

# Highland City Planning Commission

## April 13, 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 April 13, 2010. An invocation was offered by Melissa Wright, and those assembled were led in the Pledge of Allegiance by Roger Dixon.

**PRESENT:** Commissioner: Melissa Wright, Chair  
Commissioner: Abe Day  
Commissioner: Roger Dixon  
Commissioner: Tim Irwin  
Commissioner: Steve Rock  
Alternate Commissioner: Christopher Kemp

**EXCUSED:** Commissioner: Jay Roundy  
Commissioner: Kelly Sobotka

**STAFF PRESENT:** City Planner: Lonnie Crowell  
City Attorney: Brian Haws  
Secretary: Kiera Corbridge

**OTHERS:** Christie Dalley, Linda Green, Fred Clark, Roy Buhler, Connie Paey, Greg Nield, Adam Lambert, Scott Smith.

### PUBLIC APPEARANCES

Melissa Wright invited comments from the public regarding items not on the agenda and no one chose to speak.

### **BUHLER RANCH SUBDIVISION ~ PUBLIC HEARING AND CONSIDERATION FOR PRELIMINARY SUBDIVISION APPROVAL (AGENDA ITEM 5)**

Lonnie Crowell explained that the Connie Paey, representing the Buhler family, is requesting Preliminary Subdivision Approval for a nineteen lot subdivision located within the R-1-4- Zone at approximately 5380 West 10400 North in Highland. The Buhler Subdivision is 19.330 acres, including a 4.558 acre lot designated for a future meeting house for the Church of Jesus Christ of Latter-Day Saints.

Mr. Crowell noted that on October 10, 2006, a subdivision received Preliminary Subdivision Approval for a twenty-one lot subdivision on this property. The Planning Commission had several recommended conditions, including a soils report due to the use of the land prior to incorporation from Utah County into Highland City. The previous conditions were as follows:

1. That the Preliminary Title Report be submitted by the applicant to Highland City; and
2. That Utility Easements be marked on all lots for Final Approval; and
3. That the Applicant/Developer adhere to the dust and mud prevention plan including a staging area and washout area to remedy the changes of tracking dirt into the right-of-way; and
4. That improvements along 10400 North will be required with subdivision development; and
5. That the applicant complete the remaining requirements for the final plat as per the checklist (i.e., include addresses on each lot, etc.); and
6. That the Applicant/Developer obtain a demolition permit prior to removing the existing home on Lot 1; and
7. That the Subdivision be subject to Annexation (already complete); and
8. The existing property to be cleaned off (partially completed); and
9. Completion of a soil test be done (already completed); and
10. Parcel on southwest corner be deeded to the parcel to the west (proposed on submitted plan); and
11. That the Developer align the street on the east property line with the Mountain Ridge Subdivision (proposed on submitted plan).

Lonnie Crowell noted that many of the previous requirements from the Planning Commission have been completed. The applicant has submitted a preliminary title report as well as a Geotechnical Study (soil report) on the property as well; the Public Works Director has reviewed the soils report. Mr. Crowell added that the property was annexed into Highland City from Utah County by the City Council on February 5, 2008. Hundreds of vehicles and other equipment, etc. was removed from the property at that time as a requirement from the City Council for annexation; however, there are still several piles of tires, unlicensed vehicles, and other materials remaining on the property. Staff would recommend that the Planning Commission emphasize the removal of the tires, materials, and unlicensed vehicles (per Highland City ordinances) prior to the recording of this subdivision.

Lonnie Crowell explained that the subdivision presented to the Planning Commission at this time is a revised version of the previously approved plan that will be recorded in phases (as indicated on the plat). Mr. Crowell noted that the proposed road alignment along the east and south property lines are consistent with the previous subdivision. With this being said, there are still additional concerns Staff would like to recommend the Planning Commission address.

- The Applicant/Developer should be required to pipe and bury the existing ditches on the property per the requirements of the corresponding ditch companies.
- The Highland City Development Code (3-622 and 5-9-107(2)) requires all power lines that are not high voltage transmission lines to be underground.
- The Highland City Development Code requires a minimum frontage of 130 feet along a public road measured from the thirty-foot setback line; although, a cul-de-sac may have an exception equal to eighty-five percent of the requirement if the lot is entirely located within the bulb of that cul-de-sac (Highland City Development Code Section 3-4203). According to this exception, eighty-five percent of 130 feet indicates a minimum frontage of 110.5 feet, as measured at the thirty-foot setback line. The

Applicant/Developer will need to ensure that all frontages meet the minimum frontage requirements.

- The adjacent property owners have expressed concern regarding an existing fence along the west subdivision boundary. The property owners are concerned that children heading to and from school will cross through their property and the effect on the large animals contained within their lots. The Applicant/Developer has indicated that the fence will remain and will be repaired if necessary.
- The existing fence along 10400 North is dilapidated and is located within the Parkway Detail easement. The Planning Commission may consider requiring that this fence be removed as part of subdivision approval.
- Any portion of a road that will not be completed due to the phasing of the subdivision should meet the minimum width equal to at least half of the right-of-way plus twelve feet for a travel lane (as required with previous subdivision approvals). The subdivision should be recorded as such, with the minimum width included for each phase; a typical right-of-way is fifty-six feet, so the minimum width recorded should be forty feet.
- The Applicant/Developer will be required to install all public improvements typical with a subdivision within the R-1-40 Zone. This shall include the Parkway Detail along 10400 North per the General Plan and Highland City Development Code, any street lights, street signs, water lines, sewer lines, and all other improvements per the Public Works Director.
- The Applicant/Developer will be required to pay all greenbelt taxes and any back taxes.
- All easements identified by the title report must be indicated on the plat unless located within a right-of-way. If the easements have been abandoned, the Applicant/Developer will be required to provide a letter from the entity entitled to that easement indicating that it has been abandoned.

A Commissioner noted that the provided Geotechnical Study recommends a follow up environmental study.

**Melissa Wright opened the public hearing at 7:07 p.m.**

Fred Clark introduced himself as the engineer for the Buhler Ranch Subdivision and noted that Connie Paey, applicant, and Roy Buhler were also present.

Commissioners questioned the alignment of the roadways indicated on the plat. Fred Clark explained that: 5800 West dead-ends at the south property line; “Lincoln Lane” (5890 West) connects with the existing road to the south; “Horseshoe Bend” (10220 North) can be continued to the west at the time of future development; “Fifteenth Avenue” (10290 North) will continue to the east, consistent with the previously approved road alignment of the Mountain Ridge Subdivision. A Commissioner shared that during experience on the Transportation Committee, often neighbors/potential buyers/residents become confused whether or not a road will be “continued” or connected to other roads in the future. The Commissioner requested that the continuation of the roads be indicated on the plat. Lonnie Crowell suggested that the Planning Commission require a sign be posted at the end of the road stating that the road will continue at a future time.

A Commissioner noted that the width of "Fifteenth Avenue" is dimensioned as a fifty-foot right-of-way; the typical width of a right-of-way in Highland City is fifty-six feet across. Fred Clark explained that the width of "Fifteenth Avenue" is consistent with the width of the approved road in the Mountain Ridge Subdivision. Lonnie Crowell noted that the applicant/developer should work with the Public Works Director regarding the width of the right-of-way.

It was noted that the width of 5890 West will be a minimum of forty-feet (half of a right-of-way plus twelve feet, as is typical within Highland City) and that future development will determine if the road continues to the west.

In response to the inquiry of the transfer of water rights for recording, Roy Buhler stated that the majority of the property's water rights have been sold to the Church of Jesus Christ of Latter-Day Saints in anticipation of development of Lot 19. Fred Buhler noted that Lot 19 has been purchased by the Church of Jesus Christ of Latter-Day Saints. Lonnie Crowell explained that water rights are typically required during the annexation process; however, this property was part of the original Highland water company and water was not required. Mr. Crowell added that water shares will be required prior to recordation of the plat.

**Melissa Wright closed the public hearing at 7:17 p.m.**

It was noted that the road alignment leaves a remnant parcel of land on the southwest corner of the property that will need to be deeded to the adjacent property owner; the Highland City Development Code does not permit remnant parcels.

**MOTION: Roger Dixon moved to Grant Preliminary Subdivision Approval for the Buhler Ranch Subdivision per the following Recommendations:**

- 1. That Utility Easements be marked on all lots for Final Approval; and**
- 2. That the Applicant/Developer adhere to the Dust and Mud Prevention Plan, including a staging area and washout area to remedy the changes of tracking dirt into the right-of-way; and**
- 3. That the improvements along 10400 North be required with subdivision development including the parkway detail; and**
- 4. That the Applicant/Developer complete the remaining requirements for the Final Plat as per the checklist (i.e., include addresses on each lot, etc.); and**
- 5. That the Applicant/Developer obtain a Demolition Permit prior to removing any existing structures; and**
- 6. That the property be cleaned off by the Applicant/Developer, including all tires and abandoned vehicles, and that the material, tires, or vehicles that are considered legal by Highland City ordinances NOT be transferred to another property in Highland City's municipal boundary; and**
- 7. That the second phase of the geotechnical study/soil report be completed; and**
- 8. That the remnant parcel on southwest corner be deeded to the parcel to the west when the subdivision is recorded and that Highland City obtain a copy of this deed transaction prior to recording the subdivision phase where the parcel is located (as proposed on the submitted plan); and**

9. That the Applicant/Developer align the street on the east property line with the Mountain Ridge Subdivision (as proposed on the submitted plan); and
10. That the Applicant/Developer work with the Public Works Director regarding the width of “Fifteenth Avenue” (10290 North); and
11. That the Applicant/Developer install a sign at the end of the proposed “Fifteenth Avenue” (10290 North) at a location per the Public Works Director indicating that “Fifteenth Avenue is intended to continue to the east and be connected to a future development” prior to selling property; and
12. That the Applicant/Developer be responsible for piping the ditches per the requirements of the respective ditch companies; and
13. That the Applicant/Developer be required to bury the power lines along 10400 North as required by ordinance; and
14. That all lots meet the minimum frontage required by the Highland City Development Code (lots along the road shall have a minimum of 130 feet measured at the thirty-foot setback; lots within a cul-de-sac may have eighty-five percent of the frontage requirement equal to at least 110.5 feet measured at the thirty-foot setback); and
15. That the Applicant/Developer construct/repair and/or leave the existing fence along the west property line during and following construction; and
16. That the applicant remove the fence along 10400 North to meet the current fencing ordinances; and
17. That any road recorded as part of a phase for this subdivision be equal in width to at least one-half of the required right-of-way width plus twelve additional feet of asphalt as typical; and
18. That the Applicant/Developer indicate on the Final Plat any easements that are identified by the title report unless those easements are under a proposed right-of-way; and
19. That the Applicant/Developer pay any greenbelt taxes and any back taxes owned to Utah County prior to recording; and
20. That transfer of all Water Stock Certificates required be executed prior to Recordation of the subdivision.

Tim Irwin seconded the motion. Those voting aye: Abe Day, Roger Dixon, Tim Irwin, Christopher Kemp, Steve Rock, Melissa Wright. The motion passed with a unanimous vote.

☞ **ASHFORD SUBDIVISION ~ PUBLIC HEARING, CONSIDERATION FOR PRELIMINARY SUBDIVISION APPROVAL AND FINAL RECOMMENDATION (AGENDA ITEM 6)**

Lonnie Crowell explained that Greg Nield is requesting a one-lot subdivision located at 10428 North and 4800 West in Highland. This property is approximately 1.1 acres with 185 feet of frontage and meets the requirements of the R-1-40 Zone.

Mr. Crowell noted that the Highland City Development Code does allow an Applicant/Developer to enter into a development agreement with Highland City, requiring the Applicant/Developer to bond for and install all of the improvements on a “parcel of record” without having to record a subdivision; however, if the Owner/Applicant/Developer desires to construct, remodel, or

otherwise modify any original structure on the property, the property is required to be within a recorded subdivision (per Highland City Development Code).

The Applicant/Developer has chosen to record the property as a one-lot subdivision and has submitted plans that satisfy the requirements of the R-1-40 Zone and the Highland City Development Code. The Planning Commission may Grant Preliminary Subdivision Approval and Recommend Final Subdivision Approval during the same meeting because the application is for a subdivision of less than three lots, as allowed by the Highland City Development Code.

Lonnie Crowell indicated that the improvements will be completed by either the applicant or Utah County as part of the road expansion of 4800 West. Staff recommends that the Planning Commission require the applicant to either construct and bond for the improvements or obtain something in writing guaranteeing that Utah County will install all of the required improvements, including the parkway detail as indicated on the submitted plan.

During the Design Review Committee, a resident neighboring the property expressed a concern regarding the previously approved Conditional Use Permit associated with the Assisted Living Facility to be constructed at this location; the resident was concerned that the constructed facility will not be sufficiently screened from their home. Lonnie Crowell explained that the applicant has already received Final Approval from the City Council for the Conditional Use Permit, including Site Plan Approval and Architectural Approval. The applicant may chose to address neighbor concerns; however, Mr. Crowell emphasized that additional Conditions of Approval cannot be required of the Conditional Use Permit associated with the Ashford Subdivision; the application submitted is for a one-lot subdivision.

**Melissa Wright opened the public hearing at 7:23 p.m.**

Adam Lambert from Rimrock Construction introduced himself as the Contractor for the project. He indicated that the reason the subdivision application is submitted at this time is to mitigate potential concerns when a building permit is requested for future expansion. Mr. Lambert noted that the expansion would bring the total “bed” count in the facility to twenty-four.

The Planning Commission acknowledged concerns from the residents neighboring the property regarding screening the view of the facility from their home. The Commissioners discussed options to increase the buffer between the facility and the adjacent residential uses, including the prospect of a higher fence. Greg Nield, applicant, explained his predicament with the cost of the development (fencing, additional landscaping, etc) being increased further than required to meet the Conditional Use Permit as approved. Commissioners suggested compromising the number of required trees or the caliper of the trees in exchange for a taller fence. Lonnie Crowell stated that the size and quantity of the trees were approved as part of the Conditional Use Permit and could not be addressed during this meeting.

The Planning Commission discussed the potential design of the fence, referencing the height and look of the wall recently installed at The Pointe Performing Arts Academy located on the corner of 5600 West and SR-92 (11000 North).

A Commissioner stated that the proposed use was approved with a six foot fence and emphasized the need to be consistent; “flip-flopping decisions” are difficult for the applicant and have been a

source of complaint in the past. It was suggested, however, that a recommendation could be sent to the City Council to reduce the number of trees in exchange for a taller fence. Several Commissioners offered their advice to Mr. Nield regarding increasing the height of the fence to appease the neighbors.

**Melissa Wright closed the public hearing at 7:40 p.m.**

**MOTION: Christopher Kemp moved to Grant Preliminary Subdivision Approval and Recommend that the City Council Grant Final Subdivision Approval for the Ashford Subdivision per the following Recommendations:**

- 1. That the Applicant/Developer indicate on the Final Plat any easements that are identified by the title report unless those easements are under a proposed right-of-way; and**
- 2. That improvements along 4800 West, including the parkway detail, will be required with this subdivision development or that the Applicant/Developer obtain a written guarantee from Utah County indicating all of that improvements will be completed with the widening of 4800 West; and**
- 3. That the Applicant/Developer pay any back taxes owed to Utah County prior to recording; and**
- 4. That the Applicant/Developer work with the Public Works Director and Utah County to determine bonding for the public improvements for this subdivision; and**
- 5. That the Applicant/Developer obtain a demolition permit prior to removing any existing structures; and**
- 6. That the applicant construct a six foot masonry wall on the north, east, and south property line per the requirements of the Conditional Use Permit associated with this property; and**
- 7. That the Applicant/Developer complete the remaining requirements for the Final Plat as per the checklist (i.e., include addresses on each lot, etc.).**

**Steve Rock seconded the motion. Those voting aye: Abe Day, Roger Dixon, Tim Irwin, Christopher Kemp, Steve Rock, Melissa Wright. The motion passed with a unanimous vote.**

#### **∞ HIGHLAND TOWN CENTER OVERLAY ORDINANCE ~ DISCUSSION (AGENDA ITEM 8)**

Lonnie Crowell explained that on February 2, 2010, the City Council passed a resolution placing a moratorium on the Town Center Overlay Ordinance for the purposed of reviewing the text, clarifying perceived inconsistencies, and designating the Final Approval of projects to the City Council. The City Council requested that the Planning Commission carefully review the Town Center Overlay Ordinance and provide a recommendation for amendments to this ordinance. In subsequent weeks, the City Council and Planning Commission held two work sessions in which they discussed several concerns with the current ordinance. Members expressed that the moratorium should be lifted as soon as possible. It was suggested that the Planning Commission consider the main concerns identified during the March 30, 2010, work session, recommending that the remaining amendments be addressed at a future date. Several of those items are as follows:

- Clearly define the approval process
- That the Planning Commission Grant Architectural Approval; the City Council Grant Final Site Plan Approval
- Improved communication between staff and the City Council, specifically regarding operation and policy process
- Parking for a residential use to be amended from 1.5 spaces per unit to 3.0 spaces per unit
- Residential density to be capped at 7.5 units per acre
- Building height to be a maximum of fifty-feet tall and three stories in height
- Consider requiring a Conditional Use Permit when residential uses are included

The City Council and Planning Commission members were provided an electronic copy of the Town Center Overlay code on which to comment; the edits and comments were then printed and distributed to the City Council and Planning Commission during the March 30, 2010, work session. A copy of the aforementioned document was provided to the Planning Commissioners with the agenda for this meeting. Staff recommends that the Planning Commission review the comments and suggested amendments included in the staff report for the March 30, 2010, work session. The Planning Commission was presented a draft version of the Town Center Overlay ordinance incorporating the comments made during both work sessions.

Lonnie Crowell addressed the suggestion that each section within the Town Center Overlay ordinance indicate the page number of every cross reference within the Highland City Development Code; staff would highly discourage this addition. If page numbers were referenced, the City Council and Planning Commission would be required to review and approve a Code Amendment for every section of the Town Center Overlay ordinance containing page numbers any time an amendment to the Highland City Development Code changes a page number. It was suggested that a table at the beginning of the Highland City Development Code referencing the locations and page numbers of the ordinance may serve the same purpose. In addition, each cross-reference contains an ordinance number indicating the location of the reference.

A Commissioner inquired as to the origin of the density of 7.5 units per acre. Lonnie Crowell explained that the number was not based on market studies or research; however, he noted that the density of the Coventry Subdivision was a factor. Mr. Crowell stated that the work session discussions seemed to approve of the 7.5 units per acre. The Commissioner expressed the concern that limiting the density to 7.5 units per acre creates an issue in the flex-use area of the Town Center Overlay Zone because the cost of the land would require a higher residential density to recover the cost. It was suggested that the City Council and Planning Commission may not want additional residential; the property could be developed as retail. It was also noted that retail is most often located along main arterial roads and that the properties in the center of the Town Center may not be developed in the near future.

A Commissioner recalled the consideration of providing developers an option to apply under a Conditional Use Permit and request a higher density. Lonnie Crowell discouraged including it specifically in the ordinance because of the potential of the decision being perceived as arbitrary and capricious; the ordinance could be written based on performance, architecture, etc. but would require a definitive reason for any denials.

Questions were raised regarding the possibility of granting additional density if the developer/applicant provided Highland City with amenities in exchange. Lonnie Crowell stated that the ordinance would need to be amended to include each application; although, there could be potential to assign the application as bonus density (similar to the existing Open Space Density Bonus Zone in the Highland City Development Code). Mr. Crowell noted that there has been some previous indication that the higher density in exchange for amenities may not be economically advantageous to the developer/applicant due to the increased cost of the amenities.

A Commissioner commented that the cause for review of the Town Center Overlay ordinance seems to be the recently approved Toscana at the Highlands development. The Planning Commission discussed the density of Toscana at the Highlands in relation to other cities in Utah County. It was noted that if an applicant would like to submit a difference concept, they would simply need to apply to amend the ordinance.

Concern was expressed that the focus on increasing the commercial/retail uses within Highland City may be misguided. It was stated that extensive commercial zones do not make a city great.

A Commissioner emphasized the need to establish an ordinance that is open to business and development without being too ambiguous. Lonnie Crowell relayed a suggestion of creating a table or list of permitted uses that would not be included in the Highland City Development Code to help avoid the need to amend ordinances with each new application. The City Attorney warned that the table would have to be clear enough so as not to be interpreted as capricious.

The Planning Commission and staff addressed typographical corrections; staff will present the Planning Commission a corrected draft of the ordinance at the next meeting.

**RESIDENCES FOR THE DISABLED, RESIDENTIAL REHABILITATION AND TREATMENT FACILITIES FOR THE DISABLED, AND RESIDENTIAL FACILITIES FOR ELDERLY PERSONS CODE AMENDMENT ~ PUBLIC HEARING AND RECOMMENDATION (AGENDA ITEM 7)**

Lonnie Crowell explained that the Planning Commission has been reviewing the ordinances addressing Residences for the Disabled, Residential Rehabilitation and Treatment Facilities for the Disabled, and Residential Facilities for Elderly Persons. Staff met with the representative of a small group of residents of the Alpine Country Club subdivision and has also consulted the City Attorney regarding the ordinances. Staff presented the Planning Commission with a draft of an ordinance that should address the concerns of the City Council, Planning Commission and the residents. The proposed ordinance separates the uses into three categories: group homes associated with physical disabilities not associated with additions, group homes associated with therapy for drug and alcohol addition, and group homes for elderly persons.

Mr. Crowell emphasized that many Federal and Utah State Laws govern the above issues. Staff has provided the City Council and Planning Commission with data, research, and internet links for the purpose of understanding the legal rights of these uses. Several questions raised regarding the ordinance text have been thoroughly researched/reviewed by legal counsel, such as:

- Can Highland City legally require a business license for this use?
  - Yes per City Attorney

- Can Highland require these “group homes” to meet the requirements for fire safety per the International Building Code given the general exemption by the Federal Fair Housing Act and State and Federal Disabilities protections?
  - Still in question
- Can Highland City require additional approvals, such as site plan approval, with the understanding that this would be the only residentially zoned Permitted Use that would require such type of approval within Highland?
  - Yes per City Attorney
- Can Highland City require an applicant to bring an existing home into compliance with commercial American Disabilities Act (ADA) requirements?
  - No per City Attorney

Additional questions will require recommendations and counsel from the City Attorney and will be necessary prior to the City Council adopting the amendments to this ordinance. The Planning Commission can recommend this ordinance as drafted, with the amendments noted per the City Attorney, so that this ordinance may continue to the City Council, or the Planning Commission may desire to continue the item until the City Attorney can answer any additional questions.

It was noted that this public hearing is a continuation from prior meetings.

**Hearing no additional public comment, Melissa Wright closed the public hearing at 8:06 p.m.**

A Commissioner requested clarification regarding the proof and verification that each of the residents admitted to the facility falls within the definition of disability; proof should be required upon admittance of any new resident of the facility. The City Attorney indicated that the language in the ordinance can be interpreted so that when a new resident is admitted, proof will be required verifying that the new resident falls within the definition of disability as set forth within the ordinance.

Commissioners inquired whether a business license can be required by Highland City and whether the revocation a Highland City Business License would have any impact of the business license issued by the State of Utah. The City Attorney stated that if the facility is receiving funds or payment for the services being offered, Highland City can require a business license just like any other business located within the city; however, due to a clear distinction between the business license issued by the State of Utah and a business license issued by Highland City, revocation of a Highland City Business License would not impact the business license from the State of Utah. A Commissioner suggested adding language to the ordinance indicating that the State of Utah would receive notification if a Highland City Business License were revoked.

A Commissioner questioned the enforcement of requiring a Highland City Business License. The City Attorney explained that if the facility is receiving funds without a business license, Highland City can require them to shut down and/or stop receiving funds until a license is acquired.

It was noted that Utah Code, Title 62A requires local government employees to be trained and certified prior to inspecting a facility. The City Attorney explained that the a certified inspector would be evaluating the program and services being provided by the facility; an inspection performed by Highland City would simply ensure that that the facility has obtained a Highland

City Business License if receiving funds for services offered and that each person admitted to the facility meets the definition of disabled.

A Commissioner inquired as to why modifications to property according to the American Disabilities Act can not be required for Residences for the Disabled, Residential Rehabilitation and Treatment Facilities for the Disabled, and Residential Facilities for Elderly Persons. The City Attorney noted that facilities of the above uses must be treated as private residences; American Disabilities Act regulations can be enforced upon “public” buildings, but requiring facilities of this type to comply with the American Disabilities Act would be imposing conditions that are not required of private residences. He noted, however, that the ordinance does not prohibit such access features and American Disability Act features will not strip away the residential character of the building.

It was noted that requiring Residences for the Disabled, Residential Rehabilitation and Treatment Facilities for the Disabled, and/or Residential Facilities for Elderly Persons to retrofit the building to meet requirements for fire safety per the International Building Code would be imposing additional conditions upon the facilities that would not typically be required of private residences; however, it may be considered for new construction.

The Planning Commission discussed the rational basis of reducing the permitted number of residents in a facility from eight persons to six persons. The City Attorney indicated that Utah State statutes state eight is an appropriate number and has been upheld in court as reasonable when challenged; courts evaluate the ordinance on whether it was designed to prevent Residences for the Disabled, Residential Rehabilitation and Treatment Facilities for the Disabled, and/or Residential Facilities for Elderly Persons locating within the city. He added that recent case law is based on whether the permitted number of residents impacts the residential character of the neighborhood. A Commissioner observed that the average household in Highland City is less than five persons and justified that limiting facilities to six residents is reasonable. The City Attorney noted that the International Building Code may provide a rational basis for six residents as the code draws a distinction between facilities of six persons and facilities of five persons.

A Commissioner observed that the parking requirements outlined in the proposed ordinance would imply that a facility of eight persons and two staff would be required to provide fourteen parking stalls. Commissioners expressed concern that a parking lot of fourteen stalls would greatly impact the residential character of the neighborhood. It was also noted that the Highland City Development Code does not permit on-street parking during winter months. The City Attorney stated that the language may need to be changed to imply “adequate” parking.

A Commissioner suggested extending the minimum time of sobriety prior to admittance to a facility. The City Attorney noted that case law has indicated that the requirement of a resident being sober for a minimum of thirty days has not been challenged and that the likelihood of the requirement being challenged increases if the minimum required time of sobriety is increased.

Commissioner questioned whether a fee schedule could be designed to recover additional costs related the 911 calls from a facility. The City Attorney noted that a fee schedule could not be associated with the facility in excess of what would be required of other residential uses. Lonnie Crowell indicated that a “false alarm” fee schedule currently exists.

The Planning Commission and staff addressed typographical corrections.

**MOTION: Roger Dixon moved to Continue the discussion regarding Residences for the Disabled, Residential Rehabilitation and Treatment Facilities for the Disabled, and Residential Facilities for Elderly Persons Code Amendment in a future meeting. Motion seconded by Tim Irwin. Those voting aye: Abe Day, Roger Dixon, Tim Irwin, Christopher Kemp, Steve Rock, Melissa Wright. The motion passed with a unanimous vote.**

☞ **PLANNING COMMISSION FUTURE BUSINESS, QUESTIONS AND RECOMMENDATIONS ~ DISCUSSION (AGENDA ITEM 9)**

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:

- **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
- **Amendment to the Open Space Bonus Density Subdivision Ordinance** – Amending to create a more productive and user friendly ordinance

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:

**Orientation and Training Options** – The Planning Commission discussed the importance of Commissioners receiving orientation and continual training (the role of the City Council, role of the Planning Commission, information regarding Conflict of Interest, basic operational procedures, etc). Lonnie Crowell suggested pursuing trainings that are obviously unbiased, such as the Utah League of Cities and Towns; receiving training by a Councilmember or staff could be perceived as a biased approach. Commissioners noted that additional orientations and trainings specific to Highland City would be beneficial.

**Reasonable Accommodation Policy** – Previously requested by the Planning Commission, a Reasonable Accommodation Policy would be attached to the ordinances addressing Residences for the Disabled, Residential Rehabilitation and Treatment Facilities for the Disabled, and Residential Facilities for Elderly Persons for the purpose of outlining what will be required to request reasonable accommodation.

**Meeting Minutes** – The Planning Commission emphasized the need for the Meeting Minutes to be available prior to the subsequent meeting. It was stated that available Meeting Minutes promote a government of openness and transparency. Several Commissioners suggested routes in which to broadcast video or voice recordings of the meetings. Lonnie Crowell noted that the equipment to broadcast the meeting has been installed in the room; however, it is cost-prohibitive. It was reiterated that the Meeting Minutes are critical and stated that it is important

for the conversation to be “fresh in the mind” for approval of the minutes. Staff and several Commissioners suggested that under certain circumstances, it may not be possible for the Meeting Minutes to be available for the next Planning Commission meeting. Lonnie Crowell emphasized the importance of the minutes summarizing the topics of discussion; if the Meeting Minutes are too sparse, future reviewers may not understand the basis of the decision. The Planning Commission and staff acknowledged the importance of complete minutes and discussed reasonable timeframes and tools to make the Meeting Minutes available.

**Privatizing Subdivision Roads** – A Commissioner requested clarification regarding the process of converting a public road to a private road. Lonnie Crowell explained that the City Council would need to approve a street vacation, the City would complete the street vacation process, and would also require some sort of bond from the residents in case the residents request that the road become public again in the future. It was noted that roads are dedicated to the City by the Developer and that if the City chooses to vacate the property, said property defaults back to the Developer.

☞ **APPROVAL OF MEETING MINUTES FOR AUGUST 25, 2009, FEBRUARY 23, 2010, AND MARCH 9, 2010 (AGENDA ITEM 10)**

Item was postponed until a future meeting.

☞ **ADJOURNMENT**

**Abe Day moved to adjourn. Seconded by Steve Rock. Unanimous vote, meeting adjourned at 9:36 p.m.**