Highland City Planning Commission Agenda

Date: Tuesday, January 27, 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 January 27, 2009

Item 2: Residential Infill Overly Zone ~ Public Hearing and Recommendation

Item 3: Planning Commission Recommendation for an Activity Court Ordinance ~ Public Hearing and Recommendation

Item 4: Temporary Signs ~ Discussion

This Agenda and a Full Agenda are available on the City Web Site at 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.

Remember...

A Brief History of Zoning

Prior to the beginning of the 20th century, most land use regulations relied upon the common law theory of nuisance, which prohibited unreasonable uses of land that impacted the public's health and safety. Beyond these modest limitations, a landowner could improve and use land without official interference. However, the mere prohibition of nuisances was not sufficient to cure the blight and decay found in 19th century urban areas and to address uncontrolled development.

The "City Beautiful" movement of the late 19th century provided momentum for reform. Influenced by the 1893 Chicago World's Fair, planners began looking at the physical layout of parks, streets, civic centers and transportation with an emphasis on aesthetic consideration. After Works War I, planning moved from the "window dressing" of the "City Beautiful" movement to a "City Practical" movement with a focus on the engineering, legal, social and administrative aspects of community problems. In 1916, New York City adopted the nation's first comprehensive zoning ordinance, as part of its planning for transportation improvements as part of the "City Practical" movement.

The Federal Government actively sponsored planning at the municipal level and in the 1920's the Department of Commerce published the Standard State Zoning Enabling Act. Utah followed with the Land Use Development and Management Act placed within the Utah Code and Constitution. The standard State Zoning Enabling Act was the pattern followed by most states where the state legislatures vested local governments with the power to adopt and enforce zoning ordinances to further the comprehensive plan for development of the community. Some states like Oregon, Vermont, Maine and Hawaii have retained significant zoning powers. However, most states, including Utah, vest the power to zone in local governments.

All zoning derives from governments" inherent police powers to promote the health, safety, morals or the general welfare of the community. Based upon this, zoning allows the legislative body to regulate structures and their location and to regulate uses. It allows the municipality to be divided into districts with regulations to be uniform within such district so that all owners of the same "class" will be treated alike. The Enabling Act and Utah Code also provided for a Board of Adjustment, now Appeal Authority, to make special exceptions to the zoning ordinance in harmony with the zoning's general purpose and intent. This "safety valve" was seen as critical to due process.

As mentioned above, zoning had its beginnings in common law nuisance and government's inherent police powers to protect the health, safety and welfare of its citizens. Since 1916, zoning has expanded beyond the common law of nuisance with its narrow focus on removing obnoxious impacts, over crowded tenements and unsightly uses. Zoning quickly moved to be the mechanism for curing all urban problems. The first case challenging this expansive role of zoning in regulating private property reached the United States Supreme Court in 1926 in Euclid v. Ambler Realty Company. Ambler Realty Company owned land in the Village of Euclid that was zoned residential when Euclid adopted its first comprehensive zoning. Ambler sued, saying the land would be worth four times as much if it was zoned industrial and thus zoning constituted an unconstitutional taking of its property rights. The United States Supreme Court upheld the zoning as it was based on the Village's inherent police power. While the Court found that the exact line between the legitimate and illegitimate use of the police power cannot be clearly delineated as it varies with the facts and circumstances, the Court nonetheless held that zoning can be based on more than the narrow prevention of common law nuisance. The Court held that before a zoning ordinance can be declared unconstitutional, the provisions must be clearly arbitrary and unreasonable, having no substantial relationship to the public health, safety, morals or general welfare.

Euclid settled the constitutionality of comprehensive zoning. Now challenges relate to specific zoning regulations and the application of such regulations to specific zoning regulations and the application of such regulations to specific parcels of land – Regulatory Taking.

-- City of Denver, Zoning Task Force
(Staff replaced Colorado Law with Utah Law)

Item 2: Residential Infill Overly Zone ~ Public Hearing and Recommendation

Motion:

That the Planning Commission recommend the City Council Adopt an Ordinance for the Addition of Section 4.15 Residential Infill Overlay Zone within the Highland City Development Code per the recommendations of the Planning Commission and 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 to present

Recommendation:

That the Planning Commission recommend this ordinance to the City Council

Findings:

The Planning Commission may use findings to recommend or not recommend this ordinance

Background:

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. On January 13, 2009 the Planning Commission discussed this item. On January 13, 2009 the Planning Commission made additional comments regarding the proposed ordinance text (see minutes). These changes have been made to the ordinance and staff is requesting any additional comments.

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). In addition, Staff has communicated with the City Attorney regarding “residences for the disabled” and Conditional Use Permits for “group homes for elderly”. The City Attorney has indicated that the proposed ordinance is consistent the law and is as restrictive as possible for Highland City. State Law does allow eight (8) persons within a “group home for the elderly” however “residences for the disabled” are not limited in number. Instead, “residences for the disabled” are limited by the number of persons that would typically

be allowed within any residentially zoned property. In addition an argument could be made that elderly persons are typically disabled when they decide to take advantage of, or are placed within, a group home for this purpose. This argument would indicate that "group homes for the disabled" should be given the accommodation for eight (8) persons with the understanding also that there are families within the City larger than that. Staff has left the number of persons for "residences for persons with a disability" to four (4) with the interpretation to be defined by the Planning Commission and City Council. It is important to note that any person applying to provide a residence for the disabled has the right to request a reasonable accommodation for the provisions of the ordinance in any form under the State Fair Housing statutes.

Legal Authority:

- Text 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:

- Please refer to Planning Commission Minutes, January 13, 2009 (attached separately)
- Draft ordinance
- Planning Commission Minutes, April 22, 2008

Proposed Ordinance by Staff

ARTICLE 4.15
RESIDENTIAL INFILL OVERLAY ZONE

3-4151: ~~Residential Infill Overlay Zone~~ Purpose
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: Purpose ~~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) 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 three-quarter (3/4) mile from another similar use which may include residential facilities for elderly persons; 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 Heath 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
(iii) Other 24-hour security measures; and

ATTACHMENT

Proposed Ordinance by Staff

(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

ATTACHMENT

Proposed Ordinance by Staff

(j) Placement in a residential facility for elderly persons shall be on a strictly voluntary 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.

(a) Effective from the date of Adoption for this overlay, a property owner shall not divide their property or any portion thereof for the purpose of applying for this subdivision option.

(i) The City Recorder shall have on record a map from parcel data obtained from the Utah County Recorder indicating the parcel and lot sizes from the date this ordinance is adopted.

(2) An owner/developer proposing a subdivision development under the provisions of this overlay ordinance shall not record an approved subdivision plat in phases but shall be required to record the subdivision development in its entirety as approved by City Council at Final Approval.

(3) The space required around buildings and structures shall be kept free from refuse and debris.

(4) All buildings and uses within this zone shall comply with all applicable portions of Sections 3-601 through 3-620.

(5) 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.

(6) 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.

(7) Sufficient off street parking shall be provided and maintained for all automobiles and recreational vehicles owned or used by occupants of each dwelling.

(8) All properties along major arterials or major collectors shall provide the parkway detail and pedestrian access easement to be maintained by Highland City.

ATTACHMENT

Proposed Ordinance by Staff

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 ~~Infill~~ Residential **Infill** Overlay Zone shall be determined by the Infill Density Calculation (see 3-4152(5) or Figure 4.15.1. Property used 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 **Infill** 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 **Infill** 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.)*

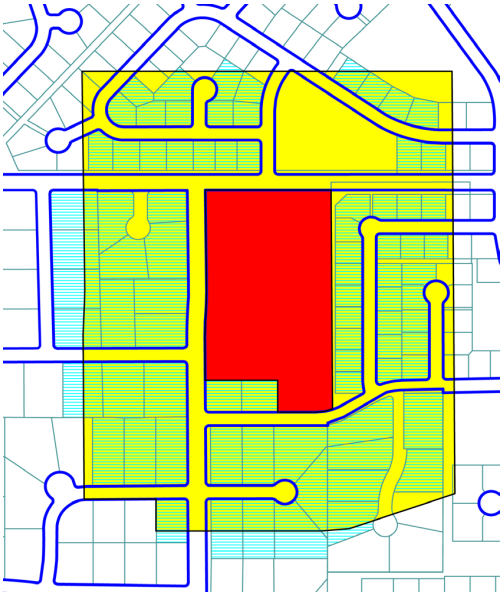

Figure 4.15.1. Example of IDC. In this diagram, The area in Yellow is known as the ICA, and the lots indicated in blue will be used to calculate the ALSC and AFH.

3-4157: Location Requirements. (Amended: 9/5/00, 8/1/06) Buildings and structures on lots within the ~~Infill~~ Residential **Infill** 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 **Infill** 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 **Infill** 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.

ATTACHMENT

Proposed Ordinance by Staff

(1) Infill Height Calculation. The height of the main floor within a Residential Infill **Overlay** shall be limited by the IHC. This formula is a ratio calculated by determining the 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.

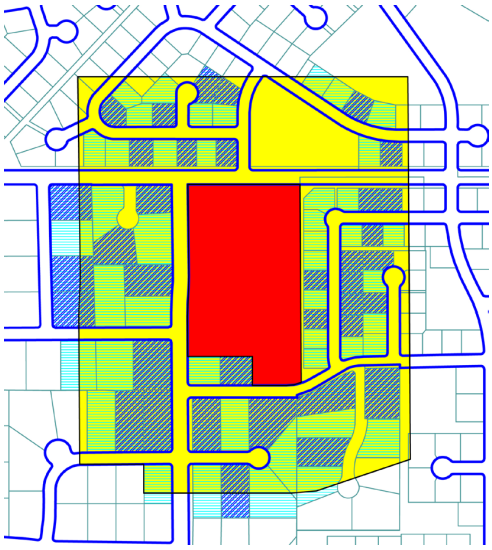

Figure 4.15.2. Example of IHC. In this instance, 2 story homes are indicated in dark blue resulting in an IHC of 0.4 for 2 story homes. This indicates that 40% of the proposed subdivision lots could have 2 story homes.

(2) Size of Dwellings. The main floor living area of any residential dwelling unit within the ~~Infill~~ Residential **Infill** 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 **Infill** 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).

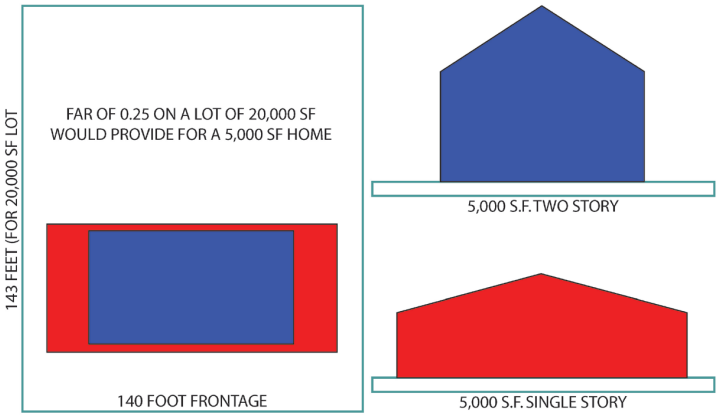

Figure 4.15.1. Example of FAR. Using this method provides square footage based upon the size of the lot which, in turn, reduces the impact to existing residential homes.

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

ATTACHMENT

Proposed Ordinance by Staff

(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. A~~N~~ 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
(5) A large animal shelter shall not be taller than 20 feet from natural grade; and
(6) A large animal shelter shall be one of the following architectural elevations or similar construction. (Added 12/7/04)

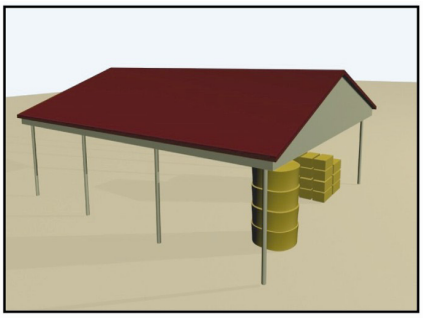
Figure 1: Pole Barn

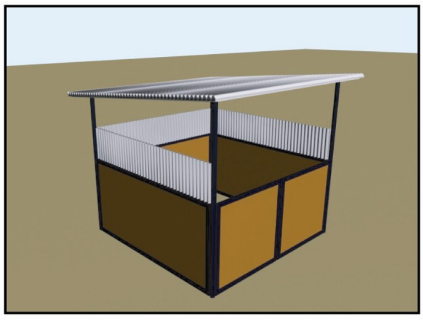
Figure 2: Powder River Type

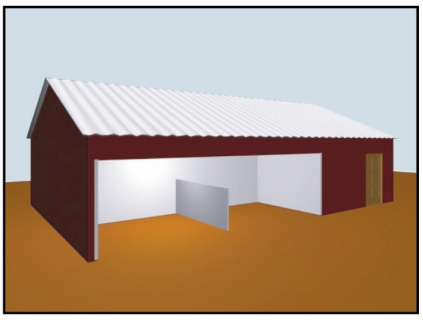
Figure 3: Shelter, Tack Shed: Kirby Type

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

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.

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

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

DRAFT

ATTACHMENT

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

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

Lonnie Crowell said that is acceptable.

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

John Montgomery said yes.

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

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

Seconded by Don Blohm.

Unanimous vote, motion carried.

Item 4: Infill Overlay Zone ~ Discussion

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

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

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

ATTACHMENT

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

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

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

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

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

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

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

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

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

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

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

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

ATTACHMENT

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.

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

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

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

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

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

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

Item 5: Basement Apartments ~ Information

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

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

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

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

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

Barry Edwards stated that staff has looked at what creates a conflict and has found it 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.

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

Item 3: Planning Commission Recommendation for an Activity Court Ordinance ~ Discussion Only

Summary Statement:

The City Council has requested that the Planning Commission recommend an Activity Court ordinance. The Council has requested that the Planning Commission determine what should be permitted and required for this use.

Sponsor:

Highland City

Staff Presentation:

Carly LeDuc, Planner to present

Background:

The City Council has requested that the Planning Commission recommend an activity court ordinance. The Council has requested that the Planning Commission determine what should be permitted and required for this use. Staff provided a worksheet at the meeting prior (January 13, 2009) and requested that the Planning Commission write down all of the requirements, conditions, allowances, etc. that the Commissioners would consider in an activity court ordinance. The worksheets were collected at the Jan. 13th meeting and an ordinance was drafted based on the Commissioner's recommendations.

A resident is currently able to construct an activity 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 activity court fencing to be taller than six (6) feet by considering the sport court as an accessory structure. This allows the "accessory structure" (activity 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 activity 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, activity court fencing, or lighting associated with an activity 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.**

An ordinance has been drafted according to the Planning Commission's comments. Staff recommends that lighting for activity courts does not exceed the height requirement for our commercial zone of 15'. The proposed ordinance does state 19' which was encouraged by the Planning Commission. Also, it was requested that lighting be turned off by 11 pm. Our current nuisance ordinance allows lighting to operate from 7 am - 10 pm. Staff would suggest that we stay consistent with our current nuisance ordinance. Staff may suggest that the property owners wanting to construct an activity court be required to acquire signatures from surrounding property owners when lighting is involved; although, we do not currently have any lighting regulations for lights that are attached to homes or garages.

Proposed Action:

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

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:

- Current Ordinances pertaining to Activity Courts
- Activity Court Questionnaire Summary
- Proposed Activity Court Ordinance
- Pictures of existing Activity Courts in Highland

THIS IS AN ITEM FROM CITY COUNCIL'S GOALS FOR 2009:

Current Ordinances

8.16.100 Nuisance of noise and light.

This section is separated from the definitions and abatement proceedings of the other nuisances defined in this chapter because the procedure for abatement does not logically coincide with that of the other defined nuisances.

A. Noise. It is unlawful for any person or group as designated in this chapter to create or permit any noise (regardless of its origin or definition) that is so loud as to be objectionable and bothersome between the hours of ten p.m. and seven a.m. For the purpose of this chapter, the definition of noise shall also include music, band and/or singing practice.

B. Lighting. For the purpose of this chapter, lighting shall be defined to be the artificial illumination of school athletic fields and commercial parking lots, but shall not include residential or municipal street lights. It is unlawful for any person, organization, association, or group to create or permit any outdoor, artificially created light to reflect on any adjacent residential property located within one thousand feet of the source of light, between the hours of ten p.m and seven a.m.

C. Abatement. Abatement of nuisances created by noise or light shall be enforced by local law enforcement, or other means as may be at the city's option at the time of occurrence of the nuisance.

D. Permit. In order to accommodate special occasions, celebrations, competitions, performances, etc., exceptions to these conditions may be granted by special permit issued by the city council. (Ord. 1995-6 § 1 (part))

3-4109: Accessory Buildings (Amended: 9/5/00, 1/15/02, 9/17/02)

All accessory buildings within this zone shall conform to the following standards, setbacks and conditions:

(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) that is attached to a permanent foundation as defined by the building code.

(2) An accessory building shall be set back from the rear property line a minimum of 10'.

(3) All accessory buildings shall be set back from the side property a minimum of 10'.

(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.

(6) Accessory buildings shall be constructed out of exterior materials compatible and consistent with the neighborhood.

(7) No accessory building shall be erected to a height greater than 1 story, or 25 feet from natural grade, whichever is less, and shall not have more square footage than the main floor of the main dwelling unit.

(8) Any accessory building used for a home occupation shall comply with the regulations governing a home occupation business.

(9) All accessory buildings shall have a side yard setback no less than 30' from the side lot line which abuts a street.

Questionnaire Summary

Sport/Activity Court Questionnaire Summary – Commissioners Comments (1/21/09)

1. Question: What would you consider appropriate in regards to Sport Court regulations?

- Fence requirements, Lighting Requirement, Setbacks
- Anything within reason that does not infringe on neighbors or becomes a public nuisance.
  -fence: 10'
  -lighting: 19' facing into the owners property metal halide
  -size: 7%
  -location: meets same requirements as shed
- Fence 10' – most common and very adequate
  Lighting:
  -pole not to exceed 19 ft
  -light directed away from neighbors, use of hoods and visors to control light pollution
  - think about sport court having its own source of lighting, not light fixtures attached to houses or garage and pointing toward court
  -lighting to be turned off by 11:00pm
- Fence height- should be relative to the size of the property
  -minimal visual impact on neighboring properties
  Lighting should not interfere with neighboring properties, keep others in mind
  Noise is a factor and property size is relevant
- Allowing sport courts should be given to those who are willing to put one in. I don't think we need to count the sport fences as part as the structure which are already in the regulations. Sport courts should enhance property value. I don't think 5% is necessary.
- I think a fence that extends just beyond a basketball standard would be adequate. I also think that lighting is an issue because it is generally taller than the fence. I think a sport court should be proportionate to the space that you have. If you have a big lot, you can have a big court. (I think the draft we have states this already)

2. Question: What concerns do you have?

- I don't like the idea of sport court fences along open spaces or trails. I also think they need to not encroach into setbacks or easements. I worry that on a smaller lot that light from a sports court would potentially shine into a neighbor's bedroom. I also think that a sports court fence up against open space or a trail is not a great idea. I think that any ordinance needs to be cautious about the effect these structures have on neighbors.
- Being well maintained and others property values
- That we over regulate. Could we say sports courts (other than basketball stands in driveway) could only be placed on homes on one acre lots with adequate controls for fences, lights, and noise?
- Size limitations- what if someone wants a tennis court?
- Light pollution and noise. The fence around a sports court should be considered part of a structure not a fence. There should be a separate "sport court" ordinance.
- Neighbor complaints about lights and noise

Proposed Ordinance

3-4112: Activity Court. An activity court is a permanent structure that is constructed for the use of a playing surface for recreational purposes. A court consisting strictly of a solid surface installed by a typical homeowner and does not include fencing or lighting exceeding six feet (6') in height is not considered under this ordinance. Activity courts that are constructed for different types of sporting activities that have any type of structure exceeding six feet (6') in height including fencing and lighting shall be subject to the following requirements:

(1) All activity courts shall be subject to all setback requirements for accessory structures as defined in Section 3-4109 of this Code; and

(2) Any structural portion of an activity court shall not be permitted within an easement of any kind; and

(3) Activity courts that are enclosed or covered within a permanent structure and are detached from the main dwelling unit shall be considered an accessory structure and shall be subject to Sections 3-4104 and 3-4109 of this Code:

(a) For the purposes of this section only, a "permanent structure" shall be considered any structure or landscaping/lighting object exceeding one-hundred twenty (120) square feet in size or exceeding fourteen (14) feet in height constructed for the purpose of enhancing the activity court facility.

(4) An activity court may cover a maximum of five percent (5%) of the total lot area within a rear yard not located within an easement unless the construction of that activity court would require the need to vary from existing ordinances. Minimum setback requirements from property lines are as follows:

(a)	Front Yard:	Thirty feet (30') Minimum
(b)	Rear Yard:	Ten feet (10') Minimum
(c)	Side Yard:	Ten feet (10') Minimum
(d)	Side Yard Adjacent to Street:	Ten feet (10') Minimum
(e)	Trail or Landscape Easement:	Ten feet (10') Minimum (measured from the nearest easement line)

(5) All activity courts enclosed with fencing shall be required to obtain a fence permit prior to construction. An activity court is the only use that allows fencing enclosures above six feet (6') in height. Fencing above six feet (6') in height shall not exceed the fencing enclosure maximum height of twelve feet (12'). Fencing enclosures shall not be considered as part of standard property line fencing.

(6) All activity court lighting must be directed downward to avoid light spill on adjacent property. The amount of lighting and type of lighting will be evaluated on how adequately it meets its intended purpose. Light intensities shall be controlled so desired lighting is provided while neighboring areas are protected from glare or excessive direct light. Design and location shall be specified with the plans submitted for a building permit. Light poles in regards to activity courts shall not be in excess of nineteen feet (19') in height. Light operating hours shall be restricted to 7:00 am - 11:00 pm.

(7) Activity courts that meet the criteria of this ordinance shall require a building permit.

Pictures

Pictures

Pictures

Pictures

Item 3: Temporary Signs Code Amendment ~ Discussion

Summary Statement:

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.

Sponsor:

Highland City

Staff Presentation:

Lonnie Crowell, Community Development Director to present

Background:

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. On January 13, 2009 the City Attorney did appear before the Planning Commission and answered several questions regarding temporary signs. During this meeting the Planning Commission discussed whether temporary signs should be allowed at all and Staff requested an opportunity to draft an additional amendment to the proposed ordinance that may resolve some of the concerns with these types of signs. Staff has drafted additional language (see attached) indicated by blue for additions and red for deletions. The changes to the original ordinance that were indicated on the proposed draft for the January 13, 2009 meeting were edited by staff to create a clean version of the proposed ordinance for the Planning Commission to review. The new and attached version does show edits according to the Planning Commission comments and recommendations resulting from the meeting on January 13, 2009. The information following was provided to the Planning Commission for all of the previous meetings prior to January 13, 2009.

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 is 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 then 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 <u>any</u> 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.

Proposed Action:

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

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:

- Please refer to Planning Commission Minutes, January 13, 2009 (attached separately)
- Development Code Ordinances to discuss with optional text to consider
  - **RED** text is proposed for **DELETION**
  - **BLUE** text is proposed to be **ADDED**

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 an opportunity to temporarily advertise within Highland. 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. It shall be the responsibility of the applicant to first obtain a permit for a temporary sign prior to installing such a sign and to remove the same sign after expiration of the term of the permit.**

(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.

(4) 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.

(5) Temporary signs shall not be constructed within any road right-of-way **(which includes the road, curb-and-gutter, parkstrip, sidewalk, and one (1) foot behind the sidewalk; If there a parkway detail is present the right-of-way shall include the road, curb-and-gutter and everything within twenty-nine (29) from the top back of the curb)**, shall not obstruct the view of vehicular traffic or pedestrians **(shall be placed outside of traffic safety sight triangle at the corner of each intersection if the sign exceeds three feet in height)**, shall not be placed on any traffic regulating sign and shall not be lighted.

(6) Temporary signs shall only be placed upon property by the property owner.

(7) Off-site or directional signs are not permitted on any property other than where the business or activity is occurring.

(7) Owners of property located within a Residential Zone shall only have one (1) temporary sign on their property at any given time.

B. The only **Commercial** Temporary signs that may be applied for are **used exclusively for defined as follows**:

(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) The owner of a business within commercially zoned property may obtain a permit for a Temporary Grand Opening sign for a specific period of time not to exceed 60 days. Temporary Grand Opening signs shall only be available one time for a new business or change in ownership.

Time, Place and Manner

RED text is a proposed DELETION; BLUE text is proposed to be ADDED

ATTACHMENT

(b) A Temporary Grand Opening Sign shall only be placed upon the property owned or leased by the applicant where the business is located.

(c) 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 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**: 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) 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) 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)** **fifteen (15)** feet from the main entry of the business if that location is consistent with Section 3-711A(6) of this Ordinance.

(c) 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.

C. The only Residential Temporary signs that may be installed are defined as follows:

(1) **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) 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) Temporary Agricultural Signs shall only be placed upon the property owned by the applicant where the product is legally grown, raised or cultivated.

(c) 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.

Time, Place and Manner

RED text is a proposed **DELETION**; **BLUE** text is proposed to be **ADDED**

ATTACHMENT

(1) **One temporary "A-frame" sign** not to exceed 32" x 48" may be permitted on property of which 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.

(2) **Temporary Yard Signs**. An owner of residentially zoned private property may install a Temporary Yard Sign while selling their personal private property.

(a) 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) 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) 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.

(3) Private Directional Signs. An owner of property on a corner lot within residentially zoned property may install a Temporary Private Directional Sign on their private property to safely direct traffic on their street.

(a) Only the following sign types are permitted as Private Directional Signs:

(i) Private Directional Signs shall not exceed five (5) square feet in area and shall stand no higher than four (4) feet from the ground, shall not be lighted, shall not be placed in any road right-of-way or on public property of any kind, shall not obstruct the view of vehicular traffic or pedestrians, or shall not be placed on any traffic sign or utility pole.

(ii) Persons installing a Private Directional Sign shall be required to first obtain a Temporary Sign Permit and pay a Temporary Sign Permit fee prior to installation.

(A) A temporary sign permit for a Private Directional Sign shall be signed by the property owner of the property where the sign will be located.

(B) Persons applying a permit for a Private Directional Sign shall include with the permit a detailed map showing the exact proposed location of the Private Directional Sign.

(C) A Private Directional Sign permit shall expire after a period of six (6) days.

(5) **Political Signs.**

(a) Temporary Political Signs may be installed **during an election**.

(b) Temporary Political Signs may be installed in the city of Highland on private property only unless otherwise approved by the City Council.

(c) 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.

Time, Place and Manner

RED text is a proposed DELETION; BLUE text is proposed to be ADDED

ATTACHMENT

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.

(7) Monument signs may be installed within public parks by Highland City.

Time, Place and Manner

RED text is a proposed **DELETION**; BLUE text is proposed to be **ADDED**

ATTACHMENT