

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

**Tuesday, August 19, 2008
7:00 p.m.
Holladay Municipal Center
4580 South 2300 East**

ATTENDANCE

Planning Commission Members:

Paul Shupe, Chair
Gene Carr
Lori Khodadad
Richard Kimball
Cyrus McKell
Brad Scott, Vice Chair
Lynda Shields

City Staff:

Paul Allred, Community Development Director
Rick Whiting, City Planner
Pat Hanson, City Planner

1. Field Trip - All Agenda Items May be Physically Visited, and/or Discussed.

The Commission participated in a field trip of items on the agenda.

2. PUBLIC HEARINGS.

Chairman Paul Shupe called the meeting to order at 7:13 p.m. and read the Commission statement.

2.1 Sleepy Hollow Estates – Three-Lot Subdivision – Conceptual Plan and Preliminary Plat (Continued) – Planner: Rick Whiting (Discussion and Possible Decision).

(19:17:00) Commissioner Shupe reported that the above matter was continued and the public comment closed at the last meeting. The matter was inadvertently listed in this section of the agenda. He recommended the public comment remain closed unless there is relevant new information.

City Planner, Rick Whiting, presented the staff report and stated that the above matter was continued from the previous meeting. The applicants, George and Sharie Giles, are requesting a three-lot subdivision in the R-1-10 zone. He reported that a resident submitted a two-option proposal that was requested at the last meeting; however, the documents were misplaced. The parcel consists of 1.05 acres. The petition in opposition to the project was signed by approximately 60 people and presented at the last meeting. Concerns were voiced by staff and the public regarding the configuration of the appropriate fire equipment turnaround with the hammerhead configuration. It was suggested that greater detail was required on the preliminary plat. That was done and incorporated into the current configuration.

(19:19:13) Mr. Whiting reported that in April, Mrs. Giles removed several trees from the canal side of the property. A Utah Pollution Discharge Elimination System (UPDES) Plan was created to ensure that the property is properly mitigated as a result of the trees being removed. Mr. Whiting stated that Sleepy Hollow Drive is a private road, however, the condition of the

road is not relevant to consideration of the application. Landscaping and tree issues were discussed. Mr. Whiting stated that current zoning codes do not permit the Planning Commission to require specific replacement of trees. Since the last meeting, the Planning Commission elected to continue the item and allow two weeks to study the hammerhead configuration, drainage, and vegetation on the canal. The drainage and vegetation issues were addressed through the UPDES plan. All files were made available to the public to review during the interim two-week period.

Mr. Whiting reported that a question came up at the last meeting about geologic considerations. Staff researched it and found that the project is not near the liquefaction or fault zones. There was discussion about a right-of-way easement and a potential boundary dispute between the applicant and another neighboring party. When considering the particular implications to the application, it does not apply. Even if the applicant were to deed away a certain amount of property it would not impair their available area, widths, or other requirements for the subdivision approval. Staff recommended approval of the subdivision conceptual plan and preliminary plat based on the findings and conditions contained in the staff report.

In response to a question raised by Commissioner Shupe, Mr. Whiting reported that three people came into the City Offices seeking additional information during the two-week interim period. It did not appear to Commissioner Shupe that there were any overriding concerns regarding information submitted to the staff during the interim period.

Commissioner Scott asked how the UPDES was implemented. Mr. Whiting stated that the City Engineer would provide oversight. He explained that it is a non-funded mandate from the State. The State approved it and it will be up to the City to enforce it. He explained that that will happen regardless of the outcome of tonight's decision. If the Commission were to deny the application, the UPDES would still be implemented. He commented that the applicant has been very cooperative even though considerable expense has been incurred in the repair of the canal and will be responsible for the implementing the UPDES.

(19:26:42) Commissioner Shupe commented that the State relies on cities to provide enforcement. The state will sue cities that aren't enforcing the permit. His experience was that the requirements are extensive with regard to what has to be done to make sure the storm water is clear. Mr. Whiting stated that the plan entails seeding of the hillside and installing silt fences. The required standards must be met until the site is 75% revegetated. Community Development Director, Paul Allred, clarified that the UPDES is currently in place on the property currently and being administered by the City Engineer.

Commissioner McKell expressed concern about the timing of the UPDES requirements. He wondered if the applicant had made any efforts to change the slopes or prevent runoff when the fall rains come. He stated that seeding is not appropriate now but the site should be planted now to prevent erosion. Clay Stucki, the applicants' legal counsel, stated that the permit has been issued and can be enforced now. They were prepared to do the seeding and put in the silt fences. The reason they haven't is because staff suggested it would be a good idea to get through this process (subdivision) first. Their intent was to work with the City Engineer to put up the necessary silt fences and do the reseeding before the rains come in order to keep the dirt in place.

(19:33:16) Ann Butler submitted the two-option proposal and was comfortable that most of the concerns addressed by the neighbors had been addressed. The leverage they have now in terms of erosion control is whether or not the applicants are allowed to proceed. She stated that if allowed to go forward, the City will lose a lot of leverage. She wanted to know who will be liable if her home is flooded or damaged. She was concerned about granting approval before some of the problems are remedied.

Mr. Whiting stated that the permit requires the improvements to be made as soon as possible and the applicant expressed a willingness to do that. The intent of the City Engineer was to coordinate the grading for the subdivision with the grading for the implementation of the UPDES. With preliminary approval, staff could complete the approval process for the development. He expected it could be done fairly quickly within weeks rather than months. The impending weather was an inducement to move the process along as quickly as possible. He felt that the City would have more leverage with the project partially or fully approved than unapproved. Mr. Whiting explained that the normal process would be to empower the Technical Review Committee to grant final approval of which City Engineer, Clarence Kemp, is a member. There was an inducement for the City to see the process completed quickly as well. It was noted that the question of liability is a legal one that the City does not want to entertain.

Mr. Allred stated that the UPDES is in place and the applicants will have to mitigate what has happened regardless of whether the subdivision is developed. Even if the application is withdrawn, they will still have to comply with the UPDES. Approval tonight would only reinforce something that is already in place.

(19:38:40) *Commissioner McKell moved to approve the three-lot subdivision for conceptual plan and preliminary plat based on the following:*

Findings:

- A. The project meets the requirements for a residential subdivision in the R-1-10 zone.***
- B. The project complies with the provisions of the City’s General Plan for this area.***
- C. This subdivision is consistent with land use patterns in the general vicinity.***
- D. Approval of this subdivision will not be detrimental in any reasonable way to neighboring properties.***
- E. The proposed project meets all requirements of the Unified Fire Authority (UFA).***
- F. All damage to the Upper Canal bank has been repaired to the satisfaction of the City.***
- G. The applicants have proposed an acceptable UPDES plan for remediation of the site for erosion and flood control and have agreed to implement this plan prior to final plat recordation.***

Recommended Requirements of Approval:

- 1. The final plat and any other stipulated requirements for the subdivision shall be submitted to the Technical Review Committee (TRC) for review and approval within one year of the Planning Commission’s decision or it shall expire.***
- 2. The applicants must implement the provisions required by the UPDES Storm Water Pollution Prevention Plan following approval of this application by the Planning Commission. All specified work must be completed prior to final plat recordation.***

3. *An Access Easement and Private Driveway Maintenance Agreement for the three subdivided lots shall be required allowing for common use of the proposed private driveway, maintenance and right-of-way access in perpetuity. It must be recorded with the final plat.*
4. *The applicant must record a note on the final plat indicating that fire sprinklers for the home on Lot #2 may be required by the UFA as a condition of granting a building permit.*
5. *The applicants must ensure that all proposed fire equipment turnaround areas meet engineering and load specifications required by the UFA prior to issuance of a Certificate of Occupancy for any home in the subdivision.*
6. *The applicants must comply with the fencing requirement for a six-foot fence along the canal in the subdivision for Lot #2. A plat note to that effect should be added.*

Commissioner Carr seconded the motion. Vote on motion: Richard Kimball-Aye, Brad Scott-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Lynda Shields-Aye, Gene Carr-Aye, Paul Shupe-Aye. The motion passed unanimously.

Commissioner Shields commented that if the neighbors do not want one-quarter acre lots, they should approach their councilman so they are not in a similar position again.

2.2 “D” Extreme Taxidermy – 5295 South Holladay Boulevard – Conditional Use for Home Occupation – Planner: Pat Hanson (Discussion and Possible Decision).

(19:44:42) City Planner, Pat Hanson, presented the staff report and stated that the request is for a conditional use for home occupation for “D” Extreme Taxidermy at 5295 South Holladay Boulevard. She reported that home occupations are generally conditional uses and by policy adopted by the City Council and are generally approved administratively. Part of that process is to notify adjacent neighbors of the intent of the property owner to open a business. Ms. Hanson reported that currently the City has 1,300 businesses with over 300 being home occupations. They are in every neighborhood in the community and are extremely benign in almost all cases. She remarked that home occupations are a healthy portion of any city’s economy. She estimated even with 300 licensed home occupations, there are many more that are not licensed. She stated that approximately 80% of the home businesses are situations where people conduct business using only their phone and mail.

Ms. Hanson introduced the applicant, Darin Peck. Letters were sent out to neighbors and some letters of concern were received. These letters are included in the Commissioners’ packets. Neighbors simply wanted more information about the business itself. As a policy, if letters of concern are received the application is automatically forwarded to the Planning Commission for a final decision.

Ms. Hanson reported that Mr. Peck’s business is generally conducted in another location in Bluffdale. He is requesting a business license so he can do some piecework in his home. The Planning Commission visited the site and saw the room where the business will be conducted.

(19:48:45) Mr. Peck gave his address as 5295 South Holladay Boulevard. He reported that he works out of a shop in Bluffdale and does the major part of his work there. Because he has children in Cottonwood Elementary, it would not be feasible for him to pick up his children in the middle of the day and go to the Bluffdale location as well. He might end up driving to

Bluffdale three times a day. He is asking for a business license to do the mounting portion of his job from home. He explained that the materials he uses are harmless and described briefly the process he uses in his work. No customers will come to his home as he will bring the work from his employer and take it back when he is done. He remarked that the use is very low key. Only previously tanned skins are be used on any mounting and no tanning will be done on site. The strongest chemical he uses is super glue, which is in common in most households. The paste he uses is also used in piñatas and is non-toxic. Mr. Peck's work room is in a small addition on the back of the house. When the work is transported it will be covered so as not to be offensive. Mr. Peck told the Commission that he is willing to talk to any of the neighbors who have written letters of concern. He thinks this situation will be temporary since he is looking for a home in southern Utah. He explained that he rents the home he is living in and his landlord does not object to work being done in the home.

Commissioner Shupe commented that he had found it helpful to visit with Mr. Peck earlier in the evening and see exactly what he does.

Commissioner Shupe opened the meeting to public comments.

(19:57:25) Alex Rossi gave his address as 2765 Blue Spruce Drive. He appreciated the explanation of the details of mounting given by Mr. Peck. It seems to him to be very similar to model making, which cleared up many of his concerns. He was still concerned, however, about having a business in his neighborhood. Commissioner Carr stated that home occupations are allowed in all districts. What was proposed appeared to be little more than a hobby and he recognized there are home occupations that have far more impact than this one.

(19:59:20) Marika Rossi asked Mr. Peck if he will have a sign? Mr. Peck responded that he will not. Mrs. Rossi was happy that no rezoning was being proposed. In response to a question raised by Mrs. Rossi, Mr. Peck responded that he does not anticipate many deliveries.

Ms. Hanson responded to concerns by the audience reiterating that home occupations are allowed in any zone that allows single-family or multi-family dwellings. They are diverse and conditional, however, most are signed off on administratively. Recently there has been a slight increase in the number of applications for home occupations and stated that many businesses are moving from commercial locations to the business owners' homes for various reasons. Although many people conduct business from their homes, they don't always come in a get a license. Under Holladay's regulations, anytime there is an enterprise that generates income and the primary physical location is in a home, a business license should be obtained.

Commissioner Carr reported that the City does not allow a home occupation to have an outside sign. For that reason, most citizens are probably not aware of how many home occupations there are in the City. He clarified that the only reason the matter is before the Commission is because letters were received about the request. Normally the request would have been approved administratively.

Commissioner Kimball commended Mr. Peck for first bringing forward the request for a business license at all, second for saving fuel by staying home, and third for helping to keep Cottonwood Elementary open by enrolling his children there.

John Hoagland gave his address as 2746 Blue Spruce Drive. He thanked the Commission for addressing most of his concerns. He still has some concerns and has the impression that Ms. Hanson is promoting home occupations in residential areas. In order for the City to maintain its residential integrity, he suggested there be more objective representation from planners. He lives next door to the property and feels this is an opportunity for business to creep into residential areas. He asked how businesses are monitored. Commissioner Carr stated that what is being considered is a conditional use and the conditions that the applicant has to comply with will be defined by their decision. Those conditions are reviewed periodically by staff. Ms. Hanson stated that staff typically does not have the resources to visit individual home occupations on a yearly basis and relies heavily on citizens to help by contacting staff if there are problems. Once alerted, the City's Code Enforcement Officer will investigate any concerns.

Mr. Hoagland stated that there are businesses, whether licensed or not, operating in neighborhoods. That is why the question of monitoring is so important. He commented that often there are a number of vehicles parked on Holladay Boulevard that he thought are associated with a business in the area. He did not know if the business is licensed or not. He stated that it is dangerous to have business vehicles parked on the roads so close to a school which block the view of oncoming traffic and pedestrians. To him the most important thing is to keep the residential quality of Holladay intact. He stated that it is staff's job to look at the situation objectively. Mr. Hoagland did some research on the proposed business and some of the associated health concerns. He stated that his concerns were answered adequately. He asked the Commission to provide him with a written response to the eight concerns listed in his letter. Mr. Whiting informed Mr. Hoagland that his concerns could be addressed tonight. Mr. Hoagland preferred they be in writing. Mr. Whiting noted that they will be included in written form in the minutes.

(20:18:50) Kim Hendry gave her address as 4669 Wallace Lane and identified herself as the owner of the home rented by Darin Peck. She has no objection to the business and no monetary interest in it. She would not want anything taking place in the home that would be detrimental to the building, yard, or neighborhood. She and her husband visit the site daily because they have the garage in back and are friends with the Pecks. As the homeowner they will monitor the operation. As a Holladay resident, she remarked that home occupations are needed in the City. Many are unlicensed but by applying, Mr. Peck is trying to comply with the rules and regulations. Her opinion is that if it is difficult to get a business license in Holladay, people won't do it.

Robert Forsey gave his address as 2726 Blue Spruce Drive and asked if employees are allowed in a home occupation. Commissioner Carr stated that no employees are allowed with home occupations in Holladay.

(20:21:18) Kathleen Grisley-Forsey gave her address as 2726 Blue Spruce Drive and asked for clarification from the applicant. Mr. Peck explained that he works in Bluffdale full-time and does some of the mounting work at home a few days a week. Mrs. Forsey asked how many licenses are applied for in the City and how many are granted and denied. Ms. Hanson responded that the City has never denied an application. However, often if letters of concern are received by the Community Development staff, the applicant voluntarily moves his business out of the home. Ms. Hanson explained that City staff does not work on the premise that home occupations will be denied since a conditional use is really a permitted use with an added review.

Conditions can be added to mitigate anticipated problems. Ms. Grisley commented that she raised her children as a single parent and can appreciate the concerns of Mr. Peck. She did, however, want to maintain the integrity of the community.

There were no further public comments. The public hearing was closed.

Commissioner Shields reported that she has lived in Holladay all her life and maintaining the integrity of the City is of utmost importance to her. When she first heard about the proposal she was concerned, however, after visiting the site she found nothing objectionable and would have no problem with Mr. Peck's business being next door to her. She is not concerned at all about Mr. Peck threatening the integrity of Holladay.

Commissioner Kimball asked Commissioner Shupe for an estimate of how many home occupations the Commission has heard during his time on the Commission. Commissioner Shupe responded that there had been very few. He expressed appreciation to those who were present and invited anyone with concerns to visit with Mr. Peck.

When Commissioner Khodadad first heard the word "taxidermy" she pictured dead animals in Mr. Peck's yard, rats, flies, chemicals, and the skinning of animals. What she observed was nothing like that and she foresaw no problems.

(20:30:24) *Commissioner Kimball moved to approve the conditional use subject to the following:*

Findings:

1. *There shall be no hazardous materials involved.*
2. *The owner shall use a truck to bring materials on and off the property.*
3. *There shall be no dead birds involved in the home business, thus there will be no risk of Avian Flu.*
4. *The materials are tanned capes or skins and are vermin and pest free.*
5. *No hazardous fumes or odors or other airborne nuisances shall be permitted.*
6. *The business is compatible with many others in similar residential circumstances.*
7. *The activity will be engaged in the home only and not the outbuilding in the back.*
8. *Enforcement rests largely on citizen complaint with the conditional use.*

Conditions:

1. *The storage and delivery shall be confined to the driveway and the back room of the home where the activity will take place.*
2. *No hazardous materials shall be brought onto the site.*
3. *The activity shall be confined to the main building.*
4. *No signage advertising the activity shall be allowed.*
5. *There shall be no customers allowed on site.*
6. *There shall be no employees allowed on site.*
7. *There shall be no dead animal or bird carcasses on site – only skins.*

Commissioner Scott seconded the motion. Vote on motion: Richard Kimball-Aye, Brad Scott-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Lynda Shields-Aye, Gene Carr-Aye, Paul Shupe-Aye. The motion passed unanimously.

3. ORDINANCE DISCUSSION.

3.1 Code Amendment – Discussion Only – Definition for Gateway Signs – Planner: Pat Hanson.

(20:38:30) Mr. Allred clarified that the above item is for discussion only. A public hearing has been scheduled for September. Because of a noticing error, there will be a public hearing before the City Council later in the week. They will not be able to take action on it at that time because a public hearing will not have taken place before the Planning Commission and a recommendation will not have been forwarded from the Planning Commission. .

Mr. Allred referred to the proposed language and stated that the intent is to have them be exempt from the sign ordinance. A definition is needed in the sign ordinance to allow them throughout the City. Mr. Allred will present a proposed definition to the Commission to be added to the ordinance before the September hearing. Standards for the signs such as height and location will not be necessary if they are exempt from the sign regulations. Mr. Allred hopes to have the amendment adopted quickly in order to move forward in September with the proposed gateway signs. Since materials had not yet arrived due to various delays which gives the City time to define the signs and make sure they are exempt from the ordinance. Mr. Allred described the various locations where the monument signs are being located.

Commissioner Shupe expressed appreciation to staff for their work on these amendments.

Commissioner Kimball remarked that there are historic brick pillars on 2300 East at Olympus Drive. He wondered if they are allowed under the new law. Mr. Allred responded that they are distinctive and attractive and not linked to a fence so are not specifically prohibited. They were used as a model in some ways for the new gateway signs. The structures being built have a tapered look toward the top and are wider at the base. They feature warped (Klinker) brick and granite inlay. The designers did a lot of research in terms of materials and style. He remarked that most of the inspiration came from similar monuments and columns throughout Salt Lake City. He is confident that the end result will be something that is timeless and classic.

(20:55:05) The Commission discussed the wording of the sign ownership. In response to a question raised, Mr. Allred reported that the City will own the sign but will pay for them to be built. He was confident that the gateway signs, regardless of where they are placed, will increase interest in the area near the signs and in the community as a whole..

3.2 Definitions for Proposed Land Use Table – Planner: Pat Hanson.

(21:03:40) *Commissioner Scott moved to continue agenda item 3.2 to a future date. Commissioner Kimball seconded the motion. Vote on motion: Richard Kimball-Aye, Brad Scott-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Lynda Shields-Aye, Gene Carr-Aye, Paul Shupe-Aye. The motion passed unanimously.*

Ms. Hanson commented that originally the first meeting for September was scheduled on September 9, however, because a special meeting has been scheduled for McDonald's on the 3rd, she wondered if the Commission would consider having a work meeting on September 9 to work on the definitions. Commissioner Shupe said he would be in favor of holding a special work meeting to discuss the definitions. Mr. Whiting stated that there were no agenda items scheduled for the September 9 meeting at this time but there could, however, potentially be a couple of items that might need to be heard by then. The Commissioners discussed scheduling for the next

few meetings and agreed to have staff notice the September 9th meeting as a work meeting for the definitions discussion. The regular meeting would still be held on the 23rd. Mr. Whiting agreed that if there are no pressing items for approval other than ordinance amendment issues that could be scheduled for discussion. He noted that any meeting of the PC that did not follow the published schedule would need to be noticed as a “special meeting”.

4. APPROVAL OF MINUTES.

4.1 Minutes from July 1, July 29, and August 5, 2008.

(21:02:40) Commissioners discussed the July 1st minutes and some had concerns that they were not ready to be approved. Mr. Allred stated that the next meeting is scheduled for September 3 where the McDonald’s request will be discussed. It was ill-advised for the Commission to go to that meeting without having addressed the minutes since the Commission will not be able to properly hear the issue unless they have minutes to be considered for the record.

(21:15:20) The Commissioners agreed to proceed with the approval of the July 1 minutes which they reviewed and corrections were requested by various Commissioners.. Mr. Allred reminded the Commissioners that when reviewing minutes, substantive changes should not be made to what was actually said.

(21:33:01) Commissioner Shields was excused from the remainder of the meeting. She has submitted her changes to the minutes and as far as she can tell, the minutes of August 5 are accurate.

(22:06:30) Commissioner McKell moved to approve the minutes of July 1, 2008, as corrected. Commissioner Scott seconded the motion. Vote on motion: Richard Kimball-Aye, Brad Scott-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Gene Carr-Aye, Paul Shupe-Aye. The motion passed unanimously. Lynda Shields was not present for the vote.

(22:07:53) Commissioner Scott moved to accept the minutes of Tuesday, July 29, 2008, as written. Commissioner McKell seconded the motion. Vote on motion: Richard Kimball-Aye, Brad Scott-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Gene Carr-Aye, Paul Shupe-Aye. The motion passed unanimously. Lynda Shields was not present for the vote.

5. PLANNING COMMISSION BUSINESS – No Final Action to be Taken.

5.1 Updates or Follow-Up on Items Currently in the Development Review Process.

Commissioner Shupe clarified that the meetings in September will be held the 3rd, 9th, and 23rd. The September 9 meeting will begin at 5:00 p.m. to review the definitions. The September 23 meeting will be a regular meeting and anything not addressed on the 9th can be carried over to that meeting if the schedule allows. Because the September 9th meeting will begin earlier than usual at 5:00 p.m., he suggested that the meeting be limited to two hours. If there is no action items scheduled on September 23, he suggested that the meeting begin at 5:00 p.m. as well. Commissioner Shupe recommended that the September 3rd meeting commence at 6:00 p.m. with the public hearing scheduled at 7:00 p.m. Timing details of the McDonald’s application were discussed. Mr. Allred stated that the City and McDonald’s were moving toward a resolution; however, he is under the impression that it is possible that they might challenge everything that has been discussed up to this point.

Commissioner Shupe referred to the McDonald's letter and stated that the applicants are demanding a response. According to the ordinance, however, if the applicants do not like the decision the Commission makes, they can appeal to the City Council for resolution. He suggested the matter be preliminarily scheduled for 6:00 p.m. on September 3rd. Commissioner Shupe suggested the Commission meet from 6:00 p.m. to 7:00 p.m. to hear from the City Attorney followed by the Gateway Signs hearing and then hear from McDonald's after that. The Commission discussed the possibility of holding a closed meeting and debated whether the Planning Commission can conduct closed meetings.

5.2 Report from Staff on Upcoming Applications.

There was no discussion on this item.

5.3 Discussion of Possible Future Amendments to Code.

There was no discussion on this matter.

6. ADJOURN.

(22:24:00) Commissioner Scott moved to adjourn. Commissioner McKell seconded the motion. Vote on motion: Richard Kimball-Aye, Brad Scott-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Gene Carr-Aye, Paul Shupe-Aye. The motion passed unanimously. Lynda Shields was not present for the vote.

The Planning Commission Meeting adjourned at 10:24 p.m.

I hereby certify that the foregoing represents a true, accurate and complete record of the City of Holladay Planning Commission meeting held Tuesday, August 19, 2008.



Teri Forbes
T Forbes Group
Minutes Secretary

Minutes approved: 9-3-08