

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

**Tuesday, December 16, 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

In Chair Paul Shupe's absence Vice Chair Brad Scott called the meeting to order at 5:11 p.m. Commissioner Shupe arrived at 5:12 p.m. and assumed the Chair.

AGENDA ITEMS

1. PLANNING COMMISSION BUSINESS

1.1 Election of Chair and Vice Chair.

(17:13:48) *Commissioner Carr nominated Paul Shupe to continue serving as Chair. Commissioner Kimball seconded the motion.*

Commissioner McKell moved that nominations cease for Chair. Commissioner Carr seconded the motion.

Vote on motion. Brad Scott-Aye, Gene Carr-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Lynda Shields-Aye, Richard Kimball-Aye, Paul Shupe-Abstained. The motion passed unanimously with one abstention.

Brad Scott stated that he would like to step down as Vice Chair for 2009 due to his demanding schedule for the upcoming year. City Planner, Rick Whiting, stated that as of June 30, 2009, Commissioner Scott's term will expire. The terms of Commissioners McKell and Shields would also expire June 30, 2009.

(17:16:04) *Commissioner Carr nominated Lori Khodadad to serve as Vice Chair. Commissioner McKell seconded the motion.*

There were no other nominations.

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

Community Development Director, Paul Allred, expressed appreciation to Commissioners Shupe and Khodadad for their service and willingness to serve.

1.2 Adoption of 2009 Schedule.

(17:18:40) The 2009 meeting schedule was reviewed. Mr. Allred stated that the January 20, 2009 meeting was rescheduled to January 21, 2009 due to the commemoration of Martin Luther King Day. He noted that LUDMA Committee Meetings are held on rotating weeks from Planning Commission Meetings. Other conflicting dates were identified. Mr. Allred noted that the meeting schedule could be amended if desired by the Commission.

(17:21:09) *Commissioner Kimball moved to adopt the 2009 Meeting Schedule. Commissioner Scott seconded the motion. Vote on motion: Brad Scott-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Lynda Shields-Aye, Richard Kimball-Aye, Paul Shupe-Aye. The motion passed unanimously. Gene Carr was not present for the vote.*

Commissioner Shupe thanked the Commissioners and staff for the time they spend on the City's behalf and presented each with a gift.

2. APPROVAL OF MINUTES

2.1 Minutes from November 18, 2008 Planning Commission Meeting.

(17:24:45) The November 18, 2008 meeting minutes were reviewed and modified by the Commission.

(17:47:25) *Commissioner McKell moved to adopt the minutes of November 18, 2008, as corrected. Commissioner Kimball seconded the motion. Vote on motion: Brad Scott-Aye, Gene Carr-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Lynda Shields-Aye, Richard Kimball-Aye, Paul Shupe-Aye. The motion passed unanimously.*

Due to time constraints, approval of the following matter was postponed until the end of the meeting.

2.2 Minutes from December 2, 2008 Planning Commission Meeting.

(19:04:00) The minutes of December 2, 2008 were reviewed and modified by the Commission.

(19:36:40) *Commissioner Khodadad moved to accept the minutes of December 2, 2008, as amended. Commissioner Kimball seconded the motion. Vote on motion: Brad Scott-Aye, Gene Carr-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Richard Kimball-Aye. The motion passed unanimously. Lynda Shields and Paul Shupe were not present for the vote.*

3. DECISION ITEM

The Commission was in recess from 5:48 p.m. to 6:10 p.m. after which Vice Chair Brad Scott assumed the Chair in Paul Shupe's absence.

3.1 Nicole-Lindsay 2-Lot Subdivision – 4787 South Holladay Blvd. – Preliminary Plat – Applicant: Preston Miller – Planner: Paul Allred – (Discussion and Possible Decision).

(18:13:50) Mr. Allred presented the staff report and stated that the matter was heard at the last Planning Commission Meeting held on December 2. The Commission made a commitment to mail a courtesy notice to all neighboring property owners similar to that which was done for the first meeting. The purpose of tonight's meeting was to continue discussion on the proposed two-

lot subdivision. What was proposed was a two-lot subdivision on approximately one-half acre of property. The property is landlocked and has no access to a public road but would be serviced by a private roadway. At the last meeting, there was a significant amount of discussion concerning whether or not there was adequate area for a subdivision to be built. Both the applicant and the neighboring property owners understand that there is a dispute about whether or not some property on the north side of the proposed two-lot subdivision is actually owned by the Livingston family and whether or not the applicant, Mr. Miller, has enough property to develop. Staff's understanding from the documents in their possession is that there have been actions filed in court contesting ownership of the small area of property along the north property line of the proposed subdivision. At the last meeting the Planning Commission took public comment and suggested additional public comment be taken tonight. Staff recommended that any new information be evaluated. Mr. Allred reported that the applicant had submitted all of the additional information that was required from the last meeting, which was necessary to proceed with the preliminary plat.

At the previous meeting, the conceptual subdivision plan was granted approval but the Commission requested that the City Attorney be consulted with regard to whether to proceed to determine if a preliminary plat can be considered. The City Attorney rendered his opinion that the Planning Commission should move forward with preliminary plat approval pending submittal of the information required by the ordinances. Mr. Allred was informed as staff that that information was submitted to staff and verified to be correct. All of the information required for preliminary plat is in place. He explained that the Planning Commission could grant preliminary approval tonight if they are so disposed. He added that the City Attorney rendered an opinion that the Planning Commission could grant preliminary approval and the applicant could proceed to final plat approval at staff level, however, the City would not be able to record the final plat until the property line dispute issues raised by the neighbor to the north are resolved. Such action would allow Mr. Miller, the applicant, to proceed with the subdivision including the development of a final subdivision Mylar and all the other documents necessary for final plat. He would not, however be allowed to record the plat or proceed with construction or other issues relative to final plat until the legal issues have been resolved.

(18:18:22) Mr. Allred stated that when he became aware of the City Attorney's opinion, he immediately called Mr. Crockett and Mr. Miller and informed them of the situation. Both believed that was a fair and equitable way to move forward. Mr. Allred explained that the issue had to do simply with the division of one piece of ground into two. If the subdivision was approved, only one additional building lot would be added to the area over and above what already could have been built. The access would be from Holladay Boulevard where there is a 12-foot easement that widens to 20 feet, which the UFA signed off on. In addition, all utility service letters had been received. Mr. Allred's only concern had to do with the easement on the north property line. He explained that the existing irrigation ditch shows an approximate location but it is not shown all the way to the western edge of the property. Also, the preliminary plat does not show the telephone pole. He remarked that those were oversights that should be corrected. Mr. Allred indicated that a utility easement on the north property line may not be necessary because it was his experience that most utility companies shy away from going near the irrigation ditch to lay pipes or underground lines. Since there are other easements on the property he believed it could be serviced.

Another technical issue was that the ditch runs through the disputed area and the north boundary line of the proposed subdivision encroaches on property that Mr. Crockett believes is rightfully his. Mr. Allred reported that Mr. Crockett filed legal action on the matter in court. If the

subdivision is approved, the ditch would become trapped on the south side of the property line and could theoretically be fenced in. If that were the case it would mean that Mr. Crockett could not get to the water to which he is entitled. If the subdivision were approved, it would be the responsibility of the two abutting property owners to work out the proper way to handle the irrigation. It may be beneficial to leave the ditch in its present location and provide a head gate and access to water for the Crocketts or relocate the ditch to the north side of the fence. Either way, both properties will be entitled to the water that they have rights to.

(18:23:00) Commissioner Carr asked about the depth [length] of the private lane. Mr. Allred responded that there are private lanes in the City that go much longer. Usually the requirement is that there be proper width and a turnaround for fire department vehicles. Mr. Whiting remarked that the UFA has studied the issue at length and ruled with the code amendment that the proposed access is permissible. They will require a fire hydrant midway up the private lane and any structure built on the new lots will include a fire arresting sprinkler system. To their satisfaction, the UFA has mitigated any deficiency there might be in the width or length of the road. Mr. Whiting explained that the requirement for approval would stipulate that the legal proceedings be resolved and that the applicant still have area in which to subdivide.

Mr. Allred asked Mr. Whiting to explain how fire apparatus would turn around on the site. Mr. Whiting responded that there is a provision that if providing a turnaround creates a hardship for the property owner the requirement can be waived with the mitigation of sprinklers or hydrants. For whatever reason, the UFA was not requiring a turnaround. Mr. Allred stated that when he first began working for the City, UFA seemed to be strict on interpretation. As time has gone on, they have worked more and more with property owners on deep lot subdivisions, such as this one, and allowed for narrower widths.

(18:27:15) The applicant, Preston Miller, stated that he met with the UFA and he will make a notation on the plat that the property owners will be responsible if the fire truck damages the surface of the driveway. In addition, having fire hydrants closer and with the new Holladay Water pressure systems, there is more water pressure than there was in the past. Residential fire sprinkling systems are very adequate and the pressures can typically handle most fires before the fire department arrives. The UFA also realized that they can turn around on the Livingston's property. Mr. Miller stated that they will have to make sure that the road constructed is able to carry 78,000 pounds, which is the weight of the truck. It was also recognized that in the event of an emergency, the fire truck would not block the driveway since an ambulance may need to gain access. Mr. Miller stated that he had met with the UFA on many occasions and that they have thoroughly thought through the issues.

Mr. Miller reported that all of the utility letters indicate that the proposed site will not be difficult to service and all were willing and able to provide service. He explained that ditch realignments are common. Ditches can be moved but the water cannot be taken or stopped. There was no intention of either in this case. He respectfully requested that the Commission allow the project to proceed.

Easement issues were discussed. Mr. Allred doubted there was an easement on the property but explained that the ditch has been in existence for many decades and would, therefore, likely be a prescriptive easement. He noted that the City now owns the Upper Canal facility and has jurisdiction over where the ditch would be moved. As a result, the City would have some jurisdiction over the upper canal.

(18:36:15) Commissioner Scott opened the meeting to public comment.

Steve Crockett identified himself as the abutting property owner to the north. His understanding was that the amount of area owned by the applicant, is in question pending the resolution of the legal issues. As a result, the matter was moving forward under the presumption that the applicants have the necessary amount of property. If they do not have the necessary land, the project will not proceed, which was satisfactory to him.

There were no further public comments. The public comment period was closed.

Commissioner Scott asked about the timing of resolution of the outstanding issues. Mr. Allred responded that no indication was given, however, the contending parties can approach the court and try to get the situation resolved at their convenience. He explained that the Commission could grant the preliminary plat but it would only open the door for a foothold for the developer to move forward with preparation of a final plat. Nothing can be built until the final plat is recorded. The Commission has granted conceptual approval and could approve the preliminary plat tonight. He believed there were grounds to approve the preliminary plat tonight subject to the requirements contained in the staff report and as recommended by the City Attorney.

(18:49:05) A question was raised with regard to whether the roadway from Holladay Boulevard to the property will be required to have curb and gutter. Mr. Allred stated that curb and gutter is typically not required but if they were, the curb portion would decrease the driveable width.

Commissioner McKell asked about road maintenance. Mr. Allred explained that on deep lot subdivisions, typically there is a requirement that all property owners who abut the private road agree to jointly provide maintenance. Commissioner McKell asked for a definition of “reasonable maintenance”. Mr. Allred responded that it would be left up to the property owner(s). Each would be required to sign a road maintenance agreement. If someone doesn’t do their part, the other neighbors would have to resolve the situation. Unlike many communities in Utah, Holladay City has countless homes on private lanes and driveways, which makes the City very unique.

Commissioner Scott was disappointed that the City Attorney did not provide more information on his opinion about the lawsuit. He found it odd that the project can be held up pending the outcome.

(18:58:51) Commissioner Khodadad moved to grant preliminary plat approval for the two-lot Nichole-Lindsay subdivision on 4787 South Holladay Boulevard with the understanding that prior to approval of and recording a final plat, the following requirements will be met:

- 1. Verification that the property line dispute along the north property line has been resolved and that the applicant owns sufficient area for subdivision, i.e. 10,000 square foot minimum per lot excluding driveways, fire turnaround, etc.***
- 2. A revised legal description and a final plat must clearly define the access and utility easement from Holladay Boulevard to the property line for Lot 1. Additionally, any easements or rights-of-way on the property must be noted and recorded on the final plat.***
- 3. The applicant shall submit an acceptable drainage and water retention plan to the TRC.***
- 4. The applicant shall submit road design details for the private driveway that are acceptable to the City Engineer and the UFA.***

5. *Property owners involved in the access right-of-way easement, the Livingtons and Cannons, shall be required to sign the final plat mylar with the applicants.*
6. *All recorded easements shall be maintained.*
7. *All existing water laterals shall be maintained.*

Commissioner Carr seconded the motion. Vote on motion: Brad Scott-Aye, Gene Carr-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Richard Kimball-Aye. The motion passed unanimously. Lynda Shields and Paul Shupe were not present for the vote.

4. **OTHER BUSINESS**

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

4.2 **Report from Staff on Upcoming Applicants.**

(19:37:06) Mr. Allred stated that there were some larger single-family homes being proposed in Holladay. One is at the corner of Tolcate and Holladay Boulevard. A permit or partial permit was expected to be issued the following day. Staff was also working to resolve issues pertaining to the reconfiguration of some non-conforming properties off of Walker Lane. In addition, one small commercial building on Highland Drive was proposed. Mr. Allred next reported that the McDonald's redevelopment project was making progress. In response to a question raised, Mr. Whiting reported that the Gates project was moving forward. Mr. Allred commented on the color of the residential structure and said that he liked it because it is refreshing and different. Some Planning Commission members reiterated their general distaste of the color.

4.3 **Discussion of Possible Future Amendments to Code.**

The above matter was not discussed.

ADJOURN

(19:43:22) *Commissioner Khodadad moved to adjourn. Commissioner Kimball seconded the motion. Vote on motion: Brad Scott-Aye, Gene Carr-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Richard Kimball-Aye. The motion passed unanimously. Lynda Shields and Paul Shupe were not present for the vote.*

The Planning Commission Meeting adjourned at 7:44 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, December 16, 2008.



Teri Forbes
T Forbes Group
Minutes Secretary

Minutes approved: 1-6-09