



## Legislation Details (With Text)

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**Title:** Discussion of Hillside Code Updates (Article XXII of the Town Zoning Ordinance)  
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**Attachments:** 1. Statement of Direction Hillside Code Update, 2. 032218 Draft Hillside Ordinance Tract Change, 3. 032218 Draft Hillside Ordinance Clean, 4. Alternate Planning Commission Hillside Draft Ordinance, 5. Power Point Hillside Code Amendments

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**TO:** Mayor Collins and Town Council

**FROM:** Eva Cutro, Community Development Director  
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**DATE:** March 22, 2018

**CONTACT:**

**AGENDA TITLE:**

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

**Town Value(s):**

- ☒ Primarily one-acre, residential community
- ☐ Limited government
- ☐ Creating a sense of community
- ☐ Partnerships with existing schools and resorts to enhance recreational opportunities
- ☐ Improving aesthetics/creating a brand
- ☒ Preserving natural open space

The Hillside Code Update will aid in the protection of the hillside environment and help provide for the safety and welfare of Town.

**Council Goals or Statutory Requirements:**

The Hillside Code Update meets a Town Council Quality of Live Initiative.

## 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.

The Planning Commission reviewed the hillside code update at six work sessions (starting on July 11, 2017) and 3 public hearings/meetings. On December 19, 2017, the Planning Commission voted 5 to 1, to forward the draft Hillside Code to the Town Council with a recommendation of approval.

## DISCUSSION/FACTS

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

The scope of each topic is summarized and the topics are grouped into two categories. The first category consists of ten topics that were deemed acceptable by Town Council and were subject to a non-substantive review by a Town Manager working group (comprised of Councilmembers Moore and Pace). The acceptable topics are highlighted in **green (bold)**. The second category consists of nine topics that were subject to Planning Commission review. The nine topics subject to Commission review are highlighted in **red (italic)**.

In summary, the draft Hillside Code addresses the following topics:

1. **Material Palette & Light Reflective Value.**
2. **Reviews & Administrative Hillside Chair Review.**
3. **Disturbed Area Calculation.**
4. **Demolition on Hillside Properties.**
5. **Hillside Models.**
6. **Accessory Structures & Accessory Structure Height Limits.**
7. **40' Overall Height Measurement.**
8. **Process to Remove a Property from the Hillside Designation.**
9. **Pool Barriers & Perimeter Fencing Standards.**
10. **Retaining Walls & Screen Walls.**
11. *Retaining Walls.*
12. *Driveway Disturbance Credit.*
13. *Lighting.*
14. *Hillside Assurance/Bond.*
15. *La Place du Sommet Subdivision and applicable code.*

16. *Solar Panels and Hillside Review Process.*
17. *Cantilever Limitations.*
18. *On-Site Retention.*
19. *See second action report labeled "Discussion of Hillside Code Update - **Safety Section** (Article XXII of the Town Zoning Ordinance and Chapter 5 of the Town Code)" for information regarding the addition of a Safety Section.*

Acceptable topics that did not require further changes from the Planning Commission

1. **Material Palette and Light Reflective Values (LRV).** There are two issues related to 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. Language was added to the code to give the HBC more latitude in approving contrasting colors when deemed appropriate. This allows 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 29 of the draft ordinance regarding this amendment.
2. **Hillside Reviews and Administrative Hillside Chair Reviews.** There are two issues related with this topic: 1) the code does not clearly identify all four hillside reviews: Chair Review, Combined Review, Concept Review, and Formal Review. Language was added to the code to clarify the type and scope of each review. 2) was to examine 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 require the full Committee review due to small increases in disturbance, walls, etc. Language was added to the code to allow the Chair to review applications with a request of up to 100 square feet of additional disturbance, an increase in building height of up to 6', add up to 15 lineal feet of additional site walls. Also, the amount of additional building footprint was reduced and limited to 100 square feet. Please reference pages 11 - 12 of the draft ordinance regarding this amendment.
3. **Disturbed Area Calculation.** Livable footprint and garage footprint do not count as disturbed area under the 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.
4. **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 was 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 30 of the draft ordinance regarding this amendment.
5. **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 was added to the code which allows applicants to submit computer generated models and establishes criteria for the computer models. Please reference page 20 of the draft ordinance regarding this amendment.

6. **Accessory Structures & Heights.** The code identifies a 24' height limit for the house but does not clearly define the height for accessory structures. Language was added to the code to clarify that accessory structures are limited to a maximum height of 16'. Also, the code is unclear regarding structures such as a raised pool and raised patio deck. Language was added to the code to clarify that these structures must meet the same setback requirements as pools and spas. Please reference pages 8, 23, 24, and 25 of the draft ordinance regarding this amendment.
7. **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 was 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 pages 24 and 25 of the draft ordinance regarding this amendment.
8. **Process to Remove Property from Hillside.** The code does not identify the process to remove the hillside designation from a property. Language was added to the code to identify this process. Please reference pages 47 and 48 of the draft ordinance regarding this amendment.
9. **Pool Barriers and Perimeter Fencing Standards.** The only fences or walls allowed on hillside properties are pool barrier view 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 was added to the code to clarify that the pool barrier must be appropriate for the site and the minimum amount needed to secure the pool. Please reference page 38 of the draft ordinance regarding this amendment.
10. **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 was 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 received requests to allow driveway retaining walls to extend higher than 6" in order to serve as a vehicle wheel stop. Language was 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 36 and 38 of the draft ordinance regarding this amendment.

Statement of Direction topics that were subject to Planning Commission review

11. **Retaining Walls. SOD - Allow HBC to determine appropriate guard rail height between 36" and 42".** 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). Language was added to the code to identify that the guardrail shall be the minimum height per building code and a maximum height of 42", as determined by the Hillside Building Committee. Please reference page 37 of the draft ordinance regarding this amendment.

12. *Driveway Disturbance Credit. SOD - The disturbance credit for decorative driveways that service new homes and remodeled homes should be further researched to develop standards and credits for driveways that serve new homes and remodeled homes.* 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). A table was added to the code summarizing the disturbance credits. Please reference pages 8, 33, and 34 of the draft ordinance regarding this amendment.

13. *Lighting. SOD - Evaluate only the hillside lighting standards to address Kelvin requirements, adding Lux as another light measurement, and extending holiday lighting to October 15<sup>th</sup>.* The draft ordinance was updated to reflect the three changes outlined in the SOD. A definition of Lux was added to the code, a color temperature of 3,000 Kelvins was added to the code, and the start date for holiday lights was changed from November 15<sup>th</sup> to October 15<sup>th</sup>. Please reference pages 40 - 45 of the draft ordinance regarding this amendment.

14. *Hillside Assurance/Bond. SOD - Update the code to ensure that the hillside bond will be of a sufficient amount to restore the hillside on an abandoned or unfinished project back to undisturbed condition. The Commission shall explore different ways to establish a realistic and enforceable amount of assurance. Planning Commission should also establish thresholds for when the assurance should be called to mitigate impacts including storm water, safety, visual, boulders, etc. to existing properties. Identify a landscape assurance solution.* The hillside assurance/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 assurance 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.

The draft language identifies that the amount of the assurance is based upon 35 times the grading and permit fee associated with the project. However, the draft code also identifies two standards for the assurance: one standard for new single-family residences, major remodel/additions, and major site improvements and another standard for minor remodels/additions and minor site improvements.

The grading permit for new single-family residences, major remodel/additions, and major site improvements shall be based upon the total cut and fill amounts needed to restore the property back to natural grade. The grading permit for minor remodels/additions and minor site improvements shall be based upon the total cut and fill amounts associated with the project that is needed to restore the affected portions of the property back to natural grade.

Also, language was added to the code to allow an applicant to 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 14 - 17 of the draft ordinance regarding this amendment.

15. *Define which Hillside Code applies to La Place du Sommet. SOD - Incorporate amendments from Town Attorney related to which Hillside Code applies to La Place du Sommet Subdivision.*

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. The Town Attorney's research identified that only the disturbance limits from the 1984 code apply to several lots in this subdivision, so no code update is necessary.

16. *Solar Panels. SOD - The Commission shall explore the use of stealth solar technology on hillside properties and evaluate the placement of solar on pitched roofs.* The code currently requires solar panels to be integrated into the building design and requires the panels to be hidden from sight 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 draft language allows solar panels to be placed on pitched roofs when the panels are screened from the same elevation or lower by the adjoining hillside or hillside cut. The draft language also allows solar shingle and solar tiles to be placed on a pitched roof provided they blend in with the design of the building and have a light reflective value of 38% or less. This section of code was also divided into two separate paragraphs, with one paragraph addressing solar panel requirements and the other paragraph addressing stealth solar technology requirements. Please reference page 29 of the draft ordinance regarding this amendment.

17. *Cantilever Limitations. SOD - Add language to the code to prohibit cantilevered driving surfaces. May require definition of driveway. Establish or revise criteria that minimizes the visual impact and discourages the use of cantilevers in construction of structures. In no circumstance should the cantilever standard exceed 8' vertical and 4' horizontal.* 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' long. Also, half of the area under the cantilever counts as disturbed area.

The draft ordinance organizes this section of code into four categories or criteria: prohibits cantilevered driveways, establishes standards for the treatment of the area under a cantilever, establishes criteria for cantilevered structures such as pool decks, and establishes criteria for



cantilevers on the primary residence and accessory buildings. All cantilevers will be limited to a maximum vertical height of 8' and a maximum horizontal length of 4'. The area underneath all cantilevers will be counted as disturbed area, must meet the setbacks associated with the structure they are attached to, and must be finished to blend in with the structure and surrounding setting. Lastly, the area of a cantilever that is attached to the primary residence or accessory building must be included in the floor area ratio. The cantilever figures or illustrations were updated to provide more clarity. Please reference pages 6, 26, 27, and 28 of the draft ordinance regarding this amendment.

18. *On-Site Retention. SOD - 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.* 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 a large portion of the allowable site 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 draft code identifies that on-site retention and detention shall be in accordance with the Town's Storm Drainage Design Manual and identifies a 50% disturbance credit for retention areas that do not use retaining walls and are vegetated with native plants. Please reference pages 31 and 36 of the draft ordinance regarding this amendment.

#### Additional Updates

The Commission also made several clarifying edits to Section 2209 (Lot Split Standards). A sentence and figure were added to this section of the code to clarify how the slope lines are calculated when splitting a hillside lot. Also, Figure 4 and Figure 5 were updated to clarify the code requirements.

#### Next Steps

Staff will incorporate input and edits from the Council into the draft code.

#### Attachments

- Hillside Code Statement of Direction (SOD)
- Draft Hillside Ordinance (Track Change & Clean Version)
- Power Point Presentation
- Alternate Planning Commission Draft Hillside Ordinance