

**MINUTES OF THE COTTONWOOD HEIGHTS CITY  
PLANNING COMMISSION MEETING**

**Wednesday, April 15, 2015**

**6:00 p.m.**

**Cottonwood Heights City Council Room  
1265 East Fort Union Boulevard, Suite 300  
Cottonwood Heights, Utah**

***ATTENDANCE***

**Members Present:** Chair Gordon Walker, Commissioner Perry Bolyard, Commissioner Paxton Guymon, Commissioner James Jones, Commissioner Jeremy Lapin, Commissioner Dennis Peters

**Excused:** Alternate Joseph Demma

**Staff Present:** Community and Economic Development Director Brian Berndt, Senior Planner Glen Goins, City Attorney Shane Topham, Associate Planner Mike Johnson

**Others Present:** Nancy Hardy, Woody Noxon, Bill Currin, Stacey Colcart, Nick Mason

**BUSINESS MEETING**

**1.0 WELCOME/ACKNOWLEDGEMENTS**

Chair Walker called the meeting to order at 6:05 p.m. and welcomed those attending. He reported that Commissioner Janet Janke submitted her resignation, effective immediately.

**2.0 CITIZEN COMMENTS**

Nancy Hardy feels that any important items happening in the City that will affect the residents should be discussed with residents and recommends the City encourage discussion. She asked if public comments made during meetings count as written comments, she believes they should.

Chair Walker commented on Open Meeting Law and stated that it is a state procedure that is required and under which the Planning Commission operates and all comments made are part of the public record and are available for public review. All comments received by the city are presented to the Commission and taken into account. Chair Walker acknowledged receipt of a written letter from Ms. Hardy.

Woody Noxon, a resident of Racquet Club Circle, commented on the city-initiated proposed text amendment to Chapter 19 introducing a Planned Development District (PDD). He feels that the overall concept is excellent and likes the idea of taking a major step toward defining Fort Union as a business area. He commented that it also affects the gravel pit. He stated that CHVoters will be conducting a meeting with a group of citizens to gather and draft comments, suggestions, and ideas to be submitted to the Commission regarding the PDD. They ask that the Commission delay a decision on the PDD for one meeting to allow for receipt of comments from the citizens.

Bill Currin identified himself as the co-owner of Unit C-3 at the Canyon Racquet Club Condominiums. He stated that he attended the April 1, 2015 Planning Commission meeting where approval of a 17-lot

subdivision was discussed. Ultimately, a vote to approve failed. Mr. Currin stated that he asked at that meeting for additional research to be conducted on the height variances that have been allowed for the clustered housing. He indicated that the citizens still have concerns and the Canyon Racquet Club is significantly disenfranchised by the height and proximity of the proposed project. Issues such as noise, height, and privacy were identified. Mr. Currin referenced a quote from Roberts Rules explaining that a main motion is not in order if it conflicts with a motion that was previously adopted by the assembly and it is still in force, however the assembly can decide to rescind the action or amend something previously adopted. He believes that the motion before the Commission tonight can be amended as opposed to just a straight motion and can be delayed so further consideration of the height can be considered.

Chair Walker asked if the reference made by Mr. Currin from Roberts Rules does allow the Planning Commission to rescind or amend a previously approved action involving the Commission's granting of a conditional use permit in January.

City Attorney, Shane Topham, believes the remedy was perhaps a motion for reconsideration at the next meeting. The appeal period, however, for the action expired several months ago and the right for the conditional use permit had since been vested. He explained that property rights become vested when the appeal period passes.

Stacy Cocart identified herself as an owner at the Canyon Racquet Club Condominiums and is under the impression that there may be room for error in Mr. Topham's opinion and asked if time could be allowed to research his opinion.

Mr. Topham stated that his opinion is all that he can give as the Commission's attorney.

Chair Walker stated that there is no room for error.

There were no further public comments. The public comment period was closed.

### **3.0 PUBLIC HEARINGS**

#### **3.1 (Project #GPA - 15-001) Public Comment on a Request from Michael Nieman for a General Plan and Zone Map Amendment to the Properties Located at 7765 and 7749 South Forest Creek Lane**

Chair Walker reported that a request was received to continue the above matter. As a result, the public hearing was not conducted.

*(18:21:10) Motion: Commissioner Guymon moved to continue agenda item 3.1, public comment on a request from Michael Nieman for a General Plan and Zone Map Amendment to the June 3, 2015, meeting. The motion was seconded by Commissioner Jones. Vote on motion: James Jones-Aye, Dennis Peters-Aye, Perry Bolyard-Aye, Paxton Guymon-Aye, Jeremy Lapin-Aye, Chair Gordon Walker-Aye. The motion passed unanimously.*

### **4.0 ACTION ITEMS**

#### **4.1 (Project #SUB-15-002) Action on a Request from Nick Mason, David Weekley Homes, for Preliminary Plat Approval of a 17-Lot Subdivision Located at 7350 South Wasatch Boulevard**

(18:22:05) Nick Mason was present on behalf of David Weekley Homes and apologized for not being present at the last meeting.

Commissioner Lapin commented that he did not vote in favor of the conditional use permit but has not heard any evidence that the application does not comply with all of the requirements.

In response to a question raised by Commissioner Guymon, Associate City Planner, Mike Johnson, stated that on January 7, 2015, as part of the Canyon Center Phase II development, the site plan for the project was approved along with landscaping, setbacks, structure heights, and site details. The code requires any subdivision containing 10 lots or more be approved by the Planning Commission. The conditional use permit pertains to the height, the modified setbacks, the landscaping plan, the site details, and parking. The action tonight involves the preliminary plat approval.

*(18:25:23) Motion: Commissioner Lapin moved to approve Project #SUB 15-002, action on a request from Nick Mason, David Weekley Homes, for preliminary plat approval of a 17-lot subdivision located at 7350 South Wasatch Boulevard. The motion was seconded by Commissioner Peters. Vote on motion: James Jones-Nay, Dennis Peters-Aye, Perry Bolyard-Aye, Paxton Guymon-Aye, Jeremy Lapin-Aye, Chair Gordon Walker-Aye. The motion passed 5-to-1.*

#### **4.2 (Project #ZTA 15-001) Action on a City-Initiated Proposed Text Amendment to Chapter 19 of the Cottonwood Heights Municipal City Code Introducing a New Zoning Classification, Planned Development Districts (PDD)**

(18:26:35) Chair Walker stated that several comments were received concerning this matter and multiple meetings were held where public comment was taken. Opportunities were also provided for written comments to be submitted. He acknowledged that a great deal of concern has been expressed. Chair Walker stated that consideration is given to all of the concerns and comments made both verbally and in writing.

Community and Economic Development Director, Brian Berndt, clarified that the Planning Commission would be making a recommendation to the City Council who will make the final decision. He reported that three written comments were received. Some simply involved suggestions for a more sensitive and sustainable project. Those recommendations were incorporated into the text. The modifications include guidelines for building height and structure location on the site.

Commissioner Lapin thanked Mr. Berndt for his work on the proposed PDD and feels that much of it was a direct result of the public comment received.

*(18:31:18) Motion: Commissioner Peters moved to recommend approval of agenda item 4.2, a City-initiated proposed text amendment to Chapter 19 of the Cottonwood Heights Municipal Code introducing a new zoning classification, Planned Development District (PDD), and forward it on to the City Council with a positive recommendation using the latest version dated April 15, 2015. The motion was seconded by Commissioner Jones.*

The importance of public comment was discussed. Chair Walker commented that this procedure will impact the City for many years. He appreciates the fact that so many from the public expressed their opinions.

Mr. Berndt stated that an Open House regarding the PDD will be scheduled during the month of May.

*Vote on motion: James Jones-Aye, Dennis Peters-Aye, Perry Bolyard-Aye, Paxton Guymon-Aye, Jeremy Lapin-Aye, Chair Gordon Walker-Aye. The motion passed unanimously.*

**4.3 (Project #CUP 14-001 Action on a Request from Michael Wright, Predico Properties, for a Six-Month Extension of CUP 14-001, Conditional Use and Site Plan Approval to Construct and Operate Two Professional Office Buildings on the Property Located at 7900 South Highland Drive**

(18:37:05) Mr. Berndt stated that he did not asked the applicant to be present at tonight's meeting.

Commissioner Lapin suggested there be a Code amendment to delegate this sort of administrative action to staff.

Commissioner Jones stated that he prefers the applicant be present any time a request is made of the Commission.

Mr. Berndt stated that he takes full responsibility for the applicant not being in attendance and urged the Commission to not base their decision on the applicant's absence.

Commissioner Peters commented that seeing no citizens present on the matter he sees no reason to table it.

*(18:40:29) Motion: Commissioner Guymon moved to grant the request for an extension to CUP 14-001 submitted by Michael Wright of Predico Properties for a conditional use and site plan approval. The motion was seconded by Commissioner Peters. Vote on motion: James Jones-Aye, Dennis Peters-Aye, Perry Bolyard-Aye, Paxton Guymon-Aye, Jeremy Lapin-Aye, Chair Gordon Walker-Aye. The motion passed unanimously.*

Chair Walker commended Mr. Berndt for being recognized with an award as the Best in State City Planner. Mr. Berndt was acknowledged for his effort and hard work.

**4.4 Approval of April 1, 2015 Minutes**

*(18:42:30) Motion: Commissioner Jones moved to approve the minutes, as written, of the April 1, 2015, meeting. Commissioner Bolyard seconded the motion. The motion passed unanimously on a voice vote with one abstention. Paxton Guymon abstained because he was not present at the April 1 meeting.*

**5.0 ADJOURNMENT**

*(18:42:57) Motion: Commissioner Lapin moved to adjourn. The motion was seconded by Commission Bolyard. The motion passed unanimously on a voice vote.*

The Planning Commission meeting adjourned at 6:43 p.m.

Minutes approved: 05/06/2015