

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

**Tuesday, May 20, 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

City Staff:

Paul Allred, Community Development Director
Rick Whiting, City Planner
Pat Hanson, City Planner
Clarence Kemp, City Engineer
Darlene Batatian, City Geologist

1. Field Trip and/or Discussion.

1.1 All Agenda Items May be Visited, and/or Discussed.

Commissioner Khodadad wanted to recuse herself from the discussion on the Schmidt property because she was involved prior to serving on the Planning Commission. She does not have strong feelings about the building lot but her neighbors do. Mr. Allred's understanding from the Schmidt's was that Greg Schmidt, the applicant's youngest son, wanted to build on the property. When the equipment went onto the site to dig for the geotechnical study, the police were called because the situation became very heated. After that, Mr. Schmidt's wife did not want to live in the area with the contention that exists.

(18:48:40) Mr. Allred stated that Clarence Kemp and Pat Hanson could give better historical insight into the Schmidt's situation. He had heard second hand about the situation from discussions with the City Attorney. The basic facts were that the applicants paid a subdivision fee in 2004 that the City had been holding. They also submitted a drawing showing that they have a buildable area according to the Hillside Overlay Ordinance. Mr. Allred remarked that if the slope is met, most everything else is "window dressing". A detailed site plan development analysis would have to be done as part of the subdivision. Mr. Allred clarified that there will still be a lot of review taking place even if the subdivision plat is completed. They will still have to go through a detailed site plan design and drainage will have to be examined. He stressed that a lot of work will have to be done before a home can be built on the property.

Mr. Allred explained the difference between a "parcel" and a "lot". He stated that generally a lot connotes a buildable parcel while a parcel is a piece of ground that may or may not be buildable. Commissioner Shupe stated that for some reason the public does not understand that ordinances are in place and there are rules that must be followed. He remarked that it would be wise to have someone explain the ordinance to the public.

With regard to Commissioner Khodadad's request to recuse herself from the discussion, City Engineer, Clarence Kemp, did not think she had a direct conflict. He did, however, understand

the emotional aspect of the issue and that she was probably being pressured in a way that is most likely not appropriate. Conflict of interest issues were discussed. Mr. Allred thought Commissioner Carr and the Utah League ought to provide more education on what a conflict of interest entails. Mr. Allred stated that the Commission should always err on the side of caution. If a person has declared a conflict of interest, it is most appropriate for them to step down.

2. AGENDA ITEMS – Including Public Hearing, Discussion, and Decision.

Planning Commission Chair, Paul Shupe, called the meeting to order at 7:05 p.m. and read the Chair's Statement. He reported that earlier in the evening the Planning Commission Members took a field trip to each of the projects on the agenda.

2.1 Renaissance Townhomes – 4645 S Locust Lane – Site Plan Approval and Preliminary Plat Approval – Planner, Pat Hanson.

(19:10:36) City Planner, Pat Hanson, presented the staff report and stated that the application was for a site plan review and preliminary plat approval for a project in the Holladay Village Zone. This was the first project in the Village that will be fully redeveloped. The request was for two twin homes with a total of four units, on a small lot on Locust Lane consisting of approximately one-third acre. The buildings will be two side-by-side units. The overall building height allowed in the area is 38 feet but the proposed structures will be around 25 feet high and constructed primarily of brick. The proposed setbacks, landscaping, and parking are determined by the zone chapter language. Ms. Hanson explained that any project that comes through the Holladay Village Zone needs to go first to the Design Review Board For a recommendation on the architecture of the proposed buildings

Ms. Hanson reported that with the proposed project, the applicant worked closely with staff for approximately one year. They met with the Design Review Board (DRB) on three different occasions with regard to the style and layout of the building. At the last meeting with the DRB they presented their final plan for the buildings. The application comes to the Commission with a favorable recommendation from the DRB.

(19:13:40) The layout of the building was displayed. Ms. Hanson reported that the vision of the Holladay Village Zone is to generate buildings that look like they have been there for a long time. Design elements are encouraged that are traditional in nature. The proposed buildings are consistent with the style of historic buildings built around the early 1900's. The DRB had several recommendations for the applicant that are included in the staff report. The proposed building has a traditional flat roof with elements like wainscoting on the bottom made of a sandstone-looking material with a decorative cornice along the top made out of brick. The windows will have a traditional divided light pattern. The rear of the buildings has a more modernistic look since it will only be seen by the tenants and visitors and will not be viewed from the street.

Ms. Hanson explained the DRB was conscious of the fact that the wall along the driveway is long and uninterrupted. They felt there should be an architectural element to break up the wall. There was a lot of discussion about the cornice on the building. James Glasscock, an architect who serves on the Design Review Board, was very conscious of the proposed building style and made a lot of suggestions through the process. The result was a building that the applicant was willing to build and the DRB was satisfied with.

(19:17:13) Ms Hanson noted that the applicant had mentioned that there was a possibility that they may have some recycled brick that can be used from another project. At the Design Review Board level, Mr. Glasscock commented on the proposal to use recycled brick and their choice of new brick they would use if there wasn't recycled brick available. He has used it on one of his buildings and thought it would be a good material to use. It gives an old, established building look but is easier to work with. The color scheme in the Holladay Village Zone needs to be integral to the style chosen for the building itself. The Design Review Board had quite a bit of discussion about colors on the windows, cornice flashing, colors of the brick, and the wainscoting. They felt that the choices suggested would be appropriate for buildings in the zone and recommended the sandstone color for the wainscot be the key accent color for the building.

Ms. Hanson explained the front landscaping plan proposed by the applicants. One of the primary discussions the DRB had at the beginning of the process pertained to building setbacks. Since a specific street cross section had not been adopted for Locust Lane in the Village Center Master Plan, the DRB recommended the buildings be set up to the build-to line similar to any other new buildings coming into the village on the main streets. The applicants agreed to set the buildings back an additional three feet so that they can have an amenity in the front of the building consisting of a bench, a street tree, and some potted flowers for the homeowners to dress up the street. The DRB suggested the three-foot section of hardscaping beyond the sidewalk be constructed of a decorative material such as brick, slate, or stone. They don't recommend stamped concrete since it was not thought to be enough of a material change from a flat sidewalk.

(19:22:13) Ms. Hanson noted that the site has a lot of existing mature trees on it. Many of the trees are volunteers and others were planted. Unfortunately, the mature trees are located where the buildings will be placed. Ms. Hanson spoke to the applicant who indicated that their arborist had had time to look at the trees, although his report was not yet available. He agreed with Mr. Hurst of the DRB that the trees are not significant or of a type that should be preserved. There were small bushes and one other tree in the back corner that can be saved. He recommended the rest be removed and new, more desirable varieties planted on the site.

Ms Hanson told the Commissioners that the applicants are planning to put in additional visitor parking stalls. The DRB thought there was a need for some off-street visitor parking. They had a lengthy discussion on whether they should count the on-street parking or not. They were concerned that there should be extra parking on site and agreed that the site plan indicates that there is room for four parallel parking stalls next to the landscaped area. The units have two-car integrated garages accessed from the rear.. Without the visitor parking, the proposal will still meet the ordinance. The visitor parking was an amenity that the Design Review Board thought would add value to the project and result in less impact to the neighbors.

(19:26:07) Ms. Hanson reported that the next issue the ordinance addresses is lighting. The Village Ordinance requires that all lighting fixtures be dark sky compliant. Glenn Johnson, a member of the DRB is a lighting specialist. He said that the lighting fixtures included in the materials list are not dark sky compliant. The applicant agreed to choose a different light fixture that will be dark sky compliant. DRB Board Member Johnson agreed to look at any fixture proposed and determine whether it is rated for dark sky compliance. Ms. Hanson was confident that staff could provide the necessary lighting fixtures on the plans.

With regard to the preliminary plat and construction drawings, Ms. Hanson reported that the Technical Review Committee (TRC) completed its review of the site construction drawings, and preliminary plat. The City Engineer signed off on the drawings and the Fire Prevention Officer reviewed the site plan for access and fire protection and said that since the buildings face onto a public street, any fire fighting would be from Locust Lane. As a result, they did not expect to need a turnaround. He reserved the right to determine the need for an additional fire hydrant at the time the actual building permit is applied for. The applicants also demonstrated utility availability with all of the utility providers except for the sewer company.

Commissioner Shupe recalled that two or three other DRB members were involved in crafting the Holladay Village ordinance. Ms. Hanson responded that Steve Doxey was very involved in the process.

The applicant, Tim Moline, gave his address as 9702 N Eagle View Cir. He was excited to be building the first building in the Village and stated that a lot of planning had gone into the project.

Commissioner Carr asked when development was to commence. Mr. Moline responded that it would take place as soon as approval is granted, probably within a one to two month period. Commissioner McKell asked about trees on the property. Some were very old and appeared to be in the area where construction would take place. He asked Mr. Moline if he had spoken to the landscape architect about how to deal with keeping the perimeter attractive. Mr. Moline responded that the landscape architect's suggestion is to remove the trees where the building structures will be and almost all the way to the east to the property line as most are dead or dying. There is a Silver Elm and four or five different plants along the east side of the property that can be preserved. They are far enough back that construction should not affect them.

(19:34:51) Commissioner McKell recalled that Commission Members expressed concern about the close proximity of the proposed trees in the front of the building. He asked Mr. Moline if some sort of drip irrigation system would be installed. Mr. Moline responded that they would install a drip irrigation system so as not to undermine the sidewalk. Commissioner McKell asked about the potential of lost landscaping in the rear for the visitor parking. Mr. Moline said the DRB had the same concern but in the end, they will only lose about two feet of green space.

Commissioner Shupe commented that this was the first product in the Holladay Village zone. He urged the applicant to work with staff and the TRC to create a product that will be an example to those who follow.

(19:36:55) Commissioner Shupe opened the public hearing.

Reed Hansen gave his address as 4660 Locust Lane. He wondered about the legal structure of the project. Mr. Moline responded that the proposal was for four townhomes to be sold separately. Commissioner Shupe anticipated that an HOA would be needed to handle the common shared areas and the road. Mr. Moline added that the gas and electric utilities will be separate and the water will be off of one meter, which the HOA will take care of.

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

(19:39:30) *Commissioner Carr moved to approve the site plan and preliminary plat subject to the following:*

DRB Comments:

1. *All lighting fixtures shall be fully shrouded with cut off shields to minimize glare and light trespass and be “dark sky” compliant.*
2. *The hardscape planned for the area between the public sidewalk and the front elevation of the buildings must include some form of textural, colored surface, i.e., brick, slate, tile, etc. but not stamped concrete.*
3. *The Board strongly suggested adding at least four parking stalls to the site plan.*
4. *A vertical element must be included in the “long” building elevations of at least two- (2”) inches in depth, and thirty-two (32”) inches in length. This element must be designed of a contrasting material, in a contrasting color, and a cornice extended over the entire element.*
5. *No white color is permitted on the window frames or ends. Window colors must be compatible with the building colors. The wall cap must match the colors of the window frames.*
6. *Quoins at the corners of the buildings must wrap the entire corner.*
7. *A qualified landscape architect or arborist must review the existing trees, submit a plan for preservation and retention of those trees that are viable, and include a long-range plan for succession of trees.*

Staff recommends approval of the site plan based on the following findings:

1. *The use is appropriate and needed in this location.*
2. *The project will enhance the Village area in general as well as the properties in the immediate neighborhood.*
3. *The project meets the overall goals of the Holladay Village Master Plan and meets the vision and purpose of the HV zone.*
4. *The Design Review Board has recommended approval of the overall design of the buildings and the architecture is in keeping with architectural traditions found throughout the valley.*
5. *The TRC has recommended approval of the site plan and the preliminary plat.*

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

(19:44:45) *Commissioner McKell moved to modify the agenda to address item 2.3 before item 2.2. Commissioner Khodadad seconded the motion. Vote on motion: Lori Khodadad-Aye, Gene Carr-Aye, Richard Kimball-Aye, Brad Scott-Aye, Cyrus McKell-Aye, Paul Shupe-Aye. The motion passed unanimously.*

2.3 Briarcreek Condominium II – 2420 East 4500 S – CUP Amendment – Planner, Rick Whiting.

(19:45:20) City Planner, Rick Whiting, presented the staff report and stated that the development was created nearly 30 years ago under Salt Lake County’s auspices. At that time, there were areas of the development that were set aside for semi-private use but not designated as such. They were designated as common use areas but have historically been used as private areas.

They are fenced and contained in various ways but have been used almost exclusively as private areas in the project. The applicant wished to amend the plat to make the semi-private areas more formal and call them “limited common areas”. This would extend virtual control of the areas to the individual owners who would be allowed, but not required, to use them for public use as they deem appropriate. What was requested was a plat amendment to designate the areas as limited common areas.

Mr. Whiting reported that the buildings were built by the high school as a shop project when the vocational program was instituted. The areas designated for limited common use were identified. Staff reviewed the request and found that there was virtually no opposition and all of the owners of the project were in favor of the plat amendment. Staff recommended approval.

Commissioner McKell was surprised that there was a consensus of all concerned because the size of each of the common areas to become limited common areas is not equal for each of the units. Mr. Whiting stated that no notice was given because of the 100% consent of the owners. That consent was given in writing.

Commissioner McKell noticed that Lots 6 and 7 have a limited common use between them but it was not apparent which unit would have control. Mr. Whiting stated that there was a fence there that delineates those areas.

(19:51:40) Commissioner Khodadad moved to approve the application based on the following findings:

- 1. All current property owners have signed and agree with this petition for amendment of the plat.*
- 2. The project continues to meet the overall requirements for development in the R-2-10 zone.*
- 3. Provisions of the previous and proposed amended plat will continue to allow for maintaining health, safety, and welfare of residents in the general vicinity.*
- 4. The application, as proposed, continues to comply with the provisions of the City’s General Plan.*
- 5. Approval of this amendment to the plat will not be detrimental in any reasonable way to neighboring properties. The basic land use (R-2-10) will remain the same.*
- 6. There will be no change in access or parking.*
- 7. There will be no change in impervious lot coverage.*

Staff Recommendations:

- 1. The amended site plan shall include designated “Limited Common Areas”.*
- 2. Individual use of the “Limited Common Areas” shall continue as defined in the amended CC&Rs.*
- 3. Landscaping, fencing, lighting, ingress, and egress shall continue without change as previously established.*

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

(19:55:09) *Commissioner Kimball moved to address agenda item 3.1 ahead of item 2.2 and consider it now. Commissioner Scott seconded the motion. Vote on motion: Lori Khodadad-Aye, Gene Carr-Aye, Richard Kimball-Aye, Brad Scott-Aye, Cyrus McKell-Aye, Paul Shupe-Aye. The motion passed unanimously.*

3. Planning Commission Business.

3.1 Adoption of Planning Commission Policy and Procedures.

(19:55:38) Commissioner Carr commented on a formatting problem on page one. Commissioner Shupe referred to page 2, item number 3, section E, and noted that the Chair should vote on all motions. He suggested language be added indicating that the Chair shall vote unless the chair has declared a conflict of interest.

Commissioner McKell referred to item B regarding the election of a Chair and Vice Chair. The election was to take place annually at the first regular meeting of the calendar year. He noted that if there is not a quorum, the vote could not take place. In that instance, the word “shall” would not be appropriate. He recalled that that was a problem this year. Mr. Allred suggested the wording be changed to indicate that the election should be taken at the beginning of the calendar year. Commissioner Khodadad suggested the language include wording that the election take place at the first meeting with all Commissioners in attendance. Commissioner Shupe was concerned with that addition in the event of a prolonged illness of a Commission Member. Commissioner McKell suggested item 3 specify that the Chair read the Chair statement to the audience at the beginning of each meeting.

(20:03:45) *Commissioner Kimball moved to adopt the Planning Commission Policies and Procedures, as amended. Commissioner Khodadad seconded the motion. Vote on motion: Lori Khodadad-Aye, Gene Carr-Aye, Richard Kimball-Aye, Brad Scott-Aye, Cyrus McKell-Aye, Paul Shupe-Aye. The motion passed unanimously.*

2.2 Oak Canyon Valley View Subdivision – 6131 S Oak Canyon Dr – Preliminary Plat – Planner, Paul Allred.

(20:04:57) Mr. Allred presented the staff report and described the item as a preliminary plat request with Gerald Schmidt being the applicant. Two of his children were present, Greg Schmidt and Laurie Roberts, who staff had worked with extensively. The Commissioners visited the site earlier in the evening. It was recognized that there was a lot of interest and history in the property. Mr. Allred indicated that he was not employed by the City prior to August 2005 and inherited a lot of the discussion from other staff members. Both the City Engineer and the City Geologist were present.

Mr. Allred introduced the significant issues and reported that the property is zoned R-1-10 with a minimum acreage requirement of one-quarter acre. A one-lot subdivision was proposed where one piece of ground would have a building permit issued on it and the other parcel, which would be significantly larger, would be a non-buildable area. During staff’s discussions with the Schmidt family over the past 2 ½ years, there were numerous iterations on how to proceed with the property. In the end, they had a very productive discussion with Ms. Roberts where they determined that the best way to deal with the property would be to bring it through the subdivision process. He stated that there were some very good arguments that going through the subdivision process was not necessary.

(20:08:03) Mr. Allred explained that a subdivision was being proposed because the property has a significant portion that is unbuildable. It could be one lot, a metes and a remainder parcel that is a remnant from numerous Hughes Canyon subdivisions. The area had had five or six different subdivision plats and phases. The subject property was in fact, a remnant piece that was not included in any of the subdivisions. As a practice, the City in the past requested that remnant parcels be put in an area where the rest of the parcels have been platted. The City Attorney strongly recommended to the applicant and staff that his land should be put into a subdivision plat. Mr. Allred reported that he and Mr. Schmidt had previous discussions and agreed that a single remnant parcel of land is not a subdivision of property if it involves only one parcel. It later became apparent that the best way for the property to be entitled would be to bring it to the Planning Commission and invite the neighborhood to participate and see what is proposed. Because there is a significant portion of the land that has greater than 40% slopes and is unbuildable, the Schmidts suggested the creation of a non-buildable parcel creating two pieces of land. The result would be one lot and one parcel. The difference between a lot and parcel was recognized. The non-buildable area was described as .94 acres. The building lot would be just over one-half acre. Mr. Allred pointed out that the building lot would be nearly twice the size of a building lot that would be needed in that zone.

Mr. Allred reported that the property is located in the Foothills and Canyons Overlay Zone (FCOZ) where there are specific rules dealing with development. It was recognized that the area contains sensitive lands, steep slopes, and different habitats. While the zoning is R-1-10, it is not typical one-quarter acre development. Mr. Allred reported that a three-lot subdivision was being built on the Kesler and Allen properties nearby.

Mr. Allred reported that the City of Holladay owns about 15 acres behind the Schmidt property that was donated to the City by the Keslers as part of their settlement with the City. The City did not ask for the property and it was offered at little or no cost. While the City owns the property, it is not considered developable and there is no intent to do anything with it at the present time. Mr. Allred also reported that there is a 30-foot wide public pedestrian trail access nearby. He explained that in a steep hillside area the most important rule is how steep the slope is. In this case there were two separate drawings prepared for the Schmidt family over the past four years. There had been two different surveyors prepare topographic drawings, each showing an area of under 30% slope that would allow a buildable area. For the purpose of tonight's discussion, he thought the intent should be to determine whether or not the slope can be met. Staff's collective opinion is that the two drawings have been prepared by licensed and registered surveyors and are acceptable to the City. Staff believed the greatest hurdle in approving a preliminary plat is whether or not they have a building footprint that works.

(20:19:35) Mr. Allred reported that he met with resident Mary Jane Gordon on the issue where she expressed that her most significant interest on any potential subdivision was that any home there is safe. Mr. Allred remarked that safety was of utmost concern to staff. To that end, the applicants had a geotechnical firm assess the area for geotechnical stability. The reports were in the file and reviewed by staff in detail. City Geologist, Darlene Batatian, reviewed those reports and came up with her own recommendations. The conclusion was that there could be a safe building site on the property, but it would not be inexpensive. Significant amounts of armoring of the back of the house would be needed as well as a berm to slow down rock fall and perhaps a cable fence. It seemed to staff that arguments against putting a home there for safety's sake would be that it would create a barrier to falling rocks continuing down the hill. Staff's position

was that 90% of the battle would have to do with whether the slope issue is dealt with and they can deal effectively with how the property is built, how the ground is treated during construction, and if there are mitigation measures. Other issues would be public access and utilities.

Mr. Allred commented that the applicant has not yet submitted all of their utility approvals although staff was aware that the utilities are in the street. They were waiting for the utility companies to indicate that they can adequately provide service for the home. If the preliminary plat is approved, the applicants will have to go through a subsequent review process on the site development plan. Mr. Allred explained that the FCOZ is not meant to expressly prevent development on steep slopes, but to make sure that development in hillside areas is sensitive to the land.

Mr. Allred remarked that some contended that significant grading occurred on the site in order to create the 30% slope. He was not with the city at the time and could not comment on that. He realized that there was a lot of contention when equipment was taken to the site and there were allegations made that dirt was being moved to create the 30% slopes. The applicants reassured him that that was not true and that the heavy equipment was there to do soil sampling for their geotechnical study only.

(20:28:36) Mr. Allred made it clear that the applicants previously had a right potentially to build one home on the property and there would be no net increase in the number of homes that could potentially be built. The request was simply to divide the property into two pieces – one buildable, one not. Staff's recommendation was that the Commission hold a public hearing and gather public input necessary to make a good decision. Mr. Allred stated that there were some outstanding issues to be worked on with the applicant and the City Engineer with regard to the completeness of their drawings.

In response to a question raised by Commissioner Shupe, Mr. Allred explained that if the applicants were not proposing the parcel as unbuildable and it was just going to be one piece, he did not believe it would have to come through the subdivision process. The City Attorney, however, did not agree and strongly suggested that because all of the other nearby areas were done through a subdivision process, this property be compatible with the rest of the subdivisions. The applicant was voluntarily choosing to go through the public process. As staff, Mr. Allred stated that building permits are issued routinely on meets and bounds properties. He clarified that property does not have to be in a subdivision in order to obtain a building permit.

City Engineer, Clarence Kemp, recalled that previously a survey plat was provided indicating that there were sections of the ground that fell within the 30% or less slope, which would imply a buildable lot. Members of staff questioned that based on visual observation of the site. Mr. Kemp encouraged the applicant to get a second survey because of the prior controversy. That was done and there were now two licensed surveys both indicating that there are sections of the ground with slopes of 30% or less. His inclination would be to accept the plat as a professional licensed survey. To do otherwise would open up a Pandora's Box of how to handle professional services in the City. He did not think it was the City's job to function as a licensing entity for the State. There had been exceptions in the past where similar questions were raised based on concrete evidence. From an engineering standpoint, Mr. Kemp saw no reason for the proposal not to proceed..

City Geologist, Darlene Batatian, gave her address as 3316 S Monte Verde Dr and reported that she functions as the City's staff geologist. Over the past three or four years there had been a series of geotechnical and geological hazard investigations performed by the applicants' consultants, IGES. Ms. Batatian had reviewed and commented on all of those reports as they were submitted to the City. The earliest report dated back to 2005. There were some geotechnical concerns in the report that would be addressed in the design and construction of the home. Ms. Batatian recommended that footing and foundation observations be conducted by IGES during the construction of the home. A note to that effect would be put on the plat. In addition, a rock fall hazard was identified on the site from rock bands that outcrop some distance above the site. IGES looked carefully at that potential rock fall hazard where they conducted a rock fall modeling analysis following a standard of practice. They then looked at potential mitigation options and IGES worked with the applicants to determine what would be suitable to protect the site from a potential rock fall hazard. The most appropriate and feasible solution seemed to be construction of a barrier fence along the rear of the property or the rear of the home. The rear walls of the home would then be built to withstand additional rock fall impacts. Ms. Batatian recommended a note to that effect be put on the plat and a disclosure form recorded against the property title so that when the building plans are submitted, City staff can make sure that the building is being appropriately designed. With that, Ms. Batatian was satisfied that the rock fall hazard has been addressed at the site.

(20:40:23) Commissioner Carr asked for a description of a "barrier fence". Ms. Batatian explained that a barrier fence comes up some distance. It would be engineered through a cable design to withstand the force of the rock. In addition, if anything makes it through the fence, the rear wall of the house will be reinforced.

Commissioner McKell asked Ms. Batatian's professional opinion as to the degree of hazard that exists on the site. Ms. Batatian did not think what was seen was out of the ordinary for what might exist on hillsides. She stated that there were rock bands that outcrop along and above the Bonneville Shoreline, which was typical in the Hughes Canyon area. She reported that she served previously as Salt Lake County's geologist and they dealt with rock fall hazards from rock outcroppings above a number of sites. They addressed those through design of the structure and a protective barrier. Commissioner McKell pointed out that the Salt Lake County Trails Advisory Board met earlier in the day and commented that the Bonneville Shoreline Terrace Area will be developed as a trail and could be an asset to increase safety from rock fall.

(20:45:07) Kent Hartley of IGES gave his address as 14881 S Concord Park Dr in Bluffdale. They prepared several reports and worked closely with the City to resolve concerns. They did some analysis based on Ms. Batatian's recommendations. He stated that there is clearly a rock fall hazard. With regard to the geotechnical issues and slope stability, they were very comfortable that the slope itself is stable.

Commissioner Shupe asked Mr. Hartley how he came up with the analysis for the cable fence to resist falling rocks. Mr. Hartley stated that they take the impact forces and distribute it into the cables and the fence posts. The cables and fence posts are then designed according to those forces.

Commissioner Khodadad recused herself from the discussion and vote. She believed she could give an objective opinion, but prior to being on the Planning Commission she was involved in

the HOA in the neighborhood where the lot is located. She met with several neighbors and came to the City and discussed the issue. She did not think it would be in her best interest or the interest of the neighborhood to participate in the vote.

(20:50:03) Commissioner Shupe opened the public hearing.

Bret Mathews gave his address as 6092 Oak Canyon Dr. He commented that when he looked at the survey map, he noticed that there were no sidewalk elevations on it. He realized that it is a survey map and to be valid it should have something showing the elevation of the sidewalk in order to determine the slope coming off the sidewalk. In order to be declared a buildable lot, the rock wall is unsafe if a house is put above it. The rock wall would have to be made safe. Mr. Mathews stated that the survey map is lacking elevations at the street level. He continued to hear that the survey shows that there is a buildable area but he commented that the survey does not show the elevations of the street. As a result, he did not understand how it could be accepted as a valid survey. It seemed to him that more data was needed. He thought a determination should be made as to where the driveway will be located. If all of the homes along the street have driveways coming off of Oak Canyon Dr, there should be a statement that the driveway will come off of Oak Canyon Dr instead of Red Rock Lane. Mr. Mathews asked what direction the home will face. He pointed out that all of the homes on the street face Oak Canyon Dr. He asked if the direction of this home would be allowed to be different than the other homes around it. Mr. Mathews asked about the purpose of the pedestrian easement and where the upper end will terminate. If the lot is built on, the rock wall seemed like it must be rebuilt to be safe. It appeared to him that additional slices of the hillside were needed starting at the sidewalk and continuing up the rock wall and beyond the 30% area to clarify where the buildable area is.

(20:55:55) Anna Bodnar gave her address as 6126 Oak Canyon Dr. She read the previous reports and was not convinced about the safety. She stated that it was dangerous to disturb a hillside. The land is steep and encroaches on a mountainside. In addition, the hillside is full of rocks and the soil is thin and filled with silt and sand, which predisposes it to slide. Ms. Bodnar stated that the measurement in the survey has a margin of error and they asked for a repeat survey and were denied. She commented that disturbing the land that has been packed by time accelerates slope failure. Stabilization and upkeep of a slope is expensive and the cost of a slope failure is beyond the means of a one individual and perhaps a community. She explained that the whole community uses Oak Canyon Dr because it is flat. She believed that by developing the project, the City puts its citizens and itself at immeasurable risk for slope failure, which could cause death, injury, or property damage. She stated that slope failure would blight the neighborhood forever. She stated that the land was not intended to be developed.

(21:00:10) The applicant, Greg Schmidt, identified himself as the son of Gerald Schmidt, the property owner. Mr. Schmidt gave his address as 3464 Cleveland Circle. He realized that the property had significant emotions attached to it. It had been the subject of representations in the past that may or may not be accurate. When Mr. Schmidt's father acquired it, he did so to provide Greg with a place to build a home. They made application and the City refused to accept it stating that the land was unbuildable. Ultimately the property owners filed a lawsuit and the City asked that a geotechnical study be conducted. At that point, a track hoe was taken to the property and a trench was dug. The neighbors were very upset about what was taking place. Mr. Schmidt noted that they were there at the instruction of the City Attorney and City Planner in

an attempt to get a lawsuit resolved. The track hoe entered the property in the jeep trail area. He estimated that the trench was dug 15 feet deep to get an adequate cross section for fault.

Mr. Schmidt's understanding was that the purpose of tonight's meeting was not to address site plan review issues. Those items would be left for another discussion. Based on the anxiety associated with the property, his wife did not want to live in a neighborhood where they are not wanted. He was upset and indicated that his family did not cause a lot of the initial fights about the property. The property came before the Planning Commission previously at the request of Ken Millard without notifying the family. Mr. Millard then informed the family that they had been denied. Mr. Schmidt told Mr. Millard that they were not informed of the meeting at which point Mr. Millard stated that he represented the family. Mr. Schmidt was then informed by Mr. Millard that their request was also denied by the Board of Adjustment. At that point they were very frustrated and filed the lawsuit. It appeared to the Schmidts that Mr. Millard was not interested in a serious discussion about the situation and he did not think that was fair. The family asked that the judgments on the property be based on the facts as presented by the professionals who are entrusted to make them.

With regard to the geotechnical report, it contained a number of recommendations. The Schmidts had already recorded that document against the property. He explained that no one will ever purchase the property and be naïve about costs or risks associated with development of it. Mr. Schmidt stated that an original survey was done on the property and a number of issues arose. One of the key issues pertained to the question of whether enough shots had been taken on the property to adequately show the slopes. There were even questions about the integrity of the survey. They decided to get another survey. The Schmidts contacted Peterson Engineering, who they had had no dealings with before, but they knew they were sophisticated in such matters and have experience. They were asked to go out to the property and provide an additional report to the City. The surveyor not only provided the survey itself but the raw data behind the survey to the City. The City Engineer looked at the survey and believed it was appropriate and meets the City's standard. Mr. Schmidt thought they had gone above and beyond what was required. He asked that the Commission now take the appropriate evidence into consideration in making a determination and judge the situation in an objective way, separating all emotion from it. If the Commission does not like the unbuildable lot being separated from the property it could be removed. There was some thought to it being a conservation area.

Mr. Schmidt stated that he had had significant arguments with the City Attorney about whether the property needs to be subdivided. The former Private Property Ombudsman for the State disagreed with the City Attorney in that regard and believes the ordinance is inadequate. What would most likely happen in this situation is it would be a permitted use review analysis. The Ombudsman stated that the only mechanism that the City of Holladay has is a subdivision. Accordingly, they took one piece of property and cut it into two simply to comply with the City ordinance. They did it to try to make what they are doing meet what Mr. Schmidt considered to be an imperfect ordinance. Mr. Schmidt asked that the project not be postponed because of discretionary issues and that approval be granted subject to them providing the remaining required items.

(21:15:10) There were no further public comments. The public hearing was closed.

Commissioner Scott asked if the property was part of the Hughes Canyon Subdivision. It was clarified that the property was next to the platted subdivision. Commission Carr asked if the property was within the jurisdiction of the Hughes Canyon Homeowners' Association. It was determined that the property is part of the Canyon Cove Homeowners' Association, which is a formalized HOA recorded with the County.

Mr. Allred expected that most of the discretionary items could be handled at the staff level. He recognized there was a lot of history associated with the project. He was most uncomfortable with the fact that they had a difficult time getting the revised drawings from the applicants' engineer. The applicants' engineer, Dave Peterson, had been extremely cooperative but he did not come to pick up the redlines about one week earlier and they got nervous preparing the staff reports. The drawings were received electronically only very recently. Mr. Allred was uncomfortable with some of the depictions of the graphics and he thought some clarifications needed to be made. Utility provider items were also needed.

Mr. Allred explained that by ordinance the final plat does not have to come back to the Commission, but it can. Routinely final plats come back to the Planning Commission. Commissioner Carr stated that the issue for the Commission becomes whether or not to approve the request as a preliminary plat. Because it is a subdivision plat, it is assumed that the lot in question is buildable. He explained that the matter was before the Commission because it has been reviewed by staff and found that it is overall a developable lot. The Commission should decide whether to approve it as a preliminary plat.

(21:23:40) Commissioner Carr moved to approve the Oak Canyon Valley View Subdivision as a preliminary plat and accept the technical reports indicating that it is a developable lot. Commissioner McKell seconded the motion. Vote on motion: Gene Carr-Aye, Richard Kimball-Aye, Brad Scott-Aye, Cyrus McKell-Aye, Paul Shupe-Aye. The motion passed unanimously.

Commissioner Shupe stated that the preliminary plat will go forward bearing in mind that an overlay zone has two additional sets of requirements.

Commissioner Carr confirmed that it was implied in his motion that the preliminary plat is approved subject to resolution of the outstanding items at the staff level. He asked that the motion be clarified to indicate that the Commission wants the final plat to come back. In addition, the site development plan, when a permit is proposed, would need to come back to the Commission as well. Commissioner Shupe thought that part of the benefit to the citizenry would be just the information that could be gleaned from it. He did not know that that would be a negative to the process. He stated that having the matter come back to the Planning Commission will at least give the matter a public forum so that the interested neighbors can come and hear the more detailed information presented.

(21:28:22) Commissioner Scott moved, in addition to the motion previously made, to allow staff to make the necessary reviews for the final plat including all of the checklist items and have the Chairman look that over and sign it as well. The Commission shall require the site development plan to come back. Commissioner Carr seconded the motion. Vote on motion: Gene Carr-Aye, Richard Kimball-Aye, Brad Scott-Aye, Cyrus McKell-Aye, Paul Shupe-Aye. The motion passed unanimously.

4. Consent Items

4.1 Approval of Minutes – April 1, April 15, and May 6, 2008.

(21:31:07) Ms. Hanson reminded the Commission Members that State law requires that minutes be approved within two weeks of the meeting. In the future, the City will have to be diligent about approving minutes. Revisions to the April 1 minutes were made.

(21:33:50) *Commissioner McKell moved to approve the minutes of April 1, 2008, with the suggested corrections. Commissioner Scott seconded the motion. Vote on motion: Lori Khodadad-Aye, Gene Carr-Aye, Richard Kimball-Aye, Brad Scott-Aye, Cyrus McKell-Aye, Paul Shupe-Aye. The motion passed unanimously.*

(21:36:25) *Commissioner Scott moved to approve the minutes of Tuesday, April 15, 2008. Commissioner Khodadad seconded the motion. Vote on motion: Lori Khodadad-Aye, Gene Carr-Aye, Richard Kimball-Aye, Brad Scott-Aye, Cyrus McKell-Aye, Paul Shupe-Aye. The motion passed unanimously.*

The May 6, 2008 minutes were reviewed and revised.

(21:45:12) *Commissioner Carr moved to approve the May 6, 2008 minutes, as corrected. Commissioner Khodadad seconded the motion. Vote on motion: Lori Khodadad-Aye, Gene Carr-Aye, Richard Kimball-Aye, Brad Scott-Aye, Cyrus McKell-Aye, Paul Shupe-Aye. The motion passed unanimously.*

Ms. Hanson stated that staff changed how they will finalize minutes because of the State requirement to finalize them in a timely manner. She was directed by Mr. Allred to open the minutes at the meeting and make corrections at that time. The changes should be accepted and emailed to City Recorder, Stephanie Carlson, that same evening following the meeting. The following morning the minutes will be posted to the website.

5. Adjourn.

(21:46:59) *Commissioner Scott moved to adjourn. Commissioner McKell seconded the motion. Vote on motion: Lori Khodadad-Aye, Gene Carr-Aye, Richard Kimball-Aye, Brad Scott-Aye, Cyrus McKell-Aye, Paul Shupe-Aye. The motion passed unanimously.*

The Planning Commission Meeting adjourned at 9:48 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, May 20, 2008.



Teri Forbes
T Forbes Group
Minutes Secretary

Minutes approved: 6/17/08