

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

Tuesday, February 21, 2023

5:30 p.m.

City Council Chambers

4580 South 2300 East

Holladay, Utah

ATTENDANCE:

Planning Commission Members:

Martin Banks

Karianne Prince

Chris Layton

Dennis Roach

Paul Cunningham

City Staff:

Carrie Marsh, City Planner

Jayme Blakesley, City Attorney

WORK SESSION

In the absence of Chair Howard Layton, Commissioner Martin Banks called the Work Session to order at approximately 5:30 p.m. The agenda items were reviewed and discussed.

City Planner, Carrie Marsh reported that there was one public hearing on the agenda and three action items. The public hearing pertained to a Conditional Use Permit for the Dancing Cricket Flower Farm. Customers will enter the neighborhood and access the home to choose flowers. Commissioner Roach wondered if a circular driveway was required for the use. Ms. Marsh clarified that it was not but after speaking to the applicant, there is a rolled curb and gutter that had been used as driveway access for parking. As a condition of approval, the Commission may want to require some sort of barrier so customers do not use it as a second driveway. Alternatively, there could be a requirement that it be permitted as a second driveway to ensure Code compliance. There needs to be clear direction, either blocking it from street access or making it a formal street access.

Commissioner Banks noted that the Staff Report addressed restricted hours of operation. He wanted to understand if that was a suggested Condition of Approval or a discussion topic. Ms. Marsh believed there should be discussion to clarify the hours. Neighbors expressed concerns about the impact on the neighborhood, the number of customers coming to the home, and whether there would be hours of operation on the weekend as well. After a neighborhood meeting was held, the applicant shared suggestions. That information was included in the amended packet that was shared with the Commissioners.

Ms. Marsh reviewed some of the information submitted by the applicant, the Dancing Cricket Flower Farm, following the neighborhood meeting. For drive-by customers, there would be a limit of 15 subscribers with the occasional spike. Spike weeks could include an additional five drive-by pickups. Subscriber pickups would be consolidated to two days per week. The designated

hours were Tuesday from 9:00 a.m. to 7:00 p.m., Thursday from 9:00 a.m. to 7:00 p.m., and Saturday from 8:00 a.m. to 2:00 p.m. There would be fewer than five appointments per week.

Commissioner Banks noted that the applicant specified that there was ample space in the horseshoe driveway. It was confirmed that one driveway is legitimate and the other is a makeshift driveway. Commissioner Banks pointed out that the current driveway use is a violation of the Code. Ms. Marsh reported that to have a second driveway, there needs to be a circular connection between the two driveways. If the applicant wanted to use it as a driveway, there needs to be a drivable surface and it would need to meet all engineering requirements. Commissioner Banks wanted to know if the second makeshift entrance fits the definition of a driveway. Ms. Marsh clarified that a driveway needs to have a drivable surface.

Commissioner Layton asked about the off-street parking requirements. Ms. Marsh reported that there are no specific off-street parking requirements in the Code for the use. There are three designated parking spots on the Site Plan, which utilize the area in the front yard. A circular driveway access would be ideal for traffic flow but if there was no desire to improve that to a circular driveway, the use still worked with the existing driveway. Based on the comments submitted by the applicant, customers would be encouraged to walk rather than drive. Commissioner Cunningham felt that the applicant had been generous in trying to address all of the neighbor's concerns. Ms. Marsh pointed out that there could be a Condition of Approval related to substantial impacts on the neighborhood. On-street parking was permitted, however, if the use starts to impact the neighborhood, there could be a discussion about that in the future.

Commissioner Roach asked if there was anything in the Code related to parking and accessibility for the use compared to other kinds of home occupations, such as home daycares. Ms. Marsh noted that there are no parking requirements for a home daycare because it is all drop-off and pick-up. The reason there is a Conditional Use Permit for home daycares is because the neighborhood could be impacted by the traffic. Commissioner Roach noted that there are often parties and dinners held at homes and vehicles park along the street. That was considered acceptable but there seemed to be a lot of negative feedback about potential home occupation parking. He felt it was important for everyone to be patient and understanding.

The next item on the agenda was the Action Item related to the Highland Park Planned Unit Development (“PUD”) and Final Plat. Ms. Marsh reported that the Final Plat was included in the packet. Staff reviewed the Conceptual and Preliminary submissions. It was confirmed that there would be two motions. Ms. Marsh explained that the PUD pertains to zone standards, land use, and open space. The Final Plat would be a separate motion. An updated packet was shared with the Planning Commission.

Commissioner Banks noted that one of the Sequoia Development, Inc. letters to City Staff, stated that there were 21 trees within the buildable areas and proposed right-of-way. Trees will be planted to replace the current tree canopy. Ms. Marsh explained that a 1 ½-inch caliper would be required to replace any trees that are removed. There was discussion regarding the height restrictions. Ms. Marsh reported that the property is in the R-M Zone and the building height requirement is 35 feet. The Commissioners asked for additional details about the roof structure that is higher than 35 feet.

Ms. Marsh clarified that there is a rooftop access. It is a non-livable space and does not count toward the height restrictions. Changes were made so the stairway access would have a flat roof to reduce the height. It would be possible to ask the applicant for additional details about the design and overall height during the Regular Meeting.

Commissioner Layton asked if the fence would be flush with the sidewalk or if there would be a setback. Ms. Marsh noted that there is no fence or gate designated on the designs. During the Regular Meeting, the Commission could ask the applicant to clarify that further.

Ms. Marsh reported that the third item on the agenda pertained to the Millwood Estates Townhomes. Changes were made to the Site Plan so there would be no parking permitted on one side of Locust Lane. In addition, the driveway access area was to be reduced so the development would be more in line with clear view standards. Two parking spaces were reduced on that side of Locust Lane. She explained that this was a Conceptual Plan review. Commissioner Prince expressed concerns about the numbers shown. Ms. Marsh clarified that the property owner would paint “No Parking” on the curb where necessary and post signs. Even with the proposed changes from the applicant, the minimum parking requirements were met. She explained that 20 were required and a total of 21 parking spots were provided on the site.

Commissioner Roach asked if the Engineering Department had discussed viable parking stalls. Ms. Marsh believed he was referencing the tandem parking proposal. It was possible that those concerns could be addressed through deed. For instance, two parking spaces could be deeded to one unit. In the case of rental units, that could be clarified in a Lease Agreement. The last item on the agenda was the approval of the meeting minutes from November 15, 2022, and January 10, 2023.

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

In the absence of Chair Howard Layton, Commissioner Banks called the Regular Meeting to order at approximately 6:00 p.m. He read the Commission Statement for the benefit of those present. The items on the Regular Meeting agenda were briefly reviewed.

PUBLIC HEARING – ACTION ITEMS

1. **“Dancing Cricket Flower Farm” – Application for Conditional Use – 1959 Longview Drive (R-1-15 Zone). Review and Consideration of a Request by Maylene White for a Conditional Permit Allowing the Use of 0.15 Acres of the Property for Agricultural Use with an Associated Home Occupation, which Would Involve Customers Coming to and From the Property. Item Reviewed as an Administrative Application as per Provisions Stated in Holladay Ordinance §13.14.030 & 13.08.040 13.14.030 & 13.08.040. File #23-2-01.**

City Planner, Carrie Marsh reported that the application was for a Conditional Use Permit for the Dancing Cricket Flower Farm. The property is located at 1959 Longview Drive in the R-1-15 Zone. The applicant proposed to use 0.15 acres of property in the backyard to farm fresh flowers. The flowers would be sold by subscription service and delivered to farmers’ markets and local businesses. Customers coming to the home could pick up flowers by appointment. The Technical

Review Committee (“TRC”) recommended that the Planning Commission consider the oral presentation from the applicant as well as any public comments shared when considering the Conditional Use Permit request.

The applicant, Maylene White, introduced herself and stated that she has been a gardener for most of her life. She lives on two-thirds of an acre and has been thinking about how to better utilize the lawn space. People love buying and supporting local businesses, which was the reason the community supported agriculture is a booming business. Subscription bouquets and fresh flowers are becoming a bigger industry in the State of Utah. There is nothing like this in the City of Holladay and she wanted to provide that service to residents. There were a lot of reasons to purchase fresh flowers locally as opposed to purchasing flowers shipped in from another country. Ms. White noted that the use was proposed during a neighborhood meeting. There was a lot of support but also concerns expressed. She had been working with the neighbors to address concerns related to the number of visitors, hours, and traffic. An agreement was reached that was submitted to the Planning Commission. Ms. White was willing to limit the customers and hours of operation to prevent negatively impacting the neighborhood. She believed the use would enhance the community.

Commissioner Layton noted that there was mention of selling at fairs. Ms. White explained that if she starts to produce a lot of flowers, it would be possible to take them to farmers’ markets and sell them there. In that instance, she would take the flowers to the market herself. There would not be any additional traffic or delivery trucks in the neighborhood. The only vehicles that would come to the home as part of the use would-be customers. After previous discussions with neighbors, she agreed to limit the hours of operations and dates. The proposal was Tuesday from 9:00 a.m. to 7:00 p.m., Thursday from 9:00 a.m. to 7:00 p.m., and Saturday from 8:00 a.m. to 2:00 p.m. There would not be consistent visitors during those hours but those were the hours that someone could come to pick up flowers. The number of people who can subscribe to the bouquet subscription service was limited to 15. Bouquet subscriptions are normally for six weeks. If there was a desire to purchase a single bouquet, it would be possible for a customer to book an appointment. Those visits would be limited to five.

Commissioner Roach asked about delivery trucks and wondered if there was an anticipated number of deliveries per day. Ms. White clarified that there would not be deliveries coming to the home but there would be customers on occasion. Since she will grow all of the flowers, nothing would be delivered to the home. Soil and fertilizer by Ms. White and brought to the home. There would not be large trucks coming to the property to drop off floral supplies.

Commissioner Banks asked for details about the driveway and parking. Ms. White explained that customers can park in the driveway or in front of the home. Customers would not all arrive at one time so she did not anticipate any issues with parking. On the north side, there is an area that could be used for overflow parking. However, customers do not need to park there. Ms. White wondered what would be needed for both driveway areas to be considered Code compliant. She noted that there is a 100-year-old oak tree on the property and if a road base was created there, it would destroy the tree. She was open to suggestions.

Ms. Marsh noted that there could be a Condition of Approval requiring a permitted circular driveway that meets the Code. The City Engineer would need to sign off on that being an approved surface for parking and driving. If that was a condition, the applicant would approach the Planning Department and a permit would be issued. Commissioner Cunningham believed the position of the City was that the current arrangement is not lawful. Ms. Marsh explained that because there is not a permitted second driveway, it is not considered lawful.

Ms. White pointed out that the area does not need to be used as a second driveway. The parking requirements were met with the main driveway. Ms. Marsh confirmed this and noted that the access and parking need to be clearly communicated. Commissioner Roach reported that the applicant could look into the permeable pavement. It would not damage the roots of the 100-year-old tree that was previously mentioned. It is expensive but allows the roots to flourish. As long as that area is blocked off and not used, the application was in compliance.

Commissioner Banks opened the public hearing.

Mary Malmquist gave her address as 1957 Longview Drive and that her property shares a fence line with the subject property. Ms. White has been wonderful when working with the neighbors, but there were still concerns about backyard customers. Ms. Malmquist noted that some limits had been submitted by Ms. White. She wanted to know if those were included in the record and if the use could be revisited after a certain time.

Commissioner Banks explained that while the application is considered, the Conditions of Approval could be discussed. Any conditions imposed would be part of the record and the Conditional Use Permit. Ms. Marsh shared information about how Conditions of Approval are enforced. She explained that the Planning Commission could impose Conditions of Approval on a Conditional Use Permit. If there are any complaints or issues that violate the Conditional Use Permit, they could be addressed and the City could revisit the Conditional Use Permit.

Mary-Margaret Pingree subjected a comment email. She gave her address as 1964 Longview Drive and indicated that she attended the neighborhood meeting and was supportive of the request.

Ms. White reported that the parameters that were agreed upon were sent to the neighbors that attended the neighborhood meeting. All of those neighbors seemed to agree with what was written. She acknowledged that this is a new business and a different kind of use. It was a labor of love for her as she recently retired from teaching after 28 years. She did not intend to make this a significant business but it was something she was excited about.

Commissioner Banks asked about customers coming to the home. He wondered if there was a limit in mind. Ms. White confirmed that those details were included in the packet. There would be 15 subscribers with occasional spike weeks that could add an additional five visitors. There would be approximately five by appointment-only backyard customers per week. Commissioner Roach wondered what would happen when subscribers and customers arrive. Ms. White explained that subscribers will pick up the prepared product.

Commissioner Cunningham wondered if the Holladay City Code allows home businesses to have a sign. Ms. White indicated that she does not intend to have a sign. She wanted to maintain the neighborhood feel. Commissioner Cunningham explained that in cities that allow signs for home businesses, the signs tend to minimize interference with neighbors. They make it easier to locate the home business and identify the correct address. Ms. Marsh pointed out that the matter could be addressed in the future if there was a desire to apply for a sign.

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

Commissioner Banks pointed out that if the applicant was inclined to pursue a sign for the home business, either on her own initiative or at the request of neighbors, that could be done in the future. He did not think that needed to be a Condition of Approval. Council Member Cunningham believed the Conditions of Approval should be more general in nature, such as two weekdays, rather than Tuesday and Thursday. The agreement that was submitted by the applicant was extremely detailed. Commissioner Roach referenced Condition of Approval #4. He wondered if that language was loose enough to follow what was outlined but strict enough to enforce. Ms. Marsh noted that there could be additional language to reference impacts on the neighborhood. There was discussion regarding the best language for the motion and conditions.

Mike Malmquist introduced himself and reported that he lives next to the subject property. He informed the Commission that there had been a lot of work and collaboration to reach an agreement between the neighbors and the applicant. He was concerned that the Planning Commission wants the language to be general in nature. Mr. Malmquist also noted that there are different types of customers visiting the property. Some are subscribers who will pick up the bouquets while others are backyard customers who will actually be on the property. There are two distinct components. He explained that there was a neighborhood meeting and an agreement was reached. Concrete parameters were outlined and he hoped they would be adhered to.

Commissioner Banks asked about the written agreement. Mr. Malmquist explained that the neighbors were generally supportive of the home business but wanted there to be some parameters to prevent negative impacts on the neighborhood. The agreement was based on feedback from the neighborhood meeting and additional communication. Commissioner Banks noted that the two options were to tone down the specificity to allow for flexibility or impose the conditions as reflected in the neighborhood agreement. It may also be possible for the applicant and the neighbors to revise the agreement when desired. That could flow through to the conditions. Commissioner Prince wondered how future changes would be entered into the public record. It was noted that what was being approved is a land use approval. In this instance, it would be coupled with a Business License approval. When a conditional use is enacted, it needs to be based on the City standards, approved, and be on record with the City. This helps both the neighbors and the applicant as everyone knows what the conditions were. Additionally, those conditions cannot be changed without notice.

Commissioner Roach asked if it was possible to refer to the neighborhood agreement but specify three days of operation per week rather than list the specific days. It was agreed that Staff would generate an actual document that lists the conditions. The Planning Commission could read the

items into the record and change the language so customers are allowed to visit the property no more than three days per week. Commissioner Banks did not believe it was the job of the Commission to rearticulate the acceptable terms and conditions. He suggested that the item be continued so the applicant could return with a clear and concise list of conditions. If those conditions are acceptable, the item could be approved. Commissioner Prince noted that such a list already exists. Commissioner Banks asked if the Commission was prepared to adopt the Neighborhood Agreement as written.

Commissioner Layton believed the neighborhood agreement could be adopted as drafted with the caveat that changes could be mutually agreed upon. He wondered, however, how changes could be made to the agreement without informing the City. He wanted to understand if the Planning Commission process would need to occur again or if the Conditional Use Permit would be amended by City Staff. The City Attorney advised against that approach. There was continued discussion regarding the Neighborhood Agreement. There was a proposed condition that backyard customer appointments be consolidated to three days per week with the days to be determined by the applicant. The Commission discussed appropriate language for the motion.

Commissioner Prince moved to APPROVE the application for a Conditional Use Permit for the Dancing Cricket Flower Farm located at 1959 Longview Drive, based on the following findings:

- 1. Land Use and Home Occupation requirements as proposed are in compliance with the existing City Ordinances.***
- 2. The Conditional Use as proposed meets approved standards as outlined in Chapter 13.08.040.***

The approval was contingent on compliance with the following conditions:

- 1. The addition of a second driveway approach would require a circular connection and a separate Building Permit. If the paver area was to be used for parking, it would need to be mentioned specifically as parking.***
- 2. Accommodate peak traffic to the site without impairing the use and enjoyment of adjacent properties.***
- 3. Provide signage for parking to mitigate adverse impacts on adjacent properties from motorized, non-motorized, and pedestrian traffic.***
- 4. Restrict hours of operation to mitigate noise, light, odor, or other nuisances that unreasonably impact the use and enjoyment of adjacent properties, as delineated in the agreement entered into the record, with the amendment that backyard customers would come by appointment only, three days per week, with the days to be determined.***
- 5. Obtain a Holladay Business License.***

6. *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, as determined by the Community Development Director.*

Commissioner Roach seconded the motion. Vote on motion: Commissioner Cunningham-Aye; Commissioner Layton-Aye; Commissioner Prince-Aye; Commissioner Roach-Aye; Commissioner Banks-Aye. The motion passed unanimously.

ACTION ITEMS

2. **“Highland Park” PUD – Final Plat – 4880 South Highland Circle (R-M Zone) Final Review and Consideration of Submittals by Applicant, Alec Moffitt, of a Final Plat of the Highland Park PUD, a 0.74 Acre Site Containing 11 Units within the R-M Zone. Review Conducted According to Final Site and Building Approvals (Conceptual: 10/4/22, Preliminary: 1/10/23) and Development Standards of the Residential Multi-Family Zone §13.32 and §13.08.080 of the City of Holladay Code. File #22-1-11 3.**

Ms. Marsh presented the Staff Report and stated that the above matter involved the Highland Park PUD. She explained that this is the Final Subdivision Plat. The property is located at 4880 South Highland Circle, which is in the R-M Zone. The applicant was Sequoia Development and the applicant’s representative was Alec Moffitt. The Conceptual Subdivision approval was granted on October 4, 2022, and the Preliminary Subdivision approval occurred on January 10, 2023. The development consists of 11 townhomes in three, three-unit buildings, and one, two-unit building. The development is accessed by a shared 20-foot-wide private drive. The density complies with the limits in the R-M Zone. The PUD is designed to preserve open space in the development. The Technical Review Committee (“TRC”) verified that the plans were compliant on a preliminary and final level. Staff recommended approval of the Final Plat.

Mr. Moffitt reported that he presented details about the application several times and was available to answer questions. Nothing had changed but additional details were added to the plat. Commissioner Roach did not see anything related to fencing around the property. He wondered if there was an intention to include fencing. Mr. Moffitt reported that there is currently a five-foot fence around the perimeter. The intent was to replace it with a standard six-foot fence. The material had not been determined but it would be wood or vinyl. Commissioner Banks noted that there was a reference to the replacement of 21 trees at a 1:1 replacement.

Commissioner Layton noted that the application was discussed during the Work Session. The architecture was more involved than what was included in the packet. Mr. Moffitt clarified that changes were to the exterior materials. Commissioner Layton was supportive of the changes. He pointed out that the roof access design was also significantly higher before and it had since been flattened and is much less imposing. He wanted to ensure that the motion would support the newer packet of information and design. Commissioner Prince asked why the roof access design was flattened off. Mr. Moffitt explained that the previous design looked more like two large towers. It was better to have a more modern design that flattens that out as the result would look less imposing.

Commissioner Layton moved to APPROVE the Planned Unit Development Permit for ownership distribution for “Highland Park,” a residential 11-lot subdivision in the R-M Zone, located at 4880 South Highland Circle based on the following findings:

- 1. Complies with the Preliminary Plan approved on January 10, 2023.*
- 2. PUD elements are found to be incorporated on the approved drawings.*
- 3. Preservation and maintenance of required open spaces within the development shall be the responsibility of the Planned Unit Development ownership and are shown to be maintained in perpetuity as open space.*
- 4. Preservation and enhancement of desirable site characteristics, such as natural topography, vegetation, and geologic features, and the prevention of soil erosion.*
- 5. Provide safe and convenient vehicle and pedestrian connections between adjacent uses.*
- 6. The development complies with the underlying zone and the General Plan.*

Commissioner Prince seconded the motion. Vote on motion: Commissioner Cunningham-Aye; Commissioner Layton-Aye; Commissioner Prince-Aye; Commissioner Roach-Aye; Commissioner Banks-Aye. The motion passed unanimously.

Commissioner Prince moved to APPROVE the Final Plat for “Highland Park,” a Residential Planned Unit Development Subdivision in the R-M Zone, located at 4880 South Highland Circle based on the following findings:

- 1. The request complies with the Preliminary Plan approved on January 10, 2023.*
- 2. The PUD elements are found to be incorporated on the approved drawings.*
- 3. The construction elements and details are found to be acceptable by various divisions and the Technical Review Committee.*
- 4. The development complies with the underlying zone and the General Plan.*
- 5. The plat is found to be formatted in compliance with the City of Holladay and the State of Utah regulations.*

Commissioner Roach seconded the motion. Vote on motion: Commissioner Cunningham-Aye; Commissioner Layton-Aye; Commissioner Prince-Aye; Commissioner Roach-Aye; Commissioner Banks-Aye. The motion passed unanimously.

3. **“Millwood Estates” Townhomes – Conceptual Plan – 4600 South Holladay Boulevard (HV Zone) Conceptual/Preliminary Level Review and Consideration of a Residential Development Proposal by Property Owner, Marlyn Miller for 6 Duplex Townhomes within the Holladay Village Zone. Item to be Reviewed as an Administrative Action of a Permitted Land Use. Review to Include: Amenities and Site Layout Details as per Procedures and Development Standards of the Holladay Village Zone §13.71, and §13.08.080 of the Holladay Code. File #18-9-02-1.**

Ms. Marsh presented the Staff Report and stated that the application was for a Conceptual Plan. She reported that a public hearing was conducted on January 10, 2023. At tonight’s meeting, the Commission would make a motion to approve or continue the discussions on the application. All motions require findings to support the decision. As directed by the ordinance, applications shall be approved if the Land Use Authority finds substantial evidence of compliance with applicable requirements. The creation of a townhome plat requires review and approval by the Land Use Authority (the Planning Commission) in a three-step process. Ms. Marsh reported that the process includes concept, preliminary, and final plat. Decisions need to be made during a public meeting. She informed those present that the notice for the previous public hearing was mailed to property owners within 500 feet of the subject parcel.

The building design was approved on January 10, 2023. In the Holladay Village (“HV”) Zone, there is a requirement for architectural review and approval, which was approved. Ms. Marsh reported that the Conceptual Site Plan was now being considered by the Planning Commission. Review and action on a Permitted Use Conceptual Site Plan were administrative. The applicant was seeking entitlement for a residential development in the HZ Zone. The proposed density of residential townhomes is a use allowed by right in the zone. The Planning Commission needs to verify compliance with zone density maximums and site plan compliance.

Ms. Marsh shared information about the HZ Zone. She explained that the lot creation and density regulations stipulate that the applicant is allowed to build the proposed six duplex townhomes and one new single-family home on the 0.73-acre lot. The new residential units would be in addition to the three units within the existing primary home for a total of 16 dwellings. At the January 10, 2023, Planning Commission Meeting, a motion was made to approve the Conceptual Site Plan and failed in a tie vote. The applicant worked with the City Engineer to address safety concerns related to a new carport on Locust Lane and clarify how the parking arrangements would be handled. The development compliance details were as follows:

- 16 total dwellings. The HV Zone allowed a maximum of 24 units per acre, yielding 17 possible units for a 31,779-square-foot property.
- 20 parking stalls are required. 21 parking stalls were provided on the Conceptual Site Plan. The applicant had chosen an in-line or tandem style arrangement.
- 35-foot maximum building height was allowed in the HV Zone. The proposed two-story homes complied with the height maximums.
- The Site Plan would be divided into private, common, and limited common ownership.
- 36.4% of the site would be landscaped. The proposed landscaping and protection of the existing tree canopy were considered compliant with the HV Zone requirements.

As a permitted residential development in the HV Zone, the project as proposed was generally considered to be in step with the goals and standards of the Holladay Village Master Plan according to the TRC. The proposal represented the vision of the plan, as it would provide housing in a harmonious style. It would support and complement existing development occurring in the Village. The detached duplex townhomes provide a unique housing option for the area in a desirable style. It would also complement the existing primary home. Ms. Marsh reported that the review by the TRC took place in two parts consisting of Building Design and Site Development/Land Use.

Some of the issues that were brought up during the previous concept-level analysis pertained to parking on Locust Lane. There are safety concerns with driveway access for the carport. The Unified Fire Authority (“UFA”) recommended having No Parking posted on either side of Locust Lane, preferably on both sides but one side was recommended. The 20-foot private access driveway was properly sized for fire and emergency access from Holladay Boulevard, which is a public street. Each dwelling size was under the maximum limit for fire sprinklers. The residential land use complies with the HV Zone uses and the density ratio is compliant. There was still a requirement for utility service connection letters, which would be addressed during the preliminary level review. The on-site stormwater retention plans were required in the future as well. The City Engineer recommended that No Parking signs be posted and the curb painted on Locust Lane.

The applicant’s representative, Nolan Mendenhall, identified himself as the Architect. He made adjustments and recommendations as previously requested by the Planning Commission. The Site Plan was shared. He noted that there were previous concerns about how the tandem parking would be addressed. Mr. Mendenhall reviewed other municipalities to determine how tandem parking was addressed. Even though the City of Holladay does not identify tandem parking, it is typically referenced as one single parking stall. Modifications were made to the Site Plan. There was still tandem parking shown but those tandem parking spots were only counted as one parking stall. Mr. Mendenhall reported that the City asked him to identify which stalls would be allocated to each unit, which was done. He noted that there are 11 stalls in the center. Two parking stalls in the circular drive could be allocated to Units 12 and 13. The development currently complies in terms of the number of parking stalls.

Mr. Mendenhall referenced Units 2 and 3. The original drawing showed four stalls that would be underneath a new carport. After walking the site with the City Engineer, the clear views were identified. Currently, only one parking stall is in compliance in that area. There are two stalls to the south of the one indicated that were being explored. The issue was with the existing fence. It is four feet tall and the clear view only allows for a two-foot-tall fence. Depending on where the grade is, there may need to be some work with the neighbor to adjust that. Alternatively, those parking stalls could be removed. Mr. Mendenhall clarified that as a Conceptual Site Plan, the application was in compliance.

Commissioner Layton asked about the parallel parking stalls off of Holladay Boulevard. Mr. Mendenhall explained that they meet the parking requirements for parallel parking and are 10’ x 22’. The intention was to use the entire circular drive for guest parking in the future. There was further discussion regarding the parking stalls. Ms. Marsh reminded the Planning Commission

that it was conceptual. The Preliminary Site Plan process was more detailed whereas the Conceptual Site Plan pertained to whether it met the legal requirements of the zone.

Commissioner Layton had reservations about whether the application meets the standards for viable parking stalls. However, he believed it could ultimately meet the requirements. It was important to make sure that the Engineering Department feels that the proposal is viable and that the parking spaces are appropriate in size. That was something more detailed that would be discussed further during the Preliminary Site Plan process. He believed it was a good project and would be a good addition. There was still work to do on the parking but that did not necessarily need to be completely resolved before the Conceptual Site Plan is approved.

Commissioner Cunningham asked about the No Parking sign and painted curb. He wondered if it would be on one side or both. Ms. Marsh reported that the property owner agreed to paint and post signage on their side to indicate that no parking is permitted. If no parking is required on both sides of the street, that would be the responsibility of the City on the other side. There was not a lot of agreement within the City to restrict parking on both sides of the street. She explained that there was a desire to retain some public parking on the street.

A member of the public desired to speak. It was noted that the public comment period took place previously and the public comment period was closed. Additional comments could be heard but would not be considered part of the public hearing or part of the record of the public hearing. It was determined that the comment would be heard.

Lee Barbosa gave his address as 4602 Locust Lane and was unable to attend the previous public hearing. He has lived in the City of Holladay for over 10 years and loves the peace and quiet. The reason he chose to move where he did was because there is a dead end and a cul-de-sac, which protects children. Safety was the most important aspect to consider. He was concerned about the increase in traffic and how that will impact the children who live in the area.

An unidentified speaker noted that concerns were expressed previously but she wanted to make sure those concerns had been adequately addressed. One pertained to the parking spaces on Locust Lane. She was not certain based on the plan that those had been diverted. The Commission expressed concerns about extra traffic on Locust Lane as well. Commissioner Layton clarified that there is currently one stall proposed on Locust Lane. The new version of the plan was reviewed. Additional comments were shared regarding the unit on the south side. She noted that six were shown but five were listed on the application. It was clarified that there are six buildings and twin homes for 12 total units.

Ms. Marsh read from the Staff Report that referenced five new duplex townhomes, however, there would be six townhomes on the south side. Commissioner Prince wondered if the existing garage would be considered a new structure since it is being modified. This was denied. It would not be considered a new structure, but a new use. There was discussion regarding parking and exiting onto Locust Lane. It was noted that the Conceptual Plan needs to be consistent with the zone.

Amanda Crane gave her address as 4612 Locust Lane and explained that her young children have a habit of darting toward the road. There are a lot of children in the area and having more vehicles on that road will create dangerous situations in terms of safety and parking.

An unknown resident expressed concerns about traffic and stated that at 3:00 p.m. all of the children leave the Junior High School and walk down that street. Parents pull into the street to wait for children to leave the school as well. There are a lot of existing traffic issues in the area and allowing more vehicles to be there and park on the street will only exacerbate the situation.

Commissioner Cunningham moved to APPROVE the Conceptual Site Plan for “Millwood Estates Townhomes,” located at 4600 South Holladay Road in the HV Zone subject to the following findings:

- 1. The Site Plan building location and architecture have been approved as compliant with HV design standards.***
- 2. The residential land use and density are permitted and allowed as a by-right use of the property.***
- 3. Residential layout, landscaping, and onsite parking details are compliant with zone standards.***
- 4. Concept approval is subject to the project being serviced by all life-saving utilities.***

Commissioner Prince seconded the motion. Vote on motion: Commissioner Cunningham-Aye; Commissioner Layton-Nay; Commissioner Prince-Aye; Commissioner Roach-Aye; Commissioner Banks-Aye. The motion passed 4-to-1.

4. Approval of Minutes – 11/15/22 and 1/10/23.

Commissioner Banks referenced Page 7, Line 14. It mentioned the various divisions of the TRC and he asked for additional information. Ms. Marsh explained that the TRC consists of the Planning, Engineering, Fire, and Building Departments.

Commissioner Prince moved to APPROVE the Meeting Minutes from November 15, 2022. Commissioner Roach seconded the motion. The motion passed with the unanimous consent of the Commission.

Commissioner Roach moved to APPROVE the Meeting Minutes from January 10, 2023. Commissioner Prince seconded the motion. The motion passed with the unanimous consent of the Commission.

Commissioner Roach referred to the January 10, 2023 minutes and noted that a requirement was to have 1.5 parking stalls per two bedrooms. Ms. Marsh explained that in the Code, the parking requirements are based on the per-unit bedrooms. The Commissioners reiterated the importance of there being enough parking stalls per unit and asked for clarity.

PLANNING COMMISSION TRAINING

5. Required Training for Planning Commission Members – Conducted by the City Attorney’s Office.

City Attorney, Jayme Blakesley reported that there needs to be an annual training on the Open and Public Meetings Act and ethics requirements. He noted that the City of Holladay has an excellent Staff. The way the meetings are organized and run is impressive. Everything is very clear, which makes for a clean record of decision. Mr. Blakesley shared information about the Open and Public Meetings Act, which requires that deliberations be conducted openly. He noted that all meetings are open unless lawfully closed. That means that meetings can only take place when there is an open meeting. For there to be an open meeting, there needs to be 24 hours’ notice and an agenda. It is only possible to leave an open meeting and go into a closed meeting to discuss matters of business that relate to specific purposes.

For a public meeting, there is a notice and agenda requirement. There also needs to be an annual notice for the meetings. Some provisions allow for electronic meetings as well. It was also a requirement that meetings have minutes and that deliberations and discussions be recorded. There were two exceptions for recording, which were related to personnel matters and safety and security decisions. For there to be a closed meeting, there must be a two-thirds vote of the Commission Members. If five members were present in a meeting, four would need to vote to close the meeting. The reason for the closed meeting needs to be stated publicly for the record and there needs to be a roll call vote. Mr. Blakesley shared a list with the Commission that outlined the most common reasons for holding a closed meeting.

It is possible to conduct an emergency meeting from time to time. Those meetings require less than 24 hours' notice. There is not a defined standard in the statute regarding what an emergency meeting is but there needs to be an attempt to notify all members and provide the best notice possible. Mr. Blakesley explained that emergency meetings can be held for certain reasons, such as flooding or roof leaks. Information was shared about inadvertent meetings. In a smaller community, like the City of Holladay, it is possible to bump into a fellow Commissioner at an event. Under most circumstances, that is not considered a meeting but if there is a quorum present, the conversation cannot pertain to the business of the Planning Commission. If there is not a quorum, Commissioners can have conversations but no decisions can be made.

There had been a lot in the news related to text messages over the last year or so. During a public meeting where public decisions are being made, text messages cannot be sent to other Commissioners about that conversation taking place. Those types of messages would be considered public record. Rules of Order were reviewed. City Council Meetings follow Robert’s Rules of Order, which are meant to serve as a guide. This means that the decisions are governed by the agenda and no action can be action taken on something unless it is on the agenda. However, there was some flexibility and it is possible to take items out of order or modify the agenda to meet the needs of those present. It was noted that there were three basic forms of motions consisting of an initial motion, a motion to amend, and a motion to insert a substitute.

Commissioner Layton asked for an example of a substitute motion. The example shared was that a Commissioner listed out the conditions but another Commissioner did not like what was listed. In that instance, a substitute motion could be offered. That could often be handled through an amendment but if there is a substitute motion, there needs to be a second. The Chair would then decide in what order the vote would take place for the two motions on the table.

When there are six members of a public body a split vote is possible. When that occurs at a Planning Commission level, the item would move forward without the recommendation of the Planning Commission. The City Council would acknowledge that there was no recommendation and recognize the split vote. The Council would then discuss why the vote was split. There was added complexity with something like a Conditional Use Permit which the Planning Commission has the approval authority. Without a majority, the item would fail to be approved and need to be brought back. A motion to reconsider an item requires a majority vote to pass. If there is a majority vote to reconsider, the public body could reconsider the item and revote. Commissioner Prince asked about the timeline for reconsideration. It was noted that for the Planning Commission, the reconsideration should ideally take place during the same meeting.

The types of motions were reviewed. There is a main motion, a subsidiary motion, an incidental motion, a motion to table, and a motion to continue or postpone. Every motion has at least six steps consisting of:

- A member raised their hand to signal;
- A motion was proposed;
- Another member seconded the motion;
- The Chair would restate the motion;
- There would be debate or discussion about the motion; and
- The motion would be restated and voted on.

The Chair would then announce the outcome of the vote. Ordinances, Resolutions, or any action that creates a liability against the City requires a roll call vote. With other decisions, such as approving minutes, the Chair could ask if there were any objections. If there were none, the motion would be approved.

There are a few privileges that Planning Commission Members have. For instance, Commissioners can ask for points of order. If there is a breach of rules or improper conduct, any Commissioner can request a point of order. That would invite the Chair to speak and address the issue. For instance, if members of the public are speaking loudly during the meeting, the Chair could ask that the public only speak when invited. It was also possible for Commissioners to ask for a point of information when additional information is needed. This would ensure that there is always an informed vote. A point of inquiry is where someone is asked to explain the situation. A point of personal privilege allows a Commissioner to leave to use the restroom or have something to drink.

Information about public hearings was shared. Residents have the right to be heard but only within the constraints provided. For instance, it was appropriate to hear from members of the public

earlier in tonight's meeting, but there was a distinction between comments received during a public hearing and comments received at another time. The Planning Commission is not required to answer questions that the public may ask during a public hearing. A public hearing is typically opened by motion and vote. It was noted that a motion is not required to open the hearing but is required to close a hearing. On land use decisions, that becomes part of the record of decision. As a result, it is best to have a formal action to close the hearing and make sure no one from the public was not heard or did not have the opportunity to speak. There are a few obscure places in State Law that call for hearings to be closed in motions, so the best practice was to close a public hearing with a motion.

On land use decisions, after a public hearing, the applicant has a right to address the comments raised. It is important to provide that opportunity. In terms of public comments, the time and topic can be limited. Public hearings are closed by motion and vote. The Chair needs to recognize someone before they speak and speakers need to state their name and address for the record. Comments from a resident need to be limited to matters of fact regarding the issue of concern. If personal or cruel comments are made, the Chair can stop those types of comments and remove that individual from the meeting, if necessary. If there is not someone, like a police officer, to remove that member of the public, the meeting could be suspended until there is order. After that, the meeting can be reconvened.

The Planning Commission is subject to the Municipal Officers' and Employees' Ethics Act, which establishes a disclosure system. For example, if there is a conflict of interest, it would need to be disclosed. Disclosure is required to be written, oral, or both. Some examples of necessary disclosures include:

- Someone on the Planning Commission with a personal interest or investment in a matter being considered; or
- A Commissioner who has been hired to assist or advise on a City transaction.

In those instances, the disclosure would need to be in writing at least 10 days before the agreement with the City or 10 days before compensation is received. That needs to be duplicated with an oral disclosure during the Planning Commission Meeting. It was still possible to act on the matter under Utah Law but the best practice was for the Commissioner in question to recuse themselves from the vote. Mr. Blakesley explained that if there are concerns about how to proceed, individual Planning Commission Members could reach out to City Staff or the City Attorney for clarification.

Criminal charges can be brought against a Commissioner if confidential information is used or disclosed to their benefit. The same is true if someone uses or attempts to use their office for economic gain or to secure privileges. In addition, charges could be filed if someone knowingly receives, accepts, or solicits a gift of substantial value. Something below \$50 is not subject to the gift prohibition. Commissioners are asked not to meet with applicants outside of meetings. That is not for ethical reasons but for record of decision reasons. If a decision made by the Planning Commission is challenged, it is important to be able to point to the record and explain why that particular decision was made.

Mr. Blakesley explained that there is an important distinction for Commissioners to make in terms of whether an issue is administrative or legislative. The basic difference is that when an administrative decision is made, it needs to be based on facts, what is in the City Code, what is in State Statute, and what was presented to the Planning Commission as evidence during the meeting. It is not possible to make a decision based on personal preferences. Commissioner Layton wondered what happens when the regulations are subjective. For instance, the language could state that something needs to be compatible. What he considers compatible may differ from someone else. Mr. Blakesley stated that certain evidence is needed to support the application of criteria. Unless there is evidence to support a certain assumption, it was only an opinion.

Commissioner Layton noted that anything the Planning Commission votes on generally includes a list of clearly stated reasons for the decision. Mr. Blakesley explained that the decision needs to comply with City Code. Not all standards in City Code will be completely straightforward, so some analysis is needed as well as additional information and evidence. If a court looks at whether the decision was made legally, the focus would be on whether there was substantial evidence to support the decision. Commissioner Layton asked if there is a difference between conceptual and preliminary approval in terms of an administrative decision. It was clarified that both are administrative decisions but they are different in terms of how advanced the application is and what the Planning Commission was being asked to consider. There was discussion regarding the Conceptual Plan that was approved earlier in the meeting.

Decisions are measured by whether there is consistency with the Land Use Development Management Act (“LUDMA”). Cities are subdivisions of the State and only have the authorities and powers that are granted by the State. Mr. Blakesley noted that those authorities and powers seem to be shrinking. A city used to have the authority to adopt its own land use standards as long as they were consistent with Federal and State law. There needs to be a Planning Commission, a Land Use Authority, and an Appeal Authority. In addition, a General Plan needs to be adopted and there needs to be a process to consider applications. Some of the general themes of LUDMA were reviewed. It was noted that LUDMA has respect for private property rights. The process itself also matters and if the required process is not followed, decisions may need to be revisited or certain decisions can be overturned.

There are three decision-making entities recognized by the law identified as the Legislative Body, the Land Use Authority, and the Appeal Authority. The City is required to have all three. The Legislative Body is the City Council but the Planning Commission makes recommendations to the City Council on legislative decisions. Land use ordinances need to come to the Planning Commission before the City Council can consider them. For the Land Use Authority, there is some overlap. There are some land use decisions the City Council can reserve for itself and others can be delegated to the Planning Commission or City Staff. When a Land Use Authority is mentioned, it pertains to administrative decisions. Mr. Blakesley explained that an administrative decision needs to look at the Code and focus on facts and evidence. If something is legislative, it can be more subjective. As for the Appeal Authority, the City of Holladay uses a contract Appeal Authority in most circumstances. Mr. Blakesley reported that the chart is shown as well as the full Open and Public Meetings Act presentation could be sent to the Commission.

ADJOURN

The Planning Commission Meeting adjourned at approximately 8:30 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, February 21, 2023.

Teri Forbes

Teri Forbes, Minutes Secretary
T Forbes Group

Minutes Approved: **April 18, 2023**