

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

**Tuesday, June 30, 2015
5:30 p.m.
Holladay Municipal Center
4580 South 2300 East**

ATTENDANCE:

Planning Commission Members:

Les Chatelain, Chair
Matt Snow, Vice Chair
Spence Bowthorpe
Jan Bradshaw
John Garver
Chris Jensen

City Staff:

Paul Allred, Community Development Director
Rick Whiting, City Planner
Michael Hayes, City Attorney
Tosh Kano, City Traffic Engineer

CONVENE REGULAR MEETING

1. Welcome & Chair Opening Statement.

Chair Les Chatelain called the Regular Meeting to order at 5:30 p.m. He reported that the reason for tonight's Special Meeting was the result of noticing problems from the last meeting. He asked that public comments be limited to those who were unable to attend the last meeting or were present tonight for the first time to participate.

ACTION ITEMS

2. SOHO Food Park – 4737 South Holladay Boulevard – Site Plan Review and Conditional Use Permit – Mobile Food Court – HV Zone – (continued) – Staff Planners: Paul Allred and Rick Whiting.

(17:33:51) Community Development Director, Paul Allred, reported that a few changes were proposed based on information and discussion since the last meeting. City Attorney, Michael Hayes, reported that following the hearing held previously, there were a number of comments about what the Holladay City ordinances say concerning conditional use permits. He described the parameters from a legal perspective that the Planning Commission should consider. He referenced State Statute Section 10-9A-507 pertaining to the review of a conditional use permit, which states:

‘A conditional use shall be approved in reasonable conditions are proposed or can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.’

Mr. Hayes explained that the language comes from the State Legislature which trumps local ordinances.

(17:36:44) Mr. Allred stated that parking was a significant concern that has been expressed repeatedly. The applicant is proposing several stalls on the south property but by contract with the City, he is limited to no more than 10 as part of the Sales Agreement. City Traffic Engineer, Tosh Kano, recommended landscaping be added and two stalls removed on the east end of the site, on the south parcel, and on the west end close to the intersection. Staff's recommendation was for 10 stalls on the south.

Mr. Kano also strongly recommended that the applicant pave and stripe the stalls on the south parcel so that people know how and where to pull in. He also recommended that the curb on both sides of Kentucky Avenue be painted red as it abuts the north and south parcels. With regard to the parking east of the proposed site on Kentucky, it was suggested that "no parking" signs be posted. With respect to pedestrian movement and safety, Mr. Kano and the City Manager indicated that crosswalks will be placed on all four sides of the intersection near Arbor, Kentucky, and Holladay Boulevards. Restrooms were not desired and are not required.

The hours of operation were recommended as 7:00 a.m. to 10:30 p.m. with food sales ceasing at 10:00 p.m. In terms of landscaping, the applicant has agreed to add landscaping on the south parcel. Seasonal sales were desired on the south and north parcels but are not part of the site plan and will be approved separately by the Planning and Zoning Department. The findings and conditions set forth in the staff report were referred to and most were carried forward from the last meeting.

In response to a question raised, Mr. Hayes explained that typically the Easement/Encroachment Agreement would be outside of the conditional use, however, the staff report specifies that in order for the applicant to continue he must get one from the City regarding the use of a portion of the city's right-of-way along the south parcel to accommodate proposed parking.

1. An easement from the City;
2. Enter into a License Agreement with the City; or
3. Obtain an Encroachment Agreement.

The issue should not be part of the Planning Commission discussion but needs to be addressed by the applicant and the City.

It was recommended that there be clarification to the start time of 7:00 a.m. in terms of whether trucks may arrive or be open for business prior to 7:00 a.m.

(17:48:00) The applicant, Mark Olsen, appreciated the Planning Commission conducting a Special Meeting. He first referred to the hours of operation and stated that as he has spent time at the site he has been able to observe the quantity of people who come and go from the 7-Eleven. He was surprised by how much business they get late at night. It occurred to him that it would benefit the residents to maximize the 16 hours and have them stay as late as possible. He asked the Commission that they be allowed to go from 7:00 a.m. to 11:00 p.m. Those would be the hours the trucks would be allowed to operate. If people want to linger until midnight they would be free to do so.

Mr. Olsen stated that trucks typically have quite a bit of set up time and much of the preparation cannot be done while the truck is moving. It is not unusual for the set up time to take 45 minutes to one hour. In terms of the number of trucks, Mr. Olsen had planned on six on the large parcel with the ordinance allowing for 10. He asked that he be allowed to have six. Finally, Mr. Olsen asked that the benefit of the City as a whole be considered in light of his proposed use.

Mr. Allred commented that the County regulations for noise prevail and there is a decibel limit prior to 7:00 a.m. that should not be exceeded. There is also a decibel limit after hours. The issue primarily has to do with the noise generated. He reported that the Holladay Village regulations specify the close time for all businesses in the Village as midnight. The distance of the closest residence on Kentucky to where the food trucks will be located is approximately 150 feet. Sound would be measured from the property line in the event there is a complaint. In response to a question raised, Mr. Olsen stated that most food trucks do not have back up beepers.

(17:55:10) Chair Chatelain opened the public hearing.

Karlynn Smith, a Holladay resident, stated that she operates the City's first food truck. She is authorized to park in the parking lot to the south of the City building. She is not there currently because the construction zone was detrimental to her business. She was waiting for the approval of this new site to move her truck there. She had hoped to be open today and was frustrated waiting for the approval. Ms. Smith indicated that both she and her partner are Holladay residents and employ 12 young ladies aged 14 to 18 who are also Holladay residents. She indicated that she sent her customers a text earlier in the day asking them to attend tonight's meeting. Ms. Smith stated that she pays sales tax to the City of Holladay and does fundraising. She noted that they raised \$4,100 for the people of Nepal. She stated that previously there was a liquor store at the bottom of Kentucky and what they are offering are family friendly services and employment for young people in the community. She thanked the City for their support of her business but stated that if there is not more community support she may have to take her truck elsewhere.

(18:01:03) Steve Doxey gave his address as 2430 Kentucky Avenue and thanked the Planning Commission and staff for their consideration of the proposal. He was grateful for Mr. Hayes' involvement. Mr. Doxey reported that he previously served on the Planning Commission and had served as Chair of both the Planning Commission and the Design Review Board (DRB). He also helped draft both the master plan and the ordinance. Mr. Doxey was present representing a group of Kentucky Avenue residents. He pointed out that as Planning Commissioners they have a duty to render a decision based on the ordinance and sound planning principles. They should not consider public clamor or the character of the applicant or the neighbors.

Mr. Doxey indicated that there are at least three ordinance violations that he was aware of with respect to the application. First, there is no pedestrian walkway designated on the south parcel. Second, if the applicant is required to hard top the hard surface on the south parking lot area they also have to provide handicapped parking. Last, there has been no recommendation from the Design Review Board. With regard to restrooms, Mr. Doxey stated that employees need one. He also recommended there be a provision for employee parking. In terms of patron parking, it

was not known whether 10 parking stalls is sufficient. He believed that 10 parking stalls will be woefully inadequate for 6 mobile food trucks in addition to the proposed seasonal sales stands.

Mr. Doxey stated that there had been virtually no consideration given to traffic calming measures and stated that the operation will increase traffic on Kentucky Avenue. He asked that the City as a whole be considered. His opinion was that too much was being placed on one small parcel without the background data to support it. He suggested the conditional use permit be granted but done on a provisional basis so that it can be reviewed at the end of the summer when more data is available.

(18:12:08) Holley Richards gave her address as 2470 Kentucky Avenue and stressed that she is not opposed to mobile food trucks. She was, however, concerned with the magnitude of what is proposed on such a small site. She liked the idea but asked the Commission to look at the situation from a realistic point of view. She stated that it is reasonable to expect that the employees will drive to work and not remain on the truck all day. She felt that overflow parking is inevitable and many of the restaurants in the Village currently have trouble. She spoke to a traffic engineer about the site and what was proposed and he questioned why no traffic studies were done. Ms. Richards asked that the conditional use permit be granted temporarily for a limited number of trucks and that traffic calming measures be considered.

Chair Chatelain acknowledged written comments submitted that were made part of the record. A Kentucky Avenue resident expressed his support for the proposal. A petition was also submitted with the names of 32 individuals in support of the food truck court. Mr. Allred reported that he had also spoken to the Walkers, who are Holladay residents, at the counter in City Hall. He spoke to them about one week prior to the first public hearing and they were strongly opposed to the proposed use. They were concerned about parking and congestion.

(18:18:25) There were no further public comments. The public hearing was closed.

Chair Chatelain reported that there was discussion at the previous meeting regarding the temporary or short-term permitting of the conditional use permit. Legal counsel determined that it should be all or none. Also, because there is not a structure, a determination was made that it did not need to go through DRB review.

Mr. Whiting reported that the DRB requirements define a structure as a non-movable building securely attached to a foundation housing a business license to sell merchandise. Because there is no such structure there is no DRB review. Mr. Allred indicated that the issue came up at the staff level and their interpretation was that the DRB has looked at all of the buildings in the past. The site plan approved previously for this land, Salt Pizza, went through the DRB. Mr. Allred stated that the DRB is a recommending body and technically their recommendation is not binding and the Planning Commission can grant approval without a recommendation from them.

Mr. Olsen wanted to resolve a misunderstanding about how food trucks operate. He stated that a truck will show up and work the lunch crowd and then with the employee drive away. Possibly another truck will come for dinner after which it will leave the site. With regard to Mr. Doxey's claim that no effort was made on his part to do any sort of traffic calming, Mr. Olsen stated that part of his agreement with the City when he purchased the property addressed those issues.

Mr. Doxey also claimed that the turn is too tight and will cause trucks to leave on Kentucky. Mr. Olsen doubted anyone will ever use Kentucky. The trucks will be no longer than 24 feet so he did not expect anyone to travel east other than those who live on Kentucky.

A question was raised about the site plan and the length of specific slips. Mr. Olsen responded that Slip 125 is 20 feet long and Slip 6 is 28 feet. All are 10 feet wide.

(18:23:25) Chair Chatelain indicated that while seasonal sales opportunities are shown on the site plan they are not part of this process, which strictly considers the food truck court. Mr. Allred indicated that with regard to Island Flavor, the City had trouble with them and did not renew their permit because their parking continuously encroached on neighboring private property to the objection of the owner.

A question was raised with regard to mobile food carts such as those that sell ice cream. Mr. Allred indicated that they are in a totally different category. Mr. Kano addressed the Commission and was well aware of the potential impact to residential areas. As a result, he thought about recommending residential permit parking only. That, however, is a drawback and creates sign pollution and is inconvenient for residents since they would be required to come to the City and obtain a permit. Every time a new vehicle is acquired by a resident they will have to re-register. Mr. Kano explained that in certain areas permit parking works very well but he did not want to post residential permit parking all the way up Kentucky Avenue since doing so would have a significant impact. He recommended Mr. Olsen place a sign on the east end of the project indicating that beyond a certain point no patron traffic would be permitted.

Mr. Allred stated that the Planning Commission, as a condition of approval, asked Mr. Olsen to post a few signs for eastbound traffic that could be placed on his property or in the right-of-way. The issue of whether to allow commercial parking east of the Village Zone was discussed. It was noted that most of the homes on Kentucky house vehicles in garages and there is very little on-street parking. If, however, it becomes a problem action could be taken to pursue residential parking permits. Possible options were discussed.

Commissioner Jensen was concerned that Slips 4, 5, and 6 will block employee parking, with the number of trucks, the limited amount of parking, and the potential for seasonal sales. He was also concerned about the impact the project will have in terms of parking. He recommended that until a study is conducted or they have an idea of the impact that seasonal applications be delayed.

(18:35:56) Commissioner Bradshaw asked if the Food Truck Ordinance requires a certain number of parking stalls per truck. Mr. Allred responded that it requires one stall per truck and Mr. Olsen meets the minimum requirement. Chair Chatelain was concerned about eliminating four stalls when there are concerns about inadequate parking. Mr. Allred clarified that regardless of Mr. Kano's recommendation, contractually the City Council has indicated that Mr. Olsen cannot have more than 10 parking stalls on the south parcel.

In terms of the portable restrooms, Chair Chatelain agreed that from a public health perspective they should not be allowed. He also noted that if they are provided, washing facilities would also be necessary as well as Health Department involvement.

Commissioner Snow expressed concern about the hours of operation and someone arriving at 6:00 a.m. and the potential of the trucks to make noise while setting up and parking. He did not object to them arriving at 7:00 a.m. With regard to noise, Mr. Allred stated that the County noise regulation regulates sound from 10:00 p.m. to 8:00 a.m. There are certain parameters outside of that. For example, the proposed use has a 70 decibel limit that cannot be exceeded in the early morning or late hours. It was suggested that the use be monitored in terms of parking and sound for the first 30 days. Mr. Allred understood the complexity of the request and stated that if there is a problem it will be addressed.

Commissioner Bowthorpe also did not want the trucks to arrive on the site before 7:00 a.m. and asked that they be gone by 11:00 p.m. Noise issues were also of concern. If there are issues with noise, the neighbors can call the police and the matter will be addressed.

The findings and conditions set forth in the staff report were reviewed and discussed as well as enforcement issues. Commissioner Snow commented that the community on Kentucky Avenue is very active and Sabrina Peterson is the Council Member for the area.

In response to a question raised, Mr. Allred stated that there are two parcels, however, for the purposes of this proposal they were being considered as one development parcel as they were when the site plan previously for Salt Pizza was approved for an above ground building.

(18:57:03) Commissioner Snow moved to approve the Conditional Use Permit for the SOHO Food Park located at 4737 South Holladay Boulevard based on the following:

Findings:

- A. *The proposed land use, Mobile Food Truck Court, is allowed in the HV zone as a “conditional use”.***
- B. *In accordance with the Holladay Village Statement – The proposed land use could become a diverse land use that is aesthetically attractive, easily accessible and provides an economically healthy element to the Village. The proposed design and sign features could create visual interest, encourage greater pedestrian use, and could enhance the economic vitality of the Holladay Village and the City of Holladay.***
- C. *The Food Truck business is a growing trend in Utah and nationwide. There appears to be a desire in the community for this service to be available.***
- D. *Utah State Code (10-9-A-507) requires that all applications for Conditional Use Permits shall be granted provided that reasonable conditions can be applied to mitigate reasonable impacts on the community.***
- E. *Health Safety and Welfare concerns override all other considerations. The recommended conditions (requirements) below are believed to be reasonable to mitigate potential negative impacts on the neighborhood and other uses in the vicinity.***

Conditions:

1. *Appropriate care must be taken by the applicant to minimize any adverse impacts of this business for nearby residents such as excessive traffic, spillover parking, and noise and light pollution or odors.*
2. *The applicant will provide at least 10 public parking stalls onsite for customers. “Food Court Parking Only” signs should be placed onsite as well as “No Commercial Parking”, “Residential Parking Only”, or similar, signs at appropriate places along Kentucky Avenue east of the HV zone boundary and running east to a reasonable distance through the neighborhood.*
3. *All “food truck employees” must travel to the site in their truck. Two or three stalls are provided on-site for administration and supervisory parking.*
4. *Operating hours for this business will be from 7:00 a.m. to 10:30 p.m. and may never exceed 16 hours. No amplified music is allowed before 9:00 a.m. or after 10:00 p.m. and the food trucks must vacate the site by 10:30 p.m.*
5. *The City will restore a stop sign for westbound traffic on Kentucky Avenue east of the subject property. The applicant will install a stop sign on his property at Kentucky Avenue to regulate vehicles exiting the site.*
6. *The applicant will install trees and shrubs to enhance the aesthetic beauty of the South parcel taking care not to obstruct the clear view of drivers.*
7. *The applicant and/or food vendors will be required to collect and remove all trash daily.*
8. *Each food vendor will be required to obtain appropriate licensing through the Community Development Department. Accessory (seasonal) sales businesses such as a shaved ice kiosk, beverage sales, fruit stand, or similar; will also be required to obtain the appropriate business licensing through the Community Development Department. Accessory uses may be limited until impact from them is known.*
9. *Previous land use approvals for development on this site shall remain in force for the stated duration of their approval(s).*
10. *Food Truck/Trailer vendors are not allowed to use generators or engage in other noise creating activities while on this site – beyond that which is allowed under Salt Lake County noise ordinance.*
11. *If or when the State of Utah, Unified Fire Authority, or the City of Holladay may adopt specific regulations for food truck/trailer fire safety in the future – the applicant and food vendors must adhere to any and all such new or amended regulations.*

12. *The applicant and the City of Holladay will negotiate an appropriate easement or encroachment agreement to allow a portion of the right-of-way for parking on the south parcel.*
13. *The applicant must comply with all HV zone, CUP, and Mobile Food Court regulations.*
14. *The South parcel must be paved and striped per the recommendation of the City's Public Works Director.*
15. *All improvements must be installed within 30 days of opening the food truck court.*
16. *An easement or license agreement for use of a portion of the Kentucky right-of-way must be in place before September 1, 2015, and renewed and in effect thereafter for this use to continue to operate.*
17. *No more than six (6) food trucks may operate on the site at the same time.*
18. *No on-street parking will be allowed on Kentucky Avenue immediately abutting this site. The curb may be painted red and signed as directed by the City's Public Works Director.*
19. *Parking stalls must be appropriately located away from the intersection on the west end and nearest the curve on the east end of the site.*
20. *If any substantial negative impact(s) should occur from this Conditional Use Permit, the Planning Commission may require the applicant to return and may, at its discretion amend their approval to mitigate such impacts, etc.*

Commissioner Bradshaw seconded the motion. Vote on motion: Spence Bowthorpe-Aye, Jan Bradshaw-Aye, Matt Snow-Aye, John Garver-Aye, Chris Jensen-Aye, Chair Les Chatelain-Aye. The motion passed unanimously.

Commissioner Jensen was excused from the remainder of the meeting.

3. Souvall Appeal – 5079 South Cottonwood Lane – R-1-43 Zone (Request for Reconsideration) – Staff Planner: Paul Allred.

(19:00:10) The above item was not on the agenda provided to the Commission Members. Mr. Hayes recommended the Commission hear the issue since Mr. Souvall has already appealed the decision. If the Commission waits another week there could be problems.

Mr. Allred reported that Mr. Souvall came back to staff after the last meeting and asked that the Commission reconsider the issue. Mr. Souvall was offended by the fact that the Planning Commission visited the site from the Huntsman side of the fence rather than his. He felt that as the appellant the Commission should have viewed the situation from his vantage point. He was also irritated by the fact that the staff, Planning Commission, and City Attorney all disagree with

his interpretation of the city's ordinances. Mr. Souvall felt strongly that he did not know that he was supposed to stay after he made his comments at the last meeting. When he left he felt he had communicated that he wanted to come back when the Commission Members were not tired. Mr. Souvall did not think that he was given a fair opportunity with the Planning Commission.

Mr. Allred recommended Mr. Souvall file an appeal with the Appeals Officer, which he has done. Mr. Allred reported that in his 10 years with the City he has never had such a heated discussion with a resident or applicant. It was reported that Mr. Souvall submitted the appeal and paid the fee. Mr. Hayes discussed the options available to the Commission. One option was to make a motion indicating that the Commission is not willing to reconsider the matter. That way the appeal will go directly to the Appeals Officer.

(19:05:00) *Commissioner Bradshaw moved that the Planning Commission not reconsider matter and allow it to go to the Appeals Board. Commissioner Snow seconded the motion. Vote on motion: Spence Bowthorpe-Aye, Jan Bradshaw-Aye, Matt Snow-Aye, John Garver-Aye, Chair Les Chatelain-Aye. The motion passed unanimously. Chris Jensen was not present for the vote.*

4. Approve Minutes from the May 19, 2015 Meeting.

(19:05:35) *Commissioner Garver moved to approve the minutes of May 19, 2015, as noted by staff. Commissioner Bowthorpe seconded the motion. The motion passed with the unanimous consent of the Commission. Chris Jensen was not present for the vote.*

ADJOURN

(19:07:00) Chair Chatelain thanked the Commission for attending tonight's special meeting. As this would be his last meeting, he thanked his fellow Commission Members for being outstanding to work with and stated that he had enjoyed his six years on the Commission.

Appreciation was expressed to Chair Chatelain for being a good mentor.

(19:08:41) *Commissioner Bowthorpe moved to adjourn. Commissioner Garver seconded the motion. The motion passed with the unanimous consent of the Commission. Chris Jensen was not present for the vote.*

The Planning Commission Meeting adjourned at 7:08 p.m.

I hereby certify that the foregoing represents a true, accurate and complete record of the City of Holladay Special Planning Commission Meeting held Tuesday, June 30, 2015.



Teri Forbes, Minutes Secretary
T Forbes Group

Minutes approved: August 4, 2015