

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

**Tuesday, August 20, 2013
7:00 p.m.
Holladay Municipal Center
4580 South 2300 East**

ATTENDANCE

Planning Commission Members:

Lori Khodadad, Chair
Brad Wright, Vice Chair
Les Chatelain
Spence Bowthorpe
John Garver
Matt Snow
Chris Jensen - *excused*

City Staff:

Rick Whiting, City Planner
Pat Hanson, City Planner
Jonathan Teerlink, City Planner
City Attorney, Craig Hall
Paul Allred, Community Develop Dir. - *excused*

PRE-MEETING/WORK SESSION

Chair Lori Khodadad called the meeting to order at 6:33 p.m. The agenda items were reviewed and discussed.

With regard to the Orton conditional use permit for a home occupation with customers, traffic and hours of operation were discussed.

City Planner, Rick Whiting, gave a brief background on the Orchard Hollow Subdivision and stated that this item went before a Third District Court judge, who ruled in favor of the applicant. The property has been deemed to meet the Code for a three-lot subdivision. Staff recommended approval of the conceptual plan.

The Commission next discussed the Summerwoods Subdivision preliminary plat. Mr. Whiting reported that it meets the ordinance as near as staff can determine.

Staff detailed the access for the Wren Hill Subdivision as well as the requirements set forth in the staff report.

The Highland Drive General Plan language was reviewed and discussed. Chair Khodadad suggested the RM zone be clarified.

(19:01:10) Commissioner Chatelain moved to close the Work Meeting and move to the Council Chambers for the Regular Meeting. Commissioner Garver seconded the motion. The motion passed with the unanimous consent of the Commission.

CONVENE REGULAR MEETING

Chair Khodadad called the Regular Meeting to order at 7:05 pm.

ACTION ITEMS

1. Orton – Conditional Use Permit for Home Occupation with Customers – Health Coaching - 2081 East Terra Linda Drive – R-1-8 Zone - Planner: Rick Whiting.

(19:06:14) Mr. Whiting presented the staff report and stated that staff recommended approval of the conditional use permit.

The applicant, Jennifer Orton, detailed her business and stated that the proposed hours of operation will be weekdays and occasional Saturdays. She stated that health coaching consists of physical, mental, emotional, and spiritual healing and she received proper training to do so. With regard to parking, Ms. Orton desired to schedule clients with a 30-minute break so as to eliminate any congestion and overlapping.

Chair Khodadad opened the public hearing. There were no comments. The public hearing was closed.

Ms. Orton confirmed that serving approximately 20 clients per week would necessitate her to consider expanding her business.

(20:32:27) *Commissioner Chatelain moved to approve the conditional use for the home occupation with customers at 2081 East Terra Linda Drive in the R-1-98 zone based on the following:*

Findings:

1. *The proposed use at this location provides a service to citizens which contributes to the general economic well-being of the community.*
2. *The use will not be detrimental to the health, safety or general welfare of the people living in the neighborhood.*
3. *The proposed use will comply with the regulations specified by City of Holladay Ordinances for Conditional Use and Home Occupation.*

Requirements:

1. *Ms. Orton may only accept clients during regular business hours Monday through Friday, with extended hours on Tuesdays and weekends on a limited basis so long as it does not interfere with normal neighborhood activities.*
2. *Ms. Orton may not allow more than 20 clients to visit her home per week.*
3. *No on-street parking is allowed.*
4. *No employees are allowed.*
5. *Ms. Orton may not post any sign or advertising at the residence.*
6. *Ms. Orton must maintain any appropriate professional licensing to practice.*
7. *The Conditional Use Permit is subject to review and possible revocation by the Planning Commission upon any allegations of non-compliance.*

Commissioner Chatelain amended requirement number 1 to specify that Ms. Orton may only accept clients during regular business hours Monday through Friday, with one evening during a standard week's period and on weekends on a limited basis so long as it does not interfere with normal neighborhood activities.

Commissioner Wright seconded the motion. Vote on motion: John Garver-Aye, Les Chatelain-Aye, Matt Snow-Aye, Spence Bowthorpe-Aye, Brad Wright-Aye, Chair Lori Khodadad-Aye. The motion passed unanimously.

2. Pheasant Grove – Rezone – 5559 S Highland Drive – Zone Change from R-1-43 to R-1-10 – Planner - Rick Whiting.

The above item was continued to a future meeting at the applicant's request.

(19:23:41) Commissioner Chatelain moved to change the order of agenda item number 7 and next discuss the minutes of August 6, 2013. Commissioner Bowthorpe seconded the motion. Vote on motion: John Garver-Aye, Les Chatelain-Aye, Matt Snow-Aye, Spence Bowthorpe-Aye, Brad Wright-Aye, Chair Lori Khodadad-Aye. The motion passed unanimously.

The Commission next discussed agenda item number 7 after which they continued with the agenda as printed.

3. Approve Minutes of August 6, 2013.

The minutes of August 6, 2013, were reviewed and modified.

(19:27:22) Commissioner Bowthorpe moved that the minutes of August 6, 2013, be approved with the changes noted. Commissioner Snow seconded the motion. Vote on motion: Brad Wright-Aye, Les Chatelain-Abstained, Spence Bowthorpe-Aye, John Garver-Aye, Matt Snow-Aye, Chair Lori Khodadad-Aye. The motion passed unanimously with one abstention.

The Commission took a 10-minute recess.

4. Orchard Hollow – Three-Lot Subdivision Conceptual Plan – 4245 S Holladay Boulevard – R-1-15 Zone – Planner – Rick Whiting.

(19:46:20) Mr. Whiting presented the staff report on the Orchard Hollow three-lot subdivision and gave a detailed background of the proposal. He reported that this item is again before the Commission for conceptual plan approval. Staff, along with the City Attorney, City Engineer, and essentially the Third District Court, recommended the application be considered by the Planning Commission and favorably approved.

City Attorney, Craig Hall, reported that the City of Holladay was sued by the applicant and during that process the City filed an Answer contrary to the allegations in the original petition. As a result, the litigants took the depositions of City Engineer, Clarence Kemp and City Traffic Engineer, Tosh Kano. The Petitioners then made a Motion for Summary Judgment based on what was said in their depositions, which was identical to what they testified to the Planning Commission and to the City Council months prior. He explained that there is an order signed by

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Judge Kennedy establishing the legal description to be considered for the purposes of the subdivision.

Chair Khodadad clarified no public hearing would be held this evening, but allowed a total of 15 minutes for anyone wishing to comment on the matter.

Wade Budge, the property owner's representative, stated that they are simply seeking an approval for a density of three units, which is allowed in the R-1-15. The dedication of additional land beyond the area where Holladay Boulevard is presently, will be part of the process along with providing curb, gutter, and sidewalk.

Ed Bailey gave his address as 1879 Longview Drive, and shared his disappointment regarding the project and frustration with the lack of communication between Mr. Hall and his personal attorney. Mr. Hall responded that he personally called their attorney, Brian Rosander, notifying him of the pending lawsuit and possible interest. Mr. Bailey was of the belief that this subdivision will adversely affect his property and has listed his home for sale as a result.

Brian Rosander reported that he was present as an attorney for a select group of individuals who oppose this application. He shared frustration regarding the length of time it has taken to get to this point and stated that a brief phone call made by Mr. Hall was the only courtesy extended.

Details regarding the area in question were discussed and Mr. Rosander raised the question as to why this matter was not promptly remanded back to the Planning Commission. Mr. Hall clarified that the applicant chose not to proceed with the application further in front of the Planning and Zoning Commission. Mr. Rosander stated that the exhausting document states that the applicant has no cause of action until they have exhausted every remedy and procedure at this level. This means that it should have been remanded back to the Planning Commission rather than go to litigation. He then discussed the conceptual plat requirements submitted by staff. With regard to Unified Fire Authority access, a question was raised as to whether or not the plan has been approved by UFA and if there are any discretionary elements before the Planning Commission currently. Mr. Hall confirmed that although narrow in scope, the Commission has discretion.

With regard to preliminary approval, Mr. Rosander asked if, as a concerned citizen speaking on behalf of other individuals, he is allowed to submit recommendations and proposed language. Mr. Hall stated that as a representative of property owners, there is always the ability to submit recommendations or suggestions to staff or the approval body, depending on the stage of the application. Those suggestions are taken into consideration as the process progresses. He continued that from a cautionary standpoint, when referencing plat notes, unless there is some unique and problematic issue that must be taken care of prior to recording and/or would serve as notice to future purchasers of the land, the plat is not generally burdened with those types of things. Discussion took place previously regarding a potential plat note regarding lot sizes and the process that transpired making the history readily obtained by subsequent purchasers. Mr. Rosander was of the understanding that this property is unique and such should be stated on the plat.

Commissioner Garver asked if the neighboring properties also contain notated plats. Mr. Rosander was not able to make that determination and stated that he would inquire and respond.

Carol Zimmerman gave her address as 1946 Longview Drive and stated that the attorney present during the Third District Court proceedings was representing the City. She asked who was present on behalf of the taxpayers. Mr. Hall replied that he was present representing the corporate entity, known as the City of Holladay, and respected departments. The defendant, rather than the City, was the initiator of the lawsuit. He defended the City and the position of the City officials, namely Mr. Kemp and Mr. Kano, and conferred with the City Manager regarding the response.

(20:26:10) Mr. Budge conveyed that the City was well represented in this case. What the City did was reply denying the claims. Mr. Budge detailed the procedure when a suit is filed and stated that Mr. Rosander received and had access to sufficient notice. He also reported that he does not represent Mr. Bailey as previously stated. It was Mr. Budge's opinion that no evidence was presented confirming a negative impact on neighboring residents.

In response to the question raised concerning UFA, Mr. Whiting confirmed that staff received a letter approving the access.

With regard to setbacks, City Planner, Jonathan Teerlink, detailed the conceptual site plan and setback requirements.

Mr. Hall confirmed that the purpose of this item was to determine whether or not the conceptual three-lot subdivision meets the minimum requirements as set forth in the particular zone.

In response to Mr. Rosander's questions, Chair Khodadad reported that the conceptual plan meets the required setbacks, approval from UFA has been received and confirmed, and the applicant has the required square footage.

It was the consensus of the Commission that they were ready to proceed.

(20:42:37) *Commissioner Chatelain moved that the Orchard Hollow Three-Lot Subdivision located at 4245 South Holladay Boulevard in a R-1-15 zone be approved based on the following:*

Findings

- A. *The proposed project meets the requirements for a residential subdivision in an R-1-15 zone, i.e. area, density, access, slope, public safety, etc.*
- B. *This project complies with the provisions of the City's General Plan for this area.*
- C. *This application is consistent with land use patterns in the general vicinity.*
- D. *The UFA has approved emergency access as proposed. Fire hydrant capacity and placement will be addressed in the Preliminary Plat review and approval process.*

- E. Minimum lot area requirements are met with the addition of allowed area from the public right-of-way (which will be dedicated to the City).*
- F. The proposed project has been reviewed by the TRC and meets City requirements for Conceptual Plan, including provisions from item E above.*
- G. Utility providers can serve the property and have (or are expected to) provide appropriate service availability letters.*
- H. Topographical and geotechnical constraints can reasonably be mitigated and/or accommodated through subdivision design and building permit requirements.*

Requirements:

- 1. A Preliminary Plat and any other requirements for the subdivision shall be submitted to the Technical Review Committee (TRC) for review and recommendation to the Planning Commission.*
- 2. A street dedication will be required on Holladay Boulevard.*
- 3. A hillside protection and storm drainage plan will be required with Preliminary Plat Submission.*

Commissioner Bowthorpe amended the motion to include the following requirement:

- 4. Reconciliation of the law suit legal description shall be included.*

Commissioner Snow seconded the amended motion. Vote on motion: John Garver-Aye, Les Chatelain-Aye, Matt Snow-Aye, Spence Bowthorpe-Aye, Brad Wright-Aye, Chair Lori Khodadad-Aye. The motion passed unanimously.

With regard to allowing additional input, Commissioner Chatelain encouraged neighbors to submit questions to the TRC as the matter proceeds to preliminary and final plat. He also recommended the Commission review the final plat along with the TRC.

5. Summerwoods Subdivision – Preliminary Plat – 5310 S Highland Drive – R-1-8 Zone – Planner – Rick Whiting.

(20:47:34) Mr. Whiting presented the Summerwoods Subdivision request as stated in the staff report. He reported that the TRC found that the request meets the standards of preliminary plat approval and staff recommended approval.

(20:50:00) The Commission took a five-minute break.

The applicant, John Phillips, gave his address as 2332 Creek Crossing Road and stated that he concurs with the staff report.

Commissioner Bowthorpe questioned the content of balloon drawings located on the preliminary plat drawing. Details of the plat were discussed. City Planner, Jonathan Teerlink, confirmed that the TRC recommended changes were corrected.

Commissioner Chatelain moved that the Summerwoods Subdivision Preliminary Plat located at 5310 South Highland Drive in the R-1-8 zone be approved based on the following:

Findings:

- A. The proposed project has been reviewed by the Technical Review Committee (TRC) and meets City requirements for Preliminary Plat.*
- B. The proposed project meets the requirements for a residential subdivision in an R-1-8 zone; i.e. area, density, access, slope, public safety, etc.*
- C. This project will have no detrimental effects on the health, safety, or welfare of neighboring properties or the community.*
- D. This project complies with the provisions of the City's General Plan for this area.*
- E. This application is consistent with land use patterns in the general vicinity.*
- F. The UFA has approved emergency access as proposed. Fire hydrant capacity will be addressed in the building permit review and approval process.*
- G. Utility providers can serve the property and have or will be provided appropriate service availability letters prior to Final Plat approval.*

Requirements:

- 1. A Final Plat and any other requirements for the subdivision shall be submitted to the TRC for approval within one year.*
- 2. Prior to approval of Final Plat - all outstanding TRC issues must be resolved.*
- 3. The City Engineer will determine appropriate financial requirements for improvements and/or bonding in conjunction with Final Plat approval.*
- 4. A Right-of-Way Easement and Road Maintenance Agreement for the six proposed lots must be recorded with the final plat. It must detail provisions and responsibility for access, maintenance, snow removal, etc.*
- 5. A dedication to the City is required for the public right-of-way on Highland Drive.*

Commissioner Wright seconded the motion. Vote on motion: John Garver-Aye, Les Chatelain-Aye, Matt Snow-Aye, Spence Bowthorpe-Aye, Brad Wright-Aye, Chair Lori Khodadad-Aye. The motion passed unanimously.

6. Wren Hill Subdivision – Preliminary Plat - 2595 E Wren Road – R-1-8 Zone – Planner – Rick Whiting.

(21:09:00) Mr. Whiting presented the staff report and stated that the TRC reviewed the application and determined that it complies with City ordinance. Staff recommended approval.

Nick Mingo, present on behalf of Ivory Development, detailed the property and clarified concerns regarding easements. He reported that the homes will be priced at around \$700,000 and lot sizes will be approximately 10,000 square feet.

(21:18:57) *Commissioner Wright moved that the Wren Hill Subdivision preliminary plat located at 2595 East Wren Road be approved subject to the following:*

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Findings:

- A. *The proposed project has been reviewed by the Technical Review Committee (TRC) and meets City requirements for Preliminary Plat.*
- B. *The proposed project meets the requirements for a residential subdivision in an R-1-8 zone; i.e. area, density, access, slope, public safety, etc.*
- C. *This project will have no detrimental effects on the health, safety, or welfare of neighboring properties or the community.*
- D. *This project complies with the provisions of the City's General Plan for this area.*
- E. *This application is consistent with land use patterns in the general vicinity.*
- F. *The UFA has approved emergency access as proposed. Fire hydrant capacity will be addressed in the building permit review and approval process.*
- G. *Utility providers can serve the property and have or will provided appropriate service availability letters prior to Final Plat approval.*

Requirements:

1. *A Final Plat and any other requirements for the subdivision shall be submitted to the TRC for approval within one year.*
2. *Prior to approval of the Final Plat - all outstanding TRC issues must be resolved including but not limited to the following items to be added to the Preliminary Plat: PUEs, a table showing required dimensions and specs, 50-foot road right-of-way including dedication area(s), correct dimensions for fire turnaround, size and location of utilities, fire hydrant locations, trench details, road section with details and a note regarding pavement repair in City right-of-way.*
3. *The City Engineer will determine appropriate financial requirements for improvements and/or bonding in conjunction with Final Plat approval.*
4. *A title report must be submitted prior to Final Plat approval.*
5. *All appropriate utility "will serve letters" must be received prior to Final Plat approval.*
6. *A Right-of-Way Easement and Road Maintenance Agreement for the three proposed lots must be recorded with the final plat. It must detail provisions and responsibility for access, maintenance, snow removal, etc.*
7. *A dedication to the City is required for the public right-of-way on Wren Road and, possibly, Valley View.*

Commissioner Bowthorpe seconded the motion. Vote on motion: John Garver-Aye, Les Chatelain-Aye, Matt Snow-Aye, Spence Bowthorpe-Aye, Brad Wright-Aye, Chair Lori Khodadad-Aye. The motion passed unanimously.

7. Highland Drive General Plan – Appendix K Amendment (Continued) – Planners – Paul Allred, Pat Hanson & Rick Whiting.

(21:21:55) City Planner, Pat Hanson, referenced Section B under Commerce and clarified that the intent is for the language to be applicable to all existing commercial areas, but does not encourage expansion. It is meant to address declining residential and the improvement of existing areas. Chair Khodadad commented that this is not adding more RM, but addressing current commercial. The proposed verbiage was reviewed and modified.

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(21:26:47) *Commissioner Chatelain moved that the Highland Drive Master Plan changes be forwarded to the City Council for their consideration subject to the changes, as noted. Commissioner Snow seconded the motion. Vote on motion: John Garver-Aye, Les Chatelain-Aye, Matt Snow-Aye, Spence Bowthorpe-Aye, Brad Wright-Aye, Chair Lori Khodadad-Aye. The motion passed unanimously.*

OTHER BUSINESS

8. Updates for follow-up on items currently in the development review process.

(19:28:52) Mr. Whiting reported that there are several forthcoming subdivision applications.

He stated that the assisted living project is progressing with construction.

The ribbon cutting for the Hyatt Hotel was to take place on Thursday, August 22.

With regard to the Cottonwood Mall, there continues to be regular activity and staff reported that they frequently receive inquiries as to a start date.

Staff expects Millrock to return before the Commission in the near future.

It was reported that the Olympus High corner parcel on 2300 East and 3900 South needs to be rezoned.

8. Report from Staff on Upcoming Applications.

9. Discussion of Possible Future Amendments to Code.

ADJOURN

(22:16:30) *Commissioner Wright moved to adjourn. Commissioner Garver seconded the motion. The motion passed with the unanimous consent of the Commission.*

The Planning Commission Meeting adjourned at 9:33 p.m.

I hereby certify that the foregoing represents a true, accurate and complete record of the City of Holladay Planning Commission Meeting held Tuesday, August 20, 2013.



Teri Forbes, Minutes Secretary
T Forbes Group

Minutes approved: September 24, 2013

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