



Legislation Text

File #: 18-404, **Version:** 1

TO: Mayor Collins and Town Council Members

FROM: Brian Dalke, Interim Town Manager
Andrew M. Miller, Town Attorney

DATE: October 25, 2018

DEPARTMENT: Town Attorney

AGENDA TITLE:

Consideration of Ordinance Number 2018-15; Amendments to Article XXII, Hillside Development Regulations, of the Zoning Ordinance

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 Town of Paradise Valley makes every effort to enhance the community's unique character for its residents and people from around the world.

Council Goals or Statutory Requirements:

RECOMMENDATION:

Adopt Ordinance Number 2018-15

SUMMARY STATEMENT:

History

Hillside related matters can be found throughout the Town Code, but most of the regulations specific to the Hillside Development Area overlay are contained in Article XXII of the Zoning Ordinance, the Hillside Development Regulations. The Town updated the Hillside Development Regulations on May 10, 2018 (per Ordinance No. 2018-08). Thereafter, the Town made changes to Article V of the Town Code (on June 14, 2018; Ordinance No. 2018-09) relating to safe development and construction practices for properties in the Hillside Development Areas, including the adoption of a Hillside Safety Improvement Measures and Process Manual. Also, subsequent to the adoption of the revised Hillside Development Regulations, the Town adopted a new Storm Drainage Design Manual (on June

14, 2018; Ordinance No. 2018-14), which included some specific provisions relating to property located within a Hillside Development Area. Based on these other subsequent changes in Town Codes and Manuals, some minor updates/amendments to the Hillside Development Regulations are now recommended.

Ordinance No. 2018-15 (copy attached) has been prepared and reviewed by the Planning Commission at two work study sessions and at a public hearing conducted on August 21, 2018. The Commission has recommended that the Council adopt Ordinance No. 2018-15.

The Council reviewed the draft ordinance at its September 13, 2018 meeting and recommended two changes. First, that a reference should be made in the required pre-application section (Section 2205.I) that fees for pre-applications, if any, be noted and that the future fee be tied to the Town's Fee Schedule. Second, the application expiration section (Section 2205.IX) should define what constitutes a complete "Hillside Application" and what criteria should be used to determine whether the Hillside Application is complete. Council also reviewed the draft ordinance at its September 27, 2018 meeting. A final clean copy of Ordinance No. 2018-15 is attached.

Scope of Hillside Development Regulations Update:

The updated provisions of the Hillside Development Regulations addressed in the draft ordinance touch upon four areas, namely: 1) updating several definitions to reflect only those terms and definitions that are used in the Hillside Development Regulations; 2) identifying the requirement for a pre-application submittal as part of the hillside review process; 3) identifying the expiration periods for hillside applications; and 4) providing clarification regarding the process to remove a property from the "hillside development area" designation.

Definitions

After the Hillside Safety provisions were determined to be best added to Article V of the Town Code (in the Building Permits section), some of the definitions in the Hillside Development Regulations were no longer needed, so they have now been struck. Also, some additional technical definitions, such as the "Storm Drainage Design Manual" have now been added for clarity.

Pre-Application Submittal Requirement

Since the Hillside Safety Code/Manual was adopted after the recent amendments to the Hillside Development Regulations, there is a slight discrepancy in the required submittal process between the two. The Hillside Safety Code/Manual identifies that the applicant must submit a pre-application as part of the hillside review process; however, the pre-application requirement is not addressed in the Hillside Development Regulations (Article 22).

Therefore, language has been added to the Hillside Development Regulations to identify the requirement of a pre-application submittal and review. 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 Development Regulations, the appropriate hillside review process (e.g. chair, combined, concept, or formal review), and the applicable safety improvement plan requirements. The pre-application submittal is a new requirement, but is 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.

Expiration of Hillside Application

The Hillside Development Regulations identify that an applicant must submit a building permit within 12 months from the date of the Hillside Committee approval. However, the Hillside Development Regulations do not clearly identify how much time an applicant has to receive Hillside Committee approval. As a result, staff is proposing to add provisions to clarify the expiration limits for a hillside application (with said provisions being essentially the same as the current staff policy on the expiration of hillside applications).

Similar to the treatment of building permit applications, hillside applications have an expiration. Therefore, a hillside application that fails to receive Hillside Building Committee or Hillside Building Committee Chair approval within eighteen months from the date of submittal will expire and will be null and void.

However, extensions may be granted. An applicant may apply for a one-time automatic six-month extension. After that six-month extension, the Town Manager or designee may grant up to two additional extensions based upon circumstances beyond the applicant's control. The applicant must identify the circumstances in writing for Town Manager review. The Town Manager has discretion to deny the extension request, but if granted, there may be up to two additional extensions granted, each limited to a maximum limit of one hundred eighty days each.

Request to Remove a Property from Hillside

This update was recently added by staff. Clarifying language has been added to the Hillside Development Regulations so that it is clear that the Council has discretion to deny a request to remove a property from the "Hillside Development Area."

Conclusion

It is respectfully recommended that the Council adopt Ordinance No. 2018-15.

BUDGETARY IMPACT:

None.

ATTACHMENT(S):

Draft Ordinance 2018-15