



Summary Findings – Accessory Dwelling “Pilot Project”

On October 7, 2015, the Raleigh City Council received a Petition of Citizen requesting initiation of a process to permit backyard cottages on properties within the Mordecai neighborhood area. City Council referred the request to City Administration for study, with a primary consideration being the possibility of the creation of new Overlay District.

STUDY AREA

For the purposes of this assessment, the area under consideration is that defined by the boundaries of the Mordecai Citizens Advisory Council. Roughly, the area consists of some 635 acres, bounded by the Norfolk-Southern Railroad right-of-way on the west and north, Atlantic Avenue and Brookside Drive on the east, and N. Boundary Street and Peace Street on the south.

Area Zoning

The CAC area encompasses a mix of zoning districts, within residential districts predominating. Most districts permitting non-residential uses are concentrated to the west and north along Capital Boulevard, and between Peace and Delway streets on the south. Small-scale retail development is also located on Wake Forest Road and portions of N. Blount Street. Only residential uses are permitted on most other properties. Most parcels east of Wake Forest Road are zoned R-10, while west of Wake Forest Road, except for a pocket of R-10 zoning centered Marshall Street, zoning is R-6. These base zoning designations not only determine site use, but also elements of built form, as UDO Building Types are limited by district.

An added consideration in the central and eastern parts of the CAC area is the presence of the Mordecai Neighborhood Conservation Overlay District (NCOD) and, on the west side of Brookside Drive, a portion of the Oakwood Park NCOD. Development in the overlays is subject to additional standards regulating minimum and maximum lot size and width, maximum building height, and, related to principal dwellings, minimum front setback. A summary of NCOD standards and a map of the associated districts are attached (Attachments A & B, respectively). NCOD standards may preclude certain Building Types, which could permit more than one residence on a single parcel, from certain properties within the Overlay areas.

ACCESSORY DWELLINGS - DISCUSSION TO DATE

Background

The Public Review Draft of the Unified Development Ordinance (UDO) contained provisions which would have allowed “Backyard Cottage” as a permitted Building Type in all Residential zoning districts and most Mixed Use districts. In addition to descriptive information, the section included standards regarding Lot Specifications (e.g., min. lot size, max. living area size), Building Setbacks, Height, and Vehicular Access. A copy of the section, as originally proposed, is attached (Attachment C).

The Public Review Draft of the UDO was released in April, 2011. In the following months, public comment included concerns regarding potential negative impacts on existing neighborhoods, should the provisions be approved. Those issues included:

- Incompatible form/ design:
 - Quality/ compatibility of development -- Lack of guarantee as to cottage building materials and quality of construction.
 - Height -- Potential for cottages effectively to be more than 2 stories on sloped lots, and rooftop patios/ parapets to be part of flat-roofed cottages resulting in the building in effect being more than 25 feet tall.
 - Privacy impacts -- Questions of placement/ proximity to next-door backyards and dwellings, affecting neighbors’ privacy (e.g., cottage doors and 2nd-story windows facing neighboring yards; minimum distance from same-lot house provided, but not from houses on adjoining properties).
 - Transition yards/ fences – lack of provisions requiring them in dense residential areas.
 - Parking -- On-site parking requirements could potentially increase curb cuts (impacting traffic movement) while expanding site impervious surfaces (impacting stormwater runoff).
- Incompatible use:
 - Encouraging proliferation of rental units -- There is a lack of assurance that cottages would not become rental units, coupled with the potential that both principal dwelling and cottage would both become rental [due to court ruling that owner-occupancy cannot be required; see [*City of Wilmington v. Hill*](#), 189 N.C. App. 173, 657 S.E.2d 670 (2008).] (On the other hand, North Carolina municipalities may restrict the number of unrelated persons living on a single parcel.)
 - Potential for essentially doubling site density, irrespective of zoning district designation.
 - Potential for increased light and noise.

The net effect of permitting cottages, many citizens felt, would be to encourage rental units over home ownership, which could destabilize neighborhoods, and decrease property values. In February, 2013, City Council voted to withdraw the proposed Building Type from the draft UDO; the UDO went on to approval in September, 2013, without its inclusion.

Subsequent Discussion

Citizen proponents of accessory dwellings, however, have continued to explore circumstances under which the building form might be permitted. In the fall of 2014, students and faculty of the NC State University School of Architecture presented the results of “The Mordecai Backyard Cottage Project,” which took a design-oriented approach to how accessory dwellings might physically fit into the Mordecai neighborhood. Components of the project also examined how other cities incorporated accessory dwellings into their respective zoning codes (see <https://design.ncsu.edu/ah+sc/?portfolio=the-mordecai-backyard-cottage-project>.)

EXISTING MULTI-DWELLING OPTIONS

The Unified Development Ordinance already permits more than one dwelling on a single lot or site, via provision of specific Building Types within specific districts (Article 1.4).

Two design options pertain to structures sharing the same roof:

Attached House permits two principal dwellings (i.e., duplex) on a lot. It is allowed by right in Residential-6 (R-6) and Residential-10 (R-10) districts, and most Mixed Use districts:

	<u>R-6</u>	<u>R-10</u>	<u>Mixed Use</u>
Min. Lot Size:	9,000 sf	6,000 sf	6,000 sf (DX: n/a)
Max. Height:	3 stories/ 40'	3 stories/ 40'	3 stories/ 40'

Advantages:

- Already allowed by right in respective districts. Lot size standards within the NCODs of the study area (see Attachment A) would accommodate this Building Type.
- Maximum density limited per respective districts.

Disadvantages:

- By definition, units must be contiguous.

Apartment building, defined as accommodating 3 or more dwelling units in a single building, is not permitted in Residential-6 (R-6) zoning, but is permitted in R-10 and most Mixed Use districts:

	<u>R-6</u>	<u>R-10</u>	<u>Mixed Use</u>
Min. Lot size:	--	15,000 sf	10,000 sf (DX: n/a)
Max. Height:	--	3 stories/ 45'	Per District

Advantages:

- Already allowed by right in respective districts.
- Maximum density limited per respective districts.

Disadvantages:

- By definition, units must be in one building.
- Opportunity restricted by minimum lot sizes. Within the Mordecai NCOD areas, maximum lot size standards would eliminate Apartment as a permitted Building Type in the R-10 base district.

A third option permits multiple free-standing units on a shared site:

Cottage Court, while defined in the UDO as an “Additional Housing Pattern” rather than Building Type, permits up to five dwellings at a single shared location. Cottage Courts too are allowed by right in Residential-6 (R-6) and Residential-10 (R-10) districts, as well as most Mixed Use districts.

	<u>R-6</u>	<u>R-10</u>	<u>Mixed Use</u>
Min. Lot size:	40,000 sf	22,000 sf	18,000 sf
Max. Height:	25'	25'	25'
Max. # of Dwellings (per min. area)	5	5	5
Min. # of Dwellings	(not specified)	(not specified)	(not specified)

Advantages:

- Already allowed by right in respective base zoning districts.
- Could permit just two residences on a single lot (in effect, principal dwelling and accessory dwelling).

Disadvantages:

- Opportunity restricted by minimum site size, minimum lot sizes, and required open space.
- Within the NCOD areas within the Mordecai CAC boundaries, minimum net site area standards would eliminate Cottage Court as a permitted Building Type on nearly all parcels.

Test Case: Mordecai

Attached is a series of tables and/ or maps indicating those properties in the Mordecai CAC area in which each of the above options are now permitted.

- Attachment E – Properties permitting Attached Houses
- Attachment F – Properties permitting Apartments
- Attachment G – Properties permitting Cottage Courts

Special Option – Health Care Structures

[N.C.G.S. 160A-383.5](#), which became effective October 1, 2014, permits by right the installation of “temporary family health care structures” as accessory dwellings on lots within any zoning district in which single-family detached dwellings are allowed. The structures are subject to multiple qualifications, among them, that they be assembled off-site, built to the standards of the State Building Code, transportable, and be no more than 300 square feet in size. They also cannot be placed on a permanent foundation, and must be removed no more than 60 days after being vacated. Additionally, they would be subject to all local ordinances (including zoning setbacks, height, etc.), and may also be subject to restriction under private covenants. A special use permit would not be required. Some North Carolina municipalities have amended their respective Codes to list the structures as a permitted use. In those cities which have not, including Raleigh, the provisions of the State statute automatically govern. Nonetheless, under the State legislation, **“health care structures” are now a legally-permitted accessory dwelling on all parcels in the study area**, provided statute provisions are met.

POTENTIAL ALTERNATIVE OPTIONS

The previous effort toward permitting backyard residences sought to create standards whereby by-right approval of the form/ use could be granted in nearly all UDO districts. However, citizen concerns over that approach suggest that, for accessory dwellings to be reconsidered, a different regulatory method is needed. Such approach would ostensibly narrow the specific circumstances/ criteria under which the use would be permitted.

Special Use Permit

The UDO provides that certain uses may be allowed in specified zoning districts, provided certain design and/ or performance standards are met. Review is by the Board of Adjustment through a public hearing of quasi-judicial format.

Ample precedent for such an approach is applied in the UDO, governing residential uses as diverse as Boardinghouse, Congregate Care, and Special Care Facilities.

Advantages:

- Use could be restricted to certain districts.
- Use could be required to meet specific, objective standards.
- Process provides opportunity for public dialogue, allowing fine-tuning of a given proposal.

Disadvantages:

- Would be permitted in any location meeting zoning/ site standards, without opt-in/ opt-out opportunities.
- Specific approval criteria required, addressing site development (e.g., setbacks, height, etc.) and use (e.g., restricting number of unrelated persons per parcel).
- Expense to petitioners (i.e., application fees, time in review).
- Added administration (i.e., processing and review of application, including Public Hearing).

Overlay District

Overlay districts, as stated in the UDO, aim “to apply regulations that achieve a specific purpose to a targeted area.” By definition they require designation of specified boundaries, through rezoning, and within which all provisions of the district apply. In the event of conflict with base district zoning, overlay provisions prevail.

The UDO groups current overlays into five categories: Environmental, Corridor, Character Protection, Transit, and Parking. Of those, ‘Character Protection’ most directly addresses built form—the most outward manifestation of ‘accessory dwelling’ as a site use.

Advantages:

- Use could be restricted to within spatially-defined areas, via opt-in rezoning.
- Use could be required to meet specific, objective standards.
- Process provides opportunity for public dialogue, allowing fine-tuning of a given proposal.
- Within rezoned area, use could be administered like any other form of development.

Disadvantages:

- Would be permitted in any location meeting zoning/ site standards, without opt-in/ opt-out opportunities.
- Specific approval criteria required, addressing site development (setbacks, height, etc.) and use (
- Added expense to property owners (i.e., application fees, time in review) and administrative requirements (i.e., processing of application through all review stages).

Either the Special Use Permit or Overlay District option would require development, approval, and application of use-specific standards for use approval. Such considerations might include:

- Overlay Designation
- Density
- Occupancy
- Access/ parking
- Form/ placement
- Transitions

As a baseline for discussion of those provisions, staff prepared a map study of properties within the Mordecai CAC which could accommodate an Accessory Dwellings, applying the final set of 'Backyard Cottage' standards previously presented to the Raleigh City Council (February 11, 2013). The map appears below, as Attachment H.

Design Standards

In adopting standards for permitting accessory dwellings, other cities have specified that a visual design relationship be in evidence between principal and accessory residences. Cited similarities range from building form (e.g., both structures having pitched roofs) to exterior materials (e.g., both structures having the same type/ color of siding). Recent action by the North Carolina State Legislature, however, limits such opportunity. [Senate Bill 25/Session Law 2015-86 Zoning/Design & Aesthetic Controls](#) removed local authority to regulate certain design elements for single and two-family dwellings. Such features include:

- Exterior building color,
- Type or style of exterior cladding material,
- Style or materials of roof structures or porches,
- Exterior nonstructural architectural ornamentation,
- Location or architectural styling of windows and doors, including garage doors,
- Number and types of rooms, and
- Interior layout of rooms.

However, the law specifically states that it is not applicable within local or National Register historic districts. Much of the Mordecai CAC area west of Wake Forest Road and south of the Norfolk Southern Railroad right-of-way comprises the Mordecai Place National Register Historic District (see Attachment I); within that area, it could be possible, then, to establish certain contextual design standards. Inability to apply similar standards elsewhere in the CAC area, though, could raise issues of practicality and equity (as it could lead to two sets of overlay standards being adopted in adjacent portions of the same general area).

CONCLUSIONS

As demonstrated by the Petition of Citizen from the Mordecai area, there is public interest in permitting accessory dwellings in the City. Drawing from past experience, however, there is also interest in limiting the locations and circumstances under which the use could be permitted. Creation of a special Overlay District provides an opportunity for balancing the interests and desires of those who seek the use by right, and those who may hold concerns in that regard.

ATTACHMENT A

Neighborhood Conservation Overlay Design Standards

MORDECAI NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT

(UDO Sec. 5.4.3.F.8)

a. Conservation District 1

(west of Wake Forest Road and north of Cedar Street, except for part of the north side of Courtland Drive)

- i. Minimum lot size: 7,260 square feet.
- ii. Maximum lot size: 14,520 square feet.
- iii. Minimum lot width: 50 feet.
- iv. Maximum lot width: 100 feet.
- v. Front yard setback: Minimum of 35 feet.
- vi. Maximum building height: 35 feet.

b. Conservation District 2

(east of Wake Forest Road, south of Cedar Street and portions of Courtland Drive)

- i. Minimum lot size: 7,260 square feet.
- ii. Maximum lot size: 14,520 square feet.
- iii. Minimum lot width: 50 feet.
- iv. Maximum lot width: 100 feet.
- v. Front yard setback: Minimum of 15 feet; maximum of 25 feet.
- vi. Maximum building height: 35 feet.

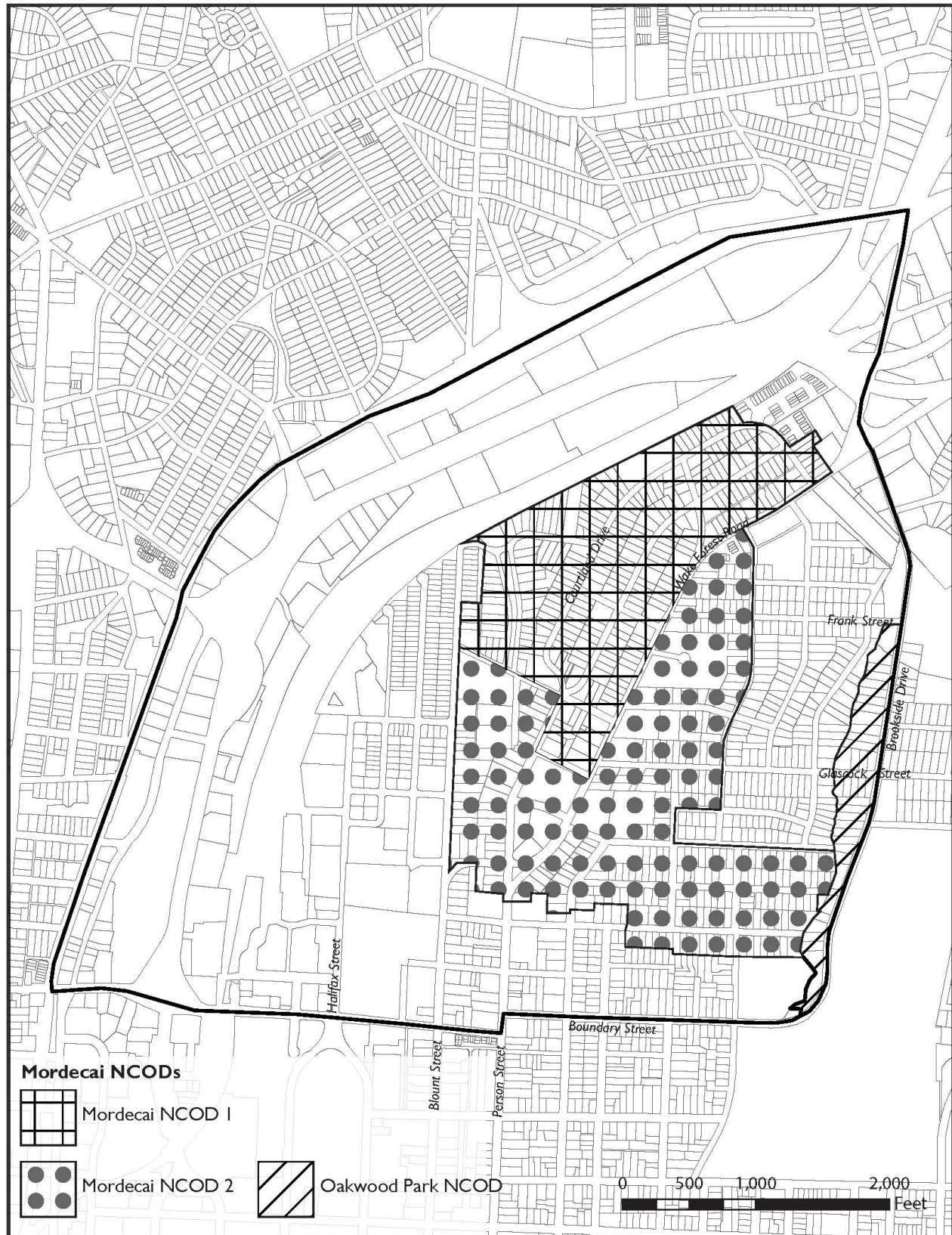
OAKWOOD PARK NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT

(UDO Sec. 5.4.3.F.11)

- a. Minimum lot size (residential): 6,000 square feet.
- b. Minimum lot width (residential): 55 feet.
- c. Maximum lot width (residential): 80 feet.

ATTACHMENT B

Mordecai Study Area NCODs

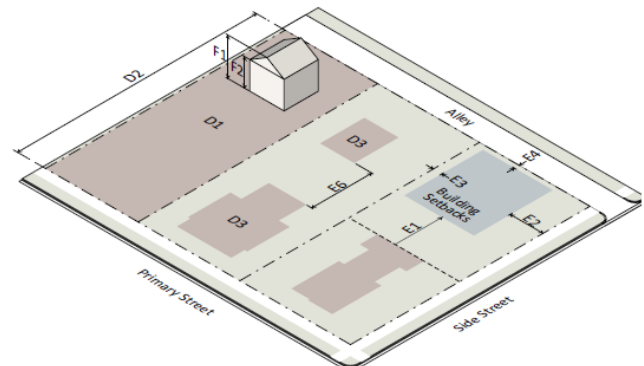
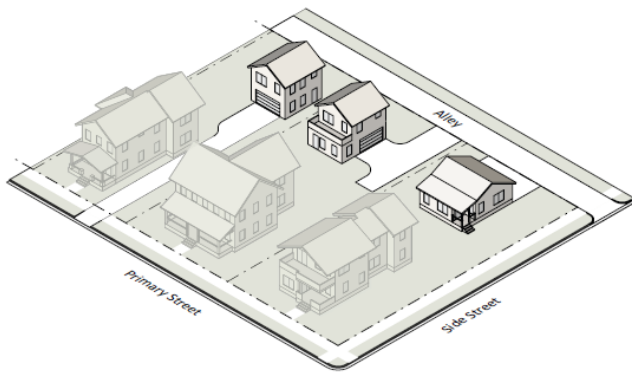


ATTACHMENT C

BACKYARD COTTAGE PROVISIONS – UDO Public Review Draft – April, 2011

PUBLIC REVIEW DRAFT

Sec. 2.4.2. Backyard Cottage

**A. Description**

A backyard cottage is a small self-contained dwelling unit located on the same lot as a detached house but is physically separated from the main house. Backyard cottages typically include a living room, sleeping area, kitchen, and bathroom and have a lockable entrance door. A backyard cottage may be located above garage.

B. Districts Allowed In

R-1, R-2, R-4, R-6, R-10, RX-, OX-, NX-, CX-

C. Building Types

A backyard cottage is allowed on a lot associated with a detached house provided the lot is at least 4,000 square feet in size.

LOT SIZE >40,000 sf 20,000 to 39,999 sf 10,000 to 19,999 sf 6,000 to 9,999 sf 4,000 to 5,999 sf

D. Lot Specifications

D1 Area (min)	40,000 sf	20,000 sf	10,000 sf	6,000 sf	4,000 sf
D2 Depth (min)	150'	150'	150'	120'	100'
D3 Dwellings units per lot (max)	2	2	2	2	2
D4 Additional on-site parking	1 space	1 space	1 space	1 space	1 space
D5 Living area (max)	800 sf	800 sf	700 sf	550 sf	450 sf

E. Building Setbacks

E1 From primary street (min)	Must be located to the rear of the house				
E2 From side street (min)	20'	20'	20'	20'	20'
E3 From side lot line (min)	10'	5'	5'	5'	5'
E4 From rear lot line (min)	10'	5'	5'	5'	5'
E5 From alley (min)	4' or 20'	4' or 20'	4' or 20'	4' or 20'	4' or 20'
E6 Building separation (min)	35'	35'	20'	16'	16'

F. Height

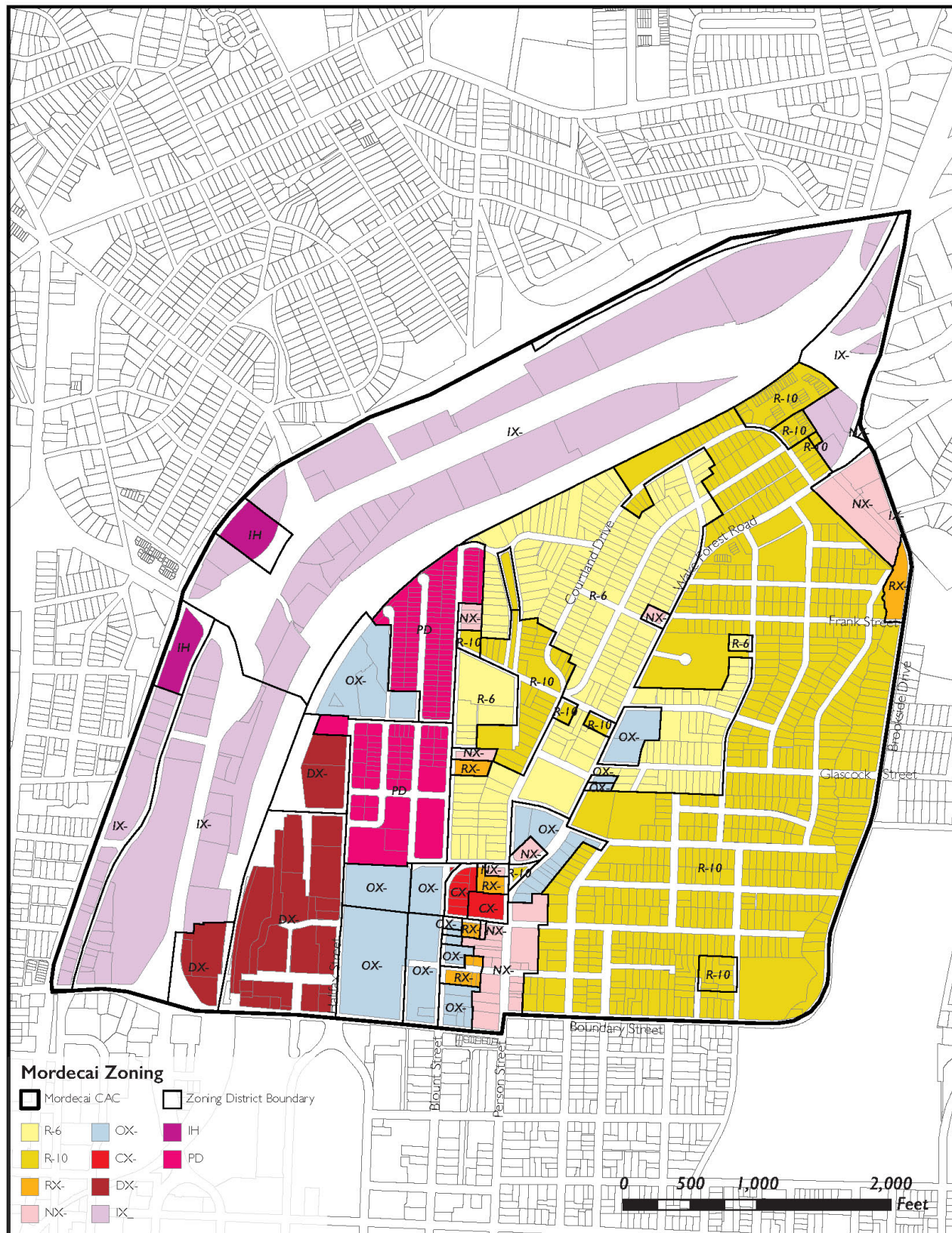
F1 Overall height (max)	25'	25'	25'	25'	25'
F2 Wall plate height (max)	15'	15'	15'	15'	15'

G. Vehicular Access

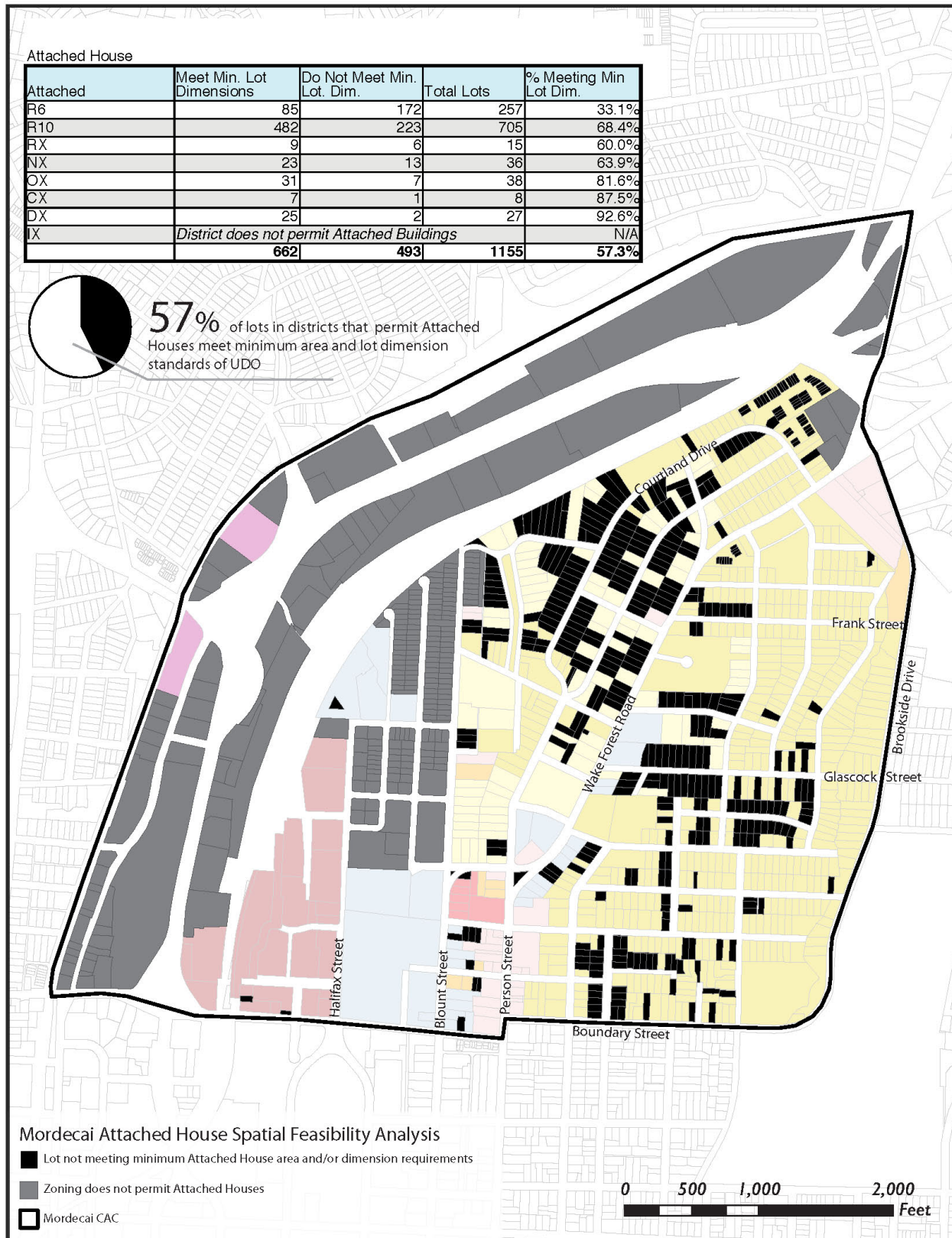
From alley; or street when no improved alley present

ATTACHMENT D

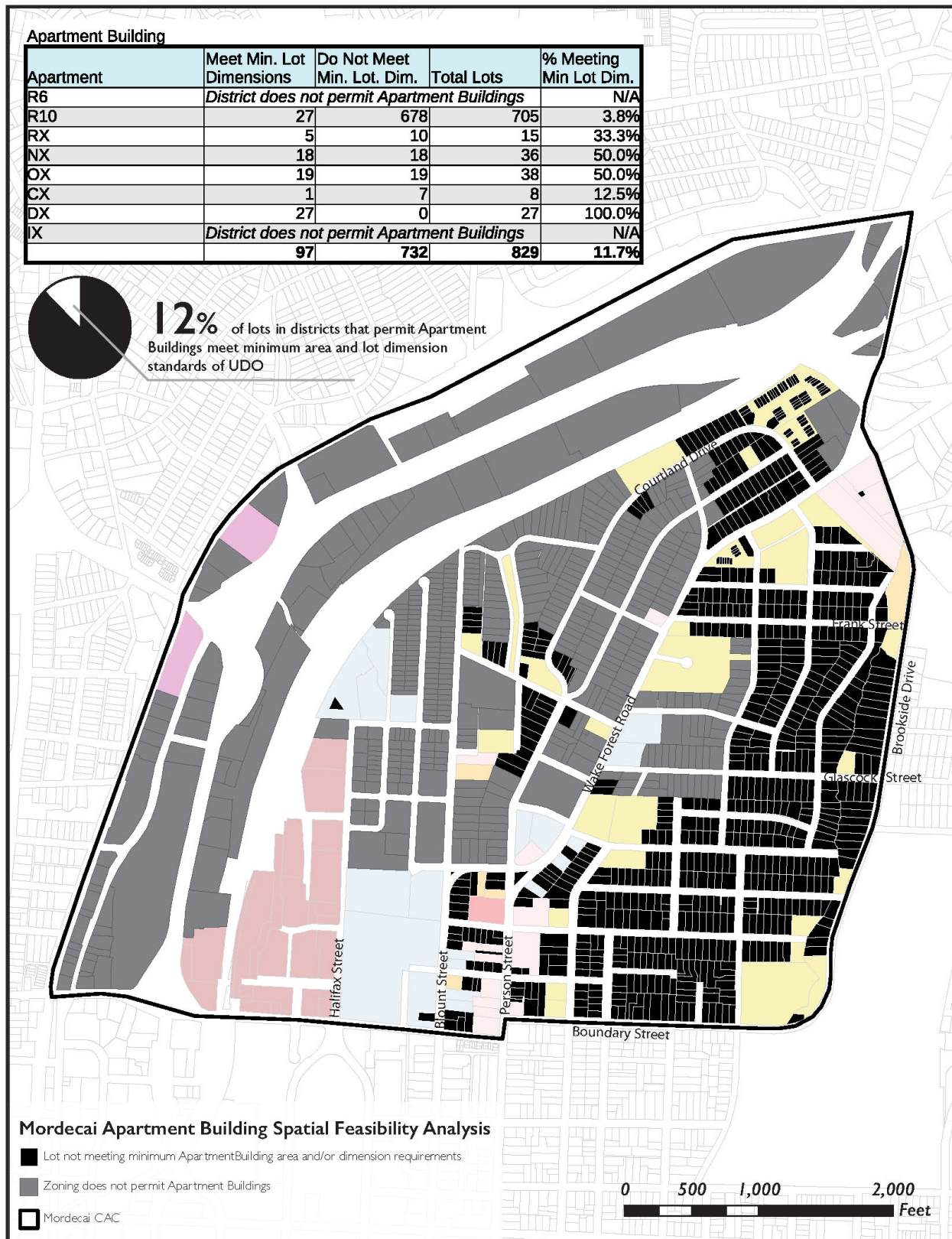
Mordecai CAC Zoning Districts



ATTACHMENT E

Mordecai CAC Area Properties Permitting Attached Houses***Zoning Districts that permit Attached Houses: R-6, R-10, RX-, OX-, NX-, CX-, DX-**

ATTACHMENT F

Mordecai CAC Area Properties Permitting Apartments***Zoning Districts that permit Apartments: R-10, RX-, OX-, NX-, CX-, DX-**

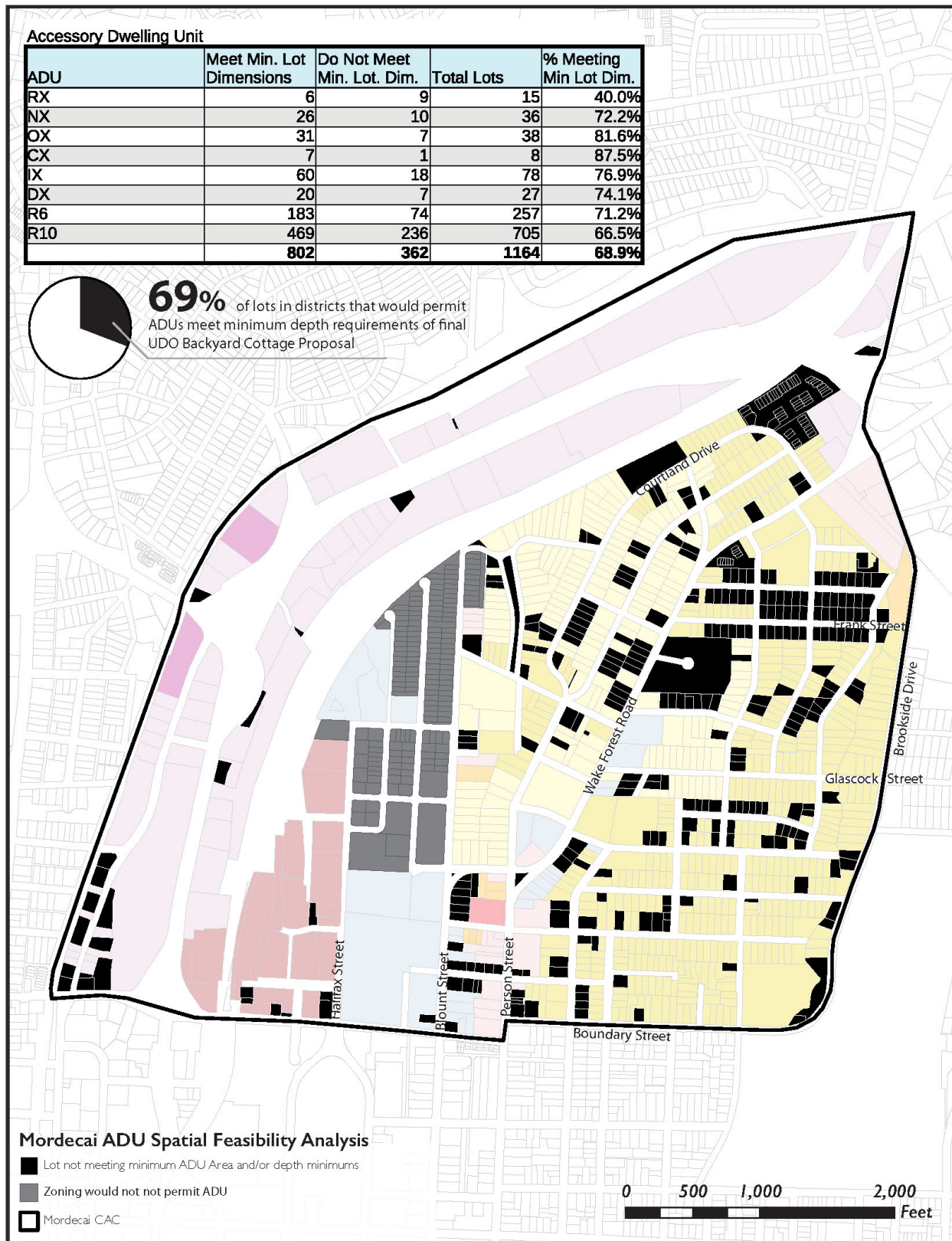
ATTACHMENT G

Mordecai CAC Area Properties Permitting Cottage Court Development***Zoning Districts permitting Cottage Courts: R-6, R-10, RX-, OX-, NX-, CX-, DX-**

Cottage Court

Cottage Court	Meet Min. Lot Dimensions	Do Not Meet Min. Lot. Dim.	Total Lots	% Meeting Min Lot Dim.
RX	2	255	257	0.8%
NX	8	28	36	22.2%
OX	11	27	38	28.9%
CX	1	7	8	12.5%
IX	District does not permit Cottage Court			N/A
DX	14	13	27	51.9%
R6	2	255	257	0.8%
R10	16	689	705	2.3%
	54	1274	1328	4.1%

ATTACHMENT H

Mordecai CAC Area Properties That Would Permit Accessory Dwelling Units***Zoning Districts that would permit ADUs: R-6, R-10, RX-, OX-, NX-, CX-, DX-, IX- (under final UDO proposal)**

ATTACHMENT I
Mordecai Place Historic District

