

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

Wednesday, October 1, 2025

5:00 p.m.

2277 East Bengal Boulevard

City Council Chambers

ATTENDANCE

Members Present: Chair Lucy Anderson, Vice-Chair Sean Steinman, Commissioner Dan Mills, Commissioner Mike Smith, Commissioner Rusty Lugo-Alternate

Staff Present: Community and Economic Development Director, Jim Spung; Deputy City Recorder, Cienna Brummel; Planner III, Maverick Yeh; System Administrator, Alex Earl; Planner I, Emma Glende; Planner III, Sheldon Howa

WORK SESSION

Chair Lucy Anderson called the Planning Commission Work Session to order at 5:01 p.m.

1.0 Review Business Session Agenda.

Chair Anderson reviewed the Business Session Agenda and indicated that the meeting would begin with the election of the Planning Commission Chair and Vice-Chair, followed by two Zoning Text Amendments and the Consent Agenda.

2.0 Review and Discuss the General Plan Update.

Chair Anderson appreciated the ability to comment and view others' comments on the updated General Plan. She reminded the Planning Commission to review and comment on the document prior to the joint City Council/Planning Commission meeting.

New Planner III, Sheldon Howa, reported that he worked for Herriman City for six years prior to moving to Cottonwood Heights. Planner I, Emma Glenda, began working with Cottonwood Heights a few months prior after graduating with a master's degree in City Planning.

Community and Economic Development Director, Jim Spung, provided context on the General Plan, which establishes the City's policy vision for the next 10 to 20 years. It provides Staff with direction on projects and initiatives that should be prioritized, code amendments, etc. The General Plan includes eight chapters, including both state-mandated chapters and City-specific chapters on Economic Development, Sustainability, and Parks and Recreation.

The General Plan update process began in late 2019 or early 2020. In 2021, public outreach was conducted through open houses and online feedback. A draft General Plan was presented in 2022,

after which the City Council indicated that modifications were necessary and no further work was done on the plan. In early 2025, the City Council indicated that completing the update was a priority. A revised draft was presented in August 2025 that reflected the feedback and comments received through 2024.

Mr. Spung reported that the Mayor, City Council, and Planning Commission had changed since the process began and many of those who informed the draft plan were no longer with the City. It was, therefore, important to review the document to ensure that it reflected the current administration's vision and that the ideas and objectives it identified were adequate to meet that vision.

In response to a question raised by Commissioner Smith, Mr. Spung clarified that the document is for both Staff and the public. A General Plan is similar to a business plan in that it provides Staff and executive decision-makers with direction, but it is also the community's plan because the public has a say in what they would like the City to be in the future. Staff reviews the General Plan every time an application is received for rezoning, site plans, subdivisions, etc., to ensure that the project is consistent with the City's vision.

Commissioner Smith stated that the language used in the General Plan felt too jargony, which was not appealing to the general public. Chair Anderson indicated that Commissioner Smith should add comments to that effect because the General Plan should be a clear and transparent document. Many of her comments are actually questions about what a particular phrase means.

Commissioner Lugo asked how the timing for a General Plan update is determined. Mr. Spung explained that it is a living document that can be updated at any time, but 10 to 20 years is a typical timeframe. The Cottonwood Heights General Plan was adopted after the City was incorporated in 2005, and most of the goals outlined in that plan had been achieved. The updated General Plan will guide the next phase of the City's growth by providing a long-term vision with some short-term goals. In response to a follow-up question from Commissioner Lugo, Mr. Spung confirmed that the current General Plan was available on the City website.

Commissioner Steinman asked how the General Plan can guide legislative items like zoning changes. For example, if it could indicate that a specific area should be evaluated as a potential Redevelopment Area ("RDA") or Community Development and Renewal Agency ("CDRA") within a certain timeframe. Mr. Spung stated that the General Plan is a policy guide that provides Staff with the authority to research and draft legislation. They would then bring it before the Council and remind them that it was prepared in response to a policy they adopted in the General Plan to establish a specific RDA by a certain date. Staff implements the policy direction outlined in the General Plan, and the Council is often hesitant to oppose policies they adopted in that plan.

Commissioner Steinman remarked that including an adoption period in the General Plan was important because the City Council changes and a future Council could remove goals from the Plan if they were not enforceable. He performed a comparison between the 2005 General Plan and the 2025 draft, and he preferred that the items be in parallel before adoption.

Mr. Spung clarified that the General Plan is meant to present a broad vision of what the City should have. For example, it may identify the goal of a more walkable city or that Fort Union Boulevard has more of a Main Street feel with an emphasis on architectural features. Staff would then determine the best mechanism for achieving that goal and bring a draft policy back to the City Council. There is a lag time between the adoption of the General Plan and the creation of policy, and future leadership could have a different vision for the City.

Commissioner Mills noted that the General Plan lays a foundation so developers do not have to guess about the City's vision. It is a reference document, not City Code, but developers have used the General Plan as a basis for an appeal. It is jargony by necessity because it is a planning document and speaks primarily to that audience. He trusts that the Planning Department Staff had reviewed the draft through the filter of Cottonwood Heights and researched the City's history, including decisions made on appeals. It was important to decrease the chance of the General Plan being at odds with the public at large, but the delay in adopting the update was partially due to the City's engaged citizenry. For example, Form-Based Code may be perceived by some as a political issue. If the language was jargony because it would help the Planning Department better communicate with developers, that was acceptable. However, he expected Staff to review the document and note any necessary changes rather than just defend the document in its current state.

Mr. Spung clarified that the Planning Commission advises the City Council, but the Council has the discretion to approve or disapprove legislation for any reason, and it is challenging to appeal a discretionary legislative action. The Planning Commission was not in danger of making decisions contrary to the General Plan because it only reviews administrative matters to determine if they meet the current City Code. Appeals occur when there is a difference in interpretation of the law or when a party disagrees with the process.

In response to a question raised by Commissioner Mills, Mr. Spung stated that rezoning is completely discretionary.

Commissioner Shelton stated that in his experience, the most effective general plans include timelines. The draft General Plan references the Transportation Master Plan and Moderate-Income Housing Plan, which he sees as the means to accomplish the City's vision. The Transportation Master Plan indicates that a certain amount of money will be available to spend on Fort Union Boulevard by 2035, and that will be accounted for from a budgetary standpoint to ensure that it happens. No real timelines are indicated for economic development, housing affordability, or land use, and he believed there should be more specific guidance to ensure that regular action is taken on those items. If the City Council disagrees with that vision, they can modify the General Plan. He liked that the document refers to the Transportation Master Plan because that provides specific timelines and action steps. The original General Plan was created for a brand-new city and people were more involved in getting things done, but now it was more reactionary. Cottonwood Heights is an infill development City, and they needed to identify areas for redevelopment and how to promote the City Between the Canyons from the standpoints of tourism, economic development, and land use.

Mr. Spung agreed with setting specific targets or measurable elements to provide direction and allow Staff to evaluate the City's progress in the future. The General Plan is intended to provide

direction on how to achieve the future vision set by the City Council. It should provide a broader view of what Cottonwood Heights is in 20 years in terms of what the City will look like, who will live here, economic opportunities, transportation infrastructure, recreation infrastructure, etc. If that vision can be articulated through the General Plan, then Staff, the Planning Commission, and the City Council can take steps to implement it. It should contain specific goals and actionable items. He suggested that the document be reviewed every six months.

Commissioner Steinman asked if five and 10-year critical paths could be included for each section of the General Plan. That would provide a solid indicator that the document was worth the investment and that the City is doing what citizens want. The original General Plan included a vision for Hillside Plaza that was now being executed and he believed that adding critical paths for other goals set in the General Plan would be helpful.

Mr. Spung encouraged the Commissioners to read and comment on the draft document. He agreed that some sections were too wordy and he made suggestions to replace some language. Other items need to provide direction or clarification. For example, a listed community goal is to *distinguish Cottonwood Heights as a forward-thinking community with a state-of-the-art transportation system*. If Staff does not know what something means, they will not know how to implement it. The City's vision needs to be clearly articulated.

In response to a question, Mr. Spung clarified that the document was drafted by the consulting team. The Planning Commission and City Council would review the draft separately, then discuss it together at the joint work session on October 21. The consultants would then produce an updated version of the General Plan based on feedback from the City Council, Planning Commission, Parks, Trails, and Open Space Committee, and Staff. Once everyone at the City is happy with the draft, it will be released for public comment.

Mr. Spung asked for feedback on the community-wide goals outlined in Chapter 1. Commissioner Smith suggested that language be added to explain that some affordable housing initiatives are state-mandated and clarify which goals are the City-initiated versus what is required by the State. Commissioner Steinman noted that the Moderate-Income Housing Plan is referenced in the document.

Mr. Spung indicated that the Moderate-Income Housing Plan is included as a chapter of the General Plan and it is a required section per State law. However, he and Council Member Highland had commented with similar concerns to Commissioner Smith. For example, the first Principle listed under Goal 3: Ensure Community and Lifestyle Choice is: *Ensure that Cottonwood Heights residents have access to housing that is safe, accessible, affordable, attractive, and well-connected to services, amenities, parks, trails, and open space*. However, the City cannot control affordability. He suggested the wording be changed to indicate that Cottonwood Heights "has a variety of housing types that are offered at different price points." That avoids use of the term "affordable", which can be widely interpreted.

Mr. Spung stated that it would be helpful for the Commissioners to identify areas where clarifying language was needed to ensure that policies could be implemented to support each goal. Commissioner Mills noted that the word "accessible" needed to be better defined, perhaps in an

endnote, because the term can have various meanings. Mr. Spung agreed that the language needed to be clear in order to avoid conflict or confusion. Commissioner Mills suggested using phrasing like “aspires towards” rather than “is”.

The Commission discussed the potential number of comments on the document. Mr. Spung stated that the goal of the joint session was to identify sections where there may be conflicting ideas or disagreements so everyone can discuss the matter and reach a consensus. In response to a question from Chair Anderson, Mr. Spung indicated that the comments would not be consolidated, but the guidance from the joint meeting would be communicated to the consultants.

Mr. Spung indicated that many of the principles outlined for Goal 4: Transform Major Corridors are outside of the City’s control, and achieving those goals would be a byproduct of implementing other elements of the plan. In response to a question from Chair Anderson, he clarified that “multimodal” means different forms of transportation, i.e., walking, biking, scooters, cars, buses, etc.

Chair Anderson asked if the first principle, *Minimize local traffic congestion and parking demand by developing a robust multimodal transportation system that transforms auto-oriented corridors into multimodal streets*, was directed at addressing the major congestion on Fort Union Boulevard on ski days. Mr. Spung indicated that if the intent was to address that congestion, the goal should be reworded to reflect that, so the intent is clear. For example, “Consider alternative transportation for Fort Union Boulevard during the winter season.” The intent of the principle was clear from a planner’s perspective, but it was too broad.

Commissioner Mills stated that the City has no control over Wasatch Boulevard. The Utah Department of Transportation (“UDOT”) has indicated that they have an aspirational goal of Highland Drive being a backup superhighway and they want more arterial roadways to feed the canyons, including Fort Union Boulevard. Those drivers want to get through the City, but they do not stay or spend money in Cottonwood Heights and are not a priority. He suggested that the plan should reflect those facts and outline the City’s vision in the event that other parties invest in the area. Mr. Spung agreed that the principle should be restructured to indicate that the City would support or encourage those efforts, but could not develop them. He understood the intent, but the City’s role in achieving those goals and its position regarding them should be defined.

Regarding Goal 8: Enhance Cottonwood Heights’ Place in the Larger Region, Chair Anderson noted that the word “friendly” was too subjective in the fifth principle, *Maintain the City as a friendly and desirable place to live and work*. Mr. Spung stated that Council Member Hyland suggested that it be replaced with, “Preserve the City’s desirable mountain suburban lifestyle where people are proud to live, learn, work, and recreate.” That defines a City identity and culture that they can aspire to maintain.

Commissioner Steinman asked if a definition could be created around the distinct sense of place. Mr. Spung stated that Cottonwood Heights is unique and its General Plan needs to reflect that. It can be challenging to balance competing interests to preserve what we have versus the reality of State mandates, growth, and economic development, but it was important to create that reference point.

Commissioner Steinman noted that the 2005 General Plan provides the following definition of sense of place: *Preserve the City's suburban bedroom community character*. He believed they need to define what Cottonwood Heights is now, as it is not a bedroom community. The City is positioned between two tourism canyons. In his opinion, resisting becoming a tourism community would give Millcreek and Sandy an economic development advantage and cause Cottonwood Heights to miss out on tax dollars. He believes the sense of place should be clearly identified in the General Plan.

Mr. Spung agreed and believes the document as a whole is trying to capture that sense of place. The City is at a turning point. It is not a brand-new City anymore. They needed to decide if they wanted to take advantage of recreation and tourism opportunities, but also understand the tradeoffs because it would bring more traffic, more jobs, more jobs, and potentially higher density. Those tradeoffs must be understood and clearly communicated to the public. If citizens did not want change, they needed to consider how that decision worked for cities in the Rust Belt that resisted economic development. Conversely, other communities have allowed too much development. It was important to strike a balance with the City's goals, and then Staff could determine the best way to reach them.

Mr. Spung encouraged the Commissioners to review the map included in Chapter 2: Land Use. The community is mostly residential, and no drastic changes were suggested to those neighborhoods. Well-established, stable neighborhoods are the core of any community. The opportunity areas identified in the plan are activity centers located primarily in commercial and multifamily nodes around major transportation corridors. Many commercial shopping centers are outdated and vacant, and the City had the opportunity to determine what it wanted those properties to become. They could become mixed-use, walkable nodes with urban design qualities similar to a resort-style community or be redeveloped into new shopping centers that would generate tax dollars. The Gravel Pit area is slated to be a regional center, which he was in favor of, as it could absorb density without impacting established areas of the City. It could also provide an opportunity to capitalize on tourism.

Commissioner Mills stated that the Gravel Pit is the largest undeveloped commercial parcel on the east side of Salt Lake County. He asked for Mr. Spung's assistance in helping cultivate that economic opportunity. The City does not have a Costco or an auto mall. Development needs to be in keeping with the flavor of Cottonwood Heights, but the only way to prevent tax increases long-term is by generating sales tax revenue. Mr. Spung indicated that Commissioner Mills' vision for the area could be included in the document. When a development application is received, the Planning Commission and City Council could then consider whether it aligns with the General Plan.

Chapter 3: Moderate-Income Housing Plan was adopted recently to meet State requirements. Mr. Spung noted that the plan had not changed. The consultant had simply reformatted it to fit the style of the overall General Plan.

Mr. Spung noted that Chapter 4: Transportation has some legislative authority. The City cannot build new streets or roads or require developers to do so unless they are in the General Plan.

However, if new planned connections are identified in the plan, developers can be required to pay for any that are associated with their projects. Commissioner Mills stated that he did not believe the City had enforced that requirement, but he would be pleased if it began to do so. The closest they had come was a project where three R-1 parcels were combined to build 20 units and the developer was required to improve the sidewalk as indicated on the Fort Union Master Plan.

Mr. Spung reported that the General Plan could also reference more specific initiatives. For example, a transportation goal is to have a street design guide with cross-sections for all street classifications including specific sidewalk widths, landscape and park strip features, etc. A separate planning effort could be initiated to implement that vision and provide specific criteria to help brand the City. Commissioner Mills stated that form-based code may more accurately reflect the City's current direction on street design than the Fort Union Master Plan. Mr. Spung noted that small area plans focus on more specific elements.

Mr. Spung encouraged the Commissioners to review and add their comments to the document.

3.0 Adjourn.

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

The Work Session adjourned at 5:59 p.m.

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

Wednesday, October 1, 2025

6:00 p.m.

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City Council Chambers**

Members Present: Chair Lucy Anderson, Vice-Chair Sean Steinman, Commissioner Dan Mills, Commissioner Mike Shelton, Commissioner Mike Smith, Commissioner Rusty Lugo-Alternate

Staff Present: Community and Economic Development Director, Jim Spung; Deputy City Recorder, Cienna Brummel; Planner III, Maverick Yeh; System Administrator, Alex Earl; Planner I, Emma Glende; Planner III, Sheldon Howa

BUSINESS SESSION

Chair Lucy Anderson called the Planning Commission Business Session to order at 6:00 p.m.

1.0 Welcome and Acknowledgements.

1.1 Ex Parte Communications or Conflicts of Interest to Disclose.

There were no Ex Parte Communications or Conflicts of Interest disclosed.

2.0 General Public Comment.

There were no public comments.

3.0 Business Items.

3.1 Planning Commission Chair and Vice-Chair Elections.

Chair Anderson nominated Commissioner Steinman to serve as Planning Commission Chair. Commissioner Steinman accepted the nomination. In response to a question, Chair Anderson stated that her term expires in April 2026 and a new election would be required at that time if she remains Chair. For continuity, she suggested that the elections continue to be held in October. Commissioner Smith agreed but stated that Chair Anderson has done an outstanding job and he would support her if she wanted to continue as Chair.

Chair Anderson moved to APPOINT Commissioner Sean Steinman as Planning Commission Chair effective October 15, 2025. The motion passed with the unanimous consent of the Commission.

Commissioner Mills nominated Commissioner Smith to serve as Planning Commission Vice-Chair. Commissioner Smith accepted the nomination.

Chair Anderson moved to APPOINT Commissioner Mike Smith as Planning Commission Vice-Chair effective October 15, 2025. The motion passed with the unanimous consent of the Commission.

3.2 Project ZTA-25-002 – A Public Hearing and Potential Action on a Staff-Initiated Zoning Text Amendment to Allow Catering Services as a Conditional Use in the O-R-D Zone, Limited to Offsite Food Preparation and Service and Not as a Retail Restaurant.

Chair Anderson reported that the above item was not discussed during the Work Session.

Planner I, Emma Glende, presented the Staff Report for a City-initiated Zoning Text Amendment to update Cottonwood Heights City Code §19.46.030 Office, Research and Development (“O-R-D”) Zone to allow catering as a Permitted Use.

Cottonwood Heights received inquiries from businesses wishing to operate catering services in the O-R-D Zone. However, the current Code only permitted on-site cafeterias or restaurants primarily for employees of the zone and did not mention catering services. Some buildings in the zone are equipped with commercial kitchens that would be suitable for catering. By allowing catering as a Conditional Use, the City would retain discretion to review potential negative impacts like traffic, parking, odors, and hours of operation. Requiring off-site delivery services would ensure compatibility with the zone’s primary purpose of providing space for offices, research, and related businesses.

Staff recommended that the Planning Commission forward a recommendation of approval to the City Council based on the following findings:

- The current Code did not address catering services.
- The lack of clarity created uncertainty for applicants and Staff.
- Allowing catering as a Conditional Use would enable the existing commercial kitchens to be utilized.
- Requiring off-site delivery would be in line with the current purpose of the O-R-D Zone.

Chair Anderson stated that some catering services allow customers to pick up their order and asked if that would be allowed. Ms. Glende clarified that only off-site delivery would be permitted. Chair Anderson noted that the provided definition was for Catering Service, but it is always referred to in the plural. For consistency, she suggested that the text be amended to “Catering Services.”

Commissioner Mills asked how many properties are in the O-R-D Zone. Ms. Glende reported that many of the large office buildings near Interstate 215 are zoned O-R-D. Commissioner Mills noted that properties in that area generally have sufficient ingress and egress, so he believed it was a suitable location for a catering business. Community and Economic Development Director, Jim

Spung, clarified that the zone includes the Cottonwood Corporate Center near Interstate 215, the office park near the intersection of Fort Union Boulevard and 1300 East, and a few parcels off 1300 East near the interstate.

Chair Anderson asked if an existing restaurant in the area could add catering services to their offerings. Ms. Glende reported that some restaurants like Knickerbockers Deli offer catering as an accessory Use, but the amendment would allow companies whose primary focus is catering.

Commissioner Steinman stated that it would benefit the business if consumers could pick up their order, and he did not want to limit businesses by prohibiting it. Chair Anderson agreed. After discussion, it was decided that the Text Amendment would be amended to allow onsite pickup, but not onsite consumption.

In response to a follow-up question from Commissioner Steinman, Ms. Glende reported that Knickerbockers Deli is licensed under the Permitted Use of *Restaurant or Cafeteria for supplying meals only to employees and guests for the principal use*. Mr. Spung stated that a commercial kitchen that provides catering services would like to operate in the zone.

Commissioner Mills stated that the Cottonwood Corporate Center has ample unused parking that he would like to see used for overflow ski parking on weekends. That would enable businesses in the center to do robust business and be a potential economic engine for the City. It would also be helpful from a security standpoint because the property would not be vacant during off-hours.

Chair Anderson opened the public hearing. There were no public comments. The public hearing was closed.

Mr. Spung clarified that the proposed changes would be to both the definition and the Use-specific standard outlined in Section 19.46.030(7).

Commissioner Smith moved to forward a recommendation of APPROVAL to the City Council for Project ZTA-25-002 to the City Council, with the following changes:

- 1. Change the defined Use from “Catering Service” to “Catering Services” and update the definition to: An establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location or picked up by the customer and are consumed off-site.***
- 2. Modify Section 19.46.030(7) to allow pickup of food and meals for off-site consumption.***

Commissioner Steinman seconded the motion. Vote on Motion: Commissioner Shelton-Yes, Commissioner Mills-Yes; Commissioner Lugo-Yes; Commissioner Smith-Yes; Commissioner Steinman-Yes; Chair Anderson-Yes. The motion passed unanimously.

3.3 Project ZTA-25-003 – A Public Hearing and Potential Action on a Staff-Initiated Zoning Text Amendment to Define “Open Structures” (e.g., Gazebos, Pergolas, Trellises) and Clarify Setback, Coverage, Height, and Separation Requirements for Accessory Buildings in Residential Zones.

Planner III, Maverick Yeh, presented the Staff Report and stated that the City-initiated Zoning Text Amendment would update the building separation requirements in City Code § 19.76.030. The current ordinance established that all buildings must be separated by a minimum of six feet, and the proposed amendment would clarify that the requirement only applies to enclosed buildings. Open-air structures such as gazebos and pergolas would be exempt. The purpose of the amendment was to provide property owners with flexibility to enhance their outdoor living areas while ensuring compliance with applicable building code, fire safety, and setback regulations.

In August 2025, application CUP-25-011 raised broader issues with requirements for open-air structures. The Planning Commission denied the application and recommended that the matter be addressed through a Zoning Text Amendment that would apply City wide. Staff reviewed the matter with the Building and Fire Departments who indicated that the six-foot minimum separation was necessary for safety and fire protection, but open-air structures do not have the same level of risk.

Staff recommended that the Planning Commission forward a recommendation of approval to the City Council based on the following findings:

- The current rule is applied broadly and created challenges for some residents, especially those with small lots or grandfathered nonconforming setbacks.
- Open structures are not habitable and lack walls.
- It was recommended that open structures be exempted from the six-foot setback requirement and not require a one-hour firewall.
- A five-foot setback from property lines would still be required.

Chair Anderson opened the public hearing. There were no public comments. The public hearing was closed.

Chair Anderson asked if the amendment should clearly indicate that no permanent kitchen features can be installed in open-air structures. Mr. Yeh stated that the Building Department would deny any application for features like fire pits or permanent outdoor kitchens. The amendment specified that the structure must comply with Fire Code requirements, but additional clarifying language could be added at the Commission’s discretion.

Commissioner Mills suggested that language be added to indicate that the use of electricity or gas was prohibited. He was concerned that pizza ovens, stoves, or large-screen televisions could be installed. Mr. Yeh clarified that installation of electric, gas, or plumbing requires a Building Permit and inspection to verify that all City and Fire Code requirements are met. Chair Anderson agreed that additional language should be added to clarify that those elements are not allowed.

Commissioner Shelton asked if the amendment would modify setbacks for carports or decks, which are similar open-air structures. Mr. Yeh indicated that the change would not include those features, which are defined elsewhere in the City Code. Mr. Spung clarified that the definition specifically references *outdoor architectural features such as gazebos, pergolas, trellises, and similar shade structures*. The roof of a covered deck or carport would be attached to the house. Open-air structures are accessory to the home, not physically attached to it.

Commissioner Mills suggested that language be added to the definition to exclude decks and parking structures. Chair Anderson suggested that the language specify that the structure could not be connected to the home. The definition of “pergola” was discussed, and it was noted that a pergola is usually constructed on top of a deck or concrete pad. The amendment would allow a zero-foot setback from the house but require a five-foot setback from the property line.

In response to a question from Commissioner Shelton, Mr. Spung clarified that the setback for a deck would be the same as the primary structure because it is physically attached to the house. The amendment would exempt adjacent, unattached open-air structures from the six-foot separation requirement for enclosed accessory structures.

Commissioner Shelton asked if the setbacks from the property line were different for decks versus pergolas. He did not see a practical difference between a structure that touches the house and one that is attached to it. Chair Anderson stated that an attached structure is very different from one that is immediately adjacent to it. Attachments to the home must meet different criteria. Commissioner Shelton disagreed because he believes an immediately adjacent structure is functionally attached from a construction point of view.

Commissioner Shelton asked Staff to review the current deck and carport setbacks in residential zones. Mr. Spung reported that Section 19.76.030.R.5(A) states: *Decks shall be subject to the same height, setback, placement, and lot coverage standards for either attached or accessory buildings in the underlying zone, depending on whether the deck is attached to the main building or constructed as an accessory structure*. The setback is based on the underlying zoning district. Mr. Yeh reported that the minimum setback is three feet from the rear property line in the R-1-8 Zone and five feet in RR zones. Accessory structures are only allowed in rear yards, not side yards.

Chair Anderson asked if decks were defined as accessory structures in City Code. Mr. Spung clarified that a deck is not considered a building and is not subject to the same setback requirements as a shed or other structure. The proposed standard could theoretically apply to a detached, elevated deck that is not connected to the home. Commissioner Shelton reiterated that being immediately adjacent to the house is the same as being connected to it. Commissioner Mills agreed that not attaching the deck may allow it to be constructed closer to the property line. Mr. Spung clarified that an attached deck could be closer to the property line because detached structures must be five feet from the property line.

In response to a question from Commissioner Mills, Mr. Spung reported that per Section 19.04.790, Detached is defined as: *Having no physical connection above the top of the floor line of the first floor with any other building or structure*. The amendment would allow someone to

install a freestanding pergola or gazebo on an existing patio or deck that is adjacent to their home. It would not affect the Building or Fire Codes.

Commissioner Steinman expressed concern about proximity to neighboring homes and noted that the Giverny subdivision already had reduced setbacks. Mr. Spung stated that there were a lot of illegal structures in that neighborhood that would not comply with the amended requirements. Building and Fire Codes require a one-hour fire-rated wall for any structure within five feet of a property line. That cannot be accomplished with open-air structures, so open-air structures must be at least five feet from the property line.

Commissioner Mills asked if the language was pulled from another municipality. Mr. Spung clarified that Staff drafted the language. The Building Official and Fire Marshall informed him that the six-foot setback from the primary structure was jurisdictional and not required by other code.

In response to a question, Mr. Spung confirmed that if an accessory open-air structure was attached to the home, it would be subject to the setbacks for the house and would not have a separation requirement. Pergolas are generally freestanding structures.

Chair Anderson asked if the maximum allowed size should be defined. Mr. Spung stated that structures larger than 200 square feet in size require a Building Permit, but he did not believe that needed to be further defined. Chair Anderson recommended that the size be specified or a reference be added to the Building Permit requirements. She was concerned that a resident may not realize they need a building permit for a 300-square-foot pergola, for example. Mr. Yeh stated that the language is clear on the City website, but it could be added to the City Code.

In response to a question from Commissioner Steinman, Mr. Spung clarified that the current Code requires all accessory structures to be six feet from the house, and the amendment would exempt open-air structures. The five-foot minimum setback from property lines would not change. Existing code allowed structures with fire-rated construction to be closer than five feet from the property line.

Commissioner Steinman stated that the issue was first brought before the Planning Commission to address the many illegal structures in one subdivision. He expressed concern that people would try to bend the amended rules as well. Chair Anderson noted that that was true for all City laws.

Mr. Spung stated that the amendment was limited to open-air structures, and Staff did not see any potential issues with allowing them to be immediately adjacent to the home. The structures would still need to meet the lot coverage requirements of 50% in the R-1-8 Zone and 30% in the RR Zone.

Commissioner Mills asked if any changes were proposed to accessory building heights. Mr. Yeh confirmed that no changes were proposed. An accessory structure that is 14 feet high or less must meet the minimum setback requirement, which in this case was five feet. Each one foot of additional height requires an additional one-foot setback.

Chair Anderson noted that the definition in Section 19.04 is “open structures” and suggested that they be further defined as “open accessory structures.” In response to a question from Commissioner Shelton, she clarified that open structures are defined as *roofed outdoor architectural features such as gazebos, pergolas, trellises, and similar shade structures that are not fully enclosed by walls.*

Commissioner Shelton noted that, as written, walls would be allowed as long as they were not attached to the roof structure. Chair Anderson recommended that the language be changed to prohibit walls. Commissioner Shelton stated that an elevated pergola without walls would present a safety risk. Commissioner Mills noted that a railing is not a wall. Mr. Spung added that a Building Permit would be required for any structure that is more than two feet above the ground.

Commissioner Steinman moved to forward a recommendation of APPROVAL to the City Council for Project ZTA-25-003, with the following changes:

- 1. The definition in Section 19.04 shall be amended to: “Open accessory structures” refers to roofed outdoor architectural features such as gazebos, pergolas, trellises, and similar shade structures that do not incorporate walls. These structures typically have supporting posts or columns, an open or latticed roof (which may allow light and air to pass through), and open sides rather than solid, continuous walls.***
- 2. Section 19.76.030.4(b) be amended to indicate “open accessory structures.”***
- 3. Section 19.76.030.4(c) be amended to: All structures must comply with applicable setback, easement, and fire code requirements (including any use of electric, gas, or plumbing as per code).***

Commissioner Smith seconded the motion.

Commissioner Shelton asked if the amended ordinance would make the structures at Giverny legal. Commissioner Mills stated that the Commission was aware that some structures would remain noncompliant, but others would be brought into compliance. Mr. Spung stated that the regulations would apply citywide, so residents of other zones would also benefit from the amendment.

Vote on Motion: Commissioner Mills-Yes; Commissioner Shelton-Yes; Commissioner Smith-Yes; Commissioner Steinman-Yes; Chair Anderson-Yes. The motion passed unanimously.

4.0 Consent Agenda.

4.1 Approval of Planning Commission Meeting Minutes from September 3, 2025.

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

Mr. Spung reported that the next regular Planning Commission meeting is scheduled for October 15 but there were no applications or business items on the agenda. It was determined that the meeting would be canceled. The next meeting would be the joint Planning Commission and City Council meeting scheduled for October 21 and the next regular meeting will be on November 5.

5.0 Adjourn.

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

The Business Session adjourned at approximately 7:06 p.m.

I hereby certify that the foregoing represents a true, accurate, and complete record of the Cottonwood Heights City Planning Commission Work Session and Business Session held on Wednesday, October 1, 2025.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: _____