

COTTONWOOD HEIGHTS CITY ADMINISTRATIVE HEARING AGENDA

April 3, 2024



Notice is hereby given that the **Cottonwood Heights Hearing Officer** will convene on **Wednesday April 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-23-014

Request by Phil and Amber Tate to construct a fence taller than 6' on the east and west property line at 3468 E. Summer Hill Ln.

2.0 Consent Agenda

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

(The Administrative Hearing Officer will approve the minutes of the April 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. MDT on Tuesday, April 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, 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 ADMINISTRATIVE HEARING STAFF REPORT



April 3, 2024

Summary

Project #:

CUP-23-014

Subject Property:

3468 E. Summer Hill Ln.

Action Requested:

Conditional Use Wall Height
Extension

Owner:

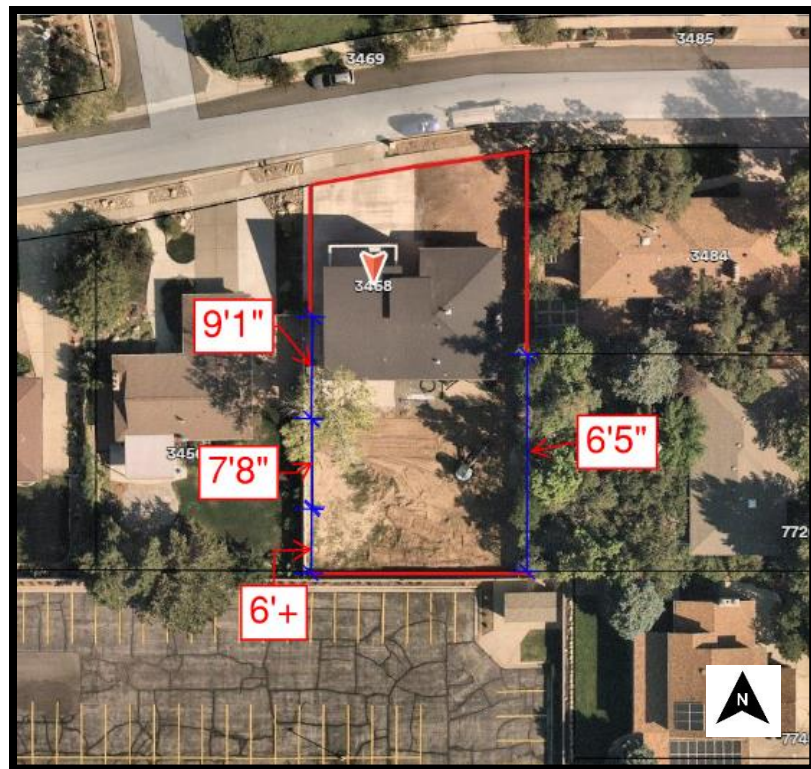
Phil and Amber Tate

Applicant:

Phil and Amber Tate

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 is proposing the construction of a fence exceeding six feet in height along the east and west property lines. On the west side, the fence and concrete wall commence south of the former garage location, following the foundation grade of the original house. The fence and concrete wall align with the natural grade, descending from north to south, with varying heights across three sections. This structure spans 31 feet 9 inches (first section fence and wall height 9 feet 1 inch), extends another 31 feet 9 inches southward (second section of the fence and wall height 7 feet 8 inches), and further continues for 34 feet (third section fence height 6 feet 2 inches) until it intersects with the block wall at the property line. The height of the fence on the east side is proposed to be 6 feet 5 inches. This fence replaces an aging wooden fence that had deteriorated, with the goal to establish a secure and private space for their family. It also prevents neighbors' pets from entering the applicant's yard, ensuring the safety of family members.



Proposed fence

- *The fence and concrete wall have been built already.*
- *The west side fence and wall heights are nine feet one inch, seven feet eight inches, and six feet two inches.*
- *The east side fence height is six feet five inches.*
- *The fence and wall will provide the applicant's yard more privacy and safety.*

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 a portion of the proposal is requesting nine feet one inch, signed consent by the adjacent neighbor is 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:

- 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*
- 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).

Analysis: signed consent has not been obtained. The applicant has indicated that they will lower the fence in all areas so as not to exceed eight feet from the existing grade at which point. Sign neighbor consent is no longer required.

Impact Analysis

Staff Analysis: The applicant plans to park a boat, RV, and other vehicles in the west side yard. The nine-foot one-inch fence and the concrete wall will effectively obstruct views between neighbors, providing increased privacy. Staff find the increased fence height proposed by this application to be reasonable to provide the applicant's yard with more privacy and safety.

Noticing

Property owners within 300 feet of the subject property have been mailed notices. Notices were mailed and posted on noticing websites and the City Hall bulletin board on March 22, 2024.

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.e)
2. The construction of such a wall and fence is the most reasonable solution for the applicant's increased privacy for both parties since the applicant will park vehicles in the west side yard.
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 detail the materials, design, and landscape plan, ensuring that the total height aligns with the plan provided by the applicant and is measured from the existing grade.
3. Either submit neighbor consent or lower fence not exceeding eight feet height from the existing grade.

Model Motions

Approval

I move to approve item CUP-23-014 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-23-014 based on the following findings..."

- List reasons for denial...

Attachments

1. Proposed layout
2. Proposed materials



