

**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: _____