

From: [REDACTED]
To: [Planning](#)
Subject: [EXT:]Comments RE: Public Hearing on Weds, Jan 4th
Date: Thursday, December 29, 2022 11:42:30 PM

Dear Planning Commission-

I would like to submit a written comment regarding the public hearing on Wednesday, Jan 4th, 2023 regarding the property 7128 S 2985 E.

The two sheds on the property are not bothering me. They are no different from other sheds or containers in the neighborhood. They are nicely tucked under the side of the house and do not seem unsafe to me. If you look at other properties in the neighborhood, you will find many sheds, add on garages, containers and other structures on the sides or front of homes. Some are eye sores, the ones at 7128 S 2985 E are not. In fact, I did not notice them until you sent that letter to the neighborhood. Please allow them to remain in place as they are now.

The family that lives in this property have been very kind and friendly neighbors.

Sarah Nagata
[REDACTED]

January 3rd, 2023, Comments on our own application.

From: Jonathan and Yanning Higbee, 7128 South 2985 East, Cottonwood Heights, Utah 84121

Regarding the Cottonwood Heights City “Notice of a Public Hearing” for AHO-22-007, and “a request from Jonathan Higbee to have a use violation declared a non-conforming use at 7128 South 2985 East,” we are writing to comment on our own application under 19.88.140, and also responding to “staff comments” posted on the City’s Planning website last week.

1. Responses to staff comments:

- A. City staff comments fail to take into account the many similar shed setups present in Cottonwood Heights, which we found & documented. Sheds with essentially less of a setback than even our two sheds. Sheds never inspected by the City as such, regarding setback, or safety or anything. No checking by the City to see when these many sheds were built. About 40 properties documented for where the City is taking no action (~40 from original application list plus more found and documented in this comments document).

Unequal treatment under the law. Targeting of a person who complains to Animal Control about Animal Control Inaction. Arbitrary. Capricious. Retaliative. Enablement of abuse. Abuse of power. A lack of consistency of treatment over years of interactions with City Code Enforcement. No accountability.

- B. The City staff comments fail to take into account how the City itself had Code Enforcement officers on our property between 2016 and the first half of 2022 - dual duty Animal Control & Code Enforcement officers. All these officers with Code Enforcement duty, from 2016 through the middle of 2022 made no mention of any problem with our sheds. *Official City Observation* of our physical setup, for ~6.5 years, before staff changes after mid-2022 with Animal Control. Only when we very recently complained about Animal Control Inaction to Animal Control & to the City Council, were we then immediately and instantly issued with an unequal and non-equitable punishment on the Code Enforcement Land-Use side.
- C. When the notice of violation for the 2015 shed only was issued, there was no reference to any fire hazards or health and safety concerns in the notice. Furthermore when Code Enforcement Officers walked near the shed between 2016 and first-half 2022, they made no mention of safety concerns.
- D. The City staff comments completely discount & denigrate the usability and viability of City Code section 19.88.140. “Application to have a use violation declared a nonconforming use.” Planning staff are treating this code section as a temporary band-aid before removal? No need for 19.88.140 to exist in the first place, if this is what the City is going to use it for - just to allow for some months before removal? This is not what 19.88.140 is for. The section is to allow the Planning Commission to allow non-conforming structures, to remain as is. Yes there’s a range of options, but it appears that Staff don’t want the code section used to allow non-compliant structures to remain in perpetuity.

January 3rd, 2023, Comments on our own application.

The staff comments fail to take into account how the City code itself, under 19.88.140, gives the Commission wide discretion to allow a non-confirming use to continue, including to continue to exist in perpetuity. You have the discretion to allow our sheds to remain. Please allow our sheds to remain, as is, since their construction in 2003 and 2015. The City staff comments essentially render the very existence of code section 19.88.140 null and void. Whereas the City code itself grants you the power to allow them to remain.

- E. The City staff comments fail to take into account how under Utah code 10-9a-103(43), the 2003 shed is a legal non-complying structure. The City does not have legal latitude to issue a removal order, for the 2003 shed.
- F. To help alleviate concerns about health and safety the Higbee Family, Jonathan & Yanning with our four kids, may be willing to enhance the safety status of the 2015 shed, for where flame retardant paint would be applied to the inside as a condition of being allowed to keep the shed as is & not have it removed. However we wish for the Planning Commission to take note that no such remediation-requirements are in place for the 40 or so non-complaint properties we found. If this is really a health and safety concern that affects the community, will the City be knocking on the doors of the many many other non-complying structures, and require that they be inspected for fire hazards?

Equal treatment versus unequal. The City should not require of us what it is not requiring of all other non-compliant structures. Fair, vs not. Equal treatment vs not.

It should not be at the *casual discretion* of Planning Staff to require of us, what is not being required of all other people who're also "non-compliant." Nevertheless we are willing to help improve the safety of our 2015 shed via applying the noted paint. And we're willing to have additional discussions on this point, which would lead to allowing the 2015 shed to remain.

- G. One key point is that the 2015 shed has a current setback which closely matches the 2003 shed.
- H. The Planning Commission is being used as a de facto tool of retaliation against our family. Jonathan works from home. Uncontrolled incessant dog barking makes it hard to work & think. Plus incessant uncontrolled barking at night makes it so we cannot enjoy our own property.

During October & November Jonathan went so far as to send in CD-ROM disc recordings of the barking to Animal Control, and to complain to the City Manager & Council about Animal Control's refusal to adequately help (vs the prior, better help we received from 2016 through the first half of 2022).

Jonathan recently pleaded for help from Animal Control. He then got resistance and refusals to help from them. Then, when Animal Control finally agreed to help (via issuance of a barking ticket which they asked Jonathan to sign), we were then immediately, instantly, and simultaneously slapped with this wholly unfair & unequal treatment (*via a "notice of violation" for our sheds, given to us mere seconds after Jonathan signed a barking complaint ticket to be given to a neighbor*) under the land-use section of code. This is all treatment which our *many* neighbors are not receiving. Unfair. Unequal. Arbitrary. Capricious. Retaliatory. An abuse of power by the Police Dept.

January 3rd, 2023, Comments on our own application.

- I. Our family has been targeted, unfairly. The only reason the City Planning Commission is dealing with these issues, is because we asked for help from Animal Control, and because we complained to Animal Control about their inaction regarding uncontrolled incessant dog barking. We were then unfairly retaliated against by Animal Control in response to complaints about them & to them, and thus here we are today with these sheds.

The City Council has on hand our more verbose complaint narrative on these fronts. The proof is in the pudding, and the timeline (with the City Council has in their records), and the emails between us and Animal Control asking for help & complaining of inaction. We do one thing, and they do another thing in response. Retrograde. Retaliatory. Abusive.

2. In an attempt to get help on this matter from neighbors, letters were transmitted by us to nearby neighbors and friends. You can see the content of that letter on the next three pages.

[See next three pages]

January 3rd, 2023, Comments on our own application.

[Christmas 2022 letter from the Higbees to our neighbors...]

Christmas 2022

Dear Neighbor,

It is my view that:

During the days when John Lovato was operating the Cottonwood Heights Animal Control & Code Enforcement Functions, discretion and prudence ruled the day. Those days are gone with his retirement and new highly-aggressive staff have taken over his job. The Chief is no help. The City Manager, is no help. The City Council and Mayor, won't respond.

Did you know that in Cottonwood Heights, detached sheds are not allowed to be on the sides of houses, at all?

Did you know that in Cottonwood Heights, attached sheds on the sides of houses (to include attached to garages or carports), require an 8 foot setback?

Did you know that in Cottonwood Heights, sheds & detached structures in backyards under 14 feet high, require a 3 foot setback?

The new & current situation is that, if you phone *dispatch* and make an *animal control* complaint, or *if someone complains about you* for any animal-control reason, your property may well be scrutinized, regarding shed placement, and for any other land-use violation. Barking dogs? Rattlesnake? Raccoon? Dog bite? Cats on the prowl? Asking for help for any animal control reason, puts your property at risk.

Heaven forbid though if you *complain* about animal control inaction (i.e. a refusal to act), or wrong-action (e.g. wrong-actions, against you), your property will also be carefully scrutinized for land-use violations. Whack-A-Mole. Retaliation in response to animal control complaints, requests for help, anything, but especially complaints about inaction.

When a man can casually walk onto *your* property, with the power to cause *thousands of dollars in impact* to you and your family, that's not good. You, ask the City for help, and then you get a punishment in response. You've lived in Cottonwood Heights, for years, and now this?

Please consult the attached notice. As a member of the community you're welcome and invited to comment to the Planning Commission. I hope you say nice things about my sheds. But it's worth noting that I'm having to request that the Commission allow me to keep both of my sheds, even the one built before the City was inception.

Would you like an Animal Control officer grilling you, regarding when *your* sheds were built? However as per the process I'm going through, I'm even having to request they allow me to keep my 2003-built shed.

My immediate next-door neighbors on my street haven't complained about my sheds. My sheds aren't overhanging their properties. Yes, the City does have some Code which allows sheds & other structures in continuous-violation for more than five years, to have an exception granted for the structure(s) to remain, at the discretion of the Planning Commission. That's nice. Not every city has such code on their books. But still, there's the \$900 application fee plus the money I'm paying a lawyer to help. Probably a \$2000 impact to my family thus far, plus the *hell* of having to go through this entire process. And what if the City requires I remove my shed or sheds? Many more thousands of dollars in impact. And yes, the City Animal Control function is now fully unusable, by my family. How about yours? But even if you never phone them, what if someone complains about you to them? You could also be aggressively scrutinized regarding land-use violations.

January 3rd, 2023, Comments on our own application.

[Copy of request for help from the Higbee's, as sent to our neighbors...]

Process can be punishment. The message is clear, to me, and in my view: Never phone animal control, for any reason. This dangerous & sad state of affairs could be fixed though. The City Council won't respond to me, at all. Maybe they'll listen to you?

My requests to you:

1. **Request that you write to the Planning Commission, as per the attached notice, and say nice things about my two sheds. I suggest you tell them: My sheds aren't bothering you. You don't see how they'd be bothering anyone else. You don't see how either shed is unsafe as such. You request the Planning Commission allow the sheds of Jonathan Higbee to remain in place as they are now.**
2. **Request that you *separately* write to the City Council, and request that they perform the following actions:**
 - A. **Dissolve the Animal Control function of the City, and instead have the City contract with Salt Lake County Animal Services to perform this function.**
 - B. **Move the City Code Enforcement function, fully outside the scope of the City Police Department.**
 - C. **Change the City Code to allow detached sheds to be present on the sides of homes. Remove this tool-of-retaliation, from the bag of disgruntled animal control officers.**
 - D. **Set up an *independent* internal review board which can investigate complaints about police & code enforcement officer misconduct.**

Reason for item 2-B? Because Code Enforcement is currently part of the City Police Dept. What happens if you have a complaint about the regular police themselves? The City needs a firewall between the Police & Land-Use Code Enforcement, such that complaints to one section don't result in retaliation against citizens in response for where another section of code is used to retaliate against citizens. What's to stop this type of abuse, unless there's more concrete *separation* of the code enforcement section? Arbitrary and capricious enforcement of the law can easily be used as a tool of retaliation.

Yes, it's nice that the City has a *possible* route for me to keep my sheds, one built in 2015, and another in 2003. But I'm having to pay a \$900 application fee for the privilege, plus legal consulting costs. And I may get denied.

Will I get denied, because I'm asking for your help? I hope not. But this is also notice that we are all essentially, at-risk, while the City is, in my view, operating a scheme for where citizens can easily have their properties and livelihoods put at risk, in response to animal control engagement of all things, and also in response to *complaints* about animal control.

John Lovato was prudent. The new people, not so much.

Even older supposedly grandfathered-sheds are at risk also. I am being required to apply to keep my 2003 shed, also. Thus, no protection. No safety. No hiding place, from aggressive scrutiny which especially comes to the fore if you have the wherewithal to complain about either animal control inaction, or wrong-action.

All I've written here are my own views based on my experiences.

Hope you can help...

Jonathan

----- end of quote Christmas letter. December 31 subsequent letter on next page.

The Fix is In - December 31, 2022

Dear Neighbor,

As an addendum, the City Planning Department staff are recommending to the Planning Commission that both of my sheds (built 2003 & 2015) be removed within six months, even the one built before the City was incepted (before 1-4-2005).

The staff are really not allowing for any reasonable use of the City's own code under section 19.88.140.

Do you or does anyone you know, have a non-compliant shed? A shed next to your house or even in front? A shed with no setback or not enough of one? Any other structure on your land with not enough of a setback? An attachment to your garage or carport (shed, anything) which doesn't have an 8 foot setback? A detached shed or garage, anywhere, with not enough of a setback? Then, in my view, we have no route to phone Animal Control, ever, for any reason.

I don't know if the Planning Commissions will go along with the Planning Department staff comments. I'm asking that they allow my sheds to remain, as they are, and as they have been since 2003 and 2015. But it's worth noting that they are not noticing how Utah state law is supposed to allow for "grandfathering" of structures built before cities were incepted which then came in with more restrictive rules.

The basic stance of the Planning Department staff is, you either have compliant structures (compliant with current rules), or you don't. Doesn't matter what the past rules were. The current rules are the current rules. And if you don't have compliant structures, then they can and will require that you remove them within say six months, even structures built before the City was started on 1-14-2005. That's the staff's view. Will the Commission rubber stamp such an abusive stance?

For my own shed situation, you have until Tuesday (1-3-2023) at noon to send in email comments to the City. I request that you a.) ask that the Planning Commission for the City not allow itself to be used as a tool of arbitrary and capricious retaliation by the City's Animal Control dept., and b.) I ask that you ask the Planning Commission to allow both of my sheds to remain as they are and as they have been since their construction in 2003 and 2015. You can also attend the hearing on Wednesday 1-4-23 in person.

I've hired a lawyer.

If Animal Control ever visits your home, for any reason, or is driving by, and if the officer is having a bad day, or is upset with you, well you may well get a notice to remove your sheds (or garage or anything non-compliant) within 30 days of the notice. Then a \$900 application fee to the Planning Dept. Then lawyer costs. Possible initial denials. Then appeals. Then maybe another denial. Court? A hellish experience overall.

This isn't a reasonable or livable city. If you get stung with this process I'm going through with my family, maybe you'll have to get help from a lawyer too. Who can work at home, or do anything here, under conditions like this?

My views based on what I'm seeing and experiencing.

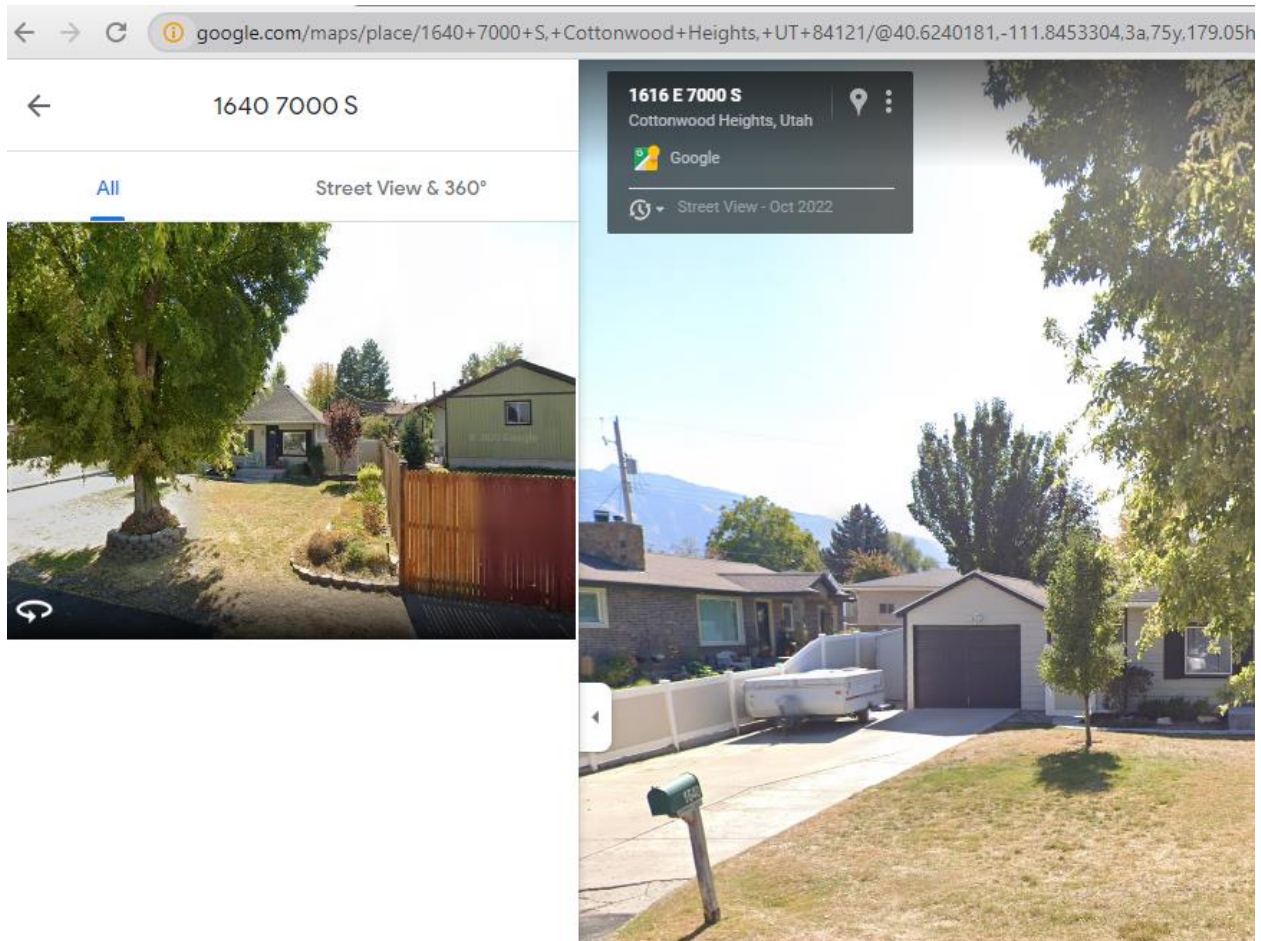
Hope you can help, and good luck.

Jonathan

January 3rd, 2023, Comments on our own application.

3. Regarding the section of our original application labeled “EXHIBIT C: Nearby Sheds with Similar Non-Compliant Placement,” here is a correction to what was noted on page 40 of the application:

Structure and house noted in the application as being at 1616 East Staker Way, is actually at 1640 East Staker Way (1640 East 7000 South). Garage and apparently-attached shed type structure, without an 8 foot (or even a 3 foot, probably) setback and also on the side of the house.



(continued on next page)

January 3rd, 2023, Comments on our own application.

4. Regarding our original application, "EXHIBIT C: Nearby Sheds with Similar Non-Compliant Placement," here is a correction to what was noted on page 41 of the application: Instead of 7280 East Pecan Circle the address for the property noted is 7290 South Pecan Circle.

5. Regarding our original application, "EXHIBIT C: Nearby Sheds with Similar Non-Compliant Placement," here is a correction to what was noted on page 39 of the application: Instead of 7180 E Cavalier Circle, the address for the property noted is 7180 S Cavalier Circle.

6. Regarding our original application, "EXHIBIT C: Nearby Sheds with Similar Non-Compliant Placement," here is a correction to what was noted on page 32 of the application: Instead of 7183 E Manor Drive, the address for the property noted is 7183 S Eastmanor Drive.

7. Model Motions, our suggestions:

Approval, Suggestion A: "I move to approve project AHO-22-007, because clearly the City has had full view into the status of the 2015 Higbee shed between 2016 and the first half of 2022. Many in person Animal Control / Code Enforcement visits with no mention ever of safety or placement status. Next the 2003 Higbee shed is covered under Utah code 10-9a-103(43) as a legal noncomplying structure, and as such may remain in place. The Commission realizes that many structures in the surrounding neighborhoods are also non-compliant, and the Commission does not wish to single out the Higbee family in this case in any sort of unequal or unfair way. The 2015 and 2003 sheds of the Higbees may remain in place as they are today. The Higbees have been through enough. Let them live in peace."

Approval, Suggestion B: "I move to approve project AHO-22-007, because clearly the City has had full view into the status of the 2015 Higbee shed between 2016 and the first half of 2022. Many in person Animal Control / Code Enforcement visits with no mention ever of safety or placement status. The Higbees shall apply flame-retardant paint, to the inside of the 2015 shed, and optionally to the 2003 shed. However the Commission realizes that many structures in the surrounding neighborhoods are also non-compliant, and these many other non-compliant structures, are not being safety inspected either. The Commission does not wish to single out the Higbee family in this case in any sort of unequal or unfair way. The 2003 Higbee shed is covered under Utah code 10-9a-103(43) as a legal noncomplying structure, and as such may remain in place. The 2015 and 2003 sheds of the Higbees may remain in place as they are today (with the application of flame retardant paint to the interior of the 2015 shed. The Higbees have been through enough. Let them live in peace."

Approval, Suggestion C: "I move to approve project AHO-22-007, with the condition that the 2015 shed undergo an independent fire safety inspection. The inspector shall make reasonable, achievable, and safe recommendations to the Higbee family regarding the 2015 shed, such as painting the entire interior with fire retardant paint. The inspection report shall go to the Planning Commission. If the Higbee family agrees to the recommendations outlined in the report, and completes the remediations within six months, then the 2015 shed may remain in perpetuity as an allowed non-confirming use. Next the 2003 Higbee shed is covered under Utah code 10-9a-103(43) as a legal noncomplying structure, and as such may remain in place. The Commission realizes that many structures in the surrounding neighborhoods are also non-compliant, and the Commission does not wish to single out the Higbee family in this case in any sort of unequal or unfair way. The 2015 and 2003 sheds of the Higbees may remain in place as they are today. The Higbees have been through enough. Let them live in peace."

January 3rd, 2023, Comments on our own application.

Approval, Suggestion D: "I move to approve project AHO-22-007, under the condition that the 2015 shed be raised and placed upon a trailer with wheels. Thus the 2015 shed will cease to be, a shed, and will simply be a trailer instead. Thus moved out of scope for the purposes of this situation. Next the 2003 Higbee shed is covered under Utah code 10-9a-103(43) as a legal noncomplying structure, and as such may remain in place. The Commission realizes that many structures in the surrounding neighborhoods are also non-compliant."

8. Regarding the section of our application labeled "EXHIBIT C: Nearby Sheds with Similar Non-Compliant Placement," here are several additional properties found with apparently non-compliant structures:

A. 2783 E Pine View Drive. Google Earth Pro satellite imagery shows shed on side of house.



<- shed on side of house. Also no apparent setback.

(see next page)

January 3rd, 2023, Comments on our own application.

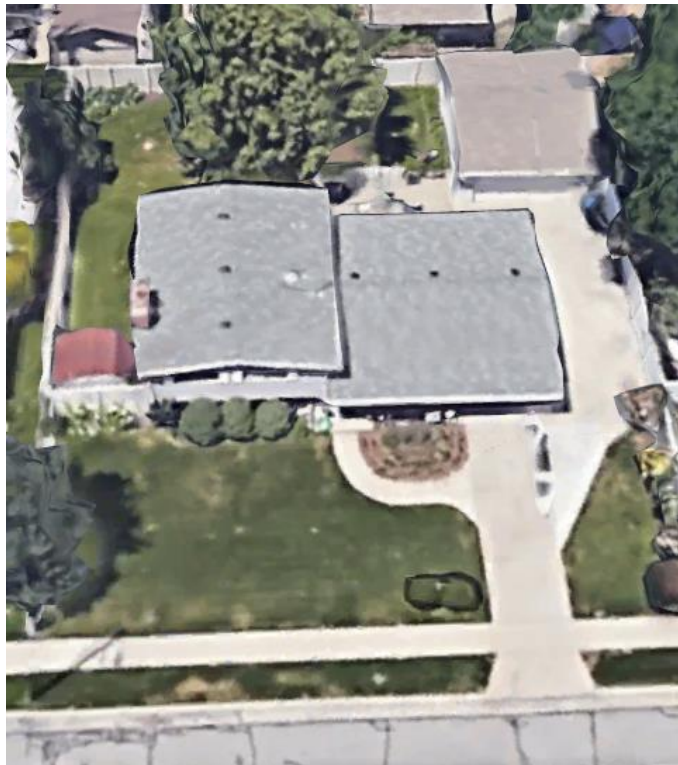
Google Maps website view of same property. Shed on side, with apparently no setback:



<-shed on side, with
apparently no
setback either

B. 2029 E Rolling Knolls Way:

Google Earth Pro view: Shed on left of house and with no setback seen. Also garage on back right of property with no apparent setback:



January 3rd, 2023, Comments on our own application.

Google Maps view of same property:

...as noted shed on side (middle left),
with very little setback also. Top
right garage, with not much setback.



- C. 2622 East Cavalier Drive. Shed on (left) side of house. Almost no setback either apparently.
Google Maps view:



January 3rd, 2023, Comments on our own application.

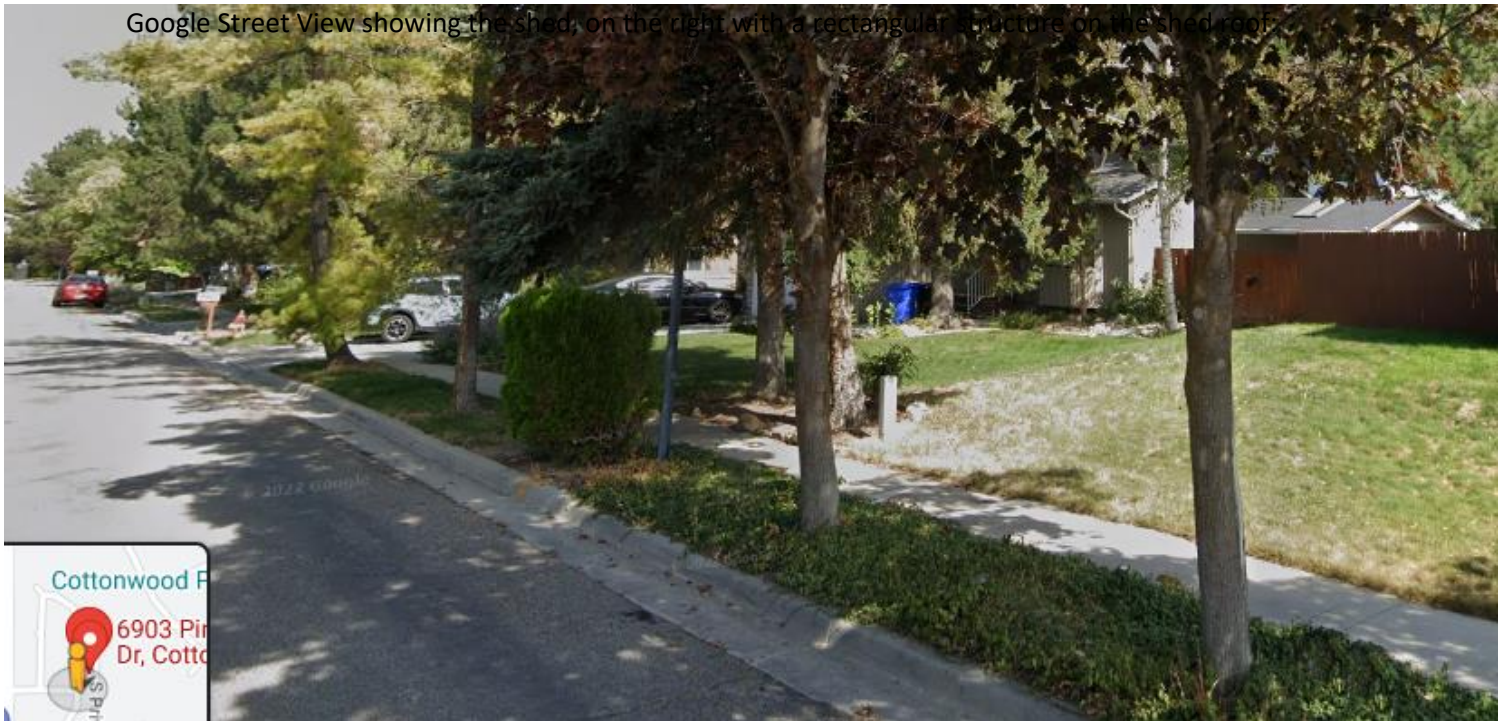
D. 7049 South Towncrest Drive. Added on garage with inadequate setback especially at one corner.



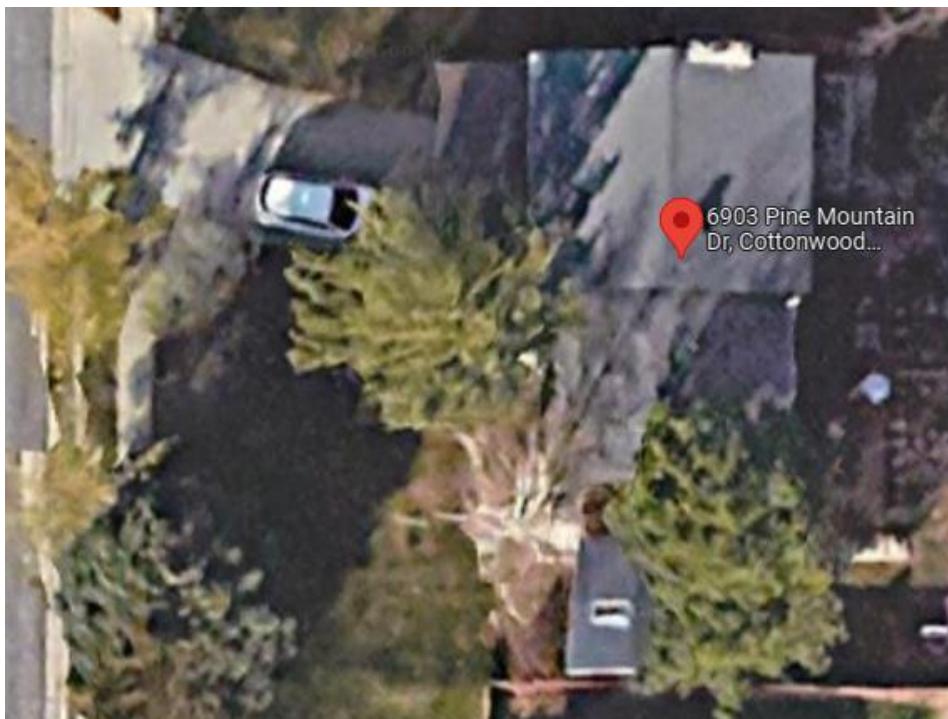
January 3rd, 2023, Comments on our own application.

E. 6903 S Pine Mountain Drive. Shed to the right of the house (side of house). Almost no setback.

Google Street View showing the shed, on the right with a rectangular structure on the shed roof.



Google Maps aerial view showing the shed to the south (bottom):



^^^ - shed on side of house

January 3rd, 2023, Comments on our own application.

F. 6867 S Pine Mountain Drive. Shed to the north of the house (on the side). Not much setback.

Google Street view (shed to left of house, which is north):

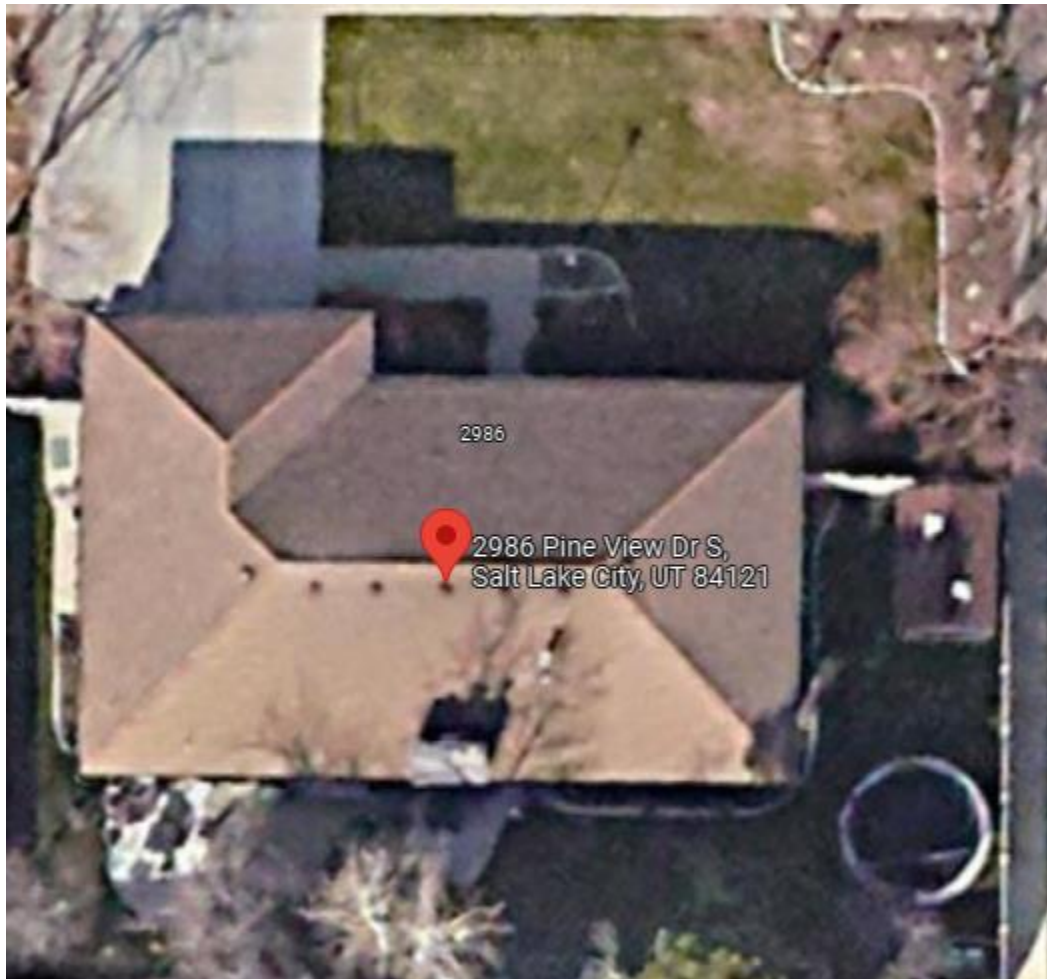


Google Maps aerial view (same shed seen upper right, next to house):



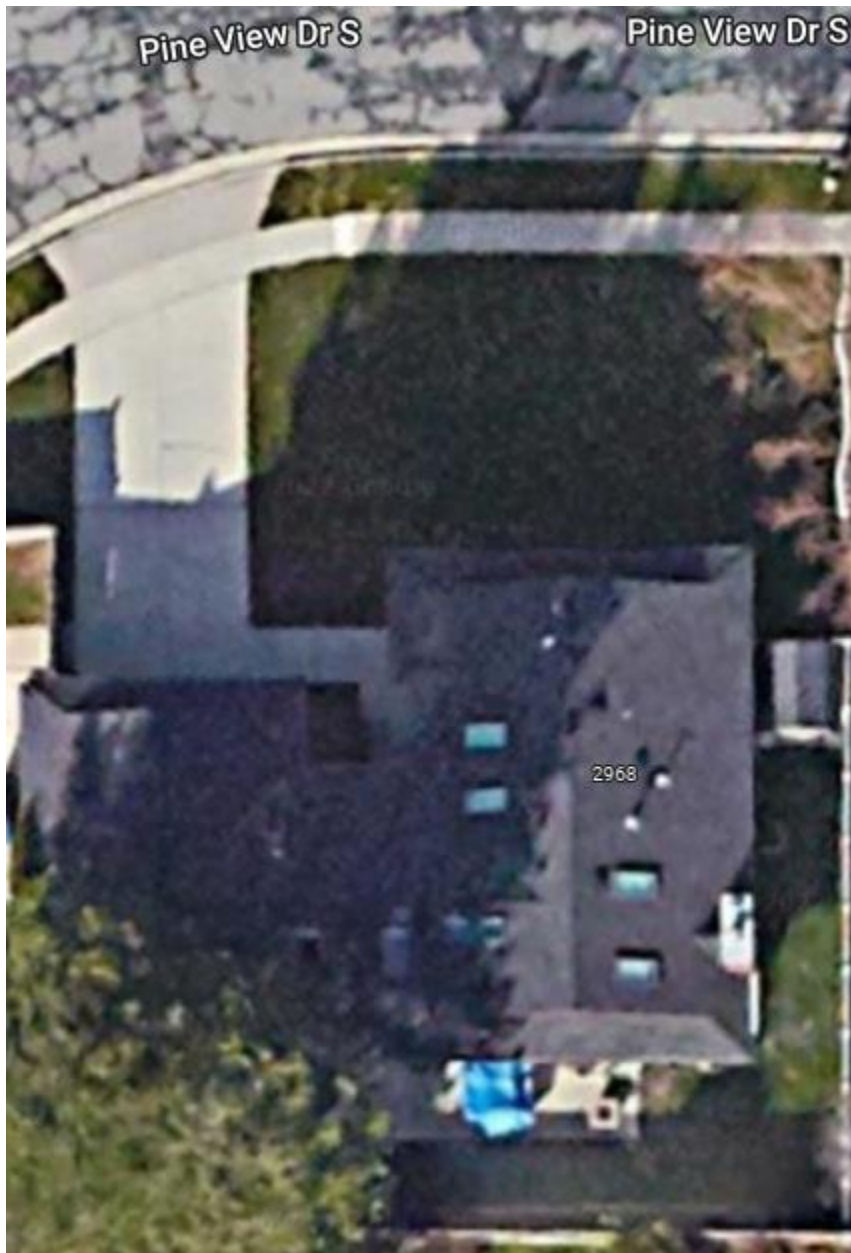
January 3rd, 2023, Comments on our own application.

G. 2986 E Pine View Dr. Shed on side of house (to the right), with almost no setback:



January 3rd, 2023, Comments on our own application.

H. 2968 E Pine View Drive. Shed on side of house (to the right), with almost no setback:



<-shed

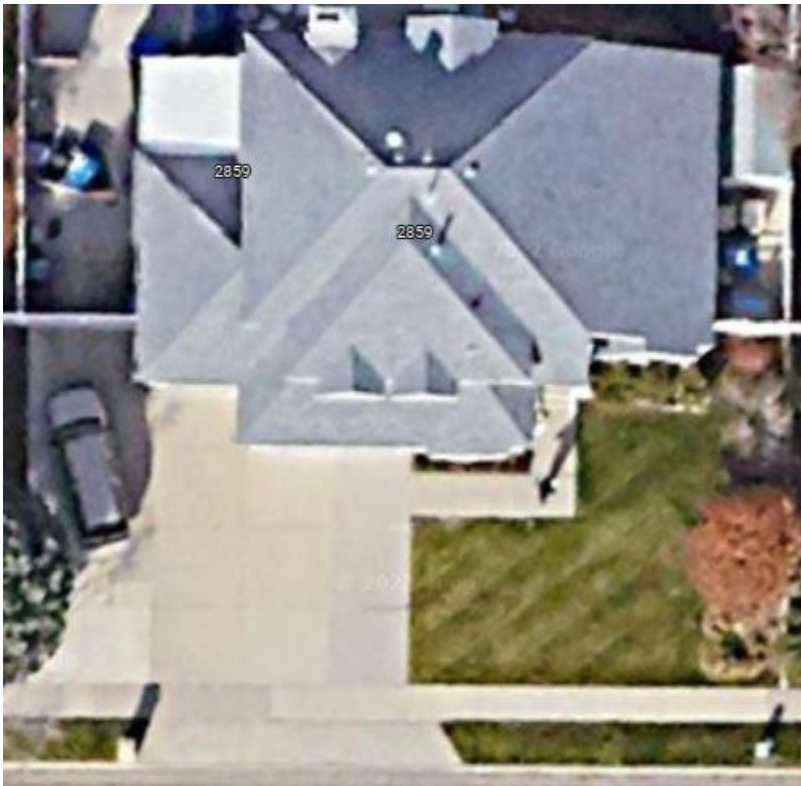
January 3rd, 2023, Comments on our own application.

- I. 6786 S Manorly Circle. Shed on side of house with no apparent setback:



^^^ - shed

- J. 2859 E Pine View Drive. Shed on side of house with no apparent setback:



<-shed

January 3rd, 2023, Comments on our own application.

K. 2871 E Pine View Drive: Shed on side of house with almost no setback:



<- shed with brownish roof. Property fence line shown above shed, and in between the "8" and "7" in the address shown in the image.

L. 7240 South Chris Lane. Shed on the side of house with most no setback.

Upper middle:



January 3rd, 2023, Comments on our own application.

Street view:



M. 2082 E Hazelwood Way. Shed on side.

Street view showing shed:

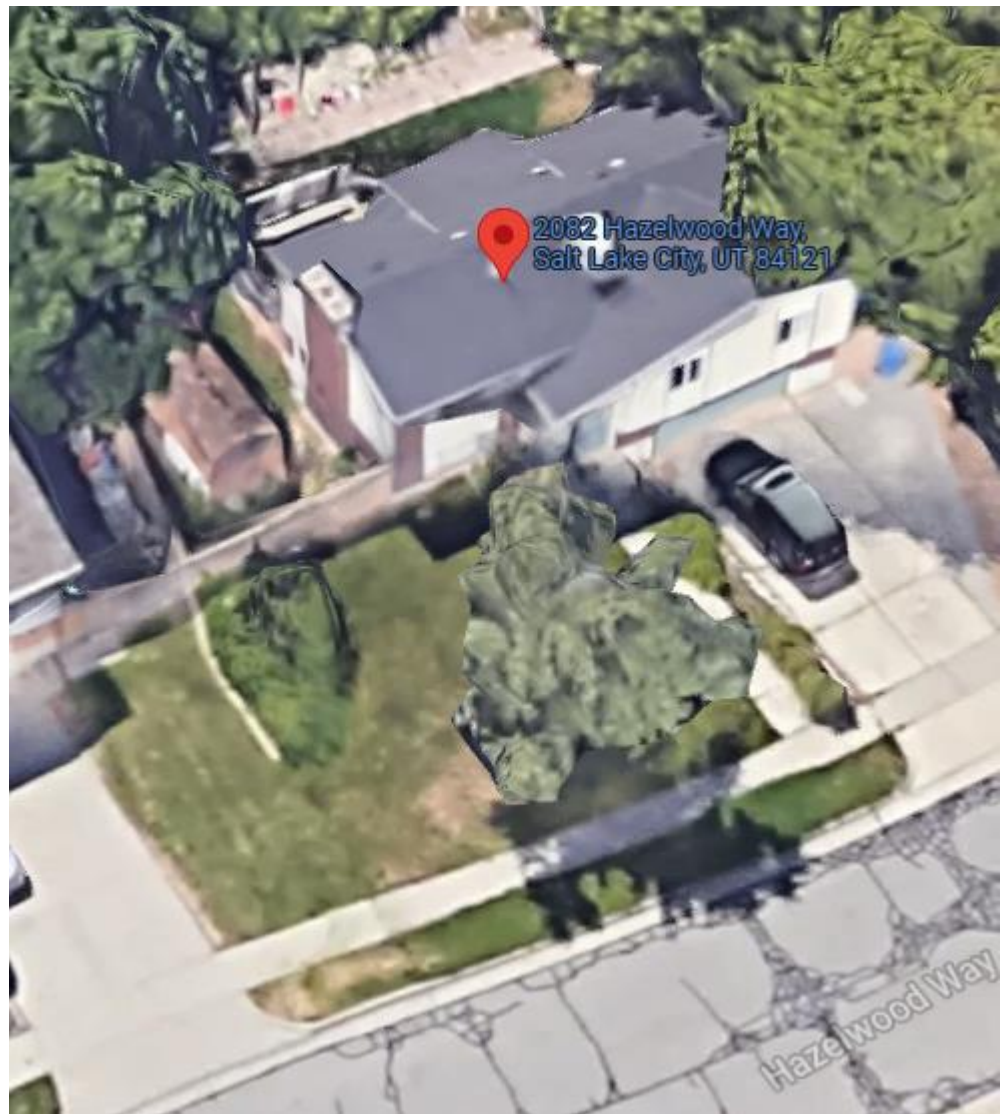
Shed ->



January 3rd, 2023, Comments on our own application.

Google Maps 3D satellite view of shed on side of house:

Shed -----□



January 3rd, 2023, Comments on our own application.

N. 2156 E 6525 S, shed on side of house. Lower left, adobe a circular structure, but still “to the side” of the house.

Google 3D satellite view:



January 3rd, 2023, Comments on our own application.

O. 2218 E 6595 S. Detached shed on side of house & garage. Almost no setback.

Google street view:



Google satellite view. Shed to the left of the garage. Upper right of image:



January 3rd, 2023, Comments on our own application.

P. 2167 E 6595 S. Detached garage to the side of the house.



(See next page)

January 3rd, 2023, Comments on our own application.

Q. 2266 E 6630 S. Shed to side of carport with no apparent setback.

Google street view. Shed in upper middle behind a small tree:



Google satellite view. Property fence shown with no setback for the shed. Blocks access to backyard fully.

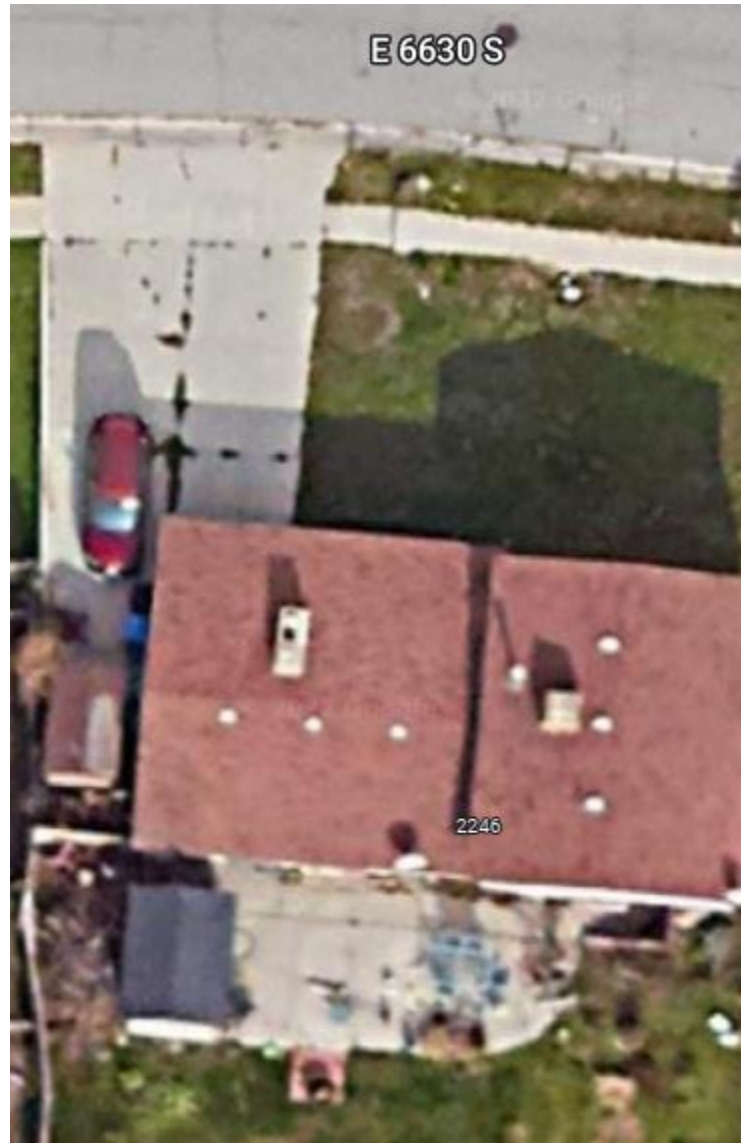


January 3rd, 2023, Comments on our own application.

R. 2246 E 6630 S. Shed to the left of house. No setback. Blocks access to backyard on that side of house.

Google satellite view:

Shed->



January 3rd, 2023, Comments on our own application.

- S. 2157 E 6675 S. Detached garage not fully in the back of the house, for where the garage has essentially no setback.



- T. 7148 S 2985 E, Extended garage and presumed shed space in backyard with no setback. Street to the right.



January 3rd, 2023, Comments on our own application.

U. 7211 S 2985 E, Carport roof going to property line.



9. Cottonwood Heights City, is either a place where families can live in peace and harmony, or it is not. Animal Control / Code Enforcement with all that in within their purview, a.) had full view into our shed situation from 2016 through the first half of 2022, and they said nothing regarding our sheds. Safety. Placement. Nothing. These City Officers acted within the scope of their duties, and took these actions, officially. Working from home requires having quiet, *without* incessant barking from dogs. Also in the evening when kids are playing in backyards, they shouldn't have to endure hours of non-stop barking.

At present, and especially if denied: If someone were to ask us if Cottonwood Heights is a livable city, we'd tell them absolutely not. We'd tell them Cottonwood Heights is a dysfunctional broken unlivable city with a corrupt government completely unresponsive to citizen concerns. Any old time, the single-person-run Animal Control section can cause the grinding gears of the City to be engaged for petty retaliation, using the City's Land-Use code, to punish any person they want punished. It's not fair. And the City staff happily goes along, with whatever an abusive retaliatory singular animal control duty police officer decides. Many, non-compliant properties for the officer to glom onto and use in his retaliatory efforts (we found 40+). This one. That one. Everywhere. A field of green, usable for easy arbitrary and capricious retaliation.

Animal Control exists for a reason, and one key reason is to not punish citizens for asking for help. Please do not serve as an enabling force, for unfair abuse and retaliation. Please allow our two sheds to remain as they have remained, safely since 2003 and since 2015.

January 3rd, 2023, Comments on our own application.

10. Should the Commission require the removal of either or both of our sheds, we then officially request that all the non-complying sheds & structures we've surfaced in our original application and in this comment letter, undergo exactly similar-scrutiny. Issuance of Notice of Violations from the City, for each and every non-complying structure, constructed before and after the City Inception date. This is the exact scrutiny we are receiving, and we're paying \$900+ for the privilege.

If this all does not take place (other properties, not similar scrutiny), then the Commission will have shown that unequal treatment is the rule of the day, and that petty police department retaliation against citizens shall be allowed to stand largely unquestioned within the City. An unlivable unworkable city. **Or:**

11. Instead you can choose to use your power under 19.88.140, to allow our family to live like the other 40+ families near us, who also have non-complying structures (probably many more than 40 we bet). To leave our sheds, and us, alone. And also perhaps to allow the City's Animal Control management problem to be on some track toward functionality again - to pull back away from a course which allows the Planning Commission to be so easily used as a tool of retaliation. It's all linked.

12. City Code is out of touch with reality. It is the nature of our neighborhood (probably the *original* modern-neighborhood on Butler Hill) to have "non-compliant" structures. To reiterate, the Planning Department staff are apparently unfamiliar with the use of code section 19.88.140. They are treating us and this process with disdain. No respect for property rights. Creation of a hostile unlivable atmosphere.

13. We did ask Planning staff to meet us at our home before our application was filed. They then ghosted us and did not work with us regarding the pre-application process, nor regarding any sort of "getting a feel from them," regarding what may be acceptable to them before this hearing. Our request for them to meet and for them to even to come to our house, was never responded to. *They never replied to this email from us:*

On Thu, Nov 10, 2022 at 4:51 PM, Jonathan Higbee <jonathan.higbee@gmail.com> wrote:

Hi,

Wondering when you or one of your staff could visit my property to chat about the physical situation.

Perhaps separate from or in addition to a city hall meeting.

Also I'd like to receive the variance hearing info, and the five criteria you mentioned.

Jonathan

14. Earlier before the above email, the Planning Director did direct me to a *perceivedly less favorable* and less-useable code section, 19.92.030. In theory we could still apply under that separate section, but the Planning staff never even mentioned the existence of section 19.88.140 to us, which gives the Commission more leeway to allow non-compliant structures to remain in place. Staff comments do show, in our view, they don't want you to have leeway to help us.

15. Will this entire process be a \$900+ "kabuki theater?" That is, "just for show and appearance," but not to solve problems in a reasonable and fair way? An unyielding grinding-down robotic process in the end? No compromises. No back & forth. This will be the case, if the staff comments are simply rubber stamped by the Commission and our sheds are forced to be removed.

January 3rd, 2023, Comments on our own application.

16. Rubber stamping the staff's comments & requiring shed removal would serve as an abusive enabling force for unilateral, arbitrary, capricious, and retaliatory actions by the City Police Department. What is this City for? Who can work here under such conditions? Please don't be a rubber stamp for abusiveness and unaccountability.

17. The 2015 shed is not feasibly-movable to our backyard. However, what if it were, on wheels? Nearby properties have mobile homes, with one nearby house having many, many, mobile homes in their backyard. However if this is an option, shall you be forcing all other non-complying sheds (such as those I've documented to the Commission) to be "put up on wheels" so as to maybe be more allowable to the Planning dept. staff?

18. It's sociopathic to have a situation where a man (e.g. an upset Animal Control officer), walk onto a property, yes animal control of all things, and then cause thousands of dollars in impact for land use "violations," violations which many, many, prior code officers made zero note of.

Not fair. And not fair that the many other properties near me with non-complying structures aren't, now, also being asked to remove their sheds & so on. Or, you could just stop this and leave me and them, alone.

19. Flammable liquids are not being stored in our 2015 shed. We may be willing to apply flame retardant paint to the inside. But what about the 40 or so other non-compliant structures I've noted nearby, plus I'm sure many, many, more we didn't yet find. Shall the Planning dept. staff be doing inspections for those other, many other, structures? Unequal treatment. 19.88.140, does not explicitly require a safety inspection for the Commission to grant an allowance to remain. However you can see our model motions for where we offered this as an option, an inspection. We'd need time to implement this route if required. But again & also, what about the 40+ other structures non-compliant? Fairness & equitable treatment should be an issue too.

20. Thus far and of late, this City isn't friendly or responsive. The City Council never responded to our Animal Control inaction, complaints. Then next, they never responded when we complained about Animal Control using City Planning Code as a clear and apparent means of retaliation, retaliation given immediately after Jonathan's complaints about Animal Control inaction to the City Council. This City is acutely responsive and unworkable.

21. A denial would show that No One should move to Cottonwood Heights. No living here. No business here. Nothing. And never phone Animal Control either, an unusable department of the City. The Planning Dept. staff have shown their disdain for the neighborhood we are in, a "non-conforming" neighborhood. Other nearby neighborhoods, and even the newer-house areas, also have "non-compliance." About 40 non-conformers were found. We're sure there's many more. And each one, can casually be used by Animal Control of all departments, to initiate retaliation via Planning.

This abusive process has taught our family to see these "non-conforming" structures, everywhere, and we see them everywhere now. Another one. Another one. Another one. Another one. Street after street after street.

22. You're going after us, but not going after the 40+ non-compliant properties, yet? But as per the unyielding stance of Planning Dept. staff, I would imagine everyone, every single person, with a non-complying structure, is now at risk. Unlivable. Unworkable. Unfriendly. Out of touch with reality.

January 3rd, 2023, Comments on our own application.

23. Please walk this process, and abuse, back. Please see our “model motions” in section 7 of this comment letter, and implement one. Please do not serve as an enabling force, for unfair abuse and retaliation. Please allow our two sheds to remain as they have remained, safely since 2003 and since 2015.

24. Should our request to keep our sheds be denied, then please see section 10.

25. If the Commission has some other way we can keep our two sheds in perpetuity, let us know. This could be a discussion & a negotiation about a path forward, vs a stunted process with no back & forth.

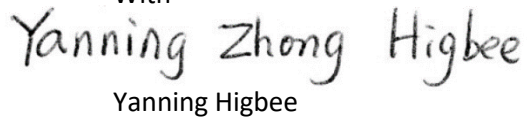
26. The Commission has power to suggest changes to City Code. If changes to City Code are required to accommodate this request (both sheds, remain, in line with the character of the neighborhood we’re in and with the history & process), we request that such suggestions be given to the City Council by the Commission, in time for the sheds to remain.

Sincerely,



Jonathan Higbee

With



Yanning Higbee

And our children Carl, Tina, Leela, and Athena

January 3rd, 2023