



Denver Zoning Code Text Amendment
Cherry Creek East Commercial Mixed Use Design Overlay District (DO-9)
Cherry Creek East Residential Design Overlay District (DO-10)
CITY COUNCIL DRAFT - 1/3/2023

This document is a draft of a proposed text amendment to create two overlay zone districts for the Cherry Creek East neighborhood bounded by S. Steele Street, E. Cherry Creek North Drive, E. Alameda Avenue, S. Colorado Boulevard, and E. 1st Avenue. This draft follows a multi-year process led by the Cherry Creek East association with assistance from City Council District 10 and consulting services from Richard (Dick) Farley, AIA and Ellen Ittelson (both former CPD staff members). Councilman Chris Hinds has requested this text amendment to establish the Design Overlays (DO) and a map amendment to apply the overlays as follows:

- Cherry Creek East Commercial Mixed Use Design Overlay District (DO-9): Applies to existing and rezoned Mixed Use (MX) and Residential Mixed Use (RX) zone districts. The overlay proposes 5' Primary and Side Street Setbacks, but allows a 0' setback where an Open Space alternative is used. The overlay also defines three Upper Story Setbacks and allows an Open Space alternative for the uppermost setback. Finally, the overlay applies the same Limitation on Visible Parking Above Street Level as exists in the River North Design Overlay (DO-7) and allows an alternative for integrated facade design and adaptable parking floors.
- Cherry Creek East Residential Design Overlay District (DO-10): Applies to existing and rezoned Row House (RH) zone districts. The overlay modifies the Pedestrian Access Building Element to require an Unenclosed Porch be located along the Primary or Side Street; increases the percentage of live planting material from 50% to 60% while requiring 1 deciduous canopy tree be planted for every 25' of linear frontage; and requires a minimum of two outdoor lighting fixtures for each Dwelling Unit.

Redline Document Conventions

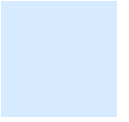
- Text in red underline is proposed new language.
- Text in ~~red strikethrough~~ is proposed deleted language.
- Only pages with changes relevant to this text amendment are included in the review file (with the exception of a few pages inserted for context). You may wish to look at other sections for additional context.
- While efforts are made to ensure document quality, cross-referenced section numbers, figure numbers, page numbers, and amendment numbers may appear incorrect since both new and old text appears in a draft. These will be corrected in the final, "clean" version of the text amendment that is filed for adoption by City Council.
- Additionally, please note that coordination will continue throughout the process to ensure constancy of approach and administration with other ongoing text amendments.

Visit www.denvergov.org/textamendments to learn more about this proposed text amendment. Please send any questions or comments to Libby Kaiser at Libby.Kaiser@denvergov.org.

WRITTEN COMMENTS WILL BE PROVIDED TO THE PLANNING BOARD AS FOLLOWS:

Written comments received by 5 p.m. 9 days prior to the Planning Board Public Hearing will be attached to the staff report that is provided to the Board. Written comments received after that time and prior to 12 p.m. (noon) on the day before the Hearing will be emailed regularly to the Board; hard copies of these comments also will be distributed to the Board at the Hearing. Written comments received after 12 p.m. (noon) on the day before the Hearing will not be distributed to the Board; to ensure these comments are considered by the Board, please submit them to the Board during the Hearing.

In addition to written comments, interested persons and organizations may express their concerns or support to Planning Board at the public hearing. For the latest information on how to participate, please visit: denvergov.org/planningboard



ARTICLE 9. SPECIAL CONTEXTS AND DISTRICTS

in a design overlay zone district are considered zoning text amendments subject to the review procedures stated in Section 12.4.11, Text Amendments.

B. Modification of Underlying Zone District Standards

1. Modification of Permitted Uses and Use Limitations Not Allowed

A Design Overlay District shall not be used to add to the specific permitted uses in the underlying zone district, nor shall it be used to prohibit specific permitted uses in the underlying district, nor shall it be used to add, revise, or delete use limitations applicable to specific permitted uses in the underlying zone district.

2. All Other Applicable Standards -- Modification Allowed

All of the provisions of the underlying zone district shall be in full force and effect, unless such provisions are specifically varied by the provisions of the applicable design overlay zone district, in which case the standard in the design overlay zone district shall apply.

9.4.5.3 Design Overlay Districts Established

The following Design Overlay Districts are established:

DESIGN OVERLAY DISTRICT NAME	ZONING MAP DESIGNATOR
Uptown Design Overlay District	DO-1
Washington Street Design Overlay District	DO-2
Lafayette Street Design Overlay District	DO-3
Side Interior Setback Design Overlay District	DO-4
South Sloan’s Lake Design Overlay District	DO-5
Peña Station Next Design Overlay District	DO-6
River North Design Overlay District	DO-7
Active Centers and Corridors Design Overlay District	DO-8
<u>Cherry Creek East Mixed Use Design Overlay District</u>	<u>DO-9</u>
<u>Cherry Creek East Residential Design Overlay District</u>	<u>DO-10</u>

9.4.5.4 Effect of Approval

A. Official Map Designator

Each Design Overlay District shall be shown on the official map by an “DO-” designator and an appropriate number placed after the underlying zone district designation.

B. Limitation on Permit Issuance

No zoning permit for development or a use within an Design Overlay District shall be issued by the City unless the development or use meets the standards set forth in this Section, as applicable, and the applicable approved Rules and Regulations.

9.4.5.5 Uptown Design Overlay District (DO-1)

A. Creation

1. There is hereby created an design overlay district designated as the Uptown Design Overlay District.
2. As applied on the Official Zoning Map to properties retaining underlying zone district designations pursuant to Former Chapter 59, DO-1 Uptown Design Overlay District’s standards shall not be applicable until such properties are rezoned (through an Official Map Amendment) to an underlying zone district pursuant to this Code.

- b. Applicability**

This Section 9.4.5.11.F.2 applies to all Structures in the DO-7 district that are greater than 5 stories or 70 feet in height (excluding permitted height exceptions) and include structured parking above Street Level, except where an exceptionalalter-native has been used as set forth in Section 9.4.5.11.G.2.
- c. Allowance**
 - i. Uses that meet the Limitation on Visible Parking Above Street Level shall occupy floor area above Street Level for a minimum depth of 15 feet from the Primary or Side Street frontage (may include the depth of recessed balcony or terrace areas and insets for building articulation up to 10 feet in depth) to wrap structured parking.
 - ii. Uses that meet the Limitation on Visible Parking Above Street Level shall include all primary uses, but shall not include Parking Spaces or Parking Aisles for the minimum specified percentage of the Primary or Side Street-facing Zone Lot Width.

3. Street Level Active Non-Residential Use in the DO-7 District

- a. Intent**

To promote activity on the street and sidewalk, enhance safety and encourage a vibrant urban environment with uses accessible to the general public.
- b. Applicability**

This Section 9.4.5.11.F.3 applies to all Structures in the DO-7 district that are greater than 3 stories or 45 feet in height (excluding permitted height exceptions) and are located on Zone Lots that are:

 - i. Greater than 18,750 square feet in Zone Lot Size; or
 - ii. Greater than 150 feet in Zone Lot Width.
- c. Allowance**
 - i. Street Level active non-residential uses include all permitted primary uses except the following:
 - a) Dwelling, Single Unit;
 - b) Dwelling, Two Unit
 - c) Dwelling, Multi-Unit;
 - d) Dwelling, Live / Work;
 - e) Automobile Services, Light;
 - f) Mini-storage Facility; or
 - g) Wholesale Trade or Storage, Light.
 - ii. Street Level active non-residential uses include all permitted accessory uses except the following:
 - a) Accessory uses associated with primary uses prohibited by Section 9.4.5.11.F.3.c.i;
 - b) Outdoor Storage, General;
 - c) Outdoor Storage, Limited;
 - d) Car Wash Bay Accessory to Automobile Services or Hotel Uses; or
 - e) Drive Through Facility Accessory to Eating/Drinking Establishments and to Retail Sales, Service, and Repair Uses.

9.4.5.13 **Cherry Creek East Mixed Use Design Overlay District (DO-9)**

A. Creation

There is hereby created a design overlay district designated as the Cherry Creek East Mixed Use Design Overlay District (DO-9).

B. Intent

The intent of the DO-9 Overlay Zone District is to enhance and promote a quality urban environment with a vibrant sense of place, including access to generous pedestrian zones and public space with streets that prioritize the pedestrian realm as a defining element of neighborhood character with buildings that relate to pedestrians in scale and activity.

C. Applicability

The provisions of this DO-9 Overlay Zone District shall apply only to those areas within Residential Mixed Use (RX) and Mixed Use (MX) zone districts that are designated with the DO-9 Overlay Zone District on the Official Zone Map.

D. Primary Building Form Standards Within Overlay District

1. Intent for Overlay Building Form Standards

- a. To promote Street Level setbacks and open space areas that extend the public purpose and accessibility of the sidewalk.
- b. To reduce the perceived mass and scale of buildings to preserve access to daylight and promote creative building designs.
- c. To promote structured parking designs above the Street Level that are compatible with the character and quality of the overall building facade and also allow future uses other than parking, such as conversion of structured parking to residential or commercial uses.

2. Applicability

All Primary Structures using the General and Shopfront Building Forms in the DO-9 Overlay Zone District shall comply with the Building Form Standards stated in this Section 9.4.5.13.D.

3. General Standards

Except as modified in this Section 9.4.5.13.D, the district-specific Building Form Standards for Primary Structures set forth in the Underlying Zone District shall apply.

4. Building Forms Allowed

All building forms allowed in the Underlying Zone District shall be allowed in the DO-9 Overlay Zone District.

HEIGHT	DO-9 Overlay District	
<u>See Underlying Zone District for All Applicable Height Standards</u>		
SITING	DO-9 Overlay District	
<u>See Underlying Zone District for Additional Applicable Siting Standards Not Listed Below</u>		
REQUIRED BUILD-TO		
Primary Street (min/max Build-To range)	5'/15'	Structures using the Open Space Alternative set forth in Section 9.4.5.13.F.3: 0'/10'
Build-to Alternatives	<u>See Section 9.4.5.13.F.2</u>	
SETBACKS		
Primary and Side Street (min)	5'	
Primary and Side Street Setback Alternative	<u>See Section 9.4.5.13.F.3</u>	
DESIGN ELEMENTS	DO-9 Overlay District	
<u>See Underlying Zone District for Additional Applicable Design Elements Standards Not Listed Below</u>		
BUILDING CONFIGURATION		
Limitation on Visible Parking Above Street Level on Zone Lots greater than 13,000 square feet (min % of Primary and Side Street-facing Zone Lot Width)	70%	<u>See Section 9.4.5.13.E.1</u>
Alternative to Limitation on Visible Parking Above Street Level for Integrated Facade Design and Adaptable Parking Floors	<u>See Section 9.4.5.13.F.4</u>	
UPPER STORY SETBACKS BY BUILDING HEIGHT	Building is 6 Stories or Less	Any Portion of a Building is Greater than 6 Stories
Primary and Side Street Upper Story Setback above 3 stories or 45' (min % of zone lot width/min setback)	na	70% / 10'
Primary and Side Street Upper Story Setback above 9 stories or 125' (min % of zone lot width/min setback)	na	70% / 15'
Alternative to Primary and Side Street Upper Story Setback above 9 stories or 125'	na	<u>See Section 9.4.5.13.F.5</u>
USES	DO-9 Overlay District	
<u>See Underlying Zone District for All Applicable Uses</u>		

E. Supplemental Design Standards for the DO-9 Overlay District

1. Limitation on Visible Parking Above Street Level in the DO-9 District

- a. **Intent**
To minimize the visibility and impacts of structured parking and promote visual interest on upper story building facades.
- b. **Applicability**
This Section 9.4.5.13.E.1 applies to all Primary Structures using the General and Shopfront Building Forms in the DO-9 district that are on Zone Lots greater than 13,000 square feet and include structured parking above the Street Level, except where an alternative has been used as set forth in Section 9.4.5.13.F.4.
- c. **Allowance**
 - i. Uses that meet the Limitation on Visible Parking Above Street Level shall occupy floor area above Street Level for a minimum depth of 15 feet from the Primary or Side Street frontage (may include the depth of recessed balcony.

or terrace areas and insets for building articulation up to 10 feet in depth) to wrap structured parking.

- ii. Uses that meet the Limitation on Visible Parking Above Street Level shall include all permitted Primary Uses, but shall not include Parking Spaces or Parking Aisles for the minimum specified percentage of the Primary or Side Street-facing Zone Lot Width.

F. Design Standard Alternatives in the DO-9 District

1. Applicability

All Primary Structures using the General and Shopfront Building Forms in the DO-9 Overlay Zone District shall comply with the Building Form Standards stated in this Section 9.4.5.13.F.

2. Required Build-to Alternatives in the DO-9 District

a. Intent

To help define the public realm and enhance the visual quality of the built environment where it is not possible to define the street and public sidewalk edge with building facades.

b. Allowance

The following alternatives may be used singularly or in combination as alternatives to a required Build-To standard in the DO-9 district and may count toward the required Build-To no more than as described in the table below, provided all alternatives meet the requirements stated in Section 13.1.5.7.E:

REQUIRED BUILD-TO ALTERNATIVES								
BUILDING FORM	PERMANENT OUTDOOR PATIO SEATING (MAX INCREASE IN BUILD-TO RANGE)	PRIVATE OPEN SPACE (MAX % OF BUILD-TO)	GARDEN WALL (MAX % OF BUILD-TO)	GARDEN WALL WITH COVERED SEATING FOR PEDESTRIANS (MAX % OF BUILD-TO)	PERGOLA (MAX % OF BUILD-TO)	ARCADE (MAX % OF BUILD-TO)	COURT-YARD (MAX % OF BUILD-TO)	VEHICLE ACCESS (MAX FEET OF BUILD-TO)
<u>General and Shopfront Building Forms</u>	na	25%	25%*	30%*	30%*	100%	na	na

*If used in combination with each other, the garden wall, garden wall with covered seating for pedestrians and pergola alternatives may count toward no more than 30% of required Build-To.

3. Primary and Side Street Setback Alternative for Provision of Private Open Space in the DO-9 District

a. Intent

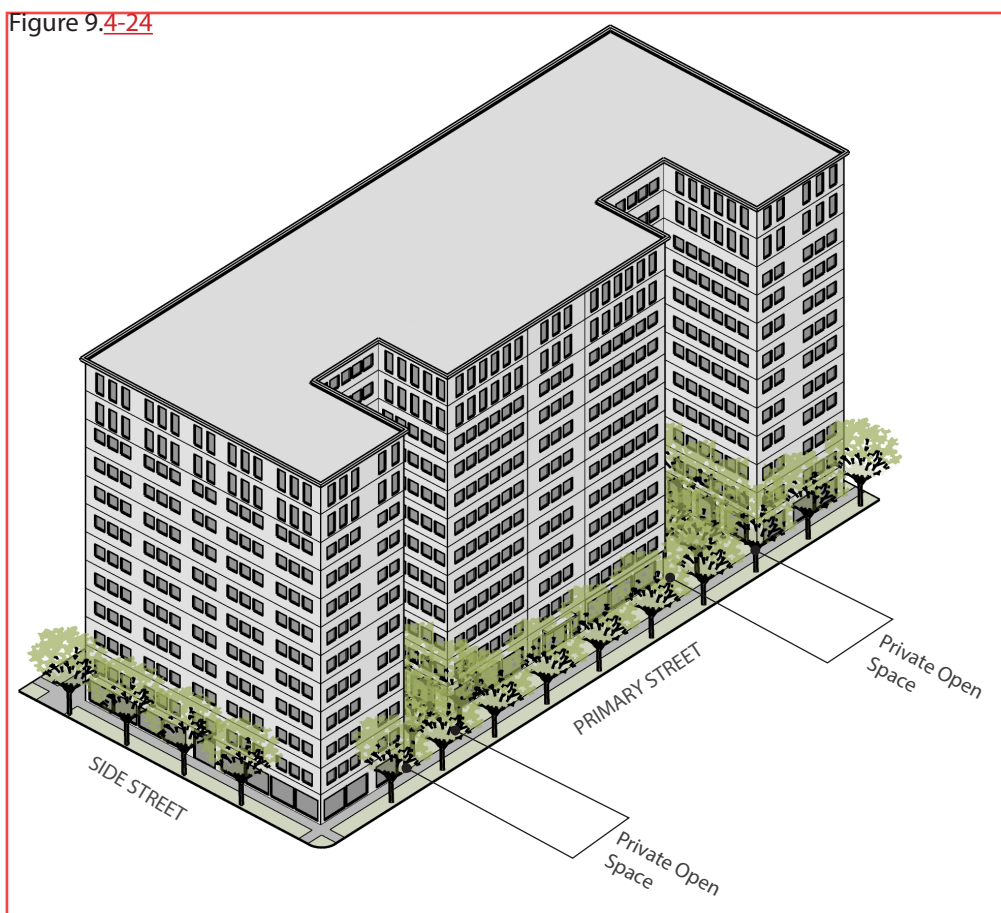
To help extend the public realm, encourage pedestrian activity and allow for a more visually interesting streetscape.

b. Allowance

- i. Where a minimum 7 percent of the gross area of a Zone Lot is provided as Private Open Space meeting the rules of measurement set forth in Section 13.1.6.1.B, all Primary Structures on the Zone Lot shall not be required to meet the minimum Street Level Primary and Side Street Setbacks. See Figure 9.4-24.

- ii. The minimum percentage of Private Open Space provided to meet this Required Street Level Setback Alternative shall not count toward the minimum percentage of Private Open Space required to meet the Primary and Side Street Upper Story Setback Above 9 Stories Alternative described in Section 9.4.5.13.F.5.

For example: A Zone Lot would need to contain the minimum percentage of Private Open Space set forth in this Section 9.4.5.13.F.3 (7%) plus the minimum percentage of Private Open Space set forth in Section 9.4.5.13.F.5 (3%) to obtain both the Primary and Side Street Setback Alternative and the Primary and Side Street Upper Story Setback Above 9 Stories Alternative (7%+3%=10% required Private Open Space to obtain both alternatives).



4. Limitation on Visible Parking Above Street Level Alternative for Integrated Facade Design and Adaptable Parking Floors

a. Intent

To ensure structured parking designs that are compatible with the character and quality of the overall building facade and contain floors that are adaptable to non-parking Primary Uses where it is not possible to wrap or screen structured parking with other Uses.

b. Allowance

Where 100% of a street-facing building facade containing structured parking meets all the standards set forth in paragraphs i-iv below, the resulting integrated facade design and adaptable parking floors may be used as an alternative to the Limitation on Visible Parking Above Street Level in the DO-9 district. See Figure 9.4-25.

i. Where the alternative is used, street-facing facades containing structured parking shall be integrated into the overall facade design through use of:

- a) Similar building materials to those used on adjacent facade areas that do not contain structured parking; and
- b) Facade articulation and fenestration patterns that integrate with portions of the building facade that do not contain structured parking.

ii. Where the alternative is used, street-facing facades containing structured parking shall minimize the visibility of parking areas through use of:

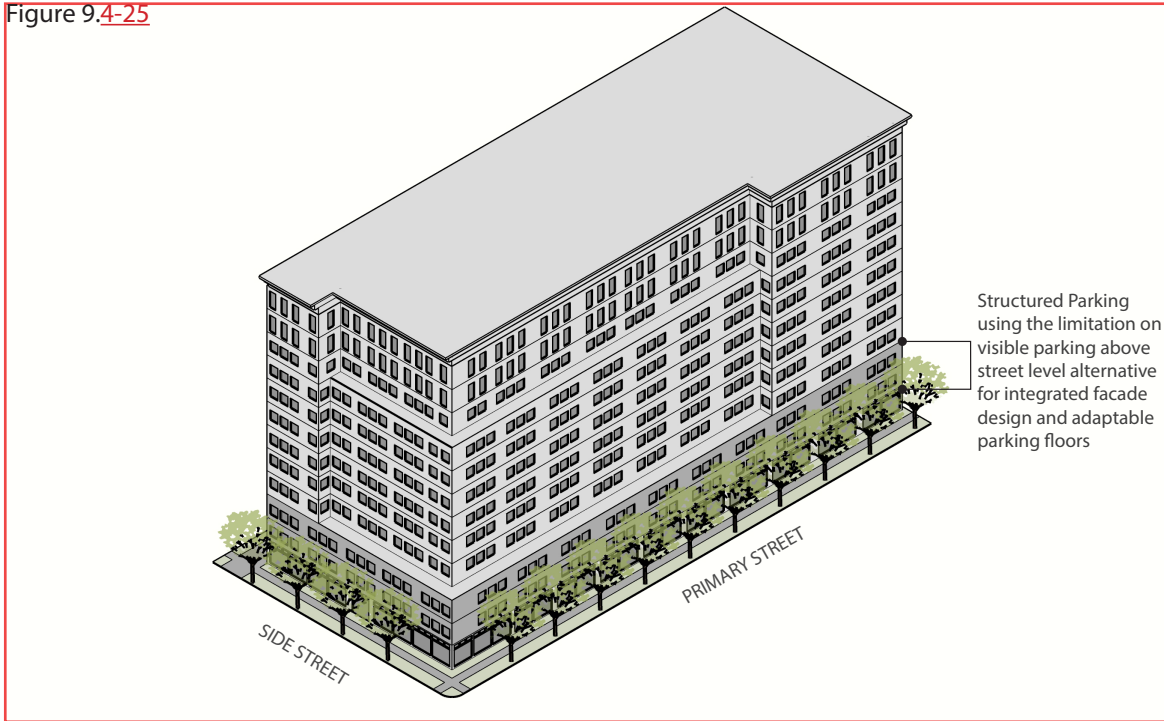
- a) Non-transparent facade materials for a minimum height of 4 feet from the finished floor of each story; and
- b) Fully-shielded LED or other lighting not exceeding 6,500 lumens behind a street-facing facade.

iii. Where the alternative is used, street-facing facades containing structured parking shall be designed with parking floors that are adaptable to other uses for a minimum depth of 30 feet from the Primary or Side Street-facing building facade through use of:

- a) A minimum 12-foot floor-to-floor height, measured from the upper surface of the floor to the upper surface of the floor or roof next above; and
- b) Floor plates that are level except to the minimum extent required for proper drainage; and
- c) Structures that are constructed to accommodate loads associated with office buildings per the International Building Code.

iv. Where the alternative is used, Section 10.4.6.5 Parking Structure Design Standards shall apply in addition to the Standards set forth in this Section 9.4.5.13.F.4.

Figure 9.4-25



5. Primary and Side Street Upper Story Setback Above 9 Stories Alternative for Provision of Private Open Space in the DO-9 District

- a. **Intent**
To encourage provision of active, pedestrian-oriented courtyards and plazas while allowing flexibility for creative building massing.
- b. **Allowance**
Where a minimum 3 percent of the gross area of a Zone Lot is provided as Private Open Space meeting the rules of measurement set forth in Section 13.1.6.1.B, all Structures on the Zone Lot are not required to meet the Primary and Side Street Upper Story Setback Above 9 Stories.

9.4.5.14 Cherry Creek East Residential Design Overlay District (DO-10)

- A. **Creation**
There is hereby created a Design Overlay District designated as the Cherry Creek East Residential Design Overlay District.
- B. **Intent**
To promote pedestrian-friendly Street frontages and enhance neighborhood safety in portions of residential neighborhoods that are comprised primarily of Single Unit, Two Unit, or Row House development.
- C. **Applicability of Overlay District**
The provisions of this DO-10 Overlay Zone District shall apply only to those areas within Single Unit (SU), Two Unit (TU), and Row House (RH) zone districts that are designated with the DO-10 Overlay Zone District on the Official Zone Map.

D. Primary Building Form Standards Within Overlay District

1. Applicability of Primary Building Form Standards

All Primary Structures using the Urban House, Duplex and Row House Building Forms in the DO-10 Overlay Zone District shall comply with the Building Form Standards stated in this Section 9.4.5.14.D.

2. General Standards

Except as modified in this Section 9.4.5.14.D, the district-specific Building Form Standards for Primary Structures set forth in the Underlying Zone District shall apply.

3. Building Forms Allowed

All building forms allowed in the Underlying Zone District shall be allowed in the DO-10 Overlay Zone District.

4. Pedestrian Access, Primary or Side Street Standards

a. A minimum of one ground level Unenclosed Porch shall be required for each Dwelling Unit.

b. Each Unenclosed Porch shall:

i. Be a minimum depth of 6 feet between the street-facing building facade and Primary or Side Street Zone Lot Line, as measured perpendicular to the Zone Lot Line; and

ii. Have an upper walking surface with a minimum area of 48 square feet, inclusive of posts, railings, walls or other structural features, but excluding the depth of any above grade stairways at the Street Level connected to the Unenclosed Porch.

c. Required Unenclosed Porches for each Dwelling Unit may be combined if the resulting Unenclosed Porch meets the combined minimum area requirement set forth in 9.4.5.14.D.4.b.ii for all Dwelling Units served. For example, a single Unenclosed Porch with a minimum area of 144 square feet (48 square feet x 3) could serve three Dwelling Units in a Row House Building Form.

E. Supplemental Design Standards for the DO-10 Overlay District

1. Site Landscaping

a. Applicability

i. Development in the DO-10 overlay district shall be landscaped according to Section 9.4.5.14.E.1.b Minimum Landscaping Standards in the DO-10 Overlay District in lieu of Section 10.5.4.2.B Minimum Landscaping Standards.

ii. "Open areas" are defined in Section 10.5.4.2.A.4 Open Areas Defined and are located within a required minimum setback.

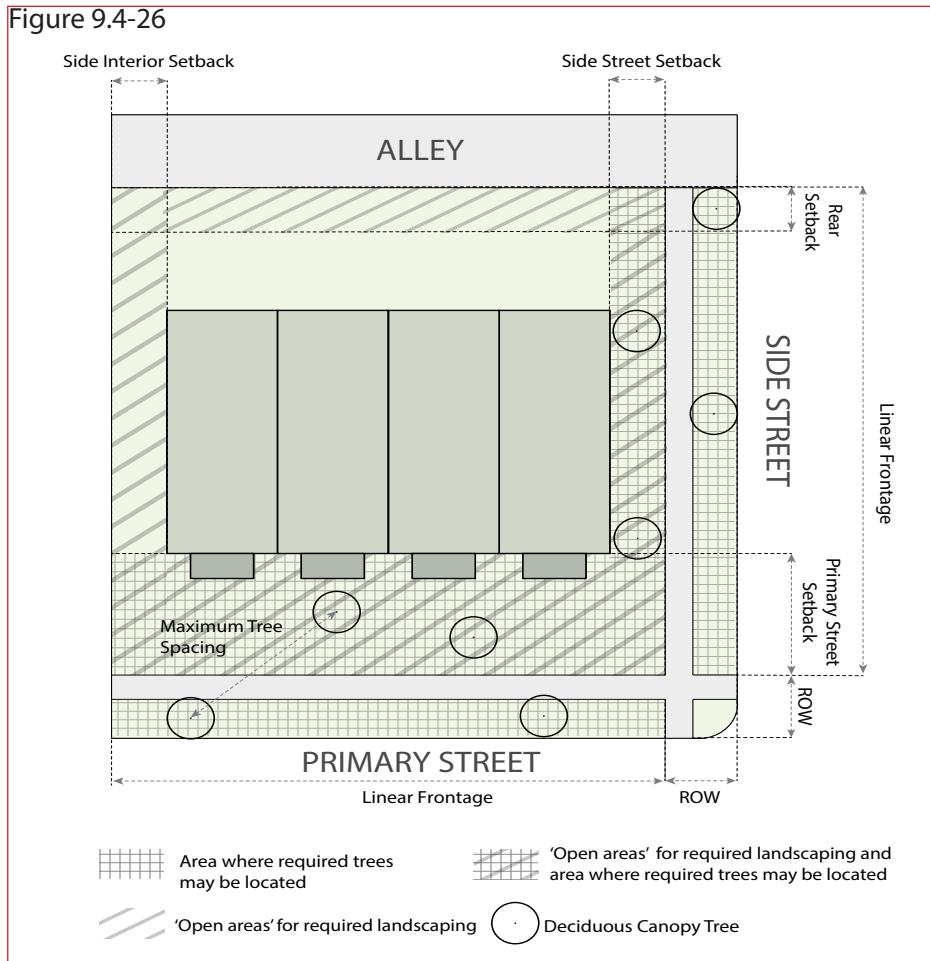
b. Minimum Landscaping Standards in the DO-10 Overlay District

i. A minimum of 60% of the applicable "open areas" shall be landscaped with live planting material and the remaining 40% shall be landscaped with either live or non-live landscaping material, according to Section 10.5.4.6 Landscaping Material Standards. See Figure 9.4-26.

ii. Existing trees and shrubs located in the required landscape areas shall be credited towards this requirement, provided they meet Section 10.5.4.6 Landscaping Material Standards.

iii. On each Zone Lot, one deciduous canopy tree shall be planted for every 25 feet of linear frontage. Spacing of trees may vary, but the maximum spacing is 40 feet. See Figure 9.4-26.

- a) Required trees shall meet the tree requirements set forth in Section 10.5.4.6 Landscaping Material Standards, and shall be located in a required minimum Primary or Side Street Setback or in the abutting street right-of-way (ROW).
- b) Existing trees located in the required minimum Primary or Side Street Setback or in the abutting street right-of-way (ROW) shall be credited towards this requirement, provided they meet the tree requirements set forth in Section 10.5.4.6 Landscaping Material Standards.



2. **Outdoor Lighting**

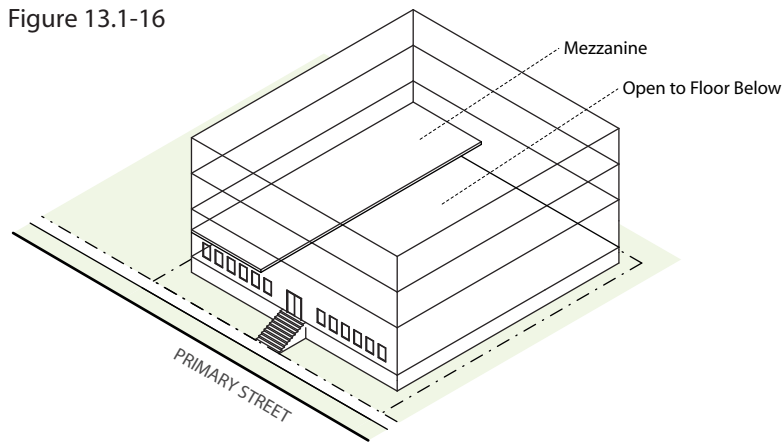
a. **Applicability**

Development in the DO-10 overlay district shall provide outdoor lighting according to Section 9.4.5.14.E.2.b Design Standards for Outdoor Lighting in the DO-10 Overlay District in addition to Division 10.7 Outdoor Lighting.

b. **Design Standards for Outdoor Lighting in the DO-10 Overlay District**

- i. A minimum of two outdoor light fixtures shall be provided for each Dwelling Unit.
- ii. One of the required light fixtures shall be located in the front 50% of the Zone Lot depth.
- iii. One of the required light fixtures shall be located in the rear 50% of the Zone Lot depth.

Figure 13.1-16



5. Parking Structure Stories

a. Intent

To promote a high-quality pedestrian experience along the Street Level of a structure containing vehicle parking by providing an exception to the allowed height in stories, but not to height in feet.

b. Applicability

This section 13.1.3.3.B.5 shall apply to multi-story structures that contain both vehicle parking and at least one primary Street Level active use other than Garage Parking.

c. Standards

i. If no design standard alternatives [set forth in the Underlying Zone District or any applicable Overlay Zone District](#) are used to meet any of the required Building Form Standards, and a structure meets the Street Level active use requirements of the Shopfront building form in the C-MS zone districts, then the structure may exceed the maximum height in stories allowed by the applicable Building Form by one additional story at such locations as:

- a) The structure contains vehicle parking and at least one other use, or
- b) The structure contains vehicle parking.

For example, in a 5-story zone district, a structure meeting the Street Level active use requirements may have 6 stories of vehicle parking, or 6 stories of a combination of vehicle parking and office uses. However, a structure may only have 5 stories at such locations as all of the stories contain office uses with no vehicle parking. Stories containing vehicle parking may be sandwiched between stories containing other uses. See Figure 13.1-17.