



HIGHLAND CITY

HIGHLAND CITY PLANNING COMMISSION AGENDA

Tuesday, June 27, 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 Claude Jones

Pledge of Allegiance – Commissioner Tracy Hill

1. UNSCHEDULED PUBLIC APPEARANCES

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

2. PRESENTATIONS

a. **Alpine & Highland Active Transportation Plan** – *Horrocks Engineering*

Horrocks Engineering will present the final draft for a proposed Active Transportation Plan for Alpine and Highland. The topics discussed will be informational only. No final action will be taken on presentation items.

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 – Gretchen Homer, Planning Commission Secretary*

Regular Planning Commission Meeting – May 23, 2023

4. **ACTION: ZONING APPROVAL – ZAANA JEWELRY** *Land Use (Administrative) – Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold consider a request by Zachary Fackrell to allow Zaana Jewelry—a jewelry retail and ecommerce business—as a permitted use in the Professional Office Zone. The Planning Commission will take appropriate action.

5. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT – PLANNING COMMISSION QUORUM VOTING *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 Article 2 Planning Commission in the Development Code to add the requirement that the majority of the Planning Commission must be in favor in order for a motion to pass. The Planning Commission will take appropriate action.

6. 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. Highland Mains – Signage – *Kellie Smith, Planner & GIS Analyst*

b. Sensitive Lands Text Amendment – *Rob Patterson, City Attorney*

c. Future Meetings

- July 18, City Council, 7:00 pm, City Hall
- July 25, Planning Commission, 7:00 pm, City Hall
- August 1, City Council, 7:00 pm, City Hall
- August 15, 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 22nd day of June, 2023.

Kellie Smith, City Planner

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



HIGHLAND CITY

HIGHLAND CITY PLANNING COMMISSION MINUTES

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 Dayton

The meeting was called to order by Commissioner Audrey Moore as a regular session at 7:02 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 Trent Thayn and those in attendance were led in the Pledge of Allegiance by Commissioner Chris Dayton.

PRESIDING: Commissioner Audrey Moore

COMMISSIONERS

PRESENT: Claude Jones, Jerry Abbott, Audrey Moore, Trent Thayn, Chris Dayton, and Debra Maughan

CITY STAFF PRESENT: City Planner and GIS Analyst Kellie Smith, City, Assistant City Administrator and Community Development Director Jay Baughman, and Planning Commission Secretary substitute Gretchen Homer

OTHERS PRESENT: Doug Cortney, Shaun Athey

1. UNSCHEDULED PUBLIC APPEARANCES

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

Commissioner Audrey Moore asked if anyone had anything to present. No one came forward.

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 – Gretchen Homer substitute, Planning Commission Secretary*
Regular Planning Commission Meeting – April 25, 2023

Commissioner Trent Thayn MOVED to approve the April 25, 2023 minutes. Commissioner Audrey Moore SECONDED the motion. All present were in favor. The motion carried unanimously.

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.

Commissioner Moore began by stating General Plan Amendment – Parkway Detail Land Use (Legislative), she then turned the time over to Kellie Smith for overview.

City planner Kellie Smith reminded commissioners that this is a General Plan Amendment, which is legislative, the Planning Commission has full rights to approve or deny or make changes before it is sent to the City Council. Background information was given about when the General Plan was adopted in 2008 and that there are things associated with the parkway detail like slopes and fence height measurements that were not addressed in 2008. It is requested that the Planning Commission hold a public hearing, accept the findings and recommend APPROVAL of the proposed General Plan amendment updating parkway detail requirements. City Planner Kellie Smith summarized what would be in the amendment:

- Xeriscaping required (25% plant coverage);
- Removes planter requirement;
- Removes 2' tall berms;
- Theme wall height measured from sidewalk elevation;
- 2% slope (cross section added);
- Site triangle added;
- Drip system for landscaping;
- Setback details for fencing

City Planner Kellie Smith went through the findings of the proposed amendment outlined in the staff report and recommended approval of the amendment:

Commissioner Moore opened the public hearing at 7:12 PM and called for public comment. Hearing none, she closed the public hearing at 7:12 PM and asked for additional discussion.

Commissioner Thayn asked if these requirements would only be for new development. City Planner Kelly Smith explained that this will be enforceable with new developments or we can go back and fix the parkway details we already own and take care of.

Commissioner Abbott had a concern about the sight triangle and why the requirement that nothing be taller than 3 feet. City Planner Kellie Smith clarified that 3 feet is the standard.

Commissioner Moore closed the comments.

Commissioner Jerry Abbott *MOVED* 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.

Commissioner Trent Thayn *SECONDED* the motion.

The vote was recorded as follows:

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

Motion carried 6:0

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.

Commissioner Moore opened the Annexation – Phyllis Smith item and turned time over to City Planner Kellie Smith

City Planner Kellie Smith showed a map of where the proposed property is located.

City Planner Kellie Smith explained that annexations are legislative decisions; the Planning Commission can recommend requirements, deny or approve. Not all annexations come to the planning commission, but because they would like to have some improvements associated with the property be different from what the Development Code requires, it has to come to the Planning Commission. The Staff report includes all the city's recommendations minus the one exception that the City Council recommended.

City Planner Kellie Smith went through the annexation process. The City Council approved the resolution of intent on March 21, 2023. After the Planning Commission makes a recommendation on the application, the City Council will consider the request with a public hearing. Staff would then move forward with an annexation agreement to be approved by the City Council.

City Planner Kellie Smith explained that the applicant, Shaun Athey representing Phyllis Smith, 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.

The proposed property is in the Highland City Annexation Policy Plan and planned to be zoned R-1-20. There is not enough road frontage to subdivide the property into 2 lots, so the applicant has requested that the city-owned parcel to the east count as road frontage.

City Planner Kellie Smith went through all of the typical utility requirements and impact fees for a 2-lot subdivision on the subject parcel as explained in the staff report.

Commissioner Moore opened to public comment.

Commissioner Abbott asked for clarification on what has been done on the Highland parcel. He also wanted to clarify what was in the variance which included putting curb and sidewalk along 9600 N, but not all along the side of the property going towards the Miners. Mr. Athey explained that the Miners added asphalt 5 or so years ago at their own cost. It is being used by the Miners and the home to the east.

Commissioner Thayn asked how wide the city access drive was. Mr. Athey said 11 feet wide. City Planner Smith clarified that the Highland parcel is 54.5'. Part of the annexation would be a requirement that Ms. Smith would be required to dedicate 1.5' south of the home to Highland City to meet our 56' road right of way code. Mr. Athey was asking not to have that included as the existing fence is on that 1.5' piece of property.

Commissioner Abbott asked about access for public safety and utilities. City Planner Smith explained that the Miner's property is a lot lower than Phyllis's property. As far as storm drain and sewer, City Planner Smith could not say how they will be affected until civil engineering is completed for the property, but there will be the minimum amount of road with the 56' right of way for public safety.

Commissioner Abbott wanted to know if Ms. Smith will take care of her side and will the Miners take care of the other part. City Planner Smith said that there are no great records on the annexation of the Miner's property. We only have the minutes from the 1988 City Council meeting. There is no annexation agreement, but minutes say they would make improvements if they choose to subdivide. The road on the east side of Ms. Smith's property was dedicated for that purpose, and hence dedicated to the City. Mr. Athey stated that the Smith's don't feel like they should have to develop the road as they are not trying to subdivide to sell. The Miners are not objecting to the annexation but do support all the upgrades of public improvements that are supposed to happen with a new home as stated in the Highland City Code. Commissioner Moore asked if the homeowner to the east knows that they are using Highland City property to access their property. City Planner Smith didn't know, but stated this property does have the road frontage to their property from 9600 N.

City Planner Smith explained that the only way Ms. Smith can subdivide is to be annexed into Highland City. If the property stays in Utah County, they will not be able to subdivide. Commissioner Thayn was wondering that if Ms. Smith is applying because of hardship, developing is expensive and was wondering where she was getting help. It was said that her son-in-law was planning on helping with the finances.

Commissioner Thayn asked if it was normal to do the annexation and ask about the improvements. City Planner Smith explained that we are setting up the terms for the annexation to make sure it would work per City code. It was suggested that a concept drawing with what is wanted, the variances that are being requested, and what is going to be split between the Smiths and the Miners be shown on that concept drawing. Commissioner Thayn questioned how we can make sure it all gets done. City Planner Smith explained that staff thought about the idea of requiring a bond for the public improvements at the time of annexation, but then the applicant would need civil drawings and an approved engineer's estimate. Staff thought that was a little too much to require at this stage.

Commissioner Trent Thayn *MOVED* that the Planning Commission recommend *APPROVAL* of the proposed annexation and require that a concept plan showing all public improvements be included in the annexation agreement, and include the Council's recommendation of only requiring the 20 feet of asphalt rather than the standard 27 feet, and that all other improvements be compliant with Highland City Code.

Commissioner Jerry Abbott *SECONDED* the motion.

The vote was recorded as follows:

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

Motion carried 6:0

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

Commissioner Moore asked about the Dry Creek reservoir we share with Lehi. No one really had answers. The Commissioners were directed to Larry Mendenhall and the Lehi City website. The agenda for the Highland Fling was brought up, again didn't have access to the schedule. Commissioner Thayn talked about the Highland budget meeting. The big question was about the open space tax being removed and questions about it.

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 Maughan moved to adjourn the meeting. Commissioner Abbott seconded the motion. All were in favor.

The meeting ended at 8:25 PM.

I, Gretchen Homer, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on May 23, 2023. The document constitutes the official minutes for the Highland City Planning Commission Meeting.

/s/Gretchen Homer

DRAFT



PLANNING COMMISSION AGENDA REPORT ITEM #4

DATE: June 27, 2023
TO: Planning Commission
FROM: Kellie Smith, Planner & GIS Analyst
SUBJECT: **ACTION:** Zoning Approval – Zaana Jewelry
TYPE: **LAND USE (ADMINISTRATIVE)**

PURPOSE:

The Planning Commission will consider a request by Zachary Fackrell to allow Zaana Jewelry—a jewelry retail and ecommerce business—as a permitted use in the Professional Office Zone. The Planning Commission will take appropriate action.

STAFF RECOMMENDATION:

Staff recommends the Planning Commission review both the requested use’s compatibility with the allowed Professional Office uses in the Development Code, and Staff’s review and findings, and either **APPROVE** or **DENY** the requested use.

BACKGROUND:

The Development Code allows the following conditional uses in the Professional Office (P.O.) Zone:

1. Professional offices and services including but not limited to: architects, engineers, contractors, real estate offices, property managers, and mortgage and title offices.
2. Financial or legal offices consisting of but not limited to: banks, insurance offices, and law or accounting offices.
3. Medically related offices/services consisting of but not limited to: doctor's office, dentist's office, pharmacy, physical therapy, optometrists, chiropractors, counselors, and psychiatrists.
4. Other types of Professional Services including but not limited to: information technology services, marketing, travel and employment agencies, journalists, collection agencies, educational services, daycares, music studios, photography studios, churches, colleges & schools (academic, preschools, special education, indoor instruction only).
5. Art and craft galleries, and studios for the teaching of arts and crafts.
6. Storage sheds not exceeding nine (9) acres as set forth in Exhibit “A”.

On the commercial business license application, the applicant described the business as, “Retail Jewelry and Ecommerce Website.”

In reviewing the application, staff determined that this use was not a permitted use. In communication with the applicant, they further described the business as follows:

“Zaana Jewelry is primarily an online e-commerce brand for affordable lifestyle jewelry designed for daily wear. We assemble components and hand package each and every order and ship with USPS / UPS.

This location will serve as a small in-person experience for local pick up for online orders and also offer custom jewelry education and consultation for couples looking to design custom engagement rings. Having a professional appearance is important to maintain a reputable expert in the industry.

This space will also be used as a photo studio for our brand so clean walls and areas to display our product will be great.”

Because the applicant is requested to offer retail services that are not expressly listed as a conditional use in the P.O. Zone, as explained in Section 3-4903 Prohibited Uses, the Planning Commission shall evaluate the use for compatibility.

SUMMARY OF THE REQUEST:

The applicant is requesting the Planning Commission allow for a jewelry retail and ecommerce business to be a conditional use in the Professional Office Zone.

STAFF REVIEW:

Professional Office Zone Review

Section 3-4902 of the Development Code states, “The P.O. Zone is intended to allow the provision of professional services, and not general retail commercial.” The Development Code does not specifically define “general retail.”

The only prohibited use that is explicitly prohibited in the P.O. Zone is the following:

1. Residential occupancy is not allowed in the professional offices or storage sheds themselves, but living quarters for full-time employees having onsite responsibilities for this storage facility may be permitted as part of the conditional use process.

All other uses are to be evaluated by the Planning Commission for compatibility with the zone.

Conditional Use Review

Because the proposed use is a conditional use, the Planning Commission should review the criteria outlined in Section 4-104 General Requirements in Chapter 4 Conditional Use Procedure. Below is a summary of the review criteria that Staff determines is relevant to this business license application:

- The site of the structure or use
 - Adequacy of the site
 - Adjoining Uses
- The impact of the proposed use on surrounding uses
 - Impact of patrons
 - Hours of operation
 - Off-site effects
- Compliance with the intent of the General Plan and Characteristics of the

Vicinity or Neighborhood

The applicant provided the following information:

- Anticipated number of daily customers: 5-10
- Number of employees working at the location: 3-4 primarily in order fulfillment but will attend to local pickup, customers, and appointments for custom consultations.
- Hours of operation: 9:00 am – 5:00 pm
- Expected off-site impacts from the use: None.

FINDINGS:

The proposed amendment meets the following findings:

1. The use does not create any prohibited nuisances.
2. The site and building in which the use is being proposed received approval of a conditional use permit on December 3, 2019. The conditional use permit allowed for the conditional uses listed in the P.O. Zone. Neither retail, nor assembling and shipping are listed as conditional uses in the P.O. Zone.

FISCAL IMPACT:

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

MOTION TO APPROVE:

I move that the Planning Commission **APPROVE** the requested use in the Professional Office Zone based on the following findings: (the Commission will need to draft appropriate findings).

MOTION TO DENY:

I move that the Planning Commission **DENY** the requested use in the Professional Office Zone based on the following findings: (the Commission will need to draft appropriate findings).

ATTACHMENTS:

1. Commercial Business License Application



Highland City Commercial Business License Application

5400 West Civic Center Drive, Suite 1, Highland, Utah 84003
Office Hours: Monday - Thursday, 7:30 a.m. - 6:00 p.m., Closed Friday
Office (801) 772-4523 or Fax (801) 756-6903

OFFICE USE ONLY

Application Date: 6.13.23 Application Fee: 90.00 Receipt #: XBP 6.13.23 License #: 1325

NOTE: BUSINESS LICENSES ARE VALID JULY 1ST THROUGH JUNE 30TH AND MUST BE RENEWED ANNUALLY. RENEWAL LETTERS ARE MAILED PRIOR TO JUNE 30TH EACH YEAR. PRINT CLEARLY OR TYPE AN ANSWER TO EVERY QUESTION. IF ANY REQUIRED INFORMATION IS NOT PROVIDED AT THE TIME OF APPLICATION, THE APPLICATION WILL BE HELD FOR ONLY A PERIOD OF 90 DAYS, AFTERWHICH TIME A NEW APPLICATION MUST BE SUBMITTED.

Check license type applying for (please see reverse side for additional clarification):

- ☒ Class I - General Business
☐ Class II - Private Club w/Liquor
☐ Class III - Manufacturing, Milling, Mining, Fabrication, etc.

Registered Business Name: ZAANA JEWELRY
Registered DBA (if applicable): _____
Business Location: 11235 HIGHLAND BLVD #104 HIGHLAND UT 84003
Mailing Address (if different from business location): _____
City: HIGHLAND State: UT Zip: 84003
Business Telephone: 801-879-3901 Business Email: Zach@ZaanaJewelry.com
Business Website: www.ZaanaJewelry.com
Business Entity Number: 11807264 - 0160 *Number provided by Utah Department of Commerce
State Sales Tax Number: 15685409-003-STC *Number provided by Utah Tax Commission
DOPL License (if required): _____ Federal License Number (if required): _____

Business Owner's Name: ZACHARY FACKRELL
Owner's Address: _____
City: HIGHLAND State: UT Zip: 84003
Owner's Telephone: _____ Owner's Email: _____

Local Manager's Name: _____
Manager's Address: _____
City: _____ State: _____ Zip: _____
Manager's Telephone: _____ Manager's Email: _____

Describe your business in detail:

Retail Jewelry + Ecommerce Website

Please complete the following:

Please Circle

- Will any materials considered flammable, toxic, poisonous or otherwise hazardous be kept at the business?
- Will there be any outside storage of material, supplies, equipment, etc.?
- Will any excessive noise be created by the business?
- Is your business a food establishment?

(Yes) (No)
(Yes) (No)
(Yes) (No)
(Yes) (No)

*Must include a copy of County Health Permit/USDA permit.

FEES

Class I – General Business

Business License Filing Fee (unless specifically noted below)	\$90.00
Auto Repair/Mechanical	\$230.00
Auto Repair/Painting	\$300.00
Mobile Paint Services	\$230.00
Gasoline/Propane Dispensing (Gas Stations)	\$230.00
Dry Cleaners	\$160.00
Large Retail (Grocery Stores)	\$300.00
Tobacco-Smoke Shop	\$275.00
Hotel/Motel/Rooming House	\$375.00
Fireworks - Indoor Sales/Outdoor Sales	\$225.00
Hospitals	\$300.00

Class II – Businesses Serving Alcoholic Beverages

Private Clubs w/Liquor License	\$420.00
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Class III – Manufacturing, Milling, Mining, Etc.

Wholesale/Bulk Oil Dispensing	\$300.00
Mineral Extraction	\$400.00
Hazardous Materials	
Storage Only	\$230.00
Mixing/Dispensing/Use	\$300.00
Large	\$375.00

Note: Please phone Lone Peak Fire District to schedule a fire inspection prior to application at (801) 763-5365. If the location is part of new construction, then the fire inspection should occur automatically as part of the building permitting process. The commercial business license will NOT be approved until after record of the passed fire inspection has been attached or forwarded to the City.

By signing below, I affirm under penalty of perjury that:

- I agree to comply with all Highland City ordinances as set forth in the municipal and development codes regulating commercial type businesses.
- I understand that it is solely my responsibility to comply with all federal or state regulatory requirements that are applicable to my type of business activity and affirm that I have received approval or am in process of receiving approval from any such entity. I understand that Highland City may reach out to such entities to confirm approval or application and that denial from said entity may impact my ability to operate in Highland City.
- I understand all Highland City business license applications may be evaluated by business licensing, building, police, fire, health, and zoning departments.
- The privilege to have a business in Highland is granted only by the City Administrator through authority of the Mayor and City Council.
- At least 10 working days are required for an investigation period. This period may be extended if necessary to complete the investigation.
- I further understand that if the license is disapproved for any reason, the entire application fee may not be refunded, as the fee may be used to partially defray investigation and administration costs.
- A license will only be issued upon completion and satisfaction of all application requirements, investigation process and approval of the City Administrator.
- Approval of license is based on the applicant's continual compliance to all Highland City, Utah State, and Federal codes, laws, and regulations governing such businesses and may be revoked if applicant is found in violation.

Applicant's Signature: _____

Date: 6.7.2023

OFFICE USE ONLY

Business Licensing Official Approval: _____

Date: 6.14.23

State/Federal Department Licenses/Permits applicable to business: _____

Zoning Approval: _____

Date: _____

Building Official/Inspector: ☐ N/A Certificate of Occupancy or Inspection Report Attached

Date: _____

Fire Chief/Marshall: ☐ N/A Fire Inspection Report Attached

Date: _____

City Administrator Approval: _____

Date: _____



PLANNING COMMISSION AGENDA REPORT ITEM #5

DATE: June 27, 2023
TO: Planning Commission
FROM: Kellie Smith, Planner & GIS Analyst
SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment - Planning Commission Voting
TYPE: **DEVELOPMENT CODE UPDATE (LEGISLATIVE)**

PURPOSE:

The Planning Commission will hold a public hearing to consider a proposal by Highland City Staff to amend Article 2 Planning Commission in the Development Code to add the requirement that the majority of the Planning Commission must be in favor in order for a motion to pass. The Planning Commission will take appropriate action.

STAFF RECOMMENDATION:

Staff recommends the Planning Commission hold a public hearing, accept the findings, and recommend **APPROVAL** of the proposed amendment relating to Planning Commission voting.

PRIOR COUNCIL DIRECTION:

At the City Council meeting on May 2, 2023, a couple of Councilmembers expressed their concern with a Planning Commission vote passing without the majority of the Commission being in favor. The City Attorney stated that it was an issue of quorum versus majority voting in order for an item to pass; the City Code does not address the issue, so the default is that a majority of those present is needed in order for an item to pass rather than a majority of the total makeup of the Commission. The Council briefly discussed the issue and communicated that an amendment to the code is appropriate to ensure clarity on the number of votes needed for a motion to pass.

BACKGROUND:

Section 2.12.210 of the Municipal Code details the minimum number of affirmative votes required in order for a motion to pass for the City Council:

1. The minimum number of affirmative votes required to pass any ordinance, resolution, or to take any other action by the city council, unless otherwise prescribed by law, shall be a majority of the members present but shall never be less than three affirmative votes.
2. Any ordinance, resolution or motion of the council having fewer favorable votes than required herein shall be deemed defeated and invalid, except a meeting may be adjourned to a specific time by a majority vote of those present.

The City Council directed staff to move forward with a text amendment to require that

Planning Commission votes follow the same rule. When staff first reviewed the Development Code, staff thought to add the regulation to Section 2-201 Establishment of Planning Commission, however upon further review, staff decided it would be best to add it to Section 2-205 Duties and Powers.

SUMMARY OF THE REQUEST:

The proposed amendment adds the following wording to Section 2-205 Duties and Powers in Article 2 Planning Commission in the Development Code:

- The minimum number of affirmative votes required to make a recommendation to the City Council, or any other approval as outlined in this Code, shall be a majority of the members present but shall never be less than four (4) affirmative votes.

CITIZEN PARTICIPATION:

Notice of the public hearing to be held at the Planning Commission meeting was posted on the state and city websites and three public places on May 18, 2023. At the time of this report writing, staff has received no public comment.

STAFF REVIEW/FINDINGS:

The proposed amendment meets the following findings:

1. It is consistent with the current practices of the City Council as defined in the Municipal Code.

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 Section 2-205 Duties and Powers in the Development Code to add the requirement that the majority of the Planning Commission must be in favor in order for a motion to pass.

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SECTION 2-205 DUTIES AND POWERS IN THE HIGHLAND CITY DEVELOPMENT CODE TO ADD THE REQUIREMENT THAT THE MAJORITY OF THE PLANNING COMMISSION MUST BE IN FAVOR IN ORDER FOR A MOTION TO PASS AS SHOWN IN FILENAME TA-23-07.

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

WHEREAS, the Planning Commission held a public hearing on this Ordinance on June 27, 2023 and

WHEREAS, the City Council held a public hearing on this Ordinance on July 18, 2023.

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

SECTION 1: **ADOPTION** Section 2-205 Duties and Powers of the Development Code is hereby amended as shown on “Exhibit A” attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from July 18, 2023 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, July 18, 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	☐	☐

EXHIBIT A

2-205 Duties And Powers

The minimum number of affirmative votes required to make a recommendation to the City Council, or any other approval as outlined in this Code, shall be a majority of the members present but shall never be less than four (4) affirmative votes.

The Planning Commission shall have the following powers and duties:

1. The Planning Commission, as provided by Sections 2-101 to 2-103, shall prepare and recommend to the City Council, a General Plan and amendments to the General Plan.
2. The Planning Commission may make reports and recommendations relating to the planning and development of the City to public officials and agencies, and other organizations and citizens. The Planning Commission, its members and employees, in the performance of its functions, may enter upon any land at reasonable times to make examinations and surveys.
3. The Planning Commission shall prepare regulations governing the subdivision of land within the City or amendments to such regulations and to submit said regulations or amendments to the City Council for adoption.
4. The Planning Commission shall review and recommend approval or denial of all subdivisions of land as provided in Sections 5-101 to 5-129.
5. The Planning Commission may, or by order of the City Council shall, make and recommend to the City Council a zoning plan, including both the full text of the zoning regulations and maps and amendments thereto. The zoning regulations, including the maps, may be amended from time to time by the City Council. However, all proposed amendments shall be first submitted to the Planning Commission for its recommendation which shall be returned to the City Council for its consideration within thirty days.
6. The Planning Commission shall hear and decide all applications for conditional use permits except as otherwise provided in this code. (e.g. Commercial Zone)
7. The Planning Commission, by order of the City Council, shall make and recommend to the City Council a multi year improvement program which shall set forth an orderly program for the acquisition of land, buildings and other facilities that are needed for City purposes.
8. The Planning Commission may conduct hearings and meetings with interested property owners, officials and citizens in the process of carrying out its functions.