

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

3
4 **Wednesday, April 19, 2023**

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

6 **2277 East Bengal Boulevard**

7 **City Council Work Room**
8

9 ***ATTENDANCE***

10
11 **Members Present:** Chair Dan Mills (via Zoom), Commissioner Lucy Anderson, Commissioner
12 Jessica Chappell, Commissioner Jonathan Ebbeler (via Zoom),
13 Commissioner Mike Shelton, Commissioner Mike Smith, Commissioner
14 Sean Steinman
15

16 **Staff Present:** Community and Economic Development Director Michael Johnson, Senior
17 City Planner Samantha DeSeelhorst, Deputy City Recorder Maria Devereux
18

19 **Excused:** Commissioner Jesse Allen
20

21 **WORK SESSION**
22

23 Chair Mills called the Work Session to order at 5:00 p.m.
24

25 **1.0 Review Business Session Agenda.**
26

27 Senior City Planner, Samantha DeSeelhorst shared updates with the Planning Commission. She
28 reminded those present that at the last Planning Commission Meeting, the Commission reviewed
29 a daycare application. The applicant contacted Staff and asked to put the application on hold
30 indefinitely. The applicant was given six months to move forward or formally withdraw. The six-
31 month window will expire in September and the Commission will know more then. For that
32 reason, the application was not on tonight's Planning Commission Meeting agenda.
33

34 The Planning Commission Business Session will focus largely on internal maintenance of the City
35 Code. Ms. DeSeelhorst explained that there will be two separate text amendment discussions.
36 During the Work Session, there will be discussions about yard elements and during the Business
37 Session, the focus will be on Title 5, Title 11, Title 12, Title 14, and Title 19. She first reviewed
38 the Business Session item, which was Project ZTA-21-001. It was a City-initiated zoning text
39 amendment that will make minor clarifying updates to a few different titles throughout the City
40 Code. Ms. DeSeelhorst stated that as part of standard procedure, zoning interpretations were used.
41 It allows Staff to coordinate with the Executive Staff and make reasonable technical clarifications
42 or interpretations about areas of the Code that are unclear. It does not allow Staff to rewrite the
43 Code or subjectively waive a Code requirement. It simply allows Staff to state that certain areas
44 of the City Code are unclear and reference other resources for clarification. Essentially, it is an
45 administrative tool that is used to provide more clarity.
46

1 Zoning interpretations were not meant to be permanent measures. Ms. DeSeelhorst explained that
2 they are intended to be temporary in nature until more formal action was taken. There is a backlog
3 of zoning interpretations that need to be brought through a formal review and codification process.
4 Separate from the zoning interpretations, some parts of the City Code were lacking in clarity. Staff
5 planned to bring different elements to the Planning Commission to review over the next year or so
6 in order to address the various issues bit by bit.

7 8 **2.0 Yard Elements Code Update Introduction.**

9
10 Ms. DeSeelhorst shared information about a future Code update. She clarified that there was no
11 verbiage prepared and direction was needed. The City Code lacks clarity in several passages. One
12 area where it generally lacks clarification was in the regulation of yard elements. Examples of
13 yard elements include arbors, trellises, pergolas, hot tubs, and swimming pools. To accurately
14 inform community members of the requirements for yard elements, Staff was asking for
15 clarification from the Planning Commission on the following two questions:

- 16
- 17 • Which yard elements should be regulated by the City Code?
- 18 • For those that are regulated, what should the regulations be?
- 19

20 Ms. DeSeelhorst explained that this would be an informal discussion with the Planning
21 Commission. Nothing was drafted for the Commission to vote on. The intention was to discuss
22 the best direction to take and then something would be brought forward in the future. The intent
23 was to be clear and consistent. However, there was no desire to overregulate or have excessive
24 oversight. It was important to have a balance in terms of the yard elements updates. She shared a
25 list of items that Staff receives questions about on a regular basis, which included:

- 26
- 27 • Arbors;
- 28 • Planters;
- 29 • Basketball hoops;
- 30 • Playgrounds;
- 31 • Carports;
- 32 • Splash pads;
- 33 • Flagpoles;
- 34 • Sports courts;
- 35 • Fountains;
- 36 • Swimming pools;
- 37 • Gazebos;
- 38 • Treehouses;
- 39 • Hot tubs and spas;
- 40 • Trellises; and
- 41 • Pergolas.
- 42

43 Staff proposed that the following items not be regulated by City Code but defined for clarification
44 include:

- 45
- 46 • Arbors;

- Basketball hoops;
- Flagpoles;
- Fountains;
- Planters, and
- Trellises.

Staff proposed that the following items be regulated by City Code, each with an appropriate level of regulation:

- Carports;
- Gazebos;
- Hot tubs;
- Pergolas;
- Playgrounds;
- Pools;
- Splash pads;
- Sports courts; and
- Treehouses.

Ms. DeSeelhorst shared preliminary Staff recommendations with the Planning Commission. For carports, gazebos, and pergolas, the proposed approach was to have them regulated the same as an attached structure or accessory structure depending on whether the item is attached or detached from the main home. A Building Permit would be required for an attached item and for a detached item that is over 200 square feet. For carports, gazebos, and pergolas that are attached to the main home, there would be the same setback and height regulations as the main home as they would be an addition to the structure. For carports, gazebos, and pergolas detached from the main home, there would be the same setback and height regulations as any accessory structure in the underlying zone, as a freestanding structure. Ms. DeSeelhorst explained that based on City Code, that was how the items were regulated in practice currently but additional details would provide clarity.

Commissioner Anderson believed there was some carport-related language in the Business Session item. Ms. DeSeelhorst confirmed this. There was overlapping language between the two but the Business Session item would define residential and non-residential carports and provide some development standards. If the redlines proposed for the Business Session item were ultimately approved by the City Council, any subsequent efforts would be consistent with those. Commissioner Anderson asked if residential and non-residential needs to be distinguished during the yard elements discussions. Ms. DeSeelhorst explained that it is less common for yard elements to be proposed in non-residential projects but it was possible. There could be the same approach taken where the same commercial building setbacks need to be met.

There was discussion regarding legal non-conforming uses in the community as well as enforcement measures for yard elements. Ms. DeSeelhorst hoped that the text amendments would provide additional clarity for residents. Providing more details would make the language easier for everyone to understand. Commissioners asked about the current definitions in the Code for yard elements. Ms. DeSeelhorst clarified that there is no definition for gazebos or pergolas. As

1 for carports, a definition was proposed to be added as part of the Business Session item. For all of
2 the terms listed, it was proposed that there be a definition included for clarity.

3
4 Commissioner Ebbeler asked about stores that sell pre-built structures that are ready to assemble.
5 Those would be under the 200 square feet proposed. Ms. DeSeelhorst explained that Staff receives
6 a lot of questions about those types of structures. When that happens, the residents were instructed
7 that a Building Permit is not needed if it is under 200 square feet, however, the setbacks still need
8 to be met. Commissioner Ebbeler asked if a structure that currently exists in the City would be a
9 grandfathered non-conforming use. Ms. DeSeelhorst clarified that the answer would depend on
10 whether the structure was built legally.

11
12 Commissioner Anderson pointed out that ornamental features were mentioned in the Meeting
13 Materials Packet for the Business Session item. She asked about the difference between
14 ornamental features and yard elements. Ms. DeSeelhorst clarified that ornamental features are
15 items that are directly attached to a building. That definition could be added for more clarity.

16
17 Ms. DeSeelhorst shared additional information with the Commission. For hot tubs, pools, and
18 splash pads, the proposed approach was that they be located in the rear yard at least six feet from
19 the main home and at least three feet from the rear and side property lines. A Building Permit is
20 required for all three uses unless the hot tub is using an existing gas line. The City Code currently
21 provides only vague language on pools and no language on hot tubs or splash pads.

22
23 Commissioner Anderson wondered if the size of the splash pad needs to be defined.
24 Ms. DeSeelhorst felt that was a good idea. In a future draft, there would be definitions provided
25 for all of the yard elements mentioned. There was discussion regarding a Building Permit for a
26 hot tub. It was noted that a gas hot tub that is six feet from the house makes sense but an electric
27 hot tub would not necessarily need to be that far away. Ms. DeSeelhorst agreed. Chair Mills
28 shared information about the hot tub electrical that was installed when he purchased his home.
29 Ms. DeSeelhorst suggested that there be language specifying that if electrical or gas line work is
30 needed, a Building Permit may be required. There was support for that kind of language.

31
32 The Commission discussed the kind of splash pad that would require a Building Permit.
33 Community and Economic Development Director, Michel Johnson explained that typically there
34 are permanent plumbing fixtures with running water lines involved. Commissioner Ebbeler
35 suggested adding swim spas to this area of discussion. They are a hybrid of a hot tub and a
36 swimming pool. There are large ones that could be bigger than a lot of standard swimming pools.
37 It was reiterated that there should be different requirements for gas and electric hot tubs.
38 Commissioner Chappell pointed out that some people might want a hot tub on their deck. She
39 wondered if the six-foot regulation was too strict. It was noted that there were safety concerns,
40 but if the hot tub was electric instead of gas, there might be more flexibility.

41
42 Chair Mills pointed out that a lot of pools now require outbuildings. He wondered if those would
43 be treated as sheds. Some people are building pool houses, almost like Accessory Dwelling Units
44 ("ADU") in other cities. It would be ideal to have language to address what was happening
45 elsewhere. Ms. DeSeelhorst suggested that there be a requirement that the accessory building
46 setbacks be met. On interior lots, that would be three feet for rear and side property lines and a

1 maximum height of 14 feet. Chair Mills was concerned about the setbacks but Ms. DeSeelhorst
2 explained that it is allowed in the City Code for all accessory buildings. Without doing a full Code
3 revision to every zoning section, that was what is permitted. If there is a corner lot, the accessory
4 building needs to be 20 feet from the corner side. Chair Mills asked about limitations to the size
5 of the structure. Ms. DeSeelhorst reported that there would be a future Code update about that as
6 there is currently a lack of clarity. The only verbiage states that it has to be “significantly smaller”
7 than the main home, which was vague.

8
9 Ms. DeSeelhorst shared suggestions related to playgrounds. The proposed approach for
10 playgrounds was that they should be placed in the rear yard six feet from the main building and at
11 least three feet from the side and rear property lines. No Building Permit would be required for a
12 playground. City Code does not currently provide any information on playgrounds. She noted
13 that there is a distinction between a playhouse, which is more of a structure, and a playground.
14 There would need to be a Building Permit for a playhouse, which would need to be considered
15 under the Accessory Building Standards. Commissioner Anderson felt that needed to be clearly
16 defined within the language that comes back to the Commission.

17
18 There was discussion regarding the definition of playground. Ms. DeSeelhorst described it as
19 open-air recreational equipment. It differs from an enclosed or more structural item. With
20 playhouses, there would likely be language to state that if it was over a certain amount of square
21 feet or there was electricity, water, or gas that runs to the structure, a Building Permit would be
22 needed. Some of the Commissioners felt that the easiest way to distinguish between a playground
23 and a playhouse would be square footage. Commissioner Anderson believed there was a
24 difference between a large swing set and something that is enclosed on the property. Ms.
25 DeSeelhorst explained that if someone could potentially occupy the structure, that is when there
26 are additional standards. For playgrounds, the approach was to have setbacks from property lines
27 for buffering.

28
29 Ms. DeSeelhorst reported that the rear yard is defined as anything behind the back wall of the
30 home. Commissioner Anderson asked what would happen if someone had a large side yard rather
31 than a large rear yard. Ms. DeSeelhorst explained that the language could reference a side yard as
32 well, but the intention was to keep the playground use out of the front yard. The Commissioners
33 agreed with playgrounds being allowed in both rear and side yards. Commissioner Ebbeler asked
34 whether the setback was different for structures on a side yard rather than a rear yard.
35 Ms. DeSeelhorst reported that it was three feet from both. It would still need to be six feet from
36 the main building. She did not suggest there be exceptions for the front yard but side yards could
37 be explored. She suggested that accessory buildings outside of the yard elements still be in the
38 rear yard only.

39
40 Information about treehouses was shared. Ms. DeSeelhorst reported that there was no specification
41 proposed for treehouses being in the front, rear, or side yard because trees are not limited to a rear
42 yard. However, the proposed approach was to have treehouses be at least three to nine feet away
43 from property lines, not more than 14 to 20 feet tall, less than 100 square feet, electricity and water
44 could not run to them, and the treehouses could not be used as an occupiable space. No Building
45 Permit was recommended. She noted that City Code does not currently provide information on
46 treehouses. The intention was to provide both flexibility and safety. Mr. Johnson clarified that

1 the 14 to 20-foot-tall language referred to the measurement from the ground. Commissioner
2 Anderson felt that should be better defined to provide additional clarity.

3
4 As for sports courts, the proposed approach was that if it is placed on the property line, the sports
5 court netting/enclosure needs to meet fencing standards for the underlying zone. If it is a setback
6 that is three to nine feet from the rear and side property lines, the netting/enclosure could be
7 respectively 14 to 20 feet tall. A Building Permit is required for footings and lighting. City Code
8 does not currently provide any information on sports courts. There was discussion regarding the
9 maximum permeable surface area on the lot. Ms. DeSeelhorst explained that if a resident is using
10 an impermeable paver, it would be added to the calculation. Mr. Johnson explained that it only
11 applies in sensitive lands areas. There was additional discussion regarding fencing.

12
13 Ms. DeSeelhorst thanked the Planning Commission for sharing comments on the proposals. Staff
14 would work on the language and bring it back for the Commission to review at a future meeting.

15 16 **3.0 Additional Discussion Items.**

17
18 Ms. DeSeelhorst referenced the Planning Commission Meeting Minutes from March 8, 2023, and
19 stated that a few changes were recommended by Staff. If the Commission moves to approve the
20 minutes she suggested that the Staff changes be referenced. The proposed changes were described.

21 22 **2.0 Adjournment.**

23
24 ***Commissioner Ebbeler moved to ADJOURN the Work Session. The motion was seconded by***
25 ***Commissioner Chappell. The motion passed with the unanimous consent of the Commission.***

26
27 The Work Session adjourned at 5:57 p.m.

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

3
4 **Wednesday, April 19, 2023**
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9 ***ATTENDANCE***

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12 Jessica Chappell, Commissioner Jonathan Ebbeler (via Zoom),
13 Commissioner Mike Shelton, Commissioner Mike Smith, Commissioner
14 Sean Steinman
15

16 **Staff Present:** Community and Economic Development Director Michael Johnson, Senior
17 City Planner Samantha DeSeelhorst, City Recorder Maria Devereux
18

19 **Excused:** Commissioner Jesse Allen
20

21 **BUSINESS SESSION**

22
23 **1.0 Welcome and Acknowledgments.**

24
25 **1.1 ExParte Communications or Conflicts of Interest to Disclose.**

26
27 Chair Mills called the Cottonwood Heights Planning Commission Meeting to order at
28 approximately 6:00 p.m. There were no communications or disclosures shared.
29

30 **2.0 General Public Comment.**

31
32 There were no public comments.
33

34 There was discussion regarding the Planning Commission Meeting Minutes from March 8, 2023.
35 It was noted that the Meeting Minutes were discussed during the Work Session and it was
36 determined that there were changes desired by Staff and the Planning Commission.
37

38 ***Chair Mills moved to REMOVE the Planning Commission Meeting Minutes from the Consent***
39 ***Agenda so editorial changes could be made. The motion was seconded by Commissioner***
40 ***Shelton. The motion passed with the unanimous consent of the Commission.***
41

1 **3.0 Business Items.**

2
3 **3.1 Project ZTA-23-001 –A Public Hearing and Possible Recommendation on a**
4 **City-Initiated Zoning Text Amendment to Make Minor Updates to Portions**
5 **of Title 5, Title 11, Title 12, Title 14, and Title 19. (The Purpose of this Text**
6 **Amendment is to Clarify Ambiguous Definitions and Procedures and Rectify**
7 **Conflicting Provisions as Part of General Code Maintenance).**
8

9 Senior City Planner, Samantha DeSeelhorst presented the Staff Report and explained that the
10 application was a City-initiated request for a zoning text amendment that would make minor
11 updates to portions of Title 5 (Business Licenses and Regulations), Title 11 (Vehicles and Traffic),
12 Title 12 (Subdivisions), and Title 19 (Zoning.) The purpose of the amendment was to clarify
13 ambiguous definitions and procedures and rectify conflicting provisions as part of general Code
14 maintenance. Ms. DeSeelhorst reviewed the proposed amendments with the Commission.
15

16 The first changes were to Title 5, which relates to Business Licenses and Regulations. Under
17 Alcohol Licensing Regulations, there was a requirement that an establishment serving alcohol
18 needs to be a certain distance from public locations such as schools, churches, libraries,
19 playgrounds, and parks. This distance was specified as being measured from the nearest entrance
20 of the proposed outlet, but a definition was not provided. A definition had been added as follows:
21

- 22 • “Entrance of outlet” means any entrance into the structure or unit space for which the
23 license is being applied for.
24

25 Ms. DeSeelhorst explained that the definition was something that had been used procedurally for
26 many years. The language would provide further clarity and consistency. A question was raised
27 regarding whether that was straight-line distance or walking distance. Community and Economic
28 Development Director, Michael Johnson explained that it would depend. The definitions were
29 included in the alcohol and tobacco ordinances of the State Code. Different things are measured
30 in different ways. For instance, one type of measurement would be used to measure a community
31 center or residential area. It was all detailed in the State Code, which the document referred to.
32 There was discussion regarding whether the “entrance of outlet” had to do with public entrances
33 or staffing entrances. Ms. DeSeelhorst explained that it was written as any entrance into the
34 structure or unit space. More specificity could be added if desired by the Commission. Some of
35 the Commissioners felt there needed to be additional specificity included. Ms. DeSeelhorst
36 believed the suggestion was to amend the definition to state:
37

- 38 • "Entrance of outlet" means any public entrance into the structure or unit space for which
39 the license is being applied for.
40

41 If the Planning Commission decides to approve the text amendments, Mr. Johnson suggested that
42 the motion specify that the language be consistent with State Code. The second amendment was
43 related to paved surfaces. Ms. DeSeelhorst explained that paved surfaces impact Titles 11, 12, and
44 19. City Code specifies that controlled vehicles aka recreational vehicles, commercial vehicles,
45 agricultural vehicles, trailers, and so on, must be stored on a paved surface. However, City Code
46 does not specify whether non-controlled vehicles should also be stored on a paved surface. That

1 means some inconsistencies needed to be considered. It was recommended that the definition be
2 added to Titles 11, 12, and 19 for “paved surface.”
3

- 4 • “Paved surface” means an improved surface, generally utilized for parking or access,
5 covered by asphalt, concrete, or other hard surface materials, as approved by the
6 Development Review Committee (“DRC”). “Paved surface” specifically excludes dry
7 gravel and similar materials as a finished product but allows for the use of permeable
8 pavement as approved by the Development Review Committee (“DRC”).
9

10 Ms. DeSeelhorst reviewed specific regulations. In Title 11, a proposed Item D was added to state
11 that “Parking areas shall consist of those paved materials defined under “paved surface” within
12 City Code.” In Title 12, the definition of “paved surface” was added as well as a regulation in the
13 Pavement Requirements section to state that “Pavement for parking areas shall consist of those
14 paved materials defined under “paved surface” within City Code.” In Title 19, the materials for
15 Parking Areas were amended for consistency to state that “Parking areas shall consist of those
16 paved materials defined under “paved surface” within City Code.” It was important to have
17 consistency between Titles 11, 12, and 19.
18

19 There was discussion regarding the reason for parking controlled vehicles on a paved surface.
20 Ms. DeSeelhorst was not certain about the rationale but explained that it might have to do with
21 runoff issues where oil permeated the ground. It might also have to do with durability due to the
22 heavier vehicle. Mr. Johnson did not know the exact reason the paved surface was necessary but
23 it came from Code Enforcement many years ago. His understanding was that it had to do with
24 leaking fluids from vehicles. He did not know if there were specific instances that prompted that
25 change. Ms. DeSeelhorst referenced the “permeable pavement as approved by the DRC” portion
26 of the language. It made sense to allow for permeable pavers where they were a good solution.
27 Mr. Johnson believed the currently drafted language would create more flexibility. Chair Mills
28 noted that there are more vehicles in Cottonwood Heights than ever. He was grateful that the
29 Planning Commission was discussing how the surfaces are managed.
30

31 The next amendment pertained to the Use Declaration removal. Mr. Johnson reported that a few
32 months ago, there was an application to have illegal sheds deemed legal. He could not think of a
33 circumstance where Staff would support that. Just because there was no pushback about an illegal
34 shed did not necessarily mean it should be deemed legal. The recommendation was that 19.88.140
35 (Application To Have A Use Violation Declared A Non-Conforming Use) be removed.
36

37 Ms. DeSeelhorst reported that the next amendment was related to carports. Currently, City Code
38 includes a definition for a carport, which is fairly general in nature. It did not follow up with any
39 development standards or regulations for where carports need to be. It was proposed that in
40 Title 19, in the definitions section, there be specificity that the existing definition for carport (“A
41 structure that is open on a minimum of two sides and designed or used to shelter not more than
42 three vehicles and not to exceed 24 feet on its longest dimension. Also called “covered parking
43 area.”) be updated as “carport, residential.” A subsequent definition for “carport, non-residential”
44 would be added. The added definition would be, “A structure that is open on a minimum of two
45 sides and is designed or used to shelter vehicles. A minimum length of 20 feet and a minimum
46 width of 10 feet is required for every parking space being covered by the carport.”

1
2 It was also recommended that language be added to Chapter 19.76 (Supplementary and Qualifying
3 Rules and Regulation). Ms. DeSeelhorst explained that the added language had to do with
4 residential carports and non-residential carports. She reported that residential carports are subject
5 to the same height, setback, placement, and lot coverage standards for attached or accessory
6 structures. For non-residential carports, more flexibility was proposed because sometimes with
7 larger non-residential sites the configuration is different. The language stated that the carports
8 should be architecturally similar to the primary structure on the property and not more than 20 feet
9 in height. Those that are attached to a non-residential building need to maintain the same setbacks
10 for the building. Those detached from a non-residential building needed to maintain the setbacks
11 outlined, which were as follows:

- 12
13 1. If adjacent land is zoned non-residential, a non-residential carport shall be located
14 in the rear of the primary building(s), at least six (6) feet away from the primary
15 building(s), and shall maintain a minimum setback from side and rear property lines
16 of three (3) feet.
17
- 18 2. If adjacent land is zoned residential, a non-residential carport shall be located in the
19 rear of the primary building(s), at least six (6) feet away from the primary
20 building(s), and shall maintain the minimum setbacks from the side and rear
21 property lines which is required for detached structures in the adjacent residential
22 zone.
23
- 24 3. Any non-residential carport located nearer than five (5) feet to any property line
25 must install a one-hour rated fire wall.
26
- 27 4. Detached non-residential carports may be permitted in the side or front yard of non-
28 residential properties as approved by the ARC following the demonstration by the
29 applicant that this configuration accomplishes the purposes of the City's Design
30 Guidelines.
31

32 Minor changes were made to the rest of the chapter, which included differences in lettering and
33 the removal of the conflicting carport language. Commissioner Shelton wondered if a carport was
34 considered different than a garage. Ms. DeSeelhorst confirmed this and explained that a carport
35 needs to be open on a minimum of two sides.
36

37 The next amendment had to do with Ordinary Projections. Ms. DeSeelhorst explained that the
38 language specifies that every structure must meet setbacks with the exception of the list shown.
39 Some language related to carports was removed and some language was added:
40

- 41 • The ordinary projections of windows where the projection is at least 18 inches above floor
42 level, awnings, parapets, relief carvings, roofs, cornices, chimneys, flues, and other
43 ornamental features that project into a yard not more than three feet.
44

45 Ms. DeSeelhorst explained that the provision was historically used to allow a roof overhang where
46 the wall of the home meets the setbacks and there is some overhang permitted. It also allowed for

1 more ornamental features. The changes were made to add more clarity. Additionally, a definition
2 for Ornamental Features had been added, which was as follows:

- 3
4 • Ornamental features are those design elements which serve as an ornament or decoration
5 to the outside of a building. Areas with usable square footage, such as stairwells, decks,
6 cantilevered rooms, bay windows, etc. do not qualify and must meet the standard setback
7 requirements outlined in the underlying zone.
8

9 The intention of that language was to allow for more flexibility with the design elements.
10 Commissioner Anderson suggested that the ornamental features definition state that it must be
11 attached to the building. Ms. DeSeelhorst confirmed that this could be done.
12

13 Amendments to the Non-conforming Uses language were reviewed next. Ms. DeSeelhorst
14 reported that the current non-conforming use process states that a legally non-conforming building,
15 which is a building that was considered legal at the time it was constructed but no longer complied
16 with the current City standards could be modified through a certain process outlined in the code.
17 The language was specific to a building and did not state anything about sites or other types of
18 structures. Historically, the City used “building” to also mean sites and structures. Staff felt it
19 would be beneficial to formally add some clarification. The procedure was the same, but language
20 had been added to indicate that it applied to a legally non-conforming building, site, or structure.
21

22 The next amendment related to daycares, pre-schools, and kennels. Ms. DeSeelhorst explained
23 that City Code contains a definition for indoor animal kennels but it does not specify where indoor
24 animal kennels are allowed. That had been problematic. Historically, the City has allowed them
25 as a Conditional Use in the zones that allow daycares and pre-schools as the impact and potential
26 nuisances are similar. That was not a permanent fix, so it was proposed that it be formalized.
27 Indoor animal kennel was added as a Conditional Use to the Neighborhood Commercial and
28 Regional Commercial Zones. In practice, it had also been allowed in the Mixed-Use Zone because
29 that zone allows daycares and preschools, however, based on the long-range goals for the Mixed-
30 Use Zone, Staff felt that was not consistent. As a result, it was not recommended that indoor
31 animal kennels be codified in Mixed-Use Zones. The other redline changes shown in the document
32 were intended to ensure that all of the language is consistent.
33

34 Commissioner Anderson wondered if the City needs to define indoor animal kennels as daycare
35 versus overnight care. Ms. DeSeelhorst located the language and read it aloud:
36

- 37 • Indoor kennels: an establishment with indoor pens in which more than four dogs or
38 domesticated animals are housed, groomed, bred, boarded, and trained.
39

40 Based on that definition, the animals could be boarded. Commissioner Anderson asked if the
41 animals are allowed to be let out into the backyard. Ms. DeSeelhorst explained that there was a
42 separate definition for outdoor kennels. The Commission could discuss whether there was a desire
43 to merge the two uses. As for where the outdoor kennels were allowed, that was also not called
44 out specifically in the Code. Concerns were expressed about indoor kennel use and not allowing
45 the animals to be let outdoors. It did not make sense to confine the animals indoors as the animals

1 would need to be let outside at times. Commissioner Steinman wondered if the use would make
2 more sense in a commercial zone as there would be more of an impact.

3
4 Mr. Johnson noted that the kennels are Conditional Uses, which means that any application would
5 need to come through the Planning Commission for approval. In the past, outdoor spaces had been
6 proposed and the Commission crafted Conditions of Approval to mitigate the concerns. For
7 instance, building a taller fence or moving the use away from adjacent neighbors. The Commission
8 would have a role in reviewing the setup of any outdoor element of a kennel. Commissioner
9 Chappell pointed out that a kennel would be worthwhile for residents in the City. As long as the
10 application comes through the Planning Commission before the use was granted she did not
11 believe there was a need to provide additional guidelines. It would still be reviewed by the
12 Commission.

13
14 There was discussion regarding appropriate zones for the use. Commissioner Steinman stated that
15 Neighborhood Commercial has a different impact than Regional Commercial. Ms. DeSeelhorst
16 explained that it would be a Conditional Use in both zones and would run through an impact
17 analysis where the Commission could impose reasonable conditions to mitigate issues. She
18 reiterated that Staff did not believe it was appropriate for Mixed-Use Zones. A zoning map was
19 shared with the Commission. She pointed out where Neighborhood Commercial and Regional
20 Commercial are located. The zoning for Creek Road was shared. Mr. Johnson explained that the
21 existing veterinary clinic there was a grandfathered use from Salt Lake County in a residential
22 zone. Commissioner Steinman felt it would make more sense to allow the indoor animal kennel
23 use in Regional Commercial rather than the Neighborhood Commercial. Ms. DeSeelhorst noted
24 that there was a lot of interest from kennel companies about the Neighborhood Commercial Zone.

25
26 Commissioner Anderson believed there was a difference between daycare, kennels, and overnight
27 boarding. She felt there should be separate definitions for each. Commissioner Shelton explained
28 that the major difference between the daycares and the kennels was that the daycares have an upper
29 limit that is defined by the City Code and by the State. There was no upper limit for the kennel
30 use, which he thought was problematic. Chair Mills agreed that these kinds of services are needed,
31 but since there was not a natural limit through State Laws, additional guidelines might need to be
32 drafted by the City. Ms. DeSeelhorst suggested that the Commission consider implementing a
33 ratio. For instance, animals to square footage o
34 r animals to employees. Having some flexibility in the amount allowed could be helpful and a
35 ratio would allow for that.

36
37 Commissioner Chappell pointed out that a Business License would be required for the use.
38 Ms. DeSeelhorst confirmed that both a Business License and a Conditional Use Permit would be
39 needed for the indoor animal kennel. Commissioner Chappell noted that some other cities have a
40 cap on the number of animals. She would not be opposed to that. With it being a Conditional Use
41 Permit, she felt there was already an appropriate process in place. Any inappropriate applications
42 would be addressed during that process. Commissioner Anderson wondered how a cap would be
43 set. Ms. DeSeelhorst explained that Staff could look into that and come back to the Commission.

44
45 Mr. Johnson suggested that everything else move ahead and the animal kennel item be separated
46 and explored further. That way, all of the other amendments could be forwarded to the City

1 Council for consideration. Ms. DeSeelhorst explained that even though this was a City-initiated
2 text amendment, it would still follow the same process as if it were initiated by a private developer.
3 Any action the Planning Commission took would be a recommendation to the City Council.
4 Ultimately, the City Council would make the final legislative decision. If the Commission wanted
5 to recommend the text amendments, it could be done without the animal kennel item.

6
7 The sample motion was shared.

8
9 ***Commissioner Shelton moved to recommend APPROVAL with the removal of the indoor animal***
10 ***kennel item. Commissioner Chappell seconded the motion.***

11
12 There was discussion on the motion. Commissioner Anderson noted that other changes had been
13 discussed as well. She wondered if there needed to be a mention that those would also be
14 incorporated into the recommendation. Ms. DeSeelhorst asked that those be referenced.
15 Commissioner Anderson mentioned the suggestion that the ornamental features definition clearly
16 state that it must be attached to the building. Commissioner Ebbeler offered to amend his motion.
17 Mr. Johnson noted that there had been discussion about the entrance of outlet language being
18 consistent with State Code. However, all of that was defined in the State Code and that was
19 referenced. As a result, he believed that was covered appropriately within the current language.
20 Ms. DeSeelhorst reviewed the proposed text amendments with the Commission one more time.

21
22 ***Commissioner Ebbeler moved that the Planning Commission forward a recommendation of***
23 ***APPROVAL to the City Council for Project ZTA-23-001, based on the findings listed in the Staff***
24 ***Memo and attachments dated April 19, 2023, subject to the following conditions:***

- 25
26 1. ***That the indoor animal kennel item be removed for additional consideration.***
27
28 2. ***That the ornamental features definition state that it must be attached to the***
29 ***building.***
30

31 ***The motion was seconded by Commissioner Chappell. Vote on Motion: Commissioner***
32 ***Anderson-Aye; Commissioner Chappell-Aye; Commissioner Ebbeler-Aye; Commissioner***
33 ***Shelton-Aye; Commissioner Smith-Aye; Commissioner Steinman-Aye; Chair Mills-Aye. The***
34 ***motion passed unanimously.***

35
36 **4.0 Consent Agenda.**

37
38 **4.1 Approval of Planning Commission Minutes from March 8, 2023.**

39
40 Ms. DeSeelhorst shared the previous Planning Commission Meeting Minutes. She explained that
41 the draft shown did not have the suggested amendments discussed during the Work Session.

42
43 ***Commissioner Shelton moved to APPROVE the Planning Commission Minutes from March 8,***
44 ***2023, with the changes referenced during the Work Session. The motion was seconded by***
45 ***Commissioner Smith. The motion passed with the unanimous consent of the Commission.***
46

1 **5.0 Adjourn.**

2
3 *Commissioner Ebbeler moved to ADJOURN. The motion was seconded by Commissioner*
4 *Chappell. The motion passed with the unanimous consent of the Commission.*

5
6 The Planning Commission Meeting adjourned at 6:50 p.m.
7

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, April 19, 2023.*
3

4 Teri Forbes

5 Teri Forbes

6 T Forbes Group

7 Minutes Secretary

8

9 Minutes Approved: _____