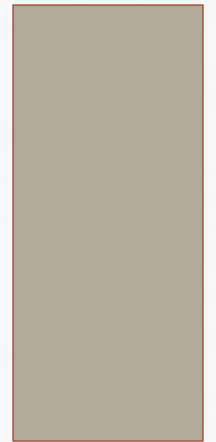


SETBACKS IN RESIDENTIAL ZONES

CODE TEXT AMENDMENT



PROPOSAL BACKGROUND

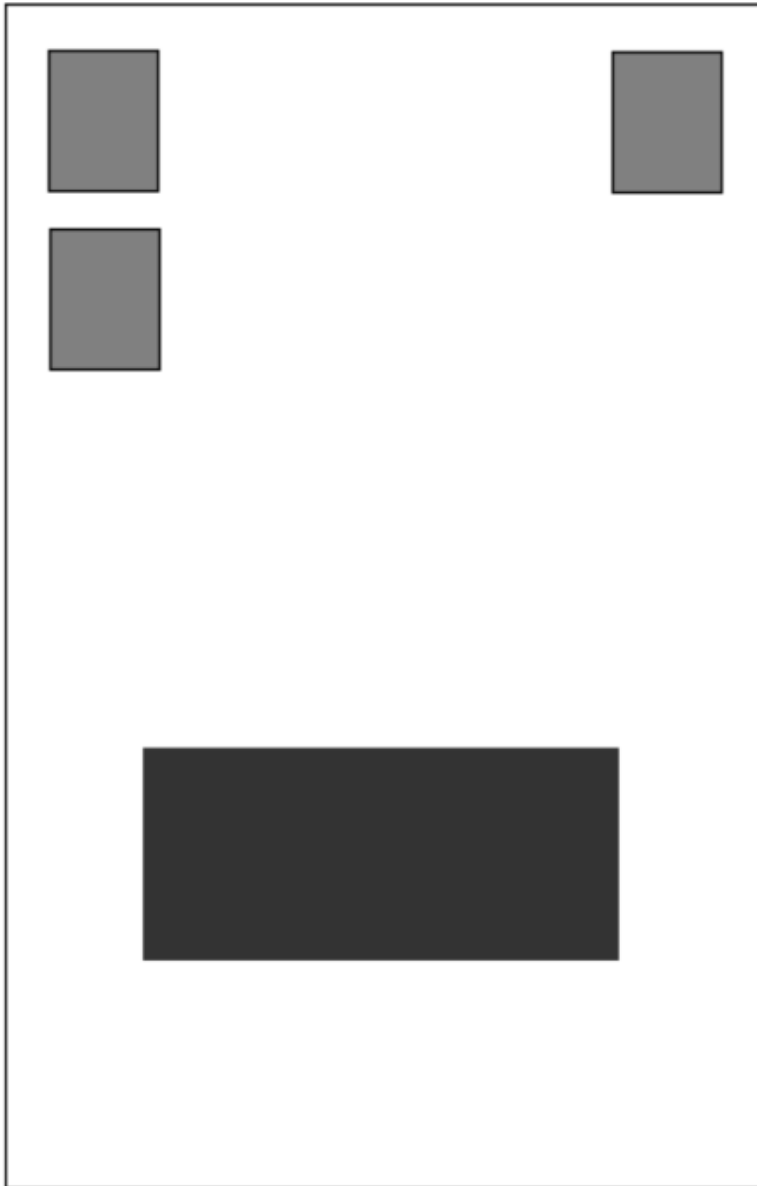
The purpose of this item is to review and possibly amend the City's land use ordinance regarding setbacks in residential zones with the goal of preserving view corridors and the rural character of Midway.

GENERAL PLAN SUPPORT FOR ADJUSTMENTS

Elements of the Community Vision

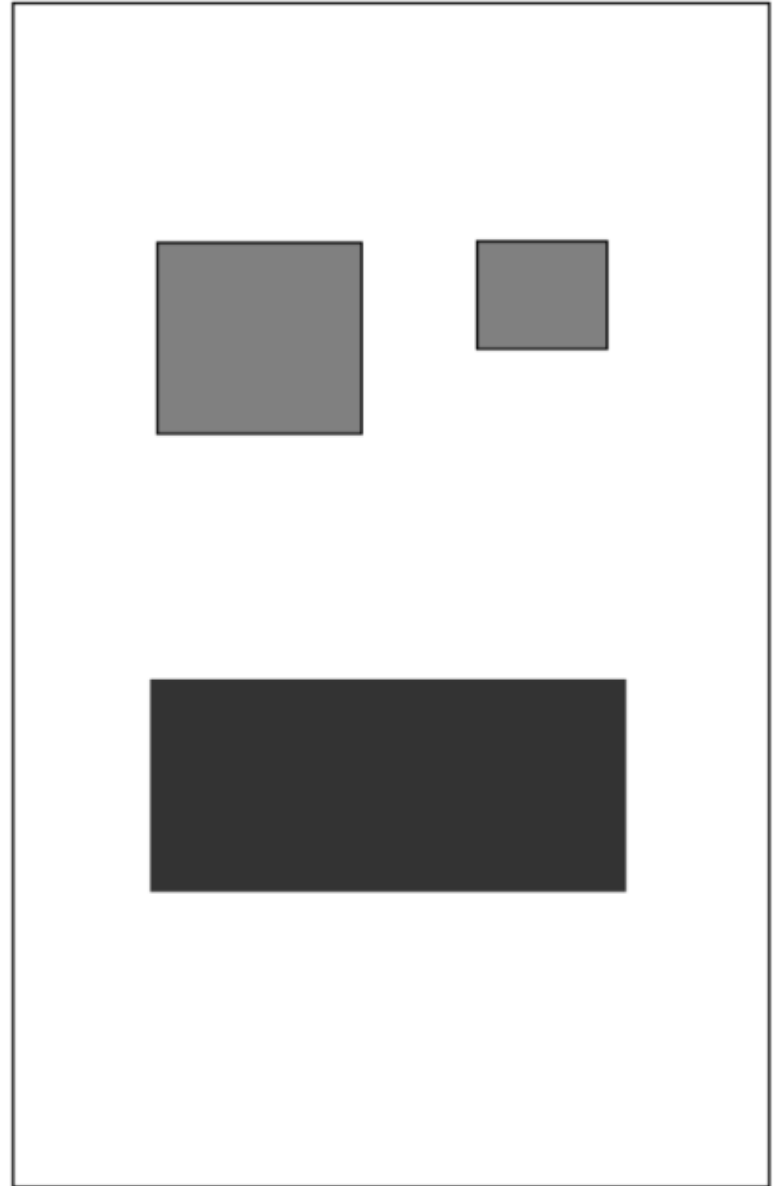
- Effective planning through clustering, setbacks, Transfer Development Rights and animal/agriculture ordinances will help Midway to preserve its view corridors, maintain open spaces and reinforce a country/rural feeling.
- Goal 2: Encourage open space to preserve a high quality of life and to preserve Midway's rural atmosphere.
- Objective 1: Protect all of the environmental and natural resources of the City by requiring development to occur in a manner and location which respects sensitive environmental lands: wetlands, flood plains and natural drainage patterns, steep slopes, productive agricultural lands, geologically unstable areas, critical wildlife areas, vegetation and important scenic features such as ridge lines hillsides and view corridors.

Current Setbacks



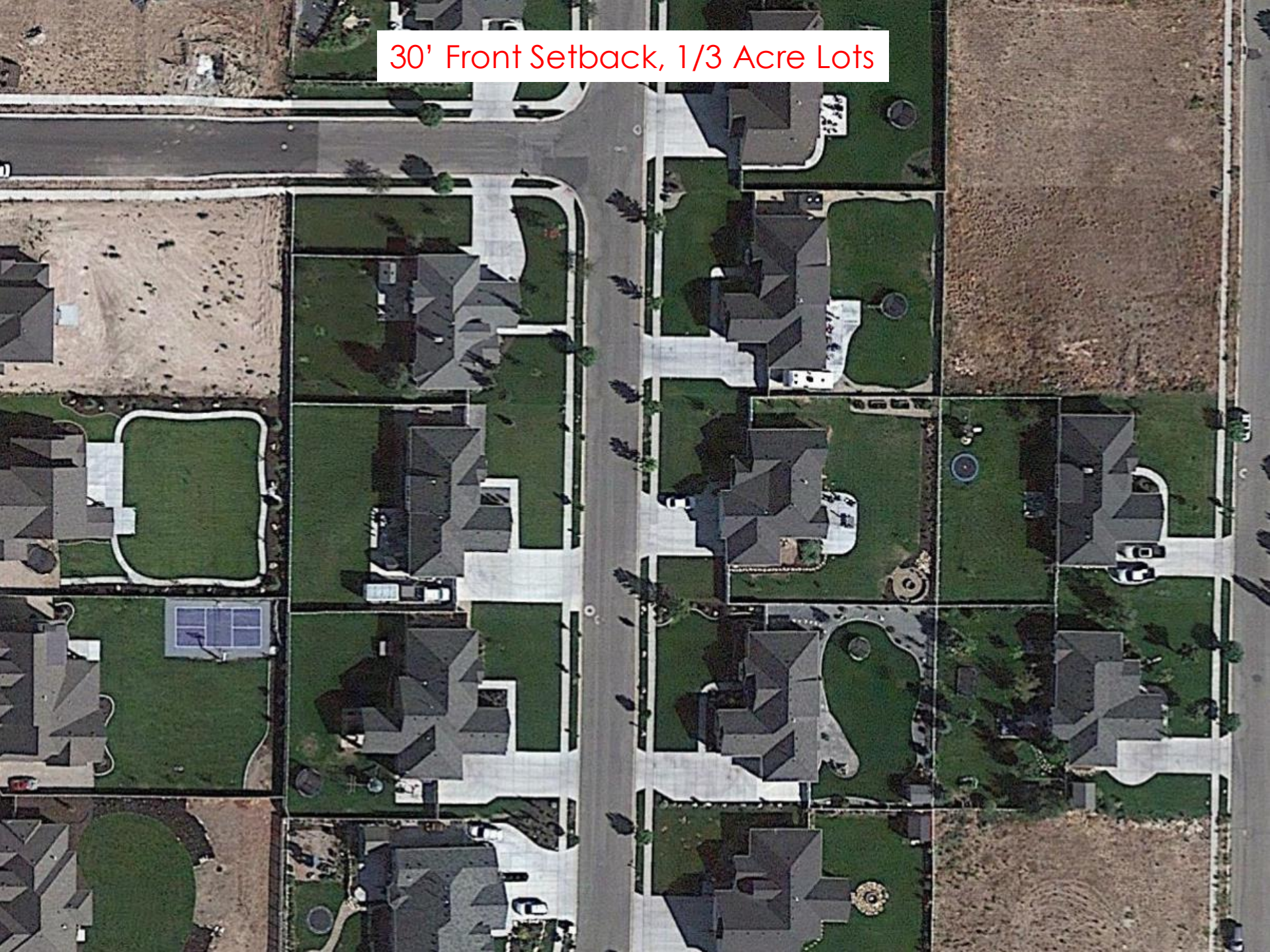
Residential Dwelling

Proposed Setbacks



Accessory Structures

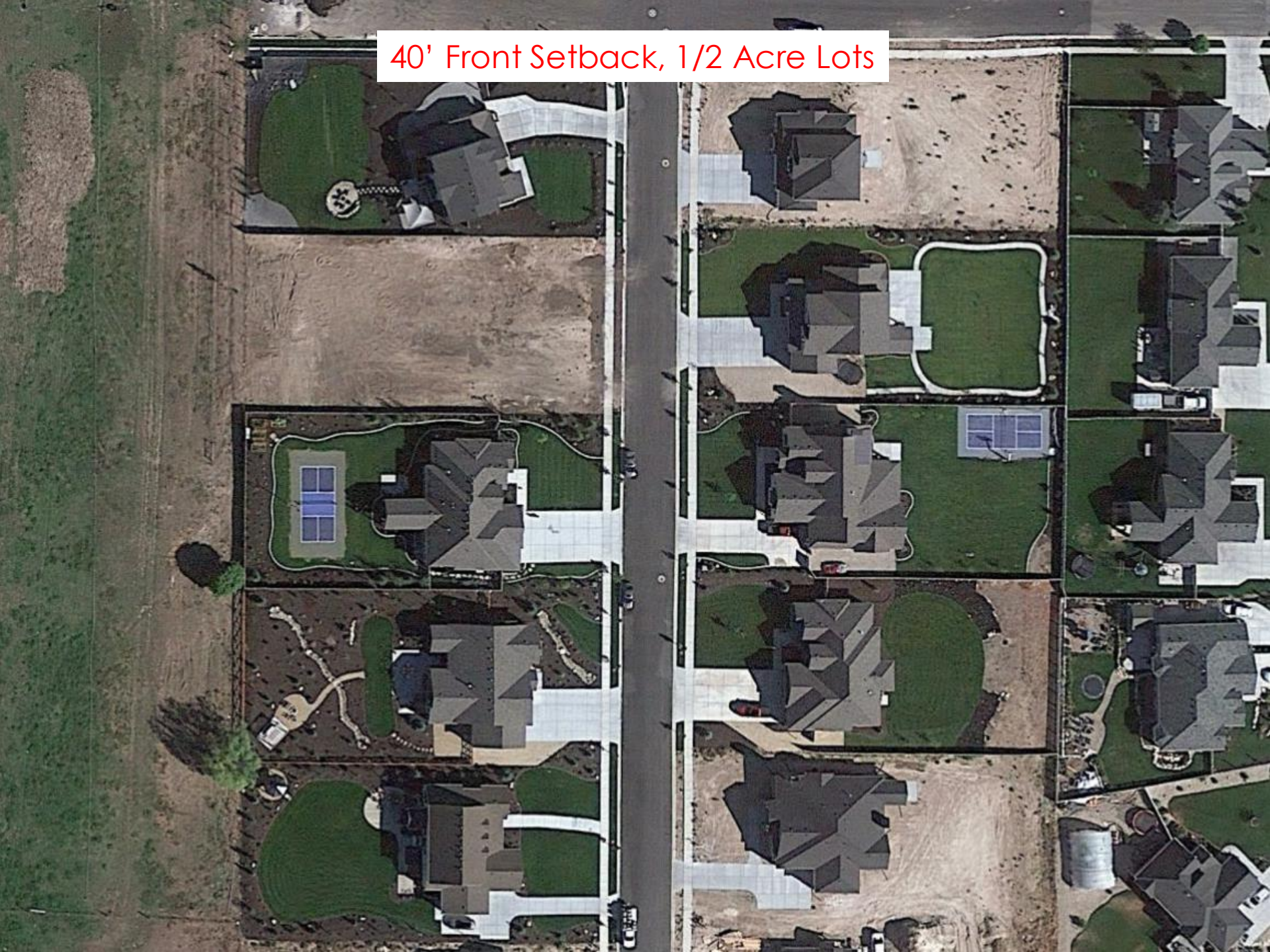
30' Front Setback, 1/3 Acre Lots







40' Front Setback, 1/2 Acre Lots





50' Front Setback, One Acre Lots





PROPOSED RESIDENTIAL DWELLING SETBACK MATRIX:

Proposed Main Dwelling Setbacks

(If different, existing it is noted in parenthesis)

Zone	Front	Secondary Frontage (Corner Lot)	Side	Rear
R-1-7 Zone (min. 70' frontage)	30'	30'	10'	30'
R-1-9 Zone (min. 90' frontage)	30'	30'	10'	30'
R-1-11 Zone (min. 100' frontage)	30'	30'	12' (10')	30'
R-1-15 Zone (min. 100' frontage)	30'	30'	12' (10')	30'
R-1-22 Zone (min. 115' frontage)	40' (30')	40' (30')	20' (12')	40'* (30')
RA-1-43 Zone (min. 150' frontage)	50' (30')	50' (30')	30' (14')	50'* (30')

*If the front and rear setbacks limit the main dwelling structure to a depth that is less than 45', the rear setback may be reduced by the amount needed to allow for up to a 45' structure depth. In no case shall the rear setback be less than 30' and a reduction assumes that a proposed structure will be built to the minimum front setback line.

EXISTING ACCESSORY STRUCTURE SETBACK MATRIX:

Existing Accessory Structure Setbacks					
Zone	Front	Side	Side - If more than 100' from front property line and 12' to rear of dwelling	Rear	Rear - If structure meets fire resistive requirements
R-1-7 Zone (min. 70' frontage)	30'	10'	3'	10'	2'
R-1-9 Zone (min. 90' frontage)	30'	10'	3'	10'	2'
R-1-11 Zone (min. 100' frontage)	30'	10'	3'	10'	2'
R-1-15 Zone (min. 100' frontage)	30'	10'	3'	10'	2'
R-1-22 Zone (min. 115' frontage)	30'	12'	3'	10'	2'
RA-1-43 Zone (min. 115' frontage)	30'	14'	3'	10'	2'

PROPOSED ACCESSORY STRUCTURE SETBACK MATRIX:

(EXISTING SETBACKS LISTED ON PREVIOUS SLIDE)

Proposed Accessory Structure Setbacks

ZONE	FRONT	SECONDARY FRONTAGE (CORNER LOT)	SIDE			REAR		
			Minimum Setback	Maximum Height at Minimum Setback	Allowable Height Increase for Additional Setback Beyond Minimum	Minimum Setback	Maximum Height at Minimum Setback	Allowable Height Increase for Additional Setback Beyond Minimum
R-1-7 Zone (min. 70' frontage)	40'	40'	10'	20'	(Setback) 1:1 (Height) May Not Exceed Maximum Allowed Height For Zone	10'	20'	(Setback) 1:1 (Height) May Not Exceed Maximum Allowed Height For Zone
R-1-9 Zone (min. 90' frontage)	40'	40'	10'	20'	(Setback) 1:1 (Height) May Not Exceed Maximum Allowed Height For Zone	10'	20'	(Setback) 1:1 (Height) May Not Exceed Maximum Allowed Height For Zone
R-1-11 Zone (min. 100' frontage)	40'	40'	10'	18'	(Setback) 1:1 (Height) May Not Exceed Maximum Allowed Height For Zone	10'	18'	(Setback) 1:1 (Height) May Not Exceed Maximum Allowed Height For Zone
R-1-15 Zone (min. 100' frontage)	40'	40'	10'	18'	(Setback) 1:1 (Height) May Not Exceed Maximum Allowed Height For Zone	10'	18'	(Setback) 1:1 (Height) May Not Exceed Maximum Allowed Height For Zone
R-1-22 Zone (min. 115' frontage)	50'	50'	10'	10'	(Setback) 1:1 (Height) May Not Exceed Maximum Allowed Height For Zone	10'	10'	(Setback) 1:1 (Height) May Not Exceed Maximum Allowed Height For Zone
RA-1-43 Zone (min. 115' frontage)	60'	60'	10'	10'	(Setback) 1:1 (Height) May Not Exceed Maximum Allowed Height For Zone	10'	10'	(Setback) 1:1 (Height) May Not Exceed Maximum Allowed Height For Zone

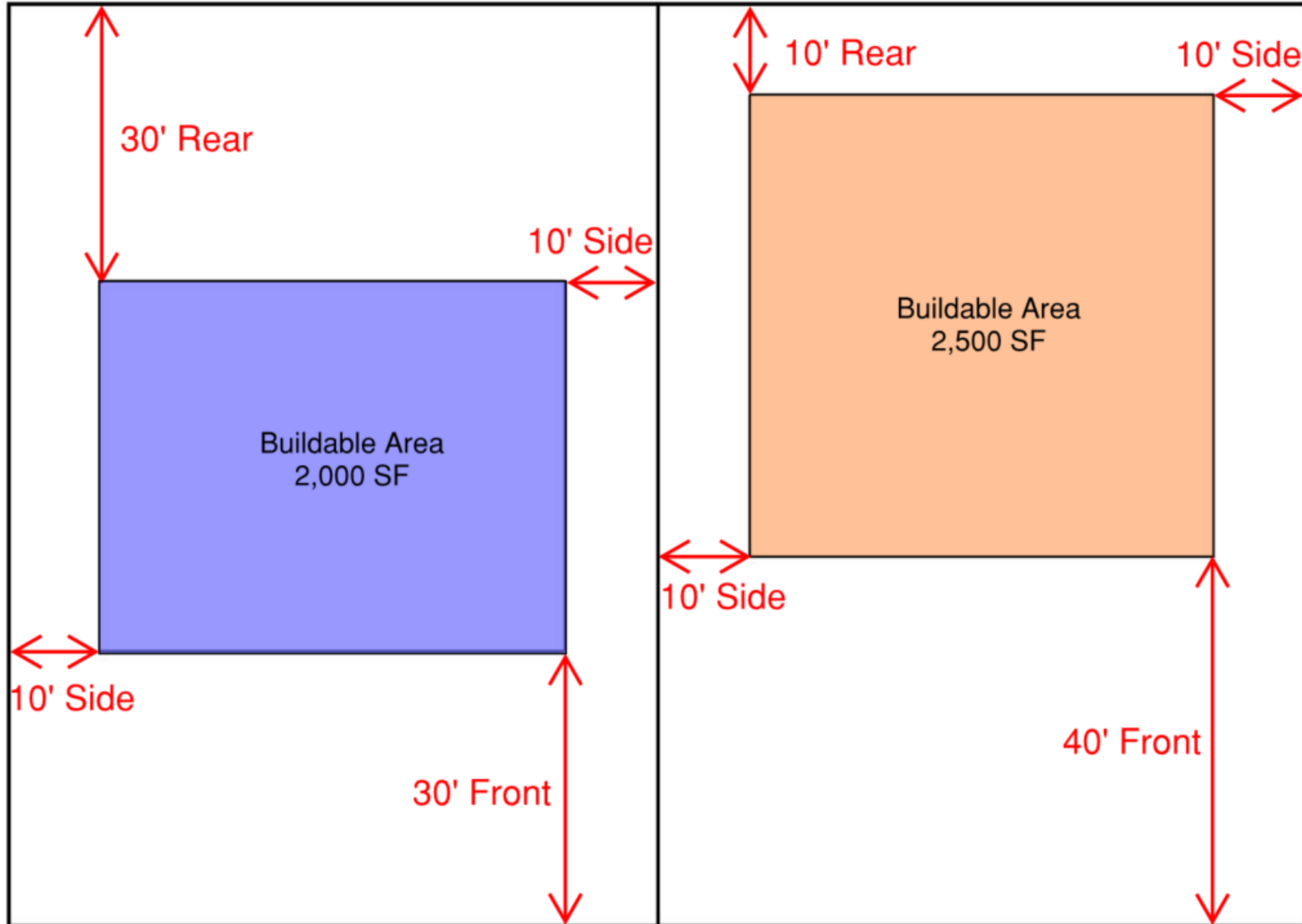
*See Note 1 on following slide

PROPOSED ACCESSORY STRUCTURE SETBACK MATRIX: (EXISTING SETBACKS LISTED ON PREVIOUS SLIDE)

Note: Accessory structures that are 200 square feet or less in size, are 12' or less in height, and have temporary foundations, may be located a minimum of 5' from a side or rear property line in any residential zone. There are no exceptions to the front or secondary front setback. At the owner's risk, they may be located on a platted public utility easement. If a utility is to be placed in the public utility easement, the property owner is responsible for removal of the structure to allow for the installation of the utility. A property owner is required to remove the structure within 30-days of receiving notice. All drainage from the accessory structure must be maintained on site.

R-1-7 Main Dwelling Setbacks

R-1-7 Accessory Structure Setbacks

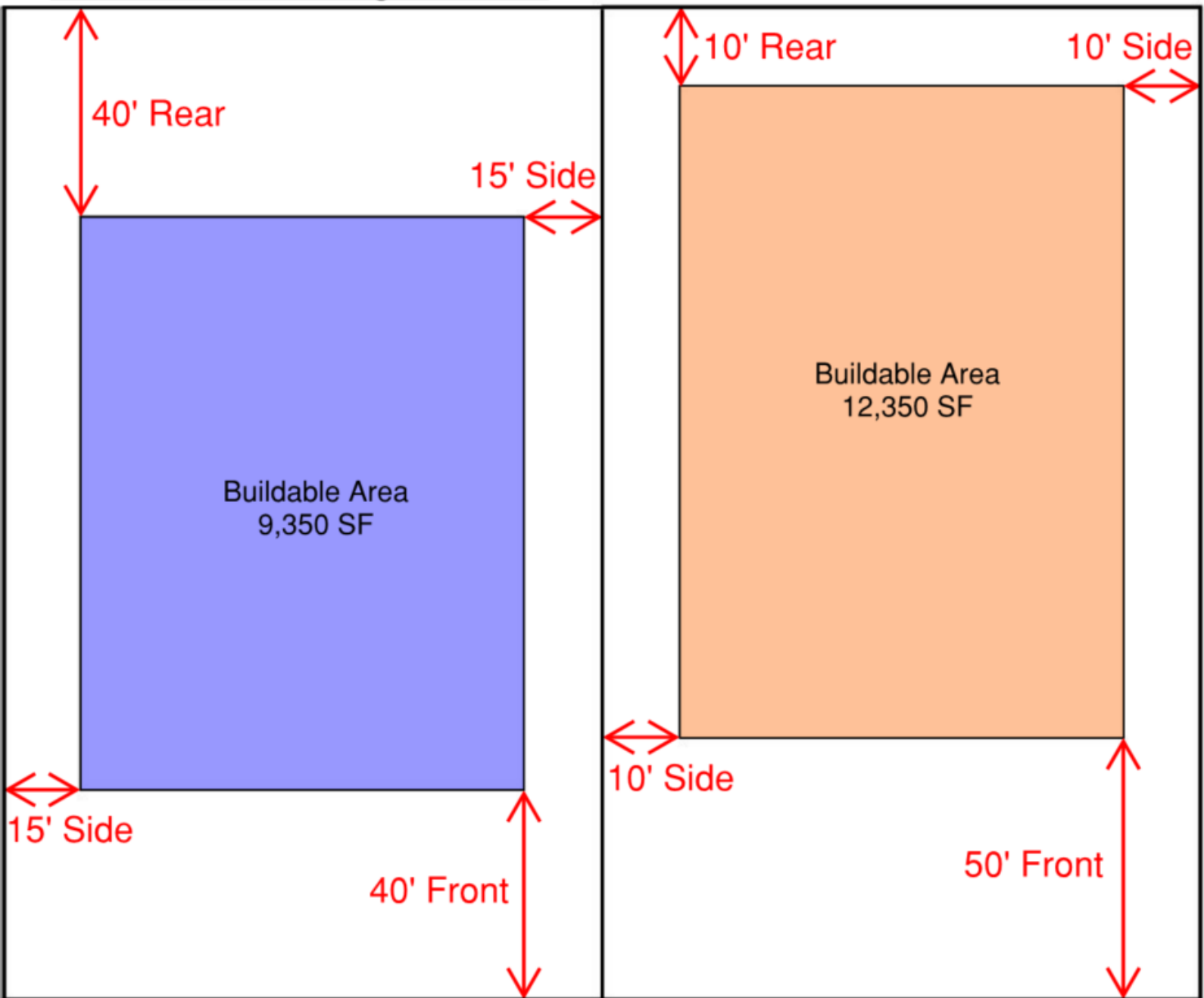


R-1-7 Zone Minimums

- Size: 7,000 SF
- Frontage: 70'

R-1-22 Main Dwelling Setbacks

R-1-22 Accessory Structure Setbacks



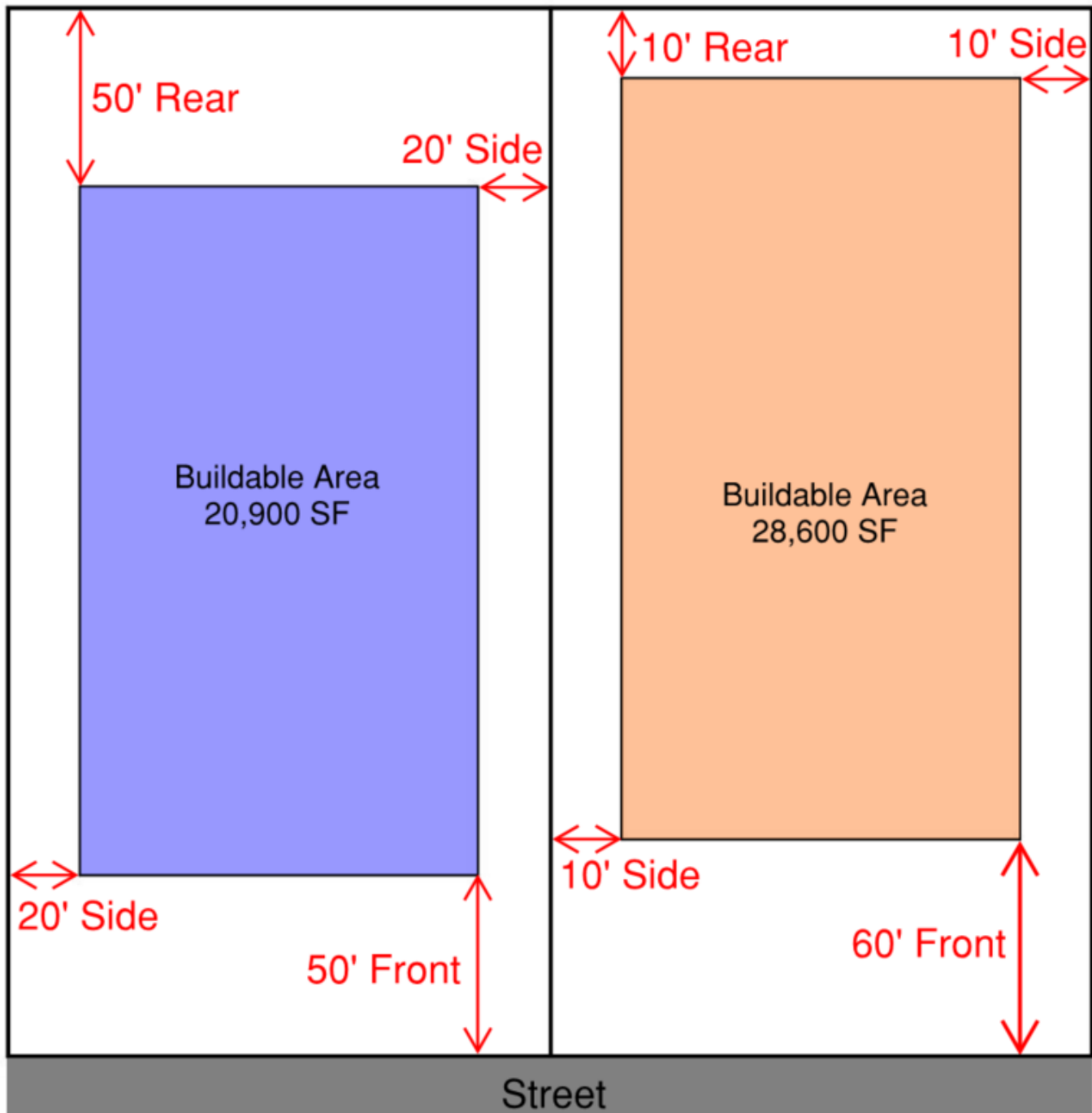
R-1-22 Zone
Minimums

- Size: 21,780 SF
- Frontage: 115'

Street

RA-1-43 Main Dwelling Setbacks

RA-1-43 Accessory Structure Setbacks



RA-1-43 Zone

Minimums

- Size: 43,560 SF (1 Ac.)
- Frontage: 150'

STATE CODE LIMITATION ON CODE APPLICABILITY

Adopted 2021 Legislative Session, Effective 5/5/2021

10-9a-509 - Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(4)

(a) Except as provided in Subsection (4)(b), for a period of 10 years after the day on which a subdivision plat is recorded, a municipality may not impose on a building permit applicant for a single-family dwelling located within the subdivision any land use regulation that is enacted within 10 years after the day on which the subdivision plat is recorded.

(b) Subsection (4)(a) does not apply to any changes in the requirements of the applicable building code, health code, or fire code, or other similar regulations.

16.13.17 EXCEPTION TO FRONT AND SIDE SETBACK REQUIREMENTS

The setback from the street for any dwelling located between two existing dwellings in any residential zone may be the same as the average for the said two dwellings, provided the existing dwellings are on the same side of the street and are located within 150 feet of each other. However, no dwelling shall be located closer than 20 feet from the street.

PLANNING COMMISSION RECOMMENDATION

Motion: Commissioner Bouwhuis: I make a motion that we recommend approval of an amendment to Sections 16.7, 16.8, 16.9, 16.10, 16.11, and 16.12 of the Midway City Municipal Code. The proposed amendment would change setbacks for the residential zones. That we accept staff findings and that we modify the main dwelling setbacks as proposed, with the 50' for the RA-1-43 for the secondary frontage as in the staff packet. The exception for R-22 and RA-1-43 for the rear setback be stated that if it would leave less than 45' building depth for the buildable area from front to back that they would be able to reduce the rear setback in order to obtain a 45' building depth, but in no case can the rear setback be less than 30'. Accessory structure front setbacks are modified to be 10' behind the main dwelling, the secondary frontage would remain as proposed. That the side and rear setbacks are the same, allowing for a 20' structure height at the minimum setback and increasing at a 1 to 1 ratio as the setback increases over the minimum required side and rear setbacks. On properties with an existing dwelling, the accessory structure side setback could match the side setback of the existing dwelling but could not be less than what is currently allowed in the code. Add a 5' setback for the tuff shed type structure exception.

Seconded: Commissioner Garland

Chairman Nicholas: Any discussion on the motion? It was clarified that there would be a chance for a public hearing at the city council meeting.

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Bouwhuis, Wardle and Garland

PC ITEMS THAT ARE OMITTED

- **Omitted Item #1** - Require the accessory building to be setback 10' behind the main dwelling, regardless of where the main dwelling is built.
- **Omitted Item #2** - On lots with existing homes that have side setbacks that are less than current side setbacks, the minimum accessory structure setback may match the existing home side setback but may not be less than the current setbacks for the zone.

R-1-7 PROPOSED CODE LANGUAGE

Section 16.7.6 Location Requirements

A. Front Setback:

1. Dwellings - All dwellings shall be setback from front property lines a minimum distance of thirty feet (30'). On corner lots or lots with more than two frontages, the front setback for the secondary frontage(s) shall be the same as for the primary frontage.
2. Accessory Structures - All accessory structures shall be setback from front property lines a minimum distance of forty feet (40'). On corner lots or lots with more than two frontages, the front setback for the secondary frontage(s) shall be the same as for the primary frontage.

B. Side Setback:

1. Dwellings - All dwellings shall be setback from side property lines a minimum distance of ten feet (10').
2. Accessory Structures - All accessory structures shall be setback from the side property lines a minimum distance of ten feet (10'). The maximum height of an accessory structure at the minimum side setback line is twenty feet (20'). The height of the accessory structure may increase by one foot for each additional foot it is setback into the property, to a maximum of 35' (e.g., a 35' building height allowed at the 25' side setback). For additional detail, see Exhibit 1 in this section.

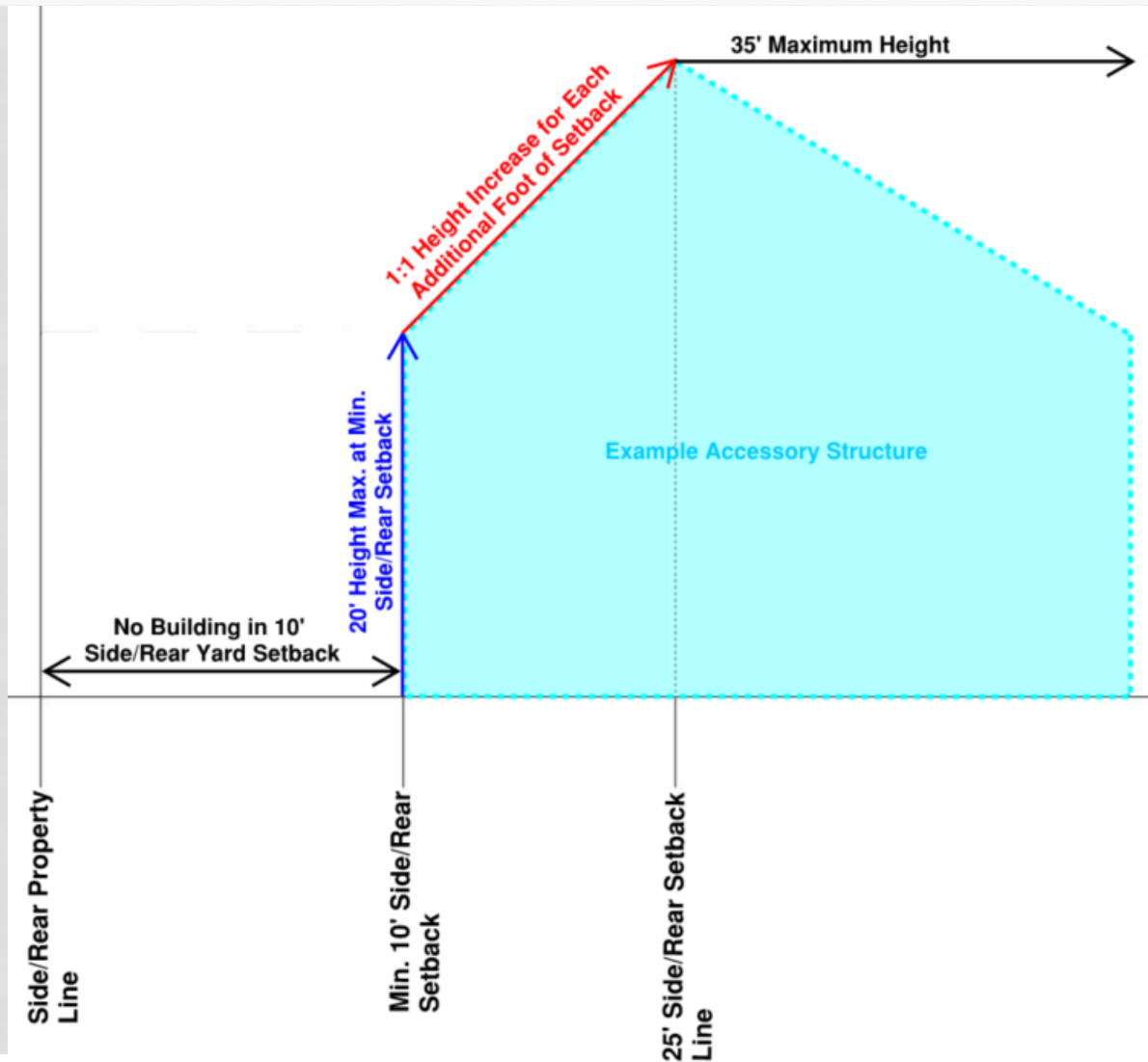
C. Rear Setback:

1. Dwellings - All dwellings shall be setback from the rear property line a minimum distance of thirty feet (30').
2. Accessory Structures - All accessory structures shall be setback from the rear property lines a minimum distance of ten feet (10'). The maximum height of an accessory structure at the minimum rear setback line is twenty feet (20'). The height of the accessory structure may increase by one foot for each additional foot it is setback into the property, to a maximum of 35' (e.g., a 35' building height allowed at the 25' side setback). For additional detail, see Exhibit 1 in this section.

- D. Accessory structures that are 200 square feet or less in size, are 12' or less in height, and have temporary foundations, may be located a minimum of 5' from a side or rear property line in any residential zone. There are no exceptions to the front or secondary front setback. At the owner's risk, they may be located on a platted public utility easement. If a utility is to be placed in the public utility easement, the property owner is responsible for removal of the structure to allow for the installation of the utility. A property owner is required to remove the structure within 30-days of receiving notice. All drainage from the accessory structure must be maintained on site.

- E. Size of Dwelling. The ground floor area of all dwellings shall be not less than 900 square feet except as may be approved in a large-scale development.

EXHIBIT 1: R-1-7 ZONE SIDE AND REAR SETBACKS



R-1-9 PROPOSED CODE LANGUAGE

Section 16.8.6 Location Requirements

A. Front Setback:

1. Dwellings - All dwellings shall be setback from front property lines a minimum distance of thirty feet (30'). On corner lots or lots with more than two frontages, the front setback for the secondary frontage(s) shall be the same as for the primary frontage.
2. Accessory Structures - All accessory structures shall be setback from front property lines a minimum distance of forty feet (40'). On corner lots or lots with more than two frontages, the front setback for the secondary frontage(s) shall be the same as for the primary frontage.

B. Side Setback:

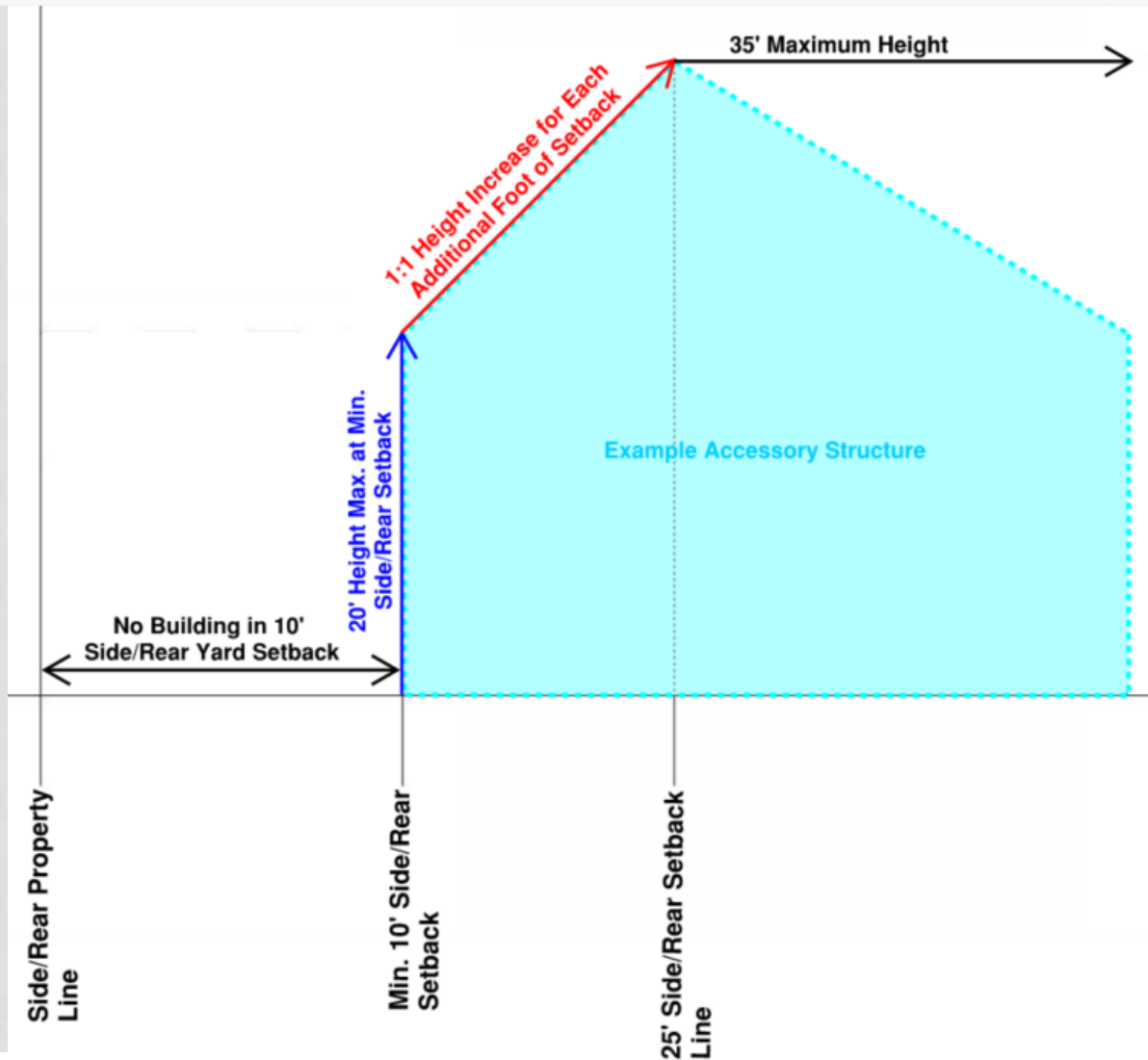
1. Dwellings - All dwellings shall be setback from side property lines a minimum distance of ten feet (10').
2. Accessory Structures - All accessory structures shall be setback from the side property lines a minimum distance of ten feet (10'). The maximum height of an accessory structure at the minimum side setback line is twenty feet (20'). The height of the accessory structure may increase by one foot for each additional foot it is setback into the property, to a maximum of 35' (e.g., a 35' building height allowed at the 25' side setback). For additional detail, see Exhibit 1 in this section.

C. Rear Setback:

1. Dwellings - All dwellings shall be setback from the rear property line a minimum distance of thirty feet (30').
2. Accessory Structures - All accessory structures shall be setback from the rear property lines a minimum distance of ten feet (10'). The maximum height of an accessory structure at the minimum rear setback line is twenty feet (20'). The height of the accessory structure may increase by one foot for each additional foot it is setback into the property, to a maximum of 35' (e.g., a 35' building height allowed at the 25' side setback). For additional detail, see Exhibit 1 in this section.

- D. Accessory structures that are 200 square feet or less in size, are 12' or less in height, and have temporary foundations, may be located a minimum of 5' from a side or rear property line in any residential zone. There are no exceptions to the front or secondary front setback. At the owner's risk, they may be located on a platted public utility easement. If a utility is to be placed in the public utility easement, the property owner is responsible for removal of the structure to allow for the installation of the utility. A property owner is required to remove the structure within 30-days of receiving notice. All drainage from the accessory structure must be maintained on site.

EXHIBIT 1: R-1-9 ZONE SIDE AND REAR SETBACKS



R-1-11 PROPOSED CODE LANGUAGE

Section 16.9.6 Location Requirements

A. Front Setback:

1. Dwellings - All dwellings shall be setback from front property lines a minimum distance of thirty feet (30'). On corner lots or lots with more than two frontages, the front setback for the secondary frontage(s) shall be the same as for the primary frontage.
2. Accessory Structures - All accessory structures shall be setback from front property lines a minimum distance of forty feet (40'). On corner lots or lots with more than two frontages, the front setback for the secondary frontage(s) shall be the same as for the primary frontage.

B. Side Setback:

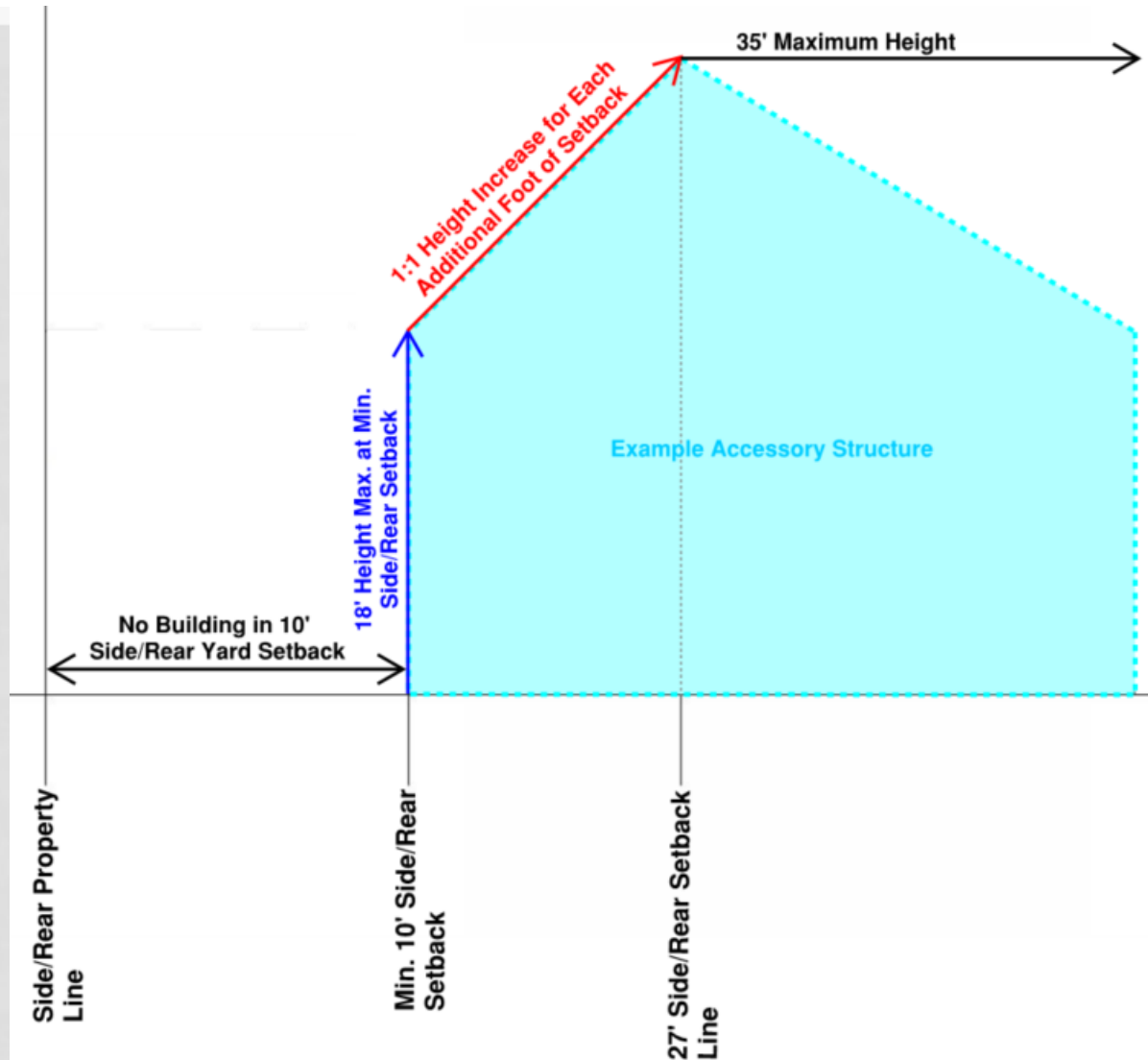
1. Dwellings - All dwellings shall be setback from side property lines a minimum distance of twelve feet (12').
2. Accessory Structures - All accessory structures shall be setback from the side property lines a minimum distance of ten feet (10'). The maximum height of an accessory structure at the minimum side setback line is twenty feet (18'). The height of the accessory structure may increase by one foot for each additional foot it is setback into the property, to a maximum of 35' (e.g., a 35' building height allowed at the 27' side setback). For additional detail, see Exhibit 1 in this section.

C. Rear Setback:

1. Dwellings - All dwellings shall be setback from the rear property line a minimum distance of thirty feet (30').
2. Accessory Structures - All accessory structures shall be setback from the rear property lines a minimum distance of ten feet (10'). The maximum height of an accessory structure at the minimum rear setback line is twenty feet (18'). The height of the accessory structure may increase by one foot for each additional foot it is setback into the property, to a maximum of 35' (e.g., a 35' building height allowed at the 27' side setback). For additional detail, see Exhibit 1 in this section.

- D. Accessory structures that are 200 square feet or less in size, are 12' or less in height, and have temporary foundations, may be located a minimum of 5' from a side or rear property line in any residential zone. There are no exceptions to the front or secondary front setback. At the owner's risk, they may be located on a platted public utility easement. If a utility is to be placed in the public utility easement, the property owner is responsible for removal of the structure to allow for the installation of the utility. A property owner is required to remove the structure within 30-days of receiving notice. All drainage from the accessory structure must be maintained on site.

EXHIBIT 1: R-1-11 ZONE SIDE AND REAR SETBACKS



R-1-15 PROPOSED CODE LANGUAGE

Section 16.10.6 Location Requirements

A. Front Setback:

1. Dwellings - All dwellings shall be setback from front property lines a minimum distance of thirty feet (30'). On corner lots or lots with more than two frontages, the front setback for the secondary frontage(s) shall be the same as for the primary frontage.
2. Accessory Structures - All accessory structures shall be setback from front property lines a minimum distance of forty feet (40'). On corner lots or lots with more than two frontages, the front setback for the secondary frontage(s) shall be the same as for the primary frontage.

B. Side Setback:

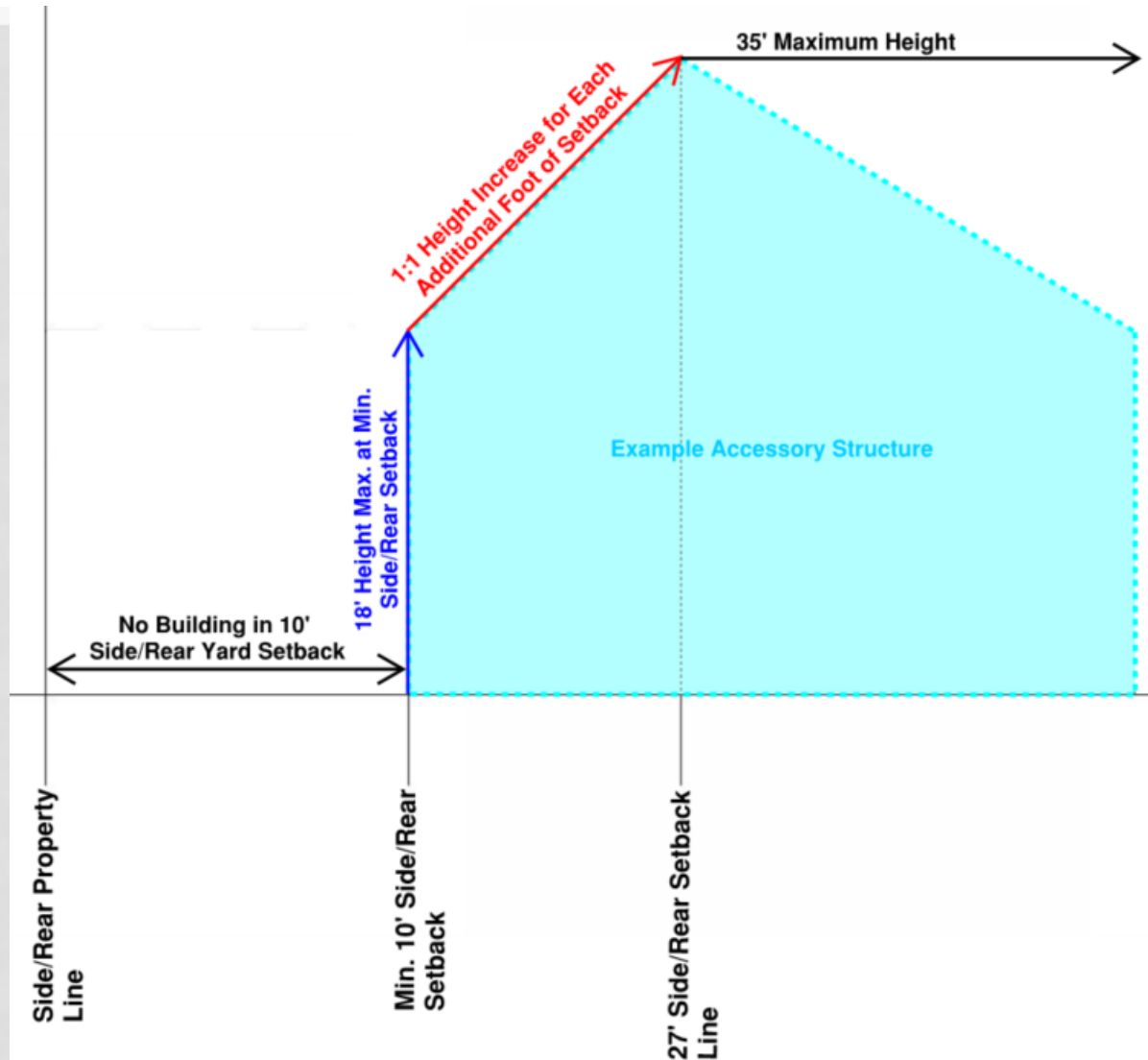
1. Dwellings - All dwellings shall be setback from side property lines a minimum distance of twelve feet (12').
2. Accessory Structures - All accessory structures shall be setback from the side property lines a minimum distance of ten feet (10'). The maximum height of an accessory structure at the minimum side setback line is twenty feet (18'). The height of the accessory structure may increase by one foot for each additional foot it is setback into the property, to a maximum of 35' (e.g., a 35' building height allowed at the 27' side setback). For additional detail, see Exhibit 1 in this section.

C. Rear Setback:

1. Dwellings - All dwellings shall be setback from the rear property line a minimum distance of thirty feet (30').
2. Accessory Structures - All accessory structures shall be setback from the rear property lines a minimum distance of ten feet (10'). The maximum height of an accessory structure at the minimum rear setback line is twenty feet (18'). The height of the accessory structure may increase by one foot for each additional foot it is setback into the property, to a maximum of 35' (e.g., a 35' building height allowed at the 27' side setback). For additional detail, see Exhibit 1 in this section.

- D. Accessory structures that are 200 square feet or less in size, are 12' or less in height, and have temporary foundations, may be located a minimum of 5' from a side or rear property line in any residential zone. There are no exceptions to the front or secondary front setback. At the owner's risk, they may be located on a platted public utility easement. If a utility is to be placed in the public utility easement, the property owner is responsible for removal of the structure to allow for the installation of the utility. A property owner is required to remove the structure within 30-days of receiving notice. All drainage from the accessory structure must be maintained on site.

EXHIBIT 1: R-1-15 ZONE SIDE AND REAR SETBACKS



R-1-22 PROPOSED CODE LANGUAGE

Section 16.11.6 Location Requirements

A. Front Setback:

1. Dwellings - All dwellings shall be setback from front property lines a minimum distance of forty feet (40'). On corner lots or lots with more than two frontages, the front setback for the secondary frontage(s) shall be the same as for the primary frontage.
2. Accessory Structures - All accessory structures shall be setback from front property lines a minimum distance of fifty feet (50'). On corner lots or lots with more than two frontages, the front setback for the secondary frontage(s) shall be the same as for the primary frontage.

B. Side Setback:

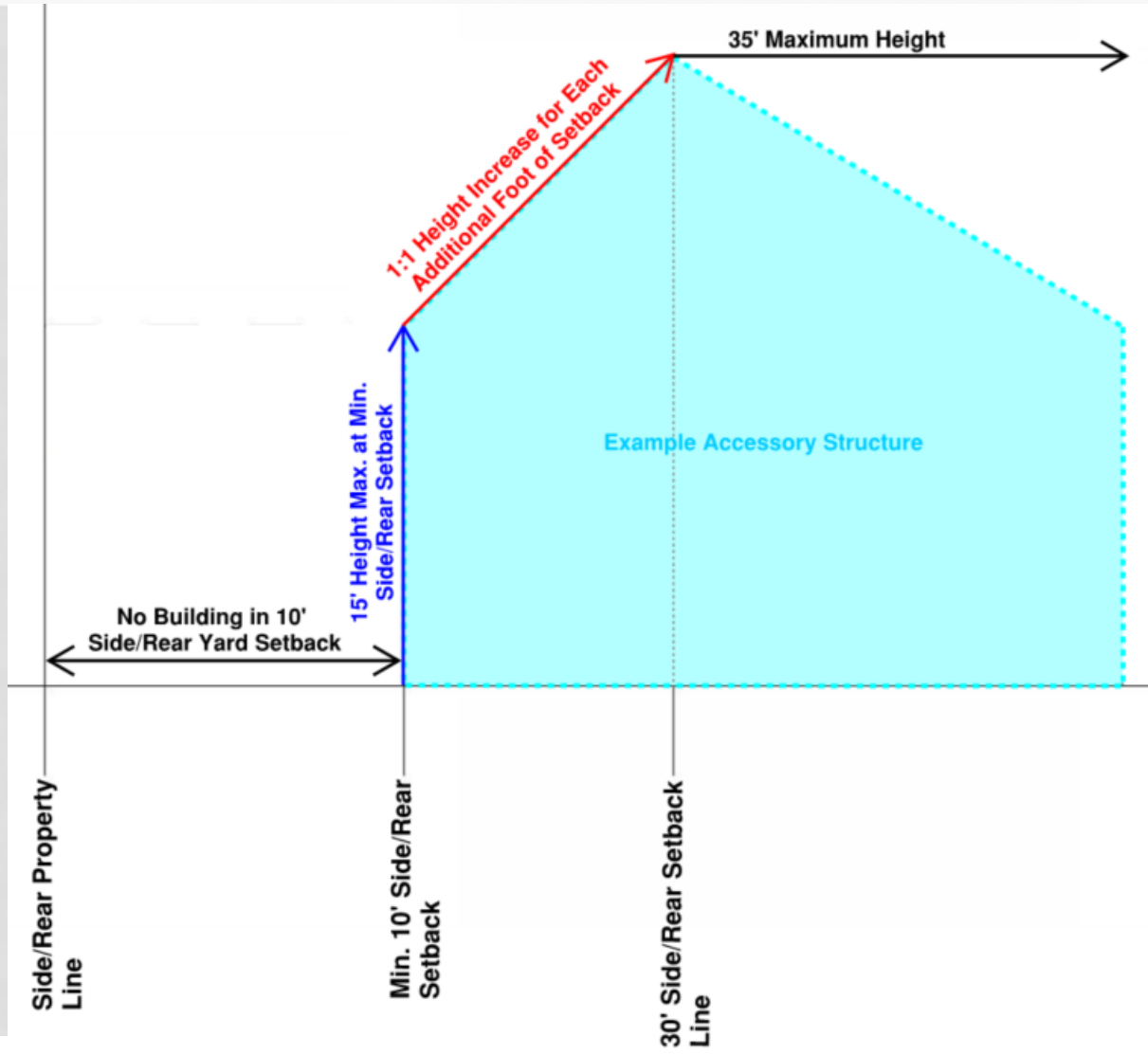
1. Dwellings - All dwellings shall be setback from side property lines a minimum distance of fifteen feet (15').
2. Accessory Structures - All accessory structures shall be setback from the side property lines a minimum distance of ten feet (10'). The maximum height of an accessory structure at the minimum side setback line is twenty feet (15'). The height of the accessory structure may increase by one foot for each additional foot it is setback into the property, to a maximum of 35' (e.g., a 35' building height allowed at the 30' side setback). For additional detail, see Exhibit 1 in this section.

C. Rear Setback:

1. Dwellings - All dwellings shall be setback from the rear property line a minimum distance of forty feet (40').
 - a. If the front and rear setbacks limit the main dwelling structure to a depth that is less than 45', the rear setback may be reduced by the amount needed to allow for up to a 45' structure depth. In no case shall the rear setback be less than 30' and a reduction assumes that a proposed structure will be built to the minimum front setback line.
- a. Accessory Structures - All accessory structures shall be setback from the rear property lines a minimum distance of ten feet (10'). The maximum height of an accessory structure at the minimum rear setback line is twenty feet (15'). The height of the accessory structure may increase by one foot for each additional foot it is setback into the property, to a maximum of 35' (e.g., a 35' building height allowed at the 30' side setback). For additional detail, see Exhibit 1 in this section.

- D. Accessory structures that are 200 square feet or less in size, are 12' or less in height, and have temporary foundations, may be located a minimum of 5' from a side or rear property line in any residential zone. There are no exceptions to the front or secondary front setback. At the owner's risk, they may be located on a platted public utility easement. If a utility is to be placed in the public utility easement, the property owner is responsible for removal of the structure to allow for the installation of the utility. A property owner is required to remove the structure within 30-days of receiving notice. All drainage from the accessory structure must be maintained on site.

EXHIBIT 1: R-1-22 ZONE SIDE AND REAR SETBACKS



RA-1-43 PROPOSED CODE LANGUAGE

Section 16.12.6 Location Requirements

A. Front Setback:

1. Dwellings - All dwellings shall be setback from front property lines a minimum distance of fifty feet (50'). On corner lots or lots with more than two frontages, the front setback for the secondary frontage(s) shall be the same as for the primary frontage.
2. Accessory Structures - All accessory structures shall be setback from front property lines a minimum distance of sixty feet (60'). On corner lots or lots with more than two frontages, the front setback for the secondary frontage(s) shall be the same as for the primary frontage.

B. Side Setback:

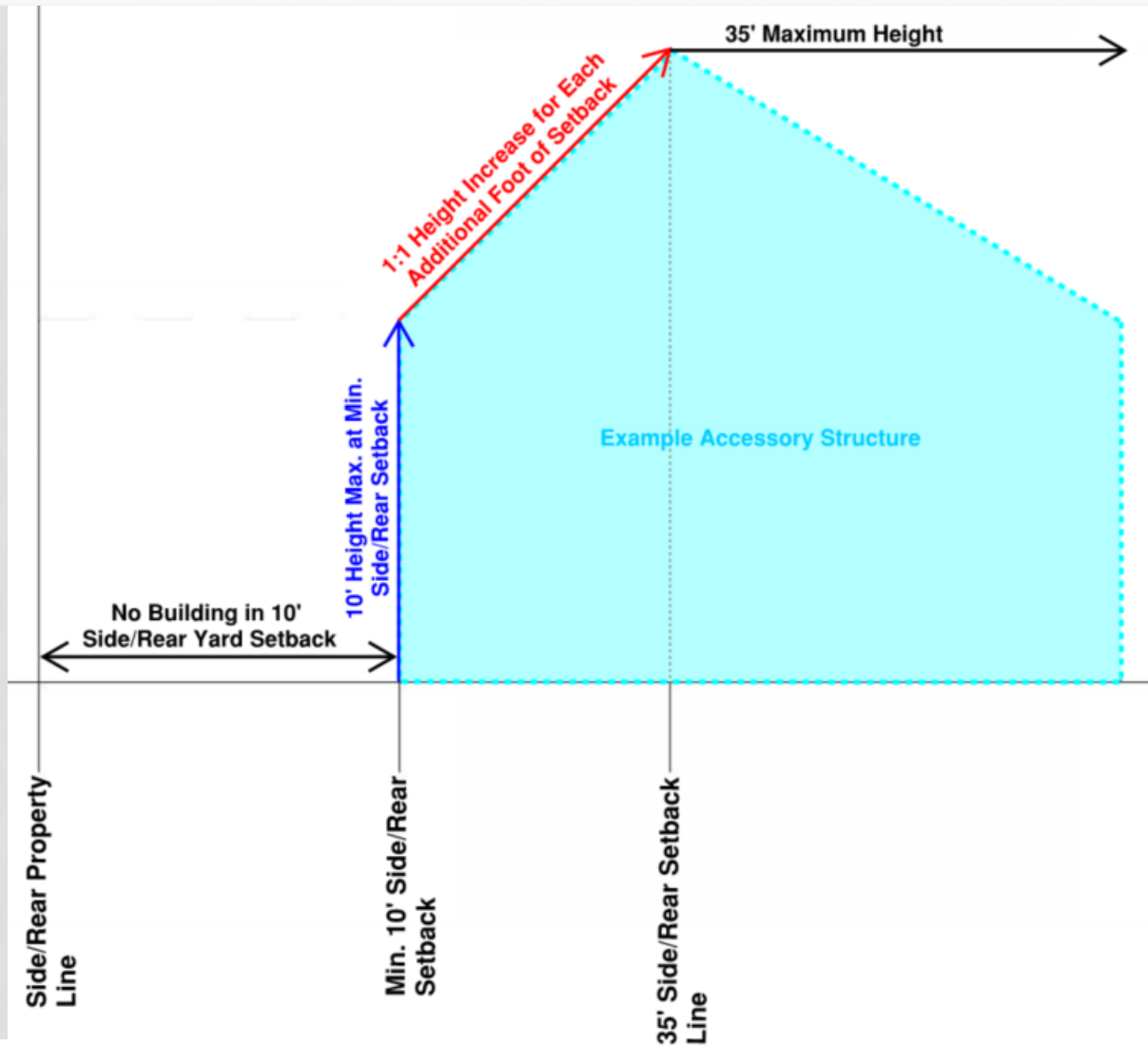
1. Dwellings - All dwellings shall be setback from side property lines a minimum distance of twenty feet (20').
2. Accessory Structures - All accessory structures shall be setback from the side property lines a minimum distance of ten feet (10'). The maximum height of an accessory structure at the minimum side setback line is twenty feet (10'). The height of the accessory structure may increase by one foot for each additional foot it is setback into the property, to a maximum of 35' (e.g., a 35' building height allowed at the 35' side setback). For additional detail, see Exhibit 1 in this section.

C. Rear Setback:

1. Dwellings - All dwellings shall be setback from the rear property line a minimum distance of fifty feet (50').
 - a. If the front and rear setbacks limit the main dwelling structure to a depth that is less than 45', the rear setback may be reduced by the amount needed to allow for up to a 45' structure depth. In no case shall the rear setback be less than 40' and a reduction assumes that a proposed structure will be built to the minimum front setback line.
 - a. Accessory Structures - All accessory structures shall be setback from the rear property lines a minimum distance of ten feet (10'). The maximum height of an accessory structure at the minimum rear setback line is twenty feet (10'). The height of the accessory structure may increase by one foot for each additional foot it is setback into the property, to a maximum of 35' (e.g., a 35' building height allowed at the 35' side setback). For additional detail, see Exhibit 1 in this section.

- D. Accessory structures that are 200 square feet or less in size, are 12' or less in height, and have temporary foundations, may be located a minimum of 5' from a side or rear property line in any residential zone. There are no exceptions to the front or secondary front setback. At the owner's risk, they may be located on a platted public utility easement. If a utility is to be placed in the public utility easement, the property owner is responsible for removal of the structure to allow for the installation of the utility. A property owner is required to remove the structure within 30-days of receiving notice. All drainage from the accessory structure must be maintained on site.

EXHIBIT 1: RA-1-43 ZONE SIDE AND REAR SETBACKS



POSSIBLE FINDINGS

- Preserving view corridors and open space is an important goal for the community
- Extending setbacks will preserve the rural atmosphere of Midway
- Increasing residential setbacks will likely make many structures legally non-conforming
- Increasing setbacks may limit the size of some dwellings on smaller lots
- Increasing setbacks may limit the ability to construct detached accessory structures on lots in some zones
- Some developments may be exempt from newly adopted setbacks for a period of up to 10 years based on provisions adopted in state code