

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

**Wednesday, July 16, 2025  
5:00 p.m.  
2277 East Bengal Boulevard  
City Council Work Room**

***ATTENDANCE***

**Members Present:** Chair Lucy Anderson, Vice-Chair Sean Steinman, Commissioner Mike Shelton, Commissioner Dan Poulson, Commissioner Dan Mills, Commissioner Mike Smith (via Zoom), Commissioner Garry Barnes, Commissioner Rusty Lugo-Alternate

**Staff Present:** City Manager, Jared Gerber; Deputy City Recorder, Cienna Brummel; Planner III, Ian Harris; Planner II, Maverick Yeh; System Administrator, Alex Earl

**Public Attendees:** Brent Johnson, Nathan Anderson, Cynthia Fowler, Leslie Kovach, Craig Clayson, Kim Clayson, Kevin Dolan

**WORK SESSION**

Chair Lucy Anderson called the Planning Commission Work Session to order at 5:04 p.m. and introduced Planner II, Maverick Yeh. Mr. Yeh stated that he began working with Cottonwood Heights as an intern. Planner III, Ian Harris, reported that Mr. Yeh regularly presents at administrative hearings and performs a lot of work behind the scenes. The Planning Commissioners then introduced themselves.

City Manager, Jared Gerber, reported that the new Community and Economic Development Director, Jim Spung, was scheduled to begin work the following Monday. His first Planning Commission meeting would be in September.

**1.0 Review Business Session Agenda.**

Chair Anderson reviewed the Business Session Agenda and reported that Item 3.1 would be a public hearing and potential recommendation to the City Council regarding General Plan and Zoning Map amendments. Item 3.2 would be potential action to amend the Giverny Community Planned Unit Development (“PUD”) accessory structure setbacks. Mr. Yeh suggested that the Planning Commission consider Item 3.2 first, as several residents were expected to speak at the public hearing on Item 3.1.

Planner III, Ian Harris, reported that Item 3.2 would be consideration of Project CUP-25-011, a request for a Conditional Use Permit (“CUP”) to amend the Giverny PUD as it pertains to accessory building standards. When the PUD was originally approved, it included distinct setback standards for primary structures but no standards for accessory structures. Primary structures were allowed reduced setbacks due to the smaller size of the properties in comparison to non-PUD R-1-8

subdivisions throughout the City. Many residents constructed accessory structures without fully understanding City Code regarding those structures, which resulted in some nonconforming structures. Building permits are not required for structures less than 200 square feet in size, but accessory building standards must still be met.

The applicant proposed the following deviations from City Code:

- Increase the minimum setback from side and rear property lines from three feet to five feet.
- Remove the minimum setback from the primary structure. A six-foot setback was currently required.

Mr. Harris reported that the Staff Report was based on his understanding that the deviations were only requested for open-air gazebo and pergola-type structures. However, the applicant had clarified that the request also included sheds. Additionally, affected structures could be located within three feet of property lines in rear yards if the roof height does not exceed eight feet. If the structure is taller than eight feet, a minimum five-foot setback would be required.

In response to a question from Commissioner Steinman, Mr. Harris reported that the requested standards would deviate from the current R-1-8 Zone requirements outlined in the Staff Report.

Staff found the request to be reasonable given that the reduced lot size standards within the Giverny PUD complicate accessory building locations in the community, an issue that other residents of the R-1-8 Zone do not face. Additionally, no new standards were proposed that would bring the accessory structures closer to property lines and impose a greater visual burden on neighboring properties. The Building Official was not aware of any code implications of the amendment, and accessory structures would still be required to conform to Building Code requirements. Based on that analysis, Staff recommended approval.

In response to a question from Chair Anderson, Mr. Harris clarified that City Zoning Code does not include the requested requirement for a five-foot setback for structures taller than eight feet. An administrative hearing would not be required for a taller structure, and a Building Permit would not be required for structures smaller than 200 square feet. Chair Anderson noted that someone with a small yard that is not in a PUD would be required to adhere to the applicable Zoning Code, and in that case, it would need to be made clear that the deviation only applies to the PUD. There had been similar situations in the past.

Commissioner Shelton stated that the only requested requirement that was less stringent than the R-1-8 Zone was the minimum distance from the primary structure. Otherwise, the changes were more restrictive than the current zoning.

Staff interpreted the request as a CUP application given that PUDs are a Conditional Use in the R-1-8 Zone. Per Cottonwood Heights City Code 19.78.160.B, the Planning Commission has approval authority on PUD amendments.

Mr. Harris reported that the application was noticed under a different file number with a PUD indicator but had been updated to CUP. Internal files were organized so that any future records requests for the PUD-25-011 would redirect to the correct file. One public comment was received and has been forwarded to the Planning Commission.

Commissioner Steinman asked if the Fire Department had reviewed the request and indicated that they should do so because they would be eliminating the setback from the primary structure. Mr. Harris stated that the Building Official reviewed the application. Mr. Gerber agreed and indicated that the item would be sent to the Fire Department for review.

Commissioner Mills stated that he looked forward to hearing from the applicant regarding how they arrived at the numbers. He appreciates when there is some precedence for a setback, especially in regard to potential fire issues.

Commissioner Poulson asked if the amendment was intended to address future structures or bring existing structures into compliance. Mr. Harris stated that the hope was to bring several structures not compliance, and it would also apply to future structures.

In response to a question from Commissioner Barnes, Mr. Harris stated that the application applied to both open-air structures and sheds. In response to a follow-up question, it was clarified that pergolas and gazebos were defined in City Code. There was no definition specifically for sheds, but they were included in the Accessory Buildings definition.

“Accessory Building” means any structure not designed for human occupancy, which may include detached garages with no habitable space, tool or storage sheds, gazebos, and swimming pools. Accessory dwelling units and businesses located in accessory buildings must comply with all requirements for buildings designed for human occupancy.”

Mr. Harris noted that the applicant had not requested all the uses outlined in the above definition but only sheds, gazebos, and pergolas. The Giverny community will follow existing standards regarding pools and hot tubs.

Item 3.1 would be Project ZMA-25-003, a Zoning Map and Land Use Map Amendment for the former Wells Fargo property near the intersection of Bengal Boulevard and 3500 East. Early in 2025, an application was received to develop live/work townhomes on the property. Live/work was a Conditional Use for the Neighborhood Commercial (“NC”) Zone. After concerns were expressed by members of the Planning Commission and the public, the application was withdrawn. A moratorium was also placed on Live/Work developments in the City to address those concerns, and a new definition of the Use had since been adopted. A CUP application was then received to operate a church on the property, which was also withdrawn. The original applicant now proposed rezoning the property to Residential Multifamily (“RM”) and intended to develop six townhomes.

Mr. Harris reported that the Planning Commission would be considering the Zoning Map and Land Use Map amendments only. Renderings were provided, but no Site Plan had been submitted for consideration. The applicant proposed changing the Land Use designation from Neighborhood Commercial to Residential Medium Density, and the zoning from NC to RM. In response to a question from Commissioner Stenman, Mr. Harris stated that he could only find record of the property being zoned NC, but he did not have access to historical Zoning Maps. He assumed that it was previously in the same commercial zone as the development across the street, but he did not know the specific zone. The bank was built prior to the City’s incorporation.

Staff analyzed the requests and found them generally compatible with the City's long-range vision and goals for the area for the following reasons:

- Single-family dwellings are permitted uses in the RM Zone. Other than home occupations, no commercial or office uses are permitted in the proposed zone without a CUP.
- The designated Land Use of many nearby properties is also Residential Medium Density.
- While no property in the vicinity is zoned RM, many are zoned R-2-8, which is also a multifamily zone. Those properties contain a similar density of dwelling units.

In response to a question from Commissioner Steinman, Mr. Harris reported that RM standards were available in the Staff Report. The R-2-8 Zone requires a 25-foot front yard setback, a five-foot minimum and 15-foot combined side setback, and 20-foot rear setback. RM is more restrictive, with minimum 30-foot front and rear setbacks and a 25-foot side setback.

Commissioner Poulson indicated that the RM Zone is designated for high-density residential development and the R-2-8 Zone is moderate density. There were no RM Zones in the area until 2600 East, and that is a much larger property with ample greenspace. He noted that the opportunities for greenspace on the subject property are limited due to its size. The applicant appeared to be proposing a lower density development but was asking for high density, and he believed the R-2-8 Zone would better fit the area. Chair Anderson stated that the RM Zone is more restrictive, which might make it more attractive for the neighborhood. Mr. Harris reported that 10% open space is required in the R-2-8 Zone, and the RM Zone requires 15%. He noted that the applicant could provide more information during the public hearing.

Mr. Harris continued with the Staff analysis:

- The subject property is the only parcel on the north side of Bengal Boulevard in the vicinity that is zoned and designated Neighborhood Commercial.
- The current NC Zone allows residential uses under the Neighborhood Mixed Use category within allowed Conditional Uses. A development of that type would likely entail a more intensive Land Use for the property than was proposed, with a similar number of residential uses and a commercial component.
- While detailed development plans were not part of the proposal, RM zoning standards would apply to any development applied for on the property, including minimum lot sizes, setbacks, maximum heights, open space, lot coverage, etc.

Chair Anderson stated that concern had been expressed regarding height, but the maximum height for both the RM and NC Zones is 35 feet.

Commissioner Steinman stated that the development presented a better opportunity for the property. The applicant previously tried to fit a multifamily project into NC zoning, and he believed this was a more thoughtful and better project, especially if it could be limited to six units.

Commissioner Mills appreciated the 50% maximum lot coverage. Someone could build a Starbucks with a drive-through on the lot, which would have public safety impacts. He believed the proposed project was a significant upgrade and was comfortable that the zoning would provide appropriate limits and guardrails.

Commissioner Steinman stated that if the applicant were to develop the property in the NC Zone, they could have 30 residential studio units plus commercial space on the same parcel. Six townhomes would have fewer negative impacts and made a lot of sense. Chair Anderson agreed that there was merit in the proposal.

Commissioner Barnes asked if a multifamily project was consistent with the neighborhood. It was noted that there are duplexes and townhomes nearby. The Commission discussed compatibility, as well as the makeup of the neighborhood and traffic impacts of different types of development on the parcel.

In response to a question from Commissioner Poulson, Mr. Harris clarified that the Site Plan had not been finalized and suggested that the question be asked of the applicant during the public hearing. Commissioner Poulson stated that nearby developments are moderate density in the R-2-8 Zone, and in his opinion, the RM Zone was incompatible with the neighborhood and could allow for more units on the property. Mr. Harris confirmed that the property meets RM standards for lot size.

Commissioner Steinman reiterated that the current zoning would allow for much higher density. The property owner could obtain approval to develop 30 studio units on the parcel, and a CUP could not reasonably be denied. If the property were zoned R-2-8, only two units could be built on the site. He reviewed the setbacks for each zone and stated that he believes the RM zone would allow for a much better use. Commissioner Poulson stated that 10 units were recently proposed for the property, but that would not work, and he believed the 30 units were being mentioned as a scare tactic, as that was not feasible on the property. Commissioner Steinman stated that he believed the 10-unit development would have eventually been approved if the application were not withdrawn, and it would have had a ground-floor commercial component. The project met all lot coverage and parking requirements, but the NC Zone required more commercial space than proposed. Now that the Use had been defined, the project could have been approved. Commissioner Mills stated that parking would be an issue for 30 units, but subterranean or shared parking would be an option.

Commissioner Shelton stated that the applicant applied for the RM Zone, not R-2-8, and it was a less intense application than would currently be allowed. He believes that the Commission would have been obligated to approve the previous application. The new proposal was less demanding on all resources, and it should be approved.

Mr. Harris reported that Zoning Map and General Plan Amendments are legislative actions. The Planning Commission has the authority to take public comment, discuss the merits of the proposal, and make recommendations to the City Council. The City Council is the final approval authority.

Notices were posted and mailed to property owners within 1,000 feet of the subject property 10 days prior to the public hearing. Eight public comments were received and forwarded to the Planning Commission. Based on the findings listed in the Staff Report, Staff recommended approval of the Zoning Map and General Plan Amendments.

Chair Anderson asked about next steps if approval was granted by the City Council. Mr. Harris reported that next steps would depend on the final Site Plan, but it would likely be an administrative approval. A six-property subdivision would not meet the threshold for Planning Commission review as it is less than 10 units.

**2.0 Adjourn.**

*Commissioner Steiman moved to ADJOURN the Work Session. Commissioner Shelton seconded the motion. The motion passed with the unanimous consent of the Commission.*

The Work Session adjourned at 5:58 p.m.

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

**Wednesday, July 16, 2025  
6:00 p.m.  
2277 East Bengal Boulevard  
City Council Chambers**

**Members Present:** Chair Lucy Anderson, Vice-Chair Sean Steinman, Commissioner Mike Shelton, Commissioner Dan Poulson, Commissioner Dan Mills, Commissioner Mike Smith (via Zoom), Commissioner Garry Barnes, Commissioner Rusty Lugo-Alternate

**Staff Present:** City Manager, Jared Gerber; Deputy City Recorder, Cienna Brummel; Planner III, Ian Harris; Planner II, Maverick Yeh; System Administrator, Alex Earl

**Public Attendees:** Brent Johnson, Nathan Anderson, Cynthia Fowler, Leslie Kovach, Craig Clayson, Kim Clayson, Kevin Dolan, Dave Allred, Julie Allred, Gary McGee, Jill McGee, Robert Farnsworth, Eric Romero, Sydney Wagstaff, Richard Herr, Adrienne Cox, Sean Cox, Karen Barnes, Karen Cordner, Paul Hatfield, Denise Steinmann, Kelby Kuhn

**BUSINESS SESSION**

Chair Lucy Anderson called the Planning Commission Business Session to order at 6:08 p.m. She then introduced Planner II, Maverick Yeh, and reported that it would be Planner III, Ian Harris' last meeting with Cottonwood Heights.

**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 3.1 Project ZMA-25-003 - A Public Hearing and potential recommendation to City Council on a request by Nathan Anderson for a General Plan Amendment (Land Use Map Amendment) and a Zoning Map Amendment (Rezone) on a parcel located at 3425 East Bengal Boulevard. Both applications have been combined into one. Both are required to rezone the property from NC (Neighborhood Commercial) to RM (Multi-Family Residential), which the applicant is seeking to do.**

The above item was heard after item 3.2.

Mr. Harris presented the Staff Report and reported that the application was for Zoning Map and General Plan Amendments for the Wells Fargo property on Bengal Boulevard east of Smith's Grocery.

The subject property was previously a Wells Fargo branch that closed in the early 2020s. Early in 2025, the same applicant applied to develop live/work townhomes on the property. After concerns were expressed by members of the Planning Commission and the public, the application was withdrawn. A moratorium was placed on Live/Work developments in the Neighborhood Commercial ("NC") Zone to address those concerns, and a new definition and regulations have since been adopted. A CUP application was then received to operate a church on the property, which was also withdrawn. The original applicant now proposed rezoning the property to Residential Multifamily ("RM") and intended to develop six townhomes.

Mr. Harris reported that the Planning Commission would be considering the Zoning Map and Land Use Map amendments only. The applicant proposed changing the Land Use designation from Neighborhood Commercial to Residential Medium Density, and the zoning from NC to RM.

Staff analyzed the request and found it generally compatible with the City's long-range vision and goals for the area for the following reasons:

- Attached single-family dwellings are permitted uses in the RM zone. Other than home occupations, no commercial or office uses are permitted in the proposed zone without a conditional use permit.
- The designated Land Use of many nearby properties along Bengal Boulevard and the surrounding
- vicinity is also Residential Medium Density.
- While no property in the vicinity is zoned RM, many properties are zoned R-2-8, another multifamily zone. These nearby properties contain a similar density of dwelling units to what is being proposed here.
- This property is the only parcel on the north side of Bengal Boulevard in the vicinity zoned and designated as Neighborhood Commercial.
- The NC zone allows residential uses under the Neighborhood Mixed Use category within allowed Conditional Uses. A development of this type would likely entail a more intensive land use for the property, with a similar number of residential units, compared to what the applicant wishes to eventually develop.
- While detailed development plans were not a part of the proposal, RM zoning standards would still apply to any development applied for on the property, such as minimum lot sizes, minimum lot widths, setbacks, maximum height, and lot coverage. The lot does not meet the minimum size requirement for inclusion of open space.

Mr. Harris reported that Zoning Map and General Plan Amendments are legislative actions. The Planning Commission has the authority to take public comment, discuss the merits of the proposal, and make recommendations to the City Council. The City Council is the final approval authority.

Notices were posted and mailed to property owners within 1,000 feet of the subject property 10 days prior to the public hearing. Eight public comments were received and forwarded to the Planning

Commission. Based on the findings listed in the Staff Report, Staff recommended approval of the Zoning Map and General Plan Amendments.

The applicant, Nathan Anderson, stated that his pursuit is to build something that is more typical of and compliant with the surrounding area. From this building to Wasatch Boulevard, the area is primarily residential. The property will be compliant with the RM Zone, and he believes it will serve the community to have more housing stock at an attainable price.

Chair Anderson opened the public hearing.

*Robert Farnsworth* stated that the surrounding areas as predominantly single-family neighborhoods in the R-1-6, R-1-8, and R-2-8 Zones, which is low density. The closest RM Zone is one mile away. Most cities do not allow spot zoning anymore, and a minimum acreage would be required for this type of development. The General Plan directs multifamily housing to be along Fort Union Boulevard and along transit corridors. His biggest concern was the unknowns of the proposal. Since they were not approving a specific plan, rezoning to RM would make it possible for the applicant to build a hotel or some other type of lodging on the property. He asked if the City wanted skiers in neighborhoods instead of in hotels where they belong. He and his neighbors would like to see something nice on the property. They appreciate and frequent Smith's Grocery and the surrounding small businesses. He is a developer and knows that change happens, but it needs to be appropriate. The zoning that is compatible with the neighborhood is R-2-8. He asked that the Commission deny the rezoning because there were no guarantees of what the applicant would build.

*Sean Cox* gave his address as 7761 South Oak Shadow Circle, which is directly north of the proposed development. He strongly opposed the proposed rezoning of the parcel to RM because there is no buffer zone between it and the single-family zone on the same street. The rezone is fundamentally mismatched to the established neighborhood, as the community is characterized by single-family homes. As an immediate neighbor, the impacts would be deeply personal because an RM development with a potential height of 35 feet would mean windows and balconies would look directly into his bedrooms and backyard, which he believes is an unacceptable invasion of privacy and a direct assault on the sanctity and peaceful enjoyment of his property. The applicant claimed that the current commercial zoning is a failure that created blight in the neighborhood, but from his perspective, the perceived blight is a direct result of the property owner's lack of basic maintenance and upkeep. Rezoning the parcel would eliminate the potential for services that would benefit the community as a whole. He believes rezoning would set a dangerous precedent, put a strain on infrastructure, and destroy the privacy and quietness he values. He urged the Planning Commission to deny the application.

*Kelby Kuhn* stated that she also lives on Oak Shadow Circle and was in strong opposition to the proposed rezoning. She believes the request is inconsistent with the character of the surrounding community and directly undermines the zoning reforms the Planning Commission adopted. The current NC Zone is appropriate as it allows for low-scale, neighborhood-serving uses and respects the surrounding single-family homes. She believes that approving the request would set a precedent for high-density, multi-story developments directly adjacent to established single-family neighborhoods. The earlier plan faced overwhelming community opposition and was withdrawn, triggering the thoughtful zoning updates that were adopted last month to limit NC building height and preserve the neighborhood character. She believed the petitioner was pushing the same project under a different zoning label, hoping to sidestep the new rules, which is not good-faith planning. If approved, she

believes it would undermine both the zone and the Commission's authority and zoning integrity. The six proposed units would also dump their traffic onto Oak Shadow Circle, a quiet cul-de-sac with only nine homes. The street was not designed to support that volume, and she believes it is a safety and quality of life issue. She urged the Planning Commission to reject the request and honor the opposition from the surrounding community.

*Eric Ramiro* stated that he has lived in the neighborhood for 15 years. He was horrified listening to the presentation because it sounded like the project had already been approved. He asked that they not allow an apartment complex in his neighborhood. He is a realtor and knows what that would do to property values. The nearby duplexes have created congestion. He hoped that the Commission would represent the public.

*Paul Hatfield* stated that he lives on Oak Shadow Circle. He did not tell them to approve rezoning without knowing the developer's intent. He wanted to see something that is congruent with the neighborhood, and he did not believe the applicant's last proposal was. He asked that they postpone a decision until they know what will be built on the property.

*Bob Piper* stated that he lives on Oak Shadow Circle. A recent state law prohibits vehicles from parking or stopping in a bicycle lane, and Bengal Boulevard does not allow parking in front of the subject property. Nearby businesses do not allow parking in their lots. He believes extra cars will park on the cul-de-sac, and they only have parking for five or six cars there.

*Sydney Wagstaff Romero* stated that she hoped the rezoning did not pass. They have been asked multiple times why they do not move to a bigger home, but they stay because they love their neighborhood. She works in downtown Salt Lake City and is heartbroken to see what all the apartment buildings have done to the personality of the area. She does not want a multi-family development on that property.

There were no further public comments. The public hearing was closed.

Chair Anderson clarified that 35 feet is the maximum building height for both the NC and RM Zones. It is also the maximum height for Oak Shadow Circle. Permitted uses in the RM Zone are single-family dwellings, accessory structures, and home occupations. Conditional Uses would require review by the Planning Commission to ensure that there were no negative impacts that could not be mitigated.

Commissioner Steinman asked Mr. Harris to review setback requirements for the NC Zone. Minimum side and rear-yard setbacks are 25 feet for portions abutting residential zones. For lots adjacent to non-residential uses, the minimum setback is 10 feet for side and rear yards. The front setback depends on the least restrictive adjacent residential zone, so it would likely be the same as the R-1-6 Zone. He confirmed that the applicant would be allowed to build an apartment building with commercial on the first floor and residential above in the Neighborhood Mixed Use category, which is a Conditional Use in the NC Zone. All uses are conditional in the NC Zone.

Commissioner Steinman stated that many different factors go into the decision, including restrictions around Conditional Uses. Mr. Harris read the relevant section of Utah State Code:

**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.

Commissioner Steinman stated that an applicant could currently put as much density as they would like on the property as long as it met requirements for parking, fire, safety, structural integrity, etc. Mr. Harris stated that height and setback requirements of the NC Zone would limit density somewhat, but no unit density was specified in the zone. With subterranean parking, a much larger building would be allowed. Commissioner Steinman stated that he believed approval would ensure a fixed density, as only six units would be allowed on the parcel due to RM Zone setback requirements.

Commissioner Mills stated that the current rear setback for the property is 10 feet, and rezoning to RM would increase that to 30 feet. Front setbacks would increase from 25 to 30 feet. Side setbacks would increase from 10 to 25 feet combined on corner lots, with a maximum lot coverage of 50%. The Wells Fargo building is 26 feet tall, and up to 35 feet in height is allowed in both the current and proposed zone.

In response to a question, City Manager, Jared Gerber, reported that if the City Council denied the application, the applicant could appeal the decision to district court. There is more leeway with legislative actions. They are not like CUPs, which must be approved if conditions are met. If the Planning Commission recommended denial, the City Council could still approve the application. Commissioner Steinman noted that rezoning appeals are still typically at the Council's discretion.

Commissioner Steinman stated that if the City did not approve a reasonable application, they could be forced to approve higher density on the parcel. The Live/Work component of the NC Zone has been redefined, but there is no cap on density in the zone. If Mr. Anderson sold the property to another developer, they would have the right to build a 12-unit for-rent condominium project on the property. Rezoning to RM would place a cap on density.

Commissioner Mills stated that it can be hard to hear that some members of the public believe developers get whatever they want, and he believed Mr. Anderson would disagree with that statement. The Planning Commission is not afraid to put developers' feet to the fire to make projects as good as they legally can for residents, and it is their intent to do what is best for the neighborhood. However, property owners have rights. If a reasonable application is made, it must be considered. They wanted to preserve what they can of Cottonwood Heights, but it is not the same place it was in the past. He understood that the property was not being maintained, but watering the grass would not turn it into a viable commercial property. He was grateful to Commissioner Steinman for pointing out what could be built under the current zoning versus the new zoning, which will be more restrictive.

Commissioner Steinman stated that the NC Zone has great potential in the community but they needed to consider the site, which has R-2-8 Zoning nearby and NC across the street. The property across the street has different size and mass than the one-half acre subject property. If that site was sold, it could be turned into a large multifamily development in the NC Zone. He believes the intention of the NC Zone is to be a barrier to low-density residential neighborhoods, but the subject property has the potential to be a high-density site in that zone.

Chair Anderson agreed about the potential risks in leaving the property zoned NC. The RM Zone has stricter setbacks and more limitations than can be placed on a project in the current zone.

Commissioner Smith appreciated the discussion and indicated he was glad that it is the City Council’s responsibility to decide if the proposal matches the overall plan for the neighborhood and Cottonwood Heights.

***Commissioner Shelton moved forward a recommendation of APPROVAL to the City Council for Project ZMA-25-003 based on the Findings and Recommendations listed in the Staff Report dated July 16, 2025. Commissioner Mills seconded the motion. Vote on Motion: Commissioner Mills-Yes; Commissioner Barnes-No; Commissioner Poulson-Yes; Commissioner Shelton-Yes; Commissioner Smith-Yes; Commissioner Steinman-Yes; Chair Anderson-Yes. The motion passed by a vote of 6-to-1.***

**3.2 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.**

This item was heard before item 3.1.

Mr. Harris presented the Staff Report and indicated that the application pertains to the Giverny Planned Unit Development (“PUD”) subdivision at approximately 3505 East Giverny Parkway. The original PUD application included distinct setback standards for primary structures but did not address accessory structures. Primary structures were allowed reduced setbacks due to the smaller size of the properties compared to non-PUD R-1-8 zoned subdivisions in the City.

Many Giverny residents have constructed accessory structures without understanding the requirements of City Code. Building permits are not required for structures that are less than 200 square feet in size, but accessory building standards are still required to be met.

The applicant proposed the following deviations from City Code:

- Increase the minimum setback from side and rear property lines from three feet to five feet.
- Remove the minimum setback from the primary structure. A six-foot setback was currently required.

Mr. Harris reported that the Staff Report was based on his understanding that the deviations were only requested for open-air gazebo and pergola-type structures. However, the applicant later clarified that the request also included sheds. Additionally, affected structures could be located within three feet of the rear property line if the roof height does not exceed eight feet. If the structure is taller than eight feet, a minimum five-foot setback would be required.

Staff analysis determined that the request was reasonable given that the reduced lot standards found within the subdivision complicate accessory building locations, a complication which other residents of the R-1-8 Zone in Cottonwood Heights do not face. No new standards were proposed that would bring the structures closer to property lines and impose an increased visual burden on neighboring

properties. The City Building Official reviewed the request and indicated that they were not aware of any Building Code implications with approval.

The request was interpreted as a Conditional Use Permit (“CUP”) application because PUDs are a Conditional Use in the R-1-8 Zone. Per Cottonwood Heights City Code 19.78.160.B, the Planning Commission has approval authority on PUD Amendments.

Notices were posted and mailed to property owners within 300 feet of the subject property. One public comment was received and forwarded to the Planning Commission. Mr. Harris reported that the application was noticed under a different file number with a PUD indicator but had been updated to CUP. Internal files were organized so that any future records requests for the PUD-25-011 would redirect to the correct file.

Staff recommended that the Planning Commission consider approval of the project with no additional conditions.

Brent Johnson spoke on behalf of the Giverny Community Association. When the project was approved in January 2015, the developer’s primary focus was on smaller setbacks for the homes, and no setbacks were provided for accessory structures. The community was turned over to owner control in October 2023, at which time they discovered that the developer had not created design guidelines for additions or accessory structures. Prior to approving applications, the Board decided to meet with the City to ensure that they would be in compliance with City guidelines.

There are approximately 35 existing structures in the community, many of which do not meet City requirements. They reached out to owners to determine the size of the structures, setbacks, etc., so they could create a standard that would work for most of the community and allow those structures to remain. Only 15 homeowners sent in information, many of whom had received a Building Permit for the structure. Other owners shared that they had spoken with City Staff and believed they were in compliance because their structure did not require a Building Permit; however, some of those structures do not meet setback requirements.

In March 2025, Code Enforcement informed a homeowner that their structure was noncompliant and needed to be removed. At that time, he spoke with City Staff and determined that they needed to bring a formal plan forward. The Giverny Community Association Board’s goals were to ensure compliance with Fire Code, maintain an aesthetic value in the community, and create a standard that would save the majority of existing structures or allow homeowners to modify their structures to bring them into compliance.

Most existing structures are within six feet of the house, so their request was to allow a smaller setback of five feet around the perimeter of the house. They also asked for a three-foot setback if the roof height is eight feet or less. Building Official, James Shore, had indicated that the amended setbacks were in compliance with Fire Code.

Mr. Johnson reported that most of the existing structures were built prior to the community being turned over to owner control, and they were unsure how the structures were allowed to be built. Homes were being built, and the City was conducting building inspections during that time.

Commissioner Steinman asked if the applicant was proposing a zero setback from the home to a shed or if it would only apply to pergolas. Mr. Johnson stated that they are detached structures that may or may not have a roof, and sheds would be included. The shed could be within close proximity of the house, but without the appropriate fire rating, it would have to be five feet away.

Chair Anderson opened the public hearing.

*Richard Herr* gave his address as 3466 Breton Lane and indicated that he is a new resident of Giverny. He purchased his home with a gazebo in the rear yard and a shed on the side of the house, and nothing was mentioned about those structures during due diligence. His neighbors have told him that the gazebo was installed when the community was still being built, and the shed is approximately three years old. It would be impossible to have a five-foot setback for the shed on the side of his house because the lot is too small, and that is the case for many of his neighbors. His structures are metal with misting systems, so they are fire resistant. The gazebo is taller than eight feet and has power and water installed. He understood the need to comply with City Code, but he requested that the existing structures be grandfathered in. He did his due diligence, but neither the City nor HOA said anything about those structures when he purchased his home.

*Jill McGee* stated that she does not live in Giverny, but the neighborhood surrounds her home. She and her husband wanted to go on the record to request that any accessory structure built near their property line be required to have an eight-foot setback. The pergolas in the neighborhood are lovely, and she hoped the issue could be resolved for those residents.

*Gary McGee* stated that the common area with the pickleball court is located near their home, and he wanted to ensure that accessory structures are not allowed so close to their property.

There were no further public comments. The public hearing was closed.

Commissioner Shelton stated that standards often only affect people who live in the neighborhood, but it was important to recognize that the people who live adjacent to the development also rely on and have to live with those standards. Chair Anderson stated that her understanding was that the proposed setbacks were stricter than the City's. Commissioner Shelton stated that he believed the setback was actually three feet. In response to his question, Mr. Harris reported that the side setback for a main or attached structure is five feet in Giverny and eight feet in the R-1-8 Zone.

Commissioner Mills expressed sympathy for people who purchased homes with smaller lots than they may have needed in terms of usable space and that their predecessor did something illegal. Code Enforcement does not inspect every home at the time of sale. In the State of Utah, the onus is on the realtor to discover those issues. The structures are very close to each other, and their accessory structures are even closer. He was unsure of how to proceed, but it was not incumbent upon the City to retroactively take full responsibility for the circumstances.

Chair Anderson stated that she was comfortable with the change in regard to gazebos and pergolas, but sheds require an additional level of scrutiny due to fire dangers.

Commissioner Steinman agreed and noted that if the shed was a continuation of the building envelope, that would raise more concerns regarding Land Use implications. Sheds are covered over the

accessory building standards in the R-1-8 Zone. Per City Code 19.26.060, accessory structure setbacks are as follows:

Front: Accessory buildings, including detached garages, shall maintain a setback of at least six feet from the primary building in the rear yard of the particular property.

Sides: Three feet on interior lots; 20 feet on the street side of corner lots.

Rear: Three feet on interior lots; 20 feet on the street side of corner lots.

The proposal was to allow a shed directly against the primary structure and three feet from the property line. The properties currently have a 10- to 15-foot setback from the primary structure to the property line. Commissioner Steinman expressed concern about the significantly reduced setback for sheds and suggested that the Fire Department review the request.

Commissioner Shelton noted that the developer requested smaller lots in the community, and as a result, they were also allowed to have smaller setbacks. They should have considered accessory buildings at the time. It was his opinion that they should have larger setbacks.

In response to a question from Commissioner Steinman, Mr. Harris reported that the R-1-8 Zone allows for a maximum lot coverage of 50%. An accessory structure could create more than 50% coverage and bring the property out of compliance regardless of whether it is attached or detached.

In response to a question from Commissioner Shelton, Mr. Harris reported that when people ask about accessory building standards for their zone, they are provided with the setbacks from property lines. They also provide the setbacks from the home, although that is often not the question they are asked. He apologized if any incorrect information had been given but noted that City Code is very clear.

Commissioner Steinman stated that the matter needed to be studied further, primarily regarding the precedent it could set within the R-1-8 Zone. The PUD has a high ratio of residents that are out of compliance, and he did not want to discriminate against other residents of the zone. He proposed that the matter be tabled. Chair Anderson noted that Staff would need to be provided with guidance regarding what additional information was required to finalize the item. Commissioner Steinman stated that they needed to better understand the difference between sheds, pergolas, and any other auxiliary features and their fire risks, as well as what the implications would be across the R-1-8 Zone.

Commissioner Mills stated that meeting with the Building and Fire Departments does not supersede code. If they already created exceptions to City Code to decrease the lot size and were now advocating expanding accessory buildings, that proposal needed to be presented in a way that ensures it is safe and reasonable. He believed the CUP would be very hard to defend.

Mr. Harris reported that Staff would discuss the matter with the applicant and return with more information.

***Commissioner Steinman moved to TABLE Project CUP-25-011 to the August 6, 2025 Planning Commission Meeting pending additional information from Staff. Commissioner Mills seconded the motion. Vote on Motion: Commissioner Shelton-Yes; Commissioner Mills-Yes; Commissioner***

*Barnes-Yes; Commissioner Poulson-Yes; Commissioner Steinman-Yes; Commissioner Smith-Yes; Chair Anderson-Yes. The motion passed unanimously.*

**4.0 Consent Agenda**

**4.1 Approval of June 4, 2025, Planning Commission Meeting Minutes.**

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

**5.0 Adjourn.**

*Commissioner Mills moved to ADJOURN the Business Session. Commissioner Shelton seconded the motion. The motion passed with the unanimous consent of the Commission.*

The Business Session adjourned at approximately 7:32 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, July 16, 2025.*

Teri Forbes

Teri Forbes  
T Forbes Group  
Minutes Secretary

Minutes Approved: \_\_\_\_\_