



Legislation Text

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TO: Mayor Collins and Town Council

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DATE: June 14, 2018

CONTACT:

AGENDA TITLE:

Consideration of Ordinance Number 2018-09 Amending Chapter 2 Hillside Building Committee and Chapter 5 Adding Section 5-10-9 Hillside Safety Improvement Measures and Processes; and Consideration of Ordinance Number 2018-13 Amending Section 5-10-4 Blasting Operations

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:

The Hillside Code Update meets a Town Council Quality of Live Initiative.

RECOMMENDATION:

Adopt Ordinance Number 2018-09.
Adopt Ordinance Number 2018-13.

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 three 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.

The Council reviewed the topic of hillside safety at 10 meetings (including executive sessions). Below is a summary of the discussion and direction from Town Council from the various work study sessions.

March 22, 2018 Town Council Work Session

The Town Council reviewed the draft hillside code at the March 22nd work session. During the review, the Council requested the following regarding the Safety Section:

- The Council requested that staff provide a clear background regarding the purpose of the safety section and the issues the Town is trying to address. Staff shall also include the Safety Checklist and Construction Guidelines in the packet; and present how the Safety Checklist and process will work on a sample property (please reference Exhibit F and Decision Tree).
- Identify which hillside and safety requirements also apply to flat land or non-hillside properties (please reference Exhibit E).

May 10, 2018 Town Council Work Session

During the May 10th review, Council identified the following:

- The applicant shall not be required to notify the neighbors at time of hillside application submittal.
- The construction staging plan shall be required as part of the building permit process, in which it is an administrative review by the Town Building Official and Town Engineer prior to issuance of the building permit. Also, a seal from a registrant will not be required on the construction staging plan.
- Neighborhood notification. Notice via the “Notify Me” function shall be opt-in only.
- Safety Improvement Plan process. Council requested that staff provide a time line or chart illustrating how the safety improvement process will work (please reference the timeline chart in Exhibit F).

May 24, 2018 Town Council Work Session

The Town Council reviewed the draft hillside code at the May 24th work session. During the review, the Council identified or requested the following:

- There was consensus from the Council to modify the language regarding the insurance requirement. The consensus was to remove the language requiring a property owner to carry the insurance one year after the issuance of the Certificate of Occupancy or approved final

inspection.

- There was consensus to remove the requirement of a “construction means and methods narrative” from the Construction Staging Plan process.
- Staff shall work with Council Member Moore and Council Member Pace to further refine the Hillside Improvement Plan Timeline, the Safety Checklist, and the safety Definitions.

Staff immediately worked with Councilmember Pace and Councilmember Moore and revised the three documents mentioned. This included a major clean-up of the “Safety Checklist” that enabled the elimination of the *Conditions* section and clarified the *Geotechnical* section to specify exactly what geotechnical reports must include. The author of the geotechnical report must address all sections, unless the Town Engineer waives it, even if the response is simply “not applicable.” Staff worked with Councilmember Pace to further revise the Hillside Improvement Plan Timeline to reflect suggestions brought forth by the industry work group while addressing concerns from staff on the sequence of actions. The safety Definitions sheet was updated through the work of Councilmember Moore.

May 31, 2018 Town Council Work Session

The Town Council reviewed the draft hillside code at the May 31st work session. During the review, the Council identified or requested the following:

- There was consensus from the Council regarding the concepts and frame work of the draft safety section; which included the following:
 1. A pre-application submittal shall be added to the process,
 2. The Safety Improvement Plan (SIP) shall be submitted no later than the formal hillside review submittal (or earlier if the applicant so desires),
 3. The Construction Staging Plan (CSP) shall be included as part of the building permit process (or earlier if the applicant so desires),
 4. The updates presented to the blasting section of code were acceptable with the exception of the video recording language which was to be modified, and;
- The Hillside Safety Ordinance would reference working documents rather than trying to reconstruct the material within the ordinance.

Staff revised the appropriate sections of the ordinance and complied the hillside safety requirements and processes into a “Hillside Safety Improvement Measures and Process Manual.”

Discussion

This report focuses on the Safety Section of the code update.

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

- 1. 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 safety section of the code is intended to promote public safety and to reduce the negative impacts of hillside construction on neighboring properties. Hillside properties are prone to

natural hazards and the safety section of code is designed to protect lives and property from disasters resulting from hillside development and to mitigate the potential issues such as increased erosion, boulders rolling, rockfalls, landslides, construction traffic, and construction parking. As a result, the Council directed the Commission to identify standards and processes that trigger safety measures and reviews.

However, via direction from Town Council, the safety section was relocated from Article 22 of the Zoning Ordinance to Chapter 5 of the Town Code. The safety section was also expanded to address additional safety items and outlines the safety review process (such as identifying safety conditions on the subject lot, construction staging criteria, geological report and seismic refraction survey conditions, blasting requirements, and drainage requirements). Addressing the safety items should help mitigate hazardous conditions such as boulders rolling down the hill, the concentration of drainage flows, the obstruction of streets with construction traffic or construction materials.

Safety Improvement Measures and Process

The current hillside code already addresses many of the safety issues associated with hillside development. Depending upon the type and scope of development, the Town can require a geotechnical report, a seismic refraction survey, a grading and drainage plan, and a drainage report. These plans or documents must be sealed by a registered professional engineer and are reviewed by the Town.

The proposed hillside safety code repackages many of the existing requirements, clarifies the applicable safety issues, and outlines a more detailed process. The proposed hillside safety code was agglomerated into a manual; which is labeled the “Hillside Safety Improvement Measures and Process Manual (and is referred to as the Safety Manual throughout this report).

The Safety Manual addresses specific safety concerns such as boulders, damage that may result from future rockslides, evaluation of fractures, unstable fill, rocks, etc. The Safety Manual is broken down into three components and identifies:

1. The applicable hillside terms and definitions,
2. The safety improvement plan and construction staging plan requirements; and,
3. The safety improvement plan timeline (which summarizes the safety process).

Hillside Terms and Definitions. This section of the Safety Manual is a list of definitions that are used in the Safety Manual and parts of Article 22 (Hillside Development Regulations) of the Zoning Ordinance.

Safety Improvement Plan Requirements. This section of the Safety Manual identifies the applicable requirements. Depending upon the scope of work, the applicant may need to provide a geotechnical report, stabilization and mitigation plan, blasting plan, and/or grading and drainage plan for Town review. It also identifies the requirements for a Construction Staging Plan (such as construction parking and circulation, staging areas, location of material storage, etc.).

Safety Improvement Plan Timeline. This section of the Safety Manual outlines the Safety

Improvement Plan (SIP) process. The SIP will be reviewed in conjunction with the Hillside Building Committee application. The first step in the process is pre-application submittal; where staff will perform a preliminary review of the project and inform the applicant of the applicable hillside codes, the appropriate hillside review process (e.g. chair, combined, concept, or formal review), the SIP requirements, and the insurance requirements. The pre-application submittal is a new requirement, but similar to the current process in which staff typically has a preliminary meeting with the applicant to go over the project and outline the hillside review process. The pre-application requirement is codified in Section 1 of Ordinance 2018-09.

After pre-application, the applicant will submit plans for hillside concept plan review. The applicant may submit the SIP with the concept or formal hillside review; but must submit the SIP prior to the formal hillside meeting with the Hillside Building Committee (HBC). Staff will review the non-SIP application for completeness and will forward the request to the HBC for the concept plan review. After concept plan review, the applicant will submit plans for formal hillside committee review (and will submit the SIP at this time if it was not submitted with concept plan review). Once the SIP is submitted, the applicant must notify all neighbors located within a 1,500-foot radius that:

- The SIP was submitted to the Town.
- The SIP is available for review at the Town.
- The neighbors have 45 calendar days to provide the Town with their review comments.
- Any neighbor comments regarding the safety plan must be sealed by a professional registered engineer.

The Town's Technical Advisory Board and third-party engineers will then review the SIP in accordance with Section III of the Safety Manual. After the first review is finished, staff will provide the applicant with the Town's review comments and the neighbor's review comments. The applicant will resubmit updated plans and documents in response to the review comments. Once the updated plans and the SIP are reviewed and deemed complete, the hillside application will be forwarded to the HBC for formal hillside committee review (and a copy of the SIP will be included in the HBC packet). During the formal hillside committee review, the HBC will approve, approve with stipulations, deny, or continue the hillside application. Once approved, the applicant must submit building permit application within twelve months of the HBC approval. During the building permit process, the applicant will be required to submit a Construction Staging Plan (CSP) for Town Building Official and Town Engineer review. An approved CSP will be issued as part of the building permit. A CSP checklist is located in Section III.B of the Safety Manual.

The CSP is a new part in the hillside process. At present, the Town does not require a CSP for hillside lots and flat land lots. Instead, the Town attaches a general list of construction and zoning regulations to every building permit (a copy of the Construction and Zoning Regulations are enclosed) and the Hillside Committee adds stipulations regarding parking, storage of construction material, and construction time frames (please reference Exhibit H). However, the Safety Manual will require the applicant to submit a CSP as part of the building permit review process. A seal from a registrant will not be required on the CSP.

Also, the current code requires neighborhood notification of the concept hillside review, formal

hillside review, and the combined hillside review. The Safety Manual will require an additional notification to the process. As noted previously, the applicant will be required to notify the neighboring properties when they submit the SIP. The applicant will have the choice or option of submitting the SIP with the concept plan review submittal or the formal hillside committee review submittal. However, the SIP must be reviewed and deemed complete by the Town Engineer and/or Technical Advisory Board before the hillside application can be forwarded to the HBC for formal review.

Blasting

Staff was tasked to evaluate and examine if the Town's blasting code needed to be updated. Staff compared the Town's blasting code with other Arizona municipalities. Based upon the comparison with other municipal blasting regulations (please reference Exhibit K), six primary modifications were made to the Town's blasting code:

1. Expanded the pre-blasting radius from 300' to 500';
2. Added a requirement for the contractor to provide a blasting schedule;
3. Added a requirement for the use of blasting mats;
4. Added a requirement that the Town Engineer, or designated inspector, shall be on site at time of the blasting;
5. Owner must have insurance for blasting; and
6. Requires a video recording of the blasting (which must be provided to the Town) and if owner consents, a video recording of the existing conditions of the exterior of structures within 500' of the blasting area.

Please reference Ordinance 2018-13 regarding the modifications to the blasting code.

Comparison of Hillside Requirements and Flat Land Requirements

During the March 22nd work session, Council requested that staff identify which hillside and safety requirements also apply to flat land or non-hillside properties. Please reference Exhibit E for a comparison of these requirements.

Summary of Hillside HOA Regulations

Silver Leaf is a hillside community located in north Scottsdale. Staff contacted the Design Review Manager for the Silver Leaf community to identify what hillside requirements are used by a private association. The Silver Leaf requirements are summarized in Exhibit G.

Attachments

- Hillside Code Statement of Direction (SOD)
- Draft Ordinance 2018-09
- Draft Ordinance 2018-13
- Hillside Safety Improvement Measures and Process Manual
- Exhibits E - H and Exhibit K
- Construction and Zoning Regulations