

MINUTES OF THE TOWN OF ROSS COMMUNITY WORKSHOP on the HILLSIDE LOT
ORDINANCE and
HILLSIDE DEVELOPMENT REGULATIONS

THURSDAY, OCTOBER 29, 2009
Marin Art & Garden Center, Livermore Pavilion
30 Sir Francis Drake Boulevard, Ross

1. 7:00 P.M. Commencement.

Council member Michael Skall hosted a public workshop on the hillside lot ordinance. Mayor Pro Tempore Scot Hunter and Council member Christopher Martin were also present. Staff present were: Town Manager Gary Broad, Fire Chief Tom Vallee, Senior Planner Elise Semonian, and project planner Christine O'Rourke. Consultant Anna West facilitated the discussion.

**2. Community Workshop and Public Comment
Introduction**

Council member Skall opened the workshop. He stated the meeting purpose was to hear from all of participants on what they like and what they think needs to be addressed regarding town-wide regulations for hillside development. To ensure broad participation, a meeting notice was emailed to approximately 1,000 addresses on the Town email list, mailed to roughly 350 hillside lot owners, publicized in *The Morning After*, posted at Town Hall, and announced in the *Marin Independent Journal*. He announced that staff was present to answer questions and provide information, but the meeting is oriented towards receiving public comment.

Anna West, a Marin resident and professional facilitator, went over the ground rules for the public comments.

Public Comments and Feedback

Participants were asked the following questions: 1.) What is working well? Why? 2.) What needs to be changed? Why?

Responses:

- High ceiling floor area penalty was removed and should be reinstated. It was there to reduce bulk and mass of projects, and protected the Town from oversized houses.
- Floor area should include the area of decks, as it did before.
- The Hillside Lot Ordinance guideline floor area is the recommended floor area and the intent of "excellence of design" was to allow flexibility when decks were included as floor area.
- Applicants should be required to post larger deposits for projects so that the Town is reimbursed for costs associated with hillside lot review.
- Slope should be a guideline, not a hard and fast rule, since surveys are not always accurate and it is onerous to penalize owners by permitting only half the standard floor area when their slope is barely over the 30% threshold.

- The ordinance has generally been successful, but has also allowed inappropriately large houses.
- How is slope determined? There should be consistency in applying the formula.
- Suggestion: use the slope contour method to average the slope of the entire lot, taking into consideration all of the contours. The slope calculation could be higher and the Town may need to adjust the floor area guidelines accordingly or adjust the area used for the calculation.
- Need to address permeability since we are in a watershed. Limit impervious surfaces.
- The regulations should account for sites with large, flat, buildable areas and also hillside conditions.
- Calculating slope is different now than before.
- Encourage holistic review of the regulations.
- There are inconsistencies within the existing definitions and regulations, as well as the way they are applied.
- Consider where a house will be sited. Penalize applicants for building on steep areas or only apply standard regulations to level areas.
- How does the formula apply to lots over 3 acres in size?
- Look to other communities for ideas on how to improve the regulations. Belvedere allows an increase in the building height if the slope is steeper. Tiburon allows excess FAR if it doesn't affect bulk and mass, such as building into the slope. Neither city reduces FAR as slope and parcel size increases.
- The ordinance works. Go to authors and clarify the intent of any ambiguous sections.
- Developers have different perspectives on the ordinance than those that reside near hillside development.
- Hold a future meeting with former Council members to understand the original intent and what is working well or is not working well.
- Some of the biggest issues are with smaller, very steep lots with landslide risks and drainage issues. Large lots with flat land areas that are out of sight are not as problematic.
- Make the intent of the guidelines and ordinance clear and apply it consistently.
- All factors applicable to a site should be considered, such as hydrology, placement, and design.
- Site hydrology is important and credit should be given when a design maintains existing hydrology.
- The regulations have been changed a number of times in response to specific projects.
- Discretion creates a lot of unnecessary tension and anger. Need a higher level of surety about the rules and less discretion and ambiguity.

- Use technology available to refine slope calculations.
- Purpose of the ordinance is to preserve the character of the Town.
- Decks should be included as floor area again.
- The prior setback rules should be reinstated.
- “Excellence of design” is intended to allow some flexibility to protect trees, but not to enable an applicant to claim they are entitled to additional floor area over the guidelines.
- The ordinance is not broken. It needs to be clarified. It would make the architects’ jobs a lot easier if they had parameters going in to the process. The parameters should come from residents.
- There are only a few lots left to be developed. We should make sure the Town looks like what the residents want and we should not compare ourselves to other communities. Preserve existing Town character.
- The existing regulations should be tightened up and some original provisions restored, including decks as floor area, high ceiling penalty. Decks add to the visual bulk and create noise and safety issues.
- “Excellence in design” should not only include the design, but also the landscape, engineering, sustainability, and preservation of open space.
- The ordinance should address what citizens want today, not the intent in the 1980’s and 1990’s.
- Don’t let concern over one project lead the changes.
- There is a disconnect between the council and the residents evidenced by the Council vote to approve a project that many people opposed. The current council should not make the decision about rewriting the ordinance.
- Have two tiers of standards, one for remodels and stricter standards for vacant land.
- If development sited in a level area, base the slope and FAR on the area of the flat portion of the lot, deducting the steep part.
- Provide flexibility when a Town site is bordered by another jurisdiction that has more lenient development regulations.
- Development regulations should have some relationship to the hazards they intend to prevent.
- There’s a little bit of “I’ve got mine” going on. The regulations should be clearly written and fairly applied to everyone, regardless of public opinion and controversy. Variances can be used to address unusual special circumstances.
- It is difficult to apply a recommendation fairly.
- The Council has *interpreted* the guidelines as a recommendation, but they should not be a recommendation.

- Town staff should attend meetings for development proposed in neighboring jurisdictions to protect interests of Town.
- The guidelines are a recommendation, and the Council has flexibility in determining excellence of design. Everyone wants an exception. The Council is the defender of the Town, and it's a difficult job. They should be saying no more than they say yes.
- Kind of a NIMBY attitude. The Town character is defined by many residences that could not be built under current regulations.
- Tighten up and refine the intent of the ordinance to protect environmental and aesthetic impacts.
- Environmental impacts have been vastly improved and can be dealt with from an environmental standpoint.
- Discretion is ripe for unfairness.
- Consider developing a form-based approach to zoning for hillside development. Can be neighborhood-specific.
- Ambiguity and vagueness in the regulations was intentional to permit flexibility and worked with the original regulations, which included height ceiling penalty, decks as floor area, and more restrictive setback provisions. These provisions should be restored.
- Appreciate the ambiguity more than clarity since every circumstance is different and it leaves room for Council to use their judgment. It's important to elect people you expect to be fair. Ordinance is good over-all.
- There's a tension between discretion and clarity. Clarity equals unfair outcomes. Broad discretion equals unfair rules. It's a reality of the legislative process.
- Keep in mind the intent of the hillside lot ordinance, which is the most important factor.
- Concern regarding overbuilding on lots.
- Ambiguity is helpful to give the Council the ability to consider all factors.
- Clarity is helpful so neighbors are not pitted against one another. Be clear on intent, decrease ambiguity and allow discretion.
- Decks may not need to be counted in FAR. Decks should be addressed in design review. If decks are included as floor area it may result in one-dimensional buildings.
- How many vacant lots are there? Staff should identify and map them for future meetings.
- Adding second units and floor area for second units should be addressed for hillside lots.
- Most people want a rigid interpretation of the ordinance.
- The current regulations result in tension and lawsuits.
- Re-evaluate the fire risk of vacant land versus occupied land.

Ideas for Further Public Process

1. More public meetings.
2. One larger meeting before going to a smaller group.
3. Host a panel with all current Town Council members to have them explain why this is a town priority and what they believe works and does not work. (Concerns expressed regarding if Council will listen to will of residents.)
4. Small group
5. Bring in Town Council members who were the original writers of the ordinance to find out what the original intent was behind the ordinance.

Next Steps

A special edition of The Morning After reporting on the hillside lot workshop will be sent out the next day. A meeting summary will be posted on the website, and Council member Skall will report on the workshop at the November 12 Town Council meeting. There are several avenues for ongoing public comments:

- Email Council member Skall at mikeskall@comcast.net and Senior Planner Elise Semonian at esemonian@townofross.org.
 - Written comments may be submitted at Town Hall.
 - Call Elise Semonian at 415.453.1453 x 121.
 - Visit the Town website.
3. 8:40 P.M. Adjournment.