



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JUNE 21, 2023**

COMMISSIONERS IN ATTENDANCE: Chair Laura Suesser, John Kenworthy, Vice Chair Sarah Hall, Christin Van Dine, John Frontero, Henry Sigg

EX OFFICIO: Rebecca Ward, Assistant Planning Director; Dave Thacker, Chief Building Official; John Robertson, City Engineer; Rebecca Gutknecht, City Public Improvements Engineer; Mark Harrington, City Attorney

1. CALL TO ORDER

Chair Laura Suesser called the meeting to order at approximately 5:30 p.m. She noted that all Commissioners were present, with the exception of Commissioner Bill Johnson, who was excused.

2. PUBLIC COMMUNICATIONS

There were no public communications.

3. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

There were no Staff communications.

Commissioner John Kenworthy offered his good wishes to Commissioner Johnson.

MOTION: Commissioner Kenworthy moved to nominate Commissioner John Frontero to the Transportation Board as the Planning Commission Liaison. Commissioner Henry Sigg seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

There were no additional Commissioner comments or disclosures.

4. WORK SESSION

A. Land Management Code Amendments – Steep Slope and Excavation Standards – The Planning Commission Will Review Steep Slope and Excavation Standards for the Steep Slope Conditional Use Permit, Conditional Use Permit, Sensitive Land Overlay, and Master Planned Development Reviews. PL-23-05657.

Assistant Planning Director Rebecca Ward stated that Chief Building Official, Dave Thacker was present for this meeting remotely. City Engineer, John Robertson and City Public Improvements Engineer, Rebecca Gutknecht were also present in chambers.

Assistant Director Ward stated they would go over the current review process, including the Building Permit review and the Land Use Regulations currently in place. They would also outline opportunities to amend the Code.

With regard to Building Permit review, Steep Slopes Conditional Use Permits (“CUPs”) or construction on a Steep Slope within the Sensitive Land Overlay were conditioned to require additional materials at the Building Permit phase. She advised that it was at this stage that a geotechnical report would be submitted to address the soil type and soil-bearing pressure.

She stated that this geotechnical report would be provided to a structural engineer that designs the retaining and foundation walls to align with the requirements of the soil type and soil bearing pressure. This information would be reviewed as part of the Building Permit.

Assistant Director Ward added that the Building Department also reviewed the plans to confirm that they matched the requirements of the geotechnical report. The geotechnical and structural engineers were responsible for verifying the site conditions and that they met the design assumptions. As the applicant excavates, the Building Department inspects throughout construction.

She invited Chief Building Official Thacker to address the Building Permit review process. Chief Building Official Thacker explained that his department would not necessarily begin the process by looking at whether it was a Steep Slope; rather, they looked at the soil bearing pressure requirements in addition to any slope conditions. He confirmed that the Building Department would look at soil-bearing pressure and how the Steep Slope itself might affect the foundation design. He explained that in some of the Steep Slope areas and the deeper cut areas, they looked at whether the walls were designed appropriately to ensure that they would retain the earth and not cause any life safety concerns with the home as it was being constructed.

Chief Building Official Thacker added that they also would look at the steeper cuts. He stated that for a typical home on a flat ground with a basement, they would see a soil cut of approximately 6 – 7 feet in order to get the foundation into the earth. Sometimes in Old Town and in the steeper sloped areas, they would see cuts up to and sometimes exceeding 15 – 20 feet. He indicated that they want to make sure that as those cuts are made in the steeper slope areas they are engineered and have proper soil retention. The proper soil retention could either be specific soil mills and gunite, or it could be soldier pile walls. He stated that they work with the geotechnical engineer and directly with a slope stability or temporary slope engineer to determine the best way to ensure that the slope or the shoring was sturdy and in place long enough to maintain the earth until the foundation could be completed and backfilled.

Chief Building Official Thacker added that throughout the inspection phase, his Department looks at the footings and foundation walls, and then towards the end of the project they would look at any retaining walls that need to go in place to ensure that they were retaining a slope in place. They typically require that anything greater than four feet in height be engineered so they can verify and ensure that the walls were being built properly. They also look at the stability of the slope to determine whether a wall that might be less than 48 inches in height would be retaining any additional surcharge, and they would require design at that point as well. He expressed that much of what they do from start to finish was dependent upon structural engineers providing them with direction, which they follow.

Chair Suesser asked when they would analyze the steepness of the slope. Chief Building Official Thacker explained that during the Building Permit process, the review of the Steep Slope would initially come from the Planning Department. The Building Department would not necessarily evaluate the steepness of the slope, although they require a geotechnical report. The point at which they analyze and start to look at what needs to be done with regard to a Steep Slope would be when they receive the geotechnical report that showed the cuts and the depths of the cuts. He added that it would be at this point that they would start to evaluate whether they need any additional temporary shoring to move forward.

Chair Suesser expressed that one of her concerns was that it did not seem that the Building Department was looking at or analyzing the project with any limits. In other words, they were not saying that an owner could not excavate 12 feet against the hillside; rather, as long as the engineering works, it seemed as though it would pass. This seemed to include the size of the stabilization walls on the site. She understood that the retaining wall limit was supposed to be part of this process.

Assistant Director Ward stated that the Steep Slope evaluation in the Land Management Code ("LMC") was the point where the regulations were applied to the Site. They go through the different types of Steep Slope evaluations that the Planning Commission would ultimately review and either approve or deny. She added that the wording in the Code referenced the end product and what the finished site would look like. She added that during construction, there would be items regulated through Building, through the geotechnical report, and through the structural engineer. This could include temporary shoring or shoring of the site that would be backfilled at the end.

Assistant Director Ward explained that the Planning Commission would review the design of the site and the other elements of the design. She presented some images depicting temporary shoring.

Chair Suesser highlighted that temporary shoring was not removed at any point. Assistant Director Ward replied that while temporary shoring was not removed, it was not visible.

Chief Building Official Thacker explained that the temporary shoring was, in fact, temporary. He stated that was not necessarily because it would be removed, but because it was temporarily installed to secure the site until a permanent measure could be put in place. He noted that typically the permanent measure was the foundation wall or retaining wall that would be installed with final backfill or final grade.

Commissioner Frontero felt that in reading the LMC, it was clear that there was meant to be restrictions on retaining walls. He noted that a number of times it was mentioned that it should be minimal and not something to just be installed to support a large home. He added that the fills and the cuts were called out in the Code to be minimal as well. He understood that the term "minimal" was not a legally defined term, and wondered how they could hold applications to the minimal standard. He asked Chief Building Official Thacker if their review looked at whether retaining walls were too large and not "minimal" as required by the LMC.

Chief Building Official Thacker stated that as far as the Building Permit, they looked at the design elements and the ability of the design to withhold or retain what it was designed to accomplish. He deferred the issue of "minimal" to Assistant Director Ward because that was more of a final view of the project.

Assistant Director Ward stated that the Building Department would look at the structural elements and would review projects for compliance with their requirements. The Planning Department reviews applications that have gone through the Steep Slope review for compliance at the Building Permit phase. Any Conditions of Approval placed on the application would be reviewed by the Planning Department. The Building Department's review was specific to their Codes.

Commissioner Sigg asked about the differentiation between a retaining wall holding grade and a separate foundation wall. He felt they might be convoluting a rear foundation wall that might be holding grade as a retaining wall on a Steep Slope. He contrasted this with a separate wall and a foundation wall and wondered what effect that had on the Steep Slope analysis. He clarified that his query focused on situations where the building was separate from the wall holding the grade behind the house.

Assistant Director Ward felt that was project specific, but noted that the overall goal was to limit site disturbance. If there was temporary shoring until that foundation wall was constructed and backfilled, she was not aware of any criteria or prohibition against the temporary and then the permanent foundation wall.

Commissioner Sigg wondered what occurred if the temporary shoring became the permanent grade wall. He posited that if the design called for a five-foot corridor walkway behind the structure, the wall might hold grade in a certain direction, and there could be a separate house wall at some other level where it met grade. He asked if there was a differentiation for that situation, as he felt there could be a situation where there were two walls.

Assistant Director Ward offered that the Code provided that the Final Grade be within four feet of the Existing Grade to avoid large changes like those described by Commissioner Sigg. She noted there were some exceptions for conditions like window wells where the grade difference could be greater than the four feet called out in the Code. She reiterated her understanding that this situation was addressed through the limitations between Existing and Final Grade. She confirmed this would be measured from the back of the property to the front.

Commissioner Sigg asked what would happen if someone built a retaining wall and pushed the house out onto the flat form, thereby creating a greater slope angle than the slope angle above. He opined that originally that line met the grade, but the house design created a steeper slope angle. He noted that would then call for retaining walls on the downhill side.

Assistant Director Ward stated that she would provide illustrations that might explain the situation when starting with the Existing Conditions and then getting to the Final Grade without manipulating more than four feet. She explained that the Code defined Steep Slopes as greater than 15%, and Very Steep Slopes as greater than 40% and then showed how those were measured. She noted there were different criteria that the Planning Commission considered for different application types. They have Steep Slope CUPs, Sensitive Land Overlay, Master Planned Developments ("MPDs"), and CUPs in Subdivisions.

Assistant Director Ward stated that there was a specific Steep Slope CUP that only applied to properties in the Historic Residential Districts, where a Building Footprint was proposed to be 200 or more square feet on a slope of 30% or greater. She presented a Zoning Map and explained that the dark blue area illustrated the Commercial Historic Districts where there were no Steep Slope regulations. The light blue area highlighted on the map encompassed all of the properties that must go through a Steep Slope CUP if they proposed a Building Footprint greater than 200 square feet on slopes of 30% or greater. She reiterated that this criterion was limited to just the Residential Historic Districts.

In response to an inquiry from Chair Suesser, Assistant Director Ward stated that the properties recently considered by the Commission were located in the Recreation Commercial zone.

For the Historic Residential properties, Assistant Director Ward explained that there was a specific Steep Slope application, and in the existing requirements the applicant was required to submit the following:

- Photographs of the site and the perimeter;
- The streetscape elevation shows the proposed development in the context of the streetscape;
- Landscape plans showing the pavement, retaining walls, and patios;
- The contextual analysis of the visual impact, with a graphic illustrating the proposed development superimposed in a photo or computer model;
- Images taken from the Right-of-Way at 30 and 60-degree angles from the face of the proposed structure to show massing and how it would look in comparison with adjacent structures; and
- Cross-canyon views of the superimposed proposed development.

In addition to the foregoing, the residential properties in the Historic Districts were also required to go through the Historic District Design Review ("HDDR"). Through the HDDR process, new infill residential buildings are required to either step up or follow the existing contours of Steep Slopes, be designed to minimize cuts into hillsides, and be designed to minimize fill and retaining walls.

Assistant Director Ward commented that there were some provisions in the Zoning regulations in the Historic Districts that after construction is complete, Final Grade must be within four vertical feet of Existing Grades. She presented an illustration of this requirement.

Additionally, the Historic Residential Zones limit the overall allowed Height from Existing Grade to 27 feet. There is also a maximum internal height of 35 feet. She presented an illustration and explained that internal height was measured from the lowest floor plane to the highest wall-top plate that supports the joists or roof rafters.

Chair Suesser noted the requirement of 27 feet from Existing Grade and asked if that was also Final Grade. Assistant Director Ward explained that Existing Grade was where the Site was in its natural state before it was disturbed, whereas Final Grade was the condition after construction. She noted there could be a change of no more than four feet between the two grades.

Assistant Director Ward mentioned that there were questions about the Steep Slope measurements for the CUPs. She advised that the Code provided that slope was to be measured with a minimum horizontal distance of 15 feet perpendicular to the contour lines of the certified topographic survey. She presented an image showing how the slope was to be measured. She advised that the Steep Slopes were measured throughout the entire site perpendicular to the contour lines.

The current Code provides that if Lots were two Old Town Lots or fewer, these CUPs would undergo Staff review. For Lots greater than two Old Town Lots, the CUP would require Planning Commission review. The review criteria for both Staff and the Commission are the same, and she advised that those criteria were as follows:

- The location of the development to reduce the visual and environmental impacts of the structure;
- The visual analysis taken from the Vantage Points to show the proposal within the streetscape and to identify screening, slope stabilization, erosion mitigation, vegetation protection, and other design opportunities;
- Access would also be addressed where access and driveways must be designed to minimize grading of the natural topography and to reduce overall building scale;
- The project may include terraced retaining structures to regain Natural Grade;
- Building Location to minimize the cut and fill that would alter the perceived natural topography of the Site. This also involved looking at adjacent properties to maximize opportunities for the streetscape;
- For consistency in building form and scale, structures must be stepped within the grade, and broken into a series of individual smaller components. Low-profile buildings that orient with existing contours were strongly encouraged, and the garage must be subordinate in design to the main building. The Planning Director and/or the Commission may require the garage be separate from the main structure or that there be no garage based on a site-specific review;
- Setbacks to minimize the creation of a "wall effect";
- The maximum dwelling volume, including Lot size, Building Height, and Setbacks, should look to Zoning District and HDDR requirements. The Planning Commission has discretion to limit the volume of a proposed structure to minimize its visual mass or to mitigate differences in scale between new construction and the existing buildings on the streetscape; and
- Building Height is limited to 27 feet from Existing Grade, with an internal 35-foot restriction. The Planning Commission may require a reduction in Height to minimize visual mass or to mitigate differences in scale between the proposed Structure and the Historic character of the neighborhood's existing residential Structures.

Assistant Director Ward stated that the Steep Slope CUP review was a review of the design in the context of the streetscape.

Commissioner Frontero sought clarification that these criteria were applied only if the grade was 30% or higher. Assistant Director Ward confirmed that a Steep Slope CUP was required for a proposed Building Footprint of 200 square feet or greater on a slope of 30% or greater.

Chair Suesser noted 200 square feet of Building Footprint on 30% grade triggered the need for a Steep Slope CUP. She observed that on a typical Old Town Lot, that would be 25' x 75', and wondered if they would ever have a Steep Slope CUP on a 25' x 75' Lot.

Assistant Director Ward commented that a Steep Slope CUP would be required for at least a 200-square-foot Building Footprint. It was noted by City Engineer Robertson that 200 square feet would be 10' x 20' of Footprint actually on the Steep Slope, so most of the Lots in Old Town would qualify.

Assistant Director Ward explained that the Sensitive Land Overlay criteria were used for MPDs, Subdivision reviews, and larger projects within the Sensitive Land Overlay outside of the Historic Districts. The Planning Commission recently recommended Code updates on the materials required for construction on Steep Slopes within the Sensitive Land Overlay, and now the Code required that applicants submit a soil investigation report, a geotechnical report, and additional slope information at the time of the Planning application rather than at the Building Permit phase. She noted that the additional requirements for the visual analysis for projects within the Sensitive Land Overlay were also integrated into the application process.

It was noted that the Code prohibits development on or within 50 feet of Very Steep Slopes, which were defined as 40% or greater. She noted that the Planning Commission had the discretion to vary Setbacks from Very Steep Slopes if,

- There is no intrusion on the Ridge Line;
- There is no excessive cut or fill;
- Limits of Disturbance are limited to the minimal area to excavate and backfill;
- There is no additional erosion, land subsidence, or avalanche hazard;
- There is improved vegetation protection, minimized changes to viewsheds, reduction of site disturbance; and
- It would result in an overall reduction in project density.

She noted that these criteria were different from the Steep Slope CUP criteria wherein benching or terracing to provide additional or larger building sites was prohibited. Additionally, streets and roads were subject to regulations on the Slopes and where they could be located. She added that the Code encouraged that streets and roads run with the Existing Grade and that cutting and filling be minimized and re-vegetated.

In terms of retaining walls, Assistant Director Ward advised that any retaining wall constructed in the Sensitive Land Overlay required an additional Administrative Permit from the Planning Department. The Administrative Permit would be based on an assessment of visual impact, compatibility with surrounding terrain, vegetation, and safety. She indicated that there is also a landscaping and re-vegetation review for exposed slopes and disturbed portions of Steep Slopes must be preserved and re-vegetated. There are also requirements to comply with the Design Standards in the Architectural Guidelines.

Assistant Director Ward commented that there were flexibilities built into the Code where there are Open Space requirements for larger projects such as Subdivisions or MPDs. For Very Steep Slopes, 75% of the Steep Slope area must remain as Open Space. For developable land, the Code encouraged clustering density where it would have the least impact on the Sensitive Lands in the area. She added that 100% of the Very Steep Slope area was required to remain Open Space. There was an allowance to transfer some of that density into the developable areas.

She advised that there was also a carve-out for MPDs that were using the Transfer of Development Rights to protect Sensitive Lands and transfer density to other areas. There was also a density transfer if the Planning Commission finds that transferring density would preserve Open Space to ensure long-term protection of significant environments, environmentally or visually sensitive areas, would provide public access for trails, would restore degraded wetlands for environmental areas on the site, or would make other significant environmental improvements. She reminded those present that this review was for the larger projects.

Commissioner Frontero asked about the process and sequencing for the landscaping and re-vegetation regulations, and when a Certificate of Occupancy could be obtained. Assistant Director Ward stated that it depended on the particular project. She noted there had been some changes in landscape bonds for certain application types. For projects like an MPD or a Subdivision Plat, they would typically have a Plat Note or some other requirement that landscaping be complete and compliant. She stated she would follow up further on this inquiry.

Chair Suesser asked if there was a map showing the Sensitive Land Overlay. Assistant Director Ward answered in the affirmative and added that when the amendments were adopted by City Council, the Sensitive Land Overlay map was updated and made available online. She advised that it covered the majority of the City. Previously, the Sensitive Land Overlay was indicated on the Zoning Map with a red dashed line, which made it difficult to determine which properties were included in the Sensitive Land Overlay. The map was updated and everything shaded in pink was the Sensitive Land Overlay.

In response to a further inquiry from Chair Suesser, Assistant Director Ward stated that both Steep Slopes and Very Steep Slopes existed in the Sensitive Land Overlay. She added that in the Sensitive Land Overlay, the 15% definition applied.

Assistant Director Ward next turned to the criteria for Steep Slopes and excavation in Master Planned Developments. She advised that units must be clustered on the most developable and least visually sensitive portions of the site. In addition, projects must be designed to minimize grading and the need for large retaining structures. Further, roads, utility lines, and structures must be designed to work with Existing Grade, and cuts and fills must be minimized. She stated that Findings of Fact require the Planning Commission to find that the project would complement the natural features on the site and would preserve significant features or vegetation to the extent possible. Additionally, there must be a finding that the project meets the Sensitive Land requirements and was designed to place development on the most developable land and least visually obtrusive portions of the site.

Chair Suesser felt this presented another example of Commissioner Frontero's point that projects must be designed to minimize grading and the need for large retaining structures. She felt it was valid to question what that means. She offered that perhaps they needed Code language that was more specific in that regard.

Assistant Director Ward mentioned that when they review CUPs, the project must mitigate the impacts of, and address, Steep Slopes. In the Subdivision review, there were also protections for Sensitive Lands, including Steep Slopes, but those were largely addressed in the Sensitive Land Overlay.

Assistant Director Ward stated that the initial recommendations were to define key terms in the Code. They looked at other codes for examples, and would also define terms such as cut, fill, shoring, terracing, benching, geotechnical reports, and soil investigation reports. Chair Suesser recommended defining retaining walls.

Engineer Gutknecht suggested the definitions include a clarification between exposed retaining walls and structurally incorporated retaining walls, as that would provide a very different visual impact.

Chair Suesser felt it would be important to mention that part of the reason for reviewing the Steep Slope was to allow them to potentially consider whether a site disturbance should be weighed more than just a visual analysis. She understood from her role as a liaison on this Committee with Commissioner Johnson that they were trying to move towards a site disturbance analysis in conjunction with the visual analysis.

Assistant Director Ward acknowledged Chair Suesser's understanding and stated as part of some of the Codes they reviewed they illustrated key concepts, which could help show the desired outcomes. To be addressed in the Final Action Review, she reported that Staff recommended that all Steep Slope applications come before the Planning Commission and that they remove the Administrative Steep Slope review for the smaller projects. Another recommendation was to establish baseline geotechnical report requirements and the purpose for those reports as far as the proposed design. She likened this requirement to the requirement of a baseline Traffic Impact Study. The baseline geotechnical report requirements would include requirements specific to development in Park City, including the scope of what should be evaluated in the report beyond the Lot lines and other clarifications.

In response to an inquiry from Chair Suesser, Assistant Director Ward confirmed that a geotechnical report was not currently required for a Steep Slope CUP in the Historic District, but noted that was one of the recommendations. Currently, the requirement of a report was typically included in a Condition of Approval that would require the report to be submitted at the Building Permit phase. She advised that Staff recommended a requirement that the geotechnical report be submitted with the Planning application. She added that currently, things like a temporary shoring plan and soil stabilization details were generally Conditions of Approval required at the Building Permit phase. They recommended including those as part of the Steep Slope CUP and other Steep Slope development applications.

Chair Suesser suggested also including some limits and noted that currently if something could get engineered, it would get approved. If they were doing a more site disturbance analysis, they should consider putting in some limits.

Assistant Director Ward responded they could clarify the maximum cut slopes, limits on changes to natural grade limits on manmade slopes, Limits of Disturbance, and site clearing, grading, cut and fill standards. As part of that, Staff recommended going through all the different Steep Slope review criteria to update and align them to provide consistency.

Engineer Gutknecht added that generally, global stability was part of the structural engineer's design. They do not look purely at retaining wall stability; rather, they should also be evaluating the global site stability of the slope and how the structure would affect it. As a City, they do not evaluate that; rather, they rely on the engineering expertise of the structural engineer who received the data from the geotechnical engineer regarding soil conditions. The City relies upon its stamp, which they verify that the structure would be stable.

Chair Suesser appreciated this explanation but felt the analysis of the Steep Slope by the Planning Department and Planning Commission should set the stage for what would be analyzed and confirmed. Planning Staff and the Planning Commission were trying to determine the appropriateness of the site disturbance on a Sensitive Land or Steep Slope situation. As part of the initial analysis, she felt the question was how much of the hillside should they allow to be disturbed.

City Engineer Robertson mentioned that geotechnical reports were typically submitted with every project, whether or not it involved a Steep Slope, as they have to determine the appropriate foundation thickness. Even though not required by City Code, these reports were required by the International Building Code ("IBC"), and the Building Department looked at these reports.

Assistant Director Ward presented a slide showing proposed updates to the Code. Currently, the Code focused primarily on visual analysis, especially for Steep Slope CUPs and development within the Historic District and streetscape. They recommended updating the Code to include evaluation of site disturbance. This would be accomplished by defining the key terms, illustrating the key concepts, establishing the baseline geotechnical report requirement, and aligning the criteria so there would be limits to be considered as part of the Planning Commission's review of these projects. Assistant Director Ward asked the Commission if they had additional considerations they wanted to include as part of this review.

Commissioner Sigg was curious about cuts and fills and asked if a hill created by virtue of a road graded at 45 degrees would count in the 50-foot Setback from the Steep Slope as it would be a man-made slope. He also raised the example of a dead-end street with houses on either side and the end of the street was a cliff. He asked if the creation of a road could create a Steep Slope condition. He also asked about grade walls to hold drainage. He would refer to these as wing walls coming off the side of a house. Chair Suesser commented there were many examples of this in Old Town.

Assistant Director Ward responded that the 50-foot Setback from Very Steep Slopes was in the Sensitive Land Overlay, so that would not apply to Old Town Lots. Commissioner Sigg offered the example of Mellow Mountain Road past the two switchbacks where there is a house on the downhill side where the road essentially falls away. Someone had now elected to build a house, and he felt they were not within 50 feet of what he would consider either a Steep Slope, or fill from the road. He added that the fill was the result of creating the road. Assistant Director Ward stated they would look into that, and added that some of those Subdivisions were created before the Sensitive Land Overlay was adopted. Engineer Gutknecht was unclear on Commissioner Sigg's question about the wing walls, and explained that in engineering, they review low-impact development. This involved the stormwater retention required for the modified impermeable surface that triggered requirements for retaining that water on site.

Commissioner Sigg asked if there was a provision where they might have a Steep Slope that required a wing wall, but the house might not be on a Steep Slope, and as a result, there might be drainage going away. He asked if there was something that would allow for the creation of a wall that would hold drainage and erosion within the Steep Slope.

Chair Suesser felt that would fall in the retaining wall category. Assistant Director Ward stated they would look into this question.

Commissioner Frontero stated that the LMC defined two Slopes. Steep Slopes were at a 15% grade, and Very Steep Slopes were at 40%. He suggested they reword it to something along the lines that Steep Slope was defined as 15% or greater, and then add three levels to that. Level 1 would be 15% or higher; Level 2 would be at 30% because that was the slope at which a CUP was required in Historic Districts; and Level 3 would be 40%. He would remove the Very Steep Slope category, as he found it confusing and not very descriptive. He felt the public would be better able to appreciate the different levels.

Chair Suesser agreed they should define a 30% slope because it was not included in either category. From an engineering standpoint, Commissioner Hall asked if there was anything else, other than the geotechnical report, that the Departments were seeing that should be incorporated or prioritized. Engineer Gutknecht stated that the City Engineering Department did not review that report; rather the Building Department reviewed the geotechnical report in conjunction with the structural engineering plans and the entire plan packet in order to ensure that it met the provisions of the International Building Code. She did not feel there was anything beyond that that would take precedence.

Commissioner Hall clarified that she was looking for suggestions on how they prioritized these updates, and whether they felt that some were absolutely crucial, or whether anything was missing.

City Engineer Robertson advised they have had discussions with the Building Department and Planning Department, and felt that having the geotechnical report upfront, which would include other required information, was important.

Commissioner Hall asked if anyone had recently used the Density Transfer, and wanted to know the definition of a Sensitive Site in conjunction with that. Since her time in the Planning Department, Assistant Director Ward was unaware of any application processed that used the Density Transfer; however, when they review Building Permits for areas already subdivided, there were Subdivisions such as those in the Estate Zone where three acres were required for a home. Some of the subdivisions in the Estate Zone have homes located on very small Lots; however, within that Subdivision the density was consolidated and the acreage surrounding the Subdivision was Open Space. She commented that there had been applications that clustered the density to protect the Sensitive Lands; however, she was unaware of any recent application that proposed to use any of those transfers.

Commissioner Hall likewise could not recall any applications, but stated she liked the general concept of trying to encourage the location of structures in less impactful areas. She questioned whether this presented an opportunity to further explore or encourage that. Chair Suesser liked the idea that someone looking to develop a Steep Slope could look to transfer his or her density to another site and leave the slope alone. She noted that might be a great thing for the Planning Department to encourage.

Commissioner Hall inquired about any problems that were encountered with the shift of some of the Steep Slope CUPs to the Planning Department. Assistant Director Ward would address that later and stated the recommendation was made in response to changes in State Code. With regard to the "wall effect," Chair Suesser noted a couple of examples in town where they had created a "wall effect." She felt that should be clarified.

Commissioner Sigg asked how the Steep Slope criteria related to contours in the topography and the area that could potentially be filled. He thought there was a provision in the Code that contours in the land could be filled to the average grade. He knew some of the other Ordinances contained such a provision, and recalled that 25 square feet at over 30% grade could be filled to create a bigger site.

Assistant Director Ward stated they could look into that question. She was aware there were requirements for measuring it but would look to see if there was something that allowed for that to be filled.

Commissioner Kenworthy asked if there was anything in the City's Codes that were more lenient than the International Building Code. He noted there was discussion about the City relying on the IBC for some things, and he wondered if it was consistent across the line with the City Codes.

City Engineer Robertson explained that the IBC specifically applied to the building and the foundation. They defer to that Code and have adopted it. The International Building Code did not necessarily address the issue of slope on grades. He confirmed that in terms of retaining walls, the City generally had Codes that were similar to the International Building Codes. City Engineer Robertson would have to look at whether any City Codes were more lenient than the International Building Code.

Commissioner Kenworthy asked where they got the baseline for the Steep Slope Codes. City Engineer Robertson explained that the current Steep Slope Codes address what the Final Grade should be, but do not get into specific Engineering Codes or standards. He stated that was why many things were deferred to the Building Permit when they start looking at the soil structure, foundations, and how the construction would occur on the site.

Commissioner Kenworthy explained that he was trying to see if there was something that would help with some of the earlier issues expressed by Commissioner Frontero and Chair Suesser in regard to terms like "minimal" and "excessive." He hoped they could draw from other sources to define those terms.

City Engineer Robertson advised that there were some engineering standards and practices they could use, which he felt they were trying to include in the updated Code to have it upfront that would help with the decision-making before an application reached the Building Permit phase.

Commissioner Kenworthy asked City Engineer Robertson if he had any other suggestions regarding the cadence of these submittals. City Engineer Robertson felt that was included in some of the recommendations, and he did not feel anything else should be included earlier on in the process. He noted there would be some specifics they had not yet defined, but they proposed the geotechnical report up front with more requirements that would address soil

conditions, drainage conditions and issues, and preliminary design work on the walls. This was recommended to avoid situations where the end of a project did not look like what was presented to the Commission at the beginning during the approval of a Steep Slope.

Chair Suesser felt it would be helpful for Staff to weigh in on some examples around town of lessons learned. She mentioned Commissioner Sigg's comments about a man-made road. She also noted the landslide this year, which she understood was a compaction problem that might have also had to do with the amount of snow and the runoff.

City Engineer Robertson offered that what they were trying to accomplish by requiring this information up front was to address the building of properties within the Steep Slope areas. With respect to the landslide, he would defer; but they could definitely talk about lessons learned in terms of Steep Slopes and constructing in those areas.

Engineer Gutknecht understood the landslide was something of interest not only to the Planning Commission but also to the community and their department. They did not have any definitive information yet on what caused that slide, and they were reluctant to speculate on it. When they have good information, they could share it with the Commission.

Commissioner Kenworthy stated there was a drainage component that went with the landslide, and asked if that was included in the application, even though it was on an abutting property. He wondered if it was required in the application to address a drainage concern off the property line. Engineer Gutknecht deferred that question, but cautioned against trying to connect any particular thing to the cause of the landslide because at this point they truly did not know the cause. Commissioner Kenworthy understood, but felt it could be a critical issue, and wondered how they could address a neighbor's drainage system that abuts a property.

Chair Suesser felt that if that property were in the Sensitive Lands, it would have required the 50-foot Setback from the Steep Slope. She understood there were some exceptions to decrease that Setback.

Commissioner Kenworthy pointed out that regardless of this situation, when an owner has a continuous Steep Slope, and there is a drainage system somewhere along the line of that Slope, he wondered whether that was something the Engineering Department would like to see addressed in the application.

City Engineer Robertson felt addressing drainage in Steep Slopes was some of the things they were talking about, and they would like to see that information sooner rather than later. They would look at the site only, however.

Chair Suesser commented that the impact on an adjoining parcel would be something that needed to be contemplated. City Engineer Robertson explained that in designing a site, they are typically not allowed to have free flow runoff off the site, and it has to be captured and collected in some way to a drainage system.

Commissioner Kenworthy stressed that he was trying to address the fact that there was an existing drainage system on the continuity of the slope, and it was probably not addressed in the application. He asked how they could do that going forward.

Commissioner Sigg asked if there was a provision for stormwater management in the proposed Steep Slope Amendments. Assistant Director Ward responded that those were not included in the LMC; however, they could provide the Commission with a summary of what was in place. It was noted that the Municipal Code had a provision for stormwater management, and that was something that the Engineering Department reviewed during the Building Permit process. That provision applied to Single-Family Residences as well as MPDs.

Chair Suesser advised that Commissioner Johnson would submit comments, and noted that he had been very involved in his liaison position on this issue.

Commissioner Hall stated that if the Engineering Department was satisfied with the proposed list of changes, she was as well.

Chair Suesser asked if the slope was measured at the site, or whether they relied on topographical images. Assistant Director Ward explained that applicants were required to submit a certified topographical survey, and if there was a site that was previously disturbed, there was a process where they try to work through the original conditions. She added that Staff was working on scheduling site visits, and would like to include a site under construction that has shoring.

Commissioner Kenworthy stated that a lot of sites in Old Town had been disturbed, and offered that looking at contour lines on a topographical survey, you could see adjacent properties that had not been disturbed. He added that they could also find a 100-year old tree in town, which would represent the grade 100 years ago. He stressed there were ways to project pretty closely the historical grade of the Lot. He recommended finding one of those Lots that they could visit.

Chair Suesser wondered whether the Old Town Inn on Empire Avenue could be an example of a project with some shoring. She described it as a red and white Inn that was currently jacked up. Commissioner Frontero added there was quite a bit of shoring at that site, which was located on Empire Avenue between 10th and 11th Streets. He added that the excavator had now excavated down quite a bit, and the back wall was completely shored up. He felt it would be an interesting opportunity for the Commission to visit the site and have the City Engineer attend to explain what was occurring at the site.

After a brief recess, Chair Suesser called the meeting back to order.

B. Land Management Code Amendments - Final Action - The Planning Commission Will Conduct a Work Session on Final Action Land Use Authorities for Various Land Use Applications to Discuss Opportunities to Shift Final Action from the City Council to the Planning Commission and from the Planning Commission to Planning Staff. PL-23-05649.

Assistant Director Ward explained they were holding a Special Meeting because they were not able to get to all of the Agenda Items during previous meetings. She stated that one of the goals of this Work Session was to streamline and make Meeting Agendas more efficient for both the Planning Commission and the City Council as far as Administrative land use applications. She explained that an Administrative land use application was submitted for review for compliance with the criteria in the Code. The determination made is either it complies or does not comply.

Additionally, there would be several items before the Planning Commission this fall, including the Bonanza Park Small Area Plan. The community kick-off meeting was scheduled for July, and as that Plan develops, it would come before the Planning Commission for review, public hearings, and a potential recommendation to City Council. She mentioned that the same process would apply to the General Plan.

Assistant Director Ward stated that they would also be required to make changes to how they review applications because of the new State Code, specifically for Subdivisions and Steep Slope evaluations. She added there was an opportunity to evaluate the appeals that come before the Planning Commission, and potentially have those referred to an appeal panel, Board of Adjustment, or other review authority.

Currently, the LMC included a table showing the different land use applications, the Final Action authority, and the appeal authority. This table also notes when the Planning Commission makes a recommendation to City Council.

Assistant Director Ward advised that Administrative Permits were reviewed at the Staff level, and any appeals of those Permits come before the Planning Commission. Conditional Use Permits come before the Planning Commission for review, and if appealed go before City Council. She commented that City Council was scheduled to review a potential three-member appeal panel amendment on July 13, 2023. If passed, a three-member appeal panel would review the CUP appeals. She stated that Staff reviewed Administrative CUPs, with the Planning Commission appeal authority. Master Planned Developments were within the Planning Commission's Final Action authority, with the potential to go to the appeal panel instead of the City Council for appellate review. She also mentioned that the plat amendments went to the Planning Commission for recommendation to City Council. Subdivision and Condominium plats go through that same process.

Assistant Director Ward advised that Legislative, Annexations, Zoning, and LMC Amendments would continue to be required to come before the Planning Commission for review, public hearing, and recommendation to City Council for Final Action. She advised that the Utah Legislature enacted Senate Bill ("S.B.") 174 required changes to Subdivision reviews. This legislation would not take effect until February 1, 2024. Staff was working internally to address the review requirements that the City would be required to provide. She explained that they would need to provide applicants with checklists of all required standards from the districts and the Code requirements.

Assistant Director Ward expressed that this was a consensus bill with the Utah Commission on Housing Affordability, the Property Rights Coalition, the Utah League of Cities and Towns, and the Utah Association of Counties. It sought to establish a uniform process for Single-Family, Duplex, and Townhome Subdivision reviews statewide. The new law was intended to require publication of the required standards, require complete applications, and expedite the review process by limiting public hearings on Subdivisions to one as part of the preliminary review. She explained that this would shift Subdivision approvals from a Planning Commission or City Council to a Staff level or Administrative review for Final Action.

Assistant Director Ward advised that Staff would come back before the Commission this fall with the amendments to comply with State Code. She noted that there was flexibility in the way the City could review plat amendments, which were the majority of the applications that come before the Planning Commission. She stated it was rare for the City to see new Subdivisions.

With regard to plat amendments, the current Code provides for Planning Commission review, a public hearing, and a recommendation to City Council. City Council was then required to review the application, hold a public hearing and take Final Action through the adoption of an Ordinance. The plat amendments require a finding of Good Cause that the amendment would provide positive benefits and mitigate negative impacts, as determined on a case-by-case basis. She provided the example of plat amendments that would provide public amenities and benefits, resolve issues of non-conformities, address issues relating to density, promote excellent or sustainable design, utilize best planning and design practices, preserve the character of the neighborhood and of Park City, and/or further the health, safety, and welfare of the Park City community.

She explained that the State required that Subdivision regulations be approved by City Council. However, State Code does not require that plat amendments go to the Planning Commission or City Council for approval. She stated that Lot line adjustments to shift the Lot line between two properties could be done at Staff level through the Planning Director. These types of plat amendments are allowed with the Planning Director review if they comply with all of the underlying zoning, they have support from all the adjacent property owners, and they meet all the criteria. All other plat amendments currently come to the Planning Commission for recommendation to City Council.

Assistant Director Ward explained that one of the potential amendments could be that plat amendments would come before the Planning Commission for Final Action. There were also potential opportunities for plat amendments to be reviewed at the Staff level and provided the example of a plat proposed to remove a Lot line from a Historic Structure. She inquired whether the Planning Commission was interested in being the final authority for plat amendments so that the Final Action would occur here, with no further recommendation or review by City Council. Commissioner Christin Van Dine answered in the affirmative.

Commissioner Frontero asked how many times the Planning Commission approved a plat that was subsequently overturned by City Council. Assistant Director Ward replied that during her time in the Planning Department, she was unable to think of an example.

City Attorney, Mark Harrington advised that it had happened only once or twice during his 30-year tenure with the City.

Commissioner Frontero liked the idea and wondered how City Council would feel about such an amendment. Assistant Director Ward advised that the Planning Commission had already identified this as a topic to address this year, and City Council reiterated that interest in having that evaluation through the lens of what type of applications where the City Council could provide the most value and impact. She added that plat amendments or Subdivision applications that are required to conform to the criteria in the Code involve more of an administrative review. The City Council did not provide direction one way or another; rather, they wanted the Planning Commission to have the discussion and make a recommendation. Commissioner Frontero expressed support for this recommendation. Commissioner Kenworthy also supported it.

Chair Suesser did not like the change, as she felt it provided good checks and balances, and provided another opportunity to look at an application. She liked the idea of plat amendments continuing to go to the City Council because she felt it was good to get the City Council's input.

She noted that she sometimes learns from the City Council's insights. She also opined that it was not that much of a time demand as they normally agree with the Planning Commission's recommendation, and she liked the idea of keeping the review as it currently existed.

Assistant Director Ward next turned to the Steep Slope CUPs and advised that in 2017 the Planning Commission recommended that if an application involved two Old Town Lots or less, the Steep Slope review would occur at the Staff level.

In 2021, the Utah Legislature enacted a new State Code that changed the way Building Permit reviews happened for Single-Family, Duplex, and Townhome submittals. The new State Code limited the City in the review at the Building Permit phase as far as the number of revisions and resubmittals that could be required. She noted there were some exceptions for Sensitive Lands; however, with the way the reviews have been done and the requirements that Building Permits be approved conditionally, Staff recommended shifting Steep Slope CUPs to the Planning Commission for review with the updated criteria discussed earlier in this meeting.

Assistant Director Ward explained that Staff went through the number of Steep Slope CUPs that Staff was reviewing at an administrative level, and there were approximately 2 – 3 per year. Because of the changes in the Building Permit phase, Staff recommended that they go back to the Planning Commission review for Steep Slope CUPs. She requested Planning Commission feedback. Commissioner Van Dine expressed support for shifting Steep Slope CUPs back to Commission review, especially considering all of the changes being made. There was a similar consensus amongst the Commission.

City Attorney Harrington stated that in regard to Commissioner Kenworthy's earlier question as to whether the Steep Slope regulations were less stringent or more stringent, he explained that they were additive. Most jurisdictions do not have such regulations, or they have them limited to certain geological hazards. He added that the City's Steep Slope and many of the Conditional Uses differ and were much more stringent by their nature than anywhere else in the State, even though some of the specific provisions might be less stringent than industry standards that regulate certain things a different way somewhere else.

City Attorney Harrington stressed there was no direct comparison between the Codes. He cautioned that the Legislature did not like Single-Family and otherwise permitted uses in zones that were subject to multiple Conditional Use reviews. The City successfully employed that as implementation methodology from the older MPDs and high-level site planning to then do CUPs for the subsequent site review. This was also unique to Park City as an additive layer of review that was not seen in other jurisdictions. He wanted the Commission to know that the State was looking at further streamlining Single-Family and Duplex permitting, and this could be seen as somewhat of a barrier to that. He suggested that the Planning Commission could be conscious of that by making sure they were expediting the reviews and ensuring they were not delaying them without good reason.

The Commission would not want to get in a situation of being accused of delaying an otherwise permitted use development. He wanted the Commission to think about the way of balancing the appropriate review that comes before the Commission with a short building season.

Chair Suesser asked if the Commission would have the details of the stabilization walls when they review a Steep Slopes CUP application. Assistant Director Ward stated that under the proposed amendments, they would have the geotechnical report that should provide that

information. She added that the goal of the amendments would be to have a holistic, complete picture of what was being proposed, as well as the criteria to look at site disturbance and the desired final site.

Commissioner Hall asked about the 14 days and whether they would get bumped up to the top of the list. City Attorney Harrington explained that the CUP was not subject to that requirement.

Assistant Director Ward next addressed the appeal authority and explained that currently, any Final Action taken at Staff level comes to the Planning Commission. The only items that Staff has an administrative review on are things like Administrative Permits or Administrative CUPs that apply the same criteria as the Planning Commission. She explained that the Planning Commission could shift the appeal authority if the appeal panel was adopted by City Council. They could also shift it to the Board of Adjustment, or an appeal Hearing Officer. The Planning Commission could also retain that authority. She mentioned that they do not see a lot of these appeals each year, but this could present another opportunity to make changes for Final Action authority.

Chair Suesser liked the idea of keeping an appeal of a Planning Staff decision with the Planning Commission. Commissioner Hall expressed that it was hard to envision what the appeal panel would be like, and would be open to shifting it at some point; however, she felt it was preemptive to change that at this point.

Commissioner Van Dine agreed and felt that keeping the appeal authority with the Planning Commission was appropriate until they see how the appeal panel works. Commissioner Kenworthy and Commissioner Frontero agreed.

Commissioner Sigg felt they should keep the authority because they have the history of the event, and because they do not know the makeup of the appeal panel.

Assistant Director Ward stated that Staff went through all the applications to see if there were applications they felt could be transitioned from the Commission to Staff. Currently, Staff review was limited to tents for less than 14 days or temporary structures, and retaining walls. At this time, they did not identify any applications. She asked if there were any additional application types that the Commission felt could be reviewed at a Staff level. She clarified that Staff's review of retaining walls included a review of retaining walls that exceed four feet in a Front Setback or six feet in a Side or Rear Setback because those conditions require an Administrative Permit.

Commissioner Frontero asked if the Commission was notified of Administrative Permit approvals. Assistant Director Ward explained that those follow the same public notice requirements as items that come before the Planning Commission. Administrative public hearings were scheduled for Thursdays at noon, and packets are published on the Listen Live webpage similar to the packets published for the Commission. Minutes are also taken. She added that Administrative Permits go through the same review process, including Development Review Committee. Then a Staff Report and a Final Action Letter are written, similar to what is done for the Planning Commission. Additionally, notice is provided in the same manner as for Commission matters, and the applicants and the Planner attend, along with community members who provide input. The Planning Director determines the Administrative Permit.

Commissioner Hall supported moving some plat amendments to Staff review and referencing the grid shown on the second page of the Staff Report, she would shift all of those reviews to Planning Commission for Final Action, with the exception of an Annexation or an LMC Amendment. She felt those involved policy-based decisions. She also believed that some of the plat amendments were more administrative and it would be more efficient to have them reviewed by Staff. She would like to spend more time prioritizing LMC Amendments and the applications that impact the community to a much greater extent.

Commissioner Hall noted that City Council spends a lot of time on the same conversations and reading the same packet that was provided to the Commission. As a citizen, she would prefer the Council's time be spent on bigger agenda items rather than spending time on items that the Commission had already spent a lot of time on. She reiterated that Annexations and LMC Amendments were high-level policy-based decisions that should be within the jurisdiction of the City Council. She also found it counter-intuitive that the Planning Commission had Final Action authority on MPDs, which she felt were much more impactful, whereas the Council reviewed every plat amendment.

Commissioner Kenworthy supported Commissioner Hall's comment regarding the priority of addressing LMC Amendments because it was a critical need to keep up with the LMC especially when they find through their experiences that they can check the LMC boxes, but were not serving the overall General Plan.

Commissioner Hall stated tonight was a great example, wherein they had to schedule a Special Meeting because they could not finish prior meeting Agendas. She stated it was an issue of how the Commission wanted to prioritize its time, and City Council would determine how to prioritize its time. She reiterated that as a citizen, she would love to see City Council prioritize Bonanza Park and have an entire meeting on that item rather than re-hashing what the Planning Commission already extensively reviewed.

Chair Suesser agreed that the Planning Commission should have Final Action on plat amendments, but did not agree that they should shift more to Staff. Commissioner Hall felt that some plat amendments were minor tweaks to Old Town Lots. Chair Suesser noted that some plat amendments in Old Town had become tricky, as have the Lot Combination issues, so she hesitated to pass more plat amendments to Staff.

Commissioner Hall would like it if the Code provided more direction on what was allowed so that it would be clear to an Old Town owner about what they would be allowed to do. They could then work with Staff to determine if it was something that needed to go to Planning Commission or could be an Administrative review.

Commissioner Van Dine agreed with Commissioner Hall's comments. She could go either way on plat amendments and agreed that if they could shore up the LMC to give clear outlines of expectations, they could then determine if they could make them more administrative. Until they had that clarity, she would not want to change anything.

Chair Suesser indicated that there might be a way to define certain plat amendments that would be appropriate for Staff review.

Assistant Director Ward understood there was consensus to recommend that the Planning Commission would have final authority on plat amendments in general, and as they continue to update the LMC, they could re-evaluate whether some of the reviews could be shifted to Staff.

5. ADJOURN

MOTION: Commissioner Hall moved to adjourn.

The meeting adjourned at approximately 8:00 p.m.

Approved 07.26.2023