

1 **Highland City Planning Commission**
2 **July 12, 2011**
3

4 The regular meeting of the Highland City Planning Commission was called to order by Planning
5 Commission Chair, Tim Irwin, at 7:02 p.m. on July 12, 2011. An invocation was offered by
6 Commissioner Steve Rock and those assembled were led in the Pledge of Allegiance by Commissioner
7 Abe Day.

8
9 **PRESENT:** Commissioner: Steve Rock
10 Commissioner: Christopher Kemp
11 Commissioner: Abe Day
12 Commissioner: Roger Dixon
13 Commissioner: Jay Roundy
14 Commissioner: Tim Irwin

15
16 **EXCUSED:** Commissioner: Kelly Sobotka
17 City Administrator: John Park
18 City Engineer: Matt Shipp

19
20 **STAFF PRESENT:** City Planner: Nathan Crane
21 Secretary: Jill Stewart

22
23 **OTHERS:** Chris Dalley

24
25 **A. PUBLIC APPEARANCES**
26

27 Tim Irwin read the opening statement:

28
29 “This Planning Commission is composed of Highland City citizens who have been appointed
30 by the City Council to serve on the Commission as a civic responsibility. In the interest of
31 maintaining a fair and efficient hearing, the Commission adheres to the following steps:

32
33 The Chair calls the agenda item;
34 Staff gives a brief report and recommendation;
35 Applicant then may give a presentation;
36 Opposition and support give testimony, no more than three minutes per speaker;
37 Applicant may give a response, and
38 The Commission has a discussion and makes decision.

39
40 Anyone wishing to speak before the commission must fill out a speaker information form and
41 hand it to Nathan Crane, Community Development Director. We expect all that participate will
42 be civil in their public discourse and that they will be respectful of others whether they agree or
43 disagree with any action taken. The Commission will stand against any incivility when we see
44 it.

45
46 We thank you in advance for your participation.”
47

1 Tim verified with the Commission that they are fine with Chris Dalley, Daily Herald reporter and
2 Highland resident, raising her hand when she has questions regarding agenda items, since it may be
3 difficult for her to fill out a comment card while simultaneously reporting on agenda items.
4

5 Tim Irwin invited comments from the public regarding items not on the agenda. Hearing no comments
6 Tim continued with the scheduled agenda items.
7

8 **B. WITHDRAWALS AND CONTINUANCES**

9
10 Tim Irwin noted that there were no withdrawals or continuances for this meeting.
11

12 **C. PUBLIC HEARING AND LEGISLATIVE ACTION**

13 14 1. **CU-11-03 Michael Raymond is requesting a Conditional Use Permit for a Church of** 15 **Jesus Christ of Latter-Day Saints Stake Center located at 5850 West 10400 North.** 16 ***Administrative.*** 17

18 Nathan Crane explained that this is a request for a conditional use permit for a new church. The site is
19 located on 10400 North just east of 6000 West. The site is low density residential on the general plan
20 and zoned R-1-40. This site will house a new stake center for the church. The only unique thing about
21 this application is that for some time a future road has been planned on the western boundary of this
22 property. It will serve the surrounding area. One of the goals on 10400 North is to reduce the number
23 of ingress egress points for traffic safety. When the road is constructed, one of the church's driveways
24 will be relocated. This is done mostly for traffic flow.
25

26 The site has 248 parking stalls which should be adequate for normal operation. One concern may be
27 where cars will go during conferences and special events. On the site there will be a standard storage
28 shed and a pavilion. With the landscape plan, it has been planned for the future road by implementing
29 the street scape landscaping. There will be a six foot wall between two of the property lines. The
30 parkway detail will be met on 10400 North. Nathan reviewed the elevations on the overhead.
31 Notification was done for the Planning Commission meeting in the Daily Herald on May 9, 2011 and
32 radius notifications were mailed as well. No input has been received on the proposed project.
33

34 Jay Roundy asked what the acreage is. Nathan indicated 4.56 acres.
35

36 Steve Rock said that across the street from the Iceberg Drive Inn to the west there is a stake center and
37 it has two driveways like this proposal. Because traffic is so slow to move in and out of the drives,
38 what ends up happening is that many people park along the roadway. He indicated it looks to be a
39 similar situation with this proposal. Nathan expressed that is why we eventually want the one
40 driveway to be eliminated by opening the other drive.
41

42 Nathan stated that the fence and landscaping are both being put on the site to address future
43 compatibility with the surrounding undeveloped property. Chris Kemp inquired if we are requiring a
44 road to be put in, could the applicant be required to put in half a road. Nathan said that had been a
45 consideration, but since the road is located on someone else's property they would have to participate.
46 So what has been decided is that they will enter into an agreement with the city that they will provide
47 for their share of the road cost.
48

1 The Commission expressed that regardless of the stake center location, traffic seems to be an issue
2 during highly attended conferences and events. Nathan explained that we need at least two exits, but
3 we want to reduce the number on 10400 North so that traffic moves and flows.
4

5 Mike Raymond, contract architect for the project, indicated that at a time, there was a plan to put a
6 development in to the south of this site and the intent was to install that road in conjunction with the
7 development. That property ended up being sold and the new property owners showed no interest in
8 moving ahead with any type of development to the south.
9

10 Mike stated that stake conference is only held twice a year, so the concern for traffic congestion during
11 these times is confined to twice a year. He explained that the policy is now that members are
12 encouraged to attend their own church buildings and view the broadcast of the stake conference from
13 there. The overall footprint for stake centers has been reduced down by about 3,000 square feet and
14 accommodates seating for 700 whereas the previous footprint accommodated approximately 1,000.
15

16 Steve Rock indicated that individuals will park along the roadway just to avoid the congestion of
17 exiting the parking lot. Mike Raymond said they can include in the plans to paint the curb red to
18 address this concern if the Commission would like to do so. Roger Dixon suggested painting two car
19 lengths of the curb red by the exits to help with visibility. Nathan recommended that if the
20 Commission wants to add a stipulation of that nature, it would be best addressed by the clear vision
21 triangle, which is 40 feet.
22

23 Nathan stated building the road to the west side does do any good because we do not have a connection
24 going south. All that does is create another conflict on 10400 North. He feels that would be worse
25 than the current proposal. Once the road is built people will be accessing from the south up through
26 the subdivisions into the site and turning right off of Buhler Boulevard and there will be 10400 North
27 that lines up with the other street.
28

29 Jay Roundy said that as he understands it, one of these buildings is not scheduled to be constructed
30 until there is a need. He asked Mike Raymond if there is a radius that the proposed building is
31 scheduled to serve. Mike indicated there are attendance standards that have to be met with
32 surrounding areas before one of these can be approved for construction. He said that placement of
33 churches is based on population density more than geographical location. He thought the intent is for
34 this stake center to eventually replace Strasburg Park church. Mike stated he did not know what wards
35 will attend this stake center. The church will make that determination.
36

37 **MOTION: Jay Roundy moved that the Planning Commission accept the findings and**
38 **recommend APPROVAL of case CU-11-03, a request for a conditional use permit for a church,**
39 **subject to the nine stipulations recommended by staff. Motion seconded by Roger Dixon.**

- 40 **1. The proposed use shall conform to the project narrative, site plan, landscape plan, and**
41 **elevations date stamped July 6, 2011 except as modified by these stipulations.**
- 42 **2. Upon completion of the planned Buhler Drive, the western driveway on 10400 North shall**
43 **be closed and relocated as shown on the site plan.**
- 44 **3. Prior to issuance of a building permit, the property owner shall enter into an agreement**
45 **with the city regarding the relocation of the driveway and future funding of Buhler Drive.**
- 46 **4. The gate on the trash enclosure shall be solid. Chain link shall not be permitted.**
- 47 **5. All signage shall require a separate permit.**

6. All lighting shall be shielded and directed down. Light levels shall not exceed one foot candle at the property line. Light poles shall not exceed fifteen feet in height.
7. A total of seven accessible parking spaces shall be provided.
8. A final plat shall be recorded prior to issuance of a building permit.
9. The civil construction plans shall meet all requirements as determined by the City Engineer.

With the approval of Jay Roundy, Roger Dixon added a tenth stipulation

10. Parking in the Clear Vision Triangle shall be prohibited.

Unanimous vote, motion carried.

C. OTHER BUSINESS:

2. **Public Participation: The Planning Commission will discuss the public participation requirements for the development review process.**

Nathan Crane explained that the purpose of this discussion is to look at some of the ways we can maximize or integrate citizen input into our processes. Citizen input has a very important role in what we do. Any discussion we have needs to focus on the types of decisions that we make. We have legislative and administrative decisions. Legislative decision examples are: general plan, rezone, and text amendments. Administrative decisions are: architectural review, site plan, subdivision, conditional use permits. We have very little discretion in administrative processes and very broad discretion in legislative processes. Legislative means we are making, drafting, or adopting policy. Administrative means we are implementing the policies that are adopted.

Nathan addressed what state code says regarding administrative processes. The first step is that we have two weeks, but not more than thirty days to determine if an application is complete. Then there is something called reasonable diligence. This means we have to act on an application; we cannot keep continuing an item until it goes away. There is a specific provision called The Rip Cord Provision that allows an applicant to send a letter and say I want action on my application. If they do that, we have 45 days to act on an application. The other portion of it is that we have to approve an application if it conforms with our land use map, zoning map, and our applicable ordinances. Nathan stated that if an application meets our code, it is entitled to approval. If we deny an application, they can sue us and we could potentially lose.

Jay Roundy stated that during the review of an application at Planning Commission or City Council some better solutions may come up for future applicants of a similar request and asked what the procedure is for starting the process to implement those better solutions. Nathan said that it comes down to whether or not the application meets the current code whether there is an alternative or not.

Nathan said that if we are looking at our codes to indicate that we want specific things, the time to do it is before those applications come in and we are faced with having to approve an application that we do not like because it meets the requirements of our current code.

1 Jay clarified his question from above about how to implement revisions to the code. Nathan explained
2 the procedure would be to do a code amendment. He said that an applicant, the Planning Commission,
3 or City Council can make a request for a code amendment.
4

5 Nathan stated that we cannot implement requirements that are not written. The Development Code is
6 the set of standards and requirements that we want for our city. An applicant is entitled to approval
7 based on those code requirements.
8

9 Nathan addressed the state code pertaining to conditional uses. An application shall be approved if it
10 meets the development code and reasonable conditions are met to mitigate reasonable anticipated
11 detrimental effects in accordance with applicable standards. It can only be denied if the reasonable
12 anticipated detrimental effects cannot be substantially mitigated. Nathan said they do not all have to
13 be mitigated, but just substantial mitigation. Roger Dixon asked in whose judgment does it have to be
14 reasonable. Nathan said a reasonable person. The courts through case law establish what is considered
15 to be reasonable. Nathan explained that how we like to explain it is whether the person walking down
16 the street considers it to be reasonable. Roger said the problem he has with this is that as the Planning
17 Commission, they do not get to decide what is reasonable and he feels they should get to decide.
18 Nathan explained that there are reasonable conditions based on the development code. If it meets the
19 development code, then it is approved. Roger asked what happens if the Commission does not think it
20 meets the code. Nathan explained that it is then open to discussion, but the code has to be clear,
21 concise, etcetera. Chris Kemp said if you turn them down they may take you to court.
22

23 Roger said he does not agree with approving everything that is coming in. Nathan explained that the
24 uses are already approved and the development standards are already set, so there is very little leeway
25 in anything.
26

27 Abe Day stated that if a code is not compliant with constitutional law then a person could reasonably
28 deny an application because that law is the law of the land. Nathan said that in land use, federal law
29 trumps local law depending on what it is. Roger asked why it says reasonable conditions and said if it
30 does say that, it seems as though the Planning Commission and City Council are the ones who should
31 determine whether it is reasonable. Nathan explained that we do our best to outline our development
32 code as to what reasonable is. The applicant has the anticipation that if they meet our development
33 code that they will receive approval.
34

35 Roger expressed that the further we get into this conversation, it seems as though we are getting
36 squeezed unnecessarily. Nathan said that is exactly why we are having this conversation. He believes
37 that our efforts as a Planning Commission and City Council need to be in the legislative arena where
38 we are looking at our general plan, our development code, and subdivision regulations and that those
39 reflect the uses that we want and the development standards we want. Where we come into conflict is
40 when we have desires of neighborhoods or whatever the case may be that are in conflict with what our
41 development code does or does not say. That is something that all Planning Commissions and City
42 Councils across the nation are faced with.
43

44 Roger said that the problem seems to be that we have very little discretion. Nathan said that is the case
45 in administrative matters.
46

47 Nathan returned to the topic of conditional uses. A decision on a conditional use permit needs to be
48 based on substantial evidence. He said that when people testify on a conditional use permit it needs to
49 be on whether it meets code or not. It is not based on whether or not a person likes the use. Nathan

1 further stated that public clamor is not a valid reason in conditional use permits and administrative
2 actions.

3
4 Tim Irwin expressed that Nathan is recommending that we focus on legislative issues because that is
5 where we have some broad ability to determine what we want. In some areas of the development code
6 and general plan there is some vagueness that we want to tighten up. Chris Kemp remarked that it is
7 hard to think of every conceivable thing. Nathan said it is and that is why we use some general things
8 to do that. The first is to have standards, then things that you review against. For example, there may
9 be a statement that says to have a safe traffic flow. From there we can have discussions on safe traffic
10 flow.

11
12 Nathan addressed legislative matters. There is very broad land use authority discretion in these
13 matters. We want public clamor with these and we expect it. We want them to participate and want
14 their input. Nathan briefly went over the public noticing requirements. He explained when he puts a
15 review process together, his goal is to make it clear, concise, consistent and that anyone can understand
16 what the process is. Inconsistencies among zones and/or different code sections creates the possibility
17 for errors. He went over the public notice requirements for some of the different processes and pointed
18 out some of the inconsistencies. Nathan said that one of the things he has noticed is a lack of criteria to
19 review against. He stated a question he has is whether our review processes meet our needs and goals.
20 He expressed that one of the weaknesses that he feels we have with legislative matters is that the first
21 contact that any residents have is a notice of a Planning Commission meeting. Nathan feels that this
22 has not given the residents adequate time to address concerns or questions with the developers. His
23 suggestion for general plan amendments and rezoning is to have a neighborhood meeting earlier in the
24 process where the developer facilitates a meeting for surrounding residents where their concerns can be
25 addressed. Staff would only be involved in setting up the meeting, but would not attend.

26
27 For administrative processes, Nathan stated that we need to look at our uses to ensure they are what we
28 want. The development standards also need to be reviewed. We have very minimal input that
29 addresses compatibility between uses. Parking, landscape, and lighting standards need to be addressed
30 and implemented as well.

31
32 Chris Kemp asked what area of the development code needs attention first. Nathan said the section
33 titled supplementary regulations that addresses zoning ordinance amendments and a section toward the
34 end of the code that also addresses amendments should be changed so they are consistent and match.
35 Nathan expressed there is too much to be done all at once.

36
37 Tim Irwin expressed that he does not want to be attacking these types of issues on a piece meal basis.
38 Tim said he feels we need to take an overall look and address this. He said it is not to say that there
39 will never be a change, but the changes ought to be few and far between.

40
41 Roger Dixon asked at what extent the General Plan can be locked in. Nathan stated that it is adopted
42 by ordinance by the City Council. He said that City Council has the authority to keep in place the
43 standards that have been set with the general plan and development code. Nathan indicated that our
44 general plan is updated about every five years; the data needs to be kept fresh and that is a reason to
45 update the plan.

46
47 Roger expressed as far as the radius notification process goes, two weeks is not an adequate amount of
48 time for surrounding property owners to be able to gather and respond to an application. Nathan said

1 that is why the neighborhood meeting idea would be useful; it would allow more time for the property
2 owners to respond and be aware.

3
4 Tim Irwin asked Nathan what input or other information he needs from the Commission to begin this
5 process. Nathan said that if the Commission has comments or suggestions on the notification process
6 that would be the information he is looking for. Nathan indicated he will prioritize and address the
7 areas concept by concept and get those adopted before moving on to other amendments. The public
8 participation is the most pressing concern currently.

9
10 **3. General Plan Land Use Element: The Planning Commission will discuss the current**
11 **General Plan Land Use Map and Land Use Categories.**

12
13 Nathan expressed that the land use category should do a number of different things. It should address
14 a variety of uses. The descriptions should be to describe the types of uses that are allowed. We should
15 have density ranges in residential. We need a balance of uses in our city. This is the criteria looked at
16 for land use categories. We look at whether we accommodate office, parks, commercial, or other uses.
17 Office and commercial are considered two different types of uses; sometimes office cannot be located
18 in commercial. Office areas are typically the last to develop. Nathan expressed that we need to tailor
19 this general plan to our city's needs. He explained that we need better definitions and descriptions
20 behind what we are trying to implement with the general plan. Nathan reviewed some definitions from
21 our general plan versus other cities.

22
23 Tim Irwin stated that his opinion is to address the general plan and get some better definitions that we
24 can pass on to the Council for implementation. Nathan said that is part of it. He said in order to
25 address the definitions, we first need to address the land uses and make sure they are what we want and
26 that they meet our goals and objectives. Nathan indicated he is going to focus on our development
27 code and feels it is the most important right now.

28
29 Jay Roundy expressed that Nathan Crane has done a great job in stepping into this position and
30 offering the guidance and information that the Commission has needed. The rest of the Commission
31 echoed Jay's compliment.

32
33 **D. APPROVAL OF MEETING MINUTES FOR JUNE 28, 2011 – REGULAR MEETING**

34
35 **MOTION: JAY ROUNDY moved to approve the Meeting Minutes for June 28, 2011 as amended.**
36 **Motion seconded by Steve Rock. Those voting aye: Steve Rock, Chris Kemp, Jay Roundy, Tim**
37 **Irwin. Those abstaining: Abe Day. Motion carried.**

38
39 **E. PLANNING STAFF REPORT**

- 40
41 1. Nathan noted that Trixie Williams has resigned from the Planning Commission because she has
42 moved out of Highland City. The Commission expressed that she will be missed.
43
44 2. Nathan stated that on August 9, 2011 6:30 pm we will have a work Session with Economic
45 Development Committee. It will be held in the multi-purpose room.
46

47 **F. COMMISSION COMMENTS AND SUGGESTIONS**

48
49 No further comments were voiced.

1 **G. ADJOURNMENT**

2

3 **MOTION: Roger Dixon moved to adjourn. Motion was seconded by Jay Roundy. Unanimous**
4 **vote, motion carried.**

5

6 **Meeting adjourned at 9:05:07 PM.**