

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

**Tuesday, December 4, 2012**

**6:30 p.m.**

**Holladay Municipal Center  
4580 South 2300 East**

**ATTENDANCE**

**Planning Commission Members:**

Les Chatelain, Chair

Spence Bowthorpe

Chris Jensen

Lori Khodadad

Paula Lowry

Brad Wright

**City Staff:**

Paul Allred, Community Development Director

Rick Whiting, City Planner

**PRE-MEETING/WORK SESSION**

Chairman Les Chatelain called the work session to order at 6:33 p.m.

**1. Steve Luczack, Kodiak America, Requests a Brief and Informal Discussion about Appropriate Land Use and Zoning Options for his Property on the NW Corner of Holladay Boulevard and 6200 South to RO or Possibly NC.**

(18:34:20) Steve Luczack from Kodiak America stated that they own property near the Tuscan restaurant and across from the Cotton Bottom and Holladay Boulevard. The property has served as overflow parking for Tuscan in recent years. They own two building lots and Mr. Luczack asked for feedback on developing a low impact neighborhood friendly professional office space to include the overflow parking. Copies of the site plan were distributed.

In response to a question raised by Lori Khodadad, Mr. Luczack stated that they plan to leave the wall up in the event development occurs nearby. The landscaping will also remain. Mr. Luczack stated that they tried to blend the wall in with the landscaping. His understanding was that the preference would be to place the building on the front corner rather than the back corner of the property. He noted that there is a 50-foot buffer from the creek that will be landscaped. The desire was to place the building on the back half and the parking in the front behind the wall. Mr. Luczack stated that they have allowed Tuscan to use the overflow parking area for the past few years. The intent would be for the proposed office building to be in use during the day and allow Tuscan to use their parking area for overflow parking in the evening

Mr. Luczack indicated that a home across the creek needs to be shielded from vehicular lighting, which is why it is preferable to place all of the parking away from the creek. The building will resemble a residence and have a large parking area. The proposed office building could potentially be up to 40 feet high but their intent was to develop a single-level building with up to 4,500 square feet. No basement was proposed due to the proximity to the creek. Mr. Luczack pointed out that they are not in a flood zone. The proposed plan would allow for over 200 feet of landscaping along the creek in the rear of the property to buffer the proposed use from the neighbors.

(18:38:33) Mr. Luczack stated that they have received numerous inquiries about the proposed office building. He hoped to get feedback from the Commission before moving forward. It was noted that the infrastructure on the property is complete and includes fire, sewer, and road. The intent would be to gravel the area for the parking that exists. The property is currently laid out for two lots.

It was pointed out that the Commission has not yet made a recommendation to the City Council on the proposed RO Zone. Mr. Luczack was concerned that what is proposed will constitute spot zoning. City Planner, Rick Whiting, suggested Mr. Luczack instead explore the RM Zone, which would allow the proposed use and permit more flexibility with respect to where to locate the building. Community Development Director, Paul Allred, identified a potential complication with the RM Zone and stated that it allows for uses other than office once the zone is granted. He recommended a determination be made as to what the General Plan calls for. If the proposed use is different, a General Plan change should be considered in conjunction with the rezone.

(18:45:27) Mr. Luczack stated that the corner is a high traffic area and they have done all in their power to mitigate noise. He thought it made sense to utilize the corner as some type of buffer. Mr. Allred remarked that if the purpose of the proposed RO Zone is to convert older homes into offices, he is concerned that a cap on square footage suggested in that zone might mean that the RO zone is not a good choice. Traffic and access issues were discussed. Mr. Allred suggested staff meet with Mr. Luczack and discuss the various zoning options.

A poll of the Commission Members was taken and none were opposed to this type of commercial on the subject property. In response to a question raised about the neighbors to the north, Mr. Luczack stated that they have been contacted and the intent would be to construct a buffering fence. While the neighbors are not necessarily opposed to what is proposed, they would expect the developer to pay for the wall. He noted that presently the majority of the surrounding uses are commercial in nature. Only one neighbor inquired about the parking.

2. **Ryan Griffiths, Beecher Walker Architects and Melisa Wallentine, Sahara Construction, Requests a Brief and Informal Discussion about their Proposed Text Amendment to Potentially Allow the Building of a 120-Bed Assisted Living Center on the Corner of 5600 South and Highland Drive.**

(18:52:40) Ryan Griffiths from Beecher Walker Architects and Melissa Wallentine from Sahara Construction were present to discuss the development of property on the corner of 5600 South and Highland Drive. Mr. Griffiths stated that the Municipal Code as written does not allow Level 2 Assisted Living Facilities but does allow Level 1. The difference between the two was described. A Level 1 Assisted Living Facility allows residents who need help with no more than two activities associated with daily living per day such as showering and eating. Those who require additional care cannot reside at that type of facility. Mr. Griffiths reported that assisted living facilities typically almost always have both levels. He explained that the trend in assisted living is toward an “aging in place” philosophy that allows a more dignified way to retire in the home and prevents residents from having to move from one facility to another. It was noted that no skilled nursing care is provided.

Chair Chatelain recalled that the intent of the zoning was to include the type of facility that is proposed. He attributed the elimination of Level 2 to a lack of understanding of the difference between AL I and AL II. The Commission was supportive of a text amendment to include both classifications.

In response to a question raised by Mr. Allred, Ms. Wallentine stated that their proposed amendment would classify large and small facilities as conditional while the limited category will be permitted. In response to a question raised, Mr. Griffith stated that the proposed two-story building is approximately 110,000 square feet. The maximum height will be less than 40 feet. Fifty to 60 parking spaces are proposed for a ratio of .5 spaces per unit. Mr. Allred stated that he received a comment from an area resident physician who visits these types of facilities. His opinion was that there is not enough parking proposed. He was concerned that on holidays and weekends parking areas will overflow as a result of an increased number of visitors and staff. Mr. Allred recommended the project not be under parked.

Mr. Griffiths stated that the property owner's first priority is to do his due diligence in time to close on the loan. Without a text amendment there will be no project. Timing issues were discussed.

(19:06:00) The agenda items were reviewed and discussed. City Planner, Rick Whiting, stated that with regard to agenda item number four, the requirement to not allow employees should be adhered to.

Mr. Allred commented on agenda item number three and stated that with regard to the Holladay Village Plat Amendment, several residents are concerned about the map sent with the notice. Staff made an error on the map notice and many residents at first glance thought the map represented a change to all properties. Mr. Allred apologized for the confusion and mentioned that internally the notice problem had been discussed and resolved. He said he would explain the matter during the Regular Meeting.

Commissioner Lowry asked about the approval granted to Lynn Jones and how that will affect others going forward. Mr. Whiting stated that the fact that the City made an error on that matter, it does mean the city will the city is obligated to make similar decisions in the future

Chair Chatelain indicated that he would not be present at the next meeting. Vice Chair Khodadad was asked to conduct the meeting in his absence. He asked that the next agenda include the election of a new Chair and Vice Chair. It was reported that a Chair may serve up to two consecutive one-year terms. Chair Chatelain indicated that he had already served two terms.

(19:09:56) *Commissioner Khodadad moved to adjourn to the scheduled Regular Meeting. Chair Chatelain seconded the motion. The motion passed with the unanimous consent of the Commission.*

## **CONVENE REGULAR MEETING**

Chairman Les Chatelain called the meeting to order at 7:11 p.m.

## **ACTION ITEMS**

### **3. Holladay Village Plat Amendment – 4650 South 2300 East – HV Zone - Planner: Paul Allred.**

(19:12:05) City Planner, Rick Whiting, explained that the item provides an opportunity for the City to ensure that the property records are accurate and documented properly for this area of the city. He apologized to the public and stated that the map on the hearing notice was not prepared correctly. He stated that some worried that their property is affected, which is not the case.

He stressed that only Laney Avenue, the Plaza, and the Holladay Village Square will be affected.

In response to a question raised by Paula Lowry about the vacation of lots, Mr. Whiting stated that it is a function of the Planning Commission. There are several functions proposed tonight and the subdivision and vacation of lots is not something the City Council needs to approve. The Commission can approve those steps and recommend the remainder of the items to the City Council who will make the final decision.

19:16:36) Community Development Director, Paul Allred, reported that the City Council is scheduled to hold a public hearing on the issue at their next meeting on Thursday. The Planning Commission approves subdivisions in the City of Holladay but the Council approves subdivisions where there is an acceptance of a new street or when there is a vacation of a street or public right-of-way. In this case, the Planning Commission is considering the vacation of the subject lots from the Peony Gardens Subdivision and condensing them into one lot, which will be called the Holladay Village Plaza Subdivision. Because Holladay Boulevard used to go to the intersection, it no longer functions as a street where the Plaza has been built. Going forward it will be called the Holladay Village Plaza and limited to public use. Mr. Allred reported that a new section of Laney Avenue now goes to 2300 East. The City Council was charged with accepting the new public right-of-way. The next step is to accept Parcel B, which will be dedicated to the City from the Holladay Village Plaza developer.

It was staff's opinion that there is no measurable negative impact to the community or private property as a result of the proposal. Staff recommended approval.

(19:21:17) Tom Henroid from Rockworth Company addressed the utilities on the 7'x 7' parcel, Parcel B.. His understanding was that it consisted of City-owned power and the City would continue to maintain and access it. Mr. Henroid stated that there was some urgency to proceed since they have broken ground and have begun construction. Because the parcels are not consolidated, the contractor cannot properly register his construction interest against the parcels in the State Construction Registry. He commented that the City has been good to work with.

Chair Chatelain opened the public hearing.

(19:28:15) Ron Hilton gave his address as 2121 Kayland Way and asked how what is proposed will relate to the proposed Mid-Block Road. Mr. Allred responded that the Mid-Block Road is currently included in the Master Plan but the City does not own the property. The proposed road perhaps runs 360 to 400 feet between Laney Avenue to Murray-Holladay Road. The Mid-Block Road, as proposed on the developer's site plan, is on the border of the project. The City continues to be committed to the project and has received approximately \$860,000 in federal money for the development of Mid-Block Road. The City has time to decide how and when to build it.

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

(19:31:00) *Commissioner Wright moved to approve the following items as recommended by staff:*

- 1. The vacation of Lots 18 to 25 of the Peony Gardens Subdivision for the purpose of allowing this land to be placed into a new subdivision, the Holladay Village Plaza Subdivision*

2. *Recommend approval of the Holladay Village Plaza Subdivision as proposed on the plat submitted to the City and as reviewed and approved as to its form and content by City Attorney, Craig Hall.*

*Commissioner Khodadad seconded the motion. Vote on motion: Spence Bowthorpe-Aye, Lori Khodadad-Aye, Paula Lowry-Aye, Chris Jensen-Aye, Brad Wright-Aye, Chair Les Chatelain-Aye. The motion passed unanimously.*

**4. Health Wave, LLC – 6032 La Tour Street – Conditional Use Permit – Home Occupation with Customers – R-1-10 Zone – Planner: Rick Whiting.**

(19:34:57) Mr. Whiting presented the staff report and stated that the request is for a conditional use permit home occupation with customers. The applicant was identified as Karen Thorsen who would like to conduct her business, known as Health Wave Physical Therapy, from her home. Mr. Whiting reported that Ms. Thorsen currently has a professional practice and is fully licensed and board certified. She has practiced in a commercial location for many years and now wants to move her business into her home on a limited basis. She expects to have two to six clients per day between the hours of 7:00 a.m. and 7:00 p.m. Ms. Thorsen will regulate parking so that it is limited to her driveway. Staff's analysis showed that the use would have very little impact on the neighborhood. Notice was sent to property owners within a 500-foot radius and City staff received no objections or concerns.

Mr. Whiting stated that clarification was needed on the desire to have an affiliate help Ms. Thorsen on occasion with the colon hydrotherapy. Ms. Thorsen was informed that that would not be permitted as part of the home occupation.

(19:41:00) Ms. Thorsen stated that her operation would be very small and indicated that she has worked successfully as a licensed Physical Therapist for over 20 years without incident. With respect to the colon hydrotherapy, she has operated without incident in the State of Utah for over 10 years. She explained that the governing body over Colon Hydrotherapy is the International Association for Colon Therapy as there is no state licensing or supervision of that practice. Currently there are only three states that have any sort of regulation. In response to a question raised with regard to Health Department inspections, Ms. Thorsen stated that there are none. If she was a Massage Therapist inspections would be required but they are not because she is a Physical Therapist.

Ms. Thorsen explained that colon hydrotherapy is more commonly known as a colonic and involves the gentle introduction of water into the large intestine for the purpose of cleansing, soothing, hydrating, and tonifying. The system in her home was professionally installed by a plumber and is sanitary.

With regard to parking, Ms. Thorsen stated that her driveway is long and comfortably accommodates six vehicles. She personally spoke to her neighbors to the north and south and neither had concerns. Ms. Thorsen indicated that she has lived in her home for about four years and that a session typically lasts one hour.

(19:47:27) Chair Chatelain opened the public hearing. There were no public comments. The public hearing was closed.

Issues relative to hours of operation were discussed. In response to a question raised, Ms. Thorsen agreed to the requirement that she have no employees. Health and safety issues were discussed. Ms. Thorsen stated that she did her own remodeling. Although she had a plumber install her colon hydrotherapy machine, she installed her own bathrooms, sinks, and toilets and did not obtain a permit as she was not aware they were necessary. In this case, she used the existing plumbing and did nothing beyond what would normally occur in a bathroom remodel. Mr. Whiting stated that if plumbing or electrical is impacted a building permit is required. He noted that in this case the permit issue could be addressed separately.

*(19:56:40) Commissioner Lowry moved to approve the conditional use permit home occupation with customers for Health Wave Physical Therapy, applicant Karen Thorsen, for the home occupation located at 6032 La Tour Street. Approval was subject to the following:*

**Findings:**

- 1. The proposed Conditional Use Permit provides a service to citizens in the community;*
- 2. Approval would pose no measurable detriment to the healthy, safety, or general welfare of the people living in the neighborhood;*
- 3. The applicant is licensed in the State of Utah and certified by professional boards;*
- 4. The applicant can accommodate off-street parking of her customers;*
- 5. There will be no occasional or limited personal assistance. The applicant will work alone.*
- 6. The use is low impact.*

**Suggested Requirements:**

- 1. Parking for all customers shall be accommodated in the applicant's driveway.*
- 2. Appointments shall be spaced such that no client is ever required to park on the street.*
- 3. A maximum number of six clients per day may be allowed.*
- 4. The use must be licensed by any and all applicable governing bodies such as the State of Utah, City of Holladay, etc.*
- 5. No employees are allowed who do not live in the home.*
- 6. Clients shall not be allowed to come to the home prior to 7:00 a.m. or later than 9:00 p.m.*
- 7. No advertising signage is allowed on the property.*
- 8. The building permit for the additional plumbing requirements for this business shall be obtained by the applicant.*

*Commissioner Jensen seconded the motion. Vote on motion: Spence Bowthorpe-Aye, Lori Khodadad-Aye, Paula Lowry-Aye, Chris Jensen-Aye, Brad Wright-Aye, Chair Les Chatelain-Aye. The motion passed unanimously.*

**5. Approve 2013 Planning Commission Meeting Schedule.**

*(20:01:00) Chair Chatelain identified possible changes to the meeting schedule. He suggested meetings be held at 6:30 p.m. with work meetings to commence at 6:00 p.m. It was decided, however, to keep the same schedule as currently observed.*

*(20:04:15) Commissioner Bowthorpe moved to approve the Planning Commission Meeting Schedule as outlined and that meeting times remain the same unless special scheduling is required from month to month. Commissioner Wright seconded the motion. Vote on motion:*

*Spence Bowthorpe-Aye, Lori Khodadad-Aye, Paula Lowry-Aye, Chris Jensen-Aye, Brad Wright-Aye, Chair Les Chatelain-Aye. The motion passed unanimously.*

**6. Approve Minutes of the November 7, 2012 Meeting.**

(20:06:45) The minutes of November 7, 2012, were reviewed and modified.

*Commissioner Jensen moved to approve the minutes of November 7, 2012, with the changes discussed. Commissioner Khodadad seconded the motion. Vote on motion: Spence Bowthorpe-Aye, Lori Khodadad-Aye, Paula Lowry-Aye, Chris Jensen-Aye, Brad Wright-Aye, Chair Les Chatelain-Aye. The motion passed unanimously.*

**OTHER BUSINESS**

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

(20:15:11) Mr. Whiting reported that the assisted living proposal is moving ahead aggressively. The applicants wanted to make application for site plan review while the text amendment went through. The request was denied on legal grounds since the project cannot be allowed to move forward until the basic underlying zoning is approved. Procedural issues were discussed. Mr. Whiting stated that conceivably the applicants could be ready to apply for building permits as early as March or April of next year.

Mr. Whiting stated that staff tentatively plans to address the RO Zone at the next meeting as a discussion item. The expectation was that it will be up for public hearing early next year.

At the request of Commissioner Lowry, Mr. Whiting summarized the Town Hall Meeting facilitated by the Mayor where Highland Drive was discussed. Councilman Palmer presented the background after which public comment was encouraged. Initially those who spoke were very opposed to any change but as the meeting progressed, the mood seemed to change and Highland Drive property owners seemed to support having options. Those with property off of Highland Drive generally objected to making changes.

(20:23:33) Chair Chatelain reported that he and Commissioner Khodadad were invited to meet with the Mayor earlier in the week to give feedback and discuss the formation of a committee to further study the Highland Drive issue. The Mayor stated that the intent of the committee was not to undermine the efforts of the Planning Commission in any way. He also expressed appreciation to the Planning Commission for the work they do and commended them for their efforts.

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

(20:25:07) Mr. Allred updated the Commission on the Orchard Hollow Subdivision and stated that the applicant is looking to find ways to resolve the outstanding issues. They are currently weighing their options. Mr. Whiting reported that he received a call earlier in the day and was told that the applicant is looking at creative ways to make the project work and are serious about getting the full value out of their property.

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

**ADJOURN**

(20:28:30) As this was Commissioner Lowry's last meeting, she was thanked for her service. Mr. Allred commended Commissioner Lowry for her efforts.

Commissioner Lowry asked for an update on the tribute proposed for Cyrus McKell. Mr. Allred

stated that money is set aside in an account for that purpose. The idea was to plant a tree(s) in his honor. Mr. Allred recommended Commissioner Lowry submit a letter to the Mayor and City Manager encouraging them to proceed with the tribute. He reported that there was money set aside from the fund that precipitated the annexation of the west Highland Drive area for this purpose

***(20:38:23) Commissioner Lowry moved to adjourn. Commissioner Bowthorpe seconded the motion. Vote on motion: Spence Bowthorpe-Aye, Lori Khodadad-Aye, Paula Lowry-Aye, Chris Jensen-Aye, Brad Wright-Aye, Chair Les Chatelain-Aye. The motion passed unanimously.***

The Planning Commission Meeting adjourned at 8:40 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, December 4, 2012.***



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Teri Forbes, Minutes Secretary  
T Forbes Group

Minutes approved: 12-11-12