

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
2 ZT-6-15: LDR AMENDMENT – FENCE HEIGHT
3 REGULATIONS
4 AUGUST 3, 2015
5

6 I. Background

- 7
- 8 A. **Applicant:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna
9 Beach
- 10
- 11 B. **Request:** Approval of amendments to the City's *Land Development*
12 *Regulations*, regarding requirements related to fences on atypical and
13 through lots.
14

15 II. Findings

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- 17 A. The City Commission has directed staff to review regulations regarding
18 placement and height of fences on atypical lots. An "atypical lot" is defined
19 in the City's *Land Development Regulations* as a "lot within a recorded
20 subdivision where, as a result of subdivision design, the lot abuts a public
21 right-of-way at one end and any of the following at the opposite end: (a) the
22 Atlantic Ocean; (b) a waterway or water body at least fifty (50) feet in width;
23 (c) a golf course fairway or green; and (d) an open space area which by
24 itself, or when combined with other open space areas within the same
25 subdivision, comprises at least fifteen (15) percent of the total land area in
26 said subdivision, and where an undivided interest is conveyed on each lot".
27
- 28 B. The LDR currently limits fence heights on atypical lots to a maximum of four
29 feet in height within the required front, side and rear yard setbacks. Fences
30 may be increased to a maximum of six feet in height if the fence meets the
31 required setbacks. Staff is proposing an amendment to allow six foot tall
32 fences if they are outside of the required front and rear yard setbacks, and
33 outside of the required visibility triangle. This would allow property owners
34 to place a six-foot tall fence in the side yard setbacks, where privacy from
35 adjacent property owners is most likely to be desired. A diagram illustrating
36 this change is included with the proposed text amendment language shown
37 below.
38
- 39 C. In addition to reviewing the requirements for fences on atypical lots, staff
40 has also reviewed the regulations regarding fences on corner lots and
41 through lots. A "through lot" is defined in the LDR as a "lot which has a pair
42 of opposite lot lines along two substantially parallel streets, and which is not
43 a corner lot. On a "through lot" or double frontage lot" both street lines shall
44 be deemed front lot lines". A "corner lot" is defined as a "lot abutting two or
45 more streets at their intersections".
46
- 47 D. Currently, the LDR limits fence heights within required front yard to a
48 maximum of four feet in height. The purpose for this is to establish and

1 maintain a uniform rhythm and appearance along street frontages. This is
2 a basic principle of sound planning and urban design. Allowing fences taller
3 than four feet in height creates a wall along the street and, when no
4 uniformity exists between fences, creates a discordant aesthetic (**Exhibit**
5 **A**).

- 6
7 E. At this time, staff does not recommend any changes to the fence height
8 requirements for corner and through lots. Although there have recently
9 been three variance requests for through lot fences, these have all been
10 within one particular subdivision and are the result of actions taken by the
11 City that are not a typical occurrence. Staff would recommend that requests
12 to increase the fence height within the front yard setbacks on corner and
13 through lots continue to be reviewed on a case-by-case basis utilizing the
14 variance process.

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16 **III. Recommendations**

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18 Staff recommends **approval** of the proposed changes to the LDR, as shown below.
19 Underlines are additions and deletions are ~~struck through~~.

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803.03 Regulations Pertaining to Fences, Walls, and Hedges:

A. Typical Lots

Properties zoned residential

Maximum height:

- (1) Within required front yard setback: 4 feet;
- (2) Outside required front yard setback: 6 feet;
- ~~(3) Hedges located outside of the required front yard setback may exceed 6 feet in height;~~
- (4) Tennis court fences taller than 4 feet in height may be permitted within the required front yard setback by special exception, as outlined in Section 801.17; and
- (5) Fences, walls, and hedges shall conform to visibility triangle requirements for corner lots, as outlined in Section 804.01.

Properties zoned non-residential

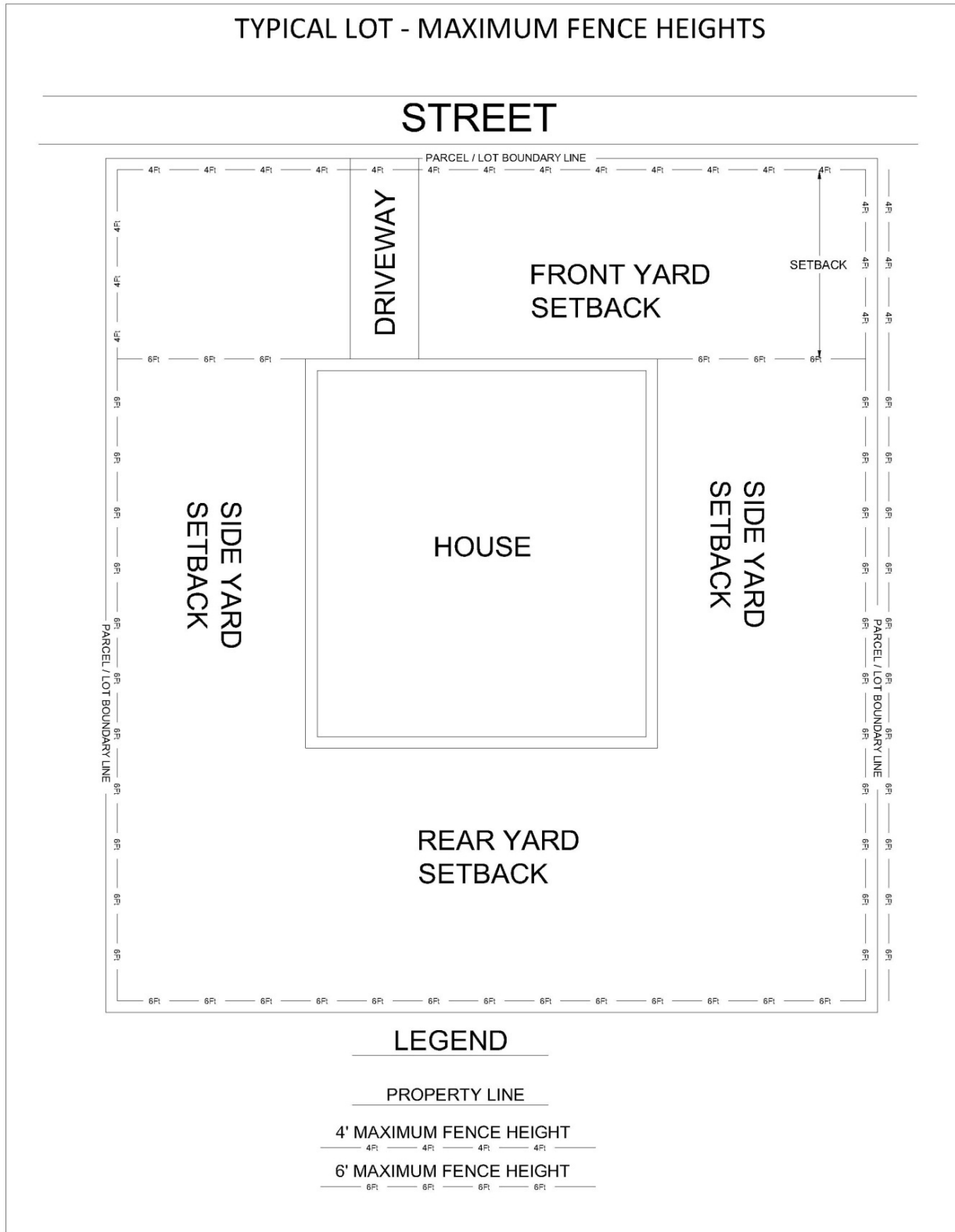
Maximum height: 6 feet

- (1) Fences, walls and hedges shall conform to visibility triangle requirements for commercial and industrial lots as outlined in section 804.01;
- (2) Chain link and wire fences taller than 3 feet in height may be allowed in the visibility triangle, provided that slats or other opaque materials are not inserted in or placed on the fence; and
- (3) Tennis court fences taller than 4 feet in height may be permitted within the required front yard setback by special exception, as outlined in Section 801.17.

Ord. #55-10

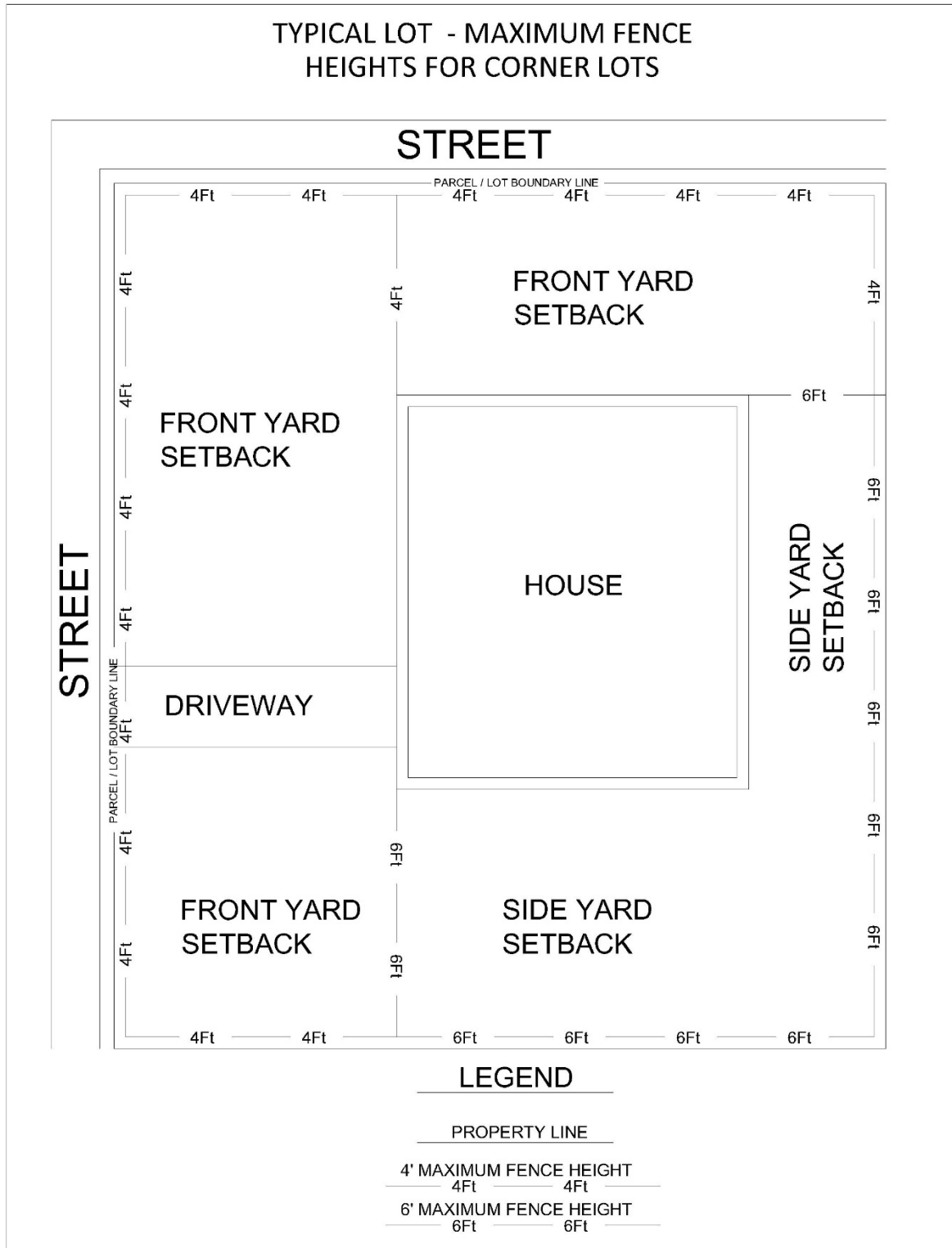
LPA/PLANNING AND ZONING BOARD
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ILLUSTRATION 803.03A4



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ILLUSTRATION 803.03A2B



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1 B. Atypical lots.

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3 Maximum height:

4 (1) Within required front, ~~side,~~ or rear setback: 4 feet

5 (2) Outside required front, ~~side,~~ or rear setback: 6 feet

6 (3) Tennis courts fences taller than 4 feet in height may be permitted within
7 the required front, ~~side,~~ or rear setbacks by special exception, as outlined
8 in Section 801.17

9 (4) Fences shall conform to visibility triangle requirements on corner and
10 commercial lots as outlined in Section 804.01.

11 **Ord. #55-10**

12

13 C. Through lots.

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15 Maximum height:

16 (1) Within required front setbacks: 4 feet

17 (2) Outside required front setbacks 6 feet

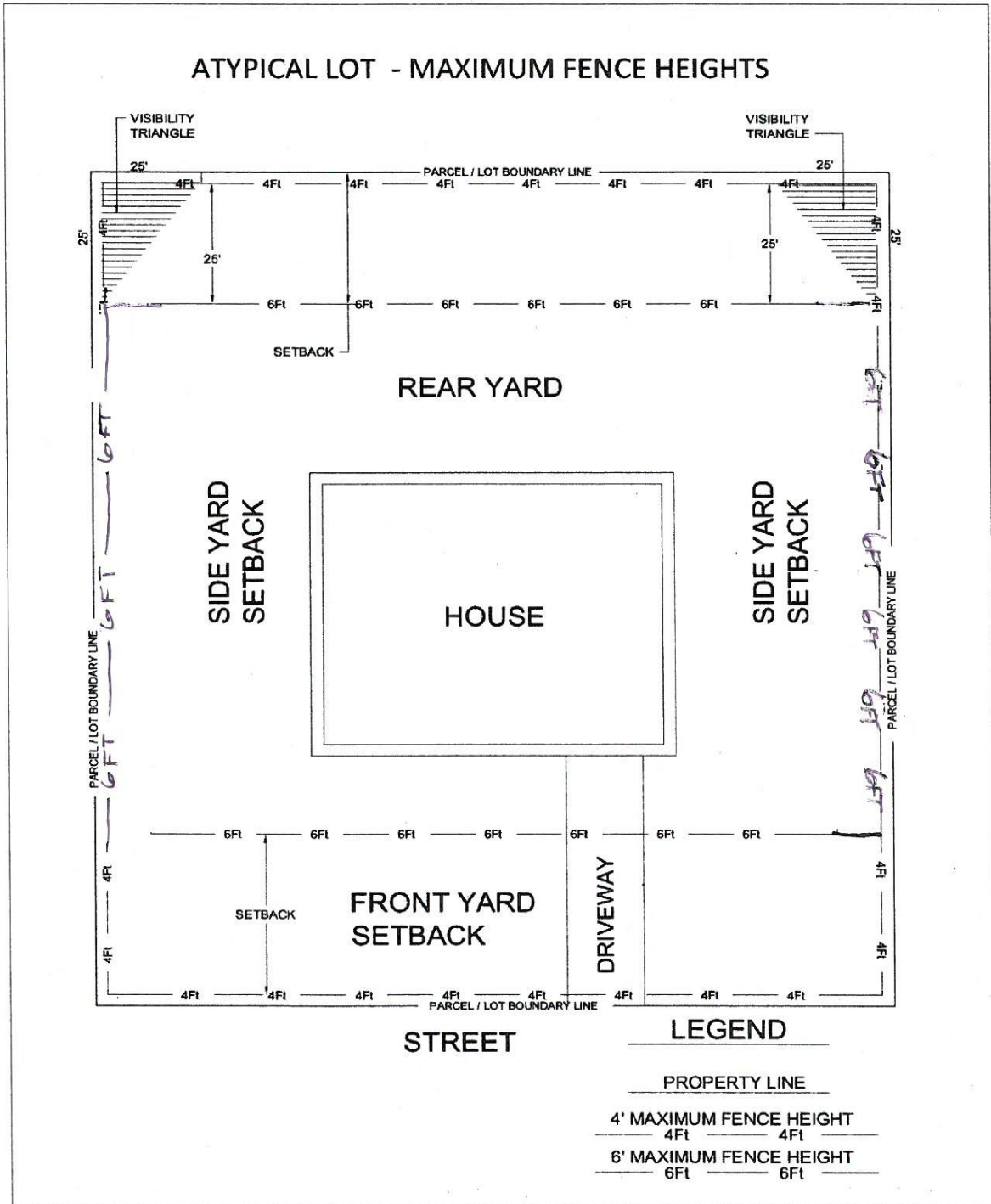
18 (3) Tennis courts fences taller than 4 feet in height may be
19 permitted within the required front setbacks by special
20 exception, as outlined in Section 801.17

21 (4) Fences shall conform to visibility triangle requirements on
22 corner and commercial lots as outlined in Section 804.01.

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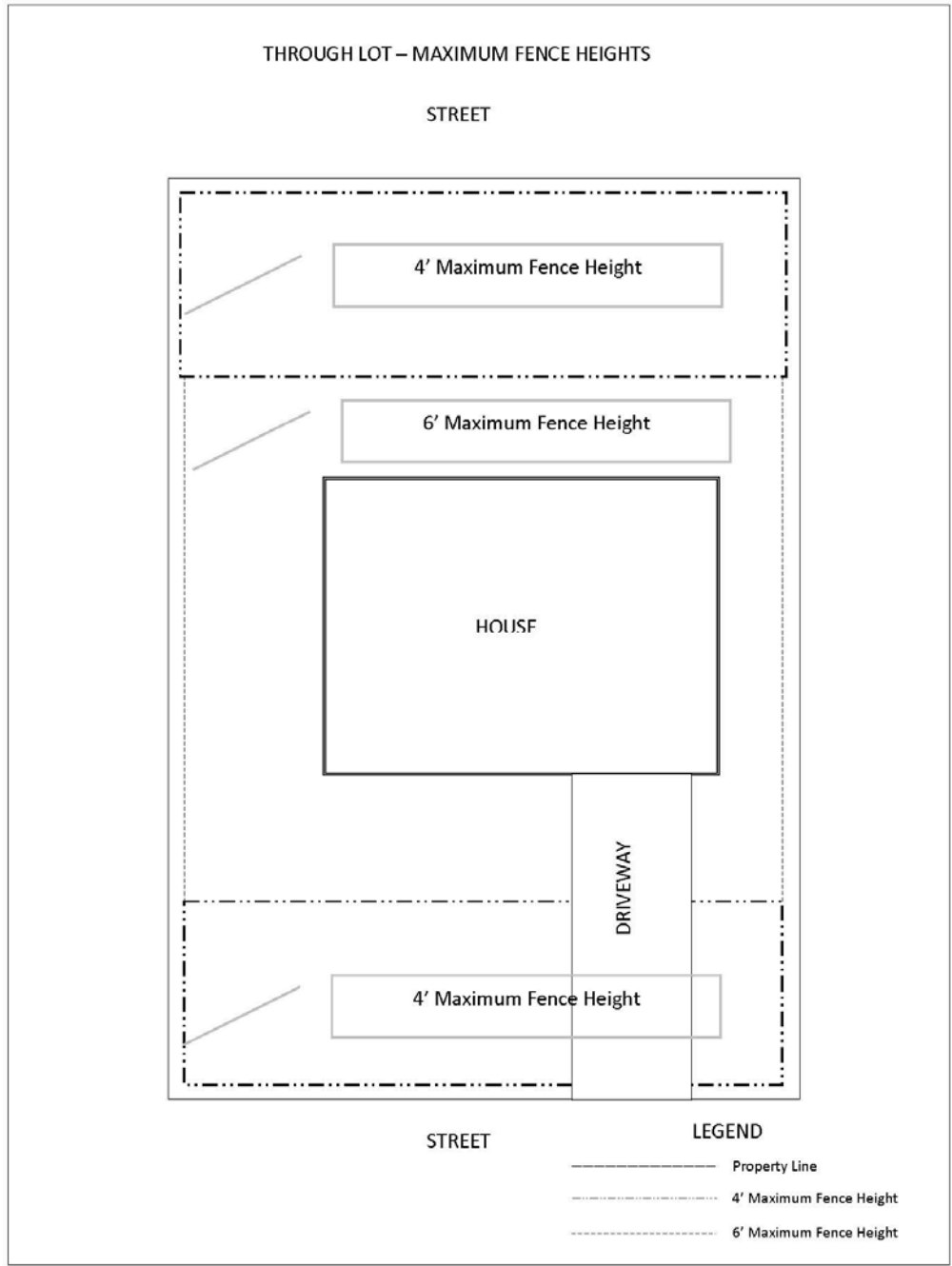
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ILLUSTRATION 803.03BC



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1 C. Barbed-Wire Fences

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3 No fence made of barbed wire, or any other material whereby persons passing by
4 day or night might be maimed or injured, shall hereafter be constructed alongside
5 of any street or sidewalk or property line within the city limits unless the placement
6 is such that the City Commission shall decide that it may be permitted without
7 danger. In the event the City Commission permits such a fence, it shall not be less
8 than six (6) feet in height as measured from the finished grade.

9
10 D. Fences east of the Coastal Construction Setback Line (CCSL). Fences 4 feet in
11 height or less shall be allowed to encompass the area surrounding the perimeter
12 of the pool and decking when required by the Florida Building Code to address
13 life safety concerns. City commission approval shall not be required provided the
14 fence does not exceed the height or setback requirements for fences on atypical
15 lots.

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ILLUSTRATION 803.03D

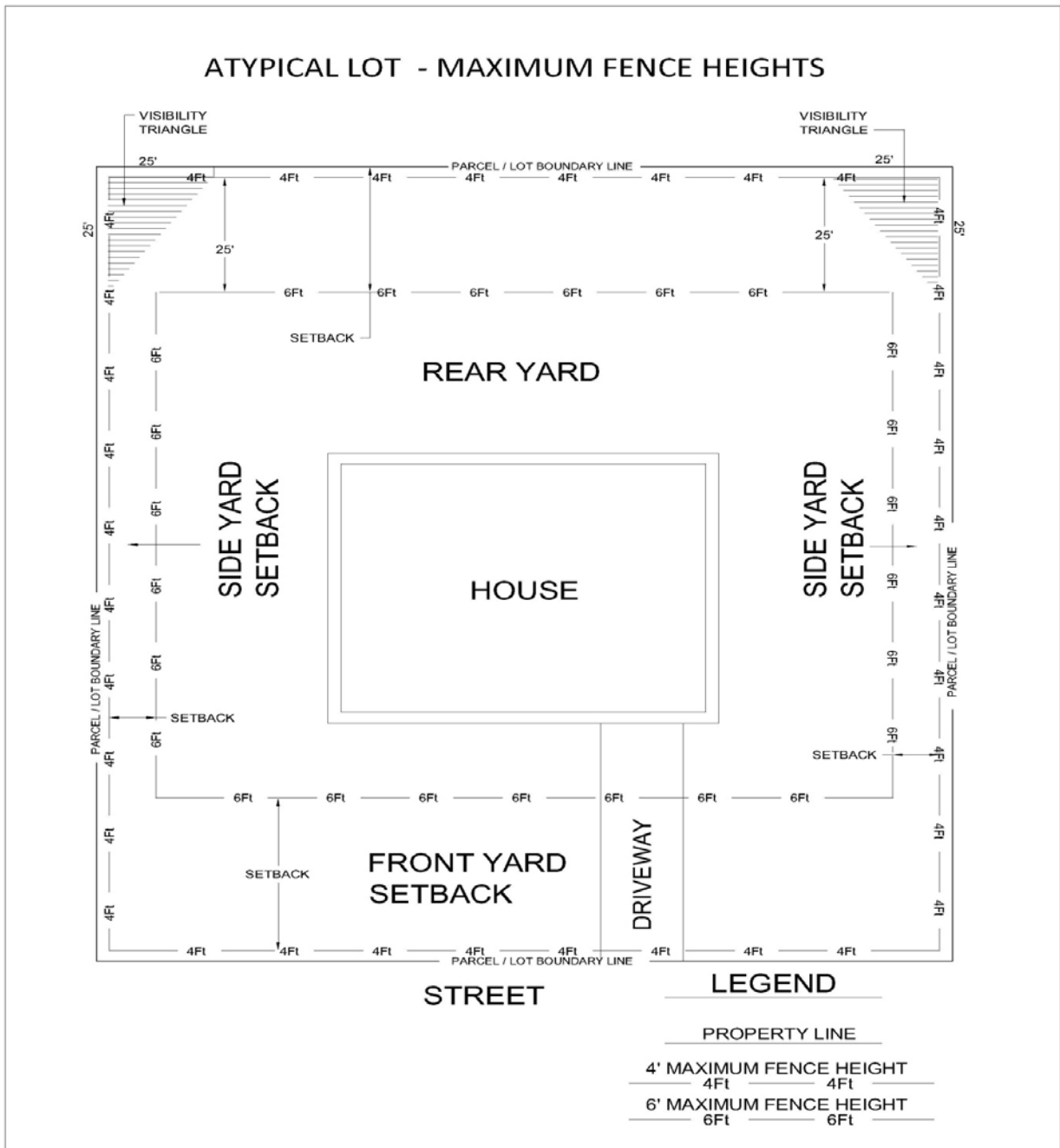


EXHIBIT A



EXHIBIT A (CONT'D)

