

MINUTES OF THE COTTONWOOD HEIGHTS CITY PLANNING COMMISSION WORK MEETING

Wednesday, May 4, 2022

5:00 p.m.

2277 East Bengal Boulevard

Council Workroom

ATTENDANCE

Members Present: Chair Jesse Allen, Commissioner Dan Mills, Commissioner Lucy Anderson, Commissioner Jessica Chappell, Commissioner Bob Wilde, Commissioner Craig Bevan, Commissioner Chris Coutts, Commissioner Jonathan Ebbeler

Staff Present: Community and Economic Development Director Michael Johnson, Senior City Planner Andrew Hulka, Assistant City Planner and Sustainability Analyst Samantha DeSeelhorst, Deputy City Recorder Heather Sundquist, City Attorney Shane Topham

WORK MEETING

Chair Jesse Allen called the Work Meeting to order at 5:00 p.m.

1.0 Review Business Meeting Agenda.

The Business Meeting Agenda was reviewed.

1.1 Additional Discussion Items.

Assistant City Planner/Sustainability Analyst Samantha DeSeelhorst presented the Ordinance update relating to the Riparian Protection Area component of the Sensitive Lands Evaluation and Development Standards (“SLEDS”) Ordinance (Section 19.72 of the Zoning Ordinance.) She reported that there had been no changes to the draft standards, and the update will provide clarification to comments previously received. The main concept for the Ordinance was to implement the standard practice of utilizing buffer areas in regulating the use of property adjacent to a waterway. In this system, adjacent property is divided into various buffer areas with each being regulated differently based on location. Remodels and additions are allowed if they meet the Riparian Protection Area standards. A table detailing how structures will be treated in the different buffer areas was displayed.

Senior City Planner, Andy Hulka continued the discussion regarding the SLEDS Ordinance and stated that this is the first time this item will be open for public comment. Public notice was provided to every property owner in the City. The effort began with a desire to update the Hazard Maps with coverage of geotechnical and geologic hazards with the intent to clarify or have more

1 strict criteria to ensure that they are up to the current best practices. Updates will include the
2 riparian corridor, watershed protection, and steep slope portions of the Ordinance.

3
4 Mr. Hulka addressed the steep slope section of the Ordinance, which currently states that no
5 development is permitted on slopes greater than 30%. In the Definitions, development is defined
6 as a primary structure, home, or new commercial building and did not include items such as roads,
7 accessory buildings, and retaining walls. He clarified that the new language states as follows:

8
9 ‘They are clearly isolated from other areas that exceed 30%’ was changed to state
10 that ‘The slope is not part of a larger, contiguous slope that exceeds 30%. ‘This
11 exception shall not apply to natural slope areas in excess of 30% connected to the
12 Wasatch Mountain Range’ was changed to ‘This exception shall not apply to
13 natural slope areas in excess of 30% east of Wasatch Boulevard.’
14

15 Avalanche hazards were next discussed. Mr. Hulka explained that there are potentially several
16 properties where avalanche protection should be considered. The latest draft ordinance lists snow
17 avalanches as one of the hazards that the Development Review Committee (“DRC”) can require
18 additional studies, but no longer includes the Avalanche appendix.
19

20 Vegetation and re-vegetation plans are required in sensitive land areas for projects that require the
21 re-vegetation of a trail, open space, or hillside. A requirement was added to this section requiring
22 vegetation plans to be stamped by a Licensed Landscape Architect.
23

24 Mr. Hulka reported that the maximum grade requirements were removed from the Streets and
25 Ways section of the Ordinance. To maintain consistency with the street design requirements
26 contained in Title 14 of the City Code (Highways, Sidewalks, and Public Places), the maximum
27 grade section was removed. The maximum grade of streets in sensitive land areas shall be the
28 same as all other streets in the City (8%).
29

30 Mr. Hulka next reviewed Land Disturbance Permit and stated that most of this section was initially
31 removed to simplify the process for receiving a Land Disturbance Permit. After close review by
32 the Public Works Department, the requirements were left in the Ordinance with the clarification
33 that they apply to sites larger than one acre. Mr. Hulka noted that sites smaller than one acre may
34 be included if they are a phase or part of a larger development project and exceed one acre.
35

36 The Geologic Hazard Report was next reviewed. Mr. Hulka reported that the City Attorney is
37 concerned that setting a hard deadline of 45 days for review could be an issue. This draft includes
38 language that the City will “endeavor to complete each review in a reasonable time frame within
39 45 days.” Acceptable slope percentages were reviewed, and a more thoughtful approach was
40 suggested. Ms. DeSeelhorst recognized the concern to have the report provide more clarity and
41 yet be practical enough to apply to different circumstances.
42

43 Staff anticipates additional changes to be made after a full review by the City’s Geotechnical and
44 Geologic Hazard Consultant and once public comments are received. The deletion of verbiage
45 was reviewed. Mr. Hulka confirmed that applications are to be submitted to the front desk who in

1 turn will deliver them to the proper authority. Commissioner Mills requested additional clarity to
2 the application process and reference to “the City.” Defining the final authority was recommended.
3

4 Commissioner Anderson raised concern with Section 19.72.04 detailing applicability regarding
5 Detached Accessory Buildings that are not designed for home occupancy. They are not required
6 to comply with provisions of this chapter. Commissioner Chappell believed it references the
7 Building Code and design requirements. Ms. DeSeelhorst confirmed that Staff will continue to
8 discuss the proper way to proceed.
9

10 Community and Development Director, Michael Johnson, provided an update on the Ivory Homes
11 Doverhill Chapel site. A detailed map was displayed identifying fault traces from the initial report.
12 Mr. Johnson stated that Ivory Homes has identified small fault lines that they believe could be
13 mitigated by engineering. He noted that it is contradictory to the City Ordinance. He confirmed
14 that Ivory Homes will be required to have a 20-foot minimum setback.
15

16 **2.0 Adjournment.**

17

18 *Commissioner Ebbeler moved to adjourn. Commissioner Anderson seconded the motion. The*
19 *motion passed with the unanimous consent of the Commission.*
20

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

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

3
4 **Wednesday, May 4, 2022**
5 **6:00 p.m.**
6 **2277 East Bengal Boulevard**
7 **Council Chambers**
8

9 ***ATTENDANCE***

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

15 **Staff Present:** Community and Economic Development Director Michael Johnson, Senior
16 City Planner Andrew Hulka, Assistant City Planner and Sustainability
17 Analyst Samantha DeSeelhorst, Deputy City Recorder Heather Sundquist,
18 City Attorney Shane Topham
19

20 **BUSINESS MEETING**

21
22 **1.0 Welcome and Acknowledgments.**

23
24 Chair Jesse Allen called the Business Meeting to order at 6:00 p.m. and welcomed those present.
25

26 **1.1 Ex Parte Communications or Conflicts of Interest to Disclose.**

27
28 There were no conflicts of interest disclosed.
29

30 **2.0 General Public Comment.**

31
32 There were no public comments. The public comment period was closed.
33

34 **3.0 Business Items.**

35
36 **3.1 (Project ZTA-19-001) A Public Hearing to Receive Comments on a Proposed**
37 **Ordinance Update Relating to the Sensitive Lands Evaluation and**
38 **Development Standards (“SLEDS”) Ordinance (Section 19.72 of the Zoning**
39 **Ordinance.)**
40

41 Assistant City Planner/Sustainability Analyst, Samantha DeSeelhorst presented the Staff Report
42 and stated that the matter will be discussed in two parts to address both the riparian content and
43 the remaining portion of the chapter. The Riparian Protection Guidelines are referenced in the
44 existing Sensitive Lands Ordinance but the chapter pertaining to the guidelines is missing. The
45 discrepancy is being addressed as part of the broader Sensitive Lands Evaluation and Development
46 Standards (“SLEDS”) update. The Planning Commission reviewed several drafts and the

standards and language remain the same, however, the desire was to provide additional clarification.

Ms. DeSeelhorst reported that most riparian ordinances work off the concept of a property adjacent to a waterway being buffered into one of three areas. Staff proposed Areas A, B, and C working from the waterway edge. Each would be regulated differently to be sensitive to the ecosystem and habitat adjacent to those waterways. A map analysis of the waterways was displayed.

The maintenance or remodeling of existing homes was next discussed. Ms. DeSeelhorst stated that if the structure does not meet the riparian protection area setbacks, interior remodels will still be permitted. The proposed addition will be allowed if it meets the setback standards but will be rejected if it encroaches on the waterway area. The most intense development includes the construction of a new structure. It will be allowed if that structure meets the standards for the protection area and setbacks. A table outlining how the Ordinance could work in practice was described. Staff will continue to coordinate valuable local, state, and federal partners. They will also follow up on feedback received from the Commission suggesting that Staff reach out to the Federal Emergency Management Agency ("FEMA"), the Army Corps of Engineers, and the U.S. Forest Service.

Senior City Planner, Andy Hulka reported that the Sensitive Lands Ordinance governs new development in areas with geotechnical or geologic hazards. This began with a desire to update the Hazard Maps with the intent to clarify or have more strict criteria to ensure that they meet the current best practices. Technical updates were implemented along with feedback from the Utah Geological Survey, which resulted in a rewrite of the entire chapter.

Commissioner Chappell stated that discussion during the Work Session included ongoing refinement of the setback at surface faulting.

Chair Allen opened the public hearing.

Ellen Birrell acknowledged the Planning Commission and City Staff for their efforts and stated that she views the SLEDS Ordinance as a very important safety measure for the City. She wished to reinforce revisions to the Ordinance, preserve the Design Review Committee ("DRC"), and proceed with caution since the purposes and goals specify a focus on safety. Language should include protecting the public from natural hazards and wildlife habitat. She was concerned with new language that includes a clause that protects the City's infrastructure and financial health. She believed the focus of the Ordinance should be on safety and not make it more financially viable for developers.

Steve McIntosh commented that after reading the Ordinance correctly, Staff and the DRC make recommendations on applications, however, the Planning Commission's role is to approve or deny. He believed the Planning Commission should be responsible for making the final decision and keep applicants at an arm's length and provide transparency for citizens. He expressed concern with large retaining walls along Creek Road and recommended design standards to address safety issues. He expressed concern with slope stabilization and previously failed areas with inadequate compaction. His understanding was that those areas are subject to liquefaction. He suggested the

1 developer work with utility companies to provide an appropriate location for enhanced safety.
2 Setbacks of 25 feet were recommended.

3
4 *Diane Forster-Burke* did not understand the emphasis on the role of the DRC from the previous
5 SLEDS to the new iteration. She believed that including the DRC and its expertise of providing
6 counsel to the Planning Commission was important. She suggested that the focus remain on safety
7 and expressed concern with the setback from a seismic fault. She suggested that steps be taken to
8 ensure as much safety as possible.

9
10 *Alan Fletcher* was concerned about extending the Riparian Zone along the creek and the
11 development area along the Old Mill subdivision remaining single-family. If something other than
12 single-family is approved, he suggested that additional setbacks be required to provide additional
13 room with the stream. With regard to high-density housing, he recognized there are more
14 appropriate areas. He appreciated the community forum that was held previously and believed the
15 property where Ream's Food Store was formerly located would be an appropriate location for high
16 density. He was opposed to it being at the proposed Old Mill location.

17
18 *Woody Noxon* commented that SLEDS is a special ordinance and is not about dimensions,
19 setbacks, units, and quantity. The ordinance maximizes public safety for residents and
20 demonstrates that Cottonwood Heights has conducted its due diligence in the evaluation of public
21 safety to avoid liability regarding future events. He believed it should be used as a baseline to
22 compare recommended changes. He read a portion of the Ordinance and believed that the SLEDS
23 Ordinance has not been followed in the Doverhill Drive area as fault issues are currently being
24 addressed to allow for mitigation. He prepared a graphic presentation for the SLEDS Ordinance
25 procedure that includes detailing activities and decisions required to complete proper compliance
26 with the SLEDS Ordinance. He suggested that a list of questions be presented when considering
27 each change.

28
29 *Will McCarvill* gave his address as 3607 Golden Hills Avenue and stated that the current Ordinance
30 is designed to protect lives when development occurs in areas with dangerous structures such as
31 earthquake faults. He believed the proposed revision strips away oversights and approvals
32 intended to protect lives and property where development on dangerous lands occurs. Checks and
33 balances will be removed to potentially favor development on sensitive lands over lives. It was
34 his opinion that development will be treated like any other development in the City and no longer
35 be special. He emphasized the need to strengthen the ordinance and recommended the
36 Commission reject the Economic Development Department's proposed revision and focus on
37 protecting the citizens.

38
39 *Audrey Pines* believed it was important for the Planning Commission to retain oversight of the
40 SLEDS Ordinance. She questioned how the evaluation of each home will be conducted for
41 sensitive slope areas. She asked for clarification regarding Doverhill Drive residents being
42 required to hire Landscapers.

43
44 *Jennifer Cottom* recommended that the SLEDS Ordinance be strengthened and address ground
45 shaking.

1 *Dave Clark* reported that he serves as President of the Old Mill Estates HOA. He reported that
2 16 of the lots in his subdivision align with either Big Cottonwood Creek or the Spencer's Pond
3 area. He believed that the Riparian Zone and SLEDs Ordinance have been strengthened to
4 enforce development in the area. He supported restrictions or control of the Riparian Zone.

5
6 Mr. Johnson recommended the public hearing remain open as additional comments may be
7 received.

8
9 ***Commissioner Wilde moved to continue the discussion and leave the public hearing open.***
10 ***Commissioner Bevan seconded the motion. The motion passed with the unanimous consent of***
11 ***the Commission.***

12
13 Commissioner Bevan appreciated Staff's efforts to address the concerns raised. He suggested that
14 as the Planning Commission continues to review the SLEDs Ordinance that those changes be
15 considered. He emphasized the need to include professional, credentialed input.

16
17 Commissioner Wilde reminded his fellow Commissioners of the requirement that anything being
18 considered be submitted 24 hours in advance.

19
20 Chair Allen stated that a common theme made during the public hearing was based on oversight
21 and authority. He believed it would be helpful at the next Work Session for Staff to prepare a table
22 or summary of the current process compared to the proposed changes. He wanted to have a clear
23 understanding of the role and limitations of both the DRC, Planning Commission and other
24 authorities.

25
26 Commissioner Chappel encouraged the residents to review the most recent version which includes
27 input from the State's Geologic Hazard experts, the update to the soil preparation standards, and
28 the modernization of language. She believed there are numerous improvements including the
29 latest mapping and faulting.

30
31 Commissioner Mills appreciated the comments made that included insight and clarity from such a
32 broad range of experience. He stressed the importance of the process as Staff considers how to
33 move forward. He was hopeful that lessons learned since the City's incorporation would be
34 considered. As they are balancing economic progress within the City with protection, he
35 recommended they move forward with an upgrade rather than simply make changes.

36
37 **4.0 Consent Agenda.**

38
39 **4.1 Approval of Planning Commission Minutes.**

40
41 **4.1.1 April 6, 2022, Planning Commission Minutes.**

42
43 ***Commissioner Coutts moved to continue approval of the April 6, 2022, Planning Commission***
44 ***Meeting minutes. Commissioner Mills seconded the motion. The motion passed with the***
45 ***unanimous consent of the Commission.***

1
2 **5.0 Adjournment.**

3
4 *Commissioner Wilde moved to adjourn. Commissioner Anderson seconded the motion. The*
5 *motion passed with the unanimous consent of the Commission.*
6

7 The Planning Commission Meeting adjourned at 6:58 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, May 4, 2022.*
3

4 Teri Forbes

5 Teri Forbes

6 T Forbes Group

7 Minutes Secretary

8
9 Minutes Approved: June 1, 2022
10