



Legislation Text

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TO: Mayor Collins and Town Council

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DATE: June 22, 2017

CONTACT:

AGENDA TITLE:

Discussion of Statement of Direction for Hillside Code Updates (Article XXII of the Town Zoning Ordinance)

BACKGROUND

History

Hillside related matters can be found throughout the Town Code but are most prevalent in the Zoning Ordinance and Chapter XXII Hillside Development Regulations which is often referred to as the "Hillside Code."

On July 21, 2015, staff presented a list of topics relating to the Hillside Code to the Planning Commission as part of a periodic review and update of the Town Code. In January of 2016, the Town Council identified several Quality of Life Initiatives including an Update to the Hillside Code. Staff worked with then Planning Commissioner Moore in preparing a draft ordinance identifying topics of discussion and potential amendments. The draft ordinance was reviewed by the Planning Commission at the December 20, 2016 and January 3, 2017 work sessions and the January 17, 2017 citizen review work session. In March and May of 2017, the Town Council identified Hillside as one of its five top initiatives for the 2017-2018 term. Along with updating the Hillside Code, other hillside related matters were identified. These included safety concerns, committee structure, hillside disturbances off the applicant property, variance processing and others.

The Town Council also reviewed a draft Statement of Direction at the June 8, 2017 work session. There was discussion about establishing safety standards, hillside assurance/bond criteria, the potential use of stealth solar technology, the need to minimize the impact of cantilevers, and discussion if the La Place du Sommet subdivision is bound by the 1984 hillside code.

Purpose

As a result of previous reviews, staff and the Planning Commission examined nineteen topics pertaining to the Hillside Code. Subsequent review by Councilmembers Moore and Pace added a couple of additional topics. This study session seeks to draft a statement of direction (SOD) to the Planning Commission focusing their efforts on desired topics and providing policy guidance on the

topics selected. The plan is for that SOD to be adopted by Council during the Regular Meeting portion of the agenda.

DISCUSSION/FACTS

During their review, the Commission was generally agreeable with the proposed modifications to the Hillside Code proposed by then Planning Commissioner Scott Moore and staff regarding Material Palette, Demolition on Hillside Properties, Hillside Study Models, Accessory Structures, the 40' Overall Height Measurement, the Process to Remove a Property from the Hillside Designation, and Defining which Hillside Code applies to the La Place du Sommet Subdivision.

Enclosed is the draft Hillside Code amendments that were last reviewed by the Planning Commission on January 17, 2017. The changes incorporated from the December 20th Commission meeting are highlighted in yellow, the changes incorporated from the January 3rd Commission meeting are highlighted in blue, and changes and input from the January 17th Commission meeting are highlighted in green. The green January 17 changes have NOT been in any previous version of this redlined ordinance distributed to Council. They were discussed and agreed upon by the Planning Commission at the January 17, 2017 meeting, but had not yet been incorporated into the working draft until this packet.

The scope of each topic will be summarized and the topics will be grouped into four categories or sections. The first category (in green) identifies the topics that received consensus from Planning Commission. This category identifies the issue of each topic, the decision of the Planning Commission, and references the applicable page number in the attached red-lined draft ordinance. The second category (in red) identifies the topics that did not receive consensus from the Commission or need additional work. For these topics, staff identifies the issue related to each topic, the policy options under discussion and references the applicable page number in the draft ordinance. Staff also does this for the remaining two categories. The third category (in orange) are new topics that were identified in the June 8th Council work session and the fourth category (in blue) identified recommendations from Council Member Moore and Council Member Pace. Their associated language amending the Hillside Code, can be found in the attached second redlined version of Ordinance 2017-09.

The draft Hillside Code addresses the following topics:

1. Retaining Walls and Screen Walls.
2. Material Palette and Light Reflective Value (LRV).
3. Hillside Reviews & Administrative Hillside Chair Review.
4. Disturbed Area Calculation.
5. Demolition on Hillside Properties.
6. Hillside Model.
7. Accessory Structure and Accessory Structure Height Limit (including raised decks/platforms).
8. 40' Overall Height Measurement.
9. Driveway Disturbance Credit.
10. Lighting.
11. Process to Remove a Property from Hillside Designation.
12. Hillside Assurance/Bond.
13. Define which Hillside Code applies to La Place du Sommet Subdivision.
14. Solar Panels and Hillside Review Process.

- 15. Cantilever Limitations.
- 16. On-Site Retention.
- 17. Pool Barriers and Perimeter Fencing Standards.
- 18. Administrative Relief on Hillside Lots (Article XXII)
- 19. Add Safety Section to Hillside Code
- 20. Eliminate or Reduce Administrative Chair Reviews
- 21. No Change to Administrative Relief on Hillside Lots

Note item 13 has changed from green to red since June 8, based upon research since the last study session.

The Leadership Team believes it is possible, and most efficient, if Mayor and Council first address the items in green listed above. During the June 22, 2017 study session, staff will ask members of Council if they want to discuss any of the items in green. A review of each green item during the meeting is NOT planned. Think of it as the “consent agenda” portion of the SOD and will only be discussed if pulled by a member. Therefore, please review the action report, the SOD, and the redlined draft ordinance to assure comfort with the green item.

Topics with Planning Commission Consensus

- A. **Material Palette and Light Reflective Values (LRV).** There are two issues related with this topic: 1) often, applicants choose colors that meet the LRV requirement but do not blend in with the surrounding hillside, and 2) the Hillside Building Committee (HBC) is very limited in approving contrasting colors. Language has been added to the code to emphasize that the color palette for the improvements must blend in with the surrounding hillside. Also, language has been added to the code to give the HBC more latitude in approving contrasting colors when deemed appropriate. This would allow the HBC to determine if accent materials and colors can be placed on the house that is fully screened by the hillside. Please reference page 19 of the draft ordinance regarding this amendment.
- B. **Hillside Reviews and Administrative Hillside Chair Reviews.** There are two issues related with this topic. First, the code does not clearly identify all four types of hillside reviews. Language has been added to the code to clarify the type and scope of each review. The second issue is to increase the scope of the Hillside Chair review. Currently, the code does not allow the Chair to review projects that result in additional disturbance, additional site walls, increase the height of the house, add more than 1,000 square feet of footprint, or create an adverse visual impact. Often, smaller projects such as adding planters or modifying an existing pool requires the full Committee review due to small increases in disturbance, walls, etc. Language has been added to the code to allow the Chair to review applications with a limited amount of increased disturbance, limited amount of site walls, and a limited amount of solar panels. Please reference pages 8 and 9 of the draft ordinance regarding this amendment. [Please note that Councilmember Moore & Pace have expressed disagreement with the current code and proposal. See item U. below.](#)
- C. **Disturbed Area Calculation.** Livable footprint and garage footprint to do not count as disturbed area under current code. The issue related to this topic is the concern that the code encourages larger homes on the hillside since the footprint is not included in the disturbance calculation. However, it was decided not to modify this section of the code since counting the

footprint as disturbance would create many non-conformities by causing existing homes to exceed their allowable disturbance and concerns that this amendment may trigger Prop 207 issues. Please reference pages 6 and 21 of the draft ordinance regarding this amendment.

- D. **Demolition on Hillside Properties.** The issue regarding this topic is that some contractors exceed the scope of demolition and grade undisturbed areas of the property during demolition. Language has been added to the code to require the existing disturbance boundary to be staked prior to demolition (in an attempt to help ensure the native hillside is not disturbed). Please reference pages 10 and 20 of the draft ordinance regarding this amendment.
- E. **Hillside Model.** The code requires a physical model. However, model making appears to be a dying art as applicants are having a difficult time finding model makers. Language has been added to the code which allows applicants to submit computer generated models and establishes criteria for the computer models. Please reference page 14 of the draft ordinance regarding this amendment.
- F. **Accessory Structures & Heights.** The code identifies a 24' height limit for the house but does not clearly define the height for accessory structures. The decision was made to add language to the code to clarify that accessory structures are limited to a maximum height of 16' height. Also, the code is unclear regarding structure such as raised pool and raised patio decks. The decision was made to add language to the code to clarify that these structures must meet the same setback requirements as pool and spas. Please reference pages 7, 17, and 19 of the draft ordinance regarding this amendment.
- G. **40' Overall Height Limit.** The code identifies that the maximum overall height of a building or structure shall not exceed 40'. However, the code does not clearly identify where the height measurement is taken from. Language will be added to the code to clarify that this measurement is taken from the natural grade of the lowest structure to the top of the tallest structure. Please reference page 17 of the draft ordinance regarding this amendment.
- H. **Process to Remove Property from Hillside.** The code does not identify the process to remove the hillside designation from a property. Language has been added to the code to identify this process. Please reference page 34 of the draft ordinance regarding this amendment.
- I. **Pool Barriers and Perimeter Fencing Standards.** The only fences or walls allowed on hillside properties are view pool barrier fences, retaining walls, screen walls, and view guard rails. As a result, many applicants expand their pool barriers in an attempt to create a yard. Language has been added to the code to clarify that the pool barrier must be appropriate for the site and the minimum amount need to secure the pool. Please reference page 26 of the draft ordinance regarding this amendment.
- J. **Administrative Relief on Hillside Lots.** Administrative relief is essentially an administrative variance in which an applicant may request a deviation of up to 10% of the development standard. However, administrative relief on hillside properties is limited to solar panels and entry gates. Language has been added to the code to make administrative relief on hillside lots consistent with flat land lots. Please reference page 34 of the draft ordinance regarding this amendment. [Again note that Councilmember Moore and Pace have expressed](#)

disagreement with this provision. See item V. below.

- K. Retaining Walls & Screen Walls.** The code does not clearly identify if retaining walls and screen walls need to meet the setback for fences. Therefore, language has been added to the code to clarify that all walls must meet setbacks, unless needed to access the property (such as driveway retaining walls) or if the walls are needed to prevent erosion or flooding. Also, retaining walls are currently limited to a height of 6" above the material they retain. However, due to safety concerns, staff has received requests to allow driveway retaining walls to extend higher than 6" in order to serve as a vehicle wheel stop. Language has been added to the code to allow driveway retaining walls to extend 18" above the material they retain provided they comply with the 8' maximum retaining wall height limit. Please reference pages 24 - 26 of the draft ordinance regarding this amendment.

Topics without Planning Commission Consensus or Requires Additional Review

- L. Define which Hillside Code applies to La Place du Sommet.** The Town has traditionally applied the 1984 Hillside code to the La Place du Sommet subdivision. Staff was proposing to update the code to clarify this; however, additional research is needed to determine which code applies to this subdivision. Please reference page 34 of the draft ordinance regarding this amendment.
- M. Retaining Walls.** The International Residential Code (IRC) requires a 36" tall guard rail adjoining walkways that have a fall potential of 30" or more. However, many applicants request a 42" guard rail due to safety concerns and ergonomics (e.g. that a 42" rail is easier to grasp than a 36" guard rail). The Council may specify a maximum guard rail height or provide the HBC the flexibility to determine an appropriate guard rail height for each site. Please reference page 26 of the draft ordinance regarding this amendment.
- N. Driveway Disturbance Credit.** The code has different standards for driveways that serve new homes and driveways that serve remodeled homes. Decorative driveways that serve new homes receive a partial credit toward their disturbed area calculation. However, decorative driveways that serve remodeled homes do not count as disturbed area. There is concern that the current code encourages and allows for excessively large driveways on remodeled homes since the decorative drives do not count as disturbed area. During the July 17th meeting, the Commission appeared to favor applying a similar standard to all decorative driveways and tasked Commissioner Campbell to work with staff and update the credit standards for driveways. Does Council agree with this approach? Please reference pages 22 - 23 of the draft ordinance regarding this amendment.
- O. Lighting.** Council recently updated the lighting code for flat land lots. However, no modifications were made to the lighting requirements for hillside lots. Does the Council want to apply some of the flat land lighting code updates to the Hillside Code? Potential updates include the prohibition of rope lights, adding Lux as another measure of light output, allow holiday lights to start on October 15th, and apply Kelvin requirements on lights. Pages 28 - 32 of the draft ordinance address current hillside lighting requirements.
- P. Hillside Assurance/Bond.** The hillside bond places the Town in a position to do or contract work necessary to cover, restore, and landscape an unfinished or abandoned hillside project.

Currently, the minimum hillside bond is based upon \$25 per cubic yard of total cut and fill associated with a project. There is concern that this amount is not sufficient to restore an abandoned or unfished site. During the January 17th meeting, the Commission was looking at increasing the bond amount to \$35 per cubic yard of total cut and fill, along with establishing a price index to adjust for inflation. The Commission also examined establishing criteria for a landscape bond (which would allow a Certificate of Occupancy to be issued prior to installation of the landscaping).

Also, during the June 8th meeting, Council discussed this topic and considered options such as increasing the multiplier, placing a lien on the property, identifying when the bond may be used, and requiring the submittal of bids to help determine the assurance amount. Which method of assurance does the Council prefer to collect finances that are of a sufficient amount to restore a site? The Council may direct the Commission to explore multiple alternatives such as increased multipliers, restoration bids, and liens on the property. Please reference pages 10 - 11 of the draft ordinance regarding this amendment.

Q. Solar Panels & Review Process. Code currently requires solar panels to be integrated into the building design and require the panels to be hidden from view when viewed at the same elevation or lower. Staff has received requests to place solar panels on pitched roofs; however, this does not meet code since the panels must be screened from the same elevation or lower (essentially limiting solar panels to flat roofs or pitched roofs that are fully screened by the surrounding hillside). During their review, the Commission also raised concern if the Town can regulate solar panels.

Due to the issues noted above, does the Council want to allow solar panels on pitched roofs? The Council may direct the Commission to examine the use of stealth solar technology on hillside lots and establish criteria that would allow the placement of solar panels on pitched roofs. Please reference page 9 and page 19 of the draft ordinance regarding this amendment

R. Cantilever Limitations. Currently, code limits the vertical element of a cantilever to a maximum height of 8' tall and the horizontal element to a maximum length of 16' long. Half of the area under the cantilever counts as disturbed area. During the January 17th meeting, the Commission discussed the possibility of creating separate cantilever requirements, one for buildings and another for pool decks. However, the Commission directed staff to work with Commissioner Campbell to research and develop updated cantilever requirements. Does the Council want to update or limit the cantilever requirements? The Council may specify cantilever requirements or direct Commission to research and propose updated standards that minimize the visual impact of cantilevers. Please reference pages 18 - 19 of the draft ordinance regarding this amendment.

S. On-Site Retention. Depending upon the scope of improvements, on-site retention is required on hillside properties. The most common form of on-site retention is the use of a retention basins. The retention basins must be designed in accordance with the Town's Storm Drain Design Manual and are included in the disturbed area calculation. However, applicants have expressed concern that the retention basins can use up a large portion of their allowable disturbance. Also, some applicants use retaining walls to create retention areas. The requirement for on-site retention was not intended to increase the amount of retaining walls or increase the amount of disturbance on the hillside. Due to the necessity of on-site retention,

does the Council want offer partial credit for retention basins? Design standards can be established to identify which retention basins receive credit (e.g. retention basin that do not use retaining walls and are vegetated with native plants, etc.). Please reference page 21 of the draft ordinance regarding this amendment.

Topics Identified during the June 8th Council Work Session & by Councilmembers Moore and Pace

- T. *Add a Safety Section in the Code.*** During the June 8th work session, the Council discussed the issue of creating a safety section in the Hillside Code. There was discussion on when safety comes into play on the development of a hillside property and the length of construction on hillside properties. The Council may direct the Commission to identify circumstance that trigger additional safety measures and reviews (such as enabling the Town to hire consultants to help review geotechnical reports or examine potential grading and drainage issues). The additional safety measures and reviews may be required at the Town's discretion. The Town may require the applicant to cover the cost of the additional review. Language regarding this can be added to Section 2205.VI. A (page 10) of the draft ordinance.
- U. *Administrative Hillside Chair Review.*** Council Member Moore and Council Member Pace recommend that this section of code be eliminated or reduced. Does the Council want to eliminate or reduce the scope of the Chair review? If the Council decides to eliminate this section of code, virtually all exterior improvements will require Hillside Committee review and approval. If the Council favors a reduced scope of Chair review, the Council may direct the Commission to evaluate the current requirements and determine which standards shall be reduced. Councilmember Moore expressed particular concern with the ability of the Chair to approve up to 1,000 square feet of additional footprint. Based upon Planning Commission review and as drafted in the attached ordinance, the Commission recommends increasing the scope of the Chair review in an attempt to help expedite smaller improvements. The current code enables the Chair to send an application to full Committee for review if the Chair believes the request has an adverse visual impact. If the Council prefers to expand the scope of the Chair review, language can be added to the code requiring the applicant to notify the any neighbors of the improvements that the Chair determines to be potentially affected by the improvement.
- V. *Administrative Relief on Hillside Lots.*** Council Member Moore and Council Member Pace recommend leaving this section of code in its current state and do not favor the expanding the scope of administrative relief on hillside lots. The Council may remove this topic from the code updates, direct the Commission to proceed with the current proposal of making administrative relief on hillside lots consistent with flat land lots, or direct the Commission to re-evaluate this topic.

Statement of Direction

A Statement of Direction (SOD) has been drafted and attached assuming the green items are accepted as drafted and the red, orange and blue items will receive direction from the Mayor and Council during the study session. Blue items were not specifically drafted in the SOD as they are contrary to the Green items and await Council direction.

Directions from the Mayor and Council to the Planning Commission generally come in one of three forms:

- 1) Identifies the problem and directs the PC to recommend a solution;

- 2) Identifies the problem and directs the PC to develop a solution consistent with the policy concept written in the SOD; or
- 3) Identifies the problem and directs the PC to use the specific ordinance language provided for the solution.

Staff will facilitate which of these forms of direction and the associated language Mayor and Council prefers during the study session presentation.

Attachments

- Draft Statement of Direction (SOD)
- Draft Hillside Ordinance with notes through the January 17, 2017 Planning Commission meeting
- Draft Hillside Ordinance with Council Member Moore and Council Member Pace's recommendations
- Power Point Presentation