



COTTONWOOD HEIGHTS BOARD OF ADJUSTMENT MEETING AGENDA

Notice is hereby given that the Cottonwood Heights Board of Adjustment will hold a **Work Session Meeting** (suite 250, City Council Conference Room) beginning at **5:30 p.m.** and a **Business Meeting** (suite 300, Council Chambers) beginning at **6:00 p.m.** on **Thursday, April 21, 2016**, located at 1265 E. Fort Union Blvd., Cottonwood Heights, Utah.

5:30 p.m. WORK SESSION (suite 250)

1.0 Review Business Meeting Agenda

(The Board will review and discuss a request for an expansion of a non-complying structure by Mohsen Panah, under Section 19.88.070 of the Cottonwood Heights Municipal Code, for approval of an addition to the building located at 2578 E Bengal Boulevard, scheduled for the 6:00 pm business meeting. The Board may also discuss other anticipated or pending applications or issues to come before the Board.)

6:00 p.m. BUSINESS MEETING (suite 300)

1.0 WELCOME/ACKNOWLEDGEMENTS

2.0 ACTION ITEMS

2.1 Project #BOA 16-004, Action on a request for an expansion of a non-complying structure by Mohsen Panah, under Section 19.88.070 of the Cottonwood Heights Municipal Code, for approval of an addition to the building located at 2578 E Bengal Boulevard.

(The Board will take action on a request for an expansion of a non-complying structure by Mohsen Panah, under Section 19.88.070 of the Cottonwood Heights Municipal Code, for approval of an addition to the building located at 2578 E Bengal Boulevard.)

2.2 Approval of April 21, 2016 Minutes.

(The Board of Adjustment will move to approve the minutes of April 21, 2016 after the following process is met. The recorder will prepare the minutes and email them to each member of the Board. The members will have five days to review the minutes and provide any changes to the recorder. If, after five days there are no changes, the minutes will stand approved. If there are changes, the process will be followed until the changes are made and the Board is in agreement, at which time the minutes shall be deemed approved.)

3.0 ADJOURNMENT

On Tuesday, April 19, 2016, at 2:00 p.m. a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Cottonwood Heights City Offices, Cottonwood Heights, Utah. A copy of this notice was faxed to the Salt Lake Tribune and Deseret News, newspapers of general circulation in the City by the Office of the City Recorder. The Agenda was also posted on the City's website at www.cottonwoodheights.utah.gov and the State Public Meeting Notice website at <http://pmn.utah.gov>.

DATED THIS 19TH DAY OF APRIL 2016

Linda W. Dunlavy, City Recorder

Members may participate in the meeting via telephonic communication. If a Member does participate via telephonic communication, the Member will be on speakerphone. The speakerphone will be amplified so that the other Members and all other persons present will be able to hear all discussions. In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting shall notify Linda Dunlavy, City Recorder, at (801)944-7021 at least 24 hours prior to the meeting. If you would like to submit written comments on any agenda item they should be received by the Community and Economic Development Director no later than Wednesday at noon. Comments can be emailed to bbernt@ch.utah.gov. Special accommodations for the hearing or visually impaired will be made upon a request to the office of the Cottonwood Heights City Recorder (801)944-7021. We would appreciate notification two working days prior to the meeting. TDD number is (801)270-2425 or call Relay Utah at #711.

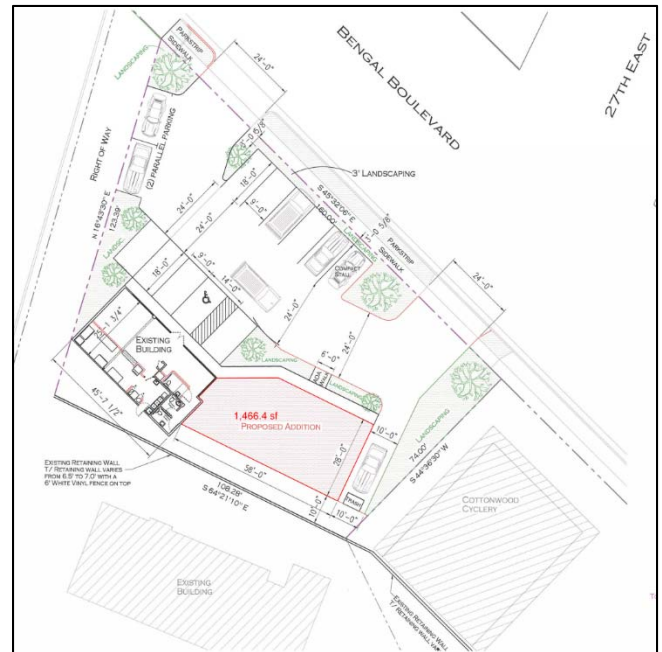
Board of Adjustment Staff Report
Meeting Date: April 21, 2016



PROJECT: BOA-16-004
LOCATION: 2578 E Bengal Boulevard
APPLICANT: Mohsen Panah
RECOMMENDATION: APPROVAL

APPLICANT'S PROPOSAL

The applicant's proposal is for an expansion of a non-complying structure by adding a substantial addition to the existing commercial building located at 2578 East Bengal Boulevard. Cottonwood Heights zoning ordinance chapter 19.92 allows for the expansion of/addition to non-complying structures upon approval from the Board of Adjustment.



BACKGROUND

The subject parcel is located in the Neighborhood Commercial (NC) zone at 2578 East Bengal Boulevard. The existing building on the property, in use as a restaurant (Zaferan), currently has a side yard setback on the west side of the property of 0'. The current rear setback of the building, at its closest point to the rear property line, is 4', and remains nonconforming for roughly 35% of the rear building line. The approximate footprint of the existing building is approximately 1,134 square feet.

Current Neighborhood Commercial setback requirements are as follows:

- Front – 25'
- Sides – 25' when adjacent to residential zone; 10' when adjacent to non-residential
- Rear – 25' when adjacent to residential zone; 10' when adjacent to non-residential

The adjacent properties to the south and east are located in the Neighborhood Commercial zone, and the property to the west is located in the R-1-8 zone.

The front setback and east side setback are in conformance with current code standards. The front setback is approximately 77', and the east side setback is approximately 70'.

The proposed addition is located on the east side of the existing structure (See site plan on page 1 and 7). The proposed addition is 1,466 square feet. The addition would comply with minimum front, side, and rear setbacks in the NC zone (10').

Context

Staff finds that the proposed addition introduces no unreasonable impact, given that the proposed addition falls within the minimum setback requirements in the Neighborhood Commercial zone. The existing building is non-complying in its west side yard and its rear yard. However, the proposed addition does not create any additional nonconformity. The addition has been offset forward from the existing building to comply with the 10' setback requirement, and meets the 10' side-yard setback requirement on the east side of the property.

The structure on the adjacent property to the east (Cottonwood Cyclery) is a two-story building that is constructed with a 0' rear setback. Cottonwood Cyclery is adjacent to the same parcel as the subject property on the south.

Ordinance 19.88.070 – Additions, Enlargements, Moving and Reconstruction of Building (Noncomplying Buildings and Nonconforming Uses).

The Cottonwood Heights zoning ordinance 19.88.070 provides relief from the literal enforcement of the zoning ordinance by allowing for the enlargement of a structure non-conforming as to area and dimensional standards of the ordinance. Ordinance 19.88.070 states:

- A. *A building occupied by a nonconforming use and a building noncomplying as to height, area or yard regulations shall not be added to or enlarged in any manner or moved to another location on the lot or reconstructed at another location on the lot except as provided by subsection B of this section unless such additions and enlargements comply with the regulations and intent of this title.*

- B. *A building occupied by a nonconforming use or a building noncomplying as to height, area or yard regulations may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the lot upon a permit authorized by the board of adjustment, provided that the board of adjustment, after the hearing, shall find:*
- 1. The addition to, enlargement of, moving of, or reconstruction of the noncomplying building at a new location on the lot will be in harmony with one or more of the purposes stated in section 19.02.020, and shall be in keeping with the intent of this title;*
 - 2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or noncomplying building.*

IMPACT ANALYSIS

Ordinance 19.88.070 requires that in order for a permit to be authorized, that the board of adjustment finds:

1. The addition to, enlargement of, moving of, or reconstruction of the noncomplying building at a new location on the lot will be in harmony with one or more of the purposes stated in section 19.02.020, and shall be in keeping with the intent of this title.

Ordinance 19.02.020 states the following:

19.02.020 Purpose of provisions.

This title is designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the city, including, among other things, the lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing adequate light and air, classification of land uses and distribution of land development and utilization, protection of the tax base, and securing economy in governmental expenditures, fostering the city's industries, and the protection of both urban and non-urban development.

Staff Analysis: Staff finds that permitting the proposed commercial building addition will not negatively affect the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the city, and will not create any additional congestion in the streets or roads, will not create a fire safety issue, will not affect air flow or block natural light from adjoining properties, is a land use type permitted (conditionally) in the Neighborhood Commercial zone and is the same land use type as surrounding properties, and has no negative effect on the city's tax base.

2. [Continued from 19.88.070] That the proposed change does not impose any unreasonable burden upon lands located in the vicinity of the nonconforming use or noncomplying building.

Staff Analysis: Staff finds that permitting the addition will not place any unreasonable burden upon neighboring properties because it complies with the 10' setback requirement in the Neighborhood Commercial zone, and the proposed addition has greater setbacks than the existing building. Further, the building on the adjacent property to the east (Cottonwood Cyclery), is constructed with a 0' rear setback (Cottonwood Cyclery is a two-story structure). The Cottonwood Cyclery building is also adjacent to the same property as the subject property in the rear yard. Therefore, a building expansion with a 10' setback will be of less impact than the existing building as well as the building on the adjacent property to the east.

RECOMMENDATIONS & FINDINGS

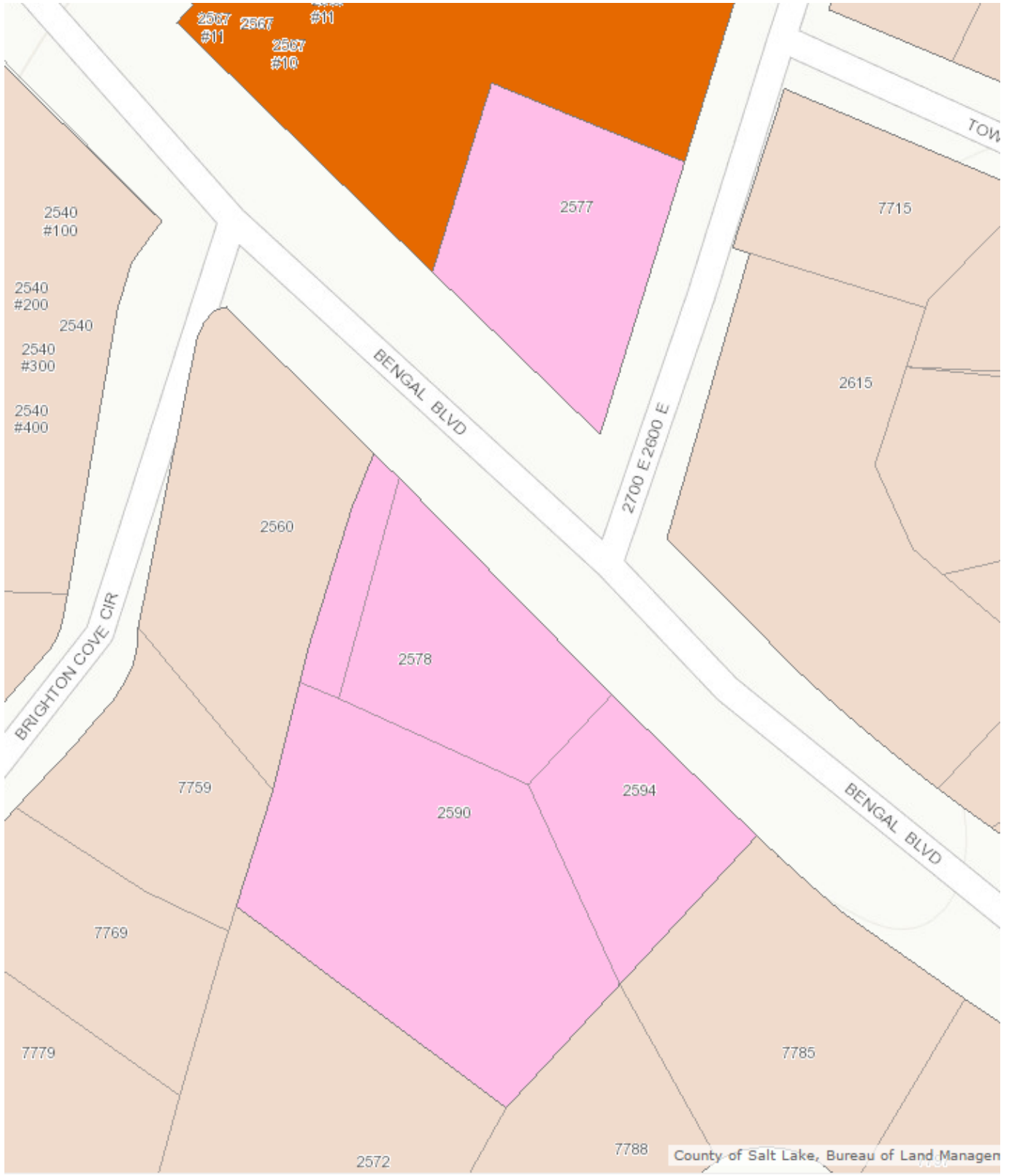
Staff recommends APPROVAL of the expansion of a non-complying structure with the following findings:

1. The proposal will not negatively affect the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the city because the use is the same as currently exists;
2. The proposal will not create any additional congestion in the streets or roads;
3. The proposal will not create a fire safety issue. All fire code issues will be reviewed and addressed via site plan review and building permit review subsequent to any board of adjustment decision;
4. The proposal will be subject to all conditional use, site plan review, and building permit review standards;
5. The proposal will not affect air flow or block natural light from the adjoining properties by conforming with all height regulations;
6. The proposed use of the addition is required to comply with allowed uses in the city's Neighborhood Commercial zone, and will be subject to review by the city's planning commission;
7. The proposal will cause no negative impact on the city's tax base;
8. The proposal will not place an unreasonable burden on neighboring properties;
9. The proposal keeps and maintains the intent of the Cottonwood Heights zoning ordinance.

ATTACHMENTS:

1. Aerial Context
2. Zoning Context
3. Site Plan
4. Site Photos
5. Model Motions

CONTEXT ZONING



SITE PLAN



SITE PHOTOS

