

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

Tuesday, January 25, 2022

6:00 p.m.

City Council Chambers

4580 South 2300 East

Holladay, Utah

ATTENDANCE:

Planning Commission Members:

Ann Mackin, Vice-Chair

Martin Banks

Chris Layton

Alyssa Lloyd

Karianne Prince

Dennis Roach

City Staff:

Jonathan Teerlink, Community Development Director

Brad Christopherson, City Attorney

WORK SESSION

In the absence of Chair Howard Layton, Vice-Chair Ann Mackin called the Work Session to order at approximately 5:36 p.m. The agenda items were reviewed and discussed.

Community Development Director, Jonathan Teerlink, reported that the Hiltons will be participating remotely via Zoom. Their request was continued from the previous meeting. The Planning Commission requested a legal opinion from the City's legal counsel, which was provided. No additional public comment was received.

Commissioner Layton asked when a property owner has to dedicate the front portion of their property to the City, as is the case along most of Murray Holladay Boulevard, who owns the property once it is dedicated. Mr. Teerlink explained that it becomes publicly owned. It is not owned by either of the two conjoined parcels and once there is a right-of-way dedication, they are no longer contiguous. He stated that the application was noticed as Conceptual Site Plan Approval.

The second agenda item was a request to amend a Zone Map at 5025 South Highland Drive, which is an existing Neighborhood Commercial property. Previously, two nurseries operated in this location. The new owner is looking to redevelop the property with a use that is more applicable to the C-2 zone.

Commissioner Layton commented that the proposed use is a restaurant with a micro-brewery and housing. He agreed with a neighbor who commented that it seems like a perfect addition to what is going on across the street at the Cottonwood Mall. It appears to be an ideal project but there were concerns expressed about action the Planning Commission can take to ensure that the project is built as proposed and not sold off and developed as something else. Mr. Teerlink acknowledged that that is a valid concern. In the past, the City has added a sunset clause to the rezone application.

If the applicant does not present a site plan for the proposed use within a specified period, the zoning reverts back. In a recent case, another applicant was given one year.

Commissioner Layton stated that the project is seeking C-2 zoning because of the brewery use. Mr. Teerlink reported that the NC zone allows for restaurants and multi-family uses but all must come back to the Planning Commission for conditional use site plan approval. In response to a question raised, Mr. Teerlink stated that conditional use approval always runs with the land, regardless of ownership. Any change of use would have to be addressed.

Mr. Teerlink next introduced the Holladay Court Concept Residential Subdivision Plan. The property is in the R-2-10 zone with a four-lot subdivision proposed. A private lane will service the deeper properties. The request was determined to meet the ordinance.

The Conditional Use Permit (“CUP”) request for a Short-Term Rental at 4371 South Highland Drive was next presented. Mr. Teerlink stated that short-term rentals are allowed in the City but are limited to certain zones and streets. The subject property in this case meets both criteria. Noise issues were discussed. Mr. Teerlink stated that neighbors with noise issues should call the police rather than staff. If the conditions of approval are not met there would be a review and potential revocation of the Conditional Use Permit. The possibility was discussed of limiting the number of individuals who may rent the property. Mr. Teerlink stated that in this case, the applicant runs his business from the subject property.

Commissioner Layton asked City Attorney, Brad Christopherson, to give his opinion on situations where a property is vacated. He stated that when there are two parcels in the middle of a right-of-way, once they are dedicated as a public way they no longer seem to be contiguous. He asked if the property is owned by the property owner who owns two parcels. Mr. Christopherson referenced a statute that specifies that a road by use becomes a public right-of-way after 10 years. The role of the Planning Commission is to interpret the statute and the City ordinance. He did not disagree that the legal descriptions go to the center point on the two parcels, but he did see how they could be considered contiguous as they are separated by a public right-of-way. Commissioner Layton stated that the intent was to develop the parcels as one knowing that once they become developed they must dedicate what once was contiguous property.

Mr. Christopherson stated that if the public uses a road continuously for more than 10 years, it is a de facto dedication. Commissioner Prince asked why the dedication did not happen when the north parcel was purchased by the Hiltons. Mr. Christopherson explained that that would only occur if there were some action by the City.

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

In the absence of Chair Howard Layton, Vice-Chair Ann Mackin called the Regular Meeting to order at approximately 6:02 p.m. and read the Commission Statement.

CONTINUED ACTION ITEM

1. **“Hulton Court” – Amended and Extended – Concept – 2394 thru 2397 Murray Holladay Road (R-1-10 and R-2-10). Continued Review and Consideration of a Proposal by Property Owner, Ron Hilton, for Conceptual Site Plan Application to Amend “HULTON COURT” a Previously Approved Residential Subdivision, by Adding Additional Property to Redevelop a Total of 1.3 Acres located in the R-1-10 and RR-2-10 Zone, to Form a Seven (7) Lot, Single-Family Home Subdivision, Planned Unit Development. As per Holladay Ordinance 13.08 & 13.10. File #20-1-15-1.**

Community Development Director, Jonathan Teerlink, reported that at the previous meeting, the Planning Commission requested that staff provide a legal opinion on outstanding questions. City Attorney, Todd Godfrey, had since provided that information. City Attorney, Brad Christopherson was present to answer questions regarding the letter. The request was for a Concept Subdivision application. The applicant provided comments regarding the legal opinion.

The applicant, Ron Hilton, gave his address as 2394 Murray Holladay Road and stated that he has sought clarity on the issue. Over one year ago, they submitted a subdivision request and relied on that information before purchasing the subject property. Three years ago, the Planning Commission seemed very willing to allow three homes on the property. He stated that the proposed project will be much better and provides open space. The alternative would involve multi-family, multi-story development. He commented that the neighbors are much happier with the current proposal. It was noted that the public hearing was conducted and closed at the last meeting.

Commissioner Banks read with interest the competing legal opinions where Mr. Anderson makes the point that Murray Holladay Road is not owned or dedicated in fee title as a public road. He felt there were ways a road can become public other than through an owner dedicated and fee title such as adverse possession or condemnation. He did not believe that Mr. Anderson’s assertion of a qualifier of fee title resolves the issue. In light of the historic use of the property as a public road, he tended to discount Mr. Anderson’s opinion.

Commissioner Layton commented that Mr. Hilton has two viable projects. One in the R-1-10 zone was approved in June 2021. What Mr. Hilton was proposing in the north phase within the boundaries of an R-2-10 zone will also be a great project. The more he can tie the two projects together aesthetically the better. He supported Mr. Hilton in terms of the two projects that are across the public way from one another.

Commissioner Lloyd preferred the current proposal where the properties intersect. She considered the lower profile homes to be more in keeping with the neighborhood.

Commissioner Roach commented on the zoning and the other properties on the south side of the street. It seemed unfair and biased to allow the applicant to do something outside of that construct based on what he is trying to do on the other side of the street. He wanted to understand why Mr. Hilton needs the extra home on the one side.

Commissioner Prince agreed with Commissioner Roach and supported the idea of the bungalow, cottage-style homes, and hoped the applicant will ensure that there is uniformity between the two properties. She was not convinced that taking the remaining square footage from one property to put with the other to allow an extra home is justified.

Commissioner Layton remarked that there is a reason why the properties to the east and west of the south property have been required to comply with the zone. The fact that across the street there will be the ability to do something slightly different but in keeping with the zone would make it consistent with the adjoining neighbors to the east except for when there is a zone difference. He saw no reason to consider a Planned Unit Development (“PUD”) when both projects are viable.

Commissioner Layton moved to approve the Conceptual Plan for “Hulton Court”, a six-lot residential subdivision in the R-2-10 and R-1-10 zones located at 2394 through 2397 East Murray Holladay Road based on the following:

Findings:

- 1. Complies with standards of the R-1-10 and R-2-10 zones.***
- 2. Lots are created to be accessible by utilities, public roads, and emergency access.***

Commissioner Prince seconded the motion. Vote on motion: Commissioner Banks-Aye, Commissioner Roach-Aye, Commissioner Prince-Aye, Commissioner Lloyd-Aye, Commissioner Layton-Aye, Vice-Chair Mackin-Aye. The motion passed unanimously.

Commissioner Banks moved to approve a Planned Unit Development for “Hulton Court” a residential single-family home subdivision in the R-2-10 and R-1-10 zones located at 2394 through 2397 East Murray Holladay Road subject to the following:

Findings:

- 1. Complies with the allowed land uses of the R-2-10 and R-1-10 zones as a residential subdivision.***
- 2. The density and layout are found to comply with the approved Concept Plan that was previously approved.***
- 3. Is granted flexibility to zone standards via the Planning Commission.***
- 4. Provides for the preservation and enhancement of desirable site characteristics.***

Conditions:

- 1. All lot sizes are modified to maintain the minimum sizes shown on the approved plan.***
- 2. Setbacks are modified as shown on the approved plan.***
- 3. Dedicated open space and common area are provided.***

4. *Submit to the TRC a preliminary level subdivision plat for assessment preparation for Planning Commission review.*

Commissioner Layton commented on the difference between development with a PUD and an R-1-10 and R-2-10 zone which are quite different in terms of size and setback requirements. Mr. Teerlink confirmed that was the case and stated that Mr. Hilton proposed what he considered to be acceptable setbacks for the PUD. Commissioner Roach clarified that the motion included a finding and condition that the density and layout comply with the approved concept plan.

Commissioner Prince seconded the motion. Vote on motion: Commissioner Banks-Aye, Commissioner Roach-Aye, Commissioner Prince-Aye, Commissioner Lloyd-Aye, Commissioner Layton-Aye, Vice-Chair Mackin-Aye. The motion passed unanimously.

PUBLIC HEARINGS – ACTION ITEMS

2. Zone Map Amendment – Rezone from NC to C-2 – 5025 South Highland Drive. Review and Recommendation to City Council on a Proposal by Applicant Bret Laughlin to Amend the Holladay Zone Map at this location from the Current Neighborhood Commercial Zone (NC) to the Commercial Zone (C-2) for Approximately 1.2 Acres of Property. File #22-4-01.

Mr. Teerlink presented the Staff Report and stated that the request is for a zone map amendment, which is a legislative action. It requires a recommendation from the land use authority, which is the Planning Commission, to the City Council for review.

The applicant, Bret Laughlin, gave his address as 2545 East Walker Lane. He stated that he is a long-time City resident and not a developer. The subject property has been an eyesore for over a decade, and it has been his dream to turn it into a beautiful landmark. He envisioned developing a restaurant or townhomes to break up the residential impact from the east side. He spoke to the property owners a few years earlier and was ultimately able to purchase the property. What was proposed was a restaurant and brewery concept with four townhomes. The project would be small with ample green space between the townhomes and the restaurant. The impact on the neighborhood was expected to be minimal. Since purchasing the property, Mr. Laughlin has received numerous offers that would have resulted in a far greater return. He intended to develop something that will improve the neighborhood.

Commissioner Layton commented that what is proposed seems like a perfect use for the site. It is quasi residential with a buffer that blends into the neighborhood commercial. He asked what the reasoning was behind changing the zoning to C-2. Mr. Laughlin stated that it was proposed to be changed to allow for the brewery. He was partnering on the restaurant with the owner of Emigration Brewery. The intent was to do a small micro-brewery that would manufacture enough for the restaurant and the Emigration Brewery. They also envision brewing non-alcoholic beverages but the C-2 zoning would be required to do that. Commissioner Layton acknowledged that the City’s zoning and land use tables do not include micro-breweries separate from breweries.

Vice-Chair Mackin opened the public hearing.

Camille Pearce gave her address as 2052 Arbor Lane and suggested a neighborhood pub to a Cottonwood Mall developer. To her knowledge, one was not being considered. She was encouraged that one might become part of the neighborhood. She was not notified of the neighborhood meeting. Due to extreme drought, her understanding was that beer can be 90% water. She asked what procedures will be used to minimize water use, will the flow meters will be to prevent leaks, if recycled water will be used for certain purposes such as cleaning, how many gallons of water are expected to be used for a micro-brewery use as compared to a home use, where will the water be sourced from, and if water usage will affect water pressure in the neighborhood. She questioned the potential for emissions into the neighborhood or water resources and if the use can be changed at some point in the future. She also inquired about parking and the ingress/egress onto Arbor Lane and the potential for increased traffic. She expressed her support and stated that the development of townhomes does not benefit the neighborhood, but the proposed restaurant and micro-brewery would.

Steve Glaser gave his address as 2052 Arbor Lane and echoed the comments of his wife, Ms. Pearce. What is proposed seemed like a very nice use of the property. With regard to water pressure, there was at least one case where there was inadequate water pressure to fight a fire. Work was done to ensure that it did not occur again. He would also want to prevent other C-2 uses from being allowed on the site.

Mr. Laughlin stated that as a resident he was also not comfortable with what C-2 zoning could allow. He felt that what is proposed is a good option because he lives in the neighborhood and is a lifelong Holladay resident. He was also concerned about water and environmental impacts. He stated that the details will be addressed as the process moves forward. He agreed that the ingress/egress should be from Highland Drive.

Commissioner Banks commented that if the property was sold to someone interested in developing another permitted use that might be more objectionable, the Commission has the prerogative to put certain time limitations as a condition of the zone change. If he were to get zoning approval, he would likely tear down all of the buildings which would benefit the neighborhood. He would assume that within two years he would be able to obtain approval for the conditional use and start the project. Timing issues were discussed. It was noted that the Commission will consider an extension if needed but stressed that the goal is to protect the neighborhood.

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

Commissioner Lloyd felt that with the appropriate conditions she was excited for the project to move forward and the property to be approved. Vice-Chair Mackin remarked that it will be a great addition to the community.

Commissioner Prince appreciated that Mr. Laughlin is including four townhomes to serve as a transition and address the need for more housing.

Commissioner Layton stated that the Commission will have opportunities to review the request in greater detail throughout the process and qualify the conditions.

Commissioner Roach appreciated the discussion about potential conditions and time conditions and wondered if there was a need to impose a time limitation if there is a “type” limitation. Mr. Teerlink shared a similar issue with the Fairfield Hotel, which was tied directly to a hotel use. Commissioner Layton stated that the zone change will be made with the condition that the uses be residential and the restaurant commercial with a small micro-brewery. That issue could be revisited going forward. He did not think the timeframe was key but felt that the uses conditioned for the zone change are what they want to control.

Commissioner Lloyd supported imposing a time constraint. Commissioner Layton thought it was more reasonable to impose a time constraint if they were after a recommended timeline to get to the next step in the process. Mr. Teerlink stated that not much is required as part of a concept site plan. By ordinance, concept approvals are good for one year. He felt that would be a good benchmark with a micro-brewery conditional use.

Commissioner Banks was not in favor of imposing a time limitation but supported the general modest descriptions regarding use. He invited incremental protective time conditions beyond what type of use conditions would protect. Commissioner Layton stated that Mr. Laughlin will have to deal with the Utah Department of Transportation (“UDOT”), utility companies, geotechnical engineers, and civil engineers to come up with the best possible conditions for concerns that arise. He was pleased that they have someone willing to develop something desirable on the property. He did not consider additional time constraints to be necessary. Potential motion language was discussed.

Commissioner Roach moved to forward a recommendation to the City Council to approve an application from Bret Laughlin to amend the Holladay Zoning Map for 1.2 acres of land located at 5052 South Highland Drive from NC to CW based subject to the following:

Conditions:

- 1. Switch to C-2 zoning and recommend that the Council limit the use to what is proposed, which is a restaurant, micro-brewery, and a handful of townhomes.***

Commissioner Prince seconded the motion. Vote on motion: Commissioner Banks-Aye, Commissioner Roach-Aye, Commissioner Prince-Aye, Commissioner Lloyd-Aye, Commissioner Layton-Aye, Vice-Chair Mackin-Aye. The motion passed unanimously.

- 3. “Holladay Court” – Concept Residential Subdivision Plan - 1770 East 3900 South (R-2-10 Zone). Review and Consideration of a Proposal by Applicant, Brandon Fry for a Four (4) Lot Residential Subdivision Redevelopment Plan on .657 Acres. As per Holladay Ordinance 13.08 & 13.10. File #22-1-01.**

Mr. Teerlink presented the staff report and stated that the request involves a large piece of property that is proposed to be split into four single-family homes. R-2-10 typically denotes a duplex use, however, there is a provision that allows for detached single-family, which is what the applicant

is proposing. The Technical Review Committee (“TRC”) reviewed the application for compliance with the zone in terms of use and density and the Unified Fire Authority (“UFA”) approved the turnaround concept on the west side of the project. Emailed comments were provided to the Commission for review. Staff and the TRC recommended approval of the concept layout.

The applicant, Brandon Fry, a Holladay resident, thanked the Commission for their service. The property is in the R-2-10 zone and is proposed for development of a new residential product that is smaller in scale. He was proposing four single-family 6,250 square-foot lots, which meet the zoning requirement. The setback and turnaround requirements have also been met. He was awaiting two additional Will-Serve letters.

In response to a question raised by Commissioner Roach, Mr. Fry stated that four trees need to be removed. There will be additional space on the east side to plant more trees.

Commissioner Lloyd stated that communication was received from Maeve Johnston who lives at 1782 East 3900 South. She is currently on a septic tank and would like to connect to the sewer system, if possible. Mr. Fry stated that they will accommodate Ms. Johnston if it is feasible.

A neighborhood meeting was held on January 4, 2022.

Vice-Chair Mackin opened the public hearing. There were no public comments. The public hearing was closed.

Commissioner Lloyd moved to recommend approval of the residential subdivision concept review for the property located at 1770 East 3900 South in Holladay Court based on the following:

Finding:

1. *The request is in accordance with the intent, standards, and criteria specified in the Holladay City General Plan, Title 13 of the Holladay zoning and subdivision regulation codes, and the TRC.*

Commissioner Roach seconded the motion. Vote on motion: Commissioner Banks-Aye, Commissioner Roach-Aye, Commissioner Prince-Aye, Commissioner Lloyd-Aye, Commissioner Layton-Aye, Vice-Chair Mackin-Aye. The motion passed unanimously.

4. **Conditional Use Permit – Short-Term Rental – 4371 South Highland Drive (RM Zone). Review and Consideration of a Request by Applicant AJ Valenzuela, to Operate a Short-Term (i.e., Airbnb) Residential Rental Permit at this Location. As per Holladay Ordinance 13.76.735 & 13.08.040. File #22-2-01.**

The applicant, AJ Valenzuela, reported that he recently purchased the building at 4371 South Highland Drive and has his office on the main level. The basement has a three-bedroom apartment. The intent was to utilize it as a two-bedroom short-term rental with the third bedroom to be used for storage for his business. Because his office is upstairs, Mr. Valenzuela stated that he will be able to keep a close eye on it. He has adequate parking with six spaces in front and four behind

the building. The intent was to designate two parking spaces for guests behind the building. Other concerns were identified as noise. He will have cameras outside and a restriction on the number of guests that are allowed to stay in the unit. Mr. Valenzuela explained that with his business upstairs, he has a vested interest in ensuring that there are no disturbances. The short-term rental will have a separate entrance on the south side of the building. No smoking or pets will be permitted in the unit.

Vice-Chair Mackin opened the public hearing. There were no public comments. The public hearing was closed.

In response to a question regarding potentially expanding the use, Mr. Teerlink stated that the ordinance restricts the use to four bedrooms. If the use were to expand to the main level, a condition could be added to require the applicant to come back to the Commission. The ordinance does not address the number of occupants. It was noted that one neighbor is vehemently opposed to the request.

Commissioner Layton reported that the location fits every criterion and is a perfect place for a short-term rental. Mr. Teerlink stated that at any given time there are issues with short-term rentals in the City. On any Airbnb or VRBO website, there are 75 to 175 available homes that are operating illegally within the City. He applauded those who come to the Planning Commission and go through the process to provide uses for the community in locations that the City has prescribed. Any neighbor has recourse if there are noise or other disturbances. In such cases, they should call the police so that there is a record of the complaint. Mr. Teerlink stated that it has also been helpful with previous approvals to require the conditions of approval to be prominently displayed in the unit.

Commissioner Prince moved to approve the Conditional Use request for a short-term rental at 4371 South Highland Drive based on the following:

Findings:

1. ***The property is located in the R-2 zone, an approved zone, and has lot frontage on Highland Drive, an approved right-of-way for a short-term rental property.***
2. ***The applicant and site have been proven to meet Short-Term Rental standards as per 13.76.735 or will upon verification by the Inspection Staff.***
3. ***The applicant is voluntarily applying for approval for this use whereas many other property owners in the City have commenced STR uses without City approval.***

Conditions:

1. ***The basement level is allowed for Short-Term Rental.***

2. *All security lighting shall be night-sky compliant, full-hood style cutoff fixtures and directed away from abutting properties to minimize the potential impact on the neighborhood.*
3. *All parking for the use must be off-street/off private lane and maintained at maximum capacity for the STR accordingly.*
4. *The dwelling and landscaping must be maintained in good condition at all times.*
5. *Noise and disturbances at the property must be minimized at all times and the owner must provide to all directly abutting property owners his/her contact info in the event of a violation of the permit and/or other City regulations.*
6. *No advertising signs are allowed – by ordinance.*
7. *Snow shall be removed from sidewalks as per City Code.*
8. *Property and site inspection by Building and Fire Inspectors is required to verify standards listed herein and for both Fire and Building Codes.*
9. *A posting of the conditional use permit number and regulations relating to off-street parking, noise limits, and emergency contact phone numbers, including the property owner, shall be prominently placed in a common area within the premises.*
10. *Obtain a Holladay Business License only upon verification of compliance with standards as noted by the Building and Fire Inspectors Report and the conditions of the CUP.*
11. *Conditions or complaints found to be in violation of set standards will require re-review by the Planning Commission or possible revocation of this permit and/or business license as determined by the City of Holladay.*

Commissioner Banks seconded the motion. Vote on motion: Commissioner Banks-Aye, Commissioner Roach-Aye, Commissioner Prince-Aye, Commissioner Lloyd-Aye, Commissioner Layton-Aye, Vice-Chair Mackin-Aye. The motion passed unanimously.

5. Adjournment.

Commissioner Lloyd moved to adjourn. The motion passed with the unanimous consent of the Commission.

The Planning Commission Meeting adjourned at approximately 7:30 p.m.

I hereby certify that the foregoing represents a true, accurate, and complete record of the City of Holladay Planning Commission Meeting held Tuesday, January 25, 2022.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: **May 3rd 2022**