

PLANNING COMMISSION

City of Holladay
September 5th, 2023
City Council Chambers – 4580 S. 2300 E. Holladay



City of Holladay

This public meeting will be held in-person and also transmitted via live video stream on the [City of Holladay webpage](#). Participation in a *public hearing* portion of this meeting can be accomplished in either of the following ways:

- During the meeting: address the Commission when the item is called by the Commission Chair
- Email: comments must be received by 8:00 am on **09/05/2023** to the Community and Economic Development Department; cmarsh@cityofholladay.com. Emailed comments will be read by the Commission Chair.

MEETING AGENDA

5:30 PM WORK SESSION – The Commission may discuss any or all agenda items. No decisions or voting to occur.

6:00 PM CONVENE REGULAR MEETING – Public Welcome & Chair Opening Statement

PLANNING COMMISSION ELECTION – Election by Commission members for Planning Commission Chairperson and Vice Chairperson positions.

PUBLIC HEARING

- 1. Text Amendment – 13.01.100; PERFORMANCE BONDS (A STATE REQUIRED AMENDMENT)**
Review and recommendation to City Council on proposed updates, consolidations and/or clarifying amendments to Title 13, of the Holladay City Code, Land Use and Development Regulations as they relate to statute obligations, set forth by 2023 State of Utah Legislation within HB406, modifying provisions related to improvement completion assurance requirements (bonding). Item to be reviewed as a legislative action, according to procedures set forth in Holladay Ordinance §13.07.

File #23-4-04

ACTION ITEMS

- 2. Approval of Minutes –**
a) June 6, 2023 b) July 11, 2023 c) July 25, 2023 d) August 1, 2023

ADJOURN

CERTIFICATE OF POSTING

I, Stephanie N. Carlson, the City Recorder of the City of Holladay, certify that the above agenda notice was posted on the City of Holladay bulletin board, the City website www.cityofholladay.com, the Utah Public Notice website www.utah.gov/pmn, and was emailed to the Salt Lake Tribune and Desert News and others who have indicated interest.

DATE POSTED: [DAY, MONTH DATE, 2023 @ TIME AM/PM]

*Stephanie N. Carlson MMC, City Recorder
City of Holladay*

Reasonable accommodations for individuals with disabilities or those in need of language interpretation service can be provided upon request. For assistance, please call the City Recorder's office at 272-9450 at least three days in advance. TTY/TDD number is (801)270-2425 or call Relay Utah at #7-1-1

FILE#

ADDRESS:

LEGAL DESCRIPTION:

APPLICANT/REPRESENTATIVE:

PROPERTY OWNER:

ZONING:

GENERAL PLAN DISTRICT:

CITY COUNCIL DISTRICT:

PUBLIC NOTICE DETAILS:

REQUEST:

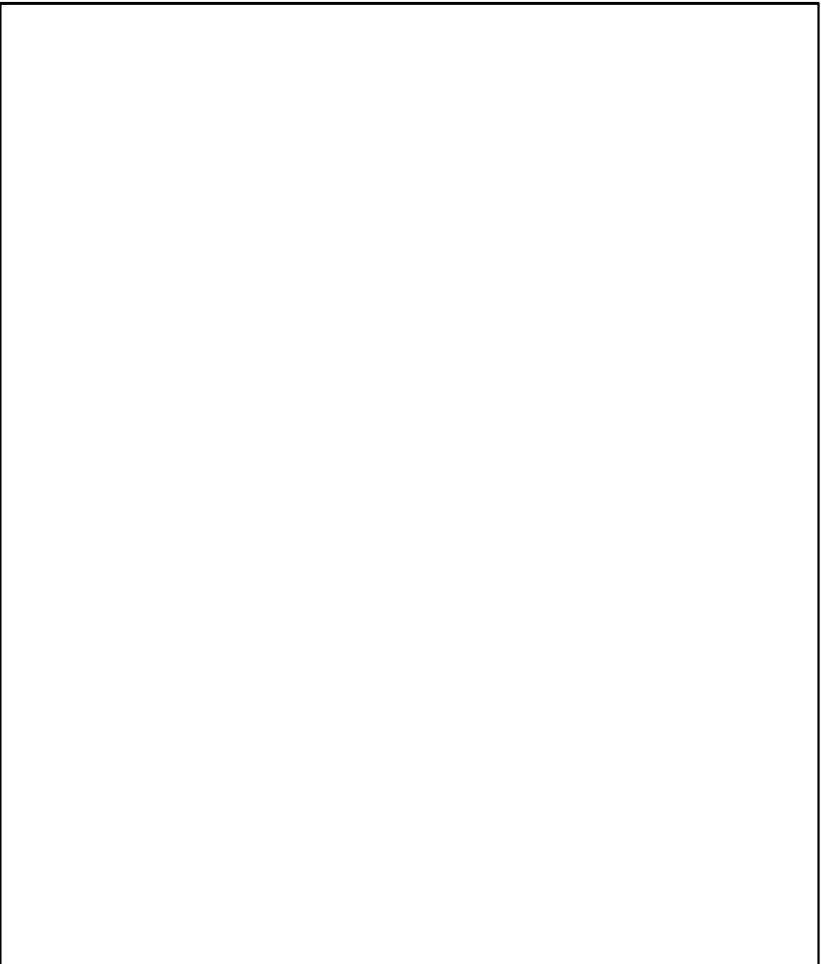
APPLICABLE REGULATIONS:

EXHIBITS:

STAFF:

DECISION TYPE:

SITE VICINITY MAP



Notes:

1 **DRAFT**

2
3 **MINUTES OF THE CITY OF HOLLADAY**
4 **PLANNING COMMISSION MEETING**

5
6 **Tuesday, June 6, 2023**
7 **5:30 p.m.**
8 **City Council Chambers**
9 **4580 South 2300 East**
10 **Holladay, Utah**

11
12 **ATTENDANCE:**

13
14 **Planning Commission Members:**

15
16 Martin Banks, Vice Chair
17 Dennis Roach
18 Chris Layton
19 Karianne Prince
20 Paul Cunningham
21 Ginger Vilchinsky

14 **City Staff:**

15
16 Carrie Marsh, City Planner
17 Jonathan Teerlink, Community Development Director
18 Brad Christopherson, City Attorney

22
23 **WORK SESSION**

24 In the absence of Chair Howard Layton, Vice Chair Martin Banks assumed the Chair and called
25 the Work Session to order at approximately 5:30 p.m.

26
27 The agenda items were reviewed and discussed. The Sweeten Court Subdivision Concept Plan
28 was presented. The property is located at 2761 East 4510 South in the R-1-8 Zone and a Public
29 Hearing was to be held on the item. The second agenda item pertained to Emigration Brewing
30 Company located at 5025 South Highland Drive in the C-2 Zone. The Preliminary Site Plan was
31 to be reviewed during the Regular Meeting. The Commissioners asked questions about the
32 application. The Staff Report specified that the tree canopy protection plan was in process. Vice
33 Chair Banks wondered if that needed to be completed for there to be approval. City Planner, Carrie
34 Marsh, explained that it would be a Condition of Approval. She reported that a Landscape Plan
35 had been submitted but the applicant needed to identify which trees are on the site and which will
36 be protected. That condition would need to be met.

37
38 Ms. Marsh shared information about the Covenants, Conditions, and Restrictions (“CC&Rs”). She
39 noted that there will be either CC&Rs or a Maintenance Agreement for the Emigration Brewing
40 Company site. She noted that there may not be any CC&Rs associated with the townhomes. She
41 suggested that a Condition of Approval be added to address that. The Maintenance Agreement for
42 common areas was included already but not necessarily CC&Rs. Vice Chair Banks referenced the
43 Staff recommendation, which stated that the Preliminary requirements have been reviewed by the
44 Technical Review Committee (“TRC”) and have been determined to be substantially complete; or
45 in the process of completion as per the City’s submission requirements. He believed that addressed

1 some of the items that were still in progress, which was confirmed. Ms. Marsh explained that
2 sometimes the back and forth with civil comments takes time to complete. The requirements need
3 to be met, as listed in the conditions before approval is granted.
4

5 Vice Chair Banks asked who issued the Notice of Approval. Ms. Marsh reported that it was issued
6 by the Community and Economic Development Director. There is one in place that was issued
7 after the Conceptual Plan. The Notice of Approval is done for every level of review.
8 Commissioner Roach asked about the Landscape Plan. It appeared that landscaping material was
9 submitted for the property immediately south. He wondered if that was part of the project if it was
10 just being relandscaped, or if the plan showed what already existed elsewhere. Ms. Marsh clarified
11 that it was part of the subject property. The property line went down and tapered off. She identified
12 the property line on an image of the area. Commissioner Roach asked about the landscaping that
13 is already there. Ms. Marsh explained that there is some further down. Some landscaping exists
14 and will be improved.
15

16 Community Development Director, Jonathan Teerlink, reported that in July, there is a requirement
17 to hold a new election for the Chair and Vice Chair positions. There would also be two new
18 Commissioners to replace those who will be leaving. The two positions were advertised on the
19 City website and some applications had been received. He reported that Commissioner Chris
20 Layton and Chair Howard Layton will be leaving the Commission. Mr. Teerlink stated that there
21 would be an update to the Bylaws and Procedures at that time. When the election takes place it
22 will be possible to review that language and determine whether any amendments need to be made.
23 It was noted that the Planning Commission positions will be district specific. He believed the
24 districts that need to be filled are Districts 5 and 2.
25

26 **CONVENE REGULAR MEETING – Public Welcome and Opening Statement by**
27 **Commission Chair.**

28 In the absence of Chair Layton, Vice Chair Banks assumed the Chair called the Regular Meeting
29 to order at approximately 6:00 p.m. He read the Commission Statement for the benefit of those
30 present.
31

32 Vice Chair Banks explained how the Public Hearing will be conducted. He asked that anyone
33 interested in sharing comments during the hearing be clear, concise, and adhere to the Planning
34 Commission regulations. Vice Chair Banks reminded those present that the Sweeten Court
35 application was the first of three phases in the approval process. The Subdivision Concept Plan
36 will be considered during the Public Hearing portion of the meeting. The next phase will be the
37 Preliminary Plan and there will then be a Final Plan submitted for consideration. For the
38 Subdivision Concept Plan, the scope of issues that will be considered is limited in nature. For
39 example, parcel size, contemplated fire access, availability of utilities, parking, and the type of
40 use. He asked that comments related to other issues be reserved for later phases of the process.
41

1 **PUBLIC HEARING**

2 **1. “Sweeten Court” - Subdivision Concept Plan - 2761 East 4510 South (R-1-8)**
3 **Conceptual Review and Consideration of a Subdivision Proposal by Applicant Grant**
4 **Harrison, to Redevelop 0.89 Acres of Land within the R-1-8 Zone. This**
5 **Redevelopment Plan will be Reviewed as a Permitted Use and in accordance with**
6 **Zone and Development Standards as Required by Holladay Ord §13.08.080. File #23-**
7 **1-03.**

8 Ms. Marsh reported that the application is for a Subdivision Concept Plan for Sweeten Court,
9 which is located at 2761 East 4510 South. It is a four-lot subdivision located in the R-1-8 Zone.
10 This was an administrative process, where the Planning Commission would make a motion to
11 approve, deny, or continue discussion on the permitted by-right application. All motions require
12 findings to support the decision. As directed by the ordinance, applications shall be approved if
13 the Land Use Authority finds substantial evidence of compliance with the applicable requirements.
14 The creation of a Subdivision Plat requires review and approval by the Land Use Authority
15 (Planning Commission) in a three-step process consisting of Concept, Preliminary, and Final Plat.
16 Decisions and approval for each step need to be made during a public meeting.

17
18 Ms. Marsh reported that notice of the public hearing was mailed to all properties within 500 feet
19 of the subject property. In addition, the applicant held the required neighborhood meeting on
20 May 4, 2023. She shared additional information about the Sweeten Court application. The subject
21 property is 0.89 acres (38,768 square feet) in size within an R-1-8 Single-Family Residential zone.
22 The application is for a four-lot subdivision and the R-1-8 Zone has an 8,000 square-foot lot
23 minimum size. The applicant would be considering a Planned Unit Development in the future.
24 The Concept Plan review requirements were shared with the Commission. Ms. Marsh explained
25 that R-1-8 Zone compliance is as follows:

- 26
27
- 28 · Density Compliance: The subdivision being proposed had a gross land area of 0.89 acres
 - 29 (38,768 square feet). The private lane accessing the property had been subtracted. The net
 - 30 area, excluding access roads and the public street dedication, was 32,448 square feet. The
 - 31 number of lots allowed using the Maximum Density Calculation was four.
 - 32 · Parking Compliance: Two parking spaces (garages) for each residence were met.
 - 33 · Storm Water Retention Compliance: Deferred to the Preliminary Plan review.
 - 34 · Fire Access Compliance: The proposed access road met the standard width of 20 feet for
 - 35 suitable fire access with appropriate turnarounds.

36 The applicant’s representative, Sage Harrison, identified herself as the granddaughter of Grant
37 Harrison. Both her grandfather and uncle were involved in building subdivisions. Mark Harrison
38 was also featured in Builder Magazine. It was important to the entire family that the subdivision
39 be beautiful but also that the neighbors be heard. There was a desire to work with the neighbors
40 on the project. Her grandfather lived in the City of Holladay his entire life and loves the
41 neighborhood. She reiterated the desire to make sure everyone is happy.

42
43 Vice Chair Banks opened the public hearing.
44

1 *Lisa Darling* gave her address as 2754 East 4510 South and stated that her home is directly across
2 from the subject property. Ms. Darling submitted a list of questions she hoped would be addressed
3 during this meeting. She wanted to understand what potential changes could look like if variances
4 or waivers are requested. Vice Chair Banks reported that the Planning Commission was able to
5 look at the questions submitted and could address some of them. However, he believed the
6 questions would be best posed to the applicant's representative.

7
8 Ms. Darling asked what potential changes could look like. She wanted to understand whether
9 neighbors will be notified of a variance or waiver request. Vice Chair Banks explained that if the
10 application changes the applicant will need to come before the Planning Commission with an
11 amended application. If the changes are material, there will likely need to be another neighborhood
12 meeting held. The process would essentially start over again. Ms. Marsh explained that a rezone
13 will need to be discussed by both the Planning Commission and City Council. It was unlikely that
14 a rezone would be needed with this application. As for a variance, those are typically granted due
15 to issues with the land, such as topography and easements. That normally only impacts setbacks
16 and where a home can be built. She reassured those present that notices are sent out when an
17 applicant seeks a variance.

18
19 Ms. Darling reviewed some of the questions posed in her previously submitted comment. She
20 acknowledged that 4510 South is the only east-west running street in the area with a continuous
21 sidewalk. Nearly all of the students in the neighborhood have to use that sidewalk to reach the
22 school, which is designated as a safe path. One of her concerns was whether there is sufficient on-
23 street parking and whether traffic in the area will impact the safety of students. As for the lot sizes,
24 she was concerned that there was not enough property for all of the proposed lots. Vice Chair
25 Banks explained that the Planning Commission could look at what is required by the ordinance.
26 The square footage of the individual parcels would be considered. Ms. Marsh explained that when
27 the total number of allowed units is calculated, the private road square footage is subtracted.
28 Ultimately, four lots meet the 8,000-square-foot lot minimum size. Ms. Darling asked if the home
29 size will depend on that number. Ms. Marsh clarified that there could be a Planned Unit
30 Development ("PUD") where there is flexibility with regard to lot coverage and total home size.
31 If it is a subdivision with the current lot dimensions, there would be standard setbacks.

32
33 *Chris Ingalls* gave his address as 2787 East 4510 South and stated that his home consists of two
34 houses east of the subject property. He was speaking on behalf of the neighbors who have a home
35 immediately to the east. Those neighbors will be the most heavily impacted because of the road
36 right next to the house. Mr. Ingalls understood that only certain matters can be discussed at this
37 point in the approval process but he hoped there would be a discussion about the fire access and
38 the parking requirements. A number of photographs were submitted to the Planning Commission
39 showing the conditions on the road during holidays. Every holiday, the area is very busy and the
40 road becomes jammed. Mr. Ingalls created a mock plan to determine what might fit in the area
41 that was submitted to the Commission. He discussed the fire access, which he believed would
42 remove a number of trees. Mr. Ingalls hoped a survey would be done to identify the impacted
43 trees. To address his concerns, he suggested deviating the fire access so that it sweeps away from
44 the property line. He believed this would be a win for the developer and the neighboring residents.

1 Mr. Ingalls asked about parking and questioned whether there will be guest parking. Vice Chair
2 Banks explained that the requirement in the ordinance is that there be enough parking for two
3 vehicles per unit. Mr. Ingalls noted that the draft plan he created showed two vehicles per unit in
4 the garage as well as additional parking in the driveway. He stressed the importance of having
5 additional parking available to avoid adding to the existing parking issues in the neighborhood.
6 He asked that the Commission take the need for guest parking or visitor parking into consideration.
7

8 *Andrew Bouwhuis* gave his address as 2747 East 4510 South next to the subject property. He
9 expressed concerns about there being enough parking. The side of the street he lives on does not
10 have a sidewalk and there is a lot of speeding in the area. The addition of more vehicles would
11 add to the issues in the neighborhood. Mr. Bouwhuis did not like the idea of tearing down trees
12 that have been there for many years. He stressed the importance of maintaining the existing trees
13 in the community. He was also concerned that some of his trees would be impacted by the
14 construction. Additionally, he felt four homes were too many.
15

16 Commissioner Roach reported that the City has a Tree Ordinance that helps with tree preservation
17 and holds developers accountable so that there is appropriate replacement of any trees that are
18 removed. While it is never ideal to see canopy trees taken out, there are ordinances in place to
19 make sure that those trees are replaced. In addition, there is a Tree Committee in the City. Those
20 interested were invited to attend and participate.
21

22 Commissioner Vilchinsky informed those present that she read through all of the emails submitted
23 by residents. She understood the concerns expressed about the students walking to school;
24 however, the role of the Planning Commission is to look at the ordinances that are in place and
25 vote accordingly. If an application meets the specifications of the ordinances, the Planning
26 Commission will consider that in the decision. She understood there were concerns about parking
27 but the ordinances specifically state that two parking spaces are required. She did not want anyone
28 to feel that their comments had been dismissed. The Planning Commission was listening and
29 taking all comments into account. That being said, certain guidelines need to be followed in terms
30 of the Concept Plan vote.
31

32 *Janet Henriksen* gave her address as 2728 East 4510 South and stated that she has lived in her
33 home for approximately 35 years. She has remained all this time because of the neighborhood.
34 However, it is a narrow street and there are times when two vehicles cannot pass if there are
35 vehicles parked on the side of the street. She understood the ordinances and what can be built but
36 was concerned about adding additional parking and the four lots proposed.
37

38 *Ms. Darling* shared an additional comment. She believed that because the school walking path is
39 designated as a safe route, it should impact how the development can move forward. The safety
40 of children walking through the neighborhood needs to be considered. Vice Chair Banks informed
41 her that the Planning Commission needs to follow the ordinances. The task of the Planning
42 Commission is to ensure that the applicant complies with the ordinances. Ms. Marsh added that
43 the safe route to school is addressed with the sidewalk. There is a sidewalk on one side of the
44 street that meets the requirement. An additional sidewalk would not be added. Commissioner
45 Layton noted that the proposal does not impact the existing sidewalk.

1
2 *Edward Flegal* gave his address as 2784 East 4510 South and reported that he has lived on the
3 street for 53 years and witnessed the growth in Holladay. He was appalled that the Planning
4 Commission has allowed so much growth to take place in the community. As for the two parking
5 spaces that are required per home, he believed the ordinance needed to be reconsidered. Vice
6 Chair Banks explained that the Planning Commission does not make the ordinances but applies
7 them. He suggested that Mr. Flegal share his comments with the City Council.
8

9 Mr. Ingalls shared an additional comment and asked what the Preliminary Plan discussions would
10 be related to. Vice Chair Banks explained that there would be more detailed discussions at that
11 time. For example, there would be discussions about the trees, heights, restrictions, and setbacks.
12 There would be more site-specific conversations during that part of the process as well. Mr. Ingalls
13 asked what would happen after the Preliminary Plan is approved. Vice Chair Banks explained that
14 the Final Plan review would ensure that all of the final details are in place before final approval
15 was issued for the project. As for when the Preliminary Plan would be reviewed by the Planning
16 Commission, that would depend on what the applicant does with the feedback received and how
17 fast the applicant decides to move forward with the application process. The applicant noted in
18 some of the submitted materials that there would be a potential Planned Unit Development
19 application as well. The public could also share comments at that time.
20

21 Ms. Harrison responded to some of the comments shared during the public hearing. She reiterated
22 that there was a willingness to work with the neighbors. No variances had been requested and
23 none were planned. As for the trees, she was told that there would be an Arborist on site. Her
24 grandfather was also supportive of limiting the disturbance to trees.
25

26 There were no further comments. The public hearing was closed.
27

28 Commissioner Cunningham asked if the Fire Department has signed off on the proposal.
29 Ms. Marsh explained that the Fire Department reviewed the application to ensure that it meets the
30 standards, which is a 20-foot width, and that it has a fire access turnaround. The layout could
31 potentially change as the process moves forward but it currently meets the basic safety
32 requirements for fire. Any changes made would still need to meet those safety standards.
33 Commissioner Prince asked if the narrowness of the street was a concern. Ms. Marsh explained
34 that the Fire Department typically looks at the access streets. She was not sure of the width of
35 4510 South but stated that it is likely at least 20 feet, which still meets the fire access requirements.
36 Mr. Teerlink shared additional comments about the street.
37

38 Commissioner Layton asked about the side, front, and rear yard setback requirements. Ms. Marsh
39 reported that it depends on the lot size. For example, the side setback would depend on how wide
40 the lot is. When the Building Permit is applied for, all of the setbacks will be reviewed to ensure
41 that the requirements are met. If there is a Planned Unit Development, some of those setbacks
42 may be more flexible, which would be reviewed during that process. She explained that if there
43 is a PUD, there will be a public hearing for that. Commissioner Roach wondered if the application
44 meets the minimums necessary for the four lots even without a Planned Unit Development with
45 respect to setbacks. This was confirmed.

1
2 Vice Chair Banks asked about the utility availability. Ms. Marsh reported that the requisite Will
3 Serve Letters were received for gas, electric, sewer, and water. All of the providers issued the Will
4 Serve Letters for a four-unit development. Commissioner Roach acknowledged that there is a
5 narrow and odd-shaped road. He wondered if No Parking zones will need to be installed to
6 facilitate access for emergency vehicles on the public street. Ms. Marsh did not necessarily believe
7 that would need to be done but the City Engineer would review that further. There are a lot of
8 narrow roads with limited fire access in the City and it is not an uncommon issue in the City of
9 Holladay. Typically, areas are not marked off as No Parking beyond the clear view standards.
10 Commissioner Layton pointed out that the setbacks are not currently under consideration. He
11 reminded those present that it is a Concept Plan. The application meets the criteria before the
12 Planning Commission. He was curious to see how the application will evolve as it continues to
13 move through the application process.

14
15 *Commissioner Prince moved to APPROVE the Concept Plat application submitted by Grant*
16 *Harrison for “Sweeten Court,” a 4-lot residential subdivision in the R-1-8 Zone based on the*
17 *following:*

18
19 ***Findings:***

- 20
21 1. *The submission for a Conceptual Plat is substantially complete.*
22
23 2. *The overall parcel size allows for the development of four single-family units with*
24 *a minimum lot size of 8,000 square feet each.*
25
26 3. *Private roads meet fire access standards.*
27
28 4. *Utility availability for four residences has been established.*
29
30 5. *The required parking minimums are met.*

31
32 *Commissioner Layton seconded the motion. Vote on Motion: Commissioner Cunningham-*
33 *Aye; Commissioner Vilchinsky-Aye; Commissioner Layton-Aye; Commissioner Roach-Aye;*
34 *Commissioner Prince-Aye; Commissioner Banks-Aye. The motion passed unanimously.*

35
36 **ACTION ITEM**

- 37 2. **“Emigration Brewing Co.” Mixed-Use Commercial/Residential - Preliminary Site**
38 **Plan - 5025 South Highland Drive (C-2) Preliminary Review of a Mixed-Use**
39 **Development Proposal by Application/Property Owner, Bret Laughlin. Item**
40 **Reviewed as an Administrative Action of a Permitted Land Use in the C-2 Zone.**
41 **Review to Include Preliminary Details as Per Procedures and Development Standards**
42 **of the Zone §13.62, and §13.08.080 of the Holladay Code. File #23-2-03.**

43 City Attorney, Brad Christopherson, reported that Commissioners served on the Planning
44 Commission as volunteer citizen members. Each has its own professional and private obligations.
45 From time to time, that means that there is a changing of seats during meetings. Commissioner

1 Layton is an architect and the Planning Commission benefits from his expertise. However, he has
2 a client with a matter before the Planning Commission, which is the Emigration Brewing
3 Company. For this item, he disclosed that he is doing work on behalf of the applicant.
4 Commissioner Layton elected to recuse himself from the vote. That needed to be noted on the
5 record but a disclosure form would also be filed with the Mayor.
6

7 Ms. Marsh reported that the application is a Preliminary Site Plan for Mixed-Use
8 Commercial/Residential. The subject property is located at 5025 South Highland Drive and is in
9 the C-2 Zone. She noted that this is an administrative action by the Planning Commission. The
10 Planning Commission can approve, deny, or continue the discussion on the permitted by-right
11 application. All motions require findings that support the decision. As directed by ordinance,
12 applications shall be approved if the Land Use Authority finds substantial evidence of compliance
13 with the applicable requirements. This was the second stage in a three-step process. Ms. Marsh
14 explained that the Concept Plan review has already taken place and it is now the Preliminary Plan
15 review. All decisions and approvals need to be made during a public meeting. The public hearing
16 was held on April 4, 2023. No hearing would be held at this meeting.
17

18 Background information about the property was shared. Ms. Marsh reported that the subject
19 property is located on the south side of the new Royal Holladay Hills development. It is currently
20 zoned C-2 as the property was rezoned from Neighborhood Commercial (“NC”) in March 2022.
21 There was a condition that a Development Agreement be recorded against the property, which
22 restricted the use of the property to a Townhome and Brewpub Restaurant. She believed the
23 Development Agreement was signed by the applicant. However, if that was not done, it would
24 need to be added as a Condition of Approval. The Development Compliance Details were
25 established during the Concept Plan approval process. Mixed-use development is a permitted use
26 on the property in the C-2 Zone. There will be four dwelling units and a separate
27 brewery/restaurant. The minimum lot, parking, height, and lot coverage requirements were met.
28 Breweries are conditional uses in the zone and the applicant will need to make application.
29

30 Ms. Marsh reported that the preliminary approval requirements were included in the packet. The
31 City Engineer reviewed the civil plans extensively and provided comments to the applicant who
32 was in the process of addressing them.
33

34 The applicant’s representative, Bret Laughlin, introduced himself to the Commission. He noted
35 that this particular project is more involved than most because there are licensing agreements in
36 place while neighboring development is underway. It is a complicated process but City Staff has
37 been able to assist as things move forward. He believed that everything that needed to be submitted
38 had been done and that the application was in compliance. Work was continuing to take place but
39 he believed everything was ready for the Preliminary Plan approval. Mr. Laughlin noted that a lot
40 had been presented at the Concept Plan level. However, since that presentation, there had been
41 more development with the townhomes.
42

43 Commissioner Cunningham asked about significant changes that have occurred since the Concept
44 Plan. Mr. Laughlin reported that the building footprints remained the same. Some evolution had
45 taken place in terms of landscape and hardscape. There were a few minor tweaks with parking,

1 but the same amount of parking was proposed for the development. The building design continued
2 to evolve but was part of the natural process as more details were determined. Vice Chair Banks
3 referenced a comment in the packet about how the townhomes will lag somewhat in terms of
4 progress. Mr. Laughlin explained that there was more urgency in getting the restaurant and
5 brewing company development underway. He believed the two uses would be fairly concurrent.
6 While the townhome development might lag slightly, it may also catch up so that completion is
7 around the same time. There were still some variables to consider, such as market conditions.

8
9 Commissioner Cunningham asked about the Liquor License that the restaurant/brewpub will
10 obtain. Mr. Laughlin believed there will be a full restaurant Liquor License as well as a Bar
11 License. The upper level of the restaurant will be for 21 years old and older. The downstairs area
12 will be available for family dining. He wanted it to be an enjoyable experience for people who
13 drink alcohol and those who do not. There was discussion regarding the licenses that are needed
14 and the timeline. The Liquor License is checked as part of the Business License.

15
16 Commissioner Roach asked about the upper floor of the restaurant/brewpub. Mr. Laughlin
17 reported that access to the upper floor will be glassed in. Visitors will need authorization to be in
18 that area. As for the downstairs area, the seating needs to be a specific distance from where alcohol
19 is shown. Mr. Laughlin was confident that the necessary licenses will be obtained for the use.
20 Commissioner Roach referenced the townhome units and asked if they will have separate trash
21 receptacles or if the dumpster access will be shared with the restaurant. Mr. Laughlin reported that
22 the townhomes will have their own receptacles. As for the dumpster, he clarified that it is not
23 within the electrical easement. Commissioner Roach noted that there is adequate shade canopy
24 but suggested that one larger tree where some of the pines are near the dumpster would be
25 beneficial to reduce the impacts.

26
27 ***Commissioner Roach moved to APPROVE the Preliminary Site Plan for “Emigration Brewing***
28 ***Co.” located at 5025 South Highland Drive in the C-2 Zone subject to the following:***

29
30 ***Findings:***

- 31
32 1. ***The Preliminary Plat has been reviewed and considered substantially complete.***
33
34 2. ***The proposed land use complies with allowed uses in the C-2 Zone.***
35
36 3. ***Lot size, coverage, and parking requirements meet the minimum requirements of***
37 ***the zone.***

38
39 ***Conditions:***

- 40
41 1. ***The remaining items as noted, are to be completed before a notice of approval is***
42 ***issued:***
43
44 a. ***Address Civil Plan comments by City Engineer;***
45

- 1 ***b. Submit Grading and Drainage Plan***
- 2
- 3 ***c. Being process of Encroachment License and Maintenance Agreement***
- 4 ***with the City of Holladay;***
- 5
- 6 ***d. Submit Landscape Maintenance Agreement with Royal Holladay Hills;***
- 7
- 8 ***e. Provide Utility Service letters with approved plans; and***
- 9
- 10 ***f. Submit Tree Canopy Protection Plan.***

11
12 ***Commissioner Prince seconded the motion. Vote on Motion: Commissioner Cunningham-Aye;***
13 ***Commissioner Vilchinsky-Aye; Commissioner Layton-Abstain; Commissioner Roach-Aye;***
14 ***Commissioner Prince-Aye; Commissioner Banks-Aye. The motion passed unanimously with***
15 ***one abstention.***

16
17 **ADJOURN**

18 The Planning Commission Meeting adjourned at approximately 7:16 p.m.

DRAFT

1 *I hereby certify that the foregoing represents a true, accurate, and complete record of the City*
2 *of Holladay Planning Commission Meeting held Tuesday, June 6, 2023.*
3
4
5

6 Teri Forbes

7 Teri Forbes
8 T Forbes Group
9 Minutes Secretary

10
11 Minutes Approved: _____

DRAFT

DATE: July 25, 2023

COMMISSION MEETING MINUTES

ADDRESS:

n/a

LEGAL DESCRIPTION: n/a

APPLICANT/REPRESENTATIVE:

City of Holladay Planning Commission

PROPERTY OWNER:

n/a

ZONING:

n/a

GENERAL PLAN DISTRICT:

n/a

CITY COUNCIL DISTRICT:

N/A

PUBLIC NOTICE DETAILS:

n/a

REQUEST:

Adoption of Meeting Minutes

APPLICABLE REGULATIONS:

UCA§52-4-203, 206
2.01.080
13.06.030

EXHIBITS:



STAFF:

Carrie Marsh, City Planner

DECISION TYPE:

Administrative/Procedural:

Commission shall approve, approve with changes, or continue the agenda item to a later date.

SITE VICINITY MAP

Effective 5/8/2018

52-4-203 Written minutes of open meetings -- Public records -- Recording of meetings.

- (1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.
- (2)
 - (a) Written minutes of an open meeting shall include:
 - (i) the date, time, and place of the meeting;
 - (ii) the names of members present and absent;
 - (iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
 - (iv) a record, by individual member, of each vote taken by the public body;
 - (v) the name of each person who:
 - (A) is not a member of the public body; and
 - (B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;
 - (vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and
 - (vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.
 - (b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.

Notes:

Corrections made according to commission direction on 12-1-2020

1 **DRAFT**

2
3 **MINUTES OF THE CITY OF HOLLADAY**
4 **PLANNING COMMISSION MEETING**

5
6 **Tuesday, July 11, 2023**

7 **5:30 p.m.**

8 **City Council Chambers**

9 **4580 South 2300 East**

10 **Holladay, Utah**

11
12 **ATTENDANCE:**

13
14 **Planning Commission Members:**

14 **City Staff:**

15
16 Howard Layton, Chair

16 Carrie Marsh, City Planner

17 Martin Banks

17 Brad Christopherson, City Attorney

18 Chris Layton

19 Dennis Roach

20 Paul Cunningham

21 Ginger Vilchinsky

22
23 **WORK SESSION**

24 Chair Howard Layton called the Work Session to order at approximately 5:30 p.m.

25
26 The agenda items were reviewed and discussed. Chair Howard Layton reported that there were
27 three items on the Regular Meeting agenda. The Public Hearing item was a Conditional Land Use
28 Permit for a Home Occupation, which was for Lemon and Lavender Learning. The two Action
29 Items on the agenda were a Preliminary and Final Site Plan for the “Millwood Estates” Subdivision
30 and a Preliminary and Final Site Plan for the “6121 South Highland Mixed-Use Redevelopment.”

31
32 **CONVENE REGULAR MEETING – Public Welcome and Opening Statement by**
33 **Commission Chair.**

34 Chair Howard Layton called the Regular Meeting to order at approximately 6:15 p.m. He read the
35 Commission Statement for the benefit of those present and shared information about public
36 hearings. He reminded those present that there had already been public hearings for the two action
37 items on the agenda, which meant that no additional public comments would be heard for those
38 tonight.

1 **PUBLIC HEARING**

2 **1. “Lemon and Lavender Learning” – Conditional Land Use Permit: Home Occupation**
3 **– 3027 East Delsa Drive (R-1-8 Zone). Review and Consideration of a Request by**
4 **Applicant Stephanie Allred as Owner, for a Conditional Use Permit for Home**
5 **Occupation. Item Reviewed as an Administrative Application as per Provisions**
6 **stated in Holladay Ordinance §13.08.040. File #23-2-07.**

7 City Planner, Carrie Marsh, reported that the above matter pertains to a Conditional Land Use
8 Permit for a Home Occupation. The property is located at 3027 East Delsa Drive in the R-1-8
9 Zone and the application was for Lemon and Lavender Learning. The proposed use is private
10 tutoring lessons within the residence for children in kindergarten through fifth grades. The
11 applicant’s narrative included the proposed hours, which are from 9:00 a.m. to 5:00 p.m. Monday
12 through Friday. Clients will be seen by appointment only and only one client will be at the home
13 at a time. The business will be located in the basement where there is a separate entrance. One
14 parking space will be provided in the driveway. The applicant’s narrative referenced potential on-
15 street parking, but City Staff recommended that the driver remain in the vehicle in the case of drop-
16 offs. Anyone exiting the vehicle would need to park on-site rather than on the street.

17
18 The applicant, Stephanie Allred, introduced herself and reported that Lemon and Lavender
19 Learning will provide reading and math tutoring for children in the surrounding area. She stated
20 that the lessons will be provided by appointment only. Clients will have access to her driveway
21 or can drop off children on the street. Clients can enter the home on the east side of the home
22 using stairs that lead directly to the basement. Ms. Allred did not believe the business will impact
23 the neighborhood in any negative manner and that nothing outdoors will be affected. The business
24 fits well with the zoning of the residential area as it will not have a detrimental impact.

25
26 Commissioner Chris Layton asked about the basement access and wondered if the stairs are
27 equipped with handrails and safety features. Ms. Allred confirmed that there is a handrail. She
28 will keep the area clear and clean at all times. Commissioner Banks asked about potential on-
29 street drop-offs and if the applicant will ensure that the parents dropping off their children remain
30 in their vehicles. Ms. Allred stated that she will inform parents of the drop-off requirements in
31 advance. If there is a need to get out of the vehicle, parents can park in her driveway rather than
32 on the street.

33
34 Chair Howard Layton opened the public hearing. There were no public comments. The public
35 hearing was closed.

36
37 ***Commissioner Roach moved to APPROVE the application for a Home Occupation for Lemon***
38 ***and Lavender Learning, located at 3027 East Delsa Drive based on the following:***

39
40 ***Findings:***

- 41
42 ***1. A Home Occupation with customers is conditionally allowed for this location.***
43
44 ***2. Business operations are low-impact and all procedures occur within the home.***
45

3. *The property owner intends to provide off-street parking.*
4. *It is not anticipated that traffic will be a problem due to the small-scale nature of the use.*
5. *There are no outside employees proposed or allowed with the use, which will reduce the need for parking.*
6. *The use provides a desirable service to the community.*

Conditions:

1. *Off-street parking areas shall be maintained as available during business hours – no street parking is allowed.*
2. *Operational permits and licensure are subject to review and revocation upon a finding of non-compliance.*
3. *Hours of operation are limited to Monday through Friday, 9:00 a.m. to 5:00 p.m.*
4. *Obtain a Holladay Business License.*

Commissioner Banks seconded the motion. Vote on Motion: Commissioner Cunningham-Aye; Commissioner Vilchinsky-Aye; Commissioner Chris Layton-Aye; Commissioner Banks-Aye; Commissioner Roach-Aye; Chair Howard Layton-Aye. The motion passed unanimously.

ACTION ITEMS

2. **“Millwood Estates” Subdivision – Preliminary and Final Site Plan - 4600 South Holladay Boulevard (Holladay Village Zone) Preliminary and Final Level Review and Consideration of Development Details by Marlyn Miller and Shawn Lockwood, Property Owner. Review of this 0.73-Acre Development is Conducted According to Concept Approval Granted on January 10, 2023, According to Zone Compliance and Residential Subdivision Development Standards According to Holladay Ordinance §13.10. File #22-1-16.**

Ms. Marsh presented the Staff Report and stated that the application is for a Preliminary and Final Site Plan for the Millwood Estates subdivision. The property is located at 4600 South Holladay Boulevard in the Holladay Village Zone. The matter is an administrative review by the Planning Commission. The required public hearing was conducted on February 21, 2023. The Planning Commission needs to make a motion to approve or continue the discussion on the permitted by-right application. All motions required findings that support the decision. Decisions of Approval need to take place during a public meeting in accordance with Holladay Ordinance 13.06.050.B2 and 13.08. The Planning Commission shall approve a Site Plan only upon finding conformance with the requirements of the title, as applicable to the Holladay Village Zone.

1 Ms. Marsh reported that the creation of a residential plat requires review and approval by the Land
2 Use Authority (Planning Commission) in a three-step process consisting of Concept, Preliminary,
3 and Final Plat. The proposal components that are applicable to the application include the Building
4 Design, which was approved on January 10, 2023; the Conceptual Site Plan, which was approved
5 on February 21, 2023; the Preliminary Development Plan, which is pending; and Final Plat, which
6 is pending. Ms. Marsh explained that the Preliminary Development Plan and the Final Plat are
7 currently before the Planning Commission for consideration.
8

9 Ms. Marsh shared background information about the proposal. The applicant proposed six new
10 duplex townhomes and one new single-family home on a 0.73-acre lot (31,978 square feet). The
11 new residential units will be in addition to the three units within the existing primary home. That
12 means there will be a total of 16 dwelling units on the property. The Holladay Village Zone allows
13 a maximum of 24 units per acre, which means the subject property could yield 17 units. 20 parking
14 stalls are required on the site and 21 will be provided. There is a 35-foot maximum building height
15 in the zone and the proposed two-story homes were found to comply with the height maximums.
16 The Site Plan will be divided into private, common, and limited common ownership. 36.4% of
17 the site is landscaping. The proposed landscaping and protection of the existing tree canopy were
18 considered to be compliant with the Holladay Village Zone requirements.
19

20 On-site stormwater retention plans were provided including a Long-Term Maintenance Agreement
21 that will be recorded. The Technical Review Committee (“TRC”) reviewed the application and
22 considered it to be in step with the goals and standards of the Holladay Village Master Plan. The
23 development represents the vision of the plan, which is to provide housing in a harmonious
24 manner. It supports and complements existing development in the Village. The detached duplex
25 townhomes will provide a unique housing option for the area in a desirable style. The units will
26 also complement the existing primary home. The TRC review took place in two parts consisting
27 of Building Design and Site Development/Land Use. Ultimately, there was support.
28

29 The City Engineer and Public Works Department reviewed the application. No Parking signs will
30 need to be posted and the curb painted along the east side of Locust Lane. There will also be a
31 required dedication at the extreme corner of Locust Lane and Holladay Boulevard. The City’s
32 Building Official had no comments about the application. Staff recommended that the Planning
33 Commission discuss the application and ensure that it complies with all applicable regulations.
34 The application was reviewed by the City Planner, the Fire Marshal, and the City Engineer. There
35 was discussion regarding the No Parking requirement on the east side of Locust Lane. Ms. Marsh
36 also reported that there is a Public Utility Easement (“PUE”) on the south property line. Structures
37 cannot encroach into the PUE so that issue needs to be addressed by the applicant.
38

39 According to the Fire Marshal, there is an on-site 20-foot-wide emergency access driveway that
40 was properly sized for fire and emergency access from Holladay Boulevard. Each dwelling is
41 under the maximum limits for fire sprinklers, so no interior sprinkler systems were required. As
42 for the Engineering review, the City Engineer determined that underground stormwater retention
43 systems were provided and accepted in terms of design. The Public Works Director determined
44 that fencing for the proposed parking stall that is accessed from Locust Lane needs to be reduced

1 to meet the Clear View Ordinance standards. The applicant addressed that by moving the parking
2 space over. The change was noted in the Staff Report.

3
4 Staff recommended that the Planning Commission allow the applicant to provide input on the
5 outstanding details, including fencing height at carports accessed at Locust Lane, encroachments
6 into the PUE area, and the remaining utility letters. Community and Economic Development
7 Director, Jonathan Teerlink, found that many of the Preliminary and Final Subdivision Plan
8 elements for a mixed-use redevelopment proposal in the Holladay Village Zone were reviewed
9 and conditionally accepted by the TRC. It was also determined that most of the required elements
10 were submitted, reviewed, and accepted unless otherwise noted, as modified by the TRC per the
11 City's submission requirements. The TRC made a recommendation to the Planning Commission
12 to conditionally approve the Preliminary Plan. If the Commission was amendable, there could be
13 a motion made to delegate the Final Plat approval to City Staff.

14
15 Project Engineer, Robert Poirier, introduced himself and shared information about the PUE.
16 Initially, it was proposed that the power run along that corridor. However, after contacting Rocky
17 Mountain Power, it was determined that the power will come from the other side. Commissioner
18 Chris Layton asked about the five-foot PUE that was labeled on the drawing. Mr. Poirier explained
19 that it was shown on an older version that was drafted prior to receiving comments. It had since
20 been removed and was shown in the latest materials submitted to the City. Ms. Marsh was not
21 certain whether the latest materials were included in the packet. There was discussion regarding
22 the PUEs and the submitted materials.

23
24 Comments were received regarding fencing in clear-view areas. Those comments were primarily
25 focused on the unit on the southwest corner of the property. Mr. Poirier explained that the parking
26 stalls were shifted so that the last parking stall did not fall within the clear-view triangle. It met
27 the requirement by being outside of that triangle. There is a dead-end street but the clear view
28 requirement still needs to be taken into account. Additional information was shared about parking
29 and the fencing heights for the proposed development.

30
31 Chair Howard Layton asked if Ms. Marsh had seen and reviewed the updated Site Plan. He was
32 concerned that the Planning Commission did not have the updated submissions in the packet. He
33 wanted to make sure that all of the relevant information was submitted to the City and reviewed
34 appropriately. Ms. Marsh offered to verify. She reported that Mr. Teerlink compiled the Staff
35 Report. She was not certain whether the updated submittals had been sent to him via email or if
36 they were included in the City's files. It was possible to ensure that the City has the latest updated
37 version of the documents.

38
39 Commissioner Roach asked if the PUE was completely removed from the property. The image
40 shown indicated that it went through the carport between Lots 7 and 8. Mr. Poirier clarified that
41 it was proposed to go along the entire length of the property but that was no longer the case. There
42 was discussion regarding the carport heights. Commissioner Chris Layton asked about the height
43 restriction, which he thought was eight feet, and then a 1:1 ratio off of the property line. Ms. Marsh
44 did not believe there was a restriction in place. Chair Howard Layton referenced concerns
45 expressed at the previous public hearing.

1
2 Commissioner Chris Layton wondered if it was possible to ask that the No Parking signs be placed
3 at the beginning of the project rather than when it was completed. He believed it would take some
4 time to complete the project and it would be best to have the signs in place beforehand. Ms. Marsh
5 reported that she walked the property recently and there were No Parking signs posted on the east
6 side of Locust Lane. They were tucked behind some shrubbery, so the signs might not be as visible
7 as they need to be. Commissioner Chris Layton asked if the signs were posted by the City.
8 Ms. Marsh believed they were. The recommendation needs to reference curb painting and
9 bringing the No Parking signs forward. Commissioner Roach suggested that there be a Condition
10 of Approval related to that.

11
12 Chair Howard Layton asked that the Planning Commission discuss any outstanding concerns. He
13 noted that it would have been nice to review the updated documents to ensure that they were
14 submitted appropriately. Commissioner Chris Layton believed it was important for the
15 Commission to have the opportunity to review those materials. That being said, City Staff
16 reviewed them and Mr. Teerlink is familiar with the details. Mr. Teerlink seemed to think that the
17 application complies with all of the requirements. Commissioner Roach agreed that it would have
18 been nice to have the updated materials to review before a motion was made. Chair Howard
19 Layton was comfortable moving forward with a motion to approve the Preliminary Plan with
20 conditions but thought it made sense for the Planning Commission to review the Final Plat rather
21 than delegate that responsibility to Staff. Other Commissioners agreed with that approach and
22 believed the suggestion made the most sense given the circumstances.

23
24 ***Chair Layton moved to APPROVE the Preliminary Plan application by Marlyn Miller for***
25 ***“Millwood Family Estates,” a residential subdivision, located at 4600 South Holladay***
26 ***Boulevard in the HV Zone subject to the following:***

27
28 ***Findings:***

- 29
30 1. ***Construction details for the development comply with the Concept Plan approved***
31 ***on 02/21/2023.***
32
33 2. ***Development details required for a Preliminary and Final Site Plan are***
34 ***substantially complete and reviewed by the TRC.***
35
36 3. ***Land use and site features comply with the HV Zone standards.***
37
38 4. ***The development complies with the goals of the General Plan, Holladay Village***
39 ***Small Area Master Plan.***
40
41 5. ***Stormwater detention areas and public improvements have been reviewed by the***
42 ***City Engineer.***
43
44 6. ***Fire access has been approved by the Unified Fire Authority (“UFA”).***
45

1 **Conditions:**

- 2
- 3 1. *No Parking signs on the east side of Locust Lane to be improved so they are*
- 4 *visible and the curb also be painted.*
- 5
- 6 2. *That the Planning Commission has an opportunity to further review the Final*
- 7 *Plat that will show the Site Plan without the public utility easement area and will*
- 8 *address issues raised regarding parking and the change in the three parking stalls*
- 9 *on Locust Lane.*
- 10
- 11 3. *Submission of remaining utility service letters.*
- 12
- 13 4. *Resolution of clear view issue with abutting fencing at Locust Lane – three or*
- 14 *more stalls will require fence modification.*
- 15
- 16 5. *Post-development bonding requirements as determined by the City Engineer.*
- 17
- 18 6. *Provide Codes, Covenants, and Restrictions (“CC&Rs”), detailing maintenance*
- 19 *of private lane, and parking designation.*
- 20

21 *Commissioner Roach seconded the motion. Vote on Motion: Commissioner Cunningham-Aye;*

22 *Commissioner Vilchinsky-Aye; Commissioner Layton-Aye; Commissioner Banks-Aye;*

23 *Commissioner Roach-Aye; Chair Layton-Aye. The motion passed unanimously.*

24

25 Chair Howard Layton reported that the Final Plat will come back to the Planning Commission for

26 review.

27

- 28 3. **“6121 South Highland Mixed-Use Redevelopment” - Preliminary and Final Site Plan**
- 29 **- 6121 South Highland Drive (Holladay Crossroads Zone). Preliminary and Final**
- 30 **Level Review and Consideration of Development Details by Chris Ensign, Applicant.**
- 31 **Review of this 0.96-Acre Mixed-Use Development is Conducted According to Concept**
- 32 **Approval Granted According to Zone Compliance on October 5, 2021. Review of**
- 33 **Compliance with Site Development Master Plan Standards According to Holladay**
- 34 **Ordinance §13.66 for the Holladay Crossroads Zone and Holladay Ordinance §13.08**
- 35 **for Commercial Site Plans.**

36 City Attorney, Brad Christopherson, referenced some of the questions raised during the Work

37 Session. The Holladay Crossroads Zone ordinance includes a table that shows a 65-foot maximum

38 height. However, there were exceptions to that height that were not included in the calculation.

39 This included an eight-foot allowance for utilities and a 10-foot exception to accommodate an

40 elevator shaft. He made note of the places where that language could be found.

41

42 Ms. Marsh reported that the application is for a Preliminary and Final Site Plan for the “6121 South

43 Highland Mixed-Use Redevelopment.” The property is within the Holladay Crossroads Zone. She

44 noted that this is an administrative review process and approval by the Land Use Authority

45 (Planning Commission) is required through a three-step process consisting of Concept,

1 Preliminary, and Final. Decisions of approval need to be made during a public meeting in
2 accordance with Holladay Ordinance 13.06.050B2 and 13.08. The Planning Commission can
3 approve a Site Plan only upon finding that there was conformance with the requirements of the
4 title that is applicable to the Holladay Crossroads Zone.

5
6 Ms. Marsh shared background information about the application and the zone. In February 2021,
7 the Holladay Crossroads Zone was established to replace the existing C-1 Zone. That long-range
8 plan was the final step in applying the General Plan vision for that prominent gateway area. The
9 applicant and property owner, Chris Ensign, was instrumental in the creation of the zone and is
10 now in the final redevelopment steps, taking advantage of the revised commercial zone. The
11 finalized project will implement the mixed-use allowance to propose a retail/residential
12 redevelopment project. The Conceptual Site Plan and chosen architecture were approved by the
13 Planning Commission in October 2021. Due to delays related to the COVID-19 pandemic and
14 market circumstances, the project is now in the final stages of the review process.

15
16 The TRC reviewed the plans. No condominium plan was proposed, therefore, a subdivision plan
17 or plat was not presented for review. The TRC review was completed in two parts, as required in
18 the Holladay Crossroads Zone consisting of an Architectural Theme and Design Quality followed
19 by Site Development and Land Use. Ms. Marsh reported that the Concept Plan Summary was
20 approved by the Planning Commission in October 2023. She reviewed some of the site details. A
21 primarily residential for-lease product was proposed with 83 units. Ground floor retail is required
22 and was proposed as two separate retail pads located at the sidewalk level. The specific uses had
23 not yet been determined. She explained that if a proposed use is conditional, the applicant would
24 need to return to the Planning Commission for Conditional Use Permit approval.

25
26 In terms of emergency access, the UFA determined that the site access points were adequate.
27 However, there were some concerns that the access areas proposed to the north and south might
28 not always be available due to redevelopment pressure. Emergency access easements may become
29 necessary in those instances. Ms. Marsh reported that the front setback was set at the minimum
30 required 15 feet. No setbacks were required from the side and rear property lines. No right-of-
31 way encroachments were proposed and no maximum coverage limits were proposed to be violated.
32 She referred to the landscaping requirements.

33
34 Ms. Marsh shared information about building massing. At the location north of 6200 South and
35 150 feet from the residential properties accessed from 6060 South, the project was proposed to
36 have a maximum height of 58 feet to the roof deck. There would be four floors over the retail and
37 parking deck. She reported that a parapet was shown to extend above the maximum line. That
38 was excluded from the height ordinance as clarified earlier by the City Attorney.

39
40 As for parking and amenities, 98 parking stalls would meet the residential requirements and 11
41 parking stalls would meet the retail requirements. The public amenities proposed included bicycle
42 racks and public art installation opportunities. Ms. Marsh noted that the lighting plans were
43 compliant with the Dark Sky standards. Additionally, trash receptacles were proposed to be placed
44 within the parking structure. There would be a widened sidewalk with new tree plantings to
45 improve the streetscape. She shared information about landscaping. The surface parking

1 landscaping standards were not applicable as all parking was provided underground. Since the
2 project does not abut a residential use, there was no landscape buffer required either. It was noted
3 that the Holladay Crossroads Zone provides latitude to the Commission to determine landscaping.
4

5 It was recommended that the Commission allow the applicant to provide the following details:
6

- 7 . Interpretation of parapet heights serving as mechanical screening above maximum height;
 - 8 . Preservation of any tree canopy and proposed Landscaping Plan;
 - 9 . Emergency access preservation;
 - 10 . Utility access (whether any easements were needed); and
 - 11 . Remaining utility letters (water, gas, and sewer).
- 12

13 The Preliminary and Final Site Plan elements of the application were reviewed and accepted by
14 the TRC and determined to be complete per the City's submission requirements. Mr. Teerlink
15 also found that all required final-level elements had been submitted, reviewed, and accepted or
16 otherwise noted as modified by the TRC as per the City's submission requirements. No
17 subdivision was proposed, so a condominium plat submittal was deemed unnecessary. The TRC
18 recommended approval to the Commission.
19

20 The applicant, Chris Ensign, introduced himself to the Planning Commission and was available to
21 answer questions. Commissioner Banks asked about the north and south emergency access. He
22 presumed that easements on both had already been contemplated. Mr. Ensign explained that there
23 had been previous discussions about the matter with the Fire Department. Meetings were held on-
24 site to determine what was necessary. There were no easements for either the north or south areas.
25 He shared a sample scenario with the Commission from a previous project. He was unable to
26 make conditions worse for existing properties from a fire standpoint. It meant that his site needed
27 to be adjusted to allow for fire access. For this particular project, he believed that a similar kind
28 of situation would occur. Other properties would need to preserve fire lanes so that his site would
29 not be put in a worse condition than it is. Additional discussions were had about emergency access
30 to the subject property.
31

32 Commissioner Chris Layton reported that the surrounding properties are in the same zone and have
33 the same development opportunities. He wondered if the Planning Commission had an obligation
34 to ensure that the subject property can function autonomously and be protected from fire without
35 impacting the neighboring properties. Mr. Christopherson was unable to confirm that but offered
36 to look into it. He asked for some time to look for the answer. Commissioner Chris Layton knew
37 that these kinds of situations happen but had also seen agreements with adjoining neighbors. For
38 instance, a Cross Emergency Access Agreement. Mr. Christopherson explained that UFA has the
39 authority to state that it is possible to access the site but he was not sure if UFA could ask that
40 another property remain open for fire access. He reiterated that he wanted to look into the matter
41 further to verify what is permitted. The sample scenario from Mr. Ensign referred to as The Station
42 project, was discussed in more detail.
43

44 Chair Howard Layton believed the issue came down to the Fire Department's approval. As for
45 future use of the land, UFA may or may not approve the development of the adjoining properties.

1 Commissioner Chris Layton pointed out that the other properties will have the same property rights
2 that Mr. Ensign has. He expressed concern that there was no agreement in place. At some point
3 in the future, a development could put the project in danger of not being serviced in an emergency.
4 He was not sure if there was anything in the regulations that stipulate that access needs to be
5 provided on the subject property itself or have an Access Agreement in place.
6

7 Commissioner Banks asked if the Fire Marshal indicated approval via a formal letter or
8 recommendation. Ms. Marsh stated that a letter is not typical but was something that could be
9 requested by the Planning Commission as a Condition of Approval. Commissioner Vilchinsky
10 referenced the recommended requirements listed in the Staff Report. One was that fire access has
11 been approved by the UFA, subject to easement agreements with abutting property owners. She
12 wondered if there was something in writing to specify that. Commissioner Banks was not certain
13 that the Fire Marshal had conditioned his approval upon some kind of easement access. However,
14 that was what was clearly stated in the Staff Report. Commissioner Vilchinsky believed there
15 needed to be confirmation as to whether or not the UFA approved the application on a conditional
16 basis. Ms. Marsh noted that no statement had been received from UFA about the need for
17 easements. The Commissioners expressed concerns about that. Mr. Ensign did not believe that
18 condition was something that came from the Fire Marshal.
19

20 Ms. Marsh reported that the Fire Marshal discussed the application during TRC meetings. He
21 looked at the plan and made a decision about approval. The Staff Report stated that there was
22 approval from UFA subject to the easement agreements. That being said, there might need to be
23 some more clarity provided about the specifics. Commissioner Banks did not want to impose a
24 condition on the application if the Fire Marshal had not imposed one himself. He wondered if it
25 would be possible to ask the Fire Marshal for clarification. Ms. Marsh confirmed that City Staff
26 could seek out additional clarification. Commissioner Cunningham felt it was important to have
27 the Fire Marshal's findings submitted in writing for future applications.
28

29 Commissioner Chris Layton noted that access from the south to the parking area was shown. He
30 wondered if that area was owned by Mr. Ensign or if there was some kind of access agreement in
31 place. Mr. Ensign shared additional information about the property. He did not need that south
32 entrance necessarily. The same parking could be accessed from the west as well. Drawings of the
33 area were reviewed by the Planning Commission. Commissioner Chris Layton wondered if there
34 had been discussions about access agreements. Mr. Ensign explained that the intention was to
35 provide additional access for residential uses, but it was not necessary.
36

37 Mr. Christopherson pointed out that the development has been around for some time. There may
38 be some existing cross-access agreements, cross-parking agreements, or cross-emergency access
39 agreements in place already. He was not aware of any but acknowledged that there might be some.
40 He recommended that the item be continued until the outstanding questions can be answered.
41 Everything else had been complied with, but there seemed to be some outstanding questions about
42 emergency access and potential access agreements. He did not want to create issues in the future
43 when the adjacent property owners came in and were unable to build as desired. Mr.
44 Christopherson felt it was best to continue the item to a future meeting. He offered to work with
45 Staff to determine what needs to be established to move forward.

1
2 Commissioner Roach referenced a previous discussion where he mentioned the possibility of there
3 being trees along the northern side of the development. He did not see anything like that in the
4 documents that were submitted and wondered if that was still anticipated. Mr. Ensign confirmed
5 this and offered to make sure it was shown clearly in the materials.
6

7 Commissioner Banks wanted to be careful about a potential letter from the Fire Marshal and how
8 that would be handled. For instance, whether City Staff should approach the Fire Marshal for a
9 letter or whether the applicant should approach the Fire Marshal for a letter. Commissioner Roach
10 thought it was important to consider the property rights of the neighbors, which was the reason
11 that something in writing seemed to make the most sense in this instance. Commissioner Banks
12 wondered what would happen if the parties involved were unable to work out a mutually
13 acceptable arrangement. It was important to consider the different possibilities and determine who
14 should approach the Fire Marshal. It was noted that the Fire Marshal attends TRC meetings.
15 Additional discussions were had about the necessary fire requirements and access in the area.
16

17 *Commissioner Banks moved to CONTINUE the Preliminary and Final Plan application by*
18 *Chris Ensign, representing Solstice Development, for an 83-unit residential, mixed-use*
19 *development project located at 6121 South Highland Drive in the Holladay Crossroads Zone,*
20 *until the applicant is able to do additional due diligence on the potential existence of any*
21 *easements or documents with respect to facilitating the access to the north and south sides of*
22 *the property; and until such time that the TRC has the opportunity to discuss the issue,*
23 *particularly, the Fire Marshal, with respect to the recommended requirements. Commissioner*
24 *Roach seconded the motion. Vote on Motion: Commissioner Cunningham-Aye; Commissioner*
25 *Vilchinsky-Aye; Commissioner Layton-Aye; Commissioner Banks-Aye; Commissioner Roach-*
26 *Aye; Chair Layton-Aye. The motion passed unanimously.*
27

28 **ADJOURN**

29 *Commissioner Roach moved to ADJOURN. The motion passed with the unanimous consent of*
30 *the Commission.*
31

32 The Planning Commission Meeting adjourned at approximately 7:32 p.m.

1 *I hereby certify that the foregoing represents a true, accurate, and complete record of the City*
2 *of Holladay Planning Commission Meeting held Tuesday, July 11, 2023.*

3
4
5

6 Teri Forbes

7 Teri Forbes
8 T Forbes Group
9 Minutes Secretary

10
11 Minutes Approved: _____

DRAFT

DATE: July 11, 2023

COMMISSION MEETING MINUTES

ADDRESS:

n/a

LEGAL DESCRIPTION: n/a

APPLICANT/REPRESENTATIVE:

City of Holladay Planning Commission

PROPERTY OWNER:

n/a

ZONING:

n/a

GENERAL PLAN DISTRICT:

n/a

CITY COUNCIL DISTRICT:

N/A

PUBLIC NOTICE DETAILS:

n/a

REQUEST:

Adoption of Meeting Minutes

APPLICABLE REGULATIONS:

UCA§52-4-203, 206
2.01.080
13.06.030

EXHIBITS:



STAFF:

Carrie Marsh, City Planner

DECISION TYPE:

Administrative/Procedural:

Commission shall approve, approve with changes, or continue the agenda item to a later date.

SITE VICINITY MAP

Effective 5/8/2018

52-4-203 Written minutes of open meetings -- Public records -- Recording of meetings.

- (1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.
- (2)
 - (a) Written minutes of an open meeting shall include:
 - (i) the date, time, and place of the meeting;
 - (ii) the names of members present and absent;
 - (iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
 - (iv) a record, by individual member, of each vote taken by the public body;
 - (v) the name of each person who:
 - (A) is not a member of the public body; and
 - (B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;
 - (vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and
 - (vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.
 - (b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.

Notes:

Corrections made according to commission direction on 12-1-2020

1 **DRAFT**

2
3 **MINUTES OF THE CITY OF HOLLADAY**
4 **PLANNING COMMISSION MEETING**

5
6 **Tuesday, July 25, 2023**

7 **5:30 p.m.**

8 **City Council Chambers**

9 **4580 South 2300 East**

10 **Holladay, Utah**

11
12 **ATTENDANCE:**

13
14 **Planning Commission Members:**

15 **City Staff:**

16 Howard Layton, Chair

16 Carrie Marsh, City Planner

17 Dennis Roach

17 Jonathan Teerlink, Community Development Director

18 Chris Layton

18 Brad Christopherson, City Attorney

19 Karianne Prince

20
21 **WORK SESSION**

22 Chair Howard Layton called the Work Session to order at approximately 5:50 p.m.

23
24 The agenda items were reviewed and discussed. City Planner, Carrie Marsh, reported that there
25 are three Public Hearing items on the Regular Meeting agenda. The first item was for “Outside
26 Music Group/Posey Cello Studio”, which is a request for a Conditional Use Permit for a Home
27 Occupation at property located at 1986 East Cecelia Circle. The property is in the R-2-10 Zone.
28 The standards for a Home Occupation were listed in the Staff Report. City Attorney, Brad
29 Christopherson, noted that the public hearing would be opened during the Regular Meeting but
30 there was a request to continue the item. The applicant wanted the full Commission to be present
31 before a vote is taken on the Home Occupation application. The public hearing would still occur.
32 Mr. Christopherson clarified that the hearing would be opened but would not be closed.

33
34 Ms. Marsh reported that the next two items on the Regular Meeting agenda were for Text
35 Amendments. One pertained to landscaping and another related to signs in the Holladay Village.
36 The Landscaping Definitions Text Amendment would address requirements by the Central Utah
37 Water Conservancy District (“CUWCD”) and allow residents to meet qualifications for a rebate
38 program. She explained that a lawn maximum would be added as well as details in each zone for
39 the landscaping requirements. Chair Howard Layton noted that other nearby cities were adopting
40 similar standards. The City of Holladay has been provided with suggested text to review and
41 incorporate. Ms. Marsh pointed out that several residents were interested in the CUWCD rebate
42 programs. Commissioner Roach asked if there were additional amendments. Community and
43 Economic Development Director, Jonathan Teerlink clarified that the State Statute provided
44 language.

1 As for the item related to Signs and Holladay Village Sign Regulations, it was clarified that the
2 Holladay Village Zone has specific regulations regarding signs. Ms. Marsh reported that a
3 landowner has a pole sign that did not meet the sign regulations in the zone. A text amendment
4 was requested so that it would be possible to use digital numbering to list gas prices. Language
5 was drafted relative to that request. Commissioner Chris Layton asked if the pole sign would be
6 removed if the amendment was made. Mr. Teerlink explained that it would depend.

7
8 Ms. Marsh reported that there are two Action Items on the Regular Meeting agenda as well. The
9 first was the “6121 South Highland Mixed-Use Redevelopment” application. At the previous
10 Planning Commission Meeting, there were questions raised about fire access. The building would
11 be fire sprinkled, so fire access was addressed. There were comments from Unified Fire Authority
12 (“UFA”) included in the Staff Report. It was noted that previous questions related to fire access
13 on the north, south, and east sides of the building. Those fire accesses are only required during
14 construction. Once the sprinkler system is active, access concerns would be resolved.

15
16 The final Action Item was a Site Plan for the “Millwood Estates” Subdivision. Ms. Marsh reported
17 that the Preliminary Plan was approved at the last Planning Commission Meeting. There were
18 updated plans included in the Meeting Materials Packet for review. It removed the utility easement
19 on the side and resolved some outstanding questions.

20
21 **CONVENE REGULAR MEETING – Public Welcome and Opening Statement by**
22 **Commission Chair.**

23 Chair Howard Layton called the meeting to order at approximately 6:00 p.m. He introduced New
24 Planning Commissioners Jill Fonte and Angela Gong. The new Commissioners would take over
25 two existing Commissioner spots. Commissioner Chris Layton has served on the Commission for
26 six years, which is the maximum. Chair Howard Layton would also be leaving the Planning
27 Commission. He clarified that the two new Commissioners would not vote at this meeting but
28 will vote in the future when Commissioner Chris Layton and Chair Howard Layton are officially
29 released from their positions on the Planning Commission.

30
31 Chair Howard Layton noted that three Commissioners were absent from the current Planning
32 Commission Meeting. There are seven Commissioners in total and there needs to be at least four
33 participate in the voting process for there to be a quorum. At the current meeting, the voting
34 members were Commissioners Prince, Roach, Chris Layton, and Chair Howard Layton. Chair
35 Howard Layton read the Commission Statement for the benefit of those present and shared
36 information about the public hearing and action item processes.

1 **PUBLIC HEARINGS**

2 **1. “Outside Music Group/Posey Cello Studio” – Conditional Land Use Permit: Home**
3 **Occupation – 1986 East Cecelia Circle (R-2-10 Zone) Review and Consideration of a**
4 **Request by Applicant Lauren Posey as the Business Owner, with Authorization from**
5 **the Property Owners, for a Conditional Use Permit for Home Occupation. Item**
6 **Reviewed as an Administrative Application as per Provisions stated in Holladay**
7 **Ordinance §13.08.040. File #23-2-08.**

8 Mr. Teerlink presented the Staff Report and explained that the application was for “Outside Music
9 Group/Posey Cello Studio.” It is a Conditional Land Use Permit for a Home Occupation. The
10 subject property is located at 1986 East Cecelia Circle in the R-2-10 Zone. It was noted that Home
11 Occupations are home-based businesses. If there are customers, clients, or employees coming to
12 the home, a Conditional Use Permit is required. This application is for music lessons to be taught
13 in the home. The applicant provided a narrative to outline the nature of the service.

14
15 A public hearing was scheduled for the item but the applicant requested that it be continued to a
16 future Planning Commission Meeting where all Commissioners would be present. As a result, it
17 was recommended that the item be continued to the August 1, 2023, meeting. Mr. Teerlink noted
18 that the hearing was noticed and recommended opening the public hearing so those present could
19 share comments. The hearing would remain open.

20
21 The applicant, Lauren Posey, introduced herself and explained that she is a cello teacher. She
22 would like to be able to teach students in her home with one student at a time being taught. The
23 home has a shared driveway that is narrow and long and runs behind the houses. She expressed
24 concerns about requiring parking to be on the shared driveway when there is a lot of street parking
25 available. She stated that the process has been frustrating and creates barriers to home uses.
26 Commissioner Chris Layton asked about the shared driveway. Ms. Posey clarified that the
27 driveway went back and the garages were situated behind. There were no further questions for the
28 applicant.

29
30 Chair Howard Layton opened the public hearing. There were no public comments. The public
31 hearing remained open.

32
33 *Commissioner Chris Layton moved to CONTINUE the application for a Home Occupation for*
34 *“Posey Cello School,” located at 1986 East Cecelia Circle, to August 1, 2023. Commissioner*
35 *Roach seconded the motion. Vote on Motion: Commissioner Prince-Aye; Commissioner*
36 *Roach-Aye; Commissioner Chris Layton-Aye; Chair Howard Layton-Aye. The motion passed*
37 *unanimously.*

1 **2. Text Amendment – Chapter 13.77; LANDSCAPING DEFINITIONS Review and**
2 **Recommendation to City Council on Proposed Updates, Consolidations and/or**
3 **Clarifying Amendments to Title 13, of the Holladay City Code, Land Use and**
4 **Development Regulations as they Relate to Statute Obligations, Set Forth by State of**
5 **Utah Legislation, Modifying Provisions Related to Landscaping Requirements for**
6 **New Developments Intended to Address State of Utah Water Conversation Efforts.**
7 **Item Reviewed as a Legislative Action, According to Procedures set forth in Holladay**
8 **Ordinance §13.07. File #23-4-02.**

9 Mr. Teerlink presented the Staff Report and explained that the item was a Text Amendment for
10 Chapter 13.77 – Landscaping Definitions. The City Council directed Staff to prepare amendments
11 to the Landscaping Ordinances in Holladay City Code to address a rebate program that the State
12 of Utah had put together for residents serviced by the CUWCD. The amendments before the
13 Planning Commission would ensure that the language is in line with the State. The language would
14 create a new concept called localscapes. Locascapes are a design concept that creates specific
15 areas on the property that were geared toward how the land was used. State Law focuses on the
16 main activity centers, such as the front yard. It limited new development of a property to a certain
17 maximum lawn area for the front yard space. Along with the civil and architectural drawings,
18 there would also need to be a Landscape Plan.

19
20 Chair Howard Layton asked about the eight-foot restriction. Mr. Teerlink explained that it is
21 related to the sprinkler system coverage. The 10-foot maximum was the area that a sprinkler
22 system can efficiently irrigate. The standards the City was asked to adopt included specific
23 regulations related to design. Commissioner Prince believed the proposed language came directly
24 from the State Legislature. This was confirmed. Commissioner Roach wondered if the language
25 would be mandated for all new construction. Mr. Teerlink confirmed this but noted that there was
26 one exception for single-family and duplex homes. If the homeowners are not interested in
27 applying for the rebate, the Landscape Plan does not need to be designed by a Landscape Architect.
28 However, it still needs to be submitted and reviewed for zone compliance. There would be a new
29 checklist when a submission is made for a Building Permit. Commissioner Roach asked if this
30 would apply to all zones in the City, which it would.

31
32 There was discussion about the rebate program. Chair Howard Layton noted that the rebate is for
33 existing properties that have modified their current landscaping. There would not be a rebate for
34 new construction because no modifications would be made. Mr. Teerlink explained that specific
35 steps need to be taken to qualify for the rebate. That being said, it would not be possible for a
36 resident to receive the rebate unless the City had adopted the standards.

37
38 Commissioner Roach had concerns about the language and stated that if a Landscape Architect
39 makes a determination, it might be possible for that Landscape Architect to circumvent the existing
40 tree canopy requirements. Mr. Teerlink clarified that this was not the intent of the language. He
41 wanted to make sure that the language was drafted so as to not impact the tree canopy preservation
42 sections. He reviewed the exemption language, specifically line 38 C, which stated:

43
44 “The provisions of this chapter do not apply to the following:
45

- 1 1) The interior undercover portions of parking structures.
- 2 2) The interior undercover portions of carports.”

3
4 He clarified that the Tree Sustainability Plan is still required and referenced in the document.
5 Commissioner Roach wanted to make sure the language did not have an impact on the Tree
6 Sustainability Plan. He had concerns because he did not want there to be any loopholes.
7 Mr. Teerlink explained that the Tree Sustainability Plan is more robust and restrictive and does a
8 lot for water conservation.

9
10 Mr. Christopherson noted that the Planning Commission could determine whether the Text
11 Amendment should be positively recommended to the City Council. The motion could include a
12 recommendation that there be a provision to specify that nothing in the ordinance was intended to
13 nullify or diminish any requirements related to tree preservation. Mr. Teerlink understood the
14 concerns expressed by Commissioner Roach and agreed that a recommendation could be made to
15 clarify the language to ensure that there was no ambiguity. That could be added to the motion.

16
17 Ms. Gong referenced language about public entities not being able to prohibit water-wise
18 landscaping. She assumed that referred to Homeowners Associations (“HOA”). Mr. Teerlink
19 explained that if an HOA wants to be more restrictive than the City, it would need to try to enforce
20 that. Mr. Christopherson clarified that a HOA is not a public entity. It is a private entity. If an
21 HOA exists and has certain requirements for the front lawn, that would apply to the ordinance
22 because there was an agreement made when the property was purchased in that HOA. As long as
23 the HOA requirements were legal at the time of adoption, they would still be considered legal,
24 even if there was conflict. Additional discussions were had about HOAs.

25
26 Chair Howard Layton opened the public hearing.

27
28 *Joan Wolfe* gave her address as 1875 East Baywood Drive. She was supportive of the new
29 standards because she had done xeriscaping in her yard and was interested in the rebate. Most of
30 the surrounding communities have accepted the standards for new construction. Ms. Wolfe asked
31 about the timeline and stated that she stood to receive a much larger rebate if the new standards
32 are adopted than if they are not. There were several other families in the same situation.

33
34 Mr. Teerlink explained that if the Planning Commission chose to forward a recommendation to
35 the City Council, it would be considered by the City Council at a future meeting. It could be added
36 to the next City Council Meeting agenda on August 17, 2023. It might be considered at the meeting
37 after that, depending on how full the next City Council Meeting agenda is. As a result, it would
38 be considered by the City Council in either August or September 2023.

39
40 There were no further comments. The public hearing was closed.

41
42 ***Commissioner Roach moved that the Planning Commission forward a recommendation to the***
43 ***City Council to APPROVE a City Council-initiated request to amend provided sections of Title***
44 ***13 of the City of Holladay Land Use Code as they relate to the statutory water efficiency***
45 ***standard, based on the following findings:***

- 1
- 2 1. *Compliance with the purpose of the Land Development Code by promoting and*
- 3 *facilitating orderly growth and development within the City of Holladay.*
- 4
- 5 2. *Compliance with the goals and policies of the General Plan by establishing*
- 6 *appropriate development standards for all uses and zoning characters within the*
- 7 *City of Holladay.*
- 8

9 *The Planning Commission recommended the following:*

- 10
- 11 1. *That the language be clarified so no ambiguity or misinterpretation would allow*
- 12 *any alteration to the existing Tree Preservation Ordinance.*
- 13

14 *Commissioner Prince seconded the motion. Vote on Motion: Commissioner Chris Layton-Aye;*
15 *Commissioner Prince-Aye; Commissioner Roach-Aye; Chair Howard Layton-Aye. The motion*
16 *passed unanimously.*

- 17
- 18 3. **Text Amendment – Chapter 13.82; SIGNS AND HOLLADAY VILLAGE SIGN**
- 19 **REGULATIONS Review and Recommendation to City Council on Proposed**
- 20 **Amendments to Title 13, of the Holladay City Code, Land Use and Development**
- 21 **Regulations as They Relate to Allowing Electronic-Type Pricing Signage for Gas**
- 22 **Stations within the Holladay Village Zone. Item Reviewed as a Legislative Action,**
- 23 **According to Procedures Set Forth in Holladay Ordinance §13.07. File #23-4-01**

24 Mr. Teerlink presented the Staff Report and explained that the application is for a Text Amendment
25 to Chapter 13.82 – Signs and Holladay Village Sign Regulations. The Holladay Village has
26 design-specific parameters related to design, architecture, aesthetics, pedestrian scale, and lighting.
27 All of those regulations had filtered through into the Sign Ordinance. Signage was completely
28 different in that zone than in any other commercial zone in the City. For instance, the sign sizes
29 were smaller and the lighting was very different. The idea was that the signs should not be overly
30 intrusive to pedestrian uses. The types of lighting had been regulated to be external in nature rather
31 than internally illuminated. Some signs were grandfathered in, but new signs needed to adhere to
32 the new standard. There was an applicant with the gas station at the corner of Murray Holladay
33 Road and Arbor Lane that wanted to convert the existing marquee sign to digital.

34

35 Mr. Teerlink explained that digital displays, like electronic message boards, were prohibited in the
36 City, specifically in the Holladay Village Zone. That being said, the applicant proposed to amend
37 13.82.200 of the Holladay Municipal Code to create an allowance for an LED illuminated gas
38 price sign. The owners wanted to update the sign to a more common LED pricing sign.
39 Mr. Teerlink explained that there was no recommendation the Planning Commission could make
40 during the current meeting. However, it was possible to do so if there was comfort with what had
41 been prepared. There could be a continuance if more information was desired. City Staff had
42 prepared information about a monument-only sign. Monument signs in the Holladay Village Zone
43 were limited to 64 square feet. As part of what had been drafted, 50% of the monument sign could
44 be used for fuel price portrayals in an LED format. The type of color being used, the size, and the
45 dimmbable features would need to be specific to the Holladay Village Zone.

1
2 The applicant's representative, Brian Bates, introduced himself and explained that he works for a
3 full-service electric sign company. He was hired by a national company to rebrand corporate 7-
4 Eleven locations with digital price changers. There are older stores that still have manual price
5 changers. He reported that there was a desire to change the prices electronically. Mr. Bates was
6 not sure whether a monument sign needed to be put in place of the existing double pole pylon sign.
7 Mr. Teerlink explained that the language was for a monument sign only.

8
9 Chair Howard Layton believed there was a desire to modify the existing sign so it was electronic.
10 It seemed that City Staff was anticipating a lower monument sign that was closer to the ground.
11 There might need to be additional communication and discussion with the City to ensure that the
12 sign would comply with the requirements in the Holladay Village Zone. He thought it made sense
13 to continue the item so there could be some clarification between the applicant and City Staff about
14 what was desired. At that time, it would be possible to determine whether the Text Amendment
15 was appropriate. Mr. Bates discussed some of the situations that he had run into in other cities.
16 He referenced internal illumination. The only way to have a digital price changer was with internal
17 illumination, even if there was a monument sign instead. Chair Howard Layton noted that the
18 proposal from City Staff was to allow for an LED display. It would not be backlit in that instance.

19
20 Mr. Teerlink reported that the draft amendment had been sent to the applicant and no comments
21 were received. He explained that when the City of Holladay incorporated, one of the primary
22 efforts was to eliminate pole signs. Those had slowly been removed as properties changed hands
23 and land was redeveloped. Whenever something was modified, it needed to come into compliance
24 with the new standards. There was no standard in place for a price-changing sign, as the idea was
25 that the language would create that new standard. However, the focus was still on removing pole
26 signs.

27
28 There was discussion regarding appropriate motion language. Ms. Fonte understood the
29 discussions about the monument versus pole signs but wanted to understand more about lighting.
30 The Text Amendment was worded in a way that it only encompassed gas stations. She wondered
31 whether there was a reason that the language was restrictive in nature. Mr. Teerlink explained that
32 the ordinance had been written narrowly so it would only apply to gas price signs.
33 Mr. Christopherson added that City Staff wants to draft something that would still accomplish the
34 purposes of the Holladay Village Zone while allowing a sign that made more sense for the use.

35
36 Commissioner Prince wondered if there was Commissioner support for a gas price monument sign.
37 If there was, she wanted to know if the applicant needed to modify their application to comply
38 with that or if the language could move forward as it had been drafted. Mr. Teerlink explained
39 that the applicant had applied for an electronically changeable gas price sign. Commissioner
40 Roach wondered whether the signs would be dark sky compliant. Mr. Bates did not believe so.
41 Mr. Teerlink explained that this was the reason the monument-style sign had been proposed. There
42 was a desire to minimize the light that illuminates upward. Commissioner Roach asked about the
43 language related to dimming the light at night. Mr. Teerlink explained that there were no standard
44 lumens in the zone, but there was a preferred color. That being said, the dimmable aspect was a
45 feature that was fairly common and would create additional flexibility.

1
2 Chair Howard Layton opened the public hearing. There were no public comments. The public
3 hearing was closed.
4

5 There was additional discussion about the application. Mr. Bates wondered if he needed to wait
6 for the Text Amendment for the digital price changer to be approved first. This was confirmed.
7 From there, the applicant would be able to determine whether the current sign should remain or if
8 there was a desire to convert it to a monument sign with a digital price changer.
9

10 Council Member Prince liked the ideas presented by City Staff and thought a reasonable approach
11 had been taken. Chair Howard Layton thought the language was written concisely. He wondered
12 whether Commissioners felt anything needed to be added. Commissioner Roach liked that it was
13 specific to gas station pricing, so it would not be possible for other uses to occur.
14

15 *Chair Chris Layton moved to forward a recommendation to the City Council to APPROVE an*
16 *application by Michael Lam to amend 13.82.200 of the City of Holladay Land Use Code to allow*
17 *gas price signs with specific design standards, as written and prepared. Commissioner Prince*
18 *seconded the motion. Vote on Motion: Commissioner Chris Layton-Aye; Commissioner*
19 *Roach-Aye; Commissioner Prince-Aye; Chair Howard Layton-Aye. The motion passed*
20 *unanimously.*
21

22 ACTION ITEMS

- 23 4. “6121 South Highland Mixed-Use Redevelopment” – Continuation of Preliminary
24 and Final Site Plan - 6121 South Highland Drive (Holladay Crossroads Zone)
25 Preliminary and Final Level Review and Consideration of Development Details by
26 Chris Ensign, Applicant. Review of this 0.96 Acre Mixed-Use Development is
27 Conducted According to Concept Approval Granted According to Zone Compliance
28 on October 5, 2021. Review of Compliance with Site Development Master Plan
29 Standards According to Holladay Ordinance §13.66 for the Holladay Crossroads
30 Zone and Holladay Ordinance §13.08 for Commercial Site Plans. File #21-9-01

31 Mr. Teerlink presented the Staff Report and explained that the application pertains to the “6121
32 South Highland Mixed-Use Redevelopment.” Mr. Christopherson reported that at the last
33 Planning Commission Meeting, there was a question raised regarding fire access. There had since
34 been clarification with UFA. Since this would be a sprinkled building, UFA had no concerns about
35 being able to stage from a public street. There was no need to have a permanent easement. It was
36 just during the construction period that UFA needed to make sure that there was appropriate access.
37 Chair Layton wondered whether there was written confirmation. Mr. Teerlink explained the
38 comments were appropriately documented. Commissioner Chris Layton referenced the challenges
39 that could occur during construction. There needed to be a clear path and fire apparatus access.
40

41 There was discussion regarding the building height. Mr. Christopherson explained that the
42 supplementary regulations in the Code have differing standards than what the Holladay Crossroads
43 Zone but the Holladay Crossroads Zone standards control. All measurements will be double-
44 checked during the Building Permit process, which was standard. Mr. Teerlink noted that most of
45 the Commissioners were on the Planning Commission when the Holladay Crossroads Zone was

1 created. There had been a lot of discussions about height at that time. Commissioner Chris Layton
2 asked what the building height limit was in the zone. Mr. Teerlink reported that it was 58 feet in
3 that location. The Commission further discussed heights.
4

5 ***Commissioner Prince moved to APPROVE the Preliminary and Final Plan application by Chris***
6 ***Ensign, representing Solstice Development for an 83-unit residential, mixed-use redevelopment***
7 ***project, located at 6121 South Highland Drive in the HCR Zone, based on the following:***
8

9 ***Findings:***

- 10
- 11 1. ***Development details comply with the Concept Plan approved on 10/05/2021.***
- 12
- 13 2. ***Development details required for a Preliminary and Final Site Plan have been***
14 ***submitted and reviewed by the Technical Review Committee (“TRC”).***
- 15
- 16 3. ***Lane use and site features comply with the HCR Zone standards.***
- 17
- 18 4. ***The development fulfills goals of the Holladay Crossroads Small Area Master***
19 ***Plan.***
- 20
- 21 5. ***Preliminary level drawings were not subject to conditional approvals (Concept***
22 ***Plan was approved, unconditionally).***
- 23
- 24 6. ***Stormwater detention areas and public improvements have been reviewed by the***
25 ***City Engineer.***
- 26
- 27 7. ***Fire access has been approved by the UFA.***
- 28

29 ***Requirements:***

- 30
- 31 1. ***Approval is not to be construed as a waiver to any and all applicable building***
32 ***standards required of the HCR Zone.***
- 33
- 34 2. ***Post-development bonding requirements for public improvements, as determined***
35 ***by the City Engineer.***
- 36
- 37 3. ***Provide CC&Rs detailing architectural control, maintenance of private/public***
38 ***garage elements, and stormwater retention areas.***
- 39

40 ***Commissioner Roach seconded the motion. Vote on Motion: Commissioner Chris Layton-Aye;***
41 ***Commissioner Roach-Aye; Commissioner Prince-Aye; Chair Howard Layton-Aye. The motion***
42 ***passed unanimously.***
43

1 **5. “Millwood Estates” Subdivision – Final Site Plan - 4600 South Holladay Boulevard**
2 **(Holladay Village Zone) Final Level Review and Consideration of Development**
3 **Details by Marlyn Miller and Shawn Lockwood, Property Owners. Review of this**
4 **0.73-Acre Development is Conducted According to Concept Approval Granted on**
5 **January 10, 2023, and Preliminary Approval Granted on July 11, 2023, According to**
6 **Zone Compliance and Residential Subdivision Development Standards According to**
7 **Holladay Ordinance §13.10. File #22-1-16.**

8 Mr. Teerlink presented the Staff Report and explained that the application is for the “Millwood
9 Estates” Subdivision Final Site Plan. The property is located at 4600 South Holladay Boulevard
10 in the Holladay Village Zone. The Commission requested final approval, so the Final Site Plan
11 had been returned to the Planning Commission. Normally, that section of the application is
12 deferred to City Staff. The plat was reviewed by the Commissioners.
13

14 A Subdivision Plat was created and met the standards of the State and the City of Holladay.
15 Mr. Teerlink explained that there was a lot of line work on the plat that was responsible for creating
16 what would potentially be sold as real property. It was the last step in the subdivision phase.
17 Accuracy in the property descriptions was very important. He identified the driveways and parking
18 stalls that were assigned to the individual units. The plat itself was compared to what was approved
19 in the Preliminary and Concept level drawings. All of the documents were included in the Meeting
20 Materials Packet for review. At this level, the TRC reviewed descriptions, addressing, and the title
21 blocks for ownership of the property itself. At the bottom, it was possible to see where the City of
22 Holladay would sign as well as the Health Department, City Attorney, City Manager, and the
23 County Recorder. The document was signed by all departments and was then taken to the County
24 to record. It would then be possible to sell real property. The TRC worked with the applicant to
25 create the finalized document.
26

27 Commissioner Roach reported that the last time the application came before the Planning
28 Commission there was a plan showing utility access. There were questions at that time about the
29 access and what had been approved. That was the reason it had come back to the Planning
30 Commission for final review and additional consideration. What the Commission had in front of
31 them at that time did not match what was in the text language. He appreciated that the applicant
32 had made clarifications. Commissioner Chris Layton noted that Staff worked closely with the
33 applicant. It was a solid application and all seemed to be in order.
34

35 ***Commissioner Chris Layton moved to APPROVE the Final Plan application by Marlyn Miller***
36 ***for Millwood Family Estates, a residential subdivision, located at 4600 South Holladay***
37 ***Boulevard in the HV Zone, based on the following:***
38

39 ***Findings:***
40

- 41 ***1. Construction details for the development comply with the Preliminary Plan***
42 ***approved on 07/11/2023.***
- 43
- 44 ***2. Final development plan details, as required, are determined by the TRC as***
45 ***complete.***

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Requirements:

- 1. Prior to recording the Final Plat:**
 - a. Post-development bonding requirements as determined by the City Engineer; and**
 - b. Provide CC&Rs detailing maintenance of private lane.**

Commissioner Prince seconded the motion. Vote on Motion: Commissioner Chris Layton-Aye; Commissioner Roach-Aye; Commissioner Prince-Aye; Chair Howard Layton-Aye. The motion passed unanimously.

ADJOURN

Commissioner Roach and Commissioner Prince reported that they would be unable to attend the next Planning Commission Meeting on August 1, 2023. Ms. Marsh explained that as long as the other Commissioners were present, it would be possible to hold the meeting as planned. Commissioner Prince referenced the first applicant who wanted the full Commission to be present. It was noted that the next Planning Commission Meeting is scheduled for August 15, 2023.

Commissioner Prince thanked Chair Howard Layton and Commissioner Chris Layton for their service.

Commissioner Prince moved to ADJOURN. The motion passed with the unanimous consent of the Commission.

The Planning Commission Meeting adjourned at approximately 7:20 p.m.

1 *I hereby certify that the foregoing represents a true, accurate, and complete record of the City*
2 *of Holladay Planning Commission Meeting held Tuesday, July 25, 2023.*
3
4
5

6 Teri Forbes

7 Teri Forbes

8 T Forbes Group

9 Minutes Secretary

10

11 Minutes Approved: _____

DRAFT

DATE: JUNE 6, 2023

COMMISSION MEETING MINUTES

ADDRESS:

n/a

LEGAL DESCRIPTION: n/a

APPLICANT/REPRESENTATIVE:

City of Holladay Planning Commission

PROPERTY OWNER:

n/a

ZONING:

n/a

GENERAL PLAN DISTRICT:

n/a

CITY COUNCIL DISTRICT:

N/A

PUBLIC NOTICE DETAILS:

n/a

REQUEST:

Adoption of Meeting Minutes

APPLICABLE REGULATIONS:

UCA§52-4-203, 206
2.01.080
13.06.030

EXHIBITS:



STAFF:

Carrie Marsh, City Planner

DECISION TYPE:

Administrative/Procedural:

Commission shall approve, approve with changes, or continue the agenda item to a later date.

SITE VICINITY MAP

Effective 5/8/2018
52-4-203 Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2)

(a) Written minutes of an open meeting shall include:

- (i) the date, time, and place of the meeting;
- (ii) the names of members present and absent;
- (iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
- (iv) a record, by individual member, of each vote taken by the public body;
- (v) the name of each person who:
 - (A) is not a member of the public body; and
 - (B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;
- (vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and
- (vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.

Notes:

Corrections made according to commission direction on 12-1-2020

1 **DRAFT**

2
3 **MINUTES OF THE CITY OF HOLLADAY**
4 **PLANNING COMMISSION MEETING**

5
6 **Tuesday, August 1, 2023**
7 **5:30 p.m.**
8 **City Council Chambers**
9 **4580 South 2300 East**
10 **Holladay, Utah**

11
12 **ATTENDANCE:**

13
14 **Planning Commission Members:**

15
16 Martin Banks, Chair
17 Paul Cunningham
18 Ginger Vilchinsky
19 Jill Fonte
20 Angela Gong

14 **City Staff:**

15
16 Carrie Marsh, City Planner
17 Jonathan Teerlink, Community Development Director
18 Brad Christopherson, City Attorney

21
22 **WORK SESSION**

23 Chair Martin Banks called the Work Session to order at approximately 5:30 p.m.

24
25 The agenda items were reviewed and discussed. City Planner, Carrie Marsh, reported that three
26 Public Hearings were scheduled. The first was a Conditional Use Permit for a Home Occupation
27 for “Outside Music Group/Posey Cello Studio.” The application was presented at the last Planning
28 Commission Meeting and a public hearing was opened. The public hearing remained open because
29 the item was continued so applicant representation could be present.

30
31 The main issue with the application related to off-street parking. The Staff Report highlighted
32 sections of Code that specifies that off-street parking is required. This is a standard that was
33 applied to Home Occupation permits in the past. The other issue with the application had to do
34 with circulation. For instance, how traffic will flow to and from the site. Ms. Marsh reported that
35 the application was the result of a Code Enforcement issue. Parking issues were brought to the
36 attention of Code Enforcement from the neighbors. In addition, there is a stop sign in front of the
37 home. Clear view standards state that no parking may take place within 30 feet of a stop sign.
38 That eliminated parking spaces directly in front of the applicant’s home. Chair Banks asked about
39 the reason for continuance. It was clarified that the applicant has an attorney who was unable to
40 attend the previous Planning Commission Meeting. The attorney asked that the item to be
41 continued to a date that he would be present.

42
43 There was discussion regarding issues with the application and the clear view standards.
44 Ms. Marsh reported that vehicles are not permitted to park within five feet of a driveway or 30 feet
45 of a stop sign. That left 10 feet in front of the subject property, which is inadequate. Chair Banks

1 asked what the requirement is for a parking space. Ms. Marsh explained that most sedans are 16
2 feet in length. One of the issues brought to the attention of Code Enforcement was that people are
3 parking for lessons across the street. Students then cross the street to reach the applicant's
4 property, which presents a safety concern. A possible Condition of Approval could be that
5 pedestrian traffic be at the intersection and not mid-way.

6
7 The second Public Hearing item on the Planning Commission Meeting agenda was a Conditional
8 Use Permit for an Accessory Building. Ms. Marsh reported that it was for the expansion of an
9 existing accessory building. According to City Code, there is a maximum footprint permitted in
10 residential zones. That footprint depends on the lot size. She explained that it is possible to request
11 a larger footprint but it is a Conditional Use, which is the reason the application was brought to
12 the Planning Commission for review and consideration. The proposed addition would be 143
13 square feet on the rear side of the existing accessory building.

14
15 Two public comments were received regarding the application. They would be read into the record
16 during the Public Hearing portion of the meeting. Chair Banks noted that the Commission would
17 consider whether the proposal is considered excessive for the area or present an objectionable
18 view. He pointed out that they are subjective determinations. He asked for additional information
19 about what is considered objectionable or excessive. Ms. Marsh explained that in this case, there
20 is an existing building. The Planning Commission would need to determine whether adding six
21 feet to the rear side would make the structure more objectionable. It was also possible to place
22 conditions related to screening as a way to address an objectionable view. She reiterated that the
23 Commission could create Conditions of Approval.

24
25 Commissioner Cunningham reported that he walked past the property and it looked like a new
26 building was already underway. Ms. Marsh clarified that an addition was being made to the main
27 home. There is already an existing accessory building on the property. The proposal was to add
28 onto the existing accessory building. Commissioner Cunningham stated that from the street view,
29 it appears that the work had already been done. He believed the applicant or neighbors might be
30 able to clarify that. Ms. Marsh explained that if work had been done already to the accessory
31 building there could be a condition related to a violation. A question was raised about the current
32 size of the accessory building. Ms. Marsh confirmed that the building is already oversized by three
33 square feet. The permitted size is 950 square feet but on the Site Plan it is listed as being 953
34 square feet. The request was to add 143 square feet to that number.

35
36 Community Development Director, Jonathan Teerlink, reported that the area the property is in was
37 incorporated into the City in 2004. The maximum footprint size for accessory buildings was
38 enacted in Code in 2008. There were a lot of properties that already maxed out the scale as a result.
39 A lot of the older accessory buildings could be considered oversized. He explained that oversized
40 simply means that the structure is larger than is currently permitted. In the case of the applicant's
41 accessory building, it was considered legal non-conforming.

42
43 The final Public Hearing item was a Planned Unit Development ("PUD") Concept Plan for
44 "Sweeten Court." Ms. Marsh reported that the application was reviewed previously during the
45 subdivision process. The subdivision was approved for four units, which would now be applied

1 to a PUD. The PUD would allow the applicant to shift buildings around so more open space would
2 be preserved. She noted that the Staff Report included details about the objectives of a PUD. It
3 would also be possible to speak to the applicant about some of the details, such as lot coverage.
4 Staff recommended having the applicant comply with the lot coverage maximums of the
5 underlying zone, which includes 8,000 square-foot lots and 35% lot coverage. Something else to
6 ask the applicant about was fencing, as fencing is not proposed in the current plans.

7
8 Commissioner Cunningham asked about the role of the Planning Commission with a PUD. He
9 wondered if a PUD is a by-right application. City Attorney, Brad Christopherson, explained that
10 PUDs provide more flexibility and can increase density due to the ability to shift buildings around
11 on the same parcel. There are several benefits associated with PUDs. Ms. Marsh added that it is
12 a Conditional Use. A Conditional Use shall be approved only if it meets specific objectives. There
13 was discussion about the PUD application and lot layout. Mr. Christopherson stated that there will
14 still be distinct lots but there is more flexibility with setbacks.

15
16 With a PUD it is possible to vary the setbacks to preserve more open space. It allows there to be
17 flexibility in the location of the buildings so there is a larger undeveloped area that can be shared.
18 Mr. Teerlink explained that it is not a by-right situation. The applicant would need to explain what
19 will be done with the extra space created with the PUD. A PUD may be approved by the Planning
20 Commission as a Conditional Use if in their judgement, the proposed PUD fully meets the
21 intention and purpose of the section of the ordinances. Ms. Marsh reported that structures could
22 only cover 35% of 8,000 square feet. That equates to approximately 2,800 square feet. Right now,
23 this application was still conceptual in nature, so conditions would be useful.

24
25 **CONVENE REGULAR MEETING – Public Welcome and Opening Statement by**
26 **Commission Chair.**

27 Chair Banks called the Planning Commission Regular Meeting to order at approximately 6:00 p.m.
28 He read the Commission Statement for the benefit of those present. It was noted that there were
29 three Public Hearing items scheduled. He shared information about the hearing process.

30
31 **PUBLIC HEARINGS**

- 32 1. **“Outside Music Group/Posey Cello Studio” – Conditional Land Use Permit: Home**
33 **Occupation – 1986 East Cecelia Circle (R-2-10 Zone). Review and Consideration of**
34 **a Request by Applicant Lauren Posey as the Business Owner, with Authorization**
35 **from the Property Owners, for a Conditional Use Permit for Home Occupation. Item**
36 **Reviewed as an Administrative Application as Per Provisions Stated in Holladay**
37 **Ordinance §13.08.040. Continued from July 25, 2023, Planning Commission Meeting.**
38 **Public Hearing Left Open. File #23-2-08.**

39 Ms. Marsh presented the Staff Report and stated that the request is for a Conditional Use Permit
40 for a Home Occupation. The application involves a cello studio with music lessons in the R-2-10
41 Zone at 1986 East Cecelia Circle. The City of Holladay conditionally allowed the use of an
42 individual dwelling unit for business purposes when the business use was incidental and secondary
43 to the use of the dwelling for dwelling purposes. Professional services can be provided in the main
44 structure but not in an accessory structure or yard space. Home Occupations are also required to

1 meet off-street parking requirements as interpreted as a new land use being established within a
2 structure. Conditional Use Permits are tied to the land.

3
4 The home being used for business purposes was brought to the attention of Code Enforcement due
5 to ongoing concerns with traffic, parking, and pedestrian safety on the street from adjacent property
6 owners. Ms. Marsh reported that the applicant applied for a Conditional Use Permit to conduct
7 the Home Occupation business as a result. One of the issues was that the property is located on a
8 corner with a stop sign. There is no parking permitted within 30 feet of a stop sign. It is also not
9 permissible to park within five feet of a driveway, which results in there being a limited area of
10 space remaining. The area is inadequate for parking directly in front of the home. Due to this, the
11 applicant proposed on-street parking in other areas on Cecelia Circle. That being said, the Code
12 requires there be off-street parking. She asked the applicant's representative to speak.

13
14 The applicant's representative, Kirk Cullimore, introduced himself to the Commission and was
15 not sure a Conditional Use Permit should be required for this type of Home Occupation. The law
16 states that "a municipality may not charge any fee for a resident of a municipality to operate a
17 home-based business unless the combined off-site impact of the home-based business and the
18 primary residential use materially exceeds the off-site impact of the primary residential use alone."
19 Mr. Cullimore did not believe that teaching music substantially impacts the use of the home beyond
20 the normal use. The applicant has one student at a time in her home. That one additional vehicle
21 in front of the home at any given time does not substantially impact the use of the home. While it
22 is true that directly in front of the home there is no room to park, there is room directly across the
23 street. There are also additional spaces in other locations on the street.

24
25 Mr. Cullimore explained that a Code Enforcement Officer knocked on the door of the property
26 during a lesson. That officer suggested that someone on the street was complaining about parking
27 issues. This led the applicant, Lauren Posey, to implement parking regulations for students. The
28 issues have already been addressed adequately. The requirement of two off-street parking spaces
29 is not an appropriate requirement for this type of home-based business. He read from the Home
30 Occupation portion of the Holladay City Code. Mr. Cullimore pointed out that the applicant shares
31 a driveway with the immediate next-door neighbor. To park at the end of that driveway would
32 preclude either of the homeowners from getting in and out of their parking spots. There is on-site
33 parking but it is in the garage and will not accommodate any of the music students. It is within
34 the purview of the Planning Commission to determine whether additional parking is required.
35 Mr. Cullimore did not believe it was necessary to impose that on a music teacher.

36
37 Mr. Cullimore disputed the Technical Review Committee ("TRC") recommendations included in
38 the Staff Report. He considered them to be egregious and overreaching for a music teacher holding
39 individual lessons in her home. Chair Banks asked about parking opportunities. He wondered if
40 there was anywhere along the reach of the driveway where two parking spaces could be located.
41 Mr. Cullimore denied this. He visited the property before the meeting. If he had parked his vehicle
42 anywhere along the driveway, the neighbor would not have been able to leave. Chair Banks
43 pointed out that the resident's vehicle was able to be backed out of the garage. He was not sure
44 what would prevent another vehicle from doing the same. Mr. Cullimore clarified that the two

1 garages face one another and the driveway comes down the middle. Parking outside of the garage
2 would block the neighboring garage. There is no way to parallel park a vehicle there.

3
4 Chair Banks asked if it would be suitable to allow for parking beyond the fence. Ms. Posey
5 explained that she already has to make a five-point turn to get out of the garage because the actual
6 garage space needs to be used to turn around. It is a very narrow space. The piece of cement
7 behind the gate is an area where she tried to park a vehicle in the past but it took 20 minutes to get
8 the car there because it was so difficult to position. She explained that the driveway area is
9 extremely narrow. Chair Banks asked about the property beyond the fence. He wondered if it
10 might be suitable for additional parking. Ms. Posey confirmed that there is property beyond the
11 fence but when the fence opens it is not possible to move a vehicle back there without someone to
12 navigate the position of the car carefully. There is not enough space to properly move a vehicle
13 there. She reiterated that the area is very narrow.

14
15 Ms. Marsh shared information from the County Assessor's website. The space from the edge of
16 the garage to where the property line is approximately 10 feet. The total distance between the two
17 garages was 28.8 feet. Mr. Cullimore reported that he could park and back out of the driveway
18 without any problem. However, that would block others from utilizing the driveways and garages.
19 The neighbor would be stuck there for the length of a music lesson in that instance. It was
20 suggested that the vehicles of the homeowner be moved onto the street in the morning to allow
21 clients to park in the garage. Mr. Cullimore was not sure how that would change the impact to the
22 neighborhood. Doing so would result in the exact same number of vehicles on the road. It was
23 noted that there would not be worries about students crossing the street in that instance.
24 Mr. Cullimore was not sure that would be feasible and disagreed with the requirement in general.

25
26 Any time there is a Home Occupation and people come in and out of the home for that business
27 use, a Conditional Use Permit is required. Ms. Marsh explained that City Code language was
28 included in the Staff Report. It referenced new land use, which was the City's interpretation of
29 the language. There is a difference between people living in the home and business-related visits.
30 Mr. Cullimore reiterated that the law states that "a municipality may not charge any fee for a
31 resident of a municipality to operate a home-based business unless the combined off-site impact
32 of the home-based business and the primary residential use materially exceeds the off-site impact
33 of the primary residential use alone." Anyone with guests or a lot of family members would still
34 be utilizing the home with additional vehicles. There was no evidence that the applicant's property
35 would materially exceed that use. That needed to be proven before a Conditional Use Permit, off-
36 site parking, or anything else was considered or required.

37
38 Commissioner Cunningham explained that the City Council had determined that impacts on the
39 residential neighborhood would be off-set by requiring off-street parking. He understood the
40 arguments that had been presented by Mr. Cullimore, but he did not think it was within the purview
41 of the Planning Commission to change the ordinance. The Commission needed to enforce the
42 ordinance. The argument about whether or not there should requirements for off-street parking
43 would be better made to the City Council as opposed to the Planning Commission. It was
44 inevitable that there would be some homes in the City where Home Occupations would not be

1 compatible. A lot depended on the location, the home, and other factors. Mr. Cullimore asked
2 what the standard was for “materially exceeding” the residential use. He asked for clarity there.
3

4 Chair Banks was not certain that the Planning Commission was able to ignore the requirements.
5 Mr. Cullimore was not sure it is required by ordinance. Chair Banks referenced the plain language
6 of the ordinance. He was not sure how that could be ignored. Mr. Cullimore re-read the language
7 and stated that it is within the purview of the Planning Commission to make a determination. Chair
8 Banks referenced the language that referenced providing off-street parking. He did not see a way
9 around that. Mr. Cullimore reported that he submitted a letter to the Planning Commission last
10 week that further outlined the arguments. Off-street parking is not necessarily required with R-2
11 Zoning. This is a Home Occupation and the ordinance directly states that the Commission can
12 determine whether off-street parking is necessary.
13

14 Chair Banks opened the public hearing.
15

16 *Derek Brown* gave his address as 8161 Farm Brook Way in Cottonwood Heights. He explained
17 that his son takes cello lessons. Mr. Brown did not believe anyone was asking the Planning
18 Commission to ignore the law but wondered what the implication would be for other music
19 teachers in the community. The impact on the street was no different than anywhere else. He was
20 not sure why Ms. Posey was being focused on rather than other music teachers in the City.
21

22 There were no further comments. The public hearing was closed.
23

24 Commissioner Cunningham asked that the City Attorney weigh in on the legal arguments that had
25 been made. The ordinance requires that there be two off-site parking spots for any Home
26 Occupation. Mr. Christopherson explained that this is a standard the City applies consistently to
27 all Home Occupations where visitors come to the home. He stated that Mr. Cullimore was asking
28 the Planning Commission to apply the standard differently today than it had been applied in the
29 past. The reason this particular application was a challenge was because of the size of the driveway
30 and the location of the home. There is a shared driveway and no safe on-street parking available
31 because of the location on the corner. As for the public comment, the City of Holladay does not
32 proactively go out and look for Code Enforcement issues. The City of Holladay has reactionary
33 Code Enforcement. When a complaint is received, the issue is examined. What generated the stop
34 at the applicant’s home was a complaint received from Code Enforcement.
35

36 Mr. Christopherson explained that one standard to consider with regard to residential home-based
37 businesses is the impact. The average residential home in Utah generates six residential trips. If
38 the impact exceeds that, the argument can be made that the home-based business use is
39 substantially impacting the neighborhood. He reminded those present that the Planning
40 Commission is not the legislative body. The Planning Commission reviewed City Code. Based
41 on the Staff Reports and the code language, consistent determinations were made.
42 Mr. Christopherson added that Ms. Posey is not being singled out specifically but numerous
43 complaints were submitted about vehicles parked on the street. The Code Enforcement Officer
44 had followed up on those complaints and Ms. Posey was contacted as a result.
45

1 As far as the current Planning Commission Meeting, it is possible for the applicant to withdraw
2 the application. The Commission could also approve the application subject to specific Conditions
3 of Approval. Mr. Christopherson believed a few signatures were missing on the application as
4 well as the designation of agency. That is important because this was a Conditional Use Permit.
5 Once approved, it runs with the land and not the owner. The Planning Commission can approve
6 the application with conditions such as having the applicant designate off-street parking spots and
7 obtaining the necessary signatures. There was discussion about what would happen if the home
8 changes ownership since the Conditional Use Permit runs with the property. Mr. Christopherson
9 stated that a change in use would be significant enough of a change that it would not fall under this
10 particular permit.

11
12 Chair Banks did not see that the Planning Commission had the prerogative to ignore the ordinance.
13 He was sympathetic to the applicant as it seemed like the service being provided is beneficial.
14 Chair Banks encouraged the applicant to explore whether there might be some space beyond the
15 fence that would allow for parking. It might be appropriate to approve the application with the
16 condition that the required parking spaces be provided. It would be possible for the applicant to
17 find some creative parking solutions. Mr. Teerlink shared additional information about
18 Conditional Uses. The main purpose of a Conditional Use was to discover what the impact of the
19 proposed use would be on the neighborhood. It could be beneficial to understand what the
20 frequency of the visitation was. Chair Banks asked the applicant and representative to speak.

21
22 Mr. Cullimore reported that Ms. Posey owns the home and is on the title. As far as the impact, the
23 expectation was that a parent would sit through the lesson most of the time. There would be one
24 vehicle for each lesson with eight to nine lessons per day. Ms. Posey discussed the initial source
25 of the citation. She is a professional cellist and has chamber music reading parties. The citation
26 presented to her by the Code Enforcement Officer states that neighbors took photographs of people
27 with various instruments coming to the home. She does not teach anything other than private cello
28 lessons, so that citation led her to believe that the issues were with her hosted gatherings rather
29 than the actual cello lessons taking place in the home.

30
31 Chair Banks asked about the schedule for lessons. Ms. Posey reported that she normally has
32 lessons from 6:00 a.m. until school starts between 8:00 and 9:00 a.m. In the afternoon, there are
33 lessons from 2:00 p.m. to 6:00 p.m., which are after school hours. Mr. Cullimore referenced the
34 earlier comments from Mr. Christopherson about withdrawing the application. He believed it
35 would make sense to withdraw the voluntary application at this time. Mr. Cullimore felt the
36 conditions were impractical for the site and he did not want to voluntarily subject the applicant to
37 the requirements indefinitely. There are a few requirements that may or may not impact Ms. Posey
38 currently, but have the potential to impact her in the future.

39
40 Mr. Christopherson wondered if there was an opportunity for City Staff to prepare amendments to
41 the Parking Ordinance. Those could be shared with the Planning Commission and City Council.
42 It was a possibility but it would ultimately be for the City Council to decide. That was one potential
43 way to resolve the issue currently before the Planning Commission. A resident could propose a
44 Code Text Amendment. No one on the Commission was trying to prevent music from being taught
45 to students but the Planning Commission needs to apply the laws. Mr. Cullimore wondered if it

1 would be possible to table the item to work with City Staff. If there is a resolution, the item could
2 be readdressed at a future Planning Commission Meeting. If not, there could be determinations
3 made at that time about how to move forward.
4

5 Mr. Christopherson explained that a stay could be permitted since it was requested by the applicant.
6 The applicant could inform the City when they are ready to bring the item back to the Planning
7 Commission. Commissioner Cunningham wondered what would happen if a motion was made to
8 continue the item. He wanted to understand how that would impact the citation and the lessons
9 being taught without a license. Chair Banks noted that the citation has already been issued. If the
10 application is continued, that would not impact the citation. Mr. Christopherson reported that the
11 citation is civil and is not a criminal issue. It is an administrative process. Mr. Teerlink spoke to
12 the Code Enforcement Office prior to the meeting and he did not have records of any other
13 complaints other than those that started the conversation about the property.
14

15 Chair Banks thought that a continuance made sense. Mr. Christopherson stated that the City is
16 willing to work with residents who want to come into compliance. Commissioner Gong liked the
17 idea of a continuance. It is important to encourage small businesses in the community.
18 Commissioner Fonte was also supportive of the continuance. She believed there was a way to
19 work through the issues and find an appropriate resolution. Other Commissioners agreed.
20

21 *Commissioner Cunningham moved to CONTINUE the application for a Home Occupation for*
22 *“Posey Cello School,” located at 1986 East Cecelia Circle, pending an application to the City*
23 *Council for consideration of a change to the parking requirements for Home Occupations. The*
24 *continuation would last no longer than six months. Commissioner Vilchinsky seconded the*
25 *motion. Vote on Motion: Commissioner Cunningham-Aye; Commissioner Vilchinsky-Aye;*
26 *Commissioner Fonte-Aye; Commissioner Gong-Aye; Commissioner Banks-Aye. The motion*
27 *passed unanimously.*
28

29 **2. “Expansion of Existing Accessory Building” -- Conditional Use Permit: Accessory**
30 **Building Footprint Size – 1532 East Spring Lane (R-1-10 Zone) Review and**
31 **Consideration of a Request by Applicant, Watts Enterprises Representing the**
32 **Property Owner, for a Conditional Permit Allowing Construction of an Addition to**
33 **an Existing Detached Accessory Building, Creating a Footprint Size Larger than**
34 **Permitted. Item Reviewed as an Administrative Application as Per Provisions Stated**
35 **in Holladay Ordinance §13.14.030 & 13.08.040 13.14.030 & 13.08.040. File #23-2-09.**

36 Ms. Marsh presented the Staff Report and stated that the request involves a Conditional Use Permit
37 application related to accessory building footprint size. She explained that the application is for
38 an accessory detached garage structure that is larger than the permitted size. The applicant wanted
39 to be able to add 143 square feet onto the rear side of the existing accessory building. The addition
40 was desired so the owners could accommodate their RV within the garage as the current structure
41 is not long enough to do so. The proposed addition would increase the footprint to 146 square feet
42 larger than the permitted size. That being said, the addition would be compliant with all setbacks
43 and lot coverage standards.
44

1 The applicant’s representative, Scott Mills, reported that he works with Watts Enterprises. He is
2 the builder and contractor associated with the accessory structure. He was available to answer
3 questions about the application. Commissioner Cunningham stated that an existing garage is being
4 expanded six feet toward the back of the lot. The intention was to fit the RV inside rather than
5 have it parked in front of the garage. Commissioner Cunningham asked if the work had already
6 occurred. This was denied. There is some work being done on the existing home but not on the
7 accessory structure. Commissioner Cunningham asked about the setbacks. Ms. Marsh explained
8 that the plat shows a setback of 11 feet at the closest point. Accessory buildings are allowed to
9 have a smaller setback than primary structures. The application was compliant with setback
10 requirements.

11
12 Chair Banks asked if there were landscaping plans associated with the expansion. Mr. Mills
13 reported that some plans were submitted with the application, which were shared with the
14 Commission. It was clarified that a Landscaping Plan is not required with the current application
15 because it is not new construction. This is considered a renovation. The only thing being
16 considered by the Planning Commission was whether it was appropriate to grant the exception.

17
18 It was noted that the accessory structure is already three square feet larger than currently allowed.
19 It was grandfathered in, so it is a legal non-confirming accessory structure. The Code allows for
20 a certain percentage to be expanded beyond that if the Planning Commission does not believe it
21 would create an issue to do so. Chair Banks asked about the existing height of the accessory
22 structure. Ms. Marsh reported that the maximum height for accessory buildings is 20 feet and it is
23 approximately 14 feet. The height is under the maximum.

24
25 Chair Banks opened the public hearing.

26
27 *Robert Lambert* reported that he lives directly across from the subject property. His main concern
28 was whether this would be expanded for commercial use. It sounded like the intention was to
29 expand the accessory structure for personal use, not commercial, but asked for clarification.

30
31 *Anthony Frates* identified himself as the Treasurer of the Spring Lane Homeowners Association
32 (“HOA”). Seven unit owners live immediately adjacent to the applicant property, one of whom
33 filed comments but was unable to attend the Planning Commission Meeting. The owner who filed
34 the comment felt that the addition would create an objectionable view from his property. The
35 property has a higher elevation and the owner is immediately downhill from the subject property.
36 Chair Banks asked about the aesthetic concerns expressed. He wondered if they were based on
37 color or size. Mr. Frates believed that the HOA member felt that the structure looked industrial,
38 which is out of character with the neighborhood. Concerns were also expressed about the lack of
39 landscaping.

40
41 Chair Banks reported that some comments were received from residents prior to the Planning
42 Commission Meeting. Those comments were read into the official record.

43
44 *Anthony Frates* submitted an email to Ms. Marsh on July 31, 2023. It informed the City that he
45 serves on the Spring Lane HOA and would be attending the Planning Commission Meeting.

1
2 *Marshall Seal* submitted a comment to the City on July 31, 2023. Mr. Seal was opposed to the
3 application and has owned the property next door for 20 years. The subject property is a small
4 home on a one-half-acre lot and there is already a large garage near his home. He did not like the
5 idea that the garage would be expanded further as it is not suitable in the zone. Mr. Seal explained
6 that the expansion would make the garage almost as large as the home. He was unable to attend
7 the Planning Commission Meeting in person and asked that the application be denied.

8
9 Mr. Mills responded to some of the comments shared. He explained that the applicant wants to
10 make sure the neighbors are satisfied. The addition would not look like an industrial building. It
11 was clarified that the use would only be personal and not commercial in nature.

12
13 There were no further comments. The public hearing was closed.

14
15 Commissioner Vilchinsky believed all questions had been answered as there was no plan to have
16 a commercial use. The application was also in compliance with the requirements. She was
17 comfortable moving forward with the application based on what had been presented.
18 Commissioner Gong noted that the applicant seemed willing to mitigate concerns. She wondered
19 if it would be appropriate to add some Conditions of Approval related to that. Commissioner
20 Cunningham did not think it was appropriate to add conditions since a Landscaping Plan is outside
21 the scope of the application. However, the applicant could still make aesthetic changes.

22
23 ***Commissioner Vilchinsky moved to APPROVE the application for a detached accessory garage,***
24 ***sized at 4,500 square feet, located at 1532 East Spring Lane, based upon the following:***

25
26 ***Findings:***

- 27
28 1. ***The desired structure will provide the property owners safe enclosed storage of***
29 ***their recreational vehicle and is not considered to be excessive for the area.***
30
31 2. ***The detached building is proposed to follow the existing roof height, which is***
32 ***compliant with existing zoning code standards of 20 feet.***
33
34 3. ***The addition to the existing building does not violate setback or lot coverage***
35 ***standards for the property.***

36
37 ***Conditions:***

- 38
39 1. ***The project is subject to height, setback, and lot coverage regulations for their***
40 ***property size.***
41
42 2. ***The Owner/Applicant shall obtain a Building Permit for the proposed detached***
43 ***garage addition.***
44

- 1 3. *The Owner/Applicant shall not establish or use the structure as a commercial*
2 *amenity.*

3
4 *Commissioner Cunningham seconded the motion. Vote on Motion: Commissioner*
5 *Cunningham-Aye; Commissioner Vilchinsky-Aye; Commissioner Fonte-Aye; Commissioner*
6 *Gong-Aye; Commissioner Banks-Aye. The motion passed unanimously.*

- 7
8 3. **“Sweeten Court – PUD Concept Plan – 2761 East 4510 South (R-1-8) Conceptual Site**
9 **Plan Review and Consideration of a Planned Unit Development (“PUD”) Proposal by**
10 **Applicant Grant Harrison, to Redevelop 0.89 Acres of Land within the R-1-8 Zone.**
11 **This Conceptual Site Plan will be Reviewed as a Conditional Use and in accordance**
12 **with Zone and Development Standards as Required by Holladay Ord §13.78. File**
13 **#23-1-03.**

14 Ms. Marsh presented the Staff Report and explained that the application is for a PUD. PUDs are
15 reviewed in a three-step process consisting of Conceptual, Preliminary, and Final. This is a
16 Conceptual Review of the Site Plan for the proposed PUD. A public hearing was required for this
17 step in the process. The Planning Commission can approve, approve with conditions, or deny a
18 PUD based on written Findings of Fact according to the standard set forth in the Holladay
19 Ordinance. It is the responsibility of the applicant to provide written and graphic evidence
20 demonstrating compliance with the requirements of a PUD. As directed by ordinance, Conditional
21 Use Permit applications shall be approved if the Land Use Authority can apply conditions that
22 mitigate possible adverse effects of the proposed use. PUDs were a Conditional Use in the R-1-8
23 Zone.

24
25 The property was approved for a four-unit subdivision. In tandem with that subdivision, it was
26 proposed that there be a PUD. Ms. Marsh reported that a PUD could provide some flexibility to
27 preserve more open space on the site and allow for more creative development. The TRC reviewed
28 the PUD application and those details were outlined in the Staff Report. There were a few
29 questions for the applicant about lot coverage and how much square footage a structure would be
30 limited to within the development. Fencing may be another question to ask the applicant.

31
32 The applicant’s representative, Grant Harrison, introduced himself and reported that he is the
33 developer of the property and his son is the contractor who will handle the work. There are four
34 standard lots approved already that abide by all of the requirements necessary for a four-lot
35 subdivision in an R-1-8 Zone. They are smaller lots that will make development tight because of
36 the required setbacks. The purpose of a PUD is to create a unique neighborhood. In this instance,
37 the buildings could be placed in a layout that allows for a green space common area.

38
39 Two Neighborhood Meetings were held. The main concerns expressed during those meetings
40 related to the trees and shrubbery that might be lost. Mr. Harrison explained that there was a desire
41 to maintain as much as possible. If the home footprints can be adjusted, it would be possible to
42 maintain a lot of the trees on the site. Not all would be able to be saved but many of them would
43 be under a PUD concept. It would allow for a more livable situation. Mr. Harrison reported that
44 there will be an HOA in place to make sure the green space is maintained. As for fencing, there
45 was a plan to place a fence around the property. Nothing was being requested outside of what is

1 in the ordinance for a PUD. He believed the development would be beneficial to the neighborhood
2 and there was a level of neighborhood support.

3
4 Chair Banks noted that the fencing and landscaping will be addressed during the next phase of the
5 process. This was the Conceptual phase. He asked what was anticipated in terms of the fencing
6 and landscaping. Mr. Harrison pointed out that the City has requirements regarding fence heights
7 and materials. There will be compliance in that regard. The intention was to have a six-foot solid
8 barrier fence all the way around the project area. There had been discussions with abutting
9 neighbors and there seemed to be support for that approach but some wanted a higher fence. The
10 homes would be single-family and single-level. Landscaping would be done before the homes are
11 sold. In order to sell the homes, he noted that the landscaping needs to look nice.

12
13 Commissioner Vilchinsky referenced the last public hearing that was held on the development.
14 There was some concern from the adjoining neighbors about the large trees on their property. She
15 wanted to make sure that approving the PUD will not negatively impact those neighbors.
16 Mr. Harrison reported that there had been discussions with them. An Arborist came to look at the
17 pine tree in question. Anything within 11 feet of the large pine tree would have an impact but
18 everything possible would be done to mitigate the impacts. The Arborist believed everything
19 would be okay but there were no guarantees. Mr. Harrison noted that a lot of neighbors had
20 questions about parking. The 20-foot road that was to be put in with the PUD would ensure that
21 all of the traffic stays on the private road rather than 4510 South, which is the main residential
22 street.

23
24 Chair Banks opened the public hearing.

25
26 *Taylor Jackson* gave his address as 4455 South 2700 East. He wondered if this was the proposed
27 plan or something that would be modified during the second phase. Ms. Marsh clarified that this
28 was a conceptual proposal. It was possible to provide comments on the Conceptual Site Plan.
29 Mr. Jackson reviewed the application and one of the statements was that there would be enhanced
30 green space. It was unclear where the green spaces would be within the development. As for the
31 trees, all of the trees shown seemed to be the existing ones in the neighborhood. Based on the
32 layout of the units, all of the trees, except for the six along the rear lot, would need to be removed
33 if the plan was built as outlined given that the driveway and homes will impact the others. Trees
34 are important in the City of Holladay and he wanted additional details about what trees would
35 remain. Mr. Jackson also shared comments about parking. He wondered if vehicles will be
36 required to park inside the garages or if they would be allowed to park on the streets. Additionally,
37 he asked about the elevation of the homes and the height of the single-story residences.

38
39 *Steve Zaraneckus* reported that his mother lives north of the property. Their concerns related to
40 the fencing and the height of the houses. If a PUD was approved, he hoped there would still be
41 appropriate setbacks between the development and the existing homes. There was discussion
42 regarding the setbacks. There is already a 20 or 30-foot setback in place for the existing home.

43
44 The Commission discussed the PUD setbacks. Commissioner Vilchinsky wanted to understand
45 how close a building could be to the property line with an approved PUD. Ms. Marsh reported

1 that the setbacks can be closer than the standard but the Commission could consider the impacts
2 on the adjacent neighbors. Chair Banks reminded those present that those discussions would be
3 appropriate during the Preliminary stage. Ms. Marsh confirmed this and explained that there could
4 be a Condition of Approval that setbacks need to be finalized at the Preliminary level. It was noted
5 that the Conceptual phase focuses on the lot layout and the basic overview of what the subdivision
6 would look like. This was not in final form and some things could be changed in future phases. It
7 was noted that the building envelopes shown were too large for the lots. However, the building
8 envelopes would not be approved during this phase of the application process.

9
10 There were no further comments. The public hearing was closed.

11
12 Mr. Harrison responded to some of the comments shared. He explained that every effort had been
13 made to meet with the neighbors. There was no zone change being requested. The reason for the
14 PUD request was so that the location of the homes could be moved around a bit. No density
15 increases were being requested and there was a desire to maintain as many trees as possible.
16 During the Preliminary phase of the process, more would be known about the landscaping
17 specifics. He confirmed that the development would abide by the Tree Ordinance.

18
19 Commissioner Gong noted that some concerns about density were expressed during the public
20 hearing portion of the meeting. That was not something that was being addressed currently as the
21 development was already approved for four lots. The Conceptual Site Plan for the PUD was now
22 being considered. This was high level and there would be more details shared in the next phase.
23 Commissioner Vilchinsky felt comfortable moving forward based on what had been presented.
24 That being said, she acknowledged that there was more work to be done at the next level.

25
26 ***Commissioner Banks moved to APPROVE the Planned Unit Development Conceptual Site Plan***
27 ***application submitted by Mr. Grant Harrison for “Sweeten Court,” a Planned Unit Development***
28 ***in the R-1-8 Zone subject to the following:***

29
30 ***Findings:***

- 31
32 1. ***The proposal meets the objectives of a Planned Unit Development.***
33
34 2. ***The proposal complies with the Master Plan and Zoning regulations.***
35
36 3. ***The proposal shows compatibility with the character of the site, adjacent***
37 ***properties, and existing development within the vicinity of the site.***
38

39 ***Conditions:***

- 40
41 1. ***Compliance with the use, density, height, and graduated height limitations of the***
42 ***R-1-8 Zone.***
43
44 2. ***Compliance with Subdivision requirements and regulations.***
45

1 3. *Compliance with lot coverage standards of 35% would be applicable to a*
2 *minimum lot size of 8,000 square feet.*

3
4 4. *Screening, signs, and lighting plans shall be addressed during the Preliminary*
5 *review.*

6
7 *Commissioner Fonte seconded the motion. Vote on Motion: Commissioner Cunningham-Aye;*
8 *Commissioner Vilchinsky-Aye; Commissioner Fonte-Aye; Commissioner Gong-Aye;*
9 *Commissioner Banks-Aye. The motion passed unanimously.*

10
11 **ACTION ITEMS**

12 **4. Approval of Minutes – April 18, 2023; May 2, 2023.**

13 The Meeting Minutes from April 18, 2023, and May 2, 2023, were not presented. As a result,
14 voting on the Meeting Minutes from those dates would be deferred to the next meeting.

15
16 **ADJOURN**

17 The Planning Commission Meeting adjourned at approximately 7:44 p.m.

DRAFT

1 *I hereby certify that the foregoing represents a true, accurate, and complete record of the City*
2 *of Holladay Planning Commission Meeting held Tuesday, August 1, 2023.*

3
4
5

6 Teri Forbes

7 Teri Forbes
8 T Forbes Group
9 Minutes Secretary

10
11 Minutes Approved: _____

DRAFT

DATE: August 1, 2023

COMMISSION MEETING MINUTES

ADDRESS:

n/a

LEGAL DESCRIPTION: n/a

APPLICANT/REPRESENTATIVE:

City of Holladay Planning Commission

PROPERTY OWNER:

n/a

ZONING:

n/a

GENERAL PLAN DISTRICT:

n/a

CITY COUNCIL DISTRICT:

N/A

PUBLIC NOTICE DETAILS:

n/a

REQUEST:

Adoption of Meeting Minutes

APPLICABLE REGULATIONS:

UCA§52-4-203, 206
2.01.080
13.06.030

EXHIBITS:



STAFF:

Carrie Marsh, City Planner

DECISION TYPE:

Administrative/Procedural:

Commission shall approve, approve with changes, or continue the agenda item to a later date.

SITE VICINITY MAP

Effective 5/8/2018
52-4-203 Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2)

(a) Written minutes of an open meeting shall include:

- (i) the date, time, and place of the meeting;
- (ii) the names of members present and absent;
- (iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
- (iv) a record, by individual member, of each vote taken by the public body;
- (v) the name of each person who:
 - (A) is not a member of the public body; and
 - (B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;
- (vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and
- (vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.

Notes:

Corrections made according to commission direction on 12-1-2020



Request: **Ordinance amendment**
 Subject: Bonding and Warrant Assurances for Required Improvements,
 Applicant: City of Holladay, Community and Economic Development Department
 Planner: Jonathan Teerlink, CED Director

GOVERNING ORDINANCES:	13.07.030	Text Amendment Procedure / Requirements
	13.01.100	Performance Bonds
	HB 406	<u>10-9a-604.5</u> Subdivision plat recording or development activity before required 1244 landscaping or infrastructure is completed -- Improvement completion assurance -1245 Improvement warranty.

REQUIRED PLANNING COMMISSION ACTION: Legislative

Text, or ordinance amendments are proposed changes to the City of Holladay Code. Amendments can be in the form of a new, or an alteration of, existing rules or regulations/standards. Such amendments to the City of Holladay ordinance requires the Planning Commission to hold a public hearing and forward a recommendation, with findings, to the City Council for final decision/action.

REQUEST

On behalf of City of Holladay, the Community Development Department is proposing to amend Title 13, Land Development Code. The amendments have been reviewed by an interdepartmental team consisting of the Public Works, Legal, Community Development, and Public Utilities Departments. The purpose of the code amendments is to implement new state legislation (HB406) relating to improvement completion assurances (bonding) and to comply with the provisions of the Utah Municipal Land Use, Development and Management Act. The proposed code changes would effectively remove requirements to bond for on-site landscaping and amenities unless it is for public landscaping improvements or essential for public health and safety. The proposed code changes also set forth the administrative procedures and requirements for improvement agreements and financial assurance for construction improvements prior to recording a plat or obtaining a building permit.

BACKGROUND

During the 2023 Utah Legislative Session, House Bill 406 was passed, which made several amendments related to improvement completion assurance requirements (bonding). House Bill 406 modifies a municipality’s authority by limiting the use of bonding to only infrastructure improvements that are public and essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation. The proposed code amendments will bring the City’s land use code into compliance with these new state law provisions.

NON-CONFORMING USES

This Code Amendment would not create any non-conforming use situations.

PROPOSED ORDINANCE CONSIDERATIONS:

The purpose of the code amendments is to implement new state legislation relating to improvement completion assurances (bonding) and to comply with the provisions of the Utah Municipal Land Use, Development and Management Act. The proposed code changes would effectively remove requirements to bond for on-site landscaping and amenities unless it is for public landscaping improvements or essential for public health and safety. The proposed code changes also set forth the administrative procedures and requirements for improvement agreements and financial assurance for construction improvements prior to recording a plat or obtaining a building permit.

Upon reviewing House Bill 406 and other relevant state law provisions, staff propose changes to the Holladay Land Development Code to align with the current State Code. These amendments also update and clarify the

administrative procedures and requirements for improvement agreements and financial assurances for construction improvements. The specific amendments to the Land Development Code are included as a red-lined amendment.

GENERAL PLAN COMPLIANCE

The General Plan encourages appropriate development standards for all development within Holladay. The proposed code amendment is consistent with the City of Holladay General Plan because the proposal ensures the public health, safety and welfare; ensures consistency and equitable standards; and establishes efficiency in development review and land use administration.

SUMMARY OF CHANGES

The following is a summary of the proposed changes to Title 13:

- Sec. 13.01.100 *Improvement Bonds* is largely repealed and replaced with a re-write of this Section, titled Improvement Completion Assurance (Guarantee). This new version of Sec. 13.01.100 is reorganized to include a purpose and applicability section. The procedures and requirements are also clarified and strengthened, consistent with current city business practice and with the state law.
- Various other Sections of Title 13 are also amended for consistency with HB406.
- A definition for “Public Landscaping Improvements” has been added, consistent with the state law definition.

STANDARDS OF CONSIDERATION, FOR or AGAINST:

13.07.030G: Approval Standards:

1. A decision to amend the text of this title or the zoning map is a matter within the legislative discretion of the city council. The city council, after reviewing the planning commission recommendation, may:
 - a. Adopt the amendment as recommended by the planning commission;
 - b. Make any revisions to the proposed amendment that it considers appropriate;
 - c. Remand the proposed amendment back to the planning commission for further consideration; or
 - d. Reject the proposed amendment.
2. In reviewing a text or map amendment, the following factors should be considered:
 - a. Whether the proposed amendment is consistent with goals, objectives and policies of the city's general plan;
 - b. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;
 - c. The extent to which the proposed amendment may adversely affect abutting properties; and The adequacy of facilities and services intended to serve the subject property, such as, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, environmental hazard mitigation measures, water supply, and wastewater and refuse collection

RECOMMENDATION:

Staff recommends that the Planning Commission forward a positive recommendation to the City Council to amend various chapters and sections of Title 13 of the Holladay Municipal Code, as shown in Exhibit “A,” based on the following findings:

1. The City Council may amend land use ordinances consistent with the purposes of the Holladay Land Development Code, the General Plan.
2. Compliance with the Purpose of the Land Development Code by promoting and facilitating the orderly growth and development within the City of Holladay.
3. Compliance with the Goals and Policies of the General Plan by establishing appropriate development standards for all uses and zoning categories within the City of Holladay

MOTION EXAMPLES

A motion to approve or deny:

“I ___ Motion to forward a recommendation to the City Council to (approve, deny) proposals by Holladay City Staff to amend various sections of Title 13 of the City of Holladay Land Use code, as they relate to required improvement completion assurances and warranties, based upon the following findings”

A motion to continue:

“I _____ Motion to continue Holladay City Staff proposals to amend various sections of Title 13 of the City of Holladay Land Use code to the next regularly scheduled meeting” >> provide direction to staff

CHAPTER 13.01 GENERAL PROVISION AND ADMINISTRATION

13.01.100: IMPROVEMENTS COMPLETION ASSURANCE; PERFORMANCE BONDS (GUARANTEE):

~~A. Improvements Required: Any improvements required under this title or by the planning commission, including, but not limited to, curb, gutter and sidewalk, fences, landscaping, streets, fire hydrants and parking, shall be satisfactorily installed, as per City Standards set forth in title 14, prior to the city authorizing electrical service being provided; or, if no electrical service is required, prior to issuance of any occupancy permit for the land being developed. In lieu of actual completion of such improvements prior to electrical service being provided or occupancy permit, a developer may file with the city a completion bond, in form and amount specified by the city, to ensure completion of improvements within one year. Twenty five percent (25%) of the bond amount for public improvements, such as curb, gutter, sidewalk, road surfacing and fire hydrants, shall extend for a period of one year beyond the date the improvements are completed, to guarantee replacement of such defective public improvements. Upon completion of the improvements for which a completion bond has been filed, the developer shall call for inspections of the improvements by the Community and Economic Development Director or his authorized agent.~~

~~—B. Completion Within Specified Sequence Or Time Period: If the city determines that the required improvements should be completed in a specified sequence and/or in less than a one-year period in order to protect the health, safety and welfare of the city or its residents from traffic, flood, drainage or other hazards, it may require in approving the completion bond that the improvements be installed in a specified sequence and period which may be less than one year and shall incorporate such requirements in the completion bond.~~

A. Purpose of this section:

1. To ensure that all required improvements of development are completed pursuant to the land use and development regulations adopted by City of Holladay and are subject to warranty;
2. To set forth the requirements for improvement competition agreements and financial warranty assurance including, for construction improvements after, or prior to, recording a plat or obtaining a building permit; and
3. To comply with the provisions of the Utah Municipal Land Use, Development, and Management Act by, among other things, setting forth forms of acceptable improvement completion assurance and a method of partial release

B. Definitions: The following words and phrases, when used in this Section, shall have the meanings ascribed to them in this Subsection, except where the context clearly indicates a different meaning:

1. "City Engineer's calculation" ("Calculation") means a document prepared by the City Engineer that shows a list of Improvements for which financial assurance is required, the quantity, unit type, unit cost, and extended cost of each item, as well as a total dollar amount for all the items listed on the Calculation. The unit prices are intended to be the cost of construction and to include the cost of materials, overhead, mobilization, traffic control, special inspections, testing, audits by third parties, and all other expenditures needed for the completion of the Improvements listed on

1 the Calculation. The Calculation determines the dollar amount of the improvement completion
2 assurance.

3 2. "Cost of construction" means the estimated cost of completing the Improvements, as determined
4 by the City Engineer.

5 3. "Improvement" means permanent public infrastructure, items, structures, facilities, systems, or
6 landscaping required as a condition to recording a subdivision plat, obtaining a building permit, or
7 developing a commercial, office, industrial, mixed use, or multifamily-residential Development.

8 4. "Improvement completion assurance" ("Guarantee") means a cash bond, escrow bond, or letter
9 of credit required by City to guarantee the proper completion of public Improvements required as
10 a condition precedent to: (a) recording a subdivision plat; or (b) development of a commercial,
11 office, industrial, mixed use, or multifamily project.

12 C. Applicability: The provisions of this Section shall apply to all development requiring improvements.
13 As a condition precedent to recording a plat, obtaining a building permit, or commencing
14 development, the following are required:

15 1. An improvement agreement is to be executed for all required for all improvements.

16 2. A guarantee for all improvements that have not been inspected and accepted by the City, and
17 that are:

18 a. Publicly owned and maintained;

19 b. Public landscaping improvements;

20 b. Essential or required to meet the building code or fire code;

21 c. Required to meet natural hazard mitigation and storm water management
22 requirements;

23 d. Required to meet street standards and access requirements; or

24 e. Essential to public safety requirements adopted in a land use regulation, as
25 determined by the City Engineer or Director.

26 D. Improvement Agreement and Guarantee: Prior to recording a plat or commencing any development,
27 the developer shall provide to the City an improvement agreement and a guarantee in accordance
28 with the following requirements.

29 1. Developer Responsibility. The developer is responsible for compliant completion and warranty
30 of all improvements. Developer shall timely complete the improvements and guarantee the
31 improvements to be free of defects in materials and workmanship in accordance with this Title,
32 the improvement agreement, and all other applicable approvals, regulations, standards, and
33 specifications.

34 2. Forms, Duration, Terms. The developer shall execute an improvement agreement and guarantee
35 using forms that are acceptable to the City. The guarantee shall run to the benefit of the City and
36 shall remain in effect until the City approves a partial release. The improvement agreement and
37 guarantee shall contain language that promises and ensures compliant completion and warranty
38 of the improvements by the developer. The guarantee shall contain a provision for unconditional
39 payment of the face amount of the guarantee within ten business days from the date the City
40 makes a written declaration of developer's failure to perform pursuant to this Section.

1 3. Improvement Assurance Warranty Period; Improvement Warranty Guarantee.

2 a. Developer shall provide an unconditional warranty that improvements comply with
3 the City's standards for design, materials, and workmanship and will be free of
4 defects in materials and workmanship for 12 months following the date when the
5 improvements are inspected and approved by the City Engineer, unless the City
6 Engineer determines, for good cause, that a 12- month period would be inadequate
7 to protect the public health, safety, and welfare; or has substantial evidence, on
8 record of prior poor performance by the developer; or has substantial evidence
9 that the area upon which the improvements will be constructed contains suspect
10 soil and the City has not otherwise required the applicant to mitigate the suspect
11 soil. Improvements listed on the same calculation shall have the same
12 improvement warranty period.

13 b. Financial assurance shall be required for the duration of the improvement warranty
14 period, in the amount set forth in this Section, to secure performance of
15 replacement and repairs of improvements in accordance with developer's
16 unconditional warranty.

17 4. Amount of the Guarantee and Improvement Warranty Guarantee.

18 a. The amount of the guarantee shall be determined by the City Engineer. The
19 amount of the guarantee shall be 100 percent of the cost of construction plus ten
20 percent (10%) of that amount to cover administrative costs incurred by the City to
21 complete the improvements, if necessary.

22 b. During the improvement warranty period the amount of the improvement
23 assurance warrantee guarantee shall be either (a) ten percent (10%) of the amount
24 shown on the calculation or (b) ten percent (10%) of the developer's reasonable
25 proven cost of completed improvements, whichever is less, except the guarantee
26 for the Storm Water Pollution Prevention Plan requirements shall not be reduced
27 and shall remain at 100 percent.

28 5. Developer Shall Complete Improvements in a Timely Manner. All improvements shall be
29 completed to the satisfaction of the City Engineer within one year from the date the guarantee is
30 posted with the City, unless the developer requests an extension in writing, and the extension is
31 approved by the Director and City Engineer for good cause. The developer shall execute an
32 improvement agreement promising completion within the required time, and the improvement
33 agreement shall be amended accordingly.

34 6. Sequence for Completion of Improvements. To protect the health, safety and welfare of the City
35 and its residents from traffic, flood, drainage or other hazards, the City Engineer may require that
36 the improvements be completed or repaired in a specified sequence and/or within a specified
37 period of time, which may be less than one year. The City Engineer will notify the developer in
38 writing of that requirement if the City Engineer deems such action necessary.

39 7. Failure to Complete Improvements in a Timely Manner. If the developer fails to satisfactorily
40 complete the improvements within one year from the date when the guarantee is posted, or
41 within the shorter time period specified by the City Engineer in order to protect the health, safety
42 and welfare of the City and its residents from traffic, flood, drainage or other hazards, or as
43 extended by the City Engineer pursuant to this Section, the City may, in its sole discretion, pursue
44 all lawful remedies, including without limitation, declaring the developer in default of the
45 improvement agreement, declaring the guarantee forfeited by the developer, and demanding

1 payment pursuant to the terms of the guarantee. The City may spend the funds to pay for
2 construction, replacement, or repair of incomplete or defective improvements, as well as the
3 City's administrative overhead and any other associated costs incurred by the City. The City may
4 take any other action it deems appropriate to enforce the improvement agreement, collect on the
5 guarantee, recover amounts not covered by the guarantee and any other civil or criminal
6 remedies allowable by law, which may include liens

7 8. Initiating Inspections. The developer on record shall request inspections when installed
8 improvements are complete, at the end of an improvement warranty period, and/or after
9 correcting deficiencies noted in a prior inspection. The request shall contain a statement affirming
10 that all improvements are complete and/or all deficiencies have been corrected. Inspections will
11 be scheduled by the City Engineer upon receiving the developer's written request. The City
12 Engineer may schedule an inspection, without written request from the developer, upon
13 determination that time for completion of an improvement warranty period has expired.

14 9 Developer Shall Correct Deficiencies in a Timely Manner. The developer shall correct any
15 deficiencies noted by City inspectors within 30 days from the time the inspector notifies the
16 developer. Extensions may be authorized by the City Engineer for good cause beyond the
17 developer's control after receipt of a written request and explanation from the developer.

18 10. Partial Release of Guarantee. Upon completion of the improvements listed on an individual
19 calculation, and inspection and approval of those improvements by the City Engineer, the City
20 may release up to 90 percent (90%) of the portion of the calculated guarantee amount.

21 11. Final Release of Guarantee. Upon completion of the improvements warranty period for the
22 improvements listed on an individual calculation, and the subsequent inspection and approval of
23 those improvements by the City Engineer, the City will release all remaining portions of the
24 guarantee amount shown on that calculation.

25 12. Acceptable Types of Guarantees. Guarantees shall be approved by the City and may be either:

26 a. An irrevocable letter of credit, containing information required by the City, from a
27 bank or credit union chartered under the laws of the State of Utah or the United
28 States of America, licensed and regulated by the Department of Financial
29 Institutions of the State of Utah or its successor, insured by the Federal Depository
30 Insurance Corporation or National Credit Union Share Insurance Fund, and having
31 an office in the State of Utah. The letter of credit shall be signed by the guarantor,
32 with the signature notarized and attested and shall be automatically extended upon
33 expiration, unless released by a letter issued by the City Engineer;

34 b. An escrow bond, submitted on forms provided by the City, having as a guarantor
35 an organization licensed and regulated by the Department of Financial Institutions
36 of the State of Utah, or its successor, having an office in the State of Utah, and
37 which is insured by the Federal Depository Insurance Corporation or National
38 Credit Union Share Insurance Fund. Escrow bonds shall consist of a letter of
39 commitment, signed by both the guarantor and the developer, with the signatures
40 notarized and attested; or,

41 c. A cash bond, submitted on forms provided by the City and signed by the developer,
42 with the signature notarized and attested.

43 13. Developer's Certification of Notification to Subcontractors. The developer may be required to
44 sign a statement that certifies that the developer has or will notify all contractors and

1 subcontractors that the City will not release any portion of the guarantee until all improvements
2 on a calculation are completed and the work has been inspected and accepted by the City
3 Engineer, at which time the City will release no more than the portions allowed under this Section.

4 E. Construction of Improvements Prior to Plat Recordation or Issuance of Building Permit. If the
5 developer desires to complete the improvements prior to recording a subdivision plat or prior to
6 receiving a building permit, the developer may post an alternative guarantee in accordance with the
7 following requirements.

8 1. The alternative guarantee shall be in an amount determined by the City Engineer to remove
9 incomplete improvements and restore disturbed property, including, without limitation, a base rate
10 of \$10,000 per disturbed acre (rounded up to the full acre), and \$10,000 per stormwater main line
11 connection.

12 2. After posting the alternative guarantee, the developer may complete all improvements, except
13 that no plat will be recorded, and no building permit will be issued by the City.

14 3. When the improvements have been completed, inspected and approved by the City Engineer,
15 the developer shall provide the improvement warranty guarantee as set forth in D.4b. Upon the
16 developer posting the improvement warranty guarantee, the City will release the subdivision plat
17 to be recorded, or the City will issue the building permit, provided all other City requirements have
18 been satisfied.

19 ~~G.F.~~ Fee In Lieu Of Required Improvements:

20 1. Where present conditions exist which make it unfeasible or impractical to install any required
21 public improvements, the city may require the subdivider to pay to the city a fee equal to the estimated
22 cost of such improvements as determined by the director of community development. Upon payment of
23 the fee by the developer, the city shall assume the responsibility for future installation of such
24 improvements.

25 2. The City Manager or designee shall establish a special account for such fees and shall credit to
26 such account a proportioned share of interest earned from investment of city monies. Records relating to
27 identification of properties for which fees have been collected, fee amounts collected for such properties
28 and money transfer requests shall be the responsibility of the community development department.

29 ~~-D.- Process And Release Procedures: Such completion bonds shall be processed and released in~~
30 ~~accordance with the procedures set forth in title 14, chapter 14.16 of this code.~~

31 ~~EG.~~ Waiver For Political Subdivisions: When the developer is a school district, municipality, service
32 area, special purpose district or other political subdivision of the state, the city may waive the bond and
33 accept a letter from the governing body guaranteeing installation of the improvements. Before approving
34 any such waiver, the city shall receive a recommendation from the Community and Economic
35 Development Director.

36

37

38

39

40

1 **13.04.040: DEFINITIONS OF TERMS:**

2 For the purpose of this title the following terms have the following meanings:

3 COMPLETION BOND: A cashier's check, irrevocable letter of credit, or escrow agreement, in amount,
4 form and content specified by the City and filed with the City for the purpose of ensuring completion of
5 improvements required under this title.

6 IMPROVEMENT ASSURANCE: A surety bond, letter of credit, cash, or other security to guaranty the
7 proper completion of an improvement that is required as a condition precedent to recording a subdivision
8 plat; or beginning development activity; and offered to a Land Use Authority to induce the Land Use
9 Authority, before actual construction of required improvements, to consent to the recording of a
10 subdivision plat; or issue a permit for development activity.

11 IMPROVEMENT ASSURANCE WARRANTY: A promise that the materials and workmanship of
12 improvements comport with standards that the Municipality has officially adopted; and will not fail in a
13 material respect within a warranty period.

14 PUBLIC LANDSCAPING IMPROVEMENT: Landscaping that an applicant is required to install to comply
15 with published installation and inspection specifications for public improvements that: (a) will be dedicated
16 to and maintained by the municipality; or (b) are associated with and abut trail improvements that connect
17 to planned or existing public infrastructure."

18
19

20 **13.10.130: REQUIRED IMPROVEMENTS:**

21 A. Certification Of Improvements: No final plat of a subdivision of land shall be recorded, except as
22 provided in 13.01.100 of this title, ~~without receiving a statement signed by the community development~~
23 ~~department.~~ Community and economic development department shall certify accordingly prior to
24 issuance of building permits certifying that the improvements described in the subdivider's plat and
25 specifications have been completed, that they meet the minimum requirements of this title and other
26 applicable ordinances of the city, and any other county, state or federal agency having jurisdiction over
27 individual improvements.

28 B. Storm Sewers: Storm sewers shall be constructed throughout the entire subdivision to carry off
29 water from all inlets and catch basins, and shall be connected to an adequate outfall. A stormwater
30 drainage system subject to the approval of the technical review committee shall be provided, and shall
31 be separate and independent of the sanitary sewer system. Final plats for the drainage system shall be
32 prepared by a licensed engineer not in the employ of the city.

33
34
35
36
37
38
39

1 **13.10.140: CONSTRUCTION OF IMPROVEMENTS:**

2 A. Preconstruction Meeting: At least seven (7) days prior to construction of any required
3 improvements, the community development director shall be notified by the applicant so that a
4 preconstruction meeting may be scheduled between the applicant, the city, and other parties as
5 appropriate. Attendance at this meeting by the applicant or the applicant's designee is mandatory.

6 1. The preconstruction meeting shall include the following items

7 a. Submittal of the improvements completion assurance warranty as required by
8 section 13.01.100 of this title.

9 B. As Built Plans And Drawings: As built plan and profile drawings shall be furnished to the community
10 development director of all street improvements, storm sewer, sanitary sewer, and water systems
11 constructed within public rights of way. The city shall retain the subdivider's improvement warranty
12 guarantee bond until such plans have been submitted and accepted.

13 C. Protection And Maintenance Of Existing Improvements: Extreme care should be exercised on the
14 part of the subdivider, the contractor, and all other associated agencies for the protection and
15 maintenance of all existing or newly placed improvements or facilities within roadway sections during
16 development.

17 D. Responsibility For Damages: Any damage to any bonded improvement or facility incurred during
18 the period of development shall be the sole responsibility of the subdivider. Damage caused by the
19 subdivider or any agents of the subdivider shall be repaired by the subdivider to the satisfaction of the
20 city prior to final acceptance and ~~bond~~ improvement warranty guarantee release.

21 ~~E.— Performance Bond: The subdivider shall post a performance bond as required by section 13.01.100~~
22 ~~of this title.~~

23
24 **13.72.030: DEVELOPMENT STANDARDS:**

25 H. Tree And Vegetation Protection: (See section 13.72.080, figure 13 of this chapter.)

26 ...

27 4. Replacement Of Significant Trees: When a "significant tree" or trees, as defined in section
28 13.04.040 of this title, are removed from either inside or outside the established limits of disturbance, the
29 applicant or developer shall replace such trees on the lot, either inside or outside the established limits
30 of disturbance, according to the following schedule and requirements:

31 ...

32 d. Replacement trees shall be maintained through an establishment period of at least three (3)
33 years, except that single-family dwellings shall have an applicable establishment period of only one year.
34 The applicant shall post a ~~bond~~ improvement warranty bond for all public street trees guaranteeing the
35 survival and health of all replacement street trees during the establishment period.

36

37

38

1 **13.72.060: ADMINISTRATION AND ENFORCEMENT:**

2 ...

3 D. ~~Improvement Competition Assurance Bonds For Improvements: Guarantee b~~Bonds for required
4 public improvements required under this chapter shall be subject to the provisions of the subdivision
5 regulations set out at chapter 13.10 and section 13.01.100 of this title. (Ord. 2012-15, 9-20-2012)

6
7 **13.77.050: MINIMUM LANDSCAPING REQUIREMENTS BY ZONE:**

8 The following requirements are the minimum landscaped area required by each zone except where
9 modified by the Planning Commission as an administrative relief allowed by section 13.77.130 of this
10 chapter. Landscape features shall incorporate Localscapes® (as defined 13.04.040) design elements
11 meant to reduce, minimize and or eliminate water use by activity area:

12 A. Single-Family Residential Zones (FR, R-1): The front yard of all lots on which buildings are located
13 shall be landscaped ~~within one year of the date of prior to~~ the issuance of a final certificate of occupancy
14 or final inspection, except as provided in 13.77.120C of this chapter.

15
16
17 **13.77.120: INSTALLATION:**

18 A. Substitutions: All substitutions of plant material on an approved landscape plan must be approved
19 by the community development director.

20 B. Inspections: Landscaping shall be installed and completed in compliance with the approved
21 landscape plan. A certificate of occupancy shall not be issued until the improvements are inspected and
22 approved by the community development director, unless an assurance is provided and approved
23 according to subsection C of this section.

24 C. Assurance: In extenuating circumstances where occupancy or final inspection is requested prior to
25 completion of landscaping, the owner or developer shall enter into an enforcement delay agreement with
26 the city ~~guaranteeing-certifying~~ that the required landscaping will be completed within the next planting
27 season at a date specified by the community development director but not to exceed one year. Violation
28 of this agreement is subject to zoning enforcement

29
30 **13.83.110: NONMAINTAINED OR ABANDONED FACILITIES:**

31 The community development director may require each nonmaintained or abandoned
32 telecommunications facility to be removed from the building or premises when such a facility has not
33 been repaired or put into use by the owner or agent within ninety (90) calendar days after notice of
34 nonmaintenance or abandonment is given to the owner or agent. ~~The applicant shall post a site specific~~
35 ~~bond when a permit is issued to guarantee removal of the facility and site restoration. The type of bond~~
36 ~~and amount shall be determined upon review by City staff. No bond shall be required for roof or wall~~
37 ~~mounted facilities.~~

1 **LAND USE, DEVELOPMENT, AND MANAGEMENT ACT**

2 **MODIFICATIONS**

3 2023 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Stephen L. Whyte**

6 Senate Sponsor: Lincoln Fillmore

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions related to municipal land use, development, and
11 management of real property.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies the definition of rural real property;
- 15 ▶ modifies provisions relating to a municipality's annexation of unincorporated
16 private property;
- 17 ▶ modifies the process by which a boundary commission considers competing
18 petitions for annexation of unincorporated private property;
- 19 ▶ clarifies the circumstances under which a municipality may adopt temporary land
20 use restrictions; and
- 21 ▶ modifies the way private parties and municipalities may use development
22 agreements.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **10-2-401**, as last amended by Laws of Utah 2021, Chapter 112

- 30 10-2-402, as last amended by Laws of Utah 2021, Chapter 112
- 31 10-2-403, as last amended by Laws of Utah 2021, Chapter 112
- 32 10-2-405, as last amended by Laws of Utah 2021, Chapter 112
- 33 10-2-407, as last amended by Laws of Utah 2022, Chapter 355
- 34 10-2-408, as last amended by Laws of Utah 2021, Chapter 112
- 35 10-2-416, as last amended by Laws of Utah 2015, Chapter 352
- 36 10-9a-103, as last amended by Laws of Utah 2022, Chapters 355, 406
- 37 10-9a-504, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 38 10-9a-508, as last amended by Laws of Utah 2016, Chapter 350
- 39 10-9a-509, as last amended by Laws of Utah 2022, Chapters 325, 355 and 406
- 40 10-9a-532, as enacted by Laws of Utah 2021, Chapter 385
- 41 10-9a-534, as enacted by Laws of Utah 2021, First Special Session, Chapter 3
- 42 10-9a-604.5, as last amended by Laws of Utah 2019, Chapter 384
- 43 17-27a-103, as last amended by Laws of Utah 2022, Chapter 406
- 44 17-27a-504, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 45 17-27a-507, as last amended by Laws of Utah 2013, Chapter 309
- 46 17-27a-508, as last amended by Laws of Utah 2022, Chapters 325, 355 and 406
- 47 17-27a-528, as enacted by Laws of Utah 2021, Chapter 385
- 48 17-27a-530, as enacted by Laws of Utah 2021, First Special Session, Chapter 3
- 49 17-27a-604.5, as last amended by Laws of Utah 2020, Chapter 354



51 *Be it enacted by the Legislature of the state of Utah:*

52 Section 1. Section 10-2-401 is amended to read:

53 **10-2-401. Definitions -- Property owner provisions.**

54 (1) As used in this part:

55 (a) "Affected entity" means:

56 (i) a county of the first or second class in whose unincorporated area the area proposed
57 for annexation is located;

1234 evidence from the construction industry of:

1235 (i) defects in the material of existing cladding; or

1236 (ii) consistent defects in the installation of existing cladding; or

1237 (h) a land use regulation, including a planned unit development or overlay zone, that a

1238 property owner requests:

1239 (i) the municipality to apply to the owner's property; and

1240 (ii) in exchange for an increase in density or other benefit not otherwise available as a

1241 permitted use in the zoning area or district.

1242 Section 14. Section 10-9a-604.5 is amended to read:

1243 **10-9a-604.5. Subdivision plat recording or development activity before required**

1244 **landscaping or infrastructure is completed -- Improvement completion assurance --**

1245 **Improvement warranty.**

1246 (1) As used in this section, "public landscaping improvement" means landscaping that

1247 an applicant is required to install to comply with published installation and inspection

1248 specifications for public improvements that:

1249 (a) will be dedicated to and maintained by the municipality; or

1250 (b) are associated with and proximate to trail improvements that connect to planned or

1251 existing public infrastructure.

1252 [~~1~~] (2) A land use authority shall establish objective inspection standards for

1253 acceptance of a [~~landscaping~~] public landscaping improvement or infrastructure improvement

1254 that the land use authority requires.

1255 [~~2~~] (3) (a) Before an applicant conducts any development activity or records a plat,

1256 the applicant shall:

1257 (i) complete any required [~~landscaping~~] public landscaping improvements or

1258 infrastructure improvements; or

1259 (ii) post an improvement completion assurance for any required [~~landscaping~~] public

1260 landscaping improvements or infrastructure improvements.

1261 (b) If an applicant elects to post an improvement completion assurance, the applicant

1262 shall provide completion assurance for:

1263 (i) completion of 100% of the required [~~landscaping~~] public landscaping improvements
1264 or infrastructure improvements; or

1265 (ii) if the municipality has inspected and accepted a portion of the [~~landscaping~~] public
1266 landscaping improvements or infrastructure improvements, 100% of the incomplete or
1267 unaccepted [~~landscaping~~] public landscaping improvements or infrastructure improvements.

1268 (c) A municipality shall:

1269 (i) establish a minimum of two acceptable forms of completion assurance;

1270 (ii) if an applicant elects to post an improvement completion assurance, allow the
1271 applicant to post an assurance that meets the conditions of this title, and any local ordinances;

1272 (iii) establish a system for the partial release of an improvement completion assurance
1273 as portions of required [~~landscaping~~] public landscaping improvements or infrastructure
1274 improvements are completed and accepted in accordance with local ordinance; and

1275 (iv) issue or deny a building permit in accordance with Section 10-9a-802 based on the
1276 installation of [~~landscaping~~] public landscaping improvements or infrastructure improvements.

1277 (d) A municipality may not require an applicant to post an improvement completion
1278 assurance for:

1279 (i) [~~landscaping~~] public landscaping improvements or an infrastructure improvement
1280 that the municipality has previously inspected and accepted;

1281 (ii) infrastructure improvements that are private and not essential or required to meet
1282 the building code, fire code, flood or storm water management provisions, street and access
1283 requirements, or other essential necessary public safety improvements adopted in a land use
1284 regulation; [~~or~~]

1285 (iii) in a municipality where ordinances require all infrastructure improvements within
1286 the area to be private, infrastructure improvements within a development that the municipality
1287 requires to be private[-]; or

1288 (iv) landscaping improvements that are not public landscaping improvements, as
1289 defined in Section 10-9a-103, unless the landscaping improvements and completion assurance

1290 are required under the terms of a development agreement.

1291 (4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or
1292 other entitlement benefit not currently available under the existing zone, a municipality may
1293 require a completion assurance bond for landscaped amenities and common area that are
1294 dedicated to and maintained by a homeowners association.

1295 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)
1296 between the applicant and the municipality shall be memorialized in a development agreement.

1297 (c) A municipality may not require a completion assurance bond for the landscaping of
1298 residential lots or the equivalent open space surrounding single-family attached homes, whether
1299 platted as lots or common area.

1300 (5) The sum of the improvement completion assurance required under Subsections (3)
1301 and (4) may not exceed the sum of:

1302 (a) 100% of the estimated cost of the public landscaping improvements or
1303 infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's
1304 bid; and

1305 (b) 10% of the amount of the bond to cover administrative costs incurred by the
1306 municipality to complete the improvements, if necessary.

1307 ~~[(3)]~~ (6) At any time before a municipality accepts a [landscaping] public landscaping
1308 improvement or infrastructure improvement, and for the duration of each improvement
1309 warranty period, the municipality may require the applicant to:

1310 (a) execute an improvement warranty for the improvement warranty period; and

1311 (b) post a cash deposit, surety bond, letter of credit, or other similar security, as
1312 required by the municipality, in the amount of up to 10% of the lesser of the:

1313 (i) municipal engineer's original estimated cost of completion; or

1314 (ii) applicant's reasonable proven cost of completion.

1315 ~~[(4)]~~ (7) When a municipality accepts an improvement completion assurance for
1316 [landscaping] public landscaping improvements or infrastructure improvements for a
1317 development in accordance with ~~[Subsection (2)(c)(ii)] Subsection (3)(c)(ii)~~, the municipality

1318 may not deny an applicant a building permit if the development meets the requirements for the
1319 issuance of a building permit under the building code and fire code.

1320 ~~[(5)]~~ (8) The provisions of this section do not supersede the terms of a valid
1321 development agreement, an adopted phasing plan, or the state construction code.

1322 Section 15. Section **17-27a-103** is amended to read:

1323 **17-27a-103. Definitions.**

1324 As used in this chapter:

1325 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
1326 detached from a primary single-family dwelling and contained on one lot.

1327 (2) "Adversely affected party" means a person other than a land use applicant who:

1328 (a) owns real property adjoining the property that is the subject of a land use
1329 application or land use decision; or

1330 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
1331 general community as a result of the land use decision.

1332 (3) "Affected entity" means a county, municipality, local district, special service
1333 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
1334 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
1335 property owner, property owner's association, public utility, or the Utah Department of
1336 Transportation, if:

1337 (a) the entity's services or facilities are likely to require expansion or significant
1338 modification because of an intended use of land;

1339 (b) the entity has filed with the county a copy of the entity's general or long-range plan;

1340 or

1341 (c) the entity has filed with the county a request for notice during the same calendar
1342 year and before the county provides notice to an affected entity in compliance with a
1343 requirement imposed under this chapter.

1344 (4) "Affected owner" means the owner of real property that is:

1345 (a) a single project;