

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

THURSDAY, JANUARY 7, 2010
Marin Art & Garden Center, Livermore Pavilion
30 Sir Francis Drake Boulevard, Ross

1. 7:00 P.M. Welcome, Introduction, Background

Council member Michael Skall hosted a public workshop on the hillside lot ordinance. Council member Bill Cahill was also present. Staff present were: Town Manager Gary Broad, Senior Planner Elise Semonian, and Project Planner Christine O'Rourke. Consultant Pam Jones facilitated the discussion.

2. Meeting objectives, agenda and ground rules and

Pam Jones, Anna West, a professional facilitator, explained the meeting objectives and ground rules.

3. Review of October 29, 2009 Public Workshop

Michael Skall reviewed the major issues that emerged from the first public workshop on October 29, 2009, which staff provided in a hand out. These included:

- Refine the provisions of the ordinance and zoning code to be clear and consistent.
- Examine the Hillside Lot Ordinance guideline floor area and its application to new homes and remodels/additions.
- Reconsider what is included in floor area.
- Review the method of slope calculation.
- Reconsider larger setback requirements for hillside lots.

4. Reflections on the hillside regulations

Former Council members had been invited to attend the workshop to share their views on the original intent of the Hillside Lot Ordinance (HLO) and to explain how the ordinance was implemented during their tenure. Former Council member Peter Barry, who had earlier conferred with former Council member Peter Brekhus, said the ordinance was adopted in order to protect hillsides and downhill neighbors from hillside development impacts. He said the Town should consistently follow the code without exceptions. He said changes to the ordinance have weakened it, and that provisions regarding the original setbacks and inclusion of decks and high ceiling heights in the floor area ratio calculation should be restored. Former Council member Mary Delanty Brown agreed that a strict interpretation of the code was best.

5. Continued identification and discussion of interests/issues

Ms. West asked participants to provide any additional issues regarding the current hillside lot regulations. The workshop participants raised the following issues:

Flexibility vs. Consistency

The old ordinance had greater clarity. Most applicants want clarity.

The code should be left alone and the Town should clarify how it is interpreted.

Eliminating as much discretion as possible would make the Town Council's job easier.

Vagueness leads to inconsistency in application of the HLO.

Survey the Town to get additional public feedback on the hillside lot ordinance and to determine if residents favor a consistent and clear ordinance or one with greater flexibility for the Council.

The Town and the residents need to go out and look at the lots before determining how to apply the hillside regulations.

Leave regulations as they are. Look to history for guidance on how the regulations are interpreted.

The guiding principal should be fairness.

FAR Guidelines

Property owners have rights, too. Property owners need clarity at the beginning of the process. A developer does not want to risk significant design costs and bring an application to Council that is over the guidelines. The developer's time and expenses should be respected in the process. The maximum FAR should be pre-determined.

The HLO only applies to a few vacant lots. It might be easier to determine the maximum FAR for each remaining lot than rewrite the ordinance.

It is difficult to apply one rule to all of the odd-sized lots.

The term "guideline" should be eliminated and the FAR maximum treated as a development standard. Guidelines could relate just to design.

The workshop participants were not in favor of a minimum FAR allowance for every lot.

What Should be Included in FAR

Regulations on decks, high ceilings and setbacks should be added back into the ordinance.

When decks are counted as floor area, property owners are incentivized to enclose decks. This can lead to bulky and unattractive designs.

In order to encourage decks, deck area and floor area could be regulated separately.

The old ordinance counted high ceilings as additional floor area, which penalized property owners who wanted to have vaulted ceilings within a standard roof volume. Rather than adding back the old language on ceiling heights, the new ordinance could regulate the plate heights of walls, which would restore the original intention of the ordinance to regulate the project's overall mass and bulk.

Slope Calculation Method

The slope calculation method was changed without any discussion. Slope was always measured from lowest to highest point on the lot. Changing the definition was not fair to property owners who expected a certain amount of FAR under the old calculation method.

The Town should reconsider the slope calculation method and look at the contour method regularly used by engineers and by San Rafael and the County of Marin. The contour method is fairer and more accurate, although it is more expensive to homeowners.

The hillside lot regulations contain maximum floor area ratio guidelines that relate to parcel slope and parcel size. The guideline FAR percentages decrease as slope increases at 5% intervals. There is a lot at stake on the specific slope determination. A different formula would mean that it would not matter so much if the slope were 35% or 36%.

The Town needs to look at the exemptions from the hillside lot ordinance for projects on developed sites. Currently, property owners that want to add up to 1,000 square feet, or 20% of the existing FAR, are not covered under the ordinance.

Exceptions for Hillside Lots with Level Building Areas

Consider the actual buildable area of hillside lots. If the building area is level and the building is going to stay off the slope, an exception could be made.

The Town might consider applying the standard floor area restriction to the building envelope.

The ordinance would need to define the building envelope and how the FAR would be calculated.

It would also need to consider proximity to ridgeline, lot lines, creeks, trees, etc.

Remodels vs. New Development

Remodels and new development applications have different issues.

The original intent of the ordinance was to be fair and treat everyone the same.

Excellence of Design

The original intent of the “excellence of design” provision was to provide exceptions in special circumstances, such as when a project proposed some way of minimizing bulk or needed to be designed a particular way to avoid a heritage tree.

The “excellence of design” provision is too vague and is not tied to specific criteria.

Architects should not think they will get “bonus points” for design elements.

“Excellence of design” is very subjective. The ordinance needs to be objective.

Some design elements may be beneficial to the community as a whole, such as greater fire protection or minimizing site runoff. The consensus of the participants was that there should not be some extra floor area provided for projects with added benefits to the Town. The applicant with unlimited funds would then get more FAR. This would be unfair.

6. Consideration of options for decision-making and possible timelines, including potential ad hoc committee and criteria for selecting members

The group discussed the options available for revising the regulations, including forming an ad hoc committee. The workshop participants recommended that staff draft revisions to the ordinance utilizing public input from the October and January workshops. A red-line draft ordinance would be circulated for public comment and feedback. Public workshops would be held for further public comment and refinement. Staff should provide options to determine slope and show how they will affect some of the vacant lots. The future meetings and proposed ordinance revisions should be publicized, and not solely by email. Consider providing an information table at the Post Office. Staff would seek to bring revisions to the Council for adoption by June 2010.

January 7, 2010 Public Workshop

7. Closing Remarks and Next Steps

Council member Skall will report on the workshop at the January 14 Town Council meeting and the future public process will be decided at that time.

8. Adjournment

The meeting adjourned at 8:50 p.m.