7:00 PM REGULAR SESSION (CITY COUNCIL CHAMBERS)
Call to Order – Mayor Rod Mann
Invocation – Council Member Kurt Ostler
Pledge of Allegiance – Council Member Brian Braithwaite

1. UNSCHEDULED PUBLIC APPEARANCES
   Time has been set aside for the public to express their ideas, concerns, and comments. (Please
   limit comments to three minutes per person. Please state your name and address.)

2. CONSENT ITEMS (5 minutes)
   Items on the consent agenda are of a routine nature or have been previously studied by the
   City Council. They are intended to be acted upon in one motion. Council members may pull
   items from consent if they would like them considered separately.
   a. ACTION: Approval of Meeting Minutes
      Regular City Council Meeting July 16, 2019
   b. ACTION: Cell Tower Agreement
      City Council will consider approving an American Towers Lease Extension Agreement.
      The Council will take appropriate action.

3. PUBLIC HEARING/ACTION: A FINAL PLAT AMENDMENT TO BRIARWOOD
   RANCHES PLAT ‘A’ TO INCORPORATE THE COMMON AREA INTO EACH
   INDIVIDUAL LOT (10 minutes)
   The City Council will consider a request by Laura Botkin for approval of a Final Plat
   Amendment to the Briarwood Ranches Subdivision located approximately at 6000 W 9960 N
   (PA-19-01). The Council will take appropriate action.

4. ACTION/ORDINANCE: SITE PLAN AND CONDITIONAL USE PERMIT FOR
   FLEX OFFICE BUILDINGS (30 minutes)
   The City Council will consider approving a request from Andrew Patterson for approval of a
   site plan and conditional use permit for flex office buildings located in the Professional Office
   Zone south of 11251 N. Sunset Drive (SP-19-02 and CU-19-02)). The Council will take
   appropriate action.

5. PUBLIC HEARING/ORDINANCE: AMENDING SECTION 3-623 OF THE
   DEVELOPMENT CODE RELATING TO TEMPORARY USE PERMITS FOR
   PRODUCE STANDS (TA-19-04) (20 minutes)
The City Council will consider approving an amendment to Section 3-623 of the Highland City Development Code relating to Temporary Use Permits for produce stands (TA-19-04). The Council will take appropriate action.

6. **ACTION: TRAP & EUTHANIZE OPTION FOR URBAN DEER CONTROL PROGRAM** *(10 minutes)*

The Council will consider approving the option to trap and euthanize deer as a removal method for the Urban Deer Control Program. The Council will take appropriate action.

7. **MAYOR/COUNCIL AND STAFF DISCUSSION AND COMMUNICATION ITEMS**
   a. **Motocross ATV Restrictions** – *City Attorney Tim Merrill*

8. **FUTURE MEETINGS**
   a. Future Meetings
      - August 20, City Council Meeting, 7:00 pm, City Hall
      - August 27, Canvass Election Returns 6:00 pm, City Hall, Electronic Meeting
      - August 27, Planning Commission Meeting, 7:00 pm, City Hall

**ADJOURNMENT**

In accordance with Americans with Disabilities Act, Highland City will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at (801) 772-4505 at least three days in advance of the meeting.

**ELECTRONIC PARTICIPATION**

Members of the City Council may participate electronically via telephone, Skype, or other electronic means during this meeting.

**CERTIFICATE OF POSTING**

I Cindy Quick, the duly appointed City Recorder certify that the foregoing agenda was posted in three public places within Highland City limits. The agenda was also posted at the principal office of the public body, on the Utah State website (*http://pmn.utah.gov*) and on Highland City's website (*www.highlandcity.org*).

Please note the order of agenda items are subject to change in order to accommodate the needs of the City Council, staff and the public.

*Posted and dated this 1st day of August, 2019*

Cindy Quick, MMC
City Recorder

**THE PUBLIC IS INVITED TO PARTICIPATE IN ALL CITY COUNCIL MEETINGS.**
HIGHLAND CITY COUNCIL MINUTES
Tuesday, July 16, 2019
Waiting Formal Approval

Highland City Council Chambers, 5400 West Civic Center Drive, Highland Utah 84003

PRESIDING: Mayor Rod Mann

COUNCIL MEMBERS PRESENT: Brian Braithwaite, Tim Irwin, Kurt Ostler, Scott L. Smith

CITY STAFF PRESENT: City Administrator / Community Development Director Nathan Crane, Assistant City Administrator Erin Wells, Finance Director Gary LeCheminant, City Engineer Todd Trane, Planner & GIS Analyst Tara Tannahill, City Attorney Tim Merrill, and City Recorder Cindy Quick

ABSENT: Ed Dennis

OTHERS: Mary Taylor, Merrilee Boyack, Don Ruzicka, Gayle Ruzicka, Wayne Tanaka, Heidi L. Will, Tyler Jackson, Dianna Holland, Ginger Harris, Cheree Davis, Maryann Christensen, Ron Christensen, Natalie Cline, Christ Cline, Megan Cline, Samuel Fisher, Keri Bushman, Tim Ball, Jody Burnett, Michael J. Reed, Michelle Porcelli, Emily Porcelli, Doug Cortney, Bruce Williams, Rana Williams (and family), Heidi Weyland, Kelly Sobotka, Ken Knapton, Kim Rodela, Jadan Hutchison, Jared Hare, Mark Thompson

7:00 PM REGULAR SESSION (CITY COUNCIL CHAMBERS)

Call to Order – Mayor Rod Mann
Invocation – Heidi Weyland
Pledge of Allegiance – Joseph Weyland

The meeting was called to order by Mayor Rod Mann as a regular session at 7:00 p.m. The meeting agenda was posted on the Utah State Public Meeting Website at least 24 hours prior to the meeting. The prayer was offered by Heidi Weyland and those assembled were led in the Pledge of Allegiance by Joseph Weyland.

1. UNSCHEDULED PUBLIC APPEARANCES

Assistant City Administrator Erin Wells briefly reviewed details regarding the Highland Spring Fling on July 29th. Tickets for dinner will be $10 a plate and residents could preorder on the website. There would be a movie featuring Spiderman, in addition to many other events. More information was available at HighlandCityFling.com

Council Member Tim Irwin asked about funding. Ms. Wells said they hoped to earn about $15,000, and noted that lot of money was spent on the rental equipment. Council Member Irwin asked that they focus on self-funding in the future. Ms. Wells reported that they are very responsible with the money budgeted. Doug
Cortney suggested that they could keep costs low with volunteers and asked that anyone interested in volunteering for the event be sure to sign up and volunteer.

2. PRESENTATIONS (10 minutes)
   a. PUBLIC MEETING TRAINING – City Attorney Tim Merrill
      City Attorney Tim Merrill noted that the State Auditor encouraged the City to complete this training annually. They intend to do an in-depth training with those who would join the Council by the end of the year. He reminded the Council that a meeting requires a simple majority. However, being that the County Commission only has three people on their board that definition created some ambiguity. A meeting was not considered a meeting if only two or fewer officials were present. Mayor Mann asked what constituted a meeting, to which Mr. Merrill explained that a meeting occurred when three or more members met to discuss City business and was formally convened by the presiding officer.

      Mr. Merrill reviewed other changes in the law regarding referenda and initiatives. Council Members could now spend a reasonable amount of money defending a referendum. The City would need to provide time for opposing parties’ arguments. He also reminded the Council that Council Members cannot use their City email addresses to advocate for or against an issue. He concluded by explaining the protocols that needed to be followed for discussing items not listed on the agenda, and the appropriate reasons for entering into closed meetings.

      Mayor Mann asked that Item 6 be moved to the end of the meeting to allow City Engineer Todd Trane to be present for that item. All Council Members were in favor of the request.

3. CONSENT ITEMS (5 minutes)
   Items on the consent agenda are of a routine nature or have been previously studied by the City Council. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

   a. ACTION: Approval of Meeting Minutes
      Regular Meeting June 4, 2019 and June 18, 2019

      Council Member Tim Irwin MOVED to approve consent item a. with amendments to the minutes. Council Member Scott L. Smith SECONDED the motion.

      The vote was recorded as follows:
      Council Member Brian Braithwaite Yes
      Council Member Ed Dennis absent
      Council Member Tim Irwin Yes
      Council Member Kurt Ostler Yes
      Council Member Scott L. Smith Yes

      The motion passed.

4. ACTION/RESOLUTION: DECLARING HIGHLAND CITY’S SUPPORT FOR PROTECTING ALL HUMAN LIFE (20 minutes)
   Mayor Mann oriented the City Council regarding a resolution showing support for all human life. He explained his wife’s mother chose life and adopted her which was a difficult decision. He explained that he
and his wife volunteered at the Developmental Center and had seen the impact of their service. He read from the resolution which was as follows:

NOW THEREFORE, BE IT RESOLVED by the City Council of Highland, Utah, that:

1. We declare that all human life, regardless of age or circumstance, must be protected by the laws of society.
2. We support legislation on the State and national levels that protects human life from its earliest stages, and we oppose lessening existing restrictions on abortion and euthanasia.
3. We honor the rights of healthcare providers to object on moral grounds to performing abortions or euthanasia, and we oppose any regulation or law seeking to violate that right.
4. We support the promotion of adoptions as an alternative to abortion, we encourage the State and Federal governments to support adoption at higher levels, and we support the enactment of legislation to ease the adoption process.
5. We support efforts to educate and support parents in choosing life-affirming options for their unborn children.
6. We recognize and support those who have to make the difficult decision as to whether to terminate a pregnancy in cases of rape, incest, or when the mother’s health is endangered.
7. Highland City declares itself a safe haven for all of its citizens, including the unborn, the elderly, and the mentally and physically impaired.

Mayor Mann opened the floor for public comments.

Suzanne Mann, resident, explained that she was pregnant in 1984 and experienced a threatening miscarriage. Sonograms were not commonly used, and a stethoscope was used to find the baby’s heartbeat. The doctor encouraged her to terminate the pregnancy due to the danger of the miscarriage. Her baby was born healthy and went on to be a productive member of the community. She was also very appreciative to have been adopted and noted that the resolution was about bringing awareness.

Deanna Holland, Vice President of Pro-Life Utah, stated that for too long nothing was done to protect the unborn. The ultrasound machine proved babies were alive; they were humans. She said she felt women had abortions because they were scared and felt like it was their only option. She supported the resolution.

Gail Ruzicka, President of Utah Eagle Forum, thanked the Council for considering the resolution. She said this was a strong statement to Utah that Highland City believed in life. She said she believed life began at conception and abortion should be illegal. She said she felt Row vs. Wade was an incorrect ruling.

Ginger Harris, Highland resident, said she felt there were a lot of negative things happening in the world. She felt the resolution would help them stand up to these negative issues. She expressed concerns regarding a Planned Parenthood location near BYU, and concluded that she supported the resolution.

Michelle Porcelli, Alpine resident, said she was a certified counselor and relayed an experience where a high school student got pregnant, tried measures to abort the child herself with the assistance of a boyfriend, and the baby ended up being born deaf. She reported that with hope and help this mother did not miss any days of school during her Senior year and graduated with a diploma. She felt that in these situations someone needs to fight to save these children and the mothers.
Heidi Weyland, resident of Highland, felt that it was upsetting that Utah allows abortions. She felt that it should not be legal in the United States. She did not want to stand by and let this be an option for young women. She supported the resolution.

Doug Cortney, resident of Highland, was concerned that if the City adopted the resolution they would send a strong statement opposing the death penalty. He asked that this be considered by members of the community.

Council Discussion:

Council Member Scott L. Smith informed those attending that he is a physician and believed life started at conception. He felt it was an unreasonable argument that babies were not human, and stated that they needed to support a resolution that would support life. He concluded by reminding those present that adoption was always an option.

Council Member Brian Braithwaite explained that he was not opposed to the resolution personally. He was, however, concerned that it had no legal repercussions, and did not technically do anything to change the problem. He had no problem standing up to the issue at a state level and arguing for it there. On the other hand, if he voted against the resolution may look like he disagreed with the content, which he did not. However, he was struggling with how to vote because he felt it should be applied at a state level.

Council Member Kurt Ostler said he wanted to pass the resolution as a message to the State, stating that it was time to do something for the unborn. He shared an experience where his child was born at 18 weeks and the likelihood of survival was low. He disclosed how beautiful his baby was when born and said he supported the resolution.

Council Member Tim Irwin said the resolution was supported by the Constitution and that they should send a message to the State and Federal governments. He had several family and friends who had struggled with these things. He shared an experience of a close friend who became pregnant with twins and was warned about the risks to her own life in carrying out the pregnancy. This woman chose not to abort the children to save her own life. He supported the resolution.

Council Member Tim Irwin MOVED to approve the resolution declaring Highland City’s support for protecting all human life. Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

<table>
<thead>
<tr>
<th>Council Member</th>
<th>Vote</th>
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<tbody>
<tr>
<td>Brian Braithwaite</td>
<td>Yes</td>
</tr>
<tr>
<td>Ed Dennis</td>
<td>absent</td>
</tr>
<tr>
<td>Tim Irwin</td>
<td>Yes</td>
</tr>
<tr>
<td>Kurt Ostler</td>
<td>Yes</td>
</tr>
<tr>
<td>Scott L. Smith</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The motion passed.

Council Member Tim Irwin said he was grateful for having the President of Utah Eagle Forum living in Highland. The husband of the President of the Utah Eagle Forum said he agreed with Council Member Braithwaite that resolutions did not often make a big difference. However, residents had already given up ground and surrendered principles they could never get back. He felt the resolution would send a message they wanted to make a change.
City Administrator Nathan Crane oriented the City Council with the final master plan and budget for Spring Creek Park. A layout was shown and an overview was provided, as follows:

- **Key Elements:**
  - Playground
  - Turf Play Areas
  - 2 Pavilions w/picnic tables
- **Power**
  - Walking Path
  - Benches
- **Budget:** $499,797.50
- **Plan was to build first**

Mr. Crane explained that the biggest difference was the elimination of the swing set and rocky materials.

Mayor Mann opened the floor for public comments.

Kelly Sobotka said he had received the layout and that he was concerned for the neighborhood. He said they had given up a lot for this park and the neighborhood deserved more than they were receiving. He suggested that more trees be added.

Council Member Kurt Ostler said he thought residents wanted grass rather than trees. Mr. Savatka clarified that the residents wanted grass if the City did not plan to build the park. Council Member Kurt Ostler said they were spending a lot of money and did not understand his concern.

Mr. Crane explained that the original version had many amenities, but it was explained this could not be done. Council Member Tim Irwin said they were spending a lot of money and doing their due diligence. Mr. Savatka wanted to ensure the developer was spending the money correctly. Mr. Crane explained that was the purpose of the item being on the agenda that evening.

Keri Bushman thought they were spending too much money on landscaping. She provided calculations for how much she was spending for landscaping, and suggested they seek other options. Her suggestion was that they use neighborhood volunteers to do the labor to cut costs.

Council Member Scott L. Smith explained he was not against adding amenities but was concerned about costs. Mr. Crane explained that every amenity would increase the cost of the park. Council Member Kurt Ostler said he felt they were already spending too much for the park. Mr. Crane asked the Council to decide how much they were willing to spend on the park. This would give him and the developer the ability to move forward with the project.

Council Member Scott L. Smith asked for the cost of including a sports court. Council Member Tim Irwin felt the cost of the park was already too high. Council Member Brian Braithwaite understood the costs of the contractor were high, however, allowing boy scouts and residents to do the labor meant that the quality of installation would not be as good as having a professional contractor perform the labor. Council Member Ostler suggested they use hydro-seed. Council Member Braithwaite felt that could be a possibility; however, if they did hydro-seed the park, no one could use the fields for a year.
Council Member Scott L. Smith mentioned of a sports court in Canterbury Circle where there was no parking and asked Mr. Sobotka if they had any problem with including a sports court without providing parking. Mr. Sobotka did not think it would be an issue.

Council Member Brian Braithwaite asked the Council to be clear on the amount the City was willing to spend. Council Member Scott L. Smith asked if redesigns should be made because they were not getting their money’s worth. Mr. Crane suggested they not add a lot of amenities because there was little parking and no bathrooms. Council Member Brian Braithwaite asked Mr. Sobotka to put together a neighborhood committee. It was stated the budget should be less than $300,000 but no more than $500,000. There was subsequent discussion on the cost of the park.

Ms. Bushman pleaded with the Council not to spend so much money on the park. She felt they needed a better solution.

Wayne Tanaka said they should consider the maintenance costs. The lawns would require water and sprinkler repair and there would be daily maintenance needed. He suggested less grass and fewer trees to lower the maintenance costs.

It was decided the amount they should spend on the park should be under $400,000. Mr. Crane said he wanted to have the project go out to bid.

Council Member Brian Braithwaite MOVED to approve the final master plan and to keep the budget under $400,000 for Spring Creek Park. Council Member Scott L. Smith SECONDED the motion.

Council Member Kurt Ostler provided a substitute motion and MOVED to approve the final master plan and to keep the budget under $350,000 for Spring Creek Park. Council Member Tim Irwin SECONDED the motion.

Council voted on whether or not to accept the substitute motion. The vote was recorded as follows:

Council Member Brian Braithwaite     No  
Council Member Ed Dennis            absent  
Council Member Tim Irwin            Yes  
Council Member Kurt Ostler           Yes  
Council Member Scott L. Smith        No  
Mayor Rod Mann                     No

The substitute motion failed 3:1

As the motioned failed a new motion was presented.

Council Member Brian Braithwaite amended the motion and MOVED to approve the final master plan and budget not to exceed $375K for Spring Creek Park and let City staff decide how to proceed and work with Council Member Kurt Ostler and Neighborhood Representative Kelly Sobotka to determine the best way to move forward. Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

Council Member Brian Braithwaite Yes  
Council Member Ed Dennis            absent  
Council Member Tim Irwin            Yes  
Council Member Kurt Ostler           Yes
City Administrator Nathan Crane explained that he had worked on the project a long time. He said staff needed to know the Council’s concerns in order to be more productive. Council Member Brian Braithwaite agreed. Council Member Kurt Ostler felt the discussion needed to take place in public.

6. ACTION/RESOLUTION: COOPERATIVE AGREEMENT BETWEEN LEHI CITY AND HIGHLAND CITY REGARDING DRY CREEK RESERVOIR AND SURROUNDING PROPERTIES (15 minutes)

City Engineer Todd Trane oriented the City Council with a cooperative agreement between Lehi City and Highland City regarding the Dry Creek Reservoir and surrounding properties. He explained there was one other entity because of land trades. Lehi would maintain the reservoir all the way to the fence on the east side. This agreement would also establish the boundary line. The line would follow the center line of the channel. The agreement included deeding property and a land swap. Using the aid of an aerial map, he then identified which parcels would be swapped and deeded to Lehi.

Council Member Kurt Ostler said they needed to gain access and approval from Lehi. Mr. Trane concurred. He read language concerning which residents would have access to the reservoir. Council Member Tim Irwin commented this would be a popular access point to the reservoir.

Council Member Scott L. Smith thanked staff for their negotiations with Lehi.

Council Member Scott L. Smith MOVED that the City Council adopt the resolution approving a cooperative agreement between Lehi City and Highland City regarding Dry Creek Reservoir and surrounding properties. Council Member Kurt Ostler SECONDED the motion.

Mayor Mann opened the floor for public comments.

Brent Wallace, resident, stated that the street needed to be widened because it was a dangerous road. Mr. Trane responded that the main purpose of Lehi entering into this agreement was to widen the road.

Council Member Kurt Ostler asked if they needed to be concerned about any plat amendment in the Highland Hollow subdivision. Mr. Merrill said he would investigate the matter.

Council Member Scott L. Smith MOVED that the City Council adopt Resolution No. R-2019-17 approving a cooperative agreement between Lehi City and Highland City regarding Dry Creek Reservoir and surrounding properties. Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

Council Member Brian Braithwaite    Yes
Council Member Ed Dennis           absent
Council Member Tim Irwin           Yes
Council Member Kurt Ostler         Yes
Council Member Scott L. Smith      Yes

The motion passed 4:0.
7. **ACTION: APPROVE A CONTRACT WITH PLANNING SOLUTIONS FOR THE PREPARATION OF THE MODERATE INCOME HOUSING ELEMENT OF THE GENERAL PLAN (10 minutes)**

City Administrator Nathan Crane oriented the City Council regarding a contract with Planning Solutions. It would not exceed the price of $10,000 for the preparation of the Moderate-Income Housing (MIH) element of the General Plan. The following was the outline of the requirements.

- SB 34
  - Moderate Income Housing Plan
    - General Plan
  - Required Cities to update MIH Plan by December 1, 2019
  - Adding Elements that reinforce transportation-efficient land use into City’s general plan
  - Adopt a minimum 3 specific strategies outlined in state code
  - Reporting requirements
    - Progress report - 2020
    - Annual review prior to legislative change – biannual review
    - Update every five years

The Original plan was to do it as staff, but they were not experts and realized they needed help to meet the deadline and educate the Council and Planning Commission. There were repercussions for not following through with the requirements: the City would not be eligible for TIF funds.

**Overview of Planning Solutions:**
- John Janson – Planning Director (over 30 years as Planning Director)
- Meg Ryan – ULCT
- Scope of Work
  - Statistics
  - Educational and strategy selection – presentations for Council
  - Adoption
  - State Report
- $10,000 (not to exceed cost)

Mayor Mann found three of four possible items the City could do, and they had to pick three. They needed to do these options early to comply. Mr. Trane said he reached out to MAG, websites, and the Department of Workforce Services for information. Council Member Tim Irwin commented that there was not much they could do. Mr. Trane concurred; there were other cities that had similar problems.

Council Member Kurt Ostler said he was not aware they were receiving these funds. He said they had not benefited from it in the past for the State roads and highways. Mayor Mann said if they did not comply it would be problematic. Council Member Tim Irwin said it was frustrating to spend $10,000 on something the City had little control over.

Council Member Scott L. Smith felt this was a strategy to get more high-density housing. He believed residents did not want high density because it would cause more congestion. He felt it was the wrong decision for Highland and that he would vote against the item.

Mayor Mann said they could not change the law. He explained there were options and they had to make this law compatible with Highland. Council Member Brian Braithwaite reminded Council that there was a similar
requirement in the past and the City chose to allow people to put apartments in their basements which did not change the City and yet met some requirements. He asked if there were other options that were similar.

Council Member Scott L. Smith did not agree, Highland did not want to have high density housing. Council Member Braithwaite said this was a nationwide issue: there was a housing shortage. He said they could push back against the law through ULCT.

Council Member Kurt Ostler asked if there were other solutions than paying for a consultant. Mr. Crane explained that he needed help for other solutions. He said they could have more meetings to discuss the issue.

Council Member Scott L. Smith asked what would happen if they did not do anything. Mr. Merrill stated that the City could be sued.

*Council Member Brian Braithwaite MOVED that the City Council approve the contract with Planning Solutions for the preparation of the Moderate Income Housing (MIH) element of the General Plan and remove two of the meetings previously proposed and have Planning Solutions provide a new quote. Council Member Kurt Ostler SECONDED the motion.*

The vote was recorded as follows:

- Council Member Brian Braithwaite: Yes
- Council Member Ed Dennis: absent
- Council Member Tim Irwin: Yes
- Council Member Kurt Ostler: Yes
- Council Member Scott L. Smith: No

The motion passed 3:1.

**8. ACTION/ORDINANCE: AMENDING SECTION 6.10 CREDIT CARDS AND SECTION 7 DISCIPLINARY ACTION IN THE HIGHLAND CITY PERSONNEL POLICIES AND PROCEDURES MANUAL RELATING TO THE PASSAGE OF HB163 (10 minutes)**

City Administrator Nathan Crane oriented the City Council with amendments to Section 6.10 and Section 7 of the Highland City Personnel Policies and Procedures Manual relating to HB 163, as follows:

Section 6.10
- **Public Funds**
  - Only used for purpose of authorized public funds – no personal expenditures
  - Apply to LPPSD

Mr. Merrill asked how many credit cards were used by City employees and the response was that the city employees were allowed the use of one card.

Council Member Brian Braithwaite gave an example of a property owned by Barry Edwards. Mr. Edwards gave it away without going through a bid process; he did not have authorization. This ordinance would make this a criminal offense.

The following was then discussed:

- **Personal Use Expenditure**
  - Expenditure made without approval that is not directly related to performance of job
• Public Property
  – Used solely for the purpose of fulfilling the employees’ duties as an employee

It would allow appropriate disciplinary action up to termination. Mr. Crane gave an example of situations where there have been mistakes. If an employee makes a mistake the City would get reimbursed.


The vote was recorded as follows:
Council Member Brian Braithwaite  Yes
Council Member Ed Dennis  absent
Council Member Tim Irwin  Yes
Council Member Kurt Ostler  Yes
Council Member Scott L. Smith  Yes

The motion passed.

9. MAYOR/COUNCIL AND STAFF DISCUSSION AND COMMUNICATION ITEMS

Nathan reminded the Council and attendees of the Candidate Open House on Thursday, July 18th. Council Member Scott L. Smith asked for clarification that a Council Member would need to request an item for the agenda before it was posted. The response was affirmative.

10. FUTURE MEETINGS
   a. Future Meetings
   • August 6, City Council Meeting, 7:00 pm, City Hall
   • August 27, Planning Commission Meeting, 7:00 pm, City Hall

11. CLOSED SESSION
The Highland City Council may temporarily recess the City Council meeting to convene in a closed session to discuss the pending or reasonable imminent litigation, and the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205

At 9:42 PM Council Member Scott L. Smith MOVED that the City Council recess to convene in a closed session to discuss the pending or reasonably imminent litigation and the purchase, exchange, or lease of real property; as provided by Utah Code Annotated § 52-4-205. Council Member Brian Braithwaite SECONDED the motion.

The vote was recorded as follows:
Council Member Brian Braithwaite  Yes
Council Member Ed Dennis  absent
Council Member Tim Irwin  Yes
Council Member Kurt Ostler  Yes
Council Member Scott L. Smith  Yes

The motion passed unanimously.
ADJOURNMENT

Council Member Brian Braithwaite MOVED to adjourn the CLOSED SESSION and Council Member Kurt Ostler SECONDED the motion. All voted in favor and the motion passed unanimously.

The CLOSED SESSION adjourned at 11:03 PM.

Council Member Tim Irwin MOVED to adjourn the regular meeting and Council Member Kurt Ostler SECONDED the motion. All voted in favor and the motion passed unanimously.

The meeting adjourned at 11:03 PM.

I, Cindy Quick, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on July 16, 2019. This document constitutes the official minutes for the Highland City Council Meeting.

Cindy Quick, MMC
City Recorder
Adopt the lease agreement.

In 1999, the City entered into a 30-year lease agreement for a cell tower near the old Highland Water Company site. The lessee, American Towers, pays the City a monthly rent (approximately $674) for the lease, with an annual rent escalation of 4%.

American Towers is proposing a lease extension (30 years) with continued monthly rent and the 4% escalation. In consideration of the renewal, the City has negotiated a one-time payment of $75,000.00.

FISCAL IMPACT:
$75,000.00.

PROPOSED MOTION:
I move that the City Council approve the Second Amendment to Communications Site Lease Agreement and Memorandum of Lease.

ATTACHMENTS:
1. Proposed Second Amendment Lease Agreement.
THE SECOND AMENDMENT TO COMMUNICATIONS SITE LEASE AGREEMENT (GROUND)

This Second Amendment to Communications Site Lease Agreement (Ground) (this “Amendment”) is made effective as of the latter signature date hereof (the “Effective Date”) by and between City of Highland, a political subdivision of the State of Utah (“Landlord”) and American Tower Asset Sub, LLC, a Delaware limited liability company (“Tenant”) (Landlord and Tenant being collectively referred to herein as the “Parties”).

RECITALS

WHEREAS, Landlord owns the real property described on Exhibit A attached hereto and by this reference made a part hereof (the “Parent Parcel”); and

WHEREAS, Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Communications Site Lease Agreement (Ground) dated January 28, 1999 (as the same may have been amended from time to time, collectively, the “Lease”), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the “Leased Premises”), which Leased Premises are also described on Exhibit A; and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to extend the term thereof and to otherwise modify the Lease as expressly provided herein.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **One-Time Payment.** Tenant shall pay to Landlord a one-time payment in the amount of Seventy-Five Thousand and No/100 Dollars ($75,000.00), payable within thirty (30) days of the Effective Date and subject to the following conditions precedent: (a) Tenant’s receipt of this Amendment executed by Landlord, on or before August 28, 2019; (b) Tenant’s confirmation that Landlord’s statements as further set forth in this Amendment are true, accurate, and complete, including verification of Landlord’s ownership; (c) Tenant’s receipt of any documents and other items reasonably requested by Tenant in order to effectuate the transaction and payment contemplated herein; and (d) receipt by Tenant of an original Memorandum (as defined herein) executed by Landlord.

2. **Lease Term Extended.** Notwithstanding anything to the contrary contained in the Lease or this Amendment, the Parties agree the Lease originally commenced on September 1, 1999 and, without giving effect to the terms of this Amendment but assuming the exercise by Tenant of all remaining renewal options contained in the Lease (each an “Existing Renewal Term” and, collectively, the “Existing Renewal Terms”), the Lease is otherwise scheduled to expire on August 31, 2029. In addition to any Existing Renewal Term(s), the Lease is hereby amended to provide Tenant with the option to extend the Lease for each of six (6) additional five (5) year renewal terms (each a “New Renewal Term” and, collectively, the “New Renewal Terms”). Notwithstanding anything to the contrary contained in the Lease, (a) all Existing Renewal Terms and New Renewal Terms shall automatically renew unless Tenant notifies Landlord that Tenant elects not to renew the Lease, as amended herein, at least sixty (60) days prior to the commencement of the next Renewal Term (as defined below) and (b) Landlord shall be able to terminate the Lease, as amended herein, only in the event of a (i) a monetary default by Tenant which is not cured within thirty (30) days from Tenant’s receipt of Landlord’s notice of said default, or (ii) a non-monetary default by Tenant, which default is not cured within sixty (60) days of Tenant’s receipt of written notice thereof, provided, however, in the event that Tenant has diligently commenced to cure a material default within sixty (60) days of Tenant’s actual receipt of notice thereof and reasonably
requires additional time beyond the sixty (60) day cure period described herein to effect such cure, Tenant shall have such additional time as is necessary (beyond the sixty [60] day cure period) to effect the cure.

3. References in this Amendment to “Renewal Term” shall refer, collectively, to the Existing Renewal Term(s) and the New Renewal Term(s). The Landlord hereby agrees to execute and return to Tenant an original Memorandum of Lease in the form and of the substance attached hereto as Exhibit B and by this reference made a part hereof (the “Memorandum”) executed by Landlord, together with any applicable forms needed to record the Memorandum, which forms shall be supplied by Tenant to Landlord.

4. Rent and Escalation. Commencing on September 1, 2019, the rent payable from Tenant to Landlord under the Lease is hereby increased to Six Hundred Seventy-Four and 86/100 Dollars ($674.86) per month (the “Rent”). Commencing on September 1, 2020 and on each successive annual anniversary thereof, Rent due under the Lease, as amended herein, shall increase by an amount equal to four percent (4%) of the then current Rent. In the event of any overpayment of Rent or Collocation Fee (as defined below) prior to or after the Effective Date, Tenant shall have the right to deduct from any future Rent payments an amount equal to the overpayment amount. Notwithstanding anything to the contrary contained in the Lease, all Rent and any other payments expressly required to be paid by Tenant to Landlord under the Lease and this Amendment shall be paid to Highland City. The escalations in this Section shall be the only escalations to the Rent and any/all rental escalations otherwise contained in the Lease are hereby null and void and are of no further force and effect.

5. Landlord and Tenant Acknowledgments. Except as modified herein, the Lease and all provisions contained therein remain in full force and effect and are hereby ratified and affirmed. In the event there is a conflict between the Lease and this Amendment, this Amendment shall control. The Parties hereby agree that no defaults exist under the Lease. To the extent Tenant needed consent and/or approval from Landlord for any of Tenant’s activities at and uses of the site prior to the Effective Date, Landlord’s execution of this Amendment is and shall be considered consent to and approval of all such activities and uses. Landlord hereby acknowledges and agrees that Tenant shall not need consent or approval from, or to provide notice to, Landlord for any future activities at or uses of the Leased Premises, including, without limitation, subleasing and licensing to additional customers, installing, modifying, repairing, or replacing improvements within the Leased Premises, and/or assigning all or any portion of Tenant’s interest in this Lease, as modified by this Amendment. Tenant and Tenant’s sublessees and customers shall have vehicular (specifically including truck) and pedestrian access to the Leased Premises from a public right of way on a 24 hours per day, 7 days per week basis, together with utilities services to the Leased Premises from a public right of way. Upon request by Tenant and at Tenant’s sole cost and expense but without additional consideration owed to Landlord, Landlord hereby agrees to promptly execute and return to Tenant building permits, zoning applications and other forms and documents, including a memorandum of lease, as required for the use of the Leased Premises by Tenant and/or Tenant’s customers, licensees, and sublessees. Landlord hereby appoints Tenant as Landlord’s attorney-in-fact coupled with an interest to prepare, execute and deliver land use and zoning and building permit applications that concern the Leased Premises, on behalf of Landlord with federal, state and local governmental authorities, provided that such applications shall be limited strictly to the use of the Leased Premises as a wireless telecommunications facility and that such attorney-in-fact shall not allow Tenant to re-zone or otherwise reclassify the Leased Premises or the Parent Parcel. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.

6. Non-Compete. Subject to state and federal law regulating telecommunications services and infrastructure, during the original term, any Existing Renewal Terms, and/or any New Renewal Terms of this Lease, Landlord shall not sell, transfer, grant, convey, lease, and/or license by deed, easement, lease, license or other legal instrument, an interest in and to, or the right to use or occupy any portion of the
Parent Parcel or Landlord’s contiguous, adjacent, adjoining or surrounding property to any person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing wireless telecommunications infrastructure (any such person or entity, a “Third Party Competitor”) without the prior written consent of Tenant, which may be withheld, conditioned, and/or delayed in Tenant’s sole, reasonable discretion.

7. **Limited Right of First Refusal.** Notwithstanding anything to the contrary contained herein, this paragraph shall not apply to any fee simple sale of the Parent Parcel from Landlord to any prospective purchaser that is not a Third Party Competitor. If Landlord receives an offer or desires to offer to: (i) sell or convey any interest (including, but not limited to, leaseholds or easements) in any real property of which the Leased Premises is a part to a Third Party Competitor or (ii) assign all or any portion of Landlord’s interest in the Lease, as modified by this Amendment, to a Third Party Competitor (any such offer, the “Offer”), Tenant shall have the right of first refusal to purchase the real property or other interest being offered by Landlord in connection with the Offer on the same terms and conditions. If Tenant elects, in its sole and absolute discretion, to exercise its right of first refusal as provided herein, Tenant must provide Landlord with notice of its election not later than forty-five (45) days after Tenant receives written notice from Landlord of the Offer. If Tenant elects not to exercise Tenant’s right of first refusal with respect to an Offer as provided herein, Landlord may complete the transaction contemplated in the Offer with the Third Party Competitor on the stated terms and price but with the express condition that such sale is made subject to the terms of the Lease, as modified by this Amendment. Landlord hereby acknowledges and agrees that any sale or conveyance by Landlord in violation of this Section is and shall be deemed to be null and void and of no force and effect. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.

8. **Landlord Statements.** Landlord hereby represents and warrants to Tenant that: (i) to the extent applicable, Landlord is duly organized, validly existing, and in good standing in the jurisdiction in which Landlord was organized, formed, or incorporated, as applicable, and is otherwise in good standing and authorized to transact business in each other jurisdiction in which such qualifications are required; (ii) Landlord has the full power and authority to enter into and perform its obligations under this Amendment, and, to the extent applicable, the person(s) executing this Amendment on behalf of Landlord, have the authority to enter into and deliver this Amendment on behalf of Landlord; (iii) no consent, authorization, order, or approval of, or filing or registration with, any governmental authority or other person or entity is required for the execution and delivery by Landlord of this Amendment; (iv) Landlord is the sole owner of the Leased Premises and all other portions of the Parent Parcel; (v) to the best of Landlord’s knowledge, there are no agreements, liens, encumbrances, claims, claims of lien, proceedings, or other matters (whether filed or recorded in the applicable public records or not) related to, encumbering, asserted against, threatened against, and/or pending with respect to the Leased Premises or any other portion of the Parent Parcel which do or could (now or any time in the future) adversely impact, limit, and/or impair Tenant’s rights under the Lease, as amended and modified by this Amendment; (vi) so long as Tenant performs its obligations under the Lease, Tenant shall peaceably and quietly have, hold and enjoy the Leased Premises, and Landlord shall not act or permit any third person to act in any manner which would interfere with or disrupt Tenant’s business or frustrate Tenant or Tenant’s customers’ use of the Leased Premises and (vii) the square footage of the Leased Premises is the greater of Tenant’s existing improvements on the Parent Parcel or the land area conveyed to Tenant under the Lease. The representations and warranties of Landlord made in this Section shall survive the execution and delivery of this Amendment. Landlord hereby does and agrees to indemnify Tenant for any damages, losses, costs, fees, expenses, or charges of any kind sustained or incurred by Tenant as a result of the breach of the representations and warranties made herein or if any of the representations and warranties made herein prove to be untrue. The aforementioned indemnification shall survive the
9. **Confidentiality.** Subject to the Government Records Access and Management Act and other applicable sunshine laws to which the City is bound, and notwithstanding anything to the contrary contained in the Lease or in this Amendment, Landlord agrees and acknowledges that all the terms of this Amendment and the Lease and any information furnished to Landlord by Tenant in connection therewith shall be and remain confidential. Except with Landlord’s family, attorney, accountant, broker, lender, a prospective fee simple purchaser of the Parent Parcel, or if otherwise required by law, Landlord shall not disclose any such terms or information without the prior written consent of Tenant. The terms and provisions of this Section shall survive the execution and delivery of this Amendment.

10. **Notices.** The Parties acknowledge and agree that Section 18(d) of the Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the notice address and requirements of the Lease, as modified by this Amendment, shall be controlled by this Section of this Amendment. All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: City of Highland, 5400 W. Civic Center Dr., Suite 1, Highland Utah 84003; to Tenant at: Attn.: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn.: Legal Dept., 116 Huntington Avenue, Boston, MA 02116. Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.

11. **Counterparts.** This Amendment may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart. Furthermore, the Parties may execute and deliver this Amendment by electronic means such as .pdf or similar format. Each of the Parties agrees that the delivery of the Amendment by electronic means will have the same force and effect as delivery of original signatures and that each of the Parties may use such electronic signatures as evidence of the execution and delivery of the Amendment by all Parties to the same extent as an original signature.

12. **Governing Law.** The Parties acknowledge and agree that Section 18(e) of the Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date and notwithstanding anything to the contrary contained in the Lease and in this Amendment, the Lease and this Amendment shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.

13. **Waiver.** Notwithstanding anything to the contrary contained herein or in the Lease, in no event shall Landlord or Tenant be liable to the other for, and Landlord and Tenant hereby waive, to the fullest extent permitted under applicable law, the right to recover incidental, consequential (including, without limitation, lost profits, loss of use or loss of business opportunity), punitive, exemplary and similar damages.

14. **Tenant’s Securitization Rights; Estoppel.** Landlord hereby consents to the granting by Tenant of one or more leasehold mortgages, collateral assignments, liens, and/or other security interests (collectively, a “Security Interest”) in Tenant’s interest in the Lease, as amended, and all of Tenant’s property and fixtures attached to and lying within the Leased Premises and further consents to the exercise by
Tenant's mortgagee ("Tenant’s Mortgagee") of its rights to exercise its remedies, including without limitation foreclosure, with respect to any such Security Interest. Landlord shall recognize the holder of any such Security Interest of which Landlord is given prior written notice (any such holder, a “Holder”) as “Tenant” hereunder in the event a Holder succeeds to the interest of Tenant hereunder by the exercise of such remedies. Landlord further agrees to execute a written estoppel certificate within thirty (30) days of written request of the same by Tenant or Holder.

15. Taxes. The Parties acknowledge and agree that Section 8 of the Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the obligations of the Parties with respect to taxes shall be controlled by this Section of this Amendment. During the term of the Lease, as modified by this Amendment, Landlord shall pay when due all real property, personal property, and other taxes, fees and assessments attributable to the Parent Parcel, including the Leased Premises. Tenant hereby agrees to reimburse Landlord for any personal property taxes in addition to any increase in real property taxes levied against the Parent Parcel, to the extent both are directly attributable to Tenant’s improvements on the Leased Premises (but not, however, taxes or other assessments attributable to periods prior to the Effective Date), provided, however, that Landlord must furnish written documentation (the substance and form of which shall be reasonably satisfactory to Tenant) of such personal property taxes or real property tax increase to Tenant along with proof of payment of same by Landlord. Anything to the contrary notwithstanding, Tenant shall not be obligated to reimburse Landlord for any applicable taxes unless Landlord requests such reimbursement within one (1) year after the date such taxes became due. Landlord shall submit requests for reimbursement in writing to: American Tower Corporation, Attn: Landlord Relations, 10 Presidential Way, Woburn, MA 01801 unless otherwise directed by Tenant from time to time. Subject to the requirements set forth in this Section, Tenant shall make such reimbursement payment within forty-five (45) days of receipt of a written reimbursement request from Landlord. Tenant shall pay applicable personal property taxes directly to the local taxing authority to the extent such taxes are billed and sent directly by the taxing authority to Tenant. If Landlord fails to pay when due any taxes affecting the Parent Parcel as required herein, Tenant shall have the right, but not the obligation, to pay such taxes on Landlord’s behalf and: (i) deduct the full amount of any such taxes paid by Tenant on Landlord’s behalf from any future payments required to be made by Tenant to Landlord hereunder; (ii) demand reimbursement from Landlord, which reimbursement payment Landlord shall make within thirty (30) days of such demand by Tenant; and/or (iii) collect from Landlord any such tax payments made by Tenant on Landlord’s behalf by any lawful means.

16. Deletions. The Parties hereby acknowledge and agree that the portion of Section 10(i) of the Lease, which begins with “provided that the grace period for any monetary default is ten (10) days from receipt of notice...” is hereby deleted in its entirety and is of no further force and effect.

17. Conflict/Capitalized Terms. The Parties hereby acknowledge and agree that in the event of a conflict between the terms and provisions of this Amendment and those contained in the Lease, the terms and provisions of this Amendment shall control. Except as otherwise defined or expressly provided in this Amendment, all capitalized terms used in this Amendment shall have the meanings or definitions ascribed to them in the Lease. To the extent of any inconsistency in or conflict between the meaning, definition, or usage of any capitalized terms in this Amendment and the meaning, definition, or usage of any such capitalized terms or similar or analogous terms in the Lease, the meaning, definition, or usage of any such capitalized terms in this Amendment shall control.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]
LANDLORD:

City of Highland,
a political subdivision of the State of Utah.

Signature: _____________________________
Print Name: Rod Mann
Title: Mayor
Date: _________________________________

ATTEST:

______________________________
CINDY QUICK, City Recorder

[SIGNATURES CONTINUE ON FOLLOWING PAGE]
TENANT:

American Tower Asset Sub, LLC,
a Delaware limited liability company

Signature: _____________________________
Print Name: ____________________________
Title: _________________________________
Date: _________________________________
EXHIBIT A

This Exhibit A may be replaced at Tenant’s option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord’s deed (or deeds) that include the land area encompassed by the Lease and Tenant’s improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below.

The Land is described and depicted as follows:

APN: 11-039-0003

Commencing at a point on South line of road which is N 10° W 1284.1 feet along section line and North 89 22' East 244 feet along SD South line of road from west quarter corner Section 36, Township 4 South, Range 1 East, Salt Lake Meridian; South 10° East 3 31.35 feet; South 34 31'E 146.46 feet; E 28.52 feet; North 453.28 feet to South line of road; South 89 22' West 112.48 feet along SD South line to beginning.

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant’s (and Tenant’s customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

BEGINNING AT A POINT NORTH 89°45'50" EAST ALONG SECTION LINE 293.24 FEET AND SOUTH 1651.80 FEET FROM THE NORTHWEST CORNER OF SECTION 36, TOWNSHIP 4 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN AND RUNNING THEREFROM SOUTH 16°37'00" EAST 70.83 FEET; THEN SOUTHWEST 73°23'00" WEST 34.15 FEET; THEN NORTH 16°37'00" WEST 50.00 FEET; THEN NORTH 42°00'00" WEST 40.00 FEET MORE OR LESS TO THE END OF THE IMAGE.
ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant’s customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way including but not limited to:

A 12 FOOT WIDE EASEMENT FOR THE PURPOSE OF INGRESS AND EGRESS AND UTILITIES BEING 6 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE

BEGINNING AT A POINT NORTH 89°49'50" EAST ALONG SECTION LINE 293.24 FEET AND SOUTH 1651.80 FEET AND SOUTH 16°37'00" EAST 6.00 FEET FROM THE NORTHWEST CORNER OF SECTION 36, TOWNSHIP 4 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN AND RUNNING THENCE NORTH 73°22'55" EAST 9.30 FEET; THENCE NORTH 173°52" WEST 161.47 FEET; THENCE NORTH 128.05 FEET MORE OR LESS TO THE SOUTHERLY RIGHT OF WAY LINE OF 11000 NORTH STREET AND TERMINATING.

CONTAINS: 0.084 ACRES (AS DESCRIBED)
EXHIBIT B

FORM OF MEMORANDUM OF LEASE
MEMORANDUM OF LEASE

This Memorandum of Lease (the “Memorandum”) is entered into as of the latter signature date hereof, by and between City of Highland, a political subdivision of the State of Utah (“Landlord”) and American Tower Asset Sub, LLC, a Delaware limited liability company (“Tenant”).

NOTICE is hereby given of the Lease (as defined and described below) for the purpose of recording and giving notice of the existence of said Lease. To the extent that notice of such Lease has previously been recorded, then this Memorandum shall constitute an amendment of any such prior recorded notice(s).

1.Parent Parcel and Lease. Landlord is the owner of certain real property being described in Exhibit A attached hereto and by this reference made a part hereof (the “Parent Parcel”). Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Communications Site Lease Agreement (Ground) dated January 28, 1999 (as the same may have been amended from time to time, collectively, the “Lease”), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the “Leased Premises”), which Leased Premises is also described on Exhibit A.

2. Expiration Date. Subject to the terms, provisions, and conditions of the Lease, and assuming the exercise by Tenant of all renewal options contained in the Lease, the final expiration date of the Lease would be August 31, 2059. Notwithstanding the foregoing, in no event shall Tenant be required to exercise any option to renew the term of the Lease.

3. Leased Premises Description. Tenant shall have the right, exercisable by Tenant at any time during the original or renewal terms of the Lease, to cause an as-built survey of the Leased Premises to be prepared and, thereafter, to replace, in whole or in part, the description(s) of the Leased Premises set forth on Exhibit A with a legal description or legal descriptions based upon such as-built survey. Upon Tenant’s request, Landlord shall execute and deliver any documents reasonably necessary to effectuate such replacement, including, without limitation, amendments to this Memorandum and to the Lease.
4. **Right of First Refusal.** There is a right of first refusal in the Lease.

5. **Effect/Miscellaneous.** This Memorandum is not a complete summary of the terms, provisions and conditions contained in the Lease. In the event of a conflict between this Memorandum and the Lease, the Lease shall control. Landlord hereby grants the right to Tenant to complete and execute on behalf of Landlord any government or transfer tax forms necessary for the recording of this Memorandum. This right shall terminate upon recording of this Memorandum.

6. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: City of Highland, 5400 W. Civic Center Dr., Suite 1, Highland Utah, 84003; to Tenant at: Attn.: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn.: Legal Dept., 116 Huntington Avenue, Boston, MA 02116. Any of the parties hereto, by thirty (30) days prior written notice to the other in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.

7. **Counterparts.** This Memorandum may be executed in multiple counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

8. **Governing Law.** This Memorandum shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.

[**SIGNATURES COMMENCE ON FOLLOWING PAGE**]
IN WITNESS WHEREOF, Landlord and Tenant have each executed this Memorandum as of the day and year set forth below.

LANDLORD

City of Highland,
a political subdivision of the State of Utah

Signature: _____________________________
Print Name: Rod Mann
Title: Mayor
Date: _________________________________

ATTEST:

____________________________________
CINDY QUICK, City Recorder

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____________________
County of ________________________

On this ____ day of _____________________, 201___, before me, the undersigned Notary Public, personally appeared _____________________________________________, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

___________________________________
Notary Public
Print Name: _________________________
My commission expires: _______________ [SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGE]
TENANT

American Tower Asset Sub, LLC,
a Delaware limited liability company

Signature: _____________________________  Signature: _____________________________
Print Name: ___________________________  Print Name: ___________________________
Title: __________________________________
Date: _________________________________

WITNESS

Signature: _____________________________  Signature: _____________________________
Print Name: ___________________________  Print Name: ___________________________

WITNESS AND ACKNOWLEDGEMENT

Commonwealth of Massachusetts

County of Middlesex

On this ___ day of _____________________, 201___, before me, the undersigned Notary Public,
personally appeared _____________________________________________, who proved to me on the basis
of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that
by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted,
executed the instrument.

WITNESS my hand and official seal.

______________________________
Notary Public
Print Name: ___________________________
My commission expires: ___________________  [SEAL]
EXHIBIT A

This Exhibit A may be replaced at Tenant’s option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord’s deed (or deeds) that include the land area encompassed by the Lease and Tenant’s improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below.

The Land is described and depicted as follows:

APN: 11-039-0003

Commencing at a point on South line of road which is N 10’ W 1284.1 feet along section line and North 89 22’ East 244 feet along SD South line of road from west quarter corner Section 36, Township 4 South, Range 1 East, Salt Lake Meridian; South 10’ East 3 31.35 feet; South 34 31’ E 146.46 feet; E 28.52 feet; North 453.28 feet to South line of road; South 89 2 2’ West 112.48 feet along SD South line to beginning.

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant’s (and Tenant’s customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).
ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant’s customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way including but not limited to:

A 12 FOOT WIDE EASEMENT FOR THE PURPOSE OF INGRESS AND EGRESS AND UTILITIES BEING 6 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE

BEGINNING AT A POINT NORTH 89°49'50" EAST ALONG SECTION LINE 293.24 FEET AND SOUTH 1651.80 FEET AND SOUTH 16°37'00" EAST 6.00 FEET FROM THE NORTHWEST CORNER OF SECTION 36, TOWNSHIP 4 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN AND RUNNING THENCE NORTH 73°22'55" EAST 9.30 FEET; THENCE NORTH 17°35'52" WEST 161.47 FEET; THENCE NORTH 128.05 FEET MORE OR LESS TO THE SOUTHERLY RIGHT OF WAY LINE OF 11000 NORTH STREET AND TERMINATING.

CONTAINS: 0.084 ACRES (AS DESCRIBED)
The City Council should hold a public hearing and approve the final plat amendment subject to the two stipulations recommended staff.

BACKGROUND:
Briarwood Ranches final plat was approved in 1986 as a planned residential development (PRD). The final plat included 8 single-family lots, 88,523 square feet of common area, and 9960 North as a private road.

In 2012 the residents in the subdivision decided to purchase the open space around their home. A Mylar was completed at that time, but it was never approved by the Highland City Council to be recorded with the county.

Final Plat approvals are an administrative process.

SUMMARY OF THE REQUEST:
1. The applicant is requesting approval of a final plat amendment for the Briarwood Ranches Subdivision in order to remove the common open space.
2. The applicant is wanting to dedicate 9960 North road to Highland City.

CITIZEN PARTICIPATION:
Notice of the City Council public hearing was published in the July 18, 2019 edition of the Daily Herald and mailed to all property owners within 500 feet on July 22, 2019. We have not received any written correspondence.

ANALYSIS:
- Utah State Code 10-9a-606 allows for disposal of common area property with equal
ownership interest as long as the common area owners approve the disposal and the local government approve the disposal.

- 100% of the property owners that have equal ownership of the common area property within the Briarwood Subdivision have signed acknowledging disposal of the common area property.

- Highland City is currently maintaining 9960 North road. A memo from 1986 demonstrated that the road should have been dedicated to the City, but the recorded Plat demonstrates the road as being private.

- The proposed amendment does not affect density or the number of lots.

**FINDINGS:**

With the proposed stipulations, the final plat meets the following findings:

- It complies with all zoning requirements as set forth by the Development Code.

**RECOMMENDATION:**

The City Council should hold a public hearing and recommend approval of the final plat amendment subject to the following stipulations:

1. The final plat shall be in substantial conformance with the final plat received July 16, 2019.
2. Prior to recording, the final plat shall be revised as required by the City Engineer.

**PROPOSED MOTION:**

I move that the City Council APPROVE Briarwood Ranches Plat ‘A’ Amended subject to the two stipulations recommended by staff.

**ALTERNATIVE MOTION:**

I move that the City Council DENY Briarwood Ranches Plat ‘A’ Amended subject to the following findings: (The Council should state appropriate findings).

**FISCAL IMPACT:**

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

**ATTACHMENTS:**

1. Vicinity Map
2. Narrative
3. Owner Signatures
4. Proposed Final Plat Amendment
5. Utah State Code 10-9a-606
6. 1986 Recorded Plat
7. 1986 Memo about 9960 N
Utah County Parcel Map

ATTACHMENT 1:

W 10050 NORTH ST

LJ

W THORNTON LN

W 9900 NORTH ST

N 8900 WEST ST

W 10040 NORTH ST

Murdock Centennial Trail

This cadastral map is generated from Utah County Recorder data. It is for reference only and no liability is assumed for any inaccuracies, incorrect data or variations with an actual survey.

Date: 7/17/2019
Briarwood Ranches plat “A” Amended

The purpose of the amended plat for Briarwood Ranches plat “A” is to dedicated the existing street, which is depicted as private on the plat, to the city of Highland and to properly show the lot lines after all the “common area” have been done away with and deeded to the several individual owners within the subdivision.

The exterior boundary of the subdivision will remain the same, as will the general layout of the lot lines with the addition of the former “common area” lying immediately adjacent to and behind the lot.
### Real Property Owner Authorization

This document constitutes a petition of the property owners within the Briarwood Ranches subdivision to remove the designated open space and apply for a plat amendment for Briarwood Ranches Plat A.

<table>
<thead>
<tr>
<th>Serial #</th>
<th>Lot #</th>
<th>Address</th>
<th>Property Owner Name</th>
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<td>15972 W 9960 N</td>
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10-9a-606 Common area parcels on a plat -- No separate ownership -- Ownership interest equally divided among other parcels on plat and included in description of other parcels.

(1) As used in this section:
(a) "Association" means the same as that term is defined in:
   (i) regarding a common area, Section 57-8a-102; and
   (ii) regarding a common area and facility, Section 57-8-3.
(b) "Common area" means the same as that term is defined in Section 57-8a-102.
(c) "Common area and facility" means the same as that term is defined in Section 57-8-3.
(d) "Declarant" means the same as that term is defined in:
   (i) regarding a common area, Section 57-8a-102; and
   (ii) regarding a common area and facility, Section 57-8-3.
(e) "Declaration," regarding a common area and facility, means the same as that term is defined in Section 57-8-3.
(f) "Period of administrative control" means the same as that term is defined in:
   (i) regarding a common area, Section 57-8a-102; and
   (ii) regarding a common area and facility, Section 57-8-3.

(2) A person may not separately own, convey, or modify a parcel designated as a common area or common area and facility, on a plat recorded in compliance with this part, independent of the other lots, units, or parcels created by the plat unless:
(a) an association holds in trust the parcel designated as a common area for the owners of the other lots, units, or parcels created by the plat; or
(b) the conveyance or modification is approved under Subsection (5).

(3) If a conveyance or modification of a common area or common area and facility is approved in accordance with Subsection (5), the person who presents the instrument of conveyance to a county recorder shall:
(a) attach a notice of the approval described in Subsection (5) as an exhibit to the document of conveyance; or
(b) record a notice of the approval described in Subsection (5) concurrently with the conveyance as a separate document.

(4) When a plat contains a common area or common area and facility:
(a) for purposes of assessment, each parcel that the plat creates has an equal ownership interest in the common area or common area and facility within the plat, unless the plat or an accompanying recorded document indicates a different division of interest for assessment purposes; and
(b) each instrument describing a parcel on the plat by the parcel's identifying plat number implicitly includes the ownership interest in the common area or common area and facility, even if that ownership interest is not explicitly stated in the instrument.

(5) Notwithstanding Subsection (2), a person may modify the size or location of or separately convey a common area or common area and facility if the following approve the conveyance or modification:
(a) the local government;
(b) (i) for a common area that an association owns, 67% of the voting interests in the association; or
(ii) for a common area that an association does not own, or for a common area and facility, 67% of the owners of lots, units, and parcels designated on a plat that is subject to a declaration and on which the common area or common area and facility is included; and
(c) during the period of administrative control, the declarant.

Amended by Chapter 405, 2017 General Session
MEMO

TO:         PLANNING COMMISSION
FROM:       John Newman

RE:         BRIARWOOD RANCHES PRD

Approved:   1986

In 1989 the city called the Bond and a settlement was negotiated for completion of the road in the subdivision. The road was completed to city specifications with $12,000 from the subdivision and $3,000 from city funds. As noted from the attached plan, there is an easement that meanders throughout the subdivision (mostly behind and along the side of lots). There is also an 88,523 sq. ft. parcel of land that is held in common as Open Space. Attached is also a copy of the “Proposal” received from the residents of BRIARWOOD Ranches.

It is my recommendation that:

1. The strips of land behind and to the sides of the various lots (with the exception of the two acres parcel) be added to the lots as worked out between the homeowners.
2. The approx. two acre piece of common area be transferred to the City for future use or disposition as the subdivision’s part of the Park Development Requirements. That the city lease back to an interested resident the parcel for (1) ten dollars per year renewable in three year increments, (2) a liability hold harmless agreement and policy, (3) an agreement to abate any foul odors or vegetation over six inches, (4) and not allow the accumulation of refuse, garbage or junk.
3. The Homeowners Association continue to exist or that the assets remaining be disposed of in a manner agreeable to the majority of the members of the Association.
4. The city accept dedication of the street, street appurtenances and 56 foot ROW including the Cul-de-Sac.
5. Three shares of American Fork Irrigation Company Water be transferred to the city.
6. The nine acre feet of Highland Conservation Water be officially transferred to the city. Presently the city is paying the annual assessment on the water.
7. An easement be relocated on the rear and sides of each lot to accommodate future utility needs and possible pressurized irrigation line placement.
Proposal
by
the Briarwood Ranches Homeowners Association

This document is in its draft form. None of it should be considered legally binding in any way. Some of this document is written in italics. This indicates that the text is informational and/or needs further decision making.

By unanimous consent of all attendees at a meeting of the Briarwood Ranches Homeowners Association on 19 January 1995.

Attendees: Fred Noflile, Ken Calton, Paul Newman, Lois Spack, Joel Hutchings, and Lynn LeBaron

Of the seven families in the homeowners association only one (the Challis family) was not represented.

It is proposed that:

1 All assets of the Briarwood Ranches Homeowners Association be distributed among its members and/or liquidated with proceeds from such liquidation to be distributed among its members as follows:

1.1 Land

1.1.1 Strips of land (fifteen feet wide) behind each of the lots to be added to each of those respective lots.

1.1.2 Five foot strips on the edge of Calton (lot 1) and ?? (lot 8) to be added to each of those lots respectively

1.1.3 Ten foot strip between LeBarons (lot 4) and Spacks (lot 5) to be added to Spacks (lot 5)

1.1.4 Ten foot strip between LeBarons (lot 4) and Challis (lot 3) to be added to LeBarons (lot 4)

1.1.5 Larger lot behind Challis (lot 3) to be added to Challis (lot 3)

1.1.6 Largest lot between LeBarons (lot 4) and Spacks (lot 5) to be purchased by Spacks.

I did not have time to get any information on the value of the lot.

If we don’t want to complicate this, it would be easiest if Lois could get a loan and pay off everyone else with that loan.

Based on my calculations lot sizes would be increased (approximately) as follows:

Calton (lot 1): 3269 square feet

Noflile (lot 2): 2025 square feet

Challis (lot 3): 8607 square feet
The City Council should conduct a public meeting and approve the conditional use permit with appropriate stipulations in accordance with State Law and ADOPT the ordinance amending the site plan.

**BACKGROUND:**

**Professional Office District:**

The PO District was approved in 2003. The zone was drafted to accommodate the storage facility and a number of professional office buildings along Highland Boulevard. A Development Agreement was also approved in 2003. A specific site plan was included as part of the approval. There have been a few amendments to the PO District since the original approval. These amendments related to assisted living facilities and changes to the site plan.

Section 3-4902.7 Conditional Uses states:

7) Any other conditional or other types of professional services which the Planning Commission and City Council determine to be compatible with the intent of the zone.

Section 3-4903.1 Prohibited Uses States:

1) Determination of Use – Whenever a use has not specifically been identified in the foregoing classification, it shall be the duty of the City Planning Commission to determine if said use:

   (a) Is consistent with the intended use of the PO Zone; and
   (b) Is compatible with the other listed uses; and
   (c) Is compatible with the uses of adjacent properties.

Table 3-47A was adopted as part of the Town Center Overlay District. As it was adopted
as part of the Town Center Overlay District it has only been used for this District and has not been used for any other District in the City.

In the Professional Office (P.O Zone) District the City Council is the approval body for a site plan and conditional use permit, after receiving a recommendation from the Planning Commission. The Planning Commission is the approval body for the architectural review.

**Conditional Uses:**
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. A conditional use is regulated by the following standards:

(1) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.
(2) (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
(b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

If a use is allowed as a conditional use it is assumed that the use is desirable but that it may require an extra level of review. Denial must be based on some factor unique to the proposed location that renders the potential negative effects of the proposed use beyond mitigation. Mitigation means to temper or reduce the negative aspects, not eliminate them.

The action taken in response to an application must be supported by substantial evidence in the record. Substantial evidence is evidence that is relevant and credible. To be relevant, it must relate to the standards in the ordinance. To be credible it must be objective and independent.

**SUMMARY OF THE REQUEST:**
1. The applicant is requesting site plan, architectural plan, and conditional use permit approval for a 20,064 square foot office warehouse building. The property is located approximately at 11251 North Sunset Drive and is 2.13 acres. The petitioner does not have any tenants at this time.

2. Vehicular access will be provided from sunset drive and a shared road with church of Jesus Christ of Latter Day Saints and an undeveloped lot by Meadowbrook Land, LLC.
on the east. The site will also provide cross access to the storage facility to the north. Access to the storage facility is also available through Highland Hideaway Storage’s main entrance.

3. The loading will be in the back of the facility are ground level, intended to allow FedEx or other delivery trucks.

4. Access to the property is from Sunset Drive and a shared driveway with the property owners to the east.

5. There are 46 parking stalls provided with two designated handicap parking stalls.

6. Hours of operation will be 8:00 am to 6:00 pm Monday through Saturday. Number of employees is unknown at this time.

CITIZEN PARTICIPATION:
The meeting notification sign was posted on the property December 28, 2019 and the neighborhood meeting was held on January 8, 2019. One resident attended the meeting and seventeen written correspondences have been received not in favor of the project.

Notice of the Planning Commission meeting was published in the Daily Herald on January 13, 2019 and posted on the state website January 10, 2019. Notification of the public hearing associated with this meeting was mailed to all property owners within 500 feet of the proposed site on January 15, 2019. Staff has received 29 emails in opposition of the project (Attachment 3).

Notification is not required for the City Council meeting.

REQUIRED FINDINGS:
The City Council must determine that the proposed use meets three findings prior to granting a Conditional Use Permit. The burden of proof rests with the applicant. Each finding is presented below along with staff’s analysis.

1. The use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.

The property to the north and west is zoned PO and is the existing storage facility. The property to the south is also zoned PO and is vacant. The property has been approved for non-residential uses. The property on the east side of Highland Boulevard is zoned R-1-40 and has been developed as single family homes. The proposed use will be a minimum of 125 feet from an existing residential homes. The proposed use is compatible with the
surrounding land uses.

2. **The use complies with all applicable regulations in the Development Code.**

The Development Code allows uses in the PO District that are not specifically listed if it is determined that the proposed use is compatible with the intent of the zone.

The site plan provides adequate access and onsite circulation for the proposed use. There are 46 parking stalls provided. The Development Code requires 20.

A landscape plan has been submitted showing a minimum of 35% landscaping. No landscaping was demonstrated on the median on Highland Blvd. A stipulation has been included to address this issue.

The proposed architecture includes the elements required in Section 3-4922 of the Development Code. Materials include stone veneer, CMU block, wood shutters, and wood pitched accents. The original submissions materials included split face block, smooth face block, and metal accents. The second submissions materials included split face block, stone veneer, and wood pitched accents.

All lighting meets the requirements of Section 3-4915 of the Development Code.

All utility and mechanical is required to be screened from view. A stipulation has been included to address this issue.

The building height is a maximum of 35 feet. Due to the topography of the site the height will be lower if measured from Highland Boulevard. The height meets the requirement of Section 3-4907 of the Development Code.

There is an existing 40-foot water line easement that runs through the property from north to south. This limits the types of improvements that can be constructed.

The site plan is being reviewed by the Fire Marshall. The Fire Marshall is requesting that the northern driveway be extended to allow full turning movements for emergency vehicles. A stipulation has been included to address compliance with any issues.

3. **Conditions are imposed to mitigate any detrimental effects.**

Draft stipulations have been included to ensure compliance with the Development Code.

**CONCLUSION:**
The proposed use appears to meet the required findings for approval.

**PLANNING COMMISSION ACTION:**
The Planning Commission held a public hearing on June 25, 2019. There were multiple comments not in favor and one in favor from the public regarding the proposal. Comments from the residents not in favor involved the architecture, increased traffic from the site, and intended use. The Commission voted 5-1 to recommend denial of the site plan and conditional use permit based on the following findings:

1) Section 3-4922 Site plan does not closely conform to Exhibit “A”.
2) Section 3-4922 Architecture outline 1A address the bulk issue. Overall Architectural Outline, the bulkiness of the building needs to be addressed.
3) Section 3-4922 1B the proposed building appears to be monotonous and repetitious.
4) Section 3-4922 1G all elevations should be architecturally treated with the exemption of the back
5) Section 3-4922 1I all the buildings are required to have public restrooms, including a men’s room, women’s room and a handicapped room.
6) Section 3-4902 the zone is intended to allow for professional services, not general retail or commercial.
7) Section 3-4919 the roof design cannot be a mansard or fake mansard roof.

**RECOMMENDATION:**
The City Council should conduct a public meeting approve the conditional use permit with appropriate stipulations in accordance with State Law and ADOPT ordinance amending the site plan. The following stipulations are recommended by staff:

1. Development of the site shall comply with the site plan January 23, 2019 and building elevations dated May 23, 2019 except as modified by these stipulations.
2. All signage shall require a separate permit and comply with the Development Code requirements.
3. Final civil engineering plans shall be reviewed and approved by the City Engineer. The site shall meet all requirements of the City Engineer.
4. Final civil engineering plans shall be reviewed and approved by the Fire Marshall.

**MOTIONS:**
I move that the City Council accept the findings and APPROVE the conditional use permit and ADOPT the ordinance approving the site plan for cases CU-19-02 and SP-19-02 subject to the four stipulations recommended by staff.

I move that the City Council DENY case SP-19-02 and CU-19-02 based on the following findings: (The Council 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. Vicinity Map
3. Project narrative
4. Letters from citizens
5. 2003 Development Agreement Site Plan
6. Proposed site plan dated January 23, 2019
7. May 23, 2019 Architecture Elevation
8. Draft Minutes of the Planning Commission Meetings from April 30, 2019 and July 9, 2019
WHEREAS, all due and proper notices of public meetings on this Ordinance held before the Highland City Council (the “City Council”) were given in the time, form, substance and manner provided by Utah Code; and

WHEREAS, the City Council held a public meeting on this Ordinance on August 6, 2019.

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

SECTION 1. That Professional Office Site Plan is amended as shown in filename SP-19-02 incorporated herein by reference.

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. This Ordinance shall become effective immediately after posting.

SECTION 4. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct, and independent of all other provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Highland City Council, August 6, 2019.

HIGHLAND CITY, UTAH

_________________________________
Rodney W. Mann, Mayor

ATTEST:

_________________________________
Cindy Quick, City Recorder
<table>
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<tr>
<th>COUNCILMEMBER</th>
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<td>Brian Braithwaite</td>
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<td>Scott Smith</td>
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</table>
Project Narrative

To: Highland City
From: Ken Berg, P.E., Berg Civil Engineering
Subject: Highland Office and Warehouse Park

Proposed Use
Highland Office and Warehouse Park project is comprised of several adjacent office warehouses. These office warehouses can be used for a variety of companies. Some uses include but are not limited to the following: Dance studio, Daycare Center, Mom and Pop shop and other small businesses. The exact use of each office warehouse may vary slightly from the next but will be consistent with the General Plan and compliant with the Development Code and other city codes and regulations.

Consistency with the General Plan
The general plan currently shows this area to be Professional Office. The proposed use meets this requirement.

Development Code Compliance
Based upon Article 4.9 Professional Office ("P.O.") Zone, allows for the following:

1. Professional offices and services including but not limited to: architects, engineers, contractors, real estate offices, property managers, and mortgage and title offices.
2. Financial or legal offices consisting of but not limited to: banks, insurance offices, and law or accounting offices.
3. Medically related offices/services consisting of but not limited to: doctor’s office, dentist’s office, pharmacy, physical therapy, optometrists, chiropractors, counselors, and psychiatrists.
4. Other types of Professional Services including but not limited to: information technology services, marketing, travel and employment agencies, journalists, collection agencies, educational services, music studios, photography studios, churches, colleges & schools (academic, pre-schools, special education, indoor instruction only).
5. Art and craft galleries, and studios for the teaching of arts and crafts.
6. Any other conditional uses or other types of professional services which the Planning Commission and City Council determine to be compatible with the intent of the Zone.

Based upon Article 3-4905 allows for the following:

To: Highland City
From: Ken Berg, P.E., Berg Civil Engineering
Subject: Highland Office and Warehouse Park

Consistency with the General Plan
The general plan currently shows this area to be Professional Office. The proposed use meets this requirement.

Development Code Compliance
Based upon Article 4.9 Professional Office ("P.O.") Zone, allows for the following:

1. Professional offices and services including but not limited to: architects, engineers, contractors, real estate offices, property managers, and mortgage and title offices.
2. Financial or legal offices consisting of but not limited to: banks, insurance offices, and law or accounting offices.
3. Medically related offices/services consisting of but not limited to: doctor’s office, dentist’s office, pharmacy, physical therapy, optometrists, chiropractors, counselors, and psychiatrists.
4. Other types of Professional Services including but not limited to: information technology services, marketing, travel and employment agencies, journalists, collection agencies, educational services, music studios, photography studios, churches, colleges & schools (academic, pre-schools, special education, indoor instruction only).
5. Art and craft galleries, and studios for the teaching of arts and crafts.
6. Any other conditional uses or other types of professional services which the Planning Commission and City Council determine to be compatible with the intent of the Zone.

Based upon Article 3-4905 allows for the following:

Coverage of a site by a building shall not exceed thirty (30) percent.

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<th>23 ac</th>
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<tr>
<td>Storage &amp; Office Buildings</td>
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All site plan configurations, landscaping and/or natural open space shall occupy no less than thirty-five percent (35%).

As per the Open Space Table in the attached Overall Master Plan for the overall project the total project as able to maintain the required 35% open space required by the zone.
General Compatibility of proposed use with adjacent property
The proposed addition is located centrally in the existing Professional Office (PO) Zone. This addition will be surrounded on the West and North by existing storage sheds, and by the East and South by future professional office buildings. The proposed use is compatible with its surroundings.

Site the building design with exterior lighting
The proposed buildings will be similar to the existing buildings as shown in the attached colored elevations. The exterior lighting will be minimized with downward directed lighting.

Ingress and Egress
The proposed addition will be accessed from Sunset Drive and a new driveway to the East. No additional roadway access points along Highland Blvd are proposed. The site has been designed to allow for emergency vehicles to turn within the site as shown on the site plan.

Pedestrian and alternative vehicles
No pedestrian or alternative vehicle improvements are proposed for this storage shed site.

Volume and character of traffic
Using the Institute of Transportation Engineers, Trip Generation, 10th Edition, the land use code of 130 – Industrial Park was used to identify the Peak PM trips associated with this land use (20,000 sf of Flex Warehouse) = 8 PM Peak Hour Trips.

Impact of public services
Water & sewer connections for each unit are proposed for the site. A common landscape connection is proposed for the common landscaping. There will be no impacts to surrounding schools or recreation facilities.

Screening and buffering
A 21 foot landscaping buffer along Highland Blvd is required and is shown on the site plan.

Proposed outdoor activities or storage
No outdoor storage activities allowed.

Hours of operation
Office Hours
Sunday Closed
Monday - Saturday 8:00 AM - 6:00 PM

Number of employees
Number of employees is unknown at this time. The number of parking spaces is based upon typical office requirements.

Noise, smoke, odor, dust, vibration, or illumination created by the proposed use.
After construction, there will be low to no impacts of noise, smoke, odor, dust, vibration or illumination created by the storage sheds.

Regards,

Ken R. Berg, PE
Email from Melinda Ashton dated January 23, 2019:

My name is Melinda Ashton and I live in the Country French Development. I agree with the following letter written by Jamie Frischknecht.

To whom it may concern,

I am a resident of Highland city, and I live in the Ivory Homes development on the west side of Highland Boulevard. I want to add my voice to that of many other residents in opposition to the development of the Patterson warehouse building. I have looked up the Zoning Requirements for Professional Offices built in Highland City stated in Chapter 3, Article 4.9, Section 3-4901. We expect all development in the Professional Office Zone where the Patterson warehouse is proposed to be built to adhere to the primary intent and purpose of the Zone. I have copied this information from the code:

(2) The overall intent of these regulations is to establish a standard for professional office and storage facility development and maintenance which:

(a) Promotes the overall functionality, safety and visual attractiveness of professional office buildings, storage facilities, accompanying substructures, and surrounding landscape;

(b) Promotes architecture with a residential flavor;

(c) Promotes development which works in harmony with the open, rural atmosphere of Highland City;

(d) Prevents the erection of buildings or substructures with an industrial or a pre-fabricated appearance;

The current proposal for the warehouse does not fit these requirements. To comply with the required “visual attractiveness” and work with “the harmony” of the “open rural atmosphere of Highland City” and prevent an “industrial appearance”, the proposal will need some major adjustments. If the building is approved, Patterson will need to take on the additional cost to give the building a residential façade that matches our neighborhood, similar to that of the current Patterson building and the Highland Hideaway Storage. While we appreciate proposals of a sidewalk, tree-lined park strip, and retaining wall, we expect the building to follow the zoning guidelines of Highland City. The building cannot have an industrial appearance. We live in a nice neighborhood that does not include warehouses and industrial buildings. These type of buildings need to be built in industrial areas.

We have an additional concern for the number of transportation trucks that will presumable accompany the presence of a warehouse. This will surely increase traffic problems and pedestrian safety in the area.

We ask that you not approve the construction of a warehouse building in our neighborhood. If the building is approved, we expect that it will be built in compliance with Highland city code.
Please consider our concerns as you consider the approval of this building.

Thank you,

Jamie Frischknecht
801-427-3084

Email from Amber Gueck dated January 15, 2019:

To whom it may concern,

I live in Highland in an Ivory homes neighborhood off of Highland Blvd. and I’m concerned about the news that Patterson Construction is considering building an office warehouse near the storage units off of Highland Blvd. We chose to move to Highland (from CA) about 4 years ago because we liked the scenery, open space, and the neighborhoods with large lots. We drive past the storage units on Highland Blvd very often and they’re not very noticeable, the new church getting built in that area is noticeable, but attractive, and when I picture an office warehouse being built in that same area, I can’t imagine that to be attractive, or add to the “welcoming” neighborhood feel. I don’t know anything about Patterson Const., but I keep hearing about them in Highland neighborhood/community conversations or emails and I always come away from the dialogue with the impression that Patterson Construction doesn’t care what the people LIVING IN the community desire. I hope that the planning commission will take into consideration how an office warehouse being built on land that is the main entrance to our neighborhood will affect the ambiance of our neighborhood in an unattractive way. This would’ve had an affect on our decision to move here if we had known about it. Thank you for taking the time to read this.

Best regards,

Amber Gueck

Email from Anne Hansen dated January 14, 2019:

Planning Commission:

RE: 11251 N. Sunset Dr / Highland / Highland Hideaway Storage

I do not support the proposal for a Conditional Use Permit for 2.13 acres by Andrew Patterson. This property is at the entrances of Bull River HOA and Country French Estates as well as the entrance to our city. Highland City is predominantly a bedroom community. Placing warehouses adjacent to high end properties will only bring property values down; bring in more truck traffic; excessive congestion to an already congested intersection (entrance to the commuters lane) and potential work activities at night. Please deny this permit.

Thank you for your consideration.

Anne Sward Hansen
11349 N. Tamarack Dr.
Email from Cynthia Shaw dated January 16, 2019:

To who it may concern,

My husband and I moved to Highland 2 1/2 years ago after 31 years in Las Vegas. While in Las Vegas, we enjoyed living in Summerlin, a beautifully master-planned community. When we moved to Highland, we were attracted to the city because it had a feeling of being a master-planned community. It appeared family friendly, classy, harmonious and spacious, with lovely architecture. I have just learned that Patterson, the company who developed my subdivision, wants to build an industrial warehouse on the corner of Highland Blvd and Timpanogus Highway. I am vehemently opposed to an industrial-looking building at the entrance of our pleasant little community. To build something like that would be akin to destroying the curb appeal of a house. And I know for a fact that my neighbors object to the project as I do. Please review this plan in light of all of us who would be negatively affect by this unattractive warehouse in our neighborhood.

Sincerely,

Cynthia Shaw

11272 N. Calais Circle,

Highland, UT 84003

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Email from Danielle Bailey dated January 16, 2019:

Hi, my name is Danielle Bailey and I am resident of the country French neighborhood in Highland across from the storage unit facility. We have lived there for 10 years.

I have heard about the proposed plan from Patterson to build warehouses north of the storage units and want to share my opinion as a homeowner.

I am highly against this development. When we moved here, we were assured by several people including realtors, that Highland was a bedroom community and was very particular and protective of that title. To me, that means there would be no industrial or office buildings near our neighborhood.

I am frankly disappointed in the unfinished islands and sidewalks on highland Blvd west of our neighborhood. I thought the Developer was responsible for beautifying that and they have done nothing. To me that is something simple that can be done and makes a big difference.

I am from Southern California with a mother that has served on city council and as mayor of Whittier for several years. She said she is shocked at what some of our streets look like in comparison to the type of neighborhoods they border.

I feel like Patterson seems to do what they feel like doing, and these warehouses would be an extension of that. I’ve also been told that none of the main guys from Patterson even live in Highland. I feel with multi million dollar homes just a few feet away, the worst thing for property values and beautification,
which would also affect the city would be to build these warehouses. My suggestion would be another development of homes.

I would never move to a neighborhood with existing buildings and I think building the warehouses would discourage people from moving to the surrounding area, which hurts Highland in the long run.

There is plenty of opportunity to build these warehouses elsewhere. Building homes instead I know would not bring in the same revenue, but it would keep the property values higher in the surrounding areas, which would be beneficial for long term tax revenue.

Please do not let this happen. Keep our community beautiful and accurate to what Highland advertises.

Thank you for your consideration, Danielle Bailey

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Email from Emily Norton dated January 14, 2019:

To whom it may concern:

We are from the View Pointe neighborhood and we started the process about a year ago to purchase the open space land behind our homes. There are about 30 homes we have been coordinating with that wish to purchase land. Another street in our neighborhood was able to purchase their land after a few years of working towards it. We had already gotten all of our signatures and application filed and were well on our way to completing the process when we found out about the price change per square foot. This completely blindsided us and we were not properly informed in advance of this change coming down the pike. If we had known, we most assuredly would have sped up our process to make sure we could secure the land at the lower price. The fact is, if we cannot purchase the land at the original $1.40 per square foot we were originally told, all of our homes will withdraw, which could potentially be tens of thousands of dollars. We wanted to inform you that we would like to come speak to you on Monday about the potential of letting us be grandfathered into the previous rate of $1.40, since we were already very close to completing the process. Thank you for your time and we look forward to meeting with you.

Amy Peachey, Emily Norton and View Pointe Neighbors

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Email from Ken & Gloria Williams dated January 16, 2019:

Hello,

In regards to the proposed Patterson Warehouse planned to go in adjacent to the storage units on Highland Blvd, my husband and I are very much opposed to the idea as it will detract significantly from the residents view across Highland Blvd, in addition to detracting from and lessening the value of surrounding homes and neighborhoods. Unless there's the possibility of making it look like the Patterson offices that look like homes on the corner of Highland Blvd and SR92.

Thank you.
Email from Ivy Tornow dated January 15, 2019:

My family lives in the Country French Estates off of Highland Boulevard. We have been informed that Andrew Patterson has requested a Conditional Use Permit so that he can build a warehouse on Highland Boulevard. We moved to Highland a year and half ago to be in a beautiful residential neighborhood surrounded by an aesthetically pleasing community. When we purchased there were two commercial buildings on Highland Boulevard; Hideaway Storage Units and the office building on the corner of SR 92 and Highland Blvd. We do not need any warehouses in the area. It will decrease the value of our beautiful residential area if people have to drive through a warehouse district on their way to our homes. I ask that Patterson be denied a Conditional Use Permit for this project because it means that it is an exception to the current zone. Please force them to keep Highland aesthetically pleasing as it currently is. If we allow one warehouse to be built then it sets a standard for others to be built and devalue our neighborhood.

Highland is a fabulous community and we want to keep it a special place to live and raise our families. Thank you for holding fast on the current zoning to keep it that way.

Sincerely,

Ivy Tornow

505-947-5252

Email from Janet Eyring dated January 10, 2019:

To Whom It May Concern:

I am a concerned resident at 6727 W. Spring Hollow Lane, Highland who is opposed to the Pattersons' building an office warehouse on Highland Blvd. next to the Hideaway Storage Units. There are several concerns I have about this project. First the height of the buildings and the commercial look of the buildings do not fit into the “look and feel” of the surrounding neighborhoods. If the plans could be altered to sink the building and surround it with trees, this would greatly improve the appearance of the structure and help reduce noise and tone down lighting. Highland Blvd. is the entrance to 3 communities: Bull River, Country French, and Dry Creek, all of which are trying to maintain a residential versus commercial feel. I hope new plans can be drawn up which address some of these issues I have mentioned. I plan to attend the meeting on January 29 to further voice my opinion on this issue.

Sincerely,

Dr. Janet Eyring
Email from Jenelle Cox dated January 9, 2019:

To whom it may concern,

We as residents of Highland are concerned about the proposed building on Highland Blvd. next to the storage units. We moved here and built high-end homes in a bedroom community for peace and beauty.

Everywhere we turn building is going on. It is unfortunate that the developers cannot see the value of having beautiful neighborhoods kept away from industry and commercial buildings. Isn’t there enough office warehouses being built all along the freeway? It is overdone and becoming an eyesore. Please do not bring that this far into our city and ruin our neighborhoods. It isn’t all about money. It is also about lifestyle and raising families in areas untainted by commercialism.

Please care.

Jenelle Cox

Email from Jill Tew dated January 9, 2019:

We've been told Patterson is wanting to build some warehouses on the southwest corner of Highland Blvd near SR- 92. PLEASE do not let them do this! We moved to Highland to get away from the ugly industrial buildings. PLEASE keep our community looking nice. IF commercial buildings have to be built, PLEASE keep them to one level so they don't block the view of the mountains. We do not want to look at ugly buildings every time we leave our homes.

Thank you for preserving our community!

Jill Tew

Email from Johanna Warr dated January 9, 2019:

Hi,

I’m writing to express my concern about the commercial building development that is proposed to happen across the street from my Country French neighborhood. What can I do to voice my opinion and help put a stop to having a 2 story commercial office building go up right there?

Sincerely,

Johanna Warr

801-995-0925

Email from Laura Mustard dated January 11, 2019:

Thank you for your quick response, Mr. Mayor.
And thank you, Manuel, for your efforts and willingness to speak on behalf of our community in the interest of keeping it beautiful.

Mr. Mayor, while you may not have the regular opportunity to hear directly from members of the community, please know that all of our neighbors at Country French care very deeply about Highland and preserving its beauty. Matters like these are discussed frequently and there are strong feelings about some of the administrative decisions made on our behalf.

Particularly in the case of Patterson development, and please forgive me putting this in easy terms, there is a general feeling that the company is permitted to do whatever it wants. Sometimes to the benefit, other times to the detriment of the larger community aesthetic.

As it relates to this case, Mr. Bueno has raised our collective concerns over use of the land directly outside the entrance to the Country French neighborhood. However, it’s more important than that.

We feel this particular space serves as a beautiful welcome to Highland itself, as many people travel up Highland Blvd to the many other well maintained communities up the road. While there has already been development of offices and storage space at the very start of Highland Blvd, it’s our hope that a great deal more consideration will be given to preserving some of the beauty that exists. We should all be invested in presenting Highland as the unique and beautiful community it is, placing more importance on Highland Blvd to showcase that beauty.

I’ve attached Mr. Bueno’s previous note that reinforces these points and also offers several ideas on how to address.

Now that the issue has been made visible and appropriately brought to the attention of homeowners, I’d expect you’ll hear from more of them - within Country French and beyond.

Perhaps it’s worth a larger discussion?

Thanks for your time.

Email from Manuel Bueno dated January 10, 2019:

Hello Mayor, Council and Planning Committee. I recently received a letter from Patterson Homes about the proposed Highland Business Park because I live within 500 feet of the property. I attended the Neighborhood Notification Meeting on Tuesday at 6:15 pm. I was the only resident who attended. Wayne and Andrew Patterson presented the information. I am not aware why I was the only resident there. Perhaps this letter was not mailed out to very many people? Perhaps it was the time of day, being just after 6:15 pm?

I appreciate the opportunity to first hear about this project. I did feel like Patterson was wanting to hear concerns. My two initial concerns was the height of the project and the look of it. However, after having time to think about the information I do have more concerns than this.

1) I do not support warehouse space anywhere in Highland and let alone across the street from my home. This gives rise to all types of industrial businesses and large truck traffic which I don’t think is conducive to Highland City. My preference would be to add more residential lots and homes there. It
seemed like when I first moved into my home, this subject piece of land was part of a larger piece that was zoned residential. Perhaps when Patterson donated some of the land to the Church they were able to get the remaining parcels zone commercial office? I am not sure but you would likely know the history. If residential cannot be done then something similar such as assisted living or a funeral home would be better. And if that is not possible just plane office would be the last possible resort. No warehouses.

2) For this particular lot I would only do a one story on the street frontage side because that part of the parcel is built up with a large natural dirt berm. If they want something taller such as 20 to 22 feet or two story, you can do that on the back side and have it be walk out, similar to a walk out basement where the front only shows one story but the back shows two. What I am saying here is if you want two stories, you can do that with a basement as story one that has a walkout on the west or back side. This way only the top story sits on top of an already elevated lot for this area.

3) If office or any commercial is done, it should look like residential. If you look at the buildings that Patterson owns such as the office building of the adjacent storage units and the office building(s) on the corner of SR 92 and Highland Blvd, these buildings look more residential. Any additional office building should also have a residential and not a commercial, linear look.

As a side note, Andrew said they would finish the medians in the area while working on this project. I would hope the medians look nice and match the other up the street that have landscaping and not just concrete. You can have good landscaping that uses low water.

To recap: I would propose this property be developed as residential but if not then having it be assisted living or something of that nature be better. Of last resort would be a one story office building on the frontage which has a residential looking facade. And actually, whatever structure appears, having it look residential is best. No warehouses please. No warehouses.

Sincerely, Manuel Bueno, resident.

Email from Michael Tornow dated January 15, 2019:

To whom it may concern:

I know that it’s not always easy to deny someone the ability to use their property for commercial use. However, when someone purchases a property in a residential area, they consider the neighborhood before purchasing.

The zoning is done for a certain reason. We have many homes in Highland that are what I would consider “high end.” These homes bring in a very nice tax revenue to the city. A warehouse area compared to a residential area is not what should be in this area. Patterson should build their warehouses in an industrial part of town, away from residential. Please consider this when evaluating land use and the esthetic nature of the area. All local residents should have a voice in their his matter.

Thank you,

Dr. Michael Tornow
Email from Monica Wonnacott dated January 14, 2019:

Dear city planning committee and Mayor,

It has come to my attention that Patterson construction has applied for a conditional permit. The permit would allow them to build a warehouse like building just off of Highland Blvd. As a resident of the adjacent neighborhood, country French estates, I have serious concerns about this.

1. Decreasing property values. I have invested a lot of money in building a home where I have in Highland. A large warehouse devalues that property. I bought the land and built where I did only after I had investigated who owned the surrounding land and what the zoning regulations were already in place. Allowing an exception at this point, changes the rules. I would not have built where I did, if I had known warehouse buildings were going in there.

2. Safety. The kind of traffic that pulls in and out of a warehouse office building is very different then a neighborhood. I have small children and I’m concerned about the type and increase traffic pattern. More importantly, when they become driving teenagers, I am worried about a constant flow of trucks in and out of there. I moved from our previous home in Lehi due to a similar situation that ended up causing dozens of trucks up and down our neighborhood street on a daily basis.

3. Esthetics. An office warehouse is an eyesore. I chose my neighborhood because the houses are beautiful and different. How tragic to have to look an office warehouse every time I pull in and out of my neighborhood.

4. Changing the rules. When the area was zoned and development started, all the parties involved were made aware. Making exception for one large developer without considering the opinions and how it affects other people is ethically wrong. Patterson’s request is based off the financial best interest of the developer alone. In no way does it benefit the surrounding neighborhoods (ultimately the people who are affected by it).

I urge you to vote NO. Please feel free to contact me if you have further questions.

Thank you,

Monica Wonnacott, MD
Highland resident
(801) 368-9943

Email from Steven Tew dated January 16, 2019:

I am a resident of Highland with my home very near the proposed location of Patterson's proposed warehouse site. I am in the Dry Creek Highlands area and pass that area multiple times daily. I moved to highland to be away from the congestion and feel of commercial development and to have a warehouse complex put up right next to our neighborhood is totally against the reason we built here. Please do what you can to prevent the unchecked development that will take away from the value of highland. If development needs to happen, please have it be in keeping with the neighboring communities - not warehouses.

Thank you, Steven Tew
Email from Vana Olson dated January 15, 2019:

I am opposed to the rezoning and proposal for the property located near the new church building on Highland Blvd. This property should be in keeping with adjacent residential and in keeping with the vision of the founding fathers which is residential on large lots.

Email from Melanie Westcott dated January 16, 2019:

Mayor, Highland City Council, and Planning Commission,

We live in Country French off of Highland Blvd. We are very concerned about Patterson wanting to build a warehouse across the street from our home development. Considering Highland’s current status as a quiet bedroom community, I do not see how a warehouse should be allowed in Highland right at the entrance to several beautiful home developments including Country French and several nice communities along Highland Blvd.

Zoned office space should be similar to the office space Patterson has already built on the East side of the entrance to Highland Blvd. These offices look more like homes and enhance the entrance to Highland and Highland Blvd. Truly, I am sad that this space across the street from our development is zoned for offices and not for single family homes. I wish I had known when that zoning took place.

But worse than offices is warehouses!! Warehouses belong on streets like the industrial Geneva road, not Highland Blvd. It is already very frustrating that a storage unit (also better suited to Geneva Road or roads adjacent to the freeway) is on Highland Blvd. Furthermore, having large trucks coming and going to a warehouse on Highland Blvd. would further burden the roads, make them less safe, and add to the eyesore of a warehouse. Additionally, a large warehouse could draw activity that Highland is not accustomed to. As I look at Utah County crime maps, Highland is virtually free of daily crime. The safety of Highland is a major factor contributing to Highland’s excellent property values and people’s desire to move here with their families. A large warehouse invites opportunities for people with mal-intent to have a silent, remote place for illicit activity where much is unseen and no one is around to notice or hear. Highland does not need to create spaces where more police work will be required--especially not directly across the street from some of Highland’s nicest neighborhoods.

Our new church building will also be adjacent to this property. Several teens and children will walk alone to their church to attend weekly activities. A large warehouse adjacent to the church only heightens the worry parents will face as they send their children in the church for these activities on dark weeknights. A warehouse is a great place to watch and hide out for those who could pose a danger to our children, teens, and women.

I implore the mayor, council, and planning committee to keep Highland an inviting, safe, beautiful bedroom community in all your future decisions as you plan Highland’s development. Keeping Highland safe and beautiful will keep our property values up which inevitably will leave you, as officials serving our community, with the greatest legacy. Please consider what is best for the future of Highland’s residents (those who voted you into office) and not what is most pressing, convenient, and lucrative for developers who constantly come appealingly and incessantly to your inboxes, phones, and meetings.

Thank you for your time,

Lincoln and Melanie Westcott
Email from Jamie Frischknecht dated January 17, 2019:

Dear Councilmen and Mayor Mann,

I am a resident of Highland city, and I live in the Ivory Homes development on the west side of Highland Boulevard. I want to add my voice to that of many other residents in opposition to the development of the Patterson warehouse building. I have looked up the Zoning Requirements for Professional Offices built in Highland City stated in Chapter 3, Article 4.9, Section 3-4901. We expect all development in the Professional Office Zone where the Patterson warehouse is proposed to be built to adhere to the primary intent and purpose of the Zone. I have copied this information from the code:

(2) The overall intent of these regulations is to establish a standard for professional office and storage facility development and maintenance which:

(a) Promotes the overall functionality, safety and visual attractiveness of professional office buildings, storage facilities, accompanying substructures, and surrounding landscape;

(b) Promotes architecture with a residential flavor;

(c) Promotes development which works in harmony with the open, rural atmosphere of Highland City;

(d) Prevents the erection of buildings or substructures with an industrial or a pre-fabricated appearance;

The current proposal for the warehouse does not fit these requirements. To comply with the required “visual attractiveness” and work with “the harmony” of the “open rural atmosphere of Highland City” and prevent an “industrial appearance”, the proposal will need some major adjustments. If the building is approved, Patterson will need to take on the additional cost to give the building a residential façade that matches our neighborhood, similar to that of the current Patterson building and the Highland Hideaway Storage. While we appreciate proposals of a sidewalk, tree-lined park strip, and retaining wall, we expect the building to follow the zoning guidelines of Highland City. The building cannot have an industrial appearance. We live in a nice neighborhood that does not include warehouses and industrial buildings. These type of buildings need to be built in industrial areas.

We have an additional concern for the number of transportation trucks that will presumable accompany the presence of a warehouse. This will surely increase traffic problems and pedestrian safety in the area.

We ask that you not approve the construction of a warehouse building in our neighborhood. If the building is approved, we expect that it will be built in compliance with Highland city code.

Please consider our concerns as you consider the approval of this building.

Thank you,

Jamie Frischknecht

801-427-3084
Email from Jen Brown dated January 17, 2019:

Dear Councilmen and Mayor Mann,

I am a resident of Highland city, and I live in the Ivory Homes development on the west side of Highland Boulevard. I want to add my voice to that of many other residents in opposition to the development of the Patterson warehouse building. I have looked up the Zoning Requirements for Professional Offices built in Highland City stated in Chapter 3, Article 4.9, Section 3-4901. We expect all development in the Professional Office Zone where the Patterson warehouse is proposed to be built to adhere to the primary intent and purpose of the Zone. I have copied this information from the code:

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We have an additional concern for the number of transportation trucks that will presumable accompany the presence of a warehouse. This will surely increase traffic problems and pedestrian safety in the area.

We ask that you not approve the construction of a warehouse building in our neighborhood. If the building is approved, we expect that it will be built in compliance with Highland city code.

Please consider our concerns as you consider the approval of this building.

Thank you,

Jen Brown

801-949-4641
Email from Kayla Springer dated January 17, 2019:

Dear Councilmen and Mayor Mann,

I am a resident of Highland city, and I live in the Ivory Homes development on the west side of Highland Boulevard. I want to add my voice to that of many other residents in opposition to the development of the Patterson warehouse building. I have looked up the Zoning Requirements for Professional Offices built in Highland City stated in Chapter 3, Article 4.9, Section 3-4901. We expect all development in the Professional Office Zone where the Patterson warehouse is proposed to be built to adhere to the primary intent and purpose of the Zone. I have copied this information from the code:

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HIGHLAND CITY DEVELOPMENT CODE 9-Jan-14 - 143 – and; . . . .

The current proposal for the warehouse does not fit these requirements. To comply with the required “visual attractiveness” and work with “the harmony” of the “open rural atmosphere of Highland City” and prevent an “industrial appearance”, the proposal will need some major adjustments. If the building is approved, Patterson will need to take on the additional cost to give the building a residential façade that matches our neighborhood, similar to that of the current Patterson building and the Highland Hideaway Storage. While we appreciate proposals of a sidewalk, tree-lined park strip, and retaining wall, we expect the building to follow the zoning guidelines of Highland City. The building cannot have an industrial appearance. We live in a nice neighborhood that does not include warehouses and industrial buildings. These type of buildings need to be built in industrial areas.

We have an additional concern for the number of transportation trucks that will presumable accompany the presence of a warehouse. This will surely increase traffic problems and pedestrian safety in the area.

We ask that you not approve the construction of a warehouse building in our neighborhood. If the building is approved, we expect that it will be built in compliance with Highland city code.

Please consider our concerns as you consider the approval of this building.

Best,

Kayla G Springer

801.889.5269
Email from Charisse Chambersv dated January 17, 2019:

Dear Councilmen and Mayor Mann,

I am a resident of Highland city, and I live in the Ivory Homes development on the west side of Highland Boulevard. I want to add my voice to that of many other residents in opposition to the development of the Patterson warehouse building. I have looked up the Zoning Requirements for Professional Offices built in Highland City stated in Chapter 3, Article 4.9, Section 3-4901. We expect all development in the Professional Office Zone where the Patterson warehouse is proposed to be built to adhere to the primary intent and purpose of the Zone. I have copied this information from the code:

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We have an additional concern for the number of transportation trucks that will presumable accompany the presence of a warehouse. This will surely increase traffic problems and pedestrian safety in the area.

We ask that you not approve the construction of a warehouse building in our neighborhood. If the building is approved, we expect that it will be built in compliance with Highland city code.

Please consider our concerns as you consider the approval of this building.

Thank You,

Charisse Chambers
Email from Jan Story dated January 17, 2019:

Dear Councilmen and Mayor Mann,

I am a resident of Highland city, and I live in the Ivory Homes development on the west side of Highland Boulevard. I want to add my voice to that of many other residents in opposition to the development of the Patterson warehouse building. I have looked up the Zoning Requirements for Professional Offices built in Highland City stated in Chapter 3, Article 4.9, Section 3-4901. We expect all development in the Professional Office Zone where the Patterson warehouse is proposed to be built to adhere to the primary intent and purpose of the Zone. I have copied this information from the code:

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We ask that you not approve the construction of a warehouse building in our neighborhood. If the building is approved, we expect that it will be built in compliance with Highland city code.

Please consider our concerns as you consider the approval of this building.

Thank You,

Jan Story

801-376-9803
Email from Myrna Dewitt dated January 17, 2019:

Dear Councilmen and Planning Commission Directives,

My husband Scott DeWitt and I, Myrna DeWitt residents of Highland City, fully support Jaime Frischknech’s letter below and too oppose to de build out of warehouses on the west side of Highland Boulevard. We would greatly appreciate it if you could please consider our concerns and hear our voices as residents of this beautiful city we all live on before approving anything.

Best Regards,

Myrna DeWitt

Email from Lexi Fenton dated January 17, 2019:

Dear Councilmen,

I am a resident of Highland city, and I live in the Ivory Homes development on the west side of Highland Boulevard. I want to add my voice to that of many other residents in opposition to the development of the Patterson warehouse building. I have looked up the Zoning Requirements for Professional Offices built in Highland City stated in Chapter 3, Article 4.9, Section 3-4901. We expect all development in the Professional Office Zone where the Patterson warehouse is proposed to be built to adhere to the primary intent and purpose of the Zone. I have copied this information from the code:

(2) The overall intent of these regulations is to establish a standard for professional office and storage facility development and maintenance which:

(a) Promotes the overall functionality, safety and visual attractiveness of professional office buildings, storage facilities, accompanying substructures, and surrounding landscape;

(b) Promotes architecture with a residential flavor;

(c) Promotes development which works in harmony with the open, rural atmosphere of Highland City;

(d) Prevents the erection of buildings or substructures with an industrial or a pre-fabricated appearance;

HIGHLAND CITY DEVELOPMENT CODE 9-Jan-14 - 143 – and; . . .

The current proposal for the warehouse does not fit these requirements. To comply with the required “visual attractiveness” and work with “the harmony” of the “open rural atmosphere of Highland City” and prevent an “industrial appearance”, the proposal will need some major adjustments. If the building is approved, Patterson will need to take on the additional cost to give the building a residential façade that matches our neighborhood, similar to that of the current Patterson building and the Highland Hideaway Storage. While we appreciate proposals of a sidewalk, tree-lined park strip, and retaining wall, we expect the building to follow the zoning guidelines of Highland City. The building cannot have an industrial appearance. We live in a nice neighborhood that does not include warehouses and industrial buildings. These type of buildings need to be built in industrial areas.

We have an additional concern for the number of transportation trucks that will presumable accompany the presence of a warehouse. This will surely increase traffic problems and pedestrian safety in the area.
We ask that you not approve the construction of a warehouse building in our neighborhood. If the building is approved, we expect that it will be built in compliance with Highland city code.

Please consider our concerns as you consider the approval of this building.

Thanks,

Lexi Fenton
801-694-9655
(Maple Hollow Ct. Resident)

Email from Olwen Jewson dated January 17, 2019:

Dear Councilmen,

I am a resident of Highland city, and I live in the Ivory Homes development on the west side of Highland Boulevard. I want to add my voice to that of many other residents in opposition to the development of the Patterson warehouse building. I have looked up the Zoning Requirements for Professional Offices built in Highland City stated in Chapter 3, Article 4.9, Section 3-4901. We expect all development in the Professional Office Zone where the Patterson warehouse is proposed to be built to adhere to the primary intent and purpose of the Zone. I have copied this information from the code:

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The current proposal for the warehouse does not fit these requirements. To comply with the required “visual attractiveness” and work with “the harmony” of the “open rural atmosphere of Highland City” and prevent an “industrial appearance”, the proposal will need some major adjustments. If the building is approved, Patterson will need to take on the additional cost to give the building a residential façade that matches our neighborhood, similar to that of the current Patterson building and the Highland Hideaway Storage. While we appreciate proposals of a sidewalk, tree-lined park strip, and retaining wall, we expect the building to follow the zoning guidelines of Highland City. The building cannot have an industrial appearance. We live in a nice neighborhood that does not include warehouses and industrial buildings. These type of buildings need to be built in industrial areas.

We have an additional concern for the number of transportation trucks that will presumable accompany the presence of a warehouse. This will surely increase traffic problems and pedestrian safety in the area.
We ask that you not approve the construction of a warehouse building in our neighborhood. If the building is approved, we expect that it will be built in compliance with Highland city code.

Please consider our concerns as you consider the approval of this building.

Thanks,

Olwen & Keith Jewson

Email from Anita Fowler dated January 18, 2019:

Dear Councilmen/women,

I am a resident of Highland city, and I live in the Ivory Homes development on the west side of Highland Boulevard. I want to add my voice to that of many other residents in opposition to the development of the Patterson warehouse building. I have looked up the Zoning Requirements for Professional Offices built in Highland City stated in Chapter 3, Article 4.9, Section 3-4901. We expect all development in the Professional Office Zone where the Patterson warehouse is proposed to be built to adhere to the primary intent and purpose of the Zone. I have copied this information from the code:

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The current proposal for the warehouse does not fit these requirements. To comply with the required “visual attractiveness” and work with “the harmony” of the “open rural atmosphere of Highland City” and prevent an “industrial appearance”, the proposal will need some major adjustments. If the building is approved, Patterson will need to take on the additional cost to give the building a residential façade that matches our neighborhood, similar to that of the current Patterson building and the Highland Hideaway Storage. While we appreciate proposals of a sidewalk, tree-lined park strip, and retaining wall, we expect the building to follow the zoning guidelines of Highland City. The building cannot have an industrial appearance. We live in a nice neighborhood that does not include warehouses and industrial buildings. These type of buildings need to be built in industrial areas.

We have an additional concern for the number of transportation trucks that will presumable accompany the presence of a warehouse. This will surely increase traffic problems and pedestrian safety in the area.

We ask that you not approve the construction of a warehouse building in our neighborhood. If the building is approved, we expect that it will be built in compliance with Highland city code.
Please consider our concerns as you consider the approval of this building.

Thanks,

Anita Fowler
801-903-8264

Email from Brooke Sweeney dated January 18, 2019:

Dear Councilmen,

I am a resident of Highland city, and I live in the Ivory Homes development on the west side of Highland Boulevard. I want to add my voice to that of many other residents in opposition to the development of the Patterson warehouse building. I have looked up the Zoning Requirements for Professional Offices built in Highland City stated in Chapter 3, Article 4.9, Section 3-4901. We expect all development in the Professional Office Zone where the Patterson warehouse is proposed to be built to adhere to the primary intent and purpose of the Zone. I have copied this information from the code:

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The current proposal for the warehouse does not fit these requirements. To comply with the required “visual attractiveness” and work with “the harmony” of the “open rural atmosphere of Highland City” and prevent an “industrial appearance”, the proposal will need some major adjustments. If the building is approved, Patterson will need to take on the additional cost to give the building a residential façade that matches our neighborhood, similar to that of the current Patterson building and the Highland Hideaway Storage. While we appreciate proposals of a sidewalk, tree-lined park strip, and retaining wall, we expect the building to follow the zoning guidelines of Highland City. The building cannot have an industrial appearance. We live in a nice neighborhood that does not include warehouses and industrial buildings. These type of buildings need to be built in industrial areas.

We have an additional concern for the number of transportation trucks that will presumable accompany the presence of a warehouse. This will surely increase traffic problems and pedestrian safety in the area.

We ask that you not approve the construction of a warehouse building in our neighborhood. If the building is approved, we expect that it will be built in compliance with Highland city code.

Please consider our concerns as you consider the approval of this building.
In speaking with other concerned neighbors they have all shared the concern that the council is to focused on the list of requirements for “conditional use”. This seems to be a common theme in your responses to our concerns.

We realize that this area is zoned for professional offices and the development code ultimately gives the city council and planning commissions flexibility on what they decide is “conditional use.”

While I think it is good for our community to discourage the approval of a warehouse in this area, if the council chooses to allow Patterson’s proposal to fit under the “conditional use” category, you still need to have Patterson comply with the primary use guidelines that are built in Highland’s city code.

This means whatever Patterson’s builds will need to have “architecture with residential flavor” and not an “industrial or pre-fabricated appearance.” The city council and planning commission must enforce that they follow a residential look for these buildings similar to the appearance that was used for the current Patterson building and Highland Hideaway Storage. You can also regulate other factors like height restrictions and curb appeal.

In Chapter 3, Article 4.9, Section 3-4901 it states,

) The overall intent of these regulations is to establish a standard for professional office and storage facility development and maintenance which:

(a) Promotes the overall functionality, safety and visual attractiveness of professional office buildings, storage facilities, accompanying substructures, and surrounding landscape;

(b) Promotes architecture with a residential flavor;

(c) Promotes development which works in harmony with the open, rural atmosphere of Highland City;

(d) Prevents the erection of buildings or substructures with an industrial or a pre-fabricated appearance;
This is very upsetting to me, this is a warehouse building and looks like the side of I15. I was born in Highland and it has always been a city that retains a quality standard above. They built the storage units in a way that is below sight lines with the entrance more like a home. The offices Patterson built down the road are what is expected.

We put more than 1.5 million into a home that will be destroyed by warehouse space across the street. Country French, developed by Patterson, is one of the highest quality neighborhoods in Highland and was sold to buyers as such. Deeply disappointed that anything short of quality residential looking professional buildings would be even considered let alone built. Expectations are easy as they built professional buildings of high quality right down Highland Blvd.

Really nice city’s such as Park City Utah do not ever lower standards for very wealthy developers attempting to minimize costs and achieve high rent. I assure you Patterson can afford to build quality residential professional buildings as they did before and already set expectations for all of us.

We already have people flying up and down Highland Blvd at over 60mph in 25mph putting children at risk, warehouse space will make this feel industrial not like a neighborhood.

Thanks for keeping me informed Tara. I will attend meetings if I am in town. I will do whatever I can legally, politically, through media and anything else I can think of to prevent this abomination to our very beautiful neighborhood.

Regards,

Jeff and Kay Taylor
1. All developments shall be maintained in conformance with the approved site plans.

2. Construction to conform to Highland City standards and specifications.

3. There are no irrigation ditches on this site that need to be maintained.

4. All utility lines less than 69kV shall be undergrounded with the first phase of the project.

5. All ground-mounted equipment shall be screened / concealed from street view.

6. Plants and trees shall be spaced so that none will interfere with safety and drainage.

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TRASH ENCLOSURE
6" CONCRETE MOW CURB

WOOD MULCH PLANTER

PARKING LOT
FLEX WAREHOUSE

5' PROPOSED SIDEWALK
TREES

EASTERN REDBUD / Cercis canadensis
EMERALD QUEEN MAPLE / Acer platanoides 'Emerald Queen'
SHADEMASTER LOCUST / Gleditsia triacanthos 'Shademaster'

ANNUALS/PERENNIALS

RUSSIAN SAGE / Perovskia atriplicifolia 'Filigran'
STELLA DE ORO DAYLILY / Hemerocallis x 'Stella de Oro'

FEATHER REED GRASS / Calamagrostis x acutiflora 'Karl Foerster'

MUGO PINE / Pinus mugo 'Slowmound'

MIXED SPECIES / Mixed Unspecified

TREE NOTE:
PROVIDE A 4' DIAMETER GRASS FREE AREA AT THE BASE OF TREES INSTALLED IN GRASS AREAS. INSTALL 4" OF WOOD MULCH.
Planning Commission Minutes
July 9, 2019 and April 30, 2019 Meetings

Minutes of the July 9, 2019 Planning Commission Meeting

1. **SP-19-02 & CU-19-02**

*Highland Hideaway Storage is requesting approval of a Site Plan and Conditional Use Permit for a flex office use building located approximately at 11251 N. Sunset Drive.*

Commissioner Kemp opened the public hearing at 7:04 PM.

Nathan Crane gave a brief introduction of petition SP-19-02 & CU-19-02 Highland Hideaway Storage. He stated that the role of staff in the conditional use permit process is to provide a recommendation to the Planning Commission that is based on the Development Code and state law. The Planning Commission duty is to make a recommendation to the City Council. The City Council then acts as the Land Use authority and will make the decision as to whether the conditional use permit is approved. Mr. Crane stated that State law defines and limits the amount of discretion the City Council has on issuing conditional use permits. He stressed that this is a private property rights issue and not a discretionary approval. What matters is if the proposal complies with the Development Code as determined by the City Council. Mr. Crane further stated that Utah State Code defines in section 10-9a-507 what a municipality can do. Mr. Crane also reference case law examples. The Ombudsman’s office for the State of Utah also gives advisory opinion on land use cases prior to litigation. Further information and training to cities concerning conditional use permits is available through the Ombudsman’s office.

Ms. Tannahill reviewed the details of the application. She noted that in the May 28, 2019 meeting, the Planning Commission voted to continue this petition. Since then, there have been changes made to the plan showing updated architectural details including different materials used throughout the building, windows were added to the second floor area and the east and west elevations showed horizontal elements to provide visual relief.

Andrew Patterson, representing the applicant, addressed the commission. He stated that there had been discussions with residents from the surrounding neighborhoods to try and find a compromise. They have added design elements such as stone columns, shuttered and framed windows, and shingled roof. The siding had been updated to have stone, board. It was their desire to optimize a more residential feel at the request of the neighbors. He stated that there is a good feel of residential flavor overall.

Commissioner Abbott asked if there were no way to split the building into smaller building.

Mr. Patterson stated that with the grading and slope, it would not lend to the cohesiveness of the building. It would also make the back bay doors more visible to traffic, which they felt would not beneficial.

Commissioner Abbott asked about the exhibit from 2003 which showed separate buildings on the location, if it were feasible then, why not now.
Wayne Patterson stated that when the exhibit was done, it was unknown what would occupy those spaces but they were required to identify some kind of footprint for the site. The buildings were intended to be changed based on usage. The real estate market drives what type of building is done.

Eric Larsen stated that the applicant has tried to accommodate the concerns of the residents. He felt that the building architecture met the intent of the zone.

Commissioner Abbott asked what were to be the uses of those looking at these buildings.

Mr. Larsen stated that there will be no large trucks or deliveries made to these offices. They will potentially be occupied by a flooring company with showrooms. He further stated that there are a variety of uses that could be in these offices.

Commissioner Abbott asked if there would be professional uses such as those listed in the code such as engineering firms, dentists, etc.

Mr. Larsen stated that with the exception of maybe the dentist, professional offices, fulfillment centers, etc. could use these spaces with offices in the front and files in the back.

Mr. Wayne Patterson – Felt that they have met the criteria of the code. They have tried to address concerns of the neighbors and accommodate their desires. There have been a lot of misconceptions and rumors about what they are going to be building.

Commissioner Kemp opened the public comment period.

Resident Todd Amberry of the Country French subdivision stated that he and his wife recognize that progress must happen. Patterson’s had met with them and addressed concerns that they had with materials used on the building. He is concerned with the use of the building in the future and the type of business in the building. He and his wife still favor the residential style for the building. Traffic is of great concern to him. He would like the Planning Commission and City Council to consider how the additional traffic impacts their neighborhood. What can be done to mitigate this impact? They would like something in writing.

Resident Chris Brown agreed with Todd Amberry. He would like to find a solution so that the proposed building would match what was already built. This is what the residents understood would be built in the commercial area.

Resident Andrew Howlett stated that the look was inconsistent and that the use as proposed was questionable. The appearance of the building looks more industrial. He felt that it devalued the property of the adjacent property owners. He had looked at studies where homes that were within line of site or next to industrial uses were reduced by 15%.

Resident Johanna Warr stated her concern with the amount of traffic on Highland Blvd and the site visibility. She is concerned that something be done to help with the safety do to more traffic being added. She further stated that the landscaping of the first two office buildings of Patterson’s acts to softens the size of the buildings. What are the plans for the landscaping for these buildings?

Resident Steven Evans stated that he was very concerned with the added traffic. He currently owns a building in Sandy City that is similar to this which is called ‘light industrial’. It is called light industrial because of its size. His concern is that it will morph into a retail area because of its size.
Resident Amy Boren echoed all those who were concerned with traffic. She stated that there had already been one fatal accident on 11800 North and Highland Boulevard. She has teen drivers and is concerned with the traffic on Highland Boulevard. She is also concerned with the number of bikers that use Highland Boulevard. Because of the curve in the road, cars need to pull out further into the road to see traffic.

Resident Melanie Westcott was first attracted to the area by the office buildings at the intersection of Timpanogos Highway and Highland Boulevard. She could not understand why they could not continue the plan from 2003 and put in buildings that were similar. She feels that the rising property values in Highland are because of codes that protect the ‘feel’ of Highland as a bedroom community. Melanie thinks that the building looks very industrial in nature and that it needs to be consistent with the intended use of the zone. She referenced the Development Code section 3-4961 stating that in her opinion the building did not meet the criteria of scale, height, bulk, materials, and is monotonous and repetitious.

Resident Manuel Bueno stated that he provided to the Planning Commission a letter from an attorney hired by the residents to interpret the Development Code relative to this application. It is the attorney’s opinion that the flex office space is not permitted in this zone. He felt that the biggest concern of the residents is the look of the building. He felt that there were a number of changes suggested but not implemented.

Resident Ann Sward Hansen remembered when the storage units were approved and constructed. Residents wanted the units set back off the road to be out of sight in light of this also being a residential area. She expressed concern with traffic flow and safety. She asked if it were in the City’s plan to widen Highland Boulevard. Ann stated that a conditional use permit is a request for an exception to a rule. She recommended that there be an independent review of the Development Code, the zoning, and what is legally allowed.

Resident Clyde Redford, a resident in Country French, stated that he did not like the look of the proposed building. Specifically, he felt that it did not look residential in nature. He cannot see where the high demand of a building of this nature is because there are other vacant commercial parcels near Town Center. He felt they should build offices similar to the two that are on the corner of Timpanogos Highway and Highland Boulevard. He is also concerned with the volume of traffic.

Resident Trent Reed of 6252 Apple Cross Circle in Skye Estates expressed his opinion. He stated that the same product is in other communities such as Springville and Holiday, Utah. He has an accounting firm and this type of property is something that they look at. It is a good option for business like his where they can put cubicles in the back area. He liked the industrial feel and noted that some businesses are using the bay doors as a design element. Trent is concerned with traffic but felt that Patterson is doing their best. He also has driving teens. He further stated that as far as the design and architecture goes, you will have as many opinions as there are people.

Commissioner Kemp asked if the applicant had any comments to what had been said.

Wayne Patterson stated that they would be willing to help mitigate legitimate traffic concerns. He did not want to table this item until August.
Commissioner Kemp closed the public hearing.

Commissioner Abbott stated that it would be hard to approve the application as he felt that it did not meet the design review guidelines. He feels that the Introduction: Purpose/Intent verbiage of the PO Zone (3-4901) in the Development Code is not enforceable. There is language that addresses pitched roofs and monotonous repetition. He asked and recommended to Patterson’s that there be 2 buildings. He noted that all elevations did not appear to be architecturally treated. The roof appeared to be a mansard roof and the code did not allow this style of room. Mr. Abbott expressed concern in the occupants of the building units. The code specifically states that there is to be no retail. He asked if a flooring store generates sales, is it not defined as retail. Mr. Abbott suggested that perhaps the Development Code needs to be amended to reflect what is enforceable.

Mr. Abbott referenced a Table 3-47a from the Town Center zone section of the Development Code. He noted that there appeared to be conflicting language on the exhibit.

Mr. Crane stated that when there is conflicting language, such as on this table from the Town Center zone, the language from the Professional Office zone would govern.

Mr. Abbott felt that the application currently does not meet the guidelines of the code.

Commissioner Wright feels that the building would be one that she would look at for her family’s business. She feels that the code is vague as far as its definition of aesthetics. The building appears to be a large, bulk of a building, and with no retail, it will drive who the tenant is. She stated that there can be a sifting of use when a business license is applied for.

Commissioner Campbell stated that the commission should outline the findings as to why they would deny it or approve it with stipulations. He felt that the lists would be the same. The City Council will look at this application based on the findings of the Planning Commission.

Commissioner Abbott also wished to note that under architectural design, the Code specifically states that the location of each building on the site plan is designated on exhibit ‘A’. He noted that this requirement has not been changed. The Code further states that the buildings are to go within these areas.

MOTION: Commissioner Abbott moved to deny the request for SP-19-02 and CU-19-02 based on specific issues that can be resolved before the City Council meeting. Specifically, Section 3-4922 of the Development Code, Architectural Design, the plan does not conform closely to the existing Exhibit A; in the same section under 1a., Overall Architectural Outline, the bulkiness of the building needs to be addressed; in 1b., the proposed building appears to be monotonous and repetitious; 1g. all elevations should be architecturally treated with the exemption of the back; 1i., all the buildings are required to have public restrooms, including a men’s room, women’s room and a handicapped room. Under Conditional Uses section 3-4902, the zone is intended to allow for professional services, not general retail or commercial. In section 3-4919 the roof design cannot be a mansard or fake mansard roof. Commissioner Campbell seconded the motion.

Voting was as follows:

  Yes - Commissioner Jones
The motion carried to deny approval of the SP-19-02 and CU-19-02 application for Conditional Use and Site Plan. This item will be forwarded to the City Council for their consideration.
1. **SP-19-02 & CU-19-02**

   Highland Hideaway Storage is requesting approval of a Site Plan and Conditional Use Permit for a flex office use building located approximately at 11251 N. Sunset Drive.

Continued public hearing –

Ms. Tannahill reviewed the updated architecture elevations and mentioned that the landscaping plan was the same as previously proposed.

Applicant Andrew Patterson explained the new architect plan. He said they had a lot of correspondence with people wanting more office space closer to their home.

Commissioner Kemp said he received many emails from residents who said they wanted something that looked like a higher end house; like the Patterson buildings on the other side of Highland Boulevard. He said the new elevations looked better but was not sure if residents would like it.

Commissioner Campbell recalled favorable comments at the last meeting about splitting the building. He wondered why it was not done. Mr. Patterson explained it was not split due to the uniqueness of the building. He said flex office was usually a continuous building and that maybe he did not understand the request to separate. He said their idea of separation was to give each unit a different “flavor”.

Commissioner Campbell explained that two buildings would make it easier to have a more residential look. He thought that Patterson set high standards with the surrounding neighborhood and other building ½ mile away. Mr. Patterson said it would be difficult to separate the building due to an easement constraining the size and functionality of the building. He noted the request to split the building.

Commissioner Abbott said residents were expecting the same look and standards at this location as the Patterson building on Highland Blvd. He thought the building looked too big and very retail. He said it looked better than the last design but thought it would continue to look like a mini mall because of the size of the building. He said it still did not look residential in nature to him.

Resident Jeanette Eyring agreed with comments from commissioners. She thought the new plan still looked like a strip mall and not residential.

Resident Manuel Bueno cited Section 3-4901 of the Highland Code and thought the long building gave an industrial and prefabricated appearance. He was concerned that Patterson originally called the building a warehouse and did not think it was an applicable part of the code. He cited Section 3-4902 and mentioned that Patterson originally said there could be retail. Mr. Bueno voiced concern with the size of the building and the lack of residential nature. He said Section 3-4926 required that a traffic impact analysis be done at the developer’s expense. He thought there were specific roof codes that had not been addressed. He said the code required the developer to mitigate adverse impact on neighboring properties and did not think that had been addressed. He recommended that the building be smaller or split.

Resident Lorraine Collard concurred with what was said. She thought Highland Blvd was an entry into the city. She thought it would be good for businesses to have the same styling of the homes in the area.
Resident Melanie Westcott cited Section 3-4922 and said the existing buildings were a stark contrast to what was being proposed. She recalled being told that anything outside the neighborhood would look residential like the existing building on Highland Boulevard. She agreed with the previous statements from residents. She said it was disappointing to see that Patterson wanted to build something that looked like a strip mall. She said it looked better than before but did not look residential.

Resident Samantha Kirby wondered what the back elevation looked like and thought it would look like a warehouse. She also wondered about parking.

Commissioner Kemp asked for additional public comments. None were offered. He asked for commissioner comments. He asked if a traffic study was needed. Mr. Crane recalled that a traffic study was provided with the overall site plan. He said the city engineer did not feel that it was needed because of the size of building and access to an arterial street.

Commissioner Jones wished there was a way to make it look acceptable without completely rejecting the design.

Referring to Section .2b of the Utah State Code Conditional Use list, Commissioner Ball said that if the residents of Country French Estates, Ivory Homes, and Bull River purchased their property based on the understanding and intent of the area, they had a reasonable expectation of the developer to be consistent with that. He could understand the point of diminishing property values. He said he wanted to preserve the quality of life that was promised by the developer and that it was the same developer who applied for the conditional use.

Mr. Crane talked about the need to reasonably mitigate the impact, but not necessarily eliminate it. He thought precedent was not relevant in approval or denial of a conditional use permit.

Commissioner Abbott suggested having two or three buildings. He did not think the building met the code because it still looked commercial, not residential.

Commissioner Bills thought it looked better than before. She pointed out that it was not zoned as residential, but that it needed a residential feel.

Commissioner Wright could see a definite intent to improve. She talked about the plans for the back of the building and the need to make it look less commercial but acknowledged that it would have the large doors because of the intent of use for the building. Ms. Wright did not see anything breaking city code except preference in residential design. She understood that the planning commission only addressed adherence to city code.

Commissioner Campbell thought the developer met the burden that they needed to meet for the planning commission. He said he could still recommend other things to make the building look better.

Commissioner Kemp said he agreed with what had been said and sympathized with residents if they were expecting something else. He said the planning commission could not dictate architecture if it met the requirements in the code.

Resident Sherry Cramer said she thoroughly researched extensively and thought the planning commission had more say than they thought they did. She said they could ask the developer to make it more residential.
Resident Melanie Westcott asked for clarification. She referred to the residential feel as defined in Section 3-4922. She wondered why the commissioners could not recognize that it was being interpreted by the residents as not having a residential feel. She said it looked like a strip mall. She talked about Park City and thought Highland should be modeling itself after cities that succeeded in keeping a charm and not concede because developers wanted them to. Commissioner Campbell explained that he assumed that any recommendation the planning commission made would need to be defended in court. If he had to defend it, he wanted to be able to defend it based on his conscience based on what he believed. He thought the developer could do better but could not say that they did not meet the code as he interpreted it.

Mr. Crane explained that Park City had very specific standards in their code. He said in the downtown area they dictated type of roof, finishing, and other details. He explained that Highland did not currently have that level of detail in the zone. He said a specific standard could be adopted prior to a submitted application.

Resident Jeanette Eyring sent a picture of the existing Patterson building and thought the residents agreed with that style. She said the proposed building looked very different.

Resident Teri Jerman said the warehouse look of the building on the back would influence property values in the area.

Commissioner Kemp closed the public hearing at 7:54 PM and called for a motion. After considering details, like including shutters, staggered elevation, and residential windows, the planning commission asked what Mr. Patterson preferred. Mr. Patterson said he took a lot of notes and would be happy to have a continuation.

MOTION: Commissioner Jones moved to continue the public hearing of the conditional use permit to allow the applicant to present a different plan with a more residential feel on May 28. Commissioner Campbell seconded motion. All were in favor. The motion carried unanimously.

Commissioner Kemp suggested that Mr. Patterson meet with staff and possibly residents to review specific comments and suggestions about the residential feel of the building. He said the city wanted to make it a win/win for everyone.
LeBaron (lot 4): 4843 square feet
Spack (lot 5): 2903 square feet + 58142 square feet of the big lot
Newman (lot 6): 1950 square feet
Hutchings (lot 7): 2025 square feet
?? (lot 8): 3225 square feet

NOTE: These numbers are approximate, there are 1500 (out of 88,523) square feet un-accounted for in my calculations, but these numbers do give a reasonable feel for comparison.

1.2 Street
1.2.1 To be deeded to the City of Highland

1.3 Water

Due to a failure of the Homeowners Association to pay for yearly assessments by the Highland Conservation District, the shares of water owned by the Homeowners Association were offered by the District to the City of Highland. The City has paid these back assessments and thus has assumed control of those shares. However, since Highland Conservation water is not currently separable from the land it was originally attached to, this water is technically still owned by the Homeowners Association. If desired it is likely that we could re-obtain control of this water by paying the fees that the city has paid over the past few years (about $450). The fees for this year will be $13 per share.

There are nine water shares to be shared by the Homeowners Association, the Gagon family, and the owner of the duplex.

Discussion and a decision needs to be made on this subject.

1.4 Tractor
1.4.1 To be liquidated as possible and proceeds divided evenly (1/7th per home unit) among current members of the association.

1.5 Any and all other assets
1.5.1 To be liquidated as possible and proceeds divided evenly (1/7th per home unit) among current members of the association.
1.5.2 A meeting of the association may be called to decide the fate of any significant assets as needed.

I need to know if everyone thinks we should remain a PUD or to dissolve it (since it wouldn’t hold any assets). The decision on the water may affect this. Whether there needs to be an entity to be the lien holder on the big lot may affect this too. The following paragraph would be added if we’re going to dissolve it:

2 The Briarwood Ranches Homeowners Association only continue to exist long enough to fulfill the wishes of its members as outlined above at which time it would cease to exist.
The City Council should conduct a public hearing debate the issue and determine if the Development Code should be amended.

BACKGROUND:
Sugar Sweet Produce is a temporary produce stand that operates from June to September. It was previously located at 5452 W 11000 North. In August of 2016, the stand moved to the northwest corner of 6000 West and Timpanogos Highway due to the construction of Quick Quack Car Wash. Temporary Use Permits were approved inadvertently at this location in 2017. Staff recognized the error in 2018 and informed Mr. Jackson that 2018 would be the final year a Temporary Use Permit would be allowed at this location since it was a residential district. The produce stand was opened in 2019 without any approvals. In late June 2019, Mr. Taylor applied to amend the Temporary Use Regulations.

A development code amendment is a legislative process.

SUMMARY OF THE REQUEST:
1. The proposed amendment would allow produce stands to operate in a residential zone along an arterial street subject to a temporary use permit.

Amended Section 3.623.1.D

General Provisions

D. Temporary uses shall only be permitted in the C-1, CR, and the Town Center Overlay zoning districts. Temporary Uses are prohibited in residentially zoned areas except those with certain institutional uses, regardless of the zoning designation, AND PRODUCE STANDS WHEN ADJACENT TO ARTERIAL STREETS. Institutional uses include, but are not limited to: public or quasi public sites, city parks, city buildings, and public schools.

ANALYSIS:
Currently, the development code only allows temporary uses in the C-1, CR, and the Town Center Overlay zone. With the development of these zones the available vacant land is decreasing.

The proposed amendment will only allow produce stands and Institutional uses in residential zones. All other temporary uses will need to be in the C-1, CR, or Town Center Overlay zone.

Currently, Highland has four arterial streets: Highland Boulevard, Timpanogos Highway, Alpine Highway, and North County Blvd.

CITIZEN PARTICIPATION:
Notice of the Planning Commission public hearing was published in the June 23, 2019 edition of the Daily Herald. Notice of the City Council public hearing was published in the July 21, 2019 edition of the Daily Herald. We have received one comment not in favor of the wording and two comments in favor.

PLANNING COMMISSION ACTION:
The Planning Commission held a public hearing on July 9, 2019. There was one comment in opposition of the proposed amendment due to concerns about safety with pedestrians crossing the street. The Commission voted 6 to 0 to recommend approval of the text amendment.

Subsequent to the Planning Commission action staff has made a minor revision to the amendment to reduce the number of locations a produce stand could be located as follows:

“...AND PRODUCE STANDS WHEN LOCATED ON INTERSECTING ARTERIAL STREETS AND THE INTERSECTION OF ARTERIAL STREETS AND MINOR OR MAJOR COLLECTOR STREETS.”

This would reduce the number of possible locations to seven(7).

RECOMMENDATION AND MOTIONS:
The City Council should debate the issue and determine if the Development Code should be amended. If the Council chooses to approve the amendment, staff would recommend adding the additional language limiting the locations.

I move that the City Council accept the findings and ADOPT the ordinance amending Section 3-623 of the Development Code.

I move that the City Council DENY case TA-19-04, a request for a text amendment for Temporary Uses based on the following findings: (The Council 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 3.623 Temporary Uses
3. Narrative
4. Citizen Comment
5. Highland City Map demonstrating possible locations
ATTACHMENT 1:  

ORDINANCE NO. O-2019-12

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING HIGHLAND CITY DEVELOPMENT CODE SECTION 3-623 AS SHOWN IN TA-19-04

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 July 9, 2019; and

WHEREAS, the City Council held a public hearing on this Ordinance on August 6, 2019.

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

SECTION 1. That Section 3-623 General Regulations of Temporary Uses of the Highland City Development Code, is hereby amended as follows:

Amended Section 3.623.1.D

General Regulations

D. Temporary uses shall only be permitted in the C-1, CR, and the Town Center Overlay zoning districts. Temporary Uses are prohibited in residentially zoned areas except those with certain institutional uses, regardless of the zoning designation, AND PRODUCE STANDS WHEN LOCATED ON INTERSECTING ARTERIAL STREETS AND THE INTERSECTION OF ARTERIAL STREETS AND MINOR OR MAJOR COLLECTOR STREETS. Institutional uses include, but are not limited to: public or quasi public sites, city parks, city buildings, and public schools.

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. This Ordinance shall become effective immediately after posting.

SECTION 4. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct, and independent of all other provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Highland City Council, August 6, 2019.
HIGHLAND CITY, UTAH

_________________________________
Rodney W. Mann, Mayor

ATTEST:

_________________________________
Cindy Quick, City Recorder

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<th>COUNCILMEMBER</th>
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3-623 Temporary Uses

In addition to regulating uses, which are permanent in nature, it is the intent of this section to provide for certain temporary uses for limited periods of time. The purpose of this section is to establish the standards, regulations, procedures, and review criteria, which shall be used when considering an application for a temporary use permit.

1. General Regulations.

   1. No temporary use permit shall be granted until adequate assurances have been provided ensuring compliance with the provisions of this section and all other applicable city codes.
   2. Temporary uses shall be consistent with the intent and purpose of this section and not to be detrimental to surrounding properties.
   3. Temporary uses shall obtain a Highland City business license.
   4. Temporary uses shall only be permitted in the C-1, CR, and the Town Center Overlay zoning districts. Temporary Uses are prohibited in residentially zoned areas except those with certain institutional uses, regardless of the zoning designation. These institutional uses include, but are not limited to: public or quasi public sites, city parks, city buildings, and public schools.

2. Permitted Temporary Uses. The following uses shall be permitted upon receiving the appropriate approvals and the granting of a temporary use permit by the city.

   1. Christmas tree sales, snow shacks, produce stands, firework stands, or similar seasonally related events;
   2. Off-site commercial sales events;
   3. Temporary retail sales;
   4. Such other uses as the city may deem to be within the intent and purpose of this section.

3. Application Process, Fees, Noticing. Application for a temporary use permit shall be made on forms obtained from the Zoning Administrator. Application for a temporary use permit shall be made by the property owner of a duly authorized agent and a filing fee shall be charged and collected at the time of application submittal. The Zoning Administrator may require additional information deemed necessary to understand the application.

   1. Those temporary uses which meet the following criteria in the opinion of the city do not require posting and may be approved subject to the appropriate conditions. The criteria are as follows:
      
      1. The use and/or structure complies with all applicable codes and ordinances;
      2. The use and/or structure does not interfere with pedestrian access ways, fire lanes, driveways, landscaped areas, or traffic visibility at driveways or street intersections;
      3. The use and/or structures are compatible with surrounding land uses;
      4. Parking on the property is adequate to serve any existing permanent use and the temporary use; and
      5. The temporary use shall only be conducted between the hours of 7:00 a.m. and 11:00 p.m.

   2. Those temporary uses which do not meet the above criteria in the opinion of the Zoning Administrator, shall be posted by the city for public notification within five (5) working days following application submittal and shall be subject to the appropriate conditions.

   3. Application for a temporary use permit shall be reviewed by the Zoning Administrator who shall approve, conditionally approve, or disapprove such application no sooner than five (5) and no later than eight (8) working days from the date of posting where applicable and...
no later than three (3) working days from receipt of application when no posting is required.

4. An application for a temporary use shall only be approved if the Zoning Administrator finds that it meets the requirements herein.

5. Approval may be made subject to further conditions deemed necessary to assure that all adverse impacts to the surrounding properties are minimized to the fullest extent possible. Conditions to be considered may include, but are not be limited to, the following:

   1. Regulation of parking, dust control measures and site lighting;
   2. Regulation of hours of operation;
   3. Regulation of site ingress and egress;
   4. Assurance of compliance with building, fire, electrical and all other appropriate codes; and
   5. Such other conditions deemed necessary to carry out the intent and purpose of this section.

6. The city shall notify the applicant of the decision in writing and shall state any conditions for approval or reasons for denial on said letter.

7. All temporary use permit approvals shall be made subject to a time limit as set forth by the city. In no event shall a temporary use permit be granted for longer than six (6) months. Upon expiration of the time limit set forth at the time of approval, any continuation of the use shall require the submittal and approval of a new application.

8. Upon expiration of any temporary use permit, any permit holder wanting to extend the length of the permit shall be required to re-apply for a new temporary use permit. Temporary use permit renewals shall be approved for a period not to exceed three (3) months. All temporary uses lasting six (6) weeks or over shall not be renewed more than once within a one-year period.

9. Upon cessation of the use or expiration of the permit, whichever occurs first, the premises will be promptly cleaned and restored to substantially the same condition existing prior to commencement of such use.

4. Appeals. Upon receiving notification of the decision, the applicant, any citizen or any party in interest, aggrieved by the decision may file with the city a written notice of appeal to the Planning Commission within seven (7) calendar days of the decision. Upon appeal, all material in the matter shall be filed by the city with the Planning Commission. The Commission may then review the case and based upon the information, uphold the action of the staff, remand the matter back to staff with instructions for further review or overturn the action of the staff. The Commission’s decision shall be limited to whether or not the proposed use meets the criteria set forth in this section.

(Ord #2011-TBD, 3/01/11)
Sugar Sweet Produce

For Highland City

20th June 2019

Narrative summarizing the proposed text amendment and the purpose of the request.

I am proposing an exception or grandfather clause for allowing of sale of fresh fruits and vegetables on the south east corner of 6000 West Timpanogos Highway, Highland, UT. This will have no effect on the current zoning and only apply to the months of operation, June-September. This exception will continue indefinitely as long as a produce company obtains a licence and temporary use permit each year. It applies only to the sale of fresh fruits and vegetables and will not permit the sale of any other products or at any other locations.

No permanent changes of any kind will be made to the lot. A temporary structure made of metal and cloth mesh anchored down by 55 gallon drums will be placed there for the months of operation.

A fresh fruit and vegetable stand has been running during the proposed months for the past 2.5 years without issue. I am asking to be grandfathered in and continue business in the exact way I have in the past.

Benefits to the city and community include maintenance of the property by mowing the weeds and keeping the property free of trash. The lot immediately across the street is littered with trash and overgrown weeds causing a fire hazard. I have been doing business in Highland for over 10 years and have many citizens who are loyal customers. They have come to rely on us as a staple for their summer BBQ’s and family gatherings, not to mention their canning and wholesome food storage for the winter months.

The residential home bordering the property is owner by the Purser’s. They are in support of this change. I have attached an email from them confirming their position.

Thank you for your consideration in this matter.

Tyler Jackson
Temporary Use Permit Narrative

1. Sugar Sweet Produce is applying for a temporary use permit to sell fresh produce on the corner of 6000 W Timpanogos Hwy.
2. Dates of use will be June 4-September 4
3. Hour of operation will be from 9 am-7 pm
4. Structure being used will be a canopy anchored by 50 gallon metal water barrels.
5. NA—Vacant lot
6. Structured will be located on a vacant lot. Plenty of parking will be available.
7. No site lighting will be used.
8. Traffic will not be impacted by the temporary structure.
9. Sugar Sweet Produce will clean area nightly and all structures will be removed upon termination of use in September.
Email from Anna Purser dated June 18, 2019:

Dear Highland City,

We live on the property that borders the empty lot on the southeast corner of Timpanogos Highway and 6000 W. I’m writing to let you know that we have enjoyed having the produce stand next door to us for the past few years. It doesn’t cause any problems with traffic or parking, it contributes to a small town feel, and the produce they sell is good quality and nice to have convenient access to.

I thought I would share my thoughts in case it has any bearing on your decision to grant them the right to continue selling in that location.

Thank you so much,

Anna Purser

Email from Doug Cortney dated July 7, 2019:

I’m concerned about the temporary use amendment under consideration 7/9. It isn’t that I object to allowing produce stands adjacent to arterial streets in a residential zone but rather that this seems to give preference to produce stands with no objective reason for doing so.

A produce stand seems no more residential in nature than, say, a snow shack (which, along with produce stands, is an enumerated use in the ordinance). A produce stand doesn’t seem likely to draw more traffic or otherwise to have a smaller impact on the residential zone.

Given that temporary are already prohibited from being detrimental to surrounding properties, it seems to me that we should either allow temporary uses adjacent to arterial streets in residential zones or we should not.

I’m bothered by the idea of crafting an ordinance such that it benefits but a single entity, which is what the proposed amendment seems to do.

If we want to amend the ordinance, I think it would be better to add 3-623(1)(5) permitting temporary uses in residential areas if the temporary use is adjacent to an arterial street. This provides the requested benefit to Tyler Jackson without favoring Sugar Sweet Produce over, say, “Sweet and Syrupy Snowcones” or “Sugar Pine Christmas Trees.”

- Doug

Letter from Dan Symmes dated July 18, 2019:

Highland City:

Hi folks…just wanted to send a note of support regarding the Produce Stand located at junction of 92 and 6000 west. We (this household) appreciate their produce in that location. It gives a little ‘down home’ and ‘country’ feel in our area… although very little of that remains here now. Hope it can stay.

Dan Symmes, 4757 W 11200 N Highland
MAP 3-2
RECOMMENDED TRANSPORTATION NETWORK

- 5-Lane Arterial - Constructed
- 5-Lane Arterial - Proposed
- 3-Lane Major Collector - Constructed
- 3-Lane Major Collector - Proposed
- 3-Lane Minor Collector - Proposed
- 2-Lane Residential Collector - Constructed
- 2-Lane Residential Collector - Proposed
- Other Jurisdiction (State, County, Municipal)
- Highland City
- Existing Signals
- Planned Signals
City Council approve the option to trap and euthanize deer as a removal method for the Urban Deer Control Program.

BACKGROUND:
Highland City Council in August of 2013 approved a Plan in conjunction with the Division of Wildlife Resources (DWR) for an Urban Deer Control Pilot Program. This program was for the 2013-2014 fall hunting seasons. DWR approved the continuation of the program for the 2015-2017 fall hunting seasons.

During a City Council Meeting on February 6, 2018, Brian Cook, Urban Deer Control Program Coordinator presented an update to the Council regarding the success of the program. He reported that specialists had donated 754 hours of labor to the program and 160 animals had been removed. He reported that he would like to continue as the Program Coordinator over the specialists and would work with City Staff, Lone Peak Police Department and families in need of the donation of meat. City Council approved the continuation of the Urban Deer Control Program for the 2018 – 2021 fall hunting seasons.

During the 2019 fall hunting season Brian Cook would like to offer a new option for the Urban Deer Control Program. DWR no longer allows for the trapping and relocation of deer. The death rate of these deer and risk of moving diseased animals and infecting groups of deer in other areas was too high. However, the traps used for this program can be beneficial for the removal method of Trapping and Euthanizing. This option can be utilized in smaller areas where deer frequent but lethal removal of the deer using archery equipment is very difficult and unsafe. For example, Hidden Oaks has no fences and connecting yards. It would be very difficult and unsafe to use archery equipment as a removal method in these areas. However, he has been monitoring this area because there are at least 20 deer that frequent the area on a regular basis. Using the Trap & Euthanize option would be a much safer option for deer removal in this type of area. Specialists could trap the deer and remove it by morning.
FISCAL IMPACT:
The cost to trap and euthanize a deer is $75/animal. If specialists were able to remove 20 deer in the Hidden Oaks Subdivision this season it is estimated that the increased cost to this budget would be $1,500.00. This cost includes bait and camera monitoring. The budget will be formally amended in December as part of the biannual amendments after the completion of the program and the actual costs are known.

PROPOSED MOTION:
I move that City Council approve the option to Trap & Euthanize deer as a removal method for the Urban Deer Control Program with the cost of $75.00/animal for the remaining of the program year, ending in 2021.

ALTERNATIVE MOTION:
I move that City Council approve the option to Trap & Euthanize deer as a removal method for the Urban Deer Control Program with the cost of $75.00/animal, not to exceed $1,500/year for the remaining of the program year, ending in 2021.