

Comments to the Holladay City Council

Re: Holladay Village Appeal and Advisory Committee Report – 11.4.10

I am grateful to have the opportunity to speak with you about Holladay Village and respond to the input you had last week from the advisory committee.

While I am sure it is no surprise to that I would have preferred to be under construction by now, and so sending this project to an additional review process, after the many it had already been through, was not my version of a great idea. Nonetheless, it has been interesting and in some ways rewarding to meet with these good people. I am appreciative of the chance to get input and get acquainted with each of them. The advisory committee is composed of quality individuals working hard and spending considerable time without reward except the knowledge they are trying to do the right thing for the City.

We too have spent considerable time trying to do what is right for the City. In fact we have spent 5 years. Not that it hasn't been a blast, but it is time to move forward.

I want to stress that when we describe our efforts as trying to do what's right for the City, that is what's right on the City's own terms. We have diligently and faithfully responded to first, a vision statement, and second, a zoning ordinance that are both of the City's creation, both duly codified by the City following the normal and customary process.

The plan that is before you, the plan that is the subject of the appeal, has found overwhelming approval at every stop along the way in the approval process with the planning commission and the design review board. I am grateful to the committee who in their report last week acknowledged that this is a proposal without fault vis-à-vis the City's requirements and process. But beyond that, the committee also acknowledged that this is exactly what the City has asked of us. We have no flaw except having done what was directed by the City.

A further word about the process to this point, years of hearings, hundreds of drawings, and hundreds of thousands of dollars spent, it has been exhaustive, it has been inclusive and it has been comprehensive. No short cuts...this plan was

mulled over, raked over, looked over and torn apart and put back together again, and in the end is the right thing for the City.

In direct response to the committee report last week...much of the input you heard was based upon a flawed assumption. It was repeated over and over that the City is “putting in” the land. That simply isn’t what is happening. Cowboy Partners is paying \$1.3MM for the land the City owns. If the City would like to define that as the entirety of the transaction and allow us to build under the constraints of the existing ordinance...OK. But that is not what the City has demanded of us. Rather, the City has demanded control over the retail parking deck and has demanded that the City define the nature of the development...and that is OK because that is the bargain we struck. When we made our proposal we said, in effect, we’ve heard what you want and this is what we’d do in response to that, and here is the cost to give you that for which you’ve asked. That is indisputably the agreement. For example, the City wants retail on the plaza, we agree, that’s a good idea. The plaza is the heart of the development...that’s why we first proposed it as part of the plan and as vital to fulfilling the vision. I think the first of you to really twig to the value of the plaza was Jim Palmer who in very earlier planning commission meetings referred to our “own little piazza”.

The site can be developed differently, but it wouldn’t match the intent of the Village Center ordinance.

To have retail on the plaza we have to provide on-grade parking. That means a parking structure or it means massive retaining walls and fill. To us, and this is reflected in the proposal we made which you accepted. In our opinion, the operative question is why do the fill and retaining walls if for a modest additional investment you can get the desired outcome in a more aesthetically pleasing way and which doubles the parking? Given the options, the best choice is clear, hence our proposal to the City to share the cost (not cover the entire cost, but share the cost) of the parking structure. The City’s investment in the parking structure is simply the cost of getting what you want, what you demanded, that’s design control and access.

I’ll move to responding more directly to the 3 scenarios covered by the committee. I need to stress, I didn’t come to pick a fight, I didn’t come to argue, but I need to express a different perspective.

You heard about a plan under which retail-only was described as viable. At some cost, yes I suppose it would be viable, but as you heard from the committee, this is not a class "A" retail site and it won't command class A lease rates. Yet everyone expects class "A" design and materials. You heard it said directly from the committee that the site will attract modest rents, even as compared to property as close as Highland Drive. Those modest rents are significantly below the rents needed to make debt service, let alone provide an investment return, on the cost of new class "A" construction, yet the plan was described as viable. That's a conclusion that one just can't draw from the factors presented. Further aggravating against a retail-only scenario is the cost of remediating the parking situation. You cannot park "down the hill" and expect retail to work, so we are right back to the need for a structure or significant fill and retaining walls. Only now, you are amortizing the cost of the land and the cost of the parking structure over significantly less income producing lease-able space than in the plan that is approved...all of the costs and only a fraction of the revenue to offset it.

The term used earlier to describe the retail-only plan is viable, but at what cost, and when did viable become our objective? Thriving, vibrant and vital are the goals, not viable.

In what was described as the mixed-use plan you heard an acknowledgement of a concept we have been describing for you for a long time. Quite simply, the inclusion of residential into the mix dramatically enhances the outlook for success of the retail space. It is a matter of using the site efficiently, getting the most out of the investment in a parking solution and putting people in the mix to animate and enliven the development. The suggestion from the committee was, I believe, that there be 20,000 feet of retail and approximately 50 apartments. Now interestingly enough, one of the scenarios we demonstrated to the committee was 21,000 sq. ft. of commercial/retail and 58 units, so the basic notion isn't too far out in left field, but the problem is that once I have 20,000 sq. ft. of retail, and I have parked it, there is no way to get 50 units on the site unless at least some of them are on top of retail, and that was specifically discouraged by the committee.

We heard from the advisory committee some analysis of the concept of residential over retail. Given the high profile of the Gateway project where we did 482 units over retail, and where that housing has been enormously successful, I

was surprised to hear the committee say they are not aware of anywhere in Utah that it has worked. Further, when the committee addressed the challenges of vertically integrating residential and retail the only issues raised ran to the impacts on the residential piece... and included questions of noise and smells and lights from commercial affecting residential. There was absolutely nothing identified that results in a diminution of the retail property by the inclusion of residential above. I am quite willing to wager a chocolate donut that no one ever has been heard to say about the Gateway, I'm not going to shop there, or I'm not going to eat dinner there because there are apartments above. If we all agree that residential development is an important bit of this and if we all agree it has no negative impact on retail, where's the rub?

As I mentioned earlier, the committee was unable to find any merit to the appeal before you regarding the approved plan. I'd like to speak to that approved plan. Have you taken note that the retail component of all three scenarios is relatively constant? In other words, the sales tax benefits to be derived by the City are, in terms of potential, very much the same from scheme to scheme. The variable being, to what degree does the retail succeed? We also heard that the inclusion of residential development enhances the retail development in several ways and is therefore an important consideration in doing our best by the retail component of the plan. Hence, we are back to the wisdom of the approved plan. This is the plan that utilizes the parcel most cost efficiently, it is the plan that does the most to ensure the vitality of retail and it is the plan which therefore maximizes the benefits to the city, both in terms of revenue generation and minimizing costs.

The question has come up about replacing residential with office. Of, course we've considered that concept. However, what aggravates so directly against expanding office use on the site is that it consumes parking at a rate that is approximately 2 to 2.5 times the parking utilization of residential. We worked very hard and for a long time dialing-up the right balance of parking and retail and residential uses and adding office does not improve on that equation.

Also mentioned was the notion of age-restricting the residential piece. As I address that potential with you I am cognizant that I am now old enough to qualify to live in age-restricted housing. The term that was applied to the population in age restricted housing is "gentle", and I accept that. But the attributes that are most important to this development and therefore most

significant to this discussion are what cohort is most likely to pay the highest rent to live there, that is how the subsidy for retail is created, and what population is most likely to patronize the shops and restaurants...no disrespect at all, but those are not the attributes of an age restricted community.

As I started out, we have worked very hard in bringing this plan to the point it is fully approved. We are grateful for the support and approval from the planning commission and the design review board, I am grateful to the City Council for having accepted our proposal several years ago. In light of all of the work by so many to give the City what it wants, we are disappointed to be here at this point in time. We'd much rather be planning our grand opening.

We have considered very carefully and with great soberness the analysis presented by the advisory committee and we respectfully come to very different conclusions. The facts, the realities of the site, the design constraints to be managed and the market forces considered, simply do not support the conclusions offered.

But you know what, our hearts are in the same place they were when we started, we want to do the right thing for the City. We bought into the vision whole hog. Given all that we know, all that we have learned from this process and all that we have learned from our very considerable experience, the approved plan is what is right for the City. Nonetheless, if the vision for a vibrant, exciting and economically resilient Village Center has changed, we're listening.

Thank you, and thanks again to the committee.

We respectfully request that you set aside the appeal and allow us to proceed with the approved plan.