

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

**Tuesday, October 2, 2007
5:00 p.m.
Holladay Municipal Center
4580 South 2300 East**

ATTENDANCE

Planning Commission Members:

Jim Palmer, Chair
Gene Carr
Richard Kimball
Cyrus McKell, Vice Chair
Paul Shupe

City Staff:

Alma Haskell, City Planner
Pat Hanson, City Planner

The work meeting was called to order at 5:26 p.m.

1. Field Trip and/or Discussion.

1.1 Brubaker Subdivision 07-1-14 – 2820 East Valley View Avenue – Preliminary Plat for a lot split.

(17:25:43) Commissioner Palmer reminded the Commission Members that the Brubaker Subdivision involved a lot split. He noted that the Commission visited the site prior to the last meeting.

City Planner, Alma Haskell, reported that a neighborhood meeting was conducted and the minutes of the meeting were available. The meeting was held at 5:50 p.m. on Wednesday, September 26 at the applicant's home. Mr. Haskell summarized what took place at the meeting. He reported that eight neighbors were in attendance. One neighbor asked Mr. Brubaker if he would develop the same subdivision on her property. The attendees asked for the dimensions of the lot frontages, side yard requirements, and canal easements. The anticipated location of the future homes was far enough from the canal to make the canal easement a non-issue. The applicant was asked which lot he planned to build on for himself and he answered that his wife had changed her mind a few times but was currently favoring the east view lot. He made it clear that he was moving forward with the intent to build for himself, but that the situation could change. The size of the anticipated structures was discussed. The applicant hoped to build 4,000 to 5,000 square-foot homes including the ground level and basement. If the subdivision were approved, the City code would control. The applicant's preference was to sell one of the lots, which would reduce his costs of carrying the property. A neighbor was opposed to the project as construction might reduce the amount of privacy on the top of his deck. He formerly had a flat roof that was converted to a pitched roof. A portion was maintained as flat and a deck was built from one of the upper level rooms.

(17:30:06) Commissioner Palmer questioned whether a shared access would be considered. Mr. Haskell stated that that was not known at this point. He commented that an 80-foot lot width was necessary with 75% in the lot frontage. Lot line issues and frontage requirements were discussed. Commissioner Palmer asked about the lot line circle relative to the edge of the property line. It seemed to him like it ought to be measured outside of the setbacks.

Canal easement issues were discussed. Commissioner McKell asked if there was any language pertaining to easement property being part of the total. Mr. Haskell responded that the lot area definition excludes access rights-of-way. He did not think it excluded other easements such as public utility easements. Commissioner McKell asked if canal companies actually own property or deal only with easements. Commissioner Palmer stated that it depended on the canal.

1.2 Maryland Circle PUD – 06-2-04-01 – 2115 Cumberland Road – Conditional Use Permit.

(19:35:56) Commissioner Palmer remarked that the PUD was originally proposed during the moratorium when there were concerns about height. The height was limited because of the impact primarily to Rainbow Point behind it. Commissioner Howard Diederich was concerned at the time that most of the homes along Cumberland were one-story. The height ultimately was limited to 28 feet.

Commissioner Palmer was concerned that if the applicant desired, he could disconnect from the rest of the PUD and submit a new building application as a single lot, which staff could approve at 35 feet under the current zoning. In that respect, he was inclined because of the zoning ordinance to say that 35 feet was probably desirable. The tricky part was that the setback had been adjusted and a smaller front yard setback allowed in exchange for the height. Commissioner Palmer asked what the allowable front setback would be today. Mr. Haskell responded that the applicants would be required to have 26.6 feet on average with no point closer than 22.61 feet. The applicants were proposing an average of 29 feet with no point closer than 25 feet. Because of that, Commissioner Palmer did not have an issue. Mr. Haskell stated that the applicants were not planning to go right up to the 35-foot maximum. Commissioner Palmer stated that people would be concerned about the north elevation looking at it from Rainbow Point. The south elevation seemed the least offensive.

(19:48:50) Commissioner Palmer remarked that he had read the letter and asked if it was known what 33 feet would be relative to Rainbow Point. Mr. Haskell remarked that it would not be any taller than the homes behind them in Rainbow Point. It looked to Commissioner Kimball like in the worst conditions the house would shade the fence and nothing more. Mr. Haskell agreed and stated that in the middle of the day when the sun is high, it will shine over. In the evenings and mornings when the sun is low, it will shine around it unless it shadows some of the neighbors. The closest corner as currently drawn was 32 feet.

Commissioner Shupe wondered about the original impact Rainbow Point had to the surrounding neighbors. Mr. Haskell remarked that the lots ranged in size from 5,000 to 8,000 square feet.

1.3 Discussion Regarding the Single-Family Homes in the HV Zone.

Mr. Haskell distributed materials submitted by a man who wanted to build a single-family home. The request was for a fabricated home in the Holladay Village Center. He knew it would not meet the design guideline criteria. The proposal was for a manufactured home that would be put on a permanent foundation. He asked if the intent was to allow single-family homes in the Holladay Village Center zone. He remarked that it was not listed as one of the permitted uses.

(17:53:22) Commissioner Palmer's recollection was that the intent was not to have single-family residences in the HV zone. City Planner, Pat Hanson, stated that the property owners had enough property to construct another home.

Commissioner Palmer asked if three-story structures were allowed on the south side of Murray Holladay Road. Ms. Hanson stated that was the case on all four corners.

The General Growth project was discussed. A list of the 100 most desirable retailers was reviewed.

(18:09:48) Commissioner Palmer referred to an article on the Village Center that said that Fox Properties had appealed the lawsuit the Third District Court had previously dismissed. The Village Center project was discussed.

Commissioner McKell asked about the service station at the end of Arbor Lane and whether the intent was to take off a corner of the parking lot for the liquor store. Ms. Hanson responded that the liquor store was looking for a space but was willing to build a new building.

Commissioner McKell didn't want the City to be characterized as a "tear down" City. Forthcoming development was discussed.

2. Agenda.

Commissioner Palmer called the regular meeting to order at 7:07 p.m. and read the Commission statement.

2.1 Brubaker Subdivision 07-1-14 – 2820 East Valley View Avenue – Preliminary Plat for a lot split.

(19:10:06) Alma Haskell presented the staff report and stated that the subdivision was on Valley View Avenue above Wander Lane. The specific location of the site was described. The lot split proposed was determined to meet the area and lot width requirements. Because of the lot widths, the applicants could get up to 80 feet if they gerrymandered the lines more. Staff and the applicant felt it was better as-is with substantial compliance.

Mr. Haskell reported that fire protection was adequate in the area and all of the utility providers had demonstrated the ability to serve both lots. The required lot area was 10,000 square feet and the lot on the west had 12,553 square feet. The lot on the east had 17,735 square feet. The building corridor came approximately 112 feet back on the property. Compliance would need to be shown at the building permit phase. A large building area would be left on both lots where they could build to the maximum height. The required setback would be about 30 feet on the

front, eight feet on the sides, with a total of 20 feet when both sides are added, and 22 feet on the rear yards. He explained that once the setbacks are taken out there was a large enough building envelope for standard or larger homes.

Staff recommended approval of the Brubaker Subdivision conceptual and preliminary plats based on the findings and completions set forth in the staff report.

(19:13:02) The applicant, Mac Brubaker, commended staff for their thoroughness and competence. He found the conditions to be very acceptable and asked that the request be approved as recommended.

Commissioner Palmer opened the public hearing. There were no public comments. The public hearing was closed.

Mr. Haskell remarked that staff signed off on the development as shown although the City Engineer needed to check the legal description corrections submitted. All Members of the Technical Review Committee authorized moving the project forward.

Commissioner McKell asked about the Upper Canal Properties easement across the property. He asked if there was any space available for a public trail on either side. Mr. Brubaker responded that there most likely was room in terms of horizontal square footage, but due to the vertical nature of the square footage, it was probably not practical. He stated that one of the neighbors, Kim Gillette, served on the canal board. She indicated that due to an erosion issue there, the canal company and the City were looking for funds with which to put in a retaining wall along one side. Mr. Brubaker explained that presently the area was overgrown with trees and foliage and was expected to stay that way. Commissioner McKell asked if the vegetation along the canal was in good shape. Commissioner Palmer stated that it tended to be overgrown due to the presence of water.

Richard Hansen reported that he was currently living on the property. He stated that the canal company was responsible for trimming and removing debris in the canal. The property owners also were responsible for maintaining their sections. He remarked that the upper canal area was well maintained. He noted that the property owners had an easement on either side of the canal but not through the property itself. Access issues were discussed.

(19:18:00) Mr. Haskell reported that the public utility easements would be included on the plat as well as at the final plat phase. He stated that typically they were 7 ½ feet on the sides but in this case, they may need to be wider at one point gain access to the canal. Commissioner Palmer was unsure that access would be granted to the canal though the property. Mr. Haskell stated that they would probably come off of Valley View Avenue one lot further down and work up the bank.

Commissioner Carr did not believe the policy would allow trails through private property. Commissioner McKell responded that several years earlier there was considerable discussion about a trail system along Cottonwood Creek. Because the width was adequate, it was considered as an option. He wanted to make sure it was safe. Commissioner Palmer did not

think it applied in this case but noted that the City Master Plan for parks, trails, and open space talked about trails primarily along the large canals.

(19:20:10) *Commissioner Carr moved to approve agenda item 2.1, preliminary plat request, subject to the following findings and completions:*

Findings:

1. *The lot area, width, and setback requirements are met.*
2. *Right-of-way width is adequate for the required road improvements.*
3. *Utility availability has been demonstrated.*

Completions:

1. *The corrections submitted by the applicant on September 27, 2007, are subject to final verification by staff.*
2. *Building permits shall comply with all applicable zoning codes, regardless of what is shown on the preliminary plat regarding setbacks, drive approaches, etc.*

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

2.2 Maryland Circle PUD – 06-2-04-01 – 2115 Cumberland Road – Conditional Use Permit amendment to allow 35-foot high structure.

(19:21:00) Mr. Haskell presented the staff report and gave some background on the project. He stated that the original PUD was approved after the moratorium/temporary ordinances were enacted in July 2006. The application was made prior to that in April. Not knowing what the zoning regulations would limit building heights to after the zoning rewrite, staff recommended at that time that the Commission specify the maximum heights on the home to be built in the PUD. After the Planning Commission and staff studied the heights in Rainbow Point, it was determined that if they built to 35 feet from natural grade, the homes would not be higher than those to the north and west. The applicant then asked to reduce the setback from Cumberland Road on Lot 4 to 20 feet instead of 30 feet. The Planning Commission approved a motion allowing this reduction in setback and required that the home height on Lot 4 be limited to a maximum of 28 feet. The discussion of home height and the rewrite of the ordinance continued and ended in heights being limited to 35 feet for 15,000 or larger square foot lots. The applicant requested a modification to the conditional use permit to reflect a greater height on the lot. They were asking for approximately 32 feet. Given natural grades on the property, they would be at about 33 feet for a small section of the home. Mr. Haskell explained that currently the PUD limitations require that the front setback be 20 feet. If the lot were being built on without any PUD restrictions under the current code adopted in January 2007, they would need to have a 26-foot front yard setback on average with no point closer than 22.6 feet from the front property line. The current plan on the lot showed a 29-foot average front yard setback with no point closer than 25 feet.

Mr. Haskell explained that for the side setbacks, the applicant far exceeded both what would be required under the PUD or the current zoning ordinances at 17 feet on the west and 25 feet on the east. With regard to the rear setback they were at 32 feet from the property line. The applicants

would be required per the code to have 25 and 20 per the PUD limits. He noted that the applicants exceeded both requirements. With regard to building heights, the current PUD limit was 28 feet. The zoning would require that they go no higher than 35 feet. The applicants proposed going at about 33 feet on the highest section of the home. Most of the home was lower than that.

With regard to the building corridor, Mr. Haskell explained that there was no requirement in the PUD. Some considerations were that the front setback was now measured by averaging the setback of two homes on either side. One home to the south was included in Mr. Haskell's calculations as well as an empty lot to the east and a lot on the corner of Cumberland and Oliver. Using those homes and the vacant lot, the averages were discussed. With regard to heights, some considerations were that the applicant intended to have the home under 32 feet with their design. When measuring to the natural grade the height would be 32 ½ to 33 feet. That measurement was verified by the architect in phone conversations. Mr. Haskell explained that the proposed home would not violate the graduated height on any side and its ridge would be no higher than the Rainbow Point homes to the north. It would, however, be higher than some of the homes along Cumberland. A two-story home was currently located across the street on Cumberland. On the vacant lot to the east, it was likely that a two-story home would be built that could go up to 32 or 35 feet. The rest of the structures were 1 ½ or single stories.

(19:26:07) Mr. Haskell commented that no point of the home exceeded the building corridors and it would meet every height and setback requirement per the new ordinances if it were not in a PUD. Staff felt it was appropriate to go higher particularly because the home was not high all the way across. He acknowledged that it would be a larger home than what people were used to in the area but pointed out that that was the direction the City Council and Planning Commission went with the zoning code rewrite.

Mr. Haskell recommended the Planning Commission consider whether the 28-foot PUD limit provided a better product than what the current zoning ordinances require or than is shown on the plans. If approved, staff recommended any motion include the staff recommendations contained in the staff report.

(19:27:54) Commissioner Palmer's understanding was that if the submission was a new application, it would be conforming for height, graduated height, and setback. Mr. Haskell confirmed that if it were an application not governed by a PUD, it would not need to be reviewed by the Planning Commission. He explained that because the lot complied with the 15,000 square-foot minimum, it would be allowed to be built at a maximum height of 35 feet. It would also meet all of the setback and coverage requirements as shown.

The applicant, Richard Corey, gave his address as 4346 Mulholland Street in Salt Lake City. He referred to the site plan and stated that it had been modified to more accurately reflect the street and setbacks. He explained that when they drew up the plans they were aware of the 28-foot height restriction. As they got into the plans their architect mentioned that if they were able to elevate a small portion of the roof, it would open up some of the area on the interior of the home. The floor to roof height on that version was 30 feet. When the request was submitted to staff, they informed him that the lowest grade to roof height would be closer to 35 feet. At that time

the notification went out to the neighbors. It stated that it was actually closer to 33 feet as measured from the point of lowest grade to the highest point. In the PUD theirs was the only lot with a different height restriction from the rest of the City. The two homes to the west were on lots greater than 15,000 square feet and their height limit was 35 feet. Theirs was right at 15,000 square feet and the request was for 33 feet. The lot to the east was less than 15,000 square feet and their height restriction was 32 feet. From a height standpoint it seemed that 33 feet was in the range of the other homes in the neighborhood. He found that the lowest elevation of natural grade was three feet below the main level floor. That accounted for the two-foot difference from the lowest grade to where the house would sit in the middle and one foot for the floor joist. On the east side of the home, from lowest grade to the portion on the east roof would be 27'3", still lower than the original 28 feet in the zone. On the west side it went up to 25 feet, still significantly lower than the 28 feet.

Dr. Corey pointed out that the City of Holladay restricts maximum building coverage to 28% of the lot area on a 15,000 square foot lot, or 4,240 square feet. The square footage of the proposed home for living area was 1,754 square feet. Including the garage, the total square footage would be 2,642, which would be a footprint of about 17.6%, which was significantly smaller than what would be allowed typically. He remarked that their goal was to integrate well within the community and the neighborhood. He felt the proposed design plan matched many of the other homes in the area.

(19:34:00) Commissioner Palmer opened the public hearing.

Hal Hansen gave his address as 2090 Rainbow Point Drive and stated that his home was located directly behind the proposed lot to the north of Frank Ivory's house. He asked how the requested variance compared to the variance given to the Ivory, Mecham, and Wright homes. Commissioner Palmer clarified that the public hearing did not serve as a question and answer period. Questions could be posed, but the answers would have to be researched. By way of background, he stated that when the project was first presented to the Commission as a planned unit development, the City code was in the process of being changed. The City Council imposed a six-month building moratorium where building heights were artificially lowered from 40 feet and 35 feet to 28 feet for a period of six months. There was a very complicated formula to exceed the 28-foot requirement. It was based on surrounding homes and involved averaging them out relative to lot size. During the six-month period the Planning Commission and City Council worked on revising the zoning ordinance. There was a lot of discussion for example, about whether the intent was to protect single-story neighborhoods. The City Council elected not to protect that and decided that if a lot was purchased in the middle of a street full of single-story homes, the owner could build to whatever the zoning ordinance allows. On the specific applications mentioned, he stated that staff could provide the specific answers after conducting research. Mr. Haskell recalled that one of the homes mentioned by Mr. Hanson was right at the 35-foot limit because they had to redesign their trusses and rebuild a portion of the home to comply with the limit. He knew that the other two homes had a height of less than 35 feet. Mr. Hanson suggested nothing higher be allowed than what already exists in the subdivision.

Mr. Hanson recalled that a formula was used at the time to determine the slope of the ground at an angle of the Ivory home. He wanted to know what the formula was. He stated that the

Ivory's house sits back 20 to 22 feet from his rear fence. Commissioner Palmer responded that he was referring to the graduated height setback. Mr. Haskell explained how the graduated height was calculated and stated that the homes came nowhere near violating the graduated height along the rear because they are so far away from the property line. He stated that details could be obtained by visiting the City offices or from the City's website. Mr. Hanson asked if the formula would be applied to the pending application. Commissioner Palmer confirmed that it would.

(19:42:39) Frank Ivory gave his address as 6631 Juliet Way. He reported that he was building a home just to the west of the Corey's proposed home. He thought no one would be as burdened as he would with the variance. He thought the views of Mount Olympus from the east side of his lot would definitely be affected by the home but he had no problem with it. He thought Dr. Corey's request seemed more than reasonable based on the heights of the three adjacent homes. He thought some of the citizens present were more concerned about the setbacks than the height. He stated that Dr. Corey did not come close to violating the setback requirements. He thought it was important to note that the 26 ½ feet back from the front of the yard was in addition to a 10-foot right-of-way for Cumberland Road. Mr. Haskell explained that as proposed the home would be an average of 29 feet from the right-of-way line on Cumberland. Mr. Ivory thought the home was very tasteful and fit in well within the design of the neighborhood. The coverage proposed was well below what was granted in the PUD conditional use permit that grand fathered in some old restrictions that were allowed prior to the PUD. He thought the setbacks should be discussed more than the height.

Commissioner Shupe recalled the history of the proposal and pointed out that Howard Diederich served on the Commission when the application was originally filed. There was concern that if the height was too great the home would look very large from the street. He recalled that part of the reason Commissioner Diederich wanted the height restriction was because the setback was only 20 feet rather than 25 or 29 and faced onto Cumberland.

(19:48:40) Jamie Zeluff was present on behalf of herself and Alan Badham who were Rainbow Point residents directly behind the proposed home. Dr. Corey seemed very empathetic to the plight of those around and behind him, which was most often not the case. She appreciated that very much. Their understanding was that the height would determine the setback. They were so severely impacted that the home would obliterate any skyline view they might have. In the wintertime they would lose sunlight for three months. Because of loss of view and light they were deeply concerned about their property value decreasing. They were tremendously distressed by what was proposed. She stated that Dr. Corey had expressed a willingness to move the house forward toward the street as much as possible, which would help them enormously. Ms. Zeluff stated that their home was only 15 feet from their fence and Dr. Corey had a 32-foot setback from that. She asked how close Dr. Corey could place the house to help resolve the situation.

Commissioner Palmer referred to a photo provided by Ms. Zeluff. A pole was taken back 32 feet from the property line and held up 24 feet high. It went well above the tree line. Commissioner Kimball asked Ms. Zeluff how high the fence was in relation to the 24-foot height. Ms. Zeluff

responded that the fence was eight-feet high and there was a five-foot difference in grade, which was taken into account. It was estimated that the home would extend 13 feet above the fence.

(19:55:00) Robert Gempeler gave his address as 2102 East Rainbow Point Drive. He stated that they did not want the new house to impact the neighbors but he had dealt with Mr. Ivory's home to the rear of his property line. Both wanted privacy from one another. Mr. Gempeler asked what would happen if the Corey's were to plant big trees in the rear that would eliminate the views anyway.

(19:57:17) Jeremy Blank gave his address as 1463 East 3045 South in Salt Lake. He identified himself as the owner of the lot directly east of the Corey residence. He planned to construct a home at some point in the future and wanted to express his support for what was proposed. He was allowed 32 feet for his maximum building height and did not believe what was proposed would interfere with what he planned to do on his lot.

Scott Hawkins reported that he lived across the street to the east. He did not know how tall his home was but guessed that it was close to 35 feet. He thought what had been done across the street seemed tasteful and he empathized with Ms. Zeluff. Overall, however, he did not see a problem with the height being the same as the other homes along the strip of new development.

(19:59:03) There were no further public comments. The public hearing was closed.

Commissioner Palmer clarified that if what was proposed was a new application under the current zoning ordinance, it would not need to be reviewed by the Planning Commission as it would be approved over-the-counter by staff because it conforms with the revised zoning ordinance. It was, however, in a conditional use permitted PUD. Because of that, the conditions imposed the previous year were still in force, however, because it was a PUD, the Commission could vary any of the regulations in the zone other than height, use, and density. He stated that one of the determinations to be made was where to set the front setback line.

Dr. Corey appreciated Ms. Zeluff's comments and in general he agreed. He stated that he had no problem with bringing the house as close to Cumberland as the Commission saw fit. His understanding was that it could be as close as 20 feet on any other lot of similar size. Commissioner Palmer clarified that under the new zoning ordinance it would depend on the average of the surrounding structures. Mr. Haskell explained that based on the zoning data, he computed the front setback as being required to have 26.6 feet on average with no point closer than 22.61 feet. If the Planning Commission was inclined to allow that setback instead of the 29 feet and the 25 shown by the applicant, he asked that they stipulate that the front setback be as required by Code. He signed off on a number of building permits at the direction of Community Development Director, Paul Allred. If there was ever a question or controversy Mr. Haskell deferred to Mr. Allred's judgment. It was Mr. Haskell's preference that Mr. Allred make the final call in that regard. He suspected, however, that the front setback would be around the 26-foot range.

(20:02:35) Commissioner Kimball asked if the other Commission Members were concerned about views, sunlight, both, or neither with regard to how heights and setbacks effect the

neighbors. If it was sunlight they were worried about, he stated that the photograph was revealing but not the whole picture. A more interesting photograph would show the location of the sun. It seemed to Commissioner Kimball that the angle of the sun and solstice when it is lowest in the sky would still be above the top of the pole. At most, the shadow cast by the new home would shade the fence rather than the house or yard to the north.

Commissioner Palmer reported that the zoning ordinance itself did not necessarily deal with the preservation of view sheds, light, and trees. Conservation of views was something the Commission tried to protect but legally the person who owns the ground owns the view across that ground. With regard to planting trees, the City does not have a tree ordinance other than protecting trees in public rights-of-way. If someone has a view and another person wants to plant trees in front of it, the trees would have to be purchased in order to be taken down. He explained that because the property was within a PUD, the Commission looked at the impact on the product being built and the impact to the surrounding neighbors. He remarked that it was a balancing act. Commissioner Palmer agreed that the shadow cast by the proposed home would not go up and over a six-foot fence. From a light preservation standpoint, he did not see an issue. He did, however, recognize an issue from a view preservation standpoint. Commissioner Kimball agreed.

(20:06:00) Commissioner Carr believed that anyone who purchases property should understand the surrounding zoning. The potential was always there for someone to build on an adjoining lot and cover a view that a property owner may be fond of. The only solution he knew of was to purchase the property.

Commissioner Palmer clarified that a front yard setback would need to be 26 ½ feet on average to conform with the current zoning, which would allow the home to be at no point closer than 22.61 feet or 2 ½ feet forward from the present proposed location.

Commissioner McKell pointed out that with regard to the setback, the front portion of the lot was curved. When the Commission first looked at the PUD application it presented some problems because of the curved line of the property. Reduction of the setback would still provide the look on the east and west sides of the house. He believed there were some things to be gained by having a smaller setback. From the standpoint of the streetscape he thought it would look good.

With regard to measurement methods, Mr. Haskell stated that he did not go to the alcove of the front door because the roof extends across the front porch area. He was informed by the applicant that the way the site plan was drawn, the architect made a common conceptual error. He explained that the property line was often conceived as being the curb and gutter line, which was how the architect drew it. The architect thought the line at the front was the curb and gutter and she set it back from there. After taking that into consideration, the Corey's were only 20 feet at their closest point from the front property line. If they were to conform to City codes they would actually need to move the home back. Mr. Haskell clarified that the PUD restriction was at no point to be closer than 20 feet.

(20:14:33) In response to a question raised by Commissioner Palmer, Mr. Haskell stated that on many streets the 10 feet between the back of the curb and the actual property line was meant for

future park strips and sidewalks. He was not sure that Cumberland would have that any time in the near future. Presently, it provided a place for snow removal and was void of obstructions for vehicle safety.

The applicant asked procedurally how a variance to the setback would be handled. Commissioner Palmer explained that the setback could be varied by the Commission. Mr. Haskell clarified that the setback as shown was 20 feet from the property line. The application being considered was for an amendment to the conditional use permit to allow a 35-foot high structure. He thought it would be appropriate for the Commission to act since the height and setback were related.

Mr. Haskell clarified that setbacks were measured from the 10-foot rear portion everywhere else in the City rather than from the curb and gutter. Commissioner Palmer asked what process someone would go through to secede from a PUD and create a freestanding lot. Mr. Haskell stated that the lot would have to be vacated from the subdivision and the subdivision plat amended. It would require a unanimous vote of the subdivision owners or a vote of the Planning Commission. Staff would still have to sign off on the plat indicating that the vacation of the lot would not harm the City or the neighborhood. Staff would have to make a call to everyone in the subdivision and ensure that every owner voted to allow it. If not everyone voted in favor, the issue would be presented to the Planning Commission who would make the determination.

(20:20:38) Mr. Haskell explained that given the current site plan submitted with the corrections, they would have to move the home back two to three feet. They would, however, be allowed the same height even after moving it back. Commissioner Palmer was not in favor of moving the home forward since it would be too close to Cumberland. He stated that the applicant had a simple ability to get the authorization of the people in the subdivision and submit a new application. He thought the applicant had options to do what he wanted to do; however, it would be less attractive for the applicants, the Commission, and the neighbors. Commissioner Shupe stated that what was presented in the packet seemed to best meet the needs of the neighbors. Mr. Haskell clarified that staff would have to sign off on the vacation. Because there was an existing conditional use permit, they might not. Commissioner Palmer stated that conditions ran with the land and therefore, the conditions would continue even though it was a freestanding lot. He did not anticipate the applicant would pursue that option and suggested it be set aside.

Mr. Ivory stated that major title problems would be created by withdrawing from a PUD due to common area ownership. He did not view that as an option in this case. He stated that when he brought the subdivision in for approval it was important to note that there was a potential for six lots. They settled for four. He thought that was important because they were not asking for anything over and above what a typical 15,000 square foot lot would be entitled to. He stressed the importance of the four lots staying together in the PUD.

(20:25:02) Commissioner Shupe recognized there was a unique challenge in that the rest of the homes in the PUD don't go off the 10-foot City right-of-way. He viewed it as a hybrid situation. Commissioner Palmer stated that one of the trade offs granted in the original PUD was to move the front setback forward from where it would have been originally. He was comfortable with the location of the front lot setback. Mr. Haskell stated that if the lot were not 15,000 square feet

in size, the setback would be 32 feet rather than 33 feet. Also, the pitch of the roof might have to be lowered slightly. Commissioner Shupe thought what was presented in the Commissioners' packets seemed to be the best they could do from a hybrid standpoint. Commissioner Shupe thought it would be appropriate to keep everything consistent along the streetscape.

(20:27:32) Commissioner Shupe moved to approve the amendment to the Maryland Circle PUD to reflect the following staff recommendations:

- 1. All conditions of the original conditional use permit shall apply unless modified by the conditional use permit amendment.*
- 2. The building height on Lot 4 shall not exceed 33 feet from natural grade.*
- 3. The PUD setbacks would have to be met as part of the conditional use. The front setback shall be at least 20 feet from the Cumberland property line.*
- 4. The building permit application shall not be substantially modified from the plan submitted on September 10, 2007 for the CUP amendment.*

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

(20:34:05) Ms. Zeluff stated that the Commission had already decided on a 28-foot maximum limit and questioned why it was decided on if it didn't mean anything. She thought that when she spoke that as long as the home could be pushed forward the height would not matter. She was concerned that now the height does matter. The purpose of the meeting was to determine whether to change the height requirement from 28 feet to 36 feet. She stated that the Commission decided on 28 feet previously for a reason. Commissioner Palmer explained that the 28-foot limit was imposed during a time when the City did not have a height ordinance and the ordinance was in flux. Ms. Zeluff's understanding was that it was because of the setback that the 28-foot limit was proposed. Commissioner Palmer responded that at the time the application was approved, the City had a moratorium on heights and all construction was limited to 28 feet. Since then, the zoning ordinance was reworked and readopted in January. The current zoning would allow the applicant 35 feet. He advised Ms. Zeluff that she had the right to appeal the Commission's decision to the City Council. Ms. Zeluff stated that because the home was in a PUD, the needs of the surrounding homes should be considered. She asked what the Commission had done in that regard since the home was now higher than ever before and there was no change to the setback. Commissioner Kimball informed Ms. Zeluff that she would not be losing any sunlight. Ms. Zeluff complained, however, that they were losing significant value in their home. Commissioner Kimball remarked that the homes next door were higher and closer. Commissioner Shupe stated that the height could go no higher because of the moratorium. Ms. Zeluff stated that they would lose all sunlight in their backyard. Commissioner Carr remarked that when the Zeluff's purchased their lot, the potential existed for a home to be built on the proposed site. Ms. Zeluff expected the Commission to protect her.

2.3 Amendment to Title 13.82 – Signs – Construction, real estate and mobile signs.

(20:37:37) Pat Hanson reported that a public hearing was held previously. Following the public input, the subject of signs on vehicles came up. Staff was directed to see if there was language that could be added to the proposal to address mobile signs. Mr. Allred suggested the proposed

language. The language specified that generally mobile signs would not be allowed unless determined otherwise by the Community Development Director. If it were determined that such a vehicle is being utilized for advertising purposes beyond that approved for signage on a site, the Director might require relocation or removal of the vehicle.

Commissioner Palmer stated that if he were the owner of a mobile sign, he would question the metrics used by the Community Development Director to determine whether it was being used for advertising purposes. He thought that could leave the City open to an arbitrary decision. Ms. Hanson reported that Mr. Allred had found that the language worked in Sandy and thought it could be incorporated into the ordinance and utilized when needed.

Commissioner Palmer was inclined to add more specific language. He referred to a specific situation within the City that had to do primarily with the positioning and location of where a particular vehicle was parked. It seemed that the vehicle was intentionally parked within the drive by view of the public. Ms. Hanson stated that it was parked long-term and clearly not being utilized as part of the business operation. It seemed to be parked in its present location purposely to provide advertising and circumvent the sign ordinance.

Commissioner Kimball asked if the situation was addressed by the building permit process. Ms. Hanson responded that staff was limited as far as what could be put in the building permit. The City had to generally conform to the International Building Code regulations. She explained that the ordinance came back to the Commission because staff had problems with construction signage. The Council asked staff to pare back the allowable signage.

(20:46:42) Commissioner Palmer remarked that there were a number of signs within the City that he had received complaints about. Property development signs were identified as a concern. Ms. Hanson stated that property development signs were allowed to be no more than 32 square feet. She explained that the ordinance was sent back because they were directed by the Council to revisit the construction sign issue.

Commissioner McKell asked about real estate signs and stated that there was a limit on the size, however, they were located on private property. Ms. Hanson stated that if they were placed in the park strip they would be required to be moved to private property. Commissioner Palmer stated that where he lives on 6200 South if signs were required to be out of the public right-of-way, they would be placed about 20 feet back in the trees. He stated that it was enforced on a realistic basis.

Ms. Hanson remarked that Sandy's ordinance was 27 pages long and included a lot of real estate sign regulations. She commented that the City has only one part-time Code Enforcement Officer who did not have time to regulate every real estate sign. Commissioner Palmer stated that the City generally only enforces on a complaint basis. Ms. Hanson estimated that at any one time there were 1,000 real estate signs posted. She pointed out that the City had a lot of wooded lots that are back off of main roads. Because of that she thought the City should have more flexibility.

(20:50:51) Commissioner Palmer opened the public hearing. There were no public comments. The public hearing was closed.

Commissioner Carr stated that Sandy's ordinance had excellent graphics, which he believed was essential to getting the point across on a sign ordinance. He was unsure why the City was so reluctant to consider illustrations. Ms. Hanson stated that the main issue was that she did not have time to draw them up. She had no objection to illustrations but they were very time consuming to generate. Commissioner Carr added that Salt Lake City had a great ordinance with magnificent illustrations. It was clarified that name signs could be posted on homes, however, no signage whatsoever would be allowed with a home occupation.

Commissioner Carr asked for clarification of permanent signage with residential. Ms. Hanson asked the Commission to describe the types of permanent signage that would be appropriate on a residential property. Commissioner Palmer identified address signs as appropriate. Ms. Hanson asked how much permanent signage should be allowed on a residence. Commissioner Shupe suggested three square feet of permanent signage be allowed. Ms. Hanson commented that a sign ordinance should be content neutral.

Commissioner Shupe suggested the Commission pass on the construction portion of the sign ordinance and readdress it at another time. Temporary residential signs were discussed.

(21:00:30) Commissioner Shupe moved to pass a favorable recommendation on the modified sign ordinance at 13.82.210 as well as the changes to the table to the City Council for approval or rejection. Commissioner McKell seconded the motion.

The proposed changes were identified as the language within 13.82.150 and the table at 210. The primary change to the table was the deletion of 32-foot construction signs. Commissioner Carr acknowledged that there was a great deal of work left to be done. Commissioner Palmer stated that the City had a separate initiative where an attorney was reengaged to help clean up the zoning ordinance, including the sign ordinance. In the meantime, 32-foot construction signs would be eliminated.

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

3. Consent Items.

3.1 Approval of Minutes – August 21, 2007, September 4, 2007.

(18:14:55) The August 21, 2007, minutes were discussed. Various modifications were made. Community Development Director, Paul Allred, informed Commissioner Palmer previously that the draft minutes were redlined to reflect his changes. Commissioner McKell asked how concerned the Commission should be about sentence construction and grammar. Commissioner Palmer responded that it would depend on whether someone was being quoted. If accurate, the comments should remain. Commissioner Carr thought there was an overuse of personal pronouns in the minutes. Commissioner McKell referred to line 3, on page 2, and suggested it be changed to read, "...they are not being managed as to what the individual buildings will look like". Commissioner Palmer remarked that whereas the comment described what Kris Longson

was saying, perhaps the word “we” was changed to “they”. Pat Hanson stated that the second instance of “they” referred to the Planning Commission. The first instance of “they” was determined to refer to General Growth. It was suggested that that be added for clarity.

To page 4, line 10, Commissioner Carr suggested “middle-aged” be changed to “middle-age”. To page 4, line 27, Commissioner McKell recommended a change to indicate “...what was proposed and not a mall re-do.” Commissioner Shupe referred to page 6, line 34, and clarified the intent of the statement made by Commissioner Palmer. To page 7, PUD and condominium ownership issues were clarified. Commissioner McKell referred to page 7, line 7, and clarified that with a condominium, individuals own the building and the surrounding land was in common ownership. Commissioner Palmer suggested page 9, line 11, be stricken dealing with diversity and potential school boundary changes.

(18:48:37) The minutes of September 4 were reviewed. Commissioner Carr referred to page 3, line 8, and suggested “full area ratio” be changed to “floor area ratio”. To line 14, Commissioner Palmer suggested “the term” be added before the words “Holladay Village” for clarity. To line 35, Commissioner McKell suggested “the City” be changed to “the City of Holladay” for clarity. To page 5, lines 41 and 42, the sentence was changed at the request of Commissioner Palmer to read, “The Unified Fire Authority had certain internal discussions with the Fire Prevention Officer.” To page 7, line 34, Commissioner McKell suggested the words “coming in” be stricken.

(21:05:37) Commissioner Palmer referred to item 2.1 in the September 4 minutes. He noted that a public hearing was held on the condominium conversion language. There was a four-page discussion at the end of which the motion was to approve the modified language. He suspected that there was probably some discussion of findings within the motion that ought to be incorporated into lines 19 through 22 on page 8. His understanding was that in order for a motion to be valid it should include findings. He wanted to make sure the minutes reflected a fully formed motion.

(21:07:30) Commissioner Shupe moved to approve the minutes from August 21, 2007, and September 4, 2007, with the changes made during the discussion portion of the meeting. Commissioner McKell seconded the motion. The minutes were approved by the unanimous consent of the Commission.

4. Adjourn.

The Planning Commission adjourned by unanimous consent.

The Planning Commission Meeting adjourned at 9:08 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 2, 2007.

A handwritten signature in black ink that reads "Teri Forbes". The signature is written in a cursive style with a horizontal line underneath it.

Teri Forbes
T Forbes Group, Inc.
Minutes Secretary

Minutes approved: 11-20-07