



JAMES SORENSEN
COMMUNITY DEVELOPMENT
DIRECTOR

KURT BRADBURN
MAYOR

MATTHEW HUISH
CHIEF ADMINISTRATIVE OFFICER

MEMORANDUM

November 1, 2019

To: Planning Commission
From: Community Development Department
Subject: Zundel Grading Plan - Cuts and Fills over 10 Feet & Alteration of 30% Slope
10471 South Wasatch Boulevard
[Community #29, The Dell]

SPEX-10-19-5744
R-1-40A Zone

HEARING NOTICE: *This item has been noticed to property owners within 500 feet of the subject area.*

PROPERTY CASE HISTORY	
Case Number	Case Summary
BOA-07-19-5685	The Board approved a variance to allow a home to be built within a 30% or greater slope. This approval was subject to certain conditions (see attached minutes).

BACKGROUND

Mr. Bryce Zundel, who owns property located at 10471 South Wasatch Boulevard, filed a request with the Sandy City Planning Commission for a special exception on Lot 27 of the Seven Springs Subdivision (see applicant’s request letter). Specifically, the applicant is requesting cuts in excess of ten feet (10’) into the hillside for the purpose of building a new single family dwelling (the proposed grading and drainage and site plan have been included in the applicant’s letter).

The applicant is requesting to construct a new home (3,000 total square feet footprint) on a hillside slope in excess of 30 percent grade, which is classified as a lot within the Sensitive Area Overlay Zone. The Sandy City Land Use Development Code prohibits the construction of a new home upon areas of 30 percent or greater slope, unless a variance is granted by the Board of Adjustment. On September 12, 2019, the Board of Adjustment did review a request to build on this lot and granted a variance. *(See attached BOA minutes)*

NOTICE

Notices were mailed to property owners within a 500 foot radius of the subject parcels as per Sandy City Land Development Code requirements. Staff did not require a neighborhood meeting based upon the fact that this property has already been to a Board of Adjustment meeting.

ANALYSIS

The applicant has specifically requested approval for cuts over ten feet (10') and that grading, cutting and filling be allowed within 30% or greater slopes on Lot 27 of the Seven Springs Subdivision. Section 21-15-04(B)(6) of the Development Code states the following (see (d) and (f) in particular):

(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.

The Board of Adjustment approved this lot to be built on, but left the specifics of the proposed grading and associated retaining walls to be reviewed by the Planning Commission. They gave the applicant certain limitations as to the scope and amount of disturbance that would be allowed. They imposed limitations on the square footage of the footprint (3,000 sq. ft.) and set limits of disturbance to the hillside by allowing no more than twenty feet (20') on the side yards, thirty feet

(30') on the rear yard, and no more than 110-foot average away from the front property line. The manner of how they disturb the hillside would be up to the Planning Commission. Specifically the approval of cuts over ten feet (10') and alterations to a continuous 30% slope have to be reviewed by the Planning Commission. This body may determine the specifics of how the slope is altered and whether cuts over ten feet (10') will be approved.

The City Engineer has reviewed this request. A copy of his recommendation has been included in this report (*see the attached letters dated September 5, 2019 and October 29, 2019*).

Staff has the following concerns with the proposed plans:

1. The retaining wall along the street frontage. This wall would interfere with the public water line that provides a stub to the lot. This wall and disturbance of this area appears to be unnecessary.
2. The plans show disturbance beyond the 110-foot limit imposed by the Board. This is in compliance with the overall average, but staff would like to see the plan modified to not go beyond the limit. For example, the home plan could be adjusted to shift the two-car garage forward 4-5 feet to help comply.

In the Planning Commission determination of this item, the following issues and questions should be addressed and may be included as possible findings:

- I. *The subject property was recorded as lot 27 of the Seven Springs Subdivision. This plat was recorded on February 1, 1979. Sandy City Council passed the Hillside Ordinance on August 28, 1978, which has been updated over the years. The regulations in 1979 were different than what is enforced today. This original ordinance did not have specific setback dimensions from a slope exceeding 30 percent, as the current ordinance does.*
- II. *Lot 27 is located in a Sensitive Area Overlay Zone.*
- III. *Are there any other options to mitigate the proposed cuts and/or fills?*
- IV. *Will or will not the proposed home be out of character for this subdivision?*

RECOMMENDATION

Staff recommends that the Planning Commission **grant a Special Exception to allow Cuts over 10 Feet & Alteration of a 30% Slope** for **10471 South Wasatch Boulevard**, Lot 27 of the Seven Springs Subdivision, based on the following:

Findings:

1. The subject property was recorded as lot 27 of the Seven Springs Subdivision. This plat was recorded on February 1, 1979. Sandy City Council passed the Hillside Ordinance on August 28, 1978, which has been updated over the years. The regulations in 1979 were different than what is enforced today. This original ordinance did not have specific setback dimensions from a slope exceeding 30 percent, as the current ordinance does.
2. Lot 27 has been previously approved as a building lot.

In reviewing the property, it appears that there is a small area closer to Wasatch Boulevard that is less than the 30 percent slope, however, the area is less than the required 5,000 square feet of usable land needed for a residence.

4. The City Engineer has received a copy of the geotechnical report performed by Gordon Geotechnical Engineering, Inc. (with associated addenda 1 and 2). This report indicates that this lot is stable and suitable for construction.
5. The proposed home is not out of character for this subdivision. The footprint of the home is under 3,000 sq. ft.
6. On September 12, 2019, the Board of Adjustment granted a variance to build a new single family home on the 30% slope subject to conditions of approval.

Conditions:

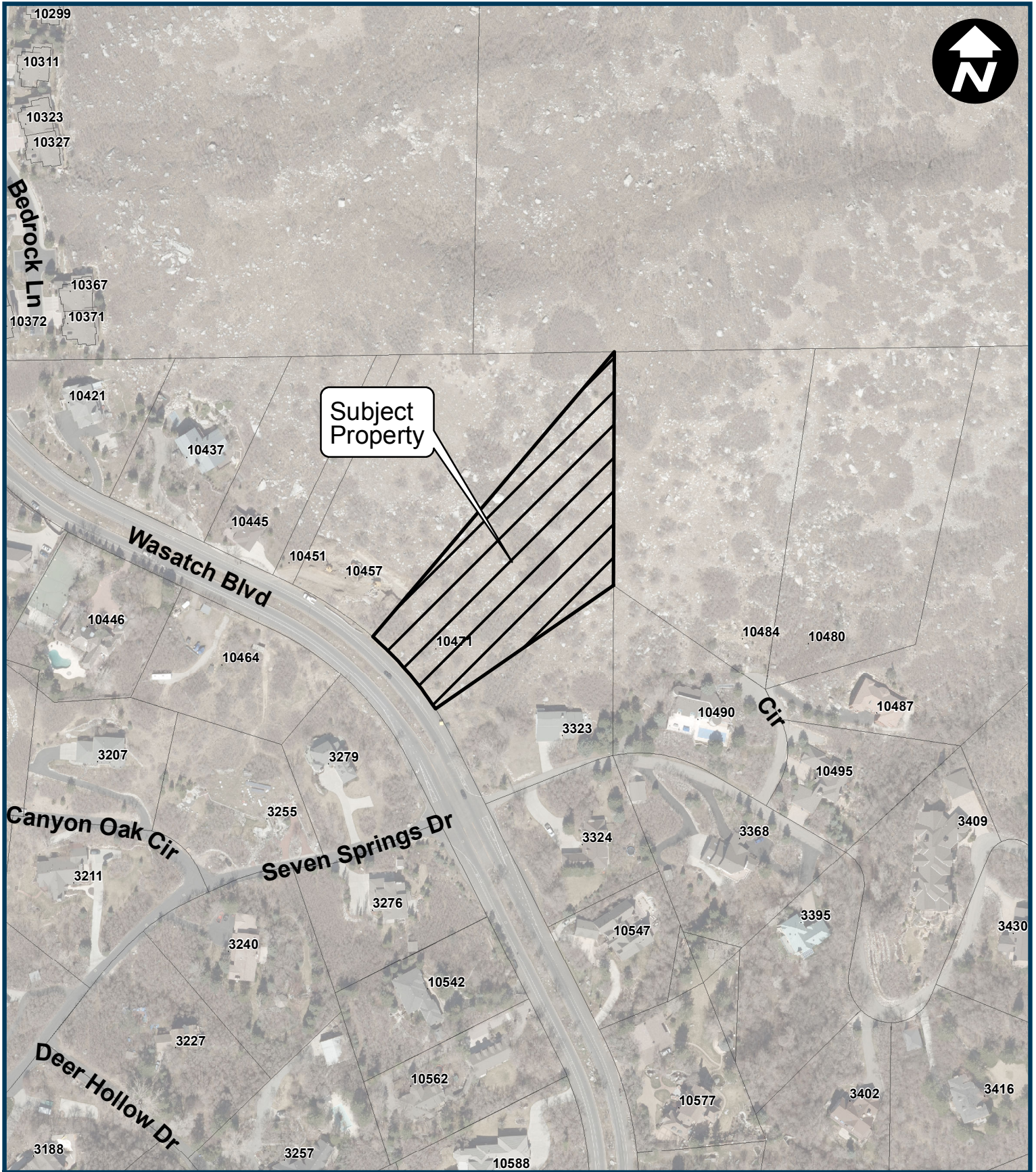
1. That the applicant/builder/owner be required to comply all other applicable requirements related to the Sensitive Area Overlay Zone, specifically including preparing a detailed landscape and re-vegetation plan.
2. That the balance of conditions of approval, as shown on the recorded plat (refer to recorded conditions of approval - S#78-40), remain in force and are not nullified by this waiver.
3. That the property owner acknowledge the risk of rock fall on this property. The threat of rock fall can be mitigated with a fence or swale. That the geotech engineer work with Gilson Engineering to design such a system to mitigate the risk.
4. That the driveway be required to have a heating element to mitigate safety concerns due to the slope exceeding 12% slope.
5. That the applicant be issued a building permit prior to any grading of the site can begin.

Planner:

Reviewed by: *BM*



Mike Wilcox
Zoning Administrator

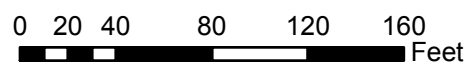


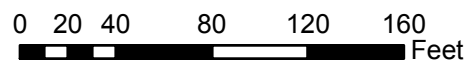
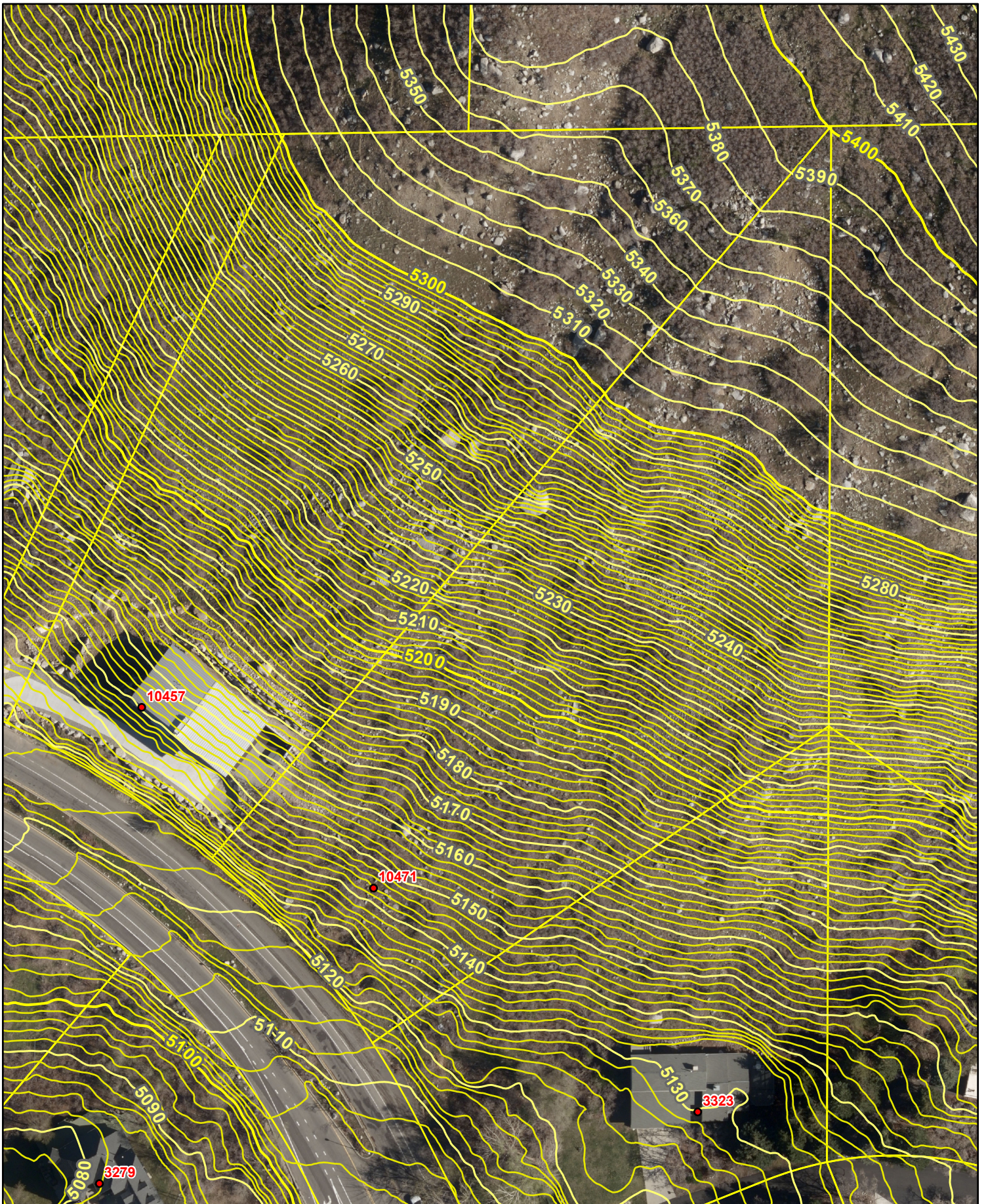
Subject Property

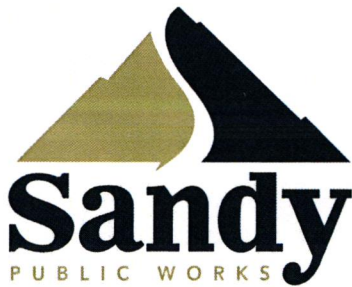
SPEX-10-19-5744
Zundell Grading Plan
10471 S Wasatch Blvd

PRODUCED BY MIKE WILCOX
THE COMMUNITY DEVELOPMENT DEPARTMENT









DEPARTMENT OF PUBLIC WORKS

Kurt Bradburn
Mayor


Matthew Huish
Chief Administrative Officer

Michael Gladbach, P.E.
Director

READY-FOR-PLANNING-COMMISSION MEMORANDUM

Date: October 29, 2019

To: Mike Wilcox, Zoning Administrator

From: Ryan C. Kump, P.E., City Engineer 

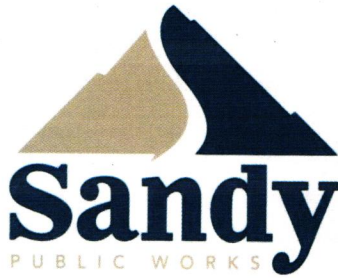
Project Name: Bryce Zundel Grading Plan

Plan Case Number: SPEX-10-19-005744

Project Address: 10471 South Wasatch Boulevard

A review of the above-mentioned project has been made. Following is a list of comments from the Public Works Department:

1. THE GRADING PLAN SUBMITTED BY THE DEVELOPER IS GENERALLY ADEQUATE at this stage of the project with regard to Public Works Department concerns. A number of items will be required prior to final approval, including items mentioned in the drawing redlines and the "City Engineer Requirements" letter, but these items are not required as part of this preliminary submittal.
2. THE PUBLIC WORKS DEPARTMENT RECOMMENDS THAT THE PLANNING COMMISSION DECLARE THAT PLANNING COMMISSION GRADING PLAN REVIEW IS COMPLETE, and that final project documents be prepared by the developer for review by city staff members.
3. PRIOR TO FINAL APPROVAL BY THE PUBLIC WORKS DEPARTMENT, the developer is required to complete all items mentioned in the drawing redlines, and the "City Engineer Requirements" letter.



DEPARTMENT OF PUBLIC WORKS

Kurt Bradburn
Mayor

Matthew Huish
Chief Administrative Officer

Mike Gladbach
Director

September 5, 2019

TO: Mike Wilcox, Zoning Administrator

FROM: Ryan Kump, P.E., City Engineer

SUBJECT: Project Name: Bryce Zundel Residence
Project Address: 10471 South Wasatch Blvd, Sandy

In accordance with the Sandy City Land Development Code, Chapter 15A-15 (Sensitive Area Overlay Zone), paragraph 5A (Previously Platted Lots), the property at the above address qualifies for special exception to allow construction. Recommend that the exception be approved and construction be allowed on the property in question.

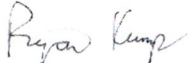
The following findings are made:

1. Our GIS data base, which is provided by Salt Lake County, shows that the lot was platted prior to its annexation in 1978 as part of the Seven Springs annexation.
2. The home is being sited next to Wasatch Blvd.
 - a. This is the lowest portion of the property, and closest to access from Wasatch Blvd.
 - b. The driveway, although over 12% grade, remains under 15% grade and will be required to be heated. By allowing a 15% grade, further reductions to hillside cuts are gained.
3. A Geotechnical report was provided by CMT Engineering Laboratories. Its findings include:
 - a. The material on site is stable and suitable for construction.
 - b. The maximum slopes above the proposed structure run from 40% to 50%. The angle of repose noted for material on site is 35 degrees, which is a 70% slope. Therefore, the slope is stable for construction.
 - c. Rockery wall are recommended to be no more than 6' in height, with a 6' separation between tiers. The site will need to be modified for this layout. An alternative would be a cast in place concrete wall, but subjectively, this would have a greater visual impact on the slope. The pure vertical nature of a cast-in-place concrete wall would put a greater emphasis the depth of the cut, but would reduce the amount of disturbed area.

- d. The site is outside the known fault zone, but is adjacent to a rock fall zone. This is noted in section 4.4 as a potential risk. It is recommended that:
 - i. The property owner acknowledges the risk of rock fall.
 - ii. The threat of rock fall be mitigated with a fence or swale.

If you have any questions or wish to discuss this further I can be reached at 801-568-2962 or by email at rkump@sandy.utah.gov.

Thank you,


Ryan Kump, P.E.
City Engineer

Attachments:

- A. Geotechnical Study dtd August 16th, 2019

Yes: 3 - Bruce Bryner
Burke Staker
Tyler Brown

Absent: 3 - Brian Jones
Steven Wrigley
Matt Hale

A motion was made by Burke Staker, seconded by Bruce Bryner, that the previous motion be reopened. The motion carried by the following vote:

Yes: 3 - Bruce Bryner
Burke Staker
Tyler Brown

Absent: 3 - Brian Jones
Steven Wrigley
Matt Hale

A motion was made by Burke Staker, seconded by Bruce Bryner, that the decision be tabled until January 9, 2020. The motion carried by the following vote:

Yes: 3 - Bruce Bryner
Burke Staker
Tyler Brown

Absent: 3 - Brian Jones
Steven Wrigley
Matt Hale

3. [BOA-07-19-5](#) Bryce Zundel Variance Request
[685](#) 10471 South Wasatch Blvd
[Community #29 - The Dell]

Mike Wilcox, Zoning Administrator, introduced variance request to Board of Adjustment.

Josh Madsen with Gilson Engineering, and Mark Miller, General Contractor, presented to the Board of Adjustment their reasoning for the variance request.

Mike Wilcox presented the staff report to the Board.

Burke Staker opened the meeting to public comment. It was also noted that all emails and letters that had been received by the Board will be made part of the record.

Marc Moracco, who joined the meeting via speakerphone, gave his statement to the Board. Hal Cousins was his representative.

Mr. Moracco asked if the Board had received his email and attachments. Mike Wilcox assured him that they had.

Mr. Moracco was not in favor of the variance.

Jack Cain has no issues with the lot being built on. He is the neighbor to the south of the property in question.

Burke Staker closed the meeting to public comment.

Deliberation among board members and staff regarding variance.

Burke Staker reopened the meeting to public comment.

Jack Cain asked for clarification on the size of the home in question and it's comparison to Mark Moracco's home.

Mr. Moracco, by speakerphone, stated that his home is approximately 4600 square feet.

Mike Wilcox stated that the average footprint of homes in that area is about 3000 square feet, including garage, based on GIS data.

Marc Moracco, by speakerphone, presented information to Board regarding the square footage of each floor of his home.

Mark Miller presented information regarding design of Zundel property, the Moracco home and surrounding properties.

Mr. Moracco disputed some details presented by Mr. Miller.

Discussion between Board of Adjustment members, Mark Miller, Marc Moracco and Mike Wilcox regarding the grading and drainage of the property, and ways to minimize the cut on the property.

A motion was made by Burke Staker, seconded by Tyler Brown, that the Board of Adjustment approve the Variances 1 and 2, as outlined in the staff report, for the property located at 10471 South Wasatch Blvd. to include the following findings and conditions to mitigate the negative impacts of said variances:

Findings:

- 1. Literal enforcement of the zoning ordinance will cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance. Literal enforcement of the zoning ordinance would not allow any home to be built on this platted subdivision lot.**
- 2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone district. The property is severely limited by a difficult and small building envelope.**
- 3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district. Having and maintaining a home on the property, inasmuch as it is a platted lot, is an essential property right.**
- 4. The variance will not substantially affect the general plan, and will not be contrary to the public interest. The general plan provides for homes to be built in this zone in spite of the steep hillsides, provided certain conditions are met.**
- 5. The spirit of the zoning ordinance is observed and substantial justice will be done by granting this variance. Not granting the variance would not allow any construction on this platted parcel, which would be a serious injustice.**

6. The City Engineer has found that the land is suitable for development after reviewing the geotechnical report provided by CMT Engineering Laboratories.
7. The requested variance does not create any unmitigated impacts to the property or the the area if certain conditions are met.
8. The requested variance does not result in the violation of any other City ordinance.

Conditions:

1. That the driveway be required to have a heating element to mitigate safety concerns.
2. All proposed retaining walls be designed to follow the City Engineer's recommendation as contained in his letter dated September 5, 2019, including rock fall mitigation measures.
3. If the development of the dwelling as proposed creates cuts and fills over 10 feet in height, that the applicant seek a special exception from the Planning Commission prior to issuance of a building permit.
4. That the Planning Commission review a detailed grading plan of the lot prior to issuance of a building permit, which shows the proposed grading, cuts, fills and terracing on the continuous hillside of 30 percent slope.
5. That a vegetation plan, in accordance with Development Code Section 15A-15-05 (B)(3) be reviewed and approved by staff prior to issuance of a building permit to ensure the disturbed area of the lot are properly restored, and drainage and slope stability issues are mitigated.
6. That the proposed home be allowed to be constructed to a footprint no larger than 3000 square feet (including the garage area) in order to reduce the impact to the hillside, and reduce the amount of disturbance to the natural vegetation.
7. That there be no hillside disturbance or grading beyond 20 feet on the sides of the proposed home, 30 feet on the rear of the proposed home, and no more than 110 feet average distance from the front property line.

The motion carried by the following vote:

Yes: 3 - Bruce Bryner
Burke Staker
Tyler Brown

Absent: 3 - Brian Jones
Steven Wrigley
Matt Hale

Administrative Business

Minutes

19-316

Board of Adjustment Meeting Minutes from the August 8, 2019

A motion was made by Bruce Bryner, seconded by Burke Staker, that the Board of Adjustment approve the minutes from the August 8, 2019 Board of Adjustment meeting.

The motion carried by the following vote:

Yes: 3 - Bruce Bryner
Burke Staker
Tyler Brown