

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

**Tuesday, April 18, 2023**

**5:30 p.m.**

**City Council Chambers**

**4580 South 2300 East**

**Holladay, Utah**

**ATTENDANCE:**

**Planning Commission Members:**

Howard Layton, Chair

Martin Banks

Dennis Roach

Paul Cunningham

Ginger Vilchinsky

**City Staff:**

Jonathan Teerlink, Community & Econ  
Develop Dir.

Brad Christopherson, Legal Counsel

**WORK SESSION**

Chair Howard Layton called the Work Session to order at approximately 5:38 p.m. The agenda items were reviewed and discussed. Community and Economic Development Director, Jonathan Teerlink reported that the Regular Meeting agenda included two Public Hearing Items and one Action Item. Both of the Public Hearing Items were for Conditional Use Permits. He reported that Conditional Use Permits are land use applications for uses with conditions. The Planning Commission can place conditions on an application to mitigate negative impacts.

The first Public Hearing Item was a Conditional Use Permit for a Home Occupation for “Sole Balance Foot Zone Therapy.” Mr. Teerlink noted that the application was discussed during the last Planning Commission Meeting but was continued due to noticing issues. The applicant, Melissa Davis, was requesting approval to license her home-based business and provide foot zone therapy. Conditions of Approval were suggested by City Staff. He reported that parking and hours of operation are often the main concerns associated with Home Occupations.

Commissioner Banks asked about the following first finding listed in the Staff Report:

- Land Use and Home Occupation requirements, as proposed, comply with the existing City Ordinances.

Mr. Teerlink explained that there is a set of criteria that the Technical Review Committee (“TRC”) review with applicants before applications are presented to the Planning Commission. A home-based business needs to be conducted in the primary residence. The intention of the language in the Finding was to specify that the applicant proposes to conduct business within the primary residence and the services would be conducted by a property owner on the premises. There was compliance with the Land Use and Home Occupation requirements. The Commission discussed

whether the words, “as proposed,” should be removed. Mr. Teerlink clarified that before the item can be approved, there needs to be discussions with the applicant and the opportunity for the public to comment. The Planning Commission then needs to determine whether what was proposed is in compliance with the City Ordinances.

Commissioner Banks noted that the second Condition of Approval listed in the Staff Report was to obtain a Holladay Business License. He asked why that had been added as a condition. Mr. Teerlink explained that the Conditional Use Permit runs with the land but the Business License expires each year. If the Business License is not renewed, the home-based business will be in violation of the Conditional Use Permit. It is an enforcement mechanism. In addition, it is a motivator for recipients to be responsible and renew their licenses as needed.

Chair Layton pointed out that the first Public Hearing Item was slightly different from the second Public Hearing Item that would be considered. Sole Balance Foot Zone Therapy will serve only one client at a time while the Children’s Art Studio will have a number of students. There could be issues related to parking, drop-offs, and pickups for the latter. Mr. Teerlink shared information about the second Public Hearing Item on the Regular Meeting agenda for context. It was the Children’s Art Studio located at 4600 South Wellington Street in the R-1-10 Zone. The applicant is Kelly Philpott.

Commissioner Roach pointed out that the Staff Report for the item referenced both Melissa Davis and Kelly Philpott. It was clarified that it was a typo and Ms. Davis needed to be removed from the report. Mr. Teerlink explained that Ms. Philpott is requesting approval to license her home-based business and provide art lessons for children aged 5 to 11. She intends to operate a summer camp as well as provide normal weekly lessons for children.

Commissioner Roach noted that one of the suggested Conditions of Approval was that the applicant facilitate the pickup and drop off of the children. Commissioner Banks wondered what would happen if all of the parents dropped their children off at the same time before class. Taking each child into the home and walking back to escort the next child will take time and create a backup of vehicles. He was not sure there would be an issue but it was something to consider. Chair Layton explained that even though there were suggested Conditions of Approval listed in the Staff Report, the Planning Commission could add additional conditions.

Commissioner Vilchinsky noted that the application involves children being in the home. She wondered if there were additional regulations and licensing requirements. Mr. Teerlink explained that more than seven children fall in the category of a daycare or preschool, which has State licensing requirements. Fewer than seven children was appropriate. Commissioner Roach asked how many children the applicant intends to have at the home. Mr. Teerlink believed that six students were proposed but that could be clarified with the applicant during the meeting. Commissioner Roach suggested a Condition of Approval that there be six or fewer children. If there was a desire to have more children at the home in the future, the applicant could come back and the conditions could be amended to state that all State licensing requirements needed to be met.

Chair Layton reported that he drove by the subject property earlier in the day. Based on the layout and location, there is a lot of area along the street. Even if there were short backups at drop-off, there would not be anything backing up into an intersection. He did not expect a traffic issue to be created. Commissioner Vilchinsky explained that the traffic was one of her concerns. There is a preschool at the end of her street and drop-off and pickup times create backups. She was fine with it but stated that others in the neighborhood are frustrated. It is important to consider whether neighbors coming and going will be impacted by the use.

Commissioner Roach referenced the image in the Staff Report. It appeared that the street was wide enough for cars to park on each side with two traveling down the middle before narrowing. Even in the narrower portion, it still looked like there would be room for three vehicles. Chair Layton added that there is a two-car driveway on the subject property as well.

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

Chair Layton called the Regular Meeting to order at approximately 6:08 p.m. He read the Commission Statement for the benefit of those present and discussed the public hearing process.

**PUBLIC HEARING**

1. **“Melissa Davis: Sole Balance Foot Zone Therapy” – Conditional Land Use Permit: Home Occupation – 3975 South 3210 East (R-1-10 Zone). Continued Public Hearing from April 4, 2023. Review and Consideration of a Request by the Applicant, Melissa Davis as Owner, for a Conditional Use Permit for Home Occupation. Item Reviewed as an Administrative Application as per Provisions Stated in Holladay Ordinance §13.08.040 File #23-2-02.**

Mr. Teerlink reported that Home Occupations are allowed uses in the community. There are a number of uses that do not require consideration from the Planning Commission. However, when a business has clients or students visiting the property, it needs to be considered by the Commission as the use could create situations in the neighborhood that require mitigation.

The application was for a Conditional Use Permit – Home Occupation for Sole Balance Foot Zone Therapy. The property is located at 3975 South 3210 East in the R-1-10 Zone and the services will be provided in the home. Sole Balance Foot Zone Therapy was estimated to have three clients a day on weekdays between the hours of 10:00 a.m. and 8:00 p.m. Staff recommended approval with the conditions enumerated in the Staff Report.

The applicant, Melissa Davis, introduced herself to the Commission. Chair Layton noted that the item was discussed by the Planning Commission previously, but due to a noticing error, the application had been continued to this meeting. He wondered if any additional feedback had been received as a result of the notices. Ms. Davis reported that only positive feedback had been received. Chair Layton stated that the City also received supportive emails. He thanked Ms. Davis for her patience with the process.

Commissioner Roach asked Ms. Davis to confirm the proposed hours of operation. Ms. Davis informed the Commission that the proposed hours are weekdays between the hours of 10:00 a.m. and 8:00 p.m. She explained that there will not be a consistent stream of customers.

Chair Layton opened the public hearing. There were no public comments. The public hearing was closed.

***Commissioner Roach moved to APPROVE the application for a Home Occupation for Sole Balance Foot Zone Therapy located at 3975 South 3210 East based on the following:***

**Findings:**

- 1. Land Use and Home Occupation requirements, as proposed, comply with the existing City Ordinances.***
- 2. Conditional Use, as proposed, meets approved standards outlined in Chapter 13.08.04.***

**Conditions:**

- 1. Off-street parking areas shall be maintained as available during business hours, with no street parking allowed.***
- 2. Obtain a Holladay Business License.***
- 3. Hours of operation be limited to Monday through Friday, 10:00 a.m. to 8:00 p.m.***
- 4. Conditions or complaints found to violate the set standards will require re-review by the Planning Commission or possible revocation of this permit, as determined by the Community Development Director.***

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

**3. “Children’s Art Studio” – Conditional Land Use Permit: Home Occupation – 4600 South Wellington Street (R-1-10 Zone). Review and Consideration of a Request by the Applicant, Kelly Philpott as Owner, for a Conditional Use Permit for Home Occupation. Item Reviewed as an Administrative Application as per Provisions Stated in Holladay Ordinance §13.08.040.**

Mr. Teerlink reported that the application is for a Conditional Use Permit for a Home Occupation. The property is located at 4600 South Wellington Street in the R-1-10 Zone and the application is for Children’s Art Studio. The applicant, Kelly Philpott, is seeking a Conditional Use Permit to conduct art lessons that will involve students coming to the dwelling by appointment. The intention was to provide art lessons for children aged 5 to 11. Ms. Philpott would like to operate a summer camp as well as provide normal weekly lessons. According to the applicant, the lessons will be provided in the existing basement apartment that has a separate entrance. Pickups and

drop-offs will be facilitated by Ms. Philpott. Mr. Teerlink informed the Commission that notices were sent and no comments were received.

Ms. Philpott introduced herself to the Commission and believed there had been some miscommunication during previous discussions with City Planner, Carrie Marsh. Ms. Philpott wants to obtain licensing from the State to have a preschool. She wanted to be able to have one person working at the studio so she can have some assistance. The desire was to have up to 10 children in the home at a time. As for parking for the employee, there is a cement slab on the property in the front yard that could be dedicated to employee parking. Ms. Philpott reported that she received information from Ms. Marsh that related to a Business License Non-Daycare. She called back to clarify the situation but Ms. Marsh was out of town. Information from Business License Official, Crystal Nichols, was received for a Home Daycare.

Chair Layton believed that the preschool use would involve a different type of application. Mr. Teerlink clarified that it would still be a Conditional Use Permit but it would be categorized as a Home Daycare rather than a Home Occupation. The item was noticed as a Home Occupation and would need to be noticed as a Home Daycare instead. Ms. Philpott asked if additional meetings will be needed before the application is considered. Mr. Teerlink explained that there is a threshold for the number of children who can be at the home. More than seven children means the application is for a daycare or preschool, which requires State and professional licensure. The licenses need to be presented to Staff before the item is to the Planning Commission. It was confirmed that the licenses need to be obtained before the Planning Commission considers the request.

City Attorney, Brad Christopherson explained that there are two ways the Planning Commission can address the issue. One was to table the item and amend the application. Another was to grant approval for six students. In that instance, the Planning Commission could add a Condition of Approval that the application could be amended after appropriate licensing was obtained. The application would need to be re-noticed and the Conditional Use Permit amended in the future to allow a preschool or daycare use for up to 10 students. The applicant and Commission could determine the best way to proceed. Ms. Philpott preferred the second option as it would at least allow her to get started in the meantime.

Commissioner Banks asked if there would be a concern approving the Conditional Use Permit on the condition that necessary State licensing be obtained. Mr. Christopherson felt it would be better to state, "If the applicant wants to exceed the number of students beyond six, the State licensing requirements must be met." The Conditional Use Permit could be amended once the State licensing requirements are met. Commissioner Banks was not sure it made sense for the applicant to come back for an amendment. The Commission could approve the use, pending issuance of the necessary State requirements. Mr. Christopherson confirmed that the matter could be turned over to City Staff. However, it had not been noticed as a daycare.

Commissioner Vilchinsky did not believe it was appropriate to consider approval of the application since it was noticed as a home-based business with fewer than seven children. It would not be possible for the Planning Commission to approve the application without making sure that the

proper notifications had been distributed. Ms. Philpott reported that a neighborhood meeting was held and she spoke to her immediate neighbors. There was support for the use.

Commissioner Roach asked if there would be an additional cost if the application was approved for less than seven children and then amended later. He wanted to understand if it would be better financially to table the item and modify the application. Mr. Teerlink explained that the associated fees would be the same. He asked Ms. Philpott if the request was presented as a preschool situation at the neighborhood meeting. Ms. Philpott explained that in the neighborhood letter, she stated that it was for a children's art school. She did not look at it as a daycare use as it will only take place for two hours and no food will be served. No one attended the neighborhood meeting in person. Mr. Teerlink did not believe another neighborhood notice would be required. He felt that the notice from the City about the public hearing would be appropriate.

Mr. Teerlink reviewed Section 13.76.720, which outlined the requirements for a home daycare. Additional discussions were had about the proposed use. Mr. Teerlink asked about the summer camp that had been referenced in the applicant narrative. Ms. Philpott explained that she wanted to hold a summer camp in June. She had planned to advertise that for children aged 5 to 11. During the school year, the classes are intended for preschool and kindergarten-aged children. Commissioner Roach asked if it would be appropriate to change the wording of the approval to specify no more than six children under the age of six. Ms. Philpott was supportive of that change.

Commissioner Cunningham noted that parking issues were discussed during the Work Session. However, it was now proposed that there be more children at the home in the future. He pointed out that Wellington is not a good street for traffic flow. Additionally, he was troubled by the idea that the application was initially for one use and now had turned into something else. He understood it was a misunderstanding but what the applicant envisioned was not what was noticed. As a result, he was reluctant to move forward with the application since the intention was to have a preschool-type use rather than what was presented to the Commission.

Commissioner Roach pointed out that the hours of operation from 9:00 a.m. to 11:00 a.m. will be the same regardless of the number of children who are permitted to be there. He wondered if the concerns expressed by Commissioner Cunningham were related to the drop-off and pick-up times. Commissioner Cunningham felt that the use proposed was different than what was presented to the Commission for consideration. He was uncomfortable moving forward without re-noticing the neighbors about the intended use and use levels. Commissioner Banks asked Commissioner Cunningham if he felt that a new City notice needed to be sent out to clarify the description of the use. This was confirmed. He thought clear noticing was necessary.

Commissioner Banks commented that there were a few months before June, which was when the summer camp was proposed to start. He suggested that the item be tabled and the application be amended. In that instance, the item would be re-noticed. Ms. Philpott did not like the words home daycare, because that was not what she would be doing. She expressed concerns about sending out notices to neighbors with that specific language. It was noted that the word preschool could be used. Discussions were had about the ages of the children who would be at the home.

Ms. Philpott shared additional details about how she wanted to use the home. She explained that her daughter attends an in-home preschool and there are approximately 12 children. One of the reasons she wanted to have an employee at her home was because at the in-home preschool, her daughter attends, the teacher comes out, assists children out of their vehicles, and sends the child up the driveway to the other waiting teacher who leads them into the home. It works very well. She wanted to have something similar in place at her own home. As for pick-up, one teacher stands back with all of the children and the other teacher helps each child get into the car. No one parks or leaves their vehicle so it is a fairly quick process.

Commissioner Banks had additional questions related to parking. He liked the idea of having a facilitator come out to welcome the children and bring them inside but was concerned about cars arriving at the same time. He wanted to know how that would be addressed. Additionally, he pointed out that parents can drop off and pick up children from both the north and south direction. He wanted to know what would be done when parents pull up on the right-hand side of the road, coming from the south, and nudge the child across the street. Ms. Philpott offered to share information about traffic to parents who register. Traffic will need to come from one side. She would make it clear that no one can pick up from the other direction. It was noted that this could be added as a Condition of Approval in the future.

***Commissioner Banks moved to CONTINUE the application for a Home Occupation for Children's Art Studio located at 4600 South Wellington Street until the applicant returns with a status report on her efforts to secure the requisite license from the State for a preschool use. Commissioner Roach seconded the motion. Vote on motion: Commissioner Cunningham-Aye; Commissioner Vilchinsky-Aye; Commissioner Banks-Aye; Commissioner Roach-Aye; Chair Layton-Aye. The motion passed unanimously.***

Ms. Philpott asked if she needed to move forward with the State process without knowing whether the City would approve the use. She thought it made sense to obtain approval from the City first since she has to pay for an inspection. Chair Layton explained that the main issue was the noticing. Neighbors need to be notified correctly. It needs to be noticed as a preschool use. Commissioner Banks informed Ms. Philpott that if an applicant submits a Conditional Use Permit application that complies with all requirements, there is language stating that the City shall grant the application.

There was discussion about whether the unidirectional drop-off and pickup proposal satisfied the concerns of the Commission. Chair Layton believed the one directional drop off and pick up system as well as having two people escort the children seemed reasonable. He did not believe the use would lead to a lot of additional traffic on the road. There could be a Condition of Approval added to the suggested list. Commissioner Banks reiterated his concerns about multiple vehicles dropping off students at the same time. He also thought it would be beneficial for the next-door neighbor to share a comment about the anticipated traffic flow. Ms. Philpott clarified that there is no one living in that home currently, but that may not always be the case. Commissioner Roach asked what would happen if a student is late and the teachers are no longer waiting outside. He felt it was important for Ms. Philpott to consider that as well. It was suggested that neighbor letters be obtained so the Commission knows how some of the neighbors feel about the use.

**ACTION ITEMS**

**2. Approval of Minutes – 02/21/23.**

*Commissioner Roach moved to APPROVE the Holladay Planning Commission Meeting Minutes from February 21, 2023. Commissioner Banks seconded the motion. The motion passed with the unanimous consent of the Commission.*

**ADJOURN**

*Chair Layton moved to ADJOURN. Commissioner Roach seconded the motion. The motion passed with the unanimous consent of the Commission.*

The Planning Commission Meeting adjourned at approximately 7:00 p.m.

*I hereby certify that the foregoing represents a true, accurate, and complete record of the City of Holladay Planning Commission Meeting held Tuesday, April 18, 2023.*

Teri Forbes

Teri Forbes, Minutes Secretary  
T Forbes Group

Minutes Approved: **May 16, 2023**