

Memorandum



CITY OF DALLAS

DATE October 16, 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 October 19, 2015 you will receive a follow up briefing on proposed amendments to the Development Code regarding provisions for cell towers as requested at the September 8 briefing. 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 'Thy - R. E.' with a stylized flourish at the end.

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

October 19, 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

Current Regulations

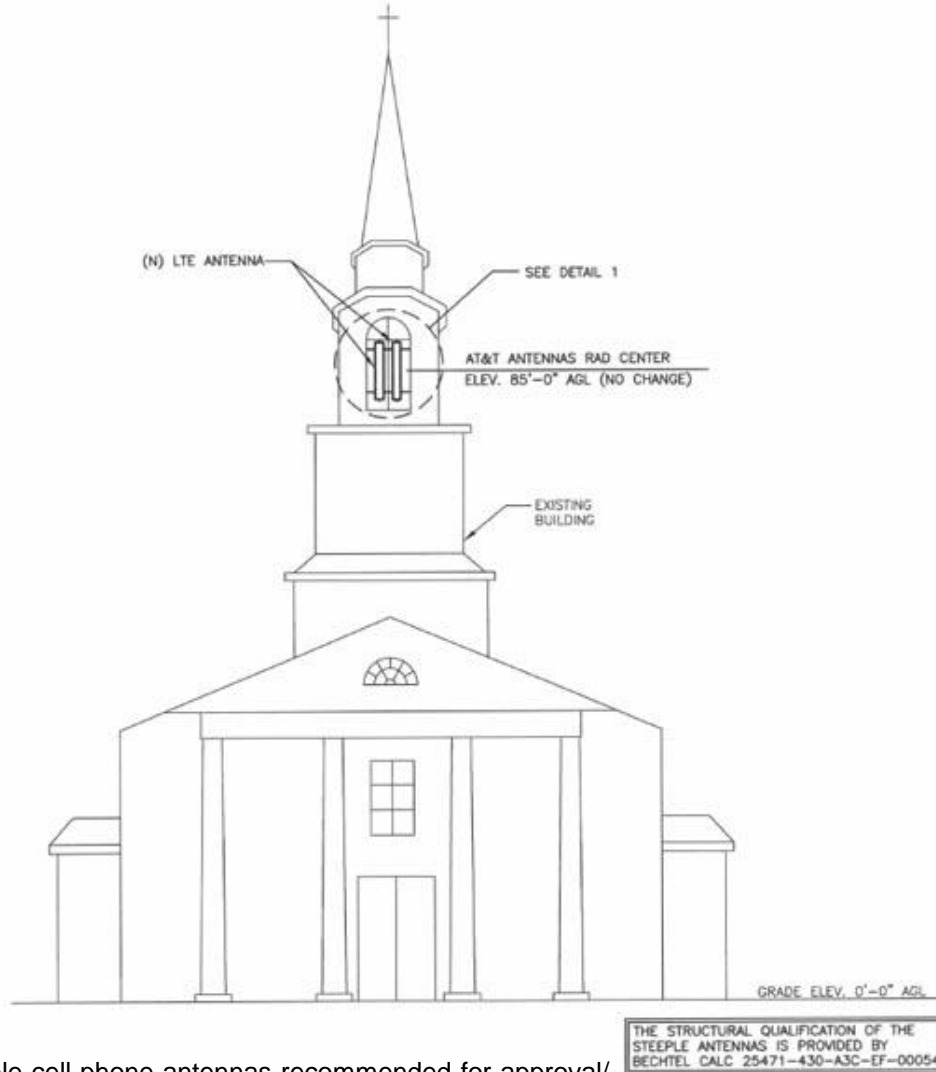
- 3 types of cellular communication technologies:
 1. **Mounted cellular antenna** means a cellular antenna that is attached to an existing structure
 2. **Monopole cellular tower** means a single pole structure that supports a platform and cellular antennas
 3. **Other cellular communication tower/antenna** 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

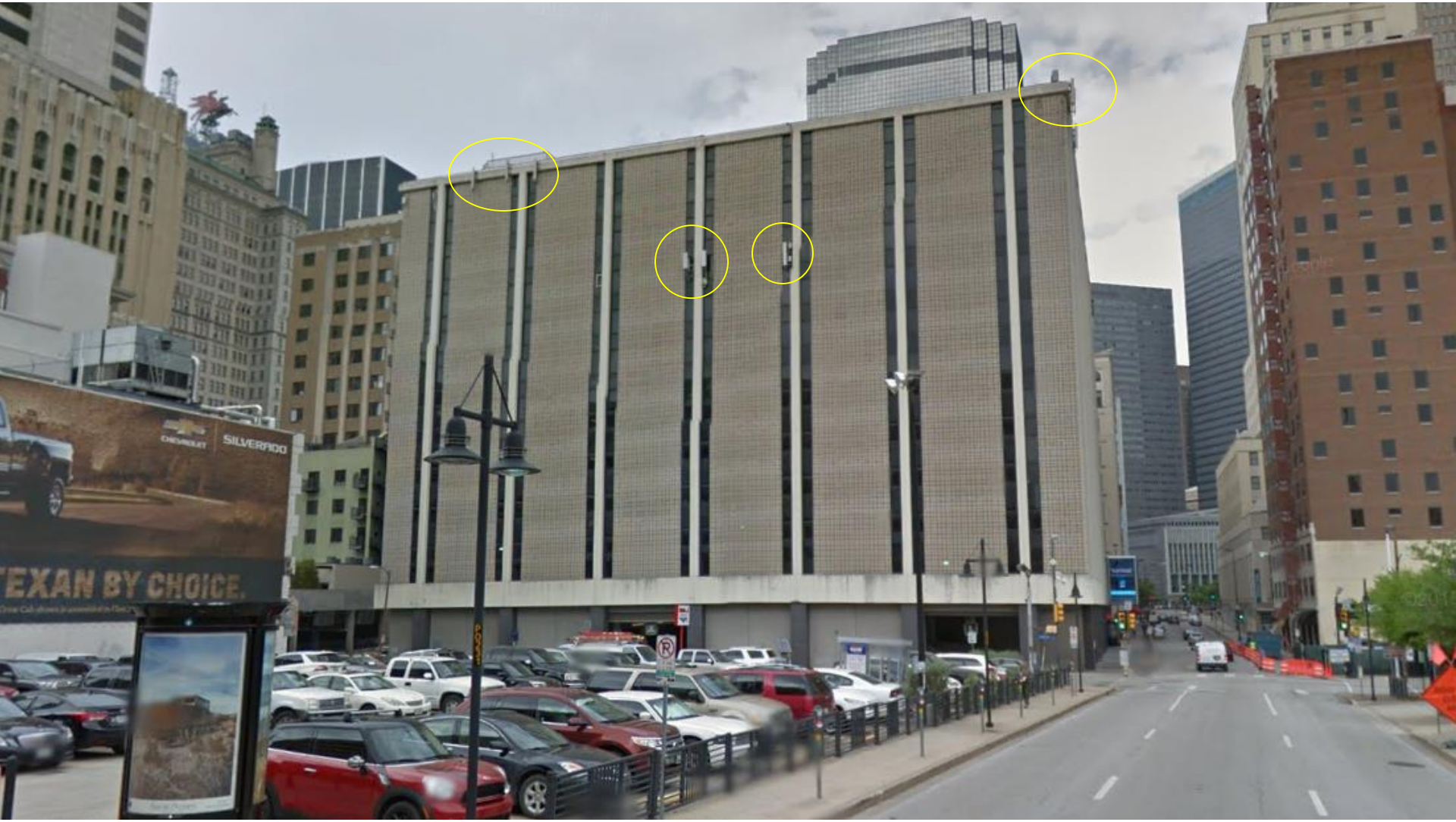
Current Regulations



<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)

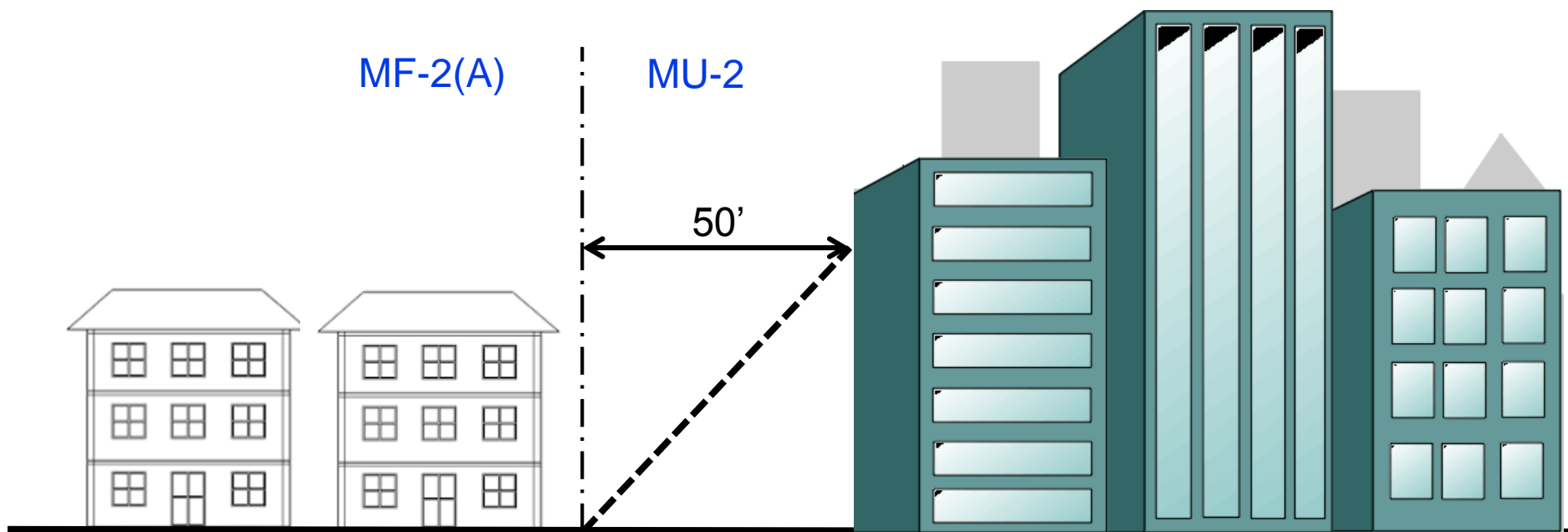
Current Regulations

- 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)

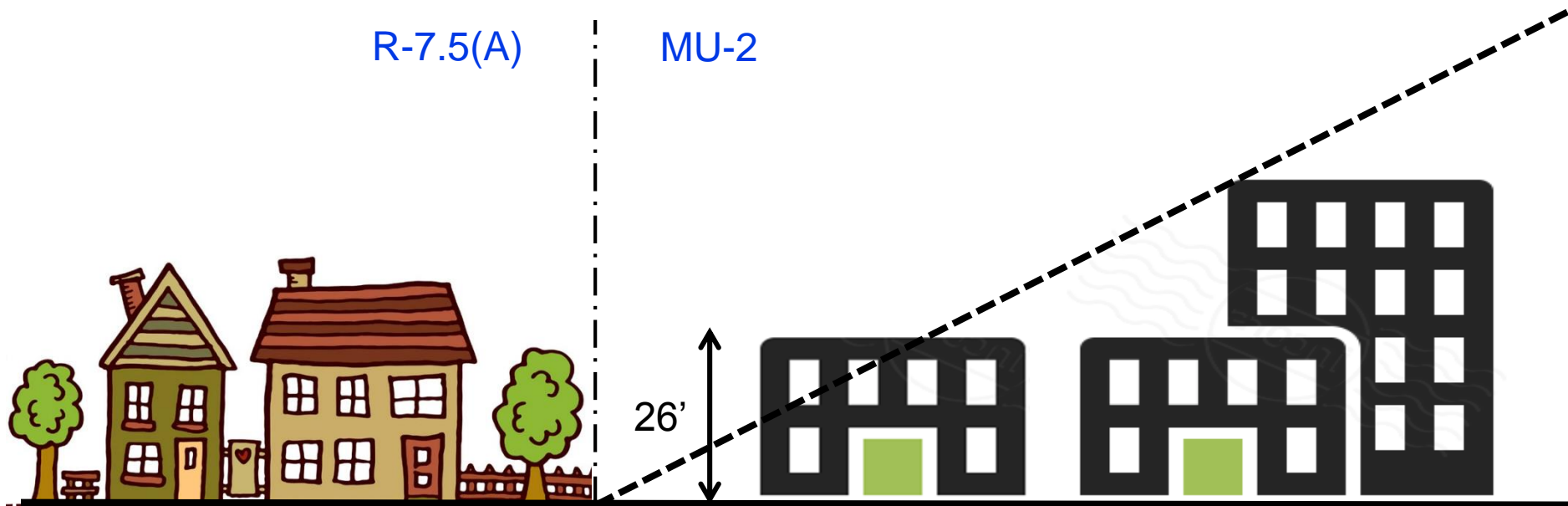
<u>Zoning Category</u>	<u>Angle of Projection</u>	<u>Extent</u>
CH, MF-1, MF-1(A), MF-2, and MF-2(A)	45° (1 to 1 slope)	Terminates at a horizontal distance of 50 feet from the site of origination.



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. Waive Residential Proximity Slope (RPS) Restrictions** – Allow Council to waive 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

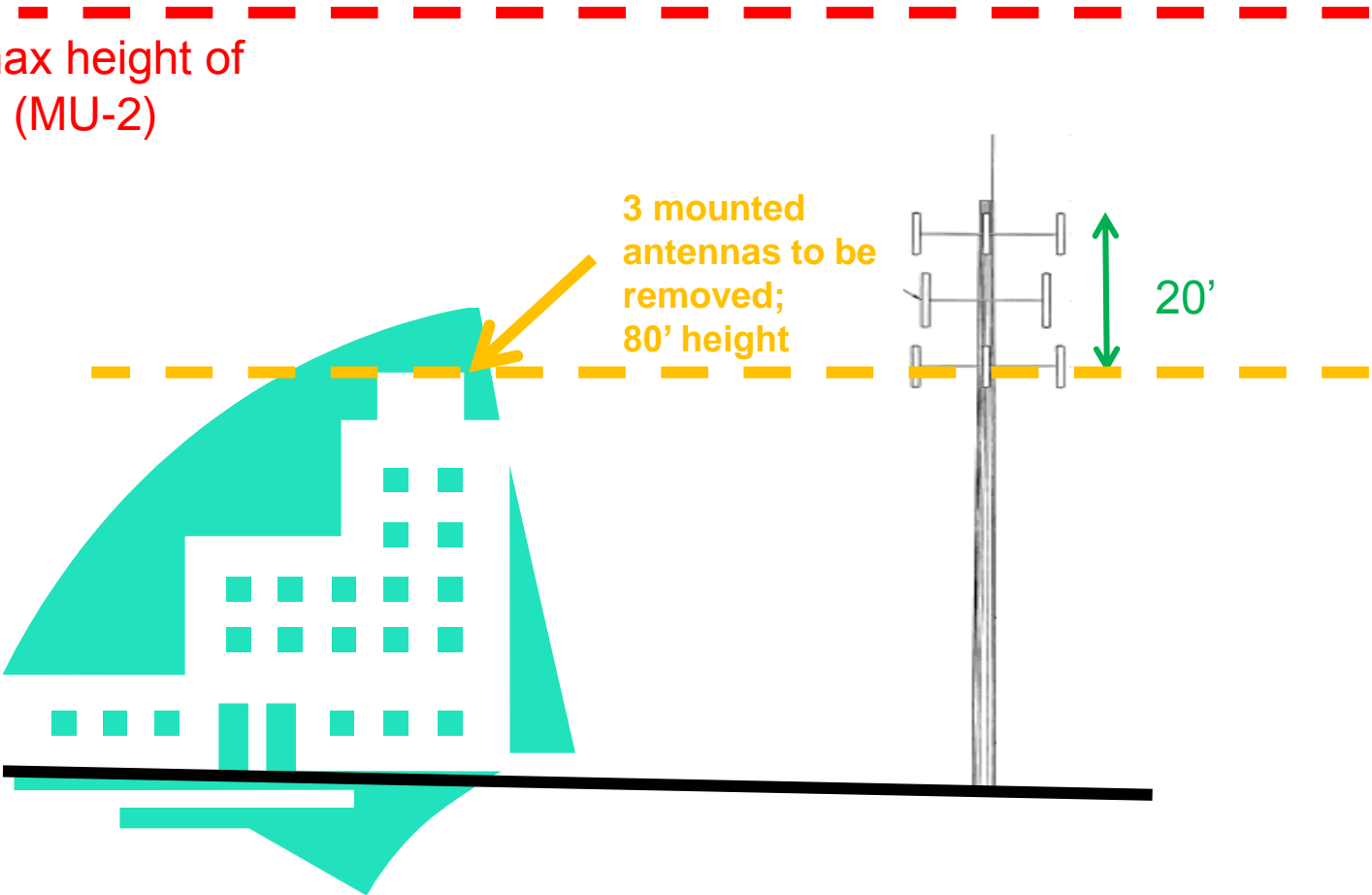
- Height restrictions
 - Residential proximity slope does not apply
 - Lightning rods are excluded in height calculations
 - If multiple pole structures are erected, limited to the height of existing antennas
 - Height restrictions for a single pole structure:
 - ❖ If the height of the existing tower/antenna 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:

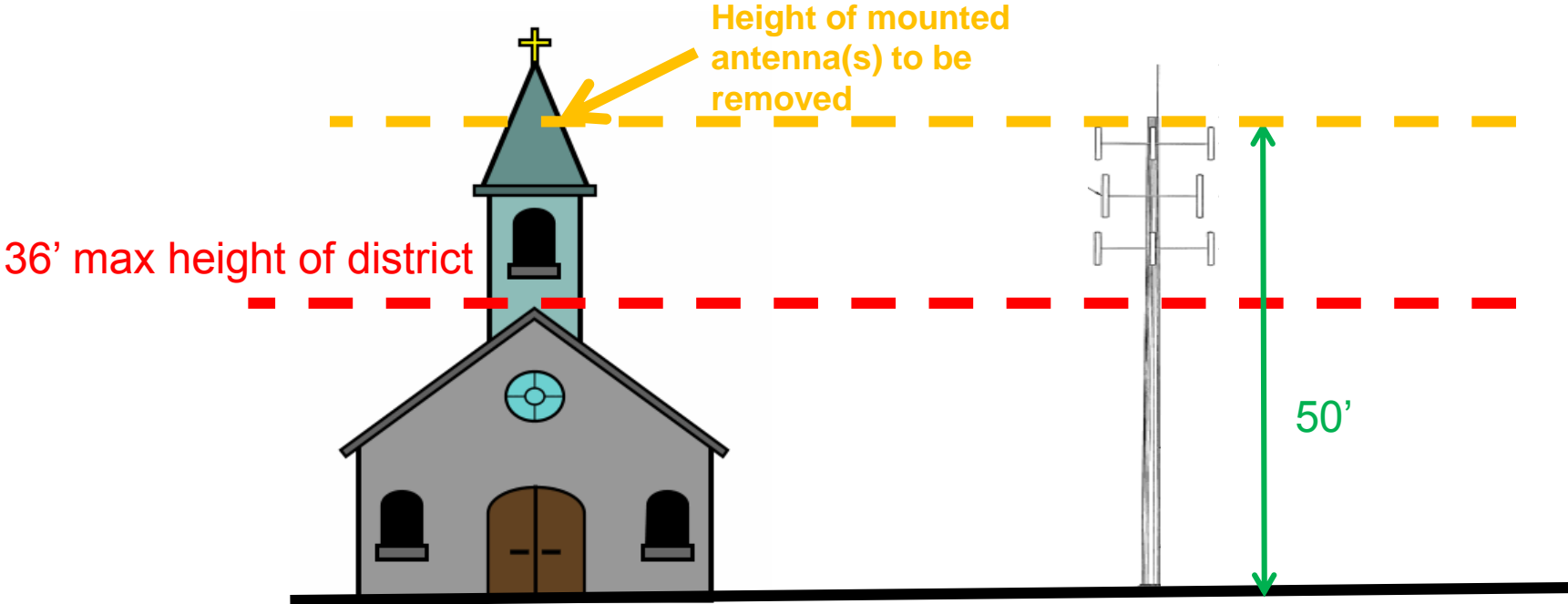
135' max height of district (MU-2)



Temporary Cellular Units

Proposed Amendment (continued)

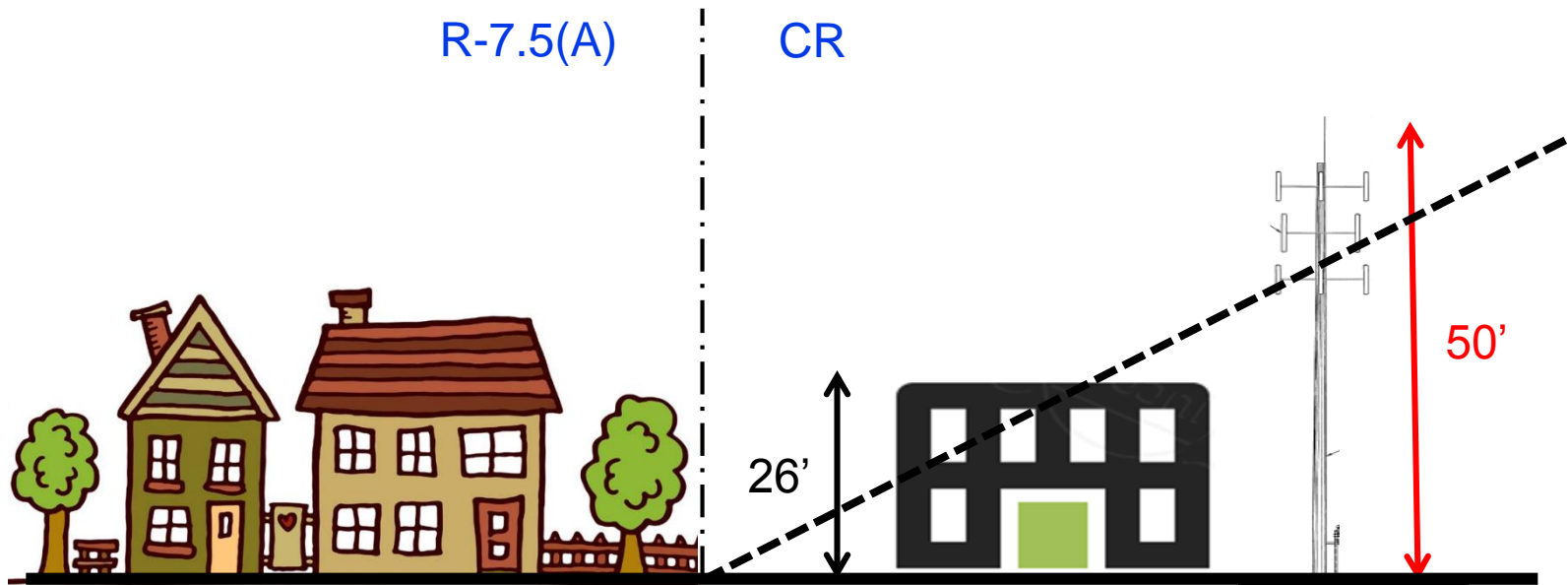
Height restrictions for a single pole structure:



RPS Restrictions

Applicant Problem Statement Example

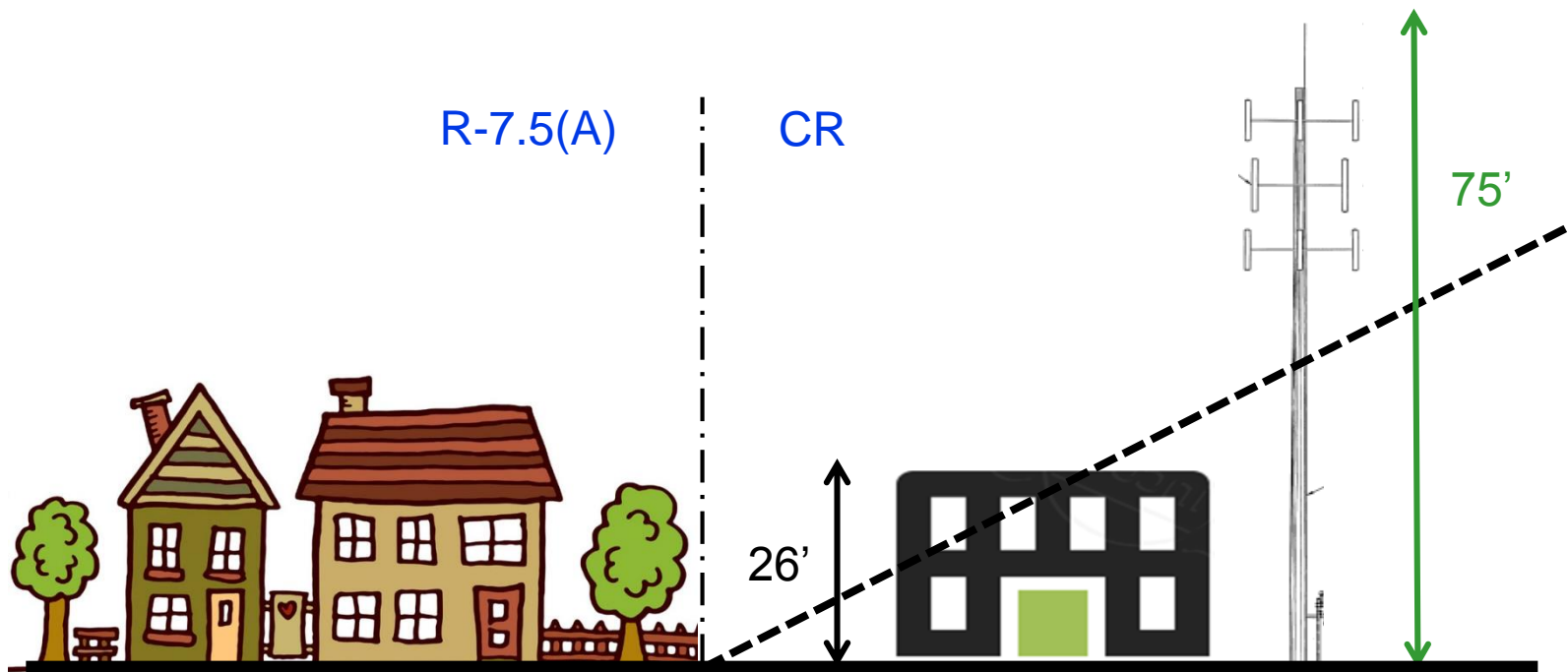
- Monopoles are allowed **by right** in CR when less than 65' tall.
 - RPS Remedy: Appeal to Board of Adjustments (BDA)
 - May be difficult to prove hardship of land to BDA (restrictive size, shape, or slope)



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).”