

**CITY OF MARCO ISLAND
ORDINANCE NO. 10-09**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF MARCO ISLAND, AMENDING AND ESTABLISHING CHAPTER 30 LAND DEVELOPMENT CODE REGULATIONS INCLUDING BUT NOT LIMITED TO: REGULATION OF DRIVEWAY SETBACKS, MODEL HOME TEMPORARY USE PERMIT RENEWALS, ENFORCEMENT, AND PENALTIES FOR VIOLATIONS OF TEMPORARY USE PERMITS; AND REGULATION OF ABANDONED VEHICLES; PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary home rule powers to enable them to conduct municipal government, perform municipal functions, render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 1.02 of the Marco Island City Charter empowers the City to adopt, amend, or repeal ordinances, resolutions and codes as may be required for the benefit of residents and governance of the City; and

WHEREAS, the City Council of the City of Marco Island, Florida (“City Council”) recognizes that changes to the adopted Code of Ordinances and Land Development Code are periodically necessary in order to ensure that the City’s Codes are current and consistent with the City’s planning and regulatory needs; and

WHEREAS, Section 30-485 governs driveway setbacks in certain residential areas and there is sufficient reason to modify the standards of this section to accommodate useful and appropriate driveway facilities; and

WHEREAS, Section 30-794 establishes a permitting process for model homes and there is sufficient reason to exclude from its scope “timeshare” and “fractional ownership” units and to clarify the procedures for renewal; and

WHEREAS, a new Section 30-798 should be created to provide the City with enforcement options that include immediate citations for violations of temporary use permit requirements and conditions; and

WHEREAS, to further enforcement concerning abandoned and derelict vehicles, the City Council wishes to extend the prohibitions of abandoned and unlicensed vehicles in Section 30-1007 beyond residentially-zoned properties to all zoning districts, with certain exceptions; and

WHEREAS, the Marco Island Planning Board, sitting as the Local Planning Agency, held duly advertised public hearings on April 23, 2010 and June 11, 2010 and determined that the proposed changes contained in this Ordinance are consistent with the City of Marco Island Comprehensive Plan and Florida law, and recommended adoption of this Ordinance to the City Council; and

WHEREAS, after reviewing the City of Marco Island Planning Board's recommendation, the recommendation of City staff, and comments from the public, the City Council finds that the proposed amendments to its Code of Ordinances are in compliance and consistent with Florida law and its adopted Comprehensive Plan; and

WHEREAS, the City Council further finds that adoption of this Ordinance is in the best interest of the residents of the City of Marco Island.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

SECTION 1. Recitals. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby made a specific part of this Ordinance.

SECTION 2. Amendment and Adoption. The amendments to the Code of Ordinances contained in this Ordinance are hereby amended or created and adopted as follows:

1. Sec. 30-485. Dimensional standards.

(e) *Off-street parking--Single family and duplex dwelling units.*

Driveways shall be setback a minimum of 7.5 feet from any property line for front-loading garages or 5 feet for side-loading garages. The setback is required to facilitate the installation and maintenance of landscape materials and prohibits vehicular parking. For purposes of accommodating design issues associated with on-site parking spaces, including certain lot shapes and side loaded garages, exceptions for these setbacks may be made for a distance along the property line not exceeding 30 linear feet, but in no case shall a driveway setback be approved which is less than 2 feet from a property line at any point. Acceptable exceptions are depicted in Exhibits One, Two, and Three which is attached to and made a part of this Section. Prior to the issuance of a driveway permit the applicant shall demonstrate that the proposed design will not result in adverse stormwater run-off effects on neighboring property(s).

2. Sec. 30-794. Model homes and model sales center permit. Model homes and model sales centers shall be of a temporary nature and may be allowed in any residential zoning district or residential component of a PUD by the issuance of a temporary use permit. Model homes are intended to facilitate the sale of the model design, or of products similar in design to the model. Model homes located within residential zoning districts, or within a residential component of a PUD shall be restricted to the promotion of a product or products permitted within the residential zoning district or PUD in which the model is located and further subject to the following:

(1) Use of a model home shall require a temporary use permit. Timeshares and fractional ownership facilities shall not be subject to this Section. Model homes shall only be permitted for dwellings which have not been previously used as a residence.

(4) A temporary use permit for a model home or model sales center shall be issued initially for a period of 24 months. Extensions beyond the initial two-year permit may be granted in accordance with this article; no single extension shall be granted for a period greater than one year.

- (6) Extension of a temporary use permit issued for a model home or for a model sales center.
- a. The extension of a temporary use permit for a model home or model sales center may be granted for a maximum of ~~three~~ one year per extension, ~~s~~ and a cumulative maximum of 3 years, and shall require public notice and a hearing by the planning board. ~~A request for an extension and scheduling on the planning board agenda shall be made 30 days prior to within no later than 90 days of following the expiration of the initial temporary use permit issued for a model home or model sales center. Only one such extension may be granted and any additional requests for an extension shall be granted only in accordance with this article.~~ Notice of the public hearing shall be prominently posted on the property for which the extension is sought. Notice of the public hearing shall be advertised in a newspaper of general circulation at least once 15 days prior to the hearing. Notice of the time and place of the public hearing shall be sent at least 15 days in advance of the hearing by mail to all owners of property within 300 feet of the subject property. The planning board's action shall be based upon consideration of the following factors:
1. The number of existing model homes or model sales centers within the immediate area of the extension request.
 2. The classification of the right(s)-of-way upon which the model home or model sales center fronts.
 3. The character or makeup of the area surrounding the model home or model sales center.
 4. The potential effect of the model home or model sales center on adjacent and surrounding properties.
 5. The existence of complaints relating to the use of the model home or model sales center which is the subject to the extension request.
 6. A demonstration of good cause from the applicant why the extension request is needed.
- b. When deemed necessary and based upon review of the above criteria, the planning board may impose such conditions upon the approval of the extension request it determines necessary to accomplish the purpose of this section and protect the safety and welfare of the public. Such conditions may include, but shall not be limited to, restrictions to the hour of operation, parking, signage, screening and buffering, and the length of the extension.
- c. Extensions of temporary use permits for model homes or model sales centers in excess of three years shall require submittal and approval of a conditional use permit in accordance with the land development code.

3. Section 30-798 Penalties for non-compliance

(a) In addition to any other available penalties, any person violating the provisions of this article, including the conditions contained in any permit issued hereunder, shall be subject to immediate citation and fine based on the schedule identified in Section 14-78 of this Code.

(b) Unauthorized signs placed in the right of way or otherwise in violation of Article VI "Signage" of the Code of Ordinances shall be subject to immediate removal by the City.

4. Sec. 30-1007. Parking and storage of certain vehicles.

- (a) Parking and storage of vehicles without current license plates. Vehicles or trailers of any type that are not immediately operable, or used for the purpose for which they were manufactured without mechanical or electrical repairs or the replacement of parts; or do not meet the Florida Safety Code; or do not have current valid license plates; or do not meet the definition of recreational equipment as defined within this code, shall not be parked or stored ~~on any residentially zoned or designated property~~, in any zoning district, other than in a completely enclosed building, with the following exceptions:

- (1) While temporarily stored on the property of a licensed automotive repair or body shop facility for the purpose of having repair completed on the vehicle;
(2) While stored in an authorized impound lot or at City Police or Fire facilities; or
(3) While stored in a C-5 zoned area which is shielded from all rights of way by opaque fencing, walls, or vegetation at least 6 feet in height.

SECTION 3. Inclusion in the Code of Ordinances. It is the intention of the City Council and it is hereby ordained that the amendments to the City of Marco Island Code of Ordinances made by this Ordinance shall become part of the City of Marco Island Code of Ordinances, that the sections of this Ordinance may be renumbered and relettered as necessary, and that the word "Ordinance" may be changed to "Section, "Article" or other appropriate word.

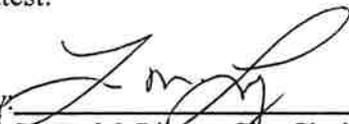
SECTION 4. Conflicts. All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 5. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. Effective Date. This Ordinance shall be effective immediately upon adoption by the City Council on second reading.

ADOPTED BY THE CITY COUNCIL of the City of Marco Island this 16th day of August, 2010.

Attest:

By: 

Laura M. Litzan, City Clerk

CITY OF MARCO ISLAND FLORIDA

By: 

Frank R. Recker, Chairman

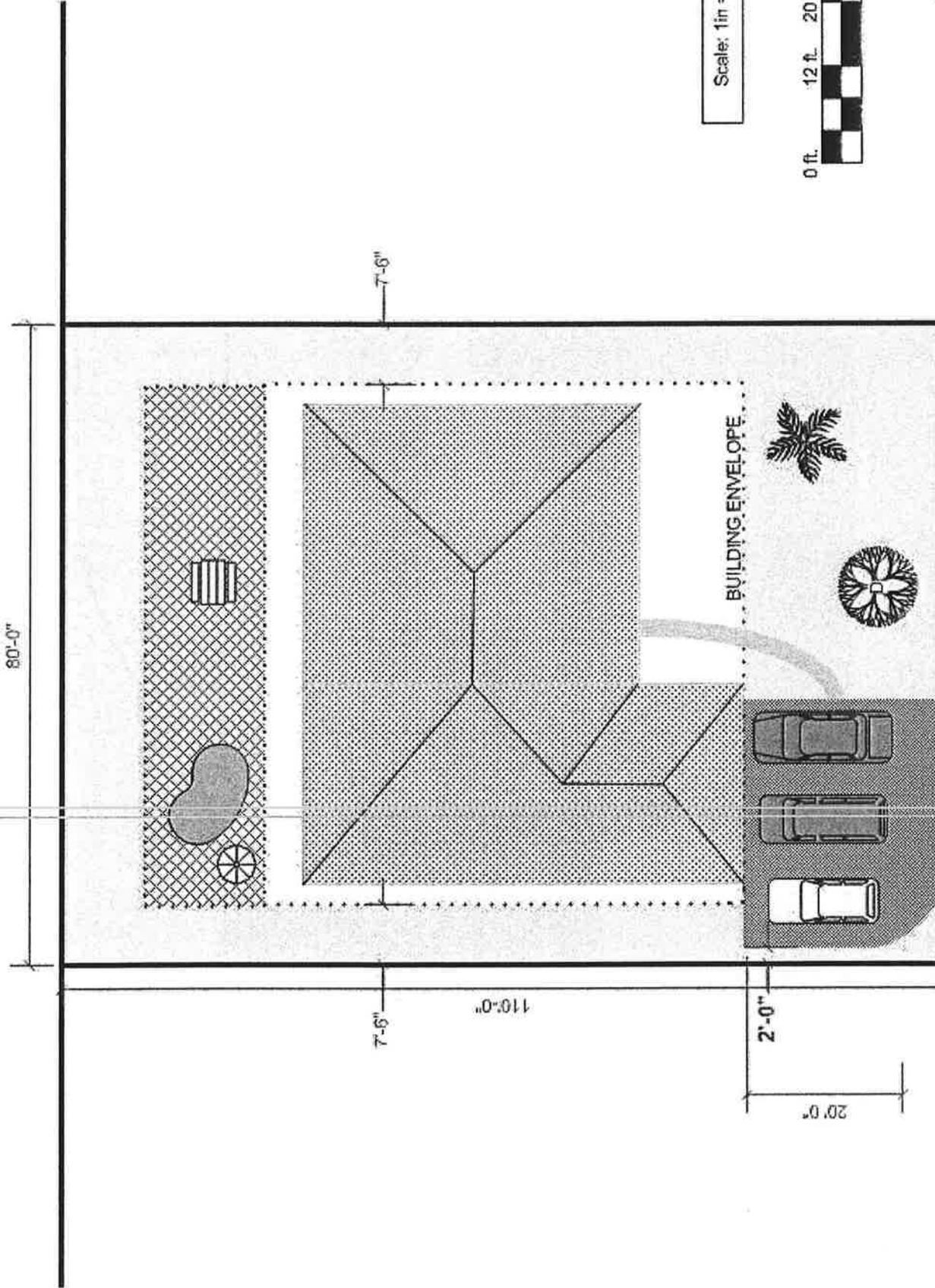
(SEAL)

Reviewed for legal sufficiency:

By: 

Alan L. Gabriel, City Attorney

80'-0"



7'-6"

7'-6"

110'-0"

BUILDING ENVELOPE

2'-0"

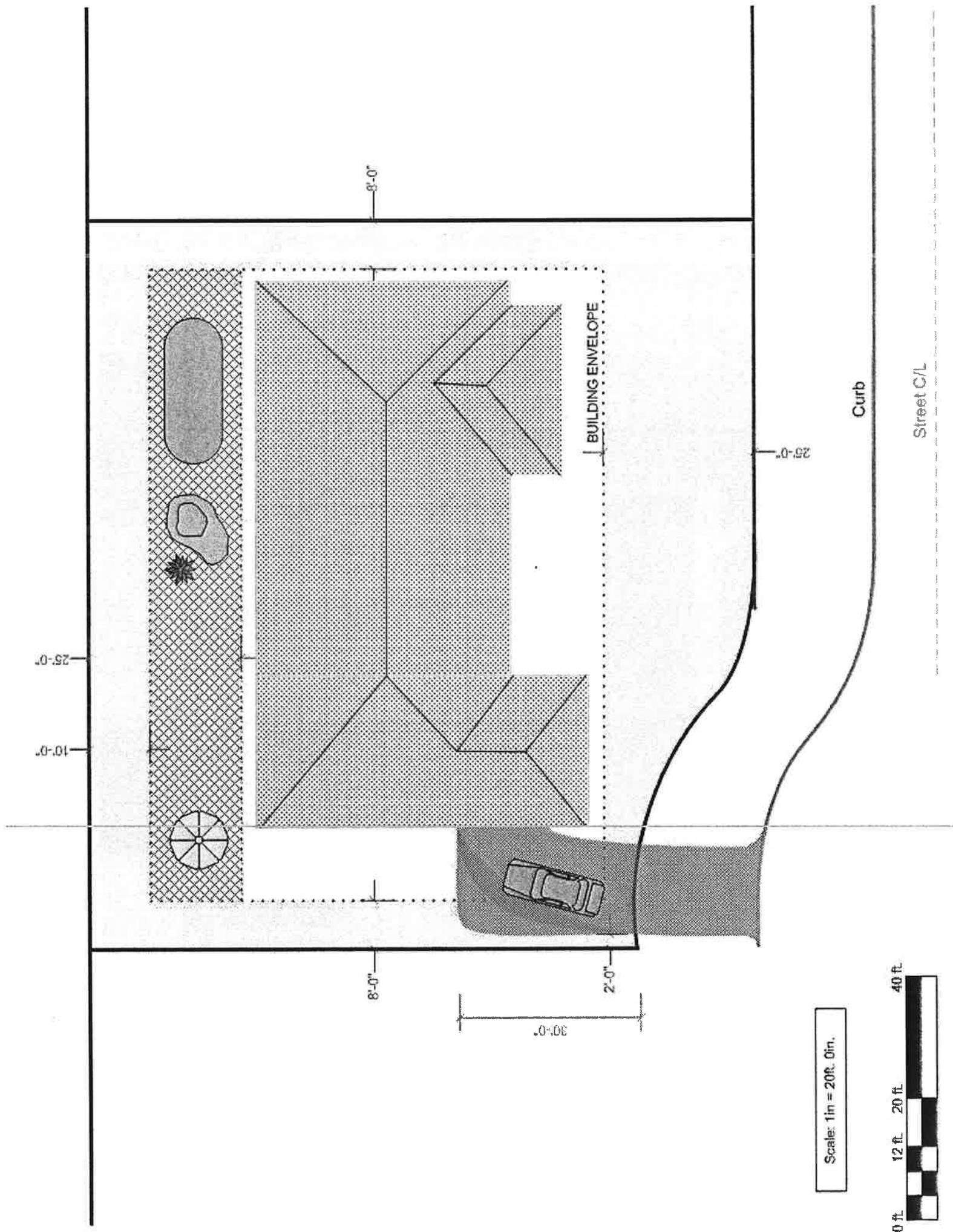
20' 0"

Scale: 1 in = 20 ft. 0 in.



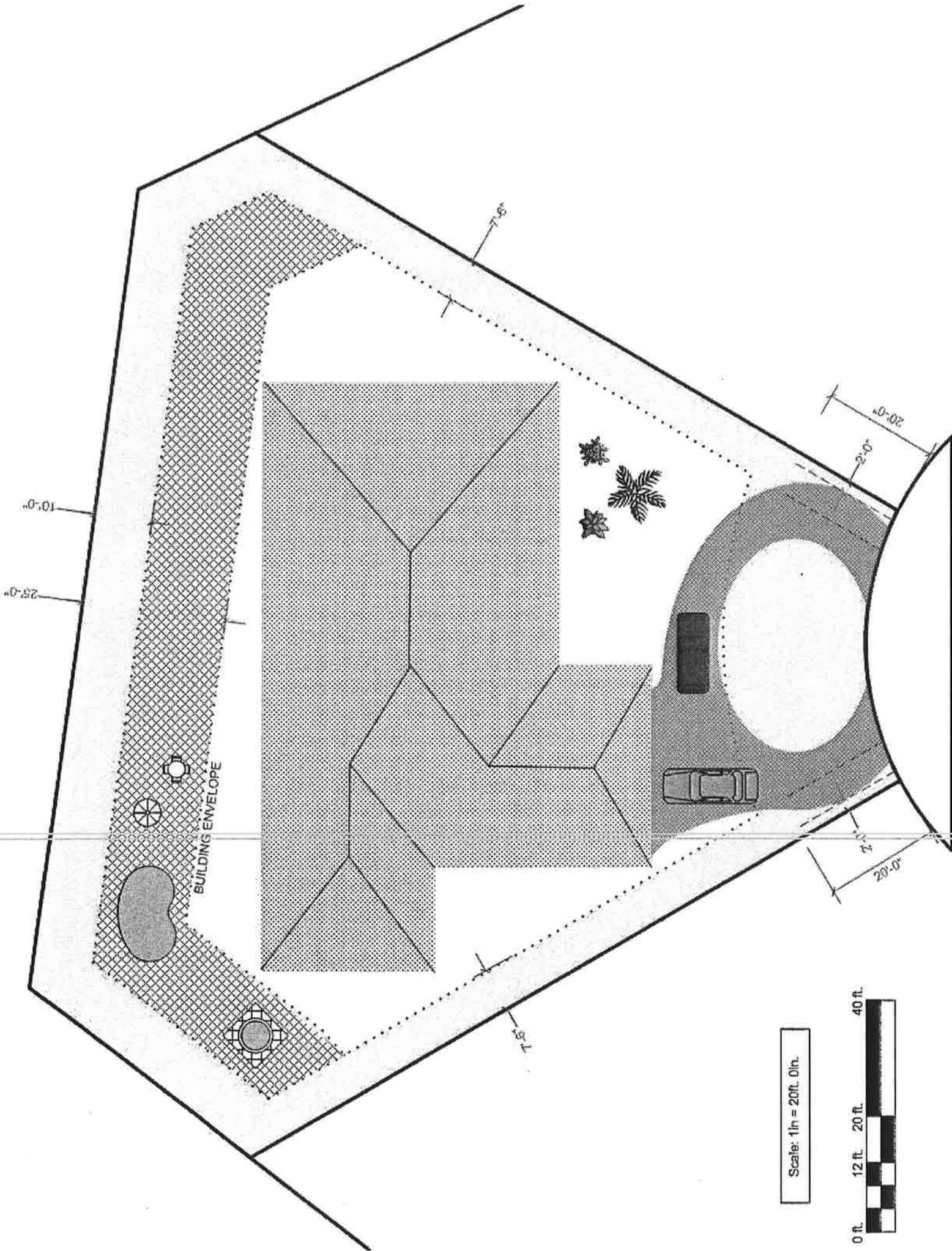
Curb

Street C/L



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Scale: 1 in. = 20 ft. 0 in.



