



AGENDA

HIGHLAND CITY PLANNING COMMISSION Tuesday, July 9, 2013 – 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 Jay Roundy
- Pledge of Allegiance – Commissioner Chris Kemp

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-13-05 The Highland City Council is requesting to amend Chapter 6 Guarantee of Performance of the Highland City Development Code relating to the requirements for public improvement performance guarantees. *Legislative.*
2. TA-13-07 Highland City is requesting to amend Section 3-706 of the Highland City Development Code to allow one unlit monument sign not to exceed a total of four (4) feet in height and twenty (20) square feet in size for Funeral Homes. *Legislative.*

OTHER BUSINESS:

APPROVAL OF MINUTES:

- June 11, 2013 – Regular Meeting

PLANNING STAFF REPORT:

- Review of recent City Council Actions

COMMISSION COMMENTS AND SUGGESTIONS:

ADJOURNMENT:

NEXT MEETING: **August 27, 2013** 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 2nd day of July, 2013. 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 2nd day of July, 2013 the above agenda notice was posted on the Highland City website at www.highlandcity.org.

Jill Ballamis, City Treasurer

**HIGHLAND CITY
PLANNING COMMISSION MEETING
JULY 9, 2013**

REQUEST:	PUBLIC HEARING – An amendment to Chapter 6 Guarantee of Performance of the Highland City Development Code relating to the requirements for public improvement performance guarantees. (TA-13-05)		
APPLICANT:	Highland City Staff		
FISCAL IMPACT:	None		
GENERAL PLAN DESIGNATION	CURRENT ZONING	ACREAGE	LOCATION
N/A	N/A	N/A	Citywide

BACKGROUND:

On May 20, 2008, the City Council approved an amendment requiring the use of cash escrow bonds for a guarantee of performance. However, there were some areas that should have been amended but were not.

The guarantee of performance covers the cost of the public infrastructure within a project. In the event the developer fails to complete the public infrastructure, the City can use the money in the bond to complete the project. Having a guarantee of performance protects the tax payers.

A cash escrow bond requires the developer to post cash to secure performance. A performance bond is a bond issued by an insurance company or a bank to secure performance. It functions much like insurance. A developer pays fee to “insure” that the project will be completed and the company agrees to pay for the improvements if needed. There is no cash backing of a performance bond.

A development code amendment is a legislative process.

SUMMARY OF REQUEST:

1. Since 2008, the City has been using cash escrow bonds. However, there are several sections within Chapter 6 that still reference performance bonds. This amendment removes those references. The proposed amendment also implements a change in State Law (Senate Bill 153) reducing the amount of the bond from 120% to 110% of the construction costs. The proposed amendment is shown on Attachment A.

ANALYSIS:

- The proposed amendment is needed to update the Development Code to be consistent with State Law and eliminate confusion.
- Cash escrow bonds are the best way to protect the City and tax payer interest in the event that the City has to utilize the funds to complete public improvements.

CITIZEN PARTICIPATION:

A notice of the Planning Commission public hearing was published in the Daily Herald on March 24, 2013.

FINDINGS:

The proposed amendment meets the following findings:

- The proposed amendment is consistent with the purpose of the Development Code.
- The proposed amendment is needed to update the Zoning Ordinance.

RECOMMENDATION AND PROPOSED MOTION:

The Planning Commission should hold a public hearing and recommend **APPROVAL** of the proposed amendment.

I move that the Planning Commission accept the findings and recommend **APPROVAL** of the amendment to Chapter 6 Guarantee of Performance of the Highland City Development Code relating to the requirements for public improvement performance guarantees.

ALTERNATIVE MOTION:

I move that the Planning Commission recommend denial of the proposed amendment based on the following findings: (The Commission should draft appropriate findings.)

ATTACHMENTS:

Attachment A – Proposed Amendment

Proposed Amendments
Chapter 6 Guarantee of Performance
(changes highlighted in yellow)

6-101: Applicability of Chapter (Amended 5/20/08). This Chapter shall govern the provisions, nature, use, and disposition of ~~all performance bonds or~~ guarantees of performance which are required to be posted with or deposited for the benefit of the City by Chapter 5, Chapter 3, Article 4 (all commercial development), or any other provision of this Code.

6-102: Type and Amount of Guarantee. (Amended 10/5/04) The performance guarantee shall be one of the following:

- (1) A deposit of cash in a separate escrow account in an amount not less than ~~120%~~ 110% of the estimated cost of constructing the required improvement or improvements, as determined by the City. Said account shall be made with a financial institution acceptable to the City Administrator and shall be established in such a manner that any release therefrom shall require the advance written consent of the City.
- (2) ~~A performance bond in an amount not less than 120% of the estimated cost of constructing the required improvement or improvements as determined by the City with such sureties as are acceptable to the City Administrator.~~

6-103: Security: Site Improvements / Project Completion (Amended 5/20/08). The following articles shall apply to all commercial and residential developments within Highland.

(1) **Site Improvements:**

- (a) **Guarantee:** To guarantee the construction, repair and/or replacement of required public improvements, the permittee shall post a bond in the form of a cash deposit. The amount of the bond shall be the greater of One-thousand Dollars (\$1000.00) or ~~120%~~ 110% of the reasonable construction or installation costs of each of the following that is applicable to the project:

...

(2) **Project Completion:**

- (a) **Security Required:** In order to protect the City from incomplete or inadequate installation of the public improvements and Landscaping, the City requires the developer post a bond in the amount of ~~120%~~ 110% for the public improvements and landscaping of which ~~20%~~ 10% will be held after the public improvements and landscaping have been accepted by the city to guarantee those public improvements and landscaping improvements. Also, all landscaping requirements associated with each commercial or public/institutional building shall be installed and bonded for prior to the final building inspection associated with a building permit and issuance of a Certificate of Occupancy.

...

- (d) **Amount of Security:** The amount of security to be posted by the developer shall be determined by the City Engineer, and shall be equal to ~~120%~~ 110% of the amount reasonably estimated by the developer and City Engineer as being necessary to complete remaining site improvements as shown on the approved plans. In the event that the developer disputes the cost estimate of the Engineer, the developer may prove a lower

construction cost by providing binding contracts between the developer and contractor or subcontractor appropriate to perform the required work at a stated, fixed price. Bid proposals are not satisfactory for this purpose. If the contracts submitted are acceptable in form, the amount of security required shall be ~~120%~~ 110% of the total contract price of all such contracts submitted, plus ~~120%~~ 110% of the estimated reasonable cost of performing any work not covered by the contracts. Specifications in such contracts shall be sufficiently clear to identify the work called for under the contract.

- (e) **Terms of Security:** The terms of any security arrangement offered to the City shall state a date certain by which the developer agrees to have site improvement work completed in accordance with the plans. After completion of those improvements which are bonded for and acceptance by the city, the city shall reimburse the bond in the amount of 100% of the contract price and retain the remaining ~~20%~~ 10% to guarantee those improvements per Section 6-108 (below). In the event that the developer has not completed required site improvement work by that date, the City may, at its option and on its schedule, or draw on the funds escrowed, by its own act, and shall not be required to obtain consent of developer to withdraw funds for completion of the work shown on approved plans. The City's actual costs in administering the completion of work in the event of a default by the developer shall be reimbursed from the escrow funds.
- (f) **Form of Security:** Security arrangements offered in lieu of simultaneous completion of buildings and site improvements shall be in one or more of the following forms:
 - (i) A deposit of cash with a third party escrow account through a financial institution federally or state insured acceptable to the City. ~~or,~~

...

6-104: GUARANTEE of Performance Bond - Subdivider.

- (1) Prior to recordation of a final plat, after it has received City Council approval, the subdivider shall complete all of the public improvements required in the subdivision. Prior to recordation, the subdivider shall enter into a ~~performance~~ bond agreement with the City to insure completion of all public improvements required to be installed in the subdivision. The bond agreement shall be in a form and contain such provisions as approved by the City Attorney's Office. The agreement shall include but not be limited to:

...

- (e) The bond amount shall be ~~120%~~ 110% of the City Engineer's estimated cost of the public improvements to be installed.

...

6-105: GUARANTEE of Performance Bond - Contractor (Amended 5/20/08).

...

- (2) Prior to the installation of such improvements, the contractor or subcontractor shall obtain the necessary permits from the City and file a performance bond in an amount equal to ~~120 percent~~ ~~(120%)~~ 110% of the cost of installation of the improvements.

6-108: Duration of Guarantee--Durability Retainage. (Amended 10/5/04, 5/20/08)

- (1) The duration of the performance guarantee covering the construction of the required improvements shall be for a period of one year unless one of the following apply, then the City

Engineer shall require the bond to be held for a period of 2 years **IF THE CITY HAS SUBSTANTIAL EVIDENCE ON RECORD OF:**

- (a) ~~If the public health, safety, or welfare is jeopardized; or~~
- (b) ~~If the project is located within in areas known to have significant expandable or collapsible soils; or~~
- (c) ~~If the Developer has a history of poor performance; or~~
- (d) ~~If there is an extreme climatic weather event not typically associated with Highand.~~

- (A) **PRIOR POOR PERFORMANCE BY THE APPLICANT; OR**
- (B) **THAT THE AREA UPON WHICH THE INFRASTRUCTURE WILL BE CONSTRUCTED CONTAINS SUSPECT SOIL AND THE CITY HAS NOT OTHERWISE REQUIRED THE APPLICANT TO MITIGATE THE SUSPECT SOIL.**

The warranty time period shall begin on the date following the completion of all improvements and final acceptance by the City Engineer.

...

- (2) A retainage of not less than ~~20%~~ **10%** of the total amount of the original ~~120%~~ **110%** guarantee shall be retained by the City. Such retainage shall be a guarantee of the durability of all improvements. If during the warranty period the durability of said improvements are found to be satisfactory, the City Engineer shall authorize release of said retainage. If, however, during said period the condition, or material, or workmanship of the improvement or improvements fails or shows unusual depreciation, or if it becomes evident that certain work was not completed, or that said improvements do not otherwise comply with accepted standards of durability, said condition shall be corrected by the person giving the performance guarantee. If the corrections are not made within a reasonable time, the City Engineer may, in accordance with Section 6-106, declare such person in default and use the retainage to defray the cost of any required work.

**HIGHLAND CITY
PLANNING COMMISSION MEETING
JULY 9, 2013**

REQUEST:	PUBLIC HEARING – An amendment to Highland City Development Code amend Section 3-706 of the Highland City Development Code to allow one unlit monument sign not to exceed four feet in height and twenty square feet in size for Funeral Homes. (TA-13-07)		
APPLICANT:	Highland City		
FISCAL IMPACT:	None		
GENERAL PLAN DESIGNATION N/A	CURRENT ZONING N/A	ACREAGE N/A	LOCATION Citywide

BACKGROUND:

A development code amendment is a legislative process.

SUMMARY OF REQUEST:

1. Funeral Homes are permitted in the R-1-40 District subject to a conditional use permit. Funeral Homes are only allowed if primary access is adjacent to an arterial street. Currently there are no provisions for monument signs for funeral homes.

2. The proposed amendment would add one monument sign as follows:

3-4706 Signs in Residential and Agricultural Zones

...

(7) Funeral Homes: Funeral Homes adjacent to an arterial street are permitted one unlit monument sign not to exceed four feet in height and twenty square feet in size per sign. Said sign shall include a one foot base of rock or brick consistent in design and material to the building and shall be landscaped in accordance with Section 3-709.5.

ANALYSIS:

- A monument sign that is in scale with the surrounding residential uses is appropriate for funeral homes.
- The proposed size and area is consistent with the signs allowed in the Senior Care Assisted Overlay District which is designed to allow assisted living integrated with residential uses.
- The proposed ordinance is needed to update the Development Code.

CITIZEN PARTICIPATION:

A notice of the Planning Commission public hearing was published in the Daily Herald on June 23, 2013.

FINDINGS:

The proposed amendment meets the following findings:

- The proposed amendment is consistent with the purpose of the Development Code.
- The proposed amendment is needed to update the Zoning Ordinance.

RECOMMENDATION AND PROPOSED MOTION:

The Planning Commission should hold a public hearing and recommend **APPROVAL** of the proposed amendment.

I move that the Planning Commission accept the findings and recommend **APPROVAL** of the amendment allowing for a monument sign for funeral homes.

ALTERNATIVE MOTION:

I move that the Planning Commission recommend denial of the proposed amendment based on the following findings: (The Commission should draft appropriate findings.)

1 **Highland City Planning Commission**
2 **June 11, 2013**
3

4 The regular meeting of the Highland City Planning Commission was called to order by Planning
5 Commission Vice Chair, Tim Heyrend, at 7:04 p.m. on June 11, 2013. An invocation was offered by
6 Commissioner Temby. Commissioner Heyrend led those assembled in the Pledge of Allegiance.
7

8 **PRESENT:** Commissioner: Tim Heyrend
9 Commissioner: Abe Day
10 Commissioner: Steve Rock
11 Commissioner: Scott Temby
12

13 **EXCUSED:** Commissioner: Chris Kemp
14 Commissioner: Sherry Carruth
15 Commissioner: Jay Roundy
16

17 **STAFF PRESENT:** Community Development Director: Nathan Crane
18 Treasurer: Jill Ballamis
19 Secretary: Sam Smith
20

21 **OTHERS:** Rob Clauson.
22

23 **A. APPEARANCES**
24

25 Commissioner Heyrend invited comments from the public regarding items not on the agenda. Hearing no
26 comments Commissioner Heyrend continued with the scheduled agenda items.
27

28 **B. WITHDRAWALS AND CONTINUANCES**
29

- 30 1. TA-13-05 The Highland City Council is requesting to amend Chapter 6 Guarantee of Performance
31 of the Highland City Development Code relating to the requirements for public improvement
32 performance guarantees. ***This item will be continued to the July 9, 2013 Planning***
33 ***Commission Meeting. Legislative.***
34

35 **MOTION: Commissioner Temby moved that the Planning Commission continue this item to the**
36 **July 9, 2013 Planning Commission Meeting. Seconded by Commissioner Rock. Unanimous vote,**
37 **motion carried.**
38

39 **C. PUBLIC HEARING AND LEGISLATIVE ACTION**
40

- 41 2. PP-13-03 A request by Bark Brockbank MRFP, LLC is requesting preliminary plat approval for a
42 60 unit attached single family active adult community subdivision located on approximately 7.49
43 acres. The property is generally located north of the northeast corner of 11800 North and
44 Highland Boulevard. *Administrative.*
45

46 Nathan Crane, Community Development Director, explained that this is the age restricted housing of the
47 Skye Estates Planned Development. This housing was restricted to sixty units. The density is 7.54 units
48 per acre. It will be age restricted through the CC&Rs to ownership or rental privileges to ages fifty five
49 and above.

1 This is a townhome style project. There will be some limited common area behind the townhomes. Each
2 unit will have a building pad that is 2,260 square feet. The buildings may vary slightly, but that is the
3 maximum building pad. There will be 400 square feet of private open space. The units are single story
4 with a basement. There are four different building types; nine twin units, eleven triple units, and two quad
5 units. Mr. Crane reviewed the landscaping on the overhead presentation. The landscaping, with the
6 exception of the private open space, will be owned and maintained by a private HOA. The landscaping
7 will be installed in conjunction with the corresponding building. Each home will feature a two car garage.
8 The architecture was reviewed on the overhead presentation.

9
10 There are fourteen guest parking spaces provided for the community. The streets in the development are
11 private and will be owned and maintained by the HOA. Access to the development will be provided
12 through Grant Boulevard, which is a new street being installed. A secondary fire access point will be gated
13 and for emergency access only. Unit nine, a single building unit, will serve as a temporary detention basin
14 until a more permanent solution for the surrounding property is available. The maintenance of lot nine
15 will be provided by the HOA. A theme wall to match the Skye Estates development will be installed along
16 Highland Boulevard along with the Parkway Detail. Water shares will be provided as a part of this plat.

17
18 A Development Review Committee meeting was held on May 22, 2013; a radius notification was mailed to
19 surrounding property owners. A radius notification, an ad in *The Daily Herald*, and a posting on the City
20 website gave notice of the Planning Commission public hearing this evening. No comments have been
21 received.

22
23 Mr. Crane stated that approval of the preliminary plat is being recommended subject to the ten stipulations
24 as outlined in the staff report. He indicated that Rob Clauson is here representing the development and
25 available to answer questions.

26
27 Commissioner Heyrend asked if there is a deceleration lane coming off of Highland Boulevard onto
28 Brunswick Drive. Mr. Crane indicated that there is not, but it is something we could talk to engineering
29 about. All of the right of way and improvements are already in in this area.

30
31 Commissioner Day asked what the timeline is for the development. Rob Clauson said the plan is to
32 develop the active adult community all at once.

33
34 Commissioner Day asked for the overall square footage of the homes. Mr. Crane stated the unit sizes will
35 range from 1,600 to almost 1,800 square feet on the main floor. Mr. Crane clarified that a few units have a
36 small loft area of about 300 square feet that is its own story.

37
38 Commissioner Rock referred to the note about the HOA being responsible for road maintenance and
39 inquired if this included snow removal. Mr. Clauson said snow removal would be managed by the HOA
40 in this community up to the driveway.

41
42 Commissioner Rock asked if there will be a community dumpster. Mr. Crane explained each unit will have
43 a garbage can. Mr. Crane also mentioned that no on-street parking will be permitted in this community.

44
45 Commissioner Temby asked if a deceleration lane would be at the City's expense. Mr. Crane said it would
46 at this point.

47
48 Commissioner Heyrend asked where visitors would park. Mr. Crane explained that each driveway has two
49 spaces and there are fourteen additional visitor spaces.

50

1 Commissioner Temby asked when the clubhouse would be built and available. Mr. Clauson indicated it
2 would be immediately, as well as the park. These were a part of the requirement of phase one.

3
4 Further discussion took place about a deceleration lane at this time.

5
6 Mr. Crane expressed that a recommendation from the traffic study was consideration for re-stripping left
7 and right turn lanes for westbound approach at 11800 North and Highland Boulevard.

8
9 Commissioner Heyrend opened the public hearing at [7:27:16 PM](#).

10
11 Hearing no comments from the public, Commissioner Heyrend closed the public hearing.

12
13 **MOTION: Commissioner Day moved that the Planning Commission accept the findings and**
14 **recommend APPROVAL of case PP-13-03 a request for preliminary plat approval for the Skye**
15 **Estates Active Adult Community subject to the ten stipulations recommend by staff with an**
16 **additional recommendation to City Council to look at a deceleration lane coming off of Highland**
17 **Boulevard.**

18
19 1. The recorded plat shall conform to the final plat date stamped June 5, 2013 except as modified
20 by these stipulations.

21 2. Development shall conform to the Skye Estates PD-1 Zoning District, Preliminary Plat and
22 Preliminary Landscape Plan date stamped March 13, 2013.

23 3. Water shares shall be dedicated, or documentation of dedication shall be provided, prior to
24 recordation of the final plat as required by the Development Code.

25 4. All required public improvements shall be installed as required the City Engineer.

26 5. The civil construction plans shall meet all requirements as determined by the City Engineer.

27 6. A note shall be added to the Final Plat and the Covenants, Conditions, and Restrictions for the
28 adult active community stating the Homer Owner's Association shall be responsible for the
29 maintenance of all private drives including repaving the private drives after a leak or break is
30 repaired.

31 7. The developer shall establish an irrevocable maintenance fund to ensure the maintenance of the
32 private streets.

33 8. On street parking shall be prohibited on all private streets.

34 9. The final landscape plans shall be revised and approved as required by the Community
35 Development Director and City Engineer prior to issuance of any construction permits.

36 10. The final plat shall be revised as required by the Community Development Director and City
37 Engineer prior to approval.

38
39 **Commissioner Heyrend recommended to include a note on the plat that the HOA will maintain**
40 **the temporary detention pond. Commissioner Day was okay with adding this to the motion.**

41
42 **Seconded by Commissioner Rock. Unanimous vote, motion carried.**

43

44 **D. OTHER BUSINESS**

45

46 No other business items for discussion.

47 **E. COMMISSIONERS COMMENTS AND SUGGESTIONS**

48

1 Commissioner Day asked Mr. Crane if there is a way to create a temporary toll on specific road areas that
2 need improvement and impose that toll on those that use the road and fixate that to a website that shows
3 how much money that has been earned that is allocated for that specific project. Mr. Crane explained that
4 is something that would need to be discussed with the City Council.

5 **F. PLANNING STAFF REPORT**

6

- 7 • Recent City Council Actions

8

9 The preliminary plat for the Timp Cove subdivision was approved by City Council.

10

11 The Council is looking at another phase in Beacon Hill; plat C which would include approximately
12 twenty five lots.

13

14 Council approved the increase of accessory building size from five to seven percent. Mr. Crane
15 indicated that the Council would like staff and the Commission to look in the future at changing
16 the accessory structure percentage in the R-1-40 zone as well.

17

18 Mr. Crane introduced Samantha Smith as the new Planning Technician. He also mentioned the
19 addition of the new City Administrator, Aaron Palmer. Mr. Palmer has been with the City about
20 three months. At the request of the Commission, Mr. Crane reviewed the candidates for Mayor
21 and City Council. The primary election will be August 13, 2013.

22

23 **ADJOURNMENT**

24

25 **MOTION: Commissioner Rock moved to adjourn. Motion was seconded by Commissioner**
26 **Temby. Unanimous vote, motion carried.**

27

28 Meeting adjourned at [7:37:17 PM](#).