

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

Tuesday, September 18, 2007

5:00 p.m.

**Holladay Municipal 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
Paul Shupe

City Staff:

Paul Allred, Community Development Director
Alma Haskell, City Planner
Pat Hanson, City Planner
Clarence Kemp, City Engineer

1. Field Trip/Pre-Meeting Work Session.

**1.1 General Growth Properties Exception Request– 4835 South Highland Drive –
Exception to the setback from Big Cottonwood Creek.**

(18:56:02) Commissioner Palmer suggested averaging backyard setbacks to no point closer than 40 feet. Commissioner Carr asked where else it would apply since there were no areas that close to the creek. Commissioner Shupe asked if the zoning could dictate to some extent the stream situation as well.

City Planner, Alma Haskell, recommended the approval not include sidewalk design on Highland Drive and Arbor Lane and wait until master site plan approval. On the application, sidewalks were shown on Highland Drive. The applicants agreed to reconstruct it but they wanted to wait to provide the details with the master site plan. The plans appeared to have a six-foot walk right next to the curb. Mr. Haskell stated that City Engineer, Clarence Kemp, thought the applicants should have a walk-through with staff to look at the trees they planned to keep versus the ones they were not to see if there were any differences of opinion.

(19:01:04) Tree issues were discussed. The special features of the willow trees on the site were discussed. Commissioner McKell stated that the trees' special features were their size and health. He looked at most of the willows along Highland Drive and did not see anything worth saving. Commissioner Palmer thought the trees along Highland Drive were all volunteer. Commissioner McKell suggested the issue of trees include trimming.

**1.2 Corey Home on Maryland Circle – 06-2-01-01 – 2115 Cumberland Road –
Amendment of Conditional Use Permit to allow home higher than 28 feet.**

**1.3 Reichman Residence – 07-9-04 5247 South Cottonwood Lane – Exception to 100-
foot no disturb area from perennial stream.**

- 1.4 **Thomson Development – 07-1-15 – 1862 Lincoln Lane – Lot Split.**
- 1.5 **Brubaker Subdivision – 07-1-14 – 2820 East Valley View Avenue – Lot Split.**

Discussion of the above items did not take place during the work session.

2. **Agenda.**

(19:12:09) Chairman Jim Palmer called the regular meeting to order at 7:12 p.m. and read the Commission Statement.

2.1 **General Growth Properties Exception Request– 4835 South Highland Drive – Exception to the setback from Big Cottonwood Creek.**

(19:15:45) Clarence Kemp reported that the applicant, General Growth Properties (GGP), requested the permitting of a realignment of Cottonwood Creek as well as a redefinition or change of the cross section through that area of Cottonwood Mall. The City ordinances provided for a 100-foot study area requiring the consent of the City Engineer for any developmental intrusions as well as the approval of the Planning Commission. The process had been fairly extensive largely because of the extent of what had occurred. The proposed plan presented included a redefinition of approximately 1,000 feet of the stream channel running along Highland Drive, as well as the realignment and conceptual construction of a new channel along Arbor Lane. It included the installation of rip rap embankment protection for erosion as well as some rock cross and J-hook structures intended to slow down and re-channelize the water for erosion. It also included the installation of four new bridge structures. There was discussion of some ancillary items such as the big ditch irrigation system. There would also be some ancillary landscaping, decorative lighting, and curb, gutter, and sidewalk construction along Highland Drive. He stated that there would simply be improvements to Highland Drive rather than a realignment of the road. As part of the request, the TRC looked at the regulated aspects of the creek, particularly in terms of the State of Utah and Salt Lake County. What was proposed would not create a problem for those agencies. There were no stability issues to be concerned about from a Code standpoint.

(19:18:45) Mr. Kemp stated that the TRC was also concerned about the FEMA flood plain definition. Currently, the Cottonwood Mall was within the 100-year flood plain, which was problematic in terms of what they can and can't do on the site relative to the City's flood plain ordinance. Because of what they were doing, GGP was redefining the FEMA flood plain and minimizing that area. Applications had been sent by the applicant to FEMA to get the FIRM or CLOMR application revisions. He pointed out that the FEMA flood plain approval was not required for the stream redefinition and realignment; it was simply a flood plain definition issue that may affect what GGP can do going forward.

Flooding concerns were discussed. Mr. Kemp stated that a hydraulic model of the channel was prepared. GGP was looking for the flood plain elevations to determine how extensive the flooding could be. The process was somewhat revealing. While they always understood there was flooding in the area, they did not understand how extensive it was on a 100-year storm basis. What GGP found was that their proposal did not aggravate flooding and in fact, there were some benefits to what they were doing in terms of minimizing the area of impact associated with flooding, primarily east of Highland. GGP's engineering indicates there had been historic flooding, which the modeling confirmed, west of Highland in the Highland Circle area and the proposed development will not adversely impact that flooding in an anecdotal sense. Their

understanding was that a lot of the flooding was caused by debris caught in the bridges on the west side of Highland.

The City's standpoint was that historically the flooding had included a portion of Highland Drive. The proposal included reconstruction of a portion of Highland Drive that would allow them to mitigate the flooding and take care of the ponding. There was also a question about stream erosion, in particular the scour of the stream. That was something GGP is in the process of looking at currently and was a requirement of Salt Lake County. It was not an issue of whether or not it was a good idea to relocate the creek so much as it was a design construction issue of how the bridges and foundations for the bridges are built.

(19:21:32) Mr. Kemp noted that the area had very limited access to the public as it currently sits. In their view it was considered a "wasted asset". The proposal would open up the corridor for public access and enjoyment. They viewed that as a positive given the importance of Big Cottonwood Creek in Holladay. That meant that vegetation restoration and protection was very important. While there were a lot of trash trees in the area, there was also vegetation that was worth preserving and saving. He recommended any consent include the requirement that they work directly with City staff to identify specific vegetation that should be retained and protected.

Water quality was also an issue. Presently the entire Cottonwood Mall site drained into Big Cottonwood Creek without any protection from a water quality standpoint. The proposal would include best management practices relative to oil/water separators to enhance the water quality. They were also very concerned that the construction processes employ best management practices so that as they work in and around the stream the water is not degraded during the construction process.

Mr. Kemp reported that he offered his consent for work within the 100-foot setback of the creek as submitted by the applicant. The consent was conditioned on the applicant providing a greater level of detail as the process moves forward to ensure that best management practices are employed. It was also conditioned upon Salt Lake County Flood Control, US Army Corps of Engineers, and the State of Utah permitting approval prior to construction. Based on his discussions with those agencies, he expected permit approvals would be forthcoming. He had not heard objections from any of the individuals involved.

(19:23:57) Mr. Kemp stated that staff would want to see a detailed construction mitigation and pollution prevention plan. The applicant would also be expected to work with City staff to identify and document desirable trees or other vegetation. Mr. Kemp noted that the Salt Lake County Flood Control agreed and indicated a willingness to entertain any type of modification to the channel section if required, to save old growth trees.

With regard to the applicant seeking to redefine the flood plain, Commissioner Palmer's understanding was that they were doing that by reconfiguring the land as opposed to redefining the definition. Mr. Kemp explained that if there were no changes the process would be much more difficult with FEMA. The applicants would essentially raise the ground level as well as widen the channel. That, in and of itself, would change the perimeter extent of the 100-year flood plain. He noted that that was an ongoing FEMA approval process.

The basis of Mr. Kemp's consent was no closer than 40 feet on the east side of the stream bank. It was based on any building footprint shown on some of the ancillary data in terms of some of

their preliminary master planning data. No development was proposed on the west side other than improvements to Highland Drive. He perceived the Commission as being a participant in those approvals. He thought it would be appropriate to acknowledge that as part of any approval granted.

In response to a question raised by Commissioner McKell, Mr. Kemp explained that the Highland Drive bridge was not adequately sized to fully pass the 100-year flood. It would actually flood the eastern most lanes of Highland Drive. He noted that Highland Drive was set on a super elevation and the west side was about three feet higher than the east side. With what was proposed, the only way to effectively pass that through would be to either replace the Highland Drive bridge structure, which would be very expensive, or put in additional drainage or storm drainage facilities. It turned out that the Murray Holladay Road storm drain was a very large box culvert. Salt Lake County was satisfied with having them tie into that and drain into the box culvert. The box culvert in turn, would drop into Big Cottonwood Creek a few hundred feet down the road. It would also give them the opportunity to build flood barriers or raise Highland Drive or both, on the east side. If they planned to reconstruct a portion of Highland Drive, it made sense to address the drainage issue as part of that reconstruction.

(19:29:15) Commissioner Carr asked what had been the source of most of the floodwater in the Cottonwood Mall flood plain. Mr. Kemp responded that the modeling showed that had been 100-year storm run off as opposed to snow melt. The storm could occur during a snowmelt period. He did not have any direct access to the history of what flooding actually had occurred at the Mall. One of the things that controlled the whole site was the elevation of the existing finish floor elevation of Macy's, which is proposed to stay in place. Both the City and General Growth wanted to make sure that any flooding or potential flooding did not rise above the finish floor of Macy's. Flooding was considered to be a significant issue with the proposal on the east side of Highland.

Commissioner Carr referred to Mr. Kemp's comment that the runoff into the creek would be less polluted. He asked how that would be accomplished. Mr. Kemp responded that that would be accomplished primarily through oil/water separators. Currently, any car oils or dripping goes onto the pavement. When it storms, it sheet flows into the stream. As a result, there were hydrocarbons being deposited directly into the stream as well as any other debris or chemicals in the parking lot. By putting in controlled inlets with oil/water separators, they would be able to skim the oils and any floating material off and improve the water quality directly entering the stream.

General Growth Representative, Kris Longson, stated that it was important for them to try to utilize the creek and significantly improve not only the aesthetics, but also the function of it. Many of the current restriction points were the bridge structures, which would be replaced as part of the project. He clarified that they were not raising the creek, but rather raising the site. They would not be changing the elevation of the actual creek, just the site to raise it up out of the flood plain. He stated that Cottonwood Mall could not be built today as FEMA has defined the flood areas.

(19:32:25) Commissioner Shields wanted to understand how the stream would be dealt with. Mr. Longson stated that a number of things would be happening. Because GGP is raising the site rather than just putting in a deep channel, they will actually step back the buildings from the creek bank. As a result, they increased the area of landscaping and natural habitat from what

exists today. Presently, there are foundation walls serving as the banks of the creek. Also, there is parking lot going up to the edge of the creek. By opening up and widening the channel and having it lay back, they were able to add a lot of additional landscaping. Along the creek there were paved sidewalks, a fire access road, and a plan for a more natural path along the creek. On the other side of the existing one lane road on the same side as the residential homes, there would be an actual paved sidewalk. Mr. Longson explained that there were two paths proposed as pedestrian ways along the creek. The intent was to significantly improve the area and take advantage of the asset that exists.

Commissioner Palmer stated that in walking the site and trying to envision where the creek would realign, the commissioners had a general idea of the new location. The difficulty they saw was that the request was for a 40-foot setback from the edge of the creek and that could be problematic. The commissioners did not, however, have anything to indicate what it was a setback for. Mr. Longson explained that it was the closest point to the proposed buildings. Commissioner Palmer noted that on Block L a couple of buildings were shown on one of the conceptual drawings. He asked what that setback would be. Mr. Longson was unsure but stated that the closest setback was 40 feet depending on the location on the site. Mr. Kemp stated that when he mentioned 40 feet in the letter, he was specifically referring to building structures. He expected that paths and walkways may be closer than that and he had no objections to those improvements given the nature of what was proposed.

Mr. Longson stated that in discussions with their landscape architects they looked at ways to put in stairways or walkways to get people closer to the water other than just walking along the path on the upper elevation. The question was how they would survive and be maintained in the high runoff.

(19:37:05) Commissioner Shields asked how far back the applicants were willing to locate the buildings. Mr. Longson was not sure but stated that the 40-foot proposed was consistent with the general plans for the site. He was not sure about the undulations in the buildings. Commissioner Palmer suggested the possibility of averaging setbacks in other respects. Commissioner McKell was concerned with the use of the word average. Mr. Longson clarified that the setback would be no less than 40 feet with an overall average that is greater.

Commissioner Palmer explained how the City's stream setback exception works. He explained that there were two types of streams; perennial and ephemeral. Perennial streams run year round while ephemeral streams run intermittently. Big Cottonwood Creek was an example of a perennial stream, which requires review for any structures within 100 feet of the stream. Ephemeral streams require review within 50 feet. The ordinance requires a two-step review by both the City Engineer and the Planning Commission. Both reviews were required for an exception to the setback and the Planning Commission and City Engineer had to agree.

Commissioner Palmer opened the public hearing.

(19:42:10) Steve Glaser gave his address as 2052 East Arbor Lane. With respect to the setback, when he saw the mailer that was sent the previous week, it showed the portion along Arbor Lane. He recalled that originally a restaurant and townhouses were envisioned there. He supported that option. He was, however, concerned about the town houses from a precedent perspective. He explained that there had been applications in the past for reduced setbacks but none of them as close as 40 feet. He was nervous about the precedent that would be set. He viewed the

restaurant as a unique feature that would not create a precedent. He was, however, concerned about the portion along Arbor Lane. He hoped there would be some responsibility for maintaining the area. Currently there was a great deal of trash in that section of the creek. In the past, he did not think the Mall had taken the responsibility of maintaining the creek area. He hoped there would be some responsibility for that as part of granting the setback. He submitted written comments from his wife, Camille Pearce, with regard to the garbage in the creek.

(19:46:05) Dennis Guy-Sell gave his address as 2178 Arbor Lane and stated that he had been a resident for approximately 1 ½ years. He had heard some express concern about the scope of the project and he too, wanted to get a good grasp on it.

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

(19:47:30) The matter was opened up to Commission discussion. Commissioner Palmer stated that the application as written was to allow buildings as close as 40 feet, which if granted, would apply anywhere on the creek. Because at this point they were dealing with conceptual plans and building plans were not available, he thought to protect the interest of the citizens and City, they would be better off stating that that should not be the standard up and down the edge of the creek.

Mr. Kemp thought it was important to understand that what was being discussed was the stream disturbance area. He explained that there would be other opportunities to deal with the master planning of the site and the approval of the master plan in greater detail at a later time. In terms of relocating the stream, Commissioner Palmer did not believe the Planning Commission was involved in any of the relocation efforts. Mr. Kemp confirmed that that was the case but stated that by virtue of the disturbance itself, it was appropriate for the Planning Commission to have approval rights under that particular ordinance. There were even questions as to whether a walk path constitutes a structure. In the interest of full disclosure, staff felt it was important to make sure it is properly discussed and addressed.

Commissioner McKell thought it was important to know how far above the existing level the final height of the bank in the reconstructed areas would be. Mr. Kemp believed the applicants had already provided that information in cross sections. He did not have the specific data but suspected they were within 1 ½ feet of where he would expect it to be.

Commissioner Shupe's understanding was that the flood elevation benchmark was more relevant to the buildings than parking structures, pavement, and walkways. Mr. Kemp responded that there was nothing in the current Code that says that a parking lot cannot be flooded. In fact, in many cases parking lots were designed as flood retention areas. He thought there was a potential in this case for some flood waters to come up into a sidewalk area. The buildings themselves would be outside of the flood plain.

(19:54:20) Commissioner Palmer explained that the Commission would not be involved in the application to move the stream. That was something that the Corps of Engineers and other entities would approve. He explained that the Commission would look at the 100-foot exclusion area along the stream as it applies to structures built next to the relocated creek. The application was to allow buildings within 40 feet of the creek. He clarified that the 40 feet was the minimum approach point rather than the average. Commissioner Palmer asked Mr. Kemp if the relocation of the stream was contingent upon the Planning Commission dealing with the stream setback

exception. If the Commission stood firm at 100 feet, could the applicant still move the stream? Mr. Kemp responded if the Commission were to not grant approval, staff would have a difficult time allowing the applicants to relocate the stream because of the disturbance involved. It would set a precedent he would not be comfortable with. Mr. Kemp's understanding was that the ordinance had two purposes. One had to do with the technical, life safety, and building stability issues. The other pertained to the protection of riparian habitat and the environment. He believed that was the intent of the ordinance as it was written.

Commissioner McKell stated that as a botanist he believed 40 feet would provide a fair amount of space for vegetation and habitat. Mr. Kemp sensed a concern about unnecessarily delaying the construction process versus the issue of where the buildings would be placed. He had no objection to breaking them into two separate issues. He thought it would be appropriate for the Commission to approve the stream relocation and revisit the stream setback later relative to buildings as a second approval. Commissioner Palmer was unsure they had a voice in the stream relocation itself. He did not see that stated specifically anywhere in the ordinance. He thought all Commission Members agreed that what was proposed was a vast improvement aesthetically and hydrologically for the stream area. Mr. Kemp did not want another developer in the future to move the creek. Commissioner Palmer recognized much planning and work would be involved in moving it. As a Big Cottonwood Tanner Ditch Board Member, he received requests frequently from people wanting to move their ditches. He stated that that was a little easier because the ditches are man made. The Board's approach to irrigation ditches was to discourage people from relocating them for various reasons such as water quality and liability. In cases where people have a demonstrated need to make better use of their property, they were open to it. He thought what was proposed met all of the tests he was aware of.

(20:01:45) Timing issues were discussed. Mr. Longson stated that their intent was to start this fall since there was a small window of time when the ground would not be frozen and there would be no water in the creek. Commissioner Palmer remarked that the Green Ditch water would be shut off on October 15. Mr. Longson remarked that their plan had always been to significantly improve what exists today. Setback issues were discussed.

Commissioner Palmer's understanding was that the setback did not apply just to the structure itself, but any hard improvements. Mr. Longson stated that it applied to buildings. Commissioner Palmer responded that the Commission had looked at it in the past in terms of hardscape. Mr. Longson stated that the concept in the restaurant area was to have a patio on the stream for the aesthetic views. Mr. Haskell stated that there were other hardscape improvements proposed as well such as the emergency access right-of-way and some trails on the east side of the emergency access. Commissioner Palmer referred to the City ordinance on the stream setback exception. He asked Mr. Kemp for his interpretation. Mr. Kemp characterized it as one of the "soft" parts of the ordinance. Staff had struggled with what constitutes a building or buildable area. In this case, the 40 feet he referred to was very specific to the foundational footprint of the building. The applicants' plans clearly showed patio, walkways, and sidewalks within the 40-foot boundary. Mr. Haskell submitted that the approval of the walkways, the sidewalk on Highland Drive, and the sidewalks in between should be subject to the master site plan approval regardless of what approvals are given for the building. Mr. Longson remarked that Highland Drive was closer than 40 feet from the creek.

(20:11:13) Commissioner Shupe moved to approve the exception of the setback from Big Cottonwood Creek to be at no point closer than 40 feet, but an average equal to or greater

than 45 feet for the whole site. The motion pertained to building foundation footprints recognizing that there would be further encroachments relative to flat work, patios, and similar structures. At-grade improvements would be allowed as approved by the site development master plan. Commissioner McKell seconded the motion. Vote on motion: Brad Scott-Aye, Richard Kimball-Aye, Gene Carr-Aye, Lynda Shields-Aye, Paul Shupe-Aye, Cyrus McKell-Aye, Jim Palmer-Aye. The motion passed unanimously.

Commissioner Palmer's understanding was that between the Planning Commission and the City Engineer, they had given the approvals necessary for the creek relocation. The matter would have to come back as part of the specific site development master plan (SDMP). He clarified that the 40-foot setback requirement was not an absolute minimum but that the applicant create as much setback as possible. He thought an appropriate average would be reached as they go through the planning stages.

2.2 CONTINUED PUBLIC HEARING/DISCUSSION/RECOMMENDATION – Amendment to the City of Holladay General Plan – Appendix E – Cottonwood Mall Master Plan.

(20:20:50) Commissioner Palmer opened the public hearing.

Leo Sharp gave his address as 4953 South Memory Lane. He noticed that the draft had been modified. He was particularly pleased with changes to Article 1.7 prohibiting vehicular access from the commercial portion of the site into the surrounding neighborhood. He was still worried about Article 1.4 although the wording had been modified slightly. He was concerned about what height and density would be deemed acceptable and ultimately allowed. He was curious as to when a definitive statement would be given from General Growth Properties about specifics of the structures along with the overall density of what was planned. He referred to changes made to Article 1.5 and believed General Growth should share equally in the cost of the infrastructure. He liked the way Article 1.6 was expanded to better define the potential negative impacts. He was curious as to how and when the regulations and plans would be developed.

There was no further public comment. The public comment portion of the public hearing was closed.

The Commission discussed whether to continue or close the public hearing. Commissioner Palmer stated that it would depend on whether they were prepared to make a recommendation on Appendix E. Procedural issues were discussed.

Mr. Allred believed the Commission should be prepared, based on the discussion to this point, to make a motion to forward a positive recommendation on one or more of the issues tonight and then prepare for the upcoming joint meeting with the City Council where they could share with them their feelings on the process to this point. He explained that that was the essence of what should be accomplished at the joint meeting. If the Commission felt unprepared to make a motion, that was their prerogative. Staff's interpretation was that excellent public comment had been received and every change had been incorporated. A few minor comments were received earlier in the day from the City Attorney on the General Plan and the zone language. The Planning Commission was encouraged to make a motion on any of the three items discussed and send them on as an official recommendation to the Council.

(20:30:00) Commissioner Shields referred to Article 1.4 and thought the language encouraging and allowing tall buildings and dense residential development was nebulous. Mr. Allred explained that the City Attorney brought the same point to staff's attention earlier in the day. He expressed his concern with 1.4 and viewed it as a bit vague. If the Commission so desired, they could rework 1.4 tonight. He explained that from the beginning the project had been designed to be the densest and tallest in the City. Possible options were discussed. One was to send Appendix E on as written, with a concern that 1.4 is vague. Another was to rework 1.4 by adding language to encourage or allow the most dense and tallest project within the City at the site, which would address exactly what the project was proposed to be. The third was to send the General Plan change on without 1.4. Mr. Allred urged the Commission not to delay.

Commissioner Shields referred to 1.6 with regard to enacting zoning regulations. She wanted to make sure that it was being done very carefully with all of the neighborhoods that would feed onto Highland Drive and Murray Holladay Road since they would be greatly impacted. She thought with the anticipated additional traffic, it would be extremely difficult for vehicular traffic to pull out onto Highland Drive. Commissioner Shupe thought the verbiage would protect the surrounding neighborhoods. Commissioner Shields thought that without protections, the language did not matter.

(20:34:30) Mr. Allred explained that the first item being discussed was the General Plan, which was meant to be general in nature and somewhat vague. Some of Commissioner Shields' concerns could not be addressed in the General Plan but rather in the site development master plan in greater detail.

Commissioner Carr thought something should be sent on to the City Council that is understandable and clear. He thought there were some serious concerns with the proposed language and he wanted the opportunity to discuss them with staff. Timing issues were discussed. Commissioner Palmer stated that since the Commission was meeting in a joint session with the Council the following Thursday, it would be beneficial to have a recommendation to put forth to them. That would not, however, allow time for edits after tonight's meeting.

Commissioner McKell clarified that the City Council would make the final decision. Further recommendations could be made at the upcoming joint meeting. He thought the main goal should be to get the process going so that the City Council would have something to work on. Commissioner Palmer suggested that when they get to discussion of the specifics of 1.4, they should impose a specific height maximum.

(20:42:11) Commissioner Shupe moved to recommend approval to the City Council on the amendment to the City of Holladay General Plan – Appendix E – Cottonwood Mall Master Plan with the Commission's concerns with 1.4 of the Cottonwood Development Site Plan Policy, 1.1 of the Commercial Policy, and line 344 of the Cottonwood Mall Site Development Plan in relation to the definition of "dense", "taller", and "higher density". Commissioner Kimball seconded the motion.

Relative to 1.4, Commissioner Palmer wanted to see a recommendation that the Commission come up with specific height maximums relative to tall buildings. He remarked that there were maximum heights in all zones.

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

2.3 CONTINUED PUBLIC HEARING/DISCUSSION/RECOMMENDATION – Amendment to the City of Holladay Zoning Ordinance to add a new chapter, 13.65 – Regional/Mixed-Use Zone.

(20:45:30) Commissioner Palmer opened the public hearing.

Steve Glaser gave his address as 2052 Arbor Lane. He reported that he emailed comments to staff regarding the zoning ordinance. He referred to one set of changes he hoped to have attached to the creation of the R/M-U zone. Due to the size of such a zone, he believed there should be special requirements for demolition that he could not find anywhere in the existing Code or the proposed ordinance. In particular, the current demolition requirements deferred to State law, which were basically an encapsulation of federal law and EPA regulations. The EPA regulations addressed properties of at least one-quarter acre. They must take into account economic considerations, practicality, and protection of public health. Due to the size of the project and his proximity to it, he was concerned about health hazards and air pollution resulting from the demolition. He believed General Growth had done everything required under the current Code and had undertaken a very substantial program to identify and remove the asbestos that may currently be in the buildings. He stated that the applicants had an opportunity to demolish the buildings furthest from the surrounding neighborhoods first and do air sampling. If the air sampling identifies problems, there would be a chance to revise the procedures before demolition takes place on the buildings closest to the neighborhoods. Mr. Glaser was especially worried about the theater. Air modeling showed that if there is a north wind blowing, the highest levels would be on the residents of Arbor Lane rather than the workers. Mr. Glaser proposed an amendment stating that due to the large scale of the R/M-U zone, any series of demolitions that will remove 25% of buildings or building area, shall begin demolition with buildings furthest from neighborhoods with air monitoring. If air monitoring is protective of residents, the remaining demolition may proceed. If not, additional protective measures would be developed and approved prior to further demolition. Mr. Glaser's second concern was that the copies of the ordinance do not include revisions to the SDMP. He hoped language would be added to the effect that any revisions to the SDMP will have the same public participation requirements contained in any rezone.

(20:51:20) Ben Shearer gave his address as 1938 East Moormont Drive and identified himself as a firefighter. Extensive asbestos testing seemed like a good idea to him. From a damage control standpoint, he thought it would be unwise to put a lot of toxic materials into the air. He encouraged the Commission Members to consider Mr. Glaser's suggestions. He did not believe it would be difficult or costly to monitor the air before demolishing buildings close to residences.

Mr. Longson stated that they had conducted extensive studies and had a full environmental department within their company. They outsourced the testing, studying, and reports and identified the materials in the buildings. They were required by law to remediate that in a contained area. He stated that the first buildings that needed to come down for the stream relocation were the theater building and the Firestone building.

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

(20:53:50) Commissioner Palmer asked Mr. Allred what the process would be for General Growth under the current ordinance, which requires a demolition permit. Mr. Allred responded that the applicant would have to come in and apply. He explained that most of the requirements for demolition don't actually go through the City but rather, other agencies. Commissioner Palmer's understanding was that the current noise ordinance combined with the demolition permit would allow demolition between 8:00 a.m. and 10:00 p.m.

Commissioner McKell asked if only one permit would be required for all of the proposed demolition. City Planner, Pat Hanson, stated that generally the City would require a permit for each individual building. She explained that the remediation of hazardous materials would have to be taken care of before the Department of Air Quality would issue an air quality permit. The air quality permits provided a 10-day window for demolition to occur. The State would monitor the air quality during that time.

Commissioner Shupe's understanding was that as part of the process there would need to be an assessment of each building by an environmental engineer. The assessment would then be taken to the State. The City would receive notification from the State with the dates after which the permit would be issued. Ms. Hanson stated that one issue would be dealing with getting the material out of the City and into the landfill. That was something that was discussed by the Technical Review Committee.

Ms. Hanson remarked that staff had had intensive discussions with the City Attorney over the past 10 days. Staff had concerns about being this far along in the process and making changes at the last minute. They felt that those issues would take a long time to discuss and make a determination on. A delay could cause the whole process to stop. General Growth obtained counsel from a law clerk at their law firm and felt they were on solid ground. Staff recommended that tonight's discussion remain targeted toward the materials before them. Procedural issues were discussed.

(21:04:00) Relative to height, Commissioner Palmer was satisfied with the language proposed. He was not sure that was a major issue. Potential proposed changes were discussed. Commissioner Carr had concern with 13.65.040. Commissioner Palmer suggested deleting "the development project area" and replacing it with "Any R/M-U Zone shall be a minimum of 30 contiguous acres." Ms. Hanson responded that that staff interpreted the language to mean that the size of the zone was not as important as the project area. Any project that comes in under the zoning would be required to have a minimum of 30 acres. Commissioner Palmer suggested "development project area" be replaced with "site development master plan".

Commissioner Carr referred to item D under section 070 and noted the inconsistency. Mr. Allred suggested a potential wording change to state that any land proposed for R/M-U zoning shall be at least 30 acres in area. Mr. Haskell pointed out that they would not want someone to zone a 30-acre area R/M-U and then apply for development on 10 acres of it. Mr. Allred disagreed and thought a nice mixed-use development could be done on 10 acres within a 30-acre project.

Commissioner Palmer suggested there be more clarification of the minimum area requirement of .040. He suggested language be added specifying that any R/M-U zone shall be a minimum of 30 contiguous acres. In the phasing, the language should specify that the SDMP would be for all parcels within a project.

(21:13:25) Commissioner Carr referred to .060 dealing with the SDMP including a description of the process. Item .070 was the approval procedure. He pointed out that there was some duplication. Recommended modifications were described. Commissioner Carr explained that procedures were in two different locations. It was suggested that they be combined into one section of the document.

Commissioner Palmer referred to .070 E, line 116, and suggested “said zoning shall expire” be replaced with “... reverting to the previous zone”. Mr. Allred had the same concern and supported the proposed change.

Commissioner Carr asked if there should be a sense of scale with building permits. Mr. Allred explained that the SDMP would be in place to guide the development and all building permits would be issued according to the development agreement and the SDMP. To line 112, Commissioner Palmer suggested “shall be approved administratively” be changed to “shall be approved by the Community Development Director”.

Mr. Allred had a suggestion based on public comment received earlier in the evening. He referred to the specific concerns expressed by the public about the construction and pollution control plan. He recommended that be included as an additional item in the site development master plan. Commissioner Palmer suggested it be added as item 21 under item B. Mr. Allred recommended it be called “Demolition, Construction, and Environmental Control”.

(21:26:07) Commissioner Shupe moved to recommend approval to the City Council of the amendment to the City of Holladay Zoning Ordinance to add the new chapter 3.65 - Regional Mixed-Use Zone with the specific wording changes identified. Commissioner Carr seconded the motion. Vote on motion: Brad Scott-Aye, Richard Kimball-Aye, Gene Carr-Aye, Lynda Shields-Aye, Paul Shupe-Aye, Cyrus McKell-Aye, Jim Palmer-Aye. The motion passed unanimously.

2.4 CONTINUED PUBLIC HEARING/DISCUSSION/RECOMMENDATION – Amendment to the City of Holladay Zone Map – Rezone the property in the vicinity of 4835 South Highland Drive from C-2 to R/M-U.

(21:28:00) Ms. Hanson stated that there were two addresses on the actual commercial area of the Mall in addition to properties along Memory and Arbor Lanes without addresses. She reported that Mr. Kemp generated a legal description to go along with the ordinance when it is adopted.

Mr. Allred suggested that if the issue is acted upon tonight, that the Commission specify the acreage to be rezoned as a point of clarification.

(21:31:35) Commissioner Palmer opened the public hearing.

Dennis Guy-Sell stated that with respect to the parcel of land owned by Holladay, Inc., the motion caught him off guard. He asked that the discussion be tabled to the next meeting as they were taking action with respect to the RDA’s approach to that parcel of land. They wanted to have one consolidated approach to it. Mr. Allred clarified that the applicant on the rezone was the City of Holladay. He explained that the City can rezone property without consent. Mr. Guy-Sell requested the City rezone the entire area to make it a contiguous zone.

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

Commissioner Palmer was concerned that the Commission had no legal description before them. He also thought there was question as to the Cottonwood, Inc. holding strip. His understanding was that there was an RDA Board Meeting the following Thursday where they would consider where to set the boundaries for the RDA and whether that property would be included or not. Commissioner Shupe stated that the Commission could make a recommendation and the City Council would make the final decision. Commissioner McKell’s understanding was that the recommendation was on an existing C-2 zone. What was requested was to change the zoning from C-2 to R/M-U. Commissioner Shupe explained that part of the issue had to do with the Cottonwood, Inc. request. The request was for C-2 but there were two owners. Procedural issues were discussed.

(21:40:37) Commissioner McKell moved to recommend to the City Council an amendment to the City of Holladay Zoning Map, which would rezone the property in the vicinity of 4835 South Highland Drive from C-2 to the proposed R/M-U zone, as it exists currently on the City map, with the accompanying legal description. The zoning area should be identified in Exhibit A of the Cottonwood Mall site by which Clarence Kemp had created a legal description. The existence of the Cottonwood, Inc. parcel was recognized as being owned by a separate landowner. The City Council should take that into consideration when evaluating the recommendation. Commissioner Shupe seconded the motion. Vote on motion: Brad Scott-Aye, Richard Kimball-Aye, Gene Carr-Aye, Lynda Shields-Aye, Paul Shupe-Aye, Cyrus McKell-Aye, Jim Palmer-Abstained. The motion passed unanimously.

Commissioner Palmer abstained from the vote as his father was a Cottonwood, Inc. Board Member.

3. Consent Items.

3.1 Approval of Minutes – Planning Commission Meeting –July 25, 2007; August 7, 2007; August 21, 2007; and August 28, 2007.

(21:45:00) Commissioners Palmer and Carr had non-substantive changes that were provided to staff. Mr. Allred had various changes to recommend to the August 21 and August 28 minutes. No changes were proposed to the July 25 or August 7 minutes.

Mr. Allred presented various changes to the August 28 minutes. To page 2, line 13, he had a significant issue and questioned the accuracy of the statement. Commissioner Palmer explained that the sentence was accurate. He stated that it was a quote from Maunsel Pearce. To page 2, line 36, the word “permit” was changed to “prohibit”. To Mr. Spratling’s comments on page 6, Mr. Allred recalled that he expressed special concern about the quality of exterior building finishes. That seemed to be his most intent point.

Approval of the minutes of August 21 were set aside. A future draft would be provided at a future meeting.

(21:51:10) The minutes of July 25, 2007, August 7, 2007, and August 28, 2007, were approved as amended, by unanimous consent of the Commission.

4. Adjourn.

The Planning Commission adjourned by unanimous consent. The Planning Commission Meeting adjourned at 9:51 p.m.

I hereby certify that the foregoing represents a true, accurate and complete record of the Holladay City Planning Commission meeting held Tuesday, September 18, 2007.



Teri Forbes
T Forbes Group, Inc.
Minutes Secretary

Minutes approved: 10-16-07