

**SUBJECT:** A report and recommendation on the proposed text amendment to the Cincinnati Zoning Code to create a new zoning overlay district entitled “Public View Corridor”; amendments to Chapter 1435-32 *Historic Landmarks and District* and Chapter 1439-07-g *Decision-Making Bodies and Officials*.

**PETITIONER:** Cincinnati City Council

**REQUEST:**

To create an overlay district that establishes development standards that will respect views to a panoramic vista or to a certain point or feature by encouraging responsible development within defined view corridors as identified in the 2007 *Cincinnati Scenic View Study*.

**BACKGROUND:**

The 2007 *Cincinnati Scenic View Study* identified 48 public view corridors that merited a high priority for protection. This rating was based on the quality of the view, the landuse types around the view location, the seasonal availability of the view and safety of the view. Also identified in the study were five broad strategies: education and awareness, proactive vegetation management, expanding connectivity, view shed conservancy and retooling the Cincinnati Zoning Code.

On June 25, 2008 Cincinnati City Council approved the eight Scenic View Study Recommendations included in item #200800756 and that the Zoning Code Review Committee, already established by the City Planning Commission, review and provide the necessary amendments to accomplish recommendation number five which deals with the creation of View Protection Overlay districts to be incorporated in the Cincinnati Zoning Code (#200800845).

**PUBLIC AND STAFF COMMENT:**

The Department of City Planning staff held a second conference on Tuesday May 26, 2009 after notifying all property owners within the initial 34 public view corridors (2400). Attendees again voiced concern over further limitations to development within the City of Cincinnati. Many concerns were raised again over possible takings issues that may be encountered by properties that are closest to the point of origin and how property owners will know if they are in a Public View Corridor Overlay District. Questions were also raised on the determination of the length of the view corridors, determination of the view plane and what the views are actually looking at (i.e. downtown or the Ohio River). Attendees of the public Staff conference also were concerned on how it would be determined if a parcel was in or out of the view corridor.

**FURTHER ANALYSIS OF PROPOSED CHANGE:**

The proposed change involves the creation of an entirely new zoning designation, including the preparation of text with development standards and map amendments for 50 high priority for protection views identified in the 2007 *Scenic View Study*. The new designation will be for an

overlay district that will supercede underlying zoning districts, with the exception of Historic and Landmark Districts, in the case that the view plane is penetrated, otherwise the underlying zoning district requirements remain in place. The Public View Corridor Overlay District includes both public and private properties to varying degrees, depending on the specific view.

A primary concern when drafting the proposed new overlay district was not to over-regulate activities within public view corridors. The purpose of the overlay district is to encourage respect for the views and promote responsible development within the public view corridors. The topography of Cincinnati in many of the view corridors provides for ample development opportunities within the underlying zoning requirements. The overlay district's regulations do not come into play until the "view plane" is penetrated by a structure.

Staff did a complete analysis of the 50 public view corridors and the results are as follows:

- 9392 Parcels (2485 public and 6907 private)
- 4597 Total area in acres (2378 Public and 2219 private)

This amounts to over 50% of the land that is in the proposed Public View Corridor district being held in the public realm.

Staff also developed illustrations for definitions, along with definitions for other areas that were cause for concern in the draft chapter (attachments 5, 6, and 7).

## **CONCLUSIONS:**

1. On June 25, 2008 City Council directed the department to develop a view protection overlay district that would follow recommendations outlined in the 2007 *Scenic View Study*.
2. The proposed Public View Corridor Overlay District will ensure that high priority views are respected.
3. The proposed Public View Corridor Overlay District has been written specifically for high priority for protection views identified in the 2007 *Scenic View Study*. Presently there is no protection for specific view corridors within the Cincinnati Zoning Code.
4. The Public View Corridor Overlay District will only apply to structures that penetrate the defined view plane for each view corridor.
5. The Public View Corridor Overlay District will initially be applied to 50 public scenic views that have been mapped by a certified surveyor.
6. Amendments to the text in Chapter 1435-32 *Historic Landmarks and District* and 1439-07-g *Decision Making Bodies and Officials* are necessary to insure proper hierarchy and applicability in the Cincinnati Zoning Code.

**RECOMMENDATION:**

The staff of the Department of City Planning and Buildings recommends that the City Planning Commission take the following action:

**ADOPT** the text amendment to include the Public View Corridor Overlay District in the Cincinnati Zoning Code (See Attachment 1);

**ADOPT** the text amendment to chapter 1435-32 *Historic Landmarks and District* (See Attachment 2);

**ADOPT** the text amendment to Chapter 1439-07-g *Decision Making Bodies and Officials* (See Attachment 3).

Respectfully submitted,

**APPROVED:**

Cameron Ross  
City Planner

Charles C. Graves III  
Director of the Department of City Planning

**Attachment 1**

PROPOSED

7/10/2009

**Chapter 1434. Public View Corridor Overlay District**

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**§ 1434-01. Specific Purposes.**

The purpose of this section is to establish development standards that will respect views for a panoramic vista or to a certain point or feature by encouraging responsible development within defined view corridors. These standards accomplish this by:

- (a) Respecting significant scenic views as identified in the 2007 Cincinnati Scenic View Study;
- (b) Enhancing and framing the view from all angles;
- (c) Guiding development so that it does not penetrate the view plane;
- (d) Limiting view blockage through the reduction of allowable building height, scale and massing in Public View Corridor Overlay Districts.

**§ 1434-03. Definitions.**

For purposes of this chapter, words and phrases defined below have the meanings ascribed to them; additional definitions are in Chapter 1401, Definitions.

**§ 1434-03-C. Cincinnati Scenic View Study.**

"Cincinnati Scenic View Study" means the report prepared by the Department of Transportation and Engineering in March 2007 for general public distribution. This study identified the 92 critical view corridors within the City of Cincinnati, their characteristics and general suitability for protection.

**§ 1434-03-C1. Centroid.**

“Centroid” means the center of a parcel. In the case of irregularly shaped parcels, the centroid is derived mathematically and is weighted to approximate a sort of “center of gravity.” Centroids are determined by CAGIS.

**§ 1434-03-R. Reference Point.**

“Reference Point” means a point at which an elevation is established five feet above grade at sea level through a survey and a marker is set to define the exact point and its elevation and which offers a scenic view defined in the Scenic View Study.

**§ 1434-03-R1. Respect.**

“Respect” means to consider worthy of higher regard; to refrain from interfering with.

**§ 1434-03-V. View Corridor.**

“View Corridor” means a view of all or a portion of a view shed, which is defined as to side edges (horizontal limits and bottom limits), view point and view angle. The View Corridor may be along a street that captures a portion of, or all of a view shed, or it may be as defined between structures allowing a limited view of a portion of a View Shed.

**§ 1434-03-V1. View Plane.**

“View Plane” means a specific view corridor that establishes a height limit based on a reference point elevation and the lowest point of the desired view corridor, essentially a line connecting the elevation of the reference point and the lowest elevation of the view shed.

**§ 1434-03-V2. View Shed.**

“View Shed” means a panoramic view of an entire subject, such as a river valley, that includes the full extent of the feature.

**§ 1434-03-V3. Viewpoint.**

“Viewpoint” means a single point or series of observable points that offers aesthetic value within a view corridor.

**§ 1434-05. Public View Corridor Zoning Map Designator.**

A Public View Corridor Overlay District is shown on the zoning map by a PV designator applied to the base district designation. This designation is based upon the 2007 *Cincinnati Scenic View Study* and maps generated from its findings: Any real property either whole or in part within said view corridors should be classified as being within a Public View Corridor District.

**§ 1434-07. Applicability.**

Except as otherwise provided in this chapter, all regulations of the underlying zone districts and other applicable overlay districts apply to and control property in a Public View Corridor District; provided, however, that in the case of conflict between the provisions of an underlying zoning district and all other overlay districts with the exception of the Historic Landmark District, the provisions of the Public View Corridor District govern.

**§ 1434-09. Criteria for Establishment of a Public View Corridor District.**

The specific boundaries of the view planes and view corridors have been established and identified in the 2007 Cincinnati Scenic View Study. These include a reference point or starting point, the elevation or area of view to be included and the land coverage for the view corridor restriction. A land survey was conducted and identifies the boundaries of the view plane and restricted area.

**§ 1434-11. Exempt Permits.**

The following are exempt from the provisions of this chapter:

- (a) Permits for roof, gutter and chimney repair or replacement, plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment and all other mechanical and electrical equipment.
- (b) Permits necessary for compliance with retroactive provisions of the Cincinnati Building Code.
- (c) Permits necessary for compliance with a lawful order of the Director of the Department of City Planning, including deficiencies listed in Certificates of Inspection.
- (d) Permits necessary to ensure the immediate public health or safety.
- (e) Building permits for interior alterations and repairs, demolition or wrecking and driveways.
- (f) Permits for construction of public utilities in the public right-of-way.

**§ 1434-13. Applications Subject to Review.**

The Director of the Department of City Planning has the duty to review the following permits in an established Public View Corridor District for compliance with the requirements of this district.

- (a) New Buildings. Permits for construction of new primary buildings and accessory structures.
- (b) Alterations to Buildings and Structures. Permits for alterations, additions and repairs to the exterior of buildings and structures, including but not limited to, fences, signs, flagpoles and telecommunications towers.

**§ 1434-15. Application Requirements.**

In addition to the requirements for applications established in Chapter 1441, Application Procedures, Fees, Permits and Certificates, applications for development in the Public View Corridor District which are not exempt under § 1434-11 must include:

- (a) A certification by a licensed engineer, with appropriate calculations, that the proposed building does not penetrate the view corridor within the Public View Corridor District, if and only if the underlying zoning code building height requirements allow for the height to penetrate the view corridor;
- (b) A development plan, accompanied by a property survey indicating the height of buildings and structures relative to grade as established at sea level and the established view plane within the designated view corridor. The property survey should also show existing vegetation, proposed development, location of structures, elevations and setbacks of proposed buildings and structures;
- (c) Average slope/grade of the property.

**§ 1434-17. Public View Corridor Development Standards.**

An application subject to review must comply with the following standards:

- (a) All development within the designated view corridors subject to the height limits of the underlying zoning district except when the view corridor establishes a more restrictive height limit. In those instances, calculating the height between the grades as established at sea level and the view plane will determine the view corridor height limit. The maximum height of the building or structures may not encroach above the view plane.
- (b) In those instances where the view corridor is framed by horizontal limits and additional height restrictions may or may not be applicable, development may not occur if it breaks into the view corridor.

**§ 1434-19. Relationship to HS Overlay Districts.**

Whenever a Public View Corridor Overlay District is located within or overlaps a Hillside Overlay District, the provisions of this chapter control over any conflicting provisions of Chapter 1433 of the Cincinnati Zoning Code.

**§ 1434-21. Relationship to UD Overlay Districts.**

Whenever a Public View Corridor Overlay District is located within or overlaps a Urban Design Overlay District, the provisions of this chapter control over any conflicting provisions of Chapter 1437 of the Cincinnati Zoning Code.

**§ 1434-23. Relationship to Historic Landmarks and Districts.**

Whenever a Public View Corridor Overlay District is located within or overlaps a Historic Landmark and District, the provisions of the Historic Landmark and Districts chapter control over any conflicting provisions of Chapter 1434 of the Cincinnati Zoning Code. In any such case the authority of the Zoning Hearing Examiner specified in Chapter 1434 is transferred to the Historic Conservation Board and all references to the examiner therein interpreted as references to the Board. In such cases, the provisions of Chapter 1434, where not inconsistent with the provisions of this chapter, apply to the exercise of the authority prescribed therein.

**§ 1434-25. Relationship to Multiple View Corridors.**

Whenever a property is within multiple view corridors, the center point of the property ("centroid") will be identified, and the requirements of the closest reference point to the centroid of the property shall apply.

**§ 1434-27. Public View Corridor Approval.**

- (a) If the Director of the Department of City Planning determines the application conforms to the requirements of § 1434-17 and the requirements of this chapter and all other requirements of the Cincinnati Zoning Code, the director has the duty to issue a building permit for the proposed work. The Director of the Department of City Planning has the duty to notify all owners of property abutting the subject property and the community organization recognized by the Council as representing the area that includes the subject property.
- (b) If the Director of the Department of City Planning determines the application does not conform to the requirements of § 1434-17, a hearing and decision by the Zoning Hearing Examiner is required, pursuant to Chapter 1443, Zoning Hearing Examiner Procedures, prior to the issuance of a building permit.

**§ 1434-29. Review.**

Upon determination that the application does not conform to the requirements in § 1434-17, the Director of the Department of City Planning pursuant to the provisions of Chapter 1441, Application Procedures, Fees, Permits and Certifications, has the duty to forward the application to the Office of the City Architect within three working days of the determination of completeness of the application. The City Architect must provide the Zoning Hearing Examiner with a staff report and recommendation prior to the scheduled public hearing on the application.

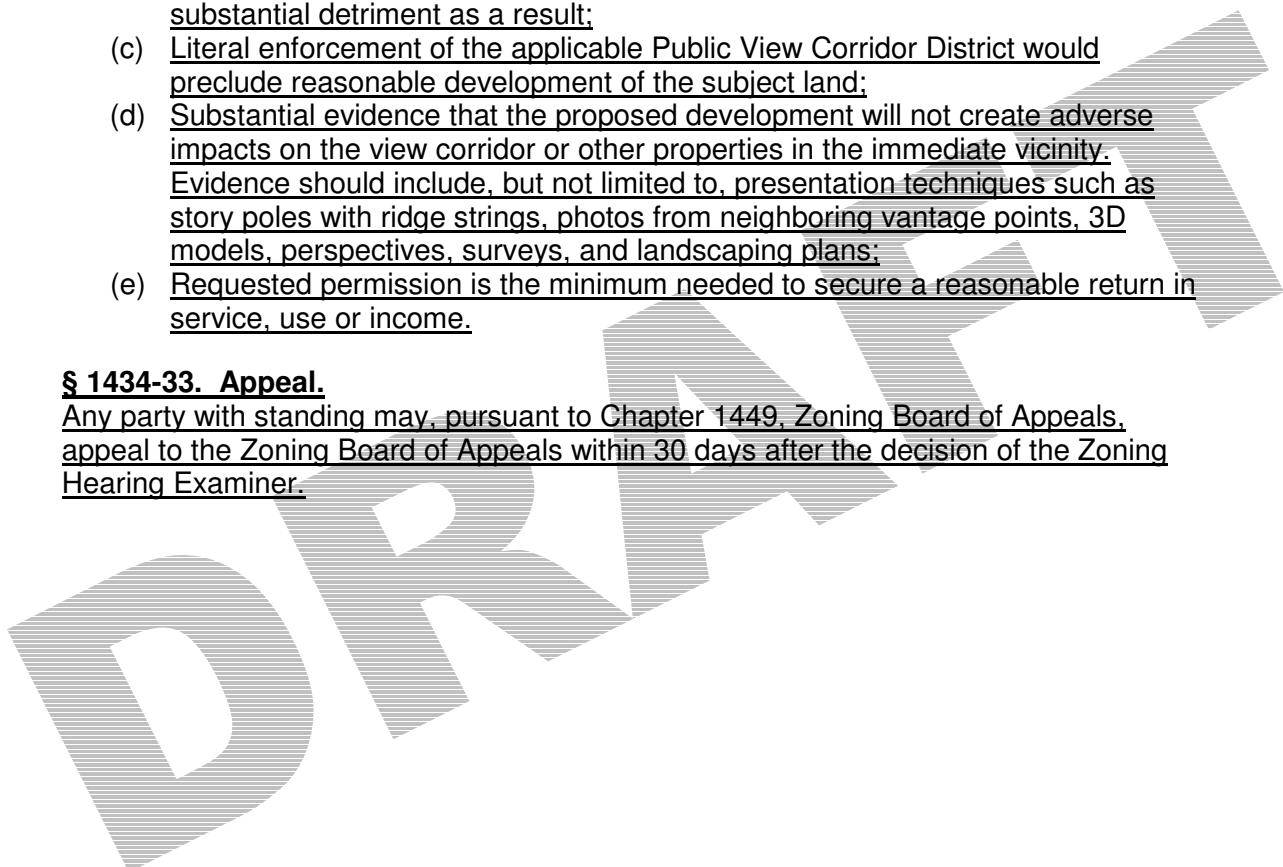
**§ 1434-31. Public View Corridor Development Review and Permission.**

In addition to the procedures enumerated in Chapter 1443, the Zoning Hearing Examiner must consider the following criteria to ensure harmonious development within the Public View Corridor District if the view plane is penetrated by the proposed structure:

- (a) Justification for noncompliance with the restrictions of this chapter;
- (b) Extent that the view corridor would not be substantially altered or suffer a substantial detriment as a result;
- (c) Literal enforcement of the applicable Public View Corridor District would preclude reasonable development of the subject land;
- (d) Substantial evidence that the proposed development will not create adverse impacts on the view corridor or other properties in the immediate vicinity. Evidence should include, but not limited to, presentation techniques such as story poles with ridge strings, photos from neighboring vantage points, 3D models, perspectives, surveys, and landscaping plans;
- (e) Requested permission is the minimum needed to secure a reasonable return in service, use or income.

**§ 1434-33. Appeal.**

Any party with standing may, pursuant to Chapter 1449, Zoning Board of Appeals, appeal to the Zoning Board of Appeals within 30 days after the decision of the Zoning Hearing Examiner.





## **Attachment 2: Amendment to Chapter 1435: Historic Landmarks and Districts**

### **§ 1435-32. Relationship to PV Overlay Districts.**

Whenever a Historic Landmark or District is located within or overlaps a Public View Corridor Overlay District, the provisions of this chapter control over any conflicting provisions of Chapter 1434 of the Cincinnati Zoning Code. In any such case the authority of the Zoning Hearing Examiner specified in Chapter 1434 is transferred to the Historic Conservation Board and all references to the examiner therein interpreted as references to the Board. In such cases, the provisions of Chapter 1434, where not inconsistent with the provisions of this chapter, apply to the exercise of the authority prescribed therein.

### **Attachment 3: Amendment to Chapter 1439: Decision-Making Bodies and Officials**

#### **§ 1439-07. Zoning Hearing Examiner.**

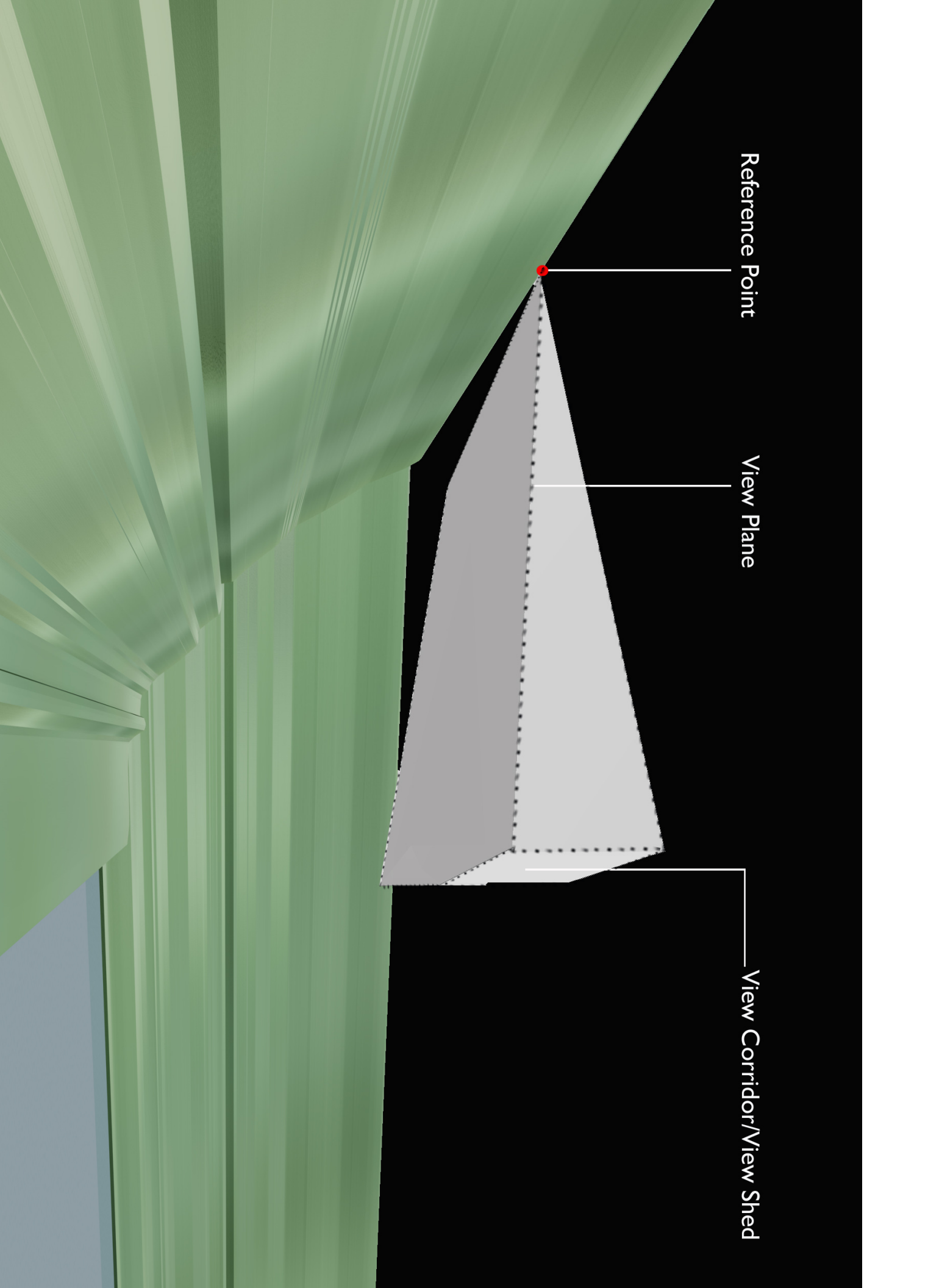
Pursuant to Chapter 1443, the Zoning Hearing Examiner conducts public hearings and makes decisions, subject to appeal to the Zoning Board of Appeals, on applications for:

- (a) Variances;
- (b) Special exceptions;
- (c) Conditional uses;
- (d) Expansion or substitution of nonconforming uses;
- (e) Development permission in Hillside Overlay Districts;
- (f) Development permission in Urban Design Overlay Districts;
- (g) Development permission in Public View Corridor Overlay Districts; and
- (h) Phased development in the DD District.

Reference Point

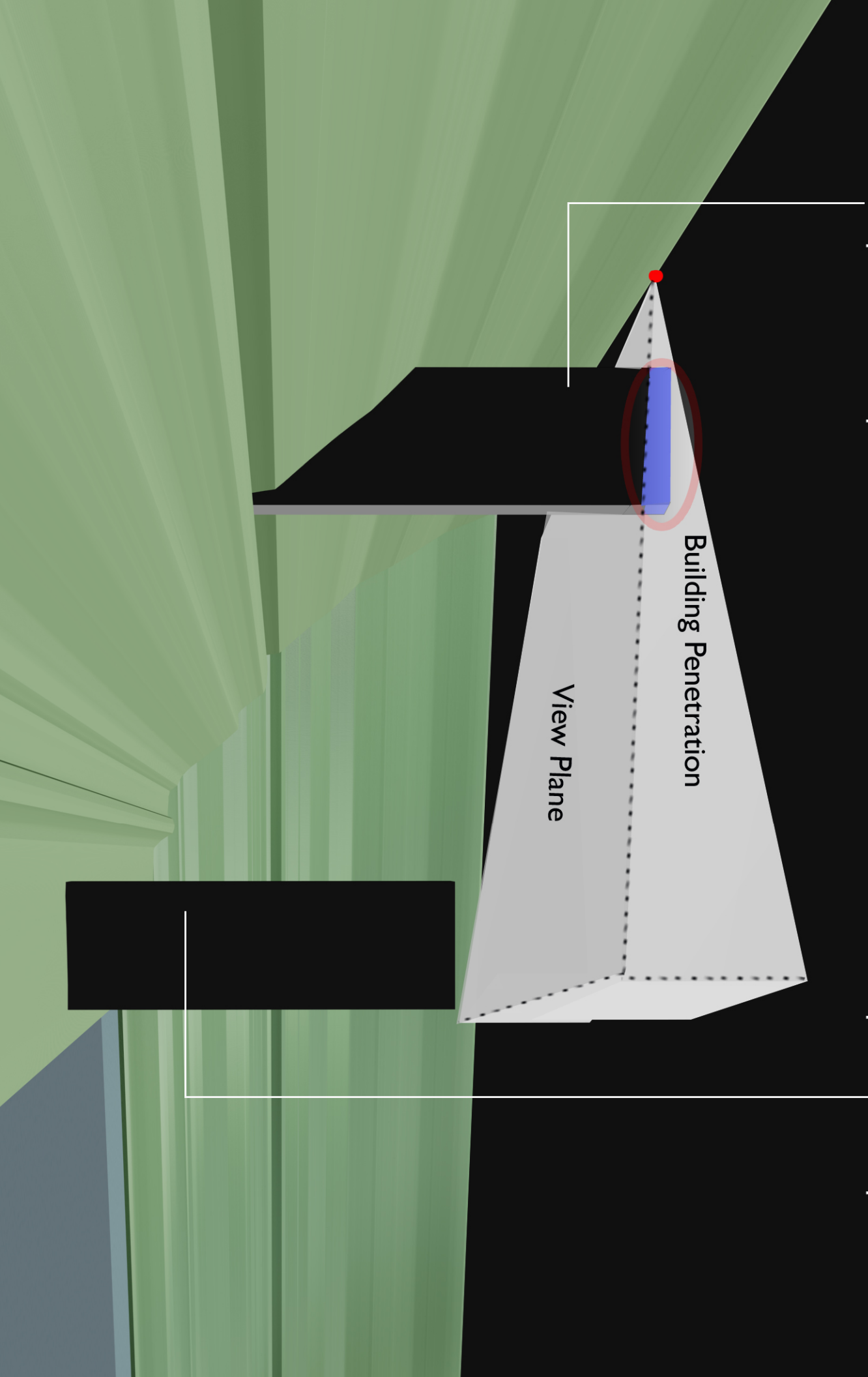
View Plane

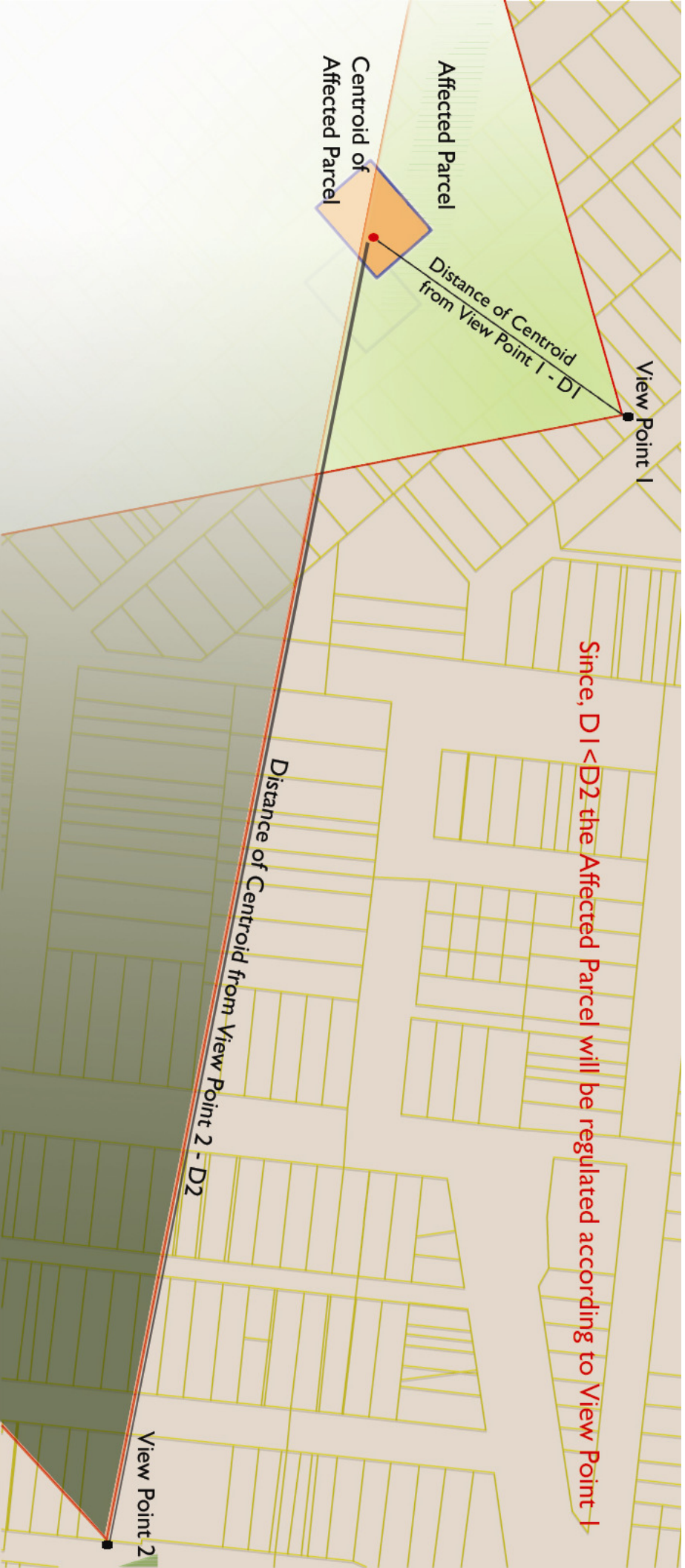
View Corridor/View Shed



Non-Acceptable Development

Acceptable Development





Since,  $D1 < D2$  the Affected Parcel will be regulated according to View Point 1

**SUBJECT:** A report and recommendation on the proposed text amendment to the Cincinnati Zoning Code to create a new zoning overlay district entitled “Public View Corridor”; amendments to Chapter 1435-32 *Historic Landmarks and District* and Chapter 1439-07-g *Decision-Making Bodies and Officials*.

**PETITIONER:** Cincinnati City Council

**REQUEST:**

To create an overlay district that establishes development standards that will respect views to a panoramic vista or to a certain point or feature by encouraging responsible development within defined view corridors as identified in the 2007 *Cincinnati Scenic View Study*.

**BACKGROUND:**

The 2007 *Cincinnati Scenic View Study* identified 48 public view corridors that merited a high priority for protection. This rating was based on the quality of the view, the land use types around the view location, the seasonal availability of the view and safety of the view. Also identified in the study were five broad strategies: education and awareness, proactive vegetation management, expanding connectivity, view shed conservancy and retooling the Cincinnati Zoning Code.

On June 25, 2008 Cincinnati City Council approved the eight Scenic View Study Recommendations included in item #200800756 and directed the Zoning Text Amendment Committee, already established by the City Planning Commission to review and provide the necessary amendments to accomplish recommendation number five which deals with the creation of View Protection Overlay districts (#200800845).

**PUBLIC AND STAFF COMMENT:**

The Department of City Planning staff held a conference on Thursday April 9, 2009. Attendees voiced concern over further limitations to development within the City of Cincinnati. Many concerns were raised over possible takings issues that may be encountered by properties that are closest to the point of origin and how property owners will know if they are in a Public View Corridor Overlay District. Questions were also raised on the determination of the length of the view corridors, determination of the view plane and what the views are actually looking at (i.e. downtown or the Ohio River). Attendees of the public Staff conference also were concerned about how it would be determined if a parcel was in or out of the view corridor.

**ANALYSIS OF PROPOSED CHANGE:**

The proposed change involves the creation of an entirely new zoning overlay designation, including the development standards and map amendments for all high priority for protection views identified in the 2007 *Scenic View Study*. The new designation will be an overlay district that will supercede the underlying zoning districts regulations if the view plane is penetrated, with the exception of

Historic Landmarks and Districts. The Public View Corridor Overlay District includes both public and private properties to varying degrees, depending on the specific view.

Zoning and municipal codes from other cities that use special districts as a way to protect and preserve scenic views were used as a guide for the development of the Cincinnati overlay district. Regulations were considered from such cities as Pittsburgh, Denver, Seattle, Portland, Colorado Springs, Austin and Boulder County, Colorado when designing the proposed overlay district. These codes were helpful in determining a starting point for developing regulations, but Cincinnati's hillsides and basin present unique views from a variety of perspectives. Therefore, it was necessary to design this overlay district in such a way that it could be applied across the spectrum of views identified in the Study.

A primary concern when drafting the proposed new overlay district was not to over-regulate activities within public view corridors. The purpose of the overlay district is to encourage respect for the views and promote responsible development within the public view corridors. The topography of Cincinnati in many of the view corridors provides for ample development opportunities within the underlying zoning requirements. The overlay district's regulations do not come into play until the "view plane" is penetrated by a structure.

## **CONCLUSIONS:**

1. On June 25, 2008 City Council directed the department to develop a view protection overlay district that would follow recommendations outlined in the 2007 *Scenic View Study*.
2. The proposed Public View Corridor Overlay District Chapter 1434 will ensure that high priority views are respected.
3. The proposed Public View Corridor Overlay District has been written specifically for the "high priority" views identified in the 2007 *Scenic View Study*. Presently there is no protection for specific view corridors within the Cincinnati Zoning Code.
4. The Public View Corridor Overlay District will only apply to structures that penetrate the defined view plane for each view corridor.
5. The Public View Corridor Overlay District will initially be applied to 35 public scenic views that have been mapped by a certified surveyor. The remaining high priority protection views will be added to this overlay district at a later date after they have been mapped.
6. Amendments to the text in Chapter 1435 *Historic Landmarks and Districts* and Chapter 1439 *Decision Making Bodies and Officials* are necessary to insure proper hierarchy and applicability in the Cincinnati Zoning Code.

**RECOMMENDATION:**

The staff of the Department of City Planning and Buildings recommends that the City Planning Commission take the following action:

**ADOPT** the text amendments to include the Public View Corridor Overlay District in the Cincinnati Zoning Code (See Attachment 1);

**ADOPT** the text amendment to Chapter 1435 *Historic Landmarks and District* (See Attachment 2);

**ADOPT** the text amendment to Chapter 1439 *Decision Making Bodies and Officials* (See Attachment 3).

Respectfully submitted,

**APPROVED:**

Cameron Ross  
City Planner

Charles C. Graves III  
Director of the Department of City Planning



**Attachment 1**

PROPOSED

5/01/2009

**Chapter 1434. Public View Corridor Overlay District**

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**§ 1434-01. Specific Purposes.**

The purpose of this section is to establish development standards that will respect views for a panoramic vista or to a certain point or feature by encouraging responsible development within defined view corridors. These standards accomplish this by:

- (a) Respecting significant scenic views as identified in the 2007 Cincinnati Scenic View Study;
- (b) Enhancing and framing the view from all angles;
- (c) Guiding development so that it does not penetrate the view plane;
- (d) Limiting view blockage through the reduction of allowable building height, scale and massing in Public View Corridor Overlay Districts.

**§ 1434-03. Definitions.**

For purposes of this chapter, words and phrases defined below have the meanings ascribed to them; additional definitions are in Chapter 1401, Definitions.

**§ 1434-03-C. Cincinnati Scenic View Study.**

"Cincinnati Scenic View Study" means the report prepared by the Department of Transportation and Engineering in March 2007 for general public distribution. This study identified the 92 critical view corridors within the City of Cincinnati, their characteristics and general suitability for protection.

**§ 1434-03-R. Reference Point.**

"Reference Point" means a point at which an elevation is established through a survey or topographic map and a marker is set to define the exact point and its elevation and which offers a scenic view defined in the Scenic View Study.

**§ 1434-03-V. View Corridor.**

"View Corridor" means a view of all or a portion of a view shed, which is defined as to side edges (horizontal limits and bottom limits), view point and view angle. The View Corridor may be along a street that captures a portion of, or all of a view shed, or it may be as defined between structures allowing a limited view of a portion of a View Shed.

**§ 1434-03-V1. View Plane.**

"View Plane" means a specific view corridor that establishes a height limit based on a reference point elevation and the lowest point of the desired view corridor, essentially a line connecting the elevation of the reference point and the lowest elevation of the view shed.

**§ 1434-03-V2. View Shed.**

"View Shed" means a panoramic view of an entire subject, such as a river valley, that includes the full extent of the feature.

**§ 1434-03-V3. Viewpoint.**

"Viewpoint" means a single point or series of observable points that offers aesthetic value within a view corridor.

**§ 1434-05. Public View Corridor Zoning Map Designator.**

A Public View Corridor Overlay District is shown on the zoning map by a PV designator applied to the base district designation. This designation is based upon the 2007 *Cincinnati Scenic View Study* and maps generated from its findings: Any real property either whole or in part within said view corridors should be classified as being within a Public View Corridor District.

**§ 1434-07. Applicability.**

Except as otherwise provided in this chapter, all regulations of the underlying zone districts and other applicable overlay districts apply to and control property in a Public View Corridor District; provided, however, that in the case of conflict between the provisions of an underlying zoning district and all other overlay districts with the exception of the Historic Landmark District, the provisions of the Public View Corridor District govern.

**§ 1434-09. Criteria for Establishment of a Public View Corridor District.**

The specific boundaries of the view planes and view corridors have been established and identified in the 2007 *Cincinnati Scenic View Study*. These include a point of reference or starting point, the elevation or area of view to be included and the land coverage for the view corridor restriction. A land survey was conducted and identifies the boundaries of the view plane and restricted area.

**§ 1434-11. Exempt Permits.**

The following are exempt from the provisions of this chapter:

- (a) Permits for roof, gutter and chimney repair or replacement, plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment and all other mechanical and electrical equipment.
- (b) Permits necessary for compliance with retroactive provisions of the Cincinnati Building Code.
- (c) Permits necessary for compliance with a lawful order of the Director of the Department of City Planning, including deficiencies listed in Certificates of Inspection.
- (d) Permits necessary to ensure the immediate public health or safety.
- (e) Building permits for interior alterations and repairs, demolition or wrecking and driveways.
- (f) Permits for construction of public utilities in the public right-of-way.

**§ 1434-13. Applications Subject to Review.**

The Director of the Department of City Planning has the duty to review the following permits in an established Public View Corridor District for compliance with the requirements of this district.

- (a) *New Buildings.* Permits for construction of new primary buildings and accessory structures.
- (b) *Alterations to Buildings and Structures.* Permits for alterations, additions and repairs to the exterior of buildings and structures, including but not limited to, fences, signs, flagpoles and telecommunications towers.

**§ 1434-15. Application Requirements.**

In addition to the requirements for applications established in Chapter 1441, Application Procedures, Fees, Permits and Certificates, applications for development in the Public View Corridor District which are not exempt under § 1434-11 must include:

- (a) A certification by a licensed engineer, with appropriate calculations, that the proposed building does not penetrate the view corridor within the Public View Corridor District;
- (b) A development plan, accompanied by a property survey indicating the height of buildings and structures relative to grade as established at sea level and the established view plane within the designated view corridor. The property survey should also show existing vegetation, proposed development, location of structures, elevations and setbacks of proposed buildings and structures;
- (c) Average slope/grade of the property.

**§ 1434-17. Public View Corridor Development Standards.**

An application subject to review must comply with the following standards:

- (a) All development within the designated view corridors subject to the height limits of the underlying zoning district except when the view corridor establishes a more restrictive height limit. In those instances, calculating the height between the grades as established at sea level and the view plane will determine the view corridor height limit. The maximum height of the building or structures may not encroach above the view plane.
- (b) In those instances where the view corridor is framed by horizontal limits and additional height restrictions may or may not be applicable, development may not occur if it breaks into the view corridor.

**§ 1434-19. Relationship to HS Overlay Districts.**

Whenever a Public View Corridor Overlay District is located within or overlaps a Hillside Overlay District, the provisions of this chapter control over any conflicting provisions of Chapter 1433 of the Cincinnati Zoning Code.

**§ 1434-21. Relationship to UD Overlay Districts.**

Whenever a Public View Corridor Overlay District is located within or overlaps a Urban Design Overlay District, the provisions of this chapter control over any conflicting provisions of Chapter 1437 of the Cincinnati Zoning Code.

**§ 1434-23. Relationship to Historic Landmarks and Districts.**

Whenever a Public View Corridor Overlay District is located within or overlaps a Historic Landmark and District, the provisions of the Historic Landmark and Districts chapter control over any conflicting provisions of Chapter 1434 of the Cincinnati Zoning Code. In any such case the authority of the Zoning Hearing Examiner specified in Chapter 1434 is transferred to the Historic Conservation Board and all references to the examiner therein interpreted as references to the Board. In such cases, the provisions of Chapter 1434, where not inconsistent with the provisions of this chapter, apply to the exercise of the authority prescribed therein.

**§ 1434-25. Relationship to Multiple View Corridors.**

Whenever a property is within multiple view corridors, the requirements of the closest viewpoint to the property shall apply.

**§ 1434-27. Public View Corridor Approval.**

- (a) If the Director of the Department of City Planning determines the application conforms to the requirements of § 1434-17 and the requirements of this chapter and all other requirements of the Cincinnati Zoning Code, the director has the duty to issue a building permit for the proposed work. The Director of the Department of City Planning has the duty to notify all owners of property abutting the subject property and the community organization recognized by the Council as representing the area that includes the subject property.
- (b) If the Director of the Department of City Planning determines the application does not conform to the requirements of § 1434-17, a hearing and decision by the Zoning Hearing Examiner is required, pursuant to Chapter 1443, Zoning Hearing Examiner Procedures, prior to the issuance of a building permit.

**§ 1434-29. Review.**

Upon determination that the application does not conform to the requirements in § 1434-17, the Director of the Department of City Planning pursuant to the provisions of Chapter 1441, Application Procedures, Fees, Permits and Certifications, has the duty to forward the application to the Office of the City Architect within three working days of the determination of completeness of the application. The City Architect must provide the Zoning Hearing Examiner with a staff report and recommendation prior to the scheduled public hearing on the application.

**§ 1434-31. Public View Corridor Development Review and Permission.**

In addition to the procedures enumerated in Chapter 1443, the Zoning Hearing Examiner must consider the following criteria to ensure harmonious development within the Public View Corridor District if the view plane is penetrated by the proposed structure:

- (a) Justification for noncompliance with the restrictions of this chapter;
- (b) Extent that the view corridor would not be substantially altered or suffer a substantial detriment as a result;
- (c) Literal enforcement of the applicable Public View Corridor District would preclude reasonable development of the subject land;
- (d) Substantial evidence that the proposed development will not create adverse impacts on the view corridor or other properties in the immediate vicinity. Evidence should include, but not limited to, presentation techniques such as story poles with ridge strings, photos from neighboring vantage points, 3D models, perspectives, surveys, and landscaping plans;
- (e) Requested permission is the minimum needed to secure a reasonable return in service, use or income.

**§ 1434-33. Appeal.**

Any party with standing may, pursuant to Chapter 1449, Zoning Board of Appeals, appeal to the Zoning Board of Appeals within 30 days after the decision of the Zoning Hearing Examiner.

DRAFT

## **Attachment 2: Amendment to Chapter 1435: Historic Landmarks and Districts**

### **§ 1435-32. Relationship to PV Overlay Districts.**

Whenever a Historic Landmark or District is located within or overlaps a Public View Corridor Overlay District, the provisions of this chapter control over any conflicting provisions of Chapter 1434 of the Cincinnati Zoning Code. In any such case the authority of the Zoning Hearing Examiner specified in Chapter 1434 is transferred to the Historic Conservation Board and all references to the examiner therein interpreted as references to the Board. In such cases, the provisions of Chapter 1434, where not inconsistent with the provisions of this chapter, apply to the exercise of the authority prescribed therein.

### **Attachment 3: Amendment to Chapter 1439: Decision-Making Bodies and Officials**

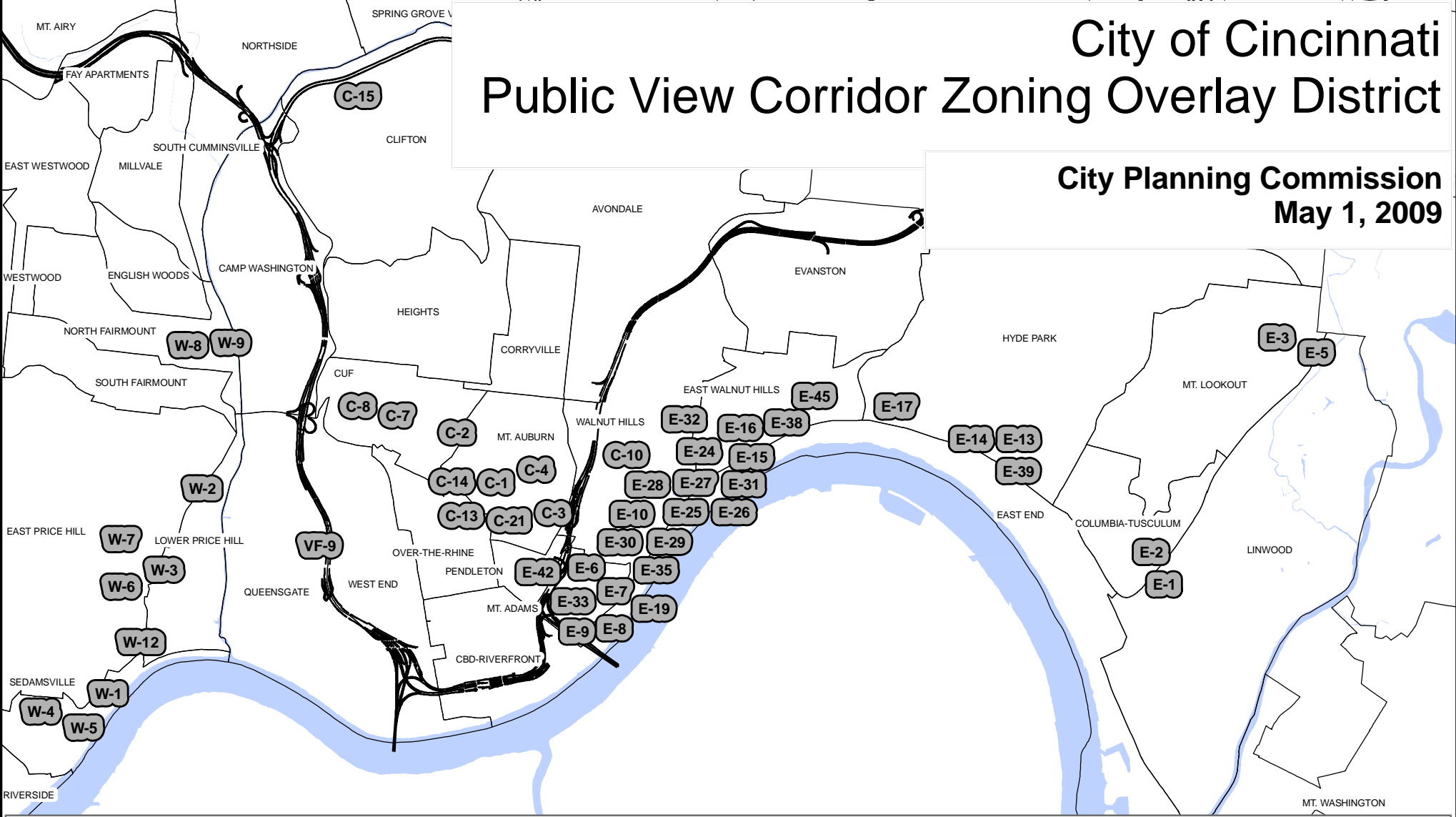
#### **§ 1439-07. Zoning Hearing Examiner.**

Pursuant to Chapter 1443, the Zoning Hearing Examiner conducts public hearings and makes decisions, subject to appeal to the Zoning Board of Appeals, on applications for:

- (a) Variances;
- (b) Special exceptions;
- (c) Conditional uses;
- (d) Expansion or substitution of nonconforming uses;
- (e) Development permission in Hillside Overlay Districts;
- (f) Development permission in Urban Design Overlay Districts;
- (g) Development permission in Public View Corridor Overlay Districts; and
- (h) Phased development in the DD District.

# City of Cincinnati Public View Corridor Zoning Overlay District

**City Planning Commission  
May 1, 2009**



Location ID	Location	Neighborhood	Region
C-1	Auburn Ave (southwest side)	Mt. Auburn	Central
C-2	Bellevue Hill Park	CUF	Central
C-3	Boal St from Highland Ave	Mt. Auburn	Central
C-4	Dorchester Ave	Mt. Auburn	Central
C-7	Fairview Park Downtown Overlook	CUF	Central
C-8	Fairview Park Millcreek Overlook	CUF	Central
C-10	Gilbert Avenue from Sinton Ave	Walnut Hills	Central
C-13	Jackson Hill Park Overlook	Mt. Auburn	Central
C-14	Main St Steps (from Dorsey to Eleanore)	Mt. Auburn	Central
C-15	Mt. Storm Park	Clifton	Central
C-21	Sycamore St from Auburn Ave	Mt. Auburn	Central
E-1	Alms Park Lunken Overlook	Columbia-Tusculum	East
E-2	Alms Park Comisar Overlook	Columbia-Tusculum	East
E-3	Ault Park Pavilion Observation Deck (W)	Mt. Lookout	East
E-5	Ault Park Heekin Overlook	Mt. Lookout	East
E-6	Carney St	Mt. Adams	East
E-7	Celestial Street Overlook	Mt. Adams	East

Location ID	Location	Neighborhood	Region
E-8	Guido St - Immaculata Steps	Mt. Adams	East
E-9	Guido St - Immaculata Overlook	Mt. Adams	East
E-10	Cincinnati Art Museum	Mt. Adams	East
E-13	Columbia Parkway @ former Ononta east	Hyde Park	East
E-14	Columbia Parkway @ former Ononta west	Hyde Park	East
E-15	Columbia Pkwy near 1852 Eastbound	East Walnut Hills	East
E-16	Columbia Pkwy near 1852 Westbound	East Walnut Hills	East
E-17	Columbia Pkwy Overlook @ Wm. H. Taft Rd	Hyde Park	East
E-19	Columbia Parkway Eastbound from 5th St Via	Mt. Adams	East
E-24	Eden Park Twin Lakes Overlook	Walnut Hills	East
E-25	Eden Park Donald A. Spencer Overlook	Walnut Hills	East
E-26	Eden Park Cliff Dr Overlook #1	Walnut Hills	East
E-27	Eden Park Cliff Dr Overlook #2	Walnut Hills	East
E-28	Eden Park Cliff Dr Overlook #3	Walnut Hills	East
E-29	Eden Park Playhouse Hal Apel Overlook	Mt. Adams	East
E-30	Eden Park Playhouse Front	Mt. Adams	East
E-31	Edgecliff Pt	East Walnut Hills	East

Location ID	Location	Neighborhood	Region
E-32	Edgecliff Pt (2012-2016)	East Walnut Hills	East
E-33	Filson Pl	Mt. Adams	East
E-35	Hatch St	Mt. Adams	East
E-38	Ingleside Ave	East Walnut Hills	East
E-39	Larz Anderson Park	Columbia-Tusculum	East
E-42	Monastery St from Celestial St	Mt. Adams	East
E-45	Salutaris Ave	East Walnut Hills	East
VF-9	Union Terminal	West End	Valley Floor
W-1	Elberon Ave (below Purcell Ave)	East Price Hill	West
W-2	Lehman Rd @ crest of hill	East Price Hill	West
W-3	Maryland Ave	East Price Hill	West
W-4	Mt. Echo Park East Overlook	East Price Hill	West
W-5	Mt. Echo Park West Overlook	East Price Hill	West
W-6	Olden View Park Overlook	East Price Hill	West
W-7	Ring Pl	East Price Hill	West
W-8	St. Clair Park Upper Overlook	South Fairmount	West
W-9	St. Clair Park Lower Overlook	South Fairmount	West
W-12	Wilson Commons Overlook	East Price Hill	West