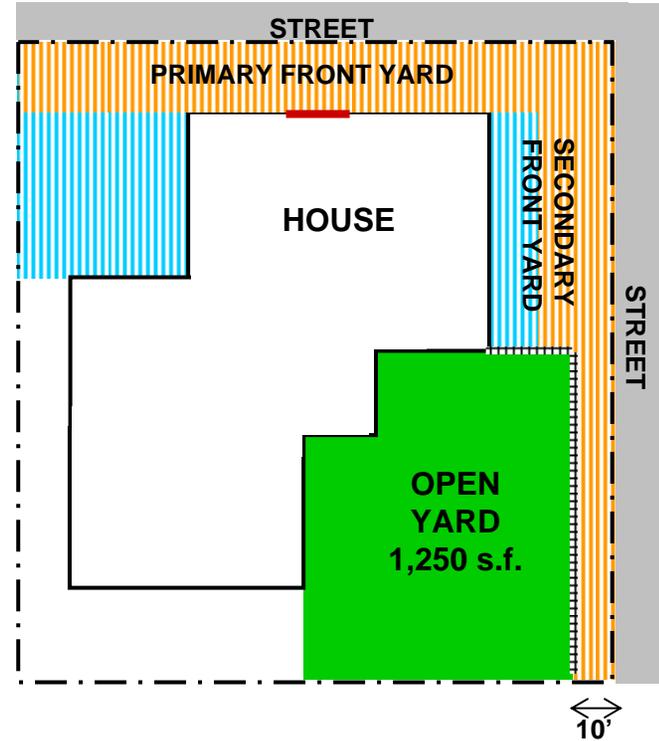
# Single Family Zones Open Yard Multiple Street Frontages - Corner Lot

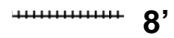
## EXISTING



-  Front Setback
-  Remaining Front Yard
-  Open Yard

## PROPOSED

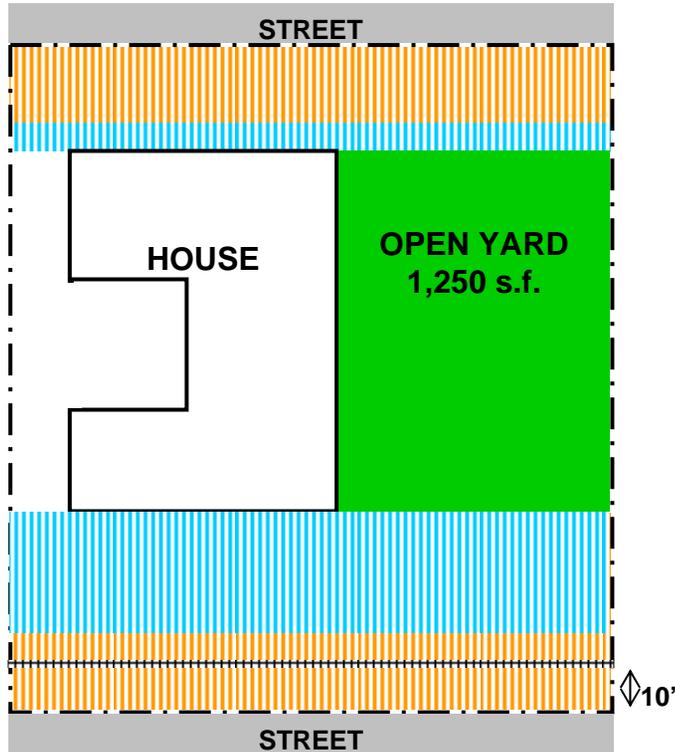


-  +  Front Yard
-  8' High Fence

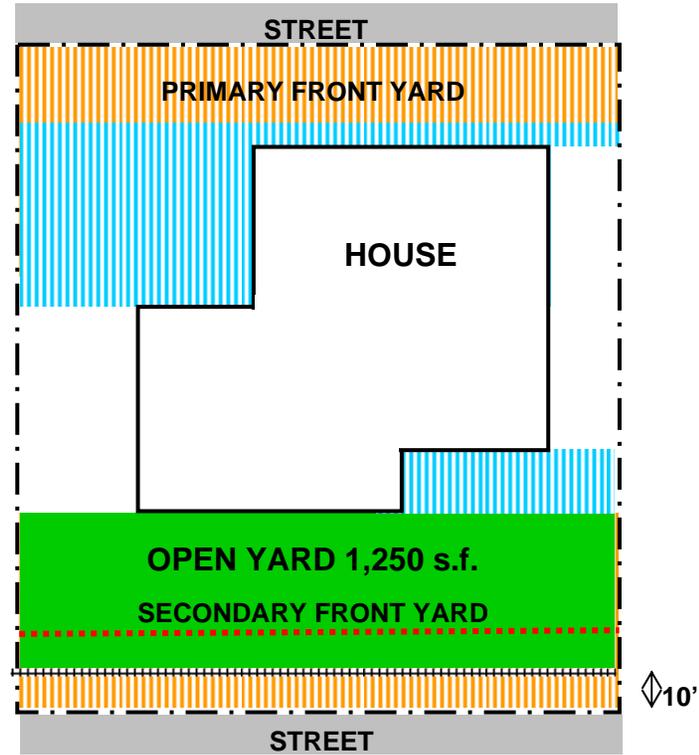
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# Single Family Zones Open Yard Multiple Street Frontages – Through Lot

**EXISTING**



**PROPOSED**



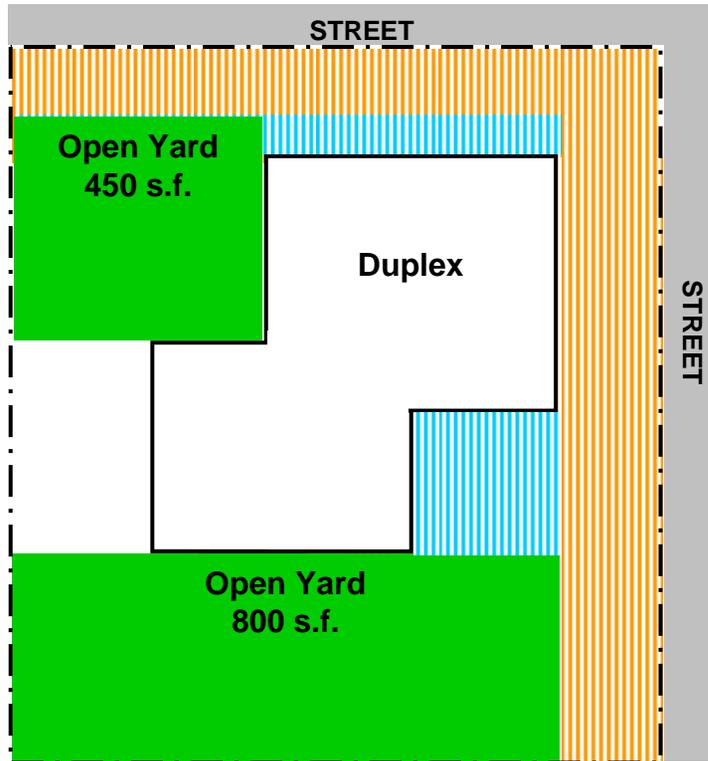
- Front Setback
- Remaining Front Yard
- Open Yard

- + Front Yard
- 8' High Fence

Not To Scale

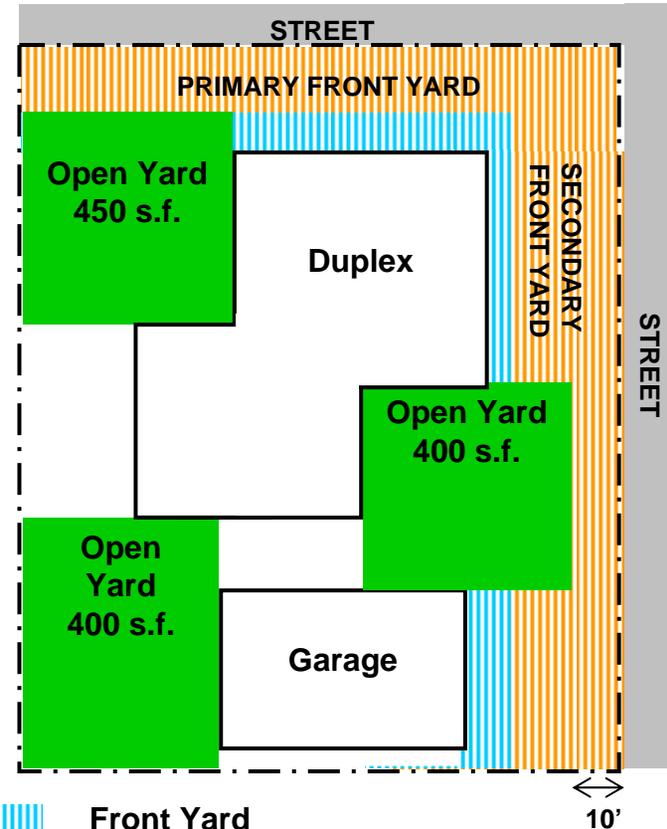
# R-2 Zone Open Yard – Corner Lot

## EXISTING



-  Front Setback
-  Remaining Front Yard
-  Open Yard

## PROPOSED

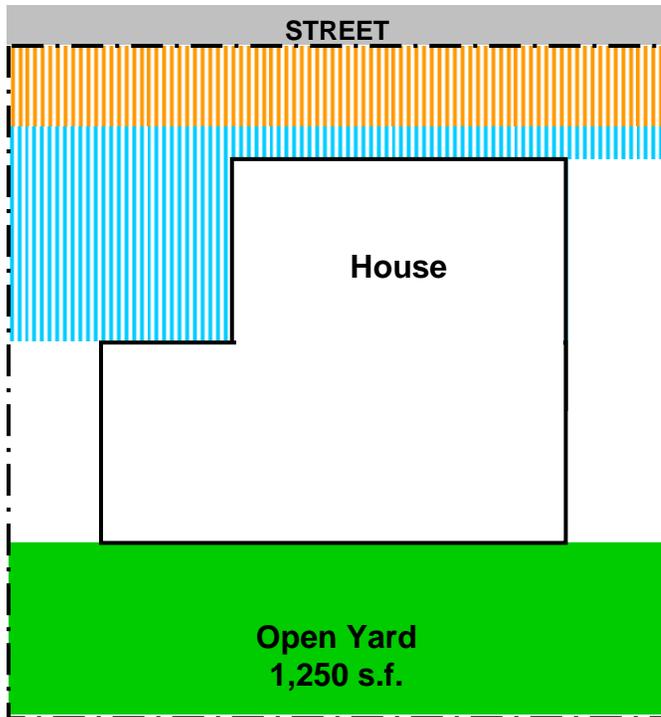


-  +  Front Yard

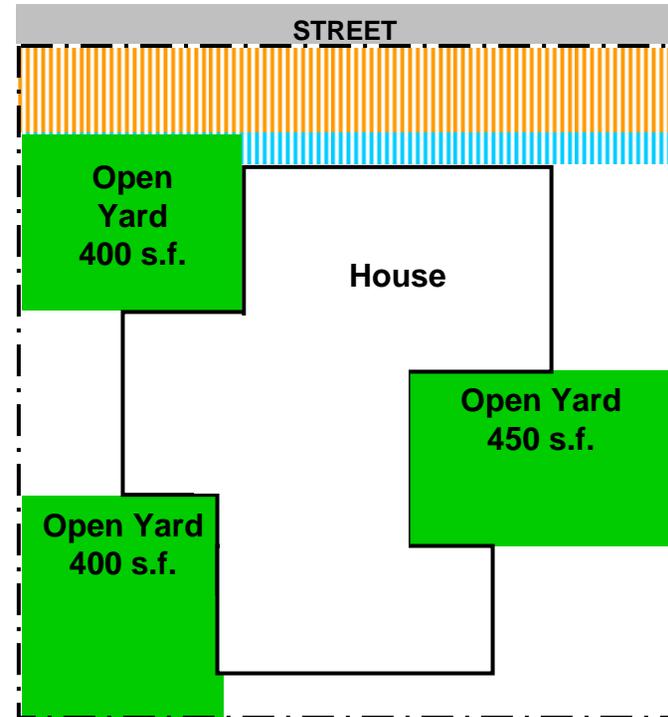
Not To Scale

# Single Family Zones Open Yard – Less than 6,000 s.f. and 20% Slope

## EXISTING



## PROPOSED



-  Front Setback
-  Remaining Front Yard
-  Open Yard

-  +  Front Yard

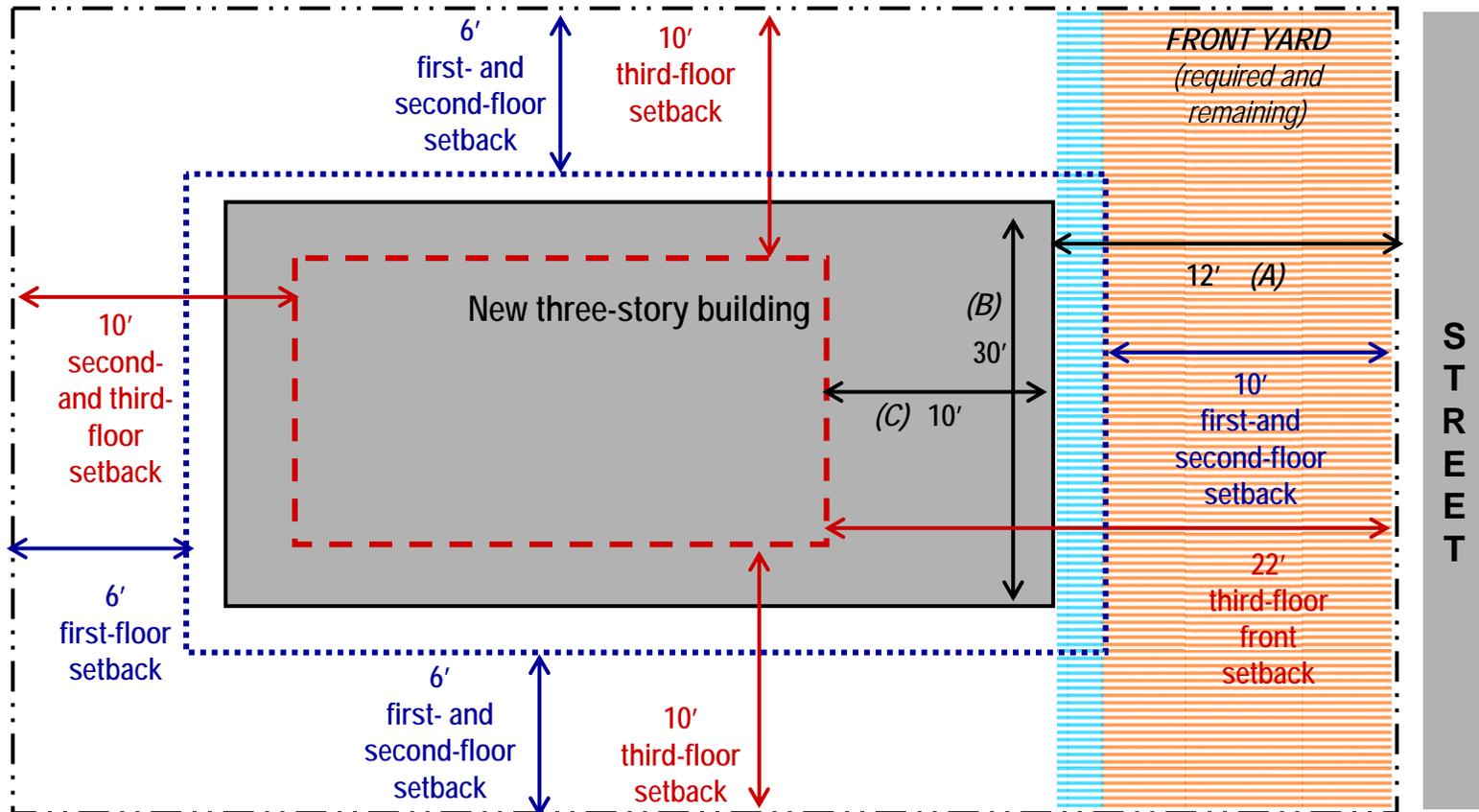
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# R-3/R-4/R-O/C-O

## (E) Third Floor Setback Requirements



If the third floor is  $\frac{1}{2}$  the floor area of the ground floor:

(A) The Front Yard (12')

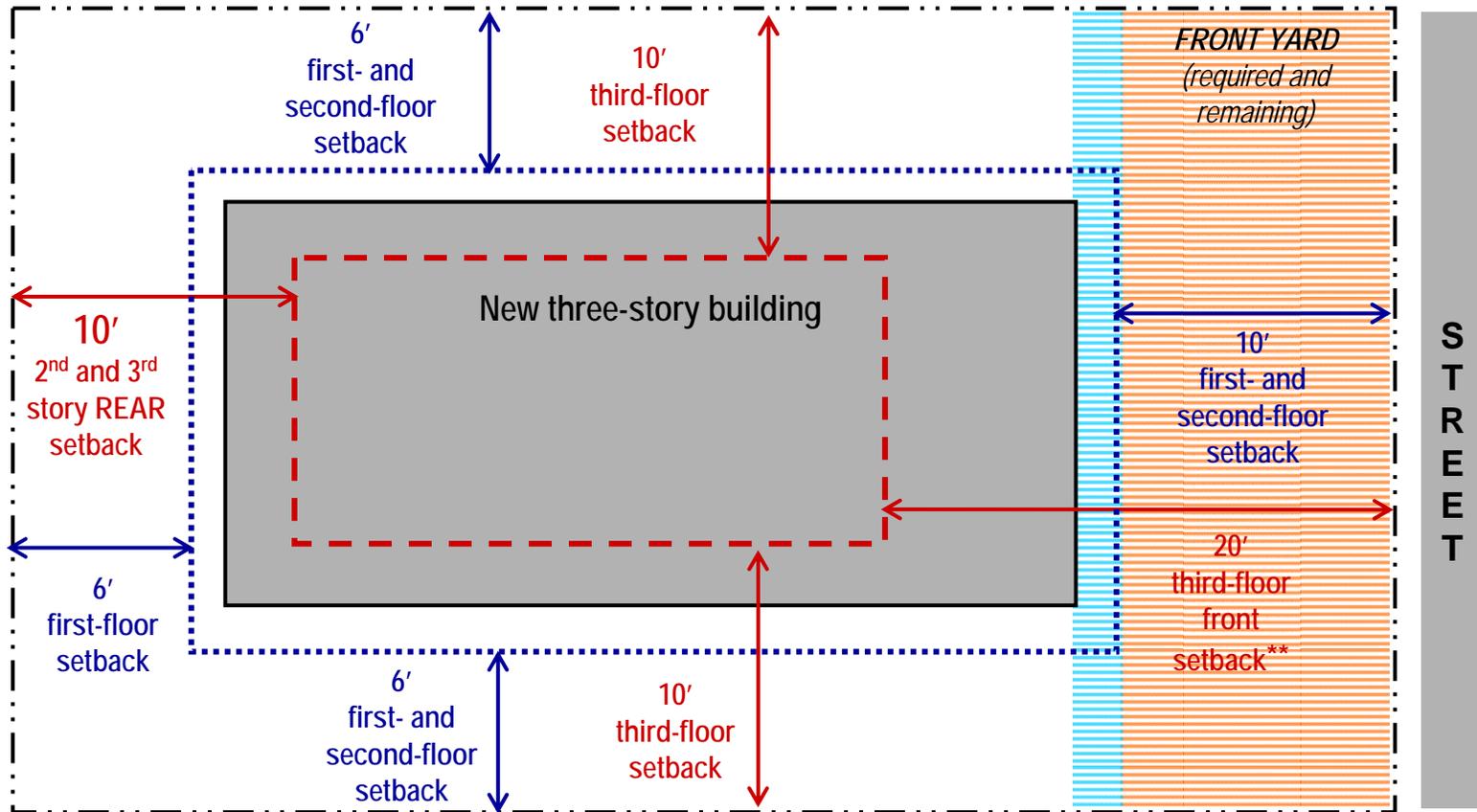
(B) The ground floor building dimension perpendicular to the FRONT YARD  $(30') \frac{1}{3} = 10'$

(C) The THIRD FLOOR ONLY must be setback from the FRONT YARD (the first wall of the building) by an additional 10'.

NOT TO SCALE

# R-3/R-4/R-O/C-O

## (P) Third Floor Setback Requirement

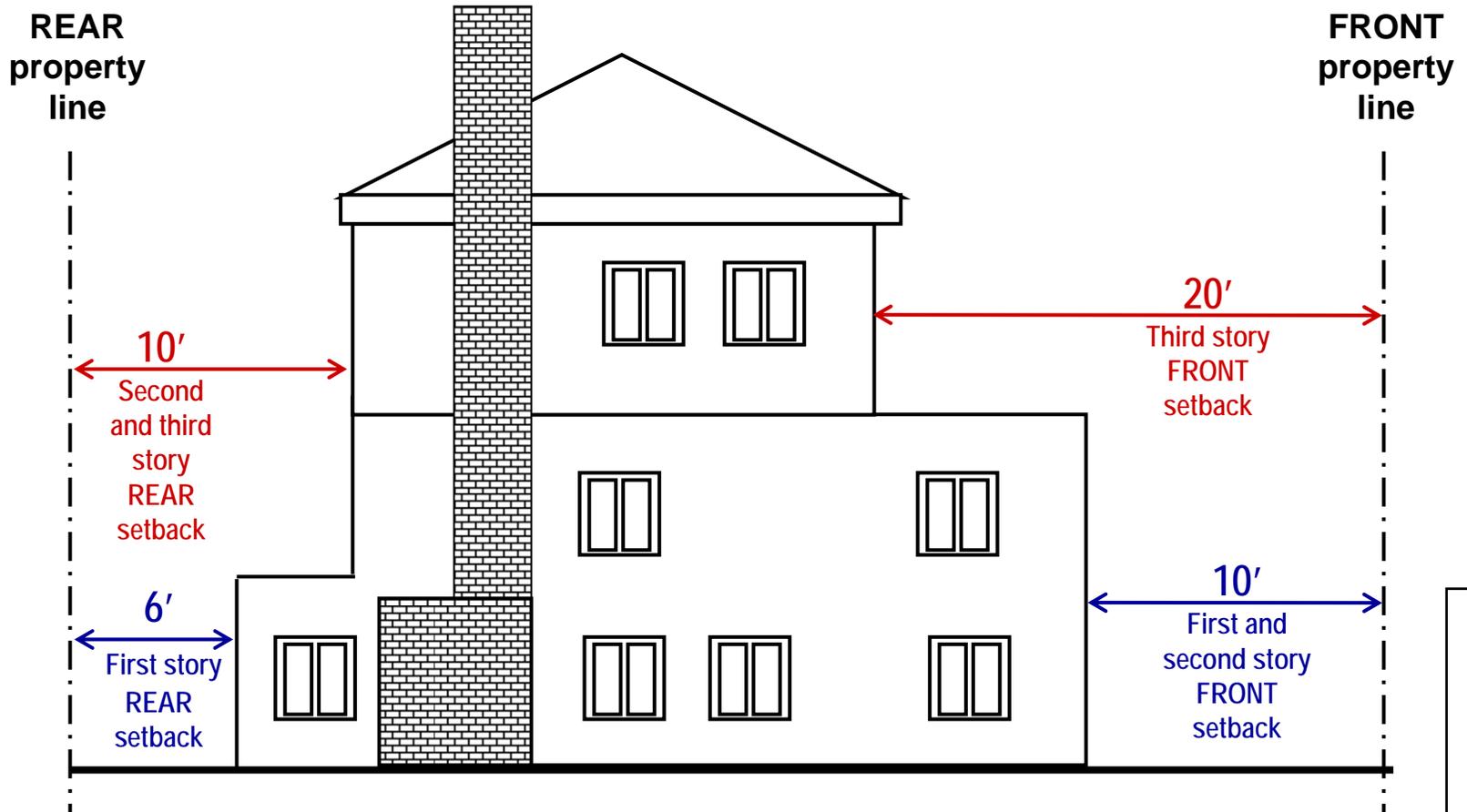


NOT TO SCALE

\*\*If the third floor is  $\frac{1}{2}$  the floor area of the ground floor then the 20' front setback only applies to the third floor. Otherwise the entire building must be setback 15' from front property line.

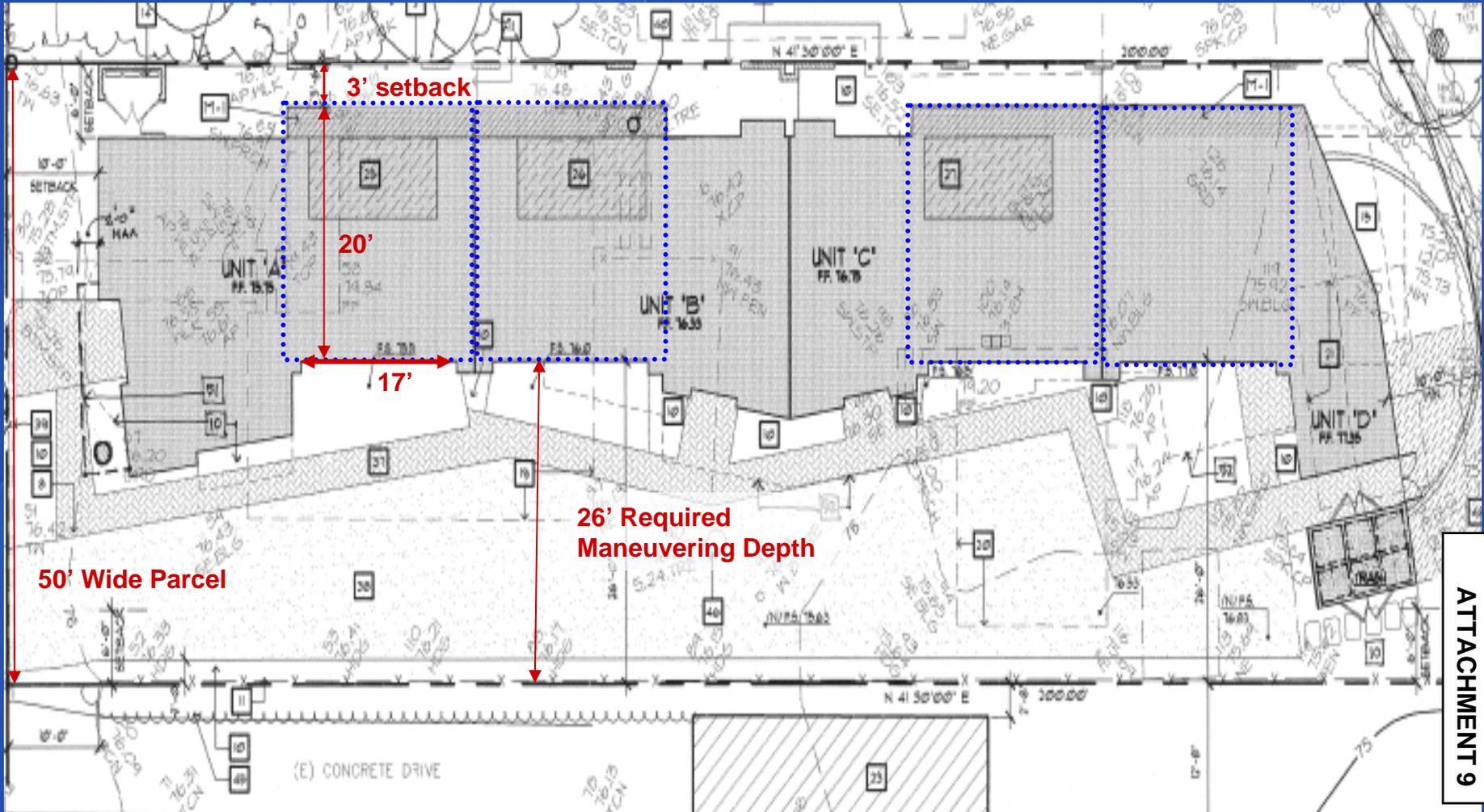
# R-3/R-4/R-O/C-O

## (P) Third Story Setbacks

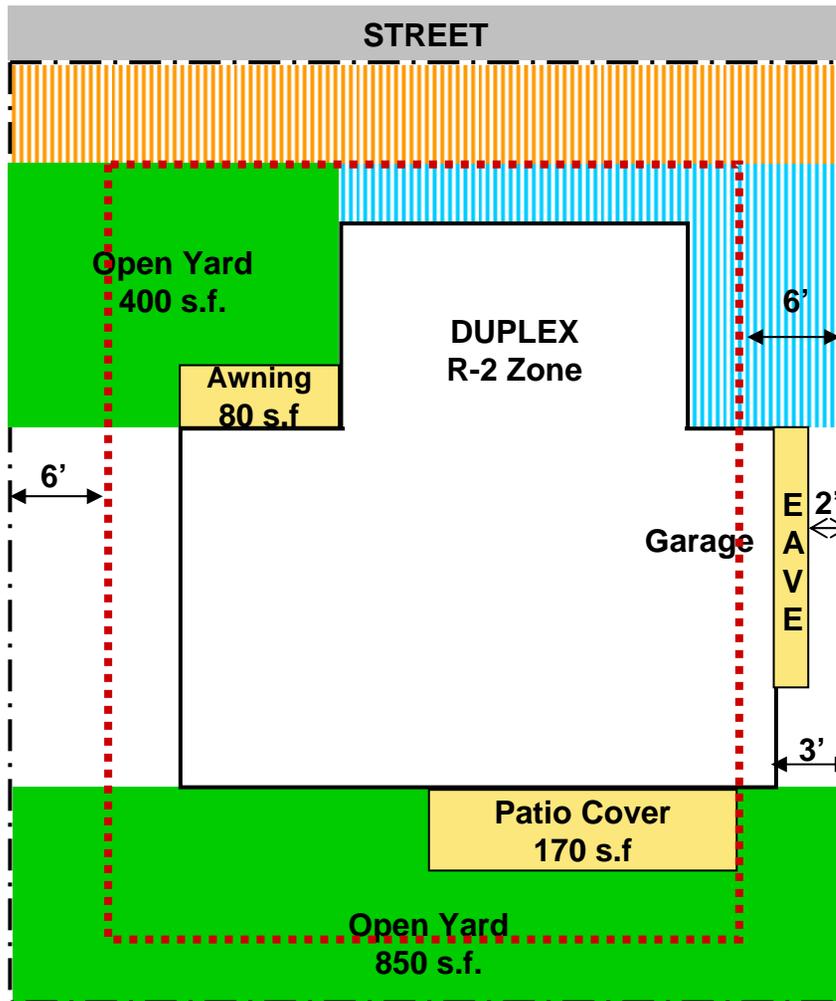


NOT TO SCALE

# Sample R-3 Zoned Parcel – Four Unit Condominium



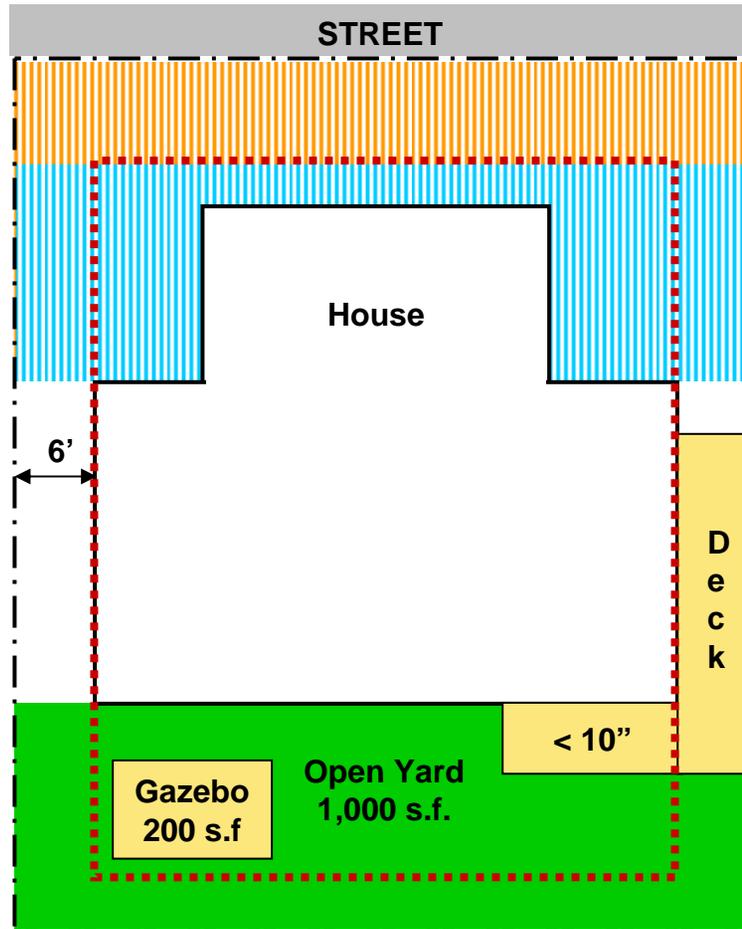
# Existing Allowed Yard Encroachments



- Front Yard
- "Remaining" Front Yard
- Open Yard
- Setbacks

NOT TO SCALE

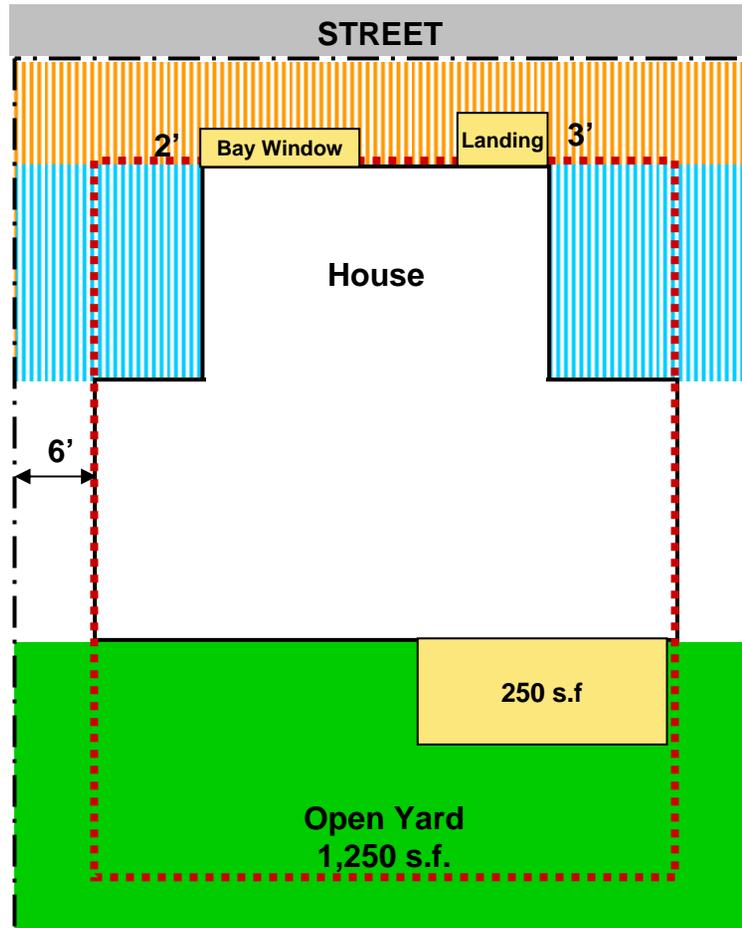
# Existing Allowed Yard Encroachments



-  Front Yard
-  "Remaining" Front Yard
-  Open Yard
-  Setbacks

NOT TO SCALE

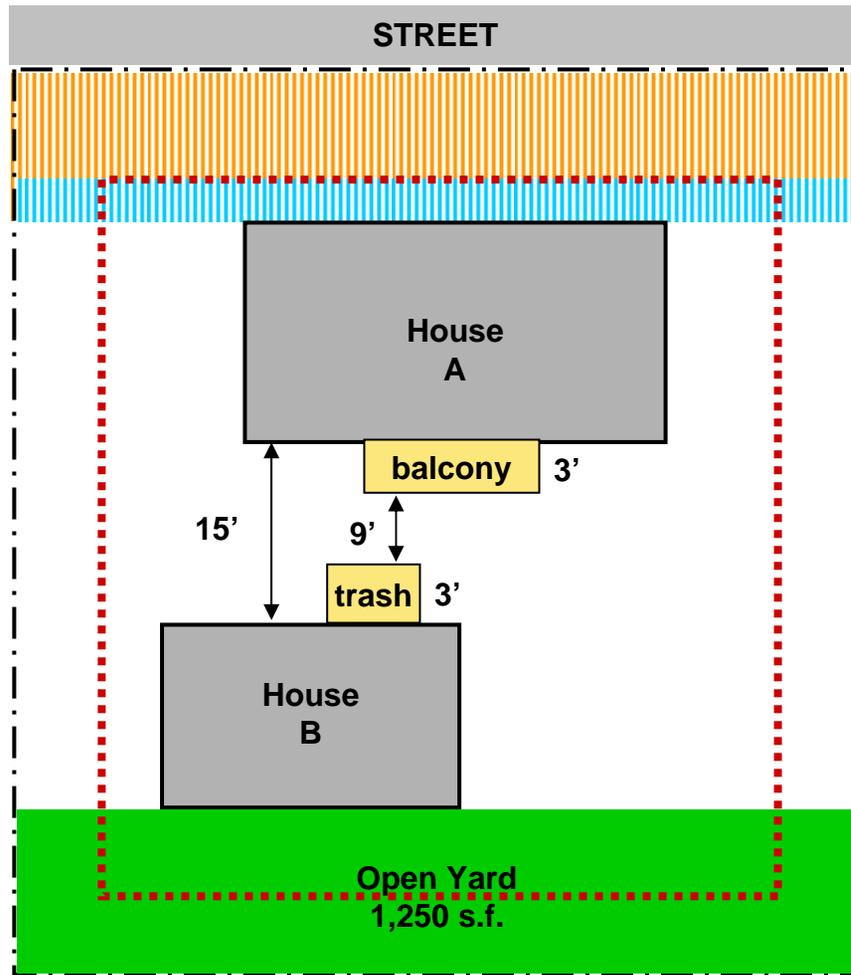
# Proposed Yard Encroachments



-  Front Yard
-  "Remaining" Front Yard
-  Open Yard
-  Setbacks

- Bay window  
- 2' encroachment
- Landing  
- 3' encroachment
- Attached patio cover  
- in open yard

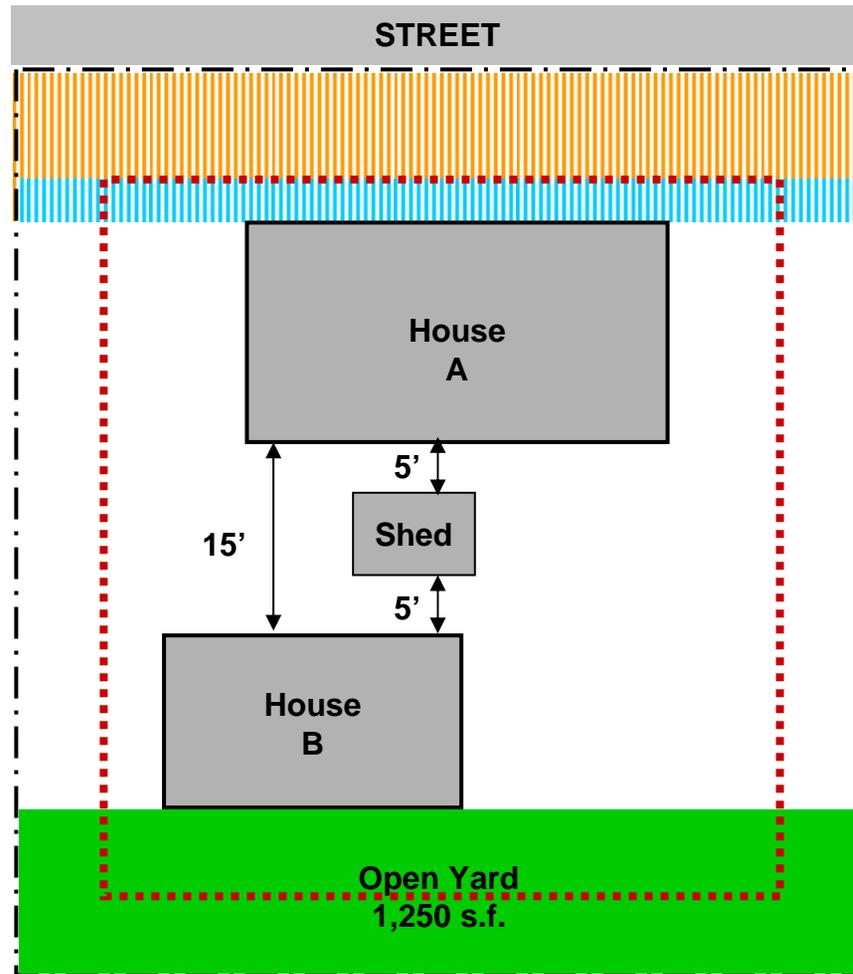
# Encroachments in Required Distance Between Buildings



- Front Yard
- "Remaining" Front Yard
- Open Yard
- Setbacks

NOT TO SCALE

# Encroachments in Required Distance Between Buildings



NOT TO SCALE