

# DRAFT

## Highland City Planning Commission January 26, 2016

The regular meeting of the Highland City Planning Commission was called to order by Planning Commission Chair, Christopher Kemp at 7:03 PM on January 26, 2016. An invocation was offered by Commission Chair Kemp and those assembled were led in the Pledge of Allegiance by Commissioner Heyrend.

**PRESENT:** Commissioner: Christopher Kemp  
Commissioner: Brady Brammer  
Commissioner: Sherry Carruth  
Commissioner: Abe Day  
Commissioner: Tim Heyrend  
Commissioner: Kurt Ostler  
Commissioner: Steve Rock

**EXCUSED:**

**STAFF PRESENT:** Community Development Director: Nathan Crane  
Planning Coordinator: Kelsey Bradshaw  
Planning Coordinator: JoAnn Scott  
Planning Commission Secretary: Heather White

**OTHERS:** See meeting attendance list

**PUBLIC APPEARANCES**

Upon request, Commissioner Kurt Ostler introduced himself. Chairman Kemp mentioned that it was Commissioner Heyrend's last meeting and thanked him for his service.

Chairman Kemp asked for public comment. Mr. Holladay mentioned that he had to leave early and asked to make comment regarding Public Hearing Item PP-15-04. He said he was in favor of the Highland Oaks Development, but concerned with the drainage. He said the homes on Brunswick Way could be impacted from the runoff from the Highland Oaks Development if there was improper grading. He voiced concern that property values could go down if there was flooding. He said the property was now higher than the homes to the north. He encouraged the Commissioners to get in writing the intent of what the Highland Oaks developers planned to do with grading.

Chairman Kemp asked for additional public comment. None was given.

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## WITHDRAWALS AND CONTINUANCES

None.

## PUBLIC HEARING ITEMS

### 1. TA-15-04

*Highland City Council is requesting to amend Chapter 4 Conditional Use Procedure relating to the review standards for conditional use permits.*

Chairman Kemp opened the public hearing by consent at 7:12 PM.

Mr. Jansen said he reviewed the conditional use chapter in the Highland City Code and compared it with changes made to Utah State Law. He reviewed the State Law, the standards for conditional uses, and said that there needed to be very unique circumstances in order for a city to oppose a conditional use. He recommended updating the Highland City Code and suggested reviewing the language for conditional use standards as well as reviewing the uses within each zone. He suggested the possibility of creating a chapter specifically addressing standards for conditional uses.

Commissioner Brammer said the purpose of the statutes on conditional uses, specifically Utah Code 10-9a-507, explained that land owners and developers needed to have clear guidelines in proposing what they were going to do. He voiced concern about the idea of cities not being able to deny an application if it was found detrimental, but was not within the standards that the city was prospectively able to speculate and provide to the developer. His interpretation of the statute was that cities needed to be able to make a prospective legislative decision as to what the criteria needed to be, and as long as the city provided the standard, the land owner or developer would have the opportunity to comply with it. He understood that denials could be given as long as the city made a finding that the developer tried but did not comply, so long as the finding was substantiated by a finding that it was detrimental and not in accordance with those standards. Commissioner Brammer went on to say that so long as a court, or reviewing body, could find that they were not arbitrary or capricious findings, then the city would be within its rights. He said that the land owner or developer also had those rights to abide by the same rules.

Discussion ensued regarding the amount of discretion the code would allow and the interpretation of the language in the Utah State Code. The Planning Commission discussed the intent of the law.

Mr. Jansen reviewed the proposed amendment of Section 4-105.

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1 Commissioner Brammer referred to paragraph 6 and wondered what was considered to be  
2 "intensity and character". Mr. Jansen said that it needed to be defined, but that they were fairly  
3 common terms. He said intensity could be dwelling units, height, size of building, or other  
4 things. He explained that he reviewed ordinances from other cities in order to craft the proposed  
5 amendment and that he also consulted with the League of Cities and Towns and the Utah  
6 Ombudsman. He talked about the process of creating the draft.

7  
8 Commissioner Heyrend wondered if the new ordinance was supposed to be a complete list or if  
9 there could be a clause. He thought if it had to list things item by item there was a good chance  
10 something would be missed. He thought there should be some sort of clause that would allow a  
11 conditional use item to be refused. Mr. Jansen explained that he originally had "including but not  
12 limited to" at the top, but it was suggested that it be taken out. He said he could revisit the  
13 conversation again. He also mentioned that it might need something regarding the potential of a  
14 denial.

15  
16 Commissioner Brammer voiced concern with having to list everything and the ambiguity that  
17 was introduced by some of the language like "character, intensity, or construction". He thought  
18 that if the amendment was ambiguous, then it defeated the purpose of trying to comply with the  
19 statute.

20  
21 Chairman Kemp asked for additional comment.

22  
23 **MOTION:** Commissioner Brammer moved to continue the discussion to the next meeting.  
24 Commissioner Rock seconded the motion. All were in favor. The motion carried unanimously.

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27 **2. TA-16-02**  
28 *Highland City Council is requesting to amend Article 4.7 Town Center Overlay of the*  
29 *Highland city Development Code to remove residential uses.*

30  
31 Chairman Kemp opened the public hearing by consent at 7:47 PM.

32  
33 Mr. Crane reviewed the proposed amendment of removing residential uses from the Town  
34 Center. He talked about the remaining development in the Town Center Overlay District. He  
35 explained that if a developer wanted to have residential he would have to amend the zoning  
36 ordinance. He said commercial development would be the only intended use.

37  
38 Chairman Kemp asked for public comment.

39  
40 Rob Gulbrandsen said he was asked to express some thoughts on behalf of property owner  
41 Marsha Gustafson. He said he was not the intended developer for the property, just a close  
42 friend. Mr. Gulbrandsen wondered what the intent of her property was. He said that through the  
43 course of development, the permitted use for the area had been squandered. Mr. Gulbrandson

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1 explained that Ms. Gustafson began negotiations with a developer about a year ago for senior  
2 rental units that would include a library component for the city. He understood that the  
3 residential restriction would not eliminate the potential, that it would just be a conditional use or  
4 a request with more discretion. He said the City Council agreed to include Ms. Gustafson in all  
5 discussions as it moved forward. He said Ms. Gustafson had not been aware of any work  
6 sessions and had not been invited. She wondered what the city hoped to accomplish with her  
7 property. He said the city needed to come back with the conversations and take time for her to  
8 hear what the vision of the city was. He encouraged the city to be a little more communicative  
9 with her.

10  
11 Mr. Crane said the city met with Ms. Gustafson and her representative and that he had been  
12 communicating with her representative. He mentioned that the area had almost reach the  
13 maximum limit of residential units and explained that any application with residential or senior  
14 living would have to go through a legislative process.

15  
16 Chairman Kemp pointed out that the legislative process would give the city a way to protect the  
17 citizens. Mr. Crane added that with only 14 units available, it would have to go through the same  
18 process to increase the units. Chairman Kemp saw the amendment as protecting future business  
19 owners and being able to review all projects coming to the City Center in order to ensure it was  
20 good for property owners and citizens.

21  
22 Mr. Gulbrandsen asked that there be an open dialog moving forward and that the property  
23 owner's input was received.

24  
25 Commissioner Brammer mentioned that the Planning Commission voted against a recent high  
26 density project both times it came before them. He said the Council decided to go a different  
27 direction with it. He thought the statute appeared to be taking away the possibility of 14  
28 residential units and a senior living development that seemed to be desirable. He thought that the  
29 city was not only failing to signal what it wanted, but taking away the most likely possibility of  
30 what the city could get. He did not think the amendment would accomplish anything.

31  
32 Chairman Kemp said because there were only 14 units, developers would have to come back to  
33 the city to increase the number of units available. He thought it would protect the city from other  
34 high density developments. He thought it gave the city added protection.

35  
36 Mr. Gulbrandsen said that removing the option of 14 units seemed to put up a closed door that  
37 otherwise could be negotiated. He thought it made the statement that all residential units were  
38 eliminated.

39  
40 Mr. Crane explained that eliminating the possibility of additional residential units was the intent  
41 of the Council.

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43 Chairman Kemp closed the public hearing by consent at 8:04 PM.

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2 **MOTION:** Commissioner Rock moved that the Planning Commission accept the finding and  
3 recommend approval of the text amendment as recommended by staff. Commissioner Heyrend  
4 seconded the motion. Commission Chair Kemp, Commissioner Carruth, Commissioner Day,  
5 Commissioner Heyrend, and Commissioner Rock were in favor. Commissioner Brammer and  
6 Commissioner Ostler were opposed. The motion carried with two opposed.  
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9 **3. PP-15-04**

10 *A request by Rob Gulbrandsen for preliminary plat approval of a 61 single-family*  
11 *residential subdivision. The property is approximately 36.61 acres in size and is located*  
12 *at the northeast corner of Highland Boulevard and 11800 North.*  
13

14 Chair Kemp opened the public hearing at 8:05 PM.  
15

16 Mr. Crane reviewed the details of the proposed preliminary plat. He talked about the email from  
17 Mr. Holladay and said the city engineer would review his drainage concerns as mentioned in the  
18 open session. He said grading issues would be addressed by the engineer.  
19

20 Upon request, Mr. Gulbrandsen talked about the proposed development. He talked about the  
21 history of the area and the drainage of the neighboring property. He said the natural topography  
22 of his property was slightly higher than the level of Sky Estate backyards. He understood a  
23 drainage system was put in and connected to the drainage pond to the east of those homes. He  
24 said he identified the concern in previous hearings. He said Sky Estate walk-outs were lower  
25 than the natural grade of Mr. Gulbrandsen's property. He explained that dirt had been put on the  
26 property that would be used mostly for the southeast corner. He said they were happy to clean it  
27 up or control it better if needed. He did not think there was a drainage issue and explained that  
28 the design for the road on the south was 8 - 12 feet lower. He said they would match the existing  
29 grade coming out of the subdivision. He said they were aware of it during the design stage and it  
30 had been planned for. He explained that the fill dirt was not permanent.  
31

32 Commissioner Ostler asked about the drainage of each lot. He was concerned that water would  
33 drain onto neighboring lots. Mr. Gulbrandsen said the city's building official would check the  
34 grading for each lot. He said he expected the level of the homes built behind to be a minimum of  
35 5 feet below the neighboring area. He said they would remove berms put up against the property  
36 lines because it could cause a back drainage. He said they would leave the top of foundation  
37 lower as part of grading. He said they understood the concern and had the same concern because  
38 the other backyards were dug below the natural grade.  
39

40 Mr. Gulbrandsen talked about the review process up to this point and talked about the changes to  
41 the application. He talked about the proposed HOA (homeowner's association) and the desire to  
42 maintain the open space at a higher standard. He said they wanted to landscape and maintain the

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1 two city parcels plus the entire parkway areas along 11800 North and Highland Boulevard. He  
2 talked about the proposed landscape plan.

3  
4 Commissioner Rock wondered if some kind of wall on the north would help with water. Mr.  
5 Gulbrandsen said it would not. He committed that the water would not be an issue and any  
6 temporary issue would be removed immediately.

7  
8 The Commissioners and applicant discussed drainage, landscaping maintenance, and road  
9 maintenance.

10  
11 Chairman Kemp asked for public comment.

12  
13 Mr. Blaine Sorenson said he felt better after hearing Mr. Gulbrandsen, but still had concerns with  
14 drainage and flooding. He talked about the amount of dirt that had been put on the property. He  
15 talked about a neighbor's basement flooding in the past. He asked for clarification that the issues  
16 of drainage would be addressed. Mr. Gulbrandsen said that it would be. Mr. Sorenson voiced  
17 concern that the city ensure the drainage be correctly mitigated. He voiced concern with the  
18 entrance off of Highland Boulevard. He was worried that there would be more accidents and  
19 suggested that Highland Oaks Drive was moved. He said privacy was an issue and asked the  
20 developer to consider installing a fence between the developments. He talked about his view that  
21 would be impacted. He said he was not opposed to the development, but thought there were  
22 things that could make it better.

23  
24 Mr. Ryan Lilyenquist said his property bordered the easement with the potential pathway. He  
25 explained that he landscaped and maintained the proposed easement property by his house. He  
26 hoped that the property and landscaping would be repaired by the developer after the pipe was  
27 installed to connect to the water system. Mr. Lilyenquist voiced concern that the trail between  
28 the developments served no purpose. He wondered if the 2 acres owned by the city, east of his  
29 house, could be improved to a park. He talked about the weeds on the 2 acres and him spending  
30 personal time and money to control the weeds. He thought his neighbors would help improve the  
31 property and talked about the open space fee that he and his neighbors paid every month. He was  
32 in favor of the PUD portion of the development and talked about home values going up. He did  
33 not think the city needed to worry about the HOA not keeping up the landscaping.

34  
35 Ms. Natalie Ball said kids going to Ridgeline Elementary would have a safer route on the  
36 proposed trail rather than walking on 11800 North and talked about her son's experience in the  
37 cross walk. She appreciated that Mr. Gulbrandsen tried to keep the density at a minimum. She  
38 also appreciated the width of the streets. She agreed with previous comments regarding green  
39 space and drainage.

40  
41 Ms. Tonya Colledge said she lived south of the retention pond and appreciated that it was  
42 expanded, although she was concerned that it was still not big enough. She talked about her  
43 concern with flooding. She said they had asked to pipe it on the south at their expense, but were

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1 told no by the city. She talked about drainage issues her neighbors had had in the past and voiced  
2 concern about water that could be drained onto her property. Chairman Kemp wondered when  
3 they asked about piping. Ms. Colledge estimated that they talked to the city 6 months ago and  
4 felt like they were repeatedly told no. She mentioned that they were consulting with an attorney  
5 in order to understand the issue. She talked about the culvert that ran through the back of her  
6 property.

7  
8 The commission discussed the retention pond, water on the roads, and civil engineer  
9 responsibilities. Chairman Kemp said the drainage and water issues would be left in the hands of  
10 the engineers.

11  
12 Mr. Gulbrandsen understood that Sky Estates was designed for a 10 year event. He said the city  
13 engineers told him he needed to plan for a 100 year event. He said Ms. Colledge had erosion due  
14 to water that came from the north, but he did not anticipate his development adding to it in any  
15 way. He said she might still have the problem, but that his development would not exacerbate it.  
16 He talked about the design of the retention pond.

17  
18 Chairman Kemp asked about a traffic study. Mr. Gulbrandsen said a traffic study was submitted  
19 as part of the zoning. He said it was determined that their flows would not increase traffic to the  
20 point of requiring new improvements.

21  
22 Chairman Kemp asked about fencing standards. Mr. Gulbrandsen explained that they were  
23 promoting an open community. He said solid fencing could not be over 4 feet high, but open rail  
24 fences could be 3 to 6 feet high. He said he wanted the landscaping to be the buffer. He said they  
25 were committed to ensure the property was landscaped to the back property line.

26  
27 Chairman Kemp asked about the 2 acres referred to by Mr. Lilyenquist. Mr. Crane explained that  
28 it was city property because of the drainage that went underneath it. He thought the city would be  
29 open to the idea of converting it into a park if money was available. Upon request, Mr.  
30 Lilyenquist talked about the size of the area and thought there was an intent to develop the  
31 property. He estimated that he and the community could install sprinklers and grass for \$5,000  
32 per acre. Chairman Kemp encouraged him to talk to the city about doing it themselves. He  
33 thought it would benefit the city if something could be worked out.

34  
35 Chairman Kemp asked for additional comments. Hearing none, he closed the public hearing by  
36 consent at 9:06 pm.

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38 Commissioner Brammer thought the HOA was a benefit. Chairman Kemp agreed.

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40 Commissioner Heyrend wondered what the city traffic study showed. Mr. Crane explained that  
41 the study was for the intersection, not the impact of the development. He mentioned that the  
42 speed limit south of 11800 North was recently reduced. He explained that there was a question  
43 about jurisdiction on the north and they could not reduce the speed on a County road. He talked

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1 about an operational safety report that was done and said it was determined that a roundabout  
2 was not appropriate at that location. Mr. Crane explained that the study was a volume study for  
3 the roads and took into account the 60 lots of the subdivision. Commissioner Heyrend voiced  
4 concern with speeds and access off of Highland Boulevard.  
5

6 Discussion ensued regarding a possible stop light, reducing speed limits, increased law  
7 enforcement in the area, and possibly prohibited access to Highland Boulevard. Mr. Crane  
8 explained that the intersection did not meet warrants for a stoplight. He said that there had not  
9 yet been capital planning for a light, although a lot of other things had been done to the  
10 intersection.  
11

12 **MOTION:** Commissioner Day moved to accept the findings and approve the preliminary plat of  
13 Highland Oaks subject to the following 7 stipulations recommended by staff:

- 14 1. The final plat shall be in substantial conformance with the preliminary plat dated January  
15 22, 2015.
- 16 2. Final civil engineering plans to be reviewed and approved by the City Engineer.
- 17 3. Prospective homebuyers shall be informed by an affidavit of the proximity of agricultural  
18 uses.
- 19 4. Written approval from Rocky Mountain power is required for the landscape plan prior to  
20 approval of the final civil construction plans.
- 21 5. Add a note to the final plat regarding Rocky Mountain Power easement restrictions for lots  
22 with the power line easement.
- 23 6. The conservation easement shall be recorded with the final plat.
- 24 7. All required public improvements shall be installed as per City Engineer's approval.

25 Commissioner Brammer seconded the motion. Commission Chair Kemp, Commissioner  
26 Brammer, Commissioner Carruth, Commissioner Day, Commissioner Ostler, and Commissioner  
27 Rock were in favor. Commissioner Heyrend was opposed. The motion carried with one opposed.  
28  
29

## 30 **OTHER BUSINESS**

### 31 32 4. Approval of Planning Commission meeting calendar for 2016

33  
34 The Planning Commission reviewed the proposed 2016 meeting schedule.  
35

36 **MOTION:** Commissioner Brammer moved to approve the 2016 Planning Commission Meeting  
37 Schedule. Commissioner Carruth seconded the motion. All were in favor. The motion carried  
38 unanimously.  
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1 **APPROVAL OF MINUTES**

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3 **5. Approval of November 24, 2015 meeting minutes**

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5 **MOTION:** Commissioner Brammer moved to approve the minutes from November 24, 2015 as  
6 written. Commissioner Heyrend seconded the motion. All were in favor. The motion carried  
7 unanimously.  
8

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10 **PLANNING STAFF REPORT**

11  
12 Mr. Crane introduced new Planning Coordinator JoAnn Scott.  
13

14  
15 **COMMISSION COMMENTS AND SUGGESTIONS**

16 The Planning Commission members thanked Commissioner Heyrend for his service on the  
17 Planning Commission.  
18

19  
20 **ADJOURNMENT**

21  
22 **MOTION:** Commissioner Rock moved to adjourn the meeting. Commissioner Carruth seconded  
23 the motion. All present were in favor. The motion carried.  
24

25 The meeting was adjourned at 9:26 PM.