



1 The unit includes two car garage and a driveway in front of the garages for parking. The property is  
2 located in the R-2-8 (Multi-Family Residential) Zone. Short-term rentals may be approved as a  
3 conditional use in the R-2-8 Zone, provided that the property is part of a planned unit development  
4 or condominium project that contains at least eight units and fronts on a private street. The subject  
5 property is a part of the Oaks at Wasatch PUD B, which contains 57 units. The property fronts Lone  
6 Brook Ln., which is a private street.

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8 Hearing Officer Johnson opened the public hearing. There were no public comments. The public  
9 hearing was closed.

10  
11 Hearing Officer Johnson approved Project CUP-24-002 with conditions.

12  
13 **Hearing Officer Johnson moved to APPROVE item CUP-24-001 and CUP-24-002 pursuant to**  
14 **the following Conditions of Approval outlined in the Staff Report:**

- 15  
16 **1. The applicant must complete necessary steps to obtain a business license through the**  
17 **city of Cottonwood Heights. Obtaining a business license will indicate final approval of**  
18 **the short-term rental application. The short-term rental property will not be considered**  
19 **legal until a business license is obtained.**
- 20 **2. The short-term rental property is required to maintain compliance with all sections and**  
21 **subsections of Chapter 19.89 and Chapter 5.85 of the Cottonwood Heights Municipal**  
22 **Code, as hereafter amended from time to time, and all other legal requirements and**  
23 **applicable laws.**
- 24 **3. The Operators shall provide a 24/7 hotline to resolve issues. Operators shall respond (in**  
25 **person, if appropriate) to telephonic complaints within one hour after such complaint is**  
26 **made. Inappropriate and/or non-response to such complaints shall constitute a violation.**
- 27 **4. Occupancy in any short-term rental property shall not exceed the lesser of: (a) up to two**  
28 **adults (persons aged 18 and above) and two related children (persons under age 18) per**  
29 **bedroom, or (b) a total occupancy (adults and children) of no more than 12 persons in**  
30 **the entire short-term rental property. It is prohibited to create artificial divisions or**  
31 **partitions for the purpose of increasing available occupancy of an otherwise standard**  
32 **dwelling unit.**
- 33 **5. This short-term rental property will be approved for no more than four (4) bedrooms.**  
34 **The term “bedroom” means a room designated and used primarily for sleeping and rest**  
35 **on a bed.**
- 36 **6. Upon issuance of a business license and conditional use permit, the applicant must**  
37 **display a copy of the business license inside the main entry of the property.**

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39 Hearing Officer Johnson recommended approval based upon the following findings:

40  
41 This recommendation is based on the following findings:

- 42 1. The proposed short-term rental meets the applicable provisions of Chapter 19.89 and Chapter  
43 5.85 of the Cottonwood Heights Municipal Code.
- 44 2. That the proposed project will continue to meet the applicable provisions of Chapter 19.84,  
45 “Conditional Uses,” of the zoning code:
  - 46 a. That the proposed use is one of the conditional uses specifically listed in the zoning  
47 district in which it is to be located (19.89.050);

- b. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, comfort, order or general welfare of persons residing or working in the vicinity;
- c. That the use will comply with the intent, spirit and regulations of this title and will be compatible with and implement the planning goals and objectives of the city;
- d. That the use will be harmonious with the neighboring uses in the zoning district in which it is to be located;
- e. That nuisances which would not be in harmony with the neighboring uses will be abated by the conditions imposed;
- f. That protection of property values, the environment, and the tax base for the city will be assured;
- g. That the use will comply with the city's general plan;
- h. That the property will be required to comply with all conditions of approval in perpetuity, in accordance with Sections 19.89.160 – Inspections and 19.89.190 – Violations and penalties of the Cottonwood Heights Municipal Code.

**1.3 Project CUP-24-003 Request from Brad and Chari Carter for an amendment to a previously issued conditional use permit (CUP-23-016, issued on January 3, 2024) for a six-foot four-inch fence along the north property line of 7245 S. Dorset Cir.**

Associate City Planner, Maverick Yeh, gave background and an overview of the project. The applicant has submitted an amended application for project CUP-23-016. That previous request, approved on January 3, 2024, approved a wall height extension at the subject property. At the hearing, several conditions of approval were imposed by the hearing officer to reasonably mitigate potential negative impacts of the wall. Those conditions of approval are as follows:

1. A building permit and all necessary inspections shall be obtained and completed.
2. The building permit will clearly state materials and design and shall not exceed a total height of 6 feet 4 inches from the existing grade.
3. Any filling material bearing upon the fence from the applicant's property shall be entirely removed or regraded. This condition shall require inspection and written approval by city staff to be considered satisfied.
4. The applicant shall provide details on the building permit regarding erosion control.
5. The applicant shall work with staff to lower the height of the fence panel adjacent to the public sidewalk to no more than 5.5 feet

The current submission is to amend the conditions approved in the last meeting, specifically item No. 5. The applicant contends that the city did not provide sufficient evidence or proof regarding the raised safety concerns. The previous decision was predicated on a perceived agreement to a fence height of 5.5 feet, alongside a perceived notion of safety. The applicant is requesting to remove that condition of approval from its scope of work.

Additionally, the applicant has requested that the city conduct a sidewalk visibility safety analysis in direct response to the imposed condition of approval regarding site visibility. If the study reveals no safety concerns, the applicant wants to complete the fence in its current configuration. The fence stands at a height of 6 feet, with the posts measuring 6 feet 4 inches, except for the end post, which extends to 6 feet 10 inches from the applicant's property. The increased height of this post is a result

1 of the city's directive to remove soil from the applicant's property due to erosion concerns along the  
2 sidewalk.

3  
4 If the sidewalk safety study identifies any issues, the applicant is prepared to relocate the fence post  
5 closest to the sidewalk by 2 feet, providing a buffer from the sidewalk to the beginning of the fence.  
6 The applicant is no longer proposing to lower the first panel of the fence below the height of the rest  
7 of the approved fence.

8 The City's Public Works Department completed an inspection of this site visibility concern on  
9 February 26, 2024. The inspection revealed no visibility issues and confirmed that extending the  
10 fence all the way to the sidewalk does not result in any codified safety or visibility issue found  
11 within the Cottonwood Heights Municipal Code. Additionally, the applicant contests the decision  
12 to implement erosion control measures along their fence. They have submitted photos as part of this  
13 contentment, which are attached to this memo. The applicant has also submitted a certified  
14 engineering letter to address the potential erosion concerns.

15  
16 Associate City Planner, Maverick Yeh, provided the Staff Analysis and explained, the applicant's  
17 property is located in a cul-de-sac, linking the front yard area to the backyard of the adjacent  
18 neighbor, which is why city staff interpreted the code as allowing a six-foot fence at this location. In  
19 addition, this fence does not affect the clear view area 30 feet from the driveway approach. As per  
20 this application, the staff deems the proposed six-foot four-inch fence to be a reasonable privacy  
21 enhancement. The additional four inches does not impose any unreasonable or negative impact that  
22 a six-foot fence would not impose. However, there appears to be fill material within the applicant's  
23 property. Staff recommends that the fill material be removed from against the wall, or the wall be  
24 assessed by a licensed engineer and deemed fit to withstand such load, and that the fill is graded in a  
25 way to prevent debris runoff. The fill material against the wall may present an issue with debris  
26 flowing onto the public sidewalk.

27  
28 The Conditional Use Permit Determining Criteria Staff has found enough evidence that the  
29 standards for the issuance of a conditional use permit have been satisfied (see Section 19.84.080 CH  
30 Code).

31  
32 Hearing Officer Johnson opened the Public Hearing.

33  
34 Chari Carter (applicant) addressed concerns of neighbors, aesthetics, fencing alignment and structural  
35 integrity of the fence.

36  
37 Mary Bailey stated concerns of ongoing issues with the fence and property.

38  
39 Kelly Marsden expressed concern for the safety of children with the fence height issue.

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41 Hearing Officer Johnson closed the Public Hearing at 12:29 PM

42  
43  
44 **Hearing Officer Johnson moved to APPROVE item CUP-24-003 pursuant to the following**  
45 **Conditions of Approval outlined in the Staff Report:**

- 46  
47 **1. A building permit and all necessary inspections shall be obtained and completed.**

- 1       **2. The building permit will clearly state materials, design, and shall not exceed a total**
- 2       **height of 6 feet 4 inches from existing grade.**
- 3       **3. Any fill material bearing upon the fence from the applicant’s property shall be fully**
- 4       **removed or regraded. This condition shall require inspection and written approval by**
- 5       **city staff to be considered satisfied.**

6  
7       **FINDINGS FOR APPROVAL**

- 8       1. There is clear and convincing evidence shown by the property owner relating to privacy will
- 9       be substantially minimized or eliminated by the implementation of the requested wall and fence
- 10      combination; (19.76.050.E.1.a)
- 11      2. That construction of such wall and fence is the most reasonable solution under the
- 12      circumstances. The additional fence height is necessary to ensure mitigation of aforementioned
- 13      issues.
- 14      3. The conditional use permit is granted by the director or his designee following an
- 15      administrative hearing preceded by all required notifications. (19.76.050.E.1.b)
- 16      4. The evidence presented with the proposed conditional use has been found to be compliant
- 17      with the requirements of section 19.84.080 (Conditional Uses – Determination) and section
- 18      19.76.050.E (Miscellaneous – Fences).
- 19      5. There is sufficient evidence that the standards for the issuance of a conditional use permit as
- 20      outlined in Section 19.84.080 CH Code have been satisfied.

21  
22      Public comment has been forwarded to Hearing Officer.

23  
24      **2.0     Consent Agenda**

25  
26              **2.1     Approval of Minutes for March 6, 2023.**

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28      **The Administrative Hearing Officer will approve the minutes of the March 6, 2024 meeting**

29      **after the following process is met. The City Recorder will prepare the minutes and email them**

30      **to the Hearing Officer. The Hearing Officer will have five days to review the minutes and**

31      **provide any changes to the Recorder. If, after five days there are no changes, the minutes will**

32      **stand approved. If there are changes, the process will be followed until the changes are made**

33      **and the Hearing Officer is in agreement, at which time the minutes shall be deemed approved.**

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35      **3.0     Adjournment**

36  
37      The Administrative Hearing adjourned at 12:30 p.m.

1 *I hereby certify that the foregoing represents a true, accurate, and complete record of the*  
2 *Cottonwood Heights City Administrative Hearing held Wednesday, March 6, 2024.*

3

4 *Maria Devereux*

5 Maria Devereux  
6 Deputy Recorder

7

8 Minutes Approved: \_\_\_\_\_