



City of Burlington, VT
149 Church Street, 3rd Floor
Burlington, VT 05401
Phone: (802) 865-7144

www.burlingtonvt.gov/plan

Burlington Planning Commission

Ordinance Committee
Remote Meeting

Thursday, March 4, 2021 @ 5:15 PM

Zoom: <https://us02web.zoom.us/j/85614454302?pwd=MzFVVE5UOXpsWitVdGNtdzUzZThYZz09>

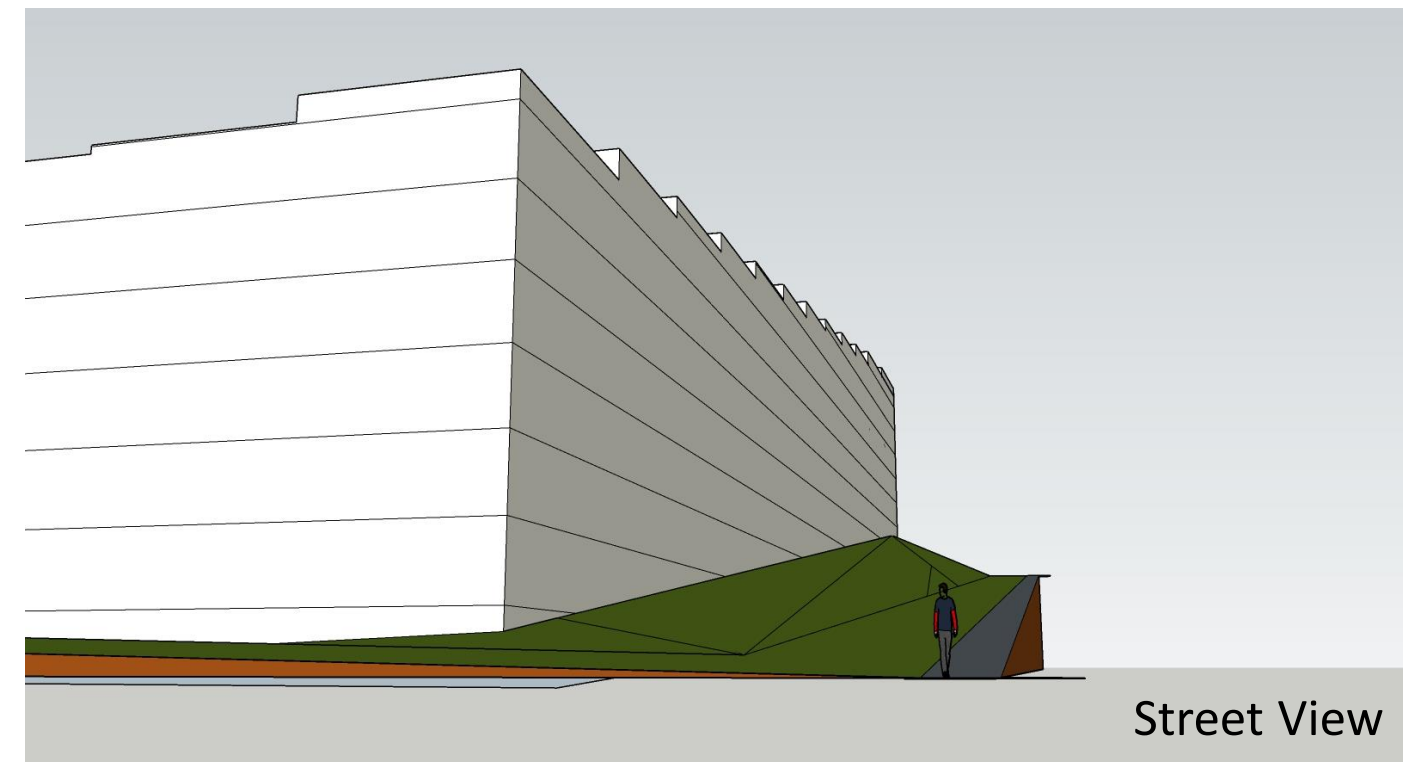
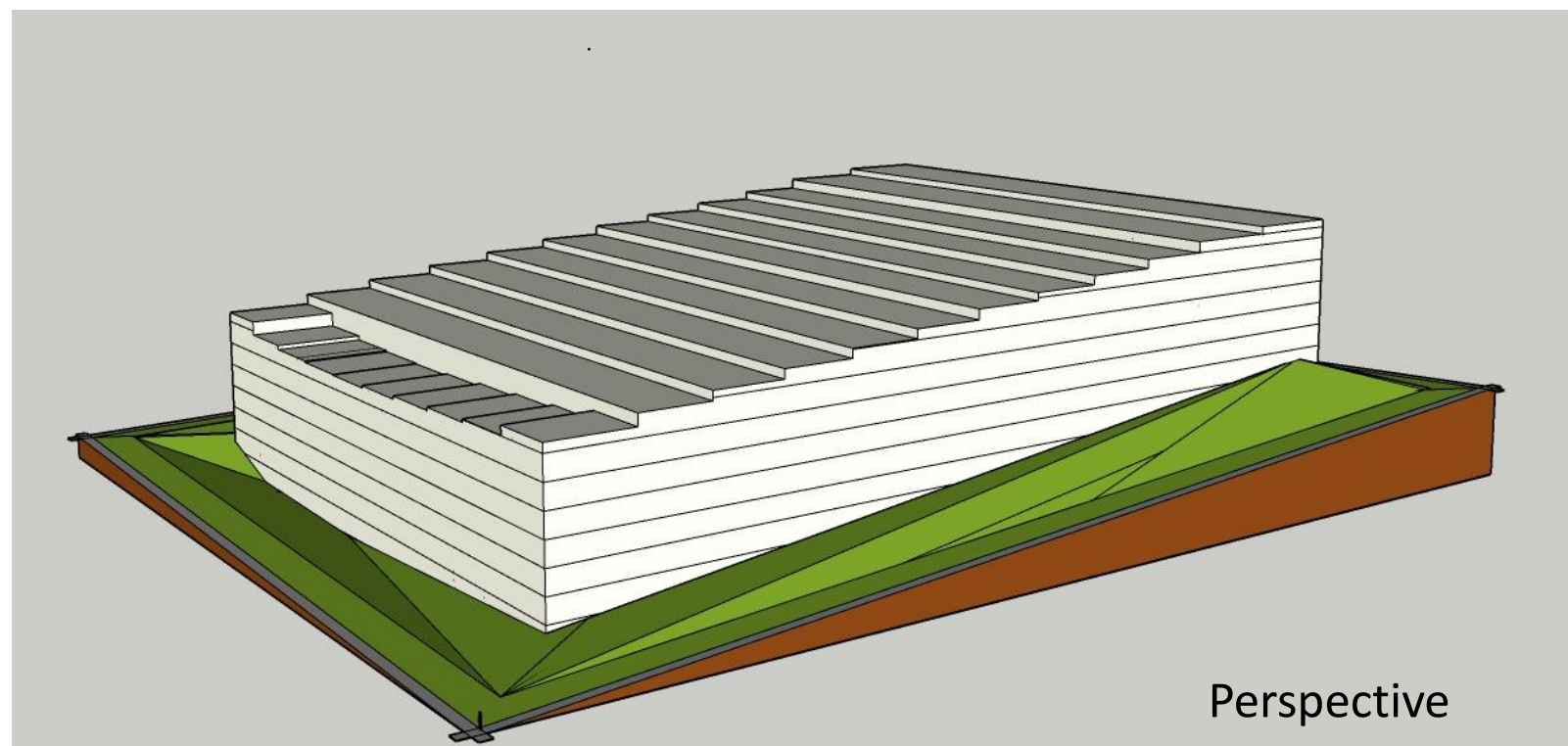
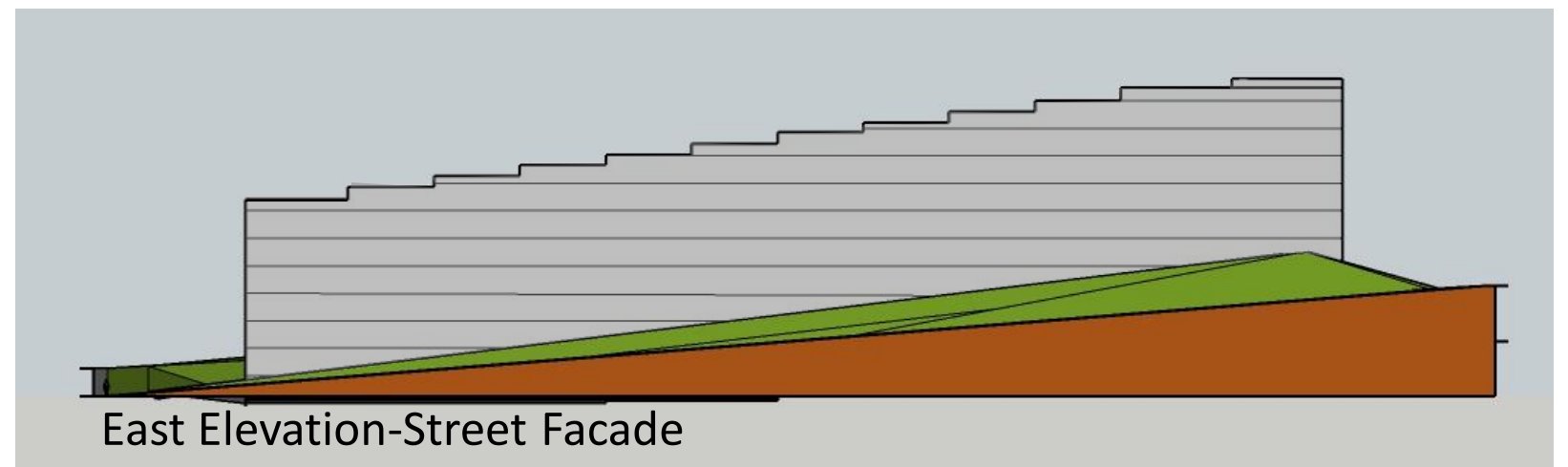
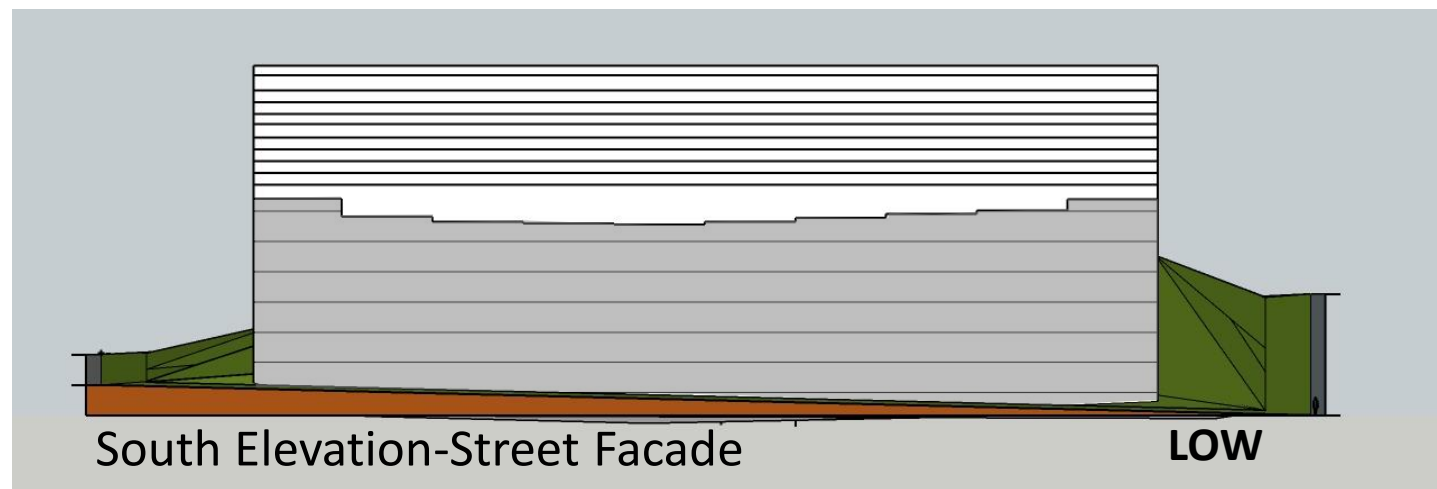
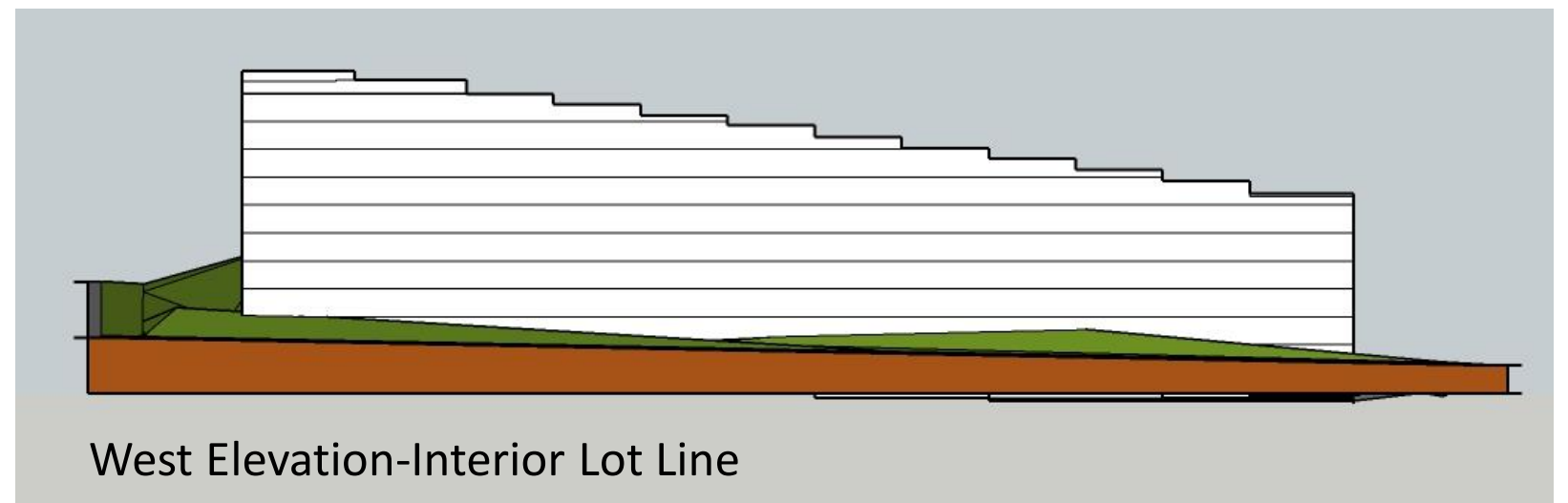
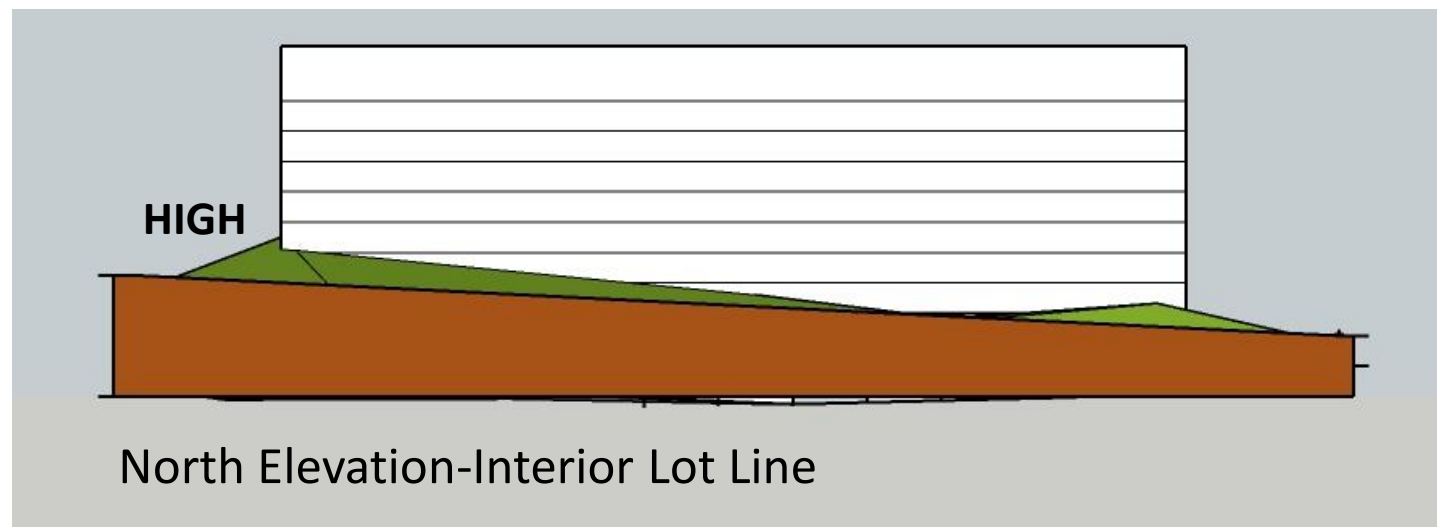
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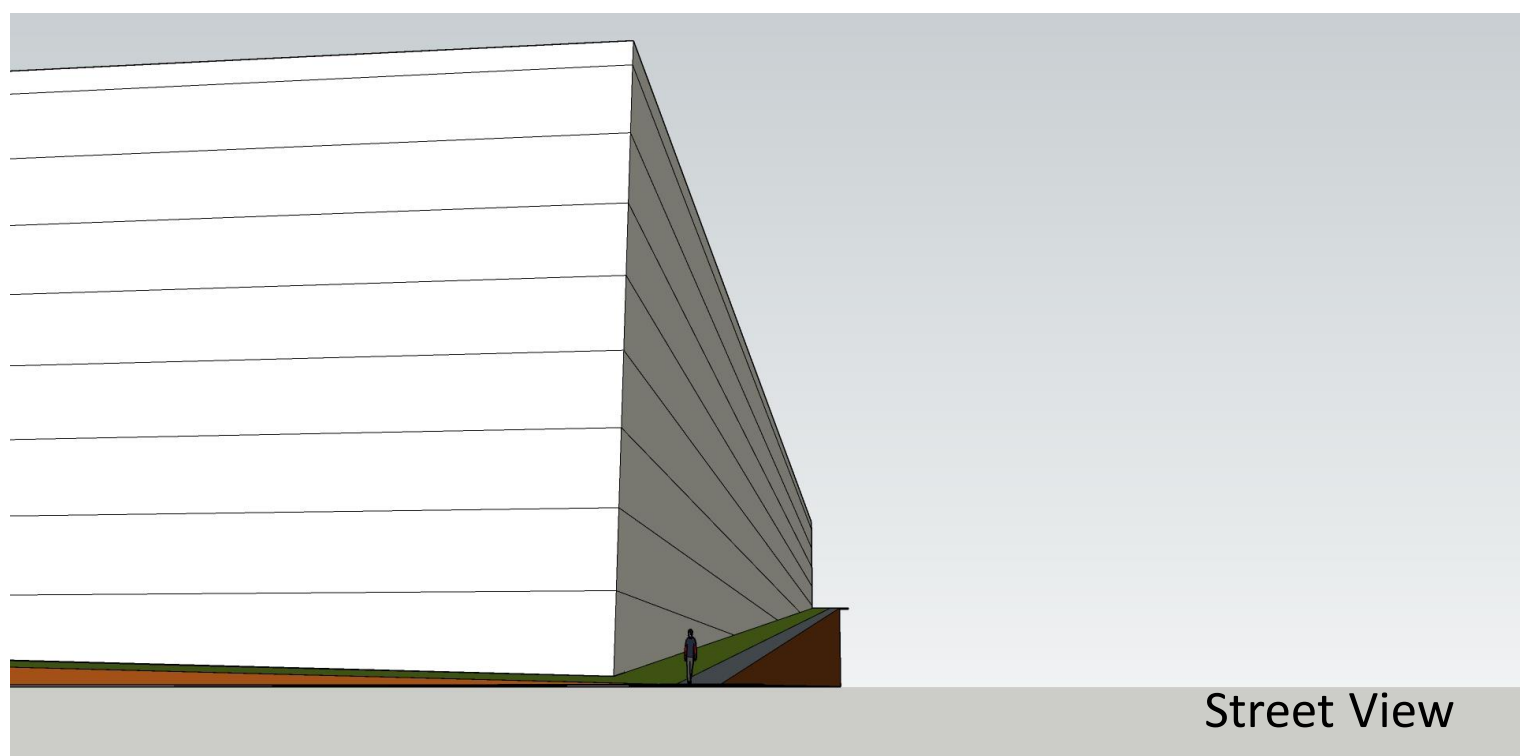
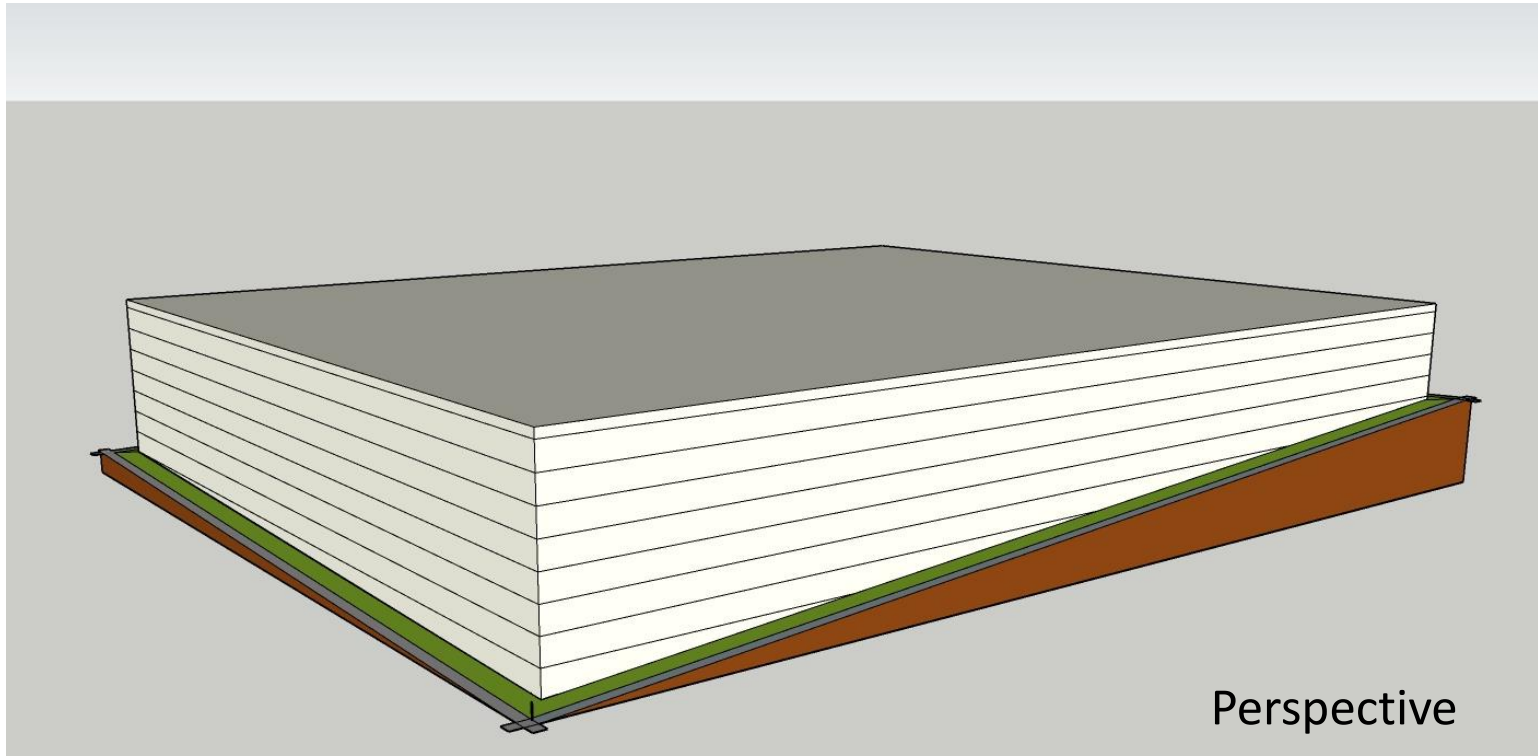
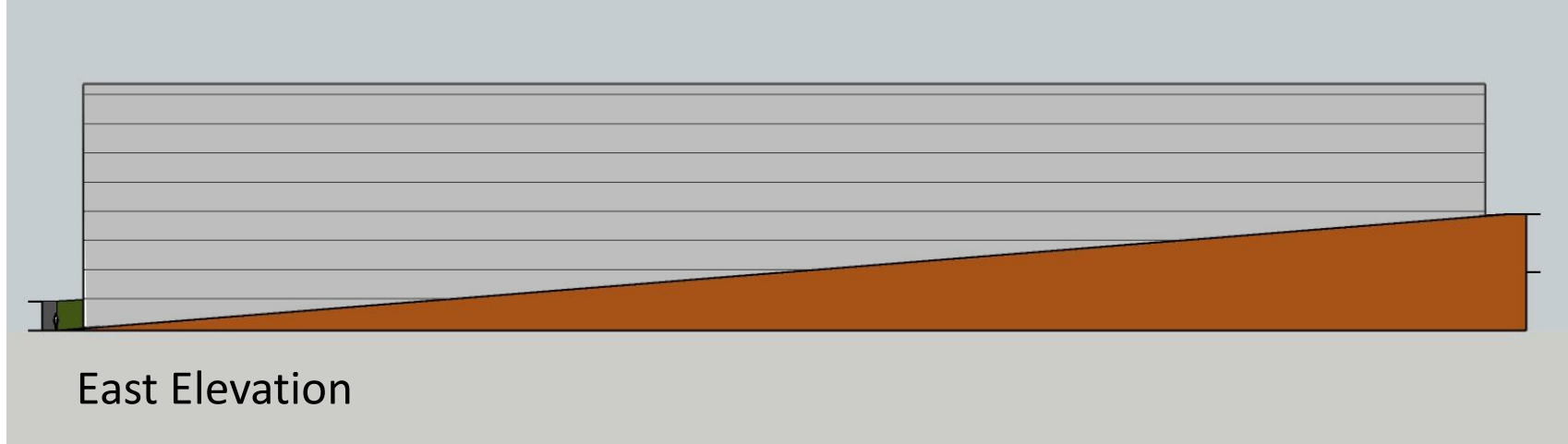
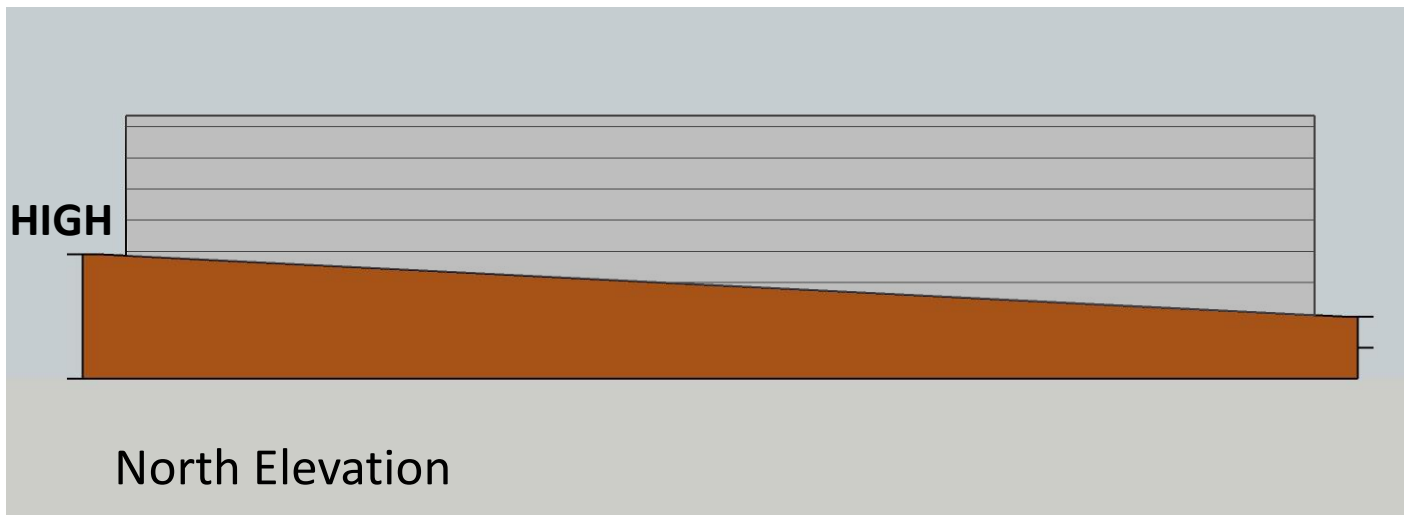
Telephone: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or
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AGENDA

1. Continuation of building height measurement discussion and draft amendment language.
2. Discussion of Conditional Use standards and possible revisions to address recent statutory changes regarding “character of the area.”
3. Adjournment

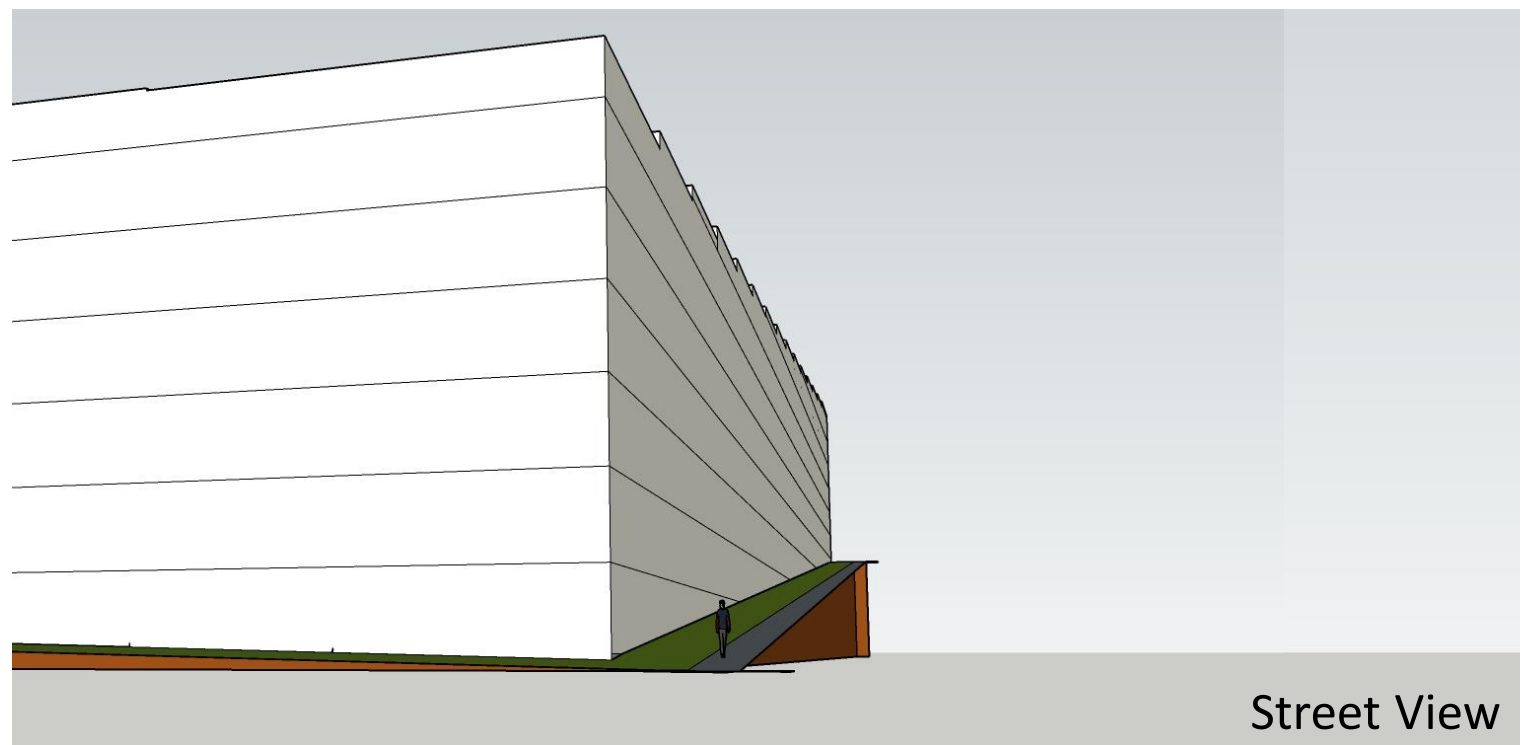
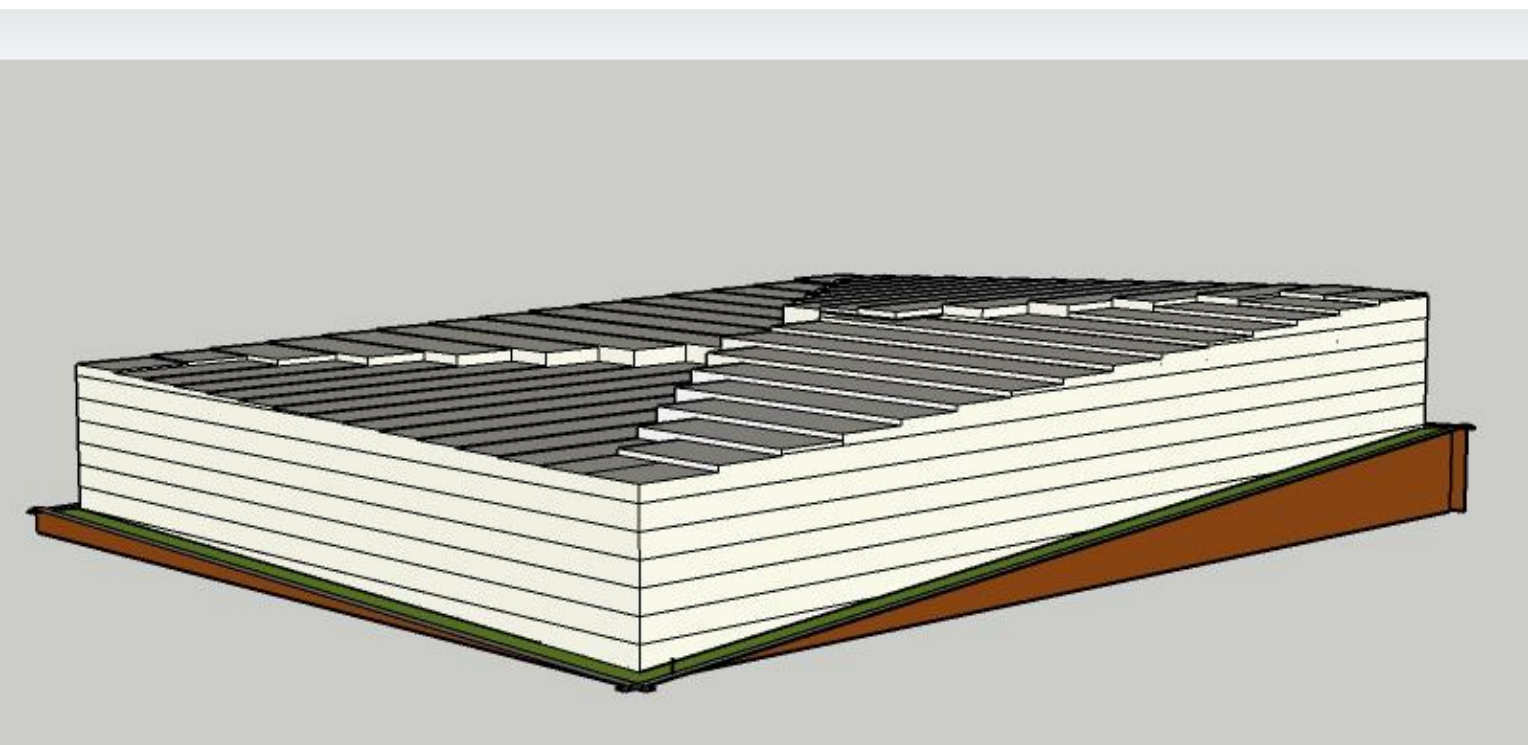
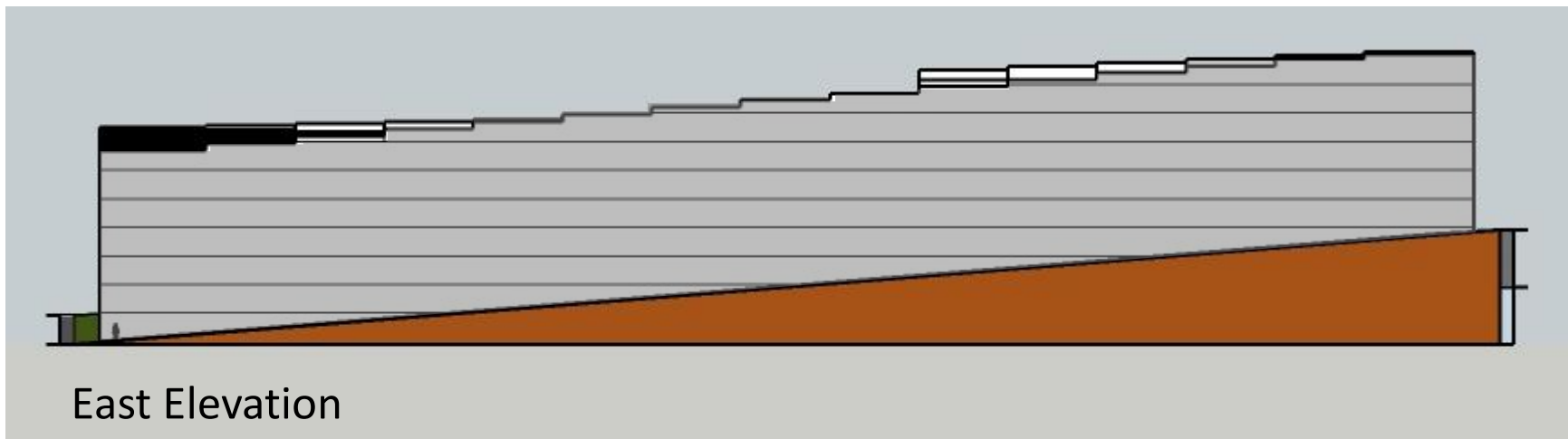
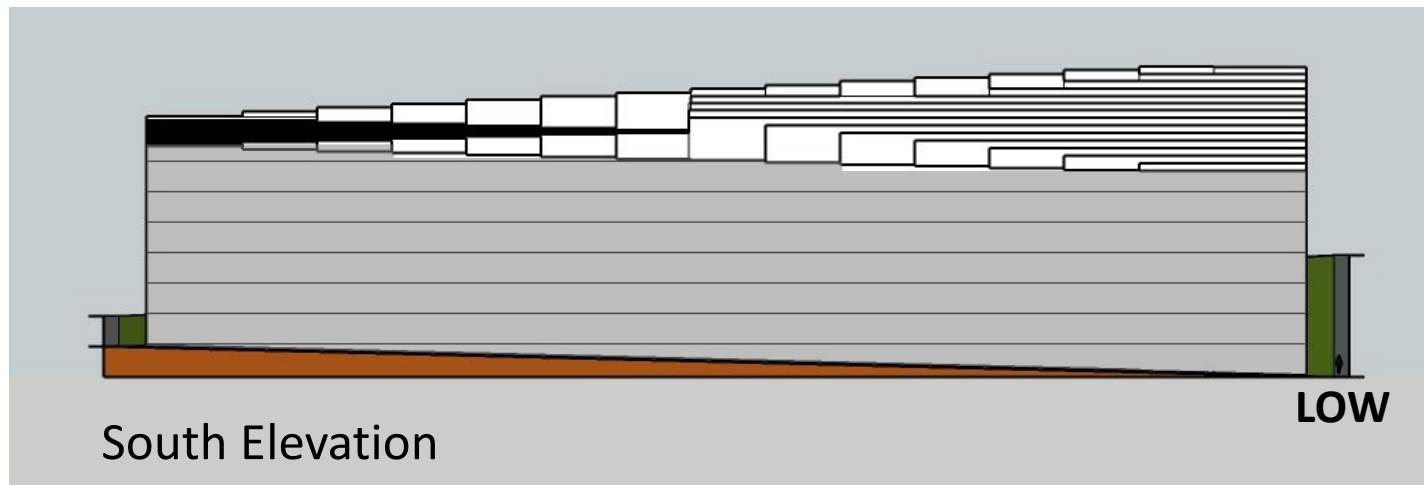
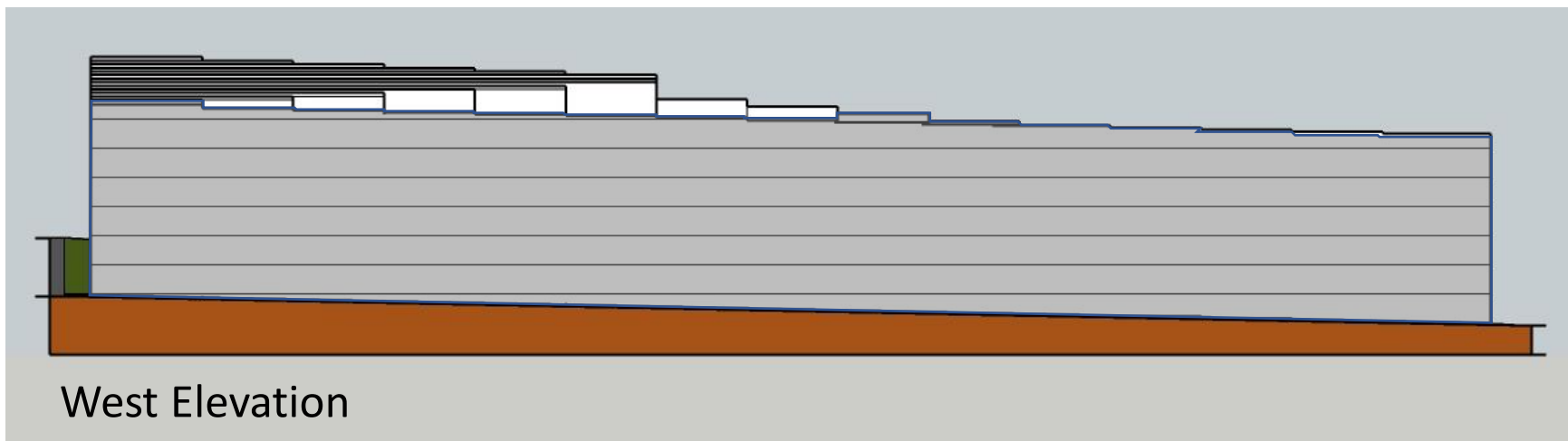
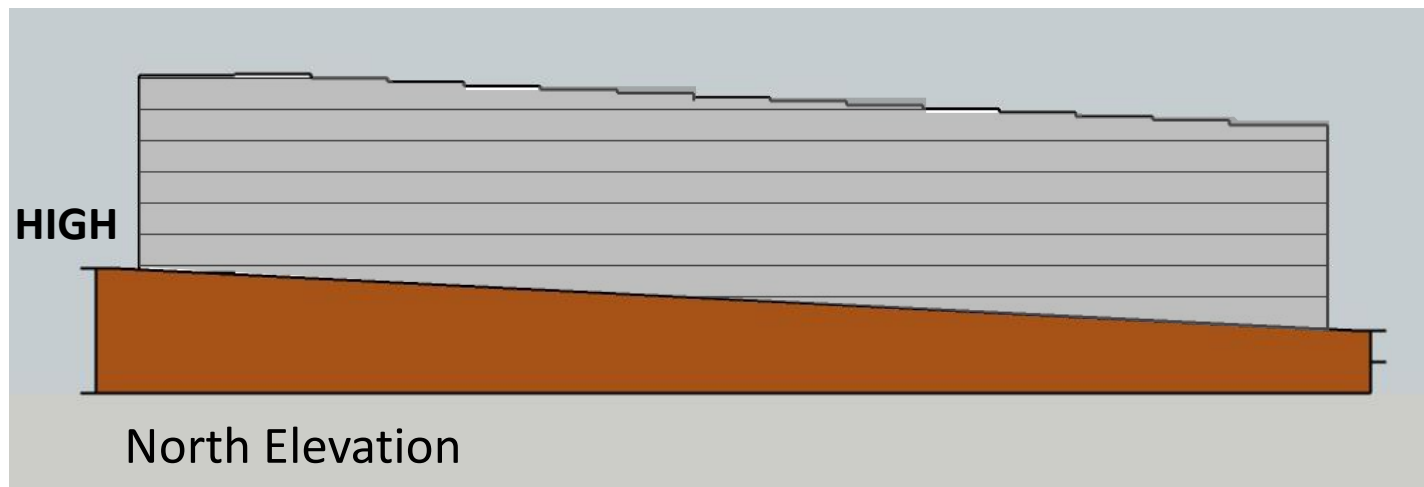


D This building is shown as a corner lot. The two street facades are set 50' from sidewalk. The building height is shown in intervals. It is established by offsetting allowable building height (shown at 65') from the midpoint average of the high and low points of each interval. These heights are only determined along the street facades and then pulled across the entire building to the interior lot line.



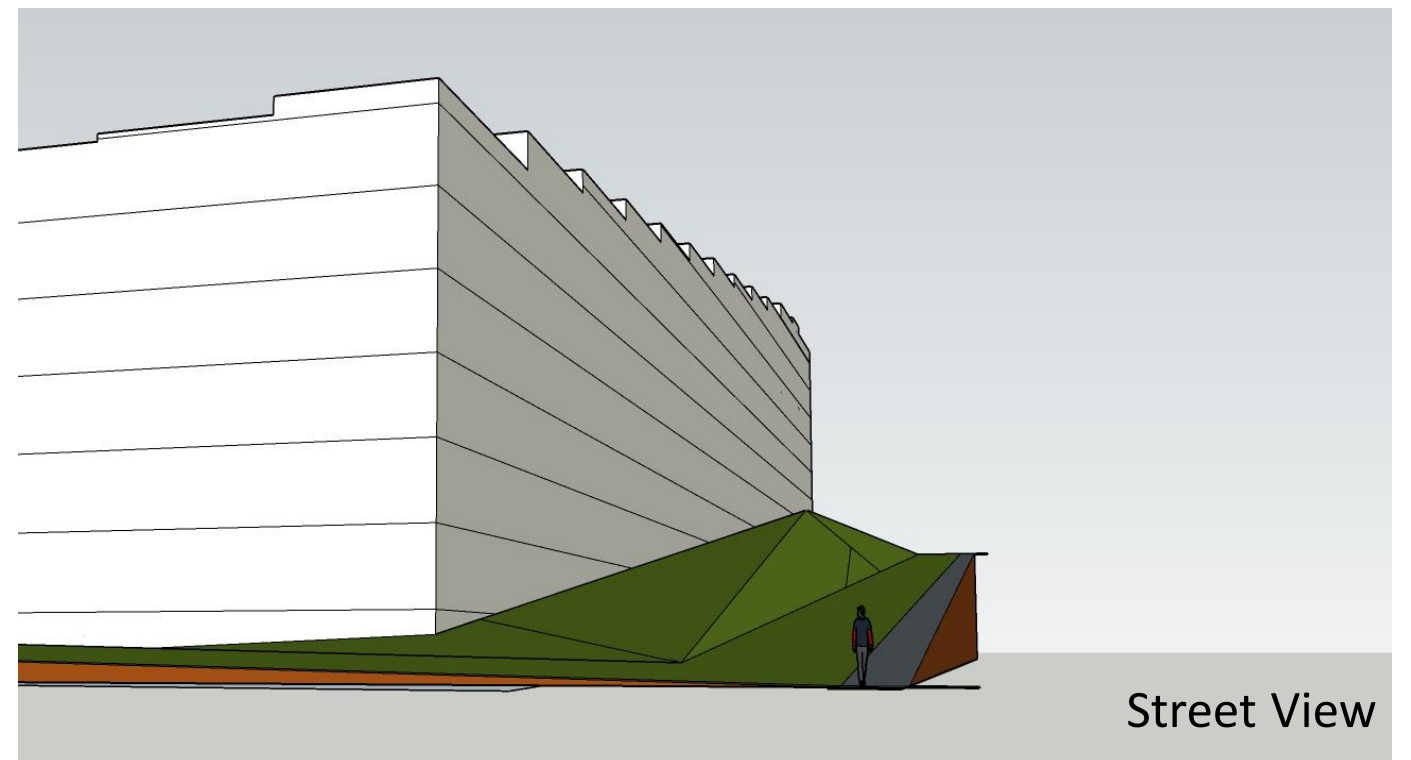
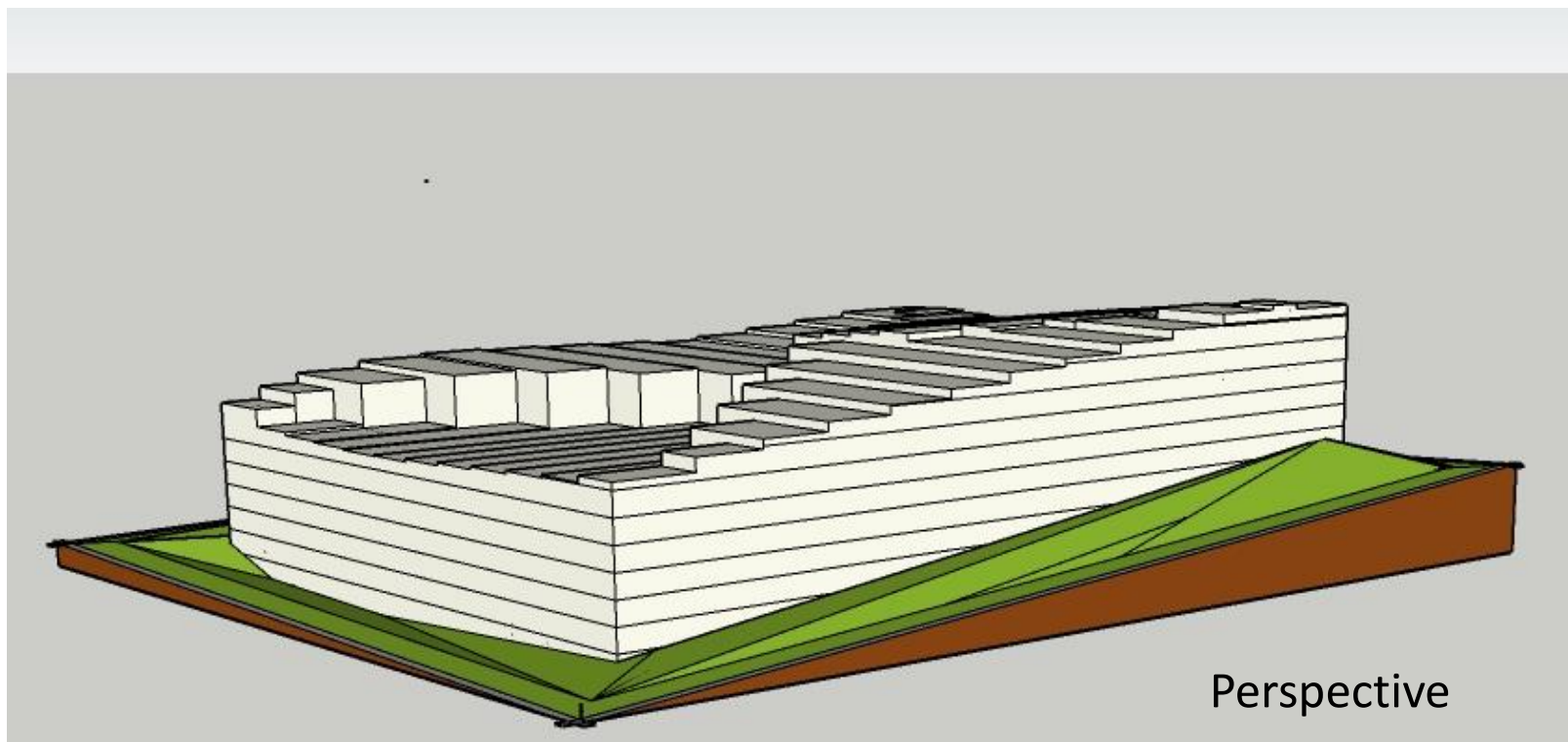
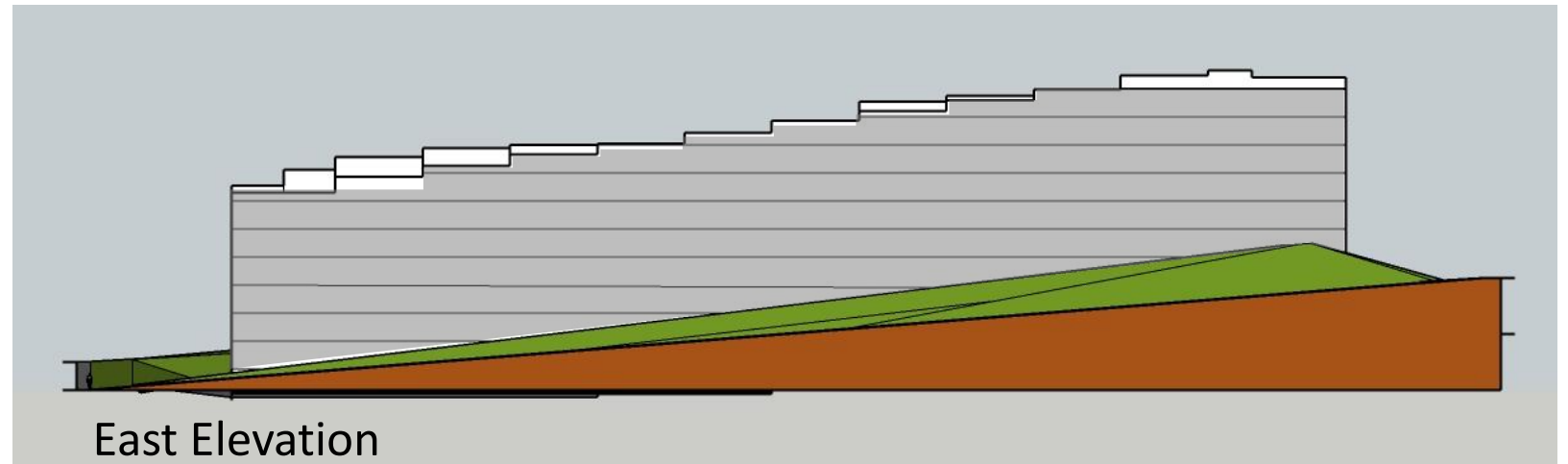
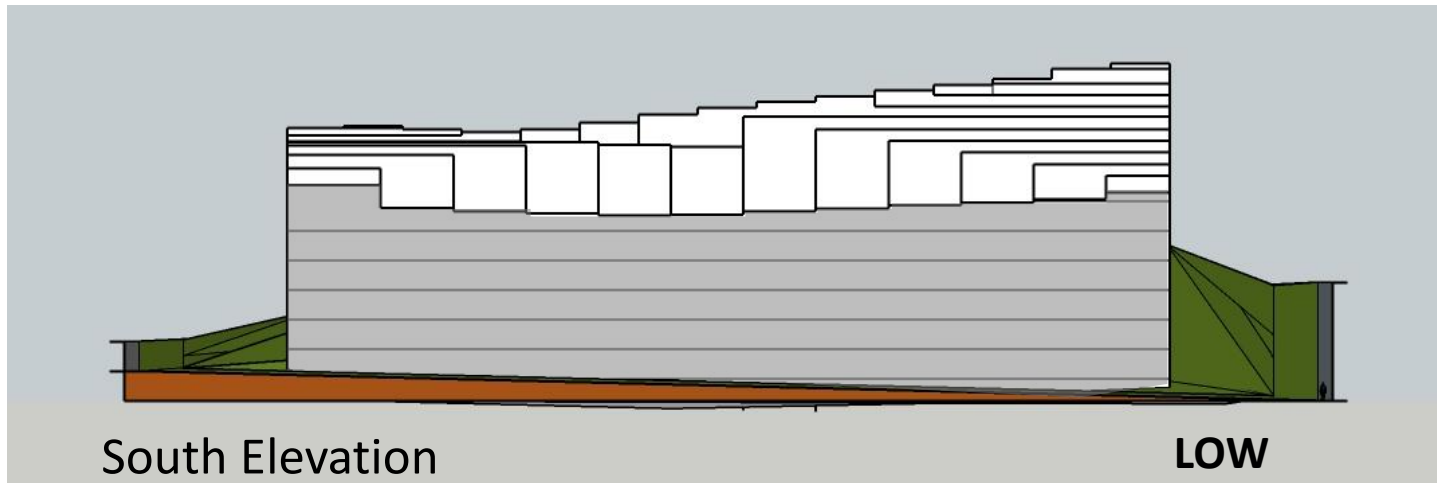
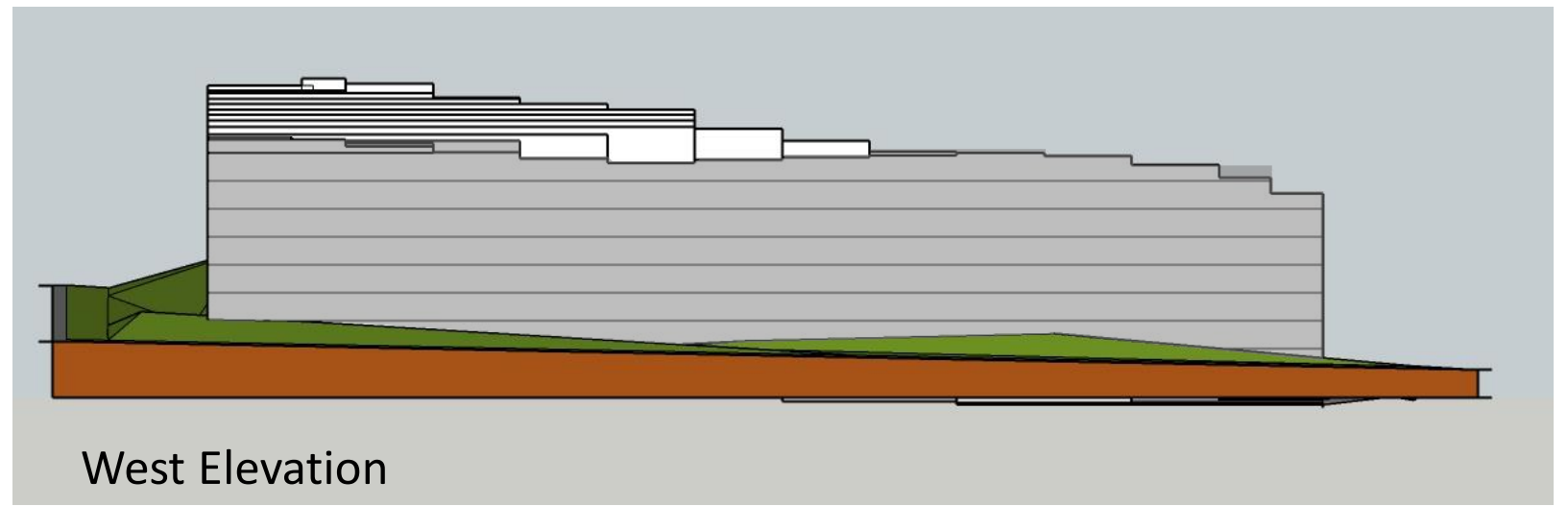
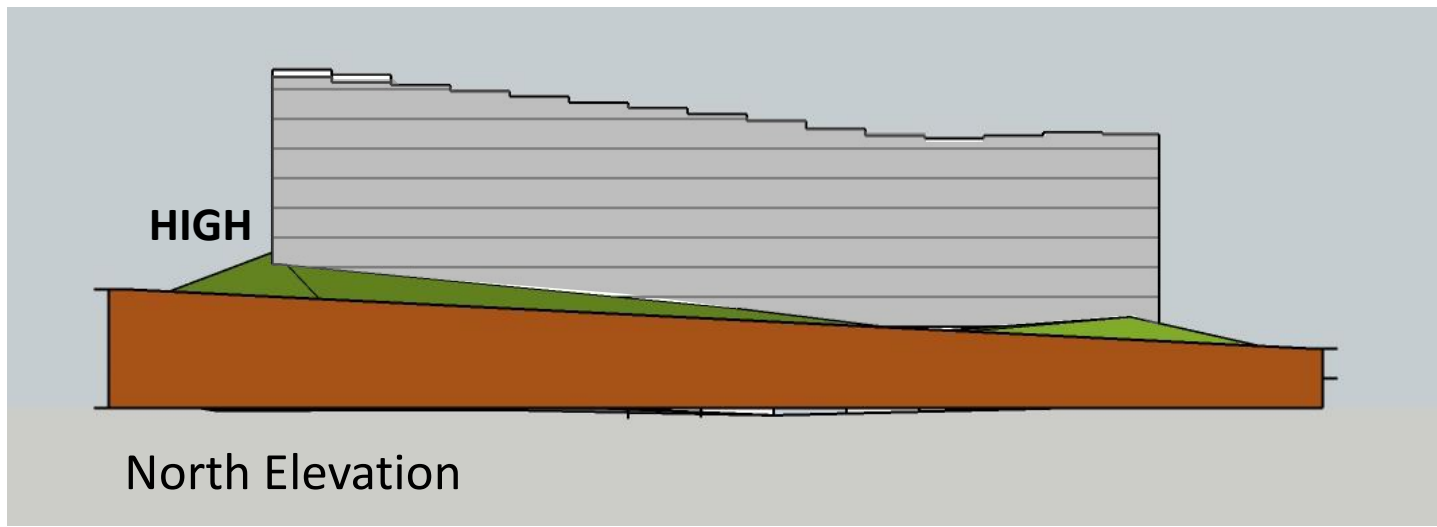
A

Building is set 9' from sidewalk. Average grade is determined by taking the midpoint average of the high point of building footprint on the site and the low point of the building footprint on the site. The building height then extends up 65' from that point. Each horizontal line represents a 10' increment starting at the lowest point of the building on the site.



B

Building is set 9' from sidewalk. Average grade is determined by taking the midpoint average of the high point and low point in increments along the building footprint. A building height of 65' is established at the average grade of each increment. Each horizontal line represents a 10' increment starting at the lowest point of the building on the site.



C Building is set 50' from sidewalk. Average grade is determined by taking the midpoint average of the high point of building footprint on the varied grade on the site, and the low point of the building footprint on the varied grade on the site. The building height then extends up 65' from that point. Each horizontal line represents a 10' increment starting at the lowest point of the building on the site.



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TO: Planning Commission Ordinance Committee
FROM: Scott Gustin, Principal Planner & Zoning Division Manager
DATE: March 4, 2021
RE: Building Height Increments

Overview & Background

This amendment seeks to improve the connection between two existing sections of code pertaining to building height measurement in the Comprehensive Development Ordinance. Specifically, Sec. 5.2.6 (a) 1 A & B note two starting points for measuring a building's height – from the sidewalk or from the average finished grade around the entire building, depending on the distance from the sidewalk. Sec. 5.2.6 (a) 3 specifies increments for building height measurement along the street façade. The relationship between Sec. 5.2.6 (a) 1 A and 3 is clear. A building's height measured from the public sidewalk is done in increments to account for changes in grade along the street façade. The relationship between Sec. 5.2.6 (a) 1 B and 3 is not clear. How does the requirement for height measurement intervals along the street façade(s) relate to the average finished grade around the entire building? This amendment seeks to clarify this relationship. The end result is simply clarification that measurement of building height is done in increments along the street façade(s) in any case.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

The purpose of this amendment is very simple. It seeks to clarify that building height is measured in increments along the street façade, regardless of whether the building height is measured just from the public sidewalk or from the average finished grade around the entire building.

Proposed Amendments

Deleted language is ~~crossed out~~ and new language is underlined in red.

[Begin text amendment]

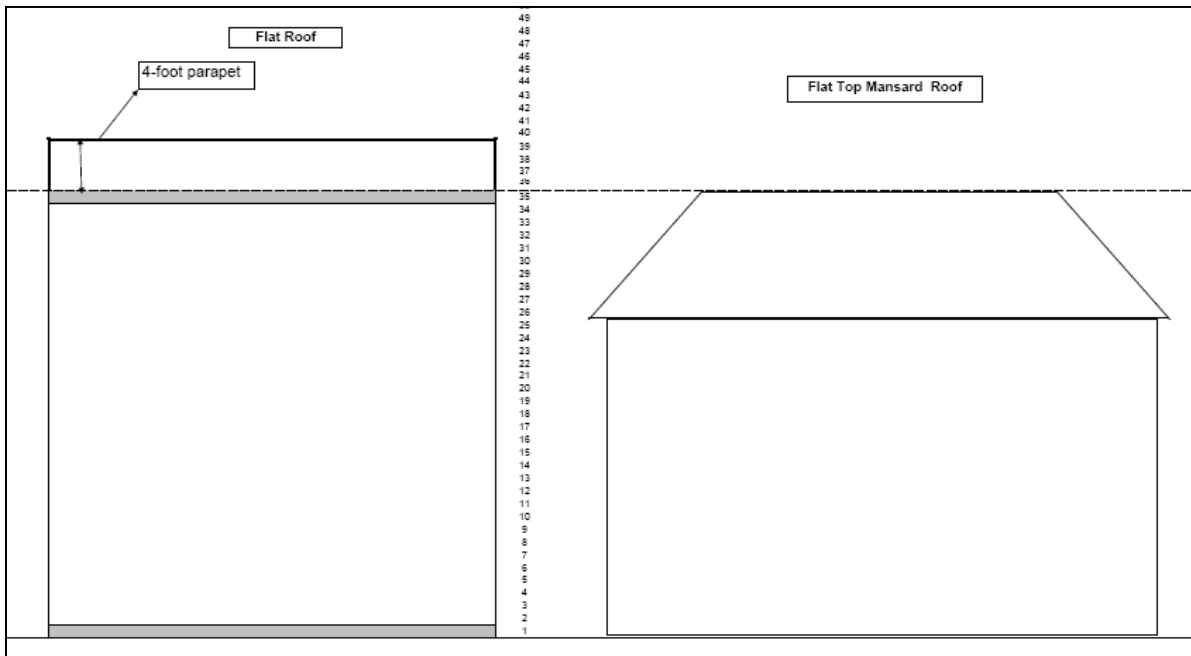
Sec. 5.2.6 Building Height Limits

No structure shall exceed thirty-five (35) feet in height unless otherwise authorized under the district-specific provisions of Article 4:

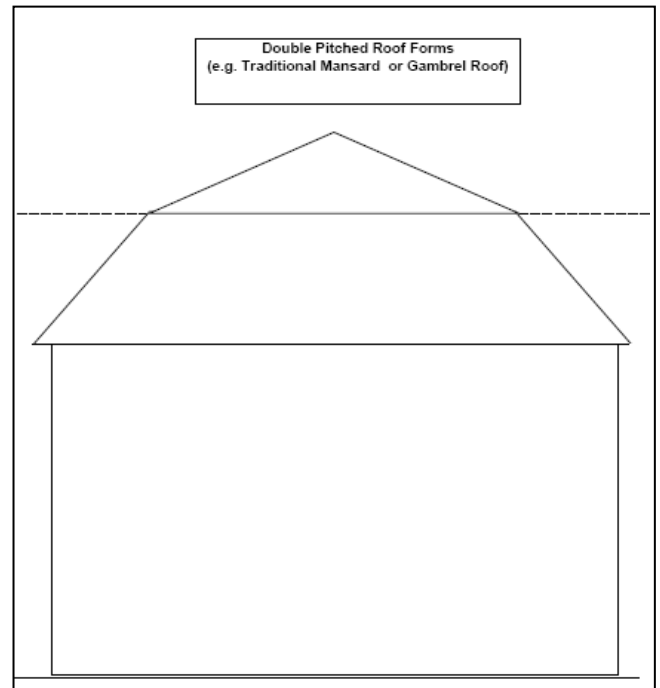
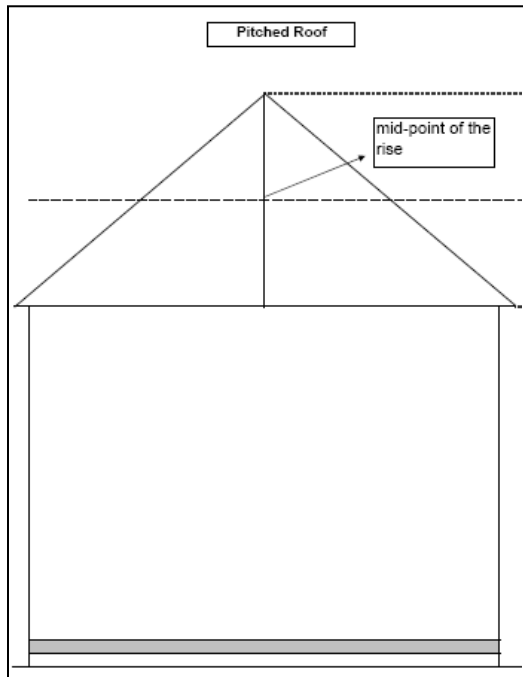
(a) Height Measurement:

The maximum height of any building shall be measured as follows:

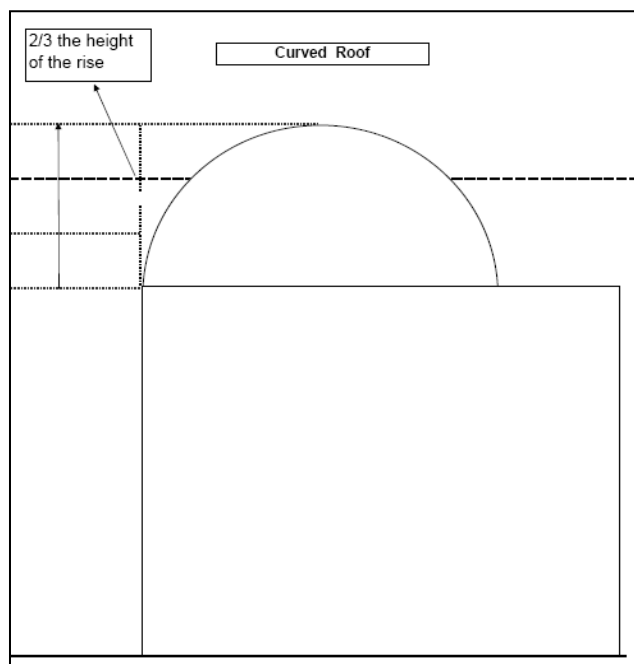
1. Starting Point: Building height shall be measured from:
 - A. a public sidewalk, alley, or other public way where it is within a ~~10~~⁵⁰-foot horizontal distance of an exterior wall on the front of the building; or,
 - B. the average finished grade within a 10-foot horizontal distance of all exterior walls of the building. In cases where a property line is within a 10-foot horizontal distance of an exterior wall, the average grade shall be measured between the property line(s).
2. Ending Point: Building height shall be measured to:
 - A. Flat Roof: the highest point of the decking of a flat or flat-topped mansard roof. A parapet no taller than four (4) feet shall not be considered part of a flat roof for the purposes of measuring building height;



- B. Pitched Roof: the midpoint of the rise between the roofplate and the ridge of the highest gable of a pitched or hipped roof. A double-pitched roof (e.g. gambrel or double-pitched mansard) shall be measured to the roofplate of the highest pitch; or,

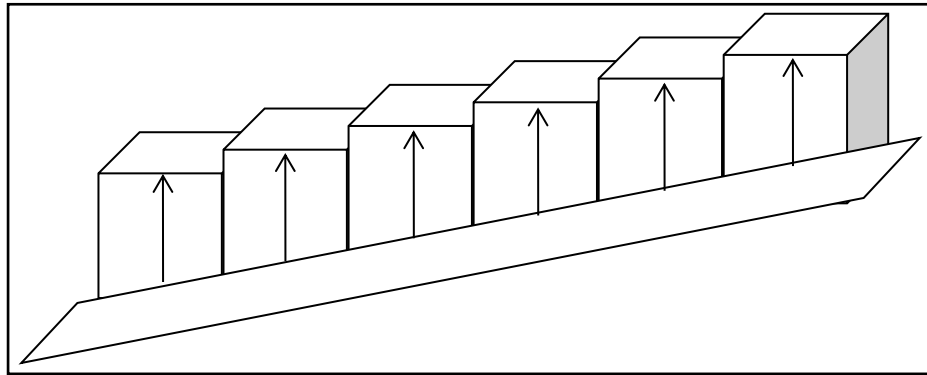


- C. Curved Roof: a point two thirds ($\frac{2}{3}$) the vertical distance from the point at which an exterior wall varies from a 100% slope and to highest point of the roof.

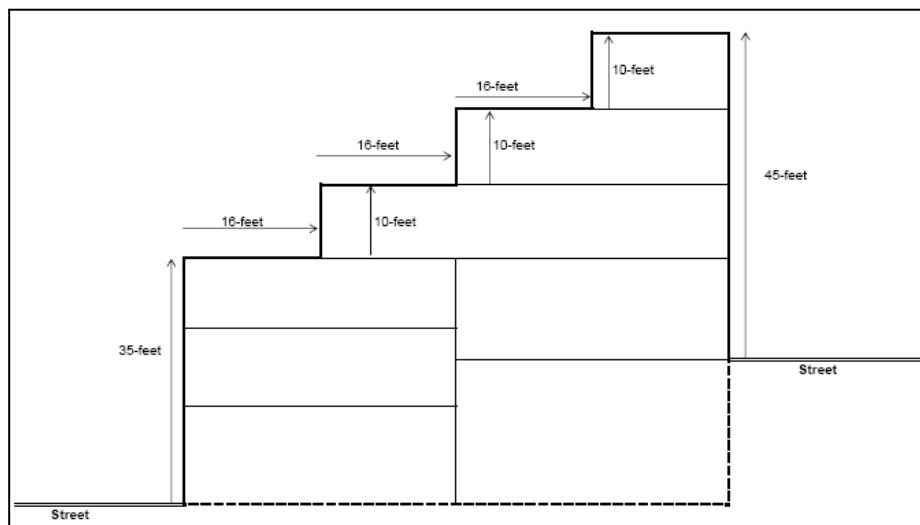


D. Other Roof Forms: Building height shall be measured as determined by the administrative officer in a manner that most closely reflects the intent of subsections (a) through (c).

3. Measurement Interval: To encourage a variation in building heights relative to terrain changes and encourage a variation in roof form, building height shall be measured along the street façade beginning **in increments of** no less than 16-feet or more than 32-feet from lowest corner, or where two streets intersect if a corner lot, and at an interval of no less than 32-feet or more than 65-feet for the entire length of the street façade (s). **This measurement interval applies when using either height measurement starting point as noted in (a) 1 of this section.**



4. Lots Fronting on Two or More Streets: Where a lot, other than a corner lot, fronts on two or more streets, the building height shall be measured along each street façade. Where the streets are at differing elevations, the building height may gradually increase above the maximum height allowed on the lowest street provided that any such additional height along the lowest street shall be set-back a minimum of 16-feet for every 10-feet of additional building height up to the maximum height allowed on the highest street.



5. Illustration: To illustrate height and bulk of the structure, the DRB may require the developer to prepare a scale model, computer visualization, illustrations, or other renderings of the proposed building in context with its surroundings.

[End text amendment]

Relationship to planBTV

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

Theme	Dynamic	Distinctive	Inclusive	Connected
Land Use	Conserve	Sustain	Grow	

Compatibility with Proposed Future Land Use & Density

The proposed amendment does not impact the types or density of potential land use and density. It clarifies that building height measurement is done in increments along a building's street façade(s) in all cases.

Impact on Safe & Affordable Housing

The proposed amendment has no impact on housing safety or affordability.

Planned Community Facilities

The proposed amendment has no impact on planned community facilities.

Process Overview

The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

Planning Commission Process				
Draft Amendment prepared by: Staff	Presentation to & discussion by Commission	Approve for Public Hearing	Public Hearing	Approved & forwarded to Council
				Continue discussion
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Cmte discussion	Ordinance Cmte recommend as modified	Second Read & Public Hearing	CCOC Recommends Approval & Adoption
				Rejected



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TO: Planning Commission Ordinance Committee
FROM: Scott Gustin, Principal Planner & Zoning Division Manager
DATE: March 4, 2021
RE: Act 179: Conditional Use Revision

Overview & Background

The Vermont legislature recently passed a series of changes to 24 V.S.A., Chapter 117 in the form of Act 179. One of the changes pertains to conditional use criteria. Specifically, subsection (E) has been added to Sec. 4414 (3) *Conditional Uses*. That new subsection reads:

A multiunit dwelling project consisting of four or fewer units located in a district allowing multiunit dwellings may not be denied solely due to an undue adverse effect on the character of the area affected.

The conditional use standards in CDO Sec. 3.5.6 (a), *Conditional Use Review Standards*, will need revision to reflect this new statutory provision.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

The purpose of this amendment is to adjust the Conditional Use standards in the CDO to reflect the new statutory provision limiting the effect of the "character of the area" criterion on applications for multifamily dwelling units consisting of four or fewer units in certain zoning districts.

Proposed Amendments

No amendment language has been drafted yet. Four alternatives are offered for the Ordinance Committee's consideration. Upon selection of a preferred alternative, amendment language will be drafted for review.

Sec. 3.5.6, *Review Criteria*, (a) *Conditional Use Review Standards*, 2, presently reads:

The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which

the project is located, and specifically stated policies and standards of the municipal development plan.

In order for a conditional use application to be approved, the Development Review Board must find affirmatively that the project is consistent with this criterion. Conditional use review is required for multiunit development projects in the Institutional zone and, in some cases, in the Residential – Low Density zones. Elsewhere, multiunit dwellings are a permitted use or simply not allowed at all (such as the Enterprise zone).

Option 1: Exemption

Exempt multiunit dwelling projects of four or fewer units from this criterion.

Option 2: Deemed compliance

Add a statement to Sec. 3.5.6 (a) 2 that asserts multiunit dwelling projects of four or fewer units are deemed compliant with this criterion. Something similar was contained in the conditional use standards in a different subsection dealing with cumulative impacts prior to a comprehensive revision of the conditional use standards several years ago. That criterion read:

Shall consider the cumulative impacts of the proposed use. For purposes of residential construction, if an area is zoned for housing and a lot can accommodate the density, the cumulative impact of housing shall be considered negligible.

Option 3: Limited significance

Add a statement to Sec. 3.5.6 (a) 2 that notes an adverse finding by the Development Review Board under this criterion is not grounds for denial of applications involving multiunit residential development of four or fewer units.

Option 4: Permit Duplexes and Multiunit Residential Uses

Make duplexes a permitted use in the Residential - Low Density zones and make multi-family dwellings a permitted use in the Institutional zone. The express intent of the Residential – Low Density zones already acknowledges the appropriateness of duplexes. Multi-family attached dwellings (3 or more units) would continue to be conditional use, allowable only in certain instances such as PUD's or adaptive reuse. One of the above options would need to accompany this option to address remaining multi-family applications subject to conditional use. The institutional zone is targeted towards institutional growth and development. Multi-family attached dwellings; however, are common in this district. Enabling them would arguably be consistent with the existing character of the area.

Relationship to planBTV

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

Theme	Dynamic	Distinctive	Inclusive	Connected
Land Use	Conserve	Sustain	Grow	

Compatibility with Proposed Future Land Use & Density

The proposed amendment does not enable anything that is not presently enabled under the standards of the CDO. Rather, it simply facilitates approval of small-scale multiunit residential projects in the city's Residential – Low Density and Institutional zones. Such projects are already consistent with proposed land use and density within the city.

Impact on Safe & Affordable Housing

The proposed amendment removes a potential obstacle that could hinder approval and development of small scale multiunit residential projects. It does not have any direct impact on safety or affordability of housing.

Planned Community Facilities

The proposed amendment has no impact on planned community facilities.

Process Overview

The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

Planning Commission Process				
Draft Amendment prepared by: Staff	Presentation to & discussion by Commission	Approve for Public Hearing	Public Hearing	Approved & forwarded to Council
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City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Cmte discussion	Ordinance Cmte recommend as modified	Second Read & Public Hearing	CCOC Recommends Approval & Adoption
				Rejected

Sec. 5.2.6 Building Height Limits

No structure shall exceed thirty-five (35) feet in height unless otherwise authorized under the district-specific provisions of Article 4:

(a) Height Measurement:

The maximum height of any building shall be measured as follows:

1. **Starting Point: Building height shall be measured from:**

- A. a public sidewalk, alley, or other public way or space where the proposed building's street-facing façade is within a 4050-foot horizontal distance of the lot's street frontage, of an exterior wall on the front of the building; or,
- B. the average finished grade within a 10-foot horizontal distance of the building's street-facing façade where the proposed building is more than a 50-foot horizontal distance from the lot's street frontage, all exterior walls of the building. In cases where a property line is within a 10-foot horizontal distance of an exterior wall, the average grade shall be measured between the property line(s).

B-C. For buildings on sloped sites, see additional measurement standards in (c) below.

2. **Ending Point: Building height shall be measured to:**

- A. **Flat Roof:** the highest point of the decking of a flat or flat-topped mansard roof. A parapet no taller than four (4) feet shall not be considered part of a flat roof for the purposes of measuring building height;

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Commented [DEW1]: What about existing buildings that are closer but not close - like 20-ft?

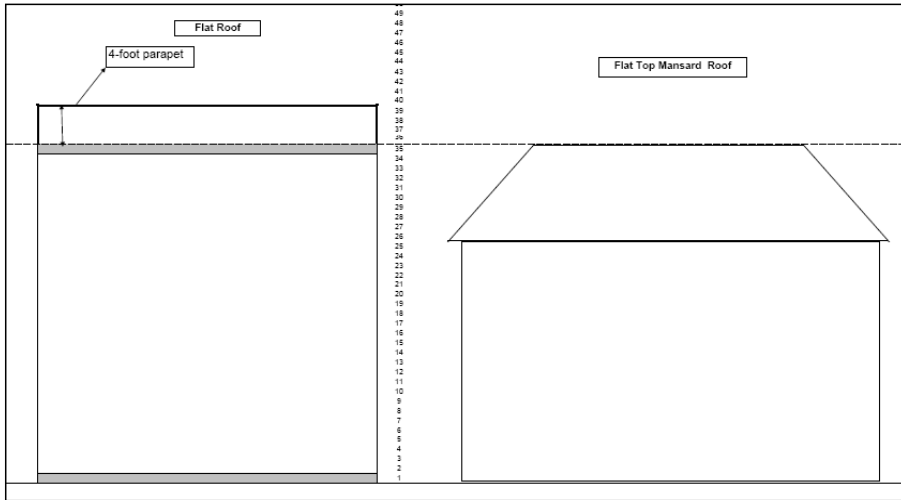
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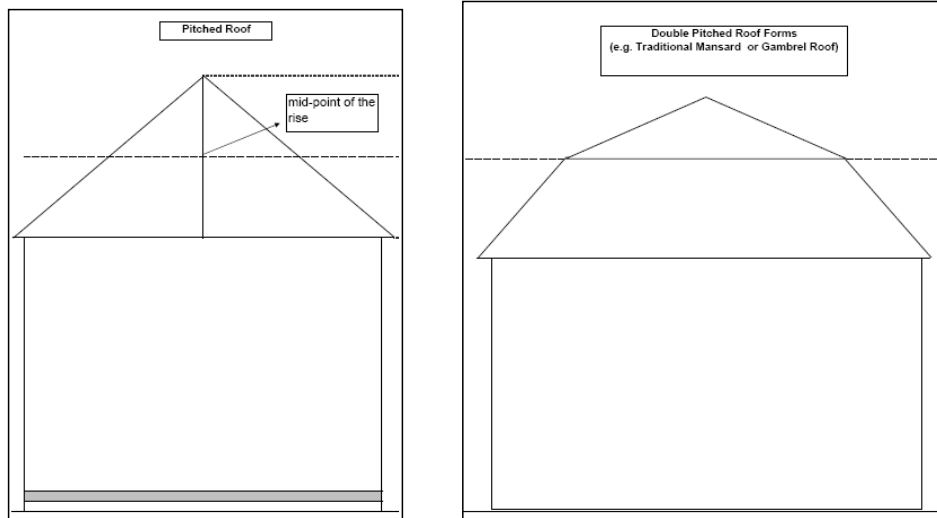
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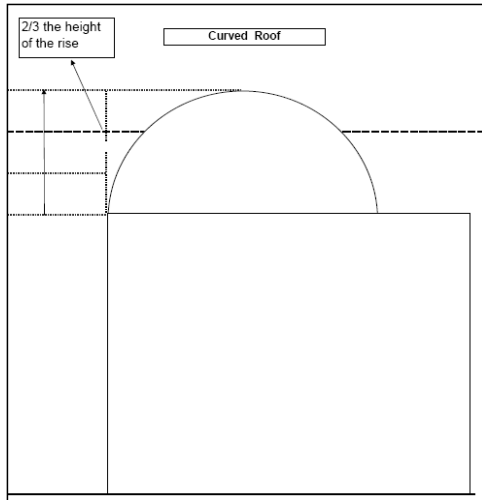


- B. **Pitched Roof:** the midpoint of the rise between the roofplate and the ridge of the highest gable of a pitched or hipped roof. A double-pitched roof (e.g. gambrel or double-pitched mansard) shall be measured to the roofplate of the highest pitch; or,

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- C. **Curved Roof:** a point two thirds ($\frac{2}{3}$) the vertical distance from the point at which an exterior wall varies from a 100% slope and to highest point of the roof.



D. **Other Roof Forms:** Building height shall be measured as determined by the administrative officer in a manner that most closely reflects the intent of subsections (a) through (c).

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(b) Buildings on Sloped Sites: Buildings on steep slopes shall reflect the pre-construction topography of the site by making use of opportunities to vary the building's height and roof forms relative to terrain changes as follows:

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1. When a site's topography is modified, the site shall be graded in such a way to avoid retaining walls or blank walls taller than 4 feet in height along a front yard, and taller than 8 feet in height along the rear or side yards.

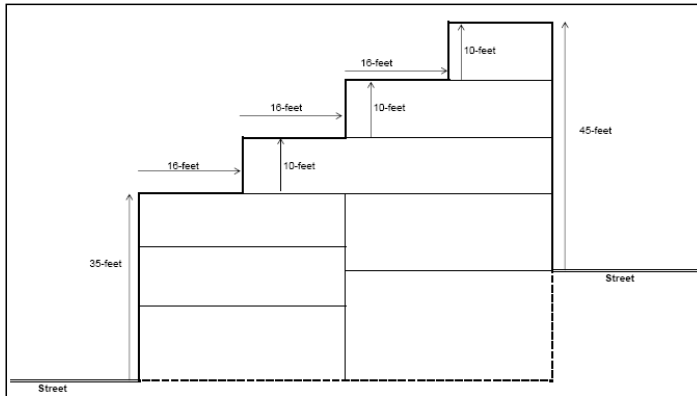
4.2 **Measurement Interval:** To encourage a variation in building heights relative to terrain changes and encourage a variation in roof form, Bbuilding height shall be measured along the street-facing façade beginning no less than 16 feet or more than 32 feet from lowest corner, or where two streets intersect if a corner lot, and at an intervals of no less than 32 feet or more than 65-feet for along the entire length of the street-facing façade(s).



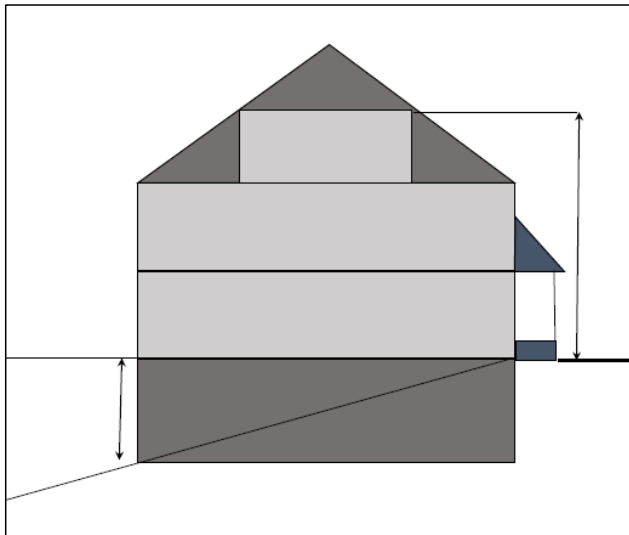
2.3. Lots Fronting on Two or More Streets: Where a lot, other than a corner lot, fronts on two or more streets, the building height shall be measured along each street-facing façade. Where the streets are at differing elevations, the building height may gradually increase above the maximum height allowed on the lowest street provided that any such additional height along the lowest street shall be set-back a minimum of 16-feet from the average plane of the building's street-facing façade below for every 10-feet of additional building height up to the maximum height allowed on the highest street.

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3.4. Where a Lot slopes downward and away from the street or other public space, the downhill portion of the building may not be more than one story or 12-feet greater than the specified maximum number of stories or building height in the district.



5. Where a Lot slopes upward and away from the street of other public space, the uphill portion of the building may increase by no more than one story or 12-feet greater than the specified maximum number of stories or building height in the district.

4.6. Illustration: To ~~illustrate~~ evaluate the height and bulk of ~~the~~ a proposed building structure in context with its surroundings, the ~~DRB~~ applicant may be required ~~the developer~~ to prepare a scale model, computer visualization,

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illustrations, or other renderings ~~of the proposed building in context with its surroundings.~~

(c) Exceptions to Height Limits

1. Additions and new construction on parcels created prior to January 1, 2008 that contain a non-conforming Principal Building exceeding the maximum permitted Building height may exceed the maximum permitted Building height of the zoning district subject to the design review provisions of Art. 3 and 6, but in no event shall exceed the height of the existing non-conforming Principal Building.
2. In no case shall the height of any structure exceed the limit permitted by federal and state regulations regarding flight paths of airplanes.
3. Ornamental and symbolic architectural features, including towers, spires, cupolas, belfries and domes; greenhouses, garden sheds, gazebos, rooftop gardens, terraces, and similar features; and fully enclosed stair towers, elevator towers and mechanical rooms, where such features are not used for human occupancy or commercial identification, are exempt from specific height limitations but shall be subject to the design review provisions of Art. 3 and 6. Such features and structures shall be designed and clad in a manner consistent and complementary with the overall architecture of the Building.
4. Exposed mechanical equipment shall be allowed to encroach beyond the maximum building height by no more than 15-feet provided that portion exceeding the height limit does not exceed 20% of the roof area.

Exposed mechanical equipment shall be fully screened on all sides to the full height of the equipment, and positioned on the roof to be unseen from view at the street level. Screening may consist of parapets, screens, latticework, louvered panels, and/or other similar methods. Such features and structures shall be designed and clad in a manner consistent and complementary with the overall architecture of the Building

Where mechanical equipment is incorporated into and hidden within the roof structure, or a mechanical penthouse setback a minimum of 10-ft from the roof edge, no such area limit shall apply and the structure shall be considered pursuant with 4 above.

5. All forms of communications equipment including satellite dish antennae shall not be exempt from height limitations except as provided in Sec 5.4.7 of this Article.
6. The administrative officer may allow for up to a 5% variation in the maximum building height to account for grade changes across the site. In no event however, shall such additional height enable the creation of an additional story beyond the maximum permitted.

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Burlington Planning Commission

Ordinance Committee Meeting Minutes

Thursday, March 4, 2021 @ 5:15 PM
Remote Meeting

Attendance

- **Committee Members:** Bruce Baker (BB), Matt Bushy (MB), Yves Bradley (YB)
- **Absent:** Ravi Venkataraman (RV), Emily Lee (EL)
- **Public:** Eric Farrell
- **Staff:** Scott Gustin, Mary O'Neil (Permitting & Inspections), David White (Planning Office), Kimberlee Sturtevant (City Attorney's Office)

1. Building height measurement

The Committee discussed proposed draft amendment language and forwarded the amendment to the full Planning Commission for consideration. They recommended deleting subsections (b) 1, 4, & 5 from the draft prepared by David White. Subsection (b) 1, in particular, needs additional thought and should be located with other retaining wall standards rather than with height standards.

2. Conditional use standards – character of the area

Committee members considered the four possible options for addressing the recent statutory change limiting the effect of “character of the area” criterion in conditional use review. The committee elected to pursue Option 4 that would make duplexes a permitted use in the RL zones and multi-family (up to 4 units) a permitted use in the Institutional zone.

3. Adjournment

The Committee adjourned at 6:20 PM.