

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

**Tuesday, August 21, 2012
6:00 p.m.
Holladay Municipal Center
4580 South 2300 East**

ATTENDANCE

Planning Commission Members:

Les Chatelain, Chair (arrived at 8:13 p.m.)
Lori Khodadad, Vice Chair
Troy Holbrook
Paula Lowry
Matt Snow

City Staff:

Paul Allred, Community Development Director
Rick Whiting, City Planner
Jonathan Teerlink, City Planner
Craig Hall, City Attorney
Clarence Kemp, City Engineer

PRE-MEETING/WORK SESSION

In the absence of Chair Chatelain, Vice Chair Lori Khodadad, called the work session to order at 6:34 p.m.

The agenda items were reviewed and discussed.

With respect to the Orchard Hollow Subdivision, Paula Lowry wished to share information she discussed with Chair Chatelain. City Attorney, Craig Hall, stated that in the State of Utah, a vote by proxy or input by proxy cannot be made part of the record upon which a decision can be made. He asked that those comments not be shared but invited her to share her own comments.

Mr. Hall stated that if he were in the process of condemning Holladay Boulevard to install curb, gutter, and sidewalk to widen it or to use it to its full potential, he would most likely pay from the “edge of oil”. He noted that the drainage way is not a public improvement. It is typical when there are drainage issues and no curb and gutter for a property owner to take action to keep water off of his property.

In response to a comment made, Mr. Hall stated that his opinion is that the swale is not part of the road. He did not consider it a judicial determination. The Commission, however, has the obligation to make a factual determination. They should go with what they consider to be the most factually accurate description possible. Any motion should include appropriate findings and requirements.

(18:37:15) Commissioner Khodadad was concerned that the situation is getting out of control and a stalemate will result if the matter doesn’t move on to the next step. Mr. Hall reported that he spoke to Mr. Rosander earlier in the day and reminded him that the public portion of the meeting had been closed previously. Mr. Rosander informed Mr. Hall that he has new information to present. Mr. Rosander was invited to submit a letter with the Planning Commission making the determination as to whether to hear it. He noted that if additional input is accepted and allowed

for one party, the same must be done for others. As the City Attorney, Mr. Hall was concerned about process. He indicated that Mr. Rosander represents most of the citizens who spoke at the last meeting.

Community Development Director, Paul Allred, was of the understanding that the argument was that the Planning Commission should conduct a more in depth study. They have interpreted the subdivision ordinance to include conducting studies now that would normally be performed later in the process. Mr. Allred informed Mr. Rosander that details are provided at the preliminary plat stage. In this case, it is recognized that the slope exceeds 30% but the property is buildable. He believed the Commission should use an exception section in the ordinance to do further study.

Commissioner Khodadad remarked that if conceptual approval is granted, the developer will be more committed and move forward. It was noted that moving forward is done at the risk of the developer. City Planner, Rick Whiting, remarked that the developer is fully aware of the risks and won't commit money if they are not confident that there will be a project. Mr. Allred stated that the developer is not vested at the time of conceptual approval.

Mr. Hall explained that the full public hearing was conducted at the last meeting and allowing additional public comment tonight was at the discretion of the Commission.

Stream exception issues were discussed. A comment was made about potentially changing the setback so stream exceptions need not be reviewed by the Commission each time. The intent was to simplify the process.

(18:48:33) With respect to the Fire Station, Mr. Allred stated that a few modifications were made to the landscaping. He was most concerned about the lighting plan. There was also the concern that the facility lighting will be too bright at night. He suggested a plan be put in place to enable the lighting to be dimmed and include a thorough comprehensive lighting plan. Mr. Allred noted that the Commission does not have the right to comment on architecture.

With respect to fencing, Mr. Allred suggested it be addressed at the final approval stage. He indicated that he spoke to the City Manager who felt strongly that chain link fencing should not be installed on the site. The Architect most likely will suggest modified wrought iron fencing. It that looks like wrought iron, but in actuality, has an aluminum finish. The City Manager, however, would like to reserve the option, because of budgetary and other concerns, to develop the site and do fencing as they are able. He noted that the property is presently surrounded by fencing on three sides. He acknowledged, however, that most of the existing fencing is not attractive. Commissioner Khodadad wondered why a beautiful new building would be constructed and the old fencing left. Mr. Allred responded that the process is complicated and for the moment the fencing issue will be postponed and discussed sometime between now and final approval. Mr. Allred felt that the wrought iron fencing option would be appropriate. It was recommended that the fencing be more solid than wrought iron.

Mr. Allred offered a counterpoint on why a solid fence may not be best. He explained that there will be a great deal of attractive landscaping and he thought it would be a shame to hide it behind a solid wall, which is very expensive. In addition, a solid wall will not provide additional safety. If the concern is safety, he thought a six-foot fence would suffice. If the concern is aesthetics, he

suggested using a combination of semi-open fencing with landscaping. In response to a comment made, Mr. Allred stated that previously a landscaping pad was shown in front of the new Public Works Building. Upon closer inspection, staff realized that the doors that need to be built to allow equipment to enter and exit the east side of the building are so wide that they will push into the landscaped area in front. With the proposed modification, the building will still be in compliance. The intent was to add a few more parking stalls in front of the building in the place of landscaping. The architect was asked to widen some of the parking stalls to accommodate larger vehicles. In addition, elevations are needed for the Public Works Building since currently it is only a sketch plan. The building will be 20 feet tall and tie in with the rest of the site.

(18:53:33) Mr. Hall explained that ultimately the City will own and control the facility. The issues are multi-fold with the major concern being budget. He noted that the desire was not to trade permanent architecture for temporary fencing.

With respect to the Deerwood Farms stream exception, City Engineer, Clarence Kemp, stated that it is a net positive with the biggest concern being a thicket of trees in the area. The developer realigned the road multiple times specifically to preserve the trees. For that reason, the road alignment is unusual. It also allows close access to the creek. Additionally, there was talk about the developer elevating the road to protect the interior properties.

Mr. Allred stated that several issues still need to be resolved prior to final approval. He did not think it was inappropriate to grant approval tonight subject to the TRC addressing the housekeeping items as they have done with many other subdivision plats. The issues remaining include the addition of notes and corrections. For example, the Unified Fire Authority (UFA) issued a Code Modification Letter to extend the road width being narrowed throughout the rest of the subdivision. He remarked that the issue was discussed at the preliminary plat stage. Staff met with UFA who had no reservations about the additional built-in safety requirements. A turnaround was approved by UFA for each lot as well as fire sprinkling systems that will be inspected annually. In addition, trees must be cut to 13'6" in height. An additional letter was obtained from Salt Lake City showing that adequate water pressure is available. Approval was contingent upon the road width being shown on the plat. Mr. Allred stated that the property is very old and has had numerous uses on it over the past 100 years. The title report showed 37 easements or clouds on the title. The developers are showing all of the encumbrances on the plat and are proposing that the plat be recorded. He considered that to be a creative way of addressing the issue.

(19:02:26) A Commissioner disagreed with how it was being done and thought the City's obligation was to a purchaser who should be allowed to build on a lot without encumbrances. He suggested any motion for approval be subject to a contemporary recording of the Release of Easement when the plat is recorded. Mr. Kemp pointed out that there are 37 exceptions in total. He personally was not willing to sign off on it.

(19:06:36) Commissioner Holbrook moved to close the work meeting and move to the Council Chambers for the Regular Meeting. A Commissioner seconded the motion. The motion passed with the unanimous consent of the Commission. Chair Chatelain was not present for the vote.

CONVENE REGULAR MEETING

Vice Chair Lori Khodadad called the Regular Meeting to order at 7:09 pm.

(The following item is Verbatim from the meeting.)

ACTION ITEMS

1. **Orchard Hollow Subdivision – 4245 East Holladay Blvd. – Conceptual Site Plan (continued) – R-1-15 Zone – Planner: Rick Whiting.**

Khodadad: The first item on the agenda is the Orchard Hollow Subdivision at 4245 East Holladay Boulevard. It is a conceptual site plan in an R-1-15 Zone. The planner is Rick Whiting and we'll have him review the application for us.

Whiting: Thank you, Madam Chairman. Yes, the application is for a three-lot subdivision in the R-1-15 Zone. The Planning Commission reviewed this application at its previous meeting on August 7, 2012. The public hearing was held at the time, it was opened and closed. The Commission, after reviewing the application, determined that they would like to see a review of the actual survey with markings on the ground. That has happened now. The surveyor went out and made the appropriate markings. The Commission met this evening in a site visit at the applicant's site. That was the remaining item on the docket for the last meeting. Are there any questions?

Khodadad: Does anyone have any questions of Rick? (no questions) It has been brought to our attention that there is one item that has not been discussed. There is additional information that we have not heard before this time. If it is okay with the rest of the Commission, I would like to allow five minutes for the applicant and five minutes for an attorney representing the neighbors to give us a little bit of additional information. And we will limit that to five minutes each. If you could please state your name and address.

Rosander: Yes, thank you madam Chairman. My name is Brian Rosander, I'm an attorney from the law firm of Parsons Behle & Latimer. I am here on behalf of a certain group of citizens who are actually opposing the Orchard Hollow subdivision. I will keep my comments today very brief and appreciate the five minutes that have been given to us today.

Khodadad: We have heard extensive public comment on this, so just please refer to the one item that you said is new information.

Rosander: Okay, and I will just clarify I am not sure what one item is being referenced. Unless Craig has mentioned that there is specifically a limitation of discussion to one. Today I was in communication with the City Attorney and it was my understanding that there was going to be a potential vote and closure at the meeting today. I had mentioned to him that we have some additional information to submit and so there was a letter along with some photographs that were submitted later this afternoon. I have physical copies of the letter and each of the photographs, but

primarily wanted to limit my conversation today to some of the information that was identified specifically at the site visit in particular. It is our position that Lot 1 in particular of the three-lot subdivision that is being proposed, if the Planning Commission determines that the area that I will identify is an area of concern, we believe it is closer to 3 foot by about 350 foot area down there where we were standing near the gutter, is deemed an area that was previously utilized for public purposes. And it is our position that it has been utilized by the public for a variety of reasons including biking, walking, roadway access, emergency access. One comment that was made to me, if you look at all the cars that were parked along the road just south, is that each of them are having to protrude into that same area if you wanted to park safely on Holladay Boulevard. Storm drainages were mentioned on site. And the area that was defined on site is the edge of oil, or the EO indication, was an area that was not determined by anyone at the city. It was an area that was determined by the surveyor himself. As discussed, in his best efforts today, but as Commissioner Holbrook pointed out if any of that area to the east is determined to be something utilized for public use and taken away, they do not satisfy the 15,000 square foot threshold for Lot 3 if that area is conclusively determined by the Planning Commission to be deemed outside and applicable to the credit. That is your decision today. So we are just really highlighting the point that I think was not addressed at any point in the staff report and any other previous information that that area of concern for us, and I think as Craig Hall specifically mentioned needs to be very closely scrutinized and addressed with caution. He specifically mentioned, I will refer to his language if it is helpful. His letter states that caution must be taken by the City to properly identify what property is to be dedicated and, “what property has previously been utilized by the public.” Again, we saw today indications where asphalt had previously existed, plenty of drainage, signs of drainage, and runoff had been in that location, that area and a question of what then is deemed previously utilized for public purposes is what is before us today. We want to make it very clear that it wasn’t anyone at the City, but specifically that line was drawn by the surveyor, and it is up to you to decide what is the public use area. The other point for us, is to the extent that you do determine that that area is application for credit and that they meet the 15,000 square-foot lot requirement for Lot 3, we would have you be sensitive to what discretionary rights the Planning Commission has in determining the special circumstances around that lot. That lot is used, as I see it and as you see it, laid out in the conceptual site plan, there is a wooden stake out there that indicates the very corner of where the dedication lot is going to be.

Holbrook: You are referring to Lot 1, is that correct?

Rosander: I am, excuse me, Lot 1. Most of our issue, we of course are not contesting that there is sufficient area to have two lots, but trying to put that third lot, in particular Lot 1, in this area and the radius area that has been identified there for developable purposes. We understand that setbacks and other criteria around the building envelope will be determined at a later point. But right now if you look at that radius area, all of the areas around elevation, slope, fault line – other indications that have been identified that need special design consideration are in that area.

And so to the extent that this Commission has the ability to exercise discretionary rights in determining what now should be determined around that, we would ask you to take that into consideration. The last thing we would identify is again, to the extent that this is identified as a lot sufficient for subdivision purposes that the Commission's purview in initiating things like sidewalks, curb and gutter, lighting, there are plenty of reasons...

Khodadad: Time to wrap it up.

Rosander: Thank you. Thank you for your time. May I, to the extent that a hard copy of the letter I have those with me.

Khodadad: We were given a copy. We have not read them yet, but we were given a copy.

Budge: Good evening. My name is Wade Budge and I represent the developer here, Highland Hawk Investments. Madam Chair, Planning Commission Members thank you for your time and thank you for taking time to go out and see on the site the conditions that exist as they can be found today. Let me just address first this issue about the edge of the pavement. What we have supplied is both a survey, which has been stamped by a licensed surveyor as I indicated at the last public hearing. But then we have gone to the extra step for everyone's benefit – ours, the public's, and the Planning Commissions – had that surveyor go out and mark that detail. What that shows is that the edge of pavement today is in the exact same location when that first survey was done back in 2007. It has not varied. If you notice where the EO marks are, they are where the edge of pavement was back then. So there has been remarkable consistency between the property that has been used for private purposes as compared to the property that has been used for highway purposes. Now we think, if you look closely at the statute, or the ordinance rather, the ordinance talks about subtracting those areas that have been devoted for highway area. Those two terms "highway area" are very, very important. The area that was discussed by the opponents is an area that has not been used for highway purposes. And that is something we need to keep in mind. There have not been cars traveling up on that hillside; in fact they couldn't because there is so much vegetation overgrowing what I call the swale. It is kind of a drainage swale. The other thing is there is not uniformity in that area. It varies greatly. And the proposition that they have been arguing that it is of a width, I believe they say up to three feet in their letter, is not supported by any survey, by any measurement and in fact what we have done instead is we have gone out there and made the measurements, we've shown the marks and if you go out as we all did and look you will notice that this little drainage area really tapers off as you go off to the northwest. And if you look also at the vegetation and the way that the site lies, you will see that that area beyond the edge of pavement as we marked it, and as it was confirmed as correct by the City Engineer, has not been used for highway purposes. The edge of pavement has been marked, frankly in our opinion, the maximum extent of the area that you could argue has been abandoned to public ownership through consistent use. So we think that the proposal in the staff report is the way to proceed, which is that we would have this approved as a concept plan and then

we would then go through the process for preliminary plan approval and then a final approval and then we are still willing, provided that we are able to obtain the approvals as we believe they need to be obtained, to make a dedication not only to the centerline of the road as it currently exists, but beyond. So that we all have a very clear understanding going forward as to what is going to be the new boundary between the public and private interests here. So we think it is everybody's interest tonight to approve the concept plan, it is just a concept plan, and then we will go out getting the engineering and the other materials that you will need to make the other decisions you are going to need to make before preliminary and final approvals are given. As for the final comment that the opponents made about exercising your discretionary rights, we think that is clearly in the ordinance, you have rights to take into account the topography and all of that. And those issues are really issues that will come into play as we talk about the preliminary plat and the final plat. But there has been no suggestion that any of the area that has been shown on the concept plan for Lot 1 is non-buildable. In fact it is all well within the slope restrictions. Are there any other questions? (No questions) Well I appreciate your time. Thank you.

Khodadad: Thank you. Okay so now we have heard legal counsel from the applicant and the opponent. I would like to give our legal counsel for our City a couple of minutes to state his opinion as well.

Hall: I am all in favor of the Yankees being kicked out of the American League East. This has been a difficult issue to issue a legal opinion as to what a particular section of our code means. The opinion that I issued and authored and gave to Mr. Teerlink more than a month ago now, I have not changed my opinion. In fact, I have become more comfortable in that opinion that the property that has not been utilized for street, or public street or highway purposes is to be counted in as part of the proposed subdivision and the lots. So, my opinion that I wrote six weeks ago or whatever it was, remains. Also as I expressed during our Work Meeting, I have been one that has done a lot of eminent domain work over the last number of years. That area in the swale that is being considered to be rudimentary drainage is not part of the public street or highway. I feel that if we ended up having to acquire that property we would have to give fair or just compensation to the property owner for that. It has not been dedicated by public use as part of the public street or public highway. State statute says if property has been utilized as a public street for more than 10 years it indeed becomes a street and the property owner loses exclusive rights of that property. So the opinion that I rendered in July stands. I feel comfortable with that opinion, and that would be my legal direction to you tonight as you make this difficult decision. Any questions?

Snow: I have a question. So, hypothetically, we assume we approve it and then it gets to site plan approval and would require a curb and gutter to be put along the frontage there, are we by then creating pushing it back with that curb and gutter making that part of the public way?

Hall: The developer will be required to dedicate the half width or a little more than a half width in this case because of the off center of the road as I understand it. And the curb and gutter would become, a foot behind the curb and gutter traditionally becomes the property line.

Snow: So that dedication could make that lot one non-conforming?

Hall: No, if you read the second portion of my opinion, I expressed a concern that we would be creating a lot that would be grandfathered for purposes of acreage. And as I mentioned last meeting, I would request that if we get through conceptual, preliminary, and final plat approval that a note be put on the plat that this lot is not non-conforming and express the reason why as to acreage because of the dedication. They still must meet the requirements for the side yards and the setback requirements. But from acreage, once we approve it for conceptual, preliminary, and final, in all practicality it would be deficient on the 15,000 square feet, but not for the purposes under our ordinance because of this credit being given for the dedication – the second dedication realistically. The City Council, when they adopted that, it is my understanding that the legislative intent was not to penalize somebody for second dedication of property and that is why this particular provision of the Code exists. It will be substandard, but our code says that is allowable under these conditions and that is why I have suggested if we get to final that we put an indication on the plat so that we 25 or 50 years from now come back and say, oh my word it is substandard the house has burned down, now you can't build or rebuild it. I don't want that condition to exist. So that was the purpose of that comment. The second portion of the opinion. Thank you for the questions. Troy?

Holbrook: Yeah, this is the first this highway component is coming up and I am trying to understand. And last time, I was just looking through my notes and there was discussion about a sidewalk to the north and a sidewalk to the south. Many times as I am passing through there especially in the morning, there are school children, people walking, kind of off the shoulder because there is not a sidewalk there, so I just want to make certain because that was a point brought up last time. In Holladay where there isn't the sidewalk but there is the road and then the shoulder of the road where people or pedestrians are walking, does that fall in your opinion as highway? Or how do we address that? Do you understand my question?

Hall: I think so.

Holbrook: I just want to make sure we are clear.

Hall: Curb, gutter, and sidewalk are not part of a highway, so to speak. What I am referring to tonight as being the public highway is really the asphalted portion to the edge of oil or EO, or however that was denoted there. The curb, gutter, and sidewalk and park strip, if it is going to be put in in our standard road sections, I think that's included. Our additional items outside of the public street that are improvements that are not necessary, if you go to many UDOT roads they don't

have curb, gutter, or sidewalk. Mountain View Corridor is a good example of that. On the inside portion there is no curb and gutter.

Holbrook: I am just saying for the purpose of this, the space between the edge of oil and the asphalt that has been there for quite some time, that was actually brought up last time as the connector kind of sidewalk component from the north to the south that we talked about if subdivision was granted. Then curb, gutter, and sidewalk would be done. But I am just trying to understand this highway component. Is this specific to vehicle traffic on the dedication or would pedestrian traffic also fall since there is actually pedestrian traffic?

Hall: No, in my opinion the State Statute refers to motor vehicles. Any other questions? Thank you.

Khodadad: Thank you. Does anyone have any questions of staff or anyone else? Any discussion?

Lowry: I have an observation. I guess I don't understand why we're trying so hard to make a size eight foot fit into a size seven shoe. Why is it that we seem to be bending over backwards to make this fit for a developer and yet we've got the neighbors who have to live with this on a daily basis. You know it's in their neighborhood, they're more affected and they don't want it. So I guess my quandary is, you know how do I justify basically choosing one side over the other. Why are we trying so hard to make this fit when it seems to me that the developer could make quite a bundle of money on two properties. You know, two beautiful big lots versus three that are basically squeezed in. I guess I'm not, I just don't understand why that is so desirable and why that should be - our focus should be more in pleasing the developer rather than the neighbors.

Snow: I don't really see us as trying to - I think we're just really trying to find where that line really is. Does it conform or doesn't it and it's up to us to interpret it. I don't think we're trying to twist the wall one way or the other.

Lowry: Yeah we are.

Snow: I don't see my role as that. I see myself as trying to find out is it really the highway or is it where people park. Is the City Attorney's interpretation of where that line is accurate...

Lowry: Yeah, but that doesn't affect our decision on how we make that decision?

Khodadad: Paula, while I understand and can relate to exactly what you're saying, our role as a Planning Commission is to go by the good solid information and by the ordinance. We aren't the legislative body. We can't make decisions based on feelings or what's right for one person and what's right for another. We go by what the ordinance states and if it fits the ordinance, we basically have to go with that. If someone doesn't agree with that, then the process would be to go to the legislative

body who can make a decision based on more political issues., whereas, ours is based on ordinances.

Lowry: So what you're saying then is that we basically are appointed to represent a district of the City of Holladay. I was appointed to represent District 2, no and I'm genuinely asking the question, trying to keep the emotion out of it, what is...and that's my only role then? So basically, that doesn't play into it that I do represent a certain district and their interests and their desires. And so that has no play at all in my decision? How do I reconcile that?

Snow: I think we're trying to interpret where the edge of the highway is.

Holbrook: Yeah, the way that I look at it is property owners have rights and they have the right to do what they want with their property, as long as it complies with the ordinances and the specifications within the code. Where we're at right now is, we're embarking I think as Madam Chair mentioned last time, establishing a precedence, but in a very strange situation that isn't very cut and dry. So, it's got that element of ambiguity that you just to hate to jump off and start making precedence where we can't figure out really what the definition of, I don't want to start getting into definitions - but actually where that line is as Matt has mentioned. So I would agree with you that where there's ambiguity, for me I would like to reduce some of that ambiguity and put the burden of onus on a developer or somebody that wants to do something with their property that doesn't appear to be so cut and dry. So if there really is a shortage of footage as one side is attesting, then that shortage of footage needs to be addressed. If there's a question as to what really constitutes the line, as Matt mentioned, that needs to be figured out and that's not our decision. What needs to come before us is we have a lot within a zone that complies and we have a dedication that is required as a result of it, and this is what I want to do with my property and we move on approving it based upon meeting the criteria. So, I think where you're struggling is the fact that there are property owners here who have been in the area for quite some time and who are trying to defend the zoning that was initially proposed and now they're trying to protect their neighborhood. On the flip side, we have the property owner who clearly has rights and there's this element of ambiguity where I'm currently not comfortable moving forward and it was nice to see the line, but it actually created additional questions for me.

Khodadad: Thank you. That was very well said and I agree with that. I think the reason it is so difficult for us is because emotions are involved, we want to do the right thing for everyone, but there isn't one thing that everyone agrees on. Our role is to make decisions based on facts.

Lowry: Well it seems to me the facts are all over the place though. You know and it certainly depends upon, you know, interpretation and even keeping the emotion aside of it, I still can interpret it so different.

Khodadad: I want to remind everyone this is the conceptual. If it were approved, it would go on and there would be a lot more detail involved. I'm not sure what would happen if it were not approved. There are further steps involved. But I think at this point, we've heard a lot of good information from both sides. It doesn't seem cut and dry right now, but I think in fairness to everyone involved in it we need to make a decision one way or another and let it move on to the next step.

Lowry: Okay, so basically I'm still in the same spot.

Khodadad: I know. So you just need to vote with what you've heard and how you interpret what you've heard. It is an emotional decision and someone's going to be angry with you, but that's our job.

Lowry: I quit. Right now here tonight can I turn in my resignation?

Hall: No because then we wouldn't have a

Khodadad: Okay, so is there further discussion or is someone ready to make a motion one way or another?

Snow: I wasn't here last week so I'm not comfortable making the motion.

Khodadad: Is there any further discussion?

Snow: For my own benefit, did it come up last week if the applicant has made efforts to purchase a sliver of land from some of the neighboring property so that this frontage issue.

Holbrook: Yeah that was discussed last time and they mentioned that there are currently in, I believe the comment was that there are currently no negotiations or conversations taking place with adjoining property owners.

Unknown: If it's helpful, I represent the adjacent owner, David Gunderson. There are no ongoing negotiations.

Khodadad: Craig is it okay if he comments on that or no. I don't think so.

Hall: The comment was exactly what Commissioner Holbrook said...

Khodadad: That there are no negotiations.

Hall: ...why Mr. Budge said that there were no negotiations coming up or present.

Holbrook: Okay.

Lowry: Well my problem is so far I haven't heard anything that I can consider absolutely definitive. I mean there's just too many different ways to look at it for me

personally to come up with yeah this isn't or never has been used as public. This slurry that was just added is you know based on where the Highway Department decided to put it, not any property lines. I mean there's just nothing that I can hold on to that really tells me yeah, that's the way it is. This is where we need to determine the lot size. I don't know exactly what I need to hear to help me make that decision, but I feel like I haven't really heard it.

Khodadad: How do you feel on that Troy?

Holbrook: Well it's like I mentioned I, last week we were talking about definitions and interpretations and I love that the City Attorney is here because I value his input and direction. Now we're looking at property lines and one interpretation says that they exceed it by I believe the number was 250 feet and then another interpretation says it's short 50 plus feet. So, I think that's where Paula's finding herself where it either, as I mentioned previously, a property owner has rights and if it works and conforms, then we support it and we move the project forward. If it doesn't, then the take away is is that the property owner does as necessary as has prior property owners and comes back with a conformance and then we move forward. I would agree with Paula that there currently, in my mind, remains some ambiguity where I'm not comfortable moving this thing forward because if I'm going to err on the side of caution, I'm going to err on the side of not creating a precedence as I believe the City Attorney mentioned last time was this is the first of the road dedications and we'll clearly have more to come in the future. So what I would like to see is some clarity on knowing that the square footage exists on this parcel to have three lots.

Snow: Yeah, I think I'm leaning that way too. I think as you look at that, there's these layers of asphalt and when that first layer went down, that was the edge of the road and then maybe a property - cause there's like in my mind, the road kind of comes down and then there's a big clump of dirt that probably got some asphalt thrown over it later on to create some sort of gutter. Yeah, right here, but even if you come to the edge of that clump, they're nonconforming. It's just too wishy-washy to say - and I think we're doing the applicant a disservice by saying we approve this and then getting down further have her spend the money to later on and during site plan approval say nah, we're not comfortable with these other issues. I think she needs to find that 50 feet somewhere from a neighboring property. It's kind of where I'm leaning.

Khodadad: Okay, my question is that 50 feet. Are you certain that they're missing that 50 feet?

Snow: No, I'm going from what these...

Khodadad: I know we're not, so that's the question. We don't know if they have the right amount. Who can tell us that? I don't think any one of us has the authority to say.

- Holbrook: I'm just going off of what the City Engineer mentioned and those are the footages I wrote down.
- Khodadad: Okay, but another thing to think about is that our City hires an Attorney to give legal opinion because none of us are qualified to give that legal opinion and he has given his legal opinion that he believes that the way it is, that they have the property line. How can we argue with him also? There are too many questions on either side of it, but this needs to move forward somehow.
- Hall: Lori, let me help - let me see if I can help you come to a decision point if I may. Commissioner Lowry, in answer to your dilemma, the Planning Commission has two different distinct roles. One is a legislative role when you're talking about making recommendations as to zone changes. That is a legislative prerogative that is a little more of a political nature than the other type of decisions, which are faced tonight. Tonight's decision is really does it meet the standards or not. There's no discretion. You are the fact finders tonight. You've got to make a decision whether or not factual setting A is correct or factual setting B is correct.
- Snow: So, going back to what you said earlier, by State Statute, that edge is defined by where cars drive.
- Hall: That is my opinion. That is correct.
- Snow: And then they're conforming.
- Hall: Well that's the result.
- Snow: That's the result of that interpretation.
- Hall: That's the result. And if you believe that it extends to the east, that's my direction, to the east - then based on numbers that have been given to you, conceptual plan is short of the required 15,000 square feet. There is no discretion, but you've got to make a decision as to the facts. That's what you're stuck with. That's your responsibility tonight.
- Lowry: That doesn't help me.
- Hall: I'm sorry.
- Snow: I have a question to the surveyor, or the City Engineer. I'm confused between spots that were surveyed to that edge and the edge of oil. Because by the points that were surveyed, are we conforming, because that edge of oil seems rather ambiguous to me.
- Kemp: Commissioners based on particularly what our City Attorney has just said, the pavement or the highway would be defined by the traveled surface. Clearly what we would view as the maintenance responsibility would be the traveled surface,

which is the edge of oil that the surveyor identified. That's what we maintain. That wasn't maintained under some premise of what this discussion would be, that was simply what was maintained. It was a pretty arbitrary - arbitrary is the wrong word - certainly a nonbiased view. The fact that there is additional asphalt that was laid into the curb for drainage; it was clearly put there specifically for the purposes of drainage. So we have this - we can argue a couple inches one way or the other, or maybe a foot one way or the other, but I think that that's not really the issue. They have 250 feet of latitude in those square footages based on what I heard the surveyor and have seen of the plat. So whether or not we are exactly on the edge of oil, which I believe they are, really does not change the decision that you have. The real decision is do you include the drainage as part of the highway. If you do, then they're going to come a little bit short. If you don't, then they have the square footage. Does that make sense?

Lowry: And you're saying that that drainage is not truly considered public.

Kemp: Well that's a legal interpretation, not an engineering one that's why I deferred to the City Attorney as to what the highway, the language of the ordinance really means. We could have the argument as to did somebody walk on it in the public, does that make it public use. Did somebody park on it, does that make it public use. I don't know where that nuance is. The City Attorney, I think was very clear that he believes that that public use is referring to the traveled road surface, which I believe is what was surveyed.

Lowry: Okay, so this is going to be a stupid question.

Kemp: No such thing.

Lowry: So if those school kids are walking to school when that house is finished, are they trespassing on private property?

Kemp: When the project is done, we are going to require a dedication. That was that set of stakes that was back further. That's theoretically a voluntary dedication and the reality is that we require that. When we do developments along roads, we get the full width of the road. That's the area, the curb and gutter, sidewalk and those sorts of things would be constructed.

Lowry: So it becomes public after they already complete the project.

Kemp: That's correct and that's part of the dilemma I think that you're faced with right now is if we were to take the dedication and then penalize them for that dedication, there's a fairness issue and I think that's why the ordinance is written the way it is. That did help you at all did it? I'm so sorry.

Lowry: That's alright.

Khodadad: Do you want to make a motion or do you want me to?

Snow: I'll make a motion, but it's not very popular. *I make a motion to approve it based on the drivable surface.*

Khodadad: Okay we need to have a much more clear motion. I need you to state all of the facts and findings and requirements and disclose which application we're talking about.

Snow: *I make a motion to approve the Orchard Hollow Subdivision Conceptual Site Plan.* Do I give the address?

Khodadad: The conceptual subdivision and the address.

Snow: *Conceptual subdivision at 4245 East Holladay Boulevard based on the location of the edge of the oil defining the frontage of the property and it will meet the minimum lot requirements allowable for public right-of-way.*

Khodadad: For this particular application, would you read through all of those?

Snow: *Okay so the staff findings are:*

- 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 address 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 Site 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.*

Khodadad: Okay we have a motion. Do we have a second?

Snow: So does somebody make a motion to the opposite?

Lowry: Before we go any further though, Madame Chair can I ask you a question? You did talk in the preliminary meeting about giving the applicants an option whether to wait for a full quorum? Did you want to do that or not or just kind of leave it as it is? I was just wondering.

Khodadad: No. Not at this point, no.

Lowry: Alright. Just want to double check.

Khodadad: *I will second the motion with the additional findings that were presented to us by the experts Craig Hall, our city attorney and Clarence Kemp, our City Engineer.* We have a motion, do we have any discussion?

Hall: Madame Chairman, I want to make a procedural question.

Khodadad: Okay, thank you.

Hall: Since you seconded the motion with some amendments, do you accept those amendments that she...

Snow: I accept the amendments.

Hall: I did not hear that.

Khodadad: Okay, I'm sorry.

Snow: By the way, that's Matt Snow.

Khodadad: That was Matt Snow with the motion, Lori Khodadad with the second. We have a motion and a second with an amendment on the table. Is there any discussion? Okay I'll call for a vote. Troy?

Holbrook: Nay.

Khodadad: Matt?

Snow: Aye.

Khodadad: Paula?

Lowry: Nay.

Khodadad: Lori? Chair votes Aye. We're at a standstill.

Snow: So now what do we do?

Hall: The motion fails. Conceptual approval was not given. I don't think you need another motion to affirmatively deny it. I would anticipate a 2-to-2 vote on that anyway based on how you just voted. The request has been denied because of the failure of the motion. You need a 3-to-1 vote tonight or 4-to-0 for the conceptual approval to be approved. So it has been denied by in effect by your motion and the denial.

Khodadad: Okay, so now this can move forward.

(20:13:47) Chair Les Chatelain joined the meeting.

2. Holladay City Fire Station – 2210 East Murray-Holladay Road – Preliminary Site Plan – P Zone – Planner: Paul Allred.

(20:14:00) Community Development Director, Paul Allred, presented the staff report and stated that the recommended approval of the preliminary site plan for the Holladay City Fire Station. He discussed the details of the preliminary plan and stated that there is nothing in the plan that does not comply. His biggest concerns pertained to landscaping, fencing, and lighting. There was a slope issue on the west side of the building that had been addressed. Behind the fire station, there will be a storage building with space to work on vehicles. That building also complies with all setback requirements. Mr. Kemp added that there is no detention on the site, however, there is a storm drain on the south end that drains into the main storm drain on Murray Holladay Road.

With regard to fencing, the plan called for chain link, which staff felt was inappropriate. Mr. Allred stated that that issue would continue to be discussed until final approval is granted. His recommendation was for landscaping with a semi-open fence such as modified wrought iron material. The site was determined to meet the basic requirements for preliminary site plan approval. Details of the building behind the fire station were discussed.

(20:23:43) Mr. Allred stated that his biggest concern pertains to lighting. There are 12 light posts proposed; two at a height of 12 feet and one at 20 feet. There is not much detail as to how they will be controlled or the spectrum of the lighting. He prefers yellow light, as lighting is critical to aesthetics in the evening and has a significant impact on the neighborhood.

Fencing details and alternatives were discussed. It was noted that it may be possible to work with the neighboring property owners to replace the existing fencing.

With regard to the storage facility, Commissioner Holbrook inquired about the landscaping. If removed and converted into parking stalls, there could potentially be an opportunity to push the building back further. It was noted that the station is designed for the expansion. The radii turning in and around are such that large ladder trucks can easily maneuver on the site.

Commissioner Holbrook added that the setbacks are at the minimums, but theoretically could be rotated to match the rear property line.

Chris Jensen from Think Architecture stated that if the building is rotated, the entrance to the garage doors would be at an angle. The intent was to be able to store the back hoe, lawnmowers, and maintenance equipment and protect them from the elements. The radii are planned for trucks currently owned and used by the City as well as those that will be acquired in the future.

(20:32:00) Commissioner Chatelain asked about the choice of concrete. Mr. Allred replied that the price difference between the two is minimal and when the site plan showed asphalt for public parking and concrete for the rest, it was determined that there should be uniformity with one or the other. Concrete was chosen because it is more durable.

(20:33:22) Mr. Jensen detailed the pole lights that will surround the building and stated that what is proposed is full cut off lighting. As the light shines down, it shines into the project, but does not emanate 360 degrees.

The possible reduction of the height of a few pole lights was discussed. The height of those nearest the building will be reduced to 12 feet. The lights will come on automatically through a photo cell, and one of the control features will allow them to dim to 50% usage so the light levels will dim, or even turn off completely, around the perimeter. At night, those that are turned off will come on as a part of the alarm system. The alarm also disables gas to the stove, allowing the department to respond to an emergency and keep the building safe.

With regard to fencing, Mr. Jensen indicated that he was researching other options and materials. He agreed with Mr. Allred's suggestion for an open fence.

In response to a question regarding soft white lights, Mr. Jensen was not opposed to high pressure sodium yellow lighting, but noted that it is more costly. He added that LED lights come in a variety of colors, use less power, and enable more control with respect to dim ability. Yellow lights become very dull and dim over time and his preference was to keep something warm, but without the yellow color. Mr. Jensen described the physical details of the lighting and added that they are very historic and blend in very well.

Mr. Jensen next discussed the concrete and parking and agreed that it will work well. The plan originally proposed two 12-foot wide doors, which the City has since changed to a 16' by 14' door and a 14' by 14' foot door. There was discussion about the need for two extra wide parking stalls for dual axle trucks. A sidewalk will also be constructed at the front of the building.

(20:44:00) Commissioner Holbrook asked Mr. Jensen about the traffic signal relocation. He replied that the traffic signal will have to be relocated as the pole is where the driveway would be. Due to the nature of the intersection, a second pole further east will have to be placed in order to clear the area in an emergency. The City will take care of that directly.

(20:45:05) In response to a question raised by Commissioner Lowry, Mr. Jensen clarified that there will be lighting on the inside of the tower, around the perimeter, and between each of the windows. Lighting will be dimmed each night.

Commissioner Khodadad asked for clarification with respect to building colors and textures. Mr. Jensen stated that the building will have the historic nature of brick, detailed construction, and banding. Natural sandstone will be placed around the base of the tower and entry. The entry will appear to have wood columns, but will be made of fiber cement for longevity and give the appeal and look of historical natural wood. Asphalt shingles with metal caps and dormers will be placed on the roof. The fire doors will be custom open glass. The final color had yet to be determined but would possibly be a deep red. Mr. Allred noted that overall the building will be significantly lower than the junior high across the street. Only the tower portion will extend over the roof over the junior high.

(20:50:30) Commissioner Holbrook moved that the Holladay City Fire Station at 2210 East Murray Holladay Road meets the basic requirements for preliminary site plan approval as outlined on the City's checklist and complies with the standards and rules for development in the P-Zone. Items set forth in the staff report and addressed during this discussion have been resolved to the satisfaction of the Commission and the TRC. They shall be presented as resolved in the final site plan and approval shall be granted subject to the following:

Findings:

1. *Pavement. The site plan shows a mixture of asphalt and concrete. Staff recommends use of one material only throughout the site – concrete.*
2. *Fencing. Chain link is proposed. Staff strongly suggests this is not an appropriate type of material for this facility and location – at least at the moment. Staff further suggests that either a better material be used or that fencing the site at this time is not critical due existing fencing with abutting properties and the heavy landscaping proposed.*
3. *Landscaping. Staff suggests that the landscaped pad in front of the Public Works shop be eliminated and replaced instead with additional parking stalls including at least two 11 foot stalls to accommodate larger service vehicles. This is due, in part to more space being needed for the large overhead doors the building requires. This reduction of landscaping will necessitate a revision in the statistical table for the site plan.*
4. *Building elevations including materials, height, etc, should be prepared for the PC to evaluate as part of the overall site plan.*
5. *The observation space in the tower was previously open to the elements. Windows in the upper tower portion are now included. Staff supports this new design.*
6. *Some civil engineering details remain for the consultants to resolve with the City Engineer such as traffic signal relocation, utility matters, etc.*
7. *Staff desires to know why the Fire Station is not proposed to be internally sprinkled. As a public safety facility it would seem logical for it be protected by such a system.*
8. *Site Lighting. Staff has several concerns with the lighting plan in terms of the details of the plan such as color spectrum, intensity of lamps, and location of light poles, how the lights will work i.e. on timers, photocells, motion sensor, etc. With so many nearby dwellings on three sides of the site, the lighting must make*

sense and be sensitive to the neighbors first and foremost while providing the security and aesthetics vital to project.

9. *Architectural details such as colors, textures, etc, are not specifically the purview of the Commission for projects in this zone. However, it would be useful to understand to the extent possible what those materials will be.*

Recommendations:

1. *The site plan meets the basic requirements for preliminary site plan approval as outlined on the City's checklist as well as complies with the standards and rules for development in the "P" (Public) Zone.*
2. *Items discussed within the staff report and during this discussion have been resolved this evening to the satisfaction of the Commission and Technical Review Committee, or shall be presented as being resolved at final site plan stage.*

(20:52:35) *Chair Chatelain seconded the motion. Vote: Paula Lowry-Aye, Chair Les Chatelain-Aye, Troy Holbrook-Aye, Matt Snow-Aye, Lori Khodadad-Aye. The motion passed unanimously*

3. Deerwood Farms Exception- 2545 East 6200 South-Stream Set-back Exception-R-1-87 Zone-Planner: Jonathan Teerlink

(20:53:27) Jonathan Teerlink presented the staff report and stated that the proposal is for a stream exception for the Deerwood Farms Subdivision. Ten lots are proposed by developer Ron Gunnell, four of which are within 100 feet of Big Cottonwood Creek. Lots 1 to 4 requested the 100-foot stream exception rule be reduced to 50 feet. In this case, only private improvements are proposed within the 50-foot exception area, which would be a private lane. The private road would also serve as an effective buffer between the creek and the proposed homes. The applicant proposes to design the private lane so as to retain as many large diameter trees as possible. The developer is proposing to raise the grade of the road once it is fully developed to be above the flood plain, which creates an effective flood barrier for Lots 1 through 10. The TRC discussed the request with the applicant and asked the Planning Commission to review the findings and recommendations submitted by City Engineer, Clarence Kemp.

Staff recommended approval of the request based on Mr. Kemp's positive recommendation. It grants an exception to the 100-foot setback regulations and permits the development of Lots 1 through 4 of the Deerwood Farms Subdivision with single-family homes to be no closer to Big Cottonwood Creek than 50-feet to the high water mark. The recommendation also includes an exception to construct the private lane as approved in terms of alignment and width.

Mr. Teerlink next detailed the findings and requirements set forth in the staff report.

(20:57:44) Jim Raines, the applicant's Engineer, stated that a great deal of time was spent surveying and locating the major trees along the creek. He considered what is proposed to be a good compromise in that it protects the creek and maintains many of the trees.

(20:59:52) *Chair Chatelain moved that the Commission grant the exception to the 100-foot stream setback subject to the following:*

Findings:

1. *There is no stream alteration, nor disturbances to the bank or removal of significant trees.*
2. *The area where the building is to be constructed is not wetlands.*
3. *The proposal does not require review of other agencies.*
4. *The proposed buildings are out of the FEMA designated 500 year flood plain areas*

Requirements:

1. *Single-family home construction and accessory or ancillary building for Lots 1 through 4 are limited and located to be no closer than 50 feet from Big Cottonwood Creek as per the approved site plan.*
2. *The applicant must obtain and comply with applicable FEMA floodplain information. The flood plain information shall be indicated on the final plat.*
3. *No structures, pools, spas, etc. are allowed within the new 50-foot setback distance.*
4. *All future landscaping, flatwork, and grading, within the 50-foot setback area must be approved by the Community Development Director and City Engineer prior to work commencing.*
5. *Best construction management practices are to be followed to prevent pollution of water that may enter the stream system during construction. Specifically, a limit of disturbance fencing and silt erosion control fencing shall be installed at the top of the west bank prior to construction and maintained throughout the duration of project.*
6. *Conditions listed in the City Engineer's consent letter must be followed.*
7. *All construction-related improvements must follow current applicable Holladay codes.*

Commissioner Snow seconded the motion. Vote: Paula Lowry-Aye, Chair Les Chatelain-Aye, Troy Holbrook-Aye, Matt Snow-Aye, Lori Khodadad-Aye. The motion passed unanimously.

4. Deerwood Farms Subdivision – 2545 East 6200 South – Final Plat – R-1-87 Zone – 24 Acres – Planner: Rick Whiting.

(21:01:24) Mr. Whiting presented staff report and stated that the TRC has worked with the applicant and his engineer to resolve all of the outstanding requirements. UFA approved the request with additional requirements. A new element was submitted that was previously approved by the Planning Commission including items 11 and 12 from the previous staff report. The subdivision roads were to be reduced from 25 feet to 20 feet. It was determined that it is not necessary to go to the City Council to revisit an approval of the original road width exception.

Staff recommended approval of the final plat with the requirements set forth in the staff report. Staff recommended the Commission grant final approval, but delegate final details to staff and the TRC. Mr. Whiting detailed specific requirements outlined by UFA pertaining to function of the road width exception. With regard to property transfers, the original road width exception included a strip of land acquired on the east side of the access road that needs to be finalized and completed. Staff recommended the road width exemption granted by the City Council on January 19 be extended to the entire plat to allow the 20-foot wide road.

(21:08:24) Mr. Allred addressed several other concerns. The first pertained to plat note 26 that referenced the exception given in January to the Code modification by the UFA. Another concern was the release of utility easements. It was noted that the City Attorney and City Engineer will not accept the plat until those are made. The easements need to be released before the plat can be recorded so that the new easements take effect on the utilities.

Mr. Allred next addressed the 100-year flood plain and stated that it should be indicated on the final plat.

Mr. Allred reported that there are 37 easements, exemptions, and exceptions in the title report. The City Attorney indicated that the utilities must be released when the plat is recorded and with so many exceptions, he strongly recommended that as many as possible be removed. Some of the utility easements run through the center of the lots creating difficulty on the building footprints and affecting the sale of the lots. Old easements and agreements that can be resolved should be brought back to the TRC with a written report. It was noted that recording cannot occur until each of the 37 items is addressed in a written report.

Ownership of the narrow portion of land running from 6200 South to where the subdivision opens up has not transferred completely to Deerwood. Mr. Allred suggested that the TRC make sure it is not recorded. Any motion should be subject to the transfer of ownership. The City Council and Planning Commission were both agreeable to the exception of the road, but not if it is not owned.

(21:14:06) Jim Raines stated that the title issues are not ownership issues but rather, vesting issues. Over time, many were in other names, which Mr. Gunnell and his entities acquired. The easements are in various names, which Mr. Gunnell is the vested owner of. He has the right to release them. Once recorded, they will no longer appear on the title report.

With regard to UFA issues, the developer was aware of the sprinkler requirement. Each individual home plan will include space for the Fire Department to access and turnaround.

Mr. Raines addressed the gate issue and stated that the gate was originally proposed to be located at 6200 South. They have since moved the gate back into the cul-de-sac at the end of the lane. The entrance will consist of two gates with a large diameter turnaround. Mr. Allred proposed the possibility of recessing the gate another 40 or 50 feet, as it has continued to be an issue. If that were to occur, it was recommended that the gate be closed at night and left open during the day.

(21:20:45) In response to a question raised by Commissioner Holbrook, Mr. Raines stated that the waste company will go behind the gates and pick up garbage containers at individual homes.

Mr. Raines stated that according to Mr. Gunnell, the Hardy's concerns have been addressed and the developer is preserving as many trees as possible along their lane. Their garbage will also be collected at the end of their driveway along with the other residences in the proposed subdivision. The developer created an open space easement on the parcel that will restrict structures from being built there.

(21:23:39) Mr. Allred brought up the issue of snow removal and believed that even with the additional width, it will be difficult to remove.

Mr. Whiting attested to the fact that the concerns of the Hardys have been met to the extent possible.

Mr. Raines stated that Mr. Gunnell granted easements to the water company several years ago to put a new line into the property that looped all of the existing subdivisions. It created and eliminated many of the fire flow requirements. Their plans were to remove a line and relocate it in the new roadway. The water company has an easement that they prefer not to release until the new water line is in place but the plat cannot be recorded until the water company releases their easement. It was determined that the easement will be abandoned concurrent with recordation of the final plat.

With regard to head gate access, Mr. Raines clarified that they have expanded the easement and included the entire cul-de-sac. On the construction plans, they drew the head gates and canals in, so that lot one shows a significant encumbrance with a large irrigation easement. The developer included everything from the roadway to the creek in the irrigation drainage public utility easement.

Chair Chatelain asked if there was anything the developer could do over the next three weeks if the final plat is delayed. Mr. Raines replied stating that Mr. Gunnell is funding the subdivision and the funding is moving into an entity name. That funding is contingent on plat approval. The major items involving the transfer of ownership names cannot occur because the funding cannot take place without final plat approval.

(21:30:58) Commissioner Khodadad stated that there are still areas along the lane that haven't changed ownership. Mr. Raines replied that it is in the name of Mr. Gunnell and Moyle Park, LLC. The funds will change hands with the funding of the subdivision. For the time being, the plat cannot be recorded unless Moyle Park, LLC, signs because they are shown as an owner. It has not been excluded from the boundary and shows them as an owner.

Mr. Allred clarified that plat note 25 shows no connection between Providence and the Moyle Park Subdivision. In the discussions pertaining to development of the subdivision between Moyle Park and Ron Gunnell, there are stub roads between the Moyle Park Subdivision and Deerwood Lane. Both subdivisions do not desire a connection to Deerwood Farms. The note states that there shall be no road connection between this subdivision and the two immediately to the south. Mr. Raines stated that the plat was notated to reflect that.

Mr. Whiting suggested Commission include a provision in any motion to delegate to staff the responsibility of ensuring that all requirements are in place. Commissioner Khodadad disagreed with Mr. Whiting's suggestion due to the possibility of every requirement not being included. She recommended the Commission's desire be verbalized.

(21:39:24) Commissioner Holbrook moved to approve the final plat for the Deerwood Farms Subdivision located at 2545 East 6200 South be approved subject to the following:

Requirements:

1. *A final 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 for approval.*
2. *Flood plain mitigation measures will be required at the time of building permit application if the footprint of any proposed residence falls within the flood plain.*
3. *The applicant shall make every effort to preserve trees along the interior roadway as well as in the interior portions of the subdivision.*
4. *A shared road right-of-way easement and maintenance agreement must be prepared and recorded along with the final plat.*
5. *Receipt of a title report reflecting release of exceptions or clarification of exceptions on the property before final plat recording.*
6. *Payment of the balance of all fees required by the City.*
7. *A stream setback exception must be allowed by the Planning Commission for a 50-foot building setback from the creek on Lots 1, 2, and 3 before final plat approval may be granted.*
8. *All new homes built in this subdivision must include fire sprinklers.*
9. *This project will be reviewed by the Planning Commission for Final Plat approval.*
10. *The entrance lane shall be improved to ameliorate queuing.*
11. *The UFA and other bodies with a vested interest in public safety shall consider narrowing the road to match the narrowing requirements that have already been approved by the City Council on the southern portion of the road. The narrowing should be 20 feet for the entire horseshoe for the purposes of aesthetics and preserving trees.*
12. *If an exception is requested by the applicant (per requirement #11), the issue will go straight to the City Council and public notice shall be issued in a 500-foot radius and posted on the City's website.*
13. *Payment of the balance of all fees and/or bonding required by the City.*
14. *Receipt of one outstanding Utility Service Provider "Will Serve" letter from Comcast.*
15. *A street dedication will be required at 6200 South.*
16. *The applicant will be required to depict the 100-year floodplain (per FEMA) on the Final Plat Mylar to be recorded.*
17. *All Title Report Exceptions must be resolved or clarified on the Final Plat.*
18. *All new homes built in this subdivision must include fire suppression sprinklers approved by UFA.*
19. *Each home must have its fire suppression system inspected annually by the UFA.*
20. *Each lot must include a fire equipment turnaround per UFA specifications.*
21. *No parking on all the private roads throughout the subdivision and signs must be posted at appropriate places on the private roads.*
22. *The entrance at 6200 South must be flared to minimize traffic congestion entering and leaving the subdivision and to avoid conflict with traffic on 6200 South.*

23. *Proper signage must be posted near the entrance at 6200 South to minimize confusion of those who enter accidentally and discourage backing onto 6200 South.*
24. *All roads must have unencumbered clearance height of 13 feet 6 inches to accommodate public safety and utility service vehicles.*
25. *All roads in the subdivision are required to be built to City of Holladay quality and durability specifications.*
26. *Flood plain mitigation measures will be required at the time of building permit application if the footprint of any proposed residence falls within the 100-year floodplain. This will be specified per City and FEMA standards.*
27. *No road connection from Moyle Park and Providence subdivisions.*
28. *Contingent upon Deerwood Lane being in one ownership.*
29. *Road width exception granted by the City Council on January 19, 2012, for the access lane is extended to the entire plat to allow 20-foot wide roads.*
30. *Portion of Lots 7, 8, 9 labeled as open space shall be restricted to maintain landscape only. This is reference to an agreement between the subdivider and an abutting property owner.*
31. *All existing utilities must no longer in use shall be abandoned concurrently and prior to the recording of this plat.*
32. *Easements recorded by and shown on this plat shall meet the requirements of the utility providers.*
33. *Any other corrections that the Technical Review Committee (TRC) has found on the plat.*

(21:51:23) *Chair Chatelain seconded the motion. Vote: Paula Lowry-Aye, Les Chatelain-Aye, Troy Holbrook-Aye, Matt Snow-Aye, Lori Khodadad-Aye. The motion passed unanimously.*

5. Approve Minutes of the July 10, and 26, 2012 Meetings.

(21:52:02) The minutes of July 10, 2012, were reviewed and discussed.

Commissioner Holbrook moved that the July 10, 2012, minutes be approved, subject to the changes and clarifications submitted. Chair Chatelain seconded the motion. The motion passed unanimously.

(21:54:50) The minutes of July 26, 2012, were reviewed and discussed.

(21:56:27) Commissioner Holbrook moved that the minutes of July 26, 2012, be continued until the meeting of August 28, 2012. Commissioner Lowry seconded the motion. The motion passed unanimously.

The Commission discussed the details for the upcoming August 28 Special Meeting.

DISCUSSION ITEMS

6. Residential Building Corridor and Front Setback Code Amendment (continued) – Planner: Jonathan Teerlink.

(10:00:25) Mr. Teerlink presented the Residential Building Corridor and Front Setback Code Amendment to the Commission. He stated that after reviewing the Code, there was discussion

about what type of lot the building corridor will apply to. The intent was to determine the lot width and size. Mr. Teerlink stated that he reviewed nearly every lot in the City that was .75-acre in size and smaller and discovered that average was approximately the 80th percentile of the required lot widths that they were placed in. The development patterns of those lots were quite irregular. The lot width eliminated several properties. Mr. Teerlink added that there were over two thousand .75-acre lots that came up in his query.

He stated that when Code amendment recommendations are made to the Council, the Council wants to see in the staff report whether or not a note would be attached to it. The second type of home that would be applied to the building corridor averaging was any home built pursuant to a building permit issued on or after November 30, 1999. For homes newer than 1999, only the depths of homes higher than 20 feet are considered. It was his belief that this is contestable by community neighboring properties, due to the applicant having to provide a survey of those homes. For instance, if a neighbor is contesting the survey, Mr. Kemp would be sent out to survey all of the nearby homes, which is the cost involved to verify the survey. Mr. Teerlink noted that the City has such high resolution photography that he is able to access individual surveys from his desk. New imagery will provide one-half meter images as opposed to the previous one that showed three-meter imagery.

In response to a question raised by Commissioner Holbrook's, Mr. Teerlink replied that his query only involved .75-acre lots. He raised the issue about having a lot that is 80% or less of what is required. He also questioned whether a lot that is .75-acre but has the required lot width would apply. Long, deep, and narrow properties that have the required lot width and measure larger than .75-acre, would not apply.

(22:08:00) Commissioner Holbrook added that the issue with not taking that into account meant restricting someone who already has inherent limitations based on the lot layout. Those with narrow deep lots have difficulties and should be able to develop in some manner. Mr. Teerlink leaned toward applying this to every lot in the City, regardless of size. If a situation arises where it doesn't make sense to apply it, it could be overridden by the Community Development Director. The details of specific exceptions were detailed. Mr. Teerlink agreed to keep the Commission up to date and planned to present his findings at the next meeting.

(22:13:14) Mr. Allred noted that the discussion of ORD signs have been delayed due to the two moratoriums, the Village project, and the fire station which are currently taking precedence.

(22:16:00) Planning Commission Member term expirations issues were discussed.

7. **Residential Office Zone – RO Zone – Planner: Rick Whiting**

OTHER BUSINESS

8. **Updates or Follow-Up on Items Currently in the Development Review Process**

9. **Report from Staff on Upcoming Applications**

10. **Discussion of Possible Future Amendments to Code**

(22:26:45) Commissioner Lowry moved to adjourn. Commissioner Snow seconded the motion. The motion passed with the unanimous consent of the Commission.

ADJOURN

The Planning Commission Meeting adjourned at 10:27 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 21, 2012.

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

Teri Forbes, Minutes Secretary
T Forbes Group

Minutes approved: October 16, 2012