

PLANNING COMMISSION STAFF
REPORT



Planning and Zoning Division
Department of Community and
Economic Development

**Grade Change Amendments
Case #PLNPCM2009-00055
November 30, 2011**

Applicant

Mayor Ralph Becker

Staff

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Review Standards

21A.50.050 Standards for General
Amendments

Affected Sections

Sections 21A.62.040,
21A.34.120, 21A.36.020.B,
21A.24.010, 21A.36.020,
21A.36.050, and 21A.40.120 of
the Zoning Ordinance.

Notification

- Notice mailed on
November 15, 2011
- Published in Salt Lake
Tribune November 15,
2011
- Posted on City & State
Websites November
15, 2011

Attachments

- A. Proposed Text
Amendments
- B. Public Comment

REQUEST

On February 3, 2010, Mayor Ralph Becker initiated a petition to clarify the definition of grade change in the Zoning Ordinance, in terms of measuring the height of principal and accessory structures as well as making clarifications for grade changes in general. Included in this staff report are proposed changes to the ordinance, along with analysis and findings relating thereto.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission review the proposed grade change modifications in sections 21A.62.040, 21A.36.020.B, 21A.24.010, 21A.34.120, 21A.36.020, 21A.36.050, and 21A.40.120 of the Salt Lake City Zoning Ordinance, and based on the analysis and findings in this staff report forward a positive recommendation to the City Council.

Background / Information

On February 3, 2010, Mayor Ralph Becker initiated a petition to amend various sections of the Zoning Ordinance. The purpose of the amendments is to clarify definitions, close loopholes that may allow additional height via incremental changes to a building, and allow for additional grade change when addressing specific topographical conditions on a site that may hinder development.

The proposed amendments include:

- New definition of Established Grade, Natural Grade, Dormer and Exterior Wall Height.
- Clarification of ordinance definitions of grade, as they relate to natural grade established grade, and finished grade.
- Modification of regulations of obstructions in required yards as it relates to changes in grade for commercial and residential structures.
- Clarification and update of language in the Foothill Regulations.
- Clarification in Yalecrest overlay regulations, lot and bulk controls, and fences, walls and hedges.
- Replacement of illustrations demonstrating old definitions with new.
- General fine tuning.

Public Participation

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.

Issue Analysis

Definitions

It is hoped that 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.

In addition to the defined changes, staff has created a new illustration to visually demonstrate intent (see exhibit A).

Obstructions

Currently grade changes in yard areas of more than 2 feet are routine and uncontested matters, requiring notification of all adjacent property owners. The proposed amendments will modify the language to increase the number initiating review from 2 to 4 feet, and make them a special exception under the purview of either the Planning Commission or the Historic Landmark Commission. The rationale for this change is:

- A. 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.
- B. Staff has found that a number of grade changes have become a difficult process for property owners, as the approval process can be onerous while the public benefit is minimal.

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.

In Chapter 21A.52 staff has inserted language making grade changes in the H Historic Preservation Overlay District a special exception reviewable under the authority of the Historic Landmark Commission. This will enable review for compatibility with historic district design guidelines and criteria, to ensure the preservation of the streetscape.

Foothills Regulations

There are a number of modifications proposed in the foothill regulations. Most either eliminate outdated language, or clarify meaning. One significant change 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.

Standards for General Amendments

A decision to amend the text of the Zoning Ordinance or the Zoning Map by general amendment is a matter committed to the legislative discretion of the City Council and is not controlled by any one standard. However, in making its decision concerning a proposed amendment, the City Council should consider the following factors:

- 1. Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the City as stated through its various adopted planning documents;**

Analysis: The overall goal of this petition is to further the purposes, goals, objectives and policies of the City as stated through its various master plans and planning documents. Currently, there are loopholes in the ordinance that allow for additional height to a building that was not anticipated. These regulations close those loopholes. Increasing the level of grading allowed will provide property owners with greater flexibility while still regulating changes that may have a great impact to the neighborhood.

Finding: The proposed text change is consistent with adopted master plans.

- 2. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance.**

Analysis: In Chapter 21A.02.030, the stated purpose of the Zoning Ordinance is to:

“promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Salt Lake City, to implement the adopted plans of the city, and to carry out the purposes of the municipal land use development and management act, title 10, chapter 9, of the Utah Code Annotated or its successor, and other relevant statutes. This title is, in addition, intended to:

- A. Lessen congestion in the streets or roads;
- B. Secure safety from fire and other dangers;
- C. Provide adequate light and air;
- D. Classify land uses and distribute land development and utilization;
- E. Protect the tax base;
- F. Secure economy in governmental expenditures;
- G. Foster the city's industrial, business and residential development; and

H. Protect the environment. (Ord. 26-95 § 2(1-3), 1995)”

The proposed amendments will not negatively impact the stated purposes of the Ordinance; rather they will enhance the implementation of the regulations by clarifying and clearing up confusion as it relates to the document.

Finding: Staff finds that the proposed changes to the Zoning Ordinance are consistent with the overall purpose of the Zoning Ordinance as stated in Chapter 21A.02.030.

3. Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards.

Analysis: The majority of the proposed text amendment is not site specific, and is not associated with any overlay zoning districts. In H Historic District Overlay Zones, the special exception for grade changes will be reviewable by the Historic Landmark Commission.

Finding: The proposed text amendment meets this standard.

4. The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.

Analysis: The proposed text amendments are designed to better mirror requirements in the International Building Code, and to clarify questions and issues that have come up in the general application thereof. These amendments will update planning practices that create and maintain efficient infrastructure, foster close-knit neighborhoods, a sense of community, and preserve natural habitat.

Finding: The proposed text amendment implements the best current practices in urban planning and design.

Attachment A
Proposed Ordinance Amendments

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 Changes of Established Grade of 4 2 feet or less except for the FP and FR districts which shall be subject to the provisions of subsection 21A.24.010P of this title. (All grade changes located on a property line shall be supported by a retaining wall.)</p> <p>For properties outside of the H historic preservation overlay, changes of established grade greater than 4 feet are special exceptions subject to the standards and factors in Section 21A.52 of this Ordinance.</p>	X	X	X
<p>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</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.

21A.62.050: ILLUSTRATIONS OF SELECTED DEFINITIONS

Finished Grade:

The 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.

Established Grade:

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.

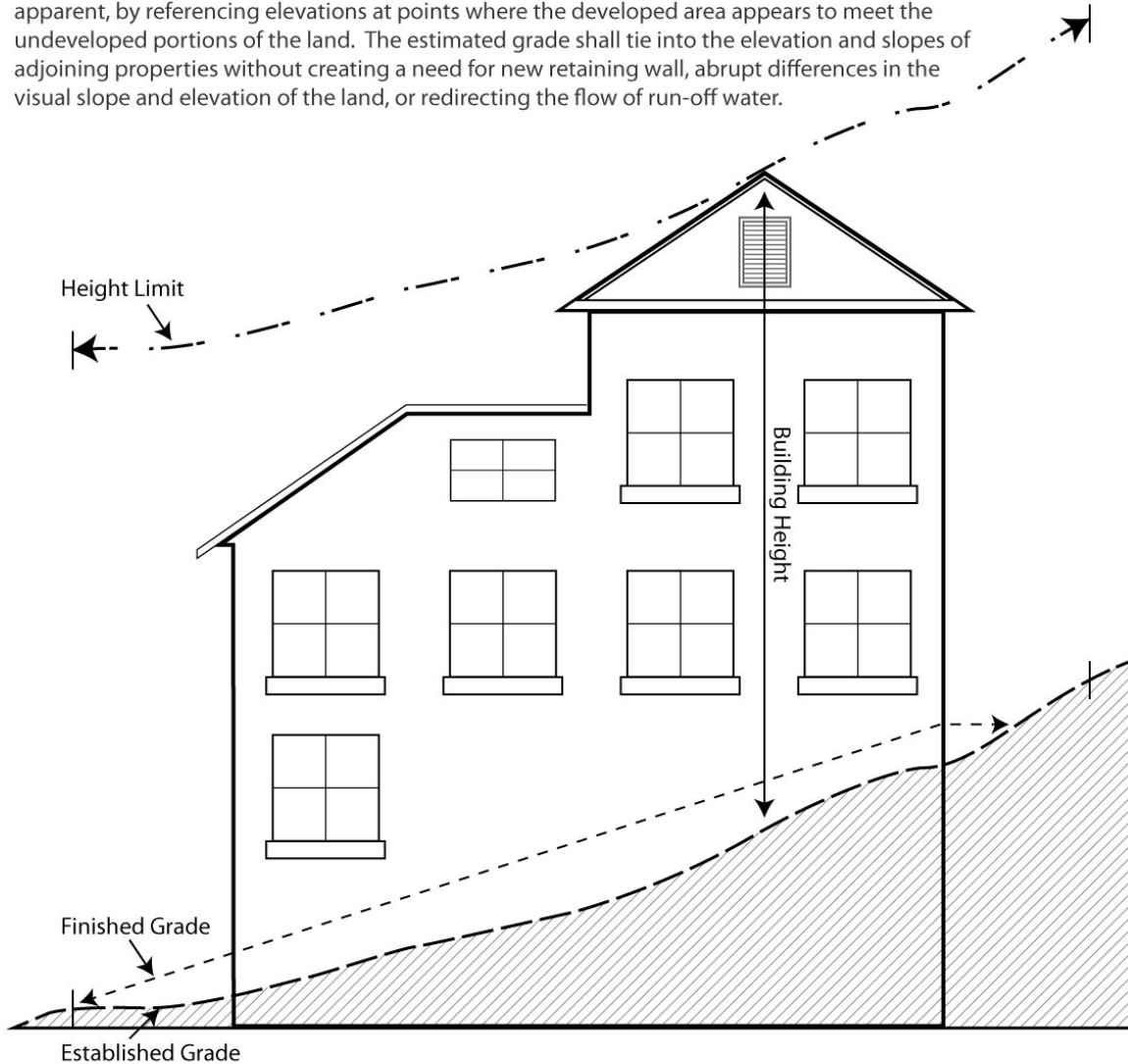
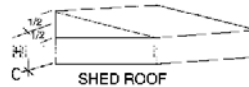
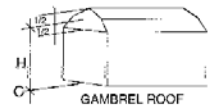
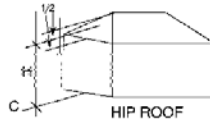
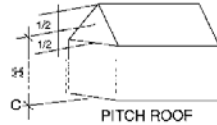
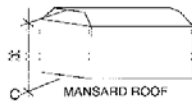


ILLUSTRATION - B
 BUILDING HEIGHT (OUTSIDE FOOTHILL DISTRICTS)

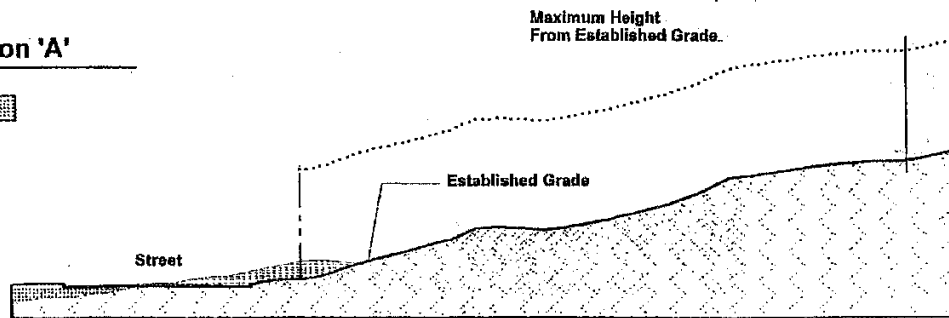
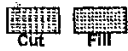
DEFINITION -
Building Height

The vertical distance measured 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; the deck line of a mansard roof, or the average height of the gable on a pitched, gambrel, hip or shed roof.



H : Height of Building
 C : Average Elevation of Finished Lot Grade

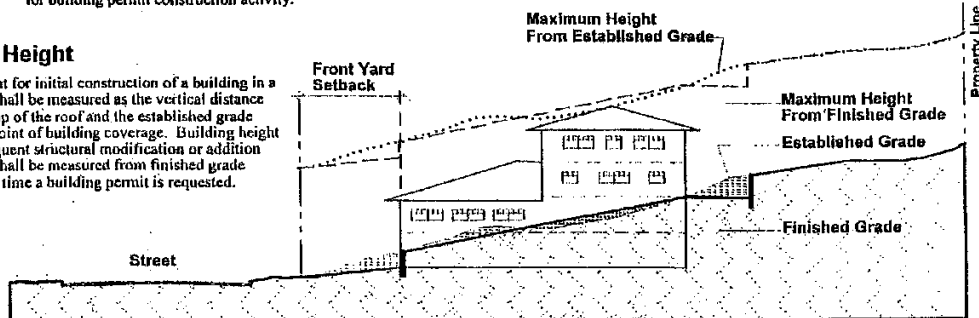
Illustration 'A'



Established Grade
 "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."

Building Height

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.



Finished Grade
 "The finished grade of a site after reconfiguring grades according to an approved re-grading plan related to the initial building permit activity on a site."

Attachment B
Public Comment

Ray,

The changes that you are proposing all seem to help clarify the wording and the concepts related to grading. I did not see anything that I would change except to comment that I could not find any reference to "Natural Grade" in all of Title 18. I'm not sure that it needs to be defined here since the language is now referencing either Established Grade or Finished Grade only for defining elevations.

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