

# COTTONWOOD HEIGHTS CITY PLANNING COMMISSION MEETING AGENDA

August 6, 2025



Notice is hereby given that the **Cottonwood Heights Planning Commission** will convene on **Wednesday, August 6, 2025**, at **Cottonwood Heights City Hall** (2277 E. Bengal Blvd., Cottonwood Heights, UT 84121) for its **Work Session** and **Business Session** meetings.

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

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

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

## **5:00 p.m. Work Session**

### **1.0 Review Business Session Agenda**

*The commission will review and discuss agenda items.*

### **2.0 Adjourn**

## **6:00 p.m. Business Session**

### **1.0 Welcome and Acknowledgements**

- 1.1 Ex parte communications or conflicts of interest to disclose

### **2.0 General Public Comment**

*This is an opportunity for individuals to make general public comments that do not relate to any projects scheduled for public hearing under the “Business Items” section of this agenda. Please see the Public Comment Policy on the reverse side of this agenda for more information.*

### **3.0 Business Items**

#### **3.1 Project CUP-25-011 (PUD-25-001)**

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

### **4.0 Consent Agenda**

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

### **5.0 Adjourn**

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

## **Public Comment**

Individuals may provide public comment verbally or via writing.

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

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

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

Verbal comment periods are an opportunity for individuals to share comments as they see fit but **are not an opportunity for "question and answer" dialogue.** Questions should be directed to city staff at [planning@ch.utah.gov](mailto:planning@ch.utah.gov). Verbal comments provided during the public comment period will be limited to three minutes per individual, or five minutes per a spokesperson who has been asked by a group that is present to summarize their concerns.

Alternatively, **written comments** may be submitted to staff via email at [planning@ch.utah.gov](mailto:planning@ch.utah.gov). For written comments to be entered into the record and distributed to the planning commission prior to the meeting, **they must be submitted to staff by 12:00 p.m. MST on Tuesday, August 5, 2025, the day prior to the meeting.** Comments received after this deadline will be distributed to the planning commission after the meeting.

## **Meeting Procedures**

Items will generally be considered in the following order: 1. Chair introduction of item, 2. Staff presentation, 3. Applicant presentation, if applicable, 4. Chair opens public hearing, if applicable, 5. Chair closes public hearing, if applicable, 6. Planning commission deliberation, 7. Planning commission motion and vote on item.

Applications may be tabled if additional information is needed in order to act on the item; or if the planning commission feels there are unresolved issues that may need further attention before the commission is ready to make a motion. No agenda item will begin after 9:00 pm without a unanimous vote of the commission. The commission may carry over agenda items, scheduled late in the evening and not heard, to the next regularly scheduled meeting.

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

In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting shall notify the City Recorder at (801) 944-7015 at least 24 hours prior to the meeting. TDD number is (801) 270-2425 or call Relay Utah at #711.

## **Confirmation of Public Notice**

On Friday, August 1, 2025, a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Cottonwood Heights City Offices. The agenda was also posted on the City's website at [www.cottonwoodheights.utah.gov](http://www.cottonwoodheights.utah.gov) and the Utah public notice website at <http://pmn.utah.gov>.

DATED THIS 1<sup>ST</sup> DAY OF JULY, ATTEST: TIFFANY JANZEN, CITY RECORDER

# COTTONWOOD HEIGHTS CITY PLANNING COMMISSION STAFF MEMO



Aug 6, 2025

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## **Purpose of Memo**

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

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

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## **Commissioner Concerns and Staff Responses**

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

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

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

Response from Fire Department:

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

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

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

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## **Building Department Comments:**

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

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### Updated Proposal Summary

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

The applicant is proposing the following deviations from city code:

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

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### Staff Recommendation

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

Attachment:

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

# COTTONWOOD HEIGHTS CITY PLANNING COMMISSION STAFF REPORT



July 16, 2025

## Summary

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

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

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

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

**Recommendation:**  
APPROVE



*Satellite view of subject property*

## Background

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

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

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

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

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

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## Request

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

The applicant is proposing the following deviations from city code:

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

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

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## Analysis

### **Zoning and Land Use**

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

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

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

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

### **Building Code**

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

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## Conditional Use Permit Procedure and Authority

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

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

### **19.78.170 Scope Of Planning Commission Action; Appeals**

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

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

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

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

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

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## Noticing

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

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

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## Findings

### **Findings of fact include:**

- 1. That the proposed use is one of the conditional uses specifically listed in the zoning district in which it is to be located;*
- 2. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, comfort, order or general welfare of persons residing or working in the vicinity;*
- 3. That the use will comply with the intent, spirit, and regulations of this title and will be compatible with and implement the planning goals and objectives of the city;*
- 4. That the use will be harmonious with the neighboring uses in the zoning district in which it is to be located;*
- 5. That nuisances which would not be in harmony with the neighboring uses, will be abated by the conditions imposed;*
- 6. That protection of property values, the environment, and the tax base for the city will be assured;*
- 7. That the use will comply with the city's general plan;*
- 8. That some form of a guaranty assuring compliance to all imposed conditions will be imposed on the applicant or owner;*
- 9. That the internal circulation system of the proposed development is properly designed;*
- 10. That existing and proposed utility services will be adequate for the proposed development;*
- 11. That appropriate buffering will be provided to protect adjacent land uses from light, noise and visual impacts;*

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

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

### **Approval**

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

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

### **Denial**

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

- *List findings for denial...*
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## Attachments

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

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

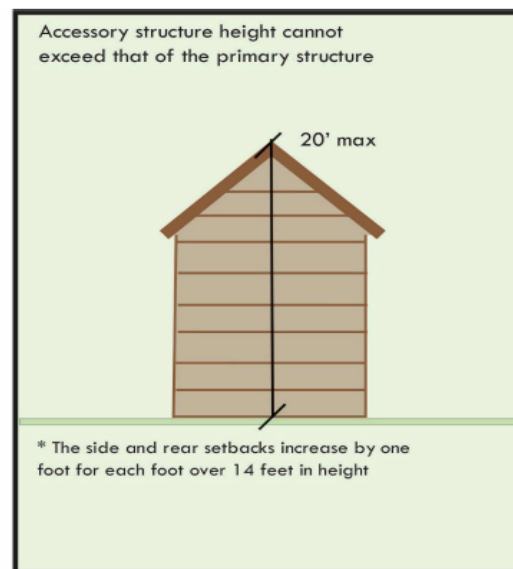
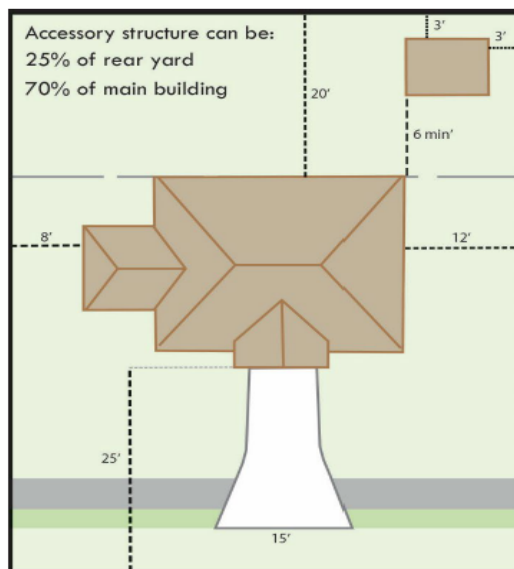
July 18, 2025, Planning Commission Hearing

## Project Narrative

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

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

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



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

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

## Proposed Design Guidelines

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

### Detached Patio Cover with Covered Roof



### Detached Open Air Pergola and Detached Covered Pergola



**Detached Open Air Pergola**



**Detached Open Air Pergola with Bar Seating and Gas BBQ**



## Modification to Setbacks of Accessory Building Standards

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

### Accessory Building Standards: The following city standards will remain.

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

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

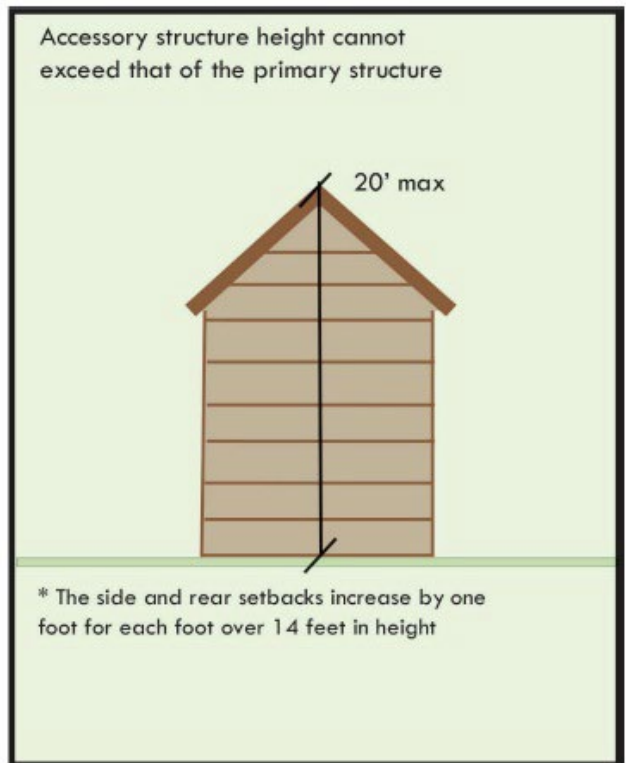
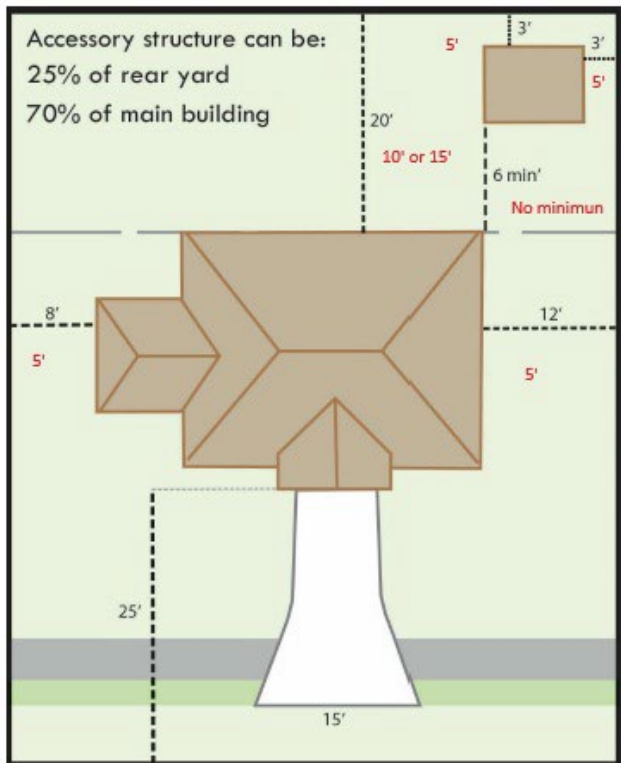
- The structure can be located within 6' of the home but not attached.
- The posts of the structure cannot be located closer than 5' to the rear or side setback line as this would trigger the requirement for a one-hour fire rated wall assembly.
- The roof of the structure may overhang the posts by up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



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

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

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



## **Conclusion**

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

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

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

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

Mr. Cook,

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

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