

ORDINANCE NO. 2018-904-TC-410

TC-7-2017 INFILL ISSUES – SETBACKS

AN ORDINANCE TO AMEND REGULATIONS RELATED TO RESIDENTIAL INFILL COMPATIBILITY; INCLUDING ARTICLES 2.2, 2.3, 2.4 AND SECTIONS 2.2.7 AND 8.3.5 STREET SETBACK OF THE PART 10 CODE OF RALEIGH – UNIFIED DEVELOPMENT ORDINANCE

WHEREAS, the intent of the Unified Development Ordinance for the City of Raleigh was to create more predictable development;

WHEREAS, residential infill development has been addressed in the Unified Development Ordinance yet there were loopholes in the ordinance that exempt many of the properties that were originally intended to be subject to the residential infill compatibility rules from having to comply therewith;

WHEREAS, the existing regulations have not produced the desired results and residential infill development has posed challenges in the existing built environment;

WHEREAS, creating these regulations will allow for construction that is more consistent with the character of the existing built environment;

WHEREAS, a required setback for vehicular parking surface in an infill context can result in a decrease in unintended trespass by vehicles, vehicle doors, persons exiting vehicles, decreased damages to neighboring properties' landscaping and appurtenances as well as decreased potential for stormwater runoff issues onto an adjacent property in the city's established neighborhoods;

WHEREAS, these alterations will better align with the original intent of the UDO; and

WHEREAS, the City Council does not wish to provide for the Board of Adjustment to consider and grant variances to the Residential Infill Regulations set forth herein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. Section 2.2.7.B is hereby repealed and replaced with the language as shown below:

B. Applicability

1. The standards contained within this section apply to any building in an R-4, R-6 or R-10 district where all of the following are present:
 - a. The total lot area is 5-acres or less;

- b. The subject lot’s primary street frontage is on a street section that was platted for at least 20 years including subsequent right-of-way dedications.
 - c. If a comparative sample can be defined as outlined in section 2.2.7.C. and at least three of the principal buildings contained in the comparative sample have primary street frontage on a street section that has been platted for at least 20 years including subsequent right-of-way dedications;
2. When a lot is subject to the residential infill compatibility standards and the lot is located within a Neighborhood Conservation Overlay District that regulates any component herein, the Neighborhood Conservation Overlay District regulation shall apply for that specific component.

Section 2. Section 2.2.7.C is hereby repealed and replaced as shown below. Any diagrams shown in the section would be new insertions as show below:

C. Street Setback

The primary street setback for principal buildings shall be determined by the comparative sample context of the block face as outlined in the following subsections:

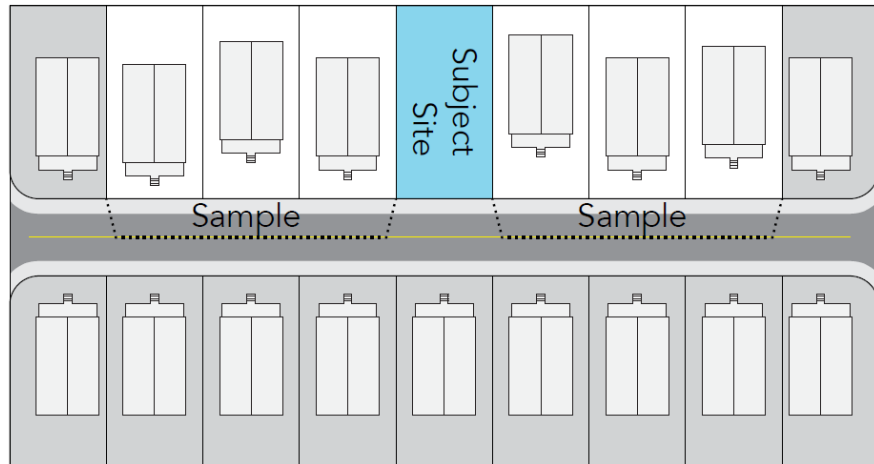
- 1. For subject lots of 50 feet in width or less, the primary street setback of the proposed building must be located within 10% of the median primary street setback of the comparative sample of nearby principal buildings.
- 2. For subject lots in excess of 50-feet in width, the primary street setback of the proposed building may be increased or decreased an additional 5% beyond the 10% allowed in Section 2.2.7.C.1. above, up to a maximum of a 25% increase or decrease from the median setback as noted in the table below.

Subject Lot Width	Modification to Median
50 feet and less	Within 10% of median
More than 50 feet up to 65 feet	Within 15% of median
More than 65 feet up to 80 feet	Within 20% of median
More than 80 feet	Within 25% of median

- 3. The subject lot’s width shall be measured at the primary street property line in accordance with Section 1.5.2.C. However, the width of cul-de-sac lots shall be measured where the lot width equals the minimum lot width for the district as noted in Section 1.5.2.E.2.
- 4. Comparative sample principal buildings must be zoned Residential-4, Residential-6 or Residential-10.
- 5. Comparative sample setbacks are measured from the outer wall of pre-existing

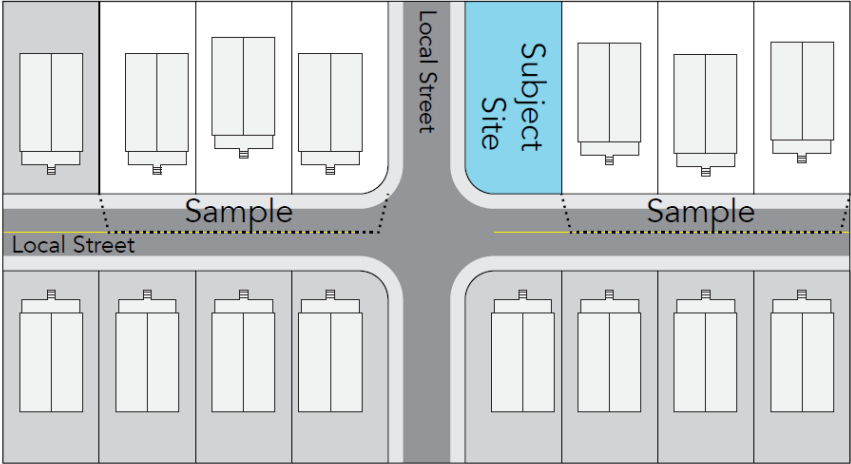
principal residential buildings within the comparative sample and do not include the building feature encroachments authorized by Section 1.5.4.D.

6. When differences in right-of-way widths exist between the subject property and comparative sample properties, the comparative primary street setbacks shall be measured and applied from the centerline of the primary street rather than the property line along the primary street.
7. The comparative sample of principal buildings shall be identified based on the context below, listed in order of applicability, and shall have a minimum of three principal buildings in the sample and a maximum of six principal buildings in the comparative sample:
 - a. All principal detached or attached houses within 300 feet of the subject lot in each direction along the same side of the same street, not to exceed a maximum of three principal buildings in each direction.

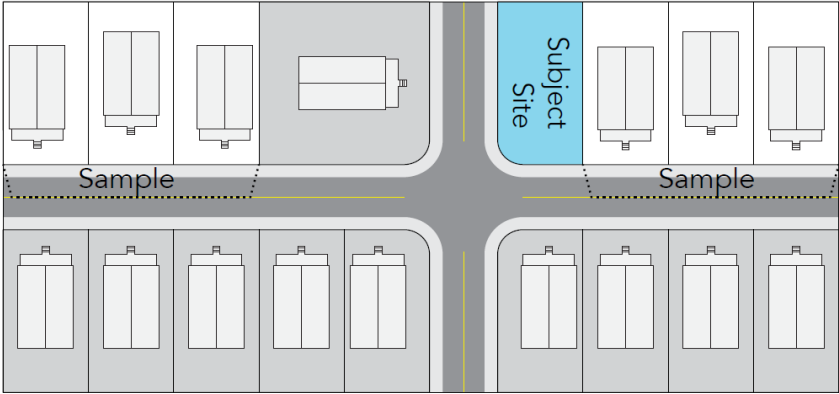


b. When the 300-foot range described in Section 2.2.7.C.7.a. above includes a Local Street (as defined in Section 8.4.4), the Local Street may be crossed to establish the comparative sample of principal detached or attached houses as described below. The right-of-way width of the Local Street shall be counted in the 300-foot range.

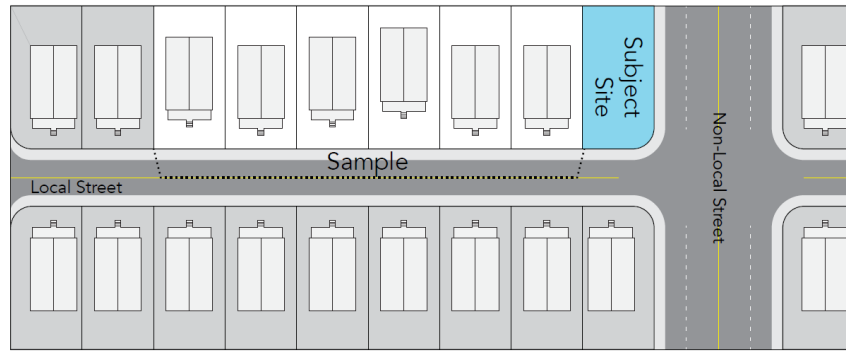
i. The comparative sample of principal detached or attached houses continues across the Local Street and continues along the block face, provided the first residential building on the other side of the Local Street has the same orientation as the subject property.



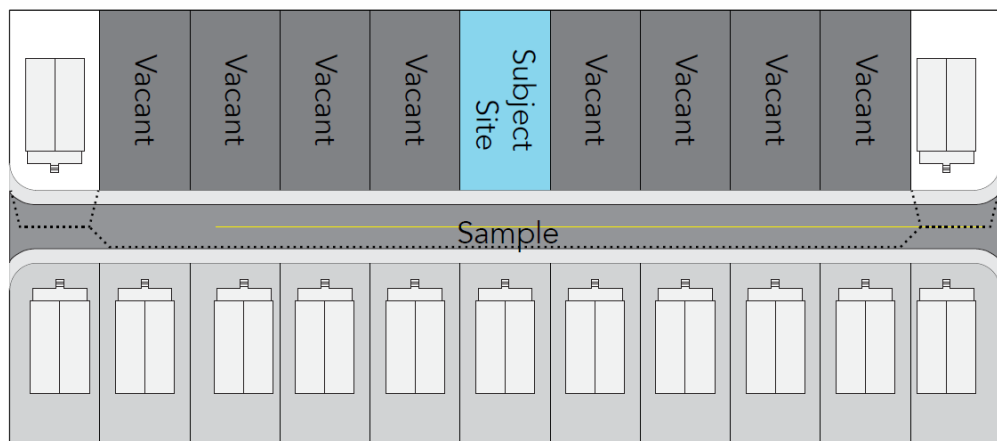
ii. In instances where the first principal detached or attached house across the Local Street has a different orientation, that lot is skipped, and the comparative sample continues to the next improved lot's principal detached or attached house.



- c. When the 300-foot range described in Section 2.2.7.C.7.a. above includes a street that is not a Local Street, the comparative sample of principal buildings is all of the lots developed with detached or attached houses within 300 feet of the subject property on the same block face. This method would only capture the principal detached or attached houses that are on the the same side of the non-local street.



- d. When there are four or more consecutive vacant lots immediately adjacent to the subject lot in both directions, or at least three entries into the comparative sample are not obtained, the scenarios in Sections 2.2.7.C.7.a. through 2.2.7.C.7.c. shall be applied utilizing properties on the opposite side of the street that are within 300 feet of the subject site as needed to achieve the requisite comparative sample size up to a maximum of six principal buildings. The maximum sample size includes only the six closest principal detached or attached houses. In the event that at least three collective entries cannot be identified for the comparative sample, the base zoning district rules shall apply.



- 8. These rules do not apply to lots abutting a cul-de-sac unless there are a minimum of three comparative sample lots abutting the cul-de-sac that are developed with either detached or attached houses.

9. Where an addition is proposed to a detached or attached house, the existing principal building on the lot shall be considered an addition to the comparative sample.
10. Where an official survey demonstrates that a detached or attached house is currently located on the lot or has been within the last 365 days, the proposed principal building may be located at the same primary street setback as the existing detached or attached dwelling or as prescribed by the rules above, whichever the applicant so chooses.
11. Riparian Buffers, Floodways, areas of steep slope (defined as slopes in excess of 25%), pre-established Tree Conservation Areas, City of Raleigh easements, drainage easements, slope easements, voluntary tree conservation in compliance with Section 9.1 for trees with a DBH of 10 inches or greater and protective yards (and associated setbacks) are considered impediments to compliance with the primary street setback range called for in section 2.2.7.C.2. Where an applicant can demonstrate to the Development Services Director that an impediment located within the primary street setback prevents compliance with the primary street setback, the median comparative setback sample shall be considered the edge of the impediment.

Section 3. Sections 2.2.7.F. is hereby repealed and replaced with the language shown below:

F. Driveway and Parking Setbacks

Driveways and parking spaces must be located a minimum of 2.5 feet from the side and rear lot lines. However, a driveway may be located on the lot line closer than 2.5 feet if it is shared with an adjacent lot or when a no-build easement is secured and recorded on the adjacent lot that guarantees a minimum separation of 5 feet from the encroaching driveway and any impervious surfaces or structures on the adjacent lot. Fences and walls on either lot require a 2.5 feet separation from the encroaching driveway. All driveways and parking areas existing prior to January 1, 2019 shall not be deemed nonconforming solely because of this regulation or a parking setback specified in Chapter 2.

Section 4. Section 8.3.5.C.2.e. is deleted in its entirety and Section 8.3.5.C.2.f. immediately thereafter is reordered and relabeled as subsection “e.” instead.

Section 5. In Section 12.2 Definitions, add the following defined term, listed in alphabetical order:

Median: a value or quantity lying at the midpoint of a frequency distribution of observed values or quantities. Where the median includes an even number within the set, the two values closest to the midpoint are averaged.

Section 6. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict. Notwithstanding any language in a zoning condition indicating administrative alternates are allowed, this ordinance hereby repeals such language.

Section 7. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 8. This text change has been reviewed by the Raleigh City Planning Commission.

Section 9. This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

Section 10. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 11. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in N.C.G.S. §14-4(a) or similar limitations.

Section 12. This ordinance is effective in 120 days.

ADOPTED: December 4, 2018

EFFECTIVE: April 3, 2019

**DISTRIBUTION: Attorney – Hargrove, Seymour
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Prepared by the Department of City Planning