MINUTES
HIGHLAND CITY PLANNING COMMISSION MEETING
Tuesday, February 22, 2011

Highland City Council Chambers, 5400 West Civic Center Drive, Highland, Utah 84003

PRESENT:	Commission Chair Tim Irwin, conducting
	Commissioner Roger Dixon
	Commissioner Abe Day
	Commissioner Christopher Kemp
	Commissioner Jay Roundy
	Commissioner Kelly Sobotka
	Alternate Commissioner Trixie Williams
STAFF PRESENT:	Nathan Crane, Community Development Director
	Gina Peterson, City Recorder
EXCUSED:	Commissioner Steve Rock

OTHERS: Willard England, Robert Martinez, Kymberlee Richins, David Larsen, Brent Hayes, Tim Garlick, and Machelle Garlick.

The regular meeting of the Highland City Planning Commission was called to order by Planning Commission Chair, Tim Irwin, at 7:00 p.m. on February 8, 2011. Notice of the time, place, and agenda had been provided the *Deseret News, Daily Herald,* and *Salt Lake Tribune,* on February 17, 2011. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Commissioner Trixie Williams and those assembled were led in the Pledge of Allegiance by Commissioner Kelly Sobotka.

Appearances

Chair Tim Irwin invited comments from the public regarding items not on the agenda.

PUBLIC HEARINGS AND ACTION ITEMS

PUBLIC HEARING - Conditional Use Permit for a model home located at 6707 West Broadleaf Hollow Lane *CU-11-02* (Agenda Item 1)

Mark Hollingshead, Ivory Homes, is requesting conditional use permit for a model home located at 6707 West Broadleaf Hollow Lane. Model homes are permitted in the R-1-40 District subject to a conditional use permit.

A conditional use permit is an administrative action. Consideration is limited to compliance with existing development standards and regulations and three required findings.

A notice of the Planning Commission hearing was published in the Daily Herald on February 6, 2011. Notification letters were mailed out to 7 property owners on February 8, 2011. No comments have been received.

REQUIRED FINDINGS: The proposed use must meet three findings prior to granting a Conditional Use Permit. The burden of proof rests with the applicant. Each finding is presented below along with staff's analysis.

1. **The use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.**

The subject property is designated as Low Density Residential on the Land Use Map of the General Plan and the property is zoned R-1-40 Residential. The existing R-1-40 zoning is consistent with the land use designation on the General Plan. Model homes are permitted in the R-140 District subject to a conditional use permit.

The property to the north and east is vacant and zoned R-1-40. The property to the south is zoned R-1-40 and is planned for a church. The property to the west is zoned R-1-40 and has an existing home.

The proposed use will not adversely affect the desired character of the surrounding area or be detrimental to the health, safety, or general welfare of persons residing in the vicinity.

2. **The use complies with all applicable regulations in the Development Code.**

Primary access to the site is available from Broadleaf Hollow Lane which can accommodate the traffic generated by the proposed use.

Parking is provided within the driveway and in Broadleaf Hollow Lane. There is sufficient parking to accommodate the proposed use.

Normally, there will be one employee on the site. There maybe three to four employees on site during special sale events. The Development Code limits the number of employees to three. A stipulation has been included to address the issue.

The proposed site plan meets all development standards set forth in the Development Code, including setbacks and landscaping.

3. **Conditions are imposed to mitigate any detrimental effects.**

Two routine stipulations have been included in the staff recommendation.

Nathan Crane stated the proposed conditional use appears to meet the required findings for approval and recommended approval subject to conditions.

Tim Irwin opened the public hearing at 7:09 p.m.

Todd Harris with Ivory Homes addressed the City Council. He indicated Mark Hollingshead was unable to attend and we was in attendance to answer questions.

Abe Day asked how long the model home would be open. Mr. Harris stated they anticipate this phase will sell very quickly. This is the third model home for this development, the second in this area. They want to maintain a presence in the are with model homes, so if their current model sells they will most likely approach the City for an additional permit.

Tim Irwin closed the public hearing at 7:12 p.m.

MOTION: Jay Roundy moved to accept the findings and recommend City Council approval of a Conditional Use Permit for a model home located at 6707 West Broadleaf Hollow Lane subject to the following conditions:

1. **The use shall comply with the site plan date stamped February 4, 2011.**
2. **The use shall comply with Section 3-4108. 14.**

Roger Dixon seconded the motion. Those voting aye: Tim Irwin, Roger Dixon, Abe Day, Christopher Kemp, Jay Roundy, Kelly Sobotka, and Trixie Williams. The motion passed with a unanimous vote.

Nathan Crane noted this would be considered by the City Council on Tuesday, March 1, 2011

PUBLIC HEARING – Amending Section 3-4302.12: Conditional Uses (C-1 District), Section 3-4351: Permitted Uses (CR District) and Article 6: Supplemental regulations relating to the review and approval of temporary outdoor uses, such as sale events, Christmas tree lots, and special events *TA-11-05* (Agenda Item 2)

Temporary uses are currently permitted in the C-1 District subject to a conditional use permit and in the CR District as a permitted use. The existing regulations in the C-1 and CR District are identical. The proposed amendment would allow temporary uses in the C-1, CR, and Town Center Overlay (TCO) Districts. The proposal will amend Section 3-4302.12: Conditional Uses (C-1 District), Section 3-4351: Permitted Uses (CR District) by deleting the temporary use regulations. The proposal will also amend Article 6: Supplementary Regulations by creating Section 6-223 Temporary Uses.

The proposed amendment will identify general regulations for all temporary uses. Temporary uses will only be allowed in the C-1, CR, and the Town Center Overlay zoning districts. Permitted temporary uses include: seasonal sales such as Christmas trees, produce stands, and firework stands, offsite commercial sales events, and temporary retail sales, such as Macey's parking lot sales.

Based on the type and intensity of the use, an application will be processed in one of two ways: First, an application is reviewed and approved administratively within three working days. Second, if a use is determined to have an impact on surrounding properties, public input is solicited by posting the property and notifying the surrounding property owners. Temporary uses may be approved for up to six months. The length of the use is based on the needs of the applicant and impact on surrounding properties. The applicant is required to return the property to its normal condition upon the cessation of the use.

Staff believes the proposed text amendment meets the findings because it is consistent with the purpose of the Development Code and will not adversely affect the community.

A notice of the Planning Commission public hearing was published in the Daily Herald on February 6, 2011. No comments have been received.

Jay Roundy clarified that this amendment would include the Town Center Plaza and Nathan Crane agreed and outlined the additional commercial areas it would include. Jay Roundy asked about the Highland Fling and indicated he wanted to make sure City events are kept legal.

Trixie Williams stated she was at City Council when this issue came up and the gentleman wanted to include a snow shack at Lone Peak High School. Nathan Crane indicated this issue should be discussed by the Planning Commission to determine if it should be added.

Roger Dixon noted the current regulations allow the license to be revoked in necessary but he cannot see that the proposed regulations include this provision. Nathan Crane indicated if the business is not in compliance the ordinance can be enforced and the permit can be revoked. He is comfortable with enforcing the zoning ordinance.

Additional clarifications were suggested to the proposed amendment.

Tim Irwin opened the public hearing at 7:25 p.m

Tim Garlick addressed the Planning Commission stating he is the owner of the Hawaiian Ice that operated last year just off SR-92 near Town Center Blvd. He addressed the issue with operating a facility at the Lone Peak High School parking lot. He is pursuing this request with the School District and stated if the City won't allow it there is no reason for him to continue pursuing the request. He feels like a snow shack will fits with the commercial uses across the street in Cedar Hills. He noted that he still plans to open the Hawaiian Ice facility at the same location he did last year, the high school location would just be an expansion.

Kelly Sobotka expressed concern with traffic and kids trying to cross the busy street of 4800 West. Mr. Garlick felt the road would be safer at the high school this year with the expansion of North County Boulevard. He noted the only issues he had with his existing location was the current construction on SR-92. Parking was not an issue.

No other public comments were received and Tim Irwin closed the public hearing at 7:29 p.m.

Roger Dixon asked if the City has jurisdiction over the school district on this issue. Nathan Crane indicated the City's attorney is looking into that and he does not have a specific answer. Kelly Sobotka noted the city does not control what type of concession the school sells at games or in the school, but those might be done for non-profit uses. Nathan Crane indicated the Planning Commission needs to determine if they want to open up temporary uses at schools which is zoned R-1-40. This would allow temporary uses in any R-1-40 zone. Does the Commission want them located in areas other than commercial uses?

Discussion took place about whether the Planning Commission felt it was appropriate to expand temporary uses beyond commercial zones to include City parks and schools. Consensus was it may be beneficial.

Kelly Sobotka asked if the 6 month length of time for the permit was appropriate, he wondered if it was too long. Mr. Garlick noted he ran his business last year from approximately June 6 to September 6. He noted it would be different at LPHS because it would only be run during the summer when school was not in session. Nathan Crane noted he would be responsible to grant the time frame on the permit.

Abe Day asked about permanent uses similar to Beany's coffee shack or the flower shack on State Street in American Fork. Nathan Crane indicated that use would not fit in this category and would be required to submit a site plan. He stated it is not dependent on the building size, but what the use is.

With regard to appeals, Tim Irwin noted the City Council may have an issue with the Planning Commission being the appeal entity.

MOTION: Roger Dixon moved to accept the findings and recommend the City Council adopt an ordinance amending Section 3-4302.12: Conditional Uses (C-1 District), Section 3-4351: Permitted Uses (CR District) and Article 6: Supplemental regulations relating to the review and approval of temporary outdoor uses, such as sale events, Christmas tree lots, and special events with the following changes:

1. **Amending the hours when business shall not be conducted to match the municipal code for business licensing from 11 p.m. to 7 a.m.**
2. **Modifying 2(d) under Permitted Temporary Uses to read as follows:** Such other uses as the city may deem to be within the intent and purpose of this section <u>and that conforms to the uses in the zoning ordinance</u>.
3. **Adding the following paragraph to the General Regulations:** Temporary Uses are prohibited in residentially zoned areas except those with certain institutional uses, regardless of the zoning designation. These institutional uses include, but are not limited to: public or quasi public sites, city parks, city buildings, and public schools

Kelly Sobotka seconded the motion. Those voting aye: Tim Irwin, Roger Dixon, Abe Day, Christopher Kemp, Jay Roundy, Kelly Sobotka, and Trixie Williams. The motion passed with a unanimous vote.

SCHEDULED ITEMS

<u>Highland Marketplace Subdivision Plat Amendment</u> *FP-11-02* (Agenda Item 4)

Jeremy Doyle, Thomas Fox Properties, is requesting an amendment to the Highland Commercial Subdivision by revising lot boundaries and adding two additional lots. The property is located at the northwest corner of SR74 and SR92.

The property is part of the Commercial Retail (CR) Zoning District that was approved by the City Council in October 2006. A master site plan was approved by the Council in February 2007. The Highland Marketplace Subdivision was approved by the Council in March 2007. A development agreement was also approved by the Council in March 2007.

The applicant is requesting to amend the Highland Marketplace Subdivision by adjusting the boundaries of Lot 4 and add Lot 9 and 10. As part of the amendment the lots were renumbered as follows:

Old Lot #	New Lot #
Lot 4	Lot 6
Lot 7	Lot 5
Lot 8	Lot 6
Lot 9	Lot 7
Lot 10	Lot 8
Lot 11	Lot 9 & 10

Lot 4 will be increased from 1.523 acres to 1.732 acres. Lot 9 (0.442 acres) and Lot 10 (0.487 acres) are created from the division of what was Lot 11 (0.999 acres). The overall size of Lot 1 will also be increased from 5.075 acres to 5.193 acres, by decreasing the size of Lot 8 from 0.499 acres to 0.451 acres. This will create additional frontage space along SR 92.

Vehicle access for site will be provided by SR74 and SR92. All access to properties will be from internal drives. Cross access is addressed in the CC&R's of the subdivision.

Nathan Crane stated the proposed amendment is consistent with the approved site plan for Highland Marketplace and the recently approved Walgreens site plan. The division of original lot 11 allows for additional economic development opportunities.

Roger Dixon noted from a legal point of view he does not think the lot numbering would be acceptable, particularly because it shows there will be two Lot 4's. Nathan Crane stated this could be clarified. It was also noted that the plat name should be consistent with previous versions and should not be renamed.

MOTION: Kelly Sobotka moved to accept the findings and recommend the City Council approve the amendment to the Highland Marketplace final plat subject to the following conditions:

1. **The recorded plat shall be in conformance with the final plat date stamped February 2, 2011, except as modified by these stipulations.**
2. **The plat shall be revised to show cross access easements.**
3. **The lots shall be renumbered or clarified to designate new Lots 11 and 12.**

Roger Dixon seconded the motion. Those voting aye: Tim Irwin, Roger Dixon, Abe Day, Christopher Kemp, Jay Roundy, Kelly Sobotka, and Trixie Williams. The motion passed with a unanimous vote.

DISCUSSION – Proposal to Amend the Highland City Development Code with regard to Animal Regulations in the R-1-40 zone *TA-11-06* (Agenda Item 5)

The Highland City Planning Commission is requesting an amendment to Section 3-4102.7 Keeping of Large Animals to increase the number of large animals from two to three on lots with a minimum area of 30,000 square feet.

At the February 8, 2011 Planning Commission meeting some residents asked the Commission to consider a change to the R-1-40 zone to increase the number of large animals on a 30,000 square foot lot from two to three. The Commission directed staff to bring back the item for discussion.

Large animal regulations have been changed since the incorporation of the City. When the City was incorporated in 1977 there was no limit to the number of large animals a property owner could have. This was changed in 1981 to allow 2 large animals per acre. There was also a requirement for a lot to have a minimum of 40,000 square feet. The Development Code was changed in 1990 to the current regulations as follows:

8. Keeping of animals subject to the following requirements:
   - (a) All large animals shall be provided shelter or cover. The shelter or cover where animals are normally fed, watered, and corralled shall be at minimum of one hundred (100) feet from any residence, except that it may be a minimum of seventy-five (75) feet from the animal owner's residence.
   - (b) All large animals shall be enclosed in a fence and no part of the enclosure shall be nearer than twenty (20) feet from any residential structure.
   - (c) No large animal shall be kept on a lot of less than 30,000 square feet in area. Two (2) large animals may be kept on a lot with a minimum area of 30,000 square feet and four (4) large animals may be kept on a lot with a minimum area of 40,000 square feet. One additional large animal may be kept on a lot for each 10,000 square feet of area of the lot in excess of 40,000 square feet. No small animal shall be kept on a lot of less than 20,000 square feet. No more than twelve (12) small animals shall be kept per 20,000 square feet of lot area. In determining the number of animals allowed on any lot based on its area, no proration of numbers shall be allowed within the area increments specified in this paragraph.
   - (d) Pigs shall not be kept on any lot.

The animal regulations are the same in the R-1-40 and R-1-20 zoning districts. The current regulations are based on total lot size and do not distinguish between areas used of structures and areas dedicated to the use of the animals.

Shelters for large animals are required to be setback a minimum of 100 feet from adjacent dwelling units, 75 feet from the owner's home, 10 feet from a side or rear property line, 30 feet from any street, and 10 feet from any trail.

The Development Code defines a large animal as a cow, horse, sheep or goat. A small animal is defined as a chicken, duck, turkey, rabbit and other animals of similar size.

Staff researched the zoning ordinances of Alpine, American Fork, Lehi, and Pleasant Grove with the following results:

- Alpine allows one horse or cow for every 10,000 square feet with a maximum of five animals.
- American Fork allows one livestock animal for each 10,000 square feet of area dedicated.
- Lehi allows two horses per acre.
- Pleasant Grove requires a minimum of 10,000 square feet of dedicated area is need per horse with a maximum of two per acre.

The opinion regarding the amount of land needed per large animal varies throughout the country. The factors considered included whether or not pastures are used as the main source of food. If the pasture is used as the main source of food, larger amounts of land are needed. If food is provided through a

combination of pasture and supplemental feed, smaller amounts of land are needed. Large animals can also live in confined areas where the main source of food is supplemented.

Staff believes key considerations are ensuring land use compatibility between adjacent properties that do not have large animals and those that do; and the impact of three large animals versus two large animals on adjacent property owners.

Tim Irwin reminded the Planning Commission that this is legislative item to hear if the Planning Commission wants to pursue the change and advertise a public hearing.

Kymberlee Richins addressed the Planning Commission. She got 146 signatures from various areas, those with and without horses, that support this request. She talked about the code allowing 4 horses on 40,000 square feet which is essentially 10,000 square feet per horse. She would like the minimum square footage of 30,000 but would like to have 3 horses with that acreage. She noted that Salem has lots as little as 20,000 which allow 3 horses. She stated this is not a new concept. American Fork City requires 10,000 square feet per animal, starting at 20,000 square feet. Saratoga Springs allows 2 animals per half acre and 4 per acre which is along the same lines of 10,000 square foot per animal. She read a letter from her animal care area which supported the request.

Jay Roundy asked if any of her neighbors are against her request. Ms. Richins noted that there is one person in her subdivision that has animal rights but does not care for horses. Everyone else is supportive, including many people who have property with backyards adjacent to hers. She indicated that many people have told her they moved to Highland for the rural setting with horses.

Kelly Sobotka indicated if everyone in Highland kept their horses like Ms. Richins this would not be an issue, unfortunately that is not the case. Ms. Richins agreed that the City operates on the complaint basis and the squeaky wheel gets the grease.

Trixie Williams indicated she read the file from when the City made the original decision on large animal rights and she feels the Planning Commission should have that information to understand why they decision was made. Nathan Crane indicated he hasn't found any new research but he would be interested in Trixie Williams information.

Roger Dixon asked if llamas have a special permit because it is not specifically defined. Nathan Crane felt the intent of the code would be observed in that case with the definition of "large animals" however if the Planning Commission wanted to include those it could be added.

Trixie Williams indicated goats require a lot of space because they will not defecate or eat from any area where they have defecated because of the parasite life cycle. She felt that would justify a goat being considered in the large animal definition because of the amount of space they require.

Additional discussion took place. It was stated that some people can handle more animals by virtue of the way they take care of animals, unfortunately that cannot be handled in the code.

Tim Irwin asked if the Planning Commission wanted to direct staff to make a change in the ordinance. Consensus of the Planning Commission was to proceed with a public hearing at a future meeting.

Tim Irwin summarized that the Commission would like to review the issue based on square footage, a base amount increasing for every 10,000 square feet with a minimum of 30,000 square feet.

Kelly Sobotka indicated the proposal should also take into account the amount of usable space on the lot remaining after the footprint of the home. Ms. Richins noted her example was based on the total square footage of the property and not the remaining after the footprint of her home. Discussion took place on this issue. Some Commissioners questioned if it is the City's responsibility to dictate animal use on a property. Nathan Crane indicated this remaining square footage suggestion is a significant policy issue that would probably create some nonconforming issues if addressed with useable space.

MINUTES

Minutes for the January 11, 2011 Planning Commission Meeting

MOTION: Abe Day moved to approve the minutes from the January 11, 2011 Planning Commission meeting as presented. Jay Roundy seconded the motion. Those voting aye: Tim Irwin, Roger Dixon, Abe Day, Christopher Kemp, Jay Roundy, Kelly Sobotka, and Trixie Williams. The motion passed with a unanimous vote.

Minutes for the February 8, 2011 Planning Commission Meeting

MOTION: Trixie Williams moved to approve the minutes from the February 8, 2011 Planning Commission meeting as amended. Roger Dixon seconded the motion. Those voting aye: Tim Irwin, Roger Dixon, Abe Day, Christopher Kemp, Jay Roundy, Kelly Sobotka, and Trixie Williams. The motion passed with a unanimous vote.

PLANNING STAFF REPORT

Nathan Crane indicated the City Council approved the request to amend the Town Center setbacks.

He noted that on March 8 the City is unveiling the new website and encourage the Commission to attend the launch party. He noted one of the key features of the website is for residents to sign up for various notifications.

The next meeting will be March 22, 2011.

COMMISSION COMMENTS

Nathan Crane indicated the new Planning Commission secretary was hired but she is ill today. He noted she will typically deliver the packets to the Commission.

Abe Day asked about compliance issues with the Highland Hideaway Storage and outside storage. Nathan Crane indicated a notice of violation was sent to the property owner and they were given until May 1 to be in compliance. They were given a number of options including removal of the outside storage or requesting a Development Code amendment to allow outside storage. He noted any action by the storage facility will stay any enforcement actions on the City's part.

Tim Irwin gave an update on former Planning Commission member Melissa Wright with regard to family medical issues

ADJOURNMENT

Roger Dixon moved to adjourn. Jay Roundy seconded. The meeting adjourned at 8:49 p.m.

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Gina Peterson, City Recorder

Date Approved: