

1 **Highland City Planning Commission**
2 **August 28, 2007**

3
4 **Present:**

5 Commissioner: Larry Mendenhall
6 Commissioner: Jennifer Tucker
7 Commissioner: Brian Braithwaite
8 Commissioner: Brent Wallace
9 Commissioner: Elizabeth Macfarlane
10 Commissioner: Roger Dixon
11 Commissioner: Jerry Gorrell
12
13 City Administrator: Barry Edwards
14 City Engineer: Matt Shipp
15 City Planner: Lonnie Crowell
16 City Planner: Carly LeDuc
17 Secretary: Dawn Corrigan

18
19 Meeting convened at 7:01 pm
20 Prayer given by: Roger Dixon
21 Pledge given by: Jennifer Tucker

22
23
24 **Visitors: Barbara Boss, Brian Brunson, Fred Clark, Chris Dalley.**

25
26
27 Larry Mendenhall shared Brian Braithwaite’s observation that in the near future
28 the Planning Commission will need to elect a new chair. The chair will serve a
29 term of one year. The commission will elect its new chair at its first meeting in
30 September, which is also primary election day.

31
32 Roger Dixon asked two procedural questions: what does the commission do in
33 case of a tie, and what is the proper procedure for a substitute motion?

34
35 Larry Mendenhall said a tie vote means the motion does not pass, and his
36 recommendation would be that such a vote be treated as a negative and the issue
37 be passed on to City Council. In regard to a substitute motion, if a motion dies,
38 then you can’t make a substitute. Otherwise, a commissioner may address the
39 chair and ask for permission to make a substitute motion.

40
41 Chris Dalley asked if it’s true that a tie vote means a yes after so many days.

42
43 Larry Mendenhall said yes, and what he’s suggesting is just a way of expediting
44 that process.

1 Barry Edwards said he wished we had a parliamentarian at the city. His
2 understanding is that an applicant may take the issue to City Council regardless
3 of the action of the Planning Commission. Larry Mendenhall said, using that as a
4 basis, a no vote should pass the issue on to City Council. He added that he views
5 the final recommendation stage as a process whereby the Planning Commission
6 can refine the product before it goes to City Council. If the commission can't
7 agree that it's a finished product, the applicant still has a right to appear before
8 City Council.

9
10 **Item 1: Cooperview Subdivision ~ Final Subdivision Approval**
11 **Application**

12
13 Larry Mendenhall summarized the issue and asked if the applicant was present.
14 Fred Clark indicated he was representing the applicant.

15
16 Larry Mendenhall asked if staff had any comments. Carly LeDuc said staff's
17 recommendations are typical for final recommendation on a subdivision. There
18 was concern about road access and the half plus twelve road in front of lots 1 and
19 2. Lonnie Crowell added that the commission had asked the applicant to look at
20 being able to do a full road.

21
22 Fred Clark said moving the road north would place it too close to the required
23 setback for the existing home. He added that a half plus twelve road gives 29 feet
24 of asphalt, which is four more feet than residential streets in Salt Lake have. In
25 his opinion, it's enough asphalt for safe driving.

26
27 Elizabeth Macfarlane asked about the inset in the upper right corner of the
28 proposed plat map. Larry Mendenhall said that property belongs to the
29 Metropolitan Water District and is not part of the subdivision. Fred Clark
30 confirmed that was correct.

31
32 Jerry Gorrell said the argument that the road will be comparable to residential
33 streets in Salt Lake was not very compelling to him, as he's experienced recent
34 frustrations driving on those roads. He'd still like to find a way to complete the
35 road. He observed that part of the issue is that subdividing to the south will be
36 difficult in the future. Doing half of the prescribed road width plus twelve feet is
37 supposed to be a temporary solution, but here it might be permanent.

38
39 Jennifer Tucker said she missed the last meeting but she read the minutes. She
40 agrees with the concerns expressed regarding the half plus twelve road and would
41 like to find a way to complete it. However, if it's been defined as acceptable, she
42 doesn't think the commission has much choice. She also agrees it's unlikely ever
43 to be completed unless apartment complexes or something comparable go in to
44 the south. Something consistent with the current zoning won't work.

1 Fred Clark said as the lots exist now, if they did a full road to the north some lots
2 wouldn't be legal. They'll have to work with the residents to the south to complete
3 the road.

4
5 Brian Braithwaite asked for the setbacks. Lonnie Crowell said standard setbacks
6 for the R-1-40 zone are 30' front, 30' rear, and 15' on the sides. Brian Braithwaite
7 observed that meant the existing home will need to have 15 feet on the side. He
8 said he took a tape measure out and measured 35 feet. Fred Clark said it's
9 actually 31 feet from the proposed road now. Brian Braithwaite asked if it's
10 marked at the site. Fred said he put it on the drawing. Commissioner Braithwaite
11 said he thought the road could fit to the north and still meet the setback. Fred
12 Clark said his measurement was exact. Commissioner Braithwaite asked how it's
13 calculated. Fred said he measured from the house to the start of the right of way.
14 Brian asked how you could know where the house will be. Fred Clark said it's an
15 existing home. And if the existing home were taken down, the lot would be too
16 narrow to have a usable building pad, and wouldn't be sold.

17
18 Commissioner Braithwaite said you wouldn't want the house facing the busy
19 road. He still has a lot of concern about safety when considering half of the
20 prescribed road width plus twelve feet. It could be a long time before the road is
21 completed, and ten homes will be using it in the meantime.

22
23 Fred Clark said his son died four years ago from a fall up in Alta. Thousands of
24 people live along the road that goes up there. He's not sure it's a safety issue.
25 Brian Braithwaite countered that people aren't living right alongside that road.

26
27 Brent Wallace agreed with other commissioners that half of the prescribed road
28 width plus twelve feet seems like unfinished business. He said aesthetically such
29 a road isn't appealing. In addition, when the commission last discussed this
30 proposal, the issue seemed to be the size of some lots. Now it seems to be a
31 different issue, concerning the side yard. Roger Dixon said the issue hasn't
32 changed.

33
34 Elizabeth Macfarlane said she also feels uncomfortable with the road. Perhaps it
35 will be necessary for the developer to have one less lot in order to have a good
36 design.

37
38 Roger Dixon said if there's an issue, it's an issue of the city's making. He said the
39 commission can't ask the developer to do one less lot if the proposal meets the
40 ordinances. The city should complete the road if they feel it's a safety issue.
41 Furthermore, they should do the same for 10400 North.

42
43 Larry Mendenhall said 10400 North is not germane to the Cooperview proposal.
44 Roger Dixon said he'd like to make it germane. Chairperson Mendenhall said
45 Commissioner Dixon was out of order. Roger Dixon asked when the commission
46 could discuss 10400 North. Larry Mendenhall said they could make it an agenda
47 item for a future meeting.

1
2 Roger Dixon reiterated that safety is a concern on unfinished roads, but it's a
3 concern of the city's own making and the burden of correction can't be put on the
4 developer. He suggested the commission should look at the Development Code in
5 regard to this issue.

6
7 Jerry Gorrell asked Lonnie Crowell if he could direct the commission to the
8 section of code that talks about half plus twelve roads. Lonnie said an allowance
9 for such roads is something that City Council can grant, but he doesn't know the
10 code off the top of his head. Commissioner Gorrell asked if permission to do such
11 roads is automatically granted. Lonnie Crowell said no.

12
13 Jennifer Tucker said the fact that there's property doesn't mean it has to be
14 developed a certain way. Maybe there's another way that would have fewer lots
15 but resolve safety issues. She said it's not the city's burden to bear the costs of
16 finishing development. If there were no other way to do it, then she would agree
17 with this proposal, but other configurations are possible. Just because the
18 developer can't get 11 lots doesn't mean he can't develop.

19
20 Roger Dixon observed the issue is the existing house. Jennifer Tucker said there
21 are still options. The house could be demolished, the developer could ask for a
22 variance, the road could be designed a different way. Roger Dixon agreed and
23 said that's where the commission wound up last time. Jennifer Tucker pointed
24 out there was no change in the proposal as a result of that recommendation.
25 Larry Mendenhall said it was his expectation the proposal would remain the
26 same because it basically meets the code already.

27
28 Commissioner Mendenhall added that the commission needs to determine
29 whether or not proposals meet the requirements of the development code. It isn't
30 the commission's job to redesign projects.

31
32 Jerry Gorrell said he agreed with that assessment of the commission's role, but
33 that, as he understood it, the Cooperview proposal doesn't meet the basic
34 requirements unless City Council is willing to grant them the right to do the half
35 plus twelve road, which is not granted automatically. Therefore part of what the
36 commissioners need to decide is whether they want to approve that.

37
38 Lonnie Crowell said the applicant has the right to request the half plus twelve
39 road, though the commission can recommend the request be denied.

40
41 Jerry Gorrell said he'd like to see this piece of property developed.

42
43 **Motion by Jerry Gorrell, Planning Commission to recommend that**
44 **City Council deny final approval of the Cooperview subdivision in**
45 **light of safety concerns associated with the half plus twelve road**
46 **construction in front of lots 1 and 2.**

1 **Seconded by Brent Wallace.**

2
3 Brian Braithwaite asked for a discussion. He said it's hard for City Council to
4 move on issues when they receive the commission's minutes. The commissioners
5 need to be clear on what their concerns are, or give options. For example, they
6 could move to reject the application unless a variance is granted for the existing
7 home.

8
9 Brent Wallace said he'd just reviewed the meeting minutes, and the
10 commissioners' only comments from the last discussion concerned lots. If they
11 move the sidewalk, then square footage will come into play, and the whole
12 subdivision will need to be redesigned. Roger Dixon agreed, saying two lots
13 would be less than 20,000 square feet. Brent Wallace said the situation raises the
14 question of a redesign. There's plenty of square footage so the subdivision can be
15 done, but it will require some shuffling.

16
17 Larry Mendenhall observed that what Commissioner Braithwaite was suggesting
18 is that the commission should establish a framework to send to City Council so
19 they will be aware of the commissioners' concerns and will be able to act on them.
20 He said he thought the commission was muddying the waters by talking about
21 side yard setbacks, when what was really meant was issues arising from having
22 half of the prescribed road width plus twelve feet.

23
24 Brent Wallace asked if the commission's concerns could be summed up as safety,
25 aesthetics, and road maintenance. Jerry Gorrell agreed with this summary, as
26 well as with Commissioner Mendenhall's comment about the setbacks. He added
27 that a half plus twelve road might be reasonable on a temporary basis, but he
28 doesn't think this one will be temporary. He would feel differently if the half plus
29 twelve road would only be in place for two years, but he thinks it will be there
30 much longer.

31
32 Larry Mendenhall suggested the commissioners could amend the motion.

33
34 **Motion by Brent Wallace, Planning Commission to amend the original**
35 **motion to state that the Commission recommends denial of the**
36 **Cooperview subdivision because of concerns about safety, aesthetics,**
37 **road maintenance, and the possible longevity of the half plus twelve**
38 **road. The commission recommends the applicant redesign the**
39 **subdivision so it addresses these issues. The commission would be**
40 **willing to accept a full road section (curb and gutter but no sidewalk)**
41 **for the road.**

42
43 Roger Dixon asked if the road would be encroaching to the south, and Fred Clark
44 said it would have to be moved north.

45
46 Brent Wallace asked if the commission could recommend that a variance be
47 granted to allow a smaller side yard setback for the lot with the existing home.

1 Lonnie Crowell said the commission can't recommend a nonconforming lot. He
2 also observed that if the road is moved 12 feet to the north, it leaves a 34-foot
3 building pad for lot 1. Right now the average in Highland is 50 to 60 feet.

4
5 Barry Edwards said in regard to safety, he wasn't sure if anyone present besides
6 Matt or Fred could determine if the proposed amount of asphalt constitutes a
7 safety issue. He suggested the commission phrase the recommendation to say "if
8 it were determined that the amount of asphalt could create a safety issue."
9

10 Brian Braithwaite asked Matt Shipp if he knew of any comparable roads. Matt
11 Shipp said the city has a couple of roads with 24 feet of oil. Brian Braithwaite
12 asked if they were adjacent to a major highway and Matt said they were near
13 6000 West. He said 11200 might be that width as well.

14
15 Barry Edwards suggested that to strengthen the finding of fact, the commission
16 might base their recommendation on the findings of a traffic engineer. Matt
17 Shipp mentioned that other half plus twelve roads have been approved. Elizabeth
18 Macfarlane asked where and staff provided a partial list, including the Madison
19 Meadows, Elizabeths Place, and Town Center subdivisions.
20

21 Larry Mendenhall said the commission needed to refine the amendment so it
22 provides a clear road map for City Council.
23

24 Roger Dixon asked what the commission meant by aesthetics, and Brent Wallace
25 said things like rocks on the street, and no one being responsible for the road.
26

27 Larry Mendenhall observed that the applicant doesn't own the full width of the
28 proposed road. If he did, it wouldn't be a question. Therefore, the commission is
29 telling the applicant he needs to make an arrangement with the property owner
30 to the south to put that curb in. But if he can't, and a traffic engineer says it's
31 okay, that's how City Council will consider it.
32

33 Barry Edwards observed that half plus twelve roads are often aesthetically
34 displeasing; this is a valid finding on the commission's part. In regard to road
35 maintenance, however, he pointed out the city has many miles of roads that don't
36 have curb and gutter, and it maintains them. The finding of fact in regard to this
37 issue is not as strong as the findings in regard to aesthetics or safety.
38

39 **Motion by Brent Wallace, Planning Commission to amend the original**
40 **motion to state Planning Commission recommends that City Council**
41 **deny approval of the Cooperview subdivision because of concerns**
42 **about safety, as a result of the road being half plus twelve and being**
43 **the only access to the subdivision; as well as concerns about the**
44 **aesthetics of half plus twelve roads, and the likely longevity of this**
45 **half plus twelve road. Planning Commission further recommends that**
46 **a traffic engineer examine the width of the proposed road. The**
47 **commission would like the applicant to redesign the subdivision so it**

1 **addresses these issues, and would be willing to accept a full road**
2 **section (curb and gutter but no sidewalk) for the road.**

3
4 **Seconded by Elizabeth Macfarlane.**

5
6 **Amendment passed with Elizabeth Macfarlane, Brent Wallace, Brian**
7 **Braithwaite, Jennifer Tucker and Jerry Gorrell voting in favor and**
8 **Roger Dixon and Larry Mendenhall voting opposed.**

9
10 **Amended motion passed with Elizabeth Macfarlane, Brent Wallace,**
11 **Brian Braithwaite, Jennifer Tucker and Jerry Gorrell voting in favor**
12 **and Roger Dixon and Larry Mendenhall voting opposed.**

13
14
15 **Item 2: Waterford Estates ~ Final Subdivision Approval**
16 **Application**

17
18 Larry Mendenhall invited Carly LeDuc to speak about this item.

19
20 Carly LeDuc said staff had included recommendations in the staff report that
21 were suggested by the commission last time, including animal rights, hours of
22 operation, and a note on the plat concerning sewers.

23
24 Brian Braithwaite asked Lonnie Crowell about deed restrictions. Brian said the
25 commissioners had asked for a copy of the deed restriction so they could
26 understand what it was, and wondered if there were standard wording for deed
27 restrictions. Jennifer Tucker asked if he was referring to a warranty deed and
28 Larry Mendenhall said yes. Fred Clark noted that the restrictions would be
29 recorded on the final plat, as well.

30
31 Lonnie Crowell said he didn't have a copy of the proposed deed restrictions. The
32 applicant's attorney will provide the text to our attorney.

33
34 Brian Braithwaite asked Lonnie Crowell to confirm that the deed restrictions,
35 including the text spelled out in recommendation #3 from the staff report, will be
36 on the plat and Lonnie said yes.

37
38 Brian Braithwaite noted that on the previous agenda item for Cooperview,
39 recommendation #6 indicated a note should be placed on the final plat
40 "indicating large animal rights as typical." He asked that in the future when staff
41 includes recommendations like these in their reports, they spell the language out,
42 as was done for recommendations # 1 and 3 for Waterford Estates.

43
44 **Motion by Brian Braithwaite, Planning Commission to recommend**
45 **that City Council approve the Waterford Estates subdivision, subject**
46 **to recommendations of staff and the Planning Commission.**

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

3
4
5 **Item 3: Approval of Meeting Minutes for July 31, 2007**

6
7 Roger Dixon said he feels it's within the commission's provenance to discuss the
8 safety issue. He said one example is 10400 North, where there is sidewalk along
9 some portions of the road but not others. He wondered who will put in the
10 sidewalk by Strasburg Park, and said at some point the city will need to look at
11 how it will finish out these streets.

12
13 Jennifer Tucker wondered if the road will need to be widened at some point.
14 Roger Dixon agreed that's part of the issue and said he'd like to ask staff to do a
15 study.

16
17 Larry Mendenhall asked Commissioner Dixon to write up his thoughts with any
18 recommendations and pass them on to staff to schedule the issue as a discussion
19 item on a future agenda. The commission will discuss recommending to City
20 Council that they review the issue. Commissioner Mendenhall added he shares
21 Jennifer Tucker's concern regarding future development. He also suggested that
22 the rural character of Highland is enhanced by not having curb and gutter
23 everywhere. He lives in a neighborhood that doesn't have curb and gutter, and
24 the residents love it. He observed that the commission and council will be
25 meeting to discuss a definition of rural, and one question that should be raised
26 then is the question of curb and gutter. Elizabeth Macfarlane said that meeting
27 had been pulled because of the 9600 North issue.

28
29 Brian Braithwaite said you don't need curb and gutter to have safety; a sidewalk
30 or path without a curb can work as well.

31
32 Roger Dixon asked the other commissioners if the topic was of interest. Jerry
33 Gorrell agreed but wondered if it wouldn't make more sense for Roger to go
34 directly to City Council and raise the issue there. Larry Mendenhall reiterated the
35 commission could have a discussion then make a recommendation to City
36 Council.

37
38 **Motion by Roger Dixon, Planning Commission to approve the Meeting**
39 **Minutes for July 31, 2007, as amended.**

40
41 **Seconded by Elizabeth Macfarlane.**
42 **Unanimous vote, motion carried.**

43
44
45 Meeting adjourned at 8:19 p.m.