

**MINUTES OF THE CITY OF HOLLADAY
PLANNING COMMISSION MEETING
Tuesday, August 29, 2017
7:00 p.m.
Holladay Municipal Center
4580 South 2300 East**

ATTENDANCE:

Planning Commission Members:

Jim Carter, Chair
Jan Bradshaw
Chris Layton
Alyssa Lloyd
Ann Mackin
Marianne Ricks

City Staff:

Paul Allred, Community Development Director
Jonathan Teerlink, City Planner
Pat Hanson, City Planner

PRE-MEETING / WORK SESSION

Chair Jim Carter reviewed the agenda items.

1. AGENDA ITEM 2 DISCUSSION - This will be a continuation of the Public Hearing the “The Woods” Zone Map Amendment – From Neighborhood Commercial (NC) to Residential Multi-Family (RM) – 5025 South Highland Drive.

It was reported that the above item came before the Planning Commission and City Council and the request was denied. The applicant was denied a General Plan Amendment and tonight the request was reviewed again for a rezone. The Planning Commission addressed previous discussions as well as the decision to deny the application. They recalled that among the Planning Commission there were differing opinions. Some pertained to the rezone and others did not. Some Commission Members believed the change gives the neighborhood character and it should be allowed to be Neighborhood Commercial. Others recalled that the requested change was to a one-acre parcel that seemed out of character for the area. They believed it was reasonable that residential neighbors would not support the Neighborhood Commercial designation.

A Commission Member expressed concern that as currently zoned, the uses on property have not been successful. For that reason, the thought was that it would be a good idea to allow residential because of the beautiful neighboring homes. A comment was made that there are already plenty of commercial properties here. The Commission discussed certain businesses that would be appropriate in the zone and commented that just because one business fails does not mean another will as well. The increased density accompanying the zone change was discussed as being a possible problem. It was noted that the Highland Drive Master Plan currently does not allow RM in Segment B; however, because the Master Plan is an advisory document, RM could be allowed because the Commission is permitted to take into account special characteristics of the property. Mr. Carter pointed out that the Master Plan currently does not allow commercial development but the applicant’s RM use is grandfathered in. He informed the Commission that they are free to make a decision despite earlier Commission and Council denials. Staff reminded

the Commission that points were identified for and against the request, which should be reviewed before making a decision. There was discussion about what is permitted in the RM Zone, which is flexible and allows for both residential and office type uses.

REGULAR BUSINESS MEETING

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

Chair Jim Carter called the Regular Meeting to order at 7:00 p.m. and read the Chair statement.

ACTION ITEMS

2. CONTINUED – “The Woods” Zone Map Amendment – From Neighborhood Commercial (NC) to Residential Multi-Family (RM) – 5025 South Highland Drive.

The applicant, Mylan Child, was requesting a Zone Map Amendment from Neighborhood Commercial (NC) to Residential Multi-Family (RM) at 5025 South Highland Drive. He is proposing to develop townhomes on the corner of Arbor Lane and Highland Drive and is requesting to remove the property from Segment B of the Highland Drive Master Plan Map. Mr. Child addressed the current zone and stated that commercial businesses have struggled in this area for many years. Mr. Child has studied what projects he thinks would be beneficial in the area and believed that having more residences would be a positive improvement over shuttered and failing businesses. Mr. Child argued that the proposed change makes sense in the area because it is already on the border of the RM Zone. He made considerable effort to obtain feedback from the neighbors including sending out flyers and mailers, as well as circulating a petition. So far, 48 residents had signed the petition in favor of the proposed amendment. With regard to the petition, 48 were in support of the change and 12 were opposed.

The applicant displayed images and renderings of what the proposed development may look like.

Chair Carter opened the public hearing.

Ann Pearce gave her address as 2012 Arbor Lane and spoke on behalf of her family who owns two properties that are closest to the subject property. She expressed support for the proposed change. Ms. Pearce and her husband have lived on their property for over 40 years and have seen it go from single-family residences with a flower shop to an eyesore. She commented that the proposed change will enhance the neighborhood and result in a more stable use. She noted that commercial businesses are often unstable and she feared that a restaurant would be allowed.

Kent Hogan gave his address as 3799 East Catamount Ridge Way and identified himself as one of the potential developers of the property. He noted that what is proposed is the highest and best use. He understands that some neighbors want small restaurants or neighborhood shops but there are already too many vacant commercial buildings. He commented that a good quality housing project in the area will be successful and increase property values.

Steven Glazer gave his address as 2052 Arbor Lane and expressed concern with the density of the RM designation. He commented that condominiums will likely be purchased by older, retired residents who will only use the homes seasonally and then rent them out in the winter.

He was not set on the idea of Neighborhood Commercial but preferred a lower density if the zoning is changed to residential.

Camille Pearce gave her address as 2052 East Arbor Lane and reported that she has lived on the property for 26 years. She commented that she did not receive a petition from the developer. She expressed opposition to the proposed amendment. Ms. Pearce preferred the Neighborhood Commercial designation but if that cannot happen in a controlled way, her preference would be for Low-Density Residential. She commented that the Cottonwood Mall property cannot be ignored. She stated that the developers are marketing to seniors but the units will quickly be sold off or rented to non-seniors.

Richard Duggar gave his address as 6173 Carriage Park Circle and identified himself as a co-owner of the property. He helped circulate the petition and noted that all of those he spoke to, with one exception, approved of the development. Mr. Duggar stated that he spent 25 to 30 minutes with each resident and explained the project in detail, including the Planning Commission and City Council action. He gave each plenty of time to think about the proposal before signing the petition. Mr. Duggar stated that he could have gathered more signatures but he wanted to focus on direct neighbors. There were some complaints about traffic but he acknowledged that traffic will always be an issue. Mr. Duggar stated that those he spoke with appreciated his no pressure approach. He explained that the property in its current condition is derelict and has been tagged with graffiti. He has even had to chain the property and have people removed from the premises. Mr. Duggar stated that this property and the neighboring property were blighted by the City Council 15 years ago. His proposal for senior housing was intended for baby boomers like himself who are retired and live an active, healthy lifestyle. He reported that the properties will be high end with an estimated value of \$650,000. Mr. Duggar commented that at that price point they will be too expensive to rent out.

Mr. Duggar clarified some of the issues and questions raised by the Planning Commission and the public. He explained that even though the units will each have a staircase and elevators, it is not a “retirement community”. It will accommodate families with disabilities and those in wheelchairs. He commented that there is a great need for this type of product. The community will have CC&Rs that will restrict sub-leasing to third parties. The property will be well maintained and be an asset to the community with less traffic and light pollution than a commercial property. A question was raised regarding the layout of the building. The applicant clarified that there four, 2,200 square-foot two-story four-plex buildings proposed with garages below.

A question was raised about the difference between “senior living” and a “retirement community”. Mr. Duggar did not know the difference and stated that he would not be marketing to either group. Seniors may be interested in the project but he was not specifically marketing to them and there will be no age limit.

There was discussion of a rooftop access and the height of the property. Mr. Duggar stated that the height of the property is lower than other townhouses to the south and lower than the height allowed by City Code.

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

Commissioner Ricks expressed opposition to the proposed zone change. She commented that the request tonight was for a zone change and the specifics of the project should not be discussed in detail. She stated that RM zoning does not fit the Highland Drive Master Plan. She reiterated that there are density concerns as well. If the applicant wants this type of project, she reported that there are other ways to accomplish what is desired.

Commissioner Bradshaw expressed support for the project. She stated that currently the property is in very poor condition. She sympathized with the neighboring property owners and appreciated that the property owners have taken steps to educate and address the concerns of the neighbors.

Commissioner Mackin commented that the goals and objectives do not meet the goals of the Highland Drive Master Plan but she liked the project.

Chair Carter liked the project and stated that it is an appropriate use in the area because it is already located between two properties that are zoned RM. Without additional residences, he feared that the commercial businesses will continue to suffer. Chair Carter was not, however, ready to make a motion.

There was discussion regarding the views expressed during the public hearing. Chair Carter reminded the Commissioners that what is proposed is a zone change. Although the proponents are discussing a high-end housing project, they will be allowed to operate any business allowed in the zone.

Commissioner Bradshaw moved to recommend approval to the City Council on a Zone Map Amendment from Neighborhood Commercial (NC) to Residential Multi-Family (RM) located at 5025 South Highland Drive, called "The Woods". Commissioner Mackin seconded the motion. Vote on motion: Chris Layton-Aye, Jan Bradshaw-Aye, Alyssa Lloyd-Aye, Marianne Ricks-Nay, Ann Mackin-Aye, Chair Jim Carter-Aye. The motion passed 5-to-1.

3. Public Hearing Ordinance Amendment – Tree Canopy Protection.

Chair Carter introduced the proposed ordinance amendment regarding tree canopy protection found in the Tree Protection Regulations in City Code Section 13.04.040. He reported that the Commission received two written comments from the last public hearing. Community Development Director, Paul Allred, presented background information regarding the proposed amendment. He mentioned that many residents are emotional about the ordinance. He assured the public that the City is not in a rush to pass the ordinance; however, the City Council is looking at the long-term protection of trees. He assured those present that there will not be a rush vote tonight. Staff wants to look at the issue carefully and get as much input as possible from the public before recommending any changes. Mr. Allred stated that City Planner, Pat Hanson, has done a great deal of research in preparing the draft. Input was also received from the Holladay City Tree Committee, as well as an ad hoc committee.

Ms. Hanson gave an in-depth review of the draft ordinance, which is summarized as follows:

Definitions – Ms. Hanson explained that the definitions section of an ordinance generally does not define ordinary words or words with an ordinary, everyday meaning. It instead defines words specific to the ordinance. She described how to read the recommended edits. She explained that there are several different sections of the Code that contain proposed edits relative to tree protection. There are already tree protections in place on public property to protect “community trees” but additional protections are suggested in the draft ordinance such as waterway and canal protections for trees. Ms. Hanson explained that there a definition of “heritage tree” was also added as defined by Utah State Code. Because there are no state enforcement protections, the ordinance will add a layer of protection for those wishing to voluntarily have a tree on their property declared a heritage tree.

Checklists –The provisions were described that were added to check lists setting forth the requirements established by the ordinance.

Tree Canopy Protection – Ms. Hanson explained that tree sustainability is important because the City is unique with regard to the number of trees that exist compared to other cities in Utah. She reviewed ordinances from several other cities. Originally, the ordinance draft amendment included an “overlay protection” but there was opposition expressed at the open house. Staff recognized that was not what the citizens wanted and dramatic changes were made to specify that it only be required for development permits. A list of exemptions was also prepared where a tree protection application would not be necessary for the removal of trees on established property. The proposed draft requires a base line tree study be conducted for new development so that the City is aware of what trees are on a property and which are proposed to be removed. The developer should then submit a Tree Preservation or Replacement Plan to the City. Ms. Hanson explained that the goal is to preserve trees as they are a precious commodity. It is proposed that each tree that is removed have a replacement. If the tree cannot be replaced, the property owner can pay into a fund to have the City plant a tree on the City property portion adjacent to the property, with an incentive for trees planted on the street. Ms. Hanson pointed out that there are also funding, penalty, and appeal provisions included in the draft ordinance.

Fee Schedule – It was recommended that the City Council establish a fee schedule for this type of permit.

Chair Carter asked Ms. Hanson to give a general overview of the ordinance. She gave a general summary of the ordinance and reiterated that the proposed ordinance does not require established properties to obtain a permit to remove trees.

Chair Carter opened the public hearing.

David Dean gave his address as 2073 East Murray Holladay Road and stated that he and many members of the public believe that the proposed ordinance interferes with a private citizen’s fundamental right to own and control his property, including landscaping, without unnecessary regulation. Mr. Dean referenced Section 3.77.80, which identifies the three values or purposes of the ordinance as economic, environmental, and aesthetic. He raised the question of whether these values outweigh individual property rights. He pointed out that the exception provisions as stated earlier by Ms. Hanson, are important to protect the rights of property owners. This

provision conflicts with provisions that specify that it applies to existing canopy areas on all real property. He also mentioned that the definitions section should define ordinary terms such as landscaping. He suggested that the ordinance draft not go forward until the issues identified are revised. He also stated that the City's Tree Committee includes two Arborists who Mr. Dean argued should not be allowed to contract with the City for income-generating work, including research, because of impropriety or the appearance of impropriety.

Mr. Dean also spoke on behalf of another resident, Ron Hilton. Mr. Hilton conducted a survey through Survey Monkey that questioned citizens about the ordinance. 60% of the residents surveyed opposed the ordinance. Mr. Hilton's email address was provided for those with questions. Mr. Dean stressed that he and the other residents are not opposed to the preservation of trees but that does not mean that the government should be allowed to intrude further on individual property rights. Mr. Dean suggested that the City instead should use a public relations campaign to educate the citizens on the issues, which was also supported by the majority of residents in Mr. Hilton's survey. He explained that there are alternatives to continually passing new laws. He did not support the ordinance but suggested that if it is passed that it be better defined.

John Greaves gave his address as 4625 Sycamore Drive and expressed opposition to the ordinance in its entirety. He asked how the City has managed without the proposed ordinance since its incorporation. He remarked that there should not be a criminal sanction for making decisions that affect trees.

Camille Pearce gave her address as 2052 East Arbor Lane and expressed support for the ordinance. She stated that trees are critical to overall community health. She mentioned climate change and identified clean air as the reason trees need to be protected, especially relative to new development. She commented that there is a financial cost if trees are not maintained.

Claire Hibbs, who resides at 5347 Cottonwood Lane, stated that she has lived on her property since 1972 and her lot is very small but wooded. She was heartbroken that a developer near her recently destroyed several large trees. She tried but was unsuccessful in stopping him. She was told by the developer and the City that there are no restrictions on the removal of trees. She felt strongly that the government should protect this very unique area.

Chad Taylor identified himself as an attorney representing property owners at 2323 and 2219 Walker Lane. He echoed much of what has already been said regarding private property rights and identified several contradictory provisions. He commented that the ordinance could be better defined. He commented that his clients preferred no ordinance amendment but stated that if it were approved it should only apply to commercial builders. He stated that the ordinance seems to give a lot of power to the Community Development Director and his clients were opposed to the costs property owners will have to incur.

Jesse Black gave his address as 4740 Sycamore Drive and stated that his property borders the Salt Lake Jordan Canal where there are many trees on the canal bank. He was concerned about the proposed changes to the waterway protections. He asked for clarification about the exemption as it applies to his canal property. Staff reported that the exemption did not apply to

Mr. Black's property. Mr. Black was concerned because recently the Mosquito Abatement Agency asked him to remove two trees that were housing mosquitos. He questioned whether that would require him to request a permit under the proposed draft ordinance. Mr. Allred stated that it was not the intention of the ordinance to override another agency decision. He explained that a permit would not be necessary and an email would suffice. Mr. Black expressed concern that the proposed ordinance would need to be amended to take this type of situation into account. He was also concerned about what constitutes a tree under the ordinance. He mentioned that he mows down small trees every year and was concerned that he will have to obtain a permit in the future to do this. He was also concerned about liability if a tree is diseased and dies.

(The public hearing was continued without a motion)

4. Approval of Minutes – 6/20/17 and 7/11/17.

Commissioner Ricks moved to approve the Planning Commission Minutes of June 20, 2017 and July 11, 2017. Commissioner Mackin seconded the motion. Vote on motion: Chris Layton-Aye, Jan Bradshaw-Aye, Alyssa Lloyd-Aye, Marianne Ricks-Aye, Ann Mackin-Aye, Chair Jim Carter-Aye. The motion passed unanimously.

DISCUSSION ITEMS

5. Draft Ordinance Amendments.

ADJOURN

The Planning Commission Meeting adjourned at approximately 8:55 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 29, 2017.



Teri Forbes
T Forbes Group
Minutes Secretary

Minutes approved: 10/17/17