



SANDY CITY COMMUNITY DEVELOPMENT

JAMES SORENSEN COMMUNITY
DEVELOPMENT DIRECTOR

MONICA ZOLTANSKI
MAYOR

SHANE E. PACE
CHIEF ADMINISTRATIVE OFFICER

Staff Report Memorandum November 6, 2025

To: Planning Commission
From: Community Development Department
Subject: Special Exception for Restoration in the
Sensitive Area Overlay with 30% or greater slopes
400 E Tonya Drive
[Sandy, Community #5]

SPX03182025-006929
R-1-8, SAO Zone
0.18 Acres

Meeting Notice: This item has been noticed to property owners within 500 feet of the subject area, on public websites, and at public locations.

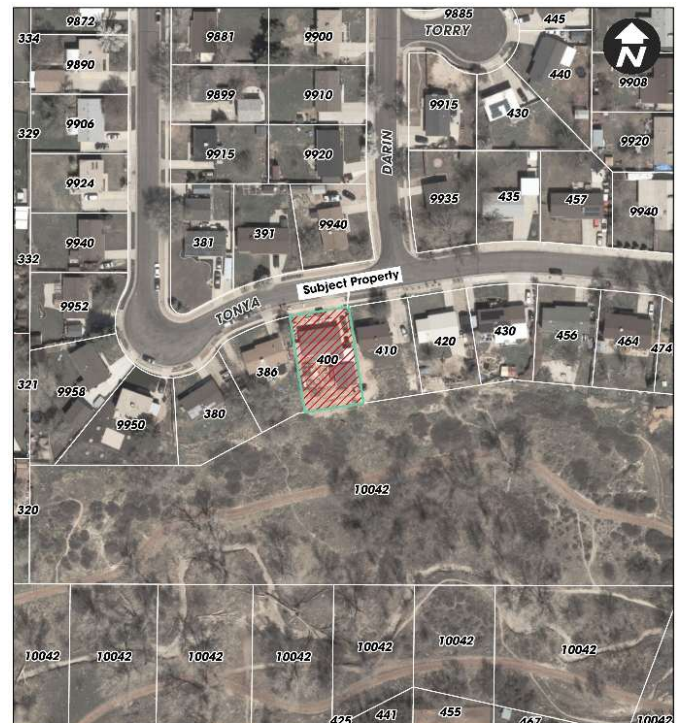
Request

The applicant and property owner, Tully Fitzgerald and Megan Ashley Capdeville, are requesting a Special Exception for the property located at 400 E Tonya Drive. The request is for a restoration plan to grade and landscape the hillside with 30% or greater slope in the Sensitive Area Overlay (SAO) zone.

Background

The subject property is a 0.18-acre legal lot in the Torry Pines #3 Subdivision (see Lot 45 in Exhibit "A"). The lot is in the R-1-8 zone, and within the SAO zone with 30% or greater slopes. This site is in a residential subdivision with single-family homes to the north, east and west, and Dimple Dell Regional Park to the south. The vicinity map to the right illustrates this location.

In March of 2025, the city was alerted to an unauthorized alteration of the protected slope area of this lot. Investigations confirmed areas of disturbance within the protected hillside area with 30% or greater slopes. After meeting with the applicant on-site and providing direction on the next steps to restore the hillside, code enforcement staff issued an administrative citation for a code violation on March 23, 2025. The applicant has been working with the city staff to prepare grading and landscape plans to restore the hillside to its original condition, and to address non-conforming structures that were constructed without authorization or permits by a prior homeowner. See Exhibits "B" and "C" for the applicant's grading and landscaping plans for the proposed restoration of the site.



SPX03182025-006929
Special Exception
400 E TONYA DR

Community Development Department
Sandy City, UT

Property Case History	
Case Number	Case Summary
Annexation	GG-88 (1969)
Sandy City Subdivision	Torry Pines #3 Subdivision Plat (1971)
COD03042025-006427	Code enforcement administrative citation issued for Sensitive Area Overlay Disturbance (Sec. 21-15-7) without city authorization (2025)

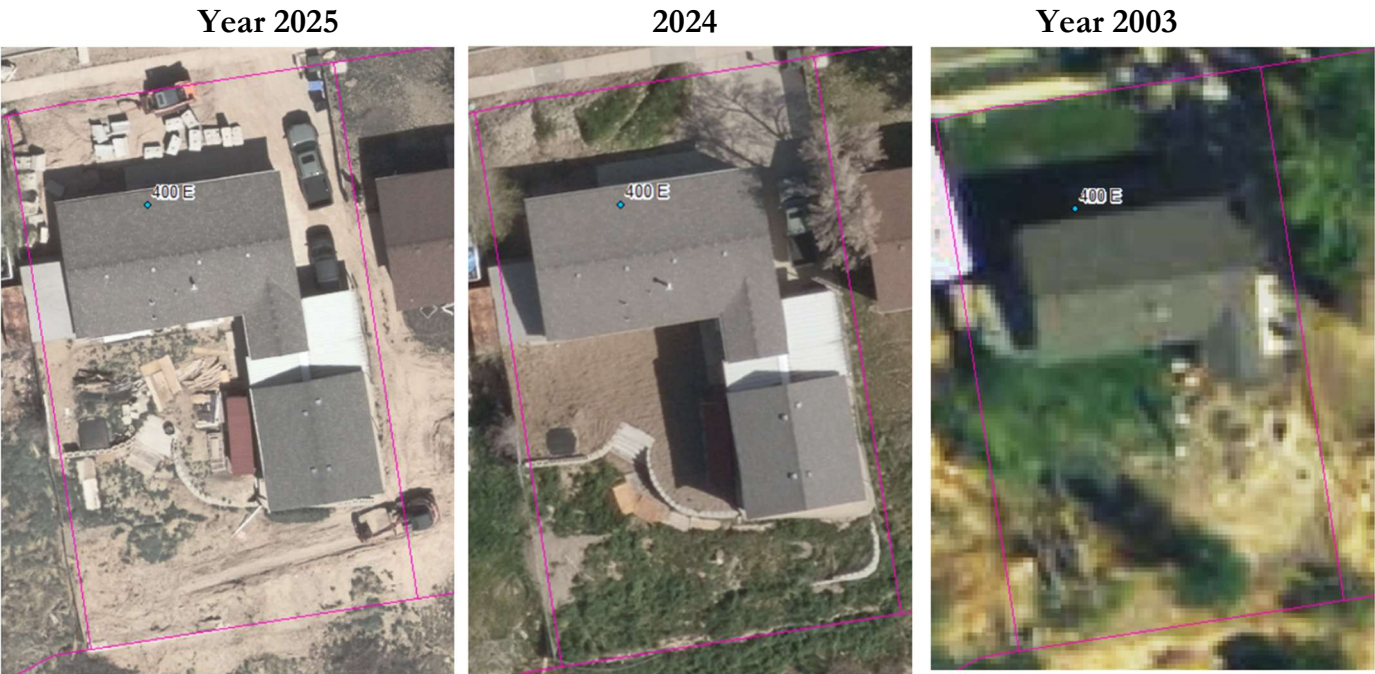
Public Notice and Outreach

A public notice was mailed out to all property owners within 500 feet of the subject property for the Planning Commission meeting. No comments have been received from the public regarding this proposal as of the publishing of this report.

Analysis

In a memo by Assistant Public Works Director/City Engineer Britney Ward, she describes conditions on the property: “Investigations reveal that shortly before 2007, a prior homeowner built a garage into the protected slope area and a second structure on the west side of the home without permits. Sometime after this, much of the lot’s mature native landscaping was removed from the protected slope. After acquiring the property in 2020, the current homeowners spouse constructed retaining walls around the perimeter of the illegal garage as well as multiple large block retaining walls at the bottom of and through the protected hillside. The entire protected slope within the property boundary was cut into and regraded, removing rotted railroad ties and most of the landscaping. Further, access trails were constructed, including on the neighboring property, for a mini excavator to provide progressive level ground and stabilized work areas for the installation of the block walls. The current structural soundness of the garage and massive block retaining walls is unknown at this time as neither were designed by licensed engineers nor submitted to Sandy City for review and approval. The garage does not meet required setbacks, and it does not appear to have been constructed on a proper foundation.” See Exhibit “D” for the Assistant Public Works Director/City Engineer Britney Ward’s findings and recommendation, along with historical and steep slope overlays maps. Below are aerial photos that show a comparison of the disturbed area in the current year of 2025 compared with the same area in 2024 and 2003.

Aerial Photos



City records confirm that the previous owner never received building permits for construction of the garage, attached carport cover, or the accessory structure on the west side of the dwelling. Consequently, they are considered illegal, non-conforming structures and they will need to be removed. Given the fact that there are two issues that need to be addressed,

the applicant is proposing to restore the site in two phases: Phase 1) restoration of the hillside in the 30% or greater sloped area, and Phase 2) removal of the unauthorized non-conforming structures and further restoration of the disturbed hillside area. See Exhibit Exhibits “B” and “C” for the applicant’s grading and landscape plans to restore the site.

The Sandy Land Development Code requires Planning Commission approval for alteration of 30% or greater slopes. The Planning Commission may determine the specifics of how the slope is altered and if the plan will be approved. The applicable review criteria for the grading plan are under Land Development Code Section 21-15-04(B)(6):

(6) Grading, Cuts and Fill

- a. *Exposed unstable surfaces of a cut or fill shall not be steeper than one vertical to two horizontal.*
- b. *All permanent fill shall be stabilized and finished to reduce risk associated with settling, sliding or erosion.*
- c. *The top and bottom edges of slopes caused by an excavation or fill up to ten vertical feet shall be at a minimum of three horizontal feet from the property line or public right-of-way lines.*
- d. *The maximum vertical height of all cuts or fills shall be ten feet. Under exceptional circumstances, the Planning Commission may approve cuts or fills in excess of ten feet with a recommendation from the City Engineer. Cuts or fills shall be measured from natural grade to finished grade. The burden of demonstrating exceptional circumstances shall be on the developer of the property, but may include:*
 1. *Cutting or filling of areas designated as anomalies.*
 2. *Cutting to allow for required sight triangles.*
 3. *Areas previously modified, altered or disturbed.*
 4. *Cuts or fills as required by the City Engineer to mitigate any unsafe condition, such as slopes exceeding 50 percent.*
 5. *Unusual topographic features, such as bowls or rises that don't exceed slope limitations but may inhibit sound construction.*
 6. *Other conditions as approved by the Planning Commission.*
- e. *All structures, except retaining walls or soil stabilization improvements, shall have a setback from the crest of the fill or base of the cut of a minimum distance equal to the depth of the fill or the height of the cut, unless a structurally sound retaining wall is built for the cut or fill slope.*
- f. *No grading, cuts, fills, or terracing will be allowed on a continuous hillside of 30 percent or greater slope, crest (upslope or downslope) unless otherwise determined by the Planning Commission upon recommendation of the Director and City Engineer.*

Assistant Public Works Director/City Engineer Britney Ward, P.E., has assessed the details of the restoration proposal (Exhibit “B”) and provided findings and a recommendation (Exhibit “D”). A summary of the Phase I and Phase II grading plans is provided in that memo. Staff comments and corrections are shown on the grading plans, which will need to be addressed in a revised grading plan and approved by the city prior to implementation. The staff comments on the grading plans clarify that the disturbed area below the garage are to be restored now (Phase I), and removal of the unauthorized non-conforming structures may be addressed later (Phase II), but prior to the sale of the property. Ms. Ward recommends the Planning Commission approve the Special Exception with the condition that the Phase I and II plans are updated to address staff comments shown on Exhibit “B”. Conditions of approval are provided to ensure plan revisions and implementation are executed accordingly.

Planning staff have reviewed the proposed landscape plan (Exhibit “C”). Staff find the proposed plan to revegetate the site with native grass seed is acceptable. The landscape plan proposes the following: “Prior to seeding, install an erosion control blanket (straw or coconut fiber in either plastic or biodegradable netting) to the hillside to prevent washouts which would push seed to the bottom of the hill and leave the top bare. Once planting is completed, continue ongoing monitoring and maintenance. This includes regular assessments of plant survival and supplemental watering during the first two growing seasons. Install temporary above-ground PVC irrigation system with pop-up rotor or rotary heads at the top of the slope.” Conditions of approval are included to ensure appropriate implementation of this plan.

Code Enforcement

As previously mentioned, there is an active code enforcement case for this property. An administrative citation was issued on March 19, 2025, with an official service date of March 23, 2025. If this special exception is approved by the Planning Commission, staff will work with the property owner and the Administrative Hearing Officer to officially close this citation in accordance with [Section 21-15-7](#) of the Land Development Code.

Recommendation

Staff recommend that the Planning Commission grant a Special Exception to allow restoration of 30% or greater slopes in the Sensitive Area Overlay, as described in this staff report, for the property located at 400 E Tonya Drive, based on the following findings and conditions of approval:

Findings:

1. The applicant removed native vegetation and altered a protected 30% or greater slope in the SAO without permits or approvals of the City.
2. The City Engineer finds the protected slope areas could be closely restored to their native condition and be sufficiently stabilized with native vegetation.
3. City departments and divisions have preliminarily reviewed the proposed site, grading and restoration plan.
4. The City Engineer and Community Development Director recommend approval of the grading and landscape restoration plans, as proposed in Exhibits “B” and “C” (subject to the conditions listed below).

Conditions:

1. The applicant shall update the Phase I and II Grading Plans to address staff comments, as shown in Exhibit “B.” Staff shall review and approve those final plans prior to issuance of a grading permit.
2. The applicant shall restore the hillside in accordance with the approved Grading and Landscape Plans and meet all conditions of approval.
3. The applicant shall work with the neighboring property owner to the east to restore the portion of their rear yard impacted by the grading and equipment. The final grading and landscape plans shall be expanded to include those areas.
4. The applicant shall revegetate disturbed areas of the hillside and install temporary irrigation to replace what has been removed, in accordance with the approved Landscape Plan.
5. The applicant shall implement and complete the approved Phase I Grading and Landscape Revegetation Plans by May 1, 2026.
6. The applicant shall work with city staff and the Administrative Hearing Officer to close out the administrative citation per Section 21-15-7 of the Land Development Code.
7. The applicant shall remove the non-conforming structures (garage, carport and shed) in accordance with the approved Phase II Grading Plan. A certificate of non-compliance shall remain on the property until the Phase II Grading Plan is implemented and completed.

Planner:



Melissa Anderson
Zoning Administrator

Exhibits:

- A. Torrey Pines #3 Subdivision Plat
- B. Proposed Phase I and II Grading Plans
- C. Proposed Landscape Plan
- D. Findings and Recommendation by Assistant Public Works Director/City Engineer Britney Ward, P.E
- E. Photographs of Current Conditions of the Site (Oct. 2025)

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