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Highland City Planning Commission

February 24, 2009

PRESENT: Commissioner: Jennifer Tucker, Chair
Commissioner: Tony Peckson
Commissioner: Melissa Wright
Commissioner: Don Blohm
Commissioner: Kelly Sobotka
Commissioner: Roger Dixon
Commissioner: Abe Day

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

EXCUSED: Commissioner: Brent Wallace

OTHERS: Chris Dalley, Tim Aclders, Ethan Aclders, Ken Menlove, Lynn Ritchie, Mark Lund.

Meeting convened at 7:00 pm
Prayer given by: Melissa Wright
Pledge led by: Ethan Aclders, Troop 851

Item 1: Approval of Meeting Minutes for February 10, 2009

Roger Dixon moved to approve the Meeting Minutes for February 10, 2009, as amended. Seconded by Melissa Wright. Unanimous vote, motion carried.

Item 2: Athletic Court Ordinance ~ Public Hearing and Recommendation

Carly LeDuc explained that the City Council has requested that the Planning Commission determine what should be permitted and required for the construction and use of an athletic court in a residential area; staff has drafted an ordinance based upon recommendations provided by the Planning Commission at previous meetings.

Under the previous ordinance, staff has considered an athletic court to be an accessory structure which allows the “accessory structure” (athletic court and fencing) to be up to 25 feet tall and up to 5% of the total lot or the square footage of the living area of the main dwelling, whichever is less (as written in the Development Code). Although

1 residents are currently able to construct an athletic court without a fence anywhere on
2 their lot, athletic court fencing is typically constructed at ten feet tall or taller so that the
3 fence will help keep a basketball, tennis ball, etc. from leaving the court. The “accessory
4 structure” interpretation also requires the athletic court to be located a minimum of ten
5 feet from the property line and outside of a recorded utility easement. The required
6 setback is the issue of concern for those who have constructed athletic courts within the
7 ten foot easement and constructed a fence over six feet in height without first obtaining a
8 fence permit; the purpose of a fence permit is to ensure that the fence is constructed
9 according to Code. Carly LeDuc emphasized that it is important to understand that
10 allowing a fence of extreme height closer than ten feet from a rear or side property line
11 would also require changes to the fence ordinance, creating significant changes for
12 properties along open space or trail corridors.

13
14 The Planning Commission encouraged a lighting height limitation of 20 feet and that
15 lighting be allowed to operate from 7 am–10 pm to be consistent with the current
16 nuisance ordinance. Commissioners also suggested that the fencing be chainlink or a
17 similar open fencing, such as a ball enclosure net, in a dark color. Comments from
18 previous Planning Commission discussions are reflected in the proposed ordinance.

19
20 **Jennifer Tucker opened the public hearing at 7:06 pm.**

21
22 Ken Menlove stated that he currently has an athletic court on his property and that the
23 developer who built his court has built similar courts in several surrounding cities. Mr.
24 Menlove presented the Planning Commission and staff with his research on athletic court
25 requirements from neighboring cities and emphasized common regulations, such as:

- 26 • Hours of operation
- 27 • Courts can be built within utility easements with an “encroachment agreement”
28 from the utility companies
- 29 • Photometric analysis confirming that light from the court is not spilling into
30 neighboring yards

31
32 Ken Menlove expressed his opinion that a fence is not a structure and the overall visual
33 impact of a chainlink athletic court fence does not change when the fence is setback from
34 the property line. He stated that the property in the easement becomes unusable and
35 suggested allowing athletic courts with fencing to be built in the utility easement with
36 permission from the utility companies.

37
38 Mr. Menlove mentioned that in his current neighborhood, as well as in previous
39 neighborhoods, athletic courts have been a gathering place for the neighbors and
40 encourages a sense of community.

41
42 Mark Lund noted that the location of the fencing, not the athletic court itself, seems to be
43 the concern and that the setbacks only apply if the fence is higher than six feet. Mr. Lund
44 suggested amending the fence ordinance rather than creating a new ordinance but asked
45 that the new ordinance not be as restrictive because circumstances vary according to lot.

1 Ken Menlove echoed Mr. Lund’s suggestion of evaluating each lot individually; the
2 Commission reiterated the desire to be consistent with established ordinances and the
3 concern of being seen as arbitrary and capricious. Lonnie Crowell noted that the
4 ordinance is also to protect future homeowners who may buy a home with an existing
5 athletic court without knowing the potential utility concerns.

6
7 Lonnie Crowell explained that any resident can apply for the Appeal Authority but it only
8 pertains to misinterpretation of the law or hardships created by the property, not self-
9 created hardships; in other words, the Appeal Authority can grant a variance when
10 citizens are not allowed to utilize their property in the same manner as others in the same
11 zone. Ken Menlove shared his experience with the Appeal Authority and stated that his
12 variance request was denied.

13
14 Commissioners expressed concerns regarding the effect that athletic court fencing erected
15 within the utility easements would have on lots within the various zones of the city,
16 including lots and trails in Open Space developments; tall fences along the property lines
17 of Open Space lots could dramatically change the overall character of an Open Space
18 development.

19
20 Lonnie Crowell noted that the current fence ordinance has been a complex issue for many
21 years; in the 2006 election, fence ordinance amendments were presented to the residents
22 as a referendum and 75% of the residents voted against changing the ordinance.

23
24 It was noted that existing athletic courts that comply within the current “accessory
25 structure” definition will be grandfathered into the proposed ordinance. A Commissioner
26 asked if staff has any record of how many athletic courts comply with the accessory
27 structure definition in contrast to the proposed ordinance; staff replied that it would be
28 very difficult to produce such a report since permits have not previously been required to
29 build an athletic court.

30
31 **Jennifer Tucker closed the public hearing at 7:57 pm.**

32
33 The Commission discussed the benefits of requiring a photometric analysis (the
34 measurement of light intensities). Lonnie Crowell added that having an analysis on
35 record would also provide the City with an additional way to address neighbor
36 complaints.

37
38 Concerns were raised regarding the height limitation, as Mr. Menlove stated that tennis
39 court lights were only available at a height of 20 feet. Lonnie Crowell indicated that the
40 limit in a commercial zone is 15 feet plus a three foot base.

41
42 The Commission discussed the City’s potential liability if a permit is issued that allows a
43 resident to construct a structure within utility easements and the structure is damaged or
44 removed for utility access. It was noted that “vacating the easement” is nearly impossible
45 because of the value of the land in the easements to utility companies. Several

1 Commissioners agreed that knowing the extent of the City’s liability may change the
2 need for setback requirements.

3
4 The Planning Commission reviewed the proposed ordinance and made changes as
5 deemed necessary, including the addition of a photometric analysis to ensure that light
6 does not shine on neighboring properties and increasing the height limitation to 20 feet.

7
8 **Abe Day moved to continue the item to allow staff to research what utility**
9 **companies are required to replace according to State Code and to discuss potential**
10 **liability with the City Attorney, and to allow time to review the recommended**
11 **changes to the ordinance. Seconded by Roger Dixon. Those voting aye: Abe Day,**
12 **Roger Dixon, Kelly Sobotka, and Melissa Wright. Those voting nay: Don Blohm,**
13 **Tony Peckson, Jennifer Tucker. The motion carried with a 4:3 vote.**

14
15
16 **Item 3: Temporary Signs ~ Public Hearing and Recommendation**

17
18 Lonnie Crowell explained that the current temporary sign ordinance may not be
19 consistent with Federal sign law because it may be interpreted that signs are being
20 regulated by content. Sign ordinances related to commercial activities may regulate: (1)
21 Time: when a sign may be used (except 1st amendment rights such as political or
22 religious free speech), and; (2) Place: on private property, on public property, etc., and;
23 (3) Manner: how large a sign may be and how the sign may be located on property.

24
25 Non-commercial sign regulations are more difficult to regulate and an ordinance must
26 also pass a four part test. The four part test is as follows:

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

31
32 The draft presented to the Planning Commission includes input from the City Attorney
33 and Commissioner recommendations.

34
35 The Commission discussed Commercial Temporary Signs with specific reference to
36 hardships previously mentioned regarding the Lone Peak Shopping Center. Concern was
37 expressed about the potential clutter along the berm if each business were permitted to
38 simultaneously erect a sign along the highway. Commissioners noted that the landowner
39 has the ultimate authority to decide whether signs are permitted on the property. It was
40 reiterated that a monument sign is allowed at that location, which may resolve many of
41 the concerns expressed by business owners in the shopping center.

42
43 Commissioners noted that Temporary Directional Signs might be claimed as Temporary
44 Yard Signs, making the permit requirement difficult to enforce. Lonnie Crowell
45 indicated, with the removal of Temporary Directional Signs, that only commercial signs
46 would require a permit.

1
2 Concerns were raised regarding the length of time that a temporary yard sign be erected,
3 such as how to enforce the time frame, penalties, effect on advertised events, etc. Each
4 Commissioner voted for the time frame they felt was appropriate, with the conclusion
5 that a temporary yard sign may be erected for a period of two weeks.

6
7 The Commissioners took a short break and resumed at 9:48 pm.

8
9 A Commissioner observed that commercial real estate signs were not addressed in the
10 current draft of the ordinance. Lonnie Crowell identified the portion of the Development
11 Code that addresses commercial real estate signs and stated that it would be added to the
12 proposed ordinance.

13
14 The Planning Commission reviewed the proposed ordinance and made corrections, as
15 shown below:

16
17 **Article 7**
18 **SIGNS (Amended 7/5/05, 4/3/07)**

19
20 **3-711: Temporary Signs**

21 **3-712: Non-Conforming Signs**

22 **3-713: Exceptions**

23
24 **3-711: Temporary Signs.** (Amended 11/15/05, 4/3/07) This section shall provide residents and
25 businesses an opportunity to temporarily advertise with Highland. Business owners applying for a
26 temporary sign must possess a current business license within Highland City and shall be required
27 to obtain a temporary sign permit prior to installation. Temporary signs that are not permitted as
28 defined in this Section are specifically not permitted within Highland City.

- 29
30 (1) **All Temporary Signs.** The following regulations apply to all Temporary Signs:
31 (a) It shall be the responsibility of the applicant to first obtain a permit for a
32 temporary signs prior to installing such a sign and to remove the same signs after
33 expiration of the term of the permit.
34 (b) All temporary sign application that are consistent with this ordinance shall be
35 approved by the Zoning Administrator and temporary signs applications that are
36 not consistent with this ordinance shall not be approved.
37 (c) Temporary signs that have not first obtained approval shall not be installed and
38 the persons responsible for their installation shall be subject to Section 3-715 and
39 3-716 of this Ordinance.
40 (d) All nonconforming signs shall be removed at the expense of the person or
41 persons responsible for their erection or shall be removed by any Highland City
42 official.
43 (i) If the person accountable for erecting the sign cannot be found it shall be
44 assumed the person or entity identified on the sign shall be responsible.
45 (e) Temporary signs shall not be located within any road right-of-way (which
46 includes the road, curb-and-gutter, parkstrip, sidewalk, and one (1) foot behind
47 the sidewalk; if a parkway detail is present the right-of-way- shall include the
48 road, curb-and-gutter and everything within twenty-nine feet (29') from the top
49 back of the curb), shall not obstruct the view of vehicular traffic or pedestrians

1 (shall be placed outside of traffic safety sight triangle at the corner of each
2 intersection if the signs exceeds three feet in height), shall not be placed on any
3 traffic regulating signs, utility pole, tree, or similar, and shall not be lighted.

4 (f) Temporary signs shall only be placed upon property by the property owner.

5 (g) Temporary signs shall be subject to 3-716: Enforcement and 3-717: Violation
6 within this Code.

7 (2) **Commercial Temporary Signs.** Temporary Signs within a commercial zone shall only
8 be placed upon the property where the business is owned or leased. The only Temporary
9 Signs that may be applied for within a commercial zone are defined as follows:

10 (a) **Temporary Grand Opening Signs.** When first opening a business (or if there is
11 a change in ownership) within commercially zoned property the owner may
12 apply for a temporary sign permit as follows:

13 (i) The owner of a business within commercially zoned property may obtain
14 a permit for a Temporary Grand Opening signs for a specific period of
15 time not to exceed 60 days. Temporary Grand Opening signs shall only
16 be available one time for a new business or change in ownership.

17 (ii) The following sign types are permitted:

18 A. Banner Signs: Banner signs not to exceed twenty-four (24) square
19 feet in size. Banner signs shall only be permitted to be placed within
20 the approved banner supports or on the building within the leased
21 space of the business of which the signs is associated as designated
22 by the City Council. A banner signs may not be attached in any way
23 to a significant architectural feature, or above an eave, parapet or
24 roofline of a building.

25 B. A-frame Signs: A-frame signs must be placed within fifteen (15) feet
26 from the primary entrance for the business advertising on it. A-frame
27 signs may not be placed in a manner that would impede pedestrian or
28 vehicular access.

29 (b) **Temporary Promotional Signs.** The owner of a business within commercially
30 zoned property may apply for a Temporary Promotional Sign permit during
31 different times throughout the year as follows:

32 (i) A Temporary Promotional Sign shall only be placed upon the property
33 owned or leased by the applicant where the business is located within
34 fifteen (15) feet from the main entry of the business if that location is
35 consistent with Section 3-711A(6) of this Ordinance.

36 (ii) Only the following signs types are permitted as Temporary Promotional
37 Signs:

38 A. Banner Signs: Banner signs not to exceed twenty-four (24) square
39 feet in size. Banner signs shall only be permitted to be placed within
40 the approved banner supports or on the building within the lease
41 space of the business of which the sign is associated as designated by
42 City Council. A banner sign may not be attached in any way to a
43 significant architectural feature, or above an eave, parapet or roof
44 line of a building.

45 B. A-frame Signs: A-frame signs must be placed within fifteen (15) feet
46 of the primary entrance for the business advertising on it. A-frame
47 signs may not exceed 48” in height and 36” in width. A-frame signs
48 may not be placed in a manner that would impede pedestrian or
49 vehicular access.

50 (c) **Temporary Commercial Real Estate Signs.** (Insert/reference additional portion
51 of the Code)

- 1 (d) **Temporary Commercial Development Signs.** (Insert/reference additional
- 2 portion of the Code)
- 3 (3) **Residential Temporary Signs.** Owners of property located within a Residential Zone
- 4 shall only have one (1) temporary sign on their property at any given time. Residential
- 5 Temporary signs do not require a temporary sign permit. Temporary signs within
- 6 residential zones are defined and may be installed as follows:
- 7 (a) **Temporary Residential Yard Signs.** An owner of residentially zoned private
- 8 property may install a Temporary Residential Yard sign on their property.
- 9 (i) Temporary Residential Yard signs may only be placed in private
- 10 property for a period of two (2) weeks.
- 11 (ii) Property owners may place one temporary yard sign on their property.
- 12 (iii) Only the following sign types are permitted as Temporary Yard Signs:
- 13 A. Temporary Yard signs shall not exceed six (6) square feet in area and
- 14 shall stand no higher than six (6) feet from the ground, shall not be
- 15 lighted, shall not be placed in any road right-of-way, shall not
- 16 obstruct view of vehicular traffic or pedestrians, or shall not be place
- 17 on any traffic sign or utility pole.
- 18 (b) **Temporary Residential Real Estate Signs.** Property owners may place one (1)
- 19 Temporary Real Estate Sign within their yard for each road frontage their
- 20 property is located on.
- 21 (i) Property owners selling their property may place on (1) Temporary Real
- 22 Estate sign on their property only during the period of time the property
- 23 is being sold.
- 24 (ii) Only the following sign types are permitted as Temporary Real Estate
- 25 Signs:
- 26 A. Temporary Real Estate Signs shall not exceed six (6) feet in area and
- 27 shall stand no higher than six (6) feet from the ground, shall not be
- 28 lighted, shall not be placed in any road right-of-way, shall not
- 29 obstruct view of vehicular traffic or pedestrians, or shall not be
- 30 placed on any traffic sign or utility pole.
- 31 (iii) **Temporary Model Home Signs.** (Insert/reference additional portion of
- 32 the Code)
- 33 A. **Temporary Model Home Yard Sign.** (Insert/reference additional
- 34 portion of the Code)
- 35 B. **Temporary Model Home A-Frame Sign.** One (1) temporary “A-
- 36 frame” sign not to exceed 32”x48” may be permitted on property of
- 37 which a model homes is located during the two (2) year period a
- 38 model home operates under its approved Conditional Use Permit.
- 39 The sign shall be placed behind the sidewalk on model home private
- 40 property and only displayed while the realtor of the model home is
- 41 present.
- 42 (c) **Temporary Residential Development Sign.** (Insert/reference additional portion
- 43 of the Code)
- 44 **3-713: Exceptions.** (Amended 4/3/07) This Chapter shall have no application to signs used
- 45 exclusively for:
- 46 (1) The display of official notices used by any court or public body or official, or the posting
- 47 of notices by any public officer in the performance of a duty, or by any person giving
- 48 legal notice.
- 49 (2) Directional, warning, or information signs of a public nature, directed and maintained by
- 50 a public authority or public utility.

- 1 (3) Any sign of a non-commercial nature when used to protect the health, safety, or welfare
2 of the public.
- 3 (4) Any flag, pennant, or insignia or any nation, state, city, or other political subdivision.
- 4 (5) Any sign legally mandated by state, federal, or municipal law.
- 5 (6) Monument signs may be installed within public parks by Highland City.
- 6 (7) Political Signs. Political Signs may be installed in the city of Highland on private
7 property only and do not require a sign permit. Only the following sign types are
8 permitted as Political Signs:
- 9 (a) Temporary Political Signs shall be no larger in area than sixteen (16) square feet
10 and stand no higher than ten (10) feet above the ground.
- 11 (b) Political Signs may be placed upon private property in conjunction with other
12 permitted temporary signs defined within this code.

13
14 A Commissioner observed that future developments with a higher density of homes may
15 not be appropriately addressed in the current draft of the ordinance. The Commission
16 expressed concern that if each property owner is permitted to erect a sign, it creates a
17 potential for a higher concentration of signs. It was noted, although Highland City does
18 not require or enforce them, that additional limitations can be established in the
19 Conditions, Covenants, and Restrictions (CC&R's) of a development.

20
21 Concern was expressed that being too lenient with commercial and temporary signs may
22 increase clutter and reduce the aesthetic appeal of Highland City with little or no actual
23 benefit.

24
25 **Roger Dixon moved to continue the item until the next meeting to allow time for**
26 **Planning Commission to review the recommended changes. Seconded by Melissa**
27 **Wright. Those voting aye: Abe Day, Roger Dixon, Tony Peckson, Kelly Sobotka,**
28 **Jennifer Tucker, and Melissa Wright. Those voting nay: Don Blohm. The motion**
29 **carried with a 6:1 vote.**

30
31
32 **Item 4: Gateway Preservation Ordinance ~ Discussion**

33
34 Carly LeDuc explained that City Councilmember, Larry Mendenhall, has requested that
35 the Planning Commission determine what should be permitted and required for Gateway
36 Preservation as a way to promote Highland City and set it apart from other cities. The
37 following proposed Gateway locations were provided for review:

38
39 Major Gateways:

- 40 (1) West end of SR-92 headed eastbound – masonry
- 41 (2) East end of SR-92 headed westbound – masonry
- 42 (3) South end of SR-74 headed northbound – masonry
- 43 (4) North end of Highland Blvd. headed southbound – no sign
- 44 (5) North end of SR-74 headed southbound – masonry
- 45 (6) South end of 4800 West headed northbound – no sign

46 Minor Gateways:

- 47 (7) West end of 10400 West headed eastbound – masonry

- 1 (8) South end of 6000 West headed northbound – masonry
- 2 (9) South end of 6800 West headed northbound – masonry
- 3 (10) Southeast end of Westfield Road headed westbound – masonry

- 4 (11) North end of 4800 West headed southbound – no sign
- 5 (12) East end of 9600 North headed westbound – no sign

6
7 Staff would like the Planning Commission to decide what direction they would like to go
8 in regards to obtaining the land needed for gateway preservation. Options suggested
9 would include obtaining an easement, buying land and/or having the land deeded to the
10 City through the subdivision process. Staff would like the Commission to decide if they
11 would like the ordinance to be drafted through: (1) the subdivision process, or; (2)
12 parkway detail (a 29 foot buffer between the street and housing that usually runs along
13 both sides of the road), or; (3) overlay zone.

14
15 Staff suggests that the beautification/tree committee work on obtaining funding for the
16 project rather than pulling from the general fund. Staff may also suggest that the gateway
17 area be provided on both sides of the street for the ‘major gateways’ listed. A
18 questionnaire was included in the meeting agenda packet to acquire the direction of the
19 Planning Commission on this issue.

20
21 Lonnie Crowell clarified that this ordinance is for “future planning” and that an estimate
22 and budget can be established once a plan is identified. He also stated that having the
23 ordinance in place will help ensure that land at the desired locations has been reserved
24 when those locations are developed.

25
26 The Planning Commission discussed which locations are owned by the City and what
27 signage is currently in place. Commissioners agreed that the six proposed locations are
28 indeed major gateways and should be given the majority of the focus, while the “minor
29 gateways” should at least have a metal sign indicating entrance into Highland. It was
30 noted that several of the existing signs were installed by the Highland Youth City
31 Council; therefore, it was suggested that the signs remain and the surrounding area be
32 enhanced.

33
34 The Commission inquired as to the burden on the City if the ordinance were drafted
35 through parkway detail; it was clarified that the City already maintains the parkway detail
36 and would also maintain the gateways.

37
38 Lonnie Crowell reiterated that 29 feet of parkway detail is already required along the
39 “major gateways” according to the General Plan but suggested including additional land
40 on both sides of the road to create uniformity. Commissioners suggested that the
41 bordering cities be invited to participate as it would benefit them as well.

42
43 Meeting adjourned at 11:13 pm.