



# Town of Paradise Valley

6401 E Lincoln Dr  
Paradise Valley, AZ 85253

## Minutes - Draft

### Planning Commission

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Tuesday, December 15, 2020

6:00 PM

Council Chambers

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**IN-PERSON ATTENDANCE AT PUBLIC MEETINGS HAS BEEN SUSPENDED UNTIL  
FURTHER NOTICE. WATCH LIVE STREAMED MEETINGS AT:  
<https://paradisevalleyaz.legistar.com/Calendar.aspx>**

#### 1. CALL TO ORDER

##### **STAFF MEMBERS PRESENT**

Town Attorney Andrew M. Miller (attended remotely)  
Senior Planner George Burton  
Town Engineer Paul Mood (attended remotely)  
Loras Rauch, Special Projects Planner

#### 2. ROLL CALL

**Present** 7 - Commissioner Jonathan Wainwright  
Commissioner Charles Covington  
Commissioner Pamela Georgelos  
Commissioner Daran Wastchak  
Commissioner Orme Lewis  
Commissioner Thomas G. Campbell  
Commissioner James Rose

#### 3. EXECUTIVE SESSION

None

#### 4. PUBLIC HEARINGS

- A.**      [20-469](#)      Review and take action on an application for a Minor Special Use Permit Amendment to the R-18 CP SUP for Lot 3 Cheney Estates (SUP-20-08). 7171 E. Paradise Canyon Road (APN: 174-40-004)
- Loras Rauch, Special Projects Planner, introduced the item and noted the request concerns a backyard remodel that occurred in 2020. She noted that 14 lots in the southeast corner of Cheney Estates have a different zoning than the rest of the subdivision which occurred in 1992. She pointed out this property fell under the R-18 CP SUP zoning district. She shared that the SUP did not address accessory structures, but noted that there was another property in the

area with a backyard accessory structure which was approved with a 10-foot rear yard setback in 1995.

Ms. Rauch clarified that the applicant was requesting the rear yard set back be at 15 feet instead of 35 feet. She continued to review the scope of the request, site plan, and provided photos of the site and its elevation. She noted there was only one residential property adjacent to the site and was on the opposite side of this property from the subject outdoor kitchen area. She reviewed the minor amendment criteria. She shared the Town had not received any complaints about the structure and that the homeowner association had not made any statements, but that neighbors have expressed their support. She shared that staff suggested approving this as a minor SUP amendment and recommended approval of the application with the four suggested stipulations in the staff report.

Commissioner Campbell asked what the setback for accessory structures was for the R-18 district.

George Burton, Senior Planner, responded the setback is 60 feet from the front property line and 10 feet on the side and rear property lines, unless it adjoins a street at which point the setback is 40 feet.

Ms. Rauch noted that the side and backyard did not front a street since there was a landscape track between the property and the street.

Chairman Wainwright opened the public hearing for this item. No comments were offered, and the public hearing was closed.

**A motion was made by Commissioner Campbell, seconded by Commissioner Covington to deem the request a Minor SUP Amendment. The motion carried by the following vote:**

**Aye:** 7 - Commissioner Wainwright, Commissioner Covington, Commissioner Georgelos, Commissioner Wastchak, Commissioner Lewis, Commissioner Campbell and Commissioner Rose

Commissioner Wastchak asked if the applicant would go through the normal engineering review process to ensure it meets all the requirements.

Ms. Rauch indicated it would.

Commissioner Campbell recommended they add the words "architectural and engineering" before the word "plans" under stipulation 3.

Commissioner Wastchak indicated he was comfortable with that recommendation.

Commissioner Georgelos indicated she was comfortable voting in favor since it was a corner lot and the cantilever structure was not adjacent to any other properties and was buffered by landscape areas. She noted that she does not like voting on things after actions have already been made.

Commissioner Wastchak motioned to recommend the Planning Commission approve the Lot 3 Minor Special Use Permit Amendment for a reduced rear yard setback subject to Stipulations 1-4 with the wording addition proposed by Commissioner Campbell.

**A motion was made by Commissioner Wastchak, seconded by Commissioner Lewis to approve the Minor SUP Amendment subject to the following stipulations:**

- 1. All improvements to the property shall be in compliance with the Narrative, Plans, and Documents:**
  - a. The Project Narrative; dated September 29, 2020**
  - b. Site Plan Sheet L1, prepared by Phoenix Pavers and Landscaping dated Resubmitted September 29, 2020 and included herein as Attachment C;**
  - c. Elevations, prepared by Phoenix Pavers and Landscaping dated Resubmitted September 29, 2020 and included herein as Attachment C.**
- 2. The property owner of Lot 3, Mr. Joel Schaller, and the Town shall sign and record a Waiver of Rights and Remedies agreement under A.R.S. § 12-1134 (Proposition 207 Waiver) in the form provided by the Town Attorney within 10 calendar days of the approval of this amendment to the Special Use Permit.**
- 3. The applicant shall submit a Grading & Drainage Plan to be reviewed and approved by the Town Engineer at the time they submit the architectural and engineering plans, affidavits, documents, fees, and fines required by the Town's Building Department for the existing shade structure.**
- 4. All existing Special Use Permit stipulations shall remain in full force and effect, unless changed or modified by a future action approved by the Town.**

**The motion carried by the following vote:**

**Aye:** 7 - Commissioner Wainwright, Commissioner Covington, Commissioner Georgelos, Commissioner Wastchak, Commissioner Lewis, Commissioner Campbell and Commissioner Rose

## **5. STUDY SESSION ITEMS**

### **A. [20-470](#) Discussion of Building Pad Heights for Non-Hillside Lots UPDATED 12/04/2020 – See Attachment B**

Paul Mood, Town Engineer, provided background on the item and noted that a trend in larger homes has pressed staff to do more on interpreting the code. He provided an overview of the current code requirements on building pads. He explained that the building pad should not exceed two feet in height, except were required to protect the building against flooding, in which case the pad could be one foot above the 100-year water surface elevation. He noted that even if the property slopes, the total building height was still measured from the lowest point of the natural grade.

Mr. Mood pointed out some of the pros and cons of the current code. Pros included, provides protection from 100-year storm event and historic drainage

patterns are required to remain in place. Cons included larger homes on sloped lots may obstruct views and no code for fill heights in landscape area may create slopes along the streetscape.

Commissioner Campbell asked if the raised building pads stopped at the building line or not.

Mr. Mood responded that once it left the building line it was landscape fill and not building fill.

Commissioner Covington asked if there was a limit to how high the additional fill used to create a flat surface could be.

Mr. Mood replied that theoretically the slack slurry, thickened concrete, or stem wall could be four feet tall. He noted they have two acre lots that slope over 15 feet across the lot.

Commissioner Campbell indicated he was concerned with the lack of landscape fill controls.

Commissioner Covington and Georgelos agreed.

Chairman Wainwright inquired if there was a limit to the height difference between the top of the building pad to the bottom of a retention area if it is located right next to the home.

Mr. Mood replied there was not.

Commissioner Georgelos asked why some homes were built at the same grade as the street while others were built up.

Mr. Mood responded that if there is not a change in the drainage patterns that property owners can do different mounding of their yard.

Chairman Wainwright stated it would be helpful identifying some of the geographical areas that properties that were not true hillside or flatland.

Commissioner Campbell requested more examples of building and landscape fills at their next meeting.

Commissioner Covington asked if there was a process for verifying the pad height.

Mr. Mood explained there was a check from the building department, but it only needed to be done before the framing inspection was done.

Commissioner Georgelos suggested that the check be addressed at the building plan stage instead of the inspection phase.

Mr. Mood indicated that the engineering department would review these items and others when they see the plans, but did not do another check until the

building inspection. He clarified that he would like to add an additional check on the building pad from the engineering department before moving onto the next phase.

Commissioner Georgelos remarked that she liked the idea of the additional checks.

Chairman Wainwright opened the meeting up for public comments on the item.

Phil Hagenah commented there has been serious abuse in new home construction which has created a need for a change in the Town's building code. He noted the importance of considering the change in property value for homes having their views obscured due to the construction of new homes. He shared several examples of homes in Paradise Valley he felt they were not acceptable even if they complied with code. He suggested revising the Town Code to fix thoughtless construction. He recommended a possible raise in permit costs or lowering building heights on sloped lots. He requested a moratorium on permits in sloped lot areas until the Town makes the necessary changes to the code.

Commissioner Lewis asked to what extent landscaping was considered as a view line and water impediment.

Mr. Hagenah responded that gently sloping areas should retain the natural cactus and native species. He pointed out that native species do not grow tall and block views.

Chairman Wainwright noted that there were restrictions on the plants that could be put on hillside lots and noted that they may consider looking into expanding the area that would apply to in the future.

Andrew Miller, Town Attorney, noted that Town Council has investigated prohibiting certain species in the past, but has mostly shied away from doing so. He noted that the Town prohibits Olive and Mulberry Trees due to asthma issues related to those trees.

Another resident expressed that he was surprised construction could start before having a fully approved plan. He recommended consideration of a different approval process before the start of construction. He agreed on the moratorium suggestion from Mr. Hagenah.

Chairman Wainwright clarified that plans are approved before construction begins.

Commissioner Rose asked if one of the homes Mr. Hagenah presented was built eight feet above the natural grade.

Mr. Mood explained that the building pad had less than two feet of fill and the floor was about an additional eight inches. He noted that there is about 18 feet of slope on the 2-acre property and the yard area has been pushed out, so it slopes at the minimum 4 to 1 slope rather than the previous gradual slope. He

added that the highest point of fill is about 6 feet.

Mr. Hagenah responded that him and his neighbors have written letters about that property and he felt that even though they were in code they were wrong.

Mr. Miller stated that the Town would not be able to legally put a moratorium on construction unless there was a lack of essential public services such as sewer or electricity. He added that there were six members of Town Council attending the meeting tonight and recommended that they did not make comment since it could be seen as conversation that would not be in accordance with open meeting laws.

Vice-Mayor Julie Pace thanked the Commission members, staff, and residence for all their work on this item.

Chairman Wainwright requested staff look more into identifying areas that are neither hillside or flatland.

Mr. Miller noted that he wanted to respond to some comments that had been sent in and defend staff who has been consistent about their interpretation of the code. He added that the General Plan was not something that could be enforced in the approval or denial of applications and that staff has been following the codes and rules in place.

**The Commission reviewed this agenda item and took public comment.**

## 6. ACTION ITEMS

None

## 7. CONSENT AGENDA

- A. [20-467](#) Approval of the November 17, 2020 Special Meeting Planning Commission Minutes
- A motion was made by Commissioner Covington, seconded by Commissioner Georgelos to approve the November 17, 2020 Planning Commission meeting minutes. The motion carried by the following vote:**
- Aye:** 6 - Commissioner Wainwright, Commissioner Covington, Commissioner Georgelos, Commissioner Wastchak, Commissioner Campbell and Commissioner Rose
- Absent:** 1 - Commissioner Lewis

## 8. STAFF REPORTS

Mr. Burton thanked Mr. Miller for all his work over the past 22 years and congratulated him on his retirement.

## 9. PUBLIC BODY REPORTS

Chairman Wainwright thanked everyone for their efforts over the year. He

thanked Mr. Miller for the work he has done for the Town as well.

Commissioner Wastchak thanked Mr. Miller and noted it has been wonderful to work with him and that he will be sorely missed.

Commissioner Georgelos remarked that she will miss his insights and noted he would leave big shoes to fill.

Commissioner Campbell noted that Mr. Miller has been a steady hand and kept them all from getting into trouble.

**The Commission thanked Town Attorney Andrew Miller for his service to the Town.**

## **10. FUTURE AGENDA ITEMS**

Mr. Burton indicated there was a tentative joint Planning Commission and Town Council meeting in January.

The Commission confirmed their availability to attend the joint meeting with the Town Council on January 21st at 6:00 p.m. regarding the discussion of Building Pad Heights for Non-Hillside Lots

Mr. Burton stated there were several applications in queue, but none would be ready by the January 5, 2021 meeting, so that meeting would be canceled. He noted that the following meeting would be January 19, 2021.

## **11. ADJOURNMENT**

**A motion was made by Commissioner Wastchak, seconded by Commissioner Georgelos to adjourn the meeting at 8:13 pm.**

**Commissioner Lewis left the meeting shortly before the motion for adjournment.**

**The motion carried by the following vote:**

**Aye:** 6 - Commissioner Wainwright, Commissioner Covington, Commissioner Georgelos, Commissioner Wastchak, Commissioner Campbell and Commissioner Rose

**Absent:** 1 - Commissioner Lewis

**Paradise Valley Planning Commission**

By: \_\_\_\_\_  
Paul Michaud, Secretary