

1 plans have been submitted in the interval since the staff notes were produced and
2 that they are acceptable.

3
4 **Motion by Roger Dixon, Planning Commission to recommend that City Council**
5 **grant architectural approval to Checker Auto Parts for the modified elevations and**
6 **colors.**

7
8 **Seconded by Elizabeth Macfarlane.**

9
10 **Unanimous vote, motion carried.**

11
12
13 **Item 2: Kate's Farm Subdivision ~ Final Review & Recommendation**

14
15 Larry Mendenhall invited Lonnie Crowell to summarize this issue. Lonnie Crowell
16 observed that he wasn't at the last meeting when preliminary approval was
17 granted, but that the subdivision meets ordinances, and the applicant has
18 indicated he'll comply with staff and Planning Commission recommendations.

19
20 Brian Braithwaite asked Mr. Hoyal if he received the agenda. Mr. Hoyal said he
21 received it but didn't have it with him. Brian Braithwaite asked why staff required
22 the fence. Lonnie Crowell explained that was a Planning Commission
23 requirement. Roger Dixon concurred and explained it was considered necessary so
24 the unfinished road won't be used as a shortcut.

25
26 Brian Braithwaite suggested the language in the recommendation be changed to a
27 barrier, and the other commissioners agreed. Commissioner Braithwaite also had
28 a question about the irrigation ditch on the north side of the property. Steve
29 Hoyal indicated there is a ditch there, but it doesn't pertain to this subdivision.
30 Commissioner Braithwaite asked if the city has a letter from the irrigation company
31 to that effect. Mr. Hoyal said that wasn't necessary, since he owned the ditch, but
32 Matt Shipp confirmed that staff has contacted the irrigation company and has a
33 reply on file. Steve Hoyal indicated he's talked to the irrigation company as well.
34 He reiterated that they are private ditches and explained that he uses part of them
35 now but they won't be used for the subdivision.

36
37 Brian Braithwaite said the commission will want to clarify in its motion what's
38 happening with the ditches. Steve Hoyal said getting irrigation letters is actually
39 part of the recordation process.

40
41 Jennifer Tucker asked about the letter from Mack Croft, which indicated he does
42 have an issue with the irrigation ditches. Steve Hoyal explained how the ditches
43 on the property work. He said there's a Lehi Irrigation ditch that's been piped,
44 then an access ditch, then another access ditch that hasn't been used in years, and
45 then there's the breakoff ditch which runs on Mack Croft's property. Since Mr.

1 Croft uses that ditch, the concern is that the ditch should be piped when the road
2 goes through, so Mr. Croft doesn't lose usage of it.

3
4 Steve Hoyal added that Diana Telfer wants her property squared off, and that
5 when that happens, he will be responsible for rerouting the ditch. Then the only
6 issue will be a culvert to continue the ditch across the roadway once the road is
7 put in. Larry Mendenhall asked Mr. Hoyal to clarify whose responsibility it will be
8 to maintain the ditch. Mr. Hoyal indicated he will reroute it after the Telfer
9 property line is straightened out, but that since there is no culvert now, it will
10 remain an earthen ditch.

11
12 **Motion by Brian Braithwaite, Planning Commission to recommend that City**
13 **Council approve the Kate's Farm subdivision with the additional**
14 **recommendations that the developer should erect a barrier along 6250 West to**
15 **prevent thru traffic while the road is incomplete; that the ditches on the north are**
16 **private and will be eradicated; and that the ditch on the south will be rerouted by**
17 **the developer to accommodate the needs of Mr. Croft and the Hoyals.**

18
19 **Seconded by Roger Dixon.**
20 **Unanimous vote, motion carried.**

21
22
23 **Item 3: Ryan Salter ~ Fence Variance Request**

24
25 Larry Mendenhall invited Carly LeDuc to summarize this issue.

26
27 Carly LeDuc explained that Mr. Salter is requesting a fence variance at 6280 West
28 9600 North, which is a corner lot. He's asking to put a 6-foot fence on the side
29 yard to the east at a setback of 8 and a half feet, whereas the setback required by
30 the ordinance is 14 feet. Mr. Salter is requesting this variance because he says
31 there's a gas line in the ground at 14 feet, and also because he wants to be
32 consistent with other fencing along 9600 North.

33
34 Lonnie Crowell said staff would also like to clarify that Mr. Salter doesn't own the
35 property at 8 and a half feet because there's right of way to 9 feet. Therefore,
36 nothing can be approved shorter than 9 feet.

37
38 Brian Braithwaite asked if the gas line had been verified and Barry Edwards said
39 staff would have to blue stake it with the gas company. He observed that most lots
40 have utilities and having the gas line there wouldn't be unusual.

41
42 Brian Braithwaite asked if other fences run over the gas line and Barry Edwards
43 said the utility trench is right outside the sidewalk. Matt Shipp elaborated that
44 typically in the Public Utility Easement the gas will be on the outside and the
45 power on the inside.

1
2 Brian Braithwaite asked who would pay for the fence if it had to be torn down
3 and Matt Shipp said the landowner would, and this is typical of a PUE.

4
5 Barry Edwards clarified that in order to grant a variance, the commission needed
6 to see a hardship particular to the property. A corner lot with utilities doesn't
7 constitute a hardship.

8
9 Ryan Salter said he appreciated the comments from staff, and explained that his
10 thought process had been that he'd rather not dig fence posts over the gas line. He
11 also had concerns about losing the fence if the gas company ever had to dig there.
12 He mentioned all his neighbors had signed a letter indicating they were okay with
13 the fence as proposed. Finally, Mr. Salter said his proposal complies with the front
14 setback, so there isn't a line of sight issue. He summarized by saying that since the
15 neighbors didn't mind, and there was no public safety concern, he thought maybe
16 he could get the variance.

17
18 Jennifer Tucker mentioned she'd looked at the site and asked if the posts are
19 where they need to be. The applicant said no, they'll have to be moved back 10
20 feet and 4 feet to match what is on his proposal.

21
22 Commission Tucker expressed concern that in front the posts are right up against
23 the sidewalk. She said if it were to match the others, with a park strip on the east
24 side, then it might be fine, but otherwise it comes right up to the curb on that
25 side, which means it's aesthetically different from the neighboring properties.

26
27 Barry Edwards explained that those fences pre-exist the road, and that's why
28 many of them appear as they do on the back fence line of those properties, not
29 because the owners were granted a variance. He added that the city had
30 instructed those property owners to put some greenery in since they weren't
31 required to move their fences.

32
33 Jerry Gorrell directed the applicant's attention to section 3-612(4)(b) of the
34 ordinance. He explained this section of the ordinance doesn't mean that if the
35 three criteria are met, the applicant automatically gets a variance. Rather, they
36 mean that if you don't meet the criteria, you can't get a variance. Commissioner
37 Gorrell further explained that there must be a compelling reason or hardship to
38 grant a variance, and that thus far, he hadn't heard one. He said the applicant
39 appears to be in the same boat as anyone with a corner lot, and he doesn't want
40 to set a precedent to grant variances based on that alone.

41
42 Mr. Salter said he sees it as a hardship that he has to dig over a gasline, and
43 reiterated that his neighbors don't object. Elizabeth Macfarlane asked to see the
44 list of neighbors.

1 Barry Edwards observed under the ordinance, the applicant could put in a fence
2 11 feet back if it's 55% open, but Mr. Salter countered that such a fence wouldn't
3 provide any privacy for the children, and that in today's world, privacy is
4 important.

5
6 Elizabeth Macfarlane said the street is getting busier. Barry Edwards observed that
7 it's a cul de sac. Brian Braithwaite asked Commissioner Macfarlane if she meant
8 9600 North.

9
10 Elizabeth Macfarlane wondered what distance it was reasonable to ask the
11 applicant to go back if the commission didn't grant a variance. For example, could
12 the applicant go back 9 feet? Lonnie Crowell observed that's what the commission
13 should be determining, and pointed out that under the ordinance, the applicant
14 could go back 14 feet or more without requiring a variance at all.

15
16 Brent Wallace asked if the difference between what the applicant wants and
17 where he could build a fence without a variance is three feet, and Lonnie Crowell
18 observed it's actually three feet.

19
20 Jerry Gorrell said he lives on a busy street, but his neighbors have all built fences
21 14 feet back as required by the ordinance. He said if the commissioners grant the
22 variance then they might as well change the ordinance.

23
24 Elizabeth Macfarlane said this situation helps her understand why staff has
25 concerns about cul de sacs, because in this case, issues were created when the cul
26 de sac went in. Roger Dixon asked if the applicant could comply by putting the
27 fence 15 feet back. Mr. Salter said they tell you to dig two feet back from where
28 they blue stake it, so he would have to go 16 feet back.

29
30 Roger Dixon said that didn't seem reasonable, but Matt Shipp asked Mr. Salter
31 about this claim. He said the actual rule is that you must hand dig if you're within
32 two feet of the gas line.

33
34 **Motion by Brian Braithwaite, Planning Commission to deny Ryan Salter's fence**
35 **variance request based upon the commission's finding that other homes in the**
36 **community face a similar situation and that there is no compelling reason to grant**
37 **a variance for this lot.**

38
39 **Seconded by Jerry Gorrell.**

40
41 Roger Dixon asked for confirmation that the applicant could put a 55% open
42 fence 11 feet back without requesting a variance and Larry Mendenhall assented.

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

4
5 Discussion ensued.

6 **Motion by Roger Dixon, Planning Commission to approve Ryan Salter's fence**
7 **variance request.**

8
9 **Motion died for lack of a second.**

10
11 Brian Braithwaite said nothing would prevent the applicant from putting the fence
12 in at 14 feet, and expressed concern that if this variance were granted, everyone
13 in the city would be in asking for a similar one. He observed that the commission
14 has made everyone else follow the ordinance, and it would be unfair to past
15 property owners who fenced to the ordinance to grant this variance now.

16
17 Roger Dixon said he found the gas line compelling, but Jerry Gorrell observed that
18 every lot in the city has that issue. Brent Wallace asked the depth of the gas line
19 and Matt Shipp said 48 inches. Brent Wallace observed that's twice the depth of a
20 fence post.

21
22 Ryan Salter said if the ordinance specifies that the fence has to go over the gas
23 line, then that's dangerous.

24
25 Barry Edwards pointed out that at 9 feet, this fence would be right up against the
26 sidewalk, and that's not traditionally what has been done in Highland, for
27 aesthetic and other reasons.

28
29 Brian Braithwaite observed that a fence variance issue doesn't go to City Council,
30 so the Planning Commission's vote is the final decision. Lonnie Crowell pointed
31 out that if the Planning Commission denied the request or if a motion to grant it
32 failed, the applicant has the option of appealing to the Appeal Authority. Larry
33 Mendenhall made sure the applicant was aware of this option and instructed Mr.
34 Salter that staff would assist him with this process, if he so desired.

35
36 Brian Braithwaite asked if there was a motion, and Lonnie Crowell said the
37 request had to be denied for the Appeal Authority to be able to act. Brent Wallace
38 asked whether voting against the variance would count.

39
40 Larry Mendenhall called the crowd to order, and said he would entertain a motion
41 either to approve or to deny the request. He said if a commissioner moved to
42 approve the request, and that motion didn't pass, then the applicant could still
43 appeal that decision with the Appeal Authority. Roger Dixon asked whether the
44 earlier vote wouldn't apply, this being the case.

45

1 **Motion by Brent Wallace, Planning Commission to deny the Ryan Salter fence**
2 **variance request.**

3
4 **Seconded by Brian Braithwaite.**

5
6 **Motion by Brian Braithwaite to amend the motion to state that this denial is based**
7 **on a finding of fact that the applicant's situation is not unusual and therefore**
8 **doesn't warrant granting a variance.**

9
10 **Amendment seconded by Jerry Gorrell.**

11
12 **Amendment passed with Brent Wallace, Brian Braithwaite, Larry Mendenhall,**
13 **Jennifer Tucker and Jerry Gorrell voting in favor and Elizabeth Macfarlane and**
14 **Roger Dixon voting against.**

15
16 Barry Edwards said he'd just spoken to the city attorney and that if there is no
17 motion, the item dies. He said lack of a motion is the same as denying the request.

18
19 Ryan Salter asked if the commission is the appealing body and Larry Mendenhall
20 said no.

21
22 Brian Braithwaite observed that there is still an amended motion on the table.
23 Larry Mendenhall requested that the amended motion be withdrawn.

24
25 **Amended motion withdrawn by Brent Wallace.**

26
27 Ryan Salter asked who is the Appeal Authority and Larry Mendenhall reiterated
28 that staff, and Lonnie Crowell specifically, could assist Mr. Salter with the Appeal
29 Authority process at some point after tonight's meeting.

30
31 Barry Edwards explained that a roll call vote isn't necessary, but that the Appeal
32 Authority would need minutes indicating who had voted how, which the planning
33 secretary would provide.

34
35
36 **Item 4: Mountain View Meadows ~ Public Hearing, Preliminary Approval &**
37 **Recommendation**

38
39 Larry Mendenhall called the meeting to order and invited Lonnie Crowell to
40 summarize the issue.

41
42 Lonnie Crowell explained that Glade Tuckett, a developer familiar to the
43 commission, has been working on this infill subdivision that abuts the Spruces
44 subdivision. When Mr. Tuckett brought his plan to DRC, staff had a few minor
45 concerns. The first was that traffic is being directed to the south, rather than

1 toward 11200 North. Another is that there are some oddly shaped lots. However,
2 Lonnie stressed that with an infill subdivision this can happen. In addition, staff
3 had told the applicant that a piece will need to be reattached to lot 10 to
4 straighten out the property line. Finally, staff recommended a median for Manor
5 Drive, which the applicant included on the current plat.

6
7 A brief discussion ensued about how the density in an R-1-40 subdivision is
8 calculated.

9
10 Roger Dixon observed that some of the lots appeared to have homes already and
11 Lonnie Crowell confirmed that is the case.

12
13 Roger Dixon asked about the proposed road 11120 North. He said that on the east
14 side it appeared to be only half a road. Barry Edwards said it would be half plus
15 twelve feet. Roger Dixon asked if the land for the road goes onto someone else's
16 property. Staff explained that the developer owns enough property to do the half
17 plus twelve road, which is a legal option under the ordinance. If the other side of
18 the road were to be completed, however, it would go onto property not owned by
19 the developer.

20
21 Brian Braithwaite asked staff what the city would do in a situation where there's a
22 half road and the other property owner isn't interested in finishing it. Barry
23 Edwards explained that half plus twelve roads are done fairly frequently, and that
24 usually the other side gets developed later.

25
26 Jerry Gorrell asked if the proposed road would be a full road in Spruces and this
27 subdivision, with a half road in the middle, and Barry Edwards said yes, clarifying
28 that it would actually be half plus twelve.

29
30 Larry Mendenhall mentioned that this subdivision abuts a subdivision that was
31 originally in the County, Manor Drive, and that the commission received several
32 letters from residents of Manor Drive.

33
34 Larry Mendenhall opened the public hearing and invited Maren Mouritsen to
35 speak first.

36
37 Maren Mouritsen provided the commission with some written materials. She said
38 she isn't opposed to the subdivision, that people have the right to sell property
39 and develop it. However, she has concerns about how this proposal in particular
40 will affect the surrounding property owners. She has concerns about how her
41 fields will be irrigated once this subdivision goes in, since her water has already
42 been affected by the Spruces. She is currently without water and hasn't heard
43 back from Lehi Irrigation yet. Larry Mendenhall asked if she knew why it was out
44 and Maren Mouritsen indicated because the Spruces covered it.

45

1 Maren Mouritsen said other concerns were that some of the lots on the proposed
2 plat were very small; that homes 35 feet in height will obscure the views of the
3 existing two-story homes in the neighborhood; and that many of the current
4 residents have large animals. She observed that people who move into smaller
5 lots in new developments are often surprised when there are animals in the
6 neighborhood, and conflicts arise concerning the smell and noise.

7
8 Maren Mouritsen said her final concern is about the half plus twelve road, which
9 is proposed abutting her property. She said Lonnie had provided two examples for
10 her earlier in the week and tonight Barry mentioned a third, but that still doesn't
11 seem like very many. Barry Edwards explained that many others have come in
12 that way, and then subsequently completed.

13
14 Maren Mouritsen provided pictures of the other existing half plus twelve roads,
15 observing that the area on the undeveloped side was unsightly, and served as a
16 dumping ground. She asked who was responsible for maintaining those areas,
17 observing that it hasn't been well maintained. She also provided a second picture
18 showing a road with a jog in it, and asked why the road in this subdivision
19 couldn't be jogged up, so that it could be a complete road north of her property.
20 She expressed concern that the developer would be able to benefit at her cost.

21
22 Maren Mouritsen concluded by saying she wasn't contacted by the developer
23 about his plans, and that she feels this proposal puts her in a defensive,
24 adversarial position, which she doesn't like. She said she hopes the city will look
25 out for her interests as well as the developer's as it makes its decisions.

26
27 Larry Mendenhall thanked Maren Mouritsen for her comments, and invited Bob
28 Olsen, who had also written a letter, to speak. However, other residents explained
29 that Mr. Olsen was in Mexico.

30
31 Lynn Ritchie said he sent in a letter, and that he also has concerns about Manor
32 Drive. He said he thought subdivisions were only required to have two egresses,
33 which 11120 North would solve, but if a third is required, there's still no reason to
34 go to Manor Drive. Manor Drive is a narrow street with a lot of children living on
35 it, and it makes more sense to direct traffic elsewhere. He said he wouldn't
36 consider the proposed median a solution to this situation, and in fact sees the
37 median as a negative.

38
39 Larry Mendenhall invited the Smiths and the Marshalls to speak. They didn't
40 reply, so he indicated the commission would take their letters as written.

41
42 Mr. Baum suggested eliminating Manor Drive, adding it back into the acreage,
43 and then making 11120 North a full road all the way through the subdivision.
44 Larry Mendenhall said it was a good suggestion that would be addressed.

45

1 Tom Marshall reiterated that the current residents of Manor Drive want minimal
2 impact on their existing neighborhood. He said there's no question that if the road
3 goes through there will be speeding traffic, because there already is, on the other
4 side.

5

6 Lilly Taylor said she already has a fence to prevent thru traffic, and she hopes the
7 city will keep it there. The Taylors also wondered what will happen to the ditch
8 that runs the full length of their property on the north side.

9

10 Paul Hatch said he's the youngest homeowner on Manor Drive, with three
11 children under 4 years old and probably more on the way. He said he's lived on
12 Manor Drive since he was 6 years old, and he wants to raise his own children
13 there, but it's a threat to his family to have the through road there. He added that
14 he was sorry to hear that the city is moving away from cul de sacs. He won't buy a
15 lot on a through road and if this road is developed he'll be forced to sell his home
16 and find a cul de sac.

17

18 Brad Page showed the commissioners pictures of what Manor Drive looks like
19 with cars parked on both sides and explained that it would be hard to get another
20 car through.

21

22 Aaron Peterson said he has shares in the ditch, and he's going to put in a sprinkler
23 system so the ditch can be eliminated, as he's the only one using it. He said he's
24 owned his property for 35 years, and kept it clear of weeds that entire time, and
25 he thinks people ought to be glad to have a well kept lot behind their home rather
26 than an ill kept field.

27

28 Janine Christian said she was born and raised in Highland, but her dad is 84 now
29 and he can't take care of his property anymore, so they'd like to divide it. She said
30 she knows people are attached to the cul de sac, but there was always the opening
31 there, and the possibility of future development. She said she feels Mr. Tuckett
32 has made efforts to please everyone, and that things change, and people need to
33 go with the change.

34

35 Cathy Baum said she was born and raised here too, and that she and other
36 residents are trying to protect themselves and their lifestyle. She said they are
37 trying to accommodate change but would like to keep their small subdivision,
38 with its short road and mature trees, the way it is.

39

40 Tammy Quick reiterated concern about making Manor Drive a through street, and
41 said if additional access is needed, it would make more sense to go to the north.

42

43 John Taylor expressed concerns about the sewer and about the shape of lot 14. He
44 also mentioned that Manor Drive was never supposed to go through, as the
45 County had approved a cul de sac.

1
2 Ken Fisher agreed with other citizens that he is against putting the road through
3 and said the only way to control speed is with speed bumps.

4
5 Dee Roberge showed where his property is on the map and said he bought it five
6 years ago. He said the road was supposed to be a cul de sac. He added that it's
7 been a garbage dump for five years, with boats and other things. He observed that
8 there are already homes on many of the lots, and that he doesn't own a home in
9 Highland but he's hoping to build one on lot 3 or 4 and have some llamas there.

10
11 Another citizen observed that Mr. Roberge was the one with the boats and other
12 junk on his property. Larry Mendenhall called the meeting to order and asked
13 everyone to constrain their comments to the subdivision.

14
15 Wini Bishop, who lives on 4800 West, said he'd like to see egress from the
16 subdivision go to the north, instead of through Manor Drive, and also suggested
17 that a cul de sac go in to the west, rather than a through road to 4800 West.

18
19 Darin Moyes said observed that if traffic were brought out to 11200 North, there
20 could be stop signs to control traffic at a four way stop, which is the logical way to
21 deal with future growth.

22
23 Peggy Fisher said she's not opposed to the subdivision, but she is concerned about
24 traffic. She mentioned that she had to replace her mailbox six times because of
25 people driving down and turning around, before finally putting in a concrete one.

26
27 Rebecca Hatch suggested that if the road doesn't go through there could be some
28 open space and a sidewalk that would benefit both neighborhoods.

29
30 Bruce Tucker suggested that the commission should provide the citizens of
31 Highland with what they want. He said just because an urban planning book says
32 you have to connect roads doesn't mean you have to.

33
34 Maren Mouritsen provided the commission with a petition. She said everyone in
35 the neighborhood but the Olsens, who are out of town, signed it.

36
37 Elizabeth Macfarlane asked Maren Mouritsen if the developer had approached
38 her. She said he came out about two weeks ago to ask her about water. She
39 reiterated that she has still been using the ditch. Elizabeth Macfarlane asked her if
40 it's been cut off, and Maren Mouritsen said she was sure it wasn't intentional, but
41 it isn't being maintained.

42
43 Barry Edwards asked Maren Mouritsen about the road. He said it was unclear to
44 him how moving the road north would help her, since the asphalt will still be next
45 to her property. Maren Mouritsen said in that case it wouldn't be on her property.

1 Barry Edwards observed that in the current design the road isn't on her property
2 either, and she clarified that she was envisioning the finished road. Barry Edwards
3 said the city hasn't made anyone complete a half plus twelve road who didn't
4 want to, and observed that the road will be right next to Maren Mouritsen's
5 property whether it's a full road or a half plus twelve.

6
7 Discussion ensued about the requirements for an R-1-40 subdivision.

8
9 Larry Mendenhall thanked the public for their input and explained what the
10 commission's process would be. He said the commissioners and the developer
11 would offer input, and the commission's intent was to wind up with a subdivision
12 that could move forward without ruptured relationships. He cautioned the
13 citizens to remember that you "can't buy a view," and that new residents are
14 coming to Highland for the same reasons the current residents did. Finally, he
15 asked everyone to keep in mind that this is a preliminary, not a final, discussion.

16
17 Larry Mendenhall closed the public hearing.

18
19 Jerry Gorrell said he was disappointed in the design as presented. He said he
20 thought the Spruces was a well designed subdivision that met the spirit of the R-
21 1-40 ordinance, but this is not. He said in his opinion this plat leverages lot 5 to
22 meet the technical requirements of an r-1-40 without meeting the spirit of it.
23 Aside from lots 3, 5 and 8, this is more like an R-1-20 subdivision.

24
25 Commissioner Gorrell also expressed concern about 11120 North. He said he
26 knows it's legal to build a half plus twelve road, but that's not necessarily a good
27 reason to change the nice road that was put in with the Spruces. He also observed
28 that at least one of the currently existing half plus twelve roads is not an
29 impediment to traffic, but this one would be. Finally, he said he's sympathetic to
30 the concern about Manor Drive and sees no reason the road needs to go through
31 there.

32
33 Jennifer Tucker asked about Mr. Roberge's intent to keep livestock on one of the
34 lots, wondering if it was big enough. Lonnie Crowell confirmed that he could have
35 up to 4 llamas.

36
37 Brent Wallace suggested that having four egresses rather than the two and a half
38 presented now could provide relief for everyone. He agreed the half street was a
39 bad idea, noting that they often look bad, and often become dumping grounds for
40 debris. He said 4800 West is a main thoroughfare and is the most natural choice.
41 He also noted that he was getting a "not in our backyard" sense from the residents
42 in attendance, and cautioned them that development will continue. Finally, he
43 said he agreed with Commissioner Gorrell that this proposal might meet the letter
44 of the law but doesn't meet the spirit.

45

1 Elizabeth Macfarlane said she was uncomfortable with the current design. She
2 said she felt the strip between lots 3 and 4 needs to be a road going north, that
3 she'd like to see some negotiation with the landowner to the east about the
4 property line on the east, and that if water is being cut off, that needs to be
5 addressed. She observed that some of the lot shapes were weird and that they
6 needed to be changed or eliminated. She also cautioned the public to bear in
7 mind that if a developer meets the ordinance, the commission's choices are fairly
8 restricted, according to state law.

9
10 Roger Dixon said the road to the east needs to be a full road, since it's connecting
11 with another subdivision. He said he can see why the city would choose not to put
12 a road through on Manor Drive, because it's too narrow as is. He also agreed that
13 having 11120 emerge onto 4800 West would be a bad idea, since it will be hard
14 for drivers to get out without a light, yet people won't like another light on 4800
15 West. Therefore he thinks it needs to be a cul de sac.

16
17 Jerry Gorrell observed there are length restrictions on cul de sacs and Lonnie
18 Crowell agreed, observing that if Manor Drive were closed off, 11120 North
19 couldn't be a cul de sac, because the maximum length is 600 feet.

20
21 Roger Dixon said the cul de sac would be contingent on the running road to the
22 north, but Lonnie Crowell observed that even that might prove to be too long to
23 allow a cul de sac.

24
25 Larry Mendenhall observed that consideration would need to be made for those in
26 the Manors, and that some compromises needed to occur, but than with some
27 clean up, this subdivision could work.

28
29 Glade Tuckett explained he's been working for close to a year on this project. He
30 said some of the property owners who will be included have land that they can't
31 take care of, and that he wants the project to work for them. He said he's bound
32 by the ordinances, and that everything on the plat is what staff said was required.

33
34 Glade Tuckett claimed he was told by staff that he needed the road to the south.
35 He said he loves cul de sacs and would prefer not to put the street through,
36 though he can see the reasons for doing so, such as to enable emergency
37 personnel to get in. He continued that if it wasn't necessary to put the road to the
38 south in, then he could make lot 14 bigger. Concerning putting a road to the
39 north, Mr. Tuckett said he's talked to Mr. Roberge but he doesn't want to sell it.

40
41 Glade Tuckett said he will move 11120 North to the north if that works better for
42 the community, and that he has approached Mr. Spurlino to try and straighten up
43 the lot line on lot 10. He indicated he's working with the Paces, who live behind
44 lot 2, to make lot 2 better shaped and more appealing as well.

45

1 In terms of water, Mr. Tuckett said he believes the issue Maren Mouritsen is
2 experiencing has to do with the Spruces subdivision, and that Mr. Peterson has
3 indicated he's the last user of the ditch along 11120 North.

4
5 Elizabeth Macfarlane asked who owns the strip between lots 3 and 4 and Glade
6 Tuckett answered Mr. Roberge. Commissioner Macfarlane asked if it's included in
7 the lot sizes, and if so, why, and Mr. Tuckett replied that all of his property must
8 be included if he sells some of it. Lonnie Crowell confirmed that the property can't
9 be subdivided without including all of it.

10
11 Jerry Gorrell asked Mr. Roberge if he had an attachment to lot 3.

12
13 Mr. Roberge explained that initially he was a hold out, and that he's now agreed
14 to sell Mr. Tuckett some of the south part of his land, but that he wants to keep
15 lots 3 and 4.

16
17 Larry Mendenhall explained to Mr. Tuckett that the commission was unlikely to
18 vote on preliminary approval tonight, and that prior to his next appearance before
19 the commission, he should square up the eastern lots. Commissioner Mendenhall
20 also instructed Mr. Tuckett to work with Mr. Roberge to try and eliminate the
21 strip between lots 3 and 4. He agreed that Manor Drive needs to be stubbed, and
22 said he's okay with the 4800 West access but that there needs to be access to
23 11200 North as well. He told the applicant that the commission understands that
24 he's working around existing homes, but that someone in one of them will have to
25 be willing to compromise in order to make this work.

26
27 Barry Edwards clarified that staff had recommended to the applicant that the
28 road go through up to 11200 North. He said it is a question, however, whether
29 the applicant can be forced to put in a road that isn't required by the subdivision
30 ordinance. He observed that the residents on 11200 North would probably say,
31 direct the traffic to Manor Drive. However, staff has seen most if not all of the
32 letters about Manor Drive, and it's likely that issue will be removed.

33
34 Jerry Gorrell asked if the developer could move the road farther north, but Barry
35 Edwards observed that would make the lots too small. Commissioner Gorrell
36 observed, however, that if Mr. Tuckett was able to obtain the Spurlino property,
37 then lot 10 wouldn't be too small. Barry Edwards opined that it would be better
38 for traffic flow to have a full road through there.

39
40 Jerry Gorrell asked Maren Mouritsen if she might be willing to sell Mr. Tuckett
41 enough land to build the complete road, if he were to make a nice offer, and
42 Maren Mouritsen said possibly.

43

1 Barry Edwards said staff has concerns about whether Manor Drive can be
2 connected up. He said title work would need to be done. If it turns out it needs to
3 be a cul de sac, staff can inform the City Council of this.

4
5 Glade Tuckett observed that normally he would buy all the land and have control
6 concerning the roads, but in this case, he won't own all the land, so won't have
7 control.

8
9 Roger Dixon asked why lot 5 is being included. Glade Tuckett explained that Mr.
10 Peterson owns it and will retain it, but that he did sell part of his land to the south
11 which will be used to create new lots.

12
13 Brian Braithwaite suggested that the applicant should change Manor Drive, as
14 well as the designs of lots 2, 3, 4 and 13, and that a road should connect to 11200
15 North.

16
17 Glade Tuckett observed that if Mr. Spurlino won't sell, some of the lot shapes
18 can't change.

19
20 Brian Braithwaite suggested that some sort of land swap might be arranged, and
21 Brent Wallace observed that certain issues can be addressed by making buyers
22 aware of them when moving into the subdivision.

23
24 **Motion by Jerry Gorrell, Planning Commission to continue preliminary approval
25 and recommend that the developer consider the following modifications to the
26 plat:**

- 27
28 1. That access to Manor Drive be removed (subject to information provided
29 by staff);
30 2. That he investigate dividing lot 2 by obtaining land to the north;
31 3. That he pursue squaring off lot 10;
32 4. That he pursue purchasing enough land from Maren Mouritsen to complete
33 11120 North;
34 5. That lot 3 be reviewed and possibly squared off;
35 6. That there be a possible additional exit from the subdivision to the north;
36 and
37 7. That lot 14 be modified with additional property that can be obtained with
38 elimination of Manor Drive.

39
40 **Seconded by Roger Dixon.**

41 **Unanimous vote, motion carried.**

42
43
44 **Item 5: Section 3-4818(1)(c), Design Elements, Parkland Overlay Zone ~**
45 **Code Amendment , Public Hearing & Recommendation**

1
2 Larry Mendenhall invited Lonnie Crowell to summarize this issue.

3
4 Lonnie Crowell explained that due to recent events, City Council was concerned
5 about the language in this section of the ordinance. The Council wants the
6 language in this section to adhere to state law and to our own subdivision
7 ordinance, both of which suggest the commission should make recommendations,
8 but then those recommendations should go to the legislative body for a decision.

9
10 Larry Mendenhall further summarized, saying staff recommends the ordinance be
11 changed to reflect that the Planning Commission is a recommending body, and
12 read the proposed new language aloud.

13
14 Brian Braithwaite asked for clarification, observing that the agenda item specified
15 Section 3-4818(1)(c) of the code, but then other sections were included. Lonnie
16 Crowell explained that the other section provided was from state law.

17
18 Larry Mendenhall opened the public hearing.

19
20 Craig Hendricks asked if public notification was required for this public hearing.
21 Lonnie Crowell said yes. Mr. Hendricks asked if the requirement for notification
22 was met and Lonnie Crowell confirmed that it was. Craig Hendricks then asked
23 why the information wasn't provided on the city web site. Lonnie Crowell
24 explained that it was. The city's site was down briefly on Monday, but it was
25 quickly brought back online, and when it was, the agenda for tonight's meeting
26 was on it.

27
28 Lonnie Crowell explained that the requirements for public notification on a code
29 amendment are that notice be published in a newspaper at least ten days prior to
30 the public hearing, and that the agenda be posted at three locations around the
31 city *or* on the city's web site. All of these conditions were met.

32
33 Craig Hendricks made some remarks about the proposed code amendment and
34 Larry Mendenhall asked him to provide some background so the commissioners
35 could better understand his frame of reference.

36
37 Craig Hendricks said there is still a case pending in regard to this language in the
38 code; that he doesn't think making this change is in the best interests of the city;
39 and that if the proposed code change is made, all authority will be abdicated from
40 the Planning Commission and only the City Council will be able to make
41 determinations.

42
43 Larry Mendenhall asked where the case was still pending, and Craig Hendricks
44 said with the Appeal Authority. Commissioner Mendenhall asked if he could be

1 more specific and Mr. Hendricks explained that he is one of the plaintiffs in a case
2 against Highland City.

3
4 Bruce Tucker said the commission needed to look at the background of the
5 ordinance. Why was this language included, if it was contrary to state law and to
6 Highland's own ordinance? He said the parkland density bonus was crafted as is,
7 and there needed to be some understanding as to why this language was put in.

8
9 Bruce Tucker continued that his recollection was that staff had told the
10 commission it would have final say. He again raised the question of why the
11 ordinance was written this way originally, and asked why staff didn't catch earlier
12 that it was out of compliance with state law and in contradiction with Chapter 5
13 of Highland's code. He suggested that as written the code reflects the
14 commission's original intent and therefore should be left as is. He said the
15 purpose of the ordinance was to have parks but to make sure they were
16 compatible.

17
18 Bruce Tucker added that he didn't know whether it was legal, but he suggested
19 the commission leave the language as is. He observed that he and Mr. Hendricks
20 were evidently the only members of the public who cared about the code change,
21 as the other citizens who had been in attendance left after the last agenda item,
22 and said the only reason they knew about it was because Commission Tucker had
23 the agenda. Mr. Tucker also said that what he and Mr. Hendricks will show when
24 they go to court is that the language was snuck through to make it more
25 appealing to the commission.

26
27 Larry Mendenhall asked if the city attorney had reviewed the current ordinance
28 language. Lonnie Crowell confirmed that he had. Lonnie explained further that
29 he's done over 100 code amendments since joining the city staff, showing that the
30 staff and commission aren't perfect and that the development code is an evolving
31 document.

32
33 Elizabeth Macfarlane said that, speaking as a citizen, she's uncomfortable with
34 changing the code when there's a legal matter pending. Larry Mendenhall advised
35 her that she must speak as a commissioner during these proceedings.
36 Commissioner Macfarlane said in that case she doesn't want to see any more
37 restrictions on the commission and doesn't want the code dummed down. She
38 said the commission would be setting itself up for failure by doing so.

39
40 Brent Wallace observed that the word compatibility is subjective, and that there's
41 no litmus test to determine when compatibility is achieved. He said in his
42 understanding, the commission can always be overridden by City Council anyway.
43 Lonnie Crowell replied that staff would be very pleased if the commission would
44 define compatibility and add that to the code.

1 Jennifer Tucker observed that the public hearing occurs before the Planning
2 Commission, not at City Council, and that it seems unfair to have a roomful of
3 people expressing opinions before the commission but then to have the City
4 Council have final say, especially when the commissioners have some concerns
5 about how their ideas are communicated to the Council.

6
7 Larry Mendenhall asked if it would matter if it were “shall” instead of “may,” but
8 Jennifer Tucker said no, it wouldn’t.

9
10 Bruce Tucker said the important thing was that this ordinance was unique when it
11 was drafted, and that they made special requirements for this body (the
12 commission) to make decisions. He added that because the ordinance was written
13 as is originally, it feels like a bait and switch to change it now.

14
15 Larry Mendenhall observed that he attended the same hearings and that he didn’t
16 agree with Mr. Tucker’s summary of them. Bruce Tucker countered that three of
17 Commissioner Mendenhall’s colleagues did agree, and asked why, then, was the
18 ordinance written as is. Commissioner Mendenhall answered that he didn’t know.

19
20 Roger Dixon said he recognized the inconsistency between the ordinance and the
21 state law, but observed that since City Council overrides the commission all the
22 time anyway, he doesn’t see what’s gained by changing the ordinance.

23
24 Larry Mendenhall expressed concern about comments that might reflect
25 negatively on the integrity of City Council or staff, and Roger Dixon made it clear
26 that such was not his intention.

27
28 Larry Mendenhall said he’d like more guidance from the city attorney before
29 making a decision and Brent Wallace agreed he’d like that input as well. Jennifer
30 Tucker observed that the city attorney approved the original language of the
31 ordinance as well, but Brent Wallace countered that state laws change, and the
32 commission has to adapt accordingly.

33
34 Jerry Gorrell said the commission is asked to make determinations on everything
35 it looks at, so the language about making a determination if subdivisions are
36 compatible is consistent with what the commission does, and he doesn’t want to
37 change it.

38
39 Bruce Tucker said this ordinance was unique. It identified some unique parcels
40 that gave the city an advantage. However, he opined, it can also negatively impact
41 neighborhoods. It gave special consideration, and was a unique ordinance to be
42 used by developers.

43
44 Larry Mendenhall closed the public hearing.

45

1 Lonnie Crowell asked if the Planning Commission would define compatibility and
2 Jennifer Tucker said it was like art, in that she'd know it when she saw it.

3
4 **Motion by Brian Braithwaite, Planning Commission to recommend that City
5 Council retain the language of Section 3-4818(1)(c) of the Highland City
6 Development Code as it currently stands, finding that the code change suggested
7 by staff does not impact this body's ability to make recommendations based upon
8 information it is given.**

9
10 **Seconded by Jerry Gorrell.**

11
12 **Motion by Roger Dixon, Planning Commission to amend the original motion to
13 include correction of the following typographical errors in the code: that the
14 comma following the period be removed from Section 3-4818(1)(a)(ii); that "in
15 the an amount equal to" in Section 3-4818(1)(b) be changed to "in an amount
16 equal to"; and that "in its sole discretion" in Section 3-4818(1)(b) be changed to
17 "at its sole discretion."**

18
19 **Amendment seconded by Jennifer Tucker.**

20
21 **Unanimous vote, amendment passed.**

22
23 **Amended motion passed with Roger Dixon, Elizabeth Macfarlane, Brent Wallace,
24 Brian Braithwaite, Jennifer Tucker and Jerry Gorrell voting in favor and Larry
25 Mendenhall voting opposed.**

26
27
28 **Item 6: Section 3-612(4)(b), Permit, Fences, Walls and Hedges ~ Code
29 Amendment, Public Hearing & Recommendation**

30
31 **Larry Mendenhall invited Lonnie Crowell to review this item.**

32
33 Lonnie Crowell explained staff is recommending that fence variances should go to
34 the Appeal Authority and be treated like any other variance. Right now, as the
35 ordinance is written, almost anyone can get a fence variance, because the
36 requirements they have to meet are very lax. Therefore, there are two possible
37 routes the commission could take. The first is to have fence variance requests go
38 directly to the Appeal Authority from now on, the other is to change the
39 ordinance so applicants must meet the same criteria as other variances.

40
41 Jerry Gorrell asked what those criteria are and Lonnie Crowell explained that the
42 property owner must demonstrate that complying with the ordinance creates a
43 hardship.

1 Barry Edwards said technically, under the ordinance as currently written, Ryan
2 Salter should not have been able to apply for a variance, because his fence was
3 already under construction when he made his application. He added it's no longer
4 legal to have that type of language in the ordinance. Therefore, he suggested,
5 variances should be referred to the Appeal Authority. Staff will also make
6 recommendations to clean up the code and make it legal again.

7
8 Jennifer Tucker asked why, if Mr. Salter's variance request wasn't valid, the
9 commission had reviewed it. Barry Edwards replied the reason was because
10 there's some question of whether that language in the ordinance is legal. It
11 seemed better to err on the side of caution.

12
13 Lonnie Crowell explained that the city must have an appeal process in place for
14 everything, and that right now, the commission is it for fences. Barry Edwards
15 mentioned that he originally drafted the ordinance as it is now. Lonnie Crowell
16 said the current ordinance was okay until two years ago, and Barry Edwards
17 emphasized that fences are the only thing the commission considers appeals on,
18 with everything else going to the Appeal Authority.

19
20 Jennifer Tucker expressed concern that if the variance review was moved away
21 from the commissioners, they wouldn't know when recurring issues were arising
22 that might call for the ordinance to be updated. For example, if there were
23 retention ponds all over the city, and two or three people came in to request
24 variances, then the commission would know the ordinance might need to be
25 changed. If the Appeal Authority is hearing the requests, the commission won't
26 have that information.

27
28 Barry Edwards observed that the Appeal Authority doesn't hear that many
29 requests. A report about them is prepared for City Council and could also be
30 reviewed by the commission.

31
32 Elizabeth Macfarlane said that for a fence variance, it seems part of due process is
33 being heard before the commission. Barry Edwards said that fences are
34 administrative, whereas appeals are not, and that having the commission review
35 the appeals is akin to having it appeal its own decisions.

36
37 Brent Wallace asked how many variances are approved on average. Lonnie
38 Crowell replied the number has been low recently. He reiterated that variances
39 are for hardships, for example water on a lot, and that their purpose is to ensure
40 that people have the same rights as other residents, while also protecting the
41 development code.

42
43 Larry Mendenhall stressed that moving the fence variance requests to the Appeal
44 Authority would not be removing due process; it would simply be removing
45 emotion from requesting a variance.

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Roger Dixon asked if decisions from the Appeal Authority are binding, and Lonnie Crowell explained that the next step for Appeal Authority applicants is district court. He said the Appeal Authority's authority is very defined. He isn't making arbitrary decisions. He added that if fence variances continue to be reviewed by the commission, stronger language should be added to the ordinance.

Jennifer Tucker said it's nice for applicants to appear before the commissioners and see them reach a consensus. Then they have the option of the Appeal Authority when they don't get the answer they want from the commission. She expressed concern that the Appeal Authority is just one person.

Brent Wallace observed that the commission has spent a considerable amount of time on two fence variances recently. Jennifer Tucker agreed but said it would be a selfish reason to change the ordinance if the commission simply didn't want to spent time reviewing the variance requests.

Jerry Gorrell said he likes the idea of moving the variance reviews to the Appeal Authority because they would be looked at by one person who knows the conditions under which granting variances is appropriate, whereas he thinks sometimes the commission struggles with this.

Elizabeth Macfarlane asked if the Appeal Authority is a lawyer and Lonnie Crowell confirmed he is. Jennifer Tucker, however, observed that this isn't a requirement for the position.

Elizabeth Macfarlane said she believes it's best to keep decisions in the hands of the people, not just one person. Jerry Gorrell pointed out, though, that variance requests for homes currently go to the Appeal Authority anyway. Commissioner Macfarlane responded that she would be more comfortable with variance requests going to Mr. Edwards, Crowell, or Shipp than with them going to the Appeal Authority, with whom the commission is less familiar.

Lonnie Crowell said processes are defined enough for the Appeal Authority that his decisions are fairly black and white, but Brian Braithwaite disagreed. He said because applicants are claiming a hardship, there's a variable that must be weighed.

Larry Mendenhall read the language that was provided in the agenda from the Appeal Authority, and asked how the two recent fence variance requests would fare against that standard. He said it seemed clear there was not a hardship in either case.

Brian Braithwaite agreed, but said a situation could arise where four commissioners would see a hardship but three would not. Larry Mendenhall

1 observed that the word hardship didn't arise in the commissioners' two recent
2 fence variance discussions, but Jennifer Tucker disagreed, saying Commissioner
3 Gorrell used the word hardship in the discussion about Mr. Salter's fence variance
4 request.

5
6 Brian Braithwaite suggested the commission could retain review of fence variance
7 applications but put the language from the Appeal Authority into the ordinance.
8 Jennifer Tucker observed that doing so would provide the Appeal Authority with
9 additional background, should a variance request go in that direction.

10
11 Larry Mendenhall said he wasn't sure the Appeal Authority would get the minutes
12 from the commission's discussion, but Lonnie Crowell clarified that the Appeal
13 Authority does receive all background materials on cases he reviews.

14
15 Larry Mendenhall opened the public hearing.

16
17 Bruce Tucker asked about the criteria used for variances and appeals. Lonnie
18 Crowell observed that the Appeal Authority actually reviews two kinds of appeals.
19 The first kind is an appeal of the commission or City Council's decision—did these
20 bodies meet the ordinance when making their decision?—and the second kind is
21 an appeal against the ordinance itself, thus creating a variance.

22
23 Kathryn Schramm asked if the fence ordinance says residents can't plant bushes
24 inside a fence that's 55% open. Lonnie Crowell said no. Kathryn Schramm said
25 Mr. Salter thought he'd been told he wouldn't be able to plant bushes inside an
26 open fence if he put one in. Chris Dalley said she thought she remembered such
27 an ordinance. Lonnie Crowell confirmed that somewhere in the code it specifies
28 that if the bushes are planted close to the fence, they are considered fencing as
29 well. Kathryn Schramm asked when that code was amended and Lonnie Crowell
30 said he didn't know.

31
32 Kathryn Schramm asked the commissioners if any of them had the development
33 code with them, and Brian Braithwaite brought it out. Kathryn Schramm said she
34 was nervous earlier when the commissioners made statements about the code
35 without referring directly to the page. Lonnie Crowell explained that the pertinent
36 sections of the code are always included with the staff report that forms part of
37 the commission agenda.

38
39 Larry Mendenhall closed the public hearing.

40
41 **Motion by Brian Braithwaite, Planning Commission to recommend that City**
42 **Council approve a code amendment to Section 3-612(4)(b) by replacing sections**
43 **(i), (ii), and (iii) with Section 3-2306(1)(a) sections (i) through (v) from the**
44 **Appeal Authority ordinance, rather than making the amendments recommended**
45 **by staff.**

1
2 **Seconded by Jennifer Tucker.**

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

7
8
9 **Item 7: Approval of Meeting Minutes for April 10, 2007**

10
11 Brian Braithwaite asked Lonnie Crowell about the process for notifying residents
12 by mail about planning issues that might affect them, noting that multiple
13 residents have mentioned in the past 3-4 months that they haven't received
14 notification in a timely manner.

15
16 Lonnie Crowell explained staff's process, which is to use AutoCad to produce the
17 list of properties that fall within a 500 feet radius of the property under
18 discussion, and then to get a list of addresses from the Utah County office. Lists of
19 both the physical addresses and the property owners on record for those
20 addresses are produced, and both lists are mailed to. He added that staff shares
21 Commissioner Braithwaite's concern in regard to this matter.

22
23 Elizabeth Macfarlane mentioned that she received her letter in regard to the
24 Salter fence variance request approximately ten days ago, even though she didn't
25 think she fell within the notification radius.

26
27 Lonnie Crowell mentioned that staff is updating its county data right now to
28 attempt to address this issue. However, if the County has a different address on
29 file than the one the resident wants to use, staff has no way of recognizing that.

30
31 Jennifer Tucker suggested a note could be put in the newsletter advising residents
32 to make sure their address on record is correct with the County, and to be sure to
33 open letters from Highland. Everyone agreed this was an excellent suggestion.

34
35 **Motion by Elizabeth Macfarlane, Planning Commission to approve the Meeting**
36 **Minutes for April 24, 2007 as amended.**

37
38 **Seconded by Brent Wallace.**
39 **Unanimous vote, motion carried.**

40
41 Meeting adjourned at 11:09 p.m.