

Height – Additional Standards

A greater height than otherwise permitted is allowed for:

i. Single-Family Dwellings

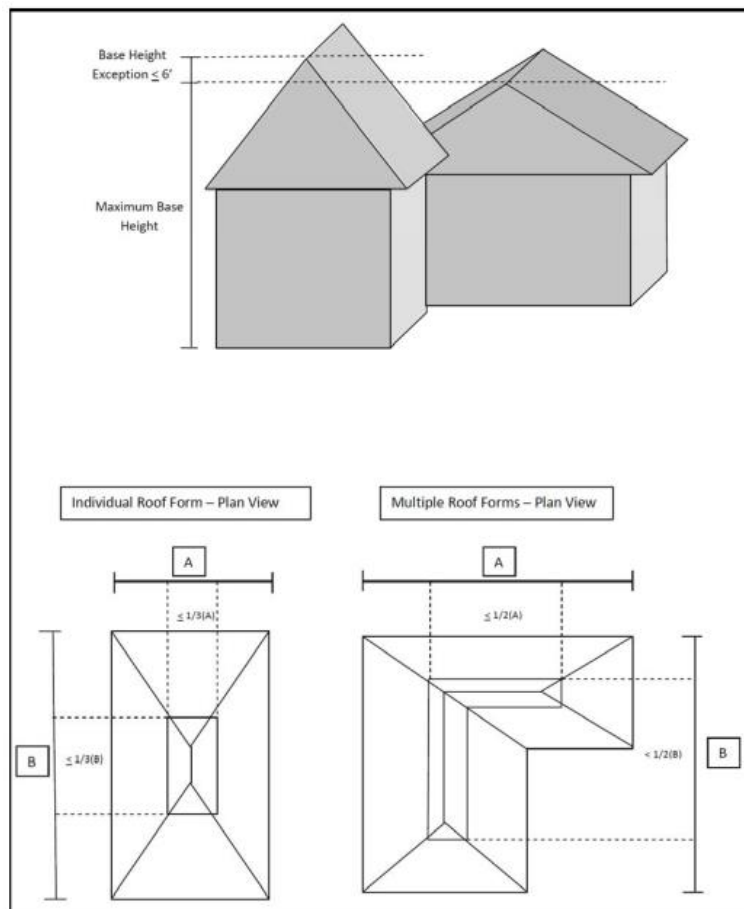
Base building height may be increased by one ft. for every five additional ft. in yard setback on all sides, beyond the minimum code standards provided in Table 50.04.001-1 above.

ii. Any Structure

Roof forms or architectural features (such as cupolas or dormers) of any structure provided that these roof forms or features:

- (1) Do not extend more than six ft. above the maximum specified base height;
- (2) Do not, in total, exceed one-third of the width of the building or buildings as measured on any elevation drawing for an individual roof form or projection or do not exceed one-half of the width of the building for two or more separate roof forms or projections; and
- (3) Do not, in total, cover more than 20% of the roof area on which they are located as viewed from directly above for an individual roof form or projection or 30% for multiple roof forms or projections. Examples of permitted exceptions are illustrated in Figure 50.04.001-B: Height Exceptions.

Figure 50.04.001-B: Height Exceptions



Substandard Lot Height Limitation

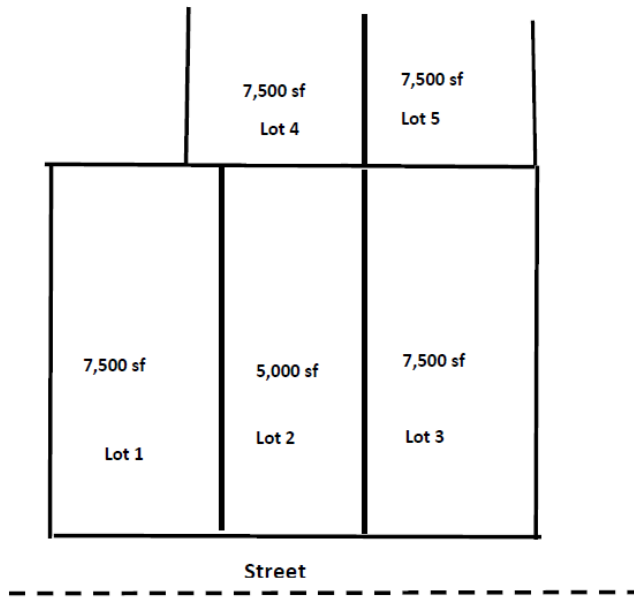
The Commission deferred the decision on the draft Findings and re-opened the hearing to take additional public testimony regarding whether to apply a height limitation specific to substandard lots, e.g., the same height limitation applied to flag lots. The Commission asked staff to provide background information on the flag lot height calculation methodology, below:

Height on flag lots is determined, per LOC 50.07.007.2:

The height of a single-family residential structure and any accessory structures on a flag lot shall not exceed:

- a) 22 feet, or
- b) The average height of all dwellings on properties abutting the development site, as determined prior to the time of creation of the flag lot. Where there is no dwelling on the abutting property or where a dwelling is located more than 100 ft. away from the development site:
 - (i) The maximum height permitted in the underlying zone shall be used for calculating the average, except:
 - 1. In cases where the abutting property is zoned to permit a height greater than that allowed on the subject site, then the maximum height for the zone in which the subject site is located shall be substituted and used to calculate the average.

The way this code provision works is illustrated below for an R-7.5 zone:



If the height of future development on Lot 2, the 5,000 square foot lot -- the substandard lot -- is limited similar to the flag lot height standards, the height of structures on all lots *abutting* the site at the time of creation of the flag lot would be used to determine the height. Therefore, the applicant would be required

to obtain, as is the case for flag lot creation, the height of the structures on Lots 1, 3, 4, and 5² within 100 ft. of Lot 2, and then the height of those structures would be averaged to establish the maximum height limitation for future development on the substandard lot, Lot 2.

This substandard lot differs from a flag lot because of the unique nature of a flag lot – it is not abutting a street and is generally surrounded by development on four sides. If the Commission concluded that a special substandard lot height limitation should be applied similar to the flag lot height limitation, the following questions need to be answered to determine how this would work for a substandard lot that has street frontage:

1. What does “abutting” mean for purposes of determining the “height neighborhood” for the substandard lot? Do the houses across the street from the substandard lot get included in “abutting lots”? Is this the “single point of intersection” lot across the street included as part of the height neighborhood to the substandard lot?³
2. When is the height on abutting lots measured? For flag lots it is at the time of creation of the flag lot, and development on the created lot is restricted accordingly. For substandard lots – since they already exist, would it be at the time of application for development (a building permit)?

The Commission should note the expert testimony by Ralph Tahrán showed that the height, lot coverage and floor area of the zone already work to limit development based on lot size and that there is a point where all the standards work together to scale the development to the size of the lot, and that house size shrinks when the size of the lot is substandard. It was shown that with smaller lots a builder would not be able to utilize all of the floor area that would be allowed for the smaller lot due to building design standards, off-street parking requirements, and lot coverage limitations. Also, staff notes again that allowable lot coverage is based on building height: the greater the height, the less lot coverage allowed. Limiting height in the same manner as required for flag lots would not necessarily achieve what is intended and it would complicate the development code contrary to the City Council’s goal of code streamlining.

Lot Line Adjustment Minimum Lot or Minimum Developable Lot Area

a. Mitigation to Offset Negative Impacts of Substandard Lot.

Lot line adjustments on any lot are currently classified as ministerial unless as a result of the lot line adjustment, density is increased (meaning an additional lot is created). The Commission previously discussed the public interest in offsetting negative impacts of development on substandard lots upon public systems (streets, sidewalks, etc.) by requiring street improvements through conditions of approval. The Commission observed that the City may impose such conditions only for applications that are classified as major or minor development, not for those classified as ministerial development. LOC 50.07.003.5. Because substandard lots are seen by some as an increase in density beyond the density intended by the zone’s minimum lot area, the Commission previously discussed classifying development on substandard lots as minor development to allow the opportunity for conditions of approval to be imposed on development, to mitigate the impacts.

² Lot 5 is included because it abuts at the single point of intersection.

³ “Abutting” means “Parcels of land that share a common boundary.” “Adjacent means “Touching; across a public right-of-way from; across an easement from; across a small stream or creek from.” (LOC 50.10.003)

b. Minimum Resulting Lot Area or Minimum Lot Area for All Substandard Lots

During the June 22nd discussion of draft Findings, the Commission discussed and ultimately seeks further public testimony on the possibility of either:

- Limiting lot line adjustments involving substandard lots so that any resulting lot from the adjustment must be a minimum size. If this option is selected, staff notes that there will be instances in which the larger parcel does not have enough area to “give” to the substandard lot to reach the Minimum Resulting Lot Area and remain above the minimum lot size of the zone. In that instance, the lot line adjustment could not occur. Presumably development would occur on the unadjusted substandard lot to the degree permissible.

OR

- Specifying a minimum lot area to develop on any substandard lot. If this option is selected, should the minimum lot area be absolute across all residential zones or vary, i.e., 3,000 square feet in medium and low density zones (R-5 and R-7.5, 10 and 15) and 2,000 square feet in R-3 and R-W zones, or a percentage of the minimum lot size of the zone?

Certain issues were highlighted during the previous discussion of potentially requiring aggregation of substandard lots for the purposes of development. Requiring a minimum lot size for the purpose of development or a percentage of the minimum lot size induces aggregation but only if that opportunity is available to the owner. In some instances aggregation is not possible because the owner of the substandard lot does not own the abutting lot(s). The Commission heard testimony from some citizens that those who own a substandard lot and do not have the ability to aggregate would lose value on their investment; this testimony resulted in the Commission’s motion on May 11th not to require aggregation but to limit how development occurs on substandard lots.

Additions to Existing Development on Substandard Lots

The Commission should clarify whether an addition to an existing dwelling located on a substandard lot should go through a minor development process in the same manner as new construction or whether an addition can be processed by applying for a building permit that shows compliance with the zone standards (ministerial process).

CONCLUSION

Based on the foregoing analysis, public testimony, and the Commission’s deliberations to date, staff recommends that lot line adjustments which involve substandard lots be processed as minor development , and that development be subject to standards for parking, floor area (for garages), and building height (height bonus not allowed). Staff does not recommend defining as illegal for purposes of development, lots below a certain minimum lot size, because this approach is punitive and does not achieve the result that the Commission desires: (a) ensuring development on substandard lots does not have significant adverse effects on the neighborhood or streetscape, while balancing the property owner’s ability to make some development on the substandard lot, and (b) ensuring that the functional impacts of substandard lots upon

the public systems (streets, sidewalks, etc.) can be mitigated by imposing conditions of approval to preserve the public systems, while still allowing development. Staff does not believe that prohibiting development of substandard lots, or prohibiting lot line adjustments where an absolute minimum lot size is not attained, is appropriate; the former is contrary to public hearing testimony regarding property rights, and the latter would have unintended consequences, as it would force development on smaller lots than could be achieved through lot line adjustments (adjustments that reduce nonconformities).

EXHIBITS

Attachment 2 to Draft Ordinance 2666, dated 07/01/15 (supersedes version dated 05/06/15)