

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

**Tuesday, February 20, 2024**

**6:00 PM.**

**City Council Chambers  
4580 South 2300 East  
Holladay, Utah**

**ATTENDANCE:**

**Planning Commission Members:**

Dennis Roach, Chair  
Martin Banks  
Brian Berndt  
Paul Cunningham  
Ginger Vilchinsky  
Jill Fonte  
Angela Gong

**City Staff:**

Carrie Marsh, City Planner  
Brad Christopherson, City Attorney

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

Chair Dennis Roach called the Regular Meeting to order at approximately 6:00 p.m. Commissioner Gong read the Commission Statement for the benefit of those present.

**PUBLIC HEARING**

1. **CONTINUED ITEM – Chapter 13.14.031 – Accessory Building Units. Continued Review of Draft Changes, Anticipated Recommendation to the City Council on Proposed Amendments to Title 13 of the Holladay City Code, Land Use and Development Regulations as they Relate to Accessory Dwelling Units. Item Reviewed as a Legislative Action, According to Procedures set forth in Holladay Ordinance §13.07.**

City Planner, Carrie Marsh presented the changes made to the text amendment since the last meeting. The Staff Report identified the changes discussed previously such as ownership requirements. The Planning Commission asked to see specific definitions for immediate family, which was included in the new language. Currently, the minimum lot size is 10,000 square feet. There was an addition for corner lots and double-fronting lots. Some of the details may need to be clarified since corner lots are more unique in terms of setbacks. Other changes that were made were discussed such as height limitations. The new proposed language includes graduated height being set at six feet on the property line and then 45 degrees over. Primary structures are eight feet and then 45 degrees over, which creates a lower profile for External Accessory Dwelling Units (E-ADU”).

The setback is set at a 10-foot minimum and is required to be larger according to the chart in the current Code for larger properties. The draft text was provided showing additions and deletions. Ms. Marsh stated that verbiage pertaining to dwelling unit occupancy was also added to the Code and is consistent. She explained that occupancy is any number of persons related by blood, marriage, or adoption. Ownership of the property is addressed in number 4, lines 20 through 27 in the text. All of the height verbiage was taken from the existing Code on accessory buildings with the graduated height envelope.

Chair Roach opened the public hearing, which was continued from the previous meeting.

*Ron Hilton* gave his address as 2394 Murray Holladay Road. He sent an email regarding a technical point pertaining to the zones in which Accessory Dwelling Units (“ADU”) should be allowed according to State law. It was determined that Mr. Hilton’s comments were not received in time to be included in the packet. He claimed that the ordinance is not entirely compliant with state law. He referred to Section 10-9A.530 – Internal Accessory Dwelling Unit (“I-ADU”), which states, “In any area zoned primarily for residential use (A) The use of an Internal Accessory Dwelling Unit is a permitted use; (B) Except as provided in Subsections 3 and 4.” Subsection 4 states that, “A municipality may require that an Internal Accessory Dwelling Unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling.” Subsection H states, “A municipality may prohibit the creation of an Internal Accessory Dwelling Unit if the lot containing the primary dwelling unit is 6,000 square feet or less in size.” Mr. Hilton stated that there is no requirement that the dwelling unit be in a single-family zone. It is only required to be part of a single-family detached primary dwelling unit and the lot must be at least 6,000 square feet in size. The multi-family zones and the City of Holladay allow for single-family homes. The change he suggested to the first paragraph was to be inserted after “Existing or new construction of Accessory Dwelling Units are permitted in all single-family residential zones R1, FR-1, FR-2.5, RF-20.” The addition was, “... and single-family dwellings in multi-family residential zones R2, RM on lots at least 6,000 square feet in size.” With that change, it would be brought into full conformity with State law.

City Attorney, Brad Christopherson, referred to 13.04.040 of Holladay City Code and stated that the section Mr. Hilton was referring to pertains to I-ADUs, which are allowed in every zone by State Code. This particular section focuses on accessory monuments, which are exterior to the home and not part of the primary residence.

Ms. Marsh stated that within the existing Code for Accessory Dwelling Units, they should clean up the language to clarify that it involves any single-family dwelling within any residential zone. The Code specifically spells out R1, FR1, FR2, FR2.5, and FR20.

*David Seaman* addressed property he owns and presented a plat map of what he is proposing to do. He reported that he and his wife purchased two properties in the last few years with the intent of developing ADUs on the properties. As part of his due diligence, he spoke to staff, but the rules have since changed and his property no longer meets the lot size minimum. Ms. Marsh stated that currently, to have an E-ADU it is necessary to have one-half acre of property. The proposed changes decrease that to 10,000 square feet.

Commissioner Berndt was reluctant to talk about a specific property when discussing an ordinance. He did not want to get into the details of a specific property until the ordinance is in place. Mr. Seaman expressed support for lowering the lot size to allow for ADUs. He is a General Contractor by profession and buys and sells properties as part of his retirement income. He wanted to be able to continue to utilize his properties. He currently owns three properties in Holladay and lives in one. If he builds an ADU he would market it as a potential income property. He sees it as a valuable asset when marketing a property to flip. Mr. Seaman stated that his motivation was a financial incentive to find older properties on which to build an ADU and market it as two houses in one. He reported that he has built many walkout basements on homes with rear egress since many see the value of being able to rent out their basement.

There was no further public comment. The public hearing was closed.

Chair Roach referenced lines 56 and 57, which state that the ADU should be designed in a manner that is compatible with the neighborhood residential vernacular. His concern was that it is highly subjective, and it could be argued that every E-ADU should be denied because it does not match what he thinks it should in his neighborhood. He was not sure if that was something others had concerns with.

Commissioner Gong commented that this has come up in other applications and she did not find it to be very meaningful. She agreed that the proposed language encourages argument. Possible language changes were discussed. Commissioner Berndt was concerned that it would create complications. The thought was that one of the Commission's goals is to simplify where possible and make it so that the Code is easy for staff to use and the public to understand. The issue of compatibility was discussed and whether the Commission should look for compatibility with the existing dwelling rather than the neighborhood. Chair Roach likes to consider what it will look like in 20 years.

Chair Roach commented on the lot size restrictions and stated that currently, the allowance is just under one-quarter of an acre. That impacts about 50% of the City that is not Walker Woods, or an R1-8 zone. E-ADUs will potentially be allowed in about half of the City. If the lot size minimum were decreased to 8,000 square feet, they would essentially be allowing the entire City to have E-ADUs. There is a significant portion of property in the northeast portion of the City where the R1-8 zone exists. There was some question as to whether the R1-8 Zone is too small and dense to allow for E-ADUs on smaller lots.

Commissioner Berndt's preference was to do it incrementally. He considered this to be a significant step forward and will help increase compliance. He supported 10,000-square-foot lots but not 8,000-square feet.

Commissioner Vilchinsky had concerns about the setbacks on existing units, but she was comfortable with the 10,000-square-foot limitation and considered it a good starting place.

Commissioner Fonte voiced her opinion previously and hated seeing them pave paradise. Her question remained as to whether there is something between the one-half acre and the 10,000 square feet that could be considered. Ms. Marsh stated that the R1-15 zone allows for 15,000 square-foot minimum lot sizes. There is also the R1-21 zone where there are larger lots than in the R1-10 zone. She estimated that 10% of the City falls within those zones. Commissioner Fonte stated that that does not solve the problem and is not really incremental. If that were the best option, however, she would support it.

Commissioner Gong supported going with the 10,000 square foot lots and in general, was in favor of going to 8,000 square feet for a couple of reasons. First, people who are most likely to use it are those who need an income stream, and that could allow them to live in the City of Holladay. Also, a lot in the R1-8 zone is located in larger corridors such as 3900 South, 4500 South, and Highland Drive. She felt that over time there will be more public transit. She recalled mention at a previous meeting that there are roughly 1,400 lots in Holladay that are one-half acre in size or larger. Ms. Marsh stated that that is a rough estimate. Ms. Marsh stated that most of the applications for E-ADUs have been for .3 to .5-acre lots. Applicants are typically interested in building a detached garage with living space above. There are not as many applications for ADUs on smaller properties. It is typically someone who lives in the primary dwelling and wants to convert a space or have extra living space for a mother-in-law or other family member. Those with smaller properties are typically looking to expand their own home and stay in Holladay by adding onto their home. That would be a more common scenario on an 8,000-square-foot lot. It is not as common for someone on a smaller lot to want to do an E-ADU because it limits the yard space. She recalled that the total parcel count was around 9,000 but there are sometimes smaller parcels that are taxed at a lower rate. She guessed that there are 3,000 to 4,000 one-quarter to one-half acre lots. Commissioner Gong supported transit corridors potentially having a unique approval and seeing what happens in the next few years.

In response to a comment made regarding double-fronting lots, Ms. Marsh stated that with smaller properties it is easier to access an E-ADU. There could be situations similar to the property on Butternut where a garage was built on one side with the bonus space completely underground. The result was minimal impact on the neighbors.

Heights and setbacks were discussed. Chair Roach felt good about the minimum 10 feet and was of the opinion that any less feels highly encroached upon because neighbors are already too close on the sides. He pictures homes against the fence line and a crowded feel. That dovetails into height, which is currently six feet at the property line at a 45-degree angle. If the minimum 10-foot setback is there, there is still a significant roof height to deal with. He stated that he moved to Holladay for the views of Mount Olympus, trees, and wildlife. If his neighbor were to construct an E-ADU in his backyard with a 16-foot roof his views would be blocked and what he loves about living in Holladay would be diminished. He wanted to be cognizant about how best to address E-ADUs built in a backyard so that it does not create conflict with the neighbors.

Ms. Marsh reported that currently, accessory buildings can be up to 20 feet tall. The larger question is if the intent is to regulate building heights or a dwelling unit on a second level. If the intent is to restrict a dwelling unit from being on a second level, the language needs to address that

specifically. She was not sure that the goal was to regulate height when accessory buildings are already allowed to be 20 feet. There is a height standard for an accessory building that can be closer to the property line and higher. However, an E-ADU has to be further from the property line and lower.

The potential for an E-ADU above a garage was discussed as well as the impact. Greater concern was expressed with second stories, which would be easier to limit to one level. The biggest problem will likely be with those that are already too high and that would not meet the new requirement if the limits were changed. Ways to address existing non-conforming uses was discussed. Chair Roach stated that the Commission should be forward-thinking in terms of a developer wanting to develop more E-ADUs, which is where the impact will be. With existing structures, most people are already used to them while new construction tends to catch people off guard. Commissioner Fonte suggested that the Commission make decisions that protect current residents.

Chair Roach commented that another issue is having windows facing into a backyard or having to live next to a tall, sloped roof with skylights. If it becomes overly complicated, he suggested that E-ADUs be limited to a single structure. He did not want to create a situation where there are numerous two-story garages with apartments on top in every backyard.

E-ADUs on large lots are far different than on smaller lots. For that reason, Commissioner Fonte was more comfortable allowing for single-story E-ADUs. Ms. Marsh presented a 3-D diagram showing a building envelope for a 90' x 120' property. With the side setbacks added, she showed where an accessory building could be constructed and where it could be up to 30 feet high. The potential location was shown if the ADU was limited to 10 feet for a new structure. She explained that the incentive is to build an E-ADU 10 feet from the property line or back it away further and achieve a height of 32 feet.

It was clarified that the E-ADU cannot exceed the height of the primary structure. If limited to one story, it would be prohibited from going to a height of 30 feet. Ms. Marsh stated that the heights for single-story dwellings are usually 16 feet, which accounts for a pitched roof. It was noted that the roof height might vary but an additional living space on a second level could not be added. Mr. Marsh confirmed that a bonus space could be built above a garage of up to 20 feet within the graduated height envelope.

Ms. Marsh explained that on a 10,000-square-foot lot, the setbacks for an accessory structure are four feet as long the graduated height requirement is met. If there is a 16-foot wall, one must be seven feet from the property line. The graduated height requirement naturally pushes taller structures further from the property line. The proposed six feet limits heights further. Having a 10-foot minimum ensures that it is the closest a dwelling unit can go. The current Code involving E-ADUs is a 25% increase. On a 10,000-square-foot lot, an E-ADU would be required to have a five-foot minimum setback and meet the graduated height requirement, which is currently eight feet with a 45-degree angle over.

Chair Roach considered it to be a control measure to set limits. Ms. Marsh commented on setbacks and stated that when looking at side setbacks for a primary structure, it is 25% total. You could do 12½ % on a front or side setback because that is what a primary structure would be. If there is a 100-foot-wide lot, the minimum setback on one side would be 10 feet. The other side would be 15 feet. The setbacks would be based on the size of the lot.

It was noted that Code Enforcement could take action in a rental situation. Existing non-complying structures were also addressed. If a different standard were set for height, existing non-complying structures would never be in compliance without tearing the ADU down and rebuilding it. It was noted that the Legislature made the decision to not give cities the ability to make this decision and allow it to happen. They have already decided that the public interest is more housing than views and building height. It was suggested that the City take advantage of any opportunity to minimize the impact on the neighbors.

Ms. Marsh stated that the Commission could indicate what they are comfortable with and recommended they wait and see what happens over the next two years and bring it back at that point. They could pass a recommendation for a change in the lot size or change the lot size with a reduced graduated height. Another option would be an increased setback and have staff track the permits and see what happens. They could then look at Code revisions two to three years in the future.

Staff was asked to report back on how many moderate-income houses are created rather than the number of ADUs because they are not the same. Ms. Marsh commented that that is difficult with I-ADUs. It is easy to catch E-ADUs but I-ADUs involve people who are renting their basements out. The City has an I-ADU Permit but most people do not come in and apply.

[END OF AUDIO]

### **ACTION ITEMS**

2. **Approval of Minutes – December 5, 2023, and December 19, 2023.**

### **ADJOURN**

The Planning Commission Meeting adjourned at approximately 7:00 pm

*I hereby certify that the foregoing represents a true, accurate, and complete record of the City of Holladay Planning Commission Meeting held Tuesday, February 20, 2024.*

Teri Forbes

Teri Forbes  
T Forbes Group  
Minutes Secretary

Minutes Approved: **May 21, 2024**

*City of Holladay Planning Commission Meeting – 02/20/2024*