

To: Planning Commission, meeting of September 23, 2020
Re: HDS&G Modifications
From: Dave Weissman, September 18, 2020

There are 2 loosely connected issues, that relate to visibility, in this agenda item. The **first item** relates to defining “elevation” for purposes of calculating visibility of an A&S application. I ask that the Commissioners read my letter in your packet, sent to the Policy Committee, and dated 8/6/2020. The Policy Committee voted 2-0 in favor of both defining elevation in Town codes and limiting elevation to include only the proposed home, not any accessory elements distinct from the home. I took this same position in my letter.

The **second item** concerns Fire Prevention and Protection. Now this Town has demonstrated a unique and consistent interest for the ecological health of our hillsides. For instance:

The 2004 Hillside Guidelines, page 51, require that all landscaping located “further than 30 feet from the primary residence, shall be indigenous and appropriate for the immediate natural habitat.”

The 2015 Tree Protection Ordinance revision was amended (Sec. 29.10.0970) to encourage the removal of non-native hillside trees. Specifically, no permit was needed and no replacement trees were required. Additionally, for protected trees removed during construction, Sec. 29.10.0987 requires all trees farther than 30’ from the house be replaced with native trees. Those trees within 30’ of the house, if native, must also be replaced with native trees.

Then, in 2019, the Town revised how the Visibility Analysis for proposed hillside homes was to be done. Relevant to our discussion are 2 adopted provisions:

1. Existing vegetation proposed to be removed shall not count as screening.
2. Trees counted as screening shall have a Deed Restriction prohibiting their removal. If that trees dies, it must be replaced.

Then the Paradise Firestorm arrived and prompted a necessary reevaluation of the Town’s good intentioned actions of the previous 15 years. We all agree that fire safety must take precedence.

So, folks can have different opinions as to what constitutes defensible space, but what our Town Council passed in January, 2020, is very clear: Section 4907.2 says that homeowners “shall at all times comply with the following” defensible space fuel modifications, and an extensive list is presented.

But these new defensible space policies created conflicts with previous Town efforts aimed at decreasing visibility of hillside homes and protecting the ecological health of the hillsides. And such conflicts were addressed at the Policy Committee meeting of 8/11/2020. At that meeting, Mayor Jensen took issue with the word “subject” that staff used in their report, saying that “subject” means the homeowner has the option of removing or not removing vegetation. I disagree with Ms. Jensen: the homeowner doesn’t have an option but is required to comply with specific conditions set forth in Sec. 4907.2. Simply put – a better term than “subject” to have been used in the staff report, would have been “required.” Homeowners don’t have a choice here, according to Sec. 4907.2, nor do I believe that they should. Hillside fire protection is everyone’s business – we must all work together.

So, I recommend the following actions (based on the numbering used in the staff report to the Policy Committee):

- A. **Yes** on item 1 – elevation should be defined and should only include the actual home, as was passed 2-0 by the Policy Committee.
- B. **Yes** on items 2 & 3 – existing trees and branches required to be removed for defensible space by Sec. 4907.2, should not be counted in the visibility analysis.
- C. **Yes** on item 4 – These non-native, and in some cases extremely flammable trees (think Eucalyptus) should be removed in the interest of defensible space. They should not be counted as providing screening, even if the builder says that they will be retained, because when the house is sold, whether it be in 1 week or 10 years, the new owner can then remove the entire tree without permits or replacement. In contrast, native trees, which are fire resistant, are still protected under Sec 29.10.0970 (3) and should be counted as providing screening.
- D. The Deed Restriction clause on page 14, h, of the Hillside Standards, should be amended to only apply to **native trees** protected under Sec. 29.10.0970 (3).