NEXT

HIGHLAND CITY

HIGHLAND CITY PLANNING COMMISSION AGENDA

Tuesday, June 28, 2022

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

VIRTUAL PARTICIPATION

YouTube Live: http://bit.ly/HC-youtube

Email comments prior to meeting: planningcommission@highlandcity.org

7:00 PM REGULAR SESSION

Call to Order – Jerry Abbott, Chair
Invocation – Commissioner Jay Roundy
Pledge of Allegiance – Commissioner Tracy Hill

1. UNSCHEDULED PUBLIC APPEARANCES

Please limit comments to three minutes per person. Please state your name.

2. CONSENT ITEMS

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

a. **Approval of Meeting Minutes** *Administrative*
Regular Planning Commission Meeting – February 22, 2022

3. PUBLIC HEARING: CONDITIONAL USE PERMIT – ANGELA JOHNSON SCULPTURES *Administrative – Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a request by Angela Johnson for approval of a Conditional Use Permit for an art gallery in the R-1-40 Zone located at approximately 6233 W 10150 N. The Planning Commission will take appropriate action.

4. PUBLIC HEARING: TEXT AMENDMENT – POOL STRUCTURES *Legislative – Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a request by Robert Ghent to amend Section 3-4111 Swimming Pool regarding permanent structures that enclose or cover pools. The Planning Commission will take appropriate action.

5. PUBLIC HEARING: TEXT AMENDMENT – REMNANT PARCELS *Legislative – Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Chapter 5 Subdivisions in the Development Code relating to remnant parcels. The Planning Commission will take appropriate action.

6. PUBLIC HEARING: TEXT AMENDMENT – HOME OCCUPATIONS *Legislative – Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Section 3-614 Home Occupations to allow for a home occupation in every residential unit. The Planning Commission will take appropriate action.

7. PUBLIC HEARING: TEXT AMENDMENT – FRACTIONAL NUMBERS *Legislative – Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Section 3-4103 Area and Width Requirements to address a discrepancy in the Development Code relating to the number of allowable lots in residential zones. The Planning Commission will take appropriate action.

8. PUBLIC HEARING: TEXT AMENDMENT – LOT COMBINATION/PLAT AMENDMENTS *Legislative – Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Article 5-10 Adjusting Property Boundaries; Amending a Recorded Plat to simplify the approval process for the combining of lots or parcels. The Planning Commission will take appropriate action.

9. PUBLIC HEARING: TEXT AMENDMENT – SETBACK ENCROACHMENT *Legislative – Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Sections 3-4104, 3-4204, and 3-4254 Location Requirements relating to encroachments into setbacks for main dwellings in residential zones. The Planning Commission will take appropriate action.

10. PUBLIC HEARING: TEXT AMENDMENT – RETAINING WALLS *Legislative – Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Section 3-612 Fences, Retaining Walls, Theme and Screen Walls to address retaining walls for daylight basements and window wells. The Planning Commission will take appropriate action.

11. PLANNING COMMISSION AND STAFF COMMUNICATION ITEMS

The Planning Commission may discuss and receive updates on City events, projects, and issues from the Planning Commissioners and city staff. Topics discussed will be informational only. No final action will be taken on communication items.

a. Future Meetings

- July 5, City Council 7:00 pm, City Hall
- July 19 City Council, 7:00 pm, City Hall

- July 26, Planning Commission, 7:00 pm, City Hall
- August 2, City Council, 7:00 pm, City Hall

Legislative: An action of a legislative body to adopt laws or polices.
Administrative: An action reviewing an application for compliance with adopted laws and policies.

ADJOURNMENT

In accordance with Americans with Disabilities Act, Highland City will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at (801) 772-4505 at least three days in advance of the meeting.

ELECTRONIC PARTICIPATION
Members of the Planning Commission may participate electronically via telephone, Skype, or other electronic means during this meeting.

CERTIFICATE OF POSTING
I, Kellie Smith, the Planning Coordinator, certify that the foregoing agenda was posted at the principal office of the public body, at the Lone Peak Fire Station and Lone Peak Police Station, on the Utah State website (http://pmn.utah.gov), and on Highland City's website (www.highlandcity.org).

Please note the order of agenda items are subject to change in order to accommodate the needs of the Planning Commission, staff and the public.

Posted and dated this agenda 23rd day of June, 2022. **Kellie Smith, Planning Coordinator**

THE PUBLIC IS INVITED TO PARTICIPATE IN ALL PLANNING COMMISSION MEETINGS.

AGENDA

NEXT

HIGHLAND CITY

HIGHLAND CITY PLANNING COMMISSION MINUTES

Tuesday, February 22, 2022

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

Waiting Formal Approval

VIRTUAL PARTICIPATION

YouTube Live: http://bit.ly/HC-youtube

Email comments prior to meeting: planningcommission@highlandcity.org

7:05 PM REGULAR SESSION

Call to Order – Jerry Abbott, Chair
Invocation – Commissioner Audrey Moore
Pledge of Allegiance – Commissioner Christopher Howden

The meeting was called to order by Planning Commission Chair Jerry Abbott as a regular session at 7:05 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 Commissioner Audrey Moore and those in attendance were led in the Pledge of Allegiance by Commissioner Christopher Howden.

PRESIDING: Commissioner Jerry Abbott

COMMISSIONERS PRESENT: Jerry Abbott, Tracy Hill, Christopher Howden, Claude Jones, Audrey Moore, Jay Roundy, and Trent Thayn

CITY STAFF PRESENT: City Administrator/Community Development Director Nathan Crane, City Attorney Rob Patterson, City Recorder Stephannie Cottle, City Engineer Andy Spencer, City Planner and GIS Specialist Kellie Smith, Planning Commission Secretary Heather White

OTHERS PRESENT: Jon Hart, Gil Schrock, Craig Jensen, John Ort, Spencer Robison, Erik McDonald, Steve Maddox, Shelly Beasley, Steven Stow, Deborah Schrock, Jeri Pace Symmes, Amy Olsen, Peter Olsen, see attached Attendance sheet

1. SWEARING IN NEW PLANNING COMMISSIONERS

Stephannie Cottle, City Recorder, will issue the Oath of Office to three new Planning Commissioners: Tracy Hill, Jay Roundy, and Trent Thayn.

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City Recorder Stephannie Cottle issued the Oath of Office to Tracy Hill, Jay Roundy, and Trent Thayn. They introduced themselves and spoke of their background and experience.

2. UNSCHEDULED PUBLIC APPEARANCES

Please limit comments to three minutes per person. Please state your name.

None was offered.

3. TRAINING: GENERAL PLAN

City Attorney Rob Patterson will provide training on the contents, purpose, and process for creating and amending a General Plan.

Mr. Patterson reviewed the duties of the Planning Commission. He explained that each city was required by state law to adopt a General Plan that addressed current and future needs. He reviewed the difference parts of the General Plan and its purpose. He talked about minor and major General Plan amendments. Mr. Patterson reviewed the difference between administrative and legislative action. He talked about matching city code with the General Plan.

4. CONSENT ITEMS

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

a. Approval of Meeting Minutes *Administrative*

Regular Planning Commission Meeting – January 25, 2022

Commissioner Moore MOVED to approve the minutes for the January 25, 2022 Planning Commission meeting. Commissioner Howden SECONDED the motion. All present were in favor. None were opposed. The motion carried unanimously.

5. PUBLIC HEARING: GENERAL PLAN AMENDMENT – TRANSPORTATION MASTER PLAN *Legislative*

The Planning Commission will hold a public hearing to consider a request by City Staff the Transportation Element of the General Plan to update 4800 West from three lane major collector to a five-lane arterial. The Planning Commission will take appropriate action.

Ms. Smith explained that the reason for the request was due to a study received in January 2022 to evaluate traffic operations and connectivity for the eastern portions of SR 92. She explained that Highland could not request funding from MAG (Mountainland Association of Governments) for the project until the General Plan was updated to reflect it. She said the current General Plan included traffic studies done in 2008. The new study showed higher traffic volumes and larger queues. According to the study, 4800 West/Canyon Crest Road was chosen to be widened as it had slightly higher future demand and connected directly to North County Blvd. Ms. Smith showed the proposed Transportation Master Plan and the proposed right-of-way cross section for the proposed 5-lane arterial road with two north bound lanes and two south bound lanes.

Commissioner Moore wondered what the plan was for the road going north after the round-about in Alpine. Mr. Spencer said that Alpine hadn't taken any measures, so he was not sure what was planned. He reviewed the scope of the study. He explained that, according to the study, either 4800 West or Alpine Highway needed to be upgraded. Consultants determined that 4800 West was the best option because of connectivity to North County Blvd.

Commissioner Howden wondered where the study originated. Mr. Crane explained that the study originated out of a desire from cities in MAG to understand regional transportation. He mentioned that the intersection was widened two years ago but current and projected function produced a need for the study. Mr. Spencer talked about the need for alleviating pressure on intersections due to current density plus recently approved developments. He explained that the study considered the collective growth that was happening. Mr. Patterson spoke to the purposes of the study relating to funding. Mr. Spencer talked about the MAG funding process.

Commissioner Abbott wondered how much traffic was coming specifically from Highland. He did not think that Highland should have to make the road bigger for trips coming from Alpine. Mr. Spencer said it was very difficult to determine and that the study did not apportion traffic from different cities. He said typically each city would pay for the part of the road within its boundaries.

Commissioner Moore pointed out that things were happening further up the mountain that might impact traffic. She said Highland and Alpine children went to the same high school and that the intersection was excessive. She pointed out that Highland residents were also going to Alpine. She said Highland would pay the price for traffic because it was the central entity of SR-92. She said she saw more traffic complications coming.

Commissioner Abbott opened the public hearing at 8:03 PM and called for public comment.

Resident Gil Schrock said SR-92 was already a raceway. He said the recently installed turn signals helped reduced accidents. He listed the impact on his property if the widening of the road was approved: destroy 13 mature trees; lose about 5,000 square feet of his lot; traffic would double; noise would reach over 100 decibels; destroy about 200 ft of rock wall; temporarily cut power and internet to his home; destroy 220 ft of 2-inch main irrigation line and branch lines; destroy water feature; and destroy shubs, flowers, and plants. He thought there would be more accidents because traffic would go much faster. He said no one went the speed limit. He agreed that 4800 West was a mess, but it would end up as a bottleneck at the roundabout. Mr. Schrock talked about the quality of life in Highland and Alpine. He thought a 5-lane road would only help Alpine. He suggested installing a flashing speed sign at all intersections of SR-92 and 4800. He also suggested having a noise limit or 10-ft wall. He didn't think the projected $9 million would be enough for the road. He thought using Alpine Highway would be considerably less expensive.

Resident Craig Jensen wondered if the design and layout of the study could change. He wondered if there would be a shoulder on the road. He asked the commissioners to consider installing a sound barrier wall on both sides. He talked about the current noise from the traffic on the road. Mr. Spencer said the study was a concept plan for cost estimates and that the alignment could very well change. He said there was a multi-use trail on one side with no shoulders on either side.

Resident John Ort said he liked idea of a sound barrier. He explained that he was a runner and saw southbound lanes backed up. He spoke about having an opportunity to add more car lanes as well as space for recreation like bike lanes, etc. He suggested one lane going north and two lanes going south

Resident Spencer Robison said his main concern was safety. He said they were always told that a road through the gravel pit was part of the Master Plan and thought that it would help the intersection. He said his main

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concern was that conceptual 5-lane road was not safe without a shoulder and bike lane. He spoke of concerns with the plan that included no place for snow which meant it would be put on the sidewalk, a sidewalk on the opposite side of the road from where kids walk to school, and a multi-use lane on only one side. He thought if the road was widened the city should do it right and make it wider than proposed so that it was safe for residents. He said the city would have to buy houses in order to do the road right because residents were already having to back out into traffic. He suggested making changes to 5300 because it was already a wider road and traffic would go through a business section instead of the residential area.

Resident Erik McDonald said strongly opposed to widening of the road because it was already almost impossible for him to leave his home. He said his garage door was less than 34 feet from the road. He said he was supposed to be putting his house up for sale in a month and isn't sure what to tell potential buyers. He said he spoke with the city in October about purchasing his house and it was determined that there was not a case for eminent domain at that time. He said the proposed road would be about four feet from his garage and he would like the city to buy his house. He asked the city to make the road safe with a shoulder and sound wall.

Resident Steve Maddox explained that he previously made an offer to the city to purchase his right-of-way and said now the offer was gone. He said he ordered fencing and a barn for the area that would be needed for the road widening. He said he spoke with Senator McCay who sat on the committee that dictated funding. According to Mr. Maddox, Senator McCay said the proposed road was a project in a very small community compared to neighboring communities significantly greater than what Highland was dealing with. He thought everyone needed to understand that it was equivalent to a "take" in the sense that there were economic decisions being made tonight and everyone's property would be impacted. He thought eminent domain would have to be exercised. He did not think the city did a very good job meeting with the public to discuss the financial liability of widening the road. He thought a wider road would be safer but would impact more residents. He thought if approved, there would be more financial implications than just the road impact.

Resident Shelly Beasley said she had previously asked the city for a sound wall. She said the road widening would dramatically impact her home. She thought she would lose most of her side yard which was where her driveway was. She said trying to get out of her driveway now was impossible. She thought the traffic along 4800 West was mostly high school kids. If the road were to become a 5-lane road everyone from Alpine would use it creating more noise. She asked the city to buy her home if they had to widen the road.

Resident Steven Stow said the General Plan was to serve the residents. He talked about how little room there was along the current road. He said he had to put garbage cans on the sidewalk and snow was plowed onto the sidewalk because the road came right to the curb. He thought routing traffic onto Alpine Highway was better. He said he was still waiting for the city to fix his mom's driveway and his irrigation system from the last time the road was worked on. He asked that the city not approve the widening of the road because the houses couldn't take any more.

Resident Deborah Schrock spoke about the quality of life in Highland. She suggested using Alpine Highway because it was already wide enough to handle the traffic. She talked about the routes to Salt Lake or Provo using Alpine Highway.

Resident Jeri Pace Symmes noticed that traffic increased exponentially during school times. She talked about the heavy traffic in the morning, lunch, after school, or during school events. She thought 80% or more of the traffic on the road was from Alpine. She thought it was better for that traffic to go to the business center. She said they needed to keep Highland where they could enjoy the peace and quiet. She wondered if her brother's house would be impacted. Mr. Spencer said that the city did not know at this point how much residential property would be impacted. He reviewed measurements for the proposed right-of-way.

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Resident Amy Olsen was concerned because she had small children. She said a number of children crossed 4800 to try to play with friends and she occasionally saw very close calls. She voiced concerns regarding safety in the neighborhood with increased traffic. She liked the idea of one lane going north and two lanes going south. She was in favor of a noise reducing wall because the noise was already intense.

Resident Peter Olsen voiced concern with increased traffic on Jonathan Road and 11200. He said he saw cars driving 70 mph on 11200. He said something needed to happen on the road if it was widened with increased traffic because people would cut through.

Commissioner Abbott called for additional comments. Hearing none, he closed the public hearing at 8:42 PM.

Commissioner Moore asked about the speed limit. She wondered if Alpine Highway had been considered. She also wondered if high density housing currently being constructed in the city center was considered. Mr. Spencer explained the process in which speed limits were determined and said it was complicated to be able to answer her question about what the speed limit might be. Mr. Spencer said Alpine Highway was considered as part of the study, but that 4800 West was determined to be better based on the receiving facility. He said the study considered calculations for current and projected trips per day based on the General Plan and should have taken city planning into account.

Commissioner Hill wondered about the decision to widen 4800 West rather than Alpine Highway. He thought 4800 West felt more residential. He realized that 4800 West had a better connection to larger roads, and that Alpine would continue to grow, but wondered if Alpine Highway would be the better road to widen.

Commissioner Jones thought maybe both Alpine Highway and 4800 West, and possibly more, would need to be widened in the future. He thought widening a different road would just move the problem. He said Highland residents used the road all the time. He thought the statement that only Alpine would benefit from the widened road was inaccurate.

Commissioner Roundy said he related to everyone who made comments. He talked about having to move his house twice because of the widening of 5th East in American Fork. He spoke of his experience working as a consultant for the largest transportation engineering firm in the world. They redesigned I-15 for the 2002 Olympics in Salt Lake City and saw the process and effort that went into that. He designed the sound walls for I-15 and 215. He read the General Plan in the past and wondered what it would hurt if the city used the time between now and the General Plan amendment to look into specific details regarding issues like sound walls and safety. He suggested holding meetings with residents in order to get input for the purpose of having one perfect plan as the city moved forward. He said an updated General Plan could then be implemented that served the needs of the city and residents.

Commissioner Moore said she could definitely see the problem. She had lots of questions like what resources the city had to compensate residents if Highland purchased property. She thought residents along Alpine Highway would feel the same if that road was widened. She empathized with concerns about traffic noise and said it was a problem. She appreciated suggestions from residents. She pointed out that southbound was the most congested and voiced concern with an Alpine Highway approach due to higher density areas currently under construction. Commissioner Moore talked about the traffic trying to turn onto Timpanogos Highway and pointed out that all residents were dealing with traffic problems. She could see the rationale to continue five lanes of North County Blvd in order to try to alleviate pressure off of SR-92. Commissioner Moore thought funneling all of Alpine to the middle of Highland city center, along with seasonal traffic, was crazy and said it needed to be solved while being able to only control the Highland portion. She thought traffic numbers would only increase because of development on SR-92.

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Commissioner Thayn appreciated all comments and suggestions. He said it echoed safety and noise concerns that he dealt with. He recognized that something needed to be done. Other than the receiving facility of the road, he wondered if there were additional reasons why the study determined that 4800 West was the best road to be widened. Ms. Smith mentioned that the study cited the direct connection to North County Blvd as well as a higher future demand. Commissioner Thayn said it needed to be done and needed to be addressed. At this point, he was not sure how to move forward as a community without others being affected, but appreciated the comments made.

Commissioner Howden thanked everyone for attending the meeting. He talked about a recent speed study near his house where the maximum speed of 107 was recorded in an area with a speed limit of 35 mph. He said that all residents were subject to the notions of the General Plan and spoke about decisions made by past city councils. Referring to pages 29-30 in the meeting packet, Commissioner Howden thought Alpine Highway seemed like the most sensible thing to do. However, when comparing the current number of trips on Alpine Highway and 4800 West, he pointed out that 4800 West had 100 to 200 more trips per day than Alpine Highway. He said regardless of whether the road was widened, there were a lot of people driving on 4800 West. He thought Alpine Highway might be the logical place to route traffic but was not sure people were going there. He said that if the road was widened homes would be lost, but there would be the same issues on Alpine Highway. He said speed was a challenge that the City Council was trying to address.

Commissioner Abbott talked about the area of Highland where he lived and the changes he saw through the years. He said a road widened and moved closer to him with no sound wall. It was dangerous for his kids. He said the installment of a traffic light helped. He thought there might be an opportunity for a traffic light in the future. Commissioner Abbott thought Highland should be good neighbors to Alpine but was concerned about the shared cost of the project. Commissioner Abbott thought the city should trust the results of the study because it was done by a team of engineers who analyzed roads for a living. He said there were too many engineers involved to ignore the results. He thought a lot of issues could be resolved before the project was started. He said Highland was not the first city to have to expand roads. He agreed that if safety was an issue the road should be wider because it was used by runners, cyclists, and others. He encouraged residents to review the study before it was addressed by the City Council. He said the council should address the safety issues and wanted to know costs involved with the project. He thought Alpine should pay for more of the project if Highland didn't need a 5-lane highway.

Residents were encouraged to review the study before the council meeting, especially pages 29-30. They were encouraged to attend the council meeting next week and talk about the issues of safety, sound walls, speed, etc. They were encouraged to also invite neighbors to attend the council meeting.

The Planning Commission discussed general details regarding eminent domain.

Mr. McDonald asked about condemnation blight. Mr. Patterson explained that there was not typically an evaluation process that started from the adoption of a General Plan. He said there was a process for setting the valuation date.

Resident Gil Schrock wondered what would happen if more money was needed than what was approved for the project. Mr. Spencer said one of the most difficult things to do was to forecast costs when there was no design. He said MAG set aside money for contingencies. He said the city was very sensitive to the impacts to residents' lives and all agencies were working through problems. He talked about the steps of the process. Mr. Schrock said he wanted to believe that. He thought the city was foolish to think the project could be done for $9 million.

Commissioner Thayn MOVED that the Planning Commission accept the findings and recommend approval of the proposed amendment of the Transportation Element of the General Plan to update 4800 West from a three-lane

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major collector to a five-lane arterial. With recommendations to address safety comments from the meeting, sound, speed, and shoulder issues along with looking at apportionment of cost for the project.

Commissioner Jones SECONDED the motion.

The vote was recorded as follows:

Commissioner Jerry Abbott	*Yes*
Commissioner Tracy Hill	*Yes*
Commissioner Christopher Howden	*Yes*
Commissioner Claude Jones	*Yes*
Commissioner Audrey Moore	*Yes*
Commissioner Jay Roundy	*Yes*
Commissioner Tyler Standifird	*Absent*
Commissioner Trent Thayn	*Yes*

Motion carried 7:0

6. ARCHITECTURAL APPROVAL – BANK OF AMERICA *Administrative*

The Planning Commission will consider a request by Judy Yam on behalf of MNG Highland I LLC, for architectural approval for a remodel of a retail building located at approximately 5384 W 11000 N. The Planning Commission will take appropriate action.

Ms. Smith explained that Bank of America was hoping to remodel the Taco Time building. She discussed what was approved in the 2007 Development Agreement compared to what the applicant was hoping to do. She said the remodel would add about 415 square feet to the building. There were no proposed changes to parking, vehicular access, or hours of operation. The drive through would be kept. Ms. Smith said staff had a question regarding "earth tone" as called out in the Architectural Design section in the Development Agreement. The proposed white on the building was in question. She spoke of other buildings in the area.

Commissioner Abbott asked if there was a requirement for stone. Ms. Smith explained that there was no stone requirement in the CR zone. The commissioners discussed the style of the building and the proposed building materials. Commissioner Abbott and others agreed that an off-white color would be better. They talked about the other buildings in the area. Main concerns were the reflective value of the metal building and the white.

Commissioner Roundy talked about a bank that used metal that would rust. He thought it was "earthy" and not attractive. He spoke to wanting the business to be successful. His opinion was that the architect had already used their expertise to design the building and came up with the best option.

Commissioner Abbott wanted to see a color board and the materials that would be used for the building. He spoke about the design not meeting the requirements of the Development Agreement because of the proposed "artic white". The commissioners thought the architecture was good as proposed.

Commissioner Thayn pointed out that the color had been approved in other places in the city. He said he liked the proposed design. He talked about the possibility of using nonreflective metal.

After asking for legal recommendations, Mr. Patterson explained that there seemed to be a contradiction because of a reference to using earth tones, but also says the builder must use elements commonly found in

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other commercial areas. He said in other areas a white had been approved. He explained that someone either missed the detail, or at some point, white was approved as an earth tone. He said staff was looking for clarification.

Commissioner Hill was fine with the proposed design but did not consider white and earth tone color.

Commissioner Roundy MOVED that the Planning Commission accept the findings and recommend approval of the proposed architectural elevations subject to the three (3) stipulations recommended by staff:

1. *Development of the site shall comply with the building elevations dated February 1, 2022, except as modified by these stipulations.*
2. *All signage shall require a separate permit and meet the requirements of the Development Code.*
3. *Final building plans shall be reviewed and approved by the building official. The site shall meet all requirements of the building official.*

Commissioner Jones SECONDED the motion.

The vote was recorded as follows:

Commissioner Jerry Abbott	*No*
Commissioner Tracy Hill	*No*
Commissioner Christopher Howden	*No*
Commissioner Claude Jones	*Yes*
Commissioner Audrey Moore	*No*
Commissioner Jay Roundy	*Yes*
Commissioner Tyler Standifird	*Absent*
Commissioner Trent Thayn	*Yes*

Motion failed 4:3

Commissioner Moore MOVED that the Planning Commission accept the findings and recommend approve of the proposed architectural elevations subject to the following four (4) stipulations recommended by staff plus one (1) additional stipulation:

1. *Development of the site shall comply with the building elevations dated February 1, 2022, except as modified by these stipulations.*
2. *All signage shall require a separate permit and meet the requirements of the Development Code.*
3. *Final building plans shall be reviewed and approved by the building official. The site shall meet all requirements of the building official.*
4. *The artic white satin finish be changed to an earth tone because white was not considered an earth tone.*
5. *Non-reflective surface.*

Commissioner Hill SECONDED the motion.

The vote was recorded as follows:

Commissioner Jerry Abbott	*Yes*
Commissioner Tracy Hill	*Yes*
Commissioner Christopher Howden	*Yes*
Commissioner Claude Jones	*Yes*
Commissioner Audrey Moore	*Yes*

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Commissioner Jay Roundy	*No*
Commissioner Tyler Standifird	*Absent*
Commissioner Trent Thayn	*Yes*

Motion carried 6:1

7. PLANNING COMMISSION AND STAFF COMMUNICATION ITEMS

The Planning Commission may discuss and receive updates on City events, projects, and issues from the Planning Commissioners and city staff. Topics discussed will be informational only. No final action will be taken on communication items.

a. Grading/Retaining Walls
b. Defining Setbacks
c. Xeriscaping
d. Future Meetings

Commissioner Howden asked to continue the communication items to the next Planning Commission meeting.

ADJOURNMENT

Commissioner Howden MOVED to adjourn the meeting. Commissioner Abbott SECONDED the motion. All were in favor. The motion carried unanimously.

The meeting adjourned at 10:15 PM.

I, Heather White, Planning Commission Secretary, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on February 22, 2022. The document constitutes the official minutes for the Highland City Planning Commission Meeting.

/s/Heather White
Planning Commission Secretary

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AGENDA

NEXT

HIGHLAND CITY

PLANNING COMMISSION AGENDA REPORT ITEM #3

DATE: June 28, 2022

TO: Planning Commission

FROM: Kellie Smith
Planner & GIS Analyst

SUBJECT: **PUBLIC HEARING: CONDITIONAL USE PERMIT** – Angela Johnson Sculptures

TYPE: **ADMINISTRATIVE:** The City Council is the approval body for conditional use permits, after receiving a recommendation from the Planning Commission. The Planning Commission may recommend reasonable conditions to mitigate reasonably anticipated effects of the proposed use.

PURPOSE:
The Planning Commission will hold a public hearing to consider a request by Angela Johnson for a Conditional Use Permit for an art gallery located at approximately 6233 W 10150 N. The Planning Commission will take appropriate action.

BACKGROUND:
In the R-1-40 Zone, libraries, museums, and art galleries are conditional uses. Conditional uses are *permitted* uses that may be harmonious under special conditions and in specific locations within a zone. A conditional use permit is required for all conditional uses.

R-1-40 Zone (Section 3-4101):

1. The objective in establishing the R-1-40 Residential Zone is to support a very low-density residential environment within the City, which is characterized by large lots, well-spaced buildings, well-kept lawns, trees and other landscaping with the nature of the environment substantially undisturbed, a minimum of vehicular traffic, and quiet residential conditions favorable for family life.
2. Representative of the uses within the R 1 40 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 (with the exception of approved accessory dwelling units as defined within Section 3-624 of this Code), commercial and industrial use areas are strictly prohibited in this Zone.

Conditional Uses:
If a use is allowed as a conditional use, it is assumed that the use is desirable but that it

may require an extra level of review. The Planning Commission shall review the proposed conditional use and may recommend to the City Council reasonable conditions to mitigate (mitigate means to reduce the negative aspects, not eliminate them) the reasonably anticipated detrimental effects of the proposed use as set forth below:

1. In reviewing the application and proposed conditional use, the Planning Commission shall review the information provided by the applicant and city staff and the factors, standards, and ordinances applicable to the proposed use, including those set forth in this chapter.
2. The Planning Commission shall recommend approval of the conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable, objective standards.
3. The Planning Commission may not require elimination of all detrimental effects as a condition of recommending approval if the detrimental effects can be reasonably mitigated.
4. Upon the recommending of any conditional use permit, the Planning Commission shall itemize, describe, and justify the recommended conditions imposed on the use and the detrimental effects being mitigated by those conditions.
5. The recommendation of the Planning Commission shall be forwarded to the City Council.

The applicant is working on a sculpture project that will eventually be part of an exhibit at Thanksgiving Point. The applicant has been giving tours to groups, both small and large, multiple times a week to see the project and are asked to donate. The applicant identifies the program as a non-profit organization, which by Section 10-1-203 of Utah State Code is considered a business and requires a business license.

Several residents submitted complaints to the city's Code Enforcement Officer. Complaints are regarding car lights at the back of the property, how often the tours are being held, visitors going onto neighboring properties mistaking them for the art gallery, etc.

SUMMARY OF THE REQUEST:

1. The applicant is requesting a conditional use permit approval for an art gallery in a detached garage on the back of the residential property located at 6233 W 10150 N.

2. Tours are being held multiple times a week, typically in the evenings. In the attached project narrative, the applicant has expressed that they are open eliminating public tours but still hold tours for family and friends as well as potential donors several times a month.

3. The applicant is requesting the conditional use permit "also allow a few volunteers to assist with the clay statues being sculpted in the detached garage".

4. Two pods have been built for storage purposes. They are located adjacent to the detached garage.

5. The vehicular access to the detached garage is from the driveway off of 10150 N.

6. The sight provides space for approximately 6 cars off of the street.

CITIZEN PARTICIPATION:

Notice of the public hearing associated with this request posted on the state and city websites June 9, 2022. Notification letters were also mailed to all property owners within 500 feet of the proposed site on June 9, 2022. Residents have expressed concern regarding the tours being held. See attached for resident correspondence.

REQUIRED FINDINGS/ANALYSIS:

The City Council shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use. The City Council may not require elimination of all detrimental effects. The Planning Commission and City Council shall review, but not limit their review, to the following considerations and standards where applicable to the application:

1. **The Site of the Structure or Use:**

   The property the art gallery is located in is 1.05 acres. In the R-1-40 Zone, accessory structures cannot cover more than 5% of the gross lot square footage. This allows for an accessory structure that is approximately 2,285 square feet. The existing 2,268 square foot detached garage structure has a rear setback of 20' and side setbacks of approximately 40'. The structure is approximately 24 ½ feet tall. The square footage, setbacks, and building height meet the requirements for accessory structures in the R-1-40 Zone as defined in the Development Code. The building permit for the building was issued in 2017.

   The maximum number of off-street parking spaces on the gravel area is 6. Parking requirements for similar uses are 4 parking spaces per 1,000 square feet, which would require 8 parking spaces on the site. A potential condition of the conditional use permit is to require an additional 2 off-street parking spaces be provided to mitigate the unusual impact of visitors to the residential lot.

   The building is accessed from a residential driveway off of 10150 N.

The structure also has two motion sensitive lights.

If the conditional use permit is approved, the structure and site will need to meet ADA requirements. A stipulation has been added to the proposed motion to address this.

2. The Impact on Surrounding Uses

The applicant represents in the project narrative that in the past, two tours were given each evening Monday through Thursday. One of the complainants shared that tours were held on May 1st, 3rd, 5th, and 7th. The project narrative states that the applicant is open to eliminating public tours but would still like to hold tours for family and friends as well as potential donors several times a month

The applicant expressed that they are open to discussing possible landscape or fence screening solutions, depending on what the neighbor's prefer.

A potential condition of the conditional use permit would be to require opaque fencing or screening, within the limitations of the City's fencing ordinances for this zone to mitigate the potential for visitors to accidentally walk into, shine headlights into, and otherwise impact neighbors' property.

3. Safety of Persons and Property

The proposed structure/use is surrounded low density residential. The detached garage is approximately 160 feet from the nearest single-family dwelling.

The exterior lighting on the structure is motion censored.

If the building is to be open to the public, a fire inspection by the Fire Chief will be required, and the building must meet ADA standards. Stipulations have been added to the proposed motion to address this.

4. Health and Sanitation

The site is served by existing City culinary water, pressurized irrigation, and sanitary sewer lines. The art gallery has one half bath. The existing infrastructure has the capacity to serve this use.

5. Environmental Issues

There appears to be no environmental issues related to pollution, dust and erosion,

sensitive lands, etc. related to the proposed use or site.

6. **General Plan and Characteristics of the Surrounding Properties**

   The subject property is designated as low-density residential on the Land Use Map of the General Plan. The existing R-1-40 zoning is consistent with the low-density residential designation in the General Plan. The proposed use is allowed in the R-1-40 Zone subject to conditional use permit approval.

   The proposed use is surrounded by acre-sized residential lots in the Mountain View Acres Subdivision.

   The proposed site will not substantially change the look or character of the surrounding area. Screening and maximum tour attendance should be considered in the approval of this conditional use to minimize impact on the surrounding residential properties, as discussed above.

REASONABLE CONDITIONS:

The Planning Commission and City Council should consider placing reasonable conditions on the conditional use permit to mitigate the reasonably anticipated detrimental effects of the proposed use. Staff recommends the Planning Commission consider giving recommendations relating to, but not limited to, the following:

- Hours of operation
- Frequency (maximum number per week or minimum spacing between tours)
- Maximum number of attendees for each tour
- Screening
- Lighting
- Signage
- Employees/Volunteers
- Parking

CONCLUSION:

With the proposed stipulations, the proposed site and use appears to meet the General Review Criteria for Conditional Use Permits and the requirements in the R-1-40 Zone.

RECOMMENDATION AND PROPOSED MOTION:

If the Planning Commission identifies reasonable conditions on the conditional use permit to mitigate reasonably anticipated detrimental effects of the art gallery in a residential zone and decides to recommend approval, staff would suggest the following stipulations (the Planning Commission will need to draft reasonable conditions – see #6):

1. The site shall comply with the site plan and elevations received January 5, 2022.

2. The structure and site be updated to follow ADA requirements. These improvements shall be reviewed and approved by the City Building Official.
3. The proposed use apply for a Highland City business license.
4. A fire inspection be required as part of the business license application process.
5. Due to the unique circumstances of this use, the conditional use permit shall expire when the property is sold to a new owner or the structures associated with the conditional use are converted to another use.
6. Other conditions found to be reasonably necessary to offset anticipated impacts, including parking, screening, frequency, visitors, etc.

I move that the Planning Commission recommend **APPROVAL** of the conditional use permit for Angela Johnson Sculptures subject to the following stipualtions: (the Planning Commission will need to draft reasonable conditions).

ALTERNATIVE MOTION:
I move that the Planning Commission recommend **DENIAL** of the conditional use permit for Angela Johnson Sculptures based on the following findings: (the Planning Commission will need to draft appropriate findings).

FISCAL IMPACT:
This action will not have a financial impact on this fiscal year's budget expenditures.

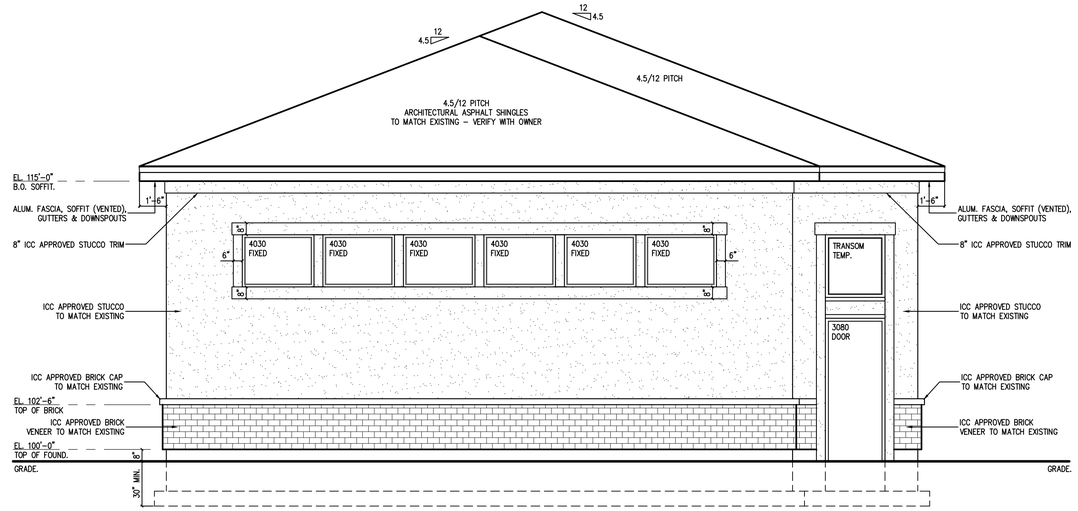
ATTACHMENTS:
1. Vicinity Map
2. Site Plan
3. Building Elevations
4. Project narrative
5. Resident Correspondence

ATTACHMENT #1:

ATTACHMENT #2:

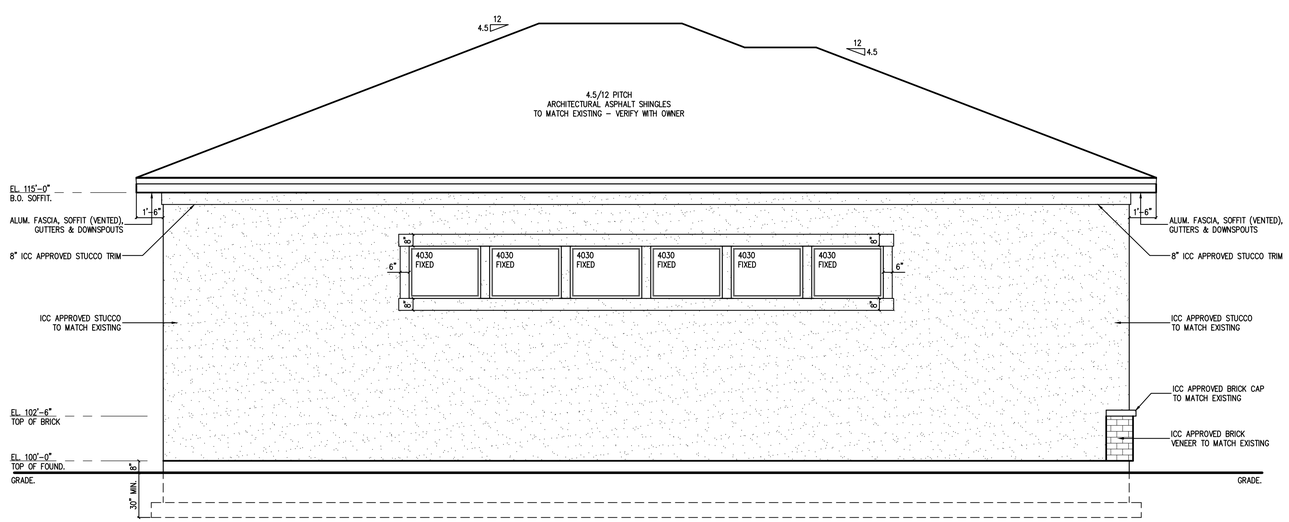
Reviewed For Code Compliance by HIGHLAND CITY Approved Plans Must Remain on the Job

ATTACHMENT #3:



1 FRONT ELEVATION

SCALE: 1/4" = 1'-0"



2 LEFT ELEVATION

SCALE: 1/4" = 1'-0"

THESE DRAWINGS OR ANY PARTS THEREOF, AS INSTRUMENTS OF SERVICE, REMAIN THE PROPERTY OF THE ARCHITECTS AND MAY NOT BE REPRODUCED OR USED ON OTHER WORK WITHOUT THEIR WRITTEN CONSENT

PLOT DATE: 8/28/2017 Q:\ACADFile\ANGELA JOHNSON GARAGE\WORKING\JOHNSON_A2-0\0-ELEV.dwg

REVISIONS

DRAWN BY
AMS

HARRIS ARCHITECTURE
3520 N UNIVERSITY AVENUE #200, PROVO UT 84604 | 801-377-6303 | WWW.HARRIS-ARCHITECTURE.COM

A NEW PROJECT FOR
JOHNSON GARAGE

FRONT AND LEFT ELEVATIONS

08-26-2017
HIGHLAND, UT

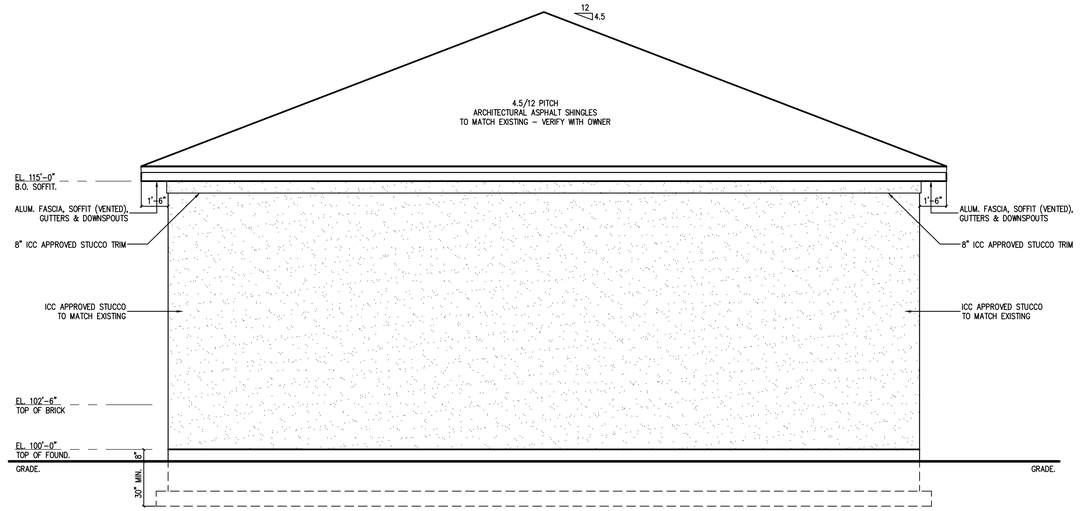
LICENSED ARCHITECT
HARRIS
#5100321-0142
08/28/17
STATE OF UTAH

6233 W 10150 N HIGHLAND, UT

A2.0

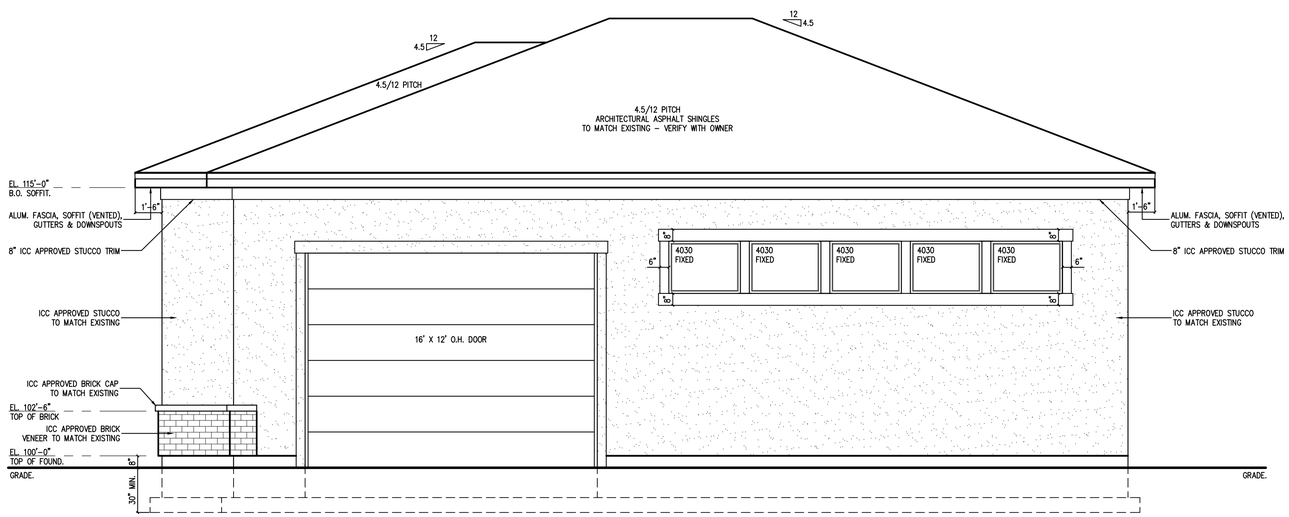
Reviewed For Code Compliance by HIGHLAND CITY Approved Plans Must Remain on the Job

THESE DRAWINGS OR ANY PARTS THEREOF, AS INSTRUMENTS OF SERVICE, REMAIN THE PROPERTY OF THE ARCHITECTS AND MAY NOT BE REPRODUCED OR USED ON OTHER WORK WITHOUT THEIR WRITTEN CONSENT



1 REAR ELEVATION

SCALE: 1/4" = 1'-0"



2 RIGHT ELEVATION

SCALE: 1/4" = 1'-0"

6233 W 10150 N HIGHLAND, UT

REVISIONS

DRAWN BY
AMS

HARRIS ARCHITECTURE
3520 N UNIVERSITY AVENUE #200, PROVO UT 84604 | 801-377-6303 | WWW.HARRIS-ARCHITECTURE.COM

A NEW PROJECT FOR
JOHNSON GARAGE

REAR AND RIGHT ELEVATIONS

08-26-2017
HIGHLAND, UT

A2.1

PLOT DATE: 8/28/2017 Q:\ACADFile\ANGELA JOHNSON GARAGE\WORKING\JOHNSON_A2-0\ELEV.dwg

Angela Johnson Application

Conditional Use Permit Project Narrative

The evidence presented herein is such as to show all of the following:

- That such use will not under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.
- That the proposed use will comply with regulations and conditions specified in the Highland City Development Code for such use.

Detailed description of the proposed use.

The detached garage approved and built many years ago has and is being used to sculpt a clay model presentation of The Tree of Life Vision from the Book of Mormon. The model is an artist rendition of this vision and contains approx. 200 maquette sized clay figures. A 501(c)(3) IRS approved Utah Nonprofit – Christ is the Light of the World – Tree of Life Foundation will be enlarging this maquette sized model and installing it in Ashton Gardens at Thanksgiving Point adjacent to the existing The Light of the World outdoor sculpture garden depicting 15 scenes from the life of Jesus Christ.

The specific conditional use permit request being made is to simply continue using the detached garage as it has been used for the last 3+ years. However, Public tours will NO LONGER be offered and will not occur. Historically, due to word-of-mouth excitement, there were at times two tours each evening M-TH with volunteer docents giving tours mostly for Young Women, Young Men and Relief Society groups at their request. These tours will NO longer be done and this request does not seek approval for public tours. The request does include the occasional (several times a month) family/friends and potential donors to visit the studio to see if they would like to donate to the nonprofit for the future exhibit at Thanksgiving Point. These will be small and infrequent with no impact to any of the various areas outlined by Highland City and addressed below.

The specific conditional use permit requested will also allow a few volunteers to assist with the clay statues being sculpted in the detached garage, along with the use of manual sculpting tools that make no noise.

While this project is not being commissioned by The Church of Jesus Christ of Latter-day Saints, several of the LDS general boards have been to see the studio model and are excited for its completion in 2024. The LDS church regularly uses The Light of the World for its media messaging and is anxious to similarly use the future Tree of Life Vision exhibit for similar purposes. Elder Holland, who dedicated The Light of the World, will be coming to the studio in June to check on the progress of endeavor and is a huge supporter of seeing the full realization at Thanksgiving Point.

When the Tree of Life exhibit is finished in 2024, it will be the largest outdoor religious sculpture garden in the world. It will be a huge asset to the residents of Highland City, who will get to enjoy the exhibit for generations to come.

After the completion of this project in 2024, Angela Johnson plans on selling her house and property, including the detached garage, so this is a very short-term conditional use permit request. This request is not like those Highland City residents who run real commercial businesses from their residential property for the long term.

Please address the following topics in a typed narrative on a separate sheet of paper:

1 - Consistency with the General Plan and compliance with the Development Code and other city codes and regulations.

Yes – as explained above

2 - General compatibility of proposed use with adjacent property.

Yes

3 - Site and building design with exterior lighting with reference to adjacent properties.

Yes – Existing detached garage has been used for over 4 years as sculpting studio, passed all inspections and completely in compliance with all codes. Only two motion sensor lights on detached garage.

4 - Address ingress and egress to the property and proximity to driveways and street

Yes – Detached garage (refer to submitted map) is accessed from existing cement and then gravel driveway (to avoid any dust) directly from the road as previously approved.

5 - Intersections in the vicinity of the subject property.

None

6 - Internal vehicular circulation including emergency and delivery vehicles.

Ample space for any emergency/delivery vehicle to access and circle back out of detached garage location

7 - Pedestrian and alternative vehicle considerations for the proposed use.

None required

8 - Volume and character of traffic as well as off-street parking and loading.

Occasional (a few times a month) visits by family/friends and potential donors to a nonprofit funding the future outdoor sculpture garden at Thanksgiving Point. There will be NO more public tours. There will be NO parking on the street, as the gravel driveway has ample place for a few cars to park without disturbing anyone.

9 - Impact of public services, including utilities, schools, and recreation.

None

10 - Screening and buffering of uses.

Considering putting up a privacy fence along the property line with my two neighbors if that desirable to them. The current fencing is not privacy fencing and the one neighbor has horses along the fence line and a solid privacy fence is usually not desirable for pasture land for the animal's sake. There is NO outside work, as all clay sculpture work has to be done inside the

garage or the clay would melt. There is no ongoing daily disturbance that could bother anyone, as everything is done inside.

11 - Proposed outdoor activities or storage.

None.

12 - Hours of operation and number of employees.

This is not a business with operating hours. There are at times volunteers to help with sculpting the life size clay figures before they are sent to the foundry. The few volunteers have time between 9-3 pm that they can help when their schedules allow.

13 - Noise, smoke, odor, dust, vibration, or illumination created by the proposed use.

None – clay models are being sculpted inside a completely enclosed detached garage that has been used for this purpose for four years now.

HIGHLAND CITY

EMAIL CORRESPONDANCE

DATE: June 28, 2022
SUBJECT: Email Correspondence for CU-22-01

Email from Garth and Machelle Bateman on May 21, 2022:
Planning Commission Members,

This email is an addendum to my prior email message on this subject, which is now part of the packet created for the Tuesday (24th) evening meeting.

Having read the packet uploaded to the Highland City website Thursday night, I have a concern regarding the proposal for Angela Johnson's Conditional Use Permit. The wording in the "Reasonable Conditions" and "Recommendation and Proposed Motion" sections are very concerning to me. In these recommendations, there are several references to a public building, such as "hours of operation", Frequency and number of people allowed for tours, the need for a fire inspection, etc. This is very concerning to me, since Angela's request specifically states that she is NOT requesting consideration for public access to this building. In her petition for conditional use, she specifically states that she is terminating the public tours immediately, and she does not plan to reinstate them. I strongly urge the planning commission to take her at her word on this.

Please do not overshoot the mark by designating this building as a public access building. Angela's request is solely that she be allowed to create and store her art in this building as part of her home business. Nothing more.

Given that Angela has not requested consideration for public access, and given the fact that none of the neighbors that we have talked to want a publicly accessible building in our neighborhood (We believe we can confidently speak for the majority of the neighbors on this topic), please ensure that the restrictions regarding traffic, signage, etc remain in place as currently defined for the R-1-40 zone. The amount of private showings that Angela wants to do would and should be compliant with regard to the R-1-40 zone, and should NOT require any consideration under the conditional use conditions. The traffic that would be generated from the private tours she is referencing in her request should not generate any more traffic than a backyard party would for any other home. Providing consideration regarding public access in granting this conditional use permit would do more harm than good.

Please grant the conditional use for ONLY the creation and storage of her artwork, and do not grant any consideration with regard to public access.

Thank you,

- Ken & Debbie Knapton

Email from Shawn and Cheryl McLelland on May 22, 2022**:**

Dear Kellie and Planning Commission,
This email is in regard to the application submitted by Angela Johnson for a conditional use permit for her art studio.
My wife, Cheryl and I will be unable to attend the commission meeting this Tuesday in person but would like to express our support for the granting of the conditional use permit as requested by Angela.
Most of the concerns we have heard expressed by fellow neighbors stem from the worry of increased traffic due to public tours. We understand and appreciate those concerns, however, as clearly stated in her application, and as expressed by her in past conversations with us, she has little to no interest in conducting public tours and is willing to stop those, and keep to only the friends, family and occasional donor tours. We believe and support her in this intention. With this in mind, we support a conditional use permit that allows her to create and store her artwork on her property while still honoring the condition outlined in paragraph G of the the Code section 5.08.050 restricting traffic beyond what is customarily associated with the zoning.

Thank you for your service to our community and for the opportunity to express our support.

Sincerely,
Shawn and Cheryl McLelland
6358 W 10150 N
Highland

Email from Michael and Heidi Gosar on May 23, 2022**:**

To whom it may concern;

We are unable to attend the public hearing scheduled May 24, 2022 as we will be out of the country at that time. As such, we are grateful that we are able to voice our opinion in this email.

We have read the letter from Ken & Debbie Knapton and agree with all points that were addressed but need to see a few things clarified.

In Angela's packet to the city, it was stated that "the occasional (several times a month)" tours would be given to family/friends & donors each month. What specifically does this mean? And will there be any clarification on days and times that tours could be given? We feel there should be more detail in this area. This seems to be a rather loose definition with the meaning interpreted differently by people.

Will this conditional use permit be issued through 2024? Is there a sunset to this conditional use permit? We understand plans change, or there could be delays. We just need some clarification in this area as well.

Lastly, how would granting this conditional use permit set precedence and affect possible futures

cases for this type of permit in our area?

Our hope with adding more clarification and detail to the permit would be to avoid future confusion that could lead to hard feelings.

We strongly support the art Angela is creating and are anxious to see this recreated at Thanksgiving Point. However, until these points have been clarified, we would be against granting the conditional use permit.

Thank you,

Michael Gosar
Heidi Gosar

Email from Garth and Machelle Bateman on May 23, 2022**:**

Kellie Smith/Highland City Planning Commission,

This email is in regard to case CU-22-01. As stated in the Highland City Public notice letter we received in the mail on 5/11/2022. We understand that Angela Johnson has requested a conditional use permit to operate an Art Gallery on her property in the R-1-40 Zone.

My husband Garth and I are residents of Highland city and our home and property are on Angela's immediate East side. We have lived in the same house for 27 years. Our property lines are divided by a simple open 3 rail coral fence which gives complete access and view into Angela's property and she into ours. As we are among the neighbors most affected by this potential conditional use of Angela's property, we are grateful for the opportunity to express our concerns. However, we will be out of town on May 24, 2022 and unable to attend the public hearing scheduled that evening regarding the conditional Use permit. Please feel free to call either of us for any questions or concerns you may have at 801-885-2122 (Machelle) or 385-224-1001 (Garth).

Angela Johnson is a very amazing and talented artist and as you well know, she has her statues on display in the Ashton Gardens at Thanksgiving Point. She recently built a large Studio in her backyard where she has on display beautiful statues for her next project. This is a "museum" type building where Angela has been conducting tours over the past year. Last autumn, as the Relief Society President of our ward, I scheduled a night where those in our ward who were interested could come and tour/view Angela's art work. The cost was $10.00 per person(no discount given to her home ward). It was an enjoyable evening and during the "tour" Angela herself stated that she is very busy with tours that she conducts 7 days a week (including Sunday) with multiple tours per day given back-to-back. She said that she has multiple docents who guide the tours to free her up since she had been doing multiple tours.

I bring up the frequency of the tours because as her immediate neighbor, it has been a difficult year with all the traffic (vehicle and foot) to her property. She has had the visiting patrons park in her backyard (like a parking lot) with the cars and their car lights facing our property. We were never able to enjoy our private space without multiple cars and people very near our private

space. The cars and people generated “public noice” which made it feel like we were living in a Commercially zoned area next to a business. That was frustrating since we live in a Residentially zone neighborhood. We have been patient, but the increased tours and traffic got excessive making it difficult for us to enjoy any evening in our yard where we had no actual privacy.

We understand that according to the Highland City Municipal Code, section 5.08.050 paragraph C, Angela is not allowed to create or store her artwork in the accessory building on her property without a conditional use permit specifically allowing her to do so. My husband and I have no concerns with the commission granting her the ability to create and store her sculptures here; in fact, we support this request. Angela does needs to be able to use her space to create her art, and doing so has no negative impact on the neighboring homes and properties. Her process in creating and storing her art is quiet, unobtrusive, and private. We are okay for the conditional use permit be granted for this purpose.

Our concerns stem from paragraph G of the above mentioned section. During the time that Angela has been offering tours of her sculptures, as mentioned above we have seen increased traffic, parking on the street, parking in her backyard that is in complete view to our backyard. The general increase in the foot traffic in our neighborhood potentially is in excess of what is customarily associated with the R-1-40 Zone. We do not want this use to be codified, nor do we want this to increase as a result of this conditional use permit

My husband and I were able to discuss the situation with Angela and it is our understanding that she is NOT requesting any consideration with regard to paragraph G as part of this request. She has indicated that the public tours will cease, and she is only requesting the freedom to create and store her artwork on her property, and to provide infrequent, private showings for potential large donors to the Ashton Gardens project. This level of access should not create an increase in foot traffic beyond what is customarily associated with the R-1-40 Zone, and thus should not require consideration in the conditional use permit verbiage.

Also having read the packet uploaded to the Highland City website Thursday night, my husband and I along we neighbors Ken and Debbie Knapton has some concerns. My husband, Garth and I support the concerns expressed by Ken Knapton as mentioned below “We have a concern regarding the proposal for Angela Johnson’s Conditional Use Permit. The wording in the “Reasonable Conditions” and “Recommendation and Proposed Motion” sections are very concerning to us. In these recommendations, there are several references to a public building, such as “hours of operation”, Frequency and number of people allowed for tours, the need for a fire inspection, etc. This is very concerning since Angela’s request specifically states that she is NOT requesting consideration for public access to this building. In her petition for conditional use, she specifically states that she is terminating the public tours immediately, and she does not plan to reinstate them. We strongly urge the planning commission to take her at her word on this.

Please do not designating this building as a public access building. Angela’s request is solely that she be allowed to create and store her art in this building as part of her home business. Nothing more.

Given that Angela has not requested consideration for public access, and given the fact that none of the neighbors that we have talked to want a publicly accessible building in our neighborhood (We believe we can confidently speak for the majority of the neighbors on this topic), please ensure that the restrictions regarding traffic, signage, etc remain in place as currently defined for the R-1-40 zone. The amount of private showings that Angela wants to do would and should be

compliant with regard to the R-1-40 zone, and should NOT require any consideration under the conditional use conditions. The traffic that would be generated from the private tours she is referencing in her request should not generate any more traffic than a backyard party would for any other home. Providing consideration regarding public access in granting this conditional use permit would do more harm than good."
Please grant the conditional use permit for ONLY the creation and storage of her artwork, and do not grant any consideration with regard to public access.

Thank you,
Garth and Machelle Bateman

AGENDA

NEXT

HIGHLAND CITY

PLANNING COMMISSION AGENDA REPORT ITEM #4

DATE: June 28, 2022

TO: Planning Commission

FROM: Kellie Smith
Planner & GIS Analyst

SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Pool Structures

TYPE: **LEGISLATIVE:** The review and approval of an amendment to the Development Code is a legislative action.

PURPOSE:
The Planning Commission will hold a public hearing to consider a request by Robert Ghent to amend Section 3-4111 Swimming Pool regarding permanent structures that enclose or cover pools. The Planning Commission will take appropriate action.

BACKGROUND:
Robert Ghent submitted a building permit application to the City for an accessory structure over his existing pool. Because of the size of the structure, the permit was denied. The building inspector provided comment that the structure would need to decrease in size in order to meet accessory structure zoning requirements in the Development Code.

The applicant's property is in the R-1-40 zone, where currently the square footage of accessory structures on the property cannot exceed 5% of the gross lot square footage. The Development Code considers structures that enclose or cover pools that are larger than 120 square feet or exceeding 14 feet in height as accessory structures that are therefore subject to accessory structure regulations—setbacks, height restrictions, and square footage maximums.

All proposed amendments to the Development Code shall be submitted first to the Planning Commission for a recommendation, which recommendation shall be submitted to the City Council for consideration.

SUMMARY OF THE REQUEST:

1. The requested amendment proposes an exception from the 5% size limitation (7% for lots larger than 2 acres) for swimming pool enclosures that are constructed of noncombustible materials meeting International Building Code (IBC) Type I and Type II construction.

ANALYSIS:

- The applicant provided a detailed narrative that cites the IBC. See Attachment #2 for the narrative. The applicant informs that the original purpose of accessory structure size limitations in the International Residential Code (IRC) was based on a concern of the potential fire load in the buildings. The size limitations were removed in 2015 and left to municipalities based on community need. The applicant reasons that if there is a requirement to use noncombustible materials for the pool structure, the fire load would no longer be of concern.

- The Chief Building Official was consulted regarding the proposed amendment and no objections nor concerns were raised.

- Staff recommends the proposed amendment also apply to the swimming pool ordinances in the R-1-30 and R-1-20 zones to stay consistent among residential zones. This recommendation is reflected in the attached ordinance.

- The amendment proposed by the applicant does not specify whether or not the pool structure would be included in the 5% or 7% square footage maximum for accessory structures. Staff recommends the following clarification be added, " provided that such enclosures or coverings shall not be counted against the maximum percentage of total allowable area to be covered by accessory buildings." This addition is reflected in the attached ordinance.

CITIZEN PARTICIPATION:

The applicant sent a letter to several neighbors in their subdivision (Attachment #3). The applicant received six (6) responses to the survey. See Attachment #4 for survey responses.

Notice of the public hearing to be held at the Planning Commission meeting was published in the Daily Herald on June 11, 2022 and posted on the state and city websites June 9, 2022. No comments have been received.

FINDINGS:

The proposed amendment appears to meet the following findings:

- The amendment is compliant with the International Building Code.

RECOMMENDATION AND PROPOSED MOTIONS:

Staff recommends that the Planning Commission hold a public hearing, review and discuss the narrative provided by the applicant, and decide to either recommend **APPROVAL** or **DENIAL** of the proposed amendment.

Motion of Approval:

I move that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment to Sections 3-4111, 3-4211, and 3-4261 Swimming Pools as reflected in Exhibit A.

Motion of Denial:
I move that the Planning Commission recommend **DENIAL** of case TA-22-09 a request for a text amendment to Section 3-4111 Swimming Pools based on the following findings: (The Commission will need to draft appropriate findings.)

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

ATTACHMENTS:

1. Ordinance
2. Text Amendment Narrative
3. Letter & Survey sent to Highland Residents in Willow Ridge Estates Subdivision
4. Survey Responses

ATTACHMENT #1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING HIGHLAND CITY DEVELOPMENT CODE SECTIONS 3-4111, 3-4211, AND 3-4261 RELATING TO STRUCTURES THAT ENCLOSE OR COVER SWIMMING POOLS AS SHOWN IN FILENAME TA-22-09.

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the "Commission") and the Highland City Council (the "City Council") were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Planning Commission held a public hearing on this Ordinance on June 28, 2022 and

WHEREAS, the City Council held a public hearing on this Ordinance on July 5, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1: **ADOPTION** Sections 3-4111, 3-4211, and 3-4261 Swimming Pools are hereby amended as shown on "Exhibit A" attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from July 5,2022 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, July 5, 2022

HIGHLAND CITY, UTAH

_____
Kurt Ostler
Highland City Mayor

ATTEST:

_____
Stephannie Cottle
Highland City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

Exhibit A

3-4111 Swimming Pool

A swimming pool is a semi-permanent structure that is constructed to hold water for recreational purposes. A pool that could be installed by the typical homeowner and may be packaged as a kit is not considered a permanent pool. A swimming pool that is constructed near or below grade with the intention of lasting more than one year shall be considered a permanent pool and shall be subject to the following requirements:

1. All permanent pools 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 a swimming pool shall not be permitted within an easement of any kind; and
3. Pools that are enclosed or covered within a permanent structure meeting Type I or Type II construction per the International Building Code shall be considered an accessory structure ~~and shall be~~ subject to Sections 3-4104 and 3-4109 of this Code, provided that such enclosures or coverings shall not be counted against the maximum percentage of total allowable area to be covered by accessory buildings.
    a. For the purposes of this section only, a "permanent structure" shall be considered any structure or landscaping object exceeding one-hundred twenty (120) square feet in size or exceeding fourteen (14) feet in height constructed for the purpose of enhancing the swimming pool or pool equipment facilities.
4. A swimming pool may cover the area within a rear yard not located within an easement unless the construction of that pool would require the need to vary from existing ordinances. Minimum setback requirements from property lines are as follows:
    a. Front Yard: Thirty feet (30') Min.
    b. Rear Yard: Ten feet (10') Min.
    c. Side Yard: Ten feet (10') Min.
    d. Side Yard Adjacent to a Street: Ten feet (10') Min. (fence is permitted 5' from property line)
    e. Trail or Landscape Easement: Ten feet (10') Min. (measured from nearest easement line)
5. All swimming pools shall be enclosed with a fence with a minimum height of four feet and include a self-closing locking gate; or
    a. That all swimming pool properties shall be enclosed with a fence that is a minimum height of a 6 feet, unless in an open space subdivision which will then be a minimum height of 5 feet;
    b. In either case, it will include a self-closing locking gate and an automated swimming pool cover.
6. All permanent swimming pools shall require a building permit.

…

3-4211 Swimming Pool

A swimming pool is a semi-permanent structure that is constructed to hold water for recreational purposes. A pool that could be installed by the typical homeowner and may be packaged as a kit

is not considered a permanent pool. A swimming pool that is constructed near or below grade with the intention of lasting more than one year shall be considered a permanent pool and shall be subject to the following requirements:

1. All permanent pools 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 a swimming pool shall not be permitted within an easement of any kind; and
3. Pools that are enclosed or covered within a permanent structure meeting Type I or Type II construction per the International Building Code shall be considered an accessory structure ~~and shall be~~ subject to Sections 3-4104 and 3-4109 of this Code, provided that such enclosures or coverings shall not be counted against the maximum percentage of total allowable area to be covered by accessory buildings.
    a. For the purposes of this section only, a "permanent structure" shall be considered any structure or landscaping object exceeding one-hundred twenty (120) square feet in size or exceeding fourteen (14) feet in height constructed for the purpose of enhancing the swimming pool or pool equipment facilities.
4. A swimming pool may cover the area within a rear yard not located within an easement unless the construction of that pool would require the need to vary from existing ordinances. Minimum setback requirements from property lines are as follows:
    a. Front Yard: Thirty feet (30') Min.
    b. Rear Yard: Ten feet (10') Min.
    c. Side Yard: Ten feet (10') Min.
    d. Side Yard Adjacent to a Street: Ten feet (10') Min. (fence is permitted 5' from property line)
    e. Trail or Landscape Easement: Ten feet (10') Min. (measured from nearest easement line)
5. All swimming pools shall be enclosed with a fence with a minimum height of four feet and include a self-closing locking gate; or
    a. That all swimming pool properties shall be enclosed with a fence that is a minimum height of a 6 feet, unless in an open space subdivision which will then be a minimum height of 5 feet;
    b. In either case, it will include a self-closing locking gate and an automated swimming pool cover.
6. All permanent swimming pools shall require a building permit.

…

3-4261 Swimming Pool

A swimming pool is a semi-permanent structure that is constructed to hold water for recreational purposes. A pool that could be installed by the typical homeowner and may be packaged as a kit is not considered a permanent pool. A swimming pool that is constructed near or below grade with the intention of lasting more than one year shall be considered a permanent pool and shall be subject to the following requirements:

1. All permanent pools 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 a swimming pool shall not be permitted within an easement of any kind; and
3. Pools that are enclosed or covered within a permanent structure meeting Type I or Type II construction per the International Building Code shall be considered an accessory structure ~~and shall be~~ subject to Sections 3-4104 and 3-4109 of this Code, provided that such enclosures or coverings shall not be counted against the maximum percentage of total allowable area to be covered by accessory buildings.
    a. For the purposes of this section only, a "permanent structure" shall be considered any structure or landscaping object exceeding one-hundred twenty (120) square feet in size or exceeding fourteen (14) feet in height constructed for the purpose of enhancing the swimming pool or pool equipment facilities.
4. A swimming pool may cover the area within a rear yard not located within an easement unless the construction of that pool would require the need to vary from existing ordinances. Minimum setback requirements from property lines are as follows:
    a. Front Yard: Thirty feet (30') Min.
    b. Rear Yard: Ten feet (10') Min.
    c. Side Yard: Ten feet (10') Min.
    d. Side Yard Adjacent to a Street: Ten feet (10') Min. (fence is permitted 5' from property line)
    e. Trail or Landscape Easement: Ten feet (10') Min. (measured from nearest easement line)
5. All swimming pools shall be enclosed with a fence with a minimum height of four feet and include a self-closing locking gate; or
    a. That all swimming pool properties shall be enclosed with a fence that is a minimum height of a 6 feet, unless in an open space subdivision which will then be a minimum height of 5 feet;
    b. In either case, it will include a self-closing locking gate and an automated swimming pool cover.
6. All permanent swimming pools shall require a building permit.

ATTACMENT #2:

Request for Text Amendment

Robert Ghent
9893 N 6320 W, Highland UT 84003
801-787-9562
hodadbob@gmail.com

Introduction

This is a request for an amendment to Section 3-4111 ("Swimming Pool") of the Highland City Development Code (hereinafter "Code"), concerning the construction of a permanent structure (building) for the express purpose of enclosing a swimming pool and surrounding deck. While this request addresses requirements pertaining to zone (R-1-40), it may be applicable to the corresponding sections of the Code that affect other zone designations.

As with many senior Highland citizens, because of health conditions, swimming is one of the primary non-impact exercises in which the requester can participate. Hence, there is a need to enclose outdoor swimming pools to allow year-round use. Solutions for enclosing outdoor pools typically come down to two reasonable possibilities: a temporary air-supported structure, as defined by the International Building Code (IBC)[1], that disrupts the architectural esthetic of the community, or a permanent but retractable transparent structure of vinyl-clad or anodized aluminum, steel, and tempered glass. The permanent structure has a lower roof line than the temporary structure and, while more architecturally pleasing, is unfortunately subject to the size limitations imposed on accessory buildings.

The desired outcome of this request is an exception to the accessory building size limitations that applies solely to the afore-mentioned permanent structures enclosing outdoor swimming pools.

The community's preferences between the two types of structures were key to deciding whether to pursue this text amendment request. Accordingly, a two-question survey (Annex A) was sent along with a cover letter (Annex B) to the nineteen other property owners in the Willow Ridge Estates subdivision where there is a high percentage of swimming pools (at least six of the 20 homes, as far as can be ascertained from Google Maps). Of the nineteen surveys sent out, six were returned by the end of April 2022 (a return rate of 30 percent). All the respondents indicated a preference for the permanent structure, prompting the drafting of this text amendment request (the completed surveys are available for examination upon request).

Rationale

While various definitions of "accessory structure" can be found broadly[2], for the purposes of this discussion the term is intended to mean a non-habitable, permanent *building* that is situated on the same residential property as the primary dwelling unit, but is detached from the primary dwelling unit, and which use is incidental to that of the primary dwelling unit.

The current text of Section 3-4111 of the Code stipulates "…pools that are enclosed or covered within a permanent structure shall be considered an accessory structure and shall be subject to Sections 3-4104 and 3-4109 of this Code."[3] The Highland City Code is based on the latest revisions of the International Building Code (IBC) series, with state amendments[4]. Pertinent to this discussion is the 2015 International Residential Code (IRC). An excerpt from *Significant Changes to the International Residential Code®, 2015 Edition*[5] explains that accessory structure size limitations were introduced in the 2006 edition of the IRC "… based on a concern of the potential fire load in residential accessory buildings"[5]. The limitations were removed in the 2015 edition of the IRC in deference to municipal zoning requirements that vary by community need, but the fire load rationale for limiting the size of accessory buildings remains.

The fire load concern is generally sensible given that accessory structures are typically garages, storage sheds, gazebos, picnic pavilions, boathouses, small pole barns, and similar buildings[6], that are constructed from combustible/flammable materials and often house materials and/or activities that may

precipitate or fuel a fire. However, the retractable glass and aluminum-frame structure specific to the enclosing of a swimming pool, as proposed, does not present these fire load concerns, nor does the pool and water within the enclosure.

Proposed Text Amendment

Based on the foregoing, the proposed text amendment to the Code seeks a categorical exception from the size limitations imposed on accessory buildings for swimming pool enclosures constructed of noncombustible materials meeting IBC Type I and Type II construction[7]. Suggested additions to the existing text are in red font and suggested deletions are in ~~red strikeout~~ font.

3-4111 Swimming Pool

A swimming pool is a semi-permanent structure that is constructed to hold water for recreational purposes. A pool that could be installed by the typical homeowner and may be packaged as a kit is not considered a permanent pool. A swimming pool that is constructed near or below grade with the intention of lasting more than one year shall be considered a permanent pool and shall be subject to the following requirements:

1. All permanent pools 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 a swimming pool shall not be permitted within an easement of any kind; and
3. Pools that are enclosed or covered within a permanent structure meeting Type I or Type II construction per the International Building Code ~~shall be considered an accessory structure and~~ shall be subject to Sections 3-4104 and 3-4109 of this Code, except for Section 3-4109, subsection 2.a or Section 3-4109, subsection 2.b, as applicable.

    a. For the purposes of this section only, a "permanent structure" shall be considered any structure or landscaping object exceeding one-hundred twenty (120) square feet in size or exceeding fourteen (14) feet in height constructed for the purpose of enhancing the swimming pool or pool equipment facilities.
4. A swimming pool may cover the area within a rear yard not located within an easement unless the construction of that pool would require the need to vary from existing ordinances. Minimum setback requirements from property lines are as follows:

    a. Front Yard: Thirty feet (30') Min.
    b. Rear Yard: Ten feet (10') Min.
    c. Side Yard: Ten feet (10') Min.
    d. Side Yard Adjacent to a Street: Ten feet (10') Min. (fence is permitted 5' from property line)
    e. Trail or Landscape Easement: Ten feet (10') Min. (measured from nearest easement line)
5. All swimming pools shall be enclosed with a fence with a minimum height of four feet and include a self-closing locking gate; or

    a. That all swimming pool properties shall be enclosed with a fence that is a minimum height of a *[sic]* 6 feet, unless in an open space subdivision which will then be a minimum height of 5 feet;
    b. In either case, it will include a self-closing locking gate and an automated swimming pool cover.
6. All permanent swimming pools shall require a building permit.

(Adopted 9/2/08)[3]

Summary and Conclusions

These amendments, as proposed, do not change any height or setback restrictions, nor do they redefine accessory structures in general; they merely remove permanent swimming pool enclosures that meet the requirements of IBC Type I or Type II construction from the size restrictions due to fire load concerns that are imposed on accessory buildings. The size of a swimming pool enclosure is still necessarily limited by the setback and easement requirements established in the Code.

The proposed amendment can easily be applied to other sections of the Code that address swimming pool enclosures in the other zone designations. Once again, the surveys returned by other property owners in the Willow Ridge Estates subdivision confirm an overall preference for the type of pool enclosure this proposed text amendment is designed to accommodate.

Citations

1. Section 202 Definitions, [BG] Air-Supported Structure. *2018 International Building Code (IBC),* Sixth version 2021. Available at: https://codes.iccsafe.org/content/IBC2018P6/chapter-2-definitions#IBC2018P6_Ch02_Sec202. Accessed 9 May 2022

2. Various definitions of "Accessory Structure." Available at: https://www.lawinsider.com/dictionary/accessory-structure. Accessed 26 April 2022.

3. Highland City Development Code, *Chapter 3 Zoning – General Requirements, Article 4.1 R-1-40 Zone, Section 3-4111 Swimming Pool.* Available at: https://highland.municipalcodeonline.com/book?type=development#name=Article_4.1_R-1-40_Zone. Accessed 5 May 2022.

4. Highland City website, *Codes & Specifications* page. Available at: https://www.highlandcity.org/218/Codes-Specifications. Accessed 25 April 2022.

5. Excerpt from *Significant Changes to the International Residential Code®, 2015 Edition.* Available at: http://media.iccsafe.org/news/icc-enews/2015v12n20/2015ircsigchange.pdf. Accessed 25 April 2022.

6. Examples of accessory structures from the Federal Emergency Management Administration (FEMA). Available at: https://www.fema.gov/glossary/accessory-structure#:~:text=An%20accessory%20structure%20is%20a,garden%20tools%20as%20accessory%20structures. Accessed 26 April 2022.

7. Chapter 6 Types of Construction from *2021 International Building Code (IBC)*. Available at: https://codes.iccsafe.org/content/IBC2021P2/chapter-6-types-of-construction. Accessed 7 May 2022.

ATTACHMENT #3:

Annex A – *Sample of survey sent to Willow Ridge Estates property owners*

Figure 1: Permanent retractable enclosure

Figure 2: Temporary air-supported enclosure

Question 1: If you have or were to have a swimming pool, and you desired to enclose your pool (assuming the cost to erect and maintain one of these structures was no barrier), which type of structure would you prefer to have on your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Question 2: Whether you have a swimming pool or not, which type of structure would you prefer to see on your neighbor's property, assuming you would be able to see it from the street or your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Additional comments (optional): _____

_____

_____

_____

_____

_____

_____

End of survey. Please enclose your completed survey in the self-addressed, stamped envelope and drop in the mail.

Thank you!

Annex B – *Sample of cover letter for survey sent to Willow Ridge Estate property owners*

Willow Ridge Estates Subdivision Property Owner
Street Address
Highland UT 84003

Dear Neighbor:

My purpose in writing to you today is to get input from homeowners in the Willow Ridge Estates subdivision for a proposed text amendment to the Highland City Code. The proposed amendment is designed to facilitate construction of dedicated pool enclosures by carving out an exception for them under the definition of Accessory Structures.

The Highland City Code currently defines pool enclosures as Accessory Structures. The zoning rules for our subdivision limit the size of Accessory Structures to no more than 5% of the total lot square footage, making it difficult or impossible to enclose a typical swimming pool and deck coping. The rationale for the size limitation is that common Accessory Structures, such as garages, greenhouses, sheds, workshops, etc., present a concern of potential fire load due to the typical activities undertaken and materials stored within such structures. Clearly, a dedicated pool enclosure does not pose such a risk.

Accessory Structures are also defined as being either permanent (i.e., anchored to a foundation wall or slab) or temporary (i.e., removable, and erected for no more than 180 consecutive days). There are no Accessory Structure size restrictions on temporary structures, however, we desire to enclose our pool with a permanently anchored, retractable enclosure that is more in keeping with the architectural esthetic of the neighborhood. An example of this type of structure is provided on the enclosed survey. For comparison purposes, an example of the type of temporary enclosure typically used for enclosing pools (an air-supported structure) is also included on the survey. Such temporary structures have a higher profile than a permanent structure of similar square footage.

To facilitate gathering your preferences concerning these two types of structures, please complete the enclosed anonymous survey (two questions and an option for additional comments), place it in the self-addressed, stamped envelope, and drop it in the mail sometime in the next couple of weeks (no need to inconvenience yourself by returning it in person; that will maintain anonymity). The survey responses will be used to inform the Highland City Council of our subdivision's preferences when they consider amending the City Code to accommodate a size restriction exception for permanent pool enclosures.

Thank you for providing your preferences.

Respectfully,

Bob Ghent
9893 N 6320 W
Highland UT 84003

Enc.: Survey and SASE

Figure 1: Permanent retractable enclosure

Figure 2: Temporary air-supported enclosure

Question 1: If you have or were to have a swimming pool, and you desired to enclose your pool (assuming the cost to erect and maintain one of these structures was no barrier), which type of structure would you prefer to have on your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Question 2: Whether you have a swimming pool or not, which type of structure would you prefer to see on your neighbor's property, assuming you would be able to see it from the street or your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Additional comments (optional): _____

_____

_____

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_____

_____

End of survey. Please enclose your completed survey in the self-addressed, stamped envelope and drop in the mail.

Thank you!

Figure 1: Permanent retractable enclosure

Figure 2: Temporary air-supported enclosure

Question 1: If you have or were to have a swimming pool, and you desired to enclose your pool (assuming the cost to erect and maintain one of these structures was no barrier), which type of structure would you prefer to have on your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Question 2: Whether you have a swimming pool or not, which type of structure would you prefer to see on your neighbor's property, assuming you would be able to see it from the street or your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Additional comments (optional): _____

_____

_____

_____

_____

_____

End of survey. Please enclose your completed survey in the self-addressed, stamped envelope and drop in the mail.

Thank you!

Figure 1: Permanent retractable enclosure

Figure 2: Temporary air-supported enclosure

Question 1: If you have or were to have a swimming pool, and you desired to enclose your pool (assuming the cost to erect and maintain one of these structures was no barrier), which type of structure would you prefer to have on your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Question 2: Whether you have a swimming pool or not, which type of structure would you prefer to see on your neighbor's property, assuming you would be able to see it from the street or your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Additional comments (optional): _____

_____

_____

_____

_____

_____

End of survey. Please enclose your completed survey in the self-addressed, stamped envelope and drop in the mail.

Thank you!

Figure 1: Permanent retractable enclosure

Figure 2: Temporary air-supported enclosure

Question 1: If you have or were to have a swimming pool, and you desired to enclose your pool (assuming the cost to erect and maintain one of these structures was no barrier), which type of structure would you prefer to have on your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Question 2: Whether you have a swimming pool or not, which type of structure would you prefer to see on your neighbor's property, assuming you would be able to see it from the street or your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Additional comments (optional): _____

Good luck!

End of survey. Please enclose your completed survey in the self-addressed, stamped envelope and drop in the mail.

Thank you!

Figure 1: Permanent retractable enclosure

Figure 2: Temporary air-supported enclosure

Question 1: If you have or were to have a swimming pool, and you desired to enclose your pool (assuming the cost to erect and maintain one of these structures was no barrier), which type of structure would you prefer to have on your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Question 2: Whether you have a swimming pool or not, which type of structure would you prefer to see on your neighbor's property, assuming you would be able to see it from the street or your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Additional comments (optional): With the increase of pools in the Highland area the term "Accessory Structure" needs to better defined.

6397 W 9890 N

End of survey. Please enclose your completed survey in the self-addressed, stamped envelope and drop in the mail.

Thank you!

Figure 1: Permanent retractable enclosure

Figure 2: Temporary air-supported enclosure

Question 1: If you have or were to have a swimming pool, and you desired to enclose your pool (assuming the cost to erect and maintain one of these structures was no barrier), which type of structure would you prefer to have on your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Question 2: Whether you have a swimming pool or not, which type of structure would you prefer to see on your neighbor's property, assuming you would be able to see it from the street or your property? (please circle, highlight, or otherwise indicate your preference):

A structure like the one depicted in **Figure 1**

A structure like the one depicted in **Figure 2**

Additional comments (optional): Either structure would be fine for both questions. Good Luck!

– Gavan

End of survey. Please enclose your completed survey in the self-addressed, stamped envelope and drop in the mail.

Thank you!

AGENDA

NEXT

HIGHLAND CITY

PLANNING COMMISSION AGENDA REPORT ITEM #5

DATE: June 28, 2022

TO: Planning Commission

FROM: Kellie Smith
Planner & GIS Analyst

SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Remnant Parcels

TYPE: **LEGISLATIVE:** All proposed amendments to the Development Code shall be submitted first to the Planning Commission for a recommendation, which recommendation shall be submitted to the City Council for consideration. The review and approval of a text amendment is a legislative action.

PURPOSE:

The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Chapter 5 Subdivisions relating to remnant parcels. The Planning Commission will take appropriate action.

BACKGROUND:

A remnant parcel is a tract of land that is capable of further subdivision but is not proposed to be developed as part of the Preliminary Plat. Recently, a subdivision was approved that did not take under account the impact the proposed lots had on the remnant parcel. The City's goal is to provide reasonable road and utility access to all properties in Highland.

SUMMARY OF THE REQUEST:

1. The proposed amendment requires that a Preliminary Plat include all of the property within the lots or parcels proposed to be subdivided that are owned by or under common ownership or control of or with the subdivider.

2. For all subdivisions currently, Preliminary Plat approval is valid for one (1) year from the date of approval. The proposed amendment includes a specific expiration for phased developments:

   "For phased developments, a Preliminary Plat approval shall be valid for five years from the date of approval so long as a Final Plat for at least one phase of the subdivision is submitted and applied for within one year after Preliminary Plat approval."

ANALYSIS:

- Remnant parcels must have a plan as part of the Preliminary Plat for the City to ensure appropriate infrastructure is planned for. Phasing in developments still allows developers to leave a remnant parcel in a final subdivision plat, as long as there is an approved Preliminary Plat that is not expired.

CITIZEN PARTICIPATION:

Notice of the public hearing to be held at the Planning Commission meeting was published in the Daily Herald on June 11, 2022 and posted on the state and city websites June 9, 2022. No comments have been received.

FINDINGS:

The proposed amendment appears to meet the following findings:

- The amendment is consistent with the goal outlined in the General Plan "to ensure that all necessary public services and uses are provided to meet future needs."

RECOMMENDATION AND PROPOSED MOTIONS:

Staff recommends that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment.

I move that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment to Chapter 5 Subdivisions relating to remnant parcels.

ALTERNATIVE MOTION:

I move that the Planning Commission recommend **DENIAL** of case TA-22-03 a request for a text amendment to Chapter 5 Subdivisions based on the following findings: (The Commission will need to draft appropriate findings.)

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING CHAPTER 5 SUBDIVISIONS RELATING TO REMNANT PARCELS AS SHOWN IN FILENAME TA-22-03.

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the "Commission") and the Highland City Council (the "City Council") were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Planning Commission held a public hearing on this Ordinance on June 28, 2022 and

WHEREAS, the City Council held a public hearing on this Ordinance on July 5, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1: **ADOPTION** Several sections of the Development Code relating to remnant parcels is hereby amended as shown on "Exhibit A" attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from July 5, 2022 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, July 5, 2022

HIGHLAND CITY, UTAH

_____
Kurt Ostler
Highland City Mayor

ATTEST:

_____
Stephannie Cottle

Highland City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

Exhibit A

5-4-205 Required Conditions And Improvements

The following requirements shall be imposed as a condition of approval of a minor subdivision:

1. Not more than three lots ~~parcels~~ shall be created in the minor subdivision, and the lots created shall encompass all of the property being subdivided.

2. The area to be subdivided shall be immediately adjacent to existing streets and utilities and shall not involve or require, as determined by the Zoning Administrator, the extension of any such streets or utilities.

3. The minor subdivision shall conform to the general character of the surrounding area.

4. Lots created shall not adversely affect ~~the remainder of the parcel or~~ adjoining property and shall conform to the applicable provisions of the Zoning Code.

5. Utility easements shall be dedicated.

6. Any redevelopment of the minor subdivision or any lot created therein ~~further Lot Splits~~ shall ~~to~~ be processed under the Major Subdivision Process.

5-4-308 Effect Of Approval Of The Preliminary Plat

1. The approval or approval with conditions of the Preliminary Plat shall be authorization for the subdivider to proceed with the preparation of the Final Plat.

2. The Preliminary Plat approval shall be valid for one year from the date of approval.

~~2.~~3.For phased developments, a Preliminary Plat approval shall be valid for five years from the date of approval so long as a Final Plat for at least one phase of the subdivision is submitted and applied for within one year after Preliminary Plat approval.

~~3.~~4.Preliminary Plat approval may, upon written application to the Council by the subdivider and payment of an application fee, be extended for an additional one (1) year if, in the opinion of the Council, there is no change in conditions within or adjoining the preliminary plat which would warrant a revision of the original preliminary plat and the applicant demonstrates to the commission that substantial effort is being applied to create a final plat.

~~4.~~5.Preliminary Plat approval shall in no way relieve the subdivider of his responsibility to comply with all required conditions and ordinances, and to provide the improvements and easements necessary to meet all City standards.

5-8-101 Subdivision Layout

1. The subdivision layout shall conform to the official General Plan and all applicable Zoning Regulations.

2. Where trees, groves, waterways, scenic points, historic spots, other City assets and landmarks, environmentally sensitive areas such as wetlands, or other features or land subject to state, federal, or other special regulation, as determined by the City, are located within a proposed

subdivision, the subdivider shall identify and provide means to preserve these features as part of the proposed subdivision.

3. Whenever a tract to be subdivided adjoins or embraces any part of an existing or proposed street so designated on the major street plan, such part of the public way shall be platted and dedicated, and improved by the subdivider in the location and at the width specified.

~~a.~~4. The proposed amendment requires that a Preliminary Plat include all of the property within the lots or parcels proposed to be subdivided that are owned by or under common ownership or control of or with the subdivider. The subdivision layout shall not propose a remnant parcel unless the subdivider provides a road and utility plan as part of the Preliminary Plat that adequately provides for the future development of the remnant parcel or the remnant parcel is restricted from development by easement, deed, or dedication. A remnant parcel is a tract of land that is capable of further subdivision but is not proposed to be developed as part of the Preliminary Plat.

AGENDA

NEXT

HIGHLAND CITY

PLANNING COMMISSION AGENDA REPORT ITEM #6

DATE: June 28, 2022

TO: Planning Commission

FROM: Kellie Smith
Planner & GIS Analyst

SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Home Occupations

TYPE: **LEGISLATIVE:** All proposed amendments to the Development Code shall be submitted first to the Planning Commission for a recommendation, which recommendation shall be submitted to the City Council for consideration. The review and approval of a text amendment is a legislative action.

PURPOSE:
The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Section 3-614 Home Occupations to allow for a home occupation in every residential unit. The Planning Commission will take appropriate action.

BACKGROUND:
Home occupations are "any occupation conducted within a dwelling and carried on by persons residing in the dwelling." A home occupation permit is not required for use of a residence if the use is limited to computer use and receiving and sending mail and telephone calls.

The Development Code currently states that they are only permitted in the R-1-40, R-1-20, and A-1 zones. The R-1-30 zone, and other Planned Development zones have been adopted since.

SUMMARY OF THE REQUEST:

1. The proposed amendment allows for home occupations "in any residential unit".
2. The proposed amendment updates the application and approval processes to reflect the process outlined in the Municipal Code.
3. A clarification is added to Residential Uses in the Town Center Overlay:

   "All residential units that are designed and built to be a residential use cannot be converted into a commercial or office use. Home occupations are permitted in each residential unit."

ANALYSIS:

- R-1-30 and other Planned Development zones have been adopted since the Home Occupations section was last amended. The proposed amendment is needed to be applicable to all residential units.
- The proposed amendment is consistent with what is currently in Chapter 5.08 Home Occupation Licenses in the Municipal Code.
- Under Residential Uses in the Town Center Overlay, commercial and office are permitted uses on the ground floor. The clarification requires Council approval for residential units that were designed and built as residential to convert to commercial or office.

CITIZEN PARTICIPATION:

Notice of the Planning Commission meeting was published in the Daily Herald on June 11, 2022 and posted on the state and city websites June 9, 2022. No comments have been received.

FINDINGS:

The proposed amendment appears to meet the following findings:

- The amendment is needed to update the Development Code to apply to all residential units.
- The proposed amendment is consistent with the Municipal Code.

RECOMMENDATION AND PROPOSED MOTION:

Staff recommends that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment.

I move that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment to Sections 3-614 and 3-4716 relating to home occupation licenses.

ALTERNATIVE MOTION:

I move that the Planning Commission recommend **DENIAL** of case TA-22-04 a request for a text amendment to Sections 3-614 and 3-4716 relating to home occupation licenses based on the following findings: (The Commission will need to draft appropriate findings.)

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SECTION 3-614 HOME OCCUPATIONS AND SECTION 3-4716 RESIDENTIAL USES AS SHOWN IN FILENAME TA-22-04.

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the "Commission") and the Highland City Council (the "City Council") were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Planning Commission held a public hearing on this Ordinance on June 28, 2022 and

WHEREAS, the City Council held a public hearing on this Ordinance on July 19, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1: **ADOPTION** Several sections of the Development Code relating to home occupations are hereby amended as shown on "Exhibit A" attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from July 19, 2022 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, July 19, 2022

HIGHLAND CITY, UTAH

_____
Kurt Ostler
Highland City Mayor

ATTEST:

_____
Stephannie Cottle

Highland City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

Exhibit A

3-614 Home Occupations

~~2. Home occupations may be permitted as provided herein.~~ A home occupation is any occupation conducted within a dwelling and carried on by persons residing in the dwelling. A home occupation permit shall not be required for use of a residence if the ~~, which~~ use is limited to computer use and receiving and sending mail and telephone calls.~~Provided, however, a home occupation permit shall not be required for any of the uses listed in subsection (9) below.~~ Any person desiring a home-occupation permit, as provided in this Section, shall file an application with the City ~~Recorder~~ Treasurer.

1. All home occupations, ~~whether or not a permit therefore is required by this Section,~~ shall be permitted only subject to and shall at all times comply with the following conditions.

    a. Home occupations ~~will~~ shall be permitted in any residential unit ~~only in the following Zones: R-1-40, R-1-20 and A-1~~.
    b. The home occupation shall be conducted entirely within the main dwelling, including an attached garage.
    c. The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character of the building from that of a dwelling.
    d. The total area devoted to the home occupation shall not exceed 25% of the dwelling, including an attached garage.
    e. The home occupation shall be registered with and licensed by the business license division of the City and with all applicable state agencies. A separate license must be obtained for each branch establishment, or separate place of business, in which the business, trade, calling, profession or occupation is carried on, and for each separate kind of business, trade, calling, profession or occupation and each license shall authorize that business, trade, calling, profession or occupation described in such license, and only at the location or place of business which is indicated thereby.
    f. Entrance from the outside to the area of the dwelling used for the home occupation shall be the same entrance normally used by the residing family, except when otherwise required by the Utah State Department of Health or other state agency.
    g. The physical appearance of the dwelling, amount of traffic and parking, and other activities generated by the home occupation shall not be contrary to the intent of the zone in which the home occupation is located. The home occupation shall not generate pedestrian or vehicular traffic in excess of that customarily associated with the zone in which the use is located.
    h. The home occupation shall, and the structure in which it is conducted shall, comply with all fire, building, plumbing, electrical and health codes.
    i. The home occupation shall not be associated with nor produce odor, fumes, dust, light, glare, color, design, materials, construction, lighting, sounds, noises, vibrations, including interference with radio or television reception, that may be discernible beyond the premises, or which disturb the peace and quiet of the neighborhood.
    j. All maintenance or service vehicles and equipment, or any vehicle bearing any advertising related to the home occupation shall be garaged or stored entirely within the building or structure, or entirely behind the dwelling, out of view of the street.

k. Home occupations may be permitted for residents that also contain basement apartments if determined by the City Administrator not to create undue burden upon residents of the immediate area.

2. Any permit issued pursuant to this Section may be revoked by the Zoning Administrator for failure of the holder of the permit to comply with the foregoing conditions. The Zoning Administrator shall likewise refuse to grant a renewal of such a permit for failure of the holder to comply with the foregoing conditions.
3. The revocation or refusal to grant or renew a permit may be appealed to the ~~Board of Adjustment~~ Appeal Authority. Likewise, any aggrieved party may appeal to the ~~Board of Adjustment~~ Appeal Authority from the Zoning Administrator's decision to grant a renewal of such a permit.
4. All home occupation permits issued pursuant to this Section shall be valid for a period of one year. The license year shall commence on July 1 and expire on June 30 of each year. Thereafter, all home-occupation permits shall be issued and renewed only in accordance with this Section, except as such use may be a nonconforming use which is allowed to continue by Section 3 201.
5. The City Council shall by resolution or ordinance fix the amount of license fees and the terms and conditions thereof, copies of which shall be available for public inspection at the office of the city Zoning Administrator.
6. ~~All applications for the issuance of a home-occupation permit shall be accompanied by an application fee in such amount as may be specified by the City's standard fee schedule established from time to time by resolution of the City Council. Such fee shall be in addition to any business license fee which may be required by other provisions of this Code.~~ If the combined offsite impact of the home occupation and the primary residential use materially exceeds the offsite impact of the primary residential use alone, a fee in such amount as may be specified by the City's standard fee schedule may be required.

~~6.~~7. The applicant shall be required to notify by letter all residents within a three hundred foot 300' radius of the property lines of their request for a home occupation license if customers visit the home. The applicant shall provide a legible vicinity map indicating the exact location of their property and each property within 1/4 mile (1,320 feet). The map shall include the address of the subject property.

~~7. The Zoning Administrator, or his designee, may at all reasonable times enter the premises for which a home occupation permit has been issued to ascertain compliance with this Section. He may also inspect such premises prior to the issuance of a home occupation permit. Refusal by the owner or occupant of the premises to allow such inspection, when requested, shall be grounds for denial or revocation of a home-occupation permit.~~

~~8. A home occupation permit shall not be required for use of a residence, which use is limited to receiving and sending mail and telephone calls.~~

~~9.~~8. The ~~City Council~~Zoning Administrator may, upon application, grant a home occupation license which shall state the home occupation permitted, the conditions attached thereto, and any time limitations imposed thereon. The license shall not be issued unless the Zoning Administrator ~~City Council~~ finds the applicant is in compliance with each one of the conditions listed in City Codes and State Law, and that the applicant has agreed in writing to comply with all said conditions. All certificates of license shall be signed by the City Administrator~~Mayor~~ and attested to by the Zoning Administrator ~~under the Seal of the City~~.

(Amended: 7/6/99, 7/18/2000, 5/2/06, 9/2/08)

Article 4.7 Town Center Overlay

3-4716 Residential Uses

1. All Flex Use residential developments and Town Center Mixed Use Residential shall be required to provide additional site planning and architectural improvements and/or specifications as follows:

    a. Roofs. The roofline of all proposed structures that include residential uses shall be varied in height to provide a break in the visual appearance.
    b. Walls. The vertical wall plane along the upper floors shall be articulated, varied, and architecturally designed to promote numerous opportunities for views from residential units.
    c. Windows. Only windows of high residential quality shall be used. All windows shall be surrounded on all four sides with trim such as stucco band, siding trim or other material.
    d. Access. Residential units shall be accessed from a separate entrance that is not located within the leased space of a retail or office unit.
    e. Parking. A minimum of three (3) parking stalls per unit shall be provided. Underground parking or parking structures may be provided for residential units provided they are located on the interior block and not along a designated right-of-way. Underground parking may not be constructed if the result of the parking structure reduces any ground floor retail or commercial footprint to a point where it may be considered non-functional or impractical.
        i. Underground parking areas or parking structures shall be a minimum of thirty (30) feet from the nearest right-of-way and be screened from that right-of-way by an attached building.
        ii. Parking Structures shall include exterior landscaping features along each level of parking to screen light pollution and create an aesthetic feature that may assist with breaking the visual appearance of a large wall plane.
        iii. Parking shall not be allowed on residential alleys.
        iv. If parking is provided by an attached/detached garage a driveway shall be provided with a minimum depth of twenty-two feet (22’) unless otherwise approved by the Council.
    f. Yards. In all cases where residential is proposed as the exclusive use of the property (until such time that a ground floor may convert to retail/office), the project shall provide a rear yard for each unit typical with rowhouse type building construction.
    g. Ground Floor Residential Design. Residential development (Residential and Live-Work units) located adjacent to Parkway East, Parkway West, Town Center Boulevard/Drive, Town Square Street East, Town Square Street West, or Town Square Park Street that does not exclusively incorporate ground floor retail, other commercial, or office shall be designed with flexibility in such a way to provide for ground floor retail in the future unless otherwise approved by the Council.
    h. Minimum Residential Height. Uses proposed as exclusively attached residential shall be a minimum of two (2) stories in height only if located adjacent to Parkway East, Parkway West, Town Center Boulevard/Drive, Town Square Street East, Town Square Street West, or Town Square Park Street for the purpose of providing for future use on the ground floor.

2. Attached Multi-family Residential, Live-Work Residential.
    a. Upper floor uses may include; attached high density multi-family residential units, professional offices (see Table 3-47A), or retail sales and/or services as defined in this Code.

3. All residential units that are designed and built to be a residential use cannot be converted into a commercial or office use without Council approval. Home occupations are permitted in each residential unit.

AGENDA

NEXT

HIGHLAND CITY

PLANNING COMMISSION AGENDA REPORT ITEM #7

DATE: June 28, 2022

TO: Planning Commission

FROM: Kellie Smith
Planner & GIS Analyst

SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Fractional Numbers

TYPE: **LEGISLATIVE:** All proposed amendments to the Development Code shall be submitted first to the Planning Commission for a recommendation, which recommendation shall be submitted to the City Council for consideration. The review and approval of a text amendment is a legislative action.

PURPOSE:
The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Section 3-4103 Area and Width Requirements to address a discrepancy in the Development Code relating to number of lots in a subdivision. The Planning Commission will take appropriate action.

BACKGROUND:
In the supplementary regulations applicable to all zones, Section 3-613 Fractional Numbers states "Any computation or measurement resulting in a fractional number shall be rounded down to the next smaller whole number."

In the R-1-40 zone, when determining the number of lots can be in a subdivision, it states that "any computation or measurement resulting in a fractional number shall be rounded to the nearest whole number."

When there is a discrepancy like this in Code, Staff follows the stricter standard. As a result, the number of lots in subdivisions has been determined by rounding down.

SUMMARY OF THE REQUEST:

1. The proposed amendment to Section 3-4103 Area and Width Requirements in the R-1-40 zone is consistent with the stricter standard to round *down* when determining the number of lots in a subdivision.

ANALYSIS:

- A text amendment is needed to eliminate the discrepancy in code regarding determining the number of lots.

CITIZEN PARTICIPATION:

Notice of the public hearing to be held at the Planning Commission meeting was published in the Daily Herald on June 11, 2022 and posted on the state and city websites June 9, 2022. No comments have been received.

FINDINGS:

The proposed amendment appears to meet the following findings:

- The amendment is needed to eliminate a discrepancy in code regarding to determining the number of lots in a subdivision.

RECOMMENDATION AND PROPOSED MOTIONS:

Staff recommends that the Planning Commission accept the findings and recommend one of the following solutions to the discrepancy relating to fractional numbers:

Round Down

If the Planning Commission decides that when determining the number of lots, fractional number should be rounded down, a motion would be:

> I move that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment to Section 3-4103 Area and Width Requirements.

Round to Nearest Whole Number for Lots Only

If the Planning Commission decides that when determining number of lots, fractional numbers should be rounded to the nearest whole number, an alternative motion would be:

> I move that the Planning Commission recommend an amendment to Section 3-613 Fractional Numbers to add an exception for determining number of lots.

Round to Nearest Whole Number for All Computations

If the Planning Commission decides that in all computations or measurements resulting in a fractional number should be rounded to the nearest whole number, an alternative motion would be:

> I move that the Planning Commission recommend an amendment to Section 3-613 Fractional Numbers to round to the nearest whole number for all computations or measurements resulting in a fractional number.

ALTERNATIVE MOTION:

I move that the Planning Commission recommend **DENIAL** of case TA-22-05 a request for a text amendment to Sections 3-4103 Area and Width Requirements relating to fractional numbers based on the following findings: (The Commission will need to draft appropriate findings.)

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SECTION 3-4103 AREA AND WIDTH REQUIREMENTS RELATING TO FRACTIONAL NUMBERS AS SHOWN IN FILENAME TA-22-05.

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the "Commission") and the Highland City Council (the "City Council") were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Planning Commission held a public hearing on this Ordinance on June 28, 2022 and

WHEREAS, the City Council held a public hearing on this Ordinance on July 5, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1: **ADOPTION** Section 3-4103 Area and Width Requirements of the Development Code relating to fractional numbers is hereby amended as shown on "Exhibit A" attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from July 5, 2022 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, July 5, 2022

HIGHLAND CITY, UTAH

_____
Kurt Ostler
Highland City Mayor

ATTEST:

_____
Stephannie Cottle

Highland City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

Exhibit A

3-4103 Area And Width Requirements

1. The maximum number of lots to be permitted on a subdivided property is determined by dividing the total square footage, less any area used as an existing prescriptive easement or roadway, by 40,000 square feet. Churches and other public buildings and grounds shall not be used in calculating the number of allowable lots. Lots in the R-1-40 Zone may not be smaller than 20,000 square feet with not more than 25% of the lots being 30,000 square feet or less. In determining number of lots, ~~and any computation or measurement resulting in~~ a fractional number shall be rounded down to the nearest whole number. Area and width requirements of a building lot in the R-1-40 Zone shall be as follows:

Use	Minimum Lot Area	Minimum Width at Setback Line
One-family dwelling	20,000 Square Feet	130 feet

2. Subdividing an existing lot in a subdivision for the purposes of this section, the density requirement is calculated using the number of lots that would have been permitted under the original plat of the subdivision. If a subdivision was platted with less than the maximum number of lots, an existing lot may be further subdivided if both lots meet all the requirements of the Development Code.

(Amended: 6/16/98, 6/5/01, 1/15/02)

AGENDA

NEXT

HIGHLAND CITY

PLANNING COMMISSION AGENDA REPORT ITEM #8

DATE: June 28, 2022

TO: Planning Commission

FROM: Kellie Smith
Planner & GIS Analyst

SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Lot/Parcel Combinations

TYPE: **LEGISLATIVE:** All proposed amendments to the Development Code shall be submitted first to the Planning Commission for a recommendation, which recommendation shall be submitted to the City Council for consideration. The review and approval of a text amendment is a legislative action.

PURPOSE:
The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Article 5-10 Adjusting Property Boundaries; Amending A Recorded Plat relating to the combining of lots or parcels. The Planning Commission will take appropriate action.

BACKGROUND:
In the 2022 Utah Legislative Update, HB303 gave municipalities the option to exclude the combining of lots from required subdivision/plat amendments.

SUMMARY OF THE REQUEST:

1. The proposed amendment removes lot combinations from the definition of a plat amendment and defines a "combination" is the joining of two or more adjacent lots and/or parcels under common ownership in a way that reduces the number of lots and/or parcels.
2. The proposed amendment adds Section 5-10-104 Lot or Parcel Combination to Article 5-10. The following is a summary of this section:
    a. An application is required.
    b. The Zoning Administrator acts as the land use authority. The application is subject to the Zoning Administrator's review and approval.
    c. After a lot or parcel combination is approved by staff, the applicant shall record a Notice of Approval and shall provide the Zoning Administrator with a recorded copy.
    d. Lot or parcel combinations do not modify any existing easements, public

right-of-way, nor any requirement to comply with all zoning and other land use regulations.

ANALYSIS:

- The purpose of this amendment is to simplify the process of combining lots with open space that property owners purchased from the City.
- The combining of lots or parcels creates larger lots and lowers density. Lot combinations also do not require any additional public improvements.

CITIZEN PARTICIPATION:

Notice of the public hearing to be held at the Planning Commission meeting was published in the Daily Herald on June 11, 2022 and posted on the state and city websites June 9, 2022. No comments have been received.

FINDINGS:

The proposed amendment appears to meet the following findings:

- The amendment is consistent with State Code.

RECOMMENDATION AND PROPOSED MOTIONS:

Staff recommends that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment.

I move that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment to Article 5-10 Adjusting Property Boundaries; Amending A Recorded Plat relating to the combining of lots or parcels.

ALTERNATIVE MOTION:

I move that the Planning Commission recommend **DENIAL** of case TA-22-06 a request for a text amendment to Article 5-10 Adjusting Property Boundaries; Amending A Recorded Plat relating to the combining of lots or parcels based on the following findings: (The Commission will need to draft appropriate findings.)

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING ARTICLE 5-10 ADJUSTING PROPERTY BOUNDARIES; AMENDING A RECORDED PLAT RELATING TO THE COMBINING OF LOTS OR PARCELS AS SHOWN IN FILENAME TA-22-06.

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the "Commission") and the Highland City Council (the "City Council") were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Planning Commission held a public hearing on this Ordinance on June 28, 2022 and

WHEREAS, the City Council held a public hearing on this Ordinance on July 5, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1: **ADOPTION** Several sections of the Development Code relating to lot and parcel combinations are hereby amended as shown on "Exhibit A" attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from July 5, 2022 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, July 5, 2022

HIGHLAND CITY, UTAH

_____

Kurt Ostler
Highland City Mayor

ATTEST:

_____

Stephannie Cottle
Highland City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

Exhibit A

5-10-101 Purpose And Definitions

The purpose of this article is to provide the process for adjusting. altering. m· amending the recorded property descriptions of parcels. lots. and subdivision plats within Highland City. These regulations are intended to ensure that such changes comply with applicable zoning. subdivision, and other requirements of Highland City and state law. Where there is a conflict between the procedures set forth herein and state law. state law controls. As used herein:

1. "Lot" means a tract of land. regardless of any label. that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder, and a "lot line adjustment" means an adjustment of boundaries between a lot and other lots or parcels. Lot line adjustments require a plat amendment.
2. "Parcel" means any real property that is not a lot, and a "parcel boundary adjustment" means an adjustment of parcels that are not a lot. Parcel boundary adjustments do not require a plat amendment.
3. A "plat amendment" means any change or alteration to a recorded plat. The change may be a relocation ~~or elimination~~ of a property line within the plat (lot line adjustment), a change in notations or lot numbers on the plat, a change or removal of a condition, note, or other restriction described on the plat, a change of the title or name of the plat, or any other change that affects the rights of one or more lot owners. ~~The~~ A combination ~~combining~~ of lots does not require a subdivision plat amendment. Plat amendments require the approval of each affected property owner and the City Council.

~~3.~~4.A "combination" means the joining of two or more adjacent lots and/or parcels under common ownership in a way that reduces the number of lots and/or parcels.

~~4.~~5.None of the processes described in this article may be used to create an additional lot, parcel, or other type of subdivision. Creation of an additional lot or parcel requires compliance with the subdivision process.

HISTORY

Amended by Ord. O-2021-16 on 7/6/2021

5-10-102 Parcel Boundary Adjustment

1. Owners of parcels desiring to adjust the boundaries of their parcels~~, including eliminating a common property line between two or more abutting parcels~~, shall follow the procedures set forth in Utah Code § 10-9a-523 and § 10-9a-524 and shall execute and record such agreements and deeds as are required by state law. No City review or approval is required so long as the proposed parcel boundary adjustment does not:
    a. Create a new lot (requires subdivision process);
    b. Involve a lot (requires lot line adjustment and plat amendment); or
    c. Involve any parcels with dwelling units (requires City approval).
2. Application Required. A parcel boundary adjustment that involves any parcel with a dwelling unit shall be submitted to the City for review and approval. Application for a parcel boundary adjustment shall be made by the property owner or a duly authorized agent and a filing fee shall be charged and collected at the time of application submittal on forms obtained from the Zoning Administrator with any additional information deemed necessary to understand the application.
3. Standards. Parcel owners may adjust property lines between adjacent parcels by exchanging title to portions of those parcels by quit claim deed or boundary line agreement after approval if:

a. No new lot or housing unit results from the property line adjustment;
b. The property line adjustment does not result in remnant land that did not previously exist; and
c. The adjustment does not result in violation of applicable Development Code requirements.

4. Zoning Administrator Review.
   a. The Zoning Administrator shall act as the land use authority and review all the documents to determine if they are complete and that they comply with the requirements set forth above.
   b. If the Zoning Administrator determines that documents are complete and the requested property line adjustment complies with the standards set forth above, the Zoning Administrator shall approve the application.
   c. If the Zoning Administrator determines that the requested property line adjustment does not comply with the standards set forth above, the Zoning Administrator shall deny the application. If the Zoning Administrator denies the application, the Zoning Administer shall describe the specific deficiencies or additional information that is required to approve the application and state that, upon correction of the deficiencies, the application will be approved.
   d. The Zoning Administrator shall complete their review of the application within 14 days after the day on which the applicant submits the application and shall notify the applicant in writing regarding the decision.
   e. The applicant may appeal the Zoning Administrator's decision to the City Council.
5. Conveyance of Title. After approval, the applicant shall:
   a. Prepare a Notice of Approval which:
      i. Contains an acknowledgment signed by each party executing the Notice as required by State law for real property;
      ii. Recites the description of both the original parcels and the parcels created by the property line adjustment; and
      iii. Is executed by each owner included in the exchange and the Zoning Administrator.
   b. Record a deed(s) or boundary line agreement which conveys title as approved; and
   c. Record the Notice of Approval; and
   d. Provide the Zoning Administrator with a recorded copy of the Notice of Approval.
6. A parcel boundary adjustment does not constitute a land use or zoning approval, unless expressly approved as such by the City. Documents recorded as part of a parcel boundary adjustment do not modify any existing easement or public right of way, nor do they waive or modify any requirement to comply with all zoning and other land use regulations.

HISTORY
Amended by Ord. O-2021-16 on 7/6/2021

5-10-104 Lot or Parcel Combination

1. Application Required. A lot or parcel combination shall be submitted to the City for review and approval. Application for a lot or parcel combination shall be made by the property owner or a duly authorized agent and a filing fee shall be charged and collected at the time of application submittal on forms obtained from the Zoning Administrator with any additional information deemed necessary to understand the application.
2. Zoning Administrator Review.
   a. The Zoning Administrator shall act as the land use authority and review all the documents to determine if they are complete, ~~and~~ that they and the new lots or parcels created by the combination comply with all ~~the~~ requirements set forth in the Development Code, and the

application does not seek to create any new lot or parcel, affect any property not owned by the applicant, or alter an existing plat of record in a way that requires a plat amendment.

b. If the Zoning Administrator determines that documents are complete and the requested property line elimination complies with the standards set forth above, the Zoning Administrator shall approve the application.

c. If the Zoning Administrator determines that the requested property line elimination does not comply with the standards set forth above, the Zoning Administrator shall deny the application. If the Zoning Administrator denies the application, the Zoning Administer shall describe the specific deficiencies or additional information that is required to approve the application and state that, upon correction of the deficiencies, the application will be approved.

d. The Zoning Administrator shall complete their review of the application within 14 days after the day on which the applicant submits the application and shall notify the applicant in writing regarding the decision.

e. The applicant may appeal the Zoning Administrator's decision to the City Council.

3. Recording. After approval, the applicant shall:

a. Prepare a Notice of Approval which:

i. Contains an acknowledgment signed by the party executing the Notice as required by State law for real property; and

ii. Recites the description of both the original parcels and the lot or parcel created by the lot or parcel combination; and

iii. Is executed by the owner and the Zoning Administrator.

b. Record the Notice of Approval; and

c. Provide the Zoning Administrator with a recorded copy of the Notice of Approval.

4. A lot or parcel combination does not constitute a land use or zoning approval, unless expressly approved as such by the City. Documents recorded as part of a lot or parcel combination do not modify any existing easement or public right of way, nor do they waive or modify any requirement to comply with all zoning and other land use regulations.

AGENDA

NEXT

HIGHLAND CITY

PLANNING COMMISSION AGENDA REPORT ITEM #9

DATE: June 28, 2022

TO: Planning Commission

FROM: Kellie Smith
Planner & GIS Analyst

SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Setback Encroachment

TYPE: **LEGISLATIVE:** All proposed amendments to the Development Code shall be submitted first to the Planning Commission for a recommendation, which recommendation shall be submitted to the City Council for consideration. The review and approval of a text amendment is a legislative action.

PURPOSE:
The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Sections 3-4104, 3-4204, and 3-4254 Location Requirements relating to encroachments into setbacks for main dwellings in residential zones. The Planning Commission will take appropriate action.

BACKGROUND:
Several home builders, residents, and staff have expressed confusion regarding setbacks and where they should be measured from.

SUMMARY OF THE REQUEST:

1. The proposed amendment allows for the following setback encroachments in the R-1-40, R-1-30, and R-1-20 zones:

    a. Front Setback – 5 feet for 30% of the length of the dwelling; except for stairways

    b. Side Setback – 5 feet for 30% of the length of the dwelling

    c. Side Corner Setback – 5 feet for 30% of the length of the dwelling

    d. Rear Setback – 5 feet for 50% of the length of the dwelling

2. The proposed amendment includes a clarification that no setback encroachments will be permitted in an easement of any kind.

3. The definition of 'Setback' is proposed to be updated as follows:

   The shortest distance between the property line and outside surface of support posts, cantilevers, bay, bow or box windows, or any hard wall line of the structure.

ANALYSIS:

- The majority of the proposed amendment is from the American Fork Development Code.
- The proposed amendment includes cantilevers, bay, bow or box windows needing to meet building setbacks. There has been confusion among staff as to whether or not these were included in the setback or not. The proposed definition is stricter than current code, but the amendment allows for a small setback encroachment to allow for things such as outdoor stairs, and small cantilevers.
- The proposed requirement that no part of the structure shall *project* into an easement of any kind protects public utility and municipal easements below and above ground.

CITIZEN PARTICIPATION:

Notice of the public hearing to be held at the Planning Commission meeting was published in the Daily Herald on June 11, 2022 and posted on the state and city websites June 9, 2022. No comments have been received.

FINDINGS:

The proposed amendment appears to meet the following findings:

- The amendment is consistent with the intent of the low-density residential zones defined in the Development Code.

RECOMMENDATION AND PROPOSED MOTIONS:

Staff recommends that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment.

I move that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment to the setback requirements in the R-1-40, R-1-30, and R-1-20 zones.

ALTERNATIVE MOTION:

I move that the Planning Commission recommend **DENIAL** of case TA-22-07 a request for a text amendment to Sections 3-4104, 3-4204, and 3-4254 Location Requirements relating to setback encroachments in residential zones based on the following findings: (The

Commission will need to draft appropriate findings.)

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SECTIONS 3-4104, 3-4204, AND 3-4254 LOCATION REQUIREMENTS AND CHAPTER 10 DEFINITIONS RELATING TO SETBACKS AS SHOWN IN FILENAME TA-22-07.

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the "Commission") and the Highland City Council (the "City Council") were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Planning Commission held a public hearing on this Ordinance on June 28, 2022 and

WHEREAS, the City Council held a public hearing on this Ordinance on July 19, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1: **ADOPTION** Several sections of the Development Code relating to setbacks and setback encroachment is hereby amended as shown on "Exhibit A" attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from July 19, 2022 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, July 19, 2022

HIGHLAND CITY, UTAH

_____

Kurt Ostler
Highland City Mayor

ATTEST:

_____

Stephannie Cottle
Highland City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

Exhibit A

R-1-40
3-4104 Location Requirements
Buildings and structures on lots within the R 1 40 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, except that a portion of a dwelling may project up to five (5) feet into the required front setback area, provided that the width of the projecting portion shall not exceed thirty (30) percent of the length of the portion of the structure facing the front setback.
2. All dwellings and other main buildings and structures shall be set back not less than fifteen (15) feet from either side lot line; provided, however, on nonconforming lots of record all dwellings and main building shall be set back not less than ten (10) feet from either side lot line and the combined total distance of the two side setbacks shall not be less than twenty four (24) feet, except that a portion of a dwelling may project up to five (5) feet into the required side setback area, provided that the width of the projecting portion shall not exceed thirty (30) percent of the length of the portion of the structure facing the side setback.
3. All dwellings and other main buildings and structures shall be set back not less than thirty (30) feet from the rear lot line, except that a portion of a dwelling may project up to five (5) feet into the required rear setback area, provided that the width of the projecting portion shall not exceed fifty (50) percent of the length of the portion of the structure facing the rear setback.
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, except that a portion of a dwelling may project up to five (5) feet into the required front setback area, provided that the width of the projecting portion shall not exceed thirty (30) percent of the width of the dwelling.
    b. The side setback required for the interior side of such lots shall be that required by paragraph (2) of this Section.

5. Anything structurally attached to the home such as a foundation wall, support posts, cantilevers, bay, bow or box windows, a deck requiring a building permit (covered or uncovered), or a covered patio (unless cantilevered) shall be considered part of the main dwelling.
6. No part of the structure shall project into an easement of any kind.

~~5.~~7. Stairways shall not encroach into a front setback.

(Amended: 9/5/00, 8/1/06)

R-1-20
3-4204 Location Requirements
Buildings and structures on lots within the R 1 20 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, except that a portion of a dwelling may project up to five (5) feet into the required front setback area, provided that the width of the projecting portion shall not exceed thirty (30) percent of the length of the portion of the structure facing the front setback.
2. All dwellings and other main buildings and structures shall have a combined side yard of not less than twenty-five (25) feet, with no structure closer than ten (10) feet from either side lot line ;

provided, however, on nonconforming lots of record all dwellings and main building shall be set back not less than ten (10) feet from either side lot line and the combined total distance of the two side setbacks shall not be less than twenty-four (24) feet, , except that a portion of a dwelling may project up to five (5) feet into the required side setback area, provided that the width of the projecting portion shall not exceed thirty (30) percent of the length of the portion of the structure facing the side setback.

3. All dwellings and other main buildings and structures shall be set back not less than thirty (30) feet from the rear lot line, except that a portion of a dwelling may project up to five (5) feet into the required rear setback area, provided that the width of the projecting portion shall not exceed fifty (50) percent of the length of the portion of the structure facing the rear setback.
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, except that a portion of a dwelling may project up to five (5) feet into the required front setback area, provided that the width of the projecting portion shall not exceed thirty (30) percent of the width of the dwelling.
    b. The side setback required for the interior side of such lots shall be that required by paragraph (2) of this Section.

5. Anything structurally attached to the home such as a foundation wall, support posts, cantilevers, bay, bow or box windows, a deck requiring a building permit (covered or uncovered), or a covered patio (unless cantilevered) shall be considered part of the main dwelling.
6. No part of the structure shall project into an easement of any kind.

~~5.~~7.Stairways shall not encroach into a front setback.

(Amended: 9/5/00, 8/1/06)

R-1-30

3-4254 Location Requirements

Buildings and structures on lots within the R-1-30 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, except that a portion of a dwelling may project up to five (5) feet into the required front setback area, provided that the width of the projecting portion shall not exceed thirty (30) percent of the length of the portion of the structure facing the front setback.
2. All dwellings and other main buildings and structures shall have a combined side yard of not less than twenty five (25) feet, with no structure closer than fifteen (15) feet from either side lot line, except that a portion of a dwelling may project up to five (5) feet into the required side setback area, provided that the width of the projecting portion shall not exceed thirty (30) percent of the length of the portion of the structure facing the side setback;
3. All dwellings and other main buildings and structures shall be set back not less than thirty (30) feet from the rear lot line, except that a portion of a dwelling may project up to five (5) feet into the required rear setback area, provided that the width of the projecting portion shall not exceed fifty (50) percent of the length of the portion of the structure facing the rear setback.
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, except that a portion of a dwelling may project up to five (5) feet into the required front setback area, provided that the width of the projecting portion shall not exceed thirty (30) percent of the width of the dwelling.

b. The side setback required for the interior side of such lots shall be that required by paragraph (2) of this Section.

5. Anything structurally attached to the home such as a foundation wall, support posts, cantilevers, bay, bow or box windows, a deck requiring a building permit (covered or uncovered), or a covered patio (unless cantilevered) shall be considered part of the main dwelling.

6. No part of the structure shall project into an easement of any kind.

~~5.~~7.Stairways shall not encroach into a front setback.

10-102 Definitions

…

Setback. The shortest distance between the property line and outside surface of ~~the foundation, wall, or main frame of the building~~ support posts, cantilevers, bay, bow or box windows, or any hard wall line of the structure. ~~Exclusive of fireplace chases~~.

…

AGENDA

HIGHLAND CITY

PLANNING COMMISSION AGENDA REPORT ITEM #10

DATE: June 28, 2022

TO: Planning Commission

FROM: Kellie Smith
Planner & GIS Analyst

SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Retaining Walls

TYPE: **LEGISLATIVE:** All proposed amendments to the Development Code shall be submitted first to the Planning Commission for a recommendation, which recommendation shall be submitted to the City Council for consideration. The review and approval of a text amendment is a legislative action.

PURPOSE:
The Planning Commission will hold a public hearing to consider a request by Highland City Staff to amend Section 3-612 Fences, Retaining Walls, Theme and Screen Walls relating to daylight basements and window wells. The Planning Commission will take appropriate action.

BACKGROUND:
Several retaining wall permits have been submitted to the building and planning departments for retaining walls around daylight basements.

SUMMARY OF THE REQUEST:

1. The proposed amendment gives an exception to daylight basements and window wells for the 6' maximum retaining wall height. The amendment proposes a maximum height of 11' for these retaining walls.

ANALYSIS:

- Retaining walls for daylight basements and window wells face the homeowner only. These retaining walls are not visible from the street nor adjacent properties.
- More homeowners are wanting rock retaining walls around their daylight basements rather than an extension of their foundation wall. With an extension of the foundation wall, there is no height maximum as it is not considered a retaining wall and is included in the building permit for the home itself. Staff has considered this and to be consistent, staff is recommending a retaining wall maximum of 11'

when used for a daylight basement or window well.

CITIZEN PARTICIPATION:

Notice of the public hearing to be held at the Planning Commission meeting was published in the Daily Herald on June 11, 2022 and posted on the state and city websites June 9, 2022. No comments have been received.

FINDINGS:

The proposed amendment appears to meet the following findings:

- The amendment is compliant with the International Building Code.

RECOMMENDATION AND PROPOSED MOTIONS:

Staff recommends that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment.

I move that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment to Section 3-612 Fences, Retaining Walls, Theme and Screen Walls relating to the daylight basements and window wells.

ALTERNATIVE MOTION:

I move that the Planning Commission recommend **DENIAL** of case TA-22-08 a request for a text amendment to Section 3-612 Fences, Retaining Walls, Theme and Screen Walls based on the following findings: (The Commission will need to draft appropriate findings.)

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING ARTICLE 5-10 ADJUSTING PROPERTY BOUNDARIES; AMENDING A RECORDED PLAT RELATING TO THE COMBINING OF LOTS OR PARCELS AS SHOWN IN FILENAME TA-22-08.

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the "Commission") and the Highland City Council (the "City Council") were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Planning Commission held a public hearing on this Ordinance on June 28, 2022 and

WHEREAS, the City Council held a public hearing on this Ordinance on July 19, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1: **ADOPTION** Section 3-612 Fences, Retaining Walls, Theme and Screen Walls is hereby amended as shown on "Exhibit A" attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from July 19,2022 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, July 19, 2022

HIGHLAND CITY, UTAH

_____

Kurt Ostler
Highland City Mayor

ATTEST:

_____

Stephannie Cottle
Highland City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

Exhibit A

3-612 Fences, Retaining Walls, Theme And Screen Walls

…

3. Retaining Walls
    a. A retaining wall within the front setback shall be a minimum of ten (10) feet from the front property line and shall not exceed four (4) feet in height. The maximum height of retaining wall in any other location is six (6) feet.
        i. Retaining walls for daylight basements or window wells have a maximum height of eleven (11) feet.
    b. Retaining walls shall not be placed any closer to another retaining wall than at a ratio of one foot horizontal to one foot vertical height of the wall.
    c. Under no condition shall a fence and retaining wall exceed eight (8) feet in height on the same vertical plane. If a privacy fence that is on top of a retaining wall would exceed eight (8) feet, it shall be set back at least four (4) feet from the back side of the retaining wall. Open style fences are permitted to be on the same plane as a retaining wall.
    d. Retaining walls shall not be permitted within public utility easements without city approval, and no approval will be granted where a storm drain, culinary water line, pressurized irrigation line, or sewer line is installed.
    e. Retaining walls require a building permit if it exceeds four (4) in height. The submittal for the building permit must include:
        i. a stamped engineered plan from the licensed engineer,
        ii. a drainage plan which provides for containment of run-off water on site or discharged to a City approved location,
        iii. plans for a conduit as required by the City Engineer if the retaining wall is to be constructed within the public utility easement where utilities do not exist. The property owner shall be financially responsible for the removal or reconstruction of a retaining wall in a public utility easement if the easement is needed per Utah Law (UCA 54-3-27).

…