

MILLCREEK, UTAH
ORDINANCE NO. 24-25

AN ORDINANCE AMENDING TITLE 19 (“ ZONING”) OF THE MILLCREEK CODE OF ORDINANCES, AND REVISING CHAPTER 19.71 (“RESIDENTIAL COMPATIBILITY OVERLAY ZONE”) BY MAKING CERTAIN ADDITIONS AND DELETIONS PERTAINING TO BUILDING HEIGHT AND ENVELOPE, SETBACKS, ALLOWABLE DEVIATIONS AND SPECIAL EXCEPTIONS; OTHERWISE KNOWN AS THE RESIDENTIAL COMPATIBILITY OVERLAY ZONE TEXT AMENDMENT

WHEREAS, the Millcreek Council (“Council”) met in a regular session on May 28, 2024, to consider among other things, approving an ordinance amending Title 19 (“Zoning”) of the Millcreek Code of Ordinances, and revising Chapter 19.71 (“Residential Compatibility Overlay Zone”) by making certain additions and deletions pertaining to building height and setbacks, building envelope, allowable deviations, and special exceptions; and

WHEREAS, Utah Code Ann. § 10-9a-503 provides in part that the Council may amend any provision of a land use regulation; and

WHEREAS, Millcreek (“City”) has adopted a comprehensive zoning ordinance (“Zoning Ordinance”); and

WHEREAS, City staff has recommended that the Council amend the Millcreek Code of Ordinances to revise the Residential Compatibility Overlay Zone text amendment; and

WHEREAS, Utah Code Ann. § 10-9a-502 provides the planning commission shall provide notice as required by Subsection 10-9a-205(1)(a) and, if applicable, Subsection 10-9a-205(4) and hold a public hearing on the proposed land use ordinances; and

WHEREAS, on April 25, 2023, the required notice was published; and

WHEREAS, on June 21, 2023, the proposed amendment was submitted to the planning commission for its recommendation; and

WHEREAS, on June 21, 2023, the planning commission held the required public hearing with respect to amending Title 19 of the Millcreek Code of Ordinances; and

WHEREAS, at the June 21, 2023, planning commission meeting, the Millcreek Planning Commission recommended amending Title 19 of the Millcreek Code of Ordinances, revising Chapter 19.71 by making certain additions and deletions pertaining to building height and setbacks, building envelope, allowable deviations, and special exceptions, otherwise known as the Residential Compatibility Overlay Zone Text Amendment; and

WHEREAS, the Millcreek Code of Ordinances, provides among other things, that before finally adopting any such amendment, the Council shall consider the application during a public meeting which has been properly noticed in compliance with the provisions of Title 52, Chapter 4, of the Open and Public Meetings Act; and

WHEREAS, on May 22, 2024, the Council caused the required notice to be given; and

WHEREAS, on May 28, 2023, the Council considered amending Title 19 of the Millcreek Code of Ordinances, revising Chapter 19.71 by making certain additions and deletions pertaining to building height and setbacks, building envelope, allowable deviations, and special exceptions, otherwise known as the Residential Compatibility Overlay Zone Text Amendment; and

WHEREAS, the Council finds that the Residential Compatibility Overlay Zone text amendment does not conflict with any applicable policy and guidance of the General Plan; and

WHEREAS, the Council finds that the Residential Compatibility Overlay Zone text amendment betters development than would be possible under the strict application of the city's zoning ordinances; and

WHEREAS, the Council finds that the Residential Compatibility Overlay Zone Text Amendment does not adversely impact existing public utilities, including but not limited to power, gas, telecommunications, storm water, culinary water, or sanitary sewer.

NOW, THEREFORE, BE IT ORDAINED by the Council that amending Title 19 of the Millcreek Code of Ordinances, revising Chapter 19.71 by making certain additions and deletions pertaining to building height and setbacks, building envelope, allowable deviations, and special exceptions is hereby enacted as Exhibit A.

This Ordinance, assigned Ordinance No. 24 -25, shall take effect as soon as it shall be published or posted as required by law, deposited, and recorded in the office of the City Recorder, and accepted as required herein.

PASSED AND APPROVED this 28th day of May, 2024.



ATTEST:



Elyse Sullivan, City Recorder

MILLCREEK

By: 

Jeff Silvestrini, Mayor

Roll Call Vote:

Silvestrini	☒ Yes	☐ No
Catten	☒ Yes	☐ No
DeSirant	☒ Yes	☐ No
Jackson	☒ Yes	☐ No
Uipi	☒ Yes	☐ No

CERTIFICATE OF POSTING

I, the duly appointed recorder for Millcreek, hereby certify that:

ORDINANCE 24-25: AN ORDINANCE AMENDING TITLE 19 ("ZONING") OF THE MILLCREEK CODE OF ORDINANCES, AND REVISING CHAPTER 19.71 ("RESIDENTIAL COMPATIBILITY OVERLAY ZONE") BY MAKING CERTAIN ADDITIONS AND DELETIONS PERTAINING TO BUILDING HEIGHT AND SETBACKS, BUILDING ENVELOPE, ALLOWABLE DEVIATIONS, AND SPECIAL EXCEPTIONS; OTHERWISE KNOWN AS THE RESIDENTIAL COMPATIBILITY OVERLAY ZONE TEXT AMENDMENT was passed and adopted the 28th day of May, 2024 and certifies that a copy of the foregoing Ordinance 24-25 was posted in accordance with Utah Code 10-3-711 this 29 day of May 2024.



Elyse Sullivan, City Recorder

EXHIBIT A

Chapter 19.71 RESIDENTIAL COMPATIBILITY OVERLAY ZONE

19.71.010 Purpose Of

Provisions 19.71.020 Overlay
Zone, Scope And Application

19.71.030 Option A General Standards; Planning And Development Services

Review 19.71.040 Option B Deviations From General Standards Based On

~~Neighborhood Compatibility 19.71.050 Option C Special Exception; Planning
Commission Review~~

19.71.060 Definitions

19.71.010 Purpose Of Provisions

- A. The general purpose of the residential compatibility overlay zone ("RCOZ") is to promote public welfare and to balance neighborhood compatibility with the private property interests of those who wish to expand, develop, improve or otherwise make exterior modification to their residential property.
- B. Recognizing the wide variation of circumstances incident to a residential application and the need for architectural freedom, the City is adopting a three-tiered approach:
 1. Option A provides for strict standards of height, area, and setback with permits issued by the City (the "division").
 2. Option B allows the City to consider deviations from one or more of the standards provided in Option A based upon the compatibility of the proposed residential application with other houses in the immediate neighborhood.
 3. ~~Option C allows a planning commission to consider at a public hearing a special exception for unusual or extraordinary circumstances that justify deviations from one or more of the limitations under Options A and B.~~

19.71.020 Overlay Zone, Scope And Application

- A. Geographic Area of Application. Maps delineating the boundaries of the RCOZ are attached to the ordinance from which this chapter derived as Appendix A and will remain on file with the division. Such maps, as amended, are a part of this title as if fully described and detailed herein. Additional areas may be approved by the council.
- B. Development Activities Covered. The standards and regulations contained in this chapter shall apply to all residential development, exterior remodeling and new construction projects commenced after the effective date of this chapter in the RCOZ, according to the zones listed in Table I below.

- C. Applicability to Lots of Record. The standards and regulations contained in this chapter shall apply to all legally subdivided lots, including those that were recorded prior to the enactment of this chapter.
- D. Exemption for Previous Residential Development. Noncomplying additions or expansions of buildings or structures commenced or completed prior to the enactment of this chapter are exempt from the requirements of this chapter.
- E. Inconsistent Provisions. When the provisions of this chapter are inconsistent with provisions found in any other chapters of City ordinances, the most restrictive provisions shall apply.

19.71.030 Option A General Standards; Planning And Development Services Review

- A. Application. Any person seeking to build a new residential structure or to significantly reconstruct, renovate or rebuild an existing structure in any zone listed in Table I shall obtain land-use approval from the division. An applicant may seek a determination of the applicable limits under Option A from the division prior to the submission of any building plans.
- B. Standards. Unless applying for approval under Option B ~~or Option C~~, all applications shall comply with the following minimum standards:
 - 1. Maximum Building Height. Each point on the highest ridge of the structure shall be no more than that specified in Table I, column (b) for the zone in which the property is situated. Maximum building height shall be measured in feet from that point on the original grade vertically below the referenced ridge height (not including chimneys and vent stacks).
 - 2. Maximum Lot Coverage. The lot coverage of all structures on the lot shall be not more than the percentages given in Table I, column (d).
 - 3. Front Yard. The minimum front yard setback shall be as specified in the applicable City code.
 - 4. ~~Side Yard. The combined side yard setbacks for any main structure shall be at least twenty-five percent of the lot width with no side setback less than eight feet. For purposes of this provision, "lot width" is the diameter of the largest circle that can be inscribed entirely within the lot, not including streams, floodplains, wetlands, areas of thirty percent slope or greater or other natural hazard areas. No extensions, bay windows or similar building elements may encroach into the required setbacks under Option A, except for (a) attached air conditioning units, electrical boxes, utility meters and the like and (b) roof overhangs or eaves that extend no more than two feet into the area of the minimum side setback.~~

Side Yard Setbacks on Lots 50% Larger Than Minimum Lot Width. Lots with a width 50% or more larger than the required minimum lot width shall measure side yard setbacks per the following:

- a. The combined measurements of the side yard setbacks shall be at least 25% of the lot width.
- b. No side setback shall be less than the required minimum side yard setback.
- c. The width of the lot is measured as the diameter of the largest circle that can be inscribed entirely within the lot excluding any streams, floodplains, wetlands, areas of thirty percent slope or greater, or other natural hazard areas shall be excluded from the circle.

5. Rear Yard. The minimum rear setback of the primary residence and any accessory building shall be as specified in the applicable City code.
6. ~~Building Height and Building Envelope. The height of all structures is further limited by the building envelope created by starting at a point eight feet above ground at each point on the property line of the lot and extending on a line at a forty-five-degree angle from the vertical toward the interior of the lot, the projection of such line on the horizontal plane of the lot to be perpendicular to the property line. The entire building must fit under this envelope except for dormers and gables that satisfy the following limitations:~~
 - ~~a. A dormer may exceed the graduated height envelope, provided:~~
 - ~~(1) The width of the dormer is no more than fourteen feet;~~
 - ~~(2) With multiple dormers, the distance to the front, or side edges of the roof is at least one-half the distance between dormers; and~~
 - ~~(3) The dormer is no higher than the ridge of the roof.~~
 - ~~b. A gable may exceed the graduated height envelope, provided:~~
 - ~~(1) The height of the gable is no more than 1.75 times higher than the point where the graduated height envelope intersects the gable; and~~
 - ~~(2) The height of the gable is less than the maximum building height.~~

Building Envelopes.

1. Building Envelope. The height of structures may be further limited by the building envelope. The building envelope is formed by a box defined by the perimeter of the property line extended vertically perpendicular to the property line to a height and subsequent angle as set forth in Table 19.71.1. The entire building shall fit under this envelope except as described in the Projections section below. See

Table 19.71.1 Building Envelope for R-1 Zones					
	R-1-3 R-1-4 R-1-5	R-1-6	R-1-8	R-1-10 R-1-15	R-1-21
Building Height Maximum	30'	30'	30'	32'	32'
Building Envelope Wall Height and Angle	30'	12'	8'	8'	8'
Building Envelope Angle	0°	60°	45°	45°	45°

figures 19.71.1, 19.71.2, and 19.71.3 below for building envelope illustrations.

Figure 19.71.1 R-1-3, R-1-4, and R-1-5 Building Envelope

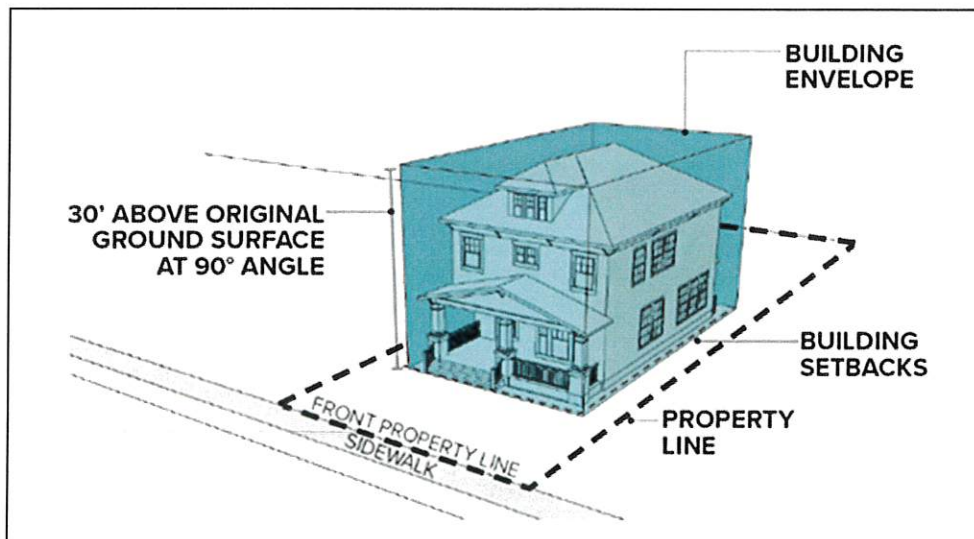


Figure 19.71.2 R-1-6 Building Envelope

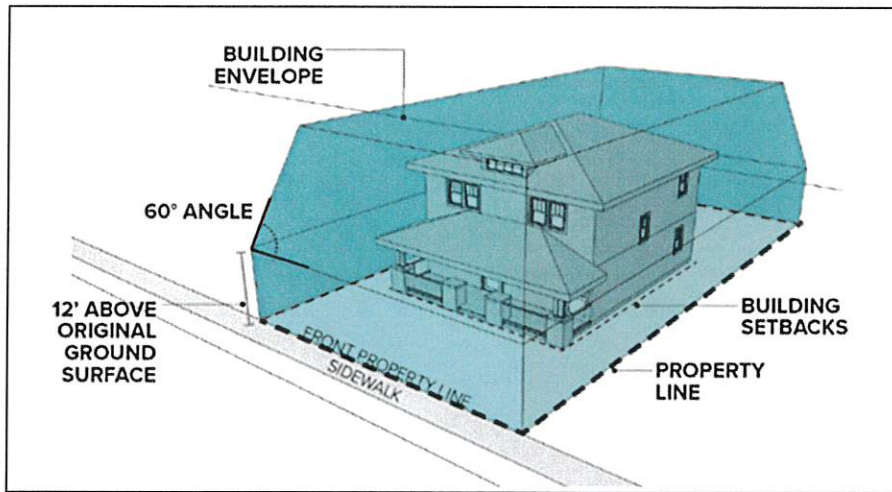
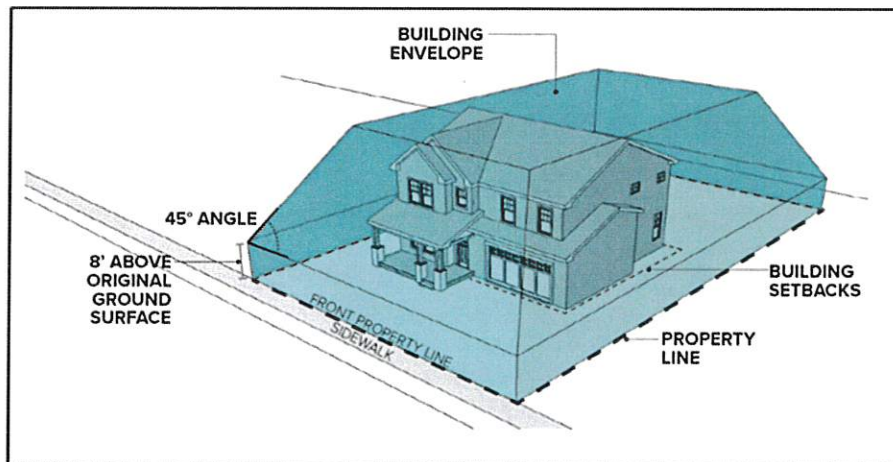


Figure 19.71.3 R-1-8, R-1-10, R-1-15, and R-1-21 Building Envelope



2. Projections.

a. Building Height Envelope Projections. Dormers, Gables, and non-habitable architectural elements may project beyond the building height envelope if they meet the following criteria:

i. Dormers:

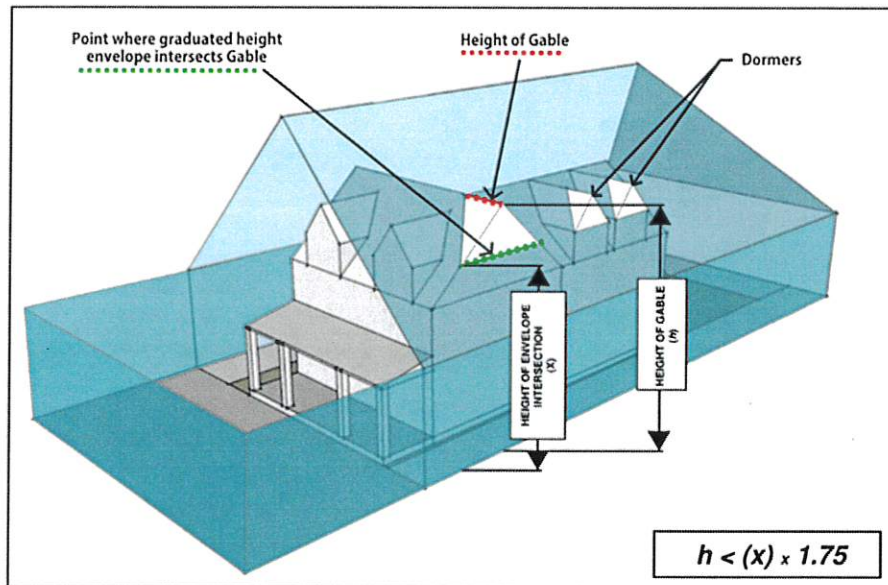
1. The width of the dormer shall not exceed fourteen (14) feet;
2. Multiple dormers shall be spaced such that the distance to the edges of the roof is at least one-half the distance between dormers; and
3. The dormer shall be no higher than the ridge of the

roof

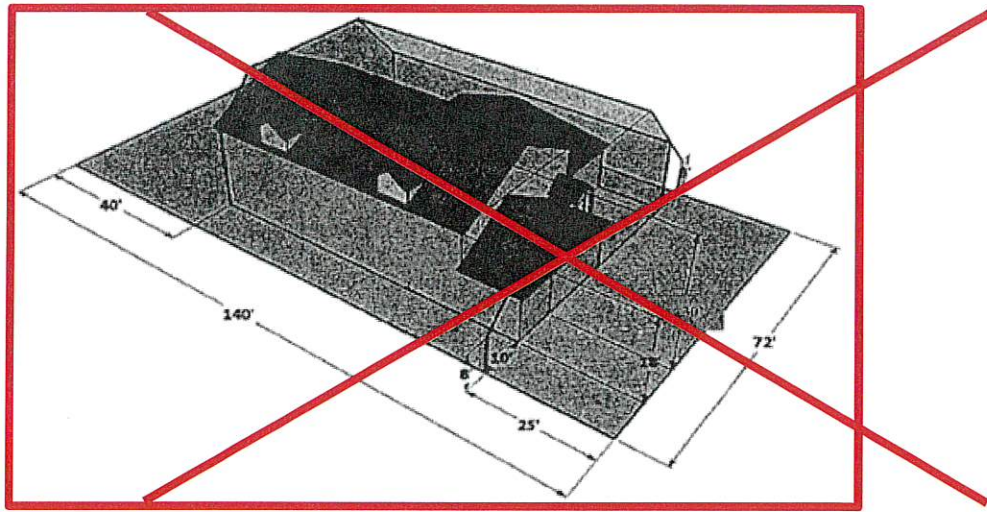
ii. Gables:

1. The height of the gable is less than 1.75 times higher than the point where the graduated building height envelope intersects the gable;
2. The height of the gable is less than the maximum building height; and
3. The length of the gable comprises no more than 25% of the length of the building façade.

Figure 19.71.4 Dormer and Gable illustration with height envelope exception.



7. Mass and Scale. To avoid a large, continuous building mass of uniform height; no portion of any building shall continue more than forty feet horizontally without a minimum of an eighteen-inch break in the roofline or an architectural element such as an overhang, projection, inset, material, and textural change to create shadow patterns along the elevation of the building. The elements required by this section are in addition to all other requirements under this Part.
8. Accessory Building. Accessory buildings shall meet all of the requirements established in MKZ 19.14.070 and the building envelope and lot coverage requirements of this chapter.
9. ~~The following figure depicts selected building limitations as described above and is for illustrative purposes only:~~



19.71.040 Option B Deviations From General Standards Based On Neighborhood Compatibility

- A. Application. To obtain division approval of deviations from one or more of the requirements of MKZ 19.71.030.B.1, B.2, B.3 or B.4, an applicant must file a separate application in compliance with the corresponding conditions of Subsections D.1, D.2, D.3 or D.4. An applicant may seek a pre- determination of the allowable deviations for proposed construction under Option B from the division prior to submitting building plans.
- B. Evidence. Compliance with the corresponding conditions of Option B must be established by reliable photographic, engineering, architectural or other evidence from the proximate neighborhood.
- C. Deviations from Other Option A Requirements. No deviations from the Option A requirements of MKZ 19.71.030.B.5 through B.8 may be approved by the division.
- D. Permissible deviations from maximum building height, maximum lot coverage and minimum front and side setbacks under Option B are:
 - 1. Maximum Building Height. The maximum building height that may be approved by the division under Option B is the lesser of:
 - a. Three feet plus the average maximum ridge height of residential structures that are on six lots of applicant's choice that:
 - (1) Are within the proximate neighborhood of the subject

property, as defined in MKZ 19.71.060.B; and

- (2) For which the applicant provides adequate evidence of the maximum building height, as defined in this chapter; or
- (3) The heights specified in column (c) of Table I for the applicable zone.

2. Maximum Lot Coverage. The maximum lot coverage is 1.15 times the average of the lot coverage percentages of residential structures that are on six lots of applicant's choice that are within the proximate neighborhood of the subject property, such coverage not to exceed the percentages specified in Table I, column (e) for the applicable zone.
3. Minimum Front Setback. The minimum front setback is the average of the front setbacks of residential structures that are on six lots of applicant's choice that are within the proximate neighborhood of the subject property.
4. Minimum Side Setbacks. ~~Subject to the twenty-five percent requirement of MKZ 19.71.030.B.4,~~ the minimum side setback is the average of the shorter side setback of residential structures that are on six lots of applicant's choice that are within the proximate neighborhood of the subject property, but in no event may it be less than six feet.
5. Approval of more than one deviation from subsections D.1 through .4 must use the same six lots from the proximate neighborhood to support the requested deviations, whether or not requests for multiple deviations are in one or separate applications.

E. Table I below summarizes and further defines lot coverage and distance in the various zones under Options A and B:

ZONE (a)	OPTION A MAXIMUM BUILDING HEIGHT ⁽¹⁾ (b)	OPTION B MAXIMUM BUILDING HEIGHT ⁽¹⁾ (c)	OPTION A MAXIMUM LOT COVERAGE(2) (d)	OPTION B MAXIMUM LOT COVERAGE(2) (e)	OPTION B PROXIMATE NEIGHBORHOOD(3) (f)
R-1-3	30 ft	33 ft	35 %	40%	100 ft.
R-1-4	30 ft	33 ft.	35%	40%	100 ft.
R-1-5	~~28 ft.~~ 30 ft.	33 ft.	35%	40%	100 ft.
R-1-6	~~28 ft.~~ 30 ft.	33 ft.	35%	40%	100 ft.
R-1-8	~~28 ft.~~ 30 ft.	33 ft.	33%	38%	150 ft.

R-1-10	30 ft.	35 ft.	31%	36%	175 ft.
R-1-21	32 ft.	37 ft.	25%	30%	200 ft.
R-1-43	35 ft.	40 ft.	23%	28%	300 ft.
R-2-6.5	28 ft.	33 ft.	40%	45%	100 ft.
R-2-8	28 ft.	33 ft.	38%	43%	150 ft.
R-2-10	30 ft.	35 ft.	35%	40%	175 ft.
A-1	30 ft.	35 ft.	31%	36%	175 ft.

- (1) Main dwelling
- (2) All structures
- (3) Radial distance from property boundaries

19.71.50 Option C Special Exception; Planning Commission Review

~~A~~—An applicant whose proposed residential structure meets neither the requirements of Option A nor of Option B may seek extraordinary relief and exceptions to the limitations of MKZ 19.71.030.B.5, B.6, or B.7 or MKZ 19.71.040.D.1, D.2, D.3 or D.4 by submitting an original and seven copies of an application to the applicable planning commission setting forth in detail:

- ~~1. The specific provisions from which the applicant seeks exceptions and the requested relief;~~
- ~~2. Detailed information and explanation establishing that:~~
 - ~~a. The proposed residence will be in harmony with the purpose of this chapter, the general plan and any other land use document applicable to the area.~~
 - ~~b. The proposed residence will be compatible with existing residential development within a reasonable distance in terms of height, mass and lot coverage, with particular focus on the proximate neighborhood.~~
 - ~~c. The proposed residence will not be detrimental to the health, safety and general welfare of persons residing within a reasonable distance, with particular focus on the proximate neighborhood.~~
 - ~~d. Each point on the highest ridge of the structure will be no more than forty feet above the point on the original grade vertically below it (with allowances for chimneys and vent stacks).~~

- ### 19.71.060 Definitions

- A. "Residential lot" means a legal lot included in one of the zones listed in Table I, column (a).
- B. "Proximate neighborhood" of a subject lot means every residential lot, excluding the subject lot, which is within the distance from the subject lot specified in Table I, column (d). For the purpose of calculating maximum building height only, an immediately adjacent multi-resident structure such as an apartment or condominium building may be considered part of the proximate neighborhood.
- C. "Lot coverage" means the measurement of land use intensity that represents the

portion of the site occupied by the principal building and all accessory buildings, but excluding all other impervious improvements such as sidewalks, driveways, patios, decks and open porches.