

Highland City Planning Commission

March 9, 2010

The regular meeting of the Highland City Planning Commission was called to order by Planning Commission Chair, Melissa Wright, at 7:00 p.m. on March 9, 2010. An invocation was offered by Kelly Sobotka and those assembled were led in the Pledge of Allegiance by Steve Rock.

PRESENT: Commissioner: Melissa Wright, Chair
Commissioner: Abe Day
Commissioner: Roger Dixon
Commissioner: Tim Irwin
Commissioner: Steve Rock
Commissioner: Jay Roundy
Commissioner: Kelly Sobotka

EXCUSED: Alternate Commissioner: Christopher Kemp

STAFF PRESENT: City Planner: Lonnie Crowell
City Engineer: Matthew Shipp
Secretary: Kiera Corbridge

OTHERS: Scott Smith, Devril (Ed) Barfuss, Wendy Hart, Jill Cahoon, Allen Neilsen, Shad Brunson, Cheryl Cozzens, Kevin Pace, Gary Sheide, Jess Adamson.

☞ **3-4108(5)/3-4208(5): RESIDENTIAL FACILITIES FOR THE DISABLED – CONSIDERATION OF A CODE AMENDMENT ~ PUBLIC HEARING (AGENDA ITEM 1)**

Melissa Wright opened the public hearing at 7:03 p.m.

Lonnie Crowell explained that Sections 3-4102, 3-4108, and Sections 3-4202, and 3-4208 in the Highland City Development Code need to be amended to meet Utah State Law; Utah State Law requires that “Group Homes for the Disabled” are to be considered Permitted Uses wherever residential uses are permitted. The process to amend these sections of the Highland City Development Code was started in 2008, in which the Planning Commissioner discussed this item during several meetings and a public hearing was held. These ordinances should be clarified and made consistent with State and Federal Laws.

Federal Law refers to a “Residence for Persons with a Disability” as a “Group Home for the Disabled”; the Highland City Development Code refers to these homes as “Residential Facilities for Handicapped Persons”. Highland City requires a Conditional Use Permit for approval, which is not consistent with the above referenced laws. This item has been included in this meeting to allow the Planning Commission time to review and consider the text prior to a future meeting.

There are several issues regarding the Federal Court findings, Federal Division of Housing and Urban Development (HUD), Utah State Law, and Highland City's current ordinance with regard to "Residences for Persons with a Disability", which are separated from group homes in general as a basic group home is simply a residence with several unrelated persons living in it.

The first issue is that the Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability. Since Jan. 1, 2001, the Justice Department's Civil Rights Division has filed 215 cases to enforce the Fair Housing Act, ninety-seven of which have alleged discrimination based on disability. Per the City Attorney, this is typically based upon a City's ability, or inability, to show that the public interest is harmed by having a group of unrelated people in a home in comparison to an unlimited number of persons that are related to each other living in a home.

The second issue is the current definition of a disability as written in Utah State Law. Utah State Law (Utah Code 10-9a-103(9)) defines disability as follows:

- (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.
- (b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substance Act, 21 U.S.C. 802.

Recent court arguments question the definition of "disabled" and include group home for persons who are no longer using controlled substances but are in a group home provided for the purpose of recovering from those experiences. Group homes provided for this purpose are currently not permitted by state or federal law to provide prescriptions or controlled substances to their residents with the understanding that the persons staying in these facilities have already completed treatment and are simply finalizing their recovery. Persons under this category are considered disabled under state and federal law.

"Under the Fair Housing Act, persons recovering from drug or alcohol addiction are protected from discrimination in housing because they are recovering from addiction. Persons who are currently using illegal drugs, however, are not protected by the disability provisions of the Fair Housing Act."

The Fair Housing Act prohibits discrimination on the basis of handicap. "Handicap" has the same legal meaning as the term "disability" which is used in other federal civil rights laws. Persons with disabilities (handicaps) are individuals with mental or physical impairments which substantially limit one or more major life activities. The term "mental or physical impairment" may include conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness. The term "major life activity" may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. The Fair Housing Act also protects persons who have a record of such an impairment, or are regarded as having such an impairment. Current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, are not considered disabled under the Fair Housing Act, by virtue of that status.

The Fair Housing Act affords no protections to individuals with or without disabilities who present a direct threat to the persons or property of others; however, determining whether someone poses such a direct threat must be made on an individualized basis and cannot be based on general assumptions or speculation about the nature of a disability.

The third issue would be the number of non-related persons within a group home for the disabled. The Fair Housing Act states that group homes for the disabled or persons who are disabled should not be restricted above that which is allowed for typical homes within neighborhoods for persons who are not disabled. In addition, a municipality is required by law to provide what is referred to as a “reasonable accommodation” for the number of persons allowed within a group home of this type. It should be consistent with what is permitted for any other residential home in Highland.

The largest potential liability may come from a limit for the number of persons that Highland defines for a group home for the disabled. Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city’s zoning ordinance defines a “family” to include up to six unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission. If that ordinance also disallows a group home for six or fewer people with disabilities in a certain district or requires this home to seek a use permit, such requirements would conflict with the Fair Housing Act. The ordinance treats persons with disabilities worse than persons without disabilities.

A local government may generally restrict the ability of groups of unrelated persons to live together as long as the restrictions are imposed on all such groups. Thus, in the case where a family is defined to include up to six unrelated people, an ordinance would not, on its face, violate the Act if a group home for seven people with disabilities was not allowed to locate in a single family zoned neighborhood, because a group of seven unrelated people without disabilities would also be disallowed. However, as discussed below, because persons with disabilities are also entitled to request reasonable accommodations in rules and policies, the group home for seven persons with disabilities would have to be given the opportunity to seek an exception or waiver. If the criteria for reasonable accommodation are met, the permit would have to be given in that instance.

The Planning Commission may be required to review the definition of a “family” during this process; however, an exception may be made for Residences for Persons with a Disability without having to amend the current family definition. After extensive research and discussion between staff and the City Attorney, it has been agreed that permitting eight persons is sufficient to meet the requirements of the law and recent case studies; the average household size for Highland City in the 2000 Census was 4.59 persons per household, so allowing for eight persons seems a generous accommodation. This number assumes that nearly every household in Highland would have less than eight persons. It is the opinion of the City Attorney and Staff that this number is generous and legitimate for this purpose.

Federal Law (Fair Housing Act) does not allow a municipality to require “unreasonable accommodations” in restricting the number of persons permitted to reside within a group home for the disabled. The current definition of a “family” provides for two or fewer unrelated persons to reside within a home. Because the average persons per household is currently considered 4.59, it could be determined that two unrelated persons would most likely be considered unreasonable. Using this theory, providing a group home for the disabled the opportunity to allow up to eight unrelated individuals would most likely be considered a reasonable accommodation.

Lonnie Crowell added that there is still question on whether the city should require these homes to acquire a business license and if this requirement will be beneficial; staff will continue to work with the City Attorney on this matter. The Planning Commission may wish to continue this item until these questions are answered.

Wendy Hart, Highland City resident, shared that she runs a business from the basement of her home programming computers. The business does not have any employees or customers; all work is completed through the internet or via phone. Ms. Hart stated that the neighbors were not aware of her business until she acquired a business license. She acknowledged the need for the city to protect the nature of residential neighborhoods with the understanding that any resident pursuing a commercial enterprise would also be required to obtain a business license. Wendy Hart then expressed her surprise and disappointment that Residences for Persons with a Disability are not required by Highland City ordinances to acquire a business license. She questioned why a facility with increased traffic impact, “transiency of [its] residents” and the additional requirement for staff can be operated as a business and be exempt from obtaining a business license while her business with no residential impact is required to obtain a license.

Ms. Hart observed that if the facilities are “reasonably dispersed” (the distance from a facility of same or similar use) no closer than $\frac{3}{4}$ of a mile, the number of potential facilities within Highland City is thirty-seven. She stated that if the distance between the facilities is increased, the number of facilities within Highland City significantly decreases: one mile apart-nineteen facilities; $1\frac{1}{2}$ miles apart-seven facilities. Wendy Hart requested that the Planning Commission increase the distance between facilities to help maintain the residential nature of Highland City.

Wendy Hart summarized that if she chose to open a home for the mentally disabled, she would not be required to notify the neighborhood as long as she met the state requirements. She then emphasized her opinion that any commercial enterprise, home based, residential treatment or otherwise, be required to obtain a business license so that the neighbors can be notified and so City Staff can maintain information on the businesses and enforce the density of residential facilities.

Commissioners questioned whether there are circumstances when the state would require a business license. Wendy Hart noted that a neighbor had contacted Utah County and was informed that if a city requires a license for other businesses, the facilities must “go through the same hoops”.

Devril (Ed) Barfuss clarified that the state will issue a license for these types of facilities if the facility has obtained a business license or has been issued a permit to occupy the residence.

Allen Neilsen, resident of Highland City, explained that he was a fire code official in Hederson, Nevada. He observed that group homes tend to locate within existing residences because the cost is less than building a new facility; however, Mr. Neilsen indicated that the 2006 International Fire Code, as adopted by Highland City and Utah State, Section 200: Definitions considers facilities for drug treatment, alcohol treatment, elderly care, child care, etc. as institutions. Mr. Neilsen further explained that the International Fire Code categorizes facilities of five or fewer persons as an R-3 Classification (single-family dwelling) and facilities of six to eighteen persons as an R-4 Classification; a facility in the R-4 Classification would be required to comply with the current fire codes as though it is new construction. The International Fire Code and the International Building Code have several fire safety regulations that would not be required of a typical home: interconnected smoke alarms, fire sprinkler system throughout the homes, a probable water supply, exit signs, specified door widths, etc. A Commissioner questioned whether Highland City could require a Residence for Persons with a Disability to retrofit a residence to comply with fire safety regulations when a typical family residence does not have a limit of persons; requiring a family of eight or nine to retrofit a twelve-thousand square foot home with a fire sprinkling system seems excessive. Allen Neilsen clarified that a single-family is categorized as a different Classification and would not be required to comply with the same fire safety regulations. A Commissioner summarized that a facility of five or fewer persons would not be considered an R-4 Classification. Mr. Neilsen confirmed, stating that a requirement of five persons could be a tripping number; if a facility cannot meet the requirement, they would need to request “reasonable accommodation”.

A Commissioner again questioned whether Utah State or Federal Laws would prohibit Residences for Persons with a Disability or similar uses from being required to retrofit to meet the requirements of the R-4 Classification. Allen Neilsen indicated that he can not comment on what nearby cities are requiring but stated that in Nevada, the facilities are required to have fire sprinkler systems, fire alarm systems, safety meetings, trainings, drills, etc. He commented that requiring a newly constructed facility to meet fire safety regulations and new construction requirements but permitting a small organization to locate within a residence without complying with the same regulations would be penalizing the larger, more structured firms.

Allen Neilsen continued, stating that facilities should be required to ensure that the fire hydrant(s) in front of the home meet standards for a commercial facility. He added that street widths are also a concern; a fire truck needs a twenty-six foot road if roadside parking is permitted on one side of the road, and a wider road if parking is permitted on both sides.

Mr. Neilsen summarized with his concern that Residence for Persons with a Disability and similar uses locate within a city without a permit or license, operate for as long as they go unnoticed, then relocate once a city imposes restrictions.

Ed Barfuss provided a slide presentation for visual reinforcement of his research. Mr. Barfuss began by clarifying the three levels of sober living facilities; level three facilities (six months to four years) are homes for persons who have completed the treatment cycle, don't require supervision and are integrating back into society; level two facilities (one to six months) are homes for persons who must be supervised at all times, undergo intensive counseling and

training for life skills; level one facilities (thirteen to thirty days) are homes for persons weaning off of the substances and are being treated in the early stages of withdrawals.

Mr. Barfuss expressed his opinion that a facility currently located in Highland City was permitted due to an inadequate ordinance, misunderstandings regarding how to apply the procedures, and attorney interpretation of case law. He then referenced a recent application for a Residence for Persons with a Disability, and voiced concern regarding the proposed location.

Mr. Barfuss stated that a representative from Utah State indicated that a license will not be issued if the operation has not received a business license or a permit to occupy from the city. Ed Barfuss added that he was informed that Utah State requires a Policy and Procedures Manual detailing on how the facility will be operated and that Utah State uses the manual as a guide for performance audits. Mr. Barfuss suggested that Highland City require a copy of the Policy and Procedures Manual.

Ed Barfuss recommended that a multi-sectional ordinance be written, separating the Residential Facilities for the Disabled, Residential Treatment Facilities for the Disabled, and Residential Facilities for the Elderly. Mr. Barfuss also suggested that the maximum persons permitted per facility be increased from four persons to five persons as an indicator that Highland City is proactive in assisting Residences for Persons with a Disability and similar uses to locate within the city.

A Commissioner inquired whether the case law Mr. Barfuss had researched addresses the International Fire Code requirements. Mr. Barfuss stated that he had not read any and observed that pursuing fire safety codes is a unique and obscure enough approach that it has not been challenged.

Jill Cahoon, resident of Highland City, agreed with the information that had been presented and encouraged the Planning Commission to move quickly regarding these ordinances to protect the character of the neighborhoods within Highland City.

Cheryl Cozzens, a resident of Highland City, explained that she is a licensed clinical therapist for the Intermountain Health Care Outpatient Psychiatric Clinic and for the Provo hospital, does consulting for a residential treatment center in Payson, and has conducted family therapy for the Dayspring program for the last twelve years. Ms. Cozzens stated her opinion that residential treatment programs do not have to be in residential settings; she feels that several unrelated adults that come together for a short period of time in a dorm-like setting constitutes a “family” atmosphere. Cheryl Cozzens indicated that effective facilities can be located in commercial areas where adequate parking can be required, adding that “this is a business, and a very lucrative business at that”.

Ms. Cozzens observed that facility owners can market facilities located in Highland for a higher price because it is perceived as a high-end, desirable community.

Cheryl Cozzens stated that although eight persons may be ideal, group therapy can be effective with five or six residents and that it is not unusual to have staff participate. She added that good

treatment programs include family therapy as an important part of the program; however, “family” could include brothers, sisters, wives, children, etc., requiring parking accommodations. Combined with parking for the “druggie-buggie” (an eight to ten person bus or van for transportation), staff parking, professional parking for doctors and therapists, etc., the needed parking would fill a commercial parking lot. Ms. Cozzens noted that a facility could operate without family therapy but that even in the best programs, recidivism is two-thirds; the one-third that successfully completes the program may need to repeat it over and over again. She reiterated that these facilities are lucrative businesses, especially considering that the participants who drop out leave room for another person; participants pay up-front regardless of whether they complete the program. Cheryl Cozzens suggested that the requirement of a business license may help regulate the quality of facilities located in Highland.

Ms. Cozzens noted that another element of an effective treatment program is a licensed therapist competent in trauma therapy and dual-diagnosis; ninety-eight percent of the addicts in these facilities have psychological problems too. She pleaded that the city ensure that premiere programs are established in Highland City; “premier programs attract people who are serious about getting better.” Cheryl Cozzens emphasized the need for residential treatment programs with history of treatment, professional programs, and professional staff (doctors, nurses, therapists) and expressed concern regarding “fly-by-night” programs that will locate in the city, take residents’ monies, and leave. She noted that the cost per person in similar facilities can range from eight-thousand dollars to fifteen-thousand dollars. Ms. Cozzens added that many facilities advertise with attorneys as an alternative to jail and stated that she has never known anyone in a treatment program who is ready for a sober living program in thirty days.

Ms. Cozzens suggested that participants of the facilities (persons with a disability) be required to fail an Intensive Outpatient Program (IOP) evaluation; Intensive Outpatient Programs are equally effective and less costly. If the intent of the residential treatment program to help persons with addictions to recover, the program would only accept applicants that have failed several Intensive Outpatient Programs.

A Planning Commissioner received the following email from Cheryl Cozzens and requested that it be included in the Meeting Minutes:

-----Original Message-----
From: Cheryl Cozzens [mailto:C-----@-----.org]
Sent: Monday, March 22, 2010 2:03 PM
To: w-----@-----.com
Cc: e-----@-----.com
Subject: Planning commis[s]ion

Dear Melissa,

My name is Cheryl Cozzens. I live at 4935 Country Club Dr. in Highland. I spoke at the last public hearing before the Planning Commission for Highland City concerning Drug Treatment programs in Highland neighborhoods. I am a licensed clinical therapist at Utah Valley Regional Hospital in their outpatient psychology clinic. I have run the family therapy piece of the hospital's drug and alc[o]hol program for the past 12 years. I also consult the [i]Steps program, a Residential Treatment Program in Payson.

I was asked some questions by members of the Commi[s]sion that I would like to address at this time:

1.) The 66% failure rate of Treatment for drug and alcohol addictions comes from Dr. Terrance Gorski, a well-known national expert in substance abuse. Dr. Gorski was recognized by the National Institute of Drug Abuse as having one of the top three models for treatment for 2009. The other two were Hazelden Foundation and Betty Ford Clinic.

2.) There is a high correlation between substance addiction and mental illness. The literature shows co-morbidity to be anywhere from 90-98%. From my own experience, I lean more toward 98%. In the last 12 years it is RARE for Dr. Richard Potts or me to complete an evaluation for the Dayspring Program where mental illness is not a secondary diagnosis.

3.) There is also a very high correlation between Methamphetamine addiction Cocaine addictions and sexual addictions. Kevin McCauley, MD, Director of the Institute for Addiction Study in Salt Lake City places co-morbidity at 90%. Methamphetamine and Cocaine addicts comprise a sizable population in drug treatment programs. Dr. McCauley is quoted in a recent presentation at Utah Valley Regional Hospital as saying: "I would never put male Methamphetamine and Cocaine addicts with a female population! The risk for sexual assault and pregnancy is too high. Even in institutional settings where staff and monitoring is high, it is risky!"

It is my hope the Commission will take these issues into consideration that they specify the codes for Residential Treatment centers in our community. The better quality programs offer therapy for dual diagnosis, group and family therapy, medication monitoring and strict boundaries and monitoring. It is my experience that such programs do not have to be in residential areas to be effective. Thank you for your consideration.

Sincerely,

Cheryl Cozzens LCSW

Kevin Pace lives along 9600 North where the first residential treatment facility was established in Highland. He noted that the attendance of the meetings regarding that facility was extensive and expressed the feeling that they had been betrayed by the city regarding the manner in which the issue was addressed. Mr. Pace stated that he has spent considerable time reviewing case law and has come to the conclusion that cities can adopt ordinances based on safety; the city has authority to regulate the safety of its citizens.

Mr. Pace recognized that this is a complex issue. He expressed the concern that the city was hesitant to be sued in the previous application. Kevin Pace suggested that the city adopt ordinances that are already reasonably accommodating and noted that the city has the option to approve or deny additional accommodation; if the owners of these facilities are required to compare the ease of locating within Highland City versus surrounding cities, the decision will be made according to business benefits rather than convenience.

Kevin Pace shared that he lives with addiction in his family and has over a decade of experience regarding cirque lodges, Dayspring programs, etc. He acknowledged the need for this type of facility but stated that he has only seen success in a long term care facility, which is not being offered in the facilities proposed in Highland City.

Gary Sheide, a resident of Highland, requested that the Planning Commission carefully consider the guise Residences for Persons with a Disability may present.

Shad Brunson is a neighbor of Gary Sheide. He stated that he has three young children and is concerned for their safety. Mr. Brunson explained that the children ride bicycles and tricycles throughout the neighborhood and expressed his concern that if a group home were to locate within the neighborhood, the children and families would not be able to continue as they are; additional on-street parking would make it difficult for children to be seen in the street and the traffic concerns of ambulances, police cars, incoming/outgoing staff, visitors on meeting nights, etc. would further impact the neighborhood.

A Commissioner requested that the statistics quoted by Cheryl Cozzens be provided to the Planning Commission for review.

Commissioners emphasized the desire to continue the aggressive pace of the ordinance amendments. Lonnie Crowell noted that interpretation of the proposed text is still needed.

The public hearing was continued until a future meeting.

 **3-4108(6)/3-4208(6): RESIDENTIAL FACILITIES FOR THE ELDERLY – CONSIDERATION OF A CODE AMENDMENT ~ PUBLIC HEARING (AGENDA ITEM 2)**

Lonnie Crowell explained that Code Amendments to Sections 3-4102 and 3-4108; and Sections 3-4202 and 3-4208 in the Highland City Development Code regarding “Group Homes for the Elderly” are required by Utah State Law to be Permitted Uses wherever residential uses are permitted. A review process started in 208 regarding Residential Facilities for the Disabled and the Planning Commission discussed the issue at length; however, Residential Facilities for the Elderly were not discussed. These ordinances should be clarified and must be consistent with Utah State Law.

Utah State Law requires “Group Homes for the Elderly” to be permitted wherever single family homes are permitted, except in “an area zoned to permit exclusively single-family dwellings”. Highland City does not have a zone exclusively permitting single-family dwellings; churches, schools, city buildings, parks, etc. are permitted within Highland City’s residential zones. The Highland City Development Code currently requires a Residential Facility for the Elderly to acquire a Conditional Use Permit for approval, which is not consistent with Utah State Law.

Lonnie Crowell further explained that the Planning Commission may consider that this ordinance be consistent with “Residential Facilities for the Disabled” where possible, such as “reasonably dispersed” opportunity (the distance from a facility of same or similar use).

Staff is recommending that these ordinances be amended to be consistent with state requirements. This item has been included in this meeting to allow the Commissioners to review and consider the text prior to a future meeting.

Melissa Wright opened the public hearing at 8:12 p.m.

A Commissioner questioned whether the distance between these facilities is separate from the spacing of similar uses (If multiple Residences for the Elderly are located $\frac{3}{4}$ mile apart in Highland, can Residences for Persons with a Disability also be located within the area?) Lonnie Crowell explained that the $\frac{3}{4}$ mile requirement is due to attorney interpretation of Utah State Law. Currently, facilities would be required to be $\frac{1}{2}$ mile apart regardless of the use; however, the issue is being reviewed in court and may not be a definitive answer.

The public hearing was continued until a future meeting.

☞ **10-102: DEFINITIONS – CONSIDERATION OF A CODE AMENDMENT FOR THE PURPOSE OF DEFINING “DISABILITY, RESIDENCES FOR THE DISABLED, AND RESIDENTIAL FACILITIES FOR THE ELDERLY” ~ PUBLIC HEARING (AGENDA ITEM 3)**

Melissa Wright opened the public hearing at 8:15 p.m.

Lonnie Crowell explained that staff has proposed that the Planning Commission consider amending 10-102: Definitions within the Highland City Development Code to be consistent with Utah State Law regarding Residences for Persons with a Disability and Residential Facilities for the Elderly. These uses are not currently defined or consistent with current Utah State Statute. The Planning Commission was presented proposed text from Utah State Law that the Planning Commissioner could review and comment on or amend. This item has been included in this meeting to allow the Commissioners to review and consider the text prior to a future meeting.

A Commissioner requested clarification regarding the distinction between “a person having a record of such an impairment or being regarded as having such an impairment”, as taken from Utah State Law. Lonnie Crowell noted that the City Attorney would need to address the question.

A Commissioner questioned whether the ordinances could control the type of program that facilities be permitted to operate, such as requiring dual-diagnoses and licensed staff. The Planning Commission emphasized the desire to establish an ordinance that protects both the residents of Highland and the residents of the facilities. Mr. Crowell noted that most of the procedures are outlined in the application process with the state as the licensing and regulatory body; the city can require limited testing and can visit to ensure that the facilities are following the procedures, but the enforcement process is unclear.

It was suggested that ordinances be written to address different homes for different disabilities. Lonnie Crowell stated that the ordinances could specify each type of disability but as long as a facility completes the process with the state and can meet building codes and city codes, the facility can locate within Highland.

A Commissioner proposed a Reasonable Accommodation ordinance outlining what is expected of the applicants in an effort to eliminate confusion.

A Commissioner requested that the clarification that “Disability does not include sexual or psychosexual addiction, disorders, or treatment” be included in both the Definitions section and the Residences for Persons with a Disability section of the Highland City Development Code.

Jess Adamson, a resident of Highland City, agreed that clearly stating the process for reasonable accommodation is very important. He advised that those working in the facilities in supervisory roles or as staff be included in the number of residents permitted and suggested referencing the demographics and average household of Highland City residents.

The public hearing was continued until a future meeting.

☞ **MASTER PLANNING STATE OF UTAH TRAINING SCHOOL PROPERTY ~ DISCUSSION**
(AGENDA ITEM 4)

Lonnie Crowell explained that the Planning Commission had previously requested the opportunity to start the process of master planning the State Training School Property south of Lone Peak High School. This process typically starts with a public open house and public interaction with a charette or other type of Planning Process; a charette allows the residents and elected/appointed officials to provide hands-on input, such as physically indicating on a map where certain land uses should be located. This process also would include additional public hearings, work sessions, and ordinance amendments or creations. Staff would suggest that: a public open house and/or charette be held with residents adjacent to the property; this process and open house be advertised in the Highland City Newsletter; the City Council determine the date/time for this meeting. Following, staff would create a draft ordinance for the Planning Commission to consider and amend.

Lonnie noted that the review of the Town Center Overlay and ordinances addressing Residences for Persons with a Disability and Residences for the Elderly may be a higher priority, but the item has been included in this meeting to allow the Commissioners to review and consider prior to a future meeting.

A Commissioner agreed that the above mentioned ordinances are higher priority and requested a possible time line for when this item would be addressed. Lonnie Crowell noted that similar processes have taken up to seven years and that the Town Center Overlay Ordinance took over two years to re-write.

The Planning Commission discussed the factors that determine the price of properties. Mr. Crowell noted that land is appraised according to the existing zoning and not what the property has potential to become; the State Training School Property is zoned as R-1-40 and the price would likely be determined by current market value. A Commissioner suggested that the property be zoned so as to be attractive to business owners (if the Planning Commissioner chooses to designate commercial areas). It was noted that the state may not be eager to develop at this point in time.

☞ **CHAPTER 2, ARTICLE 2: PLANNING COMMISSION – CONSIDERATION OF A CODE AMENDMENT ~ DISCUSSION (AGENDA ITEM 5)**

Lonnie Crowell explained that Chapter 2, Article 2: Planning Commission of the Highland City Development Code is outdated. Staff has provided possible amendments as requested per the comments of the Planning Commission and added a section explaining duties of the Planning Commission and procedure for making Recommendations; the Planning Commission may amend any portion of the existing ordinance or the provided draft. This item will require a public hearing and Planning Commission Recommendation to the City Council, which will occur at a future meeting.

Commissioner discussed the need for a removal clause and made some typographical changes. Roger Dixon agreed to reformat the ordinance for clarification.

☞ **PLANNING COMMISSION POLICY AND PROCEDURE ~ DISCUSSION (AGENDA ITEM 6)**

Lonnie Crowell explained that the 3-2-203(3) of the Highland City Development Code indicates that the Planning Commission “shall adopt rules consistent with this Code for its own organization and for the transaction of business”. He noted that established procedures are especially important for maintaining order when making motions, addressing a person or Commissioner, or similar. The typical process that is followed in Municipal government is Robert’s Rules of Order; the City Council has determined this is the best procedure on which to base their meetings. Staff shall provide the Planning Commission with information and education related to any option the Planning Commission may consider.

Commissioners reviewed the Rules of Procedure and Simplified Roberts Rules of Order documents as compiled by Commissioner Wright and Commissioner Dixon and staff; Typographical corrections were made.

The Planning Commission discussed the use of the Comment Cards and whether a time limit should be set for individual public comments; those providing public comment must complete a Comment Card and time restrictions on public comments will be at the discretion of the Planning Commission Chair.

MOTION: Tim Irwin moved to Approve the Rules of Procedure for Conducting the Business of the Highland City Planning Commission and the Simplified Roberts Rules of Order for Meetings of the Highland City Planning Commission. Seconded by Kelly Sobotka. Unanimous vote, motion carried.

During Item 7, the Planning Commission decided that language allowing flexibility of the Planning Commission Agenda should be added to the Rules of Procedure for Conducting the Business of the Highland City Planning Commission.

MOTION RECONSIDERATION: Tim Irwin moved to Reconsider the Approval of the Rules of Procedure for Conducting the Business of the Highland City Planning Commission and the Simplified Roberts Rules of Order for Meetings of the Highland City Planning Commission. Seconded by Kelly Sobotka.

AMENDED MOTION: Tim Irwin moved to Approve the Rules of Procedure for Conducting the Business of the Highland City Planning Commission and the Simplified Roberts Rules of Order for Meetings of the Highland City Planning Commission with the addition of language permitting the Planning Commission Chair to be flexible in the order items on the Planning Commission Agenda are addressed. Seconded by Roger Dixon. Unanimous vote, motion carried.

☞ **PLANNING COMMISSION FUTURE BUSINESS, QUESTIONS AND RECOMMENDATIONS ~ DISCUSSION (AGENDA ITEM 7)**

The Planning Commission has requested a list of possible upcoming Planning Commission Items. Typically items are immediately placed on the Planning Commission Agenda as soon as the applications are submitted; the follow items are exceptions:

- **Town Center Overlay Ordinance** – A Work Session with the City Council is scheduled for March 11, 2010, from 6:00 p.m.-8:00 p.m. at Highland City Hall. All portions of the Town Center Overlay Ordinance are open for discussion and comment.
- **Residences for Persons with a Disability** – Public Hearing and Recommendation
- **Residences for the Elderly** – Public Hearing and Recommendation
- **Amendment to the Permanent Sign Ordinance** – Per the request of the Highland City Merchants Committee
- **Master Plan State Training School Property** – Located south of Lone Peak High School
- **Buhler Subdivision** – Resubmitted/Amended for Preliminary Approval

The Planning Commission has also requested the opportunity to present ideas, concerns, and proposed Code Amendments/Additions over which they have authority. The following items were discussed:

Separation of Legislative Bodies – Commissioners noted that there needs to be a separation of powers between the Planning Commission and City Council. It was acknowledged that communication between the legislative bodies is important; however, direction should be given from the City Council as a body and individuals do not speak for the entire Council. If members of the City Council would like to make comments, they speak as residents and will be required to follow the same procedures.

Format of the Planning Commission Agenda – Commissioners suggested that the Planning Commission Agenda include the names of the Commissioners offering the opening prayer and leading the Pledge of Allegiance, a time for Public Appearances addressing items not on the agenda, and that the Approval of Meeting Minutes be at the end of the Agenda.

Apartment/Rental Ordinances – A Commissioner suggested that when the ordinances regarding Residences for Persons with a Disability and Residences for the Elderly have been addressed, the Planning Commission should review the ordinances regarding the number of people permitted in rentals/apartments.

Review of the Highland City General Plan – It was noted that 2-205: Duties and Powers of the Highland City Development Code (Chapter 2, Article 2 as discussed in Item 5) states:

(7) The Planning Commission, by order of the City Council, shall make and recommend to the City Council a multi-year improvement program which shall set forth an orderly program for the acquisition of land, buildings and other facilities that are needed for City purposes.

The Planning Commission discussed the possibility of reviewing the General Plan to ensure that it meets current codes. Lonnie Crowell explained that the previous review of the General Plan involved over forty meetings, a consultant, over one-hundred thousand dollars, and more than two years; however, the General Plan had not been updated for over ten years. Mr. Crowell noted that the General Plan is an independent document and that the Development Code and Municipal Code should be reflections of the General Plan. Developers can also request re-zones based on the General Plan. Lonnie Crowell suggested that public input be obtained prior proposing any changes.

Several Commissioners agreed that a systematic review of the General Plan would be beneficial; reviewing the General Plan could be considered due diligence for each Planning Commissioner, and recommendations would be made should amendments be needed.

Commissioners suggested a work session to review the General Plan and ensure that each Commissioner is familiar with the document; Commissioners expressed that having staff's expertise and experience would be beneficial in understanding the purpose and guidelines. A Commissioner observed that the Planning Commission should be considering the "big picture" rather than "dots".

The Planning Commission requested that short work sessions be scheduled prior to future Planning Commission Meetings, allowing Commissioners time to review prior to the next session. Staff will provide the Planning Commission with a schedule of possible meeting times.

ADJOURNMENT

Tim Irwin moved to adjourn. Seconded by Abe Day. Unanimous vote, meeting adjourned at 9:15 p.m.