

Malibu City Council
Zoning Ordinance Revisions and
Code Enforcement Subcommittee (ZORACES)
Special Meeting Agenda

Tuesday, October 18, 2016

4:00 P.M.

City Hall – Zuma Room
23825 Stuart Ranch Road

Mayor Pro Tem Skylar Peak
Councilmember Laura Rosenthal

Call to Order

Approval of Agenda

Report on Posting of the Agenda – October 6, 2016

Public Comment *This is the time for the public to comment on any items not appearing on this agenda. Each public speaker shall be allowed up to three (3) minutes for comments. The Subcommittee may not discuss or act on any matter not specifically identified on this agenda, pursuant to the Ralph M. Brown Act.*

Discussion Items

1. Approval of Minutes – August 23, 2016 and September 27, 2016

Recommended action: Approve the minutes of the Zoning Ordinance Revisions and Code Enforcement Subcommittee Special meetings of August 23, 2016 and September 27, 2016.

Staff contact: Planning Director Blue, 310-456-2489, ext. 258

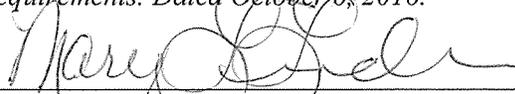
2. Draft Policy for Measuring Building Height on Non-Beachfront Lots

Recommended action: Review the draft policy for measurement of building height for non-beachfront lots and provide comments.

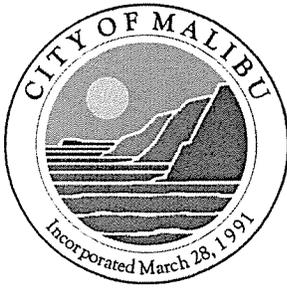
Staff contact: Senior Planner Fernandez, 310-456-2489, ext. 482

Adjournment

I hereby certify under penalty of perjury, under the laws of the State of California, that the foregoing agenda was posted in accordance with the applicable legal requirements. Dated October 6, 2016.



Mary Linden, Executive Assistant



Zoning Ordinance
Revisions & Code
Enforcement
Subcommittee Meeting
10-18-16

Item 1

Zoning Ordinance Revisions and Code Enforcement Subcommittee Agenda Report

To: Zoning Ordinance Revisions and Code Enforcement
Subcommittee (ZORACES) Members Peak and Rosenthal

Prepared by: Bonnie Blue, Planning Director *BB*

Date prepared: October 3, 2016 **Meeting date:** October 18, 2016

Subject: Approval of Minutes – August 23, 2016 and September 27, 2016

RECOMMENDED ACTION: Approve the minutes of the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) Special meetings of August 23, 2016 and September 27, 2016.

DISCUSSION: Staff has prepared draft minutes for the ZORACES Special meetings of August 23, 2016 and September 27, 2016 and hereby submits the minutes to the Subcommittee for approval.

ATTACHMENTS:

1. Draft Minutes of the August 23, 2016 ZORACES Special meeting
2. Draft Minutes of the September 27, 2016 ZORACES Special meeting

MINUTES
MALIBU ZONING ORDINANCE REVISIONS AND CODE ENFORCEMENT
SUBCOMMITTEE
SPECIAL MEETING
AUGUST 23, 2016
CITY HALL - ZUMA ROOM
3:00 P.M.

CALL TO ORDER

Mayor Pro Tem Peak called the meeting to order at 3:00 p.m.

ROLL CALL

The following persons were recorded in attendance:

PRESENT: Mayor Pro Tem Skylar Peak and Councilmember Laura Rosenthal

ALSO PRESENT: Bonnie Blue, Planning Director and Jasch Janowicz, Contract Planner

APPROVAL OF AGENDA

CONSENSUS

By consensus, the Subcommittee approved the agenda.

REPORT ON POSTING OF AGENDA

Planning Director Bonnie Blue reported that the agenda for the meeting was properly posted on August 19, 2016.

PUBLIC COMMENT

None.

DISCUSSION ITEMS

1. Approval of Minutes – August 9, 2016

Recommended Action: Approve the minutes of the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) Special Meeting of August 9, 2016.

CONSENSUS

By consensus, the Subcommittee approved the minutes of the ZORACES Special Meeting of August 9, 2016.

2. Zoning Text Amendment No. 13-001 to Establish a Citywide Lighting Ordinance

Recommended Action: Review the updated draft citywide lighting ordinance and provide staff with comments and recommendations.

CONSENSUS

By consensus, the Subcommittee accepted the draft ordinance with the following recommendations to be incorporated into the next iteration of the ordinance for review:

1. Investigate with the City Attorney a method of phasing in compliance to make it easier for staff, such as breaking it out by address, or starting with commercial compliance within 18 months, then the first portion of residential within 24 months, and so on.
2. Investigate potential limits on underwater lighting within swimming pools to minimize impacts.
3. For 17.41.040(C) Automated Control Systems, require photocells/photocontrols to be used at all times to enhance energy conservation and ensure lighting is extinguished during hours of sufficient daylight. Add flexibility to allow for manually controlled light switches. Change sentence to state “Automated controls should be fully programmable...” rather than “must be.”
4. Revise 17.41.040(F) Allowable Light Trespass to read “Outdoor lighting shall conform to the....” rather than “New outdoor lighting...” Also, address non-shared property lines and allowable levels of commercial light trespass on residential lots.
5. Create a mechanism to limit total lumens per parcel to prevent overlighting.
6. Delete the label “Full Cutoff Fixtures” from Figure 1.
7. Revise 17.41.050(A) Public Open Space to prohibit steady state lights at night. Revise (3) to state “Lighting that illuminates ESHA...” rather than “Lighting that increases illumination...”
8. Revise 17.41.050(B)(1) to state: “The curfew for lighting shall be 11:00 p.m. or when people are no longer present in exterior areas, whichever is later, except for lighting activated by motion sensor and lighting at building entrances.” Also revise (B)(2) to set a maximum mounting height of 18 feet.
9. Revise 17.41.050(C)(1) to state “whichever is later” rather than earlier. Also, revise (C)(4) to state “For properties located in or adjacent to ESHA or visible from...”
10. Revise 17.41.060(B)(3) to reference light trespass.

ADJOURNMENT

CONSENSUS

By consensus, the Subcommittee adjourned the meeting at 4:30 p.m.

Approved and adopted by the Zoning Ordinance Revisions and
Code Enforcement Subcommittee of the City of Malibu on October
18, 2016.

SKYLAR PEAK, Mayor Pro Tem

ATTEST:

MARY LINDEN, Executive Assistant

MINUTES
MALIBU ZONING ORDINANCE REVISIONS AND CODE ENFORCEMENT
SUBCOMMITTEE
SPECIAL MEETING
SEPTEMBER 27, 2016
CITY HALL - ZUMA ROOM
4:00 P.M.

CALL TO ORDER

Mayor Pro Tem Peak called the meeting to order at 4:05 p.m.

ROLL CALL

The following persons were recorded in attendance:

PRESENT: Mayor Pro Tem Skylar Peak and Councilmember Laura Rosenthal

ALSO PRESENT: Bonnie Blue, Planning Director and Jasch Janowicz, Contract Planner

APPROVAL OF AGENDA

CONSENSUS

By consensus, the Subcommittee approved the agenda.

REPORT ON POSTING OF AGENDA

Planning Director Bonnie Blue reported that the agenda for the meeting was properly posted on September 23, 2016.

PUBLIC COMMENT

None.

DISCUSSION ITEMS

1. Zoning Text Amendment No. 16-002 to Allow Valet Parking Lots Serving Hotels, Motels, and Bed and Breakfast Inns Located in the CV-1 and CV-2 Zoning Districts (continued from August 9, 2016)

Recommended Action: Consider the analysis presented by staff in response to input received at the August 9, 2016 ZORACES meeting regarding the proposed amendments to the Malibu Municipal Code (MMC) allowing the use of valet parking lots for hotels, motels, and bed and breakfast inns located in the Commercial Visitor Serving-One (CV-1) and Commercial Visitor Serving-Two (CV-2) zoning districts.

CONSENSUS

By consensus, the Subcommittee supports staff moving forward with the preparation of formal amendments to the MMC for consideration by the Planning Commission, which would permit off-site valet parking standards for hospitality uses in the CV-1 and CV-2

Zoning Districts, which incorporate the following additional comments and recommendations:

1. Require that all valet maneuvers be able to be performed on the site so that impacts on the adjacent street are avoided.
2. Ensure safe ingress and egress from the hotels/motels and offsite valet lots.
3. Emphasize that public safety along PCH is a paramount concern; study ingress and egress into the off-site parking lots and develop formal design standards as necessary to minimize potential conflicts between vehicles accessing the off-site parking lots and through traffic along PCH.
4. Pursuant to the California Environmental Quality Act, analyze the cumulative traffic impacts potentially resulting from the establishment off-site parking lots within the CV-1, CV-2, and CC Zoning Districts along with all other pertinent issue areas. Provide an analysis of baseline parking availability and traffic along the potentially affected segments of PCH.
5. Include a compliance monitoring period as a condition of off-site parking lot approval.

As a separate item at a future ZORACES meeting, ZORACES requested that staff report on the item it prepares for Planning Commission concerning parking operations at Nobu Restaurant and Soho House. Provide a summary of Planning staff's analysis of off-site/valet parking conflicts currently occurring at the Nobu Restaurant and adjacent residential uses.

ADJOURNMENT

CONSENSUS

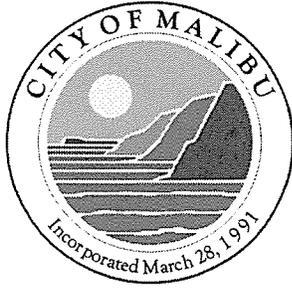
By consensus, the Subcommittee adjourned the meeting at 5:30 p.m.

Approved and adopted by the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City of Malibu on October 18, 2016.

SKYLAR PEAK, Mayor Pro Tem

ATTEST:

MARY LINDEN, Executive Assistant



Zoning Ordinance
Revisions & Code
Enforcement
Subcommittee Meeting
10/18/16

Item 2

Zoning Ordinance Revisions and Code Enforcement Subcommittee Agenda Report

To: Zoning Ordinance Revision and Code Enforcement Subcommittee
(ZORACES) Members Rosenthal and Peak

Prepared by: Adrian Fernandez, Senior Planner *A.F.*

Approved by: Bonnie Blue, Planning Director *BB*

Date prepared: October 4, 2016 **Meeting date:** October 18, 2016

Subject: Draft Policy for Measuring Building Height on Non-Beachfront Lots

RECOMMENDED ACTION: Review the draft policy for measurement of building height for non-beachfront lots (Attachment A) and provide comments.

DISCUSSION: Malibu zoning regulations in the Local Coastal Program (LCP)¹ and the Malibu Municipal Code (MMC)² state that building and structure height on non-beachfront lots shall not be higher than 18 feet above finished or natural grade, whichever results in a lower building height. Both codes allow for height for a flat roof to be 24 feet and for a pitched roof to be 28 feet.

On July 6, 2015, the Planning Commission requested staff to report on how it measures building height on non-beachfront lots. On November 2, 2015, the Planning Commission considered methods for measuring building height. The Commission requested that staff meet with local architects and prepare a written policy for measuring height based on the existing code language. The Commission disagreed with staff's informal interpretation that used the first floor finished floor elevation to measure overall height through building cross-sections, in addition to natural and finished grade lines on building elevations. Use of finished floor elevations or cross-sections is not specifically identified in the code.

¹ LCP Local Implementation Plan Section 3.6(E)(1)

² MMC Section 17.40.040(A)(5)(a)

The main challenges revolve around the fact that the term “finished grade” is defined, but “natural grade” is not. The definition of “grade (ground level)” actually uses both terms. These terms are defined in the attached policy.

The goal of this policy is to establish a clear method of measuring height on non-beachfront lots. It is acknowledged that some sites, such as where a demolished building used to be, or certain additions, may require case by case consideration.

On April 14, 2016, staff met with a group of local architects and engineers to discuss methods for measuring height on non-beachfront lots. There was agreement among the group that working within the existing language of the MMC and LCP was preferred to an amendment. The majority of the group stated that their first step in the design process for determining maximum allowable height was to project a “height cloud”³ above the existing grade of the building site, up to the maximum allowed height of 18 feet.

Some in the group argued for no penalty for portions of the building that might be taller than 18 feet due to cutting into the site, such as for a driveway, as long as the overall height did not exceed the “height cloud.”

Since this could lead to faces of the building taller than 18 feet above the finished (cut) surface, staff contended that a site plan review would need to be processed, even though the overall building height would not exceed existing grade. Overall, the group agreed that in cases where the portions of the building were taller than 18 feet but did not block private primary views or have adverse impacts to public viewing areas, then a site plan review should be processed and would likely be supportable.

Other discussion focused on whether “humps” or “holes” in the middle of the building pad should be considered in the height “cloud” above existing grade. The general consensus was that consideration of these features could penalize a project (such as creating a low spot in the “cloud” due to a hole in the site where the roof would have to be lowered, but which would not result in any visual benefits to surrounding public or private views) or provide an unwarranted advantage (such as where a hump creates a hump in the “cloud” that would result in a roof peak, even though the hump would be removed when the pad is created).

The methods presented in the attached policy addresses building sites that involve cuts, fills, and subterranean garages. The methods follow the LCP and MMC requirements to measure height from the perimeter for finished grade and from across the site for existing or natural grade, while normalizing the “humps” and “holes.” Diagrams are included to clarify the methods.

Some of the suggestions from the architects included: 1) using a series of gridlines to connect the finished grade level at all exterior walls, which would establish a finished

³ A height cloud is an imaginary plane above the natural grade projected at the maximum height limit.

grade plane inside the building, and then projecting that plane above the site to the maximum allowed height limit; 2) using the finished grade at a five foot horizontal distance from the building to accommodate for grade variations and lightwells for semi-subterranean floors; 3) to not account for the finished grade of non-subterranean garage door openings and other openings around the residence; and 4) to only measure finished grade for perimeter walls and not inside the building.

The draft policy was inspired by Suggestion 1 above but instead of a gridline pattern at 10 foot or so intervals, cross-sections would be used only in those areas where the elevation plans show portions beyond the façade of a building projecting over the height limit. Figures 1 through 6 of the draft policy came from another city with similar code requirements. These figures are meant to help illustrate how the new height policy is to be implemented. The other suggestions do not appear to be supported by the existing code language or intent of the code and therefore, would require a code amendment.

STAFF FOLLOW-UP: Following comments from ZORACES, staff will refine the current draft policy as a formal policy. ZORACES may also suggest that the draft policy be referred to the Planning Commission and/or City Council for further discussion.

ATTACHMENT: Draft Policy for Measurement of Building Height for Non-Beachfront Lots



City of Malibu

Planning Department

October 18, 2016

Draft LCP and MMC Policy 5: Measuring Building Height on Non-Beachfront Lots

Both the Malibu Municipal Code (MMC) and Local Coastal Program (LCP) Local Implementation Plan (LIP) contain development standards for non-beachfront lots. In pertinent part, they are consistent, but one over-arching distinction is that the LIP is mostly concerned with protection of public views and scenic resources, while the MMC takes private primary views as well as public scenic views into consideration. It should also be noted that the height limit is another tool to reduce massing and scale similar to setbacks and square footage limitations.

The provisions below come from the LIP, followed by a brief description of the differences in the MMC.

The non-beachfront residential development standards of LIP Section 3.6(E)(1) state the following:

Every residence and every other building or structure associated with a residential development, including satellite dish antenna, shall not be higher than 18 feet above natural or finished grade, including rooftop, parapet and deck walls and railings, whichever results in a lower building height, except for chimneys and rooftop antenna other than satellite dish antenna.

LIP Section 2.1 provides the following definitions related to height:

HEIGHT, NON-BEACHFRONT LOT - the vertical distance between the top of the structure and finished or natural grade, whichever results in a lower building height. (See GRADE)

GRADE (finished) - the finished ground level around the perimeter at all exterior walls of a building.

GRADE (ground level) - the natural or finished ground level at all walls of a building, whichever results in a lower building height. In cases where walls are parallel to and within five feet of sidewalks, the above ground level shall be measured at the sidewalks.

GROUND FLOOR - the first floor of a building other than a cellar or basement.

While the MMC also limits height to 18 feet above natural or finished grade, the MMC non-beachfront residential standard of Section 17.40.040(A)(5)(a) does not address the height of rooftop, parapet and deck walls and railings. The zoning definitions of MMC Section 17.02.020 contains the same definition for “grade (finished)” but does not provide a definition for “height, non-beachfront lot” or for “ground floor.” However, the MMC definition for “grade (ground level)” is different from the LIP definition, and provides that it means “the average of the finished ground level at the center of all walls of a building.”

Issue: Part of the confusion about measuring height results from the term “grade.” The definition of grade (finished) uses the phrase “finished ground level.” Grade (ground level) is separately defined as the natural or finished ground level at all walls of the building but “natural grade” is not defined. The

definition of Grade (ground level) uses both the terms “natural” and “finished,” which would seem contradictory since the definition of height distinguishes the two.

Interpretation: The intent of this policy is to explain how to measure height from both natural and finished grades.

Height from Natural Grade – Although natural grade is not defined in the MMC or LIP, it is commonly known in practice as the existing topography of a property before any land disturbance from a project. A topographic survey depicting the existing contour lines is required to establish natural grade.¹ A height cloud,² architectural elevations and cross-sections and/or a roof plan with superimposed contour lines may individually or collectively be used to determine compliance with the maximum building height limit from natural grade. Figures 1 and 2 show a sample of a height cloud and roof plan superimposed on the contour lines of the topographic survey. These exhibits may be used to attain building height as measured from natural grade by subtracting the top of roof elevation from the natural grade elevation based on the surrounding contour lines. Interpolation between contour lines may be necessary. In no case shall any portion of a building/structure extend above the maximum height limit as measured from natural grade.

Height from Finished Grade – The difficulty in measuring height from finished grade is that the finished grade is only evident around the perimeter of the building walls, and yet the highest point of a building may be a roof peak in the middle of the structure. The perimeter of exterior walls can be used to project a plane above interior portions of a building, for use together with architectural elevations, the grading plan and cross-sections (as depicted in Figures 3, 4 and 6). The following steps will assist in determining whether a building meets the height limit in cases where an architectural elevation shows a portion of a building set back beyond a perimeter wall extending over the height limit as depicted in Figures 5 and 7.

- Step 1** Architectural elevations must clearly show and label the natural and finished grade lines at the face of exterior walls and the maximum height limit line projected above the lowest grade
- Step 2** Check the architectural elevations to identify whether portions of a building beyond a perimeter wall project higher than the maximum height limit
- Step 3** If so, use the down/upsloping architectural elevations to identify the portions of the building beyond the exterior wall that project over the height limit (Figures 6 and 7)
- Step 4** Using the grading plan showing the perimeter grade elevations around the building, draw a line through the section of building in question connecting the finished grade at the exterior walls to set an average finished grade between those perimeter points
- Step 5** Take that average finished grade line and project it above at the maximum height limit as depicted in Figure 8
- Step 6** Verify that no portions of the building extend above the projected maximum height limit line

Exceptions

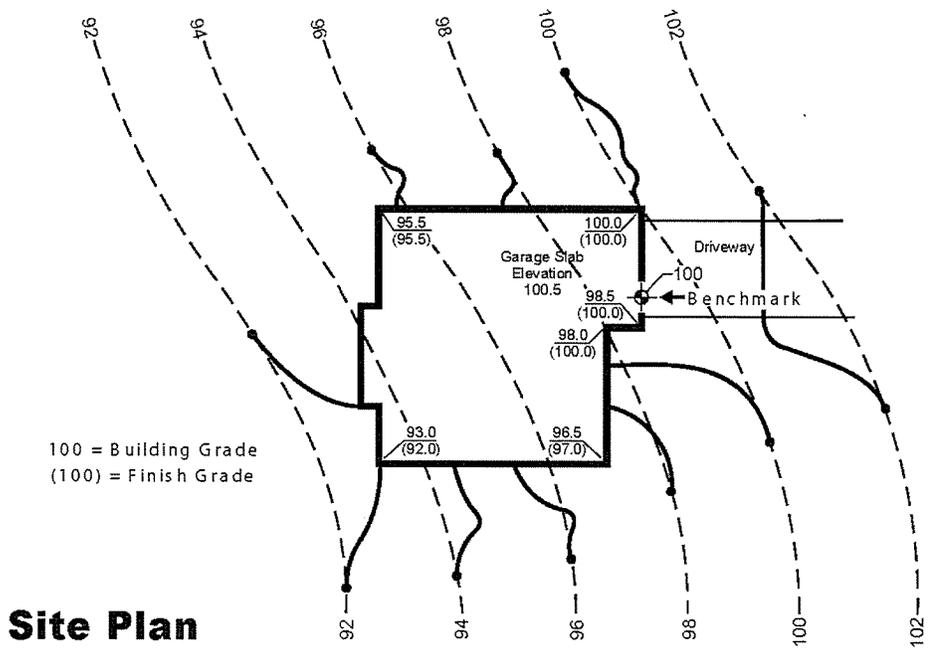
- The MMC and LCP are silent about how to measure height from subterranean garage openings. However, it is implied that, unless facing a street, two stories may be located above a subterranean garage opening. If the building height were to be measured from finished grade at the bottom of the subterranean garage opening, a two-story building above a subterranean

¹ The existing grade will be presumed to be the natural grade unless otherwise demonstrated. Additional information may be necessary in certain cases, such as where unpermitted grading may have occurred.

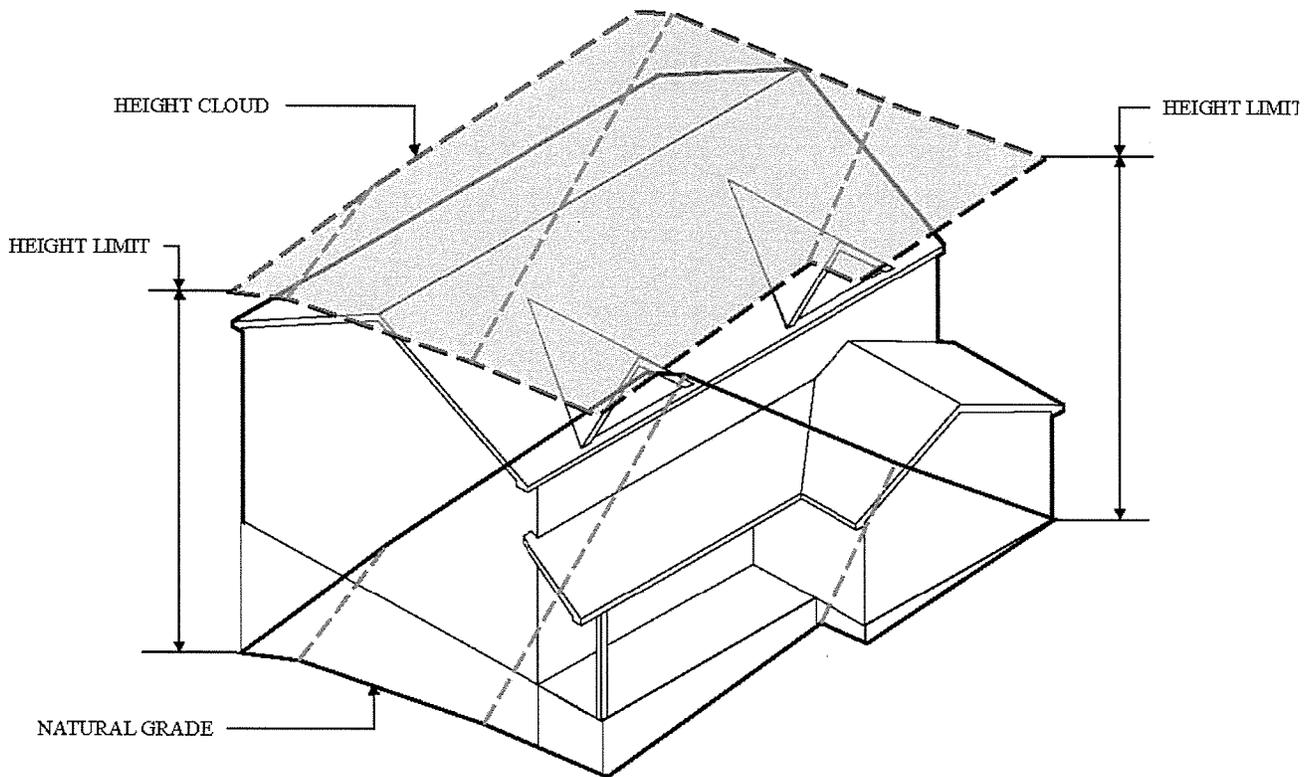
² A height cloud is an imaginary plane above the natural grade projected at the maximum height limit.

garage opening would exceed 28 feet. Therefore, height at subterranean garage openings are only measured from natural grade (not finished grade). Figure 9 illustrates how height is to be measured above a subterranean garage opening.

- The finished grade immediately outside lightwells as described in LCP Policy 4 is used to measure height from finished grade, rather than the finished surface at the bottom of the lightwell.



Site Plan



**Figure 1
HEIGHT CLOUD**

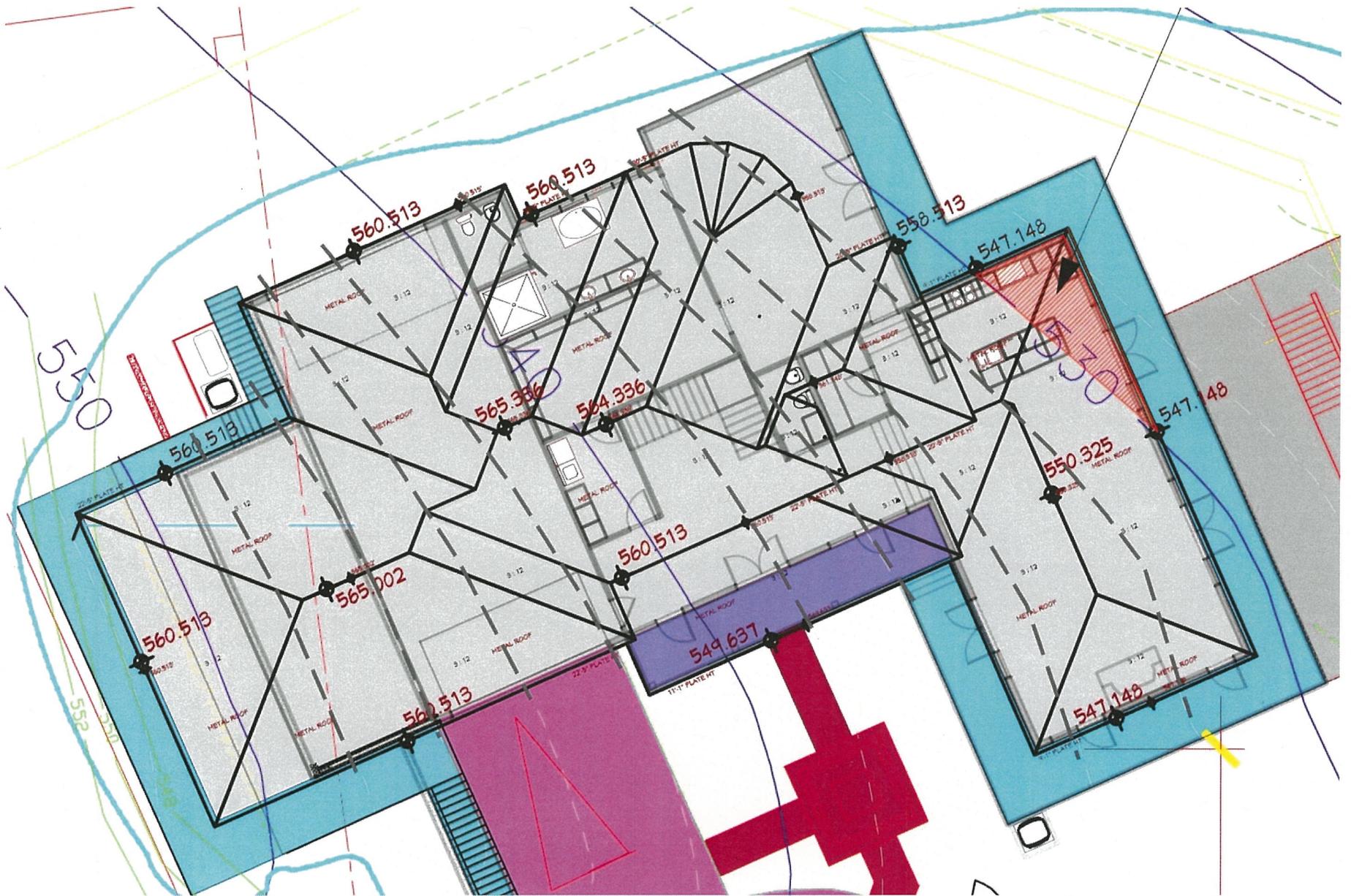
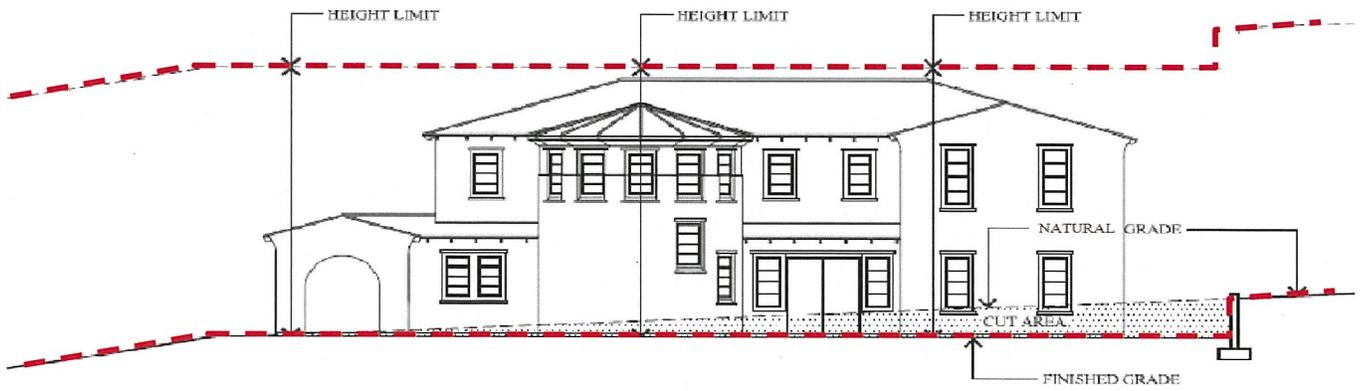
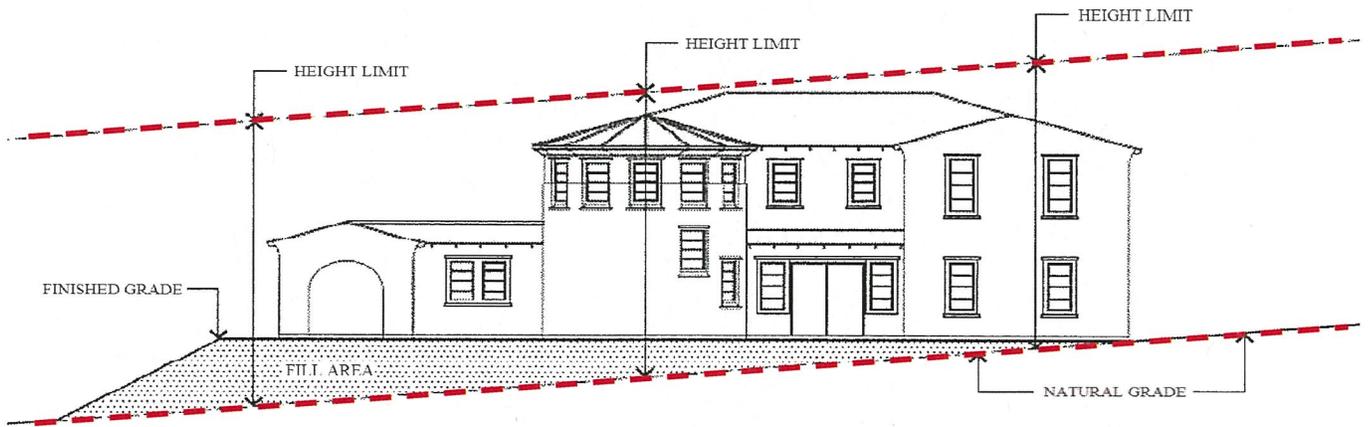


Figure 2
ROOF PLAN OVERLAID ON TOPOGRAPHY



**Figure 3
CUT AREA**

Figure 3 shows a cut area and the finished grade is the lowest grade. In this case, the maximum height limit is a parallel line projected from the finished grade.



**Figure 4
FILL AREA**

Figure 4 shows a fill area and the natural grade is the lowest grade. In this case, the maximum height limit is a parallel line projected from the natural grade.

Figures 5 through 8 show architectural elevations and a cross-section of the same building. Figure 5 is the elevation plan at the bottom of the slope, while Figures 6 and 7 are the down/up-sloping plan elevations. Figure 8 is a cross-section through Figures 6 and 7 at the area beyond as shown in Figure 7.

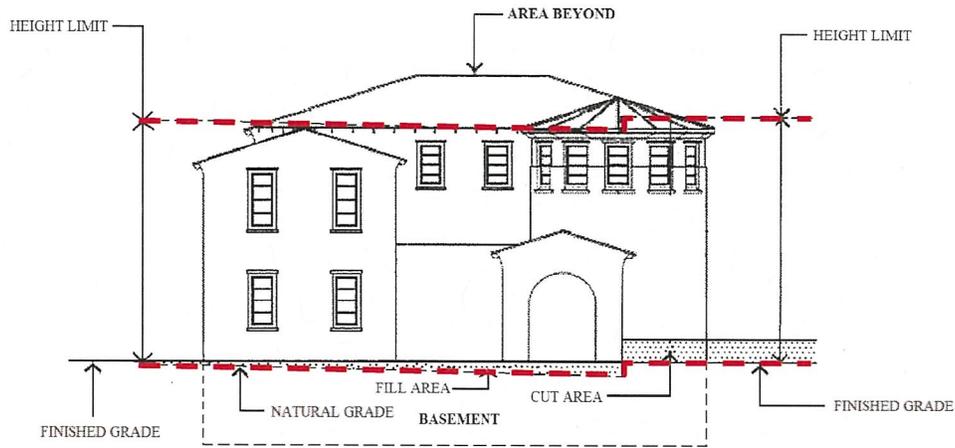


Figure 5
SOUTH ELEVATION (BOTTOM OF SLOPE)

Figure 5 shows the architectural elevation viewed from the bottom of a slope. A portion of the building appears to extend above the height limit as it ascends up the slope. That portion is set back from the front of the building and can be further evaluated using the down/up-sloping architectural elevations (Figures 6 and 7).

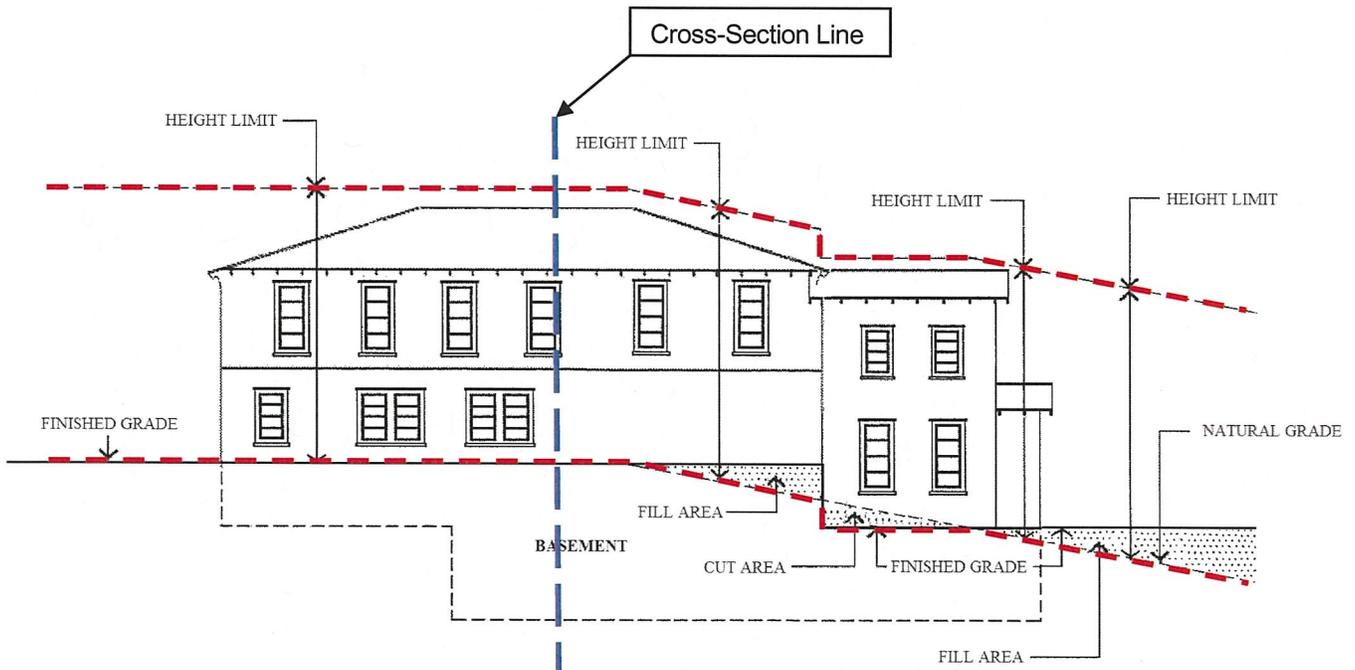
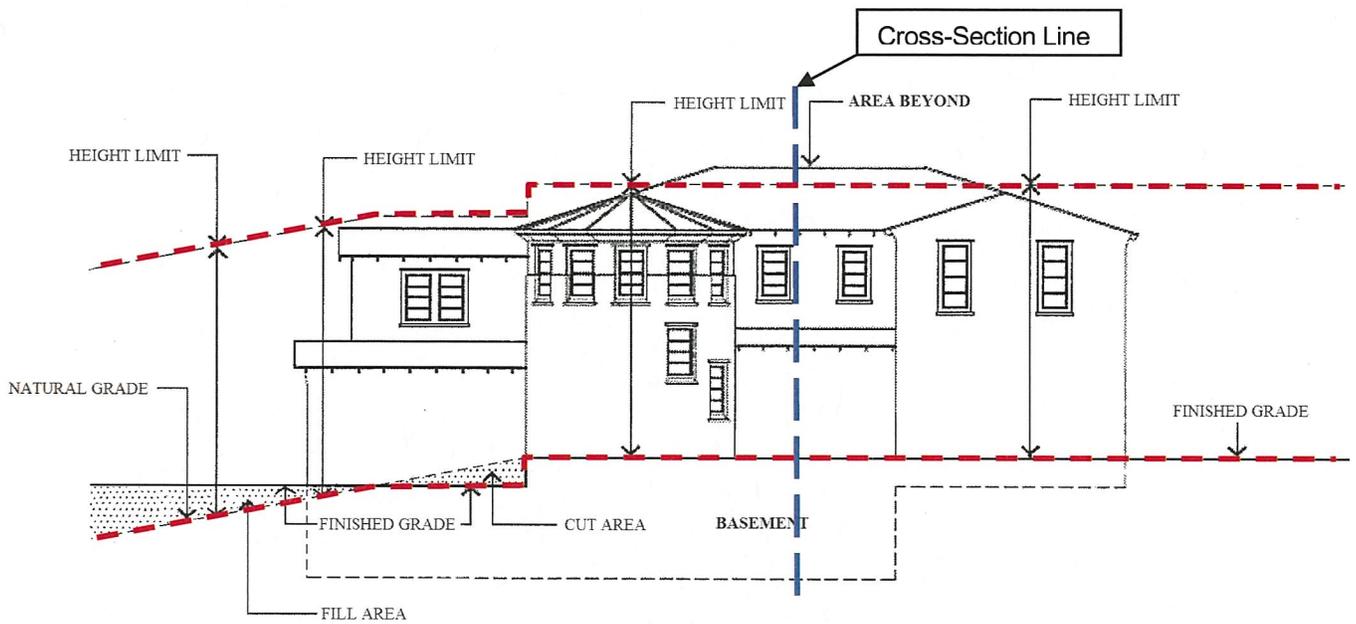


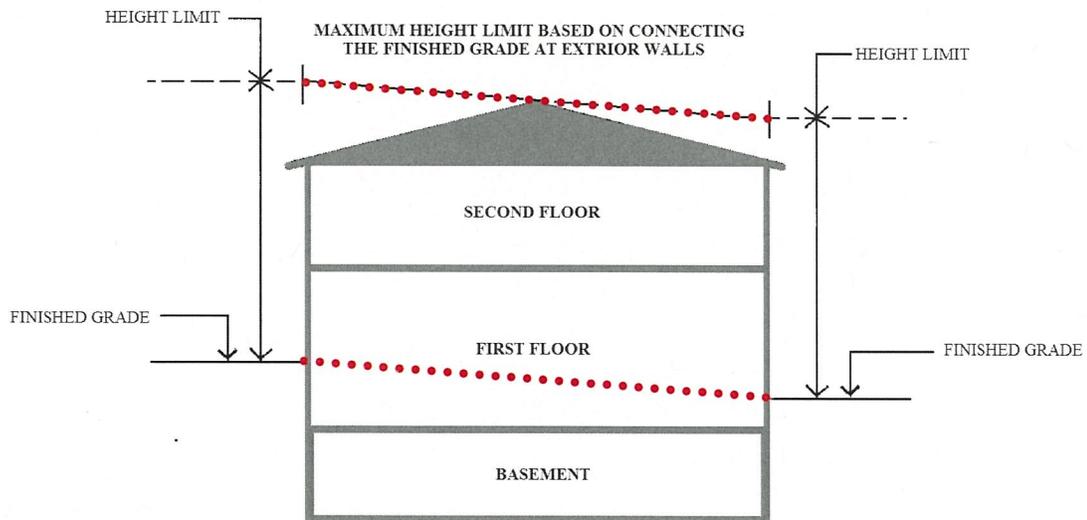
Figure 6
WEST ELEVATION (DOWNSLOPING)

Figure 6 shows a descending slope from left to right. It also shows fill and cut areas and a maximum height limit measured from the lowest grade at this exterior wall.



**Figure 7
EAST ELEVATION (UPSLOPING)**

Figure 7 shows an ascending slope from left to right. The mid-portion of the building, beyond the façade, extends higher than the maximum height limit at this exterior wall.



**Figure 8
CROSS-SECTION OF EAST AND WEST ELEVATIONS**

Figure 8 is a cross-section between Figures 6 and 7 through the area beyond as shown in Figure 7. As illustrated in this figure, the finished grades at the exterior walls from both sides of the building are connected and projected above to the maximum height limit. The building complies with the maximum height above finished grade.

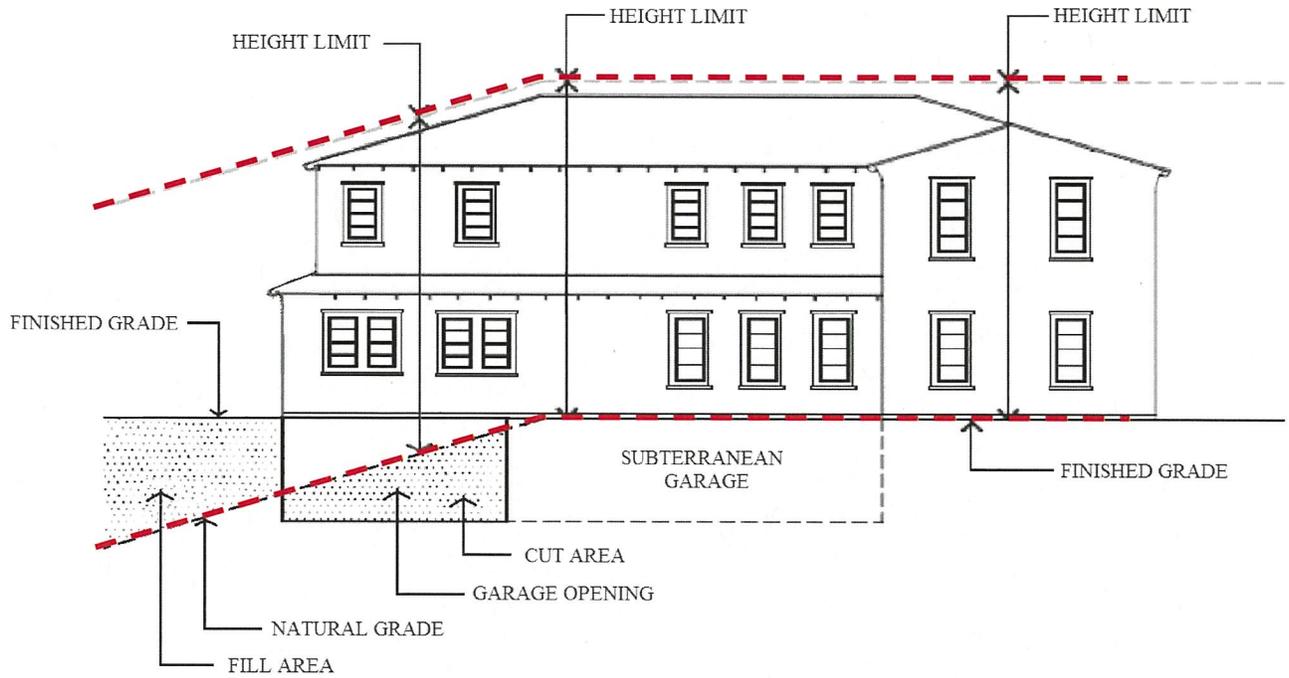


Figure 9
SUBTERRANEAN GARAGE OPENING

Figure 9 shows a subterranean garage opening and the height above the opening measured from natural grade (not finished grade at the bottom of opening).