

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

**Tuesday, April 16, 2024
6:00 PM**

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

ATTENDANCE:

Planning Commission Members:

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

City Staff:

Carrie Marsh, City Planner

WORK SESSION

Chair Dennis Roach called the Work Session to order at approximately 5:30 p.m.

The agenda items were reviewed and discussed. Chair Roach reported that there is one Public Hearing item on the Regular Meeting agenda and the approval of Meeting Minutes from February 6, 2024, and March 5, 2024. City Planner, Carrie Marsh, shared information about the first item on the agenda, which is a Zone Map Amendment request to rezone property from R-1-10 to R-2-10. The subject property is located at 1932 East 5600 South, and it is a narrow and deep property.

Ms. Marsh shared context about the surrounding area. Both of the properties on the west side and east side are duplexes, which means the subject property is surrounded by duplexes. However, the two duplexes on the west are non-conforming to the zone. Chair Roach believes on the east side, there is a duplex facing 5600 South and there is another duplex that is part of the PUD subdivision that faces in. This was confirmed. Ms. Marsh reviewed a map of the area and reported that a list of the neighboring properties is included in the Staff Report for reference. Additionally, the Staff Report includes an analysis of the General Plan. This whole area is identified on the Future Land Use Map as Low-Density Residential–Stable. She highlighted surrounding zones.

Chair Roach referenced the duplexes on the west, which are shown on the map in yellow. He asked if those were in the R-2 Zone. Ms. Marsh clarified that those are both in the R-1 Zone but are used as duplexes. Those properties are legal non-conforming uses. There are quite a few properties in Holladay that were zoned as duplexes under Salt Lake County. After incorporation, larger area-wide zoning was done as opposed to property-specific zoning. As a result, there are pockets where there are two or three duplexes all in an area together. For example, there is another set of duplexes on 2700 East. Those duplexes are considered to be legal non-conforming uses there as well.

Ms. Marsh shared the Future Land Use Map with the Commission. She noted that the corner is Low-Density Residential – Stable. The exception is on Highland Drive, where the Highland Drive Master Plan is referred to. Commissioner Brian Berndt asked what stable refers to. Ms. Marsh clarified that

it is intended to support a mix of single-family residential development that has been established by historic development patterns. Chair Roach read language from the Low-Density Residential – Stable definition: "Rezoning within the suggested zone list may be appropriate where increased density will not destabilize the existing neighborhood." The General Plan states that the suggested zones there are R-1-8, R-1-10, and R-1-15. The context of the area is in the Staff Report.

Commissioner Angela Gong read language from the Staff Report and asked whether rezoning was most appropriate in this case. Ms. Marsh explained that she previously spoke to Community Development Director, Jonathan Teerlink, and he stated some of the Future Land Use was designed with the intent to identify larger protected areas. It did not take into account a lot of corridors beyond Highland Drive and some of the more obvious ones on 2300, 4500, and 3900.

Chair Roach discussed a previous Zone Map Amendment that came before the Planning Commission. That amendment was discussed approximately a year and a half ago and did not receive a favorable recommendation. It was on the other side of Highland Drive. Ms. Marsh informed the Commission that there will be an update to the General Plan made in the near future. Some refinements might be made as those General Plan updates move ahead. As a result, Staff has started to think about which neighborhoods or areas in the City could potentially be refined.

Commissioner Paul Cunningham discussed the subject property. There is a single-family home on the front portion of the property and an accessory building on the rear portion of the property. Chair Roach stated that he knew the former owner of the property and there was a music studio in the back. He was a piano teacher for many years and that was his studio where people visited. Commissioner Cunningham wondered whether it was occupied and being used as a rental house. Ms. Marsh stated that there is no indication of that. Commissioner Cunningham wanted to understand what the applicant was trying to accomplish with the rezone. Ms. Marsh stated that what the R-2 Zone accomplishes is potential ownership opportunities in the future. Having that zoning in place creates the ability for it to be subdivided. The intent could potentially be to convert the accessory building into a unit to be able to rent out the house in the front as well as the rear unit. Another potential desire could be to demolish both of the structures and build up to three units.

Ms. Marsh reported that when a unit assessment is done, which determines how many units are allowed on a property, the access driveway needs to be removed from the calculation. Chair Roach believes that based on the preliminary determinations, there might be enough room for three units. Ms. Marsh explained that the number of units depends on the area of land that is available. Chair Roach clarified that if it was in the R-1-8 Zone, then it would be possible to subdivide. Commissioner Berndt asked whether the applicant has indicated what they would like to do with the property if the rezone is ultimately approved. Ms. Marsh stated that those details are unknown.

Commissioner Cunningham expressed concerns that the City will allow the applicant to have more than the surrounding properties, based on the argument that the property is surrounded by lots with two homes. Ms. Marsh discussed the size of the property and the property sizes in the surrounding area. Even with the R-2-10 Zone, the applicant would not have the same density as either side.

Commissioner Jill Fonte asked if it is possible to approve the rezone with the condition that only two units will be built. Ms. Marsh denied this and explained that it is not possible to limit legal land rights. It is not possible to limit what is within the zoning code specific to an application. Commissioner Fonte pointed out that if the rezone is approved, it is possible that there could be two homes and two accessory dwelling units ("ADU"). Chair Roach was not certain there would be enough room for two

ADUs. Ms. Marsh pointed out that if three detached structures were built, it would be possible to have three detached ADUs. However, there are other factors taken into account when it comes to ADUs, such as the amount of land available. That is a limiting factor.

Commissioner Berndt asked about 13.07.030.G.2 – Approval Standards listed in the Staff Report. He wondered whether all four of those standards need to be met in order for the rezone to be considered. Ms. Marsh denied this. She explained that a recommendation can be made to the City Council and those standards can be noted. For example, there could be a positive or negative recommendation made that notes whatever factors there is a desire to highlight to the Council.

Commissioner Berndt referenced the Land Use, Urban Design, and Neighborhood Preservation language in the Staff Report. It defines points of development and development patterns. He wondered whether all of these requirements must be satisfied in order to forward a positive recommendation on the rezone. He wants to better understand the criteria that should be used. Ms. Marsh explained that these are points from the General Plan. She reminded Commissioners that the General Plan is a guiding document, and various points can be used in the recommendation. The recommendation made by the Commission can be based on any of the factors mentioned.

Chair Roach reminded those present that this is a legislative item. That means there is discretion provided to each individual Commissioner to make a recommendation based on the various considerations. It is an individual decision as opposed to an administrative item, where there is a checklist of sorts to determine whether or not something can be approved by the Commission. With legislative items, there is a little bit of ambiguity, and it is not always a cut-and-dry matter.

Commissioner Gong noted that several of the written comments received expressed concerns about the upkeep of the lot. She wondered whether that could factor into the decision. Ms. Marsh reported that the condition of the property is not something that is taken into consideration for a rezone.

Chair Roach ended the Work Session and immediately moved into the Regular Meeting.

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

Chair Roach called the Regular Meeting to order at approximately 6:00 p.m. He noted that Legal Counsel is not present at the meeting and reported that Commissioner Karianne Prince has been excused from the Planning Commission Meeting. All other Commissioners are present. Commissioner Fonte read the Commission Statement for the benefit of those present.

PUBLIC HEARING

1. **Zone Map Amendment - Rezone from R-1-10 to R-2-10 - 1932 East 5600 South. Review and Provide a Recommendation to the City Council on a Proposal by Applicants, Matthew and Amanda Lewis to Amend the Holladay Zone Map at this location from the current, Residential Single-Family Zone (R-1-10) to the Residential Two-Family Zone (R-2-10) for approximately 0.44 acres of property. Item Reviewed as a Legislative Action, According to Procedures Set Forth in Holladay Ordinance §13.07. File #24-4-05.**

Ms. Marsh presented the Staff Report and explained that the application was for a Zone Map Amendment. The property is located at 1932 East 5600 South. The current zone is R-10-10 and the requested zone is R-2-10. She explained that the property is narrow and deep. It fronts onto 5600 South and is surrounded by duplexes, both legal and legal non-conforming. Across the street is a multi-family zone with an assisted living care facility. The Staff Report outlines the General Plan information

and suggested zones, as identified on the Future Land Use Map. Additionally, the Staff Report includes an analysis of several factors that can be taken into consideration.

If the property is rezoned to R-2-10, there could potentially be up to three units, based on the total property size. Ms. Marsh explained that if the access driveway is removed from the total area, it might reduce the total number of units to two. She asked the applicant to discuss the application.

The applicant, Matthew Lewis, introduced himself to the Commission. He explained that this is a family home that his parents purchased in 1991. What is unique about this piece of property is that it has a second structure in the back. His father converted that structure into a piano studio and used it in that manner for approximately 30 years. Mr. Lewis stated that his father passed away in 2019 and the structure was left unused for several years. His sister approached the City to ask if it was possible for her to re-open the studio but was informed that it was not. Their father had been grandfathered in, but because there had been a period of unuse, it was no longer zoned for any kind of business activity. Mr. Lewis informed the Commission that the structure in the back is unusable in a lot of ways. It is larger than what would be needed for a home office, as it is approximately 1,500 square feet. The request is now to rezone. Everything around the property, with the exception of the house to the west, is either zoned R-2-10 or is being used in that manner.

Mr. Lewis informed the Commissioner that there have not been discussions about what will be done with the property at this point. However, he was informed by the City that there is a step-by-step process that needs to be done. The rezone application is the first step that needs to be taken. He understands that there have been some comments about the condition of the property. His parents had an above-ground swimming pool, but that has been removed, and the family is in the process of re-landscaping the property. Mr. Lewis pointed out that the property is near a canal, which is a source of rodents. Some of the previous issues have been addressed through code enforcement. Mr. Lewis reiterated that the back building is unusable in a lot of ways, which is the basis of the rezone request. He added that there is no intention to make changes to the main home.

Chair Roach believes the intent is to subdivide and potentially have two properties on the lot. He wondered what the reason was for the R-2-10 Zone request rather than R-1-8. Mr. Lewis did not know there was an R-1-8 Zone before this process. When he initially spoke to City Staff, one of the options presented was R-2-10. Chair Roach understood that the original Conditional Use Permit expired when it was not renewed. He wondered whether a Conditional Use Permit to use the accessory building could be approved on the property. Ms. Marsh does not see a reason why a Conditional Use Permit for a Home Occupation would not be approved for the accessory building. The City recently amended the Home Occupation Code to allow for the use of accessory buildings. Previously, this was not allowed, but the amendments were made recently and will go into effect on April 21, 2024. That is an option, but she does not know if it will still be applicable based on the family use. Mr. Lewis discussed the amount of traffic associated with the use. His sister was previously informed that the traffic levels would not make the use possible there.

Chair Roach opened the public hearing.

Arlene Hassin gave her address as 5617 South Dunetree Hill Lane. She is President of the Highland Court Homeowners Association (“HOA”). The HOA is for the townhomes on the corner. The issue with the property is that it has been neglected for many years. There was previously an above-ground pool that was stagnant for years. Additionally, there is one structure next to the fence on the east side that was filled with chemicals such as chlorine. When the pool was taken down last summer and the

structure was taken apart, there was an issue with rats, because the rats were nested underneath. Several residents have had a lot of problems associated with that situation. Members of the HOA feel that the property has been a health hazard to others. Several residents had to hire exterminators because it is not safe to utilize the backyards fully.

Chair Roach reminded those present that the application currently before the Planning Commission is a rezone. He asked that comments be focused on the rezone as much as possible. Ms. Hassin asked that the rezone be delayed until the subject property has been brought up to code. Chair Roach noted that code enforcement matters should be handled through the Code Enforcement Officer. As far as what is being considered at the Planning Commission level, it is only the rezone.

Aiden Bradney stated that his address is 1922 East 5600 South, and his family lives on the property to the west. The area is one of outstanding natural beauty and the view from his deck is phenomenal. The views are one the reasons his family moved to Holladay. The fear is that if the rezone is approved, there will be two-floor structures built, and their view will disappear. Mr. Bradney reported that photographs from their deck were submitted to the City ahead of the meeting. He expressed concerns about the driveway and possible congestion. He noted that there are no issues with the front property and stated that his family never experienced issues with the above-ground swimming pool nor have there been any rat issues in their backyard. Mr. Bradney reiterated that his main concern has to do with the existing view and how that may change.

Kurt Larsen gave his address as 5646 Nations Way. His concern has to do with vehicles on the street. Mr. Larsen pointed out that there is an assisted living facility nearby, so there are constantly vehicles parked up and down the street when there are gatherings. Adding additional vehicles to the area could be significant. He also had concerns about something being built in the back of the property, as it might need to be brought up higher in order to accommodate the sewer lines.

Mr. Bradney shared an additional comment with the Commission. He noted that last year, there were major plumbing issues, and his entire backyard had to be dug up. According to the plumbing company that came out, the infrastructure below ground is already starting to look a bit tired. He is sure that the house in the front of the subject property is fine, but if there are additions made elsewhere on the site, this could create difficulties with the plumbing and the sewer lines.

Jim Preston stated that his address is 5670 Nations Way. He wanted to better understand what the applicant envisions on the property. Chair Roach noted that the application is for a rezone. Mr. Preston wondered whether improvements can be done on the site. He does not blame the property for the rat issues, as the rats come off the canal. Mr. Preston is supportive of improvements taking place on the property, but he wants to understand what R-2-10 means in terms of height limitations.

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

Chair Roach asked the applicant to respond to some of the comments shared. Mr. Lewis reminded those present that his parents owned the property and built some of the structures long before the Highland Court facilities were built. The shed that was close to the property line was there before the duplexes were built. As for the code enforcement matters, some of the comments made were inaccurate. Mr. Lewis stated that he was told the rezone application is the first step in this process. There will be a whole separate process if a subdivision or new build is ultimately proposed. At that time, the height and parking would be addressed. Nothing has been determined so far. If the rezone to R-2-10 is approved, there can be discussions about the different options available.

Commissioner Berndt asked Staff what is allowed in the R-2-10 Zone. Ms. Marsh clarified that in this case, it could allow three single-family detached dwellings on the property, assuming there was appropriate access. The width of the access would be considered if there was an application made for additional units. There are exceptions sometimes, where if there is not appropriate access, fire sprinklers can be installed. All of those details are addressed through the Fire Code. She explained that the Fire Code regulates the width of the access road and any exceptions. Typically, structures that cannot be accessed with a fire truck need to have fire sprinklers.

Commissioner Berndt asked about the height allowed in the R-2-10. Ms. Marsh reported that the height is the same between the R-1-10 Zone and the R-2-10 Zone. The current code states that properties less than half an acre in size are permitted to have 32 feet in height. The additional control on height is through graduated height, which pushes taller areas of a structure further away from a property line. The graduated height applies to both primary and accessory structures.

Commissioner Berndt wanted to know whether an ADU needs to be fire sprinkled. He explained that his intention is to better clarify what could potentially be built on the property with an R-2-10 Zone. Ms. Marsh reported that the State requires that ADUs be allowed in any residential zone. There are code amendments that are being heard by the City Council currently, which would limit ADUs to detached structures only. In a situation like this, in an R-2 Zone, where an ADU is permitted by State Code, attached structures could not have an ADU. However, if there were three separate detached units, each of those could have an ADU. She pointed out that external accessory dwelling units (“E-ADU”) vary based on lot size. E-ADUs are unlikely to occur in this case.

Discussions were had about access and the existing PUD in the area. Commissioner Berndt referenced the General Plan criteria and rezone language. This application appears to meet the expectation of having the same character as the adjacent properties. He wondered whether future development would be consistent with that character. Ms. Marsh pointed out that this area is not within a PUD, so there will not be the same kind of architectural similarity. As for the total number of units allowed, the allowed density on the site is consistent with the nearby properties.

Ms. Marsh read the following from the Staff Report section: Land Use, Urban Design, and Neighborhood Preservation. One of the specific goals of the Land Use element is as follows:

- Retain and protect the natural environmental character of the City and its neighborhood.

Ms. Marsh acknowledged that character is subjective. There will always be some variation in a neighborhood. For instance, there will be some houses that have been remodeled substantially or have a different look or feel. In addition, some neighborhoods might have a mixture of single and two-story houses. Commissioner Cunningham asked what would happen if one of the non-conforming duplexes had a new property owner and that owner wanted to build a new duplex. Ms. Marsh explained that if the property was destroyed by natural means, the owner could rebuild.

At a Building Permit level, utility connection letters would be required for building improvements. Converting an accessory structure into a living space would involve the Building Official looking at plans to ensure that the Building Code is met. If there was substantial redevelopment, such as a subdivision or new lots created, a utility provider may require the applicant to upgrade the service line in order to account for the additional units. Those details are addressed during the Building Permit

process or during the subdivision process. All upkeep issues can be addressed through the Code Enforcement Officer. Chair Roach noted that those potential next steps are useful to know but are not applicable to the current rezone application that is before the Planning Commission.

Commissioner Fonte noted that there were some public comments related to parking and traffic. She wondered whether anything built on the site would be required to include on-site parking. Ms. Marsh reported that the residential development has two parking spaces required for each residential unit. If an additional unit was added, those standards would need to be met. As for street parking, that is a public use available to all. It is not regulated beyond limiting it to 24 hours at a time.

Commissioner Fonte asked about a structure being in keeping with the character of a neighborhood. She wanted to know whether that is something the Technical Review Committee addresses. Ms. Marsh denied this and explained that there are no character standards for neighborhoods. Neighborhoods are residential, so the character is whether or not it is a residential use. Chair Roach believes that a rezone to the R-1-8 Zone would satisfy the desires of the applicant and would also satisfy the General Plan. Based on the General Plan as currently written, that whole area is supposed to be Low-Density Residential – Stable, with the exception of the Highland Drive Master Plan. He worries about what will happen if the rezone to R-2-10 is approved and the property changes ownership in the future. Chair Roach pointed out that the R-2-10 that exists for the PUD is very controlled whereas this property would not have any control mechanisms in place.

Commissioner Berndt read some of the language from the Staff Report, which was as follows:

- Rezone requests should be considered only where increases in density would not negatively impact the established development patterns in the surrounding neighborhood.

Commissioner Berndt pointed out that even with an increased number of units, the rezone would still fit with the development patterns in the surrounding neighborhood. Based on some of the information in the Staff Report, he believes there is merit to the rezone request that has been made.

Commissioner Cunningham had a similar thought to Chair Roach that the R-1-8 Zone would be preferable. He wondered whether the applicant would be supportive of the item being continued to the next Planning Commission Meeting so there could be further consideration about the zone. Chair Roach asked City Staff to weigh in on that suggestion. Ms. Marsh stated that it is an option but pointed out that the R-1-8 Zone will come with some significant challenges on the site. Commissioner Gong referenced the list of considerations on the first page of the Staff Report. She pointed out that the R-2-10 Zone would match what is currently in the surrounding area.

Commissioner Berndt moved to forward a recommendation to the City Council to APPROVE an application by Matthew and Amanda Lewis to amend the Holladay Zoning Map for .44 acres of land located at 1932 East 5600 South from R-1-10 to R-2-10, based on the following findings:

- 1. The proposed amendment is consistent with the goals, objectives, and policies of the General Plan.***
- 2. The proposed amendment is harmonious with the overall character of existing development in the vicinity.***
- 3. The proposed amendment will not adversely affect abutting properties; and***

- 4. The adequacy of facilities and services intended to serve the subject property, such as roadways, parks, and recreation facilities, police and fire protection, schools, stormwater drainage systems, environmental hazard mitigation measures, water supply, and wastewater and refuse collection.*

Commissioner Gong seconded the motion. Vote on Motion: Commissioner Berndt-Aye; Commissioner Gong-Aye; Commissioner Fonte-Aye; Commissioner Vilchinsky-Aye; Commissioner Cunningham-Nay; Chair Roach-Nay. The motion passed with a vote of 4-to-2.

ACTION ITEMS

2. Approval of Minutes – February 6 and March 5, 2024.

Commissioner Gong explained that she did not attend the February 6, 2024, Planning Commission Meeting. As a result, she chose not to vote on those Meeting Minutes. Chair Roach informed those present that he was not present during the March 5, 2024, Planning Commission Meeting.

Chair Roach moved to APPROVE the February 6, 2024, Meeting Minutes. There was no second. Vote on Motion: Commissioner Berndt-Aye; Commissioner Gong-Abstain; Commissioner Fonte-Aye; Commissioner Vilchinsky-Aye; Commissioner Cunningham-Aye; Chair Roach-Aye. The motion passed with the unanimous consent of the Commission.

Chair Roach moved to APPROVE the March 5, 2024, Meeting Minutes. There was no second. Vote on Motion: Commissioner Berndt-Aye; Commissioner Gong-Aye; Commissioner Fonte-Aye; Commissioner Vilchinsky-Aye; Commissioner Cunningham-Aye; Chair Roach-Aye. The motion passed with the unanimous consent of the Commission.

ADJOURN

Commissioner Fonte moved to ADJOURN. The motion was not seconded. 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 16, 2024.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: **October 1, 2024**