

**MINUTES OF THE CITY OF HOLLADAY
PLANNING COMMISSION MEETING
Tuesday, April 18, 2017
7:00 p.m.
Holladay Municipal Center
4580 South 2300 East**

ATTENDANCE:

Planning Commission Members:

Matt Snow, Chair
John Garver
Ann Mackin
Marianne Ricks
Alyssa Lloyd

City Staff:

Paul Allred, Community Development Director
Jonathan Teerlink, City Planner
Meagan Booth, Associate Planner
Shay Smith, City Engineer

PRE-MEETING / WORK SESSION

(18:32:15) Chair Matt Snow reported that the Oakwood Villa Estates PUD Plat Amendment was continued from the last meeting. City Planner, Jonathan Teerlink, reported that the applicant, Bill Diamant, purchased Lot 8, which contains a tree and slope protection area. Mr. Diamant was requesting a plat amendment to change the area to accommodate the proposed home. All members of the Homeowners Association (HOA) were present at the public hearing in support of the application. A few property owners to the east emailed comments to staff acknowledging that they are aware of the tree and slope protection area. They asked that the City maintain it as written. There was discussion about the intent of the slope protection area and ultimately the matter was continued. Mr. Diamant emailed his rebuttal to the Commission.

Community Development Director, Paul Allred, reported that this was one of the first projects he worked on after being hired by the City. The decision was not easy for the previous Planning Commission at the time. One of their goals was to protect the trees and slopes. They did not want construction to occur on the slopes and destroy the trees. The previous Planning Commission did not give direction as to what happens when trees within the protection area fail by either being diseased, dead, or destroyed. They also limited the height to 28 feet at that time. Two home projects later requested, and were granted, additional height.

Mr. Allred explained that because of the PUD, the previous Planning Commission wanted to place conditions on the request. The desire was to protect as many of the trees on the property as possible. The slopes to the west are steep and they were concerned about erosion into the canal down below and dust problems. Mr. Allred stressed to the original developer the importance of keeping the trees on the property alive. At the time, the City could not require the developer to provide the necessary water to maintain the trees, even though numerous reminders were given to Mr. Tholen over the years, and, as a result, many trees on the site were lost. Mr. Allred did not believe it was justified to give the developers any leeway, particularly in light of what is taking place with tree canopy loss in the City. When Mr. Diamant purchased the property, he was aware of the restrictions on the plat. Mr. Allred did not consider lack of maintenance over the years to be justification to allow what Mr. Diamant is requesting.

Commissioner Garver commented that it is possible to design development on slopes in a manner that would create a better result. He considered it inaccurate to claim that it is impossible to design on slopes of 30% or greater. One of his concerns with the proposed home elevations was having one continuous wall three stories tall. He questioned whether the City allows that.

Chair Snow asked how accurate the neighbor's claims were about the original conditions not being adhered to. Mr. Teerlink stated that the list was not entirely accurate. For example, it was claimed that variances were granted for each individual home because the applicant could not meet the standards written into the ordinance. Mr. Teerlink clarified that those requesting to exceed the 28-foot height limit were instructed to request a height amendment for each lot. Those requests were assessed individually. Mr. Allred explained that Mr. Diamant built the first home and there has been a lawsuit for some time about tail water coming from Ms. Brown's property next door onto that property, which has since been sold. Mr. Allred reported that there were trees removed on 3990 South as a result of the tail water issue. The property owner submitted a plan to plant new trees and they maintained many of the trees that were there.

Mr. Allred stated that the matter is more complicated than it seems and there is frustration on the part of the applicant toward the City and the City toward his builder for allowing tail water onto the property.

Commissioner Ricks commented that trees that existed in 2016 are no longer there. The trees were thought to have been volunteer Elm or Birch trees. Based on the previous image, it was estimated that there were once 8 to 10 tree canopies. Mr. Teerlink pointed out that the no-build area is essentially the defacto rear yard setback.

Mr. Teerlink commented that the plan Mr. Diamant presented at the last meeting did not include more than 60 trees being planted on the site. Possible options were discussed. Mr. Teerlink explained that a previous Planning Commission granted flexibility in setbacks as a tradeoff for protecting a slope area. A question was raised as to whether flexibility of the setbacks would be lost if the slope area is eliminated. Mr. Allred questioned what the justification would be for allowing the modification. He explained that the applicants are essentially asking to amend the conditional use permit. To do that, findings are necessary. The only way he could see that happening would be to require that 1 ½ to 2 trees be planted to replace the trees that were lost.

Mr. Allred commented that the fact that someone put the effort into clearing the property for building is a violation of the intent and the letter of the plat. Possible options were discussed. Mr. Allred suggested that the City refuse to grant a building permit until the plat requirements are met. One possible finding could be that the applicant is in violation of the original plat and the situation needs to be rectified.

The proposed Park Accessory Buildings were next discussed. Mr. Teerlink reported that about four months ago a text amendment was adopted pertaining to accessory buildings in the P zone. It was later discovered that the majority of the proposed buildings would not comply with the current language. As a result, a specific text amendment was adopted to address the ability to allow for flexibility in setbacks.

Associate Planner, Meagan Booth, stated that a site plan was drawn to show where the buildings will be in compliance with the two Code requirements. The accessory building will serve as a picnic pavilion with tables. There will also be a storage shed near the castle house that will be used for the storage of sports equipment, etc. Setback and other requirements were identified.

(19:04:12) *Commissioner Ricks moved to close the Work Meeting. Commissioner Garver seconded the motion. The motion passed with the unanimous consent of the Commission.*

REGULAR BUSINESS MEETING

1. CONVENE REGULAR MEETING – Public Welcome and Chair Opening Statement.

Chair Matt Snow called the Regular Meeting to order at 7:06 p.m. and read the Chair statement.

ACTION ITEMS

2. Oakwood Villa Estates PUD Plat Amendment – 3958 South Woodline Drive - CONTINUED.

(19:07:55) City Planner, Jonathan Teerlink, reported that the matter was continued from the last meeting due to additional concerns from the Planning Commission including the following:

1. No direction from the previous Planning Commission as to what happens when the trees within the protection area fail or are removed.
2. Regardless of decision a collective desire from the Planning Commission to have time to discuss how protect the intent of original conditional approval for the PUD.
3. No indication on the drawing of plan to plant the number of trees mentioned by the applicant.
4. Proposed retaining wall heights. Max heights of retaining wall in rear yard setbacks are limited to 4 feet.
5. Needed clarification on footing detail for the deck.

Mr. Teerlink reported that the applicant, Bill Diamant, prepared a response, which was provided to the Commission.

Marianne Ricks was pleased that the Commission had an opportunity to consider the issues and potential options to mitigate the negative impacts.

John Garver stated that at the last meeting he was concerned about overturning something that a previous Commission put a great deal of thought to. He did not believe there was anything that would justify overturning what they have put in place. He was not inclined to approve the request.

Chair Snow's understanding was that a slope protection was put into place and the reason the trees were supposed to be protected was because the root system acts as a reinforcement for the slope. The Planning Commission had not seen anything that specifies that the intent of the original

condition would be satisfied. Even though the trees no longer exist, the issue still needs to be addressed.

(19:14:30) Community Development Director, Paul Allred, reported that he was the staff planner on the project 11 years ago. He reinforced the staff recommendation presented by Mr. Teerlink. Mr. Allred indicated that he walked the site long before any homes were built. He stated unequivocally that the slope protection is there for good reason. The protection of the tree canopy was very important at that time to the Planning Commission. The intent of the PUD and the prior Planning Commission decision should be enforced. Mr. Allred reported that he is one of the few people remaining who reviewed the original PUD. He recalled specifically speaking to the developer on multiple occasions, both on site and in the City Office, and requested that the developer keep the trees in the development watered, in order for the slope protection to be maintained.

It was noted that all of the property owners knew or should have known of the slope protection requirement before purchasing the property because of the plat that was filed. There was also discussion that the developer would be responsible for watering the trees, even during drought years, until the HOA takes over, pursuant to the PUD. Once that occurs, the homeowners should be incentivized to make sure that all the trees and slopes in the development are protected, so as to maintain the original PUD and the conditional use. The responsibility to follow the PUD does not go away if the developer is “out of the picture” but merely transfers the responsibility to the homeowners, which should be the purpose of the HOA. Mr. Allred pointed out that another reason the slopes should be protected is to regulate water runoff in the canal as well as other property. Mr. Allred reported that the prior Planning Commission studied the plat and the individual lots and it was contemplated that homes of varying sizes would be built. Mr. Allred reiterated that he walked the property multiple times and reported that there was good reason for the restrictions in the PUD.

(19:23:31) The applicant, Bill Diamant, responded to the comments made by Mr. Allred and the Commission.

Brent Wood, developer, addressed the tree canopy and stated that Scrub Oak is there now, which is not the type of tree that was contemplated as part of the “tree canopy”. On that side of the property, there were no mature trees. When the lot was cleared, the plan was to plant 30 to 40 Evergreen trees to help protect the slope area. The applicant corrected his statements from two weeks ago regarding the number of trees he replaced. He reported that he originally replaced five trees that were diseased or dying with 12 trees. He also planted 77 new trees around the old home on the site. He mentioned that all of the homeowners want the slope to be protected and all have a vested interest in protecting the slopes. The applicant reported that he has four building lots left to sell, but he no longer builds homes. He reported that he reviews all of the rules and regulations with future lot owners before each sale. He does not want any rules broken going forward. Mr. Diamant argued that that the proposal is a nice improvement of the space and that the proposal will improve the overall development. He asserted that the proposal has the support of the HOA. Laws can be improved and changed in order to progress and grow. The lot will require a unique home that will protect the slope and beautify the area, without breaking the rules. Mr. Diamant requested that the Planning Commission approve his application.

There was discussion regarding the type of trees that existed on the lot in 2005. The Planning Commission asked Mr. Diamant whether his lot was currently in compliance with the PUD and commented that it appeared not to be. Mr. Diamant admitted that it was “scrubbed” of scrub oak or small trees that were originally on the lot, and that the lot did not have mature trees. The Planning Commission commented that the “scrubbing” of the trees was a restriction on the plat.

Mr. Allred stated that the proposal to fix the damaged hillside and removed trees was an improvement on the property. It was suggested that the matter be continued to allow the applicant to come up with a landscape design to retain the slope, protect the canal, and meet the spirit of the PUD. Concern was expressed among the Commission that allowing the applicant to do what is requested would open the door to any applicant making changes to the PUD and circumventing the requirements. The Planning Commission and the applicant both had the desire to plant better quality trees and protect the slope with a combination of retaining walls and trees with roots. The desire was to make the lot safe with a retention wall and trees.

Commissioner Ricks was concerned about the overlap and suggested they honor the original agreement and the rules that are in place. There was discussion about Mr. Diamant moving the home to a different portion of the lot, however, he had spent a large amount of money on engineering plans to make the lot safe and the home blend into the community. If the home is relocated, it would not blend in to the neighborhood. Mr. Diamant wanted to do the right thing to be in compliance but commented that with the requirements, the result will be an eyesore. He wanted to start over and do the project right with the trees and retaining wall that will project the slope. Commissioner Garver commented that in order for the home to make economic sense it needs be large enough. He noted that the lot is unique and the home needs to be sized down to fit the space without encroaching on the slope. Possible options were discussed. Mr. Diamant comment that the minimum square footage is 2,400 square feet and he is proposing 3,000 square feet. Another solution was for Mr. Diamant to get approval from the HOA to change the setback to be within 10 feet of the road. Mr. Diamant saw this as two separate issues; the planting of trees in the slope zone and the house plan.

(19:52:40) Mr. Allred clarified that the original conditional use did not envision structures on the slope, including the homes, beyond the line. He stressed that his understanding from the beginning was that the slope and trees were not to be disturbed. The issue was as matter of honoring what the subdivision originally set out to do.

Mr. Diamant argued that others have received approval to do what is requested. He did not see the applicant of the other request having the same problems. He indicated that he modeled his proposal after that request. Mr. Teerlink clarified that the owner of Lot 11 made a request but never went on to the Planning Commission or moved forward.

Mr. Diamant asked for guidance and direction from the Planning Commission going forward. It was suggested that the slope be mitigated through terracing. Mr. Allred suggested that a Landscape Architect be consulted with. Mr. Diamant reported that the plan before the Planning Commission was designed by a Landscape Architect. The intent was to put as many layers of trees between his home and the street as possible. Commissioner Lloyd asked for details on the specific types of trees proposed since columnar trees have columnar roots and will not hold the

slope like a traditional canopy tree would. She also recommended there be more than a single row of trees at the rear of the property.

Chair Snow recommended that Mr. Diamant have his Landscape Architect contact Mr. Teerlink so that he can explain the intent of the original setback and explain what they are trying to do.

Mr. Diamante asserted that he cannot change what has been done but can improve the slope and make it better than it was.

Specific requirements to be included in the motion were discussed. Mr. Allred recommended the Commission ensure that the number and type of trees that are to be planted meet or exceed the canopy at maturity that existed previously based on the aerial photos.

(20:00) Chair Snow moved to continue the matter with the goal to regain the spirit of the original tree setback and give the applicant time to address the following:

- 1. Replant the tree canopy to meet or exceed the original canopy with the trees doing the majority of the retaining.*
- 2. Minimize the amount of manmade retaining walls on the site.*
- 3. Have a Geotechnical Engineer give a slope protection recommendation.*
- 4. Obtain approval by the East Salt Lake Canal Company.*
- 5. Have the plan reviewed by a Certified Arborist.*

The motion was seconded by Commissioner Lloyd. Vote on the motion: John Garver – Aye, Ann Mackin – Aye, Alyssa Lloyd – Aye, Marianne Ricks – Nay, Chair Snow – Aye. The motion passed 4-to-1.

Commissioner Ricks clarified that she voted against the motion because she would like to see steps taken to ensure that the slope area is not encroached upon.

3. City of Holladay Park Accessory Buildings – 4580 South 2300 East.

(18:19:36) Associate Planner, Meagan Booth presented the staff report and stated that the City of Holladay proposed a pavilion and storage shed, both of which will be located at the baseball field behind Holladay City Hall. The ordinance specifies that side yard verification is needed by the Planning Commission with regard to the placement of accessory building structures and setback reductions.

City Engineer, Shay Smith described staff's recommendation for the setback reduction. The setback request is five feet for the storage unit and 12 feet for the pavilion. A question was raised about the cement pad, which will make the storage unit look nice especially with rock or brick on the outside of the structures.

(20:24:10) *Commissioner Lloyd moved to approve the setback reductions for the City of Holladay park accessory buildings, shed, and pavilion, based on the following:*

Findings:

Pavilion:

- *The closest residential structure is 21 feet 6 inches from the closest corner of the pavilion.*
- *The pavilion is not located within at easement.*

Shed:

- *The closest residential structure is 57 feet 4 inches from proposed storage shed location.*
- *The shed is not located in an easement.*

Commissioner Mackin seconded the motion. Vote on the motion: John Garver – Aye, Ann Mackin – Aye, Alyssa Lloyd – Aye, Marianne Ricks – Aye, Chairman Snow – Aye. The motion passed unanimously.

DISCUSSION ITEMS

4. Ordinance Amendment Drafts:

a. Highland Drive Master Plan; Consideration of Amendments for Allowable Densities for Segment B.

(20:25:13) Mr. Teerlink reported that Mr. Allred generated a short memo with bullet points regarding the Highland Drive Master Plan Amendments. Mr. Teerlink stated that the Planning Commission is behind schedule on the moratorium. There have been 2 to 3 rezones recently on Highland Drive that were approved for R-2. He explained that the Planning Commission/Council recently approved the rezones. The City Council struggled with those decisions but ultimately granted all of them. They were concerned that all rezone requests in the future would be the R-2 designation. Therefore, the City Council wanted to halt the R-2 applications.

Currently, R-M development is not allowed and no further commercial development will be allowed in Segment B. There are a few dilapidated homes in this area. The City Council recommended that the Highland Drive Master Plan be amended to give the Planning Commission better direction for future land use patterns in this area. They asked the Planning Commission to come up with ideas and draft an ordinance on how to handle rezone issues, once the moratorium is over in August.

Mr. Teerlink suggested that a draft amendment be completed for public hearing by June 20 and a draft submitted to the City Council by July 20 for possible action by early August. The Planning Commission reviewed the memo and discussed the following bullet points:

- Cap the applications allowed. This was found to be arbitrary by the Planning Commission and rejected.

- Eliminate the R-2 Zone and only allow single-family homes. This was rejected by Planning Commission as arbitrary and not practical.
- Parcels larger than R-2 will not be allowed. The Planning Commission was open to some version of this but was concerned about walls being built around the homes. There was discussion that sometimes commercial is better than higher density residential.
- Impose R-2 cluster restrictions so that the zone is spread out among neighborhoods. The Planning Commission rejected this suggestion because it is arbitrary and hard to regulate.
- No more than five units per acre shall be allowed unless the property is not suitable for standard single-family development. The Planning Commission was open to this idea but more research was needed regarding past rezoning, future demographic projections, and public input.

b. Fencing Regulations Amendment.

A Pinterest Board was created to show fence design ideas. Concern was expressed with where a fence can be erected. A date was to be set aside for an Open House to receive public comment. Staff would provide draft text by May 23, 2017, so that there can be public comment before the first Planning Commission Meeting in June. Once public comment is received a final text version will be completed at which time the official public hearing can be held. The public will also have an opportunity to comment on the tree protection amendments at the Open House. Planning Commission Members wanting to submit suggestions for the Fencing Regulation Amendment were invited to submit them to Mr. Teerlink by the end of the month.

c. Holladay Tree Protection Amendments.

ADJOURN

(21:20:40) Commissioner Lloyd moved to adjourn. Commissioner Garver seconded the motion. The motion passed with the unanimous vote of the Commission.

The Planning Commission Meeting adjourned at 9:20 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, April 18, 2017.



Teri Forbes
T Forbes Group
Minutes Secretary

Minutes approved: June 6, 2017

City of Holladay Planning Commission Meeting – 04/18/2017