

1 **Highland City Planning Commission**
2 **April 10, 2007**

3
4 **Present:**

5 Commissioner: Larry Mendenhall
6 Commissioner: Brian Braithwaite
7 Commissioner: Brent Wallace
8 Commissioner: Elizabeth Macfarlane
9 Commissioner: Roger Dixon
10 Commissioner: Jerry Gorrell

11
12 City Administrator: Barry Edwards
13 City Engineer: Matt Shipp
14 City Planner: Lonnie Crowell
15 City Planner: Carly LeDuc
16 Secretary: Dawn Corrigan

17
18 Meeting convened at 7:04 pm
19 Prayer given by: Brent Wallace
20 Pledge given by: Carly LeDuc

21
22 **Excused:** Jennifer Tucker (Commissioner)

23
24 **Visitors:** Scott Brubaker, Tanner Jensen, Steve King, Kathryn Schramm, H. Ernie
25 Smith, Doreen Spackman, Travis Spackman, Jonathan Taylor, Mark Vlasic, Chase
26 Wilden.

27
28
29 **Item 1: General Plan Update ~ Public Hearing & Recommendation**

30
31 Larry Mendenhall indicated there would be a presentation by the representatives
32 from Landmark Design who worked on the general plan. Lonnie Crowell
33 introduced the two consultants and explained that they've been working on the
34 plan for a year.

35
36 Mark Vlasic outlined the plan and read the chapter outlines. He indicated that
37 based on comments at recent meetings, he expected that the Planning
38 Commission would have recommendations for the City Council, especially on
39 affordable housing and land use, and that he planned to spend extra time on
40 those areas.

41
42 Mark Vlasic presented a PowerPoint presentation on the general plan. He
43 mentioned some possible concepts for getting higher density for affordable

1 housing. He reviewed what percentages of use are predicted to be at build out for
2 the city. He also explained that the new general plan won't have to be updated
3 every time there's a local zone change. The general plan will drive zoning, rather
4 than the zoning map driving the general plan.

5
6 Jeff then reviewed the economic portion of the plan. He observed that their
7 analysis suggested that additional commercial development could be supported in
8 Highland economically. He observed that according to affordable housing
9 guidelines, 1.2% of housing in Highland is affordable. If Highland were to have a
10 comparable makeup to the other cities in Utah County, 17% of its housing should
11 be affordable.

12
13 Larry Mendenhall opened the public hearing.

14
15 Doreen Spackman addressed the commission. She indicated her property is on
16 6000 West. She's in an R-1-40 zone but surrounded by R-1-20s and non-
17 conforming R-1-20s. She asked that the two properties she specified be rezoned r-
18 1-20 to make them compatible with neighborhood.

19
20 Doreen Spackman also noted that the new master plan calls for fewer cul de sacs.
21 She felt that would make it harder for smaller lots to subdivide, which is what
22 she's interested in doing. Therefore she wondered what the options are for people
23 who have larger lots.

24
25 Larry Mendenhall referenced Mark Vlastic's point about the flexibility the new
26 general plan offers regarding zoning. However, he suggested that the general plan
27 public hearing might not be the forum for Mrs. Spackman's questions.

28
29 Mrs. Spackman said she understood, but was specifically concerned about the
30 recommendation regarding cul de sacs. Lonnie Crowell clarified that cul de sacs
31 wouldn't be forbidden, it's simply that the city would prefer to connect the roads
32 whenever possible. He said five-lot cul de sacs would still be accepted.

33
34 Larry Mendenhall thanked Doreen Spackman for her comments and suggested she
35 meet with staff to make a presentation for the commission to review.

36
37 Larry Mendenhall asked if there were any other comments from the public.

38
39 Christy Brown asked about the plan for more moderate housing. Larry
40 Mendenhall responded that it's incumbent upon the commission to make
41 affordable housing a priority, and that the general plan will help determine where
42 such housing should go.

43
44 Christy Brown asked what was meant by affordable housing in Town Center, and
45 Larry Mendenhall explained that it would probably be twin homes.

1
2 Larry Mendenhall closed the public hearing.

3
4 Larry Mendenhall asked the commission for comments. The commission worked
5 through the general plan section by section, and made comments for Landmark
6 Design and recommendations for City Council.

7
8 **Motion by Roger Dixon, Planning Commission to recommend that City Council**
9 **approve the Draft Final Plan recommendation as outlined and recommended by**
10 **Landmark Design, with the following changes:**

- 11
12 • That a glossary of common terms (such as “utility corridor”) be added to
13 the General Plan before it is approved, and that additional changes be
14 made as listed below.

15
16 **Executive Summary**

- 17
18 • Planning Commission recommends that language such as “it is typically
19 done” be firmed up and that a review of the General Plan every five years
20 be put in as a goal, rather than defined as policy.
21 • That the section about schools under 2.0 Land Use be changed to reflect
22 that one additional middle school is planned and others may be added
23 later.
24 • That the final sentence of Paragraph 2 under section 3.0 Transportation,
25 “Cul-de-sacs will not be permitted unless deemed necessary by City staff,”
26 be removed from the document.
27 • That the recommended road improvement project for 6000 West be
28 identified as a 3-Lane Residential Collector rather than a 2-Lane
29 Residential Collector.
30 • That under section 4.0 Environmental and Natural Systems, Mitchell
31 Hollow and the land to the east be identified as an area the city will strive
32 to preserve.
33 • That the final sentence of Paragraph 3 under section 5.0 Economics, “As a
34 result, trip generation is reduced, freeing up capacity on the two arterials
35 and keeping traffic congestion at a minimum,” be removed from the
36 document.
37 • That the language in section 8.0 Parks, Recreation Facilities and Trails be
38 changed from “In 2017” to “By 2017” and from “in 2027” to “by 2027”
39 wherever those phrases appear.

40
41 **Chapter One: Introduction and Background Element**

- 42
43 • On page 1-4, that the date 1853 in the first paragraph be confirmed as
44 correct.

1
2 Chapter Two: Land Use Element
3

- 4 • On page 2-5, that the final sentence under “Residential Multiple Family <
5 1 acre lots” be changed from “Most of these projects are well maintained
6 and well landscaped” to “These projects are well maintained and well
7 landscaped.”
- 8 • On page 2-8 under Golf Courses, that the section be corrected to state that
9 there’s one private golf course located wholly within the city and two
10 partially within city limits that are municipal.
- 11 • That footnotes be provided for Table 2-3 Acreage by Ownership to explain
12 the source of the information and why 500 acres are listed with ownership
13 unknown.
- 14 • Under the section on Land Use Issues that details the results of the
15 community survey, to add something about animals rights, which was one
16 of the topics discussed in the survey.
- 17 • That the first two paragraphs of the “Land Use Analysis” section be
18 combined so that the intended meaning of the phrase “the wholesale
19 modification of existing land use patterns is likely to cause more harm than
20 good” will be clearer.
- 21 • That the second bullet point under “Land Use Concept” be edited to make
22 it clear that the “higher-density uses” referenced are proposed/future
23 higher density uses, since there are no higher density uses currently.
- 24 • In Table 2-4 Future Land Use, the figure of 14 acres for Commercial looks
25 too low. This figure needs to be researched and corrected if necessary.
- 26 • On page 2-17 under Golf Courses that the golf courses be corrected again,
27 as referenced above.
28

29 Chapter 3: Transportation Element
30

31 Under Road Improvement Projects, that number 1, 6000 West, be defined as a 3-
32 Lane Residential Collector, rather than a 2-Lane Residential Collector.
33

34 Chapter 5: Economic Element
35

36 On page 5-6, in the third bullet point under Commercial Development Planning,
37 that the phrase “but also trip generation is reduced, freeing up the two arterials”
38 be removed.
39

40 Chapter 6: Affordable Housing Requirements
41

- 42 • In Table 6-1 , “Affordable Housing Costs for Workers in Selected
43 Occupations,” that the figure listed for the average (median) annual wages
44 for Fire Fighters be confirmed.

- In the Goals for this chapter, add “provide an opportunity to allow public safety employees to participate in affordable housing.”

Chapter 8: Parks, Recreation Facilities and Trails

Under Table 8-3, Future and Proposed Parks, add that it’s a goal to have the area along 9600 North to the east of Mitchell Hollow developed as a park in the future.

Seconded by Elizabeth Macfarlane.

Unanimous vote, motion carried.

Item 2: Brown Residence ~ Fence Variance Request

Larry Mendenhall asked Carly LeDuc to summarize this issue. Carly LeDuc said that at the end of the commission’s last discussion of this issue, the two outstanding questions were the line of sight and the required depth for the detention pond. She said staff went out and checked the line of sight and it will work. She invited Matt Shipp to present information about the pond.

Matt Shipp said his staff went out and did calculations on the pond with the storm drain master plan that’s being designed right now. He indicated the three spots where there are inlets to the pond. He said the design is that water goes down, comes into the pond, rises, then flows into a pipe in the road and from there to Dry Creek.

Matt Shipp further indicated that the pond is currently .07 acre feet, while the new master plan calls out for .4 acre feet. He explained that the pond has been operating for the past five years as a flow through pond, despite having been designed as a detention pond. Water hasn’t backed up the way it should. He stressed that the pond is designed for a 100-year storm event, which the city hasn’t seen since the pond was built, but that the city has had a lot of melt off, and in regard to it, the pond is acting as a flow through. He added that there’s not enough flow for the plate to do any good.

Matt Shipp reminded the commission that one of the applicant’s concerns had been the location of a trampoline. The applicant has created a nice play area, but she’s concerned the trampoline doesn’t have a fence around it. He said one option he’s discussed with the applicant would be to allow the applicant to fill in the pond north of where the fence would be, and move amenities such as the trampoline to the other side of fence. This would allow her to build a fence that meets the ordinance.

1 Matt Shipp said yet another possibility would be to increase the volume of the
2 pond and put an orifice plate on it; however, he stressed that this option doesn't
3 make sense to him. He concluded that whichever option is chosen, staff
4 recommends that the city maintain the easement on the pond. The easement
5 would remain on the plat, even if the physical pond wound up behind the
6 property owner's fence.

7
8 Brian Braithwaite asked if Matt was saying that the pond is too small, yet he
9 recommends the city fill it in and make it smaller. Matt Shipp replied that he
10 needed to do more research, but he did speak to the water department and that
11 without some modifications, the pond will continue to act as a flow through,
12 rather than in the way it was intended.

13
14 Larry Mendenhall emphasized that the pond has never acted as a detention pond.
15 Brian Braithwaite asked if that's because it doesn't need to, or if that's because it
16 was designed badly. Barry Edwards explained that the storm sewer line wasn't
17 there when the subdivision went in. So, the idea was that the pond would bubble
18 up and go to Dry Creek. However, now the water goes to the storm sewer. He said
19 staff would not be willing to give up the easement entirely, but that the applicant
20 could fill in some of the pond and still meet the city's storm water requirements.

21
22 Matt Shipp added that if additional flow were required, it might be possible to
23 route water to another pond through the master plan. Barry Edwards explained
24 that there used to be a ditch there that would collect, route, and drain water, but
25 that this is no longer the case now.

26
27 Larry Mendenhall asked if there were any comments from the commissioners
28 regarding the staff suggestions, which could eliminate the need to grant a
29 variance.

30
31 Brian Braithwaite expressed concern that Matt and Barry had indicated
32 uncertainly about some issues, and said he didn't want the commission to make a
33 decision without confidence. He asked staff to help him feel better that the pond
34 is a "non or small issue." Barry Edwards replied that no city staff would readily
35 give up an easement, in case need for future access should arise. However, he
36 added that operationally, things have changed since the pond was originally put
37 in. The pond hasn't bubbled up in the way it was designed to, and it's not going
38 to. The thing that was going to make it bubble up isn't there. The bubble up was
39 to occur at street level, and the pond is now below street level.

40
41 Matt Shipp said his confidence was such that, based on existing conditions, the
42 city could be comfortable with filling in the pond. It's possible that something
43 could occur in the future that would require the city to use the easement, but he
44 feels comfortable that what's in the master plan will work. He added that the

1 city's standards are more stringent now than they were when this pond was
2 designed.

3
4 Larry Mendenhall said he felt a high degree of confidence that the commission
5 could allow the applicant to fill in a portion of the detention pond, that the fence
6 could therefore meet the setback requirements, that the city could maintain the
7 easement, and that the city could enlarge pond in the future if necessary.

8
9 Brent Wallace agreed, adding he couldn't see that the pond would hold enough
10 water to make a difference anyway.

11
12 Christy Brown said she would love to fill in the pond but that she felt the reason
13 no one has see water in the pond yet is because it's a 100-year pond and we
14 haven't seen a 100-year flood yet.

15
16 Larry Mendenhall said a 100-year flood isn't the issue. He told Mrs. Brown he'd
17 like to allow her to fill in a portion of the pond, have her move the trampoline,
18 and fence to the ordinance. Lonnie Crowell stressed that the applicant doesn't
19 have to move the fence if she wants to keep the trampoline outside the fence.

20
21 Christy Brown asked if the commissioners were saying it didn't matter about the
22 100-year flood, and Roger Dixon clarified that what they were saying is that
23 things have now been engineered differently. Brent Wallace stressed that
24 circumstances have changed.

25
26 Christy Brown said nothing has changed since she bought the property and she
27 hasn't seen new pipe put in. Barry Edwards explained the pipe was brought in
28 before the Browns purchased their home.

29
30 Mrs. Brown said that, contrary to what she understood Matt to say, there is a
31 bubble up box at the pond. Barry Edwards explained that there was supposed to
32 be one in front of the church, but it was never put in. There is an orifice plate, and
33 the box would have forced the water back. Christy Brown said there's a huge
34 metal box at the end of their property that they were told is a bubble box, and
35 demonstrated on the slide how she thought water should flow in the pond. Barry
36 Edwards explained that a second bubble box was supposed to be put in, but it was
37 never installed after the subdivision was approved and the storm pipe was put in.

38
39 Roger Dixon said he'd driven past the property and what he saw was a berm with
40 some pine trees. He said it looked like it would take at least three feet of water in
41 the street before the water would start to go into the pond.

42
43 Brent Wallace pointed out that there's a drain in the street. Roger Dixon said it
44 was his understanding from what Mrs. Brown had said that the water would go

1 over. Mrs. Brown said she assumed it would be a lot of water and that in such a
2 case the water isn't going to stay where we want it to.

3
4 Carly LeDuc stressed that whether the applicant keeps the trampoline or fills in
5 the pond, she'd be able to meet the fence requirement. She added that her
6 concern was that the bubble up wouldn't go over the retaining wall into the
7 trampoline area. Matt Shipp emphasized, though, that the trampoline isn't taken
8 into account for the pond volume. He said if the pond were to be partially filled
9 in, that would be to the south side of the trampoline.

10
11 Brian Braithwaite asked how much land would be filled in. Matt Shipp said not
12 much volume would be taken out of the pond. Brian Braithwaite said he would
13 have thought it was 25% of the volume, and Roger Dixon agreed. Commissioner
14 Braithwaite then asked staff if they were comfortable that it wouldn't be an issue
15 for the city even if 25% of the volume were filled in.

16
17 Matt Shipp said that with the way the pond is operating currently, no, that would
18 not be an issue. Larry Mendenhall suggested the city would route water to
19 mitigate reduction of the pond area. Christy Brown expressed confusion, saying
20 she thought Matt had said the pond should be bigger, and yet the city was going
21 to fill it in.

22
23 Larry Mendenhall and Brian Braithwaite clarified that the applicant would be
24 responsible for filling in the pond, if she wanted to, not the city. Mrs. Brown said
25 she didn't think that was fair. Barry Edwards pointed out that, according to the
26 plat map, the rock wall on the lot wasn't permitted, and stressed that the city is
27 just looking for a good compromise.

28
29 Christy Brown asked why the rock wall isn't permitted, and Barry directed her
30 attention to note one (1) on the plat. Mrs. Brown asked if rock walls were
31 forbidden in all retention ponds and Barry reiterated that this is specific to note
32 one (1) on the plat, concerning lots 23 and 24.

33
34 Larry Mendenhall stressed that the commission is looking for a reasonable
35 solution and that in exchange for maintaining the fence setbacks, the commission
36 might be willing to allow the applicant to fill in part of the pond. Mrs. Brown
37 asked if line of sight proved to be a big issue and asked Matt Shipp when he'd
38 surveyed her lot. Barry Edwards mentioned that the city has a survey going on
39 and recommended that they have someone else evaluate Matt's recommendation
40 concerning the pond. Matt concurred and suggested that if his evaluation proved
41 wrong, the commission could always go with the variance, but stressed that if that
42 were the case, the pond would need to be rebuilt drastically. He reiterated that he
43 was not comfortable giving the easement up but was comfortable that it would be
44 okay to partially fill in the pond under current conditions.

45

1 Mrs. Brown said she didn't understand how note one (1) on the plat meant she
2 couldn't have a rock wall, and Roger Dixon echoed the question.

3
4 Larry Mendenhall directed conversation back to the fence variance. Mrs. Brown
5 asked what was the purpose of applying for a variance when the commission
6 wouldn't consider what she asked for. She reminded the commissioners that at
7 the previous meeting they'd indicated the issues were line of sight and the size of
8 the pond, but that now, despite the fact that Matt says the pond could safely be
9 smaller, they still aren't discussing her actual request. She said she paid her
10 \$100.00 and she wanted to talk about her variance.

11
12 Larry Mendenhall explained that variances are always difficult for the commission
13 to deal with and that part of the discussion must be to offer reasonable
14 alternatives that uphold the ordinances, if any are possible. Mrs. Brown asked if
15 that meant the commission didn't have to grant the variance and Commissioner
16 Mendenhall confirmed that was correct. Mrs. Brown stated she felt this was
17 unfair.

18
19 Brent Wallace asked if the trampoline is in the pond, and if there are rocks around
20 the pond. Matt Shipp said he wasn't certain if the trampoline is in the pond, but
21 it's definitely in the easement. He added that, according to the plans, the
22 trampoline is in the original detention pond. However, it's already been
23 determined that at least in some particulars, the pond wasn't built to plan.

24
25 Christy Brown said she's applying for the variance because she's thinking of the
26 welfare of children, whom she doesn't want playing in an unfenced area near a
27 busy road. She also observed that some people can't afford to make all the
28 improvements on their homes at once. Elizabeth Macfarlane explained to Mrs.
29 Brown that at this point the commission's only choices were to deny the variance,
30 or to continue the discussion at their next meeting. She expressed empathy with
31 Mrs. Brown but reiterated that granting variances is not a light matter for the
32 commission.

33
34 Christy Brown restated that it's her intent to save lives, but Brent Wallace
35 observed that she could protect her kids right now by putting in a fence that
36 complies with the ordinance. Mrs. Brown said she'll be looking into the legalities
37 of filling in pond, stating that "you can't just put a fence down the easement."
38 Brent Wallace explained, however, that in fact you can, but the city can come in
39 and move it later, should it ever need to.

40
41 **Motion by Elizabeth Macfarlane, Planning Commission to continue discussion of**
42 **this issue at its next meeting, with a letter from the engineer and notes about**
43 **what staff is comfortable with, for review.**

44
45 **Seconded by Brian Braithwaite.**

1
2 **Motion passed with Larry Mendenhall, Brent Wallace, Elizabeth Macfarlane, and**
3 **Brian Braithwaite voting in favor and Roger Dixon and Jerry Gorrell voting**
4 **opposed.**
5

6
7 **Item 3: Checker Auto Parts ~ Architectural Review & Recommendation**
8

9 Larry Mendenhall invited the applicant to speak. Jonathan Taylor indicated they
10 were looking for recommendations from the city to make the city happy to have a
11 Checker Auto.
12

13 Brent Wallace asked which lot Checker will be occupying in Highland Marketplace
14 and Lonnie Crowell indicated it will be lot 5.
15

16 Brent Wallace asked what their current renderings were based on and one of the
17 Checker reps indicated they were based on what was received from staff
18 originally. He added that staff provided additional feedback last week and that
19 they were prepared to make additional adjustments based on that feedback.
20

21 Roger Dixon asked what they thought of the staff requirements and Jonathan
22 Taylor said their only concern was regarding windows. He explained that Checker
23 has shelving where staff has asked for windows.
24

25 Lonnie Crowell pointed out that the windows can be blacked out, and showed
26 some examples from other Checker stores that had windows tinted or clear.
27

28 Jonathan Taylor stressed they are willing to change the rendering to meet
29 expectations. Brent Wallace observed that the applicant is concerned about how
30 much of the windows need to be clear because they put shelving in the window
31 areas and they don't want passersby to be looking at the backs of shelves. He
32 asked the applicant if windows would be a security concern. Jonathan Taylor said
33 not really, because of the shelving. He said they might have concerns if it were a
34 high risk neighborhood, but not in Highland. He added that they build windows
35 out of reinforced glass.
36

37 Lonnie Crowell suggested the applicant keep in mind that the Highland City
38 ordinance about temporary signs is pretty strict.
39

40 Jonathan Taylor said he thinks they've addressed staff comments, and they're
41 doing a new floor plan. He said they'd like the windows to be clear glass, but that
42 decision is controlled by Checker Operations. He said if the city said the windows
43 *must* be clear, it's possible that Operations would choose not to open the store
44 here.
45

1 Brent Wallace asked Jonathan Taylor if he was the builder and Mr. Taylor
2 explained that the applicant is the developer for Checker Auto Parts in Utah. He
3 said they will be buying the land and building the facility, and his partner added
4 that the applicant has built 20 Checker stores in the past three years.

5
6 Mr. Taylor's partner Scott Brubaker stressed that the applicant has put in the
7 changes staff requested and that it would be considered seriously if the
8 commission were to specify that it wanted clear glass.

9
10 Scott Brubaker distributed the most recent elevations to the commission, and
11 Larry Mendenhall suggested the commission review them one at a time, starting
12 with the west elevation.

13
14 Scott Brubaker observed that on that elevation there appeared to be opposition to
15 the false canopy, so they did away with it. Lonnie Crowell said he appreciated
16 that. In his opinion, the false canopy looked as though it was built for a sign, as
17 opposed to being part of the building.

18
19 Larry Mendenhall wondered if it would look better if the three feet of wainscoting
20 were moved up. Scott Brubaker said it's a question of balance, and some people
21 like it to be even, while others like it to protrude. Elizabeth Macfarlane said she
22 liked the elevations the applicant just distributed, and the reason she likes them is
23 because they're a little different from the usual, which is what Highland is after.
24 She cited the examples of Wendy's and Jiffy Lube, and said she thinks the arch
25 makes the elevation classier.

26
27 A brief discussion ensued about whether the feature in question was an arch or a
28 gable. Elizabeth Macfarlane said she likes the north and south elevations, and she
29 likes the windows. She expressed some concern that they will experience westerly
30 afternoon sun. Scott Brubaker replied that they would put awnings on all the
31 windows. Elizabeth Macfarlane asked if there will be an awning over the front
32 door. Scott Brubaker said there would be and showed it to her on the drawing.

33
34 Brian Braithwaite asked about the architectural elements as well as the colors on
35 the original drawing, which he wasn't crazy about. Scott Brubaker stressed that
36 the stone columns weren't flat pieces of stone. Brian Braithwaite said he would
37 need a better drawing to be able to tell the extent of the improvements. Lonnie
38 Crowell said the applicant had provided a drawing with everything he asked for
39 and again said he felt the false canopy didn't work.

40
41 Elizabeth Macfarlane asked Larry Mendenhall if he liked the gable. Larry said not
42 especially. He added that he thought the awnings would add a nice look to the
43 front. Commissioner Mendenhall also observed that he didn't think much could be
44 done with the north elevation, since the loading dock needs to be there. He said
45 the east side is a storage area, and the south elevation is what it needs to be.

1 Therefore the focus of discussion needs to be on the west elevation. He continued
2 that the commission needs to refine the west elevation and determine what the
3 architectural elements on that side should be.

4
5 Larry Mendenhall further observed that there are lights across the west elevation,
6 reminiscent of some of the other proposed buildings in Highland Marketplace. He
7 thought the commission could ask for additional lights, though he wasn't sure that
8 would be necessary.

9
10 Brent Wallace indicated he liked the proposed columns and observed that there's
11 too much stucco in the world, so when it can be replaced with something more
12 natural looking, that's better. He advised the applicant that the more stone they
13 used, the better, from his point of view.

14
15 Scott Brubaker said the applicant might have a possible compromise on the west
16 elevation, suggesting a small eyelet arch that would be similar to the radius on the
17 sides.

18
19 Larry Mendenhall said he thought that despite some small differences of opinion,
20 the applicant is close to a final design that will satisfy everyone. He said on the
21 whole he likes what he sees but he'd like to see some color. Scott Brubaker
22 observed that it needs to coordinate with the other buildings and asked what
23 colors they'd like to see.

24
25 Elizabeth Macfarlane said she thought the commission had settled on the color
26 palette with Thomas Fox Properties. Larry Mendenhall agreed, and suggested the
27 applicant get the palette from Thomas Fox and bring the commission new
28 drawings.

29
30 Scott Brubaker said the applicant would like as much direction as possible for
31 their next visit and asked if the commission liked the other elements. Roger Dixon
32 indicated he liked the eyelet arch idea, and that he agreed with Commissioner
33 Wallace that the more stone the better.

34
35 Larry Mendenhall asked about the windows and Commissioners Braithwaite and
36 Macfarlane indicated they liked them.

37
38 Larry Mendenhall asked the applicant if he had enough information. Scott
39 Brubaker pointed out they *had* used the Thomas Fox palette, but agreed they
40 hadn't shown it well. He said if he understood correctly, the commission was okay
41 with the lights, columns, and fenestration; that they liked the idea of a slight
42 eyelet arch similar to the one on the west elevation; and that, though the
43 applicant has already increased the amount of stone that will be used, the
44 commission feels the more stone the better.

45

1 Roger Dixon clarified that in fact the applicant would be adding the eyelet arch to
2 the west elevation, pointing out that it already appears on the north and south
3 elevations. He suggested adding it to the east elevation as well.

4
5 Larry Mendenhall asked the applicant to do one variation for the commission next
6 time. Lonnie Crowell clarified that in regard to lighting, the applicant should meet
7 whatever specs Thomas Fox goes with, and explained that there are still some
8 outstanding issues being worked out about lighting requirements.

9
10 Larry Mendenhall stressed that the commission had talked primarily about the
11 west elevation. Scott Brubaker showed Larry a sketch he'd made in response to
12 the commissioners' comments. Larry asked that it plus another variation be
13 presented to the commission next time. Scott Brubaker agreed the applicant will
14 bring variations to their next meeting with the commission.

15
16 Lonnie Crowell stressed that he appreciates what the applicant has done already,
17 and Larry Mendenhall agreed that it was a good effort. Scott Brubaker pointed
18 out that Checker is different because unlike other auto parts suppliers, most of
19 their business is out the front door, as opposed to dealing primarily with
20 dealerships and the like. Therefore, they can build a nice space. He assured the
21 commission that the store will be a good match to the city.

22
23
24 **Item 4: Adding "Fundamental Fairness" to Definitions ~ Code Amendment**

25
26 Larry Mendenhall explained that this item addresses the need to put a definition
27 that looks to quasi-judicial proceedings into Chapter 10 of the city code.

28
29 Lonnie Crowell added that the State of Utah inserted "fundamental fairness" but
30 didn't define it. Therefore the concern is that one citizen could claim he or she
31 was not treated as fairly as another citizen. He said the city attorney therefore
32 drafted some language for our ordinance based on other states' laws, and
33 precedent.

34
35 Jerry Gorrell asked if this definition changes the body of the code and Lonnie
36 Crowell said it does not. It simply says that the city has defined fairness.

37
38 Elizabeth Macfarlane observed that some of the language of the proposed
39 definition, "hearings are not only fair, but also appear to be fair" sounds odd.

40
41 Lonnie Crowell explained that the purpose of the definition is to address the
42 appearance of fairness, as much as fairness itself. Elizabeth Macfarlane asked
43 what would happen, then, if the commission were to grant a variance for one
44 person, then deny one for another. Could this be construed as unfair? Lonnie
45 Crowell assured her that variances are more protected than that.

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Roger Dixon asked if it would damage the definition to remove the “appear to” part, but Larry Mendenhall indicated he’d like to preserve the attorney’s language. Lonnie Crowell reiterated that the court requires this and that the language was provided by our attorney.

Brian Braithwaite read the final sentence of the proposed definition, which included a typographical error. Lonnie Crowell therefore agreed that the phrase “of the” should be removed from the final sentence of the definition.

Discussion ensued about the language concerning the appearance of fairness. Jerry Gorrell said he thought the language meant that the person conducting the quasi-judicial proceeding should not appear to be offering an opinion. Roger Dixon agreed and said for that reason he thought the words “appear to be fair” should be removed, but Jerry Gorrell countered that, for that very reason, the phrase needed to be left in.

Lonnie Crowell reiterated that this is appropriate language for the definition.

Motion by Brian Braithwaite, Planning Commission to recommend that City Council add the definition of “Fundamental Fairness” to Chapter 10 of the Development Code as recommended by staff, with the amendment that the words “of the” be removed from the final sentence.

Seconded by Brent Wallace.

Motion passed with Larry Mendenhall, Brent Wallace, Elizabeth Macfarlane, Brian Braithwaite and Jerry Gorrell voting in favor and Roger Dixon voting opposed.

Item 5: Approval of Meeting Minutes for March 27, 2007

Motion by Brian Braithwaite, Planning Commission to approve the Meeting Minutes for March 27, 2007 as amended.

**Seconded by Elizabeth Macfarlane.
Unanimous vote, motion carried.**

Meeting adjourned at 10:53 p.m.