



HIGHLAND CITY

HIGHLAND CITY PLANNING COMMISSION AGENDA

Tuesday, May 23, 2023

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

VIRTUAL PARTICIPATION



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



Email comments prior to meeting: planningcommission@highlandcity.org

7:00 PM REGULAR SESSION

Call to Order – Audrey Moore, Chair

Invocation – Commissioner Trent Thayn

Pledge of Allegiance – Commissioner Chris Howden

1. UNSCHEDULED PUBLIC APPEARANCES

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

2. CONSENT ITEMS

Items on the consent agenda are of a routine nature or have been previously studied by the Planning Commission. They are intended to be acted upon in one motion. Commissioners may pull items from consent if they would like them considered separately.

- a. [Approval of Meeting Minutes](#) *General City Management – Jill Powell, Planning Commission Secretary*

Regular Planning Commission Meeting – April 25, 2023

3. [PUBLIC HEARING/ORDINANCE: GENERAL PLAN AMENDMENT – PARKWAY DETAIL](#) *Land Use (Legislative) – Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a proposal by City Staff to amend the parkway detail of the Transportation Element in the General Plan to require that it be xeriscape, and also update parkway detail regulations relating to drainage, fence height, and setbacks. The Planning Commission will take appropriate action.

4. [ACTION: ANNEXATION – PHYLLIS SMITH](#) *Land Use (Legislative) – Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold consider a request by Shaun Athey, representing Phyllis and Trent Smith, to annex approximately 1.13 acres of property located at 7015 W 9600 N. The Planning Commission will take appropriate action.

5. PLANNING COMMISSION AND STAFF COMMUNICATION ITEMS

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

a. Future Meetings

- June 6, City Council, 7:00 pm, City Hall
- June 20, City Council, 7:00 pm, City Hall
- June 27, Planning Commission, 7:00 pm, City Hall
- July 18, City Council, 7:00 pm, City Hall

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

Administrative: An action reviewing an application for compliance with adopted laws and policies.

ADJOURNMENT

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

ELECTRONIC PARTICIPATION

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

CERTIFICATE OF POSTING

I, Kellie Smith, the City Planner, certify that the foregoing agenda was posted at the principal office of the public body, on the Utah State website (<http://pmn.utah.gov>), and on Highland City's website (www.highlandcity.org).

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

Posted and dated this agenda on the 18th day of May, 2023.

Kellie Smith, City Planner

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



HIGHLAND CITY

HIGHLAND CITY PLANNING COMMISSION MINUTES

Tuesday, April 25, 2023

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

VIRTUAL PARTICIPATION



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



Email comments prior to meeting: planningcommission@highlandcity.org

7:00 PM REGULAR SESSION

Call to Order – Audrey Moore, Chair

Invocation – Audrey Moore, Chair

Pledge of Allegiance – Commissioner Jerry Abbott

The meeting was called to order by Commissioner Audrey Moore as a regular session at 7:00 PM. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Commissioner Audrey Moore and those in attendance were led in the Pledge of Allegiance by Commissioner Jerry Abbott.

PRESIDING: Commissioner Audrey Moore

COMMISSIONERS

PRESENT: Jerry Abbott, Chris Howden, Audrey Moore, Trent Thayn, and Debra Maughan

CITY STAFF PRESENT: City Planner and GIS Specialist Kellie Smith, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Assistant City Administrator and Community Development Director Jay Baughman, and Planning Commission Secretary Jill Powell

OTHERS PRESENT: Jon Hart, Brent Hone, James Samson, Michelle Samson, Garret Farris, Doug Cortney, Todd Amberry, Garon Larsen, and Sid Allsop.

1. SWEARING IN NEW PLANNING COMMISSIONER

Stephannie Cottle, City Recorder, issued the Oath of Office to Debra Maughan as a new Alternate Planning Commissioner.

Commissioner Maughan joined fellow commissioners on the stand.

2. UNSCHEDULED PUBLIC APPEARANCES

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

Doug Cortney, Highland resident and Chair of the Highland Fling Grand Parade. Mr. Cortney is adding a group at the end of parade to gather garbage. He asked the Planning Commission members to help identify neighborhood leaders who would be willing to help find parade volunteers. Mr. Courtney passed out a handout listing volunteer needs and his contact information. He is asking for a minimum of 38 adult (12 and older) volunteers. He asked that neighborhood leaders and/or volunteers get in touch with him.

Commissioner Moore thanked Mr. Cortney for his work on the parade and reiterated the three minute limit for public comments.

3. **CONSENT ITEMS**

Items on the consent agenda are of a routine nature or have been previously studied by the Planning Commission. They are intended to be acted upon in one motion. Commissioners may pull items from consent if they would like them considered separately.

- a. Approval of Meeting Minutes** *General City Management – Jill Powell, Planning Commission Secretary*
Regular Planning Commission Meeting – February 28, 2023

Commissioner Howden MOVED to approve the February 28, 2023 minutes. Commissioner Thayn SECONDED the motion. All present were in favor. The motion carried unanimously.

4. **PUBLIC HEARING: PRELIMINARY PLAT - WILLIAMS VIEW** *Land Use (Administrative) – Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a request by Chris Howden for preliminary plat approval of a 14-lot subdivision in the R-1-40 Zone located at approximately 11240 N 6000 W. The Planning Commission will take appropriate action.

Commissioner Howden began by stating that because of his conflict of interest in this particular hearing, he would remove himself from the stand and sit in the audience.

Ms. Smith recognized that several residents were present to comment on and address concerns about the road widening project near 11200 N but wanted to make clear that the application tonight does not pertain to that project and there would not be any decisions made at this meeting. The 11200 N project will be reviewed by the City Council at a future date. The Planning Commission will only be reviewing the plat approval request listed above. She stated that any decision made on the preliminary plat does not make any impact on the decision of whether or not the widening will go through.

Staff recommendation for this application is that the planning commission recommend **APPROVAL** of this preliminary plat subject to the following stipulations:

1. The final plat shall be in substantial conformance with the preliminary plat received April 5, 2023.
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 developer shall coordinate with TSSD and receive approval of any reroute of the TSSD sewer line. If the reroute of the sewer line is not approved, the final plat must provide a TSSD sewer line easement over the existing line as approved by TSSD.
5. The developer shall work with staff to come up with a 66' wide flared intersection on the north side of 11200 N that provides for greater turn-lane capacity, while providing a logical connection to Highland Peak Estates. The developer shall coordinate with staff on a potential property swap of the

City-owned triangle on the north side of the property along 6000 W in order for the City to acquire the right-of-way for this 66' wide flared intersection. The property lines on Lots 6 and 7 shall extend to the back of the sidewalk along 6000 W.

6. Staff will coordinate with the developer regarding the construction of the Lehi Irrigation ditch per the Lehi Irrigation Company Tail Water Agreement.

The other item of discussion is for Lehi Irrigation. One of the attachments in the staff report is a Tail Water Agreement between Lehi Irrigation, Highland City and Patterson Development. This is not associated with the preliminary plat but is along 6000 W. Staff are working with the developer to have it constructed at the same time as the subdivision. This will be a 100% reimbursement agreement where all engineering costs and construction costs will be reimbursed to the developer by these 3 parties.

Ms. Smith clarified that Patterson Development will pay for their entire width of frontage along Sunrise Farms which equals about 50% of the cost. The other frontage is split between Highland City and Lehi Irrigation 50/50. The 3 parties have already agreed to this cost-sharing plan. The terms and timing of the agreement will be coordinated with the developer between this potential approval and the final plat.

The reason Highland City is involved is because it is a Lehi Irrigation ditch. We use this ditch for our Well #4 pump to waste. Currently the tail water goes out into the Patterson long horn piece. Once they develop that, it is planned to be redirected to Dry Creek. We are putting the pipe in the ground now during the construction so we don't have to tear up a brand new road later. As far as citizen participation, we sent out the appropriate public hearing notices as this does require a public hearing. Staff has received comments from 10 different residents regarding what was mentioned at the beginning about the 11200 N connection.

Ms. Smith explained that on the general plan, there is a Transportation Master Plan that is adopted through the general plan. Ms. Smith highlighted 11200 N in the Transportation Master Plan that is designated as a two-lane residential collector with a 66' wide right-of-way. This 66' of right-of-way goes from 4800 W to 6000 W. Because of that, staff understands that the two subdivisions directly east of this subdivision were developed with 56' of right-of-way; whereas everything past that was all developed at 66' of right-of-way to be compliant with the Transportation Master Plan.

Understanding that those 56' of right-of-way are already completed east of the proposed subdivision, staff tried to come up with a reasonable way to still be compliant with our Transportation Master Plan. The compromise staff came up with is to match the 56' of right of way on the east side and then at about the half-way point, flare it out to a 66' flared intersection at 6000 W. Staff are reviewing this preliminary plat for compliance with our Transportation Master Plan.

This is our proposal to meet it as close as we can, understanding that we are not going to put 66' of right-of-way right next to 56' of right-of-way. As part of the stipulation, there is a jog on the NW side where our City right-of-way jogs out. The proposal is to have the developer extend their property lines. The City would be vacating some sitting right-of-way to allow the lots to go to the back of the sidewalk. We would swap that to have the full 66' of right-of-way at the intersection of 11200 N and 6000 W.

Trails:

In the Trails Master Plan, it shows on 6000 W from Timpanogos Highway to 11800 N a proposed Main City Trail. In working with the applicant, staff looked at possibilities of a trail being on 6000 W. Currently we are working on an Active Transportation Plan with Alpine. We have hired Horrocks Engineering to help us with that plan and the studies associated with it. It has not yet been adopted by the City Council. It will tentatively be adopted around June.

The proposal in the staff report is to have an on-street facility. For that facility, we wouldn't need additional right of way. Staff hopes to move forward with this plan we are working on rather than the plan currently adopted. That would be an exception that the Planning Commission and City Council would have to consider and decide on.

Theme Wall:

The developer is required to provide a 6' tall Theme Wall along 6000 W because it is a major collector. Part of this has extremely steep grading and will need some retaining. Staff and the applicant came up with a solution to transition the Theme Wall into a Decorative Retaining Wall. From the road it will look like a 6' Theme Wall but part will act as a Retaining Wall. It will look consistent and have a smooth transition.

Ms. Smith proposed a motion to recommend and stated that it requires a public hearing.

Commissioner Moore opened the public hearing at 7:22 PM and asked for public comment.

Chris Howden, applicant for the above development, stood to voice his concern about stipulation #5. He stated that it is presented here as having nothing to do with the collector road and the potential of knocking down the Harris garage and making the connector. He stated that the way it is being presented to him both verbally and in writing is for the sole reason of doing the 66' because of the Master Plan which calls for the connected road.

Mr. Howden said "I'm not sure how you can argue for one thing and the justification for that one thing is because it is a collector road. But then at the same time to say to the residents we encourage you not to make any comments about it. They are tied together."

Mr. Howden stated that the Patterson subdivision to the west was not required to do a flare-out connection. He asked if the Planning Commission would be willing to make an exception to the Master Plan as presently constituted given the history of a building permit given to the Harrises in 2018 to construct the garage as well as the two subdivisions that were encouraged to do 55' instead of 66' right-of-way.

Mr. Howden also asked to make sure in stipulation #6 that the ditch doesn't end in his driveway. If it goes all the way down to Dry Creek as planned, that makes sense but he doesn't want a 2' waste-water discharge ending at his driveway.

Christine Oldroyd stood to voice her opposition to requiring the 66' wide flared intersection. "We, in the neighborhood, don't feel like it needs to be 66'. We don't want it to be a collector street. We want it to stay 56' wide and to be a quieter, more residential road."

Scott Oldroyd stood and stated "I want to ditto what Chris is saying about why require him to have a flare of 66' when Patterson across the street is not required to. The street is wide enough. We have enough access to the neighborhoods. We've got a light at 5600 and 6000. I don't see the need to flare out."

James Sampson asked, "You talk about Master Plan but what did the Master Plan say about the trail going down 6000 and what were the plans on that originally?"

Ms. Smith responded by showing the Trail Master Plan. She said that no engineering was completed on this to propose it. It is designated as a Proposed Main City Trail. It starts at Timpanogos Highway and then connects to 11800 where you have a meandering sidewalk and then along Beacon Hill Boulevard.

Commissioner Moore closed the public hearing at 7:28 PM and asked for additional discussion from the planning commission.

The planning commission talked back and forth and asked questions about whether or not the trail connects to anything or if it would make more sense to keep the trail on 6000 W. To which Ms. Smith replied, the definition of the trail is an off-street facility. The Active Transportation Plan looks at both on-street and off-street facilities and gives ideas and recommendations for each. This portion hasn't been adopted, but based on the grading and existing homes on that side, they are proposing that portion be an on-street facility. The side is yet to be determined.

Commission asked what the longhorn section would be. Ms. Smith stated it is a normal sidewalk and does not count as a trail. Active Transportation is meant to accommodate walkers, bikers, and other users.

Commissioner Abbott asked for an explanation of the water on the driveway mentioned by Mr. Howden. Ms. Smith explained that the City uses a Lehi Irrigation ditch for the tail water for Well #4. Currently the ditch directs water to the longhorn piece. That is how it will be until the Patterson's develop their piece. When they do develop their piece, Highland City needs a place to direct tail water. The proposal is to direct it to Dry Creek. The City will pipe and direct it north and into Dry Creek. Water will not go through the pipe until the longhorn piece is developed. Highland City would be liable and would never direct the water to go onto private property.

Currently, Staff are working on funding. The City does have the funding for the 50% needed to pay for the portion that goes along Chris' piece. Staff would like to construct the pipe now while the street is being constructed but water will not move through the pipe yet.

Commissioners asked if the City would be liable for the downstream increased flows that will be created. Mr. Patterson stated that there will be a lot of questions concerning this for Highland and hundreds of Utah cities. If the City does something that alters the natural drainage, there is some chance but cities are not generally liable for what the courts call "Acts of God." If the City did something negligent then they would be liable.

Commissioner Thayne asked Ms. Smith to show where the pipe would go. Ms. Smith said it would need go along 6000 W to Dry Creek. Staff are currently working with Lehi Irrigation on where they want the pipe to be set. They want it in our right of way. They don't want to have any additional easements.

Commissioner Moore asked if this decision would cause a problem for us as far as residents building fire pits and entries into the Dry Creek area on low sections of their property. Ms. Smith said it won't impact the decision to pipe the ditch.

Commissioner Maughan asked about the piping going into Dry Creek and asked if Dry Creek itself is maintained well enough to take water in and not overflow. Mr. Patterson reiterated what Ms. Smith pointed out, before Highland City pipes the water, we will do engineering and figure out where it needs to go and how we will maintain the Dry Creek channel. Ms. Smith clarified that when we say we pump to waste with Well #4, we do that annually. We won't be dumping water in every week.

Commissioner Maughan talked about two houses on 11200 N. She feels like a wider entry will invite more cars into that neighborhood. She asked what the purpose of widening it would be. Ms. Smith addressed the impact portion first. The widening is specifically on the applicant's piece. We aren't doing any on improvements on the other side of the road. We are talking specifically about vacant property that doesn't have any existing homes. As far as the 66' flared intersection, it is part of the current Transportation Master Plan. Whether that changes in the future or not, that is not something we can determine yet. We are working on a comprehensive General Plan update in the near future. This will be a section we will look at and do extensive study on. As of right now, all we can do is plan for what is on our existing plan and has been looked at. Whether it ends up

connecting or not, we don't have the answer today. That is where planning comes in—we plan for what we can and then deal with items when they come.

Commissioner Thayn asked about the sewer easement on lot 7. If they can't figure the easement out and it has to stay there, is that lot still viable? Mr. Howden added that when you actually widen 6000 W to 66', the sewer line will be exposed 18" above the ground so it is not practical. He expressed that he and staff have already come to an agreement--we would have to reroute the line along the back of the properties parallel to 6000 W. This helps us so we can develop the property but doesn't help TSSD have access to it. Currently the lines have a 50-year life span and this was built 47 years ago. The line is sketchy so they would prefer to have access on a tar road.

Commissioner Thayn questioned whether there was an agreement made before going before the City Council. Mr. Howden responded by saying he is meeting with them next Monday or Tuesday. There will be a separate approval board probably at the end of May. By the time we come back for final plat approval, it will either just disappear because it is not feasible or we will come back and say everything is sorted.

Commissioner Thayn's follow-up question to that is that easements are typically not single. If you get the TSSD to sign off, are there any other easements of any other kind? Mr. Howden confirmed this is correct. He will pay to abandon the line, remove the manholes, fill with sand where appropriate but will have other easements that are part of normal development.

Commissioner Thayn then asked about the 66' flare. He asked if there are any maintenance concerns with that road not going to the 66' and if there are any plans or requirements that will be a problem if the City doesn't meet our current Traffic Plan. Ms. Smith said probably not in regard to typical road maintenance or snow plowing. Commissioner Thayn asked about drainage. Ms. Smith said that even in a typical 56' right-of-way, we have standards for where utility lines are located. The 66' right-of-way is because it is on our Master Transportation Plan. She said the other purpose of a 66' right-of-way is to provide for a right turn lane.

Commissioner Thayn asked if anyone in public safety has addressed for firetrucks or other public safety vehicles to turn in. He asked if there is a big difference the extra 10' will provide. Ms. Smith said no not as far as firetrucks--their minimums are 20 feet of asphalt. Our public works and engineering departments have seen this and as far as staff recommendations go for all those departments, it will all be the same as far as following the Development Code and Master Plans that the development code requires.

Commissioner Thayn asked Ms. Smith to go over the aforementioned property swap. Ms. Smith said that this portion has been in question as they have been going through the development process so they haven't been able to determine what the actual square footages are. The swap may or may not happen. Ideally, they would have the property lines adjusted to be along the back of lots to be consistent with typical property lines and where setbacks are measured. The idea was to come up with a compromise by trading the square footage the City owns on 6000 W for the 66' flared intersection on 11200 N.

Commissioner Abbott commented on road width. He asked if the General Plan is a guideline. Mr. Patterson commented that the exception to the General Plan relates to roads. He said public roads are required to comply with our Master Plans. Commissioner Abbott then asked what would happen if we didn't comply. Mr. Patterson that someone could challenge it. That is not likely to happen because everyone seems to be in favor of the exception, but that would be the immediate effect. There is no real precedence. It's just a question of do we want to grant the exception or not. Commissioner Abbott stated that he feels that ship sailed when we allowed the two subdivisions to have 56'. The City ignored the 66' until now. He feels it would be more cohesive if we had the 66' on the east side and it stays at 56' on the other side. He feels the City is hyper focused on this item.

Ms. Smith clarified that both subdivisions were approved in the early 90s and the Master Transportation Plan was adopted in 2008.

Commissioner Abbott said he sees the City spending money on a lot of other things like trails and road conditions.

Commissioner Thayn followed up saying he doesn't see an issue with the flare. He thinks it adds safety, doesn't detract from the neighborhood, and he doesn't see how it increases the speed of the road since it's a turning lane to go right. He commented that he is trying to see how we can approve something that goes against what we have already approved and wondered if we have the right to do that. Mr. Patterson stated that under state law it says General Plans are generally advisory (guidelines). The limited exception to state law is where it says, "After a legislative body has adopted general plans in a street, park or public way, ground weather publicly or privately owned may be constructed or authorized until and unless it conforms to the current general plan." Highland City's code reflects the development code and says, "for all subdivisions, they must conform to the city's Master Transportation Plan to uphold the state law and City code requirement for roads to conform to General Plan requirements." That does raise the point that to hold firm to that would actually be to require 66' of right-of-way the entire width up until the boundary of the property. Staff doesn't see the need for that in the way the previous subdivisions were approved prior to the General Plan but that is certainly within the Commission's ability to recommend.

Commissioner Maughan stated that she feels way too much is going into thinking about this little jog.

Ms. Smith clarified that the reason why the Patterson's don't have to do 66' is because it is not in the Transportation Master Plan. The 66' is specifically for 6000 W to 4800 W. No exception was given to the Patterson's. She also restated that this connection and any potential widening is not part of this application and none of the decisions made tonight will impact that. It is something that will be reviewed by Counsel at future date.

Commissioner Moore asked if Mr. Howden will be compensated for the widening? Mr. Patterson answered that he would not because it is part of the development and is considered an exaction.

Commissioner Thayn asked if the City would be put into any type of circumstance if the Planning Commission approves it as we have it presented here. Mr. Patterson said the risk to the City is that someone could challenge it by saying the City should have required more.

Commissioner Thayn MOVED that the Planning Commission accept the findings and recommend APPROVAL of the preliminary plat for the Williams View subdivision subject to the stipulations recommended by Staff.

1. The final plat shall be in substantial conformance with the preliminary plat received April 5, 2023.
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 developer shall coordinate with TSSD and receive approval of any reroute of the TSSD sewer line. If the reroute of the sewer line is not approved, the final plat must provide a TSSD sewer line easement over the existing line as approved by TSSD.
5. The developer shall work with staff to come up with a 66' wide flared intersection on the north side of 11200 N that provides for greater turn-lane capacity, while providing a logical connection to Highland Peak Estates. The developer shall coordinate with staff on a potential property swap of the City-owned triangle on the north side of the property along 6000 W in order for the City to acquire the right-of-way for this 66' wide flared intersection. The property lines on Lots 6 and 7 shall extend to the back of the sidewalk along 6000 W.

6. Staff will coordinate with the developer regarding the construction of the Lehi Irrigation ditch per the Lehi Irrigation Company Tail Water Agreement.

Commissioner Maughan Seconded the motion with the stipulation to drop #5. I move that the planning commission accept the findings and recommend approval of the preliminary plat for the Williams view subdivision subject to the stipulations recommended by staff except for #5. I would recommend that we keep it at 56’.

Commissioner Abbott seconded the motion.

The vote was recorded as follows:

<i>Commissioner Jerry Abbott</i>	<i>Yes</i>
<i>Commissioner Chris Dayton</i>	<i>Absent</i>
<i>Commissioner Tracy Hill</i>	<i>Absent</i>
<i>Commissioner Christopher Howden</i>	<i>Abstain</i>
<i>Commissioner Claude Jones</i>	<i>Absent</i>
<i>Commissioner Audrey Moore</i>	<i>Yes</i>
<i>Commissioner Jay Roundy</i>	<i>Absent</i>
<i>Commissioner Trent Thayn</i>	<i>No</i>
<i>Commissioner Alternate Debra Maughan</i>	<i>Yes</i>

Motion carried 3:1

Mr. Patterson double checked to make sure the Planning Commission could pass this with the majority of those present and found it to count.

5. ACTION: ZONING APPROVAL - BLISS BEAUTY LOUNGE, LLC *Land Use (Administrative) - Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold consider a request by Garon Larson to allow Bliss Beauty Lounge, LLC—a business offering facials, makeup, and hair styling services—as a permitted use in the Residential Professional Zone. The Planning Commission will take appropriate action.

Ms. Smith stated that the staff recommendation for this application is for the Planning Commission to recommend approval of the proposed use in the residential professional zone. Ms. Smith shared the background for this application: City staff had a commercial business license application come through for approval. This application is in the residential professional (RP) zone. They are wanting to add an additional tenant who is offering aesthetician services, providing blowout and hair stylist services, and selling makeup. Staff reviewed this application and found the permitted uses in a residential professional zone allows for community uses, financial institutions, Medicare care facilities, professional offices including but not limited to the following:

1. Doctor, dentist, psychologist, psychiatrist or nurse.
2. Single family residences.
3. Other types of stores or services which the Planning Commission and City Council determine to be compatible with the intent of the zone.

Whenever a use has not been specifically identified in the forgoing classification, it shall be the duty of the Planning Commission to recommend and the City Council to determine if said use is consistent with the intended use of the RP zone, is compatible with the other listed uses and is compatible with the uses of adjacent properties.

The applicant described the services they would like to provide. In reviewing the application, staff have determined that it was not a listed or specified permitted use in the RP zone. In communication with the applicant, they gave further description by calling the business a medical care facility saying the manager is a master aesthetician, a nurse will be on staff as well and that the products and treatments are medical procedures and medical grade products which require a medical license to secure and administer.

Another part of the request is to also offer hair styling services and makeup which aren't necessarily tied to an esthetician practice. Because of that portion of the business, staff feels it is necessary to go before the Planning Commission and the City Council for approval.

As staff we feel it is compatible with the purpose and intent of the zone. It is not a retail use and does not create any prohibited nuisances. Staff recommendation is to recommend approval. This does not require a public hearing. The applicant, Garon Larsen, is present if you have any questions for him specifically.

Commissioner Moore offered Mr. Larsen the opportunity to speak. He declined.

Commissioners asked where the building is located and whether there is enough parking available.

Ms. Smith shared that the building is already constructed, is used as a dentists' office, that there will be no new square footage, and that there is adequate parking.

Mr. Cortney stood to voice a recommendation of adding an additional finding that the building is compatible with the use of adjacent properties. He said this is a finding that is required to be made and doesn't seem to be covered by the recommended findings.

Commissioner Moore MOVED that the Planning Commission recommend APPROVAL of the proposed use in a residential professional zone adding that it is compatible with the uses of adjacent properties.

Commissioner Howden SECONDED the motion.

The vote was recorded as follows:

Commissioner Jerry Abbott	Yes
Commissioner Chris Dayton	Absent
Commissioner Tracy Hill	Absent
Commissioner Christopher Howden	Yes
Commissioner Claude Jones	Absent
Commissioner Audrey Moore	Yes
Commissioner Jay Roundy	Absent
Commissioner Trent Thayn	Yes
Commissioner Alternate Debra Maughan	Yes

Motion carried 5:0

6. PUBLIC HEARING/ORDINANCE: PLANNED DEVELOPMENT MAJOR AMENDMENT - APPLE CREEK/TEN700 *Planned Development Update (Legislative) - Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a proposal by Todd Amberry representing Hillwood Homes at Ten Seven Hundred LLC to create an

encroachment allowance allowing for a roof overhang and other similar encroachments onto adjacent private lots in the Apple Creek Planned Development. The Planning Commission will take appropriate action.

Ms. Smith explained that this is a major amendment to a plan development, so we treat it like a development-code amendment where it is legislated. The commission has full discretion to recommend approval or denial. We don't have a recommendation for approval or denial. If you approve, we do have recommended stipulations.

Background: The Ten Seven Hundred Subdivision is being constructed across the street. The property has a planned development (PD) associated with it. The PD allows for a zero-lot line setback on one side of each of these lots and then a 10' setback on the other side. (There are walls along the zero-lot line and then a 10' side yard and then the next building.) In the PD, there is no mention or allowance of projections over property the lines. The PD shows architectural examples and requirements where three out of the five buildings didn't have an overhang.

When Staff approved the PD, we assumed there was a zero-lot line. When it came to submitting for a building permit, the plans for lot 2, the building was proposed on zero-lot line and didn't show any roof overhang. When our building inspector reviewed it (understanding that there was no roof overhang) he still added comments reiterating the fact that there can't be a roof or soffit over the property line.

The building was then constructed with a 12" roof overhanging the property line. As a result, when one of our inspectors went out, he failed the inspection. After the failed inspection, the homebuilder, developer and Staff met. In discussion to find solutions, Staff determined that the changes being discussed would require a major amendment.

In the code for planned developments, there are Minor Amendments and Major Amendments. Minor Amendments are specifically listed and Staff can approve. If changes don't meet development code requirements, a Major Amendment is required. Staff determined this request to be a Major Amendment.

The builders requested and wrote this amendment:

The proposal is to allow for roof overhangs, exhaust vent terminations, utility meters and other projections on the zero-lot line side of the villas may extend onto the adjacent lot (including any setback areas on such adjacent lot) by up to three feet. A recorded declaration shall contain a prohibition on any structures or ignition devices being placed within 5 feet of the villa wall on the abutting zero-lot line of any lot, which prohibition shall not be amended without the written consent of Highland City.

Ms. Smith said, "To break that up, they would record this in their CC&Rs. It would be associated with the property and the CC&Rs could not be changed without City approval."

Continuation of builder's amendment:

Highland City has determined that the permitted projection of roof overhangs, exhaust vent terminations, utility meters and other permitted projections, when combined with the prohibition in the previous sentence complies with the International Residential Code's distance requirements for fire separation distance for Villa projections.

Ms. Smith stated that if the Planning Commission agrees to approve, Staff has suggested stipulations. First, Ms. Smith reviewed the primary development code sections that Staff determined the request did not comply with and therefore required a major amendment. PDs allow you to make exceptions to the Development Code with your legislative approval.

1. Only one building is allowed on one lot.
2. No setbacks can be measured from someone else's yard or off of a different property line.
3. International Residential Code, (this is our building official's main issue and is adopted by our City) states that for non-sprinkled buildings, fire-resistance rated projections from walls must have a "fire separation distance" between two to five feet, and projections with less than two feet of fire separation distance are "Not allowed." "Fire separation distance" is defined as "the distance measured from the building face to one of the following:
 - A. To the closest interior lot line.
 - a. As far as this not meeting the International Residential Code, you cannot have a projection closer than two feet from the closest interior lot line.
 - b. Here you have a projection going over the lot line, so this does not meet the requirement.
 - B. To the center line of a street, an alley, or public way.
 - C. To an imaginary line between two buildings on the lot.
 - a. With their proposal, they are wanting to use number 3. The imaginary line is part of this proposal so in the CC&Rs we are going to create this five foot prohibition of ignition sources and any structures. That would be our imaginary line by International Residential Code.

If the Planning Commission decides to recommend approval, here are the stipulations Staff recommends:

1. The 5' prohibition of structures or ignition devices on the side yards adjacent to the zero lot line of the Villa lots be recorded by easement in addition to the stipulation being outlined in the CC&R's. The easements shall be approved by the City. The applicant may decide to either have the easements recorded through the plat amendment process, or have individual easements be recorded to each individual lot.
2. The allowance of "other projections" be removed and only allow roof overhangs, exhaust vent terminations, and utility meters specifically.
3. The encroachment allowance of up to 3' be reduced to 2'.
4. The encroachment allowance shall be recorded as an easement on each property where there is encroachment onto that lot. These easements shall also be approved by the City. The applicant may decide to either have the easements recorded through the plat amendment process, or have individual easements be recorded to each individual lot.
5. The last sentence in the proposed amendment be changed to say the following: Compliance with the maximum projection distance, and the recordation and enforcement of the prohibition on structure and ignition sources, as described in the previous sentences, shall be required to satisfy fire separation distance requirements under the IRC.

Staff's concerns with these easements and the recording of these easements are the residents' expectations.

1. It's not typical for a resident to expect to look at code or recorded easements to know what kind of activities they can do in their side yards.
2. The potential impact of residents not following the requirements of the easement even if they understand it and know it. If there was a fire, technically we wouldn't be liable for it but we are trying to protect these future residents and their homes.
3. The difficulty of the City enforcing things of this nature. In the staff report regarding our encroachment policy with encroachments on City property, this has been difficult to enforce over the years.

As far as being required in CC&Rs, technically it would be the HOAs responsibility to enforce that. All HOAs are different and their enforcement can be different. That is why we are requiring it to be in the PD and have it be recorded easements so we would have the right to enforce it.

Commission Moore opened the public hearing at 8:38 PM and asked for public comment. Hearing none, she closed the public hearing at 8:38 PM and asked for additional discussion.

Commissioner Abbott clarified his understanding of the issue which is that right now if the eave is cut off, it would not be aesthetic. The way the amendment will be edited will fix the issue.

Commissioner Thayn asked the questions, “What is and what isn’t allowed in that easement?” and “Do residents have to allow others to access the utility boxes?” Mr. Patterson said the way we would have them edit the language for the easement would be to say there will be a right to maintain a 2’ encroachment which implies the right to access the utility box.

Commissioner Thayn also asked if there are any fence stipulations. Mr. Patterson said that this would not restrict fencing but that it does present an access question.

Mr. Patterson addressed the Planning Commission and said that this update is not a safety or fire code issue, it is a “What do you want for Highland issue?” If you want to allow this, we have given you a recommendation for how to craft the language to allow it in a way we are more comfortable with.

Applicant, Todd Amberry stood to add some context to the PD. “The PD was approved as zero-lot line which allows the homeowner to have a full side yard. Instead of having a traditional 5’ side yard setback on either side, you push the houses all the way over to one side. You still have your 10’ separation. The whole side yard is a private yard for one house. The idea is that you will fence in the front and back. Residents and others will have access if they need to get into that private side yard.”

Commissioner Abbott asked if the meters are behind the fences. Mr. Amberry answered with a yes.

Commissioner Thayn asked what means and methods the City can put in place to avoid enforcement of property line issues. Mr. Amberry said that what the City has proposed is very reasonable and rational and smart. He said the CC&Rs and HOA is the first line of defense. Everyone signs these. You can go back to these if needed. He said the second line of defense is to record an actual easement on the lot.

Commissioner Howden moved that the Planning Commission recommend **APPROVAL** of the proposed amendment to the Apple Creek Planned Development relating to building encroachments onto adjacent private properties with stipulations 1-5 recommended by staff.

Commissioner Abbott seconded the motion.

The vote was recorded as follows:

Commissioner Jerry Abbott	Yes
Commissioner Chris Dayton	Absent
Commissioner Tracy Hill	Absent
Commissioner Christopher Howden	Yes
Commissioner Claude Jones	Absent
Commissioner Audrey Moore	Yes
Commissioner Jay Roundy	Absent
Commissioner Trent Thayn	Yes
Commissioner Alternate Debra Maughan	Yes

Motion carried 5:0

7. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - STORM DRAINAGE *Development Code Update (Legislative) - Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a proposal by Highland City Staff to amend Section 5-9-105 Storm Drainage in the Development Code to update regulations regarding drainage being directed toward the right-of-way. The Planning Commission will take appropriate action.

Ms. Smith said that this is a development code update relating to storm drainage being directed toward City right-of-way. It is also a legislative item so the Planning Commission has full discretion whether to recommend approval or denial. Our staff recommendation is to hold a public hearing and then recommend approval of the proposed amendment.

Ms. Smith explained the background for this amendment: We have had several developments come in recently that have required our parkway detail. Our General Plan designates specific corridors (larger collectors) that require our parkway detail which is 29' wide, has a meandering sidewalk, is landscaped and looks really nice. In our parkway detail, which is an adopted engineering standard, it does not specify the slopes at which the parkway detail should be graded. As a result, we have had difficulty in requiring developers to slope the drainage for the roads.

Parkway detail also requires a fence at the edge of the parkway detail. So you have a fence, parkway detail, and then curb and gutter. Engineering and Public Works prefer to have a 2% slope from the fence to curb and gutter directing the drainage to the road. We have run into an issue where the developer doesn't want to bring in the fill to allow for that 2% slope. We came up with a solution but essentially our drainage would be going into private lots on the other side of the fence. This drainage is something we want to avoid and not be liable for. In order to enforce this, we do need to make it specific in the Code to ensure that all of the drainage that is on City-maintained property is not going onto private lots.

Ms. Smith read the proposed amendment. A couple items are cleanup items because we haven't touched this code for a little while.

1. We do specify that all drainage shall be contained within a given property or routed to an approved drainage facility. We have been reviewing the on-lot retention where a lot of applications are coming in with grading directed from private lot to private lot. That is not something Staff wants. Ideally, each lot will maintain its own drainage. Any drainage that is on City property will be directed to more City property.
2. Fences or walls associated with the parkway detail or other fencing directly adjacent to public property along public right-of-ways shall be set such that drainage flows at a minimum of 2% slope from the base of the fence perpendicularly to the curb and gutter on the adjacent public right-of-way.

The Development Code amendment is the first step. If this is approved, the next step would be to update our parkway detail to reflect this same thing and show cross sections showing that specific slope.

Ms. Smith read over the Staff review/findings:

1. It is consistent with the current practices and desires of the Engineering and Public Works Departments.
2. It conforms to state law requirements regarding drainage.
3. The proposed amendment is needed in order to enforce a 2% slope.

Ms. Smith stated that this is a proposed motion to recommend approval written by Highland City's Engineer. Our Public Works staff and Engineering Departments all reviewed and agreed.

Commissioner Moore opened the public hearing at 9:00 PM and called for public comment. Hearing none, she closed the public hearing at 9:00 PM and asked for additional discussion.

Mr. Patterson stated it would be really hard for every lot to dig out a retention basin for their own lot. Rather, we channel it so all of it flows to one point. There are requirements for how much you have to contain. You can release some. The City requires the developer to put in storm water basins built into the streets.

Commissioner Maughan MOVED that the Planning Commission recommend APPROVAL of the proposed amendments to Section 5-9-105 Storm Drainage in the Development Code to update regulations regarding drainage being directed toward the right-of-way.

Commissioner Howden SECONDED the motion.

The vote was recorded as follows:

<i>Commissioner Jerry Abbott</i>	<i>Yes</i>
<i>Commissioner Chris Dayton</i>	<i>Absent</i>
<i>Commissioner Tracy Hill</i>	<i>Absent</i>
<i>Commissioner Christopher Howden</i>	<i>Yes</i>
<i>Commissioner Claude Jones</i>	<i>Absent</i>
<i>Commissioner Audrey Moore</i>	<i>Yes</i>
<i>Commissioner Jay Roundy</i>	<i>Absent</i>
<i>Commissioner Trent Thayn</i>	<i>Yes</i>
<i>Commissioner Alternate Debra Maughan</i>	<i>Yes</i>

Motion carried 5:0

8. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - FENCES

Development Code Update (Legislative) - Kellie Smith, Planner & GIS Analyst

The Planning Commission will hold a public hearing to consider a proposal by Highland City Staff to amend Chapter 3-612 Fences, Retaining Walls, Theme and Screen Walls in the Development Code relating municipal fencing, how fence height is measured, and adjusting fence design requirements adjacent to trail corridors. The Planning Commission will take appropriate action.

Ms. Smith said that this is another legislative Development Code update. This one regards our Fence Code, Section 3-612 which is where we regulate Fences, Theme Walls, Screen Walls and Retaining Walls.

As far as prior council direction, on April 18 there was a communication item regarding our fence ordinance and trail corridors. A councilmember requested that this be discussed and another item was brought from staff regarding municipal fencing.

In our discussions, Councilmembers directed staff to move forward with an amendment to allow chain link fencing for Municipal Facilities. Ms. Smith gave an example of the Hogs Hollow Trail Connection where the City installed a vinyl-coated chain link fence.

Councilmembers also directed staff to change the requirement for fences adjacent to trail corridors. “Along our trail corridors we require fences to have the top 2’ be 55% open and the bottom 4’ can be solid. We require this on trail corridors that are less than 40’ wide or not visible from two public places. Council members directed staff to reduce that to a 30’-wide corridor.

Staff recommended the planning commission hold a public hearing, accept the findings, and recommend approval of this proposed amendment.

There are a couple of different things not necessarily related to each other but they are related to this section of code.

1. There has been some confusion with some sections of code that contradict each other so we are trying to clarify how fences are measured. Ms. Smith stated that Parkway Detail Fencing is measured differently. In our parkway detail that we are going to work on and update, we are specifying that fence height has to be measured from the sidewalk elevation.
2. Regarding retaining wall height, the way we regulate maximum height in our Development Code is off of exposed height. We have been running into confusion because in the International Building Code, they base retaining wall height off of the bottom of footings. We are also going to clarify that differentiation in our Code.
3. The direction from Council we are addressing regarding the trail corridors. Municipal Fencing, and Theme Wall regulations are changes in this amendment. At the April 18 City Council meeting, several residents came regarding the fence along Alpine Highway. This fence is actually a theme wall.

The proposed amendment addresses concerns raised during that meeting. The Planning Commission can choose whether they think it is necessary to include that or to omit it. . The main subsections in the proposed amendment are the following:

1. Permits are required regarding everything in this section.
2. General section that has general regulations regarding each of these things.
3. Residential Fences
4. Theme Walls
5. Screen Walls
6. Retaining Walls
7. Municipal Fencing and Retaining Walls (Which is a new section.)

Fence height shall be measured from the highest point of the finished grade to the highest point of the fence. “Finished grade” means the average finished grade of the property within 5’ of either side provided that the fence shall not exceed 8’ in total height along any point as measured from the lower property grade. We set a maximum of 8’ because we recognize there is a difference in elevation between lots but we do not allow residents to build higher than 8’ measured from the lower property.

The Council is wanting trail corridors reduced to 30’ wide rather than 40’ for that top 2’ 55% open requirement. Ms. Smith showed examples of trail corridors with approved fencing and said that it makes the corridor feel more open and is safer.

The proposed amendment is to require that all theme walls be located on private property and be owned by the owner of such private property or by a homeowners' association unless the City agrees otherwise by way of a condition of approval during the development review process or recorded agreement.

The issue with the Alpine Highway fence is that there has been confusion and back and forth regarding who owns it. Regarding other theme walls, it is well understood that it is either HOA owned or owned by the private property owner. The City is not going to maintain any of those walls. The Alpine Highway fence was installed 30 years ago and a lot of people have different stories and understandings of who owns this. With this change, we are eliminating confusion.

The amendment also adds a section regarding maintenance and reconstruction of theme walls. Obviously, they are privately owned, but we as a City, would like to regulate the fact that it is a theme wall. We don't have any verbiage regarding what happens after the installation. The proposal is to add:

1. The owner of the theme wall shall maintain the theme wall in reasonably good and safe condition.
2. Any reconstruction of the theme wall shall conform to the theme wall design approved as part of the development review process unless a different design is approved by the City Council.

Mr. Howden asked about what type of fencing is allowed. He mentioned that things thought to be nice like vinyl, have deteriorated over time. This language is saying the owners have to fix their fence with a presently non-compliant fence but one that was approved in the past. Mr. Patterson said the suggestion is that the walls are kept the same unless Council says otherwise. He added that if the Planning Commission has a better idea, Staff would love a recommendation.

Commissioner Thayne added that if we want to change walls to be modern, we have the ability to do so but we have to get approval.

Ms. Smith spoke regarding the International Building Code and the Development Code discrepancy. IBC requires a building permit if the retaining wall is taller than 4' measured from bottom of footing. People have been confused because in our Development Code we base everything off of exposed height. We have made that clarification in this Code.

For municipal fencing, our verbiage is that fencing for Highland City may be chain link. Fences and retaining walls for Highland City may deviate from these standards for the benefit of the public and public resources. There is discussion about adding vinyl-coated chain link but it was brought up that for our baseball fields, we use chain link and that is better for the baseball fields. A lot of the municipal projects will be situational where the Council has the room to make decisions but allows us to meet our own Code.

Commissioner Moore opened the public hearing at 9:24 PM and called for public comment. Hearing none, she closed the public hearing at 9:24 PM and asked for additional discussion.

*Commissioner Moore MOVED that the Planning Commission recommend **APPROVAL** of the proposed amendments to Section 3-612 of the Development Code relating to municipal fencing, how fence height is measured, and adjusting fence design requirements adjacent to trail corridors.*

Commissioner Abbott SECONDED the motion.

The vote was recorded as follows:

Commissioner Jerry Abbott

Yes

<i>Commissioner Chris Dayton</i>	<i>Absent</i>
<i>Commissioner Tracy Hill</i>	<i>Absent</i>
<i>Commissioner Christopher Howden</i>	<i>Yes</i>
<i>Commissioner Claude Jones</i>	<i>Absent</i>
<i>Commissioner Audrey Moore</i>	<i>Yes</i>
<i>Commissioner Jay Roundy</i>	<i>Absent</i>
<i>Commissioner Trent Thayn</i>	<i>Yes</i>
<i>Commissioner Alternate Debra Maughan</i>	<i>Yes</i>

Motion carried 5:0

4. **PLANNING COMMISSION AND STAFF COMMUNICATION ITEMS**

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

a. Accessory Dwelling Units – Chris Howden, Planning Commissioner

Commissioner Howden spoke about creating in-law apartments (granny flats). The current code doesn't permit a second dwelling detached from the home on one lot. He said that as people age, they don't want to keep up 1 acre or 3-4 acre lots they have lived on for many years; but if they have to move in their 70s or 80s, they lose their social connection to the local community. This is also a way to address the state-mandated low income housing or moderate housing but still retains the core character of Highland.

Commissioner Howden said he lives on 5 acres. He said that when he and his wife, Jackie, get old, they would be sad to move away from their place where they have lived 40-50 years. He asked, "What if we had a situation where we could have a limited dwelling where we could sell our land to our children and we move could into the granny flat that is on the premises." The economic burden and the physical burden would be distributed to future generations but we retain the community we have grown to love.

Commissioner Moore said she loves the idea and said it is already happening. She would like to make it legitimate and account for low income housing mandate the City has been given. It is a solution for a built-out bedroom community. She said this could also work for our adult children who want to be out of the house but can't afford high rent.

Commissioner Abbott spoke about Flagstaff having an identical plan. He said one of the homes had to be owner occupied. It was a huge hit. Renting out both units is a bad idea but when you have owner occupancy of one unit, it helps.

Commissioner Maughan said she has an issue with the idea. She likes the idea when you own a minimum of 1 acre but it has to be a small house. We need housing for the elderly that can't afford half a million dollars or can't go downstairs. She said people talk about nice senior living, not necessarily assisted living but low maintenance but we are building all this other stuff with levels. It's a nice idea if you have an acre or 3 or 5 but small lots have no place to put a smaller unit. We would really have to have strict rules if we did this. Commissioner Maughan brought up the issue of parking and houses that have 6-8 cars parked out front. She said we would need to accommodate the rest of the City that has smaller lots.

Commissioner Moore suggested a percentage based on lot size.

Commissioner Abbott said we already do it; we just don't allow it to be detached.

Commissioner Thayn said he supports this idea. He asked Commissioner Abbott to share examples. He asked when the City will add this to the yearly survey sent to residents. Mr. Patterson said the survey will be sent out in the fall this year.

Ms. Smith said the survey is sent to gauge community support. She encouraged the Planning Commission to work with Council members to approve if they want to move forward with this idea before the survey.

Commissioner Moore said the Planning Commission will email back and forth and come up with ideas.

b. Future Meetings

- May 2, City Council, 7:00 pm, City Hall
- May 16, City Council, 7:00 pm, City Hall
- May 23, Planning Commission, 7:00 pm, City Hall
- June 6, City Council, 7:00 pm, City Hall

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

Administrative: An action reviewing an application for compliance with adopted laws and policies.

ADJOURNMENT

Commissioner Howden moved to adjourn the meeting.

Commissioner Abbott seconded the motion. All were in favor.

The meeting ended at 9:41 PM.

I, Jill Powell, Planning Commission Secretary, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on April 25, 2023. The document constitutes the official minutes for the Highland City Planning Commission Meeting.

/s/Jill Powell
Planning Commission Secretary



PLANNING COMMISSION AGENDA REPORT ITEM #3

DATE: May 23, 2023
TO: Planning Commission
FROM: Kellie Smith, Planner & GIS Analyst
SUBJECT: **PUBLIC HEARING/ORDINANCE:** General Plan Amendment – Parkway Detail
TYPE: **GENERAL PLAN UPDATE (LEGISLATIVE)**

PURPOSE:

The Planning Commission will hold a public hearing to consider a proposal by City Staff to amend the parkway detail of the Transportation Element in the General Plan to require that it be xeriscape, and also update parkway detail regulations relating to drainage, fence height, and setbacks. The Planning Commission will take appropriate action.

STAFF RECOMMENDATION:

Staff recommends the Planning Commission hold a public hearing, discuss the proposed amendment, and recommend **APPROVAL** of the proposed General Plan amendment updating parkway detail requirements.

PRIOR COUNCIL DIRECTION:

At the April 18th City Council meeting, a communication item was presented to the Council by staff regarding a storm drainage text amendment that would be brought to the City Council at a future meeting as well as an amendment to the Parkway Detail requirements in the General Plan and Engineering Standards. The Council did not express any concerns about the amendment.

BACKGROUND:

The Highland City General Plan was adopted in 2008 and included a Transportation Element, as required by Utah State Code. The Transportation Element includes a Highland City Parkway Detail Specification. The General Plan specifies that parkway detail is to be implemented on SR-92, SR-74, 11800 N, 10400 N, 4800 W, Highland Blvd, and Beacon Hill Blvd.

It has come to Staff's attention that the parkway detail does not specify the slopes at which the parkway detail should be graded, nor does it specify how fence height should be measured. Upon reviewing the detail for updates, staff came across several other details that staff recommends be changed based on updated practice and landscape maintenance.

SUMMARY OF THE REQUEST:

1. Xeriscape would now be required in the parkway detail. The landscaping would be

required to meet the xeriscape standards outlined in the Development Code, which requires at least 25% of the landscape to contain plants, trees, and shrubs.

2. The proposed amendment removes the requirement of planter areas at all entrances to subdivisions. The intent of this requirement was to provide a variation of landscaping at the entrances to subdivisions when the rest of the parkway detail was required to be grass. Because the xeriscape is also required to have plant material, staff believes there is not a need for additional plant variation at subdivision entrances.
3. The amendment removes the requirement to have 2' tall berms within the widest portion of each bulb.
4. Fence height is to be measured from the elevation of the sidewalk (6' fence required).
5. A cross section is added to show that a 2% slope is required from the base of the fence to the curb and gutter.
6. The site triangle regulations as defined in the Engineering Standards has been added.
7. The sprinkler system requirements have been updated to state that sprinkler drip systems and placement are to be reviewed and approved by Highland City Staff. The parkway detail to be updated with the Engineering Standards will include the details regarding the type of heads, the locations of the heads, and locations of valve boxes.
8. Additional fence regulations from Section 3-612 of the Development Code have been added to ensure that the fence height and setbacks meet the requirements in the Development Code.

STAFF REVIEW/FINDINGS:

The proposed amendment meets the following findings:

1. It is consistent with the current practices and desires of the Engineering and Public Works Departments.
2. It conforms to state law requirements regarding drainage.
3. The slope and fencing requirements are consistent with existing requirements in the Development Code.
4. The change to requiring xeriscape supports the City's efforts to be more water efficient and matches the requirement that all new park strips be xeriscape per the Council's earlier approval.

FISCAL IMPACT:

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

MOTION TO RECOMMEND APPROVAL:

I move that the Planning Commission recommend **APPROVAL** of the proposed amendment to the Transportation Element of the General Plan to require that it be xeriscape, and also update parkway detail regulations relating to drainage, fence height, and setbacks.

ALTERNATIVE MOTION:

I move that the Planning Commission recommend **APPROVAL** of the proposed amendment to the Transportation Element of the General Plan with the following changes: (The Planning Commission will need to draft appropriate changes).

ATTACHMENTS:

1. Ordinance
2. Current Highland City Parkway Detail

**AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING THE
TRANSPORTATION ELEMENT IN THE HIGHLAND CITY GENERAL PLAN AS SHOWN
IN FILENAME (GP-23-02).**

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

WHEREAS, the Commission held public hearing on this Ordinance on May 23, 2023; and

WHEREAS, the City Council held a public hearing on this Ordinance on June 6, 2023.

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

SECTION 1. That the Highland City General Plan is hereby amended as shown on “Exhibit A”, attached and incorporated herein by reference.

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

SECTION 3. This Ordinance shall take effect immediately after posting.

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

PASSED AND ADOPTED by the Highland City Council, June 6, 2023.

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	☐	☐

HIGHLAND CITY Parkway Detail Specification

GENERAL NOTES:

1. THE PARKWAY IS DESIGNED AS A 29 FOOT WIDE STRIP WITH A 5 FOOT MEANDERING SIDEWALK, LANDSCAPING, AND FENCE.
2. THE LENGTH OF THE PARKWAY MUST BE XERISCAPE. THE PARKWAY PLANTING PLAN AND LAYOUT SHALL BE PROVIDED FOR REVIEW AS PART OF THE CITY PLAN APPROVAL PROCESS. DESIGN SHALL CONFORM TO CITY XERISCAPE STANDARDS FOUND IN THE LATEST DEVELOPMENT CODE. THE GROUND COVER IS REQUIRED TO BE 1-1/2" TO 2" SOUTHTOWN COBBLE WITH DEWITT PRO 5 WEED BARRIER FABRIC. THE TREES WILL BE SPACED AN AVERAGE OF 30 FEET APART AND NO CLOSER THAN 7.5 FEET FROM THE CURB OR THE FENCE.
3. ALL TREES WILL BE AT LEAST 2 INCH CALIPER BALL & BURLAP (B&B) AND BE PROPERLY STACKED. TREES WILL BE GUARANTEED BY THE DEVELOPER FOR 18 MONTHS AFTER PLANTING. TREE TYPES ARE TO BE APPROVED PER THE CITY TREE COMMITTEE LIST. ANY SUBSTITUTES MUST BE APPROVED BY HIGHLAND CITY.
4. THE BACK SIDE OF THE PARKWAY SHALL HAVE A 6 FOOT THEME WALL PER CITY DEVELOPMENT CODE. HEIGHT OF THE FENCE WILL BE MEASURED FROM THE SIDEWALK ELEVATION.
5. SIDEWALK SHOULD BE INSTALLED WITH GRADUAL CURVES IN A RANDOM, LESS STRUCTURED FORMAT.
6. THE PARKWAY SHALL BE GRADED AT A 2% SLOPE TOWARDS THE ROADWAY TO DIRECT ALL DRAINAGE TO THE ROAD/GUTTER.

PARKWAY LANDSCAPING DETAIL PLAN

THIS PLAN WILL BE SUBMITTED BY THE DEVELOPER AT THE TIME OF PRELIMINARY SUBDIVISION APPROVAL AND WILL INCLUDE THE FOLLOWING:

1. THE PROPOSED LOCATION OF TREES WITH THE EXACT LOCATION TO BE APPROVED BY THE CITY INSPECTOR AT THE TIME OF PLANTING.
2. FENCE DESIGN INCLUDING MATERIALS.
3. SIDEWALK DESIGN.
4. IRRIGATION PLAN.
5. TOPOGRAPHY OF PARKWAY.

SPRINKLING SYSTEM

DRIP LINE SYSTEM SPECIFICATION AND LOCATIONS ARE TO BE APPROVED BY HIGHLAND CITY STAFF.

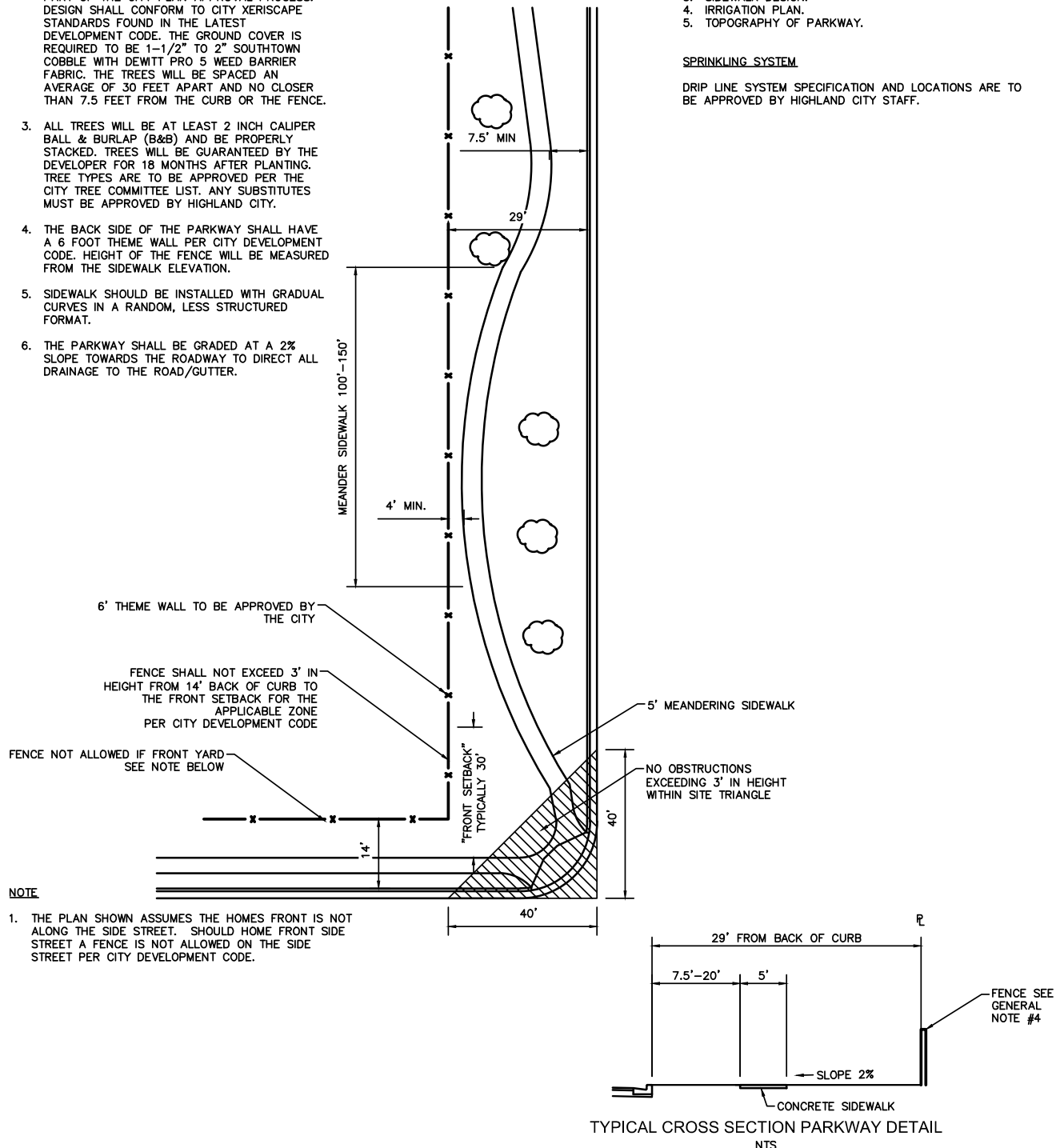


Figure 3-17. Parkway Detail Specifications

HIGHLAND CITY Parkway Detail Specification

The parkway detail is designed as a 30 foot wide strip with a 5 foot sidewalk, landscaping and fence.

The length of the parkway will be sodded or planted in grass. The trees will be spaced on average of 30 feet apart and no closer than 7.5 feet from the curb or the fence. Each tree must have a 24" cement mow ring for maintenance.

All trees will be at least 2 inch caliper and be properly staked. Trees will be guaranteed by the developer for two years after planting. Tree types are to be approved by the city forester.

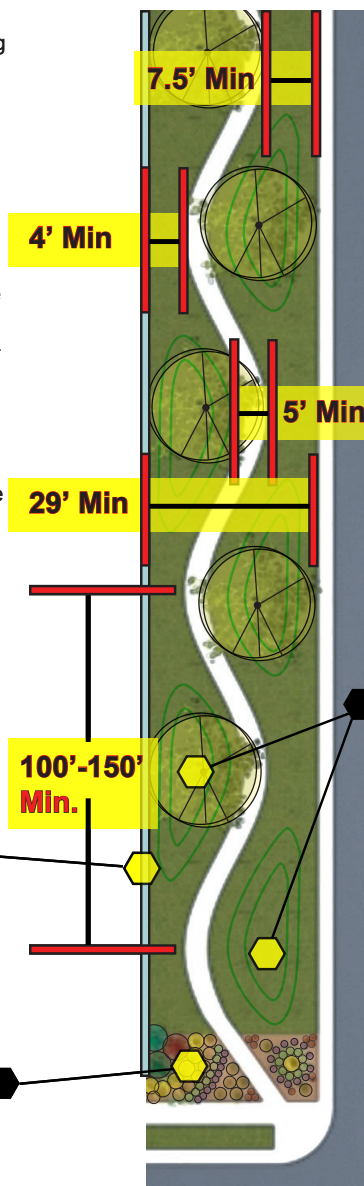
The back side of the parkway

An encroachment permit is required from the Region 3 UDOT office before landscaping work can begin if adjacent to a state road.

6' decorative privacy fence to be approved by the city. Fence shall not exceed 3' in height from 14' to 30' setback on local street.

The entrance ways to the subdivision will be bordered by a 20'x15' planter area with shrubs, flowers, rocks and ground cover. The landscaping shall conform to the clear sight requirements with the vegetation in the clear sight area not exceeding 3 feet in height.

6' decorative privacy fence to be approved by the city. Fence shall not exceed 3' in height from 14' to 30' setback on local street.



PARKWAY LANDSCAPING DETAIL PLAN

This plan will be submitted by the developer with the construction drawings following Council approval and include the following information:

1. The location of the trees
2. Fence design and material
3. Sidewalk design
4. Irrigation design
5. Topography of parkway
6. Planter area design

SPRINKLING SYSTEM

The parkway detail shall be watered with a HUNTER I-20 POP-UP HEAD spaced at 20 foot intervals. Each head will cover a 30 foot arc. All valve boxes shall be installed on the back side of the sidewalk.

GENERAL LANDSCAPE DESIGN

All grass areas shall be SODDED or HYDRO-SEEDED. If hydro-seeding the grass will be seeded first and after the seed is established. Trees will be planted after the grass has been established.

All grassed areas shall be bermed to 2 feet high within the widest portion of each bulb

PLANTER AREAS

Decorative Planters are planned at all Entrances to the Subdivision.

The basic size of the Planters will be approximately 20ft x 15ft and each will be decorated with a variety of trees, shrubs, rocks and ground cover. Vegetation may not infringe on required clear area.

Ground Cover within the Planter will be the Shredded Bark approximately 2 inches in depth.

Planters must have a cement mow edge for maintenance.

The suggested design of the Planter is indicated in the outline specified ABOVE.

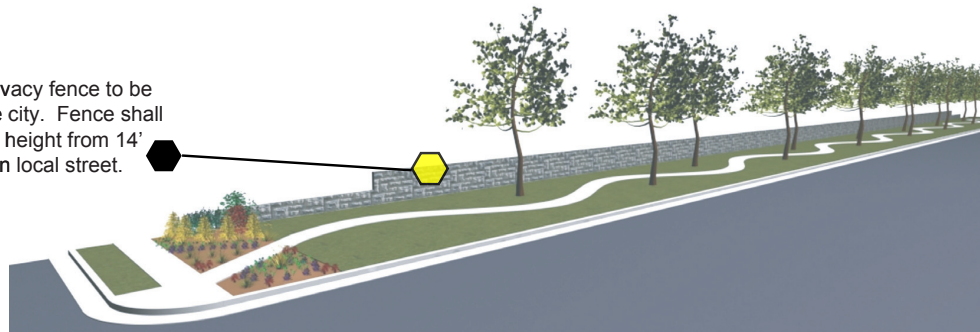


Figure 3-17. Parkway Detail Specifications



PLANNING COMMISSION AGENDA REPORT ITEM #4

DATE: May 23, 2023
TO: Planning Commission
FROM: Kellie Smith, Planner & GIS Analyst
SUBJECT: **ACTION:** Phyllis Smith Annexation
TYPE: **LAND USE (LEGISLATIVE)**

PURPOSE:

The Planning Commission will hold a public meeting to consider a request by Shaun Athey, representing Phyllis and Trent Smith, to annex approximately 1.13 acres of property located at 7015 W 9600 N. The Planning Commission will take appropriate action.

STAFF RECOMMENDATION:

The decision to annex and under what circumstances are legislative decisions. Because the City Council has directed staff to allow for an exception to a typical Development Code requirement, the Planning Commission must review the application and give a recommendation to the City Council before the City Council can approve or deny the annexation.

The Planning Commission and City Council have complete discretion in making these decisions. Staff recommends the Planning Commission consider the staff analysis below and potential impacts from not requiring the City's standard regulations. After considering these issues, Staff recommends the Planning Commission recommend APPROVAL of the request to annex with any stipulations and/or exceptions from City standard that the Planning Commission decides to allow.

PRIOR COUNCIL DIRECTION:

On December 6, 2022, the City Council discussed the potential of waiving specific code requirements as part of a future annexation request. Two Councilmembers mentioned that they would like more time to consider the request and determine whether approval of it would create a problematic precedent for the City. Other Councilmembers shared that they were leaning toward waiving the public improvement requirements. The Council indicated that they were comfortable with the applicant proceeding with the annexation and communicated a willingness to formally consider Phyllis Smith's requested exception.

On March 21, 2023, the City Council approved the resolution of intent indicating the intent of Highland City to consider the proposed annexation, and as part of that only require 20' of road with all curb, gutter, sidewalk improvements, and all other requirements by code.

SUMMARY OF THE REQUEST:

- The applicant is requesting to annex approximately 1.13 acres of property located at 7015 W 9600 N.
- The request is that the property be zoned R-1-20.
- The applicant is also requesting that the City agree to allow the applicant to subdivide the property into two (2) lots and allow for the subdivision without the typical road improvements on the Highland City parcel east of the subject property. There is an existing 11'-wide asphalt drive that the applicant would like to keep in place. The applicant would bring the sewer, culinary, and pressurized irrigation water lines down the Highland City parcel for the future house on the second lot.

BACKGROUND/STAFF ANALYSIS:

Annexation Process

Utah Code Title 10 Chapter 2 Section 4 outlines the annexation process. Below is an explanation.

Notice of Intent

The Council adopts a resolution indicating intent to consider annexing the property. Accepting the petition for further consideration does not approve the annexation. Rather it allows the applicant and staff to complete the notification and review requirements outlined in State Code. After adoption of the resolution, Staff has 30 days to review the annexation and certify that the annexation follows State code requirements and is annexable. Once the annexation is certified, the City will send a notice to the County, City Council, and the sponsor of the petition of the certification.

The City Council adopted this resolution of intent on March 21, 2023. Staff certified the annexation application on April 20, 2023. All required notices for the annexation were also then sent out on April 20, 2023.

Action

After the petition is certified, and notice has been provided, the legislative body or affected entities have 30 days to protest the annexation. If an annexation is protested, the item is heard by the Boundary Commission. If no protest is filed, a public hearing is held and the City Council approves or denies the ordinance for the annexation. No protests have been filed regarding the annexation to this point. Staff did receive one correspondence from a resident expressing his support to require the applicant to do all typically required public improvements.

Notice of the public hearing to be held at City Council will be completed as required in Utah Code. If any Council concerns regarding the request to waive any code requirements have yet to be resolved, the Council also has the option of continuing the item and negotiating with the applicant.

Because the City Council directed staff to move forward with an annexation agreement that gives an exception to a requirement in the Development Code, the annexation must be reviewed by the Planning Commission prior to Council

approval.

Highland City Annexation Policy Expansion Plan

The subject property is included in the Highland City Annexation Policy Expansion Plan. The planned zoning for the southwest area is R-1-20. If the City Council allows the property to be annexed and zoned R-1-20, the subject property would have enough square footage to be subdivided into two (2) lots, however, by Development Code requirements, the property does not have enough road frontage for two (2) lots. The Highland City parcel to the east of the subject property would need to be included in the subdivision plat to be designated as public right-of-way to count as road frontage. These details are included in the proposed annexation agreement.

Public Improvement Requirements

Staff's recommendation is that all the Development Code and City engineering regulations be required with the annexation meaning no standard requirements are waived. This ensures that all those who develop in Highland are treated the same and helps to prevent future problems when homeowners are seeking standard city services and when the City is working to maintain those services.

The annexation agreement will detail all improvements that the Council decides to require or waive. The following would be required for the applicant to **annex** the property into Highland City (bolded numbers are the section references in the attached agreement):

Utilities (2.2.1)

If the property owner decides to connect the existing home to City utilities before subdividing, the property owner would be responsible for the extension and connection of such utilities. The owner would also be required to conform to the requirements of the Development Code, including dedicating secondary water shares to the City.

Impact Fees (2.2.2)

Prior to the effectiveness of the approval of the annexation, the applicant shall pay all applicable impact fees for the existing home on the property, as if such home were built or constructed within the City at the time of annexation.

Below is a summary of the public improvements that would typically be required for any **subdivision** in Highland City. These requirements are also outlined in the proposed annexation agreement.

Utilities (2.3)

In order to service the additional single family home to the south, the applicant will need to provide appropriate utilities to the lot through the City parcel, and pay all appropriate impact fees for both the existing home and the new lot.

Culinary (2.3.1)– Because the property was included in the original Highland Water Company service area, the property owner will not need to dedicate any additional culinary water to the City. The property owner will be responsible for extending the culinary water line down the City parcel to

service the new lot. Appropriate culinary water meter fees will be required with the building permit for the new home.

Pressurized Irrigation (2.3.2) – With the development of the subdivision, the property owner will be required to provide secondary water shares to the City as defined in Section 5-8-112 of the Development Code. The pressurized irrigation impact fee will also be required for the existing home. The property owner will be responsible for extending the secondary water line down the City parcel to service the new lot, and connect the existing lot to the City pressurized irrigation system. Appropriate pressurized irrigation impact fees will be required with the building permit for the new home.

Sewer (2.3.3)– The property owner will be responsible for extending the sewer line down the City parcel to service the new lot, and connect the existing home to the City sewer system. Appropriate City sewer and Timpanogos Special Service District (TSSD) impact fees will be required for both the existing home and the new lot to the south.

Storm Drain (2.3.4)– The road improvements will be required to follow standard storm drain criteria which will require sumps and possibly storm drain inlets. The number and locations of these improvements is determined based on the percolation rates of the ground, which are provided by the subdivider with the civil plan application.

Street Improvements

Both the Highland City Development Code and adopted engineering standards require the subdivider “to improve, or agree to improve all streets, pedestrian ways or easements in the subdivision and on streets which abut, or serve as access to, the subdivision.”

9600 N (2.4.1)– With the subdivision of the property, the property owner will be required to complete the street improvements along 9600 N. This will include sidewalk, parkstrip, curb, gutter, and completing the remaining asphalt in the 66’ street cross-section as required in the Highland City Standard Drawings and Design Criteria for Public Improvements. The appropriate right-of-way dedication for the 66’ street cross-section will also be required with the subdivision approval.

Highland City Parcel – 12:054:0069

Public Improvements (2.4.2): To comply with City Code requirements, the subdivider would be required to complete half-street improvements plus 10’ of asphalt (a total of 26’ of asphalt) along the portion of the City parcel that the Smith’s property abuts. Staff is also recommending that the City Council require the sidewalk to extend to the south edge of the Smith’s property to align with a future cul-de-sac that would be completed when the property owner to the south develops.

The draft annexation agreement requires only 20’ of asphalt rather than the

typical 26' as directed by the City Council.

Dedication (2.4.3): With the recording of the potential subdivision of the property, Staff recommends that the Council require the City parcel to be included in the subdivision plat to be officially dedicated as City right-of-way. Staff also recommends that an additional 1.5 feet be dedicated to the City as right-of-way to meet the Engineering Standard of 56' of right-of-way for a local street. Because the location of the existing home is approximately 8' away from the existing City parcel, Staff proposes the Council only require the 1.5 additional feet south of the existing home. Another option would be based on the elevation of the south of the property, is to require the additional right-of-way that would be needed for the future cul-de-sac with this subdivision.

Staff is proposing the applicant be required to complete the 9600 N improvements in connection with the subdivision of the property *or* within four (4) years from the date of annexation, whichever occurs first. If the applicant does not subdivide nor complete the 9600 N improvements within that time, the City shall be entitled to withhold any land use approval related to the property until the 9600 improvements are completed (see Section 2.4.1 in the agreement for details).

Lehi Irrigation Ditch (2.5) – On the northwest corner of the Smith's property there is a private Lehi Irrigation Ditch that is open. As part of the requirement to complete 9600 N, the Smiths will be required to work with Lehi Irrigation to pipe or fill the ditch, depending on Lehi Irrigation's determination of whether or not it may be abandoned.

FISCAL IMPACT:

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

MOTION TO RECOMMEND APPROVAL:

I move that the Planning Commission recommend APPROVAL of the proposed annexation subject to the following: (The Commission will need to draft appropriate stipulations and/or exceptions to Code to include in the annexation agreement).

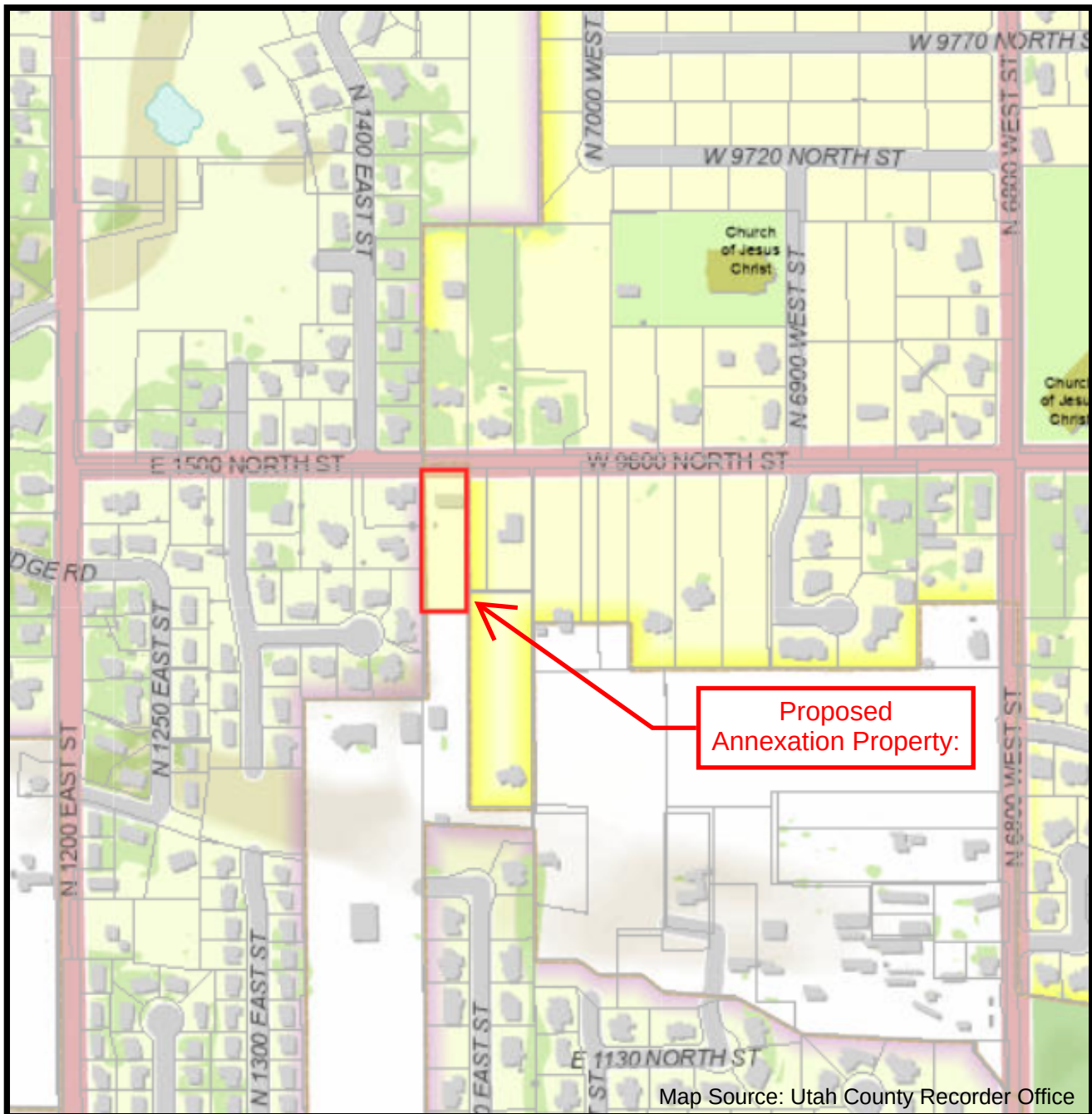
MOTION TO RECOMMEND DENIAL:

I move that the Planning Commission recommend DENIAL of the proposed annexation.

ATTACHMENTS:

1. Vicinity Map
2. Applicant Narrative
3. Resolution of Intent – adopted by the City Council on March 21, 2023
4. Draft Annexation Agreement

Vicinity Map of Proposed Annexation:



Phyllis Smith Annexation Property Information:

Owners: Phyllis B & Trent Lynn Smith
Address: 7015 West 9600 North, Highland, Utah 84003
Parcel: 12:054:0025
Acreage: 1.13

Annexation Information:

1. **In general, what are the topography, vegetation, and other natural feature present on the property proposed to be annexed?**
 - a. The proposed property to be annexed has the following site conditions/features. The site topography is considered flat with little to no elevation change. The north half of the site has been improved by residential landscaping. They have well developed Kentucky Bluegrass, small to large shrubs, pines, oak, and quaking aspen trees. The southern half of the property remains unimproved and vacant.
2. **What is the existing land use(s) of the property proposed for annexation and those requested by the owners.**
 - a. This parcel is currently a residential lot that is part of Utah County. The owner is requesting that it remains residential and be zoned R1-20 in Highland City, Utah.
3. **What is the current and potential (if the property were developed) population and residential density of the proposed area?**
 - a. The current population is one female adult. The proposed population for this property will be altered slightly by an additional lot. We anticipate that the annexed property's population will increase to two average sized families. The residential density of the proposed area is Low Density Housing in the R1-20 zone.
4. **How will the proposed annexation comply with and achieve Highland City's land use(s), goals and policies outlined in the Highland City General Plan?**
 - a. The proposed Phyllis Smith Annexation will remain a low-density residential property. This property sits adjacent to many properties on the north and east that retain the same future low-density land use as described in the Highland City General Plan.
5. **What are the current and potential (if the property were developed) demands for City provided facilities and services to the area proposed for annexation, including culinary, irrigation water, wastewater, transportation facilities, drainage, fire protection, solid waste, parks and recreation, and police protection.**
 - a. With the annexation and development of this property service connections will need to be made to sewer, culinary, and irrigation water services for the existing house, and for the future house on the second lot. To the best of our understanding through conversations with city officials the addition of two additional residential lots should have no other significant impacts to current city provided facilities and services.

On December 6th, 2022, we went before city council to get their thoughts on the potential of being granted a waiver of the city standard of ½ street public improvements + 10' of asphalt with the addition of our 2 lots (See attached City Council Agenda #13a).

Due to the circumstances presented to the council, at this time, we would request that the city standard of ½ street public improvements + 10' of asphalt be waved. Allowing the current asphalt road and road width to remain. In turn Mrs. Smith offers to pay the costs to have the sewer and water main installed that will run south from 9600 North along the private roadway

to the lot line approximately 400 ft, along with all other associated connections, and site work. Allowing for future connection of the property to the south

- 6. Are the water rights necessary for annexation, found in Section 5-8-112 of the Highland City Development code available for dedication to Highland City upon annexation?**
 - a. Yes, this property does have water rights that are available for dedication to Highland City upon annexation.

RESOLUTION NO: R-2023-09**A RESOLUTION STATING HIGHLAND CITY'S ACCEPTANCE OF A
PETITION OF ANNEXATION FOR FURTHER CONSIDERATION,
AUTHORIZING FURTHER PROCEEDINGS RELATED THERETO,
AND RELATED MATTERS**

WHEREAS, Title 10, Chapter 2, Part 4, of the Utah Code, as amended (the "Act") establishes procedures to annex real property;

WHEREAS, Highland City has received a petition from SMITH, PHYLLIS AND TRENT ("Property Owners"), owners of property located contiguous to Highland City, which property is currently within the unincorporated area of Utah County, as shown in the attached map ("Property");

WHEREAS, the Property Owners desire to have their Property annexed into the corporate limits of Highland City as outlined in the attached map;

WHEREAS, the Highland City Council has determined that the Property is within the Highland City Annexation Policy Plan, is contiguous to the Highland City municipal boundaries, and is therefore eligible for annexation, and that the City Council should accept the Property Owners' petition for further consideration to determine whether and on what terms and conditions the Property should be annexed.

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

1. Pursuant to Section 10-2-405 of the Act, the Highland City Council hereby accepts for further consideration the Property Owners' petition of annexation regarding the Property, located approximately at 7015 W 9600 N Highland, UT 84003, consisting of 1.13 acres of unincorporated territory in Utah County, State of Utah. Said parcel is more particularly described as set forth on Exhibit "A" attached hereto.
2. The Highland City Recorder is directed to review the petition for compliance with the Act, according to the provisions of the section 10-2-405 of the Act and other relevant sections as applicable.
3. The Highland City Recorder is further directed, if the Recorder certifies the petition as complying with the requirements of the Act, to publish notice of such certification, the process and timing for filing protests thereto, and other related information, as set forth in the Act.
4. The Highland City Recorder is further directed, if no protests are filed, to schedule and provide notice of a public hearing regarding the petition, as set forth in the Act.
5. The provisions of this Resolution shall take effect immediately upon its adoption.

ADOPTED by the City Council of Highland City, Utah this 21st day of March, 2023.

HIGHLAND CITY, UTAH


Kurt Ostler
Mayor

ATTEST:

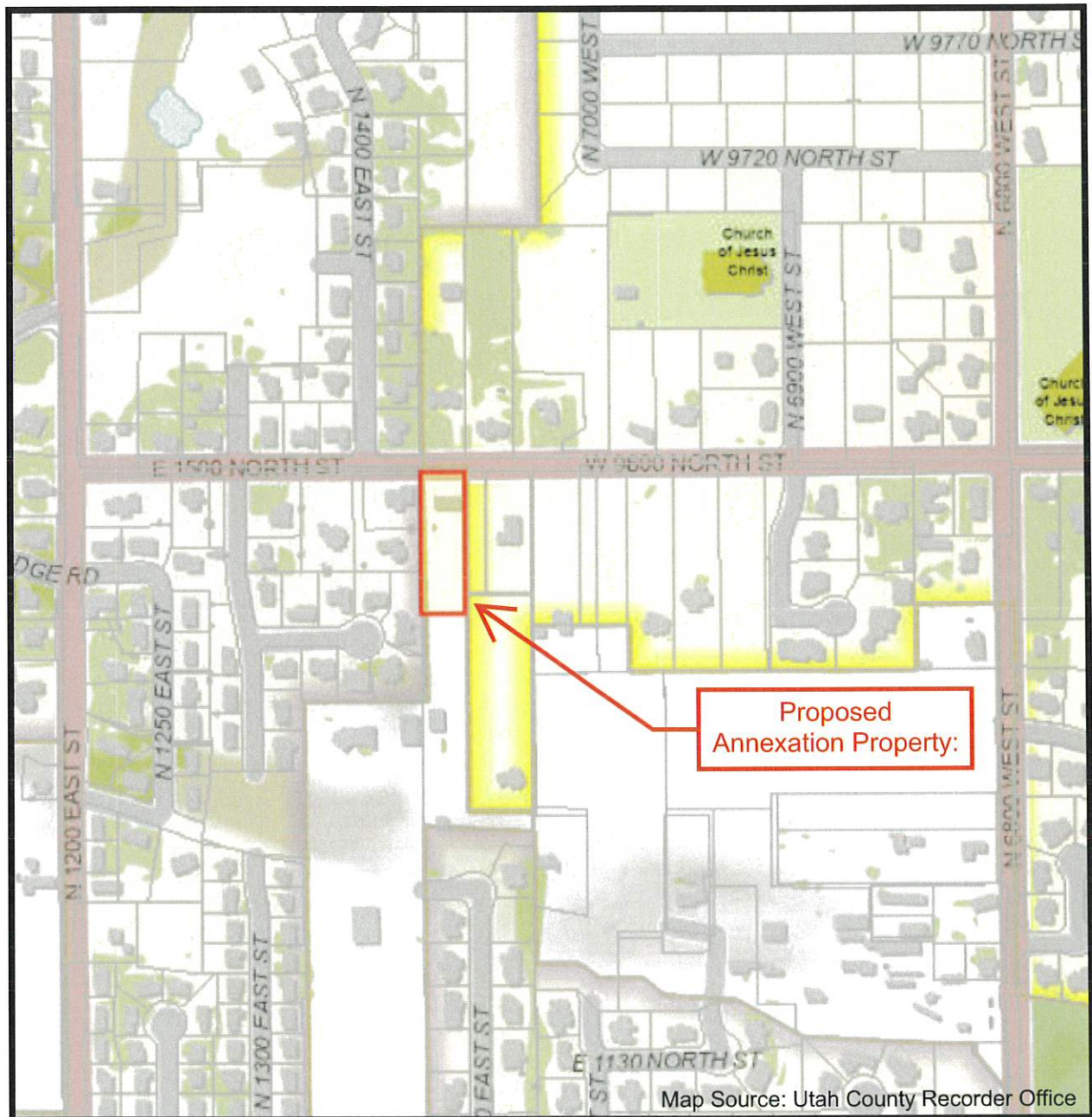

Stephannie Cottle
City Recorder



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

Absent

Vicinity Map of Proposed Annexation:



Phyllis Smith Annexation Property Information:

Owners: Phyllis B & Trent Lynn Smith
Address: 7015 West 9600 North, Highland, Utah 84003
Parcel: 12:054:0025
Acreage: 1.13

ANNEXATION AGREEMENT

The parties HIGHLAND CITY (“the City”), a Utah municipality and a political subdivision of the State of Utah, and LESCO IRREVOCABLE TRUST DATED FEBRUARY 17, 2011, a Utah limited liability company (the “Petitioner”), enter into this Annexation Agreement (this “Agreement”), effective as of the date it is executed by the parties following the approval of the City Council (the “Effective Date”).

RECITALS

A. Petitioner owns certain real property located within Utah County that is adjacent to the municipal boundaries of the City, described as Utah County parcel 12:054:0025 and more particularly described in **Exhibit A** attached hereto (the “Property”).

B. Petitioner has requested annexation of the Property, totaling approximately 1.13 acres, into the City (the “Annexation”), in order to access City utilities and facilities to facilitate the development or subdivision of the Property.

C. Adjacent to the Property is certain real property owned by Highland City (the “City Parcel”), described as Utah County Parcel 12:054:0069, more particularly described as: COM E ALONG SEC LN 1185.9 FT & S 16.5 FT FR NW COR, SEC 10, T5S,R1E, SLM; S 341 FT; W 54.5 FT; N 341 FT; E 54.5 FT TO BEG.

D. The approval and authorization of the Annexation is a legislative decision to be made by the appropriate city bodies and officials, to which approval Petitioner has no entitlement or vested right.

E. The City has adopted codes, ordinances, regulations, drawings, standards, specifications, policies, and resolutions (collectively, “City Code”) that govern the development of land, the construction of private and public infrastructure and buildings, and the connection to and use of City facilities and utilities.

F. Petitioner has requested certain waivers or modifications of City Code requirements that would normally apply to the development or subdivision of the Property, in connection with the Annexation.

G. The parties desire to enter into this Agreement to establish the terms and conditions by which the City approves of the Annexation of the Property and to determine the specific regulations and requirements of the City that will apply to the subdivision or development of the Property once it is annexed into the City.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants hereafter set forth, the sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

1. City Obligations. All obligations of the City are subject to the reserved legislative powers of the City described in Section 5 *below*.

1.1. Annexation Approval. The City shall, to the extent permitted by Utah law and without waiving its right or duty to take the procedural steps and analyze the substantive considerations required by Utah law, grant Petitioner's annexation petition and annex the Property into the City, which approval is subject to and conditioned on Petitioner's execution of this Agreement and Petitioner's recordation of this Agreement against title to the Property.

1.2. Annexation Protest. If Annexation is protested and goes before the Utah County Boundary Commission, the City may, in its discretion, deny the Annexation or seek to obtain from the Boundary Commission approval for the Annexation. If the City decides to seek to obtain approval, the City shall coordinate its efforts with Petitioner.

1.3. Zoning. Upon successful Annexation, the Property shall be zoned R-1-20.

1.4. City Parcel Use. Petitioner shall be entitled to access, enter, and construct public street and utility improvements and related facilities upon the City Parcel, and the City agrees that City Parcel may be used by Petitioner to determine the frontage of new and additional lots within the Property, subject to and conditioned on the Petitioner's compliance with City Code regarding the any subdivision or development of the Property and Petitioner's obligations in this Agreement. Petitioner shall be entitled and required to include the City Parcel within any future subdivision plat for the Property, in order for the City Parcel to be dedicated and platted as a public right of way and public street.

2. Petitioner Obligations.

2.1. Recordation. Petitioner shall be required, as a condition of approval of the Annexation, to record this executed Agreement against title to the Property and to ensure that no other interests, mortgages, liens, or other encumbrances have priority or precedence over this Agreement.

2.2. Existing Home. There is an existing home on the Property (the "Existing Home"), which is, as of the Effective Date, not connected to any City utilities, namely the City's culinary water, pressurized irrigation, or sewer system (collectively, "City Utilities"). If the Annexation is approved, Petitioner shall have the following obligations regarding the Existing Home and Property:

2.2.1. Utilities. Petitioner may or shall be required to connect the Existing Home to City Utilities as set forth herein.

2.2.1.1. Petitioner shall bear all costs and be responsible for the extension and connection of any utility mains, lines, and other facilities required to connect the Existing Home to City Utilities, if such connection is required or requested. All work, mains, lines, connections, and other facilities shall conform to the requirements of City Code.

2.2.1.2. Petitioner may connect the Existing Home to the City Utilities without subdividing or developing the Property. If at any time Petitioner desires to connect the Existing Home to the City's culinary water system,

Petitioner shall also be required to connect the Existing Home to the City's pressurized irrigation system. Petitioner may, however, connect the Existing Home to the City's pressurized irrigation system without connecting the Existing Home to the City's culinary water system.

2.2.1.3. Petitioner shall connect the Existing Home to the City pressurized irrigation and sewer utilities at the time Petitioner subdivides or develops the Property. Petitioner shall also connect the Existing Home to the City culinary water system at the time Petitioner subdivides or develops the Property, unless Petitioner demonstrates that Petitioner has an adequate and safe source of culinary water that can serve the Existing Home, which source has been approved by and complies with all relevant City, Utah County, and State of Utah regulations, laws, and requirements.

2.2.2. Impact Fees. Prior to the effectiveness of the approval of the Annexation, Petitioner shall pay all impact fees for the Existing Home, as if the Existing Home were being built at the time of Annexation. If Petitioner fails to do so, the approval of the Annexation shall be void.

2.3. City Utilities. Petitioner shall comply with the following obligations related to the use and connection of the Property to the City Utilities:

2.3.1. Culinary Water.

2.3.1.1. Petitioner shall not be required to dedicate water shares or rights to the City or to pay a fee in lieu of such dedication in order to connect the Existing Home or any new lot created within the Property to the City's culinary water system.

2.3.1.2. In the event Petitioner subdivides or develops the Property, Petitioner shall be required to extend a culinary water main and/or line and to install, construct, and provide all other facilities within 9600 North, the City Parcel, and the Property required to connect the Existing Home (unless such connection is not required as set forth in Section 2.2.1.3 *above*) and the new lot created within the Property to the City's culinary water system. In all such work, Petitioner shall comply with City Code regarding culinary water facilities and connections.

2.3.2. Pressurized Irrigation.

2.3.2.1. Petitioner shall be required to provide secondary water shares to the City as required by City Code for the Property. Such shares shall be provided when the Existing Home connects to the pressurized irrigation system or when Petitioner subdivides or develops the Property, whichever comes first. The amount of shares to be provided shall be based on the total acreage of the Property, regardless of any subdivision.

2.3.2.2. In the event Petitioner subdivides or develops the Property, Petitioner shall be required to extend a pressurized irrigation main and/or line and to install, construct, and provide all other facilities within 9600 North, the City Parcel, and the Property required to connect the Existing Home and the new lot created within the Property to the City's pressurized irrigation system. In all such work, Petitioner shall comply with City Code regarding pressurized irrigation facilities and connections.

2.3.3. Sewer. Petitioner shall be required to extend a sewer main and/or line and to install, construct, and provide all other facilities within 9600 North, the City Parcel, and the Property required to connect the Existing Home and the new lot created within the Property to the City's sewer system. In all such work, Petitioner shall comply with City Code and any regulation, code, or standard adopted by the Timpanogos Special Service District regarding sewer facilities and connections.

2.3.4. Stormwater/Storm Drainage. Petitioner shall provide stormwater facilities, such as storm drain inlets and sumps, in connection with all required street improvements and facilities, including those set forth in Section 2.4 *below*, as required by City Code.

2.4. Streets and Related Facilities. Petitioner shall comply with the following obligations related to the improvement, dedication, and construction of street and street facilities:

2.4.1. 9600 North.

2.4.1.1. Petitioner shall complete, construct, install, assure, and warranty, according to City Code, the following improvements along the frontage of the Property adjacent to 9600 North (collectively, "9600 Improvements"): sidewalk, park strip, curb, gutter, and the remaining asphalt and road base required for 9600 North to comply with the City's 66-foot, two lane minor collector street cross-section, set forth in the Highland City Standard Drawings and Design Criteria for Public Improvements and City Code. Petitioner shall also dedicate to the City the areas within the Property required for the 9600 Improvements.

2.4.1.2. Petitioner shall complete the 9600 Improvements in connection with the subdivision or development of the Property or within four (4) years from the Effective Date, whichever occurs first.

2.4.1.3. In the event that Petitioner fails to timely complete the 9600 Improvements, the City shall, in addition to any other remedy, be entitled to withhold any land use approval related to the Property until Petitioner completes the 9600 Improvements.

2.4.1.4. At any time, the City may elect to complete the 9600 Improvements. If the City does so elect, Petitioner shall be responsible to reimburse the City for the City's costs (including administrative, legal, engineering, labor, and material costs) related to the 9600 Improvements

upon the City's issuance of a demand for reimbursement, which demand shall describe in reasonable detail the incurred costs. The City may also require such reimbursement in connection with any other fee or charge assessed against or levied upon Petitioner or the Property, and the City may also condition any future approval related to the Property or the Existing Home (including approval of utility connections, building permits, and other land use applications) on Petitioner's payment of such reimbursement costs.

2.4.2. City Parcel Improvements. Petitioner shall complete, construct, install, assure, and warranty, according to City Code, the following improvements within the City Parcel and the portion of the Property dedicated to the City described in Section 2.4.3 *below*:

2.4.2.1. Petitioner shall provide half-street improvements, consisting of curb, sidewalk, gutter, road base, and asphalt, according to the City Code and the City's 56-foot standard subdivision street cross-section, set forth in the Highland City Standard Drawings and Design Criteria for Public Improvements, provided that Petitioner shall only be required to provide 20 feet of asphalt in connection with such half-street improvements, rather than the typical 27 feet of asphalt otherwise required by City Code.

2.4.2.2. Petitioner shall extend the sidewalk beyond the City Parcel, within the Property, to the south property line of the Property, to align with a future cul-de-sac.

2.4.3. Petitioner Dedication. Petitioner shall dedicate to the City an approximately 1.5-foot wide area of the Property south of the existing home on the Property and adjacent to and fronting on the City Parcel, as a public right of way, such that the combined City Parcel and dedicated portion of the Property is able to contain the City's 56-foot standard subdivision street cross-section, set forth in the Highland City Standard Drawings and Design Criteria for Public Improvements and City Code. This dedication and the City Parcel shall be included within any subdivision plat related to the Property in order to dedicate the same as a City-owned public right of way.

2.5. Lehi Irrigation Ditch. Petitioner shall work with the Lehi Irrigation Company to pipe or fill the Lehi Irrigation ditch located on the northwest corner of the Property. The decision of whether to pipe or fill the ditch shall be made by the Lehi Irrigation Company. Petitioner shall complete all work related to the Lehi Irrigation ditch in connection with the improvements to 9600 North, and Petitioner shall be subject to and shall comply with the conditions, timing, and reimbursement terms that apply to 9600 North described in Section 2.4.1 *above*.

2.6. Waiver of Rights. By consenting to the conditions of approval of the Annexation and by executing this Agreement, Petitioner waives and releases any right Petitioner may have had to challenge the reasonableness, lawfulness, or appropriateness of the City's

requirements regarding the utility, street, and Lehi Irrigation Ditch improvements set forth herein, which right Petitioner may have otherwise had pursuant to Utah Code § 10-9a-703. This includes any claim that the construction of all such improvements and the dedication of any related property were unlawful or unreasonable exactions, pursuant to Utah Code § 10-9a-508, or any challenge to the assessment or payment of impact fees required by this Agreement, pursuant to Utah Code §§ 11-36A-701, -703. Petitioner further agrees that the City may withhold approvals of subdivision plats, building permits, certificate of occupancy, utility connections, and other permits, applications, or licenses, in order to enforce and compel compliance with this Agreement, despite any provision to the contrary under Utah Code §§ 10-9a-509, -603(3)(a), -604.5(3), -802(2).

3. Fees. Petitioner agrees to pay all applicable fees of the City, Timpanogos Special Service District, Lehi Irrigation Company, and any other applicable government entity, as such fees exist on the applicable date when payment is due, including but not limited to utility fees, hookup fees, impact fees, inspection fees, construction and excavation permit fees, and application fees.

4. Infrastructure Costs and Standards. Petitioner is required, at Petitioner's sole expense and effort, to construct all infrastructure, project improvements, and system improvements required by this Agreement and City Code and to construct the same in the size, scale, location, magnitude, and capacity required by this Agreement and applicable provisions of the City Code.

5. Reserved Legislative Powers.

5.1. This Agreement, or any part of this Agreement, will not limit the exercise of the police powers of the City to enact ordinances, standards, or rules regulating development, zoning, subdivision, growth management, transportation, annexation, municipal services, and other land use matters, or to determine the necessity and wisdom of the approval of any legislative matter related to this Agreement, including the Annexation and the zoning of the Property.

5.2. Both Parties understand that any legislative action by the City Council, including the approval of this Agreement and the approval of the Annexation, is subject to initiatives, referral, or challenge by individuals or groups of citizens. Petitioner agrees that the City may respond to, approve, or reject any initiative, referral, or challenge as the City deems appropriate in its discretion, guided by the standards in Utah law. Petitioner agrees that the City shall not be found to be in breach of this Agreement due to the City's response to, approval of, or rejection of any initiative, referral, or challenge or due to the success of an initiative, referendum, or challenge, so long as the initiative, referendum, or challenge relates to any legislative act contemplated or undertaken in connection with this Agreement. In the case of a successful initiative, referendum, or challenge, this Agreement and the approval of the Annexation shall be voided.

6. Compliance with City Requirements and Standards. Unless otherwise expressly provided in this Agreement, Petitioner acknowledges that nothing in this Agreement will be deemed to relieve Petitioner from its obligations to comply with all applicable requirements, standards, specifications, drawings, regulations, policies, resolutions, and ordinances of the City for development of the Property and recordation of subdivision plats, including those related to the

payment of unpaid fees, the approval of site plans or plats, the approval of building permits and construction permits, the construction and installation of public infrastructure, and the providing of completion and warranty assurances.

7. Covenants Running with the Land. The provisions of this Agreement will constitute real covenants, contract and property rights and equitable servitudes, which will run with all of the land subject to this Agreement. The burdens and benefits hereof will bind and inure to the benefit of each of the Parties hereto and all successors in interest to the Parties hereto. Each successor in interest will succeed only to those benefits and burdens of this Agreement, which pertain to the portion of the Property to which the successor holds title.

8. No Agency, Joint Ventures or Partnership. City and Petitioner are not agents of each other, and this Agreement creates no agency relationship, joint venture, or partnership between City and Petitioner.

9. Representations. The parties represent and warrant that the person signing this Agreement on behalf of each party is authorized to so sign and to bind the party to the obligations set forth herein, and that all steps and procedures required by a party to execute and enter into this Agreement have been completed.

10. Incorporation of Recitals, Introductory Paragraphs, and Exhibits. The Recitals contained in this Agreement, the introductory paragraph preceding the Recitals and all Exhibits referred to or attached hereto are hereby incorporated into this Agreement as if fully set forth herein.

11. Default and Remedies. Unless otherwise provided in this Agreement, in the event of any default or breach of this Agreement or any of its terms or conditions, the defaulting Party or any permitted successor to such Party must, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and in any event cure or remedy the breach within 30 days after receipt of such notice. In the event that such default or breach cannot reasonably be cured within the 30-day period, the Party receiving such notice must, within the 30-day period, take reasonable steps to commence the cure or remedy of such default or breach, and must continue diligently thereafter to cure or remedy such default or breach in a timely manner. In case such action is not taken or diligently pursued, the aggrieved Party may institute such proceedings as may be necessary or desirable in its opinion to:

11.1. Cure or remedy such default or breach, such as proceedings for injunctive relief, to compel specific performance by the Party in default or breach of its obligations, or declaring a material breach by the Party; and/or

11.2. In the case of a material uncured breach by Petitioner, the City may change the zoning designation for the Development, as determined by the City Council, or withhold any land use application approval, including the approval of any building permit, certificate of occupancy, or subdivision plat, until the breach is cured. If the remedy of a zone change is pursued, the Petitioner agrees not to contest the City's action to rezone.

12. Other Miscellaneous Terms.

12.1. Certain Meanings. The singular will include the plural; the masculine gender will include the feminine; “shall” and “will” and “must” are mandatory; “may” is permissive.

12.2. Severability. If any provision of this Agreement or application of any provision of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement will continue in full force and effect.

12.3. Construction. This Agreement has been reviewed and revised by legal counsel for Petitioner and the City, and no presumption or rule that ambiguities will be construed against the drafting Party will apply to the interpretation or enforcement of this Agreement.

12.4. Further Assurances, Documents, and Acts. Each of the parties agrees to cooperate in good faith with the other, and to execute and deliver such further documents, and to take all further acts reasonably necessary in order to carry out the intent and purposes of this Agreement and the actions contemplated hereby. All provisions and requirements of this Agreement will be carried out by each party as allowed by law.

12.5. Assignment. This Agreement, any portion of the Property, and any of the provisions, terms or conditions hereof cannot be assigned or transferred by Petitioner to any other party, individual or entity, without likewise assigning the obligations of the Petitioner under this Agreement to such Party. The rights of the City under this Agreement will not be assigned.

12.6. Governing Law. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Utah.

12.7. Attorney Fees. If any Party hereto is required to engage the services of counsel by reason of default of another party, including in connection with the default procedures set forth in Section 11 *above*, the non-defaulting party will be entitled to receive from the defaulting party the non-defaulting party’s costs and reasonable attorney’s fees, both before and after judgment, including any appeals thereof, and whether or not suit be filed or if the provisions of this Agreement are enforced through arbitration.

12.8. Mediation. In the event of a dispute concerning the terms or conditions of this Agreement or arising out of this Agreement the parties may but shall not first be required to seek resolution of the dispute via mediation.

12.9. Notices. Any notice, demand or document which any party is required to be in writing, and may be personally delivered or given or made by United States registered or certified mail, return receipt requested, by overnight delivery service (e.g., Federal Express), addressed as follows:

To the City:

Highland City
Attn: Mayor and City Administrator
5400 W Civic Center Dr. Ste. 1

Highland, UT 84003

To the Petitioner:

[ADDRESS]

13. Term. The term of this Agreement shall be a period commencing on the Effective Date and expiring on December 31, 2070.

~~SIGNATURE PAGE TO FOLLOW~~

IN WITNESS WHEREOF, this Annexation Agreement has been by the person duly authorized to execute the same for and on behalf of LESCO IRREVOCABLE TRUST DATED FEBRUARY 17, 2011, and by persons duly authorized to execute the same for and on behalf of Highland City, acting by and through its City Council, as of the Effective Date.

HIGHLAND CITY

By: _____
Mayor

ATTEST:

By: _____
City Recorder

PETITIONER

LESCO IRREVOCABLE TRUST DATED FEBRUARY 17, 2011

By: _____
Printed Name:
Title: **Trustee**

STATE OF UTAH)
 : ss
County of _____)

On the ____ day of _____, 20____, personally appeared before me,
_____, the _____ of Petitioner, the
signer of the foregoing instrument, who duly acknowledged to me that they executed the same.

NOTARY PUBLIC

Exhibit A

Legal Description of the Property

Commencing at a fence intersection East along the Section line 1006.40 feet and South 16.50 feet from the Northwest corner of Section 10, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence East 125.00 feet along a fence line; thence South 392.04 feet; thence West 125.00 feet; thence North 392.04 feet to the point of beginning.

Area 1.125 AC