

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

**Wednesday, August 7, 2024**

**5:00 p.m.**

**2277 East Bengal Boulevard**

**City Council Work Room**

***ATTENDANCE***

**Members Present:** Chair Dan Mills, Commissioner Lucy Anderson, Commissioner Mike Smith, Commissioner Mike Shelton, Commissioner Sean Steinman, Commissioner Dan Poulson

**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, Alex Earl System Administrator

**WORK SESSION**

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

**1.0 Review Business Session Agenda.**

Community and Economic Development Director, Michael Johnson, provided an overview of Project SPL-24-001, a request from Ivory Homes for approval of a private gate within the Butler Hills View Subdivision at approximately 7496 South Orion View Circle. The private street provides access to three new lots, which are currently under construction, and does not provide access or connection to any other properties. The gate is proposed to be a ‘slide’ gate, meaning it will slide open for access along a horizontal (east/west) plane and does not swing open to the north or south. The proposed gate is 6’ in height and 39’ in width. The proposal also includes a separate proposed pedestrian gate on the sidewalk, with the same architectural style. A rendering of the proposed gate was detailed. A grading plan is part of the subdivision with existing curbing and infrastructure. The gate will require a mechanism to extend past the right of way to the west. When that structure is installed, he confirmed there will be retention work located between the new development and the existing home to the south.

Chair Mills asked where the responsibility lies for gate maintenance and drainage. Mr. Johnson stated that there is a note placed on the lot where the gate will be located that specifies that any grading must be properly retained and subject to review before final inspection. Site grading is also addressed on the Building Permit rather than the gate application. He confirmed that the fire turnaround has been approved with recommended conditions addressing their needs. A Knox box mechanism will allow for emergency access at any point. Gates are allowed on a case-by-case basis and require Planning Commission approval per Title 14.

Staff has reviewed the proposed privileged access gate in accordance with the above Ordinance provision and recommended the following findings and conditions:

Findings:

1. The proposed private access gate is located entirely within a private portion of a subdivision.
2. The location of the proposed gate does not propose any substantial concerns related to traffic or vehicular queues and does not present any significant circulation concerns, as the gate only impacts three lots.
3. The gate must be reviewed and approved by the Fire Department and meet Fire Code requirements for emergency access. Typically, this means that a Knox box must be installed, to the satisfaction of the Fire Department, to allow access.
4. The proposed gate is subject to building permit requirements and must obtain approval from all relevant city departments.
5. The requirement to obtain architectural approval is not applicable, due to recent State Code provisions that prohibit cities from imposing design standards on single-family development located outside of Planned Unit Developments.
6. The applicant should provide verification that there is a maintenance plan in place for the proposed gate.
7. Any gate malfunctions should result in the gate being left in the open position, so as not to temporarily prohibit access to the three subdivision lots within the Butler Hills View subdivision. Historically, a gate existed in the same location limiting access to the private property that existed before the subdivision was developed.

Conditions:

1. The applicant shall obtain a building permit, subject to review by all relevant city departments.
2. The applicant shall comply with all fire department standards and requirements to provide emergency access.
3. The applicant shall submit an operations and maintenance manual for the proposed gate.
4. Upon any malfunction, the gate shall be programmed to remain in the 'open' position.

Commissioner Anderson asked if gate maintenance contact information would be provided. Mr. Johnson stated that contact information would be covered in the Operations Maintenance

Manual to ensure those types of issues are addressed although gate functions were unavailable at present. Access was reviewed.

Senior City Planner, Samantha DeSeelhorst, reported that gate applications are not received frequently and encouraged questions to assist Staff with future consideration. Mr. Johnson confirmed that this item was noticed and one written comment was received expressing concern with the rock landscaping. Staff noted public comment is to be sent to the Commission in advance of a meeting prior to the noon deadline one day in advance.

## **2.0 Short-Term Rental Discussion.**

Mr. Johnson presented the Short-Term Rental agenda item and stated that a policy-level discussion was held previously with the City Council. The topic of the City's current policy and its challenges were communicated. The previous Council feedback was to refine policy recommendations to help enforcement challenges and address current concerns and impacts of illegal rentals. There is currently an Ordinance that allows for Short-Term Rentals that was put in place prior to the prevalence of VRBO and Airbnb. The current Ordinance states the following:

- Short-term rental is anything that is rented for fewer than 30 consecutive days.
- They are allowed by a business license and Conditional Use but only in areas that are zoned for multi-family development, contain at least eight units, and all accessed via private roadway.
- There are approximately 100 legal licenses within the City, primarily located at the Oaks at Wasatch Condominium Development, the old Canyon Racquet Club Development, and Canyon Place.
- There are no owner occupancy requirements.
- No parking allowed on private right of way.
- Posted license and contact license if visible with a 24/7 hotline.
- Operations of unlicensed Short-Term Rentals is functional as a Class C Misdemeanor upon conviction with each day representing a separate violation.

Mr. Johnson reported that Staff receives numerous enforcement calls about illegal rentals being operated in predominately single-family neighborhoods. The licensing process for Conditional Use Permits covers concerns or questions regarding compliance. An additional challenge comes with the current State Code provision that prohibits a City from using an online listing of a short-term rental as the sole basis for enforcement. The City is required to gather evidence of actual use of a property as a short-term rental that violates City Code. Enforcement collects evidence that is then referred over to the City prosecutor through the criminal citation process and processed through the Justice Court. Enforcement is difficult as the City Enforcement is a Staff of two creating additional challenges in the regulatory climate.

Mr. Johnson reported that there has been a rise in third-party sites and the adoption of an Accessory Dwelling Unit ("ADU") Ordinance since the inception of the City Ordinance. Prior to 2020, ADUs were not allowed in the City which has changed with the recent State Code update. The update allows ADUs as a permitted use in all single-family residential zones. He explained that the difference between a short-term rental and an ADU is that an ADU may be rented for more than

30 consecutive days. The City drafted a response to the State Code with the primary difference being that owner/occupancy is required and the owner must prove they are a permanent year-round resident. The Business License is tied to the owner and must be updated should ownership change. A signed affidavit is also required acknowledging the owner/occupancy requirements and standards to be met.

Commissioner Shelton raised a question about the difference between an ADU and the rental of a single-family home. Mr. Johnson clarified that an ADU allows two families to occupy the same home or even a single-family home by zoning. The City has defined occupancy requirements for short-term rentals as up to four bedrooms and no more than 12 people per unit.

Previous City Council feedback was reviewed. Mr. Johnson reported that the City is in an environment from a policy and regulation level where website services create difficulty with enforcement. The Planning Department, Police Department, and Staff have proposed the following options be considered by the City Council to provide updates on the current situation:

- Increase penalties for unlicensed short-term rentals.
- Explore expansion of areas allowed in the City with additional regulations added to address most common concerns.
- Mandate owner occupancy.
- Require licenses to allow for ease of enforcement.
- Add additional parking requirements.

Commissioner Shelton felt that the recommendations did not match the enforcement issue and those unwilling to license. He believed the increase in fees also relates to the lack of licensing and the recommendations may attack those that comply and abiding by the requirements. Ms. DeSeelhorst stated that Staff will further research what other cities have been doing. She did not believe the issue had been researched closely enough to make definitive recommendations as opposed to suggested options.

Chair Mills stated that in his experience, enforcement of short-term rentals located in Big Cottonwood Canyon has been successful. Without skirting the rules, he pointed out that there are organizations that will assist in identifying the location of rentals without utilizing a VRBO or Airbnb search. He concurred with Commissioner Shelton's belief this may be a drag on resources unless it can be at least a break-even proposition.

Mr. Johnson reported that enforcement will also address those in non-compliance and acknowledge if the spaces are safe or up to Code. Ms. DeSeelhorst wondered if one benefit to expanding the Ordinance would be to provide a type of pathway to compliance in single-family neighborhoods. Commissioner Shelton did not feel providing a pathway would solve the complaints and those opposed to the short-term rentals will not consider that an adequate solution. He believed one solution would be to confront the renter and notify them they must vacate the property. Doing so would create an enforcement issue and cause them to confront the property owner. He also suggested going after the listing companies with charges of false advertising. This would not be the primary piece of evidence but a contributing factor in the investigation.

Staff stated that the matter will return to the Commission as the City Council is interested in receiving public input. It would then be reviewed by the Planning Commission process in some sort of draft Ordinance format.

Commissioner Steinman stated that he has seen this issue managed in many different ways. He believed the main concerns were health, safety, noise, parking, and those accommodated within a Building Code. He considered it an educational issue as there are many illegal single-family homes that are rented for \$600 to \$2,000 per night in Cottonwood Heights. He suggested instead of underwriting the penalty that there be licensure based on revenue that is detailed in a mailed letter notifying the property owner of the violation. This would create more stringent rules and education in terms of the property being up to Code and current on taxes. He explained that the owners of short-term rentals in Anaheim, California are required to sign a three-page affidavit notifying the renter of Noise Ordinance violations and the associated fines. A pre-disclosure included with those who sign up through Airbnb was discussed. Chair Mills recommended determining in the most legal way possible who would be the most aggressive in ensuring that owners are abiding by the rules. He did not appreciate the City prosecutors taking it upon themselves to reduce the associated fines. Mr. Johnson confirmed that the reduction has been implemented through the courts. Conveying that they are not representing the City in a judicious manner was requested.

Commissioner Anderson stated that this item will require community support. She suggested that very clear requirements be in place to allow residents to understand the enforcement process. Chair Mills appreciated the work of Staff and the suggested options. Mr. Johnson confirmed that staff will continue to determine the framework of regulations and enforcement solutions.

### **3.0 Town Center Update.**

Mr. Johnson led the Town Center Update discussion and stated that as reported, the City is now pursuing a General Obligation (“GO”) Bond to subsidize public improvements for the project. Highlights include the following:

- Finalized Site Plan concepts.
- Projects branding “The Heights.”
- Project information is available online at [CHtowncenter.com](http://CHtowncenter.com).
- Butlerville Days information booth.
- The August City Newsletter article.
- Public Open House scheduled for Monday, August 12<sup>th</sup>.
- Coordinating neighborhood meetings with Advisory Committee Members.
- Refining and finalizing the frequently asked questions page.
- Printed informational signage publicizing this effort by the City providing resources.
- Drop ballot language at a technical level according to the State Code requirements.

Commissioner Anderson asked where public feedback is directed. Mr. Johnson confirmed that feedback is sent to the project team. He further explained that the Council will vote on the Bond Parameters Resolution on August 20 which is the formal vote placing the GO Bond on this year’s ballot. The City has until August 22 to send that information to the Salt Lake County elections office to ensure its ballot placement. Mr. Johnson encouraged Open House attendance allowing

for additional educational opportunities. It was confirmed additional information is available on the City's website.

Commissioner Smith asked for clarification on the timeframe once the GO Bond has passed. Mr. Johnson explained that the result of the election influences the timeframe and whether it does or does not pass. The idea would be to put out an RFP document to find a development partner that would implement the City's direction. Bonds that are voted on in November cannot be issued until January 2025. If the Bond passes, Mr. Johnson stated that it would be the intent of the City to take immediate action and remain aggressive in implementing their decision. He noted after the official vote and if it becomes an official Resolution, the role of the City is educational, not persuasive.

#### **4.0 Adjourn.**

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

The Work Meeting adjourned at 5:53 PM.

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

**Wednesday, August 7, 2024  
6:00 p.m.  
2277 East Bengal Boulevard  
City Council Chambers**

**Members Present:** Chair Dan Mills, Commissioner Lucy Anderson, Commissioner Mike Smith, Commissioner Mike Shelton, Commissioner Sean Steinman, Commissioner Dan Poulson.

**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, Alex Earl System Administrator

**BUSINESS SESSION**

Chair Dan Mills called the Business Meeting to order at 6:00 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.**

*Nicki Baltz* stated that she is a new Cottonwood Heights resident living in Danish Pines. They are experiencing two illegal short-term rentals on her street. One has been operating for over one year and the other for six months. Both are working around the system by having occupants sign agreements that they are staying 30 days when in fact they are staying an average of three to eight days. One home had at least 25 people stay overnight for multiple days. They have had children climbing retaining walls and numerous cars parked on the street. Ms. Baltz has been in communication with Officer Wendell with Code Enforcement and sent photographs and license plates to prove that the renters are there for a brief time. She emphasized that none of the neighbors support the short-term rentals which are being rented for \$600 to \$1,200 per night. Renters have been instructed not to speak with law enforcement or neighbors and she did not feel that the owners of the rentals are impacted by the \$100 fee. She expressed her opposition to allowing short-term rentals in her neighborhood.

*Joel Hulcalter* reported that he and his wife moved from Las Vegas and now reside in Danish Pine. They reviewed the City's Short-Term Rental Ordinance with the understanding that no rentals

would be allowed. At closing, homebuyers sign a contract stating that this is their primary residence and that it may not be rented or sold for the first year. Mr. Hulcalter invested well over \$1 million in his home, which he felt was decreasing due to a lack Code enforcement. Their camera footage shows renters coming and going at various hours. He felt strongly that having to wait six to eight months for a solution was not acceptable. He reported that the City's Code Enforcement has asked residents to speak to the renters and are being asked to act as law enforcement. It was his understanding that the homeowners have signed residential exemptions that resulted in the City losing thousands of dollars in revenue.

*Marilyn McGill*, a 48-year Cottonwood Heights resident, wanted to see the Old Mill area remain historic and potentially be redesigned. She understood that the cost may be prohibitive and urged the City to preserve the property.

*Chad Mortensen* commented that the Cottonwood Paper Mill opened in 1883, it served as a paper mill for *The Deseret News*. At the time of construction, it was the largest structure in the valley and opened 10 years before the Salt Lake City LDS Temple. Most of the exterior stones of the temple were quarried near the mouth of Little Cottonwood Canyon. He reported that the Old Mill is one of the last vestiges of the pioneer era that still stands and it has hosted numerous social events over the years. He appreciated the testament of the Old Mill to the industrious nature of the early settlers of Utah territory. It was his desire that the Old Mill be added to the National Registry of Historic Places and allowed to remain and eventually be restored.

*Michael Bowd* grew up near the Old Mill and it was part of his childhood. He considered the Old Mill a treasure and that is an iconic gateway to Big Cottonwood Canyon. He suggested it be turned into a money-making venue to maintain its integrity. He commented that there is nothing like the Old Mill in the State of Utah and he was in favor of exploring possible funding options to restore it.

### **3.0 Business Items.**

#### **3.1 Project SPL-24-001 – A Public Hearing and Possible Recommendation on a Request from Ivory Homes for Approval of a Private Gate within the Butler Hills View Subdivision at approximately 7496 South Orion View Circle.**

Community and Economic Development Director, Michael Johnson, presented the Staff Report and stated that the property is located directly north of City Hall and is part of the Butler Hills View five-lot subdivision. The private street provides access to three new lots that are currently under construction. It does not provide access or connection to any other properties. The gate is proposed to be a 'slide' gate that will slide open for access along a horizontal (east/west) plane. It will not swing open to the north or south. The proposed gate is 6' in height and 39' in width. The proposal also includes a separate proposed pedestrian gate on the sidewalk with the same architectural style. A rendering of the proposed gate was displayed. Mr. Johnson reported that private gates must be reviewed by the Planning Commission on a case-by-case basis and can only be installed on private roadways within the City. The gate is proposed to be installed directly north of the existing property on-site.



Staff proposed the following recommended conditions of approval:

1. The applicant shall obtain a building permit, subject to review by all relevant city departments.
2. The applicant shall comply with all fire department standards and requirements to provide emergency access.
3. The applicant shall submit an operations and maintenance manual for the proposed gate.
4. Upon any malfunction, the gate shall be programmed to remain in the 'open' position.

Ivory Homes Development representative, Peter Gamvroulas, reported that Ivory Homes has agreed to the recommended conditions. With regard to emergency services, the gate includes a Knox box and will comply with all Codes pertaining to fire and emergency services. The main operation will be a remote entry for primary residents with a keypad for alternate access located to the right of the entryway. They are undecided regarding the incorporation of a Homeowners Association ("HOA") with so few homes. If acceptable, Ivory Development will draft a Private Maintenance Agreement recorded over all three lots requiring homeowners to conduct snow and trash removal services. With regard to public comment, there has been concern with retaining, which will be addressed with respect to the required retention outside of their landscaping plans.

Commissioner Poulson questioned the advantage of having a gate for three homes on a circle. He asked who will be responsible for gate maintenance. Mr. Gamvroulas stated that it is a business decision from Ivory Development to provide additional security due to the price point of the homes. With regard to gate maintenance, the gate could theoretically be pulled open. The standard operating system does have a method to open in case of any operational issues.

Commissioner Smith asked if there were plans to assess fees for gate and road maintenance. Mr. Gamvroulas did not believe they would have an escrow in place but maintenance would be determined through a Maintenance Agreement with the homeowners. Staff confirmed that there is no requirement to form an HOA and they typically address how snow and trash removal will be managed.

Chair Mills asked for clarification regarding retention on the subject property and on neighboring properties. Ivory Development recently received a citizen comment expressing concern with grading and retention on their property. The original grading plan was approved by the City Engineer and included a gentle slope into the neighboring property where no retention will be necessary. With regard to the landscaping of the existing home in preparation for the Parade of Homes, it has become obvious that retention will be necessary. He confirmed that the retention will be located 100% within the Ivory Homes Development and any maintenance or repair would be the responsibility of the property owner.

Commissioner Poulson suggested waiting until the homes are occupied to make any decisions regarding landscaping and retention. Mr. Gamvroulas stated that disclosures are included with the private contracts that address the landscaping and retention details with potential buyers. It was not their intention to install right-of-way with the preference being to complete the home prior to installation. He confirmed that the disclosures have been set from the beginning and Ivory Homes may elect to install those features.

Chair Mills opened the public hearing.

*Tori Horsley* expressed concern with the gate maintenance. She has been involved in a lawsuit regarding property retention for five years and she requested confirmation of the maintenance. She was concerned about the potential call box being located along the west side of her parent's yard.

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

Commissioner Poulson had no concerns with this item moving forward. He appreciated the discussion and concern for nearby property owners.

Commissioner Anderson had no concerns. She supported addressing the property rights of nearby property owners. Mr. Johnson reported that staff added a note to the Building Permit file indicating that the grading issue must be resolved prior to final approval.

Commissioner Poulson was not opposed to the gate but considered it to be a timing issue with Ivory Development making the decision as opposed to the property owners. Mr. Gamvroulas confirmed that it is the decision of Ivory Homes to install the gate. The home that will be impacted by the gate is under contract and the prospective owner has agreed to the developer's disclosure.

Commissioner Steinman considered it a safe practice to be included with the Building Permit. He felt this was irrelevant to the gate construction as long as it is within the property line and engineered appropriately. Moving forward, he felt that the gate was a great feature that allows Ivory Homes to charge a premium for additional security. He was unsure if there was a requirement for property owners to agree to the gate as it is a mechanical device that will be installed on the property line. Mr. Johnson reiterated that these types of requests are considered on a case-by-case basis. He recommended a condition be added to state that if the gate is on a shared property the consent of both property owners is required. Otherwise, he recommended that the gate and keypad be located solely on Ivory Development property to avoid confusion.

***Commissioner Anderson moved to APPROVE Project SPL-24-001 based on the following:***

***Findings:***

- 1. The proposed private access gate is located entirely within a private portion of a subdivision.***

2. *The location of the proposed gate does not propose any substantial concerns related to traffic or vehicular queues and does not present any significant circulation concerns, as the gate only impacts three lots.*
3. *The gate must be reviewed and approved by the Fire Department and meet Fire Code requirements for emergency access. Typically, this means that a Knox box must be installed, to the satisfaction of the Fire Department, to allow access.*
4. *The proposed gate is subject to building permit requirements and must obtain approval from all relevant city departments.*
5. *The requirement to obtain architectural approval is not applicable, due to recent State Code provisions that prohibit cities from imposing design standards on single-family development located outside of Planned Unit Developments.*
6. *The applicant should provide verification that there is a maintenance plan in place for the proposed gate.*
7. *Any gate malfunctions should result in the gate being left in the open position, so as not to temporarily prohibit access to the three subdivision lots within the Butler Hills View subdivision. Historically, a gate existed in the same location limiting access to the private property that existed before the subdivision was developed.*

**Conditions:**

1. *The applicant shall obtain a building permit, subject to review by all relevant City departments.*
2. *The applicant shall comply with all fire department standards and requirements to provide emergency access.*
3. *The applicant shall submit an operations and maintenance manual for the proposed gate.*
4. *Upon any malfunction, the gate shall be programmed to remain in the 'open' position.*
5. *If this is on shared property lines, both property owners must be in agreement.*

*Commissioner Steinman seconded the motion. Vote: Commissioner Steinman-Yes, Commissioner Anderson-Yes, Commissioner Shelton-Yes, Commissioner Smith-Yes, Commissioner Poulson-Yes, and Chair Mills-Yes. The motion passed unanimously.*

**4.0 Consent Agenda.**

**4.1 Approval of Planning Commission Meeting Minutes from June 5, 2024, Meeting.**

**4.2 Approval of Planning Commission Meeting Minutes from July 11, 2024, Meeting.**

*Commissioner Shelton moved to APPROVE the Consent Agenda as presented. Commissioner Anderson seconded the motion. The motion passed with the unanimous consent of the Commission.*

**5.0 Adjourn.**

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

The Business Meeting adjourned at approximately 6:55 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, August 7, 2024.*

Teri Forbes

Teri Forbes  
T Forbes Group  
Minutes Secretary

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