



## Action Report

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**File #:** 17-283

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**TO:** Chair and Planning Commission

**FROM:** Eva Cutro, Community Development Director  
Paul Michaud, Senior Planner  
George Burton, Planner

**DATE:** September 5, 2017

**CONTACT:**

**AGENDA TITLE:**

Discussion of 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 Article XXII Hillside Development Regulations of the Zoning Ordinance 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 top five initiatives for the 2017-2018 term. On June 22, 2017, the Town Council issued a Statement of Direction (SOD) for the Hillside Code update.

**DISCUSSION/FACTS**

Since there has been a significant amount of work already done on the draft ordinance, the SOD identifies which updates or topics the Council agrees with (and do not require further changes) and identifies which topics need additional study and review by the Planning Commission.

The Town Council identified the following topics in the draft ordinance as appropriate and acceptable: Material Palette & Light Reflective Value, Reviews & Administrative Hillside Chair Review, Disturbed Area Calculation, Demolition on Hillside Properties, Hillside Models, Accessory Structures & Accessory Structure Height Limits, the 40' Overall Height Measurement, the Process to Remove a Property from the Hillside Designation, and Pool Barriers & Perimeter Fencing Standards. These topics are subject to a final non-substantive review and red-line revision by a Town Manager working

group (comprised of Councilmembers Moore and Pace). The Planning Commission is directed not to change the content of these items during subsequent reviews, unless the Commission submits a request to the Council for further direction.

The SOD identifies nine topics for Planning Commission review:

1. Retaining Walls.
2. Driveway Disturbance Credit.
3. Lighting.
4. Hillside Assurance/Bond.
5. La Place du Sommet Subdivision and applicable code.
6. Solar Panels and Hillside Review Process.
7. Cantilever Limitations.
8. On-Site Retention.
9. Add a Safety Section in the Code.

#### August 1, 2017 Planning Commission Work Session

The Commission reviewed and discussed the nine topics during the August 1, 2017 work session. There was consensus on three of the nine topics (e.g. limiting guard rails height to a maximum of 42" tall, including the area under a cantilever as disturbed area and floor area, and consensus that retention basins that do not use retaining walls and are revegetated back with native plants should receive partial disturbance credit). The Commission directed staff to work with Commissioner Campbell on Driveway Disturbance Credit and Hillside Assurance, Commissioner Strom on Lighting, and Commissioner Covington regarding stealth solar on pitched roofs. A copy of the August 1<sup>st</sup> meeting minutes is enclosed for reference.

#### Discussion

Staff worked with Commissioners Campbell, Strom, and Covington regarding the remaining six topics. The goal of this meeting is to review the proposed amendments and identify any additional changes or improvements. Below is a summary of the regarding the six remaining/outstanding topics:

1. ***Driveway Disturbance Credit.*** The current 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.

The draft code language changes the amount of credit given for new driveways and addresses the concern in which the current code may encourage excessively large driveways associated with remodeled homes. For new homes, decorative driveways will receive partial disturbance credit provided the driveway is located within 18" from natural grade. For remodeled homes, existing driveways that are resurfaced or reconstructed with decorative materials receive 100% disturbance credit. Any new portions of the driveway that extend beyond the existing driveway layout will receive a partial disturbance credit (provided the new portion of driveway

is located within 18" from natural grade). Below is a comparative summary of the current and draft code:

	Decorative Driveways for Remodeled Homes	Decorative Driveways for New Homes
Current Code	100% Disturbance Credit	50% Disturbance Credit if within 6" of Natural Grade 25% Disturbance Credit if over 6" of Natural Grade
Draft Code	100% Disturbance Credit for Existing Driveway Area New Driveway Beyond the Existing Layout/Driveway Area Receives Partial Credit: <ul style="list-style-type: none"> <li>▪ 50% credit within 6" of Natural Grade</li> <li>▪ 25% credit over 6" and under 18" of Natural Grade</li> <li>▪ 0% credit if 18" or greater than Natural Grade</li> </ul>	50% credit within 6" of Natural Grade 25% credit over 6" and under 18" of Natural Grade 0% credit if 18" or greater than Natural Grade

Please reference pages 22 - 23 of the draft ordinance regarding this amendment.

2. **Lighting.** Council directed the Commission to evaluate hillside lighting standards and limited the scope of review to address Kelvin requirements, adding Lux as another light measurement, and extending the holiday lighting to October 15<sup>th</sup>. The Commission directed staff to work with Commissioner Strom to update this section of code. The draft code addresses new items such as string and bulb lights, pole lights, and limits the amount of lighting around the house. Staff has concern that the proposed amendments exceed the scope of the SOD and recommends sending this portion of the code update back to the Council for further direction. Please reference pages 29 - 39 of the draft ordinance regarding this amendment.

3. **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 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. The draft language identifies two criteria or standards for the assurance. The assurance for new single family residences, major remodel/additions, and major site improvements will be calculated/based upon \$35 of total cubic yards of cut and fill need to restore the property back to natural grade. The assurance for minor remodels/additions and minor site improvements will be calculated/based upon \$35 of total cubic yards of cut and fill associated with the project. Staff would also like to discuss the appropriateness of establishing a minimum amount of assurance for all hillside projects (in addition to the noted calculations above). The assurance has also been tied to the landscaping of a hillside project. An applicant may request a temporary deferment on the installation of the landscaping; in which the Town may hold the assurance until the landscaping is installed in accordance with the approved plans. Please reference pages 10 - 11 of the draft ordinance regarding this amendment.

4. **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, the Town Attorney was researching this to determine which code or which portions of the 1984 code apply to the La Place du Sommet subdivision. Council has identified that the code update shall incorporate amendments based upon research from the Town Attorney. The Town Attorney's research has identified that only that only the disturbance limits from the 1984 code apply to several lots.
  
5. **Solar Panels.** Code currently requires solar panels to be integrated into the building design and requires 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). The Council directed the Commission to explore the use of stealth solar technology and to evaluate the placement of solar on pitched roofs.

The draft language allows solar panels to be placed on pitched roofs when the panels are screened from the same elevation or lower by the surrounding hillside or hillside cut. The draft language also allows solar shingle and solar tiles to be placed on pitched roof provided they blend in with the design of the building and have a light reflective value of 38% or less. Please reference pages 19 - 20 of the draft ordinance regarding this amendment

6. **Add a Safety Section in the Code.** The Council directed the Commission to identify standards and processes 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 draft language identifies that the Town may require construction staging and safety plans and that the Town may hire an outside firm to assist with or provide a safety review. It also identifies that any fees associated with the outside safety review are an additional application fee and must be paid by the applicant.

#### Next Steps

Based upon input and consensus of the Commission, staff will continue to modify and refine each topic. It is anticipated that additional work study sessions will be needed prior to scheduling a public hearing.

#### Attachments

- Statement of Direction (SOD)
- Draft Hillside Ordinance
- Sample images of stealth solar applications
- Articles regarding Hillside Construction Accidents
- August 1, 2017 Planning Commission Meeting Minutes
- Hillside Ordinance Storm Water Email from Commissioner Strom