



# STAFF REPORT COVER SHEET

August 8, 2018

<b>Addresses:</b>	N/A	<b>Case Number:</b>	PF-42-18-ORD
<b>Public Meeting Date:</b>	8/8/2018	<b>Applicant:</b>	Town of Vienna
<b>Board/Commission:</b>	Planning Commission	<b>Owners:</b>	N/A
<b>Existing Zoning:</b>	N/A	<b>Existing Land Use:</b>	N/A
<b>Brief Summary of Request:</b>	Recommendation to Town Council for revision to the definition of "Finished Lot Grade."		
<b>Site Improvements:</b>	N/A		
<b>Size of Property:</b>	N/A		
<b>Public Notice Requirements:</b>	Public hearing was closed on July 30, 2018	N/A	
<b>Staff Recommendation: Recommend Approval of Finished Lot Grade Text Amendment to Town Council</b>			
<b>Brief Analysis</b>			
<b>HISTORY</b> <p>The Planning Commission previously recommended changes to Town Council to the existing definition of "Finished Lot Grade." Town Council, at its August 21, 2017 regular meeting, considered the Planning Commission recommended revisions to the definition and could not reach a consensus on the proposed changes.</p>			
<b>PROPOSAL</b> <p>The Town Council referred the definition back to Planning Commission. Council suggested that the Planning Commission look at making separate lot deviation restrictions for commercial versus single-family detached residential buildings.</p>			
<b>Attachments:</b>	April 12, 2017 Planning Commission Minutes <input checked="" type="checkbox"/> August 21, 2017 Town Council Minutes <input checked="" type="checkbox"/>		
Author: Michael D'Orazio, AICP, Deputy Director			

ITEM NO. 2:

Recommendation by the Planning Commission to the Town Council on a proposed zoning ordinance amendment to Article 2, Section 4 - Definitions of Chapter 18 of the Town Code. *Town Council is scheduled to consider the zoning ordinance amendment on August 20, 2018.*

***Introduction and Background:***

The impetus for the *finished lot grade* definition first came from the Town Council's desire to prevent "dirt skirts." A dirt skirt refers to when a home is built up on a newly graded mound of dirt. Building up on a mound of dirt can help builders construct walk-out basements by elevating the grade in the front of the house and sloping the grade down near the back of the house. The planning process to amend the zoning ordinance and prevent "dirt skirts" included numerous Planning Commission and Town Council work sessions. The Mayor and Town Council approved the definition of *finished lot grade*, as well as a revised definition of *building height*, on April 4, 2011. *Finished lot grade*, as written in the Code today (which is the same language that was adopted in 2011), is defined below:

*Finished lot grade*, for the purposes of measuring building heights under this chapter, shall be:

1. a. In general: For any principal building, the finished lot grade is the pre-existing lot grade, calculated as the mid-point between the highest and lowest elevation points along the front setback line.
1. b. Exception for single family dwellings: For a Single family dwelling, the finished lot grade may deviate from the pre-existing lot grade by no more than three vertical feet at any point along the pre-existing lot grade.
2. For an accessory building: The lowest point of elevation adjacent to any wall of the structure.

After the adoption of the definition, Planning and Zoning and Public Works staff found that current language presents challenges with enforcement, in particular enforcing the provisions related to the three-foot lot deviation for single-family dwellings and enforcing the deviation along the front setback line. At times, it also can prevent best practices for storm-water management. Additionally, the definition does not provide guidance for commercial buildings.

At their January 23, 2017 meeting, Town Council referred a number of amendments of the zoning ordinance to the Planning Commission, including changes to several definitions under Article 2, Section 4 of Chapter 18 of the Town Code. The changes included the definition for *finished lot grade*.

To address some of the concerns with the definition, Council referred the following changes:

*Finished lot grade*, for the purposes of measuring building heights under this chapter, shall be:

1. a. In general: For any principal building, the finished lot grade is the finished surface of ground abutting a building or structure. ~~pre-existing lot grade, calculated as the midpoint between the highest and lowest elevation points along the front setback line.~~
1. b. Exception for single family dwellings: For a single family dwelling, the finished lot grade may deviate from the pre-existing lot grade by no more than three vertical feet at any point along the pre-existing lot grade around the footprint of the single family dwelling.
2. For an accessory building: The lowest point of elevation adjacent to any wall of the structure.

The Planning Commission first held a work session on the referred text amendments to definitions on February 22, 2017 and then held a public hearing for the definitions on March 8, 2017. The public hearing was continued to the April 12, 2017 meeting where the Planning Commission recommended a modified version of the *finished lot grade* definition to Town Council. The modified version addresses the commercial lot deviation and allows for exceptions to the lot deviation rule if deemed to be for good cause and not contrary to the public interest. The Planning Commission recommended the following definition:

*Finished lot grade* means the finished surface of ground abutting a building or structure. The finished lot grade may deviate from the pre-existing lot grade by no more than three vertical feet at any point along the pre-existing lot grade around the footprint of the building or structure. The Director of Public Works may waive the three foot lot deviation requirement, if deemed to be for good cause and not contrary to the public interest.

The definition also more closely follows a previous Zoning Administrator's interpretation of the existing definition that the lot deviation requirement includes the footprint of the building structure, not just along the front setback line. Reference Figure 1, which shows how the definition of *finished lot grade* is currently enforced.

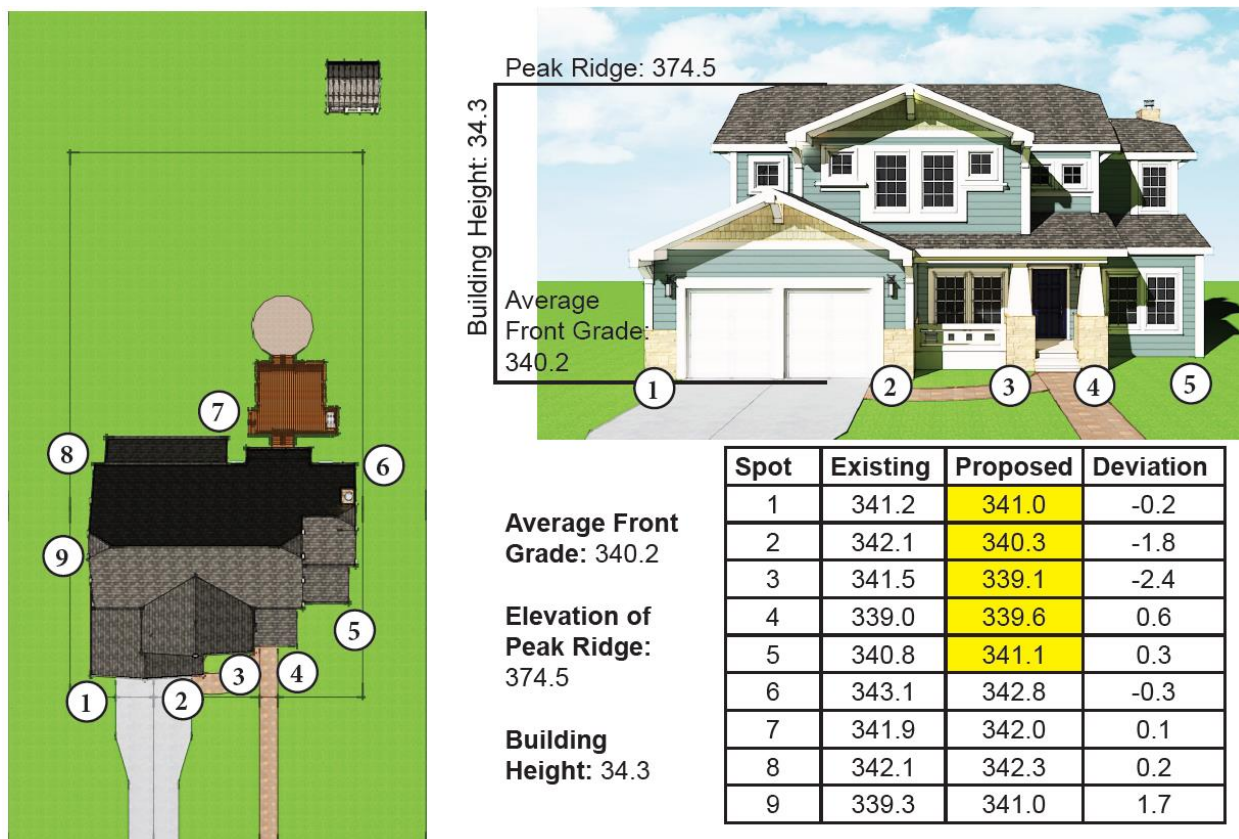


Figure 1 - Building Height Calculation and Lot Deviation Table

The Town Council considered amendments to the definition at the August 21, 2017 meeting. While Council voted to adopt other recommended changes to Article 2, Section 4 - Definitions, there was not a consensus to approve the recommended changes to the definition of *finished lot grade*. There was a concern that new homes could be built on mounds that are graded an additional three feet on top of existing graded mounds, to be referred to as “mushrooming.”

At its July 9, 2018 meeting, Council referred the definition for *finished lot grade* back to the Planning Commission and asked that the Planning Commission consider separate lot deviation rules for single-family detached dwellings and non-single-family detached dwelling structures.

### ***Staff Recommendations:***

#### Original July 30, 2018 Recommendation

Staff recommends that the Planning Commission recommend the definition as proposed at the April 12, 2017 meeting. The definition, as proposed, is clear, concise, and easy to enforce. It also helps to discourage dirt skirts but does allow for grading that permits best storm-water management practices. Planning Commission may consider having separate lot deviation

requirements for single-family detached dwellings versus other structures but should consider that there may be more severe grading issues for larger commercial and non-residential sites.

Revised August 8, 2018 Recommendation

Staff recommends an option with added language that will help better prevent “mushrooming.” The added text below, in purple, helps staff enforce more uniform and natural grading by being able to focus on the grading of lots abutting a lot to be redeveloped.

*Finished lot grade means the finished surface of ground abutting a building or structure. The finished lot grade may deviate from the pre-existing lot grade by no more than three vertical feet at any point along the pre-existing lot grade around the footprint of the building or structure. All over lot grading should be in accordance with the natural lay of the land. The Director of Public Works may waive the three foot lot deviation requirement, if deemed to be for good cause and not contrary to the public interest.*

Staff also recommends that structures, other than single-family detached dwellings, not be constrained by the lot deviation rule. Sites for development projects, other than infill lots for single-family detach dwellings, often are larger in size and there can be more severe grading. Grading for these sites, such as commercial sites, are also subject to other restrictions, such as ADA compliance and the grading of the adjoining public streets. The added text below, in green, addresses these concerns.

*Finished lot grade means the finished surface of ground abutting a building or structure. For single-family detached dwellings, not including subdivisions, the finished lot grade may deviate from the pre-existing lot grade by no more than three vertical feet at any point along the pre-existing lot grade around the footprint of the building or structure, such that all over- lot grading shall be in accordance with the natural lay of the land. The Director of Public Works may waive the three foot lot deviation requirement, if deemed to be for good cause and not contrary to the public interest.*

Staff recommends that the exceptions for the single-family dwellings be relocated to a more appropriate section in the Code, such as an exceptions section, when the zoning ordinance is amended and re-written.