

1 **Highland City Planning Commission**
2 **September 11, 2007**

3
4 **Present:**

5 Commissioner: Larry Mendenhall
6 Commissioner: Jennifer Tucker
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 Excused: Brian Braithwaite

19
20 Meeting convened at 7:04 pm
21 Prayer given by: Jerry Gorrell
22 Pledge given by: Steve King

23
24
25 **Visitors: Neil Blackburn, Brian Brunson, Chad Copier, Chris Dalley,**
26 **Nate Garrett, Zach Hyatt, Tanner Jensen, Steven Johnson, Steve King,**
27 **Tyler Kukaniko, Randall Madsen, Blake Martin, Eric McGill, John E.**
28 **McGill, Michael Smith.**

29
30
31 **Item 1: Planning Commission Business ~ Election of a New**
32 **Planning Commission Chair**

33
34 Larry Mendenhall opened the floor for nominations for a new chair.

35
36 Jerry Gorrell asked about the tenure of the current commissioners and whether
37 that should come into play when making nominations. For instance, he explained
38 his own tenure ends in February. Elizabeth Macfarlane agreed and suggested the
39 upcoming City Council election was also a factor. She wondered if what was
40 needed was a motion to postpone.

41
42 Brent Wallace asked what the procedure would be if the person who was elected
43 chair now went to City Council in November. Larry Mendenhall said the
44 commission would nominate and elect a new chair at that time.
45

1 Elizabeth Macfarlane asked if there was any reason Larry couldn't continue to
2 serve as chair until then. He said there was not, and that nothing but his personal
3 preference suggested the commission should vote today. Commission Macfarlane
4 suggested it wouldn't hurt to wait another two months for the election, and Larry
5 Mendenhall said that was a good thought. He also observed that the commission
6 is a bit off schedule anyway, since historically the election has occurred in July.
7 He added that the current chair serves until a new election is held.

8
9 **Motion by Elizabeth Macfarlane, Planning Commission to postpone**
10 **the election of its new chair until the outcome of the City Council**
11 **general election. The Planning Commission election will occur at the**
12 **first commission meeting after the general election.**

13
14 **Seconded by Roger Dixon.**
15 **Unanimous vote, motion passed.**

16
17
18 **Item 2: Ridgeline Preliminary/Final Subdivision Application ~**
19 **Public Hearing & Recommendation**

20
21 Larry Mendenhall observed that this item is a housekeeping issue and invited
22 Carly LeDuc to speak about it.

23
24 Carly LeDuc said Ridgeline Elementary is requesting a subdivision. She explained
25 the city can't require that a subdivision be recorded for the school, but doing so
26 allows the city to record easements, the address, and other details.

27
28 Roger Dixon asked if other school and church properties have gone this route.
29 Lonnie Crowell said Freedom Elementary went through the subdivision process
30 with Canterbury South. Barry Edwards explained the reason that one did so is
31 because the property owner was dividing off the school lot from a larger property.

32
33 Larry Mendenhall opened the public hearing.

34
35 There were no comments from the public.

36
37 Larry Mendenhall closed the public hearing.

38
39 **Motion by Elizabeth Macfarlane, Planning Commission to**
40 **recommend preliminary and final approval of the Ridgeline**
41 **subdivision, subject to all recommendations of staff.**

42
43 **Seconded by Brent Wallace.**
44 **Unanimous vote, motion carried.**

1 **Item 3: Blackburn Re-Zoning Request ~ Public Hearing &**
2 **Recommendation to Amend the Zoning Map and General Plan Land**
3 **Use Map**

4
5 Larry Mendenhall observed this request previously appeared before the Planning
6 Commission in February 2006, and invited Lonnie Crowell to speak about it.

7
8 Lonnie Crowell explained that Neil Blackburn is requesting a rezone of property
9 some commissioners might recall as the Pincock property. A similar application
10 was brought before the commission a year ago. This property is bordered by
11 nonconforming R-1-20 lots, a school, a church, and the highway. The application
12 did not continue on to City Council last time.

13
14 Roger Dixon asked about the designation of the property on the General Plan
15 Land Use Map, where's it's identified as Open Space Residential – 1. Barry
16 Edwards said that's the primary designation of most land in Highland City. Roger
17 Dixon asked if that category is the same as R-1-40. Barry replied it's hard to say
18 it's the same, since the General Plan Land Use Map isn't a zoning map. Roger
19 Dixon asked if there were appreciable differences between the two categories.
20 Lonnie Crowell said the R-1-40 Zone allows 30,000 square foot lots.

21
22 Elizabeth Macfarlane observed that staff recommends the commission not
23 approve the application, and the commission didn't approve it before. She
24 wondered what's changed. Larry Mendenhall said nothing, except ownership.

25
26 Brent Wallace asked about the lot sizes on the Concept Plan. Jerry Gorrell said
27 they're mostly between 16,000 and 19,000 square feet. Lonnie Crowell observed
28 that the R-1-20 ordinance was changed recently. Mr. Blackburn probably started
29 to look at this property before the change.

30
31 Roger Dixon asked if the lot is three acres and Brent Wallace said it is. Roger
32 Dixon asked if a street is being counted as well. Lonnie Crowell said streets are
33 counted for density, but not for lot sizes.

34
35 Larry Mendenhall opened the public hearing.

36
37 Neil Blackburn thanked the commissioners for reconsidering the application. He
38 said he considers this an infill subdivision and therefore different than other
39 larger parcels. He said under the current R-1-40 zoning, the parcel could be three
40 lots, or six lots if the change is granted. Either way, a wall should be constructed
41 along the highway. He said after development the land will feel residential, not
42 agricultural. The applicant's purpose is to facilitate residential development and
43 financing.

44
45 Neil Blackburn suggested that keeping the parcel zoned R-1-40 with animal
46 rights isn't in keeping with the neighborhood. There are no connecting trails to

1 other neighborhoods. He mentioned that Mountain Vista's principal is a local
2 resident who lives right across the street from this parcel.

3
4 Elizabeth Macfarlane asked about developing the parcel as four lots. She said the
5 commission has learned in the past that developers can get their money from
6 Highland land no matter what size the lots are. Neil Blackburn said that's
7 changing. Elizabeth Macfarlane said it will come back, and asked why six lots.
8 Neil Blackburn said the applicant feels it's the best use of the property at this
9 time, and the company can utilize the three additional lots in its business plan.

10
11 Roger Dixon observed that the applicant had mentioned senior housing in a letter
12 to the city, and asked if that's apropos to this application. Neil Blackburn said no.
13 He explained they worked with staff and City Council on the senior housing idea,
14 but given the delays on adoption of the new general plan and some other factors,
15 they decided to propose something different.

16
17 Brent Wallace asked if the applicant had plans for any other fences besides the
18 wall on the side facing Alpine Highway. Neil Blackburn said yes, they are
19 planning for fences around the perimeter. He said currently there's chain link
20 and wire around part of it. They would build screens around the rest, in addition
21 to the wall along the highway. They're anticipating cement with faux stone
22 columns and vinyl panels for the wall.

23
24 Neil Blackburn said if the changes in the ordinance affect density and they can
25 only get five lots, then so be it. Four, however, would be cutting their margins
26 significantly.

27
28 Brent Wallace asked if this application was submitted before the change to the R-
29 1-20 ordinance. Lonnie Crowell said no. He reminded the commission that the
30 Concept Plan is not part of this application. If the rezone request is approved and
31 a subdivision application were to come in, there would be other issues, such as
32 the parkway detail.

33
34 Steve Johnson explained that he lives on Earl Place near the parcel under
35 discussion. He thinks it's fine the applicant wants to maximize his return, but he
36 hopes the commission will take the neighborhood into consideration. He said on
37 Tuesday and Wednesday nights, and on Sundays, this area of Alpine Highway is a
38 traffic disaster. He thinks houses would be great, but the commission should be
39 aware of the traffic issue.

40
41 Neil Blackburn said the reason the applicant thought this location would be good
42 for senior housing is because of its close proximity to the church and the park. He
43 doesn't think the development will be a major problem for the LDS community.

44
45 Blake Martin observed that the parcel in question is right next to the junior high.
46 He said development there might be a distraction for students participating in

1 fun runs and other physical activities outside. Also, the noise associated with
2 development might be disruptive.

3
4 Larry Mendenhall closed the public hearing.

5
6 Larry Mendenhall reminded the Planning Commission that the application is for
7 rezoning. He said economics were not germane to the commission's discussion,
8 and suggested that, rather than thinking of this property as infill, it might be a
9 transitional parcel. He observed there's open space in Mt. Ridge, and some very
10 low density nearby, and suggested that the nonconforming subdivision to the
11 south shouldn't affect the decision.

12
13 Jerry Gorrell said some things have happened since the last time this application
14 was presented that make the situation different. He observed that lots are much
15 smaller in the Mt. Ridge subdivision that City Council approved next to the
16 school. In his opinion, if the property stays R-1-40 it will be out of character with
17 the neighborhood. He'd be concerned if this were being proposed next to a true
18 R-1—40 subdivision, but it's not. Alpine Highway separates the subdivisions on
19 the other side.

20
21 Roger Dixon agreed. He thinks the homes and lots should be comparable to
22 what's there, rather than putting three big houses in.

23
24 Jerry Gorrell observed he didn't think six lots would meet the R-1-20 ordinance.
25 It would have to be five lots. He suggested they might also be able to configure it
26 as four lots and keep it R-1-40.

27
28 Elizabeth Macfarlane said she could see these lots there, and she agreed it would
29 match the neighborhood, but she expressed concern that the commission keeps
30 setting certain precedents. Roger Dixon replied it's only a precedent for this
31 situation. Brent Wallace said the situation is unique because of the surroundings.
32 He agreed with Jerry that R-1-20 will look okay in the neighborhood because
33 there isn't anything larger to compare it to.

34
35 Larry Mendenhall said making an amendment to the general plan land use map
36 is of concern to him. He suggested if the commission rewrites the general plan
37 every time someone comes up with something new, that doesn't do justice to the
38 general plan. Roger Dixon said he would agree if the commission changed it every
39 time. But it's a plan, not the law, and in this case, it makes sense to change it.

40
41 Elizabeth Macfarlane observed that the general plan is under fire on many levels,
42 and asked if it would make sense to postpone this application until the general
43 plan is finalized. Larry Mendenhall said he thought the commission should act on
44 this application now.

45
46 **Motion by Roger Dixon, Planning Commission to recommend that**
47 **City Council approve the request to amend the Zoning Map from R-1-**

1 **40 to R-1-20 and the General Plan Land Use Map from Open Space**
2 **Residential – 1 to Open Space Residential – 2 for the property at 10215**
3 **North Alpine Highway.**

4
5 **Seconded by Brent Wallace.**

6
7 **Motion carried with Roger Dixon, Brent Wallace, and Jerry Gorrell**
8 **voting in favor and Elizabeth Macfarlane and Larry Mendenhall**
9 **voting opposed. Commissioner Tucker had not arrived when the vote**
10 **was taken.**

11
12
13 **Item 4: Town Center Code Amendment ~ Public Hearing &**
14 **Recommendation**

15
16 Larry Mendenhall invited Lonnie Crowell to speak about this item.

17
18 Lonnie Crowell said staff and the commission have gone through nearly a year of
19 work on updating the Town Center Overlay code. The new changes being
20 presented include the addition of residential zoning suggested by City Council at
21 the work session on July 10. Also, Lonnie received an email from the bank
22 indicating that retail zoning doesn't allow banks, but office zoning does, so that
23 change was made as well. There's an applicant who wants to do mixed use, and
24 the changes reflect that request.

25
26 Roger Dixon asked about the percentage of retail use. Sometimes it's 80% and
27 sometimes it's 20%. Lonnie Crowell explained that was deliberate. It's 80% for
28 office areas and 20% for residential.

29
30 Roger Dixon asked about the language about outside auto sales on page 10.
31 Lonnie Crowell explained the intent is to allow indoor but not outdoor sales, so
32 you could have a showroom but not a car lot. Roger Dixon said he continues to
33 maintain that the correct spelling of *paseo* is as shown here. Lonnie Crowell said
34 he'll correct it in the document.

35
36 Roger Dixon asked about the meaning of the sentence "The City will acquire the
37 public park through the use of Town Center Impact Fees or residential bonus
38 density." Jerry Gorrell explained it meant the park would be paid for either
39 through fees or through a contribution of property. Lonnie Crowell added that
40 language was taken from the original Town Center ordinance.

41
42 Larry Mendenhall opened the public hearing.

43
44 There were no comments from the public.

45
46 Larry Mendenhall closed the public hearing.

47

1 **Motion by Brent Wallace, Planning Commission to recommend that**
2 **City Council amend the Town Center Overlay Zone Code and adopt**
3 **Design Standards as part of that amendment, as recommended by**
4 **staff and with the minor housekeeping change (the spelling of *paseo*)**
5 **that was recommended by the Planning Commission.**

6
7 **Seconded by Elizabeth Macfarlane.**
8 **Unanimous vote, motion carried.**

9
10
11 **Item 5: Front & Rear Setbacks ~ Discussion**

12
13 Larry Mendenhall invited Carly LeDuc to speak about this item and explain the
14 diagram.

15
16 Carly LeDuc said staff would like Planning Commission to clarify how the front,
17 rear, and side of a property are defined. The diagram is an example of a lot in
18 Canterbury that staff had trouble with. There's another, similar lot to the south.
19 She explained that in regard to the example lot, the neighbor has concerns,
20 feeling the deck is too close to his home. On square or rectangle lots, staff knows
21 which sides are the front and the rear, but on lots like this, it's much harder.

22
23 Brent Wallace asked whether the front door dictates where the front is, and Barry
24 Edwards said not necessarily. Larry Mendenhall said it's irregular, noting that
25 normally the entrance would be on the cul de sac. Also, in this subdivision there
26 aren't required distances between foundations. Lonnie Crowell said that was
27 correct. Larry Mendenhall asked if that would help. Lonnie Crowell said it might.
28 He added that in this case, if a rear setback had been required on the lot, the
29 house wouldn't exist. The house is 1900 square feet, not much bigger than the
30 minimum 1500 square feet required by city ordinance. There are a few other lots
31 in Canterbury North that have similar issues because of their size and shape. The
32 question is whether the commission thinks this is an issue or is willing to rely on
33 staff discretion.

34
35 Larry Mendenhall suggested that if staff were given discretion to determine the
36 setbacks, that could eliminate the concerns the neighbor has in this situation.
37 Barry Edwards explained part of the problem is Planning Commission and City
38 Council both approved this lot as a building lot. Therefore staff tries to help the
39 owner use the land with the highest degree of flexibility. Lonnie Crowell
40 explained the issue only arises in situations like this, where a lot has three or five
41 sides. He added right now there isn't an ordinance that specifies "the rear of the
42 lot is opposite the front door."

43
44 Larry Mendenhall suggested giving staff discretionary authority to place the
45 home in the location on the lot that will be most beneficial. Elizabeth Macfarlane
46 asked Barry Edwards if he would like this to be a situation that's decided at staff
47 discretion. She said she could think of a situation where someone would say they

1 wanted a three-car garage, and it would be too close to the property line. Barry
2 Edwards pointed out applicants would still have to meet side and rear setbacks.
3 He suggested one possibility this question raises is that when the commission
4 looks at subdivisions, if they see lots like this, they can point out that the lot will
5 be difficult to build on and ask the developer to reconfigure the lot. He said it's
6 not as critical when a lot is 30,000 square feet, but it matters in Open Space
7 subdivisions.

8
9 Jerry Gorrell asked if the Appeal Authority gets involved in these situations.
10 Lonnie Crowell said not currently, but if staff were to deny a building permit
11 based on an ordinance that doesn't exist, then the Appeal Authority could get
12 involved.

13
14 Elizabeth Macfarlane asked if the commission could recommend a new ordinance
15 and Lonnie Crowell said yes. Barry Edwards agreed, saying if the commissioners
16 are uncomfortable with staff discretion in interpreting these situations, they can
17 write an ordinance that says "wherever the front door is, the rear side is the
18 opposite side."

19
20 Roger Dixon said it was clear to him where the rear of this house is. Barry
21 Edwards explained that staff operates by taking the most literal interpretation of
22 the ordinance that favors the landowner. So, for instance, if they have a 30-foot
23 setback somewhere, staff says yes, that's the rear.

24
25 Roger Dixon asked which works best for staff, an ordinance that defines where
26 the front of the lot is, or the flexibility to interpret the ordinance at their
27 discretion. Lonnie Crowell said having that flexibility makes sense on lots that
28 have already been approved. Elizabeth Macfarlane asked if there needs to be an
29 ordinance to grant that flexibility, and Lonnie Crowell said no, because the
30 current ordinance already allows it.

31
32 Jennifer Tucker expressed concern that at some point an applicant could claim
33 staff's interpretation is arbitrary and capricious. Jerry Gorrell added that the
34 discussion has to include the surrounding neighbors. He thinks where the back of
35 the house is should be apparent using common sense. He agrees there should be
36 some leeway, but he's also concerned about the guy next door who thinks this is
37 his backyard. He concluded that for existing lots, he thinks the commission can
38 leave the interpretation to staff discretion. The value is in looking at subdivisions
39 going forward. Commissioner Gorrell suggested the commission needs to ask for
40 revisions when it sees lots like this in the future. He also said it seems like the
41 ordinance should say the rear of the lot is behind the front.

42
43 Barry Edwards said this situation helps us understand why the ordinance says to
44 avoid three-sided lots, but staff and the commission still need to be vigilant. He
45 observed that in regard to this lot, its shape was a function of the canal being
46 there.

1 Elizabeth Macfarlane wondered what would be best, and if code needed to be
2 added to avoid three-sided lots. Barry Edwards said that recommendation is
3 already in the code, and Lonnie Crowell added there's already an ordinance
4 saying the zoning administrator can interpret the code in these situations.
5

6 Brent Wallace said the commissioners are suggesting giving staff the prerogative
7 to determine the best use for odd-shaped lots. Roger Dixon added they are also
8 suggesting that such situations not be allowed in the future. Barry Edwards
9 observed there are still lots like this that have been approved but not yet built on.
10

11 Larry Mendenhall said in summary, Planning Commission is comfortable with
12 staff using its discretion to determine the positioning of houses on lots where
13 there might be questions about placement.
14
15

16 **Item 6: Council Work Sessions ~ Information**
17

18 Larry Mendenhall explained this is an information item to let the commissioners
19 know about the dates of three upcoming work sessions and their topics:
20 September 18 on a definition of rural, October 2 on senior housing, and October
21 16 on affordable housing and apartments.
22

23 Elizabeth Macfarlane asked if there's a reason the meetings are scheduled so late
24 at night. Barry Edwards explained City Council will be doing some other work
25 beforehand on those nights. She also asked if the public is invited and Barry
26 Edwards said absolutely.
27
28

29 **Item 7: Approval of Meeting Minutes for August 28, 2007**
30

31 **Motion by Roger Dixon, Planning Commission to approve the Meeting**
32 **Minutes for August 28, 2007, as amended.**
33

34 **Seconded by Brent Wallace.**
35 **Unanimous vote, motion carried.**
36
37

38 Meeting adjourned at 8:37 p.m.