

MINUTES
PLANNING COMMISSION REGULAR MEETING
November 16, 2021 – 6:00 P.M.

CALL TO ORDER

The regular meeting of the Planning Commission of the City of Highland was called to order at 6:00 p.m. by Chair Hamerly at the Donahue Council Chambers, 27215 Base Line, Highland, California.

Present:	Chair	Randall Hamerly
	Vice Chair	Chandra Thomas
	Commissioner	Edward Amaya
	Commissioner	Jarrold Miller
	Commissioner	Jessica Sutorus

Staff Present: Lawrence Mainez, Community Development Director
Kim Stater, Assistant Community Development Director
Ash Syed, Associate Planner
Angela Tafolla, Assistant Planner
Angelica Martinez, Planning Technician II
Matt Wirz, Building Official
Scott Rice, City Landscape Architect
Camille Goritz, Administrative Assistant III

The Pledge of Allegiance was led by Chair Hamerly.

COMMUNITY INPUT (ITEMS NOT ON THE AGENDA)

None

CONSENT CALENDAR

1. Minutes from the November 2, 2021 Regular Meeting.

A MOTION was made by Commissioner Sutorus seconded by Vice Chair Thomas, to approve the minutes, as amended. Motion carried, 5-0.

PUBLIC HEARING

2. An Appeal of Staff's Approval of the keeping of two (2) miniature Nigerian dwarf goats for a residence in a Single-family (R-1 10,000) Zoning District; Appeal No. APP-21-003 for Staff Review Permit No. SRP-21-005 (30018 Frontera Del Sur)

Assistant Planner Tafolla presented the staff report.

Chair Hamerly stated regarding how the ordinance is written, what triggers the staff level approval versus keeping domestic animals in a rear yard?

Assistant Planner Tafolla stated there is two places in our Highland Municipal Code (HMC) that have animal provisions. The residential zoning portion in our HMC under

16.16.030 Special Use Regulations, the area allows animals to be kept in residential zones. Under our HMC section 16.44.040 is where it regulates how certain animals are permitted. That area calls out for a staff review approval.

Chair Hamerly stated certain types of animals have been domesticated, and if they are not being used for agricultural use, how do we differentiate what is a domestic pet and what is considered an agricultural use? Is it the level of intensity or go back again to the type of animal?

Assistant Planner Tafolla stated HMC section 16.44.040 calls out domestic pets such as cats, dogs, and then it goes on to list specific animals.

Chair Hamerly stated ok, because I know that in various neighborhoods, maybe not necessarily in Highland, but people have llamas, alpacas, ostriches, variety of animals, and they are more domesticated as opposed to being used for a commercial purpose. I was wondering if the numbers are entitled by right of zone if it still triggers the staff review or approval just based on the type of animal if they are not a traditional cat or dog.

Assistant Planner Tafolla stated right, so it doesn't call it out as whether the goat is domesticated or not. It just lists goats and sheep's specifically in that section for staff review.

Chair Hamerly stated ok, I guess the end of that would be is the lot large enough that you could keep a full-size horse, which you would say it is an intense use, but certain types of horses such as the miniature horse are kept as domestic pets. Obviously, nobody is going to be riding a miniature horse that doesn't have a cleft growth, so would that also trigger a staff level review?

Assistant Planner Tafolla stated yes, for horses, the code does not specify size. It has age listed, so if they're younger than six months, we don't include them on the count of animals. Once they are past six months, they're included on the the count that can be kept.

Chair Hamerly stated ok, so the sole trigger is the type of animal if they're not specifically listed as an accepted domestic animal a staff level review would be required.

Assistant Planner Tafolla stated correct. Same thing with pigs and potbellied pigs, but our code just states pigs not related to which type.

Chair Hamerly stated based on the chronology, it looks like the complaint triggered the application for the permit. During that review process, did the positive responses come in at that time or was the complaint the sole feedback that staff received during that process?

Assistant Planner Tafolla stated we didn't get any positive responses during that time. Initially the application had included chickens, and we received a comment back about not wanting them to have chickens, however the chickens were removed from the application. It was possibly added by mistake, that was the only comment we see negatively from other neighbors.

Chair Hamerly opened the public hearing.

Christina Puraci, Appellant, stated I am here to request that you overturn the staff approval of staff review permit SRP-21-005. I have been a City of Highland resident for 18 years. Highland is where I choose to live because it is secluded. It's an excellent place to raise a family, it's a quiet hidden town. Sometime in April or May 2021 my neighbors decided to do something that might be good for their family, but it is impacting my family negatively. If you looked at the attachment in the original document as Mr. Avila included a comment in attachment #8, he stated that he can hear the goats, but it does not bother him. If Mr. Avila can hear the goats and he lived across Alta Vista, which is the main street in our neighborhood at the corner of Frontera Del Sur, you can imagine how much I can hear the goats since they are directly adjacent to my backyard. The only thing that is between my yard and the goats is the wrought iron fence and it is 20 feet from my bedroom. Some of the videos that you saw was from my bedroom with the window closed. I have no luxury to have a private moment in my bedroom anymore. I provided evidence and it is not that I don't like the goats, it is not that I don't like the neighbors, I just don't like that noise. I don't think there is anything else to say, you have the videos and yes, Mr. Payne did put some videos and we had some pool parties. In July we were away in vacation, and somebody was housesitting and sometimes we do have parties, we have kids. I heard the videos and I'm cringing already just by hearing everything you just heard because that's what I hear. We don't have the luxury to open our windows anymore to get fresh air. We are using our air conditioning day and night since there is no way to open our windows without hearing that cringing and annoying noise. I do not have the luxury to spend a relaxing time on my patio. The goats are roaming freely, and they are so close to my house. We do not have the privilege to open the patio door when we have dinner now that it's cooler outside or to have quality private time in our bedroom, that privilege has been taken away from my family. As you can hear they sound like someone is hurting them. The bleeding of the goats are tiresome at all times, day and night. As I provided the video at 11:00 PM is the constant stress in the expectation of them starting to cry and the anticipation that God awful noise will start again. We are tense about the next bleeding crying session. This is not just in the back of my house, like Mr. Avila mentioned he can hear the goats from his house, which is three houses down across Alta Vista. I can hear them from the furthest room in my house. The noise is real and is a nuisance. To sum it up, our quality of life has been diminished. I cannot imagine living like this for the next 15-17 years, since that is how long a goat lives. I did a lot of research on goats, I have a lot of folders in my computer, on my phone with videos. We bought this house with the idea to retire in it. The constant stress of when the goat makes the cringing sound is not healthy and the ability to open a window for fresh air is unhealthy and expensive since we still have to use air conditioning while the temperatures are lower. I am pleading with you to deny the approval as you can simply see that the goats are a nuisance for my family. At least if no one else is bothered in the neighborhood, if you look at the location of the house the three houses in the front are lower then it's higher, a little bit like on a terrace and the neighbors at top barely see the top roof of my house. Honestly, I'm the only one that is directly impacted, so I am pleading with you to deny the approval so we can get our life back.

Steven Payne, Applicant, stated first thing I wanted to address, the appellant acts like the goats do this all day and night. In the very beginning I bought these two goats as they were bred for pets. They're not regular random goats that eat weeds, they came from a farm in Corona and were around lots of kids. In the very beginning, I do admit

they were a little loud. Even the lady who gave him to me said these goats are very territorial and they need to adapt to their area, so, in the first few months they were loud. Then they settled down and occasionally, if they get fed a little late, sometimes they make a noise, but nothing nearly as much as she said. We closed escrow on our house and about a month after that, we received an anonymous letter stating that we had loud noise. It was from one of our painters that was working in the backyard. We didn't move in for three months after, this was the start of this endless texts. She would text at 2:00 AM, 4:00 AM you name it, stating the dog is barking and we did not have the goats back then. We live next to an orange grove, and we would get possums and rats and it would cause the dog to bark. My dog would bark, her dog would bark and after talking to all the neighbors about the goats it's nothing like what she says on the loud noises and how the property is situated. The sound travels up faster, and it travels down, Wendy, who is here tonight her house is in direct sight of the goats, and I have a few pictures of that as well. Christina's house foundation is 10 feet lower than our property line. I went around to all the neighbors, and I talked to every one of them. I asked them if there is a problem with the goats or are if they were loud. Every neighbor I went to said no, the goats are very quiet, at night, not a peep. At night they shelter in and do not make the noises like she said. My daughter was out there one night, and she heard Christina back there mocking the goats. I'll let the letters and emails speak for themselves; I am sure you read them. In the video you heard her dog back barking in the background, I've never once made a complaint. The whole time I've been there, her dog barks, she has pool parties, and I don't mind. When I heard she was filming videos when I was up at the top and I just happened to grab my phone and film it just to show it. In the whole nine years I've been there, I've had zero complaints, and I mean I got my complaint a month after and walking the neighborhood other neighbors have received anonymous notes and letters about their dogs as well. Thank you.

Wendy Viola Neighbor stated I live where you see that white roof at the end of their property. At the beginning Steven Payne said the goats were trying to get acclimated. When they put the goats in the pen they would cry because they wanted to get out and play with the kids. So, the kids would go out there and play with them and they were fine. Now that they've acclimated their time and space, you hardly ever hear those goats. I sleep with my windows open every single night. My husband is sick, he just got diagnosed with cancer so he goes out and sits in the back yard, if they were a nuisance, he wouldn't go out there. I go out there for emotional support believe it or not, with those goats. I call them up, they might make noise just a little bit as they ramp the hill because they're excited. I feed them apples, my basil and anything from my garden and I sit out there for emotional support and pet them just to make me feel better. If they were loud every single night, I swear I would tell you my husband is a Police Officer, he'd probably be the first one to complain and say it. The kids walk them around, they have them on leashes, they wear collars, and they play with everybody there. They are no nuisance at all. Once in a great while, they do make a noise here and there and they'll whinny when the kids are playing and chasing them or even when their dogs chasing them. The dogs and cats in my neighborhood are way more nuisance than the goats are, because once those goats go to bed at night and unless there are animals in their backyard around their cage, they don't make a noise after they're put in there. It's just sad, I mean it is the kid's pets. I'm sorry she feels like she's nuisance by it, but I've talked to the neighbors and the only complaint that they had had was they were worried they were going to get a rooster and some chickens. Not one person has complained about the goats whatsoever and for smell wise, the dogs smell way worse than what a goat does. I don't smell them and I'm out there all the time so that is my input on the situation.

Chair Hamerly stated HMC section 16.44.040, states the property owner is required to keep the animals a minimum distance of 50 feet from a street and 20 feet from any property line. I noted that the goats seem to have free reign of the rear yard and knowing the eating habits of goats, they'll eat anything that's edible and some that's not. I was wondering if there is any additional enclosure or barrier that needs to be put up within the rear yard specifically, on the eastern property line. It would keep them 20 feet away from the appellants property. That might mitigate some of the sound, the goat's propensity to eat the plant materials that are growing on the property line and would give a little more screening.

Assistant Community Development Director Stater stated that is a condition that you can impose on the application at this point under your purview.

Chair Hamerly stated it doesn't seem like it would be a condition, It looks like it's a requirement.

Assistant Community Development Director Stater stated it's a requirement for the animal to be kept that distance hence the enclosure. It does seem that the animal needs to be out, get exercise, and roam around. We would hope that the owner would maintain that distance without the additional barrier, but it doesn't seem to be the case so we could ask the property owner if they're opposed to that, otherwise the animal should perhaps be kept in the enclosure.

Chair Hamerly stated I notice that there was a mesh screen that was put up on the lower level of the tube steel fence on the subject property line. I'm assuming that was done so they wouldn't put their heads through the fence.

Christina Puraci stated the mesh fence was put in because as Mr. Payne was stating, complaining about dogs, and at some point, they had three dogs. One of their little dogs ended up in our house because he would squeeze into the fence, and we would come home, and find his dog in the house. One of them was digging and we found his dog in our backyard, so the mesh fence was put by us previously years ago.

Chair Hamerly stated ok, thank you. In terms of mitigation, I would suggest that we may want to add the condition so that they are in compliance with the ordinance as written since it was a staff review that entitled the animal.

Community Development Director Mainez stated I had a brief conversation with staff about that, if it was the preference of the Planning Commission tonight to uphold staff's approval, we would certainly look more in depth at the code requirement, because it did catch my eye. We will need to go back and look at how we can mitigate that. For example, put a small fence or chicken wire, 20 feet to keep the goats centralized and away from the properties. The animal must be 20 feet away from every property lines clear.

Chair Hamerly stated it looks like the enclosure is within 20 feet of the western property line.

Steven Payne stated it's about 5 feet. I was going to move it to the middle and my neighbor insisted to keep it over on my side.

Community Development Director Mainez stated that doesn't comply with the code they will have to move it over.

Chair Hamerly stated that's my point staff must comply with the code, so it's not an arbitrary interpretation.

Commissioner Amaya asked are the homeowners complying with the conditions for approval as written?

Community Development Director Mainez stated except the one regarding being 20 feet away from property lines.

Wendy Viola stated I don't want the goats not to be able to come up to my house, those goats are an emotional support animal for me. I don't want mesh to keep the goats from coming up to my house.

Community Development Director Mainez stated I want to add there are two conditions. Condition number 5 states animal keeping shelter shall comply with the site plan approved by planning staff on file. We will have to make sure that this meets the setback requirements. Condition number 7 states all ordinances, policy resolutions and standards of the city in effect at the time this project is approved shall be complied with as a condition of this approval. The code does require 20 feet from all property lines.

Chair Hamerly asked so no additional condition of approval would be necessary because of item 7?

Community Development Director Mainez stated that's correct.

Commissioner Sutorus stated moving that enclosure 20 feet the other direction is only going to upset the issue. If you do have permission from that property owner that they wanted it on that site, that's better for our issue.

Vice Chair Thomas stated I agree.

Commissioner Sutorus stated I caution if you do make that statement and make it a requirement, I don't think that's going to be helping the issue today.

Community Development Director Mainez stated this meeting is not an amendment to the code. They're (goats) not your typical domestic animals and falls into that little subcategory, and the code clearly state 20 feet from property lines.

Chair Hamerly stated to rectify the situation, we would almost have to direct staff that we would support a variance to certain provisions, and it would be written as a variance and would require a separate hearing. Is that correct?

Community Development Director Mainez stated that would be a separate application, fee, and a process. That is not on the agenda tonight.

Chair Hamerly stated we don't have the ability or the jurisdiction to deviate from an ordinance. We can only say is this is in compliance with the ordinance, or is it not? The

fact that it has been the use has been approved, that triggers you can do it, but it must comply with the ordinance as written. If there are adjacent neighbors that would prefer the enclosure to be right on their property lines so they could feed the animals, that would require a variance in order to enable the goat owners to have the goats immediately on the property line.

Community Development Director Mainez stated I would agree with that. There would be a variance. I would like to talk about another code, and it talks about animals within residential districts and at the end of that first paragraph, I'm not going to read it all, but just for your consideration that there is confirmation that a nuisance condition will not be created. What the Appellant is trying to demonstrate tonight is that there is a nuisance, and so even though staff approved the project, assuming that there wasn't any nuisance, the Appellant tonight is trying her best to demonstrate that there is a nuisance in that should be the reason why the Planning Commission deny staff's approval for the goats. Rather than trying to do a variance of the code. I think you just need to determine is a nuisance. That would be enough for us to come back with a resolution of denial of staff's approval or just move forward and allow the goats to stay on that property as is.

Chair Hamerly stated so the threshold for the findings of a nuisance at least in my experience with past applications where we're trying to find findings of convenience and necessity or for whatever. The findings of a nuisance typically could not be based on a single complaint because I am hard pressed to find a convenience store, gas station or similar business that has filed for a Conditional Use Permit in the city where there hasn't been at least one competitor that is complained and not supported the application. That wouldn't be the findings necessary to deny the application because somebody does not support it. The nuisance would have to be everybody acknowledges that there are smells, flies, and noise, it would just impact everybody, and everybody would be more or less in agreement that there is a nuisance. That's where I'm questioning, if one complaint triggers defining that there is a nuisance, or if it's a preponderance of property owners within the impacted area. Call it immediately contiguous, whatever threshold we need to determine that there is a nuisance.

Community Development Director Mainez stated the test for being a competitor of an application is a little bit different than declaring a nuisance.

Chair Hamerly stated it wasn't a good illustration, it was just an illustration.

Community Development Director Mainez stated I understand. There isn't any written example in terms of quantity of complaints, I think we must treat even one complaint is enough as long as there's enough substantiation that it's overwhelming for the Appellant. It is new information we didn't know about before, and with all facts given and weigh evenly you can base your decision on one person speaking up because of their location relative to the topography, the wind, or their slope. This is a nuisance for the Appellant, I think the complainant is doing their very best to demonstrate that there is a nuisance here and we need to recognize that. We can certainly go the other direction or ask what we can do to mitigate the use of the two goats. We spoke about the setbacks, about putting up some small barrier to keep the goats away from the fence.

Vice Chair Thomas stated it is unfortunate that the neighbors can't come to some resolution, especially when there's so many in favor of the goats. I think it's always good for people to work together, and maybe there's a solution where it's not coming to an

Appeals Board to make the decision for you guys. It is tough to say that we're going to rely on one, 10% of the population for the neighbors to say that it's a nuisance, but at the same time I understand you have that wrought iron right behind you.

Commissioner Amaya stated I would support that too.

Commissioner Miller asked if the city had any language that specifically defines what the nuisance is?

Community Development Director Mainez stated the way the Appellant is presenting the issue is it sounds like it's the bleeding sound of the goats. There are provisions in our code that look at that type of nuisance (animal noise) and we do take those seriously.

Commissioner Miller stated when we get down to the bare bones of what we need to decide about tonight is there a nuisance or not, correct?

Community Development Director Mainez stated that's correct.

Chair Hamerly stated it is either finding for the Appellant or supporting staff granting of the permit for the use.

Commissioner Sutorus stated I support staff's granting of the permit for the use. I don't feel there is substantial evidence to show that there was a nuisance of the goats.

Chair Hamerly stated it doesn't look like the section of code that the permit was granted, or the use was granted was under an agricultural use. It was a specific type of cloven hoof domesticated animal, if they were keeping cows and sheep for commercial purposes that would be a separate level of review. Is that correct?

Community Development Director Mainez stated that's correct. There is a list different types of animals and different reviews for each.

Chair Hamerly stated so it's noncommercial domestic.

Community Development Director Mainez stated it is an acceptable type of animal for a residential area.

Chair Hamerly closed the public hearing.

Assistant Community Development Director stated the Planning Commission would want to approve the resolution that starts on page 41 and that action is to deny the appeal and uphold staff approval.

A MOTION was made by Vice Chair Thomas seconded by Commissioner Amaya for Resolution 2021- 021 of the City of Highland, California to deny appeal and uphold staff's approval of staff review permit SRP 21-005 to keep two (2) miniature Nigerian dwarf goats at 30018 Frontier Del Sur, Highland, California. Motion carried, 4-0-1, with Commissioner Miller opposed.

ANNOUNCEMENTS

The next Planning Commission meeting is scheduled December 7, 2021.

Community Development Director Mainez discussed with the Planning Commissioners their thoughts on the option of only having one public meeting a month instead of two.

ADJOURN

There being no further business, Chair Hamerly declared the meeting adjourned at 7:36 p.m.

Submitted by:

Approved by:

Camille Goritz, Administrative Assistant III
Community Development Department

Randall Hamerly, Chair
Planning Commission