



HIGHLAND CITY

HIGHLAND CITY COUNCIL MINUTES

Tuesday, December 3, 2019

Amended December 2, 2019

(*reordered agenda items and updated staff report for Item 3b and 8)

Approved January 21, 2020

Highland City Council Chambers, 5400 West Civic Center Drive, Highland Utah 84003

PRESIDING: Mayor Rod Mann

COUNCIL MEMBERS

PRESENT: Brian Braithwaite, Ed Dennis, Tim Irwin, Kurt Ostler, Scott L. Smith

CITY STAFF PRESENT: City Administrator / Community Development Director Nathan Crane, Assistant City Administrator Erin Wells, Finance Director Gary LeCheminant, City Engineer Todd Trane, Planner & GIS Analyst Tara Tannahill, City Attorney Eric Johnson and Rob Patterson, and City Recorder Cindy Quick

OTHERS: List out those who signed the sign in sheet

6:30 PM REGULAR SESSION *(CITY COUNCIL CHAMBERS)*

Call to Order – Mayor Rod Mann

Invocation – Fire Chief Reed Thompson

Pledge of Allegiance – Wade Hadlock

The meeting was called to order by Mayor Rod Mann as a regular session at **6:32 pm**. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Fire Chief Reed Thompson and those assembled were led in the Pledge of Allegiance by Wade Hadlock.

1. UNSCHEDULED PUBLIC APPEARANCES

Wayne Tanaka, representing Friends of the Highland City Library, offered thanks to Council Member Ed Dennis for being the liaison between the City and the library. He was presented with a t-shirt from the Summer Reading Program, which was a tremendous success this year. Mr. Tanaka also thanked the Council for their support.

2. PRESENTATIONS *(5 minutes)*

a. CITY COUNCIL RECOGNITION – Mayor Rod Mann

Mayor Mann took a moment to recognize those Council Members whose terms were ending this year. He thanked Ed Dennis for his four years of service on the City Council; Tim Irwin for two years of service on the Planning Commission and eight years on the City Council; and Brian Braithwaite for seven years on the Planning Commission and twelve years on the City Council.

3. CONSENT ITEMS (5 minutes)

Items on the consent agenda are of a routine nature or have been previously studied by the City Council. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

- a. **ACTION: Approval of Meeting Minutes** *Administrative*
Special City Council Meetings - October 29, and November 19, 2019
Regular City Council Meeting November 12, 2019
- b. **ACTION: A Request to Enter into an Agreement with Utah County and Lehi City for the Design and Construction of 6800 West Road** *Administrative (see updated report)*
City Council will consider a request to enter into agreements with Utah County and Lehi City and authorize the expenditure of \$55,330.68 for the design and construction of 6800 West Road from 9600 North south to the Lehi City boundary. The Council will take appropriate action.
- c. **ACTION: Approval of a Bid for the Fencing of the Salt Storage Facility** *Administrative*
City Council will consider a request to approve a bid with Northwest Fence & Supply to proceed with the installation of fencing for the Salt Storage Facility, and authorize the City Administrator to execute the necessary contract documents for the project. The City Council will take appropriate action.
- d. **ACTION: Approval of a Bid for the Purchase of a Ford F-150** *Administrative*
City Council will consider approving the purchase of a pickup truck for \$33,727 and authorize the City Administrator to execute the necessary contract documents for the purchase. The City Council will take appropriate action.
- e. **ACTION: Approval of a Proposal for the Spring Creek Park Construction Plans** *Administrative*
City Council will consider a request to approve the proposal from G. Brown Design, Inc. for the preparation of the civil and construction plans and construction management for Spring Creek Park for the amount of \$22,115 and authorize the Mayor or City Administrator and City Recorder to execute the necessary contract documents for the project. The City Council will take appropriate action.
- f. **ACTION: Preliminary Plat Approval for Ridgeview Plat A** *Administrative*
City Council will consider a request by Spencer Moffat representing the Boyer Ridgeview Residential LLC for preliminary plat approval for a 265-lot subdivision located at approximately 9900 North and North County Blvd. The City Council will take appropriate action.

Council Member Kurt Ostler requested that Item 3b be pulled from the consent agenda for further discussion.

Council Member Scott L. Smith reported a conflict of interest with Item 3f, as he served on the USDC board. He didn't intend to pull the item, but he wanted to make his conflict known.

*Council Member Tim Irwin MOVED to APPROVE consent items a, c, d, e, and f as listed on the agenda.
Council Member Ed Dennis SECONDED the motion.*

The vote was recorded as follows:

<i>Council Member Brian Braithwaite</i>	<i>Yes</i>
<i>Council Member Ed Dennis</i>	<i>Yes</i>
<i>Council Member Tim Irwin</i>	<i>Yes</i>

Council Member Kurt Ostler *Yes*

Council Member Scott L. Smith *Yes*

The motion passed.

Further discussion on Item 3b A Request to Enter into an Agreement with Utah County and Lehi City for the Design and Construction of 6800 West Road

Council Member Kurt Ostler asked for some clarification on the project, and whether property would be taken to accommodate the widening. City Engineer Todd Trane explained that the City would be providing \$55,000 in matching funds for the project. The project had yet to be designed, so he wasn't exactly sure how the widening would impact the surrounding properties. He had spoken to the property owners along the roadway, and they were aware of the project and potential impact.

Council Member Scott L. Smith asked if the cross section of this roadway would be similar to those in Lehi and American Fork. City Engineer Todd Trane confirmed that the improved road would be similar to 1200 North in American Fork and 900 North in Lehi. The majority of the work would be done north of 9600 North.

Council Member Kurt Ostler MOVED to APPROVE consent items b as listed on the agenda.

Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

Council Member Brian Braithwaite *Yes*

Council Member Ed Dennis *Yes*

Council Member Tim Irwin *Yes*

Council Member Kurt Ostler *Yes*

Council Member Scott L. Smith *Yes*

The motion passed.

4. PUBLIC HEARING/ORDINANCE: APPROVAL OF A REQUEST TO REZONE 5.8 ACRES FROM TOWN CENTER RETAIL AND FLEX USE TO PLANNED AREA DEVELOPMENT. THE PROPERTY IS LOCATED AT APPROXIMATELY 10786 N 5320 W (PD-19-03) Legislative (30 minutes)

Planner and GIS Analyst Tara Tannahill oriented the City Council with a request from McKay Christensen to rezone 5.8 acres from Town Center Retail and Town Center Flex Use to Planned Area Development to allow for a mixed-use development with 70 residential units and a 38,800 square foot commercial space. In 2010, the City Council placed a cap on the number of residential unit for the Town Center Overlay, and later in 2016 the City Council removed residential as a permitted and a conditional use in that zone. This meant that new residential would require a legislative action. As a follow up to this action in 2017, the City Council modified the number of residential units permitted in the Town Center to match what was previously approved as Blackstone and Toscana. Apple Creek 1, which was denied in 2016, proposed 240 residential units and 10,000 square feet of commercial space. On October 15, 2019, the City Council reviewed the Apple Creek 2 proposal, and they opted to have the Planning Commission review the application again because of some modifications that were done since it was last seen by the Planning Commission.

The applicant was requesting to rezone 5.28 acres from Town Center Flex Use and Town Center Commercial to a Planned Development District. This was a legislative decision, so the Council had complete discretion to approve or deny the request. The most recent concept plan showed 79 residential units and 38,000 square feet of commercial and retail space. Phase 1 of the project would be the townhomes and twin homes; Phase 2 would be the condominiums and loft homes; and phase 3 would be the commercial buildings. The courtyard, which was part of the recreational requirements, needed to be completed when 50% of the homes

were built, which would be in Phase 1. The Code also requires a second access for developments over 30 homes. That threshold would be met during Phase 1, but they were not proposing to build a second access until Phases 2 and 3. Phase 1 would only have an access from 10700 North. The question to consider here was: What would force the development to build the commercial when Phase 1 is complete?

The total density being proposed was 12 units per acre across the development, but each residential use had different density requirements. They were proposing nine units per acre for the condos and lofts, seven units per acre for the twin homes, and 20 units per acre for the townhomes. In comparison, Toscana was at 17 units per acre and Blackstone was at 10 units per acre. The questions to consider here were: Is 20 units per acre for the townhomes appropriate? This would be above any other density that had been approved in the City.

As part of the Planned Development District, the applicant would be required to provide open space for both the commercial and residential portions of the development. For commercial, the proposed plan included approximately 13,000 square feet of recreational and open space, including an outdoor patio and seating area. For residential, the proposed plan included approximately 62,000 square feet of recreational and open space, including a courtyard, barbeque stations, fire pit, and terrace hardscaped seating. The questions to consider here were: Did the proposed open space plan meet the requirements for recreation areas? Should the townhome and twin homes have a centralized recreation area?

Regarding parking, the plan included two stalls and an additional one stall designated for visitor parking for each townhome and twin home unit. The parking ratio for the condominiums was two stalls per unit and 0.5 stalls for visitor parking. The standards for commercial parking was 3.5 stalls per 1,000 square feet, and retail parking was 4 stalls per 1,000 square feet. The questions to consider here are: Was the location and number of visitor stalls adequate for the site? They do match requirements for the Town Center Overlay at 346 proposed stalls, and will have additional visitor stalls in the commercial parking area?

The total amount of commercial and retail proposed was 38,800 square feet, which was capped at 32,200 square feet for office and 6,800 square feet for retail. There were no restrictions on the type of use for each building. Building height was restricted to 40 feet, but the City Council could approve additional height up to 45 feet. The uses proposed for this portion of the development were similar to what was allowed in the C-1 Zone. The question to consider here was: How would the percent of retail and office space be enforced?

The proposal demonstrated 30 residential loft units, with a height restriction of 40 feet, with the ability to go up to 45 feet with City Council approval. The minimum square footage of the lofts would be 850 square feet. Access to the lofts would be from Alpine Highway and a shared access on 10700 North. The proposal also included 34 townhomes, with a maximum height of 40 feet which would be accessed from 10700 North. There would be six twin home units, with a maximum height of 40 feet, that would also have access from 10700 North. Concept site layouts and architectural renderings were shown. Staff presented a site plan for the project and identified the accesses on Alpine Highway, 10700 North, and the shared access with Ace Hardware. UDOT had reviewed the concept plan and stated that they would allow access onto Alpine Highway for this development. However, UDOT would prefer to have a left-hand access here and have the median removed. That median would be removed at the cost of the developer or Highland City.

The fencing plan was outlined, and staff stated that the proposal did not meet the requirements of the development code in both fencing type and proposed height. Staff briefly reviewed dumpster locations and the proposed signage in the development.

A neighborhood meeting was held on July 9, 2019, and the Planning Commission meeting on November 19, 2019 was also open to public comment. Staff had received six correspondence when the staff report was posted, and they had received three more since that time. All of the written comments were opposed to the

proposal. At the Planning Commission meeting, there was a motion to recommend approval with the conditions outlined, but the motion failed.

The following was a list of staff's concerns regarding the project:

The proposal was a high-level overview and not a comprehensive list.

- Density – The density of each phase and the total number of units.
 - 20 units per acre exceeds any individual project in Highland.
 - What if phase 2 and 3 are not constructed?
- Development Plan – District
 - Architecture – Images are representative only. Design standards are too general to enforce.
 - Commercial / office uses- Plan limits the amount of office and retail. But no language on how it will be implemented. Concern: Parking is regulated by use.
 - Circulation- proposed plan does not address timing of phase 2 and 3. As a result, access will only be from 10700 N. This exceeds the number of units for a single access road.
 - There are several inconsistencies between the text, exhibits, and what has been stated. For example:
 - Private yards – exhibit F shows private yards/courtyards but no standards provided.
 - Building Height – Applicant stated that the townhomes are not intended to be 40' in the Planning Commission meeting but the maximum is 40'.
 - Proposed motion was suggested as follows: I move that the City Council DENY case PD-19-03 a request to rezone 5.84 acres from Town Center Mixed the proposed rezoning based on the finding that the application does not meet all I move that the City Council DENY case PD-19-03 a request to rezone 5.84 acres from Town Center Mixed the proposed rezoning based on the finding that the application does not meet all of the required findings of the required findings.

Suggested discussion items were as follows:

1. Is the density of 20 units per acre for the townhomes appropriate as this exceeds any individual project in the town center or the city?
2. Should the townhomes have a centralized recreation area?
3. Should the building height be allowed to be increased to 45 feet? This is 9 feet higher than any existing development.
4. Is the proposed amount of parking sufficient for the development?
5. If a fitness center is approved, is the current parking standards sufficient for the use?
6. Are the setbacks for the twin home and townhome district sufficient for the proposed site?
7. Do the proposed architectural and development standards represent the quality desired for Highland?
8. Does the site have adequate access to ensure adequate circulation?
9. At which point should the main recreation element be completed?
10. Is the location of guest/visitor parking adequate?
11. How will the percent of retail and office space be enforced?
12. Does the proposed open space plan meet the requirements for recreation areas?
13. Does the proposed PD District included sufficient standards to meet the intent of a PD District?

McKay Christensen (applicant) stated that the primary concern staff had expressed was that the proposed development wasn't consistent with the Town Center Overlay or the vision of Highland City. Since hearing these concerns, he had made a number of changes to the proposal to address them. The majority of the subject property was zoned for flex use, and the rest was zoned commercially. The City Code states that the purpose of the Town Center Overlay was to "provide higher density development with well-planned open space, public gathering areas". The definition of flex use was "property whose use may include attached high-density residential uses, live-work uses, office uses, retail uses, or any combination of all four". Mr.

Christensen stated that they were proposing three of those four listed uses. He also read from the ordinance regarding height and building location. They were planning on building the open space courtyard when 50% of the residential units were sold. There was a comment regarding the architectural design theme, that staff felt the designs were overly broad. Mr. Christensen said the language they had proposed was almost verbatim to the approved design guidelines for Ridgeview, with the addition of renderings and floor plans. They were happy to include language stating that the project would be substantially similar to the renderings and other materials. Another comment from staff was that the proposal didn't include minimum unit sizes. The minimum unit size for the condominiums was 850 square feet, 1,700 square feet for the townhomes, and 2,200 square feet for the twin homes. All of the townhomes and twin homes would have their own yards and a private courtyard. Regarding parking, Mr. Christensen clarified that the office parking was calculated off of gross. The maximum retail they could have was 6,800 square feet, and they could not grow beyond that without causing parking problems. They had no intention of going beyond 6,800 square feet of retail. The private roadways proposed in the development met the Fire Code standard of 26 feet wide. Mr. Christensen stated that they were currently allowed to build the office building up to 50 feet in height, but they were willing to stipulate to something lower. There was already a stipulation in place that limited the twin homes to two stories. He agreed that there was a concern having only one access during the first phase of the development, so they would be including another access and about 100 parking stalls dedicated to commercial use during Phase 1. Regarding density, Mr. Christensen said it was misleading to say that Toscana was only 17 units per acre, when it was originally approved for something close to 25 units per acre. Toscana also had their entire project at that density, whereas the proposed project would only have a small portion with high density. He briefly listed all of the changes made to the proposal since it was last seen by the City Council.

Mayor Mann opened the public hearing at 7:12 PM and called for any citizens who would like to speak on the item to come to the podium and state their name for the record.

Citizen Comments:

Teri German, a resident, commented that the allowed residential use within the Town Center had already been used up, and the City shouldn't allow any more. If the City gives up the land for residential use, it would eliminate their commercial options. She agreed that there was a demand for these units, and the design of the project was beautiful, but it wasn't the right plan for this area. She asked if this proposal aligned with what Highland City is and what the citizens want. The residents have made it clear that they want low density residential. She encouraged the Council not to change the ordinance for this one applicant.

Wayne Tanaka, a resident of the Toscana development, asked if the green space would be maintained by the City or by the development. Planner Tannahill said that the open space would be maintained by an HOA.

Derek White, a resident, agreed with the comments made by Ms. German. He added that studies have shown that high density residential actually cost a city more than lower density developments. He cited the study. Mr. White said that if this development were approved, they would see a large loss in the future.

Chris Houton, a resident, also agreed with Ms. German's comments.

Mayor Mann closed the public hearing at 7:17 PM

McKay Christensen addressed the comments made by the residents. He explained that the development would include 38,000 square feet of commercial and retail uses, and because this was a mixed use development, it would generate TIP funds. From an architectural standpoint, he was willing to build whatever the City was comfortable with. He briefly described the type of commercial and retail he expected to come into the development.

Council Member Kurt Ostler asked for clarification on access during Phase 1, and Mr. Christensen said that he modified Phase 1 to include two access points and commercial parking. Council Member Kurt Ostler then asked about the courtyard that would be built for the townhomes. Mr. Christensen explained that each townhome would have a back yard area and a covered porch. Between the groups of townhomes was a courtyard of about eight feet by 20 feet. The twin homes also had a common courtyard that was much bigger.

Council Member Kurt Ostler said that there had been a lot of comments about density. He understood that the total density across the project was within the code, but he was concerned about the high density portion of the development. This would be the highest density development in the City. Mr. Christensen understood that this was a sensitive topic. When the City Council took away the residential component of the Town Center Overlay, there were still 118 units left of the allowed 342 units. He was proposing 70 units at an overall density of 12 units per acre, and the project included commercial and retail uses. Council Member Kurt Ostler asked what he would consider adding more retail if the commercial units didn't lease out. Mr. Christensen said that there was a cap on the retail he could have, and if they tried to change it, they wouldn't meet parking requirements. He had no intention of changing the commercial and retail square footage proposed.

Council Member Scott L. Smith thanked Mr. Christensen for listening to their concerns and revising the plans. He felt that it was headed in the right direction. Regarding the design, he felt that the farmhouse style wasn't compatible with the developments that already existed in the City Center. Toscana and Blackstone were also not consistent with the surrounding buildings, and they shouldn't have been approved. He requested that Mr. Christensen revisit the architectural designs.

Council Member Scott L. Smith asked Fire Chief Reed Thompson about emergency access. He was concerned that there wouldn't be enough room for access with people parking on both sides of the street. Chief Thompson said that there was already heavy traffic in this area. He was concerned with the parking lot next to Ace Hardware, which would be a shared access with this proposed development. They needed to maintain appropriate space for fire access.

Council Member Scott L. Smith was concerned that there wasn't a firm commitment for nice commercial. He was most anxious to see quality restaurants here.

Mr. Christensen said that he had no ego when it came to the architecture. He gave the example of his work on the Traverse Mountain development, and buildings at Rocky Mountain Contemporary. He confirmed that he had relationships with restaurants and other retailers that could carry over into this development, and he already had some letters of intent from restaurants.

Council Member Kurt Ostler asked Chief Thompson if he had any concerns from a public safety standpoint. Chief Thompson said that the residential areas would need to be sprinkled if the buildings were over 45 feet. Based on their current equipment, there would be rescue issues for anything above 36 feet in height. Mr. Christensen confirmed that the condos and offices would be sprinkled. It was unusual to sprinkle townhomes and twin homes, but those were not intended to be very tall.

Council Member Brian Braithwaite said that the General Plan calls for high density in this zone, and originally there was no limit on residential units. When the City Council adopted the unit allowance, it was an arbitrary number. After Toscana and Blackstone were approved, the Council decided to remove residential from the zone. Right now, there aren't any commercial developments that want to come into the Town Center and he wasn't sure that fully commercial developments would be successful here. Council Member Brian Braithwaite had been through other townhomes and twin homes built by this developer, and they were very nice, and he thought this product would be very successful in Highland. His primary concern

with this proposal was that it wasn't clear enough. He wanted more details so that this developer of a future developer would be bound to build exactly what was being proposed. He listed a few items that needed to be clarified, including building designs, specific amenities, and accesses. The proposal needed to be very thorough.

Mayor Mann asked the Council for a motion.

Council Member Kurt Ostler MOVED that the City Council DENY case PD-19-03 a request to rezone 5.84 acres from Town Center Mixed the proposed rezoning based on the finding that the application does not meet all of the required findings.

There was no second and the motion failed.

Council Member Brian Braithwaite MOVED that the City Council CONTINUE the rezoning project and direct the applicant to revise the development plan to provide more detail.

City Administrator Nathan Crane summarized that the Council's main concern seemed to be the density and the lack of details. Council Member Kurt Ostler stated that public safety was a concern, but Council Member Brian Braithwaite didn't agree. If the developer followed the standards, there shouldn't be a concern.

Council Member Scott L. Smith requested that the architecture be revised to be more compatible with the homes across the street.

Council Member Brian Braithwaite MOVED that the City Council CONTINUE the rezoning and direct staff and the developer to go through the discussion items and identify a higher clarity in the specifications for the facilities and the design of minimums, maximums, and other issues addressed in the discussion items. Council Member Ed Dennis SECONDED the motion.

The vote was recorded as follows:

<i>Council Member Brian Braithwaite</i>	<i>Yes</i>
<i>Council Member Ed Dennis</i>	<i>Yes</i>
<i>Council Member Tim Irwin</i>	<i>Yes</i>
<i>Council Member Kurt Ostler</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

The motion passed.

5. PUBLIC HEARING/ORDINANCE: A REQUEST BY SBGS RIDGELINE HOLDINGS TO AMEND SECTION 3-520(5) RECREATION AREAS REQUIREMENT IN THE PD DISTRICT *Legislative (15 minutes)*

Planner and GIS Analyst Tara Tannahill oriented the City Council with a request by Garret Seely, representing SBGS Ridgeline Holdings, to amend Section 3-520(5) of the Highland City Development Code relating to the requirement for recreation areas for Planned Developments on less than three acres.

Fairfield Cove Planned Development District was approved by the City Council on May 21, 2019, and the property was purchased by SGBS Ridgeline. During the Preliminary Plat preparation, SBGS Ridgeline felt that a homeowner's association (HOA) would be too costly for six residential lots, and community open space wouldn't benefit the community as much as private ownership. Thus, they were requesting the following amendment to Section 3-510(5)(e):

For developments with residential areas of less than two acres, in lieu of providing a recreation area, the City Council may approve the subdivider or developer paying a fee equal to the value of the recreational area required by this section in an amount equal to the cost of the fair market value of the land and the estimated cost of a playground, grass, and sprinkler system as determined by the City Engineer and approved by City Council.

One potential benefit of the amendment would be the encouragement of commercial development on smaller parcels that may not be developed commercially otherwise. If approved, the applicant would need to amend the Fairfield Cove Planned Development Mast Plan to reflect these changes. This would be considered on a future agenda after proper public notice. Staff had received no written comments from the public.

Staff suggested the following discussion items:

The Council will need to determine if the change is appropriate in the PD District. The following questions have been provided to assist the Council in determining their recommendation:

1. Is the proposed change compatible with the intent the PD District residential district?
2. Is the proposed change in the best interest of the residents in Highland?
3. Do the development changes in the PD District adequately address the potential impacts of not offering residential open space and recreation areas?
4. Will removing an owner's association from residential areas that have 3 acres or less have other unintended consequences? For example, who will maintain the monument signs or private roads if they are created.
5. Generally, Cities who offer smaller lots/ higher density will receive something in return, such as open space. What does the city, and residents, gain from removing the recreation requirement and offering smaller lots?
6. How will the proposed change impact future request?

Garret Seely, representing SBGS Ridgeline Estates, LLC, gave a brief history of the proposed development. When they purchased this property from the previous developer, they went through the minutes of past meetings to figure out what the Council and developer discussed and agreed to. They felt that the current proposal was a good step forward. They would be providing single-family, detached structures on large lots, and they would pay a cash in lieu of payment to the City for the use of public facilities for future parks or existing parks in the area. One resident had suggested that this money be earmarked for the park that would be going into the Wild Rose subdivision.

Council Member Tim Irwin asked about the lot sizes, and Mr. Seely stated that the lots would range from 8,200 to 12,000 square feet. This would be more consistent with the development to the north.

Council Member Brian Braithwaite commented that the previous proposal showed six residential lots and one commercial building, and the new proposal had six residential lots and two commercial buildings. Mr. Seely stated that tonight they were only asking for the amendment to the Code, and then they would come back and make amendments to the Master Plan. The reason they would be having two commercial buildings rather than one was because they had two separate users that needed a drive thru. Council Member Braithwaite said that he wasn't fond of the proposed HOA in the first place, but he was also concerned about unintended consequences that may come from amending the Code.

Council Member Scott L. Smith asked how many planned development districts they had in the City, and staff identified those locations on a map of the City. The only possible planned development districts left were Apple Creek and Fairfield Cove. The Council discussed whether this amendment would affect other developments.

The Council discussed the lack of open space in the proposed development. Staff said that it was normal for open space requirements to have a “fee in lieu”, but their concern was how this would be implemented citywide. The Code needed to be clear on where this was applicable and where it was not. In this development, the open space would be so small that it may not be used.

Mayor Mann opened the public hearing at 8:24 PM and called for any citizens who would like to speak on the item to come to the podium and state their name for the record.

Citizen Comments:

Wade Hadlock, a resident, said that he would prefer that the development have commercial in front and the residential in the back. He also had concerns about the HOA being solvent, and he did not like the idea of the open space requirement being taken away. He suggested annexing this development into the neighboring open space district. They would be paying the same fee and using the same park as the homes that border this development.

Mayor Mann closed the public hearing at 8:29 PM

Council Member Ed Dennis had issues with the idea of expanding the open space area, and was more in favor of a “fee in lieu”. Council Member Scott L. Smith agreed.

Council Member Brian Braithwaite commented that annexing into another open space area wouldn’t be negative other than the open space fee.

City Attorney Rob Patterson stated that the legal department would need to review the documents. Normally an annexation was a long process, and Council still needed to make a decision on the proposal before them.

Council Member Brian Braithwaite MOVED that City Council CONTINUE the request to amend Section 3-520(5) Recreation Areas Requirement in the PD District to the next City Council meeting in January.

City Administrator Nathan Crane questioned whether the discussion of a possible annexation was more appropriate at part of the master plan amendment. Council Member Brian Braithwaite agreed, but he felt that the discussions needed to take place all at once.

Council Member Brian Braithwaite MOVED that City Council CONTINUE the request to amend Section 3-520(5) Recreation Areas Requirement in the PD District to the next City Council meeting in January to clarify what the options are for the open space availability as an option for the property.

Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

<i>Council Member Brian Braithwaite</i>	<i>Yes</i>
<i>Council Member Ed Dennis</i>	<i>Yes</i>
<i>Council Member Tim Irwin</i>	<i>Yes</i>
<i>Council Member Kurt Ostler</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

The motion passed.

6. * ACTION: APPROVAL OF A REQUEST FOR PRESSURIZED IRRIGATION CONNECTIONS OUTSIDE CITY LIMITS *Legislative (20 minutes)*

City Engineer Todd Trane oriented the City Council with a request from Ron Peck for two pressurized irrigation connections to water an alfalfa farm located at 9541 North 6800 West, outside of current Highland City limits. The two new connections would be on 6800 West. It was noted that Mr. Peck's 12 acres of property was not currently in Highland City, and there was a section of City Code that wouldn't allow connections outside of the City boundary. The applicant has stated that they would provide water and shares to meet the water demand. If the farm were brought onto the pressurized irrigation system, it would be the second largest water user in the City. Aside from the demand on the water supply, the Council should also consider additional pumping costs and staff time to monitor the pond. The City had plans to augment the pond in several years, which may resolve their current concerns. The major benefit this change would bring to the City was the abandonment of the Harmon Ditch, which has been a safety concern for many years.

Council Member Tim Irwin asked if the addition of this property would impact water pressure, and City Engineer Todd Trane answered affirmatively. If the connections were made, they would be metered to monitor use. Currently, the City encourages residents to water their properties in the morning and evening, and they use the daytime to refill the ponds. However, this property would be watering during the day, which may hinder the City's ability to keep up with the demand. Staff felt that they could accommodate the water needs, but it would impact water pressure.

Staff encouraged the Council to consider the following:

- Determine if it's in the City's best interest to provide these connections.
- Adopt a resolution allowing for these connections.
- Establish the rates, terms, and conditions for the use of the water. Terms and conditions should include rates, watering schedule, delivery costs, connection costs, penalties, etc. The Council should require meters to be installed by the property owners to monitor actual usage.
- Enter into a long-term agreement for the water shares.
- Amend Section 13.30.230 .B of the Municipal Code or modify the boundary agreement with Lehi City.

Council Member Ed Dennis declared a personal interest in this item and the next item.

Ron Peck, the applicant, explained that the property he owns was on the west side of 6800 West. The advantage to this proposal was that he could bring his shares to the City, and the abandonment of the ditch would save the City money and increase safety. He would continue to pay all of the fees for the water shares, but the City would be free to use them.

Council Member Kurt Ostler asked Mr. Peck if he intended to annex into Lehi, per a previous agreement. Mr. Peck said that he had no plans to annex at all. His children would make that decision after he passed on. The reason he was not asking for a connection into Lehi was because Lehi required him to annex into the city in order to make that connection. He was hoping that Highland wouldn't make that requirement. Currently, they were irrigating the alfalfa fields, which used a lot of water. If he were connected to the pressurized irrigation system, he would install sprinklers, which would conserve water.

Council Member Brian Braithwaite clarified that Mr. Peck wouldn't be giving the shares to Highland City, but he would be allowing the City to use access those shares. He was concerned that the current system wasn't designed to accommodate this property, and it was likely that they would have to upgrade the system. This change could also negatively impact the residents of Highland, and there was no guarantee that the property would come into Highland in the future.

Mr. Peck explained that there would be plenty of pressure for Highland residents because his property was at the bottom of the system. Council Member Brian Braithwaite said that they would still lose their time to recharge the system with the farm watering during the day.

City Engineer Todd Trane said it was no secret that Highland residents were overusing water. If the City were metered, it wouldn't be as much of a concern. The addition of this property would impact the system and there would be additional costs to the City, but the abandonment of the ditch would be beneficial. If the Council wanted to make the proposed connections, staff would work out the details with Mr. Peck.

Council Member Ed Dennis asked if having the extra water would help the City, and City Engineer Todd Trane said that it would be helpful, depending on the year.

Mayor Mann allowed for ten minutes of public comment.

Abe Wanson, a resident, said that the ditch had been a constant source of stress since he moved here in 2003. It was only a matter of time before tragedy struck. He and other residents had asked the City many times to address the ditch, but nothing had been done.

Jason Hawkins, a resident, said that he had raised the issue of the ditch for years. The development code requires a developer to cover the ditch, but the land remained undeveloped. Not only was the ditch uncovered, but it was near a trail and surrounded by weeds. If someone were to fall in the ditch, no one would be able to see them. It was important for the Council to consider the safety of the residents. He encouraged the Council to approve the request and eliminate the risk.

Julie Durham, a resident, said that she had attempted to keep the weeds down around the ditch near her property, but they continued to come. She had only seen someone come to maintain the weeds once. The water issue was a concern, but safety was also important.

Doug Cortney, a resident, expressed his concerns about water conservation. It seemed like the City limited residents from watering every day and during daylight hours, but now they were considering allowing someone not in the City to water whenever they pleased. He felt that the property owner should be required to make a commitment to annex into Highland in the future.

Colby Gibson, a resident, said that if they had a chance to get rid of the ditch, they should do it.

Mayor Mann closed the floor for public comment.

There was a discussion regarding where the water physically comes from, where it is stored, how long they typically water the subject property, and how often. The applicant noted that flood irrigation uses a lot more water, so this information would be different if they changed to a sprinkler system. It would be a big expense to install a sprinkler system on the property, but he was willing to do it. Once he spoke with a supplier, he would have a better idea of what kind of pressure he would need for the property.

Council Member Scott L. Smith worried about the safety of the ditch, and he was surprised there hadn't been a major tragedy yet. He felt that Mr. Peck had a good relationship with Highland City, and they already had culinary water from Highland. If the City was flexible on this, it may help motivate the family to annex the property into Highland in the future. He supported eliminating the ditch and providing the requested connections.

Council Member Brian Braithwaite agreed that the ditch was dangerous, and this wasn't the only open ditch in Highland City. The residents here knew about the ditch when they purchased their properties. He was concerned that the existing system wasn't built to accommodate this property, and there was no guarantee that the property would annex into Highland. They were barely meeting the current needs of the residents, and adding this to the system would be a big impact. If they did not accept this proposal, it wouldn't harm

the subject property because they could continue to water as they have been. The Council should not move forward with this unless the property annexes into the City.

Council Member Ed Dennis asked staff to address the existing pressurized irrigation system and how much it could handle. City Engineer Todd Trane said that until they design the wheel lines, they wouldn't know the exact impact this would have on the system. Eventually, the City will invest a lot of money to meter the system, which would help with the problem of over usage. He reiterated that they wouldn't know the real cost until they went through the design process. There were pros and cons to this proposal, and City Engineer Todd Trane was on the fence about it. Staff could do more research and present more data to the Council, if they wanted.

City Administrator Nathan Crane noted that this would be the first in many steps to make these connections happen. Mayor Mann asked if they could continue with the process without approving this concept. City Administrator Nathan Crane responded that if they were uncomfortable with the concept, they shouldn't spend the resources to research it further.

Council Member Scott L. Smith said that the applicant was offering a lot of water shares, which would be like an insurance policy for dry years for the City. City Engineer Todd Trane reminded the Council that there would be other costs associated with this addition, including pumping costs. The Council needed to consider the pros and cons and decide what works best for Highland City as a whole.

Council Member Ed Dennis said that he would have a difficult time facing a family with a tragedy when they had an opportunity to get rid of the ditch. The City should always choose safety.

Mayor Mann called for motion.

Council Member Scott L. Smith MOVED that the City Council allow Mr. Ron Peck two pressurized irrigation connections to the Highland City pressurized system to water an alfalfa farm located 9541 N 6800 W with the stipulation that they work with City staff to work out the details and that it be brought back to the Council for further discussion.

Council Member Ed Dennis SECONDED the motion.

Council Member Kurt Ostler asked about Beth Wilson, who also utilized the ditch for irrigation. City Engineer Todd Trane said that she did have water rights through that ditch. If the Council was in favor of abandoning the ditch, staff would work with Ms. Wilson to ensure that she was able to water her property. Council Member Kurt Ostler thought it would be better to continue the item until staff could speak with Ms. Wilson and see if she supported this change.

Council Member Kurt Ostler made a SUBSTITUTE motion and MOVED to CONTINUE the request for pressurized irrigation connections outside city limits and have the Pecks go find out from an irrigation company what type of source they are going to need so we can have an assumption of how much water is going to come; and that we talk with Beth Wilson to find out if she would be amenable to come on and have us remove the ditch.

Council Member Brian Braithwaite SECONDED the motion.

Council Members Scott L. Smith and Ed Dennis argued that the substitute motion was the same as the previous motion. Both included a stipulation that the City do it due diligence before anything moves forward. Council Member Brian Braithwaite stated that the difference was that the substitute motion would require that they obtain additional information before the decision was made versus making the decision today and then gathering information.

Mayor Mann called for a vote on the substitute motion.

Council Member Kurt Ostler made a SUBSTITUTE motion and MOVED to continue the request for pressurized irrigation connections outside city limits and have the Pecks go find out from an irrigation company what type of source they are going to need so we can have an assumption of how much water is going to come; and that we talk with Beth Wilson to find out if she would be amenable to come on and have us remove the ditch.

Council Member Brian Braithwaite SECONDED the motion.

The vote was recorded as follows:

<i>Council Member Brian Braithwaite</i>	<i>Yes</i>
<i>Council Member Ed Dennis</i>	<i>No</i>
<i>Council Member Tim Irwin</i>	<i>No</i>
<i>Council Member Kurt Ostler</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>No</i>

The motion failed.

Council Member Kurt Ostler requested that they amend the original motion to include instructions to figure out costs and make sure the property would be coming into Highland. If they found this to be a detriment to Highland residents, they could pull out of the contract.

Council Member Scott L. Smith MOVED that the City Council allow Mr. Ron Peck two pressurized irrigation connections to the Highland City pressurized system to water an alfalfa farm located 9541 N 6800 W with the stipulation that they work with city staff to work out the details and that it be brought back to the Council for further discussion and subject to the Pecks going in and actually doing the study to find out how much water usage there would be and for the Council to agree that we would accept that water usage and that it would not be detrimental to the residents of Highland and again be brought back to the Council for further discussion and decision.

Council Member Ed Dennis SECONDED the motion.

Further discussion ensued.

Council Member Scott L. Smith MOVED the QUESTION.

Council Member Scott L. Smith, Tim Irwin, and Ed Dennis voted in favor of MOVING the QUESTION.

Council Member Scott L. Smith MOVED that the City Council allow Mr. Ron Peck two pressurized irrigation connections to the Highland City pressurized system to water an alfalfa farm located 9541 N 6800 W with the stipulation that they work with city staff to work out the details and that it be brought back to the Council for further discussion; and Council Member Kurt Ostler amended the motion to include that it be subject to Highland City and the Council at a later date accepting the findings from the information gathering to be allowed the connection.

Council Member Ed Dennis SECONDED the motion.

The vote was recorded as follows:

<i>Council Member Brian Braithwaite</i>	<i>Yes</i>
<i>Council Member Ed Dennis</i>	<i>Yes</i>
<i>Council Member Tim Irwin</i>	<i>Yes</i>
<i>Council Member Kurt Ostler</i>	<i>No</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

The motion passed 4:1.

7. *ACTION: NEIGHBORHOOD OPTION TRAILS *Legislative (15 minutes)*

City Administrator Nathan Crane oriented the City Council with a request to amend Chapter 12.30: Removal of Neighborhood Option Trails relating to the required findings for the removal of neighborhood option trails within the City. State legislature recently adopted HB 315 to include public trail or walk for public street, which changes the review and approval process for the removal of trails within a city. They would now be required to follow the same process as that of vacating a street. In order to approve the removal of a trail or street, they must have two findings: 1) good cause; 2) public interest or persons would not be materially injured by the vacation. Staff wanted to update this portion of the City Code to reflect the State Code before the next agenda item was discussed.

Council Member Scott L. Smith asked what the term “materially impacted” meant. City Attorney Rob Patterson said that there was no state definition for “material impact”. That was something the Council would need to determine. There was some discussion about whether it was necessary to include this in City Code if it was a state law. City Attorney Rob Patterson said it wasn’t necessary, but it would provide clarity to citizens and developers.

Council Member Brian Braithwaite MOVED that the City Council APPROVE the ordinance to clarify and amend Chapter 12.30 Removal of Neighborhood Option Trails relating to required findings for the removal of neighborhood option trails within the City as required by state code 10-9a-609.5 relating to vacating a public street.

Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

<i>Council Member Brian Braithwaite</i>	<i>Yes</i>
<i>Council Member Ed Dennis</i>	<i>Yes</i>
<i>Council Member Tim Irwin</i>	<i>Yes</i>
<i>Council Member Kurt Ostler</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>No</i>

The motion passed.

8. HEARING/ACTION: OPEN SPACE DISPOSAL AND REMOVAL OF NEIGHBORHOOD TRAILS IN THE WIMBLETON SUBDIVISION *(see updated staff report) Legislative (20 minutes)*

Planner and GIS Analyst Tara Tannahill oriented the City Council with a request by Terrance Edwards, representing the Wimbleton Subdivision, to dispose of City-owned open space and the removal of neighborhood option trails in the Wimbleton Subdivision. This application came before the Council in December of 2018 and was denied. The applicant was proposing \$2.45 per square foot, which was 20% of Utah County Assessed Market Value. There was a sewer easement in this area, so part of the proposal was for the City to install two sumps with the money from the sale of property. The sprinkler system would have to be removed, as would the asphalt. The neighborhood was proposing a phasing plan similar to Beacon Hills. There were a few areas that would be excluded from this disposal because it connected with the existing City trail system. Staff was hesitant to allow the purchase of the property adjacent to Lot 15 because of the sewer easement. Appropriate notices were sent, and staff received several comments opposed to the proposal. Regarding the petition, two property owners had withdrawn, and one was added. The petition had signatures from 30 out of 50 property owners in the subdivision. Staff performed a trail count, which was shown to the Council. The trail was being used. The new state law regarding the removal of trails was reviewed.

City Attorney Eric Johnson explained that material impact would be different for streets and trails. As long as the City goes through the process to consider the removal, the courts would give substantial difference to what the Council decides. Part of the process would be to hear from the applicant, hold a public hearing, and include the Council's findings in the motion.

Terrance Edwards, the applicant representing the Wimbledon Subdivision, said that there was good cause for the removal of this trail because the trail was not well maintained and it was a blight to the neighborhood. They neighbors had been told repeatedly that the City did not have enough money to properly maintain the trail. If the residents purchased the property, that maintenance expense would go away, and the City could use that revenue for other trails. Neither the City nor the residents would be materially impacted by this removal. He reminded the Council that this was an optional trail, and it was necessary to the overall trail plan. There were other routes available if this one were removed. Regarding the sumps, he stated that the residents would be fine with a detention basin, if the City would prefer that option.

Council Member Tim Irwin clarified that the City had money for trail maintenance, they just hadn't made this trail a priority. Council Member Kurt Ostler added that the City had received additional funding for trail and park maintenance this year. He clarified that this money was not taken from the road fund.

Council Member Ed Dennis agreed with the applicant that eliminating this trail would also eliminate the maintenance cost. That money could be used for areas that are currently on the City's trail map but are underdeveloped. He gave the example of the trails in the Beacon Hills subdivision.

Council Member Scott L. Smith gave a history of the creation of the trail system in Highland City. At one point, they had more planned trails than St. George. The Open Space Committee looked at the proposed trails and designated some as neighborhood optional trails, and it would be up to the neighbors to determine if they wanted to purchase those trails or not.

Mayor Mann opened the public hearing at 10:28 PM and called for any citizens who would like to speak on the item to come to the podium and state their name for the record.

Citizen Comments:

Julie Durham, a resident, said that she had lived in the neighborhood for four and a half years. She sympathized with the neighbors that had to deal with the weeds and watering issues for so long, and she was happy to hear that Highland City was taking an interest in the trails. Ms. Durham was opposed to the removal of this trail, because once a trail or open space is gone, they wouldn't be able to get it back.

Mayor Mann read an email from Johnny Walters into the record, which expressed his opposition to the proposal. Mr. Walters wrote that the trail was used by students walking to school, and the petition being used was old. He also felt that Council Member Ed Dennis should not vote on this issue due to a conflict of interest.

Doug Courtney, a resident, did not doubt Council Member Ed Dennis' ethical behavior, and was not concerned about him participating in this vote. Mr. Courtney argued that there was no good cause for the removal of this trail. The budget for trail maintenance had increased, so there may not be a maintenance issue here any longer. There was a concern with the City selling portions of the sewer easement.

Mark Hafen, a resident, commented on the terrible state of the trail. Cleaning up this area is the responsibility of the City, and if they couldn't maintain the property, it made sense to sell it and allow the residents to maintain it.

Devirl Barfuss, a resident, explained that ten years before, the residents voted out the Mayor and a few City Council Members, and the City Administrator resigned at the same time. When Mayor Ritchie came in, he formed the Open Space Committee to address the open space issues facing the residents. Ed Dennis was the chairman, and Council Members Brian Braithwaite and Scott L. Smith served as Council representatives at different times. The Committee spent thousands of hours deliberating, and they came up with the neighborhood optional trails. The decision to keep these trails would be left to the residents of those neighborhood. He noted that this decision could be made with this Council or the new Council next year.

Teri German, a resident, said that removing this trail would be removing open space from all residents. It would be a short-sighted decision to get rid of this trail, as open space would become more valuable over time. She suggested that the trail be maintained by volunteers if the City wasn't able to do it.

Colby Gibson, a resident, said that he bought his home thirteen years ago, and he didn't know that there was a \$20 fee, and that they were buying into the Beacon Hills open space. The residents here were continually paying this fee, but the trail continued to be a blight on the neighborhood. He didn't believe that volunteers would maintain the trail.

Scott Thompson, a resident, said that there were three neighbors along the trail that were not willing to maintain the trail near their properties, although he was happy to volunteer. He asked the City Council to consider the signatures that were gathered. Several neighbors who did sign the petition have expressed that they felt bullied and coerced into signing. He felt that there was material harm in removing the trail because it was used by children to get to school. Earlier in the meeting, Council Member Ed Dennis expressed that safety should be paramount, and Mr. Thompson hoped that the Council would feel the same about this issue.

Wayne Tanaka, a resident and an employee of the Parks Department, said that there were other walking paths to Freedom Elementary, so the children would still be safe if this trail were removed. However, dozens of children use this trail, and it would be a mistake to eliminate it. He was concerned about the consistency of the landscape if portions of the property were not purchased by residents. He suggested that the City look for more ways to fund trail maintenance here and throughout the City.

Julia Nelson, a resident, said that she loved the trails and used it every day. When she was looking at homes in other parts of the State, properties that were near or adjacent to trails and open space were more expensive. She believed that there would be material injury to all of the residents of Highland if this trail were lost. She agreed that the trail needed to be maintained, but she liked the natural feel of the trail in general.

Kyle Bennet, a resident, said that he also used the trails and found them useful. Because this trail was so widely used, he didn't believe that it was "optional". Mr. Bennet also felt that Council Member Ed Dennis should not vote in this issue.

Jason Hawkins, a resident, said that he was told that the City would landscape the trail, but it has been weeds for eighteen years. This area was an eye sore, and the City had been a terrible neighbor. He would prefer not to buy the property if the City was able to maintain it.

Carolee Pettit, a resident, said that the majority of the residents believe this was a maintenance issue. At the point, the neighbors want to buy the property rather than have an unmaintained trail. This issue had damaged relationships between neighbors, and it just needed to be resolved.

Council Member Tim Irwin said that one of the concerns was that half of the residents wanted to keep the trail, and half wanted to remove it. No matter what they decide, people would be unhappy. He appreciated the residents' civility tonight.

Mike Sandstrom, a resident, said that this trail didn't back up to any true open space. Once the Reinhardt property developed, there would be a cement wall along a portion of the trail.

Mayor Mann closed the public hearing at 11:08 PM

Council Member Kurt Ostler commented that several property owners did not sign the petition, so there was a chance that not all of the trail property would be purchased. Council Member Ed Dennis said that the property owner adjacent to the property had the first right of refusal, then the other property owners had a chance to purchase. The Council expressed concerns about "checker boarding".

Council Member Scott L. Smith said that the Open Space Committee has been seeking solutions to this issue since it was created in 2009. They knew that they would never get 100% of the residents to agree to remove a trail, but the Committee understood that when they designed the option trails. The new funding will help the City to maintain the trails that had been a low priority.

Council Member Brian Braithwaite said that many open space subdivision had eliminated trails. However, this would set precedent because it would be the first paved trail removed. He agreed that the City had not been a great neighbor, but this trail was well used. The City would not landscape the property, but the money would help them maintain the weeds. He was in favor of keeping the trail.

Council Member Ed Dennis argued that removing the trail wasn't eliminating open space, but rather they would be using the funds that would be for this trail and enhance other open spaces in the City. This trail was scruffy, and eventually there would be fence next to the ditch along the trail. He felt that allowing the residents to purchase the property would add value to the entire subdivision.

Mayor Mann said that the City has been focusing on funding roads, and now they could focus on funding and prioritizing trails. He believed it would be wrong to let go of this trail when they finally have the money and a potential plan to maintain it.

Council Member Scott L. Smith MOVED that the City Council APPROVE the removal and sale of all neighborhood option trails in the Wimbleton Subdivision. Due to the size and diversity of the neighborhood option trail that the requirement to purchase all property within the subdivision be determined by the individual parcels identified in attachment 8 which were six parcels, each of those parcels need 100% participation for the rest are sold. In addition, we allow the owner of lot 15 to buy a very small portion of the sewer easement and the owner can also buy the property to the west of the sewer easement, with the land across the sewer easement will be retained by the city and still allow access.

Council Member Ed Dennis SECONDED the motion.

Council Member Brian Braithwaite felt that there were many issues with the proposal. The petition did not include all of the information in the current proposal. Staff was not in favor of the sewer portion being sold, nor the proposed sumps. He was also concerned about "checker boarding" if some of the pieces weren't purchased by the residents. There was also the issue of removing the sprinkler system.

Council Member Kurt Ostler expressed concerns about the retention property. He also questioned how the sale of property would close. It was unclear whether the money would be gathered and close all at once, or if individual sales would be made. Everything should be held in an escrow and on a 90-day time period, only to close once all the money was there. When the resident signed the petition, they weren't made aware of the phasing plan, so the petition has changed since the signatures were gathered. He didn't agree with the value being proposed.

Council Member Ed Dennis noted that “checker boarding” was a common part of the discussion of the Open Space Committee. The residents had been informed that this could not happen. Council Member Kurt Ostler’s biggest concern was that the petition didn’t include a map when it was signed. Council Member Scott L. Smith said that the residents were aware of the phasing plan the third time the petition went around. Council Member Ed Dennis explained that the map in question was prepared by the City, but phasing was discussed. The petition also stated that the residents were responsible to remove the pavement and cover the ditch if it were abandoned. The request for sumps was not included in the motion, but it would have to be determined later.

Council Member Scott L. Smith MOVED the QUESTION

Council Member Ed Dennis, Council Member Tim Irwin, and Council Member Scott L. Smith approved the motion.

Council Member Scott L. Smith MOVED that the City Council APPROVE the removal and sale of all neighborhood option trails in the Wimbledon Subdivision. Due to the size and diversity of the neighborhood option trail that the requirement to purchase all property within the subdivision be determined by the individual parcels identified in attachment 8 which were six parcels, each of those parcels need 100% participation before the rest are sold. In addition, we allow the owner of lot 15 to buy a very small portion of the sewer easement and the owner can also buy the property to the west of the sewer easement. The width of the land across the sewer easement will be determined by the city and still allow access.

Council Member Ed Dennis SECONDED the motion.

The vote was recorded as follows:

<i>Council Member Brian Braithwaite</i>	<i>No</i>
<i>Council Member Ed Dennis</i>	<i>Yes</i>
<i>Council Member Tim Irwin</i>	<i>Yes</i>
<i>Council Member Kurt Ostler</i>	<i>No</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

The motion passed 3:2.

9. * ACTION: SITE PLAN APPROVAL AND CONDITIONAL USE PERMIT FOR FLEX OFFICE BUILDINGS *Administrative (20 minutes)*

Council Member Kurt Ostler declared a conflict of interest and stated that he would not be participating in the discussion or the vote.

Planner and GIS Analyst Tara Tannahill oriented the City Council with a request by Andrew Patterson for Site Plan and Conditional Use Permit approval for a two flex office buildings located at 11251 N. Sunset Drive. She presented the new architectural elevations and the site plan. The Planning Commission reviewed the application and recommended approval of the Conditional Use Permit.

Andrew Patterson, the applicant, noted that they lost one unit in the process of revising the plan. They listened to the input from the neighbors and staff, and they included some of their requests. Applicant here – no public comment.

Council Member Scott L. Smith thanked the applicant for listening to the concerns of the citizens. He was supportive of the changes. Council Member Brian Braithwaite was also in favor of the application.

Council Member Brian Braithwaite MOVED that the City Council move forward with the approval and the four stipulations recommended by staff.

Staff Recommended Stipulations:

1. Development of the site shall comply with the site plan January 23, 2019 and building elevations and floor dated November 21, 2019 except as modified by these stipulations.
2. All signage shall require a separate permit and comply with the Development Code requirements.
3. Final civil engineering plans shall be reviewed and approved by the City Engineer. The site shall meet all requirements of the City Engineer.
4. Final civil engineering plans shall be reviewed and approved by the Fire Marshall.

Council Member Scott L. Smith *SECONDED* the motion.

The vote was recorded as follows:

Council Member Brian Braithwaite	Yes
Council Member Ed Dennis	Yes
Council Member Tim Irwin	Yes
Council Member Kurt Ostler	recused
Council Member Scott L. Smith	Yes

The motion passed.

10. * ACTION: A REQUEST BY RESIDENTS OF THE COTTAGES ON THE GREEN SUBDIVISION FOR A REDUCTION IN THE PRESSURIZED IRRIGATION CONNECTION REQUIREMENTS *Administrative (20 minutes)*

Todd Trane oriented the City Council with a request by the Cottages on the Green Subdivision (Cottages) to reduce the pressurized irrigation (PI) connection requirements. They were requesting that the City assess a connection fee for three connections at a fee based on the historical connection fee of \$250 per connection. They were also requesting a waiver of the impact fees. In 1996-97, the City charged a connection fee of \$250 if the application was received by the City before August 16, 1006. After that date, the fee was raised to \$550, and then to \$1,350. Staff explained that this amount was charged because the City was funding an entirely new pressurized irrigation system, and this was the amount needed from all homes in the City to build that system. The original connection fee assessed at \$1,350 has never been changed. The reduced fee was offered in 1996 as an incentive to get off the overtaxed culinary system. For the Cottages, staff calculated 6.3 irrigable acres at \$.0.21 per square foot to create an impact fee of \$59,459.40. If the appeal was approved, the Council should clarify that all construction costs of the connections be the responsibility of the Cottages, including water meters at each connection. It was noted that approval of the request could result in additional requests by residents not presently connected to the pressurized irrigation system, who built prior to the adoption of the current impact fee. This could set precedent for future requests. Council should consider how this could be considered an isolated condition.

Council Member Kurt Ostler asked how many subdivisions could follow the example of the Cottages and request the same thing. City Engineer Todd Trane said that there were many individual homes, but probably not any subdivisions.

Council Member Scott L. Smith commented that if they lowered the fee, the homeowners would still have to pay for meters and the water shares.

Devirl Barfuss explained that they were requesting a waiver of the impact fee. The impact fees were implemented in 2014, so they were relatively new, and the pressurized irrigation impact fee was much higher than any other impact fee. The City did have some responsibility in this situation, because they allowed the subdivision to develop without charging the fees. The neighbors agreed that they should buy the water and

the cost of other expenses, but this was a lot of out-of-pocket money for them. They were seeking some reprieve.

There was a discussion regarding impact fees and how those were calculated.

City Attorney Rob Patterson said that the City could find this to be an exceptional circumstance and approve the request. The Council continued to discuss whether the subdivision was subject to impact fees.

Council Member Scott L. Smith MOVED that the City Council allow the Cottages on the Green to have a reduced impact fee of \$250 and they will be responsible for producing their own water shares, pay for their own meters, and connections based on the findings that they would have to be here since 1995 or earlier and be required to have some type of water usage that they can no longer access.

Council Member Ed Dennis SECONDED the motion.

Council Member Brian Braithwaite asked if the \$250 fee was per lot, and it was clarified that the cost was per connection.

Devirl Barfuss stated that he would be willing to pay the standard connection fee, but the request to waive the impact fee remained.

Council Member Scott L. Smith MOVED that for the Cottages on the Green, the City Council waive the impact fee for the connection to the PI system with the stipulations that they pay the full connectivity fee and provide the 31 acre feet water shares based on the finding that they would have to be here since 1995 or earlier and be required to have some type of water usage that they can no longer access.

Council Member Ed Dennis SECONDED the motion.

The vote was recorded as follows:

Council Member Brian Braithwaite Yes

Council Member Ed Dennis Yes

Council Member Tim Irwin Yes

Council Member Kurt Ostler Yes

Council Member Scott L. Smith Yes

The motion passed.

11. ACTION/ORDINANCE: UPDATED ORDINANCE REGULATING SHORT TERM RENTALS *Legislative (15 minutes)*

NOTE: Council Member Tim Irwin left the meeting at 12/24 a.m.

City Administrator Nathan Crane oriented the City Council with a request to amend Chapter 5.24: Short Term Rentals relating to minor clarifications of the definitions and the regulations. Since the ordinance was passed, staff had discovered some issues with enforcement, and they believed that the proposed amendment would address those issues. The major change was that the City could revoke an owner's short term rental license prior to conviction.

Council Member Brian Braithwaite felt that this change was appropriate.

Council Member Brian Braithwaite MOVED that the City Council APPROVE the ordinance amending Chapter 5.24 of the Highland City Municipal Code for Short Term Rentals.

Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

<i>Council Member Brian Braithwaite</i>	<i>Yes</i>
<i>Council Member Ed Dennis</i>	<i>Yes</i>
<i>Council Member Tim Irwin</i>	<i>absent</i>
<i>Council Member Kurt Ostler</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

The motion passed.

12. MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS

a. Future Meetings

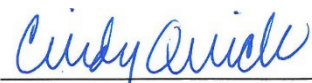
- December 10, Planning Commission Meeting, 7:00 pm, City Hall
- January 7, Swearing in Ceremony, 6:30 pm, City Hall
- January 14, City Council Meeting, 7:00 pm, City Hall

ADJOURNMENT

Council Member Scott MOVED to adjourn the meeting and Council Member Ed Dennis SECONDED the motion. All voted yes and the motion passed unanimously.

The meeting adjourned at 12:27 AM.

I, Cindy Quick, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on December 3, 2019. This document constitutes the official minutes for the Highland City Council Meeting.



Cindy Quick, MMC
City Recorder