

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

**Tuesday, August 20, 2024
6:00 PM
City Council Chambers
4580 South 2300 East
Holladay, Utah**

ATTENDANCE:

Planning Commission Members:

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

City Staff:

Carrie Marsh, City Planner
Jonathan Teerlink, Community Development
Director
Brad Christopherson, City Attorney

WORK SESSION

Chair Dennis Roach called the Work Session to order at approximately 5:30 p.m. He noted that all Commissioners are present as well as members of City Staff and Legal Counsel. There is one Public Hearing item on the Regular Meeting agenda. The agenda items were reviewed and discussed. City Planner, Carrie Marsh, explained that the application is for a Text Amendment for Chapter 13.100 Appendix A – Table of Allowed Uses. She explained that the item was brought to the Planning Commission on July 16, 2024, and was continued in order to receive more information about the properties the Text Amendment would affect as well as the context of those other properties. She noted that all of the items added to the Staff Report are highlighted.

Within Holladay, there are eight properties currently zoned as PO and those are all on 80-foot-wide right-of-ways. There are 39 properties zoned as R-M with office uses. Those properties already have a short-term rental right with the zone. It is possible those could rezone to PO because the uses are office space. Ms. Marsh informed the Commission that the Staff recommendation is the same as before, but there is some flexibility. During the last discussion, Commissioner Brian Berndt suggested a positive recommendation to the City Council and then let the Council decide whether they would like to address this matter through the General Plan process.

Commissioner Paul Cunningham believed the issue at the last meeting was the fact that this amendment will impact more than one property. His feeling remains that this is a concept worthy of discussion when the General Plan update occurs. Commissioner Cunningham reminded Commissioners that the applicant in this case already received a rezone. The initial request was to have two residential units. After the rezone was granted, there was a desire to have a short-term rental, which is currently not permitted in the PO Zone. Commissioner Cunningham feels the context of the whole General Plan needs to be taken into account before a decision is made.

Ms. Marsh reminded the Commission that the request is a Text Amendment that would allow short-term rentals as a conditional use in the PO Zone. Currently, short-term rentals are not permitted as conditional uses in that zone. However, this is a conditional use in the R-M Zone. Chair Roach asked whether the use request would need to come before the Planning Commission in the R-M Zone. Ms. Marsh confirmed this. There would be the same process in place for the PO Zone if this Text Amendment is ultimately approved. Chair Roach noted that the City is not greenlighting short-term rentals across the board, as there will still be a Planning Commission process before approval is granted. It would just be extended from the R-M Zone to the PO Zone.

City Attorney, Brad Christopherson, shared information with the Commission about conditional uses. He explained that there are certain conditions set and if a property meets those conditions, the use must be approved. Conditional uses were more subjective in the past, but over the years, the courts have changed that. If something is a conditional use, it is possible to set reasonable conditions, but as long as those conditions can be met, then that conditional use must be allowed.

Ms. Marsh reported that the PO Zone expanded office uses to include medical and educational uses. It allowed the office spaces that already existed to be used for a wider range of professional services. The PO Zone also has residential use listed as a conditional use. In this case, the applicant originally applied for a rezone to the PO Zone in order to expand the office uses in that zone. There was also a desire to have the residential units above. Commissioner Berndt wanted to understand the criteria that need to be met in order for approval to be granted for a conditional use. Community Development Director, Jonathan Teerlink, shared the current short-term rental requirements. If there is approval for the Text Amendment, the criteria shown would need to be met in order to have that conditional use in the PO Zone. Commissioner Berndt asked if the criteria has been sufficient to appropriately regulate short-term rentals so far. Mr. Teerlink confirmed this.

Commissioner Berndt noted that office uses are starting to shift into more flexible uses. He is leaning towards allowing more of that to occur as long as it does not have a measurable impact. Since the COVID-19 pandemic, many offices have become vacant or are used less often. Ms. Marsh noted that when residential is above an office space, someone might want to live above and utilize the office space below. There are some benefits to the use that can be considered. That being said, the concerns referenced by Commissioner Cunningham about the overall impacts should also be taken into account. Chair Roach wondered whether there are safeguards for conflicts of interest. For example, a short-term renter on a registered offender list is in the same structure as a clinic for children. Ms. Marsh stated that those types of issues are mitigated in other ways. For someone on a registered offender list, there are certain locations where they cannot live. Chair Roach thought it was important to consider a variety of possible scenarios.

Commissioner Angela Gong asked how this application interacts with the desire to increase moderate-income housing in the City. She pointed out that short-term rentals are often considered to be in conflict with moderate-income housing. It was confirmed that short-term rentals are often in direct conflict. Commissioner Ginger Vilchinsky asked whether it is possible for this owner to have a long-term rental instead of a short-term rental. This was confirmed. Commissioner Vilchinsky suggested that the unit be rented out on a longer basis until the General Plan update is completed. Commissioner Gong reiterated that Holladay is trying to promote moderate-income housing. If there is a desire for people to be able to live in Holladay for a reasonable price, then it

should become more difficult for there to be short-term rentals rather than easier. Mr. Teerlink pointed out that the Staff Report suggests the Commission consider a percentage maximum.

Chair Roach explained that he had a discussion with Ms. Marsh earlier about tax. He asked for information about the lost commercial tax and gained short-term rental tax. He wanted to understand whether those numbers were comparable. Ms. Marsh shared information from the most recent budget. In the PO Zone, there is not any sales tax, because it is not retail. As a result, it will just be property tax-related. The transient room tax shown is 35.7%. There is a higher tax rate from having that transient room tax. Chair Roach believed there would be more income received as long the units were occupied. This was confirmed. Ms. Marsh noted that when short-term rentals occur illegally in neighborhoods, the City does not receive tax benefits from the use.

Commissioner Karianne Prince expressed concerns about the application currently before the Commission. She pointed out that the applicant already received a rezone and now wants to change the conditional uses in that zone. Commissioner Jill Fonte was not sure the applicant was aware of what he was asking for previously. Chair Roach noted that it is not possible for the applicant to receive everything he envisioned on the property under any current zone. Commissioner Fonte wanted to understand why the applicant wants a short-term rental. Commissioner Vilchinsky believed that since it is a smaller unit, it will be easier for the applicant to rent out for shorter periods of time. With the Olympics happening in the future, she believes there will be a lot of people who will want to have short-term rentals in their building or home.

Commissioner Vilchinsky believes that addressing short-term rentals through the General Plan process makes the most sense. Chair Roach understood the use on the subject property and pointed out that there is a hotel nearby. His concern is whether it makes sense to have a Text Amendment that allows all of the properties in the PO Zone to have short-term rentals. Chair Roach wondered whether it is possible to have a conditional use on this property only. Ms. Marsh denied this. If it is not in the Table of Allowed Uses, then it is not allowed to happen on the property. She added that there are other ways the applicant can utilize the property, such as a furnished rental for 30 days or more. Commissioner Vilchinsky pointed out that the applicant can still rent out the property, but without the Text Amendment, he is unable to rent it out in the way he desires. Ms. Marsh stated that there can be a larger discussion about short-term rentals in the future.

Chair Roach mentioned a previous application where there was an office building on Highland and 4300 South. Mr. Teerlink explained that in that situation, the levels were split into ownership. Chair Roach wondered whether the Text Amendment would make it possible for a structure like that to have 25 short-term rentals running and operating. Ms. Marsh noted that residential uses in the PO Zone are a conditional use. Residential uses would come to the Planning Commission to be approved. It would then need to come to the Commission for short-term rental approval. If there is a positive recommendation made, a short-term rental cap or percentage is suggested.

Mr. Teerlink reported that converting office space to residential can be extremely expensive. Ms. Marsh confirmed this and explained that it involves moving from the Commercial Building Code to the Residential Building Code. There are certain facilities needed to meet the Residential Building Code and it can be difficult to bring all of that into an existing commercial space. She shared additional details about the current applicant and the process. The conditional use is needed to permit the residential use. After that point, the Building Permit process can start. The applicant

is currently working through that Building Permit process. Chair Roach noted that the Commission can ask any additional questions about the application during the Regular Meeting.

The only other item on the Regular Meeting agenda is the Meeting Minutes from May 21, 2024, and June 4, 2024. Chair Roach asked if there are any corrections needed, which was denied.

Chair Roach closed the Work Session and the Planning Commission took a short break.

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 reviewed the agenda items. There were no members of the public, so the Commission Statement was not read.

PUBLIC HEARING

1. Text Amendment – Chapter 13.100 Appendix A – Table of Allowed Uses – Short-Term Rentals as a Conditional Use in the PO Zone. Continued Review and Recommendation to City Council on a Proposal by the Applicant, Michael Ault for an Amendment to Title 13 of the Holladay City Code, Land Use and Development Regulations as they relate to the Addition of Conditional Allowance of Short-Term Rentals within the Professional Office (PO) Zone. Item Reviewed as a Legislative Action, According to Procedures Set Forth in Holladay Ordinance §13.07.

Ms. Marsh presented the Staff Report and explained that the application is for a Text Amendment to Chapter 13.100 Appendix A – Table of Allowed Uses. The request is to allow short-term rentals as a conditional use in the PO Zone. This is a continued item from the last meeting in July. At that time, there were questions about the number of properties this amendment would impact. Expanding this conditional use to the PO Zone would impact eight properties in total. All of those properties are serving as office spaces. Those are commercial in nature but without a retail component. For example, there are medical and dental offices, law offices, and several other types.

The R-M Zone is a zone that under Salt Lake County had professional offices and multi-family uses in one zone. There are a lot of professional offices that are still zoned as R-M that have the potential to be zoned as PO. Ms. Marsh explained that this is detailed in the Staff Report. There are 39 properties currently used as office spaces that could be rezoned to the PO Zone. All of the properties that could be impacted by the Text Amendment are on 80-foot-wide right-of-ways, which are predominantly Highland Drive, Murray Holladay Road, Holladay Boulevard, 3900 South, and 4500 South. Ms. Marsh reported that short-term rentals are considered to be commercial uses, but are slightly different than what the standard commercial uses would be.

Staff recommends postponing the discussion around short-term rentals to the General Plan update process. It is possible to forward a negative recommendation to the City Council for this application, with a recommendation to look at short-term rental use in other zones at the time the General Plan is discussed. She noted that the General Plan will be discussed in the next year. While the applicant is not present at the meeting, the narrative is in the Meeting Materials Packet.

Chair Roach noted that the public hearing was continued at the last meeting. There were no public comments. The public hearing was closed.

Chair Roach reported that there was a fair amount of discussion on the item during the Work Session. He asked Commissioners to share comments about a recommendation. Commissioner Cunningham is not supportive of the current request, as he feels this is a General Plan issue. There is nothing urgent that needs to be resolved here. Commissioner Vilchinsky, Commissioner Fonte, and Commissioner Prince agree that this should be addressed through the General Plan process. Commissioner Berndt believes this should be moved forward. Commissioner Gong sees both sides. While there could be benefits to a larger discussion about short-term rentals in the City, the impact of the Text Amendment currently before the Commission would be fairly low. Chair Roach also understands the different perspectives that have been shared, but ultimately believes a more thorough vetting of short-term rentals in Holladay would make the most sense in this case.

Mr. Christopherson explained that regardless of the decision made by the Planning Commission, this application will move forward to the City Council. The City Council will make the decision.

Commissioner Cunningham moved to forward a NEGATIVE recommendation to the City Council to deny an application by Michael Ault to amend Title 13, Chapter 13.100 Appendix A of the City of Holladay Land Use Code to add Short-Term Rentals as a Conditional Use to the Table of Allowed Uses, based upon the following findings:

- 1. Public engagement opportunities associated with the 2025 General Plan update regarding specific land uses including but not limited to office, commercial, residential, and short-term rentals would allow greater input and direction as to what the larger community envisions for various areas and uses within Holladay.***
- 2. The Goals and Policies of the General Plan are unclear as to where short-term rentals in mixed-use zoned would be appropriate.***
- 3. The existing zoning code for the Professional Office Zone as established in 2018 did not carry short-term rental use over from the R-M Zone into the PO Zone.***

Commissioner Prince seconded the motion. Vote on Motion: Commissioner Berndt-Nay; Commissioner Gong-Aye; Commissioner Prince-Aye; Commissioner Fonte-Aye; Commissioner Vilchinsky-Aye; Commissioner Cunningham-Aye; Chair Roach-Aye. The motion passed with a vote of 6-to-1.

ACTION ITEMS

- 2. Approval of Minutes – May 21 and June 4, 2024.**

Chair Roach moved to APPROVE the Meeting Minutes from May 21, 2024, and June 4, 2024. There was no second. The motion passed with the unanimous consent of the Commission.

ADJOURN

Chair Roach 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 6:12 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, August 20, 2024.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: **October 1, 2024**