

Issue
last brought up in MAY 2020.



TOWN OF DURHAM

8 Newmarket Road
Durham, NH 03824
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1st Street design
but suggested by
Em's siblings.

AGENDA ITEM: **#14** TS

DATE: April 20, 2026

COUNCIL COMMUNICATION

INITIATED BY: Councilor Carden Welsh

AGENDA ITEM: DISCUSSION AND POSSIBLE ENDORSEMENT OF RECOMMENDATION BY COUNCILOR CARDEN WELSH TO ADD BACK DESIGN STANDARDS FOR ALLOWING A FIFTH STORY IN PORTIONS OF THE CB-1 ZONING DISTRICT.

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Councilor Carden Welsh

AGENDA DESCRIPTION:

In an email to Planner Michael Behrendt, Councilor Carden Welsh noted that a few years ago the council looked at the standards governing a fifth story in the Central Business Zoning District. He remembered Jim Lawson did some calculations, and he believed there was also some input from Doug Bencks as to how this could be done, while retaining a small-town feel and human scale. Standards governing five story buildings were then added to the ordinance, specifically in Section 175-42, B.6.

These standards were removed when the ordinance changed to a four-story limit downtown. Now that the Planning Board is considering five stories for part of the downtown, Carden believes these standards should be added back in their prior form. The Planning Board will be discussing the five-story limit at their meeting on April 22, so Carden would like the Council to consider endorsing some language at their April 20 meeting.

Attached are four examples created by Carden, showing Section 175-42, B.6.

- First (Exhibit 1) shows the ordinance prior to the adoption of the four-story limitation.

- Second (Exhibit 2) shows the ordinance after adoption of the four-story limitation.
- Third (Exhibit 3) shows the adjustments that need to be made to bring the former standards back into the ordinance.
- And fourth (Exhibit 4) shows how the ordinance would read following the return of the standards.

LEGAL AUTHORITY:

N/A

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council hereby endorses the recommendation of Councilor Carden Welsh to add back design standards for allowing a fifth story in portions of the CB-1 Zoning District.

From: Carden Welsh <crwelsh@me.com>
Date: Tuesday, April 14, 2026 at 8:53 AM
To: Michael Behrendt <mbehrendt@ci.durham.nh.us>
Cc: Todd Sellig <tsellig@ci.durham.nh.us>
Subject: Five Stories

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Michael,

I did not realize that you were sending my note out broadly, so it was a bit rough and there can be confusion with the exhibits. I have cleaned it up so could you please resend this version to all who received the prior one?

Thanks,

Carden

As I recall, a few years ago the council looked at the standards governing a fifth story in the CBD. I remember Jim doing some calculations and I believe there was some input from Doug Bencks as to how this could be done, while retaining a small-town feel and human

scale. Standards governing five story buildings were then added to our ordinances in Section 175-42, B.6.

Unfortunately, these standards were removed when we went to a four-story limit downtown, as they were no longer valid. Now that it appears that we will be moving to five stories for part of the downtown, I believe these standards should be added back to in their prior form. If we do it now, the planning board can consider them, as I understand they will be discussing the five-story limit at their meeting on April 22.

I have attached four pages, from Section 175-42, C.6. for your consideration.

First (Exhibit 1) shows our ordinance prior to the adoption of the four-story limitation.

Second (Exhibit 2) shows the ordinance after adoption of the four-story limitation.

Third (Exhibit 3) shows the adjustments that need to be made to bring the former standards back into our ordinances.

And fourth (Exhibit 4) shows how the ordinance would read following the return of the standards.

Thank you for your consideration. Let me know how we should best discuss this at our council meeting on the 20th.

Best,

Carden

Exhibit 1

Ordinance Prior to Adoption of 4 Stories Across CB-1 (Feb 2026)

6. Maximum number of stories – The maximum number of permitted stories is 4 except as restricted in sections 8 and 9 below. However, the maximum number of permitted stories in the remainder of the district outside of the area covered in sections 8 and 9 below, may be increased to 5 stories subject to all of the following provisions:
 - a. Adding a story is permitted by conditional use.
 - b. The provisions regarding percentage of office/retail use apply.
 - c. The additional fifth story must be set back from the first floor as follows:
 - i. by at least 10 feet where any side of the building faces a public street;
 - ii. by at least 20 feet where any side of the building faces Main Street; and
 - iii. by at least 25 feet where any side of the building faces an adjacent lot (not separated by a street) situated in the section of the Central Business District that is restricted to 3 stories (Section 175-42 B. 8. and 9., or as those subsections may be renumbered in the future).

The setback in i. and ii., above, also applies where they may be any intervening street or road that has never been built but which appears on an approved plat or other Town plan.

- d. The Planning Board must determine that the additional story will not have an adverse impact upon the streetscape, giving particular consideration to scale and mass (See Architectural Regulations for guidance).
- e. **Building height.** When an additional story is incorporated under this section the maximum building height is 60 feet.

Exhibit 2

Ordinance Following Adoption of Four Stories Downtown for All of CB-1 (Feb 2026)

6. **Maximum number of stories** – The maximum number of permitted stories is 4.

Exhibit 3

Suggested Changes to Make Initial Ordinance Compatible with the Change to Five Stories

6. Maximum number of stories – The maximum number of permitted stories is 4 except as ~~restricted in sections 8 and 9 below~~ **permitted in the 175-54 Table of Dimensions**. However, the maximum number of permitted stories in the remainder of the district outside of the area covered ~~in sections 8 and 9 below~~ **by 4 stories**, may be increased to 5 stories subject to all of the following provisions:
- ~~a. Adding a story is permitted by conditional use.~~
 - ~~b. The provisions regarding percentage of office/retail use apply.~~
 - c. The additional fifth story must be set back from the first floor as follows:
 - i. by at least 10 feet where any side of the building faces a public street;
 - ii. by at least 20 feet where any side of the building faces Main Street; and
 - iii. by at least 25 feet where any side of the building faces an adjacent lot (not separated by a street) situated in the section of the Central Business District that is restricted to 3 4 stories. (~~Section 175-42-B, 8, and 9, or as these subsections may be renumbered in the future~~).
- The setback in i. and ii., above, also applies where they may be any intervening street or road that has never been built but which appears on an approved plat or other Town plan.
- d. The Planning Board must determine that the additional story will not have an adverse impact upon the streetscape, giving particular consideration to scale and mass (See Architectural Regulations for guidance).
 - e. Building height. When an additional story is incorporated under this section the maximum building height is 60 feet.

Exhibit 4

Ordinance Revised to Restore Original Standards for Five Stories

6. **Maximum number of stories** – The maximum number of permitted stories is 4, **except as permitted in the 175-54 Table of Dimensions**. However, the maximum number of permitted stories in the remainder of the district outside of the area covered by **4 stories**, may be increased to 5 stories subject to all of the following provisions:

- c. The additional fifth story must be set back from the first floor as follows:**
- i. by at least 10 feet where any side of the building faces a public street;**
 - ii. by at least 20 feet where any side of the building faces Main Street; and**
 - iii. by at least 25 feet where any side of the building faces an adjacent lot (not separated by a street) situated in the section of the Central Business District that is restricted to 4 stories.**

The setback in i. and ii., above, also applies where they may be any intervening street or road that has never been built but which appears on an approved plat or other Town plan.

- d. The Planning Board must determine that the additional story will not have an adverse impact upon the streetscape, giving particular consideration to scale and mass (See Architectural Regulations for guidance).**
- e. Building height. When an additional story is incorporated under this section the maximum building height is 60 feet.**

From: Todd Selig
To: Karen Edwards
Subject: FW: *Re: Potential Five Story Ordinance - email copied to Carden Welsh
Date: Wednesday, April 15, 2026 5:05:10 PM
Attachments: [5 Story Setback Perspectives.pdf](#)

Dear Karen,

Please include this email and Jim's attachments to accompany Carden's communication on the 5-story height issue.

Todd

Todd I. Selig, Administrator
Town of Durham, NH
8 Newmarket Rd., Durham, NH 03824 USA
Office: 603.868.5571 | Mobile: 603.817.0720
www.ci.durham.nh.us | tselig@ci.durham.nh.us

From: Jim Lawson <jlawson@ci.durham.nh.us>
Date: Wednesday, April 15, 2026 at 3:43 PM
To: Todd Selig <tselig@ci.durham.nh.us>, Michael Behrendt <mbehrendt@ci.durham.nh.us>, external forward for cwelsh <cnwelsh@me.com>
Subject: RE: *Re: Potential Five Story Ordinance - email copied to Carden Welsh

Todd and Michael,

Attached are the perspectives that I created when we were originally discussing 5 stories and the desirability of a 5th story setback. They might help the conversation at the council and planning board.

Thanks,
Jim

From: Todd Selig <tselig@ci.durham.nh.us>
Sent: Tuesday, April 14, 2026 8:50 AM
To: Michael Behrendt <mbehrendt@ci.durham.nh.us>; external forward for cwelsh <cnwelsh@me.com>
Subject: *Re: Potential Five Story Ordinance - email copied to Carden Welsh

Thank you, Michael. Carden and I spoke yesterday and we're going to potentially include this as an agenda item for the Council to consider on April 20th in order to provide the Planning

Board some guidance.

Todd

Todd I. Selig, Administrator

Town of Durham, NH

8 Newmarket Rd., Durham, NH 03824 USA

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From: Michael Behrendt <mbehrendt@ci.durham.nh.us>

Date: Monday, April 13, 2026 at 2:23 PM

To: external forward for cwelsh <cwelsh@me.com>, Todd Selig <tselig@ci.durham.nh.us>

Subject: RE: Potential Five Story Ordinance

Hi Carden,

You raise a good point. There were particular required setbacks for the 5th story when it was allowed by conditional use. Now that it would be allowed again by right, do the Planning Board and Town Council want to re-incorporate those same standards or some variation on them?

I will pass on your email and the attachments to the Planning Board for their consideration at the public hearing next Wednesday.

Michael Behrendt

Durham Town Planner

8 Newmarket Road

Durham, NH 03824

(603) 868-8064

From: Carden Welsh <cwelsh@me.com>

Sent: Monday, April 13, 2026 2:08 PM

To: Todd Selig <tselig@ci.durham.nh.us>; Michael Behrendt <mbehrendt@ci.durham.nh.us>

Subject: Potential Five Story Ordinance

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Hi Todd and Michael,

As I recall, a few years ago the council looked at the standards governing a fifth story in the CBD. I remember Jim doing some calculations and I believe there was some input from Doug Bencks as to how this could be done, while retaining a small-town feel and human scale. Standards governing five story buildings were then added to our ordinances in Section 175-42, B.6.

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And fourth is how the ordinance would read following the return of the standards.

Thank you for your consideration. Let me know how we should best discuss this at our council meeting on the 20th.

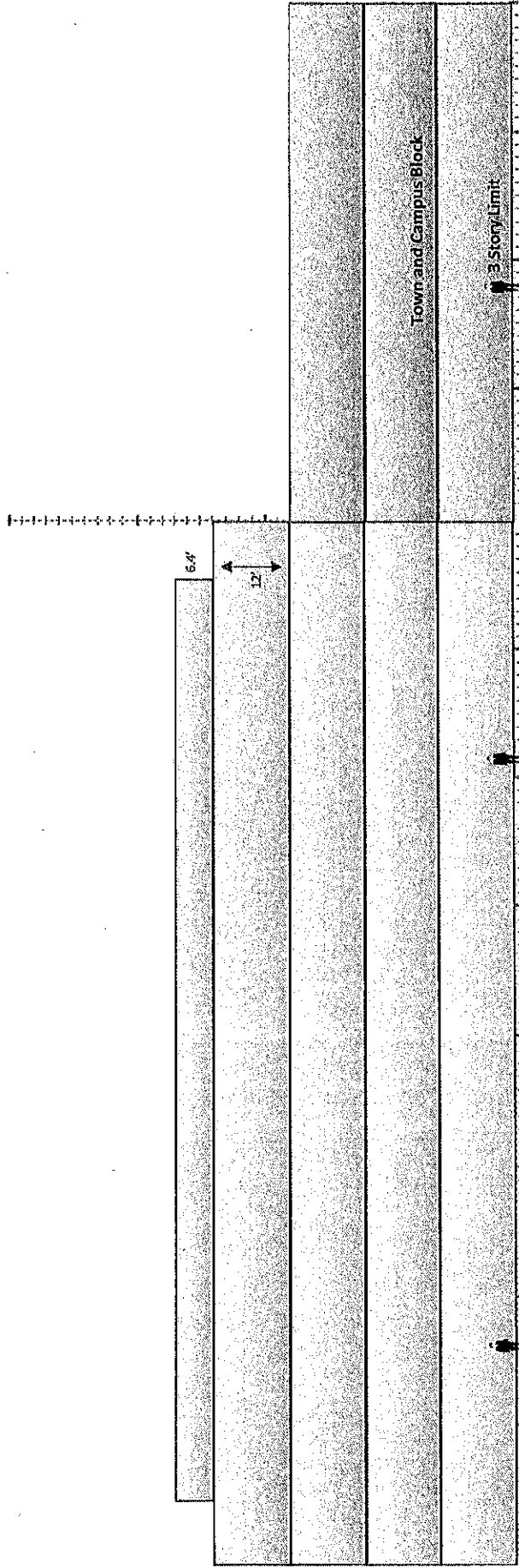
Best,

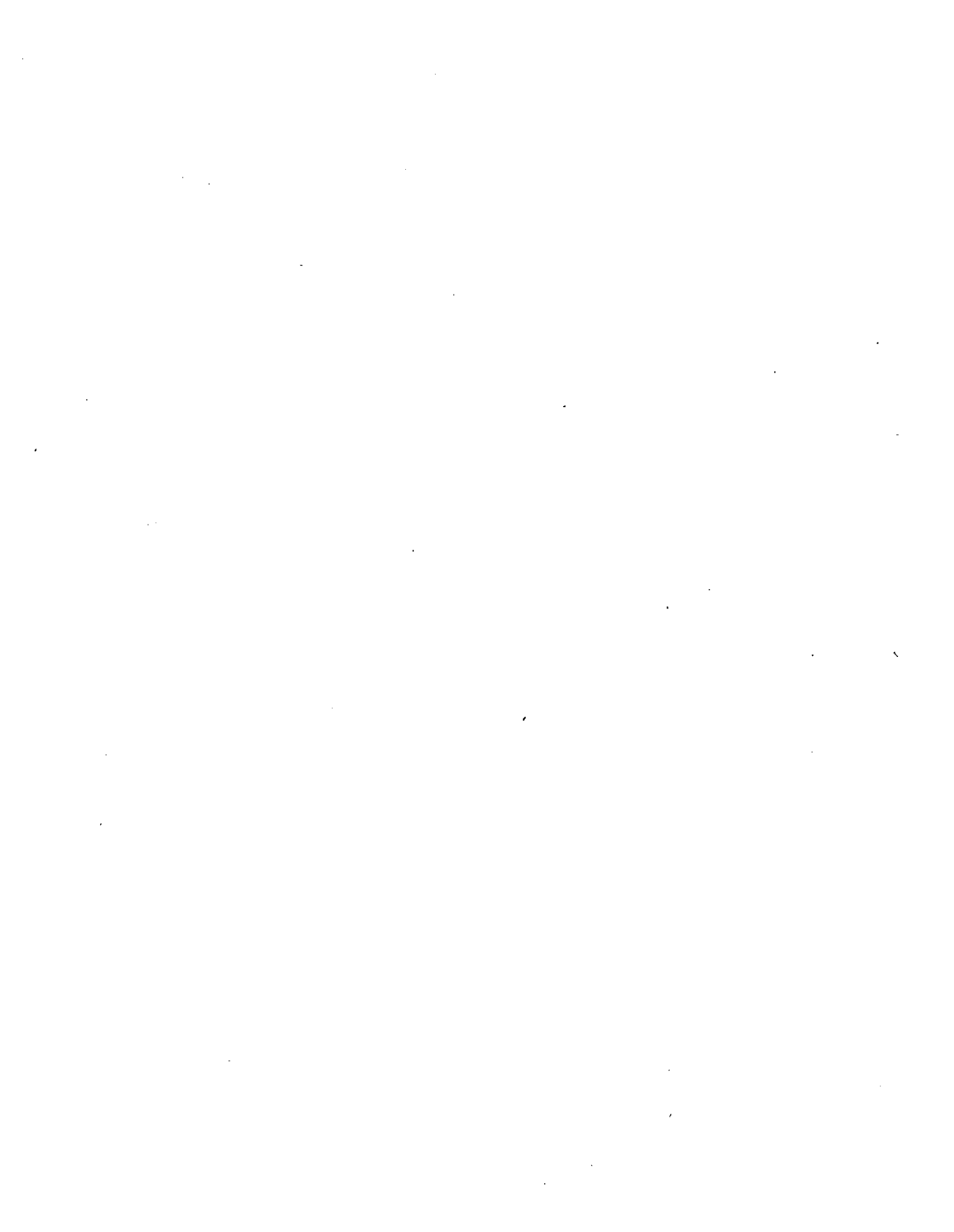
Carden

FRONT PERSPECTIVE AT 75 FEET

Original Proposed 5th Story Setback

- Stories: 5
- Story Height: 12'
- Fifth Story Front Setback: 10'
- Fifth Story Side Setback: 10'
- Viewed From: 70' from the front (Sidewalk across Main Street)
- Viewed by: 6' Person on Plane of Building
- Fifth Floor Visible Below Roof: 6.4'

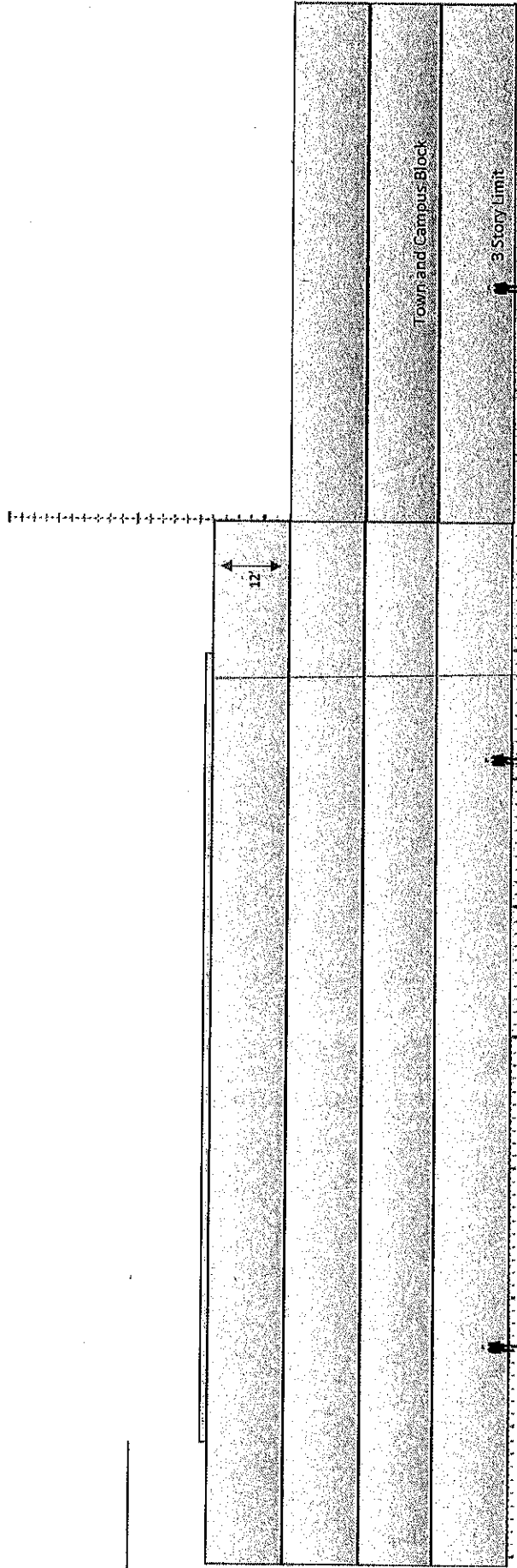




FRONT PERSPECTIVE AT 75 FEET

Revised Setback – 20'

- Stories: 5
- Story Height: 12'
- Fifth Story Front Setback: 20'
- Fifth Story Side Setback: 20'
- Viewed From: 75' from the front (Sidewalk Across Main Street)
- Viewed by: 6' Person on Plane of Building
- Fifth Floor Visible Below Roof: .8' (9.6")



FRONT PERSPECTIVE AT 75 FEET

Revised Setback - 25'

Stories: 5

Story Height: 12'

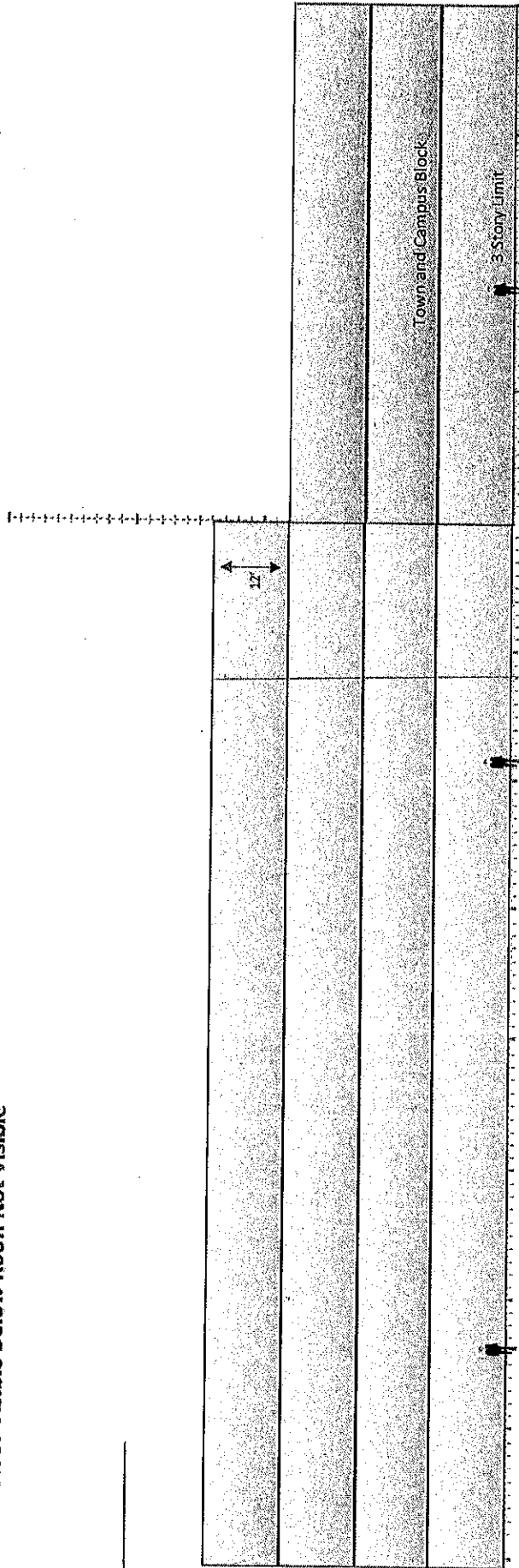
Fifth Story Front Setback: 25'

Fifth Story Side Setback: 25'

Viewed From: 75' from the front (Sidewalk Across Main Street)

Viewed by: 6' Person on Plane of Building

Fifth Floor Visible Below Roof: Not Visible



CORNER PERSPECTIVE AT 250 FEET

Original Proposed 5th Story Setback

Stories: 5

Story Height: 12'

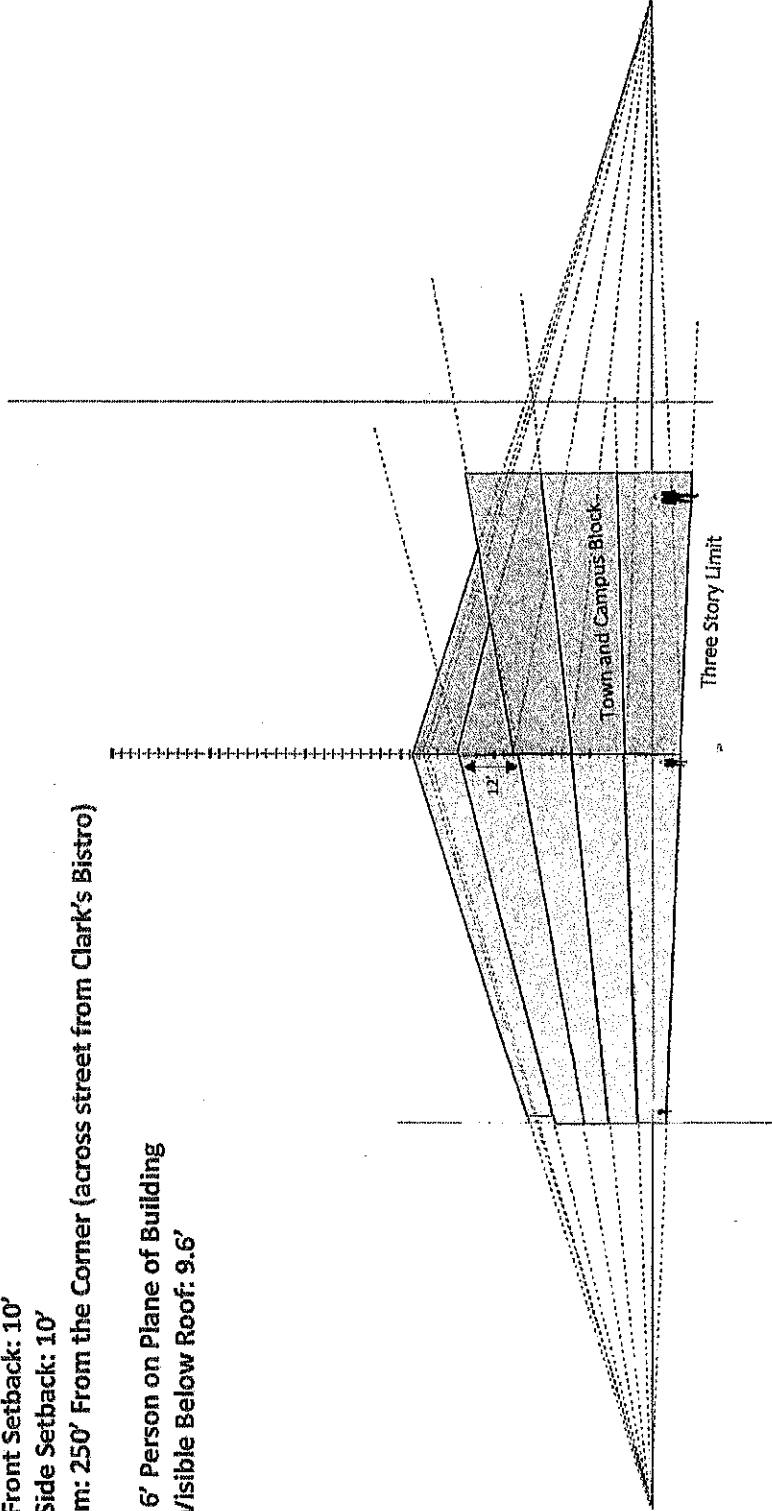
Fifth Story Front Setback: 10'

Fifth Story Side Setback: 10'

Viewed From: 250' From the Corner (across street from Clark's Bistro)

Viewed by: 6' Person on Plane of Building

Fifth Floor Visible Below Roof: 9.6'



CORNER PERSPECTIVE AT 250 FEET

Revised Setback - 20'

Stories: 5

Story Height: 12'

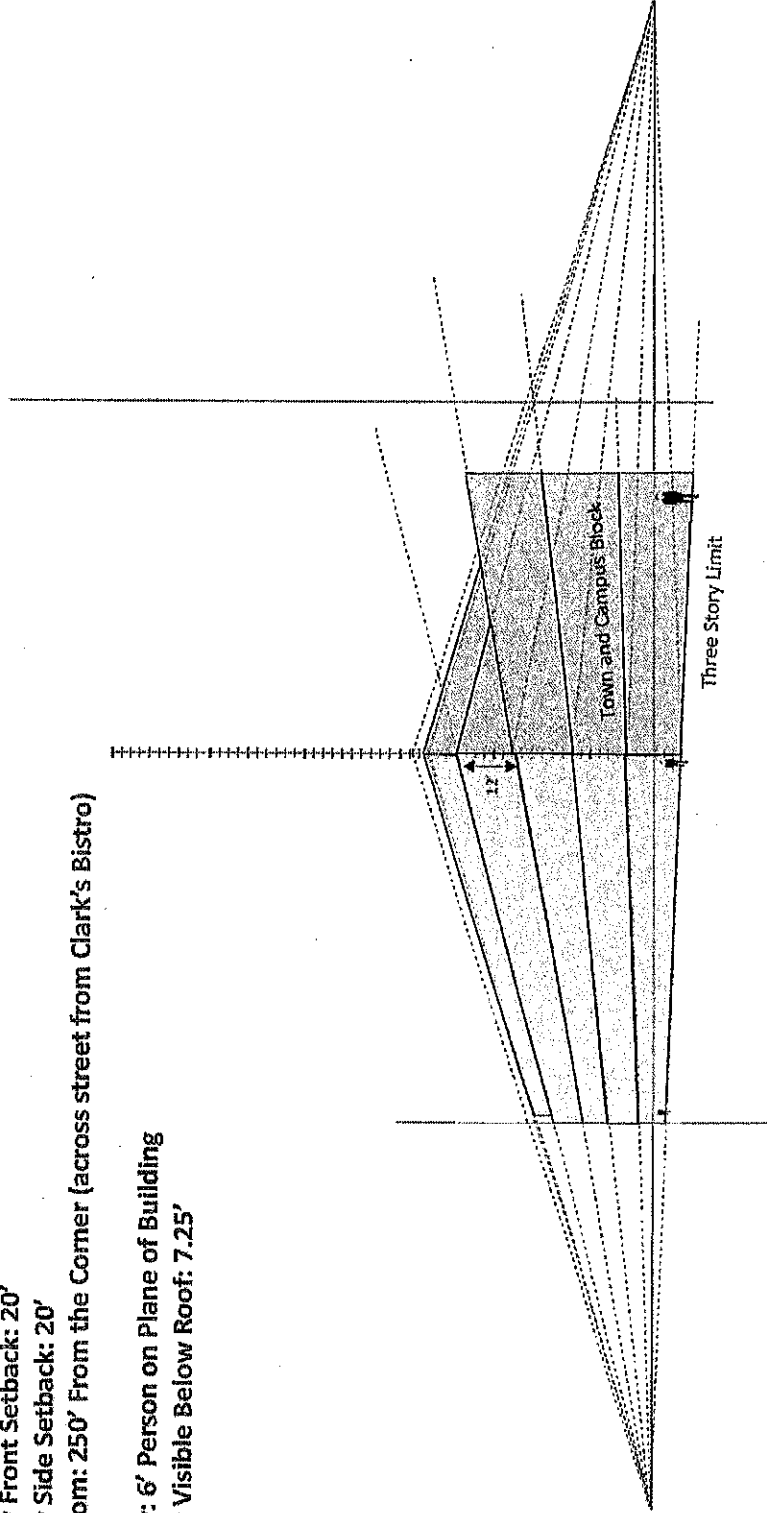
Fifth Story Front Setback: 20'

Fifth Story Side Setback: 20'

Viewed From: 250' From the Corner (across street from Clark's Bistro)

Viewed by: 6' Person on Plane of Building

Fifth Floor Visible Below Roof: 7.25'



CORNER PERSPECTIVE AT 250 FEET

Revised Setback - 25'

Stories: 5

Story Height: 12'

Fifth Story Front Setback: 25'

Fifth Story Side Setback: 25'

Viewed From: 250' From the corner (across street from Clark's Bistro)

Viewed by: 6' Person on Plane of Building

Fifth Floor Visible Below Roof: 6.1'

