

Tier 2 Amendment

B.1 Side Setbacks and Attached Dwelling Units

Section 34-2.2.2.A.4, 34-2.2.3.A.4, 34-2.2.4.A.4, 34-2.2.5.A.4 and 34-2.10.5.C

Page: 2-8, 2-10, 2-12, 2-14, 2-112

Working Document reference: B.1

**Section 34-2.2.2.A.4**

**Existing Language:**

4. BUILDING SETBACKS	<u>Sec. 2.10.5.</u>
D Primary street lot line (min/max)	10' / 20' or Existing Range
E Side street lot line (min)	10'
F Side lot line (min)	4'
G Rear / alley lot line (min)	4'

**Proposed Language:**

*Graphics to be updated to reflect change to text.*

4. BUILDING SETBACKS	<u>Sec. 2.10.5.</u>
D Primary street lot line (min/max)	10' / 20' or Existing Range
E Side street lot line (min)	10'
F Side lot line, detached (min)	4'
Side lot line, attached (min)	0'
G Rear / alley lot line (min)	4'

**Section 34-2.2.3.A.4:**

**Existing Language:**

4. BUILDING SETBACKS	<u>Sec. 2.10.5.</u>
D Primary street lot line (min/max)	10' / 20' or Existing Range
E Side street lot line (min)	10'
F Side lot line (min)	4'
G Rear / alley lot line (min)	4'

Tier 2 Amendment  
B.1 Side Setbacks and Attached Dwelling Units

**Proposed Language:**

*Graphics to be updated to reflect change to text.*

4. BUILDING SETBACKS	<u>Sec. 2.10.5.</u>
Ⓓ Primary street lot line (min/max)	10' / 20' or Existing Range
Ⓔ Side street lot line (min)	10'
Ⓕ Side lot line, detached (min)	4'
Side lot line, attached (min)	0'
Ⓖ Rear / alley lot line (min)	4'

**Section 34-2.2.4.A.4**

**Existing Language:**

4. BUILDING SETBACKS	<u>Sec. 2.10.5.</u>
Ⓔ Primary street lot line (min/max)	10' / 20' or Existing Range
Ⓕ Side street lot line (min/max)	5' / 20'
Ⓖ Side lot line (min)	4'
Ⓗ Rear / alley lot line (min)	4'

**Proposed language:**

*Graphics to be updated to reflect change to text.*

4. BUILDING SETBACKS	<u>Sec. 2.10.5.</u>
Ⓔ Primary street lot line (min/max)	10' / 20' or Existing Range
Ⓕ Side street lot line (min/max)	5' / 20'
Ⓖ Side lot line, detached (min)	4'
Side lot line, attached (min)	0'
Ⓗ Rear / alley lot line (min)	4'

Tier 2 Amendment  
B.1 Side Setbacks and Attached Dwelling Units

**Section 34-2.2.5.A.4**

**Existing language:**

4. BUILDING SETBACKS	<u>Sec. 2.10.5.</u>
<b>E</b> Primary street lot line (min/max)	10' / 20' or Existing Range
<b>F</b> Side street lot line (min/max)	5' / 20'
<b>G</b> Side lot line (min)	4'
<b>H</b> Rear / alley lot line (min)	4'

**Proposed language:**

*Graphics to be updated to reflect change to text.*

4. BUILDING SETBACKS	<u>Sec. 2.10.5.</u>
<b>E</b> Primary street lot line (min/max)	10' / 20' or Existing Range
<b>F</b> Side street lot line (min/max)	5' / 20'
<b>G</b> Side lot line, detached (min)	4'
Side lot line, attached (min)	0'
<b>H</b> Rear / alley lot line (min)	4'

**Section 34-2.10.5.C**

**Existing Language:**

No existing language.

**Proposed Language:**

New Section 34-2.10.5.C.4

**C. Standards**

**4. Side lot line, Detached/Attached**

*When Side Lot Line, Attached is permitted by the Zoning district, buildings within the project site are permitted a zero setback when attached to an adjacent building within the same project site. Any buildings side not attached within the project site must conform to the Side Lot Line, Detached minimum requirement for that Zoning district.*

## Tier 2 Amendment

### B.1 Side Setbacks and Attached Dwelling Units

#### **Analysis:**

The current side setback requirements for R- and RN- districts make it impossible to construct single-family attached residential structures which are divided by common lot lines. The addition of the minimum side lot line setback for attached structures in those districts will allow for attached residential construction, while preserving the existing setback requirements for other types of development.

Tier 2 Amendment  
B.3 Critical Slopes and Lots of Record

**Section 34-4.10.1.B**

Page: 4-80

Working Document reference: B.3

**Existing language:**

B. Applicability

[...]

2. Where the Administrator determines that there is no reasonable alternative location or alignment, and that the applicant has identified protective and restorative measures, the following are exempt from the requirements of this Section:

- a. Driveways;
- b. Public utility lines and appurtenances;
- c. Stormwater management facilities;
- d. Other public facilities necessary to allow the use of the parcel; and
- e. Environmental restoration projects.

**Proposed language:**

3. Any structure which was lawfully in existence prior to the effective date of these critical slopes provisions, and which is nonconforming solely on the basis of the requirements of these provisions, may be expanded, enlarged, extended, modified and/or reconstructed as though such structure were a conforming structure. For the purposes of this section, the term "lawfully in existence" shall also apply to any structure for which a site plan was approved or a building permit was issued prior to the effective date of these provisions, provided such plan or permit has not expired.

4. Any lot or parcel of record which was lawfully a lot of record on the effective date of this chapter shall be exempt from the requirements of these critical slopes provisions for the establishment of the first dwelling unit on such lot or parcel.

**Analysis:**

Current critical slopes provisions do not contain exemptions for lots of record, or for the first dwelling unit constructed on a lot. Lack of these provisions would be considered a taking under Virginia state law section 15.2-961.3.

Tier 2 Amendment  
B.4 Street Facing Entry and Single Dwelling Unit

**Sections 34-2.10.13.A.2**

Pages 2-148

Working Document reference: B.4

**Existing language:**

**Applicability**

- a Street-facing entry spacing requirements apply to all ground story street-facing facades.
- b The maximum street-facing entry spacing requirements must be met for each building and abutting buildings on a lot or within a project site, but are not applicable to buildings unrelated to the project.
- c Accessory structures do not have to provide a street-facing entry, and are not included in the calculation of maximum street-facing entry spacing requirement.
- d Lots with 1 dwelling unit do not have to provide street-facing entries.

**Proposed language:**

- a Street-facing entry spacing requirements apply to all ground story street-facing facades.
- b The maximum street-facing entry spacing requirements must be met for each building and abutting buildings on a lot or within a project site, but are not applicable to buildings unrelated to the project.
- ~~c—Accessory structures do not have to provide a street-facing entry, and are not included in the calculation of maximum street-facing entry spacing requirement.~~
- d A lot or subplot consisting of only 1 primary dwelling unit and no additional primary/principal uses is not required to provide a street-facing entry.

**Analysis:**

With additional changes being proposed to building setbacks and meeting the build-to requirement, staff recommend removing the exception that currently exempts accessory structures from providing a street-facing entry. This ensures that any accessory building placed within a street-facing yard maintains the same façade rhythm and aesthetic continuity as principal structures. Staff also propose clarifying that only lots or sublots containing a single residential dwelling unit—and no other uses—are exempt from the street-facing entry requirement. Under the previous language, a lot with just one dwelling unit could have all its buildings bypass the entry standard, creating an unintended loophole in mixed-use districts where residential and nonresidential uses coexist.

## Tier 2 Amendment

### B.5 Accessory Uses/Structures and Nonconformity Build-to

#### Sections 34-3.5.1.A. – Sec. 34-3.5.1.C., Sec. 34-5.3.3. and Sec. 7.2

Pages 3-34, 5-62 and 7-11 – 7-21

Working Document reference: B.5

#### Existing Language:

##### Div. 3.5. ACCESSORY USES AND STRUCTURES

##### 3.5.1. General

##### A. Allowed Accessory Uses and Structures

The permitted use table in 3.2.2. Permitted Use Table establishes the allowed accessory uses and structures by district. Multiple accessory uses are allowed on a lot when the uses are all allowed in the district and the standards for all uses on the lot may be met.

##### B. Accessory Uses and Structures Not Listed

1. An accessory use or structure not specifically listed in 3.2.2. Permitted Use Table is not allowed unless the Administrator determines the use:
  - a. Is clearly incidental to and customarily found in connection with an allowed principal use;
  - b. Is subordinate to and serving an allowed principal use;
  - c. Is subordinate in area, extent and purpose to the principal use served; and
  - d. Is located on the same lot as the principal use served.
2. Electronic gaming cafes are prohibited as an accessory use.

##### C. Rules for All Accessory Uses and Structures

1. A permit is required for any accessory use or structure exceeding 256 square feet of gross floor area.
2. Accessory structures must comply with the dimensional requirements of the zoning district, unless listed as an allowed encroachment in 2.10.5. Building Setbacks.
3. No accessory use or structure is permitted on the lot until after the principal use or structure is approved.

#### Proposed Language:

##### Div. 3.5. ACCESSORY USES, BUILDINGS AND STRUCTURES

##### 3.5.1. General

##### A. Allowed Accessory Uses and Structures

The permitted use table in 3.2.2. *Permitted Use Table* establishes the allowed accessory uses **and structures** by district. Multiple accessory uses are allowed on a lot when the uses are all allowed in the district and the standards for all uses on the lot may be met. **Accessory buildings and structures are allowable as provided in this Division.**

##### B. Rules for Accessory Uses and Structures Not Listed

1. An accessory use **or structure** not specifically listed in 3.2.2. *Permitted Use Table* is not allowed unless the Administrator determines the use:
  - a. Is clearly incidental to and customarily found in connection with an allowed principal use;
  - b. Is subordinate to and serving an allowed principal use;
  - c. Is subordinate in area, extent and purpose to the principal use served; and
  - d. Is located on the same lot as the principal use served.
2. Electronic gaming cafes are prohibited as an accessory use.

## Tier 2 Amendment

### B.5 Accessory Uses/Structures and Nonconformity Build-to

3. No accessory use is permitted on a site until after the principal use is established.

#### C. Rules for Accessory ~~Uses and Buildings and Structures~~

- ~~1. A permit is required for any accessory use or structure exceeding 256 square feet of gross floor area.~~
- ~~1.2.~~ Accessory **buildings and** structures must comply with the dimensional requirements of the zoning district, unless listed as an allowed encroachment in 2.10.5. *Building Setbacks*.
- ~~2.3.~~ No accessory **use building** or structure is permitted on the ~~lot~~ **site** until after the principal use or structure is approved.
3. No accessory building or structure may be used for dwelling purposes.
4. Accessory buildings and structures are not exempt from Building Code requirements.

#### Existing Language:

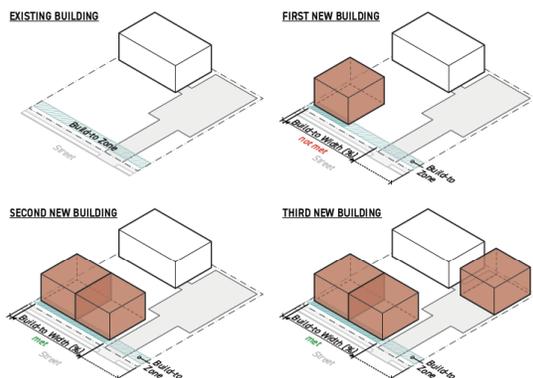
##### Sec. 5.3.3 NONCONFORMING BUILDINGS AND STRUCTURES

##### 5.3.3.C. Nonconforming Build-To Requirement

When an existing building is being expanded or a new building is being constructed, and the building or lot does not meet the build-to width requirement, the following provisions apply:

#### 1. New Buildings on an Interior Lot

All new construction buildings or structures must occupy the build-to zone until the build-to width requirement has been met. Until all build-to width standards have been met, new buildings must occupy the build-to zone for their entire building width.

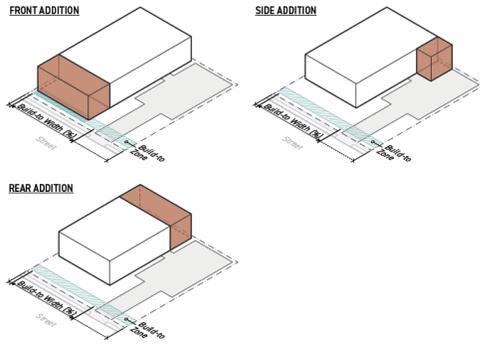


#### 2. Additions on an Interior Lot

- a. Any additions to the front of an existing building must occupy the build-to zone. The addition does not have to meet the required build-to width for the entire lot. Front additions with a maximum floor area of 10% of the existing building footprint are allowed behind the build-to zone.
- b. Side additions having a floor area less than 20% of the existing building footprint are allowed. Once the build-to width standard has been met, side additions of any size are allowed.
- c. Rear additions of any size are allowed. Transition setbacks may apply, see Div. 4.7. Transitions and Screening.

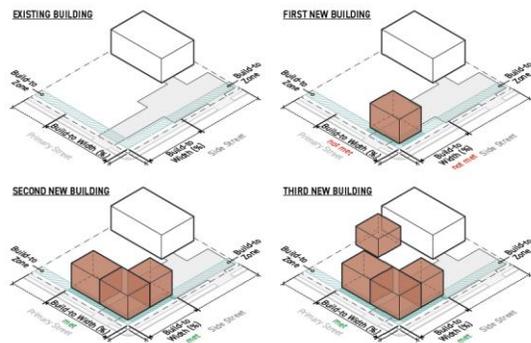
## Tier 2 Amendment

### B.5 Accessory Uses/Structures and Nonconformity Build-to



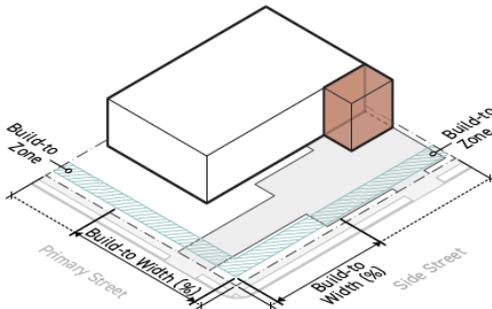
#### 3. New Buildings on a Corner Lot

- a. All new buildings must occupy the build-to zone until the build-to width requirement for both streets have been met.
- b. Once the build-to width requirement has been met for both streets, new buildings may be placed behind the build-to zone.



#### 4. Additions on a Corner Lot

- a. Any addition to the front of an existing building must be located within the build-to zone on the primary street. The addition does not have to meet the minimum build-to width for the entire lot. Front additions with floor area no greater than 10% of the existing building footprint are allowed behind the build-to zone.
- b. Side additions with floor area no greater than 20% of the existing building footprint are allowed. Once the build-to width standard has been met for both streets, side additions of any size are allowed.

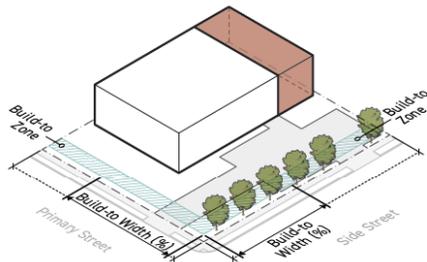


- c. Rear additions of any size, located behind the build-to zone, are allowed provided:
  - i. A landscape area at least 6 feet wide adjacent to the side street lot line is installed across the entire length of the side street frontage. Breaks for pedestrian, bicycle, and vehicular access of the minimum practical width are allowed.

## Tier 2 Amendment

### B.5 Accessory Uses/Structures and Nonconformity Build-to

- ii. The landscape area must include medium or large trees planted an average of 30 feet on center along the entire landscape area.



- iii. Trees should be planted offset from street trees to maximize space for canopy growth.
- iv. All landscaping must meet the applicable standards of Div. 4.9. Landscaping.

#### Proposed Language:

#### Sec. 5.3.3 NONCONFORMING BUILDINGS AND STRUCTURES

##### 5.3.3.C. Nonconforming Build-To Requirement

When an existing building is being expanded or a new building is being constructed, and the building or lot does not meet the build-to width requirement, the following provisions apply:

#### 1. New **Primary** Buildings on an Interior Lot

All new **construction primary** buildings **or structures** must occupy the build-to zone until the build-to width requirement has been met. Until all build-to width standards have been met, **all new primary** buildings must occupy the build-to zone for their entire building width.

*GRAPHIC TO REMAIN*

#### 2. Additions on an Interior Lot

- a. Any additions to the front of an existing **primary** building must occupy the build-to zone. The addition does not have to meet the required build-to width for the entire lot. Front additions with a maximum floor area of 10% of the existing building footprint are allowed behind the build-to zone.
- b. Side additions having a floor area less than 20% of the existing primary building footprint are allowed. Once the build-to width standards are met, side additions of any size are allowed.
- c. Rear additions of any size are allowed. Transition setbacks may apply, see Div. 4.7. Transitions and Screening.

*GRAPHIC TO REMAIN*

#### 3. New **Primary** Buildings on a Corner Lot

- a. All new **primary** buildings must occupy the build-to zone until the build-to width requirement for both streets have been met.
- b. Once the build-to width requirement has been met for both streets, new primary buildings may be placed behind the build-to zone.

*GRAPHIC TO REMAIN*

#### 4. Additions to **Primary Buildings** on a Corner Lot

## Tier 2 Amendment

### B.5 Accessory Uses/Structures and Nonconformity Build-to

- a. Any addition to the front of an existing **primary** building must be located within the build-to zone on the primary street. The addition does not have to meet the minimum build-to width for the entire lot. Front additions with floor area no greater than 10% of the existing **primary** building footprint are allowed behind the build-to zone.
- b. Side additions with floor area no greater than 20% of the existing primary building footprint are allowed. Once the build-to width standard has been met for both streets, side additions of any size are allowed.

#### GRAPHIC TO REMAIN

- c. Rear additions of any size, located behind the build-to zone, are allowed provided:
  - i. A landscape area at least 6 feet wide adjacent to the side street lot line is installed across the entire length of the side street frontage. Breaks for pedestrian, bicycle, and vehicular access of the minimum practical width are allowed.
  - ii. The landscape area must include medium or large trees planted an average of 30 feet on center along the entire landscape area.

#### GRAPHIC TO REMAIN

- iii. Trees should be planted offset from street trees to maximize space for canopy growth.
- iv. All landscaping must meet the applicable standards of Div. 4.9. Landscaping.

### 5. Exceptions

- a. On any lot with an established Primary Building(s), Accessory Building(s) and structure(s) are permitted without first requiring the Primary Building(s) to meet the build-to width requirement. This exception only applies to lots and not sites.

#### Existing Language

##### Definitions: Div. 7.2

*Building.* A covered and enclosed structure, either temporary or permanent, intended for human occupation or shelter of animals or property of any kind.

*Building, accessory.* A building or structure subordinate to the principal structure on a lot and used for purposes incidental to the principal building or structure located on the same lot.

*Building, primary.* The building occupied or designated for the primary use.

*Structure.* Any constructed object more than 30 inches in height.

#### Proposed Language:

##### Definitions: Div. 7.2

*Building.* A covered and enclosed structure, either temporary or permanent, intended for human occupation or shelter of animals or property of any kind.

## Tier 2 Amendment

### B.5 Accessory Uses/Structures and Nonconformity Build-to

*Building, accessory.* A building subordinate to the **primary building(s)** on a lot **or site** and used for purposes incidental to the **primary** building located on the same **lot or site**. **An accessory building may not be utilized for dwelling purposes.**

*Building, primary.* The building or buildings occupied or designated for the primary/principal use on a lot or site.

**Structure:** ~~Any constructed object more than 30 inches in height~~A constructed or erected object that is permanently or temporarily located on the ground or attached to something having a permanent location on the ground, and which is intended to support, shelter, or enclose persons, animals, or property. This includes buildings and similar improvements, but does not include flatwork such as patios, sidewalks, driveways, or other at-grade surfaces not intended for enclosure or occupancy.

#### **Analysis:**

The proposed amendments clearly separate accessory buildings from the nonconforming build-to requirements that once forced homeowners to expand or reconstruct their primary façade before adding a shed or garage. By adding subsection 5.3.3.C.5 and revising Division 3.5, accessory buildings are explicitly allowed without occupying the build-to zone or requiring a front addition. Under the new language, an accessory building permit no longer hinges on bringing the existing primary structure into conformity with build-to width standards. The updated definitions in Section 7.2 further reinforce that accessory buildings remain subordinate to primary buildings and may not serve as dwellings, preventing their reclassification as new primary structures. Overall, these changes eliminate the prior barrier that effectively barred small outbuildings unless significant new construction occurred, streamlining the permitting process for homeowners who simply wish to add a tool shed, workshop, or storage structure

Tier 2 Amendment  
B.7 Transparency in the NX and DX Districts

**Sections 34-2.5.2.B.4, 2.5.3.B.4, 2.5.4.B.4, 2.5.5.B.4, 2.5.6.B.4**

Pages 2-33, 2-35, 2-37, 2-39, 2-41

Working Document reference: B.7

**Existing language:**

	Primary St.	Side St.
4. TRANSPARENCY	Sec. 2.10.12.	
H Ground story (min)		
Primary street	70%	35%
Side street	50%	35%

**Proposed language:**

	Primary St.	Side St.
4. TRANSPARENCY	Sec. 2.10.12.	
H Ground story (min)	70%	35%
<del>Primary street</del>	<del>70%</del>	<del>35%</del>
<del>Side street</del>	<del>50%</del>	<del>35%</del>

**Analysis:**

Transparency standards for the NX- and DX districts contain redundant references to Primary and Side Streets.

# Tier 2 Amendment

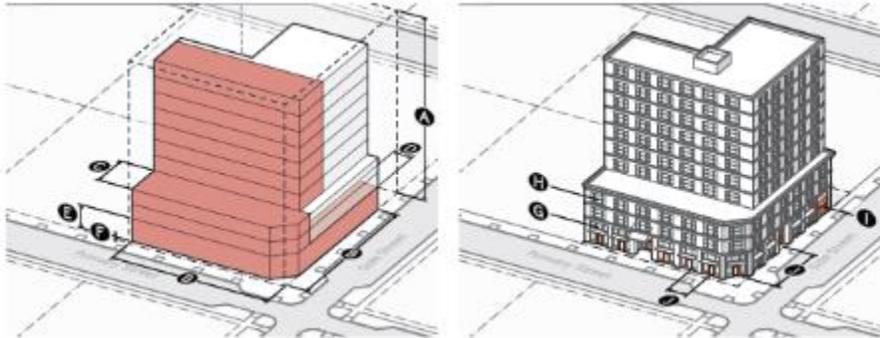
## B.8 Stepbacks Graphic DX Districts

### Section 34-2.5.6.B

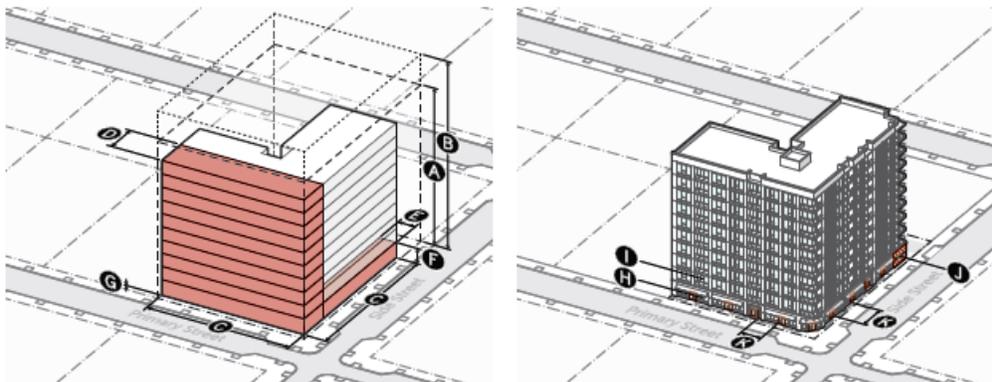
Page 2-41

Working Document reference: B.8

#### Existing Language/Graphic



#### Proposed Language/Graphic



Update DX graphic to remove the stepback; implies the stepback is required. It also is implying an additional 30' and 15' of active depth is required (shaded in red).

#### Analysis:

Stepbacks are only required in the DX district when a Transition per Section 34-4.7.1.B apply (adjacent to R-, RN-, RX-3, CX-3, or NX-3). The current graphic displays building with these stepbacks, but stepbacks would not be required on the majority of parcels currently zoned DX. A revised graphic provides the zoning envelope applicable to most properties within the DX zone. All DX parcels are within an ADC District, and subject to 2.9.2.D. In approving a Certificate of Appropriateness, the BAR (or Council on appeal) may require stepbacks per 5.2.7.C.2.c.

Tier 2 Amendment  
B.11 Side Setbacks Measurement

**Sections 34-2.10.5.D**

Pages 2-114

Working Document reference: B.11

**Existing language:**

- 3 Primary street setback is measured from the primary street lot line.
- 4 Side street setback is measured from the side street lot line.
- 5 Rear setback is measured from the rear lot line
  - a. For determining the rear setback for a triangular or gore-shaped lot, the rear lot line is measured from a 10-foot wide line, parallel to the primary street lot line that intersects two side lots lines at its endpoints.
  - b. For instances where the primary street lot line is not straight, the rear lot line must be parallel to a line connecting the end points of the primary street lot line.

**Proposed language:**

- 3 Primary street setback is measured from the primary street lot line.
- 4 Side street setback is measured from the side street lot line.
- 5 Rear setback is measured from the rear lot line
  - a. For determining the rear setback for a triangular or gore-shaped lot, the rear lot line is measured from a 10-foot wide line, parallel to the primary street lot line that intersects two side lots lines at its endpoints.
  - b. For instances where the primary street lot line is not straight, the rear lot line must be parallel to a line connecting the end points of the primary street lot line.
- 6 Side setback is measured from the side lot line.

**Analysis:**

The current code graphics show Primary street, Side street, Side, and Rear setbacks, but the text only addresses Primary street, Side street, and Rear setbacks. Staff proposes adding text for Side setbacks to match the graphics.

# Tier 2 Amendment

## B.12 Pedestrian Access Types

### Sections 34-4.5.1.C

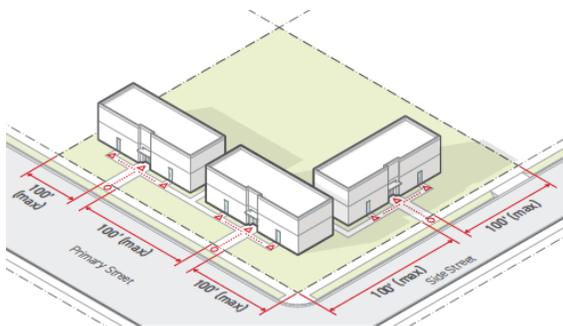
Pages 4-23

Working Document reference: B.12

#### Existing language:

#### PEDESTRIAN ACCESS TYPE 2

Intended to ensure buildings are conveniently accessible from the public realm and to promote walking as a safe and convenient mobility option to improve connectivity through large sites.



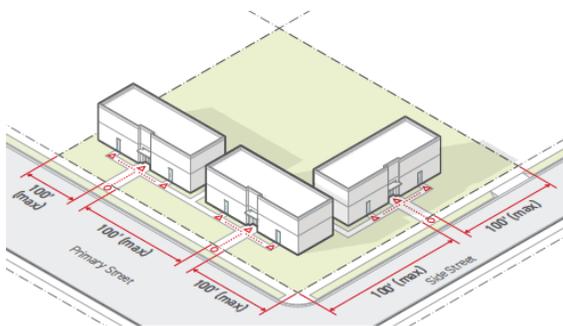
#### ACCESS STANDARDS

Pedestrian accessway type	Linked
Pedestrian accessway spacing (max)	100'
Distance from street intersection (max)	100'

#### Proposed language:

#### PEDESTRIAN ACCESS TYPE 2

Intended to ensure buildings are conveniently accessible from the public realm and to promote walking as a safe and convenient mobility option to improve connectivity through large sites.



Tier 2 Amendment  
B.12 Pedestrian Access Types

**ACCESS STANDARDS**

Pedestrian accessway type	Linked
Pedestrian accessway spacing (max)	100'
Distance from street intersection (max)	100'

(For lots and developments not within 100' of an intersection, only Pedestrian accessway spacing applies)

**Analysis:**

All R districts currently require Pedestrian Access Type 2 under Section 34-4.5.1.B.1. Type 2 access mandates that any sidewalk linking the development to the public right-of-way be located no more than 100 feet from an intersection. However, this standard overlooks the many lots situated beyond that 100-foot threshold. The staff's draft amendment corrects this gap by clarifying that developments outside the 100-foot radius need only comply with the Pedestrian Accessway Spacing requirements.

## Tier 2 Amendment

### B.15 Bonus Hight

#### Sections 34-4.2.2.C.3 and 34-4.2.2.C.4

Pages 4-8

Working Document reference: B.15

#### Existing language, Section 34-4.2.2.C.3:

##### 3. Unit Bonus in Residential Districts Standards

- a. In Residential A (R-A), Residential Core Neighborhood A (RN-A), Residential B (R-B), and Residential C (R-C) zoning districts, a project must provide 100% of all bonus units to households having a gross annual income at or below 80% AMI. Such affordable dwelling units must be income-restricted for a minimum of 30 years. Deed restrictions for affordable dwelling units must be recorded in the Charlottesville Land Records.
- b. When a project demonstrates the affordability goals of the Comprehensive Plan and Affordable Housing Plan and the intent of this Section are met, such as through reinvestment of resources in ongoing affordable housing, the Administrator may accept modifications to the requirements in 4.2.2.
- c. Projects in the Residential A (R-A) and Residential Core Neighborhood (RN-A) districts are exempt from the equivalency of units and concurrency requirements in 4.2.2.C. Standards.

#### Proposed language, Section 34-4.2.2.C.3:

##### 3. Unit **and Height** Bonuses in Residential Districts Standards

- a. In Residential A (R-A), Residential Core Neighborhood A (RN-A), Residential B (R-B), and Residential C (R-C) zoning districts, a project must provide 100% of all bonus units to households having a gross annual income at or below 80% AMI. Such affordable dwelling units must be income-restricted for a minimum of 30 years. Deed restrictions for affordable dwelling units must be recorded in the Charlottesville Land Records.
- b. When a project demonstrates the affordability goals of the Comprehensive Plan and Affordable Housing Plan and the intent of this Section are met, such as through reinvestment of resources in ongoing affordable housing, the Administrator may accept modifications to the requirements in 4.2.2.
- c. Projects in the Residential A (R-A) and Residential Core Neighborhood (RN-A) districts are exempt from the equivalency of units and concurrency requirements in 4.2.2.C. Standards.
- d. **Projects in a Residential (R-) or Residential Neighborhood Core (RN-) district where a height bonus is permitted must provide at least one Affordable Dwelling Unit meeting the requirements above to apply the height bonus to the project.**

## Tier 2 Amendment B.15 Bonus Hight

### **Existing language, Section 34-4.2.2.C.4:**

#### 4. Height Bonus in All Other Districts Standards

- a. In any zoning district other than Residential A (R-A), Residential Core Neighborhood A (RNA), Residential B (R-B), and Residential C (R-C), a project must provide 10% of all residential units to households at or below 50% AMI or provide an in-lieu fee according to the formula described in the ADU Manual.
- b. To qualify for the bonus height, a project must have a residential use for a minimum of 40% of the total floor area.

### **Proposed language, Section 34-4.2.2.C.4:**

#### 4. Height Bonus in All Other Districts Standards

- a. In any zoning district other than Residential A (R-A), Residential Core Neighborhood A (RNA), Residential B (R-B), and Residential C (R-C), a project must provide 10% of all residential units to households at or below 50% AMI or provide an in-lieu fee according to the formula described in the ADU Manual.
- b. To qualify for the bonus height, a project must have a residential use for a minimum of 40% of the total floor area.
- c. When a project qualifies for the bonus height per the requirements above, the bonus height may be applied to any building within the project.

### **Analysis:**

The proposed amendment to Sections 34-4.2.2.C.3 and 34-4.2.2.C.4 aims to provide more detailed and specific guidelines for the application of height bonuses in various residential districts. The current language allows for height bonuses in the Residential C (R-C) district but lacks clear parameters on how these bonuses should be applied. Additionally, it does not specify how the height bonus in other districts can be applied to mixed-use projects, leading to inconsistent application and potential misuse.

The amendment supports the existing language that projects in Residential A (R-A), Residential Core Neighborhood A (RN-A), Residential B (R-B), and Residential C (R-C) zoning districts must provide 100% of all bonus units to households with a gross annual income at or below 80% AMI. These affordable dwelling units must be income-restricted for a minimum of 30 years, with deed restrictions recorded in the Charlottesville Land Records. The Administrator may accept modifications if the project demonstrates the affordability goals of the Comprehensive Plan and Affordable Housing Plan. Projects in the Residential A (R-A) and Residential Core Neighborhood (RN-A) districts are exempt from

## Tier 2 Amendment

### B.15 Bonus Hight

the equivalency of units and concurrency requirements. Projects in a Residential (R-) or Residential Neighborhood Core (RN-) district where a height bonus is permitted must provide at least one Affordable Dwelling Unit meeting the above requirements to apply the height bonus to the project.

In any zoning district other than Residential A (R-A), Residential Core Neighborhood A (RNA), Residential B (R-B), and Residential C (R-C), a project must provide 10% of all residential units to households at or below 50% AMI or provide an in-lieu fee according to the formula described in the ADU Manual. To qualify for the bonus height, a project must have a residential use for a minimum of 40% of the total floor area. When a project qualifies for the bonus height per the requirements above, the bonus height may be applied to any building within the project.

The proposed amendment will help by providing clear and specific guidelines for the application of height bonuses, ensuring consistent and fair implementation across different districts. By requiring affordable dwelling units and setting clear parameters for the application of height bonuses, the amendment supports the goals of the Comprehensive Plan and Affordable Housing Plan. It also ensures that the benefits of height bonuses are aligned with the city's affordability goals, promoting equitable development and addressing the housing needs of low- and moderate-income households

## Tier 2 Amendment

### B.17 Streetscape Standards

#### **Sections 34-4.4.5.D.2**

Pages 4-20

Working Document reference: B.17

#### **Existing language:**

##### D. Existing Streetscapes

1. In areas with predominant patterns of existing streetscapes that conflict with the requirements of this Division, where a project's primary or side street lot line is less than 100' in length, the Administrator may allow for streetscapes to be constructed to match existing clear walk zone and greenscape zone configurations.
2. Where existing streetscapes are determined to be in good condition by the Administrator, they may be used to comply with clear walk zone and greenscape zone requirements provided they comply with all standards in this Division.
3. In Residential (R-) zoning districts, when the project fronts on an existing street and adjacent property on either side of the project does not have an existing streetscape, the Administrator may allow the project developer to contribute to a streetscape fund, maintained and administered by the City, an amount equivalent to the cost of the dedication of land for and the construction of the streetscape on the property.

##### E. Exceptions

The Administrator may vary or waive streetscape requirements. A request to vary or waive the requirements of this Section must be made prior to or with the submittal of a Development Plan or Preliminary Plat. The request must include a written statement of the justification of the request. In reviewing a request, the Administrator must consider each of the following criteria that are applicable to the request:

1. Whether a surface other than concrete is more appropriate for the project because of the character of the proposed project and the surrounding neighborhood;
2. Whether sidewalks on only one side of the street may be appropriate due to environmental constraints such as streams, stream buffers, critical slopes, floodplain, tree cover, or wetlands, or because lots are provided on only one side of the street;
3. Whether the sidewalks can reasonably connect into an existing or future pedestrian system in the area;

## Tier 2 Amendment

### B.17 Streetscape Standards

4. Whether the length of the street is so short and the density of the project so low that it is unlikely that a sidewalk would be used to an extent that it would provide a public benefit;
5. Whether an alternate pedestrian system, including an alternative pavement, could provide more appropriate access through the project and to adjoining lots, based on a proposed alternative profile submitted by the project developer;
6. Whether the sidewalks would be publicly or privately maintained;
7. Whether the waiver promotes the goals of the Comprehensive Plan, including any applicable neighborhood plan; and
8. Whether waiving the requirement would enable a different principle of the neighborhood plan to be more fully achieved.

#### **Proposed language:**

Incorporate Existing Streetscapes into the Exception section.

#### **D E. Exceptions**

The Administrator may vary or waive streetscape requirements. A request to vary or waive the requirements of this Section must be made prior to or with the submittal of a Development Plan or Preliminary Plat. The request must include a written statement of the justification of the request. In reviewing a request, the Administrator must consider each of the following criteria that are applicable to the request:

1. Whether a surface other than concrete is more appropriate for the project because of the character of the proposed project and the surrounding neighborhood;
2. Whether sidewalks on only one side of the street may be appropriate due to environmental constraints such as streams, stream buffers, critical slopes, floodplain, tree cover, or wetlands, or because lots are provided on only one side of the street;
3. Whether the sidewalks can reasonably connect into an existing or future pedestrian system in the area;
4. Whether the length of the street is so short and the density of the project so low that it is unlikely that a sidewalk would be used to an extent that it would provide a public benefit;
5. Whether an alternate pedestrian system, including an alternative pavement, could provide more appropriate access through the project and to adjoining lots, based on a proposed alternative profile submitted by the project developer;

## Tier 2 Amendment

### B.17 Streetscape Standards

6. Whether the sidewalks would be publicly or privately maintained;
7. Whether the waiver promotes the goals of the Comprehensive Plan, including any applicable neighborhood plan; and
8. Whether waiving the requirement would enable a different principle of the neighborhood plan to be more fully achieved.

#### 9. Existing Streetscapes

- a. In areas with predominant patterns of existing streetscapes that conflict with the requirements of this Division, where a project's primary or side street lot line is less than 100' in length, the Administrator may allow for streetscapes to be constructed to match existing clear walk zone and greenscape zone configurations.
- b. Where existing streetscapes are determined to be in good condition by the Administrator, they may be used to comply with clear walk zone and greenscape zone requirements. ~~provided they comply with all standards in this Division.~~
- c. In Residential (R-) zoning districts, when the project fronts on an existing street and adjacent property on either side of the project does not have an existing streetscape, the Administrator may allow the project developer to contribute to a streetscape fund, maintained and administered by the City, an amount equivalent to the cost of the dedication of land for and the construction of the streetscape on the property.

#### **Analysis:**

The proposed amendment to Section 34-4.4.5.D.2 involves moving the "existing streetscape" language to the exception section and removing the phrase "provided they comply with all standards in this Division." This change addresses the concern that the original language made the section unenforceable by allowing the use of existing streetscapes while also requiring them to meet all the standards of the Division.

The amendment ensures that the section is enforceable and aligns with the suggested changes. By moving the "existing streetscape" language to the exception section, the Administrator now has the discretion to allow the use of existing streetscapes if they are in good condition. This is considered an exception and must be approved by the Administrator, providing a clear and enforceable process for applicants.

The amendment also maintains the flexibility for the Administrator to permit alignment with existing streetscapes for projects with less than 100' of frontage and provides a formal process for applicants to request exceptions based on defined criteria. This ensures that the regulation remains functional and aligned with the intent of the Development Code.

## Tier 2 Amendment

### B.17 Streetscape Standards

Overall, the proposed changes improve the clarity and enforceability of the regulation, ensuring that applicants can use existing streetscapes in good condition while providing a clear process for exceptions to be approved by the Administrator.

## Tier 2 Amendment B.24 Active Space

### Sections 34-7.2

Pages 7-11

Working Document reference: B.24

#### Existing language:

**Active space.** Any occupiable space designed and intended for living, sleeping, eating, or cooking. Restrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered active space.

#### Proposed language:

**Active space.** Any occupiable space designed and intended for **human activity such as living, working, commerce,** sleeping, eating, or cooking **as determined by the Administrator.** Restrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered active space.

#### Analysis:

The amendment expands “active space” to include a wider array of uses—living, working, commerce, and social activities—ensuring the definition keeps pace with modern mixed-use developments. Granting the Administrator discretion to interpret this definition streamlines reviews and accommodates innovative programming without frequent text amendments. Retaining exclusions for restrooms, closets, corridors, and utility spaces preserves clear boundaries around true active areas.

Tier 2 Amendment  
B.26 Buildings Spanning Multiple Zoning Districts

**Sections 34-.2.10.10.A.3.a**

Pages 2-131

Working Document reference: B.26

**Existing language:**

No building located on a lot may be wider than the maximum building width allowed by the zoning district.

**Proposed language:**

No building located on a lot may be wider than the maximum building width allowed by the zoning district.

- i. If a single building spans multiple zoning districts, the more restrictive Building Width applies to the entirety of the building.

**Analysis:**

Nothing in this section takes into account buildings being in multiple zoning districts.

## Tier 2 Amendment B.27 Tree Canopy

### Sections 34-4.9.1.D.1.a

Pages 4-75

Working Document reference: B.27

#### Existing language:

All projects must include provisions for the preservation and planting of trees on the site to the extent that, at 10 years from planting, minimum tree canopy cover will be provided as follows:

Zoning Districts	Percentage of Canopy Cover (min)
Residential All R – districts	20%
Residential Mixed Use All RX – districts	10%
Corridor Mixed Use All CX – districts	10%
Node Mixed Us All NX – districts DX	10% 10%
Industrial All IX – districts	10%
Special All special districts	15%

#### Proposed language:

All projects must include provisions for the preservation and planting of trees on the site to the extent that, at **20** years from planting, minimum tree canopy cover will be provided as follows:

Zoning Districts	Percentage of Canopy Cover (min)
Residential All R <b>and RN</b> – districts	<b>10%</b>
Residential Mixed Use All RX – districts	10%
Corridor Mixed Use All CX – districts	10%
Node Mixed Us All NX – districts DX	10% 10%
Industrial All IX – districts	10%

## Tier 2 Amendment B.27 Tree Canopy

Special All special districts	15%
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### **Analysis:**

Under the 2023/24 code, we had explicitly carried forward the June 25, 1990, tree canopy ordinance to enforce a 10-year canopy standard—but the new zoning text omits that cross-reference link and the current Code of Virginia (§ 15.2-961.3) now requires tree canopy to be measured at 20-years standard over that of 10-years. This is particularly pressing as our updated zoning map’s higher densities shift minimum canopy obligations from 10 percent to 20 percent due to § 15.2-961.3.B of the state code outlining density ranges based in dwelling units per acre. The City Attorney has reviewed the situation and confirms that, without the historic ordinance link, we no longer have authority to maintain a 10-year requirement; we must comply with the state’s 20-year, 10 percent standard. Staff therefore recommends updating our zoning ordinance to align with the current state code.

## Tier 2 Amendment B.28 Fences and Walls

### Sections 34-4.8 Fences and Walls

Pages 4-70 to 4-75

Working Document reference: B.28

#### Existing Language:

No existing language.

#### Proposed language:

##### C. Exceptions

##### 1. Fences and Guardrails

- a. Any constructed vertical barrier of wood, masonry, wire, metal, or other manufactured material, or combination of materials erected to enclose, screen, or separate areas and not having a solid foundation, and with a maximum height of four (4') feet six (6") is not considered a Fence or Structure for the purposes of this division and is not required to follow the regulations set forth.
- b. Any guardrails, railings, or barriers, which are required by Building code to prevent falls and ensure safety is not considered a Fence or Structure for the purposes of this division and is not required to follow the regulations set forth.
- c. Any constructed vertical barrier of wood, masonry, wire, metal, or other manufactured material, or combination of materials erected to enclose, screen, or separate areas and not having a solid foundation, and required to separate areas for compliance with state regulations, such as those enforced by the Alcoholic Beverage Control (ABC) authority is not considered a Fence or Structure for the purposes of this division and is not required to follow the regulations set forth.

#### Analysis:

Existing fence regulations have generated significant confusion and placed a considerable strain on staff resources, despite fences rarely presenting issues historically. By providing exceptions for small non-privacy fences with detailed language on height, materials and foundation type, we preserve the established fence and wall standards in each zoning district while introducing greater flexibility for smaller enclosure elements. Additionally, by exempting guardrails required by building codes or state regulations (such as ABC regulations) from the Fence and Wall regulations, we ensure that essential safety measures are not hindered by these standards. This approach maintains safety and compliance while reducing unnecessary regulatory burdens, ultimately facilitating a more efficient and effective regulatory framework.

Tier 2 Amendment  
B.30 Outdoor Lighting

**Sections 34-4.12.3.B.3**

Pages 4-104

Working Document reference: B.30

**Existing language:**

3. Lighting must not trespass onto adjacent properties, sidewalks, or rights-of-way and the footcandles at the property line must be no more than 0.5.

**Proposed language:**

3. Lighting must not trespass onto adjacent properties, ~~and~~ sidewalks **not within the proposed development**, or rights-of-way and the footcandles at the property line must be no more than 0.5.

**Analysis:**

The existing language requires developments covering multiple lots to limit interior site lighting at 0.5 footcandles along interior lot boundaries regardless of the physical layout of the development. The amendment permits developments covering multiple lots to provide adequate site lighting within the development without impacting rights-of-way or properties outside of the development.

## Tier 2 Amendment B.31 Critical Slope Definition

### Sections 34- 4.10.1.C

Pages 4-80

Working Document reference: B.31

#### Existing language:

##### C. Standards

1. No buildings, structures, or other improvements are permitted in the part of a project site with a grade of 25% or greater.
2. No land disturbance is permitted in the part of a project site with a grade of 25% or greater.

#### Proposed language:

##### C. Standards

1. No buildings, structures, or other improvements are permitted in the part of a project site ~~with in critical slope areas a grade of 25% or greater.~~
2. No land disturbance is permitted in the part of a project site ~~with in critical slope areas a grade of 25% or greater.~~

#### Analysis:

Clarifies prohibitions on critical slope disturbance to be in line with the definition specified in Section 34-4.10.1.B.1.

##### B. Applicability

1. Critical slope requirements apply to project sites that include any portion of sloped area that has all of the following criteria:
  - a. A grade of 25% or greater;
  - b. A portion of the slope has a horizontal run of greater than 20 feet;
  - c. An area of 6,000 square feet or greater; and
  - d. A portion of the slope is within 200 feet of any waterway protected by the Standard and Design Manual or Chapter 10 of the Charlottesville Code of Ordinances, or shown on the map entitled “Properties Impacted by Critical Slopes”, maintained by the Neighborhood Development Services.

## Tier 2 Amendment

### B.32 Development Review

#### **Section 34-5.2.9**

Page: 5-37

Working Document reference: B.32

#### **Existing language:**

##### 5.2.9. Development Review

###### A. Applicability

1. Development Review applies to any of the following project activities:

- a. New construction;
- b. Addition;
- c. Site modification; and
- d. Some changes of use.

2. Development Review is not required for a change of use provided that:

- a. No additional site access, or alteration of existing site access is recommended by the City, based on intensification of use; and
- b. No additional site access, or alteration of existing site access is proposed.

3. Projects not requiring Development Review may require a Building Permit.

###### B. Application Requirements

###### 1. Pre-Application Conference

Before submitting a Development Review application, an applicant must schedule a pre-application conference with the Administrator to discuss the procedures, standards, and regulations required for approval. This requirement may be waived at the discretion of the Administrator.

###### 2. Application Submittal

- a. The required documents and drawings for Development Review are contained in the Development Review Administration Manual.
- b. Following the pre-application conference, an applicant may start the application process. To begin, a complete application form, required plans, and review fees must be filed with the Administrator. Other general submittal requirements for all applications are listed in 5.2.1. *Common Review Procedures*.

###### C. General Development Review Process

1. Development Review consists of two separate approvals, a Development Plan and Final Site Plan. A Development Plan and Final Site Plan are required for all projects that require Development Review.

2. Development Plans and Final Site Plans may be reviewed simultaneously or may be phased. An applicant may choose to apply for Development Plan approval and engineering approval, and then apply for Final Site Plan approval and building approval in order to start building construction. Development Plan and Final Site Plan reviews include the

## Tier 2 Amendment

### B.32 Development Review

requirements of this Development Code, and engineering and building reviews include requirements of separate Chapters of the City of Charlottesville Code and the Standards and Design Manual.

3. Anything regulated by this Development Code will be reviewed for compliance by the Administrator, with additional review by other City Departments.

#### D. Development Plan Review

##### 1. Review and Decision Process

###### a. Administrator Decision

i. Once the Administrator determines the application is complete, the Administrator will notify the Planning Commission of the application and review the application against the requirements of this Development Code and other applicable technical requirements of the City.

ii. In reviewing the application, the Administrator will distribute the application for consultation and review by other City Departments.

iii. When the property is within an ADC District, HC District, or an Individually Protected Property, a Certificate of Appropriateness may also be required. See 5.2.7. *Major Historic Review* and 5.2.7. *Major Historic Review*.

iv. If, after the internal review, the Administrator finds that the application does not meet all requirements of this Development Code, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to amend the Development Plan.

v. Following review, the Administrator will approve, approve with conditions that bring the application into conformance with this Development Code and other technical requirements of the City, or deny the application.

###### b. Planning Commission Decision

i. The Planning Commission will take action on a Development Plan when:

a) The Administrator refers the application to the Planning Commission for review;

b) Two or more members of the Planning Commission request to review the application; or

c) The application is the subject of an appeal from a decision by the Administrator, as allowed by this Section.

ii. When the Planning Commission takes action on a Development Plan, the Administrator will review the application and provide a staff report and recommendation to the Planning Commission in advance of the meeting. Prior to the preparation of the staff report, other City staff may make recommendations to the Administrator to include in the staff report.

##### 2. Action After Decision

###### a. Appeal of Administrative Decision

## Tier 2 Amendment

### B.32 Development Review

i. The applicant may appeal the failure of the Administrator or Planning Commission to either approve or deny the application to the Circuit Court in accordance with the *Code of Virginia § 15.2-2259*.

ii. The applicant may appeal the denial of the application by the Administrator or Planning Commission to the Board of Zoning Appeals within 30 days after the denial in accordance with the *Code of Virginia § 15.2-2309*.

#### b. Expiration of a Development Plan

Once a Development Plan is approved, it is valid for a period of 5 years, as specified in the *Code of Virginia § 15.2-2260*.

### E. Engineering Review

#### 1. Review and Decision Process

a. Upon approval of a Development Plan, applications for review and approval of infrastructure permits required by separate Chapters of the City of Charlottesville Code and the Standards and Design Manual may be prepared and submitted.

b. The Administrator will not sign any Final Site Plan, unless and until final plans and approvals required by the City Code of Ordinances Chapter 10, Water Protection have been obtained.

### F. Final Site Plan Review

#### 1. Review and Decision Process

##### a. Administrator Decision

i. The Administrator will review the Final Site Plan for compliance with the requirements of this Development Code in effect at the time of Development Plan approval, except as authorized by *Code of Virginia § 15.2-2261*. The Administrator must make a good faith effort to identify all deficiencies, if any, during the review of the initial Final Site Plan submittal. The Administrator must consider the recommendations and determinations made by the plan reviewers.

ii. If the Administrator determines that the Final Site Plan complies with the requirements of this Development Code and that all conditions of approval of the Development Plan have been satisfied, the Administrator will sign the Final Site Plan.

iii. If the Administrator determines that the Final Site Plan does not comply with all requirements of this Development Code or that all conditions of approval of the Development Plan have not been satisfied, the Final Site Plan will be denied and the Administrator will promptly inform the project developer of the denial by issuing a notice of denial to the project developer.

#### 2. Action After Decision

##### a. Permits for Construction

## Tier 2 Amendment

### B.32 Development Review

Upon approval of a Final Site Plan, any applicable permits for construction required by the City Code of Ordinances Chapter 5, Building Regulations; Property Maintenance may be prepared and submitted.

#### b. Appeal of Administrative Decision

i. The applicant may appeal the failure of the Administrator to either approve or deny the application to the Circuit Court in accordance with the *Code of Virginia § 15.2-2259*.

ii. The applicant may appeal the denial of the application by the Administrator to the Board of Zoning Appeals within 30 days after the denial in accordance with the *Code of Virginia § 15.2-2309*.

#### c. Revisions to an Approved Development Plan or Final Site Plan

i. Minor revisions to an approved Development Plan or Final Site Plan may be approved by the Administrator. The following revisions are considered minor:

a) Up to 10% increase in the gross floor area of a single building;

b) Any decrease in gross floor area of a single building;

c) Up to 10% reduction in the approved setbacks from street or common lot lines; and

d) Relocation of parking areas, internal driveways or structures where relocation occurs more than 100 feet from street or common lot lines.

ii. All other changes to an approved Development Plan or Final Site Plan must be resubmitted as a new application.

#### 3. Expiration of Final Site Plan

a. An approved Final Site Plan will be valid for 5 years from the date of approval, or for a longer period determined by the Administrator at the time of approval, taking into consideration the size and phasing of the proposed project. A Final Site Plan will be deemed final once it has been reviewed and approved, where the only requirement remaining to be satisfied in order to obtain a building permit is the posting of required bonds and escrows.

b. Upon application filed prior to expiration of a Final Site Plan, the Administrator, may grant an extension of such approval, taking into consideration the size and phasing of the proposed site and the laws, ordinances, and regulations in effect at the time of the request for an extension.

### **Proposed language:**

#### 5.2.9. Development Review

##### A. Applicability

1. Development Review applies to any of the following project activities:

a. New construction;

b. Addition;

## Tier 2 Amendment

### B.32 Development Review

- c. Site modification; and
- d. Some changes of use.

2. Development Review is not required for the following project activities:

a. New construction or addition activities for any project with no public improvements except Streetscape improvements per *Article 4 Development Standards*, no more than two new dwelling units (Household Living), and no other principal uses proposed.

b. Site modification activities for any project with no new construction or addition activities and no public improvements except Streetscape improvements per *Article 4 Development Standards* and:

i. In a Residential (R-) or (RN-) district; or

ii. Proposing no modification to site elements regulated by Division 4.5 Access and Parking, Division 4.6 Utilities, Division 4.7 Transitions and Screenings, Division 4.12 Outdoor Lighting, and Section 34-2.10.4.C Outdoor Amenity Space.

c. Development Review is not required for a change of use provided that:

i. No additional site access, or alteration of existing site access is recommended by the City, based on intensification of use; and

ii. No additional site access, or alteration of existing site access is proposed.

3. Projects not requiring Development Review may require a Building Permit.

#### B. Application Requirements

##### 1. Pre-Application Conference

Before submitting a Development Review application, an applicant must schedule a pre-application conference with the Administrator to discuss the procedures, standards, and regulations required for approval. This requirement may be waived at the discretion of the Administrator.

#### C. General Development Review Process

1. Development Review consists of two separate approvals, a Development Plan and Final Site Plan. A Development Plan and Final Site Plan are required for all projects that require Development Review.

2. Development Plans and Final Site Plans may be reviewed **independently or simultaneously or may be phased**. ~~An applicant may choose to apply for Development Plan approval and engineering approval, and then apply for Final Site Plan approval and building permit approval in order to start building construction. Development Plan and~~ Final Site Plan reviews include the requirements of this Development Code; and ~~the engineering and building reviews include~~ requirements of separate Chapters of the City of Charlottesville Code and the Standards and Design Manual.

3. Anything regulated by this Development Code will be reviewed for compliance by the Administrator, with additional review by other City Departments.

#### D. Development Plan Review

## Tier 2 Amendment

### B.32 Development Review

#### 1. Review and Decision Process

##### a. Administrator Decision

i. Once the Administrator determines the application is complete, the Administrator will ~~notify the Planning Commission of the application and~~ review the application against the requirements of this Development Code and other applicable technical requirements of the City.

~~ii. In reviewing the application, the Administrator will distribute the application for consultation and review by other City Departments.~~

iii. When the property is within an ADC District, HC District, **EC District**, or an Individually Protected Property, a Certificate of Appropriateness may also be required. See 5.2.67.

**Major Minor** Historic Review, ~~and~~ 5.2.7. Major Historic Review, ~~and~~ 5.2.8 Corridor Review.

iv. If, after ~~the internal~~ review, the Administrator finds that the application does not meet all requirements of this Development Code, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to amend the Development Plan.

v. Following review, the Administrator will approve, approve with conditions that bring the application into conformance with this Development Code and other technical requirements of the City, or deny the application.

##### ~~b. Planning Commission Decision~~

~~i. The Planning Commission will take action on a Development Plan when:~~

~~a) The Administrator refers the application to the Planning Commission for review;~~

~~b) Two or more members of the Planning Commission request to review the application;~~

~~or~~

~~c) The application is the subject of an appeal from a decision by the Administrator, as allowed by this Section.~~

~~ii. When the Planning Commission takes action on a Development Plan, the Administrator will review the application and provide a staff report and recommendation to the Planning Commission in advance of the meeting. Prior to the preparation of the staff report, other City staff may make recommendations to the Administrator to include in the staff report.~~

#### 2. Action After Decision

##### a. Appeal of Administrative Decision

i. The applicant may appeal the failure of the Administrator ~~or Planning Commission~~ to either approve or deny the application to the Circuit Court in accordance with the Code of Virginia § 15.2-2259.

ii. The applicant may appeal the denial of the application by the Administrator ~~or Planning Commission~~ to the Board of Zoning Appeals within 30 days after the denial in accordance with the Code of Virginia § 15.2-2309.

##### b. Expiration of a Development Plan

Once a Development Plan is approved, it is valid for a period of 5 years, as specified in the Code of Virginia § 15.2-2260.

## Tier 2 Amendment

### B.32 Development Review

#### ~~34-5-2.9.E. Engineering Review~~

##### ~~1. Review and Decision Process~~

~~a. Upon approval of a Development Plan, applications for review and approval of infrastructure permits required by separate Chapters of the City of Charlottesville Code and the Standards and Design Manual may be prepared and submitted.~~

~~b. The Administrator will not sign any Final Site Plan, unless and until final plans and approvals required by the City Code of Ordinances Chapter 10, Water Protection have been obtained.~~

#### EF. Final Site Plan Review

##### 1. Review and Decision Process

###### a. Administrator Decision

i. The Administrator will review the Final Site Plan for compliance with the requirements of this Development Code in effect at the time of Development Plan approval, except as authorized by Code of Virginia § 15.2-2261. The Administrator must make a good faith effort to identify all deficiencies, if any, during the review of the initial Final Site Plan submittal. ~~The City Engineer will review the Final Site Plan for compliance with the engineering requirements of separate Chapters of the City of Charlottesville Code and the Standards and Design Manual.~~ The Administrator and City Engineer must consider the recommendations and determinations made by the plan reviewers.

ii. If the Administrator determines that the Final Site Plan complies with the requirements of this Development Code and that all conditions of approval of the Development Plan have been satisfied, ~~and the City Engineer determines that the Final Site Plan complies with all engineering requirements of separate Chapters of the City of Charlottesville Code and Standards and Design Manual,~~ the Administrator will ~~sign~~ approve the Final Site Plan.

iii. If the Administrator determines that the Final Site Plan does not comply with all requirements of this Development Code or that all conditions of approval of the Development Plan have not been satisfied, ~~or if the City Engineer determines that the Final Site Plan does not comply with all engineering requirements of separate Chapters of the City of Charlottesville Code and Standards and Design Manual,~~ the Final Site Plan will be denied and the Administrator will promptly inform the project developer of the denial by issuing a notice of denial to the project developer.

##### 2. Action After Decision

###### a. Permits for Construction

Upon approval of a Final Site Plan, any applicable permits for construction required by the City Code of Ordinances Chapter 5, Building Regulations; Property Maintenance and City Code of Ordinances Chapter 10, Water Protection may be prepared and submitted.

###### b. Appeal of Administrative Decision

i. The applicant may appeal the failure of the Administrator to either approve or deny the application to the Circuit Court in accordance with the Code of Virginia § 15.2-2259.

ii. The applicant may appeal the denial of the application by the Administrator to the Board

## Tier 2 Amendment

### B.32 Development Review

of Zoning Appeals within 30 days after the denial in accordance with the Code of Virginia § 15.2-2309.

c. Revisions to an Approved Development Plan or Final Site Plan

i. Minor revisions to an approved Development Plan or Final Site Plan may be approved by the Administrator. The following revisions are considered minor:

- a) Up to 10% increase in the gross floor area of a single building;
- b) Any decrease in gross floor area of a single building;
- c) Up to 10% reduction in the approved setbacks from street or common lot lines; and
- d) Relocation of parking areas, internal driveways or structures where relocation occurs more than 100 feet from street or common lot lines.

ii. All other changes to an approved Development Plan or Final Site Plan must be resubmitted as a new application.

3. Expiration of Final Site Plan

a. An approved Final Site Plan will be valid for 5 years from the date of approval, or for a longer period determined by the Administrator at the time of approval, taking into consideration the size and phasing of the proposed project. A Final Site Plan will be deemed final once it has been reviewed and approved, where the only requirement remaining to be satisfied in order to obtain a building permit is the posting of required bonds and escrows.

b. Upon application filed prior to expiration of a Final Site Plan, the Administrator, may grant an extension of such approval, taking into consideration the size and phasing of the proposed site and the laws, ordinances, and regulations in effect at the time of the request for an extension.

#### **Analysis:**

This section has been updated to address recent state legislative changes, to codify the City's policy to exempt 1- and 2- unit projects from Development Review, and to implement process changes to the Development Review procedures. Process changes to the procedures will establish a modified process for Final Site Plan review, which must be completed prior to moving forward to other required applications such as those in Chapter 10 (Water Protection). Process changes will also provide an opportunity for applicants to submit a streamlined Development Plan focused on zoning compliance demonstration and receive vesting approval prior to moving forward with a Final Site Plan application.

Tier 2 Amendment

B.34 Low Density Residential Building Height

**Sections 34-.2.2.2.B.1.A, 2.2.3.B.1.A, 2.2.4.B.1.A, and 2.2.5.B.1.A**

Pages 2-9, 2-11, 2-13, 2-15

Working Document reference: B.34

**Building Height**

**Existing language:** (page 2-9)

Building height (max stories/feet)

1 unit 2.5 / 35'

More than 1 unit 3 / 40'

**Proposed language:** (page 2-9)

**Building height (max feet)**

1 unit 35'

More than 1 unit 40'

**Existing language:** (page 2-11)

Building height (max stories/feet) 2.5 / 35'

**Proposed language:** (page 2-11)

**Building height (max feet) 35'**

**Existing language:** (page 2-13)

Building height (max stories/feet)

1 unit 2.5 / 35'

More than 1 unit 3 / 40'

**Proposed language:** (2-13)

**Building height (max feet)**

1 unit 35'

More than 1 unit 40'

**Existing language:** (page 2-15)

Building height (max stories/feet)

Base 3.5 / 40'

Bonus: Affordable Dwelling Unit 4 / 52'

**Proposed language:**

**Building height (max feet)**

Base 40'

Bonus: Affordable Dwelling Unit 52'

## Tier 2 Amendment

### B.34 Low Density Residential Building Height

#### **Analysis:**

Removing maximum story limits in low-density residential districts in favor of regulating height strictly by feet addresses long-standing challenges with sloped terrain and the rigid definition of “story” under Section 34-2.10.9.4.a. This change preserves the traditional scale of development while giving builders more flexibility in interior design—especially for smaller infill projects—and restores a height metric that historically functioned well without conflict.

Tier 2 Amendment  
B.35 Massing/Active Depth

**Sections 34-2.10.10.B.2**

Pages 2-133

Working Document reference: B.35

**Existing language:**

**Applicability**

- a Active depth standards apply to the portions of a building used to meet the minimum build-to width requirement. See 2.10.6. *Build-To*.
- b On primary streets, the active depth applies to all stories.
- c On side streets, the active depth requirement applies to the ground story only.
- d Lots with 1 dwelling unit do not have to meet the active depth requirements

**Proposed language:**

- a Active depth standards apply to the portions of a building used to meet the minimum build-to width requirement. See 2.10.6. *Build-To*.
- b On primary streets, the active depth applies to all stories.
- c On side streets, the active depth requirement applies to the ground story only.
- d **A Primary Building on a lot or subplot consisting of a maximum of only 1 dwelling unit and no additional primary/principal uses does** not have to meet the active depth requirements.

**Analysis:**

The proposed amendment sharpens the one-unit exemption by specifying that only a standalone primary building on a lot or subplot containing a single dwelling unit—with no additional uses—is exempt from active-depth standards. This replaces the broader “lots with 1 dwelling unit” language, closing potential loopholes around accessory or mixed uses and clarifying the scope of applicability without altering the remaining depth requirements. By adding in primary/principal uses this allows secondary uses such as a accessory and/or temporary uses to be permitted and still qualify for the exception for active depth.

## Tier 2 Amendment B.36 Building Setbacks

### Sections 34-2.10.5.D.1

Pages 2-113

Working Document reference: B.36

#### Existing language:

Measurement

1. All building setbacks are measured perpendicular to the applicable lot line.
2. Where a lot line abuts an access easement, the Administrator will determine whether the setback may be measured from the interior edge of the access easement rather than the lot line.

#### Proposed language:

Measurement

1. All building setbacks are measured perpendicular to the applicable lot line.
2. Where ~~a lot line abuts an access~~ a required easement would prevent standard setbacks, the Administrator will determine whether the setback may be measured from the interior edge of the easement rather than the lot line.

#### Analysis:

The current code provision grants the Administrator authority to modify setback requirements solely in relation to the location of access easements. This narrow scope presents a concern, as it overlooks other relevant easement categories—such as utility or sight distance easements—that can significantly influence appropriate structure placement on a site. By limiting administrative discretion to access easements alone, the regulation may inadvertently undermine considerations necessary for safe, functional, or compliant development.

To address this gap, staff recommends eliminating the term “access” from the code language. This revision would expand the Administrator’s purview, allowing setback adjustments in response to a broader range of easement types. Such flexibility ensures that decisions reflect the full spectrum of site constraints, ultimately supporting more informed and context-sensitive planning outcomes.

Tier 2 Amendment  
B.38 Existing Structure Preservation

**Sections 34-.2.10.5.3.B & 2.10.6.A.2**

Pages 2-112 & 2-117

Working Document reference: B.38

**Existing language:**

No existing language.

**Proposed language:**

**2.10.5. Building Setbacks**

**B. Applicability**

3. When permitted by the Zoning District, a project eligible for the Existing Structure Preservation Bonus for density will be deemed to comply with the Building Setback requirements.

2.10.6 Build-To

A.2

e. When permitted by the Zoning District, a project utilizing the Existing Structure Preservation Bonus for density will be deemed to comply with the Build-To requirements.

**Analysis:**

The proposed amendments to Sections 2.10.5.B and 2.10.6.A.2 would streamline adaptive-reuse projects by deeming any development eligible for the Existing Structure Preservation Bonus automatically compliant with Setback and Build-To requirements where allowed by the Zoning District. This change reduces administrative hurdles and incentivizes the retention of existing buildings, promoting sustainability and preserving neighborhood character.

Tier 2 Amendment  
B.40 Build-to Width

**Sections 34- 2.10.6.A.2**

Pages 2-117

Working Document reference: B.40

**Existing language:**

2. Applicability

- a. The build-to width applies to all lots.
- b. The build-to width requirements apply to the ground story of the building only. The ground story is determined according to *2.10.9. Height*.
- c. Where sublots are permitted, build-to width is calculated for each lot, not individual sublots.
- d. For through lots, the Administrator may waive or vary the build-to width requirement for one of the street lot lines. The Administrator will consider the following standards when making the decision to waive or vary the requirement for one street lot line:
  - i. The proposed number and arrangement of units on the lot to determine if meeting the build-to width requirement is practical for all street lot lines; and
  - ii. The prevailing pattern of development on the surrounding parcels to determine which street must meet the build-to requirement and which street can waive or vary the requirement.

**Proposed language:**

2. Applicability

- a. The build-to width applies to all lots.
- b. The build-to width requirements apply to the ground story of the building only. The ground story is determined according to *2.10.9. Height*.
- c. Where sublots are permitted, build-to width is calculated for each lot, not individual sublots.
- d. For through lots, the Administrator may waive or vary the build-to width requirement for one of the street lot lines. The Administrator will consider the following standards when making the decision to waive or vary the requirement for one street lot line:
  - i. The proposed number and arrangement of units on the lot to determine if meeting the build-to width requirement is practical for all street lot lines; and
  - ii. The prevailing pattern of development on the surrounding parcels to determine which street must meet the build-to requirement and which street can waive or vary the requirement.
- e. For lots with existing easements that would prevent complying with the required build-to width set by the Zoning district, the Administrator will determine an appropriate build-to width based on the restraints of the existing conditions.

## Tier 2 Amendment B.40 Build-to Width

### **Analysis:**

The proposed revision to the development code enhances administrative flexibility by introducing a new provision that explicitly addresses lots encumbered by existing easements. While the original language provides limited discretion—primarily for through lots—the updated version empowers the Administrator to determine an appropriate build-to width when easements make strict compliance impractical. This change not only acknowledges real-world site constraints but also streamlines the approval process, allowing projects to meet the intent of the build-to width standard without resorting to time-consuming alternatives like variances or Special Exception Permits.

## Tier 2 Amendment B.42 Existing Structure Date

### Sections 34-4.2.1.B

Pages 4-5

Working Document reference: B.42

#### Existing language:

##### B. Standards

1. To be considered an existing structure, a project must maintain the primary street-facing building facade and the exterior building envelope for a minimum distance of 25 feet behind the primary street-facing building facade. Interior reconfiguration in this area is permitted.
2. A project must maintain any existing entry features, such as a porch, raised entry, or forecourt.
3. Minor modifications to the exterior building envelope or entry features for repair or reconstruction are allowed when the modifications are the same or substantially similar to the design of the original structure, as determined by the Administrator.

#### Proposed language:

1. To be considered an existing structure **the building must have been constructed and occupied prior to the adoption of this code (December 18, 2023), and the lot** must maintain the primary street-facing building facade and the exterior building envelope for a minimum distance of 25 feet behind the primary street-facing building facade. Interior reconfiguration in this area is permitted.
2. A project must maintain any existing entry features, such as a porch, raised entry, or forecourt.
3. Minor modifications to the exterior building envelope or entry features for repair or reconstruction are allowed when the modifications are the same or substantially similar to the design of the original structure, as determined by the Administrator.

#### Analysis:

The proposed amendment to Sections 34-4.2.1.B, specifically focusing on the Existing Structure Preservation Bonus, aims to incentivize the preservation and rehabilitation of existing housing stock while implementing the affordable housing goals of the adopted Comprehensive Plan and Charlottesville Affordable Housing Plan. The current proposal stipulates that to be considered an existing structure, the building must have been constructed and occupied before the adoption of this code (December 18, 2023).

There is a need for future discussions regarding whether structures built after the adoption of the code should be eligible for the preservation bonus. The Planning Commission (PC) has suggested a rolling allowance every 8 years. However, staff currently prefers to use the

## Tier 2 Amendment

### B.42 Existing Structure Date

adoption date of the code as the cutoff. A rolling allowance could undermine the intent to preserve buildings that existed at the time the code was adopted. Staff is concerned that a rolling date could allow developers to exploit a loophole. For instance, a developer could remove an older home that the City would have valued the preservation of, build a new one, wait a few years, and then qualify for the preservation bonus. This scenario may contradict the intent of preserving existing units and could lead to the loss of historical and architectural value in the community.

There is currently no context provided for why existing units are being preserved. If the goal is to allow a structure to receive the bonus after being in place for a certain period, it is essential to determine what that period (X) should be. Alternatively, the density allowed could be increased to achieve the same goal. For now, it is crucial to have clear guidelines to prevent developers from building new homes today and immediately qualifying for the preservation bonus. The intent of the bonus is to provide an incentive for the preservation and rehabilitation of existing housing stock, aligning with the affordable housing goals of the Comprehensive Plan and Charlottesville Affordable Housing Plan.

The proposed amendment is a step in the right direction to preserve and rehabilitate existing housing stock. However, it is essential to address the concerns mentioned above to ensure the effectiveness and integrity of the preservation bonus. Future discussions and potential adjustments to the proposal will be necessary to refine the criteria and prevent exploitation of the bonus system.