

Highland City Planning Commission

July 9, 2019

APPROVED September 24, 2019

The regular meeting of the Highland City Planning Commission was called to order by Planning Commission Chair, Christopher Kemp at 7:04 PM on July 9, 2019. An invocation was offered by Commissioner Campbell and those assembled were led in the Pledge of Allegiance by Commissioner Bills.

PRESENT: Commissioner: Christopher Kemp
Commissioner: Ron Campbell
Commissioner: Sherry Carruth
Commissioner: Brittney Bills
Commissioner: Claude Jones
Commissioner Alternate: Audrey Wright

EXCUSED: Commissioner: Jerry Abbott
Commissioner: Tim Ball

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

OTHERS: *See attached attendance list*

PUBLIC APPEARANCES

Chair Kemp asked for public comment. None was offered.

PUBLIC HEARING ITEMS

1. TA-19-04
A request by Tyler Jackson to amend Section 3-623 Temporary Use Permits to allow Produce Stands in residential districts.

Commissioner Kemp opened the public hearing at 7:06 PM.

Ms. Tannahill explained that there was a request to allow produce stands as a temporary use in residential zoning along arterial streets. Crane explained that the city reviewed applications to ensure there was proper parking, access to the site, that public safety requirements were met, and that the applicants had a business license. He said arterial streets in Highland were SR-92 (Timpanogog Highway), SR-74, North County Boulevard, and 100 East.

Commissioner Campbell wondered about the word ‘adjacent’. He thought ‘adjacent’ meant that there was something between the stand and the road. He wondered if ‘adjoining’ would be a better word to use since the idea was that the stands would be on the arterial streets. Mr. Crane thought using ‘adjacent’ worked fine.

Mr. Crane noted that regardless of where the stands were, they would need property owner permission.

Resident Helene Pockrus talked about drivers dashing across the highway, parking on the wrong side of the street, and messing up traffic. She talked about the noise on 92nd and thought fruit stands would be one more thing that would cause traffic issues. She thought it was a real safety hazard.

Applicant Tyler Jackson mentioned that he owned the Sugar Sweet stand. He said there was a grandfather clause which only allowed his stand in one location, which was fine for him. He said it was his fourth summer in the same location, that it had not cause traffic problems, and that it was a critical piece of what he did. He said he had many Highland customers.

Commissioner Bills asked about the wording in the proposed code amendment. Mr. Crane explained that, because of the application, the amendment would only allow produce stands in residential districts. He said other stands would be permitted in the C-1, CR, and the Town Center Overlay zoning districts.

Commissioner Wright wondered about individuals who sold produce from family gardens. Mr. Crane explained that the requirements and amendment only applied to commercial uses.

Commissioner Kemp asked for additional comments. Hearing none, he closed the public hearing at 7:19 PM and called for a motion.

Commissioner Wright asked about the mentioned traffic issues. Mr. Crane explained that the city reviewed each application and site plan to ensure that there was adequate ingress and egress, that it was far enough away from intersections, and as safe as possible.

Commissioner Bills wondered if the city would have to permit other uses in residential districts in the future. Mr. Crane said the Planning Commission would need to have a discussion if other applications were received.

MOTION: Commissioner Jones moved that the Planning Commission accept the findings and recommend approval of the proposed amendment to Highland City Development Code Section 3-623. Commissioner Wright seconded the motion. Commissioner Kemp, Commissioner Bills, Commissioner Campbell, Commissioner Carruth, Commissioner Jones, and Commissioner Wright were in favor. None were opposed. The motion carried.

DISCUSSION

2. R&J HIGHLAND ESTATES

Discussion and direction regarding the concept plan for a 70-lot subdivision to be known as R&J Highland Estates Subdivision. The property is approximately 64.46 acres and is located at 9968 N 6630 W.

Ms. Tannahill reviewed some of the proposed changes to the application. She said there were now 70 lots with no access to the trail on the east. She said staff recommended adding a knuckle between lots 61 and 62 to discourage southbound traffic, adjusting the connection to 9810 N in order to meet engineering requirements, and keeping access to 10250 N.

Bruce Baird, counsel for R&J Highland Estates, talked about the previous application that the Planning Commission recommended denial. He said the new concept plan was 100% compliant with the code. He said his client was willing to agree to the three requests from staff. He said there was zero ability for the city to turn the project down and that the developer would not provide a park. He said his client was willing to slow-walk the subdivision request if the city was willing to fast-track a reconsideration of the rezone to 30,000 sf lots. Mr. Baird said that if the city approved a 30,000-sf rezone that was not subject to a referendum his client would withdraw the current application for the concept plan. Until that happened, his client insisted on fast-tracking the application for the current concept plan. Mr. Baird said his client would rather do what he first proposed with 30,000 sf lots. Mr. Baird did not understand why a city would not want a 7-acre park.

Commissioner Campbell thought Highland had trouble taking care of current parks, so an additional park was not that alluring to him.

Mr. Crane explained that it was a concept plan and would still need to go through the engineering review process. He said the developer asked to address the commissioners because of comments made with the last request. They thought it was prudent to get comments with the concept plan. Commissioner Kemp said that the Planning Commission would have no choice to approve the application if it met the code.

TRAINING

3. Mr. Brent Bateman from the Utah Property Ombudsman Office will discuss current State Law as it relates to the review and approval of Conditional Use Permits.

Mr. Bateman explained that his job was to protect the property rights of the citizens of Utah. He said the main goal was to keep citizens and cities from being in law suits with each other. He said the underlying right of property owners was to use the land any way they wanted to, except for local zoning laws. Property rights were violated when cities impose rules, requirements, or restrictions that were not in the ordinances. He explained that a legislative action would be one that changed the law and an administrative action was one that applied the law. Mr. Bateman explained that a CUP (conditional use permit) was an administrative action. He talked about public comment for conditional use applications and said considering public clamor when

deciding about an application at the administrative stage was not legal. He said there was no room for subjectivity. He mentioned that denying a CUP should be rare. He talked about Planning Commission responsibilities to make recommendations to update the code.

Commissioner Wright wondered about the circumstances in which a CUP application would be denied. Mr. Bateman explained that it would be denied if it was illegal in the zone or if it was impossible to impose conditions to mitigate the detrimental effects. He said the conditions would have to relate back to the code.

Commissioner Jones wondered when something would be subject to interpretation. Mr. Bateman explained that it was very limited. He said there was a difference between interpretation and discretion. He said discretion was preference and that there was very little room for it. Mr. Bateman gave the example of mitigating the detrimental effects of a dog kennel. He explained that a condition relating to noise could not be imposed if there was nothing in the code regarding noise.

Mr. Crane mentioned his proposal to do away with CUPs. Mr. Bateman mentioned that some cities eliminated all CUPs from their city code and other cities just eliminated some CUPs. He suggested reviewing and considering what was best for Highland. He suggested reviewing conditional use codes from Midvale, South Salt Lake, and Weber County. Mr. Bateman offered his services and suggested that the commissioners call him if there were questions.

PLANNING COMMISSION AND STAFF DISCUSSION ITEMS

4. DEFINITION OF A FAMILY and 5. ACCESSORY DWELLING UNITS

Mr. Crane explained that there was a proposal in 2010 or 2011 by the council to make basement apartments easier for residents. He said the intent was to circumvent the building code and the zoning process approvals for basement apartments. He said as a result, the council adopted a modification to the definition of family. Mr. Crane reviewed the current definition of a family and explained that two families living under the same roof was permitted. He said basement and above garage apartments were currently allowed as conditional use permits, but detached dwelling units were not. He explained that some things were problematic such as separate utilities, separate entrances, and off-street parking requirements. Residents were ignoring the separate utilities requirement because it was cost prohibitive. He also mentioned that there needed to be compliance with the building code, which included fire separation like a fire wall.

Mr. Crane explained that lately the city received a lot of calls about apartments because of parking, owners occupied vs. multiple renters, or other issues. Additionally, he said there was recent legislation adopted by the state for moderate income housing. He said the commissioners would see a proposed general plan amendment in the fall with strategies of handling housing issues. He said proposed changes would include modifying the definition of a family and change basement apartment regulations to accessory dwelling units with a certificate of occupancy process that required off-street parking. He said utilities were currently in the owner's name regardless of who was living at the unit. Mr. Crane said fire separation would still be required

and that the commissioners and council would need to decide if dwelling units should be owner occupied or not.

When asked his opinion, Mr. Bateman thought the proposed changes to the family definition and apartment units looked good. He suggested broadening it from basement apartments to all accessory dwelling units and to define who was permitted to live there.

Mr. Crane talked about detached units including yurts and tiny houses. He said it was important for the commissioners and council to consider what would be permitted in the future.

Resident Brian Braithwaite thought that if an owner did not live in the dwelling unit, but it was occupied by two different renters, the unit should be defined as a duplex. He pointed out that duplexes were not permitted in Highland. When asked to voice his opinion, he thought that a unit that was owner occupied would be better taken care of. He thought a rental on the top and bottom would eventually run into problems and would negatively impact other property owners.

Mr. Crane mentioned that staff would bring draft revisions in August.

OTHER BUSINESS

Election of Planning Commission Chair position

MOTION: Commissioner Campbell nominated Chris Kemp as the Planning Commission Chair. Commissioner Jones seconded the nomination. All present were in favor. None were opposed. The nomination carried.

MOTION: Commissioner Kemp nominated Ron Campbell as the Planning Commission Vice Chair. Commissioner Wright seconded the nomination. All present were in favor. None were opposed. The nomination carried.

APPROVAL OF MINUTES

MOTION: Commissioner Campbell moved to approve the June 25, 2019 minutes. Commissioner Jones seconded the motion. All present were in favor. None were opposed. The motion carried.

ADJOURNMENT

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

The meeting was adjourned at 8:28 PM.

