

MEMORANDUM

TO: Council Member Lisa Bender, Chair, Zoning & Planning Committee, Members of the Zoning & Planning Committee

FROM: Jason Wittenberg, Planning Manager

DATE: October 1, 2015

SUBJECT: Standards for 1-4 unit residential buildings

On August 29, 2014, the City Council adopted zoning code changes affecting 1-4 unit residential buildings. The broad purpose of the zoning code text amendment, authored by Council Member Palmisano, was to more effectively address neighborhood impacts associated with residential demolition and construction. The adopted ordinance changes are summarized at the end of this document. With an effective date of October 1, 2014, CPED staff has implemented these changes for one year. The purpose of this memorandum is to provide an overview of the implementation of these standards.

CPED staff has compiled data regarding height, floor area, and site plan review standards for new home construction before and after the adoption of updated regulations. This includes a sample size of the 55 new homes that obtained land use/zoning approval between October 1, 2014, and the time of this analysis.

Building Height and Floor Area

The overall mass of some new homes is one concern that led to the need for zoning revisions. Height regulations were revised to include a lower maximum at the midpoint between the roof peak and the eaves. Further, a new peak height limit was added. When these regulations were under consideration, staff found that approximately seven to eight percent of the recently approved homes had been approved at a height that would no longer be allowed using the new standards. Therefore, these “outliers” are restricted to lower heights. Interestingly, however, we have seen a small increase (i.e., approximately one foot) in the *average* height of new homes, measured at both at the midpoint and the peak. As further discussed below, the site plan review ordinance was revised to include an incentive for building height that is within one-half story of the predominant building height within 100 feet of the property.

While we have also seen a small increase in the floor area ratio (FAR building size divided by lot size), such a comparison could be slightly misleading because new regulations include the entire floor area of attached garages rather than exempting the first 250 square feet. The average FAR went from 0.37 (prior to the new rules) to 0.419 (following adoption).

Site Plan Review

Site plan review standards for new 1-4 unit buildings include a menu of options. In addition to compliance with general zoning standards (setbacks, lot coverage, impervious surfaces), new structures must obtain a minimum of 17 points out of a possible 27 points. (See the attached graphic.) Previously, new homes had to obtain 15 out of a possible 24 points. Generally, more points are awarded for design features that have a greater impact on neighborhood character. Of the 55 homes analyzed, the following represents the percentage of projects that obtained each design feature.

Design Feature (points)	Points awarded for design feature	% of homes obtaining design feature prior to 10/1/15*	% of homes obtaining design feature after 10/1/15*
Durable materials	6	70%	82%
Tree preservation & planting	4	47%	47%
Building height within 1/2 story of area's predominant height	4	N/A	72%
Basement	3	96%	96%
Detached garage	3	70%	67%
20% front windows	3	57%	75%
10% interior windows	2	37%	55%
Stormwater quality credit	1	N/A	4%
Open front porch	1	57%	76%

*** In some cases, design features were amended significantly, resulting in an imperfect comparison between the regulations before and after 10/1/15.**

Outcomes of the revised site plan review standards include the following:

- Since adoption of the revised standards, new homes have included a slightly wider range of design features (an average of 5.7 features per home compared to 5.2 features per home)
- The new system includes a much more robust incentive to preserve existing trees. Previously, a point was awarded for simply planting or retaining a deciduous tree in the front yard. The new tree incentive offers four points if the “total diameter of trees retained or planted equals not less than three (3) inches per one thousand (1,000) square feet of total lot area, or fraction thereof.” Utilization of the tree incentive has remained approximately the same. While the standard is now much more rigorous, the number of points awarded increased from one to four. City staff had received a significant amount of public feedback about the loss of mature trees related to new home construction.
- A higher percentage of homes are installing high-quality exterior materials (82% rather than 70%), reflecting the fact that the new system includes a higher point value for this feature.
- The percentage of homes including basements and detached garages has remained approximately the same in spite of the fact that these features are now awarded a lower point value. Under the previous ordinance, a home had to include one of these two features in order to achieve the minimum point total.
- A higher percentage of new homes are obtaining points for providing a large amount of window area on all sides of the structure. While the zoning ordinance includes minimum window percentages that must be obtained by every new home, the Site Plan Review ordinance includes incentives to exceed those minimums.

- While review for compliance with the minimum number of points is largely non-discretionary, a new “alternative compliance” option was added to the ordinance. A request for alternative compliance for a new home requires notification of nearby property owners. To date, all new homes that have been permitted under the new framework have obtained the minimum number of points and there have been no requests for alternative compliance.

Note that site plan review revisions retain a predictable, non-discretionary framework. A more context-sensitive design review process would likely increase review times and require that CPED dedicate additional staff resources toward this type of regulatory review.

Required Interior Side Yards

The 2014 revisions included re-thinking minimum setback requirements along shared property lines—i.e., required interior side yards. In order to reduce impacts on adjacent properties, minimum side yards were increased on lots with 42 feet or more of width. Previous standards simply required five or six feet, regardless of lot width. The following standards apply in the RIA District, for example:

	<i>Required Yards for Single-family Dwellings and Permitted Community Residential Facilities (Feet)</i>
Interior Side	Lot width less than 42 ft.: 5 Lot width 42 ft.—51.99 ft.: 6 Lot width 52 ft.—61.99 ft.: 7 Lot width 62 ft.—84.99 ft.: 8 Lot width 85 ft.—99.99 ft.: 10 Lot width 100 ft. or greater: 12 Minimum interior side yards greater than eight (8) feet shall apply only to principal structures

These side yard standards have, anecdotally, led to an increase in side yard variance requests. It’s worth noting, however, that any increase in the number of variances has likely been offset by flexibility that was added to other areas of the ordinance.

In conjunction with the “virtual teardown” phenomenon, where a builder removes most but not all of an existing house in order to construct a new or substantially new home, CPED staff has grappled with side yard variance requests for new homes that incorporate existing foundations with nonconforming interior side yards. See the “Policy Questions” section below.

Demolition

The 2014 amendments further clarified what constitutes “demolition.” The definition of demolition is important in a couple of key ways. First, buildings that are being demolished are reviewed to determine whether they are historic resources. Second, if a structure is considered to be demolished, any subsequent construction is considered a new building rather than a building addition. In some cases, new buildings are subject to more stringent regulations than building additions or remodeling. CPED staff is producing a technical bulletin intended to facilitate a clearer understanding of what constitutes demolition of a structure.

Basement Floor Area

The height of the first floor of a home—or the extent to which a basement extends above natural grade—can be a defining feature of new construction. Particularly given the appeal of finished basements with high ceilings, some new homes have been constructed with first floor heights that substantially interrupt the pattern of existing residential neighborhoods. One effect of this is front entrances that are significantly higher off the ground than their neighbors' entrances. The 2014 code revisions substantially lowered the allowed first floor height—from four feet to two-and-a-half feet. Basements that extended above this height were counted as “floor area” that contributes to the maximum floor area ratio on a site. After several months of implementation, it became clear that the new standard was impractical. Early in 2015, CPED brought forward an amendment to allow first floor height of three-and-a-half feet. This measurement appears to be achievable for most new homes and additions.

Summary

After one year of implementation, which included one relatively minor follow-up amendment, CPED staff has found that the zoning code changes adopted in 2014 have generally achieved their intended outcomes. The development standards and review process have not been overly burdensome. Builders and architects have adapted to the new standards and have not expressed ongoing concern about their ability to design and develop new housing. In fact, some architects have expressed that well-designed homes have no problem meeting the site plan review standards. One might question whether it is actually too easy to obtain the minimum number of points from the range of options in the site plan review ordinance. As noted above, to date there have been no requests for “alternative compliance,” meaning that every new home has obtained the minimum number of points—although home proposals must frequently undergo significant redesign in order to comply with these standards. The zoning standards attempt to strike a balance among the objectives of proliferating neighborhood scale and character, minimizing impacts on adjacent properties, and allowing investment in new and expanded housing in lower-density zoning districts.

Outstanding Policy Question

The most immediate policy question may be the manner in which the City responds to variance requests for new homes that utilize existing foundations. CPED staff and the Zoning Board of Adjustment have reviewed a number of variance requests submitted by builders proposing to construct new homes on foundations that do not comply with current side yard setback requirements. Staff has grappled with a consistent approach to these situations. Further, Board of Adjustment members have questioned whether the presence of an existing foundation truly meets the “unique circumstances” and “practical difficulty” criteria in the variance analysis. With the understanding that a policy cannot address every unique circumstance, staff seeks general guidance or a staff direction from the City Council regarding a general approach to these variance requests.

Summary of ordinance changes that took effect October 1, 2015:

- Retained existing floor area (FAR) limits. However, the following related changes were adopted:
 - Include all *attached* garage floor area toward the maximum, eliminating the current 250 sq. ft. exemption.
 - Created a stricter standard regarding how much basement area may extend above the natural grade before it is counted as floor area. Maintain the existing standard on lots that have a significant grade change.
- Lowered the maximum permitted height of single and two-family dwellings from 30 feet to 28 feet, measured at the midpoint between the peak and the eave. Established a new maximum height, measured to the peak of a gable, hip, or gambrel roof, of 33 feet.
- Increased minimum required interior side yard standards on lots with at least 42 feet of width, correlating these setbacks with the width of the lot in question. In other words, a greater side yard setback must be provided on a wider lot.
- Reduced the minimum width of a 1-4 unit building from 22 feet to 20 feet.
- Revised the standards of Chapter 530, Site Plan Review.
 - Eliminated the incentive to incorporate a roof pitch of 6/12 or greater.
 - Amended incentives related to tree planting/preservation
 - Amended the incentive related to constructing a detached garage.
 - Added an incentive encouraging contextual building height
 - Added an incentive to incorporate stormwater management best practices.
 - Retained incentives related to high-quality building materials, windows, basements, and front porches. However, new regulations emphasized the relative importance of high-quality building materials while assigning fewer points to basements.
- Incorporated an “alternative compliance” provision allowing staff to consider proposed designs that do not obtain the minimum number of points required by Chapter 530. Notification of nearby property owners is required when considering alternative compliance for a proposed design.
- In lower-density residence districts, reduced the amount of a lot that may be covered by buildings and impervious surfaces.
- Allowed greater flexibility in calculating the front yard setback requirement for homes and additions built next to existing homes that maintain a much larger front yard than any other home on the block. (An extreme outlier no longer dictates the front yard setback requirement for its neighbor.)
- Allowed larger ground-level patios in front yards.
- Revised the definition of “demolition.”
- Clarified that, once a structure is considered to be demolished, nonconforming rights related to minimum yard requirements are extinguished. In other words, following demolition of a home, new home construction must comply with current yard/setback standards regardless of the placement of the home being demolished.
- Required that basement-level, tuck-under garages facing the street are also subject to the standard that street-facing garages cannot cover more than 60% of the width of the front façade of the home.

- Prohibited residential curb cuts on the front lot line where alley access is present. Established a new authorized variance for instances where this standard may cause practical difficulties. Continued to allow curb cuts on a corner side or reverse corner side lot line.
- Amended the definition of “half story.”
- Clarified that the building official may refuse to issue a permit for homes where the basement does not maintain a sufficient separation from groundwater resources.
- Clarified the circumstances that allow for reduced side yards for garages located in the rear 40 feet or 20 percent of the lot.