

# HIGHLAND CITY PLANNING COMMISSION AGENDA

DATE: TUESDAY, JANUARY 13, 2009

PLACE: HIGHLAND CITY BUILDING,  
5400 WEST CIVIC CENTER DRIVE SUITE 1

TIME: 7:00 P.M.

Parliamentary Procedure is followed at Highland City Council Meetings. Parliamentary Procedure refers to the rules of democracy – that is, the commonly accepted way in which a group of people come together, present and discuss possible courses of action, and make decisions. Parliamentary rule is based upon the will of the majority; the right of the minority to be heard; protection of the rights of absentees; courtesy and justice for all; and consideration of one subject at a time.



**Item 1:** Approval of Meeting  
Minutes for December 9, 2008

**Item 2:** Rasmussen Ranches ~ Final Recommendation

**Item 3:** Temporary Signs Code Amendment ~ Discussion Only

**Item 4:** Article 4.35 (Commercial Retail Zone) Code Amendment/  
Addition ~ Public Hearing and Recommendation

**Item 5:** Residential Infill Overlay Zone ~ Discussion Only

**Item 6:** Planning Commission Recommendation for a Sport  
Court Ordinance ~ Discussion Only

This Agenda and a Full Agenda are available on the City Web Site at [www.highlandcity.org](http://www.highlandcity.org)

*In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Gina Peterson, City Recorder, 756-5751 ext. 4506, at least three working days prior to the meeting.*

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## **Remember...**

**A MEETING HAS BEEN SCHEDULED FOR TUESDAY, JANUARY 20, 2009 AT 6:00 P.M. AT CITY HALL TO PROVIDE INFORMATION TO THOSE WHO ATTEND REGARDING THE TOWN CENTER OVERLAY CODE AMENDMENT AND THE DESIGN STANDARDS DISCUSSION. CITY COUNCIL MEETING WILL FOLLOW. THIS MEETING HAS BEEN REQUESTED BY THE COUNCIL HOWEVER THIS IS SIMPLY A PUBLIC MEETING - THE PUBLIC HEARINGS HAVE TAKEN PLACE PREVIOUSLY OVER THE PAST THREE YEARS. YOU ARE ALL INVITED TO ATTEND THIS MEETING.**

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## **Item 2: Rasmussen Ranches ~ Final Recommendation**

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### **Motion:**

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That the Planning Commission Grant Final Subdivision Approval for the Rasmussen Ranches Subdivision per the conditions and recommendations of staff.

*The Planning Commission will need to specifically list any additional conditions or recommendations in the motion that the Planning Commission would like to impose that have not been specifically identified by staff.*

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### **Sponsor:**

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Patterson Homes

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### **Staff Presentation:**

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Carly LeDuc, Planner to present

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### **Background:**

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Steve Sowby, representing property located approximately at 4630 West 11200 North, is requesting Final Subdivision Approval for a 7-lot subdivision. The property is located within the R-1-40 zone, which allows a density equal to one lot per 40,000 square feet with lot sizes as small as 20,000 square feet. Rasmussen Ranches Subdivision's total parcel size consists of 6.032 acres revealing that the density for the entire subdivision is 1.16 units per acre. The lots range in size from 20,007 to 62,932 sq ft. The proposed lots meet the minimum frontage and density requirements. The Rasmussen Ranches Subdivision also meets the requirements of the R-1-40 Zone as defined by the Highland City Development code.

Initially there were concerns from the property owner to the north with the configuration of Rasmussen Ranches Subdivision particularly the road alignment and access to the Burgess property directly north. Staff suggested to the applicant at a DRC meeting to speak with the Burgess Family to discuss possible options in reconfiguring the property to accommodate any concerns the Burgess Family may have. The applicant did show access to the property to the north on the site plan included in this packet. These issues were discussed with neighboring property owners and the Planning Commission at the Preliminary/Public Hearing Subdivision review on December 9, 2008.

Lehi's main irrigation ditch is planned to be piped in the future which includes the Upper Division (aka Upper North Club) that runs along 11200 North. The location of the pipe has not yet been determined by Lehi Ditch Company, but there is a possibility that the ditch could be piped along the north side of 11200 North which will impact the Rasmussen Ranches development. The ditch may already be piped in front of this property as indicated by the 'existing drainage pipe' noted on the proposed plan. Either way, the developer of the property will be responsible for meeting Lehi Ditch Company's requirements for the ditch. Also, any tail water ditches associated with the property will need to be abandoned or controlled. For clarification a tail water ditch is essentially a channel made along the lower end of a field to carry surface runoff from irrigation furrows off the field.

The map showing the deeded property is included below. The Lawler property (yellow) was originally part of the entire Rasmussen Ranches parcel (red). The Lawler property (yellow) split off from the Rasmussen (red) portion in 2004. At the time when this parcel was split State Law indicated that property owners meet municipality subdividing requirements. Highland's requirements for subdividing include combining the entire subdivided parcels into one subdivision. The Lawler parcel should be part of the Rasmussen Ranches Subdivision. The parcel should be included as another lot to meet the ordinance. This will not negatively affect the proposed subdivision in any way in accordance with density and frontage standards. Although, the developer will be required to put in public improvements along both the Lawler property and Rasmussen Ranches. Also, with the

aerial provided below, gaps between the deeded parcels are apparent. The aerial indicates two areas where the neighboring property deed descriptions overlap the legal description of the subdivision; one area being east of Rasmussen Ranches and the other at the northeast corner of Rasmussen Ranches. Staff requests that the applicant clear up these conflicts to ensure the proper boundary lines of the subdivision and surrounding properties.

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## Recommendations:

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The applicant appeared before the Planning Commission on December 9, 2008 for Preliminary Approval. The Planning Commission motioned to grant approval per staff recommendations. Also, three other recommendations were added by Staff for Planning Commission review (5-8) and one from the Commission from the Preliminary subdivision review meeting (9):

1. That a DEED RESTRICTION be placed on lot 5 and a note be added to the final plat stating the following: "notice is hereby given that the purchaser/owner of lot 5 that a large pond exists on this lot and the prospective buyer shall be responsible to regrade, fill-in, and recompact the existing pond at owners discretion. Engineered fill shall be required if a structure is to be placed over the existing pond area"; and
2. That a DEED RESTRICTION be placed on each lot and a note be placed on the Final Plat stating: "notice is hereby given that the purchaser/owner of a lot within Rasmussen Ranches subdivision is subject to typical operating conditions of a gravel pit immediately adjacent to the east of this proposed subdivision"; and
3. That a DEED RESTRICTION be placed on each lot and a note be placed on the Final Plat stating: "*Property owners adjacent to this subdivision have existing large animal rights which may include horses, cows and goats. These rights are protected by both the Municipal and Development Codes of Highland City. There are noises, smells and other events associated with these animals that can occur all hours throughout the day and night, and prospective buyers of property in this subdivision should be aware of this prior to purchasing property*"; and
4. That a DEED RESTRICTION be placed on each lot and a note be placed on the Final Plat stating: "*wildlife including mule deer, rocky mountain goats and bighorn sheep have historically and consistently wintered and/or migrated through this area and may continue to do so. There are potential concerns that may surface associated with the existing wildlife, and the prospective buyers of property in this subdivision should be aware of this prior to purchasing property.*"
5. That the applicant follow Lehi Ditch Company requirements for pipping of the Upper Division of the Lehi Ditch (aka Upper North Club Ditch) along their property on 11200 North if applicable; and
6. That the applicant provide documentation clearing up any conflicts associated with the warranty deeds of surrounding properties and/or the Rasmussen Ranches Subdivision's legal description; and
7. That the applicant be required to include the Lawler property within the subdivision and public improvements be put in along both parcels; and
8. That applicant provide an easement and construct a temporary turn-around adjacent to lots 4 & 5 until the proposed 4620 West street is converted from a dead-end street to a through street as further development occurs to the north; and
9. That the applicant consider adjusting or swapping lots 1 and 2 for a more livable area on lot 1 in view of the 30' setbacks on both frontages.
10. That the applicant strictly adhere to the Dust and Mud Prevention Plan; and
11. That any easements shown on the title report should be clearly identified on the Final Plat unless located in the right of way; and
12. That the applicant obtain from the City a demolition permit for any buildings to be removed; and
13. That the applicant complete the requirements for the final plat as per the checklist (i.e., include separate addresses on each lot, etc.) prior to submitting for Final Approval form the City Council.

**Legal Authority:**

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- Chapter 5, Subdivisions, Highland City Development Code
  - Utah Code; 10-9a-604
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**Fiscal Impact:**

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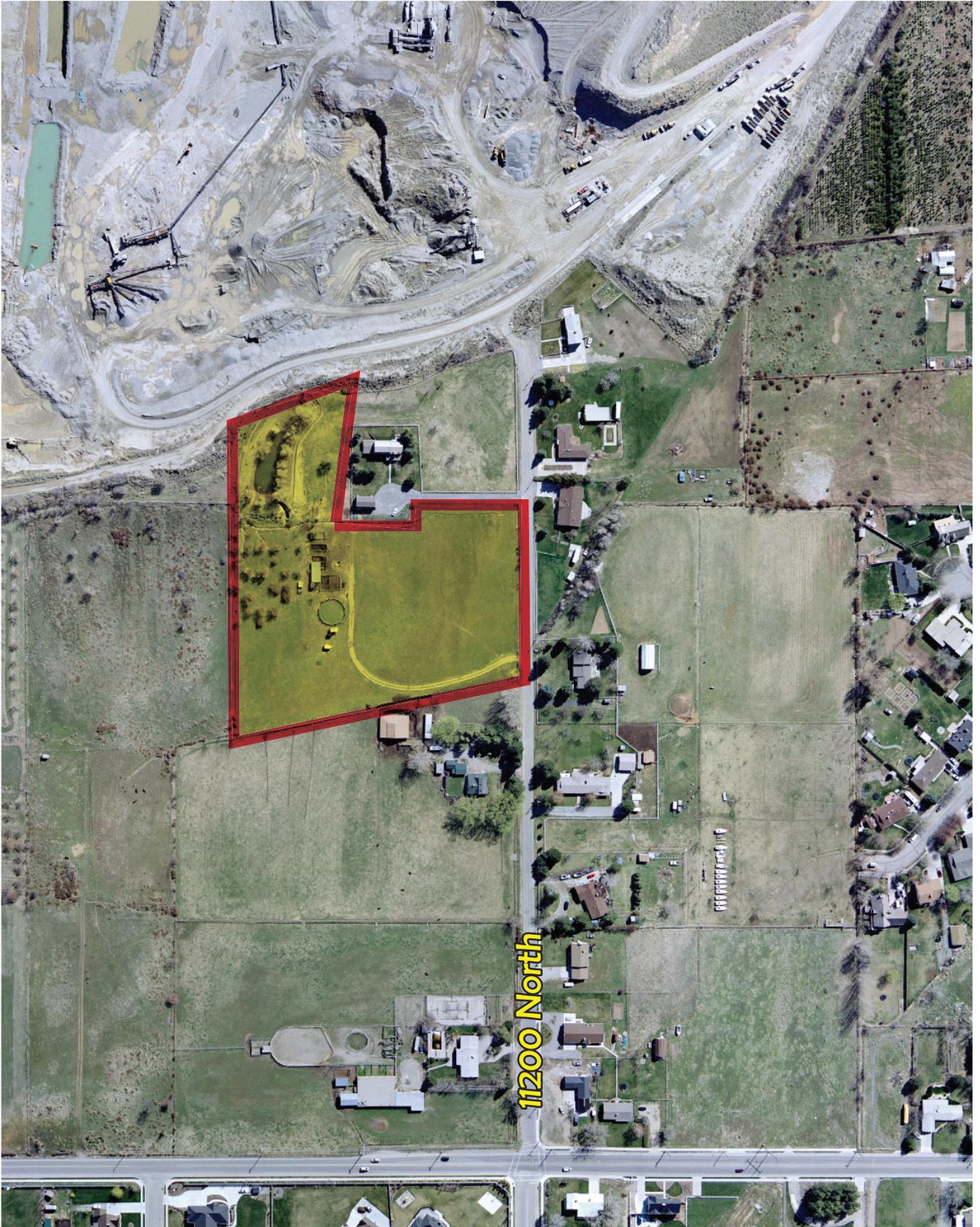
- N/A
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**List of Attachments:**

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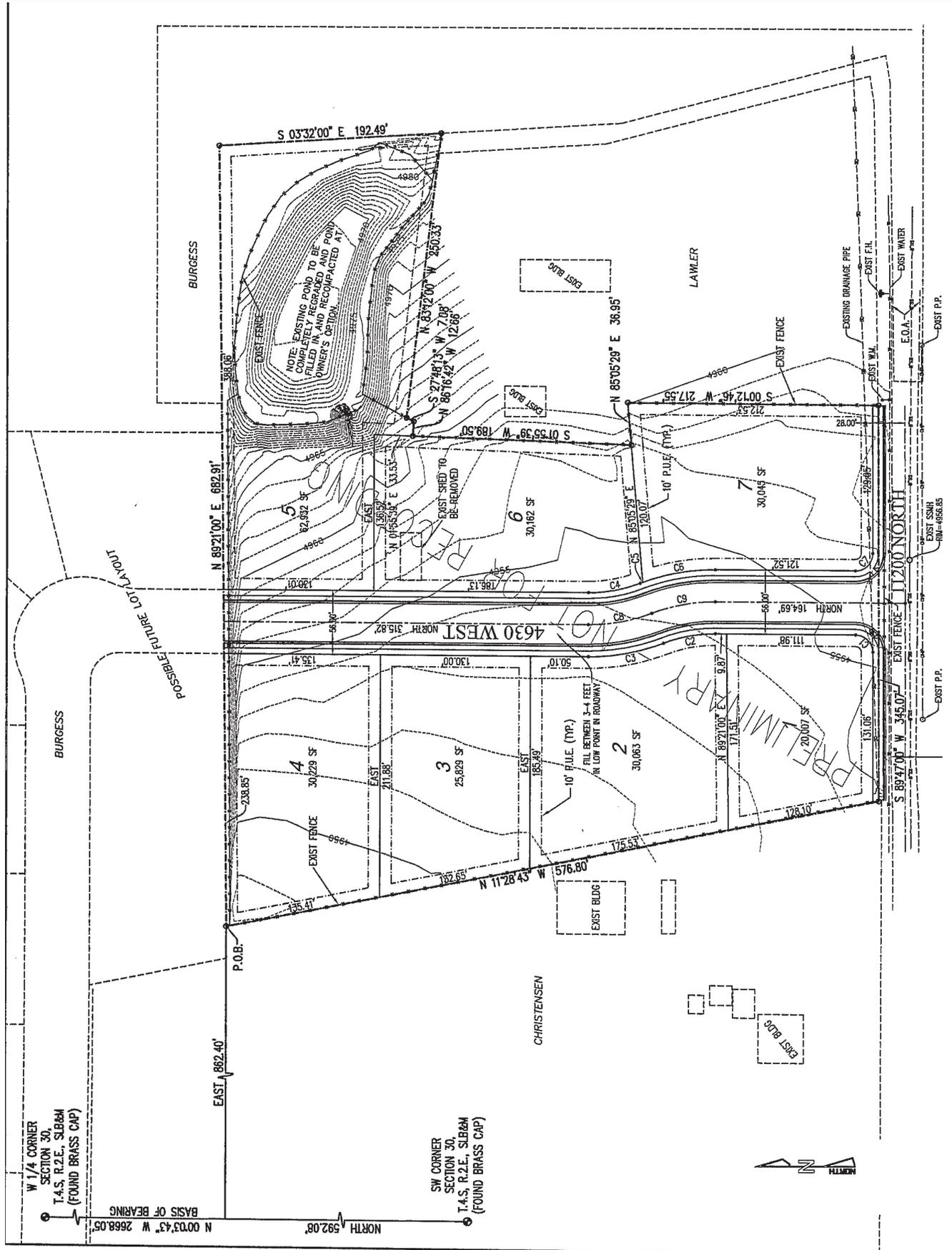
- Vicinity Map
- Site Plan
- Deed Description Aerial
- Subdivision Legal Description Aerial

**VICINITY MAP**



**ATTACHMENT**

**SITE PLAN**



**ATTACHMENT**

**Deed Description Aerial**



**ATTACHMENT**

**Legal Description Aerial**



**ATTACHMENT**



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## **Item 3: Temporary Signs Code Amendment ~ Discussion Only**

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### **Summary Statement:**

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Staff has been directed to request a recommendation from the Planning Commission regarding temporary signs within Highland City. This item has been included for information only at this time however the Planning Commission may ask questions of staff.

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### **Sponsor:**

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Highland City

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### **Staff Presentation:**

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Lonnie Crowell, Community Development Director to present

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### **Background:**

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**On December 9, 2008 the Planning Commission requested that the City Attorney appear before the Planning Commission to discuss temporary signs and answer questions and David Church has agreed to appear and discuss the matter. The information following was provided to the Planning Commission for the previous meeting.**

Staff has been aware since the adoption of the current sign ordinance that the portion related to temporary signs is regulated and based upon content. In fact there may be many portions of the sign ordinance that are based upon content. The existing ordinance may currently not be consistent with sign law because it is based upon the content of the sign and not simply time, place or manner. Sign ordinances related to commercial activities are simply determined to be legal based upon the requirement of whether it exceeds regulating time, place, or manner. In other words, the ordinance may regulate when a sign may be used (except 1st amendment rights such as political or religious free speech). An ordinance may dictate where a sign may be placed (on private property, on public property, etc.). An ordinance may define how large a sign may be and how the sign may be located on property. If the ordinance is based upon what the sign says it is considered to be content based and may be illegal.

Non-commercial sign regulations are more difficult to regulate and an ordinance must also pass a four part test. The four part test is as follows:

- (1) Does the ordinance fall within the First Amendment rights?
- (2) Does the ordinance serve a substantial governmental interest?
- (3) Does the regulation directly advance the asserted governmental interest?
- (4) Is the ordinance more extensive than necessary to serve that interest?

The questions may seem simple on the surface but they definitely are not. For instance, if a city such as Highland has an ordinance that states a sign for community events may be installed on public property however other signs may not. The questions will be asked as follows: What is the purpose of regulating all other signs on public property? If the reason is aesthetic then the question is asked "Is a 3'x8' banner advertising the local recreational opportunity more obtrusive than a 2'x2' sign advertising a day care?" Obviously the answer would be yes so the follow-up question would be why is the day care not permitted to advertise in the same location if the sign is less obtrusive? If the purpose of the ordinance is not aesthetic then what is the purpose of the regulation and does it exceed number three (3) above in the three (3) part test?" In addition a "for sale" sign is regulated separately from a "yard sale" sign. While a "for sale" is permitted to be located on a lot where a home is for sale for an indefinite period of time, a yard sale sign which may be smaller in size is only permitted to be located at the same place, for a fee and permit, for 48 hours. This is inconsistent with the requirements of the four part test and it is content regulated which may be illegal.

It is staff's opinion that there are three legitimate options available for temporary signs.

1. The first option is to allow temporary signs, commercial and non-commercial, regardless of content everywhere. The size and specific location of the sign and time allowed for posting may be regulated.
2. The second option is to not allow temporary signs, commercial and non-commercial, anywhere in Highland.
3. The third option is to allow any person, business, or entity to install temporary signs in certain specifically approved locations and of certain approved sizes. Again, the size and specific location of the sign and time allowed for posting may be regulated however the content may not.

There are many reasons for the above recommendations which are described in detail in the attached documentation which explains the history and case law behind sign regulations. These documents have been written by various land use attorneys and/or law schools. Staff has also attached correspondence from David Church on the matter from the previous instance when this item was discussed at length.

At this time staff would simply request that the Planning Commission read the attached documentation and respond with a direction. It is Staff's intention to amend the sign ordinance so that it is consistent throughout the Code and consistent with current law. The Planning Commission or Council may determine that private legal counsel is necessary to write this particular ordinance.

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### **Proposed Action:**

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Review the documentation and staff report and be prepared to discuss this item at the next Planning Commission.

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### **Legal Authority:**

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- Utah Code; 10-9a-502, 503
- Highland City Development Code (HCDC) Chapter 9, Amendments to Title and Zone Map

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### **Fiscal Impact:**

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N/A

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### **List of Attachments:**

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- Previous Response from David Church regarding Temporary Signs
- Development Code Ordinances to discuss with optional text to consider
  - **RED** text is proposed for **DELETION**
  - **BLUE** text is proposed to be **ADDED**
  - **GREEN** text is for **REFERENCE** and not intended to be included in the ordinance text.
- Relevant research for sign regulation attached separately

**Lonnie Crowell**

**From:** Blaisdell & Church [bclaw@xmission.com]  
**Sent:** Thursday, December 28, 2006 1:23 PM  
**To:** Lonnie Crowell  
**Subject:** RE: temporary signs

It is content based. The issue then will be whether or not you have a strong enough governmental interest in regulating the other types of temporary signs that you are discriminating against. Obviously one of the determining issues will be whether or not the other temporary signs that are not allowed are commercial in nature.

**From:** Lonnie Crowell [mailto:Lonnie@highlandcity.org]  
**Sent:** Wednesday, December 27, 2006 9:05 AM  
**To:** Blaisdell & Church  
**Subject:** RE: temporary signs

Dave:

First of all, I hope you had a nice holiday. Sorry for all of the emails - I am trying to be clear on this subject. What is your opinion on permitting "community event" signs on private property? We already allow "for sale" signs. Would this be considered 'content based' discrimination or is this considered "commercial" vs. "non-commercial" speech? Do we need a strong position in the ordinance (or somewhere else) stating the governmental interest in regulating community signs? I am not sure how you could convince anyone that a real estate sign is better for the public interest then community event signs.

**Lonnie Crowell**

Community Development Director



**Highland City**  
Phone (801) 756-5751  
Fax (801) 756-6903  
Email: [lonnie@highlandcity.org](mailto:lonnie@highlandcity.org)

**From:** Blaisdell & Church [mailto:bclaw@xmission.com]  
**Sent:** Thursday, December 21, 2006 10:56 AM  
**To:** Lonnie Crowell  
**Subject:** RE: temporary signs

It is more complicated than just that. The following is a summary of the current law that I used in a brief I did in another case. Commercial speech receives lower protection than traditional speech. If a state regulation is directed at the form of the commercial speech, the Court must determine whether the regulation is a valid time, place and manner restriction. See Virginia Pharmacy Bd. v. Virginia Citizens Consumer Council, 425 U. S. 748, at 771-73 (1976). Time, place and manner restrictions are valid if they (1) are justified without reference to the content of the regulated speech, (2) serve a significant governmental interest, and (3) leave ample alternative

channels for communication of the information. Virginia Pharmacy, 425 U.S. at 771

If the regulation is directed at the content of the commercial speech, the Court will determine whether the regulation is valid by applying the tests in Central Hudson Gas & Elec. Corp. v. Public Ser. Comm., 447 U.S. 557 (1980). . In Central Hudson, the Supreme Court set forth a four-part test. First, the court must decide whether the expression comes within the First Amendment. Second, the court must determine whether the asserted government interest is substantial. If the answers to these initial questions are yes, “then the court must determine whether the regulation directly advances the governmental interest asserted, and whether it is not more extensive than is necessary to serve that interest.” Central Hudson, 447 U.S. at 566.

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**From:** Lonnie Crowell [mailto:Lonnie@highlandcity.org]  
**Sent:** Thursday, December 21, 2006 10:28 AM  
**To:** Blaisdell & Church  
**Subject:** RE: temporary signs

Dave:

Yeah, from the previous email I understood (with the exception of religious or political) that if we allow a “for sale” sign on residential property then we should allow any and every sign “under 6 feet tall and 6 square feet” according to the ordinance regulating for sale signs. Is this correct? I will inform the Planning Commission with your response to this dialogue.  
Thank you – Merry Christmas.

Lonnie Crowell

Community Development Director



**Highland City**

Phone (801) 756-5751

Fax (801) 756-6903

Email: [lonnie@highlandcity.org](mailto:lonnie@highlandcity.org)

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**From:** Blaisdell & Church [mailto:bclaw@xmission.com]  
**Sent:** Thursday, December 21, 2006 10:17 AM  
**To:** Lonnie Crowell  
**Subject:** RE: temporary signs

The issue is that you cannot regulate by content. You can only regulate time, place and manner and that is limited, as you can see from the article I sent, when you are in the political or religious speech areas (non-commercial). I believe that trying to carve out exceptions for signs that serve community events is a regulation based on content, and may bring your whole sign regulation scheme under challenge. The idea is that if a sign location is bad, it is bad no matter what the sign may say, but the regulation of non-commercial speech requires a much stronger showing of the public need for regulation.

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**From:** Lonnie Crowell [mailto:Lonnie@highlandcity.org]  
**Sent:** Wednesday, December 20, 2006 4:01 PM  
**To:** Blaisdell & Church

**Subject:** RE: temporary signs

Dave:

Do you have anything for community temporary signs vs. everyone else's temporary signs. I thought we could not exclude ourselves on this one.

Thank you.

Lonnie Crowell

Community Development Director



**Highland City**

Phone (801) 756-5751

Fax (801) 756-6903

Email: [lonnie@highlandcity.org](mailto:lonnie@highlandcity.org)

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**From:** Blaisdell & Church [mailto:[bclaw@xmission.com](mailto:bclaw@xmission.com)]

**Sent:** Wednesday, December 20, 2006 2:33 PM

**To:** Lonnie Crowell

**Subject:** temporary signs

With your ongoing interest in sign regulation I thought that you might be interested in this fairly recent discussion of political signs written by the attorneys who represent the Illinois league of cities and towns. I believe the law in Utah will be the same.

ARTICLE 7  
SIGNS (Amended 7/5/05, 4/3/07)

- 3-711: Temporary Signs
- 3-712: Non-Conforming Signs
- 3-713: Exceptions

**3-711: Temporary Signs.** (Amended 11/15/05, 4/3/07) This Section shall require **all persons considering a temporary sign to first submit** a temporary sign permit application **to the City** and provides **residents and businesses for commercial and retail establishments** an opportunity to temporarily advertise **within Highland on special occasions only (ex: holidays, clearance sales, daily menus – restaurant establishments only, grand openings, etc.). A temporary sign shall not be permitted to advertise specific items (ex: roses, beer, gas, soda, etc.).** A person or business applying for a temporary sign must possess a current business license within Highland City. Temporary signs that are not permitted as defined in this Section are specifically not permitted within Highland City.

- A. The following regulations apply to all Temporary Signs:**
  - (1) All persons installing a temporary sign must first obtain a temporary sign permit prior to installation.
  - (2) All temporary sign applications that are consistent with this ordinance shall be approved by the Zoning Administrator and temporary sign applications that are not consistent with this ordinance shall not be approved.
  - (3) Temporary signs that have not first obtained approval shall not be installed and the persons responsible for their installation shall be subject to Section 3-715 and 3-716 of this Ordinance.
  - (4) It shall be the responsibility of the applicant to first obtain a permit for such a sign and to remove the same sign after expiration of the term of the permit.
  - (5) All nonconforming signs shall be removed at the expense of the person or persons responsible for their erection or shall be removed by any highland city official.
    - (a) If the person accountable for erecting the sign cannot be found it shall be assumed the person advertised shall be responsible.
  - (6) Temporary signs shall not be constructed within any road right-of-way, shall not obstruct the view of vehicular traffic or pedestrians, shall not be placed on any traffic regulating sign and shall not be lighted.
  - (7) Off-site or directional signs are not permitted on any property other than where the business or activity is occurring.
- B. The only Temporary signs that may be applied for are used exclusively for:**
  - (1) **Temporary Grand Opening Signs:** **When first opening a business (or if there is a change in ownership) within commercially zoned property the owner may apply for a temporary sign permit as follows:**
    - (a) **Time:** The owner of a **person business within commercially zoned property** may obtain a permit for a Temporary Grand Opening sign **upon approval of the Zoning Administrator** for a specific period of time not to exceed 60 days. **It shall be the responsibility of the applicant to first obtain a permit for such a sign and to remove the same sign after expiration of the term of the permit.** Temporary Grand Opening signs shall only be available one time **per for a new** business or change in ownership.
    - (b) **Place:** A Temporary Grand Opening Sign shall only be placed upon the property owned or leased by the applicant where the business is located.
    - (c) **Manner:** The following sign types are permitted:
      - (i) **Banner Signs:** Banner signs not to exceed twenty-four (24) square feet in size. Banner signs shall only be permitted to be placed within the approved banner supports or on the building within the leased space of the business

Time, Place and Manner

RED text is a proposed DELETION; BLUE text is proposed to be ADDED; GREEN text is for REFERENCE not proposed

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of which the sign is associated as designated by the City Council. A banner sign may not be attached in any way to a significant architectural feature, or above an eave, parapet or roof line of a building.

- (ii) **A-frame Signs:** A-frame signs must be placed within fifteen (15) feet from the primary entrance for the business advertising on it. A-frame signs may not exceed 48” in height and 36” in width. A-frame signs may not be placed in a manner that would impede pedestrian or vehicular access.

- (2) **Temporary Promotional Signs:** Temporary promotional signs may be permitted upon approval of the Zoning Administrator for a specific period of time not to exceed six (6) days (Monday – Saturday). Temporary promotional signs shall only be placed in a location specified by the City Council (ex: part of the allotted window front, directly in front of leased space and within 10 feet of the entrance, etc.). It shall be the responsibility of the applicant to first obtain a permit for such a sign and to remove the same sign after expiration of the term of the permit. Temporary signs shall only be available – five (5) - times per year per business. Unless otherwise specified within this code only the following list of temporary signs shall be permitted and all others shall be specifically not permitted:

- (a) **Banner Signs:** Banner signs not to exceed twenty-four (24) square feet in size. Banner signs shall only be permitted to be placed within the approved banner supports or on the building within the leased space of the business of which the sign is associated as designated by the City Council. A banner sign may not be attached in any way to a significant supporting structure (columns), significant architectural feature, or above an eave, parapet or roof line of a building.
- (b) **A-frame Signs:** A-frame signs must be placed within fifteen (15) feet from the primary entrance for the business advertising on it. A-frame signs may not exceed 48” in height and 36” in width. A-frame signs may not be placed in a manner that would impede pedestrian or vehicular access.

- (2) **Temporary Promotional Signs:** The owner of a business within commercially zoned property may apply for a Temporary Promotional Sign permit during different times throughout the year as follows:

- (a) **Time:** The owner of a business within commercially zoned property may apply for a temporary sign permit that would permit the installation of a temporary sign for a specific period of time not to exceed six (6) days (Monday – Saturday). Temporary Promotional Signs shall only be available five (5) times per year per business during non-consecutive periods.
- (b) **Place:** A Temporary Promotional Sign shall only be placed upon the property owned or leased by the applicant where the business is located or within ten (10) feet from the main entry of the business if that location is consistent with Section 3-711A(6) of this Ordinance.
- (c) **Manner:** Only the following sign types are permitted as Temporary Promotional Signs:
  - (i) **Banner Signs:** Banner signs not to exceed twenty-four (24) square feet in size. Banner signs shall only be permitted to be placed within the approved banner supports or on the building within the leased space of the business of which the sign is associated as designated by the City Council. A banner sign may not be attached in any way to a significant architectural feature, or above an eave, parapet or roof line of a building.
  - (ii) **A-frame Signs:** A-frame signs must be placed within fifteen (15) feet from the primary entrance for the business advertising on it. A-frame signs may not exceed 48” in height and 36” in width. A-frame signs may not be placed in a manner that would impede pedestrian or vehicular access.

RED text is a proposed DELETION; BLUE text is proposed to be ADDED; GREEN text is for REFERENCE not proposed

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**Time, Place and Manner**

- (3) **Temporary Agricultural Signs.** designated to be displayed no longer than forty-five days.
  - (a) A temporary agricultural sign shall be no larger in area than sixteen square feet and stand no higher than ten feet from the ground.
  - (b) These signs shall not be placed within any road right-of-way, shall not obstruct the view of vehicular traffic or pedestrians, shall not be placed on any traffic regulatory sign, and shall not be lighted.
  - (c) These signs shall advertise only produce, fruit, livestock or other crops produced in Highland City.
  - (d) Temporary agricultural signs shall be exempt from requirement of sign permit and fee.; however, failure to comply with above regulations shall constitute littering, punishable as a misdemeanor. All nonconforming signs shall be removed at the expense of the person or persons responsible for their erection its installation. If no person can be found it shall be assumed the person at the location advertised shall be responsible.
- (3) **Temporary Agricultural Signs.** The owner of property where agricultural products are grown, raised, or cultivated may install a temporary agricultural sign and the following restrictions apply:
  - (a) **Time:** The owner of property where agricultural products are raised or grown may install a Temporary Agricultural Sign for a period not to exceed forty-five (45) days per year. Temporary Agricultural Signs may only be installed during the period of time when agricultural products grown or raised on that property are being sold.
  - (b) **Place:** Temporary Agricultural Signs shall only be placed upon the property owned by the applicant where the product is legally grown, raised or cultivated.
  - (c) **Manner:** Temporary Agricultural Signs shall be exempt from the requirement for a sign permit however only the following sign types are permitted as Temporary Agricultural Signs:
    - (i) A Temporary Agricultural Sign shall be no larger in area than sixteen (16) square feet and stand no higher than ten (10) feet above the ground.
    - (ii) Temporary Agricultural Signs shall be exempt from requirement of sign permit and fee.
- (4) **One temporary “A-frame”** sign not to exceed 32” x 48” may be permitted on property of which for a model home is located during the two (2) year period a model home operates under its approved Conditional Use Permit. The sign shall be placed behind the sidewalk on model home private property and only displayed while the realtor of the model home is present to let passers-by know they are open.
- (5) **Temporary Garage Sale or Yard Sale Signs.** (Amended 11/15/05)
  - (a) Garage sale or yard sale signs shall not exceed six (6) square feet in area and shall stand no higher than six (6) feet from the ground, shall not be lighted, shall not be placed in any road right-of-way, shall not obstruct view of vehicular traffic or pedestrians, or shall not be placed on any traffic sign or utility pole.
  - (b) Garage sale or yard sale signs shall only be displayed for a period not to exceed 48 hours.
  - (c) Garage sale or signs shall require a temporary sign permit. (Amended 11/15/05)
  - (d) Temporary garage sale or yard sale sign permits shall be available five (5) times per year.
  - (e) Garage or yard sale signs shall only be placed on property where the garage sale is occurring.
  - (f) Off-site directional signs for garage or yard sales are specifically prohibited with exception to specific “community announcement” locations as approved by the Highland City Council.

RED text is a proposed DELETION; BLUE text is proposed to be ADDED; GREEN text is for REFERENCE not proposed

**ATTACHMENT**

- (5) **Temporary Yard Signs.** An owner of residentially zoned private property may install a Temporary Yard Sign while selling their personal private property.
  - (a) **Time:** Temporary Yard signs may only be placed on private property during the period of time that the owner’s private property is being sold.
  - (b) **Place:** Private property owners selling their property may place one temporary yard sign on their property.
    - (i) Off-site directional signs are specifically prohibited unless otherwise approved by the City Council.
  - (c) **Manner:** Only the following sign types are permitted as Temporary Yard Signs:
    - (i) Temporary Yard signs shall not exceed six (6) square feet in area and shall stand no higher than six (6) feet from the ground, shall not be lighted, shall not be placed in any road right-of-way, shall not obstruct view of vehicular traffic or pedestrians, or shall not be placed on any traffic sign or utility pole.
    - (ii) Temporary Yard signs shall be exempt from requirement of sign permit and fee.
  
- (6) **Political Signs.**
  - (a) **Construction and Location.** Temporary political signs may be erected in the city of Highland on private property only unless otherwise approved by the City Council. These signs shall be no larger in area than thirty-two square feet and stand no higher than ten feet from the ground. **These signs shall not be erected within any road right-of-way, shall not obstruct the view of vehicular traffic or pedestrians, shall not be placed on any traffic regulating sign and shall not be lighted.**
  - (b) Temporary political signs shall be exempt from requirement of sign permit and fee; however, failure to comply with above regulations shall constitute littering, punishable as a misdemeanor. **All nonconforming signs shall be removed at the expense of the person or persons responsible for their erection or shall be removed by any highland city official. If the person accountable for erecting the sign cannot be found it shall be assumed the person advertised shall be responsible.**
  
- (6) **Political Signs.**
  - (a) **Time:** Temporary Political Signs may be installed during an election.
  - (b) **Place:** Temporary Political Signs may be installed in the city of Highland on private property only unless otherwise approved by the City Council.
  - (c) **Manner:** Only the following sign types are permitted as Temporary Political Signs:
    - (i) A Temporary Political Signs shall be no larger in area than sixteen (16) square feet and stand no higher than ten (10) feet above the ground.
    - (ii) Temporary Political Signs shall be exempt from requirement of sign permit and fee.

**3-713: Exceptions.** (Amended 4/3/07) This Chapter shall have no application to signs used exclusively for:

- (1) The display of official notices used by any court or public body or official, or the posting of notices by any public officer in the performance of a duty, or by any person giving legal notice.
- (2) Directional, warning, or information signs of a public nature, directed and maintained by a public authority or public utility.
- (3) Any sign of a non-commercial nature when used to protect the health, safety or welfare of the public.
- (4) Any flag, pennant, or insignia of any nation, state, city, or other political subdivision.
- (5) Any sign legally mandated by state, federal, or municipal law.

RED text is a proposed DELETION; BLUE text is proposed to be ADDED; GREEN text is for REFERENCE not proposed

**Time, Place and Manner**

- (6) Any temporary sign of a non-commercial nature which is displayed for addressing community events or community groups for the purpose of announcing special events which may benefit the community as a whole. Temporary community event signs shall only be placed in areas designated by the city for such purposes and be approved by the City Zoning Administrator. These signs will be identified by an attached label indicating when the sign shall be removed.
- (7) Monument signs may be installed within public parks property identifying public points of interest (parks, library, City Hall, etc.) by Highland City.

RED text is a proposed DELETION; BLUE text is proposed to be ADDED; GREEN text is for REFERENCE not proposed

ATTACHMENT

**Item 4: Article 4.35 (Commercial Retail Zone) Code Amendment/  
Addition ~ Public Hearing and Recommendation**

**Motion:**

That the Planning Commission Recommend the Council Approve the Code Amendment/Addition to Article 4.35 CR Zone, Section 3-4355 as recommended by Staff.

*The Planning Commission will need to specifically list any additional conditions or recommendations in the motion that the Planning Commission would like to impose that have not been specifically identified by staff.*

**Sponsor:**

Highland City

**Staff Presentation:**

Lonnie Crowell, Community Development Director

**Recommendation:**

That the Planning Commission recommend this addition to the Code

**Findings:**

The Planning Commission may use findings to approve or not approve this proposal.

**Background:**

It has come to staff's attention recently that an establishment with several drive through lanes may request to locate on the corner of SR-92/SR-74 within the Highland Marketplace. This property has been As the Planning Commission is aware, staff is very aware that Highland City residents waited over 30 years to ensure a high traffic retail use would locate on this prime parcel/lot. Years of planning, discussion, and even denied requests have taken place over potential uses at this location. In addition, it is Staff's opinion that the premiere retail corner in Highland would be sadly wasted if consideration for a use that will not take full advantage of a majority of this property for something other than parking or a use that does not provide at least average sales tax revenue for Highland City takes place. The use and building mass constructed at this corner will define the Marketplace and provide, or not provide, the greatest retail opportunity for Highland for some time.

On November 21, 2006 the City Council approved the site plan for Highland Marketplace within the CR Zone with the exception of Lot 6, Building "D" due to the complications with the proposed use and the parking along the corner (see minutes, previous staff report, and previous background attached separately). As the Planning Commission is aware, until now a Walgreens has been proposed for this property. The construction of a use with multiple drive through lanes would only complicate the difficult traffic circulation situation.

**Legal Authority:**

- Utah Code; 10-9a-502, 503
- Highland City Development Code (HCDC) Chapter 9, Amendments to Title and Zone Map

**Fiscal Impact:**

N/A

**List of Attachments:**

- Proposed Code Amendment

HIGHLAND CITY DEVELOPMENT CODE

Adopted: 10/24/06

ARTICLE 4.35

COMMERCIAL RETAIL ZONE (CR ZONE)

**3-4355:** Site Coverage

**3-4355: Site Coverage.** Coverage regulates the area of the site that may be covered by buildings. Covered walkways, roof structure overhangs, and other solar protection or aesthetic structural elements should not be included in building coverage calculations. These guidelines also help protect area dedicated to landscape and parking.

- (1) Coverage of a site by all building structures (interior gross building area) shall not exceed thirty (30) percent of the total site.
  - (a) The maximum square footage for any continuous building, tenant, or use shall not exceed 70,000 square feet.
- (2) **A proposed use shall not be located on a Lot that is adjacent to the corner and intersection of SR-92 or SR-74 if the proposed use exceeds one drive-through lane or drive through window/bay on any building elevation of the proposed use.**
  - (a) **A drive through window or menu board shall not directly face, be located adjacent to, or be attached to any portion of the building that faces SR-92 or SR-74 in any circumstance including separation by parking, drive way, drive through or landscaping.**

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## Item 5: Residential Infill Overlay Zone ~ Discussion Only

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### Summary Statement:

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On April 1, 2008 the City Council requested that the Planning Commission recommend an infill overlay ordinance to the City Council similar to a draft ordinance prepared by staff. On April 22, 2008 the Planning Commission reviewed and discussed this item. On December 9, 2008 the Planning Commission was given this information for the purpose of reviewing the previous documents.

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### Sponsor:

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Highland City

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### Staff Presentation:

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Lonnie Crowell, Community Development Director to present

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### Background:

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The idea of an infill zone has been discussed over the past several years. Staff has been requested to begin the process to propose an infill zone for property within Highland. An ordinance will be discussed by the Planning Commission, a public hearing will be held and advertised on January 27, 2009, and a recommendation will be provided back to the City Council prior to adoption (or no action). **Staff has amended the draft ordinance to reflect previous comments from the Planning Commission.** Items indicated in blue were added/amended and comments indicated by a red ~~strikeout~~ are proposed to be deleted. Staff recommends that the Planning Commission compare the text from this agenda to the previous staff draft ordinance regarding “residential homes for the disabled” and “residential homes for the elderly”. The proposed text related to these items have been written directly from and are consistent with Utah Law, 10-9a.

Staff has drafted ordinance based on floor area ratios and existing surrounding conditions (please see attached). This will be the second attempt by staff to create an infill zone however the current draft is different than the previous and may provide a more reasonable opportunity that does not impact adjacent properties as much as other ordinances may. Obviously the one uncertainty with this draft ordinance that staff would like the Planning Commission to ignore while reviewing this proposal is related to the discussion regarding residences for persons with a disability and will need to be consistent throughout the Code. This will be reflective of that and consistent with the final decision prior to adoption (3-4153(9)). The city may have an entire chapter or section of a separate portion of the Development Code devoted to these group homes. Either way this highlighted reference will be edited to be consistent with the outcome of the residences for the disabled decision.

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### Proposed Action:

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That the Planning Commission study the proposed ordinance and give staff any recommendations or amendments before the public hearing and recommendation so that staff may make corrections and/or amendments.

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### Legal Authority:

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- Utah Code; 10-9a-502, 503
  - Highland City Development Code (HCDC) Chapter 9, Amendments to Title and Zone Map
- 

### List of Attachments:

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- Draft ordinance
  - Planning Commission Minutes, April 22, 2008
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ARTICLE 4.15  
RESIDENTIAL INFILL OVERLAY ZONE

- 3-4151: Residential Infill Overlay Zone
- 3-4152: Definitions
- 3-4153: Permitted Uses
- 3-4154: Conditional Uses
- 3-4155: Special Provisions
- 3-4156: Lot Scale
- 3-4157: Location Requirements
- 3-4158: Building Scale
- 3-4159: Accessory Structures

3-4151: **Infill Residential Infill Overlay Zone.**

- (1) The objective in establishing the **Infill Residential Infill Overlay Zone** is to establish a low density residential infill opportunity within the City which is characterized by lots which have been designed to be consistent with surrounding neighborhoods. Property within this zone should provide for well-spaced buildings, well kept lawns, trees and other landscaping, a minimum of vehicular traffic, and quiet residential conditions favorable for family life.
- (2) Representative of the uses within the **Infill Residential Infill Overlay Zone** are single-family dwellings, schools, churches, parks, playgrounds, and other community facilities designed in harmony with the characteristics of the Zone. (see section 5-128)
- (3) Multi-family dwellings, commercial and industrial use areas are strictly prohibited in this Zone.

3-4152: **Definitions.** The following definitions shall apply within the Residential Infill Overlay Zone:

- (1) **Average Lot Size Calculation (ALSC):** Average lot size calculation is the average square footage of all lots within the ICA (see 3-4152(4)).
- (2) **Average Floor Height (AFH):** The AFH is the percentage difference between single story homes and two-story homes within the Infill Comparison Area.
- (3) **Floor Area Ratio (FAR):** The FAR is the ratio between permitted buildable square footage and the square footage of the lot.
  - (a) Square footage used for livable area in a second story home is deducted from and limited by the FAR.
  - (b) Basements are not included when calculating the FAR.
  - (c) Garages are included when calculating the FAR.
- (4) **Infill Comparison Area (ICA):** The ICA is an identified area adjacent to a property proposed for development that includes all property within 600 feet, or three recorded lots, whichever is greater.
  - (a) The ICA is identified for the purpose of calculating surrounding conditions to create consistency with adjacent properties.
- (5) **Infill Density Calculation (IDC):** The IDC is the density allowed within a proposed development calculated by dividing the square footage of the property to be developed by the ALSC (see 3-4152 (1)).
- (6) **Infill Height Calculation (IHC):** The IHC is the ratio between single story homes and two-story homes within the ICA (see 3-4152 (4)).
- (7) **Parkway Detail.** The parkway detail is a 29' foot landscaping and public access easement provided along any major collector or arterial to create a buffer between traffic impacts and adjacent property.

3-4153: **Permitted Uses.** (Amended: 2/18/97)

The following buildings, structures, and uses of land shall be permitted in the **Infill Residential Infill Overlay Zone** upon compliance with requirements set forth in this Code:

ATTACHMENT

- Proposed Ordinance by Staff
- (1) Single-family dwellings, of conventional construction as permitted by law, which include a garage of sufficient size for storage of two automobiles.
  - (2) Accessory uses such as storage buildings, private garages, carports, noncommercial greenhouses, swimming pools, and large animal shelters.
  - (3) Public utility lines and subject to Section 5-114(6) of this Code.
  - (4) Household pets (per Title 6, Animals; Highland City Municipal Code).
  - (5) Fences, walls, hedges (as defined in Article 6, Supplementary Regulations in this Code).
  - (6) Gardens, fruit trees, and field crops.
  - (7) Keeping of animals, subject to Section 3-4102(7) of this Code.
  - (8) A city parks and recreation host and temporary living facilities trailer located on park property owned or leased by the City. (Amended: 8/18/98)
  - (9) Residences for persons with a disability; provided that the building and use is consistent with Utah Code 10-9a-520 and complies with Title 57, Chapter 21, Utah Fair Housing Act, and the Federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.**
    - (a) Persons occupying a residence for persons with a disability exceeding two (2) unrelated persons shall meet all of the requirements of a person with a disability according to the definition of "disability" per State Law, Utah Code 10-9a-103; and**
    - (b) No more than four (4) unrelated persons may occupy a residence for persons with a disability not including caretakers of which the number shall be defined by state law determined by the number of persons occupying the home; and**
    - (c) Residences for persons with a disability shall not be considered multi-family dwellings; and**
    - (d) "Residential facility for persons with a disability" means a residence:**
      - (i) in which more than one person with a disability resides; and**
      - (ii) (A) is licensed or certified by the State of Utah Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or**  
**(B) is licensed or certified by the State of Utah Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.**
      - (iii) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.**
      - (iv) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.**
    - (e) Residences for persons with a disability shall be reasonably dispersed throughout Highland as follows:**
      - (i) Residences for Persons with a Disability shall not be located within one-quarter (1/4) mile from another similar use; and**
    - (f) Owners of Residences for persons with a disability shall provide to the City a copy of the following documentation prior to occupying a Residence for Persons with a Disability:**
      - (i) Verification of a State License to operate a Residence for Persons with a Disability; and**
      - (ii) Copies of any required reports and/or inspections provided by the Department of Human Services and/or the Department of Health or required by the owner/operator to these departments, whichever may apply.**
    - (g) Owners of Residential facilities for persons with a disability that are substance abuse facilities and are located within 500 feet of a school, are required to provide, in accordance with rules established by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities:**
      - (i) A security plan satisfactory to local law enforcement authorities;**
      - (ii) 24-hour supervision for residents; and**

ATTACHMENT

- (g) Owners of Residential facilities for persons with a disability shall be required to obtain permits that verify compliance with the same building, safety, and health regulations as are applicable in the same zone to similar uses that are not residential facilities for persons with a disability; and
- (h) Residential facilities for persons with a disability that would likely create a fundamental change in the character of a residential neighborhood shall be excluded from this zone.
- (i) The responsibility to license programs or entities that operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with:
  - (i) For programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services to People with Disabilities; and
  - (ii) For programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

**3-4154: Conditional Uses.** (Amended 2/18/97, 4/21/98, 11/3/98, 1/15/02, 6/17/03, 12/2/03, 3/2/04, 6/15/04)The following buildings, structures and uses of land shall be allowed in the **Infill** Residential **Infill** Overlay Zone upon compliance with the provisions of this Section as well as other requirements of this Code and upon obtaining a conditional use permit as specified in Chapter 4 of this Code:

- (1) ~~Public, private and parochial schools and grounds~~ Public schools and school grounds.
- (2) Churches, not including temporary facilities.
- (3) Libraries, museums, art galleries.
- (4) Nonprofit country clubs, subject to Section 3-4108(4) of this Code.
- (5) **Residential facilities for elderly persons subject to Utah Code, Section 10-9a-516-519 (but does not include a health care facility as defined by Section Utah Code 26-21-2), and subject to the granting of a conditional use permit. "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently. A residential facility for elderly persons shall be allowed in any zone that is regulated to permit exclusively single-family dwelling use, if the following requirements are adhered to:**
  - (a) The facility is owned by one of the residents or by an immediate family member of one of the residents or be a facility for which the title has been placed in trust for a resident; and
  - (b) Not more than eight (8) unrelated elderly persons reside at the facility; and
  - (c) The facility conforms to all applicable health, safety, land use, and building codes; and
  - (d) The facility is capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character; and
  - (e) The facility is located not closer than three-quarters (3/4) mile from any other residential facility for elderly persons or residential facility for the disabled; and
  - (f) No person being treated for alcoholism or drug abuse shall be placed in a residential facility for elderly persons; and
  - (g) The residential facility for elderly persons does not operate as a business.
    - (i) A residential facility for elderly persons may not be considered a business if the fee that is charged is for food or for actual and necessary costs of operation and maintenance of the facility; and
  - (h) The facility shall be occupied on a 24-hour-per-day basis by eight (8) or fewer unrelated elderly persons in a family-type arrangement; and
  - (i) The facility provides adequate off-street parking spaces as follows:
    - (i) One off-street parking space shall be provided for each occupant; and
  - (j) Placement in a residential facility for elderly persons shall be on a strictly voluntary

ATTACHMENT

- basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility; and
- (k) The facility is located not closer than three-quarters (3/4) mile from any other residential facility for elderly persons or residential facility for the disabled; and
- (l) The decision regarding an application for a Conditional Use Permit for a residential facility for elderly persons must be based on legitimate land use criteria and may not be based on the age of the facility's residents; and
- (n) A conditional use permit or other permit shall not apply if there are fewer than two (2) unrelated persons within the home; and
- (o) A Conditional Use Permit granted under subsections (5) is nontransferable and shall terminate if the structure is devoted to another use or if it at any time fails to comply with applicable health, safety or building codes.

- (6) Churches, public buildings and grounds, including storage yards and repair shops.
- (7) **Public parks and grounds:** Public parks and open space including appurtenances primarily associated with a public park as follows: playground equipment, pavilions, restrooms, temporary restrooms, benches, tables, outdoor athletic courts, outdoor athletic fields, outdoor sand pits, permanent barbecue pits/stands, and permanent accessory buildings associated with the maintenance of those grounds (if smaller than 1800 square feet (footprint), two (2) stories maximum), concessions (if associated with a sport park and attached to a restroom facility), and temporary facilities associated with temporary city held events.
- (8) All Conditional Uses shall landscape 35% of their site and comply with parking requirements as determined by the Planning Commission.
- (9) Model Homes consistent with Section 3-4108(13) of this Code.

**3-4155: Special Provisions.** (Amended: 6/18/02, 8/21/07)

Special provisions shall apply in the **Infill** Residential **Infill** Overlay Zone in order to protect its essential characteristics:

- (1) **The Residential Infill Overlay Zone shall only apply to property less than 10 acres in size.**
- (2) The space required around buildings and structures shall be kept free from refuse and debris.
- (3) All buildings and uses within this zone shall comply with all applicable portions of Sections 3-601 through 3-620.
- (4) Park or Planter Strips. All park strip areas, between the sidewalk and the curb, are to be covered and maintained according to the requirements defined in Chapter 3, Article 6, Section 3-621 in this Code.
- (5) At least seventy percent (70%) of the area contained within a required front yard or side yard adjacent to a street shall be landscaped within one year of occupancy.
- (6) Sufficient off street parking shall be provided and maintained for all automobiles and recreational vehicles owned or used by occupants of each dwelling.
- (7) All properties along major arterials or major collectors shall provide the parkway detail and pedestrian access easement to be maintained by Highland City.

**3-4156: Lot Density and Scale.** (Amended: 6/16/98, 6/5/01, 1/15/02) The maximum number of lots to be permitted within the Residential Infill Overlay Zone shall be determined by the Infill Density Calculation (see 3-4152(5)). Property used

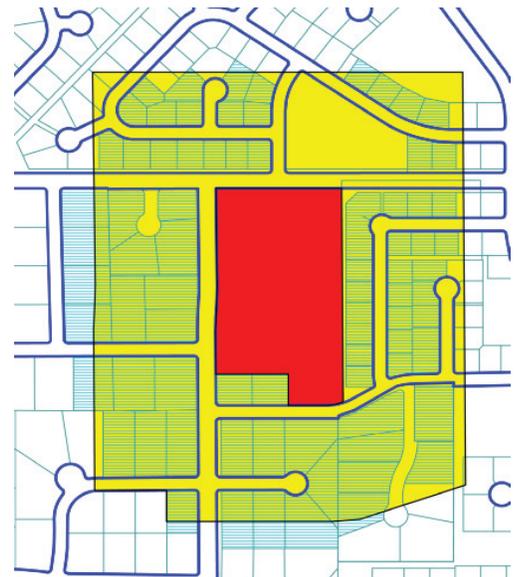


Figure 4.15.1. Example of IDC. In this diagram, The area in Yellow is known as the ICA, and the lots indicated in blue will be used to calculate the ALSC and AFH.

ATTACHMENT

for Churches and other public buildings and grounds shall not be included in the Average Lot Size Calculation when determining the number of allowable lots. In no case, shall lots within the Infill Residential Overlay Zone be smaller than 20,000 square feet. In determining the number of lots, any computation or measurement resulting in a fractional number shall be rounded down. Area and width requirements of a building lot in the Infill Residential Overlay Zone shall be as follows:

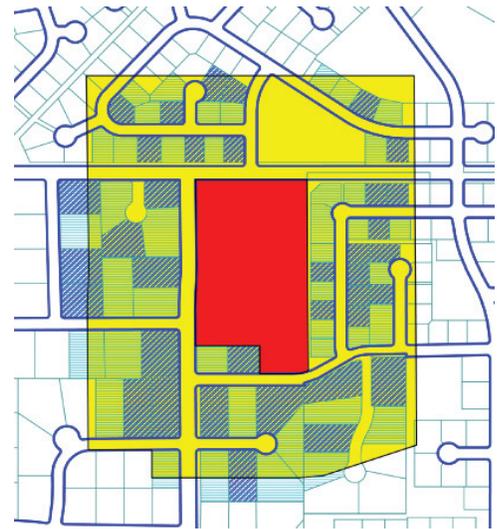
- Use:** One single-family dwelling
- Average Density:** Per Infill Density Calculation
- Minimum Lot Area:** 20,000 Square Feet
- Minimum Width at Setback Line:** 140 feet
- Minimum Width at Front Property Line:** 140 feet  
(Cul-de-sac lots, entirely located within the bulb, shall have an exception with a minimum width of 119 feet at the Setback Line required.)

**3-4157: Location Requirements.** (Amended: 9/5/00, 8/1/06) Buildings and structures on lots within the Infill Residential Overlay Zone shall be located as follows:

- (1) All dwellings and other main buildings and structures shall be set back not less than thirty (30) feet from the front lot line; and
- (2) All dwellings and other main buildings and structures shall be set back not less than fifteen (15) feet from either side lot line; and
- (3) All dwellings and other main buildings and structures shall be set back not less than thirty (30) feet from the rear lot line; and
- (4) Notwithstanding any provision of this Section to the contrary, the following additional requirements shall apply to corner lots:
  - (a) All dwellings and other main buildings shall be set back not less than thirty (30) feet from the side lot line which abuts on a street.
  - (b) The side setback required for the interior side of such lots shall be that required by paragraph (2) of this Section.
- (5) All dwellings and other main buildings and structures shall be set back not less than fifteen (15) feet from the parkway detail; and
- (6) Anything structurally attached to the home such as a foundation wall, deck requiring a building permit (covered or uncovered), or covered patio (unless cantilevered) shall be considered part of the main dwelling.

**3-4158: Building Scale.** (Amended 6/7/05, 3/7/06) The maximum height of any building in the Infill Residential Overlay Zone shall not exceed thirty-five (35) feet. In addition, the height of home shall be determined by the Infill Height Calculation. The height is measured from one location along any elevation where the "Grade of Building" (as defined in 10-102 (23)) to the highest part of the building is at its greatest vertical distance. On sloped lots where the grade difference exceeds four feet in elevation the averaged maximum "Height of Building" (as defined in 10-102(26)) in the Infill Residential Overlay Zone shall not exceed an average height of thirty-five (35) feet above grade of building as defined in Section 10-202 (23). No building shall be constructed to less than the height of 10 feet or one story above finished grade.

**(1) Infill Height Calculation.** The height of the main floor within a Residential Infill shall be limited by the IHC.

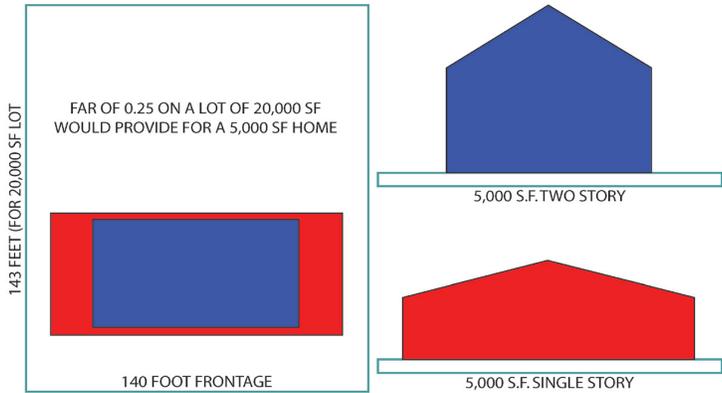


**Figure 4.15.2. Example of IHC.** In this instance, 2 story homes are indicated in dark blue resulting in an IHC of 0.4 for 2 story homes. This indicates that 40% of the proposed subdivision lots could have 2 story homes

number of single story and second story residential homes within the Infill Comparison Area. The resulting ratio, or Average Floor Height, shall be used to determine the number of single story homes and second story homes permitted the proposed development. In addition, and if the calculation permits, the following shall apply:

- (a) Single story homes shall be required on proposed lots immediately adjacent to existing single story residential dwelling units.
  - (i) Proposed Lots which border multiple properties shall be consistent with the majority of existing conditions along the respective property line.
- (b) Single story homes shall be required on lots adjacent to major arterials and major collector streets.

(2) **Size of Dwellings.** The main floor living area of any residential dwelling unit within the Infill Residential Overlay Zone shall be determined by a Floor Area Ratio (FAR) including a double car garage. The ground floor living area of any dwelling in the Infill Residential Overlay Zone shall not be less than 1,500 square feet not including a double car garage. In no case shall the garage exceed 40% of the square footage of the main floor living area of the home. Basements shall not be included when determining the FAR for each lot. The maximum FAR for any property within the Residential Infill Overlay Zone shall be 0.25 (or 25% of the lot).



*Figure 4.15.1. Example of FAR. Using this method provides square footage based upon the size of the lot which, in turn, reduces the impact to existing residential homes.*

**3-4159: Accessory Buildings.** (Amended: 9/5/00, 1/15/02, 9/17/02)

A. All accessory buildings within this zone shall conform to the standards, setbacks and conditions indicated in this Section. There are two types of accessory structures that may be constructed within the Residential Infill Overlay Zone identified as a Residential Accessory Structure and a Large Animal Accessory Structure defined as follows:

**A. Residential Accessory Structure.** A detached structure placed upon a foundation and/or footing constructed for the purpose of storage and/or parking. A Residential Accessory Structure may not be constructed for the purpose of living or living area. A Residential Accessory Structure may only be constructed if the following requirements are met:

- (1) An accessory building is any building or structure which is not attached to the main dwelling on the lot that is:
  - (a) Greater than 120 square feet, or
  - (b) Attached to a permanent foundation, concrete slab, or footing; and
- (2) An accessory building shall be set back from the rear property line a minimum of 10'; and
- (3) All accessory buildings shall be set back from the side property a minimum of 10'; and
  - (a) Accessory buildings shall have a side yard setback no less than 30' from the side lot line which abuts a street; and
- (4) All accessory buildings shall be placed no closer than six (6) feet from the main building. Said six feet shall be measured to the closest part of the structures including any roof overhang.
- (5) Accessory buildings may not cover more than 5% of the total lot area of the lot; and
- (6) Accessory buildings shall be constructed out of exterior materials consistent with the main dwelling unit; and

- (7) No accessory building shall be erected to a height greater than 1 story, or 20 feet from natural grade, whichever is less, and shall not have more square footage than the main floor of the main dwelling unit; and
- (8) Any accessory building used for a home occupation shall comply with the regulations governing a home occupation business.
- (9) All accessory structures exceeding 120 square feet in this zone shall require a building permit;

**B. Large Animal Shelter.** Large Animal Shelter is any structure for the purpose of sheltering large animals which may also be used for storing hay and farm equipment in addition to large animals. A Large Animal Shelter may not be constructed for the purpose of living or living area. AN Large Animal Structure may only be constructed if the following requirements are met:

- (1) Any detached structure requiring a foundation shall be considered an accessory structure and shall be subject to Section 3-4109 / 3-4209; and
- (2) A large animal shelter is a minimum of 50% open on one side; and
- (3) Large animal shelters do not need a building permit, but are required to meet minimum setback requirements as follows:
  - (a) A large animal shelter shall be a minimum of 100' from an adjacent residential dwelling unit; and
  - (b) 75' from the owner's residential structure; and
  - (c) 10' from a side or rear property line; and
  - (d) 30' from any street; and
  - (e) 10' from a trail easement.
- (4) A large animal shelter shall not be constructed within an easement; and
- (4) A large animal shelter shall not be taller than 20 feet from natural grade; and
- (5) A large animal shelter shall be one of the following architectural elevations or similar construction. (Added 12/7/04)

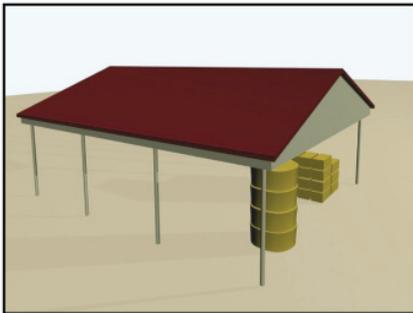


Figure 1: Pole Barn

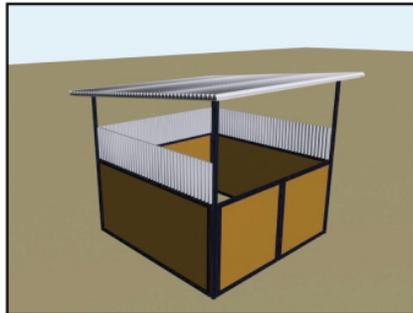


Figure 2: Powder River Type



Figure 3: Shelter, Tack Shed: Kirby Type

**C. Storage Buildings.** A storage building is an accessory building that is less than 120 square feet. A storage shed shall be required to follow the proceeding standards:

- (1) A storage building shall not be placed within an easement; and
- (2) A storage building shall not be placed within a front or side yard; and
- (3) A storage building shall not exceed 15 feet in height; and
- (4) A storage building shall not require a building permit.

ATTACHMENT

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**Item 3: Residential Infill Overlay Zone – Discussion**

Lonnie Crowell explained that Staff has drafted an ordinance to provide infill that is compatible with the surrounding properties for the remaining property in Highland. This item has been discussed in the past but is included in the agenda to allow the Planning Commission time to become familiar with the proposed ordinance for the second time. This item will return for a Public Hearing and Recommendation in January.

Jennifer Tucker asked for clarification of the property sizes affected by this ordinance. Lonnie stated that it would be for properties smaller than 10-5 acres and that the size would be specified in future drafts of the ordinance.

Melissa Wright requested clarification on size of the Parkway Detail addressed in Article 4.15, 3-4152: Definitions, #7. Lonnie Crowell SR-74 and SR-92 10400 n 11800 n , highways,

Melissa Wright noted that 3-4153: Permit Uses, #8 was changed in a previous meeting. Lonnie confirmed that it would be reformatted to the current form.

Melissa Wright asked whether the developments in this zone would have large animal rights. Lonnie Crowell stated that if the lot were large enough, the property owner would have large animal rights.

Highland City Planning Commission

- 3 -

December 9, 2008

1 Brent Wallace requested clarification of 3-4154: Conditional Uses, #5(b); would the  
2 statement exclude handicap ramps? Lonnie Crowell stated that #5(b) does not address  
3 ADA requirements and that any home can build a ramp.

4  
5 Brent Wallace expressed concern about the restrictions of 3-4154: Conditional Uses,  
6 #5(f). Lonnie Crowell explains that the text is from State Law and will be formatted to  
7 the current form.

8  
9

Highland City Planning Commission

- 4 -

December 9, 2008

ATTACHMENT

1 Jennifer Tucker stated that we would really appreciate that. It will give it all a nice  
 2 streetscape. This is uncharacteristic of other buildings with what they have seen.

3  
 4 Jennifer Tucker mentioned that their sign will need to be addressed so that it  
 5 conforms to the code.

6  
 7 Lonnie Crowell said that is acceptable.

8  
 9 Jennifer Tucker questioned the sign lighting and wondered if the sign will have pan  
 10 channel letters.

11  
 12 John Montgomery said yes.

13  
 14 Lonnie Crowell stated the concern is that only two signs are allowed.

15  
 16 **Motion by Melissa Wright, Planning Commission to continue Item 3 based on the**  
 17 **following recommendations: that the developer redesign the windows so they are**  
 18 **extended and separated both on the south and east side of the building; redesign**  
 19 **the roofline possibly to include an arch on all four sides; provide a color board and**  
 20 **color rendering that would also show the swap of the drive thru and loading; and**  
 21 **that the colors be consistent with all others.**

22  
 23 **Seconded by Don Blohm.**

24  
 25 **Unanimous vote, motion carried.**

26  
 27 **Item 4: Infill Overlay Zone ~ Discussion**

28  
 29 Lonnie Crowell stated that during the general plan update that this subject was  
 30 brought up. The city had made previous attempts to create an infill zone between  
 31 the R-1-40 and R-1-20 zones. It was asked of him yesterday that this be able to work  
 32 with existing properties. This proposed zone will take and compare the number of  
 33 stories of houses in an area and determine how frontage and square footage is based  
 34 off of whether the home is a two story or rambler. The homes will not be able to be  
 35 built to every square foot of buildable area of the lot. This presents the opportunity  
 36 to develop this land which otherwise might not be able to. There is a wider frontage  
 37 required which gives an appearance of a larger lot and also will make it more difficult  
 38 to develop behind each lot at a later date.

39  
 40 Jennifer Tucker asked why we need this if whole city has been zoned to begin with.  
 41 She stated that there are some sizeable pieces of ground left and if they were able to  
 42 be an infill zone they now get to chose R-1-20 or R-1-40. She does not understand  
 43 why we need this for the majority of what is still out there.

44  
 45 Lonnie Crowell stated that there have been requests to have something other than R-  
 46 1-40. These requests are from people who have lived here forever. The price of

1 ground, the price to develop, and/or the lack of desire to continue to farm has led to  
2 these discussions that there should be something in between.

3  
4 Jennifer Tucker stated that there already is something in between. Something needs  
5 to be given in return for this special zoning. Essentially we are taking a piece of land  
6 near an R-1-20 subdivision and letting this new area piggy back onto this zone  
7 without giving anything in exchange.

8  
9 Lonnie Crowell explained that this is intended for smaller properties and that this is  
10 just a draft and that is why it is here.

11  
12 Don Blohm asked what the argument is against it. He said he does not see the pros  
13 and cons.

14  
15 Barry Edwards said that the City Council concluded there are only so many people  
16 who want to have large lots and Highland is excluding some of those who want to  
17 live in Highland and want a smaller lot. It is not an economic thing; some just do  
18 not want large lots. City Council is saying there should be another option. Not a  
19 new zone, but an option.

20  
21 Jennifer Tucker said she thinks we are kidding ourselves because if we give a  
22 developer an option they will always pick the R-1-20 zone.

23  
24 Barry Edwards explained that the City Council went on a fieldtrip of Highland and  
25 determined what makes Highland is how far apart the houses are not how big the  
26 back yard is. What gives the city the open feel is not the smaller back yards, but  
27 larger side yards. He explained this cuts down on the depth of a lot and increases the  
28 width.

29  
30 Melissa Wright asked why people are having problems; is it because they do not fit  
31 into a regular R-1-20 zone?

32  
33 Lonnie Crowell said that part of the problem is because there are no rectangle lots  
34 anymore.

35  
36 Roger Dixon asked about the fieldtrip that was supposed to have happened last  
37 November. It was to see what the City Council saw and give us a better idea of what  
38 we are looking at.

39  
40 Barry Edwards said we can still do that. He expressed that when the City Council  
41 drove around they began to see it is not just the depth of the lot that creates the open  
42 feel.

43  
44 Jennifer Tucker stated that we learned from the survey that we have a lot of homes  
45 that are on smaller lots; whether they were pre-Highland or because they were our  
46 buffering areas or whatever the reason is, but why not just rezone them all?

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Lonnie Crowell said he has a map that will show 70% of Highland is less than one acre lots.

Jennifer Tucker said she is not opposed to this, but we talk about diversity in lot size and it seems we need larger lots, not smaller ones.

Barry Edwards stated that we have to be careful to not take this discussion out of current economic conditions. Right now you cannot sell an acre lot. We need to excise this out of current economic conditions.

Jennifer Tucker expressed that none of the lots are moving though despite the size.

Barry Edwards explained that this is something that the Planning Commission needs to debate. It may be that you recommend to the City Council that you do not like this, but it is something you need to decide/debate. We can do a tour if that will help.

Lonnie Crowell explained that the way it is written right now is that the average is taken within an area; they have to meet the frontage and match what is around it.

Jennifer Tucker said that we have not defined what infill is yet.

Don Blohm stated that we like this idea and asked if we just want to get some parameters concerning the details of the infill overlay.

Barry Edwards stated that a tour would be a good way. There is nothing that says you have to recommend this to the City Council.

Melissa Wright asked if this would blanket Highland City.

Barry Edwards explained that the way Lonnie Crowell has is that they would have to come in and apply for this infill zone. The ordinance has to have some controls about property size. As an example he stated that five acres might be too small, but ten acres too big.

Discussion ensued

Barry Edwards explained this infill zone is not ruled by density, but by frontage.

Lonnie Crowell stated it will have a density based on surrounding neighbors.

Jennifer Tucker asked if there are any concerns, especially any concerns of how it is calculated. She thought it was fine.

1 Roger Dixon stated that the tone of it is good; limiting the acreage to ten or less  
2 makes a lot of sense and that may be the only thing we need to add to it.

3  
4 Lonnie Crowell said he is hearing a limit somewhere between eight to ten acres.

5  
6 Melissa Wright asked if they want a tour then to determine what is best.

7  
8 Jennifer Tucker stated she thinks so in order for everyone to know what is going on  
9 and as far as everything else goes no one else seems to have concerns other than  
10 limiting the size.

11  
12 Roger Dixon asked if we can figure out a tour time now.

13  
14 Lonnie Crowell said that we will have to come back to you with more information  
15 on that.

16  
17

18 **Item 5: Basement Apartments ~ Information**

19  
20

21 Melissa Wright asked if we are calling it an accessory dwelling unit or a basement  
22 apartment.

23  
24

25 Barry Edwards stated that that is significant and that is what we have to determine.  
26 Staff is saying it is an apartment within the main dwelling. We should not allow  
27 detached dwellings with an apartment over them. He said we are talking about a  
28 basement apartment that is within the home.

29  
30

31 Jennifer Tucker asked if staff wants their further comments or if they would like the  
32 Planning Commission discuss them.

33  
34

35 Lonnie Crowell said that if the Planning Commission has comments to give that  
36 would be great.

37  
38

39 Abe Day brought up a point that some people may be able to afford housekeepers  
40 and they may not want them to stay in the house with the family, but in separate  
41 quarters; such as an apartment. Or some people may want a studio or office that is  
42 separate from the home. He asked if this is different.

43  
44

45 Barry Edwards stated that staff has looked at what creates a conflict and has found it  
46 is secondary uses that create the conflicts in the neighborhoods. Staff made a list of  
what is the problem and why do we not want it. From staff's standpoint we are not  
willing to allow anything that is an outside structure.

47  
48

49 Don Blohm stated that some of these ordinances from other cities seem pretty well  
50 written and feels we can use some of them.

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## **Item 6: Planning Commission Recommendation for a Sport Court Ordinance ~ Discussion Only**

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### **Summary Statement:**

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The City Council has requested that the Planning Commission recommend a sport court ordinance. The Council has requested that the Planning Commission determine what should be permitted and required for this use.

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### **Sponsor:**

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Highland City

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### **Staff Presentation:**

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Carly LeDuc, Planner to present

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### **Background:**

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The City Council has requested that the Planning Commission recommend a sport court ordinance. The Council has requested that the Planning Commission determine what should be permitted and required for this use. Staff has provided a worksheet (attached) and requesting that the Planning Commission write down all of the requirements, conditions, allowances, etc. that the Commissioners would consider in a sport court ordinance. Staff would like to receive this information from the Planning Commission at the Planning Commission meeting (January 13, 2009). Following the presentation of the information obtained from the Planning Commission, staff will draft an ordinance based upon those recommendations.

A resident is currently able to construct a sports court without a fence anywhere on their lot. The concern is over locating a fence that is typically ten feet (10') tall or taller within ten feet (10') of a property line (and within the public utility easement) so that the fence will help keep a basketball, tennis ball, etc. within the court area.

Currently staff also provides opportunities for sports court fencing to be taller than six (6) feet by considering the sport court as an accessory structure. This allows the "accessory structure" (sport court and fencing) to be up to twenty-five feet (25') tall with an area of up to 5% of the lot or the square footage of the living area of the main dwelling whichever is less (as written in the Development Code). This interpretation also required the sport court to be located a minimum of ten feet (10') from the property line and outside of a recorded utility easement. The required setback is the issue of concern for those who have constructed their sport courts within the ten foot (10') easement area and constructed a fence over six (6) feet in height without first obtaining a fence permit.

The fence permit process would have resolved the construction issue of the illegal fence however it does not resolve the issue of setbacks, sport court fencing, or lighting associated with a sports court. **It is important to understand that allowing a fence of extreme height closer than ten feet (10') from a rear or side property line would also require changes to the fence ordinance creating significant changes for properties along open space or trail corridors.**

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### **Proposed Action:**

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The Commission will be provided with a questionnaire to be submitted to staff.

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### **Legal Authority:**

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- Utah Code; 10-9a-502, 503

