NEXT

HIGHLAND CITY

HIGHLAND CITY COUNCIL AGENDA

Tuesday, February 1, 2022

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: council@highlandcity.org

7:00 PM REGULAR SESSION

Call to Order – Mayor Kurt Ostler
Invocation – Council Member Brittney P. Bills
Pledge of Allegiance – Mayor Kurt Ostler

1. UNSCHEDULED PUBLIC APPEARANCES

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

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. **Approval of Meeting Minutes** *Administrative*
Regular City Council Meeting – November 9, 2021 and January 11, 2022

b. **Planning Commission Appointments** *Administrative*
The Council will consider the Mayor's request to ratify the appointment of Jay Roundy, Boyd Draper, Tracy Hill, and Trent Thayn to the Planning Commission. The Council will take appropriate action.

c. **Plat Amendment: Mid-Town Highland Marketplace Amended (Pa-22-02)** *Legislative*
The City Council will consider a request petitioned by Joe Ham representing MNG Highland Development LLC. The petitioner is requesting approval to adjust internal property boundaries located at approximately 5300 W 11000 N. The City Council will take appropriate action.

3. PUBLIC HEARING: TEXT AMENDMENT – FREESTANDING SIGNS *Legislative*

The City Council will hold a public hearing to consider a request by Joe Ham to amend Sections 3-707 and 3-710 of the Development Code relating to commercial freestanding signs. The City Council will take appropriate action.

4. ARCHITECTURAL REVIEW: HIGHLAND MARKETPLACE PHASE 2 *Administrative*

The City Council will consider a request by Joe Ham, representing MNG Highland Development LLC, for approval of the architecture of three (3) buildings in the Highland Marketplace. The City Council will take appropriate action.

5. ORDINANCE AND POLICY AMENDMENT: AMENDMENT TO HMC 2.28, GOVERNMENT RECORDS ACCESS AND MANAGEMENT; ADOPTION OF RETENTION SCHEDULE *Legislative*

The City Council will consider a request by staff to update and revise the City's municipal code related to Government Records and to adopt a new retention schedule policy for City records. The City Council will take appropriate action.

6. ACTION: ENCROACHMENT AGREEMENT WITH UNITED STATED BUREAU OF RECLAMATION ASSOCIATED WITH THE MURDOCK PRESSURIZED IRRIGATION PUMP STATION *Administrative*

The City Council will discuss an encroachment agreement with the United States Department of the Interior Bureau of Reclamation (BOR) regarding the access across the Central Utah Project Jordan Aqueduct Reach 4 and Alpine Aqueduct Reach 3

7. DISCUSSION: OPTIONS TO CONNECT TRAIL SYSTEMS *Administrative*

The City Council will review and discuss options to connect Highland City trails to Alpine and Draper. The Council will take appropriate action.

8. DISCUSSION: PEDESTRIAN CROSSING WARNING AND SPEED LIMIT SIGNS *Administrative*

The City Council will discuss the use of pedestrian crossing advance warning signs at select trail crossings and flashing 'Your Speed' speed limit signs. This item is being presented for discussion and direction only. No formal action will be taken.

9. MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS

The City Council may discuss and receive updates on City events, projects, and issues from the Mayor, City Council members, and city staff. Topics discussed will be informational only. No final action will be taken on communication items.

a. Hobby Breeders Ordinance Update – *Code Compliance Officer Brent Wallace*

b. 2022 Citizen Survey – *Assistant City Administrator Erin Wells*

c. Future Meetings

- February 8, City Council Work Session, 7:00 pm, City Hall
- February 9, Lone Peak Public Safety District Meeting, 7:30 am, City Hall
- February 15, City Council Meeting, 7:00 pm, City Hall
- February 22, Planning Commission Meeting, 7:00 pm, City Hall

ADJOURNMENT

Description	Owner	Due Date	Status
Park Use Policy – 8/17/2021	Erin Wells	12/2021	Council Communication Item 1/2022
Hollow Subdivision: Can road money be used for islands - 8/17/2021	Mayor		Council Discussion 1/11/2022
Asphalt Tailings – 9/21/2021	Residents/PW		Resolution to Council 1/11/2022
Playground equipment for Highland Glen Park: look at different vendors – 9/21/2021	Brittney Bills Kim Rodela	12/2021	Meeting with staff in December
Park and Open Space Fund Analysis - 9/21/2021	Tyler Bahr	2/2022	
Community Center Carpet and Paint - 9/21/2021	Erin Wells	2/2022	In Progress
Policy on encroachment and maintenance agreements	City Council		In Progress
Work with agreement with USAC for soccer fields – 10/19/2021	Mayor & PTTC	11/9/2021	
Fee for Open Space Purchase Applications	Kellie Smith		In Progress

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, Stephannie Cottle, the duly appointed City Recorder, certify that the foregoing agenda was posted at the principal office of the public body, at the Lone Peak Fire Station and Lone Peak Police Station, 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 agenda on the 27th day of January, 2022. **Stephannie Cottle, City Recorder**

THE PUBLIC IS INVITED TO PARTICIPATE IN ALL CITY COUNCIL MEETINGS.

HIGHLAND CITY

HIGHLAND CITY COUNCIL MINUTES

Tuesday, November 9, 2021

Waiting Formal Approval

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: council@highlandcity.org

6:00 PM WORK SESSION

Mayor Mann opened the meeting at 6:12 pm.

1. DISCUSSION: REVIEW OF DEFERRED OPEN SPACE PURCHASE REQUESTS *Legislative*

The City Council will review and discuss the open space requests that were deferred on June 15th, 2021. The Council will take appropriate action.

Kellie Smith, Planner/GIS Analyst, reported that on June 15, 2021 the Council adopted Resolution 2021-16 designating orphan properties for disposal; however, there are 15 properties that were deferred for future consideration. Staff has conducted research on those properties and is prepared to present information about each. She presented aerial imagery of each of the properties and summarized the staff recommendations as follows:

1. Beacon Hills Plat I 5886 W Timber Ridge Ln.
   Highland City's Trails Master Plan and the MAG Vision Trail Plan have a trail connecting the Bonneville Shoreline Trail to Pfiefferhorn. This is the only public connection. Staff recommends waiting to review this request until this is addressed with our comprehensive General Plan update.

2. Beacon Hills Plat I Timberline Drive and Wildflower Lane.
   Staff looked at the impact these property sales could potentially have on the City's pressurized irrigation system. The City's consultant engineer, Tavis Timothy, who works with the pressurized irrigation (P.I.) system did a brief analysis of the existing P.I. system in the Twin Bridges area.
   - Pressurized Irrigation Capacity
     - It appears that there may be approximately 20 more homes added to the system. With the assumption that each home has 0.3 acres of irrigable acreage or 6 irrigated acres total. An additional future peak instantaneous flow of 6 acres*20 gpm/acre = 120 gpm may be expected.
     - The addition of the future homes will put the pump station nearer to full capacity and over the 690-gpm capacity of 2 pumps.
     - Any additional demands including watering of open space will put more stress on the existing pump station, already running above its 2-pump design.

- There are numerous City open space parcels in the area that have been landscaped with sod by adjacent landowners. This increase of irrigated acreage impacts the pump stations excess capacity.

- Options:
  - Request residents water during non-peak hours to stretch the pumping curve to an extended time and 'flatten the curve'.
  - Run the station as is. This option likely would decrease pressures so that sprinklers don't work as intended and cause residents to increase watering times and use more water.
  - Replace the pumps to a higher capacity. This may require electrical improvements also. Cost estimate $20k-$50k.

3. Beacon Hills Plat J
   12458 N Angels Gate: A waterline easement runs along the east side of these lots. There is a triangular portion of city property on the south side that lies outside of the easement. This could be sellable depending on Mr. Timothy's water pressure calculations.

4. Highland Hills Plat A
   11885 N Athena Dr: On the east side of the trail there is a storm drain line that runs north and south. This line is 24'' in diameter. Staff believes the City should own the property with the storm drain. The resident that submitted the request has paid for a survey to determine exactly where the line is associated with his property. Staff is agreeable towards allowing the residents to purchase up to 10 feet from the storm drain line. The residents on either side of this property that are interested in purchasing would need to have surveys completed similar to what this resident has done.

5. Highland Hills Plat B
   11831 N 6260 W: The residents are requesting the property up to the sidewalk. Staff recommends the Council consider the criteria in the City's Open Space Policy.

6. Highland Hills Plat C
   Horseshoe trail: staff prefers to sell all or nothing to prevent checkerboarding the city-maintained property. Sprinklers would also need to be addressed. (The property owner directly east submitted a request for 2022). Staff recommends the sprinkler main be addressed along the back of the lots and for drainage to be kept on property owners' lots due to steep slopes.

7. Mountain View Acres
   10075 N 6300 W: This request is part of the Army Corps of Engineers. Staff recommends we keep what is in the wetland boundary.

8. View Pointe
   4022 Shoreline Dr: Staff recommends not approving both sides of the trail. The Council may consider the property south of the trail.

9. Windsor Meadows
   9873 Coventry Ct: The City Council mentioned discussing the Windsor Meadows subdivision as a whole.

   Ms. Smith the noted that the resident requests for Mercer Hollow and Windsor Meadows have been pulled. She concluded by addressing encroachments; either existing or previous property owners have installed improvements on the public property without permission. The Council will need to provide direction to staff relating how to address this issue.

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Mayor Mann referenced the encroachments in Beacon Hills; the Council can not make a decision on the requested sale without first dealing with the encroachments. He noted that 16 of the 18 homes have encroachment issues and most of them have installed concrete or retaining walls. If the City decides to sell the property to the two that have requested to purchase the property, but does not address the encroachment of the others, the City is essentially giving the others property for free. He wants to be sure that the City is being fair in the manner it addresses these issues. He facilitated discussion among the Council regarding the best policy for the City to impose relating to the encroachment issues. The Council also considered decisions that have been made in the past in similar situations to determine whether a precedent has been set.

Council Member Rodela addressed pressurized irrigation issues cited by Ms. Smith; if it becomes necessary for the City to replace pumps, the City could use the money from the sale of property for that purpose. Mayor Mann stated that some of the money should be held in reserve in accordance with the policy, but the policy does allow for some of the money to be diverted to infrastructure projects.

Council discussion then centered on the City's ability to control a resident's use of a property that is sold to them, with Council Member Rodela noting that residents who are seeking to acquire property understand their rights as far as the property's use. For the most part, they plan to keep the properties open and in a natural vegetative state. City Engineer Spencer agreed and suggested that each buyer will maintain the property on their own and reduce the burden on the City. For any properties with steep slopes upon which water drainage is a concern, a small community detention basin could be used or individual owners can install a berm or French drain system.

Discussion centered on the Beacon Hills plat and encroachments; Mayor Mann suggested that many residents in the project have been using the properties for years and watering them without paying for it. Council Member Rodela stated that the residents do not believe it is a problem because the City has not taken enforcement action since the residents have been using the property. Council Member Ball disagreed; just because the City has not taken enforcement action does not negate the fact that there is an ordinance or policy that is being violated. The Council engaged in debate regarding the amount of property the City should make available for purchase by those in the Beacon Hills plat area whether they are currently encroaching or not; they determined to sell the property 10 feet into the scrub oak and to not take enforcement action for previous encroachment. Council Member Bills stated she feels it would be appropriate for the Council to develop a policy that addresses encroachments and maintenance of encroached upon property. Mayor Mann agreed and noted that individuals who have encroached upon City property should be told they can either pay to lease or buy the property, or remove their encroachments.

Ms. Smith noted that there are 18 properties encroaching upon approximately three acres in the Beacon Hill project; if all 18 properties are sold to abutting property owners, the City stands to earn $350,000. Council Member Ostler stated he is comfortable selling all 18 properties and indicated the money revenue from the sales should be dedicated to the capital improvement budget to be used to upgrade the pressure irrigation system. Council Member Rodela stated she is comfortable with that approach as well.

Council Member Ball asked if there is some sort of precedent relative to fining or charging a premium price for water usage on land that has been encroached upon when that has not been done in the past. City Attorney Patterson stated that the City would issue a notice of intent to impose a charge for using City property without having first been granted permission. Council Member Ball stated he understands that is what would happen if the City plans to proceed with offering the land for sale, but he is

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concerned about imposing some sort of fine or premium water rate retroactively. Mr. Patterson stated a retroactive action would be problematic.

Council Member Rodela stated that she feels that tonight the Council can make a decision about what properties should be sold, but if there is a need to develop a policy that addresses encroachment and maintenance agreements, another work session may be necessary. She reiterated she is comfortable selling the 18 properties that have been discussed, so long as the buyers are informed that they cannot build a structure or install a fence on the property. Council Member Smith stated he is concerned about selling a property to someone, but telling them they cannot make any improvements to the property. He suggested that a fence be allowed so long as the height of the fence is restricted. Or perhaps, a buyer may want to place a swimming pool on the property. Ms. Smith stated that if a pool is installed it will need to be fenced and the required fence height is four feet with self-locking gates.

Mayor Mann suggested that discussion of this matter continue during the regular meeting agenda.

7:00 PM REGULAR SESSION

Call to Order – Mayor Rod Mann
Invocation – Council Member Brittney P. Bills
Pledge of Allegiance – Noah Reed

The meeting was called to order by Mayor Rod Mann as a regular session at 7:08 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 Council Member Brittney P. Bills and those in attendance were led in the Pledge of Allegiance by Mayor Rod Mann.

PRESIDING: Mayor Rod Mann

COUNCIL MEMBERS PRESENT: Timothy A. Ball, Brittney P. Bills, Kurt Ostler, Kim Rodela, Scott L. Smith

CITY STAFF PRESENT: City Administrator/Community Development Director Nathan Crane, Assistant City Administrator Erin Wells, City Engineer Andy Spencer, Planner & GIS Analyst Kellie Bronson, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, Library Director Donna Cardon, Code Compliance Officer Brent Wallace

OTHERS PRESENT: Scott Hart, Jim Wright, Helene Pockrus, Phoebe Hall, Damon Nielson, Michelle Nielson, Mel Cook, Sarah Petersen, Shauna Larson, Suzanne Mann, James Reed & Family, Keri Bushman, Chris Howden, Pam DeCoopman, Nicole Miller, Tim Pead, William Exeter, Caleb Skidmore, Wesley Warren

1. UNSCHEDULED PUBLIC APPEARANCES

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

Mel Cook stated lives on Wildflower Lane and is interested in purchasing one of the properties discussed in the work session meeting. He did not submit a petition to purchase the property until 10 days ago and wanted to make sure that his petition is considered by the Council tonight. He stated that he lives on a

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corner lot and the purchase is somewhat unusual, but he and his wife would like to purchase one of the orphan properties to preserve their access to the trail system.

Keri Bushman stated she inquired as to the City's process for insuring there are not books in the public library that should not be there. Mayor Mann advised Ms. Bushman to speak to the librarian. Ms. Bushman stated there are significant number of pornographic books in the School District's library; these books are targeted at children and teenagers through the digital library and they are hidden from parents. The books are explicit and extremely disturbing, and she wants to make sure they are not found in the public library. She then noted she has conducted some research about open space in the City, specifically in the McKayla Meadows and Windsor Meadows subdivisions. In 2003, the cost per square foot of open space was $2.45 per square foot in the McKayla Meadows subdivision and $5.96 per square foot in the Windsor Meadows subdivision. She is looking into the discrepancy and reason for the difference in cost and she will report back to the Council in the future.

2. PRESENTATIONS

a. Youth Council

A member of the Highland City Youth Council will report on their activities and service during the last month.

Camille Bradshaw, Government Chair, used the aid of a PowerPoint presentation to report on the recent Halloween Trick or Treat Street; there was a great turnout at this event. She then reported the Youth Council is working on a winter service project for The Road Home. They will be collecting gently used gloves and socks during the month of December. Additionally, the Youth Council will be assembling refugee kits at their December meeting.

Mayor Mann and several Council Members commented on the quality of the Halloween Trick or Treat Street event and thanked the Youth Council for their service.

Mayor Mann then reported that this Thursday evening from 7:00 to 8:30 p.m. there will be an emotional resiliency workshop for youth and adults; the presenter will be Dr. Lynn Scoresby and his presentation will be interactive. He has seen the presentation before and feels that anyone with kids in their life stands to benefit from the information.

b. Arts Council

Mayor Rod Mann and Council Member Kurt Ostler recognized Shauna Larson for her many years of service as the Chair of the Highland City Arts Council; they spoke about the many projects and programs that Ms. Larson has worked on during her tenure and thanked her for her 11 years of service. Mayor Mann presented the Highland Hero award to Ms. Larson.

Ms. Larson stated that she has enjoyed her 11 years as a member of the Arts Council; she noted her husband is very ill at this time and she needs to step down from the Arts Council to care for him. She has met so many wonderful people and truly enjoyed her time with the Arts Council. She then introduced Phoebe Hall as the new Chair of the Highland City Arts Council. Ms. Hall will keep the Arts Council together and do a great job. She thanked the City and residents for their continued support of the Arts Council.

c. Recognition Items

Mayor Rod Mann recognized Noah Reed, and his parents, Jackie and James Reed. He noted he received an email last Friday from an individual from Massachusetts, Ms. Virginia Lynch. She has created a quilt made of Tom Brady shirts for Noah. Ms. Lynch has never met Noah and his family, but she saw a video clip about Noah and his family and his love for Tom Brady and she chose to send

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this gift to Noah. He stated he was very impressed by this token of love for a stranger. Ms. Lynch stated that she hopes Noah will enjoy the quilt and stay strong in his battle. Noah thanked Ms. Lynch and Mayor Mann. Mayor Mann then presented a certificate and pin to Noah and his family; he read the text of the certificate and encouraged them to continue being strong in their fight against cancer. Mayor Mann specifically commented on Noah's persistent happiness in a difficult time; he is a great example to his family, friends, and school mates. Highland is proud to have Noah and his family as residents of the community.

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. Approval of Meeting Minutes *Administrative*
Regular City Council Meeting – September 21, 2021 and October 5, 2021

b. ORDINANCE: 2022 City Council Regular Meeting Schedule *Legislative*
The City Council will consider approving the City Council Regular Meeting Schedule for 2022. The Council will take appropriate action.

c. ACTION: Library Long-Range Strategic Plan *Administrative*
The City Council will consider approval of Library's current Long-Range Strategic Plan.

d. FINAL PLAT: Ridgeview Retail *Administrative*
The City Council will consider a request by Spencer Moffat for final plat approval for a 4-lot commercial subdivision located at approximately North County Boulevard and Canal Boulevard. The Council will take appropriate action.

e. RESOLUTION: Opioid Litigation Settlement *Legislative*
The City Council will consider a request by the Utah Attorney General for the City to participate in the proposed settlements of ongoing litigation against opioid distributors and manufacturers. The Council will take appropriate action.

f. ORDINANCE: Municipal Code Text Amendment – Short-Term Rentals *Legislative*
The City Council will consider amending Chapter 5.24 Regulating Short Term Rentals. The City Council will take appropriate action.

Council Member Smith asked to pull items 3d and 3e from the consent agenda.
Council Member Bills asked to pull item 3f from the consent agenda.

Council Member Kim Rodela MOVED to approve consent items 3a, 3b, and 3c.

Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball Yes
Council Member Brittney P. Bills Yes

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Council Member Kurt Ostler *Yes*
Council Member Kim Rodela *Yes*
Council Member Scott L. Smith *Yes*

The motion passed 5:0.

3d. Council Member Smith stated that he has questions about access to Costa Vida and Arby's from Canal Boulevard. Applicant Spencer Moffat, The Boyer Company, stated that there are certain site constraints due to the property's location on a Utah Department of Transportation (UDOT) road; however, after meeting with staff and receiving a traffic report for the property, they determined that a 'right-in, right-out' traffic movement would be appropriate at the intersection. The purpose of the triangle is to restrict traffic at the round-about. Council Member Smith asked how tall the triangle will be; he anticipates that some people will try to drive over the triangle. Mr. Moffat stated that the height is either eight or 10 inches and will have a rolled curb so that if someone drives over it, it will not do damage to the vehicle, but the driver will know they have driven over it. Council Member Smith asked that sufficient signage be used to notify drivers of the traffic pattern at the intersection. He then asked if there is an alternative configuration available in the event that what has been proposed does not function well. City Engineer Spencer stated that a small, raised island can be placed in Canal Boulevard to make it impassible by vehicles. Council Member Smith asked if the State of Utah is working to install signals at the two intersections along Canal Boulevard. Mr. Spencer answered yes; in the north-south direction of Canal Boulevard, at both ends, they will install left-turn arrows and a dedicated lane for left hand turns.

Council Member Ostler asked if either Costa Vida or Arby's has expressed concern about the traffic configuration. Mr. Moffat stated that they were not concerned about the configuration, their only concern was that it accommodate truck traffic. Council Member Ostler asked if the traffic study identified a need for an exit out onto North County Road. Mr. Moffat stated that most traffic will enter the site from Oak Brook and exit onto North County and Canal Boulevard.

3e. Council Member Smith spoke of his experiences with opioids as a practicing physician; there have many problems due to overprescribing opioids and there has been great work done by those in the medical and legislative fields to address it. He has a number of patients who are prescribed chronic pain medications and most of them are justified. He is concerned about this becoming a political issue and noted there is no easy solution. He has a daughter who has a syndrome that has caused chronic pain since she was five years old; she is now 36 years old, has three children, and teaches piano to 36 students, but she takes pain medication on a regular basis. He stated that one drug company made a long-lasting does of oxycodone; they misled the medical community about how addictive the medicine was, and they have been appropriately sued. He noted, however, that this opioid litigation settlement is misguided and will only benefit the lawyers rather than those who have been injured. There are many people in the country that truly need pain medication, but this type of litigation will result in increased costs to patients and making some medications harder to get. He stated that most drug addicts are getting their drugs illegally rather than via a prescription from a licensed medical doctor, but this litigation does not address that scenario. He will vote against this action because he feels the long-term side effects are bad.

City Attorney Patterson explained how this came to be an action item for the Council and provided background on the litigation; various states across the nation banded together and sued one manufacturer and a few distributors regarding the manufacturing and distribution of opioids, claiming over prescription or incentives for distributing opioids across the nation. After years of litigation, a settlement has been reached with the distributor and manufacturers requiring them to pay out a significant amount of money and agree to certain injunctive terms. The manufacturer will not manufacture certain drugs and will implement policies to monitor the unusual sales and purchases of opioids. The companies indicated they did not want to face this type of litigation again, so they advised all government entities that could potentially sue to sign on to the litigation. They are essentially trying to eliminate as many future claims as possible. Utah has signed onto the settlement and the Utah Attorney General

has asked cities to join in the settlement in order for Utah to get the highest settlement as possible and injunctive actions. It is not clear whether cities will get a portion of the settlement and it may be that the City only receives money as a result. There is a deadline to sign on to the settlement before the end of the year.

Council Member Ostler asked if Highland City could launch its own lawsuit if the decision was made to not sign on with the State of Utah. Mr. Patterson stated that Highland could have theoretically launched its own claims for impacts in the City, but whether the City would have the ability to carry out a long-term, large-scale litigation is doubtful. This litigation was a result of several entities working together and the companies subject to the litigation wish to avoid similar future litigation and that is why cities are being encouraged to sign on. He noted that this action would not preclude an individual who has been harmed to initiate their own claim or suit, or to sign on to another class action lawsuit. Mayor Mann noted the settlement has been reached and this action will help to determine the sharing of the damages coming from the litigation. Council Member Smith stated he doubts that the City of Highland will ever see any money as a result of the litigation, and he is more concerned that it will make medications harder to get for those that truly need it to manage chronic pain.

Council Member Rodela stated she will vote in favor of the action; this litigation is about distributors, not the medication itself. The distributors are being accused of a loss of control and allowing the drugs to be distributed through illegal channels and downplaying the risk of addition. This will hold distributors accountable for their marketing and distribution of a very powerful drug. Council Member Smith disagreed and likened the litigation to a 'feeding frenzy'; many of the claims are unfounded, but the attorneys that pursue the litigation get rich while patients pay increased costs as a result of the litigation.

Council Member Scott L. Smith MOVED to approve consent item 3d concerning the Ridgeview Commercial retail area with the two (2) following stipulations listed in the staff report.

1. *The recorded plat shall be in conformance with the final plat dated October 13, 2021.*
2. *The civil construction plans, and public improvements shall meet all requirements as determined by the City Engineer.*

Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball Yes
Council Member Brittney P. Bills Yes
Council Member Kurt Ostler Yes
Council Member Kim Rodela Yes
Council Member Scott L. Smith Yes

The motion passed 5:0.

Council Member Kim Rodela MOVED that the City Council adopt the resolution approving Highland City's participation in the proposed opioid settlement agreements.

Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball Yes
Council Member Brittney P. Bills Yes

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Council Member Kurt Ostler Yes
Council Member Kim Rodela Yes
Council Member Scott L. Smith No

The motion passed 4:1.

3f. Council Member Bills asked for more information about the rules for short-term rentals as well as the licensing procedures if the proposed ordinance is adopted. Planner and GIS Analyst Smith stated that business licenses will be required for short term rentals and those with existing businesses licenses will be 'grandfathered' under their previous license. Those that do not have a business license are essentially operating illegally and they will be subject to the regulations in the proposed ordinance.

Council Member Brittney P. Bills MOVED to approve consent item 3f Short Term Rentals.

Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball Yes
Council Member Brittney P. Bills Yes
Council Member Kurt Ostler Yes
Council Member Kim Rodela Yes
Council Member Scott L. Smith Yes

The motion passed 5:0.

Mayor Mann then asked that the Council consider item seven at this point in the meeting.

7. DISCUSSION: OPEN SPACE FINANCIAL PLAN

The City Council will discuss the scope and deliverables of the Open Space Financial Plan being completed by Lewis, Young, Robertson, and Burningham, Inc (LYRB). This item is being presented for discussion and to receive general direction. The Council will not take any formal action.

Fred Philpot, LYRB, provided a handout detailing the scope of the Open Space Financial Plan study; there are seven tasks to be completed to develop a neural and data driven recommendation or funding capital needs.

Council Member Ostler asked if the study will only consider the 18 subdivisions that are part of the Highland Special Service Open Space District. Mr. Philpot stated that they will be considering those areas, but also all parks and open spaces in Highland City. They will consider unfunded capital needs throughout those areas and those needs will inform the funding model. There was brief high-level discussion about different amenities and improvements that can be completed on open space that will be considered in this study; the Council can use the data provided following the study to make decisions about the City's open space fee.

Council Member Ostler asked if the study will only consider the amount of open space funding currently included in the City budget, or if it will result in recommended increases to funding. Mr. Philpot stated that is more directly related to a sustainability plan; he is not an expert in regard to parks operations and he will rely upon staff to communicate whether there is sufficient funding for parks needs or if there are some elements that are currently

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unfunded. The Council will have input on the level of service, but the study – according to the current scope – will evaluate proportionality and relationship between funding and needed elements.

Mayor Mann stated that the study may identify any deficiencies in the City's savings for future capital improvements. Mr. Philpot stated that is a typical benchmark that is evaluated in this type of study; he will determine if the City is generating sufficient revenue to satisfy long term capital plans. Council Member Ostler asked if the goal of this study is to determine whether to eliminate the open space fee. Mayor Mann stated that the goal is to determine the deficit; there will be no recommendation on the fee. Council Member Ostler stated that he wants to know the costs of maintaining open space. Mr. Philpot stated that is what he will evaluate; the study report will provide data, but it will not make any recommendations.

There was brief continued high-level discussion of the scope and intent of the study, with Mr. Philpot reiterating the objective that has been communicated to him is to collect data on open space areas, amenity types, and unfunded capital and operational needs moving forward. He stated this data could be used as a tool to evaluate whether to eliminate the City's open space fee, but he will not make a recommendation on that matter. He concluded he anticipates completing the study by the end of the year and reporting back to the Council after the first of the year. He noted he welcomes collaboration on this study and looks forward to visiting with the Council to evaluate the data.

4. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT – SHIPPING CONTAINERS *Legislative*

The City Council will hold a public hearing to consider a request by the Planning Commission to add Section 3-625 Shipping Containers to Chapter 3 Article 6 Supplementary Regulations in the Development Code. The City Council will take appropriate action.

Planner and GIS Analyst Smith noted adoption of the proposed text amendment would result in the creation of new law as there is currently nothing in the Highland City Code addressing shipping containers. She reported there have been ebbs and flows of calls and questions regarding shipping containers. During Covid, staff was getting a call once a week about shipping containers, whereas currently staff is receiving a call once a month. There are three (3) outstanding complaints that have not yet been resolved. When complaints about shipping containers come in, staff addresses them from a nuisance/accumulation perspective. If the shipping container is proved to be "a source of contamination or pollution of water, air or property, a danger to health, a breeding ground or habitation for insects or rodents or other forms of life deleterious to human habitation, or when such objects, conditions or structures are unsightly or deleterious to their surroundings," the property owner is asked to have it removed (Municipal Code 8.16.050). Staff brought the matter to the Planning Commission in February earlier this year and after months of discussion and consideration, they directed a text amendment be drafted and submitted to the Council for their consideration. She presented photographs of shipping containers that have been found on residential properties throughout the City.

Council Member Ostler noted there are three shipping containers located on City properties and he asked if they will be addressed if the proposed text amendments adopted. Ms. Smith stated that she assumes that shipping containers will be addressed in the same manner as short-term rentals; if they were in place before regulations are adopted, they may be grandfathered. Assistant City Administrator Wells spoke to the City's ownership and use of shipping containers, noting the City will comply with any City ordinance that is adopted and move them to a location where they are permitted.

Ms. Smith then reviewed the proposed text intended to govern shipping containers and drew comparisons with the City's regulations for accessory structures; there was discussion about the zones in which shipping containers would be permitted and the Council debated whether it would be more appropriate to indicate a minimum lot size

upon which a shipping container could be located rather than designating certain zones. Ms. Smith noted that the regulations will only apply to shipping containers that are considered 'permanent in nature'; if the property owner will only be using the shipping container on their property for less than 60 days, they are considered temporary and will not be regulated.

Council Member Smith wondered how someone would prove whether their shipping container was on their property before the text amendment is adopted. Ms. Smith stated that would be difficult and noted that staff will do its best to educate the public regarding the implications of the text amendment, if it is adopted.

Council Member Rodela stated that she understands staff and the Planning Commission has spent a great deal of time working to address this issue; she is in favor of approving the text amendment and of exempting the City from the requirement to have a home on a property in order to locate a shipping container there.

Mayor Rod Mann opened the public hearing at 8:31 pm.

Brent Wallace stated he is the Code Compliance Officer but is commenting as a private citizen of Highland City. He noted that 80 percent of the shipping containers in the City have been there a long time, but most of them are on larger lots and the text amendment will not impact them. He added that other shipping containers have been located on residential properties, placed on concrete pads and used for storage purposes. These are the shipping containers that will be regulated, and he feels the regulations included in the text amendment are appropriate and will preserve the rights of neighbors who did not expect to live next to a shipping container when they purchased their home.

Mayor Mann closed the public hearing at 8:33 pm.

Council Member Bills stated that she listened to the Planning Commission's discussion on this matter, and she is happy with their recommendation.

Council Member Smith stated that he understands that the City may need shipping containers for storage purposes throughout the City, but he is concerned when government imposes rules that the government entity itself is not required to follow. He does not believe the City should be exempt. Ms. Wells stated that the City will relocate its shipping containers to a property where there is a pump house on 5600 West, but there is no home on that property, so the use would be violating the proposed text amendment. The City does not have homes anywhere; the Council can make the decision to exempt the City from following the specific regulation to have a home on the property, but it is a philosophical decision whether that exemption should be allowed. That is a decision for the Council to ultimately make. This led to high level discussion about the reasoning behind the requirement that there be a home on the property before a shipping container is located there. City Administrator/Community Development Director Crane stated that the R-140 zoning designation has been assigned to 90 percent of the City and he listed the permitted uses in the zone; animal keeping is allowed in this zone and without a home on a property, someone may locate shipping container there to keep materials or supplies needed for animal keeping. Ms. Smith again drew a comparison with accessory structures and noted that the only time an accessory structure is allowed on a property when a home is not present is when the structure is used for animal keeping purposes. Mayor Mann stated that regulation will not allow the City to continue to use shipping containers on City properties with the absence of a home. Mr. Crane suggested that an exemption be included to indicate that municipal uses are not subject to the regulation requiring a home on the property.

Council Member Kurt Ostler MOVED that the City Council approve the proposed text amendment to add Section 3-625 Shipping Containers to Chapter 3 Article 6 Supplementary Regulations in the Development Code, and in g. add that shipping containers are prohibited on lots without a home, except for municipal uses.

Council Member Kim Rodela SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball Yes
Council Member Brittney P. Bills Yes
Council Member Kurt Ostler Yes
Council Member Kim Rodela Yes
Council Member Scott L. Smith No

The motion passed 4:1.

Council Member Smith stated that he voted in opposition because he does not feel it is appropriate for the City to be exempted from certain regulations; he prefers that the City lead by example.

5. RESOLUTION: ADOPTION OF THE DESIGNATION OF DISPOSABLE PROPERTIES *Legislative*

The City Council will consider the adoption of a resolution designating specific parcels of public real property as orphan parcels that may be disposed of. The Council will take appropriate action.

Mayor Mann referred to the discussion held earlier this evening in the work session meeting and noted that the Council adequately addressed the Beacon Hill properties. He stated that in most cases, the sale of an orphan property to an abutting property owner is simple, but in other cases, there are unique shaped parcels that are touched by multiple abutting properties and in those cases, he would suggest that the parties interested in buying the property be allowed to determine the appropriate property boundaries and report that back to the City. Council Member Rodela stated she supports that methodology. Council Member Bills agreed and stated that happened in the View Point Subdivision and the neighbors worked through the issue together. Council Member Ostler stated he is supportive of that concept as well.

Council Member Smith asked if the Council is considering an action on declaring certain properties as surplus or orphan properties. Mayor Mann answered yes and noted that the consensus reached during the work session was to surplus property within 10 feet of the scrub oak border; staff would then develop perimeter boundaries for those properties and present them to the Council at the next meeting for an action. There will be a maintenance agreement for each property that communicates the maintenance standards for the property and the types of improvements or adjustments that can be made. Additionally, a purchase price for each property should be determined, or an interested buyer could lease the ground for a certain percentage of the purchase value spread out over multiple years. Mr. Patterson stated that he can develop a renewable lease agreement for the Council to consider at the time they consider adoption of a policy for pricing on open space purchases. Council Member Bills added that she would also like to consider implementing a fee for applications to purchase orphan parcels; the fee would simply cover the cost of administering the process, which has taken a great deal of time for City staff. The Council was supportive of this concept and determined to include a discussion item on a future meeting to consider implementation of an application fee.

Mayor Mann then facilitated discussion among the Council regarding various properties for which the City has received an application to purchase. He started with Highland Hills Plat A, the applicant being the Skidmores. The Council expressed support for granting the application and allowing the applicant to purchase up to 10 feet within the storm drain line. There are other residents interested in purchasing in the same subdivision, but they would need to apply separately, and their applications will be considered individually.

Helene Pockrus asked permission to speak; she stated there are many uncertainties related to property boundaries, easements, and old Indian trails running through the City. Additionally, there are properties that are unkempt and have inoperable vehicles on site or parked on the street, or they have trailers parked in their rear yards blocking views of their neighbors. She stated she has owned roughly 19 homes in her lifetime, and she has noticed problematic property maintenance near all of them. These are issues that the City needs to consider taking care of when they are addressing topics such as the use of storage containers or selling orphan properties to residents.

Mayor Mann thanked Ms. Pockrus for her input. He then continued discussion of the remaining properties. Beacon Hills Plat J, the Council concluded they are comfortable selling the yellow triangle identified on the plat map provided by staff. Regarding Beacon Hills Plat I 5886 W Timber Ridge Lane, one request, the Council discussed the proximity to the Blue Bison property and a private resident selling property to allow a road to be constructed through the area. Mr. Patterson suggested that the City maintaining ownership of property to serve as a buffer to the Blue Bison property is an option, but the City has the authority to deny construction of a road. Mayor Mann agreed and noted that City approval is needed for any road project. The Council indicated they are comfortable approving the request and any future requests from other nearby residents would be considered on their own merits.

Council Member Bills referred back to Highland Hills Plat A and the property being sold to the Skidmores; she asked if there will be a requirement for others in the subdivision to purchase the property. Mr. Spencer stated that the land sale to the Skidmores will not impact trail access, but Mr. Skidmore will maintain the property up to the trail; he has installed sprinklers up to the trail as well. He could install a fence, but it is most likely the area will remain unchanged.

Mayor Mann referred to the two requests on Highland Hills Plat B; the Council indicated they feel that the lower property adds to the open space feeling of the area and they ultimately concluded not to sell to either interested party. For Highland Hills Plat C, four requests, there was discussion about the slope of the subject properties and a sprinkler line that would need to be relocated. Residents want to purchase to within five feet of the trail, but in the past the City has allowed individuals to purchase within eight feet of the trail. The City should pursue a maintenance agreement that requires each property owner to relocate sprinklers, contain their water on their own property with a retaining wall, and acknowledge the prohibition of motorized vehicles on the City's trail. The Council discussed whether a fence should be required and concluded that continuation of the split rail fence in the area is not required, but residents can erect that type of fence if they wish. Mayor Mann asked if the Council wants to rely upon previous precedence and allow the owners to purchase up to eight feet of the trail. The Council answered yes. Mayor Mann directed staff to negotiate the appropriate property boundaries with the potential buyers and preserve the roundness of the property line to preserve the open feeling in the area.

Council Member Bills noted that she is concerned about selling park property that has been improved by the City; she referred back to the Timber Ridge Lane property on the Beacon Hills Plat and indicated staff noted that property is part of the Bonneville Shoreline Trail, but that money would be set aside for a pump though the City is not sure there will be sufficient water available to pump. Mayor Mann stated that the City chose not to sell property that was part of a preserved trail corridor but acknowledged that some of the properties the Council is discussing tonight are City improved park properties. Council Member Ostler stated that the map indicates the property is part of the Bonneville Trail, with Ms. Smith noting that it is supposed to be connected to the trail per the Trails Master Plan, but that connection would not be made until the future when additional property is available. Mayor Mann asked the Council if they would like to hold off on selling that property until the next General Plan update, to which the Council answered yes.

Mayor Mann moved to the Mountain View Acres Plat with one request. Council Member Ostler stated he would like to retain the wetlands, with Council Member Smith agreeing. Mayor Mann stated it his understanding that

the petitioner would like to run animals on the property, but the Council indicated they are not in favor of selling at this time.

Mayor Mann concluded with the Windsor Meadows request; the Council indicated there are issues with water on this property and more information is needed before proceeding with any property sales in the subdivision.

Ms. Smith then summarized the Council's orphan properties discussion; Beacon Hills Plat 1, Timber Ridge property will not be sold at this time. For the other three requests on the Beacon Hills Plat, the Council directed staff to negotiate property lines and maintenance agreements with each buyer and the proceeds of the sales will be used to upgrade PI systems. For the Beacon Hills Plat J, the triangle parcel can be sold, but the remainder of open space property will be retained by the City. The properties on the Highland Hills Plat B will not be sold, those on Plat C will be sold, but buyer will need to relocate sprinkler lines and build a retaining wall to keep water on the subject property. Properties in the Mountain View Acres will not be sold. And the entire Windsor Meadows Subdivision will be brought back for continued review.

Council Member Kurt Ostler MOVED to approve the sale of property located at 12458 N Angel Gate, the triangle outlined in yellow, in Beacon Hills Plat J and 11885 N Athena Drive in the Highland Hills Plat A up to within 10' of the 24" storm drain line, pursuant to the resolution at the 2021 approved price.

Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball Yes
Council Member Brittney P. Bills Yes
Council Member Kurt Ostler Yes
Council Member Kim Rodela Yes
Council Member Scott L. Smith Yes

The motion passed 5:0.

6. PRELIMINARY PLAT: RIDGEVIEW POD B *Administrative*

The City Council will consider a request by Boyer Ridgeview Commercial, L.C. for preliminary plat approval for a 424-lot subdivision located at approximately North County Boulevard and Canal Boulevard. The Council will take appropriate action.

Planner & GIS Analyst Smith explained this is an application from Boyer Ridgeview Commercial, L.C. for preliminary plat approval for a 424-lot subdivision at approximately North County Boulevard and Canal Boulevard. The property is approximately 70 acres and was rezoned as a Planned Development (PD) district on May 21, 2019. On September 7, 2021, Staff presented to the Council a few minor amendments that were approved administratively by staff, as per Section 3-510 of the Development Code. Below are the minor amendments that were made to the Ridgeview PD approved on May 21, 2019:

- A reduction in the total number of units from 699 to 689.
- Increase the size of the community park from 4 acres to 4.8 acres.
- Removal of a row of lots that backed onto the Community Park.
- Increasing the lot size in Pod 12, thereby reducing the number of lots from 161 to 114 and the density from 6.54 units per acre to 4.63.
- Pod 6 will change from carriage lots to town homes. This is allowed within the current density however townhomes were originally contemplated primarily along North County Boulevard.

Ms. Smith stated the Council is the Land Use Authority for Preliminary Plat review. Preliminary Plat review and approval is an *administrative* action and is subject to Section 5-4-307 of the Highland City Development Code. She reviewed the plat and oriented the Council to the layout of different uses as well as phasing of the project. The Planning Commission held a public hearing for the preliminary plat on October 26, 2021. Spencer Moffat, representing the Boyer Group, was present for the meeting. The Commission requested that xeriscaping be used in the parkway detail along North County Blvd as that will be the City's responsibility to maintain. The Planning Commission recommended approval of the preliminary plat for
Ridgeview Pod B subject to the following nine stipulations:

1. The recorded plat conforms to the preliminary plat dated October 20, 2021 except as modified by these stipulations.
2. All public improvements shall be installed as required by the City Engineer.
3. The civil construction plans shall meet all requirements as determined by the City Engineer.
4. The sewer line along the backs of lots 101 to 118 be resolved. The back lot lines will either adjust to be off of the sewer line, or the sewer line is to be rerouted. This will need to be addressed before final plat approval.
5. The developer will also be responsible for construction of the improvements on the south side of Cedar Hills Drive and to provide curb and gutter on the east side of extension of Knight Avenue as determined by the City Engineer.
6. The 4.8-acre community park shall be completed before 35% of the homes within the development have been issued a certificate of occupancy.
7. Trash and recycling containers are to be stored behind a side yard screen wall. They shall be placed behind curb lines in a designated location for each unit. The location shall be a concrete pad. The location where the containers are to be stored shall be shown on the site plan.
8. The home builder shall be responsible for the front yard landscaping on the flex residential and carriage lots.
9. Because of a strong affinity for xeriscaping, the Planning Commission recommends that City Council and Staff work with Boyer to explore xeriscaping options for the parkway detail along North County Blvd.

With the proposed stipulations, the proposed Preliminary Plat meets the following findings:

- It conforms to the Highland City General Plan.
- It meets the requirements of the approved PD zoning
- It conforms to the Development Code as applicable.

Mayor Mann invited input from the applicant.

Spencer Moffat, The Boyer Company, stated he is happy to answer any questions the Council may have.

Council Member Smith declared a potential conflict of interest; he is a member of the Governing Board of Utah State Developmental Center (USDC) and due to recent legislation, the sales proceeds for this property will be placed in a sustainability fund for disabled peoples served by the USDC. Originally, the State in 2013 developed a master plan for the subject property, which was considered by the State Legislature. The Boyer Company has worked with the City of Highland to lower the density of the project. His only concern is that the project be high quality and he asked Mr. Moffat to present renderings of how the structures will look when they are completed and how they will fit with their surroundings. He also has questions about open space and amenities in the project. Mr. Moffat stated he agrees with everything Council Member Smith has said and spoke to The Boyer Company's efforts to reduce the density of the project while increasing the quality. He stated that apartment buildings were removed from the land and the density is capped at 12 units per acre. He stated that the park in the project has been increased to 4.88 acres and it will be functional open space including amenities like pickle ball courts, pavilions, picnic areas, walking trails, and tot parks. He stated it is a park that will be

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maintained by the Homeowners Association (HOA). Council Member Smith asked if there will be signs posted indicating the parks are for use by HOA residents only. Mr. Moffat stated signs will be posted and that will be enforced by the HOA, but he anticipates public use of the park amenities. He then reviewed the overall layout of the project and discussed with the Council traffic flow; amenities and connectivity to Highland Glen Park; fencing and landscaping plans; the manner in which impact fee revenues for the project will be used in the City; the target demographic for the project; fiber projects planned for the project area; color schemes for the project; maintenance of amenities; water shares that will be dedicated for the property; and the relationship between the project and nearby commercial areas.

Council Member Scott L. Smith MOVED that the City Council accept the findings and approve the Preliminary Plat for Ridgeview Pod B subject to the nine (9) following stipulations recommended by the Planning Commission and staff.

1. *The recorded plat conforms to the preliminary plat dated October 20, 2021 except as modified by these stipulations.*
2. *All public improvements shall be installed as required by the City Engineer.*
3. *The civil construction plans shall meet all requirements as determined by the City Engineer.*
4. *The sewer line along the backs of lots 101 to 118 be resolved. The back lot lines will either adjust to be off of the sewer line, or the sewer line is to be rerouted. This will need to be addressed before final plat approval.*
5. *The developer will also be responsible for construction of the improvements on the south side of Cedar Hills Drive and to provide curb and gutter on the east side of extension of Knight Avenue as determined by the City Engineer.*
6. *The 4.8-acre community park shall be completed before 35% of the homes within the development have been issued a certificate of occupancy.*
7. *Trash and recycling containers are to be stored behind a side yard screen wall. They shall be placed behind curb lines in a designated location for each unit. The location shall be a concrete pad. The location where the containers are to be stored shall be shown on the site plan.*
8. *The home builder shall be responsible for the front yard landscaping on the flex residential and carriage lots.*
9. *Because of a strong affinity for xeriscaping, the Planning Commission recommends that City Council and Staff work with Boyer to explore xeriscaping options for the parkway detail along North County Blvd.*

Council Member Timothy A. Ball SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball Yes
Council Member Brittney P. Bills Yes
Council Member Kurt Ostler Yes
Council Member Kim Rodela Yes
Council Member Scott L. Smith Yes

The motion passed 5:0.

The Council recessed at 10:24 pm and reconvened at 10:37 pm

8. ORDINANCE: UPDATES TO HIGHLAND CITY STANDARD DRAWINGS AND DESIGN CRITERIA *Legislative*

The City Council will review a request by staff to amend the Standard Drawings and Design Criteria for Public Improvements. The Council will take appropriate action.

Public Works Director/City Engineer Spencer explained the Standard Drawings and Design Criteria for the City were last updated in 2015. For some time, the State Division of Drinking Water has required that portions of the City standards be updated. With that impetus, staff undertook a review of the entire documents in an effort to update them at one time rather than piece by piece. The changes do not significantly alter the requirements of the City, with the exception of the item indicated below pertaining to the parkway detail. An item of note for the Council is the standard drawing for the Parkway Landscape Detail, ST-06, has been updated in Note 2 to allow the use of xeriscape along the parkways. It is anticipated that a future text amendment will be forthcoming that will further define what xeriscape means and what is an acceptable design criterion. This change simply allows for xeriscape to be implemented based upon an approved plan. This change is being suggested to allow for minimized water use and maintenance on parkway corridors. The changes are indicated on the attached summary sheet for the Standard Drawings and indicated in red text in the Design Criteria document. For this item the Council is the Governing Body. The review and approval of an amendment to the Design Criteira is a legislative action. A change to the Design Criteria is the adoption of a new law (regulation) governing the development of property within the City.

Council Members Smith and Ostler spoke to the increase in the number of businesses utilizing xeriscape in the landscape of their properties; they are supportive of allowing more xeriscaping in the City to conserve water and reduce maintenance requirements for property owners. Mr. Spencer stated that xeriscape standards will be discussed in a future meeting, and he invited the Council to send him examples of the types of xeriscaping they have noticed and are supportive of.

Council Member Kim Rodela MOVED that the City Council approve the ordinance adopting the 2021 updates to the Standard Drawings and Design Criteria for Public Improvements.

Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Kurt Ostler	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

9. DISCUSSION: MAG/UDOT FUNDED 4800 WEST STUDY *Administrative*

The City Council will discuss the findings of a recently completed study of 4800 West including the intersection of Timpanogos Highway (SR-92) and North County Boulevard (SR-129) extending through the roundabout at Main Street in Alpine. (For clarification, North County Boulevard turns into 4800 West north of Timpanogos Highway.)

Public Works Director/City Engineer Spencer discussed the findings of the 4800 West study; he presented photographs illustrating traffic conditions on the road at various times of the day. While the overall corridor is heavily used, the largest congestion on the City portion of the roadway occurs in the morning peak as students

travel to Lone Peak High School and combine with the commuter traffic. The primary objectives of this additional study were to understand:

1. What would the impacts to properties be if a roadway section with additional lanes were to be implemented?
2. What is the cost for these improvements?

An additional consideration for the study was the inclusion of a multiuse trail. A trail that links Alpine and the northeastern portions of Highland to the existing trail network is viewed as a highly beneficial addition to the active transportation component of both Alpine and Highland cities. Based on the study, the entire 4800 West project is three phases that extend from the Timpanogos Highway intersection to the roundabout at Alpine Main Street. The first phase of the project extends from Timpanogos Highway to Healey Boulevard. This phase would impact several properties including 6 homes along 4800 West. The City can pursue transportation funding from MAG and preliminary applications for funding were due November 1. If the project is selected, funding will be available in the 2025-2026 funding cycle. The Phase 1 cost estimate is $8,944,000. This includes all work at Timpanogos Highway/North County Blvd intersection, the trail extension to the existing trails near the American Fork River crossing of North County Boulevard, and the extension of a 5-lane roadway section and a trail northward to Healey Boulevard in Alpine. As noted, the current MAG funding cycle submittal has just commenced. If Highland decides to move forward and if the application is awarded, the Cities and UDOT would need to apportion the matching cost of the funding. The collective matching Phase 1 cost is calculated as 6.77% of the total project cost. This equates to $605,509 which would be split amongst Highland, Alpine, and UDOT based upon the length of improvement in each City and UDOT's responsibilities. The complete build (SR-92~Alpine roundabout) estimate is $16,439,000. Following phase 1, the project would pass entirely to Alpine to pursue funding for the future phases two and three. Mr. Spencer concluded that this item is informational only at this time and City Administration is very aware of the need to invite public input and participation in the decision-making process for the project.

There was brief high-level discussion among the staff and the City Council regarding the status of other transportation projects in the City.

10. ACTION: CREATION OF AN AD HOC COMMITTEE *Administrative*

The City Council will consider the creation of an Ad Hoc Committee to make recommendations regarding the trails in Wimbleton Subdivision.

Mayor Mann explained as the Council decision to dispose of trails and open space in Wimbleton was resoundingly overturned, he would like to look at what options may be available to residents that would not involve removal of the trails. He changed his request and would like staff to work on the following assignment. He summarized the duties that will be assigned to staff and indicated their study report should include the following:

1. An analysis of how the current open space disposal policies would be applied to property adjacent to the Wimbleton Trails.
2. A description of city infrastructure in Wimbleton that would affect the property adjacent to trails and the costs associated with relocating or replacing any infrastructure components (i.e., City sprinklers, PI lines, detention basins).
3. Steps the City would need to take to allow the ditch on the east side of Wimbleton to be abandoned.

Mayo Mann requested that this report be available to Council in February 2022.

Mayor Mann then referred back to the earlier discussion of disposal of property in the Beacon Hills plat area; he suggested the Council reconsider the denial of the sale of the property to Brandon Neish and asked that staff work out the internal boundaries of the plat with the potential to sell to the three residents interested in buying property.

Planner & GIS Analyst Smith stated she will reach out to the affected property owners in the subdivision and try to get details worked out before the December City Council meeting.

11. MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS

The City Council may discuss and receive updates on City events, projects, and issues from the Mayor, City Council members, and city staff. Topics discussed will be informational only. No final action will be taken on communication items.

The Mayor and Council discussed scheduling of the upcoming staff/City Council Christmas Party.

a. Future Meetings

- November 16, Board of Canvassers Meeting, 6:00 pm, City Hall
- November 16, Planning Commission Meeting, 7:00 pm, City Hall
- December 7, City Council Meeting, 7:00 pm, City Hall
- January 4, Swearing In Ceremony, 7:00 pm, City Hall

ADJOURNMENT

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

The meeting adjourned at 11:12 pm.

I, Stephannie Cottle, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on November 9, 2021. This document constitutes the official minutes for the Highland City Council Meeting.

Stephannie Cottle
City Recorder

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HIGHLAND CITY COUNCIL MINUTES

Tuesday, January 11, 2022

Waiting Formal Approval

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: council@highlandcity.org

6:30 PM REGULAR SESSION

Call to Order – Mayor Kurt Ostler

At 6:31 pm Council Member Scott L. Smith MOVED that the City Council recess to convene in a closed session to discuss pending or reasonable imminent litigation, and the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205.

Council Member Brittney P. Bills SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Sarah D. Petersen	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed unanimously.

1. CLOSED SESSION

The City Council may recess to convene in a closed session to discuss the character, professional competence, or physical or mental health of an individual, 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 Scott L. Smith MOVED to adjourn the CLOSED SESSION and Council Member Timothy A. Ball SECONDED the motion. All voted in favor and the motion passed unanimously.

The CLOSED SESSION adjourned at 7:02 pm.

7:00 PM MEETING OPEN TO THE PUBLIC

Invocation – Council Member Kim Rodela

Pledge of Allegiance – Mayor Kurt Ostler
The meeting was called to order by Mayor Kurt Ostler as a regular session at 7:07 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 Council Member Kim Rodela and those in attendance were led in the Pledge of Allegiance Mayor Kurt Ostler.

PRESIDING: Mayor Kurt Ostler

COUNCIL MEMBERS PRESENT: Timothy A. Ball, Brittney P. Bills, Sarah D. Petersen, Kim Rodela, Scott L. Smith

CITY STAFF PRESENT: City Administrator/Community Development Director Nathan Crane, Assistant City Administrator Erin Wells, City Engineer Andy Spencer, Planner & GIS Analyst Kellie Smith, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, Police Chief Brian Gwilliam, Fire Chief Brian Patten

OTHERS PRESENT: Wendy Hart, Pearl Hart, Douglas Cortney, Jonathan Myres, Jenny Myres, Natalie Ball, Tanya Colledge, Adam Swerdlow, Mel Cook Wesley Warren,

2. UNSCHEDULED PUBLIC APPEARANCES

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

There were no public appearances.

3. PRESENTATIONS

a. Highland City Youth Council – Youth Council Representative

A member of the Highland City Youth Council will give a brief report on recent and upcoming activities.

The Youth Council Representative was unable to attend.

b. GRAMA and OPMA Training – Rob Patterson, City Attorney

City Attorney Rob Patterson will provide training on GRAMA (Government Records Access Management Act) and OPMA (Open & Public Meetings Act).

City Attorney Rob Patterson provided the Mayor and Council with the required annual training regarding the Open and Public Meetings Act (OPMA) for the State of Utah as well as the Government Records Access Management Act (GRAMA) for the State of Utah. He noted the OPMA requires public bodies to deliberate and take actions in open meetings; it also provides directives regarding the manner in which meetings shall be noticed, recorded, and the record of meetings kept. He added that meetings can be closed for very specific reasons identified in OPMA. The law seems somewhat technical but is very straightforward. In conclusion he noted that one issue that has caused problems for public bodies in recent years is the use of personal mobile devices for communicating about public matters; he advised that if the Mayor or Council use their cell phones to communicate about City business, those records could be made public or a requirement could be placed on them to make those connversations part of the public record.

He then discussed GRAMA; the purpose of this meeting is to balance the public's right to access public records. It also provides for the privacy or protection of certain records. Records are documentary materials that are reproducible and relate to public business. He briefly discussed records that are commonly classified as public

and those that are commonly classified as private. He noted that he is working to update the City's record management and retention program to align more closely with current State Code and State retention policies. He indicated that City Recorder Cottle is the records official for the City and she handles all requests for public records.

Council Member Smith asked if communications between a Council Member and City staff would be classified as public records. Mr. Patterson answered yes. Council Member Smith asked if another member of the City Council or the Mayor wanted to review those communications; he asked if they would be able to file a GRAMA request and obtain the records. Mr. Patterson stated that the Mayor and Council have the power to inspect documents and reports from City employees without filing a GRAMA request.

4. 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. Plat Amendment: Dry Creek Highlands Phase 5a (Pa-21-12) *Administrative*

The City Council will consider a request by Todd Ambery on behalf of Brandon and Amber Gueck, Sean and Lareen Luangrath, and Doss and Janean Stallings. The request is to adjust the lot lines of lots 414, 505, and 506 in the Dry Creek Highlands subdivision phases 4 and 5. The City Council will take appropriate action.

b. ACTION: Public Defender Services *Administrative*

The City Council will consider a contract with Stevens and Gailey, PC to provide public defender services for the Highland/Alpine Justice Court. The Council will take appropriate action.

Council Member Scott L. Smith asked to pull item 4b for further discussion.

Council Member Kim Rodela MOVED to approve consent items 4a.

Council Member Brittney P. Bills SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Sarah D. Petersen	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

4b. Council Member Smith stated the City currently pays its public defender $100 per hour; the proposal is to contract with a group that charges $175 per hour for pre-trial work and an additional $75 per hour for post sentencing work. He indicated the packet states that the City received another bid for this service, which would increase the hourly rate from $100 to $110. He asked why the City has recommended the contractor that is

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charging $175 per hour. City Administrator/Community Development Director Crane stated that the $175 rate is actually per case rather than per hour. City staff estimates that costs billed by Stevens and Gailey, PC will only represent a four percent increase, whereas the second bidder's proposal represents a 10 percent increase.

Council Member Scott L. Smith MOVED that the City Council approve consent items 4b, the contract with Stevens and Gailey for public defender services.

Council Member Kim Rodela SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Sarah D. Petersen	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

5. RESOLUTION: ASPHALT TAILINGS IN HIGHLAND GLEN PARK

Administrative

The City Council will consider a resolution adopting a policy and plan for the removal of asphalt tailings in Highland Glen Park. The Council will take appropriate action.

City Administrator/Community Development Director Crane explained asphalt tailings have been stored at Highland Glen Park since before 2002. To address resident concerns, a Resolution has been prepared that outlines the Council's plan. The plan includes the following:

- The Council will use reasonable and good faith efforts to remove the tailings within one year. If due to unanticipated circumstances this cannot be met, the Council will communicate with the residents by October 1, 2022.
- Contingent upon available funds the Council will budget up to $20,000 for the removal and/or improvements to the property in fiscal year 2023.

Mr. Crane concluded this action will require the Council to budget up to $20,000 as part of the Fiscal Year (FY) 2023 budget.

Council Member Smith asked for a summary of the residents' feelings about this arrangement. Mr. Crane stated the residents would have preferred a more concrete resolution, but they agree this is a good place to start. Council Member Smith asked if there will be further discussions about revegetation or improvements at the park. Mr. Crane answered yes; the scope of the improvements have not been determined and staff will seek input from the Council regarding that matter. Additionally, staff has looked into replacing the chain-link fencing with a more opaque fencing material, but the residents indicated they would like to keep what is currently there. Council Member Rodela stated she has heard that from residents as well; they feel the current fencing will preserve the open feeling of the area. Additionally, the residents have been very patient and this is a good step in the right direction at addressing their concerns about the tailings. She is happy that these plans are being documented as the residents have only received verbal promises in the past.

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Mayor Ostler inquired as to where the tailings will be moved to. City Engineer Spencer stated they will be moved to the Victor property, which is close to the Kilgore pit. Mayor Ostler asked who owns the material that is currently being stored at that pit. Mr. Spencer stated some is owned by contractors who are actively working on projects in the City and the rest is owned by the City; there will be interim storage on the property for the foreseeable future. There was brief discussion of the capacity of the storage area and its useful life.

Council Member Kim Rodela MOVED that the City Council approve the resolution adopting a policy and plan for the removal of asphalt tailings in Highland Glen Park.

Council Member Scott L. Smith SECONDED the motion.

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Sarah D. Petersen	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

6. RESOLUTION: DESIGNATING THE VALUE OF ORPHAN PARCELS FOR 2022 *Administrative*

The City Council will consider a resolution designating the value of orphan space parcels for 2022. The Council will take appropriate action.

Mayor Kurt Ostler discussed the efforts of City Administration to develop a proposed policy for designating the value of orphan parcels; the majority of existing orphan parcels are located behind a private residence and there is only value for the adjoining property owners as the properties cannot be designated as buildable lots. Because orphan parcels are somewhat unique, it is difficult to determine their value. In 2018, the City obtained appraisals for orphan parcels and asked the appraiser the methodology they used to determine the value of the property. They indicated that they determined the value of the orphan parcel should be 25 percent of a larger parcel. It is difficult for the City to justify obtaining an appraisal for every orphan parcel, so the City has determined it appropriate to define an annual value. Based upon that determination, the proposed value for orphan parcels for 2022 is $3.14 per square foot. This value is based upon a review of County assessed value of different lots from different areas of the City; the lots were chosen based on location, open space subdivision status, diversity, and size in order to obtain a reasonable, average, per square foot valuation.

Council Member Peterson asked if it is correct that this action will not result in the identification of orphan parcels or obligate the City to sell any property. Mayor Ostler stated that is correct; this action is simply to set the value of orphan parcels in the event that any resident approaches the City to pursue acquisition of an orphan parcel.

Council Member Smith stated that he supports the methodology for determining the value; however, he noted there are some ongoing discussions of selling orphan parcels that were identified in 2021. He asked if those parcels will be subject to the 2021 valuation or 2022 valuation. Planner & GIS Analyst Kellie Smith stated that for those sales that have been deferred, it is her understanding that the 2021 valuation will be applied. Council Member Rodela stated she supports that decision. This led to high level discussion of outstanding orphan property transactions, with the Council concluding that the 2021 valuation will only be in effect for a rolling year from the date that the sale was approved; if the transactions are not completed by the end of 2022, the valuation will change.

Mayor Ostler stated there may be a need for an additional Council action to sunset approved agreements if the transaction is not closed within one year of approval of the agreement.

Council Member Brittney P. Bills MOVED that the City Council adopt the resolution establishing the value for orphan space parcels at $3.14 per square foot.

Council Member Sarah D. Petersen SECONDED the motion.

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Sarah D. Petersen	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

7. ACTION: BROADLEAF HOLLOW CHANNEL RECONSTRUCTION

Administrative

The City Council will consider the awarding of the bid for the Broadleaf Channel drainage reconstruction project to S&L, Inc. The Council will take appropriate action.

City Engineer/Public Works Director Spencer presented a map to orient the Council to the location of the Broadleaf Channel. The Broadleaf Channel storm-drainage facility has meandered outside of the original easement corridor that was dedicated with the Dry Creek Highlands Phase 3 development and subdivision plat. The impacted properties are Dry Creek Highlands Phase 3, Lots 302~310. City staff has been meeting with the residents along the Broadleaf Channel corridor. The objective of these meetings has been to select an alignment and easement condition that will provide the City a long-term and maintainable storm-drainage channel and minimize the impact on the residents. The purpose of this project is to realign and the existing Broadleaf Channel and line the channel with rock to prevent future erosion. Bids have been solicited for the project. The City received six bids for the project and S&L, Inc. was the low bidder. The bid cost for the project is $228,000. The bid includes an optional individual lot channel crossings for the residents. The decision will be up to each individual homeowner if they would like to accept this option. The intent is to allow the property owners located on the west side of the drainage to access the City trail and eastern portions of their lots that are located on the east side of this drainage. The individual lot channel crossings per the low bid are $5,000.00 per crossing. The cost is $500 per lineal foot with a minimum of 10 feet. This cost would be paid by individual lot owners. There are three items detailed in the Fiscal Impact cost summary that are not included in the bid:

1. Geotextile Channel Liner - This is necessary to prevent migration of soil from under the channel rock layer. The inclusion of this liner helps ensure that the channel does not migrate. The liner was intended for inclusion on the bid plan and was unintentionally omitted by the engineer.
2. Reseeding following construction - Following the channel construction, the project soil disturbance area will need to be reseeded with a native seed mix. This was also an unintentional omission from the bid plan set.
3. 10% Contingency – This has been included as a standard practice to ensure that there are sufficient funds allocated to the project to adapt to unforeseen conditions during construction.

Mr. Spencer concluded staff recommends the awarding of this contract to S&L, Inc. in an amount up to the amount of $278,300 to reconstruct the Broadleaf Hollow drainage. Allowing individual homeowners the option to have a channel crossing installed behind their lot at their cost.

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Council Member Smith asked that Mr. Spencer summarize the benefits of this project. Mr. Spencer stated there are two main benefits for the City; first is the placement of the channel within the appropriate easement. At present it has meandered outside the easement onto other properties. The second benefit is to armor the channel so that it will not move; it will essentially be stronger and able to handle the flow. The benefits to the residents include vacation of the old easement and removal of the 'no-build' line on the plat so that some property owners will essentially pick up an additional 20 feet of usable area on their property. Council Member Smith asked if there is always water in the drainage channel or only during a storm event. Mr. Spencer noted there is some sort of drainage all year round. Council Member Smith asked if City staff has spoken to residents about this project. Mr. Spencer answered yes; he has met with each resident impacted by the project and sent all of them an email about tonight's meeting. Council Member Smith asked if there will be any sort of barrier or fence between the adjacent trail and the waterway. Mr. Spencer stated that there has been consideration of allowing residents to erect a fence between their property and the trail/drainage channel and that will be acted upon during the next item on the agenda. The Council and staff engaged in discussion about the types of improvements the City will allow private property owners to place on their property line to serve as a barrier between their property and the channel. The intent of these barriers would be to keep their children or passersby out of the channel or their yard. Council Member Smith asked if the City would have any liability for an injury caused by someone falling from the trail into the drainage channel. City Attorney Patterson stated that the risk is related to the presence of the drainage channel and trail; adjacent property owners will not have any liability and the risk will fall entirely on the City. Regarding ditches and canals, there is always a risk. Council Member Smith wondered if it would be beneficial for the City to erect a barrier between the trail and the drainage channel. The Council discussed the concern about liability, with a focus on the cost of placing fences along all drainage ditches that run throughout the City.

Council Member Bills asked if the plan for this project includes restoration of the hillside above the pipe in the area that has been flooded out. Mr. Spencer stated that the new channel will fill up that hole and there will be no water falling from the pipe. He is not planning to bring in new dirt, but reusing the dirt that will be excavated at the site. Mayor Ostler wondered if tailings could be used. Mr. Spencer stated they could be mixed with the dirt on the site, but he would not use only tailings to fill the hole. Council Member Bills then referenced the 10 percent contingency included in the contract amount; she asked if that means that the project cost can grow by up to 10 percent without Council approval. Mr. Spencer answered yes; a contingency gives staff the ability to adapt to changing or unforeseen conditions quickly. There was brief discussion about whether it is necessary to review the City's purchasing policy to ensure that the use of a contingency is clearly defined.

Council Member Smith stated that moving the channel to the east will give private property owners more land and he wondered if they could bridge the channel and then erect a fence along the trail. Mr. Spencer answered yes. Council Member Smith asked if there will be restrictions placed on what the property owners can do in the sloped area; he wondered if there will be a requirement for natural vegetation. Mr. Spencer stated that the entire area is native, and he had planned to re-seed it with native seed. He had not thought that any property owner would want to turn the space into a manicured landscaped area. Council Member Smith stated that residents would not be interested in fencing a conservation area, but if they have the ability to improve it for personal use, they may be interested in fencing. Mayor Ostler stated that the property is basically within a conservation easement and if residents are going to be allowed to install a fence, the City needs to ensure that it will have access to the easement for maintenance purposes. Mr. Spencer agreed; if someone places a fence within the easement, they will be required to install a gate that the City can use to access the property. He stated he knows of one family, the Colledges, that are interested in installing a fence and they will include a 20-foot gate in their fence. He stated that if the Council is comfortable allowing fences, it would be appropriate to include language in the motion allowing for a fence. Verbiage regarding the fence will then be added to the proposed easement agreement between the City and the private residents. There is nothing in the proposed motion language that addresses planting trees or changing the vegetation in the area. Council Member Smith stated that his personal home borders the Jordanelle Aqueduct and he has an easement agreement that specifies that the is not supposed to plant trees

within that easement. Mr. Spencer stated that language that regulates the access corridor does specify that no trees can be planted, but staff has not contemplated landscaping improvements in the sloped area. He noted planting additional trees would be problematic.

Mayor Ostler invited public input.

Jonathan Myres stated that the solution that has been discussed by Mr. Spencer is a great resolution; he noted that Mr. Spencer has communicated with the residents extensively and he has dealt vey will with a difficult issue that he inherited from several years ago. He feels that the proposal addresses liability and other known issues with the property and he asked for the Council's support of Mr. Spencer's proposal.

Council Member Smith asked Mr. Myres if his reference to liability is based upon an assumption that the City will assume the liability for the drainage channel. Mr. Myres answered yes; he understands that the channel was on his and other private properties, but it is under the ownership of the City, and it is appropriate for the City to have that liability. Council Member Smith asked if he and other neighbors are interested in fencing along the west side of the trail. Mr. Myres stated there is some interest, but the grade in the area is very uneven and it will be difficult to fence it in a way that is aesthetic pleasing without spending a great deal of money to level the ground. He stated that he anticipates that most of the property owners will keep the property in its natural vegetative state.

Tanya College stated that she lives at the north end of the ditch, and she is hopeful that these improvements will beautify the area. Her concerns are related to the pipe and the difficulty in moving it into the easement on her property as well as continuing to adjust it to the south on neighboring property; these concerns are based upon the fact that it is impossible to control water. She is supportive of the proposal but is concerned that she is open to liability if someone falls into the ditch at some point in the future. It would cost her money to clearly explain that the ditch is in the City's easement, and she is not liable. Her property is different than others that abut the ditch and that is why she has requested approval to install a fence that provides a separation between her property and the ditch. The fence will be costly, and she is assuming that cost for her own protection. She stated she and Mr. Spencer have talked about planting trees as well and any trees she would plant would be sparce and minimal so that they do not interfere with the City's need to access the area. She stated she believes what she is requesting is reasonable and she is hoping the Council will support it. She is happy for her neighbors who are gaining usable property. She asked that the City secure surplus dirt and other building materials in the event that it is necessary to use more material to fill the vacated area from where the pipe is going to be moved. On her property alone, the contractor will need 50,000 to 60,000 cubic feet of dirt to fill in the vacated ditch and that amount of dirt will not be available from digging a new ditch. She reiterated she is most concerned about the area above the pipe, not the area below. She understands that she is not able to give the contractor direction, but she would like the Council to address her concerns.

There were no additional persons appearing to be heard.

Council Member Ball agreed with Ms. College that the City cannot actually control water and she asked if the engineering firm can project that the improvements to the channel will last for at least 10 years. Mr. Spencer stated that the engineer was told that the project needs to withstand a water flow of 250 cubic feet per second (CFS). The engineer has placed his stamp on the construction plans to certify that the channel will work up to that value. Council Member Ball asked how long the channel is expected to perform at that level. Mr. Spencer stated that he believes that the statute for an engineer's liability is nine years, but in theory the project should be designed to withstand those flows into perpetuity.

Council Member Scott L. Smith MOVED that City Council APPROVE the contract with S&L, Inc. and authorize a contract amount up to $278,300 for the reconstruction of the Broadleaf Hollow channel. Release of the contract shall be subject to receipt of signed easement documents from Lots 302 through 309 for the new channel location.

Council Member Kim Rodela SECONDED the motion.

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Sarah D. Petersen	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

8. ACTION: VACATION AND RELEASE OF EASEMENT FOR THE BROADLEAF HOLLOW CHANNEL *Legislative*

The City Council will consider a request to approve a vacation and release of easement of the twenty feet wide storm drain easement as recorded on the Dry Creek Highlands Phase 3 Plat for lots 302 through 309. This vacation will be approved contingent upon the recording of a new easements by the owners of lots 302 through 309. The Council will take appropriate action.

City Engineer/Public Works Director Spencer indicated this item is directly related to the previous item on the agenda; he presented the plat map to identify the red line that represents the vacation of the easement and indicated that residents will be allowed to install a fence as close to the trail as the red line. He suggested that the motion language be adjusted require the receipt of new easements for lots 302-209; lot 310 will be allowed to build a fence commensurate with other fencing.

Council Member Sarah D. Petersen MOVED that the City Council APPROVE and AUTHORIZE the Mayor to sign the vacation and release of easement as recorded on the Dry Creek Highlands Phase 3 Plat for lots 302 through 309. Instruct staff to add an allowance in the new easement documents approved on Sept. 21, 2021 that allows an open or semi-open fence to be placed at the edge of the trail easement between the channel and trail and implements the other conditions for fencing discussed in the staff report, subject to the receipt of the new easements for lots 302-309. Lot 310 also allowed to build a fence commensurate with the other fencing.

Council Member Scott L. Smith SECONDED the motion.

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Sarah D. Petersen	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

9. ACTION: AGREEMENT BETWEEN PATTERSON CONSTRUCTION, LEHI IRRIGATION AND HIGHLAND CITY *Administrative*

The City Council will consider an agreement with Patterson Development and Lehi Irrigation Company to resolve current and future irrigation and tail water control of the existing Lehi Irrigation Ditch on 11200 North. The Council will take appropriate action.

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City Engineer/Public Works Director Spencer reminded the Council that during their last meeting, they voted to approve drilling well #4 in the City. Drilling has commenced and the well is at a depth of 115 feet at the present time. Well #4 is located at 5100 West on 11200 North and does not have a retention area or other location to send wastewater to other than the Lehi Irrigation Ditch on 1200 North. Pumping water to waste is an essential function each time the Well is started and before it is sent into the culinary system. Because of our use of the ditch for this function, Highland City has an interest in finding a solution to address tail water flows. He proposed Sunrise Farms development will eliminate the ditch going to the north and therefore, Wayne Patterson of Patterson Development, Highland City, and Lehi Irrigation Company have agreed in concept to redirect the irrigation ditch under the terms of the attached contract. The contract was prepared by Lehi Irrigation Company. For the foreseeable future, irrigation and tail water will be routed to the southern portion of the undeveloped Patterson property. When the balance of the property develops, Patterson Development will pipe the portion of the ditch along their frontage. At that same time, Lehi Irrigation Company and Highland City will be responsible to share the costs equally to get the balance of the pipe to Dry Creek. The ditch portion to be piped on the east side of 6000 W. will be divided among the three agreement parties included in this agreement. Patterson Development has agreed to pipe the equivalent of the eastern frontage portion of the Sunrise Development which is approximately 500 feet. Highland City and Lehi Irrigation Company will each be responsible for half of the cost for the remaining portion of piping to Dry Creek. This length is approximately 900 feet. The cost sharing percentage is not explicitly clear in the signed agreement as provided to Highland City. However, it is the understanding of the Highland City staff that the intended cost sharing is 50-50. The proposed motion includes a provision for clarifying this percentage in the signed agreement. Current estimates for the Highland City portion of the costs are $150,000. This expense is appropriate to be paid by the culinary water fund as this improvement is necessary to allow the City to operate the water system. The expense was not foreseen or accounted for in the current water rate study. It is an expense that will need to be included in the next water rate study update. As the date of actual construction is unknown, the fiscal year and inflationary cost increase of the expense is difficult to predict. Mr. Spencer concluded that staff recommends approval of the agreement and entering into this contract with Lehi Irrigation Company and Wayne Patterson of Patterson Development; this action will have no impact on the current fiscal year's expenditures, however it does obligate the City to future costs as discussed.

The Mayor and Council reviewed the map of the project area to determine the portions that will be paid for by each party to the agreement.

Council Member Smith inquired as to the advantage this project will create for Lehi Irrigation. Mr. Spencer stated that the City will realize the greatest advantage; Lehi Irrigation does not really need the ditch, but they are contributing financially to the project. He stated he feels Highland City is getting a great deal with this project.

Council Member Peterson stated there will be water in the ditch that runs adjacent to private residences, and she asked if this will impact the residences by way of increased flooding. Mr. Spencer stated there is already water in the area; the new improvements will be piped and located under the asphalt. He stated the greatest issue for the Council to consider is what improvements will need to be made when the Longhorn property develops. He then asked that the Council include in the motion the cost sharing that was detailed in his staff report.

Council Member Kim Rodela MOVED that City Council approve the agreement with Patterson Development, Lehi Irrigation Company, and Highland City and authorize the Mayor to sign the agreement with the provision that the signed agreement clarifies that the Lehi Irrigation and Highland City cost sharing is equal with each entity paying 50% of the shared costs.

Council Member Scott L. Smith SECONDED the motion.

Council Member Timothy A. Ball Yes
Council Member Brittney P. Bills Yes

Council Member Sarah D. Petersen *Yes*
Council Member Kim Rodela *Yes*
Council Member Scott L. Smith *Yes*

The motion passed 5:0.

10. ACTION/RESOLUTIONS: COUNCIL BOARD ASSIGNMENTS & RESOLUTIONS *Administrative*

The City Council will consider ratifying the appointments of Mayor and Council for 2022 as proposed and adopt resolutions as necessary.

Mayor Kurt Ostler reviewed a staff memo that details the changes to Mayor and Council assignments for 2022. These assignments are reviewed every two years, but some are effective until the end of an elected official's term of office. He added that it is necessary to appoint a Mayor Pro Tem and that should be a separate motion from the approval of the assignments.

Council Member Kim Rodela MOVED that the City Council ratify Mayor Ostler's Council Appointments as presented, including the appointment of Mayor Kurt Ostler as a regular member on the Lone Peak Public Safety District Board, and the North Utah County Aquifer Council; Brittney P. Bills on the Utah Valley Dispatch Special Service District Board, and as a regular member on the Lone Peak Public Safety District Board; and Sarah D. Petersen as an alternate member on the Lone Peak Public Safety District Board.

Council Member Scott L. Smith SECONDED the motion.

Council Member Timothy A. Ball *Yes*
Council Member Brittney P. Bills *Yes*
Council Member Sarah D. Petersen *Yes*
Council Member Kim Rodela *Yes*
Council Member Scott L. Smith *Yes*

The motion passed 5:0.

Scott L. Smith NOMINATED Brittney P. Bills as the Mayor Pro-tem. Timothy Ball SECONDED the nomination.

Council Member Timothy A. Ball *Yes*
Council Member Brittney P. Bills *Yes*
Council Member Sarah D. Petersen *Yes*
Council Member Kim Rodela *Yes*
Council Member Scott L. Smith *Yes*

The motion passed 5:0.

11. DISCUSSION: INTERLOCAL AGREEMENT - NORTH COUNTY EQUESTRIAN PARK *Legislative*

City Council will consider the drafted interlocal agreement with American Fork, Lehi, and Highland cities outlining the cities' intent to take over management of the North County Equestrian Park. The Council will discuss the drafted interlocal agreement and provide

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feedback to staff. If Utah County selects the cities to operate the Equestrian Park moving forward, the final agreement will be brought back to Council for their approval.

Mayor Ostler provided background information on this issue. Utah County has contemplated changing the operation the North Utah County Equestrian Park located at 9450 North 6800 West in Highland. At one time, the County was even considering selling the property for at least partial private development. The County has seemed to decide against the idea of selling the land but is looking to lessen the County's involvement in the operation and maintenance of the facility. The County currently has a Request for Proposal (RFP) open for the maintenance of the property that closed today at 3:00 p.m. He noted that more recently, staff and elected officials from American Fork, Lehi, and Highland have been meeting to discuss the idea of the three cities joining together to manage the park moving forward. This type of management would ensure that the facility stay open for public use. Some other groups who have indicated interest in taking over management of the facility seem to want to turn it into much more of a private operation. An interlocal agreement outlining terms of management for the three cities has been drafted and turned in to Utah County to consider as an alternative to a private or non-profit management of the facility. Due to the timing as to when a draft of the agreement was available, staff could not make it available in a Council meeting before the due date of the RFP. While the cities are not responding to the County's RFP, but rather as an alternative to a private or non-profit group taking over management, they felt it best to meet the same deadline as the RFP's. The drafted agreement turned in to the County does not constitute Highland signing the agreement. As a part of the submission, the cities noted that final approval from each cities' Council's was required before the agreement could be executed.

At this time, staff is looking for feedback from Council on the concept presented and the content of the agreement. If Utah County selects the interlocal agreement option to manage the facility moving forward, the agreement will be finalized between all four parties before being brought back to Council for approval. Mayor Ostler concluded the agreement requires that American Fork, Lehi, and Highland contribute equally to the maintenance costs of the facility. What those final costs will be is still be analyzed. A part-time employee is on staff at the facility. An estimated cost for an Operator I type employee working 20 hours per week would be $20,800 total. It is anticipated that the costs will be offset by user fees.

Assistant City Administrator Wells added that she has attended the meetings during which this agreement has been discussed; the benefit she sees to the three cities joining together to manage the facility is that such an arrangement will allow the facility to remain open to the public. If a private entity is awarded a contract to manage the facility, they would have the ability to close it to the public as they choose.

Mayor Ostler added that Highland City would like to place a water tank on the property and that has been included in the interlocal agreement; additionally, trail connections could be made through the property, which would benefit the entire City. He stated that the facility is located within Highland City's boundaries.

High level discussion among the Council centered on the terms of the agreement and the responsibilities of each of the three cities; the Council indicated they'd like to have a clear understanding of the of the fiscal impact of the contract. Mayor Ostler stated that once the three cities have the opportunity to discuss the issue in greater detail with the County, he can provide more information to the Council and have a detailed report of potential costs.

12. MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS

The City Council may discuss and receive updates on City events, projects, and issues from the Mayor, City Council members, and city staff. Topics discussed will be informational only. No final action will be taken on communication items.

Council Member Smith spoke to his reappointment to the North Pointe Solid Waste District; he believes he will need to reapply as a member at large. Highland, Vineyard, and Cedar Hills joined after the creation of the Special Service District, which means each of the cities must reapply to be part of the District's membership.

Chief Patton inquired as to the time for the Lone Peak Public Safety District (LPPSD) meeting tomorrow, to which Mayor Ostler answered 7:30 a.m.

a. Future Meetings

- January 12, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- January 18, City Council Meeting, 7:00 pm, City Hall
- January 25, Planning Commission Meeting, 7:00 pm, City Hall

ADJOURNMENT

Council Member Kim Rodela MOVED to adjourn the regular meeting and Council Member Timothy A. Ball SECONDED the motion. All voted in favor and the motion passed unanimously.

The meeting adjourned at 9:16 pm.

I, Stephannie Cottle, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on January 11, 2022. This document constitutes the official minutes for the Highland City Council Meeting.

Stephannie Cottle
City Recorder

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AGENDA NEXT

CITY COUNCIL AGENDA REPORT ITEM #2b

HIGHLAND CITY

DATE: February 1, 2022

TO: Members of the City Council

FROM: Kurt Ostler, Mayor

SUBJECT: **ACTION:** Planning Commission Appointments

TYPE: **ADMINISTRATIVE:** Mayor and City Council are acting administratively to fill positions in boards and commissions as set forth in Highland City Municipal Code 4.12.010

PURPOSE:

The Council will consider the Mayor's request to ratify the appointment of Jay Roundy, Boyd Draper, Tracy Hill, and Trent Thayn to the Planning Commission. The Council will take appropriate action.

BACKGROUND:

The Planning Commission is made of seven members appointed by the Mayor with the advice and consent of the City Council. Commissioners serve four year terms beginning February first of each year. The Commission provides recommendations to the City Council on land use matters.

With the expiration of Sherry Carruth's term and the notice provided by Mino Morgese that he will be moving, two seats need to be filled. In addition, there are two alternate seats which need to be filled. The Mayor interviewed interested residents and is recommending the following be appointed:

Seat	Name	Term Expiration	Notes
1	Audrey Wright-Moore	2023	Appointed to fill Chris Kemp's term
2	Claude Jones	2023	
3	Boyd Draper	2026	
4	Chris Howden	2025	
5	Jay Roundy	2025	Appointed to fill Mino Morgese's unexpired term.
6	Jerry Abbott	2024	Appointed as Commission Chair in 2021
7	Tyler Standifird	2024	Appointed to fill Seth Barrus' unexpired term
Alternate	Tracy Hill	2026	
Alternate	Trent Thayn	2026	

FISCAL IMPACT:
None

PROPOSED MOTION:
I move that the City Council ratify the Mayor's appointment of Boyd Draper to serve a four-year term, Jay Roundy to serve a three-year term on the Planning Commission. Also, Tracy Hill and Trent Thayn to serve four-year terms as alternates on the Planning Commission.

ATTACHMENTS:
1. Boyd Draper Volunteer Statement
2. Jay Roundy Volunteer Statement
3. Tracy Hill Volunteer Statement
4. Trent Thayn Volunteer Statement

HIGHLAND CITY

5400 W. Civic Center Dr., Suite 1 • Highland, UT 84003
(801) 756-5751 • Fax (801) 756-6903

Highland City Volunteer Statement of Interest

The residents of Highland have great pride in their City. The City utilizes many volunteers in numerous capacities to improve the overall quality of life in our town. In order to encourage this participation, the Mayor is requesting statement of interests from those who are willing to serve. As vacancies or needs arise within the City, the Mayor will review the statements, conduct interviews and make selections. If you are interested in serving as a volunteer within Highland City, please submit this statement of interest to the City Offices.

Name: Boyd Draper Date: 1/20/2022

Residence address: [redacted]

Phone number: [redacted] Email: [redacted]

Please fill out the following or attach a resume listing expertise, experience, interests, etc.

How long have you resided in Highland City? 21 years

Occupation: Retired

Education: Civil engineering

Are you able to meet in the evenings? Yes Semi-monthly: Yes Monthly: Yes

List any background and experience you have that you think would be helpful to the Committee or Commission you would like to serve: I am a retired engineer with over 30 years experience with infrastructure including Roads, sewer, water and storm water systems.

Please state why you would like to serve: I have time and am interested in helping Highland properly plan for the future and to address existing issues

If not selected for an immediate opening, do you wish to be considered for the next opening? Yes

Additional comments:

Please select which committee(s) you are interested in serving on: *(submittal of this form does not guarantee an appointment)*

Standing Committees

- ☒ Planning Commission
- ☐ Arts Council
- ☐ Highland Fling
- ☐ Tree Commission
- ☐ Youth Council
- ☐ Library
- ☐ Library Board
- ☐ Historical Society
- ☐ Friends of the Library

Ad Hoc Committees

- ☐ Beautification Committee
- ☐ Open Space
- ☐ Web and Social Media

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Name: JAY GLENN ROUNDY Date: 14 JANUARY 2022

Residence address: [redacted]

Phone number: [redacted] Email: [redacted]

Please fill out the following or attach a resume listing expertise, experience, interests, etc.

How long have you resided in Highland City? 24 YEARS

Occupation: RETIRED

Education: AS(2), BS(2), MS, PHD, JD. ENVIRONMENTAL ENGINEERING, LAW LANDSCAPE ARCHITECT, ENVIRONMENTAL PLANNER

Are you able to meet in the evenings? YES Semi-monthly: YES Monthly: YES

List any background and experience you have that you think would be helpful to the Committee or Commission you would like to serve: HIGHLAND PLANNING & ZONING COMMISSION - 4 YEARS; HIGHLAND BEAUTIFICATION - 4+ YEARS; VOLUNTEER VARIOUS (FLING, ARTS, CHRISTMAS, ETC) CHAIRMAN, BOARD OF ZONING ADJUSTMENTS 4 YEARS (LINDON) - MULTIPLE LICENSES RE: BUILDING, LAND USE & PLANNING MANAGEMENT

Please state why you would like to serve: BECAUSE THERE IS A REAL NEED!

If not selected for an immediate opening, do you wish to be considered for the next opening?

Additional comments: Respectfully, Jay Glenn Roundy

Please select which committee(s) you are interested in serving on: *(submittal of this form does not guarantee an appointment)*

Standing Committees
- ☐ Arts Council
- ☐ Friends of the Library
- ☐ Highland Fling
- ☐ Historical Society
- ☐ Library
- ☐ Library Board
- ☐ Parks, Trails & Tree Commission
- ☐ Planning Commission
- ☐ Youth Council

Ad Hoc Committees
- ☐ Beautification Committee
- ☐ Inclusivity Committee

* WOULD LIKE TO BE CONSIDERED FOR CHAIRMAN OF THE BOARD OF ADJUSTMENTS FOR HIGHLAND CITY — ALSO

HIGHLAND CITY

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Name: Tracy Hill Date: January 9, 2022.

Residence address: [redacted]

Phone number: [redacted] Email: [redacted]

Please fill out the following or attach a resume listing expertise, experience, interests, etc.

How long have you resided in Highland City? 6 years

Occupation: Physician and Faculty at the Noorda College of Medicine in Provo

Education: BA Brigham Young University, MD - Oregon Health Sciences University

Are you able to meet in the evenings? Yes Semi-monthly: Yes Monthly: Yes

List any background and experience you have that you think would be helpful to the Committee or Commission you would like to serve: I have a long standing interest in real estate as an individual real estate investor. My primary attribute is as a peacemaker and the ability to balance the interests of multiple parties and find solutions. I have served as a Regional Chief Medical Officer responsible for nearly 1000 physicians, have extensive Church leadership responsibility including as an LDS Mission President, and currently am a Medical School Professor and director of Professionalism and Medical Ethics.

Please state why you would like to serve: I have an interest in maintaining the quiet, safe, neighborhood feel of our wonderful city. At the same time I am mindful of the increasing cost of housing in our community and the need to respond to the challenge of creating options to improve access to housing and provide limited commercial options in Highland.

If not selected for an immediate opening, do you wish to be considered for the next opening? Yes

Additional comments: I am a team player and look forward to the opportunity to contribute to my adopted hometown. I approach probems in a thoughtful, respectful manner with an open mind. Thank you for your consideration.

Please select which committee(s) you are interested in serving on: *(submittal of this form does not guarantee an appointment)*

Standing Committees

- ☒ Planning Commission
- ☐ Arts Council
- ☐ Highland Fling
- ☐ Tree Commission
- ☐ Youth Council
- ☐ Library
- ☐ Library Board
- ☐ Historical Society
- ☐ Friends of the Library

Ad Hoc Committees

- ☐ Beautification Committee
- ☐ Open Space
- ☐ Web and Social Media

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Name: Trent Thayn Date: 06 Jan 2022

Residence address: [redacted]

Phone number: [redacted] Email: [redacted]

Please fill out the following or attach a resume listing expertise, experience, interests, etc.

How long have you resided in Highland City? 17 years

Occupation: Manager of Project Scheduling Controls

Education: Some college coursework completed

Are you able to meet in the evenings? Yes Semi-monthly: Yes Monthly: Yes

List any background and experience you have that you think would be helpful to the Committee or Commission you would like to serve: I have 20+ years of experience in project controls, specializing in scheduling.
I served 5 years on Lehi city Board of adjustments committee.
As a hobby I have built several personal homes and developed a small subdivision in Lehi city.

Please state why you would like to serve: I want to serve my community and I am interested in the continued improvement of Highland

If not selected for an immediate opening, do you wish to be considered for the next opening? Yes

Additional comments:

Please select which committee(s) you are interested in serving on: *(submittal of this form does not guarantee an appointment)*

Standing Committees

- ☐ Arts Council
- ☐ Friends of the Library
- ☐ Highland Fling
- ☐ Historical Society
- ☐ Library
- ☐ Library Board
- ☐ Parks, Trails & Tree Commission
- ■ Planning Commission
- ☐ Youth Council

Ad Hoc Committees

- ☐ Beautification Committee
- ☐ Inclusivity Committee

AGENDA NEXT

HIGHLAND CITY

CITY COUNCIL AGENDA REPORT
ITEM #2c

DATE: February 1, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Kellie Smith
Planner & GIS Analyst

SUBJECT: **PLAT AMENDMENT:** Mid-Town Highland Marketplace Amended (PA-22-02)

TYPE: **LEGISLATIVE:** The City Council is the Land Use Authority for Plat Amendments and is subject to Section 5-10-103 of the Highland City Development Code. Final plat amendments are a legislative process.

PURPOSE:

The City Council will consider a request petitioned by Joe Ham representing MNG Highland Development LLC. The petitioner is requesting approval to adjust internal property boundaries located at approximately 5300 W 11000 N. The City Council will take appropriate action.

BACKGROUND:

The City Council approved the final plat for Mid-town Highland Marketplace Subdivision on March 30th, 2021. The final plat included seven (7) lots.

This property is located in the CR Zone and is designated as Commercial in the General Plan.

SUMMARY OF THE REQUEST:

1. The applicant is requesting to adjust internal lot boundaries to match the site plan approved by the City Council December 7th, 2021. No new lots are being added.

CITIZEN PARTICIPATION:

Notice of the plat amendment request was mailed to all property owners within 500 feet on January 20th, 2022. No objections have been received.

ANAYLSIS/FINDINGS:

- A waterline easement is being adjusted to service the buildings that were approved by the City Council December 7th, 2021.

- The 10-foot public utility easements are being altered to follow along the new lot lines.

- The adjustment of property lines and easements will not impact or require any public improvements.

RECOMMENDATION AND PROPOSED MOTION:

Staff recommends the City Council accept the findings and **APPROVE** the final plat amendment subject to the following stipulations:

1. The recorded plat shall be in substantial conformance with the final plat received January 6, 2022.
2. Prior to recording, the recorded plat shall be revised as required by the City Engineer.

I move that the City Council accept the findings and **APPROVE** Mid-town Highland Marketplace Subdivision Amended subject to the two (2) stipulations recommended by Staff.

ALTERNATIVE MOTION:

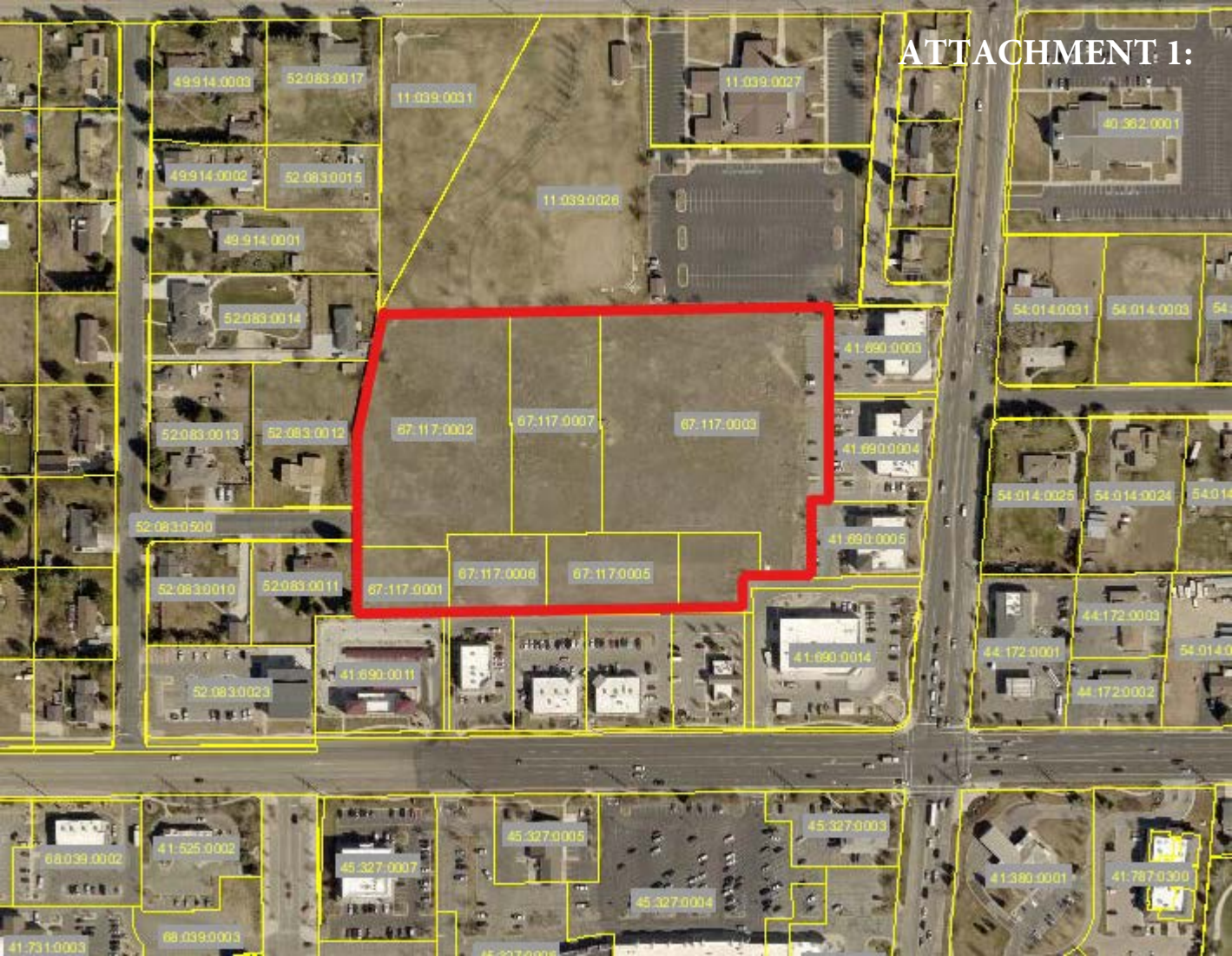
I move that the City Council **DENY** Mid-town Highland Marketplace Subdivision Amended based on the following findings: (The Council will need to draft appropriate findings).

FISCAL IMPACT:

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

ATTACHMENTS:

1. Vicinity Map
2. Project Narrative
3. Proposed Plat Amendment
4. Master Site Plan Approved December 7th, 2021


ATTACHMENT 1:
49:914:0003
52:083:0017
11:039:0031
11:039:0027
40:362:0001
49:914:0002
52:083:0015
11:039:0026
49:914:0001
52:083:0014
54:014:0031
54:014:0003
41:690:0003
52:083:0013
52:083:0012
67:117:0002
67:117:0007
67:117:0003
41:690:0004
54:014:0025
54:014:0024
52:083:0500
41:690:0005
52:083:0010
52:083:0011
67:117:0001
67:117:0006
67:117:0005
44:172:0003
41:690:0014
44:172:0001
52:083:0023
41:690:0011
44:172:0002
68:039:0002
41:525:0002
45:327:0005
45:327:0003
45:327:0007
45:327:0004
41:380:0001
41:787:0300
68:039:0003
41:731:0003

ATTACHMENT 2:

January 11, 2022

Highland City
Community Development & Planning
5400 W Civic Center Drive
Highland, UT 84003

RE: Proposed Plat Amendment

Highland Marketplace respectfully submits this Plat Amendment Application to adjust the existing lot lines to match the revised site plan that was reviewed and approved by the City Council on December 7, 2021.

Previously, a Plat Map was reviewed and approved by the Planning Commission to accommodate the development of a shopping center anchored by a large-box retailer. While our marketing efforts to attract a large retailer were unsuccessful, we have received a strong response from a variety of restaurants and food services, other retail services, as well as office users. These market demands lead to a change in the building layout, which necessitated an adjustment to the lot lines.

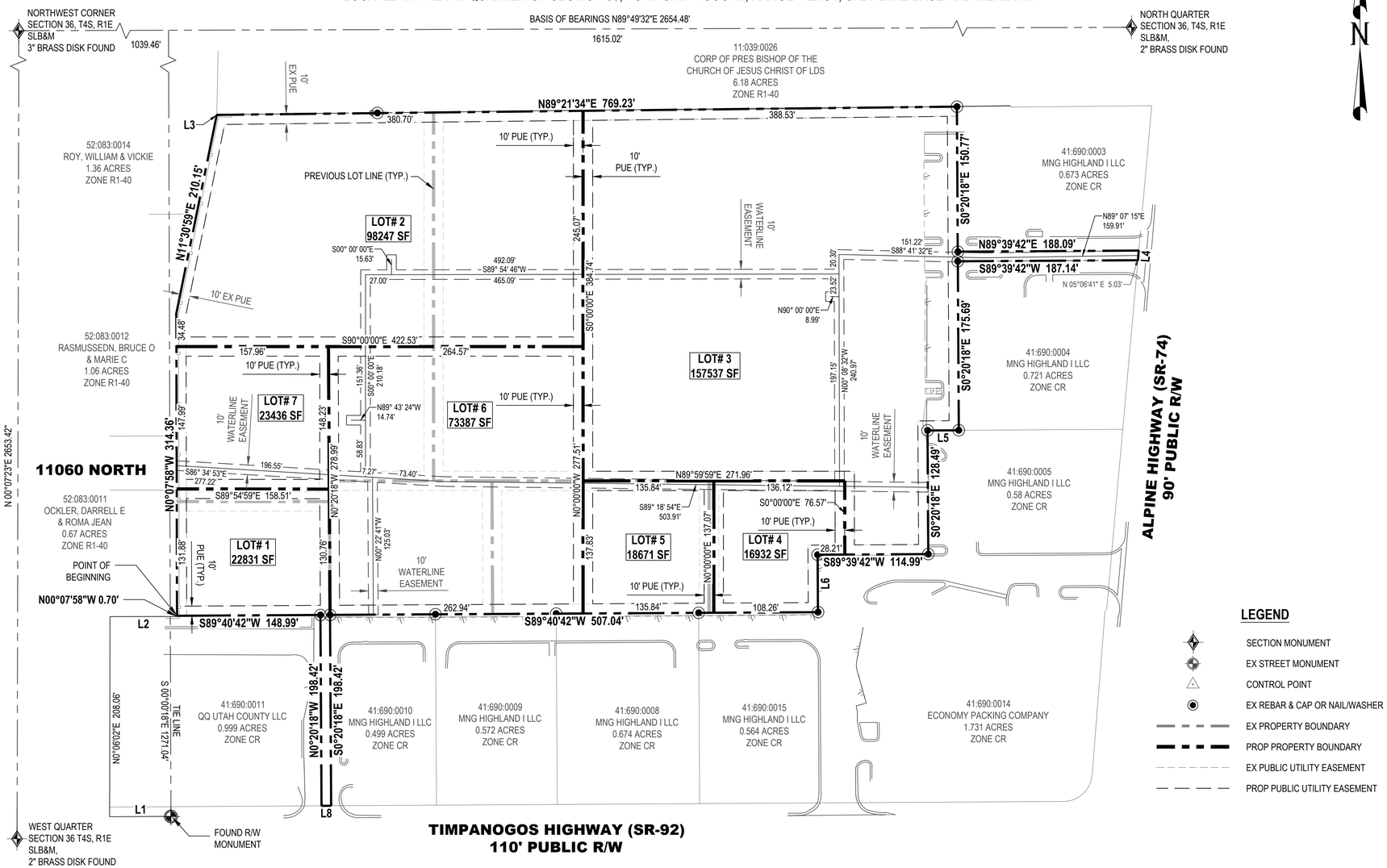
Thank you for your consideration.

Joe Ham
MNG Highland Development, LLC

ATTACHMENT 3:

MID-TOWN HIGHLAND MARKETPLACE SUBDIVISION - AMENDED

A VACATION OF LOTS 1 AND 2 OF HIGHLAND MARKETPLACE
LOCATED IN THE NW QUARTER OF SECTION 36, TOWNSHIP 4 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN



LEGEND

- SECTION MONUMENT
- EX STREET MONUMENT
- CONTROL POINT
- EX REBAR & CAP OR NAIL/WASHER
- EX PROPERTY BOUNDARY
- PROP PROPERTY BOUNDARY
- EX PUBLIC UTILITY EASEMENT
- PROP PUBLIC UTILITY EASEMENT

SURVEYOR'S CERTIFICATE

I, JON BEHR, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 290669 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH IN ACCORDANCE WITH TITLE 58, CHAPTER 22, PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS LICENSING ACT. I FURTHER CERTIFY BY AUTHORITY OF THE OWNER, I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE VERIFIED ALL MEASUREMENTS, AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS, BLOCKS, STREETS, AND EASEMENTS AND THE SAME HAS BEEN CORRECTLY SURVEYED AND STAKED ON THE GROUND AS SHOWN ON THIS PLAT AND THAT THIS PLAT IS TRUE AND CORRECT.I HAVE PLACED MONUMENTS AS PRESENTED ON THE PLAT.

_____ DATE OF PLAT OR MAP: _____

BOUNDARY DESCRIPTION

COMBINED PARCELS DESCRIPTION:
COMMENCING AT A RIGHT-OF-WAY MONUMENT ON THE NORTHERLY LINE OF STATE ROUTE 92 (HIGHLAND HIGHWAY) WHICH LIES N 89°49'32" E, 1039.46 FEET AND S 00°00'18" E, 1271.04' FROM THE NORTHWEST CORNER OF SECTION 36, T4S, R1E, SLB&M, THENCE RUNNING S 89°39'42" W, A DISTANCE OF 63.54 FEET TO A POINT; THENCE N 00°06'02" E, A DISTANCE OF 208.06 FEET TO A POINT; THENCE N 89°54'02" E, A DISTANCE OF 69.66 FEET; THENCE N00°07'58"W, A DISTANCE OF 0.70 FEET TO THE POINT OF BEGINNING; THENCE N 00°07'58" W, A DISTANCE OF 314.36 FEET TO A ROD FOUND; THENCE N 11°30'59" E, A DISTANCE OF 210.15 FEET TO A POINT; THENCE N 00°42'32" E, A DISTANCE OF 0.41 FEET TO A POINT; THENCE N 89°21'34" E, A DISTANCE OF 769.23 FEET TO A ROD FOUND; THENCE S 00°20'18" E, A DISTANCE OF 150.77 FEET TO A NAIL/WASHER FOUND; THENCE N 89°39'42" E, A DISTANCE OF 188.09 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROUTE 74 (MAIN STREET); THENCE ALONG SAID RIGHT-OF-WAY S 05°06'41"W, A DISTANCE OF 10.05 FEET TO A POINT; THENCE LEAVING SAID RIGHT-OF-WAY S 89°39'42" W, A DISTANCE OF 187.14 FEET TO A NAIL/WASHER SET; THENCE S 00°20'18" E, A DISTANCE OF 175.69 FEET TO AN NAIL/WASHER SET; THENCE S 89°39'42" W, A DISTANCE OF 32.50 FEET TO A NAIL/WASHER FOUND; THENCE S 00°20'18" E, A DISTANCE OF 128.49 FEET TO AN ETCHED X IN CURB FOUND; THENCE S 89°39'42" W, A DISTANCE OF 114.99 FEET TO A NAIL/WASHER FOUND; THENCE S 00°20'18" E, A DISTANCE OF 59.73 FEET TO A NAIL/WASHER FOUND; THENCE S 89°40'42" W, A DISTANCE OF 507.04 FEET TO A ROD AND CAP SET; THENCE S 00°20'18" E, A DISTANCE OF 198.42 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SR-92 (HIGHLAND HIGHWAY); THENCE ALONG SAID RIGHT-OF-WAY LINE S 89°39'42" W, A DISTANCE OF 10.00 FEET TO A POINT;THENCE LEAVING SAID RIGHT-OF-WAY N 00°20'18" W, A DISTANCE OF 198.42 FEET TO A ROD AND CAP SET; THENCE S 89°40'42" W, A DISTANCE OF 148.99 FEET TO THE POINT OF BEGINNING.
SAID COMBINED PARCELS CONTAINING 9.436 ACRES OF LAND, MORE OR LESS.

_____ DATE _____ SURVEYOR (SEE SEAL BELOW)

OWNERS' DEDICATION

WE, ALL OF THE UNDERSIGNED OWNERS OF ALL THE PROPERTY DESCRIBED IN THE SURVEYOR'S CERTIFICATE HEREON AND SHOWN ON THIS MAP, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, BLOCKS, STREETS AND EASEMENTS AND DO HEREBY DEDICATE THE STREETS AND OTHER PUBLIC AREAS AND INDICATED HERON FOR PERPETUAL USE OF THE PUBLIC, THE PUBLIC UTILITY EASEMENTS TO ALL PROVIDERS, PUBLIC OR PRIVATE, AND THE IRRIGATION EASEMENTS TO ALL LOT OWNERS, AND THEIR SUCCESSORS AND ASSIGNS IN PERPETUITY.
IN WITNESS HEREOF WE HAVE SET OUR HANDS THIS _____ DAY OF _____, A.D. 20_____

MNG HIGHLAND DEVELOPMENT, LLC
A CALIFORNIA LIMITED LIABILITY COMPANY
BY: MNG MANAGEMENT LLC,
A CALIFORNIA LIMITED LIABILITY COMPANY
ITS: MANAGER

_____
BY: DARON YOUNG
ITS: MANAGER

ACKNOWLEDGEMENT

STATE OF CALIFORNIA
COUNTY OF _____
ON _____ BEFORE ME, _____ 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 BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.
I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND AND OFFICIAL SEAL.
_____ NOTARY PUBLIC (SEE SEAL BELOW)

ACCEPTANCE BY LEGISLATIVE BODY

THE DEPARTMENT OF PUBLIC WORKS AND ENGINEERING OF HIGHLAND CITY, COUNTY OF UTAH, APPROVES THIS SUBDIVISION AND HEREBY ACCEPTS THE DEDICATION OF ALL STREETS, EASEMENTS, AND OTHER PARCELS OF LAND INTENDED FOR PUBLIC PURPOSES FOR THE PERPETUAL USE OF THE PUBLIC THIS _____ DAY OF _____, A.D. 20____

APPROVED BY MAYOR _____

APPROVED _____ ATTEST _____
CITY ENGINEER(SEE SEAL BELOW) CLERK-RECORDER (SEE SEAL BELOW)

HIGHLAND CITY ATTORNEY

APPROVED THIS _____ DAY OF _____, A.D. 20____ _____
HIGHLAND CITY ATTORNEY

PLANNING COMMISION APPROVAL

APPROVED THIS _____ DAY OF _____, A.D. 20____ _____
PLANNING COMMISSION CHAIR

_____
COMMUNITY DEVELOPMENT DIRECTOR

CONDITIONS OF APPROVAL

THERE ARE CONDITIONS OF APPROVAL ATTACHED TO THIS SUBDIVISION WHICH ARE INDICATED ON THIS PLAT. THESE CONDITIONS HAVE ALSO BEEN RECORDED WITH THE SUBDIVISION. POTENTIAL BUYERS ARE REQUESTED TO READ THESE CONDITIONS CAREFULLY AND OBTAIN A COPY OF THESE CONDITIONS AND RESTRICTIONS PRIOR TO PURCHASING OR CONTRACTING TO PURCHASE ANY LOTS WITHIN THIS SUBDIVISION. THESE CONDITIONS ARE BINDING AND HAVE BEEN IMPOSED BY THE LEGISLATIVE BODY OF HIGHLAND CITY. A COPY OF THESE CONDITIONS MAY BE OBTAINED THROUGH THE UTAH COUNTY RECORDER'S OFFICE OR THE HIGHLAND CITY RECORDER'S OFFICE. IN ADDITION, HIGHLAND CITY HAS APPROVED BINDING ZONING LAWS THROUGH A LEGALLY BINDING DEVELOPMENT CODE. IT IS THE RESPONSIBILITY OF THE BUYER TO DO THEIR DUE DILIGENCE IN OBTAINING ALL ACCURATE INFORMATION AND/OR REGULATIONS THAT MAY DIRECTLY OR INDIRECTLY AFFECT THE USE OF PROPERTY PRIOR TO PURCHASING OR CONTRACTING TO PURCHASE ANY PROPERTY ANYWHERE. CONDITIONS OF APPROVAL CONVEYED ON THIS PROPERTY BY THE LEGISLATIVE BODY OF HIGHLAND CITY, WHICH ARE IN ADDITION TO THE DEVELOPMENT CODE, ARE AS FOLLOWS:
1) LANDSCAPING AND CONSTRUCTION MATERIALS OF ANY TYPE ARE NOT PERMITTED UPON OR WITHIN THE STREET, CURB & GUTTER, PARK STRIP OR SIDEWALK (STREET RIGHT-OF-WAY) WITH THE EXCEPTION OF THE PARK STRIP WHICH REQUIRES 75% TO BE LANDSCAPED.
2) HIGHLAND CITY ORDINANCES RESTRICT HEIGHT OF FOUNDATION ABOVE CURB. IT IS THE RESPONSIBILITY OF THE BUYER TO CONTACT THE CITY PRIOR TO PURCHASING ANY LOT. THIS RESTRICTION APPLIES TO ALL LOTS IN THIS SUBDIVISION.

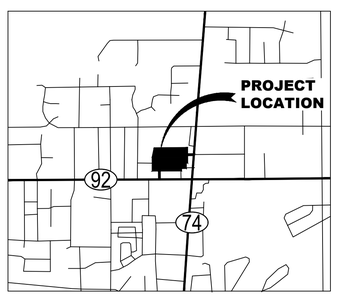
LOT INFORMATION

	ADDRESS	SIZE
LOT #1	5446 W 11000 N	22,831 SF
LOT #2	5428 W 11000 N	98,247 SF
LOT #3	11111 N ALPINE HWY	157,537 SF
LOT #4	5354 W 11000 N	16,932 SF
LOT #5	5378 W 11000 N	18,671 SF
LOT #6		73,387 SF
LOT #7		23,436 SF

LINE TABLE

LINE #	LENGTH	DIRECTION
L1	63.54	S89° 39' 42"W
L2	69.66	N89° 54' 02"E
L3	0.41	N00° 42' 32"E
L4	10.05	S05° 06' 41"W
L5	32.50	S89° 39' 42"W
L6	59.73	S00° 20' 18"E
L8	10.00	S89° 39' 42"W

CRS ENGINEERS
Answers to Infrastructure®
4246 S Riverboat Rd, Ste 200 | Salt Lake City, UT 84123 | P: 801.359.5565 | www.crsengineers.com



VICINITY MAP
N.T.S.

60 0 30 60 120 240
SCALE: 1" = 60 FEET

NOTE:
REFER TO ENTRY 82152: 2007 DATED JUNE 4, 2007 FOR DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS.

EXISTING SITE DATA

EXISTING ZONING	CR
TOTAL ACREAGE	9.436 ACRES

TEN (10) FOOT WATERLINE EASEMENT

DESCRIPTION OF THE EASEMENTS: THE INTENT OF THE TEN (10) FOOT WATERLINE EASEMENT SHOWN HEREON IS TO PROVIDE SAID EASEMENT FOR THE LOCATION(S) OF THE WATER LINE(S), VALVES AND HYDRANTS UPON INSTALLATION. THE PHYSICAL LOCATION(S) OF INSTALLED WATERLINES, VALVES AND HYDRANTS SHALL SERVE AS THE CENTERLINE OF THE EASEMENT.

OWNER: MID-TOWN NATIONAL GROUP
415 S CEDROS AVENUE
SOLANA BEACH, CA 92075
PHONE: (858) 546-0033
CONTACT: JOE HAM

UTILITIES APPROVAL

UTILITIES SHALL HAVE THE RIGHT TO INSTALL, MAINTAIN AND OPERATE THEIR EQUIPMENT AND ALL OTHER RELATED FACILITIES ABOVE AND BELOW GROUND WITHIN THE PUBLIC UTILITY EASEMENTS IDENTIFIED ON THIS PLAT MAP AS MAY BE NECESSARY OR DESIRABLE IN PROVIDING UTILITY SERVICES WITHIN AND WITHOUT THE LOTS IDENTIFIED HEREIN, INCLUDING THE RIGHT OF ACCESS TO SUCH FACILITIES AND THE RIGHT TO REQUIRE REMOVAL OF ANY OBSTRUCTIONS INCLUDING STRUCTURES, TREES AND VEGETATION THAT MAY BE PLACED WITHIN THE PUE. THE UTILITY MAY REQUIRE THE LOT OWNER TO REMOVE ALL STRUCTURES WITHIN THE PUE AT THE OWNER'S EXPENSE, OR THE UTILITY MAY REMOVE SUCH STRUCTURES AT THE OWNER'S EXPENSE. AT NO TIME SHALL ANY PERMANENT STRUCTURES OR ANY OTHER OBSTRUCTIONS BE PLACED WITHIN THE PUE THAT INTERFERE WITH THE USE OF THE PUE WITHOUT THE PRIOR WRITTEN APPROVAL OF THE UTILITIES WITH FACILITIES IN THE PUE.

ROCKY MOUNTAIN POWER _____

CENTURY LINK/QWEST _____

XFINITY/COMCAST _____

DOMINION ENERGY GAS COMPANY

DOMINION ENERGY APPROVES THIS PLAT SOLELY FOR THE PURPOSE OF CONFIRMING THAT THE PLAT CONTAINS PUBLIC UTILITY EASEMENTS. DOMINION ENERGY MAY REQUIRE OTHER EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS APPROVAL DOES NOT CONSTITUTE ABROGATION OR WAIVER OF ANY OTHER EXISTING RIGHTS, OBLIGATIONS OR LIABILITIES PROVIDED BY LAW OR EQUITY. THIS APPROVAL DOES NOT CONSTITUTE ACCEPTANCE, APPROVAL OR ACKNOWLEDGEMENT OF ANY TERMS CONTAINED IN THE PLAT, INCLUDING THOSE SET FORTH IN THE OWNERS DEDICATION AND THE NOTES AND DOES NOT CONSTITUTE A GUARANTEE OF PARTICULAR TERMS OF NATURAL GAS SERVICE. FOR FURTHER INFORMATION PLEASE CONTACT DOMINION ENERGY'S RIGHT-OF-WAY-DEPARTMENT.

APPROVED THIS _____ DAY OF _____

BY: _____

TITLE: _____

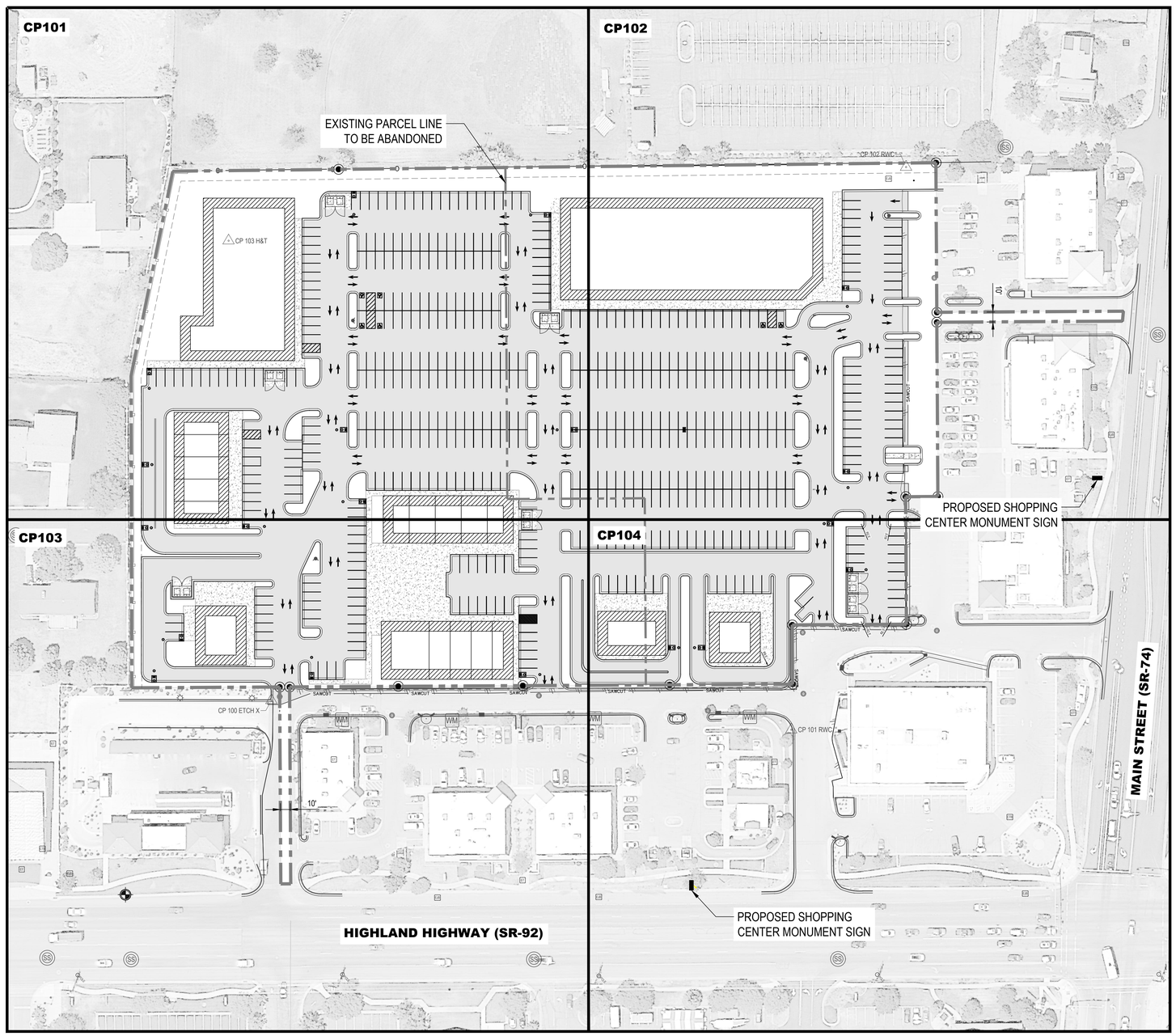
MID-TOWN HIGHLAND MARKETPLACE SUBDIVISION

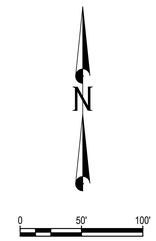
A VACATION OF LOTS 1 AND 2 OF HIGHLAND MARKETPLACE
FINAL PLAT
LOCATED IN THE NW QUARTER OF SECTION 36
TOWNSHIP 4 SOUTH, RANGE 1 EAST
SALT LAKE BASE AND MERIDIAN.
SCALE: 1" = 60 FEET

CLERK-RECORDER SEAL	CITY ENGINEER SEAL	UTAH COUNTY RECORDER SEAL
SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	

File Path:P:\2020-0484 Mid\Town-Highland Marketplace Site\Survey\Office\FINAL PLAT.dwg Jan 05, 2022 - 2:54pm

ATTACHMENT 4:





LEGEND

- CONTROL POINT
- SURVEY MONUMENT
- EX. UTILITY MANHOLE
- EX. FIRE HYDRANT
- EX. WATER VALVE
- EX. CATCH BASIN
- EX. LIGHT POLE / POWER POLE
- EX. ELECTRIC TRANSFORMER / JUNCTION BOX
- EX. IRRIGATION VALVE BOX
- EX. PROPERTY LINE TO BE ABANDONED
- UTILITY MANHOLE
- FIRE HYDRANT
- STORM CATCH BASIN
- COLLECTING CURB & GUTTER
- SHEDDING CURB & GUTTER
- PROPERTY BOUNDARY
- LOT SETBACK
- EASEMENT
- CONCRETE PAVEMENT
- ASPHALT PAVEMENT

SITE DATA TABLE	
EXISTING ZONING	CR
TOTAL BUILDING FLOOR AREA	124,500 SF
REQUIRED PARKING STALLS	498
TOTAL PARKING STALLS	538
ADA PARKING STALLS	11
LANDSCAPE	17.2%
HARDSCAPE	82.8%

FFKR ARCHITECTS
730 Pacific Avenue • Salt Lake City, Utah 84104
O 801.521.6186 • FFKR.COM

HIGHLAND MARKET PLACE
5438 WEST 11000 NORTH
HIGHLAND, UTAH 84003
SITE PLAN APPROVAL

SEAL

PROJECT #

DATE	STATUS

OVERALL
SITE PLAN

CP100

File : P:\2020-0484 midtown-highland marketplace site\Drawings\SHEETS\CP101.dwg Nov 08, 2021 - 12:58pm By: kylie.bailey

AGENDA NEXT

HIGHLAND CITY

CITY COUNCIL AGENDA REPORT
ITEM # 3

DATE: February 1, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Kellie Smith
Planner & GIS Analyst

SUBJECT: **PUBLIC HEARING: TEXT AMENDMENT** – Freestanding Signs

TYPE: **LEGISLATIVE:** The City Council is acting in their capacity as the Land Use Authority for amendments to the Development Code as outlined in Section 1-102 of said Code.

PURPOSE:

The City Council will hold a public hearing to consider a request by Joe Ham to amend Sections 3-707 and 3-710 of the Development Code relating to commercial freestanding signs. The City Council will take appropriate action.

BACKGROUND:

The applicant, Joe Ham, is the representative for MNG Highland Development LLC, the developer for the commercial property in the Highland Marketplace subdivision. The applicant explains in the attached narrative that because of the size and depth of the project, retailers and users need identification along the street fronts to draw customers into the development. The site has the potential for up to 22 businesses that would be at a disadvantage as their building signage may not be visible from the street.

SUMMARY OF THE REQUEST:

The proposed text amendment is a request to increase height and square footage requirements, reduce location from intersections and residential zones, allow additional sign materials and lighting, and remove specific landscaping requirements at the base of freestanding signs (see attached for freestanding sign examples).

1. *Location*
   The proposed amendment allows a freestanding sign to be constructed within 300 feet from the intersection of SR-92 and SR-74 and within 80 feet of a residential zone.

The applicant is requesting the decrease in distance from the intersection because the existing requirement of 400 feet from the intersection lines up with the Blue Lemon property, which is owned by a separate property owner. They are requesting 300 feet from the intersection to allow them to put the freestanding sign in front of their property with Treehouse Dental.

The request to decrease the distance from a residential zone is a result of the residential zone on the other side of Alpine Hwy. The Development Code currently requires a freestanding sign be no closer than 150 feet from a residential zone. 150 feet from the residential zone across the street goes into the Blue Lemon parking lot. It is assumed that when the Code was written, the distance requirements were imposed only taking the residential zones to the north and the west into consideration. The request is to decrease the distance to 80 feet to allow the developer to put a sign in the parkway detail.

2. *Size*
   The applicant is requesting to increase the maximum height of 18 feet to 40 feet for a commercial freestanding sign.

3. *Material*
   The proposed amendment adds painted aluminum as an acceptable material for commercial center freestanding signs. The amendment also adds, "Lettering and logos may also be created using solid aluminum faces with routed out graphics displaying backlit "push-through" or "back-up" acrylic with 1st surface vinyl."

4. *Lighting*
   The amendment allows the sign to be internally illuminated through acrylic or polycarbonate faces.

5. *Landscaping*
   The applicant is requesting to remove minimum requirements for plant types (perennials, annual vegetation, and evergreen type landscaping). The requirement to incorporate a minimum of 2 square feet of landscaping for every linear foot of sign length around the base of the sign will still remain.

Table 3-707A that identifies the overall height, size, frontage, location, and material requirements for each type of sign in each commercial zone would also be updated to reflect these changes.

PLANNING COMMISSION ACTION:

The Planning Commission held a public hearing on January 25th, 2022 (Attachment 3). There was one resident that objected to the request. They raised concerns regarding Highland's residential nature and the community design element of the

General Plan.

The Planning Commission's general concerns were the height and location of the signs. The Commission discussed possibly continuing the item, but the applicant preferred to forward the request on to the City Council, as there are leasing deadlines they are hoping to meet.

The Planning Commission voted to recommend **DENIAL** of the proposed text amendment due to concerns with the proposed height and depth of the signs. They did make clear that they were in favor of the proposed lighting and letter style, and the landscaping changes. Each Commissioner shared their preferences for the amendment:

- Commissioner Howden favored a 20-foot height maximum and to keep the existing location requirements.
- Commissioner Moore approved of a 25-foot height maximum and decreasing the 7-foot-tall rock base to a 3-foot base.
- Commissioner Morgese agreed with Commissioner Moore's recommendation.
- Commissioner Abbott favored a 20-foot height maximum and had concerns with the location for the residents across Alpine Hwy.

Subsequent to the Planning Commission meeting the applicant has revised the proposal to address the Planning Commission's concerns. The revised proposal is as follows:

2. *Size*
   The applicant is requesting to increase the maximum height of 18 feet to <u>25 feet</u> for a commercial freestanding sign.

   The revised proposal also includes a decrease to four (4) feet in depth rather than the originally proposed five (5) feet.

   See attached for updated the updated sign renderings.

CITIZEN PARTICIPATION:

Notice of the public hearing associated with this meeting was posted in three public locations and on the state and city websites on January 20th, 2022. The notice was also posted in the Daily Herald January 22nd, 2022. No comments have been received.

ANALYSIS:

General Plan

- The Highland City General Plan's economic element includes a policy to "Encourage additional retail development within commercially zoned areas by adopting "business friendly" processes and rules." The proposed amendment is consistent with this policy.

- One of the goals in the economic element in the General Plan is to maintain fiscal health and stability by maintaining a healthy balance of sales and property tax revenue. The proposed amendment could encourage new businesses to come to Highland.

- The Community Design element of the General Plan includes several "design ideas" meant to "preserve and enhance the unique visual qualities that make Highland City a special place." One of the seven design ideas is to maintain and enhance the scenic backdrop to the north and east "where feasible".

Development Code

- Section 3-701 describes the purpose of regulating the design, character, location, and illumination of signs in Highland. The goal is to "create an attraction to nonresidents to the benefit of commerce in the City; allow each individual business to clearly identify itself and the goods and services which it offers in a proper manner; safeguard and enhance property values; protect public and private investment in buildings and open space; and promote the public health, safety, and general welfare of the residents of the City."

- The applicant reasons that the proposal meets these goals of the City by the height and design of the sign drawing customers to the individual businesses that do not have road frontage.

- Staff is recommending a provision to be added that states the following:

  "The identification of the development name and tenant names on the sign shall be in the form of individual pan channel lettering, aluminum routed lettering with acrylic background, or other high quality sign design characteristics. Removable tenant panels made completely of acrylic or Plexiglas materials are prohibited."

Neighboring Cities

- Staff researched the freestanding sign requirements in commercial zones of neighboring cities.
    - American Fork: 35'
    - Cedar Hills: 30'
    - Pleasant Grove: 35'
    - Orem: 26' average (dependent on distance between the sign and right-of-way)
    - Provo: 35'

- The proposed amendment is to allow a maximum height of 40'. Staff recommends the Planning Commission discuss the proposed height.

FINDINGS:
The proposed amendment appears to meet the following findings:

- The amendment is consistent with goals and policies in the economic element of the General Plan.
- The proposed amendment is consistent with the purpose stated in the Development Code of regulating overall sign design and location.
- The proposed amendment exceeds the typical height of freestanding commercial signs in neighboring cities.

RECOMMENDATION:
Staff recommends that the City Council hold a public hearing, discuss the maximum height and the location discrepancies in the Code, and determine whether or not the amendment is appropriate.

PROPOSED MOTIONS:
Two draft motions have been provided for the Council's consideration.

Approval
I move that the City Council accept the findings and recommend **APPROVAL** of the proposal to amend Sections 3-707 and 3-710 of the Development Code relating to commercial freestanding signs with the addition to the materials section recommended by staff (The Council will need to draft a height maximum and location requirements).

Denial
I move that the City Council **DENY** case TA-22-01 a request to amend Sections 3-

707 and 3-710 of the Development Code relating to commercial freestanding signs 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. Examples of Freestanding Signs
3. Planning Commission *DRAFT* Meeting Minutes—January 25, 2022

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SEVERAL SECTIONS IN HIGHLAND CITY DEVELOPMENT CODE RELATING TO COMMERCIAL FREESTANDING SIGNS AS SHOWN IN FILENAME TA-22-01.

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

WHEREAS, the Planning Commission held a public hearing on this Ordinance on January 25, 2022 and

WHEREAS, the City Council held a public hearing on this Ordinance on February 1, 2022.

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

SECTION 1: **AMENDMENT** "3-707 Signs in Commercial Zones" of the Highland City Development Code is hereby *amended* as follows:

Table 3-707A

	CR Zone
Commercial Center Freestanding Sign	Height: ~~15~~ 25 ft. max., 3 ft. min. stone base Size: ~~243~~ 275 sq ft max. per side including a min. 3' rock base Frontage: 10 ft. min. Building or development advertised shall be min 100' > 1 lot deep from SR-92 or SR-74. Location: One (1) on SR-92; one (1) on SR-74. Minimum ~~400~~ 300 feet from intersection of highways and 50 feet from a monument sign. Material: Natural — stone, wood, masonry, architecturally suited metals, Plastic ~~(if inside pan-channel type lettering)~~ same per zone

SECTION 2: **AMENDMENT** "3-710 Commercial Center Freestanding Signs" of the Highland City Development Code is hereby *amended* as follows:

This Section shall permit the developer or business association of a planned commercial development project within a commercially zoned property that is greater than four (4) acres in the C-1, CR, or Town Center Zone to apply for a permit to install two (2) permanent commercial center freestanding sign for each highway frontage per zone. ~~Commercial freestanding signs can only be permitted if there are no other single or multi monument signs~~. The requirements listed below are required in order to obtain a sign permit prior to installation/ construction of the sign:

1. Location. For project locations of commercially zoned property equal to four (4) acres or more located within the C-1, C-R or Town Center Zones, two commercial freestanding sign may be installed. This sign may not be constructed within ~~400~~ 300 feet from the intersection of SR-92 or SR-74 or within 350 feet of another commercial center freestanding sign or within 50 feet of a monument sign or within ~~150~~ 80 feet of a residential zone.
2. Size. A commercial center freestanding sign shall have a maximum height of ~~fifteen (15)~~ twenty-two (22) feet with a minimum 3 foot rock base for a total of ~~eighteen (18)~~ twenty-five (25) feet, a maximum width of ~~thirteen and one-half (13 1/2)~~ sixteen(16) feet, and a maximum depth of ~~three (3)~~ four (4) feet. The height shall be measured from the top of the sidewalk along SR-92 or SR-74 immediately perpendicular and adjacent to the sign location. See figure 3-710.1 for definition of height, width and depth.

   Figure 3-710.1 Height, Width and Depth

   Material. Commercial center freestanding signs shall be similar in design, material and color throughout Highland and identical within the same commercial zone. A commercial center freestanding sign shall be constructed

of aesthetically natural appearing materials such as stone, brick, architectural concrete (maximum of 50% of sign), wood (trim only), painted aluminum, or EIFS (for mounting sign letters only and 75% of sign maximum). Commercial center freestanding signs shall have a minimum base of two (2) feet that is constructed of rock similar to buildings within the commercial project. The base (either rock or a minimal concrete mow pad beneath the rock) shall extend a minimum of three (3) inches below the lowest portion of grade around the sign to screen all supporting structures. The base shall not be included in calculating the square footage or the maximum height of the sign. ~~All~~ L~~l~~ettering and logos for a monument sign ~~shall~~ may be individual lettering constructed of a solid metal alloy (i.e. brass, stainless steel, bronze) or a can type construction (may be back lighted and/or interior lighted on a pan-channel type device and/or applied directly the sign however the sign shall be constructed to screen the connecting devices of the individual lettering). Lettering and logos may also be created using solid aluminum faces with routed out graphics displaying backlit "push-through" or "back-up" acrylic with 1st surface vinyl. Commercial center freestanding sign materials shall consist of earthtone colors that are subdued rather than bright.

The identification of the development name and tenant names on the sign shall be in the form of individual pan channel lettering, aluminum routed lettering with acrylic background, or other high quality sign design characteristics. Removable tenant panels made completely of acrylic or Plexiglas materials are prohibited.

3. Lighting. A commercial center freestanding sign ~~shall~~ may be externally illuminated from above or below the sign or internally illuminated through acrylic or polycarbonate faces. If the lighting is not attached to the monument sign than it shall be masked from the right-of-way by evergreen landscaping and contained within the landscaping area. A monument sign may be installed without lighting. All monument sign lighting may not operate between the hours of 12:00 a.m. and 6:00 a.m. Sign lighting shall not create light pollution beyond the sign area.
4. Landscaping. All commercial center freestanding signs shall incorporate a minimum of two (2) square feet of landscaping for every linear foot of sign length around the base of the sign. ~~Landscaping must include a mixture of 25% perennial and 25% annual vegetation with and the remaining 50% of the vegetation an evergreen type. Landscaping shall not include grass, however 20% of the required landscaping area may include natural non-living elements (ex: boulders, water features, etc.). The required landscape area shall incorporate mulch or bark with a minimum of 25% of the ground level containing a live ground cover.~~

5. Maintenance. All commercial center freestanding signs and landscape areas associated with the monument sign shall be maintained by the developer. If a relevant Business/Building Association has been formed and recorded as such, then that business/building association shall maintain the landscaping around the sign. The application for the monument sign shall identify the party responsible for perpetual maintenance of the sign and landscaping.

Figure 3-710.2 Example of preferred commercial freestanding sign

SECTION 6: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 7: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 8: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from February 1, 2022 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, February 1, 2022

HIGHLAND CITY, UTAH

_____

Kurt Ostler
Highland City Mayor

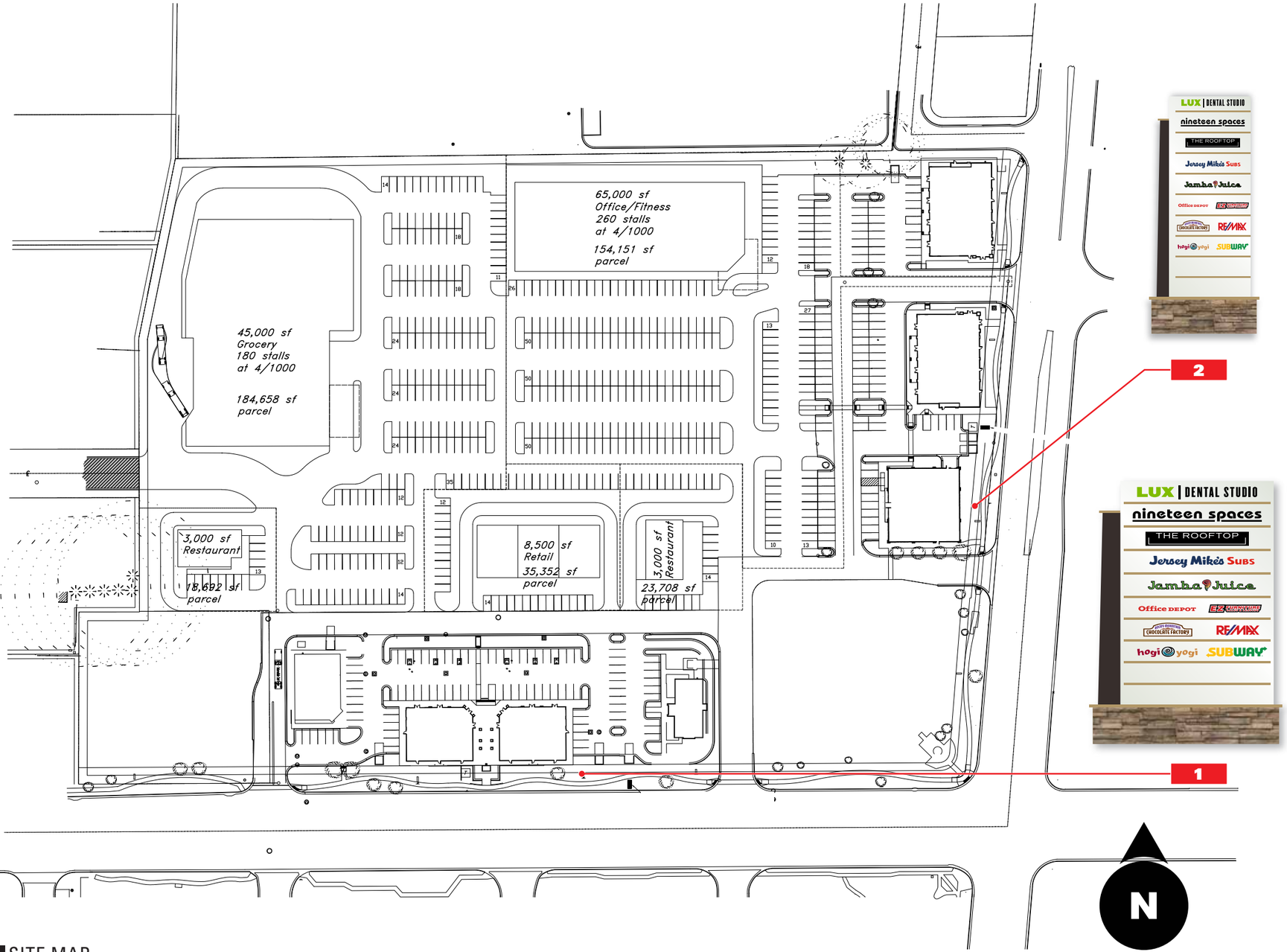
ATTEST:

_____

Stephannie Cottle
Highland City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

ATTACHMENT 2:



1 SITE MAP

SCALE: N.T.S.

This design does not constitute production ready artwork and is to be used exclusively for proofing and review purposes only.

YESCO

DESIGN

1605 South Gramercy Rd.
Salt Lake City, UT 84104
801.487.8481

www.yesco.com

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Revisions

No.	Date / Description
1	2021.10.08 / no chg [LC]
2	2021.12.09 / add 20' opt [LC]
3	2021.12.29 / as per redlines [LC]
4	2022.01.04 / no chg [LC]
5	2022.01.27 / chg dsgn [LC]

Approval

A/E Sign / Date

Client Sign / Date

Landlord Sign / Date

Highland Marketplace

5374 W 11000 N
Highland, UT 84003

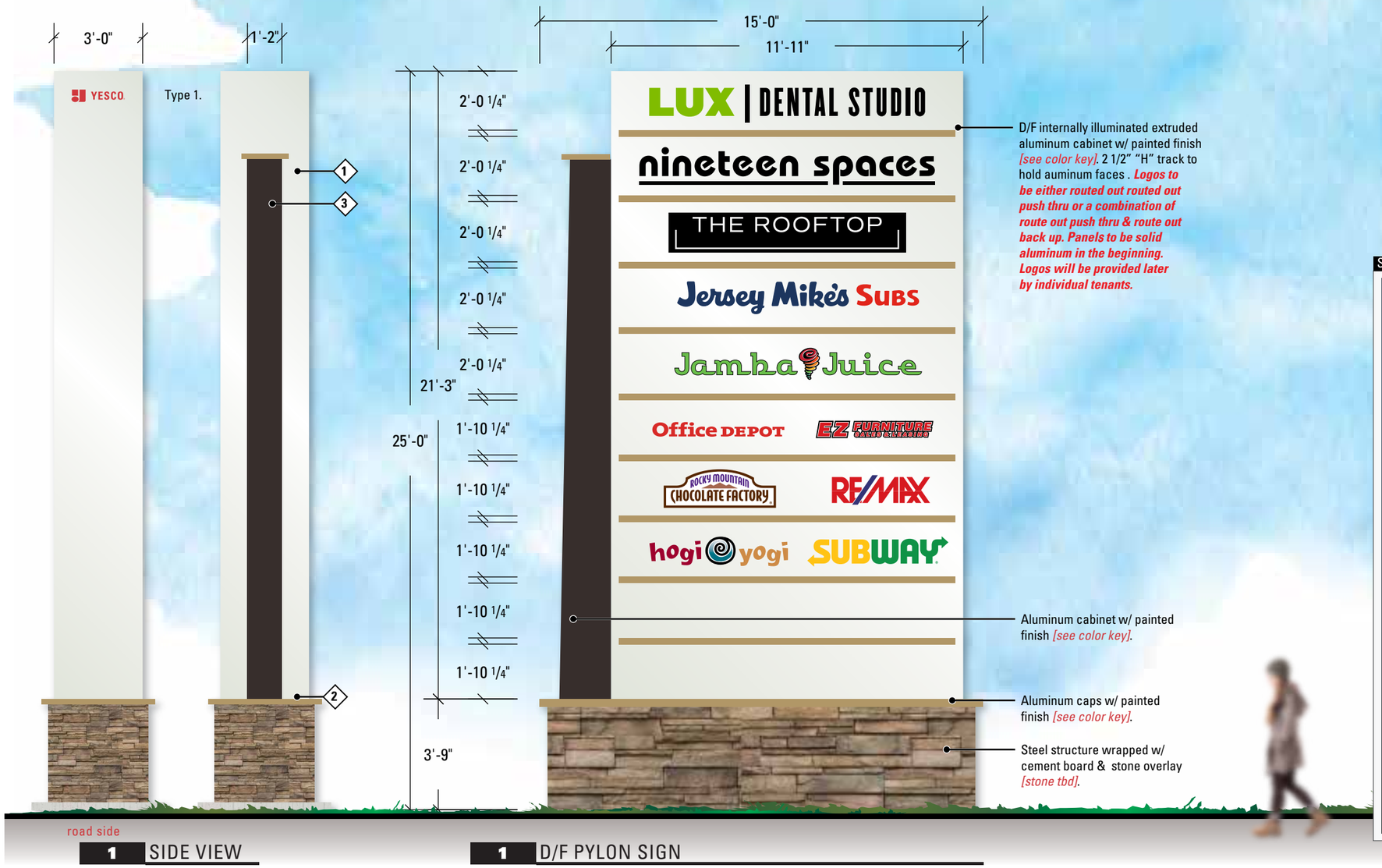
Acct. Exec: Joel Warden
Designer: Larry Cohen

Orig: 09.22.2021

OPY_36247 R5

scale: as noted

ART 1.0



1 SIDE VIEW

1 D/F PYLON SIGN

SCALE: 1/4" = 1'-0"

SCOPE OF WORK:

MANUFACTURE & INSTALL *ONE [1]* D/F INTERNALLY ILLUMINATED PYLON SIGN.

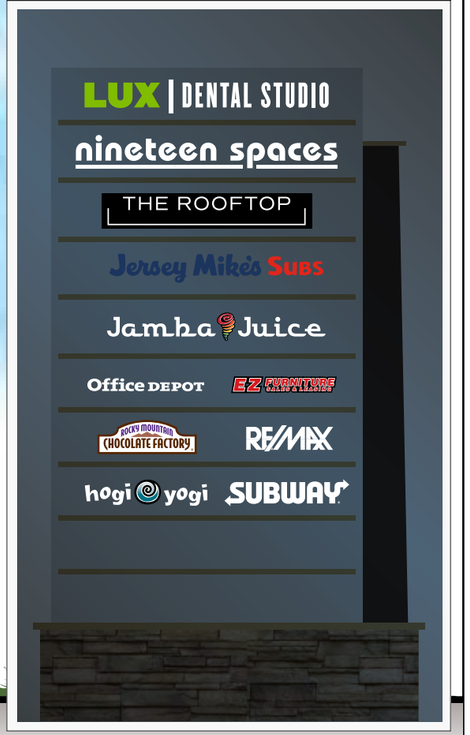
PERMITTING	SIGN AREA: 253.2ft²
FINAL ELECTRICAL CONNECTION BY:	YESCO TO CONNECT SIGN TO CUSTOMER PROVIDED PRIMARY POWER TO SIGN LOCATION.

COLOR KEY

1	Paint	Sherwin Williams# YESCO "White"
2	Paint	Sherwin Williams# 6123 "Baquette"
3	Paint	Sherwin Williams# YESCO "Duranodic"

NOTE: UNLESS OTHERWISE NOTED, THE COLORS DEPICTED ON THIS RENDERING MAY NOT MATCH ACTUAL COLORS ON FINISHED DISPLAY. PLEASE REFER TO COLOR-CALLOUTS AND THEIR APPROPRIATE VENDOR SPECIFIED SAMPLES FOR APPROVED COLOR SPECIFICATIONS.

SIMULATED NIGHT RENDERING



YESCO
DESIGN
1605 South Gramercy Rd.
Salt Lake City, UT 84104
801.487.8481
www.yesco.com

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Revisions

No.	Date / Description
orig.	
1	2021.10.08 / as per redlines [LC]
2	2021.12.20 / widen stone base, make 40' oah [LC]
3	2021.12.29 / del. base, make mow pad, adju tenant spacing [LC]
4	
5	2022.01.27 / chg design [LC]
6	
7	
8	
9	
10	
11	
12	

Approval

A/E Sign / Date

Client Sign / Date

Landlord Sign / Date

Highland Marketplace

5374 W 11000 N
Highland, UT 84003

Acct. Exec: Joel Warden
Designer: Larry Cohen

Orig: 09.22.2021

OPY_36247 R5

scale: as noted

ART 1.0

1 SIDE VIEW

1 D/F PYLON SIGN

SCALE: 3/8" = 1'-0"

SCOPE OF WORK:

MANUFACTURE & INSTALL *ONE [1]* D/F INTERNALLY ILLUMINATED PYLON SIGN.

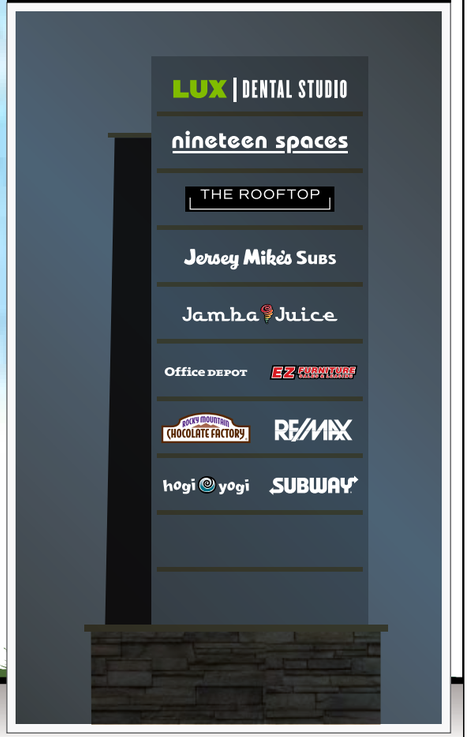
PERMITTING	SIGN AREA: 110.7ft²
FINAL ELECTRICAL CONNECTION BY:	YESCO TO CONNECT SIGN TO CUSTOMER PROVIDED PRIMARY POWER TO SIGN LOCATION.

COLOR KEY

1	Paint	Sherwin Williams# YESCO "White"
2	Paint	Sherwin Williams# 6123 "Baquette"
3	Paint	Sherwin Williams# YESCO "Duranodic"

NOTE: UNLESS OTHERWISE NOTED, THE COLORS DEPICTED ON THIS RENDERING MAY NOT MATCH ACTUAL COLORS ON FINISHED DISPLAY. PLEASE REFER TO COLOR-CALLOUTS AND THEIR APPROPRIATE VENDOR SPECIFIED SAMPLES FOR APPROVED COLOR SPECIFICATIONS.

SIMULATED NIGHT RENDERING



YESCO
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1605 South Gramercy Rd.
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Revisions

No.	Date / Description
orig.	
1	2021.10.08 / as per redlines [LC]
2	2021.10.09 / widen stone base [LC]
3	2021.12.29 / del stone base, use mow pad [LC]
4	2022.01.04 / shorten dividers, chg callout. [LC]
5	2022.01.27 / re-design [LC]
6	
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13	

Approval

A/E Sign / Date

Client Sign / Date

Landlord Sign / Date

Highland Marketplace

5374 W 11000 N
Highland, UT 84003

Acct. Exec: Joel Warden
Designer: Larry Cohen

Orig: 09.22.2021

OPY_36247 R5

scale: as noted

ART 2.0

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Please note: The following is an excerpt from the January 25, 2022 Planning Commission meeting. These minutes are a draft and are awaiting formal approval by the Planning Commission.

PUBLIC HEARING: TEXT AMENDMENT – FREESTANDING SIGNS

Legislative

The Planning Commission will hold a public hearing to consider a request by Joe Ham to amend Sections 3-707 and 3-710 of the Development Code relating to commercial freestanding signs. The Planning Commission will take appropriate action.

Ms. Smith explained that the commercial freestanding sign section in the Development Code applied to the C-1, CR, and Town Center Zones and that there was currently one commercial freestanding sign in Highland located in the C-1 Zone. She explained that the tenets in the Highland Marketplace wanted to make sure they had signage on the road. She reviewed the proposed changes and showed examples of how the changes would look in Highland compared to existing signs. She compared the maximum height of signs in neighboring cities. She reviewed the amendments to the list of materials and lighting that could be used. She reviewed proposed changes to the landscaping requirements. Ms. Smith reviewed part of the Economic Element section in the General Plan.

The Planning Commissioners discussed the current option for commercial signs and what was permitted on the Marketplace property. Commissioner Morgese asked why it was necessary to increase the maximum height of signs. Applicant Joe Ham explained that they had nothing to do with the current monument signs and that the signs only advertised the businesses in the buildings immediately in front of the signs. The development was looking for a large anchor tenet to draw traffic to the back of the property. They have not been able to find a large tenet for various reasons. They concluded to build a series of smaller business retail buildings behind what was already there, but they would have no exposure. He said each potential tenet had asked that they have exposure on Alpine Highway (SR-74) and Timpanogos Highway (SR-92). Mr. Ham explained that they intended to remove the Little Ceasar's sign and put the taller sign in the same location with enough panels for other tenets. He pointed out that there was a tremendous depth to the property and he needed a way to identify the tenets without having an identifiable large store. Mr. Ham explained that a sign consultant considered the speed of the road, and 40 feet provide the needed exposure. He mentioned that he was not proposing a 40-ft sign on Alpine Highway. He talked about the area where the taller sign would go and mentioned that the building was 35 ft. He did not think anyone would notice the height difference.

Commissioner Abbott was concerned that the sign would look out of place. He pointed out that other retailers and businesses would be able to do taller signs in other areas. He agreed that there needed to be a way to let people know what was in the area. He said the commission wanted commercial areas to grow and restaurant to come to the city but didn't think the road was large enough to warrant a 40-ft sign. Commissioner Moore added that there was a stop sign on the road and that drivers would not be speeding by.

Charlie Taylor with YESCO Sign Company said they wanted to make sure that each tenet had visibility. He said it needed to be high enough for each tenet to have adequate representation and it would be a

DRAFT

benefit for the bottom clearance to be higher than a monument sign. He said a sign would be near the ingress and egress of the development and they wanted the public to be able to negotiate into the property without last minute lane changes.

Mr. Ham pointed out that they needed space to advertise for 22 tenets and that none of them were on the current sign. He said it was the first time he saw research regarding the other cities and said they could find a way to do the sign if it was 35 feet. He said tenets would not come if they did not think they had representation. He said the signs would go up as the buildings were constructed. He pointed out that the building across the street was 35 feet tall with a sign on the wall. He thought that the height difference would not be noticeable from the perspective of someone looking up.

Ms. Smith mentioned that the maximum height for buildings in the Town Center zone was 45 feet. She said no building was currently at the maximum height, but they potentially could be.

Commissioner Abbott opened the public hearing at 7:45 PM and called for public comment.

Resident Doug Courtney thought the analysis in the agenda packet was incomplete. He thought it omitted an important policy from the section of the General Plan. He read, "provide design criteria for commercial areas, which provide for a distinctive place-making character for Highland City and enhance the natural and residential environment." He also said it overlooked the community design element section of the General Plan which included the goal to maintain and enhance the scenic backdrop to the north and east. He also mentioned a policy to ensure that all development policies, codes and regulations address the need to preserve the scenic backdrop where feasible. He read section 3-701 of the Development Code. Mr. Courtney said he objected to damaging Highland's scenic backdrops with a 40-ft internally illuminated sign and requested a 20-ft sign. He said he objected to damaging residential environments by allowing large commercial signs closer to residential zones than currently permitted. He objected to confusing intersections with large internally illuminated signs placed significantly closer than now permitted. He was in favor of the proposed amendments to materials, landscaping, and a small increase in height.

Commissioner Abbott asked for additional public comment. Hearing none, he closed the public hearing at 7:48 PM.

Commissioner Howden said that as much as he understood and was sympathetic to the economics of the situation, he was quite strongly opposed to anything other than a maximum height of 18 feet. He was in favor of the landscaping changes and impartial to the width. He wasn't sure that signs were necessary because most people would use phones to find places they needed/wanted to go to.

Commissioner Moore appreciated that the sign was not backlight throughout and for the suggested changes for lettering by city staff. She agreed with Commissioner Howden regarding the height. She thought it would become the visual focus of the community center instead of the mountainous backdrop. She didn't think the higher sign would be beneficial because of the narrowing portion of the road, the stop sign, the proximity of the sign to the road, and the fact that it was a pedestrian center. She didn't think it would have the same impact as a lower sign. She understood the need for all tenets to be represented and suggested using two columns.

Commissioner Morgese was opened to increasing the height of the sign to a maximum of 25 ft on SR-92. He understood the need to increase the height, although he thought 40 feet was too high.

Commissioner Carruth left the meeting at 7:55 PM due to technical issues with Zoom.

The Planning Commissioners discussed options with restricting signs on certain roads and considered maximum height restrictions. They talked about other signs and businesses in the area.

Commissioner Abbott asked about the specifications of the sign. Joel Warden with YESCO Sign Company explained that the picture should have read "as per engineering requirements". He said the five feet would allow for the appropriate inner post and footing to protect the wind load, so the sign was structurally safe. Mr. Taylor added that the size also allowed even illumination throughout the sign. Mr. Ham added that the post would get smaller if the sign was smaller. He thought the back illumination looked cleaner but said he could go with requirements in the current code.

After discussing, the Commissioners were unanimously in favor of the proposed amendment to lighting and landscaping. They agreed that the proposed height of 40 feet was too high. They discussed current restrictions, the proposed amendments, and possible locations. Commissioner Abbott asked why they proposed amendments to possible locations of the sign. Mr. Warden explained that the measurements were based on the location of the closest residents. He said they would not have been compliant if they put the sign where it needed to be based on the location of residents across the street. It was determined that the current 150-ft restriction must have only considered adjacent residential areas on the same side of the street. It was mentioned that the sign would be black from midnight to 6 AM.

Mr. Ham preferred to have a recommendation by the Planning Commission, then present something smaller to the Council based on the current discussion. He was hoping the Council would approve something higher than 20 feet. He said their project was not comparable to anything else in the city because of the depth and how they had to plan the development.

Commissioner Abbott called for a motion.

Commissioner Jones MOVED to deny the requested text amendment due to concerns with the proposed height and depth of the signs as well as the 7-ft stone base. The commissioners were in favor of a 3-ft stone base. They were in favor of the proposed lighting and letter style, and landscaping changes.

Mr. Warden explained that the stone base height did not need to be seven feet if the heigh of the sign was shorter.

Commissioner Howden SECONDED the motion.

The vote was recorded as follows:

Commissioner Jerry Abbott	*Yes*
Commissioner Sherry Carruth	*Absent*
Commissioner Christopher Howden	*Yes*
Commissioner Claude Jones	*Yes*

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Commissioner Audrey Moore *Yes*
Commissioner Mino Morgese *Yes*
Commissioner Tyler Standifird *Absent*

Commissioner Howden felt strongly about a 20 ft maximum height. His preference was to keep current location restrictions in place.

Commissioner Moore was open to a 25-ft maximum height and asked that the stone base be changed to three feet.

Commissioner Morgese agreed with Commissioner Moore.

Commissioner Abbott preferred a maximum height of 20 feet. He voiced concerns with the location of the sign relating to residents across the street.

Motion carried 5:0

DRAFT

AGENDA NEXT

HIGHLAND CITY

CITY COUNCIL AGENDA REPORT
ITEM #4

DATE: February 1, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Kellie Smith
Planner & GIS Analyst

SUBJECT: **ARCHITECTURAL REVIEW:** Highland Marketplace Phase 2

TYPE: **ADMINISTRATIVE:** The City Council is acting in their capacity as the Land Use Authority. Review is subject to Section Article 4.35 of the Highland City Development Code.

PURPOSE:

The City Council will consider a request by Joe Ham, representing MNG Highland Development LLC, for approval of the architecture of three (3) buildings in the Highland Marketplace. The City Council will take appropriate action.

BACKGROUND:

The property is 9.64 acres and is in the CR Zone.

A Development Agreement for the Highland Marketplace subdivision was entered into on April 24, 2007. This agreement outlines architecture, landscaping, lighting, and signage of Highland Marketplace. The development agreement established an architectural theme for the site (see Attachment #2).

On February 2nd, 2021, the City Council reviewed and approved an updated master commercial site plan for Highland Marketplace along with an architectural plan for a retail building in the site. The elevations that were approved in February 2021 had a different theme than what was approved in the Development Agreement. As such the Planning Commission and City Council needed to review the application.

The applicant later requested to amend the site plan because of the failure to find a grocer interested in the site. On December 7th, the City Council reviewed and approved this amendment to the site plan. The updated site plan includes eight (8) buildings.

Consideration of the architectural elevations is limited to compliance with existing development standards and regulations found in Article 4.35 of the Development Code and the applicable development agreement.

SUMMARY OF THE REQUEST:

1. The applicant is requesting architectural approval for three (3) of the eight (8) buildings in the Highland Marketplace site plan (see Attachment #4 for elevations).
    a. Building A includes 5 main entrances with awnings over each of the facades. Canopies of different heights extend over 3 of the units. The building has display windows along the east and south sides.
    b. Building B has 3 main entrances. Display windows extend all across the south and east sides, and there is one on the west. The south side will face the plaza area, and the north will face the parking lot. This building also includes the awnings/canopies over the entrances and display windows. Signage will be on the north side facing the parking lot as well as the south facing the plaza.
    c. Building C has 3 main entrances with awnings over each. Display windows are shown on the north and east elevations. The north elevation will face the plaza. The south will face the existing parking lot and commercial buildings in Highland Marketplace. Signage will be placed on both the north and south elevations.

2. The proposed architecture of the retail building is comprised of stucco, cultured stone, and cement with a painted wood texture. The materials reflect a color theme of greys, browns, and beige (see attached for material board).

PLANNING COMMISSION ACTION:

The Planning Commission reviewed the request on January 25th, 2021. The Commissioners shared their appreciation for the updated elevations. The Commission recommended **APPROVAL** of the proposed architectural plans subject to the two (2) stipulations recommended by staff:

1. All signage shall require a separate permit and meet the requirements of the Development Code.
2. The roofline shall be adjusted to meet the requirements in the Development Code.

Subsequent to the Planning Commission approval, the applicant has provided updated elevations to comply with the roofline requirements in the Development Code, therefore the second stipulation recommended by the Planning Commission has been removed.

CITIZEN PARTICIPATION:

Notification of architectural plan review is not required. Appropriate notifications for City Council as a public meeting were posted.

ANALYSIS:

Development Code

- The site is located in the Commercial Retail Zone; therefore, the architectural proposals must meet the architectural design standards outlined in Section 3-4370

of the Development Code.

- Materials and colors of the retail building are consistent with Section 3-4370 of the Development Code.

Development Agreement

- The proposed elevations *are* consistent with that original theme. The Development Agreement states, "The signage…lighting…and the architectural themes set forth…are hereby approved by the City for the Property, and shall be followed and maintained in a consistent manner." Since this theme is consistent with the Development Agreement and the Development Code, future review by the Planning Commission and City Council is not needed.

- There are five (5) more buildings to be reviewed architecturally. If staff determines the proposed architecture for these buildings is consistent with the theme outlined in the Development Agreement, the architecture will not need to be reviewed by the Planning Commission and the City Council.

FINDINGS:

With the recommended stipulations, the proposed architectural elevations appear to meet the following findings:

- It is consistent with the Highland City Development Code.
- It is compatible with existing and future development within the CR Zone.
- It is consistent with the intent of the Development Agreement for Highland Marketplace.

RECOMMENDATION AND PROPOSED MOTION:

Staff recommends that the City Council **APPROVE** the proposed architectural plans subject to the following stipulations:

1. All signage shall require a separate permit and meet the requirements of the Development Code.
2. The architectural elevations of the three (3) buildings shall comply with the building elevations date stamped January 27th, 2022.

I move that the City Council accept the findings and **APPROVE** the architectural plans for Building A, Building B, and Building C in Highland Marketplace subject to the two (2) stipulation recommended by staff.

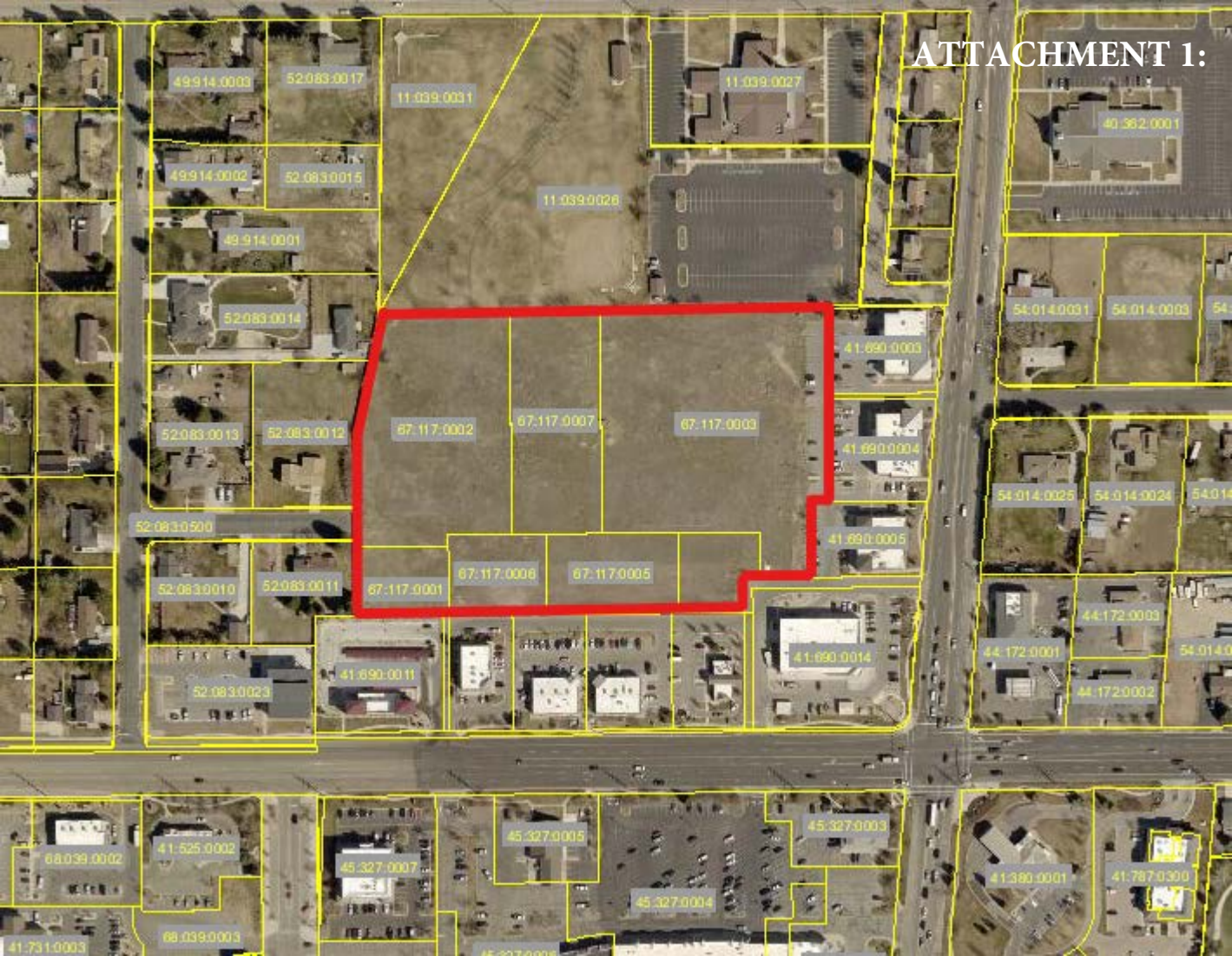
ALTERNATIVE MOTION:

I move that the City Council **DENY** the architectural plans for Building A, Building B, and Building C based on the following findings (The Council will need to draft appropriate

findings).

ATTACHMENTS:

1. Vicinity Map
2. Architectural Themes from the 2007 Development Agreement
3. Project Narrative
4. Proposed Architectural Elevations
    a. Building A
    b. Building B
    c. Building C
5. Site Plan with Building Locations
6. Materials Board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52:083:0015
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ATTACHMENT 2:

Axis Architects

Highland Marketplace

Small Retail

THOMAS FOX PROPERTIES

Axis Architects

Highland Marketplace
Office

THOMAS FOX PROPERTIES

Axis Architects

Highland Marketplace

Shops

THOMAS FOX PROPERTIES

ATTACHMENT 3:

FFKR ARCHITECTS

MEMO

To:	City of Highland Utah 5400 Civic Center Dr Highland, UT 84003	**Memo #:**	01
		Date:	January 7, 2021
		Project:	Highland Marketplace 5326 Utah 92 Highland City, Utah County, UT 84003
From:	Joe Ham	**FFKR Project #:**	20130

Remarks:: Project Narrative

The proposed project is an expansion of the Highland Marketplace, the existing retail shopping center and office development at the corner of Highway 92 and 5300 West. The design of which will complement the existing buildings, but provide a cleaner, more modern materials palette and aesthetic. The expansion proposes the addition of a grocery store, office and retail buildings, to attract new and expanding businesses to serve the surrounding community while providing a safe and aesthetically pleasing business center.

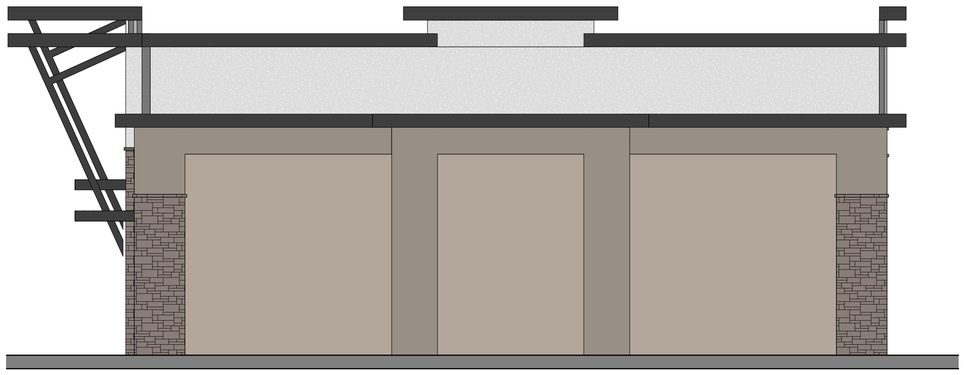
The project will comply with all required setbacks and the maximum height restriction of forty-five feet. The architecture will be in compliance with all local design guidelines.

Attached to this proposal is a site lighting and photometric analysis for the property as a whole. All proposed buildings will be required to submit a lighting plan as part of their individual submission process. The design of the parking lot lighting meets all regulatory standards and is in compliance.

All parking on site meets, or exceeds, city requirements and traffic patterns to and through the site are designed to alleviate any undo burden on the surrounding community. The project will make use of the existing access points - 2 access points from Highway 92 and 1 access point from 5300 West. The design of the parking lot will allow safe and easily navigable traffic circulation and will accommodate proper circulation for deliveries and emergency vehicle, including fire access.

The proposed uses will operate in compliance with the City of Highland's restrictions on hours of operation. The number of employees will vary by business and will also be in compliance with regulatory standards.

ATTACHMENT 4a:



BUILDING A - NORTH ELEVATION

SCALE: 3/16" = 1'-0"

BUILDING A - EAST ELEVATION

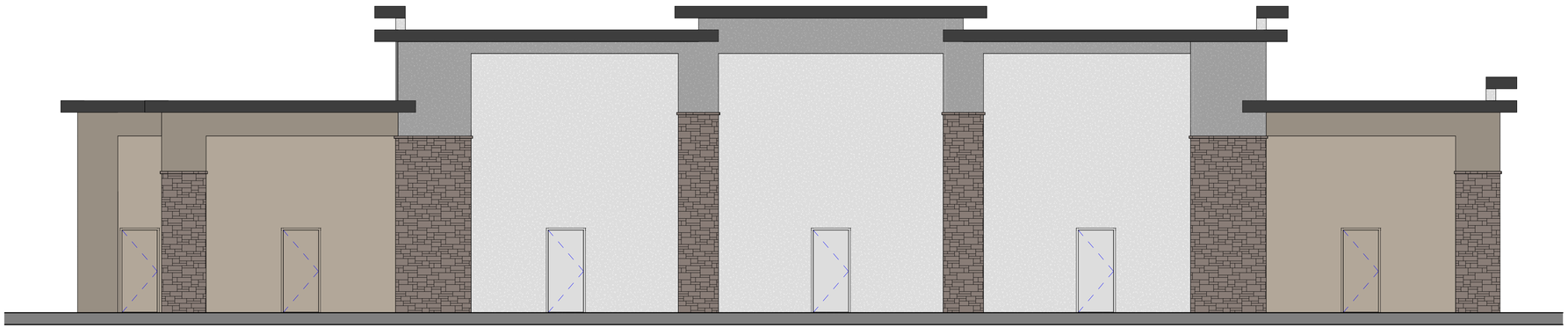
SCALE: 3/16" = 1'-0"

HIGHLAND MARKET - EXTERIOR ELEVATIONS

FFKR ARCHITECTS

BUILDING A - SOUTH ELEVATION

SCALE: 3/16" = 1'-0"



BUILDING A - WEST ELEVATION

SCALE: 3/16" = 1'-0"

HIGHLAND MARKET - EXTERIOR ELEVATIONS

FFKR ARCHITECTS

10/20/2021 11:03:55 AM

ATTACHMENT 4b:

BUILDING B - EAST ELEVATION

SCALE: 3/16" = 1'-0"

BUILDING B - NORTH ELEVATION

SCALE: 3/16" = 1'-0"

HIGHLAND MARKET RETAIL - EXTERIOR ELEVATIONS

FFKR ARCHITECTS

BUILDING B - WEST ELEVATION

SCALE: 3/16" = 1'-0"

BUILDING B - SOUTH ELEVATION

SCALE: 3/16" = 1'-0"

HIGHLAND MARKET RETAIL - EXTERIOR ELEVATIONS

FFKR ARCHITECTS

ATTACHMENT 4c:

BUILDING C - EAST ELEVATION

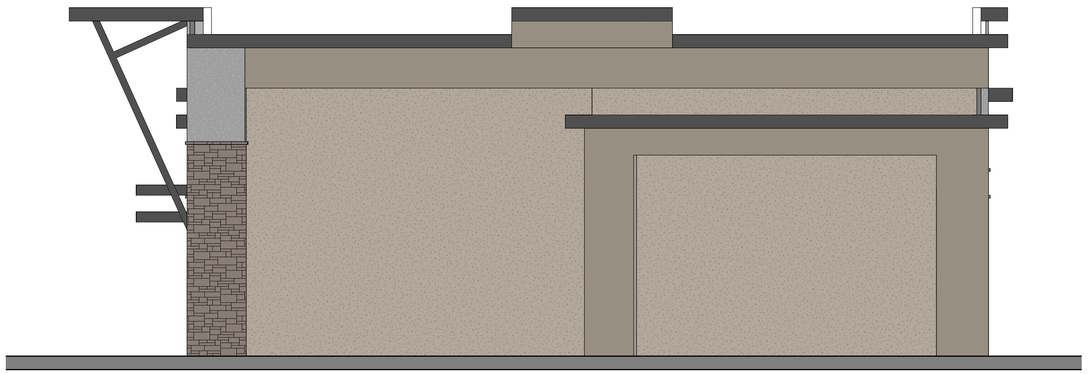
SCALE: 3/16" = 1'-0"

BUILDING C - NORTH ELEVATION

SCALE: 3/16" = 1'-0"

HIGHLAND MARKET RETAIL - EXTERIOR ELEVATIONS

FFKR ARCHITECTS



BUILDING C - WEST ELEVATION

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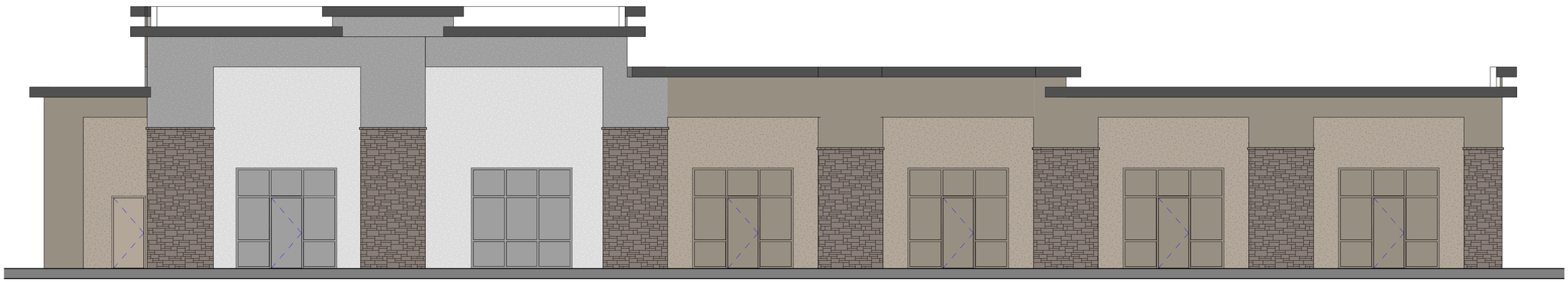


BUILDING C - SOUTH ELEVATION

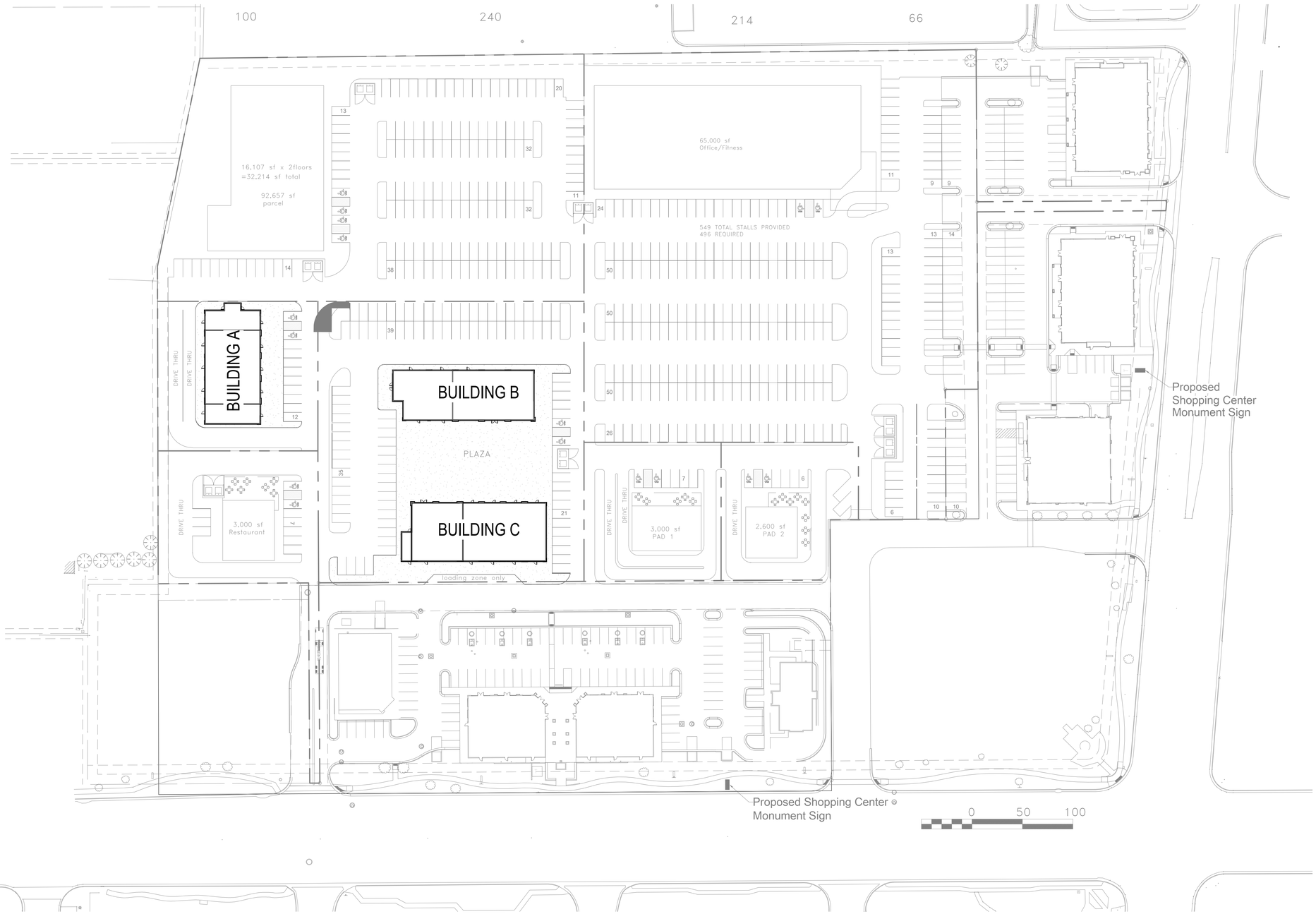
SCALE: 3/16" = 1'-0"

HIGHLAND MARKET RETAIL - EXTERIOR ELEVATIONS

FFKR ARCHITECTS

ATTACHMENT 5:

REFERENCE NOTES



A1 SITE PLAN

SCALE: 1" = 50'-0"

FFKR ARCHITECTS
730 Pacific Avenue · Salt Lake City, Utah 84104
O 801.521.6186 · FFKR.COM

HIGHLAND MARKET

△ DATE REVISION

PROJECT NUMBER Project Number

SITE PLAN

AS101

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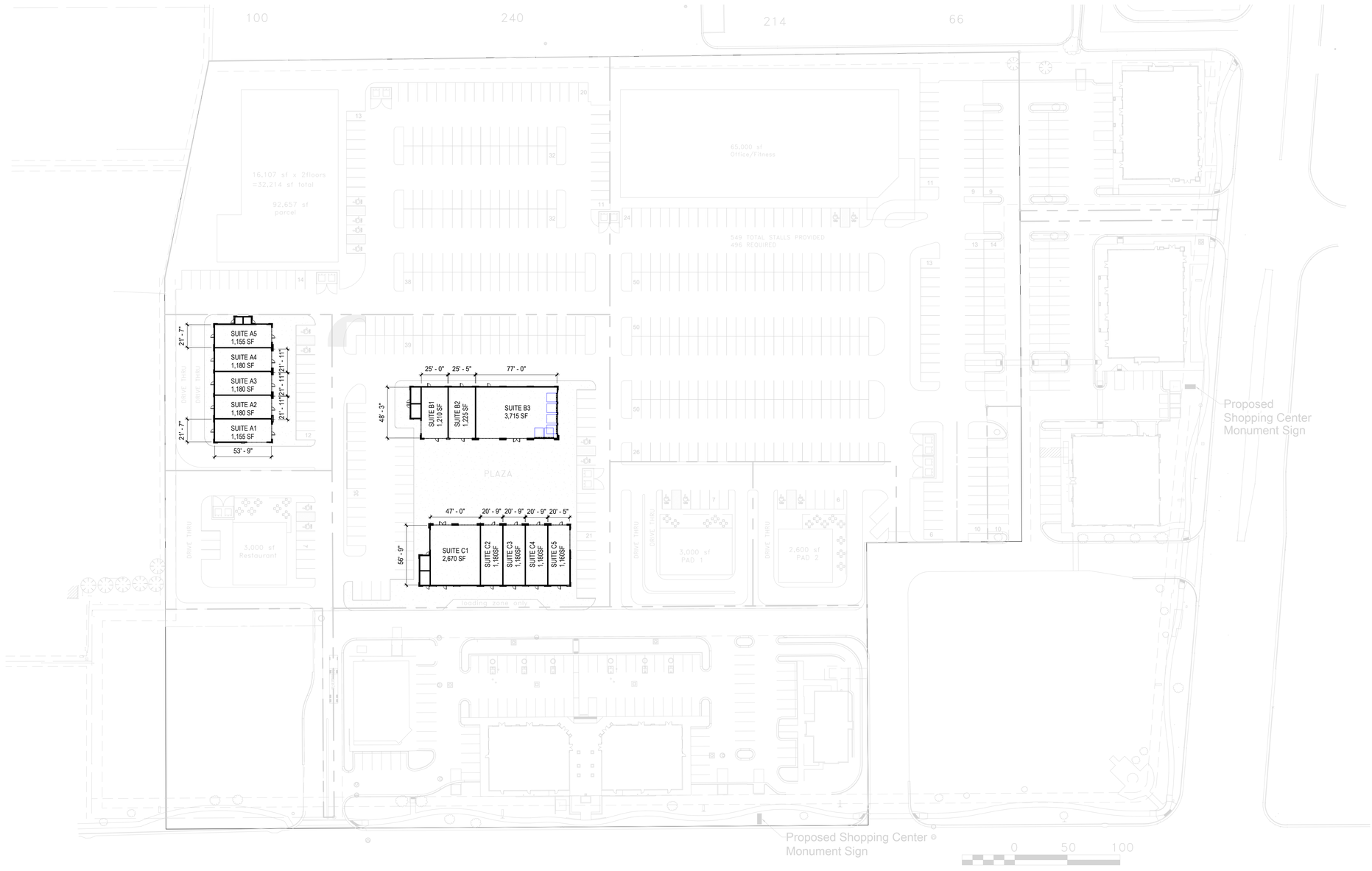
REFERENCE NOTES



A1 SITE PLAN

SCALE: 1" = 50'-0"

FFKR ARCHITECTS
730 Pacific Avenue · Salt Lake City, Utah 84104
O 801.521.6186 · FFKR.COM

HIGHLAND MARKET

△ DATE REVISION

PROJECT NUMBER Project Number

SITE PLAN
- LEASING

AS102

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ATTACHMENT 6:

PAINTED STUCCO

DARK GREY

PAINTED STUCCO

LIGHT GREY

PAINTED STUCCO

DARK EARTH TONE

PAINTED STUCCO

EARTH TONE

BACK OF BUILDING

BACK OF BUILDING

CULTURED STONE

CASA DI SASSI - LEDGESTONE - MURANO

PAINTED WOOD TEXTURE CEMENT BOARD

ALLURA - TRADITIONAL LAP - ASHEN

HIGHLAND MARKET - BUILDINGS A, B & C MATERIAL PALETTE

EFKR ARCHITECTS

AGENDA NEXT

CITY COUNCIL AGENDA REPORT
ITEM #5

HIGHLAND CITY

DATE: February 1, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Rob Patterson
City Attorney

SUBJECT: **ORDINANCE AND POLICY AMENDMENT:** Amendment to HMC 2.28, Government Records Access and Management; Adoption of Retention Schedule

TYPE: **LEGISLATIVE:** Adopting and amending City Code and Policy is a legislative act

PURPOSE:
The City Council will consider a request by staff to update and revise the City's municipal code related to Government Records and to adopt a new retention schedule policy for City records. The City Council will take appropriate action.

BACKGROUND:
Utah State Code, Title 63G, Chapter 2, provides mandatory state standards regarding the right of the public to access government records and the responsibility of government entities, including Highland City, regarding record access, maintenance, and retention. That code also allows municipalities to enact or establish codes or policies regarding fees, appeals from denials of fee waivers or access to record, and policies regarding the retention of public records.

Highland City's code (Municipal Code 2.28) and policy regarding government records were adopted in 1992 and have not been substantively or officially updated since then. This request seeks to bring the City's code and records retention policy up-to-date with current state standards and city practices.

DISCUSSION:
Utah Code 63G-2-701 allows municipalities to adopt ordinances and policies regarding access to records, fees, denial and appeal processes for records requests, and record management and retention, subject to limitations of state law. For example, the City can establish who in the City hears an appeal of the denial of a record request or the process by which records are classified as non-public or public, but the City cannot refuse to allow an appeal process altogether or adopt an ordinance or policy that classifies a record as non-public unless state law allows it. If a municipality does not adopt appropriate

standards, then state law applies.

The proposed code changes streamline the City's code to meet current state law and City practices:

(a) Removed redundant language regarding definitions and record classification, as these are governed by state law
(b) Incorporated state law for procedures and timeframes for individuals who submit records requests and for the City's response to those requests
(c) Updated the appeal process to clarify that appeals are heard by the city's "chief administrative officer"—the city administrator—rather than the city council, as required by state code
(d) Updated fee provisions to match the City's current practice and to clarify how the City will handle fees and fee waiver requests to ensure that people do not submit multiple requests to avoid fees, to clarify that fee waivers are granted for only up to 2 hours of staff time except in extraordinary circumstances, and to establish guidelines for when a request is in the public interest, which are:
    1. Whether the individual requesting the record is the subject of the record; or the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.
    2. Whether the records relate to issues that impact all city residents, such as utilities or taxes;
    3. Whether the issue has been published or reported in the news in the previous six months;
    4. Whether the issue has been on a public meeting agenda of a Highland City public body in the previous six months; and
    5. Whether the requester is a member of or affiliated with a media or news outlet or requests a record to obtain information for a story or report for publication or broadcast to the general public.
(e) Matched violation/penalty section to state code

Staff also recommends updating the City's retention schedule policy—the policy that determines how long different kinds of records are kept on file. The officially adopted retention policy from the City was adopted in 1992 and incorporated the State Archives' default, general retention schedules.

The attached policy establishes the general policy that the City will follow state guidance on records retention until the City adopts more specific schedules, and proposes retention schedules for administrative records that primarily document internal communications and working files. Staff recommends that the City adopt this policy now, and staff will continue to work on developing these schedules for all City records so they match City practices. Staff will bring them to the City Council for approval as they are finalized.

RECOMMENDATION AND PROPOSED MOTION:

Staff recommends the City Council review the proposed ordinance change and retention schedule policy and adopt both.

I move that the City Council **ADOPT** the ordinance amending Title 2 Chapter 28 of the Municipal Code and **ADOPT** the resolution establishing the Highland City Retention Schedule Policy.

ALTERNATIVE MOTION:

I move that the City Council **REJECT** the proposed code and policy changes.

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditure.

ATTACHMENTS:

1. Proposed Ordinance amending HMC 2.28
2. Proposed Resolution adopting Retention Schedules
3. Current, unchanged version of HMC 2.28 being repealed/amended by proposed Ordinance

AN ORDINANCE OF HIGHLAND CITY AMENDING HIGHLAND MUNICIPAL CODE TITLE 2, CHAPTER 28, RELATED TO THE ACCESS AND MANAGEMENT OF GOVERNMENT RECORDS

WHEREAS, Title 63G, Chapter 2, of the Utah Code, as amended, provides state standards and requirements regarding the retention, maintenance, and right of the public to access government records;

WHEREAS, Highland City previously adopted Title 2, Chapter 28, of the Highland Municipal Code, "City Records," in 1992, which provides City-specific standards for government records;

WHEREAS, the City Council desires to update and amend Title 2, Chapter 28, to align with current state law and best practices; and

WHEREAS, the City Council finds that the amendment of Highland Municipal Code 2.28 and adoption of this Ordinance is in the best interest of the residents of Highland.

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

SECTION 1. The City Council hereby repeals Highland Municipal Code Title 2, Chapter 28 in its entirety.

SECTION 2. The City Council hereby adopts Highland Municipal Code Title 2, Chapter 28, as shown in the attached Exhibit A, which exhibit is incorporated herein by referenced.

SECTION 3. Upon the passage of this ordinance, the City Recorder of Highland City is hereby directed to file a copy of this ordinance with the Utah Division of Archives and Records Service.

SECTION 4. Effective Date. This ordinance shall become effective immediately upon the date of passage and publication, as allowed by law.

ADOPTED by the City Council of Highland City, Utah this 1st day of February, 2022.

HIGHLAND CITY, UTAH

_____

Kurt Ostler
Mayor

ATTEST:

_____

Stephannie Cottle
City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

EXHIBIT A
Amended and Revised Highland City Municipal Code, Chapter 2.28

Chapter 2.28 CITY RECORDS
2.28.010 Short Title
2.28.020 Purpose and Intent
2.28.030 Definitions
2.28.040 Right of Public Access
2.28.050 Fees
2.28.060 Fee Waivers
2.28.070 Procedures for Access
2.28.080 Public Benefit
2.28.090 Denials
2.28.100 Records Classification
2.28.110 Records Retention
2.28.120 Segregation of Records
2.28.130 Appeals
2.28.140 Request to Amend a Record
2.28.150 Violation; Penalty

2.28.010 Short Title

This chapter is known as the "Highland City Government Records Access and Management Act."

2.28.020 Purpose and Intent

A. In enacting this act, the city recognizes two fundamental constitutional rights:

1. The right of privacy in relation to personal data gathered by the city; and

2. The public's right of access to information concerning the conduct of the public's business.

B. It is the intent of the city to:

1. Establish fair information practices to prevent abuse of personal information by the city while protecting the public's right of easy and reasonable access to unrestricted public records; and

2. Provide guidelines of openness to government information and privacy of personal information consistent with nationwide standards;

3. Establish and maintain an active, continuing program for the economical and efficient management of the city's records as provided in this chapter.

2.28.030 Definitions

"Act" means the Utah Government Records Access and Management Act, Title 63G, Chapter 2, of the Utah Code, as amended.

"Records officer" means the city recorder unless another individual is appointed by the mayor to work in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records. Unless otherwise specified, the records officer, or their designee, shall carry out the city's obligations under this chapter and the Act.

Other terms used in this chapter shall have the meaning set forth in the Act unless a different meaning is specified or required by the context of the term.

2.28.040 Right of Public Access

Every person has the right to inspect a public record free of charge and the right to take a copy of a public record during normal working hours, subject to the records request process and the payment of costs and fees set forth in this chapter and the Act.

A. All records are public unless otherwise expressly provided by this chapter or state or federal law or regulation.

B. The following records are not public:

    1. Records that are appropriately classified private, controlled, or protected as allowed and defined by the Act; and

    2. Records to which access is restricted pursuant to the Act, court rule, another state statute, federal statute or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

C. In determining a person's right to access a record, including the right to access a private, controlled, protected, or otherwise non-public or restricted record, the city and the requester shall follow the requirements and regulations set forth in this chapter and the Act.

2.28.050 Fees

A. The city shall charge a fee to cover the city's actual cost of responding to a records request, in accordance with the following requirements:

    1. The fee shall cover the city's actual cost for:

        a. Compiling, formatting, manipulating, packaging, summarizing, or tailoring the record either into an organization or media to meet the person's request;

b. Staff time for search, retrieval, and other direct administrative costs for complying with a request; and

c. For a record that is the result of computer output other than word processing, the actual incremental cost of providing the electronic services and products together with a reasonable portion of the costs associated with formatting or interfacing the information for particular users.

2. An hourly charge for the cost of staff time in responding to a request shall not exceed the salary of the lowest paid employee who, in the discretion of the records officer, has the necessary skill and training to perform the request.

3. Costs and fees other than the cost of staff time related to responding to a record request and to providing a record shall be as set by resolution by the city council.

4. The fee shall not include the following:

a. The first 15 minutes of staff time spent responding to a records request, unless the Act allows for such time to be counted;

b. Costs for reviewing a record to determine whether the record is subject to disclosure; or

c. Costs for inspecting a record.

B. In determining the fee to be charged, the city may consider multiple requests by the same requester within a short period of time as a single request if it appears that the requester is submitting multiple requests primarily to avoid the fees that would be charged if the requests were handled as a single request.

C. The city may require payment of past fees and future estimated fees before beginning to process a request if fees are expected to exceed $50 or the requester has not paid fees from previous requests. The city may also charge interest on any unpaid obligation, as set by resolution. Any costs above prepayment will be due prior to requester receiving the record(s). Any prepaid amount in excess of fees due shall be returned to the requester.

2.28.060 Fee Waivers

A. The city may grant a waiver of fees to fulfill a record request when it determines that:

1. Releasing the record primarily benefits the public rather than a person;

2. The individual requesting the record is the subject of the record; or

3. The requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

B. Except in extraordinary cases, as determined by the records officer, a fee waiver shall operate to waive only the cost of the first two hours of staff time and the other direct costs to the City involved in responding to a request. Staff time beyond two hours that is required to respond to a request shall be charged as set forth herein regardless of the fee waiver.

C. The burden of demonstrating the need for a fee waiver shall be on the requester, and a person who believes that there has been an unreasonable denial of a fee waiver by the city may appeal the waiver denial in the same manner as denial of access to a record.

2.28.070 Procedures For Access

A. The process and timeframes for a person to request access to records and for the city to respond to such requests shall be as set forth in the Act.

B. A person making a request for a record shall furnish the records officer with a written request containing their name, mailing address, email, daytime telephone number, and a description of the records requested that identifies the records with reasonable specificity.

C. If person claims the right to access a private, controlled, protected, or otherwise non-public record due to the person's identity or status, the person shall be required to provide information and documentation establishing the person's identity or status. Such information may include copies or proof of government-issued identification, powers of attorney, incumbency certificates, and other appropriate documentation.

D. A person making a request for a record shall indicate whether they wish to receive records and other information and notices related to their request by email, mail, or some other method.

E. In response to a request, the city is not required to:

1. create a record;

2. compile, format, manipulate, package, summarize, or tailor information;

3. provide a record in a particular format, medium, or program not currently maintained by the governmental entity;

4. fulfill a person's records request if the request unreasonably duplicates prior records requests from that person; or

5. fill a person's records request if:

    a. the record requested is publicly accessible online or included in a public publication or product produced by the city; and

b. the city specifies to the requester where the record is accessible online or provides the requester with the public publication or product and specifies where the record can be found in the public publication or product.

F. If the city chooses to create a record, compile, format, manipulate, package, summarize, or tailor information, or provide a record in a particular format, medium, or program as requested by a person, the requester shall pay all of the city's actual costs involved with such work and shall not be entitled to any waiver of fees.

2.28.080 Public Benefit

In determining whether release of a record primarily benefits the public rather than a person for purposes of this chapter and the Act, the city may consider:

A. Whether the records relate to issues that impact all city residents, such as utilities or taxes;

B. Whether the issue has been published or reported in the news in the previous six months;

C. Whether the issue has been on a public meeting agenda of a Highland City public body in the previous six months; and

D. Whether the requester is a member of or affiliated with a media or news outlet or requests a record to obtain information for a story or report for publication or broadcast to the general public.

2.28.090 Denials

A. If the city denies the records request in whole or part, including if the city denies the request for a fee waiver, the city shall provide a written notice of denial to the requester either in person or by sending the notice to the requester's physical or electronic address, as specified in the request.

B. The notice of denial shall contain the following information:

1. If the denial includes a denial of a request for a fee waiver, a statement that the waiver was denied and a short description of the reasons for such denial, with citations to this chapter, the Act, or other relevant authority;

2. A description of the record or portions of the record to which access was denied, provided that the description does not disclose private, controlled, protected, or otherwise non-public or restricted information or records;

3. Citations to the provisions of this chapter, the Act, another state statute, federal statute, court rule or order or federal regulation that exempt the record or portions of the record from disclosure, provided that the citations do not disclose private, controlled, protected or otherwise non-public or restricted information or records;

4. A statement that the requester has the right to appeal the denial to the city administrator; and

5. A brief summary of the appeals process, the time limits for filing an appeal, and the name and business address of the city administrator.

C. Unless otherwise required by a court or agency of competent jurisdiction, the city may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal.

2.28.100 Records Classification

A. The city shall:

1. Evaluate all record series that it uses or creates;

2. Designate those record series as provided by this chapter;

3. Report the designation of its record series to the state archives.

B. The city may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series or information until access to the record is requested.

C. The city may redesignate a record series or reclassify a record or record series, or information within a record at any time.

D. If more than one provision of this chapter or the Act could govern the classification of a record, the city shall classify the record by considering the nature of the interests intended to be protected and the specificity of the competing provisions.

2.28.110 Records Retention

The city council shall establish a retention schedule for each record series. The city shall report all adopted retention schedules to the state archives.

2.28.120 Segregation of Records

Notwithstanding any other provision in this chapter, if the city receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this chapter, and, if the information the requester is entitled to inspect is intelligible, the city:

A. Shall allow access to information in the record that the requester is entitled to inspect under this chapter; and

B. May deny access to information in the record by segregation, editing, redaction, or other appropriates means if the information is exempt from disclosure to the requester, issuing a notice of denial for the withheld or segregated information.

2.28.130 Appeals

A. Appeal process:

1. Any person aggrieved by the city's access or fee waiver determination under this chapter, including a person not a party to the city's proceeding who is an interested party affected by an access determination, may appeal the determination to the city administrator by filing a written notice of appeal with the records officer within 30 days after the city sends the notice of denial or the request is considered or deemed to be denied.

2. If the city claims extraordinary circumstances and specifies the date when the records will be available, and if the requester believes the extraordinary circumstances do not exist or that the time specified is unreasonable, the requester may appeal the city's claim of extraordinary circumstances or date for compliance within thirty days after notification of a claim of extraordinary circumstances by the city, despite the lack of a "determination" or its equivalent.

3. A person aggrieved by the city's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a nonrequester is the only appellant, the procedures provided in this section shall apply, except that the determination on the appeal shall be made within thirty days after receiving the notice of appeal, instead of the timeframes set forth below.

B. The notice of appeal shall contain the following information:

1. The petitioner's name, mailing address and daytime telephone number;

2. The relief sought; and

3. A short statement of facts, reasons, and legal authority in support of the appeal.

C. Appeals Involving Business Confidentiality

1. If the appeal involves a record that is the subject of a business confidentiality claim under the Act, the records officer shall:

a. Send notice of the requester's appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than thirty-five persons, it shall be given as soon as reasonably possible;

b. Send notice of the business confidentiality claim and the schedule for the city recorder's determination to the requester within three business days after receiving notice of the requester's appeal.

2. The claimant shall have seven business days after notice is sent by the records officer to submit further support for the claim of business confidentiality.

D. Time for determination of appeal.

1. The city administrator shall make a determination on an appeal within the following period of time:

a. Within ten business days after the city administrator’s receipt of the notice of appeal;

b. Within five business days after the chief administrative officer's receipt of the notice of appeal, if the requester or interested party demonstrates that an expedited decision benefits the public rather than the requester or interested party; or

c. Within twelve business days after the city sends the requester's notice of appeal to a person who submitted a claim of business confidentiality.

2. If the city administrator fails to make a determination within the time specified in subsection (D)(1) of this section, the failure shall be considered the equivalent of an order denying the appeal and affirming the access or fee waiver determination.

3. The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this section.

E. In making a determination on an appeal, the city administrator:

1. May, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private or protected under the Act if the interests favoring access outweigh the interest favoring restriction of access, as set forth by the Act; and

2. Shall include a brief statement of reasons for the determination, including a brief description of the record or portions of the record to which access was ordered or denied, if not already provided, and citations to this chapter, the Act, or other orders, rules, or regulations that govern disclosure of the record that support the determination, provided that such information do not disclose private, controlled protected, or otherwise non-public or restricted information.

F. The city shall send written notice of the determination on the appeal to all participants. If the city administrator affirms the denial in whole or in part, the notice shall include:

1. A statement that the requester has the right to appeal the denial to the State Records Committee or district court, as set forth by the Act;

2. The time limits for filing an appeal; and

3. The name and business address of the executive secretary of the State Records Committee.

2.28.140 Request To Amend A Record

A. Subject to subsection G of this section, an individual may contest the accuracy of or completeness of any public or non-public record concerning them by requesting that the city amend the record. The request shall contain the following information:

    1. The requester's name, mailing address, and daytime telephone number; and

    2. A brief statement explaining why the city should amend the record.

B. The city shall issue an order either approving or denying the request to amend no later than thirty days after receipt of the request.

C. If the city approves the request, it shall correct all of its records that contain the same incorrect information as soon as practical. A city may not disclose the record until it has amended it.

D. If the city denies the request it shall:

    1. Inform the requester in writing; and

    2. Provide a brief statement giving its reasons for denying the request.

E. If the city denies a request to amend a record, and the requester does not appeal the denial or the appeal is denied, the requester may submit a written statement contesting the information in the record. The city shall:

    1. File the requester's statement with the disputed record if the record is in a form such that the statement can accompany the record or make the statement accessible if the record is not in a form such that the statement can accompany the record; and

    2. Disclose the requester's statement along with the information in the record whenever the city discloses the disputed information.

F. The requester may appeal the denial of the request to amend a record according to the process for appeals of access and fee waiver determinations set forth in this chapter.

G. This section does not apply to records relating to title to real or personal property, contracts, medical records, judicial case files, or any other records that the city determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.

H. This section does not affect or alter the right of access to non-public records.

2.28.150 Violation; Penalty

A. The misuse of, wrongful disclosure of, wrongful receipt of, or wrongful refusal to disclose records in violation of this chapter and the Act shall be a class B misdemeanor, as set forth in section 63G-2-801 of the Act, as amended, which section is expressly adopted by the city by reference.

B. Enforcement of this chapter, including criminal penalties, civil remedies, and defenses to charges of wrongful conduct shall be as set forth in the Act.

C. A city employee who intentionally violates any portion of this chapter or the Act may, in addition to any other penalty, be subject to disciplinary action, up to and including termination, according to the terms of the Act and the Utah Municipal Officers' and Employees' Ethics Act, Title 10, Chapter 3, Part 13 of the Utah Code, as amended.

A RESOLUTION OF HIGHLAND CITY ADOPTING A RETENTION SCHEDULE POLICY FOR GOVERNMENT RECORDS UNDER UTAH CODE TITLE 63G, CHAPTER 2 AND HIGHLAND MUNICIPAL CODE TITLE 2, CHAPTER 28,

WHEREAS, Title 63G, Chapter 2, of the Utah Code, as amended, provides state standards and requirements regarding the retention, maintenance, and right of the public to access government records;

WHEREAS, Utah Code 63G-2-701(2) permits cities to adopt ordinances and policies regarding record management and retention;

WHEREAS, the City Council desires to update the City's record retention schedules and policies to align with current state law and best practices; and

WHEREAS, the City Council finds that the adoption of this Resolution and related Retention Schedules is in the best interest of the residents of Highland.

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

SECTION 1. The City Council hereby repeals all prior retention schedules and related policies in their entirety.

SECTION 2. The City Council hereby adopts the policy attached as Exhibit A, which exhibit is incorporated herein, regarding Highland City Retention Schedules For Highland City Records.

SECTION 3. Upon the passage of this resolution, the City Recorder of Highland City is hereby directed to file a copy of this ordinance with the Utah Division of Archives and Records Service.

SECTION 4. Effective Date. This resolution shall become effective immediately upon the date of passage, as allowed by law.

ADOPTED by the City Council of Highland City, Utah this 1st day of February, 2022.

HIGHLAND CITY, UTAH

_____

Kurt Ostler

Mayor

ATTEST:

Stephannie Cottle
City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

HIGHLAND CITY

RETENTION SCHEDULES

FOR HIGHLAND CITY

RECORDS

Approved February 1, 2022

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General Retention Schedule and Policy

The retention schedules set forth herein shall govern the retention, management, and maintenance of Highland City records and record series, pursuant to the Utah Government Records Access and Management Act, Title 63G, Chapter 2, of the Utah Code, and the Highland City Government Records Access and Management Act, Title 2, Chapter 28, Highland Municipal Code.

To the extent a record is not governed or covered by a retention schedule as set forth herein, or if Highland City has not adopted a specific retention schedule for a particular record series, Highland City hereby adopts and incorporates the general retention schedules adopted and promulgated by the Utah Division of Archives and Records Service. Such general retention schedules shall only apply to the extent that Highland City has not adopted a more specific retention schedule.

These schedules and policies do not address or govern access to City records or the classification of records as public, private, controlled, protected, or otherwise non-public or restricted. Access to and classification of City records is governed by applicable state and city law.

Schedule 1: Administrative Records

ADMINISTRATIVE CORRESPONDENCE

Incoming and outgoing business-related correspondence, regardless of format or mode of transmission, created in the course of administering agency functions and programs that documents work accomplished, transactions made, decisions made, or actions taken. This correspondence documents the implementation of agency functions rather than the creation of functions or policies or reports regarding functions and policies.

RETENTION - Retain for 1 year after administrative need ends or the item documented was completed and then destroy

AGENCY HISTORY RECORDS

These records document the organization and reorganization of governmental entities, not including internal organization of city departments. Information includes history, functional information, organizational files and related records.

RETENTION - Permanent, may be transferred to the State Archives

FINANCIAL DISCLOSURE REPORTS

Reports, disclosures, and related documents submitted by individuals as required under the Municipal Officers' and Employees' Ethics Act, UCA 10-3-13. Also includes conflict of interest documentation concerning any potential conflict of interest, including employment or activity outside government employment that may or may not present a conflict of interest.

RETENTION - Retain for 7 years after separation and then destroy

INFORMATION GOVERNANCE RECORDS

Records used in establishing and implementing records management policies, practices, and procedures. Included are policies, schedules, inventories, finding aids, and related information.

RETENTION - Retain until superseded or until the lifespan of the related record is met

OPERATIONAL PROCEDURE AND GUIDELINE RECORDS

These records document actions taken to provide guidance on and implement policies of day to day operations, including training material related to routine

processes. Operational procedure and guideline records are related to business activities that do not impact the rights of an individual.

RETENTION - 1 year after being superseded and then destroy

PUBLIC RELATIONS RECORDS

These written records are created for distribution to the news media or public. Records include speeches, press releases, public announcements, newsletters, newsletter inserts and similar records.

RETENTION - Permanent, may be transferred to the State Archives

PUBLICATIONS

Any record, regardless of format, that is issued by a governmental entity for public distribution, at the total or partial expense of that governmental entity, and includes Annual Reports and Policies and Procedures Manuals.

RETENTION - Permanent, may be transferred to the State Archives

PUBLIC RELEASE FILES

These files contain a copy of each prepared statement or announcement issued for distribution to the news media. A press release may be a textual record of non-textual record such as a film or video sound recording.

RETENTION - Permanent, may be transferred to the State Archives

TRANSITORY CORRESPONDENCE

Incoming and outgoing correspondence, regardless of format or mode of transmission, related to matters of short term interest. Transmittal correspondence between individuals, departments or external parties containing no final contractual, financial, or policy decision or information, including text messages. This correspondence does not impact agency functions. When resolved, there is no further use or purpose.

RETENTION - Retain until administrative need ends and then destroy

TRANSITORY TRACKING RECORDS

These records document transitory transactions. Information tracks services rendered, movement of people, materials, and includes internet website visitor information.

RETENTION - Retain until administrative need ends and then destroy

TRANSITORY WORKING FILES

These records contain temporary and rough drafts, notes, and reflect personal thoughts assembled, created, and used to prepare or analyze other documents. These records are not shared by or between employees and officers and do not contain information that is relied on by the agency in executing or carrying out policies or decisions.

RETENTION - Retain until administrative need ends and then destroy

WORKING FILES

These records contain unique information in rough notes or drafts assembled or created and used to prepare or analyze other documents that are shared by or between employees and officers. The information adds proper understanding to the formulation and execution of policies, decisions, actions, or responsibilities.

RETENTION - Retain 1 year after project closed and then destroy

Chapter 2.28 CITY RECORDS

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2.28.010 Short Title

This chapter is known as the "Highland City Government Records Access and Management Act."

HMC (Ord. 1992-4 § 1)

2.28.020 Purpose And Intent

A. In enacting this act, the city recognizes two fundamental constitutional rights:

1. The right of privacy in relation to personal data gathered by the city; and
2. The public's right of access to information concerning the conduct of the public's business.

B. It is the intent of the city to:

1. Establish fair information practices to prevent abuse of personal information by the city while protecting the public's right of easy and reasonable access to unrestricted public records; and
2. Provide guidelines of openness to government information and privacy of personal information consistent with nationwide standards;
3. Establish and maintain an active, continuing program for the economical and efficient management of the city's records as provided in this chapter.

HMC (Ord. 1992-4 § 2)

2.28.030 Definitions

As used in this chapter:

"Audit" means:

1. A systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or
2. A systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency and compliance with statutes and regulations.

"Chronological logs" means the regular and customary summary records of law enforcement agencies and other public safety agencies that show the time and general nature of police, fire and paramedic calls made to the agency and any arrests or jail bookings made by the agency.

"Classification," "classify" and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, or protected, or exempt from disclosure under Utah Code, Section 63-2-201(3)(b).

Computer Program.

1. "Computer program" means a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program.
2. "Computer program" does not mean:
    A. The original data, including numbers, text, voice, graphics, and images;
    B. Analysis, compilation and other manipulated forms of the original data produced by use of the program; or
    C. The mathematical or statistical formulas (excluding the underlying mathematical algorithms contained in the program) that would be used if the manipulated forms of the original data were to be produced manually.

"Controlled record" means a record containing data on individuals that is controlled as provided by Section 2.28.110.

Contractor.

1. "Contractor" means:
    A. Any person who contracts with the city to provide goods or services directly to the city; or
    B. Any private, nonprofit organization that receives funds from the city.
2. "Contractor" does not mean a private provider.

"Designation," "designate" and their derivative forms mean indicating, based on the city's familiarity with a record series or based on the city's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

"Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

"Individual" means a human being.

Initial Contact Report.

1. "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:
    A. The date, time, location, and nature of the complaint, the incident, or offense;
    B. Names of victims;
    C. The nature or general scope of the agency's initial actions taken in response to the incident;
    D. The general nature of any injuries or estimate of damages sustained in the incident;
    E. The name, address, and other identifying information about any person arrested or charged in connection with the incident;
    F. The identity of the public safety personnel (except undercover personnel) or prosecuting attorney involved in responding to the initial incident.
2. Initial contact reports do not include followup or investigative reports prepared after the initial contact report. However, if the information specified in subsection (1) of this definition appears in followup or investigative reports, it may only be treated confidentially if it is private, controlled, protected or exempt from disclosure under Section 63-2-201(3)(b) of the Utah Code.

"Person" means any individual, nonprofit or profit corporation, partnership, sole proprietorship or other type of business organization.

"Private provider" means any person who contracts with the city to provide services directly to the public.

"Private record" means a record containing data on individuals that is classified private as provided by Section 2.28.100.

"Protected record" means a record that is classified protected as provided by Section 2.28.120.

"Public record means a record that has not been appropriately classified private, controlled or protected as provided in Sections 2.28.100 through 2.28.120.

Record.

1. "Record" means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recording, or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, owned, used, received or retained by the city;
2. "Record" does not mean:
    A. Temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom he is working;
    B. Materials that are legally owned by an individual in his private capacity;
    C. Materials to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by the city;
    D. Proprietary software;

E. Junk mail or commercial publications received by the city or an official or employee of the city;

F. Books and other materials that are cataloged, indexed or inventoried and contained in the collections of libraries open to the public, regardless of physical form or characteristics of the material;

G. Daily calendars and other personal notes prepared by the originator for the originator's personal use or for the personal use of an individual for whom he is working; or

H. Computer programs as defined in this section that are developed or purchased by or for the city for its own use;

I. Notes or internal memoranda prepared as part of the deliberative process by a member of the judiciary, an administrative law judge, a member of the board of pardons, or a member of any other body charged by law with performing a quasi-judicial function.

"Record series" means a group of records that may be treated as a unit for purposes of designation, description, management or disposition.

"Records officer" means the city recorder unless another individual is appointed by the mayor to work in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

"Summary data" means statistical records and compilations that contain data derived from private, controlled or protected information but that do not disclose private, controlled, or protected information.

HMC (Ord. 1992-4 § 3)

2.28.040 Right Of Public Access

A. Every person has the right to inspect a public record free of charge and the right to take a copy of a public record during normal working hours, subject to the payment of costs and fees pursuant to Section 2.28.060.

B. All records are public unless otherwise expressly provided by this chapter or state or federal law or regulation.

C. The following records are not public:

1. Records that are appropriately classified private, controlled, or protected as allowed by Sections 2.28.100 through 2.28.120; and

2. Records to which access is restricted pursuant to court rule, another state statute, federal statute or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

D. Only those records specified in Section 2.28.100, 2.28.110 or 2.28.120 may be classified private, controlled or protected.

E.

1. The city may not disclose a record that is private, controlled, or protected to any person except as provided in subsection (E)(2) of this section or Section 2.28.050.

2. The city may, at its discretion, disclose records that are private under Section 2.28.100(B) or protected under Section 2.28.120 to persons other than those specified in Section 2.28.050 if the city council, or a designee, determines that there is no interest in restricting

access to the record, or that the interests favoring access outweigh the interest favoring restriction of access.

F. 1. The disclosure of records to which access is governed or limited pursuant to court rule, another state statute, federal statute or federal regulation, including records for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule or regulation.

2. This chapter applies to records described in subsection (F)(1) of this section insofar as this chapter is not inconsistent with the statute, rule or regulation.

G. The city shall provide a person with a certified copy of a record if the person requesting the record:

1. Has a right to inspect it;

2. Identifies the record with reasonable specificity; and

3. Pays the lawful fees.

H. 1. The city is not required to create a record in response to a request.

2. Nothing in this chapter requires the city to fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.

I. If a person requests copies of more than fifty pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the city may:

1. Provide the requester with the facilities for copying the requested records and require that the requester make the copies himself; or

2. Allow the requester to provide his own copying facilities and personnel to make the copies at the city offices, and waive the fees for copying the records.

J. 1. If the city owns an intellectual property right and offers the intellectual property right for sale, or license, the city may control by ordinance or policy the duplication and distribution of the material based on terms the city considers to be in the public interest.

2. Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the city under federal copyright or patent law as a result of its ownership of the intellectual property right.

K. The city may not use the physical form, electronic or otherwise, in which a record is stored to deny or unreasonably hinder the rights of persons to inspect and receive copies of a record under this chapter.

HMC (Ord. 1992-4 § 4)

2.28.050 Access To Nonpublic Records

A. Upon request the city shall disclose a private record to:

1. The subject of the record;

2. The parent or legal guardian of an unemancipated minor who is the subject of the record;

3. The legal guardian of a legally incapacitated individual who is the subject of the record;
4. Any other individual who:
    a. Has a power of attorney from the subject of the record, or
    b. Submits a notarized release from the subject of the record or his legal representative dated no later than ninety days before the date the request is made; or
5. Any person to whom the record must be provided pursuant to court order.

B. 1. Upon request, the city shall disclose a controlled record to:
    a. A physician, psychologist or certified social worker upon submission of a notarized release from the subject of the record that is dated no more than ninety days prior to the date the request is made and a signed acknowledgement of the terms of disclosure of controlled information as provided by subsection (B)(2) of this section; and
    b. Any person to whom a record must be disclosed pursuant to court order.
2. A person who receives a record from the city in accordance with subsection (B)(1)(a) of this section may not disclose controlled information from that record to any person, including the subject of the record.

C. If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

D. Upon request the city shall disclose a protected record to:
1. The person who submitted the information in the record;
2. Any other individual who:
    a. Has a power of attorney from all persons, governmental entities or political subdivisions whose interests were sought to be protected by the protected classification or
    b. Submits a notarized release from his legal representatives dated no more than ninety days prior to the date the request is made; or
3. Any person to whom a record must be provided pursuant to a court order.

E. The city may disclose a record classified private, controlled or protected to another governmental entity, city, another state, the United States or a foreign government only as provided by Utah Code Annotated, Section 63-2-206.

F. Before releasing a private, controlled or protected record, the city shall obtain evidence of the requester's identity.

G. The city shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:
1. The record deals with a matter in controversy over which the court has jurisdiction;
2. The court has considered the merits of the request for access to the record; and

3. The court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under Utah Code Section 63-2-304(1) and (2), and privacy interests or the public interest in the case of other protected records;

4. To the extent the record is properly classified private, controlled or protected, the interests favoring access, considering limitations thereon, outweigh the interests favoring restriction of access; and

5. Where access is restricted by a rule, statute, or regulation referred to in Section 2.28.040(C)(2), the court has authority independent of this chapter to order disclosure.

H. 1. The city may disclose or authorize disclosure of private or controlled records for research purposes if the city:

   a. Determines that the research purpose cannot reasonably be accomplished without use of disclosure of the information to the researcher in individually identifiable form;

   b. Determines that the proposed research is bona fide, and that the value of the research outweighs the infringement upon personal privacy;

   c. Requires the researcher to assure the integrity, confidentiality and security of the records and requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

   d. Prohibits the researcher from disclosing the record in individually identifiable form except as provided in subsection (H)(2) of this section, or from using the record for purposes other than the research approved by the city; and

   e. Secures from the researcher a written statement of his understanding of and agreement to the conditions of this subsection and his understanding that violation of the terms of this subsection may subject him to criminal prosecution under Section 63-2-801 of the Utah Code.

2. A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

3. The city may require indemnification as a condition of permitting research under this subsection.

I. 1. Under Sections 2.28.040(F)(2) and 2.28.160(D) the city may disclose records that are private under Section 2.28.100, or protected under Section 2.28.120, to persons other than those specified in this section.

2. Under Section 2.28.160 the city council may require the disclosure of records that are private under Section 2.28.100, controlled under Section 2.28.110 or protected under Section 2.28.120 to persons other than those specified in this section.

3. Under Section 63-2-404(8) of the Utah Code the court may require the disclosure of records that are private under Section 2.28.100, controlled under Section 2.28.110 or protected under Section 2.28.130 to persons other than those specified in this section.

HMC (Ord. 1992-4 § 5)

2.28.060 Fees

A. The city may charge a reasonable fee to cover the city's actual cost of duplicating a record or compiling a record in a form other than that maintained by the city. The fees may be set by resolution. The initial fee, until changed by resolution, is as set forth in Exhibit "A," attached to the ordinance codified in this chapter and on file in the office of the city clerk.

1. A city may fulfill a record request without charge when it determines that:

    a. Releasing the record primarily benefits the public rather than a person;

    b. The individual requesting the record is the subject of the record; or

    c. The requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

2. A city may not charge a fee for:

    a. Reviewing a record to determine whether it is subject to disclosure; or

    b. Inspecting a record.

HMC (Ord. 1992-4 § 6)

2.28.070 Procedures For Access

A. A person making a request for a record shall furnish the city with a written request containing his name, mailing address, daytime telephone number if available, and a description of the records requested that identifies the record with reasonable specificity.

B. As soon as reasonably possible, but no later than ten business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person, the city shall respond to the request by:

1. Approving the request and providing the record;

2. Denying the request;

3. Notifying the requester that it does not maintain the record and providing, if known, the name and address of where the record can be found; or

4. Notifying the requester that because of one of the extraordinary circumstances listed in subsection D of this section, it cannot immediately approve or deny the request. The notice shall describe the circumstances relied upon and specify the earliest time and date when the records will be available.

C. Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.

D. The following circumstances constitute "extraordinary circumstances" that allow the city to delay approval or denial by an additional period of time as specified in subsection E of this section if the city determines that due to the extraordinary circumstances it cannot respond within the time limits provided in subsection B of this section:

1. Another governmental entity is using the record, in which case the city shall promptly request that the governmental entity currently in possession return the record;
2. Another governmental entity is using the record as part of an audit and returning the record before the completion of the audit would impair the conduct of the audit;
3. The request is for a voluminous quantity of records;
4. The city is currently processing a large number of records requests;
5. The request requires the city to review a large number of records to locate the records requested;
6. The decision to release a record involves legal issues that require the city to seek legal counsel for the analysis of statutes, rules, ordinances, regulations or case law;
7. Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing; or
8. Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.

E. If one of the extraordinary circumstances listed in subsection D of this section precludes approval or denial within the time specified in subsection B of this section, the following time limits apply to the extraordinary circumstances:

1. For claims under subsection (D)(1) of this section, the governmental entity currently in possession of the record shall return the record to the originating entity within five business days of the request for the return unless returning the record would impair the holder's work;
2. For claims under subsection (D)(2 of this section, the originating city shall notify the requester when the record is available for inspection and copying;
3. For claims under subsections (D)(3, (D)(4) and (D)(5) of this section, the city shall:
    a. Disclose the records that it has located which the requester is entitled to inspect,
    b. Provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request, and
    c. Complete the work and disclose those records that the requester is entitled to inspect as soon as reasonably possible;
4. For delays under Section 2.28.070(D)(6), the city shall either approve or deny the request within five business days after the response time specified for the original request has expired;
5. For delays under Section 2.28.070(D)(7), the city shall fulfill the request within fifteen business days from the date of the original request; or
6. For delays under Section 2.28.070(D)(8), the city shall complete its programming and disclose the requested records as soon as reasonably possible.

F. If the city fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the records.

HMC (Ord. 1992-4 § 7)

2.28.080 Denials

A. If the city denies the request in whole or part, it shall provide a notice of denial to the requester either in person or by sending the notice to the requester's address.

B. The notice of denial shall contain the following information:

1. A description of the record or portions of the record to which access was denied, provided that the description does not disclose private, controlled or protected information or records to which access is restricted pursuant to court rule, another state statute, federal statute or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds;
2. Citations to the provisions of this chapter, another state statute, federal statute, court rule or order or federal regulation that exempt the record or portions of the record from disclosure, provided that the citations do not disclose private, controlled or protected information;
3. A statement that the requester has the right to appeal the denial to the city council; and
4. A brief summary of the appeals process, and the time limits for filing an appeal.

C. Unless otherwise required by a court or agency of competent jurisdiction, the city may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal.

HMC (Ord. 1992-4 § 8)

2.28.090 Records That Must Be Disclosed

A. The following records are public:

1. Laws and ordinances;
2. Names, gender, gross compensation, job titles, job descriptions, business addresses, business telephone numbers, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of the city's former and present employees and officers excluding undercover law enforcement personnel or investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;
3. Final opinions, including concurring and dissenting opinions, and orders that are made by the city in an administrative, adjudicative or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they obtain information that is private, protected or controlled;
4. Final interpretation of statutes or rules by the city unless classified as protected as provided in Section 2.28.120(O), (P) and (Q);
5. Information contained in or compiled from a transcript, minutes or report of the open portion of a meeting of the city including the records of all votes of each member of the city council;
6. Judicial records unless a court orders the record to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;
7. Records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions (the division of state lands and forestry, the division of oil, gas and mining, the division of water rights) or other governmental entities that give public notice of:

a. Titles or encumbrances to real property,

b. Restrictions on the use of real property,

c. The capacity of persons to take or convey title to real property, or

d. Tax status for real and personal property;

8. Records of the department of commerce that evidence incorporations, mergers, name changes and uniform commercial code filings;

9. Data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the city written permission to make the records available to the public;

10. Documentation of the compensation that the city pays to a contractor or private provider; and

11. Summary data.

B. The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Section 2.28.040(C)(2) or Sections 2.28.100 through 2.28.120:

1. Administrative staff manuals, instructions to staff and statements of policy;

2. Records documenting a contractor's or private provider's compliance with the terms of a contract with the city;

3. Records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the city;

4. Contracts entered into by the city;

5. Any account, voucher or contract that deals with the receipt or expenditure of funds by the city;

6. Records relating to governmental assistance or incentives publicly disclosed, contracted for or given by the city, encouraging a person to expand or relocate a business in Utah, except as provided in Section 63-2-304(34) of the Utah Code;

7. Chronological logs and initial contact reports;

8. Correspondence by and with the city in which the city determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;

9. Empirical data contained in drafts if:

a. The empirical data is not reasonably available to the requester elsewhere in similar form, and

b. The city is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;

10. Drafts that are circulated to anyone other than the city, state or to anyone other than a federal agency if the city, state or federal agency is jointly responsible for implementation of a program or project that has been legislatively approved; and

11. Drafts that have never been finalized but were relied upon by the city in carrying out action or policy;

12. Original data in a computer program if the city chooses not to disclose the program;

13. Arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;
14. Search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;
15. Records that would disclose information relating to formal charges or disciplinary actions against a past or present city employee if:
    a. The disciplinary action has been completed and all time periods for administrative appeal have expired, and
    b. The formal charges were sustained;
16. Records maintained by the division of state lands and forestry or the division of oil, gas and mining that evidence mineral production on government lands;
17. Final audit reports;
18. Occupational and professional licenses;
19. Business licenses; and
20. A notice of violation, a notice of agency action under Section 63-46b-3 of the Utah Code, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by the city, but not including records that initiate employee discipline.

C. The list of public records in this section is not exhaustive and should not be used to limit access to records.

HMC (Ord. 1992-4 § 9)

2.28.100 Private Records

A. The following records are private:
    1. Records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits or the determination of benefit levels;
    2. Records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation or similar medical data;
    3. Records of publicly funded libraries that when examined alone or with other records identify a patron;
    4. Records received or generated in a Senate or House ethics committee concerning any alleged violation of the rules on legislative ethics if the ethics committee meeting was closed to the public;
    5. Records concerning a current or former employee of, or applicant for employment with, the city that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status or payroll deductions.

B. The following records are private if properly classified by the city:
    1. Records concerning a current or former employee of, or applicant for employment with, the city, including performance evaluations and personal status information such as race, religion or disabilities, but not including records that are public under Section 2.28.090(A)(2) and (B)(15) or private under Section 2.28.100(A)(5);

2. Records describing an individual's finances, except that the following are public:
    a. Records described in Section 2.28.090(A),
    b. Information provided to the city for the purpose of complying with a financial assurance requirement, or
    c. Records that must be disclosed in accordance with another statute;
3. Records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;
4. Other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;
5. Records provided by the United States or by a governmental entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it.

HMC (Ord. 1992-4 § 10)

2.28.110 Controlled Records

A record is controlled only if:

A. The record contains medical, psychiatric or psychological data about an individual;
B. The city reasonably believes that:
    1. Releasing the information in the record to the subject of the record would be detrimental to the subject's mental health or to the safety of any individual, or
    2. Releasing the information would constitute a violation of normal professional practice and medical ethics, and
    3. The city has properly classified the record.

HMC (Ord. 1992-4 § 11)

2.28.120 Protected Records

The following records are protected if properly classified by the city:

A. Trade secrets as defined in Section 13-24-2 of Utah Code Annotated if the person submitting the trade secret has provided the city with the information specified in Section 63-2-308 of Utah Code Annotated;
B. Commercial information or nonindividual financial information obtained from a person if:
    1. Disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the city to obtain necessary information in the future,
    2. The person submitting the information has a greater interest in prohibiting access than the public in obtaining access, and
    3. The person submitting the information has provided the city with the information specified

in Section 63-2-308 of Utah Code Annotated;

C. Commercial or financial information acquired or prepared by the city to the extent that a disclosure would lead to financial speculations in currencies, securities or commodities that will interfere with a planned transaction by the city or cause substantial financial injury to the city or state economy;

D. Test questions and answers to be used in future license, certification, registration, employment or academic examinations;

E. Records the disclosure of which would impair governmental procurement or give an unfair advantage to any person proposing to enter into a contract or agreement with the city, except that this subsection does not restrict the right of a person to see bids submitted to or by the city after bidding has closed;

F. Records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

1. Public interest in obtaining access to the information outweighs the city's need to acquire the property on the best terms possible,
2. The information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity,
3. In the case of records that would identify property, potential sellers of the property described have already learned of the city's plans to acquire the property,
4. In the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the city's estimated value of the property;

G. Records prepared in contemplation of sale, exchange, lease, rental or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

1. The public interest in access outweighs the interests in restricting access, including the city's interest in maximizing the financial benefit of the transaction, or
2. When prepared by or on behalf of the city, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the city;

H. Records created or maintained for civil, criminal or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification or registration purposes if release of the records:

1. Reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification or registration purposes,
2. Reasonably could be expected to interfere with audits, disciplinary or enforcement proceedings,
3. Would create a danger of depriving a person of a right to a fair trial or impartial hearing,
4. Reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source, or

5. Reasonably could be expected to disclose investigative or audit techniques, procedures, policies or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

I. Records the disclosure of which would jeopardize the life or safety of an individual;

J. Records the disclosure of which would jeopardize the security of governmental property, governmental programs or governmental recordkeeping systems from damage, theft or other appropriation or use contrary to law or public policy;

K. Records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation or parole;

L. Records that if disclosed, would reveal recommendations made to the board of pardons by an employee of or contractor for the department of corrections, the board of pardons, or the department of human services that are based on the employee's or contractor's supervision, diagnosis or treatment of any person within the board's jurisdiction;

M. Records and audit workpapers that identify audit, collection and operational procedures and methods used by the Utah State Tax Commission if disclosure would interfere with audits or collections;

N. Records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

O. Records prepared by or on behalf of the city solely in anticipation of litigation that are not available under the rules of discovery;

P. Records disclosing an attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the city concerning litigation;

Q. Records of communications between the city and an attorney representing, retained or employed by the city if the communications would be privileged as provided in Section 78-24-8 of Utah Code Annotated;

R. Drafts, unless otherwise classified as public;

S. Records concerning the city's strategy about collective bargaining or pending litigation;

T. Records of investigations of loss occurrences and analyses of loss occurrences;

U. Records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

V. Records that reveal the location of historic, prehistoric, paleontological or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational or cultural information;

W. Records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

X. Records provided by the United States or by a government entity outside the state that are given to the city with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

Y. Transcripts, minutes or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-7 of the Open and Public Meeting Act;

Z. Records that would reveal the contents of settlement negotiations but not including final

settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

AA. Memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the board of pardons, or a member of any other body charged by law with performing a quasi-judicial function;

AB. Records that would reveal negotiations regarding assistance or incentives offered by or requested from the city for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the city at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract; and

AC. Materials to which access must be limited for purposes of securing or maintaining the city's proprietary protection of intellectual property rights including patents, copyrights and trade secrets.

HMC (Ord. 1992-4 § 12)

2.28.130 Records Classification

A. The city shall:

1. Evaluate all record series that it uses or creates;
2. Designate those record series as provided by this chapter;
3. Report the designation of its record services to the state archives.

B. The city may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series or information until access to the record is requested.

C. The city may redesignate a record series or reclassify a record or record series, or information within a record at any time.

HMC (Ord. 1992-4 § 13)

2.28.140 Records Retention

The city shall by resolution establish a retention schedule for each record series. The initial retention schedule shall be as set forth in Exhibit B attached to the ordinance codified in this chapter and on file in the office of the city clerk.

HMC (Ord. 1992-4 § 14)

2.28.150 Segregation Of Records

Notwithstanding any other provision in this chapter, if the city receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this chapter, and, if the information the requester is entitled to inspect is intelligible, the city:

A. Shall allow access to information in the record that the requester is entitled to inspect under this chapter; and

B. May deny access to information in the record if the information is exempt from disclosure to the requester, issuing a notice of denial.

HMC (Ord. 1992-4 § 15)

2.28.160 Appeals

A. 1. Any person aggrieved by the city's access determination under this chapter, including a person not a party to the city's proceeding, may appeal the determination to the mayor and city council by filing a notice of appeal.

2. If the city claims extraordinary circumstances and specifies the date when the records will be available, and if the requester believes the extraordinary circumstances do not exist or that the time specified is unreasonable, the requester may appeal the city's claim of extraordinary circumstances or date for compliance within thirty days after notification of a claim of extraordinary circumstances by the city, despite the lack of a "determination" or its equivalent.

B. 1. If the appeal involves a record that is the subject of a business confidentiality claim under Section 63-2-308 of the Utah Code, the city recorder shall:

a. Send notice of the requester's appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than thirty-five persons, it shall be given as soon as reasonably possible;

b. Send notice of the business confidentiality claim and the schedule for the city recorder's determination to the requester within three business days after receiving notice of the requester's appeal.

2. The claimant shall have seven business days after notice is sent by the city recorder to submit further support for the claim of business confidentiality.

C. 1. The mayor shall make a determination on any appeal within the following period of time:

a. Within five business days after the mayor's receipt of the notice of appeal; or

b. Within twelve business days after the city sends the requester's notice of appeal to a person who submitted a claim of business confidentiality.

2. If the mayor fails to make a determination within the time specified in subsection (C)(1) of this section, the failure shall be considered the equivalent of an order denying the appeal.

3. The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this section.

D. The mayor may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under Section 2.28.100(B) or protected under Section 2.28.120 if the interests favoring access outweigh the interest favoring restriction of access.

E. The city shall send written notice of the determination of the mayor to all participants. If the mayor affirms the denial in whole or in part, the denial shall include a statement that the requester has the right to appeal the denial to the city council, and the time limits for filing an appeal.

F. The duties of the mayor under this section may be delegated.

G. The notice of appeal to the city council must be filed with the city recorder no later than thirty

days after the mayor has denied the appeal or fails to make a determination within the time specified in Section 2.28.160(C)(1).

H. The notice of appeal shall contain the following information:

1. The petitioner's name, mailing address and daytime telephone number; and
2. The relief sought.

I. The petitioner may file a short statement of facts, reasons, and legal authority in support of the appeal.

J. No later than three days after receiving a notice of appeal, the recorder shall:

1. Schedule a hearing for the city council to discuss the appeal which shall be held no sooner than fifteen days and no later than thirty days from the date of the filing of the appeal;
2. At the hearing, the city council shall allow the parties to testify, present evidence, and comment on the issues. The city council may allow other interested persons to comment on the issues;
3. No later than three business days after the hearing, the city council shall issue a signed order either granting the petition in whole or in part or upholding the determination of the city in whole or in part;
4. The order of the city shall include:
    a. A statement of reasons for the decision, including citations to this chapter or federal regulation that governs disclosure of the record, provided that the citations do not disclose private, controlled or protected information;
    b. A description of the record or portions of the record to which access was ordered or denied, provided that the description does not disclose private, controlled or protected information;
    c. A statement that any party to the appeal may appeal the city's decision to district court; and
    d. A brief summary of the appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney.

K. A person aggrieved by the city's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a nonrequestor is the only appellant, the procedures provided in this section shall apply, except that the determination on the appeal shall be made within thirty days after receiving the notice of appeal.

HMC (Ord. 1992-4 § 16)

2.28.170 Judicial Review

Any party to a proceeding before the city council may petition for judicial review by the district court of the city council's order. The petition shall be filed no later than thirty days after the date of the city council's order.

HMC (Ord. 1992-4 § 17)

2.28.180 Confidential Treatment Of Records For Which No Exemption Applies

A. A court may, on appeal or in a declaratory or other action, order the confidential treatment of records for which no exemption from disclosure applies if:

1. There are compelling interests favoring restriction of access to the record; and
2. The interests favoring restriction of access clearly outweigh the interests favoring access.

B. If the city requests a court to restrict access to a record under this section, the court shall require the city to pay the reasonable attorneys' fees incurred by the lead party in opposing the city's request, if:

1. The court finds that no statutory or constitutional exemption from disclosure could reasonably apply to the record in question; and
2. The court denies confidential treatment under this section.

C. This section does not apply to records that are specifically required to be public under Section 2.28.090 or Section 63-2-301 of the Utah Code, except as provided in subsection D of this section.

D.
1. Access to drafts and empirical data in drafts may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the deliberative nature of the record.
2. Access to original data in a computer program may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the status of that data as part of a computer program.

HMC (Ord. 1992-4 § 18)

2.28.190 Request To Amend A Record

A.
1. Subject to subsection G of this section, an individual may contest the accuracy of or completeness of any public, or private, or protected record concerning him by requesting the city to amend the record. However, this section does not affect the right of access to private or protected records.
2. The request shall contain the following information:
    a. The requester's name, mailing address, and daytime telephone number; and
    b. A brief statement explaining why the city should amend the record.

B. The city shall issue an order either approving or denying the request to amend no later than thirty days after receipt of the request.

C. If the city approves the request, it shall correct all of its records that contain the same incorrect information as soon as practical. A city may not disclose the record until it has amended it.

D. If the city denies the request it shall:

1. Inform the requester in writing; and
2. Provide a brief statement giving its reasons for denying the request.

E. 1. If the city denies a request to amend a record, the requester may submit a written statement contesting the information in the record.

2. The city shall:

a. File the requester's statement with the disputed record if the record is in a form such that the statement can accompany the record or make the statement accessible if the record is not in a form such that the statement can accompany the record; and

b. Disclose the requester's statement along with the information in the record whenever the city discloses the disputed information.

F. The requester may appeal the denial of the request to amend a record pursuant to Section 2.28.160.

G. This section does not apply to records relating to title to real or personal property, medical records, judicial case files, or any other records that the city determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.

HMC (Ord. 1992-4 § 19)

2.28.200 Violation; Penalty

A. 1. A public employee or other person who has lawful access to any private, controlled or protected record under this chapter, and who intentionally discloses or provides a copy of a private, controlled or protected record to any person knowing that such disclosure is prohibited, is guilty of a class B misdemeanor.

2. It is a defense to prosecution under subsection (A)(1) of this section that the actor released private, controlled or protected information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.

3. It is a defense to prosecution under subsection (A)(1) of this section that the record could have lawfully been released to the recipient if it had been properly classified.

B. 1. A person who by false pretenses, bribery or theft, gains access to or obtains a copy of any private, controlled or protected record to which he is not legally entitled, is guilty of a class B misdemeanor.

2. No person shall be guilty under subsection (B)(1) of this section who receives the record, information or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery or theft.

C. 1. A public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final unappealed order from a city, the records committee or a court, is guilty of a class B misdemeanor.

HMC (Ord. 1992-4 § 20)

AGENDA NEXT

HIGHLAND CITY

CITY COUNCIL AGENDA REPORT
ITEM #6

DATE: February 1, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Andy Spencer
City Engineer/Public Works Director

SUBJECT: **ACTION:** Encroachment agreement with United Stated Bureau of Reclamation associated with the Murdock Pressurized Irrigation Pump Station

TYPE: **ADMINISTRATIVE:** The Council is acting in an administrative capacity and fulfilling their responsibilities as the Governing Body as defined in the Municipal Code.

PURPOSE:
The City Council will discuss an encroachment agreement with the United States Department of the Interior Bureau of Reclamation (BOR) regarding the access across the Central Utah Project Jordan Aqueduct Reach 4 and Alpine Aqueduct Reach 3

BACKGROUND:
As a part of the permits for the Murdock Pump Station, the City is required to enter into an Encroachment Agreement with the BOR. The agreement is for the piping that leads to the pump station from the turnout of the Murdock Canal and for a driveway that will cross the easement.

FISCAL IMPACT:
The application included a minor $150.00 fee that has already been paid. No other financial impacts are anticipated.

RECOMMENDATION:
Staff recommends approval of the agreement. Staff has requested a corrected agreement with the Mayor signing the agreement in lieu of Andy Spencer. The attached agreement has the changes indicated in red.

PROPOSED MOTION:
I move that the City Council **APPROVE** the Easement Encroachment Agreement with the United States Department of the Interior Bureau of Reclamation and **AUTHORIZE** the Mayor to sign the agreement.

ATTACHMENTS:
1. Agreement as provided to the City from the BOR.

Contract No. 21-LM-41-1510
Parcel No. 12:004:0037

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

CENTRAL UTAH PROJECT
JORDAN AQUEDUCT REACH 4
AND
ALPINE AQUEDUCT REACH 3

EASEMENT ENCROACHMENT AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND HIGHLAND CITY

This Easement Encroachment Agreement made this___ day of _____ 2022, pursuant to the Act of Congress of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as Reclamation Laws, among the UNITED STATES OF AMERICA and its assigns, hereinafter referred to as the (United States), and HIGHLAND CITY, hereinafter referred to as the (Landowner's Permittee).

WITNESSETH THAT:

WHEREAS, the United States is the Grantee of that certain easement granted by the State of Utah, which easement was recorded on November 3, 1983, recorded as Entry No. 33524 in Book 2089, Pages 218-230, in the official records of Utah County, State of Utah, hereinafter referred to as the (Easement of the United States); and,

WHEREAS, the Landowner's Permittee has requested permission to install utility improvements in such a manner as to encroach upon the Easement of the United States more particularly specified hereinafter; and,

WHEREAS, the United States is willing to agree to said encroachment, upon conditions more particularly specified hereinafter; and,

NOW, THEREFORE, the United States hereby agrees to encroachment upon the Easement of the United States by the Landowner's Permittee only to the extent and for the purposes set forth below:

1. Purpose: The Landowner's Permittee and/or its designated contractors will install, operate, and maintain the following:

    a) (One) ten inch (10") HDPE (DR-17) pressurized irrigation line
    b) (One) sixteen foot (16') wide double swing chain link gate on the north easement boundary
    c) (One) sixteen foot (16') wide single arm gate along 4800 West
    d) A twelve foot (12') wide utility access road consisting of three inches (3") of asphalt over eight inches (8") of untreated base course

2. Location: The encroachment within the Easement of the United States (JA-458(P)) is located near 4850 West 9800 North, Highland, Utah 84003, Parcel No. 12:004:0037, hereinafter referred to as the (Property). The encroachment occurs along the Alpine Aqueduct Reach 3 and the Jordan Aqueduct Reach 4 (Pipelines), which are within Section 1, Township 5 South, Range 1 East in the Southeast Quarter of the Southeast Quarter (SE¼SE¼), Salt Lake Base and Meridian, as shown in Exhibit A, attached hereto and by this reference made a part hereof.

3. Plans, Drawing, or Maps (Attached Hereto and made a Part Hereof):

    Exhibit "A"- Maps of Project location, Highland City, Utah County, Utah
    Exhibit "B"- Project Plans

4. Land Status:

    ☐ Fee Title
    ☒ Easement or Reserved Right-of-Way

5. Project Information and Conditions:

    a) Installation of a ten inch (10") HDPE (DR-17) pressurized irrigation line for Highland City's pressurized irrigation system, hereinafter referred to as the (Irrigation Line).

    b) The Irrigation Line will be buried with a minimum cover of thirty inches (30") over top of the Pipelines.

    c) The Irrigation Line will be installed above the existing Pipelines with a minimum separation of twelve inches (12") between the crossing pipes.

    d) The elevation of the Pipelines will be potholed sufficiently in advance of laying pipe to allow for adjustments of new pipeline grade to avoid conflicts and to verify proper separation.

e) Installation of a twelve foot (12') wide asphalted utility access road from 4800 West to the proposed pump station site.

f) Sixteen foot (16') wide locked gates will be constructed on both ends of the access road. Highland City only intends to use this access road in the event that a crane truck is needed to pull a pump at the pump station site. If access to the Easement of the United States is blocked, the Landowner's Permittee shall provide Jordan Valley Water Conservancy District and Central Utah Water Conservancy District, hereinafter referred to as the (District), with access to allow officials continued access to the Pipelines for operation and maintenance purposes.

g) The minimum slope of the Irrigation Line shall be one half percent (0.5%) with no local high points except as indicated on the project plans attached as Exhibit B.

h) All work to be in accordance with Highland City's Standards and Specifications.

i) The construction period to be at sole discretion of the District as it pertains to the Irrigation Line installation. The work shall in no case exceed one hundred twenty (120) days.

j) Notification will be made to the District at a minimum of forty-eight (48) hours prior to any work in the Easement of the United States, so that a District Inspector at the Jordan Valley Water Conservancy District (801) 565-4300 and/or the Central Utah Water Conservancy District (801) 226-7193 can be on site to monitor the aforementioned activities.

k) The Landowner's Permittee has a documented right to access and use the underlying Property in accordance with the plans and drawings provided to the United States. Also, Landowner's Permittee does hereby accept and acknowledge that United States is not granting access to or a right to use the underlying Property.

6. Additional Requirements:

1. COVENANT AGAINST FUTURE ENCROACHMENTS: Landowner's Permittee covenants and agrees that it shall not place or allow additional encroachments or material within the Easement of the United States. Except as allowed under paragraph 2 (a) above, should any encroachment be placed within the Easement of the United States in violation of this covenant, Landowner's Permittee agrees to remove the same promptly, at Landowner's Permittee's sole risk, cost and expense. Should the District or any federal agency be required to remove said encroachment or material, Landowner's Permittee

agrees to reimburse to the said District or federal agency the full cost and expense of doing so within fifteen (15) days of receipt of a demand for the payment. Should Landowner's Permittee fail to make timely payment, the unpaid amount shall bear interest thereafter, both before and after judgment, at the rate of eighteen percent (18%) per annum.

2. AUTHORIZED FEDERAL AGENCY: The federal agency is the Department of the Interior, Bureau of Reclamation, represented by the officer executing this Agreement, his duly appointed successor, or his duly authorized representative.

3. PLANS AND SPECIFICATIONS: The Landowner's Permittee and/or its contractors shall perform all work within the Easement of the United States in accordance with the plans, drawings, guidelines, and maps shown in Exhibits A and B, attached hereto and by this reference made a part hereof, and in a manner satisfactory to the United States and the District.

4. SEVERABILITY: Each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or prohibition but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provisions, or of the use authorization as a whole.

5. ILLEGAL USE: Any activity deemed to be illegal on Federal lands will be cause for immediate termination of the use authorization.

6. REVOCATION/TERMINATION: This Agreement may be revoked by the United States upon thirty (30) days written notice to the Landowner's Permittee:

    a. For nonuse of the project lands by the Landowner's Permittee for a period of two (2) continuous years; or,

    b. The United States determines that the Landowner's Permittee's use of the land is no longer compatible with project purpose; or,

    c. After failure of the Landowner's Permittee to observe any of the conditions of this Agreement and on the tenth day following service of written notification on the Landowner's Permittee of the termination because of failure to observe such conditions; or,

    d. At the sole discretion of the United States.

7. HOLD HARMLESS: The Landowner's Permittee hereby agrees to indemnify and hold harmless the United States, its employees, agents, and assigns from any loss or damage and

from any liability on account of personal injury, property damage, or claims for personal injury or death arising out of the Landowner's Permittee's activities under this Agreement.

a. In consideration of the United States agreeing to encroachment upon the Easement of the United States by the Landowner's Permittee, the Landowner's Permittee hereby agrees to indemnify and hold the United States and the District, their agents, employees, and assigns, harmless from any and all claims whatsoever for personal injuries or damages to property when such injuries or damages directly or indirectly arise out of the existence, construction, maintenance, repair, condition, use or presence of the encroachment upon the Easement of the United States, regardless of the cause of said injuries or damages; provided, however, that nothing in this Agreement shall be construed as releasing the United States or the District from responsibility for their own negligence. Nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 989 (28 U.S.C. §1346(b), 2671 et seq.) or other applicable law, and/or the liability of the District beyond the provisions of the Governmental Immunity Act of Utah, Utah Code Ann §§ 63G-7-101 et seq.

b. In consideration of the United States agreeing to the Landowner's Permittee encroaching upon the Easement of the United States, the Landowner's Permittee agrees that the United States shall not be responsible for any damage caused to facilities, equipment, structures, or other property if damaged by reason of encroachment upon the Easement of the United States by the Landowner's Permittee. The Landowner's Permittee hereby releases the United States and the District, their officers, employees, agents, or assigns, from liability for any and all loss or damage of every description or kind whatsoever which may result to the Landowner's Permittee from the construction, operation, and maintenance of project works upon said lands; provided that nothing in this Agreement shall be construed as releasing the United States or the District from liability for their own negligence. Nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 989 (28 U.S.C. §1346(b), 2671 et seq.) or other applicable law, and/or the liability of the District beyond the provisions of the Governmental Immunity Act of Utah, Utah Code Ann §§ 63G-7-101 et seq.

c. If the maintenance or repair of any or all structures and facilities of the United States located on the Easement of the United States should be made more expensive by reason of the existence of the encroachments upon the U.S. Easement, or works of the Landowner's Permittee and/or its contractors, the Landowner's Permittee and/or its contractors will promptly pay to the United States or the District, their agents or assigns, responsible for operation and

maintenance of said structures or facilities, the full amount of such additional expense upon receipt of an itemized bill.

8. OPERATIONS AND MAINTENANCE: If, for any reason the District accesses the Easement of the United States on the Landowner's Permittee's property, whether in an emergency situation or not, and particularly those instances requiring excavation, neither the United States nor the District shall be liable for any damage to any encroachment, and they shall not have any responsibility to restore, replace, or re-construct a disturbed encroachment. If any encroachment is damaged or destroyed, any repair or replacement shall be at the Landowner's Permittee's sole expense, and the new, repaired, or replaced encroachment shall require a new encroachment agreement to be executed at the discretion of the United States.

9. PROTECTION OF UNITED STATES INTERESTS: The Landowner's Permittee shall comply with all applicable laws, ordinances, rules, and regulations enacted or promulgated by any Federal, state, or local governmental body having jurisdiction over the encroachment.

10. UNRESTRICTED ACCESS: The United States reserves the right of its officers, agents, and employees at all times to have unrestricted access and ingress to, passage over, and egress from all of said lands, to make investigations of all kinds, dig test pits and drill test holes, to survey for and construct reclamation and irrigation works and other structures incident to Federal Reclamation Projects, or for any purpose whatsoever. The United States will make every reasonable effort to keep damages to a minimum.

11. OFFICIALS NOT TO BENEFIT: No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.

12. SUCCESSORS IN INTEREST OBLIGATED: The provisions of this Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, personal representatives, successors, and assigns of the parties hereto; provided, however, that no such heir, executor, administrator, personal representative, successor or assign of the Landowner's Permittee shall have the right to use, alter, or modify the encroachment in a manner which will increase the burden of the encroachment on the Easement of the United States.

13. SPECIAL PROVISIONS:

    a. Surface structures that generally will be allowed to be constructed within United States rights-of-way include asphalt roadways, with no utilities within roadway, non-reinforced parking lots, curbs, gutters and sidewalks, walkways, driveways. However, where United States system pipe has specific maximum and minimum cover designation the special requirements for roadways, parking

lots and driveways crossing over the pipe shall be obtained from the United States for the maximum allowable external loading or minimum cover. HOWEVER, IT IS UNDERSTOOD THAT ALL SURFACE STRUCTURES SHALL BE ANALYZED AND CONSIDERED ON AN INDIVIDUAL BASIS.

b. Structures that may not be constructed in, on, or along United States rights-of-way include but are not limited to, permanent structures such as retaining walls, block walls, buildings, garages, decks, carports, mobile homes with permanent foundations, swimming pools, block, cement, fences, or rock fences and walls as designated by the United States.

c. No trees or vines will be allowed within the rights-of-way of the United States.

d. All temporary or permanent changes in ground surfaces within United States rights-of-way are to be considered to be encroaching structures and must be handled as such. Earthfills and cuts on adjacent property shall not encroach onto United States rights-of-way without prior approval by the United States.

e. Existing gravity drainage of the United States rights-of-way must be maintained. No new concentration of surface or subsurface drainage may be directed onto or under the United States rights-of-way without adequate provision for removal of drainage water or adequate protection of the United States rights-of-way.

f. Prior to construction of any structure that encroaches within United States rights-of-way, an excavation must be made to determine the location of existing United States facilities. The excavation must be made by or in the presence of water users or the United States.

g. Any contractor or individual constructing improvements in, on, or along United States rights-of-way must limit his construction to the encroaching structure previously approved and construct the improvements strictly in accordance with plans or specifications.

h. The ground surfaces within United States rights-of-way must be restored to a condition equal to that which existed before the encroachment work began or as shown on the approved plans or specifications.

i. The owner of newly constructed facilities that encroach on United States rights-of-way shall notify the United States and/or the District upon completion of construction and shall provide the District with one copy and the United States with two copies of as-built drawings showing actual improvements in, on, or along the rights-of-way.

j. Except in case of ordinary maintenance and emergency repairs, an owner of encroaching facilities shall give the District at least ten (10) days' notice in writing before entering upon United States rights-of-way for the purpose of reconstructing, repairing, or removing the encroaching structure or performing any work on or in connection with the operation of the encroaching structure.

k. If unusual conditions are proposed for the encroaching structure or unusual field conditions within United States rights-of-way are encountered, the United States reserves the right to impose more stringent criteria than those prescribed herein.

l. All backfill material within United States rights-of-way shall be compacted to ninety-five percent (95%) of maximum density unless otherwise shown. Mechanical compaction shall not be allowed within six inches (6") of the projects works whenever possible. In no case will mechanical compaction using heavy equipment be allowed over the project works or within eighteen inches (18") horizontally of the projects works.

m. The backfilling of any excavation or around any structure within the United States rights-of-way shall be compacted in layers not exceeding six inches (6") thick to the following requirements: (1) cohesive soils to ninety-five percent (95%) maximum density specified by ASTM Part 19, D-698, method A; (2) non-cohesive soils to ninety-five percent (95%) relative compaction specified by ASTM D 7382-08.

n. Any nonmetallic encroaching structure below ground level shall be accompanied with a metallic strip within the United States rights-of-way.

o. No use of United States lands or U.S. Easements shall be permitted that involve the storage of hazardous material.

This Agreement makes no finding as to the right, title, or validity of the Landowner's Permittee or the encroaching interest, but merely defines the conditions under which the encroachment will not be deemed unreasonable by the United States.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

APPROVED:

UNITED STATES OF AMERICA

By: _____
Kent D. Kofford
Area Manager

LANDOWNER'S PERMITTEE:
HIGHLAND CITY

By: _____
Kurt Ostler
Mayor

CONCUR:
JORDAN VALLEY WATER CONSERVANCY DISTRICT

By: _____
Barton A. Forsyth
General Manager/CEO

CONCUR:
CENTRAL UTAH WATER CONSERVANCY DISTRICT

By: _____
Devin McKrola,
Bonneville O&M Manager

ACKNOWLEDGMENT OF THE UNITED STATES

State of UT)
) ss.
County of UT)

On this _____ day of _____, 2022, personally appeared before me _____, known to me to be the _____ of the Provo Area Office, Bureau of Reclamation, Upper Colorado Region, United States Department of Interior, the signer of the above instrument, who duly acknowledged to me that he executed the same on behalf of the United States of America pursuant to authority delegated to him.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(NOTARY SEAL) _____
Notary Public

ACKNOWLEDGMENT OF HIGHLAND CITY

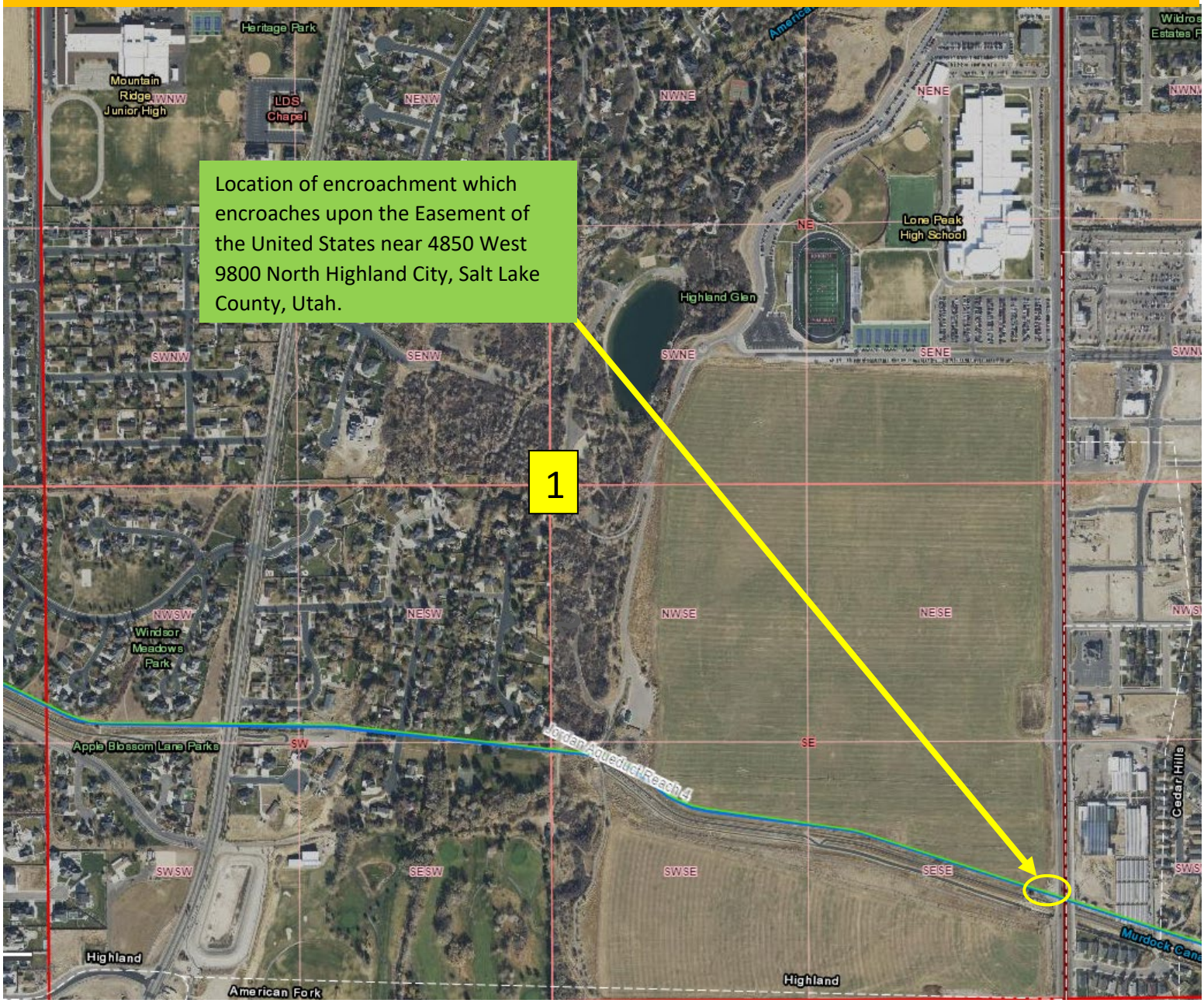
State of UT)
) ss.
County of)

On this _____ day of _____ , 2022, personally appeared before me KURT OSTLER, known to me to be the MAYOR, and signer of the above instrument, who duly acknowledged to me that he/she executed the same, pursuant to authority delegated to them by HIGHLAND CITY.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(NOTARY SEAL) _____
Notary Public

SECTION 1 • TOWNSHIP 5 SOUTH • RANGE 1 EAST



An image shows general location of encroachment in relation to the Easement of the United States

An image shows general location of encroachment in relation to the Easement of the United States

21-LM-41-1510

#	ELEV	DESCRIPTION
A	4832.59	FINISH GRADE AT VAULT
B	4832.59	FINISH GRADE AT VAULT
C	4831.59	FINISH GRADE AT VAULT
D	4831.59	FINISH GRADE AT VAULT
E	4831.22	TOP OF ASPHALT
F	4831.50	TOP OF ASPHALT
G	4831.69	TOP OF ASPHALT
H	4832.07	TOP OF ASPHALT
I	4832.10	TOP OF ASPHALT
J	4831.60	TOP OF ASPHALT
K	4831.41	TOP OF ASPHALT
L	4831.69	TOP OF ASPHALT
M	4833.32	FINISH GRADE AT BUILDING
N	4833.82	FINISH GRADE AT BUILDING
O	4834.25	TOP OF CONCRETE SIDEWALK
P	4833.75	TOP OF CONCRETE SIDEWALK
Q	4833.65	TOP OF CONCRETE SIDEWALK
R	4834.15	TOP OF CONCRETE SIDEWALK

INSTALL 12" X 4" DIP TEE (MJ X FL) AND 4" GATE VALVE (FL X MJ) AND 4" DRAIN PER HIGHLAND CITY STANDARD PI-04

REMOVE EXISTING VALVE AND CONNECT TO EXISTING 12" LINE WITH 12" DIP 90° BEND

EXTEND 4" DRAIN TO EXISTING DRAIN BOX USING TWO 45-DEG DIP BENDS AND APPROX. 45' OF C-900 PVC PIPE AT 2% MIN SLOPE

INSTALL 6' TALL BLACK VINYL CHAIN LINK FENCE AROUND PUMP STATION SITE (APPROX. 265') PER APWA STANDARDS

NEW SIDEWALK (BY OTHERS)

INSTALL 20' WIDE DOUBLE SWING GATE

INSTALL 3" ASPHALT OVER 8" UTBC WITHIN FENCED SITE (APPROX. 3610 SF) ALL ASPHALT TO SLOPE TO THE SOUTHWEST AT 2% MIN. SLOPE

REMOVE ABANDONED 12" WATER LINE AS NEEDED

5' WIDE SIDEWALK ALONG FRONT OF BUILDING

10" PVC (APPROX 15')

10" DIP 22.5° MJ BEND AND CONCRETE THRUST BLOCK

S=2.0%

10" DIP 90° MJ BEND AND CONCRETE THRUST BLOCK

10" PVC (APPROX 50')

NEW PUMP STATION (25'-4" X 21'-4") F.F. ELEV = 4834.0

REMOVE FENCE AND INDICATED PORTIONS OF EXISTING CONCRETE PAD AND RE-USE EXISTING TRANSFORMER

EXISTING PUMP AND PIPING TO BE REMOVED BY OTHERS

4" DRAIN TO BE CORED INTO EXISTING DRAIN BOX AND EXTEND 4" MIN. INTO BOX

STA. 1+00

STA. 0+00

INSTALL 16' WIDE DOUBLE SWING GATE

15" ADS TO DRAIN BOX AT 18% SLOPE (APPROX 18')

CONNECT NEW 15" ADS TO EXISTING DRAIN BOX (USE EXISTING 15" OPENING)

JVWCD EASEMENT

30" ALPINE AQUEDUCT (CUWCD)

REMOVE AND FILL IN EXISTING WET WELL (6' X 6' X 10' DEEP)

EXISTING TREE TO BE REMOVED

3:1 CATCH SLOPE (TYP)

CONNECT TO EXISTING ASPHALT TRAIL

10" HDPE (DR-17) (APPROX 83')

RELOCATE EXISTING 9'-WIDE ASPHALT PATH TO MAINTAIN 4' CLEARANCE FROM NEW METER VAULT 3" ASPHALT / 6" UTBC (APPROX. 805 SF)

72" JORDAN AQUEDUCT (JVWCD)

CONSTRUCT 12'-WIDE ACCESS ROAD FROM 4800 WEST (3" ASPHALT OVER 8" UTBC) (APPROX. 136' LONG)

4' MIN.

10" DIP 90° BEND (FL X MJ) AND CONCRETE THRUST BLOCK

PRIWUA ROW

GRADE 2' AWAY FROM VAULT AT -2% SLOPE AND THEN 3:1 CATCH SLOPE (TYP)

REMOVE EXISTING 12" 90° BEND AND INSTALL NEW 12" DIP MJ TEE

CONNECT TO EXISTING ASPHALT TRAIL

EXISTING METER VAULT

EXISTING ASPHALT PATH

INSTALL 16' WIDE SINGLE ARM GATE (DURAGATE DGT-BS OR APPROVED EQUAL)

CUT EXISTING CURB AND INSTALL DRIVE APPROACH PER UDOT STANDARDS

NEW METER VAULT AND PIPING (TOP OF LID = 4833.09)

PRESERVE AND PROTECT EXISTING FIBER OPTICS

EXISTING TURNOUT VAULT

4800 WEST (NORTH COUNTY BLVD)

N

0 8 16

SCALE IN FEET

NOTE: JVWCD INSPECTOR TO BE ON SITE DURING CONSTRUCTION.
48 HOURS NOTIFICATION REQUIRED PRIOR TO ANY CONSTRUCTION WITHIN JVWCD EASEMENT.
CONTACT JT CRACROFT AT (801) 865-8189.

EXHIBIT B1

FILE NAME:USERS\BRADP\DROPBOX\HIGHLAND CITY\MURDOCK PUMP STATION\CAD FILES\4 - SITE PLAN.DWG
FILE DATE: 8.3.2021 18:38:57 (JEB)

BT ENGINEERING

FOR:
HIGHLAND CITY
5400 W CIVIC CENTER DR
HIGHLAND, UT 84003

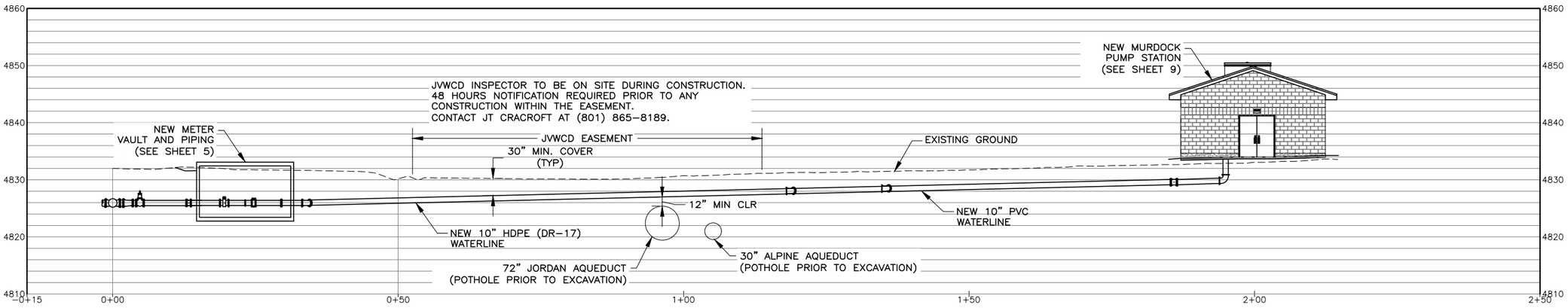
CONTACT:
TODD TRANE
801-772-4508

HIGHLAND CITY MURDOCK IRRIGATION PUMP STATION
SITE PLAN

PROGRESS PRINT
8.3.2021
DATE
Not to be used for construction.

NO.	DATE	REVISION	BY

PROJECT NO.:	DATE:
001.20.05	JUNE 2021
DRAWN BY:	CHECKED BY:
JB	TT
PROJECT MANAGER:	
T. TIMOTHY	

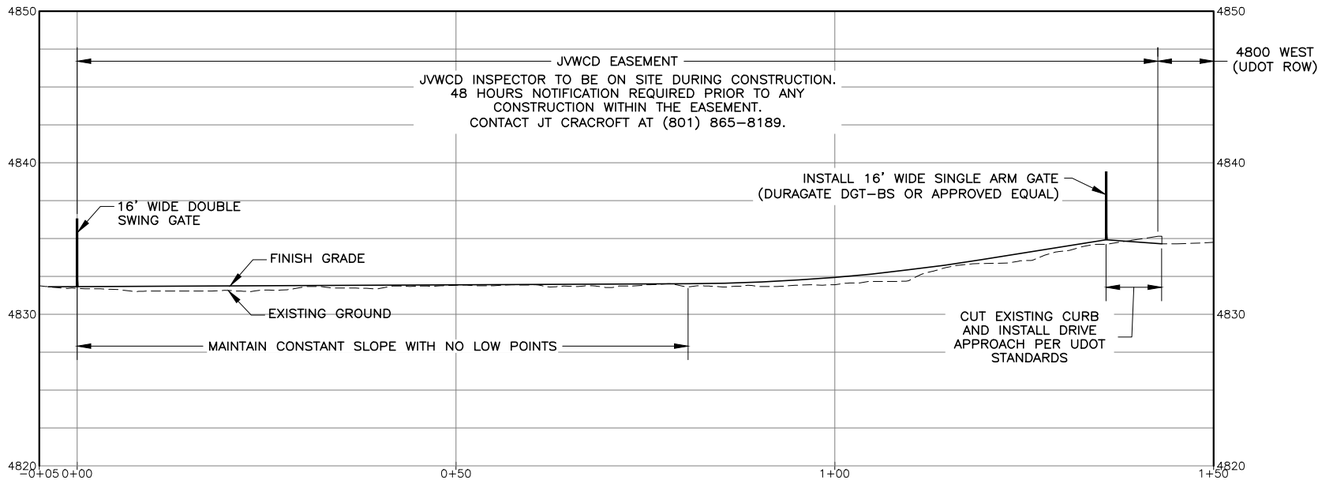


10" PIPE PROFILE

0 10 20
SCALE IN FEET
1:1 VERTICAL

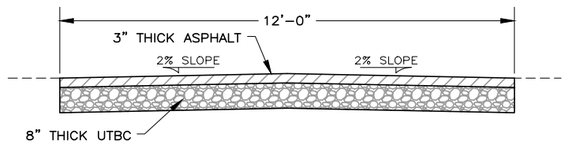
PIPELINE NOTES:

1. MINIMUM COVER OVER TOP OF PIPE SHALL BE 30", UNLESS INDICATED OTHERWISE.
2. THE MINIMUM SLOPE OF THE WATERLINE SHALL BE 0.5% WITH NO LOCAL HIGH POINTS EXCEPT AS INDICATED ON THE DRAWINGS.
3. CONTRACTOR SHALL POT HOLE UTILITIES AT ALL CROSSINGS SUFFICIENTLY IN ADVANCE OF LAYING PIPE TO ALLOW FOR ADJUSTMENTS OF NEW PIPELINE GRADE TO AVOID CONFLICTS.
4. DEFLECTIONS IN PVC JOINTS SHALL NOT EXCEED 1 DEGREE OR MANUFACTURER'S PUBLISHED DEFLECTION.
5. ALL WORK TO BE IN ACCORDANCE WITH HIGHLAND CITY'S STANDARDS AND SPECIFICATIONS.



ACCESS ROAD PROFILE

0 10 20
SCALE IN FEET
2:1 VERTICAL



TYPICAL ACCESS ROAD SECTION

BT ENGINEERING

FOR:
HIGHLAND CITY
5400 W CIVIC CENTER DR
HIGHLAND, UT 84003

CONTACT:
TODD TRANE
801-772-4508

HIGHLAND CITY
MURDOCK IRRIGATION PUMP STATION
10" PIPE AND ACCESS ROAD PROFILE

PROGRESS PRINT
8.3.2021
DATE
Not to be used for construction.

NO.	DATE	REVISION	BY

PROJECT NO.: 001.20.05	DATE: JUNE 2021
DRAWN BY: JB	CHECKED BY: TT
PROJECT MANAGER: T. TIMOTHY	

FILE NAME: USERS\BRADO\DROPBOX\HIGHLAND CITY\MURDOCK PUMP STATION\CAD FILES\7 - PIPE PROFILE.DWG
FILE DATE: 8.3.2021 18:39:24 (JEB)

AGENDA NEXT

HIGHLAND CITY

CITY COUNCIL AGENDA REPORT
ITEM #7

DATE: February 1, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Kellie Smith
Planner & GIS Analyst

SUBJECT: **DISCUSSION:** Options to Connect Trail Systems

TYPE: **ADMINISTRATIVE:** The Council is acting in a legislative capacity in fulfilling their responsibilities as the Governing Body as defined in the Municipal Code. This topic is informational only. No final action will be taken.

PURPOSE:

The City Council will review and discuss options to connect Highland City trails to Alpine and Draper. The Council will take appropriate action.

BACKGROUND:

The City Council directed staff to look at possible routes to connect the Highland City trail system to Alpine and Draper. The goal is to make public connections to the Bonneville Shoreline, Pfeifferhorn, and Hogs Hollow trails.

DISCUSSION:

Option 1: PI Pond (see Attachment #1 for photos)

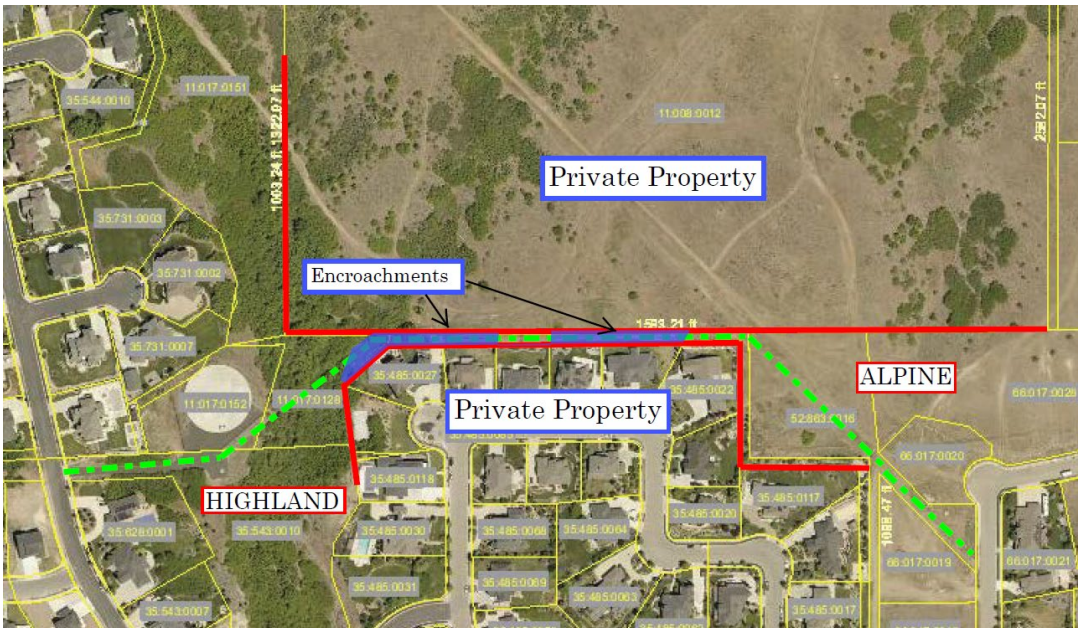
Constraints:

- Currently there is no public connection to Draper. A small portion of property or a trail easement would need to be purchased across one of the private properties.
- An additional 6-foot fence would need to be constructed between the trail and the PI pond.
- On the northwest corner of Highland's property there has been erosion that has created a significant slope. Some retaining would be necessary.

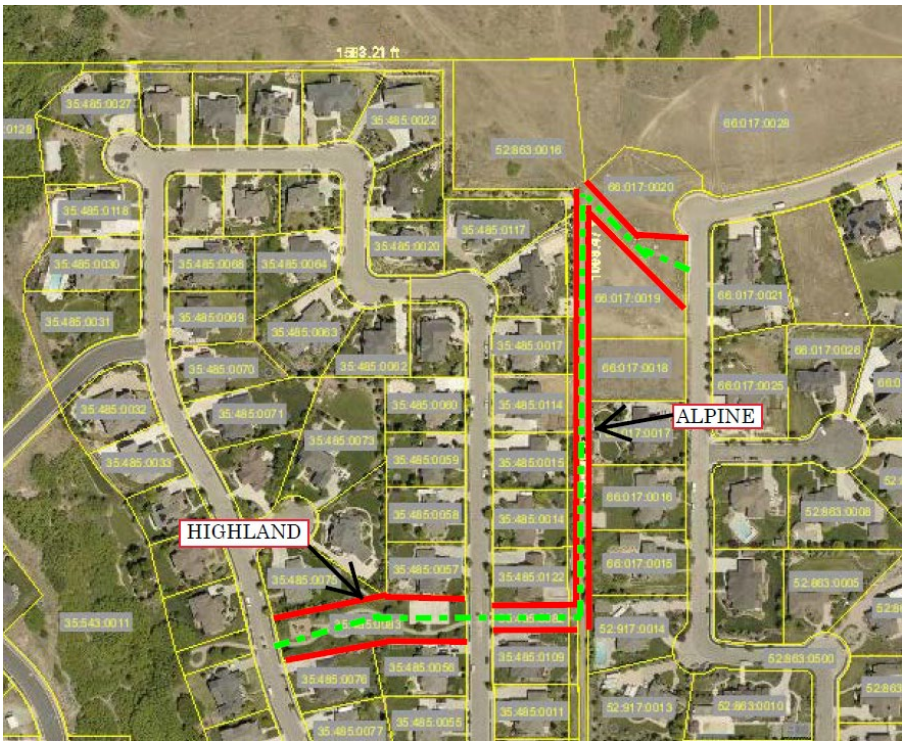
Option 2: Beacon Hills Plat I

Constraints:

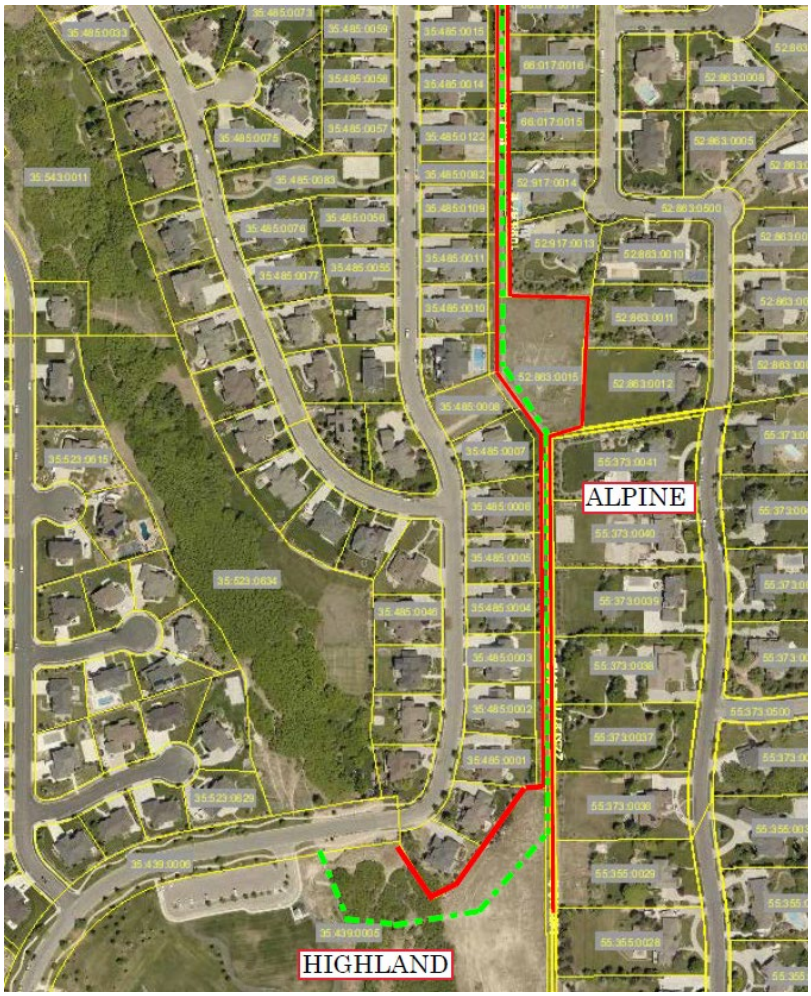
- There is significant encroachment on the City property. The encroachments include large rock retaining walls, basic landscaping, a garden, a cement pad, and a chicken enclosure (see Attachment #2 for photos).



Option 3: Twin Bridges Trail



Option 4: Beacon Hills Park



ATTACHMENTS:

1. Option A – Photos
2. Option B – Photos

ATTACHMENT #1:

ATTACHMENT #2:

HIGHLAND

HIGHLAND

AGENDA

HIGHLAND CITY

CITY COUNCIL AGENDA REPORT
ITEM #8

DATE: February 1, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Andy Spencer, PE
City Engineer/Public Works Director
JoAnn Scott, Planning/Public Works Technician

SUBJECT: **DISCUSSION** – Pedestrian Crossing Warning and Speed Limit Signs

TYPE: **ADMINISTRATIVE:** The Council is acting in an administrative capacity and fulfilling their responsibilities as the Governing Body as defined in the Municipal Code.

PURPOSE:

The City Council will discuss the use of pedestrian crossing advance warning signs at select trail crossings and flashing 'Your Speed' speed limit signs. This item is being presented for discussion and direction only. No formal action will be taken.

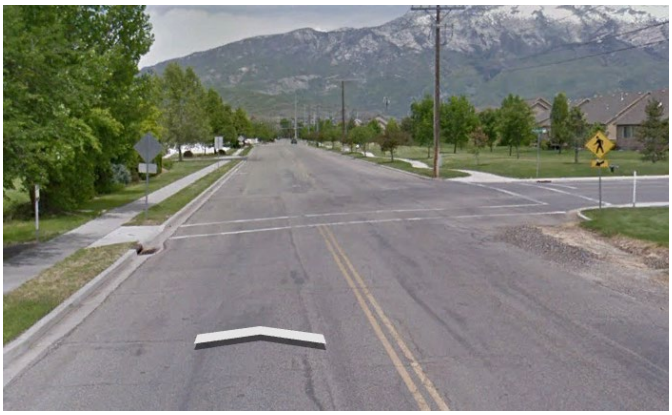
BACKGROUND:

Pedestrian Warning Signs

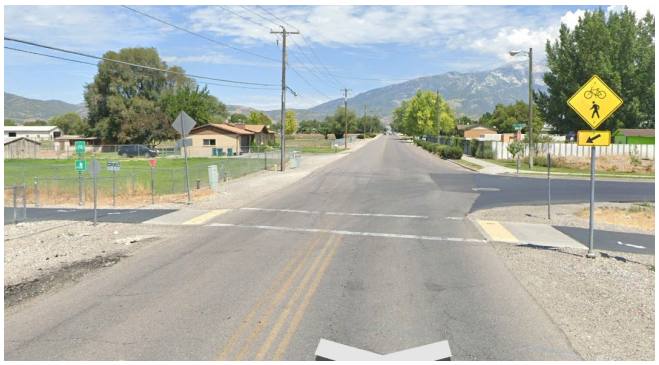
There are a number of trails that cross roads not at a formal intersection. For example: The American Fork Canyon Ditch Trail, also known as the Highland City Main Trail, bisects the City between Town Center East and 6400 West. This trail is 1-1/4 mile in length and is used daily. While most of the trail is behind private properties and internal to subdivision blocks, it does cross collector class roads such as 6000 West and 5600 West and local roads such as 5720 West and 6250 West. Another example of a trail that crosses local and collector roads is the Murdock Canal Trail.

Currently, on busier streets the crossings are identified by a "pedestrian crossing sign" and on street striping.

5600 West

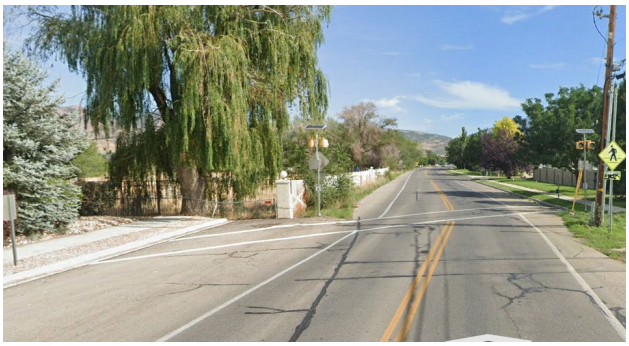


Murdock Canal Trail – 6000 West



Two flashing "pedestrian crossing sign" have been installed. One on 5600 West (this sign was funded by residents) and on Highland Blvd.

6800 West



Highland Blvd

The Rectangular Rapid Flashing Bar (RRFB) style solar pedestrian crossing light is a user activated LED warning sign. The lights are linked via Bluetooth and are activated when the user pushes a button on either side of the road. The LED light bar will flash in a rapid wig-wag pattern which is easily seen in daytime hours as well as at night. UDOT as well as some of our neighboring communities are using these devices at similar mid-block crossings. The cost per location (as of 1/2022) is $7,084.22 excluding time and materials for installation.

The City has received a request for a RRFB sign on 6000 West where the Main City Trail bisects with 6000 West:

Flashing Speed Limit Signs
The City Council should also discuss the flashing 'Your Speed' signs frequently requested by residents. These signs are frequently installed on roads where excessive speed is perceived or shown through a traffic data report. These signs show the vehicle speed and blink with a bright white strobe when the posted speed is exceeded by five miles-per-hour of the posted speed limit. The sign powers down when there is no traffic present. Current locations of these signs include Angels Gate, Country Club Drive,

The cost per location (as of 11/2021) is $6,198 excluding time and materials for installation. The initial purchase includes a free 1-year curtesy cloud data provision that can be utilized to track vehicle volume and speed. If this information is deemed valuable, a data package can be purchased on an annual basis to continue the service.

Order time is approximately 4 to 6 weeks.

Moving Forward
As a part of the discussion on these types of signs, staff recommends that the City Council consider implementing policies that define the conditions that these types of signs will be considered for installation. The concept behind development of this criteria is justification for both the initial cost and the ongoing maintenance costs. A traditional, non-flashing, pedestrian crossing signage will cost approximately $300 in materials. As such, the cost of a flashing sign crossing is approximately 23 times the cost. The flashing signs also require a more intensive maintenance effort than traditional signage.

Examples of determining criteria for these types of signs may be:

> Flashing Pedestrian Warning Signs: Number of daily vehicles on the roadway being crossed, roadway classification, location of signs (intersection or mid-block), number of users on the trail or pedestrian sidewalk, accident history.

Flashing Speed Limit Signs: Roadway classification (collector, local road, etc.) Percentage and severity of daily cars driving over speed limit, roadway geometry, accident history.

FISCAL IMPACT:

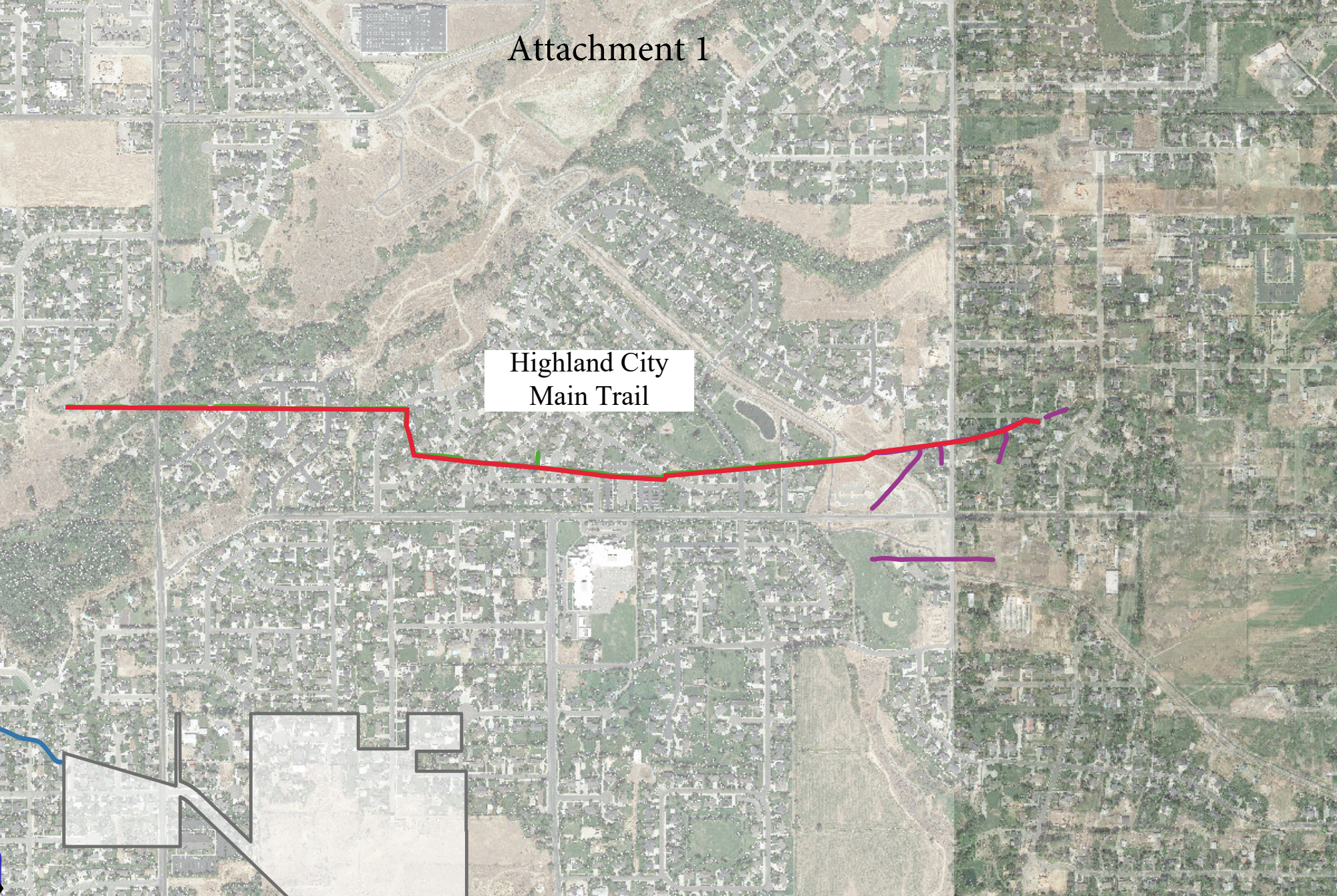
Bids were received for both devices as follows:

- Pedestrian Crossing RRFB - $7,084.22
- Evolution 12 solar speed limit sign - $6,200.00

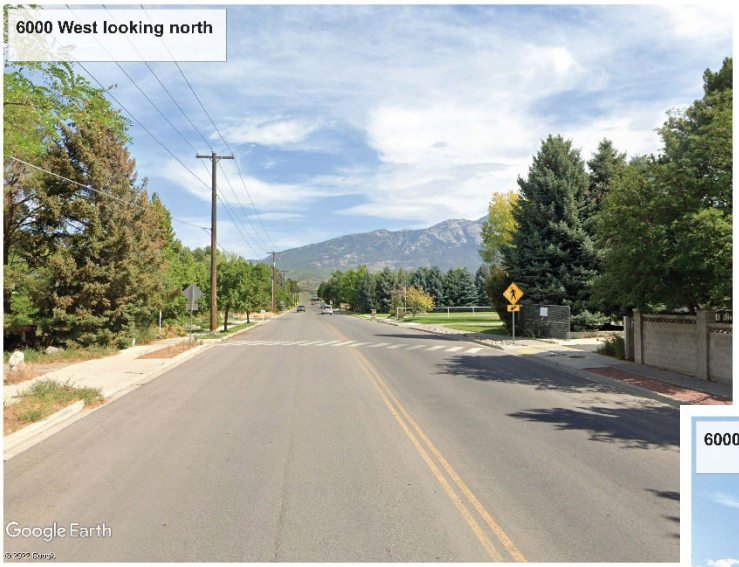
This does not include costs associated with installation or cloud storage.

ATTACHMENTS:

1. Attachment 1 – Main Trail Map
2. Attachment 2 – Site Pictures
3. Attachment 3 – Ped X-ing Spec Sheet & Bid
4. Attachment 4 - Evolution 12 Flashing Speed Sign


Attachment 1
Highland City
Main Trail

Attachment 2



Attachment 3

Pedestrian RRFB & Warning Signs

- MUTCD Compliant
- Solar or AC Powered
- Day or Night Visibility
- Yellow RRFB Light Bar
- Multiple Activation Options
- Fast - Easy Installation
- Mounting Poles Systems Available

Solar Traffic Systems
Incorporated
Manufacturer of LED Enhanced Traffic Signs

Solar Traffic Systems is an industry leader in enhancing traffic safety with LED lighted traffic signage. We are setting the standards in traffic control with our LED traffic signs, visible day or night. Standard or custom signs with multiple configuration options are available.

Pedestrian RRFB Warning LED Signs

Solar / AC Powered

RRFB Series

Specifications

Construction	.080 Highway Grade Aluminum/ Stainless Fasteners
Reflective Sheeting Types Available	Type IX Reflective Sheeting Fluorescent Yellow Green Sheeting
Solar/AC/Battery Specifications (Depending on Model)	12 Volt Solar Panel 12 Volt SLA Battery (2 to 4-year battery life) AC Power (Up to 264 Volts)
LED Lighting	MUTCD Compliant RRFB Light Bar Single Sided with Pedestrian Confirmation Double Sided with Pedestrian Confirmation
Sizes	30” / 36” / 48” / 60”

Specifications subject to change without notice

With LEDs **Without LEDs**

Features

- MUTCD Section 2A.07 / 2A.08 Compliant
- Flash Rate per MUTCD Guidelines
- LED Life Expectancy over 100,000 Hours
- Multiple Mounting Hardware Options
- Keyed On / Off Switch
- Easy Battery Replacement in Field
- Quick LED Light Replacement
- Wireless Activation-Commuications & Push Button Activation

Options: Standard & Deluxe Timers, LED Lighted Sign, Pole Systems

Warranty
10 Year Solar Collector Panel
5 Year Sign Construction
2 Year PCB/LED Technology
1 Year Battery

- ***Call Toll Free: 877-977-SIGN (7446)***

Solar Traffic Systems *Incorporated*
Manufacturer of LED Enhanced Traffic Signs

www.ustrafficsystems.com

16135 New Ave, Unit 2
Lemont, IL 60439
Office 331-318-8500
Fax 960-491-158

Sales Order B66953

Order Date 01/24/22

Safety Supply & Sign Co. Inc.

3200 Redwood Road
West Valley City, UT 84119

Telephone: 801/973-2266
Fax: 801-973-8044

Bill To:

Highland City
Attn: Public Works
5400 W Civic Center Dr #1
Highland, UT 84003-3856

Ship To:

Highland City
Attn: Public Works
5400 W Civic Center Dr #1
Highland, UT 84003-3856

THIS IS A BID/ESTIMATE

Customer	Ship Via	F.O.B.	Terms	Purchase Order Number	Salesperson	Reference No.
UT2977			NET 30 DAYS		7	

Qty. Ordered	Qty. Shipped / Back Ordered	Item Number / Item Description	Unit of Measure	Required Date	Unit Price / Discount %	Tax	Extended Price
1	0	RRFB,80SPXMRRF RRFB MASTER CROSSWALK CNTL MODULE,SOLAR (1 REQ PER SITE)		01/24/22	3193.00	N	3193.00
1	0	RRFB,80SPXSRRF RRFB SLAVE CROSSWALK CNTL MODULE,SOLAR(1 REQ PER SITE)		01/24/22	3193.00	N	3193.00
2	0	POST,RND,P4,12F ROUND 2.875 POST NP40 12' GALV. P4 #28768		01/24/22	153.30	N	306.60
2	0	ANCHOR,POZ,AGC POZ LOC SLIPBASE, ABOVE GROUND COMPONENTS,HEX BOLT (UDOT B3)		01/24/22	95.02	N	190.04
2	0	ANCHOR,POZ,STUB POZ LOC SLIPBASE GROUND STUB 36" (UDOT B3)		01/24/22	100.79	N	201.58

Filled By _____

Non Taxable Subtotal	7084.22
Taxable Subtotal	0.00
Tax	0.00
Total Order	7084.22

Attachment 4

TRAFFIC LOGIX®
SAFEPACE® EVOLUTION12 PRODUCT SPECIFICATIONS

Radar Sign Specifications

TRAFFICLOGIX™

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SafePace® Evolution12 Product Specifications

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Document created: 10:55 AM on Monday, August 27, 2018

Document version: 1.3

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Spring Valley, NY
USA 10977

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Web: www.trafficlogix.com
Email: info@trafficlogix.com

TABLE OF CONTENTS

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Technical Specifications 5

Communications 7

Programming 7

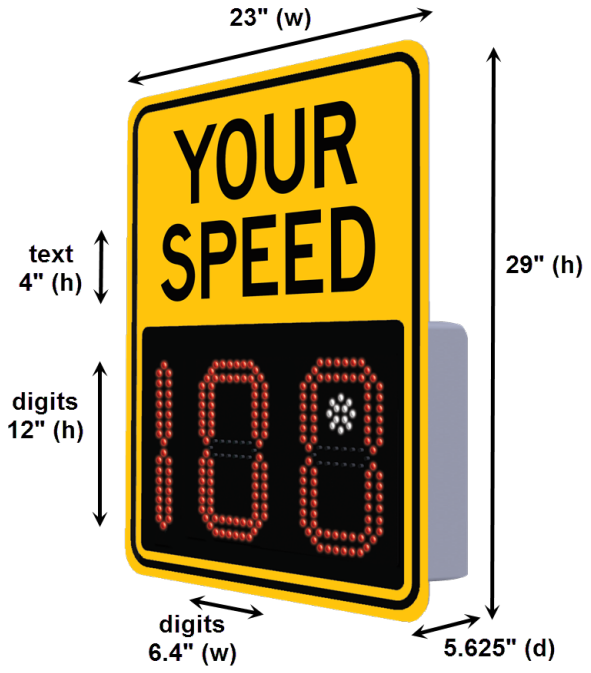
Data Collection, Statistical Analysis and Reporting (optional feature) 8

Warranty 9

DIMENSIONS

- Digit Size:
  - First digit: 12”(h) x 1.125”(w), 64 LEDs (3-digit signs only)
  - Other digits: 12”(h) x 6.4”(w), 224 LEDs per digit
- Sign Face Text: Letters 4”(h) spell “YOUR SPEED” fixed message, 2 lines
- Unit alone: 17.25”(h) x 23”(w) x 5.625”(d)
- Unit with “YOUR SPEED” sign mounted:
  - Full size sign: 29.0”(h) x 23.0”(w) x 5.625”(d)
- Sign Weight (includes “YOUR SPEED” sign)
  - AC Powered Model: 20 lbs
  - Battery Powered Model: 20 lbs (not including batteries)
  - Solar Powered Model: 20 lbs (does not include solar panel or bracket)
- Accessories (*optional*)
  - 4 Cell Lithium Ion Battery: 4 lbs
  - Lead Acid Battery: 12 lbs
  - Universal Mounting Bracket System
    - Sign Bracket: 2 lbs
    - Pole Bracket: 5 lbs

All Specifications Subject to Change Without Notice



TECHNICAL SPECIFICATIONS

- 3-Digit Speed Display
  - Miles Per Hour (mph): 3-99 mph
  - Kilometers Per Hour (km/h): 5-160 km/h
- High-Intensity prismatic reflective sheeting on “YOUR SPEED” signs with black colored text
- MUTCD approved colors and format
- Operating Temperatures F (C): -40° (-40°) to 185° (85°)
- Conformal coating on all circuit boards

Power

- Power input:
  - 100~240 V AC @ 150 mA
  - 12 V DC (11-14.5 V @ 1A)
  - Built in ambient light sensing and automatic brightness control
  - Wireless battery charge monitoring (via software interface)
- Power Options
  - AC power input: 100~240 V AC
  - DC (battery) power input: 12 V DC

    DC (battery) power options:
    - 12V, 18Ah Lead acid batteries
    - 4 Cell, 12.8V, 15Ah Lithium-Ion Phosphate batteries
  - Solar power: 50W solar panel

Radar

- Internal Radar: Doppler (FCC approved)
- Model: DF 600
- Radar RF out: 5 mW maximum
- Radar f-center: 24.125 GHz or 24.200 GHz
- Pickup distance: Up to 400 feet
- Beam angle: 24° (vertical) x 12° (horizontal)
- Beam polarization: Linear
- CE Mark (Radar): Yes

Display

- LEDs: 524
  - Digits (Yellow): 256 LEDs

    - Color: Yellow (590 nm)
    - Viewing angle at 50% IV: 30°
    - Partial Flux (Brightness): 9000 – 22400 Ev,[lux]/LED
  - Digits (Red): 256 LEDs
    - Color: Red(633 nm)
    - Viewing angle at 50% IV: 30°
    - Partial Flux (Brightness): 7100 – 18000 Ev,[lux]/LED
  - Speed Violator Strobe: 12 LEDs
    - Color: White (2700 K – 6500 K)
    - Viewing angle at 50% IV: 150°
    - Luminous Flux: typically 33lm @ 4000 K
    - Luminous Efficacy: typically 176 lm/W @4000 K
- Ambient light sensor and automatic brightness adjustment

Enclosure

- Vandal resistant, lightweight polymer
- Matte black front for reduced glare and maximum contrast
- Light gray body to minimize heat absorption
- Weatherproof, NEMA 4X-12, IP65 level compliant
- Non-sealed and ventilated

All Specifications Subject to Change Without Notice

COMMUNICATIONS

- Bluetooth (standard)
- GSM/GPRS (optional, for use with SafePace Cloud)

PROGRAMMING

- SafePace® Pro management software
- SafePace® Cloud remote management
- 24/7 365 day unlimited programming and scheduling
- Display Settings:
  - Display On/Stealth Modes (In Stealth Mode, speed is not displayed but data is collected)
  - Display Minimum Speed, Display Maximum Speed
  - Digit Flashing Speed Threshold (digits flash above specified speed threshold)
  - LEDs Flashing Speed (for digits)
    - Fast: 1.5 Hz
    - Medium: 1 Hz
    - Slow: 0.75 Hz
  - Speed activated, dual-color digit display (speeds above a specified value are displayed in red)
  - Speed Violator Strobe (pulsing strobe flashes above specified speed)

All Specifications Subject to Change Without Notice

Data Collection, Statistical Analysis and Reporting (optional feature)

- Traffic data collected and stored by location
- Stealth Mode (captures baseline traffic data with speed display turned off)
- Download through wireless connection
- Statistical Reporting & Charts
  - Summary Reports
  - Weekly Reports
  - Period Comparison Reports
  - Full custom reports and charts
  - Reporting Parameters:
    - Average Vehicle Count
    - Total Vehicle Count
    - Average Speed
    - Average Number of Speed Violations
    - Total Number of Speed Violations
  - Other Features:
    - Minimum and Maximum Speed
    - 85% Speed
    - Counters by Speed Bins
    - 5 MPH Bin Resolution
    - Reports print directly or can be exported into CSV format, MS Excel, Adobe Acrobat PDF and HTML
    - Charts may be printed directly or converted into Adobe Acrobat PDF and image formats

All Specifications Subject to Change Without Notice

WARRANTY

Two Year Warranty

Two year warranty on parts and labor excluding damage related to vandalism, abuse, and/or theft

Subject to the following conditions, Traffic Logix Corporation ("Traffic Logix") warrants that the SafePace EV12 sign (the "Product") is free from defects in materials and workmanship.

This limited warranty begins on the invoice date of your purchase of the Product and extends:

- For TWO (2) calendar years on the sign, and
- For ONE (1) calendar year on the batteries.

This limited warranty extends only to the original purchaser of the Product when purchased either directly through Traffic Logix or through an authorized Traffic Logix distributor and is not assignable or transferable to any subsequent purchaser or end-user. Traffic Logix's obligation and liability under this warranty are expressly limited to repairing or replacing, at Traffic Logix's option, defective products. In no circumstances shall Traffic Logix's liability, whether in contract or tort, under any warranty, in negligence, or otherwise, exceed the amount of the purchase price of the product. Traffic Logix shall not be liable for special, indirect, or consequential damages of any kind. This warranty does not cover damages resulting from normal wear and tear, incorrect installation or operation, use other than for the product's intended purposes, vandalism, and extraordinary environmental circumstances. Traffic Logix reserves the right to charge for these damages to the product at rates normally charged for repairing such products not covered under this warranty. Damages resulting from any physical changes or alterations made to the product other than Traffic Logix will render this warranty **VOID**. Using any parts or accessories not supplied or approved by Traffic Logix, such as battery chargers, will further render the warranty **VOID**.

Traffic Logix neither assumes, nor authorizes any person to assume for it, any other liability in connection with the sale of the Product, and there are no agreements or warranties collateral to or affecting this limited warranty.

THE LIMITED WARRANTY SET FORTH IN THIS AGREEMENT IS THE EXCLUSIVE AND SOLE WARRANTY APPLICABLE TO THIS PURCHASE. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.

Traffic Logix does not warrant that any of its products will meet or comply with the requirements of any applicable federal, state or local safety code, law, regulation or ordinance ("Applicable Safety Laws"). Buyer acknowledges that Traffic Logix's products are to be used only in accordance with the attached Conditional Terms of Use and any Applicable Safety Laws. Buyer agrees that there shall be no coverage or benefits of any kind under this limited warranty if it is determined by Traffic Logix that the Product was not installed or used in accordance with the Conditional Terms of Use or Applicable Safety Laws, or if the Product has been

altered in any way by anyone other than Traffic Logix, or if the Product has been subject to any misuse or accident. In addition, Buyer assumes and agrees to indemnify Traffic Logix for all risk, liability or expense that results from any installation or use of the Product that is not in accordance with the Conditional Terms of Use or any Applicable Safety Laws.

Warranty Replacement Procedure

In order to submit a claim for the repair or replacement of the Product under this limited warranty, proceed as follows:

1. Contact Technical Support. **Do *NOT*** ship your defective product to Traffic Logix prior to contacting Technical Support.
2. A Technical Support Agent will evaluate the Product to determine if it is defective. You may be required to do some troubleshooting as part of this evaluation.
3. If the Product is defective, then you will need to submit your contact information, and proof of purchase (including the date of purchase), in order to obtain repair or replacement parts.
4. The Technical Support Agent will provide you with a Return Materials Authorization number and instructions on how to have the defective parts repaired or replaced.