

**MINUTES OF THE HOLLADAY CITY
PLANNING COMMISSION MEETING**

**Tuesday, August 22, 2006
7:00 p.m.
Council Chambers
4707 S. Holladay Blvd**

ATTENDANCE

Planning Commission Members:

Jim Palmer, Chair
Gene Carr
Howard Diederich (excused at 10:14 p.m.)
Cyrus McKell, Vice Chair
Brad Scott
Lynda Shields
Paul Shupe

City Staff:

Paul Allred, Community Development Director
Alma Haskell, City Planner
Pat Hanson, City Planner

Chairman Palmer called the meeting to order at 7:09 p.m. and read the Commission statement.

1. DECISION ITEMS.

1.1 Public Hearing/Discussion and Recommendation - Holladay Village Center Master Plan and Street Configuration (19:13:15)

City Planner, Pat Hanson, reported that three separate items would be addressed tonight pertaining to the Village Center. She reported that the master plan was originally adopted in 2003 and there were no drawings attached to it. Staff was in the process of amending it. Staff was confident that the concept could work. They did have concerns, however, with parking. In Block 3, staff suggested the entrances and exits line up with the entrances in Block 4. The plan itself did not cover the whole area of the HVC Zone. As a result, staff suggested the plan be modified slightly in order to cover the whole area. Staff felt that overall the concept plan was good overall and recommended adoption with a few minor changes.

Ms. Hanson stated that the second item on the agenda pertained to the zone and development standards. She explained that the ordinance amendment would affect several portions of the existing ordinance. Changes were recommended to various chapters affecting the Village Center. The Village Center Overlay chapter would be rescinded and the development standards rewritten. The Village Center was renamed the "Holladay Village." Decisions had been made throughout the process that had been written into the ordinance. Staff included a graphic in the ordinance showing where two and three-story buildings would be allowed.

Ms. Hanson identified the third issue to be voted on as an amendment to the zoning map.

(19:21:41) Dan Lofgren commented that the design guidelines prepared by staff were very good. He did, however, recommend some refinements to them. A significant work meeting was conducted a few days earlier at which time most issues were worked through. He felt that what was needed for the redevelopment plan to move forward had come together nicely but thought the road width issues still needed more discussion. While being conscious of the need to efficiently move traffic through the Village, he suggested the City be careful to not continue to expand the rights-of-way and lose the intimacy they were trying to achieve. He encouraged staff to move forward with adoption of the conceptual plan.

(19:24:10) Commissioner Diederich asked Mr. Lofgren to comment on the traffic study and how he envisioned the traffic affective neighbors. The concern was with minimizing cut through traffic in the surrounding neighborhoods and the potential for overflow parking to spill over into adjoining neighborhoods. Mr. Lofgren responded that they did not envision uses that would generate excessive noise. The proposed street configuration was expected to mitigate cut through traffic. He saw no points of real conflict where new traffic would be added in places where it would impact residential uses. He contended that while there would be destination traffic, it would not change the nature or configuration of the roads.

Height issues were discussed. Mr. Lofgren felt strongly that there was a need for architectural significance at the intersection. The zone was drafted with the right balance to allow for that architectural significance to take place and would be visible from a few blocks away. Three-stories were proposed knowing that the first level would be 16 to 18 feet tall. Above that, two levels of office or residential would be added. A height limit of 48 feet was proposed in the three-story areas. Mr. Lofgren believed that on-street parking was a critical component in terms of the viability of the small shops and boutique retail that would be encouraged. The opportunity for someone to be able to move in and out quickly was very important. As a result, they were looking to maximize on-street parking to the extent possible. Dr. Joe Perrin, who was conducting the traffic study, had reigned on-street parking in somewhat. While Mr. Lofgren appreciated the safety concerns raised, he stated that they would continue to put pressure on the concept to include on-street parking everywhere practicable. He understood that angled parking on the busy streets would act as a source of friction and tend to slow traffic down. He believed slowing traffic would help the pedestrian-friendly nature of the Village. The plan as proposed, did not show any on-street parking along Murray Holladay Road. He was hopeful that a provision could be found to allow a limited amount of angled parking on Murray Holladay Road, provided they are far enough away from the intersection on 2300 East.

(19:31:45) Commissioner Carr asked Mr. Lofgren to discuss further the areas where three-story buildings would be allowed. Mr. Lofgren stated that the intent was to allow three-story buildings along the south side of Murray Holladay Road with the notion that all four corners of the intersection could eventually take on a more significant profile that would taper off quickly from the intersection. The current proposal did not involve any new taller buildings on Block 3 in the southeast corner. The corner of Block 4 was believed to be fairly well established and likely to remain as-is for the foreseeable future. Mr. Lofgren clarified that the plaza would not involve three-stories.

Commissioner Palmer opened the public hearing.

(19:36:26) Steve Doxey thought a great job was being done. He had been supportive of the creation and redevelopment of the Village Center since the City was organized and was involved in the initial efforts with the master plan. One of his principal concerns was with providing a balance in order to create a destination without destroying the surrounding neighborhoods. He believed that any kind of increased commercial activity in the area would have the potential to do just that if they are not careful. He thought there were ways to mitigate some of the adverse impacts. He suggested that an adequate buffer be created in the ordinance to protect the neighbors. His concerns about impacts were principally traffic. He suggested they study more carefully the impact of the proposed interior streets and was slightly nervous about the impact of a new interior street feeding into Kentucky Avenue. Possible changes were suggested. Mr. Doxey expressed concern with the traffic impacts and thought they deserved further study. He also recommended there be consistency in the maps. He commended staff and the Commission for their efforts.

(19:41:10) John Adams, a Kentucky Avenue resident, recognized that it was difficult to do a traffic study based on so many possibilities. He was certain that any time there is an event in the Center, cars instantly pile up onto Kentucky. If there are cars on either side of Kentucky, it becomes a one-lane street. If there are cars on both sides, it becomes a zero lane street. He feared the impacts to Kentucky Avenue since it does not bear increased traffic. He urged the Commission to use caution between the concept, the ordinance, and the implementation of the traffic in that particular codicil of the plan.

(19:43:45) There were no other public comments. Commissioner Palmer closed the public hearing.

(19:44:20) Dr. Perrin explained that because Kentucky Avenue is a City street, the idea was that there be more connections since they were not likely to be signalized locations. There would then be an opportunity for traffic to go onto Holladay Boulevard. He agreed that during events, Kentucky was the first place parking was expected to spill over to. The day-to-day operations, however, should not include parking on Kentucky. Alignment issues were discussed. Dr. Perrin explained that accesses should be aligned across from one another wherever possible, particularly if they are full-movement accesses. If accesses cannot be aligned, he suggested that some of the movement be restricted.

Commissioner Carr asked about the north-south street on Block 3 and whether it was expected to attract more traffic than it does now. He was concerned about people having to park and then cross the street, which would inhibit access to certain businesses. Dr. Perrin explained that another option might be to texture some of the roads to help calm traffic. Commissioner Shields suggested the possibility of blocking off Kentucky Avenue temporarily during high impact or special events.

Commissioner Scott was uneasy with the proposed road coming onto Kentucky Avenue. Possible solutions were discussed. With regard to on-street parking, Dr. Perrin explained that Murray Holladay Road to 2300 East was a major cut through. On-street parking would slow traffic down. Dr. Perrin identified sections where on-street parking would not be ideal. Dan

Lofgren suspected that the issues on Kentucky Avenue went beyond the impact of the plan. He suspected there were tools available to limit who and when parking can take place on Kentucky Avenue. The purpose in the road going out to Kentucky was to create a sense of connection between that neighborhood and the Village. He commented that thought was put into including the street in the plan.

(20:02:30) Commissioner Scott was still uneasy with the three stories up to 48 feet. He thought that 48 feet was high anywhere within the City. Commissioner Carr felt that the effort had always been to preserve the Village as it was historically. He also had concerns with the height and whether it respects what they were attempting to preserve. Commissioner Diederich's understanding on the height was that it would be a two-story look and feel and be terraced and set back from the street. Commissioner McKell suggested the Design Review Board address the height issue. Commissioner Palmer noticed that there was no height limitation included and suggested one be set. He remarked that Section F dealing with height was removed from the language and he suggested it be discussed. It was noted that the junior high is 52ft in height. He reminded the Commissioners that the junior high is a monolithic structure not stepped back like the proposed buildings in the village.

Commissioner Diederich suggested height issues be addressed zone by zone. Community Development Director, Paul Allred, thought the idea of creating mixed use was at the heart of the plan. He was unsure that office and retail was really a mixture of uses as much as adding a residential component. What the City had heard continuously over the past several months was to have a significant residential component to the Village. He did not think there was language in the master plan that speaks strongly enough to supporting the mixed use. If the Commission was trying to develop a true mixed use with a residential component, he acknowledged that it may be difficult to do without more elevation. In discussions with staff and City consultants, every attempt was made to bring the heights to a psychological level that was more workable than he had seen in other locations. It seemed like the consensus had been that the residential component was desirable.

(20:10:30) Commissioner Palmer was comfortable with the residential component and observed that in the larger lot residential areas, 40-foot tall homes were allowed. He wanted to see a maximum height specified. He referred to line 1225 on page 29 which showed the entire paragraph had been stricken. He suggested portions of the paragraph be added back in. Commissioner Diederich agreed and thought design issues should be left to the Design Review Board. He also suggested that Paragraph F on line 1225 be put back in with the exception of the first sentence. Height issues were discussed. Commissioner Carr questioned Mr. Lofgren whether the small strip of land south of Murray Holladay Road would allow for the number of steps proposed. He agreed that it was too small. Mr. Allred suggested that rooftop mounted equipment and elevator shafts be screened and was not sure whether they were covered by the building height. It was suggested that the height limit be set at 48 feet inclusive of mechanical equipment.

Buffer zone issues were discussed. Commissioner Diederich suggested that in the Commission's recommendation to the Council, they be asked to review the buffer zone language specific to the neighborhoods and make sure to incorporate that in the final approved version of the master plan.

Commissioner Shupe suggested that two story heights also be looked at. The heights were recommended at 38 feet for two stories and 48-feet for three stories. Commissioner Carr did not feel that the boundary line of three stories on the south side of Murray Holladay Road on Block 4 made sense. Commissioner Palmer suggested it be taken out. Commissioner Diederich expressed concern with ambiguity regarding the neighborhood buffer is concerned that the two maps don't seem the same. He thinks there needs to be a neighborhood buffer zone that is spelled out.

(20:23:24) Commissioner McKell moved to forward a recommendation to the City Council under agenda item number 1.1, Holladay Center Master Plan and Street Configuration, to include the changes made to the draft by members of the Planning Commission in their discussions this evening, which were innumerable. Stronger language should be added to the neighborhood buffer area that exists within the plan and should be reflected in the ordinance. Commissioner Carr seconded the motion.

Commissioner Diederich expressed concern with traffic surrounding Kentucky Avenue and suggested flexibility be allowed with respect to the DRB and reducing building height for certain zones. Commissioner Palmer suggested a separate recommendation be added indicating that the traffic circulation map of the zoning ordinance needs updating.

Vote on motion: Howard Diederich-Aye, Gene Carr-Aye, Brad Scott-Nay, Cyrus McKell-Aye, Lynda Shields-Aye, Paul Shupe-Aye, Jim Palmer-Aye. The motion passed. Commissioner Scott attributed his vote to confusion and uneasiness.

Commissioner Palmer shared Commissioner Scott's concerns but realized there was time to work through them.

1.2 Public Hearing/Discussion and Recommendation – Holladay Village Zone – Amending Portions of Title 13 to Implement the Holladay Village Zone and Development Standards, Including Amending Chapters 13.02, 13.05, 13.71, 13.78, 13.80, 13.82, enacting a new chapter, 13.03, Submission Procedures, and Rescinding Chapter 13.70 (20:28:50)

Commissioner McKell moved to accept the draft changes in Title 13 including the comments and recommendations as submitted by the Planning Commission Members in the discussions this evening, which are many, and a matter of record as well as staff comments. Commissioner Shields seconded the motion. Vote on motion: Howard Diederich-Aye, Gene Carr-Aye, Brad Scott-Aye, Cyrus McKell-Aye, Lynda Shields-Aye, Paul Shupe-Aye, Jim Palmer-Aye. The motion passed.

1.3 Public Hearing/Discussion and Recommendation – Amending the Holladay City Zone Map for Properties in the General Vicinity of 2300 East and Murray Holladay Road to Remove the HVC Overlay and Change the Underlying Zoning to the HV Zone (20:30:32)

Commissioner Diederich moved to amend the Holladay City Zoning Map for properties in the general vicinity of 2300 East and Murray Holladay Road and remove the HVC overlay and the existing underlying zones and replace it with the HV Zone as referenced in item 1.3 and as

recommended by staff. Commissioner Carr seconded the motion. Vote on motion: Howard Diederich-Aye, Gene Carr-Aye, Brad Scott-Aye, Cyrus McKell-Aye, Lynda Shields-Aye, Paul Shupe-Aye, Jim Palmer-Aye. The motion passed.

1.4 Permitted Use –Tholen House – Oakwood Villa Estates – 1686 East 3900 South.

(20:32:01)

Commissioner Palmer explained that the City Council recently put a moratorium in place to address various problems within the community. As such, the residential building height was set at 28 feet for an over-the-counter permit. The Planning Commission was temporarily tasked with hearing appeals. A shortcut was available to applicants in that if they can obtain concurrence from adjoining landowners, they can build to the height limitation in the zone, which is either 35 or 40 feet. The intent was to hear from a series of applicants who up until the moratorium would have been granted over-the-counter permits for height.

Commissioner Palmer explained that Oakwood Village Estates was a PUD that the Planning Commission had been working with since 2004. He explained that it had a complicated layout in terms of lot shape and elevation changes within it. Accordingly, the Commission set a 28-foot height maximum with the applicant having the ability to come back under certain conditions and justify a higher height limitation.

Mr. Allred reported that the item continued to be very difficult for the City to deal with. His opinion was that more than 28 feet was probably okay on most if not all of the lots in the subdivision. He believed that the site had a significant amount of buffering and the project as a whole sits generally lower than most of the residential around it. He also noted that there were significant trees on the site. He believed the history of the project makes it difficult for the Planning Commission and staff to look at it. He also believed that if the project fronted a public road, there would be no question that 35 feet would automatically be granted. That was tempered with discussions where commitments were made early on to be at 28 feet.

Commissioner Palmer opened the public hearing.

(20:39:20) Sterling Tholen gave his address as 4882 South 1130 West. He reported that the plan was submitted in September of 2005. At that time, the plan was drawn within the guidelines that had been granted by the Planning Commission in April of 2005. The height was currently at 33 feet as measured from natural grade as was documented before the site work. He did not believe that roofs with a slight pitch would conform architecturally to the existing house and would take away from the overall integrity of the development. He remarked that the decision was made at the last meeting to allow them to bring the houses closer to the road which added significantly to creating an additional buffer from the neighbors in the rear.

Commissioner Palmer asked previously to review past motions to better understand where the conditional use permit originated. To that end, staff pulled past minutes dating back to June 2004. Commissioner Palmer reviewed the past motions made and questioned why the height increase was necessary to the location of the new structure. Mr. Tholen responded that with regard to Lot 1 the grade shown was not the final finished grade for the road. Square footage issues were discussed. The proposed square footage was 2,500 square feet of living space not

including the garage. The square footage seemed to Commissioner Palmer to be in excess of what the applicant was granted originally of 2,200 to 2,500. Mr. Tholen responded that in going through the process, he had discovered the needs and desires of potential purchasers and had tried to conform to what the market would bear. He remarked that the proposed homes were not large compared to surrounding homes. He explained that each of the homes would be custom designed. If a potential homebuyer wants additional square footage, he thought they ought to be able to allow it. Commissioner Palmer asked if Mr. Tholen had thought about the limitation on the size when the home was designed since it was one of the conditions of approval. Mr. Tholen responded that the square footages were conceptual only. In going through the process they originally asked for higher densities which would necessitate smaller footprints. When they met with the Unified Fire Authority, the combined square footage with the GPM allowed them 7,300 square feet total. Commissioner Palmer responded that on March 15 Mr. Tholen told the Commission that 1,750 GPM maxes out at 4,800 square feet. Mr. Tholen stated that the current GPM was 3,850 and had more than doubled from what the UFA would allow them to build without additional fire suppression.

(20:51:00) Commissioner Scott suggested the roofline be brought down considerably. It appeared to him that the roof was done to create a look of grandeur. He thought the dormer could be done with a skylight to bring it lower. He stated that Commissioner Doxey's recollection was that the roofline was not to exceed 28 feet. He agreed that the existing home was higher, but the roofline seemed to be unnecessary for the area. He explained that the Commission had conceded from what the previous Commission had required. Commissioner Scott agreed to allow the larger footprint but insisted that the roofline be lowered from 31 feet to 29 feet.

(20:53:10) In response to a question raised, Mr. Tholen stated that three-car garages were proposed that would be integrated into the structure. He explained that some of the lots would allow for a span deck system and questioned why they would not be allowed if a potential purchaser wanted it for storage since it would not increase the footprint and was not a structural issue. Commissioner Palmer was not sure Mr. Tholen understood the conditions previously placed on the project. He explained that the approval was for a PUD. The Commission agreed to work with the size of the units since they would be custom designed. The houses were to range from 2,200 to 2,400 square feet. The number of units and the height to the ridgeline were not to exceed 28 feet. The Commission agreed to work with the applicant on slope issues, however, what he was hearing was that the market wants a larger house than what was agreed to with a taller roof, which was not what the Commission approved. Mr. Tholen responded that the project was designed under the parameters of what was amended in April 2005. Commissioner Palmer referred to the conditions placed on the applicant at that time. He explained that the height would be allowed to exceed the 27 feet if the applicant could justify an exception by demonstrating that the design would be in keeping with the existing home, is necessary because of the location of the new structure, and that the additional height would not adversely affect adjacent properties. Mr. Tholen thought Commissioner Palmer's interpretation was different than his. He contended that it would not adversely affect the neighbors and the height conforms to the slopes and pitches of the existing home. He thought the three conditions imposed were subjective.

(20:57:48) Commissioner Palmer opened the meeting to public comment. He reported that e-mails were received from Jeff Miller and Kristin Brown, which were made part of the record. Commissioner Diederich reported that a letter was also received from Sharon Horsey.

(20:58:50) Kristin Brown gave her address as 1784 East 3900 South. She requested the Commission deny Mr. Tholen's request for 33 feet for the dwelling on Lot 1. She referred to an article in the City's August newsletter with regard to temporary zoning regulations that she felt substantiated denial. She felt that denial was further substantiated because neighbors adjacent to Lot 1 were all opposed to a 33-foot variance. To protect the character of the existing neighborhood height and intensity of buildings, uses should be arranged around the boundaries of the PUD. Heights of surrounding homes were specified. She saw no reason for the home on Lot 1 to exceed 28 feet as originally approved by the Planning Commission. She reported that the Planning Commission reiterated in the July 5, 2006, meeting that dwellings on level ground did not need to exceed 28 feet. She noted that the proposed dwelling was intended to be above the 1929 original home. Her understanding was that the homes on the west slope would be considered on a case-by-case basis for heights exceeding 28 feet. She urged the Commission to protect what is left of the existing neighborhood by denying the height variance of 33 feet. Ms. Brown stated that the reason the project had not been finalized was because it was so ambiguous. She believed that if the height variance were approved, a precedence would be set for the rest of the project. She was concerned that Mr. Tholen had pushed and pushed beyond what was originally proposed and approved.

Commissioner Palmer clarified that the project was not subject to the current moratorium.

(21:04:20) Tonya Torrence reported that she owns property adjacent to the development on the west side of her property and would be directly impacted by it. She expressed concern with putting more 28-foot homes within the project. She pointed out that this was more than double the height of many of the surrounding homes. She believed that such tall structures would destroy their views and contended that the existing home was not originally as large as suggested. She requested the project be denied.

(21:07:20) Gloria Thomas Gilmore gave her address as 1801 East 3990 South. She was concerned that Mr. Tholen was pushing the limit and thought the conditions had been clearly spelled out. Her understanding was that the height issue was left open to change depending on the requirement of the slope. Mr. Tholen, however, did not address it as a slope issue. She was concerned that he did not understand something that was explained clearly numerous times.

(21:09:35) There were no further public comments. Commissioner Palmer closed the public hearing.

Mr. Tholen clarified that the road had seven-feet of slope from the west to the east. With regard to the height demonstration, he explained that the garage was slightly less than 1,000 square feet. He believed the slope issue pertained to Lot 1 as well as other homes on the west and south sides.

Commissioner Palmer referred to the August 4, 2004, minutes and referenced comments made by Brent Hargreaves. Given that the applicant had seven feet of slope down to the roadway, he

asked if it would be possible for Mr. Tholen to sink the foundation to keep the overall height in conformance. Mr. Tholen responded that it would be easier to change the pitch of the roof than to lower it. Also, the potential for water to drain into the basement would be much harder to deal with.

Commissioner McKell stated that after walking the site, he found that several of the lots have considerable slopes which was one of the reasons the Commission dealt with the possibility of height related to slope. Commissioner Diederich was disappointed in how the project had come together. The number of lots permitted in the PUD was very specific to the footprint and height of the building. The applicant was now coming back asking for increased square footage and height. He found that some of the issues discussed in prior meetings were very explicit and was insulted that originally the project was presented as catering to retirement age buyers. Now, the proposed footprints were much larger. He commented on the value of the Commission's time and noted that they work as volunteers. He thought the Commission should address the project in the spirit in which it was originally put together.

Mr. Tholen stated that the intent was not to force his wishes on the City. He was concerned that building small homes with flat roofs would not look attractive. The project had evolved and the square footages increased. He gauged the project to the interest shown. His intent was to conform to what people want. Commissioner Diederich stated that Commission made an effort to accommodate the large house and did not believe the project warranted approval.

(21:17:27) Commissioner Diederich moved to deny the applicant's request for increased height and increased building footprint. Commissioner Shields seconded the motion.

Commissioner Scott asked if the project could be approved with a maximum height of 28 feet with the footprint as shown. Commissioner Diederich did not accept the proposed modification.

Vote on motion: Paul Shupe-Aye, Lynda Shields-Aye, Cyrus McKell-Aye, Brad Scott-Aye, Gene Carr-Aye, Howard Diederich-Aye, Jim Palmer-Aye. The motion passed.

Commissioner Palmer suggested staff work with the applicant. If the matter was brought back, he asked that they clarify the specifics of the prior conditional use permit.

1.5 Permitted Use – Kirk Residence – 2595 South Haven Lane (21:21:20)

Commissioner Palmer clarified that the next three items involved height consideration issues under the revised moratorium language recently adopted by the City Council.

City Planner, Alma Haskell presented the staff report and stated that the applicant was requesting an exception to the 28-foot maximum required by the temporary ordinance as adopted by the City Council on July 10. The request was to go to the 40-foot maximum normally allowed in the zone. The lot was proposed on two acres that are heavily wooded and sits lower than three of the four homes directly surrounding it.

Mark Chamberlain reported that he was present representing Spencer Kirk, the General Contractor. He stated that the DRB had been very sensitive to designing a home that would be

compatible in the area. The lot was screened by trees and would not affect many of the neighbors. The neighbor it would affect most had verbally supported the project and had no concerns. Previously, letters were sent out to the surrounding neighbors describing the plan. He was contacted by only one person who expressed support.

(21:28:35) Commissioner Palmer opened the public hearing. There were no public comments. The public hearing was closed.

Commissioner Diederich viewed this type of development as the type where increased height was appropriate and could be applied.

(21:29:45) Commissioner Carr moved to accept the application based on staff's findings and the fact that there was no opposition from the neighbors who were all contacted. Commissioner Shupe seconded the motion. Vote on motion: Howard Diederich-Aye, Paul Shupe-Aye, Lynda Shields-Aye, Cyrus McKell-Aye, Brad Scott-Aye, Gene Carr-Aye, Jim Palmer-Aye. The motion passed.

1.6 Permitted Use – Huntsman Residence – 5111 South Cottonwood Lane (21:31:14)
Alma Haskell presented the staff report and stated that the applicants were requesting to go above the 28-feet allowed to approximately 38'8". The maximum height allowed in the zone was 40 feet. The lot comprised just over three acres. He remarked that there were several larger homes surrounding the site that had been approved up to the 40 foot maximum in the past 12 to 18 months. Buildings on the site would cover between 6 and 10 percent of the lot, thus meeting the 40% maximum. Fire reviews had not been fully completed, however the turnaround space shown was found to meet City standards and could comply with fire codes with some redesigning. He explained that the review would be completed when processing the building permit if the design is approved. The applicant argued that portions of the home that are closest to the property lines, mainly the garage on the north, were one-story in height and the two-story areas were set back further from the property lines. Setback issues were discussed. The average in the area was 68 feet. The proposed front yard would be around 220 feet. Side yards in the area averaged 25 feet while the proposed lot had one side yard of 87 feet and another of 15 feet near the garage. The average for rear yards in the area was 168 feet. The proposed lot had anywhere between 34 feet and 102 feet due to the orientation on the lot. Mr. Haskell explained that all development on flag lots require Planning Commission approval. As a result, the project was before the Commission because of the height issue and because it is a flag lot. Staff recommended the Planning Commission hear the applicant's arguments and the neighbors' comments and then determine whether the rezone should be approved.

In response to a question raised, Mr. Haskell explained that the fencing ordinance allows 6-feet. Gated driveways were also permitted as long as they are at least 18-feet from the right-of-way and have the proper fire department access. Notice was sent to neighbors within 500 feet. The City Attorney indicated that the notices sent were courtesy notices and were sufficient.

Commissioner Palmer opened the public hearing.

(21:36:50) Max Smith, the architect for Mr. Huntsman, reported that there were 16-feet of topography and 16-feet of rise from the left side to the backside. He reported that the properties to the east were built exactly to the fence line. The top of the roofline would be 10-feet below that point or 28 feet. The major tree cover was on the west side. With staff's encouragement they produced a drawing showing the realignment of the driveway. It was clarified that the home serviced by the lane would be removed. The proposed home would be the only one serviced by the lane.

Commissioner Palmer opened the meeting to public comment.

(21:41:00) Rob Galanis gave his address as 5089 Cottonwood Lane. He asked what the height of the proposed structure was above his home. Mr. Smith was unsure. Mr. Galanis wanted to protect his mountain view. He was concerned about trees on the site and suggested the dead ones be removed. It was determined that the proposed home would be 18 feet taller than the one that presently exists on the site.

Commissioner Palmer closed the public hearing. He clarified that had the temporary zoning ordinance not been in place, the matter would have met with staff approval.

(21:47:50) Commissioner Shields moved to approve the use of the flag lot and the height of 39 feet. Commissioner McKell seconded the motion. Vote on motion: Howard Diederich-Aye, Paul Shupe-Aye, Lynda Shields-Aye, Cyrus McKell-Aye, Brad Scott-Aye, Gene Carr-Aye, Jim Palmer-Aye. The motion passed.

1.7 Permitted Use – Stafford Residence – 5047 South Casto Pine Cove (21:50:00)

Mr. Haskell presented the staff report and explained that with the conceptual plan on the south the applicant would not have met the graduated height requirement.

The applicant, Scott Safford, stated that until the temporary ordinance came into effect, they would have designed to the current code. Several people who assumed he was asking for something beyond what the current code allows approached him. He stated that they would be under 20% of the lot coverage. The project was designed to fit in with the neighborhood.

Commissioner Palmer opened the public hearing.

(21:58:35) Paul Olsen gave his address as 5036 Casto Pines Cove. He expressed support for the proposal and hoped the applicant would be allowed to build something nice and in keeping with the appearance of the circle.

Chris Clifford gave his address as 2715 Swasont Way. Graduated height issues were discussed. He had no objections to a 35-foot height limit so long as it meets the graduated height requirements.

(22:03:05) Brad Peterson gave his address as 2730 Swasont Way. His intent was not to stop the applicant from building the house. He remarked, however, that his entire backyard will look at the proposed house from the north side. He was working with the applicant on what would be

best for everyone. His concern was that the plan was conceptual. He was opposed to the City granting the applicant a blanket PO. His preference was to see a full plan with more details. He expressed concern about the unknown.

Elizabeth Barnes felt caught in the middle. Her concern was that the plan submitted will change to something else.

(22:07:15) Commissioner Palmer’s only concern was with the graduated height requirement. He suggested that any conceptual approval include that. Mr. Safford stated that all they were asking for was relief on the height to allow them to build underneath the envelope.

(22:11:20) Commissioner Diederich moved to approve the 35-foot height request specific to the petition as recommended by staff. The applicant must adhere to the graduated height setback requirements and the lot footprint requirements specific to the moratorium. The grade from which the 35 feet is estimated shall be from natural grade. Approval was based on the finding that the proposed home is compatible with the height of other homes in the neighborhood. Commissioner Carr seconded the motion. Vote on motion: Howard Diederich-Aye, Paul Shupe-Aye, Lynda Shields-Aye, Cyrus McKell-Aye, Brad Scott-Aye, Gene Carr-Aye, Jim Palmer-Aye. The motion passed.

Commissioner Diederich was excused from the remainder of the meeting.

1.8 Preliminary Plat – Landa Subdivision –6073 South 2300 East (22:14:10)

City Planner, Pat Hanson, presented the staff report and stated that the applicant was requesting preliminary plat approval of a three-lot subdivision at 6073 South 2300 East. There were two existing homes on the property and the subdivision would allow the creation of an additional lot. All three lots were found to meet the requirements of the R-1-87 Zone.

(22:16:45) The applicant, Howard Landa, was present to answer questions.

Commissioner Palmer opened the public hearing.

In response to a question raised, it was noted that the intent was for the property to be part of the homeowners’ association.

Commissioner Shupe asked if the lot met the flag lot requirements. Ms. Hanson explained that the flag lot was not prohibited but must be approved at the time the building permit is issued. There was question as to whether the lot was actually a flag lot.

Donna Passwaters, a neighbor, asked where the access would be. It was determined that the access would be through Roselans. One additional home would be built.

The public hearing was closed.

(22:23:40) Commissioner Shupe moved to approve the subdivision with the condition that the homeowners’ association membership be verified. Commissioner Scott seconded the motion.

Vote on motion: Paul Shupe-Aye, Lynda Shields-Aye, Cyrus McKell-Aye, Brad Scott-Aye, Gene Carr-Aye, Jim Palmer-Aye. The motion passed. Commissioner Diederich was not present for the vote.

1.9 Conceptual Plan – Keuffel PUD – 2198 East 5340 South (22:24:35)

Mr. Haskell presented the staff report and stated that the last time the matter was reviewed there were more lot line adjustments in question. Since that time, the City Engineer had re-reviewed the concept plat and found that four acres would remain. Staff was confident that the applicant had the full four acres required for four lots. The applicant was preparing for preliminary plat approval. Staff thought the concept and preliminary plats could be approved at the same time when the entire application is ready for preliminary approval. The applicant was in the finishing stages of having the lot line adjustments drafted, signed, and recorded. Based on the resubmitted items from the applicant, staff's concerns had been satisfied. Staff recommended approval of the concept plan for four lots with the conditions contained in the staff report.

The applicant, Frank Linhorst, asked that the lot line adjustments be resolved prior to final plat rather than preliminary plat.

Commissioner Palmer opened the public hearing.

Commissioner Palmer read comments submitted by Mr. Horsey stating his approval for a swimming pool building at his south property line.

(22:31:10) Pamela Mooney gave her address as 2214 East 5340 South. She was unclear as to whether the request was for four one-acre lots or for four-lot density plus the pool. Commissioner Palmer responded that the application was for a four-lot PUD with a common area containing a pool. Ms. Mooney stated that typically PUDs in the area had been one-acre building lots. She asked why this proposal was different and was concerned with changing the character of what had traditionally been one-acre building lots and setting a precedent. She was against the pool because it would not be just for the four families who would live within the project. The intent was for it to be used for 10 to 12 families in the area. She did not feel that was in keeping with the area.

(22:36:20) Kristen Brown gave her address as 1784 East 3900 South. Her family previously owned a home on Walker Lane and it was specifically built on 1.8 acres to prevent it from being divided into two lots. She encouraged the Commissioners to hold to the one-acre zoning that had protected the City for a long time.

Melvin Knight gave his address as 5327 South 2110 East. He was not against the development and was in favor of one-acre lots. He wanted to see refining of the property lines before final approval.

(22:39:09) Commissioner Palmer closed the public hearing.

With regard to the pool, Mr. Linhorst explained that the intent of the pool was to provide common space for the betterment of the neighborhood. He explained that there would be four

units per acre; however, the project was a PUD and not a traditional subdivision. The intent was to keep the neighborhood open with no gates or walls.

Commissioner Scott asked about the condition of 5340 South. Mr. Haskell responded that it was a public street maintained by the City and was substandard because of the narrow width. The City Engineer intended to take dedications in the future and hopefully further improve the street at some point.

Commissioner Shupe reported that he had received three or four calls on the swimming pool situation. Liability issues were discussed. The calls he received were unfavorable to allowing the rest of the neighbors to use the pool. He would be particularly concerned if he were a PUD homeowner because of potential liability. Conceptually, he was comfortable with the plan.

Commissioner Palmer clarified that setbacks were not being approved tonight.

Commissioner Carr asked why, other than liability, anyone would be opposed to the neighbors using the swimming pool. Ms. Mooney commented from the audience that rifts could result from some neighbors being invited to use it while others may not be. Liability and noise issues were of primary concern.

Commissioner Palmer thought that one swimming pool within the PUD would be preferable to each homeowner building his own which would result in the loss of more trees and an increase in hardscaping. Commissioner McKell suggested the CC&Rs address maintenance and liability issues. Commissioner Scott was concerned with 5340 South being a narrow street and providing access to a PUD.

Mr. Allred was uncomfortable with the Commission making any kind of a commitment on the preliminary plat based on the property line issues. He reminded the Commission Members that preliminary plat is where vesting occurs. Tonight's discussion was on the concept plan. He suggested that the lot line disputes be resolved at the preliminary stage.

Road issues were discussed. Mr. Allred's understanding was that the lot areas are exclusive of the road area. Commissioner Shupe commended the applicant for his attempts to resolve the lot line disputes. He also expressed concern with the pool. Commissioner Scott indicated that even with a private pool, anyone from the neighborhood could be invited to use it. Commissioner Palmer thought the pool would be a self-imposed liability and hardship.

(22:55:45) *Commissioner Scott moved to approve the concept plan based on the following conditions:*

- 1. All lot line disputes shall be resolved and proof of resolution given to staff prior to preliminary plat.*
- 2. The required dedication of 5340 shown on the concept plan shall be included on the preliminary and final plats per City standards and as accepted as a dedicated street by the City.*
- 3. Setbacks shown on the conceptual plat may be changed at preliminary plat but be approved by staff.*

**4. The pool area shall comply with the noise ordinances of the City.
Commissioner McKell seconded the motion.**

Commissioner Shupe suggested that the pool situation be looked at further. Commissioner Palmer suggested those concerns be addressed separately. He asked that staff make an inquiry with the City Attorney as to what potential issues might be involved with zoning. Commissioner Carr stated that the homeowners had the right to own a swimming pool and invite who they want to use it. Mr. Allred reminded the Commission Members that what was being requested was a conditional use permit.

Vote on motion: Paul Shupe-Aye, Lynda Shields-Aye, Cyrus McKell-Aye, Brad Scott-Aye, Gene Carr-Aye, Jim Palmer-Aye. The motion passed. Commissioner Diederich was not present for the vote.

2. CONSENT ITEMS

2.1 Approval of Minutes – Planning Commission Meeting – 5/16/06, 6/20/06, 7/18/06 – Work Meeting – 6/6/06, 7/5/06 (23:01:30)

Commissioner Palmer stated that the minutes on this agenda were continued from the last meeting. Mr. Allred stated that he received a phone call from Mr. Ivory with concerns about the minutes on his item. Commissioner Diederich also was concerned that a motion he made was not worded correctly. Commissioner Diederich wanted to make it clear that he intended his motion to include language that the height of the house on lot 4 must be in conformity to the height of the homes on Cumberland.

(23:05:14) Commissioner Palmer called for a question on the consent items to approve the minutes of 5/16/06, 6/20/06, 7/18/06, the work meeting of 6/6/06, and 7/5/06, as amended. Vote on motion: Paul Shupe-Aye, Lynda Shields-Aye, Cyrus McKell-Aye, Brad Scott-Aye, Gene Carr-Aye, Jim Palmer-Aye. The motion passed. Commissioner Diederich was not present for the vote.

Commission Matters

Paul Allred had concerns about the first three items and the way they were handled. He believed the motions made were not sufficiently detailed to support the recommendation to the Council. Findings were not listed and there was no specificity with regard to why the general plan and zone map changes were being recommended. He respectfully recommended the Commission consider reopening those issues and amend the motions to include findings for those three matters.

Commissioner McKell did not think that was unreasonable, but thought that so many comments were made that he was unsure how a motion could cover all of the details. Commissioner Palmer thought he was referring to the legal basis for the motion and the reason why it was approved. He thought the motion was sufficient given the background and the fact the public was no longer present. One of the policies of the Commission was that the Chair or Vice Chair be present at the next City Council Meeting when matters are considered and present a report giving details and explaining the motion.

Commissioner Shupe agreed, but stated that the Commission had gone through the document several times. Commissioner Palmer clarified that Mr. Allred's comment was that a legally defensible motion must have findings, which he believed were lacking. Commissioner Palmer suggested that recreating the findings of fact and putting them into a report could rectify the matter. A well-formed motion should state what is being approved as well as *why* it is being approved. If the motion is contested and goes to court, the judge would look at whether or not there was a legal basis and why it was approved. He suggested the matter be dealt with administratively and was uncomfortable reopening the motion without the public present. While he recognized that the Commission was still in open meeting and it would be legally permissible, he thought ethically it should not be reopened based on the fact that the public was not present. He asked that in the future when there are substantial motions to make, that those issues be discussed in the work session. He also suggested that written materials be provided from staff outlining potential findings of fact that could be included in a possible motion.

Mr. Allred expressed discomfort micromanaging everything the Commission says and does and did not think that was his job. Commissioner Palmer suggested that those types of concerns be raised during the meeting in the future

3. **Adjourn** (23:14:05)

Commissioner Palmer moved to adjourn. Commissioner Shupe seconded the motion. Vote on motion: Paul Shupe-Aye, Lynda Shields-Aye, Cyrus McKell-Aye, Brad Scott-Aye, Gene Carr-Aye, Jim Palmer-Aye. The motion passed. Commissioner Diederich was not present for the vote.

The Planning Commission Meeting adjourned at 11:14 p.m.

I hereby certify that the foregoing represents a true, accurate and complete record of the Holladay City Planning Commission meeting held Tuesday, August 22, 2006.



Teri Forbes
Minutes Secretary

Minutes approved: 9-19-06