



HIGHLAND PLANNING COMMISSION AGENDA

TUESDAY, AUGUST 27, 2024

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

VIRTUAL PARTICIPATION

YouTube Live: <http://bit.ly/HC-youtube>

Email comments prior to meeting: planningcommission@highlandcity.org

7:00 PM REGULAR SESSION

Call to Order: Chair Audrey Moore

Invocation: Commissioner Christopher Howden

Pledge of Allegiance: Commissioner Trent Thayn

1. UNSCHEDULED PUBLIC APPEARANCES

Please limit comments to three minutes per person. Please state your name.

2. CONSENT ITEMS

Items on the consent agenda are of a routine nature. They are intended to be acted upon in one motion.
Items on the consent agenda may be pulled for separate consideration.

a. **Approval of Meeting Minutes** *General City Management*

Heather White, Deputy City Recorder

June 25, 2025, Planning Commission meeting minutes

3. ACTION ITEMS

a. **PUBLIC HEARING/ORDINANCE: Text Amendment - HB 476 (Water-Wise Notice, Subdivision Process, Sidewalk Assurances) Development Code Update (Legislative)**

Rob Patterson, City Attorney/Planning & Zoning Administrator

The Planning Commission will hold a public hearing to consider amendments to the Highland City Development Code due to state law amendments found in HB 476.

b. **PUBLIC HEARING/ORDINANCE: Text Amendment - Building Permit Public Improvements Development Code Update (Legislative)**

Rob Patterson, City Attorney/Planning & Zoning Administrator

The Planning Commission will consider amendments to the Highland City Development Code clarifying public improvement requirements for undeveloped lots.

4. COMMUNICATION ITEMS

Communication items are informational only. No final action will be taken.

a. **General Plan Update** *Jay Baughman, Assistant City Administrator/Community Development Director*

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 Planning Commission may participate electronically during this meeting.

CERTIFICATE OF POSTING

I, Rob Patterson, the duly appointed Planning and Zoning Administrator, certify that the foregoing agenda was 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 Planning Commission, staff and the public.

Posted and dated this agenda on the 22nd day of August, 2024

THE PUBLIC IS INVITED TO PARTICIPATE IN ALL PLANNING COMMISSION MEETINGS.
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HIGHLAND PLANNING COMMISSION MINUTES

TUESDAY, June 25, 2024

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

VIRTUAL PARTICIPATION

YouTube Live: <http://bit.ly/HC-youtube>

Email comments prior to meeting: planningcommission@highlandcity.org

7:00 PM REGULAR SESSION

Call to Order: Chair Audrey Moore

Invocation: Commissioner Claude Jones

Pledge of Allegiance: Commissioner Trent Thayn

The meeting was called to order by Commissioner Audrey Moore as a regular session at 7:00 pm. 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 Commissioner Jones and those in attendance were led in the Pledge of Allegiance by Commissioner Thayn.

PRESIDING: Commissioner Audrey Moore

COMMISSIONERS

PRESENT: Jerry Abbott, Christopher Howden, Claude Jones, Trent Thayn, Sherry Kramer

CITY STAFF PRESENT: City Attorney Rob Patterson, City Deputy Recorder Heather White

OTHERS PRESENT: Jon Hart, Catherine and Cory Hundley

1. UNSCHEDULED PUBLIC APPEARANCES

Please limit comments to three minutes per person. Please state your name.

None was offered.

2. CONSENT ITEMS

Items on the consent agenda are of a routine nature. They are intended to be acted upon in one motion. Items on the consent agenda may be pulled for separate consideration.

a. **Approval of Meeting Minutes** *General City Management Heather White, City Deputy Recorder*
May 28, 2024, Planning Commission meeting minutes

Commissioner Howden moved to approve the May 28, 2024 meeting minutes. Commissioner Thayn seconded
Highland Planning Commission Minutes ~ June 25, 2024

the motion. All present were in favor. The motion carried unanimously.

3. ACTION ITEMS

a. PUBLIC HEARING/ORDINANCE: Swimming Pool Regulation Amendments *Land Use (Legislative)*

Rob Patterson, City Attorney/Planning & Zoning Administrator

The Planning Commission will consider amendments to swimming pool regulations related to setbacks and fencing requirements.

Mr. Patterson explained that the goal of the amendments was to consolidate the residential zones' swimming pool regulations into a single code section, clarify setback requirements for pools and pool accessories, and to modify pool fencing requirements to align with current construction code. He reviewed proposed amendments to setbacks and fencing regulations. Mr. Patterson explained that he recently had a discussion with residents who requested a five-foot setback and pool installation within the public utility easement (PUE) if conduit was installed.

Commissioner Moore opened the public hearing at 7:16 PM and asked for public comment.

Resident Catherine Hundley said she had an unusual lot and researched a lot of other cities' pool regulations. She said most cities in the county had four- to six-foot setbacks, except for Alpine which granted regular variances. She said the International Building Code set the standard as a five-foot setback. She understood the need for the PUE and the desire to protect the integrity of the neighborhood. She thought the added noise of a pool was minimal. She supported the proposed changes. Commissioner Moore asked about the safety of conduit in a five-foot PUE and talked about her neighbor's pool that leaked for ten years. Ms. Hundley said she wasn't an engineer, but believed other cities thought it was safe because of the regulations they adopted. She said she would be willing to install the conduit closer to the outer fence line.

Resident Cory Hundley also talked about his unusual lot. He discussed current setbacks and said there was plenty of room for a pool, but not enough room for a pool plus the ten-foot setback. He thought it might be a consistent problem for residents. He thought there was plenty of room for a pool and that they could do it responsibly with a five-foot setback. He thought the ten-foot setback might have come from an era when there were a lot of larger lots. He pointed out that there was a lot of high-density housing with houses only six feet apart with room to run utilities. He thought a ten-foot setback was excessive.

Commissioner Abbott thought the ten-foot easement was for digging equipment, if needed. The commissioners considered how much room was needed to access utilities and conduit. Commissioner Abbott pointed out that five feet was not enough room in a utility easement. Commissioner Thayn mentioned that it was the layout of the house that made the lot difficult. He pointed out that cities rarely used utility easements, but when they did, they used all of it. Mr. Hundley thought the ten-foot restriction was a significant limitation, especially if it was hardly ever used. Mr. Patterson mentioned that utility easements were sometimes vacated after obtaining approval from all utility entities. He talked about the process for doing so. The commissioners thought it might be a good solution. They talked about the possibility of a five-foot setback as long as it was not in a PUE. Ms. Hundley was told that all utilities were on the plat but the city also had record of them. Commissioner Howden wondered if there was merit to keeping utility easements on the side and back of lots. Mr. Patterson explained that cities had a good indication if utility easements were needed after ten years. He explained that anyone could apply for a PUE to be vacated.

Commissioner Moore asked for additional public comment. Hearing none, she closed the public hearing at 7:36 PM and asked for additional discussion.

The Planning Commission discussed the proposed amendments. They agreed that the setback measurement should be defined as “one foot from inside pool wall”. The commissioners also determined that all pool accessories should meet setbacks as if they were accessory structures. The commissioners discussed regulations of the building code which stated that property owners had to have either a self-closing and locking barrier (fence) or an automated pool cover that met specifications. Commissioner Kramer thought the city should require a fence around the pool plus a gate or pool cover. She voiced concern with children wandering into the pool while the cover was open. She thought a fence was necessary. The commissioners discussed safety issues associated with pools. They discussed the need for fencing and/or pool covers, and the responsibilities and risks assumed by property owners. Most of the Planning Commission thought the building code regulations were sufficient.

Commissioner Abbott MOVED that the Planning Commission accept the findings and recommend approval of the following proposed amendments and requested changes to pool regulations:

1. *Consolidating the code into one code section*
2. *Removing the six-foot main dwelling setback*
3. *Measuring setback to one foot from inside pool wall*
4. *Treating all pool accessories as accessory structures for setback and height purposes*
5. *Fencing and barriers would refer to current pool and spa building code regulations*
6. *Reducing side and rear setbacks to five feet, but may not be within utility easements*

Commissioner Moore SECONDED the motion.

The vote was recorded as follows:

Commissioner Jerry Abbott	Yes
Commissioner Tracy Hill	Absent
Commissioner Christopher Howden	Yes
Commissioner Claude Jones	Yes
Commissioner Debra Maughan	Absent
Commissioner Audrey Moore	Yes
Commissioner Trent Thayn	Yes
Commissioner Alternate Sherry Kramer	No
Commissioner Alternate Wesley Warren	Absent

The motion carried 5:1

b. PUBLIC HEARING/ORDINANCE: Residential Conditional Use Amendments *Land Use (Legislative)*

Rob Patterson, City Attorney/Planning & Zoning Administrator

The Planning Commission will consider amendments to conditional uses within residential zones and general conditional use requirements.

Mr. Patterson explained that the city recently reviewed and approved a conditional use permit (CUP) for a pavilion on a church site. He said the City Council questioned the need for a CUP for simple accessory structures. He talked about the purpose for conditional uses and reviewed current conditional uses in residential zones. To simplify the process for accessory uses that do not have significant impacts on the primary use or on neighbors and which comply with general accessory structure regulations, staff recommended modifying the residential zones’ conditional use regulations and the general conditional use procedures to exempt minor changes and accessory structures. Mr. Patterson reviewed the proposed changes.

Commissioner Thayn said he liked the concept but struggled with defining “major” and “minor”. Mr. Patterson said the proposed amendment gave the zoning administrator the responsibility to decide what was a major or minor change. He explained how he would determine major or minor changes. Commissioner Thayn was comfortable with Mr. Patterson’s explanation but worried about how it would be determined by future staff. After discussing, the commissioners asked Mr. Patterson to look into further defining “major” and “minor”.

Mr. Patterson asked the commissioners to consider if public hearings should be held and who would approve CUPs. Commissioners Moore and Kramer were not comfortable getting rid of all public hearings. Commissioner Abbott mentioned that CUPs were administrative and that there may not be much the city could do about requesting changes. He talked about a previous CUP process for plat approvals that required public hearings but only frustrated residents when changes could not be made. He thought public hearings were valuable if changes could still be requested. After additional discussion, the commissioners agreed that they were fine with the proposed amendments which still required public hearings in some cases.

Commissioner Moore opened the public hearing at 8:20 PM and asked for public comment. Hearing none, she closed the public hearing at 8:20 PM. She asked for additional comment. Hearing none, she called for a motion.

Commissioner Thayn MOVED that the Planning Commission accept the findings and recommend approval of the proposed amendments to conditional use regulations with the requested change to better define “minor” and “major”.

Commissioner Kramer SECONDED the motion.

The vote was recorded as follows:

Commissioner Jerry Abbott	Yes
Commissioner Tracy Hill	Absent
Commissioner Christopher Howden	Yes
Commissioner Claude Jones	Yes
Commissioner Debra Maughan	Absent
Commissioner Audrey Moore	Yes
Commissioner Trent Thayn	Yes
Commissioner Alternate Sherry Kramer	Yes
Commissioner Alternate Wesley Warren	Absent

The motion carried 6:0

Upon request, Mr. Patterson gave an update on the general plan review process. He also mentioned that a public hearing for the proposed school district split would be held during a July Council meeting. The Commissioners asked that residents be informed of the proposed school district split and the general plan review.

4. ADJOURNMENT

Commissioner Thayn MOVED to adjourn the meeting. Commissioner Abbott SECONDED the motion. All present were in favor. The motion carried.

The meeting ended at 8:26 pm.

I, Heather White, Planning Commission Secretary, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on June 25, 2024. The document constitutes the official minutes for the Highland City Planning Commission Meeting.

DRAFT



PLANNING COMMISSION AGENDA REPORT ITEM #3a

DATE: August 27, 2024
TO: Planning Commission
FROM: Rob Patterson, City Attorney/Planning & Zoning Administrator
SUBJECT: Text Amendment - HB 476 (Water-Wise Notice, Subdivision Process, Sidewalk Assurances)
TYPE: Development Code Update (Legislative)

PURPOSE:

The Planning Commission will hold a public hearing to consider amendments to the Highland City Development Code due to state law amendments found in HB 476.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission hold a public hearing, consider the amendments, and recommend APPROVAL of the proposed amendments to the City Council.

PRIOR REVIEW:

No prior review by the Planning Commission.

BACKGROUND & SUMMARY OF REQUEST:

HB 476 was passed in the 2024 general legislative session, and it will go into effect on November 1, 2024. HB 476 amended several provisions of Utah State Law related to municipal land use regulations. Some of the amendments from HB 476 require the City to amend its development code to conform, while some amendments are either optional for the City or do not need to be implemented directly by the City. The amendments proposed by staff related to HB 476 address three items: water wise landscaping notice requirements, subdivision review procedures, and bonding for sidewalks.

In addition, HB 476 allows for a 32 square foot encroachment into a rear setback to allow for window wells, stairs, landings, and walkout porches that provide access to/from a home. Staff has not proposed amendments to the Development Code to incorporate this change, as it automatically applies by virtue of state law.

Water Wise Landscaping

HB 476 allows cities to require that the seller of a newly constructed residence inform the buyer of city water wise landscaping requirements. Effectively, this means that a developer must tell the first buyer of a new home about any special xeriscaping requirements applicable to the new lot. Highland City requires that park strips have water wise landscaping/xeriscaping. Accordingly, staff recommends that the City adopt a requirement for sellers to inform the buyer of a new home of the park strip landscaping requirements.

Subdivision Review Procedures

HB 476 modifies the subdivision review process that Highland City recently implemented with its recent overhaul of the subdivision review and approval process (approved January this year). The changes to this process are summarized as follows:

- The 15-day review period applies to all single-family, two-family, and townhome plats, preliminary and final (previously only applied to preliminary plats)
- The 20-day review period applies only to subdivision improvement plans for single-family, two-family, and townhome subdivisions (previously also applied to final plats)
- A city can only require subdivision improvement plans (engineered plans) to be submitted with preliminary OR final plats, but not both (previously unregulated)
- The 4-review-cycle limit now only applies to reviews of subdivision improvement plans (previously applied to review of plats as well)
- The requirement that a city make a correction on the first review or waive that issue now only applies to reviews of subdivision improvements plans (previously applied to review of plats as well)

The staff-proposed amendments to the Development Code incorporate these changes. The most significant change was to section 5-4-305. That section previously required preliminary subdivision improvement plans to be submitted with a preliminary plat, which would require developers to submit fairly detailed plans regarding subdivision utilities, roads, landscaping, and drainage/storm drain calculations. Because these plans may be construed as "subdivision improvement plans" under HB 476, staff has proposed revising the section to require less detailed information at the preliminary plat stage. The proposed amendments to section 5-4-305 will now require only information regarding phasing of the development, preliminary information regarding location, extension, and connection of utilities, roads, and other circulation elements.

Sidewalk Bonding

HB 476 now allows subdividers to separately bond for public sidewalks to allow the developer to begin to build homes and record plats even if the sidewalks near the homes are incomplete. The purpose of this amendment, as understood by staff, is to resolve issues where cities require subdividers to install sidewalks before homes are constructed. This leads to sidewalks being damaged during home construction, requiring the subdivider to install the sidewalk twice or have their subdivision bond foreclosed on to pay for the sidewalks.

Under HB 476, the City cannot withhold a building permit, plat recordation, or acceptance of other public improvements based on incomplete sidewalks if a separate sidewalk bond is posted. The City can, however, withhold certificates of occupancy for homes until the sidewalk in front of the home along the public street is complete.

STAFF REVIEW & PROPOSED FINDINGS:

Staff has proposed amendments to incorporate the changes required or allowed by HB 476 related to water wise landscaping notice, subdivision review procedures, and sidewalk bonding. Staff believes the proposed amendments align with state law.

Proposed Findings:

- The proposed amendments modify Highland City land use regulations to conform to Utah State Law, as amended by HB 476.

MOTION:

I move that the Planning Commission recommend APPROVAL of the proposed amendments to the Highland City Development Code.

[Planning Commission may specify additional or different changes to be recommended]

ATTACHMENTS:

1. Proposed Amendments - HB 476 Amendments

3-621 Park Or Planter Strips

All park strip areas, the area between the sidewalk and the curb, shall be landscaped and maintained by the property owner directly adjacent to that sidewalk using Xeriscape or water-wise methods as defined in Chapter 10 Definitions. Lawn shall not be installed in park strips.

1. Vegetation such as grasses, flowers, ground covers and shrubs shall not exceed 22-inches in height. Vegetation shall not include weeds identified on the State of Utah Department of Agriculture and Food Designated Noxious Weed List for Colorado (CO), Idaho (ID), Kansas (KS), Montana (MT), Nebraska (NE), North Dakota (ND), South Dakota (SD), Utah (UT), Wyoming (WY) but may include approved drought tolerant plants.
2. The park strip may be covered with non-living material such as wood chips or decorative landscaping rocks (rock diameter of one inch minimum and six inches maximum) if commonly practiced xeriscape landscaping procedures are followed.
3. Trees planted in the park strip may be separated by non-living materials only if a water source is available at each tree (not from a hose, or above ground sprinkler).
4. Only trees from the city approved Class I Trees list may be planted within a park strip. See Section 2.36.160(J) Tree Class Divisions in the Highland City Municipal Code for the permitted Class I trees.

4.5. The seller of a newly constructed residence shall inform the first buyer of the residence of the water wise and xeriscaping requirements for park strips.

5-4-102 Review Cycle Process For Plat Applications

1. For each complete subdivision application, the City shall review the subdivision plat, subdivision improvement plans, and other application materials through the review cycle process forth in this Section and Utah Code section 10-9a-604.2 to ensure compliance with all requirements of this Chapter and all other governing laws, land use regulations, applicable land use decisions, ordinances, and standards.
2. A review cycle begins with the City's receipt of either a complete application for a new application or a complete review response submitted as part of a prior review cycle.
3. The City may issue review comments with each review cycle to correct any deficiencies with the plat, subdivision improvement plans, and related information, documents, and materials.
 - a. The City shall complete its review and shall issue review comments within the following timeframes:
 - i. For preliminary plats, final plats, and related application materials ~~preliminary subdivision improvement plans~~ for single-family, two-family, and townhome subdivisions that do not involve property within identified geological hazard areas, the City shall have fifteen (15) business days after receipt of the complete application or complete review response to complete its review and to issue review comments.
 - ii. For ~~final plats and final~~ subdivision improvement plans for single-family, two-family, and townhome subdivisions that do not involve property within identified geological hazard areas, the City shall have twenty (20) business days after receipt to complete its review and to issue review comments.
 - iii. For all other plats and subdivision improvement plans for all other subdivisions, the City shall have a reasonable timeframe to complete its review and to issue review comments.
 - b. Review comments issued by the City shall be specific, include citations to the law, ordinance, regulation, decision, standard, or specification justifying the review comment, and shall be compiled and logged into a single index of requested modifications for the application.
 - c. The City's failure to issue a review comment regarding a specific deficiency or defect of the ~~preliminary plat, subdivision improvement plans, or related information, documents, and materials submitted by~~

~~the applicant~~ shall waive the City's right to require that the deficiency or defect be corrected, unless:

- i. The modification or correction required by the review comment is necessary to protect public health and safety or to enforce state or federal law;
 - ii. The modification or correction required by the review comment is necessitated by the applicant's review response or other adjustment to the ~~proposed subdivision plat, subdivision improvement plans, or related materials~~;
 - iii. The modification or correction required by the review comment is necessitated by the applicant's update to the proposed phasing of the development that adjusts the needed infrastructure; or
 - iv. The applicant does not submit ~~a~~-revised subdivision improvement plans in response to the City's review comments within twenty (20) business days after the City issued its review comments.
4. The applicant shall provide a complete review response in response to the City's review comments, consisting of revised plats, plans, information, documents, or materials together with a written explanation identifying and explaining the applicant's revisions and reasons for declining to make revisions, if any.
 - a. The applicant's written explanation shall be comprehensive and specific, including citations to the relevant law, ordinance, regulation, decision, standard, or specification and including an index of requested revisions or additions for each required correction.
 - b. The applicant's failure to address a review comment shall render their review response incomplete. The review cycle is not complete, and the subsequent review cycle or action shall not begin until all review comments are addressed and the applicant submits a complete review response.
5. The City may not require more than four review cycles for the review of subdivision improvement plans, provided that the City may restart the review cycle process at the first review cycle, if the applicant makes a material change to a subdivision improvement plan set. Such restarted review cycle process shall apply only to the portion of the subdivision improvement plan set that the material change substantively affects.

5-4-303 Preliminary Plat - Application

1. After completing pre-application review, if applicable, the subdivider of a major subdivision shall file an application for preliminary plat approval with the Zoning Administrator on a form prescribed by the City and submit all information, documents, materials required by this Code and the City's application form and required to ensure the subdivision complies with this Chapter and all other governing laws, land use regulations, applicable land use decisions, ordinances, and standards.
2. The application form shall specify the requirements, information, documents, and materials required to be submitted in order for the preliminary plat application to be complete. At least the following information, documents, and materials shall be required as part of the application to be submitted by the subdivider:
 - a. A complete application form;
 - b. Owner's affidavit;
 - c. Project narrative;
 - d. Project data information;
 - e. Legal description of the property being subdivided;
 - f. ALTA survey;
 - g. Title report for the property being subdivided;
 - h. Sensitive lands submittals, in accordance with Chapter 8;
 - i. Preliminary plat, in accordance with Section 5-4-304;
 - j. Preliminary subdivision improvement phasing, utility, and connectivity plans, in accordance with Section 5-4-305;
 - k. Vicinity map indicating the exact location of the property and each other property within 1/2 mile of the property being subdivided;
 - l. Property ownership map and list of names and addresses of each owner of record of each other property within 500 feet of any portion of the property being subdivided, and pre-addressed and pre-stamped envelopes for each such owner;
 - m. All applicable fees.

3. The application form may be amended, added to, and updated by the City Administrator or designee as necessary to ensure that applicants are informed as to the requirements for an application to be complete and to ensure that the City can successfully evaluate each application for compliance with this Chapter and all other governing laws, land use regulations, applicable land use decisions, ordinances, and standards.
4. The applicant shall submit electronic and/or paper copies of the preliminary plat application and related materials in the form, method, size, and standard specified by the City.
5. The subdivider shall pay all application fee(s) as published in the Consolidated Fee Schedule for the preliminary plat application. These fees shall not be refunded or waived in the event the subdivider does not obtain approval of the preliminary plat or does not proceed with a final plat application.

5-4-305 Preliminary Plat – Preliminary Phasing, Utility, and Connectivity Improvement Plans

1. The purpose of the preliminary phasing, utility, and connectivity plans are to assist the subdivider and the City plan for the utility and connectivity requirements of the subdivision, the impacts on City utility and circulation systems, and how such connections and impacts will be managed through various phases of development. Preliminary phasing, utility, and connectivity plans are not required to be prepared as civil engineering plans or otherwise meet the standard for subdivision improvement plans.
- 1.2. The preliminary subdivision improvement phasing, utility, and connectivity plans shall contain the plans, maps, details, designs, and information required by this Code, the City's application form, and as may be required to ensure the subdivision complies with this Chapter and all other governing laws, land use regulations, applicable land use decisions, ordinances, and standards, including the following:

 - a. Proposed construction and development phasing plan, including how the items described herein will be managed and connected through phases;
 - b. Locations of proposed Ffences and walls;
 - c. Freestanding signage;
 - d. Preliminary Utility, service, and public infrastructure facilities and improvements plans, including proposed connections to or extensions of existing facilities and improvements including fire hydrants, backflow prevention, water, sewer, stormwater, natural gas, telephone, energy, and telecommunication lines and extensions;
 - e. Preliminary drainage plan, including descriptions of how the subdivision will manage drainage and stormwater, including impacts to existing storm drain facilities, and storm drain calculations, including existing and proposed drainage channels, ditches, water conveyance facilities, and retention/detention areas;
 - f. Landscaping plan;
 - g. Preliminary Grading plan with topographic contours;
 - h. Preliminary Circulation plan showing streets, trails, sidewalks, and other vehicular and pedestrian circulation elements, with proposed cross-sections and other design considerations.

6-110 Assurances for Public Sidewalks

1. The regulations and procedures set forth in this chapter applicable to all performance guarantees and warranty assurances shall apply to performance guarantees and warranty assurances posted for public sidewalks, except as otherwise provided herein.
2. Performance guarantees for public sidewalks required to be constructed and installed in connection with a subdivision or other development may be posted separately from any other assurance required by this chapter.
3. The amount of such guarantees shall not be less than 120% of the estimated cost of the public sidewalks, for the following purposes:

 - a. 100% of the construction costs to cover the construction and installation of required improvements;
 - b. 10% to cover administrative costs incurred by the City to complete the public sidewalks; and
 - c. 10% to serve as the warranty assurance for the public sidewalks.
4. The City shall not declare a performance guarantee for a public sidewalk to be in default or redeem such a performance guarantee sooner than 18 months after the date the performance guarantee is posted.
5. The City shall not withhold a building permit for or prohibit the construction of a single-family or two-family residence or town home, withhold recording a plat, or withhold acceptance of a public landscaping improvement or an infrastructure improvement based on the lack of installation of a public sidewalk if a performance guarantee has been posted for the public sidewalk in accordance with this section.
6. The City shall not issue a certificate of occupancy for a single-family or two-family residence or town home until the portion of the public sidewalk to be constructed within a public right-of-way and located immediately adjacent to the single-family or two family residence or town home is completed and accepted by the City.



PLANNING COMMISSION AGENDA REPORT ITEM #3b

DATE: August 27, 2024
TO: Planning Commission
FROM: Rob Patterson, City Attorney/Planning & Zoning Administrator
SUBJECT: Text Amendment - Building Permit Public Improvements
TYPE: Development Code Update (Legislative)

PURPOSE:

The Planning Commission will consider amendments to the Highland City Development Code clarifying public improvement requirements for undeveloped lots.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission hold a public hearing, consider the amendments, and recommend APPROVAL of the proposed amendments related to public improvement requirements for non-conforming and undeveloped lots.

PRIOR REVIEW:

On August 25, 2020, the Planning Commission considered and recommended amendments to the City's Development Code related to nonconforming lots of record. Those amendments clarified that subdivision-type improvements are required for any nonconforming lot of record that has not been improved. However, the amendments did not address other related sections of the City code.

BACKGROUND & SUMMARY OF REQUEST:

The amendments being proposed by staff are to help clean up and clarify requirements for undeveloped lots and nonconforming lots of record. These amendments arise out of questions staff have received regarding certain undeveloped or unique parcels of record that are not traditional lots created by a subdivision. These amendments do the following:

1. Clean up the language of "zoning lot" to remove the requirement that the public street be in use by the public and to add the requirement that the plat creating the lot must be recorded.
2. Clean up the language of "nonconforming lot of record" to limit such lots to those that were legally created and developed in accordance with applicable subdivision regulations (or were exempted from such regulations) at the time of creation.
3. Amend the definition of "zoning lot" and "nonconforming lot of record" to ensure that parcels that were created or designated to be open space areas, common areas, or conservation areas cannot be developed without subdivision amendments or other similar approvals.
4. Clarify building permit regulations to ensure that building permits cannot be issued for undeveloped, nonconforming lots of record unless they are improved with all required street, curb, sidewalk, and utility improvements.

STAFF REVIEW & PROPOSED FINDINGS:

Staff has proposed the amendments in order to clarify requirements to obtain a building permit for undeveloped and nonconforming lots of record, in order to ensure that all new homes have and are served by appropriate City right-of-way and utility improvements.

Proposed Findings:

- The proposed amendments clarify and provide consistency in requirements for public improvements for undeveloped and nonconforming lots of record.

MOTION:

I move that the Planning Commission recommend APPROVAL of the proposed amendments to Chapters 10 and 11 of the Highland Development Code.

[Planning Commission may specify different or additional changes to be recommended]

ATTACHMENTS:

1. Proposed Amendments - Building Permit Improvement Requirements

10-102 Definitions

The following words, as used in this Title, shall have the meaning ascribed to them:

...

44. Lot, Zoning. A lot of record which:

- a. Complies with all ~~existing current~~ area, frontage, width, setback, and supplementary requirements of the zone in which it is located, and
- b. Has frontage on a City street, which street has been improved in accordance with City standards ~~including asphalt, curb, gutter, and sidewalk, and is served by all public utilities in accordance with City standards and is in use by the public, and~~
- c. Is shown as a separate, developable lot in an approved ~~and recorded~~ subdivision plat ~~that which has been was~~ approved in accordance with the applicable ordinances, ~~or which is exempted from compliance with said ordinances, and~~
- e.d. Has not been designated, by plat or other recorded document, for use as common area, open space, conservation area, or other non-development purposes.

...

49. Nonconforming Lot of Record. A lot of record that was legally created ~~and developed in conformance with the subdivision requirements of the Utah Code and Highland City ordinances at that time, or was exempted from compliance with such requirements~~, and, because of subsequent changes to governing law, does not conform as a zoning lot under its current land use designation. ~~Does not include lots and parcels that have been designated, by plat or other recorded document, for use as common area, open space, conservation areas, or other non-development purposes.~~

11-102 Buildings To Be On Zoning Lot Or Nonconforming Lot Of Record

1. No building permit authorizing the use of land or the construction or alteration or moving of a building or structure on a lot shall be issued, unless the parcel of land upon which the use is to be conducted or the building constructed, altered or moved shall qualify as a zoning lot or ~~N~~onconforming lot of record, as defined in this Code.

1.2. If the parcel of land is a nonconforming lot of record, the parcel shall be improved in accordance with section 3-209 prior to issuance of a building permit.