



TO: Denver City Council
FROM: Steve Nalley, Senior City Planner
DATE: July 6, 2015
RE: Denver Zoning Code – Text Amendment to create a Conservation Overlay District applicable to the Potter Highlands, CO-4. (Case# 2015I-00069)

I. CPD Recommendation

Based on the review criteria for conservation overlays and text amendments stated in the Denver Zoning Code (DZC), Sections 9.4.3.2.C (Review Criteria for Approval of Conservation Overlay District) and 12.4.11 (Text Amendment), CPD staff recommends that City Council approve the Potter Highlands Conservation Overlay, CO-4 Denver Zoning Code Text Amendment.

II. Summary and Purpose

The Potter Highlands has two distinct periods of development: the first beginning in 1874 and the second from the 1896 annexation of the area to Denver until the mid 1940s. North-south and east-west streets on a grid create unique large square block with alleys running north-south and east-west. The Potter Highlands is a local Landmark Historic District. Councilwoman Judy Montero initiated this text amendment to the Denver Zoning Code to create a new conservation overlay for the Potter Highlands to better align the zoning with the unique and historic character that exists in the Potter Highlands.

DZC Section 9.4.3.1 provides that Conservation Overlay Districts are intended to provide a vehicle to initiate and implement programs for the revitalization or conservation of specific areas within Denver possessing distinctive features, identity, or character worthy of retention and enhancement. The proposed Potter Highlands Conservation Overlay, CO-4 Denver Zoning Code text amendment, if approved by City Council, will modify underlying zone district standards by requiring larger lots for two-unit dwelling uses, consistent setbacks, lower bulk plane height, and flexibility in bulk plane standards for dormers and flat roof structures and will initiate and implement both the revitalization and conservation of the Potter Highlands. A summary of the proposed text amendment is provided in the following table (Also see the proposed text amendment redline enclosed).

Summary of Denver Zoning Code Text Amendment	
Code Location	Proposed New Conservation Overlay Text
Article 9 – Special Contexts and Districts Division 9.4.3.4 – Conservation Overlay Districts Established	Primary building form standards: <ul style="list-style-type: none"> • 5 foot minimum side interior setback for lots greater than 30 feet in width as opposed to 3 feet one side/10 feet combined. • Reduced bulk plane height calibrated to zone lot width. Instead of a 17 foot vertical bulk plane height limit, lots 30 feet or less in width have a 15 foot vertical bulk plane height limit and lots greater than 30 feet in width have a 13 foot vertical bulk plane height limit.

Summary of Denver Zoning Code Text Amendment	
Code Location	Proposed New Conservation Overlay Text
Article 9 – Special Contexts and Districts Division 9.4.3.4 – Conservation Overlay Districts Established	<ul style="list-style-type: none"> • Rooftop decks limited to roof of ground story. • Flat roofs height limited to a maximum of 25 feet and bulk plane exception. • Bulk plane exception to allow side facing dormers. • New two unit dwelling uses must have a minimum zone lot size of 5500 sf and 50 feet of width as opposed to the underlying zone district minimum of 4500 sf. and 35 feet. Detached Accessory Dwelling Unit standards: <ul style="list-style-type: none"> • 0 foot minimum side interior setback.

III. Public Process

Below is a summary of the public process for this amendment.

October 2013	Highland United Neighbors, Inc (HUNI) submitted an initial proposal to CPD. The proposal contained problem statements, photos, graphics, maps, and proposed overlay language.
2013-2015	Additional discussions took place with HUNI, CPD and Judy Montero’s office.
November 11, 2014	HUNI hosted a public meeting in the Highland neighborhood to present and seek input on zoning overlays.
December 11, 2014	HUNI hosted a follow-up public meeting in the Highland neighborhood to seek additional input on zoning overlays.
January 9, 2015	Denver City Councilwoman Judy Montero initiated the proposed text amendment.
January -March	CPD drafted proposed overlay language.
February 10, 2015	CPD attended the HUNI PCD meeting to discuss the amendment.
February 28, 2015	CPD presented a summary of the amendment to Inter-Neighborhood Cooperation Zoning and Planning committee.
March 30, 2015	Draft of the amendment posted to CPD website for public and City agency review; email notice was sent to all Registered Neighborhood Organizations (RNOs) noticing the scheduled Planning Board public hearing, with link to updated draft and summary.
April 14, 2015	CPD attended the HUNI PCD meeting to discuss comments on the amendment.
April 14, 2015	Public Notification sent for April 29, 2015 Planning Board public hearing. Notice emailed to all RNOs and signs were posted throughout subject amendment area.
April 29, 2015	Planning Board public hearing Planning Board unanimously recommended approval with the following condition: <ol style="list-style-type: none"> 1. That the Planning Board Review Draft be edited for clarity, correctness, illustrative graphics, section references, and other non-substantive matters as well as any other changes to the Planning Board Review Draft made necessary by such edits.
May 13, 2015	Neighborhoods and Planning Committee
June 1, 2015	City Council First Reading
June 8, 2015	City Council amended bill for proposed text amendment and postponed public hearing on proposed text amendment until July 6, 2015.
July 6, 2015	City Council Public Hearing

IV. Criteria for Review and CPD Staff Evaluation

1. The proposed Text Amendment is Consistent with the Conservation Overlay Review Criteria

Section 9.4.3.2.C establishes review criteria for approval of a Conservation Overlay District, which states a Conservation Overlay District shall meet one or more of the following criteria:

1. The district contains distinctive building features, such as period of construction, style, size, scale, detailing, mass, color and material; and/or
2. The district contains distinctive site planning and natural features, such as lot platting, building lot coverage, street layout, setbacks, alleyways, sidewalks, creek beds, parks and gardens.

The proposed Potter Highlands Conservation Overlay, CO-4 meets one review criterion by creating size, scale and mass standards to be more consistent with the existing and distinct building features through a reduced size, scale, and mass than the standards of the underlying zone district.

In addition to the review criteria above, Conservation Overlay Districts are considered zoning text amendments and map amendments and are subject to the review criteria found in Section 12.4.11 and 12.4.10 respectively. Accordingly, CPD analyzed the proposed Potter Highlands Conservation Overlay, CO-4 Denver Zoning Code text amendment and map amendment for compliance with the review criteria. The review criteria compliance for a text amendment is detailed below. The review criteria compliance for a map amendment is detailed in a separate staff report, case number 2015I-00059.

2. The proposed Text Amendment is Consistent with the City's Adopted Plans

The Text Amendment is consistent with the City's following adopted plans:

- Denver Comprehensive Plan 2000
- Blueprint Denver (2002)
- Highland Neighborhood Plan (1986)

Denver Comprehensive Plan 2000

Denver's planning foundation is built on the acknowledgement that the combination of new development and traditional Denver form must blend to provide attractive, appropriately scaled urban places. Highland, one of Denver's most popular and desirable neighborhoods, is experiencing intense development pressure. Altering zoning standards to better recognize the existing character of the neighborhood through this text amendment is consistent with the guidance of Comp Plan 2000, highlighted below:

"Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses." (pg. 60)

"Sustaining excellent urban design requires Denver to use its best legacies to guide the future. While new development need not conform to precise historical or architectural particulars, it must reflect the fine qualities of design and use of materials inherent in Denver's unique natural setting and urban character. This applies to Downtown, smaller commercial areas, residential neighborhoods, commercial and industrial corridors, and both new construction and rehabilitation. It also applies to infrastructure — streets, bridges and drainage ways — as well as to both public and private buildings." (pg. 89)

“Promote standards and incentives for design that enhance the quality and character of the city, including the preservation of significant historic structures and features.” (pg. 98)

“Identify community design and development issues, and target specific concerns with appropriate controls and incentives.” (pg. 98)

“Ensure that the Zoning Code reinforces quality urban design.” (pg. 99)

Blueprint Denver – 2002

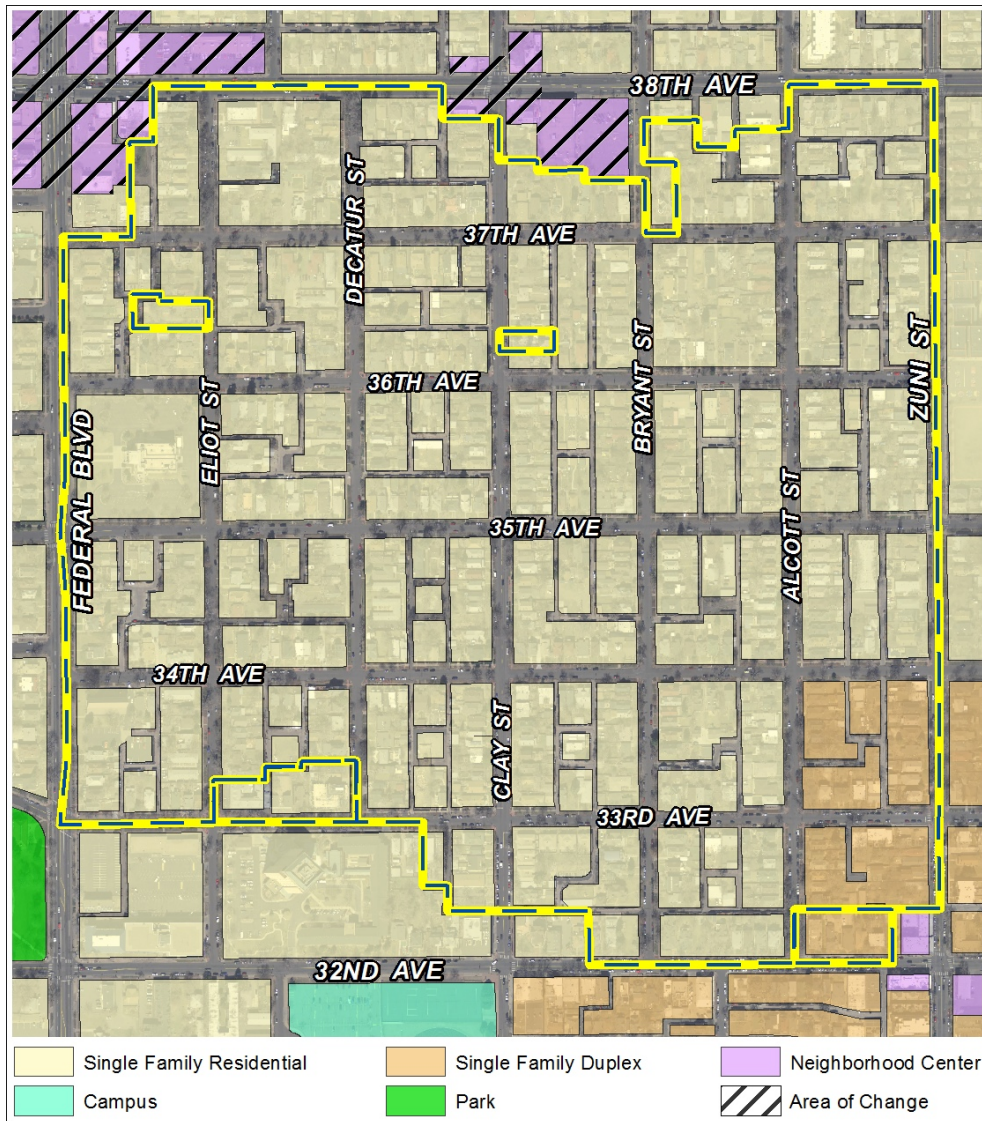
The majority of the subject site for which the text amendment is written is designated as a Single Family Residential and with a small portion designated as Single Family Duplex. The entire area for which the text amendment was written is designated as an Area of Stability.

The goal for Areas of Stability is to “identify and maintain the character of an area while accommodating some new development and redevelopment.” (pg. 120) The proposed CO-4 conservation overlay district text amendment alters the underlying zoning to better maintain the character of the Potter Highlands area.

“Neighborhoods of single family houses represent the majority of Denver’s residential areas, particularly those developed after 1900 and especially those built after 1940. Single-family homes are the predominant residential type.” (pg. 42) “Single family duplex residential areas are moderately dense areas that are primarily residential but with some complementary, small-scale commercial uses. However, the employment-base is minor compared to the housing base. There is a mixture of housing types, including single-family houses, duplexes, townhouses and small apartment buildings.” (pg. 41) Other than requiring a larger lot for two-unit dwelling uses, the proposed CO-4 conservation overlay district text amendment does not change the allowed uses or housing types of the underlying zone district, but instead requires the housing types to be more consistent with the defining character of the area.

Blueprint Denver also recognizes the need for overlay zone districts stating “this type of zoning can apply to areas where there are similar objectives but where the base zoning varies or where additional standards are needed to reinforce a certain character.” (pg. 125) The proposed CO-4 conservation overlay district text amendment introduces additional standards that address size, scale, mass, and site features that recognize and reinforce the established character specific to the Potter Highlands.

Blueprint Denver Map



Highland neighborhood Plan – 1986

The Highland Neighborhood Plan is “intended to promote patterns of land use, urban design, circulation and services which encourage and contribute to the economic, social, and physical health, safety and welfare of the people who live and work in the neighborhood.” (pg. 1) The Highland neighborhood has changed drastically since the adoption of the plan. Many of the strategies and recommendations of the plan have been implemented. A major focus of the plan is to heighten the sense of neighborhood pride, revitalize the housing stock and maintain and stabilize the character of the neighborhood. The proposed CO-4 conservation overlay text amendment further implements the strategies the Highland neighborhood plan by acknowledging and reinforcing the development patterns that are part of the neighborhood’s distinct character.

3. The proposed Text Amendment Furthers the Public Health, Safety and Welfare

This text amendment furthers the public health, safety, and general welfare of Denver residents as it provides for context-sensitive and character reinforcing standards that further stabilize the established neighborhood.

4. The proposed Text Amendment Results in Regulations that are Uniform Across the District

This text amendment will result in uniform regulations applicable to all new buildings within land mapped CO-4.

V. CPD Recommendation

Based on the review criteria for conservation overlays and text amendments stated in the Denver Zoning Code (DZC), Sections 9.4.3.2.C (Review Criteria for Approval of Conservation Overlay District) and 12.4.11 (Text Amendment), CPD staff recommends that City Council approve the Potter Highlands Conservation Overlay, CO-4 Denver Zoning Code Text Amendment.

VI. Attachments

1. Proposed Potter Highlands Conservation Overlay Proposed Text Amendment (CO-4)

3. All Other Design Standards

All other development and design standards applicable to new development in the underlying Zone District may be modified.

9.4.3.4 Conservation Overlay Districts Established

The following conservation overlay Zone Districts are established:

CONSERVATION OVERLAY DISTRICT NAME	ZONING MAP DESIGNATOR
Hilltop Heritage Conservation Overlay District	CO-1
Curtis Park Conservation Overlay District	CO-2
Scottish Village Conservation Overlay District	CO-3
<u>Potter Highlands Conservation Overlay District</u>	<u>CO-4</u>

9.4.3.5 Effect of Approval

A. Zoning Map Designator

Each Conservation Overlay District shall be shown on the official map by an “CO-#” designator and an appropriate number placed after the underlying Zone District designation.

B. Limitation on Permit Issuance

No zoning permit for development or for a use within a Conservation Overlay District shall be issued by Community Planning and Development unless the development or use meets the standards set forth in the adopted Conservation Overlay District.

9.4.3.6 Hilltop Heritage Conservation Overlay District (CO-1)

A. Creation

There is hereby created a conservation overlay Zone District designated as Hilltop Heritage Conservation Overlay District CO-1.

B. Limitation on the Establishment of Zone Lots in the Overlay District

Any zone lots in this overlay Zone District that existed on July 21, 2000, may be amended or subdivided only if each of the zone lots that are created or result therefrom is not less than 75 feet wide at any street (Side Street or Primary Street) setback line for structures and are not less than 9,300 square feet in lot size.

C. Exceptions Inapplicable

The exceptions from zone lot width and area requirements for zone lots in Section 1.2.3.3, Flag Zone Lots, shall not apply in this overlay Zone District, provided however, zone lots containing at least 27,900 square feet existing on March 7, 2000, may be amended into zone lots in compliance with the zone lot width reduction for flag lots contained in Section 1.2.3.3, Flag Zone Lots, if the resultant zone lots contain at least 9,300 square feet.

9.4.3.7 Curtis Park Conservation Overlay District (CO-2)

A. Creation

There is hereby created a Conservation Overlay District designated as the Curtis Park Conservation Overlay District.

B. Intent

Accommodate detached accessory structures in a manner that respects the character of the Curtis Park neighborhood.

C. Applicability

This Curtis Park Conservation Overlay District shall apply only to zone lots zoned to an -RH Zone District.

3. Shallow Lot Standards

a. Applicability

- i. Zone lots established prior to July 10, 2015 where at least one side interior or side street zone lot line is 90 feet or less deep, measured from the intersection of the primary street zone lot line and a side interior or side street zone lot line to the intersection of a zone lot line opposite the primary street.

b. Standards

- i. Rooftop and/or Second Story Decks are allowed in 100% of zone lot depth.
- ii. The following underlying zone district primary building form height standards applicable in the front 65% of zone lot depth shall apply to 100% of zone lot depth:
 - a) Height in stories;
 - b) Height in feet;
 - c) Allowable height increase; and
 - d) Bulk plane vertical height at side interior and side street zone lot line.

E. Accessory Building Form Standards Applicable to Detached Accessory Dwelling Unit Building Form Only

1. Side Interior Setback

- a. The minimum side interior setback shall be 0 feet.
- b. Side interior setbacks less than 5 feet may be subject to more restrictive building and fire code review.

9.4.3.9 **Potter Highlands Conservation Overlay (CO-4)**

A. **Creation**

There is hereby created a Conservation Overlay District designated as the Potter Highlands Conservation Overlay District.

B. **Intent**

To apply additional building form standards that are consistent with the established character of the Potter Highlands Historic District.

C. **Applicability**

This Potter Highlands Conservation Overlay shall apply only to those areas designated as CO-4 on the Official Zone Map.

D. **Primary Building Form Standards Applicable to Urban House, Duplex, and Tandem House Building Forms**

1. **Side Interior Setbacks**

- a. For zone lots greater than 30 feet and up to 40 feet in width, the minimum side interior setback shall be 5 feet.

2. **Bulk Plane Vertical Height at Side Interior and Side Street Zone Lot Lines**

- a. For zone lots 30 feet or less in width, the maximum bulk plane vertical height at the side interior and the side street zone lot line in the front 65% of the zone lot shall be 15 feet.
- b. For zone lots greater than 30 feet in width, the maximum bulk plane vertical height at the side interior and the side street zone lot line in the front 65% of the zone lot shall be 13 feet.

3. Rooftop Decks

- a. Rooftop deck on roof of second story or above
 - i. Any unenclosed deck, patio, terrace, porch, exterior balcony, or similar unenclosed building element located on the roof of the second story or on the roof of any story above the second story of a structure shall be prohibited in 100% of zone lot depth.
- b. Rooftop deck on roof of ground story
 - i. Any unenclosed deck, patio, terrace, porch, exterior balcony, or similar unenclosed building element located on the roof of the ground story of a structure shall be permitted in the front 65% of zone lot depth.

4. Flat Roof Height Limit and Bulk Plane Exception

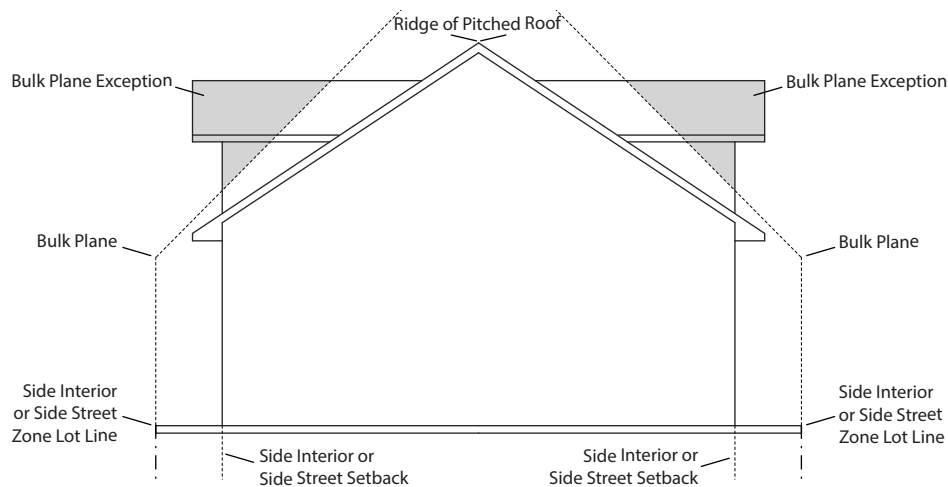
- a. In the front 65% of zone lot depth:
 - i. Flat Roof structures shall have a maximum height of 25 feet.
 - ii. Bulk Plane shall not apply to structures having a Flat Roof.
- b. In the rear 35% of zone lot depth:
 - i. Flat roof structures shall have a maximum height of 14 feet.
 - ii. Bulk Plane shall not apply to structures having a Flat Roof.

5. Bulk Plane Exception

Any portion of structures extending through and exceeding bulk plane standards shall be subject to the following limitations:

- a. The highest point of an exception shall not exceed the height of the ridge of the pitched roof. (See Figure 9.4-1)

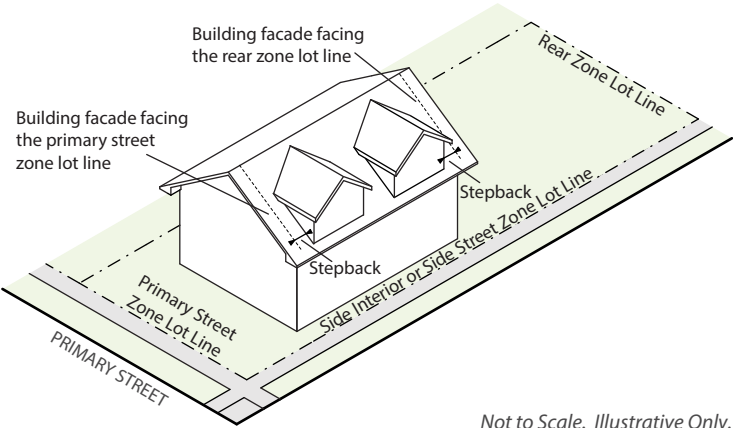
Figure 9.4-1



Not to Scale. Illustrative Only.

- b. An exception shall contain at least one window that faces a side interior or side street zone lot line.
- c. An exception may only project through and exceed bulk plane standards in the front 65% of zone lot depth.
- d. An exception shall not have a Flat Roof.

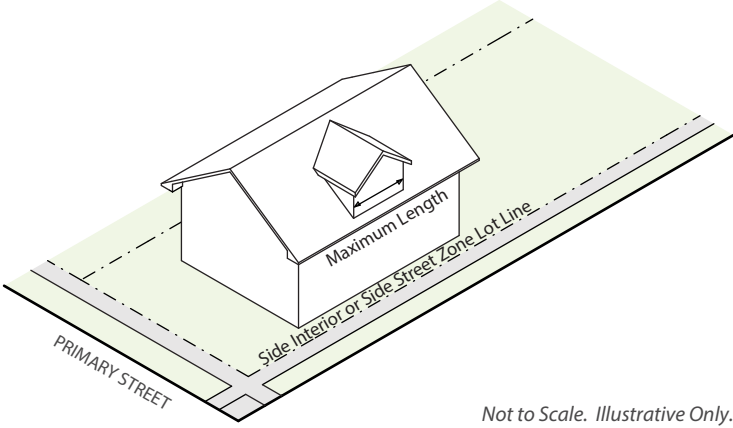
- e. An exception's roof overhangs shall not exceed 3 feet, measured perpendicular from the exterior wall of the exception to the edge of the roof overhang.
- f. An exception shall step back a minimum of 5 feet from the building facade located between an exception and the primary street zone lot line, measured perpendicular from an exception to the building facade. Roof overhangs may encroach into the setback. (See Figure 9.4-2)
- g. An exception shall step back a minimum of 3 feet from the building facade located between an exception and the rear zone lot line, measured perpendicular from the exception to the building facade. Roof overhangs may encroach into the setback. (See Figure 9.4-2)
- h. Figure 9.4-2



Not to Scale. Illustrative Only.

- i. The maximum length of an individual exception shall be 12 feet, measured parallel to the building facade facing the side interior or side street zone lot line. Roof overhangs shall be excluded from the calculation of maximum length. (See Figure 9.4-3)

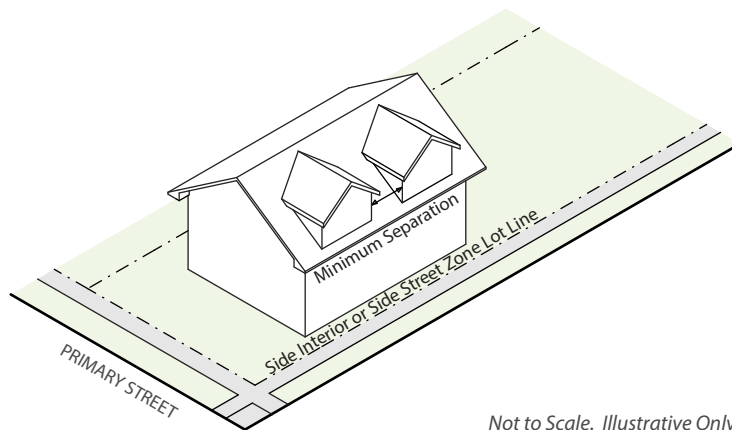
Figure 9.4-3



Not to Scale. Illustrative Only.

- j. The minimum separation between exceptions shall be 4 feet, measured parallel to the building facade facing the side interior or side street zone lot line. Roof overhangs shall be excluded from the calculation of minimum separation. (See Figure 9.4-4)

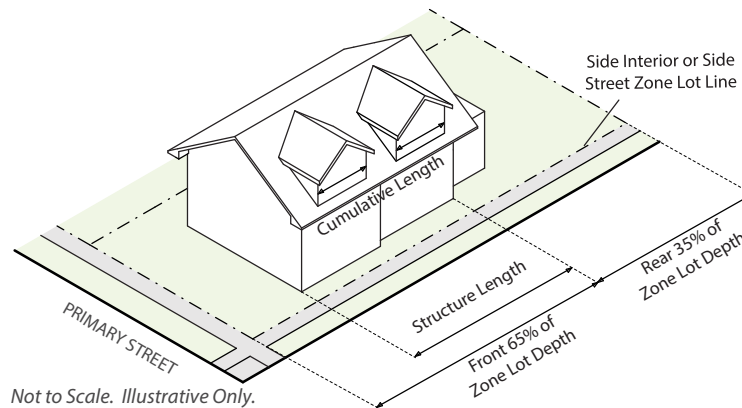
Figure 9.4-4



Not to Scale. Illustrative Only.

- k. The maximum cumulative length of all exceptions shall not exceed 50% of the overall structure length facing the side interior or side street zone lot line within the front 65% of zone lot depth. Maximum cumulative length shall be calculated using the sum of the length of all exceptions divided by the structure length in the front 65% of zone lot depth facing the side interior or side street zone lot line. (See Figure 9.4-4.)

Figure 9.4-5



Not to Scale. Illustrative Only.

E. Primary Building Form Standards Applicable to Structures Containing Two Unit Dwelling Uses

1. Applicability

- a. Two Unit Dwelling uses legally established and maintained prior to July 10, 2015 shall be considered conforming uses and shall not be subject to the zone lot standards in this subsection 9.4.3.9.E. A structure containing such a Two Unit Dwelling use may be modified or demolished and rebuilt in conformity with the building form standards of the underlying zone district, provided:
- i. The zone lot shall not be reduced, expanded, or enlarged, and
 - ii. The number of dwelling units on the zone lot shall not be increased above the number of dwelling units that existed when the use was legally established.
- b. Two Unit Dwelling uses established after July 10, 2015 shall be subject to the standards in this subsection 9.4.3.9.E.

- 2. **Zone Lot Standards**
 - a. **Zone Lot Size**
The minimum zone lot size shall be 5,500 square feet.
 - b. **Zone Lot Width**
The minimum zone lot width shall be 50 feet.

F. Accessory Building Form Standards Applicable to Detached Accessory Dwelling Unit Building Form Only

- 1. **Side Interior Setbacks**
 - a. The minimum side interior setback shall be 0 (zero) feet.
 - b. Side interior setbacks less than 5 feet may be subject to more restrictive building and fire code review.

SECTION 9.4.4 USE OVERLAY DISTRICTS (UO-)

9.4.4.1 Purpose

Use Overlay districts are a vehicle to permit or prohibit specific land uses in delineated parts of the city that otherwise are included in a variety of underlying Zone Districts and portions of Zone Districts. The purpose of the Adult Use and Billboard Use overlay Zone Districts created herein is to maintain the status quo of entitlement relating to the establishment, maintenance, and operation of adult uses and billboard uses as those rights existed before June 25, 2010. The purpose of the Historic Structure Use Overlay District is to encourage the continuing preservation and adaptive re-use of landmark and historic structures. Because variation of permitted uses in an underlying Zone District is most appropriately the focus of a legislative rezoning or an amendment to the underlying Zone District, future application of the use overlay Zone Districts created herein is strictly limited and the establishment of new use overlay Zone Districts is prohibited.

9.4.4.2 Modification of Underlying Zone District Standards

A. Modification of Permitted Uses and Use Limitations Allowed

- 1. A Use Overlay District may be used to add to the specific permitted uses in the underlying Zone District, or prohibit specific permitted uses in the underlying district.
- 2. Use limitations otherwise applicable to permitted uses in the underlying Zone District may be modified.

B. Applicable Standards -- Modification Not Allowed

All of the provisions of the underlying Zone District shall be in full force and effect, and shall not be modified by the provisions of the applicable overlay Zone District.

9.4.4.3 Use Overlay Districts Established

The following Use Overlay Districts are established:

USE OVERLAY DISTRICT NAME	ZONING MAP DESIGNATOR
Adult Use Overlay District	UO-1
Billboard Use Overlay District	UO-2
Historic Structure Use Overlay District	UO-3

9.4.4.4 Limitation on Applicability of Use Overlay Zone Districts

- A. Except for the three use overlay Zone Districts expressly established in Section 9.4.4.6, 9.4.4.7, and 9.4.4.8 below, no new use overlay Zone Districts may be established after June 25, 2010.