

**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: \_\_\_\_\_