

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

Tuesday, October 17, 2006

5:00 p.m.

**Holladay City Center
4580 South 2300 East**

ATTENDANCE

Planning Commission Members:

Jim Palmer, Chair
Gene Carr
Richard Kimball, Alternate
Cyrus McKell, Vice Chair
Brad Scott
Lynda Shields (arrived at 5:20 p.m.)
Paul Shupe

City Staff:

Alma Haskell, City Planner
Pat Hanson, City Planner

Chairman Palmer called the pre-meeting to order at 5:20 p.m.

Howard Diederich was excused from attendance at the meeting.

PRE-MEETING

(17:21:00) Commissioner Palmer reviewed the agenda items. He acknowledged a letter received from Mr. Miller and encouraged the Commissioners to read it. He reported that a letter was also sent to Sterling Tholen clarifying the restrictions in his development on 3900 South.

Commissioner Palmer asked if there were questions with regard to agenda item 1.1(Elite Boutique). Commissioner Carr questioned the need for four additional parking stalls when the boutique can handle only one customer at a time. City Planner, Pat Hanson, remarked that staff received several comments on the proposal. Most were concern about the business in a neighborhood, property values, and encroachment issues. She reported that she received a call from City Treasurer, Fred Wunderli, who lives nearby. He commented that as a former LDS Bishop, he had more cars per day with his church calling than this home occupation would. Commissioner Palmer thought the conditions recommended by staff were good ones. Ms. Hanson clarified that the matter was not scheduled as a public hearing.

(17:26:15) Agenda item 1.2 was reviewed and discussed. Ms. Hanson clarified the access issues and the nature of both lots to this point. She explained that the Bryans purchased the lot to prevent it from being subdivided and to increase the size of their yard. Both lots were one-half acre in size.

Agenda item 1.3 was introduced. It was reported that a neighborhood meeting was held but was poorly attended. Questions were raised at the neighborhood meeting with regard to the developer, the road, water, and easement issues. The Commission discussed road maintenance and dedication and water issues.

City Planner, Alma Haskell, reported that with regard to the building envelopes, they were 30-feet from the private road. Private roads and subdivision access issues were discussed. Commissioner Shupe expressed concern with private roads accessing Highland Drive.

LUDMA and ordinance update issues were discussed.

(18:00:30) Commissioner Palmer called the regular meeting to order at 6:00 p.m. and read the Chair's statement.

1. Agenda Items.

1.1 Conditional Use – Elite Boutique – Home Occupation – 1995 East Wildwood Drive.

(18:03:50) Pat Hanson presented the staff report and stated that home occupations are approved as conditional uses so that conditions can be placed on them to help mitigate potential adverse impacts. Staff visited the site and found that the potential impacts would be associated with car trips and parking. Staff felt the conditional use could be approved with the conditions listed in the staff report. Ms Hanson noted that the conditional use permit would be renewed yearly and subject to review on complaint. Adverse impacts could be reported to staff who would convene another hearing.

(18:07:20) The applicant gave her address as 1995 East Wildwood. She expected one to two customers each day who would be seen by appointment only. Two to three customers were anticipated per week. The business would involve the design of wedding and evening dresses. The applicant stated that customers would utilize her driveway rather than park in the street.

(18:10:03) Commissioner Palmer opened the public hearing.

Bill Herren gave his address as 1995 East Wildwood and voiced support for the proposal. He explained that they had the capacity for 10 off-street parking spaces. He stated that the business was expected to generate only very minimal traffic.

(18:12:45) Craig Vierig was the owner of a duplex at 5719 and 5721 Highland Drive. His office was also located at 5695 Highland Drive. He expressed support for the proposal and acknowledged that he would be affected the most by the home occupation. The previous owners of the home parked vans and transported race cars up and down the street. If there was a need for more parking, he offered the use of his half circle driveway and office parking.

(18:15:30) David Woodruff gave his address as 2030 Drive Wildwood and expressed opposition to the project because he wanted to keep the neighborhood residential. He did not want the area to become a foothold for commercial. He recognized that there was plenty of parking but did not want to open up the possibility for commercial on the street. He thought there were plenty of other areas the applicants could set up shop for their business.

(18:17:40) Frank Moyle gave his address as 2008 Pheasant Way and expressed his opposition to the proposal. He reported that he lived behind the proposed site to the north. He had lived there since 1943 and his family had owned other properties in the area for many years. He was concerned with what would happen if one person starts a small business with good intentions. Suddenly another person would come in and expect to develop commercial as well. He remarked that the homes in the area are large, expensive homes. He did not want to see businesses develop in a residential neighborhood that is not on Highland Drive or other commercial thoroughfares. He reported that neighbors to the north of Mr. Moyle tried to bring in a small cleaning business. At the time, the City voted down the request.

(18:21:30) Kathleen Neilson gave her address as 2065 Wildwood Drive and expressed opposition to the project because it is within a residential neighborhood. She thought businesses would detract from the area as a whole. She had resided in the neighborhood for 40 years and previously protested a duplex behind them that was operating as a commercial business. She acknowledged that there was already a traffic problem that made it difficult to pull onto Highland Drive. She was concerned that if allowed, the applicants would want the business to grow but would not check back with the City. Her understanding was that Holladay became a city in part because they did not want to be part of the county where this type of activity would be allowed. She presented pictures taken along 3300 South and 3900 South where home businesses were first permitted. She stated that spot zoning had taken place and the homes encroach onto the neighbors. Today, the request didn't sound like a problem, however, it would open up the door to potential concerns. Ms. Neilson remarked that Mr. Vierig owns a business on Highland Drive and the only reason it is there is because it was grandfathered in. She didn't feel that allowing the request would be fair to the surrounding residents. She suggested the applicants rent space where other small businesses are located. She remarked that the Cottonwood Mall would better off if more tenants rented there.

(18:30:08) Commissioner Palmer closed the public hearing.

Commissioner Palmer explained that since the City was incorporated, they had had the ability to allow home occupations, which are not commercial businesses. What was envisioned were low impact home occupations. With the proposed request, the primary impact on the surrounding neighborhood was determined to be traffic. He stated that the proposed business would create only 6 car trips per week.

Pat Hanson estimated that one-third of the business licenses issued within the City involved home occupations. Most utilize phone and mail only.

Commissioner Palmer remarked that home occupations are conditional uses and limited with very specific conditions. If the conditions are not met, the permit can be revoked. Home occupations were viewed as a way to start small businesses that would not be viable in a commercial center. Many stay small, go away, or grow and move into a commercial center. The request would not be considered commercial zoning and defined as a home occupation within a residential zone that complies with all residential zoning requirements. He noted that the permit

could be reviewed upon complaint or by the City at any time. The permit would also be reviewed annually at the time the business license is renewed.

Ms. Hanson commented that the home occupations they get complaints about generally are construction companies or when employees come to the business to work. When complaints are received, the code enforcement officer reviews the complaint and can issue a citation or give the applicant time to fix the problem. Fines can also be imposed. If all other attempts to bring the business into compliance are unsuccessful, a conditional use permit revocation hearing would be scheduled. Ms. Hanson remarked that most complaints are on businesses being conducted without a conditional use permit or a business license. Most who apply with the City comply with the conditions imposed.

(18:39:35) Commissioner Shields addressed Mrs. Neilson’s concerns that the business would start out small and then grow significantly. She commented that the home occupation would never be a business with a sign on the front and this approval would not allow other homes on the street to become small businesses. If the home occupation were relocated, another business could not move in and assume the existing conditional use permit.

(18:41:00) *Commissioner Shupe moved to approve the request with the following conditions:*

- 1. *No more than 10 clients per week may come to the home for business purposes without a review of the conditional use permit.*
- 2. *No outside employees shall be allowed.*
- 3. *No clients/customers may come to the home after 8:00 p.m. or before 9:00 a.m.*
- 4. *No more than one client at any time at the home.*
- 5. *No signs are allowed in conjunction with the home occupation.*
- 6. *No on-street parking shall be allowed.*

Commissioner McKell seconded the motion.

Commissioner Shupe explained that the conditional use permit would give the neighbors the opportunity to monitor the use. The applicant stated that her neighbor gives piano lessons and estimated that there were five to six students daily. She remarked that her use would be smaller. Independent sales reps that run their business from their homes were also recognized. The biggest concern Commissioner Palmer had heard was with regard to traffic. If the request were denied, he assumed that the applicant would drive to her clients’ homes which would result in the same number of car trips without a home occupation.

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

1.2 Plat Amendment– Butternut Cove Phase 2 Subdivision – 4326 South Butternut Road.

(18:47:40) Ms. Hanson presented the staff report and stated that the one remaining outstanding item had to do with the existing utility easement along the existing property line that the applicants wanted vacated. The City to date had only received a response back from the sewer

district. She recommended that approval be conditioned on allowing the Technical Review Committee (TRC) to work through the utility vacation issue.

The applicant, John Bryan, gave his address as 4326 Butternut Road. He expressed appreciation to the Planning Commissioners for the time they volunteer. He explained that the change was minimal and consisted only of a lot line adjustment. One attractive feature of the home when they purchased it was the back yard area, which happened to belong to the neighbors. It served as a natural screen between Mr. Bryan's home and the homes on Hintze Drive. They purchased the parcel with the intention of leaving it in a natural state and then found out about the boundary change process. He remarked that they had received a release from Questar and that the neighbors had all signed off on the request and were favorable to it.

(18:52:15) Commissioner McKell asked about the condition of the property behind the existing home. The applicant responded that it consists of trees and shrubs. Commissioner McKell was concerned about the site becoming unsightly. Mr. Bryan explained that not much time had been spent on beautifying the site in the past, however, since they purchased the property, they had cleaned it up significantly. The applicants were waiting for the Commission's decision before permanently landscaping the parcel.

(18:55:30) Commissioner Palmer opened the meeting to public comment. There were no public comments. The public hearing was closed.

(18:58:04) *Commissioner Carr moved to approve the plat amendment with the proviso that the Technical Review Committee resolve the public utility easement issue. Commissioner Shields seconded the motion. Vote on motion: Richard Kimball-Aye, Lynda Shields-Aye, Brad Scott-Aye, Cyrus McKell-Aye, Gene Carr-Aye, Paul Shupe-Aye, Jim Palmer-Aye. The motion passed.*

1.3 Conceptual Plan – Highland Estates – 5310 S. Highland Drive.

(19:00:15) Alma Haskell presented the staff report and stated that previous applications submitted by the applicants were denied by the Commission and the Council. It was now back as a subdivision under the current R-1-21 zoning. The applicant was requesting three one-half acre lots. Staff recommended approval of the concept plan based on the findings and conditions contained in the staff report.

Commissioner Palmer questioned whether the issues raised in the staff report regarding setbacks, ordinances, flag lots, heights of buildings, and temporary restrictions would really effect concept plan approval or be subsequent decisions after concept plan approval. Mr. Haskell responded that they would be done after concept plan approval. He explained that conceptual approval does not provide a vested right for the three lots. That would take place at preliminary approval. He was confident that the issues could be resolved. Matters that should be addressed at conceptual approval were described as density, basic configuration, and whether it seems to meet all code requirements.

(19:04:41) The applicant, Gary Purk, made a correction and stated that the Planning Commission approved the re-zone application, however, the City Council did not. He believed they had

followed the application guidelines set forth by the City. He still believed, however, that the density along Highland Drive should be higher.

Commissioner Scott asked about the possibility of adding a slow down lane near the entrance. Mr. Purk stated that it would not make sense given that there was a private drive bordering the lot to the south. Mr. Purk stated that they made every effort to share the driveway, but were unsuccessful.

Commissioner Carr asked what was planned along Highland Drive. Mr. Purk responded that the intent was to have a seven-foot dedication and a wall.

Commissioner Shields asked the applicant why he submitted the application if he was waiting for the City to possibly change the zoning. Mr. Purk responded that they wanted to have everything in place to utilize the land for what it is currently entitled to be used for. If things change down the road, they may modify their plans. They were in the process of evaluating their options for the next step in the process.

Commissioner Palmer thought the question was whether conceptually a three-lot subdivision was appropriate in the area.

(19:09:29) Commissioner Carr wanted to make sure that the private drive is maintained and kept clear for emergency vehicles. Mr. Purk agreed to make sure that the proper CC&Rs are in place to make sure that is done.

With regard to a question raised by Commissioner Carr, Mr. Purk stated that engineering and drainage issues would be resolved at preliminary approval.

Commissioner McKell asked about the setback off of Highland Drive and had noticed that there was a large cottonwood tree on the far northeast corner of the adjacent property. Mr. Purk responded that it was behind a fence. Given the proximity of the tree to the road, Commissioner Palmer asked if the area would be gated. Mr. Purk stated that they were considering gating it. Setback issues were discussed.

Mr. Purk remarked that a neighborhood meeting was held. They sent out 63 invitations and 7 property owners attended. The meeting was characterized as fairly uneventful.

(19:13:16) Commissioner Palmer opened the public hearing.

Karen Miller gave her address as 1906 East Baywood Drive. She was not for or against the proposal but thought something needed to be built on the property. She remarked that the county previously authorized 15 homes down the street. She complained about decreasing water pressure and questioned whether there was enough water to service the additional homes. Commissioner Palmer responded that any building application requires an availability letter from all of the utilities. The utility in this case would be Salt Lake City Metropolitan Water District. He suggested Ms. Miller contact the Director, LeRoy Hooton. Holladay City looked at the issue after evaluating fire flows. The determination to be made tonight was whether the property was

appropriate for the development of three lots. He recommended the applicant conduct another neighborhood meeting.

(19:18:20) Mary Ann Ricks gave her address as 5309 Baywood Circle. She had no problems with the zoning of the 1/2 acre lots. She was concerned, however, with the setbacks off of Highland Drive. She wanted to make sure the neighbors would have a chance to comment on the setback on the end side. Commissioner Palmer responded that because a standard subdivision was proposed, the setbacks were set by ordinance. Ms. Ricks asked when the public would have an opportunity to comment on the design of the project. Commissioner Palmer responded that the neighbors would be properly noticed.

(19:21:30) Commissioner Palmer closed the public hearing.

Commissioner Palmer clarified that even though the applicant’s concept plan shows setbacks, tonight’s approval would be for conceptual approval of three lots only and the basic road location. Setback and building envelope locations would not be addressed.

(19:26:00) *Commissioner Shupe moved to approve the conceptual plan based on the following findings:*

- 1. *Each lot has the 1/2 acre required by code.*
- 2. *The access way is in the best location for this parcel.*
- 3. *The lot shapes are regular.*
- 4. *Proposed building areas cover less than 40% of the development area.*
- 5. *The use is single family, which is the predominant use in the neighborhood.*

Commissioner Shields seconded the motion. Vote on motion: Richard Kimball-Aye, Lynda Shields-Aye, Brad Scott-Aye, Cyrus McKell-Aye, Gene Carr-Aye, Paul Shupe-Aye, Jim Palmer-Aye. The motion passed.

2. Consent Items.

2.1 Approval of Minutes– Planning Commission Meeting – 9/05/06, 9/19/06 and Work Meeting – 10/1/06.

(19:27:50) Commissioner Palmer remarked that he forwarded his comments and modifications to staff previously.

Commissioner Shupe remarked that he received some calls with regard to the Greek Orthodox Church matter. Some of the neighbors were frustrated that the items worked out between the Church and the neighbors were not included in the motion. Commissioner Palmer received similar feedback. Staff recommended the specifics not be included. Commissioner Palmer explained that the issues agreed upon by the Church and the neighbors was a private agreement between two parties and very similar to CC&Rs. The City would not incorporate CC&Rs into a motion and then have the City take responsibility for enforcing them. He explained that the neighbors and the Greek community negotiated a private contract that was enforceable privately but should not be adopted by the City.

With regard to the September 5 minutes, Commissioner Carr suggested that last names be included. He also asked that the term “we” be defined on page 3, line 36.

(19:39:40) *The Commission moved to adopt the minutes by unanimous consent.*

3. Ordinance Discussion.

3.1 13.02.* - LUDMA Compliance – Noticing.

(19:39:55) Ms. Hanson remarked that Community Development Director, Paul Allred, had a concern that every time a matter is opened up for public comment, the Commission is essentially making every single item on the agenda a public hearing. Ms. Hanson told Mr. Allred that it had been the Planning Commission’s policy to ask for public comment and had not seen that it had caused concern. Mr. Allred was concerned that it could open the City up legally. Commissioner Carr disagreed and remarked that under the Open and Public Meetings Act, public comment is required during public hearings. The Commission can still take public comment even if it is not required. Ms. Hanson commented that staff’s biggest noticing problem was determining which items require newspaper noticing. The current code was confusing and interchangeably uses the terms “public hearing” and “public meeting”. The intent of the new language was to clarify what items need to be noticed in the newspaper.

Ms. Hanson remarked that staff also needed to make some clarification to the CUP chapter. She anticipated including the proposed language in the next packet. Potential board of adjustment changes were also discussed. She suggested the Commissioners review and become familiar with materials provided to them in their packets. She clarified that under the law, the Commission is not obligated to take public comment on every item presented. Commissioner Palmer responded that the Commission’s practice has been to do that. He felt that the ordinance was a minimum and that the Commission can do more.

4. Staff Reports.

(19:51:30) Ms. Hanson reported that Mr. Allred would be starting work on language for monster homes ordinance. Commissioner Palmer commented that the temporary moratorium for the village center expired September 3 and the Council adopted the Holladay Village Zone. Staff thought it made sense to require lot sizes relate to the home size.

(19:55:00) PUD issues were discussed. Ms. Hanson thought a mechanism was needed to develop existing lots. Commissioner Palmer suggested that a draft ordinance be prepared for the Commission to revise and forward on to the Council in order for it to be adopted prior to expiration of the moratorium. He agreed to discuss the matter with Mr. Allred.

Commissioner Kimball made reference to the “Great Wall of Holladay” on Highland Drive and 4500 South. Commissioner Carr spoke with Councilman Pace about it and was told that it was done before the City was incorporated. He agreed that it was unsightly.

5. Adjourn.

The Planning Commission Meeting adjourned with the unanimous consent of the Commission.

The Planning Commission Meeting adjourned at 7:59 p.m.

I hereby certify that the foregoing represents a true, accurate and complete record of the Holladay City Planning Commission meeting held Tuesday, October 17, 2006.

A handwritten signature in black ink that reads "Teri Forbes". The signature is written in a cursive style and is positioned above a horizontal line.

Teri Forbes
Minutes Secretary

Minutes approved: 1-3-07