Highland City Planning Commission
February 8, 2011

The regular meeting of the Highland City Planning Commission was called to order by Planning Commission Chair, Tim Irwin, at 7:00 p.m. on February 8, 2011. An invocation was offered by Commissioner Roger Dixon and those assembled were led in the Pledge of Allegiance by Commissioner Jay Roundy.

PRESENT:
Commissioner: Kelly Sobotka
Commissioner: Roger Dixon
Commissioner: Tim Irwin
Commissioner: Abe Day
Commissioner: Jay Roundy
Alternate Commissioner: Trixie Williams

EXCUSED:
Commissioner: Steve Rock
Commissioner: Christopher Kemp
City Engineer: Matt Shipp
City Administrator: John Park

STAFF PRESENT:
Community Development Director: Nathan Crane
Secretary: JoD'Ann Bates

OTHERS: Chris Dalley, Lafe Harris, Scott Roberts, Joe Totorica Sr., Joe Totorica Jr., John Turner, Kymberlee Richins, Susan Burns, Lara Mortensen, Mike Olson, Sara McGill, Kevin Bryant, Bret Gardner, Rob Holmes, Ben G., Seth G.

A. PUBLIC APPEARANCES

Tim Irwin invited comments from the public regarding items not on the agenda.

Kymberlee Richins, a resident of Highland since 1998. She would like to propose a change to the R-1-40 zone regarding large animals. She would like to change the 30 thousand square foot language from two animals to three animals, leave the 40 thousand square foot with four animals and so on as the acreage accrues as currently stated in the code.

Abe Day inquired as to the reasoning behind the proposed change.

Kymberlee Richins stated that when she first moved to Highland, she had more horses than what was allowed on her property and so she has been boarding them elsewhere. Having them boarded elsewhere has been a financial burden; this change will allow her to have her animals on her property. She also feels that if the space is well kept with stalls, there is no reason why there cannot be more animals per square foot.

David Larsen stated it was his father that originally developed this subdivision in 1974 while it was still under the county. At that time the subdivision had covenants that allowed a maximum of 4 large animals. He feels that this subdivision should be grandfathered in and be allowed what was originally granted. Some of the lots are over an acre and the others are about ¾ of an acre. He feels it limits them and does not allow them to have horses for their kids and as has been stated it is expensive to have them boarded elsewhere.

Tim Irwin inquired as to how Kymberlee found out that she was in non compliance to the ordinance.

Kymberlee Richins stated that she has had several warnings by the city due to a complaint from a neighbor that is not part of this subdivision.

David Larsen read from the restrictive covenants of the original subdivision. "All livestock are to be properly fenced, housed, sanitary conditions are to be maintained at all times. No condition will be permitted contrary to item ten of this agreement. No pigs will be allowed. A maximum of four animals comprised of any combination of horses, cattle and sheep will be allowed. No animals will be kept for commercial proposed. Dogs and cats may be kept on any lot in reasonable numbers as pets for pleasure and the use of the occupants of said lot, but not for any commercial use or purpose. All other animals will be contained in numbers and to a reasonable amount."

Kelly Sobotka asked if Kymberlee was asking for this change specifically for her neighborhood or for the city as a whole.

David Larsen stated they are asking for a variance for just their neighborhood to maintain the covenants that it had before the city incorporated.

Kymberlee Richins stated that when she approached her neighbors in support of this change she did not know about the covenants and neither did most of her neighbors.

Jay Roundy inquired if the number of horses that the county previously allowed had been maintained the entire time in that neighborhood.

David Larsen stated that it had been maintained up until four years ago when the city made them remove their horses.

Tim Irwin stated that this would require the Planning Commission to review the code and make a recommendation to the City Council for a change. What he would like to know from the commission if there was interest in placing this issue on a future agenda.

Trixie Williams stated that it was her understanding there is a large file of information on what went into the decision making process to set that number per acreage and feels it would be important to have access to that information as they review this request.

Tim Irwin asked if the applicant would provide the staff with a copy of those CC&R's and direct staff place this on a future agenda.

Nathan Crane voiced his preference in bringing this back as a discussion item in order to talk about pro's and con's and stated there are two different directions they could take, 1) bring back as a future discussion item at the next agenda, talk about the item in depth, and Commission give staff some

direction as to how they would like the recommendation to the City Council, then it would come back and hold a public hearing at another meeting or 2) they can advertise and have the public hearing and hold the discussion at the same time. Nathan would prefer to have some discussion and direction prior to advertising for the public hearing.

Tim Irwin stated he would like to see it be placed on the next agenda for discussion and go forward with a public hearing and recommendation after that time.

Hearing no further comments Tim Irwin continued with the scheduled agenda items.

B. WITHDRAWALS AND CONTINUANCES

Tim Irwin noted that there had been two withdrawals or continuances for this meeting, as follows:

1. TA-11-03 Dave Williams is requesting to amend the Highland City Development Code Section 3-4108, Conditional Use in the R-1-40 Zone to allow funeral homes subject to a conditional use permit and Section 10-102 Definitions by adding a definition for funeral homes. *Legislative. The applicant is requesting that this item, be continued to the February 22, 2011 Planning Commission meeting.*

2. CU-11-01 Dave Williams is requesting a Conditional Use Permit for a funeral home in the R-1-40 Zone. The property is located west of the southwest corner of 6000 West and SR 92 adjacent to the Highland City Cemetery. *Administrative. The applicant is requesting that this item, be continued to the February 22, 2011 Planning Commission meeting.*

MOTION: Jay Roundy moved to continue the two scheduled items on the agenda as requested. Motion was seconded by Trixie Williams. Unanimous vote, motion carried.

Tim Irwin noted that these items have been continued at least twice and requested that these items be re-advertised before the commission takes further action.

C. PUBLIC HEARING AND LEGISLATIVE ACTION

1. TA-11-04 Joe Totorica is requesting to amend the Highland City Development Code Section 3-4713.5.d.iii relating to building setbacks adjacent to SR 92 and SR 74 in the Town Center Commercial Retail District. The amendment will allow the construction of an Artic Circle. *Legislative.*

Nathan Crane reviewed the proposed amendment. This is a request to amend the required setbacks for property with frontage along SR74 and SR92. Staff feels this is more of a global issue so the original request has been expanded from one property to the entire Town Center area. Nathan pointed out that this amendment would not change the interior lot setbacks of the Town Center; this is only for properties that have frontage along SR74 and SR92. This amendment would affect the Town Center Commercial Retail District. The current regulation requires a maximum setback of 20' from the right of way along SR92 or SR74 and maximum setback of 10' along Parkway East or Town Center Blvd.

The proposed regulation would be the same except for it would not require a maximum setback along SR74 and SR92 if the property had frontage along those highways. Nathan continued to state the reason why they are proposing this amendment is due to a few main issues. 1) With the current setback requirement there is a conflict with the clear view intersection requirement. The current setbacks require a building to be placed within the clear view area. 2) The streetscape along the highways is shown with a 20' wide landscape. One of the reasons for maximum setbacks is to address streetscapes; trying to bring the buildings close to the right of way to create a pedestrian friendly environment. Nathan showed required streetscapes for areas along those highways. 3) From an economical development standpoint; one of the things that retailers strive for is access, visibility, and parking. Nathan discussed comparisons of businesses in neighboring cities that had developed with the emphasis on the access, visibility and the parking that retailers look for. Nathan stated that he has been in discussing with the owner of the Highland Market Place, and in their discussion it was relayed to him that their retailers preferred the setback look versus the rear adjacent to the street. It is staffs desire to try to increase revenue and enhance economic development and felt it would be appropriate to change the frontages along SR92 and SR74. The developer for an Artic Circle which is proposed for a lot that would be affected by this amendment initially drove this amendment due to their building not fitting within the existing setbacks. Staff felt it was more of a global issue and expanded this amendment for all properties along SR74 and SR92. Nathan concluded by asking the Commission to be careful to make sure their discussion remains on a broad level rather than based on an individual tenant.

Tim Irwin re-emphasized that what they are talking about is a global issue. It is regarding the setbacks in the Town Center Overlay and not about Artic Circle specifically.

Roger Dixon inquired about one of the analysis is the staff report that indicates out of the 6 free standing buildings that have been constructed only 2 have been constructed as required by the TCR District.

Nathan Crane explained that currently only two existing buildings comply with the current setback ordinance; he does not know the history behind the rest and cannot comment on whey they do not comply. He did indicate that some of the buildings may have been constructed prior to the current ordinance.

Tim Irwin opened the public hearing at 7:34 pm.

Mike Olsen a resident that lives directly across SR74 to the east from where the Artic Circle would be proposed. Mike commented that he is not opposed to Artic Circle, but he has had prior experience with businesses that have a drive up window and has a concern with the constant noise that comes with that type of use. He has discussed this concern with Nathan and would suggest placing the drive up and speaker to the west side of the building in the direction of the Town Center to minimize the noise pollution to the residents to the east. Mike continued that they had also discussed the possibilities of barriers being built either with landscaping or fencing. Mike stated that currently they are having some problems with garbage being thrown over the fence into their yard and feels that this will only increase as Artic Circle comes in. Mike concluded by stating the garbage and the noise are the main concerns for the residents and whatever could be done to minimize those issues they would be in favor of.

Sara McGill a resident that also lives along SR74 commented on another concern she had. She inquired that if there was no maximum setback then it would allow parking lots to be along SR74 and she is not in favor of being able to park along the highway. She indicated that she believes the

lighting for the Alpine Credit Union is against code and currently has a problem with cars coming and going, turning on and off their lights that shine across the street into her home. She stated her main concern is about possible lighting issues and should be taken into consideration especially along 74 where there are residents across the street.

Scott Roberts, representative working with the developer of Arctic Circle and the applicant for the amendment. Scott echoed some of the comments made by Nathan. He consults with a number of developers and is working on a number of retail projects across the state and can say that the positioning of the buildings and having the access and setbacks is going to drive demand and enhance development. He would like to address the issues brought up by Mike Olsen and Sara McGill. He feels that the developer is very interested in making this compatible with the neighborhood. In the planning they will address the lighting spill over that was mentioned. Currently none of the parking will face to the east but they would like to talk with residents and work on those issues that were brought up. Scott concluded that they feel this amendment makes sense to have this be approved for the entire area of the Town Center Commercial Retail District.

Hearing no further comments Tim Irwin thanked those residents for their comments and closed the public hearing bringing the issue back to the Planning Commission for further discussion.

Kelly Sobotka voiced a concern regarding the parking along SR74 if this amendment was to be approved.

Nathan Crane stated this change would allow parking between a building and SR74. There is a requirement for screening of that parking either through a wall or a berm.

Tim Irwin stated that parking would not be allowed directly on SR74 the parking would be allowed between the building and the parkstrip.

Jay Roundy questioned about a comment made of the possibility of having the backs of buildings along those streets. If this amendment was to be approved will it create that type of look.

Nathan Crane stated this amendment would allow tenants to face the street. They would be able have the building face either direction.

Kelly Sobotka questioned if there is a concern of changing it now and changing the look and feel of the area after there has been some buildings already built out.

Nathan Crane stated that there is really only one building along SR74 that has been build that way and feels the desire will be more with the change.

Trixie Williams commented that she can understand the advantages of changing the setbacks, although she would like to know what the reasons were for them setting those requirements in the beginning.

Roger Dixon stated that the reason the current requirements were made this way was due to the developers. The property on the north side of SR92 wanted it that way due to a large anchor store that was being proposed on the interior, making it so that all the exterior shops would face into the anchor store. He feels that by approving this amendment it would make it consistent with the current business on the south side of SR92 and the west side of SR74.

MOTION: Roger Dixon moved that the Planning Commission accept the findings and recommend to City Council approval of case TA-11-04 a request to amend the Highland City Development Code Section 3-4713.5.d.iii relating to building setbacks adjacent to SR92 and SR74 in the Town Center Commercial Retail District. Motion seconded by Kelly Sobotka. Unanimous vote, motion carried.

C. OTHER BUSINESS:

4. **DR** Scott Dunn, Patterson Construction, is requesting to amend the lighting plan for an 8,800 square foot, two story professional office building. The property is located at 11442 North Highland Boulevard, Highland Utah. Administrative.

Nathan Crane reviewed the proposed request. This is a request to amend the lighting plan for the Sunset Mountain Office building. The original site plan presented in October 2010 was approved with 24" tall bollard lighting. This proposal would replace those bollards with 5 – 15' pole lights with cut off lenses. The development code does allow for either type of lighting. By using the pole lights they can reduce the number of fixtures, but typically the higher you go the more coverage you get but it can affect glare offsite more than a standard short bollard light.

Roger Dixon commented about some of the pictures that residents showed the commission looking down on the storage facility. Roger inquired as to which type of light would produce the most light pollution. Roger also asked as to what kind of lighting the other office building has and if it's the bollards why would they want to be inconsistent on their buildings.

Nathan Crane stated there are two different types of light pollution. One is a taller light that would have more spread so it has a greater impact. Although it would be facing downward and the lenses would be cut off, there is more pollution with the pole light than with the bollard. Nathan stated that the current office building has bollards and concluded by stating that the applicant would have to address the reason they are requesting the change. Due to them not being in attendance he cannot answer that question.

Kelly Sobotka stated he has a concern that the applicant is not in attendance to speak to why they are requesting the change. He feels the lighting should be consistent with other building.

Jay Roundy commented that after hearing from the residents in that area a few months ago, he walked through the backyards of the homes that were in question. The applicant reassured the commission that the lighting had been looked at and the issue resolved. He then walked around those homes some time later only to see that the lighting issue had in fact not been addressed. He feels that from his stand point he would be hesitant to approve anything over what has already been approved.

Tim Irwin invited comments from the audience.

Kevin Bryant, a resident feels it needs to match with what is already in that area. He would like to see that area be consistent and would hope the commission would keep it the way it was originally approved. He feels that the bollard lights can have a reduced impact on the surrounding neighborhoods. There is ambiances in the area were he lives and feels the commission needs to stop allowing developers to receive an exception to the rule. He understands the city is trying to bring in business and revenue but also feels there needs to be some give and take. Kevin concluded by stating

he would rather not see 15' lights that are glaring on the horizon for the next 50 years. Mike Laskey a neighbor that was not able to attend asked that Kevin voice his concern and comments that Mike is opposed to the request.

Bret Garner, a resident stated that his is the closest home to this development. He commented that he had been in attendance to prior meetings and has seen this building grow considerably from what was originally proposed. He has seen the lighting on the first building and cannot understand why they have to be on until midnight. He has had to place black out blinds in his windows due to the lights from the current parking lots. Bret has also talked with his neighbors and all of them would not like see tall lights in their back yards. They do not feel that is warranted when they are only used for a few hours a day.

Rob Holmes, resident and President of the Bull River HOA, is representing the home owners that back this area where this is being proposed. Rob requested the commission to hold off until the neighbors can be consulted and have an opportunity to voice their concerns the commission. He feels it is important to try and maintain the feeling of the community. Concerning the fact that those properties that back this proposal are lower in elevation, it is possible that if there were to be a hood on the pole light, it would not come down low enough.

MOTION: Roger Dixon, based on the finding of facts that 1) this would be a change in the lighting style from the existing building, 2) this would place the lighting higher, therefore exposing the surrounding neighborhood to more of the lighting and, 3) the previously approved site plan indicated 42" bollards, he moved that the Planning Commission deny the amendment to the proposed lighting plan. Motion seconded by Trixie Williams. Unanimous vote, motion carried.

5. **CU** Mr. Lafe Harris, BHD Architects, is requesting an extension of a conditional use permit for a church in the R_1-40 Zoning District. The property is located at 9681 North 6900 West. *Administrative.*

Nathan Crane reviewed the proposed extension. There was a conditional use permit approved for a church to be constructed. This is a request for a 6-month extension which the Planning Commission is allowed to approve one extension.

Lafe Harris from BHD Architects stated they are requesting this extension to enable them to build the building and feels they will have their plans submitted and start construction by 6 month deadline. Lafe commented that some of the street improvements are in and will be finished in the spring.

MOTION: Jay Roundy moved the Planning Commission grant a 6-month extension of the Conditional Use Permit for the Church Building located at 9681 North 6900 West, Highland. Motion seconded by Abe Day. Unanimous vote, motion carried.

D. APPROVAL OF MEETING MINUTES FOR JANUARY 11, 2011 – REGULAR MEETING

MOTION: Abe Day moved to continue the approval of the Meeting Minutes for January 11, 2011 to February 22, 2011 due to missing pages not able to be reviewed. Motion seconded by Roger Dixon. Unanimous vote, motion carried.

E. PLANNING STAFF REPORT

1. Commission Appointments: Commissioner Christopher Kemp and Abe Day were in appointed as full time Commissioners and Trixie Williams and an alternate. Staff will schedule to have them sworn in at the earliest convenience.

2. Staff has extended on offer to Kristen Warwick to fill the planning coordinator position. She will be starting Monday February 14, 2011.

3. City Council Action Update:
   a. The subdivision review process was approved. The public hearing will remain with the Planning Commission at preliminary plat approval and the Commission recommendations will then go to the City Council
   b. The definition of a family was approved having two parts. It's a traditional family and then it would include two or more adults with their children in the home. There was a piece that had to be added in order to be compliant with state code which is the previous language "or" four unrelated persons living together.

F. COMMISSION COMMENTS AND SUGGESTIONS

Abe Day inquired a meeting held regarding the Open Space and would like to know what the finding of that meeting entailed.

Nathan Crane explained that the Open Space Committee has been charged to review subdivisions and look at ways to deal with some of the open space issues the city has been having. The Open Space Committee created a subdivision maintenance plan for the Wimbleton Subdivision that will be going to City Council. They also discussed Beacon Hills subdivision. There is more work in that area, so they will continue to discuss this at future meetings. This information goes directly to the Council for consideration.

Future Discussion Items: *(Memo attached)*

Nathan Crane stated that the purpose of the future items memo is to capture those items that the commission had identified as future discussion. Nathan stated that if the commission sees something that he has missed to please let him know. He tried to provide as much information as he could but there are still some items that are being worked on.

Roger Dixon commented regarding red curbing the entrances to churches. He feels the idea is that along certain roads when there are a large number of people at that location for whatever reason, you have people parking on the street, they are parking right up to the driveway entrances. The idea was that you create some type of vision triangle.

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Nathan Crane stated he understands the issue and recommended that he approach Matt Shipp, City Public Works Director and discuss that with him. The appropriate way it to start is with Matt, due to this being a Public Works issue.

Trixie Williams commented on the Highland Glen Environmental Assessment. She indicated that just this week she provided the Mayor with a binder regarding background information on issue. The assessment was a necessary part of running and east west access road through the park.

Tim Irwin inquired of road issues specifically road completion and development and if that was a Planning Commission issue. He asked about the City Council work session that is scheduled to talk about road priorities. He is not sure where the Planning Commission fits into those discussions if at all.

Nathan Crane stated that typically the Planning Commission is not involved with road issues. The purpose of the City Council work session is to review some of the information that has been discussed in the past regarding road maintenance. They are trying to develop a plan to address road maintenance which he also feels needs to be done with trails. In developing a plan it allows the city to be able to set aside funds each year to keep up on the maintenance.

Tim Irwin inquired if there were any other items the commission would like to discuss or see added to the future discussion items. He feels that he would like to see the Master Plan of the State Property remain on the list.

Nathan Crane stated that the State Property is currently being worked on. The Economic Development Committee is beginning to discuss this issue as well. There are numerous questions that need to be answered and discussed. This is somewhat of a complicated issue and feels it is not an appropriate to discuss until additional information can be acquired. The city is working on a plan and he will keep the Planning Commission informed as the issue progress.

Tim Irwin inquired regarding the Open Space Ordinance. He asked if the Open Space Committee will be making recommendations to the Planning Commission.

Nathan Crane explained that the Open Space Committee is not to look at the ordinance but to address what already exists in certain areas. The ordinance is purely a Planning Commission role. He feels that at this time with all of the issues being discussed in association with the open space now may not be the best time to change the code. If the Planning Commission starts working with the open space ordinance it may be removed the code entirely. If that is the type of development that the Commission and City would like encourage and have in the future, now is not the time until they can address the other issues. Open Space subdivisions are a discretionary decision, staff is there to help make sure it is designed appropriately and if it's not the commission and council does not grant approval.

Kelly Sobotka inquired if the code allowed some of these open space subdivisions to form an HOA to take care of the open space in their area.

Nathan Crane stated that there is an option and the development code encourages open space subdivisions to take care of their maintenance through and HOA.

Roger Dixon inquired if an existing open space subdivision decided to form and HOA and charges a fee would the city then waive the open space fee that they currently charge?

Nathan Crane responded by stating that this option has been discussed that if they are maintaining the open space and it is no longer the responsibility of the city and an agreement is entered into, then using that money to maintain their areas could be discussed.

ADJOURNMENT

MOTION: Abe Day moved to adjourn. Motion was seconded by Roger Dixon. Unanimous vote, motion carried.

Meeting adjourned at 8:34 p.m.

Approved: February 22, 2011

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