

COTTONWOOD HEIGHTS CITY PLANNING COMMISSION MEETING AGENDA



January 3, 2024

Notice is hereby given that the **Cottonwood Heights Planning Commission** will convene on **Wednesday, January 3, 2024** at **Cottonwood Heights City Hall** (2277 E. Bengal Blvd., Cottonwood Heights, UT 84121) for its **Work Session** and **Business Session** meetings.

1. Work Session – **5:00 p.m.** – City Council Work Room
2. Business Session – **6:00 p.m.** – City Council Chambers

Both sessions will also be broadcast electronically on Zoom. **For those who wish to attend virtually, please register in advance** for these meetings by visiting: www.ch.utah.gov/planningcommission, and clicking on **“Planning Commission Zoom Links.”** Alternatively, the public can also hear audio of the open portions of the meeting by connecting to the live broadcast at <https://www.youtube.com/@CottonwoodHeights/streams> or <http://mixlr.com/chmeetings>.

5:00 p.m. Work Session

1.0 Review Business Session Agenda

The Commission will review and discuss agenda items.

2.0 Adjourn

6:00 p.m. Business Session

1.0 Welcome and Acknowledgements

- 1.1 Ex parte communications or conflicts of interest to disclose

2.0 General Public Comment

This is an opportunity for individuals to make general public comments that do not relate to any projects scheduled for public hearing under the “Business Session” section of this agenda. Please see the Public Comment Policy on the reverse side of this agenda for more information.

3.0 Business Items

3.1 Project ZTA-23-005

A public hearing and possible action on a city-initiated zoning text amendment to make administrative updates to portions of Title 2, Title 3, Title 12, and Title 19 of city code. The purpose of this text amendment is to clarify ambiguous definitions and procedures and rectify conflicting provisions as part of ongoing city code maintenance.

3.2 Project ZTA-23-004

A public hearing and possible action on a city-initiated zoning text amendment to establish standards and permitting requirements for outdoor sport courts in residential areas.

4.0 Consent Agenda

- 4.1 Approval of Planning Commission Minutes from December 6, 2023

5.0 Adjourn

Next Planning Commission Meeting: January 17, 2024

Public Comment Policy

Verbal public comments are accepted during the “General Public Comment” component of the 6:00 p.m. Business Session (but not during the 5:00 p.m. Work Session). Please note that public comment periods are an opportunity for individuals to share public comments as they see fit but are not an opportunity for “question and answer” dialogue. Questions should be directed to city staff at planning@ch.utah.gov.

Verbal comments provided during the public comment period will be limited to three minutes per individual, or five minutes per a spokesperson who has been asked by a group that is present to summarize their concerns.

Alternatively, written comments submitted to staff via email at planning@ch.utah.gov. For written comments to be entered into the record and distributed to the Planning Commission prior to the meeting, they must be submitted to staff by 12:00 p.m. MST on Tuesday, January 2, 2024, the day prior to the meeting. Comments received after this deadline will be distributed to the Planning Commission after the meeting.

Meeting Procedures

Items will generally be heard in the following order:

1. Commission Chair Introduces Item
2. Staff Presentation
3. Applicant Presentation (If applicable)
4. Commission Chair Opens Public Hearing (If item has been noticed for public hearing)
5. Commission Chair Closes Public Hearing
6. Planning Commission Deliberates
7. Planning Commission Motions and Votes on Item

Planning Commission applications may be tabled if: 1. Additional information is needed in order to act on the item; or 2. The Planning Commission feels there are unresolved issues that may need further attention before the Commission is ready to make a motion. No agenda item will begin after 9:00 pm without a unanimous vote of the Commission. The Commission may carry over agenda items, scheduled late in the evening and not heard, to the next regularly scheduled meeting.

Notice of Compliance with the Americans with Disabilities Act (ADA)

In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting shall notify the City Recorder at (801) 944-7021 at least 24 hours prior to the meeting. TDD number is (801) 270-2425 or call Relay Utah at #711.

Confirmation of Public Notice

On Friday, December 22, 2023, a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Cottonwood Heights City Offices. The agenda was also posted on the City’s website at www.cottonwoodheights.utah.gov and the Utah public notice website at <http://pmn.utah.gov>.

DATED THIS 22ND DAY OF DECEMBER, 2023

Attest: Paula Melgar, City Recorder



PLANNING COMMISSION MEMO

ZTA-23-005 – General City Code Maintenance

Meeting Date: January 3, 2024

Staff Contact: Samantha DeSeelhorst, Senior Planner

Request

This application represents a city-initiated request for a zoning text amendment to make minor updates to portions of Title 2 (Governance and Administration), Title 3 (Revenue and Finance), Title 12 (Subdivisions), and Title 19 (Zoning) of city code.

The purpose of this text amendment is to clarify ambiguous definitions and procedures and rectify conflicting provisions as part of general city code maintenance.

Background & Overview

In an ongoing effort to provide a more accurate and user-friendly code, staff maintains an ongoing list of ambiguous, conflicting, or otherwise erroneous city code passages which require correction. Throughout the year, staff presents collections of these proposed edits to the Planning Commission and City Council for review and adoption.

Attached to this memo is a complete copy of the changes proposed in this current collection of edits, including staff narrative describing the background, purpose, and scope of each change.

Recommendation & Model Motions

Staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the proposed changes.

Approval

I move that we forward a recommendation of approval to the City Council for project ZTA-23-005, based on the finding listed in the staff memo and attachments dated January 3, 2024

- List any other findings or conditions for recommendation of approval...

Denial

I move that we forward a recommendation of denial to the City Council for project ZTA-23-005, based on the following findings...

- List findings for negative recommendation...

Attachments

1. Proposed Changes

Proposed Change #1 – Pet Boarding Establishments

In April 2023, a first batch of zoning ordinance edits were brought to the Planning Commission as part of ongoing city code maintenance. Updated regulatory language on dog kennels was included in this first batch, but was removed from the final adopted version, following direction from the Planning Commission to reassess which zones kennels would be allowed in.

Following this direction, staff has drafted an updated ordinance for establishments of this type, which broadens the scope to “pet boarding establishments,” rather than only those for dogs, and only allows commercial boarding in the Regional Commercial (CR) zone. Clearer regulations are also included for boarding home businesses.

Title 19

19.40 CR – Regional Commercial Zone

19.40.030 Conditional Uses

- A. Any use with an individual gross floor area of more than 10,000 square feet shall be considered a conditional use.
- B. Additional conditional uses in the CR zone are as follows:
 - 1. Supermarkets (groceries, meats and baked goods);
 - 2. Hardware, lawn and garden supply stores;
 - 3. Florists;
 - 4. Offices, administration or professional;
 - 5. Real estate or insurance office;
 - 6. Restaurant, lunchroom;
 - 7. Indoor theatre;
 - 8. Motor vehicle sales agency, including service and repairs indoors, with outdoor sales, display and storage;
 - 9. Shop for making articles sold primarily at retail on the premises;
 - 10. Bowling alley, commercial recreation building;
 - 11. Gasoline stations;
 - 12. Drugstores and sundries;
 - 13. Banks, savings, loan, and finance offices;
 - 14. Appliance stores;
 - 15. Nursery schools and day care centers;
 - 15-16. **Commercial pet boarding;**
 - 16-17. Department stores, furniture and variety stores;
 - 17-18. Liquor stores;
 - 18-19. Open stands or markets;
 - 19-20. Garages (public);
 - 20-21. Car wash; and

~~21-22.~~ Pawn shop without weapons.

Title 19

19.04 Definitions

~~19.04.1330 Kennels (Indoor Pens)~~

~~An establishment with indoor pens in which more than four dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained and/or sold for commercial purposes.~~

~~19.04.1340 Kennels (Outdoor Pens)~~

~~An establishment with outdoor pens in which more than four dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained and/or sold for commercial purposes.~~

19.04.1330 Commercial Pet Boarding

A commercial establishment with indoor and outdoor space in which domestic and licensable pets, as detailed in 8.16 of City Code, are housed on a daytime and/or overnight basis. Establishments may also include grooming, training, and associated retail elements.

Title 19

19.76 Supplementary and Qualifying Rules and Regulations

19.76.040 Land Use

J. Pet Boarding

1. Commercial Pet Boarding

a. Number of pets on site. The number of animals on site at a commercial pet boarding institution is limited by the number of caregivers on site, with a requirement for one caregiver on site for every ten animals on site. All pets being boarded, groomed, or trained at any given point shall be included in this calculation. Caregivers are those staff members providing actual care to the animals on site, not including those staff members whose duties are limited to reception services, janitorial services, etc.

b. Facility measurements. The number of animals on site is also limited by the square footage available in the facility. All facilities shall have at least 60 square feet of dedicated boarding area per animal, not including kitchens, lobbies, storage rooms, grooming rooms, training rooms, and areas with other ancillary functions. All facilities shall provide boarding crates or enclosures which provide sufficient space for each animal to turn about freely, and stand, sit, and lie in a comfortable, normal position. The

interior height of each crate or enclosure must be at least six inches higher than the head of the animal, when the animal is sitting upright in said crate or enclosure.

c. *Overnight and emergency plan.* A plan specifying the details of overnight care and emergency procedures shall be submitted to the Planning Commission for review as part of the conditional use process. If a conditional use permit is not required due to the prior licensure of an establishment of this type at a subject property, these details shall be submitted to staff as part of the business license application, and reviewed by the Development Review Committee.

2. Home Pet Boarding

a. Home pet boarding is a type of home occupation which includes the daytime boarding of domestic and licensable pets, as detailed in 8.16 of City Code, in an eligible residential zone. Overnight pet boarding is prohibited as part of a home pet boarding operation. A home pet boarding establishment may also include pet grooming, and training. Home pet boarding is divided into two categories: minor home pet boarding and standard home pet boarding.

1. Minor home pet boarding constitutes the daytime boarding of up to four pets at any single point. Minor home pet boarding operations are subject to the following standards:

i. In calculating the number of pets, all pets which are being boarded, groomed, or trained at any given point will be included in the maximum of four pets allowed, as will any pets which permanently reside in the home.

ii. Employees of the home pet boarding operation are limited only to those individuals who permanently reside in the subject dwelling.

iii. All pets must be accompanied outside by the caregiver and may not be permitted to occupy outdoor space without supervision. All animal noise, such as barking, must be immediately addressed by the caregiver so as to prevent a nuisance for neighboring properties.

iv. No signage shall be allowed on the dwelling or lot except a nameplate sign which complies with the standards set forth in 19.82 of City Code.

v. The lot shall include one additional off-street parking stall, separate from those required for the dwelling unit. At the time of application, the applicant shall provide staff with a copy of a proposed circulation plan which outlines drop-off, pick-up, and parking areas.

vi. The use shall comply with all applicable licensing regulations at the city, county, state, and federal level.

vii. Upon complaint that any of the requirements of this section or any other city ordinance are being violated by the boarding operation, the city shall review the complaint and if substantiated, may issue a license revocation proceeding under Title 5 of this code.

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viii. All property owners within 500 feet of the boarding establishment shall be mailed a courtesy notice providing notification of the establishment's licensure.

2. Standard home pet boarding constitutes the daytime boarding of above four and below six pets at any single point. Standard home pet boarding operations are subject to the following standards:

i. In calculating the number of pets, all pets which are being boarded, groomed, or trained at any given point will be included in the maximum of six allowed, as will any pets which permanently reside in the home.

ii. Employees of the home pet boarding operation are limited only to those individuals who permanently reside in the subject dwelling, but one additional employee who does not permanently reside in the dwelling.

iii. All pets must be accompanied outside by the caregiver and may not be permitted to occupy outdoor space without supervision. All animal noise, such as barking, must be immediately addressed by the caregiver so as to prevent a nuisance for neighboring properties.

iv. No signage shall be allowed on the dwelling or lot except a nameplate sign which complies with the standards set forth in 19.82 of City Code.

v. The lot shall include two additional off-street parking stalls, separate from those required for the dwelling unit. At the time of application, the applicant shall provide staff with a copy of a proposed circulation plan which outlines drop-off, pick-up, and parking areas.

vi. The use shall comply with all applicable licensing regulations at the city, county, state, and federal level.

vii. Upon complaint that any of the requirements of this section or any other city ordinance are being violated by the boarding operation, the city shall review the complaint and if substantiated, may issue a license revocation proceeding under Title 5 of this code.

viii. All standard home pet boarding establishments must be reviewed by the Planning Commission as a conditional use, including all required public noticing applicable to conditional use permit applications.

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Proposed Change #2 – Fuel Price Signs

City code allows electronic signage for time and temperature signs, but doesn't explicitly allow it for fuel price signs, although they are standardly included in fuel stations. A zoning interpretation has allowed us to permit electronic fuel price signage, but this approach should be formalized in code.

Title 19

19.82 Signage

19.82.020 Definitions

"Changeable copy" means a copy that changes at intervals of more than once every 60 seconds via electronic means.

"Fuel price sign" means a sign devoted exclusively to the display of the current price of various fuel types at a licensed fuel station.

"Time and temperature sign" means a sign devoted exclusively to the display of the current time and temperature."

19.82.080 Illumination and Movement

A. Flashing, illumination and movement prohibited. A sign may not be animated or have flashing illumination. Except for PFEDS under Section 19.82.100, OPEDS under Section 19.82.123, and time and temperature or fuel price signs, a sign may not have changeable copy.

B. Illumination requirements. A permanent sign may be non-illuminated, illuminated by internal, internal indirect or external indirect illumination. Signs that are externally lit shall be illuminated only with steady, stationary, down-directed, and shielded light sources directed solely onto the sign.

C. Glare. Any lighting fixture on a sign that is located within ten feet of a property line of a residential zoning district or an existing residential use, or within ten feet of a public right-of-way, except as permitted by this ordinance, shall be:

1. Aimed away from the property line, residential use, or zoning district, or public right-of-way;
2. Classified as full cut-off lighting, or;
3. Shielded on the side closest to the property line, residential use, zoning district, or public right-of-way.

19.82.110 Prohibited Signs

1. Signs which by color, location, or design resemble or conflict with traffic control signs or signals;
2. Signs attached to light poles or standards;
3. Portable signs;

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4. Above-roof signs;
5. Inflatable signs;
6. Any unlicensed temporary sign;
7. Vehicle signs;
8. Any sign (whether a monument sign, wall sign, projecting sign, or any other type of sign) which flashes, blinks, uses chaser lights or has animation, movement, changeable copy or other moveable images or lettering (via LED lighting or any other technology); provided, however, that the following signs may be permitted as conditional uses subject to compliance with the other requirements of this chapter:
 1. Time and temperature signs;
 - ~~1-2.~~ Fuel price signs;
 - ~~2-3.~~ PFEDS; and
 - ~~3-4.~~ OPEDS converted from existing, nonconforming off-premises signs in the OPEDS zone, as provided in Section 19.82.123, below.
9. Roof signs;
10. Snipe signs;
11. Wind signs;
12. Off premise signs, including, without limitation:
 1. Billboards; and
 2. Electronic display signs, except as provided in Section 19.82.123, below.
13. Pole signs;
14. Cabinet signs, except as allowed herein; and
15. Any sign in the right-of-way which has not been licensed by the city, including, without limitation, any so-called "bus bench" signs.

Proposed Change #3 – Bond Adjustments

Bond procedures have historically been included in multiple sections of City Code, including Title 3, Title 12, and Title 19. However, the provisions outlined in each title conflicted with one another, prompting a need for a single procedure, which has been provided in the below draft.

Title 3

3.20 ~~Public Works~~ Bonds Procedures

- 3.20.010 Bond Processing
- 3.20.030 Bond Review And Approval Requirements
- 3.20.040 Monitoring Of Construction Progress
- 3.20.050 Release Of Bonds
- 3.20.060 Bond Administration Fee
- 3.20.070 Inspection Fee
- 3.20.080 Re-Inspection Fee

3.20.010 Bond Processing

In lieu of the completion of improvements required by this code or by the Planning Commission, including but not limited to those for curb, gutter, sidewalk, fencing, landscaping, trees, streets, fire hydrants, street lights, parking, right-of-way repair, utilities, erosion control, etc., a party may file with the city a completion bond via cashier's check, escrow agreement, or irrevocable letter of credit in an amount specified by the city. The improvements, or a fully executed bond agreement, must be provided prior to final approval of a project, which may vary between plat recordation, permit issuance, certificate of occupancy, or clearance of electrical service, depending on the scope of work. All bond procedures and requirements shall also be in compliance with applicable portions of the Utah State Code.

~~The city's community and economic development department office shall complete and process all developments bonds, and the city's public works department shall complete and process all excavation bonds. required to be filed with the city by developers or other persons to guarantee proper installation of improvements required under the city's highway, flood control, building inspection, zoning, fire protection or subdivision ordinances. The community development director may direct staff to complete and process any additional bonds hereafter required by the city.~~

3.20.020 Development Bond Timelines

Bonded improvements for development bond purposes shall be satisfactorily completed within a two-year period. An additional ten percent of the bond amount for required improvements shall extend for a one-year period beyond the date of the improvements' completion to guarantee replacement of defective improvements. This one-year warranty period shall not begin until all other bonded improvements are completed. The bond or agreement shall secure all improvements which are listed on the bond.

If the city determines that the required improvements should be completed in a specified sequence and/or in a period other than two years in order to protect the public health, safety, and welfare of the city or its residents from traffic, flood, drainage, or other hazards, it may require such timelines.

3.20.030 Bond Review And Approval Requirements

~~The completed bond shall be forwarded to the city attorney's office for review as to form, sufficiency and manner of execution. The city attorney's office shall then forward subdivision bonds to the manager for formal acceptance, and shall forward all other bonds to the community development director or his designee for acceptance. Upon favorable action by the manager or the community development director (or his designee), as applicable, the bond shall be filed with the community development department (or its designee), and thereafter monitored by the community development department. The bond agreement shall be fully executed by the mayor or their designee, with an attest from the city recorder. Once fully executed, a copy of the bond shall be provided to the relevant department, as determined in 3.20.010.~~

3.20.040 Monitoring Of Construction Progress

The ~~community development~~assigned department shall monitor the progress of construction of the bonded improvements to ensure compliance with the construction schedule and sequence approved by the city for the completion of such improvements. It shall be the responsibility of the bond applicant or ~~his~~their authorized agent to call for all required inspections. The city may require all work on the bonded project to stop if construction of the bonded improvements deviates in any way from the approved plan. Any deviation from the approved plan must be approved in writing by all of the city's departments, divisions and service providers affected by the deviation.

3.20.050 Release Of Bonds

The ~~community development~~assigned department shall recommend release of the bonded amount upon receiving written notice from all of the affected city departments, divisions and providers certifying that the bonded improvements have been satisfactorily completed in accordance with applicable standards; provided, however, that ~~an additional twenty five percent (25%)~~ten percent (10%) of the total bonded amount for public improvements such as curb, gutter, sidewalks, roads, flood control systems, fire hydrants and fire protection lines (among others) shall be retained for a period of one year after completion of such improvements to guarantee against defects.

~~3.20.060 Bond Administration Fee~~

~~Any person filing a performance bond with the city to guarantee completion of improvements for a conditional use, a permitted use, a non-regular subdivision where no plat must be recorded, a road dedication, or otherwise under the city's building code, shall pay a fee of \$100 (or such greater amount as may then be specified in the city's consolidated fee schedule) to the community development department for the administration of such bond. Such fee shall be paid in full prior to the city's acceptance of any such bond.~~

3.20.070 Inspection Fee

Any person requesting the city to inspect bonded improvements for the purpose of a partial bond release or other reduction in the bonded amount shall pay an inspection fee ~~of \$100 (or such greater~~

amount as may then be specified in the city's consolidated fee schedule) to the community development department as required by the adopted fee schedule at the time such inspection is requested. Partial-All releases of improvement bonds shall be subject to section 3.20.050 of this chapter 3.20 and any other applicable policies of the community development department assigned departments.

3.20.080 Re-Inspection Fee

If an final inspection is requested and the city's inspector determines that the bonded improvements have not been satisfactorily completed, any person thereafter requesting the city to re-inspect the bonded improvements for the purpose of obtaining a full or partial bond release shall pay a fee of \$100 (or such greater amount as may then be specified in the city's consolidated fee schedule) as dictated by the adopted fee schedule for each required re-inspection at the time the re-inspection is requested.

Title 19

19.02 General Provisions and Administration

19.02.110 Improvements; Performance Bonds

1. Any improvements required under this title or by the planning commission including, but not limited to, curb, gutter and sidewalk, fences, landscaping, streets, fire hydrants and parking, shall be satisfactorily installed prior to the city authorizing electrical service being provided; or, if no electrical service is required, prior to occupancy permit issuance for the land being developed. In lieu of actual completion of such improvements prior to electrical service being provided or occupancy permit, a developer may file with the city a completion bond, in form and amount specified by the city, to ensure completion of improvements within one year. Twenty five percent of the bond amount for public improvements, such as curb, gutter, sidewalk, road surfacing and fire hydrants, shall extend for a one-year period beyond the date the improvements are completed, to guarantee replacement of such defective public improvements. Upon completion of the improvements for which a completion bond has been filed, the developer shall call for inspections of the improvements by the director or his designee.
2. If the city determines that the required improvements should be completed in a specified sequence and/or in less than a one-year period in order to protect the health, safety and welfare of the city or its residents from traffic, flood, drainage or other hazards, it may require in approving the completion bond that the improvements be installed in a specified sequence and period which may be less than one year and shall incorporate such requirements in the completion bond.
3. Such completion bonds shall be processed and released in accordance with the procedures set forth in this code.
4. When the developer is a school district, municipality, service area, special purpose district or other political subdivision of the state, the city may waive the bond and accept a letter from the developer's governing body guaranteeing installation of the improvements. Before approving any such waiver, the city shall receive a recommendation from the director.

Title 12

12.24 Required Improvements

12.24.160 Performance Bonds

- A. ~~In lieu of actual completion of the improvements listed in this title, subdividers may file with the city a cash bond, an escrow agreement, or an irrevocable letter of credit in an amount specified by the community and economic development department to assure actual construction of such improvements within a two-year period. Ten percent of the bond amount for public improvements such as curb, gutter, sidewalk, road surfacing, flood control and fire hydrants shall extend for a one-year period beyond the date the improvements are completed to guarantee replacement of defective public improvements. The bond or agreement shall also secure all lot improvements on individual lots on the subdivision which are required in this title. The bond or other security shall be approved by the city attorney prior to plat recordation.~~
- B. ~~If the city determines that the required improvements should be completed in a specified sequence and/or in less than a two-year period in order to protect the health, safety and welfare of the city or its residents from traffic, flood, drainage or other hazards, it may require in approving the final subdivision plat that the improvements be installed in a specified sequence and period which may be less than two years and shall incorporate such requirements in the bond.~~
- C. ~~Inspections shall be made within seven calendar days from the date of the request. If inspection shows that city standards and specifications have been met in the completion of such improvements, the bond shall be released within seven days from the time of inspection and filing of the as-built plan and profile drawings. If the bonds are not released, refusal to release and the reasons therefor shall be given to the subdivider in writing within 14 days from the time of the inspection.~~

12.24.170 Exemptions

~~The city and public and quasi-public uses shall, upon the submission of a letter guaranteeing the improvements required by this chapter, be exempt from the provisions of Section 12.24.160, subject to approval of the community development director.~~

12.24.180 Fee In Lieu of Required Improvements

- A. ~~Where present conditions exist which make it unfeasible or impractical to install any required public improvements, the city may require the subdivider to pay to the city a fee equal to the estimated cost of such improvements as determined by the director of community development. Upon payment of the fee by the developer, the city shall assume the responsibility for future installation of such improvements.~~
- B. ~~The treasurer shall establish a special account for such fees and shall credit to such account a proportioned share of interest earned from investment of city monies. Records relating to~~

identification of properties for which fees have been collected, fee amounts collected for such properties and money transfer requests shall be the responsibility of the community and economic development department.

Proposed Change #4 – F-1-21 Accessory Buildings Permitted

Accessory buildings, such as sheds and detached garages, are currently allowed in all residential zones except the Foothill Residential Zone. For an unknown reason, most likely an administrative error, this zone allows single-family homes but does not list accessory buildings. The below draft updates this to provide consistency across all residential zones.

Title 19

19.14 Foothill Residential Zone

19.14.020 Permitted Uses

Permitted uses within the F-1-21 zone are as follows:

- A. Single-family detached dwellings; and
- A-B. Accessory buildings incidental to a permitted use.

19.14.030 Conditional Uses

Conditional uses in the F-1-21 zone are as follows:

- A. Agricultural uses, as allowed by the applicable accessory regulations in Chapter 19.76 “Supplementary and Qualifying Regulations”;
- B. Churches;
- C. Planned unit development;
- D. Public and quasi-public use;
- E. Radio and/or television tower;
- F. Temporary structures, as allowed by the applicable accessory regulations in Chapter 19.76, “Supplementary and Qualifying Regulations”;
- G. Water pumping plant and reservoir;
- H. Wireless telecommunication tower;
- I. Utility stations and lines, as allowed by the applicable accessory regulations in Chapter 19.76, “Supplementary and Qualifying Regulations”; and
- J. Home occupations.

Proposed Change #5 – Lot Coverage and SLEDS

Each zone in Cottonwood Heights lists a lot coverage maximum, which signifies the maximum percentage of the lot which can be covered by structures. However, for properties within the Sensitive Lands Overlay Zone, lot coverage includes not only structures, but also all impervious surfaces such as driveways, patios, decks, etc.

Currently, each zone's individual ordinance only lists the underlying lot coverage maximum, without mention of the more restrictive standard for properties also in the overlay zone. This has created confusion for residents who read these ordinances, without knowing to also check the Sensitive Lands Overlay Zone standards. As such, the below draft incorporates information about this more restrictive standard within each zone's ordinance, as means of providing better information to the public.

Title 19

19.08 F-20 – Forestry Zone

19.08.090 Maximum Lot Coverage

The maximum lot coverage for the F-20 zone is two percent, which includes all structures. For those portions of properties also located in the Sensitive Lands Overlay Zone, all impervious surfaces shall also be included in percentage calculation.

19.11 F-1-43 – Foothill Residential Zone

19.11.100 Maximum Lot Coverage

The maximum lot coverage in the F-1-43 zone is 30%, which includes all structures. For those portions of properties also located in the Sensitive Lands Overlay Zone, all impervious surfaces shall also be included in percentage calculation.

19.14 F-1-21 – Foothill Residential Zone

19.14.100 Maximum Lot Coverage

The maximum lot coverage in the F-1-21 zone is 30%, which includes all structures. For those portions of properties also located in the Sensitive Lands Overlay Zone, all impervious surfaces shall also be included in percentage calculation.

19.17 RR-1-43 – Rural Residential Zone

19.17.100 Maximum Lot Coverage

The maximum lot coverage in the RR-1-43 zone is 30%, which includes all structures. For those portions of properties also located in the Sensitive Lands Overlay Zone, all impervious surfaces shall also be included in percentage calculation.

19.18 RR-1-29 – Rural Residential Zone

19.18.100 Maximum Lot Coverage

The maximum lot coverage in the RR-1-29 zone is 30%, which includes all structures. For those portions of properties also located in the Sensitive Lands Overlay Zone, all impervious surfaces shall also be included in percentage calculation.

19.20 RR-1-21 – Rural Residential Zone

19.20.100 Maximum Lot Coverage

The maximum lot coverage in the RR-1-21 zone is 30%, which includes all structures. For those portions of properties also located in the Sensitive Lands Overlay Zone, all impervious surfaces shall also be included in percentage calculation.

19.23 R-1-15 – Residential Single-Family Zone

19.23.080 Maximum Lot Coverage

The maximum lot coverage in the R-1-15 zone is 50%, which includes all structures, except portions of those properties also located in the Sensitive Lands Overlay Zone, for which the maximum lot coverage shall be 30% including all structures and impervious surfaces.

19.25 R-1-10 – Residential Single-Family Zone

19.25.080 Maximum Lot Coverage

The maximum lot coverage in the R-1-10 zone is 50%, including all structures, except portions of those properties also located in the Sensitive Lands Overlay Zone, for which the maximum lot coverage shall be 30% including all structures and impervious surfaces.

19.26 R-1-8 – Residential Single-Family Zone

19.26.080 Maximum Lot Coverage

The maximum lot coverage in the R-1-8 zone is 50%, including all structures, except portions of those properties also located in the Sensitive Lands Overlay Zone, for which the maximum lot coverage shall be 30% including all structures and impervious surfaces.-

19.29 R-1-6 – Residential Single-Family Zone

19.29.080 Maximum Lot Coverage

The maximum lot coverage for the R-1-6 zone is 50%, including all structures, except portions of those properties also located in the Sensitive Lands Overlay Zone, for which the maximum lot coverage shall be 30% including all structures and impervious surfaces.-

19.31 R-2-8 – Residential Multi-Family Zone

19.31.080 Maximum Lot Coverage

The maximum lot coverage in the R-2-8 zone is 50%, including all structures, except portions of those properties also located in the Sensitive Lands Overlay Zone, for which the maximum lot coverage shall be 30% including all structures and impervious surfaces.-

19.34 RM – Residential Multi-Family Zone

19.34.080 Maximum Lot Coverage

The maximum lot coverage in the RM zone is 50%, including all structures, except portions of those properties also located in the Sensitive Lands Overlay Zone, for which the maximum lot coverage shall be 30% including all structures and impervious surfaces.-

19.35 RO – Residential Office Zone

19.35.090 Maximum Lot Coverage

The maximum lot coverage in the RO zone is 50%, including all structures, except portions of those properties also located in the Sensitive Lands Overlay Zone, for which the maximum lot coverage shall be 30% including all structures and impervious surfaces.-

19.36 MU – Mixed Use Zone

19.36.060 Maximum Lot Coverage

In an MU zone, buildings shall not occupy more than sixty-five percent (65%) of the lot area, except portions of those properties also located in the Sensitive Lands Overlay Zone, for which the maximum lot coverage shall be 30% including all structures and impervious surfaces.

19.37 NC – Neighborhood Commercial Zone

19.37.090 Maximum Lot Coverage

The maximum lot coverage in the NC zone is 50%, including all structures, except portions of those properties also located in the Sensitive Lands Overlay Zone, for which the maximum lot coverage shall be 30% including all structures and impervious surfaces.

19.40 CR – Regional Commercial Zone

19.40.110 Coverage Restriction

The maximum lot coverage in the CR zone is 50%, including all structures, except portions of those properties also located in the Sensitive Lands Overlay Zone, for which the maximum lot coverage shall be 30% including all structures and impervious surfaces.

19.43 PF – Public Facilities Zone

19.43.080 Coverage Restriction

The maximum lot coverage in the PF zone is 50%, including all structures, except portions of those properties also located in the Sensitive Lands Overlay Zone, for which the maximum lot coverage shall be 30% including all structures and impervious surfaces.

19.46 O-R-D – Office, Research, and Development Zone

19.46.080 Maximum Lot Coverage

The maximum lot coverage in the O-R-D zone is 50%, including all structures, except portions of those properties also located in the Sensitive Lands Overlay Zone, for which the maximum lot coverage shall be 30% including all structures and impervious surfaces.

19.51 Planned Development District

19.51.060 Site Development Regulations

19.51.060.B Additional Regulations

1. Area requirement. An application for a PD zone may be submitted and approved only for a site containing the specified minimum acreage; provided, however, that the area requirement in Tier 3 may be reduced on a case-by-case basis if approved by the city council following recommendation by the planning commission.
2. Lot coverage.
 1. The following areas are to be included for the purpose of computing lot coverage:
 1. All buildings, including dwellings; ~~and~~
 2. All accessory structures, including sheds, garages, pool structures, carports, decks, roof overhangs exceeding 20", platform walkways and similar structures; and
 - 2.3. For those properties also within the Sensitive Lands Overlay Zone, lot coverage shall be limited to 30%, including all structures and impervious surfaces. -
 2. The following areas are to be excluded for the purpose of computing lot coverage:
 1. Existing grade level walkways and driveways; and
 2. Retaining walls and fences.

Proposed Change #6 – Definition of Street

Although there are both public and private streets in Cottonwood Heights, the current definition of “street,” only specifies public rights-of-way. The below draft has updated this to also include private rights-of-way.

Title 19

19.04 Definitions

19.04.2650 Street

Any ~~dedicated~~ public or private thoroughfare which affords the principal means of access to abutting property and complies with the relevant standards for width, surfacing, etc.-

Proposed Change #7 – Height Measurements and SLEDS

Each zone in Cottonwood Heights lists a maximum height for structures. However, the height limit is reduced for many zones within the city if they are located in the Sensitive Lands Overlay Zone, due to hazards that may exist in this overlay zone.

Currently, the restriction is listed inconsistently in individual zones, with some listing the particular hazard (slope stability) that necessitates the reduced height restriction, and some listing a blanket reduced height for all structures if a property is located in the overlay zone. Additionally, some zones fail to mention this restriction altogether.

This has created confusion for property owners and staff. As such, the below draft incorporates clarification about this more restrictive standard and cleans up formatting inconsistencies within each zone's ordinance.

Title 19 Zoning

19.08 F-20 Forestry Zone

19.08.080 Maximum Height Of Structures

1. For uses where the slope of the original ground surface is greater than 15%, ~~or if the property is located in a sensitive lands overlay zone~~ or if a slope stability hazard is present on site, the maximum structure height shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.
3. For accessory buildings, heights will be determined on a case by case basis, subject to the foregoing maximums.

19.11 F-1-43 - Foothill Residential Zone

19.11.090 Maximum Height Of Structures

1. For uses where the slope of the original ground surface is greater than 15%, ~~or if the property is located in a sensitive lands overlay zone~~ or if a slope stability hazard is present on site, the maximum structure height shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.
3. For accessory buildings, heights will be determined on a case by case basis, subject to the foregoing maximums.

19.14 F-1-21 - Foothill Residential Zone

19.14.090 Maximum Height Of Structures

1. For uses where the slope of the original ground surface is greater than 15%, or if a slope stability hazard is present on site, or if the property is located in a sensitive lands overlay zone, the maximum structure height shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.
3. No accessory structure shall exceed 20 feet in height. For each foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.

19.17 RR-1-43 - Rural Residential Zone

19.17.090 Maximum Height Of Structures

In the RR-1-43 zone:

1. For uses where the slope of the original ground surface is greater than 15%, or if a slope stability hazard is present on site, or if the property is located in a sensitive lands overlay zone, the maximum structure height shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.
3. Accessory buildings shall maintain a minimum distance from property lines as follows:
 1. Front: Accessory buildings, including detached garages, shall maintain a setback of at least six feet from the main building in the rear yard of the particular property.
 2. Sides: Three feet on interior lots; 20 feet on the street side of corner lots.
 3. Rear: Three feet on interior lots; 20 feet on the street side of corner lots.
4. Attached garages shall conform to the rear yard requirements of main buildings.
5. No accessory structure shall exceed 20 feet in height. For each foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.
6. Accessory structures which meet the minimum side, rear and front setbacks for main buildings in the RR-1-43 zone may have an increase in maximum height to equal the maximum height of main buildings in the RR-1-43 zone.

19.18 RR-1-29 - Rural Residential Zone

19.18.090 Maximum Height Of Structures

1. For uses where the slope of the original ground surface is greater than 15%, or if a slope stability hazard is present on site, or if the property is located in a sensitive lands overlay zone, the maximum structure height shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.

3. Accessory buildings in the RR-1-29 zone shall maintain a minimum distance from property lines as follows:
 1. Front: Accessory buildings, including detached garages, shall maintain a setback of at least six feet from the main building in the rear yard of the particular property.
 2. Sides: Three feet on interior lots; 20 feet on the street side of corner lots.
 3. Rear: Three feet on interior lots; 20 feet on the street side of corner lots.
4. Attached garages shall conform to the rear yard requirements of main buildings.
5. No accessory structure shall exceed 20 feet in height. For each foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.
6. Accessory structures which meet the minimum side, rear and front setbacks for main buildings in the RR-1-29 zone may have an increase in maximum height to equal the maximum height of main buildings in the RR-1-29 zone.

19.20 RR-1-21 - Rural Residential Zone

19.20.090 Maximum Height Of Structures.

1. For uses where the slope of the original ground surface is greater than 15%, or if a slope stability hazard is present on site, or if the property is located in a hillside sensitive lands overlay zone, the maximum structure height shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.
3. Accessory buildings in the RR-1-21 zone shall maintain a minimum distance from property lines as follows:
 1. Front: Accessory buildings, including detached garages, shall maintain a setback of at least six feet from the main building in the rear yard of the particular property.
 2. Sides: Three feet on interior lots; 20 feet on the street side of corner lots.
 3. Rear: Three feet on interior lots; 20 feet on the street side of corner lots.
4. Attached garages shall conform to the rear yard requirements of main buildings.
5. No accessory structure shall exceed 20 feet in height. For each foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.
6. Accessory structures which meet the minimum side, rear and front setbacks for main buildings in the RR-1-21 zone may have an increase in maximum height to equal the maximum height of main buildings in the RR-1-21 zone.

19.23 R-1-15 - Residential Single-Family Zone

19.23.070 Maximum Height Of Structures

1. For uses where the slope of the original ground surface is greater than 15%, or if a slope stability hazard is present on site, or if the property is located in a sensitive lands overlay zone, the maximum structure height shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.

3. No accessory structure shall exceed 20 feet in height. For each foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.

19.25 R-1-10 - Residential Single-Family Zone

19.25.070 Maximum Height Of Structures

1. For uses where the slope of the original ground surface is greater than 15%, ~~or if a slope stability hazard is present on site, or if the property is located in a sensitive lands overlay zone,~~ the maximum structure height shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.
3. No accessory structure shall exceed 20 feet in height. For each foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.

19.26 R-1-8 - Residential Single-Family Zone

19.26.070 Maximum Height Of Structures

1. For uses where the slope of the original ground surface is greater than 15%, ~~or if a slope stability hazard is present on site, or if the property is located in a sensitive lands overlay zone,~~ the maximum structure height shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.
3. No accessory structure shall exceed 20 feet in height. For each foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.

19.29 R-1-6 - Residential Single-Family Zone

19.29.070 Maximum Height Of Structures

1. For uses where the slope of the original ground surface is greater than 15%, ~~or if a slope stability hazard is present on site, or if the property is located in a sensitive lands overlay zone,~~ the maximum structure height shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.
3. No accessory structure shall exceed 20 feet in height. For each foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.

19.31 R-2-8 - Residential Multi-Family Zone

19.31.070 Maximum Height Of Structures

1. For uses where the slope of the original ground surface is greater than 15%, or if a slope stability hazard is present on site, or if the property is located in a sensitive lands overlay zone, the maximum structure heights shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.
3. No accessory structure shall exceed 20 feet in height. For each foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.

19.34 RM - Residential Multi-Family Zone

19.34.070 Maximum Height Of Structures

1. For uses where the slope of the original ground surface is greater than 15%, or if a slope stability hazard is present on site, or if the property is located in a sensitive lands overlay zone, the maximum structure height shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.
3. Accessory Buildings.

No accessory building shall exceed 20 feet in height. For each foot of height over 14 feet, accessory buildings shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.

19.35 RO - Residential Office Zone

19.35.080 Maximum Height Of Structures

~~In the RO zone, structures shall not exceed a height of two stories or 35 feet, whichever is less.~~

1. For uses where the slope of the original ground surface is greater than 15%, or if a slope stability hazard is present on site, the maximum structure height shall be 30 feet.
2. All other properties shall not exceed a height of two stories or 35 feet, whichever is less.

19.36 MU - Mixed Use Zone

19.36.050 Maximum Height Of Structures

1. For uses where the slope of the original ground surface is greater than 15%, or if a slope stability hazard is present on site, the maximum structure height shall be 30 feet.
 2. All other properties shall not exceed a height of two stories or 35 feet, whichever is less.
- ~~Structures in an MU zone shall not exceed a height of two stories, or 35 feet, whichever is less.~~

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The planning commission, after receiving favorable recommendation from the DRC, may increase the maximum height of a structure in an MU zone to no more than three stories, upon a finding that such increased height will not adversely affect the public health, safety or welfare.

19.37 NC - Neighborhood Commercial Zone

19.37.080 Maximum Height Of Structures

~~In the NC zone, structures shall not exceed a height of two stories or 35 feet, whichever is less.~~

1. For uses where the slope of the original ground surface is greater than 15%, or if a slope stability hazard is present on site, the maximum structure height shall be 30 feet.
2. All other properties shall not exceed a height of two stories or 35 feet, whichever is less.

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19.40 CR – Regional Commercial Zone

19.40.100 Maximum Height Of Structures

~~No structure in the CR zone shall contain more than three stories or exceed 35 feet in height, whichever is less.~~

1. For uses where the slope of the original ground surface is greater than 15%, or if a slope stability hazard is present on site, the maximum structure height shall be 30 feet.
2. All other properties shall not exceed a height of three stories or 35 feet, whichever is less.

19.43 PF – Public Facilities Zone

19.43.090 Maximum Height Of Structures

~~No structure in a PF zone shall contain more than three stories or exceed 35 feet in height, whichever is less.~~

1. For uses where the slope of the original ground surface is greater than 15%, or if a slope stability hazard is present on site, the maximum structure height shall be 30 feet.
2. All other properties shall not exceed a height of three stories or 35 feet, whichever is less.

19.46 O-R-D – Office, Research And Development Zone

19.46.070 Maximum Height Of Structures

1. For uses where the slope of the original ground surface is greater than 15%, or if a slope stability hazard is present on site, the maximum structure height shall be 30 feet.

2. ~~All other properties shall not exceed a height of 35 feet. The maximum height of structures in the O-R-D zone is 35 feet.~~ The planning commission may allow additional height to a maximum of six stories upon finding that the additional height will not adversely affect the surrounding land uses, and subject to the requirements of the conditional use chapter of this title. The planning commission may also reduce the height below 35 feet upon finding that the reduction is necessary to reduce the adverse impact to surrounding land uses or otherwise is necessary to protect public health, safety or welfare.

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Proposed Change #8 – Board of Adjustment Fixes

When Cottonwood Heights was first incorporated, the city utilized a Board of Adjustment to review appeals, including things such as nonconforming expansions and variances. Since that time, the city has moved to a single Appeals Hearing Officer to replace the Board of Adjustment.

Fixes to Title 19, removing mention of a Board of Adjustment were adopted last year. Since then, staff has become aware of other mentions of a Board of Adjustment in Title 2, that it recommends should be replaced with mention of the Appeals Hearing Officer, as this is the current procedure utilized by the city.

Title 2 Governance and Administration

2.10 General Provisions

2.10.040 Oaths Of Office

1. Each of the following officers and employees is required to take an oath of office before entering upon the discharge of the officer's or employee's duties, which oath shall be subscribed by the person taking it and filed and preserved in the office of the city recorder:
 1. The mayor, members of the city council, city manager, deputy city manager, city recorder, city treasurer, director of finance, city attorney, members of the planning commission, and ~~appeals hearing officer.~~~~members of the board of adjustment.~~
 2. Any other commission members, board members, employees, or persons that the city manager may deem appropriate or necessary.
2. Once an oath is administered, it need not be re-administered.
3. The form of oath shall be as authorized by state law.
4. Failure to take an oath of office shall not disqualify the officer, employee or member from performing the duties of the position, nor invalidate any action taken by the officer, employee or member.

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2.50 Appointed Officers and Employees

2.50.170 Nepotism

It is the policy of the city to comply with the provisions of Utah's anti-nepotism act, UTAH CODE ANN. §52-3-1 *et seq.*, or any successor provision of state law. Further:

1. No person may work in a department of the city's administration wherein a member of the person's immediate family is employed as the department head; or wherein a member of the person's immediate family would have direct or indirect supervision or control over that person.
2. No person in the immediate family of any elected officer of the city, of the city's manager, or of any city employee who is assigned to perform human resources services for the city, may be employed by the city in any capacity.
3. No person in the immediate family of any elected officer of the city may serve on the city's planning commission or ~~as an appeals hearing officer.~~~~board of adjustment.~~

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4. *“Immediate family,”* as used in this section, means father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, stepchildren, stepparents, grandchildren, grandparents, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, or son-in-law.
5. This section is applicable to all paid positions in the city’s administration, as well as to all positions, whether or not paid, in the city’s police department.

2.60 Community and Economic Development Department

2.60.030 Planning Division

The planning division is supervised by the planning director, and shall consist of the planning director and such deputies, assistants and staff as may be required or advisable. The planning division is responsible for the following functions:

1. Long-range planning, including land use, housing, economics, policies, the major street plan, the general plan, and assisting in the development of the capital facilities plan and the adoption of any related impact fees.
2. Current planning, including reviewing all new development, handling land use problems and applications on a day-to-day basis, providing technical staff assistance and liaison to [the appeals hearing officer board of adjustment](#) and the planning commission, providing technical assistance for the ordinance enforcement division, and the development of short-range land use plans.
3. Performing such other duties and functions as may be assigned by the community development director or the city manager.

2.100 Administrative Services Department

2.100.020 City Recorder Office

The city recorder is a statutory officer of the city who reports directly to the city manager and who is appointed and removed by the city manager with advice and consent of the city council. The city recorder office is supervised by the city recorder and shall consist of the city recorder and such deputies as may be appointed by the city manager, who shall serve under the supervision of the city recorder and shall have authority to act in the absence of the city recorder. The city recorder office may also include additional employees and contract providers appointed by the city recorder with approval of the city manager. The city recorder shall:

1. Serve as clerk of the city council, attending its meetings, keeping the record of its proceedings, and performing such other duties of a like nature as may be required by the city council, by city ordinance, or by state or federal law.
2. Be responsible for the recording, filing, indexing, making available for public inspection, and safekeeping of all proceedings of the city council and other records of the city.
3. Record all ordinances in full, uniformly and permanently, and authenticate the same. The recorder shall record, in a book used exclusively for that purpose, all ordinances passed by the city council, and shall assign each ordinance an identifying number, if the city council has not already done so. Immediately following the adoption of each ordinance or codification of ordinances, the city recorder shall make or cause to be made a certificate stating the date of

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passage and of the date of publication or posting, as required. The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the contents, passage, and publication or posting of the ordinance or codification.

4. Post or publish, as required by law, ordinances and resolutions adopted by the city council, and all legal notices.
5. Supervise all municipal elections in accordance with state law and city ordinances, and keep and maintain all election records and have custody of all property used in connection therewith, according to law.
6. Countersign all contracts made on behalf of the city and maintain a properly indexed record of all contracts, agreements, deeds, rights-of-way, and other legal documents to which the city is a party.
7. Prepare, attest, and report on the vital statistics of the city, as requested by the city manager or the city council.
8. Notify the appointing authority of the impending expiration of the term of office of a member of any board or commission, such notice to be given at least 30 days before such expiration.
9. Be the custodian of the official seal of the city.
10. Act as the city records officer to oversee and coordinate records access and management and city archives activities as required by local, state, and federal law.
11. Be responsible for city compliance with the "Government Records Access Management Act" ("GRAMA"), UTAH CODE ANN. §63G-2-101, *et seq.*, including proper response to requests for information and copies of records thereunder.
12. Be present at the opening of all sealed bids under chapter 2.150.
13. Serve as clerk of the city's planning commission, [appeals hearing officer](#)~~board of adjustment~~, and other public bodies, attending meetings, keeping the record of proceedings, and performing such other duties of a like nature as may be required by the city council, by the city manager, by city ordinance, or by state or federal law.
14. Perform such other duties as may be required by applicable law or by direction of the city manager.

Proposed Change #9 – Zoning Map Location Fixes

When Cottonwood Heights was first incorporated, city maps were printed and maintained on file at City Hall for residents to view. As staff capabilities have evolved technologically, many city resources have moved to the city's website. This code amendment clarifies that zoning maps are in custody of the Community and Economic Development Department (which includes planning and GIS mapping staff), and that they can be found both on the city's website and in-person at City Hall.

Title 19 Zoning

19.06 – Zones, Maps, and Zone Boundaries

19.06.020 Zoning Maps

Each of the sections of the city which are amended or zoned by this title are shown on the maps on file with ~~the planning commission~~the Community and Economic Development Department, and such maps are made by this reference, as such, a part of this title as if fully described and detailed herein.

19.06.030 Filing Of This Title And Zoning Maps

This title and the maps shall be filed in the custody of ~~the city recorder~~the Community and Economic Development Department, and may be examined by the public ~~subject to any reasonable regulations established by the city recorder.~~at city hall or via the city's website.

Proposed Change #10 – Rural Residential Zones Accessory Building Fixes

Compared to other residential zones, Rural Residential Zones (RR-1-43, RR-1-29, and RR-1-21) contain distinct setback requirements for accessory buildings and “private garages.” This is due to the rural nature of the zone as well as a desire not to create a large amount of nonconformities, given that many of these properties were developed prior to the city’s adoption of its current zoning code.

Upon staff’s review of zoning ordinances, it was discovered that contradictory information regarding accessory building setbacks exists in the Maximum Height subsection of each rural residential zone section. Staff is proposing a fix of these inconsistencies, as well as a relabeling of “private garages” as “detached garages” for clarity.

Title 19 Zoning

19.18 – RR-1-29

19.17.060 Front Yard

In RR-1-43 zone, the minimum depth of the front yard for main buildings and for private-detached garages which have a minimum side yard of eight feet shall be 30 feet, or the average of the existing buildings where 50% or more of the frontage is developed, provided that in no case shall the depth of the front yard be less than 20 feet, or be required to be more than 30 feet. All accessory buildings, other than private-detached garages which have a side yard of at least eight feet, shall be located at least six feet in the rear of the main building.

19.17.070 Side Yard

In the RR-1-43 zone:

1. The minimum side yard for any dwelling shall be ten feet, and the total width of the two required side yards shall be not less than 20 feet.
2. The minimum side yard for a private-detached garage shall be eight feet, except that private detached garages and other accessory buildings located in the rear yard and at least six feet away from the main building shall maintain a minimum side yard of not less than five feet.
3. On corner lots, the side yard which faces on a street for both main and accessory buildings shall be not less than 20 feet, or the average of existing buildings where 50% or more of the frontage is developed, but in no case less than 15 feet.

19.17.090 Maximum Height Of Structures

In the RR-1-43 zone:

1. For uses where the slope of the original ground surface is greater than 15%, or if the property is located in a sensitive lands overlay zone a slope stability hazard is located on site, the maximum structure height shall be 30 feet.

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2. All other properties shall maintain a maximum structure height of 35 feet.
- ~~3. Accessory buildings shall maintain a minimum distance from property lines as follows:~~
 - ~~1. Front: Accessory buildings, including detached garages, shall maintain a setback of at least six feet from the main building in the rear yard of the particular property.~~
 - ~~2. Sides: Three feet on interior lots; 20 feet on the street side of corner lots.~~
 - ~~3. Rear: Three feet on interior lots; 20 feet on the street side of corner lots.~~
- ~~4. Attached garages shall conform to the rear yard requirements of main buildings.~~
- ~~5.3.~~ No accessory structure shall exceed 20 feet in height. For each foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.
- ~~6.4.~~ Accessory structures which meet the minimum side, rear and front setbacks for main buildings in the RR-1-43 zone may have an increase in maximum height to equal the maximum height of main buildings in the RR-1-43 zone.

19.18 – RR-1-29

19.18.060 Front Yard

In RR-1-29 zone, the minimum depth of the front yard for main buildings and for ~~private detached~~ garages which have a minimum side yard of eight feet shall be 30 feet, or the average of the existing buildings where 50% or more of the frontage is developed, provided that in no case shall the depth of the front yard be less than 20 feet, or be required to be more than 30 feet. All accessory buildings, other than ~~private detached~~ garages which have a side yard of at least eight feet, shall be located at least six feet in the rear of the main building.

19.18.070 Side Yard

In the RR-1-29 zone:

1. The minimum side yard for any dwelling shall be ten feet, and the total width of the two required side yards shall be not less than 20 feet.
2. The minimum side yard for a ~~private detached~~ garage shall be eight feet, except that ~~private detached~~ garages and other accessory buildings located in the rear yard and at least six feet away from the main building shall maintain a minimum side yard of not less than five feet.
3. On corner lots, the side yard which faces on a street for both main and accessory buildings shall be not less than 20 feet, or the average of existing buildings where 50% or more of the frontage is developed, but in no case less than 15 feet.

19.18.090 Maximum Height Of Structures

1. For uses where the slope of the original ground surface is greater than 15%, ~~or if the property is located in a sensitive lands overlay zone a slope stability hazard is located on site~~, the maximum structure height shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.

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~~3. Accessory buildings in the RR-1-29 zone shall maintain a minimum distance from property lines as follows:~~

~~1. Front: Accessory buildings, including detached garages, shall maintain a setback of at least six feet from the main building in the rear yard of the particular property.~~

~~2. Sides: Three feet on interior lots; 20 feet on the street side of corner lots.~~

~~3. Rear: Three feet on interior lots; 20 feet on the street side of corner lots.~~

~~4. Attached garages shall conform to the rear yard requirements of main buildings.~~

~~5.3.~~ No accessory structure shall exceed 20 feet in height. For each foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.

~~6.4.~~ Accessory structures which meet the minimum side, rear and front setbacks for main buildings in the RR-1-29 zone may have an increase in maximum height to equal the maximum height of main buildings in the RR-1-29 zone.

19.20 – RR-1-21

19.20.060 Front Yard

In the RR-1-21 zone, the minimum depth of the front yard for main buildings and for ~~private-detached~~ garages which have a minimum side yard of eight feet shall be 30 feet, or the average of the existing buildings where 50% or more of the frontage is developed, provided that in no case shall the depth of the front yard be less than 20 feet, or be required to be more than 30 feet. All accessory buildings, other than ~~private-detached~~ garages which have a side yard of at least eight feet, shall be located at least six feet in the rear of the main building.

19.20.070 Side Yard

In the RR-1-21 zone:

1. The minimum side yard for any dwelling shall be ten feet, and the total width of the two required side yards shall be not less than 20 feet.
2. The minimum side yard for a ~~private-detached~~ garage shall be eight feet, except that ~~private detached~~ garages and other accessory buildings located in the rear yard and at least six feet away from the main building shall maintain a minimum side yard of not less than five feet.
3. On corner lots, the side yard which faces on a street for both main and accessory buildings shall be not less than 20 feet, or the average of existing buildings where 50% or more of the frontage is developed, but in no case less than 15 feet.

19.20.090 Maximum Height Of Structures.

1. For uses where the slope of the original ground surface is greater than 15%, or if ~~the property is located in a hillside sensitive lands overlay zone~~ a slope stability hazard is located on site, the maximum structure height shall be 30 feet.
2. All other properties shall maintain a maximum structure height of 35 feet.

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- ~~3.~~ Accessory buildings in the RR-1-21 zone shall maintain a minimum distance from property lines as follows:
 - ~~1.~~ Front: Accessory buildings, including detached garages, shall maintain a setback of at least six feet from the main building in the rear yard of the particular property.
 - ~~2.~~ Sides: Three feet on interior lots; 20 feet on the street side of corner lots.
 - ~~3.~~ Rear: Three feet on interior lots; 20 feet on the street side of corner lots.
- ~~4.3.~~ Attached garages shall conform to the rear yard requirements of main buildings.
- ~~5.4.~~ No accessory structure shall exceed 20 feet in height. For each foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.
- ~~6.5.~~ Accessory structures which meet the minimum side, rear and front setbacks for main buildings in the RR-1-21 zone may have an increase in maximum height to equal the maximum height of main buildings in the RR-1-21 zone.

Proposed Change #11 – Fencing Clarifications

Currently, city code is ambiguous with regards to fencing in the case of key lots, where one lot's front yard abuts another lot's rear yard. In this case fencing standards conflict; fences along property lines in the front yard may be constructed up to a height of four feet, while fences along property lines in the rear yard may be constructed up to six feet (with extensions allowed as a conditional use).

A recent neighbor dispute brought this to the staff's attention. Upon investigation, staff found the definition of a key lot to be incorrect, and also found a loophole in the wall height extension process, which would have allowed extensions in front yards.

Staff is proposing supplanting the definition of a key lot with the definition found in the Planner's Dictionary, adding a provision for fences to be constructed up to six feet in the case of key lots, and clarifying that no wall height extensions are allowed in the front yard of lots, including key lots.

Title 19 Zoning

19.04 Definitions

19.04.1550 Lot, Key

~~A corner lot whose exterior side is adjacent to the front yard of another lot. A lot with a side lot line that abuts the rear lot line of one or more adjoining lots.~~

19.76 Supplementary and Qualifying Rules and Regulations

19.76.050 Miscellaneous

E. General height and design regulations for walls, fences and retaining walls.

1. Definitions. In this Subsection (E):
 - a. "Fence" means a barrier of any material or combination of materials erected to enclose, screen or separate areas.
 - b. "Fence height" means that a fence or wall shall be measured from the adjacent existing natural grade at the base of the fence or wall, to the top edge of the fence or wall.
 - c. "Fences atop walls" means that if a fence is atop a wall, the total height shall be measured from the base of the wall to the top of the fence.
 - d. "Neighbor consent" means that all neighbors abutting the proposed wall/fence will be required to provide written consent for retaining wall/fence height above eight feet up to 12 feet.
 - e. "Retaining wall" means a structure that is designed and constructed to stabilize two generally horizontal surfaces which are vertically displaced, and which shall be either a landscape retaining wall or structural retaining wall.
2. Permitted height. No fence, wall, hedge, retaining wall or vertical combination of these (hereinafter "fence") may be erected to a height which exceeds the following requirements:
 - a. Front yard. Four feet. Lots that are at least one acre in size and have only one primary residence may erect a fence up to six feet in height. A fence may be erected up to six feet in height along a

side lot line in the front yard of a key lot, so long as it abuts the rear lot line of an adjacent lot. Fences/walls in these locations shall not be eligible for a wall height extension.

- b. Side and rear yards. Six feet.
- 3. Conditional use. Fences in the side and rear yards may be erected to a maximum height of eight feet as a conditional use upon a clear and convincing showing by the property owner in accordance with Subsections (a), ~~and (b)~~, and (c) below:
 - a. The existence of unique or special circumstances of a natural, material and adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence; and
 - b. That erection of such a fence is the most reasonable solution under the circumstances. Any such conditional use permit may be granted by the director or his designee following an administrative hearing preceded by all required notifications. A building permit shall be required for all fences approved as a conditional use.
 - ~~b-c.~~ In no case shall a conditional use permit be granted for a wall height extension in the front yard of a property, including key lots.
- 4. Neighbor consent. Side and rear yard fences may exceed eight feet in height to a maximum height of 12 feet in cases where the applicant has neighbor consent, and has received conditional use approval in accordance with Subsection 19.76.050(E)(3).
- 5. Terracing. If a taller retaining wall is necessitated by an engineering requirement as determined by the city engineer, the retaining wall may be terraced. Terracing shall be limited to three tiers. The horizontal width of the terrace between any two wall sections above existing grade shall be at least ten feet. Terraces created between retaining walls shall be landscaped or revegetated (see diagram).
- 6. Exceptions. Fences, walls, hedges, retaining walls or any vertical combination thereof in the side or rear yard may be constructed to a maximum height of 12 feet without neighbor consent and conditional use approval if the fence is adjacent to property located in a commercial zone or adjacent to a public street.
- 7. Chain link fences. Chain link fences which are not vinyl coated or galvanized shall not be allowed.
- 8. Fences, etc. atop retaining walls. Fences and non-retaining walls shall not be constructed on top of a retaining wall unless the fence and/or non-retaining wall is set back 18 inches for every one foot of vertical height above six feet high. In no circumstance shall the combination of the retaining wall and fence and/or non-retaining wall exceed eight feet without a separation of at least three feet.

Table 1

Maximum Residential Fence/Wall Height		
Height	Location	Required Approval
00-4'	All residential zones, all yards	Permitted
4-6	Side and rear yards, front yards of estate lots <u>and key lots</u>	Permitted
6-8'	Side and rear yards	Conditional Use

8-12'	Side and rear yards	Conditional Use with Neighbor Consent
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PLANNING COMMISSION MEMO

ZTA-23-004 – Sport Court Ordinance

Meeting Date: January 3, 2024

Staff Contact: Mike Johnson, CED Director

Request

This application represents a city-initiated request for a zoning text amendment to enact regulations pertaining to outdoor sport courts in or near residential properties. This amendment is being drafted in response to a city-issued moratorium on sport courts due to concerns regarding noise, lighting, and fencing.

Background & Overview

On September 6, 2023, the City Council issued a moratorium on the construction of outdoor sport courts over 500 square feet in size. The moratorium resulted from concerns raised by residents regarding noise, lighting, and fencing associated with private, residential pickleball courts.

Following the moratorium, staff prepared a draft ordinance addressing the negative impacts of sound, lighting, and fencing, and held several work session discussions with the Planning Commission. Several solutions were recommended specific to pickleball use, including establishing a substantial minimum setback to offset noise impacts, requiring building permits for sport courts, and ensuring that lighting and fencing standards were met by all sport court permits. After two meetings, the Commission requested additional input from the City Council regarding ordinance direction, particularly as it relates to setback requirements and regulating pickleball use separately from other court sports.

The City Council provided general input and recommendations, summarized below:

- Ordinance should apply to all outdoor sport courts in or adjacent to residential zones and/or uses;
- Ordinance should establish a substantial minimum setback for all sport courts if no sound mitigation is proposed;
- Ordinance should allow a reduction in that setback based on a qualified noise study that proposes methods for mitigating the noise impacts (with no minimum point of reduction. More mitigation may result in less setback);
- Ordinance should require a building permit for all sport courts, including minimum requirements for fencing and outdoor lighting, compliant with existing city ordinances;
- Ordinance should require a signed, recorded affidavit for the property owner of record to acknowledge understanding of all sport court standards and noise standards.

A revised draft ordinance has been prepared (attached to this memo). The public hearing has been continued to January 3, 2024 before the Planning Commission. Previous written comments have been submitted to the Commission and are in support of stricter setback standards.

Recommendation & Model Motions

Staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the proposed sport court regulations.

Approval

I move that we forward a recommendation of approval to the City Council for project ZTA-23-004, based on the finding listed in the staff memo and attachments dated January 3, 2024

- List any other findings or conditions for recommendation of approval...

Denial

I move that we forward a recommendation of denial to the City Council for project ZTA-23-004, based on the following findings...

- List findings for negative recommendation...

Attachments

1. Proposed Sport Court Regulations

Draft Sport Court Ordinance

December 5, 2023

19.76.010 Definitions

“*Sport Court*,” means any horizontal playing area of over 500 square feet that is paved or otherwise covered with a non-vegetative surface reasonably usable or intended for use for multi-player sports activities such as tennis, pickleball or basketball, together with all related fencing and exterior lighting.

“*Indoor Sport Court*,” means a sport court enclosed by solid walls and a roof which comply with the adopted building code’s standards for framing, insulation, dry walling, and roofing of a structure.

“*Outdoor Sport Court*,” means a sport court which is unenclosed by solid walls and a roof.

“*Qualified Noise Study*,” means a noise study prepared by a certified professional that has simulated the impact of the proposed outdoor sport court through use of engineering models, field noise level data collection, computer generation or similar techniques. The noise study shall indicate the noise impact at any property line nearer to the court than 150’. The noise study must also show what alternatives have been considered for the mitigation of noise with the pre- and post- development noise levels. The noise study shall demonstrate that the outdoor sport court will be constructed and utilized in compliance with the noise regulations instituted by the Salt Lake Valley Health Department. The applicant shall pay for the third-party review of the submitted noise study. The Development Review Committee may require applicants to submit and fund additional studies, including a visual analysis of the proposed outdoor sport court. If the Development Review Committee requires the applicant to submit additional studies, the Development Review Committee may recommend the scope and method of study.

19.76.060 Outdoor Sport Courts

- A. Purpose. This chapter regulates outdoor sport courts in or adjacent to residential zoning and/or approved residential uses in a non-residential zone, in order to mitigate the unique impacts the use of such courts presents in terms of noise, outdoor lighting, and fencing.
- B. Applicability. The regulations of this chapter apply to all outdoor sport courts constructed after the effective date of this ordinance, within a residential zone, or on a parcel adjacent to residential zoning, and/or an approved residential use. The regulations herein do not apply to sport courts legally constructed and already in existence, including the routine maintenance and repair of said courts, nor do they apply to indoor sport courts.
- C. Standards for Approval.
 - a. Building Permit Required. Outdoor sport courts require a building permit issued by the Cottonwood Heights Building Department, including review by all relevant city departments. The specifications for building permit plans will vary by project scope, but at a minimum shall include a site plan with setbacks from the proposed sport court to all property lines, fencing details including material, height, and setback to property lines,

outdoor lighting details including fixture height, bulb lumen, bulb kelvin, and lamp cut sheets, and materials information for sport court surfacing.

- b. *Setback Requirements.* All outdoor sport courts shall be located in the rear yard of the primary structure, or within a common area of a multi-family project, and shall be at least 150' from all property lines. A reduction in minimum setback may be approved by the Development Review Committee following the submission and approval of a qualified noise study as defined in this title, which indicates buffering measures that result in a decibel rating of no more than 65 dBA at property lines. In the case of a multi-family project with internal property lines designating the separate ownership of units, the outermost project boundary property lines shall be used in determining minimum setbacks required. In the case of a sport court located in a multi-family project, all unit owners within 150' of the court location must provide consent for the construction.

- c. *Fencing Regulations.* All sport court fencing is subject to the same height regulations for accessory structures in the underlying zone, as measured from existing grade. Uncoated chain link fencing is prohibited.

- d. *Outdoor Lighting Regulations.* All outdoor lighting shall be in conformance with the standards outlined in 19.77 of this title, "*Outdoor Lighting.*"

- e. *Affidavit Required.* All applications for sport courts shall include a notarized affidavit, signed by the record owner of the property, including a statement that use of the approved outdoor sport court is subject to ongoing compliance with all applicable land use regulations, including maintaining compliance with all applicable noise ordinance requirements.

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

Wednesday, December 6, 2023

5:00 p.m.

**2277 East Bengal Boulevard
City Council Work Room**

ATTENDANCE

Members Present: Chair Dan Mills, Commissioner Mike Smith, Commissioner Lucy Anderson, Commissioner Mike Shelton, Commissioner Dan Poulson, Commissioner Jonathan Ebbeler (via Zoom)

Staff Present: Deputy City Recorder, Maria Devereux, Associate Planner and Sustainability Analyst Ian Harris, Community and Economic Development Director Michael Johnson, Senior Planner Samantha DeSeelhorst, Systems Administrator Alex Earl

Excused: Commissioner Sean Steinman and Commissioner Jessica Chappell

WORK SESSION

Chair Dan Mills called the Work Meeting to order at 5:01 p.m.

1.0 Review Business Session Agenda.

The Business Session Agenda was reviewed and discussed.

Chair Mills reported the Hillside Plaza Committee selection is complete. Committee Members were appointed by each of the City Council Members and City Manager, Tim Tingey. This is a dynamic group with the involvement of fantastic contractors and interaction with the City and Staff has been productive.

Associate Planner and Sustainability Analyst, Ian Harris, provided an overview of Project SUB-23-005. It is a request to resolve a boundary discrepancy between the Ellison Woods and Brady Woods Subdivisions. Both properties are zoned Rural Residential (“RR”). The proposed amendment represents a change to an existing subdivision plat, which requires a public hearing and Planning Commission approval. The first discrepancy is an overlap with the parcel to the west that is slightly less than three feet. The second discrepancy involves a gap of slightly less than three feet along the southern edge. On the original Ellison Woods subdivision plat, the two properties were labeled as Lots 14 and 15 but have since been combined into a single lot.

Senior Planner, Samantha DeSeelhorst stated that the property owners are looking into future development opportunities, and in preparation, discrepancies were discovered in the title boundary gaps during the time of their property survey. Mr. Harris pointed out that the amendment is minor

and does not affect the land use of either property. The request is before the Planning Commission due to the discrepancy being located along the outer boundary of the subdivision. All impacted properties are owned by the Brady Family, who was represented by the applicant, David Johnson. He noted that neighbor consent was not required for this item. Staff recommended approval with the findings enumerated in the Staff Report.

1.2 Project ZTA-23-004 A public hearing and possible action on a zoning text amendment to establish standards and permitting requirements for outdoor sports courts in residential areas.

Community and Economic Development Director, Mike Johnson, presented an overview of the Zoning Text Amendment to establish standards and permitting requirements for outdoor sports courts in residential areas. In September 2023, the City Council issued a moratorium on outdoor residential sports courts. At that time, Staff was directed by the City Council to create an ordinance addressing the concerns and potentially putting a reasonable solution in place prior to the moratorium's expiration. The City has a maximum of six months to adopt regulations or the moratorium lifts. He noted that the area of concern was defined as any sports court over 500 square feet. With an increased number of pickleball courts being built, neighbors expressed concerns about lighting and noise. He believed this was an issue without a straightforward solution and there were several possible options to mitigate concerns. The City previously addressed the lighting and fencing ordinances, which are well established and primarily resolve those issues, leaving noise as the main issue of concern.

Mr. Johnson emphasized the need for regulations. It was the consensus of the City Council that pickleball not be prohibited outright or regulated differently than other sports court uses. A summary of the draft ordinance included the following possible mitigations:

- Regulate all outdoor sports courts over 500 square feet.
- Require a building permit for court, lighting, and fencing.
- Utilize existing fencing and lighting standards, no new regulations proposed.
- Require a signed affidavit acknowledging compliance with all regulations, including noise standards.
- Meet all setback requirements.
- Without sound mitigation, a 150-foot setback shall be required from all adjacent property lines
- With a sound study and recommended mitigation, a reduction shall be allowed with no minimum setback. The mitigation must result in no more than 65 dBA at property lines.

Commissioner Poulson stated that when the Pickleball discussion began, his understanding was that the main concern was noise. He compared the decibels (dB) from various activities against hertz (Hz) and found that noise becomes annoying to the human ear at 2,000 to 5,000 megahertz, which is a unit multiplier that represents one million hertz. Pickleball approaches the 2,000 MHz as does table tennis. As near as he could tell, noise produced by some sports is much less irritating to the human ear than others. If measuring noise in decibels, golf is 60 to 70, table tennis is 70 to 80, and tennis and pickleball both measure 70 to 90 decibels. Bouncing a basketball is 67 to 70 decibels at a 10-foot distance. He wondered if the City has received complaints about basketball

courts or any sports other than Pickleball. Mr. Johnson reported that based on his experience, the City has not seen any other complaints regarding sports courts and only a handful pertaining to pickleball. Commissioner Poulson asked why the City is trying to regulate sports courts and not focusing on pickleball. In an effort to get residents outside, he questioned whether their intent is to impact other courts and sports that make less noise.

Ms. DeSeelhorst commented that Commissioner Poulson's concern is the same question Staff has been faced with. They have looked at the issue and presented a draft where pickleball is the primary focus and leave other uses untouched. At the same time, concerns were expressed regarding the selection of a single activity and creating a use regulation. At the City Council's direction, the regulation was inclusive of all sports courts. Mr. Johnson clarified that the draft specifies that the applicant must provide a study with recommended mitigation.

With regard to the applicant completing a study, Commissioner Shelton questioned what they would be required to complete a study. He wondered what evidence an applicant would need to provide to prove that their court is compliant. Chair Mills stated that the reason for the study is to protect the resident who is building the sports court. They are trying to avoid a resident putting \$15,000 into a court and later discovering that because of the regulations, they violate the ordinance. He believed the intention was to provide guidance to both residents and contractors. The ordinance should be as descriptive as necessary.

Mr. Johnson stated that the court itself does not produce noise. To an extent, the study needs to include the intended use of the sports court to model the sound it will produce. Staff reiterated the need for flexibility in terms of a resident being allowed to have a reduced setback if the noise is mitigated. The proposed language came specifically from Park City's Ordinance and its study requirements. It was noted that the burden of proof is on the resident to prove that the sports court is in compliance to avoid being in a situation where they have paid handsomely for an amenity they cannot use.

Chair Mills asked Staff if the proposed draft provides a resident who has made a good faith effort with their contractor to demonstrate that the use can be mitigated. He hoped that if the threshold is as low as possible and it is communicated that if the noise ordinance is violated, it would become a Code Enforcement issue. Mr. Johnson explained that this issue is not dissimilar from a building that is in the vicinity of a steep slope or fault line. He noted that the City is not trying to prescribe what type of mitigation can be used. The ordinance provides flexibility and allows the resident to provide an analysis that is signed by an expert and is then presented to the City. He emphasized that the study does not compensate for continuing to be compliant moving forward. Ms. DeSeelhorst stated that daytime and nighttime use limits were taken from the Salt Lake County Health Department regulations. Hours of use were discussed.

Commissioner Ebbeler raised a question with the affidavit, 19.76.060 C, Subsection E. He felt that it lacked substance and when a property changes hands, unless there is a Covenant Condition in place with the sale of a property, an affidavit is meaningless and no longer enforceable. He found it interesting that they are looking for a solution based on a handful of complaints in a City with a population of 50,000. Mr. Johnson stated that Council Member Ebbeler's concern is technically correct. The affidavit does not add any restrictions beyond the ordinance. He believed

it was an added layer to ensure that the homeowner was aware of the regulations prior to investing to construct a sports court.

Commissioner Anderson understood the shared concerns and supported being proactive and keeping focused. She believed the ordinance should apply to all sports courts rather than a single use.

Commissioner Poulson stated that Staff has specified that the proposed ordinance pertains to sports courts that are larger than 500 square feet. A standard pickleball court is 808 square feet in size. He asked if the square footage could be increased to 600 to 650 square feet, which would prohibit a tennis court or pickleball court but allow for sports courts that take up less room. He believed that restricting anything over that square footage would eliminate the current issues and eliminate the additional expense. Mr. Johnson clarified that the moratorium was imposed on sports courts that are over 500 square feet in size and the reasoning behind the proposed ordinance.

Council Member Shelton was frustrated by the proposed regulations and stated that property rights laws are founded on the protection of individual property rights from the government. According to the Utah Property Rights Ombudsman, the basic right people have on their property is to do whatever they wish to. A City has the right to enact zoning laws that create exceptions to that basic right. He felt it was important to recognize that cities do not give property rights but may impose restrictions. Laws that create those restrictions are only permitted to the extent that they ensure the health, safety, and welfare of citizens. A properly formed zoning restriction that takes those rights from the resident must define standards that apply to future land use applications. He commented that the proposed standard specifies that any activity that is adjacent to a residential property that produces a decibel rating greater than 65 dB at the property line is detrimental to the health, safety, or welfare of adjacent residential property owners. Anything a resident does that exceeds 65 dB at the property line must be detrimental or the City is not authorized to impose regulations. He was opposed to accepting that restriction because the City permits a host of things that exceed that standard.

Council Member Shelton commented that if the City plans to deny a permit to someone who does not meet that standard, they will have to deny a permit to anyone who wants to build a home. The property owner would be required to sign an affidavit that they will not use specific power tools that exceed that dB level. He emphasized he could not accept that standard and noted that the public owns several sports courts that based on this standard, are detrimental to health, safety, and welfare. He asked the City to consider all of the prohibited uses that fall into this restrictive category. Brighton High School is adjacent to residences and when there is a football game, the noise created is in violation of the standard. He reported that there is an extensive list of things the City has decided are acceptable that do not meet this standard. He expressed opposition to the proposed ordinance.

Commissioner Anderson commented that equating everyday living and building a home to playing a sport that takes away from a person being able to enjoy where they live does not fall within the property rights of someone who is doing something detrimental. The construction of a home is not permanent and may be necessary to improve the community. She believed there should be a balance between residents having the right to enjoy their property regardless of whether they have

a sports court. Something must be done to address noise that is persistent and takes away from a property owner's enjoyment of their property. She emphasized that rules are in place to create a balance. She argued against the Ombudsman's statement that anything can be done on a person's property. She supported the proposed ordinance as written and allowing a homeowner to make an effort to mitigate noise that falls within the acceptable level. She felt it would be a disservice to not set a balance.

Commissioner Smith commented that the issue is defining the proper role of government. He appreciated the focus on property rights and how they may impede the rights of other property owners. He considered it to be a delicate question. He would not be opposed to his neighbors having a pickleball court but understood the concerns. He believed that historically, government tends to encroach on individual rights and he encouraged careful thought when considering potential encroachments on individual rights.

Commissioner Poulson believed there was a balance in what is being considered. He understood that complaints have been received regarding pickleball specifically because it is repetitive and played all day. If it was not consistent and played frequently, the issue may be different.

Ms. DeSeelhorst shared that as city planners, their job is to consider health, safety, and welfare issues. Perception changes from person to person and this is why these types of issues come before the Planning Commission.

Commissioner Ebbeler stated that in all his years of government service, this is by far one of the most interesting issues he has ever been involved in. Previously, he was involved in an eminent domain issue and he stressed the importance of understanding the role of government with regard to property rights. He understood both sides of the argument and found both to be very persuasive.

Chair Mills reported that he is a physical therapist by profession and an advocate for people moving and creating more spaces on private property and public spaces in any way they choose. He also supported the preservation of property rights to the extent possible. He appreciated the context of the Constitution and the Ombudsman as shared by Council Member Shelton and the facts related to other activities that were shared. He supported many of Commissioner Anderson's sentiments regarding what is being done on one person's property impacting the adjacent property owners. The ultimate decision on the matter will be made by the City Council. Cottonwood Heights is an active community and they are anxious to keep it that way. He was generally comfortable with the issue and the ordinance as currently written and supported the possibility of adjusting court sizes. He was sensitive to ensuring that the process was as accessible as possible and preferred to err on the side of the rights of the property owner in terms of the outcome of the sound study.

Mr. Johnson stated that procedurally, a vote is not necessary at tonight's meeting and may be scheduled for a future meeting. The draft will then be forwarded to the City Council who will take action.

2.0 City Project Update.

The above item was not addressed.

3.0 Adjournment.

Commissioner Anderson moved to ADJOURN. Commissioner Smith seconded the motion. The motion passed with the unanimous consent of the Commission.

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

DRAFT

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

Wednesday, December 6, 2023

6:00 p.m.

**2277 East Bengal Boulevard
City Council Chambers**

Members Present: Chair Dan Mills, Commissioner Mike Smith, Commissioner Lucy Anderson, Commissioner Mike Shelton, Commissioner Dan Poulson, Commissioner Jonathan Ebbeler (via Zoom)

Staff Present: Deputy City Recorder, Maria Devereux, Associate City Planner and Sustainability Analyst Ian Harris, Community and Economic Development Director Michael Johnson, Senior City Planner Samantha DeSeelhorst, System Administrator Alex Earl

Excused: Commissioner Sean Steinman and Commissioner Jessica Chappell

BUSINESS SESSION

1.0 Welcome and Acknowledgements.

Chair Mills called the meeting to order at 6:00 p.m. and welcomed those in attendance.

1.1 ExParte Communications or Conflicts of Interest to Disclose.

There were no conflicts of interest disclosed.

2.0 General Public Comment.

Don Smart reported that living in America provides freedom and all of its benefits, especially as a homeowner. He believed the challenge is due to the noise that pickleball creates and although he enjoys playing, it reaches a level of sound that impacts the neighbors. His adjacent neighbor is building a sports court 13 feet from his property line. The two have a great relationship and there are six homes whose properties come together. He respects the homeowner and the money they have spent but believes that it must be livable for all of the neighboring residents. For those with young children or who work from home, noise is of concern. He appreciated the efforts of Staff and the Planning Commission and agreed that it is a difficult decision. He supports personal freedom and rights but there is a need to understand that it has to be within the confines of one's own property.

Community and Economic Development Director, Michael Johnson reported that the pickleball discussion is on the Business Meeting Agenda. Staff noted that Mr. Smart's comment pertains to the sports court discussion and would be noted as such.

Commissioner Ebbeler reported that when dealing with the sports court agenda item, he proposed that it be postponed to a date certain rather than tabled.

Chair Mills clarified that a public hearing would be held on the sports court item but no action would be taken tonight.

There was no further public comment. Chair Mills closed the public comment period.

3.0 **Business Items.**

3.1 **Project SUB-23-005 – A Public Hearing and Possible Action on a Subdivision Amendment Request to Resolve a Boundary Discrepancy between the Ellison Woods Subdivision and the Brady Woods Subdivision. This Amendment Represents a Change to an Existing subdivision plat, which Requires a Public Hearing and Planning Commission Approval.**

Associate City Planner and Sustainability Analyst, Ian Harris, presented the Staff Report and stated that the above matter is a request to resolve a boundary discrepancy between the Ellison Woods and Brady Woods Subdivisions located at 6450 South just west of 2300 East. Both properties are zoned Rural Residential (“RR”). The larger property is 1.24 acres in size and the smaller one is .25-acre. There are two boundary discrepancies associated with the proposed Subdivision Amendment. The first is an overlap with the parcel to the west of 2.7 feet. The second discrepancy involves a gap of slightly less than three feet along the southern edge. On the original Ellison Woods subdivision plat, the two properties were labeled as Lots 14 and 15 but they have since been combined into a single lot. The proposed amendment represents a change to an existing subdivision plat, which requires a public hearing and Planning Commission approval. All impacted properties are owned by the Brady Family who were represented by the applicant, David Johnson. As a result, neighbor consent was not required. No public comments had been received. Staff recommended approval.

Chair Mills opened the public hearing.

Bill Brady reported that his mother passed away in February and he is the Executor of her estate. Several months prior, there was an expressed interest in purchasing the property and a survey was recommended. The applicant, David Johnson, surveyed the property which resulted in multiple boundary discrepancies. He stated that they are only trying to correct the error in the earlier miscalculations. Both properties were surveyed, which resulted in one crossing over into the estate property. He confirmed that all family members support the lot line adjustment and moving forward.

Mark Anderson identified himself as the owner of Lot 1, where he has lived for 16 years. He developed the subdivision prior to the City’s incorporation. Because there was a red line along his north fence line, he asked if correcting the discrepancy between the two subdivisions will affect his property line. Mr. Johnson confirmed that the proposed adjustment will in no way affect Mr. Andersen’s property line.

David Schwartz lives across from the subject property and suggested that future notices provide more detail such as the current property lines and what is being corrected.

There were no further public comments. Chair Mills closed the public hearing.

Commissioner Ebbeler moved to APPROVE Project SUB-23-005 based on the following:

Findings:

1. ***The amendment is essentially a minor lot line adjustment intended to remedy a survey discrepancy.***
2. ***Because the lot line adjustment affects the outer boundary of a subdivision, a subdivision amendment application is required.***
3. ***All affected properties are owned by the Brady Family, represented by David Johnson. As such, neighbor consent isn't required.***

Commissioner Anderson seconded the motion. Vote on motion: Commissioner Anderson-Yes, Commissioner Poulson-Yes, Commissioner Shelton-Yes, Commissioner Smith-Yes, Commissioner Ebbeler-Yes, Chair Mills-Yes. The motion passed with the unanimous consent of the Commission.

3.2 Project ZTA-23-004 - A Public Hearing and Possible Action on a Zoning Text Amendment to Establish Standards and Permitting Requirements for Outdoor Sports Courts in Residential Areas.

Mr. Johnson presented the Staff Report and stated that in September 2023, the City Council imposed a moratorium on outdoor sports courts over 500 square feet in size. The moratorium essentially puts a temporary hold on the construction of sports courts over 500 square feet. The intent is to allow the City time to analyze the impact of a certain use and if appropriate, provide regulations or an ordinance. The reasoning related to the perceived unique impact of pickleball courts and concerns expressed by residents to the City Council regarding the construction of residential courts throughout the City. Lighting, noise, and fencing were the primary focus caused by those uses. The City previously addressed the lighting and fencing ordinances, which are well-established and primarily resolve those issues. This leaves noise as the main concern. Feedback was provided on the initial draft, which was presented to the City Council and culminated in the current draft ordinance. This issue has been discussed in great detail but no decision has been made. Multiple options were discussed. Staff's direction was based on the consideration of an approach that regulates the issue reasonably and equitably and addresses the issue of noise. The draft ordinance does the following:

- Regulates all outdoor sports courts over 500 square feet in size.
- Requires a building permit for court, lighting, and fencing.
- Utilizes existing fencing and lighting standards with no new regulations being proposed.

- Requires a signed affidavit acknowledging compliance with all regulations, including noise standards.
- Imposes setback requirements as follows:
 - Without sound mitigation, a 150-foot setback is required from all adjacent property lines.
 - With a sound study and recommended mitigation, a reduction is allowed with no minimum setback. Mitigation must result in no more than 65 dBA at property lines.

Mr. Johnson reported that this is the first formally scheduled public hearing for this item and will continue to the City Council for consideration. Chair Mills pointed out that the Work Session included a lively discussion. Comments addressed property rights and the contrast between pickleball and other activities relative to frequency and sound intensity measured in decibels. There was discussion also included what sound studies would potentially look like and the implications for residents of Cottonwood Heights. He encouraged residents to listen to the Work Session discussion for additional details.

Chair Mills opened the public hearing.

Mr. Johnson stated that written comments were forwarded to the Planning Commission. A comment was also received after the deadline that would be forwarded at the conclusion of the meeting.

Ms. Hyland, was extremely grateful for the work of the Planning Commission and the thoughtful comments on both sides. This is a difficult decision because regardless of the outcome, some of her neighbors will be unhappy. She did not think the City should have an ordinance that they cannot or will not enforce. For those listening who have not lived near a pickleball court, she has received many complaints from residents stating that they did not sign up to live next to a recreation center. She shared concern about there being an unusually high utilization rate and that if there is not some kind of setback or mitigation, being able to control the rental of backyard courts will be difficult. She stated that many apps aggressively promote the rental of these courts because there is such a high demand within communities. She believed that over time, the pickleball sound problem would be addressed but it did not negate the need for the City to do something about it now. Although she did not know the answer, she felt strongly that something needs to be done.

Mike Hansen echoed Ms. Hyland's sentiments and agreed that this is a difficult issue. He thanked the Planning Commission for their efforts.

Senior City Planner, Samantha DeSeelhorst stated that public comments may also be submitted in writing. Staff was also willing to redact personal information as allowed. Comments may be submitted to planning@ch.utah.gov.

There were no further public comments. Chair Mills closed the public hearing.

Commissioner Ebbeler moved to POSTPONE Project ZTA-23-004 to a date certain to January 3, 2024, with the public comment period remaining open until that time.

There was Commission discussion regarding the proper procedure for postponement.

Commissioner Smith seconded the motion. Vote on motion: Commissioner Anderson-Yes, Commissioner Poulson-Yes, Commissioner Shelton-Yes, Commissioner Smith-Yes, Commissioner Ebbeler-Yes, Chair Mills-Yes. The motion passed unanimously.

4.0 Consent Agenda.

4.1 Approval of Planning Commission Minutes from October 18, 2023.

4.2 Approval of Planning Commission Minutes from November 1, 2023

Commissioner Ebbeler moved to APPROVE the Consent Agenda subject to ministerial corrections by individual Council Members to Staff. Commissioner Shelton seconded the motion. The motion passed with the unanimous consent of the Commission.

Commissioner Ebbeler moved to AMEND the Business Session Agenda to move the Work Session Item 2.0 City Project Update to follow the 4.0 Consent Agenda item on the Business Session Agenda. Commissioner Anderson seconded the motion. The motion passed with the unanimous consent of the Commission.

Ms. DeSeelhorst provided a brief timeline update on the Form-Based Code Project. After the most recent Planning Commission Meeting, this item went before the City Council. The Council received a high-level overview and understood it to be favorably received. She reported that Staff plans to return to the Planning Commission Meeting on January 17, 2024, to provide additional updates with their Consultant. At that time they will share a Question And Answer (“Q&A”) document. She noted Staff has also been preparing a project webpage that will be a resource for any impacted property owner who desires additional information. A public opportunity will be provided to any property owners to discuss their questions. Staff will then return to the Planning Commission for a public hearing.

5.0 Adjournment.

Commissioner Smith moved to ADJOURN the Business Meeting. Commissioner Anderson seconded the motion. The motion passed with the unanimous consent of the Commission.

The Business Meeting adjourned at 6:50 p.m.

I hereby certify that the foregoing represents a true, accurate, and complete record of the Cottonwood Heights City Planning Commission Work Session and Regular Meeting held Wednesday, December 6, 2023.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: _____

DRAFT