COTTONWOOD HEIGHTS CITY
PLANNING COMMISSION MEETING AGENDA

April 3, 2024

Notice is hereby given that the **Cottonwood Heights Planning Commission** will convene on **Wednesday, April 3, 2024,** 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 Zoom**. For those who wish to attend virtually, please register in advance** for these meetings by visiting: www.ch.utah.gov/planningcommission, and clicking on **"Planning Commission Zoom Links."** Alternatively, the public can also hear audio of the open portions of the meeting by connecting to the live broadcast at https://www.youtube.com/@CottonwoodHeights/streams

5:00 p.m. Work Session

1.0 Review Business Session Agenda
The Commission will review and discuss agenda items.

2.0 Zoning Text Amendment – Yard Elements
Staff will share an update on the city-initiated effort to clarify regulations for yard elements such as gazebos, pergolas, swimming pools, etc.

3.0 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 Session" 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 SUB-24-004
A public hearing and possible action on a request from David Bowen for a subdivision amendment to combine two adjacent parcels at 6838 S. Manorly Cir. into a single lot.

4.0 Consent Agenda

4.1 Approval of Planning Commission Minutes from January 17, 2024 Meeting

5.0 Adjourn

Next Planning Commission Meeting: May 1, 2024

Public Comment Policy

Verbal public comments are accepted during the "General Public Comment" component of the 6:00 p.m. Business Session (but not during the 5:00 p.m. Work Session). Please note that public comment periods are an opportunity for individuals to share public 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 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, April 2, 2024, 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 heard in the following order:

1. Commission Chair Introduces Item
2. Staff Presentation
3. Applicant Presentation (If applicable)
4. Commission Chair Opens Public Hearing (If item has been noticed for public hearing)
5. Commission Chair Closes Public Hearing
6. Planning Commission Deliberates
7. Planning Commission Motions and Votes on Item

Planning Commission applications may be tabled if:

1. Additional information is needed in order to act on the item; or
2. 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 shallnotify 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, March 29, 2024, 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 MARCH, 2024

Attest: Paula Melgar, City Recorder

COTTONWOOD HEIGHTS CITY PLANNING COMMISSION STAFF REPORT

April 3, 2024

Summary

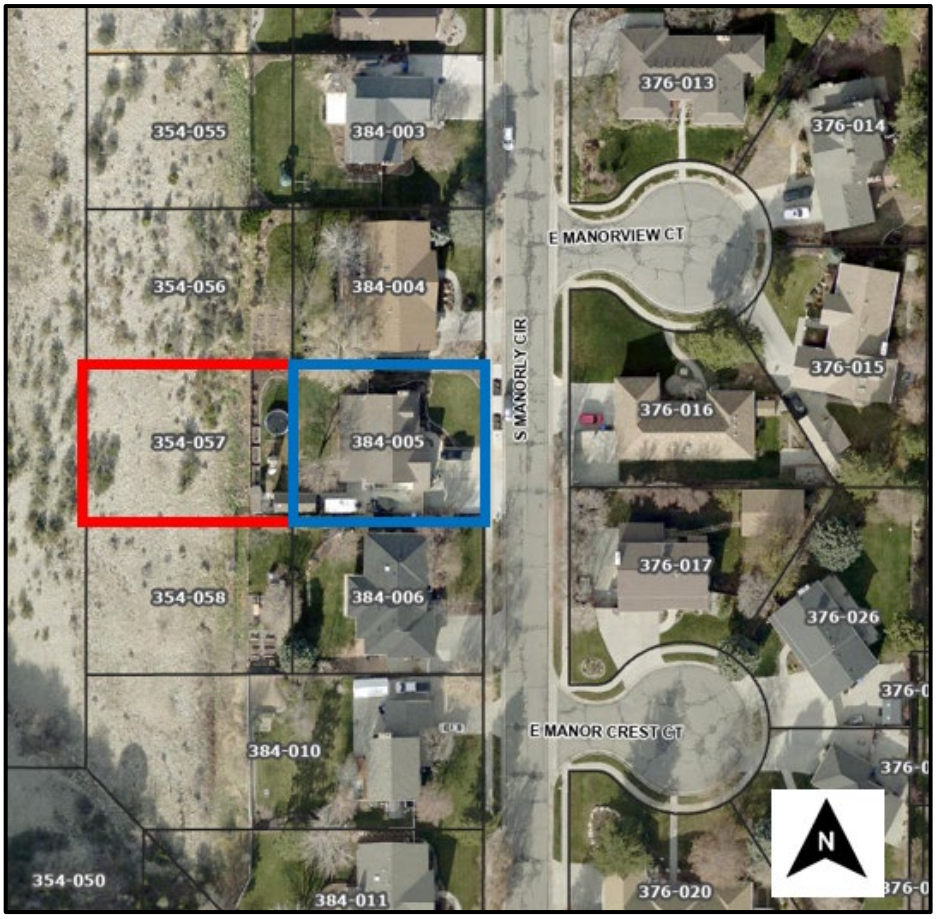
Project Number:
SUB-24-004

Subject Property:
6838 S. Manorly Circle

Action Requested:
Subdivision Amendment to Combine Two Parcels

Applicant:
David Bowen

Recommendation:
APPROVE



Context

Property Owner:
David and Melinda Bowen

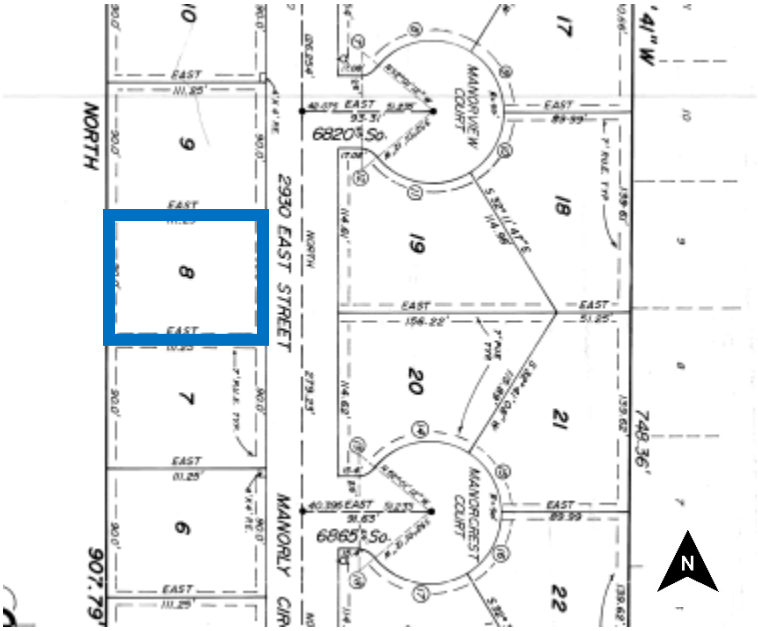
Acreage:
Blue Parcel: 0.23
Red Parcel: 0.25
Total Area: 0.48

Request

Project SUB-23-003 proposes to combine the above **blue** property and the above **red** property into a single lot. Both properties are owned by the same person, who desires to have a single property instead of two separate ones.

The **blue** property is Lot 8 of the existing Cottonwood Manor Subdivision. The **red** property is not part of an existing subdivision.

Procedurally, a subdivision amendment is required because combining the **red** property with the **blue** property alters the outer boundary of the Cottonwood Manor plat.



Excerpt of Cottonwood Manor Subdivision

One of the subject properties is Lot 8 of this subdivision. The full plat has been included as an attachment to this staff report.

Oblique View of the Subject Properties with Approximate Property Lines

*The **red** property includes an undeveloped hillside. Combining these two properties does not preclude future yard elements such as sheds, pools, decks, etc. from needing to comply with the city's Sensitive Lands Evaluation and Development Standards ordinance, which limits development on hillsides. The sensitive hillside area has been identified on the proposed amended plat shown in the attachment.*

Analysis & Findings

Staff has conducted a preliminary review of the project and **does not find substantial issues with combining two parcels**. By combining the properties, the resulting lot size increases, and the total structural lot coverage decreases. There are no changes made to lot width or frontage by this proposal. **Findings of fact include:**

1. *A public hearing is being held in accordance with local and state requirements;*
2. *The application was made pursuant to 12.26 (shown below) of Cottonwood Heights City Code;*
3. *The public will not be materially injured by the proposed amendment, and there is good cause for the amendment; and*
4. *Public noticing for this project was provided in accordance with 12.26 (shown below) of Cottonwood Heights City Code.*

If approved by the Planning Commission, **this project will then undergo a full technical review** for compliance with all city standards. Technical correction items will be identified in this review and provided to the applicant.

Subdivision Amendment Procedure

12.26.010 Plat Vacation Process

A. The planning commission may, with or without a petition, consider any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley contained in a subdivision plat at a public hearing.
B. If a petition is filed, the planning commission shall hold a public hearing within 45 days after receipt of a petition.

12.26.020 Notice Of Hearing For Plat Change

A. The planning commission shall cause notice of the proposed plat change to be mailed to each owner of real property located within 400 feet of the property that is the subject of the proposed plat change, addressed to the owner's mailing address appearing on the most recent assessment rolls of the Salt Lake County Assessor.
B. The notice shall include the date, place, and time when the hearing will be held to consider such proposed plat change.
C. If the proposed change involves the vacation, alteration, or amendment of a street, the planning commission shall also cause notice of the date, place, and time of the hearing regarding the matter to be given as required by UTAH CODE ANN. § 10-9a-609.5, as amended.

Recommendation & Model Motions

Based on the findings and analysis presented herein, staff recommends that the Planning Commission approve SUB-23-003.

Approval

I move to approve project SUB-24-004 based on the findings and recommendations listed in the staff report dated April 3, 2024, with the following conditions:

- *List any additional findings or recommendations for approval…*

Denial

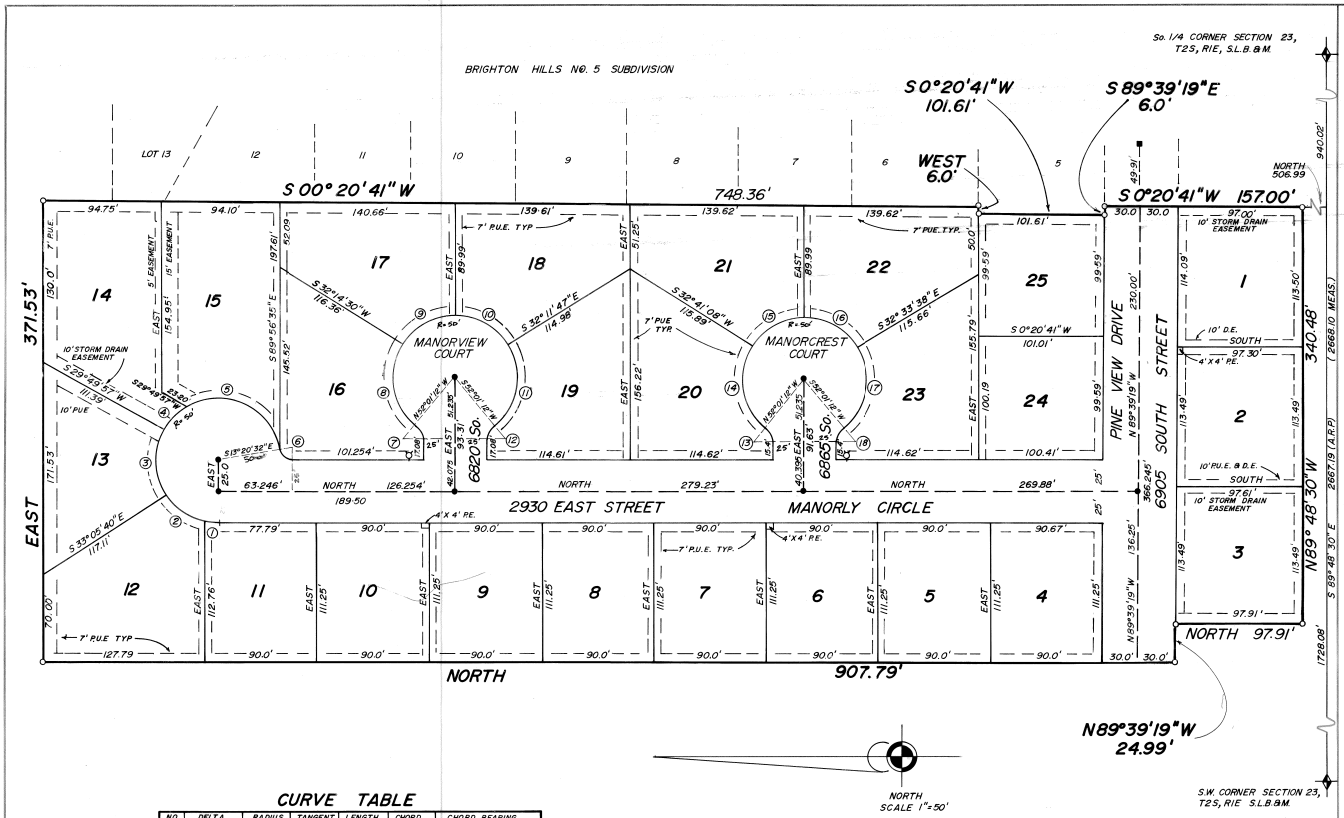
I move to deny project SUB-24-004 based on the following findings:

- *List findings for denial…*

Attachments

1. Cottonwood Manor Subdivision

SURVEYOR STANDARD SUBDIVISION FORM



CURVE TABLE

NO.	DELTA	RADIUS	TANGENT	LENGTH	CHORD	CHORD BEARING
1	14°08'03"	50.0'	6.20'	12.33'	12.30'	N07°04'02" E
2	42°46'17"	50.0'	19.58'	37.33	36.46'	N35° 31' 18" E
3	62°55'37"	50.0'	30.80'	54.91	52.20'	N86°28'09" E
4	29°59'33"	50.0'	13.39'	26.17	25.88'	S45°10'16" E
5	106°49'57"	50.0'	67.37'	93.23'	80.30	S23°14'28" W
6	76°39'28"	15.0'	11.86'	20.07'	18.61'	S19°20'32" E
7	52°01'18"	15.0'	7.32'	13.62'	13.16'	N63°59'24" E
8	84°15'43"	50.0'	45.23'	73.53'	67.08'	N80°06'39" E
9	57°45'50"	50.0'	27.58'	50.40'	48.30'	S28°52'45" E
10	57°48'15"	50.0'	27.60'	50.44'	48.33'	S28°54'
11	84°18'08"	50.0'	45.19'	73.49'	67.05'	N80°03'17" W
12	52°01'18"	15.0'	7.32'	13.62'	13.16'	N63°59'24" W
13	52°01'18"	15.0'	7.32'	13.62'	13.16'	N63°59'24" E
14	84°42'21"	50.0'	45.58'	73.92'	67.37'	N80°19'58" E
15	57°18'52"	50.0'	27.33'	50.02'	47.96'	S28°39'26" E
16	57°26'22"	50.0'	27.40'	50.13'	48.05'	S28°43'11" W
17	84°34'50"	50.0'	45.48'	73.81'	67.29'	N80°16'13" W
18	52°01'18"	15.0'	7.32'	13.62'	13.16'	N63°59'24" W

LEGEND

- FIRE HYDRANTS TO BE SET
- MONUMENTS TO BE SET
- EXISTING MONUMENTS
- POSTAL EASEMENT (LOTS 2,6 & 10)
- ALL EASEMENTS ARE 7.0' UTILITY & DRAINAGE EASEMENTS EXCEPT WHERE OTHERWISE STATED.

LOT	STREET ADDRESS	DATE RECEIPT
1	2952 Pine View Dr.	
2	2938 " " "	
3	2924 " " "	
4	2917 " " "	
5	6894 Manorly Cir.	
6	6880 " "	
7	6866 " "	
8	6852 " "	
9	6838 " "	
10	6824 " "	
11	6810 " "	
12	6796 " "	
13	6782 " "	
14	6787 " "	
15	6791 " "	
16	6809 " "	
17	2941 Manorview Ct.	
18	2947 " "	
19	2948 " "	
20	2942 " "	
19	6831 Manorly Cir.	
20	6815 " "	
20	2943 Manorcrest Ct.	
21	2949 " "	
22	2950 Manorcrest Ct.	
23	2944 " "	
23	6875 Manorly Cir.	
24	2943 Pine View Dr.	
25	2955 " " "	

Checked for Zoning
Date
Name

SURVEYOR'S CERTIFICATE

I, ALAN L. YORK, do hereby certify that I am a Registered Civil Engineer, and or Land Surveyor, and that I hold certificate No. 5040, as prescribed under the laws of the State of Utah. I further certify that by authority of the Owners, I have made a survey of the tract of land shown on this plat and described below, and have subdivided said tract of land into lots and streets, hereafter to be known as COTTONWOOD MANOR SUBDIVISION and that same has been correctly surveyed and staked on the ground as shown on this plat.

BOUNDARY DESCRIPTION

COMMENCING AT A POINT WHICH IS N 89°48'30" W 940.02 FEET ALONG THE SECTION LINE AND NORTH 506.99' FEET FROM THE SOUTH QUARTER CORNER OF SECTION 23, TOWNSHIP 2 SOUTH, RANGE 1 EAST SLB & M

COURSE	DIST.	REMARKS
N89°48'30"W	340.48'	THENCE
NORTH	97.91'	"
N89°39'19"W	24.99'	"
NORTH	907.79'	"
EAST	371.53'	"
S0°20'41"W	748.37'	ALONG THE BOUNDRY OF AN EXISTING SUBDIVISION
WEST	6.0'	THENCE
S0°20'41"W	101.61'	"
S89°39'19"E	6.0'	"
S0°20'41"W	157.00'	TO THE POINT OF BEGINNING

CONTAINS 25 LOTS — CONTAINS 8.44 ACRES M.or L.

I FURTHER CERTIFY THAT ALL LOTS MEET THE FRONTAGE, WIDTH AND AREA REQUIREMENTS OF THE APPLICABLE ZONING ORDINANCE.

MAY 2, 1983
DATE

OWNER'S DEDICATION

Know all men by these presents that We, the 2 undersigned owner (S) of the above described tract of land, having caused same to be subdivided into lots and streets to be hereafter known as the

COTTONWOOD MANOR SUBDIVISION

do hereby dedicate for perpetual use of the public all parcels of land shown on this plat as intended for Public use.

In witness whereof We have hereunto set Our Hand this 2nd day of May A.D. 1983

Kenneth C. Savage Pres.

CORNELIUS DEVELOPMENT CORPORATION By

John Heiner VICE PRESIDENT

ACKNOWLEDGMENT

STATE OF UTAH } S.S.
County of

On the 2 day of _____ A.D., 19 4, personally appeared before me, the undersigned Notary Public, in and for said County of Salt Lake in said State of Utah, the signer(S) of the above Owner's dedication, _____ in number, who duly acknowledged to me that _____ signed it freely and voluntarily and for the uses and purposes therein mentioned.

MY COMMISSION EXPIRES: _____

NOTARY PUBLIC RESIDING IN _____ COUNTY

ACKNOWLEDGMENT

STATE OF UTAH } S.S.
COUNTY OF Utah

ON THE 2nd DAY OF May 1983 PERSONALLY APPEARED BEFORE ME KENNETH C. SAVAGE and JOHN HEINER WHO BEING BY ME DULY SWORN OR AFFIRMED, DID SAY THAT THEY IS/ARE THE PRESIDENT and VICE PRESIDENT OF CORNELIUS DEVELOPMENT CORPORATION AND THAT THE WITHIN OWNER'S DEDICATION WAS SIGNED IN BEHALF OF SAID CORPORATION BY AUTHORITY OF THE BOARD OF DIRECTORS AND THE SAID KENNETH C SAVAGE and JOHN HEINER ACKNOWLEGDED TO ME THAT SAID CORNELIUS DEVELOPMENT CORPORATION EXECUTED THE SAME.

MY COMMISSION EXPIRES 3-1-85

Leola C. Durant
NOTARY PUBLIC
RESIDING IN American Fork Ut.

COTTONWOOD MANOR SUBDIVISION

LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 1 EAST

SALT LAKE BASE & MERIDIAN

PLANNING COMMISSION	BOARD OF HEALTH	FLOOD CONTROL DEPT.	COUNTY ENGINEERING	APPROVAL AS TO FORM	COUNTY COMMISSION
APPROVED THIS 12 TH DAY OF APRIL A.D. 1983 BY THE SALT LAKE COUNTY PLANNING COMMISSION. Geraldine E. Huber CHAIRMAN, SL COUNTY PLANNING COMM.	APPROVED THIS 18 TH DAY OF May A.D. 1983 [illegible] CHAIRMAN, COUNTY BOARD OF HEALTH	APPROVED THIS 21st DAY OF June A.D. 1983 [illegible] FLOOD CONTROL COORDINATOR	I HEREBY CERTIFY THAT THIS OFFICE HAS EXAMINED THIS PLAT AND IT IS CORRECT IN ACCORDANCE WITH INFORMATION ON FILE IN THIS OFFICE. 27 JUN 83 DATE [illegible] DIRECTOR ENGR. DIVISION	APPROVED AS TO FORM THIS 29th DAY OF JUNE A.D. 1983 Deputy Lucinda R Walton SALT LAKE COUNTY ATTORNEY	PRESENTED TO THE BOARD OF S.L. COUNTY COMMISSIONERS THIS 27 DAY OF June A.D. 1983 AT WHICH TIME THIS SUBDIVISION WAS APPROVED AND ACCEPTED. ATTEST: S.L. COUNTY CLERK [illegible] CHAIRMAN, BD. OF CO. COMM.

RECORDED # 3813088

STATE OF UTAH, COUNTY OF SALT LAKE RECORDED AND FILED AT THE REQUEST OF CORNELIUS DEVELOPMENT Co.
DATE 7-1-83 TIME 1:52 P.M. BOOK 83-7 PAGE 78
$27.50 FEE $ — SALT LAKE COUNTY RECORDER

27.50 22-23-32

83-7-78

83-7-78

OSBORNE'S ENG. SUPPLY #125

MINUTES OF THE COTTONWOOD HEIGHTS CITY PLANNING COMMISSION WORK MEETING

Wednesday, January 17, 2024
5:00 p.m.
2277 East Bengal Boulevard
City Council Work Room

ATTENDANCE

Members Present: Chair Dan Mills, Vice Chair Lucy Anderson, Commissioner Mike Smith, Commissioner Mike Shelton, Commissioner Dan Poulson, Commissioner Sean Steinman, Commissioner Jessica Chappell, Commissioner Jonathan Ebbeler, Youth City Council Member Alayna Dazley

Staff Present: Deputy City Recorder Maria Devereux, Associate City Planner and Sustainability Analyst Ian Harris, Community and Economic Development Director Michael Johnson, Senior City Planner Samantha DeSeelhorst (via Zoom), System Administrator Alex Earl (via Zoom)

WORK SESSION

Chair Dan Mills called the Work Meeting to order at 5:02 p.m.

1.0 Review Business Session Agenda.

The Business Session Agenda was reviewed and discussed.

Chair Mills reported that there were two Action Items on the agenda. The first was consideration of Project ZMA-23-002. Ms. DeSeelhorst stated that this is a Zoning Map Amendment application for a rezone of 0.45 acres. The subject property is located at 7980 South Danish Oaks Drive with the rezone to be from RR-1-21 (Rural Residential Single-Family) to R-1-10 (Residential Single-Family). A Vicinity Map was presented. In addition to the subject property, the applicant owns the adjacent parcels to the north and west. The request was to consolidate all three properties through a lot consolidation to construct a home on the resulting property. Two of the applicant's parcels are zoned R-1-10, while the subject parcel is currently zoned RR-1-21. She explained that lot consolidation requires unilateral zoning across all parcels being combined. The isolated RR-1-21 zoning of the property is a recent circumstance. Prior to 2019, the area to the north of the subject property was also zoned RR-1-21.

Community and Development Director, Michael Johnson acknowledged Associate City Planner and Sustainability Analyst, Ian Harris and Senior City Planner, Samantha DeSeelhorst were participating via Zoom. He recommended that the Form-Based Code discussion be addressed first to receive input from Mark Morris from Voda Landscape + Planning.

2.0 Form-Based Code Discussion.

Staff reported that as part of the General Plan Update process, the City is working on a Form-Based Code Ordinance. The City's Consultant will share an update in anticipation of the project being scheduled for public hearing and potential action at an upcoming meeting.

Mark Morris from Voda Landscape + Planning presented the Form-Based Code discussion. He stated that the next steps include a public Open House allowing residents and property owners to speak to a representative and provide clarity regarding the driving force. The redevelopment of parcels incrementally builds a new vision for the commercial areas in the City. He stated that the intent of the boards is to provide basics and a clear understanding of the development process. Developments under certain thresholds while meeting certain requirements get somewhat of a fast-track approval process allowing the City to focus on larger redevelopment.

He reported that the City of Bountiful has used a Form-Based Code for several years along with other cities that reflect this proven method to accomplish community goals. Salt Lake City was the first to implement the process 15 years ago with more suburban cities along the Wasatch Front utilizing them more recently. The prototype will be displayed to provide a clearer understanding of site planning, height regulations, and how it addresses the street.

Chair Mills commented that based on the different areas of focus and experience, he hoped this document will provide guidance to property owners and prospective developers in terms of funding sources and how the math may potentially work. Being able to click on a separate feature providing where it has been implemented and the tax method used has been invaluable. He also encouraged the ability to access previous case studies as part of the document. He suggested arming City Lobbyists with the information to specify that this feature is something the City Form-Based Code values and that they want a focused push while being a model. Mr. Morris explained the Code itself does not provide specific guidance regarding financial tools but items like a Redevelopment Agency ("RDA") area established around a town center will provide opportunities.

Chair Mills referenced walkability and asked if they are designing this in a way that a funding source may be maximized in the midst of what they are suggesting. Mr. Johnson stated that when an application is initially presented, there are Master Plans that establish the vision for an area followed by the development of an Ordinance to implement that policy. There are other tools based on areas in the City that may be brought to the table while working with whoever may be redeveloping the land. He noted that the suggestion may be made that if the developer can develop within the vision and implement the items that are important to the City, there may be an opportunity to request the City Council to utilize Tax Increment Financing ("TIF"). He believed that Form-Based Code is a tool with a goal that aligns with the vision of the Master Plans to help carry it out and realize that vision.

The final piece of what takes place following the Public Open House will be the return to the Planning Commission for a positive recommendation to move forward. Mr. Morris clarified that the Master Plan will not be developed all at once but is intended for a property owner who wants to redevelop a clear vision. The plan will be laid out in terms of parking, the location of buildings, and working toward a collective vision. Several years into the future the City may begin to identify

other parts of the City where this may be implemented. He confirmed that there are four Form Districts in the Union Park Center, Town Center, Fort Union Boulevard, and the residential transition. All parameters within the Form-Based Code have minimum and maximum heights. Setbacks have shifted as there is a maximum setback. He reported that uses are divided by upper floor versus ground floor but do not include a specific percentage.

Ms. DeSeelhorst reported that the Form-Based Code will not regulate residential areas. A Residential Transition District acts as an interface between residential and commercial. The Open House is scheduled for March 9, 2024, and will be geared toward providing information for commercial property owners within the District. All were welcome to attend. Chair Mills hoped this will ease the transition into residential areas while creating a more organic feel.

Mr. Johnson commented that the Form-Based Code is not dissimilar to the Residential Office Zone. It was described as a more rigid Land Use Ordinance that applies in different areas and does not always feel like it was intended to feel. He believed that the Form-Based Code is not drastically different from the intention with Ordinances but is being done in a way that is more responsive to the areas of each of the proposed Districts.

Commissioner Steinman asked if there are any restricted uses that may differ from current zoning. Mr. Morris stated that in general, the Use Tables are meant to make it more responsive to market conditions. Most of the restricted uses are located within the Codes more strictly controlled by the City. Because it is more Form-Based with regard to size, this would eliminate Conditional Use Permit requirements. As a City, it requires adjustment as that use is of less concern than where the building is located to provide property owners more choice and flexibility. He noted that Seaside, Florida was the first City to implement a Form-Based Code. That community currently has a return on investment in value where an 800-square-foot condominium is valued at $13 million. In the long run, the demand for walkability will create a large impact.

Mr. Johnson reported that the Form-Based Code discussion will not be back for discussion prior to the Open House. Staff will continue working on the webpage and provide resources that are available for public review. Following the Open House it will be listed as a formal Agenda Item where public comment will be received with an aim to make a recommendation to the City Council.

Project ZMA-23-002.Zoning Map Amendment discussion.

Ms. DeSeelhorst reported that the proposed zoning designation, R-1-10, is a Residential Single-Family zone, with a lot size minimum of 10,000 square feet. The City's Land Use Map, which designates the long-range vision for properties, calls for "Low-Density Residential" on site. At approximately 19,602 square feet, the parcel does not comply with the lot size requirement for the underlying RR-1-21 zoning. The lot, however, does comply with the lot size requirement for the proposed R-1-10 zone, and as such the rezone will bring the property into greater conformity with the City's Zoning Ordinance. She explained that a rezone to R-1-10 is consistent with the Land Use Map, as R-1-10 matches the "Low-Density Residential" land use envisioned. The current zoning of RR-1-21 is considered a "Rural Residential" land use. A rezone would also bring the property into greater conformity with the City's General Plan.

Potential development permitted uses are largely similar between the RR-1-21 zone and R-1-10 zone with the only difference being the allowance of agriculture, farm, and farm animals as permitted uses in the RR-1-21 zone. The primary purpose of both zones is to provide for residential development. Conditional Uses in either zone would require review and approval by the Planning Commission. Ms. DeSeelhorst commented that should the rezone be approved, any future development on the subject property will be required to comply with standards for the R-1-10 zone, as well as any relevant standards from the City's Sensitive Lands Evaluation and Development Standards Ordinance ("SLEDS"). The applicant is aware of the SLEDS requirement. Staff found the application to be consistent with the Zoning Ordinance and General Plan and recommended approval. It was noted this would be for the Planning Commission's recommendation of approval to the City Council.

Chair Mills understood that there have been pre-application meetings with the applicant in terms of where they may build a home. Ms. DeSeelhorst confirmed that pre-application meetings are offered to those who wish to discuss options prior to investing in development. The applicants have met with Staff to discuss setback requirements when combining lots and been made aware of the SLEDS Ordinance and limitations that exist on the property. She believed that may be the reasoning behind the lot consolidation request given the constraints.

Mr. Johnson provided a brief history of the Danish Pines Subdivision. The subject parcel being applied for a rezone was owned by a completely different party, separate from Castlewood and Ivory Development. The property exists as an island due to being a land-locked parcel held out during the original development. The current owner and applicant team are hoping to consolidate all three parcels. He reported that there is an approved grading on the plans for the Danish Pines Subdivision showing how the subject property must be graded and dictates where they can and cannot add or remove fill. Staff reported that there is not a Plat for the subject properties nor are they part of an existing subdivision. Lot consolidation does not require the owner to submit a Plat and it would not be appropriate to put a stipulation as part of the rezone application. If the applicant applies for a Building Permit during the process, a timeline must be followed to keep the permit active and self-regulating. Grading, drainage, and access to the lot are reviewed with the permit application or lot consolidation application.

Chair Mills was supportive of the consolidation request. With so many flag lots in the City creating difficulties and inconsistencies in the Code, he felt this was a wonderful solution. As there are 10 adjacent property owners, he asked for information regarding the public comment received. Ms. DeSeelhorst reiterated that a vote on this item would not be final. The Planning Commission would make a recommendation that will be forwarded to the City Council where there would be additional opportunities for public comment. The first public comment shared concern with the subject property being considered open space. Another comment addressed the SLEDS Ordinance, view obstruction, and a request to view the Staff Report which was emailed separately.

Commissioner Ebbeler questioned the limitation on the number of stories and height. Staff confirmed that height is measured from the existing grade. The subject property may be limited slightly due to its location but is dependent on the grade of the lot. The approved Grading Plan for Danish Pines reflects the building height, which is measured from existing grade. Regardless of whether they remove dirt or add fill, the baseline is already established. A property rendering

depicting the perpetual open space in a buildable area was displayed. Staff confirmed that the property is privately owned as part of the subdivision lots but is non-buildable.

The next Action Item was consideration of Project ZTA-23-004. Mr. Johnson reported that this is a public hearing and possible action on a City-initiated Zoning Text Amendment to establish standards and permitting requirements for outdoor sports courts in residential areas. The Ordinance remains unchanged with the addition of one caveat. There have been questions and a debate on the approach to take with the Ordinance. The draft was the result of the previous City Council's direction that no particular use be singled out while regulating the structure, rather than the use. Staff analysis pointed out pickleball does have a unique impact beyond a basketball and tennis court. He stated that research shows that of all outdoor court sports, pickleball creates a different impact.

Commissioner Steinman reported that he reviewed the medical literature on the subject of pickleball. Research stated that there is an aging population and pickleball is not difficult to play. It allows those who are sedentary the opportunity to be outdoors and learn to be more active. He suspected that this will not go away and with the bit of literature reviewed suggests this is a positive activity that allows people to be more physically active. Early in the discussion, he felt this would fade and be less of an issue with time but has since been reconsidered. He noted when looking at sound mitigation options, structures to diminish the decibel range by 28 dB would come at a cost of $33,000.

A question was raised regarding complaints received about other sports. Mr. Johnson stated that there have been few complaints, not about the activity of the sport but about fencing and lighting, less than a handful in total. He stated that noise violations may be enforced. Anything that is formally approved in terms of structure, fencing, and lighting that has already gone through the official City process, regardless of the Ordinance, will be allowed to remain.

Chair Mills reiterated that the Planning Commission has been asked to prepare a draft Ordinance and send a recommendation to the City Council. Whether the Commission believes they should or not, they have been asked to provide that information. As many public comments as they have received, he emphasized that they will increase exponentially as soon as it is addressed by the City Council. Lighting allowance was discussed.

Commissioner Anderson believed there could potentially be other activities or sports that may take place in addition to pickleball. She was in support of the Ordinance and felt that the process needs to move forward. Increasing the Code Enforcement staff was suggested.

Adjournment.

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

The Work Meeting adjourned at 5:58 p.m.

MINUTES OF THE COTTONWOOD HEIGHTS CITY PLANNING COMMISSION BUSINESS MEETING

Wednesday, January 17, 2024
6:00 p.m.
2277 East Bengal Boulevard
City Council Chambers

Members Present: Chair Dan Mills, Vice Chair Lucy Anderson, Commissioner Mike Smith, Commissioner Mike Shelton, Commissioner Dan Poulson, Commissioner Sean Steinman, Commissioner Jessica Chappell, Commissioner Jonathan Ebbeler, Youth City Council Member Alayna Dazley

Staff Present: Deputy City Recorder Maria Devereux, Associate City Planner and Sustainability Analyst Ian Harris, Community and Economic Development Director Michael Johnson, Senior City Planner Samantha DeSeelhorst, System Administrator Alex Earl

BUSINESS SESSION

Chair Dan Mills called the Business Meeting 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 to disclose.

2.0 General Public Comment.

Chair Mills opened the public comment.

Michael Balt identified himself as a Cottonwood Heights resident who recently relocated from Seattle. In the community, they have found that there is an Airbnb but have had no luck with enforcement. The City has been helpful but he was unsure whether there is anything that can be done to restrict the use. The owner has indicated that they will not be renting the space but Mr. Balt has continued to keep track of guests coming and going. Although he has spoken to Code Enforcement, the guest is gone by the time the officer arrives. They are new to the situation and having an Airbnb in their community was not what they were expecting. They are working with the builder who indicated that the rental is not allowed. Feedback was welcomed.

Chair Mills stated that they have taken a fairly aggressive stance as a City, however, it is superseded by State law. The Legislature is in session and he recommended speaking with his representative on these issues. He confirmed that many share Mr. Balt's concerns.

Commissioner Ebbeler stated that he worked alongside State Representative Bennion two years ago on a piece of legislation that was ultimately tabled. He believed Representative Bennion

returned that piece of legislation this current Legislative Session. Several years ago, the State passed a law that hamstrung a City's response and ability to regulate short-term rentals. This made it illegal for a City to go on Airbnb and VRBO and preemptively acknowledge confirmed rentals. He stated that enforcement is difficult since an owner has to be caught in the act and each incident comes with a fine that is not extensive enough to deter the use. He was sympathetic to the concerns of the residents.

3.0 Business Items.

3.1 Project ZMA-23-002 – A Public Hearing and Possible Action on a Zoning Map Amendment Request to Rezone 0.45 Acres of Property at 7980 South Danish Oaks Drive from RR-1-21 (Rural Residential Single-Family) to R-1-10 (Residential Single-Family).

Senior City Planner, Samantha DeSeelhorst presented the Staff Report and stated that the request is for a rezone from RR-1-21 (Rural Residential Single-Family) to R-1-10 (Residential Single-Family). In addition to owning the subject property, the applicant owns the adjacent parcels to the north and west and would like to consolidate all three to construct a home. Two of the parcels owned by the applicants are zoned R-1-10, while the subject parcel is currently zoned RR-1-21. Lot consolidation requires unilateral zoning across all parcels being combined, and as such, the applicant has applied for this zoning map amendment.

Ms. DeSeelhorst stated that the isolated RR-1-21 zoning of the property is a recent circumstance. Prior to 2019, the area to the north of the subject property was also zoned RR-1-21, as shown in the 2012 zoning map displayed. At approximately 19,602 square feet, the parcel does not comply with the lot size requirement for the underlying RR-1-21 zoning. The site does, however, comply with the lot size requirement for the proposed R-1-10 zone. As such, the rezone would bring the property into greater conformity with the City's Zoning Ordinance. In addition, a rezone to R-1-10 is consistent with the Land Use Map, as R-1-10 matches the "Low-Density Residential" land use envisioned for this map, while the current zoning of RR-1-21 is considered a "Rural Residential" land use. She reported that a rezone would also bring the property into greater conformity with the City's General Plan.

Permitted uses are largely similar to the RR-1-21 and R-1-10 zones, with the only difference being the allowance of agriculture, farm, and farm animals as permitted uses in the RR-1-21 zone. The primary purpose of both zones is to provide for residential development. Conditional uses in either zone would require Planning Commission review and approval. Ms. DeSeelhorst stated that if approved, any future development on the subject property will be required to comply with standards for the R-1-10 zone, as well as any relevant standards from the City's Sensitive Lands Evaluation and Development Standards Ordinance. Staff recommend approval of the project and that the Planning Commission forward a recommendation of approval to the City Council based on the findings listed in the Staff Report. She confirmed that two public comments were received after the cut-off. Both included questions regarding the history and context of the lot and future development.

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

***Commissioner Chappel moved to forward a recommendation of APPROVAL for Project ZMA-23-002* subject to the following:**

Findings:

1. ***A Zoning Map Amendment to R-1-10 would bring the property into conformity with the minimum lot size requirement, whereas the property currently does not comply with this requirement for the underlying RR-1-21 zone.***

2. ***The proposed Zoning Map Amendment is consistent with the Land Use Map's designation of this property as "Low-Density Residential."***

3. ***The proposed zoning map amendment is consistent and compatible with the surrounding neighborhood.***

4. ***The application was made pursuant to 19.90 of the Cottonwood Heights City Code.***

5. ***A public hearing was held in accordance with the local and State requirements.***

Commissioner Anderson seconded the motion. Vote on motion: Commissioner Anderson-Yes, Commissioner Chappel-Yes, Commissioner Poulson-Yes, Commissioner Shelton-Yes, Commissioner Steinman-Yes, Commissioner Smith-Yes, Chair Mills-Yes. The motion passed unanimously. Commissioner Ebbeler did not participate in the vote.

3.2 <u>Project ZTA-23-004 – A Public Hearing and Possible Action on a City-Initiated Zoning Text Amendment to Establish Standards and Permitting Requirements for Outdoor Sports Courts in Residential Areas.</u>

Chair Mills reported that the above item has been discussed for several months. He stated that anyone wishing to review those discussions can refer to the previous recordings that are available online. He stated that if the Planning Commission can provide a draft Ordinance, it will be forwarded to the City Council for final approval. Chair Mills asked the Commission Members to use caution and not reiterate previous comments. New information was welcomed.

Commissioner Smith commented that he has not heard much with regard to whether the City has made an effort to promote civility within the community. It seemed that if they encourage residents to be good neighbors, some of the intensity surrounding this issue may be dispelled. Regardless of whether enforcement is implemented, all should be encouraged to be good neighbors.

Chair Mills opened the public hearing.

Don Smart expressed gratitude to the Planning Commission for their time and effort regarding concerns with pickleball. He agreed that they all want to be good neighbors and work together. He stated that pickleball is a great sport for physical exercise. Mr. Johnson reported that Mr. Smart came to City Hall asking if it was possible to share photos as part of the public comment.

Downloaded copies were presented. A photo depicting a recently constructed sports court was displayed where six adjacent backyards come together. Originally there were plans for much more high-powered lighting that has since been removed from the permit. Mr. Smart stated that it is the sound ordinance they are focusing on with the proposed 150-foot setback from a property line that would protect residents from the noise, not to exceed 65 dB. As neighbors, they are trying to be civil to each other while knowing this may be a major issue.

Commissioner Ebbeler questioned if the Commission understands it is the intent to vote on this item. Chair Mills confirmed that the Commission intends to vote one way or the other.

There were no additional public comments. Chair Mills closed the public hearing.

Commissioner Chappell questioned the feasibility of enforcement. While pickleball is the reason for the draft, the change was made to include all sports courts. When talking about a sound study regarding basketball, she asked if someone is required to physically play to make a determination. Knowing it is feasible to play pickleball on a full-court basketball court, she asked if every court gets tested for pickleball even if the intent is for it to be used as a basketball or tennis court. Commissioner Shelton was of the understanding that none of the aforementioned courts can be tested. The test would be theoretical as the court has not been built. The use would have to be considered based on science and what they know about the noise it produces.

Mr. Johnson reported that a Noise Study may be slightly speculative and theoretical. The study is trying to add a measure of professional analysis to a situation that has yet to occur. He indicated the study is intentionally broad because it is a general noise study, however, the court may be used while providing an opportunity to mitigate those concerns. Commissioner Chappell asked if the permit includes the uses stated. Staff explained the Sound Study must address the use. The permit applications they have seen that include courts are labeled very clearly. As courts have slightly different dimensions when built to a regulation standard, it is usually easily identified. The Staff committee then asks the applicant to conduct a Noise Study based on the use. Should the items remain unclear, Staff may add notes to a permit application reminding the applicant of noise regulations and that they are subject to the standards. The Ordinance would require the applicant to be asked to sign an Affidavit acknowledging the details of the Sound Ordinance.

Commissioner Chappell commented that there is a risk even with the stated use and qualified noise study for particular activities that are not pickleball. She recommended the addition of language that would assist with enforcement. There was ambiguity with the requirement to process a Building Permit knowing that there is a dramatic difference between the uses. She was of the opinion that specified activity with regard to the Noise Study seems to be the only option.

Mr. Johnson reported that Staff has made efforts to avoid a specific use. Staff would reasonably look for a Sound Study that would include potential uses and mitigation efforts. Language could be codified to specify that the Sound Study shall address the most intense intended use of the court. Commissioner Ebbeler felt that rather than the use, the real problem the sound study should address is the decibel and frequency issue. He noted that variations will occur with every sport and use. Chair Mills stated that the intent is to keep it broad.

In response to a question raised regarding Code Enforcement of sound, Mr. Johnson stated that anything pertaining to enforcement will be an issue for the Police Department. The Code Enforcement Officer will need evidence of an actual violation. Typically a call will take place in an effort to mitigate potential criminal enforcement activity. The first thing they will check under the new Ordinance is compliance with the Court Permit. If a cement pad is found to meet the criteria of an outdoor, non-vegetative sports court surface, Staff will follow it through the Ordinance.

Commissioner Steinman asked when the use becomes a Noise Ordinance issue. The proposed Ordinance provides regulations and to get past the specifics, pickleball is the issue. He commented that any noise complaints regarding the existing sports courts are grandfathered in will and be considered a Noise Ordinance issue. He felt that these types of regulations deter residents from spending time outside. Specificity was suggested by allowing a Code Enforcement to manage the complaints and equipment being used. If the equipment can actually decrease the noise from 65 dB to 45 dB it can potentially become a Code Enforcement issue rather than a Land Use issue. Code Enforcement Officers can then provide the tools to mitigate the noise. He believed they have the mechanisms as a City to regulate this issue through Code Enforcement. Should it become a continual problem with one particular resident, steps can be taken to resolve the issues. The need for constant respect between neighbors was emphasized. It was his opinion that they do not prevent these activities for those playing and recommended moving to allow Code Enforcement to address the problems.

Mr. Johnson stated that currently, Code Enforcement includes either requiring a property to meet the Code or stopping the activity. Having an Ordinance in place provides a process to go through to be able to resume the activity. Pickleball has a very unique impact and Staff is acting at the direction of the City Council. Commissioner Chappell believed the specificity in the phrasing of the Noise Study would be the best way to mitigate use violations. She recommended that a qualified Noise Study be required to include an activity or set of activities. Providing a disclosure with the permit sets forth reasonable limitations as many homes in the City are on 8,000-square-foot lots. She believed there should be a mechanism so that when there is a complaint, enforcement can return to the permit and see the initial intent. Mr. Johnson added that the Affidavit will be recorded similarly to Accessory Dwelling Units ("ADU") where whoever initiates the application signs the original, which is recorded against the property.

Commissioner Ebbeler remarked this Ordinance is similar to Airbnbs with regulations outside of the short-term rentals that could apply to the impact on residents. Pickleball has a similar effect and the issue within the Code is the need to present evidence. As a result of research on Airbnbs, the case was dismissed with the implication that the use will not continue. This is a burden on Code Enforcement who has to catch the person in the act, which is complicated. The intent is to create situations where residents are civil to one another and good neighbors. He reminded the Commission that should they choose to utilize Code Enforcement, there must be direction. If the Noise Ordinance was enough he believed they would not be discussing this item.

Commissioner Shelton stated that the current draft of the Ordinance includes one new unique standard. The proposed Ordinance language specifies anything more than 65 dB at the property line is too loud. At the same time, it specifies that it is only too loud if it comes from a sports court. He felt that was the definition of arbitrary since if 65 dB is excessive, then it is also too loud

regardless of where the noise comes from. Although he sympathized with those who may be experiencing something that is miserable, he felt there was no good solution to the problem that avoids Ordinance enforcement. He felt strongly that nothing in the proposed Ordinance does anything to provide relief to those who are suffering as a result of this issue. He believed the only way to help those who are negatively impacted is by enforcement of the Ordinance. He felt it was the wrong approach for the City to get involved without solving the problem and creating a new set of issues by implying that a standard is arbitrary.

Council Member Chappell asked if the Noise Ordinance lists a different number than 65 dB. Commissioner Shelton stated that it is not different and is applicable to any sound. The Noise Ordinance is in the books and he was not aware of any effort to enforce the Ordinance. Mr. Johnson clarified that the Ordinance states that 65 dB is the maximum for sustained noise with higher peak noises being classified differently.

Ms. DeSeelhorst referenced Title 9 of the City Code, Health and Safety, and recommended an Ordinance that adds regulations to Title 9. She explained that this is the Nuisance Section which describes nuisances in detail. Language may be added to reiterate the Noise Ordinance. She shared that sports which violate the noise ordinance in terms of decibel levels could be considered a nuisance and could be limited within a certain number of feet without a sound study. Mr. Johnson explained that if there is a land use impact to an Ordinance change it is supposed to go through the City's Land Use Authority. If the Commission finds a better option to address the use through the Nuisance Ordinance, a recommendation may be made to deny the proposed draft and recommend the City Council look at it as a nuisance regulation. Various options were discussed.

Commissioner Shelton supported taking the suggested approach and found the Affidavit to be helpful. He suggested that the construction of large and expensive outdoor landscaping requires a Building Permit. In the Permit, the applicant should be notified that the use may be prohibited if it is in violation of the Nuisance Ordinance. Council Member Ebbeler stated that the Nuisance Ordinance is very broad and already covers the scenario and situation. He asked if there was a way to strike language that the Commission is not comfortable with.

Commissioner Chappell reported they are making a recommendation and drafting a list of modifications. This is a public education issue and provides clarity to the compliance standards the public will be held to. Commissioner Ebbeler explained that the solution may be to find a compromise that eliminates the creation of new regulations and ensures that those that already exist go through an education process. He believed that sustained use becomes a nuisance when the same activity on one property annoys neighbors while it may not be an issue for others. An Affidavit was recommended.

Staff reported that Title 9 includes a section for a voluntary Correction Agreement that outlines the process by which someone who is in violation can work with the City to make corrections. It was suggested that this section may be an ideal place to include language regarding properties that are in violation of the Noise Ordinance and options to bring it into compliance.

Commissioner Anderson wanted to make it clear to residents that they cannot participate in an activity that exceeds the 65 dB noise level. Mitigations may also be recommended.

It was Mr. Johnson's understanding that the Commission agreed that an Affidavit would be beneficial. The trigger for residents would be to require a permit but remove setback language and instead specify that a permit for a sports court is required. Commissioner Shelton suggested that the additional language specify that the outdoor construction of an area that exceeds 500 square feet requires a permit, which would then trigger the Affidavit. Chair Mills stated that keeping the language as simple as 500 square feet will mean more work for Staff. Mr. Johnson confirmed that every major Building Permit will include the same Noise Ordinance Affidavit.

Ms. DeSeelhorst commented that if it is in the interest of the Commission to explore Title 9, Staff would request additional time to draft language and discuss proposed changes with City Attorney, Shane Topham. Mr. Johnson explained that the Title 9 component would include any noise in excess of 65 dB or in violation of Salt Lake County Health Department as a potential nuisance.

It was the consensus of the Planning Commission that the current Title 9 language would adequately cover the issue. The Commission felt this direction would provide relief and education as well as allow for enforcement. Language regarding structures over 500 feet was discussed. Mr. Johnson suggested language to include "any horizontal non-building structure of 500 square feet that is paved otherwise covered with a non-vegetative surface". It was noted that public comment will take place at the City Council level.

Commissioner Steinman reviewed the following proposed changes:

- Elimination of all language in relation to sports courts;
- Redefine construction over 500 square feet;
- Eliminate definitions and recreate from a definition standpoint impervious surfaces;
- Define horizontal, non-building structure greater than 500 square feet as paved or otherwise covered with non-vegetative surface;
- Removal of the term playing area;
- Change all references of sports courts to horizontal, non-building structures
- Stated purpose - Staff will clarify the intention and nature of changes;
- Applicability – The regulations of this chapter shall apply to non-covered non-building structures over 500 square feet to apply for new construction defined above;
- Standards for Approval – These standards are subject to the same setbacks of Accessory Buildings in the underlying zone;
- Affidavit required - Language stands;
- Title 9 shall be clarified to underscore Noise as a nuisance.

Mr. Johnson confirmed that existing structures will not be required to apply for a Building Permit but may be in violation of the Noise Ordinance. Non-conforming, existing structures will not have a Recorded Affidavit. As the Land Use Authority, the following recommendations will be made to Title 9:

- Additional recommendations by the City Council to add more specific language to Title 9.
- Yard noise shall be added as an enumerated nuisance.

Staff stated that the intent is to educate a property owner by signing the affidavit making any enforcement cases less complicated. Enforcement information may be provided in the City newsletter to educate the current property owners of an existing sports court. A change of language regarding residential property versus commercial property was suggested to ensure that it pertains to noise City-wide.

Commissioner Ebbeler reported that it is the fundamental intent of the Planning Commission to use the enforcement powers of Title 9, which is a critical element the City Council needs to address.

Chair Mills was pleased with the direction of the discussion.

Commissioner Chappell moved to forward a recommendation of APPROVAL for Project ZTA-23-004 with the enumerated modifications discussed on the record at the January 17 Planning Commission Meeting. Commissioner Shelton seconded the motion. Vote on motion: Commissioner Anderson-Yes, Commissioner Chappel-Yes, Commissioner Poulson-Yes, Commissioner Shelton-Yes, Commissioner Steinman-Yes, Commissioner Smith-Yes, Chair Mills-Yes. The motion passed unanimously. Commissioner Ebbeler did not participate in the vote.

4.0 Adjournment.

Commissioner Poulson moved to ADJOURN. Commissioner Anderson seconded the motion. The motion passed with the unanimous consent of the Commission.

The Business Meeting adjourned at 7:55 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, January 17, 2024.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: _____