

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

3
4 **Wednesday, May 3, 2023**
5 **5:00 p.m.**
6 **2277 East Bengal Boulevard**
7 **City Council Work Room**
8

9 ***ATTENDANCE***

10
11 **Members Present:** Chair Dan Mills, Commissioner Lucy Anderson, Commissioner Jessica
12 Chappell, Commissioner Jonathan Ebbeler, Commissioner Mike Shelton,
13 Commissioner Sean Steinman, Commissioner Mike Smith
14

15 **Staff Present:** Community and Economic Development Director Michael Johnson, Senior
16 City Planner Samantha DeSeelhorst, Deputy City Recorder Maria
17 Devereux, System Administrator Alex Earl
18

19 **WORK SESSION**

20
21 Chair Mills called the Work Meeting to order at 5:01 p.m.
22

23 **1.0 Review Business Session Agenda.**

24
25 The Planning Commission Business Session agenda was reviewed. Community and Economic
26 Development Director, Michael Johnson reported that the main item on the Business Session
27 Agenda was Project SUB-23-001, which was a public hearing and possible recommendation on a
28 Subdivision Exception at 3457 East Magic View Drive. Mr. Johnson referenced the Staff Report
29 and explained that a 1.27-acre property was requesting two exceptions to Title 14, which related
30 to the private street front setback requirements and the private street lot sizes. Staff recommended
31 approval. The details of that recommendation would be outlined further during the Business
32 Session. Mr. Johnson reported that the entire area is zoned R-1-8 (Residential Single-Family).
33 Typically, when there is development in R-1-8, only single-family homes are permitted and every
34 lot needs to be 8,000 square feet, in addition to meeting other standards. Mr. Johnson identified
35 the Sensitive Lands Overlay Zone on a map of the area. The north and west portions of the property
36 have fairly steep hillsides, so there were some sensitive lands on the property.
37

38 Mr. Johnson read from 14.12.150 (Exceptions) which stated that:
39

40 'In cases where unusual topographic, aesthetic, or other exceptional conditions or
41 circumstances exist, variations or exceptions to the requirements of this chapter
42 may be approved by the City Council after receiving recommendations from the
43 City's Planning Commission and Department provided that the variation or
44 exceptions are not detrimental to the public safety or welfare.'
45

1 The Planning Commission needed to consider whether the unusual conditions exist and if
2 providing the exception would be a detriment to public safety or welfare. He explained that the
3 Planning Commission would ultimately make a recommendation to the City Council. The
4 exceptions were:

- 5
- 6 • Exception 1: Any lot (regardless of zoning designation) that fronts on a private roadway
7 must be at least one-half acre in size.
- 8 • Exception 2: Any building which fronts on a private roadway must have a front setback
9 of at least 50 feet from the center of the private street

10

11 The requested exceptions came out of the same Code provision in Title 14, which stated:

12

13 ‘Any building lot that is located outside a Planned Unit Development, which fronts
14 on a private roadway with at least 25 feet of paved surface, shall have a minimum
15 lot area of one-half acre. The minimum distance from the center of such roadway
16 to the front building line on such a lot shall be 50 feet.’

17

18 Mr. Johnson explained that this was only triggered when development occurs outside of an
19 established Planned Unit Development on a private roadway. He noted that approval of any
20 exceptions did not grant any building entitlement or approve a subdivision of property. The reason
21 the applicant requested the exceptions had to do with the unusual topographic conditions that
22 existed on the site. A lot of the property was a steep hillside. Mr. Johnson reported that the
23 subdivision of lots requires renaming the private roadway for addressing, which would be better
24 for public safety. Additionally, the shape and layout of the lot made it difficult to comply with
25 Title 14 standards, even though there is adequate acreage. It was also noted that other homes in
26 the area do not comply with the 50-foot setback requirement.

27

28 The Staff analysis was shared with the Planning Commission. It noted that the lot is irregularly
29 shaped and located at the end of a legal non-conforming private driveway. The current subdivision
30 does not meet the current ordinances but was created in the 1970s. It was all done legally at the
31 time. As a result, it is a legal non-conforming situation. Six lots use the same private driveway.
32 The driveway shares the same name as the parallel public street to the south and no addresses
33 remained in numerical order for the proposed new lot, which was a consideration.

34

35 If the exceptions are granted, the applicant proposed a two-lot subdivision. Mr. Johnson explained
36 that there was a proposal to rebuild the existing home in roughly the same location. That would
37 be subject to City review. The southeast portion of the site would be used for a second lot on the
38 property where a single-family residential structure was proposed. Additional information about
39 addressing was shared. Mr. Johnson reported that all of the Magic View Drive addresses are
40 derived from Magic View Drive to the south. They generally fit in numerical sequence moving
41 west to east. Any time a subdivision is developed, the City looks at addressing any of the new lots
42 that would be created. The addresses need to fit a sequence for Public Safety and Emergency
43 services. There was no numerical address to assign to the proposed Lot 2. As a result, the private
44 driveway would need to be renamed. It would be easier for emergency dispatch if there were not
45 two roads with the same name. Mr. Johnson explained that the City maintains Magic View Drive

1 to the south but the Magic View Drive being discussed as part of the exception application is a
2 private driveway that is not maintained by the City.

3
4 For the subdivision to be approved, there would either need to be a turnaround for emergency
5 vehicles or the homes would need to be fire sprinkled. Mr. Johnson reported that the applicant is
6 requesting a 25-foot setback from the private roadway instead of the 50-foot setback in the Title 14
7 requirement. He noted that the private roadway and the lot lines are fairly unique because the road
8 does not continue past the lot. It is not a conventional private roadway. As a result, it is difficult
9 to measure setbacks. Commissioner Anderson wondered if the measurement would be done from
10 the cul-de-sac area. Mr. Johnson explained that there is essentially a double front setback along
11 the north and west sides. An R-1-8 front setback is 25 feet, which would be required. The Code
12 provision of 50 feet from the middle of the private road was difficult and there was some confusion
13 regarding how to implement that given the design.

14
15 With Lot 2 to the southeast, it was requested that there be an exception made for the lot size. There
16 was a provision stating that lots along a private road need to be one-half acre in size. Mr. Johnson
17 did not have good evidence for why that Code provision existed even though Staff had looked into
18 the matter. The private road setback exception had also been requested. He reiterated that the
19 property lines were irregular due to the shape of the lot but the proposal would meet the minimum
20 R-1-8 setbacks. Commissioner Anderson wondered if the second lot backs the public Magic View
21 Drive. Mr. Johnson clarified that it backs against a home there. He also pointed out that the
22 hillside issues apply to Lot 1 rather than Lot 2. A sensitive lands analysis would need to be done
23 before anything is approved. The Commission further reviewed the example images shared and
24 discussed the requirements for a private road.

25
26 Mr. Johnson read the Staff findings included in the Staff Report. He explained that there was
27 enough reasonable evidence to conclude that there was an unusual topographic aesthetic or
28 exceptional condition. Neither requested exception would result in a violation of standard R-1-8
29 zoning requirements. He clarified that any future subdivision application would still be subject to
30 full review and compliance with other aspects of City Code. The other findings were reviewed.
31 There was discussion regarding what would happen if an Accessory Dwelling Unit (“ADU”) was
32 constructed instead. Mr. Johnson explained that an ADU could not be built in the front yard. He
33 noted that Staff was recommending approval of the exceptions. Model motions were included in
34 the Staff Report. The recommendation would be forwarded to the City Council.

35
36 **2.0 Form-Based Code Introduction.**

37
38 Mr. Johnson reported that Cottonwood Heights received a grant a few years earlier for a General
39 Plan update. Part of the grant included Form-Based Code Development. The Form-Based Code
40 would help implement some of the recommendations of the General Plan. Mark Morris identified
41 himself as the Founding Partner of VODA Landscape + Planning. He was present to share
42 information about Form-Based Code updates in Cottonwood Heights. This would be the first
43 conversation on the matter and would look at what Form-Based Code is, why cities are interested
44 in it, and other places it has been implemented. Mr. Morris explained that this is an additional
45 piece of the General Plan Update that has taken place in the City. The intention of the Form-Based
46 Code was to implement some of the City’s visions and goals and to see better results. Every city

1 along the Wasatch Front is experiencing growth pressures and the Form-Based Code gives cities
2 additional tools to implement the vision those cities have for growth.

3
4 Mr. Morris shared a slideshow presentation that answered several questions including the
5 following:

- 6
7 • What is Form-Based Code?
 - 8 ○ A Form-Based Code (“FBC”) is a way to regulate land development. It replaces
 - 9 traditional land use zoning regulations with a code that is organized around specific
 - 10 physical forms. Defining the characteristics of the form for public spaces,
 - 11 buildings, and landscaping provides predictable development results. FBCs are
 - 12 designed to create physical forms that support neighborhood goals to become a
 - 13 thriving and attractive center. This requires physical forms that increase
 - 14 walkability and connectivity, bring more customers to local businesses, attract more
 - 15 businesses, increase housing options, and create useful public spaces. This means
 - 16 that many of the current physical forms in the neighborhood will change over time.
 - 17 These incremental changes will take years to realize and are part of the modern shift
 - 18 in land development patterns. The FBC does not prescribe when these changes will
 - 19 occur, rather it guides future changes so they will collectively contribute to the
 - 20 desired overall form of the neighborhood.
- 21 • Why should the City’s current zoning be updated?
 - 22 ○ Traditional land use zoning regulations often result in detached and unpredictable
 - 23 development patterns. An FBC that addresses the specific goals of a neighborhood
 - 24 and coordinates future changes can provide the type of center that benefits local
 - 25 residents, property and business owners, and the City.

26
27 Mr. Morris explained that for the most part, Form-Based Code focuses on the physical form of a
28 development. It is far less regulatory in terms of use. Most City zoning codes are focused on the
29 use control, but Form-Based Code is focused on the physical design of the development. For
30 instance, the setback of buildings, the heights of buildings, and the articulation of the architecture
31 rather than the use that is taking place inside the building. Mr. Morris referenced the purchase of
32 Hillside Plaza and how that could be a prototype project for the Form-Based Code. As cities
33 become more comfortable with Form-Based Code, it would be possible to expand and grow that
34 Code and apply it to additional areas of the City. He clarified that Form-Based Code is not one-
35 size-fits-all. It is important to consider the context of the area in question.

36
37 An image was shared that compared conventional zoning and Form-Based Code development.
38 Mr. Morris reported that the conventional zoning approach has been used by the majority of cities
39 across the country for the last 80 years with mixed results. Sometimes, developments came along
40 that did not accomplish what the City had envisioned and there was not a lot that could be done
41 about that. With Form-Based Code, there can be conversation about how that particular
42 development would introduce improved public space and architectural elements. Although there
43 was less consideration of use, he noted that there was still some consideration of use. Form-Based
44 Code has to do with where those uses are appropriate in a development. There was more flexibility
45 given to property owners as far as what is in demand in the current market.

1 Mr. Morris explained that the intention was to codify community goals. It is important to
2 implement more of the goals and visions included in the General Plan. He noted that there were
3 both public and private aspects to consider when it comes to Form-Based Code:
4

- 5 • Public Aspects:
 - 6 ○ The public aspects of development under FBC regulations typically encompass all
7 publicly owned land and structures. FBCs require a public street network that
8 connects all public and private land. Public aspects also include street profiles,
9 streetscapes, open spaces, and pedestrian, bicycle, and parking facilities. The
10 objective is to provide these public improvements in a manner that meets the needs
11 of existing and future developments.
- 12 • Private Aspects:
 - 13 ○ The private aspects of development under an FBC typically encompass the
14 construction and use of buildings and structures on private property. An FBC
15 usually requires certain physical configurations for buildings, parking facilities,
16 landscaping, and signage. The objective is to regulate only what is necessary for a
17 town center, which provides increased flexibility for developers. These aspects
18 represent each individual project's contribution to a City's goals.
19

20 The presentation slides differentiated between form and style. Form of development had to do
21 with things like setbacks, heights, roof styles, and the form of the development. There is flexibility
22 in terms of the architectural style, but where the building was located, where the parking was
23 located, and the heights of the buildings were clearly stated. As for style, that had to do with what
24 the building looked like. Mr. Morris explained that Form-Based Code defines multiple building
25 types. The degree of stylistic freedom could vary between those building types. There was
26 discussion regarding density per acre and whether that was part of Form-Based Code. Mr. Morris
27 clarified that density per acre was not part of the conversation. It more had to do with the height
28 of the building and the configuration of that building on the site. For example, if buildings in a
29 certain area could not be larger than 10,000 square feet, that would limit what could be built.
30

31 Mr. Morris reported that several cities in Utah use Form-Based Code. Salt Lake City was one of
32 the first to adopt the Form-Based Code, which was approximately 15 years ago. In that case, Salt
33 Lake City began with one specific part of the city and added other areas over time. Chair Mills
34 asked where it started in Salt Lake City. Mr. Morris believed it began in the 400 South Corridor,
35 where the train goes to the university. Other areas were added later. He noted that South Salt
36 Lake City used Form-Based Code along the streetcar corridor. Additionally, he stated that
37 Farmington adopted a Form-Based Code in certain portions of the City in 2008 and Midvale
38 developed a Form-Based Code for its historic Main Street approximately two years ago. The
39 Planning Commission discussed other cities in Utah that have adopted Form-Based Code.
40

41 Mr. Morris explained that most Form-Based Codes are focused on opportunities for redevelopment
42 and commercial areas. It does not normally touch single-family neighborhoods or neighborhoods
43 that are stable and unlikely to experience a lot of change. He shared information about non-
44 conformity. Whenever there is a change in zoning, some existing buildings need to be
45 grandfathered in. However, there had been work with City Staff over the last few months to

1 discuss certain triggers. For instance, if the building was being expanded or the building was being
2 changed significantly, it might need to come into conformity with the Form-Based Code.

3
4 Three nodes had been targeted along Fort Union Boulevard for Form-Based Code, where there
5 were opportunities for redevelopment. Form-Based Code could potentially expand into other parts
6 of the City over time. Mr. Morris reported that there are smaller development opportunities on
7 Bengal Boulevard and larger opportunities with the Gravel Pit. He explained that those areas could
8 be added in the future when there is more comfort with Form-Based Code.

9
10 Information about the Form-Based Code process was shared. Mr. Morris explained that Form-
11 Based Codes are developed with the cooperation of City leaders and Planning Staff, the local
12 development and business community, and planning consultants. The public would be invited to
13 participate via public meetings, surveys, social media, blogs, interviews, and mailers. The Form-
14 Based Code is based on the goals presented in the General Plan and would be informed by both
15 local and national Form-Based Code standards and examples. With a Form-Based Code, often a
16 city will set up an Architectural Review Committee (“ARC”). However, there was already one in
17 Cottonwood Heights. Essentially, the ARC was the first to review any exceptions.

18
19 As for the structure of a Form-Based Code, the establishment of a Place Type was essential. Some
20 examples of Place Types were the Metropolitan Center, Urban Center, Town Center, Station
21 Community, Urban Neighborhood, Transit Neighborhood, Boulevard Community, Main Street,
22 and Special Use/Campus. Mr. Morris explained that Form-Based Code could apply to a lot of
23 different types of development. The Place Type was established early on in the process.

24
25 There was discussion regarding overlay zones and how they would interact with the adoption of
26 Form-Based Code. The Commissioners wanted to understand if the Form-Based Code or the
27 overlay zone would take precedence. Mr. Morris explained that there had been discussions with
28 Staff to understand the current overlays in the City. It was possible to take the intent of the overlay
29 and replace it with Form-Based Code. Usually with Form-Based Code, the hope was that there
30 would be a clearer and simpler process rather than a lot of overlays. Those discussions with Staff
31 were ongoing. Mr. Morris reiterated that Form-Based Code could address the existing overlays.

32
33 It was noted that the Boulevard Community was an area of interest. The Boulevard Community
34 Place Type was intended for use along fairly intensive corridors of activity within the region. The
35 Place Type allowed for fairly intensive buildings with a wide mixture of uses and was typically
36 served by one or more modes of transit along the corridor. However, directly behind the corridor,
37 the area often transitioned down fairly quickly to existing urban-scale single-family homes.
38 Mr. Morris pointed out that the Boulevard Community was a major corridor that connected a large
39 part of the community. It was not just a neighborhood draw but also a regional draw, as a lot of
40 people came into Fort Union from all over the valley. He noted that the intention was to implement
41 a lot of the vision and requirements from the Fort Union Master Plan that was adopted in 2016.
42 Whenever the corridor was discussed, the plan needed to be considered.

43
44 The slideshow included information about Union Park Center, Fort Union Boulevard, Town
45 Center, and Residential Transition. All of those areas had different contexts, so the requirements
46 might be a little bit different. Mr. Morris further reviewed the areas that were being considered.

1 As an example, Union Park Center was a place where there was already a lot of mixed-use
2 development and retail. There was an opportunity for redevelopment there over the next few
3 decades.

4
5 Mr. Morris explained that once the Place Type had been defined, the Form District needed to be
6 considered. The Form District was the closest parallel to what someone might think of as a zone.
7 The Form District drove a lot of the requirements around the Form-Based Code. It was noted that
8 there would still be use tables but those would be much simpler. For example, the use tables were
9 either permitted, not permitted, or upper story only. Mr. Morris identified various Form Districts
10 that were being considered in Cottonwood Heights. He also reviewed the Residential Transition
11 area. Example images were shared with the Planning Commission for additional context.

12
13 The Existing Zoning and Form-Based Code Comparison Table was shared. Mr. Morris explained
14 that it compared the existing zoning with the future Form-Based Code. The intention was to
15 replace the Mixed-Use Zone in certain areas with Form-Based Code. The table showed what the
16 Mixed-Use Zone required, what the Gateway District Overlay required, and what could be
17 addressed in the Form-Based Code. Mr. Morris informed those present that there would be
18 additional discussions about Form-Based Code in the future but he could answer some
19 Commissioner questions now.

20
21 There were questions about the implementation process. Mr. Morris noted that most cities that
22 move to Form-Based Code have a transition period where development could either occur under
23 the zone requirements or within the Form-Based Code. There was sometimes an incentive during
24 that transition period to utilize the Form-Based Code. Having a transition period was always a
25 good idea. Senior City Planner, Samantha DeSeelhorst explained that there had been Staff
26 discussions about that. For instance, it was suggested that there be proactive conversations with
27 property owners in the Union Park Center to receive feedback about the best approach.

28
29 The Commissioners asked about the feedback received on Form-Based Code implementation.
30 Mr. Morris noted that he had a conversation recently with the Planning Director in Clearfield.
31 There had been a Form-Based Code there for approximately four years on Main Street. Based on
32 that discussion, it would be best to focus on the process. It seemed that streamlining the application
33 process was something the City could do to make Form-Based Code easier to implement. It was
34 noted that Form-Based Code benefits developers as the process is streamlined and there is
35 predictability, however, there were concerns about how constituents would view the process.
36 Mr. Morris explained that the intent of the Form-Based Code was to provide additional clarity and
37 predictability.

38
39 There was discussion regarding the public process and allowing residents to share comments and
40 concerns. Ms. DeSeelhorst clarified that public feedback would still be a component of the special
41 exceptions. It was important to design the Code to function well and to achieve the goals that the
42 Land Use Authority wanted. The Land Use Authority review should ideally be encapsulated in
43 the Code itself so that code-compliant applications met the Planning Commission's vision.
44 Ms. DeSeelhorst pointed out that there might be an opportunity to publish Development Activity
45 Reports. That would allow the information to be publicly available so there was still transparency.

1 There was further discussion regarding the difference between the current zoning and Form-Based
2 Code. Ms. DeSeelhorst explained that the idea was to fine-tune the Form-Based Code so there
3 was comfort with what the Code would produce. There would be less variability with the
4 outcomes. She stressed the importance of talking through different scenarios. Some
5 Commissioners expressed concerns about moving away from public engagement processes.
6 Commissioner Shelton did not think the intention of the Form-Based Code was that different but
7 he believed the public would view the change as significant. The public wanted to have the
8 opportunity to speak out and share comments. It was noted that conditions had been placed on
9 projects specifically as the result of public feedback. Chair Mills believed it would be possible to
10 have Form-Based Code that makes the administrative process smoother but still allow for public
11 feedback. He thought this was an important first discussion but a lot more consideration was
12 needed.

13
14 Ms. DeSeelhorst pointed out that this was an introductory conversation. She hoped that the Form-
15 Based Code would ultimately function in a way that benefits everyone involved and allow the
16 Planning Commission to focus on larger projects within the City. There was discussion regarding
17 the different nodes that have been highlighted for potential Form-Based Code. Ms. DeSeelhorst
18 reminded the Commissioners that there would be opportunities to apply it elsewhere as time goes
19 on but it made sense to start with a reasonable scope so implementation was manageable.

20
21 **3.0 Additional Discussion Items.**

22 There was no additional discussion.

23
24
25 **4.0 Adjournment.**

26
27 *Commissioner Shelton moved to ADJOURN. Commissioner Anderson seconded the motion.*
28 *The motion passed with the unanimous consent of the Commission.*

29
30 The Work Meeting adjourned at 6:00 p.m.

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

3
4 **Wednesday, April 19, 2023**
5 **6:00 p.m.**
6 **2277 East Bengal Boulevard**
7 **City Council Chambers**
8

9 **ATTENDANCE**

10
11 **Members Present:** Chair Dan Mills, Commissioner Lucy Anderson, Commissioner Jessica
12 Chappell, Commissioner Jonathan Ebbeler, Commissioner Mike Shelton,
13 Commissioner Sean Steinman, Commissioner Mike Smith
14

15 **Staff Present:** Community and Economic Development Director Michael Johnson, Senior
16 City Planner Samantha DeSeelhorst, Deputy City Recorder Maria
17 Devereux, System Administrator Alex Earl
18

19 **BUSINESS SESSION**

20
21 **1.0 Welcome and Acknowledgments.**

22
23 **1.1 ExParte Communications or Conflicts of Interest to Disclose.**

24
25 Chair Mills called the Cottonwood Heights Planning Commission Meeting to order at
26 approximately 6:00 p.m. He noted that a member of the Youth City Council was present. There
27 were no communications or disclosures shared by any of the Commissioners.
28

29 **2.0 General Public Comment.**

30
31 There were no public comments.
32

33 **3.0 Business Items.**

34
35 **3.1 Project SUB-23-001 –A Public Hearing and Possible Recommendation on a**
36 **Subdivision Exception at 3457 East Magic View Drive. The Proposal Seeks**
37 **Exceptions to the Lot Size and Setback Requirements for Lots Adjacent to**
38 **Private Streets.**
39

40 Community and Economic Development Director, Michael Johnson presented the Staff Report
41 and stated that the application was a request for exceptions at 3457 East Magic View Drive. The
42 applicant was Mike Spainhower and Title 14 exceptions were proposed. The property is 1.27 acres
43 in size and there is currently one single-family parcel at the end of a private driveway. The private
44 driveway is called Magic View Drive, which has the same name as the public street to the south.
45 The applicant was requesting exceptions from two provisions in Title 14, both of which relate to

1 lot standards on private streets. One had to do with the front setback requirements on private
2 streets and the other had to do with the minimum lot size required on private streets.

3
4 The current zone was R-1-8 (Residential Single-Family), which generally meant that a single-
5 family residential use was appropriate. In that zone, any lot that is developed needs to be at least
6 8,000 square feet in size. Mr. Johnson shared information about City Code Title 14 (Highways,
7 Sidewalks, and Public Places). The exceptions provision, 14.12.150, stated that:

- 8
9
- In cases where unusual topographic, aesthetic, or other exceptional conditions or
10 circumstances exist, variations or exceptions to the requirements of this chapter may be
11 approved by the City Council after receiving recommendations from the City’s Planning
12 Commission and Department provided that the variation or exceptions are not detrimental
13 to the public safety or welfare.
- 14

15 The Planning Commission needed to determine whether there were unusual circumstances that
16 exist on the property and if approval of the exceptions will be detrimental to public safety or
17 welfare. The Commission would review the request, take public comment, and make a
18 recommendation of approval or denial that would be forwarded to the City Council. Mr. Johnson
19 informed those present that the provision that the requested exceptions came from the state:

- 20
21
- Any building lot that is located outside a Planned Unit Development, which fronts on a
22 private roadway with at least 25 feet of paved surface, shall have a minimum lot area of
23 one-half acre. The minimum distance from the center of such roadway to the front building
24 line on such a lot shall be 50 feet.
- 25

26 It was noted that approval of the exceptions would not approve a subdivision of lots. That was a
27 separate process that the applicant would need to do, and it would involve Grading Plans, Slope
28 Analysis, Sensitive Lands Studies, and so on. Additionally, the approval of the exceptions would
29 not approve any Building Permits or building any structures. The applicant's rationale was shared:

- 30
31
- The applicant believes there are unusual topographical or exceptional conditions that exist.
 - The applicant believes that approval of the variation will not be detrimental to public safety
32 and welfare and will instead improve it. Subdivision of the lots will require the entire
33 private roadway to be renamed, which will make it easier to find the addresses of the
34 subject lot and adjacent lots because they will be assigned new addresses without a
35 duplicate road name;
 - The shape and layout of the subject property make it difficult to comply with conventional
36 zoning standards, even though both lots proposed to comply with R-1-8 zoning standards;
 - The applicant believes that other homes in the area do not comply with the private roadway
37 provisions (i.e., the 50-foot private roadway setback); and
 - A large portion of the subject property is encumbered by an unbuildable steep slope,
38 leaving relatively little buildable area.
- 39
40
41
42
43

44 Staff reviewed the proposed exception request and found that the request met the criteria of the
45 Title 14 exception provision. As a result, Staff recommended approval of the exceptions requested,
46 which included a reduction in the minimum front setback required from the center of private

1 roadways and a reduction in the minimum lot size required when adjacent to private roadways. It
2 was recommended that the Commission forward a recommendation of approval.

3
4 Additional information about addressing was shared. Mr. Johnson reported that all of the Magic
5 View Drive addresses were derived from Magic View Drive to the south. Those generally fit in
6 numerical sequence moving west to east. Any time a subdivision is developed the City looks at
7 addressing the new lots that would be created. The addresses need to fit a sequence as it is
8 important for public safety and emergency services. There was no numerical address to assign to
9 the newly created lot, so the private driveway would need to be renamed. Mr. Johnson noted that
10 it would be better for emergency vehicles and dispatch not to have two roads with the same name.
11 He explained that the City maintains Magic View Drive to the south but the Magic View Drive
12 currently being discussed as part of the application is a private driveway.

13
14 If the exceptions were granted, the applicant would propose a two-lot subdivision. The proposal
15 was to develop two single-family homes on the property. Mr. Johnson reported that there is an
16 existing home on the property and the proposal was to rebuild that home and subdivide a single-
17 family lot on the southeast corner of the property. The steep hillside portion of the property was
18 to the north and the west, so the new lot would not be impacted by the substantial slope. Although
19 there was a subdivision plan shown, it had not been reviewed in any technical manner by the City.

20
21 Mr. Johnson shared a graphic depicting the existing addressing and road name situation. The
22 private driveway was named Magic View Drive but so was the public street to the south. All of
23 the addresses were derived from the public street to the south. Renaming the private driveway
24 would be beneficial in terms of emergency access and navigability to the lots.

25
26 Exhibits were shared illustrating how the requested exceptions would apply. Given the current
27 arrangement of the lot and the proposal for how the lots would be divided, measuring the front
28 setback was difficult. This was especially true for the larger lot where the existing home is located.
29 With the proposed second lot, there would essentially be a double front yard, where 25 feet would
30 be measured from the north side of Lot 2 and the west side of Lot 2. Implementing the 50-foot
31 setback requirement from the middle of a private road was difficult in this situation because the
32 private road ends where the lot begins. The exception would make that cleaner.

33
34 The applicant was proposing to fully comply with the 25-foot setback, which was the minimum
35 required in the R-1-8 Zone. Lot 2, which was the new lot proposed in the southeast corner of the
36 property, was requesting two exceptions. One was related to lot size. The proposal was that the
37 lot be just over 8,000 square feet, which complied with R-1-8 standards but not with the private
38 roadway requirements. The other exception related to the setback to the middle of the private
39 street. That was currently at 39 feet. The exception there would be a reduction.

40
41 Mr. Johnson shared the Staff findings for approval of the exceptions, which were as follows:

- 42
- 43 • The subject property is located in a development that is legal non-conforming and
44 originally established prior to City incorporation. Its development layout, and the irregular
45 shape of the subject property, is an unusual topographic, aesthetic, or other exceptional
46 condition;

- 1 • If approved, neither exception will result in lots that violate standard R-1-8 zoning
2 requirements. Any subdivision application will be fully reviewed and required to be
3 compliant with all other applicable city ordinances and requirements;
- 4 • Currently, the private driveway shares a name with the parallel public road to the south,
5 creating a potentially unsafe condition as it relates to emergency services being able to
6 quickly find the subject property and the other six adjacent properties. Approval of the
7 requested exceptions allows for the subdivision of the property, which will require the
8 existing private driveway to be renamed and assigned unique addresses. Therefore, this
9 request is not detrimental to public safety or welfare; and
- 10 • Other homes located along the private driveway do not conform to the 50-foot private road
11 setback requirement. The subject property is not the only property affected by this
12 ordinance requirement.

13
14 There was discussion regarding renaming the road. Some felt it was a separate issue that should
15 be addressed regardless of the application. Mr. Johnson explained that there was no mechanism
16 to impose that change outside of new development when there was no new address number to
17 provide. There were a few other areas in the City where the naming was also a concern. For
18 instance, there was one example off Creek Road. In the past, letters had been sent recommending
19 that a change be made to improve public safety and visibility. However, it was ultimately on the
20 residents to initiate that change. The current application made it possible for the City to address
21 the existing issues on Magic View Drive.

22
23 Mr. Spainhower identified himself as the Architect working for the property owner. He wanted to
24 clarify a few items. He identified Lot 2 on a map and explained that the 39 feet shown were from
25 the center of the road and the 25 feet was to the current property line. There had been questions
26 about whether the neighboring properties met the 50-foot setback. The first two properties to the
27 east were approximately 25 feet from the edge of the paving. He explained that the neighboring
28 properties did not meet the 50-foot from the center of road requirement, but the properties also did
29 not meet the acreage requirements. Even though the land itself was one-half acre in size, there
30 was language related to slope and acreage requirements. If the sloped areas were counted, the
31 neighboring properties fell under the one-half-acre requirement. He explained that both of the
32 exceptions requested by the property owner were in line with the neighboring properties.

33
34 Mr. Johnson reported that a number of public comments were received prior to the Planning
35 Commission Meeting. Those had been distributed to the Commissioners for review. Two
36 additional comments were received after the deadline, but both were in support of the exceptions.
37 He noted that those comments would be distributed to the Commission following the meeting.

38
39 Chair Mills opened the public comment period.

40
41 *Adam Poulos* reported that he lives directly downhill from the subject property. He wondered why
42 the road was still private. It would make sense for it to become a public road as that might solve
43 a number of the problems that had been mentioned. It seemed that should be cleaned up before
44 any more development occurred. As for the neighboring houses that did not meet the current
45 requirements, he believed that a number of those houses were grandfathered in. While he
46 understood the desire to expand further, it was important to be mindful of sensitive lands.

1
2 *Kevin Langlois* identified himself as the property owner at 3457 East Magic View Drive. He
3 thanked the Planning Commission for reviewing the application. Mr. Langlois informed the
4 Commission that he has owned his home since 2006 and it has always been his dream to redevelop
5 it. The purpose of the proposed second lot was not for resale but for family use. He hoped it
6 would be possible for family members to stay there at times.

7
8 *Ruth Winn Fox* stated that the area being discussed is land that was owned post-Depression. It was
9 not true that the people living on the lots had snuck in and taken over. The people in the area
10 legitimately settled there and the Winn family held the land for many years.

11
12 *Jack Forester* has lived in the area for about 40 years. His property borders the subject property
13 on two sides. Mr. Forester believed the Planning Commission should approve the exceptions
14 because he knew Mr. Langlois would improve the area and do an excellent job on the property.

15
16 *Aaron Kreutzjans* identified himself as one of the adjacent landowners. His home is directly to
17 the west of Mr. Forester. He supported the application and thought that the plans were aesthetically
18 pleasing and the design would fit in well with the rest of the neighborhood. It would improve the
19 property for Mr. Langlois and his family but also improve the area in general.

20
21 There were no further comments. The public comment period was closed.

22
23 Commissioner Anderson asked what is buildable on Lot 1. Mr. Johnson explained that the current
24 ordinance states that if any portion of a lot has a natural slope of 30% or greater it is not buildable.
25 If the property owner wants to build a new home, it would be required that a slope stability analysis
26 be done. A lot of different technical standards needed to be met. Sometimes, that results in a
27 recommendation that any structure have an additional setback from a steep slope. He
28 acknowledged that there are areas of the property that were unbuildable.

29
30 Commissioner Shelton asked what would happen if there were additional public safety turnaround
31 requirements. He believed that would push the road even further into Lot 2. He wanted to know
32 what the result of the exception would be in that case. Mr. Johnson explained that the turnarounds,
33 especially on private streets, are not part of the private roadway. Those are easements on the
34 property that were left unobstructed. Sometimes, the Fire Department requires “No Parking: Fire
35 Turnaround” signs to be placed or for there to be a design done for a two-point turn. An alternative
36 solution was to have fire sprinkling in any new home. That was regulated by the Fire Code, but
37 the turnaround itself would not be impacted by the private roadway setback standards.

38
39 There was discussion regarding Section 14.12.080, which pertains to cul-de-sacs. There was other
40 language related to turnarounds there. Mr. Johnson clarified that if any part of the remaining
41 process required Planning Commission approval, it would have to come back to the Commission
42 for review. Commissioners asked about the unusual topographic conditions on the site.
43 Mr. Johnson explained that there had only been a handful of applications like this in the history of
44 the City. All were reviewed within their context. He referenced the findings listed in the Staff
45 Report. Based on the objective analysis conducted by Staff, there were several reasons that it was
46 reasonable to conclude that there was an unusual condition that existed on the lot. Additional

1 discussions were had about sensitive lands. Mr. Johnson noted that there had been instances where
2 the City had not accepted submitted engineering reports as they are deficient for sensitive lands
3 standards. In the past, exceptions had not been denied or granted based only on the sensitive land
4 conditions.

5
6 It was noted that the R-1-8 Zone has certain triggers based on the Sensitive Lands Evaluation and
7 Development Standards (“SLEDS”) for maximum height, where the height was reduced from 35
8 feet to 30 feet. Mr. Johnson confirmed that in a Hillside Sensitive Lands Zone, the maximum
9 height of the structure would be 30 feet as opposed to 35 feet. It was feasible that the height
10 limitation could apply to the subject property. However, that was not something that needed to be
11 added as a Condition of Approval, as it was part of the Code.

12
13 The Commission discussed whether it would be possible to have a variance rather than moving
14 forward with the exceptions. Some wanted to know if it would be possible to reinterpret the
15 frontage so it was considered the sideyard. If that was allowed, then there could be an Accessory
16 Dwelling Unit (“ADU”) instead of a subdivision of the lot. Mr. Johnson explained that this began
17 as a variance application. The property owner requested a number of different variances. That
18 went through a different process where there was a Hearing Officer and State mandated criteria
19 needed to be met. The initial Staff review found there were some concerns about the application
20 being able to meet the criteria. The Title 14 exceptions would not be covered by the variance
21 process. The variance was for zoning provisions that were in Title 19, which was a whole different
22 chapter of the Code. It might be possible to obtain a variance, but that would not resolve the
23 private street setback issue or the requirement related to lot size. That was the reason the applicant
24 decided to modify the variance application and there was now an exception request.

25
26 There was additional discussion regarding the possibility of allowing an ADU. Mr. Johnson noted
27 that it would make sense to allow an accessory building on the property but there was not a good
28 zoning mechanism to do so. That was the reason the exceptions had been requested. This seemed
29 to be the best way to move forward with the application. As for the future of the current structure
30 on the property, it would be up to the property owner to decide whether he wanted to construct
31 something new or improve the existing structure. If the exception was granted by the City, the
32 applicant would be able to start moving forward and making those kinds of decisions.

33
34 Chair Mills wondered if there had been any communication with the Unified Fire Authority
35 (“UFA”). Mr. Johnson explained that there had been some Development Review Committee
36 (“DRC”) meetings. The standard requirements were reviewed. Once there was an actual
37 subdivision application, then there would be a full review from the UFA. Chair Mills wondered
38 if the lot assumed responsibility for the turnaround in the neighborhood simply because it was the
39 last lot. Mr. Johnson noted that the private road itself fell on six or seven different private
40 properties. The adjacent owners were responsible for making sure it was up to standards for
41 emergency vehicles. The same would be the case for the turnaround. The property owner would
42 be responsible for maintaining it and keeping it clear. Chair Mills asked if there was any
43 documented history of emergency services struggling to access the area. Mr. Johnson was not
44 aware of any specific issues but explained that it was not ideal to have duplicate roadway names.

1 *Commissioner Smith moved that the Planning Commission forward a recommendation of*
2 *APPROVAL to the City Council for Project SUB-23-001. The motion was seconded by*
3 *Commissioner Steinman. Vote on Motion: Commissioner Smith-Aye; Commissioner Shelton-*
4 *Aye; Commissioner Steinman-Aye; Commissioner Anderson-Aye; Commissioner Ebbeler-Aye;*
5 *Commissioner Chappell-Aye; Chair Mills-Aye. The motion passed unanimously.*

6
7 **4.0 Adjourn.**

8
9 *Commissioner Ebbeler moved to ADJOURN the Planning Commission Meeting. There was no*
10 *second. The motion passed with the unanimous consent of the Commission.*

11
12 The Planning Commission Meeting adjourned at 6:48 p.m.
13

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 3, 2023.*
3

4 Teri Forbes

5 Teri Forbes

6 T Forbes Group

7 Minutes Secretary

8

9 Minutes Approved: _____