

## Tracy, Christopher

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**From:** Kassen Klein <kassen@kassenklein.com>  
**Sent:** Monday, June 1, 2026 10:29 AM  
**To:** Tracy, Christopher; Chantarangsu, David; Ramaiya, Jarrett; Stiehl, Carl; Wells, Tanya  
**Cc:** Clifton, Justin; Agajanian, Scott  
**Subject:** Re: May 28th DAG

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning, Chris.

Thank you!



### KASSEN KLEIN

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📍 P.O. Box 747, Murrieta, CA 92564

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**From:** Tracy, Christopher <ctracy@MurrietaCA.gov>  
**Date:** Monday, June 1, 2026 at 9:22 AM  
**To:** Kassen Klein <kassen@kassenklein.com>, Chantarangsu, David <DChantarangsu@MurrietaCA.gov>, Ramaiya, Jarrett <jramaiya@MurrietaCA.gov>, Stiehl, Carl <CStiehl@MurrietaCA.gov>, Wells, Tanya <TWells@MurrietaCA.gov>  
**Cc:** Clifton, Justin <JClifton@MurrietaCA.gov>, Agajanian, Scott <SAgajanian@MurrietaCA.gov>  
**Subject:** RE: May 28th DAG

Thank you Kassen again for the feedback/suggestions. I did not see any red flags with it and incorporated the language you suggested in the draft Ordinance under the **Purpose** section. Before finalizing, I'll have to run this by the City Attorney to confirm.



### Chris Tracy, AICP

SENIOR PLANNER

DEVELOPMENT SERVICES DEPARTMENT

CITY OF MURRIETA

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**From:** Kassen Klein <kassen@kassenklein.com>

**Sent:** Monday, May 25, 2026 1:04 PM

**To:** Chantarangsu, David <DChantarangsu@MurrietaCA.gov>; Ramaiya, Jarrett <jramaiya@MurrietaCA.gov>; Stiehl, Carl <CStiehl@MurrietaCA.gov>; Tracy, Christopher <ctracy@MurrietaCA.gov>; Wells, Tanya <TWells@MurrietaCA.gov>

**Cc:** Clifton, Justin <JClifton@MurrietaCA.gov>; Agajanian, Scott <SAgajanian@MurrietaCA.gov>; Kassen Klein <kassen@kassenklein.com>

**Subject:** May 28th DAG

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Good afternoon,

Sorry for contacting you all on Memorial Day Monday. I will be heading out of State early tomorrow morning and I wanted to submit the attached Memo regarding the proposed revisions to the Hillside Development Ordinance for review, consideration, and discussion during Thursday's DAG meeting.

I have slightly revised what I submitted to Planning Commission and Staff on 5/13.

As always, happy to discuss further with staff before the next time the item goes to PC and or CC.



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## MEMORANDUM

TO: Murietta Development Advisory Group (DAG)

FROM: Kassen Klein

DATE: May 25, 2026

SUBJECT: Analytical Review of Precatory Language in Murrieta Development Code § 16.24.010 (Purpose)

### Executive Summary

This memorandum addresses the use of the term "**encourage**" within Murrieta Development Code Section 16.24.010. From a land-use perspective, this language is **precatory**—expressing a preference rather than a mandate. While appropriate for a policy-level "Purpose Statement," its inherent lack of objectivity creates administrative challenges that can lead to inconsistent enforcement and project delays.

This subjectivity is deeply embedded in the core provisions of the section. The code specifically utilizes the word "**encouraging**" to direct how applicants and staff must navigate vital resource, structural, and public safety mandates, explicitly stating in Subsections C, D, E, and G (*Ref: Page 14 of 50*):

- C. Encouraging development proposals that feature water conservation and aquifer recharge techniques;
- D. Encouraging development proposals that are sensitive to fire, flood, slide, erosion, pollution, or other safety hazards;
- E. Encouraging sensitive development through flexible design and innovative arrangement of building sites by utilizing variable lot sizes, clustering, and setback variations;
- G. Encouraging developments that incorporate desirable existing features of land (e.g., natural vegetation, viewsheds, topographic features);

| Current vs. Proposed Language                       | Legal/Functional Style   | Impact on Project Review                                                                                                               |
|-----------------------------------------------------|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| "Encourage" / "Encouraging" (Current in C, D, E, G) | Precatory (Aspirational) | High staff discretion; unquantifiable expectations for the developer regarding hazards, resources, and design techniques.              |
| "Reasonably Consider" (Proposed Alternative)        | Procedural Mandate       | Requires documented due diligence on water, safety hazards, clustering, and resources; creates a clear, defensible evaluation process. |



| Current vs. Proposed Language   | Legal/Functional Style | Impact on Project Review                                                 |
|---------------------------------|------------------------|--------------------------------------------------------------------------|
| "Shall" (§ 16.24.050 Standards) | Mandatory (Regulatory) | Provides the absolute, objective benchmark for final project compliance. |

Ultimately, for the Murrieta Development Code to remain a reliable tool for both the City and the community, the "shalls" found in subsequent Development Standards must remain the primary benchmark for project compliance. Over-reliance on the subjective term "**encourage**" when evaluating critical issues like fire safety, water conservation, and viewshed preservation invites administrative friction and complicates the path to a clear, predictable determination of project consistency. To resolve this ambiguity, it is recommended that the City replace "**encourage**" with a more objective, procedural framework, such as requiring applicants to "**reasonably consider**" these specific design elements and safety hazards.

## 2. Consequences of Subjectivity

The lack of objective metrics within Section 16.24.010 introduces two primary operational issues:

- **Subjectivity for the Developer:** The term does not define a "finish line." It fails to provide the applicant with a clear understanding of exactly how much effort or design modification is required to satisfy the City's and Staff's expectations regarding complex issues like hazard mitigation, clustering, or viewshed protection.
- **Subjectivity for the City:** This language grants Development Services staff broad discretionary power during the project review process. Staff may interpret that an applicant has not sufficiently satisfied the intent of "**encouraging**" the preservation of a specific knoll or natural feature. **This leads to:**
  - **Iterative corrections:** Shifting interpretations by individual staff members result in repetitive, unpredictable cycles of plan-check corrections.
  - **Requested redesigns:** Applicants face demands for costly, late-stage design modifications based on subjective staff preferences rather than clear, quantifiable metrics.
  - **Significant project delays:** The application becomes bottlenecked in administrative processing for months or years before ever reaching a public hearing.

## 3. The Alternative: "Reasonably Consider"

To bridge the gap between policy intent and regulatory clarity—particularly across the critical safety, infrastructure, and design techniques outlined in Subsections C, D, E, and G—the City should replace the phrase "**encourage**" with "**reasonably consider**."



While "reasonably consider" still provides flexibility for unique topography or site constraints, it shifts the legal and administrative framework in three distinct ways:

- **Establishes a Procedural Mandate:** An applicant can no longer simply ignore a policy goal because it is phrased as a text-driven "**encouragement**." They are legally required to put critical items—like fire sensitivity, water conservation, environmental hazards, and clustering—through a deliberate evaluation process.
- **Creates an Objective Paper Trail:** To prove they have "reasonably considered" a standard (such as hillside layout or viewshed preservation), the developer must document *why* a certain design choice was made. If a natural feature cannot be saved or a clustering technique is omitted, the developer must demonstrate the technical, topographical, or economic infeasibility, removing arbitrary guesswork.
- **Defines the Administrative Finish Line:** For City staff, the review changes from a subjective evaluation of "is this project supportive enough?" to a binary check: *"Did the applicant perform due diligence and provide a reasonable, documented justification for their design approach regarding safety hazards and resource preservation?"*

#### 4. The Verdict on Clarity

The word "encourage" is **inherently unclear in its intent** because its interpretation is entirely localized and highly subjective to both the processing staff member and the applicant. For the developer, "encouragement" is measured by the good-faith design concepts submitted; for the individual Planner, it is measured by a personal, fluctuating benchmark of what constitutes a sufficient municipal outcome. Because what satisfies one party or reviewer may be deemed completely inadequate by another, the term renders the code unpredictable and impossible to apply objectively. To ensure a defensible and predictable development environment, the Purpose section must be anchored to a clear procedural action.

SECTION 7. Chapter 16.24 (Hillside Development) is hereby amended in its entirety to read as follows:

**“16.24.010 Purpose.**

The purpose of this chapter is to provide regulations for the development of areas in the *City* that, because of their topography, require special consideration to ensure that they are developed in a way that substantially maintains their natural character and environmental and aesthetic values to implement the *City’s* General Plan, and to provide for the safety, health, and welfare of the public by:

- A. Providing guidelines and standards for development in visually sensitive *Hillside Areas* to minimize the adverse impacts of *grading* and to promote the goals and objectives of the *City’s* General Plan;
- B. Maintaining an environmental equilibrium consistent with existing vegetation, wildlife, soils, geology, *slopes*, and drainage patterns, and to preserve natural topography and scenic character, including canyons, creeks, knolls, rock outcrops, and ridgelines whenever feasible;
- C.** Encouraging development proposals that feature water conservation and aquifer recharge techniques;
- D.** Encouraging development proposals that are sensitive to fire, flood, slide, *erosion*, pollution, or other safety hazards;
- E.** Encouraging sensitive development through flexible design and innovative arrangement of building sites by utilizing variable lot sizes, clustering, and setback variations;
- F. Utilizing nontraditional design standards for streets and hillside *grading* where development quality and public safety are not affected;
- G.** Encouraging developments that incorporate desirable existing features of land (e.g., natural vegetation, viewsheds, topographic features);
- H. Protecting significant natural areas for ecologic purposes, educational, and other scientific study purposes; 1. Encouraging the use of drought-tolerant plant material to protect *slopes* from soil *erosion* and slippage, preserve natural watershed, minimize fire hazard, and minimize the scarring and deformation of the natural landscape;
- I. Limiting the impact of *cut slopes* on adjacent developed and undeveloped properties; and
- J. Providing for appropriate intensity of development (e.g., density, massing, etc.) through a variety of design techniques to ensure that development intensity decreases as *slopes* become steeper (e.g., lot sizes appropriate for steeper topography and separation of structures sufficient to preserve a viewshed).

**16.24.020 Applicability.**

**A. Location Consideration for Analysis.** Notwithstanding any other provisions of this Code, the standards contained in this chapter apply to uses and structures within Hillside Areas that have a slope twenty-five (25) percent or greater and as designated within the boundaries of a Hillside Overlay Map. Additionally, please refer to Table 16.24-1 (Undeveloped And Developed Standards And Processing

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*Alternative C: Reasonably consider development proposals that feature water conservation and aquifer recharge techniques;*

~~D. Encouraging development proposals that are sensitive to fire, flood, slide, erosion, pollution, or other safety hazards;~~

*Alternative D: Reasonably consider development proposals that are sensitive to fire, flood, slide, erosion, pollution, or other safety hazards;*

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*Alternative E: Reasonably consider sensitive development through flexible design and innovative arrangement of building sites by utilizing variable lot sizes, clustering, and setback variations;*

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