



## Legislation Text

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**File #:** 17-260, **Version:** 1

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**TO:** Chair and Planning Commission

**FROM:** Eva Cutro, Community Development Director  
Paul Michaud, Senior Planner  
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**DATE:** August 1, 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.

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, changes and input from the January 17<sup>th</sup> Commission meeting are highlighted in green, and the areas highlighted in grey address direction from the June 22<sup>nd</sup> Statement of Direction. The scope of each SOD topic is summarized below:

1. **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 identified that the Hillside Committee shall have the flexibility to determine an appropriate guard rail height for each site. Please reference page 26 of the draft ordinance regarding this amendment.
2. **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 17<sup>th</sup> meeting, the Commission appeared to be in favor of applying a similar standard to all decorative driveways and tasked Commissioner Campbell to work with staff and update the credit standards for driveways. Council has identified that the Commission should conduct further research to develop standards and credits for driveways that serve new and remodeled homes. Staff would like to receive input from Commission on potential development standards for decorative driveways and recommends that staff continues to work with Commissioner Campbell in drafting language for this section of code. Please reference pages 22 - 23 of the draft ordinance regarding this amendment.
3. **Lighting.** Council directed the Commission to evaluate hillside lighting standards and has 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>. Please reference pages 29, 31, and 33 of the draft ordinance regarding this amendment.

4. **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 unfinished site. During the January 17th meeting, the Commission was looking at increasing the bond amount to \$35 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.

The Council directed the Commission to explore different ways to establish a realistic and enforceable amount of assurance, establish thresholds for when the assurance should be called to mitigate impacts including storm water, safety, visual, boulders, etc. to existing properties, and identify a landscape assurance solution. Staff would like to receive input from Commission on potential development standards for decorative driveways and recommends that staff continues to work with Commissioner Campbell in drafting language for this section of code. Please reference pages 10 - 11 of the draft ordinance regarding this amendment.

5. **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 is doing research to determine which code or which portions of the 1984 code apply to this subdivision. Council has identified that the code update shall incorporate amendments based upon research from the Town Attorney. Please reference page 35 of the draft ordinance regarding this amendment.
6. **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). The Council directed the Commission to explore the use of stealth solar technology and to evaluate the placement of solar on pitched roofs. Photos of solar shingles and solar tiles have been included in the packet for review. Staff would like to receive input from the Commission on potential development standards for stealth solar technologies that would be visible or allowed to be placed on pitched roofs. Please reference page 19 of the draft ordinance regarding this amendment
7. **Cantilever Limitations.** Currently, the 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' tall. Half of the area under the cantilever counts as disturbed area. During the January 17<sup>th</sup> meeting, the Commission discussed the possibility of creating separate cantilever requirements, one for buildings and another for pool decks. The Commission directed staff to work with Commissioner Campbell to research and develop updated cantilever requirements. However, the Council directed the Commission to add language to the code to prohibit cantilevered driveways, establish criteria that minimizes the visual impact and discourages the use of cantilevers, and limits cantilevers to a maximum limit of 8' vertical and 4' horizontal. The current draft appears to address many of the items noted in the SOD. Staff would like to review the current draft with the Commission and make any edits as needed to further compliance with the Statement of Direction. Please reference page 18 of the draft ordinance regarding this amendment.

8. **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 retention basins. The retention basins must be designed in accordance with the Town's Storm Drainage 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. The Council has directed the Commission to identify that on-site retention and detention shall be in accordance with the Town's Storm Drainage Design Manual and develop standards that will allow retention basins without retaining walls to receive partial disturbance credit. The current draft appears to address many of the items noted in the SOD. Staff would like to review the current draft with the Commission and make any edits as needed to further compliance with the Statement of Direction. Please reference page 21 of the draft ordinance regarding this amendment.
9. **Add a Safety Section in the Code.** The Council has 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 additional safety measures and reviews may be required at the Town's discretion during the plan review process and/or construction. The Commission shall examine the typical cost of the additional review in those standards and modify the application fee. Articles regarding hillside construction accidents have been included in the packet to identify potential safety concerns associated with hillside development. Draft language regarding this topic has been added to page 11 of the draft ordinance.

#### Next Steps

Based upon the scope of proposed changes to the code, it is anticipated that additional work study sessions will be needed prior to scheduling a public hearing. Staff will continue to refine the draft ordinance based upon input from the Commission and the community.

#### Attachments

- Statement of Direction (SOD)
- Draft Hillside Ordinance
- Sample images of stealth solar applications
- Articles regarding Hillside Construction Accidents