



AGENDA

HIGHLAND CITY PLANNING COMMISSION Tuesday, January 11, 2011 – Regular Meeting 7:00 p.m.

Highland City Council Chambers, 5400 West Civic Center Drive, Highland Utah

CALL TO ORDER: Kelly Sobotka, Acting Chair

- Roll Call – Gina Peterson, City Recorder
- Invocation – Commissioner Abe Day
- Pledge of Allegiance – Commissioner Tim Irwin

A. APPEARANCES:

Time has been set aside for the public to express their idea, concerns, and comments on non-agenda items. Speakers will be limited to two minutes.

B. WITHDRAWALS AND CONTINUANCES:

1. TA-11-03 Dave Williamson is requesting to amend the Highland City Development Code Section 3-4108 Conditional Use in the R-1-40 Zone to allow funeral homes subject to a conditional use permit and Section 10-102 Definitions by adding a definition for funeral homes. *Legislative. The applicant is requesting that this item be continued to the February 8, 2011 Planning Commission meeting.*
2. CU-11-01 Dave Williamson is requesting a Conditional Use Permit for a funeral home in the R-1-40 Zone. The property is located west of the southwest corner of 6000 West and SR 92 adjacent to the Highland City Cemetery. *Administrative. The applicant is requesting that this item be continued to the February 8, 2011 Planning Commission meeting.*
3. TA-11-04 Joe Totorica is requesting to amend the Highland City Development Code Section 3-4713.5.d.iii relating to building setbacks adjacent to SR 92 and SR 74 in the Town Center Commercial Retail District. *Legislative. The applicant is requesting that this item be continued to the February 8, 2011 Planning Commission meeting.*

C. PUBLIC HEARING ITEMS:

4. TA-11-02 Highland City Councilmember Tom Butler is requesting to amend the Highland City Development Code Chapter 10 Definitions relating to the definition of a family. *Legislative.*
5. TA-11-01 Highland City is requesting to amend the Highland City Development Code Section 5-4-300 Major Subdivision Option and Chapter 5-10 Amending a Recorded Plat by removing the public hearing requirements for preliminary plats and modifying the review process for preliminary and final plats. *Legislative.*

C. OTHER BUSINESS:

6. Vote to Elect Planning Commission Chairperson

D. APPROVAL OF MINUTES:

7. December 14, 2010 – Regular Meeting

E. PLANNING STAFF REPORT:

- Staffing Changes
- Commission Appointments
- City Council Action Update

F. COMMISSION COMMENTS AND SUGGESTIONS:

G. ADJOURNMENT:

NEXT MEETING: January 25, 2010 at 7:00 pm City Council Chambers

Legislative Action: An action of a legislative body to adopt laws or polices.

Administrative Actions: An action reviewing an application for compliance with adopted laws and polices.

FOR SPECIAL ACCOMMODATIONS

Any individual with a qualified disability may request a reasonable accommodation by contacting the City Recorder at (801) 772-4506 at least 48 hours prior to the Commission meeting.

CERTIFICATE OF POSTING

The undersigned does hereby certify that the above agenda notice was posted in three public places within Highland City limits on this 6th day of January, 2011. These public places being bulletin boards located inside the City offices and located in the Highland Justice Center, 5400 W. Civic Center Drive, Highland, UT; and the bulletin board located inside Lone Peak Fire Station, Highland, UT. On this 6th day of January, 2011 the above agenda notice was sent by email to local newspapers located in Utah County and posted on the Highland City website at www.highlandcity.org.

Gina Peterson, City Recorder

Agenda Item #4

HIGHLAND CITY PLANNING COMMISSION MEETING JANUARY 11, 2010			
REQUEST:	Public Hearing – Amend the Highland City Development Code Chapter 10 Definitions relating to the definition of a family (TA-11-02).		
APPLICANT:	Highland City Council member Tom Butler		
FISCAL IMPACT:	None		
GENERAL PLAN DESIGNATION	CURRENT ZONING	ACREAGE	LOCATION
N/A	N/A	N/A	Citywide

BACKGROUND:

The City Council discussed this item at their December 7, 2010 meeting (Attachment D).

The State of Utah has mandatory standards for building construction which are amended to adopt the International Residential Code (I.R.C.) and the International Building Code (I.B.C.) and related codes such as the mechanical code, fire code, etc. Each local municipal entity is required to implement and adhere to these Codes. These Codes were adopted by the City Council on July 20, 2010. Amendments to these Codes are processed through the Utah Division of Occupational and Professional Licensing and approved by the State Legislature.

An amendment to the Development Code is a legislative process.

SUMMARY OF REQUEST:

1. The proposed amendment will amend the definition of a family as follows:

“Family - An individual or two or more persons related by blood, marriage, or adoption, living together in a single dwelling unit ~~and maintaining a common household~~. A family may include two, but not more than two, non-related persons AND THEIR CHILDREN living with the residing family. The term family shall not be constructed to mean a group of non-related individuals, a fraternity, club or institutional group.”

CITIZEN PARTICIPATION:

A notice of the Planning Commission public hearing was published in the Daily Herald on December 26, 2010. No comments have been received.

ANALYSIS:

- The primary purpose of the amendment is to make it easier for property owners to rent their basements. The concern with the current regulations is the cost of the improvements and/or renovations in order to have basement apartments.

- A homeowner in Highland may rent space to two unrelated individuals if the renters and the residing family share a common household. A common household is defined as sharing living and eating areas, laundry facilities, and access to rooms. In addition, there cannot be a separate entrance. This would prohibit a separate apartment.
- Basement apartments are currently permitted in all residential zones subject to a conditional use permit (Attachment B and C). The requirements for basement apartments include complying with current building code requirements, providing two additional off-street parking spaces, separate entrance at the rear of home, and having separate utility connections. Among other things, the building code requires that a basement apartment have windows that sized to allow emergency exiting, a one hour fire wall between the apartment and residence, and prohibits circulation of air between the two units. Staff believes that the regulations for basement apartments can be simplified to better accommodate basement apartments.
- Accessory or basement apartments are an effective tool for integrating new housing opportunities into existing neighborhoods, for providing options for non-traditional households (e.g. singles and seniors) or for providing affordable housing. However, accessory or basement apartments can have a negative impact on existing neighborhoods. Impacts on neighborhoods can be reduced through zoning regulations.
- A dwelling unit is defined to distinguish between different types of housing based on the number of units in a structure. If one family occupies a structure it is considered one dwelling unit. If two families occupy one structure it is considered a two dwelling unit.
- Zoning and building code regulations are based around the number of units in a structure. Each unit in a structure is treated independently by building code regulations. These requirements are designed to protect the health and safety of families occupying each unit and ensure a minimal level of safety and quality in construction.
- While staff understands that the costs associated with renovating a basement for an apartment can be prohibitive, staff does not believe that it is good policy to circumvent the building code.

RECOMMENDATION:

Staff recommends that the Planning Commission conduct a public hearing, debate the issue, draft findings, and make a recommendation to the City Council.

ATTACHMENTS:

Attachment A – Existing and Proposed Definition

Attachment B – Basement Apartments Regulations

Attachment C – Summary of Building Code Regulations

Attachment D – Draft minutes from the December 7, 2010 City Council Meeting

Existing and Proposed Definition

Existing Definition:

“Family - A individual or two or more persons related by blood, marriage, or adoption, living together in a single dwelling unit and maintaining a common household. A family may include two, but not more than two, non-related persons living with the residing family. The term family shall not be constructed to mean a group of non-related individuals, a fraternity, club or institutional group.”

Proposed Definition:

“Family - An individual or two or more persons related by blood, marriage, or adoption, living together in a single dwelling unit ~~and maintaining a common household~~. A family may include two, but not more than two, non-related persons **AND THEIR CHILDREN** living with the residing family. The term family shall not be constructed to mean a group of non-related individuals, a fraternity, club or institutional group.”

Basement Apartment Regulations

- (6) **Basement Apartments.** Basement Apartments shall have substantial requirements which may be in addition to those listed above, as follows:
- (a) Basement apartments shall only be considered for residential properties that are occupied by the owner(s) of the single family residence; and
 - (b) Basement apartments shall only be considered for properties in which the apartment is attached to the main dwelling in the basement portion of the home; and
 - (i) Owners of property with a basement apartment shall be required to apply for and pay for two separate city utility charges; and
 - (ii) Owners of property with a basement apartment shall pay for two "first can" garbage can rates; and
 - (c) Basement apartments shall only be considered for properties that meet parking requirements, as noted below, and properties that have completed 70% of their front yard landscaping as defined in Section 3-4107 and 3-621, Highland City Development Code; and
 - (d) No more than one (1) basement apartment shall be considered for each single family residence; and
 - (e) The home shall be modified to meet all fire, safety, health and building codes; and
 - (f) Modifications to a home for basement apartments shall be approved and inspected by the Fire Marshall and building inspector prior to occupancy by renters; and
 - (i) Applicants shall provide plans to be reviewed and approved by the City Building Inspector and City Fire Marshall prior to occupancy; and
 - (ii) Modifications shall be provided for by the home owner to meet all current International Building Code (IBC) requirements typically associated with any legal duplex or similar multi-family construction; and
 - (iii) Modifications shall not be made that are inconsistent with current zoning requirements as otherwise defined within the R-1-40 and R-1-20 zones.
 - (g) The front of the home shall NOT be modified in any form that will give the appearance that separate units are incorporated within the home including separate addresses and mailboxes; and
 - (h) The primary entrance for the basement apartment shall be provided for from the rear of the home; a side entrance is allowable in the event that the entrance is camouflaged by property fencing and is not visible from the street; and
 - (i) One off-street parking space shall be provided per bedroom within the rented area of the home, with a minimum of two (2) off-street renter parking spaces; and
 - (j) Permanent on-street parking of any kind shall be prohibited for occupants of any residence requesting basement apartments; and
 - (k) Any signage associated with a basement apartment shall be prohibited including addressing, directional, or similar; and
 - (l) The property owner shall be required to record a deed restriction upon their property immediately after approval and before occupancy notifying the County of the basement apartment and providing notice to future purchasers that the apartment use is conditionally approved with the seller, it may not continue to the buyer without additional land use approval obtained by the buyer, and is null and void at the moment of each sale of the property.
 - (m) A basement apartment Conditional Use may be reviewed annually, semi-annually or upon complaint from adjacent property owner; and

Summary of Building Code Regulations

DWELLING. Any building that contains one or two *dwelling units* used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

DWELLING UNIT. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

R302.3 Two family dwellings. *Dwelling units* in two-family dwellings shall be separated from each other by wall and/or floor assemblies having not less than a 1-hour fire-resistance rating when tested in accordance with ASTM E 119 or UL 263. Fire-resistance-rated floor-ceiling and wall assemblies shall extend to and be tight against the *exterior wall*, and wall assemblies shall extend from the foundation to the underside of the roof sheathing.

Exceptions:

1. A fire-resistance rating of ½ hour shall be permitted in buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13.
2. Wall assemblies need not extend through *attic* spaces when the ceiling is protected by not less than 5/8-inch (15.9mm) Type X gypsum board and an *attic* draft stop constructed as specified in Section R302.12.1 is provided above and along the wall assembly separating the *dwellings*. The structural framing supporting the ceiling shall also be protected by not less than ½-inch (12.7mm) gypsum board or equivalent.

R302.3.1 Supporting construction. When floor assemblies are required to be fire-resistance rated by Section R302.3, the supporting construction of such assemblies shall have an equal or greater fire-resistance rating.

SECTION R310

EMERGENCY ESCAPE AND RESCUE OPENINGS

R310.1 Emergency escape and rescue required. *Basements*, habitable attics and every sleeping room shall have a least one operable emergency escape and rescue opening. Where *basements* contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room. Where emergency escape and rescue openings are provided they shall have a sill height of not more than 44 inches (1118mm) above the floor. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with Section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2. Emergency escape and rescue openings shall open directly into a public way, or to a *yard* or court that opens to a public way.

SECTION R311

MEANS OF EGRESS

R311.1 Means of egress. All *dwellings* shall be provided with a means of egress as provided in this section. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress travel from all portions of the *dwelling* to the exterior of the *dwelling* at the required egress door without requiring travel through a garage.

R311.2 Egress door. At least one egress door shall be provided for each *dwelling unit*. The egress door shall be side-hinged, and shall provide a minimum clear width of 32 inches (813 mm) when measured between the face of the door and the stop, with the door open 90 degrees (1.57 rad). The minimum clear height of the door opening shall not be less than 78 inches (1981 mm) in height measured from the top of the threshold to the bottom of the stop. Other doors shall not be required to comply with these minimum dimensions. Egress doors shall be readily open able from inside the *dwelling* without the use of a key or special knowledge or effort.

918.8 Return –air limitation. Return air from one *dwelling unit* shall not be discharged into another *dwelling unit*.

**Excerpt of the Draft Minutes
December 7, 2010 City Council Meeting**

Present:

Councilmember Brian Braithwaite
Councilmember Tom Butler
Councilmember Larry Mendenhall (Mayor Pro-Tempore)
Councilmember Kathryn Schramm
Councilmember Scott L. Smith

Absent:

Mayor Lynn Ritchie (ill)

PRESENTATION - Definition of a “Basement Apartments” (Agenda Item 5)

Nathan Crane reviewed general definitions for Basement Apartments. He noted this item was only for discussion purposes at this time. The following information was presented as background: The issue of home occupancy is intertwined through the definition of a family and a dwelling unit. A family is defined two ways. First is the traditional view of a family, which is any number of people who are related living in one home. A jurisdiction cannot limit the number of related individuals in one home. The second definition is specifying the number of unrelated individuals who are living together in one home. State Statute specifies the number of unrelated individuals for a city similar to Highland City as four unrelated individuals in one home. This means an owner could rent their home to 4 unrelated individuals and it would be considered a family. This is currently prohibited in Highland.

A dwelling unit is defined to distinguish between different types of housing based on the number of units in a structure. Zoning and building code regulations are based around the number of units in a structure. Further, each unit in a structure is treated independently by building code regulations. These requirements are designed to protect the health and safety of individuals occupying each unit.

Currently, a homeowner in Highland can rent space to two unrelated individuals if the renters and the residing family share a common household. A common household is defined as sharing living and eating areas, laundry facilities, and access to rooms. In addition, there cannot be a separate entrance.

Basement apartments

- Currently permitted in all residential zones subject to a conditional use permit.
- Must comply with current building code requirements, including
 - basement apartment windows sized to allow emergency exiting,
 - a one hour fire wall between the apartment and residence, and
 - circulation of air between the two units cannot take place;
- Provide two additional off-street parking spaces,
- Separate entrance at the rear of home,

- Have separate utility connections. Among other things, the building code requires that a basement apartment have windows that sized to allow emergency exiting, a one hour fire wall between the apartment and residence, and prohibits circulation of air between the two units.

Accessory or basement apartments are an effective tool for integrating new housing opportunities into existing neighborhoods, for providing options for non-traditional households (e.g. singles and seniors) and for providing affordable housing. However, accessory or basement apartments can have a negative impact on existing neighborhoods. Impacts include loss of the single family character of the neighborhood and parking. Some of the neighborhoods near BYU in Provo are good examples of the impacts accessory or basement apartments can have on neighborhoods. In some cases neighborhoods, in Provo, have petitioned to prohibit accessory or basement apartments.

Once the decision to allow accessory or basement apartments has been made, the next consideration is compliance with the adopted building codes. The building code has different requirements based on the number of units a structure has. The building code is designed to ensure a minimal level of safety and quality in construction. State Statue specifies the building codes to be adopted and limits the type of amendments that can be adopted by a local jurisdiction.

Nathan Crane provided a summary of research done:

- Of the seven local cities researched, accessory or basement apartments are not permitted in three cities. However, these cities are considering amendments initiated by residents.
- Conditional use permits are required for basement apartments in Alpine, Cedar Hills, and Eagle Mountain.
- Of the four cities in which basement apartments are permitted, only Alpine City does not require compliance with current building codes. Alpine City requires compliance with the building code that was in place at the time of construction of the home.

Mr. Crane noted that Councilmember Tom Butler is proposing to amend the City's Development Code to allow accessory or basement apartments to be rented without meeting the requirements of the building code. Staff believes the development code can be amended to respond to this request by either changing the definition of a family and/or amending the requirements for basement apartments. However, staff believes the City Council should consider the following:

- Should accessory or basement apartments be required to meet building code requirements, and does the City have any liability if accessory or basement apartments are permitted without meeting current building code?
- Should a conditional use permit be required for accessory or basement apartments or can these requests be reviewed administratively?
- Does the City have any liability if accessory or basement apartments are permitted without meeting current building codes?
- What are the impacts of accessory or basement apartments on neighborhoods in Highland?
- Are separate utility connections needed for accessory or basement apartments?

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Tom Butler addressed the issue stating Highland City's aging population is increasing. He said it is apparent some of these families are living on fixed incomes and will need additional income. Many of the homes occupied by these people have space that is not used anymore. He feels the requirements like separate utility systems and retrofitting are onerous, prohibitive and do not apply to existing homes. He noted retrofitting costs would run between \$30,000 to \$50,000 at a minimum. He stated the key issue

with the current ordinance is “common household”. He noted there is a trend where friends and families live together due to the economy. There are currently people in Highland that rent portions of their home illegally and these people are essentially living in the shadows because their population isn’t counted as Highland City. He stated that because they are not counted the City is deprived of B&C Road funds. He believes that historically previous City Councils in Highland have been more concerned with property values rather than individual property rights. He reviewed Constitutional guarantees in relation to protecting property “rights” but not necessarily property “values”.

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Mr. Butler noted that last year a request was made by a resident to construct a separate apartment for an adult handicap child. The City Council would not let him do it on his own property which he does not understand. He noted that State and Federal law mandates Highland adopt ordinances allowing drug rehab houses with at least 4 non-related individuals, yet a homeowner cannot rent out to two unrelated individuals unless they share the household. He outlined numerous examples that are illegal but do not make sense to him. He stated he doesn’t care what other cities do; he cares about what Highland is doing. He is not proposing the basement apartment ordinance or building codes be changed or that accessory apartments be subject to a conditional use permit. He suggested the definition for “Family” in the Development Code be changed as follows:

“Family - An individual or two or more persons related by blood, marriage, or adoption, living together in a single family home ~~dwelling unit and maintaining a common household~~. A family may include two, but not more than two, non-related adults ~~persons~~ living with the residing family. The term family shall not be constructed to mean a group of non-related individuals, a fraternity, club or institutional group.”

He also suggested the words “Common Household” be eliminated. This would allow the City to require four off street parking spaces which would minimize neighborhood impact. He stated a common door could be allowed if an additional exit was necessary in the event of a fire. He feels this change would restore property rights to property owners; provide a legal opportunity for seniors and others to generate a small income to supplement fixed incomes allowing them to stay in their homes; as well as bring the City into compliance with State requirements on affordable housing.

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Kathryn Schramm clarified issues with the current ordinance and what Tom Butler was proposing. She noted she has rented her basement to grown children for the cost of additional utilities. She stated her basement was not made as an apartment but she might want the future possibility of being able to rent her basement. She asked if this proposal was adopted if someone in her situation would be able to rent out their basement and Tom Butler responded he thought so. She also noted “common household” would have to be removed in the definition section of the code. She also asked additional questions of clarification regarding utilities. She wondered if there would be a difference in utilities between having a large family living in a home versus renting the basement to a small family. John Park clarified that the code would be changed so that it is no longer referred to as a basement apartment. He stated that the proposal means if someone rented their home to two adults a person would not be subjected to the ordinance for apartments in the code so a permit would not required.

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Scott Smith asked if the City was obligated to redefine the definition of family according to State guidelines. Mr. Park answered yes and Mr. Crane clarified that based on this example the proposal would be that 1) a traditional family with two unrelated individuals, OR 2) four unrelated individuals, but not the combination of both. Mr. Park indicated Highland City is currently more lenient than State Code.

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John Park then stated the City Council is tiptoeing around the Uniform Building Code (UBC). He noted that some of the requirements such as return air and fire separation are all the requirements that go into a typical UBC duplex. In speaking the Fire Chief Brad Freeman, Mr. Park noted that one of the issues dealing with life safety is egress out of the units. One issue that is not appropriately addressed in the proposal is that in older homes the basement windows are not sufficient for a responder to enter or someone to use as an exit. He also noted that a fire typically will burn toward a window well. He requested more information from Chief Freeman.

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Chief Brad Freeman stated that if people live in a basement they have to be protected regardless of if they are related or not. Basements should have two egresses. He noted most fatalities he has seen in basements are because the stairway becomes the chimney and people cannot get up the stairway to escape. He prefers an exterior entrance on any basement apartment, but stated he may be willing to allow the window as an egress as long as the windows are up to current code. He noted he recently enlarged his basement windows and it wasn't that expensive to make them fire safe. He then talked about requiring a full ceiling of sheetrock as additional fire separation. He addressed storage in utility rooms and other fire safety issues.

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Brian Braithwaite stated he was uncertain how the common household definition would affect the issue. He noted the basement apartment ordinance was changed last year because the City Council recognized the need for it. He does not agree with the comment that previous City Councils were more concerned with property values. He stated at that time staff came back with a definition for common household because there were permits being requested for reconstruction. He stated that in regard to the comment about an individual wanting to build an apartment for their handicap son. He stated that while the individual did not receive approval from the City, there are processes that allow people to receive allowances. He noted in this situation a variance was granted by the Appeal Authority and the apartment now exists. While the City's ordinances are not perfect, he expressed concern with comments made about the inequity of paying duplicate utility fees or permit fees for a basement apartment. He noted there is an impact to utility systems when more people are added. He stated that a homeowner would be benefiting from renting part of their home therefore they need to mitigate issues including safety. Brian Braithwaite stated the City Council needs to ensure there are appropriate parts of the ordinance to balance it.

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Much discussion took place on whether there was a difference in impact on City utilities such as water and sewer with a large family in one home or two adults with a people renting a basement. Some felt there was and others disagreed. Kathryn Schramm stated she does not see the difference and does not think it is a valid point for the discussion. She stated there are benefits and demerits on either side.

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Much additional discussion took place.

John Park indicated that after discussion staff understands some of the issues more clearly and it can be brought to a future meeting for debate and a vote.

Brian Braithwaite requested that staff review minutes surrounding the City Council original approval on July 21, 2009.

It was determined the issue should go to the Planning Commission first for review and a recommendation to the City Council.

Agenda Item #5

HIGHLAND CITY PLANNING COMMISSION MEETING JANUARY 11, 2011			
REQUEST:	Public Hearing – Amending Highland City Development Code Section 5-4-300 Major Subdivision Option and Chapter 5-10 Amending a Recorded Plat removing the public hearing requirements for preliminary plats and modifying the review process for final plats. (TA-11-01)		
APPLICANT:	Highland City		
FISCAL IMPACT:	None		
GENERAL PLAN DESIGNATION N/A	CURRENT ZONING N/A	ACREAGE N/A	LOCATION Citywide

BACKGROUND:

In the 2009 legislative session the State Legislature revised the requirements for noticing for preliminary and final plats (Attachment A).

An amendment to the Development Code is a legislative process.

SUMMARY OF REQUEST:

1. The proposed amendment modifies the review process for preliminary and final plats for major subdivisions. The primary objectives of this amendment are to streamline the review process and to amend the process to be consistent with the new legislation and to clarify the review process. The existing subdivision process is outlined in Attachment B.
2. The proposed amendment modifies the following sections. The proposed changes to each section will be discussed below.
 - Section 5-4-305 Planning Commission
 - Section 5-4-314 Planning Commission Action
 - Section 5-4-315 City Council Action
3. All subdivision applications require formal review from the Development Review Committee (DRC). The DRC is made of Community Development Director, City Engineer, and City Administrator. Other City Staff, public or private service providers, are invited if determined necessary by the Community Development Director. Currently, the committee holds a formal meeting as needed. All property owners within 500 feet of the subject property are notified of the DRC meeting and the property is posted.
4. In addition, copies of the application are sent to City Staff and appropriate agencies for review. Once the review is complete, comments are forwarded to the Community Development Director who will prepare a comment review letter for the applicant.

5. Section 10-9a-207 of the Utah Municipal Land Use, Development and Management Act was amended in 2009 to eliminate the requirements for public notices for plats except for vacation or a change to a street. Section 5-4-305 Planning Commission requires a public hearing for all preliminary plats. Staff is proposing that the requirement for a public hearing be removed. This is consistent with the recent changes to the Utah Municipal Land Use, Development and Management Act.
6. Staff is recommending that the City Council approve preliminary plats upon recommendation from the Planning Commission.
7. Section 5-4-315 Planning Commission Action requires that all final plats be reviewed by the Planning Commission. Staff is proposing that the requirement for Planning Commission recommendation of a final plat be removed. Instead final plats will proceed directly to the City Council for action.
8. Staff is proposing new language relating to additional submittal information required and to allow concurrent reviews of non-residential subdivisions.
9. To be consistent with the definition section staff is also recommending that Preliminary Plan be replaced with Preliminary Plat and Final Plan be replaced with Final Plat.

CITIZEN PARTICIPATION:

A notice of the Planning Commission public hearing was published in the Daily Herald on December 26, 2010. No comments have been received.

ANALYSIS:

- The subdivision review process insures that new development areas will conform to City regulations and policies for the division of land. These regulations and policies are necessary to insure that new development takes place in an orderly manner and that adequate traffic circulation, utilities, and other services are provided throughout the City. An applicant is entitled to approval if the plat complies with all current city regulations and has been approved by the culinary water and sanitary sewer authority.
- Preliminary plats indicate the proposed public infrastructure, including streets, storm sewers, sanitary sewers, grading, and stormwater detention facilities and generally depict existing adjacent topography, infrastructure, and show proposed lot configurations. Preliminary plats are not recorded and are not the legal document used for sale of lots, but rather are used to allow for a comprehensive review of the proposed development by all affected agencies. This ensures that the final plat design is consistent with the overall plan for the area. Outside agency review is included at this stage so that issues are addressed early in the development process and so the applicant can be assured of final approval at the time of construction. The design of the plat is typically reviewed at the preliminary plat stage.
- The final plat is the legal document that is recorded with the County Recorder's office. The sale of subdivided lots can only proceed after this recording. The primary purpose of the final plat is to delineate property boundaries and to describe and dedicate rights-of-way and easements. The final

plat review is typically a checklist review to ensure that the plat is conformance with applicable regulations and the preliminary plat.

- Although not shown with a final plat, public improvements are shown through separate design documents such as construction plans, stormwater management plans, subsidiary drainage plats, etc. These separate design documents and any required bonding need to be approved by the City Engineer before the final plat is recorded. Final public improvement plans are expensive to prepare.
- The preliminary plat review is the most appropriate time for a Commission or Council to review and comment on a subdivision application. This allows the applicant to make changes in response to the Commissions or Councils concerns without having to change the final improvement plans.
- The proposed amendment will provide a streamlined and efficient review process.
- The option for a concurrent review for non-residential subdivision plats will expedite the development of commercial and employment uses which will assist in economic development.

FINDINGS:

Staff believes the proposed text amendment meets the following findings:

- The proposed text amendment is consistent with the purpose of the General Plan, Subdivision Ordinance and will not adversely affect the community.
- The proposed amendment institutes the revised notification requirements of the Utah Municipal Land Use, Development and Management Act.

RECOMMENDATION:

Staff recommends that the Planning Commission conduct a public hearing, accept the findings and recommend **APPROVAL** of application TA-11-01.

PROPOSED MOTION:

I move that the Planning Commission accept the finding and recommend **APPROVAL** of case TA-11-01 a request amend the subdivision ordinance to amend the review process and procedures for subdivisions.

ATTACHMENTS:

- Attachment A – Utah State Statute Section 10-2a-907
- Attachment B – Subdivision Process Comparison
- Attachment C – Proposed Amendment

**Utah Municipal Land Use, Development and Management Act
Section 10-9a-207 Comparison**

Old Requirements

10-9a-207. Notice for a proposed subdivision or amendment or a multiple-unit residential or commercial or industrial development.

(1) Except for an exempt subdivision under Section 10-9a-605, for a proposed subdivision or an amendment to a subdivision, each municipality shall provide notice of the date, time, and place of a public hearing that is:

(a) mailed not less than three calendar days before the public hearing and addressed to the record owner of each parcel within specified parameters of that property; or

(b) posted not less than three calendar days before the public hearing, on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.

(2) Each municipality shall mail notice to each affected entity of a public hearing to consider a preliminary plat describing a multiple-unit residential development or a commercial or industrial development.

(3) Each municipality shall provide notice as required by Section 10-9a-208 for a subdivision that involves a vacation, alteration, or amendment of a street.

New Requirements

10-9a-207. Notice for an amendment to a subdivision -- Notice for vacation of or change to street.

(1) (a) For an amendment to a subdivision, each municipality shall provide notice of the date, time, and place of at least one public meeting, as provided in Subsection (1)(b).

(b) At least ten calendar days before the public meeting, the notice required under Subsection (1)(a) shall be:

(i) mailed and addressed to the record owner of each parcel within specified parameters of that property; or

(ii) posted on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.

(2) Each municipality shall provide notice as required by Section 10-9a-208 for a subdivision that involves a vacation, alteration, or amendment of a street.

Major Subdivision Review Process Comparison

Existing Review Process

1. Concept Plan submitted to City
2. Development Review Committee Meeting is scheduled and surrounding property owners notified.
3. Preliminary Plat Submitted to City.
4. Preliminary Plat Evaluated by City Staff.
5. Planning Commission holds a public hearing and approves or denies the Preliminary Plat
6. Final Plat submitted to City.
7. Final Plat reviewed by City Staff.
8. Planning Commission makes recommendation to the City Council
9. City Council approves or denies the Final Plat

Proposed Review Process

1. Concept Plan submitted to City
2. Development Review Committee Meeting is scheduled and surrounding property owners notified.
3. Preliminary Plat Submitted to City.
4. Preliminary Plat Evaluated by City Staff.
5. Preliminary Plat – Planning Commission makes recommendation to the City Council.
6. City Council approves or denies the Preliminary Plat
7. Final Plat submitted to City.
8. Final Plat reviewed by City Staff.
9. City Council approves or denies the Final Plat

Proposed Amendment

5-4-300 Major Subdivision Option

...

5-4-305: Planning Commission Action – Preliminary Plat

Within reasonable time after the filing of a Preliminary Plan of a subdivision and any other information required, the Planning Commission shall hold a public hearing and act thereon. The applicant shall provide a legible vicinity map indicating the exact location of their property and each property within 3 mile (1,320 feet). The map shall include the address of the subject property and shall be part of each notice required for the public hearing. If the Planning Commission shall find that the proposed Preliminary Plan complies with the requirements of this Chapter and that it is satisfied with the proposed subdivision, it shall give Planning Commission approval, or approval with conditions, of the Preliminary Plan which is an authorization to prepare a Final Plan for consideration of the City Planning Commission. If the Planning Commission finds that the proposed Preliminary Plan does not meet the requirements of this Title or other applicable ordinances, it shall disapprove such Plan.

Comment [NC1]: This section removes the requirement for a public hearing and establishes the review procedures and findings required for approval or denial of a preliminary plat.

- (1) IF THE PRELIMINARY PLAT APPLICATION MEETS ALL THE APPLICABLE REGULATIONS AND STANDARDS, THE ZONING ADMINISTRATOR SHALL FORWARD THE APPLICATION TO THE PLANNING COMMISSION FOR CONSIDERATION.
- (2) THE PLANNING COMMISSION SHALL RECOMMEND APPROVAL, CONDITIONAL APPROVAL OR DISAPPROVAL APPLICATIONS FOR PRELIMINARY PLAT APPROVAL AFTER REVIEWING THE APPLICATION AND CONDUCTING A PUBLIC MEETING. IN CASES OF CONDITIONAL APPROVAL OR DISAPPROVAL, THE SPECIFIC CONDITIONS OR REASONS FOR DISAPPROVAL WILL BE STATED IN THE MINUTES OF THE COMMISSION MEETING.
- (3) THE PLANNING COMMISSION SHALL RECOMMEND APPROVAL AN APPLICATION FOR PRELIMINARY PLAT APPROVAL IF ALL REQUIREMENTS SET FORTH IN THE DEVELOPMENT CODE ARE COMPLIED WITH AND HAS BEEN APPROVED BY CULINARY WATER AND SANITARY SEWER AUTHORITY.
- (4) THE PLANNING COMMISSION MAY RECOMMEND DENIAL IF THE PLANNING COMMISSION FINDS THAT PLAT DOES NOT MEET THE REQUIREMENTS OF THE DEVELOPMENT CODE OR HAS NOT BEEN APPROVED BY THE CULINARY WATER OR SANITARY SEWER AUTHORITY.

5-4-306: Notification of Approval (Amended 10/7/08)

The City Planning Commission Secretary shall notify the subdivider, in writing, of the action taken by the City Planning Commission, together with one copy of the Preliminary Plan and one copy of the minutes of the Planning Commission and City Council meetings. The receipt of Preliminary Plan approval or approval with conditions shall be authorization for the subdivider to proceed with the preparation of specifications for the improvements required by City Codes and the Planning Commission, and with the preparation of the Final Plan.

Comment [NC2]: This section is no longer needed since the City Council will review preliminary plats.

5-4-306: CITY COUNCIL ACTION – PRELIMINARY PLAT

- (1) UPON RECEIPT OF A RECOMMENDATION FROM THE PLANNING COMMISSION, THE CITY COUNCIL SHALL APPROVE, CONDITIONAL APPROVE OR DISAPPROVE APPLICATIONS FOR PRELIMINARY PLAT APPROVAL AFTER REVIEWING THE APPLICATION AND CONDUCTING A PUBLIC MEETING. IN CASES OF CONDITIONAL APPROVAL OR DISAPPROVAL, THE SPECIFIC CONDITIONS OR REASONS FOR DISAPPROVAL WILL BE STATED IN THE MINUTES OF THE COUNCIL MEETING.
- (2) THE CITY COUNCIL SHALL APPROVE AN APPLICATION FOR PRELIMINARY PLAT APPROVAL IF ALL REQUIREMENTS SET FORTH IN THE DEVELOPMENT CODE ARE COMPLIED WITH AND HAS

Comment [NC3]: This section outlines the review procedure of preliminary plats by the City Council. The approval and denial criteria are consistent with state law.

BEEN APPROVED BY CULINARY WATER AND SANITARY SEWER AUTHORITY.

- (3) THE CITY COUNCIL MAY DENY AN APPLICATION IF IT FINDS THAT PLAT DOES NOT MEET THE REQUIREMENTS OF THE DEVELOPMENT CODE OR HAS NOT BEEN APPROVED BY THE CULINARY WATER OR SANITARY SEWER AUTHORITY.
- (4) THE PRELIMINARY PLAT APPLICATION CAN BE REFILED AT ANY TIME IF REVISION CAN RESOLVE THE REASONS FOR THE DENIAL AS ORIGINALLY PROPOSED. THE NEW FILING OF A PRELIMINARY PLAT APPLICATION FOR THE SAME TRACT, OR ANY PORTION THEREOF, SHALL FOLLOW THE PROCEDURES AND REQUIREMENTS SPECIFIED IN THIS CHAPTER.

5-4-307: Effect of Approval of the Preliminary Plat (Amended 10/7/08).

- (1) Approval of the Preliminary Plat shall in no way relieve the subdivider of his responsibility to comply with all required conditions and ordinances, and to provide the improvements and easements necessary to meet all City standards. The approval of the Preliminary Plat by the Planning Commission does not bind the City Council or the City in any way.
- (2) THE PRELIMINARY PLAT APPROVAL SHALL BE VALID FOR ONE YEAR FROM THE DATE OF APPROVAL.
- (3) PRELIMINARY PLAT APPROVAL MAY, UPON WRITTEN APPLICATION TO THE COUNCIL BY THE SUBDIVIDER AND PAYMENT OF AN APPLICATION FEE, BE EXTENDED FOR AN ADDITIONAL ONE (1) YEAR IF, IN THE OPINION OF THE COUNCIL, THERE IS NO CHANGE IN CONDITIONS WITHIN OR ADJOINING THE PRELIMINARY PLAT WHICH WOULD WARRANT A REVISION OF THE ORIGINAL PRELIMINARY PLAT AND THE APPLICANT DEMONSTRATES TO THE COMMISSION THAT SUBSTANTIAL EFFORT IS BEING APPLIED TO CREATE A FINAL PLAT.

~~**5-4-308: Final Plan Purpose.** The purpose of a Final Plan is to give the applicant the opportunity to obtain a Final Recommendation from the Planning Commission prior to submitting to the City Council for a subdivision proposal in accordance with state law.~~

Comment [NC4]: This section is not needed. Requirements covered in section 5-4-315 and 5-4-307.

- ~~(1) Within 180 calendar days following Preliminary Plan Approval from the Planning Commission for a major subdivision, the applicant may submit to the Planning Commission for a Final Plan Recommendation, according to the Final Plan Submittal Checklist.~~
- ~~(2) The Final Plan and all information and procedures relating thereto shall in all respects be in compliance with the provisions of this Title.~~
- ~~(3) The Final Plan submitted shall conform in all respects to those regulations and requirements specified in the Preliminary and Final Plan procedures.~~

5-4-308: CONCURRENT REVIEW.

Comment [NC5]: New section.

- (1) AN APPLICANT MAY REQUEST CONCURRENT REVIEW OF A PRELIMINARY AND FINAL PLAT FOR NON-RESIDENTIAL SUBDIVISIONS AND APARTMENTS, CONDOMINIUMS AND TOWNHOME PROJECTS IF A SITE PLAN HAS BEEN APPROVED PREVIOUSLY SO LONG AS THEY CONTAIN ALL THE INFORMATION THAT WOULD BE REQUIRED BY THESE REGULATIONS.
- (2) A REQUEST FOR CONCURRENT REVIEW SHALL BE PROCESSED AS A FINAL PLAT EXCEPT THAT THE CITY COUNCIL SHALL RECEIVE A RECOMMENDATION FROM THE PLANNING COMMISSION PRIOR TO CONSIDERATION OF THE APPLICATION.

~~**5-4-309: Filing Deadline, Application, and Fees** (Amended 10/7/08).~~

Comment [NC6]: These requirements are redundant and covered in sections 5-4-307 and 5-4-315.

- ~~(1) Application for Final Plan approval shall be made to the Planning Commission within 180 Calendar days after conditional approval of the Preliminary Plan by the Planning Commission. This time period may be extended by the City Zoning Administrator for up to 180 calendar days if the subdivider petitions the City for an extension prior to the expiration date and pays extension fees. The Zoning Administrator shall not grant a subdivision extension if: the subdivision no longer meets current zoning ordinances; surrounding~~

property has received final approval and/or has developed resulting in new alignments, development requirements, or similar; geological or geophysical conditions have changed or been identified; the proposal has changed since the initial Preliminary Approval and Final Recommendation. Extension requests for the Planning Commission Final Recommendation after the first extension has been granted shall be submitted to the Planning Commission directly for approval and after payment of extension fees. The applicant shall satisfy all conditions of approval as required by staff and approved by the Planning Commission prior to submitting for Final Plan approval. Any changes to the Preliminary Plan as required by staff and approved by the Planning Commission shall be included on the Final Plan prior to submitting for Final Subdivision Plan recommendation from the Planning Commission. Staff shall be given adequate time to review any of these requirements/changes before permitting the applicant to apply for final plat approval.

- (2) The subdivider shall file an application for Final Subdivision Plan recommendation from the Planning Commission with the Zoning Administrator on a form prescribed by the City, together with such prints and data as may be required from time to time by the Zoning Administrator.

5-4-309: RESERVED

...

5-4-314: Planning Commission Action (Amended 10/7/08). Upon receipt of the Final Plan, the Planning Commission shall examine the Plan to determine whether the Final Plan conforms with the Preliminary Plan and with all changes requested and all requirements imposed as conditions of acceptance, and if the Planning Commission shall thereupon determine that the plan is in conformity therewith, it shall recommend approval of the Final Plan. If the Planning Commission shall determine that the Final Plan does not fully conform to the Preliminary Plan as approved, it shall advise the subdivider of the changes or additions that must be made for approval. The subdivider shall be responsible for notifying the Zoning Administrator that he or she is ready to go to the City Council for Final Plat approval. If such notification is not given by the developer within 180 calendar days from the date Formal Recommendation of the Final Plan was given by the Planning Commission, such approval shall be null and void. This time period may be extended one time by the Zoning Administrator for 180 calendar days if the subdivider petitions the Zoning Administrator for an extension prior to the expiration date and pays extension fees. The Zoning Administrator shall not grant a subdivision extension if: the subdivision no longer meets current zoning ordinances; surrounding property has received final approval and/or has developed resulting in new alignments, development requirements, or similar; geological or geophysical conditions have changed or been identified; the proposal has changed since the initial Preliminary Approval and Final Recommendation. Extension requests for the Planning Commission Final Recommendation after the first extension has been granted shall be submitted to the Planning Commission directly for recommendation and after payment of extension fees.

Comment [NC7]: Planning Commission review of a final plat is no longer required.

5-4-314: RESERVED.

5-4-315: City Council Action

 (Amended 10/7/08).

- (1) The City Council shall not be bound by the recommendations of the City Employees, City Engineer, agencies, the Planning Commission or the City Zoning Administrator, and may set its own conditions and requirements consistent with this Title.
- (2) Within 180 calendar days following the Formal Recommendation of an application for a major subdivision plan by the Planning Commission, the applicant may submit, according to the Final Plat Submittal Checklist, and the City Council shall consider the Final Plat. The purpose of the Final Plat is to request a formal approval from the City Council before a major subdivision plat can be recorded. The Final Plat and all information and procedures relating thereto shall in all respects be in compliance with the provisions of this Title. The Final Plat submitted shall conform in all respects to those regulations and requirements specified during the Preliminary and Final Plan procedures, in addition to the Final Plat procedures. If the City Council determines that the Final Plat is in conformity with the requirements of this Title, other applicable ordinances and any reasonable conditions as recommended by the City Engineer, Planning Commission, City Zoning Administrator or on its own initiative, and that it is satisfied with such plat of the subdivision, it shall approve the Final Plat. Such approval shall be conditioned upon the subdivider filing with the city all required fees, plats, documents and agreements within 180 days of the City Council approval. This time period may be extended one time for up to 180 days if the subdivider petitions the Zoning Administrator for an extension prior to the expiration date and pays extension fees. The Zoning

Administrator shall not grant a subdivision extension if one of the following has occurred during the initial 180 day period:

- (a) The previously proposed subdivision no longer meets current zoning ordinances; or
 - (b) Surrounding property has received final approval and/or has developed resulting in new alignments, development requirements, or similar; or
 - (c) Geological or geophysical conditions have changed or been identified; the proposal has changed since the previously approved final approval.
- (3) One additional extension request for City Council Final Approval may be submitted to the City Council directly for approval and after payment of extension fees for the second extension request.

5-4-315: CITY COUNCIL ACTION – FINAL PLAT

Comment [NC8]: Outlines the review procedures for final plats. Approval and denial criteria are consistent with state law.

- (1) AN APPLICATION FOR APPROVAL OF A FINAL PLAT SHALL NOT BE FILED UNLESS THERE IS AN APPROVED PRELIMINARY PLAT FOR THE PROPOSED SUBDIVISION AS PROVIDED HEREIN.
- (2) AN APPLICANT FOR FINAL PLAT APPROVAL SHALL COMPLY IN ALL RESPECTS WITH THE PROVISIONS OF THIS CHAPTER AND ALL OTHER APPLICABLE CHAPTERS OF THE HIGHLAND CITY CODE.
- (3) AN APPLICANT SHALL SUBMIT ALL OF THE DOCUMENTS, INFORMATION, DATA, AND OTHER REQUIREMENTS FOR FINAL PLAT APPROVAL, INCLUDING FEES, TO THE ZONING ADMINISTRATOR AND SHALL FURNISH ALL INFORMATION AND MATERIALS NEEDED TO SATISFY THE REQUIREMENTS OF THIS CHAPTER.
- (4) IN ADDITION TO THE REQUIREMENTS OF THE PRECEDING PARAGRAPHS, THE APPLICANT SHALL PROVIDE TO THE ZONING ADMINISTRATOR ANY ADDITIONAL INFORMATION, DOCUMENTS, OR OTHER MATERIAL RELEVANT TO THE APPLICATION THAT THE PROJECT TEAM REASONABLY BELIEVES IS NECESSARY IN ORDER FOR THE COUNCIL TO EVALUATE, ANALYZE, AND UNDERSTAND THE SUBJECT MATTER OF THE APPLICATION.
- (5) AN APPLICATION FOR FINAL PLAT APPROVAL SHALL NOT BE DEEMED TO HAVE BEEN FILED OR PROPERLY SUBMITTED UNTIL ALL OF THE ABOVE LISTED REQUIREMENTS HAVE BEEN COMPLIED WITH. COMPLIANCE SHALL BE DETERMINED BY THE ZONING ADMINISTRATOR.
- (6) THE PROCEDURE FOR APPROVAL, AMENDMENT, OR DISAPPROVAL OF FINAL PLAT APPLICATIONS SHALL BE AS FOLLOWS:
 - A. UPON RECEIPT OF A RECOMMENDATION FROM THE DEVELOPMENT REVIEW COMMITTEE, THE CITY COUNCIL SHALL APPROVE, CONDITIONAL APPROVE OR DISAPPROVE APPLICATIONS FOR FINAL PLAT APPROVAL AFTER REVIEWING THE APPLICATION AND CONDUCTING A PUBLIC MEETING. IN CASES OF CONDITIONAL APPROVAL OR DISAPPROVAL, THE SPECIFIC CONDITIONS OR REASONS FOR DISAPPROVAL WILL BE STATED IN THE MINUTES OF THE COUNCIL MEETING.
 - B. THE CITY COUNCIL SHALL APPROVE AN APPLICATION FOR FINAL PLAT APPROVAL IF ALL REQUIREMENTS SET FORTH IN THE DEVELOPMENT CODE ARE COMPLIED WITH AND HAS BEEN APPROVED BY CULINARY WATER AND SANITARY SEWER AUTHORITY.
 - C. THE CITY COUNCIL MAY DENY AN APPLICATION IF IT FINDS THAT PLAT DOES NOT MEET THE REQUIREMENTS OF THE DEVELOPMENT CODE OR HAS NOT BEEN APPROVED BY THE CULINARY WATER OR SANITARTY SEWER AUTHORITY.

5-4-316: Disapproval by the City Council (Amended 10/7/08).

~~If the City Council determines that the Final Plat is not in conformity with this Title or other applicable ordinances, it shall disapprove the plat specifying the reasons for such disapproval. Within 180 calendar days after the City Council has disapproved any the Final Plat, the subdivider may file with the Zoning Administrator a plat altered to~~

Comment [NC9]: Revised for clarification and to reduce conflicting provisions.

meet the requirements of the City Council. After one year, the prior Planning Commission Final Plan Recommendation and Preliminary Plan Approval shall be null and void. Subdivision Plans shall not have any force or effect until the Final Plat has been approved by the City Council and recorded by the City Recorder among the land records of Utah County.

IF THE COUNCIL DISAPPROVES THE FINAL PLAT, THE MINUTES SHALL STATE THE REASONS FOR SUCH DENIAL. THE FINAL PLAT APPLICATION MAY BE REFILED AT ANY TIME IF REVISION CAN RESOLVE THE REASONS FOR THE DENIAL AS ORIGINALLY PROPOSED. THE NEW FILING OF A FINAL PLAT APPLICATION FOR THE SAME TRACT, OR ANY PORTION THEREOF, SHALL BE TREATED AS A NEW PROJECT AND WILL FOLLOW THE PROCEDURES AND REQUIREMENTS SPECIFIED IN THIS CHAPTER.

CHAPTER 5-10

AMENDING A RECORDED PLAT

...

5-10-103: Petition for Vacation of Plat. (Amended: 5/2/06)

- (1) The vacation of an entire plat or portion thereof requires the applicant to apply in writing. Such application shall be signed by all those who own, or have a recorded interest in, land within the plat, as well as those who own land contiguous or adjacent to any street or alley to be vacated or altered. The application shall be made to the City Council. ~~The City Council shall hold a public hearing on the matter and invite the Planning Commission to make a recommendation. The applicant shall provide a legible vicinity map indicating the exact location of their property and each property within 3 mile (1,320 feet). The map shall include the address of the subject property and shall be part of each notice required for the public hearing. If the plat is to be amended or a portion vacated, a copy of the proposed plat amendment shall accompany the application.~~
- (2) The requirement that all persons owning, or parties having a recorded or contractual interest in said property within the entire plat must sign the petition is excepted where all interested persons are afforded due process and fairness in procedure and where either one or two situations listed below are present:
 - (a) Street vacation petitions for streets dedicated by a subdivision plat may be heard pursuant to the procedures outlined in Sections 10-8-8.1, et seq., Utah Code Annotated, 1953, as amended. Under this procedure, not all of the property owners, or parties having a recorded or contractual interest in said property, of the entire plat need sign the petition for vacation. The City Council shall decide which procedure needs to be used depending on the size and importance of the street with regards to the entire subdivision.
 - (b) Petitions to vacate or alter a portion of a plat need only be signed by the owners of the land and parties having a recorded or contractual interest in said property, to be vacated or altered and not by all the owners of land contained in the entire plat if the City Council finds that it is a minor change only which will not adversely affect the other owners.
- (3) NOTICE OF ANY AMENDMENT OR VACATION OF A FINAL PLAT SHALL BE IN ACCORDANCE WITH SECTION 10-9A-207 UTAH ANNOTATED CODE, 1953, AS AMENDED.

5-10-104: Order of Vacation or Amendment of Plat. The City Council shall refer an order of vacation or amendment of plat application to the Planning Commission for their consideration and recommendation. If the City Council is satisfied that neither the public nor any person will be materially injured thereby, it shall order such portion or the entire plat to be vacated, and then amended, as prayed for in the petition, which order and plat amendment shall be recorded in the office of the Utah County Recorder.

Agenda Item #6

HIGHLAND CITY PLANNING COMMISSION MEETING JANUARY 11, 2011			
REQUEST:	Hold an election for the Chairperson and Vice Chairperson of the Planning Commission.		
APPLICANT:	Highland City		
FISCAL IMPACT:	None		
GENERAL PLAN DESIGNATION N/A	CURRENT ZONING N/A	ACREAGE N/A	LOCATION Citywide

BACKGROUND:

Chairperson, Melissa Wright has resigned from the Planning Commission, leaving a vacancy in the position of the Planning Commission Chairperson. Kelly Sobotka, Vice Chairperson, will conduct meetings until the Planning Commission elects a new Planning Commission Chairperson and Vice Chairperson.

The Commission elects a Chairperson and Vice Chairperson from among the appointed members. Any member serving as Chairperson or Vice Chairperson is eligible for re-election. The elected Chairperson and Vice Chairperson will serve until July.

The Chairperson presides at all meetings and hearings of the Commission. The Vice Chairperson acts as the Chairperson in the absence of the Chairperson.

RECOMMENDATION:

Staff recommends that the Planning Commission hold an election to appoint a new Chairperson and Vice Chairperson.

Highland City Planning Commission

December 14, 2010

The regular meeting of the Highland City Planning Commission was called to order by Acting Planning Commission Chair, Roger Dixon, at 7:01 p.m. on December 14, 2010. An invocation was offered by Tim Irwin and those assembled were led in the Pledge of Allegiance by Steve Rock.

PRESENT: Commissioner: Roger Dixon, Acting Chair
Commissioner: Abe Day
Commissioner: Tim Irwin
Commissioner: Steve Rock
Commissioner: Jay Roundy
Alternate Commissioner: Christopher Kemp

EXCUSED: Commissioner: Kelly Sobotka
Commissioner: Melissa Wright

STAFF PRESENT: City Planner: Nathan Crane
City Engineer: Matthew Shipp
Secretary: Kiera Corbridge

OTHERS: Christie Dalley, Ross Welch, Greg Parkinson, Yong-In Shin, Andrew Howlett, Kevin Bryant, Tiffany Bryant, Chris Barker, Thayne Hansen.

PUBLIC APPEARANCES (AGENDA ITEM A)

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

WITHDRAWALS AND CONTINUANCES (AGENDA ITEM B)

Roger Dixon noted that there have been no withdrawals or continuances for this meeting.

TEXT AMENDMENT – PROFESSIONAL OFFICE ZONE: ALLOW ASSISTED LIVING FACILITIES AND IDENTIFY FUTURE OFFICE AND ASSISTED LIVING USE AREAS AND CREATING DEVELOPMENT STANDARDS FOR ASSISTED LIVING USES ~ PUBLIC HEARING AND LEGISLATIVE ACTION (AGENDA ITEM C1)

Nathan Crane explained that the application three key parts; one key point with two amendments pending the positive response to the first. The first part is whether or not to permit assisted living facilities in the Profession Office Zone. Nathan Crane explained that assisted living facilities are currently only permitted in the Residential-Professional Zone subject to a conditional use permit and in the Senior Care Assisted Living Overlay Zone which limits the use to a specific site; Patterson

1 Construction is proposing to amend the Professional Office Zone to allow assisted living facilities
2 subject to a conditional use permit in the PO Zone and to create development standards for those
3 assisted living uses.
4

5 If the Planning Commission determines that assisted living facilities should be permitted in the
6 Professional Office Zone, the other two points of discussion will be amending the master site plan of
7 the Professional Office to identify locations of future office uses and assisted living uses and to create
8 development standards for the assisted living facilities.
9

10 Nathan Crane explained that Patterson Construction has proposed to amend the Professional Office
11 Zone master site plan, approved December 2003 and amended in 2005, to identify future office and
12 assisted living use areas. The proposed site plan has been revised to show use areas for 13.84 acres of
13 future assisted living uses and 3.914 acres of future office uses; the proposed amendment does not
14 affect the existing storage facility and the two office buildings. Site detail (i.e. parking, architecture,
15 landscaping, lighting, etc) for all new uses or buildings will be determined during review of the site
16 and architectural plans.
17

18 Nathan Crane explained that the master site plan was adopted as part of the Professional Office Zone
19 and requires that the property be constructed as shown on the site plan; this is typically known as a
20 planned development zone. Staff believes that there is not enough information on the master site plan
21 for the Planning Commission to make a recommendation and the Council to approve the conceptual
22 site plan; therefore, staff is proposing revising the to adopt a development plan showing use areas.
23 Indicating use areas in-lieu of a specific site plan provides flexibility for the property owner to adjust
24 to specific users and the market. It further provides enough specificity for the City and surrounding
25 residents regarding the types of uses and allows the City Council and Planning Commission additional
26 discretion when a site plan and architecture are reviewed.
27

28 Nathan Crane noted that vehicle access will be provided by Highland Boulevard and Sunset Drive;
29 additional access will be review with site plan applications. He also noted that the amount of open
30 space in the overall Professional Office Zone will increase from 35.1% to 42% and that the proposed
31 open space will be evaluated with each site plan application; staff will recommend which parcels
32 should be owned and maintained by Highland City or as a conservation easement maintained by the
33 property owner. Nathan Crane added that the site coverage – main floor building coverage – is
34 proposed to increase from 30% to 33%.
35

36 The proposed amendment is consistent with the Highland City General Plan goal of providing
37 additional housing for seniors and is compatible with the surrounding properties, with the assisted
38 living use acting as a buffer between residential uses and office uses.
39

40 Nathan Crane noted the minor changes in the language of the ordinance as well as the parking
41 requirements for the assisted living facilities.
42

43 Steve Rock inquired as to the location of the parking lot for the assisted living facility, noting that the
44 Senior Care Assisted Living Overlay Zone required the facility to meet the residential character of the
45 neighborhood. Nathan Crane explained that the location of the parking lot would be determined at the
46 time of the site plan approval; however, the Planning Commission could include a requirement in the
47 design standards for assisted living facilities in the Professional Office Zone to locate the parking lot
48 behind the facility.
49

1 Tim Irwin noted that during the previous discussions regarding the Patterson Construction application
2 for a conditional use permit to operate UHAUL services from the storage facility, many concerns were
3 expressed regarding compliance with the original facility approval. Tim Irwin expressed his own
4 concern about moving forward with additional approvals if previous issues aren't being resolved.
5 Nathan Crane noted that city staff is working with Patterson Construction regarding the approval
6 enforcement but added that it is important to separate compliance from future development proposals.
7 He also stated that the applicant can provide an update.

8
9 Ross Welch from Patterson Construction addressed the Commission, stating that an assisted living
10 facility would provide a pleasant transition from office uses into residential neighborhoods to the
11 north. He confirmed that the concerns regarding the storage facility are being addressed but explained
12 that a miscommunication occurred when the business license indicated that recreational vehicles would
13 be stored uncovered in the facility.

14
15 Christopher Kemp inquired about the construction vehicles that are also stored on the property. Ross
16 Welch stated that those vehicles are stored based on a need, such as snow removal, construction, etc.

17
18 Chris asked about the construction vehicles. Ross noted that those are stored based on need – snow
19 removal, construction, etc.

20
21 **Roger Dixon opened the public hearing at 7:33 p.m.**

22
23 Andrew Howlett stated that he lives north of the existing storage facility in the Dry Creek Highlands
24 subdivision. He expressed his concern regarding approving Patterson for future expansion when
25 existing developments are in violation of Highland City ordinances. He commented that his previous
26 attempts to meet with Patterson and with the manager of the facility have been ignored. Andrew
27 Howlett presented the Planning Commission with photographs of the storage facility at night to
28 illustrate the light pollution and referenced portions of the Highland City Development Code regarding
29 shields, light hours, and other light pollution prevention measures. Andrew Howlett also presented the
30 Planning Commission with photographs illustrating the view of the recreational vehicles and
31 construction equipment as seen from his rear yard, noting that the uncovered storage is not permitted.
32 Andrew Howlett then mentioned portions of the Highland City Development Code that address
33 landscaping recommended to break up the visual mass of a wall, stating that the landscaping along the
34 wall of the storage facility is either dead or non-existent. He summarized that his intent is to maintain
35 consistency and is concerned that additional commitments will not be followed with future approvals.

36
37 Greg Parkinson, resident of the Dry Creek Highlands subdivision, expressed concerns about the
38 availability of information to the public by means of the Highland City website. He echoed many of
39 Andrew Howlett's concerns regarding code enforcement for the current violations of the storage
40 facilities. Greg Parkinson stated that the weather along Highland Boulevard is severe, making it an
41 inappropriate place for an assisted living facility. He commented that when the two churches are
42 constructed, the combination of church goers and the visitors of the facility will cause extremely
43 congested traffic. Greg Parkinson summarized that when a resident buys a home after considering the
44 surrounding zoning, it is frustrating to have the property frequently rezoned.

45
46 Yong-In Shin, resident of the Dry Creek Highlands subdivision, stated that he selected his home for the
47 view and is concerned that the construction of a two-story building will block that view. He
48 commented that Patterson seems to have a bad reputation because of the storage units and requested

1 that the Planning Commission require specific details before approving Patterson for future
2 development.

3
4 Thayne Hansen, resident of the Dry Creek Highlands subdivision, inquired as to the number of
5 amendments to the Professional Office Zone in the recent years. Nathan Crane stated that the zone has
6 been amended twice to include additional land. Thayne Hansen stated that the Professional Office
7 Zone seems to rapidly be evolving to accommodate particular uses and voiced his concern regarding
8 the impact on the choices of the residents; if zones are constantly changing, the residents don't know
9 what to expect. Thayne Hansen commented that the flow of the land is downhill from the proposed
10 location of the assisted living facility and that there would not be a barrier into the street below,
11 causing great impact on the neighborhood. He acknowledged that amending zones is a characteristic of
12 development; however, the residents want to have some anticipation of the outcome.

13
14 Kevin Bryant and Tiffany Bryant are residents of the Country French Estates Subdivision, located to
15 the east of the Professional Office Zone. Kevin Bryant expressed concern that an assisted living facility
16 would not look like a professional office or residential in nature; it would look like a typical assisted
17 living facility. He stated that the proposed location of the assisted living facility would be easily seen
18 from his home and that he would rather look at a professional office building than an assisted living
19 facility. Kevin Bryant commented that the property to the northeast of their home is for sale and that it
20 is pointless to change the zoning for a property that is going to be sold.

21
22 Tiffany Bryant stated that the land of the proposed property is raised, causing any building constructed
23 on the property to be "put up on a pedestal". She expressed concern regarding the noise and hazards of
24 the additional traffic associated with assisted living facilities – ambulances, visitors, and staff –
25 whereas an office building would only have employees and customers.

26
27 Kevin Bryant questioned whether the proposed facility would house elderly residents, those in need of
28 constant care, restricted residents, etc. He noted that parks, shopping, and other amenities are not
29 located near the facility for the residents to visit. Kevin Bryant suggested that if the Professional Office
30 Zone is amended, that the neighborhood be permitted to form a committee to meet with Patterson to
31 collaborate on the appearance of the building.

32
33 Jay Roundy inquired as to the height restriction of the buildings in the Professional Office Zone.
34 Nathan Crane answered that the building is permitted to be thirty-five feet tall. Tiffany Bryant
35 reiterated that the property is raised over ten feet higher than the roadway, creating a substantially taller
36 building. Jay Roundy commented that a thirty-five foot building is the same height whether it is a
37 professional office or assisted living facility. Tiffany Bryant clarified that the objection is to the use;
38 office buildings would not have the same safety concerns of traffic, residents walking through the
39 neighborhoods, crossing the street, etc.

40
41 Ross Welch commented that his preference as a resident would be an assisted living facility rather than
42 an office building, stating that the assisted living facility would blend into the surrounding
43 neighborhood due to its residential nature. He noted that residents always have concern regarding non-
44 residential development next to a neighborhood, whether it's office buildings, commercial uses,
45 assisted living facilities, church buildings, etc.

46
47 Ross Welch viewed the lighting photographs and acknowledged that the storage facility seems to have
48 been a poor neighbor. He commented that the lighting and open storage are issues that Patterson has
49 been addressing. Ross Welch added that the original reason for choosing the site for the storage facility

1 was due to the sunken nature of the land, hiding the storage units from the street; however, it is
2 obvious that the storage is not hidden from the residents above.
3

4 Christopher Kemp questioned whether a design has been drafted for this particular site. Ross Welch
5 stated that architectural designs were drafted in the past; however, the concepts will be revisited to be
6 better adapted for the site.
7

8 Steve Rock inquired as to a projected number of persons residing in the facility. Ross Welch stated an
9 estimate of eighty-five rooms with the possibility of some couples. Steve Rock questions how an
10 assisted living facility would transition from the appearance of an office to residential in nature. Ross
11 Welch clarified that the facility architecture would be largely residential, commenting that the existing
12 office buildings in the Professional Office Zone are already appear residential. He added that the
13 parking was originally designed to be located underground and that lighting details would be addressed
14 in future concept designs.
15

16 Kevin Bryant voiced strong opposition to changing zones based on assumptions.
17

18 Andrew Howlett acknowledged that he knew that the storage facility would be constructed when he
19 purchased his property; however, the concerns he listed earlier (light pollution, recreational vehicle and
20 construction vehicle storage, etc) were not part of his expectations. He expressed support of a
21 committee of residents consulting with Patterson in the design of the assisted living facility.
22

23 **Roger Dixon closed the public hearing at 8:10 p.m.**
24

25 Roger Dixon requested that staff compile a history of the Professional Office Zone – development of
26 the ordinance, purpose behind the amendments, etc. Roger Dixon also requested that additional efforts
27 be made to address the lighting and recreational vehicle concerns regarding the storage facility.
28

29 Tim Irwin expressed the opinion that many good points have been raised through the discussion and
30 suggested that the Planning Commission postpone any action on the item. He observed that eventually
31 the property will be developed and that future proposals may not be more acceptable to the neighbors.
32

33 Abe Day stated that he also would like the history of the Professional Office Zone; storage facilities
34 are not a use that he would have thought to be in a professional office district.
35

36 Nathan Crane warned against delaying the application based on code enforcement concerns of the
37 storage facilities.
38

39 Abe Day expressed concern that the facility could lower property values and inquired as to the fiscal
40 impact on the surrounding residents. Nathan Crane stated that it would be difficult to quantify the
41 fiscal impact. Roger Dixon mentioned that previous Planning Commissions have reviewed fiscal
42 impact with neither a “pro developer” or “anti resident” impact in mind. He also noted that the City
43 Attorney had stated that potential fiscal impacts could not be included as part of their review.
44

45 Christopher Kemp expressed concern regarding the appearance of the assisted living facility. Steve
46 Rock questioned whether detailed elevations could be required prior to approval. Nathan Crane stated
47 that requiring elevations and a site plan could unintentionally tie the text amendment to particular
48 details that may change in the future such as what has occurred with the office buildings. He noted that

1 architectural plans would still need to be approved by the Planning Commission and a site plan would
2 be approved by the City Council prior to any construction of a facility.

3
4 Tim Irwin suggested the reputation of a company is a factor in the approval of future development.
5 Nathan Crane stated if the Planning Commission was concerned about the lack of a site plan due to
6 unknown impacts on adjacent property, the Planning Commission could recommend to deny the
7 application due to the lack of a formal site plan application.

8
9 Abe Day suggested that the property be rezoned as residential; an assisted living facility could then be
10 constructed. Nathan Crane explained that the only zones that permit assisted living facilities are the
11 Residential-Professional Zone and the Senior Care Assisted Living Overlay Zone; assisted living
12 facilities are not a permitted use in Highland's residential zones.

13
14 Jay Roundy inquired as to the financial impact of senior living versus office uses for Highland City.
15 Nathan Crane stated that he did not know that answer.

16
17 **MOTION: Tim Irwin moved to Recommend that the City Council Deny the proposed amendment**
18 **to the Highland City Development Code to allow assisted living facilities subject to a conditional**
19 **use permit in the Professional Office Zone due to the lack of a specific site plan. Motion seconded**
20 **by Steve Rock.**

21
22 **Those voting aye: Abe Day, as he would like to see an analysis of the fiscal impact on the**
23 **surrounding neighbors; Tim Irwin, as he would like to see an analysis of the fiscal impact on the**
24 **surrounding neighbors; Christopher Kemp; Steve Rock, as he would prefer to see more detail**
25 **given on the site plan; Jay Roundy. Those voting nay: Roger Dixon, as he would prefer to table**
26 **the item pending the requested information. The motion passed with a majority vote, 5:1.**

27
28
29  **MONUMENT SIGN REVIEW – MONUMENT SIGNS FOR THE LONE PEAK SHOPPING CENTER ~**
30 **ADMINISTRATIVE ACTION (AGENDA ITEM D2)**

31
32 Nathan Crane explained that Paul Miner is requesting approval of three monument signs for the Lone
33 Peak Shopping Center, located on the southwest corner of SR92 and SR74. The Highland City
34 Development Code requires monument signs for the C-1 Zone to be approved by the Planning
35 Commission if not approved with the site plan; however, jurisdictions are only allowed to govern the
36 height, width, area and design of signs.

37
38 Nathan Crane noted that the three signs are approximately forty square feet with a proposed six inch
39 rock base and vertical edge - the Highland City Development Code requires a one-foot rock base. Each
40 signs will include identification of the shopping center and five individual panel slots for businesses;
41 the panels are designed to be removable to allow replacement tenants. Nathan Crane added that a
42 unique feature is that the sign would be internally lit.

43
44 Nathan Crane stated that the proposed signs meet the requirements of the Highland City Development
45 Code, with the exception of the rock base, and that specific locations and landscaping requirements
46 will be reviewed at time of the sign permit.

47
48 Steve Rock asked if the rock base would surround the entire sign. Nathan Crane explained that both
49 sides of the sign will be identical and the rock base will wrap the base.

1
2 Jay Roundy expressed concern that the proposed locations may cause traffic hazards due to site
3 obstruction. Nathan Crane stated that the actual locations of the signs will be determined as part of the
4 sign permit; clearview site triangles will be measured and the Utah Department of Transportation will
5 be consulted.
6

7 Roger Dixon inquired about the measurement of the landscaping requirement. Nathan Crane stated that
8 his interpretation of the code is that the measurement is the linear width of the sign, resulting in
9 approximately twenty-four feet of landscaping surrounding each sign. Roger Dixon further inquired as
10 to the vegetation requirements for the landscaping, expressing concern that many plants will grow to
11 obstruct the signs. Nathan Crane noted that a vegetation description is outlined and will be addressed at
12 time of the sign permit.
13

14 Roger Dixon invited the applicant, Chris Barker from IG Signs, to give comment. Tim Irwin asked
15 Chris Barker about his experience with the process of sign approval. Chris Barker stated that he has
16 enjoyed working with Nathan Crane as he has been extremely helpful.
17

18 Abe Day asked if there will be opportunity for business owners to negotiate with the property owners
19 for particular spaces on the signs. Chris Barker stated that his understanding is sign is designated to a
20 portion of the building. He noted that blank panels can be installed for empty spaces on the signs when
21 necessary. Chris Barker added that the ability to replace the sign panels individually is much more cost
22 effective.
23

24 **MOTION: Jay Roundy moved that the Planning Commission Approve the proposed monument**
25 **signs subject to the following stipulations:**
26

- 27 1. All monument signs shall comply with the sign plan date stamped December 7, 2010
28 except as modified by these stipulations; and
- 29 2. The rock base shall be a minimum of one-foot tall; and
- 30 3. Four square feet of landscaping per linear foot shall be installed as required by Section 3-
31 709.5 of the Highland City Development Code.
32

33 **Motion seconded by Tim Irwin. Those voting aye: Abe Day, Roger Dixon, Tim Irwin,**
34 **Christopher Kemp, Steve Rock, Jay Roundy. The motion passed with a unanimous vote.**
35

36
37  **APPROVAL OF MEETING MINUTES FOR NOVEMBER 9, 2010 (AGENDA ITEM E)**
38

39 **MOTION: Tim Irwin moved to Approve the Meeting Minutes for November 9, 2010, as amended.**
40 **Motion seconded by Jay Roundy. Those voting aye: Abe Day, Roger Dixon, Tim Irwin,**
41 **Christopher Kemp, Steve Rock, Jay Roundy. The motion passed with a unanimous vote.**
42

43
44  **PLANNING COMMISSION AGENDA STAFF ITEMS, REPORTS AND PACKETS ~ DISCUSSION**
45 **(AGENDA ITEM F)**
46

47 Nathan Crane noted that Planning Commission Chair, Melissa Wright, has officially resigned from the
48 Planning Commission. Whether the Vice Chair will become Pro Tem or the Planning Commission

1 should vote for a new Planning Commission Chair and Vice Chair will be addressed at the next
2 meeting.

3
4

5  **PLANNING COMMISSION COMMENTS AND SUGGESTIONS ~ DISCUSSION** (AGENDA ITEM G)

6

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

9

10 **Temporary Sign Ordinance** – Roger Dixon expressed the concern that the amount of temporary signs
11 in the Town Center is prolific and suggested that the temporary sign portion of the sign ordinance be
12 addressed. Tim Irwin noted that the City Council had placed a moratorium on the enforcement on
13 temporary signs; Nathan Crane confirmed. Jay Roundy mentioned that signs on vehicles are also a
14 concern, as often the vehicles cause a potential traffic hazard. The Planning Commission summarized
15 that a review of the temporary sign ordinance would be appropriate.

16

17 **Review of the Planning Commission Rules and Procedures** – Jay Roundy requested that the
18 Planning Commission follow Melissa Wright’s suggestion and review the Planning Commission Rules
19 and Procedures. Roger Dixon asked that the item be on the first Planning Commission Agenda in
20 February for discussion and changes if necessary.

21

22 **Highland City General Plan Review** – Jay Roundy commented that the review of the Highland City
23 General Plan not only furthered his understanding of the Element he presented to the Planning
24 Commission, but also provided an opportunity for him to identify errors. Jay Roundy suggested that
25 the Planning Commission restart the review of the Highland City General Plan, allowing each
26 Commissioner to present a new Element.

27

28 **Updates on Previous Recommendations and Requests** – Tim Irwin expressed appreciation for
29 updates on items that have been passed on to the City Council and items that have been discussed; he
30 requested that these updates continue.

31

32

33  **ADJOURNMENT**

34

35 **Jay Roundy moved to adjourn. Seconded by Tim Irwin. Unanimous vote, meeting adjourned at**
36 **8:43 p.m.**