



# Town of Paradise Valley

6401 E Lincoln Dr  
Paradise Valley, AZ 85253

## Minutes - Final

### Planning Commission

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

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Tuesday, February 2, 2021

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

Chairman Wainwright called the meeting to order at 6:05 p.m.

#### **STAFF MEMBERS PRESENT**

Interim Town Attorney Deborah Robberson (attended remotely)  
Community Development Director Lisa Collins (attended remotely)  
Senior Planner George Burton  
Town Engineer Paul Mood (attended remotely)  
Planning Manager Paul Michaud

#### 2. ROLL CALL

**All the Planning Commission Members attended remotely.**

**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

**A.** [21-015](#) Legal Advice Regarding Small Wireless Facilities Process

**A motion was made by Commissioner Lewis at 8:40 p.m., seconded by Commissioner Georgelos, to move into executive session. The motion carried by the following vote:**

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

**A motion was made by Commissioner Campbell at 9:10 p.m., seconded by Commissioner Georgelos, to move out of executive session. The motion carried by the following vote:**

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

#### 4. STUDY SESSION ITEMS

A. [21-044](#) Discussion of Building Pad Heights for Non-Hillside Lots

Lisa Collins, Community Development Director, introduced the item and provided a history on it. She reviewed the lists of main ideas from feedback received from residents and architects/engineers/builders. She shared a map that identified hillside parcels, parcels with 50% or more of the area being a 5% -10% slope, parcels with less than 50% of the area being a 5%-10% slope, and parcels with less than a 5% slope. She provided an overview of the current Town Code that guides the building pad and finished floor elevations. She noted that the code did not speak to the amount of fill used in landscaped areas if drainage was not affected.

Ms. Collins shared proposed clarifications to the code to help interpretations follow the intent of the code and preserve the natural desert landscape. Some clarifications included maintain maximum two-feet of fill or putting a limit on finished floor heights, clarify that materials such as slurry, thickened concrete slab, etc. cannot be used to fill area between two-feet maximum building pad height and finished floor, maintaining the requirement for building one foot above the 100 year flood elevation and clarifying that height must step down accordingly across the site to follow the natural topography.

Ms. Collins presented the potential code amendments which included adding a maximum finished floor height requirement above natural grade, adding a maximum fill above natural grade of outdoor living areas, patios, yards, driveways, auto courts, etc., and adding a maximum fill above natural grade of landscaped areas.

Ms. Collins reviewed the next steps of the process and outlined upcoming meetings where the item would be discussed, including the February 16, 2021 Planning Commission meeting.

Commissioner Campbell asked if the limited two feet of exposed fill or fill outside the building pad was vertical or horizontal.

Ms. Collins replied that it was vertical. She clarified it would require the pad to step down for outdoor areas.

Commissioner Campbell commented that he was not sure it made sense to

require the finished floor elevation certification before framing inspection. He suggested it be required before the slab was poured to avoid issues if it was wrong.

Commissioner Wastchak stated he agreed. He clarified that he did not think the Town should allow for framing until the slab has been certified. He asked staff if there were any negative consequences to requiring the certification earlier.

Commissioner Georgelos asked if the Town inspects the form instead and if that would help with timing.

Commissioner Wastchak noted that the form is not final where a slab is permanent.

Ms. Collins remarked that this would require more staff time, but she believed that it could be realistic. She indicated she would like to take it to the development community to be sure there would not be an issue with certifying after the slab was put in but before the framing.

Commissioner Rose commented that he understood there were homes that were built on pads raised almost eight feet and blocked some of the neighbor's views. He asked if there was something in the code about raising the pad height.

Ms. Collins responded that she did not know about the specific example, but indicated that the overall building height should never be greater than 24 feet from the lowest grade which could allow some extensive pad heights. She noted that this was part of the reason for the discussion this evening. She explained that some of the clarifications proposed would address this issue.

Commissioner Georgelos remarked that this was a two-point issue; one regarding the pad height and the other regarding the height of all the areas around it including landscaping.

Chairman Wainwright stated that he felt it was important the Town no longer allows all the extra amount of fill in the landscaping. He clarified that he would like the exposed fill limited to no more than two feet, whether it was in landscaping or under the house for parcels under a 10% slope. He noted that if more than that amount of fill was needed that a retaining wall should be used.

Ms. Collins pointed out that the Town would still need to allow for the one foot above the 100-year flood plain.

Commissioner Wastchak expressed that he did not think there will be a lot of push back for limiting the exposed fill to two feet since it was included as a recommendation in the feedback from the developers.

Ms. Collins clarified that what she understood the Commission wanted was to limit the exposed fill to no more than two feet, putting a limit on retaining walls, and no excessive exposed fill.

Commissioner Covington asked if staff could craft language regarding what Ms. Collins said to work off at their next meeting.

Commissioner Campbell inquired if staff could expand on the cross-section examples.

Commissioner Georgelos asked if slurry backfill would be done away with the proposed changes.

Chairman Wainwright replied that he believed it may still be needed to help build on properties that are not flat.

Commissioner Campbell pointed out that if they banned slurry back fill that people could use thickened concrete or other options to accomplish the same thing.

Chairman Wainwright noted that ultimately the height of the building would be limited from the natural grade, but noted that consumers do not want steps in houses.

Commissioner Wastchak pointed out if not more than two feet of exposed fill is allowable than the slurry issue would not exist. He noted that he would still like to hear back from the building community what unintended consequences might be from limiting the amount of exposed fill.

Commissioner Georgelos remarked only prohibiting slurry or thickened concrete that stem walls and floating floors could still be used to lift the floor up to be on one level. She stated the Commission should be discussing what can happen on these non-flat land lots.

Commissioner Campbell indicated limiting the finish floor height because it would encourage people to keep their functional outdoor living space lower as well. He noted that garages would be at almost the same height of the finish floor resulting in vehicle lights shining into neighbors' windows if the pad is too high.

Ms. Collins stated staff could look at addressing that issue regarding the outdoor space. She noted that a maximum finish floor could also be considered.

Chairman Wainwright asked if the Commission would like to lower the limit of landscape retaining walls from six feet tall.

Commissioner Rose remarked that he is supportive of that modification.

Commissioner Covington agreed.

Commissioner Georgelos stated the reduction of stem wall heights needs addressing since that directly affects the height of the area around the home.

Chairman Wainwright noted a reduction in the amount of exposed fill and the height of the retaining wall will bring down the height of yard areas.

Commissioner Campbell stated the lower the ground floor the better for both the front and back yard.

Commissioner Georgelos noted there was a large range of lot types in the Town and she did not believe that it made sense to take a graded lot and turn it into a flat lot. She added that builders should be mindful of that if they want a home with no stairs.

Chairman Wainwright suggested creating a new zoning district and having the Hillside Building Committee review single-family homes on lots between a 5% and 10% slope. He noted that this would not put additional regulations on those properties, but would offer another look and additional feedback.

Commissioner Campbell responded that if the Town created this additional zone, the zone should have code that addresses what is wanted in that area.

Commissioner Georgelos agreed.

Discussion was made regarding landscaping.

Chairman Wainwright noted that the Commission may want to put landscaping on their next meeting agenda to discuss it further since their current topic was pad height.

Commissioner Campbell noted that if there was an intermediate zone, it could include elements from hillside such as the amount of disturbed area or following the natural grade. He inquired if the Hillside Building Committee would be able to take on the extra work if they were to review new builds in this intermediate zone.

Chairman Wainwright asked if the Commission was interested in the additional review and possible noticing for lots that were in the transitional area.

Commissioner Georgelos stated she thought the noticing would be a good idea so the community could be involved in the process rather than just reacting to something that has been done. She added that noticing may be helpful in other areas during the construction process.

[Comments by Rod Cullum, resident and homebuilder] (1:58:00 -2:10:12)

Having dealt with building in Paradise Valley for many years I feel what I would dub the foothills homes instead of the hillside homes needs to be addressed and its been long coming. I think the thing that needs to be thought about is a 2% sloping lot is typically next to another 2% sloping lot, with very few knolls that people are building on. What is really happening in the market, we see people coming into our shop for architectural work that are really wanting to get the view. It's all about getting the view. And so, we are seeing people starting to drive the garage under the house.

So, I really think you need to deal, if you are going to allow more than two feet of

fill, you need to deal with non-habitable and habitable areas. Because, if someone comes in and puts a nine-foot-tall garage with two-foot floor system. You can build a 12, 14-foot roof on top. You can stay under the 24 feet on a flat land lot. What's really interesting is the view corridor when we went from 30-foot tall to 24-foot tall homes, it was really about a house that was built over, just off of Tatum Boulevard, and they did exactly that. They just went under with all these garages and platformed the house way up in the air. We are seeing that trend really happening within the coming market. So, it's something we need to address as a town to have better architecture long term.

I would encourage you to go by 6767 North 63rd Place. It's a home we built about a year ago, we started it maybe three or four years ago and in that design process we actually begged the town to let us opt into the hillside rules, but that was not allowed, so we had to build using the flat land rules. And we met all those requirements. There is a lot of issues that you need to cover in this quest that you are on, which I think is an excellent one.

I do think the current rules really address well a lot that is in the 0 to maybe 2 ½% or 3% slope and I, the reason I say that, if you think about a typical building envelope. Many of our lots are 165-foot-wide with 20-foot setbacks which leaves you about 125-foot width. Most of our homes are about 150 foot roughly in depth. So, if you have that slope over that entire home, the two-foot fill rule probably works well, and I would tell you we really need to get rid of this slurry concept. I know for many years under the Bill Mead rule, he just didn't allow it, right. And then I think the town got threatened, that you know, this wasn't fill and now its slurry.

We can build retaining walls. We can build crawl spaces. So, there is a lot of ways around the current rule, and, that's being built and it's really harming our neighbors especially when we have a flatter lot next to a flatter lot. We have homes that are being built that when they stand on their patio up against a flat land lot their standing six feet above the house next door looking right into their backyards. So, it is a real issue that we need to address.

I think you need to break down every lot you look at into three areas, fill under the footprint of the home, which we do address and I think it's well applied. Truly saying you can only have two feet of fill under the footprint of the house, especially when we are dealing with a number yet to be determined, but like 3% or less of slope. Then you need to deal with fill outside the footprint, but within the building envelope. And that's really the conversation you guys were having about how to deal with landscaping. And right now, there are no rules. We can put as much fill, we can mound, we can build a fire pit eight feet in the air.

We actually used to build water slides into people's pools and the town really struggled with it because we had people build a ten foot mound of dirt and have a water slide down. And, the only control was the town decided you can't do that within the 20-foot setback all the way around the lot. So, you have the fill of the footprint of the house, you have the setbacks, and then you have the area that is unbuildable, which is the last 20 feet of every lot. I believe in that last 20 feet to protect the neighbors that there should not be any fill other than fill required for drainage. So, those are the three areas I'd break every lot down to as you go

forward in this quest.

I think we do need a new category called the foothill category and that is the lots that are greater than 5% and can be 4% and up. And those are really unique lots. Typically, those lots are bordering another lot that has a similar slope. Very seldom do we see a slope and it goes to a flat land lot. And that's what I was confronted with at 6767 North 63rdPlace. We had this client who wanted to build his tennis court on top of a mound. He just thought it would be cool. We convinced him otherwise. So, play courts, which technically can be inside the 20 need to be addressed and I would say with no more than two feet of fill.

Another item that I would bring to your attention is the foothill group to get rules and have at least a preliminary grading and drainage plan of the benchmark of height, overall heights, lowest point of natural grade, have it reviewed to make sure that no shenanigans are going on with the landscape fill. I am not sure you can wait for that. I think you need to immediately address the fill outside of the home and limit it within the setbacks to be not more than a certain amount, whatever that is. At 6767 North 63rdPlace because we were in about a 9% sloping lot we actually met all the rules of lowest point of natural grade and had to carve into the front for part of the drive and the house. We found a natural point to build the house. Had to build a rather narrow house and wide. But then we have the pool with the negative edge, and we have a six-foot retaining wall across the midpoint of the lot. And we actually cut the tennis court down to a ten foot, maybe 12-foot end, to the tennis court that goes out to zero. So, that was cut into the mountain. And then we have a guest house all the way down below. And you need to remember the guest house can be moved because auxiliary buildings can be built within a closer setback. And, so there, technically we have a 16-foot guest house only pushed back against the 20 backyard. So, these are some things that the diagrams that are here represent. There is a lot of odd shaped lots in this town that need to be thought about when you are writing these rules.

I believe anything greater than about a 2 or 3% slope should have something greater than two-feet of fill. One of the possibilities you could do is to say not more than four feet of fill, but not more than a two-foot average under the footprint. And then allow that to continue out but not more than six foot of retaining wall at any point. And that needs to be an aggregate, otherwise you are going to end up with a lot of footsteps. Six foot from your building footprint, or your building setback, so, that would mean 40 feet off the street in the front, 40 feet off the back yard, and 20 foot on the sides. And because we have the 25% lot coverage you are seeing a lot of these homes being built touching setback to setback, side to side and trying to get more backyard. And pushing them forward on the lot to the 40-foot setback. So, what all this does is your designing these homes, it would help control the neighbor's experience in those lots that are transitioning to a slope or foothill area. I know it was an awful lot to say as quick as I could. But, but I would encourage an immediate stop to the more than two feet of fill at least as a stop gap for the next nine months or six months whatever it takes you to create this new category.

Last comment is on these certifications of heights. I feel that the builder and the homeowner are the responsible party; and if they accidentally, or intentionally,

built at the wrong height then they've got to fix it. There has been homes in this neighborhood, in this town, I've seen people cut six feet off the roof cause they had to fix it. So, I think accountability is the builder's responsibility and the homeowner's responsibility. Having a certification before you pour really isn't a certification, having a certification, before you do a framing inspection from the time the slab is poured, so the builder starts at risk on the framing, I think that's fine. We have to have a pad certification before you can call the framing inspection. But, there is no reasonable means to stop a builder from pouring the slab and wanting to get framers out there in the next day or two. Having an engineer have to come back and certify could take three to five days in a good market and some, in tougher times it may take longer.

So, I encourage you to just hold people accountable. And if the town finds that they violated the pad elevation by more than a reasonable tolerance, an inch or an inch and a quarter, whatever that reasonable tolerance is, because you find out the pad height is wrong you can make it up in the ceiling heights and not in the overall height. I would have a zero tolerance on overall heights of the projects. The benchmarking of the slab is really more about Paul Mood making sure we don't have homes that will flood because the 24 foot height is an absolute you cannot exceed. If you do, then you get your skill saw and cut your roof off and I can show you dozens of homes around this town that had to do that. Thank you for your time. I am glad to answer questions even if you want to call me and discuss things further.

[Comments end by Rod Cullum, resident and homebuilder] (1:58:00 -2:10:12)

Commissioner Wastchak asked if Mr. Cullum could get them his recommendations in writing. He asked why it was any better to pause for certification after the framing was done rather than before.

Rod Cullum explained that the inspector already needed to come out to do an as built certification to certify flood requirements were met. He reiterated that he did not think the Town needed to come out an additional time and that if the height ended up being wrong that the builder would need to take care of it.

Phil Hagenah, resident, asked how many architects and builders they received comments. He commented that it was wrong that the residents were last in line and pled with the Commission to listen to the residents. He asked when the 24-foot height limit was established. He pointed out that when he moved into the area 25 years ago that he believed the average home height was only 18 feet and he felt this was an issue.

James Kuykendall, resident, asked if the Town provided a notice in residential areas if a building permit was taken out.

Ms. Collins responded they did not. She clarified that the Town provides notification of meetings and public hearings.

Phyllis Peskin, resident, indicated her property was flat and that her deed restrictions only allowed for 20-foot-tall homes because the homes were adjacent to a wash. She asked that the Commission consider the elevating of



properties adjacent to a wash. She requested everyone look at her neighborhood in Mockingbird Lane Estates as an example.

No Reportable Action

**5. PUBLIC HEARINGS**

None

**6. ACTION ITEMS**

None

**7. CONSENT AGENDA**

George Burton gave a presentation on Items CP-21-01 and CP-21-02.

George Burton, Senior Planner, stated that AT&T submitted two small wireless facility applications to replace two existing light poles with new ones. He indicated both were located next to the Doubletree Paradise Valley Resort with one closer to Vista Lane and the other near the main entrance of the resort. He noted that the new poles will be relocated several feet from the existing poles and will be about six feet taller than the existing poles.

Commissioner Lewis asked what assurance the Town has that the esthetics of the structures would be maintained.

Mr. Burton responded that there was not much to maintain. He noted that the proposed style and color was very similar to the existing poles and that there should not be much esthetic difference other than the addition of the cannister on top.

Chairman Wainwright noted that Mr. Burton did a thorough presentation that was included in their packets and was available on the Town website.

A motion was made by Commissioner Campbell, seconded by Commissioner Wastchak, to approve the four items on the consent agenda. The motion carried by the following vote:

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

- A. [21-042](#) CP-21-01. Small Wireless Facility located at 5303 N Scottsdale Rd (AT&T Site I.D. PHX01-008A)
- B. [21-043](#) CP-21-02. Small Wireless Facility located at 5391 N Scottsdale Rd (AT&T Site I.D. PHX01-010A)
- C. [21-013](#) Approval of the December 1, 2020 Planning Commission Minutes
- D. [21-014](#) Approval of the December 15, 2020 Planning Commission Minutes

Approved

**8. STAFF REPORTS**

None

**9. PUBLIC BODY REPORTS**

Council Member Pace thanked the Commission for their work. She noted that they did a lot of work and had a lot of synergy as a group. She thanked them again for their commitment to the Town and the community's brand.

Chairman Wainwright thanked Council Member Pace for her time as the Planning Commission Liaison and noted that she was always welcome to their meetings.

Vice Mayor Stanton complimented staff and the Commission Members for their work and focus. He indicated that he is honored to be their new liaison. He asked that they reach out to him if they had any questions or concerns.

Chairman Wainwright thanked Vice Mayor Stanton and congratulated him on his new position as Vice Mayor.

Commissioner Wastchak asked if Ms. Collins could summarize the recommendations made by Mr. Cullum.

Paul Michaud, Planning Manager, noted for the record that there were no public hearing items or action items on the agenda.

Ms. Collins gave background on herself to the Planning Commission.

**10. FUTURE AGENDA ITEMS**

Mr. Michaud announced that the next meeting is on February 16, 2021. He noted that this agenda included discussion on pad height, Ascension Lutheran church application, and possible discussion on a text amendment for walls and fences.

**11. ADJOURNMENT**

**A motion was made by Commissioner Lewis at 9:24 p.m., seconded by Commissioner Georgelos, to adjourn the meeting. The motion carried by the following vote:**

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

**Paradise Valley Planning Commission**

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