

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

Tuesday, February 4, 2025

6:00 PM

City Council Chambers

4580 South 2300 East

Holladay, Utah

ATTENDANCE:

Planning Commission Members:

Dennis Roach, Chair

Karianne Prince

Ginger Vilchinsky

Paul Cunningham

Jill Fonte

Brian Berndt

City Staff:

Carrie Marsh, City Planner

Brad Christopherson, City Attorney

WORK SESSION

Chair Dennis Roach called the Work Session to order at 5:32 p.m. All Commissioners were present with the exception of Commissioner Angela Gong. The Regular Meeting items were discussed. There are two items on the Regular Meeting agenda, including the Zone Map Amendment – Rezone from R-1-87 to R-1-43 for property located at 2232 East Pheasant Way and the Approval of Minutes.

City Planner, Carrie Marsh, shared information about the Zone Map Amendment – Rezone from R-1-87 to R-1-43. She reported that the subject property is 2232 East Pheasant Way. It is in the R-1-87 Zone. The General Plan application is that it is within the Country Estates – Protected area. Both of those are detailed in the Staff Report. Ms. Marsh explained that the property owner would like to rezone in order to make a lot line adjustment between their property and the neighboring property. The intention is to reduce the size of one lot and increase the size of the other lot. The General Plan makes it clear that this area is protected and should not be rezoned. The Rezone Proposal Analysis in the Staff Report was reviewed. She pointed out information about the rezone history in the R-1-87 Zone. In 2016, there was an application to rezone from R-1-87 to R-1-43. That application was denied. There is a similar request being made here, but it is not directly on the border of R-1-43.

Ms. Marsh shared some background information about the involved properties. In 2007, a Preliminary Subdivision and Planned Unit Development (“PUD”) for five units on 15.75 acres of land was approved by the Planning Commission, but never recorded. It involved 2232 East and 2242 East as well as several other properties. In 2014, the property owner wanted to split one of the lots, but instead of going through a new PUD approval process, there was a 2-lot subdivision pursued.

Commissioner Jill Fonte asked what properties this application includes. Ms. Marsh clarified that the rezone application is only for 2232 East Pheasant Way. The intention is to take an acre from

that property and move it to the neighboring property. Commissioner Fonte asked if this would set a precedent for the area. This was confirmed. Discussions were had about the zone map shown.

Ms. Marsh shared information about the R-1-87 Zone history. Something that happened in that area was that the lot lines shifted often due to the large parcels. That is the reason for the establishment of the 2-acre lot minimum in the zone. It establishes the density, which is one dwelling unit and a guest house per two acres. Commissioner Fonte asked for additional information about the PUD that was approved previously. Ms. Marsh explained that the five units were based on the overall land area.

Chair Roach asked about the size of the 2242 East Pheasant Way property. Ms. Marsh explained that 2232 and 2242 are roughly 2-acres each. The subject property for the rezone is 2.06 acres. When the lot split occurred previously, the 2-acre minimum requirement had to be met. Chair Roach believed the applicant wanted to make the lot to the east 3-acres and his lot 1-acre. This was confirmed. Commissioner Ginger Vilchinsky asked about the purpose of the rezone. Ms. Marsh noted that there is a narrative from the applicant included in the Meeting Materials Packet that might provide some clarity. It stated that the intention is to create a front yard on the eastern property. Chair Roach pointed out that this could be accomplished without the rezone and property line adjustment. For example, there could be a deed restriction, easement, or a boundary line agreement pursued. He asked if it is more costly to pursue one of those options. Ms. Marsh was not certain about that.

A question was asked about whether future General Plan revisions might address this issue. Ms. Marsh does not foresee there being a shift in the protected areas. Those have been in place since Holladay was established. Commissioner Fonte pointed out that the applicant can accomplish what they want to accomplish without a rezone. Ms. Marsh confirmed that it can be handled in other ways. The other options are not as ideal, like an easement, but it is still possible to pursue one of those options. Commissioner Fonte expressed concern that a rezone would set a precedent in the area. City Attorney, Brad Christopherson, explained that the applicant is essentially asking for a spot zone.

Commissioner Fonte wondered whether approval of the application would put the City in a difficult position in the future. Mr. Christopherson acknowledged that future applications could reference the decision made. Ms. Marsh shared information about the denied rezone request mentioned earlier.

Commissioner Karianne Prince noted that there are currently two 2-acre parcels being discussed. The request is to shift one to a 3-acre parcel and the other to a 1-acre parcel. Ms. Marsh explained that with a rezone to R-1-43, there are several scenarios that would be enabled. Some of those are mentioned in the Staff Report. A question was asked about the rationale for approval and how it would be determined that something adversely impacted abutting properties. Ms. Marsh noted that an issue in the Estates area is access to services. There is often no ability to subdivide and create more lots because of utility service limitations. One of the intentions of the R-1-87 Zone is to preserve open space and the tree canopy in that area, which is also important for the Commission to consider.

Commissioner Prince asked about the space that can be occupied by a structure in the R-1-87 Zone. Ms. Marsh reported that it is percentage-based. For a property in the 40,000 to 50,000 square foot range, the structure is allowed to cover 23% of the lot. Properties that are above 70,000 square feet have a cap of 20%. Chair Roach asked if the structure on the applicant lot would be more than 23% if the application was approved. Ms. Marsh clarified that this has not been assessed. Ms. Christopherson explained that there can be something that is legally non-conforming, which is something that does not meet the current zoning but did at the time it was created. However, the City cannot violate its own ordinances and create something that is non-conforming in the zone.

Discussions were had about the Holladay definition of open space. Ms. Marsh explained that open space is defined as anything that does not have a structure on it. The specific call out for trees is part of open space in that area. There is a map in the Meeting Materials Packet that shows the tree canopy coverage. She reported that in the Estates area, there are a lot of mature trees present. Mr. Christopherson pointed out that the Commission will make a recommendation to the City Council.

The Meeting Minutes were discussed. Chair Roach noted that there was a blank space in the Meeting Minutes from November 19, 2024. It was unclear which Commissioner asked for the Traffic Study. Commissioner Brian Berndt noted that he talked about the Traffic Study during that meeting.

The Work Session ended at approximately 5:58 p.m.

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 all Commissioners were present with the exception of Commissioner Gong. Commissioner Prince read the Opening Statement aloud for the benefit of those present.

PUBLIC HEARING

- 1. Zone Map Amendment – Rezone from R-1-87 to R-1-43 – 2232 East Pheasant Way. Review and Make a Recommendation to the City Council on a Proposal by Applicant, Randall Paul, to Amend the Holladay Zone Map at this Location from the Current R-1-87 Zone (2-acre Minimum Lots) to the R-1-43 Zone (1-acre Minimum Lots) for Approximately 2.06 Acres of Property. Item Reviewed as a Legislative Action, According to Procedures Set Forth in Holladay Ordinance §13.07. File #25-4-04.**

Ms. Marsh presented the Staff Report and explained that the item is a Zone Map Amendment request. The property is located at 2232 East Pheasant Way and the request is to rezone from the R-1-87 Zone to the R-1-43 Zone. She noted that the R-1-87 Zone has a 2-acre minimum lot size and the R-1-43 Zone has a 1-acre minimum lot size. The intention of the rezone is to facilitate a property line shift between two neighboring properties. In the General Plan for Holladay, this property is identified as Country Estates – Protected. The area is largely serviced by private lanes, has a dense and mature tree canopy, and has large parcels. When the City incorporated in 1999, there was an intentional zoning pattern, where areas were designated with a zone that had a minimum lot size that was larger than some of the existing lots. As a result, some non-conforming lots were created in the area.

In 2007, a Preliminary Subdivision and Planned Unit Development (“PUD”) for five units on 15.75 acres of land was approved by the Planning Commission, but never recorded. It involved 2232 East and 2242 East as well as several other properties. In 2014, the property owner wanted to split one of the lots, but instead of going through a new PUD approval process, there was a two-lot subdivision pursued. Both of those lots met the zone requirement, as each of the lots had at least two acres of land.

Within the General Plan, the Country Estates – Protected designation is intended to preserve existing large lot development patterns. It calls out the mature tree canopy and the ambiance created by estate-type development on private lanes as being protected features within that area. New development can be appropriately accommodated through utilizing unclaimed density by subdivision and not by rezone. Ms. Marsh explained that the intent of the two-acre standard was to preserve open space. During the Work Session, there were discussions about lot coverage and how much of the structure would cover the subject parcel. The analysis of the rezone is included in the Staff Report with the rezone approval standards. The role of the Planning Commission is to make a recommendation to the City Council on the rezone. The applicant was invited to share comments with the Commission.

The applicant, Randall Paul, introduced himself to the Planning Commission. He understands what the City has tried to do with the standards that have been set. Mr. Paul shared an image with the Commission and pointed out the location of the property line. There is a desire to move the property line so there is a 3-acre lot and a 1-acre lot. Mr. Paul noted that this rezone will not change any of the structures, but the intention is to move the property line. There will be no new development on the sites. In the center portion, there will be a no-build area, as there is no desire for someone to build an additional structure on the neighboring property. One of the Conditions of Approval could be for a no-build easement. He does not believe what is proposed will harm the City in any way.

The applicant stated that the intention is to have the open space remain. Chair Roach wanted to understand the reason for the property line adjustment. Mr. Paul explained that there was a divorce last year and the house next door will be sold. The house would be easier to sell with a 3-acre parcel. He pointed out that it would be difficult to sell the house with the property line in the current location, as it is about 25 feet off of the house and in the middle of the driveway. Commissioner Prince asked what year Mr. Paul and his daughter purchased the properties. Neighboring property owner, Jane Snow explained that when the land was purchased, all four acres were purchased at once. The person who sold the land always knew that the plan was to have her parents on one acre with her family on the three acres. The Covenants, Conditions, and Restrictions (“CC&Rs”) that are in place state that the land can be divided, but there will need to be a City process. That is the reason for the application.

Given the CC&Rs, Ms. Snow explained that there was always an assumption this process would happen, but that it would be straightforward due to the 1-acre zoning on most sides. Commissioner Fonte asked if the applicants have explored ways to address this issue without a rezone. Ms. Snow confirmed that a lot line adjustment was looked into. Ms. Marsh reported that a lot line adjustment could not be approved, because it would create a non-conforming lot in the zone. It sounds like the previous property owner who was facilitating the PUD gave the impression that these two lots

could follow that same PUD process. It might be the better route for the applicant to work with the neighboring property owner for a PUD in the area. That is the only way to make a non-conforming property within the R-1-87 Zone. She reported that a PUD does not need to adhere strictly to the minimum requirements for a zone. There is flexibility with setbacks and property size in exchange for meeting the goals of a PUD. The goals include open space and the preservation of natural features.

Ms. Marsh reported that there needs to be a minimum area for a PUD. In the R-1-87 Zone, there need to be six acres to have a PUD. The two properties are just over four acres in total and would not qualify for the minimum area. In order to pursue a PUD, the applicant would need to bring in a neighboring property owner. When it comes to the two properties, there was a standard subdivision rather than a PUD process, because the two lots met the minimum lot size requirements of the zone.

Chair Roach noted that Staff has proposed an alternative to the rezone request. The Staff Report states that the rezone request does not meet the zone requirements. The applicant has made a case for the reason he believes the zone should be amended in spite of the Staff argument. Before the process moves forward, he asked the applicant if there was interest in temporarily withdrawing the request in order to explore the alternative. Alternatively, the applicant can move forward with this request and potentially have a negative recommendation forwarded to the City Council. Discussions were had about the current zone. Chair Roach noted that there is a precedent of other applicants who have been denied a rezone request in the zone. Mr. Paul pointed out that those previous applications have included development. In this case, there is no new development proposed on the properties.

Chair Roach opened the public hearing.

Leanne Stillman gave her address as 2149 East Pheasant Way and stated that the Paul family have been wonderful neighbors. She asked the Commission to think about what would happen if this was approved. There would be a three-acre parcel on the east and a 1-acre parcel on the west. The 3-acre parcel is what is proposed to be sold. The buyer could come to the Planning Commission and argue that only two acres are needed for their property and there could be a separate 1-acre parcel. Based on that, an argument could be made to develop that additional one acre. Her concern has nothing to do with the Paul family, but with a potential new buyer, as that will create a lot of unknowns.

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

The applicant was invited to address the comments made during the public hearing. Mr. Paul reported that there will be a permanent Homeowners Agreement between the three-acre and one-acre lot. This will ensure that there is a permanent no-build easement in the deed of the property. When the three-acre parcel is purchased, it will state that there is a permanent no-build section. He pointed out the location.

A question was asked about whether or not a future owner could change the rules of the agreement. Mr. Christopherson confirmed that it would be possible if there was a Homeowners Association (“HOA”). There would need to be unity of ownership. If the two homes were owned by the same

entity or individual, the boundary could be eliminated as well as the easement and HOA. It is possible to place a permanent no-build area on the property, but there are ways someone could get around that.

Mr. Christopherson explained that if this rezone is approved by the City Council, a one-acre lot would be created. The General Plan would need to be amended with a carve-out of that section. That would likely necessitate changing some other zones around it to avoid creating a spot zone situation. This would create a precedent in the Country Estates – Protected area to reduce the size down to one acre.

Commissioner Berndt suggested that City Staff share the General Plan map. Mr. Christopherson clarified that the nearby 1-acre lots are legal non-conforming lots. Ms. Marsh reiterated that in the R-1-87 Zone, there are a lot of legal non-conforming parcels that were there when the R-1-87 Zone was established. The R-1-87 Zone clearly communicates the desire to retain two-acre lots in the area, even with the non-conforming parcels. Commissioner Berndt appreciates what the applicant wants to do, but worries this will set a precedent that will have future consequences. He does not want to encroach into the two-acre zoning with additional 1-acre lots. His concern is that there might be unintended consequences associated with this application. Commissioner Vilchinsky pointed out that the property owners purchased the parcels knowing that there were two acres each. The homes and driveway were built with the intention of changing the property line after the building took place.

Mr. Paul reported that there were discussions with James Dreyfous when he sold the land to them about this. Mr. Dreyfous stated that it is possible to have a 1-acre parcel and a three-acre parcel. It is in the CC&Rs that it is possible to make this split. Ms. Marsh wondered whether there are specific details in the CC&Rs about that process. Ms. Snow explained that the four acres were purchased together with the intention of having a smaller lot for her parents. Commissioner Berndt pointed out that there could be a problem created if the rezone application for this property was approved.

Commissioner Prince moved to forward a recommendation to the City Council to DENY an application by C. Randall Paul to amend the Holladay Zoning Map for 2.06 acres of land, located at 2232 East Pheasant Way, from R-1-87 to R-1-43, based upon the following findings:

- 1. A change to the R-1-42 Zone is not supported by the General Plan.***
- 2. Reduction in lot size has the future potential to reduce the valuable tree resources that have been identified as a high-value commodity for preservation.***
- 3. Retaining the “semi-rural” feel of the community in the part of Holladay is critical to the long-term quality of life and identity of the City.***
- 4. Changing the zoning in this case would make it difficult for the City to maintain the integrity of the large lot zoning in this area in the future.***
- 5. No change in the R-1-87 zone should occur given the General Plan’s emphasis on retention of the land use character of the area.***

Commissioner Berndt seconded the motion. Vote on Motion: Commissioner Cunningham-Aye; Commissioner Vilchinsky-Aye; Commissioner Fonte-Aye; Commissioner Prince-Aye; Commissioner Berndt-Aye; Chair Roach-Aye. The motion passed unanimously.

ACTION ITEMS

2. Approval of Minutes – 11/19/2024, 12/3/2024, 1/7/2025.

Chair Roach noted that the Meeting Minutes from November 19, 2024, include a blank space for the name of a Commissioner. It was noted that Commissioner Berndt will be filled in there.

Commissioner Prince moved to APPROVE the Meeting Minutes from November 19, 2024, as amended. Commissioner Vilchinsky seconded the motion. Vote on Motion: Commissioner Cunningham-Aye; Commissioner Vilchinsky-Aye; Commissioner Fonte-Aye; Commissioner Prince-Aye; Commissioner Berndt-Aye; Chair Roach-Aye. The motion passed unanimously.

Chair Roach asked for a motion on the Meeting Minutes from December 3, 2024.

Commissioner Fonte moved to APPROVE the Meeting Minutes from December 3, 2024. Commissioner Berndt seconded the motion. Vote on Motion: Commissioner Cunningham-Aye; Commissioner Vilchinsky-Aye; Commissioner Fonte-Aye; Commissioner Prince-Aye; Commissioner Berndt-Aye; Chair Roach-Aye. The motion passed unanimously.

Chair Roach asked for a motion on the Meeting Minutes from January 7, 2025.

Commissioner Berndt moved to APPROVE the Meeting Minutes from January 7, 2025. Commissioner Fonte seconded the motion. Vote on Motion: Commissioner Cunningham-Aye; Commissioner Vilchinsky-Aye; Commissioner Fonte-Aye; Commissioner Prince-Aye; Commissioner Berndt-Aye; Chair Roach-Aye. The motion passed unanimously.

ADJOURN

Chair Roach moved to ADJOURN the Planning Commission Meeting. There was no second. The motion passed with the unanimous consent of the Commission.

The Planning Commission Meeting adjourned at approximately 6:41 p.m.

I hereby certify that the foregoing represents a true, accurate, and complete record of the City of Holladay Planning Commission Meeting held on Tuesday, February 4, 2025.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: March 4, 2025

City of Holladay Planning Commission Meeting – 02/04/2025