

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

**Wednesday, April 3, 2024  
5:00 p.m.  
2277 East Bengal Boulevard  
City Council Work Room**

***ATTENDANCE***

**Members Present:** Chair Dan Mills, Vice-Chair Lucy Anderson, Commissioner Mike Smith, Commissioner Mike Shelton, Commissioner Jessica Chappell (via Zoom), 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 (via Zoom), Alex Earl System Administrator

**Excused:** Commissioner Dan Poulson and Commissioner Sean Steinman

**WORK SESSION**

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

**1.0 Review Business Session Agenda.**

The Business Session Agenda was reviewed and discussed.

Chair Mills reported that there was one Action Item on the Business Meeting Agenda. Associate City Planner and Sustainability Analyst, Ian Harris, stated that Project SUB-24-004 is a request from David Bowen for a Subdivision Amendment to combine two adjacent parcels into a single lot. The subject property is located at 6838 South Manorly Circle. An aerial map was displayed. Lot 8 of the Cottonwood Manor Subdivision measures 0.23 acre with the adjacent lot being 0.25 acres in size. Both lots are under the same ownership. He reported that the applicant's home is located on Lot 8 with the adjacent lot containing some planter boxes and an undeveloped hillside. The applicant originally applied for a Building Permit to construct a pool. A pool is considered an accessory structure and may not be constructed onto different parcels, hence the request to combine the two lots.

Mr. Harris presented an excerpt from the proposed Amended Plat that detailed utilities and existing easements. Staff conducted a preliminary review of the project and did not find substantial issues with combining two parcels. By combining the properties, the resulting lot size increases, and the total structural lot coverage decreases. There were no changes made to lot width or frontage by the proposal. Staff recommended approval of the findings listed in the Staff Report. Community and Development Director, Michael Johnson stated that there are limitations on any future

development due to the undevelopable hillside with 20 to 30 feet straddling the property line of buildable property.

## **2.0 Zoning Text Amendment – Yard Elements.**

Senior City Planner, Samantha DeSeelhorst, presented the Staff Report and stated that the Yard Elements Zoning Text Amendment was initially discussed with the Planning Commission in 2023 but put on hold while other zoning text amendments were reviewed. Staff focused on two areas of interest. Both were intended to provide clarification on how yard elements are and are not regulated in the City Code and included the following:

### ***Define but Don't Regulate***

- Arbor: A free-standing arch utilized as an ornamental gateway to a path or yard area, not to exceed eight feet in height and three feet in depth.
- Flagpole: A freestanding structure or a structure to a building or the roof of a building on a parcel of record and used for the sole purpose of displaying flags.
- Raised Beds, Planters: Above-ground planting vessels which do not serve a retaining or structural purpose, and are not enclosed by structures.

The Commission Members suggested clarifying further the definition of retaining wall. It was suggested the Building Code trigger of two feet could also be referenced.

- Trellis: A frame of latticework designed to support plants, either freestanding or attached to a structure.
- Water Feature: A design element where water performs an aesthetic function, such as ponds, fountains, or waterfalls which serve a strictly ornamental purpose, and are not utilized for recreation.

Commissioner Shelton questioned the regulation for flagpole height. Ms. DeSeelhorst confirmed that currently, there are no existing flagpole height regulations. Staff suggested putting a cap on height similar to what a building is allowed. She felt it was reasonable to look at both residential and commercial flagpole heights and add allowances to the City Code.

Setbacks with regard to water features were discussed. Chair Mills stated that many large water features connect and run into resident swimming pools. The addition of technical language was recommended. Ms. DeSeelhorst stated that the definition may be amended to state, “A water feature not utilized for recreation.” Staff noted there have not been many complaint cases pertaining to water features. Complaints about pergolas and gazebos were the most common.

Ms. DeSeelhorst continued the Staff presentation detailing the second focus of interest.

## *Define and Regulate*

- Gazebo: A freestanding structure or building or attached structure or building with a pitched-roof design and a maximum area of 600 square feet, not to be used for habitation.
- Pergola: A freestanding structure or attached structure forming a sitting area or passageway that is composed of vertical posts or pillars that usually support crossbeams and a sturdy open lattice.

*Proposed Regulation:* Gazebos and pergolas shall be subject to the same height, setback, placement, and lot coverage standards for attached or accessory structures in the underlying zone depending on whether the gazebo or pergola is attached to the main building or constructed as an accessory structure. A Building Permit is required if over 200 square feet or has utility connections. Staff recently reviewed how carports are defined should there ever be an issue with it being compared to that of a pergola. They believed it was more important to define an arbor. From a Building Code standpoint, the fire separation standards for Accessory Buildings to Primary Buildings are not differentiated whether they are open-air or closed.

- Swimming Pool, Outdoor: An accessory structure, designed to hold water more than 30 inches deep to be used for recreational purposes, including but not limited to above-ground pools, in-ground pools, hot tubs, swim spas, and plunge pools.
- Swimming Pool, Private: A swimming pool intended to be used solely by the owner, lessee, or tenant of the realty on which it is situated (and their family and friends invited to use it) without payment of any fees.

*Proposed Regulation:* Swimming pools shall be subject to the same height, setback, placement, and lot coverage standards for accessory structures in the underlying zone but are not required to maintain a minimum distance for buildings. A Building Permit is required.

A question was raised regarding multiple owners of a property or pool. Staff explained that they were referring to a community pool rather than a backyard pool for personal use.

Chair Mills reported that his neighborhood is run by a Homeowners Association (“HOA”) which includes a vacant piece of property. If the HOA were to put a pool on that piece of property, he asked if it would be considered private. Ms. DeSeelhorst believed one direction could be merging definitions to clarify if a pool is in a residential backyard, it is to be only used for personal use without fees. Language regarding charging a fee for private pool use was discussed. Mr. Johnson suggested language be amended to read “swimming pool, outdoor.”

- Playground, Swing Set: An outdoor apparatus with equipment for children’s recreation, such as swings, slides, and climbing frames, not including any water or electricity connections, not occupiable space.

Commissioner Shelton asked that the term *occupiable* be reconsidered. Staff confirmed that they will revisit language. Use of the term *habitable* was recommended.

*Proposed Regulation:* Playgrounds shall be subject to the same height, setback, placement, and lot coverage standards for accessory structures in the underlying zone. No Building Permit is required.

- Retaining Wall: A wall or terraced combination of walls used to retain more than 18 inches of material and not used to support, provide a foundation for or provide a wall for a building or structure.

*Proposed Regulation:* Retaining walls that are less than six feet in height may be located anywhere in the yard and are not subject to either attached or accessory structure setback and placement standards. Retaining walls greater than six feet in height shall be subject to the same setback and placement standards for either attached or accessory structures in the underlying zone, depending on whether the wall is attached to a building foundation or constructed as a standalone accessory structure. A retaining wall may be located along a property line, provided it meets fencing regulations. A Building Permit may be required for a retaining wall over four feet in height.

Chair Mills questioned the use of the word combination and its interpretation in the proposed regulation. He asked if language should include “the combination of less than six feet.” Ms. DeSeelhorst distinguished the property owner would be required to obtain a Building Permit should any portion exceed four feet. As far as regulations are concerned, the Code does state if there is a certain amount of linear separation between tiers, they are considered separate elements. Mr. Johnson explained that there is a formula that states if the area measures three times the height of the wall and has a terrace between them, they are considered separate. If the measurement is less, it is considered one retaining structure and permitted as one rather than several. Staff confirmed language would be adjusted.

Commissioner Smith asked who would be responsible for the merging of property if it is located on a sloped hill with a retaining wall and gives way. Commissioner Chappel stated if there is a significant grade drop at a property line, the retention of the grade is the responsibility of the uphill neighbor. If a wall is located below and has a surcharge from the adjacent building above, setback rules have not been followed. She stated that the influence line is located at the bottom of the footing. If one footing is 10 feet below the other, it was recommended they be located within 10 feet apart of up to 15 depending on the slope height.

- Tree House: An outdoor apparatus constructed within a tree for children’s recreation, not exceeding 100 square feet, and not including any water or electricity connections, nor occupiable space.

*Proposed Regulation:* Treehouses shall be subject to the same setback and height requirements for accessory buildings in the underlying zone, but may be located in any yard area, and are not subject to building separation or lot coverage standards. The height of the structure is measured from the existing grade to the highest roof point. A Building Permit is not required.

Commissioner Shelton stated that there were concerns regarding the location of the treehouse. He felt that the way the language was written a treehouse is permitted to be in the front yard.

Mr. Johnson reported that a treehouse is defined as less than 100 square feet. Anything larger is considered an Accessory Building to be located in the backyard and regulated as such. Staff would review surrounding city regulations and return with adjusted verbiage at the May 1 Planning Commission Meeting.

### **3.0 Adjournment.**

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

The Work Meeting adjourned at 5:56 PM.

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

**Wednesday, April 3, 2024  
6:00 p.m.  
2277 East Bengal Boulevard  
City Council Chambers**

**Members Present:** Chair Dan Mills, Vice-Chair Lucy Anderson, Commissioner Mike Smith, Commissioner Mike Shelton, Commissioner Jessica Chappell (via Zoom), 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 (via Zoom), Alex Earl System Administrator

**Excused:** Commissioner Dan Poulson and Commissioner Sean Steinman

**BUSINESS SESSION**

Chair Dan Mills called the Business Meeting to order at 6:03 PM.

**1.0 Welcome and Acknowledgements.**

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

There were no Ex Parte communications or conflicts of interest to disclose.

**2.0 General Public Comment.**

There were no public comments.

**3.0 Business Items.**

**3.1 Project SUB-24-004 - A Public Hearing and Possible Action on a Request from David Bowen for a Subdivision Amendment to Combine Two Adjacent Parcels at 6838 South Manorly Circle into a Single Lot.**

Associate City Planner and Sustainability Analyst, Ian Harris, presented the Staff Report and stated the above item is a request for a Subdivision Amendment to combine two adjacent parcels located at 6838 South Manorly Circle into a single lot. The applicant was identified as David Bowen who wishes to combine the two parcels to allow for an accessory structure. A Subdivision Plat rendering was displayed. Staff received no public comments and recommended approval. The applicant, David Bowen, commended Mr. Harris for his professionalism and assistance throughout the application process.

**MOTION:** Commissioner Shelton moved to APPROVE Project SUB-24-004. Commissioner Smith seconded the motion. Vote on motion: Commissioner Anderson-Yes, Commissioner Smith-Yes, Commissioner Shelton-Yes, Commissioner Chappel-Yes, Commissioner Ebbeler-Yes, and Chair Mills-Yes. The motion passed unanimously.

**4.0 Consent Agenda.**

**4.1 Approval of Planning Commission Minutes from January 17, 2024, Meeting.**

**MOTION:** Commissioner Smith moved to APPROVE the Planning Commission Minutes from January 17, 2024 Meeting with changes as noted. Commissioner Ebbeler seconded the motion. The motion passed with the unanimous consent of the Planning Commission.

**5.0 Adjournment.**

The Business Meeting adjourned at 6:14 PM.

*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 on Wednesday, April 3, 2024.*

Teri Forbes

Teri Forbes  
T Forbes Group  
Minutes Secretary

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