

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

Wednesday, January 22, 2025

5:00 p.m.

2277 East Bengal Boulevard

City Council Work Room

ATTENDANCE

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

Staff Present: Community and Economic Development Director, Michael Johnson; City Recorder, Tiffany Janzen; System Administrator, Alex Earl; Senior Planner, Samantha DeSeelhorst, Associate Planner/Sustainability Analyst, Ian Harris

WORK SESSION

Chair Lucy Anderson called the Planning Commission Work Session to order at 5:00 p.m.

1.0 Review Business Session Agenda.

The Business Session agenda items were reviewed. Chair Anderson reported that there are two items on the agenda, including a Business Item and the Consent Agenda. Senior Planner, Samantha DeSeelhorst shared information about the Business Item, which is Project CUP-24-019 and SUB-24-008. The applicant will be present during the Business Session to answer questions.

Ms. DeSeelhorst reported that the project name for CUP-24-019 and SUB-24-008 is Brighton Lofts. She shared an aerial image of the property, which is on the corner of Bengal Boulevard and Oak Shadow Circle. The address is 3425 East Bengal Boulevard and the zone is Neighborhood Commercial (NC). Two different actions have been requested: a Conditional Use Permit and Preliminary Subdivision Plat approval. That is the reason for the two application numbers. The applicant is Nathan Anderson and Staff recommends approval of the application with conditions.

The subject property is 0.48 acres in size. A vicinity map was shared and the subject property was highlighted for context. Ms. DeSeelhorst reported that a Wells Fargo Bank was located on the subject property from 2006 to 2024. Though the bank building is still standing, the bank location is now closed. A zoning map was shown and the subject property was highlighted. Ms. DeSeelhorst reiterated that the subject property is located in the NC Zone. There are primarily three different types of residential zones surrounding the subject property: Residential Single-Family (R-1-6), Residential Single-Family (R-1-8), and Residential Multi-Family (R-2-8).

The subject proposal is a live-work townhome development. Ms. DeSeelhorst explained that two different applications are required because live-work developments are conditional uses in the NC Zone. The subdivision is necessary to divide the property into 10 separately owned units.

Ms. DeSeelhorst reviewed a screenshot of the Landscaping Plan. She noted that this shows more of the site layout. There are five units on either side and then a central drive aisle coming down the middle. There is some parking in the back and landscaping surrounding the development.

The proposed use is a live-work townhome development, which is allowed in the underlying zone as a conditional use. Ms. DeSeelhorst explained that the Cottonwood Heights City Code lists live-work developments as an allowed use but does not provide a definition. In most communities, these developments include a residential component and a non-residential component, with local regulations providing more specificity. Since there is not a local definition, Staff defers to definitions to The Planner's Dictionary, which includes the following examples:

- “A dwelling unit combining residential-use types with commercial or limited industrial-use types. This use classification includes, but is not limited to office, live/work facilities, or other similar uses.”
- A dwelling unit used for both dwelling purposes and any non-residential use permitted in the zoning district in which the unit is located, provided that not more than two persons who do not reside in the unit are employed on the premises.”

In this instance, the applicant is proposing that the live component be the townhomes, with the ground floor office space being the work component. The ground floor office space is to be used by the tenants. In the absence of a local definition, the proposed combination of dwelling area and ground floor office space for use by the tenants is compliant with Code, both in this project and in past projects. Should stricter parameters be desired for this use in the future, a code update should be considered. Commissioner Sean Steinman asked if the applicant could develop this without a live-work component under the current code. Community and Economic Development Director, Michael Johnson, denied this. Two allowed uses are live-work or mixed residential housing. Commissioner Steinman wondered if it is possible to deed restrict that there be a commercial component to make sure the ground level is used commercially. Ms. DeSeelhorst does not believe so, because the definition is compliant with the code based on past projects. She believes what is proposed meets the definitions mentioned.

Mr. Johnson explained that with previous live-work projects, there was no mandate that there be a business in there 24/7. It does not require an active license at all times, but it does allow the flexibility for that space to be licensed commercially. It is a tool that provides flexibility and allows for commercial use. However, it does not mandate that there must always be commercial use. In this case, a commercial license could be issued, but it could not be in a residential zone.

Commissioner Shelton asked if there is any restriction on what commercial use can be carried out. Mr. Johnson explained that it would be whatever uses are allowed in the underlying zoning district. The underlying zone is the NC Zone, which allows for a wide range of uses. There is a relevant Condition of Approval to use. Ms. DeSeelhorst noted that the Planning Commission can review the proposed conditions and decide whether there is support for the recommendations.

Commissioner Poulson asked about enforcement. There might be a business with one employee, or the business might require that customers visit. This could lead to parking issues. Ms. DeSeelhorst explained that the use will be looked at during the Business License process. There are also enforcement measures. Sometimes, some businesses say one thing on their application to the

Business License Department, but the actual operations are outside of that. Those involved in Business Licenses work closely with Code Enforcement when there are issues.

Commissioner Mills posed several questions to Staff, including ones about parking requirements, elevations, impacts to adjacent properties, and neighboring setbacks. Ms. DeSeelhorst offered to address his questions in the presentation. Commissioner Mills asked if the Commission is bound by The Planner's Dictionary definitions for whatever is not defined in the City Code. Mr. Johnson explained that the Director has the authority to choose a reasonable definition. What he does is look at one that does not have overly specific standards for square footage. The reasonable definitions are considered. The first definition read earlier is what he concludes is a reasonable definition of live-work based on what is proposed and other projects that have been approved and defined as live-work. Commissioner Mills asked how much precedent factors into that. Mr. Johnson reported that the other two projects that have live-work units are in a mixed-use zone but are classified as live-work units. The use type has already been established.

Commissioner Mills wanted to know if there is precedent in terms of how other adjacent municipalities are handling this issue. Mr. Johnson explained that each code will define and regulate uses differently. Chair Anderson asked whether the workspace can be living space. Ms. DeSeelhorst denied this. By definition, the work space could not be a living space.

Information about project density was shared. Ms. DeSeelhorst reported that the applicant is proposing 10 units on a 0.48-acre site. There is not a specific number for the allowed density in this zone. The zoning ordinances for some zones list a specific density number. For example, the Mixed-Use Zone specifies a maximum density of 35 units per acre. The General Plan also specifies a density number for the residential zones in the City. Though both of those documents discuss the intention of the NC Zone, neither specifies a clear number for the NC Zone. As a result, there is not a strict density figure. In the absence of that, the City uses other development parameters to assess whether the project is compliant. This includes setbacks, height, and parking, among others.

Ms. DeSeelhorst shared information about setbacks and height. The south property line is what is considered the front and that is required to be 25 feet. The proposal is for that setback to be 25 feet, which is compliant. The west side has to be 25 feet and 25 feet is proposed. The east side has to have a 10-foot setback and 10 feet is proposed. On the rear, which is the north, the requirement is a 25-foot setback, and the applicant is providing more than that with 27.98 feet.

Chair Anderson asked about the setback requirements in other zones for comparison. Ms. DeSeelhorst reported that the R-1-8 Zone is the most common residential zone in the City. For construction in that zone, the requirements are 25 feet in the front, 20 feet in the rear, and the side adjacent to a public right-of-way is 20 feet, and then eight feet on the internal interior side. Mr. Johnson explained that in this case, the setbacks are either the same or greater than a typical residential lot.

Commissioner Steinman asked about the R-2-8 Zone setback requirements. He next asked about Residential Multi-Family density requirements per acre. Mr. Johnson reported that the R-2-8 Zone is two units per 8,000 square feet and Residential Multi-Family has an equation based on dwelling units and the amount of acreage. As for the setback requirements for the R-2-8 Zone, it was noted that the front yard requirement is 25 feet, a five-foot interior side, a 20-foot corner side, and a 20-foot rear.

Commissioner Mills asked about ingress/egress for vehicles and fire requirements. Ms. DeSeelhorst reported that the Fire Department approved the proposal and provided no preliminary comments. The Fire Department will need to do another review if this moves forward. She was not certain whether sprinkling was required. That is something the applicant might be able to answer, based on his construction plans

Ms. DeSeelhorst reported that the maximum height measurement allowed is 35 feet and the proposal is for 30 feet. This means that the proposal complies with setback and height requirements. Mr. Johnson reported that the height is measured from existing grade. Commissioner Mills noted that there is a natural slope on Bengal Boulevard. He is also curious about the current height of the Wells Fargo Bank building. It was noted that the applicant can answer some of the questions posed by the Commission during the Business Session discussion.

Lighting and landscaping information was reviewed. The City's adopted Outdoor Lighting Ordinance applies to this project. The submitted Photometric Plan complies with all components except for total site lumens and property boundary illumination. There can be a dialogue with their Lighting Engineer to make sure it complies with everything, as the total site lumens were too high and the illumination at the property boundary was too high. The light trespass was low enough to meet the code, but right at the property line, it was a little bit too bright. Staff recommended a Condition of Approval that compliance be demonstrated during the Building Permit process. If this project were east of Wasatch Boulevard, there would be a lower illumination maximum, but because it is west of Wasatch Boulevard, it is the standard in the Code. Ms. DeSeelhorst reported that the proposal complies with the landscaping standards. Some of the landscaping specifications in the NC Zone do not apply to this project due to the size and use.

Information about fencing was shared. The applicant is proposing four-foot fencing around the private yard areas for each unit but does not propose new site fencing. The plans indicate that the following fences will remain east side block retaining wall and chain link fence and the north side block retaining wall and wood fence. While site fencing is not required, the Commission can add a Condition of Approval for additional fencing to provide enhanced buffering between properties. Commissioner Mills noted that he will have some questions about fencing for the applicant.

Ms. DeSeelhorst shared information about parking. She reported that the City uses the ITE Parking Generation Manual for its parking requirements. The Cottonwood Heights City Code does not specify parking requirements for visitor parking. As a result, parking was assessed for the dwelling units and office space. The dwelling units require 13 stalls, and 20 parking stalls will be provided. The office space requires three stalls, and four stalls will be provided through the applicant's proposal. She shared the ratio generated by the ITE Parking Generation Manual.

Commissioner Poulson noted that in the Brighton Lofts construction plans, the entrance to the garage does not appear to be very wide. He is wondering whether two vehicles can fit there. Ms. DeSeelhorst explained that this was not flagged in the first Engineering Department review but could be flagged during the technical review process. If during the technical review process, something is flagged that conflicts with what is approved, the applicant would need to come back for revised approval from the Planning Commission. Commissioner Poulson expressed concerns about the narrow garage and potential parking issues it could cause. Mr. Johnson reported that there are not tandem stalls proposed,

as those are prohibited. There are two-car garages proposed. The townhome garages are proposed to be 21x21 and a standard commercial parking stall is 9 x 18.

The Commission discussed live-work and how to ensure compliance. Commissioner Steinman does not want to approve a live-work project where there will not actually be a live-work component. Ms. DeSeelhorst noted that a lot of the public comments received so far have echoed those concerns. Commissioner Steinman wanted to know if the City could deed restrict. Mr. Johnson explained that if the Commission feels there will be a potential negative impact created, conditions can be imposed to mitigate those impacts. A requirement to deed restrict would need to be tied to some perceived negative effect and there would need to be valid findings.

Commissioner Steinman expressed concerns about the parking associated with the commercial component. Mr. Johnson explained that if the Commission is concerned about parking and the parking burden, there would need to be a request for more data before there is a request made for additional parking. That data could inform any Condition of Approval that is imposed. As it stands, the Staff analysis looked at the ITE Parking Generation Manual as part of this process.

Commissioner Shelton shared comments about the live-work proposal. He noted that the minimum parking requirements are being evaluated as if there was one office. However, there will be multiple workspaces. He does not believe the evaluation would be conducted the same way if there were 10 commercial offices. Discussions were had about the ITE Parking Generation Manual requirements. Commissioner Mills noted that the parking spaces are small to begin with and vehicles moving past one another will also be tight. There are numerous parking concerns.

Mr. Johnson shared information about the live-work units on Fort Union Boulevard. The one by the Fire Station has 12 units and has about five visitor parking stalls outside of the garage space. Commissioner Steinman noted that this particular application is in the NC Zone. He believes there should be an emphasis on the commercial components. He does not want to promote non-compliance. Mr. Johnson explained that while the zoning is different between the live-work projects mentioned, the use category is the same. More information about parking was shared.

Ms. DeSeelhorst reported that a Traffic Study was provided as part of the project submittal and was preliminarily reviewed by the Engineering Department. The traffic study found that a Level of Service (“LOS”) C is maintained post-development, which is acceptable to the Engineering Department. The Engineering Department has required that during the technical review process, which follows the Planning Commission process, the traffic study be updated to verify the on-site parking spaces and compliance with Americans with Disabilities Act (“ADA”) requirements. The proposal does not change the LOS. If a revision to the traffic study is done as part of the technical review process and it revises what was approved, the applicant would be required to return to the Planning Commission for approval.

Commissioners discussed the ADA requirements. Ms. DeSeelhorst understands that the ADA requirements are triggered by the total number of stalls in the parking area. Commissioner Mills believes the City can do more to prioritize accessibility when it comes to new development. He believes the requirements should be different if there are business uses there. Mr. Johnson reported that there are standards in place and ADA requirements are taken seriously.

Ms. DeSeelhorst discussed visitor parking. Although the City Code does not have requirements for visitor parking, Staff is concerned that visitors may try to park on the neighboring cul-de-sac, Oak Shadow Circle. Oak Shadow Circle is a public right-of-way that allows public parking by default. Considering the single point of ingress and egress as well as the relatively narrow width and short length of the cul-de-sac, Staff finds that an excess of parking on this right-of-way could create a disproportionate negative impact on those homes. Staff has recommended a Condition of Approval that townhome visitors not be allowed to park on that cul-de-sac. Signage would need to be installed at the entrance to the townhome development, as well as along Oak Shadow Circle. Chair Anderson thought the sign should state, “No Parking for Brighton Lofts,” for clarity. Commissioner Mills thought it might be simpler to state, “No Parking Overnight” in that area.

No roof appurtenances (roof-mounted equipment) are proposed, but pad-mounted utilities are proposed instead. These pad-mounted utilities must be screened per the requirements in the NC Zone. A recommended Condition of Approval reiterates this for the record. Ms. DeSeelhorst shared information about snow removal. It will be handled on-site privately and will not be conducted by the Public Works Department. Snow storage is required and is proposed to be at the north end of the development. Staff has included a Condition of Approval that snow storage does not block access to any of the surface parking stalls. Individual trash cans are proposed for each unit, rather than a site dumpster. City Code specifies requirements for site dumpsters but does not specify requirements for individual trash cans. The applicant proposes that each tenant place the cans out for curbside pickup on Bengal Boulevard on trash collection days. Some of the public comments received so far have expressed concerns about the waste management and the impacts.

Commissioner Poulson noted that he has some concerns about what has been proposed as far as trash collection. The cans are 31 inches across, but three feet are required to be between each can. That means there can only be six cans on the west side and eight cans on the other side. He noted that only 14 cans can be placed there, which is six cans short of what needs to be put out. If all 20 cans are put out there, the distance between the cans will be under 1.5 feet. If the distance is less than three feet it is at the discretion of the driver to decide whether or not they will pick up the cans. Ms. DeSeelhorst suggested sharing this comment with the applicant during the Business Session.

Mr. Johnson noted that the Commission can ask the applicant to propose an internal trash management system and come back and demonstrate how that would function. Commissioner Poulson liked that suggestion. He reiterated that the current proposal for trash management will not work. Ms. DeSeelhorst believes members of the public will appreciate this being discussed during the Business Session because that was a common concern expressed in the written comments. She reported that all written public comments were forwarded to the Commission. This item is also scheduled for a public hearing during the Business Session. The recommended Conditions of Approval are included in the Staff Report. Commissioners have discussed some other possible conditions as well. There are three model motions ready for the Business Session.

Chair Anderson asked if there were any additional questions for Staff. Commissioner Mike Smith had a question about the height because that was a common concern expressed in the written comments. Mr. Johnson explained that the proposal is five feet less than the maximum height. Chair Anderson wanted to know what else could be built in the NC Zone. Ms. DeSeelhorst reported that every use in the NC Zone is conditional and there are no permitted uses. A lot of conditional uses that come to the Commission are in the NC Zone. She shared a list of the conditional uses.

Commissioner Steinman noted that planned unit developments (“PUD”) and live-work spaces are in different sections in the list of conditional uses. He asked whether the applicant could apply for a PUD without the live-work component. Mr. Johnson believes the PUD has an acreage requirement that this site would not meet. Commissioner Steinman asked what the process looks like for the Planning Commission to ensure there is compliance with the live-work component. He wondered whether a deed restriction is the best path forward for compliance.

Mr. Johnson noted that the Commission can mandate that a commercial license be maintained and on file with the City to address the work component. The NC Zone is intended to encourage residential mixed-use. This mid-density product, which is a mixture of residential and commercial, serves that intention. Staff could argue that it meets the purpose of the NC Zone. Commissioner Mills likes the idea of what has been presented, but it feels the proposal is tight. It might benefit from fewer units. For instance, the proposal could be six or eight units instead of the 10 requested.

2.0 Adjourn.

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

The Work Session adjourned at 6:06 p.m.

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

Wednesday, January 22, 2025

6:00 p.m.

2277 East Bengal Boulevard

City Council Chambers

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

Staff Present: Community and Economic Development Director, Michael Johnson; City Recorder, Tiffany Janzen; System Administrator, Alex Earl; Senior Planner, Samantha DeSeelhorst, Associate Planner/Sustainability Analyst, Ian Harris

BUSINESS SESSION

Chair Lucy Anderson called the Planning Commission Business Session to order at 6:06 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.

Chair Anderson opened the public comment period.

Robert Farnsworth referenced the ITE Parking Generation Manual. He noted that while it is used by the City, it is not available to the public. This means that the public is unable to review it. If the Planning Commission is using this manual, members of the public should be able to access it.

There were no further comments. The public comment period was closed.

3.0 Business Items.

3.1 Project CUP-24-019 and SUB 24-008 – Public Hearing and Potential Action on a Request by Nathan Anderson for a Conditional Use Permit and Preliminary Plat Approval to Construct a 10-Unit Live-Work Townhome Development at 3425 East Bengal Boulevard.

Ms. DeSeelhorst reported that the project name for CUP-24-019 and SUB-24-008 is Brighton Lofts. Two different actions have been requested by the applicant: a Conditional Use Permit and Preliminary Subdivision Plat approval. The property is located at 3425 East Bengal Boulevard and the zone is Neighborhood Commercial (NC). The subject property is 0.48 acres. She shared an aerial image that shows Bengal Boulevard to the south and Oak Shadow Circle to the west. The subject property is

located toward the eastern end of Bengal Boulevard. Ms. DeSeelhorst shared a street view of the property and reported that it was used as a Wells Fargo Bank for many years. That building is still standing, but the bank location has closed. A zoning map was shown and the subject property was highlighted. There are primarily three different types of residential zones surrounding the property, which are Residential Single-Family (R-1-6), Residential Single-Family (R-1-8), and Residential Multi-Family (R-2-8).

The proposal is for a live-work townhome development, which is allowed in the underlying zone as a conditional use. Ms. DeSeelhorst explained that the Conditional Use Permit is required because live-work developments are conditional uses. The subdivision component is required whenever property is divided. She clarified that separate units are classified as a division of property. Ms. DeSeelhorst reviewed the Site Plan and pointed out that there are five units on either side with a central drive aisle down the middle. There is also some surface parking to the north.

Ms. DeSeelhorst explained that what a live-work development is can vary by jurisdiction. Cottonwood Heights does not have a definition in the City Code. In the absence of a local definition, Staff defers to definitions to The Planner's Dictionary, which includes the following:

- “A dwelling unit combining residential-use types with commercial or limited industrial-use types. This use classification includes, but is not limited to office, live/work facilities, or other similar uses.”
- A dwelling unit used for both dwelling purposes and any non-residential use permitted in the zoning district in which the unit is located, provided that not more than two persons who do not reside in the unit are employed on the premises.”

The Director has the discretion to determine which definition is used. Based on previous comments, it sounds like the Director has determined the first definition is the most applicable. Ms. DeSeelhorst reiterated that there are not specifications for live-work in the City Code. The applicant is proposing that the live component be the townhomes, with the ground floor office space being the work component. The ground floor office space will be used by the tenants.

In the absence of a local definition, the proposed combination of dwelling area and ground floor office space for use by tenants is compliant with Code, both in this project and in past projects. Ms. DeSeelhorst noted that if there is a desire to have more local regulation or additional clarity, a code update might be worth considering. Information about project density was shared. The applicant is proposing 10 units on the 0.48-acre site. Some of the zoning ordinances in Cottonwood Heights list a specific density ratio. For example, the Mixed-Use Zone states that the maximum number of units is 35 per acre. The General Plan, which is the guiding document for the City, specifies a density bandwidth for different residential zones. However, there is nothing listed for the NC Zone. In the absence of a strict density number, the City uses other development parameters to assess whether the project is compliant. This includes constraints such as setbacks, height, and parking. Information about setbacks and height were shared.

The front setback, which is the south property line, needs to have a 25-foot setback and the applicant is proposing a 25-foot setback. The west side, which is adjacent to Oak Shadow Circle, needs to have a 25-foot setback, and 25 feet is proposed. The east side needs to have a 10-foot setback, and 10 feet is proposed. On the rear, the setback requirement is 25 feet. The applicant will provide more than that with 27.98 feet. All of the proposed setbacks meet the minimums outlined in the code. The

maximum building height allowed is 35 feet and the applicant proposes 30 feet. Ms. DeSeelhorst clarified that the height is measured from existing grade.

The Outdoor Lighting Ordinance applies to this project. The submitted Photometric Plan complies with all components except for two items: the total site lumens and property boundary illumination. Those items need to be corrected, and a Condition of Approval is recommended to address that. As for landscaping, the proposal complies with the City landscaping standards. Some specifications for landscaping in the zone do not apply due to the property size and proposed use.

Ms. DeSeelhorst shared information about fencing. The applicant proposes four-foot fencing around the private yard areas for each unit but does not propose new site fencing. The plans indicate that the following fences will remain east side block retaining wall and chain link fence and the north side block retaining wall and wood fence. While site fencing is not required, the Commission can add a Condition of Approval for additional fencing to provide some enhanced buffering.

The City uses the ITE Parking Generation Manual for its parking requirements. The Cottonwood Heights City Code does not specify parking requirements for visitor parking. As a result, parking was assessed for the dwelling units and office space. During the Work Session, the Planning Commission discussed whether that is the best approach and if other metrics should be considered. Ms. DeSeelhorst explained that the manual determines there should be 13 parking stalls provided for the dwelling units. Twenty are proposed to be provided in the two-car garages. The office spaces require three stalls, which is based on square footage. The proposal is to provide four stalls.

Ms. DeSeelhorst reported that a Traffic Study was provided as part of the project submittal. It was preliminarily reviewed by the Engineering Department. The traffic study found that a Level of Service (“LOS”) C is maintained post-development, which is acceptable to the Engineering Department. The Engineering Department stated that during the technical review process, which follows the Planning Commission process, the traffic study must be updated to verify the on-site parking spaces required are sufficient and that there is compliance with ADA requirements. If a revision to the traffic study is done as part of the technical review process and it revises what has been approved, the applicant would be required to return to the Planning Commission for approval.

Visitor parking was discussed. Ms. DeSeelhorst noted that City Code does not have specific requirements for visitor parking. However, Staff is concerned that visitors may try to park on the neighboring cul-de-sac, which is Oak Shadow Circle. Oak Shadow Circle is a public right-of-way that allows public parking by default. Considering the single point of ingress and egress as well as the relatively narrow width and short length of the cul-de-sac, Staff finds an excess of parking on this right-of-way could create a disproportionate negative impact on those homes. Staff has recommended a Condition of Approval that townhome visitors not be allowed to park on that cul-de-sac. Signage would need to be installed at the entrance to the townhome development, as well as on Oak Shadow Circle. The Commission discussed whether that condition is appropriate during the Work Session and there can be additional discussions about the recommended conditions.

Ms. DeSeelhorst reviewed some miscellaneous items. No roof appurtenances (roof-mounted equipment) are proposed, but pad-mounted utilities are proposed instead. These pad-mounted utilities must be screened per the requirements. A recommended Condition of Approval reiterates this for the record. In terms of snow removal, it will be handled on-site privately and will not be conducted by the Public Works Department. Snow storage is required and is proposed to be at the north end of the

development. Staff has included a recommended Condition of Approval that states the snow storage cannot block access to any of the surface parking stalls.

Waste management was a significant topic of discussion during the Work Session. It was also a shared concern in many of the written public comments. At this time, it is proposed that instead of using a site dumpster, there will be individual cans for each unit. City Code has requirements for site dumpsters but does not have requirements for individual trash cans. Some members of the Commission have researched what the waste management provider for the City requires. There will likely be some questions for the applicant about what the plan is to mitigate those issues. She clarified that the proposal is to place cans for curbside pickup on Bengal Boulevard.

Ms. DeSeelhorst reported that there were several public comments submitted ahead of the deadline, which is noon the day prior to the Planning Commission Meeting. All of the comments received ahead of that time were submitted to Commissioners for review. This item is also scheduled for a public hearing. When the time comes, the Chair will open the hearing for those interested. Ms. DeSeelhorst shared the Staff recommendation as well as the proposed conditions.

Based on the findings listed in the Staff Report, Staff recommends approval of the applicant project with several Conditions of Approval. There has been some discussion about additional conditions and amendments to the recommended conditions. The conditions listed are a starting point. When the time comes for a motion to be made, there are sample motions available for the Commission.

The applicant, Nathan Anderson, introduced himself to the Planning Commission. He initially envisioned this property as being more mixed-use, with some commercial on the first level, parking internal to the building, and 16 to 18 units on the property. That would have provided an avenue to use House Bill (“H.B.”) 572 funds to make it more affordable. However, given his background in the construction and development business, he felt the impact would be too great for the City and the nearby residents. It was then changed to the 10 live-work townhomes.

Mr. Anderson explained that live-work townhomes were done previously on Fort Union Boulevard and have also been done in Salt Lake City and Millcreek. Those live-work developments have performed well. The Covenants, Conditions, and Restrictions (“CC&Rs”) will dictate that there are no patrons present on the properties. The work element will be for office use. The workspace is intended for the owner of the townhome. As for the parking and garage portion of the townhomes, there is a 29% slope in the stairway that enters into the garage and projects into the garage. The lower portion of the stairway is used as an alcove for the garbage can placement.

Mr. Anderson shared information about trash removal. It is not possible to allow a vehicle into the project that weighs 20 to 25 tons. It is also not possible to improve the road well enough to sustain that kind of weight, traffic, and damage. That is the reason for the proposal to pick up individual cans on Bengal Boulevard. If there are 10 units, there will not be 20 cans associated with the project. He explained that there will be 10 cans. An outside provider is needed, which is ACE Disposal. The recycling will be picked up once per month and will not be on the same day as the trash collection. He reiterated that there would only be 10 cans placed out there at one time.

As for fencing, it is not possible to do anything on the LDS Church property on the east side. Mr. Anderson explained that it needs to remain as it is currently. He noted that he took over some information to the resident who lives to the north of the property. That block wall is in fantastic

condition and will remain so. When it comes to the fencing on the west, he will try to make it better than it is currently. Some of the wrought iron could be upgraded to make it look nicer. The lighting fixtures on all of the pillars need to be changed because most of them do not work. Most of the fencing will remain. To respect the privacy of neighbors, there will be more than what is shown in the Landscaping Plan. Crimson Spire Oak trees will be planted every 5.5 to six feet along the north and west. Those trees provide coverage year-round, which will be beneficial to residents.

Mr. Anderson reported that the townhome itself will be finished with high-quality materials. He mentioned the current market conditions and new tariffs on the way. Most of the lumber that is used comes from the Boreal Forest in Canada. As a result, the lumber costs are anticipated to increase. Mr. Anderson noted that the Planning Commission will most likely hear comments during the public hearing that are in opposition to development, but there needs to be more housing products out there of all types. He asked the Commission to consider a Conditional Use Permit request.

Commissioner Sean Steinman had questions about operations within the site. He wanted to know what management and Homeowners Association (“HOA”) would be put in. Mr. Anderson reported that there will be a standard HOA, and it will be governed by the CC&Rs. The CC&Rs will determine what can be done with the live-work space. There will be no Airbnb business allowed or short-term rental businesses. Commissioner Steinman asked about the amenities that will be there for residents of the property. Mr. Anderson stated that the residents will have a yard and a townhome. A common criticism of townhome units relates to storage and privacy. That is the reason there will be fencing to separate the units and create a private outdoor space for residents.

Commissioner Steinman asked about the live-work component and what regulations the HOA will have over that. Additionally, he wanted to know if there would be any on-site management. Mr. Anderson denied that there would be on-site management. There is an outside professional management company that will govern the CC&Rs. Commissioner Dan Mills asked if the capacity of the road could be built to tolerate the trash collection vehicles. Mr. Anderson explained that he has had experiences with both a dumpster and individual trash cans. A garbage dumpster in an enclosed defined area with gates and locks is often abused over the years. There is a lot of maintenance associated with dumpsters. It has worked better when the garbage can is internal to the garage. Based on the CC&Rs, individual cans cannot be left outside the garage. The trash can has to stay inside the garage and then be taken to Bengel Boulevard on the date of trash collection.

Commissioner Mills asked the applicant to provide more clarity about the east side. It looks like the setback on the east will be tight, where the current wall and ivy are located. He asked for more information about how the east and west will be handled. Mr. Anderson reported that from the foundation wall to the property line is 10 feet. There will be small courtyards on that side and there will be larger courtyards on the west side. Ms. DeSeelhorst believed Commissioner Mills was referring to the cantilevered area on the upper story. It was previously clarified with the applicant that this counts against setbacks. She believes the intention is to update the articulation to remove that. However, the rendering was not updated ahead of the Planning Commission Meeting. She does not believe that it will be part of the project as it continues to move forward.

Commissioner Mills mentioned the ivy in the area. He imagines that it was planted years ago and asked if it is on the property of the LDS Church. Mr. Anderson explained that the wall is split between the LDS Church and this property. The ivy is a good barrier, but having two fences is not a good idea. Two fences side by side tend to collect debris. If the chain link is on their side of the block

wall, it will be removed. Commissioner Mills stated that it is on the opposite side. Whatever agreement is worked out, he asked that the maintenance be considered. The area to the east will be shaded and will be very different from the space that is provided on the west side. Mr. Anderson reiterated the intention to plant trees to provide additional privacy to the residents.

Chair Anderson noted that the north is where the proposed snow storage would be located. She asked if planting those trees would block the area in terms of snow storage. Mr. Anderson denied this and explained that there would be adequate space there. Commissioner Dan Poulson had a question about the trash collection. He asked if it was ACE Disposal who would collect the trash cans since Wasatch Front Waste and Recycling District handles trash collection in Cottonwood Heights. Mr. Anderson reported that two years ago, Wasatch Front Waste and Recycling stated that they have the option to pick up or not pick up from private development in Salt Lake County from 1978 on. When notices were issued to planned unit developments (“PUD”) and private developments, there were a lot of difficulties. ACE Disposal has been the best provider in his experience.

It was reiterated that ACE Disposal will handle the trash collection. Commissioner Poulson believed ACE Disposal will not have the same rules that need to be abided by as Wasatch Front Waste and Recycling District. This was confirmed. Mr. Anderson explained that they were instructed that there needs to be a 20-inch separation between cans. There are 10 cans associated with this development, which means there is more than enough space available. As for the question asked earlier about whether or not the roads could be construction to handle the heavy trucks, it is possible if there were 10 inches of reinforced concrete, but it is cost-prohibitive to put that in.

Commissioner Steinman asked if there are any details about the ACE Disposal trash removal. He wanted to know if the company could pick up trash on a public road. This was confirmed. Mr. Anderson reported that the arm was on the side of the vehicle. On the can, there is a stainless-steel metal bar embedded in the handle grip. That is where the can is grabbed. The distance between the cans that were mentioned during the Work Session relates to the capture system, which has two arms that come in and pick up the can. This is a different system, and it comes from below.

Commissioner Poulson noted that it was stated previously that recycling will be picked up one time per month. He asked if that was adequate. Mr. Anderson noted that in other PUDs, recycling being picked up on a three-or-four-week basis has been fine. He reiterated that there are different mechanical systems between ACE Disposal and Wasatch Front Waste and Recycling District.

Commissioner Mills asked about the visitor parking. He wondered if there were any strategic ideas related to ADA approaches. Mr. Anderson explained that the project is designed to be ADA-visitible. All of the sidewalks, approaches, and courtyard patios have been leveled. There is only one step into the unit. To be ADA compliant would be different than ADA visitible. In the case of ADA compliance, there would be three parking stalls and a landing pad. The townhome is intended to be visitible. Commissioner Mills mentioned the sidewalks in front of the visitor parking spaces. He is trying to envision how a wheelchair user might be able to navigate that. Mr. Anderson acknowledged that it would be tight for a full wheelchair to access that area.

Commissioner Poulson noted that there might be issues with parking if there is a party or someone is entertaining, given the amount of visitor parking spaces. Mr. Anderson noted that he had seen vehicles parked on the north and west sides of Bengal Boulevard. Visitors could park on the public street if there is no additional parking available on the site. He heard similar comments on other

development projects, but the only time there has ever been a parking issue was during the construction period. The parking stalls have served residents and visitors well on a regular basis. Commissioner Poulson reiterated his concerns about the visitor parking that is proposed.

Commissioner Steinman asked about fire remediation. He wanted to know if there would be sprinkling in the buildings. Mr. Anderson stated that everything proposed on the property is compliant with the zoning and fire regulations. Commissioner Steinman wanted to hear more about the zoning compliance within the NC Zone. Mr. Anderson mentioned the height and the setbacks. There is compliance with those requirements. Commissioner Steinman asked if he feels the live-work component matches the overall intent of the NC Zone. Mr. Anderson noted that the commercial component is essentially a small bedroom. During the COVID-19 pandemic and after, many people started to work from home or had a hybrid system in place. It is beneficial to have a separate area for business use from the living area. Someone could conduct business in that room and not be bothered by the rest of the household activities. The CC&Rs will govern that live-work space. He explained that there will not be daily visitors to the office units.

Chair Anderson believes the applicant's definition of live-work is to have a separate home office. Mr. Anderson confirmed this. In most cities, to have a home office, the resident needs to apply for a Home Occupation Permit. That allows them to conduct their business from home.

Commissioner Mills had a question about elevation. He asked Staff and the applicant to estimate the height of the current structure on the property. Ms. DeSeelhorst shared the street view image, which shows the Wells Fargo Bank building. Mr. Anderson reported that the apex of the roof is 26.8-feet. The proposal for this building is 29.9 feet. Commissioner Mills noted that there is a difference in grade tapering from the north to south and from the east to the west. He asked if there was anything that would reassure the residents that there would not be an appreciable change. It would be beneficial to know how the applicant plans to deal with the slope in both directions. Mr. Anderson stated that the site would be balanced. The reason the bank building was constructed in this way was to accommodate drainage. It all drains to the central drains that are in the back on the north end. The grade was raised to pull it back. They will need to take the grade down on the east and west to match. Commissioner Mills believes that this will reassure some of the residents.

Additional discussions were had about the elevations. Commissioner Mills asked whether it is anticipated the northeast quadrant or southwest quadrant will be approached. Mr. Anderson reported that it will be the southwest quadrant. The grading and drainage shown on the civil engineering from McNeil Engineering shows that all of the water from the corners needs to be pulled back and brought down a center waterway because there is a 24-inch corrugated pipe that goes under there. That is where all of the water collection is stored until it percolates out.

Chair Anderson opened the public hearing.

Kelby Kunn reported that she lives three houses from the proposed development. She wants to address two key concerns including density and why this project does not fit the character of the community. This 10-unit townhome proposal is not appropriate for the NC Zone. She stated that the NC Zone was never intended to accommodate high-density residential development like this. Zoning Code Section 19.37.010 states that the NC Zone is meant for small-scale commercial services, not high-density housing. General Plan Section 3.1 prioritizes land use compatibility, ensuring that the commercial-zoned properties do not disrupt established residential areas. Subdivision Code Section

12.08.030 explicitly requires subdivisions to align with the character of the surrounding development, which this project fails to do. The developer is exploiting a zoning loophole by labeling this as a live-work project. In reality, it is a high-density residential development disguised under a commercial classification. It is a project where if properly zoned under the multi-family housing regulations, would be subject to stricter density restrictions. It appears the developer is attempting to bypass those stricter density restrictions. Ms. Kunn is not opposed to development, as growth is necessary, but it must be consistent with the surrounding neighborhood.

The areas in the community that have denser housing are zoned as R-2-8, which allows for duplex-style housing that fits with the neighborhood's character. Ms. Kunn stated that the proposal goes beyond the density threshold and does not align with the existing R-2-8 zoning patterns in nearby residential areas. If this property truly is for housing, it should be rezoned to the R-2-8 Zone to ensure that it fits within the surrounding community and maintains a balance between commercial and residential uses. Ms. Kunn is concerned about how the high-density project will increase traffic, reduce safety, and disrupt the quiet residential character that currently exists in the neighborhood. She moved here specifically because of the single-family low-density duplex homes that define the area. This proposal threatens the balance that exists. Ms. Kunn urged the Planning Commission to deny the project as proposed because it is not suitable for the NC Zone and does not reflect the density of surrounding neighborhoods. If residential development is truly the goal, then the developer should follow the correct process and seek a rezone to the R-2-8 Zone. This decision is not about stopping development but ensuring there is responsible development.

Ellen Birrell appreciates the work that the Planning Commission does. There are some challenges she sees with this proposal, and she wants to make sure those challenges are considered during the deliberations. In reviewing the code, she sees that there is contradictory language between 19.37.010 and 19.37.030. While live-work is listed as a conditional use, the design of this project involves a small room on ground level that may or may not be used by the resident for their livelihood. The language in 19.27.010 states: "The NC zone is intended to protect and enhance neighborhood commercial areas by promoting the concentration of businesses that provide convenience goods and services used frequently by local residents." Ms. Birrell pointed out that what has been described is not convenience goods and services used frequently by local residents.

Ms. Birrell noted that the applicant has stated the units will not be used to interact with the public. As a result, that is a direct contradiction to what appears in the code for the NC Zone. The zone provides for scale and character of development that is consistent with pedestrian orientation and which tends to attract and promote a walk-in clientele. That stands in direct opposition to what has been described about this project. None of the units provide convenience goods and services used frequently by locals and none of the units provide pedestrian orientation that tends to attract and promote a walk-in clientele. Ms. Birrell pointed out that there will not be sidewalks within the project. In addition, she noted that Bengal Boulevard is used by children to reach an elementary, middle, and high school. There is nothing in Cottonwood Heights planning that addresses a safer condition for walkability along this segment of Bengal Boulevard. All of the additional vehicular trips that will be added with these 10 units will add to the danger on Bengal Boulevard. She urged the Commission to consider that while there is support for live-work units, what is proposed is not necessarily well suited to the area given the intention of the NC Zone.

Jonny Matich stated that Cottonwood Heights has certain values and has set certain standards. He lives on Oak Shadow Circle and has been there for the last five years. This development will not

obstruct his view, but it will cause safety problems. He works in education and when he leaves his house, there are a lot of students and pedestrians in the area. Putting 10 or 20 trash cans on Bengal Boulevard will cause visibility issues. Mr. Matich also has concerns about light pollution and the recycling only being picked up once a month. The 10-unit townhome development will not provide enough space for safety. He asked the Commission to deny the proposal.

Mitch Longson explained that he was here to raise a concern from the perspective of the neighboring LDS Church. There were some comments made about the Oak Shadow Circle parking and a potential Condition of Approval for signage there. However, he would like to request a similar condition if this project moves forward to address parking at the LDS Church. The same concerns are there that exist on Oak Shadow Circle. Visitor parking could easily be channeled into what some perceive as public parking in the church lot. As a result, Mr. Longson asked that there be a Condition of Approval for signage and enforcement to ensure there is no visitor parking there.

Jay Velazquez stated that he and his husband live directly west of the planned development on Oak Shadow Circle. He was impressed with the Commission discussion that took place. It is clear that several Commissioners see many of the same issues residents see. This project does not make sense as a live-work development, because the applicant himself stated that this is residential with a home office. A 108-square-foot room that is described by the applicant as a small bedroom is not a commercial use. His walk-in closet is larger than 108 square feet and he would not hold a meeting there. Mr. Velazquez agreed with the concerns expressed previously about garbage, fire, and density. There are a lot of subjective standards that are being applied because the City Code does not have enough specificity on certain items. The conflict between the NC Zone and what is being described as a residential high-density development is concerning. The role of the Planning Commission is to determine whether or not this proposal makes sense in this particular area.

Mr. Velazquez mentioned that the garbage cans will need to be kept inside the garage. He does not believe it will be possible to park two vehicles inside of the garage and also store the garbage. This proposal sets a dangerous precedent for the live-work approach. He appreciated the comments shared earlier by City Council Member Birrell about the conflicts with the Code. Mr. Velazquez added that the area can receive 12 to 20 inches of snow during a snowstorm. He does not believe there is enough room to hold all of the snow that will come along that driveway. For the safety of existing and future residents, he asks that the Commission reject this proposal.

Jeff Chatelain does not support 10 units on a 0.48-acre property. He is not certain that the price of the units has been revealed but expressed concerns about any comparisons to Tavaci. Mr. Chatelain shared information about the Canyon Centre, which he lives next to. He urged the Commission to look at the number of trash cans that are put out on garbage day there. He next shared concerns that snow from the proposed development will be pushed onto Bengal Boulevard. There are concerns that what happened at Canyon Centre will happen again with this development.

Robert Farnsworth shared comments about the NC Zone and 19.37.010. This plan wants to take an existing bank and replace it with 10 small offices that total 1,080 square feet. That is a reduction of over 53% of the commercial use, which is not protecting or enhancing the area. He read from 19.37.010 and pointed out that the application does not meet the standards. The Municipal Code defines a home occupation as any use that is conducted entirely within a dwelling and carried out by one person residing in the dwelling unit, where use is clearly incidental and secondary to the use of

the dwelling and does not change the character of the dwelling for residential purposes. It is clear that the home offices that are proposed as part of this development are not live-work.

Mr. Farnsworth explained that what is proposed does not meet the Code. The Code language also states that “Development within this zone should maximize human scale elements while providing a sensitive transition between these uses and neighboring residences, including the provision of adequate and properly cited parking facilities.” A 20-unit per acre density should not sit next to a low-density R-1-6 Zone. The plan also does not appear to be ADA-compliant. It needs to be compliant and not simply visitable. If there are four or fewer spaces, it needs to be van-compliant, which requires an eight-foot access aisle. There is no room on the plan for an eight-foot access aisle.

Paul Hatfield stated that he lives on Oak Shadow Circle. Based on a review of the plans, it seems the proposed development is incompatible with the single-family homes that are in the area. The General Plan states that any new development shall preserve the neighborhood character and complement the existing built environment, which this proposal does not. As for snow removal, he lives at the very end of Oak Shadow Circle and half of the time, the snow is pushed into the front of his home. There have been times when the snow has been there until late May or early June. If there is a four-inch snowstorm, the applicant will need to plan on putting 36 cubic feet of snow onto the end of that driveway, which will not fit. As a result, snow will likely be pushed out onto Bengal Boulevard. The proposal only makes sense if there is a very lean snow year.

Mr. Hatfield was not opposed to development of the lot. He understands that housing development needs to take place. If this proposal moves forward, he asks that the Commission require a fence on the Oak Shadow Circle side. When it comes to the height, it is correct that the bank height is almost 27 feet but it has a pitched roof. The developer is planning to have a flat roof at 30 feet, which will have more of an impact than what is there currently. Mr. Hatfield stated that the proposed development does not adequately take into account the NC Zone or the adjacent R-1-6 Zone. He asked that the Planning Commission deny the proposal.

Marcia Whitney lives near the intersection of Bengal Boulevard and 3500. There are a lot of traffic issues with that intersection, but she has never seen vehicles parked on Bengal Boulevard. She is concerned about the parking, especially the suggestion that parking can or will take place along Bengal Boulevard. Not only does the proposal not match the neighborhood, but there is not enough parking for the number of residents. Each unit will likely have two vehicles, which is 20 vehicles coming in and out close to the intersection. She reiterated her concerns about the traffic levels.

Sean Cox lives directly north of the proposed development. He is deeply concerned about the impact this project will have on the privacy of his family, the density of the neighborhood, and the overall character of the community. Mr. Cox values the peace and privacy of his home. The dense layout of the proposed design, as well as the proximity to his property, threatens to take away his peace and privacy. He worries about the noise, increased activity, and losing personal space. Knowing that his backyard will now be overlooked by new neighbors is unsettling. While the proposal includes a commercial office, it is clear that the focus is residential. This is not what the NC Zone was intended to do. The zone is supposed to serve the community with low-impact commercial uses. What is proposed is high-density housing that will strain the infrastructure and change the character of the neighborhood. This proposal does not fit in the area.

Mr. Cox noted that the development feels rushed and out of place. This is not just about the rules in zoning, but in preserving the unique sense of community that residents have worked hard to find and build. This project does not align with the needs of the community or the character of the neighborhood. It will disrupt privacy and cram too many units into a small space. Mr. Cox asked the Commission to reject this proposal and prioritize development that reflects shared values.

Ryan Buy stated that he lives on Mountain Estates Drive. He thanked his fellow citizens who have shared comments. Mr. Buy believes the project should be rejected, as it does not fit the character of the neighborhood. He also feels that the reason the garbage cans are proposed to be placed on the street is because there is not enough space for a garbage truck to exit the development. He heard that the Unified Fire Authority (“UFA”) has approved the preliminary plans, but he has a hard time believing that a fire truck could make it into this property and then safely turn around. If this project moves forward, he would like to see a letter from UFA that is part of the public record. Mr. Buy asked the Planning Commission to reject this proposal in its current form.

Randy Gotberg is a resident of the neighborhood and expressed concerns about what has been proposed. The issues that have been mentioned by others are important and need to be considered. He believes that the Commission has been lied to by omission. While the garages are 21’ x 21’ and it is possible to park one larger vehicle in the garage, it is unlikely that a second vehicle will fit. There is not enough room in the proposed development. As for the offices that will be downstairs, he wants to understand where that parking will be accommodated. It was stated that trees would provide privacy for the tenants and neighbors next door, but he feels that is another lie by omission. The trees would be for the tenants and developer because the neighbors would lose their views of the mountainside as the trees grow taller. He expressed concerns about emergency access.

Mike Halligan stated that he is a resident of Cottonwood Heights. He agrees with many of the comments that have been shared and the concerns that have been raised. There has been a discussion about overflow parking on the street. Based on the way the street is currently striped, that would result in parking in the bicycle lane. This puts visitors needing to park in a difficult situation, where they will need to decide whether to park in the church parking lot or the bicycle lane. There is not a clear solution. If this project moves forward, it is necessary to determine where the parking will take place and how the parking will impact other uses on the street. He discussed the proposed massing. Putting something of that size and mass into the space will change the neighborhood character, as the surrounding neighborhoods are two-story residential.

Chad Penguin lives approximately three blocks north of the proposed development. There is a difficult intersection at 3500 East and Bengal Boulevard. That intersection has a crosswalk for the schools. There is already an issue with vehicles not stopping at that intersection. Adding parking in the bicycle lane as well as garbage collection there will block access and visibility. Creating these kinds of issues could result in a pedestrian being hit. He reiterated his safety concerns.

Karen Cordiner lives at the end of Oak Shadow Circle and there is often snow in front of her home. As for the corner of 3500 East and Bengal Boulevard, there are a lot of issues there and people do not stop. She worries about crossing any street with a stop sign. Adding more people to the area means more vehicles in the area. She is worried about visibility and safety. Ms. Cordiner would like to see a development that makes sense with the rest of the neighborhood.

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

Chair Anderson expressed appreciation for the residents who came out to share comments. She noted that it is now time for the Planning Commission to deliberate on the application.

Commissioner Steinman wanted to start with a discussion on live-work. The current Code is not clear enough and the City has to rely on the applicant and their vision of live-work. The NC Zone encourages enhancing local amenities, promoting walkability, encouraging mixed-use, limiting impact, and fostering community. Unfortunately, this development is focusing on a home office rather than a true live-work situation. Live-work means there is cohesiveness within the community. Most other communities have a 300-square-foot live-work requirement component. He could see live-work making sense in this area if there was a 300-square-foot base-level requirement.

Commissioner Steinman reported that in the NC Zone, there is a PUD requirement, which requires three acres or more to be multi-family. The applicant communicated that this is basically a multi-family development rather than a live-work development. The live-work component has to have a residential component, commercial component, and integrated use. It is important to consider how this proposal will meet the intent of the NC Zone. He has some ideas to mitigate concerns, such as deed restriction. Containing trash on-site and containing all snow removal is important, as is ensuring there is cohesiveness to foster a sense of community. Though there have been other live-work developments, the NC Zone is not mixed-use. Commissioner Steinman believes a requirement of 300 square feet for commercial use would better create the commercial component. In addition, he feels that ADA needs are important to keep in mind. He loves NC developments but feels that those developments need to be thoughtful, foster community, and limit impacts. A lot of people want to see development occur on the property but want to see intentional development.

Chair Anderson has similar thoughts as far as the work component. It sounds like the proposal is a workspace, but it is not commercial. Commissioner Mills acknowledged that there are gaps in the Code due to incorporation. Based on the discussion with the applicant, he feels better about the trash collection, though it is not an ideal situation. Parking continues to be a concern as does ADA. He does not have an issue with the higher density and pointed out that the NC Zone could allow several other uses, such as a Starbucks. That kind of use would result in a lot of traffic. Commissioner Mills noted that this lot is fairly small and that is in contrast with some of the other projects that have been mentioned during the meeting. In order for this to move forward, he believes there will need to be some thoughtful Conditions of Approval to address the issues.

Chair Anderson believes the waste management needs to be internal. It is concerning to put garbage cans out on Bengal Boulevard, as that can create a safety hazard. She noted that Bengal Boulevard is already a dangerous street. In addition, it is not appropriate for snow removal to impact Bengal Boulevard. Based on the materials, it does not appear there is enough snow storage.

Commissioner Shelton shared information about the different roles of the Planning Commission. One of their roles is to listen to comments from the public. The character of the community and whether or not something makes sense in the community is defined by the zone. The Commission is limited in its scope to the rules that are set. Council Member Birrell mentioned that her view is that there is a contradiction in the code. This is a contradiction that many members of the public brought up during the public hearing. The recognition that there is a contradiction creates a challenge, as a contradiction must be resolved in favor of the applicant.

Commissioner Shelton agrees that this piece of property would be better if it were not zoned NC. However, it is zoned NC and that is what the Planning Commission needs to consider. It makes sense to him to remove live-work from the NC Zone, but at this time, it is listed there. The City Council has a different role than the Planning Commission. He pointed out that the City Council can set the rules. For example, the City Council could decide that live-work does not belong in the NC Zone and remove it. The Planning Commission cannot do that. If live-work is permitted, the Commission has to approve the use in that zone. What the Planning Commission has to do with a Conditional Use Permit application is decide if there are conditions that can be imposed that meet the code. The nearby intersection has issues, but that is not a factor when it comes to the right of the applicant to build what is permitted by code. As long as the applicant complies with the standards that are codified, the applicant must be granted approval.

Ms. DeSeelhorst shared the State Code on conditions for conditional uses. As the Planning Commission thinks about reasonable conditions, she asked them to remember that conditions imposed need to mitigate reasonably anticipated detrimental effects of a proposed use. The conditions do not require the elimination of the detrimental effect. State Code states that a Land Use Authority shall approve a conditional use if reasonable conditions are proposed. She informed the Commission that the next Planning Commission Meeting is scheduled for February 5, 2025.

Commissioner Steinman believed deed restrictions for commercial components are needed as well as a requirement for a Business License for the space within six months. ADA is also important to abide by, as is restricting the development to on-site trash removal to ensure it is contained. The Commission needs to make sure the Conditions of Approval are in alignment with the NC Zone. Some other cities require higher ceilings in ground levels for the commercial component of a live-work development. Right now, the City is working on a Form-Based Code, where ground-level commercial requires a higher ceiling than residential. He would like the Commission to think about those kinds of conditions and work with Staff to refine some of the condition language.

Commissioner Shelton noted that it is difficult to set standards when the code does not have them. The code does not have a standard for ceiling height. It is not appropriate to state that a ceiling height has a detrimental impact, because there is no standard on which to base that. Commissioner Steinman noted that this is a Conditional Use Permit, and guidelines can be set to ensure that there is compatibility with the zoning. Chair Anderson referenced the language read earlier by Ms. DeSeelhorst. She does not believe higher ceilings will mitigate a detrimental effect. Commissioner Steinman explained that he does not want to promote non-compliance with live-work. Commissioner Shelton pointed out that live-work does not have a definition in the code, so it is not possible to state there is non-compliance. There is language the Director can adopt as the standard in the absence of a definition in the code. However, that standard is somewhat vague. Commissioner Steinman explained that the current proposal is a multi-family development. That kind of development is required to be above three acres in the current code.

Commissioner Mills commented that there is some difficulty because the Planning Commission is not a legislative body. The Commission can only create Conditions of Approval that address detrimental effects. He believes the Commission can make an argument relative to the ADA needs the requirement of a Business License, and on-site trash removal. Chair Anderson feels there should be Conditions of Approval to address ADA compliance, signage in the LDS Church related to parking, and a requirement for fencing on the west side. Ms. DeSeelhorst suggested that the Commission discuss a minimum height for the fence. The clear view triangle at an intersection of the

roadway is 30 feet, so there would need to be compliance to not create visibility issues. Commissioner Poulson noted that a chain link fence would increase the visibility of the intersection.

Community and Economic Development Director, Michael Johnson, noted that the Commission needs to determine what will be mitigated with the fence. For example, whether it is privacy, visual, or access from Oak Shadow Circle. Commissioner Poulson believed it would be to discourage parking in the cul-de-sac. Mr. Johnson reported that access management is one fencing type whereas privacy and visual buffering might have different requirements. Commissioner Steinman believes the Commission should focus on the commercial component. Putting a 300-foot minimum requirement for ground-level commercial mitigates potential non-compliance.

Commissioner Shelton stated that in his view, live-work can be defined as a desk in an office. Someone who works in that way is not out of compliance with the code, based on how he reads the language. He agrees that there are contradictions in having live-work on the list of conditional uses, but it is currently on that list. Commissioner Steinman pointed out that the applicant is applying for a conditional use. There need to be appropriate conditions. There is a difference between the NC Zone and multi-family uses. Commissioner Mills wanted to understand why 300 feet would be more compliant than 100 feet. Commissioner Steinman reported that 300 feet is the commercial regulation within the Utah Land Institute's ("ULI") definition of commercial space.

Chair Anderson shared possible conditions related to internal trash management on-site, increased space for snow storage, and a requirement for a Business License. As for the 300-foot requirement on the first floor, she is struggling to understand how that is mitigating anything negative. She understands the argument from Commissioner Steinman but wants to better understand what is being mitigated with that condition. Commissioner Steinman reiterated that it would mitigate non-compliance and ensure that each of these are actually live-work units. Activating the ground level allows for better integration in the neighborhood and better integration with the NC component. Commissioner Mills asked that ADA-compliant visitor parking be added to the list. In addition, there was the proposed condition related to fencing on the west side of the property.

Commissioner Steinman noted that based on the current proposal, the owner is not necessarily allowed to operate a company that an employee can work at. He wondered whether there was a desire to regulate that in some manner. Currently, it is simply a home office component and the CC&Rs do not allow for employees to be working there. Ms. DeSeelhorst referenced Condition of Approval #1 which was recommended by Staff. Not allowing additional employees could mitigate a negative parking impact. If the Commission wants to make edits to the Conditions of Approval that were recommended by Staff, she asked that this be clearly stated for the record.

Commissioner Mills wondered whether improved walkability on the frontage would better allow for a walk-up type of use, such as a hair salon. Commissioner Steinman expressed support for that kind of condition. Mr. Johnson reported that there is a requirement for a sidewalk connection to the public sidewalks, both from the south elevation and the west elevation. There will be full connectivity between the units and the pedestrian path. Commissioner Mills feels it makes sense to leave some discretion to Staff and the property owner so they can determine what walkability improvements look like. For example, there could be wider sidewalks or a protected bicycle lane. He referenced the pedestrians in the area and the safety concerns expressed. It is possible to mitigate some of the issues with creative solutions. There could be a fairly broad condition written.

Commissioner Mills stated that he is comfortable with all five of the Staff recommended Conditions of Approval. It is possible to add that similar signage be placed at the front of the LDS Church parking, per their approval. Commissioner Shelton has an issue with stating that parking is permitted on a public street, except for residents or visitors of the development. He does not feel that is fair or makes sense. If Oak Shadow Circle is not compatible with public parking, then a change should be made, but there should not be discrimination against one set of residents. Several Commissioners agreed with that statement. Commissioner Steinman asked whether the Commission feels the proposed development is underparked. Commissioner Shelton noted that it is not under-parked based on the standards. Commissioner Mike Smith wondered how a review of those standards could be initiated. Ms. DeSeelhorst reported that zoning text amendments will continue to come to the Planning Commission over time. It is also appropriate for the Planning Commission to let the City Council know if certain priorities should be considered.

Mr. Johnson pointed out that some of the potential Conditions of Approval mentioned by the Commission could result in substantial changes to the development layout. It might be best to continue the item. This way, the applicant can review the list and bring a concept back. Chair Anderson agreed that it makes sense to continue the item to a future Planning Commission Meeting. Ms. DeSeelhorst suggested continuing to a date certain. If the applicant needs more time than that meeting date allows, the item could be continued again to a future meeting.

Chair Anderson summarized some of the items the Commission would like to see addressed:

- ADA-compliant visitor parking space;
- Signage in the LDS Church parking lot to the east of the proposed development;
- Addition of fencing on the west side of the development to meet City requirements;
- Internal trash management;
- Adequate/increased space for snow storage;
- Business License requirement for each unit; and
- 300 square foot requirement for each commercial unit.

Chair Anderson noted that while there is some uncertainty about the 300-square-foot requirement, she feels it is worth listing at this point. As for the recommended Conditions of Approval from Staff, the Commission would suggest that Condition of Approval #4 be updated to remove the signage requirement on Oak Shadow Circle and add a signage requirement for the church east of the proposed development. Chair Anderson is not certain overnight parking can be prohibited, as there are residents who may park on Oak Shadow Circle overnight. Mr. Johnson offered to ask the City Engineer for additional input on the area based on the road width and other factors. Commissioner Mills asked that the list of items include improved walkability to encourage pedestrian safety. Discussions were had about the agenda items scheduled for the next meeting.

Commissioner Mills moved to CONTINUE Project CUP-24-019 and SUB-24-008 to the February 5, 2025, Planning Commission Meeting. Commissioner Steinman seconded the motion. Vote on Motion: Commissioner Smith-Yes; Commissioner Poulson-Yes; Commissioner Steinman-Yes; Commissioner Mills-Yes; Commissioner Shelton-Yes; Chair Anderson-Yes. The motion passed unanimously.

4.0 Consent Agenda

4.1 Approval of Planning Commission Meeting Minutes from January 8, 2025.

Commissioner Mills moved to APPROVE the Consent Agenda. Commissioner Smith seconded the motion. The motion passed with the unanimous consent of the Commission.

5.0 Adjourn.

Commissioner Shelton 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 8:42 p.m.

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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, January 22, 2025.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: _____

DRAFT