



AGENDA

HIGHLAND CITY PLANNING COMMISSION Tuesday, June 12, 2012 – Regular Meeting 7:00 p.m.

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

CALL TO ORDER: Chris Kemp, Chair

- Attendance – Chris Kemp, Chair
- Invocation – Commissioner Scott Temby
- Pledge of Allegiance – Commissioner Steve Rock

APPEARANCES:

Time has been set aside for the public to express their ideas, concerns, and comments on non-agenda items. Speakers will be limited to two (2) minutes.

WITHDRAWALS AND CONTINUANCES:

PUBLIC HEARING ITEMS:

1. TA-12-06 A request by Eternal Spring, LLC to amend Section 3-4606.1 of the Highland City Development Code increasing the maximum building coverage on a lot from 30% to 35% for the Senior Care Assisted Living Overlay Zone.
Legislative.

OTHER BUSINESS:

APPROVAL OF MINUTES:

- April 24, 2012 – Regular Meeting

PLANNING STAFF REPORT:

- Fiscal Year 2012-2013 Budget
- Planning Commission Email Address
- Recent City Council Actions

COMMISSION COMMENTS AND SUGGESTIONS:

ADJOURNMENT:

NEXT MEETING: *Tuesday, July 10, 2012* at 7:00 pm City Council Chambers

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

Administrative: 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 7th day of June, 2012. 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 7th day of June, 2012 the above agenda notice was posted on the Highland City website at www.highlandcity.org.

Gina Peterson, City Recorder

HIGHLAND CITY
PLANNING COMMISSION MEETING
JUNE 12, 2012

REQUEST:	PUBLIC HEARING – An amendment to Highland City Development Code Section 3-4606.1 increase the building coverage from 30% to 35% in the Senior Care Assisted Living Overlay Zone. (TA-11-06)		
APPLICANT:	Greg Nield, Eternal Springs LLC		
FISCAL IMPACT:	None		
GENERAL PLAN DESIGNATION	CURRENT ZONING	ACREAGE	LOCATION
N/A	N/A	N/A	Citywide

BACKGROUND:

The Senior Care Assisted Living Overlay Zone (SCALO) was approved by the City Council in October 2009. The intent of the SCALO is to provide locations and opportunities for assisted living facilities and other similar uses while protecting existing residential neighborhoods. A conditional use permit application for Ashford Memory Care was reviewed concurrently. The facility opened in 2011.

Building coverage is determined by multiplying the square footage of the lot by the percent of building coverage allowed. The total building foot print is used for building coverage. Additional stories are not considered as part of the building footprint.

The first draft of the SCALO presented to the Commission included a different standard for building coverage than what was adopted. The change occurred between the first and second Planning Commission meeting. Whether this particular change was ever discussed between the applicant and the city is unclear. However, the change was incorporated into all subsequent reports to the Planning Commission and City Council which was reviewed over a four month period. In addition, the applicant had access to all staff reports and revisions to the district. Further, the applicant requested several other changes to the district but did not request a change to the building coverage standards. The site plan for the existing site complied with both lot coverage standards.

The applicant is proposing to construct a new 37,292 sqft (18,646 sqft building footprint) two story addition. The addition will be located on the lot to the north with a wing located on the east side of the existing building. The proposed building will house an additional 47 units. However, the proposed site plan exceeds the 30% requirement by five percent. As a result, a development code amendment is needed.

A conditional use permit is required for any development within the SCALO District. A request for a conditional use permit will be reviewed separately.

A development code amendment is a legislative process.

SUMMARY OF REQUEST:

1. The applicant is proposing to amend Section 3-4606.1 to increase the amount of building coverage from 30% to 35%. The proposed amendment reads as follows:

Section 3-4606.1

(1) Coverage of a site by a building structure shall not exceed THIRTY-FIVE (35) ~~thirty~~ (~~30~~) percent of the total site.

2. The proposed amendment would result in an increase in the building footprint of 2,178 square feet for every acre of land area. As it relates to the proposed project, the amendment would increase the building square footage by 4,421 square feet.
3. The SCALO District can be applied anywhere in the city if the site meets the development standards.

ANALYSIS:

- Staff researched the requirements of surrounding cities including Alpine, American Fork, Cedar Hills, Lehi, Lindon, Orem and Provo and found:
 - There was no consistency in building coverage requirements.
 - Most cities do not have a separate zoning district for assisted living facilities. However, these facilities are allowed in commercial districts or higher density residential districts.
 - Some communities require assisted living and similar facilities to be of the same size, scale, and design as the surrounding residential uses.
- Highland City has five commercial districts. The building coverage requirements are not consistent between districts:

<i>Zoning District</i>	<i>Standard</i>	<i>Notes</i>
C-1 (Kohlers)	25%	Planning Commission can approve up to 35%
CR (Marketplace)	30%	
R-P (Pointe)	25%	City Council can approve up to 35%
PO (Sunset Offices)		Planning Commission can approve up to 40%
Town Center	No Maximum	The zone is intended to be a high intensity district
SCALO	30%	

- Addressing the compatibility between different residential and non-residential uses is a primary role/function of the Development Code, Planning Commission and City Council. One of the ways to address compatibility is to regulate the building coverage. Limiting the building coverage has a direct impact on the intensity of the use. Compatibility is also addressed through building height, setbacks, screening, buffering, landscaping, lighting and architectural design.

- Many communities do not have building coverage requirements for non-residential zoning district. Instead they rely on setbacks, landscaping, and/or other requirements. In the SCALO district, a landscape buffer of eighty feet is required between the building and any adjacent residential use. The type and quantity of landscaping is not defined.
- It is not uncommon for communities to decrease the building coverage in zoning districts that are located to residential neighborhoods. Building coverage will also vary based on the purpose and intent of the zone.

CITIZEN PARTICIPATION:

A notice of the Planning Commission public hearing was published in the Daily Herald on May 27, 2012. All comments received to date have been attached.

RECOMMENDATION:

The Planning Commission should conduct a public hearing and determine if:

- The proposed amendment is consistent with the purpose of the Development Code.
- The proposed amendment will not adversely affect the community.
- The proposed amendment will result in compatible land use relationships.
- The proposed amendment is needed to update the Development Code.

If the Planning Commission determines that the amendment is in the best interest of the community, the Commission should draft findings and recommend approval of the proposed amendment.

If the Planning Commission determines that the amendment is not in the best interest of the community, the Commission should draft findings and recommend denial of the proposed amendment.

ATTACHMENTS:

- Attachment A – Applicant’s Narrative
- Attachment B – Citizen Comments

May 21, 2012

To: Highland City

Re: Development Code Amendment Request for 3-4606

Highland City Officials,

The current code for the Senior Care Assisted Living Overlay Zone (Article 4.6) in section 3-4606 (1) reads as follows:

"Coverage of a site by a building structure shall not exceed thirty (30) percent of the total site."

We appeal to the planning commission and city council to change the text of the code as follows:

"Coverage of a site by a building structure shall not exceed thirty-five (35) percent of the total site."

As the initial applicant bringing this code to Highland City and as the current sole operator of assisted living in the city of Highland, we worked with the planning commission to establish this new code to allow for assisted living facilities in the city. While working with the staff and planning commission back in 2009, the proposed code allowed for the option of 35% coverage of a building structure if approved by the planning commission; however, unbeknownst to us, the code changed somehow between the final meeting with the planning commission and the initial meeting with the city council.

On Friday May 4, 2012 our architect brought to our attention the point that the code had changed from what we originally planned for.

On Monday, May 7, 2012 a brief meeting was held with Nathan Crane and us. After looking at the minutes from the city council, Nathan said that the city council approved the code with 30% building to site coverage. We expressed that meeting minutes were not found where this change from the original proposal was discussed. So Nathan was going to research it and get back to us.

On Thursday, May 10, 2012 Jill (Planning Secretary) left us a voicemail and said that it was 30% and a request would have to be submitted for a Development Code Amendment to get 35%. Subsequently we setup a time to meet with Nathan that same day and with our General Contractor, Mark Hampton from Rimrock. During this meeting with Nathan, the staff notes that were brought up on his computer for the September 1, 2009 City Council meeting showed that the text change to 30% was in **Purple Bold** text which would suggest that we, the applicant, requested the change. We are absolutely certain the request was not made by us and the minutes (both audio and written) from all city council and planning commission show such.

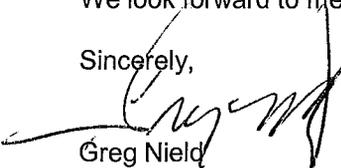
On Tuesday, May 15, 2012 Mayor Ritchie sat with me and the information was laid out to him regarding our concern over the discrepancy. He listened intently and said he would get with Nathan and find out what happened.

Thursday, May 17, 2012 Nathan responded to an email we sent inquiring of any findings and he responded, "We have not been able to find any additional information. Since it was part of the Planning Commission recommendation and part of all the Council discussions, a Development Code Amendment would be needed to change the ordinance."

In the absence of further documented evidence, it appears that the current code is not written as initially intended by the planning commission and/or applicant. Thus we are requesting the Development Code Amendment.

We look forward to meeting with you and discussing this request.

Sincerely,


Greg Nield
(801) 380-9451

**Written Citizen Comments
As of June 6, 2012**

Email from Wild Rose Residents/Cori Ollerton received June 6, 2012

Mr. Crane,

We as members of Wild Rose community would like to schedule a meeting with you, Chris Kemp and the City Council prior to our meeting on June 19. We would like to discuss a few of our concerns with this new building proposal for the Assisted Living Center. Please let us know a time and day that would work for you.

Thanks for your help.

Sincerely,

Wild Rose Residents

Date: Fri, 1 Jun 2012 22:39:07 -0600

Subject: Re: FW: Assisted Living Addition-Planning Commission Mtg

From: rebekahlkaylor@gmail.com

To: highlandbrowncoat@gmail.com; cori_thegreat@msn.com; sbvalentine@mac.com; ryv@me.com; noellestokes@hotmail.com; paints002@gmail.com; tbtelfer@yahoo.com; dave@kaylor.org; thomas.brough@gmail.com; jared.home@gmail.com; moomalam@yahoo.com; marksuth42@gmail.com; timohoggard@yahoo.com; regnez@netzero.com; paul.s.edwards@gmail.com; margo.sings@gmail.com; brettburns1959@msn.com; kirk@obieone.net; db@kaylor.org; jaredgodwin@comcast.net; shagodwin@gmail.com; bhoggard65@yahoo.com; scbrough@gmail.com; upsplagent@msn.com; sburns1959@msn.com; jamiesuth@gmail.com; bstokes1@hotmail.com; rodoob@msn.com; cdavidkemp@gmail.com

Gary,

That's precisely the point. We wouldn't mind a home with neighbors. Having the barn and garden and the Sherwoods was something we dearly loved about being here. We know what the residential code is and would be happy with that. The Ashford is seeking to change the existing code. This would put their care center far closer to our property than any private home would be. And there is a huge difference between sharing your backyard with neighbors and sharing it with a business entity (lots and lots of people that we don't know and may not be able to trust). We are just trying to get the city to maintain its current code and to provide us with protection (a fence and trees) from the business entity.

Hoping you might understand,

Rebekah K.

On Fri, Jun 1, 2012 at 4:01 PM, Rebekah Kaylor <rebekahlkaylor@gmail.com> wrote:

Dear Neighbors,

I, too, would be very glad for neighborhood support in fighting the two-story expansion of the Ashford Living Center! I agree with Cori that a one-story building would be much more acceptable than a two-story monstrosity. Additionally, I think that a high fence and trees should also be mandated. When we moved here we moved in with the knowledge that the Highland Master city plan stated that the property all around us was zoned residential and would stay that way. I think that the city should feel obligated to compensate us in any way they can for changing the Master plan against the recommendation of the city planning commission last summer. Having a fence at an adequate height and trees planted would help make us (the adjacent residents) feel better about having businesses in our backyards. It would also give us considerably more protection and security to have adequate barriers between us and any business traffic. I definitely don't feel good about others being able to see when I am home or when my children are home alone, etc. Having the city mandate this kind of adequate protection for private residents at this juncture will only protect all those who might be in a similar situation in the future.

Of greater impact for all in the surrounding area is the added safety concern that this poses to our high school kids and any others wanting to cross the street safely to the high school or the seminary or the soccer fields. Currently the only designated cross walk is down by the Walmart. The only path to that crosswalk is now across the business driveways of the Ashford Living Center. If they expand as they would like, they will have two parking lots and driveways. I trust residential neighbors who have children of their own a lot more than random visitors and workers at a business to be aware of pedestrian crossing along driveways. Many times our youth are slight (tiny and hard to see) and in a hurry, and I don't think it is safe to have the only crossing along a corridor that the city wants to turn largely commercial. I would like the city to hold the Ashford Living owners accountable for the added safety concerns presented with their expansions.

And lastly, I would like to address the dishonest and unethical practices of the owners of the Ashford Memory Care Center. When they originally applied to the city for application to place their center in a residential zoned area, Greg Nield knew from speaking with the neighbors and the city that they would never be okay with a two-storied building backing our residential properties. A two-story building blocks the sun and adds all sorts of privacy issues and changes the feel of the residential area. The Charleston in Cedar Hills abuts a commercial property and an elementary school. The neighborhood to the south is buffered from the facility. Mr. Nield and his partner changed their plans to reflect a one-story property with a wall and a berm with lots of trees to protect the neighbors behind him in order to get the original exception granted. Now he wants to change that design.

Before they received their original permit from the city David and I told him of our intent to purchase the Sherwood property. He said that they were not considering expanding at that time, but that if they did, they would expand to the south. To buy the Sherwood property, he and his partner circumvented the usual way the county sells excess property. It was, at the very least, immoral and unethical. I am working with the director of county

public works, Richard Nielson, and with the county commissioners to make sure that improper sales like the one executed by the owners of Ashford don't happen again.

Additionally, when David and I recently met with Greg in April of this year he stated to us that he and his partner feel that they never agreed to a fence and trees behind the Ollertons and Broughs. He intimated that they (Ryan and Cori) lied to the city about the promises Ashford made to the Ollertons about the fence and trees. I am not okay with his statement regarding our neighbors! It is my understanding that the agreement to build a fence and place a berm and trees was talked about in a meeting that they had with several Wild Rose neighbors and these things were drawn in their plans. I do think the onus of appeasing the residential neighbors should be with Ashford, especially since the city code was changed from what it was when we purchased our properties. (Incidentally, the Ollertons let me know that the Ashford never planted as many trees as they let the city think from their written plans that they would. Additionally, when they replaced two trees that died, they did not follow city code on the required size of the trees.)

And lastly, when we recently met with Greg on April 16th, he assured us that they were very concerned with being good neighbors and would let us know as soon as they finalized their plans what those would be and that they were required by law to inform the neighboring properties of proposed building. This, again, has shown him to be dishonest. It is only by chance that Cori saw their plans when she was volunteering with the Youth Council. The Ashford needs the city to change the current zoning laws in order for them to build the two-story addition. They want the city planning commission to make changes to the city building density code without any input from the surrounding neighbors. They have made it a point to conceal that effort from us and are seeking to do so while knowing that we are all vehemently opposed to any such plan. (Incidentally, he submitted plans to the city the same day that he spoke with David and I.)

Currently, the fence that they built (a mere 6 feet) allows the smokers on the back patio to look into our yards. The Broughs and Ollertons have to keep their blinds closed to assure privacy. At least one instance of rough handling of a patient has been observed. And knowing of their unethical choices in regards to property acquisition and building permits and neighbor policy makes me suspect of the care and choices that they make within their facility.

If you cannot make it to the city planning meeting on the 12th of June and the city council meeting on the 19th of June, please write the city planning commission and also the city council in support of a one-story facility with a nine-foot minimum fence and required trees planted along the fence-line. We, your neighbors, are asking for your help in support of privacy and safety for our families! We also feel that these requirements are necessary for the continued value of our homes. I feel that these requirements of a 9 ft. fence and adequate trees along the fence that protect surrounding private residents from businesses in areas where the city council has changed the zoning will be a protection from which many in the future will benefit.

You can write to the city planning commission here: cdauidkemp@gmail.com and nathanc@highlandcity.org

You can write to the city council here: council@highlandcity.org

Your voice matters!

Rebekah Kaylor

On Fri, Jun 1, 2012 at 12:21 PM, Dave Kaylor <highlandbrowncoat@gmail.com> wrote:
FYI

----- Forwarded message -----

From: Dave Kaylor <highlandbrowncoat@gmail.com>

Date: Fri, Jun 1, 2012 at 11:44 AM

Subject: Re: FW: Assisted Living Addition-Planning Commission Mtg

To: Cori Ollerton <cori_thegreat@msn.com>

Cc: Shauna Valentine <sbvalentine@mac.com>, ryv@me.com,
noellestokes@hotmail.com, paints002@gmail.com, tbtelfer@yahoo.com,
dave@kaylor.org, thomas.brough@gmail.com, jared.home@gmail.com,
moomalam@yahoo.com, marksuth42@gmail.com, Timo Hoggard
<timohoggard@yahoo.com>, regnez@netzero.com, paul.s.edwards@gmail.com,
margo.sings@gmail.com, Brett Burns <brettburns1959@msn.com>, kirk@obieone.net,
Dave Kaylor <db@kaylor.org>, jaredgodwin@comcast.net, shagodwin@gmail.com,
bhoggard65@yahoo.com, scbrough@gmail.com, upsplagent@msn.com, Sue Burns
<sburns1959@msn.com>, jamiesuth@gmail.com, bstokes1@hotmail.com, rodoob@msn.com>

I'm sure the owners of Ashford wouldn't want a two story business directly behind their residential property - no matter what the nature of the business was. Which is why they seem intent on putting it directly behind MY house. I'm not 100% sure how things went down, but Ashford and the city and the county have been planning this from the get go. We expressed interest in the property two years ago when it first sold to the County and were told by the county that it was not for sale but that when it was we would be contacted. We were NEVER contacted. The County NEVER posted a for sale sign. The property was re-zoned mixed use and voila, suddenly Ashford is the new owner of cheap land that will now house a two story building and a parking lot. I do not believe that ANY individual should receive preferential treatment from the government as has happened in this case. The County, City, nor Ashford has offered any concessions to the homes that are most affected by this. Our property value has certainly eroded because of this. Barriers and trees have not been put up as promised behind Ollertons and Broughs. We asked to purchased a small strip of the land from Ashford so that we could install our own natural barrier. They were not interested. We asked them to install a significant natural barrier instead to show their interest in being good neighbors. Apparently their idea of a natural barrier that backs up to our property line is a two story building that will gaze upon our window and back yard and block our view of the western sunset.

We moved into a residential neighborhood for a reason. I get that things change and I can role with that. I don't have to think it's "wonderful" though. I can hope for a win-win. The city and county certainly has shown no interest in "having our backs" - if they want business to earn them money, they need to properly compensate those that they are adversely affecting in order to obtain their earthly treasures. This is just a form of wealth redistribution in my opinion. "We need to pay for our city debts so we have to take something from the Wild Rose neighbors so that our residents in another part of the city can have the goodies they want.

I do not approve.

Thanks for reading my rant :)

- Dave Kaylor

Future Sheriff of the New City of Wild Rose

On Fri, Jun 1, 2012 at 10:24 AM, Cori Ollerton <cori_thegreat@msn.com> wrote:

Thanks Gary.

Just to repeat myself in case this didn't come across well. I am not complaining about the building expanding. It has been fine and actually cleaned up the area well. My complaint is an addition of a two story building. I think all of you would agree that a huge two story building right behind your home is NOT your first choice in area clean up. I don't mind the expansion just the height addition. I was told that the way to fight this would be to argue the developmental code of property building space.

~Cori

Thanks Cori,

This is great news. I have known about this for several months. I think this would add a great addition to Highland and 4800 West. In truth, the Ashford has brought a lot less traffic and all the problems that were discussed have never come to pass. Their property beautiful and is nicely landscaped and would look very nice on that corner. This is the right location for it, and it leaves Wild Rose with their own private little neighborhood. Make no mistake of it, that lot is empty and some business is going in there. This is just the first offer. If you stop this one, there are many more behind it. I personally have been approached twice by two different developers for my land. I have turned both down for now. One was a fitness center and the other was doctors offices.

There was no secret when Ashford went in and then the Zoning was changed to "Mixed Use" that each of these properties down 4800 West would be used for this purpose. This is the future of 4800 West. If we don't want business open on Sunday, we better let Highland get business where ever else possible.

Anyway, you are all great neighbors and we love each of you. I'm sure there is some solution that would fit for everyone. I will see you at the meeting.

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Sincerely,
Gary D. Wright
gdwright@gmail.com

On Fri, Jun 1, 2012 at 8:35 AM, Cori Ollerton <cori_thegreat@msn.com> wrote:
Neighbors,

Hopefully you all have received the information that I sent out regarding the Ashford Assisted Living addition. Greg (owner) is planning on going before the Planning Commission on JUNE 19. (not the 12th) We need as much support as we can get to stop the proposed 2 story building from being built. I know this may not affect some of you directly but, I remember a time when an assisted living center was wanted in our neighborhood and the entire neighborhood set out to make our voices heard. Please show up for this meeting we need to bond together or our sweet little neighborhood will have an entrance that looks like a hotel!

Let me know if you didn't get the previous info.

Thanks,
Cori Ollerton

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Sincerely,
Gary D. Wright
gdwright@gmail.com

Email from Gary Wright received June 4, 2012

Hi,

I see the Ashford is requesting to amend the current Developmental Code of 30% property land occupancy to 35% occupancy. This would allow them to build a larger building on their purchased lot. I am a neighbor with two houses next to Ashford and I am OK with that. I think this would add a great addition to Highland and 4800 West. In truth, the Ashford has brought a lot less traffic and all the problems that were discussed have never come to pass. Their property is beautiful and is nicely landscaped and would look very nice on that corner.

The people in Wild Rose are going to complain that a 2 story building is too large and the view will be affected. They also will say the traffic would be increased.

I just want to point out that most everyone in Wild Rose already has a 2 story home. The Woolstenhulme home is a 3 story home with a 2 story garage, and no one has complained about their house or garage being too big. Kaylor's might say this would be too large in their back yard but the Zenger's have a 3 story house in their back yard. I just don't see the 2 story argument will fly when everyone already has a 2 or 3 story house. Also, there has been a 2 story Horse Barn on that lot for over 30 years, and it is still there. No one has said that Horse Barn is too large.

As for the View... the View is to the EAST Mountains not to the WEST with the High School. The view is not affected. In fact, the Lameroux's have a 2 story Steal Building Horse Barn on the East next to the park. It is larger than this building would be and no one has ever said it distracts the view. And no matter what business you put on that lot will bring business traffic, this would actually bring less business traffic than other business might.

I think this it is fine and would like to see the amendment go forward.

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Sincerely,
Gary D. Wright
gdwright@gmail.com
801-400-1000