

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

**Tuesday, December 2, 2008  
7:00 p.m.  
Holladay Municipal Center  
4580 South 2300 East**

***ATTENDANCE***

**Planning Commission Members:**

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

**City Staff:**

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

**FIELD TRIP**

1. **All Agenda Items May be Visited.**

**WORK MEETING AND DISCUSSION**

2. **Introduction to the WFRC Growth Principles – Val Halford.**

Proposed Amendment (addition) to PC Meeting Minutes 12-2-08

Val John Halford and Ned Hacker, with the Wasatch Front Regional Council (WFRC,) and Elli Cosky, with Salt Lake County Planning; presented an overview of the “Wasatch Choices 2040 Growth Principles” for the Wasatch Front. Their organizations and Envision Utah have jointly developed this comprehensive planning initiative. Salt Lake County, Sandy City, West Jordan City, West Valley City and other communities have formally adopted these principles through city council resolution, inclusion into General Plans and/or city ordinances.

In brief, the Wasatch Choices 2040 Growth Principles are an attempt by the WFRC to promote the adoption of land use policies by local municipalities that are consistent with regional transportation investments. The Growth Principles advocate higher density development where it makes sense, the incorporation of mixed-use developments at specific locations, and the construction of transportation oriented developments (TODs) at stops along fixed guideway transit lines. The use of the Principles should also provide more efficient use of public infrastructure, increase regional mobility, provide housing for all stages of life, protect public health and safety, promote the regional economy with collaboration of civic units, strengthen a sense of community, and protect and enhance the environment.

The coalition of Wasatch Front Regional Council, Salt Lake County Planning and Envision Utah are engaged in promoting these Growth Principles including cooperative inter-community

planning. They propose that the Holladay City Council consider formally adopting the Growth Principles into the City's General Plan and/or, to the extent appropriate, City ordinances.

Paul Allred mentioned the work of Dr. Arthur Chris Nelson, from the University of Utah – City and Metropolitan Planning at the College of Architecture + Planning, that notes the trend of under-planning for transit oriented development in light of rapidly changing energy and demographic factors and the relationship of these with density and infill.

**AGENDA ITEMS**

Vice Chair Brad Scott called the meeting to order at 7:05 p.m. and read the Commission Statement.

**3. PUBLIC HEARINGS**

**3.1 Nicole-Lindsay 2-Lot Subdivision – 4787 South Holladay Blvd. – Conceptual Plan – Applicant: Preston Miller – Planner: Pat Hanson – Discussion and Possible Decision).**

(19:08:14) City Planner, Pat Hanson, presented the staff report and stated that the applicant is requesting approval of the subdivision of a vacant one-half acre parcel. The intent was to create two lots. The lots will have to comply with the R-1-10 zoning in the area. One of the proposed lots would be 10,024 square feet in size while the other would be 10,213 square feet. Both meet the 80-foot lot width requirement. The property has no frontage on a public street but will be accessed by a private right-of-way. A portion of the private right-of-way is from a parcel that has frontage onto Holladay Boulevard. Part of the subdivision will require recordation of the easement in its present location across the parcels that exist. It was noted that the Livingstons and the Cannons own the two existing parcels.

Ms. Hanson reported that the westernmost portion of the right-of-way is a parcel that has existed for many years. The parcel is 16-feet wide; however, in reality there is only about 12 feet of usable space. That easement would necessarily be very narrow and narrower than the City would normally allow for any subdivision. Eventually the right-of-way widens to 20 feet. Ms. Hanson stated that there were several concerns at the time the staff report was written. The City had not obtained all of the utility availability letters at that time and there were still some outstanding issues being worked through with the Unified Fire Authority (UFA). A meeting was held with the applicant earlier in the afternoon at which time they provided their utility availability letters. The UFA provided the applicants with a letter permitting them to have a reduced access. In addition, the applicants agreed to improve the right-of-way in order to accommodate a fire truck. In lieu of providing the entire 20-foot width, the applicants will be required to install an interior fire sprinkling system for all new homes for fire protection.

(19:17:04) Ms. Hanson explained that the actual right-of-way will be 20 feet but the improvements on the right-of-way will be approximately 12 feet. The Cannons' authorization will be required because it cuts across their property. Ms. Hanson commented on a problem across the north property line. As of today, that still had not been resolved. Ms. Hanson reported that the City Engineer wanted to have a preliminary drainage plan in place. The City Engineer had not yet considered that. She noted that it would have to be done before moving forward. Once the home locations are determined, a detention basin will need to be shown on the lots in order to detain their runoff water. Staff was working through the process and was not

confident that all of the issues were resolved to a point that the preliminary plat can be recommended. Staff indicated that conceptual approval would be appropriate if the Commission is comfortable that the lot lines can be worked out. Staff recommended postponing approval of the preliminary plat until all of the issues are resolved. The ordinance indicates that conceptual approval requires the public hearing while preliminary plat does not.

It was Commissioner Shields' opinion that the Commission was hearing the matter prematurely when there are still many outstanding issues. She remarked that there is no way the Commission can make decisions when legal determinations still need to be made. Ms. Hanson stated that typically staff would have delayed presenting the request until they have information and more of the issues resolved; however, they decided to present it tonight since the Commission would only be meeting once this month. Staff wanted to conduct the public hearing and give the Commission an opportunity to hear what is going on in the neighborhood. After the public comment has been taken, if it is expected that the outstanding issues can be resolved, granting conceptual approval would give the applicants assurance that they will make it through the process. Ms. Hanson stated that the Commission could choose to hear the public comment and continue the matter without making any approval.

(19:24:20) Community Development Director, Paul Allred, explained that generally when cities consider a conceptual subdivision plan they are looking at a concept. Staff was fairly comfortable that conceptually there is room for two lots. Safety and access issues are generally worked out during preliminary plat. Staff was mostly satisfied with both the conceptual and preliminary. There remained a few items the developer was asked to submit and there is some detail that staff asked to be shown on the drawings, which were provided. The developer also resolved most, if not all, of the utility and fire safety issues. Staff was not saying that the applicants are not ready to move forward in some fashion tonight. From staff's perspective, the land is buildable on a conceptual basis. Staff understands that there is a counterpoint that will most likely be made tonight to the opposite. As a result, it might be premature to grant a preliminary plat subdivision if evidence is submitted that they don't have enough land. From what has been submitted, it appeared to staff that the applicants have resolved virtually all of the preliminary plat issues. Staff would like to have all of the issues resolved before granting the preliminary plat since preliminary plat more or less vests the project and gives the applicants development rights. Mr. Allred stated that it was safe to say that the applicants have met the requirements for conceptual approval. Access issues were also of concern. In addition, the issue of area needs to be discussed because the lots are very close to the minimum size.

(19:30:35) Commissioner Carr indicated that Section 13.03.050 of the ordinance states that a conceptual plat approval shall be valid for one year but does not specify what needs to be done during that time to possibly invalidate the conceptual approval. Mr. Allred stated that applicants have one year for the conceptual approval, however, the ordinance allows for an extension. More detail is required to get to final plat. If nothing is done within one year, there could be grounds for invalidating the conceptual plat. Mr. Allred stated that what most often happens is an applicant will pay another fee and come back for an additional review. If nothing has changed, an extension can be requested.

The applicant, Preston Miller, was present and offered to answer any questions the Commissioners might have. Commissioner Shields asked Mr. Miller what his interest is in the property. Mr. Miller responded that Nicole and Lindsay are his daughters and he lives at 4530

Butternut Road. His goal was for his daughters to build homes on the two lots. Mr. Miller stated that they hired Mr. Richard Sorenson, a surveyor, who resides in Holladay, to look at the project. Mr. Livingston has lived in the area for many years and owned all of the property at one time. The Cannons are related to the Livingstons and he was confident that they could easily obtain the access described since they are not offended by it and it already exists. In fact, both already use the driveway. Mr. Miller stated that he would improve and widen it in addition to formalizing and recording it. Having access did not seem to be an issue. The UFA met with them and determined it to be safe with the addition of fire hydrants and fire sprinklers. Mr. Miller stated that the use of the residual piece that remains would be left up to Mr. Livingston. Mr. Miller referred to the drainage shown on the plat. He remarked that City Engineer, Clarence Kemp, reviewed it; however, Mr. Kemp was out of the office today. Mr. Miller stated that the issues are easily resolvable.

Mr. Miller stated that all of the utility letters have been submitted to staff. The only issue that keeps shadowing the project is a letter sent by a neighbor, Mr. Crockett who is an attorney. Mr. Miller stated that Mr. Crockett is trying to do a land grab because he mows Mr. Livingston's lawn. He reported that Mr. Livingston owned Mr. Crockett's land previously and Mr. Crockett's house was cut out of the original piece. Mr. Miller stated that there isn't much dispute about where the property line is. Professional surveyors have put down stakes and Mr. and Mrs. Crockett were invited many times to provide evidence or information they might have. If the Crocketts are correct Mr. Miller would not be interested in the property since if additional land is taken, two lots cannot be developed. He considered it to be a simple issue, however, repeatedly over the past six weeks the Crocketts have produced nothing.

Mr. Miller stated that City Planner, Rick Whiting, spoke to the Crocketts and asked them to provide evidence yet nothing has been submitted. He stated that if Mr. Crockett has a dispute he can pursue it in civil court. He stated that any dispute would involve Mr. Livingston, who owned both properties, and Mr. Crockett. Mr. Miller commented that he tried to meet with the Crocketts as late as last night when Mr. Crockett cancelled. Mr. Miller's belief was that Mr. Crockett has no interest in resolving the issue but only in acquiring more property for himself. He explained that the situation involves a neighbor who has approximately one acre and wants more than he bought. Mr. Miller stated that in addition, along the north boundary the survey stakes have been torn out. Mr. Miller stated that any dispute is a legal issue and the City cannot be the whipping boy of a neighbor without violating his and Mr. Livingston's rights. Mr. Miller explained that Mr. Crockett's lot was carved out of Mr. Livingston's and the piece being discussed is the residual.

(19:41:13) Commissioner McKell referenced an access off of 2555 East to the Crockett property and asked if it was private. Mr. Miller stated that the access referred to is Mr. Crockett's driveway, which he was confident was private. He strongly doubted Mr. Crockett would be willing to share it.

Commissioner Scott opened the public hearing.

(19:42:45) Steven Crockett gave his address as 4746 South 2555 East. Mr. Crockett stated that contrary to what Mr. Miller stated, this is not a land grab. The problem is that the applicants do not have enough land for the proposed subdivision. He has had possession of the property for over 15 years and he maintains it, installed a sprinkling system, and ran underground electrical

lines. He stated that it was not just a question of mowing the lawn. Mr. Crockett stated that the previous owner owned it for 10 years before going to the lateral irrigation ditch. Up until one month ago, he had not seen anyone make any type of a claim that there was anything other than the ditch. He was surprised when Mr. Sorenson established the property line.

Mr. Crockett stated that he has tried to avoid mention that he is an attorney in this case because he wanted to try to work with the applicants. The meeting that was cancelled with Mr. Miller the previous night was his suggestion. Mr. Crockett stated that the dispute is not made up. He reported that the previous day he filed a quiet title action on the property with the Third District Court. If they are correct and acquire quiet title, the applicants will simply not have enough land for the request to be conceptually approved. They have to have the correct amount of land in order for conceptual approval to take place.

Irrigation and drainage issues were discussed. Mr. Crockett stated that the plat is insufficient because you can't tell how much less land they would have if he is correct about the amount of property he owns. He estimated it to be between 400 and 800 square feet. Mr. Crockett commented that there is a prescriptive easement with the Upper Irrigation Canal Company that is long standing. That easement means that the canal company has a great deal of control over the ditch and they informed Mr. Crockett that he cannot be deprived of the water rights that he owns. That has got to be part of the conceptual approval in terms of how the land is used. He stated that several issues have to be decided before the proposal can be preliminarily approved. Mr. Crockett stated that the property is too small for two houses and the land issue needs to be resolved. He remarked that he filed litigation yesterday and they were not violating Mr. Miller's rights.

(19:48:50) Commissioner Scott commented that the lot has been for sale before and the property owner to the east of the subdivision considered purchasing it at that time. Mr. Crockett remarked that his wife removed the surveyor's stakes when she mowed the lawn.

Commissioner Carr asked Mr. Crockett if he obtained a property description at the time he purchased the property. Mr. Crockett stated that to his knowledge he owned the property to the ditch.

Commissioner Khodadad asked about the timetable for having the issue resolved in court. Her understanding was that it could take several months.

(19:52:58) Louise Hollander gave her address as 2561 East Valley View Avenue and stated that she and her husband moved to the area in June 1968. The lane from Valley View in is private. She asked how long a fence line has to be in existence before a person can claim that strip of land. She was aware that the fence line on the south side of the irrigation ditch has been in existence for more than 40 years. She recalled a time when Mr. Livingston had horses grazing on the property. She reported that the Crockett's property used to belong to the Scofields whose house is north and east of the existing Crockett home. Her opinion was that the property line legally is where it is now and not several feet short of where someone claims it is. She did not want to have a right-of-way extended from that one-half acre of ground onto their private lane.

(19:56:56) Wendy Zeigler gave her address as 2557 East Valley View Avenue next to Louise Hollander. She mentioned that they just had their property surveyed because they want to do a

boundary line trade with a neighbor. She reported that boundary lines are “a mess” in the area. She encouraged the City to not aggravate the problem until it is sorted out.

(19:58:30) Ralph Love gave his address as 2534 East Valley View Avenue. He provided the Commission Members with a letter from Omar Lehman who lives in the area. Mr. Love expressed concern about the City continuing to divide lots into small pieces. The neighbors worked together on issues pertaining to the Paulos property that was approved for three lots. He stated that it never should have been approved. If Mr. Miller’s request is approved for two lots another precedent will be set. Mr. Love was strongly opposed to the request.

(20:00:40) Steven Driggs, a property owner to the east, stated that at one point they looked into buying the property to prevent development on it. At that time they looked into the potential of building on it at some point. The problem they found was that the 12-foot access was inadequate to facilitate the number of residents there. They asked the property owner if they could purchase half of the property. At that time the property owner did not want to divide the property up. Mr. Driggs did not want to see the area developed. He hoped that the existing fence would not be torn down to make up the additional square footage they may need since it has been in existence for 20 years.

(20:03:07) Tom Millbank gave his address as 4749 South 2555 East, which is directly across from the Driggs home. Mr. Millbank was opposed to the proposal. Despite the idea that conceptually it is in compliance, he stated that there is a lot of contention that indicates that it might be premature. He also agreed with some of the other speakers that there is a pattern of allowing development on less than one-quarter acre. He personally did not agree with that. During the initial discussion it was expected that there might be access to the lot from 2555 East. He was opposed to that in part because there are already eight houses on the small private lane. The addition of two houses would increase traffic by 25%. Any access to the lane from the property would put another driveway in directly across from his house with headlights shining into his windows. That puts his house in an intersection rather than on a private, quiet lane. Mr. Millbank stated that Mr. Miller argued eloquently about wanting to have two houses for his daughters, however, it was not his opinion that that component should override the needs of the rest of the neighborhood.

(20:05:30) Amy Driggs stated that previously she and her husband considered purchasing the property and her father helped them negotiate the purchase. They wanted to make sure that one house could be built on the property. They were about to sign when they realized that the legal language indicated that there was not enough access at that time to build on the property. It was her understanding that there had been several exceptions made to now allow two houses on the property. A few months later they were contacted and told that one home could be built on the lot. That was the last thing they heard. Mrs. Driggs stated that there was a discrepancy between the recorded survey and what the property owner has.

(20:08:00) Kim Johnson was present representing his father-in-law, Dick Livingston who has lived on the property for the last 50 years. It was interesting to him to hear that the access was going up to the private lane. That was never the intent. They talked a lot about the drainage ditch. Thornton, who purchased the lot from his Mr. Livingston’s brother, did not want the ditch running down the middle of his driveway and moved it. Dick allowed him to move it onto his property. Mr. Johnson stated that the property has been surveyed and staked three times in the

last 13 years. He started to build on it in 1996 and had it surveyed and no one said anything to him at that point. They surveyed it again one year ago and since then Sorenson has staked it a couple of times. Mr. Johnson stated that the two lots proposed are in compliance with the City ordinances.

Mr. Miller stated that irrigation ditches can and are moved all the time. It is evident that the ditch referred to has been moved. He remarked that an irrigation ditch will not be shut off and can be moved. Mr. Miller stated that Mr. Crockett cannot simply assume what is included in his property. Mr. Miller referred to the comment that the neighbors were not in favor of smaller lots being allowed. He commented that they have met every City requirement and it was not fair for existing residents to now “shut the door”. That can be done only by changing the ordinances. The property is zoned R-1-10 which allows 10,000 square-foot lots. They and Mr. Livingston have the right to expect that they can live within the law. Mr. Miller stated that they have never indicated that they plan to bring a driveway up the private lane or create an intersection into Mr. Millbank’s yard. Increasing the traffic from four cars to eight cars does not equate to heavy traffic.

With regard to quiet title, Mr. Miller stated that neither they nor the City had received notice of it. He had heard similar claims before from Mr. Crockett. Mr. Miller claimed that Mr. Crockett has no evidence. Assuming the quiet title action was filed as claimed by Mr. Crockett, Mr. Miller stated that his rights and Mr. Livingston’s rights are that unless there is a dispute, there is no dispute. Tonight there was mention that there might be a dispute. He remarked that quiet title action is very difficult to prove. Typically it involves a fence, not the mowing of a lawn or someone who sees a ditch and assumes it belongs to him. Mr. Crockett also claimed to have planted trees on what he believed to be his property. Mr. Miller had also heard that the trees were planted by Mr. Thornton. Mr. Miller stated that conceptually they have met all of the requirements. The Commission has not been shown physical proof that there is a quiet title action. The proposition brought up by Mr. Allred was easy. If Mr. Crockett is correct, the purchase of the property will not work for Mr. Miller, as he does not want to build only one home. If he is correct, anything the Commission approves will not matter because it will no longer include two lots. If Mr. Crockett is wrong then Mr. Miller has done everything the City has asked him to. He respectfully requested that the Commission determine that conceptually the request is acceptable. That means that staff can deal with any legal issue that arises.

Commissioner Scott asked Mr. Miller if the title company is ready to issue title based on the survey and whether the survey agrees with the title description. Mr. Miller responded that the answer is yes. If there is a filed title action they will deal with it. Gaps in surveys happen every day so the issue is not significant since the issues are resolvable. As it stands now, Mr. Miller stated that his title company has legal counsel on hand to resolve issues. Unless there is a legal issue, this is a civil matter. He requested that the Commission do its job based on the fact that he has complied with everything asked of him.

(20:20:36) Mr. Crockett stated that he would provide staff with a conformed copy of the complaint the following day. Mr. Crockett stated that the ditch may have been moved 30 years ago but it doesn’t matter. Adverse possession requires seven years and does not only involve the cutting of a lawn. He had owned the property for 16 years and the issue had never come up until now. He explained that conceptual approval requires a certain area, which is not known. He stated that the issue needs to be resolved before conceptual approval is granted.

There was no further public comment. The public hearing was closed.

(20:23:02) It seemed to Commissioner Shields that they were exactly where they started and the matter was not ready to be brought before the Commission. She stated that boundary disputes ought to be settled prior to conceptual approval being granted. At the very least, lot lines should be clarified.

Commissioner Scott mentioned that a letter submitted by Ralph Love from Omar Lehman will be included in the record and does not necessarily have to be read out loud.

Commissioner Carr agreed with Commissioner Shields and stated that it would be a mistake to give conceptual approval tonight since there is a possibility that it may not qualify. Commissioner Carr stated that at every meeting the Commission hears concerns from citizens about Holladay being divided into small lots, however, the way Mr. Miller has approached the matter shows that he meets the zoning ordinance assuming his property line is correct. In that case the Commission would have no alternative but to approve the request. Issues pertaining to density or lot sizes are not something the Commission can change. Such a change needs to be made by the elected officials.

(20:25:37) Commissioner Khodadad stated that much of the same group was present for the Paulos Estate issue and expressed concern about the lot sizes. It was recommended at that time that if it was a concern they should address the matter as a group with the City Council. Commissioner Khodadad recommended the group do that now instead of waiting for another similar issue to arise.

Mr. Allred indicated that he had spoken with Councilman Orton about the issue and he was well aware of the situation. Mr. Allred remarked that it would be helpful to let the public know what happened in January 2007. The old rules used to say that a lot back in behind homes could be developed on a public street but there would have to be at least one-half acre of property. The rules were changed in January 2007 for several reasons. The Council found that in if an area is zoned less than one-half acre, there tended to be much larger homes built behind smaller ones. Overall the Council wanted new development to be compatible with existing development. In instances where larger lots were in back, they wanted lot sizes to be similar to the lots in the front to prevent large homes from being built and overshadowing the smaller homes. What has happened over the past two years is that various subdivisions have been developed with large parcels off the street at or above the minimum size of the zone in which they are located. It may seem like the lots are smaller, and they may actually be smaller than some of the surrounding lots, but in actuality the new lots have to be at least as big as the minimum in the area. What is being seen is a change in where development can be located. In most cities it has to have access onto a public road. The City of Holladay is full of private lane development and it is part of what makes the City unique. When the City Council and Planning Commission considered the matter, they made a judgment about whether or not to allow flag lots with larger homes on them or homes that are similar to what already exists.

Mr. Allred stated that restrictions were tightened on building height and setbacks and restrictions were added with regard to how much area can be paved on a lot. Many rules were also adopted for deep lot development. For that reason, projects like this one were being proposed.

Mr. Allred recognized that it is difficult for many to see infill development but explained that infill development is probably the only way there will be future development in Holladay since the City is nearly built out.

(20:31:54) Mr. Allred explained that the Planning Commission cannot approve a subdivision that does not have the minimum area and staff would not recommend it. All of the subdivisions that have been approved have been legal. Staff reviewed them exhaustively to make sure. He assured those present that staff will not do anything inappropriate. A project will not be pushed through that does not meet the Code.

Commissioner Scott stated that the proposed conceptual plan meets all of the requirements that the City outlined for a divided lot and that the necessary ground is there. The protection is that the title company is willing to insure that and should something come up that would cloud the title, the City would be protected. If a title company is not willing to do that Mr. Miller stated that he would not be willing to purchase it. Commissioner Scott was not in favor of the subdivision being voted down based solely on the objection raised. Mr. Livingston owns the property and he sold the property to the north, which was developed. He was confident that the chain of title will show what has happened. He considered this to be an unnecessary delay since the title company will ensure that the title is there to give and they will ensure that right.

Mr. Allred commented that staff wants to make sure what is done is legal. When he first met with Mrs. Crockett on the issue she was quite upset. Mr. Allred informed her that staff will make sure the request is legal before it is approved. Mr. Miller expressed to staff that if he doesn't have the necessary property [area] he will not pursue the project. From staff's perspective, what has been submitted appears to meet Code. Staff had no evidence to the contrary that the land is not available. Mr. Allred indicated that the Planning Commission could grant conceptual approval tonight and no one should be upset about that. He stressed that conceptual approval does not give Mr. Miller any right to build houses on the property. Developmental rights would not accrue until the preliminary plat stage. Mr. Allred stated that the City Attorney would need to be consulted on the quiet title issue and other issues raised. Mr. Allred stated that the Planning Commission could meet again on the issue on December 16.

Commissioner Carr stated that the Code states that the applicant shall submit a conceptual plan to facilitate review of a proposed project for general scope and conditions that may impact the proposed project and the City. He commented that those are the criteria upon which any conceptual plan is approved. A motion could be made with the caveat that further information may require a second consideration. Mr. Allred stated that conceptual approval could be granted because there is no vesting.

Commissioner Khodadad stated that if conceptual approval were granted tonight, two weeks would not be enough time to be prepared for preliminary. Commissioner Scott was of the opinion that two weeks was enough time. Mr. Allred stated that staff would want the City Attorney to weigh in on whether or not it would be appropriate for the City to stop action. If the information submitted shows that the applicant has provided what is necessary for preliminary plat, it should not be denied or tabled for an extended period. Mr. Allred remarked that it may be inappropriate for the Commission to delay the matter beyond December 16.

(20:43:44) *Commissioner McKell moved to approve the concept plan and continue preliminary plat approval pending resolution of the following:*

1. *A description or an expanded plat clearly defining the access and utility easement from Holladay Boulevard to the property line for Lot #1.*
2. *The applicant shall submit an acceptable drainage and water retention plan to the TRC.*
3. *The City Attorney shall give guidance on questions regarding how to proceed with the subdivision review regarding the north boundary, which is the quiet title filing, and that further consideration by the City shall not take place until all of the necessary documents are submitted and reviewed by the TRC for preliminary plat..*
4. *No further action shall be taken until all of the required documents are submitted.*

Mr. Allred referred to the four conditions contained in the staff report and stated that they pertain to preliminary plat approval.

*Commissioner Scott seconded the motion. Vote on motion: Lynda Shields-Nay, Cyrus McKell-Aye, Brad Scott-Aye, Lori Khodadad-Aye, Gene Carr-Nay, Richard Kimball-Aye. The motion passed 4-to-2.*

Commissioner Scott suggested the matter be put on the December 16 agenda and let the City Attorney give his opinion as to how to proceed. Mr. Allred agreed to request that the City Attorney be present or provide the Commission with a written opinion. The Commission was to reconvene on the preliminary plat on December 16. Noticing and timing issues were discussed. Mr. Allred stated that the Commission calendar shows the December 16 meeting as optional. The Commission does not have to meet a second time in December. By the end of the week staff agreed to report back to the Commission as to whether a second meeting will be held. If a meeting were to be held on December 16, this would be the only item addressed.

**3.2 Woodside Heights Subdivision Amendment – 1813 East Southwoodside Drive – Plat Amendment Creating a 3-Lot Subdivision from a 4-Lot Subdivision – Applicant: Fred Bacon – Planner; Rick Whiting – (Discussion and Possible Decision).**

(21:00:30) City Planner, Rick Whiting, presented the staff report and stated that the amendment would reconfigure the lot lines of four properties. Because the four lots are in an organized subdivision, they are required to vacate the four lots from the current subdivision and reconfigure them as proposed in a new subdivision to be called Woodside Heights #4. The property address was given as 1813 East South Woodside Drive. As proposed, four lots would be reduced to three lots. Where the driveway is on the west side of the property is its own property. That would be eliminated and included in Lot 1. Lots 2 and 3 have existing single-family residences that will remain. The back lot will be reconfigured to allow for construction of one single-family residence. Mr. Whiting reported that the UFA granted a code amendment to allow what is proposed. The width would be 13 feet at the narrowest point, which would widen to 20 feet. Right-of-way issues were discussed.

The areas of the three lots were described. Lot #1 contains 16,065 square feet, with a minimum of 10,000. Lot #2 has 10,456 square feet and Lot #3 has 19,851 square feet. Mr. Whiting

clarified that the totals do not include the turnaround or the drive. He agreed to verify the calculation with the engineer. Staff found that the request meets the ordinance and recommended approval as a conceptual plan and preliminary plat.

(21:08:09) Commissioner Scott opened the public hearing.

Joan Schnibbe gave her address as 1763 South Woodside Drive. She reported that her back lawn fronts the alley, which they rarely use, but she wanted to preserve the right-of-way. Commissioner Scott explained that it is a recorded easement. Mr. Whiting clarified that it is recorded in the CC&Rs of the original subdivision.

Cynthia Graves gave her address as 1767 South Woodside Drive and stated that they have an easement. They wanted to make sure that Mr. Bacon gets what he needs while still allowing them to retain the right-of-way and the ability to park their cars in the parking stalls next to the garage. Commissioner Scott stated that that is what the easement is for and will not change. Mrs. Graves stated that a few years ago Mr. Bacon put some gravel down and last year Mrs. Graves put \$350 worth of gravel down too. When she offered to pay for half of the gravel that Mr. Bacon put down, he refused. Mrs. Graves stated that if a house is built, arrangements to share certain costs would need to be made.

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

(21:12:55) Commissioner McKell did not see anything on the drawing pertaining to water retention. It appeared that the lot slants to the north where there could potentially be runoff. He asked if there was retention to protect Lots 52 and 53 to the far north. Mr. Bacon stated that Lot #1 slopes to the west. They talked about having a catch basin in the far corners of the west side. It was noted that there will be a lot of lawn to absorb much of the water. The driveway, however, slopes both ways and runoff water will flow in both directions. Mr. Whiting remarked that the issue can be addressed at the building permit level.

*(21:14:40) Commissioner Shields moved to vacate four lots from the Woodside Heights Subdivision and create a three-lot subdivision, Woodside Heights #4, in place of the four lots. The private drive that currently exists is partially deficient in width for fire standards. The UFA has approved the project with the Code amendment that stipulates sprinklers and a turnaround on Lot 1. Verification of the fire hydrant flow adequacy will be required at the time of building permit application. The following recommended requirements from the TRC must be met prior to final plat approval:*

- 1. A final plat and any other stipulated requirements for the subdivision shall be submitted to the Technical Review Committee (TRC) for final review and approval within one year of the Planning Commission’s decision or it shall expire.*
- 2. The applicant shall submit an acceptable drainage and water retention plan to the TRC.*
- 3. A plat note on Lot #1 must show that sprinklers are required for any future dwelling.*
- 4. There shall be a continuation of current easements serving Lots 2 and 3 of the Woodside Heights Subdivision. A driveway access and maintenance agreement shall be developed including the neighbors to the west.*

5. *The right-of-way is not a parking strip and is simply a right-of-way for Lots 1 and 2 and the people to the west. Signs shall be placed along the right-of-way to read, "Fire Access-No Parking".*

Mr. Bacon remarked that he has been paying taxes on the property for 50 years. Currently he pays \$1,600 per year for property he can't use. He wanted to create something that is beneficial to the area and meets all of the necessary Code requirements. Mr. Bacon stated that he purchased the adjoining property hoping he could do what is proposed. He did not object to the neighbors using the access but did not want to see several cars parked in back when they have a front entrance and driveway to use. Commissioner Scott stated that parking would only be permitted on existing lots and not on the easement.

(21:21:54) Mr. Allred stated that Mr. Bacon is correct that it was a separate parcel but it is not a buildable parcel because it is too narrow. The property has been reconfigured in the back so he can get a building parcel. Mr. Bacon's point was valid that it is not a parking easement. It can be used to access property but it cannot be obstructed. Mr. Allred suggested that the UFA be alerted that there is an easement for a property in the front. He commented that the area cannot be obstructed for fire safety. Anyone who builds in the back will have to install fire sprinklers in the home. The UFA will not agree to the narrower width and the proposed configuration if people can park there. Mr. Allred recalled that on some deep lot subdivisions over the past few years the UFA has required a no parking/fire lane sign. Mr. Whiting recalled that the UFA usually requires that the parking of RVs and boats be restricted in the fire turnaround as well.

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

#### **4. PLANNING COMMISSION BUSINESS**

It was recommended that the remaining agenda items be addressed at the December 16 meeting.

##### **4.1 Adoption of 2009 Schedule.**

##### **4.2 Election of Chair and Vice Chair.**

Commissioner Carr recommended not having an election without Chairman Paul Shupe being present. Commissioner Khodadad recalled that last year the Commission decided not to take action until all members are present.

#### **5. OTHER BUSINESS**

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

(21:35:50) Mr. Allred stated that there was very little pending development being proposed. The intent was to work on Code amendments. He reported that a LUDMA Committee Meeting was scheduled for the following Wednesday.

##### **5.2 Reports from Staff on Upcoming Applications.**

##### **5.3 Discussion of Possible Future Amendments to Code.**

**ADJOURN**

*(21:39:20) Commissioner Khodadad moved to adjourn. Commissioner Kimball seconded the motion. Vote on motion: Lynda Shields-Aye, Cyrus McKell-Aye, Brad Scott-Aye, Lori Khodadad-Aye, Gene Carr-Aye, Richard Kimball-Aye. The motion passed unanimously.*

The Planning Commission Meeting adjourned at 9:39 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 2, 2008.*



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Teri Forbes  
T Forbes Group  
Minutes Secretary

Minutes approved: 12-16-08  
Amended minutes approved: 1-6-09