

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

**Tuesday, May 6, 2008
5:00 p.m.
Holladay Municipal Center
4580 South 2300 East**

ATTENDANCE

Planning Commission Members:

Paul Shupe, Chair
Gene Carr
Lori Khodadad
Cyrus McKell
Brad Scott, Vice Chair (excused at 9:17 p.m.)
Lynda Shields (excused at 8:40 p.m.)

City Staff:

Pat Hanson, City Planner
Rick Whiting, City Engineer

Excused:

Richard Kimball

1. Field Trip and/or Discussion.

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

(18:26:20) The Gates Condominium Conversion proposal was discussed. Commissioner Carr referred to the conditional use criteria and specifically the health, safety, and welfare of the neighbors. Issues pertaining to color were discussed. Commissioner Shupe stated that if the color is that objectionable, perhaps a request could be made that it be changed. Commissioner Carr remarked that the Planning Commission represents the citizens, not staff or the City Council. City Planner, Pat Hanson, stated that the color of the proposed office building will make a difference as well.

Height issues were discussed. City Planner, Rick Whiting, stated that a pre-construction meeting was held and 33 feet was established at that time. Because the Planning Commission did not specifically call out a height limitation, it was somewhat nebulous. Commissioner Carr stated that the freestanding wall on the south side of the office building was to be 33'6" and the highest element in the project.

Commissioner Carr stated that the HOA President indicated that he received many complaints. Mr. Whiting commented that the volume of feedback received from the neighborhood should give the applicant a clue that the color might be toned down.

(18:31:08) Commissioner Shields' understanding was that initially it was a one-owner project and now they want to make it a three-owner project. She had heard that they were considering selling the units off as residences. The proposed changes were described as the addition of the underground four-car parking garage and the ability to divide ownership into three parcels. Ms. Hanson stated that it also addresses water metering. Mr. Whiting stated that the Code calls for individual water meters as well as gas and electric; however, as they went through the

Holladay Cove project, it became clear that in actuality no one metered the water individually. He suggested that this might be looked at as an amendment to the Code as it was not in sync with what actually happens.

Commissioner Shupe referred to the previous motion made and reviewed the conditions imposed. With the changes proposed, the Commission would be eliminating condition number four because the applicants were now asking that each unit be divided from the property description and sold individually. It seemed to Commissioner Shupe that the applicants were also asking for relief on condition number two.

Commissioner Khodadad remarked that if someone buys a house individually, she did not see how they could be restricted from renting it out. Commissioner Shupe stated that the desire was for individual units but he was unsure how rentals could be restricted. He explained that the request was to eliminate the two conditions imposed and allow the units to be sold separately. He suggested the Commission address the color issue in a very negotiable way. Commissioner Khodadad's understanding was that the applicants cannot obtain financing unless the units can be sold individually.

Commissioner Carr reviewed the conditions contained in the staff report. Commissioner Shupe assumed that the request probably meets the ordinance as far as what they are asking for but pointed out that the motion made previously would have to be modified in order to move the project forward. He understood that the request clearly does not meet all of the conditions contained in the conditional use permit. The applicants had a building permit but were asking the Commission to relieve two of the previously imposed conditions dealing with the prohibition on the rental of units and units being sold separately or divided. He explained that the current conditional use permit has those conditions attached to it. Ms. Hanson explained that the applicants received approval from the Planning Commission and have a building permit that has been signed off on. Nothing was in place indicating that a conditional use permit is in place. Once everything is finalized and all of the conditions have been met, a letter will be issued setting out the conditions.

(18:49:50) Commissioner Shupe stated that if color seems to be a significant issue and the Commission feels it needs to be dealt with, now would be the time to deal with that or deny the request because the conditions have not been met. Commissioner Scott was opposed to the request because it appeared as though the applicants had not abided by what was submitted. Ms. Hanson stated that all of the figures had been verified. She clarified that the drawing referred to by Commissioner Scott was the previous drawing from 2006.

Commissioner Carr noticed that the City's condo chapter states that a project with less than 12 units is not considered a condominium development. Ms. Hanson stated that regardless the Commission will have to go through the subdivision process. The Commission next discussed color concerns and how to proceed with the application.

(18:57:47) Mr. Whiting brought up issues associated with the Poulos project. He stated that City Engineer, Clarence Kemp, and the Unified Fire Authority (UFA) clearly and resolutely declared that the area is adequate on the three lots for the Poulos subdivision. Commissioner Shupe stated that part of the Commission's responsibility is to take the ordinances that are in place and apply them to the applications that come before them. Commissioner Shupe said he thinks that people

do not completely understand that fact and thinks the Commission makes the rules and has the power to deny requests for no reason.

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

(19:07:38) Planning Commission Chair Paul Shupe called the meeting to order at 7:07 p.m. and read the Commission statement. Commissioner Shupe reported that the Commission Members went on a field trip earlier in the evening and discussed the items on the agenda.

2.1 Poulos Lane Estates Subdivision (formerly Poulos Valley View Estates Subdivision) (Continuation from April 15, 2008 Meeting) – 2526 Valley View – 3-Lot Subdivision – Planner, Rick Whiting.

(19:11:53) Commissioner Shupe introduced the above item. Rick Whiting presented the staff report and stated that at the April 15, 2008 meeting, the project was proposed as a three-lot subdivision. After receiving a code amendment from the Unified Fire Authority modifying the proposed turnaround configuration, there was some confusion about the exact specifications. There was also some discordance between the drawings and the documents such that the Planning Commission was not comfortable that the drawings were accurate and that there was adequate area on the lots to allow the proposed density. After receiving input from the public, a number of issues were brought forth concerning the area of the lots and whether three lots were allowed. There was discussion about increased traffic along Valley View Avenue and the implications of that for the residents of the community. There were also discussions about the pros and cons of sidewalk, curb, and gutter. Mr. Whiting reported that the City Engineer was present and ran calculations on the drawings. It was determined that in order to clarify the lot area issue, the matter should be continued to another meeting.

Mr. Whiting commented that the City Engineer, the Unified Fire Authority, and staff all concurred after studying the drawings and resolving the discrepancies that the lots meet the area requirements. All are over 10,000 square feet. The UFA made an amendment to their code to reduce the size of the access in the turnaround somewhat to allow sufficient area on the lots. At the same time, they carefully considered whether or not this curtailed proper access and safety and health and welfare to the residents of the subdivision as well as the general community. As mitigating factors they are requiring that the back two lots have sprinklers in the homes, which would lengthen the response time if needed, by the UFA in the event of an emergency. The UFA evaluated the matter carefully and concluded that nothing causes any extra danger or sets a precedent by allowing the code amendment.

Mr. Whiting reported that the City Engineer also reevaluated the calculations and was confident that the area is accurate on the drawings and as submitted by the applicant. Staff recommended approval of the Poulos Lane Estates noting that the applicant changed the name of the subdivision. Staff's recommendation was based on the findings contained in the staff report.

Commissioner Shupe acknowledged receipt of a letter dated April 15, 2008, signed by many of the area residents. It was noted that the Commission Members had all read the letter and discussed it. At the last meeting public comment was taken and the matter was continued. Commissioner Shupe opened the meeting to discussion and questions from the Commission Members.

(19:19:35) Commissioner Scott had two basic problems with the application. First, he did not like the UFA dictating roads to the Commission. It seemed to him like the configuration had been changed from the normal requirements in an effort to accommodate the request. Second, he thought the lot setting was unique on Valley View. By approving the three lots they would not be able to address the unique character of the wooded nature of the lot. He explained that that would affect the people to the west and east of the proposal. Commissioner Scott was not sure the Commission has a right to determine what stays if the lots are approved. The purpose of the City incorporating was to retain a unique setting that exists on the proposed property. By developing three lots with the road it seemed to him like the vegetation could be removed and there will be no accountability with regard to what is put back in. Commissioner Scott thought the proposed project would be detrimental to the neighbors by changing the character of the property.

(19:21:53) Commissioner Shields agreed with Commissioner Scott and was concerned that there seemed to always be a push for more and more density. She agreed that that was not the intent of Holladay.

The applicant, Billie Poulos, stated that they were asked previously by the City to maintain the existing trees on the lot. They then went back to their engineer who identified all of the trees that will remain. The beauty of their lot was that it has a more park-like look than any other properties on the street. She thought the desire of the City was to get away from humongous homes. What was proposed would be a plan everyone could enjoy with smaller one-quarter acre lots. She liked the plan as proposed and was considering keeping one of the lots for herself.

Commissioner McKell asked the applicant to comment on the types of trees that currently exist on the property. The applicant responded that there were pines, cottonwoods, aspens, and chestnut trees. She thought some of the existing trees should be preserved, particularly the pine tree in front of the home.

Commissioner Shupe asked if the trees to the west would remain or be replaced. Mrs. Poulos stated that there were some dead trees on the property that need to be removed. She stated that that would have to be done whether they sell the property or not. She saw no reason to not keep the majority of the trees, particularly toward the outside of the lot.

Commissioner Carr stated that the Planning Commission represents the citizens and should reflect their needs and concerns. They were faced with the fact that the area is zoned R-1-10 and if the project does not meet the standards or desires of the neighborhood, it ought to be changed. So far that had not happened. The applicants complied with the 10,000 square foot lot requirement. Commissioner Scott stated that it was contrived because the UFA agreed to allow it with a change to the road and fire sprinkling. It seemed to him like they were pushing it too much. He commented that it was debatable whether two lots or three lots are better. He had concerns about having a third lot.

(19:27:25) Commissioner Khodadad remarked that the UFA consists of professionals who know what can and cannot be done on a lot and how they can make it safe. Commissioner Scott agreed but stated that their job was to make the lot safe with regard to fires. What they were not trying to do at all, however, was work with the character of the lot. Commissioner Khodadad stated that what was proposed was based on what is allowed in the zone. Commissioner Scott thought

the City's foothold was based on the uniqueness of the property and harm to the neighbors. Once a request is approved, it would be too hard to monitor. Prior to approval Commissioner Scott wanted to voice his concerns.

Commissioner Shields' understanding was that when approval is granted, it will include approval of the trees around it. Commissioner Scott responded that if a tree that is to remain is accidentally knocked down, progress will not be stopped. Commissioner Carr remarked that the Commission was simply approving a subdivision. Commissioner Scott agreed but wanted to keep the character of what exists, if possible. Commissioner McKell commented that one of the missions of the Planning Commission is to deal with the beauty and safety of the community. The reason questions are asked about the trees is to understand the applicants' plans so that it becomes more acceptable to the neighborhood.

Commissioner Shupe appreciated the letter and signatures submitted and thought it said a lot about the neighbors and the neighborhood. The Commission's responsibility with staff is to determine if the application follows the ordinances and codes that are in place. Many times applicants try to change the rules because they are uncomfortable with what is presented. Their responsibility, however, is different than the City Council. The Commission's purpose with staff is to make sure that the master plan is followed and the items attached to the different zoning areas are applied as best as possible. The Commission works hand-in-hand with staff to initiate the best decision possible. Commissioner Shupe commented that the City Council actually makes the rules. He strongly urged those who initiated and signed the letter to approach the City Council and try to change the rules. He explained that the Commission's job is not to make or break the rules but do the best they can as a citizen's board to make it the best they can under the existing rules and regulations. He admonished those who submitted the letters or Commission Members who live in a particular district, to voice their opinion to the City Council and let them know that they want to maintain the integrity of Holladay. The way to do that is to get the City Council to change the rules and regulations. Commissioner Shupe stated that his feelings were similar to Commissioner Scott's. The Commission, however, has to make decisions based on the rules and regulations before them.

(19:36:16) Commissioner Khodadad asked if there would be language in the CC&Rs requiring certain trees to remain. Commissioner Scott stated that there would be no CC&Rs. Commissioner Shupe stated that there will be an HOA with CC&Rs that will give the applicants the ability to include certain things. He explained that an HOA with CC&Rs will be necessary to maintain the roadway and certain elements of the project. To be sensitive to the neighbors and the comments received, he recommended integrating some of the intrinsic features that should be maintained as the lots are sold. The applicant stated that because she was considering keeping the back lot she planned to include in the CC&Rs things she wants personally.

Commissioner Shupe stated that brief two-minute statements would be allowed from the public.

(19:39:35) Omar Leeman expressed appreciation to the applicant for her concern for the trees. He recently moved to Utah from Texas where a permit was needed for trees. He remarked that he was one of the few people who have been to every one of the hearings on the subdivision. In December of last year, the proposal was for three lots and was rejected by the Commission and approved for two lots. At that time, Mr. Leeman did not hear the Commission advise the applicant about seeking the revision to the emergency turnaround area. He stated that the

Commission represents the neighborhood and the community and what was proposed was precedent setting. He was very concerned about the area because there is a lot of property up for sale in the lower Valley View Avenue area presently. What is done in this specific situation will set a precedent for other developers to talk to the UFA about hammerhead turnarounds. To him that was very inappropriate. The residents of Valley View were very concerned about the situation and would raise their concerns with the City Council. Mr. Leeman reported that notice of tonight's hearing was provided only yesterday. A letter from staff was postmarked May 5. As a result, several people who wanted to attend tonight's meeting could not because the letters came out in less than a timely manner. One of the women who signed the letter phoned Mr. Leeman the previous night after she heard about the hearing and remarked that she did not receive a letter. In December, 22 people signed the letter and there were over 30 that signed it this time. That proved that what was proposed was of major concern to the neighbors.

Mr. Whiting stated that the letters sent to residents were as a courtesy and not required. Because staff agreed to send them out, they were provided. He noted that the fire officials stated clearly and unequivocally that this is not a precedent setting activity on their part. They do this regularly and frequently amend the Code as they feel comfortable without compromising the safety of the residents.

(19:43:15) Commissioner Scott disagreed and felt strongly that approval of the request would set a precedent. Ms. Hanson stressed that what was proposed was not a change to the code but rather an interpretation. She explained that there are provisions in the fire code for the fire officials to do such things. They were enforcing the fire code in exactly the same manner as the Commission. The fire officials clearly stated that fire sprinkling a home is safer than any other protection method available to them. Their preference was for the City to require sprinkling of all homes. Mr. Whiting agreed and stated that sprinkling mitigates other fire requirements, including access configuration.

Commissioner Scott understood the UFA was covering fire concerns. As a Planning Commission Member his concern was for the character of the neighborhood. Commissioner Carr wondered why the UFA did not require fire sprinkling from the beginning. Mr. Whiting stated that it was not unusual for a resident to approach the UFA and ask for a variance.

(19:46:11) William R. Lang gave his address as 2545 Valley View Avenue. Mr. Lang complimented the Commission on what they are doing.

Mr. Leeman remarked that at the last meeting the Commission asked for certain things. One was that there would be a new plat map signed by the City Engineer. In addition, each lot on the plat would have specific square footages noted. His concern was based on the map and that the setback area on the west side was to be included in the square footage for Lots 1 and 2.

Mr. Whiting explained that with regard to area, the proposed lots were found to meet Code and are over 10,000 square feet in size. With regard to the parcels on the west of the drive, they were to be included in the calculations for area. Staff did not believe they would be extraneous but part of the overall lot. Part of the reason to put the drive to the e would be to protect trees. Ms. Hanson pointed out that the size of the lot includes the driveway. The only calculation where the driveway is not included is for the density, not the lot area. When a plat is recorded, the homeowners will own three individual lots. The driveway is for access from all of those lots. In

essence, the lots are well over 10,000 square feet; however, the driveways were not counted when calculating density.

Commissioner Shupe clarified that when the plat is recorded, the owners of Lots 1 and 2 will have substantially more than 10,000 square feet when they receive ownership of Poulos Lane. That will remain at the County Recorder's Office as a private lane owned by the owners of the HOA or individually.

(19:56:13) Commissioner McKell clarified that the lot sizes exceed 10,000 square feet excluding the hammerhead. Because of that, the lots will fit into the neighborhood given that the aesthetics and other issues will be taken care of.

(19:57:45) *Commissioner McKell moved to approve the Poulos Lane Estates three-lot subdivision in an R-1-10 zone based on the following findings and completions:*

Findings:

- 1. The project legally meets the overall requirements for a subdivision including minimum lot area and overall density for three lots.*
- 2. This application is in compliance with the provisions of the City's General Plan, which addresses density and other implications of zoning.*
- 3. Right-of-way width is adequate for the required road improvements and for fire access and meets the requirements of the Unified Fire Authority.*
- 4. Utility availability is documented and staff sees all of the requirements for a three-lot subdivision have been met.*

Prior to Technical Committee review of the final plat:

- 1. The applicant will be required to dedicate to the City 25 feet of right-of-way from the centerline on Valley View Avenue.*
- 2. Bonding, payment in lieu, or delay agreement for curb, gutter, and sidewalk must be completed.*
- 3. The applicant must record a note on the final plat that requires demolition of the existing home and garage prior to issuance of any building permits within the new subdivision. If the new subdivision is improved as proposed, the existing buildings will straddle property lines.*
- 4. The applicant must record a note on the final plat indicating that fire sprinklers must be included in any habital structure built on Lots 2 and 3.*
- 5. A homeowners' association with applicable CC&Rs shall be established, recorded with the final plat, and sustained in perpetuity for the collection of fees from the members or for maintenance of the driveway common area, and that the HOA will include comments and requirements for the preservation of existing trees as necessary and planting of trees to ensure that this fits in with the neighborhood.*
- 6. The applicant must administer the HOA until a sufficient number of homeowners are added to assume management of the HOA on a sustainable basis.*

Commissioner Carr seconded the motion. Vote on motion: Brad Scott-Nay, Lori Khodadad-Aye, Cyrus McKell-Aye, Lynda Shields-Aye, Gene Carr-Aye, and Paul Shupe-Aye. The motion passed 5-to-1.

Commissioner Scott voted against the motion based on his previous comments. Commissioner Khodadad voted in favor of the motion but did not completely agree with it. She thought the appearance of the neighborhood was disturbing. She hoped the integrity of the neighborhood could be preserved but did not think the Commission had a choice at this point since the request meets all of the zoning requirements. Commissioner Shields agreed that what was proposed was not how she would like to see the City developed. Commissioner Carr concurred with Commissioner Shields' comments that the citizens should proceed to modify the zoning if the density is not acceptable. He explained that the General Plan was approved with public hearings and everyone had an opportunity at that time to express their feelings for the future of the City.

2.2 Gates Condominium Conversion/Conditional User Permit Amendment – 5160 South Highland Drive – Conditional Use Amendment and Preliminary Plat – Planner, Rick Whiting.

(20:03:37) Mr. Whiting presented the staff report and stated that the request was to convert an office building and twin home residence that are under construction to condominium ownership and an amendment to the conditional use permit to allow construction of an underground garage. The zoning is R-M which is multi-family residential. The property comprises .63 acres and the project approved by the Planning Commission under the original conditional use permit complied with parking and other Code requirements. In 2005, the Planning Commission approved a plan for replacing the structure for the Walker Lane Reception Center. The plan was never implemented and subsequent changes were made. Eventually the building was torn down. The property was subsequently sold and a revised development plan was presented and ultimately approved by the Planning Commission. The applicant later requested an amendment to the original conditional use permit to allow two twin homes instead of a single residential unit. The Planning Commission at its April 17, 2007 meeting granted the amendment. The project had proceeded to obtain building permits and met all of the necessary requirements to begin construction.

Mr. Whiting stated that all three structures are presently under construction. The Planning Commission visited the site earlier in the evening and was familiar with the configuration, spacing, color, and heights of the existing buildings. The applicant requested an additional amendment to the conditional use permit in order to construct an underground parking facility and to convert the project to condominium ownership. This was a requirement of financing the commercial building and the two residential units.

Staff found that there was nothing in the ordinance restricting the application from being granted. It meets code with one exception that relates to a Planning Commission provision that was called out in the last conditional use permit amendment. Each of the three condominium units will have their own metering and shut off capability for gas and electricity as well as their own heating and air conditioning systems. The water metering was the exception to the code and water metering will be provided to two of the units as well as shut off valves. This is contrary to City ordinance but as the Commission ruled previously in the Holladay Cove Condominium conversion, on the grounds that in practice it is generally not required to have metering for each individual unit for water. Mr. Whiting stated that no property condition report was required. Because it is new construction, it already meets City code and it is unnecessary to notify residents because there are none. Staff recommended that all building and site specifications continue to meet current code.

(20:12:20) Mr. Whiting referred to recommendation number four contained in the minutes of April 17, 2007. Ownership was intended to be limited to one owner. Approval of the application would require a departure from that position by the Planning Commission. Staff recommended approval of the amendment to the conditional use for the proposed Gates Private Office Condominiums on the basis that it meets City code and ordinances. Commissioner Scott asked if the plot plan approved on April 17, 2007 was available. Mr. Whiting had access to it and stated that it was not provided in the Commissioners' packets.

The applicant, David Cavanaugh, identified himself as the general contractor and agent for the owner. He explained that during construction of the second building prior to backfilling, they noticed that there was some space between the two buildings that they thought could be used for parking. They put together some plans with the architect and developed those. They were presented as part of the application. In addition, they were trying to obtain some long-term financing for the project and realized that it did not fit the terms of conventional financing for residential or commercial being a mix of the two. By condominiumizing it in the form suggested they will be able to obtain that in the future.

With regard to parking, Commissioner McKell recalled in the original plan that there were parking spaces available to the south of the main building as well as a garage and spaces around that. He asked Mr. Cavanaugh to describe the perceived necessity for additional parking. Mr. Cavanaugh stated that they were concerned somewhat about the future marketability of the duplex. If it were sold in the future to separate owners, there was only one detached garage with two spaces nearby. As proposed, they felt like they solved that issue and provided some much needed additional storage space for the owner who intends to use it as it is without any immediate intent to subdivide. Mr. Cavanaugh stated that it would not change the appearance from the streetscape.

(20:17:58) Commissioner Carr remarked that he saw the presentation originally and approved what they thought was going to be a guesthouse for the office building. It would not generate a lot of traffic and would be in scale with the pioneer building that was there originally. Mr. Cavanaugh stated that from his point of view it was developed pretty much as it was originally presented.

Architect, Lewis Ulrich gave his address as 174 West 200 South in Salt Lake City. He stated that what is being built is exactly according to the drawings. His intent was to save the original farmhouse but was unable to due to the condition of the building. As they designed the home and looked at the setbacks and studied the ordinances, they followed the plan. The density was two farmhouses without the addition on the back. He described the approach taken to the design of the project. They understood the mixed quality of what was proposed and did not want to situate a farmhouse/duplex next to an office building. It was possible to see the forms in the farmhouse repeated. It then morphs into the two-story space that will serve as the atrium of the office space. There would be a graduation from the farmhouse plaza and the office building.

Commissioner Shupe asked if the detached two-car garage was for the residential or commercial part. Mr. Ulrich responded that it would be assigned to commercial. The underground parking under the plaza area would be the parking for the single-family residential. He stated that it would allow direct access through the underground into the basement of each of the duplexes. Access issues were discussed.

(20:25:45) Commissioner Carr thought the architectural concept was interesting and quite challenging. The Commission's concern was whether it would be the same color as the north building. Mr. Cavanaugh stated that it would not be. They picked a bright color for the farmhouse and recognized it was controversial. The color would be toned down once all the white trim is added to the porch. The office building would contain no yellow stucco. It would have aluminum flat panels and the same roof material as seen on the farmhouse. Where stucco is used it will be a warm brownish gray color and a light gray color.

Commissioner Carr asked how the "ballpark mustard" color was chosen for the residential building. He commented that it had no historic connotation. Mr. Cavanaugh remarked that he was personally involved with the Hotel Utah renovation to the Joseph Smith Building and indicated that the fashion of color changes over time. The lobby of the Hotel Utah features very, very bright colors. The same thing could be seen at the State Capitol. During the time period from the turn of the century to 1910, the fashion was bright colors. Mr. Cavanaugh stated that the reality of color and the architect's use of color, which he is fairly well known for, is that given the Valley's pollution and smog in the wintertime, this will tone down within two years to a very palatable yellow color. The porch will feature details such as white trim and white gutter that will tone down the color as well.

Commissioner Shupe opened the meeting to public comment.

(8:30:15) George Lensch identified himself as the Manager of the Cottonwood Condominiums' Management Committee and expressed his displeasure with the proposed color. He stated that he and the other residents of the Cottonwood Condominiums are trying to be good neighbors but the applicants caused problems for them. Mr. Lensch thought the proposed project would be an asset to the community and he promoted it to his neighbors. He had found that it would actually be a liability. One resident could no longer see the mountains because of the garage that was built. He did not realize that was planned in the beginning. He remarked that the garage was only 38 inches from the fence. He did not realize that was allowed. He was confused that the project was originally an office building and cottage homes in the beginning. With regard to parking Mr. Lensch stated that they had been good neighbors and let the applicants run their equipment on their side. It had become overwhelming, however, and making a left hand turn outside of the condominiums had become difficult. He did not want to see parking on the street once the project is complete.

In reference to the garage placement so close to the fence, Mr. Whiting stated that the Code calls for three feet. As a result it was actually two inches over the Code requirement in that zone. In terms of the condominiumization of the office, it will consist of only one owner, which will separate the office from the two twin homes on the property in terms of ownership. With regard to the traffic flow out of the condominiums, he was not sure that had been studied in detail.

Ms. Hanson stated that the City's definition of "family" is any number of people who are related by blood or marriage or three unrelated people. On each side of the condominium you can get a family with any number of people or three single people living together, which will still comply with the single-family definition.

(20:37:28) Commissioner Shields stated that she was present at the November 8 meeting and left feeling very good because she got the impression that there was going to be a small upscale office building there with a place in the back for a residence with a park area in between. She was not present at the next meeting when it was approved as a duplex. She did not think she ever would have voted for that. She was stunned by what she saw. She felt bad about what they were getting.

Commissioner Shields was excused from the remainder of the meeting.

(20:39:15) Gerald Thompson, a condominium resident, felt the same as Commissioner Shields. He attended the first meeting in November and pictured the project as an office building where invited guests of the business could stay rather than at a hotel downtown. His recollection was that there would be two condominiums on the one side of the office and the parking space in the middle. At the time he thought that sounded okay and had no objection to it. It seemed that once construction is started and approved, the applicant needs only to ask for an amendment. He thought that happened in this case. It did not seem right that the proposal was made and then changed. Mr. Thompson remarked that he was also bothered by the height as well and seemed much higher than 31 feet. What was being built did not seem very appealing in the area.

With regard to height, Mr. Whiting stated that engineering staff measured the height twice that he was aware of. The twin homes measured in at 28 feet, which was specified in the plans. The office building was 32 feet in height. He noted that the Code allows 35 feet.

(20:42:40) Shirley Stroud a Cottonwood Condominiums resident, was most interested in the discussion about the Ponderosa subdivision. They discussed what was happening to the neighborhood and gave careful consideration to the beauty of it and how the surrounding neighbors feel about it. She stated that the “garish mustard monster” looked ugly and she was embarrassed to drive by it. She wished the applicants had been more considerate of the neighborhood.

(20:43:45) The applicant Kevin Gates gave his address as 159 West Broadway and stated that he was responsible for the controversy. He stated that with regard to color, they talked about it and realized they were making a bold statement. He wanted everyone to wait until the product is complete before passing judgment. The office building is still in wood and in the end he would be into the project for over \$4 million and wanted it to look good. He did not know how the colors will turn out but expected that they will be muted substantially once it is completed. With regard to the underground garage, they felt like there was some space they could take advantage of to solve two things. They could take advantage of the space and prevent the cars from being parked in the parking lot. In addition, it would hide any cars that are parked there, which would be of benefit to the community.

With regard to condominiumizing the building, Mr. Gates stated that he was in the mortgage banking business and banks don't want to finance anything that is mixed use. The only way to get around it is to get Fannie Mae approval and have them separated as condominiums. There would still be three units; nothing with the structure of the building would change in any way. With regard to the garage that is blocking the view, he was sensitive to the neighbors but indicated that the garage was there before and nothing had changed. They simply tore down the existing garage that was there from the farmhouse and put one up.

Commissioner Khodadad asked the applicant if he would be willing to change the yellow paint color at the end of the project if it is still offensive to people. Mr. Gates stated that he would. Commissioner Khodadad stated that everything in the area and what was there previously was a neutral color. She believed bright yellow has its place but she could see why people were so offended by it. She thought that contributed to the buildings looking so big. Mr. Gates asked that judgment be made when it is finished. He stated that they looked at a muted green color and chose to go with the yellow.

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

(20:49:15) Commissioner Carr stated that what was being done tonight was to modify a conditional use permit. Staff recommended that the conditions of the current conditional use permit remain active unless changed by the proposed amendment. He asked that the conditional uses as they now stand be reviewed. Mr. Whiting described the conditions of the original conditional use permit as follows:

1. The development must be built to conform to the site plan submitted to the Planning Commission at its November 8, 2006 meeting. The Planning Commission must approve any significant changes to the site plan.
2. The additional seven feet of right-of-way along Highland Drive must be dedicated to the City of Holladay prior to issuance of the building permit.
3. Site construction and pre-construction drawings must be submitted and approved by the Technical Review Committee prior to commencement of any site work or issuance of any building permit.
4. Site and feature lighting shall be appropriately shielded to prevent light trespass on properties on the south and the west.

General Statements:

All improvements, which are required by the City of Holladay, development ordinances, or Planning Commission action, must be installed or bonded for prior to the final electrical inspection approval by the building inspector. Or, if no electrical inspection is required, prior to issuance of any occupancy permit for the land being developed at commencement of the approved conditional use.

(20:51:51) Mr. Whiting stated that in the later amended conditional use permit the conditions were as follows:

1. All conditions from the conditional use permit approved on 11/08/06 are still in effect except that the development must be built to conform to the site plan submitted to the Planning Commission on April 17, 2007. Any significant changes to the site plan must be approved by the Planning Commission.
2. The residential units shall not be rented.
3. Appropriate business licenses shall be obtained for all purposes on the property.
4. The units are twin homes that run with the commercial application and as such, shall not be sold separately or divided without proper approval from the Planning Commission.

The following conditions were approved by the Commission on November 8, 2006 and as stated are part of this approval.

5. The development must be built to conform with the site plan submitted to the Planning Commission at its November 8, 2006 meeting. Any significant changes to the site plan must be approved by the Planning Commission.

Commissioner Shupe asked which units contain the water meters and which do not. Mr. Gates stated that one meter will serve just the commercial building and another will serve the duplex. The old meter that served the previous building will be used for irrigation purposes. A fourth meter would be used for fire protection on the commercial building.

(20:55:38) With regard to the separate water meters, it looked to Commissioner McKell like there should be some kind of homeowners' association so that the maintenance and upkeep of the total area is taken care of. Mr. Gates stated that the way the costs will be divided is specified in the CC&Rs submitted with the application.

Commissioner Shupe commented that the color seemed to be an issue. It appeared that the height, setbacks, and location of the structures were as per the site plan. At this point the color seemed to be the most controversial aspect of the project as well as the location of the garage and the height. It appeared that the applicants had met those requirements.

Commissioner Khodadad thought the color and material could look beautiful somewhere but did not think the proposed location was the place for it based on what is surrounding it. Commissioner Shupe observed that the parking structure made a lot of sense as it will take traffic from the surface and place it underground. From a visual perspective he expected that fewer cars will be seen. From the perspective of the twin homes, they will have access into a garage right into their house, which made sense.

Commissioner McKell remarked that the plaza above it being vegetated will make a big difference in the way it looks when completed. Commissioner Khodadad did not think the buildings will look as tall once the area is filled in.

(21:01:45) Commissioner Carr stated that originally the Commission was shown a site plan that looked like a great concept. What was built did not seem to relate to what was originally proposed. Commissioner Shupe remarked that all the Commission can do is ask that the developer work with the residents who are most impacted by the development. It was recognized that color was of major concern and numerous written comments were received by staff in addition to the comments made tonight. Individual Commission Members received comments as well. He asked that the applicant be sensitive to the homeowners to the west. He asked that they consider making modifications to the color if upon completion it still is objectionable.

Commissioner Carr addressed George Lynch and remarked that the Commission understood the concerns of the people next door who have lost their view. Sometimes people don't understand that if someone owns a lot and the law allows them to build to a certain height they have the right to do it. Homeowners should realize that there is always a possibility that at some point their view may be blocked. Commissioner Carr stated that from the street it looks like there is no setback. It appears to be a large, yellow mass that is overwhelming.

(21:08:28) *Commissioner Carr moved to approve the modification of the conditional use permit on the Gates Condominium Conversion project subject to the following findings and conditions:*

Findings:

1. *It has been pointed out that the application meets all of the overall requirements for development in an R-M Zone.*
2. *The application complies with the provisions of the City's General Plan.*
3. *Approval of the condominium conversion will not be detrimental in any way to neighboring properties since the basic land use, R-M will remain the same. The request only affects ownership changes.*
4. *The Technical Review Committee has provided some guidelines for what should be completed for a final plat for the condominium conversion. That is that when all of the requirements of the Planning Commission have been met, all required documentation including the declaration of condominium and CC&Rs have been submitted and approved.*

Conditions:

1. *Any bonds, letters of credit, or other agreements required to be filed have been accepted by the City.*
2. *The underground garage must properly integrate with the office building and the residential units and the terms of ownership, access liability, and other considerations.*
3. *Any outstanding access redline comments from the Technical Review Committee shall be met. All requirements of this Planning Commission approval are met by the City planning official.*
4. *The underground garage must meet all building code requirements including provisions for adequate storm drainage and accommodate any ground water concerns of the City Engineer.*
5. *The color of the stucco shall be reconsidered. The Community Development office has received numerous complaints about the current mustard-like color.*

By this declaration, the site plan is approved as presented with the changes made. Commissioner Scott seconded the motion. Vote on motion: Brad Scott-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Lynda Shields-Aye, Gene Carr-Aye, and Paul Shupe-Aye. The motion passed unanimously.

Commissioner Shupe stressed the importance of the applicant working with the condominium association to the west.

Commissioner Scott referred to the tree on the northwest corner of the property behind the garage and stated that materials were falling over the fence onto the neighboring property.

3. ORDINANCE DISCUSSION

3.1 Site Plan Review and Clarification of Multi-Family Definition – Planner, Pat Hanson.

(21:25:07) Ms. Hanson stated that the backup materials provided are for study purposes to help the Commission Members become more familiar with it. Commissioner Shupe read from the R-M multi-family zoning ordinance, which states that the intent was to provide areas for higher

residential density up to 16 units per acre with the opportunity for varying housing styles and character. He noted that apartments are a conditional use in the zone. There was a disconnect for him in the thought process because the ordinance for multi-family zoning specifies that it includes densities of up to 16 units per acre. In reading it, he thought that apartments would be a permitted use because that is the nature of the R-M zoning. Ms. Hanson pointed out that when the new ordinance was written for the R-M and R-1 zones, the conditional and permitted uses were not changed because staff is working on the new land use table and all of those lists will be moved into a table at the end of the ordinance with reference to the tables added to each section. Ms. Hanson explained that if a zone is set up for certain uses to be conditional, conditions should be imposed on those projects. If the decision has already been made that 16 units per acre is appropriate, then that use should be permitted. What one would really be looking at is not the use itself, but rather the site plan. With the City's current ordinance, the only mechanism they have in place is the conditional use because there is no language specifying that permitted uses have to go through the site plan review process. She provided the Commission Members with language from another ordinance showing how one city has done site plans. The City of Holladay's submissions chapter is very comprehensive and they know what kind of information they want. Their approval process, however, was still being worked on. Ms. Hanson stated that the ordinance had never included these kinds of basic regulations. It always fell back on the conditional use approval process whether they thought a use needed conditions or not.

(21:32:52) Commissioner Shupe stated that the city hasn't had an application for an apartment community. Ms. Hanson remarked that the City's ordinance came from Salt Lake County. She was surprised that Salt Lake County has never had a site plan review mechanism. Everything was included under the conditional use. When the LUDMA regulations were established, however, the state required there be justifications for requiring a conditional use process.

Commissioner Carr stated that the proposed conditional use language contains problematic language more particularly that the Planning Commission may approve, approve conditionally, or deny any request. That language was old because it implies that there can be a conditional use without conditions. Ms. Hanson agreed that the included language is only a basis for the Commission to begin working. Any comments on the chapters should be provided to staff.

Commissioner Shupe expressed appreciation to Ms. Hanson for her work. He stated that if the City would have gotten an apartment community to a certain point, there could have been problems. He felt that reading the chapter that use t should be an automatic permitted use. Ms. Hanson agreed to set up a public hearing on the multi-family definition for the next available agenda.

Ms. Hanson stated that she was in the process of working on the definitions for the uses in the land use table. She expected to have a draft list available in the near future.

4. CONSENT ITEMS

4.1 Approval of Minutes – March 18, April 1, and April 15, 2008.

(21:18:10) The March 18 minutes were reviewed and changes made.

Commissioner Shupe moved to approve the minutes from Tuesday, March 18, 2008 with the changes and comments made. Commissioner Scott seconded the motion. Vote on motion: Brad Scott-Aye, Lori Khodadad-Aye, Cyrus McKell-Aye, Lynda Shields-Aye, Gene Carr-Aye, Paul Shupe-Aye. The motion passed unanimously.

Commissioner Shupe stated that approval of the April 1 and April 15 meetings would need to be postponed because of lack of a quorum.

5. ADJOURN

(21:40:08) Commissioner Shupe moved to adjourn and expressed thanks to the Commission Members for spending a lot of time on issues. The Planning Commission Meeting adjourned with the unanimous consent of the Commission.

The Planning Commission Meeting adjourned at 9:40 p.m.

I hereby certify that the foregoing represents a true, accurate and complete record of the Holladay City Planning Commission meeting held Tuesday, May 6, 2008



Teri Forbes
T Forbes Group
Minutes Secretary

Minutes approved: 5/20/08