

COTTONWOOD HEIGHTS CITY PLANNING COMMISSION MEETING AGENDA

October 5, 2022



Notice is hereby given that the **Cottonwood Heights Planning Commission** will convene on **Wednesday, October 5th, 2022**, at **Cottonwood Heights City Hall** (2277 E. Bengal Blvd., Cottonwood Heights, UT 84121) for its regularly scheduled **Work Session** and **Business Session** meetings.

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

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

5.00 p.m. Work Session

1.0 Review Business Session Agenda

The Commission will review and discuss agenda items.

2.0 Additional Discussion Items

The Commission may discuss the status of pending applications and matters before the Commission, as well as new applications and matters that may be considered by the Commission in the future.

3.0 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-22-011

A public hearing and possible action on a request by Katherine Pasker, on behalf of Robert Bryne, for a wall height extension to construct an 8-foot wall along the northwest property line at 7275 S. Caladora Cv.

3.2 Project ZTA-22-003

A public hearing and possible action on a city-initiated ordinance amendment related to the commercial use requirements in the Mixed Use (MU) zone.

4.0 Consent Agenda

- 4.1 Approval of Planning Commission Minutes from September 7, 2022

5.0 Adjourn

Public Comment Policy

Verbal public comments are accepted during the public hearing components of the 6:00 p.m. Business Session (but not during the 5:00 p.m. Work Session). Please note that public hearings are an opportunity for individuals to share public comments as they see fit, but are not an opportunity for questions and answer dialogue. Questions should be directed to city staff at planning@ch.utah.gov.

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

Alternatively, written comments submitted to staff via email at planning@ch.utah.gov. For written comments to be entered into the record and distributed to the Planning Commission prior to the meeting, they must be submitted to staff by 12:00 p.m. MST on Tuesday, October 4th, 2022, the day prior to the meeting. Comments received after this deadline will be distributed to the Planning Commission after the meeting.

Meeting Procedures

Items will generally be heard in the following order:

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

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

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

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

Confirmation of Public Notice

On Friday, September 29th, 2022, 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 29TH DAY OF SEPTEMBER 2022, Paula Melgar, City Recorder



PLANNING COMMISSION STAFF REPORT

Wall Height Extension: 7275 S. Caladora Cove.

Meeting Date: October 5, 2022

Staff Contact: Mike Johnson, CED Director
(801-944-7060, mjohnson@ch.utah.gov)

Summary

Project #:

CUP-22-011

Subject Property:

7275 S. Caladora Cove

Action Requested:

Conditional use - Wall Height Extension

Owner:

Robert Byrne

Applicant:

Katherine Pasker

Recommendation:

Approve, with conditions



This aerial image shows the subject property in context of the neighborhood. The blue line shows the location of the proposed wall height extension. Red lines show the other property lines of the home

APPLICANT'S PROPOSAL

This application represents a request for approval of a wall/fence up to eight (8) feet in height, located within the side yard of the subject property. Side and rear-yard fences greater than six (6) feet in height are required to obtain a conditional use permit, in accordance with chapter 19.76.050.E of Cottonwood Heights city code.

The requested fence has already been constructed, in violation of codified city ordinance procedures. Refer to the 'Background' section of the staff report for the full context of the application to date.

BACKGROUND

The following is a summary of the background and context for the request to date, including an explanation of why the requested fence is already constructed, and why the Planning Commission is considering the item, rather than the Administrative Hearing Officer:

Original Conditional Use Request (March, 2022)

Prior to construction of any fence, the property owner, via a general contractor, submitted a conditional use application (CUP-22-002) for a wall height extension, in accordance with city ordinance procedures. An administrative hearing was held on March 9, 2022. No action was taken at this meeting, as the

hearing officer moved to continue the request to a subsequent meeting, in order for the applicant to provide a clearer demonstration that the proposed fence would not exceed eight (8) feet above existing grade on the subject property.

Withdrawal of Application CUP-22-002

After the March 9th administrative hearing, city staff received a written request to withdraw the application from further consideration. The letter, dated March 17, 2022, stated:

“Please withdraw our permit application we are trying to have granted for the eight-foot (8’) security fence on the west side of the property at 7275 S. Caladora Cove in Cottonwood Heights, UT. We will be keeping the finished height under the 72” (six feet) from the existing natural ground height.”

Construction of Non-Compliant Fence

Shortly after receiving the withdrawal notice, the city was notified by the adjacent property owner that construction had begun on a fence. The city informed the property owner that fences up to six (6’) feet in height above existing grade are permitted by ordinance. On March 22, 2022, a representative for the adjacent property owner submitted a formal appeal of the city’s administrative decision to allow a fence to be constructed on the property. At the time, it was the city’s understanding that the subject property owner was constructing a compliant 6’ fence. The primary reason for the appeal was that the neighbor claimed the fence was not a fence but was ‘an appendage to the home and main building structure, which violates the city-approved setback, among other things.’ An initial administrative appeal hearing was scheduled for May 2022.

Violation of City Fence and Wall Height Standards

In April 2022, city staff was notified by the adjacent property owner that construction on the fence was substantially complete, and that constructed fence exceeded the 6’ maximum permitted height allowed by city ordinance. Upon investigation by the city’s code enforcement division, it was confirmed that the fence clearly exceeded 6’. The city’s citation process was then initiated. At this same time, the original appeal was placed on voluntary hold, pending the outcome of the enforcement process. That appeal remains on hold.

Attempted Submittal of Wall Height Extension Conditional Use Application

In May 2022, during the enforcement process, a representative for the property owner that constructed the fence (current applicant) attempted to submit a new conditional use application for approval of a wall/fence over 6’ in height. City staff declined to accept and process the application, citing the ongoing enforcement process and stating that ‘issuance of a conditional use permit cannot retroactively cure the fact that the nonconforming portion of the fence was building without a building permit and therefore is illegal.’

Appeal of Administrative Decision to Refuse a Conditional Use Application

On May 31, 2022, the property owner’s representative submitted a formal appeal of the city’s refusal to accept a retroactive conditional use application until code enforcement proceedings were completed. At an appeals hearing held on July 21, 2022, the city’s Appeals Hearing Officer ruled in favor of the property owner, concluding that ‘the Director did not have the authority to lawfully refuse to accept or process the Byrnes’ May Application...Accordingly, the Director’s Decision is hereby reversed. The Byrnes’ May Application shall be accepted and processed by the City....If the May Application passes these initial screening criteria, then the State Code entitles the Byrnes to a substantive review of their May Application. Pursuant to the City Code, this means a staff report evaluating the conditional use

application shall be prepared and forwarded to the applicable land use authority for public hearing and decision.'

Planning Commission Decision to Consider the Application

At its September 2022 meeting, the Planning Commission voted to consider the May 2022 Conditional Use Application as the city's land use authority, rather than delegating that authority to the Community & Economic Development Director in this certain case. Typically, wall/fence height extensions are heard by the Director, acting as the city's Administrative Hearing Officer. Given the unique background and context, and two prior appeals (one still pending) of the Director's administrative decisions, staff recommended that the Planning Commission hear the application, which the Commission agreed to by unanimous vote. Formal public hearing and consideration of the application was noticed and scheduled for the October 5, 2022 Planning Commission meeting.

Summary and Analysis of Request

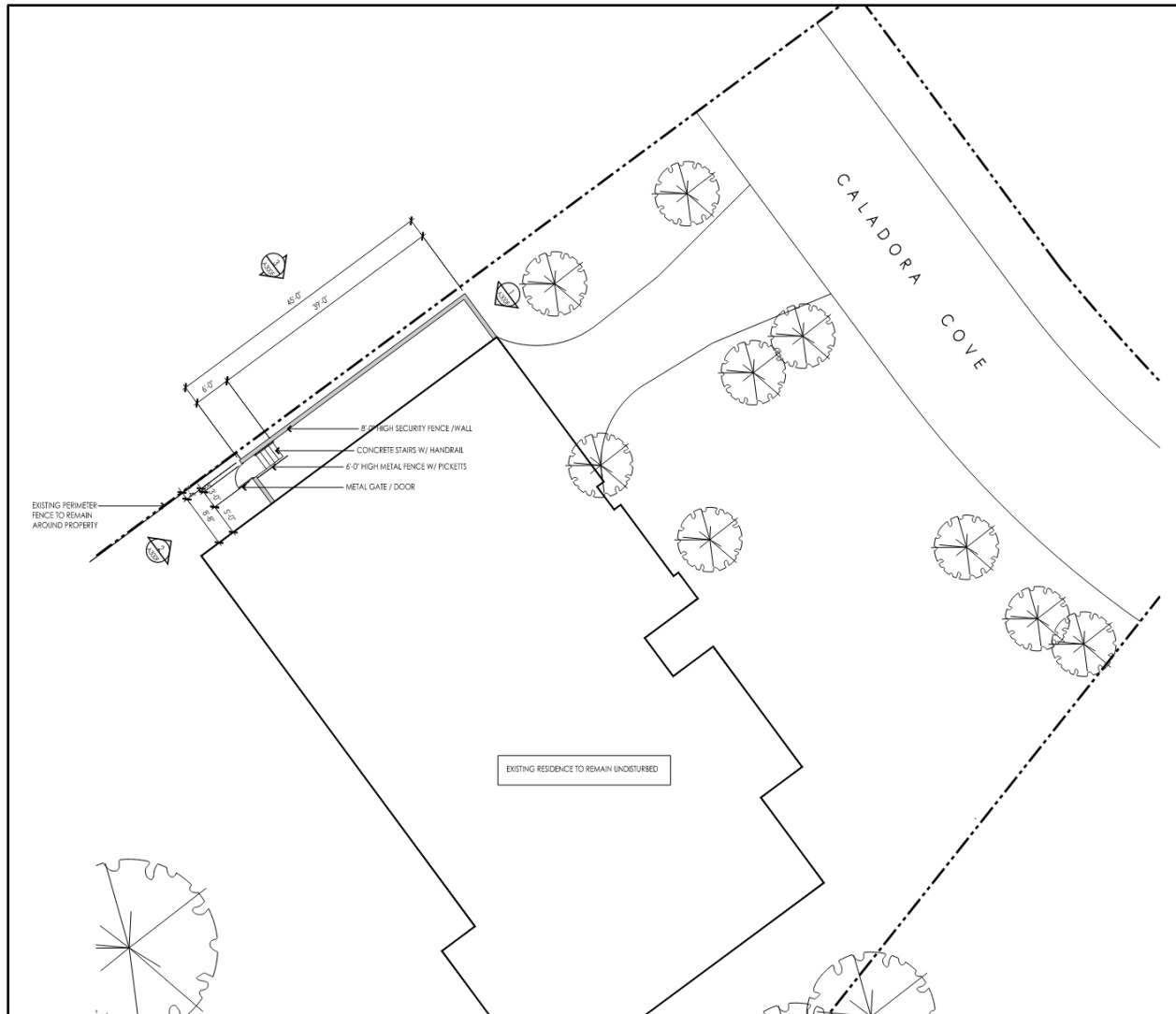
Request

The applicant's formal request is for approval of a fence, not to exceed eight (8) feet in height above existing grade, along the northwest corner of the subject property (7275 S Caladora Cove). Staff has reviewed the full application (attached) and verified that it is complete. City ordinance [19.76.050.E](#) allows for the construction of walls and fences up to a maximum twelve (12) feet in height in side and rear yards, as follows:

- Up to 6' in height – permitted (no permit or approval required)
- Up to 8' in height – permitted with conditional use approval and building permit (This is the request that has been made by the applicant).
- Up to 12' in height – permitted with conditional use approval, building permit, and signed consent form by all adjacent neighbors

Staff Analysis – Because the fence is already constructed, staff conducted a site visit on August 18, 2022 to measure the fence and confirm that it did not exceed 8' in height (fences and walls exceeding 8' require signed consent by adjacent property owners, and no consent form was provided). Staff in attendance included Mike Johnson (CED Director) and Andrew Hulka (Senior Planner), as well as the subject property owner and applicant. The constructed fence was measured and found to not exceed 8' in height from existing grade at its highest point. Detailed site photos can be found in the attached applicant packet. The portion of the fence closer to the front yard of the subject property is 6' above existing grade. As the property slopes down to the southwest, the top of the fence remains the same elevation, thus increasing the fence height to 8' at its highest point.

'Fence' is defined in the zoning ordinance as 'a barrier of any material or combination of materials erected to enclose, screen or separate areas.' Staff finds the proposal to qualify as a fence under that definition.



Site Plan

Rationale for Fence Height Increase

City ordinance [19.76.050.E.3](#) requires two criteria to be met for wall height extensions to be approved:

1. The existence of unique or special circumstances of a natural, material and adverse nature relating to the property will be substantially minimized or eliminated by the increased height of the requested fence; and
2. That erection of such a fence is the most reasonable solution under the circumstances. Any such conditional use permit may be granted by the director or his designee following an administrative hearing preceded by all required notifications. A building permit shall be required for all fences approved as a conditional use

The applicant has provided the following rationale for this provision (full narrative attached for reference):

"The Byrnes are seeking a conditional use permit to construct a wall enclosing a portion of their side yard to (1) provide the family's pets with unassisted access to the backyard, (2) screen utilities that serve their

home, (3) mitigate noise from their animals to neighboring properties and vice versa, and (4) provide increased privacy. Due to the sloping nature of their backyard, the wall is less than 6 feet in the front, but becomes between 6 and 8 feet at the rear due to the dropping slope of the property. The wall is stuccoed cinder block, similar to adjacent buildings. Due to the sloping yard, only a portion of this wall requires a conditional use permit.

Staff Analysis – Staff finds the above rationale to satisfy the required rationale within the city ordinance. There is substantial precedence for privacy being an acceptable and uncontested rationale for warranting fence height increases. Since 2019, the city has received 10 conditional use applications for fence height increases, all of which stated that added privacy was the primary rationale for the request. Each of those applications was approved. As described previously, the Planning Commission has voted to act as the land use authority for this application, rather than the Administrative Hearing officer. Staff is recommending a condition of approval that a building permit be obtained, even retroactively, and that the city's acting building official review and inspect any portion of the fence necessary to ensure compliance with minimum building code standards.

Noticing

Property owners within 300 feet of the subject property have been mailed notices. Notices were mailed, as well as posted on noticing websites and the City Hall bulletin board, on September 23, 2022.

Conditional Use Permit Determining Criteria

Staff has found enough evidence that the standards for the issuance of a conditional use permit have been satisfied ([see Section 19.84.080 CH Code](#)).

Recommendation and Findings

After review, staff finds the proposed application to be complete and recommends APPROVAL of the application, subject to the following proposed conditions and findings:

Recommended Conditions of Approval

1. A building permit shall be obtained and all necessary inspections shall be completed. Permit application shall be made to the city within 30 days of any final Planning Commission action to ensure timely adherence to this condition;
2. The fence shall not be enclosed with a roof and utilized as a structure. It shall continually comply with the definition of 'fence' as found in chapter 19.76.050.E of the city's zoning ordinance;

Findings for Approval

1. There is clear and convincing evidence shown by the applicant relating to privacy, safety, and screening that will be substantially minimized or eliminated by the approval of the requested fence height extension ([19.76.050.E.1.a](#))
2. Construction of the proposed fence is the most reasonable solution under the circumstances. The additional height is justified to ensure mitigation of the aforementioned issues
3. The conditional use permit is granted by the city's land use authority, preceded by all required notification ([19.76.050.E.1.b](#))
4. The evidence presented with the proposed conditional use permit has been found to be compliant with the requirements of section [19.84.080 of the city code](#) (Conditional Uses)

Model Motions

- **APPROVAL** – ‘I move to approve project CUP-22-011 based on the recommended conditions and findings in the staff report dated October 5, 2022
- **DENIAL** – ‘I move to deny project CUP-22-011 based on the following findings’
 - Provide findings for denial (i.e. perceived impacts that cannot be mitigated through the implementation of reasonable conditions)

Attachments

- Application packet submitted by project applicant

May 9, 2022

VIA EMAIL

City of Cottonwood Heights
Community and Economic Development Department
Email: planning@ch.utah.gov

RE: Wall Height Extension Conditional Use Permit Application; 7275 Caladora Cove

Dear Sir/Madam:

We represent Robert and Ashleigh Byrne, owners of the property located at 7275 Caladora Cove in Cottonwood Heights. Pursuant to the City of Cottonwood Heights municipal code, enclosed are the following materials in support of a conditional use permit for an 8ft wall constructed on the property:

- Wall Height Extension Application
- Owner's Permission Form
- Salt Lake County Assessor Parcel Report for 7275 Caladora Cove (in lieu of a title report)
- Narrative
- Site plan for the project
- Subdivision plat for the Cove at the Cottonwoods
- Site Context Photographs showing the wall in context with the surrounding buildings, taken from the curb, on-site conditions, the height of the wall at various points, and aerial photographs.

Please contact me to process payment regarding this application, or if you have any questions regarding the materials.

Sincerely,

PARR BROWN GEE & LOVELESS



Katherine Pasker



WALL HEIGHT EXTENSION

Application Number

Community & Economic Development | 2277 East Bengal Boulevard | 801-944-7000 | www.ch.utah.gov

Property Address	7275 S. Caladora Cove, Cottonwood Heights, Utah
Project Description	8 ft fence along northwest corner of the residence
Property Owner	Robert and Ashleigh Byrne
Property Owner Name	
Property Owner Mailing Address	7275 Caladora Cove, Cottonwood Heights 84047
Applicant (if different from owner)	Katherine Pasker, Attorney, Parr Brown Gee & Loveless
Applicant Phone	(801) 257-7969
Applicant Mailing Address	Parr Brown Gee & Loveless, Attn: Katherine Pasker, 101 S. 200 East, Suite 700, Salt Lake City
Applicant Email	kpasker@parrbrown.com
Zoning Designation	R-1-8
Overlay Zoning	
Application Date	
Fee Paid	
Owner / Applicant Signature	/s/Katherine Pasker

(2) copies 11"x17" and a digital copy with PDFs of all plans must be submitted. During the pre-application meeting a staff planner will identify which items are required for submittal. Please note that ALL items check will be required at the time of formal submittal. An application will not be considered complete until all checked items are submitted in an acceptable manner.

GENERAL

- ☐ Application Fee (See Consolidated Fee Schedule for current fees)
- ☐ Owner's name, address, and telephone number
- ☐ Signed consent form, if applicant is different than property owner
- ☐ Title Report (not older than 60 days of application date) for all affected parcels of land

WRITTEN NARRATIVE

- ☐ Proposed project description
- ☐ General Plan and zoning ordinance purpose compliance statements
- ☐ Justification for addition height, including:
 - Clear and convincing argument showing the unique or special circumstances of a material, adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence
 - That erection of such a fence is the most reasonable solution under the circumstances

PLAN SUBMITTAL REQUIREMENTS

- ☐ Date, graphic scale and north arrow
- ☐ Current plat map for the subject parcel
- ☐ Building footprint(s) of all existing structures
- ☐ All property lines
- ☐ Indication of where the proposed wall/fence will be located on the property
- ☐ Elevation drawing(s) showing the proposed height, footings and materials being proposed

SITE CONTEXT PHOTOGRAPHS

- ☐ Showing the site and the context of surrounding buildings/property (No panoramic view photos)
- ☐ Taken at the curb and along the property boundaries
- ☐ Show adjacent improvements and existing on-site conditions
- ☐ Aerial photographs of the site

OTHER ITEMS

OWNER'S PERMISSION FORM

***This sheet must be completed if the applicant is not the owner of the property.

I/we, the Undersigned, do hereby grant permission to:

Parr Brown Gee & Loveless

to act on my/our behalf for the purpose of obtaining a Zone Change, Conditional Use permit, Site Plan Review, or Variance on the following described property:

7275 Caladora Cove, Cottonwood Heights, Utah

Owner(s) Robert and Ashleigh Byrne

Address 7275 Caladora Cove, Cottonwood Heights, Utah

Telephone (385) 645-9113

SIGNATURE OF OWNER *R Byrne*

DATE SIGNED 5-9-'22

State of UTAH

County of Salt Lake } ss.

On this 9 day of May, 2022 before me, the undersigned Notary Public,

personally appeared Robert Byrne, personally known to me, or whose identity I

verified on the basis of his/her Drivers License, or on the oath of
(type of identification)

_____, a credible witness whose identity I verified on the basis of

his/her _____, to be the person(s) whose name(s) is/are
(type of identification)

subscribed to in this instrument and acknowledged that he/she executed the same.

P Blackhurst
(Notary Public)

09/16/23
(Commission Expiry Date)



NOTARY PUBLIC
Parker D Blackhurst
708262
Commission Expires
September 16, 2023
STATE OF UTAH

SLCo ---> Assessor ---> Parcel Search ---> Valuation Summary ---> Printable Version

Parcel **22-29-278-019-0000**
ROBERT & ASHLEIGH BYRNE ASSET PROTECTIO
 Owner
 Address 7275 S CALADORA CV
 Total Acreage 0.57
 Above Ground sqft. 4259
 Property Type 111 - **SNGL FAM RES**
 Tax District **AAK**

Value History					
Record	Land Value	Building Value	Market Value	Tax Rate	
2021	\$ 324,700	\$ 1,101,600	\$ 1,426,300		
2020 1	\$ 324,700	\$ 911,200	\$ 1,235,900	.0124540	
2019 1	\$ 319,200	\$ 913,500	\$ 1,232,700	.0127860	
2018 1	\$ 319,200	\$ 882,400	\$ 1,201,600	.0124920	
2017 1	\$ 319,200	\$ 827,100	\$ 1,146,300	.0128080	
2016 1	\$ 309,900	\$ 875,000	\$ 1,184,900	.0131860	



Land Record

22-29-278-019-0000

Record ID 1	RESIDENTIAL	Influence Effect	RES-PRIMARY	Lot Shape	IRREGULAR	Traffic	LIGHT
Lot Use	PRIMARY-LOT	Assmt. Class		Lot Location	INTERIOR	Traffic Influence	TYPICAL
Lot Type		Lot Depth		Neighborhood	20	Street type	PRVATE/COURT
Land Class		Acres	0.50	Nbhd Type	STATIC	Street Finish	PAVED
Income Flag		Zone	1108	Nbhd Effect	TYPICAL	Curb Gutter	N
Seasonal use	N	Sewer	PUBLIC	Topography	LEVEL	Sidewalk	N
Influence Type		Number Lots	1				
Record ID 2	RESIDENTIAL	Influence Effect	RES-PRIMARY	Lot Shape	IRREGULAR	Traffic	LIGHT
Lot Use	RESIDUL-ACRE	Assmt. Class		Lot Location	INTERIOR	Traffic Influence	TYPICAL
Lot Type		Lot Depth		Neighborhood	20	Street type	PRVATE/COURT
Land Class		Acres	0.07	Nbhd Type	STATIC	Street Finish	PAVED
Income Flag		Zone	1108	Nbhd Effect	TYPICAL	Curb Gutter	N
Seasonal use	N	Sewer	PUBLIC	Topography	LEVEL	Sidewalk	N
Influence Type		Number Lots					

Residence Record

22-29-278-019-0000

Building Style	LC	Full Baths	4	Interior Condition	EXCELLENT	Main Floor Area	2796
Assessment Classification	P	3/4 Baths		Exterior Condition	EXCELLENT	Upper Floor Area	1463
Exterior Wall Type	STUCCO	Half Baths	2	Overall Condition	EXCELLENT	Finished Attic Area	
Roofing	ASPHALT-SHNG	Number of Kitchens	2	Visual Appeal	AVERAGE	Above Ground Area	4259
Central AC	YES-FA DUCT	Finished Fire places	3	Maintenance	AVERAGE	Basement Area	3502
Heating	PRIMRY-CNTRL	Year Built	2007	Conformity	EQUAL-IMPRVD	Finished Basement Area	3300
Owner Occupied		Effective Year Built	2018	Livability	AVERAGE	Finished Basement Grade	G
Number of Stories	2.0	Interior Grade	VERY-GOOD	Primary Kitchen Quality	MODERN	Carport Surface Area	
Total Rooms	23	Exterior Grade	VERY-GOOD	Primary Bath Quality	MODERN	Attached Garage S. Area	720
Bedrooms	6	Overall Grade	VERY-GOOD	Percent Complete	100	Builtin Garage S. Area	622
						Basement Garage S. Area	
						Above Grade Area + Basement Area:	7761

Legal Description

22-29-278-019-0000

LOT 3, COVE AT THE COTTONWOODS SUBDIVISION AMENDED. 9448-5429,7216 9634-6684 9761-8948 10127-5562 10128-2774
 10166-8539 10543-8179

Click here for [Classic Parcel Details Page](#) [Search Again?](#)

This page shows the assessor's CAMA data, as it was, on May 22, 2021.

NARRATIVE IN SUPPORT OF WALL HEIGHT EXTENSION APPLICATION

Project Purpose:

The Byrnes are seeking a conditional use permit to construct a wall enclosing a portion of their side yard to (1) provide the family's pets with unassisted access to the backyard, (2) screen utilities that serve their home, (3) mitigate noise from their animals to neighboring properties and vice versa, and (4) provide increased privacy. Due to the sloping nature of their backyard, the wall is less than 6 feet at the front, but becomes between 6 and 8 feet at the rear due to the dropping slope of the property. The wall is stuccoed cinder block, similar to adjacent buildings. Due to the sloping yard, only a portion of this wall requires a conditional use permit.

Zoning District & Applicable Ordinance:

The zoning designation of the property is R-1-8 (Residential Single-Family). Fences and walls between 6 and 8 feet may be allowed in any zone as a conditional use, and up to 12 feet as a conditional use with neighbor consent. Code § 19.76.050(E). Neighbor consent is not required in connection with this application because the wall height does not exceed 8 feet (and the vast majority of the wall is not at this height).

Grounds for a Conditional Use Permit:

According to the City of Cottonwood Heights Code, a conditional use permit for an eight foot fence can be granted if "[t]here exists unique or special circumstances of a natural, material and adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence... [and] [t]hat erection of such fence is the most reasonable solution under the circumstances" Code § 19.76.050(E)(3).

As noted above, for most of the length of the wall, the height does not exceed 6 feet, and thus is permitted by the Code. Only due to the ground sloping downward at the rear of the front yard is additional wall height needed in order to maintain the same horizontal plane across the top of the wall. Having the top of the wall fluctuate with the slope of the ground would be aesthetically inconsistent with the surrounding buildings, as well as fail to provide the security intended by the wall.

In addition to the topographical and aesthetic reasons for the additional wall height, the context of the property in relation to other properties, as well as unique risks to the Byrne family and their property, promotes approval of the conditional use permit application. Granting additional wall height for a portion of the wall is the most reasonable solution to the following adversities experienced without the wall:

First, construction of the wall promotes reducing the sound of barking and other animal noises between neighboring properties.

The Byrnes and their neighbors the Yagantis combined have several animals that become agitated when seeing non-family members. By installing a tall opaque wall these pets cannot see one another, thus, reducing the likelihood that they will bark, and even if barking occurs, the sound will be reflected back onto the property from whence the barking came due to the acoustics of a wall as opposed to a slatted wood or metal fence.

Second, the wall promotes security as it obscures and blocks access from the front of the property to the backyard without scaling the wall.

Previously, a shorter gate provided direct access from the front yard to the back yard. Now, that entrance can only be accessed from within the walled courtyard. The opaque wall obscures where that access is or if access to the backyard is even possible from the north side of the property.

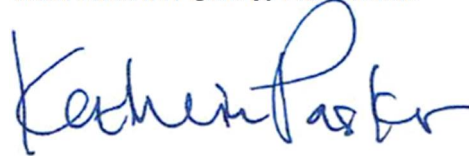
Third, the Byrne's have faced unique security threats within the last year as an individual has caused property damage multiple times in an effort to terrorize the family.

The Byrnes currently have a protective order against Jonathan Hanley (see KSL.com, "[Charges: Man planted homemade explosive, threatening to settled debts](#)", Nov. 15, 2021), who has thrown a rock through the Byrne's window and trespassed into their backyard and contaminated their pool. The additional wall height, in tandem with the completely opaque wall, will thwart efforts to access the Byrne's backyard, screen side entrances that would be more vulnerable to intrusion, and provide additional privacy.

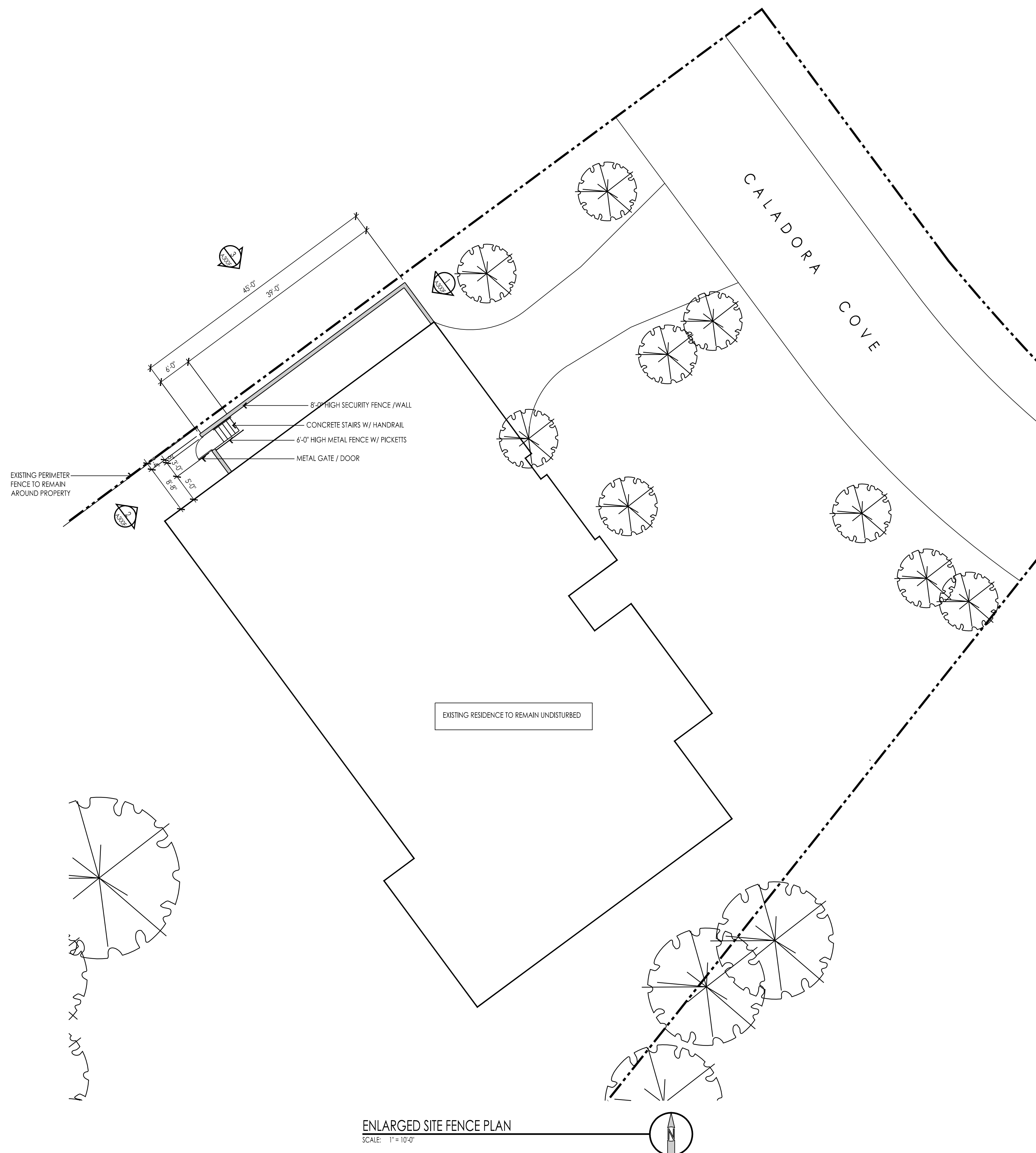
Based on the foregoing, the Byrne's respectfully request that the City approve the conditional use permit application for additional wall height.

Sincerely,

PARR BROWN GEE & LOVELESS



Katherine Pasker



**TOPP REMODELING
& CONSTRUCTION**

DESIGN • BUILD • REMODEL

Excellence In Building for over 20 years

Topp Construction
9160 South 300 West
Suite 7
Sandy, Utah 84070
(801) 831-0264

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INCLUDING TECHNICAL DRAWINGS, INFORMATION,
MODIFICATIONS, OPINIONS EXPRESSED, ETC. THESE
DOCUMENTS ARE THE RESULT OF GOOD FAITH
AND EXERCISE OF JUDGMENT AND WITHOUT MALICE.

consultant engineer

L.R. Nelson
Engineering

51 West 9000 South
Sandy, Utah 84070
(801) 565-8580

project

Byrne Residence Garage Addition

7275 South Caladora
Cove
Cottonwood Heights,
Utah

project information

2021-15 Byrne

date

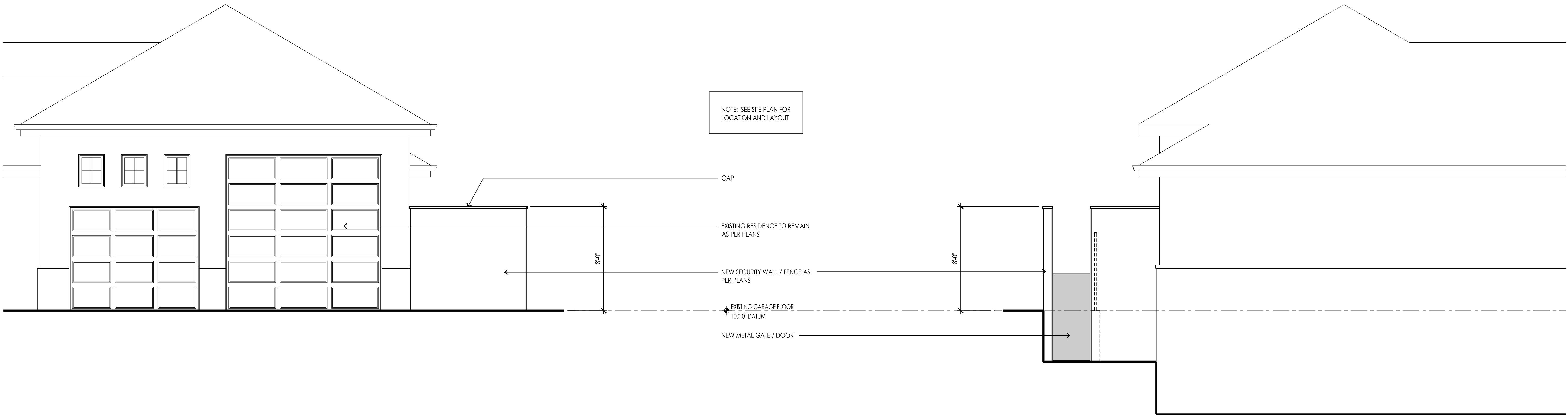
28 February 2022

sheet description

Site Fence Plan

sheet

A101

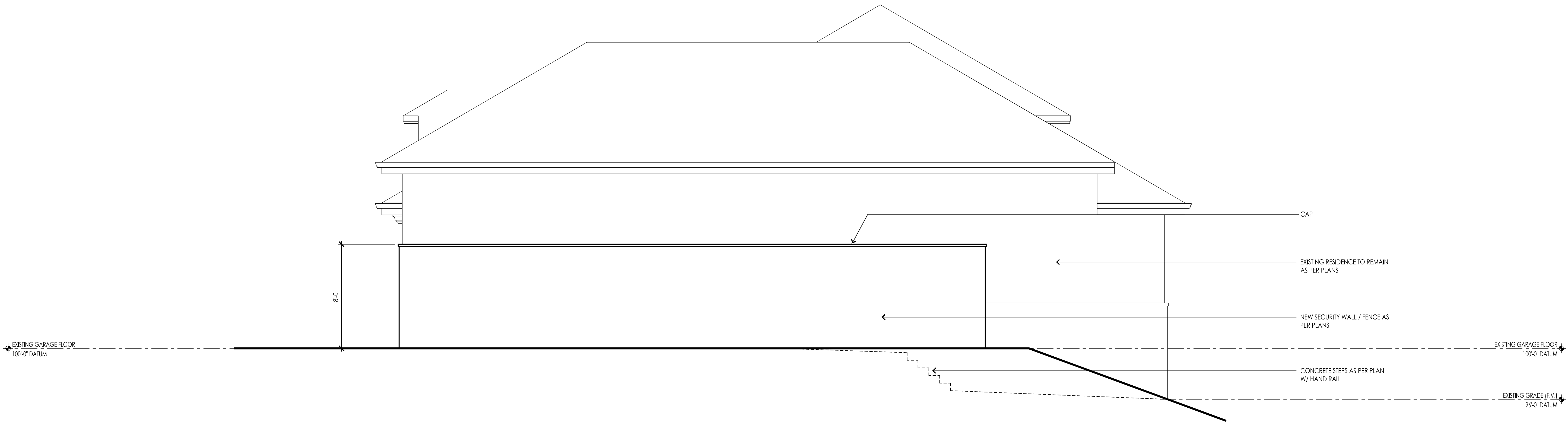


EXISTING FRONT ELEVATION
SCALE: 1/4" = 1'-0"

1
A300F

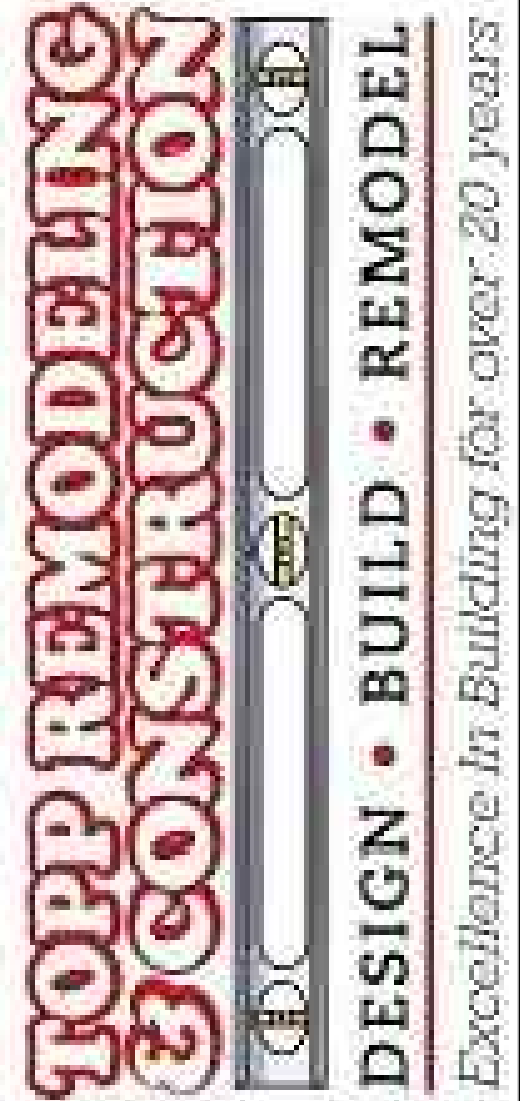
EXISTING FRONT ELEVATION
SCALE: 1/4" = 1'-0"

2
A300F



NEW FRONT ELEVATION
SCALE: 1/4" = 1'-0"

3
A300F



Topp Construction
9160 South 300 West
Suite 7
Sandy, Utah 84070
(801) 831-0264

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consultant engineer

**L.R. Nelson
Engineering**
51 West 9000 South
Sandy, Utah 84070
(801) 565-8580

project

**Byrne
Residence
Garage
Addition**

7275 South Caladora
Cove
Cottonwood Heights,
Utah

project information

2021-15 Byrne

date

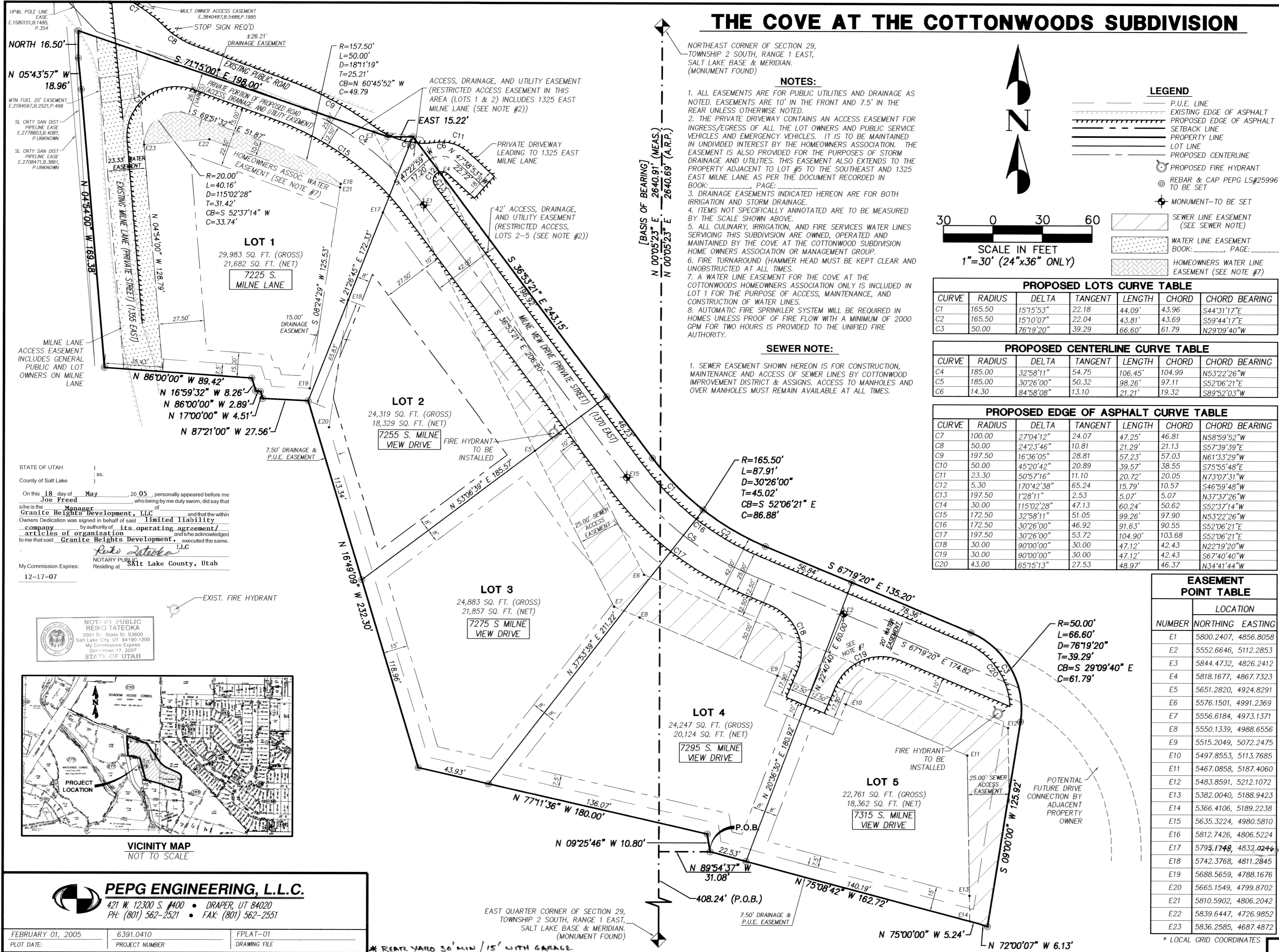
28 February 2022

sheet description

**Exterior
Elevations
(Fence)**

sheet

A300F



SURVEYOR'S CERTIFICATE

I, DERRICK S. SMITH, do hereby certify that I am a Registered Land Surveyor, and that I hold Certificate No. 259961, as prescribed under the laws of the State of Utah. I further certify that by authority of the Owners, I have made a survey of the tract of land shown on this plat and described below, and have subdivided said tract of land into lots and streets, hereafter to be known as COVE AT THE COTTONWOODS SUBDIVISION and that same has been correctly surveyed and staked on the ground as shown on this plat. I further certify that the lots meet the area, frontage and width requirements of the applicable zoning ordinances.

BOUNDARY DESCRIPTION

Beginning at a point which is North 00°05'23" East, along the section line 408.24 feet and South 89°54'37" East, 31.08 feet from the East Quarter Corner of Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian and running thence North 09°25'46" West, 10.80 feet; thence North 77°11'36" West, 180.00 feet; thence North 16°49'09" West, 232.30 feet; thence North 87°21'00" West, 27.56 feet; thence North 17°00'00" West, 4.51 feet; thence North 86°00'00" West, 2.89 feet; thence North 16°59'32" West, 8.26 feet; thence North 86°00'00" West, 89.42 feet; thence North 04°54'00" West, 169.38 feet; thence North 05°43'57" West, 18.96 feet; thence North, 16.50 feet; thence South 71°15'00" East, 198.00 feet; thence East, 15.22 feet; thence South 36°53'21" East, 243.15 feet to a point on a 165.00 foot radius curve to the left; thence 87.91 feet along said curve through a central angle 30°26'00" (chord bears South 52°06'21" East, 86.88 feet); thence South 67°19'20" East, 135.20 feet to a point on a 50.00 foot radius curve to the right; thence 66.60 feet along said curve through a central angle of 76°19'20" (chord bears South 29°09'40" East, 61.79 feet); thence South 09°00'00" West, 125.92 feet; thence North 72°00'07" West, 6.13 feet; thence North 75°08'42" West, 5.24 feet; thence North 75°08'42" West, 162.72 feet to the point of beginning.

Contains: 2.90 acres (more or less)

DERRICK S. SMITH
DATE: 1-31-05

OWNER'S DEDICATION

Know all men by these presents that I, the undersigned owner () of the above described tract of land, having caused same to be subdivided into lots and streets to be hereafter known as

COVE AT THE COTTONWOODS SUBDIVISION

do hereby dedicate for perpetual use of the public all parcels of land shown on this plat as intended for Public use.

In witness whereof I have hereunto set my hand this 18th day of MAY, A.D., 2005

GRANITE HEIGHTS DEVELOPMENT, LLC

BS: AS

ITS: MBR

ACKNOWLEDGMENT

STATE OF UTAH
County of }
On the _____ day of _____, A.D. 20____, personally appeared before me, the undersigned Notary Public, in and for said County of Salt Lake in said State of Utah, the signer() of the above Owner's dedication in number, who duly acknowledged to me that _____ signed it freely and voluntarily and for the uses and purposes therein mentioned.

MY COMMISSION EXPIRES: _____ NOTARY PUBLIC
RESIDING IN SALT LAKE COUNTY

COVE AT THE COTTONWOODS SUBDIVISION

CONTAINS 5 LOTS 2.90 ACRES

LOCATED IN THE NORTHEAST QUARTER OF SECTION 29, AND THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN.

Wall Height Extension Context Photographs

7275 Caladora Cove

Aerial View of the Property



Front of the property (photo taken across the street) – wall is on the right most side.



View of the wall from the sidewalk.
Coloring of the wall and design match
the style of the property and adjacent
homes.

The courtyard area created by the wall
provides important outside access for
the family's animals during the day, as
well as screens unsightly utilities (i.e.
the A/C unit) from the street and
neighboring properties.



Due to the sloping of the backyard, the wall becomes taller approximately two-thirds of the way back in order to maintain a consistent plane at the top (which is more visually appealing and matches the horizontal plane mimicked by the stone work on the adjacent property). Post-construction the existing grade was re-established (i.e. the soil area is the same height as the grassy area). All measurements were taken from this existing grade.

The wall lies between each property's garage – no living area windows of either neighbor face the wall.



Measuring the “front” of the wall



At the “front” of the wall, the wall is only 66” or 5.5’ – which is permitted by right according to the Cottonwood Heights Code.



Measuring the “middle” of the wall.





Measuring the “back” of the wall



Only the very back of the wall is 95" tall (1" less than 8').

7 ft tall marker





PLANNING COMMISSION MEMO

Zoning Text Amendment – Mixed-Use (19.36)

Meeting Date: October 4, 2022

Staff Contact: Mike Johnson, CED Director

Request

The City Council has directed staff to prepare a zoning text amendment to the city's mixed-use ordinance (19.36 "MU – Mixed Use") to include stricter standards requiring commercial and/or retail activity on the ground floor of new buildings developed in the city's mixed-use zone.

Staff has conducted research and has developed an approach in response to the Council's request. With an intention to ensure ground-level areas are commercial in mixed-use areas, staff has proposed changes to the mixed-use ordinance requiring a majority of ground-floor frontage to be commercial uses, and clarification on what qualifies as live/workspace in those ground-floor areas. The intention of these changes is to mandate and incentivize mixed-use development in a way that adheres to the city council's vision for future mixed-use development, which includes better implementation of commercial spaces for the community.

A summary of proposed modifications is as follows (note – the exact proposed language is being refined and finalized by the city attorney and is subject to minor adjustment). No additional changes are proposed to the [existing ordinance](#):

Proposed Addition to Mixed-Use Zone Chapter (19.36.040.B)

B. Commercial Requirements. Commercial uses are required for all development and redevelopment projects approved under this section. Commercial or retail uses shall occupy a minimum of seventy percent (70%) of the width of the ground floor of buildings along the project's street frontage, with a minimum depth of forty feet (40'). For projects which comprise multiple parcels, calculations shall be based on the total project frontage.

- 1. Live/Work Units. The inclusion of live/work units may be used to meet the requirement for commercial uses under this section, subject to the following requirements:***
 - i. The live/work unit must provide for direct access to the primary street frontage and/or public parking areas.***
 - ii. Excluding private garage space, the entire ground floor of the live/work unit must be designed, constructed, and used as commercial space.***
 - iii. Commercial spaces within the live/work unit that are used to satisfy the minimum commercial frontage requirements of this chapter may not be used for residential parking or storage.***
 - iv. The live/work unit's first story must be a minimum of twelve feet (12') in height, measured from the finished floor elevation.***
 - v. Parking provided for the live/work unit must meet both the residential and commercial requirements of this chapter***

Recommendation

Staff recommends that the Commission forward a recommendation of approval to the City Council.

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

3
4 **Wednesday, September 7, 2022**

5 **5:00 p.m.**

6 **2277 East Bengal Boulevard**

7 **Council Workroom**
8

9 **ATTENDANCE**

10
11 **Members Present:** Chair Jesse Allen, Commissioner Mike Shelton, Commissioner Jonathan
12 Ebbeler, Commissioner Sean Steinman, Commissioner Lucy Anderson,
13 Commissioner Jessica Chappell

14
15 **Staff Present:** Community and Economic Development Director Michael Johnson, Senior
16 City Planner Andrew Hulka, Associate Planner and Sustainability Analyst
17 Samantha DeSeelhorst, Deputy City Recorder Heather Sundquist, IT Systems
18 Administrator Alex Earl, City Attorney Shane Topham
19

20 **WORK MEETING**

21
22 Chair Jesse Allen called the Work Meeting to order at 5:00 p.m.
23

24 **1.0 Review Business Meeting Agenda.**

25
26 **1.1 Project CUP-22-010 – A Public Hearing to Receive Comments and Take**
27 **Possible Action on a Conditional Use Permit Request from Range Architecture,**
28 **on Behalf of Block Builders, LLC, to Operate a Professional Office in an**
29 **Existing Building at 6826 South Highland Drive in the Residential Office (RO)**
30 **Zone.**
31

32 Associate Planner and Sustainability Analyst, Samantha DeSeelhorst reported that the request was
33 for a Conditional Use Permit. The subject property is located at 6826 South Highland Drive. A
34 professional office could operate within the existing building on the lot. The applicant was Range
35 Architecture on behalf of Block Builders, LLC. Staff recommended approval of the Conditional
36 Use Permit with some Conditions of Approval, which were included in the Staff Report. Ms.
37 DeSeelhorst shared a map of the area with the Commission. She explained that the office space
38 would be a professional office for Block Builders, LLC, which was a general contracting company
39 that specializes in out-of-state commercial and retail builds. The proposal was to utilize the existing
40 building on the site. The building has been vacant for a few years. Block Builders, LLC intended
41 to do some tenant improvements on the interior. There was also a proposal to do some cosmetic
42 exterior improvements, such as landscaping.
43

44 The office would function from 8:00 a.m. to 6:00 p.m. and be open from Monday through Friday.
45 Ms. DeSeelhorst reported that there would be six employees utilizing the office space for
46 accounting and estimating purposes. No clients would visit the site. The building will be used as
47 internal space for the Block Builders, LLC team. It was administrative space only, so there would

1 not be any construction materials or equipment stored on site. There are sister facilities in South
2 Salt Lake and Texas where those types of items were stored.

3
4 The proposed use was allowed in the Residential Office (RO) Zone. Ms. DeSeelhorst noted that the
5 Staff Report outlines some of the square footage maximums that are required. There could not be
6 an office space beyond 5,000 square feet. The building fell within that threshold, so there was no
7 concern there. However, the use was conditional, which was the reason it was before the Planning
8 Commission for consideration. Ms. DeSeelhorst overviewed parking and explained that the Parking
9 Ordinance works on a ratio system based on square footage. The building needed to have seven
10 parking stalls on site. The existing site has three parking stalls. One of the existing stalls is an
11 Americans with Disabilities Act (“ADA”) parking stall. Four stalls were proposed to be added in
12 the front of the property. Staff included a recommended Condition of Approval that the applicant
13 coordinate with the Public Works Department to confirm that the parking layout and design meet all
14 requirements.

15
16 The building was originally constructed in the 1950s and there were some legal, non-conforming
17 setbacks. There was no proposed expansion to the building. Ms. DeSeelhorst explained that there
18 would not be an increase in the non-conformity based on the application. The lot coverage for the
19 zone and the height were not exceeded. No increase was proposed. As far as the architectural and
20 landscaping alterations were concerned, in addition to the interior renovation, there were plans to do
21 some cosmetic upgrades to the building. For instance, paint, new roof shingles, a new door, and
22 some updated landscaping. As a result, the application would need to be reviewed by the
23 Architectural Review Commission (“ARC”). The design specifications would fall under the
24 purview of ARC. Ms. DeSeelhorst noted that the percentage of landscaping that was required had
25 been allocated and the existing buffers had been preserved.

26
27 No public comments had been received about the application. It would be part of the Business
28 Meeting Agenda and a public hearing would take place at that time. Staff recommended approval
29 of the project. The full Findings of Fact were included in the Staff Report. Ms. DeSeelhorst noted
30 that Conditions of Approval had been recommended, which were as follows:

- 31
- 32 • Any improvements or modifications to architecture and landscaping must be approved by
 - 33 the Architectural Review Commission prior to their installation;
 - 34 • A Building Permit shall be obtained for proposed renovations prior to their construction;
 - 35 • The applicant must receive approval from the Public Works Department for relevant site
 - 36 alterations, including the parking lot layout;
 - 37 • Should a trash enclosure be added to the property, it must meet all screening and proximity
 - 38 requirements outlined in 19.35.120 of City Code.
- 39

40 Commissioner Anderson stated that it was difficult for her to envision the layout of the parking.
41 Ms. DeSeelhorst explained that the new parking stall locations are difficult to see outside of an
42 aerial perspective, due to the layout of the site. She pointed out the proposed parking stall locations
43 on a map. A landscape buffer was required for parking areas that were adjacent to public rights-of-
44 way. That would be preserved. The Condition of Approval asked that the applicant work with the
45 Public Works Department to ensure that the design and measurements were all appropriate.
46 Commissioner Anderson asked about the garage. Ms. DeSeelhorst stated that there was an existing
47 garage on site. There were no proposed changes.

Chair Allen believed the parking stalls off Highland Drive would be difficult. For stalls four and five, it seemed that the driver would need to pull in forward off of Highland Drive and then reverse back onto Highland Drive. He wondered if a hammerhead would be beneficial. Ms. DeSeelhorst explained that Staff had recommended coordination with the Public Works Department, specifically the Senior Civil Engineer. It was important that the parking area function feasibly and not create issues. However, she noted that the parking stalls would not back onto the main arterial. The Commission discussed Fire Department specifications. The Fire Department would look at the application during the Business License process.

Commissioner Ebbeler asked Ms. DeSeelhorst to show parking stalls four, five, six, and seven. An aerial view of the property was shown and the parking stall locations were clarified. Commissioner Ebbeler noted that parking stalls six and seven look like they backed up to the driveway in the back. There was a bit more maneuverability in those locations. Ms. DeSeelhorst stated that the applicant was present and could provide additional details to the Commission during the Business Meeting. Commissioner Ebbeler asked about a pervious surface or lot coverage calculation. Ms. DeSeelhorst reported that for the zone, structural lot coverage was considered. 50% was allowed in the zone and the subject property is below that threshold.

1.2 Project CUP-22-013 - A Public Hearing to Receive Comments and Take Possible Action on a Request to Replace Three Existing Traffic Calming Gates with Crash Gates, Located at 9094 South Galette Lane, 9119 South Renoir Lane, and 3534 East Breton Lane.

Community and Economic Development Director, Michael Johnson, explained that the item was a Conditional Use Permit application. It was an amendment of the previously approved Giverny Planned Unit Development (“PUD”). This was a 162-lot PUD that was originally approved by the Planning Commission in 2015. The application was to amend a small portion of that original approval as it pertained to the Fencing Plan. The proposal was to replace three existing mechanized traffic calming gates on the north boundary of the development property. 9094 South Galette Lane, 9119 South Renoir Lane, and 3534 East Breton Lane were the streets that connect to the existing public streets directly to the north. Mr. Johnson shared images of the current traffic calming gates on the connecting roads. The gates are mechanized and retracted vertically into the ground. They were approved as a traffic calming measure after concerns were raised in 2014 regarding cut-through traffic and traffic flow in the area.

The proposed replacement was for less technical for non-mechanized crash gates. They will be locked and only be accessible to emergency vehicles in emergencies. Mr. Johnson shared some background information about the PUD. The Giverny PUD was approved in 2015 and was currently 90% complete. There was still active construction taking place but much of the construction had been completed, especially in the northern area. The original PUD contained a Fencing Plan. That was the reason the current proposal was considered an amendment. The document showed traffic calming gates that allowed access. Shortly after Giverny was approved, the project was appealed by a number of different groups. Ultimately, Regal Homes, who developed the property, entered into a private Settlement Agreement with a group of residents. One of the terms of that agreement related to the traffic calming gates. For instance, it needs to take a certain amount of time before the traffic calming gates will open and allow access.

1 Since the mechanized gates were installed in 2019, the operations had been unreliable. Whenever
2 repairs took place, the gates defaulted to the down position, which allowed for free-flowing traffic.
3 This resulted in calls to the City from Giverny residents and residents to the north. This had been a
4 consistent issue since installation. As a result, the Giverny Master Association submitted the
5 current proposal to resolve the ongoing operability issue.

6
7 Mr. Johnson overviewed the various impacts of replacing traffic calming gates with locked crash
8 gates. It was critical for emergency vehicle access to remain. The Fire Department reviewed the
9 crash gate proposal and had no issues with it. There were Fire Code requirements for crash gates
10 and all of those requirements would need to be met. As for Public Works and snow removal, the
11 City did not do snow removal in Giverny because it was a private development. The road is
12 privately owned and privately maintained. It is not part of the City infrastructure but the stub streets
13 to the north are. There were no concerns about the crash gates from a Public Works perspective. It
14 would not impact snow removal or road maintenance. The ARC needed to review any Planned Unit
15 Development. The proposed switch to crash gates was reviewed and approved. The ARC had no
16 issue with the design.

17
18 Staff looked at the direction the gates will swing. Concern about the gate direction was included in
19 some of the public comments. There was a recommended condition that the gates swing inward
20 toward Giverny rather than into the public street. Mr. Johnson reported that pedestrian access was
21 proposed to continue unaffected. Navigation concerns were mentioned in some of the public
22 comments. There were concerns that the crash gates would result in a lot of turnarounds in
23 driveways. Staff recommended a condition to alleviate those concerns. Mr. Johnson reported that
24 Staff recommended approval of the amendment based on the Impact Analysis, with Conditions of
25 Approval, which were as follows:

- 26
- 27 • Crash gates shall open into the private development area and not towards the public road;
 - 28 • Prior to installation, detailed plans shall be submitted and approved by the City and Unified
29 Fire Authority (“UFA”);
 - 30 • On-street parking restrictions shall be appropriately demarcated, through red curb, signage,
31 or a combination of the two, in the area affected by open gates;
 - 32 • Signage shall be installed at the applicant’s expense and to the satisfaction of City Staff on
33 Despain Way, Treasure Way, and Green Hills Drive to clarify that there is no regular vehicle
34 cross access between neighborhoods. Similar signage shall also be installed within the
35 Giverny Planned Unit Development; and
 - 36 • The applicant shall demonstrate that an amendment to the 2015 Settlement Agreement has
37 been signed by all applicable private parties agreeing to the gate replacement.
- 38

39 Mr. Johnson noted that a few of the public comments suggested other possible mitigation efforts,
40 such as speedbumps. Approval of the application would enable the applicant to install crash gates.
41 Denial of the application would mean that the existing conditions would continue. Unless the
42 applicant proposed another option, there was not a third mitigation option to consider.

43
44 Commissioner Anderson asked if there would be No Parking signage nearby. Mr. Johnson
45 explained that the No Parking signs would be inside the Giverny area. On the other side, the gates
46 would not swing open, so as long as the area is wide enough for emergency vehicles to move
47 through, there will not be issues there. Commissioner Anderson expressed concerns that someone

1 might park directly in front of the gate. Mr. Johnson noted that it is a public street and a vehicle
2 would not be permitted to park there. However, it was important to consider all of the possibilities.
3 Commissioner Steinman pointed out that a lot of the public comments related to snow removal. For
4 instance, piling snow in the north public area. He asked about the current snow removal plan in that
5 area. Mr. Johnson stated that the applicant could speak about what was being done on the private
6 side of things. He did not have a full logistical breakdown for the public side to the north, but
7 according to Public Works, the gates were not utilized for snow removal. The snow removal
8 vehicles did not go through Giverny.

9
10 Commissioner Anderson was concerned that snow would block the crash gate. Mr. Johnson noted
11 that language could be added to address that concern. Ms. DeSeelhorst explained that the snow
12 removal vehicles were not currently going through the mechanized gate and did not leave snow in
13 front of the existing gate. She did not anticipate that the crash gates would impact the City snow
14 removal operations. It was important that nothing obstructed emergency access.

15
16 **1.3 Project CUP-22-011 - A Procedural Determination Pertaining to a Request to**
17 **Construct an Eight-Foot Fence on the Property Located at 7275 South Caladora**
18 **Cove.**
19

20 Mr. Johnson reported that the item was a matter of procedural clarification. The City received an
21 application several months earlier for a fence height extension. This was the construction of a fence
22 or wall on a property that was greater than six feet in height. Fences were allowed to be up to six
23 feet without a permit. The City also allowed taller fences for various reasons, up to 12 feet with a
24 Conditional Use Permit. In the City Ordinance, the Conditional Use authority was delegated to the
25 Administrative Hearing Officer. Normally, for these types of applications, an Administrative
26 Hearing is held. This was a public hearing that happened during the day. Other types of
27 applications that were approved this way included short-term rentals in permitted areas and small
28 home business applications with minimal impacts. These are normally minor Conditional Use
29 Permits with relatively little impact. In this case, the item was brought to the Planning Commission
30 for consideration as the situation was no longer a minor Conditional Use.

31
32 The subject property was located at 7275 South Caladora Cove. A Conditional Use Permit
33 application was submitted for the construction of an eight-foot fence on the side yard between
34 properties. There was an Administrative Hearing. At the hearing, the applicant was asked to
35 provide more clarification on the height, how the existing grade was measured, and so on. No
36 decision was made during the initial hearing. Subsequently, a letter from the applicant was
37 received. The applicant decided to withdraw their application and build a six-foot fence instead.
38 However, the applicant had built an eight-foot fence. The enforcement process had begun.

39
40 Mr. Johnson reported that the next door neighbor submitted an Administrative Appeal stating that
41 the fence should be considered part of the home and should be subject to the setbacks of the house
42 rather than being installed on the property line. In addition, the person constructing the fence
43 resubmitted a Conditional Use Permit application to build an eight-foot fence. The fence had
44 already been constructed. The City did not accept that application as there was pending
45 enforcement. The homeowner appealed the decision not to accept the application. Only one
46 Appeal Hearing had taken place so far that related to the City's decision to not accept the
47 Conditional Use Permit application. The other appeal was put on hold by the appellant, pending the

1 outcome of that process. The Hearing Officer ruled in favor of the property owner and determined
2 that the City did not have the authority to deny an application from being made.

3
4 The City had since accepted the application for an eight-foot fence. Mr. Johnson reminded the
5 Commission that the eight-foot fence had already been constructed. That application had to go
6 through the Conditional Use Permit process. Since multiple decisions had been appealed,
7 Mr. Johnson recommended that the item be presented to the Planning Commission. The merits of
8 the actual fence height extension could be discussed at a future Planning Commission Meeting. Mr.
9 Johnson reported that the applicant was given an opportunity to correct the fence height.
10 Submitting an application and having that application approved was a potential corrective action.

11
12 The Planning Commission needed to decide during the Business Meeting whether the item should
13 continue to be handled through the Administrative Hearing process or considered at an upcoming
14 Planning Commission Meeting. Mr. Johnson noted that the application had been tied up in appeals
15 and it may be cleaner for the Commission to hold a formal hearing. Discussions were had about the
16 appeal from the neighbor. Mr. Johnson explained that the appeal was on hold pending the outcome
17 of the second application process. If the item was approved, he assumed the appeal from the
18 neighbor would move forward.

19
20 Mr. Johnson clarified that he is the Hearing Officer and there had been two appeals related to the
21 fence so far. He felt it would be cleaner and more formal for the Planning Commission to address
22 the application. This had grown beyond a minor Conditional Use Permit application. Regardless of
23 the Planning Commission's decision, the item was still subject to appeal and would be reviewed by
24 the Appeals Officer. Commissioner Ebbeler noted that the benefit of the item being reviewed by
25 the full Commission was that there would be a larger body of evidence in the record. Mr. Johnson
26 reported that the Staff preparations were similar either way. Given the history of appeals, Staff
27 recommended that the item come before the Planning Commission.

28 29 **2.0 Additional Discussion Items.**

30
31 There were no additional discussion items.

32 33 **3.0 Adjournment.**

34
35 *Commissioner Ebbeler moved to adjourn. Commissioner Anderson seconded the motion. The*
36 *motion passed with the unanimous consent of the Commission.*

37
38 The Work Meeting adjourned at 5:50 p.m.

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

3
4 **Wednesday, September 7, 2022**
5 **6:00 p.m.**
6 **2277 East Bengal Boulevard**
7 **Council Chambers**
8

9 **ATTENDANCE**

10
11 **Members Present:** Chair Jesse Allen, Commissioner Mike Shelton, Commissioner Jonathan
12 Ebbeler, Commissioner Sean Steinman, Commissioner Lucy Anderson,
13 Commissioner Jessica Chappell

14
15 **Staff Present:** Community and Economic Development Director Michael Johnson, Senior
16 City Planner Andrew Hulka, Associate Planner and Sustainability Analyst
17 Samantha DeSeelhorst, Deputy City Recorder Heather Sundquist, IT Systems
18 Administrator Alex Earl, City Attorney Shane Topham
19

20 **BUSINESS MEETING**

21
22 **1.0 Welcome and Acknowledgments.**

23
24 Chair Jesse Allen called the Business Meeting to order at 6:02 p.m. and welcomed those present.
25 He reported that Commissioners Ebbeler, Shelton, and himself, were participating remotely via
26 Zoom. Commissioners Steinman, Anderson, and Chappell were all in the Council Chambers.
27

28 **1.1 Ex Parte Communications or Conflicts of Interest to Disclose.**

29
30 There were no conflicts of interest disclosed.
31

32 **2.0 General Public Comment.**

33
34 There were no public comments. The public comment period was closed.
35

36 **3.0 Business Items.**

37
38 **3.1 Project CUP-22-010 – A Public Hearing to Receive Comments and Take**
39 **Possible Action on a Conditional Use Permit Request from Range Architecture,**
40 **on Behalf of Block Builders, LLC, to Operate a Professional Office in an**
41 **Existing Building at 6826 South Highland Drive in the Residential Office (RO)**
42 **Zone.**
43

44 Associate Planner and Sustainability Analyst, Samantha DeSeelhorst reported that the subject
45 property is located at 6826 South Highland Drive. The request was for a Conditional Use Permit so
46 a professional office could operate within the existing building on the lot. The applicant was Range
47 Architecture on behalf of Block Builders, LLC. Ms. DeSeelhorst shared an aerial map of the area.
48 She explained that the office space would be professional office space for Block Builders, LLC,

1 which is a general contracting company that specializes in out-of-state commercial and retail builds.
2 Representatives were present to answer outstanding Commission questions. Block Builders, LLC
3 intended to do some tenant improvements on the interior. There was also a proposal to make some
4 minor cosmetic improvements to the building exterior.
5

6 The office will function from 8:00 a.m. to 6:00 p.m. Monday through Friday. Ms. DeSeelhorst
7 reported that six employees will utilize the office space for accounting and estimating purposes. No
8 clients will visit the site. The building will be used as internal space for the Block Builders, LLC
9 team. It is administrative space only, so there would not be any construction materials or equipment
10 stored on site. There are sister facilities in South Salt Lake and Texas where those types of items
11 are stored.
12

13 The proposed use is allowed in the Residential Office (“RO”) Zone. Ms. DeSeelhorst overviewed
14 parking and explained that the Parking Ordinance works on a ratio system based on square footage.
15 The building needs to have seven parking stalls on site. The existing site has three parking stalls,
16 one of which is an ADA stall. Four stalls were proposed to be added in front. Staff included a
17 recommended Condition of Approval that the applicant coordinate with the Public Works
18 Department to confirm that the parking layout and design meet all requirements. During the Work
19 Session, there was discussion regarding the dimension of the stalls as well as ingress and egress.
20 The site fronts Highland Drive but it is the frontage section of that street and not the main arterial.
21 The traffic flow was not as busy in the area.
22

23 The building was originally constructed in the 1950s and there were some legal, non-conforming
24 setbacks. There was no proposed expansion to the building. Ms. DeSeelhorst explained that there
25 would not be an increase in the non-conformity based on the application. The lot coverage for the
26 zone and the height for the zone were fully compliant with zoning and no increase was proposed. In
27 terms of architectural and landscaping alterations, in addition to the interior renovation, there were
28 plans to do some cosmetic upgrades to the exterior. For instance, paint, new roof shingles, a new
29 exterior door, and updated landscaping. The specifications would need to be reviewed by the
30 Architectural Review Commission (“ARC”) and there was a Condition of Approval to ensure that
31 the review takes place. Ms. DeSeelhorst reported that the total percentage of landscaping was
32 allocated and the existing buffers be maintained.
33

34 No public comments had been received about the application. Staff recommended approval subject
35 to the Findings and Conditions set forth in the Staff report.
36

37 The applicant’s representative, Derek Wilson from Range Architecture addressed comments related
38 to the new parking stalls. He explained that the intention was to make the project as compliant as
39 possible. The building is non-conforming and Range Architecture did its best to meet all standards
40 and requirements. Mr. Wilson discussed on-site storage for snow. He did not know if the prior
41 owner had anything on record, but he believed a solution for snow removal could be determined
42 through proper engineering.
43

44 Council Member Chappell mentioned parking and noted that the diagram made it appear as though
45 there was a place to back out. Mr. Wilson explained that the intent was that the landscape strip in
46 between parking stalls four, five, six, seven, and Highland Drive be reduced. The idea was that the
47 four stalls enter off of the two curb cuts. There would be 24 feet of backout space, which was
48 typical for any parking lot. Rather than having all the vehicles face one another, the first two

1 employees could pull into the front stall and the others could pull in behind. That was one solution.
2 Chair Allen noted that the tandem parking stalls were addressed in the zoning ordinance. If the
3 stalls were being claimed as tandem, the other two could not be counted. Independent of that, he
4 believed the parking needed to be reviewed with the Public Works Department, as indicated by
5 Staff in the Conditions of Approval.

6
7 Chair Allen opened the public hearing.

8
9 *Danette Kelly* reported that she lives on the property behind the building. She wondered if nearby
10 residents will be notified of changes to the proposal. Additionally, she wanted to know if there will
11 be any change to the fencing that backs her property. It was her preference that the fence remain at
12 least the height it is currently. Ms. Kelly also noted that the neighboring property, which is a Pilates
13 studio, has a security light on all night long. She did not like the lights shining into her yard and
14 asked that that be addressed. Ms. DeSeelhorst offered to follow up with Ms. Kelly and provide
15 additional information.

16
17 *Joshua Spencer* wondered if there would be another opportunity for public comment on the
18 architectural and landscaping aspects of the project. He also wanted to know what recourse the
19 neighbors might have in the event the actual use does not match the proposed use.

20
21 There were no further public comments.

22
23 Chair Allen asked Community and Economic Development Director, Michael Johnson, to share
24 information about Conditional Use Permit restrictions. If plans changed in the future, he wanted to
25 understand how the Conditional Use Permit will be impacted. Mr. Johnson reported that
26 Conditional Uses in the Residential Office (“RO”) Zone are any uses with the exception of single-
27 family residential. If the property is used for anything other than what is being proposed, the
28 applicant would need to go through the Conditional Use Permit process again. As for changes to
29 the building, the property is in the Gateway Overlay District. This means that any modification to
30 the building needs to go through the Architectural Review Commission (“ARC”). If there was ever
31 vertical expansion of the building, it would impact the square footage and parking requirements.

32
33 Chair Allen clarified that if the Planning Commission approved the Conditional Use Permit, the
34 approval was for an office function. Mr. Johnson confirmed that it would be for administrative
35 office use. Chair Allen asked what other Conditional Use Permits had been applied to the property
36 in the past. Ms. DeSeelhorst reported that in the past, the property was used as a home for
37 individuals with disabilities. It was also a pharmacy until 2017. The administrative office was the
38 use being considered currently.

39
40 There were no further public comments.

41
42 ***Commissioner Ebbeler moved to close the public comment period. Commissioner Anderson***
43 ***seconded the motion. The motion passed with the unanimous consent of the Commission.***

44
45 There was no further discussion related to the Conditional Use Permit application. The model
46 motion language was shared with the Planning Commission.

Commissioner Chappell moved to approve Project CUP-22-010, based on the Findings of Fact outlined in the Staff Report and the following Conditions of Approval:

1. Any improvements or modifications to architecture and landscaping must be approved by the Architectural Review Commission prior to their installation.
2. A Building Permit shall be obtained for proposed renovations prior to their construction.
3. The applicant must receive approval from the Public Works Department for relevant site alterations, including the parking lot layout.
4. Should a trash enclosure be added to the property, it must meet all screening and proximity requirements outlined in 19.35.120 of City Code.

Commissioner Ebbeler seconded the motion. Vote on motion: Commissioner Ebbeler-Aye; Commissioner Steinman-Aye; Commissioner Anderson-Aye; Commissioner Chappell-Aye; Commissioner Shelton-Aye; Chair Allen-Aye. The motion passed unanimously.

1.1 **Project CUP-22-013 - A Public Hearing to Receive Comments and Take Possible Action on a Request to Replace Three Existing Traffic Calming Gates with Crash Gates, Located at 9094 South Galette Lane, 9119 South Renoir Lane, and 3534 East Breton Lane.**

Mr. Johnson reported that the item involves a request for a Conditional Use Permit regarding an amendment to the previously approved Giverny Planned Unit Development. The 162-lot PUD was originally approved by the Planning Commission in 2015. The application was to amend a small portion of the original approval as it pertains to the Fencing Plan. The proposal was to replace three existing mechanized traffic calming gates on the north boundary of the subject property. 9094 South Galette Lane, 9119 South Renoir Lane, and 3534 East Breton Lane were the streets that connect to the existing public streets directly to the north. Mr. Johnson shared images of the existing traffic calming gates on the connecting roads. The gates are mechanized and retract vertically into the ground. Those were approved as a traffic calming measure after concerns regarding cut-through traffic and flow.

The proposed replacement was for less technical, non-mechanized crash gates. These would be locked and only accessible by emergency vehicles in emergency situations. Mr. Johnson shared background information about the PUD. The Giverny PUD was approved in 2015 and is currently 90% complete. There was still active construction taking place but much of the construction had been completed, especially in the northern area. The original PUD contained a Fencing Plan. That was the reason the current proposal was considered an amendment. The document showed traffic calming gates that allowed access. Shortly after Giverny was approved, the project was appealed by a number of different groups. Ultimately, Regal Homes, who developed the property, entered into a private Settlement Agreement with a group of residents. One of the terms of that agreement related to the traffic calming gates. For instance, it needed to take a certain amount of time before the traffic calming gates would open and allow access.

1 Since the mechanized gates were installed in 2019, the operations had been unreliable. Whenever
2 repairs take place, the gates default to the down position, which allows for the free flow of traffic.
3 This resulted in calls to the City from Giverny residents and residents to the north. This had been a
4 consistent issue since installation. As a result, the Giverny Master Association submitted the
5 current proposal to resolve the ongoing operability issue.

6
7 Mr. Johnson overviewed the various impacts of replacing traffic calming gates with locked crash
8 gates. It is critical for emergency vehicle access to remain. The Fire Department reviewed the
9 crash gate proposal and had no issues with it. There were Fire Code requirements for crash gates
10 and all of those requirements would need to be met. As for Public Works and snow removal, the
11 City did not do snow removal in Giverny because it is a private development. The road is privately
12 owned and maintained. It is not part of the City infrastructure, but the stub streets to the north are.
13 There were no concerns with the crash gates from a Public Works perspective and will not impact
14 snow removal or road maintenance. The ARC needed to review any Planned Unit Development.
15 The proposed switch to crash gates had been reviewed and approved. The ARC had no issue with
16 the design.

17
18 Staff looked at the direction the gates will swing. There was a recommended Condition of
19 Approval that the gates swing inward toward Giverny and not into the public street. Mr. Johnson
20 reported that pedestrian access was proposed to continue unaffected. Navigation concerns were
21 mentioned in some of the public comments. There were concerns that the crash gates would result
22 in a lot of turnarounds in driveways. Staff recommended a condition to alleviate those concerns.
23 Staff recommended approval of the amendment based on the Impact Analysis, with five Conditions
24 of Approval that were included in the Staff Report.

25
26 Commissioner Steinman wondered if maintenance of the gates had been considered. Mr. Johnson
27 clarified that the proposal was to replace the existing gate with the crash gates. There had been
28 issues with the mechanized gates for the last three years. The builder, Regal Homes, is initially
29 called when there are issues. However, the Homeowners Association (“HOA”) had since hired a
30 property maintenance company and the response times had been better. It still took a long time for
31 the gates to be fixed and the gates create a lot of maintenance issues.

32
33 Commissioner Anderson asked if the Police Department needed to review the application.
34 Mr. Johnson stated that the information would be verified with the Police Department when the
35 plans are submitted. The Fire Department needed to follow the Fire Code. Commissioner
36 Anderson noted that her other concern was addressed during the Work Session.

37
38 The applicant, Dade Rose from Regal Homes, identified himself as the President of the Giverny
39 HOA. He stated that Mr. Johnson had done an excellent job outlining the reasons for the
40 amendment. Regal Homes felt this was an effective and important change that would benefit the
41 Giverny community as well as the community to the north. Mr. Rose addressed comments from the
42 Work Session. He noted that there had been a question about snow removal. The plan was for
43 snowplow companies to place the snow on common areas. For instance, the park area and detention
44 basin. An example image of the crash gate was shared. The only purpose for that gate was if there
45 was some sort of emergency that required emergency vehicle access.

46
47 Commissioner Chappell believed the crash gate would reestablish dead ends in the existing
48 neighborhood to the north, Golden Hills. She wondered if a swinging mechanized gate would be a

1 better option and asked why a non-mechanized gate was proposed. Mr. Rose explained that the
2 difficulty with a mechanized gate was that it could obstruct access to some of the homes. There was
3 not enough room for the gate to be retracted and install a sideways rolling gate. Commissioner
4 Steinman wondered if the existing gates could remain and could be mechanized only for emergency
5 vehicles. Mr. Rose stated that this had not been considered because the intention was to have
6 dependability and consistency with the gates.

7
8 Chair Allen opened the public hearing.

9
10 *Michelyn Neel* stated that she lives directly across from one of the mechanized gates. She supported
11 the recommendation. Ms. Neel discussed the safety of the current gates. The gates frequently get
12 stuck but do not always go into the down position. Often, the gates are one foot off the ground.
13 There is not good lighting in the area, so at night, vehicles could easily crash into the
14 malfunctioning gates. Additionally, there are children in the area that like to play on the gate.
15 Residents were concerned that the mechanized gate could create an issue.

16
17 *Kevin Dolan* reported that he lives adjacent to the middle gate. He was in favor of the crash gates.
18 Mr. Dolan noted that the gate would swing in front of a portion of his driveway. That was not of
19 concern because he has a long enough driveway that he could maneuver around the gates. The
20 analysis and recommendations from Staff were thorough and addressed his previous concerns. The
21 crash gates were preferred over the current mechanized gates.

22
23 *Suzie Zidek* informed the Commission that she is a Giverny resident. The current mechanized gates
24 are extremely bothersome and many residents do not like them. As far as safety issues, the gates
25 are constantly stuck all the way down, all the way up, or halfway down. She is a realtor in the
26 community and has a listing on the street. There had been a lot of negative comments regarding the
27 gates in their current state. This could impact property values in the future.

28
29 *Tim Appoint* reported that he lives in the Golden Hills area. He was supportive of the crash gates
30 instead of the mechanized gates. He commented that the current gates are constantly broken.

31
32 *Jim Williams* expressed his support for a fixed crash gate. He thanked Regal Homes and the City
33 for addressing this ongoing issue. One small concern he had related to snow removal. Currently, as
34 the snow is plowed down his dead-end street, it seems to stack on the sidewalk because there was
35 nowhere to push it. He hoped the plan would allow for a joint effort between the Planned Unit
36 Development and Cottonwood Heights as far as snow removal was concerned.

37
38 *Scott Bunnell* serves on the Board of Directors of the Giverny HOA as a resident. Residents do not
39 want traffic cutting through the neighborhoods. Having fixed gates would prevent that. He
40 discussed snow removal and explained that there is a place where snow can be stored. This could
41 be communicated contractually when the snow contract is drafted.

42
43 There were no further public comments.

44
45 ***Commissioner Chappell moved to close the public comment period. Commissioner Anderson***
46 ***seconded the motion. The motion passed with the unanimous consent of the Commission.***
47

1 There was no further discussion related to the Conditional Use Permit application. The model
2 motion language was shared with the Planning Commission.

3
4 ***Commissioner Anderson moved to approve Project CUP-22-013, based on the Findings of Fact***
5 ***outlined in the Staff Report and subject to the following Conditions of Approval:***

- 6
7 1. ***Crash gates shall open into the private development area and not towards the***
8 ***public road.***
- 9
10 2. ***Prior to installation, detailed plans shall be submitted and approved by the City***
11 ***and Unified Fire Authority (“UFA”).***
- 12
13 3. ***On-street parking restrictions shall be appropriately demarcated, through red curb,***
14 ***signage, or a combination of the two, in the area affected by open gates.***
- 15
16 4. ***Signage shall be installed at the applicant’s expense and to the satisfaction of City***
17 ***Staff on Despain Way, Treasure Way, and Green Hills Drive that clarify that there***
18 ***is no regular vehicle cross access between neighborhoods. Similar signage shall***
19 ***also be installed within the Giverny Planned Unit Development.***
- 20
21 5. ***The applicant shall demonstrate that an amendment to the 2015 Settlement***
22 ***Agreement has been signed by all applicable private parties agreeing to the gate***
23 ***replacement.***

24
25 ***Commissioner Chappell seconded the motion. Vote on motion: Commissioner Ebbeler-Aye;***
26 ***Commissioner Steinman-Aye; Commissioner Anderson-Aye; Commissioner Chappell-Aye;***
27 ***Commissioner Shelton-Aye; Chair Allen-Aye. The motion passed unanimously.***

28
29 1.2 **Project CUP-22-011 - A Procedural Determination Pertaining to a Request to**
30 **Construct an Eight-Foot Fence on the Property Located at 7275 South Caladora**
31 **Cove.**

32
33 Mr. Johnson reported that the above item involves procedural clarification and was discussed during
34 the Work Session. Staff was asking for direction from the Planning Commission about whether to
35 proceed with the Administrative Hearing Officer review or consider the item at the Planning
36 Commission level. Commissioner Ebbeler noted that within the zoning ordinance, there are two
37 separate standards. One was for a fence that is up to eight feet in height and another for a fence that
38 is eight to 12 feet tall. The eight-foot to 12-foot fences require a Conditional Use Permit with
39 neighbor consent. He asked if the fence measurement is eight feet or above. That information
40 should be included in the future Staff Report. Commissioner Ebbeler also reviewed some of the
41 Conditional Use standards and asked that Staff focus on those standards since the item had gone
42 through the appeals process.

43
44 ***Commissioner Ebbeler moved that Application CUP-22-11 be considered by the Planning***
45 ***Commission, without delegation to the Community and Economic Development Director.***
46 ***Commissioner Chappell seconded the motion. Vote on motion: Commissioner Ebbeler-Aye;***
47 ***Commissioner Steinman-Aye; Commissioner Anderson-Aye; Commissioner Chappell-Aye;***
48 ***Commissioner Shelton-Aye; Chair Allen-Aye. The motion passed unanimously.***

1
2 **2.0 Consent Agenda.**

3
4 **2.1 Approval of Planning Commission Minutes.**

5
6 **2.1.1 August 3, 2022, Planning Commission Minutes.**

7
8 *Commissioner Ebbeler moved to approve the Planning Commission Meeting Minutes from*
9 *August 3, 2022. Commissioner Anderson seconded the motion. The motion passed with the*
10 *unanimous consent of the Commission.*

11
12 **3.0 Adjournment.**

13
14 *Commissioner Chappell moved to adjourn. Commissioner Anderson seconded the motion. The*
15 *motion passed with the unanimous consent of the Commission.*

16
17 The Planning Commission Meeting adjourned at 7:02 p.m.

1 *I hereby certify that the foregoing represents a true, accurate, and complete record of the*
2 *Cottonwood Heights City Planning Commission Meeting held Wednesday, September 7, 2022.*
3

4 Teri Forbes

5 Teri Forbes
6 T Forbes Group
7 Minutes Secretary
8

9 Minutes Approved: _____