

COTTONWOOD HEIGHTS CITY ADMINISTRATIVE HEARING AGENDA

January 3, 2024



Notice is hereby given that the **Cottonwood Heights Hearing Officer** will convene on **Wednesday January 3, 2024**, at **Cottonwood Heights City Hall** (2277 E. Bengal Blvd., Cottonwood Heights, UT 84121) for an **Administrative Hearing Meeting**.

The meeting will begin at **12:00 p.m.** in the City Hall Room 5 (Council Chambers).

12:00 p.m. ADMINISTRATIVE HEARING MEETING

1.0 Business Items

1.1 Project CUP-23-016

Request by Brad and Chari Carter to construct a six-foot four-inch fence along the North property line at 7245 S. Dorset Cir.

2.0 Consent Agenda

2.1 Approval of Administrative Hearing Officer Minutes from January 3, 2024

(The Administrative Hearing Officer will approve the minutes of the January 3, 2024, meeting after the following process is met. The City Recorder will prepare the minutes and email them to the Hearing Officer. The Hearing Officer will have five days to review the minutes and provide any changes to the Recorder. If, after five days there are no changes, the minutes will stand approved. If there are changes, the process will be followed until the changes are made and the hearing officer is in agreement, at which time the minutes shall be deemed approved.)

3.0 Adjourn

Meeting Procedures

Items will generally be considered in the following order:

1. Staff Presentation
2. Applicant Presentation
3. Open Public Hearing (if item has been noticed for public hearing). Each speaker during the public hearing will be limited to three minutes.
4. Close Public Hearing
5. Administrative Hearing Officer Deliberation
6. Administrative Hearing Officer Decision

Administrative Hearing applications may be tabled if: 1) Additional information is needed in order to act on the item; OR 2) The Hearing Officer feels there are unresolved issues that may need further attention before the Officer is ready to make a decision. The Hearing Officer may carry over agenda items to the next regularly scheduled meeting.

Submission of Written Public Comment

Written comments on any agenda item should be received by the Cottonwood Heights Community and Economic Development Department no later than 12:00 p.m. MST on Tuesday, January 2, 2024, a days before the meeting. Comments should be emailed to Planning@ch.utah.gov. After the public hearing has been closed, the Community and Economic Development Department will not accept any additional written or verbal comments on the application.

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, December 29, 2023, 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 29th DAY OF December, 2023

Attest: Paula Melgar, City Recorder



ADMINISTRATIVE HEARING STAFF REPORT

Wall Height Extension: 7245 S. Dorset Cir

Meeting Date: January 3, 2024

Staff Contact: Maverick Yeh
(801-944-7018)

Summary

Project #:

CUP-23-016

Subject Property:

7245 S. Dorset Cir.

Action Requested:

Conditional Use Wall Height
Extension

Owner:

Brad and Chari Carter

Applicant:

Brad and Chari Carter

Recommendation:

Approve, with conditions



This aerial image shows the subject property in context of the neighborhood. The blue line shows the location of the proposed wall height extension. Red lines show the other property lines of the home.

APPLICANT'S PROPOSAL

The applicant proposes the construction of a six-foot four-inch (6'4") fence along the north property line of their lot. The request for this fence stems from the desire for increased privacy between the applicant's front yard and their neighbor's backyard, which are adjacent to one another. As this property line is a shared boundary between a rear yard and a front yard, city staff interpreted the code as allowing a six-foot fence on this boundary. In other circumstances, fencing in the front yard would be limited to four feet. While city staff provided this interpretation allowing the construction of a six-foot fence, the actual implementation resulted in posts that were four inches higher once capped. Following a code enforcement investigation, the applicant is now applying for a conditional use permit to ensure that both the usage and height of the fence align with the city's regulations. This proposed fence, standing at a height of six feet four inches, aims to provide a reasonable level of privacy to homeowners. The material of choice for construction is Trex, which not only ensures durability but also enhances privacy for the applicant.



Existing Fence

- Fence Posts
- (Fencing has been partially installed, but was stop-worked due to the height exceeding six feet).



Proposed Fence

- The six-foot four-inch height includes the fence caps
- The proposed fence format will provide significant privacy to the homeowner.

BACKGROUND

Zoning

The zoning designation of the property is R-1-8 (Residential Single-Family). Fences and walls may be allowed to a maximum height of eight feet in any zone as a conditional use, and up to 12 feet as a conditional use with neighbor consent, as outlined in section 19.76.050.E CH Code.

As this proposal is requesting only six-feet four-inch, consent was not required.

Conditional use. Fences in the side and rear yards may be erected to a maximum height of eight feet as a conditional use upon a clear and convincing showing by the property owner in accordance with subsections (a) and (b) below:

- a. The existence of unique or special circumstances of a natural, material and adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence; and
- b. That erection of such a fence is the most reasonable solution under the circumstances. Any such conditional use permit may be granted by the director or his designee following an administrative hearing preceded by all required notifications. A building permit shall be required for all fences approved as a conditional use.

Neighbor consent. Side and rear yard fences may exceed eight feet in height to a maximum height of 12 feet in cases where the applicant has neighbor consent, and has received conditional use approval in accordance with subsection 19.76.050(E)(3).

IMPACT ANALYSIS

Staff Analysis: The applicant's property is located in a cul-de-sac, linking the front yard area to the backyard of the adjacent neighbor, which is why city staff interpreted the code as allowing a six-foot fence at this location. In addition, this fence does not affect the clear view area 30 feet from the driveway approach. As per this application, the staff deems the proposed six-foot four-inch fence to be a reasonable privacy enhancement. The additional four inches does not impose any unreasonable or negative impact that a six-foot fence would not impose. However, there appears to be fill material within the applicant's property. Staff recommends that the fill material be removed from against the wall, or the wall be assessed by a licensed engineer and deemed fit to withstand such load, and that the fill is graded in a way to prevent debris runoff. The fill material against the wall may present an issue with debris flowing onto the public sidewalk.



Noticing

Property owners within 300 feet of the subject property have been mailed notices. Notices were mailed, as well as posted on noticing websites and the City Hall bulletin board, on December 18, 2023.

Conditional Use Permit Determining Criteria

Staff has found enough evidence that the standards for the issuance of a conditional use permit have been satisfied (see Section 19.84.080 CH Code).

FINDINGS FOR APPROVAL

1. There is clear and convincing evidence shown by the property owner relating to privacy will be substantially minimized or eliminated by the implementation of the requested wall and fence combination; (19.76.050.E.1.a)
2. That construction of such wall and fence is the most reasonable solution under the circumstances. The additional fence height is necessary to ensure mitigation of aforementioned issues.
3. The conditional use permit is granted by the director or his designee following an administrative hearing preceded by all required notifications. (19.76.050.E.1.b)
4. The evidence presented with the proposed conditional use has been found to be compliant with the requirements of section 19.84.080 (Conditional Uses – Determination) and section 19.76.050.E (Miscellaneous – Fences).
5. There is sufficient evidence that the standards for the issuance of a conditional use permit as outlined in Section 19.84.080 CH Code have been satisfied.

RECOMMENDED CONDITIONS OF APPROVAL

1. A building permit and all necessary inspections shall be obtained and completed.
2. The building permit will clearly state materials, design, and shall not exceed a total height of 6 feet 4 inches from existing grade.
3. Any fill material bearing upon the fence from the applicant's property shall be fully removed or regraded. This condition shall require inspection and written approval by city staff to be considered satisfied.

MODEL MOTIONS

- Approval
 - “I move to approve item CUP-23-016 pursuant to the conditions of approval outlined in the item’s staff report.”
 - Add any additional conditions of approval....
- Denial
 - “I move to deny item CUP-23-016 based on the following findings...”
 - List reasons for denial...

ATTACHMENTS:

- 1. Applicant Application**
 - a. Existing conditions**
 - b. Proposed layout**
 - c. Proposed materials**





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CFC Fences & Decks

2250 W Center St BLDG 2, Springville, UT 84663
Utah County: (801) 374-6428 Salt Lake County: (801) 990-6888

Summit County: (801) 990-6888

www.FenceAndDeckUtah.com

Fence Project Installation Estimate/Contract

Name: Carter, Brad	Email: bcarter@novasource.net	Date: 21-Aug-23
Job Address 7245 S 2155 E	City: CW Heights Zip: 84121	Salesman: Steve
Phone #: 801-652-7877	City: (W)	Referral Source: Online
Billing Address:	City: ST: Zip:	

Diagram (not to scale; reference only)

Project Details

	☒ Access ☐ Misc. ☐ Misc. ☐ Core Cuts ☐ Future Return / Multiple Trips ☒ Removal & Disposal ☐ Yard Landscaping	☒ Bobcat ☐ Wall ☐ Box Posts ☐ Yes ☐ Yes ☐ Existing	☐ Hand ☐ Flat Mount ☐ Extra Footers ☐ No ☐ No ☐ No
Total Footage 202'			

Diagram is not to scale and is for reference only.

Fence Style	Ht	Post	Cap	Top&Btm Rail/Trim	Mid Rail/Trim	Top Cap	On Overlapped Ex Edge to Edge Spt / Picket	Sections	Price	Total
Trex Fence Seclusions	6'	Trex	TBD	Trex		Trex		27	\$ 628.00	\$ 16,956.00

Gate Style	Ht	Post	Cap	Hinge	Latch	Quantity	Price	Total
Trex Single Gate 46x4in. opening	6'	Trex	TBD	Trex	Trex Latch	2	\$ 900.00	\$ 1,800.00

Notes:

Other Options

Details