

From: [George Burton](#)
To: [George Burton](#)
Subject: FW: Hillside Code Update - November 7th Planning Commission Meeting
Date: Wednesday, December 13, 2017 11:23:00 AM

Below are a list of questions, comments, or concerns identified by Hillside Committee Member Scott Tonn. These comments are based upon the November 7th draft code. Staff's responses to Committee Member Tonn's comments are identified in **bold** and **red**.

From: Scott Tonn [<mailto:stonn@tonninv.com>]
Sent: Tuesday, November 07, 2017 4:48 PM
To: George Burton; scott@azarchitecture.com
Cc: Eva Cutro; Paul Michaud; Planning Commissioner Daran Wastchak
Subject: RE: Hillside Code Update - November 7th Planning Commission Meeting

All.

I am planning to attend tonight but thought it's best to share my thoughts in advance of the public hearing. Upon my review, I see a thoughtful document that improves the existing ordinance. So first thank you to all for putting in the hard work to get the proposed revisions to this stage.

I did not receive the proposed changes in MSWord so I will summarize my input below though I do have some suggested wording change "detail" to share when I do receive the document in MSWord.

Also, in some cases, I simply believe more study may be required and have noted such.

1. "Cantilever". The definition suggests a 2' protrusion maximum but in Figure 7, 4' maximum is used. Need clarification. **The 2' limit was added to the definition to clarify that a 2' overhang is not a cantilever. Once the projection is greater than 2', then the cantilever requirements apply.**
2. Section 2205 V., A. Safety measures and Reviews. This section may require clarification as to which party/body may require "staging and construction plans....." Clarify if this is already identified elsewhere. **This section has been relabeled as 2205.V. Staff prefers keeping the general language of the "The Town may require....," instead of identifying a specific body. Depending upon the application, a different Town body may require the safety plan (e.g. Town Engineer, Town Building Department, Hillside Committee, etc.).**
3. Section 2205 V., A. Safety measures and Reviews . Is there current discussion/thought of a separate *Safety Financial Assurance Bond* where appropriate?.... different from a Hillside Financial Assurance that largely is proportional to cubic yards of cut and fill.... Further review of such a measure may be appropriate to give the Town a vehicle to tackle future and neighboring risk in the case of unusual circumstances. This may be appropriate where new construction unintentionally diverts water to a different path, or in the case of unstable rock/boulder areas, unintended post-construction effects to downhill lots/homes. **A separate safety assurance may be appropriate; however, the draft code identifies that the hillside assurance may be used in relation to safety issues. Page 14 of the track change draft**

ordinance states, “Further, in the event that at any time during building, demolition, or grading (or other construction at the site), unhealthy or unsafe conditions arise or are created by the Applicant and are not promptly addressed or remediated so as to cure the unsafe condition, the financial assurance may be used by the Town to address any remediate the unhealthy or unsafe condition.”

4. Section 2205 V., A. The last sentence of the first part of A, states..... The following construction staging plans and safety plans may be required of the Town. Then under “Blasting”, it states “all blasting requirements noted in Chapter 5 of the Town Code must be fulfilled; this could be misconstrued. We should consider moving the Blasting to its own section (or) clarify “may” and “must” are not in conflict and Chapter 5 compliance is not an option. **Additional editing may be needed for clarity, however, the intent of this code section is to identify that if an applicant will use blasting, they must get a blasting permit in accordance with the requirements outlined in Chapter 5 of the Town Code.**
5. Section 2205 V., A. The last sentence of the section states “ When deemed necessary, the Town may hire..... We may consider “ the Town may require the applicant to hire an outside firm acceptable to the Town. Perhaps we can address the concern that the Town should not be in the chain of events/contract securing engineers when at all possible and thereby avoid any liability-related to outcomes. Even though this clause indicates the applicant would pay for the service, it may warrant further review of potential contract-chain liability of the Town. **Staff recommends keeping the language of “When deemed necessary, the Town may hire....” The intent of this section of code is to allow the Town to hire another professional to evaluate the applicants submittal (which gives the Town the ability – and not the applicant- to choose which firm will evaluate the application and the documents provided by the applicant’s engineer/architect/Geotech, etc.).**
6. Section 2205 VI, 1. For delayed C of O, perhaps we can consider modifying the holdback of the Financial Assurance language to add a minimum “but not less than \$_____”. When Financial Assurance calculations are very low, there may not be enough incentive. **Staff has no objection to adding a minimum assurance amount, however, what amount is an appropriate minimum (e.g. \$5,000, \$10,000, \$20,000, etc.)?**
7. Section 2206 II, B. Maybe re-visit whether a “designee” of the Town Manager is acceptable. There are cases where this works well, but others that may warrant the Town Manager’s direct involvement. In my view, Seismic Refraction Surveys (and Safety oriented decisions above) are very important decisions. To stand the test of time, I am supportive that any “waiver” or impactful determinations may require the direct decision of the Town Manager. In these cases the Town manager may certainly solicit input from a designee but makes the decision directly. **Staff recommends keeping the language of “Town Manager or Designee” since the appropriate person (specific staff member or third party professional) or Department may address specific issues (e.g. assign Grading & Drainage to the Town Engineer, zoning issue to the Community Development Department, etc.).**
8. Section 2206 II, J (iii). “driveway” should be capitalized “Driveway” to pick up the new

defined term. **Updated in current draft.**

9. Section 2207 V, A. The added sentence is appropriate but concerned the wording may leave openings for interpretation as to “who” determines “If applicable” and who/what body at the Town will review. The appropriate Town party in each case could be explicitly cited.....**This can be updated to read “If deemed appropriate by the Town Manager or Designee.” Or, “If deemed appropriate by the Town Engineer, approval of a grading plan.....” Will need Planning Commission feedback on this.**
10. Section 2207 V, B. May need clarification as how “greatest extent possible” is determined.... who/what body is the final say if there’s no agreement on this by Applicant? **No longer applicable. Subsection B was removed from the current draft.**

Generally, perhaps a catch-all governance clause could be inserted for such instances where a specific parties/bodies to decide disputes are not outlined....

11. Section 2207 VI, C, 2. Pool Barriers. The intent here is solid. We may need clarification around “minimum” as I could see how this term can be interpreted differently. **Per discussion with the Council regarding the SOD, “minimum” was left in to allow the Hillside Committee the flexibility to help identify an appropriate amount of barrier associated with each site.**
12. Section 2207 VII, A-C stricken. Not sure if this is intentional. If so, I am concerned accessory buildings need to become a defined term as there’s not much remaining in this section to govern such. I could see a party calling a new structure an “accessory building” and trying to sneak through an intended process. I believe A-C could remain unless I missed it being address elsewhere. Please Advise. **This section identified review criteria (such as Administrative Chair review) and was relocated to Section 2205 (since Section 2205 provides a summary of all the hillside review types).**
13. Table 3. Have we considered defining “Average Loy Slope %” to include use of Natural Grade as the core determiner of the lot slope? I ask as Natural Grade is use for many other calculations and this could offer consistency with other Hillside calculations. **Staff has interpreted this to be based upon Natural Grade. Language can be added to clarify this.**

Master Fee Schedule: **The Financial Assurance section was removed from the Master Fee Schedule. The code language was updated to reference the Master Fee Schedule.**

2.3.5 Financial Assurance. This language addition is appropriate in intent, but may require further review and study as to sizing and minimums.

General: Just a note, there are some numbering issues with the current document that will need to -e double-checked in subsequent drafts. (see 2205 VI. *It’s sub-sections start with B versus A*)

I look forward to attending the session tonight and will not be speaking publicly as I am sharing my thoughts here.

Thank you again for soliciting my opinion(s) and review. The revisions will improve outcomes for our Town and give further direction and clarity to future Applicants, the Hillside Committee and our Town's governing parties and managers.

All the best,

Scott Tonn

From: George Burton [<mailto:gburton@paradisevalleyaz.gov>]
Sent: Wednesday, November 1, 2017 3:30 PM
To: scott@azarchitecture.com; Scott Tonn
Cc: Eva Cutro; Paul Michaud; Planning Commissioner Daran Wastchak
Subject: Hillside Code Update - November 7th Planning Commission Meeting

Dear Chair Jarson and Committee Member Tonn,

On November 7th, the Planning Commission will hold a public hearing to review the draft hillside code.

I would like to invite you to attend the November 7th Commission meeting to provide input on the draft ordinance.

Attached is a copy of the meeting agenda for reference.

A copy of the packet will be delivered by tomorrow and you may also download a copy of the packet from the Town's website at: <https://paradisevalleyaz.legistar.com/Calendar.aspx> or by clicking on the "attachments" section of the attached meeting agenda.

Please let me know if you will be able to attend the November 7th meeting.

If you have any questions, please contact me at 480-348-3525.

Best Regards,
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