AGENDA
HIGHLAND CITY PLANNING COMMISSION
Tuesday, January 28, 2020, 7:00 p.m.

**Amended**

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

CALL TO ORDER: Chris Kemp, Chair
- Attendance – Chris Kemp, Chair
- Invocation – Commissioner Ron Campbell
- Pledge of Allegiance – Commissioner Claude Jones

APPEARANCES:
Time has been set aside for the public to express their ideas, concerns, and comments on non-agenda items. Speakers will be limited to three (3) minutes.

PUBLIC HEARING ITEMS:

1. **TA-20-01** Roy Huntsman is requesting approval to amend Chapter 5 Subdivision of the Development Code to allow flag lots. *Legislative*

2. **TA-20-03** Highland City Staff is requesting approval to amend Section 10-102 of the Development Code for the definition of “Family”. *Legislative*

3. **TA-20-02** Highland City Staff is requesting approval to amend multiple sections of the Development Code related to regulations for basement/Accessory apartments. *Ordinance was updated Legislative*

4. **TA-20-04** Highland City Staff is requesting approval to amend Section 5-8-101 of the Development Code relating to subdivision layout and environmentally sensitive lands. *Legislative*

APPROVAL OF MINUTES:

- Approval of the [November 19, 2019 meeting minutes](#).

ADJOURNMENT:

NEXT MEETING: *February 25, 2020* at 7:00 pm City Council Chambers

*Legislative: An action of a legislative body to adopt laws or polices.*

*Administrative: An action reviewing an application for compliance with adopted laws and policies.*
FOR SPECIAL ACCOMMODATIONS

Any individual with a qualified disability may request a reasonable accommodation by contacting the City Recorder at (801) 772-4506 at least 48 hours prior to the Commission meeting.

CERTIFICATE OF POSTING

The undersigned does hereby certify that the above agenda notice was posted in three public places within Highland City limits on this 23rd day of January 2020. These public places being bulletin boards located inside the City offices and located in the Highland Justice Center, 5400 W. Civic Center Drive, Highland, UT; and the bulletin board located inside Lone Peak Fire Station, Highland, UT. On this 23rd day of January, 2020 the above agenda notice was posted on the Highland City website at www.highlandcity.org.

Tara Tannahill, Planning Coordinator
DATE:       January 28, 2020
TO:         Planning Commission
FROM:       Tara Tannahill
            Planner and GIS Analyst
SUBJECT:    PUBLIC HEARING AND ORDINANCE – A request by Highland City to amend Chapter 5 Subdivision of the Development Code to allow Flag Lots. (TA-20-01). Legislative

STAFF RECOMMENDATION:
The Planning Commission should hold a public hearing, discuss the request, and make a recommendation to the City Council.

BACKGROUND:
The applicant’s property is in the Stoneridge Subdivision. Stoneridge subdivision was recorded in 1976 and shows mixed zoning with R-1-40 on the east side of 5500 West and non-conforming R-1-20 on the west side of 5500 West. The applicant’s home is zoned R-1-40.

In 1983 a previous owner of lot number 15 in the Stoneridge Subdivision did an illegal subdivision and split the lot into two parcels. The newly created northern portion of the lot was then split again into two parcels. This created a total of three (3) lots on lot number 15 in the Stoneridge Subdivision. The north-eastern portion of the lot was sold to the owner of lot number 17, while the north-western lot was retained by the owner of lot number 15.

The applicant’s home is lot number 17 in Stoneridge Subdivision map. The front property is 0.97 acres and the back property is 0.50 acres for a total acreage of 1.47 acres or 64,033 square feet. This would allow each property to potentially have 32,000 square feet. The applicant’s subdivision has the density ability to offer more lots and the frontage has enough room to allow a flagpole width. However, the subdivision doesn’t have the density to allow smaller lots under 30,000 square feet.

Currently, flag lots are not permitted in Highland City. The proposed amendment would be for all subdivisions that meet the requirements for flag lots throughout the City.

A development code amendment is a legislative process.
SUMMARY OF THE REQUEST:

1. The proposed amendment allows flag lots in the R-1-40 zone.

2. The applicant provided wording similar to Provo City’s wording. However, staff has been working with the applicant to revise the wording to meet other standards that are required with other subdivisions. See attachment 2 for the proposed revised wording.

ANALYSIS:

• Currently, the development code doesn’t allow flag lots in the city.

• Other surrounding City’s that allow or don’t allow flag lots:

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<th>City</th>
<th>Allowance</th>
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<tr>
<td>Alpine</td>
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<td>Pleasant Grove</td>
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<td>Provo</td>
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• Although neighboring city’s offer flag lots majority that responded confirmed that they don’t allow them very often and have restrictions to restrict the potential of flag lots. Some also responded that they have not heard of any issues with the flag lots that they have.

• Flag lots create an opportunity for infill development in established areas. Highland City is getting closer to being built out and this could create an opportunity for more homes and alternative housing options.

• This could create an opportunity for residents who wish to have their parents or children reside in either the base lot or the flag lot and they reside in the other home.

• Chief Gwilliam with Lone Peak Police and Chief Thompson with Lone Peak Fire District expressed concerns about visibility with the address or noticing the small lane for emergency access. This could create a potential delay in emergency response if they are unable to locate the flagpole for the flag lot.

• Requiring a density calculation to be based on what would have been approved from the original subdivision restricts the potential number of lots that could propose a flag lot. This is a standard requirement for all other subdivisions.
• There are potentially 805 flag lot potential properties available in the city based on
the acreage requirement of 40,000 square feet or greater and removing all other
zones besides R-1-40 zone. Staff didn’t review each potential subdivision to verify if
the subdivision had enough density available. Staff also removed the properties that
they were aware aren’t in an established subdivision as well.

• Potentially 58 of the 805 lots aren’t in an established subdivision because the
acreage is over 4 acres.

• As part of the subdivision process the developer would have been required to
provide the necessary water shares for the site.

RECOMMENDATION:
The Planning Commission will need to determine if the change is appropriate for all of
Highland City. Allowing flag lots is not a decision made without giving ample
consideration of all potential negative effects on the City and its residents. The following
questions have been provided to assist the Council in determining their recommendation:
• Is offering flag lots and creating higher density in the best interest of the city and
its residents?
• Should there be restrictions on the number of flag lots permitted from one flagpole?
• Should newer subdivision development be allowed to utilize flag lots to get higher
density?
• Should all zones be allowed to offer flag lots?
• Any potential additional requirements to help signal emergency vehicles of the
flagpole entrance for flag lots?
• In some areas of the city properties have utility easements, should these properties
be excluded?
• Can the cities infrastructure handle an additional 805 potential homes?

PROPOSED MOTION:
Staff recommends that the Planning Commission conduct a public hearing, discuss the
issues, and make a recommendation to the City Council.

I move that the Planning Commission accept the findings and recommend APPROVAL of
the proposed amendment based on the following findings: (The Commission will need to
draft appropriate findings.)

I move that the Planning Commission recommend DENIAL of case TA-20-01 a request for
a text amendment to allow flag lots based on the following findings: (The Commission will
need to draft appropriate findings.)
FISCAL IMPACT:
This action will not have a financial impact on this fiscal year’s budget expenditures.

ATTACHMENTS:
1. Applicants Narrative
2. Text Amendment
3. Ordinance
4. Email correspondence from other cities and staff about flag lots
5. Millcreek questionnaire response
6. Highland City potential flag lots map
Highland City has no flag lot ordinance that would allow or forbid the creation of flag lots. In Highland, there are many landlocked parcels that sit unused and wasting. The City needs to create a flag lot ordinance that will allow landowners the choice to put their landlocked, underutilized parcels to good use.

Many nearby cities have adopted flag lot ordinances to their benefit. Provo’s ordinance was changed and updated in 2016 to be more permissive because flag lots have proven useful. I suggest that Highland City use Provo’s ordinance as a guide in creating an ordinance that Highland City landowners can use without undue burden. I have almost copied Provo’s flag lot ordinance in this Proposed Flag Lot Ordinance, as follows:

Flag lots.

Each flag lot shall meet the following minimum design standards:

(1) the lot has at least twenty (20) feet of frontage on a dedicated public street which frontage serves as access only to the subject lot;

(2) the flag pole portion of the lot is least twenty (20) feet wide and not longer than necessary;

(3) the flag portion or body of the lot meets the lot area, width, and depth requirements of the applicable zone;

(4) the minimum square footage of the flag portion or body of the lot is the same as required in the applicable zone;

(5) the front, rear, and side yard setback requirements of the flag portion or body of the lot is the same as required in the applicable zone;

(6) no accessory building is located on the flag pole portion of the lot except aesthetic entry features such as decorative mail boxes, raised landscape beds or similar structures; and

(7) each flag lot has a hard-surfaced driveway at least twelve (12) feet wide from the street to the required parking area. When the flag pole portions of two (2) flag lots are side by side, a common curb cut and a driveway at least twenty (20) feet wide shall be required from the street to the required parking area. Unpaved areas of the flag pole portion of a flag lot shall be landscaped.
Note: I believe a preliminary approval process should be implemented to allow landowners to determine whether their lots would gain flag lot approval before they were required to build a hard-surfaced roadway.

I hope that the City adopts a policy and ordinance that is more friendly to landowners within its borders.

Sincerely,

Roy Huntsman
ATTACHMENT 2:
3-4114 Flag Lot (Added)

To facilitate the best use of interior areas of large existing parcels, the use of flag lots are allowed in all R-1-40 zones with an approved subdivision. The use of flag lots is intended to be restricted to the interior of deep parcels or other properties not otherwise accessible using residential street standards. It is not the intent or purpose of this section to encourage odd shaped lots or the inclusion of flag lots in proposed new residential subdivisions merely to maximize the number of lots within the subdivision. Flag lots may be allowed when it can be shown that there will be sufficient street connections and accessibility for emergency vehicles, and without creating landlocked situations for neighboring properties.

1. Application and Fees: The subdivider of a flag lot, shall file an application for approval with the Zoning Administrator on a form prescribed by the City, together with such prints and data for a flag lot as may be required from time to time by the City Zoning Administrator. At the same time, the subdivider shall pay all application fee(s) as published in the Consolidated Fee Schedule.

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

3. Area and Width Requirements:
   i. Maximum number of flag lots served by one flagpole is one (1) unless the flagpole is a shared flagpole with the flag lot and the front base lot (see figure 1).
   ii. The required setbacks, frontage, and minimum lot area for the base lot shall match the requirements for the zone, as is required for all standard subdivisions. Except the rear setback is 40 feet (40’) minimum.
   iii. The required setbacks and minimum lot area for the flag lot shall match the requirements for the zone, as is required for all standard subdivision.
   iv. Additional requirements may be made by the City Engineer and Public Works Director with regard to the pavement, parking, or other issues on any half cul-de-sac street related to safety issues and other City street standards.

4. Driveway Access and Paving:
   a) An accessway not less than twenty feet (20’) in width shall connect the building site portion of the lot with a designated city street and not more than two-hundred feet (200’) long. Said accessway shall be owned in fee as part of the lot and maintenance of the flagpole is the responsibility of the flag lot owner. If the flagpole is a shared flagpole, the maintenance of the flagpole is the responsibility of both lot owners; and
      i. If the flagpole is over one-hundred and fifty feet (150’) from the designated city street the flag lot will need to have an approved turnaround or emergency access, as approved by the Fire Marshall.
   b) Fire Protection Required: Every flag lot residence must be within two hundred twenty-hundred feet (200’) of a fire hydrant (measured along the flagpole and
public street). All fire hydrants and supply lines must satisfy the International Fire Code.

\(c\) A paved or all weather, hard surfaced area must be provided as determined by the City Engineer and Fire Marshall on each flag lot for the turnaround accommodation of emergency vehicles. The flagpole may be included as part of the necessary turnaround area.

5. The portion of a flagpole not hard surfaced shall be landscaped. Landscaping shall not hinder safe vehicular line of sight.

6. Off street parking required and each dwelling lot shall provide at least four (4) hard surfaced parking spaces, two (2) of which shall be covered with a garage. No parking is permitted in the flagpole; and
   a. The flag lot shall still have 70% of their front yard landscaped as defined in Section 3-4107 and 3-621, Highland City Development Code.

7. No accessory building is allowed on any portion of a flagpole or common flagpole.

8. Utility Service:
   a) Each flag lot requires individual utility lines and meters. The maintenance and service of utility lines outside of the public street is the responsibility of the flag lot owner.
   b) The entire flagpole shall be dedicated as a public utility, sewer and right-of-way easement.

9. Garbage Collection, Mailbox Location, and Sign Requirements:
   c) Garbage collection will be provided only at the street curb.
   d) Mailbox location will be provided at the street curb.
   e) Flag Lot property address shall be visible from the street near the flagpole entrance.

10. Flag Lot application, process, and additional requirements shall follow chapter 5 Subdivision, as is required for all standard subdivisions.
Figure 1
AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING HIGHLAND CITY DEVELOPMENT CODE SECTION 3-4114 AS SHOWN IN FILENAME TA-20-01.

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

WHEREAS, the Commission held a public hearing on this Ordinance on January 28, 2020 and

WHEREAS, the City Council held a public hearing on this Ordinance on February 18, 2020.

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

SECTION 1. ADOPTION “3-4114 Flag Lot” of the Highland City Development Code, is hereby added as follows:

3-4114 Flag Lot (Added)
To facilitate the best use of interior areas of large existing parcels, the use of flag lots are allowed in all R-1-40 zones with an approved subdivision. The use of flag lots is intended to be restricted to the interior of deep parcels or other properties not otherwise accessible using residential street standards. It is not the intent or purpose of this section to encourage odd shaped lots or the inclusion of flag lots in proposed new residential subdivisions merely to maximize the number of lots within the subdivision. Flag lots may be allowed when it can be shown that there will be sufficient street connections and accessibility for emergency vehicles, and without creating landlocked situations for neighboring properties.

11. Application and Fees: The subdivider of a flag lot, shall file an application for approval with the Zoning Administrator on a form prescribed by the City, together with such prints and data for a flag lot as may be required from time to time by the City Zoning Administrator. At the same time, the subdivider shall pay all application fee(s) as published in the Consolidated Fee Schedule.

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

13. Area and Width Requirements:
   v. Maximum number of flag lots served by one flagpole is one (1) unless the flagpole is a shared flagpole with the flag lot and the front base lot (see figure 1).
vi. The required setbacks, frontage, and minimum lot area for the base lot shall match the requirements for the zone, as is required for all standard subdivisions. Except the rear setback is 40 feet (40') minimum.

vii. The required setbacks and minimum lot area for the flag lot shall match the requirements for the zone, as is required for all standard subdivisions.

viii. Additional requirements may be made by the City Engineer and Public Works Director with regard to the pavement, parking, or other issues on any half cul-de-sac street related to safety issues and other City street standards.

14. Driveway Access and Paving:
   d) An accessway not less than twenty feet (20') in width shall connect the building site portion of the lot with a designated city street and not more than two-hundred feet (200') long. Said accessway shall be owned in fee as part of the lot and maintenance of the flagpole is the responsibility of the flag lot owner. If the flagpole is a shared flagpole, the maintenance of the flagpole is the responsibility of both lot owners; and
      i. If the flagpole is over one-hundred and fifty feet (150') from the designated city street the flag lot will need to have an approved turnaround or emergency access, as approved by the Fire Marshall.

   e) Fire Protection Required: Every flag lot residence must be within two hundred twenty-hundred feet (200') of a fire hydrant (measured along the flagpole and public street). All fire hydrants and supply lines must satisfy the International Fire Code.

   f) A paved or all weather, hard surfaced area must be provided as determined by the City Engineer and Fire Marshall on each flag lot for the turnaround accommodation of emergency vehicles. The flagpole may be included as part of the necessary turnaround area.

15. The portion of a flagpole not hard surfaced shall be landscaped. Landscaping shall not hinder safe vehicular line of sight.

16. Off street parking required and each dwelling lot shall provide at least four (4) hard surfaced parking spaces, two (2) of which shall be covered with a garage. No parking is permitted in the flagpole; and
   a. The flag lot shall still have 70% of their front yard landscaped as defined in Section 3-4107 and 3-621, Highland City Development Code.

17. No accessory building is allowed on any portion of a flagpole or common flagpole.

18. Utility Service:
   f) Each flag lot requires individual utility lines and meters. The maintenance and service of utility lines outside of the public street is the responsibility of the flag lot owner.

   g) The entire flagpole shall be dedicated as a public utility, sewer and right-of-way easement.

19. Garbage Collection, Mailbox Location, and Sign Requirements:
   h) Garbage collection will be provided only at the street curb.

   i) Mailbox location will be provided at the street curb.

   j) Flag Lot property address shall be visible from the street near the flagpole entrance.
20. Flag Lot application, process, and additional requirements shall follow chapter 5 Subdivision, as is required for all standard subdivisions.

Figure 1

SECTION 2. That the Mayor, the City Administrator, the City Recorder and the City Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose of this Ordinance.

SECTION 3. REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed

SECTION 4. SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 5: EFFECTIVE DATE This Ordinance shall be in full force and effect from February 18, 2020 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, February 18, 2020
HIGHLAND CITY, UTAH

_________________________________
Rodney W. Mann, Mayor

ATTEST:

_________________________________
Cindy Quick, City Recorder

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<th>COUNCILMEMBER</th>
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Email from Adam Olson with American Fork on January 8, 2020:
Tara,

American Fork allows flag lots under certain circumstances. In general, they are not allowed. They are allowed, however, in certain PUD’s where open space is preserved, and in what the City calls “Inner-Block Developments”. Inner Block Developments are found in the interior of the downtown City blocks, where interior property is under-utilized and development of smaller lot single-family residences is encouraged. From time to time, individuals will ask if flag lots can be used in standard developments, and we have said no.

I have not heard of any issues with the ones we do have.

I hope this helps.

Thanks,

Adam

Email from Robert Mills with Provo City on January 9, 2020:
Hi Tara,

Amanda Ercanbrack forwarded your email to me regarding Flag Lots and asked me to respond.

Our code regulations related to flag lots can be found online at the link below.

https://provo.municipal.codes/Code/14.34.140

Historically, flag lots were highly discouraged in Provo, and they are still not encouraged. However, flag lots can create an opportunity for infill development in established areas that would not be possible otherwise. Allowing flag lots, in some instances, can result in more efficient land utilization. We have especially seen this in our more established neighborhoods with very large lots that exceed the lot area requirements of the underlying zone, i.e. a 30,000 square foot lot in a R1.10 zone with a 10,000 square foot minimum lot.
area requirement.

In some instances it has also allowed residents of a particular neighborhood to age in place because one of their children may move into the original house and the elderly parents may build a newer home without stairs in the back portion of the original lot (or vice versa).

In summary, Provo allows flag lots where contextually appropriate, but not as a common subdivision alternative.

Hope this helps. If you have any additional questions, you are welcome to reach out.

Best of luck!
Robert
Wild Rose Resident

Email from David Stroud with Saratoga Springs on January 13, 2020:
Tara,
Flag lots have not been used much in Saratoga Springs. However, when I worked in Orem, they were often used in subdivisions. From my experience, if you allow flag lots, I would suggest you include language that only permits such lots from the beginning of the process. In Orem, a flag lot was only a permitted as an initial lot request and a plat could not be amended in the future to create a flag lot. I see no problem with flag lots if designed with the original preliminary/final plat.

David Stroud, AICP
Planning Director

Email from Chief Gwilliam with Lone Peak Police on January 10, 2020:
I am not a fan of flag lots. It is easy to drive past a small lane and the addresses can be difficult to locate in an emergency. They are rarely marked or flagged properly.

Best Regards,
Brian Gwilliam
MEMORANDUM

TO: Tara Tannahill, City Planner, Highland City

CC: Nathan Crane, City Administrator, Highland City

FROM: Reed M. Thompson, Fire Chief

SUBJECT: FLAG LOTS

DATE: 9 December 2019

The following is for discussion purposes associated with the possibility of considering “flag lots” in Highland City.

There are several concerns with this concept that present challenges with public safety containing, but not limited to:

The update to those plans and review of the new plans have the following items that need to be addressed:

- Anytime we cannot reach all areas of the proposed occupancy within 150 feet of the street, it requires additional planning for suppression tactics. This design generally occurs at the onset of the development to insure that water mains meet required fire flows and that travel corridors and access roads are installed to meet the fire code. With flag lots this is an afterthought and presents challenges.
- Fire hydrant spacing may be required to be updated with additional hydrants installed based on distances and flow requirements.
- Finding an address in an emergency response is critical. Flag lots present additional challenges with crews being able to locate rear flag lot addresses, adding to response time. Address posting requirements at the street would need to be addressed with signage.
- Access roads whether private or public need to be all weather access, including weigh and width requirements, and snow removal. Any in excess of 150 feet require an approved turnaround.
Address for flag lot __several on Gregson at about 2440 E_

Are the side and rear yards comfortable? Side yards ok, rear yards not always Is it too close to other homes? Varies Is the height in keeping with surrounding units? Seems like the rear homes are bigger but not if all the homes are new (knock down situations) Does the size of the home fit in with its’ surroundings? Sometimes, but generally bigger

For the owners in flag: What do you like about living here? Quiet

Did you build or have the home built for you? Some yes – good indicator that they like it

What would you do differently if you were going to start over? Wider driveway, maybe not shared, figure out a way to parallel park in the driveway, think thru snow removal/drainage better

Do you know your neighbors? All do, but there may be some tension with the shared driveway issues. All were new enough that the driveways were in good shape

Have your neighbors ever voiced any issues concerning your home here? Parking – sometimes they are forced to park out on the adjacent street, RV or boat parking, snow issues, turning radius to a detached garage

How do you handle snow removal? Tricky when the pole driveway is not wide enough.

For the front lot and bordering lots: Has the home in the back bothered you in any manner? Some feel like they are building too big, too much density, sometimes the front lot has not been left enough rear yard

Are there any changes you would make to that flag lot, if you could? One said “not have it”, another wanted it further back from the front lot

Would you build a home in the back of your lot if you had room? Yeses and two no

Do you know your neighbor? All do

Is this a good solution to these mostly vacant back yards? Sometimes but not always, some disappointment in the McMansions, yes if there is more room

Other thoughts you have? Detached garages issues (1’ from back lot?), need to slope to the street, lots of hard surface, not enough rear yard parking, turnarounds, long private utility lines, a place for the mailbox, maneuvering into the side entry garages, a place for the garbage cans that have to be rolled out, back lot gates (good or bad?), double lot flag has marginal separation between the old home and shared driveway area between the two new homes, lot 2 of the three lots has not yard space, 12’ sideyards ok(maybe no need for 20’), home in back often needs to be built up to get utilities to work(which increases the apparent height)
CITY OF HIGHLAND

Potential Flag Lots

LEGEND

Potential Flag Lot Parcel

ACREAGE

- 0.92 to 1.2
- 1.3 to 2.0
- 2.0 to 4.0
- 4.0 +

NUMBER OF LOTS

Number of Potential Flag Lot Parcels

Planning Commission Agenda January 28, 2020
PLANNING COMMISSION
AGENDA REPORT ITEM #2

DATE: January 28, 2020
TO: Planning Commission
FROM: Tara Tannahill
          Planner and GIS Analyst
SUBJECT: PUBLIC HEARING AND ORDINANCE – A request by Highland City Staff to amend Section 10-102 of the Development Code relating to definition of “Family”. (TA-20-03). Legislative

STAFF RECOMMENDATION:
The Planning Commission should conduct a public hearing, accept the findings, and make a recommendation to City Council.

BACKGROUND:
On February 1, 2011 the City Council voted to change the definition of family to allow a residence to be occupied by two adults and their family. A homeowner in Highland may rent space to two unrelated individuals if the renters and the residing family share a common household. A common household is defined as sharing living and eating areas, laundry facilities, and access to rooms. In addition, there cannot be a separate entrance. This would prohibit a separate apartment. This allowed a homeowner to rent the home without having to go through the basement apartment requirements with the building code.

Staff receives weekly questions about the development codes definition of family in regards to multi-family rental and basement apartment rental.

A development code amendment is a legislative process.

SUMMARY OF THE REQUEST:
1. The proposed amendment removes the ability for a homeowner to rent their home to multiple families and requires them to go through the proper procedures to have a legal accessory dwelling unit if they want to rent a portion of their home out, i.e. basement apartments.
Amended Section 10.102.23

Family

a) One or more persons related by blood, marriage, adoption or legal guardianship, including foster children, and no more than two adults and their children who are unrelated to the residing family; or

b) A group of not more than four persons not related by blood, marriage, adoption or legal guardianship, including foster children living together as a common household

ANALYSIS:

• Currently, the development code allows for a single-family home to be rented out to two unrelated adults and their family. This has caused homes to become multi-family rentals. This change would only allow one family or up to four unrelated individuals.

• The current wording also allowed homeowners to not have to remodel or finish the basement portion of their home to apply for a building permit with the building department in order to create a basement apartment because they are meeting the definition of family. This change would require the homeowner to have a legal basement apartment with the international building code (IBC) standards as required by the state.

RECOMMENDATION AND PROPOSED MOTION:

Staff recommends that the Planning Commission conduct a public hearing, discuss the issues, and make a recommendation to the City Council.

I move that the Planning Commission accept the findings and recommend APPROVAL of the proposed amendment based on the following findings: (The Commission will need to draft appropriate findings.)

ALTERNATIVE MOTION:

I move that the Planning Commission recommend DENIAL OF case TA-20-03 a request for a text amendment for the definition of family based on the following findings: (The Commission will need to draft appropriate findings.)

FISCAL IMPACT:

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

ATTACHMENTS:

1. Ordinance
2. Current Development Code Section 10.102.23 Definition of Family
3. City Council Minutes for February 1, 2011
ATTACHMENT 1:

ORDINANCE NO. 2020-**

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING HIGHLAND CITY DEVELOPMENT CODE SECTION 10-102 AS SHOWN IN FILENAME TA-20-03.

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

WHEREAS, the Commission held a public hearing on this Ordinance on January 28, 2020 and

WHEREAS, the City Council held a public hearing on this Ordinance on February 18, 2020.

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

SECTION 1. AMENDMENT “10-102 Definition” of the Highland Development Code is hereby amended as follows:

Amended Section 10.102.23

Family

a) One or more persons related by blood, marriage, adoption or legal guardianship, including foster children, and no more than two adults and their children who are unrelated to the residing family; or

b) A group of not more than four persons not related by blood, marriage, adoption or legal guardianship, including foster children living together as a common household

SECTION 2. That the Mayor, the City Administrator, the City Recorder and the City Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose of this Ordinance.

SECTION 3: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 4: SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 5: EFFECTIVE DATE This Ordinance shall be in full force and effect from February 18, 2020 and after the required approval and publication according to law.
PASSED AND ADOPTED by the Highland City Council, February 18, 2020

HIGHLAND CITY, UTAH

_________________________________
Rodney W. Mann, Mayor

ATTEST:

_________________________________
Cindy Quick, City Recorder

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ATTACHMENT 2:

23. Family.

a. One or more persons related by blood, marriage, adoption or legal guardianship, including foster children, and no more than two adults and their children who are unrelated to the residing family; or

b. A group of not more than four persons not related by blood, marriage, adoption or legal guardianship, including foster children living together as a common household (see Utah Code 10-9a-505.5).

(Ord: #2011-TBD, 02/01/2011)
Councilmember Butler has requested the definition of family be amended to make it easier for property owners to rent their basements. The proposed amendment would allow a homeowner to rent a portion of a home to one or two families. The proposed amendment does not address parking. This item was reviewed at the February 18, 2011 City Council meeting and staff was directed to revise the definition to be consistent with State Statute and address public safety issues.

Nathan Crane indicated the proposal will amend the definition of a family as follows:

Family:
(1) One or more persons related by blood, marriage, adoption or legal guardianship, including foster children, and no more than two adults and their children who are unrelated to the residing family; or
(2) A group of not more than four persons not related by blood, marriage, adoption or legal guardianship, including foster children living together as a common household.

Basement apartments are currently permitted in all residential zones subject to a conditional use permit. The requirements for basement apartments include complying with current building code requirements, providing two additional off-street parking spaces, separate entrance at the rear of home, and having separate utility connections. Among other things, the building code requires that a basement apartment have windows that are sized to allow emergency exiting, a one hour fire wall between the apartment and residence, and prohibits circulation of air between the two units. Staff believes that the regulations for basement apartments should be changed to better accommodate basement apartments.

Accessory or basement apartments are an effective tool for integrating new housing opportunities into existing neighborhoods, for providing options for non-traditional households (e.g. singles and seniors) or for providing affordable housing. However, accessory or basement apartments can have a negative impact on existing neighborhoods. Impacts on neighborhoods can be reduced through zoning regulations.

The State of Utah has mandatory standards for building construction which are amended to adopt the International Residential Code (I.R.C.) and the International Building Code (I.B.C.) and related codes such as the mechanical code, fire code, etc. Each local municipal entity is required to implement and adhere to these Codes. These Codes were adopted by the City Council on July 20, 2010. Amendments to these codes are processed through the Utah Division of Occupational and Professional Licensing and approved by the State Legislature. The proposed ordinance will also amend the Municipal Code Title 15: Buildings and Construction by adding Chapter 15.05 Basement Habitation Areas as follows:

All areas within a basement used for habitation shall have the following improvements:

a. Each bedroom shall have a door directly to the outside or window meeting the requirements of the adopted residential building code for an emergency escape and rescue opening.
b. Smoke detectors shall be installed as required by the building code, including within and outside a bedroom as required in the adopted residential building code.
c. A minimum ½ inch sheet rock shall be installed on the ceiling and supporting walls for all areas used for habitation.
A dwelling unit is defined to distinguish between different types of housing based on the number of units in a structure. If one family occupies a structure it is considered one dwelling unit. If two families occupy one structure it is considered a two dwelling unit.

Zoning and building code regulations are based around the number of units in a structure. Each unit in a structure is treated independently by building code regulations. These requirements are designed to protect the health and safety of families occupying each unit and ensure a minimal level of safety and quality in construction.

It is estimated that the cost to remodel a basement to meet the building code requirements is $14,000-$15,000. This cost could be more or less depending on when the home was built and the type of construction that was used. While staff understands that the costs associated with renovating a basement for an apartment can be prohibitive, staff does not believe that it is good public policy to circumvent the building code.

Nathan Crane stated the Council should discuss any potential liability issues with the City Attorney if the City allows basement apartments without requiring compliance with the building code. The Council should also discuss with City Attorney if the building code can be circumvented through the definition of a family. He indicated that Kasey Wright has reviewed the proposed definition for a family and found that it is consistent with State law. Kasey Wright requested that requirements for owner occupancy be removed due to concerns with the Federal Fair Housing Act.

General clarifications on the ordinance took place, including questions regarding the building code and types of sheetrock with regard to fire rating.

Scott Smith asked if the proposed safety amendments are adopted would the City be meeting enough of the building code. John Park stated that is a moot point in the ordinance because the ordinance is not designed to create a duplex. The two main things not required in this ordinance that would be required for a duplex is a one-hour fire resistant construction (5/8 sheetrock) on all ceilings and supporting walls and a fire rated door between the two units; and secondly it is not allowed to intermix a forced air heating system. He stated this amendment will apply to every single family home in Highland, so the reality of requiring 1/2 inch sheetrock on the ceiling is that homes will be a lot safer.

Nathan Crane agreed with Mr. Park and reiterated there are two different issues addressed by the ordinance – the safety features are designed to apply to all homes whether it is a basement apartment or not; while the definition of family is designed to allow two different families to live together defined as one.

Scott Smith noted that many homeowners’ associations use restrictive covenants to disallow basement apartments. He asked how this ordinance would affect that. Kasey Wright answered the restrictive covenants remain in full force and effect.

Brian Braithwaite thanked Jan Dowling for her comments at the beginning of the meeting. He stated not a lot of residents come and talk about their concerns, including former councilmembers and mayors. He noted there was a lot of discussion on this issue two weeks ago and he firmly believes in owner occupancy for rental units. Brian Braithwaite discussed the ordinance and some clarification took place from staff that this amendment does not require owner occupancy.

Nathan Crane noted this ordinance circumvents the basement apartment ordinance. Kasey Wright added that this is not an accessory apartment change the City Council would be making. They are changing the
definition of family. Brian Braithwaite stated he believes it is a mistake if owner occupancy is not required.

Much discussion took place on how it could be accomplished to require home ownership, including creating an overlay zone. It was noted Provo created such a zone and some commented the overlay is not working very well in Provo. Kasey Wright indicated the proposed ordinance is broad, and not being able to require owner occupancy is one of the consequences of doing it this way. Home ownership cannot be tied to the definition of family and still be within the law.

Jan Dowling and Nathan Crane discussed the maximum number of people that could live within a home under the proposed ordinance. Ms. Dowling stated the definition of a family does have constitutional background and is very broad and complicated. She noted cities have debated the issue for years without success. She indicated she is stunned at the proposed changes and cannot believe they are being considered.

Kasey Wright and Jan Dowling discussed the different way the State code could be interpreted. Ms. Dowling expressed concern with potential changes to the education system when large numbers of a student population might move in or out.

Larry Mendenhall reiterated his comments from the last City Council meeting that he felt a band-aid was being put on the issue. He is not certain of the purpose behind the changes but he has significant reservations about the change. He agrees with Ms. Dowling that it changes the nature of the neighborhood. He indicated there would impacts to schools, public safety, etc. He asked Kasey Wright if the definition, particularly the first part, was defensible if someone in the neighborhood complained that the complexion of their neighborhood had changed.

Kasey Wright stated that legally it is in compliance with the law, but the City Council should address public policy. This is defining the number of residents, constituting a family in a single family zone. This definition was drafted by staff to be in compliance with the law. Larry Mendenhall clarified the City does not have to adopt this definition per State law and Kasey Wright agreed. Larry Mendenhall continued, stating the parameters of the ordinance are sorely lacking in terms of impacts and common sense. He stated he supports protecting the rights of all the residents but there are so many concerns as were outlined by Ms. Dowling. There needs to be a remedy for these concerns. He suggested the remedy would be to re-write the accessory apartment ordinance to address the issues.

Scott Smith indicated that most of this stuff is happening already in Highland. Many times grown married kids come back and live at various times with parents. There is a home in his neighborhood that has had an illegal basement apartment for years and years.

Kathryn Schramm discussed the current definition and how it could be interpreted different ways. She indicated in her neighborhood there are four families living in two homes; three families upstairs, and the basement is being rented. Ms. Dowling stated that this is a concern and a problem. In response to Ms. Dowling’s statements Kathryn Schramm indicated she had a family that lived next to her with nine kids but only one of them graduated from high school and they all had cars they parked on the lawn at the house. She doesn’t think anyone has the right to tell them they can’t park their cars on the property they pay taxes for. She believes the amendment is aiming toward achieving an ideal situation. People do not consider what is already occurring in almost every neighborhood now. She does not believe in changing any ordinance to accommodate people who are breaking the law, but it has torn her neighborhood up more than once when a young couple has lived in a basement apartment and had to move when they have a
baby. She stated that does destruction to the neighborhood. The current law gives them no choice and forces them out.

Jan Dowling stated there needs to be some common sense. Kathryn Schramm stated common sense to her may be different to someone else. Jan Dowling stated that is why it is important that the City Council govern with the worst case scenario in mind.

Much additional discussion took place.

Tom Butler stated the current ordinance violates State law as pointed out by legal counsel. He noted that if anyone rents out space that is not in a common household, whether they are family or not, it is currently illegal. This is the thing that concerns him the most. He stated the impetus for this is not purely financial. Income is one reason only and he outlined these in the last meeting. Additional reasons include security, aging population, additional assistance, etc. He reiterated his comments from the last City Council meeting. He noted that only four percent of the population in Alpine have taken advantage of the basement apartment ordinance that has been in place there for years. He stated it is unfair to compare Highland to Orem or Provo where there are student populations due to universities in those cities. He noted the Planning Commission recommended the changes be adopted. He stated the City Council took an oath to support, obey and defend the constitution. He outlined what that means to him and shared quotes from Thomas Jefferson outlining that the pursuit of happiness is property rights. He shared additional quotes from David O. Mackay and George Sutherland. He said if the City Council passes laws that severely restrict property rights then by default the City Council doesn’t believe in them. Tom Butler stated it boils down to this question: do property owners have the right to do with their property as they want or do they not?

Jan Dowling recognized the sincerity of Mr. Butler’s remarks. She stated issues regarding changes to neighborhoods have been to the Supreme Court and are considered constitutional. She reiterated that a resident does not have to own property to have citizen rights. The amount of property someone owns does not affect how the City Council should represent them. She urged the City Council to wait and think about this before something is passed that could have such a broad affect.

MOTION: Tom Butler moved to adopt Ordinance 2011-04: Amending the Highland City Development Code Chapter 10 Definitions relating to the definition of a family and amending the Highland City Municipal Code Chapter 15 regarding Basement Habitation as presented and including a reference to the State Code citation after paragraph (2) of Section 1 of the adopting ordinance. Kathryn Schramm seconded the motion.

Brian Braithwaite stated the unintended consequence this ordinance has on the residents of Highland is unacceptable and goes beyond what he believes is good for the residents of Highland. He stated the lack of an owner occupancy requirement concerns him. He recognizes there could be multiple families living in a home, but that is not typical of the individuals that live in Highland.

Scott Smith asked if Brian Braithwaite was opposed to renting a home to someone else and Brian Braithwaite responded he was not opposed; however who that is rented to is a concern. Four unrelated college students are not the same as the surrounding families. Scott Smith indicated the new State statute makes it really hard. Brian Braithwaite indicated he heard Kasey Wright say there were other avenues to accomplish the State statute such as using a zoning overlay.
Kathryn Schramm agreed with Brian Braithwaite to separate the definition of a family from the rental of your home; however she realized it could not be done. She feels there has to be a definition on who could live in that house.

DATE: January 28, 2020
TO: Planning Commission
FROM: Tara Tannahill
Planner and GIS Analyst
SUBJECT: PUBLIC HEARING AND ORDINANCE – A request by Highland City to amend several sections of the Development Code relating to basement apartments. (TA-20-02). Legislative

STAFF RECOMMENDATION:
The Planning Commission should conduct a public hearing, accept the findings, and make a recommendation to City Council.

BACKGROUND:
On October 7, 2008 the City Council voted to allow basement apartments in residential homes in the basement portion of the home. As part of the application process the applicant will have to submit a request for a Conditional Use Permit to Council for approval. Conditional uses are uses that are meant to give limited flexibility in the review of an application. In Highland, the Planning Commission makes a recommendation to the City Council and the City Council can either approve or deny the request. A conditional use is regulated through Utah State Code 10-9a-507 and are an administrative process.

Basement apartments require the unit to be a part of the main dwelling unit, homeowners to reside in the main dwelling unit, provide off-street parking, provide separate utilities, additional trash cans, meet International Building Code (IBC) standards, and meet International Fire Code (IFC) standards.

On November 12, 2019 the Council updated the cities moderate income housing element in the General Plan with four goals to satisfy the state mandated requirement with SB 34 Moderate Income Housing. One element that the City adopted was to review and update the regulations for accessory dwelling units within the land use code for potential modifications and incentives to encourage the creation of additional housing options for residents. Highland City will be required to demonstrate progress for the chosen implementation strategies to the state by December 2020.

Staff currently receives weekly phone calls about the definition of family and basement apartments.
A development code amendment is a legislative process.

**SUMMARY OF THE REQUEST:**

1. The proposed amendment removes the requirement of the applicant to have to submit a request for a Conditional Use Permit for a basement apartment.

2. The applicant will also no longer have to provide separate utilities, which requires separate stubs of sewer and water onto the property.

3. The applicant will need to provide signage demonstrated from the front for the accessory dwelling unit. This is needed for emergency response time.

**Section 4.105.06: Section**

3-624 Accessory Dwelling Unit

Accessory Dwelling Unit shall meet the following requirements:

- **a.** Accessory dwelling unit shall only be permitted in single family homes that are owner occupied.
- **b.** Accessory dwelling units shall not be permitted in detached accessory buildings.
- **c.** A minimum of two (2) off-street spaces shall be provided.
- **d.** The minimum 70% front yard landscaping as defined in Section 3-4107 and 3-621, Highland City Development Code shall be provided.
- **e.** No more than one (1) accessory dwelling units shall be considered for each single family home.
- **f.** The unit and home shall be modified to meet all fire, safety, health and building codes as required by the Building Official and Fire Marshall.
- **g.** The front of the home shall NOT be modified in any form that will give the appearance that separate units are incorporated within the home including except separate addresses and mailboxes.
- **h.** The primary entrance for the accessory dwelling units shall be provided for from the rear of the home; a side entrance is allowable in the event that the entrance is camouflaged by property fencing or landscaping and is not visible from the street.

**Section 10-102 Definitions**

4. **Accessory Dwelling Unit.** An Accessory Dwelling Unit (ADU) is a room or set of rooms in a single-family home in a single-family zone that has been designed or configured to be used as a separate dwelling unit, which has a separate kitchen, living/sleeping area, and sanitation facilities, and has been established by permit.

**ANALYSIS:**

- Currently, the development code allows for a single-family home to have a basement apartment through a conditional use permit process. This requires the Planning
Commission have a public hearing to make a recommendation to City Council, and City Council to have a public meeting to review the conditional use permit. Conditional uses are uses that are meant to give limited flexibility in the review of an application.

- On November 12, 2019 the Council updated the cities moderate income housing element in the General Plan with four goals to satisfy the state mandated requirement with SB 34 Moderate Income Housing. One element that the City adopted was to review and update the regulations for accessory dwelling units within the land use code for potential modifications and incentives to encourage the creation of additional housing options for residents. This text amendment would satisfy this requirement with SB 34.

- The development code currently requires the homeowner to provide a separate utility to the basement apartment. This requires the property to have additional stubs for sewer and water. This can be costly for new and existing properties to either pay for additional meters and connection fees, as well as, cutting into the road to make the necessary connections. A sewer connection fee is $2,125.98, pressurized irrigation meter is $372, and culinary water meter is $536. Cutting into the road will have additional fees and costs associated with it, and the City has an asphalt window from April to October.

- Highland City currently doesn’t offer a way to separate the utility services for separate units on the property and having separate connections would be required to do this.

- The applicant will still be required to offer off-street parking, meet international building code and fire code standards, and the homeowner to live in the main dwelling unit.

- Having signage of the unit will help with fire and police emergency response time by knowing where the unit is.

**RECOMMENDATION AND PROPOSED MOTION:**
Staff recommends that the Planning Commission conduct a public hearing, discuss the issues, and make a recommendation to the City Council.

I move that the Planning Commission accept the findings and recommend **APPROVAL** of the proposed amendment based on the following findings: (The Commission will need to draft appropriate findings.)

**ALTERNATIVE MOTION:**
I move that the Planning Commission recommend **DENIAL** of case TA-20-02 a request for
a text amendment for basement apartments based on the following findings: (The Commission will need to draft appropriate findings.)

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

**ATTACHMENTS:**
1. Ordinance
2. Current Development Code Section 4-105 Basement Apartment
3. City Council Minutes for October 7, 2008
ATTACHMENT 1:

ORDINANCE NO. 2020-**

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING HIGHLAND CITY DEVELOPMENT CODE IN SEVERAL SECTIONS AS SHOWN IN FILENAME TA-20-03.

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

WHEREAS, the Commission held a public hearing on this Ordinance on January 28, 2020 and

WHEREAS, the City Council held a public hearing on this Ordinance on February 18, 2020.

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

SECTION 1: AMENDMENT “4-105 General Requirements” of the Highland Development Code is hereby amended as follows:

6. Basement Apartments. Basement Apartments shall have substantial requirements which may be in addition to those listed above, as follows:

   i. Basement apartments shall only be considered for residential properties that are occupied by the owner(s) of the single family residence; and
   j. Basement apartments shall only be considered for properties in which the apartment is attached to the main dwelling in the basement portion of the home; and
      i. Owners of property with a basement apartment shall be required to apply for and pay for two separate city utility charges; and
      ii. Owners of property with a basement apartment shall pay for two “first can” garbage can rates; and
   k. Basement apartments shall only be considered for properties that meet parking requirements, as noted below, and properties that have completed 70% of their front yard landscaping as defined in Section 3-4107 and 3-621, Highland City Development Code; and
   l. No more than one (1) basement apartment shall be considered for each single family residence; and
   m. The home shall be modified to meet all fire, safety, health and building codes; and
   n. Modifications to a home for basement apartments shall be approved and inspected by the Fire Marshall and building inspector prior to occupancy by renters; and
      i. Applicants shall provide plans to be reviewed and approved by the City
Building Inspector and City Fire Marshall prior to occupancy; and
ii. Modifications shall be provided for by the homeowner to meet all current International Building Code (IBC) requirements typically associated with any legal duplex or similar multi-family construction; and
iii. Modifications shall not be made that are inconsistent with current zoning requirements as otherwise defined within the R-1-40 and R-1-20 zones.

a. The front of the home shall NOT be modified in any form that will give the appearance that separate units are incorporated within the home including separate addresses and mailboxes; and
p. The primary entrance for the basement apartment shall be provided for from the rear of the home; a side entrance is allowable in the event that the entrance is camouflaged by property fencing and is not visible from the street; and
q. One off-street parking space shall be provided per bedroom within the rented area of the home, with a minimum of two (2) off-street renter parking spaces; and
r. Permanent on-street parking of any kind shall be prohibited for occupants of any residence requesting basement apartments; and
s. Any signage associated with a basement apartment shall be prohibited including addressing, directional, or similar; and
t. The property owner shall be required to record a deed restriction upon their property immediately after approval and before occupancy notifying the County of the basement apartment and providing notice to future purchasers that the apartment use is conditionally approved with the seller, it may not continue to the buyer without additional land use approval obtained by the buyer, and is null and void at the moment of each sale of the property.

u. A basement apartment Conditional Use may be reviewed annually, semi-annually or upon complaint from adjacent property owner; and

SECTION 2: ADOPTION “3-624 Accessory Dwelling Unit” of the Highland Development Code is hereby added as follows:

3-624 Accessory Dwelling Unit(Added)
Accessory Dwelling Unit shall meet the following requirements:

a. Accessory dwelling unit shall only be permitted in single family homes that are owner occupied.
b. Accessory dwelling units shall not be permitted in detached accessory buildings.
c. A minimum of two (2) off-street spaces shall be provided.
d. The minimum 70% front yard landscaping as defined in Section 3-4107 and 3-621, Highland City Development Code shall be provided.
e. No more than one (1) accessory dwelling units shall be considered for each single family home.
f. The unit and home shall be modified to meet all fire, safety, health and building codes as required by the Building Official and Fire Marshall.
The front of the home shall NOT be modified in any form that will give the appearance that separate units are incorporated within the home including except separate addresses and mailboxes.

The primary entrance for the accessory dwelling units shall be provided for from the rear of the home; a side entrance is allowable in the event that the entrance is camouflaged by property fencing or landscaping and is not visible from the street.

SECTION 3: **AMENDMENT** “3-4101 Residential Zone” of the Highland Development Code is hereby amended as follows:

3. Multi family dwellings (with the exception of approved basement apartments accessory dwelling units as defined within Section 4-1053-624 of this Code), commercial and industrial use areas are strictly prohibited in this Zone.

SECTION 4: **AMENDMENT** “3-4108 Conditional Uses” of the Highland Development Code is hereby amended as follows:

9. Basement Apartments for residential property (see Chapter 4, Conditional Use Procedure in this Code).

SECTION 5: **AMENDMENT** “3-4102 Permitted Uses” of the Highland Development Code is hereby amended as follows:

13. Accessory Dwelling Units for residential property; please refer to Article 6, Section 3-624, Supplementary Regulations in this Code

SECTION 6: **AMENDMENT** “3-4201 Residential Zone” of the Highland Development Code is hereby amended as follows:

3. Multi family dwellings (with the exception of approved basement apartments accessory dwelling units as defined within Section 4-1053-624 of this Code), commercial and industrial use areas are strictly prohibited in this Zone.

SECTION 7: **AMENDMENT** “3-4208 Conditional Uses” of the Highland Development Code is hereby amended as follows:

11. Basement Apartments for residential property (see Chapter 4, Conditional Use Procedure in this Code).

SECTION 7: **AMENDMENT** “3-4202 Permitted Uses” of the Highland Development Code is hereby amended as follows:

11. Accessory Dwelling Units for residential property; please refer to Article 6, Section 3-624, Supplementary Regulations in this Code

SECTION 8: **AMENDMENT** “3-4251 Residential Zone” of the Highland Development Code is hereby amended as follows:
3. Multi family dwellings (with the exception of approved basement apartments accessory dwelling units as defined within Section 4-1053-624 of this Code), commercial and industrial use areas are strictly prohibited in this Zone.

SECTION 9: **AMENDMENT** “3-4258 Conditional Uses” of the Highland Development Code is hereby amended as follows:

9. Basement Apartments for residential property (see Chapter 4, Conditional Use Procedure in this Code).

SECTION 10: **AMENDMENT** “3-4252 Permitted Uses” of the Highland Development Code is hereby amended as follows:

12. Accessory Dwelling Units for residential property; please refer to Article 6, Section 3-624, Supplementary Regulations in this Code.

SECTION 11: **AMENDMENT** “10-102 Definitions” of the Highland Development Code is hereby amended as follows:

3. **Accessory Dwelling Unit.** An Accessory Dwelling Unit (ADU) is a room or set of rooms in a single-family home in a single-family zone that has been designed or configured to be used as a separate dwelling unit, which has a separate kitchen, living/sleeping area, and sanitation facilities, and has been established by permit.

SECTION 12: That the Mayor, the City Administrator, the City Recorder and the City Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose of this Ordinance.

SECTION 13: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 14: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 15: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from February 18, 2020 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, February 18, 2020

HIGHLAND CITY, UTAH

_________________________________
Rodney W. Mann, Mayor
ATTEST:

_________________________________
Cindy Quick, City Recorder

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ATTACHMENT 2:
Section 4.105.06, Conditional Use:
6. Basement Apartments. Basement Apartments shall have substantial requirements which may be in addition to those listed above, as follows:

a. Basement apartments shall only be considered for residential properties that are occupied by the owner(s) of the single family residence; and
b. Basement apartments shall only be considered for properties in which the apartment is attached to the main dwelling in the basement portion of the home; and
   i. Owners of property with a basement apartment shall be required to apply for and pay for two separate city utility charges; and
   ii. Owners of property with a basement apartment shall pay for two “first can” garbage can rates; and

c. Basement apartments shall only be considered for properties that meet parking requirements, as noted below, and properties that have completed 70% of their front yard landscaping as defined in Section 3-4107 and 3-621, Highland City Development Code; and

d. No more than one (1) basement apartment shall be considered for each single family residence; and

e. The home shall be modified to meet all fire, safety, health and building codes; and

f. Modifications to a home for basement apartments shall be approved and inspected by the Fire Marshall and building inspector prior to occupancy by renters; and
   i. Applicants shall provide plans to be reviewed and approved by the City Building Inspector and City Fire Marshall prior to occupancy; and
   ii. Modifications shall be provided for by the home owner to meet all current International Building Code (IBC) requirements typically associated with any legal duplex or similar multi-family construction; and
   iii. Modifications shall not be made that are inconsistent with current zoning requirements as otherwise defined within the R-1-40 and R-1-20 zones.


g. The front of the home shall NOT be modified in any form that will give the appearance that separate units are incorporated within the home including separate addresses and mailboxes; and

h. The primary entrance for the basement apartment shall be provided for from the rear of the home; a side entrance is allowable in the event that the entrance is camouflaged by property fencing and is not visible from the street; and

i. One off-street parking space shall be provided per bedroom within the rented area of the home, with a minimum of two (2) off-street renter parking spaces; and

j. Permanent on-street parking of any kind shall be prohibited for occupants of any residence requesting basement apartments; and

k. Any signage associated with a basement apartment shall be prohibited including addressing, directional, or similar; and

l. The property owner shall be required to record a deed restriction upon their
property immediately after approval and before occupancy notifying the County of
the basement apartment and providing notice to future purchasers that the
apartment use is conditionally approved with the seller, it may not continue to the
buyer without additional land use approval obtained by the buyer, and is null and
void at the moment of each sale of the property.
m. A basement apartment Conditional Use may be reviewed annually, semi-annually
or upon complaint from adjacent property owner; and
ATTACHMENT 3:  
Adoption of Ordinance 2008-19: Amending Several Sections within the Development Code for the Purpose of Providing for Basement Apartments in Residential Zones (Agenda Item 8.2)

The City Council requested the Planning Commission review a basement apartment ordinance to determine what should be permitted and required for this use. During meetings in April through June the Planning Commission discussed opinions and concerns regarding basement apartments. Based on these meetings an ordinance was drafted. The proposed ordinance was reviewed and modified by the Planning Commission on June 24, 2008. This proposed ordinance with Planning Commission modification has been provided to the City Council at a previous meeting with a request to give comments or concerns to staff prior to adoption.

The ordinance allows basement apartments in residential zones as long as the home is owner occupied. It limits the apartment to one per single family residence, defines utility requirements such as garbage service fees, and parking requirements.

MOTION: Larry Mendenhall moved to adopt Ordinance 2008-19: An Ordinance Amending Several Sections within the Development Code for the Purpose of Providing for Basement Apartments in Residential Zones, based on finding of fact that staff has reworked the ordinance and it appears to be consistent with meeting a need for legitimizing some of the basement apartments that currently exist in the City. Claudia Stillman seconded the motion.

7:30:20 PM Larry Mendenhall feels it is time to take this step to approve basement apartments. He said the ordinance gives staff an opportunity to make sure basement apartments meet safety requirements and requires the owner notify Utah County.

Claudia Stillman stated this will be a way to provide affordable housing as discussed with the General Plan. She noted there are people living in basement apartments now and the ordinance will be a benefit to Highland City.

7:32:13 PM Brian Brunson expressed concern with the requirement that the apartment be in the basement. He stated some elderly people may not be able to handle stairs from the basement. He was also surprised not to see a square footage limit on the apartment.

7:33:57 PM Barry Edwards noted that the Planning Commission recommended the ordinance address basement apartments only. If apartments are allowed on the main level it effectively turns the home into a duplex. It was the intent of staff and the Planning Commission to create additional housing options without impacting neighborhoods. He stated the issue of square footage restrictions did not come up but could be addressed by the City Council if desired.

7:35:24 PM Brian Braithwaite commented that the basement apartment is essentially restricted to 50% or less of the total house size since it is the basement. He also expressed concerns with the finding of fact in the motion. He thinks the ordinance should be passed because it is right and not to legitimize something that people have been doing wrong.

MOTION TO AMEND: Brian Braithwaite moved to amend the finding of fact in the motion to strike out the verbiage “for legitimizing some of the basement apartments that currently exist in the City” Claudia Stillman seconded the motion. Those voting aye: Brian W. Braithwaite, Brian Brunson, Kathryn Schramm, and Claudia Stillman. Those voting nay: Larry Mendenhall. The motion carried with a majority vote of 4:1.
7:38:31 PM Kathryn Schramm asked Mr. Church about the owner occupancy requirement and if the City could dictate whether both the upstairs and basement apartment could be rented. Mr. Church stated ordinances that limit accessory apartments to being owner occupied have been upheld by the Court and can be enforced. He noted there is a perception of better preservation of property values when a home is owner occupied.

7:40:23 PM MOTION TO AMEND: Brian Brunson moved to amend the motion to include a requirement that no accessory unit can exceed 33% of the total living space. The motion died for lack of a second.

Kathryn Schramm asked for clarification if a property owner with an approved apartment could sell their home and advertise that they have a rental. Lonnie Crowell stated that the deed restriction required by the property owner would help notice future purchasers that the apartment use is conditionally approved with the seller. He stated the new buyer could go back through the process to get the basement apartment approved.

7:42:38 PM AMENDED MOTION: To adopt Ordinance 2008-19: Amending Several Sections within the Development Code for the Purpose of Providing for Basement Apartments in Residential Zones, based on finding of fact that staff has reworked the ordinance and it appears to be consistent with meeting a need. Those voting aye: Brian W. Braithwaite, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. Those voting nay: Brian Brunson. The motion carried with a majority vote of 4:1.
DATE: January 28, 2020
TO: Planning Commission
FROM: Tara Tannahill
Planner and GIS Analyst
SUBJECT: PUBLIC HEARING AND ORDINANCE – A request by Highland City to amend Section 5-8-101 of the Development Code relating to subdivision layout. (TA-20-04). Legislative

STAFF RECOMMENDATION:
The Planning Commission should conduct a public hearing, accept the findings, and make a recommendation to City Council.

BACKGROUND:
Staff received a question about requirements on a subdivision layout and required materials to turn in. During the review of the development code it became aware that the environmental regulations and required materials section needed to be updated. The purpose of the update is to modernize the language to be consistent with State Law and be consistent with modern practice.

A development code amendment is a legislative process.

SUMMARY OF THE REQUEST:
1. Staff is proposed to amend section 5-8-101 of the development code to be consistent with State Law and modern practices.

Amended Section 5-8-101(2)

Subdivision Layout

2. Where trees, groves, waterways, scenic points, historic spots or other City assets and landmarks, or environmentally sensitive areas such as wetlands, or other features or land subject to state, federal, or other special regulation, as determined by the City, are located within a proposed subdivision, the subdivider shall identify and provide every possible means shall be provided to preserve these features as part of the proposed subdivision.

...
ANALYSIS:

- The change would require environmentally sensitive areas, such as wetlands, to be considered and demonstrated as part of the proposed subdivision.

- Some areas in Highland have environmentally sensitive areas that will need to be demonstrated and go through other additional federal regulatory processes. This change makes it a requirement to do so and be demonstrated.

RECOMMENDATION AND PROPOSED MOTION:

Staff recommends that the Planning Commission conduct a public hearing, discuss the issues, and make a recommendation to the City Council.

I move that the Planning Commission accept the findings and recommend APPROVAL of the proposed amendment based on the following findings: (The Commission will need to draft appropriate findings.)

ALTERNATIVE MOTION:

I move that the Planning Commission recommend DENIAL OF case TA-20-04 a request for a text amendment for the subdivision layout based on the following findings: (The Commission will need to draft appropriate findings.)

FISCAL IMPACT:

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

ATTACHMENTS:

1. Ordinance
2. Current Development Code Section 5-8-101
ATTACHMENT 1:

ORDINANCE NO. 2020-**

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING HIGHLAND CITY DEVELOPMENT CODE SECTION 5-8-101 AS SHOWN IN FILENAME TA-20-04.

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

WHEREAS, the Commission held a public hearing on this Ordinance on January 28, 2020 and

WHEREAS, the City Council held a public hearing on this Ordinance on February 18, 2020.

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

SECTION 1. AMENDMENT “5-8-101 Subdivision Layout” of the Highland Development Code is hereby amended as follows:

5-8-101 subdivision Layout

...

2. Where trees, groves, waterways, scenic points, historic spots or other City assets and landmarks, environmentally sensitive areas such as wetlands, or other features or land subject to state, federal, or other special regulation, as determined by the City, are located within a proposed subdivision, the subdivider shall identify and provide every possible means shall be provided to preserve these features as part of the proposed subdivision.

...

SECTION 2. That the Mayor, the City Administrator, the City Recorder and the City Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose of this Ordinance.

SECTION 3: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 4: SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.
SECTION 5: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from February 18, 2020 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, February 18, 2020

HIGHLAND CITY, UTAH

___________________________
Rodney W. Mann, Mayor

ATTEST:

___________________________
Cindy Quick, City Recorder

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<th>COUNCILMEMBER</th>
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ATTACHMENT 2:

5-8-101 Subdivision Layout

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

2. Where trees, groves, waterways, scenic points, historic spots or other City assets and landmarks, as determined by the City, are located within a proposed subdivision, every possible means shall be provided to preserve these features.

3. Whenever a tract to be subdivided adjoins or embraces any part of an existing or proposed street so designated on the major street plan, such part of the public way shall be platted and dedicated, and improved by the subdivider in the location and at the width specified.
The regular meeting of the Highland City Planning Commission was called to order by Planning Commission Vice Chair Ron Campbell at 7:03 PM on November 19, 2019. An invocation was offered by Commissioner Ball and those assembled were led in the Pledge of Allegiance by Commissioner Abbott.

PRESENT: Commissioner: Ron Campbell
Commissioner: Jerry Abbott
Commissioner: Tim Ball
Commissioner: Brittney Bills
Commissioner: Claude Jones

EXCUSED: Commissioner: Christopher Kemp
Commissioner: Sherry Carruth
Commission Alternate: Audrey Wright

STAFF PRESENT: Community Development Director: Nathan Crane
Planner: Tara Tannahill
Planning Commission Secretary: Heather White

OTHERS: See attached Attendance List

PUBLIC APPEARANCES

Commissioner Campbell asked for public comment. None was offered.

PUBLIC HEARING ITEMS

1. PD-19-03
McKay Christensen is requesting approval of a Planned Development (PD) District of approximately 5.80 acres named Apple Creek. The property is located approximately at 5532 W Parkway West Dr. The PD will include a 38,800 square foot office and commercial space and a maximum of 70 residential units.

Ms. Tannahill reviewed the background of the property and explained that the residential use was removed from the Town Center Overlay Zone in 2016. In 2017 the city council modified the number of residential uses permitted in the Town Center to match what was already approved. She explained that Apple Creek’s original application in 2016 that included 240 units and 10,000 sf of commercial space was denied. Their current request was to rezone 5.82 acres from the
Town Center to a PD district. Ms. Tannahill reviewed some of the key changes made to the plans since it was initially submitted in August 2019. They included: decreased residential units from 121 to 70, increased parking from 300 to 346 spaces, decreased commercial building height from 45 feet to 40 with the ability to increase five feet, changed amenities from a swimming pool and club house to court yard with barbeque and fire pits, and increased commercial building square footage from 10,200 sf to 38,800 sf. She explained that 6,800 sf would be retail space and 32,000 sf would be office space. She reviewed changes to the current site plan and phasing plan. She asked the commissioners to consider what would force the developer to build the commercial portion after Phase 1 was complete.

Ms. Tannahill explained that the density for the whole project was 12 units per acre, however, the townhome area demonstrated at 20 units per acre, the loft condos were nine units per acre, and the twin homes were about seven units per acre. She pointed out that 20 units per acre was higher than the other developments in the Town Center Overlay District. She asked the commissioners to consider whether 20 units per acre was appropriate for this location.

Regarding the open space plan, Ms. Tannahill said the developer demonstrated the required 10% open space for commercial and 20% for residential. She pointed out that the developer's recreation area calculation included areas that did not qualify towards the recreational area requirement so the plan would need to be modified to represent true numbers. She asked the commissioners to consider whether the proposed open space plan met the requirements for the recreation areas, and if the townhomes and twin homes should have a recreation area located closer to the commercial and condo areas.

Ms. Tannahill reviewed changes made to the parking plan. She asked the commissioners to consider if the number of visitor parking stalls was adequate for the site. Regarding retail and office space areas, Ms. Tannahill pointed out that there were no restrictions of the uses and the site would not meet minimum parking requirements if the mix of uses was different than what was proposed. She asked the commissioners to consider how the percentage of retail and office space would be enforced.

Ms. Tannahill reviewed the details of the proposed residential units, access points, maximum building heights, and density. She explained that UDOT (Utah Department of Transportation) gave a written statement granting access for the proposed site. She said UDOT asked the city to consider allowing a full-service intersection on SR-74 by removing a portion of the median.

Ms. Tannahill said that the developer submitted a proposed fencing plan, but it did not include height information. She mentioned that a 6-foot fence was required in the development code. She also explained that the proposed fencing materials did not match what was allowed in the development code.

Ms. Tannahill reviewed proposed monument signs and the trash can and dumpster plan.

Commissioner Campbell wondered why the proposed development style was so modern compared to what was already in the area. He voiced concern that it was so different than the
current Town Center style. He said he liked the style, but it was not what was in the code. Commissioner Campbell talked about the guidelines and thought it was important to have the look of the buildings fit in. Mr. Christensen thought that architecture was a matter of taste. He said the renderings probably looked more static and modern than it would be. He said parapet walls were used in order to lower the height of the buildings. He said the pictures showed white brick, but several things could be done to warm it up. He said the style and design was modern farmhouse and that they could use warmer colors. He talked about the different style of buildings already in the Town Center. He said using red brick might tie it into other existing buildings and that the white brick could be modified if it was a point of issue.

Mr. Christensen reviewed the details of the recent changes to the plans. He said they could cap the retail at 6,800 sf with 32,000 sf of office. He said the amenities were to serve the entire site and the residential uses were for-sale units instead of rentals. Regarding the parking plan, he said the office parking was a reciprocal use because 109 stalls would be vacant weekdays from 6 PM to 8 AM and completely vacant on weekends. He thought the amenities were centrally located to all buildings and that everyone had the opportunity to use the open space; not just residents. He said the townhomes and twin homes had their own front or side yard and that the courtyard was intended to be a more passive space. Mr. Christensen talked about phasing. He said they planned to build as soon as they had 50% of sales. He said they planned to build Phase 1 through 4 consecutively, but there might be some deviation in phasing based on market demand. They anticipated that commercial would be the last phase. He said parking would meet the requirements of each phase when they built it. Mr. Christensen said down-lighting would be used throughout the development.

Commissioner Campbell wondered what could be done in order to ensure that all phases were built. Mr. Christensen did not think that anything could be written into the document, but said their model was recurring revenue. He said it didn’t do them any good to build the residential uses then do nothing with the retail and office space. He stated that he had letters of intent from some retailers. He said office space was unique and commitment was needed before breaking ground.

Commissioner Abbott thought that each neighborhood in the Town Center had its own theme. He liked the proposed architecture and thought the development could be blended more with color. Commissioner Campbell liked the style of the development but thought fitting in was important.

Commissioner Campbell was concerned about access and thought that a third access was critical for the residential uses. Mr. Christensen talked about taking out a portion of the median and creating a full-service intersection.

Commissioner Ball voiced concern with increased traffic. He asked about the possibility of traffic lights. Mr. Christensen reviewed the traffic plan and said that it was determined that three entrances were adequate. The commissioners discussed traffic lights. Mr. Crane explained that Highland had an agreement with UDOT that when the need warranted, a signal would be placed at either Parkway East or 5600 West.
Commissioner Campbell opened the public hearing at 7:58 PM and asked for public comment.

Resident Mike Brady was concerned with whether the commercial would be built. He was concerned with the access through Ace Hardware and said it was a parking lot instead of a road. He worried about moms and kids coming out behind the bank. He talked about a concern with drivers coming out of the south end of the development and weaving around to use other exit routes. He voiced concern that residents would be required to pay for the removal of the median. Mr. Brady thought the developers did a good job, but said it was too dense for the area. He talked about hazardous narrow roads in Vineyard and Lehi and was concerned that this development would be the same.

Resident Teri Jerman wondered how many of the zoning ordinances this development did not meet. She understood that the zoning was only commercial and wondered if development could happen with the same zoning with little changes. She asked if zoning had to be changed each time a developer came to the city. She said the median was put in for a residential feel and was used as a traffic slowing mechanism. She thought it was a mistake to take it out. She wondered where the townhomes would be taking garbage cans for pickup because trucks would not be able to get down the road.

Resident Wesley Warren said he liked this plan and the lower densities. He voiced concerned with the economic state of the city and how it was going to be in the future. He talked about a discussion at a previous council meeting about three opportunities that Highland had to bolster economic development; 1. build multifamily dwellings, 2. expand personal services, and 3. infill with neighborhood-scale retail. He thought the proposed development met all three opportunities. He was afraid that something else might be worse if the city did not work with the developer.

Commissioner Campbell asked for additional comments. Hearing none, he closed the public hearing at 8:07 PM and asked for comments from the commissioners.

Commissioner Jones wondered if anything they proposed was not a permitted use. Mr. Crane explained that residential was not currently a permitted use. Commissioner Jones wondered how long it would take to complete the project. Mr. Christensen thought it would take two to four years but explained that it was driven by the market.

Commissioner Abbott thought the density was now more in line with what the council wanted. He liked the dark sky lighting plan and said the trash containers could be addressed. He was apprehensive to include a stipulation regarding building phase requirements because of unknown market demands. He thought something should be added regarding maintaining the property if building wasn’t happening. Commissioner Abbott thought it could be kept architecturally separate while adding elements that combined the area. He voiced concern with going through the Ace Hardware parking lot.
Commissioner Ball wondered if there was enough data for a long term economic analysis on the development. He wondered what commitments Mr. Christensen had for the retail space. Mr. Crane explained that an economic analysis was not done and that he could have the consultant look at it if it was a planning commission recommendation. Mr. Christensen explained that the couple of letters of intent he had were for restaurants.

Commissioner Bills pointed out that the emphasis of the plan seemed to be residential instead of commercial. She stressed the importance of making sure the residential use was the best layout. She talked about the location of the courtyard. She understood the idea of having everyone be able to use the courtyard but pointed out that retail was not a big part of the plan. She agreed that it was a mixed-use product, but thought the residential component was the largest part. She said the city had very little developable space left in the Town Center and wanted to make sure the space was used in the most effective way. She thought using it for residential was a big change.

Commissioner Campbell talked more about phasing and assurances that might be put in place to ensure the construction of retail use. Commissioner Abbott said phases were driven by the market. Mr. Christensen talked about using the same phasing language as Ridge View and explained in more detail about the impact of the market on the development. Mr. Crane noted that Ridge View was a completely different project with 699 units, adjacent to two major roads, with commercial being 10% of the project. He urged the commissioners to consider if the Apple Creek project was the right one for the location. He suggested that the commissioners look at each phase and consider if each phase could stand on its own. He suggested that they consider the questions from the staff report, make sure it was enforceable, and consider if it was the right product for the city at this time.

The commissioners talked about the other properties available in the Town Center district. They discussed whether it was right to approve more residential for the area.

MOTION: Commissioner Abbott moved that the Planning Commission recommend approval of the Apple Creek Planned Development District subject to the following eight stipulations provided by staff and three additional stipulations:

1. Development shall comply with the Apple Creek Plan and Narrative date stamped November 7, 2019 except as modified by these stipulations.
2. All public improvements shall be installed as required by the City Engineer and City Fire Marshall.
3. The civil construction plans shall meet all requirements as determined by the City Engineer.
4. The main recreation area be completed prior to 50% of the residential units being issued a building permit.
5. The townhome area be designed to include a central recreation area.
6. All private roadways shall be a minimum of 28 feet as determined by the Fire Marshall.
7. The applicant shall revise the open space plan to identify those areas that meet the requirements of Section 3-520.
8. Trash and recycling containers are to be stored in garage or behind a side yard screen wall. They shall be placed behind curb lines in a designated location for each unit. The location shall be a concrete pad. The locations where the containers are to be stored shall be shown on the site plan. If the containers are stored in the garage, the garage shall be enlarged to accommodate the containers.

9. Architecture be tied in with surrounding architectural elements currently existing in the Town Center Overlay District.

10. Assurance of Phase 4 commercial development be addressed.

11. The SR-74 intersection be a full-service intersection at the cost of the developer as part of Phase 1 infrastructure improvements to be completed by the end of Phase 1.

Commissioner Jones seconded the motion. Commissioner Campbell, Commissioner Abbott, and Commissioner Jones were in favor of the motion. Commissioner Ball and Commissioner Bills were opposed. The motion failed.

Commissioner Campbell voiced concern that the project was not all commercial. Commissioner Abbott thought an all-commercial product would work if it was located on the corner. He thought this project was harder because it was mid-block.

BRIEF ADJOURNMENT AND CALL TO ORDER

Commissioner Campbell called for a brief adjournment at 8:52 PM for the purpose of taking a short break. He called the meeting to order at 9:01 PM. He allowed further public comment.

Resident Mike Bready explained that he used to be vice president of global operations for a large company in Provo and was responsible for 1.5 million sf of commercial office space. Based on his experience, he was not sure why anyone would think Highland would get commercial office renters in the Town Center area. He thought doctor or dentist offices and maybe restaurants were a possibility but had concerns with the proposed plan. He thought the city should leave the area vacant if they couldn’t get what was wanted. He suggested having lower density on the property due to traffic concerns. Commissioner Campbell encouraged Mr. Bready to also voice his thoughts and concerns at the city council meeting.

2. TA-19-14

SBGS Ridgeline Holdings is requesting approval to amend 3-520 Planned Development District in order to modify the residential recreation requirement.

Ms. Tannahill reviewed the history of the property. She explained that the property owner thought that an HOA (homeowner’s association) would be too costly for six residential homes and that private ownership would be more beneficial than community open space. She read through the proposed language for Section 3-520.5e and said the amendment, if approved, would be applied to all PD applications. It was explained that residential areas less than two acres could still require recreation areas, but the city council had the flexibility to require a fee instead. She pointed out that the required open space for the development was about 5,000 sf.
Applicant Garrett Seely explained that this came up because of the burden it would cause to have an HOA with six units. He thought the money could go to regional parks within the city.

Commissioner Campbell opened the public hearing at 9:10 PM and asked for public comment.

Resident Wade Hadlock talked about previously changing the code so this particular PD zone could be approved. He thought it did not make sense to have an HOA with six homes. He was afraid that the neighboring properties would also ask for PD zones on smaller lots resulting in 10 acres with no recreation areas. He explained that Wild Rose Phase 1 had 15 homes that paid park fees and thought it was odd that neighbors from this development would not pay park fees while using the park as much as Wild Rose residents. He suggested that the amendment include attaching a specific development to an existing subdivision. Then the new homes could also pay park fees or provide a specific park improvement to the existing Wild Rose open space. He pointed out that the developer’s original request was to create the Wild Rose Phase 2 development.

Commissioner Campbell asked for additional comments. Hearing none, he closed the public hearing at 9:16 PM.

Commissioner Jones thought the intent was to provide open space. He wasn’t sure that getting money would work.

Commissioner Abbott liked Mr. Hadlock’s recommendation and wanted to explore the possibility. He wasn’t sure if he was comfortable with changing the code. Mr. Crane thought the HOA issue might be addressed with the PD amendment but wasn’t sure the city could force the developer to join a subdivision.

Mr. Seely thought Mr. Hadlock’s suggestion was a “brilliant” idea and said he would be happy to do it.

The planning commission discussed if a new development could join an existing open space special service district and recommended that staff investigate the possibility. Mr. Crane explained that it would require the city to expand the special service district, have the development join it, then collect a monthly fee. He said it was very different than joining an HOA because of the way the open space special service district was set up. It was explained that Mr. Hadlock’s suggestion was to have the new subdivision be charged the open space fee of $20 and have the payment go towards an improvement in the park. Mr. Crane explained that the developer would join a special service district without providing the service. He wondered where the open space that they were required to provide would go because the development was not adjacent to the Wild Rose park.

Mr. Crane explained that the proposed amendment allowed the developer to pay the city the value of the improved 5,000 sf then the council would appropriate the expenditure some place in the city.
Commissioner Bills pointed out that the development wasn’t contiguous to the park and provided no value to the special service district. Mr. Seely said value would be added to the park if they used the money equal to the improved 5,000 sf to make improvements to the existing park, like installing a play center. Mr. Crane clarified saying that the money for improvements could go to any park.

Commissioner Campbell called for a motion.

MOTION: Commissioner Jones moved to deny the proposed text amendment. Commissioner Bills seconded the motion. Commissioner Campbell, Commissioner Ball, Commissioner Bills, and Commissioner Jones were in favor of the motion. Commissioner Abbott was opposed. The motion carried.

Later in the meeting Commissioner Bills asked that the record show that she was in favor of the proposed text amendment and was confused with the wording of the motion.

3. PP-19-05

Boyer Ridgeview Residential LC is requesting approval of a Preliminary Plat approval of a Preliminary Plat approval for a 265-lot subdivision of approximately 38 acres to be known as Ridgeview Plat A. The property is located approximately at 9800 N. North County Blvd.

Ms. Tannahill reviewed the details of the application. She reviewed the details of the four phases and said access to the site was from Canal Blvd and North county Blvd. Regarding the landscaping plan, Ms. Tannahill explained that a stipulation in the PD development agreement defined that each development within the flex-residential and carriage areas “shall provide a minimum of 10% recreational area”. She said Phases 1-3 were subject to the stipulation and that the plat demonstrated meeting 10% of the net developable area within the phases. She said the proposed plat also indicated that the developer met the minimum number of guest parking stalls.

Spencer Moffitt with Boyer talked about how much they worked with the city and residents while planning the development. He said they saw it as the first phase in what they hoped would be a good project and an asset to Highland.

Commissioner Campbell opened the public hearing at 9:42 PM and asked for public comment. Hearing none, he closed the public hearing at 9:43 PM.

MOTION: Commissioner Abbott moved that the planning commission recommend approval of the Proposed Preliminary Plat subject to the following eight stipulations recommended by staff:

1. The recorded plat conforms to the preliminary plat date stamped September 9, 2019 and received November 12, 2019 except as modified by these stipulations.
2. All public improvements shall be installed as required by the City Engineer.
3. A building permit shall not be issued until the Infrastructure Improvement Agreement has been approved by the City council.

4. The civil construction plans shall meet all requirements as determined by the City Engineer.

5. Fence 3 that is adjacent to the commercial district in Phase 1 shall be changed to a theme wall.

6. Trash and recycling containers are to be stored behind a side yard screen wall. They shall be placed behind curb lines in a designated location for each unit. The location shall be a concrete pad. The location where the containers are to be stored shall be shown on the site plan.

7. The home builder shall be responsible for the front yard landscaping on the flex residential and carriage lots.

8. A trail connection to the Murdock Canal trail shall be provided on at the west open space area. The connection shall be shown on the landscape plan prior to City council consideration.

Commissioner Jones seconded the motion. Commissioner Campbell, Commissioner Abbott, Commissioner Ball, Commissioner Bills, and Commissioner Jones were in favor. None were opposed. The motion carried.

4. SN-19-09

   Jiffy Lube is requesting approval of a monument sign along Timpanogos Highway located approximately at 5248 W 11000 N.

Ms. Tannahill reviewed the details of the application. She said Jiffy Lube was requesting approval of a monument sign that was not part of the original site plan. She showed a picture of the proposed 48-inch x 60-inch sign and said that it met Development code requirements.

Commissioner Campbell opened the public hearing at 9:45 PM and asked for public comment. Hearing none, he closed the public hearing at 9:46 PM.

The Planning Commission talked about the style of the buildings in the area. Commissioner Campbell said the sign fit with the style of the Jiffy Lube building.

MOTION: Commissioner Jones moved that the planning commission approve the proposed monument sign subject to the following four stipulations recommended by staff:

   1. The monument sign conforms to the monument sign site plan received November 11, 2019 except as modified by these stipulations.

   2. A building permit shall be issued and paid for prior to construction/installation of the sign.

   3. A final building inspection shall be conducted within 30 days after construction of the sign.

   4. The monument sign shall be maintained by the property owner.
Commissioner Abbott seconded the motion. Commissioner Campbell, Commissioner Bills, Commissioner Abbott, Commissioner Ball, and Commissioner Jones were in favor. None were opposed. The motion carried.

OTHER BUSINESS

5. Approval of the 2020 Planning Commission Meeting Calendar

The Planning Commission reviewed the proposed 2020 meeting schedule.

MOTION: Commissioner Ball moved to accept the proposed 2020 Planning Commission Meeting Schedule. Commissioner Abbott seconded the motion. Commissioner Campbell, Commissioner Abbott, Commissioner Ball, Commissioner Bills, and Commissioner Jones were in favor. None were opposed. The motion carried.

APPROVAL OF MINUTES

MOTION: Commissioner Abbott move to approve the October 22, 2019 meeting minutes. Commissioner Jones seconded the motion. Commissioner Campbell, Commissioner Abbott, Commissioner Ball, Commissioner Bills, and Commissioner Jones were in favor. None were opposed. The motion carried.

ADJOURNMENT

MOTION: Commissioner Ball moved to adjourn the meeting. Commissioner Bills seconded the motion. All present were in favor. The motion carried.

The meeting was adjourned at 9:53 PM.