



DEVELOPMENT SERVICES DEPARTMENT

PLANNING DIVISION

MEMORANDUM

DATE: July 7, 2010
TO: Chairperson Troisi and the Planning Commission
FROM: Jerry Hittleman, City Planner
BY: Russ Cunningham, Senior Planner
SUBJECT: Residential Building Height Standards

Background

In 1992, as part of a comprehensive zoning ordinance update, the City of Oceanside reduced allowable building height on residential properties from 35 to 27 feet in most portions of the Coastal Zone outside of the Downtown Redevelopment Area (RDA). This residential building height limit remained in effect until December of 2008, when the California Coastal Commission (CCC) formally acknowledged that the 1992 Zoning Ordinance had never received CCC certification. With this acknowledgement, CCC staff indicated that projects within those portions of the Coastal Zone outside of the RDA would forthwith be evaluated by the CCC under the provisions of the previously-applicable (and CCC-certified) 1986 Zoning Ordinance. Subsequently, in May of 2009, the City determined that it, too, was legally compelled to apply the 1986 Ordinance to projects within these boundaries. Consequently, 35 feet was reestablished as the maximum allowable building height limit for residential properties within those portions of the Coastal Zone located outside of the RDA.

In response to community concern over the eight-foot increase in allowable building height occasioned by the reinstatement of the 1986 Zoning Ordinance, the Planning Commission held a public workshop on May 10, 2010 to discuss residential building height standards in those portions of the Coastal Zone located outside of the Downtown Redevelopment Area. At this public workshop, Planning Division staff outlined several alternatives to current building height standards and highlighted a variety of design

strategies that could be applied on a case-by-case basis to mitigate the potentially adverse visual impacts of building height. Additionally, as a basis for comparison, staff provided a matrix (now posted on the City’s website) that depicts how nearby coastal jurisdictions address the issue of building height. This matrix shows building height limits, methods of height measurement, submittal requirements, basement definitions, and parameters for allowable height projections currently in place in all coastal cities between Dana Point and San Diego.

Public testimony at the public workshop indicated that Coastal Zone stakeholders are almost evenly divided on the question of whether the residential building height limit should be reduced from, or maintained at, the currently applicable 35 feet. However, irrespective of their opinions regarding appropriate building height limits, the majority of speakers at the workshop encouraged the City to clarify existing ambiguities in the Zoning Ordinance related to building height standards. Specifically, speakers at the workshop, along with other community members who have recently engaged Planning Division staff on the subject of building height standards, have asked that the City clarify the following:

- the maximum allowable height for residential development in the study area;
- the basis (i.e. grade) from which building height is measured;
- the means by which building height is documented and verified (i.e. application submittal requirements and field assessment methods);
- how building stories and basements are defined;
- what constitutes an allowable building height projection.

Analysis and Recommendations

Maximum Allowable Building Height

Staff is recommending that the maximum allowable building height of 35 feet be maintained for residential properties subject to the 1986 Zoning Ordinance. 35 feet is the currently certified building height limit under the City’s Local Coastal Program; public discussion on the issue of building height has not resulted in a clear mandate for a reduced height limit; several projects have been approved under this standard since the reinstatement of the 1986 Ordinance; and it is staff’s position that the existing character of residential development can be maintained and enhanced under the 35-foot height limit with other building height controls in place. These other building height controls – both existing and proposed – are discussed in subsequent sections of this memorandum.

Measurement of Building Height

With respect to the basis from which building height is measured, the 1986 Zoning Ordinance provides conflicting guidance. Section 1709 of the 1986 Code establishes that building height shall be measured from “the average finished grade of the parcel on which the building or structure is located,” while Section 211 indicates that “building height” means “the vertical distance from the average level of the highest and lowest point of that portion of the building site covered by the building to the ceiling of the uppermost story.” However, Section 234 subsequently defines “grade” as “the average of the finished ground level at the center of all walls of a building.” These contrasting definitions of “average finished

grade” create confusion and make it difficult to consistently and equitably evaluate conformance to building height limits. Moreover, no other coastal jurisdiction in proximity to Oceanside measures building height from “average finished grade,” presumably because such an approach not only allows for significant manipulation of existing grade but also results in a flat height limit that does not conform to site contours and thus does not encourage design that moderates building height and massing on the lower side of sloping properties.

In light of the ambiguous meaning of “average finished grade” as it is articulated in the 1986 Zoning Ordinance, along with the fact that measurement of building height from an average grade (either existing or finished) allows for flat-roofed, box-like structures, Planning Division staff recommends that the 1986 Code be amended to require that building height be measured from the lowest existing grade beneath the building footprint, with additional controls that require upper stories to be stepped back from ground-level building lines. These additional controls could take the form of: **a)** upper story setback minimums (e.g. additional front yard setbacks of five and ten feet for second and third stories, respectively); **b)** maximum floor area ratios for upper stories relative to lower stories (e.g. successive stories limited to 75 percent of the floor area achieved on the stories immediately below); or **c)** daylight plane requirements (e.g. development prohibited in that area represented by a 45-degree plane inclined inward from an established height above the front yard setback). Given that the daylight plane requirement is already incorporated into the 1992 Code, staff recommends this alternative as a familiar and easily implementable standard.

It is staff’s position that measurement of building height from the lowest existing grade would provide for similar building envelopes on sites of comparable dimension, irrespective of topography. As evidenced by existing development on the beach side of South Pacific Street, when building height is measured from an average grade, sites with substantial slope enjoy a substantially larger building envelope than sites with little or no slope, as they can accommodate daylight basements that afford an additional level of habitable space. If building height were measured from the lowest existing grade beneath the building footprint, sites with little or no slope would possess roughly the same development potential as those with significant slope, given that development on sites with extreme downslopes would typically be limited to a single story on the high side of the lot (with additional levels either built into or cascading down the slope).

Another advantage of measuring building height from the lowest existing grade beneath the building footprint is the relative simplicity and ease with which building height can be calculated, illustrated and verified. Whereas measurement of building height from all points beneath the building footprint (i.e. the current requirement under the 1986 Code) necessitates comprehensive topographic analysis and relatively complex exhibits that can be challenging to interpret, measuring building height from the lowest existing grade beneath the building footprint requires that only two grade elevations be established: the point from which height is to be measured, and the uppermost extent of the building. By minimizing the complexity of building height measurement, this methodology reduces the likelihood of error, provides for consistent implementation and produces documents that are easier for staff, decision-makers and the general public to understand.

As illustrated below in TABLE 1, staff recommends maintaining the building height limit of 35 feet currently allowed under the 1986 Zoning Ordinance, while amending the basis from which building height is measured.

TABLE 1
Current and Proposed Building Height Standards: 1986 Zoning Ordinance

	Current Standard	Proposed Standard
Maximum Building Height	35 feet	35 feet
Basis of Height Measurement	Average Finished Grade	Lowest Existing Grade Beneath Building Footprint

It is staff’s position that this interpretation would not only bring clarity and consistency to the measurement and verification of building height but also reduce the potential for excessively massive buildings on sloping lots (e.g. those along the beach side of South Pacific Street).

Staff further recommends that the 1986 Code be amended to require that building height be measured to the top of the uppermost roof element, rather than from the ceiling of the uppermost story. While the current standard is presumably intended to promote pitched roofing, the absence of additional controls on ultimate building height limits the wherewithal of staff, the Planning Commission and other decision-makers to call for sensitive roof design.

Attached to this memorandum as Exhibit B is a series of schematic drawings that show how site topography influences the configuration of development when building height is measured from the lowest existing grade beneath the building footprint (and no additional setbacks are required for upper stories). As these drawings demonstrate, development on properties with significant slopes could be limited to a single story on the high side of the lot (e.g. adjacent to the sidewalk on lots situated on the beach side of Pacific Street). However, as further revealed in these drawings, the building envelope remains essentially the same for properties of equal dimension regardless of their topography, given that development on sloping properties can be “buried” into the existing slope to afford additional stories and/or a daylight basement.

Relative to the measurement of height from average finished grade, measurement of height from the lowest existing grade beneath the building footprint would result in a smaller building envelope on some sloping properties in R-3 and R-T zones. Under current standards, development on some sloping properties in R-3 and R-T zones can achieve four levels of habitable space, with the lowest level defined as a basement. Under the proposed standards, only three levels of habitable space could be accommodated under the 35-foot height limit. Although a prohibition on a fourth level of habitable space could substantially reduce potential living area on the steepest properties, it is important to note that a fourth level of habitable space is already precluded on properties with moderate to negligible slope. Height measurement from the lowest grade beneath the building footprint would essentially

eliminate the larger building envelope that current standards afford to the steepest properties. Given that development in R-S zones currently cannot exceed two stories (or three habitable levels including a basement), amending the basis of height measurement would not further limit the maximum number of habitable levels on R-S properties.

While not a subject of discussion at the May 10th workshop, ambiguities related to the measurement of building height also exist in the 1992 Zoning Ordinance, making it challenging at times for staff, the development community and the general public to determine the most appropriate basis from which to measure building height. Section 3017 of the 1992 Code establishes that building height is to be measured from existing grade but provides for the following exception: “Where a finished grade elevation, different than the existing grade elevation, is approved as part of a discretionary application...height shall be measured from the approved finished grade.” Section 3017 goes on to say that “in approving a finished grade elevation that is different from the existing grade elevation, compatibility with the existing elevation of adjacent and surrounding properties shall be considered.”

The 1992 Code offers no further guidance in determining when it is appropriate to allow building height measurement from a finished grade elevation. It is staff’s position that approval of a finished grade elevation as the basis for building height measurement should only occur following close scrutiny of existing topographic conditions on and adjacent to the project site, and only upon finding that such an exception is truly warranted due to unusual and exceptionally constraining circumstances (e.g. an existing grade on the project site that is markedly lower than that found on adjacent development sites or that features uncharacteristic undulations or other irregularities that impede proper drainage and/or render the site undevelopable without substantial grade modification). Staff therefore recommends that requests to measure building height from a finished grade higher than the existing grade be subject to a Conditional Use Permit. Because the 1992 Code already establishes that measurement of building height from a finished grade elevation requires a discretionary approval, it is staff’s view that the City Planner has the authority, under Section 240 of the 1992 Code (Rules for Interpretation), to require Conditional Use Permits for such requests. Nevertheless, staff recommends that this requirement be codified in the 1992 Code through a zoning text amendment.

Basements

The 1986 Zoning Ordinance defines a “basement” as “that portion of a building between floor and ceiling which is partly below and partly above ground but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.” In other words, per this definition, a basement is a building level with a finished floor that lies further beneath the adjacent grade than its ceiling rises above it. This definition of “basement” does not conform to the definition of “story,” which the 1986 Code defines as a building level with a finished floor that is more than six feet above the adjacent grade. However, this definition of “story” coincides with how “story” is defined in the 2007 California Building Code (CBC), which is currently employed by the City’s Building Division to evaluate proposed construction. Unlike the 1986 Zoning Ordinance, the CBC makes a clear distinction between “basement” and “story” by indicating that a “basement” becomes a “story” when the vertical

distance between the finished surface of the floor above is more than six feet above the adjacent finished grade.

To clearly distinguish “basement” from “story” and thereby achieve consistency with definitions thereof currently utilized by the Building Division, staff recommends amendment of the 1986 Zoning Ordinance to define “basement” as essentially the converse of “story” as it is currently defined by both the 1986 Zoning Ordinance and the CBC. The definitions of “basement” and “story” could then be used in tandem to determine conformance with the story maximums for residential development established in the 1986 Code – i.e. two stories for R-S properties and three stories for R-3 and R-T properties. Under these reciprocal definitions of “basement” and “story,” building sites with sufficient slope could continue to accommodate daylight basements (thereby allowing many R-S properties to achieve three levels of habitable space, which has been a customary practice).

Because the 1992 Zoning Ordinance defines neither “basement” nor “story”, it has been Planning Division policy to evaluate projects per the definitions thereof employed by the Building Division through the adopted California Building Code (CBC). In evaluating projects subject to the 1992 Code, staff intends to continue deferring to the CBC definitions of “basement” and “story” and thus sees no current need to codify these definitions through zoning text amendments.

Height Projections

Section 1709 of the 1986 Zoning Ordinance allows certain types of roof structures to project above the building height limit. Penthouses for elevators and stairways, parapet walls, architectural elements, skylights, chimneys, antennas and similar structures can project above the building height limit “provided the same may be safely erected and maintained at such height, in view of surrounding conditions and circumstances, but no [such structures] or any space above the height limit shall be allowed for the purpose of providing additional floor space.” Unlike the 1992 Zoning Ordinance which it recently supplanted, the 1986 Zoning Ordinance does not specify height or square footage limits for allowable height projections. The 1992 Code allows such projections to extend no more ten feet above the building height limit and to cover no more than 10 percent of the ground level footprint of the primary building. Additionally, the 1992 Code includes daylight plane requirements that encourage roof projections to be placed away from front and corner side yard building elevations.

Given the lack of specificity in the 1986 Zoning Ordinance regarding the allowable height, square footage and placement of height projections, staff recommends text amendments that incorporate the height projection standards of the 1992 Zoning Ordinance, which specify the maximum height and square footage of such structures.

Despite the limitations on building height projections imposed by the 1992 Zoning Ordinance, many projections approved and built under the 1992 Code have had significant visual impacts on adjacent properties, particularly when these projections have been allowed to extend across the entire width of the primary building. In such cases, projections often read like an additional story, rendering the primary building out-of-scale with adjacent development. Staff finds such adverse impacts could be

substantially mitigated if the City were to specify the extent to which building height projections can spread laterally across the footprint of the primary structure. In staff's estimation, there is no practical reason why such projections should be more than 10 feet in width, and thus staff recommends that both the 1986 and 1992 Codes be amended to limit the width of building height projections to no more than 10 feet.

The specific language of the recommended zoning text amendments is attached to this memorandum as Exhibit A.

Review and Approval Process

While it was established at the May 10th Planning Commission public workshop that a follow-up workshop would be conducted before the Planning Commission would be asked to make formal recommendations to the City Council, the growing number of pending applications for residential development on properties subject to the 1986 Code has made resolution of the residential building height issue a particularly urgent matter. Consequently, staff has determined that recommended zoning text amendments and zoning text interpretations will be brought before the Planning Commission by formal resolution at the July 26th public hearing. In the interim, staff's recommendations regarding residential building height will be posted to the City's website for review and comment by community stakeholders. Should the Planning Commission on July 26th adopt a resolution formally recommending zoning text amendments and/or zoning text interpretations, these recommendations would then be presented to the City Council on September 8, 2010. Any City-approved text amendments to the 1986 Zoning Ordinance would then require certification by the California Coastal Commission through amendment of the City's Local Coastal Program.

Due to their citywide application, the recommended text amendments of the 1986 and 1992 Zoning Ordinances will require public notification published in at least one newspaper of general circulation within the City's jurisdiction at least 10 days prior to Planning Commission review and six weeks prior to the City Council review. Newspaper notification of both public hearings will be provided through a single notice published in the North County Times.