

COTTONWOOD HEIGHTS CITY PLANNING COMMISSION MEETING AGENDA

August 6, 2025



Notice is hereby given that the **Cottonwood Heights Planning Commission** will convene on **Wednesday, August 6, 2025**, 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 Chambers
2. Business Session – **6:00 p.m.** – City Council Chambers

Both sessions will also be broadcast electronically on the city's YouTube channel at <https://www.youtube.com/@CottonwoodHeights/streams>.

Please see the reverse side of this agenda for instructions on how to make public comment.

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 Items" 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 CUP-25-011 (PUD-25-001)

*A public hearing and potential action on a request by Brent Johnson on behalf of the Giverny Master Association (the Giverny Community HOA) to amend the Giverny Community Planned Unit Development's rules regarding some accessory structure setbacks. Although **this application was noticed as PUD-25-001**, the application type is technically a conditional use permit. As such, the application has been renamed **CUP-25-011**.*

4.0 Consent Agenda

- 4.1 Approval of **July 16, 2025** Planning Commission Minutes

5.0 Adjourn

*Next Planning Commission Meeting: **September 3, 2025***

Public Comment

Individuals may provide public comment verbally or via writing.

Verbal comments are accepted in person at the 6:00 p.m. Business Session, but not at the 5:00 p.m. Work Session. At the Business Session, public comment may be given during two intervals:

1. General Public Comment Period – An opportunity for general comments not relating to specific projects on the meeting agenda.
2. Specific Project Public Hearings – An opportunity for comments relating to specific projects on the meeting agenda which were noticed as public hearings.

Please note that verbal comments must be provided by attending the meetings in-person. Verbal comments cannot be provided via the electronic broadcast of planning commission meetings on the city's YouTube channel.

Verbal comment periods are an opportunity for individuals to share 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** may be 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, August 5, 2025, 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 considered in the following order: 1. Chair introduction of item, 2. Staff presentation, 3. Applicant presentation, if applicable, 4. Chair opens public hearing, if applicable, 5. Chair closes public hearing, if applicable, 6. Planning commission deliberation, 7. Planning commission motion and vote on item.

Applications may be tabled if additional information is needed in order to act on the item; or if 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) 944-7015 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, August 1, 2025, 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 1ST DAY OF JULY, ATTEST: TIFFANY JANZEN, CITY RECORDER

COTTONWOOD HEIGHTS CITY PLANNING COMMISSION STAFF MEMO



Aug 6, 2025

Purpose of Memo

At the July 16, 2025 Planning Commission meeting, the Commission reviewed the proposed amendment to the Giverny PUD related to accessory structures and voted to continue the item to a future meeting. The continuance was requested to allow staff additional time to research specific concerns raised by the Commission.

This memo summarizes follow-up discussions with the Building and Fire Departments and outlines the applicant's revised proposal.

Commissioner Concerns and Staff Responses

1. Inclusion of Sheds in the Proposed Amendment, Particularly with Fire Concerns.

Response: The applicant has revised their request to remove sheds from the proposed PUD amendment. The revised proposal now applies only to open-air structures, specifically gazebos and pergolas, as defined in the code.

2. Fire Code Concerns (Especially Around Walled Structures and Safety in Giverny).

Response from Fire Department:

- Footings, foundations, or any walls are not permitted within the side yard area.
- Fire pits or gas features are not allowed under gazebos or pergolas, consistent with fire safety and building code standards.

3. Fairness to Others Outside Giverny in the R-1-8 Zone.

Staff Note: The proposed amendment only applies to properties within the Giverny PUD, which features smaller average lot sizes (approx. 5,000 sq. ft) compared to the standard R-1-8 zone. The applicant's justification for this request includes unique spatial limitations in Giverny, which complicate compliance with accessory structure setbacks under existing code. The amendment would not extend to the rest of the R-1-8 zone.

Building Department Comments:

If zoning requirements are met, the Building Department has no objections to the proposed reduction in setbacks between structures for gazebos and pergolas.

Updated Proposal Summary

- Applies only to gazebos and pergolas (open-air structures).
- Sheds and other enclosed accessory buildings are excluded.
- Proposal seeks to allow revised setbacks and eliminate the minimum distance between the home and the accessory structure, provided safety standards are met.

The applicant is proposing the following deviations from city code:

City Standards	Proposed Modification
Minimum 3' setback from side and rear property lines	Minimum 5' setback from side and rear property lines
Minimum 6' distance from primary structure	No minimum distance from primary structure

Staff Recommendation

Staff recommends the Planning Commission consider the applicant's revised request, taking into account the responses from the Fire and Building Departments. Staff supports approval of the amendment as a reasonable accommodation for the unique lot conditions within the Giverny PUD.

Attachment:

1. 7/6/2025 staff report (include Project Narrative and Original Approval Letter)

COTTONWOOD HEIGHTS CITY PLANNING COMMISSION STAFF REPORT



July 16, 2025

Summary

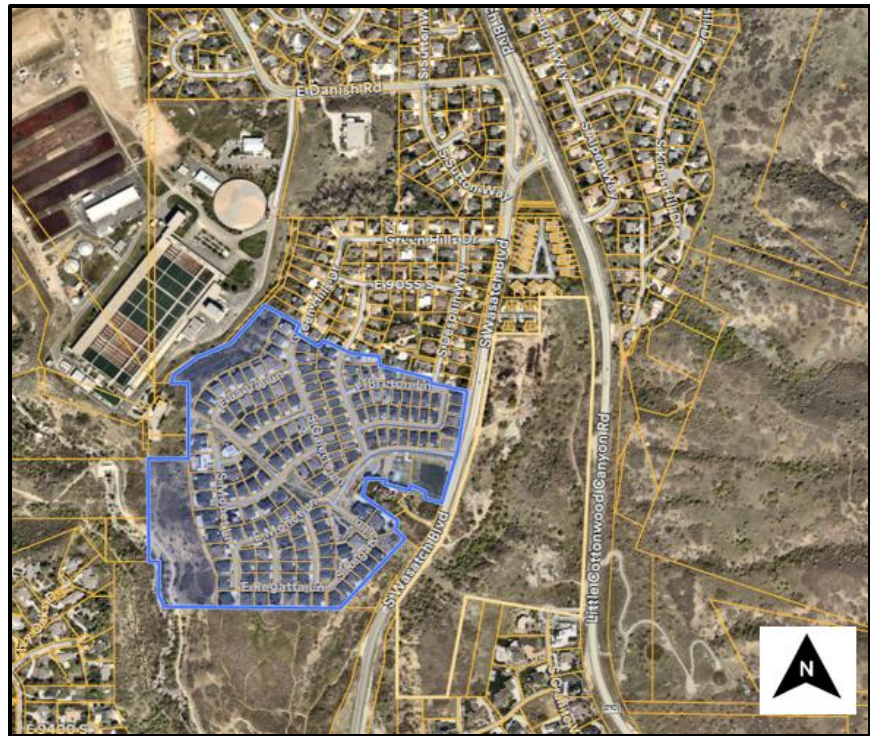
Project Number:
CUP-25-011 (PUD-25-001)

Subject Properties:
Giverny Community
(Approximately 3505 E.
Giverny Pkwy.)

Action Requested:
Conditional Use Approval to
amend the Planned Unit
Development

Applicant:
Brent Johnson (on behalf of
the Giverny HOA)

Recommendation:
APPROVE



Satellite view of subject property

Background

The applicant is requesting to amend the original Planned Unit Development (PUD) approval for the Giverny Community (PUD-14-001). The intent of this amendment is to incorporate new rules regarding accessory buildings (also referred to as accessory structures) into the PUD. The original approval letter for the Giverny PUD (attached here) states the following condition of approval:

5. The setbacks and lots standards are approved as proposed, and/or amended by the Planning Commission.

Both the original proposal document and most recently recorded plat only reference lot setbacks for primary structure (homes), not accessory buildings. Additionally, staff could not locate any reference to accessory building standards in any other documents relating to the original PUD approval (PUD-14-001), or the most recent plat amendment (SUB-17-004).

Given the absence of unique accessory building standards approved as part of the Giverny PUD, any accessory structure constructed on a lot located within Giverny must meet the accessory structure standards defined in code, specifically those located in the 19.26 R-1-8 zone, and in 19.76.030.B.

According to the applicant’s narrative, many property owners within the Giverny Community have constructed accessory structures under the impression that because the buildings are less than 200 square feet large, they did not need a building permit (correctly so), and did not need to meet accessory structure setbacks, including a 6’ minimum distance from the primary structure (incorrectly so). The applicant’s narrative elaborates on this and includes example photographs of noncomplying structures.

Request

Due to this confusion, as well as the fact that the Giverny Subdivision features uniquely small lot sizes, the applicant is requesting the PUD amendment (a conditional use permit application) to remedy this issue. The applicant wishes to modify accessory building standards specifically for the Giverny PUD. This proposal **would only apply to** open-air type structures, defined as **Gazebos and Pergolas** within city code (19.76.030). This proposal **would not apply to** other accessory structure types, such as sheds, detached garages, swimming pools and hot tubs, playgrounds, elevated decks, etc.

The applicant is proposing the following deviations from city code:

City Standards	Proposed Modification
Minimum 3’ setback from side and rear property lines	Minimum 5’ setback from side and rear property lines
Minimum 6’ distance from primary structure	No minimum distance from primary structure

Although the applicant’s narrative has additional modifications listed, staff is only aware of the above-listed modifications deviating from code standards.

Analysis

Zoning and Land Use

Staff finds the applicant’s request for an amendment to the Giverny PUD to be reasonable, given the reduced lot standards found within the Giverny Subdivision that complicate accessory building construction on lots within the community. Additionally the proposed modifications would reduce visual impact on neighboring properties, given that a slightly increased minimum setback would be required for accessory buildings compared to the standard city code.

Because city code lists planned unit developments as a conditional use in the R-1-8 zone, staff has processed this PUD amendment application as a conditional use permit. As a conditional use, this application is entitled to approval unless reasonable conditions cannot be imposed to mitigate negative impacts of the use. The following excerpt from Utah State Code further describes this:

i) **A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed,** to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. (10-9a-507-2)

(ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects. (10-9a-507-2)

Building Code

At the time of publication of this staff report, staff is awaiting feedback from the Building Official James Short, regarding any implications the proposal would have on building code. If additional implications are stated by the Building Official, staff will post a supplementary memo relaying information. If no implications are found, staff will address this in the public meeting on July 16, 2025.

Conditional Use Permit Procedure and Authority

The Planning Commission is the **approval authority for amendments to approved plans and specifications for a PUD**, as referenced in 19.78.160 and 19.78.170:

19.78.160.B. *Amendments to approved plans and specifications for a PUD shall be approved by the planning commission and a new set of approved plans will be issued by staff to address any approved amendments.*

19.78.170 Scope Of Planning Commission Action; Appeals

1. *It is the intent of this chapter that site and building plans for a PUD shall be prepared by a designer or team of designers having professional competence in urban planning as proposed in the application. The planning commission shall require the applicant to engage such a qualified designer or design team.*
2. *The planning commission may deny an application for a PUD.*
3. *In approving an application, the planning commission may attach such conditions as it deems necessary to secure compliance with the purposes set forth in this title and to mitigate any impacts that a PUD may impose on the surrounding people and properties.*
4. *The action of the planning commission may be appealed to the city's appeals hearing officer or other appeal authority under Chapter 19.92 of this title.*

The details of such authority on **conditional use approval** of the project are included below:

Following any public hearing, the planning commission shall consider the application in a public meeting. The staff's written recommendation shall be considered, among other factors. The planning commission may either approve the proposed conditional use; approve the proposed conditional use subject to specific modifications or conditions;

postpone decision pending consideration of additional information to be submitted by the applicant; or deny the proposed conditional use. (19.84.080)

A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied. (19.84.020)

Noticing

Per code requirement, notices were posted and mailed at least 10 days prior to the meeting. Individual letters were sent to property owners within 300 feet of the subject property. The notice was also posted to the city website and bulletin boards at City Hall.

The application was noticed under the file number PUD-25-001. Staff has since updated the application to reflect what it believes to be the correct file type for this application – a conditional use permit.

Findings

Findings of fact include:

1. *That the proposed use is one of the conditional uses specifically listed in the zoning district in which it is to be located;*
2. *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;*
3. *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;*
4. *That the use will be harmonious with the neighboring uses in the zoning district in which it is to be located;*
5. *That nuisances which would not be in harmony with the neighboring uses, will be abated by the conditions imposed;*
6. *That protection of property values, the environment, and the tax base for the city will be assured;*
7. *That the use will comply with the city's general plan;*
8. *That some form of a guaranty assuring compliance to all imposed conditions will be imposed on the applicant or owner;*
9. *That the internal circulation system of the proposed development is properly designed;*
10. *That existing and proposed utility services will be adequate for the proposed development;*
11. *That appropriate buffering will be provided to protect adjacent land uses from light, noise and visual impacts;*

12. *That architecture and building materials are consistent with the development and surrounding uses, and otherwise compatible with the city's general plan, subdivision ordinance, land use ordinance, and any applicable design standards;*
 13. *That landscaping appropriate for the scale of the development and surrounding uses will be installed in compliance with all applicable ordinances;*
 14. *That the proposed use preserves historical, architectural and environmental features of the property; and*
 15. *That operating and delivery hours will compatible with adjacent land uses.*
 16. *The foregoing approval standards shall be subject to any contrary requirements of Utah Code Ann. § 10-9a-507, as amended.*
-

Recommendation & Model Motions

Based on the findings and analysis presented herein, staff recommends approval of project CUP-25-011

Approval

I move to approve project CUP-25-011 based on the findings and recommendations listed in the staff report dated July 16, 2025...

- *List any additional findings or recommendations for approval...*

Denial

I move to deny project CUP-25-011 based on the following findings:

- *List findings for denial...*

Attachments

1. Project Narrative
2. Original Approval Letter (pg. 1)

Modification of Accessory Structure Setbacks for the Planned Unit Development Approval for Giverny (PUD-14-001)

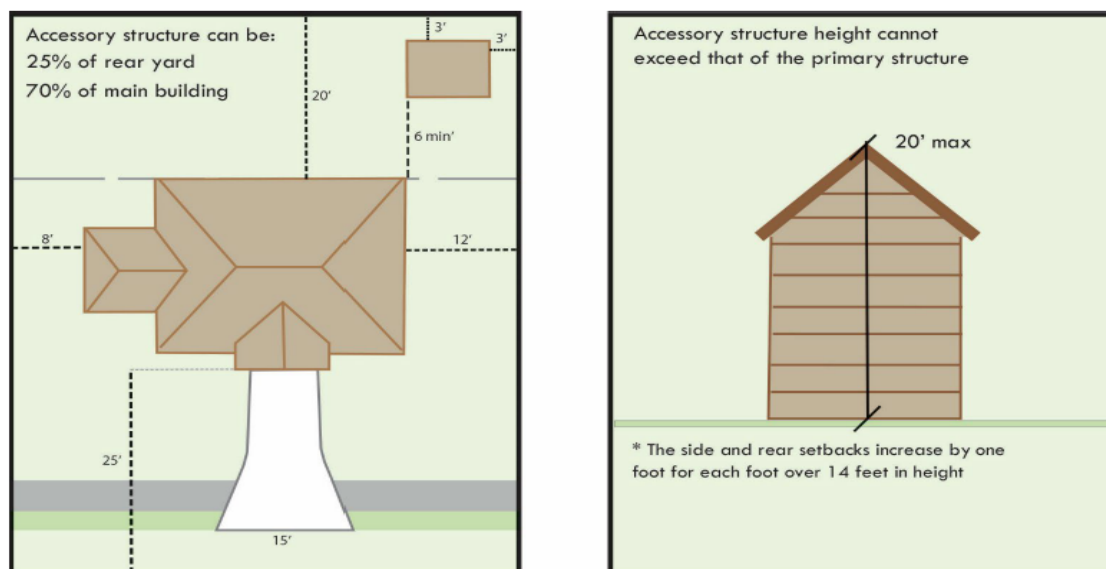
July 18, 2025, Planning Commission Hearing

Project Narrative

When a typical R1-8 lot is approved (8000 SF Lot) it would have building setbacks of 8' and 12' on the side yards, 25' in the front, and 20' in the rear.

When the Giverny project was approved it was done so with smaller homesites that had smaller building setbacks. In this community, the lots average around 5000 SF, and the side setbacks are 5' on both sides, 18' in the front, and either 10' or 15' in the rear.

When an owner at Giverny proposes to build an accessory building on their lot it creates some challenges in the community since the lots are much smaller. As can be seen from the diagram below (approved City guidelines for this type of structure) this is based on what would be a typical 8000 SF lot. These larger lots can much more easily accommodate this type of structure and can maintain the proper setbacks.



Many of the Owners in Giverny have built Accessory Buildings and did not understand the requirements. They believed that since their structure was under 120 SF they did not need a permit, nor that they needed to follow any setback guidelines. However, based on the current guidelines almost all these structures are not in conformance and would need to be modified or torn down.

As such, the primary purpose of this submittal is to request some modified setbacks for Accessory Buildings for the Giverny Community which will allow many of the existing structures to remain and to create a standard for new structures moving forward.

Proposed Design Guidelines

The structures that we would propose this modification for are all more open-air type structures (no walls) with three or four sides being open. The roof is either an open-air pergola with roof slats, or, some have a full roof on them. None of these structures are attached to the home or are habitable spaces. Examples include the following:

Detached Patio Cover with Covered Roof



Detached Open Air Pergola and Detached Covered Pergola



Detached Open Air Pergola



Detached Open Air Pergola with Bar Seating and Gas BBQ



Modification to Setbacks of Accessory Building Standards

We are proposing to maintain the current city standards regarding Accessory Buildings with some modifications to the setbacks as shown below. The same standard would apply to all lots within the Giverny community.

Accessory Building Standards: The following city standards will remain.

- Needs to be a minimum of 5' away from any rear and side fences.
- The structure cannot be more than 25% of the surface area of the rear yard which is measured from the back of the home.
- It cannot exceed 20' in height, and the setbacks increase by 1' for each foot over 14' in height. In other words, if you had a 17' tall structure you would need to be 8' from the fences. (5' standard + 3' for height over 14 feet)

Modified Accessory Building Standards: The following city standards will be **modified**.

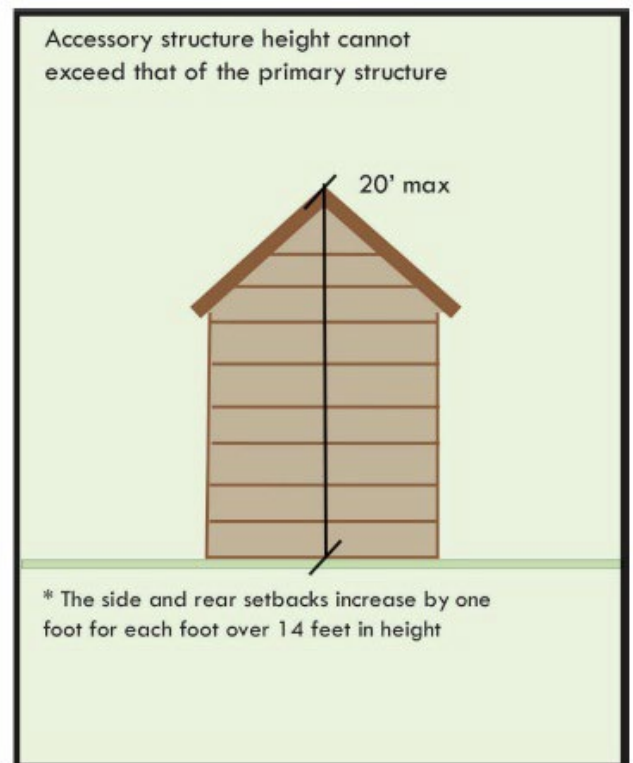
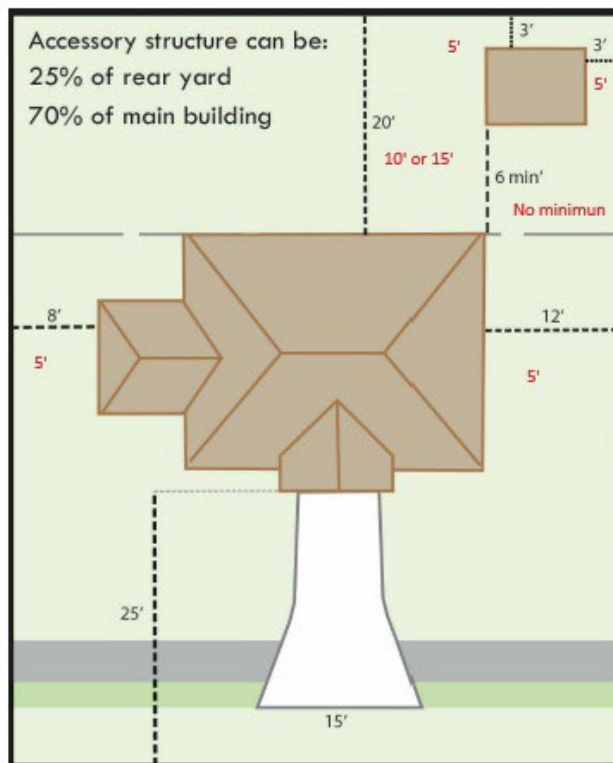
- The structure can be located within 6' of the home but not attached.
- The posts of the structure cannot be located closer than 5' to the rear or side setback line as this would trigger the requirement for a one-hour fire rated wall assembly.
- The roof of the structure may overhang the posts by up to 36".
- The exception would be that the structure posts can be up to 3' away if opening is 8' or less in height so fire rated wall (based upon a 75% coverage of opening from the ground up) can be at a height not to exceed 6'. By doing this the fire rated wall will be at or near the height of the adjacent owner's fence. Typical details are shown below. This example has a 7' tall wall:



These types of structures automatically require the need for a building permit. These are as follows:

- ANY structure that is attached to the house. If a structure is attached to the home that it MUST be within the building setback lines. For lots in Giverny this means either 10' (Lots 301-351 only) or 15' (all other Lots) from the back and at least 5' from the side fences.
- Any structure that has electricity in it.
- Structures that are over 120 SF in total size.
- Structures that are over 11' in height.

Based on the proposed changes the modified setbacks allowed would be based on the changes shown in **red** below. Minimum setbacks for the Giverny lots were also shown in red as well.



Conclusion

Since the Giverny community was approved with smaller setbacks it makes sense that the community should also have smaller setbacks for Accessory Buildings. Our request to make this change is to allow owners to have the ability to add these types of structures while maintaining fire protections under the building code.

It is understood by the Giverny owners that any new structures submitted will need to be reviewed by the Giverny HOA, and, if required, a permit is issued by the City. Any existing structures that were not issued a building permit will need to be modified to be in conformance with these revised standards, or, if that is not possible they will need to be removed.

Mr. Richard Cook
Giverny, LLC
8280 Etienne Way
Sandy, Utah 84093

RE: Preliminary Approval of PUD-14-001 Giverny PUD

Mr. Cook,

This letter is to memorialize that the Planning Commission of the City of Cottonwood Heights granted preliminary approval of project PUD-14-001 at its meeting held on January 7, 2015. The approval allows for a 165-lot Planned Unit Development, Giverny PUD, on the property located at 9160 Wasatch Boulevard. Per Zoning Ordinance chapter 19.78 (Planned Unit Developments), final approval shall be based on approval of construction drawings and specifications and satisfaction of all conditions of approval. Conditions of final approval are as follows:

1. Approval of this project constitutes a conditional use permit.
2. Approval of this project constitutes approval of the planned unit development subdivision.
3. The developer shall establish acceptable design guidelines, in a formalized manner, to be approved by staff as part of the final plat approval of the PUD.
4. The proposed PUD shall be owned and maintained by a single or partnership Limited Liability Company, corporate entity, or jointly filed by all owners of land.
5. The setbacks and lots standards are approved as proposed, and/or amended by the Planning Commission.
6. Lots covered by at least fifty percent (50%) of the Sensitive Lands Overlay Zone shall have a height limitation of thirty (30) feet.
7. In addition to the proposed sidewalk system, the developer shall provide enhanced intersection treatments, such as textured paving, to highlight pedestrian crossings, as agreeable and approved by the city engineer.
8. Gates are allowed in accordance with the provisions of Title 12 and Title 14 of the Cottonwood Heights Municipal Code.
9. Fencing is limited to rear (and side yards for corner lots), and the perimeter, unless approved by staff for mitigating purposes.
10. Fences within the project shall not exceed six (6) feet in height.
11. Only one monument entry sign shall be allowed. The sign shall be limited to six (6) feet in height and no more than thirty-six (36) square feet in size. The sign shall be setback at least three (3) feet from the adjacent right-of-way.
12. All easements shall be duly mitigated to the satisfaction of staff and/or their assigns prior to the recordation of the plat(s).
13. Staff shall review and approve proposed fencing and gates. (per ARC 6-12-14).
14. A six (6) foot solid visual barrier fence shall be constructed around the Smith and McGee properties, as agreeable with the property owners. The fence material shall be either masonry or cedar, and shall be decided by the property owners.
15. All Sensitive Lands Areas shall be shown on Final Plat.
16. Lots within the Sensitive Lands Overlay Zone shall have a minimum 3,500 square foot buildable area and a minimum dimension of fifty (50) feet.

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

**Wednesday, July 16, 2025
5:00 p.m.
2277 East Bengal Boulevard
City Council Work Room**

ATTENDANCE

Members Present: Chair Lucy Anderson, Vice-Chair Sean Steinman, Commissioner Mike Shelton, Commissioner Dan Poulson, Commissioner Dan Mills, Commissioner Mike Smith (via Zoom), Commissioner Garry Barnes, Commissioner Rusty Lugo-Alternate

Staff Present: City Manager, Jared Gerber; Deputy City Recorder, Cienna Brummel; Planner III, Ian Harris; Planner II, Maverick Yeh; System Administrator, Alex Earl

Public Attendees: Brent Johnson, Nathan Anderson, Cynthia Fowler, Leslie Kovach, Craig Clayson, Kim Clayson, Kevin Dolan

WORK SESSION

Chair Lucy Anderson called the Planning Commission Work Session to order at 5:04 p.m. and introduced Planner II, Maverick Yeh. Mr. Yeh stated that he began working with Cottonwood Heights as an intern. Planner III, Ian Harris, reported that Mr. Yeh regularly presents at administrative hearings and performs a lot of work behind the scenes. The Planning Commissioners then introduced themselves.

City Manager, Jared Gerber, reported that the new Community and Economic Development Director, Jim Spung, was scheduled to begin work the following Monday. His first Planning Commission meeting would be in September.

1.0 Review Business Session Agenda.

Chair Anderson reviewed the Business Session Agenda and reported that Item 3.1 would be a public hearing and potential recommendation to the City Council regarding General Plan and Zoning Map amendments. Item 3.2 would be potential action to amend the Giverny Community Planned Unit Development (“PUD”) accessory structure setbacks. Mr. Yeh suggested that the Planning Commission consider Item 3.2 first, as several residents were expected to speak at the public hearing on Item 3.1.

Planner III, Ian Harris, reported that Item 3.2 would be consideration of Project CUP-25-011, a request for a Conditional Use Permit (“CUP”) to amend the Giverny PUD as it pertains to accessory building standards. When the PUD was originally approved, it included distinct setback standards for primary structures but no standards for accessory structures. Primary structures were allowed reduced setbacks due to the smaller size of the properties in comparison to non-PUD R-1-8

subdivisions throughout the City. Many residents constructed accessory structures without fully understanding City Code regarding those structures, which resulted in some nonconforming structures. Building permits are not required for structures less than 200 square feet in size, but accessory building standards must still be met.

The applicant proposed the following deviations from City Code:

- Increase the minimum setback from side and rear property lines from three feet to five feet.
- Remove the minimum setback from the primary structure. A six-foot setback was currently required.

Mr. Harris reported that the Staff Report was based on his understanding that the deviations were only requested for open-air gazebo and pergola-type structures. However, the applicant had clarified that the request also included sheds. Additionally, affected structures could be located within three feet of property lines in rear yards if the roof height does not exceed eight feet. If the structure is taller than eight feet, a minimum five-foot setback would be required.

In response to a question from Commissioner Steinman, Mr. Harris reported that the requested standards would deviate from the current R-1-8 Zone requirements outlined in the Staff Report.

Staff found the request to be reasonable given that the reduced lot size standards within the Giverny PUD complicate accessory building locations in the community, an issue that other residents of the R-1-8 Zone do not face. Additionally, no new standards were proposed that would bring the accessory structures closer to property lines and impose a greater visual burden on neighboring properties. The Building Official was not aware of any code implications of the amendment, and accessory structures would still be required to conform to Building Code requirements. Based on that analysis, Staff recommended approval.

In response to a question from Chair Anderson, Mr. Harris clarified that City Zoning Code does not include the requested requirement for a five-foot setback for structures taller than eight feet. An administrative hearing would not be required for a taller structure, and a Building Permit would not be required for structures smaller than 200 square feet. Chair Anderson noted that someone with a small yard that is not in a PUD would be required to adhere to the applicable Zoning Code, and in that case, it would need to be made clear that the deviation only applies to the PUD. There had been similar situations in the past.

Commissioner Shelton stated that the only requested requirement that was less stringent than the R-1-8 Zone was the minimum distance from the primary structure. Otherwise, the changes were more restrictive than the current zoning.

Staff interpreted the request as a CUP application given that PUDs are a Conditional Use in the R-1-8 Zone. Per Cottonwood Heights City Code 19.78.160.B, the Planning Commission has approval authority on PUD amendments.

Mr. Harris reported that the application was noticed under a different file number with a PUD indicator but had been updated to CUP. Internal files were organized so that any future records requests for the PUD-25-011 would redirect to the correct file. One public comment was received and has been forwarded to the Planning Commission.

Commissioner Steinman asked if the Fire Department had reviewed the request and indicated that they should do so because they would be eliminating the setback from the primary structure. Mr. Harris stated that the Building Official reviewed the application. Mr. Gerber agreed and indicated that the item would be sent to the Fire Department for review.

Commissioner Mills stated that he looked forward to hearing from the applicant regarding how they arrived at the numbers. He appreciates when there is some precedence for a setback, especially in regard to potential fire issues.

Commissioner Poulson asked if the amendment was intended to address future structures or bring existing structures into compliance. Mr. Harris stated that the hope was to bring several structures not compliance, and it would also apply to future structures.

In response to a question from Commissioner Barnes, Mr. Harris stated that the application applied to both open-air structures and sheds. In response to a follow-up question, it was clarified that pergolas and gazebos were defined in City Code. There was no definition specifically for sheds, but they were included in the Accessory Buildings definition.

“Accessory Building” means any structure not designed for human occupancy, which may include detached garages with no habitable space, tool or storage sheds, gazebos, and swimming pools. Accessory dwelling units and businesses located in accessory buildings must comply with all requirements for buildings designed for human occupancy.”

Mr. Harris noted that the applicant had not requested all the uses outlined in the above definition but only sheds, gazebos, and pergolas. The Giverny community will follow existing standards regarding pools and hot tubs.

Item 3.1 would be Project ZMA-25-003, a Zoning Map and Land Use Map Amendment for the former Wells Fargo property near the intersection of Bengal Boulevard and 3500 East. Early in 2025, an application was received to develop live/work townhomes on the property. Live/work was a Conditional Use for the Neighborhood Commercial (“NC”) Zone. After concerns were expressed by members of the Planning Commission and the public, the application was withdrawn. A moratorium was also placed on Live/Work developments in the City to address those concerns, and a new definition of the Use had since been adopted. A CUP application was then received to operate a church on the property, which was also withdrawn. The original applicant now proposed rezoning the property to Residential Multifamily (“RM”) and intended to develop six townhomes.

Mr. Harris reported that the Planning Commission would be considering the Zoning Map and Land Use Map amendments only. Renderings were provided, but no Site Plan had been submitted for consideration. The applicant proposed changing the Land Use designation from Neighborhood Commercial to Residential Medium Density, and the zoning from NC to RM. In response to a question from Commissioner Stenman, Mr. Harris stated that he could only find record of the property being zoned NC, but he did not have access to historical Zoning Maps. He assumed that it was previously in the same commercial zone as the development across the street, but he did not know the specific zone. The bank was built prior to the City’s incorporation.

Staff analyzed the requests and found them generally compatible with the City's long-range vision and goals for the area for the following reasons:

- Single-family dwellings are permitted uses in the RM Zone. Other than home occupations, no commercial or office uses are permitted in the proposed zone without a CUP.
- The designated Land Use of many nearby properties is also Residential Medium Density.
- While no property in the vicinity is zoned RM, many are zoned R-2-8, which is also a multifamily zone. Those properties contain a similar density of dwelling units.

In response to a question from Commissioner Steinman, Mr. Harris reported that RM standards were available in the Staff Report. The R-2-8 Zone requires a 25-foot front yard setback, a five-foot minimum and 15-foot combined side setback, and 20-foot rear setback. RM is more restrictive, with minimum 30-foot front and rear setbacks and a 25-foot side setback.

Commissioner Poulson indicated that the RM Zone is designated for high-density residential development and the R-2-8 Zone is moderate density. There were no RM Zones in the area until 2600 East, and that is a much larger property with ample greenspace. He noted that the opportunities for greenspace on the subject property are limited due to its size. The applicant appeared to be proposing a lower density development but was asking for high density, and he believed the R-2-8 Zone would better fit the area. Chair Anderson stated that the RM Zone is more restrictive, which might make it more attractive for the neighborhood. Mr. Harris reported that 10% open space is required in the R-2-8 Zone, and the RM Zone requires 15%. He noted that the applicant could provide more information during the public hearing.

Mr. Harris continued with the Staff analysis:

- The subject property is the only parcel on the north side of Bengal Boulevard in the vicinity that is zoned and designated Neighborhood Commercial.
- The current NC Zone allows residential uses under the Neighborhood Mixed Use category within allowed Conditional Uses. A development of that type would likely entail a more intensive Land Use for the property than was proposed, with a similar number of residential uses and a commercial component.
- While detailed development plans were not part of the proposal, RM zoning standards would apply to any development applied for on the property, including minimum lot sizes, setbacks, maximum heights, open space, lot coverage, etc.

Chair Anderson stated that concern had been expressed regarding height, but the maximum height for both the RM and NC Zones is 35 feet.

Commissioner Steinman stated that the development presented a better opportunity for the property. The applicant previously tried to fit a multifamily project into NC zoning, and he believed this was a more thoughtful and better project, especially if it could be limited to six units.

Commissioner Mills appreciated the 50% maximum lot coverage. Someone could build a Starbucks with a drive-through on the lot, which would have public safety impacts. He believed the proposed project was a significant upgrade and was comfortable that the zoning would provide appropriate limits and guardrails.

Commissioner Steinman stated that if the applicant were to develop the property in the NC Zone, they could have 30 residential studio units plus commercial space on the same parcel. Six townhomes would have fewer negative impacts and made a lot of sense. Chair Anderson agreed that there was merit in the proposal.

Commissioner Barnes asked if a multifamily project was consistent with the neighborhood. It was noted that there are duplexes and townhomes nearby. The Commission discussed compatibility, as well as the makeup of the neighborhood and traffic impacts of different types of development on the parcel.

In response to a question from Commissioner Poulson, Mr. Harris clarified that the Site Plan had not been finalized and suggested that the question be asked of the applicant during the public hearing. Commissioner Poulson stated that nearby developments are moderate density in the R-2-8 Zone, and in his opinion, the RM Zone was incompatible with the neighborhood and could allow for more units on the property. Mr. Harris confirmed that the property meets RM standards for lot size.

Commissioner Steinman reiterated that the current zoning would allow for much higher density. The property owner could obtain approval to develop 30 studio units on the parcel, and a CUP could not reasonably be denied. If the property were zoned R-2-8, only two units could be built on the site. He reviewed the setbacks for each zone and stated that he believes the RM zone would allow for a much better use. Commissioner Poulson stated that 10 units were recently proposed for the property, but that would not work, and he believed the 30 units were being mentioned as a scare tactic, as that was not feasible on the property. Commissioner Steinman stated that he believed the 10-unit development would have eventually been approved if the application were not withdrawn, and it would have had a ground-floor commercial component. The project met all lot coverage and parking requirements, but the NC Zone required more commercial space than proposed. Now that the Use had been defined, the project could have been approved. Commissioner Mills stated that parking would be an issue for 30 units, but subterranean or shared parking would be an option.

Commissioner Shelton stated that the applicant applied for the RM Zone, not R-2-8, and it was a less intense application than would currently be allowed. He believes that the Commission would have been obligated to approve the previous application. The new proposal was less demanding on all resources, and it should be approved.

Mr. Harris reported that Zoning Map and General Plan Amendments are legislative actions. The Planning Commission has the authority to take public comment, discuss the merits of the proposal, and make recommendations to the City Council. The City Council is the final approval authority.

Notices were posted and mailed to property owners within 1,000 feet of the subject property 10 days prior to the public hearing. Eight public comments were received and forwarded to the Planning Commission. Based on the findings listed in the Staff Report, Staff recommended approval of the Zoning Map and General Plan Amendments.

Chair Anderson asked about next steps if approval was granted by the City Council. Mr. Harris reported that next steps would depend on the final Site Plan, but it would likely be an administrative approval. A six-property subdivision would not meet the threshold for Planning Commission review as it is less than 10 units.

2.0 **Adjourn.**

Commissioner Steiman moved to ADJOURN the Work Session. Commissioner Shelton seconded the motion. The motion passed with the unanimous consent of the Commission.

The Work Session adjourned at 5:58 p.m.

DRAFT

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

**Wednesday, July 16, 2025
6:00 p.m.
2277 East Bengal Boulevard
City Council Chambers**

Members Present: Chair Lucy Anderson, Vice-Chair Sean Steinman, Commissioner Mike Shelton, Commissioner Dan Poulson, Commissioner Dan Mills, Commissioner Mike Smith (via Zoom), Commissioner Garry Barnes, Commissioner Rusty Lugo-Alternate

Staff Present: City Manager, Jared Gerber; Deputy City Recorder, Cienna Brummel; Planner III, Ian Harris; Planner II, Maverick Yeh; System Administrator, Alex Earl

Public Attendees: Brent Johnson, Nathan Anderson, Cynthia Fowler, Leslie Kovach, Craig Clayson, Kim Clayson, Kevin Dolan, Dave Allred, Julie Allred, Gary McGee, Jill McGee, Robert Farnsworth, Eric Romero, Sydney Wagstaff, Richard Herr, Adrienne Cox, Sean Cox, Karen Barnes, Karen Cordner, Paul Hatfield, Denise Steinmann, Kelby Kuhn

BUSINESS SESSION

Chair Lucy Anderson called the Planning Commission Business Session to order at 6:08 p.m. She then introduced Planner II, Maverick Yeh, and reported that it would be Planner III, Ian Harris' last meeting with Cottonwood Heights.

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 disclosed.

2.0 General Public Comment.

There were no public comments.

3.0 Business Items.

3.1 3.1 Project ZMA-25-003 - A Public Hearing and potential recommendation to City Council on a request by Nathan Anderson for a General Plan Amendment (Land Use Map Amendment) and a Zoning Map Amendment (Rezone) on a parcel located at 3425 East Bengal Boulevard. Both applications have been combined into one. Both are required to rezone the property from NC (Neighborhood Commercial) to RM (Multi-Family Residential), which the applicant is seeking to do.

The above item was heard after item 3.2.

Mr. Harris presented the Staff Report and reported that the application was for Zoning Map and General Plan Amendments for the Wells Fargo property on Bengal Boulevard east of Smith's Grocery.

The subject property was previously a Wells Fargo branch that closed in the early 2020s. Early in 2025, the same applicant applied to develop live/work townhomes on the property. After concerns were expressed by members of the Planning Commission and the public, the application was withdrawn. A moratorium was placed on Live/Work developments in the Neighborhood Commercial ("NC") Zone to address those concerns, and a new definition and regulations have since been adopted. A CUP application was then received to operate a church on the property, which was also withdrawn. The original applicant now proposed rezoning the property to Residential Multifamily ("RM") and intended to develop six townhomes.

Mr. Harris reported that the Planning Commission would be considering the Zoning Map and Land Use Map amendments only. The applicant proposed changing the Land Use designation from Neighborhood Commercial to Residential Medium Density, and the zoning from NC to RM.

Staff analyzed the request and found it generally compatible with the City's long-range vision and goals for the area for the following reasons:

- Attached single-family dwellings are permitted uses in the RM zone. Other than home occupations, no commercial or office uses are permitted in the proposed zone without a conditional use permit.
- The designated Land Use of many nearby properties along Bengal Boulevard and the surrounding
- vicinity is also Residential Medium Density.
- While no property in the vicinity is zoned RM, many properties are zoned R-2-8, another multifamily zone. These nearby properties contain a similar density of dwelling units to what is being proposed here.
- This property is the only parcel on the north side of Bengal Boulevard in the vicinity zoned and designated as Neighborhood Commercial.
- The NC zone allows residential uses under the Neighborhood Mixed Use category within allowed Conditional Uses. A development of this type would likely entail a more intensive land use for the property, with a similar number of residential units, compared to what the applicant wishes to eventually develop.
- While detailed development plans were not a part of the proposal, RM zoning standards would still apply to any development applied for on the property, such as minimum lot sizes, minimum lot widths, setbacks, maximum height, and lot coverage. The lot does not meet the minimum size requirement for inclusion of open space.

Mr. Harris reported that Zoning Map and General Plan Amendments are legislative actions. The Planning Commission has the authority to take public comment, discuss the merits of the proposal, and make recommendations to the City Council. The City Council is the final approval authority.

Notices were posted and mailed to property owners within 1,000 feet of the subject property 10 days prior to the public hearing. Eight public comments were received and forwarded to the Planning

Commission. Based on the findings listed in the Staff Report, Staff recommended approval of the Zoning Map and General Plan Amendments.

The applicant, Nathan Anderson, stated that his pursuit is to build something that is more typical of and compliant with the surrounding area. From this building to Wasatch Boulevard, the area is primarily residential. The property will be compliant with the RM Zone, and he believes it will serve the community to have more housing stock at an attainable price.

Chair Anderson opened the public hearing.

Robert Farnsworth stated that the surrounding areas as predominantly single-family neighborhoods in the R-1-6, R-1-8, and R-2-8 Zones, which is low density. The closest RM Zone is one mile away. Most cities do not allow spot zoning anymore, and a minimum acreage would be required for this type of development. The General Plan directs multifamily housing to be along Fort Union Boulevard and along transit corridors. His biggest concern was the unknowns of the proposal. Since they were not approving a specific plan, rezoning to RM would make it possible for the applicant to build a hotel or some other type of lodging on the property. He asked if the City wanted skiers in neighborhoods instead of in hotels where they belong. He and his neighbors would like to see something nice on the property. They appreciate and frequent Smith's Grocery and the surrounding small businesses. He is a developer and knows that change happens, but it needs to be appropriate. The zoning that is compatible with the neighborhood is R-2-8. He asked that the Commission deny the rezoning because there were no guarantees of what the applicant would build.

Sean Cox gave his address as 7761 South Oak Shadow Circle, which is directly north of the proposed development. He strongly opposed the proposed rezoning of the parcel to RM because there is no buffer zone between it and the single-family zone on the same street. The rezone is fundamentally mismatched to the established neighborhood, as the community is characterized by single-family homes. As an immediate neighbor, the impacts would be deeply personal because an RM development with a potential height of 35 feet would mean windows and balconies would look directly into his bedrooms and backyard, which he believes is an unacceptable invasion of privacy and a direct assault on the sanctity and peaceful enjoyment of his property. The applicant claimed that the current commercial zoning is a failure that created blight in the neighborhood, but from his perspective, the perceived blight is a direct result of the property owner's lack of basic maintenance and upkeep. Rezoning the parcel would eliminate the potential for services that would benefit the community as a whole. He believes rezoning would set a dangerous precedent, put a strain on infrastructure, and destroy the privacy and quietness he values. He urged the Planning Commission to deny the application.

Kelby Kuhn stated that she also lives on Oak Shadow Circle and was in strong opposition to the proposed rezoning. She believes the request is inconsistent with the character of the surrounding community and directly undermines the zoning reforms the Planning Commission adopted. The current NC Zone is appropriate as it allows for low-scale, neighborhood-serving uses and respects the surrounding single-family homes. She believes that approving the request would set a precedent for high-density, multi-story developments directly adjacent to established single-family neighborhoods. The earlier plan faced overwhelming community opposition and was withdrawn, triggering the thoughtful zoning updates that were adopted last month to limit NC building height and preserve the neighborhood character. She believed the petitioner was pushing the same project under a different zoning label, hoping to sidestep the new rules, which is not good-faith planning. If approved, she

believes it would undermine both the zone and the Commission's authority and zoning integrity. The six proposed units would also dump their traffic onto Oak Shadow Circle, a quiet cul-de-sac with only nine homes. The street was not designed to support that volume, and she believes it is a safety and quality of life issue. She urged the Planning Commission to reject the request and honor the opposition from the surrounding community.

Eric Ramiro stated that he has lived in the neighborhood for 15 years. He was horrified listening to the presentation because it sounded like the project had already been approved. He asked that they not allow an apartment complex in his neighborhood. He is a realtor and knows what that would do to property values. The nearby duplexes have created congestion. He hoped that the Commission would represent the public.

Paul Hatfield stated that he lives on Oak Shadow Circle. He did not tell them to approve rezoning without knowing the developer's intent. He wanted to see something that is congruent with the neighborhood, and he did not believe the applicant's last proposal was. He asked that they postpone a decision until they know what will be built on the property.

Bob Piper stated that he lives on Oak Shadow Circle. A recent state law prohibits vehicles from parking or stopping in a bicycle lane, and Bengal Boulevard does not allow parking in front of the subject property. Nearby businesses do not allow parking in their lots. He believes extra cars will park on the cul-de-sac, and they only have parking for five or six cars there.

Sydney Wagstaff Romero stated that she hoped the rezoning did not pass. They have been asked multiple times why they do not move to a bigger home, but they stay because they love their neighborhood. She works in downtown Salt Lake City and is heartbroken to see what all the apartment buildings have done to the personality of the area. She does not want a multi-family development on that property.

There were no further public comments. The public hearing was closed.

Chair Anderson clarified that 35 feet is the maximum building height for both the NC and RM Zones. It is also the maximum height for Oak Shadow Circle. Permitted uses in the RM Zone are single-family dwellings, accessory structures, and home occupations. Conditional Uses would require review by the Planning Commission to ensure that there were no negative impacts that could not be mitigated.

Commissioner Steinman asked Mr. Harris to review setback requirements for the NC Zone. Minimum side and rear-yard setbacks are 25 feet for portions abutting residential zones. For lots adjacent to non-residential uses, the minimum setback is 10 feet for side and rear yards. The front setback depends on the least restrictive adjacent residential zone, so it would likely be the same as the R-1-6 Zone. He confirmed that the applicant would be allowed to build an apartment building with commercial on the first floor and residential above in the Neighborhood Mixed Use category, which is a Conditional Use in the NC Zone. All uses are conditional in the NC Zone.

Commissioner Steinman stated that many different factors go into the decision, including restrictions around Conditional Uses. Mr. Harris read the relevant section of Utah State Code:

A Land Use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

Commissioner Steinman stated that an applicant could currently put as much density as they would like on the property as long as it met requirements for parking, fire, safety, structural integrity, etc. Mr. Harris stated that height and setback requirements of the NC Zone would limit density somewhat, but no unit density was specified in the zone. With subterranean parking, a much larger building would be allowed. Commissioner Steinman stated that he believed approval would ensure a fixed density, as only six units would be allowed on the parcel due to RM Zone setback requirements.

Commissioner Mills stated that the current rear setback for the property is 10 feet, and rezoning to RM would increase that to 30 feet. Front setbacks would increase from 25 to 30 feet. Side setbacks would increase from 10 to 25 feet combined on corner lots, with a maximum lot coverage of 50%. The Wells Fargo building is 26 feet tall, and up to 35 feet in height is allowed in both the current and proposed zone.

In response to a question, City Manager, Jared Gerber, reported that if the City Council denied the application, the applicant could appeal the decision to district court. There is more leeway with legislative actions. They are not like CUPs, which must be approved if conditions are met. If the Planning Commission recommended denial, the City Council could still approve the application. Commissioner Steinman noted that rezoning appeals are still typically at the Council's discretion.

Commissioner Steinman stated that if the City did not approve a reasonable application, they could be forced to approve higher density on the parcel. The Live/Work component of the NC Zone has been redefined, but there is no cap on density in the zone. If Mr. Anderson sold the property to another developer, they would have the right to build a 12-unit for-rent condominium project on the property. Rezoning to RM would place a cap on density.

Commissioner Mills stated that it can be hard to hear that some members of the public believe developers get whatever they want, and he believed Mr. Anderson would disagree with that statement. The Planning Commission is not afraid to put developers' feet to the fire to make projects as good as they legally can for residents, and it is their intent to do what is best for the neighborhood. However, property owners have rights. If a reasonable application is made, it must be considered. They wanted to preserve what they can of Cottonwood Heights, but it is not the same place it was in the past. He understood that the property was not being maintained, but watering the grass would not turn it into a viable commercial property. He was grateful to Commissioner Steinman for pointing out what could be built under the current zoning versus the new zoning, which will be more restrictive.

Commissioner Steinman stated that the NC Zone has great potential in the community but they needed to consider the site, which has R-2-8 Zoning nearby and NC across the street. The property across the street has different size and mass than the one-half acre subject property. If that site was sold, it could be turned into a large multifamily development in the NC Zone. He believes the intention of the NC Zone is to be a barrier to low-density residential neighborhoods, but the subject property has the potential to be a high-density site in that zone.

Chair Anderson agreed about the potential risks in leaving the property zoned NC. The RM Zone has stricter setbacks and more limitations than can be placed on a project in the current zone.

Commissioner Smith appreciated the discussion and indicated he was glad that it is the City Council's responsibility to decide if the proposal matches the overall plan for the neighborhood and Cottonwood Heights.

Commissioner Shelton moved forward a recommendation of APPROVAL to the City Council for Project ZMA-25-003 based on the Findings and Recommendations listed in the Staff Report dated July 16, 2025. Commissioner Mills seconded the motion. Vote on Motion: Commissioner Mills-Yes; Commissioner Barnes-No; Commissioner Poulson-Yes; Commissioner Shelton-Yes; Commissioner Smith-Yes; Commissioner Steinman-Yes; Chair Anderson-Yes. The motion passed by a vote of 6-to-1.

3.2 Project CUP-25-011 (PUD-25-001) – A Public Hearing and potential action on a request by Brent Johnson on behalf of the Giverny Master Association (the Giverny Community HOA) to amend the Giverny Community Planned Unit Development's rules regarding some accessory structure setbacks. Although this application was noticed as PUD-25-001, the application type is technically a conditional use permit. As such, the application has been renamed CUP-25-011.

This item was heard before item 3.1.

Mr. Harris presented the Staff Report and indicated that the application pertains to the Giverny Planned Unit Development ("PUD") subdivision at approximately 3505 East Giverny Parkway. The original PUD application included distinct setback standards for primary structures but did not address accessory structures. Primary structures were allowed reduced setbacks due to the smaller size of the properties compared to non-PUD R-1-8 zoned subdivisions in the City.

Many Giverny residents have constructed accessory structures without understanding the requirements of City Code. Building permits are not required for structures that are less than 200 square feet in size, but accessory building standards are still required to be met.

The applicant proposed the following deviations from City Code:

- Increase the minimum setback from side and rear property lines from three feet to five feet.
- Remove the minimum setback from the primary structure. A six-foot setback was currently required.

Mr. Harris reported that the Staff Report was based on his understanding that the deviations were only requested for open-air gazebo and pergola-type structures. However, the applicant later clarified that the request also included sheds. Additionally, affected structures could be located within three feet of the rear property line if the roof height does not exceed eight feet. If the structure is taller than eight feet, a minimum five-foot setback would be required.

Staff analysis determined that the request was reasonable given that the reduced lot standards found within the subdivision complicate accessory building locations, a complication which other residents of the R-1-8 Zone in Cottonwood Heights do not face. No new standards were proposed that would bring the structures closer to property lines and impose an increased visual burden on neighboring

properties. The City Building Official reviewed the request and indicated that they were not aware of any Building Code implications with approval.

The request was interpreted as a Conditional Use Permit (“CUP”) application because PUDs are a Conditional Use in the R-1-8 Zone. Per Cottonwood Heights City Code 19.78.160.B, the Planning Commission has approval authority on PUD Amendments.

Notices were posted and mailed to property owners within 300 feet of the subject property. One public comment was received and forwarded to the Planning Commission. Mr. Harris reported that the application was noticed under a different file number with a PUD indicator but had been updated to CUP. Internal files were organized so that any future records requests for the PUD-25-011 would redirect to the correct file.

Staff recommended that the Planning Commission consider approval of the project with no additional conditions.

Brent Johnson spoke on behalf of the Giverny Community Association. When the project was approved in January 2015, the developer’s primary focus was on smaller setbacks for the homes, and no setbacks were provided for accessory structures. The community was turned over to owner control in October 2023, at which time they discovered that the developer had not created design guidelines for additions or accessory structures. Prior to approving applications, the Board decided to meet with the City to ensure that they would be in compliance with City guidelines.

There are approximately 35 existing structures in the community, many of which do not meet City requirements. They reached out to owners to determine the size of the structures, setbacks, etc., so they could create a standard that would work for most of the community and allow those structures to remain. Only 15 homeowners sent in information, many of whom had received a Building Permit for the structure. Other owners shared that they had spoken with City Staff and believed they were in compliance because their structure did not require a Building Permit; however, some of those structures do not meet setback requirements.

In March 2025, Code Enforcement informed a homeowner that their structure was noncompliant and needed to be removed. At that time, he spoke with City Staff and determined that they needed to bring a formal plan forward. The Giverny Community Association Board’s goals were to ensure compliance with Fire Code, maintain an aesthetic value in the community, and create a standard that would save the majority of existing structures or allow homeowners to modify their structures to bring them into compliance.

Most existing structures are within six feet of the house, so their request was to allow a smaller setback of five feet around the perimeter of the house. They also asked for a three-foot setback if the roof height is eight feet or less. Building Official, James Shore, had indicated that the amended setbacks were in compliance with Fire Code.

Mr. Johnson reported that most of the existing structures were built prior to the community being turned over to owner control, and they were unsure how the structures were allowed to be built. Homes were being built, and the City was conducting building inspections during that time.

Commissioner Steinman asked if the applicant was proposing a zero setback from the home to a shed or if it would only apply to pergolas. Mr. Johnson stated that they are detached structures that may or may not have a roof, and sheds would be included. The shed could be within close proximity of the house, but without the appropriate fire rating, it would have to be five feet away.

Chair Anderson opened the public hearing.

Richard Herr gave his address as 3466 Breton Lane and indicated that he is a new resident of Giverny. He purchased his home with a gazebo in the rear yard and a shed on the side of the house, and nothing was mentioned about those structures during due diligence. His neighbors have told him that the gazebo was installed when the community was still being built, and the shed is approximately three years old. It would be impossible to have a five-foot setback for the shed on the side of his house because the lot is too small, and that is the case for many of his neighbors. His structures are metal with misting systems, so they are fire resistant. The gazebo is taller than eight feet and has power and water installed. He understood the need to comply with City Code, but he requested that the existing structures be grandfathered in. He did his due diligence, but neither the City nor HOA said anything about those structures when he purchased his home.

Jill McGee stated that she does not live in Giverny, but the neighborhood surrounds her home. She and her husband wanted to go on the record to request that any accessory structure built near their property line be required to have an eight-foot setback. The pergolas in the neighborhood are lovely, and she hoped the issue could be resolved for those residents.

Gary McGee stated that the common area with the pickleball court is located near their home, and he wanted to ensure that accessory structures are not allowed so close to their property.

There were no further public comments. The public hearing was closed.

Commissioner Shelton stated that standards often only affect people who live in the neighborhood, but it was important to recognize that the people who live adjacent to the development also rely on and have to live with those standards. Chair Anderson stated that her understanding was that the proposed setbacks were stricter than the City's. Commissioner Shelton stated that he believed the setback was actually three feet. In response to his question, Mr. Harris reported that the side setback for a main or attached structure is five feet in Giverny and eight feet in the R-1-8 Zone.

Commissioner Mills expressed sympathy for people who purchased homes with smaller lots than they may have needed in terms of usable space and that their predecessor did something illegal. Code Enforcement does not inspect every home at the time of sale. In the State of Utah, the onus is on the realtor to discover those issues. The structures are very close to each other, and their accessory structures are even closer. He was unsure of how to proceed, but it was not incumbent upon the City to retroactively take full responsibility for the circumstances.

Chair Anderson stated that she was comfortable with the change in regard to gazebos and pergolas, but sheds require an additional level of scrutiny due to fire dangers.

Commissioner Steinman agreed and noted that if the shed was a continuation of the building envelope, that would raise more concerns regarding Land Use implications. Sheds are covered over the

accessory building standards in the R-1-8 Zone. Per City Code 19.26.060, accessory structure setbacks are as follows:

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

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

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

The proposal was to allow a shed directly against the primary structure and three feet from the property line. The properties currently have a 10- to 15-foot setback from the primary structure to the property line. Commissioner Steinman expressed concern about the significantly reduced setback for sheds and suggested that the Fire Department review the request.

Commissioner Shelton noted that the developer requested smaller lots in the community, and as a result, they were also allowed to have smaller setbacks. They should have considered accessory buildings at the time. It was his opinion that they should have larger setbacks.

In response to a question from Commissioner Steinman, Mr. Harris reported that the R-1-8 Zone allows for a maximum lot coverage of 50%. An accessory structure could create more than 50% coverage and bring the property out of compliance regardless of whether it is attached or detached.

In response to a question from Commissioner Shelton, Mr. Harris reported that when people ask about accessory building standards for their zone, they are provided with the setbacks from property lines. They also provide the setbacks from the home, although that is often not the question they are asked. He apologized if any incorrect information had been given but noted that City Code is very clear.

Commissioner Steinman stated that the matter needed to be studied further, primarily regarding the precedent it could set within the R-1-8 Zone. The PUD has a high ratio of residents that are out of compliance, and he did not want to discriminate against other residents of the zone. He proposed that the matter be tabled. Chair Anderson noted that Staff would need to be provided with guidance regarding what additional information was required to finalize the item. Commissioner Steinman stated that they needed to better understand the difference between sheds, pergolas, and any other auxiliary features and their fire risks, as well as what the implications would be across the R-1-8 Zone.

Commissioner Mills stated that meeting with the Building and Fire Departments does not supersede code. If they already created exceptions to City Code to decrease the lot size and were now advocating expanding accessory buildings, that proposal needed to be presented in a way that ensures it is safe and reasonable. He believed the CUP would be very hard to defend.

Mr. Harris reported that Staff would discuss the matter with the applicant and return with more information.

Commissioner Steinman moved to TABLE Project CUP-25-011 to the August 6, 2025 Planning Commission Meeting pending additional information from Staff. Commissioner Mills seconded the motion. Vote on Motion: Commissioner Shelton-Yes; Commissioner Mills-Yes; Commissioner

Barnes-Yes; Commissioner Poulson-Yes; Commissioner Steinman-Yes; Commissioner Smith-Yes; Chair Anderson-Yes. The motion passed unanimously.

4.0 Consent Agenda

4.1 Approval of June 4, 2025, Planning Commission Meeting Minutes.

Commissioner Steinman moved to APPROVE the Consent Agenda, as presented. Commissioner Poulson seconded the motion. The motion passed with the unanimous consent of the Commission.

5.0 Adjourn.

Commissioner Mills moved to ADJOURN the Business Session. Commissioner Shelton seconded the motion. The motion passed with the unanimous consent of the Commission.

The Business Session adjourned at approximately 7:32 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 Business Session held on Wednesday, July 16, 2025.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: _____

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