

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

**Tuesday, August 21, 2007
5:00 p.m.
Holladay Municipal Center
4580 South 2300 East**

ATTENDANCE

Planning Commission Members:

Jim Palmer, Chair
Gene Carr
Richard Kimball, Alternate
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

The meeting commenced at 5:26 p.m.

1. Ordinance Discussions.

a. Cottonwood Mall Area Proposed Zoning Language.

(17:26:10) Community Development Director, Paul Allred, reported that the previous day staff met with Kris Longson of General Growth. They discussed the new zone and spent a lot of time discussing semantics. He explained that General Growth would like to not be micromanaged at the very end of the entitlement process. In other words, when they come in for their subdivision plats on their phases, they want to avoid having staff and the Planning Commission pick apart architectural detail. Their preference was for the Planning Commission to sign off on the plat and have staff give the building permit approvals if the plans they submit meet what is in the master site plan. He explained that the master site plan would include perhaps at least four or five pages of architectural materials, colors, and styles that the developer could choose from. GGP did not want to be committed to building an exact building, in an exact location, with the specified pre-determined architecture. They instead wanted to have the flexibility to mix and match as long as it fits what the master plan calls for in terms of architectural quality, building height, etc. Mr. Allred thought the problem was that the applicants wanted maximum entitlement speed and the least amount of regulatory hurdles. He suggested the applicants provide the City with maximum detail in order to eliminate some of the hurdles they were faced with. If the project is broad and general, staff and the Commission will not know what they are approving when it comes time to build it.

Mr. Allred contacted Mr. Longson earlier in the day with an idea. He suggested that instead of writing the zone to be all-inclusive, General Growth through DPCS had already produced an enormous amount of detail as far as how things would work on the site. He thought amending

that document could result in it becoming the master site plan referred to in the new zone chapter. It could be the overall control document for the site. Mr. Longson liked the idea but wanted there to be a caveat that when they get to the Planning Commission, they are not micro managing what the individual buildings will look like. Mr. Allred thought that would work well for all involved. Mr. Longson asked for a process where staff would sign off on the permits and have the Planning Commission approve the subdivisions. Mr. Allred suggested a caveat be added that the applicants be granted subdivision approval by the Planning Commission subject to conditions of approval. He was somewhat insecure that the applicant only presented beautiful pictures and then wanted to move forward with the permits. He thought the City should have more control than that.

(17:31:03) Commissioner Carr did not want a Middle-Ages, Italian tower representing the City. Mr. Allred responded that that was discussed. He explained that how the zone was drafted, the Planning Commission would have to review the document and make a recommendation to the City Council. That would be in the future since at this point they were working on the zone. A lot of detail was contained in the zone; however, the graphic detail would not be within the zone. It would come later as called for by the zone in preparation of the site master plan and for the subdivision plats. Timing issues and items that would be forthcoming were identified.

Mr. Allred reported that the City could look bad if they are too detail oriented. That was a big fear of General Growth. City Planner, Alma Haskell, remarked that the reverse could be true if the City does not look at enough detail. He acknowledged that General Growth was a great developer and he was confident they would do something wonderful there. If, however, something is developed that is not well received by the community, the City could be blamed for not including enough detail.

(17:41:34) Commissioner Shupe suggested the Commission be provided with the information at least two weeks in advance in order for them to review it and get comment from their constituents. He was concerned that the applicants were in affect wanting to provide information at their leisure but yet expected the City to give assurance that it would be approved. That bothered and surprised him. Commissioner Palmer had the same feeling but thought he understood why they were doing it. He suspected that a great deal of money was invested in the project. The developer told Mr. Allred that they had spent approximately \$1 million in the pre-planning and design of the project. Commissioner Shupe thought that was miniscule compared to the overall project. Commissioner Palmer thought they were looking at it as a very competitive investment and they wanted to keep it as low profile as possible. Commissioner Shupe was concerned that they were so tentative that the Commission might get the information right before the meeting, which he could understand. He understood the process but stated that everyone else did too. His company sends months and sometimes years going through the process in other cities and don't get that kind of a break. He recognized they were putting out a lot of money to bring the Cottonwood Mall on, but the Commission Members also get feedback from their constituents who are not in favor of what is proposed. Commissioner Carr stated that the Commission should have some input since it was their community and their image.

(17:44:51) Mr. Allred thought it had been a good, cooperative process so far. He had dealt with projects that were delayed for months because of micro managing. It got to the point on one

project that it became so painful for the parties to deal with each other that communication melted down. Before things get to that point, introspection was needed. Commissioner Shupe was not overly concerned with the process of micro managing, and instead thought the Commission needed enough time and detail to feel comfortable with the project. Mr. Allred agreed and stated that that was what staff had been telling the applicants. Staff wanted to help the applicants do what they want to do, but ensure that the City maintains adequate control.

(17:46:50) It seemed to Commissioner Shields that the amount of residential would limit the amount of commercial and retail, which was what the City wanted. It looked like there would be so much residential that there would be no space left for retail later on. Mr. Allred's understanding was that the capacity of the Mall with commercial space was 735,000 square feet when it was full. GGP is planning on building close to that amount in the future on the site. It did not appear to Commissioners Shields that the applicants were leaving any space for commercial, and instead maximizing the residential. Mr. Allred responded that the overall development, a mixed-use project, was a different concept than just a commercial mall.

Commissioner Shields presented her idea for the Mall and suggested there be a draw like a water park or hotel inside. She thought that would attract skiers and travelers. She recommended it be a year-round destination with restaurants and an open stage area. She was totally turned off by the overbuilding of what was proposed. Mr. Allred suggested she share her feelings with the applicants. Commissioner Shields stated that she had and that the applicants already had their minds made up about what they want. She did not believe they were thinking outside the box. Mr. Allred agreed that the applicants had chosen a different model. Commissioner Shields did not think what was proposed was creative and was being done everywhere.

Mr. Allred remarked that when the Mall was built in 1961, that concept was the trend and for many decades there were indoor malls. It was noted that Cottonwood Mall was one of the first malls in the U.S. Commissioner Shields remarked that she was married the year the Mall opened and she was surprised that there was suddenly shopping in Holladay. She remarked that the Mall changed everything. Mr. Allred thought she should bring her concerns up at the rezone stage.

(17:52:03) Commissioner Shields thought there were creative things that should be done and noted that Holladay needed a hotel. She remarked that there was an indoor mall in Edmonton, Canada, that has a huge water park and atrium windows that let light in. It also features a hotel. Mr. Allred was unsure whether the applicants were considering a hotel use. Commissioner Shields wanted to see more retail and more indoors but recognized that probably would not happen. She thought something was needed to draw families. Mr. Allred remarked that there would be a large indoor event area. The applicants were calling it a ballroom. It would be a huge room where there could be gatherings, events, and receptions. He noted that it was the applicants' preference as to what they want to build there, however, if Commissioner Shields had a fundamental problem with the land use itself, it should be brought up at the general plan hearing.

Sales tax revenue issues were discussed. Commissioner Palmer suggested the Commission Members think about where the City gets its revenues. Former Commission Member Howard Diederich was always worried that when the Cottonwood Mall shut down, the City would be

wiped out because it comprised the entire economic base of the City. That was not the case. In looking at where the City gets its revenue, one-third was received from commercial and residential property taxes, one-third from the City's share of the sales tax, and one-third from fines and fees. Of the one-third that is sales tax, the Cottonwood Mall comprised 20%. That encompassed 8% to 12% of the City's revenue. What would be developed in terms of the building would have a much higher property tax than what was presently there. The people living in the condos and town homes would be paying property taxes as well. Commissioner McKell thought that was important for the public to know. Mr. Allred stated that currently the proposed square footage was 735,000 but he thought the number was actually closer to 1.2 million. In terms of the total square footage within the project, it would increase significantly but it would not all be in retail. There was a different type of retail environment envisioned that might include higher ticket items. As a result, the City could see a difference in the kind of sales tax revenue that comes out of the Mall. It would be a reduction of about 15% in total area but in looking at the office and the off-site residential, the daytime users and 24/7 users would generate a lot of business for the Mall because they live and work on site. He expected a multiplier effect would be seen in the surrounding areas near the mall.

(17:58:06) Tax generation issues were discussed. In response to a question raised, Commissioner Palmer reported that the RDA allows the City to help with infrastructure upgrades. Money would be borrowed from other taxing entities such as the Granite School District. Commissioner Shields wanted more clarity on how RDAs work. Every time she looked at the proposed plan she was horrified.

Commissioner McKell remarked that what the neighbors were hearing were arguments. He did know if there were many people who really have a concept that what was proposed was not a Mall redo. It was actually a village center with walkable space, residences, and offices. It would be a complex that would be beneficial to the City. He suggested that perhaps General Growth write a very positive article perhaps in *The Holladay Cottonwood Journal* describing what the development would mean to the City. He thought there were numerous details and questions that people have and they have no idea at this point what it will look like. Mr. Allred remarked that General Growth was talking about having an open house the following Monday at the Mall. He had not heard anything about it recently, however.

(18:00:53) The meeting was paused while the Commissioner Members took a field trip.

b. General Land Use Tables.

City Planner, Pat Hanson, hoped to have the ordinance changed and the LUDMA changes submitted within the next month. The condo conversion matter would appear on the September 4 agenda as a public hearing. She asked that any additions or changes be sent to her for inclusion in the final draft within the next two weeks. Items to be addressed at future meetings were reviewed.

(19:47:40) Commissioner Palmer reminded the Commission Members that at the next meeting there would be three separate public hearings with a motion to open and close with each one. There would be a recommendation on amendments as well at that time. With regard to the General Growth item, Mr. Allred remarked that the applicants would like the Commission to

make a decision next week. He informed General Growth that he would not recommend a decision be made at that time. He did not think the new zone was ready and believed more time was needed on it. He told the applicant that he thought it would be at least one month from the time the Commission receives it until a recommendation is made. He realized that the new zone was not simple. The general plan change, however, was not expected to be too difficult. He explained that the rezone petition was contingent upon the Commission recommending approval of the new zone.

Commissioner Palmer recommended that rather than closing each of the three hearings at the next meeting, to instead have a motion at the end to continue each. That would keep the hearing open and then at the September 4 meeting they could determine whether there were any other public comments. He wanted to give the public time to absorb and adjust to what was proposed and come back with their concerns. Mr. Haskell remarked that 60 people so far had viewed the page on which the zone items were posted. Staff, however, had received very few phone calls.

Ms. Hanson urged the Commission Members to look through the ordinance with the idea that there is generic language included that could be applied to any property that could be rezoned. Beyond that, there were a lot of specifics such as tables and a list of illustrations that should be adopted. It was her opinion that some of the language should not go into the ordinance at this time. She thought it needed to go into the master plan documents. She was concerned with putting too much specificity into the chapter now would send a signal to General Growth that what they are doing is fine. She stressed that there were two specific types of language in the chapter. General Growth was pushing for it to all go in and rushing for adoption.

(19:53:31) Commissioner Palmer suggested that the definitions be compared with the existing definitions. Language and term differences were discussed. Ms. Hanson urged the Commission Members to raise their concerns on the definitions with her. She realized that many of the terms included in the chapter were confusing. She thought it was important to reword some of the vocabulary. Commissioner McKell thought in some ways what was proposed was tailored to the Cottonwood Mall and yet it was a zone. He did not think it should be referred to as the Cottonwood Regional Mixed Use Zone but instead as the Regional Mixed Use Zone.

Ms. Hanson stated that she would be comfortable with the generic terms and the generic process of getting a project through. Beyond that, she thought it should be something totally different and attached to the master site plan coming forward. She agreed to take the Commission's comments and make changes accordingly. A revised document would then be provided for review. Mr. Allred offered to meet with Commission Members individually, if desired. He introduced the concept of LEED (Latest Energy Efficient Design).

(20:16:24) Mr. Allred asked the Commission Members to look for changes coming from him on pages two and three of the zone. He agreed to email them to the Commission Members. Based on previous discussions with General Growth, he would be proposing some reorganization of the language. There were no concerns on the General Plan amendment.

c. **Condo Conversions Language (May field trip example property at 4163 South Highland Drive).**

(19:30:18) Condominium conversion issues were discussed. Commissioner Palmer’s thinking was that condo conversions were a good thing. The City preferred to have vested owners living in residences rather than a more transient population. He thought owners would be more involved in the community and be more permanent.

Orem City, for example, required conversions to comply with the code in place at the time the structures were built. That was viewed as a minimal standard and almost a non-standard. Commissioner Palmer viewed one potential problem as the inability to get a fire truck around back. He suggested the applicants work with the property owner to the south to tear down the concrete barrier wall and fence. Commissioner Shields was aware of numerous private lanes in the City that the fire truck could not turn around in. She did not see it as being a huge issue. Mr. Haskell responded that it might not be a big issue with the fire authority. The matter would have to be reviewed by the UFA Board.

Mr. Haskell remarked that the applicants would have to meet the Existing International Building Code (EIBC). Certain things would not have to be upgraded, however, smoke detectors, electrical, and plumbing would have to be updated.

Commissioner Palmer’s understanding was that the applicants do not meet the parking, landscaping, or density requirements. Mr. Haskell thought they met the height requirement. Other requirements to be met by the applicants were reviewed. Commissioner Scott was in favor of a condo conversion like the one proposed, however, it would have to conform to the safety requirements. He urged the applicants to be creative. Proposed condo conversion language was discussed.

(19:43:40) Mr. Haskell reported that what was presented was not a staff-initiated language change. The applicants applied themselves but had worked with staff on the language. He thought the matter might be passed on to the Council more quickly with an applicant pushing it. He explained that the Planning Commission recommended approval three or four years earlier. The version recommended states that it must conform to all of the zoning requirements.

d. Conversion from Condos with Common Space to Twin Homes with Individual Lot Ownership. (May field trip example property on Arbor Circle).

(19:07:27) The properties visited on the field trip were discussed as well as property line differences between condominiums and duplexes. Mr. Haskell reported that what was discussed was a condominiumized duplex with bylaws. Commissioner Shupe’s understanding was that a duplex was a format of a condominium. Mr. Haskell stated that each cannot be separately owned inside paint-to-paint. Commissioner Palmer reported that the buildings were separately owned. Commissioner Shupe stated that with a condominium, owners only own paint-to-paint and a percentage of the common area. The difference between PUDs and condominiums was discussed. Mr. Haskell reported that the buildings were currently legal condominiums. The applicants hoped to make them twin homes. The owners wanted to convert from air rights to land rights. Mr. Allred clarified that there would be no common space if the project were a PUD. Ownership issues were discussed.

Mr. Allred explained that in a PUD, owners own land outside of the building. With a condominium, individuals own the building. In this case, what was envisioned was condominiums. If they split the properties, they would not necessarily have to convert to a PUD. They could instead each own their own lot, similar to a twin home. Mr. Haskell asked how they could get around the one-half acre requirement. Staff stated that they could get around it because they were legal non-conforming. Mr. Allred remarked that when the City zoned the property R-1-21, it created a non-conforming situation. Staff contended that they might be able to get around it because they are legal non-conforming. Mr. Allred stated that the change would not create any more non-conformance because the project was non-conforming in terms of area, density, and use.

(19:12:45) Commissioner Shupe disagreed with those who claim it is a duplex, because it is not. He stated that it was a condominium in a duplex format. Commissioner Palmer asked Mr. Allred what the benefit to the City would be of moving forward. Mr. Allred thought there was benefit in that any time a person owns a unit rather than renting it, there is less turnover in a neighborhood and more stability. Commissioner Palmer pointed out that the units were individually owned presently. He saw no change and stated that the units could be owner or renter occupied at any time. Mr. Allred agreed but believed that psychologically, people prefer to have twin home use over condominiums and condominiums over apartments. He stated that there was a hierarchy.

Commissioner Shupe thought it was a philosophical difference. In his experience with condominiums versus duplexes, he had not experienced that. In his case it had almost been the opposite. People had come into his condominium developments for the amenities. Mr. Haskell thought that was where this project was lacking. He remarked that the condominium association was not providing any amenities or collecting any dues. All they were doing was paying for someone to mow the lawns. In a condominium development, typically the building itself is not individually owned. In the present situation, the individual owners were providing the maintenance on the buildings, rather than the association.

(19:16:03) Mr. Allred explained that the intent of the owners was to own property outside of their units. Currently they only owned “air” inside their units. They also wanted to have influence over what the association does on the property. Mr. Haskell stated that the association was probably functioning to the extent it needed to for a development of its size, but it was not doing much for the owners. Mr. Allred stated that staff worked through the issue and in the end viewed it as “no harm no foul”. He explained that the density, use, and access were not being changed; only the ownership would be changed. The use was already non-conforming, so it seemed there was no reason not to approve it.

Commissioner Palmer thought there was a legal question of whether the City can approve something and record a plat that is non-conforming on its face. Commissioner Shupe added that it also did not fit the zoning. Commissioner McKell had the same concern.

Mr. Allred thought the Commission could create a new subdivision plat recognizing the density. Commissioner Palmer questioned whether that could be done given that the zoning was R-1-21.

Commissioner McKell questioned whether the City should be involved in creating non-conforming lots. Mr. Allred thought the argument could be made that the Commission hated what the County did when it implemented bizarre zoning that did not match the land use on the ground.

City Planner, Pat Hanson, thought it strengthened the community to be able to go down Arbor Lane and see four beautiful twin homes that allow people to live in a different kind of situation from a single-family detached lot. She did not understand why everyone was so afraid of mixed housing in a neighborhood. She believed the fabric of the community was built on diversity. She referred to an area on Murray Holladay Road near the corner of Wander Lane where there were condominiums. She did not think they destroyed property values or ruined the community. She thought that was one of the things many loved about Holladay. She viewed the area being considered as a beautiful circle and saw no reason why the City should be afraid of maintaining that housing in its present form. She noted that if all of the units burned down tomorrow, similar housing could be built in its place.

(19:21:02) Mr. Allred remarked that his first home was in unincorporated Salt Lake County near 6800 South 800 East. At that time, 80% of the neighborhood was single family but about every seventh or eighth house was a duplex and scattered throughout the neighborhood. He loved the neighborhood and did not see it as a problem. Since he left, his former home had quadrupled in price. If that kind of land use pattern devalued property, that kind of use would not have gone in. He thought in building a community, the intent was to bring all kinds of people into a community including different income, age, and need levels.

Commissioner Scott remarked that as the project was no longer a condominium, there were no longer fences between the units. By providing individual lots, owners could fence and make the area more compliant. The issue had arisen because of appraisal issues surrounding the common area. Mr. Haskell also remarked that the homeowners were maintaining the exterior of the buildings rather than the homeowners' association. As a result, the homeowners wanted to own what they were maintaining.

Commissioner Palmer asked that staff ensure that the Commission has the authority to do what is requested. If the answer was no, the alternative was for the homeowners to come in for a zone change to R-2-10 and then try to do a split. Where that option would end up was unknown.

(19:25:14) Mr. Allred remarked that his initial reaction was that what was proposed could not be done. In looking at the definition of non-conforming use, it specifically stated that the use may not be amended, modified, enlarged, or expanded. He viewed what was proposed as a modification of a non-conforming use as only ownership was being changed. He eventually came to the understanding that the City made it non-conforming when the property was rezoned R-1-21. Commissioner Palmer remarked that it should not matter who created it, since it was still non-conforming. Mr. Allred explained that a significant basis for land use was density and impact. What was proposed would not result in a change in impact or density. The only change would be to the ownership. In that case, he did not think ownership was on the "radar screen" in terms of non-conforming use. He saw no good reason to not allow what was proposed unless the City Attorney agreed legally with Mr. Allred's initial interpretation.

Diversity and potential school district boundary change issues were discussed.

2. Adjourn.

The Planning Commission Meeting adjourned by unanimous consent. 8:19 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 21, 2007.

A handwritten signature in black ink that reads "Teri Forbes". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Teri Forbes
T Forbes Group, Inc.
Minutes Secretary

Minutes approved: 10-2-07