

## Samantha DeSeelhorst

---

**From:** Jennifer Shah [REDACTED] >  
**Sent:** Monday, March 4, 2024 4:30 PM  
**To:** Planning  
**Subject:** [EXT:]Project SUB-24-001  
**Attachments:** Screenshot 2024-03-04 at 3.39.50 PM.png

I am writing to express my concerns about consolidation of the three lots at the mouth of Deaf Smith Canyon. ***Consideration of consolidation of these lots should be tabled until the following aspects can be addressed in further documentation:***

**1. Prescriptive easement.** The city has begun a process exploring whether a prescriptive easement could allow official, open access to Deaf Smith Canyon. The status of that process is unclear, yet it should be completed and its outcome reported to the public prior to consideration of consolidation, which could limit any access to the canyon. Many locals can attest to long-term use of the canyon, even prior to the 1969 platting of the subdivision. Examples of documented public use are the existing bolted rock climbing routes in the canyon, which date to the early 1990s (see descriptions found in [The Standard Guide to Wasatch Bench Rock Climbing](#)).

**2. Access to a proposed future trail to the canyon.** The [Parks, Trails, and Open Space Master Plan](#) (see attached screenshot) and the [Bonneville Shoreline Trail Access Master Plan](#) (see page 16) both demarcate this area for a future public trail into Deaf Smith Canyon. Consolidating the three lots will eliminate some of the proposed options for aligning pathways to the canyon from the adjacent neighborhood. I recommend the city enter into further discussion with the landowners to develop an agreement for an easement for such a trail, and document it in a legally binding form prior to consideration of consolidation of the properties.

**3. Conformance to [section 19.72](#) of Cottonwood Heights municipal code.** The three parcels in question are all under the regulation of the Sensitive Lands and Evaluation Development Standards ordinance because of the steep slopes, creek, and riparian area that affect all three properties. I am aware that the property owners have done due diligence in procurement of expert analysis of geotechnical hazards. Yet, in doing so, a large amount of native riparian vegetation was removed and soils compacted by heavy machinery. These activities occurred prior to the passage of the most recent version of section 19.72, which at the time lacked subcode 19.72.060 (Riparian Protection Area). Now, parcels in the F-1-21 zone are prohibited from building anything but permeable accessory or deck / patio, or pathways / landscaping walls within 20 feet of the high water mark and a permanent structure must be at least 50 feet away from high water mark. In addition, a maximum combined footprint of 2,000 square feet is allowable between 50-100 feet of the high water mark. All other square footage must be beyond the 100 foot distance. These distances, with respect to a functioning riparian area, are arbitrary. Some riparian areas are much broader. As someone with expertise in riparia and the area in question, essentially all the land within the parcels between the steep slopes is riparian, as the land connects areas of water recharge percolating from the base of the steep slopes and the hyporheic zone that extends beyond the visible surface water of the creeks. It is evident in the tree species that are found in the area. Regardless, current documents shared with the planning commission do not indicate the size of any permanent structures the property owners intend to build, nor if the combined footprint could fit

within the geological and ecological constraint of any of the parcels, even if the three were to be consolidated. I recommend that the city require the property owners to document where permanent structures are to be located so it can be determined whether these structures meet the statutes of section 19.72.

In closing, I urge you to **table a vote on property consolidation** until matters important to many members of our community are better detailed and publicly communicated. I am happy to meet with any of the planning commissioners to discuss these issues. I am unable to attend the planning commission meeting, unfortunately, as I will be one day post surgery.

Jennifer

--

Jennifer Follstad Shah, Ph.D.



EXTERNAL ATTACHMENT: Only Open if you trust this sender.