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Planning Commission
Staff Report

TO: PLANNING COMMISSION

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THROUGH: CATHERINE LORBEER, AICP, PRINCIPAL PLANNER
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MEETING DATE: MARCH 7, 2018

SUBJECT: Z18-01 REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 2: LAND USE DESIGNATIONS, ARTICLE 2.1 SINGLE FAMILY RESIDENTIAL DISTRICTS, SECTION 2.106 ADDITIONAL DEVELOPMENT REGULATIONS, RELATED TO ACCESSORY STRUCTURES, COVERED PATIOS AND PORCHES; ARTICLE 2.9 USE REGULATIONS, SECTION 2.902 USE REGULATIONS, TABLE 2.902 USE REGULATION RELATED TO SPECIAL EVENTS; DIVISION 4: GENERAL REGULATIONS, ARTICLE 4.5 SUPPLEMENTAL USE REGULATIONS, SECTION 4.5012 TEMPORARY USES, TABLE 4.5012 TEMPORARY USES RELATED TO FARMERS MARKETS; AND DIVISION 6: USE DEFINITIONS, ARTICLE 6.1 USE DEFINITIONS RELATED TO THE "EATING AND DRINKING ESTABLISHMENTS" AND THE "STAND-ALONE SMOKING LOUNGE" USE DEFINITIONS.

STRATEGIC INITIATIVE: Community livability

The proposed text amendments will improve certain development standards and clarify where certain uses are allowed and how they are defined. Community livability is directly affected by the efficiency and effectiveness of the Land Development Code implementation.

RECOMMENDED MOTION

For the reasons set forth in the staff report, move to recommend to the Town Council approval of Z18-01, as requested.

BACKGROUND/DISCUSSION

Overview

On a continual basis, staff seeks ways to improve the content and usefulness of the Land Development Code (LDC) in response to customer needs, changes in technology and business types, and citizen expectations for a high quality built environment.

Since the Planning Commission's initiation of Z14-15 (July 2, 2014), a text amendment intended to facilitate the comprehensive clean-up of the Land Development Code (LDC); the Commission has reviewed six distinct "batches" [A thru G] dealing with a range of LDC issues requiring clarity, modernization or enhancement. The purpose of Batch H, the subject text amendment, is to improve certain development standards and clarify where certain uses are allowed and how they are defined to enhance the live, work, play environment.

The LDC topics associated with Batch H are as follows:

1. Accessory Structure Location
2. Covered Patios and Porches
3. Farmers Markets as a Special Event
4. Eating and Drinking Establishments Definition
5. Stand Alone Smoking Lounge Definition

1. Accessory Structure Location

This amendment is proposing to revise the Town's current regulations concerning the location/placement of detached accessory structures (garages, pool rooms, sheds, ramadas etc.) on individual lots within single family residential zoning districts. Per LDC Section 2.106.B.2.a., accessory structures must be located in the building envelope or within the rear one half of the lot if located outside the building envelope in the side and rear setback areas. Depending on the shape and size of the lot, this regulation can be somewhat restrictive, and in some cases does not allow homeowners the ability to fully enjoy their property by being able to optimize the location of the structure.

In the recent past, Town Staff has received some feedback from residents on large lot properties (35,000 square feet and larger) who desire the ability to locate accessory structures closer to their home in order to utilize more of their lot and place the structure in a more practical location. We also receive feedback from neighbors that express concern that accessory structures are too close to their property line. This proposed amendment will not alter the required setbacks for accessory structures, but it does alter the placement of these structures on larger lots.

Planning Commission discussed this item at the February 7, 2018 Study Session. The Commission discussed the current regulation and agreed that it seems to be somewhat restrictive

and could place a burden on homeowners that have larger lots. There was also a discussion on why the current regulation limits structures outside the building envelope to the rear half of all lots. Staff responded that the current regulation ensures accessory structures do not adversely affect the home's street presence in a neighborhood. There was discussion on various ways the current requirement could be changed to allow more flexibility.

Based on the Commission's feedback, Staff is proposing to allow lots that are 35,000 square feet or larger to place accessory structures within the rear two thirds of the lot when located outside the building envelope and in the side and rear setback areas (See attached exhibit). Increasing the allowable area from the rear half to the rear two thirds will allow home owners to utilize more of their lots and place structures in the side setback closer to their home. The rear one half requirements for lots smaller than 35,000 square feet will remain in place. The proposed LDC text amendment would support the Town of Gilbert's goal to remain one of the most desirable communities to live in Arizona and would provide homeowners with the ability to optimize the use and enjoyment of their property, which contributes to a high quality of life within the Town.

Proposed Zoning Code Amendment:
Chapter 1 Zoning Regulations, Division 2: Land Use Designations, Article 2.1 Single Family Residential Districts, Section 2.106 Additional Development Regulations, is hereby amended to read as follows (additions in ALL CAPS UNDERLINE; deletions in ~~strikeout~~):

2.106 Additional Development Regulations

In addition to the requirements set forth in Article 4.1: Site Regulations, the following regulations shall apply:

A. ***Residential Design Guidelines***. Design Guidelines for single family residential dwellings are set forth in Chapter II: Design Standards and Guidelines.

B. ***Accessory Structures.*** Accessory structures requiring a building permit (larger than 200 square feet) shall comply with the following regulations:

1. *Establishment.* An accessory structure shall not be constructed prior to construction of the principal structure.

2. *Location:*

A. STRUCTURES MAY BE LOCATED WITHIN THE BUILDING ENVELOPE IN ALL SINGLE FAMILY ZONING DISTRICTS AND SHALL MEET THE SETBACK OF THE CORRESPONDING ZONING DISTRICT AS ESTABLISHED IN TABLE 2.104.

~~a.~~ B. IN THE SF-15, SF-10, SF-8, SF-7, SF-6, SF-D AND SF-A DISTRICTS ~~The s~~StructureS ~~shall~~ MAY be located ~~within the building envelope or~~ IN THE SIDE AND REAR SETBACK AREAS PROVIDED THE STRUCTURE IS LOCATED WITHIN the rear one-half of the lot. IN THE SF-43 AND SF-35

DISTRICTS STRUCTURES MAY BE LOCATED IN THE SIDE AND REAR SETBACK AREAS PROVIDED THE STRUCTURE IS LOCATED WITHIN THE REAR TWO THIRDS OF THE LOT.

(1). EXCEPT FOR SWIMMING POOLS, STRUCTURES LOCATED IN THE SIDE AND REAR SETBACK AREAS SHALL COMPLY WITH THE FOLLOWING REGULATIONS:

A. *STRUCTURES 6 FEET IN HEIGHT OR LESS*: THE SETBACKS SHALL BE 5 FEET.

B. *STRUCTURES GREATER THAN 6 FEET IN HEIGHT*: AN ADDITIONAL 1 FOOT SETBACK FOR EACH ADDITIONAL 1 FOOT IN HEIGHT.

~~b. For single family uses, the structure may be located outside the building envelope provided it complies with the following additional regulations:~~

~~(1) Except for swimming pools, for structures 6 feet in height or less, the side and rear setbacks shall be 5 feet. For structures greater than 6 feet in height, there shall be an additional 1 foot setback for each additional 1 foot in height.~~

C.~~(2)~~ Tennis or sport courts on individual lots shall be set back a minimum of 10 feet from side and rear property lines.

D.~~(3)~~ Location of swimming pools is regulated under Section 4.107: Swimming Pools.

3. *Maximum Height*. The maximum height shall be 20 feet in all districts except in SF-43 and SF-35. In the SF-43 and SF-35 districts, the maximum height shall be 30 feet.

* * *

2. Covered Patios and Porches

This amendment is proposed to clarify the dimensional requirements for covered patios and porches in single family residential zoning districts. The current standards for covered patios at the rear of a home does not specify where the 6 foot required dimension is to be measured from, which has generated some questions from the development community. However, the regulation for porches at the front of a home clearly specifies that the point of measurement will be from the dwelling façade to the interior edge of the supporting post. This amendment proposes to simply copy that porch language and add it to the covered patios requirements. This change will help to maintain uniformity and clear up the questions.

The Planning Commission discussed this item at the February 7, 2018 Study Session and had no concerns.

Proposed Zoning Code Amendment:
Chapter 1 Zoning Regulations, Division 2: Land Use Designations, Article 2.1 Single Family Residential Districts, Section 2.106 Additional Development Regulations, is hereby amended to read as follows (additions in ALL CAPS UNDERLINE; deletions in ~~strikeout~~):

2.106 Additional Development Regulations

* * *

E. ***Covered Patios***.

1. New single family dwellings in the SF-43, SF-35, SF-15, SF-10, SF-8, SF-7, and SF-6 districts shall have a covered patio of at least 80 square feet. No dimension shall be less than 6 feet AS MEASURED FROM THE DWELLING FAÇADE TO THE INTERIOR EDGE OF THE SUPPORTING POST OR WALL.

2. New single family dwellings within the SF-D and SF-A districts shall have a covered patio of at least 60 square feet. No dimension shall be less than 6 feet AS MEASURED FROM THE DWELLING FAÇADE TO THE INTERIOR EDGE OF THE SUPPORTING POST OR WALL.

F. ***Porches.*** Where new porches are provided, they shall be at least 6 feet in depth as measured from the dwelling façade to the interior edge of the supporting post OR WALL.

* * *

3. Farmers Markets as a Special Event

It is proposed with this amendment that the permit approval process for *Farmers Markets*, which are classified as a Temporary Use in the LDC, be changed from requiring an Administrative Use Permit to being noted as a Temporary Use requiring a Special Event Permit. When *Farmers Markets* were first introduced in the LDC, the identified tool for reviewing such activities was the Administrative Use Permit. Today, however, the process of issuing a Special Event Permit is better suited for evaluating *Farmers Markets*.

Under the LDC, the Administrative Use Permit (AUP) process is designed to consider possible adverse impacts of a particular use and to minimize them where possible through the imposition of specific conditions or requirements. AUPs require public notice and remain in place until the use is changed. Special Events are regulated by the Municipal Code Chapter 15, occur on a periodic basis, and are administered by the Parks Department. A task force representing various Town departments evaluates each request and approvals take into account the specific operations and needs of a Special Event, such as garbage removal, restrooms, hours of operation, traffic controls, security and required health and/or liquor permits.

Staff is proposing to eliminate *Special Events* from Table 2.902 Use Regulations and to change *Farmers Market* from an AUP to a Temporary Use (T). For consistency, Table 4.5012 Temporary Uses will also be revised to eliminate the Administrative Use Permit requirement

from *Farmers Markets* and to cross reference the Municipal Code provisions related to Special Events.

The Planning Commission discussed this item at the February 7, 2018 Study Session and agreed that allowing *Farmers Markets* to be approved by Parks and Recreation through a Special Event Permit would be more effective and provide an easier and less time consuming process for the public.

Proposed Zoning Code Amendment:
Chapter 1 Zoning Regulations, Division 2: Land Use Designations, Article 2.9 Use Regulations, Section 2.902 Use Regulations, Table 2.902 Use Regulation; is hereby amended to read as follows (additions in ALL CAPS UNDERLINE; deletions in ~~strikeout~~):

* * *

Table 2.902 Use Regulations

Use Category	Additional Standards														
Subcategory	**NC**	**CC**	**SC**	**GC**	**RC**	**HVC**	**NO**	**GO**	**BP**	**LI**	**GI**	**PF/I**	**GVC**	**GBC**	
Specific Use Type															
* * *															
~~Special Events~~													~~T~~	~~T~~	~~See Municipal Code Chapter 15, Special Events~~
* * *															
Farmers' Markets		~~A~~ T	~~A~~ T	~~A~~ T	~~A~~ T	~~A~~ T		~~A~~ T				~~A~~ T	~~A~~ T	T	SEE MUNICIPAL CODE CHAPTER 15, SPECIAL EVENTS
* * *															

Proposed Zoning Code Amendment:
Chapter 1 Zoning Regulations, Division 4: General Regulations, Article 4.5 Supplemental Use Regulations, Section 4.5012 Temporary Uses, Table 4.5012 Temporary Uses is hereby amended to read as follows (additions in ALL CAPS UNDERLINE; deletions in ~~strikeout~~):

* * *

4.5012 Temporary Uses

Temporary uses shall be located and operated in compliance with the following standards:

A. ***Table of Temporary Uses***. Temporary uses are limited to the times identified in Table 4.5012: Temporary Uses:

Table 4.5012: Temporary Uses

Use Classification	*Time Duration (days)*	*Frequency of Use*	*Interval between Uses (days)*	*Special Event Permit Required*
* * *				

Table 4.5012: Temporary Uses

Use Classification	*Time Duration (days)*	*Frequency of Use*	*Interval between Uses (days)*	*Special Event Permit Required*
Carnival, Small-Scale	4	4 / year	3	no
Farmer's Market	SEE MUNICIPAL CODE CHAPTER 15: SPECIAL EVENTS ~~Subject to the provisions of the approved Administrative Use Permit~~			YES ~~no~~
Circus	See Municipal Code Chapter 15: Special Events			yes
* * *				

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4. Eating and Drinking Establishments Definition

According to Arizona Liquor Laws A.R.S. § 4-205.02, Restaurants are defined as an establishment which derives a minimum of 40% of its gross revenue from the sale of food. However, under the LDC, it is required that the gross revenue from the sale of alcoholic beverages be less than fifty percent of total gross sales in order to be classified as a *Restaurant, Full Service*. This amendment is proposing to more closely align with the State law concerning the permitted percentages of gross revenue from the sale of alcohol and food. If approved, full service restaurants would be allowed to have a minimum of 40% of their revenue come from the sale of food when alcoholic beverages are served. This provision accounts for alcoholic drinks typically being more expensive than food menu items.

The Planning Commission discussed this item at the February 7, 2018 Study Session. The Commission agreed that it is a good idea to align the definition with the State Liquor Laws. There was a discussion about how the proposed text amendment would be regulated by the State of Arizona and the Town of Gilbert. It was noted that all regulation and/or enforcement of liquor sale percentages would be handled by the State Liquor Board and subsequently the Town's Business License Division.

As a result of this proposed LDC change, Staff has identified that the use definition for Bars/Night Clubs/Lounges/Dance Halls will need to be updated concerning alcoholic beverage sales. This update will be placed in the next batch of proposed LDC changes to meet public noticing requirements.

Proposed Zoning Code Amendment:
Chapter 1 Zoning Regulations, Division 6 Use Definitions, Article 6.1 Use Definitions, is hereby amended to read as follows (additions in ALL CAPS UNDERLINE; deletions in ~~strikeout~~):

* * *

Eating and Drinking Establishments. Businesses that primarily engage in the sale of food or beverages for consumption on or off the premises. Dancing, live music, or other similar live entertainment may be offered.

Restaurants, Full Service. Eating and Drinking Establishments providing food and beverage service to patrons who order and are served while seated at tables, and pay after eating. WHEN ALCOHOLIC BEVERAGES ARE SERVED, AT LEAST 40% OF GROSS REVENUE MUST BE FROM THE SALE OF FOOD TO BE CLASSIFIED AS A FULL

SERVICE RESTAURANT. ~~Gross revenues from the sale of alcoholic beverages is less than 50 percent of total gross sales.~~ Takeout service may be provided. This classification may include as an incidental use an establishment licensed by the State of Arizona as a Teletrack Wagering Establishment.

* * *

5. Stand Alone Smoking Lounge Definition

This proposed amendment will clarify the "Stand-Alone Smoking Lounge" use definition to specifically exclude the smoking of medical marijuana. State Statutes do not allow the smoking of Medical Marijuana in any public place, and this amendment will further ensure the health, safety and welfare of all customers and citizens of the Town of Gilbert.

The Planning Commission discussed this item at the February 7, 2018 Study Session and had no specific concerns.

Chapter 1 Zoning Regulations, Division 6 Use Definitions, Article 6.1 Use Definitions, is hereby amended to read as follows (additions in ALL CAPS UNDERLINE; deletions in ~~strikeout~~):

* * *

Stand-Alone Smoking Lounge. A self-contained, independently operating business establishment that is dedicated, in whole or in part, to the smoking of tobacco or other substances whether or not such substances are purchased therein, including, but not limited to cigar lounges, hookah lounges, tobacco clubs, and tobacco bars, but not including retail tobacco stores, as that term is defined in the Gilbert Municipal Code, Section 42-266. THE SMOKING OF MEDICAL MARIJUANA IS PROHIBITED.

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PUBLIC NOTIFICATION AND INPUT

A notice of public hearing was published in a newspaper of general circulation in the Town, and an official notice was posted in all the required public places within the Town.

A Citizen Review was held for the proposed LDC amendment at the Planning Commission Study Session on February 7, 2018. No citizens provided public comment on the proposed items.

STAFF RECOMMENDATION

For the following reasons: the proposed regulations will provide for better land development, code clarity, and maintain the public's welfare, the Planning Commission moves to recommend approval to the Town Council for Z18-01, a request to amend the Land Development Code regulations modifying:

a. Accessory Structure Location (Chapter I Article 2.1)
b. Covered Patios and Porches (Chapter I Article 2.1)
c. Farmers Markets as a Special Event (Chapter I Article 2.9 and Article 4.5)

d. Eating and Drinking Establishments Definition (Chapter I Article 6.1)
e. Stand Alone Smoking Lounge Definition (Chapter I Article 6.1)

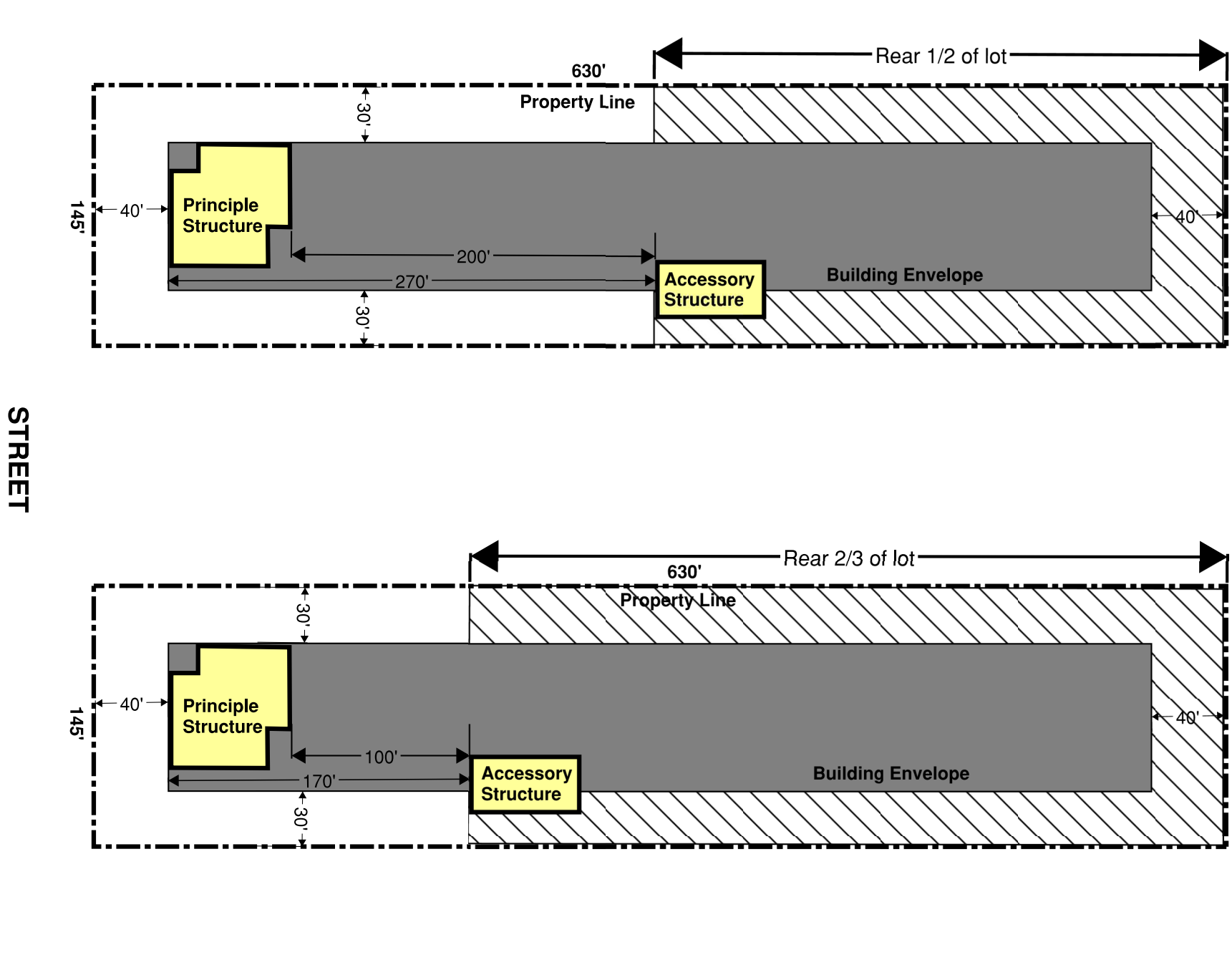
Respectfully submitted,

Keith Newman,
Planner II

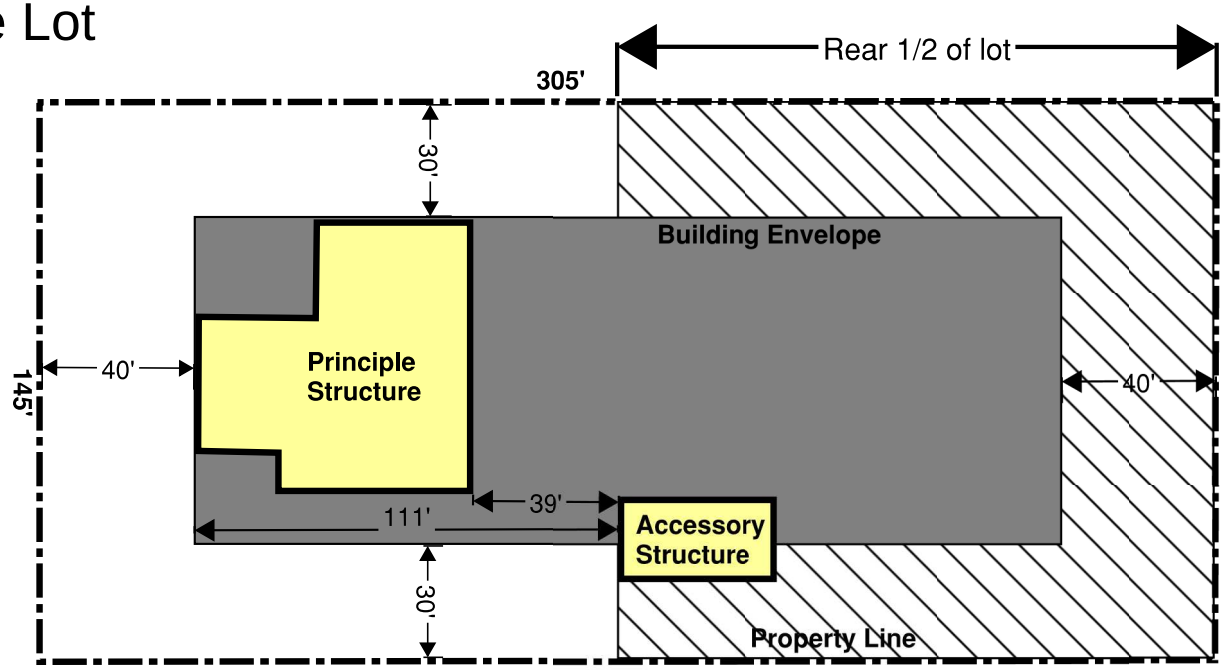
Attachments and Enclosures:

Attachment 1: Accessory Structures in SF-43 and SF-35 Districts

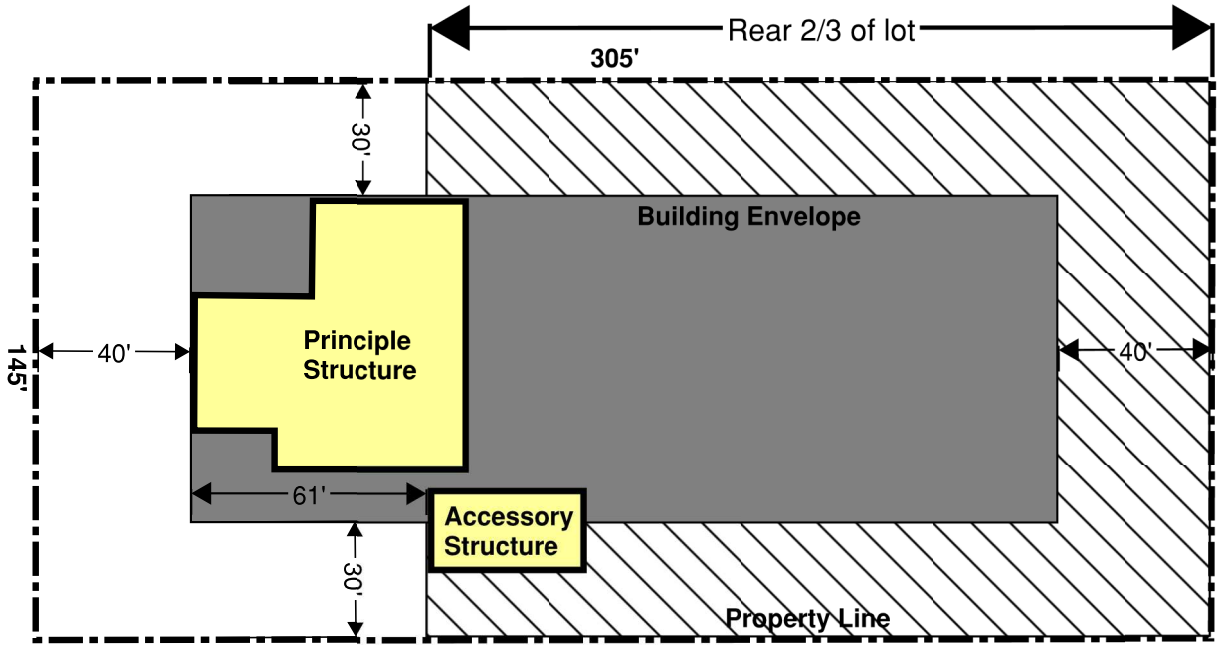
SF-43
2 Acre Lot



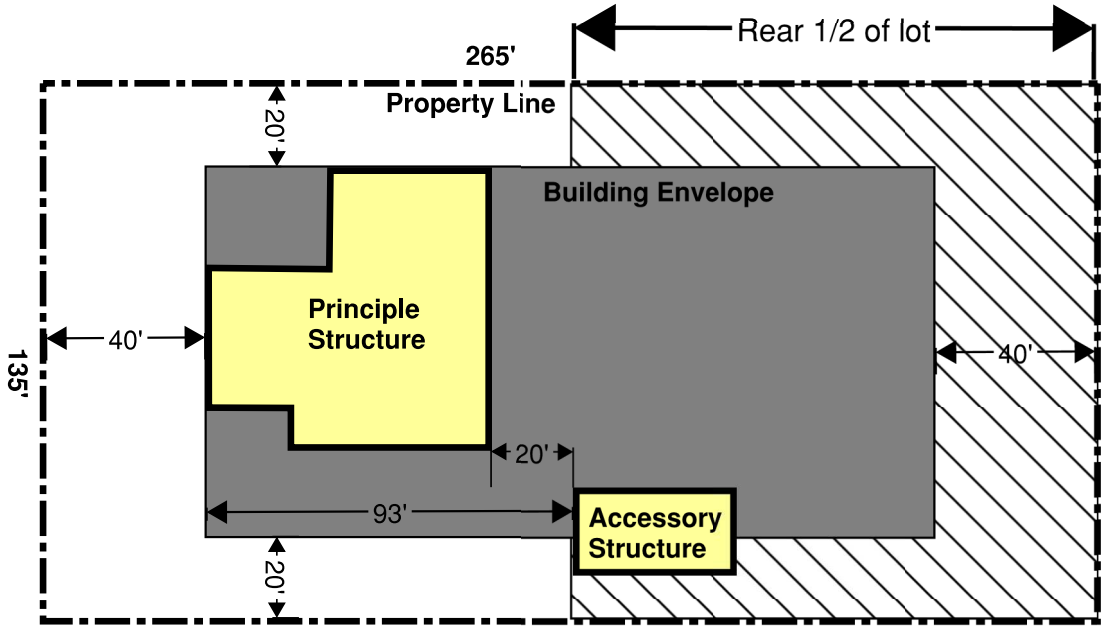
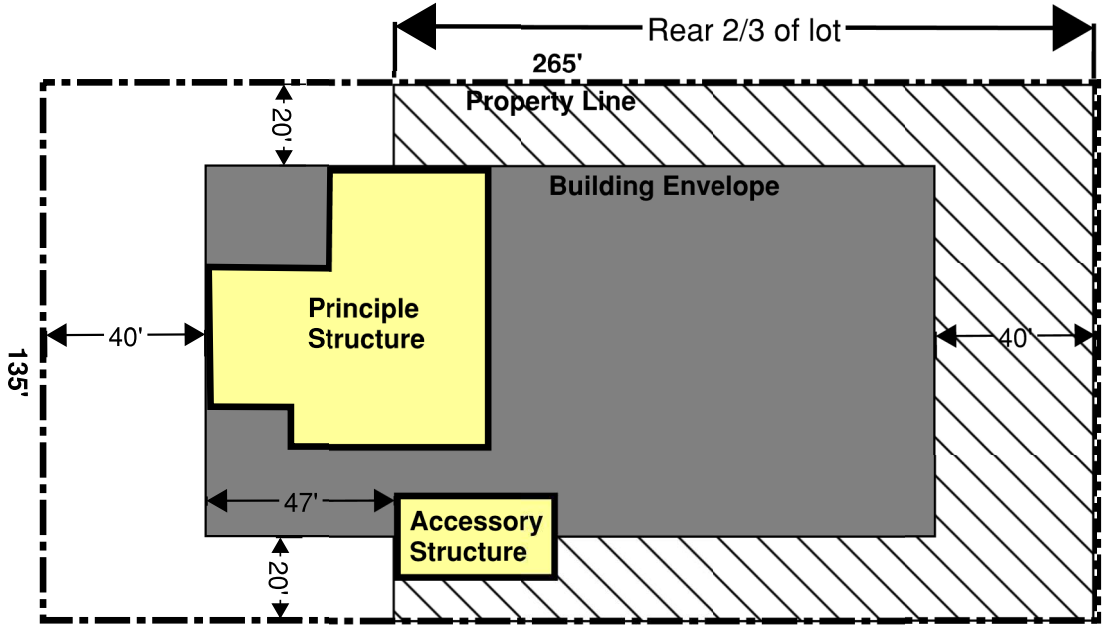
SF-43
1 Acre Lot



STREET



SF-35
0.82 Acre Lot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