

1 **MINUTES OF THE COTTONWOOD HEIGHTS CITY**
2 **PLANNING COMMISSION WORK MEETING**

3
4 **Wednesday, February 2, 2022**

5 **5:00 p.m.**

6 **2277 East Bengal Boulevard**

7 **Council Workroom**
8

9 ***ATTENDANCE***

10
11 **Members Present:** Chair Jesse Allen, Commissioner Christine Coutts, Commissioner Craig
12 Bevan, Commissioner Jessica Chappell, Commissioner Bob Wilde,
13 Commissioner Jonathan Ebbeler, Commissioner Lucy Anderson
14

15 **Staff Present:** Community and Economic Development Director Michael Johnson,
16 Community and Economic Development Senior Planner Andrew Hulka,
17 Associate City Planner Samantha DeSeelhorst
18

19 **WORK MEETING**
20

21 Chair Jesse Allen called the Work Meeting to order at 5:06 p.m. and read a statement regarding
22 conducting the meeting from an anchor location. He noted that Commissioners Craig Bevan,
23 Jessica Chappell, and Lucy Anderson were present via Zoom. There would only be a Work
24 Meeting and no Business Meeting would be held.
25

26 **1.0 (Project ZTA-19-001) Sensitive Lands Evaluation and Development Standards**
27 **("SLEDS") Ordinance.**
28

29 Chair Allen reported that the discussion item on the Work Meeting Agenda was Project ZTA-19-
30 001 and relates to the Sensitive Lands Evaluation and Development Standards ("SLEDS")
31 Ordinance. There would be no public hearing or vote on the item during the current meeting. Staff
32 would present a progress report and receive feedback from the Commission about the proposed
33 amendments to the SLEDS Ordinance. Chair Allen noted that a public hearing would be held at a
34 future Planning Commission Meeting. The next meeting was scheduled for March 2, 2022.
35

36 Community and Economic Development Senior Planner, Andrew Hulka explained that the
37 discussion was related to the SLEDS Ordinance, which was the ordinance for any areas of the City
38 that had unusual geologic or geotechnical hazards. For instance, slopes, faults, flood zones, and
39 high groundwater. He explained that one of the major ordinance amendments related to map
40 updates. The map updates will ensure that the latest information is included. Mr. Hulka shared a
41 City map and explained that the pink highlighted area is the current Sensitive Lands District. That
42 boundary identified areas with potential hazards. He explained that some areas had been identified
43 as potential hazards but were not within the pink highlighted area on the map. Those potential
44 hazard areas were still subject to the requirements of the SLEDS Ordinance. He noted that it was
45 important to keep the map as up-to-date as possible to be aware of potential hazards when building
46 permits are submitted.

1
2 Mr. Hulka explained that the proposed Sensitive Lands District was shown on the map in blue.
3 There were some expanded areas due to annexation and other areas had been included based on
4 newer data. A lot of the areas were along Wasatch Boulevard but west of the existing boundaries
5 and in the fault study areas. There was a Surface Fault Rupture Special Study Zone where any
6 new development was required to trench, look for faults, and have reports done. Mr. Hulka stated
7 that a lot of the new areas were part of the Surface Fault Rupture Special Study Zone.
8

9 Mr. Hulka highlighted Slopes Greater Than 30% on the map and explained that because the City
10 was near the canyons, there are a lot of slopes. Commissioner Bob Wilde asked if Staff had an
11 opinion on whether properties would be grandfathered in under the SLEDS Ordinance. Mr. Hulka
12 explained that anything that was existing was grandfathered in, but the current standards would be
13 applied to new additions, new buildings, and anything that meets the definition of development
14 under the Code. There were a lot of homes in the City that were built on or near fault lines or
15 slopes. That made it difficult for someone wanting to build an addition on their home. Extensive
16 studies were required to ensure that whatever is built meets standards.
17

18 Shallow Groundwater was shown on the map. Mr. Hulka explained that the dark blue areas were
19 identified as potential shallow groundwater areas, which was fairly common along the creeks.
20 Studies were required to identify the depth of the groundwater and make sure that there would not
21 be issues related to flooding. Rockfall Potential, Liquefaction Potential, and Landslide Hazards
22 were shown on the map. Community and Economic Development Director, Michael Johnson
23 reported that an Engineer and Geologist would be present at a future Planning Commission
24 Meeting to explain some of the information further. Mr. Hulka showed the Flood Zones and
25 explained that those areas were around the creeks. The Alluvial Fan Flooding and Debris Flow
26 Hazard Zone were also shown. He explained that the latter was an issue that could occur if there
27 was a wildfire and then a storm, where all of the debris, branches, and rocks flow down into the
28 susceptible areas. There were study requirements in place to address that.
29

30 Mr. Hulka informed the Commission that there was a lot involved in the SLEDS Ordinance. It
31 was highly technical and more of those technical details would be shared at a future meeting. He
32 reiterated that all of the proposed map updates were based on the latest data. Discussions were
33 had about the data sources used to create the map. Mr. Hulka reported that the sources would be
34 clearly identified and referenced in future meeting materials. It was suggested that the SLEDS
35 Ordinance adopt the latest maps and information, as published by Utah Geological Survey
36 (“UGS”). Whenever those maps are updated, the City information would automatically be updated
37 as well. Mr. Johnson stated that it was possible to do that by reference in the ordinance.
38

39 Mr. Johnson explained that there may be properties in the Sensitive Lands District without hazards
40 and there may be properties outside of the Sensitive Lands District with hazards. As a result, there
41 was language in the SLEDS Ordinance that allowed the City Engineer to designate areas as
42 Sensitive Lands Zones. Chair Allen wondered if there was a review process for residents who
43 found their property was included in the revised map layout. Mr. Johnson explained that there was
44 language written that would allow an area to be added. However, no language would allow for
45 the removal of a property because inclusion on the map did not necessarily add any restrictions to

1 the property. If the City suspected there may be a hazard, the area needed to be studied and the
2 SLEDS Ordinance could apply. The information on the map was a visual aid.

3
4 Chair Allen believed there should be a mechanism or process in place to address possible issues.
5 The City should be prepared that some residents may not want their property included. Mr. Hulka
6 clarified that a property could be away from the Sensitive Lands Zones and still have the SLEDS
7 Ordinance apply. Alternatively, a property could be included in the Sensitive Lands Zones and
8 not have the SLEDS Ordinance apply. It was a matter of verifying the information. The current
9 code said that if the Engineer, in the course of the review, determined that there may be a hazard
10 on the property that needed to be studied, the Engineer could make a declaration about the potential
11 hazards in a written document. The property would then be analyzed. That was an administrative
12 decision, and that decision could be appealed. Associate City Planner, Samantha DeSeelhorst was
13 not sure whether UGS had a process to dispute inclusion. However, that could be explored.

14
15 Commissioner Chappell noted that there were technological advances and UGS used Lidar data.
16 The latest information in mapping currently came from UGS, but she believed the United States
17 Geological Survey (“USGS”) would match the latest information. Commissioner Coutts believed
18 the SLEDS Ordinance language should state that whatever data is most up to date would take
19 precedence. Commissioner Chappell added that she had spoken to the State Hazards Program
20 Manager, and he was willing to sit down with the City and share additional information.

21
22 Mr. Hulka overviewed information from the packet related to the technical changes that were
23 proposed in the SLEDS Ordinance. The changes were as follows:

- 24
- 25 • Removed the requirement for all plans to be stamped by a licensed Geotechnical Engineer
26 and/or Engineering Geologist. Studies and reports still must be conducted by a qualified
27 professional;
 - 28 • Updated minimum acceptable qualifications to include an accredited degree in the
29 appropriate field of study and five years of experience;
 - 30 • Simplified requirements for Land Disturbance Permits. Applications must be filed with
31 the City Engineer;
 - 32 • Foundation Excavation Reports Appendix removed. The requirement to submit a
33 Foundation Excavation Report is still included in this code, but these reports are submitted
34 to the Building Department, so the reports are reviewed for consistency with project
35 recommendations and Building Code;
 - 36 • Set review timeframe not to exceed 45 days;
 - 37 • Removed requirements for all plans to be submitted as hard copies. (Electronic submittals
38 are accepted by the City);
 - 39 • Technical updates to maps and appendices; and
 - 40 • Updated recommendation for appeal procedure related to a Sensitive Lands requirement.

41
42 Council Member Anderson referenced the first technical change proposed. She believed that for
43 any significant construction there should be someone to check that the geotechnical
44 recommendations were applied to the plans. Ms. DeSeelhorst explained that the City Engineer
45 would review the plans and noted that the City Engineer was on staff and not contracted. All
46 single-family homes would go through review by multiple departments, including the Engineering

1 Department. When the Permit Team identified a permit as being in a Sensitive Lands Zone, that
2 would be sent for additional review. Mr. Hulka reported that a lot of the time, the report was
3 prepared by a professional geologist. The report was then reviewed by the consultant and City
4 Engineer. There was often a Condition of Approval to state that an observation letter was needed
5 to show that the recommendations were incorporated.
6

7 The Commission read and discussed the amendments for 19.72.050 - Responsibility for Geologic
8 Hazard Studies, on Page 24 of the packet. Commissioner Chappell noted that there was some very
9 specific language being used. She wondered who would determine that all of the geotechnical
10 study specifications have been met when the site plan was approved. Commissioner Ebbeler
11 believed it was important to think two steps ahead in terms of construction and pointed out that
12 the language could cause some unintended legal consequences. Commissioner Coutts explained
13 that the way she read the language was that the responsibility fell to the person developing the
14 property and not to the City. Ms. DeSeelhorst clarified that the City Engineer would not stamp
15 the plans until the geotechnical requirements are met.
16

17 Discussions were had about a possible requirement to have a qualified professional be on-site
18 during construction. Mr. Johnson reported that field observation reports were required. Chair
19 Allen noted that the actual plan set did not need to be stamped by the geotechnical expert, which
20 was standard practice. Commissioner Chappell agreed that it was standard practice.
21 Commissioner Ebbeler wanted to make sure that both the homeowner and the City are protected.
22 Mr. Johnson reminded the Commission that an Engineer and Geologist would be present at a future
23 Planning Commission Meeting to answer more technical questions.
24

25 The Commission discussed the Foundation Excavation Reports Appendix removal. Mr. Johnson
26 clarified that no plans were submitted directly to the contracted Building Official without it coming
27 through City Staff first. Everything was routed through a Staff Planner. He added that the Building
28 Inspector and Building Official were contracted through Sunrise Engineering. GeoStrata acts as a
29 Geologic Hazards Consultant when needed. Submissions would be done through a Staff Planner
30 and then distributed to anyone who needs to review the submission. The language could state that
31 submissions would be handled by the Community and Economic Development Department.
32

33 Commissioner Ebbeler asked about the technical change related to the review timeframe of 45
34 days. He wondered what the consequence was if the City took longer than 45 days. Mr. Johnson
35 explained that there was State Legislation that included language about deadlines. Commissioner
36 Chappell believed the intent with the State Legislation was to allow the applicant to hire a third-
37 party review. It was important to better understand the consequences and whether an applicant
38 was able to hire a third-party building plan examiner. Mr. Johnson clarified that the State
39 Legislation could act as an example. For instance, it could provide a process if a review was taking
40 too long or if adequate information had not been submitted by the applicant.
41

42 Commissioner Ebbeler asked about 19.72.130 – Review of Geologic Hazard Reports, which
43 included the following language:
44

- 45 • Decisions of the panel will be binding and will be based on the majority decision of the
46 panel. The costs of the appeal process shall be paid by the applicant.

1
2 He wondered if Staff had considered a fixed cost. Mr. Johnson believed it should follow the City
3 appeal process and reference the Appeal Code. The current Appeal Code had a flat cost of appeal
4 and then the City paid the rate for the Appeal Officer. The cost of any third-party experts would
5 be passed onto the applicant. Mr. Johnson felt that the Appeal Officer should be the primary
6 authority. The Commissioners agreed with the suggestion to follow the City appeal process.
7

8 Mr. Hulka overviewed additional proposed changes to the SLEDS Ordinance, which included:
9

- 10 • Purpose section simplified and reduced;
- 11 • Removed exemptions for areas in previously designated Sensitive Lands Districts;
- 12 • Removed appendix summaries;
- 13 • Added roads to “development” definition;
- 14 • Updated Development Review Committee (“DRC”) definition:
 - 15 ○ No longer approved by City Council. The current policy was for directors or
 - 16 designees to act as the DRC.
- 17 • Added limited exceptions to Slope Development Standards; and
- 18 • New Riparian Protection Standards adopted.
19

20 Draft language for isolated slopes was shared, along with an aerial map that had examples of 30%
21 slopes. The draft language was as follows:
22

- 23 1. Slope areas in excess of 30% may not be developed, with the following exception:
24
 - 25 a. Areas with slopes that exceed 30 percent may be disturbed if:
26
 - 27 i. They are smaller than one-half (0.50) acre in size;
 - 28 ii. They are clearly isolated from other areas that exceed 30 percent;
 - 29 iii. They are less than 100 feet in length and width;
 - 30 iv. Their disturbance or removal will not create unstable geologic or
31 drainage conditions that result in damage to public or private
32 property.
33

34 Commissioner Coutts wondered what the current language said about natural slope areas versus
35 manmade slope areas. Mr. Johnson explained that there was not much written about that. He did
36 not believe the SLEDS Ordinance was concerned with preserving piles of fill or excess dirt that
37 had been left around. The concerns had to do with large, continuous slopes, whether they were
38 manmade or not. He noted that the language would carve out more detailed exceptions. Mr. Hulka
39 reported that some cities have exemptions for manmade slopes. Chair Allen believed the first
40 subpoint and fourth subpoint may be problematic. The language specifically related to manmade
41 slopes should be considered. Mr. Hulka informed the Commission that Staff would continue to
42 brainstorm and would bring some possible options back to the Commission for consideration.
43

44 Chair Allen asked what the preferred timing was for the next steps and public comment period.
45 Mr. Johnson explained that the SLEDS Ordinance amendments were all City-initiated, so the
46 timeframe could be whatever the Commission was comfortable with. He recommended at least

1 one more Work Session so the discussions with the technical experts could take place. The item
2 could be noticed for public comment for one of the Planning Commission Meetings in April 2022.
3 Mr. Johnson noted that a lot of feedback had been received at the current meeting, but any
4 additional questions or concerns could be shared with Staff via email. Discussions were had about
5 notices. Chair Allen believed there was enough time to include a notice in the newsletter.
6

7 Ms. DeSeelhorst shared information related to the Riparian Protection Area. The purpose of a
8 Riparian Protection Ordinance was to protect and enhance riparian areas, to promote public health,
9 safety, and welfare. The standards of any Riparian Protection Ordinance aimed to protect habitat
10 and provide a functional buffer between the riparian habitat and developed areas. It would also
11 ensure that the river continued to function as it was meant to and that the river was safe and
12 beneficial to the community. There were also aesthetic and recreational values associated with
13 riparian protection. The benefits of a Riparian Protection Area were overviewed:
14

- 15 • Improves bank stability;
 - 16 • Improves natural river function;
 - 17 • Reduces flood damage risk;
 - 18 • Protects native riparian species;
 - 19 • Enhances water quality;
 - 20 • Increases habitat and migration routes; and
 - 21 • Improves aesthetics.
- 22

23 The riparian section was missing from the SLEDS Ordinance currently. The ordinance language
24 included had a section that stated, “see Appendix 1 for riparian standards”. In that appendix, it
25 stated, “see Chapter 17.73”. Ms. DeSeelhorst reported that Chapter 17.73 does not exist. The
26 standards were referenced but were not there. As a result, Staff had begun to do some research
27 about what potential standards could look like. Several resources were used to create a working
28 draft. Two years ago, the City partnered with the 2019 University of Utah Student Capstone
29 Project. Additionally, existing Riparian Ordinances from neighboring communities had been
30 examined as well as Best Management Practices from various agencies.
31

32 Ms. DeSeelhorst explained that the main concept in the ordinance was a buffer system. It had to
33 do with the creation of three buffer areas, with each buffer area regulating a use differently. For
34 example, there was Area A, which was closest to the annual high-water line, Area B, which moved
35 further away, and Area C, which was furthest away. The idea was that use was regulated and
36 treated differently within the different areas. She shared a draft Table of Uses with the
37 Commission. The Table of Uses will govern how various uses were regulated in the different
38 buffer areas. There would be allowed uses, analysis required uses, not applicable uses, and uses
39 that were not allowed at all. Ms. DeSeelhorst shared some example uses as follows:
40

- 41 • Maintenance of any use or structure that was lawfully established prior to ordinance
42 adoption;
- 43 • Replacement or expansion of existing buildings;
- 44 • Construction of new buildings;
- 45 • Maintenance of existing lawn and garden areas;

- Herbicide, pesticide, and fertilizer application in accordance with Best Management Practices; and
- Tree removal and replacement.

Ms. DeSeelhorst shared an example table to illustrate how the Table of Uses would function. She also reported that there was a partnership with the GIS Department to do some analysis about the impact the Riparian Protection Ordinance might have. Through GIS, there was some capability to analyze how the buffer zones might impact development options in the City. The Table of Uses needed to be able to balance private property rights and development options with waterway protection. That was something that the City would continue to focus on. Some of the possible next steps were shared with the Commission, which included the following:

- Meet with Salt Lake County Flood Control, Salt Lake City Public Utilities, and other relevant agencies to discuss how our proposed standards may interface with existing processes required by those entities;
- Continued GIS analysis to determine the local impact of buffer zones on the development options of properties:
 - Consideration of existing building setback standards;
 - Consideration of existing setback standards from other agencies;
 - Consideration of how many existing structures fall within proposed buffer zones.
- Continued research to determine which uses were relevant and should be included in a Table of Uses; and
- Continued research to determine the proper process for uses requiring analysis.

Commissioner Ebbeler wondered if the approvals and analysis would be done through the Public Works Director or the DRC. Ms. DeSeelhorst believed it would start with the Public Works Director and then there would be a full review by the DRC. Commissioner Ebbeler asked if there would be a normal appeals process, which Ms. DeSeelhorst confirmed. Commissioner Coutts noted that the presentation included references to the annual high-water mark, ordinary high-water mark, and the level of the waterway. She wondered where the measurement started from. Ms. DeSeelhorst reported that it triggered from the annual high-water line, but there could be further clarifications in the language. Commissioner Wilde asked how the ordinance would interact with the statutes and regulations that were handled by the State Engineer's Office. Mr. Johnson stated that Staff could look into that issue as the discussions move forward.

Chair Allen asked that there be further clarification and information about who determined the annual high-water line and who the authority would be. Ms. DeSeelhorst stated that Staff could clarify that in the future. She added that the draft language provided a process for residents to either be added into the Riparian Protection Area or to dispute the inclusion. She felt it would be beneficial for all of the hazard language to be consistent. If that type of language was not included elsewhere, it may be best to remove it from the Riparian Protection Area language as well. Chair Allen thanked Staff for their presentations and explained that the SLEDS Ordinance discussions could continue at the Planning Commission Work Session in March 2022.

1 **1.1 Additional Discussion Items.**

2
3 There were no additional discussions.

4
5 **1.2 Adjournment.**

6
7 *Commissioner Ebbeler moved to adjourn. Commissioner Wilde seconded the motion. The*
8 *motion passed with the unanimous consent of the Commission.*

9
10 The Work Meeting adjourned at 6:28 p.m.

1 *I hereby certify that the foregoing represents a true, accurate, and complete record of the*
2 *Cottonwood Heights City Planning Commission Meeting held Wednesday, February 2, 2022.*
3
4

5 Teri Forbes

6 Teri Forbes

7 T Forbes Group

8 Minutes Secretary

9
10 Minutes Approved: March 2, 2022