

# Memorandum



CITY OF DALLAS

DATE November 13, 2015

TO Honorable Members of the Economic Development Committee: Rickey D. Callahan (Chair), Casey Thomas (Vice-Chair), Lee Kleinman, Adam Medrano, Carolyn King Arnold, and Adam McGough

SUBJECT **DCA 145-005 Application to Amend Cell Tower Regulations – Temporary Towers and Height Restrictions**

On November 16, 2015 you will receive a follow up briefing on proposed amendments to the Development Code regarding provisions for cell towers. This item was previously briefed on September 8, 2015 and October 19, 2015. The City Plan Commission recommended approval of the proposed amendments on May 21, 2015. A copy of the briefing is attached. Please contact David Cossum at 670-4127 should you have any questions or need additional information.

A handwritten signature in blue ink, appearing to read 'Ryan S. Evans'.

Ryan S. Evans  
First Assistant City Manager

C: Honorable Mayor and Members of City Council  
A.C. Gonzalez, City Manager  
Warren M.S. Ernst, City Attorney  
Craig D. Kinton, City Auditor  
Rosa A. Rios, City Secretary  
Daniel F. Solis, Administrative Judge  
Jill A. Jordan, P.E., Assistant City Manager

Joey Zapata, Assistant City Manager  
Mark McDaniel, Assistant City Manager  
Eric D. Campbell, Assistant City Manager  
Jeanne Chipperfield, Chief Financial Officer  
Sana Syed, Public Information Officer  
Elsa Cantu, Assistant to the City Manager

# DCA 145-005

## Application to Amend Cell Tower Regulations – Temporary Towers and Height Restrictions

### Economic Development Committee

November 16, 2015



# Background

- On February 6, 2015, an applicant submitted an application and fees to modify tower/antenna for cellular communication use regulations
  - Add temporary cellular units
  - Allow Council to waive residential proximity slope restrictions via SUP
  - Adopt language for modifications in order to comply with FCC
- Zoning Ordinance Committee (ZOC) discussed the item 3 times in March and April
- On April 16, 2015 ZOC recommended approval of the amendments
- On May 21, 2015 City Plan Commission (CPC) recommended approval
- On September 8, 2015, staff briefed the Committee and was asked to meet individually with Committee members and return to the Committee at a later date
- On October 19, 2015 staff briefed the Committee and was asked to return for further discussion

# Current Regulations

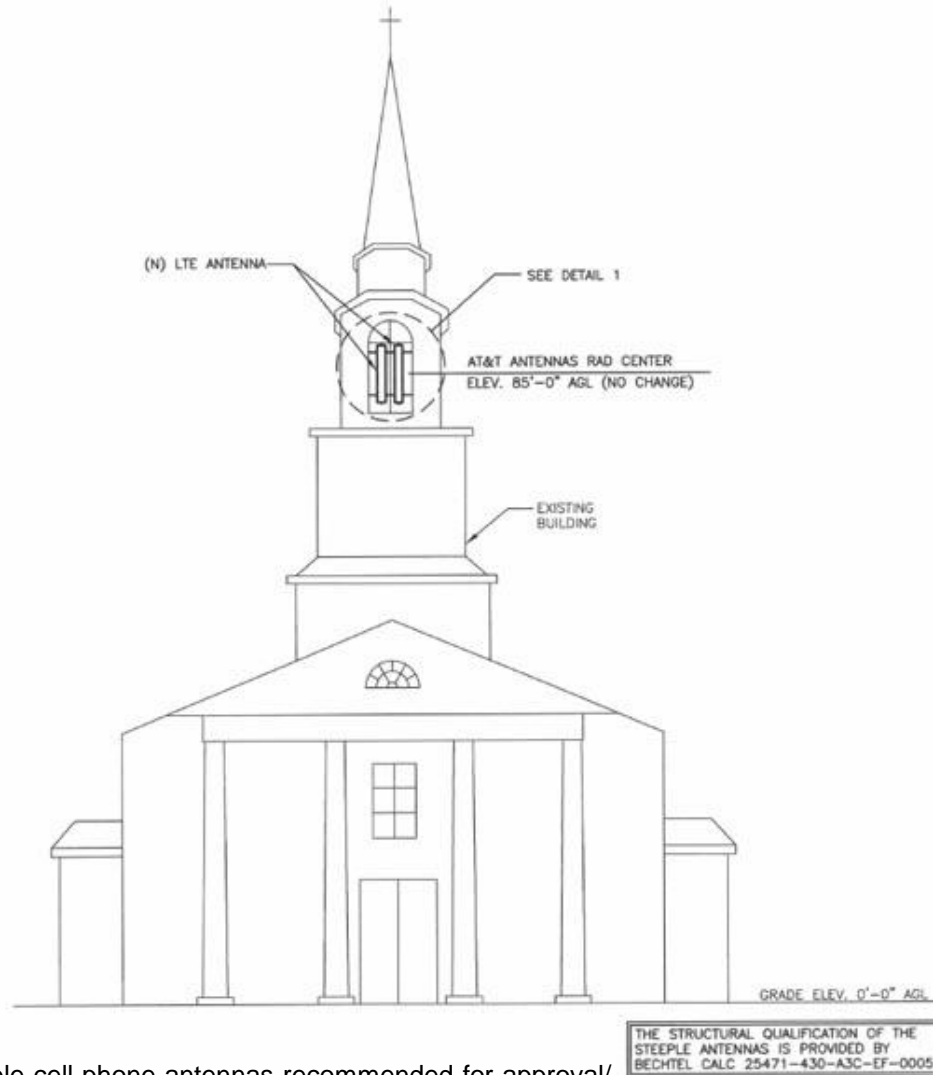
- 3 types of cellular communication technologies:
  1. **Mounted cellular antenna** means a cellular antenna that is attached to an existing structure
  2. **Monopole cellular tower** means a single pole structure that supports a platform and cellular antennas
  3. **Other cellular communication tower/antenna** means any cellular communication tower or antenna that is part of a cellular system authorized by the Federal Communications Commission, but that is not covered by the above definitions

# Current Regulations

- All types of tower/antenna for cellular communication use are allowed in all districts by right or by SUP.
  - **Mounted** antennas are allowed by right
    - residential districts when on a nonresidential structure and in all nonresidential districts.
  - **Monopole** towers are allowed
    - by SUP in all residential districts and in NO(A) and NS(A)
    - in less intense nonresidential districts (i.e. LO(A), MO(A), GO(A), MU, MC, CR, and RR) monopoles are allowed
      - ✓ by right below specified heights, and
      - ✓ by SUP when they exceed specified heights.
    - by right in more intense nonresidential districts (i.e. commercial, industrial, and central area districts).
  - **“Other”** types are allowed
    - by right in more intense nonresidential (i.e. GO(A), CS, industrial, and central area) districts and
    - by SUP in residential districts and some less intense nonresidential (i.e. NO(A), LO(A), MO(A), retail, mixed use, and MC) districts.

# Mounted Antennas

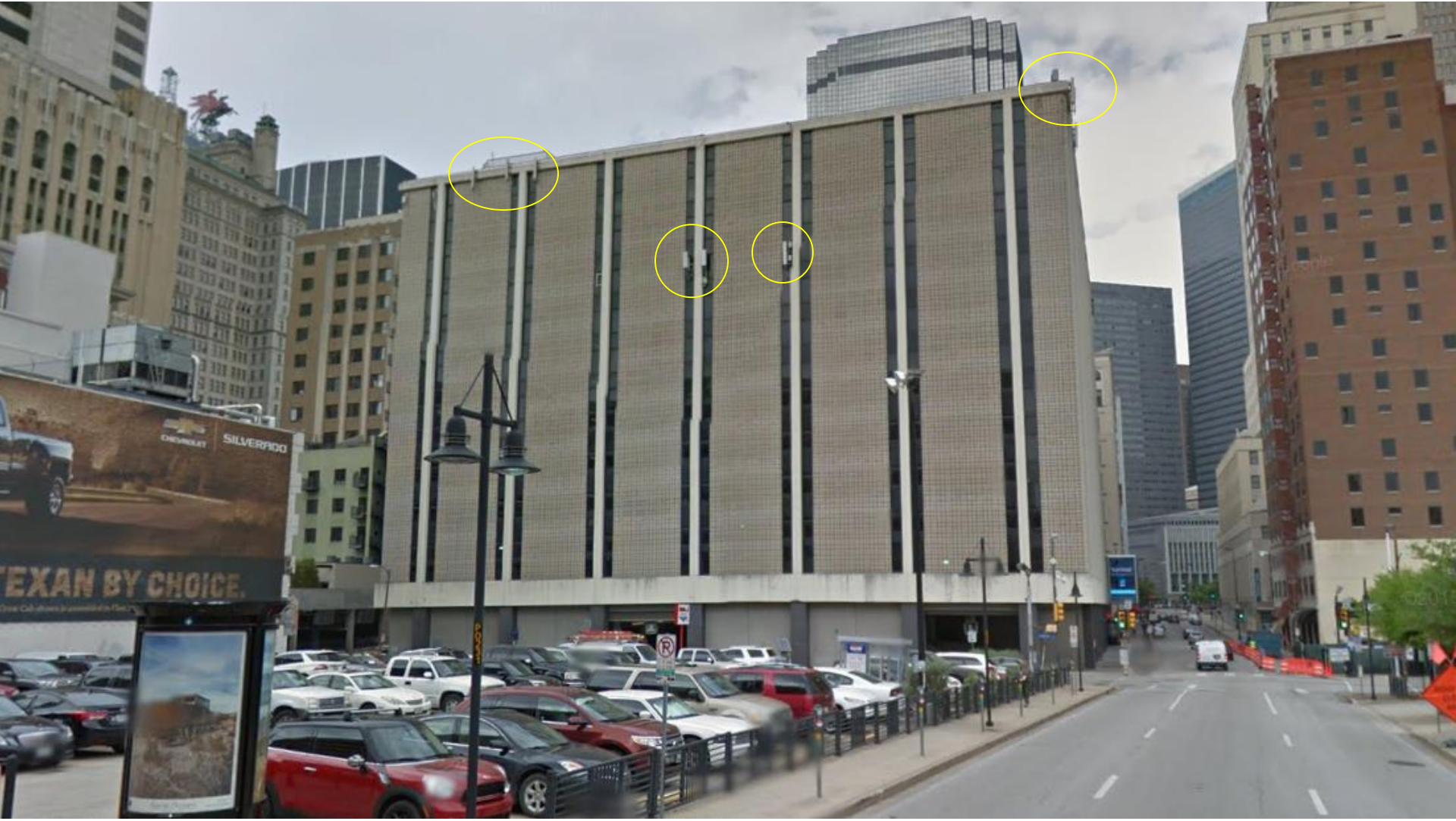
## Current Regulations



<https://www.arlnow.com/2011/06/06/steeple-cell-phone-antennas-recommended-for-approval/>

# Mounted Antennas

## Current Regulations



# Monopole Cellular Tower

## Current Regulations





# Monopole Cellular Tower

## Current Regulations



# Other Antennas and Monopole Cellular Tower

## Current Regulations



# Other Cellular Communication Tower/Antenna

## Current Regulations



# Residential Proximity Slope (RPS)

## Current Regulations

- All types of tower/antenna for cellular communication use are a utility and are not restricted by zoning districts' maximum structure height
  - However, they must comply with residential proximity slope (RPS)
  - Council may waive the RPS if a specific use permit (SUP) is required.
- The board of adjustment (BDA) may grant a variance to height if it finds that the land has a restrictive size, shape, or slope that would prevent commensurate development.
  - This is often a difficult standard to prove for a monopole tower.

# Residential Proximity Slope (RPS)

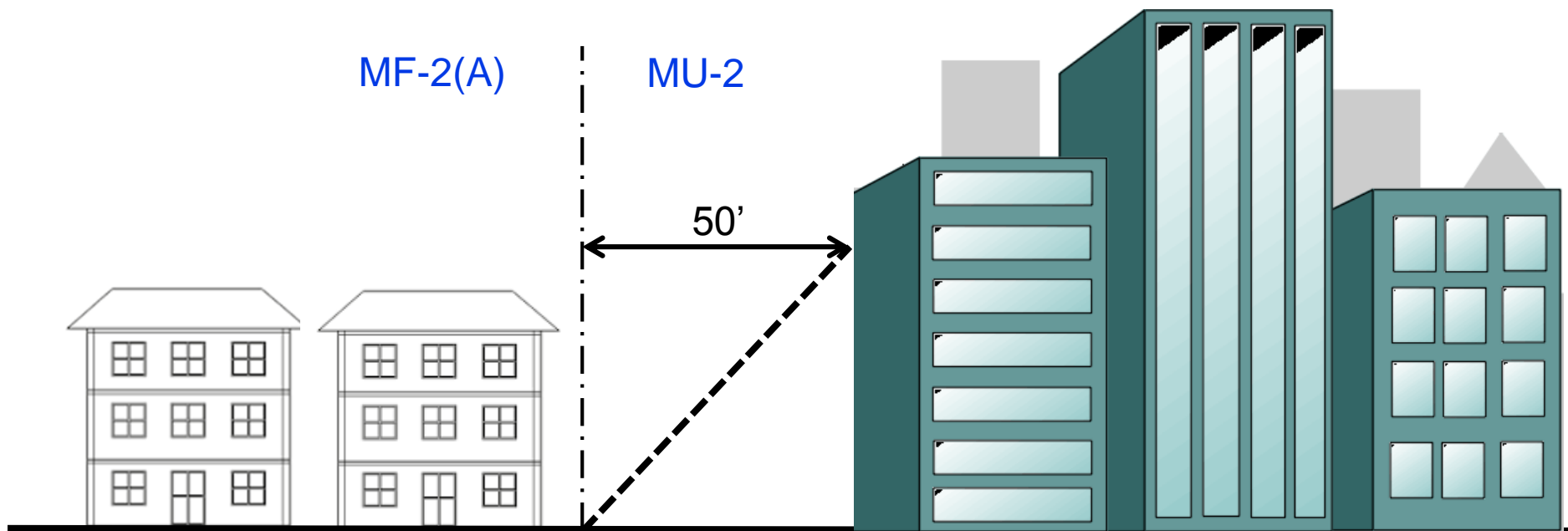
## Current Regulations

- Residential Proximity Slope (RPS) is a plane projected upward and outward from every site of origination (e.g. R, D, TH Districts).
- Site of origination begins at the property lines of low density residentially zoned properties (e.g. R, D, TH Districts).
- If any portion of a structure is over 26 feet in height, that portion may not be located above a residential proximity slope

# Current Regulations

## Residential Proximity Slope (RPS)

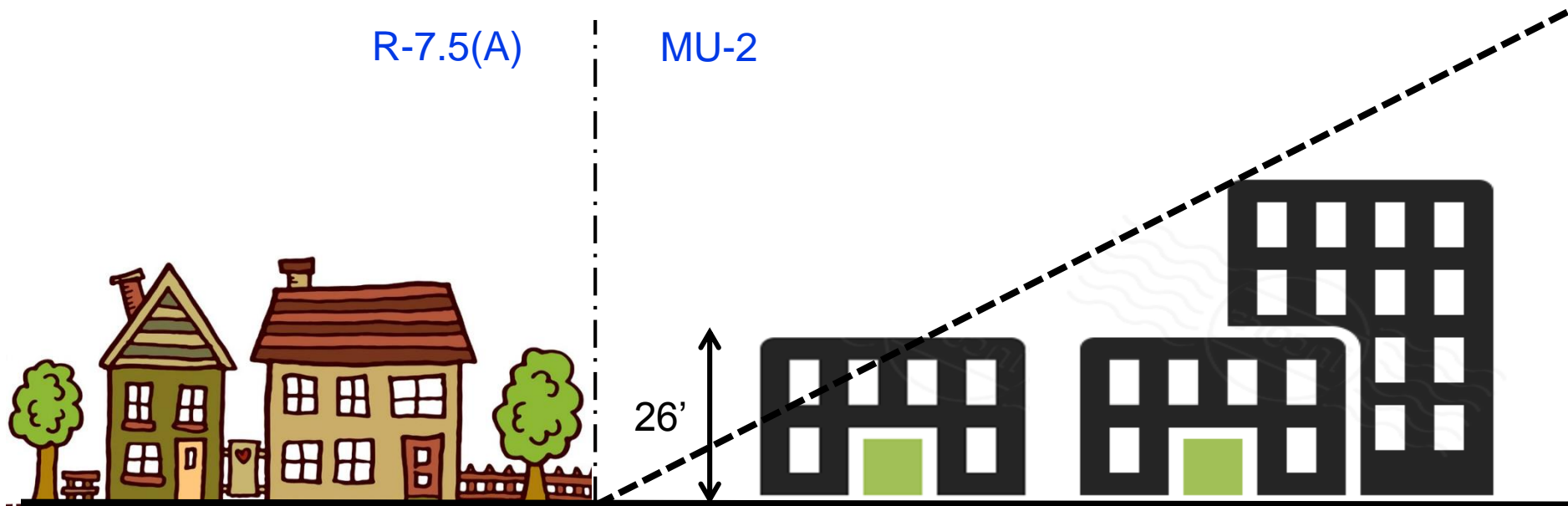
<u>Zoning Category</u>	<u>Angle of Projection</u>	<u>Extent</u>
CH, MF-1, MF-1(A), MF-2, and MF-2(A)	45° (1 to 1 slope)	Terminates at a horizontal distance of 50 feet from the site of origination.



# Current Regulations

## Residential Proximity Slope (RPS)

<u>Zoning Category</u>	<u>Angle of Projection</u>	<u>Extent</u>
R, R(A), D, D(A), TH, and TH(A)	18.4° (1 to 3 slope)	Infinite.



# Applicant Requested Amendments

- 1. Create “Temporary Cellular Units”** – Add new type to tower/antenna technologies to allow interim cellular service when an existing tower/antenna is damaged or destroyed.
- 2. SUP to vary Residential Proximity Slope (RPS) Restrictions** – Allow Council to vary residential proximity slope (RPS) height restrictions with a specific use permit (SUP) instead of granting a variance by the Board of Adjustment (BDA).
- 3. Tower/Antenna Modifications** – Adopt language to refer to FCC requirements to allow repairs, replacement, or extensions of existing tower/antennas.



# Temporary Cellular Units

## Applicant's Problem Statement

- If an existing tower/antenna is damaged or destroyed, the replacement must meet the zoning regulations for a permanent tower/antenna.
  - Tall structures in locations to support cellular technology may not be available for mounted cellular antennas.
  - Other antennas often require SUP (3-4 month process) and immediate cellular service is needed to serve the public.

# Temporary Cellular Units

## CPC Proposed Amendment

- Add new type of tower/antenna called a “temporary cellular unit”.
  - To allow temporary cellular service when an existing tower/antenna is damaged or destroyed.
    - By right in all residential and nonresidential districts.
    - Allowed for one year.
      - ❖ May be granted an additional two six month extensions, if an application for an SUP or a Planned Development District is filed.
    - Must obtain a certificate of occupancy (CO).
    - Must be removed:
      - ❖ upon the completion or expiration of a permit to construct a permanent tower/antenna or
      - ❖ expiration of the temporary cellular unit Certificate of Occupancy (CO).

# Temporary Cellular Units

## Proposed Amendment

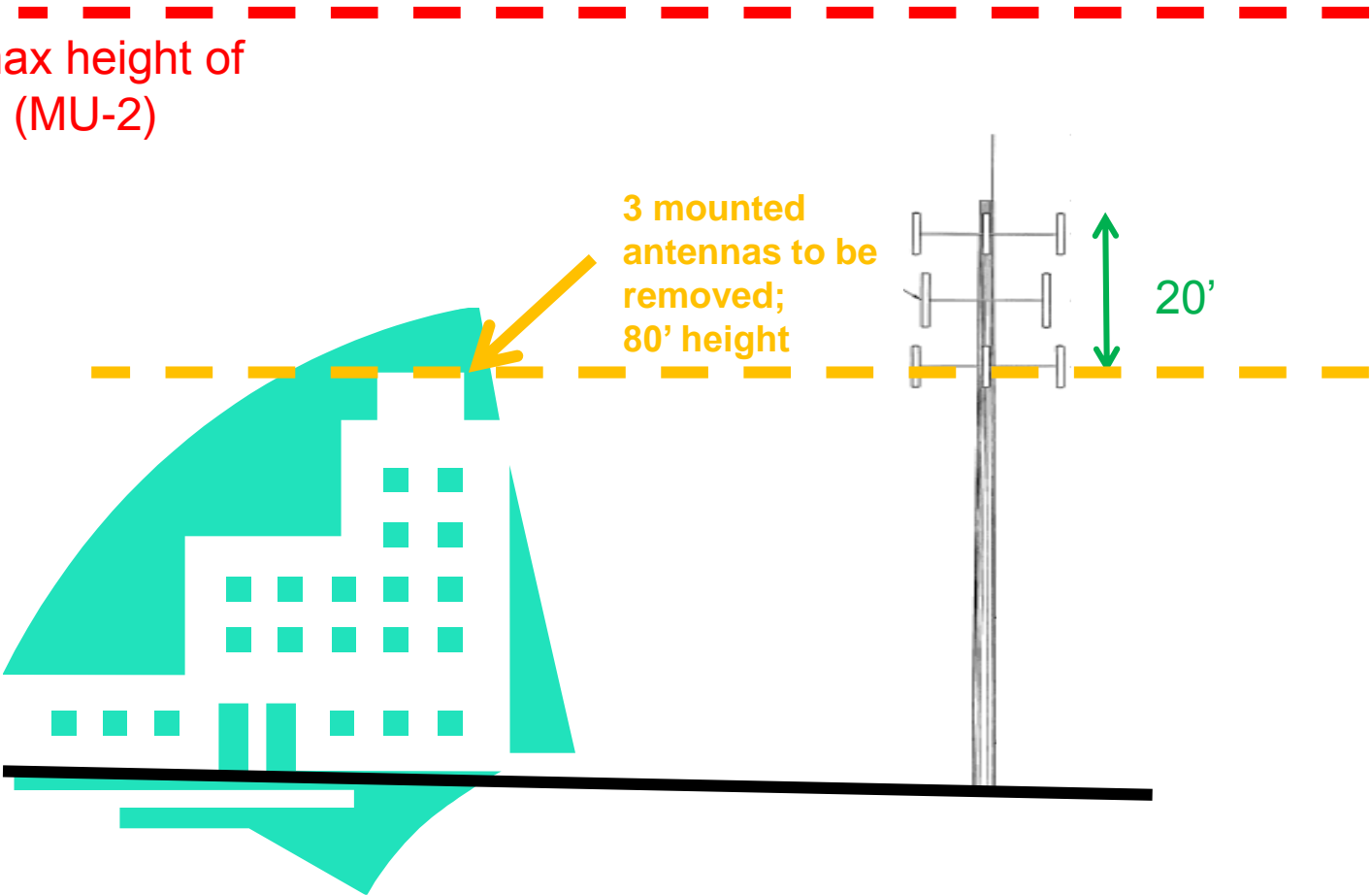
- Height restrictions
  - Residential proximity slope does not apply
  - Lightning rods are excluded in height calculations
  - If multiple pole structures are erected, limited to the height of existing antennas
  - Height restrictions for a single pole structure:
    - ❖ If the height of the existing tower/antenna to be removed is **less than** the maximum structure height of the district, the maximum structure height **may extend** an additional ten feet in height for each existing operator above one, **not to exceed the maximum structure height of the district.**
    - ❖ If the height of the existing tower/antenna to be removed is **equal to or exceeds** the maximum structure height of the district, the maximum height of the temporary cellular unit **may not exceed the height of the existing** mounted cellular antennas to be removed.

# Temporary Cellular Units

## Proposed Amendment

Height restrictions for a single pole structure:

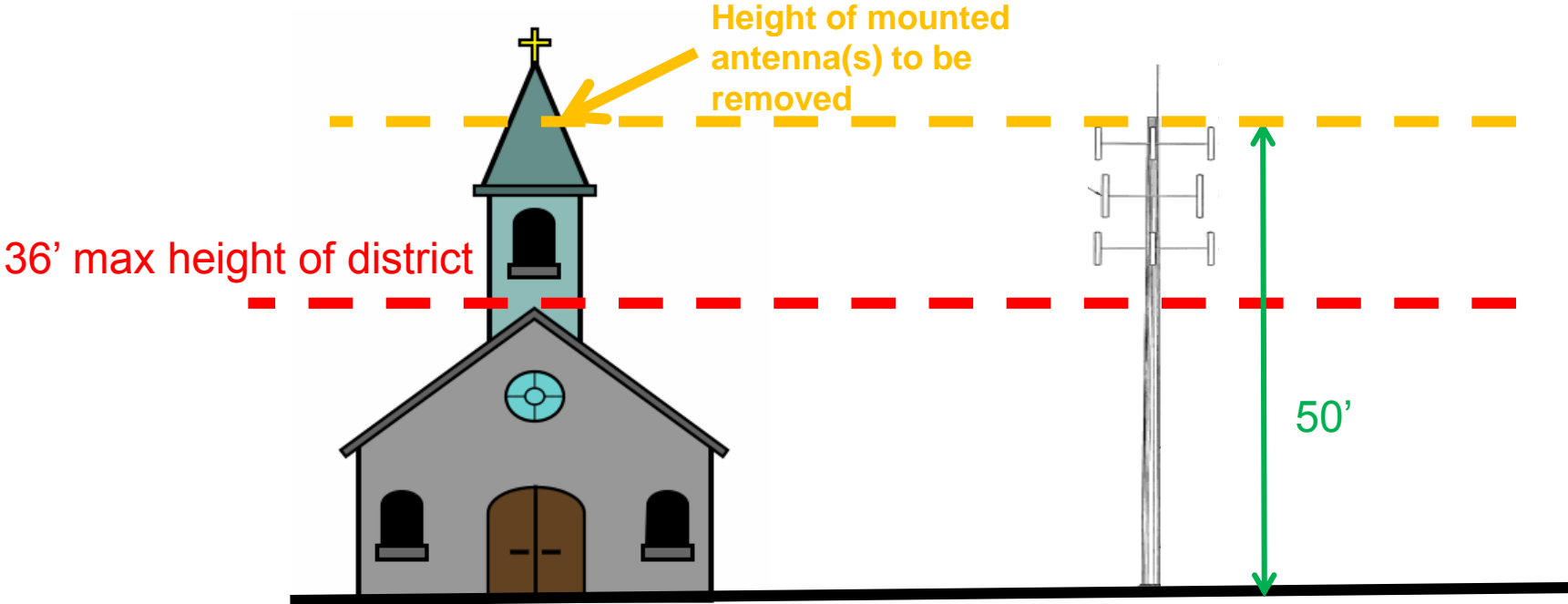
135' max height of district (MU-2)



# Temporary Cellular Units

## Proposed Amendment (continued)

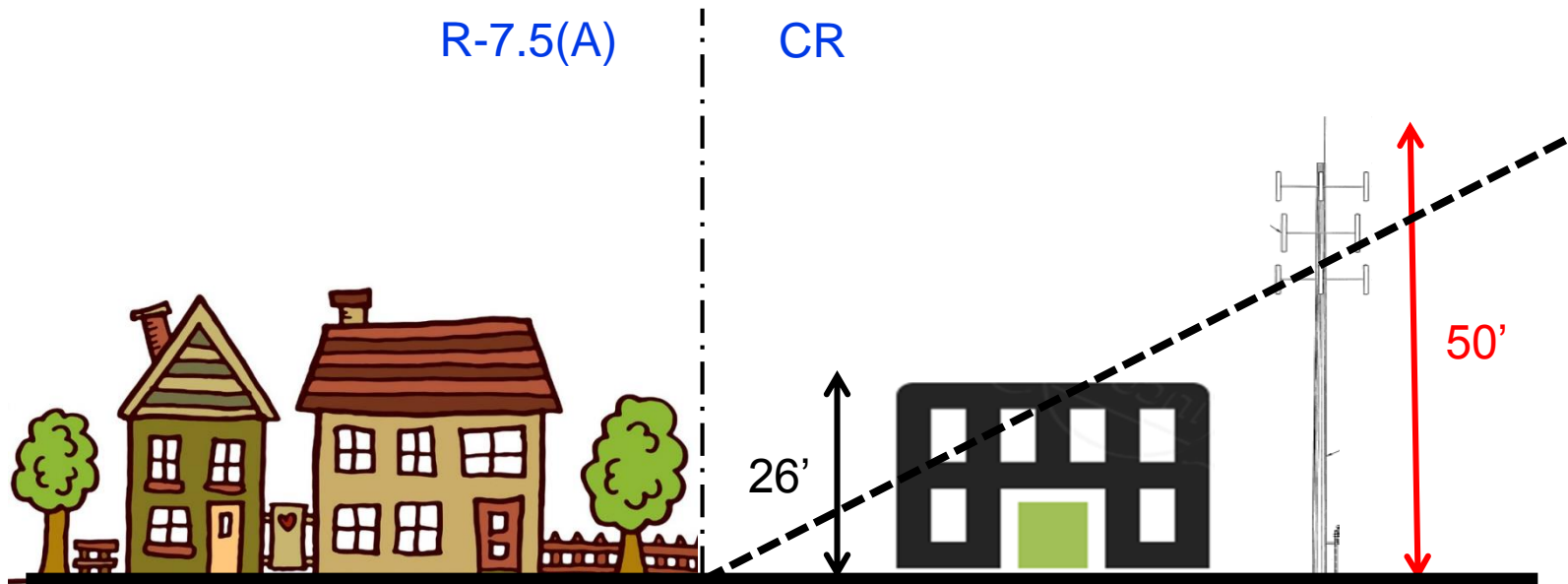
Height restrictions for a single pole structure:



# RPS Restrictions

## Applicant Problem Statement Example

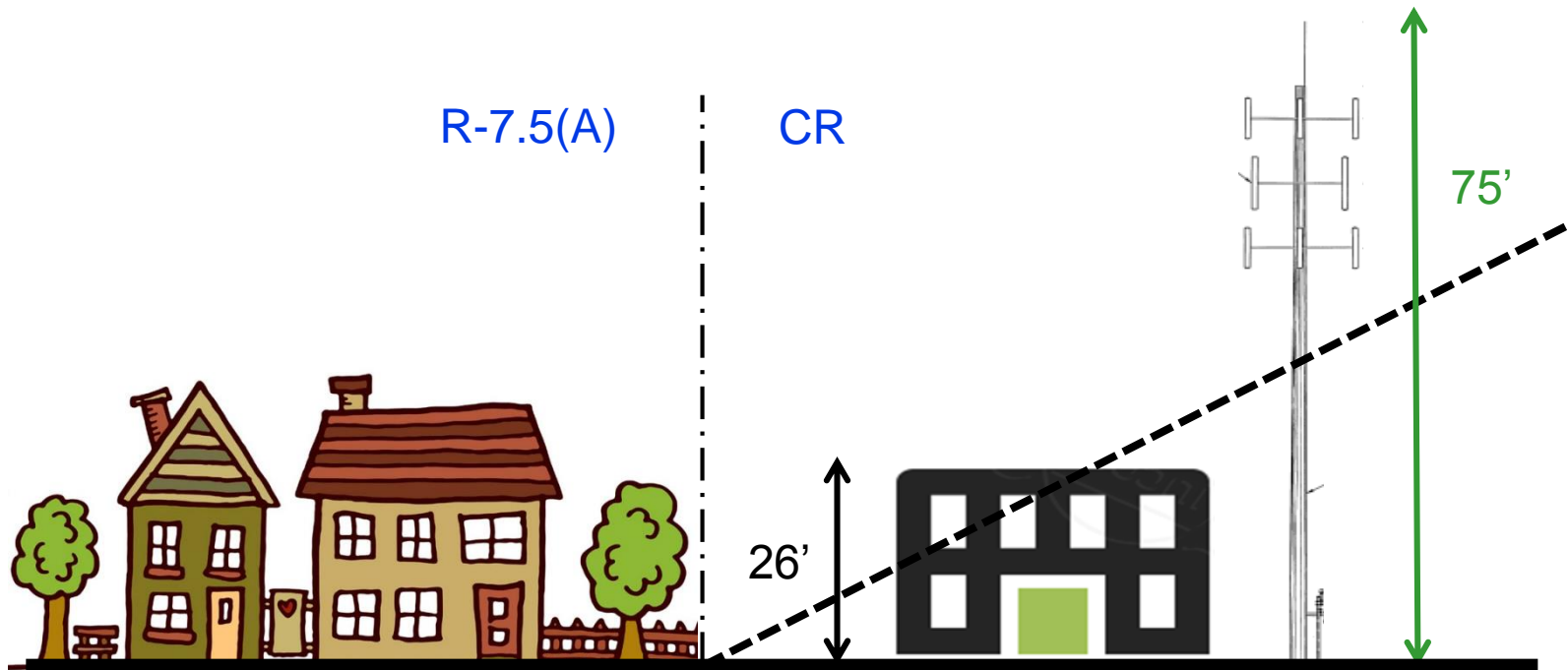
- Monopoles are allowed **by right** in CR when less than 65' tall.
  - RPS Remedy: Appeal to Board of Adjustments (BDA)
  - May be difficult to prove hardship of land to BDA (restrictive size, shape, or slope)



# RPS Restrictions

## Applicant Problem Statement Example

- Monopoles are allowed **by SUP** in CR when 65' tall or more.
  - RPS Remedy: Council may waive RPS with SUP
  - Less difficult standard to prove.
  - Can be approved through SUP process.



# RPS Restrictions

## CPC Proposed Amendment

- Allow Council to consider waiving the residential proximity slope (RPS) height restrictions through a specific use permit (SUP).



# Tower/Antenna Modifications

## Applicant's Problem Statement

- In October 2014, the Federal Communications Commission (FCC) issued the *Wireless Infrastructure Report and Order* which requires municipalities to adopt regulations that would allow for existing cellular systems to make modifications that did not “substantially modify” the “tower or base station”.

# Tower/Antenna Modifications

## CPC Proposed Amendment

- Adopt language to track FCC language to allow for modifications to existing towers/antennas in
  - use regulations,
  - maximum building height, and
  - nonconforming uses and structures

# Next Steps

- Schedule for City Council Agenda

# Appendix

- Proposed language to comply with FCC requirements:
  - “An application or amendment for an SUP or Planned Development District that would otherwise be required is not required for a modification to an existing towers/antennas or its base station unless the modification substantially changes the physical dimensions of the existing [type of tower/antenna for cellular communication technology] or its base station. A modification substantially changes the physical dimensions of an existing [type of tower/antenna for cellular communication technology] or its base station if it meets any of the criteria listed in 47 C.F.R. §1.40001(b)(7).”