



Briefing for the Planning Commission

Planning Division
Community & Economic Development Department

To: Planning Commission
From: Ray Milliner
Date: April 27, 2011
Re: Zoning Ordinance Amendments Regulating Grade Changes

BACKGROUND / INFORMATION

Attached is a draft of proposed zoning ordinance amendments, the purpose of which is to clarify the definitions of grade, eliminate allowances of incremental grade changes for height, and allow for additional grade change that will address specific topographic conditions of a site that may hinder development on a site.

The proposed regulations include:

- New definitions of Established Grade, Natural Grade, Dormer and Exterior Wall Height.
- Clarify ordinance definitions of grade, as they relate to natural grade established grade, and finished grade.
- Modify regulations of obstructions in required yards as it relates to changes in grade for commercial and residential structures.
- Clarify and update language in the Foothill Regulations.
- Clarification in Yalecrest overlay regulations, lot and bulk controls, and fences, walls and hedges.

The proposed changes have been reviewed at an open house, by staff members including the Building Services, and Engineering divisions, as well as by a number of independent architects in the City. Reasonable changes suggested have been incorporated into the document.

Discussion

Definitions

The proposed changes will provide a simpler and straight forward way of measuring height in residential and commercial zones. Currently, established grade is defined as that grade which existed after the final subdivision or site development activity was completed. The problem with this definition is that most subdivisions in the City were completed more than 50 years ago. Therefore, it is very difficult to identify that grade.

The new definition would define established grade as that which exists at the time the applicant begins the proposed work on the lot. It also provides the Zoning Administrator authority to interpolate topographic lines, in cases where the established grade is not apparent. This feature would be used in cases where a house or building with a basement was removed and a new structure built in its place. Staff is proposing amendments to the following definitions:

1. Building height in the residential zones
2. Established grade
3. Natural grade
4. Finished grade

In addition to modifying the above existing definitions, staff is proposing two new definitions.

1. Wall height
2. Dormer

Currently, the height of exterior walls and dormers is regulated in the ordinance without reference to a definition. This has led to confusion on how to apply the rules (does one measure wall height from finished grade or established grade?). These definitions will clarify how these two elements are measured, and standardize application of the rules during permit review.

Obstructions

Currently grade changes in yard areas of more than 2 feet are routine and uncontested matters, requiring signatures of all adjacent property owners. If the applicant does not receive all signatures, then the item becomes a special exception subject to review by the Board of Adjustment. The proposed amendments will modify the language to increase the number initiating review from 2 to 4 feet. The rationale for this change is that the International Building Code (IBC) requires engineering and permit review at 4 feet, on stacked retaining walls, and therefore it makes sense to make the IBC requirements and the City Ordinance similar.

There is a provision inserted allowing grade changes when accommodating runoff retention ponds. The rationale for this insertion is that retention ponds are generally a requirement by the City, and therefore requiring an applicant to navigate an additional process in order to meet a base requirement is cumbersome and awkward as it hinders growth.

Foothills Regulations

The foothill provisions include a number of regulations that staff is proposing to modify. Most changes either eliminate outdated language, or clarify meaning. One significant change is one that would make grade changes in the buildable area of greater than 6 feet a special exception. Currently regulations do not allow grade changes in the buildable area of more than 6 feet.

Fine Tuning

The remaining modifications are mainly fine tuning designed to accommodate the new definitions, correct mistakes and to eliminate confusing language.

Request

Staff requests that the Planning Commission review the proposal and provide staff with direction on the following questions:

- Are the proposed changes to the grading ordinance appropriate?
- What changes, if any, are needed to the proposed language?
- Should additional regulations be implemented?

After the briefing, staff will incorporate comments from the Planning Commission and other groups sought during the public comment period and bring the proposed ordinance back to the Planning Commission for a public hearing and recommendation that will be forwarded to the City Council.

Attachments

- A. Summary of Proposed Changes

Summary of Proposed Code Changes

Below is a draft of possible changes to the ordinance. The changes below would meet the intent of the original petition request. Staff is requesting that the Planning Commission review the language and provide direction relating to the amendments.

21A.62.040: DEFINITIONS OF TERMS:

BUILDING HEIGHT – ~~IN THE FR-1, FR-2, FR-3, FP, R-1/5,000, R-1/7,000, R-1/12,000, R-2, SR-1 AND SR-3 DISTRICTS:~~ Shall be the vertical distance between the top of the roof and the grade of the site, as described in subsection ~~21A.24.010P1a~~ of this title, measured at any given point of building coverage. (See illustration in section ~~21A.62.050~~ of this chapter.)

HEIGHT, BUILDING: ~~HEIGHT~~ OUTSIDE FR, FP, R-1, R-2 AND SR DISTRICTS: The vertical distance, measured as from the average elevation of the finished lot grade at each face of the building, to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof (See illustration in section 21A.62.050 of this chapter).

HEIGHT, BUILDING: ~~IN THE FR-1, FR-2, FR-3, FP, R-1/5,000, R-1/7,000, R-1/12,000, R-2, SR-1 AND SR-3 DISTRICTS:~~ The vertical distance between the top of the roof and established grade at any given point of building coverage.

HEIGHT, EXTERIOR WALL: The vertical distance of any building wall measured from finished grade to the top of the wall plate.

GRADE, ESTABLISHED: "Established grade" means the natural topographic grade of undisturbed areas on a site or the grade that exists after approved subdivision site development activity has been completed prior to approval for building permit construction activity.

GRADE, ESTABLISHED: The grade of a property prior to the most recent proposed development or construction activity. On developed lots, the Zoning Administrator shall estimate established grade if not readily apparent, by referencing elevations at points where the developed area appears to meet the undeveloped portions of the land. The estimated grade shall tie into the elevation and slopes of adjoining properties without creating a need for new retaining wall, abrupt differences in the visual slope and elevation of the land, or redirecting the flow of run-off water.

GRADE, FINISHED: "Finished grade" means the finished final grade of a site after reconfiguring grades according to an approved ~~regrading~~ site plan related to the ~~initial~~ most recent building permit activity on a site.

GRADE, NATURAL: The elevation of the surface of the ground which has been created through the action of natural forces and has not resulted from manmade cuts, fills, excavation grading or similar earthmoving processes.

DORMER: an extension built out from a sloping roof to accommodate a vertical window. A dormer has a small gabled or shed roof, and is secondary to the primary roof. A dormer is contained entirely within the primary roof structure.



TABLE 21A.36.020 B

OBSTRUCTIONS IN REQUIRED YARDS

Type Of Structure Or Use Obstruction	Front And Corner Side Yards	Side Yard	Rear Yard
<p>Grade changes of <u>Changes of Established Grade of 4 2 feet</u> or less except for the FP and FR districts which shall be subject to the provisions of subsection <u>21A.24.010P</u> of this title. (All grade changes located on a property line shall be supported by a retaining wall.)</p> <p><u>Changes of established grade greater than 4 feet are special exceptions subject to the standards and factors in Section 21A.52 of this Ordinance.</u></p>	X	X	X
<p><u>Changes of Established Grade for commercial or industrial uses in zones, where conditionally or otherwise permitted, the grade is changed to accommodate site retention or detention requirements</u></p>	X	X	X

21A.24.010: GENERAL PROVISIONS

P. Special Foothills Regulations:

The FP foothills protection district, section [.32.040](#) of this title, and the FR-1/43,560, FR-2/21,780 and FR-3/12,000 districts shall be subject to the regulations of this subsection, other general provisions for residential districts, and the district regulations of each district.

1. Special Building Height Controls: Uses and buildings in the FR-1/43,560, FR-2/21,780, FR-3/12,000 and FP districts shall conform to the following special height regulations:

a) ~~Building height for initial construction of a building in a foothill zone shall be measured as the vertical distance between the top of the roof and the established grade at any given point of building coverage. Building height for any subsequent structural modification or addition to a building shall be measured from finished grade existing at the time a building permit is requested. Building height for foothills districts is defined and illustrated in chapter 21A.62 of this title.~~

a) In the FR-1 district, the maximum building height shall be thirty five feet (35') measured from established grade. ~~except that the~~ The front and rear vertical building wall height shall not exceed thirty one feet (31') measured from finished grade. On a corner lot, roof gable ends which face onto either the front or corner side yard, but not both, are permitted to the height of thirty five feet (35') measured from established grade.

b) In the FR-2, FR-3 and FP districts, the maximum building height shall be twenty eight feet (28') measured from established grade, ~~except that the~~ The front and rear vertical building walls shall not exceed twenty five feet (25') measured from finished grade. On a corner lot, roof gable ends which face onto either the front or corner side yard, but not both, are permitted to a height of twenty eight feet (28'). ~~Where buildings are stepped to accommodate the slope of terrain, each step shall have a horizontal dimension of at least twelve feet (12').~~

c) ~~All Building height for initial construction of a building in a foothill zone shall be measured from the established grade. Up to four feet (4') of fill (or 6 feet within the buildable area of the lot) may be added on top of the established grade in order to bring the exposed portion of the lower story of a single exterior wall of building into compliance with the definition of a basement when the majority of that lower level of that exterior wall already complies with this definition. The height of any subsequent structural modification or addition to a building shall be measured from the finished grade existing at the time a building permit is requested.~~

6. Grade Changes: No grading shall be permitted prior to the issuance of a building permit. The ~~established~~ grade of any lot shall not be ~~raised or lowered~~ altered above or below established grade more than four feet (4') at any point for the construction of any structure or improvement except:

a) ~~Within the buildable area, established grade may be raised or lowered a maximum of six feet (6') by grading or retaining walls.~~ Proposals to modify established grade more than

six feet (6') shall be reviewed as a special exception subject to the standards in Section 21A.54 of this Ordinance. Grade change transition areas between a yard area and the buildable area shall be within the buildable area.

- b) Within the front, corner side, side and rear yard areas, proposals to modify established grade more than four feet (4') shall be reviewed as a special exception subject to the standards found in Section 21A.52 of this Ordinance; and
- c) As necessary to construct Driveway access from the street to the garage or parking area grade changes and/or retaining walls up to six feet (6') from the established grade ~~may be permitted~~ shall be reviewed as a special exception subject to the standards in Section 21A.52 of this Ordinance.

7. Grading: Unauthorized grading and other surface disturbing activities are prohibited in all undevelopable areas within of the lot or the subdivision. Prior to any grading or other surface disturbing activity on the property, the undevelopable areas shall be clearly delineated by temporary fencing or flagging. Any flagging stakes used to delineate undevelopable areas there shall be a minimum of four feet (4') above grade and no more than twenty five (25) feet ~~ten feet (10')~~ apart.

8. Retaining Walls: All cuts and fills in excess of two feet (2') shall be supported by retaining walls if required by the zoning administrator. Any stacking of rocks to create a rock wall in excess of a thirty percent (30%) slope, that is intended to retain soil, shall be considered a retaining wall. No retaining wall may exceed four feet (4') in height above the established grade except as provided in subsections P6a and P6b of this section. In a terrace of retaining walls, each four foot (4') vertical retaining wall must be separated by a minimum of three (3) horizontal feet, and any six foot (6') retaining wall must be separated from any other retaining wall by a minimum of five (5) horizontal feet. The horizontal area between terraced retaining walls shall be landscaped with vegetation. All retaining walls, in excess of four feet (4') in height shall be approved by an engineer licensed by the state, and the engineer's approval shall be consistent with the provisions of a geotechnical report. The zoning administrator may require an engineer's approval for retaining walls less than four feet (4') that there are sufficient risk factors, such as slope, soil stability, or proximity to structures on adjacent property.

21A.34.120: YCI YALECREST COMPATIBLE INFILL OVERLAY DISTRICT:

C. Building Height:

1. Maximum Building Height: All heights to be measured from ~~finish~~ established grade.

21A.36.020: CONFORMANCE WITH LOT AND BULK CONTROLS:

B. Obstructions In Required Yards: Accessory uses and structures, and projections of the principal structure, may be located in a required yard only as indicated ("X") in table 21A.36.020B of this

section. No portion of an obstruction authorized in table [21A.36.020B](#) of this section shall extend beyond the authorized projection. Dimensions shall be measured from the finished surface of the building or structure.

21A.40.050: GENERAL YARD, BULK AND HEIGHT LIMITATIONS:

C. Maximum Height of Accessory Buildings / Structures:

1. Accessory to Residential Uses in The FP District, RMF Districts, RB, R-MU Districts, And the RO District: The height of accessory buildings/structures in residential districts are measured from established grade and shall conform to the following:

- a) The height of accessory buildings with flat roofs shall not exceed twelve feet (12');
- b) The height of accessory buildings with pitched roofs shall not exceed seventeen feet (17') measured to the midpoint of the roof; and
- c) Accessory buildings with greater building height may be approved as a special exception, pursuant to chapter 21A.52 of this title.

2. Accessory To Residential Uses In The FR, R-1 Districts, R-2 District and SR Districts: The height of accessory buildings/structures in the FR districts, R-1 district, R-2 district and SR districts shall conform to the following:

- a) The height of accessory buildings with flat roofs shall not exceed twelve feet (12'); nine feet (9') measured from established grade in the SR-1A;
- b) The height of accessory buildings with pitched roofs shall not exceed seventeen feet (17') measured as the vertical distance between the top of the roof and the ~~finished~~ established grade at any given point of building coverage. In the SR-1A the height of accessory buildings with pitched roofs shall not exceed fourteen feet (14'); and
- c) Accessory buildings with greater building height may be approved as a special exception, pursuant to chapter 21A.52 of this title, if the proposed accessory building is in keeping with other accessory buildings on the block face. (Ord. 26-06 §§ 2, 3, 2006: Ord. 90-05 § 2 (Exh. B), 2005: Ord. 13-04 § 18, 2004: Ord. 35-99 § 57, 1999: Ord. 30-98 § 4, 1998: Ord. 88-95 § 1 (Exh. A), 1995: Ord. 26-95 § 2(20-4), 1995)

21A.40.120: REGULATION OF FENCES, WALLS AND HEDGES:

E. Height Restrictions:

1. Standard for residential zoning districts: No fence, wall or hedge shall be erected to a height in excess of four feet (4') between the front property line and the front facade of the principal structure.

2. Standards for all zoning districts:

- a) Corner Lots; Sight Distance Triangle: No solid fence, wall or hedge shall be erected to a height in excess of three feet (3') if the fence, wall or hedge is located within the sight distance triangle extending thirty feet (30') of the intersection of the right of way lines on any corner lot as noted in figure [.62.050I](#) of this title.
- b) Corner Side, Side, Rear Yards; Sight Distance Triangle: Fences, walls or hedges may be erected in any required corner side yard (extending to a point in line with the front facade of the principal structure), side yard or rear yard to a height not to exceed six feet (6'). The zoning administrator may require either increased fence setback or lower fence height along corner side yards to provide adequate line of sight for driveways and alleys.
- c) Intersection Of Driveway Or Alley Within Public Way; Sight Distance Triangle: Solid fences, walls and hedges located near the intersection of a driveway or an alley within the public way shall not exceed thirty inches (30") in height within a ten foot (10') wide by ten foot (10') deep sight distance triangle as defined in figure [.62.050I](#) of this title.
- d) Sight Distance Triangle and See Through Fences: Within the area defined as a sight distance triangle, see through fences that are at least fifty percent (50%) open shall be allowed to a height of four feet (4').
- e) Alternative Design Solutions: To provide adequate line of sight for driveways and alleys, the zoning administrator, in consulting with the development review team, may require alternative design solutions, including, but not restricted to, requiring increased fence setback and/or lower fence height, to mitigate safety concerns created by the location of buildings, grade change or other preexisting conditions.
- f) Measuring: Measuring the height of a fence shall be from the "~~established~~ **finished** grade" of the site as defined in section [.62.040](#) of this title.
- g) Special Exception Approval Standards: The board of adjustment may approve taller fencing if the board finds that the extra height is necessary for the security of the property in question as defined in section [.52.100](#) of this title.