



**PARK CITY PLANNING COMMISSION MEETING
SUMMIT COUNTY, UTAH
June 21, 2023**

The Planning Commission of Park City, Utah, will hold a special meeting in person at the Marsac Municipal Building, Council Chambers, at 445 Marsac Avenue, Park City, Utah 84060. Meetings will also be available online with options to listen, watch, or participate virtually. [Click here](#) for more information.

MEETING CALLED TO ORDER AT 5:30 PM

PUBLIC COMMUNICATIONS

STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

WORK SESSION

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
[Steep Slope Criteria Staff Report](#)

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

[Final Action Staff Report](#)

ADJOURN

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Planning Department at 435-615-5060 or planning@parkcity.org at least 24 hours prior to the meeting.

***Parking is available at no charge for Council meeting attendees who park in the China Bridge parking structure.**

Planning Commission Staff Report



Subject: Steep Slopes
Application: PL-23-05673
Authors: Planning, Building, and Engineering Teams
Date: June 21, 2023
Type of Item: Work Session

Recommendation

(I) Review the Steep Slope criteria outlined in the Land Management Code and provide input on potential amendments; and (II) consider directing staff to issue a pending ordinance for Steep Slope Conditional Use Permits in the Historic Residential Low – Density, Historic Residential – 1, and Historic Residential – 2 Zoning Districts to establish a six-month timeframe for amendment evaluation, community outreach, public hearings, and potential recommendation to City Council.

Description

Applicant: Planning Department

Land Management Code: **Historic Residential Low – Density**
Section 15-2.1-6 Development On Steep Slopes

Historic Residential – 1
Section 15-2.2-6 Development On Steep Slopes

Historic Residential – 2
Section 15-2.3-6 Development On Steep Slopes

Sensitive Land Overlay
Chapter 15-2.21

Master Planned Developments
Chapter 15-6

Conditional Use Permits
Section 15-1-10

Requirements for Improvements, Reservations, and Design
Section 15-7.3-1

General Subdivision Requirements
Section 15-7.3-2

Definitions

Section 15-15-1

Reason for Review: The Planning Commission forwards a recommendation to the City Council and the City Council takes Final Action on Land Management Code Amendments¹

CUP	Conditional Use Permit
LMC	Land Management Code
MPD	Master Planned Development
SSCUP	Steep Slope Conditional Use Permit

Terms that are capitalized as proper nouns throughout this staff report are defined in LMC § [15-15-1](#).

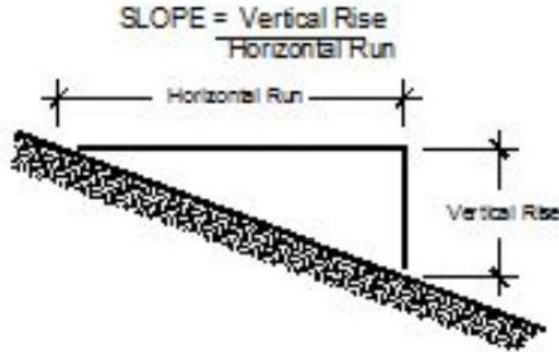
Background

The Planning Commission conducted a series of work sessions in 2022 to identify and prioritize Land Management Code (LMC) amendments for 2023 and established a preliminary schedule for January through March ([Staff Report](#), p. 10-11). Planning staff presented an updated schedule on April 12, 2023, incorporating the Planning Commission's input ([Staff Communication](#)), and scheduled a work session on steep slope and excavation review for May 24, 2023 ([Staff Report](#)). Due to a late meeting, the work session was continued to a later date. Planning Commissioners Johnson and Suesser are the liaisons for the steep slope amendments and provided initial input on May 12 and June 5, 2023.

Analysis

Land Management Code (LMC) [§ 15-15-1](#) defines *Slope* as “[t]he level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance of the land into the vertical rise or distance of the same land and converting the resulting figure in a percentage value.”

¹ LMC [Section 15-1-7](#)



The LMC defines two Slopes:

- **Slope, Steep.** Slope greater than fifteen percent (15%)
- **Slope, Very Steep.** Slope greater than forty percent (40%)

The LMC addresses development on Steep Slopes through Steep Slope Conditional Use Permits for properties in the Historic Residential Zoning Districts, and through Sensitive Land Overlay, Master Planned Development, Conditional Use Permit, and Subdivision regulations, summarized below, followed by Planning, Building, and Engineering staff and Planning Commission liaison recommendations.

Steep Slope Conditional Use Permit Criteria

Properties proposing development on Steep Slopes 30% or greater in the Historic Residential Low – Density,² Historic Residential – 1,³ and Historic Residential – 2⁴ Zoning Districts must apply for a Steep Slope Conditional Use Permit. The process and criteria outlined in each Zoning District are the same.

In addition to the Steep Slope Conditional Use Permit criteria, development must be “consistent with the Design Guidelines for Historic Districts and Historic Sites Chapter 15-13, and Chapter 15-5.”⁵ LMC [§ 15-13-8\(B\)\(1\)\(b\)](#) *Design Guidelines for New Residential Infill Construction in Historic Districts* requires building and site design to respond to natural features. “New infill residential buildings shall step down or up to follow the existing contours of steep slopes” and “[a] new site’s natural slope shall be respected in a new building design in order to minimize cuts into hillsides, minimize fill, and minimize retaining walls.”

² LMC [§ 15-2.1-6](#)

³ LMC [§ 15-2.2-6](#)

⁴ LMC [§ 15-2.3-6](#)

⁵ LMC [§ 15-2.1-6](#)

To achieve the stepping up or down within a steep slope and to restore natural grade, within the Historic Residential Zoning Districts, Final Grade must be within four vertical feet of Existing Grade “except for the placement of approved window wells, emergency egress, and a garage entrance.”⁶ Interior height is also regulated and from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters, the maximum height is 35 feet.⁷

If development is proposed on a Lot that is 3,750 square feet or less, the process is a staff-level Administrative Conditional Use Permit. Lots 3,750 square feet and greater require Planning Commission review.⁸

The criteria the Planning Commission reviews for Steep Slope Conditional Use Permits include:

- A. **LOCATION OF DEVELOPMENT.** Development is located and designed to reduce visual and environmental impacts of the Structure.
- B. **VISUAL ANALYSIS.** The Applicant must provide the Planning Department with a visual analysis of the project from key Vantage Points:
 - 1. To determine potential impacts of the proposed Access, and Building mass and design; and
 - 2. To identify the potential for Screening, Slope stabilization, erosion mitigation, vegetation protection, and other design opportunities.
- C. **ACCESS.** Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Shared Driveways and Parking Areas, and side Access to garages are strongly encouraged, where feasible.
- D. **TERRACING.** The project may include terraced retaining Structures if necessary to regain Natural Grade.
- E. **BUILDING LOCATION.** Buildings, Access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Site design and Building Footprint must coordinate with adjacent Properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and to provide variation of the Front Yard.
- F. **BUILDING FORM AND SCALE.** Where Building masses orient against the Lot’s existing contours, the Structures must be stepped with the Grade and broken into a series of individual smaller components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the Planning Director and/or Planning Commission may require a garage separate from the main Structure or no garage.

⁶ LMC [§ 15-2.1-5](#)

⁷ LMC [§ 15-2.1-5\(A\)](#)

⁸ LMC [§ 15-2.1-6](#)

- G. **SETBACKS.** The Planning Director and/or Planning Commission may require an increase in one or more Setbacks to minimize the creation of a “wall effect” along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures.
- H. **DWELLING VOLUME.** The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Director and/or Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures.
- I. **BUILDING HEIGHT (STEEP SLOPE).** The Zone Height in the HRL District is twenty-seven feet (27') and is restricted as stated above in Section 15-2.1-5. The Planning Director and/or Planning Commission may require a reduction in Building Height for all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and the Historic character of the neighborhood's existing residential Structures.

The Planning Commission’s review is primarily a visual analysis regarding the design of the proposed development within the context of the neighborhood. Applicants submit a [Steep Slope Conditional Use Permit Application](#) and are required to provide existing conditions, proposed plans, photographic panoramic views of the existing property, a streetscape elevation, landscape plans showing retaining walls, and contextual analysis of visual impact of new construction on adjacent sites.

Sensitive Land Overlay Criteria

Sensitive Land Overlay evaluations are generally completed during initial Master Planned Development or subdivision review and implemented through lot and open space configuration, building pads, and other plat notes that govern future development. The purpose of the Sensitive Land Overlay is in part to prohibit development on Steep Slopes and protect and preserve environmentally sensitive land and clustering development while allowing reasonable use of property.⁹ Applicants proposing development in the Sensitive Land Overlay must identify Steep Slopes as part of a Sensitive Lands Analysis.¹⁰ The Sensitive Lands Analysis requires the following for Steep Slopes:

SLOPE/TOPOGRAPHIC MAP. A Slope and topographic map based on a certified boundary survey depicting contours at an interval of five feet (5') or less. The map must identify Very Steep Slopes within fifty feet (50') of the Property boundary and must highlight Areas of high geologic hazard, Areas subject to land sliding, and all Steep Slopes for Areas with a rise of at least twenty-five (25') vertically and a run of at least fifty feet (50') horizontally in the following categories:

⁹ LMC [§ 15-2.21-1](#)

¹⁰ LMC [§ 15-2.21-2\(A\)](#)

1. Greater than fifteen percent (15%), but less than or equal to thirty percent (30%);
2. Greater than thirty percent (30%) but less than or equal to forty percent (40%); and
3. Very Steep Slopes, greater than forty percent (40%).

FOR PROPERTIES WITH STEEP SLOPES OR WITH VERY STEEP SLOPES WITHIN FIFTY FEET (50') OF THE PROPERTY, THE FOLLOWING ARE ALSO REQUIRED:

4. **SOIL INVESTIGATION REPORT.** A soil investigation report, including but not limited to shrink-swell potential water table elevation, general soil classification and suitability for Development, erosion potential, hazardous material analysis, and potential frost action. The soils report shall indicate whether the property is 1) within the Prospector Soils Ordinance area and 2) within a Point Source water protection zone.
5. **GEOTECHNICAL REPORT.** A geotechnical report which must include the location of major geographic and geologic features, the depth of bedrock, structural features, folds, fractures, etc., and potential land slide and other high-hazard Areas such as mine shafts and avalanche paths.
6. **ADDITIONAL SLOPE INFORMATION.** A Slope/topographic map depicting contours at an interval of two feet (2').

As a result of the City Council's recent adoption of Sensitive Land Overlay updates as recommended by the Planning Commission,¹¹ the Soil Investigation Report, Geotechnical Report, and additional slope information were shifted from discretionary to required for all Applications proposing development on Steep Slopes. The [Sensitive Land Overlay Application](#) submittal requirements have been updated to require standardization in how slopes are illustrated on submittal materials.

LMC [§ 15-2.21-4](#) prohibits development on or within 50 feet of Very Steep Slopes (40% or greater) that cover a topographic area at least 25 feet vertically upslope or downslope and 50 feet horizontally. LMC [§ 15-2.21-4](#) further establishes Planning Commission discretion to vary setbacks from Very Steep Slopes if:

- It does not create an intrusion by buildings into the Ridge Line Area viewed from Vantage Points
- Building areas do not create excessive cut or fill slopes
- Limits of Disturbance around any structure in the setback is limited to the minimal area necessary to excavate and backfill the foundation
- No additional erosion, land subsidence, or avalanche hazard is created
- The site plan results in improved organization of units through vegetation avoidance, minimization of changes to the viewshed from public areas, and reduction of site disturbance

¹¹ [Ordinance No. 2023-19](#)

- Reductions in setback results in a reduction in overall project density or massing

LMC [§ 15-2.21-4\(B\)](#) requires Applicants to “avoid or, to the greatest extent possible, minimize proposed cuts and fills.” Graded slopes must be recontoured to the natural, varied contour of surrounding terrain.

Additional regulations include:

BENCHING OR TERRACING. Benching or terracing to provide additional or larger Building Sites is prohibited.

STREETS AND ROADS. Streets and roads, proposed for Steep Slopes may not:

1. Cross Slopes of thirty percent (30%) or greater. A short run of not more than one hundred feet (100') may be allowed to cross Slopes greater than thirty percent (30%) if the Planning Director and the City Engineer conclude that such Streets or roads will not have significant adverse visual, environmental, or safety impacts.
2. Streets and roads proposed to cross Slopes greater than ten percent (10%) are allowed, subject to the following:
 - a. Proof that such Street and/or road will be built with minimum environmental damage and within acceptable public safety parameters; and
 - b. Such Street and road design generally follows contour lines to preserve the natural character of the land, and are Screened with trees or vegetation.
3. Cutting and filling is minimized and appropriately re-vegetated.

RETAINING WALLS. The Use, design, and construction of all retaining walls is subject to an Administrative Permit based upon assessment of visual impact, Compatibility with surrounding terrain and vegetation, and safety.

LANDSCAPING AND REVEGETATION. An Applicant must commit to landscaping or re-vegetating exposed Slopes. Topsoil from any disturbed portion of a Steep Slope must be preserved and utilized in re-vegetation. Fill soil must be of a quality to support plant growth.

PRIVATE DEVELOPMENT DESIGN STANDARDS. All Development on Steep Slopes shall comply with the design standards set forth in LMC Chapter 15-5.

OPEN SPACE AND DENSITY ON DELINEATED PORTIONS OF SITES WITH STEEP SLOPES GREATER THAN FIFTEEN PERCENT (15%) BUT LESS THAN OR EQUAL TO FORTY PERCENT (40%). In addition to the specific Development regulations set forth above, the following regulations apply:

1. **OPEN SPACE.** Seventy-five percent (75%) of the Steep Slope Area must remain as Open Space.

2. **DEVELOPABLE LAND.** Twenty-five percent (25%) of the Steep Slope Area may be Developed in accordance with the underlying zoning subject to the following conditions:
- a. **MAXIMUM DENSITY.** The maximum Density on Developable Land within a Steep Slope Area is governed by the underlying zoning and proof that the proposed Density will not have a significant adverse visual or environmental affect on the community.
 - b. **LOCATION OF DEVELOPABLE LAND.** The Developable Land in a Steep Slope Area is that Area with the least visual and environmental impacts, as determined by the Sensitive Lands Determination (See Section 15-2.21-2(C)), including the Visual Assessment, and considering the visual impact from key Vantage Points, potential for Screening location of natural drainage channels, erosion potential, vegetation protection, Access, and similar Site design criteria. Based upon such analysis, the Planning Department may require the Applicant to Site the Developable Land pursuant to one or more of the following techniques:
 - 1. Clustered Development, or
 - 2. dispersed Development, or
 - 3. Transfer of Density to the least sensitive portions of the Site.¹
 - c. **DENSITY TRANSFER.** Upon proof of a sensitive Site plan, the Applicant may Transfer up to twenty-five percent (25%) of the Densities from the Open Space portion of the Site to the Developable Land.
 - d. **SUITABILITY DETERMINATION.** The Applicant must prove that the Development will have no significant adverse impact on adjacent Properties. The Planning Commission shall determine that the Proposal complies with this Chapter if the Applicant proves:
 - 1. The Density is Compatible with that of adjacent Properties.
 - 2. The Architectural Detail, height, building materials, and other design features of the Development are Compatible with adjacent Properties.
 - 3. The Applicant has adopted appropriate mitigation measures such as landscaping, Screening, illumination standards, and other design features to buffer the adjacent Properties from the Developable Land.

OPEN SPACE AND DENSITY ON VERY STEEP SLOPES.

- 1. **REQUIRED OPEN SPACE.** One hundred percent (100%) of the Very Steep Slope Area shall remain in open space. No vegetation within fifty vertical feet (50') in elevation of the Very Steep Slope Area shall be disturbed, except as permitted by the Planning Commission per Section 15-2.21-4.

2. **TRANSFER OF DENSITY.** Up to ten percent (10%) of the Densities otherwise allowed in the zone may be transferred to Developable Land subject to a Suitability Determination (See Section 15-2.21-4(H)(2)(d)).

MASTER PLANNED DEVELOPMENT (MPD) TDR OPEN SPACE

REQUIREMENTS. The Planning Commission at the time of Master Planned Development or Subdivision review, may reduce the TDR Open Space requirements upon a determination that:

1. the Sensitive Land Open Space set aside is sufficient for the Development,
2. sufficient neighborhood and TDR Open Space is set aside within the Developable Land to serve residents of the Development, and
3. not less than twenty percent (20%) of the Developable Land is set aside for TDR Open Space.

DENSITY BONUSES. In addition to the Density Transfers permitted pursuant to this Section, the Planning Department may recommend that the Planning Commission grant up to a twenty percent (20%) increase in Transferable Densities if the Applicant:

1. offers to preserve Open Space to ensure the long-term protection of a significant environmentally or visually sensitive Area in a manner approved by the City; or
2. provides public Access as shown on the Trails Master Plan; or
3. restores degraded wetlands or environmental Areas on the Site or makes other significant environmental improvements.

Master Planned Development Criteria

Master Planned Developments are required for 10,000 square feet of commercial or 20,000 square feet of residential development. The purpose of Master Planned Developments (MPDs) is in part to provide design flexibility for well-planned, mixed use development compatible with the neighborhood.¹² The goals of the MPD regulations include complementing the natural features of the site.¹³

LMC [§ 15-6-5\(G\)\(1\)](#) requires units to be “clustered on the most developable and least visually sensitive portions of the Site” in part to protect Significant Vegetation. LMC [§ 15-6-5](#) further requires that:

- Projects be designed to minimize grading and the need for large retaining structures
- Roads, utility lines, and structures be designed to work with existing grade
- Cuts and fills be minimized

¹² LMC [§ 15-6-1](#)

¹³ LMC [§ 15-6-1\(A\)](#)

LMC [§ 15-6-6](#) requires the Planning Commission to find the following when approving an MPD. The MPD:

- Compliments the natural features on the site and preserves significant features or vegetation to the extent possible
- Meets the Sensitive Land requirements and is designed to place development on the most developable land and least visually obtrusive portions of the site

Conditional Use Permit Criteria

One of the criteria the Planning Commission reviews when evaluating a Conditional Use Permit (CUP) Application is review of whether the proposed Conditional Use mitigates impacts of and addresses “Steel Slopes.”¹⁴ No additional standards or criteria are established.

Subdivisions

LMC [§ 15-7.3-1\(D\)](#) *Conformance to Applicable Rules and Regulations* states “[l]and which the Planning Commission finds to be unsuitable for Subdivision or Development due to flooding, improper drainage, Steep Slopes . . . which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the Subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the Developer and approved by the Planning Commission, upon recommendation of a qualified engineer, to solve the problems created by the unsuitable land conditions. The burden of the proof shall lie with the Developer. Such land shall be set aside or reserved for Uses and shall not involve such danger.”

LMC [§ 15-7.3-2\(F\)](#) states roads and utility lines should be designed to work with existing grade and cut and fill slopes should be minimized.

Recommendations

Define Key Terms

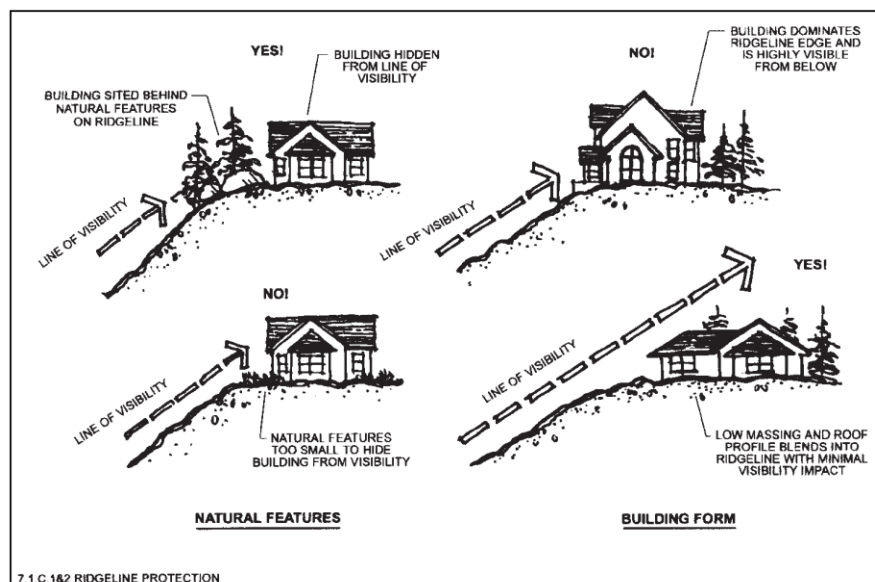
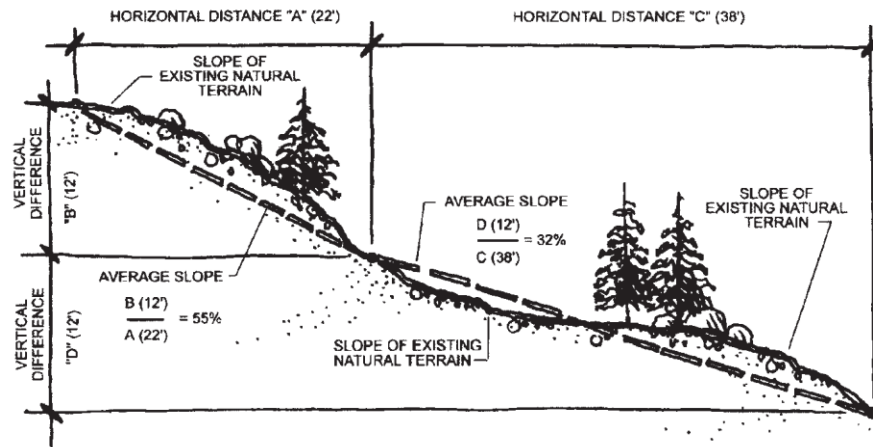
LMC § 15-15-1 defines *Slope*, *Steep Slope*, and *Very Steep Slope*. To establish clarity and consistency in reviews, staff recommends defining key terms like *cut and fill*,¹⁵ *shoring*, *terracing*, *benching*, *geotechnical report*, and *soil investigation report*.

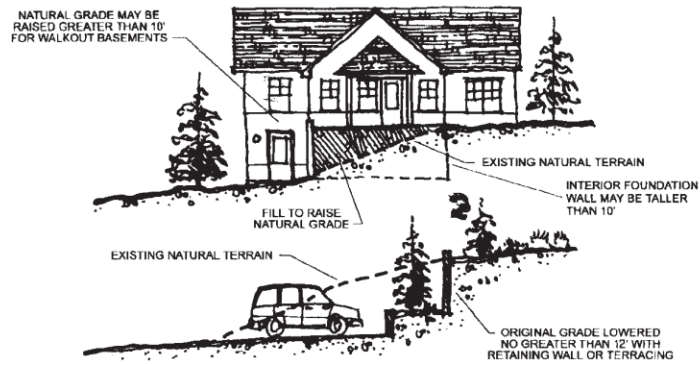
¹⁴ LMC [§ 15-1-10\(E\)\(15\)](#)

¹⁵ See the Taos, New Mexico Municipal Code [Section 16.08.020.3](#)

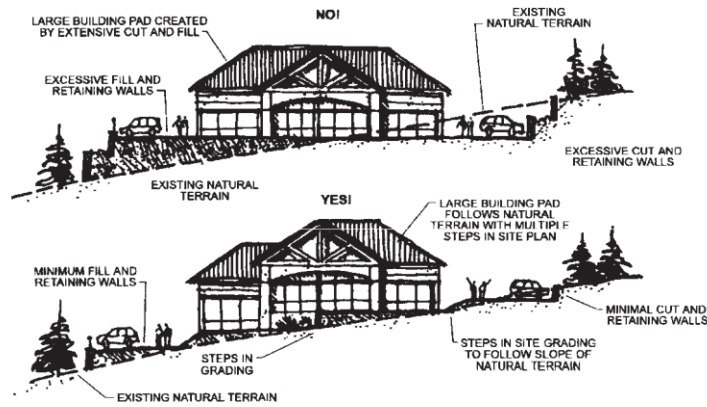
Illustrate Key Concepts

Some Municipal Codes like Estes Park, Colorado, illustrate slope protection standards to clarify key concepts and illustrate desired outcomes:

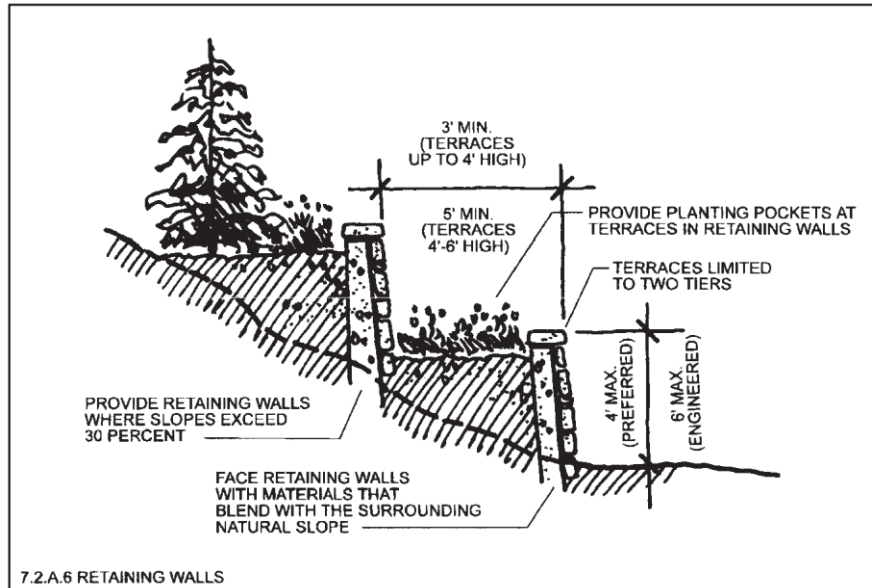




7.2.A.2 GRADING



7.2.A.3 BENCHES



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Shift Administrative Steep Slope Reviews from Staff to the Planning Commission

For construction proposed on Steep Slopes, staff reviews projects on Lots 3,750 square feet or less. Lots 3,750 square feet and greater require Planning Commission review.¹⁷ Due to changes to Utah Code and limitations on building permit reviews, staff recommends amending the LMC to require Planning Commission review for all Steep Slope Conditional Use Permits. (See the Final Action Staff Report for more information.)

Establish Baseline Geotechnical Report Requirements

Geotechnical reports must be certified by a licensed geotechnical engineer. Some communities further establish baseline standards for geotechnical reports. For example, San Francisco, California, codified eleven criteria a geotechnical investigation must identify¹⁸ and Pittsburgh, Pennsylvania, while not codified, provides established standards and information on the requirements for geotechnical reports.¹⁹

Require a Geotechnical Report with Application Submittal

Current practice is for Applicants proposing development on Steep Slopes to submit a geotechnical report, temporary shoring plan, and soil stabilization details as Conditions of Approval that are reviewed at the building permit phase. Standard Conditions of Approval identified by the Engineering and Building Departments as part of the Development Review Committee process include the following:

¹⁶ Municipal Code of Estes Park [Section 7.1 – Slope Protection](#)

¹⁷ LMC [§ 15-2.1-6](#)

¹⁸ San Francisco Building Code [Section 1803.6](#)

¹⁹ See the Pittsburgh Department of City Planning [Geotechnical Report](#)

- The Applicant shall submit a plan demonstrating how they will provide the temporary shoring needed during construction prior to submitting a building permit, subject to City Engineer approval.
- The Applicant shall submit a geotechnical report and design of the temporary shoring and final slope stability prior to submitting a building permit, subject to City Engineer approval.
- The Applicant shall provide soil stabilization details documenting how the disturbed area will be restored and stabilized prior to submitting a building permit, subject to City Engineer approval.

At the building permit phase, Applicants must submit a geotechnical report certified by a geotechnical engineer. As a result of this report, there may be proposed modifications to retaining walls and other design elements.

The Building and Engineering Departments recommend code amendments to require a geotechnical report certified by a geotechnical engineer as part of Application submittal for Planning Commission review to allow for comprehensive evaluation of required disturbance to the site and final retaining walls as part of the design and visual analysis.

Establish Parameters for Steep Slope Reviews

Some Steep Slope regulations establish parameters like maximum cut slopes,²⁰ limits on changes to natural grade with limited exceptions,²¹ defined limits on manmade slopes and limits of disturbance,²² and regulations on site clearing and grading within a defined development envelope and cut and fill performance standards.²³

Align Steep Slope Criteria

Lastly, staff recommends updates for consistent criteria in Steep Slope Conditional Use Permits, Sensitive Land Overlay, Master Planned Development, Conditional Use Permit, and Subdivision regulations.

Related Utah State Code Provisions:

10-9a-507. Conditional uses.

(1)

(a) A municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in an applicable ordinance.

(b) A municipality may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

(2)

²⁰ Taos, New Mexico Municipal Code [Section 15.24.070\(A\)\(4\)](#)

²¹ Estes Park, Colorado Municipal Code [Section 7.1 – Slope Protection](#)

²² *Id.*

²³ Bend, Oregon Municipal Code [Section 16.10.070](#)

- (a)
 - (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
 - (ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.
- (b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.
- (c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.
- (3) A land use authority's decision to approve or deny conditional use is an administrative land use decision.
- (4) A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

Effective 5/3/2023

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

- (1)
 - (a)
 - (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:
 - (A) in effect on the date that the application is complete; and
 - (B) applicable to the application or to the information shown on the application.
 - (ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:
 - (A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or
 - (B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.
 - (b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:
 - (i) 180 days have passed since the municipality initiated the proceedings; and
 - (ii)
 - (A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or
 - (B) during the 12 months prior to the municipality processing the application, or multiple applications of the same type, are impaired or prohibited under the terms of a temporary land use regulation adopted under Section 10-9a-504.
 - (c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.
 - (d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.
 - (e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.
 - (f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

- (i) this chapter;
- (ii) a municipal ordinance in effect on the date that the applicant submits a complete application, subject to Subsection 10-9a-509(1)(a)(ii); or
- (iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.
- (g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:
 - (i) in a land use permit;
 - (ii) on the subdivision plat;
 - (iii) in a document on which the land use permit or subdivision plat is based;
 - (iv) in the written record evidencing approval of the land use permit or subdivision plat;
 - (v) in this chapter;
 - (vi) in a municipal ordinance; or
 - (vii) in a municipal specification for residential roadways in effect at the time a residential subdivision was approved.

Effective 5/4/2022

10-9a-521. Wetlands.

- (1) A municipality may not designate or treat any land as wetlands unless the United States Army Corps of Engineers or other agency of the federal government has designated the land as wetlands.

10-9a-103. Definitions.

- (18) "Geologic hazard" means:
 - (a) a surface fault rupture;
 - (b) shallow groundwater;
 - (c) liquefaction;
 - (d) a landslide;
 - (e) a debris flow;
 - (f) unstable soil;
 - (g) a rock fall; or
 - (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.

10-9a-703. Appealing a land use authority's decision -- Panel of experts for appeals of geologic hazard decisions -- Automatic appeal for certain decisions.

- (2)
 - (a) A land use applicant who has appealed a decision of the land use authority administering or interpreting the municipality's geologic hazard ordinance may request the municipality to assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.
 - (b) If a land use applicant makes a request under Subsection (2)(a), the municipality shall assemble the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the applicant and municipality:
 - (i) one expert designated by the municipality;
 - (ii) one expert designated by the land use applicant; and
 - (iii) one expert chosen jointly by the municipality's designated expert and the land use applicant's designated expert.
 - (c) A member of the panel assembled by the municipality under Subsection (2)(b) may not be associated with the application that is the subject of the appeal.

- (d) The land use applicant shall pay:
 - (i) 1/2 of the cost of the panel; and
 - (ii) the municipality's published appeal fee.

Planning Commission Staff Report



Subject: Final Action
Application: PL-23-05649
Author: Rebecca Ward
Date: June 21, 2023
Type of Item: Work Session

Recommendation

(I) Review Final Action for land use applications and (II) provide input on potential Land Management Code amendments to:

- Prepare for state mandated changes regarding subdivision approvals, which take effect in February of 2024;
- Reduce City Council review of administrative land use applications by establishing Planning Commission Final Action authority;
- Shift Steep Slope Conditional Use Permit Final Action authority from staff to the Planning Commission; and
- Evaluate appeal paths for Administrative Conditional Use Permits, Administrative Permits, and Staff Determinations.

Description

Applicant: Planning Department

Location: Citywide

Reason for Review: The Planning Commission reviews and recommends Land Management Code amendments to the City Council for Final Action¹

CUP Conditional Use Permit
LMC Land Management Code
SSCUP Steep Slope Conditional Use Permit

Terms that are capitalized as proper nouns throughout this staff report are defined in LMC § [15-15-1](#).

Summary

The Planning Commission requested evaluation of land use application reviews to determine whether some reviewed by the Commission could be reviewed at a staff level, and whether some that are reviewed by the Commission with a recommendation to City Council could be reviewed by the Commission for Final Action.²

¹ LMC [§ 15-1-7](#)

² LMC [§ 15-15-1](#) defines *Final Action* as the later of the final vote or written decision on a matter.

Land Management Code (LMC) [§ 15-1-8](#) outlines land use application review procedure. The table below shows Final Action authority by application type:

RECOMMENDATION (y) - FINAL ACTION (x) - APPEAL (z)			
	Planning Staff	Planning Commission	City Council
Administrative Permits	x	z	
Conditional Uses		x	z ³
Conditional Uses (Administrative)	x	z	
Master Planned Developments		x	z ⁴
Plat Amendments		y	x
Subdivision and Condominium Plats		y	x
Annexation and Zoning		y	x
Land Management Code Amendments		y	x

There may be opportunities to clarify criteria and streamline review processes for efficient land use application processing and public meeting agendas. This staff report evaluates impending changes to Single-Family, Duplex, and Townhome subdivision reviews due to state legislation enacted this year, potential changes to LMC review for plat amendments, and shifting Steep Slope Conditional Use Permits from staff to the Planning Commission.

³ Note this table may be amended pursuant to the Planning Commission's recommendation regarding the establishment of a three-member Appeal Panel to hear Conditional Use Permit and Master Planned Development appeals, which are currently heard by the City Council ([Staff Report](#); [Draft Ordinance](#); [Audio](#)). The Planning Commission's recommended amendments regarding City Council appeal authority are scheduled for City Council consideration on July 13, 2023.

⁴ *Id.*

Analysis

(I) Senate Bill 174 will require changes to Single-Family, Duplex, and Townhome subdivision reviews as of February 1, 2024.

Currently, LMC [Section 15-7.1-2\(B\)](#) requires Planning Commission review, public hearing, and recommendation to City Council for subdivision approvals and [Section 15-7-4](#) requires City Council review and approval or denial. To expedite land use approvals for the construction of Single-Family, Duplex, and Townhome developments, the Utah Legislature enacted [S.B. 174 Local Land Use Development Revisions](#).

S.B. 174 was developed as a consensus bill through the Utah Commission on Housing Affordability in coordination with the Property Rights Coalition, the Utah League of Cities and Towns, and the Utah Association of Counties. S.B. 174 establishes uniform processes for new Single-Family, Duplex, and Townhome subdivisions, requires municipalities to clearly outline and publish subdivision applications, regulations, standards, and specifications, expedites review processes, limits public hearings for preliminary subdivisions to one, and shifts final subdivision approval from a Planning Commission or legislative body to an administrative land use authority (February 24, 2023 [House Government Operations Committee](#)).

The Planning team is working with relevant departments and districts to update the applications, standards, and checklists that must be provided to applicants on the City's website and will return to the Planning Commission with recommended amendments in the fall. In the meantime, there are potential opportunities for streamlining review of certain plat amendments, outlined below.⁵

(II) Staff recommends the Planning Commission evaluate plat amendment land use review authority.⁶

LMC [§ 15-7.1-3\(B\)](#) requires a plat amendment for the “combining of existing subdivided Lots into one or more Lots or the amendment of plat notes or other platted elements including but not limited to easements, limits of disturbance boundaries or areas, building pads, and house size limitations.” The LMC requires Planning Commission review⁷ and recommendation to City Council for Final Action on plat amendments.⁸

Plat amendments require a finding of Good Cause, defined in LMC [§ 15-15-1](#) as “[p]roviding positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving

⁵ S.B. 174 does not take effect until February 1, 2024.

⁶ Please see the staff communication regarding lot combination plat amendments.

⁷ LMC [§ 15-7.1-2](#) Procedure

⁸ LMC [§ 15-7-4](#) Authority

the character of the neighborhood and of Park City and furthering the health, safety, and welfare of the Park City community.”

Utah Code [§ 10-9a-602](#) requires the Planning Commission to review and recommend subdivision ordinances for City Council adoption. However, Utah Code does not require the Planning Commission or City Council to be the land use authority for plat amendments and there is an opportunity for Planning Commission Final Action on plat amendments, with some potentially shifted to staff-level review.

Is the Planning Commission interested in evaluating the potential for Planning Commission Final Action on plat amendments?

Are there plat amendments the Planning Commission recommends be administrative? (For example, removing a lot line beneath a Historic Structure.)

(III) Staff recommends the Planning Commission evaluate Steep Slope Conditional Use Permit review authority.

The Use tables within each Zoning District outline Allowed and Conditional Use review authority. Conditional Uses require Planning Commission review, a public hearing, and Final Action based on the sixteen Conditional Use criteria outlined in LMC [§ 15-1-10](#). The Planning team reviewed the Conditional Uses outlined in the LMC and do not recommend shifting any of the reviews to an administrative level at this time.

However, staff recommends amendments for Steep Slope Conditional Use Permits (SSCUPs). On January 29, 2019, the City Council adopted [Ordinance No. 2019-07](#) approving an administrative SSCUP process for lots less than 3,750 square feet and Planning Commission review for those lots 3,750 square feet or larger.

In 2021, the Utah Legislature enacted [H.B. 1003 Government Building Regulation Amendments](#) (codified in Utah Code [§ 10-6-160\(8\)](#)), which establishes what constitutes a complete building permit application for Single-Family Dwellings, Duplexes, and Townhomes and requires cities to complete the building permit review no later than 14 business days after submission of a complete building permit. If the City does not complete the building permit review within 14 business days, the applicant may request that the City complete the review within an additional 14 days from the day the applicant makes the request.⁹ If the City does not complete the plan review within the outlined time, the applicant may move forward with plans stamped by a licensed architect or structural engineer.¹⁰

Additionally, the City may no longer require resubmittal of plans for a Single-Family, Duplex, or Townhome building permit application to address modifications for

⁹ Utah Code [§ 10-6-160\(3\)](#)

¹⁰ Utah Code [§ 10-6-160\(4\)](#)

compliance.¹¹ Rather, the City may identify violations found in the plan that the City may enforce during construction.¹² The City may only require resubmittal of plans for Single-Family, Duplex, or Townhome plans “to address deficiencies identified by a third-party review of a geotechnical report or geological report.”¹³

As a result, staff recommends Planning Commission Final Action for all SSCUPs to ensure necessary time to review and address any potential deficiencies of a geotechnical or geological report at the time of SSCUP review rather than to condition approvals to meet required standards at the time of building permit submittal.

Are there changes to Conditional Use Permit Final Action the Planning Commission is interested in exploring?

(IV) Evaluate appeal paths for Administrative Conditional Use Permits, Admin Permits, and Staff Determinations.

LMC [§ 15-1-18\(A\)](#) establishes the Planning Commission as the appeal authority for Final Action of Planning staff. The Planning Commission may retain appeal authority or explore alternatives such as the newly anticipated Appeal Panel, or Board of Adjustment, or other.

¹¹ Utah Code [§ 10-6-160\(5\)\(b\)](#)

¹² Utah Code [§ 10-6-160\(a\)](#)

¹³ Utah Code [§ 10-6-160\(5\)\(c\)](#)