



MEMORANDUM

Date: May 8, 2020
To: Planning Commission
From: Gerald Green AICP, Executive Director
Subject: **Agenda Item 47 File # 05-C-20-OA**

Staff Recommendation: Staff recommends approval of the proposed amendments to Articles 8.9, 14.2, and 16.8 of the City of Knoxville Zoning Code to clarify review procedures and development standards in the Hillside Protection Overlay.

Background: At the direction of the Knoxville City Council the Hillside Protection Overlay zone was created with the adoption of the City's new zoning ordinance, making the recommendations of the Hillside and Ridgetop Protection Plan (HRPP) mandates. Prior to the adoption of the new zoning ordinance Planning staff had administered the HRPP as a policy document, applying the Plan's recommendations in the review of rezoning and use on review requests. In making the recommendations mandatory, there was a question as to whether the overlay zone administration should be the responsibility of Planning or the City's Plans Review and Inspections Department. Following an analysis of the work involved in the administration of the Hillside Protection Overlay, City and Planning staff agreed that administration of the zoning standards by Knoxville-Knox County Plan was appropriate. The proposed amendments clarify this administration.

If you have any questions, comments, or would like additional information, please feel free to contact me by email at gerald.green@knoxplanning.org or by phone at 215-3758.

**PROPOSED LANGUAGE: HILLSIDE PROTECTION OVERLAY
ARTICLES 8.9, 14.2, AND 16.8**

ARTICLE 8 – SPECIAL PURPOSE & OVERLAY DISTRICTS

8.9 – HP HILLSIDE PROTECTION OVERLAY ZONING DISTRICT

A. Purpose

[...]

B. Applicability

[...]

C. Density and Land Disturbance Limitations

In accordance with Article 16.8., a certificate of appropriateness is required for any development, improvement to real estate, or land disturbance in the HP Overlay and for any deviations from Table 8-6. Table 8-6: Density and Land Disturbance Limitations establishes the maximum residential density and maximum land disturbance of the site for residential districts that are within the HP Overlay District. Only the maximum land disturbance is applicable in non-residential districts that are within the HP Overlay. All other dimensional regulations apply unless specifically modified by the HP Overlay District. ~~The Knoxville-Knox County Planning Commission, following the procedure in Article 16.2.D. and applying the guidelines in the Knoxville-Knox County Hillside and Ridgetop Protection Plan, may issue a Certificate of Appropriateness for any application for any deviation from Article 8.9.C.~~

[...]

ARTICLE 14 – CODE ADMINISTRATORS

14.2 - KNOXVILLE-KNOX COUNTY PLANNING COMMISSION POWERS

The Knoxville-Knox County Planning Commission has the following powers pursuant to this Code:

[...]

G. To hear appeals on Knoxville-Knox County Planning staff's denials of certificates of appropriateness for properties within the HP Overlay District and, per Article 16.8, to make final decisions on all other applications for certificates of appropriateness for properties within the HP Overlay District.

ARTICLE 16 – ZONING APPLICATIONS

16.8 - OVERLAY DISTRICTS—CERTIFICATES OF APPROPRIATENESS

A. Purpose and Applicability

[...]

4. HP Overlay District

All applications for permits for development, improvement to real estate, or land disturbance regarding property located or to be located within the HP Overlay must be referred to the Knoxville-Knox County Planning staff, which has broad powers to request detailed development plans, grading and other land disturbance plans, and other related data pertinent to a thorough review of the proposal. No building permit, grading permit, or other permit allowing development, land disturbance, or improvement to real estate will be issued for properties within the HP Overlay District without issuance of a certificate of appropriateness by the Knoxville-Knox County Planning Commission or Planning staff.

B. Process

[...]

4. HP Overlay Zoning District Process

a. All applications for certificates of appropriateness within the HP Overlay District must be filed with Knoxville-Knox County Planning staff. Once it is determined that the application is complete, Planning staff will take appropriate action as noted in this section.

b. The Knoxville-Knox County Planning staff assigned to serve the Planning Commission will review applications for certificates of appropriateness and will issue them if, in staff's judgment, the application meets the requirements of Article 8.9. Certificates of appropriateness issued by the Knoxville-Knox County Planning staff will be summarized in a report to be presented to the Planning Commission at their regularly scheduled monthly meeting.

c. In the event that the Knoxville-Knox County Planning staff denies the application for a certificate of appropriateness, the applicant may appeal the staff decision to the next regularly scheduled meeting of the Planning Commission for which the application deadline is met.

d. Except as provided in b, the Planning Commission will review all other matters for which certificate applications are made, including deviations from Article 8.9. Upon receipt of such an application or of an appeal of a denial from the Knoxville-Knox County Planning staff, the Planning Commission will consider the same at a public hearing.

1. The Planning Commission will evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section. The Planning Commission must either approve, approve with conditions, or deny the application.
2. Conditions placed upon the approval related to the physical development of the site must be shown on the site plan. A statement

must be submitted with the site plan indicating any conditions placed upon the approval. Prior to final approval of the certificate of appropriateness by the Planning Commission, the proposed conditions must be sent to City staff and to Planning staff for review and recommendation. The Planning Commission may approve the certificate of appropriateness with conditions after receipt of the staff recommendation. A revised site plan showing all required conditions must be submitted prior to issuance of a permit mentioned in this section.

[...]

D. HP Overlay District Standards

(NOTE TO COMMISISON AND COUNCIL, TO BE REMOVED AND NOT CODIFIED: The insertion of this new subsection D will re-designate what is currently subpart D to E, and E to F.)

1. In its review of any such work to be undertaken in the HP Overlay District, the Planning Commission will apply Article 8.9, the guidelines in the Knoxville-Knox County Hillside and Ridgetop Protection Plan, this Code, and other adopted plans. The Planning Commission also will consider whether the proposal is in harmony with the general purpose and intent of this Zoning Code.
2. Each application must be evaluated on an individual basis, in relation to all applicable standards of this Code. Such evaluation will determine whether approval of the application is appropriate at the particular location and in the particular manner proposed.

[...]

E. Appeals

(NOTE TO COMMISISON AND COUNCIL, TO BE REMOVED AND NOT CODIFIED: this section will be re-designated as subpart F, if approved.)

[...]

3. Anyone aggrieved by a final determination of the Planning Commission regarding a certificate of appropriateness within the HP Overlay District may appeal the decision to the City Council in accordance with Article 16.12.