

# Highland City Planning Commission

## November 10, 2009

**PRESENT:** Commissioner: Brent Wallace, Chair  
Commissioner: Tony Peckson  
Commissioner: Don Blohm  
Commissioner: Kelly Sobotka  
Commissioner: Melissa Wright  
Commissioner: Roger Dixon  
Alternate Commissioner: Abe Day

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

**OTHERS:** Lynn Ritchie, Michael Mock, Kathy Mock, Benjamin Fietkau, Mary Ann Fietkau, Stephen Brailsford, Ileana Brailsford, Kathryn Schramm, Joyce Pierson, Lafe Harris.

Meeting Convened at 7:00 pm  
Prayer given by: Tony Peckson  
Pledge led by: Don Blohm

**Item 1:** Approval of Minutes for October 13, 2009

**Tony Peckson moved to approve the Meeting Minutes for October 13, 2009, as amended. Seconded by Roger Dixon. Unanimous vote, motion carried.**

**Item 2:** 9600 North Subdivision – Alpine School District/LDS Church ~ **Public Hearing and Recommendation**

Lonnie Crowell explained that Mike Davey from Butler Architects, representing the Alpine School District and the Church of Jesus Christ of Latter-Day Saints, is requesting Preliminary Subdivision Approval the 9600 North Subdivision, a proposed three lot subdivision located at approximately 9600 North 6900 West. The two residential lots are approximately 38,000 square feet in size and the remaining lot, proposed for a church building, is 156,590 square feet. The three properties exceed the R-1-40 Zone minimum frontage requirement of 130 feet. The applicant has proposed a 40 foot right-of-way, as is typical for this type of development.

An item of concern that will need to be addressed by the applicant is regarding an existing ditch along the north end of the proposed subdivision. It is currently understood that the end user is located immediately to the west of the proposed development; the applicant may either pipe the ditch per the requirements of the ditch company or work with the end user regarding pressurized irrigation options.

The applicant will also need to address the existing fence along the east property line; the property owners adjacent to the proposed road have animal rights and currently have large animals contained by an electric fence. These property owners have expressed concern regarding the safety of their animals and the potential safety hazards for the users of the proposed church building and residences if the electric fence were to remain. The applicant should work with the property owner to the east regarding a fence to mitigate this concern. Lonnie Crowell noted that the City has typically required that a vinyl fence be installed with the proposed use.

The road would be stubbed for future development as the parking lot of the proposed church would provide adequate turn-around for emergency vehicles. The Planning Commission should consider requiring a sign at the end of the stubbed road indicating that the road will continue when the property to the north is developed.

**Brent Wallace opened the public hearing at 7:10 pm.**

Benjamin Fietkau, property owner to the east, described the current location of the electric fence and emphasized his concern for the safety of the animals and proposed residents; children may touch the electric fence and be injured, the animals may be fed harmful plants, etc. Mr. Fietkau requested consideration of a substantial fence that would contain the animals safely within his property as well as prohibiting children from climbing over the fence and creating mischief. A Commissioner questioned whether the typical vinyl fence would adequately contain the animals. Benjamin Fietkau observed that vinyl fences have been used; however, Mr. Fietkau stated that he would be satisfied with a six foot chainlink fence and that slats could be added for aesthetic value.

Benjamin Fietkau confirmed his intent to continue using the ditch located at the north of the proposed subdivision.

Lafe Harris, representing the applicant as an agent for The Church of Jesus Christ of Latter-Day Saints, indicated that the developer is planning to install a fence that accommodates all parties involved.

**Brent Wallace closed the public hearing at 7:16 pm.**

A Commissioner questioned whether the concerns regarding the ditch have been resolved. Lonnie Crowell clarified that the applicant will be required to work with the ditch company to maintain user access.

Commissioners reiterated the concern that vinyl fence would not be substantial enough to contain large animals; the fence panels are often damaged/kicked in by children and certainly could be damaged by a horse.

Concerns were expressed regarding the stubbed road and the single access. Lonnie Crowell explained that the property to the north is owned by the Alpine School District. The plans submitted for the 9600 North subdivision included a potential layout for future development, including a school and residential lots, indicating that the road would continue to the north and connect to existing streets.

**Tony Peckson moved to grant Preliminary Subdivision for the 9600 North Subdivision per the following recommendations:**

- 1. That the applicant complete the improvements along 9600 North as part of Lot 1 within this subdivision; and**
- 2. That the applicant work with the end user(s) to the west and the ditch company and pipe any ditch on the north end of the property per their recommendations or continue the water right as negotiated with the user(s); and**
- 3. That the Owner/Developer/Applicant install a sign at the north end of the proposed “6900 West Street” at a location per the Public Works Director indicating that 6900 West Street is intended to continue to the west and be connected to a future development” prior to selling property; and**
- 4. That the applicant work with the property owner to the east regarding any fencing that may be intentionally/not intentionally moved during construction and may be necessary due to the existing large animals on that property; and**
- 5. That the material of the fencing be of substantial enough nature to prevent livestock from wandering into the public right-of-ways and to be agreeable with the home owners and the property owners; and**
- 6. That a BUYER/SELLER Acknowledgement be provided by the SELLER and a note be placed on the Final Plat stating: “Property owners adjacent to this subdivision have existing large animal rights which may include horses, cows and goats. These rights are protected by both the Municipal and Development Codes of Highland City. There are noises, smells and other events associated with these animals that can occur all hours throughout the day and night, and prospective buyers of property in this subdivision should be aware of this prior to purchasing property”;** and
- 7. That the applicant strictly adhere to the Dust and Mud Prevention Plan; and**
- 8. That any easements shown on the title report should be clearly identified on the Final Plat unless located within the right of way.**

**Abe Day Seconded. Unanimous vote, motion carried.**

**Item 3:            Accessory Structures ~ Discussion**

Lonnie Crowell explained that the City Council has requested that the Planning Commission determine what should be permitted and required for accessory structures and recommend a revised version of the ordinance. The Commissioners were provided with a worksheet requesting conditions, regulations, allowances, etc. that could be considered for the accessory structure ordinance; the draft ordinance presented to the Commissioners is based on the submitted recommendations.

Mr. Crowell observed that if changes to the current ordinance to reflect stricter setbacks, sizes, and heights, then existing accessory structures may become non-conforming. Staff estimates that about 12 percent of homes in Highland City have one or two accessory structures on their property. Staff further estimates that 35 - 40 percent of those structures are built to the maximum capacity: equal to the size of the footprint of the home or five percent of the total lot area, whichever is less. The current ordinance also restricts the construction of multiple level structures to avoid construction of illegal apartments above a detached garage or similar structure. The Planning Commission may include language indicating that structures legally constructed prior to the adoption of the new ordinance will not be considered non-conforming.

Lonnie Crowell noted that changes will be made to the International Building Code and International Residential Code which will take effect in January 2010 subsequently increasing the minimum square footage of a "structure" from 120 feet to 200 square feet. Mr. Crowell added that changing the minimum square footage in the ordinance is simply an option.

The draft ordinance presented to the Planning Commissioners is as follows:

**Accessory Buildings** (Amended: 9/5/00, 1/15/02, 9/17/02) All accessory buildings within this zone shall conform to the following standards, setbacks and conditions:

- (1) An accessory building is any building or structure which is not attached to the main dwelling on the lot that is (a) greater than ~~120~~ 200 square feet, or (b) that is attached to a permanent foundation as defined by the building code.
- (2) An accessory building shall be set back from the rear property line a minimum of 10'.
- (3) All accessory buildings shall be set back from the side property a minimum of 10'.
- (4) All accessory buildings shall be placed no closer than six (6) feet from the main building. Said six feet shall be measured to the closest part of the structures including any roof overhang.
- (5) Accessory buildings may not cover more than 5% of the total lot area.  
~~of the lot.~~
  - (a) The area of the rear yard shall be calculated as the area between the rear property line and any portion of the main dwelling.
- (6) Accessory buildings shall be constructed out of exterior materials compatible and consistent with the neighborhood.

- (7) No accessory building shall be erected to a height greater than ~~1-story, or 25 feet from natural grade, whichever is less, and shall not have more square footage than the main floor of the main dwelling unit.~~
- (8) Any accessory building used for a home occupation shall comply with the regulations governing a home occupation business.
- (9) All accessory buildings shall **be set back at minimum an amount consistent with the primary dwelling or have a side yard setback set back** no less than 30' from the side lot line which abuts a street, **whichever is less.**

**Large Animal Shelter** is any structure for the purpose of sheltering large animals which may also be used for storing hay and farm equipment in addition to large animals. Any detached structure requiring a foundation shall be considered an accessory structure and shall be subject to Section 3-4109 / 3-4209. A large animal shelter is a minimum of 50% open on one side. Large animal shelters do not need a building permit, but are required to meet minimum setback requirements as follows: A large animal shelter shall be a minimum of 100' from an adjacent residential dwelling unit; 75' from the owner's residential structure; 10' from a side or rear property line; 30' from any street; and 10' from a trail easement. A large animal shelter shall not be constructed within an easement. A large animal shelter shall be one of the following architectural elevations or similar construction. (Added 12/7/04)

Lonnie Crowell also noted that the materials requirement is inconsistent between the R-1-40 Zone and the R-1-20 Zone; R-1-40 must be exterior materials compatible and consistent with the neighborhood; R-1-20 must be compatible with the main dwelling.

The Planning Commission discussed the benefits and disadvantages of creating materials consistency between the two zones, such as:

- o Requiring that a detached garage for a brick home located on a half-acre be constructed of brick is appropriate; however, requiring a brick barn located on an acre is excessive.
- o While a large metal shed located on more than an acre may not seem intrusive, a metal shed adjacent to a home on a half-acre could be an eyesore.

Commissioners suggested that the original intent of the ordinances may have been based on the lot size. A Commissioner stated that subdivisions regulate the materials according to the percentage of the home (ex: Home – 30 percent brick and 70 percent stucco, Accessory Structure – 30 percent brick and 70 percent stucco). Lonnie Crowell noted that subdivisions may have additional restrictions within the Covenants, Conditions, and Regulations enforced by the Home Owners Association.

A Commissioner observed that several accessory structures throughout Highland appear to be taller than the main dwelling and questioned whether 25 feet is an appropriate maximum height. Lonnie Crowell noted that a home constructed in the Rambler style could be lower than 25 feet. A Commissioner stated that the height difference would not appear as significant on a larger lot.

It was suggested that restricting accessory structures to a maximum height of 25 feet eliminates the need for a one-story limitation. It was noted that many residents may

desire to use the ceiling space for storage. Lonnie Crowell stated that applicants are currently permitted to construct a loft for storage that can be accessed by a ladder; however, a permanent staircase is not permitted.

Concerns were voiced regarding the proximity of the structures to the main dwelling; hazardous chemicals may be stored in the structure that could damage the home if permitted as close as six feet from the building. It was noted, however, that those same chemicals could be stored within the garage or in a small shed adjacent to the home.

Commissioners discussed several instances of accessory structures being constructed closer than 30 feet from the side property lines adjacent to a street and agreed that the intent of the setback is to align the structure with the main dwelling.

Lonnie Crowell noted that residents with smaller homes occasionally construct multiple structures equal to the footprint of the home to meet the permitted five percent of the lot. He suggested permitting structures to exceed the square footage of the footprint of the home, but not to exceed five percent of the total lot.

The Planning Commission made the following suggestions:

- Unanimously agreed that the setback of the structure be consistent with the primary dwelling or no less than 30 feet from the side lot line adjacent to a street, whichever is less
- Unanimously agreed that the maximum height of the structure be 25 feet and eliminate the limit of levels/stories
- Unanimously agreed that the structure be a maximum of 5 percent of the lot area without regard for the square footage of the main dwelling
- Majority agreed that the materials requirements for the structure are sufficient

Lonnie Crowell noted that this item will be held as a public hearing at the next Planning Commission Meeting.

#### **Item 4: Wall/Window Signs ~ Discussion**

Lonnie Crowell explained that staff has been meeting with the Highland Merchants Committee over the last six months to discuss concerns of the business owners and suggest additional options to help Highland businesses succeed. Mr. Crowell stated that the regulation of wall signs and window signs has been a topic of discussion with specific attention to the restriction of one sign per store front (maximum three signs per building) and the sign size limit to five percent of the building façade. The item is presented to the Planning Commission for discussion to obtain input regarding the ordinance.

Staff presented statistics related to the previous 20 submitted sign applications and provided illustrations demonstrating the visual impact of signs larger than five percent of the building façade. The average percentage originally requested by the businesses is nine percent. The percentages as listed in the existing ordinance were based on aesthetic preference with baseline data taken from nearby municipal ordinances.

Lonnie Crowell indicated that some businesses would prefer to have more advertising opportunity than the “one sign” permitted in the existing ordinance (incorporating all of the sign areas as one). Staff is concerned that five percent maximum would not be sufficient if the number of signs per frontage was increased or unlimited. Larger commercial developments in surrounding cities appear to permit a ten percent sign on the fronting wall and five percent on additional walls, with fewer restrictions on the number of signs permitted per wall; it may be prudent to prepare the commercial zones of the city to be more attractive to future businesses.

Additionally, several of the business owners would like the opportunity to use an entire window for advertising space. The current ordinance limits a window sign to maximum 25 percent of each window; Lonnie Crowell suggested that many businesses would prefer to fill one whole window with a sign and leave three uncovered.

Staff will draft an ordinance based on the comments and direction provided by the Planning Commission regarding wall and window signs.

A Commissioner observed that the average sign percentage submitted is close to the current limit. Lonnie Crowell noted that most sign companies submit the original sign design per the business request; if the submitted design does not comply with the ordinance, the design is reworked.

The Planning Commission discussed what can legally be regulated. Lonnie Crowell reviewed that Time, Place and Manner are the only permissible restrictions; can't regulate the content, design, etc. Mr. Crowell added that the developer/owner of the commercial property can add restrictions in the Covenants, Conditions, and Restrictions of the development.

A Commissioner requested clarification regarding the “one sign” regulation. Lonnie Crowell explained that businesses are permitted to install one sign on each building front facing a road with a maximum of three per business. Commissioners noted that brand names and logos are important to businesses and questioned how the “one sign” limitation affects the design of submitted signs. Lonnie Crowell indicated that the name and logo would be fashioned together as one sign and the percentage would be calculated according to the “box” encompassing the name and logo.

It was noted that the signs in the Lone Peak Shopping Center appear to vary in size. Commissioners suggested requiring that signs are a similar in size to the signs on adjacent businesses. Lonnie Crowell stated that the ordinance only regulates the maximum size of the sign and business owners can choose to install a smaller sign. A Commissioner added that the cost of the sign may also be an important factor in the overall size.

The Planning Commission discussed the maximum percentage of the façade before the sign would become overwhelming, concluding that eight to ten percent of the façade is appropriate. Lonnie Crowell agreed to provide additional illustrations of the suggested percentages in the next meeting.

A Commissioner requested clarification regarding the restriction on window signs. Lonnie Crowell stated that the current ordinance permits a business to use 25 percent of each window to advertise. Mr. Crowell reiterated that business owners have suggested permitting 25 percent of the total combined window space be used for advertising. A Commissioner agreed, observing that many windows may not have beneficial visual impact. Commissioners suggested that regulating window signs is excessive and unnecessary, stating that the issue should be self-regulating. Other Commissioners contended that businesses may exploit the opportunity and cover all windows with advertising.

The Planning Commission requested that the Highland Merchants Committee be present at the next meeting; the Commissioners would appreciate input from the Committee Members.

Lonnie Crowell noted that the item will return as a public hearing at a future Planning Commission Meeting.

#### **Item 5: Planning Commission Recommendations ~ Discussion**

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

**Gates Accessing the Murdock Canal** – Commissioners previously requested that staff contact the Provo River Water Users District regarding the safety concerns associated with allowing permanent access to the Murdock Canal. Matthew Shipp stated that staff has notified the Provo River Water Users District of the concern and will continue to pursue a solution.

**Toll Bridge from Saratoga Springs to Orem** – Commissioner Don Blohm explained that he is a representative for Highland City on a board concerning the approximately six mile, privately-funded toll bridge proposed to connect Saratoga Springs City to Orem City by crossing the Utah Lake. Commissioner Blohm described the project and asked for input regarding how the Planning Commission and City Council would like Highland to be represented on the board. He noted that the project appears to have minimal impact on Highland City although an official traffic study has not yet been performed.

**Traffic Study Regarding Toscana at the Highlands** – A Commissioner requested that an additional traffic study be submitted for the proposed Toscana at the Highlands; the original study did not illustrate the effect the additional traffic would have on existing traffic patterns. While acknowledging that the purpose of the Town Center is to attract people to the city center and establish successful businesses, Commissioners expressed concerns that the volume of traffic from the proposed development would be overwhelming. A Commissioner expressed the desire to influence the density of the development based on the traffic impact. Staff noted that the additional traffic impact has been considered in the design of the right-of-ways and the widening of SR-92. Staff

added that the increased traffic may also provide cause for the desired traffic light connecting Highland's main commercial zones.

Concerns were also voiced concerning the operation of the proposed gates at the entrance of Toscana at the Highlands. A Commissioner observed that the gates would need constant repair if they opened and closed for every vehicle exiting or entering the development.

**Rezoning Application from Mr. Kevin Kleinman** – A Commissioner questioned whether the previously submitted application to rezone property along the north side of SR-92 would be addressed in the future. Lonnie Crowell explained that the application was withdrawn entirely. Properties owned by the Utah Department of Transportation were included on the application without signatures from the department; the city cannot process a rezone application until the property owners apply.

**Item 6: Future Planning Commission Items ~ Information**

The Planning Commission suggested the addition of a "Future Items" portion to the Planning Commission Agendas to allow the Commissioners additional time to prepare for discussions. The following items were presented:

Millers Acre Plat B Subdivision Final Approval Application  
Highland Town Center Subdivision Plat Amendment  
Toscana at Highland; Site Plan and Architecture Approval Application

Meeting adjourned at 8:15 pm.