

1 **Highland City Planning Commission**
2 **January 27, 2009**

3
4 **PRESENT:** Commissioner: Jennifer Tucker, Chair
5 Commissioner: Brent Wallace
6 Commissioner: Tony Peckson
7 Commissioner: Melissa Wright
8 Commissioner: Don Blohm
9 Commissioner: Kelly Sobotka
10 Commissioner: Roger Dixon

11
12 **STAFF PRESENT:** City Planner: Lonnie Crowell
13 City Planner: Carly LeDuc
14 City Engineering Director: Nathan Lunstad
15 Secretary: Kiera Corbridge

16
17 **EXCUSED:** Commissioner: Abe Day

18
19 **OTHERS:** Chris Dalley, Craig Hendricks, Ruth Le Baron, Mark Lund, Whitney Norton

20
21 Meeting convened at 6:59 pm
22 Prayer given by: Tony Peckson
23 Pledge given by: Kelly Sobotka
24

25
26 **Item 1: Approval of Meeting Minutes for January 13, 2009**

27
28 **Kelly Sobotka moved to approve the Meeting Minutes for January 13, 2009, as**
29 **amended. Seconded by Brent Wallace. Unanimous vote, motion carried.**

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31
32 **Item 2: Residential Infill Overlay Zone ~ Public Hearing and Recommendation**

33
34 Lonnie Crowell explained that Staff has drafted an ordinance to provide infill that is
35 compatible with the surrounding properties for the remaining property in Highland. This
36 item has been discussed in the past and staff has amended the draft ordinance to reflect
37 previous comments from the Planning Commission. The current draft provides a more
38 reasonable opportunity for development of property that is less than 10 acres and does not
39 impact adjacent properties as much as previous ordinances. This ordinance requires a
40 larger frontage, as the width of the lot has the greatest aesthetic impact.

41
42 **Jennifer Tucker opened the public hearing at 7:14 pm.**

43
44 Craig Hendricks stated his opinion of the proposed Infill Overlay Zone and expressed his
45 concern regarding previous overlay ordinances. He asserted that current ordinances

1 address the same concerns as the Infill Overlay Zone. Commissioners stated their
2 opposing opinions and requested specific criticism or suggestions regarding the proposed
3 ordinance.

4
5 Ruth Le Baron expressed her support of the Infill Overlay Zone and mentioned that she
6 had previously petitioned the City Council for an ordinance of this nature. She explained
7 her personal interest in having a smaller lot to maintain and she feels that many other
8 Highland residents share that sentiment. She expressed concern regarding the averaging
9 of the surrounding lots and questioned whether lots beyond Highland City boundaries
10 would be a factor in that average.

11
12 **Jennifer Tucker closed the public hearing at 7:25 pm.**

13
14 Clarification was requested regarding property that is mapped for annexation; Lonnie
15 Crowell explained that the Annexation Policy Plan defines property as an R-1-40 Zone
16 unless the City Council has an Annexation Agreement.

17
18 Concerns were raised regarding the division of single lot, such as: transforming an R-1-
19 40 into an R-1-20, creation of “flag lots” (a lot is set behind another lot and has a long
20 driveway, creating a flag shape), limitations concerning subdivision requirements, etc.
21 Lonnie Crowell reiterated that the proposed ordinance is to enable undeveloped property
22 between developments to match the surrounding property and to avoid rezoning the R-1-
23 40 Zones. It was noted that the frontage requirements will be a controlling factor that
24 limits the properties that qualify. Jennifer Tucker suggested adding a “one lot rule”
25 dealing with a single lot division off of a larger lot.

26
27 It was noted that the text in the draft ordinance regarding “residential homes for the
28 disabled” and “residential homes for the elderly” is written directly from Utah State Code
29 10-9a. Jennifer Tucker suggested removing this text from the proposed ordinance and
30 referring to the current section in the R-1-40 Zone of the Highland City Development
31 Code until this portion of the ordinance is drafted by the City Attorney.

32
33 Commissioners requested typographical and phrasing clarification for the proposed
34 ordinance.

35
36 **Roger Dixon moved to continue the item until the next meeting to allow time for**
37 **further review. Brent Wallace seconded the motion. Unanimous vote, motion**
38 **carried.**

39
40
41 **Item 3: Planning Commission Recommendation on an Athletic Court Ordinance**
42 **~ Discussion**

43
44 Carly LeDuc explained that the City Council has requested that the Planning Commission
45 determine what should be permitted and required for the construction and use of an
46 athletic court in a residential area; staff drafted an ordinance based upon

1 recommendations provided by the Planning Commission. Under the previous ordinance,
2 staff has considered an athletic court to be an accessory structure which allows the
3 “accessory structure” (athletic court and fencing) to be up to 25 feet tall and up to 5% of
4 the total lot or the square footage of the living area of the main dwelling, whichever is
5 less (as written in the Development Code). Although residents are currently able to
6 construct an athletic court without a fence anywhere on their lots, a fence is typically
7 constructed at ten feet tall or taller so that the fence will help keep a basketball, tennis
8 ball, etc. from leaving the court. The “accessory structure” interpretation also requires the
9 athletic court to be located a minimum of ten feet from the property line and outside of a
10 recorded utility easement. The required setback is the issue of concern for those who
11 have constructed athletic courts within the ten foot easement area and constructed a fence
12 over six feet in height without first obtaining a fence permit. Carly LeDuc emphasized
13 that it is important to understand that allowing a fence of extreme height closer than ten
14 feet from a rear or side property line would also require changes to the fence ordinance,
15 creating significant changes for properties along open space or trail corridors.

16
17 The fence permit process would have resolved the construction issue of the illegal fence
18 however it does not resolve the issue of setbacks, permitted athletic court fencing, or
19 lighting associated with an athletic court. Staff recommends that lighting for athletic
20 courts does not exceed the height limitation of 15 feet for Highland’s commercial zone.
21 The Planning Commission encouraged a height limitation of 19 feet, which is reflected in
22 the proposed draft of the ordinance. Commissioners had also suggested that lighting be
23 turned off by 11 pm, however the current nuisance ordinance allows lighting to operate
24 from 7 am–10 pm; staff would advise that the proposed athletic court ordinance be
25 consistent with the nuisance ordinance. Staff may recommend that when lighting is
26 involved, the property owners wanting to construct an athletic court be required to
27 acquire signatures from surrounding property owners.

28
29 **Jennifer Tucker opened the public hearing at 8:18 pm.**

30
31 Craig Hendricks expressed concern about overregulation and declared that, due to the
32 lack of a foundation, footing, or visual restrictions, athletic courts should not be classified
33 and restricted as a structure. He also emphasized that 5% of the total lot is too restrictive;
34 a legal sized tennis court (120’x60’) would require a 3 ½ acre lot, and even a half sized
35 tennis court on a 20,000 square foot lot exceeds the 5%.

36
37 Lonnie Crowell reiterated that the area enclosed by the higher fence is the concern, not
38 the area the athletic court covers; the 5% is as defined by the current “accessory
39 structure” definition. Setbacks, easements, alternative percentages, and possible
40 restrictions were discussed, but the Commissioners concluded to strike the percentage
41 and that an athletic court need only comply with the front, side, and rear setbacks of the
42 lot.

43
44 Carly LeDuc noted that the fence and lighting heights are the main concerns.
45

1 Mark Lund stated that the fencing around his existing athletic court is not only to keep
2 balls from leaving the court but is also to keep trespassers out. Lonnie Crowell explained
3 that the fence ordinance requires the setbacks due to the ten foot utility easements; utility
4 companies will pay to replace concrete but not athletic courts and accessories. Brent
5 Wallace specified that a fence along the property line must comply with the fence
6 ordinance, and a fence ten feet from the property line qualifies as a sport court fence. Mr.
7 Lund requested that individual consideration be given to each applicant. Jennifer Tucker
8 described the process of the Appeal Authority. Don Blohm requested specific
9 recommendations regarding the proposed ordinance; Mark Lund suggested requiring a
10 permit to pour cement.

11
12 Carly LeDuc asked if the ordinance should specify the type of fencing used. The
13 Commission agreed on chainlink or a similar open fencing, such as a ball enclosure net,
14 in a dark color; the visual impact of slats and other solid fencing creates the same effect
15 as a shed and should not be allowed.

16
17 Carly LeDuc stated that staff has received numerous complaints regarding lights from
18 residents neighboring an athletic court. Commissioners suggested that operating hours be
19 restricted to 10:00 pm, as is consistent with the Municipal Code, to help limit the light
20 and noise impact on surrounding neighbors. It was proposed that the ordinance specify
21 the type (not brand) of lighting used; however, the Commission determined that the
22 ordinance, as proposed, was adequate:

23
24 **3-4112: Activity Court**

25
26 **(6) All activity court lighting must be directed downward to avoid lighting**
27 **spill on adjacent property. The amount of lighting and type of lighting will be**
28 **evaluated on how adequately it meets its intended purpose. Light intensities**
29 **shall be controlled so desired lighting is provided while neighboring areas are**
30 **protected from glare or excessive direct light. Design and location shall be**
31 **specified with the plans submitted for a building permit. Light poles in**
32 **regards to activity courts shall not be in excess of nineteen feet (19') in**
33 **height. Light operating hours shall be restricted to 7:00 am – [10]:00 pm.**

34
35 Commissioners addressed typographical suggestions and clarifications.

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38 **Item 4: Temporary Signs ~ Discussion**

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40 Lonnie Crowell explained that the current temporary sign ordinance may not be
41 consistent with Federal sign law because signs are being regulated by content. Sign
42 ordinances related to commercial activities are determined to be legal based upon the
43 requirement of whether it regulates time, place, or manner. In other words, the ordinance
44 may regulate when a sign may be used (except 1st amendment rights such as political or
45 religious free speech); an ordinance may dictate where a sign may be placed (on private
46 property, on public property, etc.); an ordinance may define how large a sign may be and

1 how the sign may be located on property. If the ordinance is based upon what the sign
2 says it is considered to be content based and may be illegal.

3
4 Non-commercial sign regulations are more difficult to regulate and an ordinance must
5 also pass a four part test. The four part test is as follows:

- 6 (1) Does the ordinance fall within the First Amendment rights?
- 7 (2) Does the ordinance serve a substantial governmental interest?
- 8 (3) Does the regulation directly advance the asserted governmental interest?
- 9 (4) Is the ordinance more extensive than necessary to serve that interest?

10
11 It is staff's opinion that there are three legitimate options available for temporary signs.

- 12 1. Allow temporary signs, commercial and non-commercial, regardless of
13 content everywhere. The size and specific location of the sign and time
14 allowed for posting may be regulated.
- 15 2. Not allow temporary signs, commercial and non-commercial, anywhere in
16 Highland.
- 17 3. Allow any person, business, or entity to install temporary signs in certain
18 specifically approved locations and of certain approved sizes. Again, the size
19 and specific location of the sign and time allowed for posting may be
20 regulated however the content may not.

21
22 In addition, the Planning Commission recommended considering the possibility of
23 temporary signs on private property with the permission of the owner.

24
25 It is Staff's intention to amend the sign ordinance so that it is consistent throughout the
26 Code and consistent with current Federal law. The draft presented to the Planning
27 Commission includes input from the City Attorney and previous Planning Commission
28 discussions.

29
30 Commissioners addressed typographical corrections and clarification regarding the
31 proposed draft of the ordinance.

32
33 Whitney Norton requested clarification regarding the current ordinance in contrast to the
34 proposed ordinance.

35
36 Jennifer Tucker requested that the number of directional signs be limited to one at a time.
37 Lonnie Crowell added clarification that a fee is associated with directional signs due to
38 the staff time required to enforce the ordinance.

39
40 Lonnie Crowell clarified that under the proposed draft, Highland City has the authority to
41 decide what signs can be placed on city property just as any private property owner.

42
43
44 Meeting adjourned at 9:31 pm.