



Legislation Text

File #: 18-132, Version: 1

TO: Mayor Collins and Town Council

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DATE: March 22, 2018

CONTACT:

AGENDA TITLE:

Discussion of Hillside Code Updates - **Safety Section** (Article XXII of the Town Zoning Ordinance and Chapter 5 of the Town Code)

Town Value(s):

- ☒ Primarily one-acre, residential community
- ☐ Limited government
- ☐ Creating a sense of community
- ☐ Partnerships with existing schools and resorts to enhance recreational opportunities
- ☐ Improving aesthetics/creating a brand
- ☒ Preserving natural open space

The Hillside Code Update will aid in the protection of the hillside environment and help provide for the safety and welfare of Town.

Council Goals or Statutory Requirements:

Hillside - Preserve and protect the resident safety and intrinsic scenic value of the Hillside environment. Evaluate best practices for safety on Hillside projects..

BACKGROUND

History

Hillside related matters can be found throughout the Town Code but are most prevalent in Article XXII, Hillside Development Regulations, of the Zoning Ordinance which is often referred to as the "Hillside Code."

On July 21, 2015, staff presented a list of topics relating to the Hillside Code to the Planning Commission as part of a periodic review and update of the Town Code. In January of 2016, the Town Council identified several Quality of Life Initiatives including an update to the Hillside Code. Staff worked with then Planning Commissioner Moore in preparing a draft ordinance identifying topics of discussion and potential amendments. The draft ordinance was reviewed by the Planning

Commission at the December 20, 2016 and January 3, 2017 work sessions and the January 17, 2017 citizen review work session. In March and May of 2017, the Town Council identified hillside as one of its top five initiatives for the 2017-2018 term. On June 22, 2017, the Town Council issued a Statement of Direction (SOD) for the Hillside Code update.

The Planning Commission reviewed the hillside code update at six work sessions (starting on July 11, 2017) and 3 public hearings/meetings. On December 19, 2017, the Planning Commission voted 5 to 1, to forward the draft Hillside Code to the Town Council with a recommendation of approval.

Mayor and Council, with the Town Attorney, outside legal consulting, and staff reviewed the liability concerns of the Hillside Safety section in three executive sessions prior to this work session.

DISCUSSION/FACTS

This report focuses on the Safety Section of the code update. Please reference the other hillside action report labeled "Discussion of Hillside Code Updates (Article XXII of the Town Zoning Ordinance" for the other 18 topics noted above.

Topic No. 19. Addition a Safety Section in the Code.

19. Add a Safety Section in the Code. SOD - Identify standards and processes that trigger additional safety measures and reviews (such as enabling the Town to hire consultants to help review geotechnical reports or examine potential grading and drainage issues). The additional safety measures and reviews may be required at the Town's discretion during the plan review process and or construction. Examine the typical cost of the additional review in those standards and modify the application fee.

The Council directed the Commission to identify standards and processes that trigger additional safety measures and reviews (such as enabling the Town to hire consultants to help review geotechnical reports or examine potential grading and drainage issues).

The draft language recommended by the Planning Commission is included in the draft Hillside Code (Article 22 of the Zoning Ordinance) and identifies that the Town may require a construction staging plan and safety plan. The Town may hire an outside firm to assist with or provide a safety review. Safety triggers such as unique topography, difficult access to a site, unstable rock formations, and steep slopes have been added to the code that will enable the Town to require a safety plan. The safety section recommended by the Planning Commission is highlighted in gray and is listed on pages 12 -13 of the draft ordinance.

However, at the direction of Town Council on advice of legal counsel, the safety section was relocated from Article 22 of the Zoning Ordinance to Chapter 5 - Building and Construction of the Town Code. The safety section was also expanded to address safety items and outline the safety review process (such as identifying safety conditions on the subject lot and adjoining properties, construction staging criteria, geological report and seismic refraction survey conditions, blasting requirements, and drainage requirements). A construction staging and safety improvement checklist is proposed to be added to the Hillside application to aid applicants with the potential safety conditions and criteria. Edits associated with the safety section are highlighted in yellow. Please reference pages 6 - 9 and 48-51 of the draft ordinance regarding the updated safety section.

Preliminary feedback from frequent Hillside builders and engineers to the proposed safety checklist and decision tree offered some of the following comments:

- Unlikely to get an engineer seal on a “safety improvement plan.” If the safety improvement plan was a collection of documents such as the geo-technical report, seismic refraction survey, and engineered construction drawings, each one already has an engineer seal.
- Like the insurance amounts required as it is more appropriate coverage and levels the playing field.
- Not possible to add neighbors as “additionally insured” on their insurance policy but could add the Town.
- The one year of insurance after construction is completed is redundant and not necessary. If a neighbor experiences damage after the certificate of occupancy has been awarded, they would make a claim with their home owners insurance, who would then make a claim against the owner and/or the builder. The builder would then file the claim with the insurance. The insurance associated with constructing the project remains in place to respond to post-construction claims for the length of time required by state statute which is currently 9 years.
- Staging Plan should be separate from safety improvement plan. Staging plan cannot be sealed by an engineer. Staging plan should not be subject to review and comment by neighbors.
- Requiring a survey of surface and subsurface conditions 200' in every direction of the building site may place applicant on neighbor's property and cannot survey without consent of neighbor which could be prohibitive.
- Extremely concerned about time this adds to the process.
- Burden should be more on the contractors and less on staff-Town Engineer, Technical Advisory Board, etc.
- Could the safety plan be prepared by the contractor and reviewed by the private project engineer?
- Definition of a narrow road includes just about every road in Paradise Valley.
- Seismic refraction surveys not necessary on lots with 15% or less slope. Maybe only needed at 20% or more.

Next Steps

Staff will incorporate input and edits from the Council into the draft code. Staff is then proposing either a community conversation or a study session that allows public input to gather feedback on the safety section. Planning Commission conducted a public hearing on the remaining changes to the zoning code during their review.

Attachments

- Hillside Code Statement of Direction (SOD)
- Draft Hillside Ordinance (Track Change & Clean Version)
- Power Point Presentation