

To: Mayor and Ross Town Council, sitting as Planning Commission
From: Elise Semonian, Senior Planner
Re: Hillside Lot Regulations, Ordinance 620
Date: May 7, 2010

I. Recommendation

That the Council, sitting as Planning Commission, conduct a public hearing and make recommendations regarding the proposed hillside lot regulations, Ordinance 620. Staff will return with an ordinance for the Council to introduce in June and to adopt in July.

II. Project Description

Town Council, sitting as Planning Commission, consideration of Ordinance 620, amending the Town's hillside development regulations. A summary of the changes proposed:

- Hillside lot floor area ratio would become a mandatory development regulation and not a guideline. A variance would be necessary to exceed the maximum permitted floor area for a hillside site.
- No change to the method of calculating average lot slope is proposed.
- A new hillside lot floor area ratio formula is proposed. The formula levels out the current floor area thresholds and would reduce the maximum permitted floor area for some lots and increase the maximum permitted floor area for other lots.
- The hillside lot ordinance would apply to most hillside projects that are currently subject to design review, such as additions that are 200 square feet or greater and certain retaining wall projects.
- New guidelines would permit the Town Council to consider the design and privacy impacts of decks and take into consideration aesthetic impacts of tall building walls.
- The ordinance reinstates larger setbacks requirements for hillside lots as a strongly recommended guideline. The Council may allow reduced setbacks to protect creeks, trees, or to allow development on a more level area of a site.
- Published notice of a hillside lot hearing would no longer be required. Public notices would be mailed to all property owners within 500 feet of a site and posted at the site and two other locations.

III. Background

Councilmember Michael Skall's 2009-2010 Council goal is to review the Town Hillside Lot Ordinance and other hillside development regulations. Towards this goal, the hillside development regulations have been discussed at four public workshops. Comments received at the workshops and in correspondence were considered by staff to draft revisions to the code that are posted on the Town web site. The Advisory Design Review Group considered the draft ordinance at their April 27, 2010, meeting. Staff has attached minutes of these meetings. A notice announcing the draft ordinance and public meetings was published in the *Marin Independent Journal* and mailed to all owners of property in Town.

Correspondence received since the draft ordinance was posted is attached. Staff will recommend modifications to Ordinance 620 in response to some suggestions from the public.

IV. Discussion of Major Issues

The Council may review draft Ordinance 620, attached. A copy that illustrates the changes to the existing regulations is also attached.

Hillside Lot Floor Area Regulations

A revised HLO floor area formula is proposed. The “Frankel Formula” (named after Dr. Kenneth Frankel, Ross resident, who derived the new formula and also volunteered much time to assist staff with mathematical questions related to this ordinance) smoothes out the current hillside guideline floor area ratio that results in large floor area decreases between slope thresholds. Staff will create an on-line calculator so that the public may input their lot slope and lot size to determine their maximum permitted floor area.

One of the primary issues that has surfaced in the application of the hillside lot regulations is whether the hillside lot area floor area ratio should be a guideline or should be a firm limit on development. Staff is recommending that the hillside lot floor area ratio become a mandatory development limit, not a guideline, in order to eliminate some uncertainty regarding the regulations. This will also ensure that applicants that seek floor area above the maximum permitted floor area demonstrate some unusual site circumstances that warrant the Town Council to grant floor areas above the limit (that variance findings can be made).

Staff considered adding language to add an “exception” procedure for applicants that wish to exceed the permitted floor area for previously developed sites (no exceptions could be granted for development of vacant lots). An exception provision could define criteria for when the Town Council will allow floor area above the maximum. Staff chose not to include this language since we believe it will sustain the current issues with uncertainty regarding the regulations. However, staff recommends that the Council consider the idea, as it was supported by some of the participants in the public workshops.

Hillside Lot Floor Area Exceptions.

- (a) The Town Council may grant a hillside lot floor area exception to allow floor areas greater than provided for in this Chapter for previously developed lots.
- (b) Submittal requirements, review authority and public hearing. An application for a hillside lot ordinance floor area exception may be filed with the Planning Department with the hillside lot application, subject to fees as established by resolution of the town council and submittal of application material as required by the town planner. The Town Council shall hold the public hearing on any hillside lot floor area exception.
- (c) Findings required for approval. The town council may approve, conditionally approve or deny an application for hillside lot floor area exception if it is consistent with the purposes of this chapter and if one or more of the following findings can be made:
 - (i) The existing development exceeds the guideline floor area and new development proposed is equal to the existing floor area.
 - (ii) The site topography is unusual for a hillside area, such as a lot with a level building area that is not visually prominent.
 - (iii) To allow the transfer of development rights from hillside lots that will be

preserved in their natural state.

Definition of Slope

The public and staff considered the following alternative language for the definition of slope. This “contour method” would result in more accurate average slope determinations for sites with unusual topography. However, the contour method would also result in reducing floor area for many sites that received slope determinations under the current or prior slope definition. The existing slope definition is difficult to apply in many circumstances, since a line may be drawn in many different areas of a site, resulting in several different slope determinations. However, the town engineer and applicants have been able to agree on slope determinations and the slope calculation has not been the source of major public concern. When weighed against the issues that may arise if the Town moves to a contour method of calculating slope, such as additional expense for residents and the potential to drastically reduce potential site floor area, staff believes it is appropriate to maintain the current slope definition.

The Advisory Design Review Group preferred a contour method of calculating slope since it would result in more consistent, accurate and fair application of the hillside regulations. However, they also felt that the Council should study the issue further, including specific case studies to illustrate how it would apply. The ADR also recommended that the Town consider adjusting the floor area ratio to ensure it would align with the floor area available to applicants under the current ordinance.

Staff will prepare some case studies illustrating the contour method versus the existing method for the Town Council meeting.

If a procedure for granting exceptions to the floor area were recommended by the Council, then staff would recommend using the slope contour method of calculating average slope.

18.12.315 Slope. The average slope shall be calculated using the following formula:

$$S = (100 \times I \times L) \div A$$

Where “S” is the average percent of slope, rounded off to the nearest one percent; “I” is the contour interval in feet; “L” is the summation of length of the contour lines in feet less the length of the average contour line, i.e., L = total length of contour lines – total length of contour lines divided by total number of contour lines; and “A” is the area in square feet. The Town staff may establish minimum standards for topographic surveys.