

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

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

9 ***ATTENDANCE***

10
11 **Members Present:** Vice-Chair Dan Mills, Commissioner Chris Coutts, Commissioner Bob
12 Wilde, Commissioner Craig Bevan, Commissioner Jonathan Ebbeler
13

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

19 **Others:** Tim Thompson, Geostrata Engineering
20

21 **WORK MEETING**
22

23 In the absence of Chair Jesse Allen, Vice-Chair Dan Mills assumed the Chair and called the
24 Work Meeting to order at 5:00 p.m.
25

26 Chair Mills stated project ZTA-19-00 Sensitive Lands Evaluation and Development Standards
27 (“SLEDS”) Ordinance will be discussed. It was confirmed a full quorum is present although this
28 item is not up for a decision.
29

30 **1.0 Review Business Meeting Agenda.**
31

32 The Business Meeting Agenda was reviewed and discussed.
33

34 **1.1 Additional Discussion Items.**
35

36 Chair Mills introduced Project ADU-22-002, a public hearing to receive comments on a request
37 from Brian Allen for a Conditional Use Permit for a Detached Accessory Dwelling Unit
38 (“ADU”) located at 2217 East Cottonwood Cove Lane in the Rural Residential (RR-1-43) Zone.
39

40 Senior City Planner, Andy Hulka, reported that Project ADU-22-002 is the first Accessory
41 Dwelling Unit (“ADU”) application for review by the Planning Commission. ADUs became
42 legal in Cottonwood Heights with the passage of Ordinance Number 368, an ordinance enacting
43 and codifying Chapter 19.75 (“Accessory Dwelling Units”) of the Cottonwood Heights Code of
44 Ordinances. The ordinance was approved by the City Council in September 2021 in compliance
45 with House Bill 82 (HB 82 – Single-family Housing Modifications) during the 2021 General
46 Session of the Utah State Legislature. It required municipalities to allow internal ADUs in

1 single-family residential zones. The City Council decided to also allow detached ADUs as a
2 conditional use when adopting the City's ADU ordinance. Before the adoption of
3 Ordinance 368, ADUs were prohibited in Cottonwood Heights. However, guesthouses have been
4 allowed if compliant with the bulk and massing requirements for accessory buildings and with
5 the condition that rental of the guesthouse was prohibited (19.76.030.A). He confirmed that a
6 permit to expand the existing guesthouse on the subject property was approved by the City in
7 2019.

8
9 A map of the subject property was displayed. Mr. Hulka defined an ADU as a permanent
10 residential dwelling unit intended for one additional family located in a separate dwelling unit on
11 the same lot as a single-family dwelling unit. The difference between an ADU and a guesthouse
12 is that the rental, lease, or use of a guesthouse as a permanent residence for a second family on
13 the premises is prohibited. The conversion of a guesthouse to an ADU would allow for rental of
14 30 days or longer. Detached ADUs shall be subject to the following additional development
15 standards:

- 16
17 • Any detached ADU shall be a permanent structure. Trailers, mobile homes, and other
18 portable structures shall not be permitted as detached ADUs. The City's Building
19 Official shall determine whether a structure is permanent.
- 20 • Any detached ADU shall be subject to all primary structure setback standards for the
21 zone in which it is located.
- 22 • Any detached ADU shall meet all accessory building standards for height, lot coverage,
23 rear yard coverage, size, and any other applicable standards for the zone in which it is
24 located.
- 25 • Any detached ADU on a flag lot shall meet primary structure flag lot setback standards
26 for the zone in which it is located.
- 27 • Conversion of existing accessory buildings to detached ADUs is only permitted if the
28 structure meets or is modified to meet all current City standards and all applicable
29 provisions of this chapter.

30
31 Mr. Hulka stated that a more in-depth presentation would be provided during the Business
32 Meeting.

33 34 **1.2 (Project ZTA-19-001) Sensitive Lands Evaluation and Development** 35 **Standards ("SLEDS") Ordinance.** 36

37 Assistant City Planner/Sustainability Analyst, Samantha DeSeelhorst, presented Project ZTA-19-
38 001 Sensitive Lands Evaluation and Development Standards ("SLEDS") Ordinance. The
39 riparian standards were reviewed. She stated that within the existing SLEDS Ordinance, riparian
40 protection guidelines are referenced but the chapter that is supposed to contain them does not
41 exist. Most guidelines implement a buffered area system dividing areas adjacent to a waterway
42 into three segments. She noted that buffering measurements are consistent with live ordinances
43 being more restricted. The matter was reviewed by the Planning Commission in February 2022
44 at which time feedback was provided. It was requested that requirements from other agencies,
45 measurement protocols, Staff review processes, and all system mapping analyses be further
46 reviewed. Changes within the current draft were detailed. Ms. DeSeelhorst reported that they

1 intend to coordinate with the Federal Emergency Management Agency (“FEMA”) to require a
2 similar feedback process as it can impact the flood plain.

3
4 Ms. DeSeelhorst stated that measurement protocols were updated and require measurements be
5 considered from the top of the bank. The clarification also included that Staff review process
6 should flow through the large area Development Review Committee (“DRC”) to provide more
7 flexibility and language allowing for third-party experts if needed. Staff coordinated with the
8 GIS department to prepare an estimate of structures impacted by the buffer areas. Geologic
9 hazard areas were reviewed. Ms. DeSeelhorst confirmed that she will provide clarity regarding
10 the threshold for requiring the standards. It was anticipated that public comment will be received
11 during a May 2022 meeting. The Commission was favorable to understanding primary versus
12 secondary structures.

13
14 Tim Thompson from GeoStrata Engineering reported that he is a Professional Geologist and has
15 been consulting with the City since its incorporation. He was involved with the original SLEDS
16 Ordinance and has been assisting with the current update.

17
18 Mr. Hulka reported that the current draft includes multiple changes and addressed the
19 Commission’s concern with the 45-day requirement, steep slopes, preparation of a newsletter
20 article, and an extended Work Session. A redline draft was included in the Staff Report
21 highlighting the substantive changes. The appendix now references major sections of the Utah
22 Geological Survey (“UGS”) guidelines including mapping information, fault studies, slope
23 stability, landslides, debris flow, and rockfall studies. They pulled from conservative standards
24 with the requirement that a Geologist or Engineer provide stamped certification to verify that
25 safety standards and hazards have been addressed. They also are required to provide liability
26 insurance of up to \$2 million.

27
28 Mr. Thompson stated that while the UGS makes great recommendations, they do not practice in
29 the field and their ideas may be ahead of the curve of the actual practice. He explained that
30 providing a warranty, guarantee, or certification would void his insurance coverage. It is illegal
31 in the State of Utah to provide a warranty as a licensed professional. The stamp of certification
32 is provided to establish that everything has been completed to ensure compliance. He noted that
33 the requirement to provide a certain level of insurance has not been determined in the State and
34 limited liability may be based on each project that remains negotiable. It was his opinion that the
35 unintended consequence of liability costs is that many top consultants often turn away smaller
36 projects. The remaining consultants charge an exorbitant amount for the same work due to a
37 lack of competition. It is their standard of practice to negotiate the amount of liability to be
38 covered for a particular project. The negotiation process was reviewed.

39
40 Ms. DeSeelhorst stated that Staff has noted that this topic will require continued discussion and
41 refinement.

42
43 Chair Mills stated that the public comment period will be forthcoming. He believed that
44 determining who is responsible for both private and commercial is extremely critical in terms of
45 the City’s liability.

1 Slope issues were next reviewed. Mr. Hulka stated that the new ordinance specifies that no
2 development, including structures and retaining walls, is permitted on slope areas above 30%.
3 Exceptions were described. They intended to allow smaller slopes around local locations that
4 may impact adjacent properties. Concerns were addressed while still allowing limited
5 disturbances on properties of one acre or less. He confirmed that there is an appeal process that
6 applies to any language in the chapter.

7
8 Mr. Thompson noted that as a consultant, he does not practice in Cottonwood Heights. He
9 expressed concern with trying to rectify two distinct portions of the ordinance that allow cuts and
10 fills of up to 2:1 or 50% slopes. He stated that a natural slope of 30% cannot be touched.
11 Bridging the issues to create a more cohesive ordinance was desired. It was his opinion that
12 most communities strive to protect their viewsheds. This is done by restricting how high they
13 are allowed to go on a hillside by limiting the slope. He believed that they are more of a
14 viewshed issue and should be addressed separately under another City Code. Modification of
15 slopes was discussed. He encouraged discernment between slope stability issues and suggested
16 that the quality of community issues be dealt with separately.

17
18 The avalanche appendix was next discussed. Mr. Hulka stated that the model ordinance was
19 referenced that detailed elevations of 5,000 feet with adequate snow supply to produce
20 avalanches, which include slopes greater than 47%. An elevation map was displayed.

21
22 Mr. Hulka referenced structural fill and stated that compaction criteria are required beneath
23 structures with required percentages. He was notified that several changes were incorrect and
24 offered reassurance that updated language will be provided to ensure accuracy in the final
25 version.

26
27 Changes to the ordinance's Architectural Design will include the removal of the Planning
28 Commission's role to ensure consistency with current architectural review standards. Mr. Hulka
29 explained that in addition to the City's normal design guidelines, additional sensitive area
30 requirements will be included and clarified.

31
32 The appeals process was next discussed. The original Code provided standards with the last
33 draft being revised to specify that instead of relying solely on the Appeals Hearing Officer, the
34 City will assemble a panel of experts to hear appeals on technical disputes regarding sensitive
35 lands issues. Mr. Hulka confirmed that the two have been merged and clarified that the City's
36 Appeals Hearing Officer is the appeal authority for disputes, however, the City may assemble a
37 panel to assist with technical disputes. Details regarding the appeals process were discussed. It
38 was confirmed that if a decision becomes complicated and includes complex technical geologic
39 requirements, the City may assemble an Appeals Board.

40
41 Mr. Hulka reported that the revised language specifies that the review shall not exceed 45 days.
42 The intent of putting a number to the review eliminates an argument over the previous language
43 that stated that the City will act diligently in its review. Time frame options were discussed.
44

1 **2.0 Adjournment.**

2
3 *Commissioner Bevan moved to adjourn. Commissioner Ebbeler seconded the motion. The*
4 *motion passed with the unanimous consent of the Commission.*

5
6 The Work Meeting adjourned at 6:30 p.m.

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

3
4 **Wednesday, April 6, 2022**
5 **6:00 p.m.**
6 **2277 East Bengal Boulevard**
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9 ***ATTENDANCE***

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11 **Members Present:** Vice-Chair Dan Mills, Commissioner Chris Coutts, Commissioner Bob
12 Wilde, Commissioner Craig Bevan, Commissioner Jonathan Ebbeler
13

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

19 **Others:** Tim Thompson, Geostrata Engineering
20

21 **BUSINESS MEETING**

22
23 **1.0 Welcome and Acknowledgments.**

24
25 In the absence of Chair Jesse Allen, Vice-Chair Dan Mills assumed the Chair and called the
26 Business Meeting to order at 6:38 p.m. and welcomed those present.
27

28 **1.1 Ex Parte Communications or Conflicts of Interest to Disclose.**

29
30 There were no conflicts of interest disclosed.
31

32 **2.0 General Public Comment.**

33
34 There were no public comments.
35

36 **3.0 Business Items.**

37
38 **3.1 (Project ADU-22-002) A Public Hearing to Receive Comments on a Request**
39 **from Brian Allen for a Conditional Use Permit for a Detached Accessory**
40 **Dwelling Unit (“ADU”) at 2217 East Cottonwood Cove Lane in the Rural**
41 **Residential (RR-1-43) Zone.**
42

43 Chair Mills reported that the above item includes a public hearing to receive comments on a
44 request from Brian Allen for a Conditional Use Permit for a detached Accessory Dwelling Unit
45 (“ADU”) at 2217 East Cottonwood Cove Lane in the Rural Residential (RR-1-43) Zone.
46

1 Senior City Planner, Andy Hulka, presented the Staff Report and stated that the proposed one-
2 acre property is located at 2217 East Cottonwood Cove Lane. A zoning map of the property was
3 displayed. The RR-1-43 zone is a one-acre minimum lot size residential zone surrounded in part
4 by residential zones. He defined an ADU as a permanent residential dwelling unit meant for one
5 additional family located in a separate dwelling unit on the same lot as a single-family dwelling
6 unit, either within the same building as the single-family dwelling unit or in a detached accessory
7 building. Mobile homes or other portable structures do not qualify as an ADU. Additionally, an
8 ADU may not be located within a mobile home or other portable structure. ADUs became legal
9 in Cottonwood Heights with the passage of Ordinance Number 368, an ordinance enacting and
10 codifying Chapter 19.75 (“Accessory Dwelling Units”) of the Cottonwood Heights Code of
11 Ordinances. It was approved by the City Council in September 2021.

12
13 Mr. Hulka reported that the ordinance was adopted in compliance with House Bill 82 (HB 82 –
14 Single-Family Housing Modifications) during the 2021 General Session of the Utah State
15 Legislature, which required municipalities to allow internal ADUs in single-family residential
16 zones. The City Council decided to also allow detached ADUs as a conditional use when
17 adopting the City’s ADU ordinance. Prior to adoption of Ordinance 368, ADUs were prohibited
18 in Cottonwood Heights. However, guesthouses have been allowed if they comply with the bulk
19 and massing requirements for accessory buildings and with the condition that rental of the
20 guesthouse is prohibited (19.76.030.A). A permit to expand the existing guesthouse on the
21 subject property was approved by the City in 2019.

22
23 Mr. Hulka explained that the renting or leasing of the guesthouse is prohibited as are separate
24 utility meters. All other bulk and massing requirements must be met. The existing building on
25 the proposed lot was reviewed in 2019 according to the standards allowing the issuance of the
26 Building Permit. A visual depiction of the proposed site plan was displayed. Mr. Hulka
27 explained that the parking requirement for detached ADUs is two additional spaces that do not
28 block the required parking for the primary dwelling. Required setbacks are to be a minimum of
29 10 feet and must include a buffer zone. Staff recommended approval with conditions set forth in
30 the Staff Report.

31
32 The applicant, Brian Allen, referenced parking along the driveway and confirmed that there is
33 enough room to provide three cars with adequate egress into the rear of the property. There is
34 also a garage with space for three more vehicles.

35
36 Screening and buffering issues were discussed. City Attorney, Shane Topham, stated that it is a
37 precedent-setting process and emphasized the importance of ensuring that parking and buffering
38 are addressed.

39
40 Chair Mills opened the public hearing.

41
42 Mr. Hulka read into the record a comment received from *Tony Escobar*, a member of the
43 Homeowners Association (“HOA”). Mr. Escobar was concerned that the proposed application
44 will set a precedent and allow other similar units within the development. The application is
45 concerning since an ADU allows rental units on the property and sets a precedent for the other
46 properties within the HOA. He asked if the lack of advance notice was due to the applicant’s

1 position as a City Lobbyist. He encouraged the HOA Members to attend the hearing to voice
2 their opinions.

3
4 *Kennedy Nate* indicated that he lives directly west of the subject property and did not necessarily
5 see any issues or concerns with the ADU. He stressed the need to clarify that there is not a
6 formal HOA. Mr. Allen is not the President because there is none and only heads up the
7 informal group. He did not consider what is proposed to be an issue and understood that the
8 applicable Code only allows for a single unit as part of the ADU process. He expressed support
9 for the request and did not foresee any issues with the existing vegetation and buffering.

10
11 There were no additional public comments. The public hearing was closed.

12
13 Commissioner Bevan remarked that extensive consideration and time were spent contemplating
14 ADU issues. He was surprised when the State stepped in and allowed for an applicable
15 ordinance or implementation of requirements established by the State. He considered the
16 proposed application to be a prime example of the intent of the ADU Ordinance and stated that
17 someone should be living in the structure. He expressed support for the request.

18
19 Commissioner Ebbeler agreed with Commissioner Bevan's comments and believed the request
20 complies with the current Code. He expressed his support.

21
22 It was the consensus of the Commission that the existing fencing and landscaping buffer are
23 sufficient to mitigate the impact of the parking areas.

24
25 ***Commissioner Coutts moved to recommend APPROVAL of Project ADU-22-002 a public***
26 ***hearing to receive comments on a request from Brian Allen for a Conditional Use Permit for a***
27 ***detached Accessory Dwelling Unit ("ADU") at 2217 East Cottonwood Cove Lane in the Rural***
28 ***Residential (RR-1-43) zone subject to the following:***

29
30 ***Conditions:***

- 31
32 1. ***The property's record owner must occupy either the primary dwelling unit or***
33 ***the approved ADU as such owner's permanent residence and at no time receive***
34 ***rent for the owner-occupied unit.***
35
36 2. ***The ADU shall not be used for short-term rentals.***
37
38 3. ***A final building inspection must be approved by the city's building department.***
39

40 ***Findings:***

- 41
42 1. ***The proposed use described in the report is allowed as a conditional use in the***
43 ***RR-1-43 (Rural Residential) zone.***
44

2. *The proposed use will be required to continually meet the applicable provisions of Chapter 19.75, "Accessory Dwelling Units," of the Cottonwood Heights zoning ordinance.*
3. *The proposed use will be required to continually meet the applicable provisions of Chapter 19.84, "Conditional Uses," of the Cottonwood Heights zoning ordinance.*
4. *A public hearing was held in accordance with local and state requirements.*
5. *Proper notice of the public hearing was given.*
6. *Landscaping and fencing have been provided to mitigate the impact of parking areas and ADU entrances from adjoining property owners.*
7. *The proposed use will not be detrimental to the health, safety, comfort, order, or general welfare of persons residing or working in the vicinity.*
8. *The proposed use will comply with the intent, spirit, and regulations of the city zoning ordinance and general plan.*
9. *Nuisances related to traffic, parking, lighting, and noise will be abated by the conditions imposed.*
10. *The applicant will be required to comply with all imposed conditions.*
11. *The protection of property values, the environment, and the tax base for the City will be assured.*

Commissioner Wilde seconded the motion.

Commissioner Ebbeler moved to amend the motion to add the front parking space to the rear west side of the unit. Commissioner Coutts accepted the friendly amendment.

Vote on motion: Commissioner Ebbeler-Aye, Commissioner Bevan-Aye, Commissioner Wilde-Aye, Commissioner Coutts-Aye, and Chair Mills-Aye. The motion passed unanimously

4.0 Consent Agenda.

4.1 Approval of Planning Commission Minutes.

4.1.1 March 2, 2022, Planning Commission Minutes.

Commissioner Ebbeler moved to APPROVE the Planning Commission Minutes of March 2, 2022. Commissioner Wilde seconded the motion. Vote on motion: Commissioner Ebbeler-

1 *Aye, Commissioner Bevan-Aye, Commissioner Wilde-Aye, Commissioner Coutts-Abstained,*
2 *and Chair Mills-Aye. The motion passed unanimously with one abstention.*
3

4 **5.0 Adjournment.**
5

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

9 The Planning Commission Meeting adjourned at 7:09 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, April 6, 2022.*
3

4 Teri Forbes

5 Teri Forbes

6 T Forbes Group

7 Minutes Secretary

8
9 Minutes Approved: July 6, 2022