

COTTONWOOD HEIGHTS CITY PLANNING COMMISSION MEETING AGENDA



January 8, 2025

Notice is hereby given that the **Cottonwood Heights Planning Commission** will convene on **Wednesday, January 8, 2025** at **Cottonwood Heights City Hall** (2277 E. Bengal Blvd., Cottonwood Heights, UT 84121) for its **Work Session** and **Business Session** meetings.

1. Work Session – **5:00 p.m.** – City Council Work Room
2. Business Session – **6:00 p.m.** – City Council Chambers

Both sessions will also be broadcast electronically on the city’s YouTube channel at <https://www.youtube.com/@CottonwoodHeights/streams>. **Please see the reverse side of this agenda for instructions on how to make public comment.**

5:00 p.m. Work Session

1.0 Review Business Session Agenda

The commission will review and discuss agenda items.

2.0 Adjourn

6:00 p.m. Business Session

1.0 Welcome and Acknowledgements

- 1.1 Ex parte communications or conflicts of interest to disclose

2.0 General Public Comment

This is an opportunity for individuals to make general public comments that do not relate to any projects scheduled for public hearing under the “Business Items” section of this agenda. Please see the Public Comment Policy on the reverse side of this agenda for more information.

3.0 Business Items

- 3.1 Project ZTA-24-005

Introduction and public hearing for a request by Rockworth Companies to modify portions of the adopted Planned Development District (PDD) ordinance which governs the Rockworth Gravel Pit at 6995 S. Wasatch Blvd. The proposed modifications relate to further defining the massing and density of the future mixed-use project at this site.

4.0 Consent Agenda

- 4.1 Approval of Planning Commission Minutes from November 6, 2024
- 4.2 Approval of Planning Commission Minutes from December 4, 2024

5.0 Adjourn

Next Planning Commission Meeting: January 22, 2025

Public Comment Policy

Individuals may provide public comment verbally or via writing.

Verbal comments are accepted in person at the 6:00 p.m. Business Session, but not at the 5:00 p.m. Work Session. At the Business Session, public comment may be given during two intervals:

1. General Public Comment Period – An opportunity for general comments not relating to specific projects on the meeting agenda.
2. Specific Project Public Hearings – An opportunity for comments relating to specific projects on the meeting agenda which were noticed as public hearings.

Please note that verbal comments must be provided by attending the meetings in-person. Verbal comments cannot be provided via the electronic broadcast of planning commission meetings on the city's YouTube channel.

Verbal comment periods are an opportunity for individuals to share comments as they see fit but **are not an opportunity for "question and answer" dialogue.** Questions should be directed to city staff at planning@ch.utah.gov. Verbal comments provided during the public comment period will be limited to three minutes per individual, or five minutes per a spokesperson who has been asked by a group that is present to summarize their concerns.

Alternatively, **written comments** may be submitted to staff via email at planning@ch.utah.gov. For written comments to be entered into the record and distributed to the planning commission prior to the meeting, they must be submitted to staff by 12:00 p.m. MST on Tuesday, January 7, 2025, the day prior to the meeting. Comments received after this deadline will be distributed to the planning commission after the meeting.

Meeting Procedures

Items will generally be considered in the following order: 1. Chair introduction of item, 2. Staff presentation, 3. Applicant presentation, if applicable, 4. Chair opens public hearing, if applicable, 5. Chair closes public hearing, if applicable, 6. Planning commission deliberation, 7. Planning commission motion and vote on item.

Applications may be tabled if additional information is needed in order to act on the item; or if the planning commission feels there are unresolved issues that may need further attention before the commission is ready to make a motion. No agenda item will begin after 9:00 pm without a unanimous vote of the commission. The commission may carry over agenda items, scheduled late in the evening and not heard, to the next regularly scheduled meeting.

Notice of Compliance with the Americans with Disabilities Act (ADA)

In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting shall notify the City Recorder at (801) 944-7021 at least 24 hours prior to the meeting. TDD number is (801) 270-2425 or call Relay Utah at #711.

Confirmation of Public Notice

On Friday, January 3, 2025, a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Cottonwood Heights City Offices. The agenda was also posted on the City's website at www.cottonwoodheights.utah.gov and the Utah public notice website at <http://pmn.utah.gov>.

DATED THIS 3RD DAY OF JANUARY, 2025, Attest: Maria Devereux, Deputy City Recorder



PLANNING COMMISSION MEMO

ZTA-24-005 – PDD-2

Wasatch Rock Redevelopment Ordinance Amd.

Meeting Date: January 8, 2025

Staff Contact: Mike Johnson, CED Director

Request

This application represents a proposed zoning text amendment to the PDD-2 (Wasatch Rock Redevelopment) Ordinance. The PDD-2 zone is a site-specific zoning ordinance and master development plan that solely applies to the 21.56-acre property located at 6695 South Wasatch Boulevard. Specifically, this text amendment process proposes a final building height, massing, and unit count to the condominium use within the approved PDD-2 ordinance and development plan.

This text amendment proposes that the condominium use within the site be allowed to be constructed to a maximum height of 12-14 stories (consisting of 3-4 levels of structured parking below 9-10 floors of condominium units), and a total unit count of 75-110.



At the January 8, 2025 Commission meeting, staff intends to provide a detailed overview of the PDD-2 ordinance and development plan, a history of the project and its current entitlement, a summary of the proposed text amendment (and why the text amendment is required), and an overview of next steps in the approval process. This staff memo serves only as an introduction to the application. A full staff report with detailed staff analysis and recommendation will be provided to the Commission at a subsequent meeting. However, a brief background is provided below.

Background

The existing, approved PDD-2 zoning ordinance and development plan materials are publicly available for review on the city website at the following link. It is recommended that Commissioners review the posted materials to better understand the current approval and entitlement within the subject property. Staff will also provide an overview of these materials at the January 8, 2025 Commission meeting:

<https://www.cottonwoodheights.utah.gov/your-government/boards-and-commissions/planning-commission/wasatch-rock-redevelopment-proposal-6695-s-wasatch-blvd-pdd-19-001>

Following the Planned Development District ordinance process ([19.51 of the Cottonwood Heights Zoning Ordinance](#)), the PDD-2 zone and accompanying development plan was approved by the City Council in August 2021 after a nearly two-year public process which included extensive staff review, impact analysis, site assessment, and supportive recommendations from both the Planning Commission and the Architectural Review Commission. The approval created site plan entitlement and site-specific development standards for a mixed-use project consisting of seven phases and the following uses:

- Multi-family residential (apartments)
- Multi-family residential (condominiums)
- Hotel
- Commercial uses (six separate commercial pads are included in the approval)

Except for the condominium use, each of the uses has already received approval for maximum unit counts, building heights, massing, etc. Further, the PDD-2 ordinance provides specific detail for the process the applicant must follow to entitlement development standards for the condominium use (i.e., this text amendment process). Additional site elements, including traffic impact, site circulation, open space, parking, roadway alignment, etc. have also been previously approved. Staff will provide a full update to each of these elements as they relate to the proposed text amendment within the future project staff report and analysis.

[The approved PDD-2 site plan](#) includes the layout of the above-referenced uses within the project site, including the location of the condominium use. This current PDD-2 ordinance process also incorporates extensive study and analysis of site constraints, reclamation requirements, and other geotechnical and geological considerations to ensure that future development mitigates risk posed by hazards within the site. Staff will present an updated report on overall site reclamation, hazard mitigation, and reclamation that are specific to the proposed condominium site.

In addition to the above link to the current PDD-2 ordinance and project materials, attached are the applicant's proposed PDD-2 text amendment and updated plans which provide additional detail for the proposed condominium building's unit count, massing, and visual impact.

Recommendation

Given the complexity of the PDD-2 ordinance and the detailed process the project has already been through, staff intends to utilize its time at the January 8 Commission meeting providing an overview to the Commission. This overview will include a review of how the Planned Development District Ordinance functions, the various requirements of the established PDD-2 zone, the established review process for each phase of the project, and more. Staff recommends that the Commission review the existing approved PDD-2 zone materials (linked above), review the proposed amendment materials (attached), and begin the public input process for the text amendment.

Attachments

1. Proposed PDD-2 (Wasatch Rock Redevelopment) Ordinance amendment (with proposed changes tracked)
2. Conceptual Site Rendering (including proposed condominium massing)
3. Site building height analysis

PDD-2 (WASATCH ROCK REDEVELOPMENT) ZONE

A Planned Development District Under Cottonwood Heights Code Chapter 19.51

- Section 1. Purpose.**
- Section 2. Findings.**
- Section 3. Approval of Development Plan; Phasing.**
- Section 4. Uses.**
- Section 5. Development requirements.**
- Section 6. Development and architectural standards.**
- Section 7. BMR units.**
- Section 8. Outdoor lighting.**
- Section 9. Signage.**
- Section 10. Environmentally sustainable design.**
- Section 11. Reversionary clause.**
- Section 12. Contrary law.**
- Exhibit A Development Plan**
- Exhibit B Project Design Guidelines**

Section 1. Purpose.

A. The purpose of this ordinance (the “*ordinance*”) is to create a zone (the “*PDD-2 zone*”) to allow the phased development of approximately 21.56 acres of real property (the “*Property*”) that is located at approximately 6695 South Wasatch Boulevard in the city of Cottonwood Heights, Utah (the “*city*”) as shown in the development plan attached as Exhibit A (the “*Development Plan*”) and in the official zoning records of the city. The PDD-2 zone is applicable only to the Property.

B. The project (the “*Project*”) described in the Development Plan is a mixed-use project located in a manner and an environment that reflects attention to the Property’s topography, location, and specific features and sets forth the approved concepts for architectural, landscaping and urban design principles consistent with the Cottonwood Heights Code of Ordinances (the “*Code*”). The PDD-2 zone and the Project promote the goals and objectives set forth in Code Section 19.51.020 and the city’s general and master plans. The Project as depicted on the Development Plan will be adequately served by public streets, municipal services and public utilities of adequate capacity.

C. This ordinance is a “PDZ ordinance” as that term is defined in Code Section 19.51.020(C), and the PDD-2 zone is a Tier 1 Planned Development District project as described in Code Section 19.51.060.

Section 2. Findings.

Creation and adoption of the PDD-2 zone is based on, *inter alia*, the following findings by the city’s city council (the “*Council*”):

A. Development in the PDD-2 zone will support existing retail and commercial business in and near the Wasatch Boulevard area. Development in the PDD-2 zone will include residential and commercial properties. The development is located along major UTA bus corridors and adjacent to UTA bus stops with routes to and from many office and retail businesses.

B. The PDD-2 zone includes a mix of uses, including hotel, retail, office and other commercial uses together with residential uses. The different uses in the PDD-2 zone have a pedestrian orientation and have been located to accommodate each of those uses. The multi-family residential units have access to a variety of pedestrian amenities on the site, including pools, plazas, walkways, etc.

C. The PDD-2 zone is compatible with the city's general plan, as it provides for residential and commercial uses that are compatible with the land use designations on the site and compatible with the commercial and public amenity features within and near the Property.

D. Site features, uses, public amenities and aesthetic characteristics required in the PDD-2 zone encourage pedestrian activity within the site, and provide safe access to multi-modal transportation opportunities at a scale appropriate for the context of the site.

E. The PDD-2 zone properly integrates the physical characteristics of the site with the proposed development by providing important trail connectivity through the Property. The building height, architectural massing, and spatial relationship of proposed structures is appropriate for the area, and is valuable reuse and redevelopment of a site no longer suitable for extractive or other sand and gravel operations.

F. With the design of an appropriate entryway and signal, the PDD-2 zone site is properly served by public streets and services.

G. The PDD-2 zone furthers the goals of the city's Wasatch Boulevard Master Plan by creating a dense, mixed-use, walkable development with appropriate outdoor amenities in proper context at the site historically known as the "gravel pit."

H. The PDD-2 zone helps achieve the city's affordable housing goals by requiring deed-restricted affordable housing units.

Section 3. Approval of Development Plan; Phasing.

A. This ordinance constitutes the Council's legislative approval of the PDD-2 zone and the Development Plan, subject to any additional Council approvals required by this ordinance.

B. Construction of the Project improvements shown on the Development Plan may be done in phases pursuant to a phasing plan reviewed and approved by the director of city's community and economic development department or designee (the "Director").

~~C. This ordinance approves a residential condominium use in the Project, provided that this ordinance does not constitute city approval of the final density and massing of the condominium use but instead only represents entitlement for that land use in the general location depicted in the Development Plan. Final building height, size, footprint, total unit count, parking, and other details concerning the proposed condominium use shall be determined through an amendment to this ordinance and the Development Plan reviewed and approved by the Council, in its legislative discretion, following recommendation by the city's planning commission ("Planning Commission"), city's planning department ("Department") staff, city's development review committee ("DRC"), city's architectural review commission ("ARC"), city's geologist, or other city-related individuals or advisory bodies in accordance with city's requirements and normal development review processes.~~

C. This amendment to the PDD-2 zone approves a residential condominium project ("Condo Project") within the Project. The Condo Project is approved for a height between nine (9) to ten (10) unit floors to be located above three (3) to four (4) parking levels on a building footprint located as depicted the site plan below on [Image X]. The parking allowed for the Condo Project is between a minimum of 1.25 parking stalls per unit to 2.0 parking stalls per unit. The total unit count for the Condo Project will be between seventy-five (75) units and one-hundred ten (110) units. Developer to determine the final unit story, parking level, unit

count, and parking stall configuration in accordance with this subsection.

D. Site plans for each phase, subdivision plats, densities, building heights, massing, site layout and uses shall conform to the requirements of the Code, this ordinance and the Development Plan. Prior to development, each phase shall be reviewed and approved by the city (including ARC review and approval of the site plan for that phase) to ensure compliance with this ordinance, the Development Plan, Project-specific design guidelines, all relevant provisions of the Code, and other relevant site plan requirements.

E. Approval of subdivision plats with fewer than ten lots may be approved administratively by the Department subject to Code Title 12 (Subdivisions).

F. If substantial discrepancies are discovered during review of site plans or subdivision plats, applications may be referred to the Planning Commission for final consideration or recommendation to the Council, as appropriate.

G. Material changes to this ordinance or the Development Plan arising from a submittal; the discovery of unanticipated geotechnical, geologic, or other site hazards; or for any other reason shall require an amendment to this ordinance following review, recommendation and/or approval by the DRC, ARC, Planning Commission and Council as specified in Code Chapter 19.51 (Planned Development District) ("*Chapter 19.51*") and other Code provisions.

Section 4. Uses.

A. The permitted uses in the PDD-2 zone include:

1. Multi-family residential dwellings;
2. General retail;
3. Office;
4. Restaurant;
5. Hotels;
6. Entertainment venues;
7. Public and quasi-public outdoor recreation and gathering amenities, including but not limited to trails, plazas, courtyards, etc.; and
8. Home occupations, as defined by and in accordance with Code Section 19.76.040(F).

B. Uses not listed as permitted in this section shall be prohibited.

Section 5. Development requirements.

Property in the PDD-2 zone shall be developed in conformance with this ordinance, including the Development Plan attached as Exhibit A and incorporated herein by reference; the applicable requirements of Chapter 19.51, including all applicable base Tier 1 regulations set forth in Table

1 of Chapter 19.51 attached as Exhibit B; the balance of the Code, including Title 12 (Subdivisions); all applicable APWA standards; the International Building Code; the International Fire Code; such other city standards as may be applicable to development in the PDD-2 zone as determined by the DRC; and the following additional standards:

A. *Height*. Building heights shall be no taller than as described in the Development Plan and measured from the average grade elevation of Wasatch Boulevard as specified in Code Section 19.51.060(B)(3).

B. *Setbacks*. The setbacks for all buildings in the PDD-2 zone shall be as generally depicted in the Development Plan. The western boundary of the PDD-2 zone site shall be considered the front yard.

C. *Residential Units*. Initially, the PDD-2 zone shall contain no more than 325 residential dwelling units, as depicted in the Development Plan. Those 325 units shall be developed in Phase

1 of the Project with construction of the multi-family apartment building. Additional condominiumized residential units may be constructed in the Project subject to and contingent upon future approval of massing and density of the proposed condominium use by the Council following recommendation by the Planning Commission. Except as specified, no additional residential units shall be added to the PDD-2 zone without a Council-approved amendment to this ordinance and revision to the Development Plan following recommendation by the Planning

Commission.

D. Coverage. The maximum lot coverage for in the PDD-2 zone shall be as depicted in the Development Plan.

E. Lot dimensions. Subject to Section 19.52.030, the minimum lot dimensions shall be as generally depicted in the Development Plan.

F. Storefronts and access (retail and commercial areas). A minimum of 50% of the height and width of the ground-floor frontage of retail and commercial buildings shall consist of windows, window displays, doors, or a combination thereof. Such windows, window displays, or doors shall be provided between two and eight feet above grade adjacent to the principal building frontage.

G. Parking.

1. The PDD-2 zone shall include parking stalls per unit and otherwise as shown in the Development Plan. All required accessible parking stalls shall be designed in accordance with applicable building code standards and the provisions of Chapter 19.80 (Off-Street Parking Requirements). Any parking spaces located within the city right-of-way will require a maintenance agreement reasonably acceptable to the city for snow removal, maintenance and repair of such parking areas.

2. Shared parking is being utilized to create a more efficient use of land. As such, agreements must be in place prior to building permit approval providing formalized shared parking and cross-access agreements. All proposed proprietary and shared parking arrangements and agreements are subject to review and approval by the Director.

3. Shared parking areas shall be open to the general public for access to public and quasi-public outdoor recreation and gathering amenities within the Project. Structured parking for multi-family residential uses may be excluded from this requirement.

H. Utilities. Utilities shall be buried unless otherwise prohibited. Any proposed unburied utilities are subject to DRC review and approval. City-standard street lights shall be installed on all public roads, subject to DRC review and approval.

I. Amenities. Amenities in the PDD-2 zone shall be as generally depicted in the Development Plan and shall include the following:

1. Public trails;
2. Plazas, courtyards, enhanced crosswalks, and water features;
3. Public pedestrian walkways, sidewalks, and bicycle lanes; and
4. Public and private common green areas.

J. Pedestrian circulation. Pedestrian circulation in the PDD-2 zone shall comply with the following requirements:

1. Sidewalks and pedestrian walkways shall be as shown in the Development Plan;

2. As depicted in the Development Plan and subject to final approval by the ARC during site plan review for each phase of the Project, minimum requirements for public sidewalks in the PDD-2 zone include:

(a) Continuous sidewalks with a width of at least eight feet shall be located along collector and arterial public streets; and

(b) Sidewalk(s) along the private street(s) shall be located as shown on the Development Plan.

(c) Minimum requirements for private pedestrian walkways in the PDD-2 zone include:

- (i) Hard-surfaced sidewalks with a minimum width of five feet;
- (ii) Readily visible sidewalks free of encroachment by parked vehicles;

(iii) Paving consisting of concrete or other masonry materials differentiated from the driveway and parking areas through the use of color, texture, or materials;

(iv) Shade provided by deciduous shade trees spaced at one per 30 linear feet of walkway or building canopy; *provided, however*, that shade trees within the aqueduct easement (the

“*MWD*”

Easement”) across the Property benefitting of the Metropolitan Water District (“MWD”) will not be required to be installed if the city receives a written determination by MWD during site plan review prohibiting such installation;

(v) Lighting with pedestrian-scaled fixtures; and

(vi) A six-foot wide pedestrian trail shall be located through the Project beginning at Gun Club Road and terminating at the South property line (the “*Bonneville Shoreline Connector Trail*”) shall be developed with an appropriate surface as shown on the Development Plan, subject to ARC review and approval. The Bonneville Shoreline Connector Trail shall be improved and maintained at the Project’s cost; shall be perpetually open to the public, allowing the public to traverse the Property from one side to the other; and may in the future be included in a public trail system sponsored by the city. If formally requested by the city as part of a city-sponsored trail system involving trail improvements and a trail easement on either or both sides of the site, so long as one side connects to a trailhead or access point accessible to the general public, the then owner(s) of the affected portions of the Property shall grant a non-exclusive public trail easement to the city in the location of Bonneville Shoreline Connector Trail, in which event the city would thereafter assume responsibility for the trail improvements and their maintenance. The form of such easement grant shall be one that is reasonably proposed by the city and reasonably acceptable to such owner(s). Trail users shall be permitted to utilize shared parking areas within the Project, excluding structure parking for multi-family residential uses.

3. In order to create a safe pedestrian environment, multi-family residential buildings shall be sited so that all required internal sidewalks are in view of at least one unit’s living area windows.

4. Internal sidewalks parallel and adjacent to a street or drive aisle shall be raised or separated from the street or drive aisle by a raised curb, landscaping or other physical barrier. If a raised internal sidewalk is used, the ends of the raised portions must be equipped with curb ramps.

5. When adjacent to perpendicular, head-in, or diagonal parking, a pedestrian sidewalk must be increased to a width of seven feet when parking is located on one side, and a minimum width of nine feet when parking is located on both sides.

K. *Open space*. Open space shall be provided in the form of natural areas meriting preservation, landscaping, pedestrian plazas/courtyards, trails, atriums and/or other significant spaces open to the public. Public open space shall include trails and such other portions of the Project that are so identified on the Development Plan. Vehicular circulation and parking shall not qualify as open space but are required to meet parking and landscaping requirements. Open space amenities shall be approved and installed in a timely manner and consistent with development of adjacent Project phases. During Phase 1 of Project development, an open space phasing plan shall be submitted for review and approval by the ARC.

L. *Landscaping*. Prior to the use or occupancy of any premises in the PDD-2 zone, the following landscaping requirements shall be met, as depicted in the Development Plan and subject to approval by the ARC during site plan review for each phase of the Project:

1. At least 60% of the landscaped area shall be vegetated, subject to vegetation and landscaping limitations related to the MWD Easement.

2. Provide a ground-level landscaped area equal to at least 25% of the gross land area in the PDD-2 zone.

3. For landscaped areas designed as buffers, setbacks or visual backdrops, 40% of the area shall be vegetated with a combination of groundcover, vines, shrubs, and trees. These areas must be at least eight feet wide.

4. For large paved pedestrian spaces such as courtyards or plazas, a 12-foot tall/two-inch

caliper conifer or a 15-gallon/eight-foot tall deciduous tree shall be required for every 200 square feet of paved area. A 50% reduction in the number of trees in such areas may be permitted if at

least 25% of the ground plane is vegetated with potted plants, vines, shrubs, or groundcover. Landscaping plans for all paved spaces and pedestrian areas shall be subject to review and approval by the ARC.

5. Landscaping shall be installed in accordance with the Development Plan or as otherwise outline in this ordinance. A sustainable, water-efficient, and context-sensitive landscaping palette shall be utilized in all landscaped areas.

6. Except as otherwise provided in subsection (L)(4), all new deciduous trees shall have a minimum caliper size of two inches and all evergreen trees shall be planted at a minimum height of five feet.

7. Landscaping adjacent to Wasatch Boulevard shall provide a satisfactory combination of landscaping, retaining, and fencing so that the view of standard parked cars within the shared parking areas are obstructed from Wasatch Boulevard.

M. *Access/Cross-Parking*. Access to all development in the PDD-2 zone shall be constructed as depicted in the Development Plan. Covenants, conditions, restrictions and agreements reasonably acceptable to the city shall be recorded against the Property to provide for cross-access and cross-parking among and between the lots and uses within the PDD-2 zone.

N. *Site Reclamation*. Site reclamation shall occur as set forth in the Development Plan. Prior to the issuance of a building permit for a portion of the Project, final studies and engineering drawings pertaining to such portion of the Project will be submitted for review and approval by the city engineer as reasonably requested by the city engineer. Reclamation of the large natural hillside shall be reviewed and approved during Phase 1 of the Project's development.

Section 6. Development and architectural standards.

A. Development shall be allowed as generally depicted in the Development Plan subject to compliance with all applicable city standards, ordinances, and Tier 1 requirements as specified in Code Section 19.51.060 and the accompanying "Table 1" unless otherwise expressly provided herein. Development and architectural and site design standards for each Project phase and all open or common areas shall be in compliance with the intent of the Development Plan, the Gateway Overlay District (*see* Code Chapter 19.49), and the supplemental design guidelines outlined in Exhibit B, which standards are approved architectural examples and illustrations for the entire Project to be located on the Property.

B. The use of aluminum and vinyl siding shall be prohibited. Materials depicted in the Development Plan or described in the Supplemental Design Guidelines shall be allowed.

C. Development in the PDD-2 zone is subject to all applicable sensitive lands development standards detailed in Code Chapter 19.72, and each phase of the Project shall be required to properly complete requisite site studies and reports and comply with findings of required sensitive lands studies (e.g. slope stability analyses, fault hazard studies, liquefaction studies, soils reports, etc.). Such requirements shall be complete, and reviewed and approved by the DRC, for each of the Project's development phases before building permits are issued for such phase. No vertical construction may take place for any development phase until all required sensitive lands studies have been submitted, and reviewed and approved by the DRC, for the that development phase.

Section 7. BMR units.

A. The provisions of this Section 7 shall control and supersede any contrary provisions concerning BMR units contained in Chapter 19.51.

B. For purposes of this Subsection, the following definitions shall be used:

1. “*Affordable.*” Housing costs that are affordable to households earning not more than eighty percent (80%) of the AMI. Housing costs that do not exceed thirty percent (30%) of the household income of a qualifying household shall be deemed affordable hereunder.

2. “*Area median income*” or “*AMI.*” As described in the city’s most recently approved affordable housing plan (the “*Housing Plan*”), area median income is the annual median income of households within the city. AMI shall be updated annually using the most recent U.S. Census Bureau statistics for the area within the city, using the methodology used in the Housing Plan or such other methodology as both the residential project operator and the city approve in writing as an appropriate substitute protocol for determining the AMI. The residential project operator shall reimburse all costs reasonably incurred by the city to engage experts to advise the city concerning such updates, so long as the city gives the operator reasonable prior written notice of its intent to engage such expert.

3. “*Bedroom.*” A room designated to be used for sleeping purposes and which contains one or more closets and meets all applicable city building code requirements for light, ventilation, sanitation and egress.

4. “*BMR units.*” Residential dwelling units that are BMR units required by Chapter 19.51 and are deed-restricted to the housing size and type for individuals meeting the occupancy guidelines approved by the city.

5. “*Deed restriction.*” The recording of an encumbrance on legal title to the to the Property of this ordinance or a notice of this ordinance, as determined by the city.

6. “*Household.*” All related and unrelated individuals occupying a unit.

7. “*Market units.*” Residential dwelling units in the PDD-2 zone that are not BMR units and are subject to rental at full market rates.

8. “*Operator.*” The owner or manager of the BMR units and market units, respectively.

9. “*Qualifying household.*” A household earning not more than eighty percent (80%) of the AMI.

C. Fifteen percent (15%) of the total number of residential dwelling units within the PDD-2 zone shall be BMR units; *provided, however,* that the BMR units in the PDD-2 zone may be located entirely in the multi-family apartment building(s) and not in the residential condominium building(s). At no time may fewer than 15% of total multi-family residential units in the Project (including any future condominium units) be dedicated as BMR units. BMR units shall be rented to qualifying households at a price which is affordable. The maximum rent shall be adjusted annually in accordance with changes to the city’s AMI. As applied to qualifying households, the lease term shall be one year and shall be renewable at the tenant’s option if the tenant remains a qualifying household and has complied with the terms and conditions of the lease.

D. BMR units developed in accordance with the requirements of this ordinance are not included in the density calculation for the Project and shall not be subject to the city’s impact or similar fees. BMR units shall be disbursed throughout all residential buildings in the PDD-2 zone, with one or more contained within each of the proposed buildings. Further, in order to assure livability, all BMR units shall be no smaller than the minimum gross square footages for the following unit types:

1. Studio – 500 sq. ft. minimum;
2. 1-bedroom unit – 650 sq. ft. minimum;
3. 2-bedroom unit – 900 sq. ft. minimum;
4. 3-bedroom unit – 1,150 sq. ft. minimum.

E. The operator of the BMR units shall reasonably determine which units are BMR units, provided that each of the four unit types described above shall be included among the Project’s BMR units in the same proportion as each of such unit types is included among the

Project's

market units unless otherwise agreed by the city in writing based on a competent, third-party market analysis.

F. BMR units may differ from the Project's market units with regard to interior amenities and gross floor area, provided that:

1. Such differences are not apparent in the general exterior appearances of the Project's dwelling units;
2. Such differences do not include insulation, windows, heating systems and other improvements related to the energy efficiency of the Project's residential dwelling units; and
3. The square footage of the BMR units shall not be less than the minimum square footage requirements set forth above.

G. All BMR units shall be constructed and made ready for occupancy on approximately the same schedule as the Project's market units; *provided, however*, that certificates of occupancy (whether temporary or permanent) for the last ten percent (10%) of the market units shall be withheld by the city until certificates of occupancy have been issued for all of the BMR units. If market units are to be developed in phases, all BMR units shall be developed proportionately. In the required schedule for phased development, details shall be included for all BMR units.

H. Prior to issuance of a building permit:

1. A deed restriction approved by the city shall be recorded in the office of the Salt Lake County Recorder against legal title to the Property; and
2. The city shall have reasonably determined that, due to its senior priority against legal title to the Project (achieved as a result of recording priority, subordination of senior lienholders, or similar), as evidenced by a title commitment provided at the operator's cost and issued by a licensed title insurer reasonably acceptable to the city, the deed restriction is not subject to being voided by foreclosure or other legal action.

H. The operator of the BMR units shall:

1. Use commercially reasonable efforts to advise the public of the existence and possible availability of the Project's BMR units, including, without limitation, annually so informing public and quasi-public bodies in Salt Lake County which provide affordable housing counseling or similar services to qualifying household populations, such as the Housing Authority of the County of Salt Lake and Utah Community Action.

2. Maintain a list, and allow the city to maintain a list, of those who have indicated interest in renting a BMR unit in the Project after the operator has verified each such person's status as a qualifying household under applicable AMI requirements.

3. Promptly contact the Director and such persons, based on their relative priority on such lists, when a BMR unit becomes available to rent.

4. Use diligent, commercially reasonable efforts to endeavor to rent a vacant BMR unit to a qualifying household tenant before renting the vacant BMR unit to a non-qualifying household tenant, including holding such BMR unit available for at least 45 calendar days (the "*Hold Period*") while diligently seeking a qualifying household tenant.

(a) The Hold Period shall commence immediately upon the operator receiving notice from the tenant of a BMR unit indicating the tenant's intent to not renew the lease. The Hold Period shall not expire before the subject unit becomes vacant and ready for occupancy by a replacement tenant.

(b) If a qualifying household tenant is not located within the Hold Period, then the vacant BMR unit may be rented to a non-qualifying household tenant for a lease term not exceeding six months in duration, whereupon the BMR unit shall again be made available for rent to qualifying household tenants for a new 45-day Hold Period before it may be rented to a non-qualifying household tenant as provided in this Section.

(c) Because the maximum lease term to a non-qualifying tenant is half the duration of the standard lease term to a qualifying tenant, it is anticipated that the rental of BMR units to non-qualifying household tenants (in the absence of available qualifying household tenants as provided in this Subsection 4) will result in more frequent “roll-over” of tenants in the BMR units, which in turn will necessitate more frequent readying of the BMR units for occupancy by replacement tenants. To provide a source of maintenance funds to the operator to repair any damage, clean carpets, etc. of a vacated BMR unit to make the unit ready for occupancy by a replacement tenant, the rental for a BMR unit charged to a non-qualifying household tenant (who comes to occupy such unit as provided in this Subsection 4) may exceed the rental charged to a qualifying household tenant, but only to the extent reasonably necessary to generate such maintenance/repair funding for the BMR units after taking into account other sources of maintenance funding such as forfeited deposits from the prior tenant(s). The city shall be entitled to verify that such additional rental amounts are both reasonable and being used only to defray such increased maintenance/repair costs (also called “direct unit turn costs”) of the BMR units, and the operator shall cooperate in such verification process by providing a ledger of (i) the direct unit turn costs associated with the tenant replacement of BMR units if rented to non-qualifying household tenants, and (ii) the increased rental amounts charged to such non-qualifying households occupying BMR units.

I. At the end of each calendar quarter, the operator shall file with the Director a written report in such form as the Director may reasonably require, including a log of the Project’s BMR units with details on rents charged, tenant qualifications and rental status of each BMR unit. The city shall be entitled to further verify compliance with this ordinance at any time or from time to time, and the operator shall reasonably cooperate in such verification process.

J. Future conversion of rental units to for-sale units shall require a Council-approved amendment to this ordinance, subject to all applicable city hearings and approvals.

Section 8. Outdoor lighting.

Outdoor lighting in the Project shall comply with Code Chapter 19.77 (Outdoor Lighting).

Section 9. Signage.

The type, material, color and location of signage in the Project shall comply with the requirements set forth in Code Section 19.51.060(B)(11) and Code Chapter 19.82 (Signs), as well as the sign locations approved in the Development Plan, which approval includes sign types, dimensions and numbers approved for this Project. Final signage plans shall be reviewed by the ARC to determine compliance with this ordinance and the Development Plan. The ARC will review all signs for design compliance, location, size and other applicable “time, place, and manner” considerations.

Section 10. Environmentally sustainable design.

The Project shall be developed utilizing sustainable development practices included in the Development Plan, as verified and approved by the ARC during site plan review for each Project phase and confirmed by city staff prior to issuance of building permits for each phase. A written summary of sustainability measures shall be submitted during site plan review of each phase. Additional sustainable development practices, including electric vehicle chargers, are encouraged and will be reviewed on a case-by-case basis by the Director and city sustainability staff.

Section 11. Reversionary clause.

If a building permit is not issued for the principal improvements to be constructed in the PDD-2 zone within ten years after the effective date of this ordinance, this ordinance shall be

deemed retroactively repealed and the Property shall revert back to its zoning designation in effect immediately prior to the passage of this ordinance (or the equivalent of such zoning designation that is in existence on the date of such reversion), subject to all applicable city processes for repealing ordinances and modifying zoning designations. An applicant may request an extension for one additional year provided that:

(A) The extension is applied for prior to the fifth anniversary of enactment of this ordinance;
and

(B) The Director determines that good cause exists for the granting of such requested extension.

Section 12. Contrary law.

This ordinance is subject to any contrary federal or Utah state law.

EXHIBIT A

[Development Plan]

EXHIBIT B

[Project Design Guidelines]

Summary report:	
Litera Compare for Word 11.8.0.56 Document comparison done on 11/21/2024 8:52:15 AM	
Style name: Default	
Intelligent Table Comparison: Active	
Original DMS: nd://4863-0551-5262/1/Final Ordinance Proposal.docx	
Modified DMS: nd://4863-0551-5262/2/Final Ordinance Proposal.docx	
Changes:	
<u>Add</u>	2
Delete	2
Move From	0
<u>Move To</u>	0
<u>Table Insert</u>	0
Table Delete	0
<u>Table moves to</u>	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	4

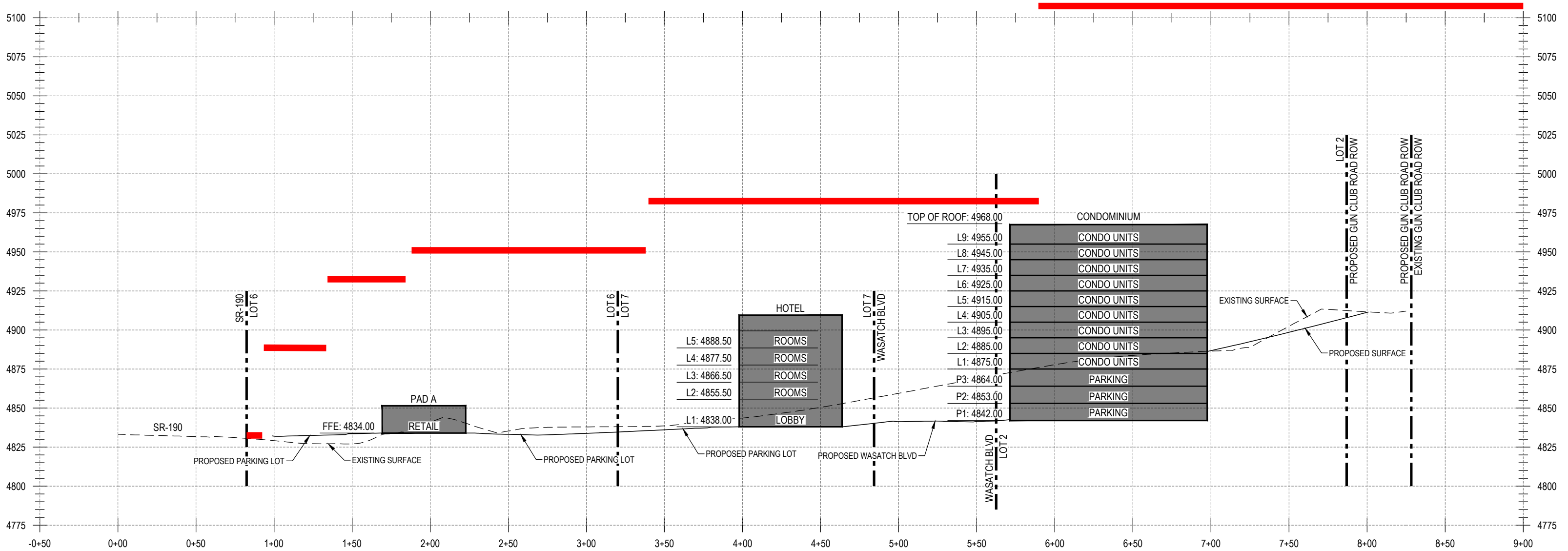


PROPOSED CONDOMINIUM BUILDING



Setback from Wasatch Blvd.	Building Height (ft.)
0 to 20'	No Building
20' to 50'	60' Height*
50' to 100'	100' Height*
100' to 250'	120' Height*
250' to 500'	150' Height*
500' and more	300' Height*

SECTION B
HORIZ: 1"=60'
VERT: 1"=60'



**MINUTES OF THE COTTONWOOD HEIGHTS CITY
PLANNING COMMISSION WORK MEETING**

Wednesday, November 6, 2024

5:00 p.m.

**2277 East Bengal Boulevard
City Council Work Room**

ATTENDANCE

Members Present: Chair Lucy Anderson, Vice-Chair Sean Steinman, Commissioner Dan Mills, Commissioner Mike Smith, Commissioner Mike Shelton, Commissioner Dan Poulson

Staff Present: Deputy City Recorder, Maria Devereux; Associate City Planner, Ian Harris; Community and Economic Development Director, Michael Johnson; System Administrator, Matt Ervin; Senior City Planner, Samantha DeSeelhorst

WORK SESSION

Chair Lucy Anderson called the Work Meeting to order at 5:02 PM.

1.0 Review Business Session Agenda.

Senior City Planner, Samantha DeSeelhorst reviewed the Title 19 updates included in Agenda Item 3.1, Project ZTA-24-004.

Height Verification Procedure

The amendment would not change the maximum building height or how it is measured but would codify the procedure to verify height during inspection. If a building is found to be close to the maximum allowable height during permit review, it is flagged for height verification to ensure that it does not go above the maximum height.

The maximum building height for a home is 35 feet in most of the City. If the permit application shows that the home will be 31 feet or greater (within 5' of the maximum allowable height), it will be flagged for verification at the four-way inspection. If it is within one foot of the maximum, height verification must be done at both the foundation and four-way inspections. A licensed Utah surveyor must provide a certificate indicating that the existing grade and structure have been measured and that the structure is in compliance. This has been the procedure for many years, but it was not previously codified.

In response to a question, Ms. DeSeelhorst stated that she had not received complaints about the procedure, and she was unsure about the associated costs. Community and Economic Development Director, Michael Johnson stated that prior to the policy being put in place if homes

were not built to plan, it had to be addressed through Code Enforcement after construction was completed. That expense was much greater than a simple survey during construction.

Ms. DeSeelhorst stated that a note is placed on the cover of the plans informing builders of the requirement. A flag is also placed in the permitting software, so they are reminded when they schedule the foundation and four-way inspections. Height is measured from the original grade. When the builder pulls a permit, they are required to submit information on the grade at all four corners and the highest roof point of the house. The grade is determined by averaging the four corner measurements. The surveyor compares the structure at that stage of construction to the grade indicated in the plans to determine compliance. The measurements are elevation-specific.

Commissioner Mills asked how many times the process has been applied to commercial activities or Planned Development District projects. Height has been a controversial issue with Canyon Centre and the Gravel Pit and may be an issue with the Town Center as well. Ms. DeSeelhorst stated that the amendment will codify the process for verifying height, not maximum heights or how the height is measured, and the process applies to both residential and commercial buildings. Commissioner Mills suggested that they should have a conversation regarding how height is measured. As that would be a legislative decision, he will communicate that to the City Council.

Mr. Johnson provided context. To verify building height, there are numerous checkpoints including site surveys that establish grade and plane. When the Building Permit is submitted, it includes a site-specific survey with a civil engineer's stamp that includes those elevation points. If the building is within five feet of the maximum height, it is verified by a surveyor onsite during construction. Height is a sensitive issue, which is why there is a redundant approach to ensure that a certified professional has verified the building height. Grade is not determined based on an architect's drawing, but rather from a civil engineer's survey-grade site plan.

In response to a question regarding vacant lots, Ms. DeSeelhorst confirmed that a permit is not necessary to add or remove grade unless it is in the Sensitive Lands Overlay Zone. Staff could reassess the issue, but the matter before the Commission that evening was codifying the Height Verification Procedure. No changes were proposed to the maximum height or how height is measured.

The four-point average measurement was discussed, and it was clarified that measurement is taken from the average of the four corners at grade level to the highest point of the roof, not the average roof height. There are some exceptions for items like chimney flues or mechanical equipment. Mr. Johnson stated that many cities measure to the midpoint of pitched roofs, but Cottonwood Heights sets the upper height limit at the peak of the pitch.

Structure Regulations

Ms. DeSeelhorst reported that changes were necessary to conform with regulations passed in the 2024 Utah Legislative Session. Rear setbacks no longer apply to uncovered landings and walkout porches of no more than 32 square feet, and that exception will be added to the list of items that are exempt from setbacks.

Additionally, in response to an opinion issued by the Utah State Ombudsman regarding a deck reconstruction project in Cottonwood Heights, changes needed to be made to be more consistent in the uses of the terms “building” and “structure.” Setbacks in all zones previously used the term “building” and applied it to accessory structures like decks. If a deck is attached to a home, the home’s setbacks apply. If it is detached, setbacks for accessory buildings apply. However, a deck is a structure, not a building, and the use of different terms spurred the need for the Ombudsman’s opinion. The terms were clarified in the proposed Amendment, but no changes were made to the processes.

Regarding changes to the definition of “deck,” it was clarified that the 18-inch measurement is from grade to the deck platform, not the railing. The definition was copied directly from the State Code. Decks higher than 18 inches above grade require handrails, steps, and other elements.

Ms. DeSeelhorst noted that other changes included updating item numbering as a result of the above changes, as well as replacing all instances of “main building,” “dwelling,” and “structure for human habitation” with “primary building.”

Corner Lot Setback Revisions

Corner side setbacks are typically larger than interior side setbacks. However, City Code currently states that the larger 20-foot setback should be on both the interior and street sides of a corner lot. The update will clarify that the 20-foot side setback is for the street side only. Setbacks are larger on rural residential lots than standard single-family or multi-family lots, but no changes were made to the setback requirements.

Architectural Review Commission Edits

The Architectural Review Commission reviews site edits for properties located in the Gateway Overlay District, but State Code now prohibits the review of one- and two-family dwellings for architectural design standards. Some exceptions are allowed, including to meet flood insurance or Historic Register requirements.

Flag Lot Drive Approach Clarifications

Associate City Planner, Ian Harris reported that the City has not typically required a minimum five-foot approach setback on flag lots. However, that conflicts with road standards found in Title 14. Staff proposed codification of the exemption in Titles 12 and 14. A flag lot is created when a lot has no road frontage. There is a standard lot in front, and the flag lot is in the rear with a driveway extending to the road on one side of the standard lot.

In response to a question, Mr. Harris clarified that the five-foot rule has been enforced for other types of drive approaches for interior lots, but is not enforced for flag lots. Mr. Johnson added that for a standard residential lot that fronts a public street, the driveway approach must be a minimum of five feet from the property line. Flag lots typically do not have conventional driveways because they are access roads to the rear lot, but the access road could not flare at the street if it is closer than five feet to the property line. The Flag Lot Ordinance also requires a four-foot landscape buffer on the outside of the driveway.

In response to a question, Mr. Johnson stated that the landscape buffer creates a four-foot minimum distance to the property line, and Staff did not believe it was necessary to specify another minimum.

Accessory Dwelling Unit (“ADU”) Application Expirations

Staff currently experiences a high level of dormancy with applications. To address this issue, it was recommended that ADU applications expire after six months of dormancy from the most recent application step. If the application is determined to meet all criteria and the applicant is instructed to apply for a Building Permit, the applicant will then have six months to do so. If they obtain the Building Permit within the required timeframe, the applicant will then have six months to complete the next step in the process.

Dormant applicants can cause issues related to changes in City Code while the applicant is dormant. Mr. Johnson provided the example of an application for an ADU that has been vacant for almost two years. Staff has been unsuccessful in reaching the applicant.

In response to a question raised by Commissioner Steinman, it was clarified that Building Permit applications provide for six months between actions, but typically applicants are very motivated to complete that process. The proposed language for ADUs is broad to accommodate legitimate delays.

Approximately 20% of ADU applications are currently dormant. There is a concern that people could begin using the ADU without inspection, but the City cannot inspect it unless the owner applies for a Building Permit and requests the inspection. If someone has a finished basement apartment and applies for an ADU, even though Staff is clear that the Planning Department review is not the final step in the permit process, applicants may choose not to complete the process. It was noted that the six-month time limit was decided because that is what is used for building permits, but the interval could be changed at the Planning Commission’s direction.

State Code does not specify an expiration for ADU applications. International Building Code specifies that work must commence within 120 days of issue of a Building Permit. If an applicant contacted the City after their application has been dormant for seven months, they would be required to reapply, and the application would be subject to full Staff review to ensure that no Code changes had been made since the original application. For Building Permits, an applicant is allowed to pay a \$47 fee to reinstate their permit.

Ms. DeSeelhorst reported that two detached ADUs have been approved in Cottonwood Heights, and approximately 12 to 15 internal ADUs. The City Council has expressed some interest in reviewing the standards for detached ADUs, but they currently undergo a rigorous approval process. It was noted that the longer an unregulated ADU is allowed to operate, the more legal challenges could arise.

Private Club Renaming

City Code uses the terms “private clubs” and “Class D private clubs” in reference to bars, and Staff proposed updating the term to “bar establishments” to be consistent with State Code. They also proposed allowing bar establishments in all zones that allow restaurants. Ms. DeSeelhorst

reported that Staff currently reviews bar establishments as restaurants. They are subject to the State’s proximity regulations for liquor licenses, which prevent bars from being a certain number of feet from community locations like churches, schools, and parks.

Garages in Residential Zones Rear Setback Clause

Setback requirements for all residential zones currently include the statement, “Attached garages shall conform to the rear yard requirements of main buildings.” It specifies that attached garages are subject to rear yard setback standards, but no other yard setbacks. This has led to some confusion with applicants because any structure attached to a primary structure is part of the primary structure’s footprint and requires the same setbacks. Staff proposed striking this statement from the Code.

Ms. DeSeelhorst reported that recently plans were rejected because the garage did not meet the front yard setbacks. The contractor expressed confusion because this section of Code only referred to the rear setback. As attached garages fall under the same requirements as primary structures, the sentence should be stricken.

In response to a question regarding nonconforming structures, Ms. DeSeelhorst stated that she is not aware of any permits being issued for attached garages that did not meet front or side yard setbacks. Mr. Johnson stated that there are legal nonconforming structures everywhere in the City, but Staff is not aware of any current structures that will become nonconforming due to this change.

Agenda Item 3.2, Project GPA-24-001, was reviewed next. Mr. Johnson reported that at the 2024 Budget Retreat, the City Council directed Staff to amend very limited portions of the Wasatch Boulevard Master Plan. It is an area Master Plan originally adopted in 2019 that considers transportation, land use, and the City’s future vision for the Wasatch Boulevard corridor and surrounding area.

Technical modifications were made to better clarify the City’s original and continuing vision. It is a State road, so the language is used in communications with the Utah Department of Transportation (“UDOT”).

Amendment 1: Amend the Flex Shoulder description to remove reference to the utilization of flex shoulder for standard vehicles.

This Amendment is to language found in both the Executive Summary and body of the Master Plan. The plan previously recommended that UDOT implement a flex shoulder concept with any roadway widening so the additional roadway capacity prioritized vehicles in peak hours, public transportation, or high-occupancy vehicles (“HOV”). The proposed amendment would eliminate the recommendation that the flex shoulder be open to standard vehicular traffic and instead recommend that it be a transit-only lane during peak hours and informal active transportation space at other times. The Master Plan stresses that capacity should be added in a cautious, transit-supportive manner because it views transit as the best solution to reduce congestion, and this Amendment would support that overall vision.

In response to a question from Chair Anderson, Mr. Johnson stated that peak hours are determined through traffic studies..

Amendment 2: Amend the Preferred Scenario to reflect changes outlined in Amendment 1.

This amendment is also to both the Executive Summary and the body of the Master Plan. The original finding promoted implementing flex shoulders on Wasatch Boulevard south of Bengal Boulevard that are open to transit and HOVs only on peak sky days. The Amendment proposed to remove the phrase “and HOVs only on peak ski days” and replace it with “during peak hours.” This would indicate the preference that the Flex Shoulder not be open to HOVs, and only be open to transit during the most congested hours.

In response to a question raised by Chair Anderson, Mr. Johnson clarified that the specific amendments are related to future added capacity. Wasatch Boulevard already has two lanes in each direction north of Bengal Boulevard, but it narrows at Bengal Boulevard. The intention is to implement transit solutions at that section of the corridor when it is widened.

Amendment 3: Amend the Recommendation to reflect changes outlined in Amendment 1.

The Amendment would clarify that added capacity should only be used by transit during peak hours and should not be available for use by regular vehicular traffic. Language regarding standard vehicles and HOVs would be removed.

In response to a question regarding safety concerns for cyclists who may not understand that the lane is used for transit during peak hours, Mr. Johnson stated that the Master Plan lays out the vision, but careful implementation would be critical. It must be clearly and explicitly communicated when the lane is open to buses. Ms. DeSeelhorst added that she has seen examples where both signage and striping were used to indicate that the lane is for buses only on certain days.

Council Member Anderson stated that peak hours could be ski days, so the lane could be used by transit during the week or on weekends and may not be limited to commuting hours. Ms. DeSeelhorst clarified that the vision is not to have another lane for private vehicles and that widening should only be used for public transit. Studies would be required prior to implementation.

In response to a question regarding prohibiting cyclists from using the Flex Shoulder, Mr. Johnson stated that a permanent, striped bicycle lane would be available. The shoulder is wider than represented in the Master Plan cross-section. The idea would be to have an on-street bicycle lane that is available at all times, but the wider Flex Shoulder is only available to cyclists during non-peak times. Cyclists would have to yield to buses during those times. Other areas of the Master Plan include language encouraging an updated roadway design that results in a slower speed, which would help with safety concerns for cyclists. The Amendments are in conjunction with that vision.

Ms. DeSeelhorst noted that the current Master Plan states that the lane should be open to private vehicles on days it is not open to bicycles, and the Amendment would encourage only opening the

lane to transit on those days. Mr. Johnson added that the Amendment is in agreement with the original intent of the Master Plan. If capacity is added, it should only be done if needed and in a way that prioritizes transit services.

As no additional time was available, it was decided that the discussion would be continued to the Business Meeting.

2.0 Adjourn.

Commissioner Smith moved to ADJOURN. Commissioner Shelton seconded the motion. The motion passed with the unanimous consent of the Commission.

The Work Meeting adjourned at 5:59 PM.

**MINUTES OF THE COTTONWOOD HEIGHTS CITY
PLANNING COMMISSION BUSINESS MEETING**

Wednesday, November 6, 2024

6:00 p.m.

**2277 East Bengal Boulevard
City Council Chambers**

Members Present: Chair Lucy Anderson, Vice-Chair Sean Steinman, Commissioner Dan Mills, Commissioner Mike Smith, Commissioner Mike Shelton, Commissioner Dan Poulson

Staff Present: Deputy City Recorder, Maria Devereux, Ian Harris, Associate City Planner, Community and Economic Development Director, Michael Johnson; System Administrator, Matt Ervin; Samantha DeSeelhorst

BUSINESS SESSION

Chair Lucy Anderson called the Business Meeting to order at 6:03 PM.

1.0 Welcome and Acknowledgements.

1.1 Ex Parte Communications or Conflicts of Interest to Disclose.

There were no Ex Part Communications or Conflicts of Interest to be disclosed.

2.0 General Public Comment.

Chair Anderson opened the Public Comment period.

Randy Whitehead expressed his gratitude for the City Council putting the bond on the ballot. In regard to changes to the City's height verification process, he hoped the Council would be willing to revisit the definition and clarify how height is calculated in relation to both grade and what items are allowed on top of buildings.

Commissioner Steinman thanked Mr. Whitehead for his work on the beautification of Bengal Boulevard.

Roy Biscaldo stated that he lives on the east side of Wasatch Boulevard, and he moved to Cottonwood Heights because he enjoys skiing at Snowbird. He suggested using the extra lane for transit during the winter and bicycles the rest of the year. Current conditions can be dangerous for groups of cyclists. Another suggestion would be to use the extra lane for parking in the winter. He also mentioned the need for traffic lights, especially during busy seasons.

There were no additional comments. The Public Comment period was closed.

3.0 Business Items.

3.1 Project ZTA-24-004 – This Item Constitutes a City-Initiated Request to Amend Portions of Title 19 (Zoning) to Update Erroneous, Conflicting, or Otherwise Unclear Portions of City Code as Part of Regular Code Maintenance.

Chair Anderson reported that the item was discussed during the Work Meeting, and an additional detailed review would not be necessary. Senior City Planner, Samantha DeSeelhorst confirmed that the same members of the public were present at both the Work Meeting and Business Meeting, so a presentation review would not be necessary.

Chair Anderson opened the public hearing. There were no comments. The public hearing was closed.

Commissioner Mills moved to forward a recommendation of APPROVAL to the City Council for Project ZTA-24-004, based on the findings listed in the Staff Memo and attachments dated November 6, 2024. Commissioner Shelton seconded the motion. Vote on Motion: Commissioner Steinman-Yes; Commissioner Mills-Yes; Commissioner Smith-Yes; Commissioner Shelton-Yes; Chair Anderson-Yes. The motion passed with the unanimous consent of the Commission.

3.2 Project GPA-24-001 – This Item Constitutes a City-Initiated Request to Amend a Portion of the Adopted Wasatch Boulevard Master Plan.

Chair Anderson reported that the Work Meeting discussion on this item would now continue.

Commissioner Steinman referred to Mr. Biscaldo’s public comment regarding seasonal use and expressed his support for allowing transit to utilize the Flex Shoulder during winter only and reserving the space for recreational use in the summer. The Commission discussed whether peak hours could occur in the summer, as well as potential alternative terms such as “season,” “peak time periods,” and “peak days.”

In response to a question, Community Development Director, Michael Johnson reported that the City suggested a number of traffic calming measures during the Environmental Impact Statement process, but none of their suggestions were included in the final Record of Decision. Traffic calming measures and safety improvements are part of the Wasatch Boulevard Master Plan.

Chair Anderson opened the public hearing. There were no comments. The public hearing was closed.

Mr. Johnson clarified that the Master Plan is a tool to be utilized in a collaborative partnership with the Utah Department of Transportation (“UDOT”) as they propose work to modify the corridor. The City does not have jurisdiction over the roadway but would request that UDOT analyze the data to determine what those peak time periods are. The intention is to incentivize

transit, and he believes the Amendment helps clarify the City's position. The Master Plan covers Wasatch Boulevard within Cottonwood Heights City limits.

Commissioner Smith expressed his support for improving bicycle safety on Wasatch Boulevard.

Commissioner Shelton reminded the Commission that they were making a recommendation based on the City Council's recommendation. It would not become law but would be used to communicate the City's preferred outcome to UDOT.

Commissioner Mills stated that he is pleased that the Commission is more unified in its vision for Wasatch Boulevard.

Commissioner Steinman moved to forward a recommendation of APPROVAL to the City Council for Project GPA-24-001, based on the findings listed in the Staff Memo and attachments dated November 6, 2024. Commissioner Mills seconded the motion. Vote on Motion: Commissioner Shelton-Yes; Commissioner Smith-Yes; Commissioner Steinman-Yes; Commissioner Mills-Yes; Chair Anderson-Yes. The motion passed with the unanimous consent of the Commission.

4.0 Consent Agenda

4.1 Approval of Planning Commission Meeting Minutes from September 4, 2024.

4.2 Approval of Planning Commission Meeting Minutes from October 2, 2024.

Commissioner Steinman moved to APPROVE the Consent Agenda, as presented. Commissioner Sheldon seconded the motion. Vote on Motion: The motion passed with the unanimous consent of the Commission.

5.0 Adjourn.

Commissioner Smith moved to ADJOURN. Commissioner Mills seconded the motion. Vote on Motion: The motion passed with the unanimous consent of the Commission.

The Business Meeting adjourned at approximately 6:28 PM.

I hereby certify that the foregoing represents a true, accurate, and complete record of the Cottonwood Heights City Planning Commission Work Meeting and Regular Meeting held on Wednesday, November 6, 2024.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: _____

DRAFT

**MINUTES OF THE COTTONWOOD HEIGHTS CITY
PLANNING COMMISSION WORK MEETING**

Wednesday, December 4, 2024

5:00 p.m.

**2277 East Bengal Boulevard
City Council Work Room**

ATTENDANCE

Members Present: Chair Lucy Anderson, Vice-Chair Sean Steinman, Commissioner Dan Mills, Commissioner Mike Smith, Commissioner Mike Shelton, Commissioner Dan Poulson

Staff Present: Community and Economic Development Director, Michael Johnson; Deputy City Recorder, Maria Devereux; System Administrator, Alex Earl; Senior City Planner, Samantha DeSeelhorst; Associate Planner/Sustainability Analyst, Ian Harris; Executive Assistant to City Manager, Tiffany Janzen

WORK SESSION

Chair Lucy Anderson called the Cottonwood Heights Work Session to order at 5:01 p.m.

1.0 Review Business Session Agenda.

Senior City Planner, Samantha DeSeelhorst, introduced a new Staff Member supporting the meeting. Executive Assistant, Tiffany Janzen, explained that she will assist Deputy City Recorder, Maria Devereux. It was noted that Ms. Janzen works closely with City Manager, Jared Gerber. Commissioners introduced themselves and Ms. Janzen stated that she will capture the motions.

The Business Session agenda was reviewed and discussed. It was noted that after the Public Comment Period, there is one Business Item on the agenda for consideration, which is Project ZTA-24-004, a City-initiated request for a Zoning Text Amendment to modify the Short-Term Rental Ordinance. Following the Business Item, a vote needs to be taken on the Consent Agenda.

Community and Economic Development Director, Michael Johnson, shared information about the Short-Term Rental Ordinance amendments. During a previous Work Session, there were discussions about the fact that the City is starting to look at short-term rentals and the short-term rental policies in the City. It is an ongoing process and research has been conducted to see what is currently being done in other cities. The Text Amendment before the Commission is an adjustment to the enforcement measures. There are no broad policy changes proposed at this time.

The City Council wanted to see the potential of stricter penalties when there is non-compliance with the Short-Term Rental Ordinance. Mr. Johnson explained that this is a tool that was requested by the Police Department Code Enforcement. It is believed this will assist with the current

enforcement efforts when there is a non-complying short-term rental. What is proposed was written by the City Attorney and reviewed by the Chief of Police. The language amends the first and second violations by increasing the amounts. The first violation is \$650, the second violation is \$800, and the third violation is \$1,000. By ordinance, each day a short-term rental operates in violation is a new penalty. After the third day, it would be \$1,000 per day. Ms. DeSeelhorst reported that it resets after a 12-month period and the violations would then start over at \$650.

Mr. Johnson explained that there is some complexity to this because the City cannot simply send a bill or impose a fine. There has to be evidence collected and presented. However, this makes it possible for the City to request a higher fee. \$650 and \$800 were arrived at after research into what other cities have in place. For example, the Town of Brighton has a similar fee structure and has seen success. In the past, concerns were expressed that having a penalty that is too low would be considered the cost of doing business. There needs to be a disincentive for this kind of behavior.

Commissioner Mike Smith pointed out that those innocently caught up in this kind of situation could be harmed. Mr. Johnson explained that based on anecdotal experience, there have been rentals in the City operating illegally, but unintentionally. In those situations, Code Enforcement speaks to the owners about the use and the owners voluntarily shut it down. However, there are also instances where owners are aware of the non-compliance and continue to operate. Those are the situations that tend to escalate. Commissioner Smith asked what prevents it from being elevated to a higher level. Ms. DeSeelhorst offered to check with Code Enforcement on the specific details, but it seems like whenever someone is willing to voluntarily come into compliance, the issue is resolved. That being said, she does not want to speak for their operations. Mr. Johnson noted that the proposed language states a violation of the Ordinance can result in fees.

Discussions were had about what the judge has done in these kinds of situations before. Mr. Johnson has heard the maximum fines are typically not imposed. There is often a request for voluntary cease and desist of the behavior or there will be a nominal fee. Even with a fee structure like this, there is not typically a strict fine assessed. Ms. DeSeelhorst reported that Cottonwood Heights uses the Holladay Justice Court. Commissioner Dan Mills noted that the City is not looking to generate revenue through short-term rental enforcement but to deter behavior. Whatever financial level will deter someone from that behavior is worth considering. The amount will likely be watered down by the Code Enforcement Officer and the Judge, so there is still compassion for first-time offenders. He pointed out that Brighton has solid communication in place so residents are aware of all policies. That is something that should be done here as well.

Ms. DeSeelhorst explained that there was a meeting with the Staff in Brighton. She explained that Brighton uses Salt Lake County Planning as their Planning Department and City Staff met with them in the fall. It sounds like Brighton has addressed issues through both policy and enforcement. From a fee structure perspective, what is proposed here is very similar to the fees in Brighton. Commissioner Sean Steinman asked if the fee amount will be retroactive. Mr. Johnson believes if there is a property where the enforcement process is underway, it will be vested under the current Ordinance as far as the fees. He informed the Council that the City cannot simply look at a booking and enforce based on that. There has to be tangible evidence of the use taking place. Ms. DeSeelhorst noted that the fees assigned will essentially be the determination of the judge.

Commissioner Steinman asked what enforcement will look like since it is not possible to use listings as the only enforcement measure. He wanted to know if resident complaints are also needed. Ms. DeSeelhorst explained that listings cannot be used as the sole piece of evidence. A listing can be used, but cannot be the only thing the City relies on. What the Commission is looking at tonight will not address the consideration or collection of evidence. This will simply increase the potential financial penalty for those not in compliance with the Short-Term Rental Ordinance.

Commissioner Mills wanted to see information shared on the City website. It could be as simple as an infographic that describes the process. For example, what someone thinking about a short-term rental in Cottonwood Heights should consider first. That could be shared on the City website or on the social media pages. He stressed the importance of education. Ms. DeSeelhorst reported that Planner I, Maverick Yeh, is currently working on a short-term rental page for the site. She will pass along the suggestion that there be an infographic element included on that page.

Commissioner Smith shared a scenario where a first-time homeowner rents out their basement apartment and then receives a significant fee. Ms. DeSeelhorst pointed out that in this scenario staff recommends the applicant apply for an Internal ADU License to rent the basement out on a long-term basis. Mr. Johnson explained that what is currently before the Commission is one part of the overall approach.

Commissioner Steinman shared information about what is happening in Midway, where there is a short-term rental Airbnb, but there is a 30-day minimum. He does not know if that is applicable here or if there is terminology in the code to prevent that from happening. Ms. DeSeelhorst reported that there is something in the code to state that there cannot be a faux lease, but there are enforcement difficulties. It is important to support Code Enforcement Officers where possible.

Commissioner Dan Poulson believes what is being considered by the Planning Commission relates to what happens after all of the evidence has been gathered. It would be difficult for a homeowner to be unaware of the issue given the amount of evidence that is necessary at that point. Ms. DeSeelhorst reported that City Staff met with a handful of communities and learned about some other enforcement measures that can be suggested in the future. There is a small enforcement staff currently, but there are some creative approaches that are taking place in other communities.

Ms. DeSeelhorst reminded Commissioners that the item currently before the Planning Commission has to do with the numeric changes to the fees. Mr. Johnson reported that the City Council has been discussing short-term rentals and there was consensus that something more immediate needs to be done to assist with enforcement. Ms. DeSeelhorst reported that before a public hearing is scheduled or policy changes are proposed, City Staff has recommended a public open house be scheduled. It is important to allow time for residents to share feedback ahead of that process. This is a complicated and sensitive issue, so it would be beneficial to start out with a broad discussion where feedback is received. She hopes that will be done ahead of any formal policy proposals.

Commissioner Mills believes there needs to be discussions about how many short-term rentals are appropriate and where those should be located. He asked what is done in other cities, such as a set number per street or only in certain zones. Ms. DeSeelhorst confirmed that those measures are implemented in other areas. There is a spreadsheet that documents how each community has been

handling short-term rentals. She explained that there are a lot of different approaches. City Staff has been asking what the response from their constituents has been. She expressed gratitude that other communities have been willing to share information, as it is useful during this process.

Commissioner Mike Shelton asked if there have been conversations with St. George, which was denied. Ms. DeSeelhorst explained that in the next round of discussions, it is possible to reach out to some other communities. Suggestions included St. George, Santa Clara, and Springdale. Mr. Johnson reminded Commissioners what will be voted on during the current Planning Commission Meeting. It was clarified that the Commission is making a recommendation to the City Council.

2.0 Review Annual Planning Commissioner Training Requirements.

Chair Anderson reported that the next item on the Work Session agenda relates to Planning Commission training. Ms. DeSeelhorst explained that the State of Utah has a requirement that each Planning Commissioner in the State complete four hours of Land Use Training annually. There are some specifications on how that is done. Two of the four hours will be provided during the Work Sessions throughout the year. It is requested that Commissioners complete the remaining two hours on their own throughout the year. At the start of the new year, she will send out some eligible links. There will be online and in-person options provided to Commissioners. It is possible to substitute one of the two hours if there is attendance at 12 Planning Commission Meetings in a year, so that is an option for those with a perfect attendance record. Ms. DeSeelhorst will track the training, so Commissioners are asked to communicate when something is completed.

One of the four hours of training needs to be dedicated to the Land Use, Development, and Management Act (“LUDMA”). Ms. DeSeelhorst will look into whether it is best to provide that training during one of the Planning Commission Meetings or if there is an at-home option. The other three hours are fairly broad and can be focused on appeals and variances, Conditional Use Permits, exactions, impact fees, vested rights, subdivision regulations, property rights, real estate, financing, zoning, and drafting ordinances. Most of the training topics are fairly broad. Training can be provided through a few approved agencies, which includes municipal staff. Other approved agencies include the Utah League of Cities and Towns (“ULCT”) and the Division of Real Estate.

Mr. Johnson reported that the ULCT has a resource called the Land Use Academy of Utah with a database of training videos and conference sessions. Commissioner Mills suggested that there be more specific training rather than general training topics. Ms. DeSeelhorst confirmed that the presentations can be topical. There will be an email received in the new year with training information. Chair Anderson noted that attendance at 12 meetings can count for one hour of Commissioner training and there are more Planning Commission Meetings than that per year.

Ms. DeSeelhorst reported that there is a survey being done for the design of Canyon Centre Park, which will be a future park at the Canyon Centre development. While there is no funding available to start construction at this time, it is possible to start the design process. Work is being done with a consultant and there are draft concepts prepared at this time. She offered to share the survey link with the Commissioners. It has been open for two days and 150 responses have been received so far.

Commissioner Mills asked if there is an interface with the possible new condominium project. Ms. DeSeelhorst believed the interface relates to the parking to make sure there are adequate stalls for the park. It will not be an amenity reserved for the condominium owners. Mr. Johnson reported that there is a Development Agreement process underway. There have been some discussions about the timeline to build the park. There is a desire to use some of that property for construction staging. Ms. DeSeelhorst shared information about potential entrances and circulation. She feels it is important to have some entrances from Canyon Centre Parkway, so circulation will continue to be explored. Additionally, it is important to emphasize that this is a public park through signage and wayfinding. Mr. Johnson reported that the budget is approximately \$770,000 and it is 1.1 acre.

Commissioner Mills believes this is the time to look into the long-term maintenance needs. Mr. Johnson explained that after construction, this will be like any other City park that is maintained. There are currently discussions about partnering on construction because the private sector can construct it for a fraction of the cost. Discussions were had about the Ferguson Park costs and the Doverhill Park project. Ms. DeSeelhorst reported that one of the questions on the survey has to do with an all-abilities playground. There are playgrounds like that in Draper and Herriman, but feedback has been received in the past expressing interest in that kind of playground in Cottonwood Heights. So far, the priorities from survey respondents relate to shade and seating.

Commissioner Mills pointed out that if there is an all-abilities playground, parking must be considered for those who require assisted devices. Ms. DeSeelhorst noted that if the responses indicate an all-abilities playground is something there is interest in, that survey data can be considered, as there might be an appropriate park for that kind of playground.

Chair Anderson asked about the hearing that took place on November 14, 2024, which was the variance request for the Old Mill. Mr. Johnson reported that a variance request was submitted several months ago to allow for the modification of a historic structure without the codified process. There are two historic sites designated in the City, one of which is the Old Mill. Those sites have historic preservation regulations. Whenever there is a modification, a Conditional Use Permit is needed and it must be pending for at least 12 months. This ensures the public is given the opportunity to provide input. The applicant made a variance request to bypass the Conditional Use Permit process and move straight to the Demolition Permit. That was reviewed and presented to the Hearing Officer who ultimately issued a written decision where the variance was denied.

Mr. Johnson shared additional updates with the Commission. He referenced the northern gravel pit and explained that site grading and reclamation will be done for at least six months. The Planning Commission recommended approval of the whole development, but when that went to the City Council, the condominium building portion was discussed and the unit count was taken out. That means that only the use was entitled for the condominiums. In their approval, it stated that the applicant needs to come back in at a future time to reapply for the unit count and massing. That application was received, so the Planning Commission will likely see that in January.

Mr. Johnson shared information about the Town Center and noted that a request for proposal (“RFP”) will be published shortly to find a development partner for that site. The RFP will be published this week and run through January. There should be a contract agreement in place during

the first quarter of 2025. Commissioner Mills asked about the response from the development community so far. Mr. Johnson reported that there have been a lot of calls received at this point.

Commissioner Mills asked if there had been feedback from the Wasatch Front Regional Council (“WFRC”). At one point, there was a discussion about grant funding. Mr. Johnson reported that the Master Plan was funded through a WFRC grant. Ms. DeSeelhorst reported that the WFRC grant cycle is about to end for the year, so the timing does not work with where the City is at in the process. Letters of Intent and final applications were due earlier in the day, but it is an annual grant process. It might be pursued in a future year. Commissioner Steinman asked about the formal design. Mr. Johnson noted that there are two planning concepts: Concepts A and B, and shared images of both concepts with the Commission.

Ms. DeSeelhorst reported that City Staff will be coming back with some Form-Based Code discussions. There was excellent feedback received during the Joint Work Session with the City Council. In the interim, there have been meetings with Council Members. Those meetings will be finished by the end of the month and the intention is to come back to the Planning Commission.

Mr. Johnson clarified that the feedback will be consolidated and then brought to the Commission as a Work Session item. Ms. DeSeelhorst explained that she will create a spreadsheet that outlines the feedback received and the changes made. This will ensure all proposals are clear. Commissioner Mills suggested that an explanation of the rationale be included as well. He asked that smaller sections be sent out for Commissioner review rather than sharing the entire document at once.

3.0 Adjourn.

Commissioner Smith moved to ADJOURN the Work Session. Commissioner Steinman seconded the motion. The motion passed with the unanimous consent of the Commission.

The Work Session adjourned at 5:53 p.m.

**MINUTES OF THE COTTONWOOD HEIGHTS CITY
PLANNING COMMISSION BUSINESS MEETING**

Wednesday, December 4, 2024

6:00 p.m.

**2277 East Bengal Boulevard
City Council Chambers**

Members Present: Chair Lucy Anderson, Vice-Chair Sean Steinman, Commissioner Dan Mills, Commissioner Mike Smith, Commissioner Mike Shelton, Commissioner Dan Poulson

Staff Present: Community and Economic Development Director, Michael Johnson; Deputy City Recorder, Maria Devereux; System Administrator, Alex Earl; Senior City Planner, Samantha DeSeelhorst; Associate Planner/Sustainability Analyst, Ian Harris via Zoom; Executive Assistant to City Manager, Tiffany Janzen

BUSINESS SESSION

Chair Lucy Anderson called the Cottonwood Heights Business Session to order at 6:00 p.m.

1.0 Welcome and Acknowledgements.

1.1 Ex Parte Communications or Conflicts of Interest to Disclose.

There were no Ex Parte Communications or Conflicts of Interest disclosed.

2.0 General Public Comment.

There were no public comments.

3.0 Business Items.

3.1 Project ZTA-24-004 – This Project Represents a City-Initiated Request for a Zoning Text Amendment to Modify the City’s Short-Term Rental Ordinance in Order to Increase the Fine for Violation of the Ordinance. No Other Amendments to the Ordinance are Proposed at this time.

Chair Anderson reported that there was a lengthy discussion about Project ZTA-24-004 during the Work Session. Community and Economic Development Director, Michael Johnson shared information about the City-initiated request. He explained that this is a straightforward amendment to the Violations and Penalties section of the current Short-Term Rental Ordinance. It increases the potential financial penalty for violating the Short-Term Rental Ordinance, which

includes operating a licensed short-term rental in a way that does not comply with Code but also includes the operation of an unlicensed short-term rental in the City. This is an enforcement tool.

Mr. Johnson noted that there are ongoing discussions happening about other ways to address short-term rentals in the community, both from a policy level and a State Legislation level. The change that is currently before the Commission will simply increase the fees for non-compliance.

Chair Anderson opened the public hearing. There were no comments. The hearing was closed.

Chair Anderson reiterated that there was a discussion on this item during the Work Session.

Commissioner Mills moved to forward a recommendation of APPROVAL to the City Council for Project ZTA-24-004, based on the findings listed in the Staff Memo and attachments dated December 4, 2024. Commissioner Shelton seconded the motion. Vote on Motion: Commissioner Steinman-Yes; Commissioner Shelton-Yes; Commissioner Mills-Yes; Commissioner Smith-Yes; Commissioner Poulson-Yes; Chair Anderson-Yes. The motion passed with the unanimous consent of the Commission.

4.0 Consent Agenda

4.1 Approval of Planning Commission Meeting Minutes from October 16, 2024.

Commissioner Mills noted that on Page 13, there are blank spaces listed for the motions. He believes he seconded the motion for Project CUP-24-016. As for the Consent Agenda, he is not certain. Senior City Planner, Samantha DeSeelhorst, offered to re-listen to the audio to confirm.

Commissioner Smith moved to APPROVE the Consent Agenda with the amendments discussed. Commissioner Steinman seconded the motion. The motion passed with the unanimous consent of the Commission.

5.0 Adjourn.

Commissioner Shelton moved to ADJOURN the Business Session. Commissioner Mills seconded the motion. The motion passed with the unanimous consent of the Commission.

The Business Session adjourned at approximately 6:07 p.m.

I hereby certify that the foregoing represents a true, accurate, and complete record of the Cottonwood Heights City Planning Commission Work Session and Regular Meeting held on Wednesday, December 4, 2024.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: _____

DRAFT