

**SALT LAKE CITY
PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, September 12, 2007**

Present for the Planning Commission meeting were Acting Chairperson Matthew Wirthlin; Commissioners Tim Chambless, Babs De Lay, Robert Forbis, Prescott Muir, Kathy Scott, and Mary Woodhead. Chairperson Peggy McDonough and Commissioners Frank Algarin and Susie McHugh were excused from the meeting.

Present from the Planning Division were George Shaw, Planning Director; Director; Doug Wheelwright, Deputy Planning Director; Doug Dansie, Senior Planner, Lex Traughber, Senior Planner, Nick Britton, Principal Planner, and Cecily Zuck, Senior Secretary. Also present were: City Staff members John Naser, Deputy Director of Engineering, Kevin Young, Transportation Engineer, and Laura Kirwan, City Attorney.

A roll is being kept of all who attended the Planning Commission Meeting. Chairperson McDonough called the meeting to order at 5:50 p.m. Audio recordings of Planning Commission meetings are retained in the Planning Office for an indefinite period of time.

A field trip was held prior to the meeting. Planning Commissioners present were: Tim Chambless, Kathy Scott, Prescott Muir and Mary Woodhead. Planning Staff present were: Nick Britton, Doug Dansie and Doug Wheelwright.

APPROVAL OF THE MINUTES from Wednesday, August 22, 2007.

(This item was heard at 5:49 p.m.)

Commissioner Muir made a motion to approve the minutes with noted changes. Commissioner Forbis seconded the motion. All voted 'Aye'. The minutes were approved.

REPORT OF THE CHAIR AND VICE-CHAIR

(This item was heard at 5:50 p.m.)

Acting Chairperson Wirthlin noted that the Planning Commission had opened up a positive dialogue with City Council and requested that the new Chair and Vice Chair continue that dialogue.

REPORT OF THE DIRECTOR

(This item was heard at 5:50 p.m.)

George Shaw stated that he had no items to report.

VOTE FOR THE NEW CHAIR AND VICE CHAIRPERSON

(This Item was heard at 5:50 p.m.)

George Shaw opened to floor to nominations from the Commission for a new Chair.

Commissioner Forbis nominated Commissioner Wirthlin for new Chair.

Commissioner Wirthlin was voted in unanimously as new Chairperson.

George Shaw opened the floor to nominations for a new Vice Chair, noting that an absentee suggestion had been made from Chairperson McDonough to nominate Commissioner Muir.

Commissioner Chambless nominated Commissioner Scott for Vice Chair.

Commissioner Forbis nominated Commissioner De Lay for Vice Chair.

After the vote was taken and tallied, Commissioner Muir was voted the new Vice Chair.

Acting Chairperson Wirthlin gave his thanks to the Commission and also noted his thanks to former Chairperson McDonough for her service during the past year.

Acting Chairperson Wirthlin noted that there had been a suggestion to make a motion and move the two public hearing items forward on the agenda in order to allow more time for members of the public still arriving for the Issues Only Hearing.

Commissioner Chambless made a motion to move the public hearing items forward on the agenda. Commissioner De Lay seconded the motion. All voted "Aye". The motion passed and the public hearing items were moved forward.

ISSUES ONLY HEARING

(This item was heard at 6:29 p.m.)

Airport Light Rail Transit Line- the Planning Commission took public comment regarding a proposal by the Utah Transit Authority to build an Airport Light Rail Transit line; including potential track alignment and station locations. No final recommendation was made on this project at the meeting.

Acting Chairperson Wirthlin noted that no decision would be made at this time. He requested that commentary be limited to relevant and original comments as there were a number of people wishing to speak to the item. Acting Chairperson Wirthlin recognized Doug Dansie as staff representative.

Mr. Dansie noted that the Commission should have received a packet of information regarding the public comments which Utah Transit Authority (UTA) had gathered during their research process. Mr. Dansie noted that at the last briefing there had been some requests from the Planning Commission regarding land use designations and public involvement throughout the process. Mr. Dansie noted that the Commission had received maps with their packets reviewing which Community Councils had been visited as well as a Current and Future Land Use map for the affected corridor.

Commissioner De Lay inquired if funding would allow for the line to extend to the International Center.

Mr. Dansie noted that funding was not currently allocated to extend the proposed light rail line to the International Center. Mr. Dansie noted that a major element of the process was to ensure that the extension through the Airport would allow for a further extension of the line westward, not only to the International Center but even further.

Acting Chairperson Wirthlin noted that there was no formal presentation from UTA, and therefore, opened the floor to comments from Community Council representatives and the public at 6:32 p.m.

Michael Clara, secretary for the Poplar Grove Community Council, was present to speak to the petition. Mr. Clara noted that UTA stated the proposed change to the alignment was because the Intermodal Hub did not end up being placed where it had originally been proposed. Mr. Clara noted that the Poplar Grove Community Council had voted in favor of the 400 West alignment proposal rather than the 600 West alignment. Mr. Clara noted that everything that was in place today had been visualized in Master Plans from 1998. Mr. Clara reviewed several documents to enforce their support of the 400 West alignment including: the initial Environmental Impact Study (EIS), Gateway Master Plan, and the Railway Consolidation Plan.

Esther Hunter, representing the East Central Community Council, noted in a comment card that she did not wish to speak but was opposed to the 600 West light rail alignment and in favor of the originally proposed 400 West alignment.

Vicky Orme, Fairview Community Council Chair, noted that her Community Council was in favor of the 400 West alignment option and stated that they also wished to involve UDAW, and rebuild and shorten the North Temple Viaduct to end on 400 West. She noted that they also were recommending the placement of the TRAX line down the center of the viaduct, allowing for the preservation of a right hand turn at the North Temple and 400 West intersection. Ms. Orme noted that from a tourists point of view, the 400 West option would be better, traveling through a commercial rather than a residential area.

The following members of the public were present to speak regarding the issue:

- Dan Cairo, 942 South Washington Street
- Jeffrey Twiggs, 641 West North Temple
- Ernie Willmore, 349 West North Temple
- Arvell Danpel, 641 West North Temple
- Nina Lively, 641 West North Temple
- Darren Menlove, 1370 West North Temple
- Sharon Tucker, 641 West North Temple
- Ruby Chacon, 346 North 600 West
- John and Allyson Sweeney, 449 North 600 West
- Terry Hurst, 346 North 600 West
- Clifton Uckerman, 247 North 900 West
- Amber Woody, 464 North 600 West
- Terry Nissen, 456 North 600 West
- Ed Aho, 14 North 600 West
- Cesar and Sam Soto, 314 North 20 West
- Cameron Cova, 1666 East Harvard Avenue
- John Williams, 574 North East Capren Street
- Jeff Gochmour, 2855 East Cottonwood Parkway
- Eileen Kostka, 641 West North Temple
- Kent Landvatter, 295 North Chipeta Way
- Robert Rehermann, 18 South 600 West
- Tiffany Sandberg, 310 North 1000 West, she also presented the Commissioners with over 200 cards signed by residents in opposition to the 600 West Alignment Proposal.
- Bob Martines, 36 North 600 West
- Dwayne Wakan, 639 University Village
- Jim Fisher, 331 North Argyle Court
- Jake Boyer, 90 South 400 West Ste 200
- Tracy James, 90 South 400 West
- Jeff Sandberg, 310 North 1000 West
- Joaquin Golan, 440 North 600 West
- Tony Neeson, 454 North 600 West
- Jennifer Seelig, 986 West Sterling Drive
- Gina Alvarez, 531 North 600 West
- Laura Cannon, 328 North Argyle Court
- Daniel Pacheco, 622 West 500 North
- David Galvan, 440 North 600 West
- Lynette Dean, 641 West North Temple
- Rachel White, 625 West 500 North
- Kevin Doyle, 935 North 900 West

Their comments included the following:

600 West Alignment:

- The 600 West alignment's dangerous proximity to residential dwellings
- Increased traffic on 600 West
- Increase in noise levels
- Negative impact on the character of the residential neighborhood
- Negative impact to emergency vehicle access
- It would inhibit residential investment and development on the Westside of Salt Lake City
- Creation of more social barriers to youth on the Westside
- Increased pollution in the local community
- Increase in crime in the local community
- Creation of an overwhelming geographical barrier, isolating local residents
- The viaduct would place several properties in extremely close proximity to Trax.
- The issue of snow removal and ice conditions during the winter
- Further alienation of pedestrians in the area, including West High School students which have to cross North Temple on a daily basis
- The 600 West extension would be in direct contradiction to the Gateway Master Plan
- Several studies and reports directly reference opposition resulting from a 600 West line.

400 West Alignment:

- A 400 West route would be faster, more efficient and serve businesses in the area well
- Ridership of light rail would be better served by a 400 West light rail alignment, providing significantly shorter commuter times
- The proposed configuration of the 400 West alignment would create the need for UTA to seize property from the northwest corner of North Temple and 400 West which the owner did not wish to sell
- The creation of a station at the intersection of the 400 West proposal and North Temple viaduct extension would provide greater transportation options to West High School students who otherwise would only have access at the 900 West Street Station

North Temple Street Viaduct:

- Extension of this viaduct as proposed would create restricted access to residential and business entrances along North Temple
- Reconstruction of the viaduct would serve the area safety wise and appearance wise
- The construction of a station at this intersection would better serve the entire Wasatch Front rather than redirection of a 600 West line to the Intermodal Hub

Chairperson Wirthlin closed the public comment portion of the Issues Only hearing at 8:02 p.m.

Chairperson Wirthlin invited Mr. Dansie forward to inform the Commission and the public when this issue would be a public hearing, where a recommendation would be considered by the Planning Commission.

Mr. Dansie noted that the public hearing was currently scheduled for the next Planning Commission meeting on the 26th of September, 2007, and that UTA wished to receive a final decision by the end of the year from the City Council. Mr. Dansie noted that as all of the lines were funded through a voter referendum and received federal involvement, there was eagerness between UTA and the Federal government to construct the lines simultaneously with multiple contracts in order to get the lines operating sooner.

Commissioner Muir noted his concern that UTA did not have the adequate means to investigate the alternative 400 west configurations, or at least return with the data to support that the option was viable and can be considered.

Mr. Dansie noted that this was some of the data that was being configured; the monetary and engineering projections.

Commissioner Muir stated that he would wish to have this information in hand before making a recommendation in a public hearing.

Mr. Dansie noted that the reason it was slated for the next meeting's agenda was due to noticing timelines and stated that the option to use it as an opportunity for more public comment was still allowable.

Commissioner De Lay noted that she would like to have more information regarding the possible 400 west configuration.

Commissioner Forbis requested information regarding the structural integrity of the existing North Temple Viaduct.

John Naser, Deputy City Engineer, noted that the structure was about thirty-years-old and was estimated to have around twenty years of life left. Mr. Naser noted however, that it would be feasible to reconstruct the viaduct in addition to the construction of the light rail, and it was an option that consultants were investigating. Mr. Naser noted that another key issue to be explored was the projected interface between traffic and light rail at the intersection of 400 West and North Temple. Mr. Naser noted that further study of those issues was necessary, but the option looked feasible.

Commissioner Woodhead noted that it would be beneficial to the public and to the Commission if City staff and UTA could present more information regarding the reasons why the 600 West proposal was originally recommended over the 400 West option. Commissioner Woodhead indicated that this would be appreciated at the public hearing to inform the community-at-large of what technical impediments staff envisioned in the original 400 West proposal.

PUBLIC HEARING

Petition 410-07-18- Metro Park West Conditional Use- A request by Ken Milo at 341 South Rio Grande Street for conditional use approval to exceed the 75' maximum building height in the D-3 (Downtown Residential) zoning district. The proposal consists of a 90' tall mixed use building with retail uses on the first floor, office space on the second, third and fourth floors, and residential on the fifth through ninth floors. This project also includes a conditional use request to waive the forty percent glass requirement for the first floor.

(This item was heard at 5:59 p.m.)

Chairperson Wirthlin recognized Nick Britton as staff representative. Mr. Britton noted that the proposal included two conditional use requests; one to exceed the maximum allowed building height by 15 feet and the other to waive the forty percent glass requirement for the first floor. Mr. Britton noted that on the third page, first line of the fourth paragraph in the staff report there was an error; "The overall square footage of the building would be greater than fifty percent *commercial*," rather than residential, as it should have been stated. Mr. Britton stated that staff recommended approval of the petitions based upon the findings and conditions listed in the staff report.

Acting Chairperson Wirthlin opened the floor to comments from the Commissioners.

Commission De Lay asked for clarification regarding the proposed glass requirement waiver on the first floor.

Mr. Britton noted that the first floor southwest elevation contained no glass at the parking garage entrance.

Acting Chairperson Wirthlin noted that there was a forty percent requirement according to the ordinance; however, the first floor of the proposed development seemingly contained no glass at all.

Mr. Britton noted that this was correct.

Acting Chairperson Wirthlin invited the applicant forward to comment.

Ken Milo noted that he had no comments to add to the staff report but would welcome questions from the Commission.

Commissioner Woodhead noted her concern that the first floor parking garage proposal did not seem very pedestrian friendly from the streetscape and that there was the potential for a great deal of pedestrian activity on the Rio Grande Street side of the development.

Mr. Milo noted that during the development process, they had not noted a better entrance for the parking garage and noted that in his estimation, the size of the lot basically required the current configuration.

Commissioner Muir noted that on the corner of Rio Grande Street the applicant could leave the ramp where it was proposed but inset the stair and elevator tower further east, preserving the twenty-foot dead end corridors above, yet allowing for the insertion of a small retail space on the corner.

Mr. Milo stated that the project was already well off of the street corner at the entrance and retail could possibly be wrapped around the corner, but that it would be a marginal retail space.

Commissioner Muir noted that the development would be fifty percent retail and fifty percent commercial.

Mr. Milo agreed and noted that the proposal had started out with only one level of retail and one level of office space, but they had received an offer from a buyer for three floors of office space already. Mr. Milo also noted that the parking situation for the development would be greatly assisted by the evenly balanced uses.

Chairperson Wirthlin opened the floor to public comments at 6:06 p.m., and noted that there were no Community Council Chairs or members of the public present to speak to the petition.

Commissioner Muir made a motion to approve petition 410-07-18, based upon the findings of fact and subject to the following conditions listed in the staff report:

- 1. Applicant must meet the requirements outlined in the attached Department and Division Comments.**
- 2. Preliminary condominium plat approval will be required for the residential portion of the proposal.**

Commissioner Chambless seconded the motion. Commissioners De Lay, Forbis and Scott voted, "aye". Commissioner Woodhead voted, "nay". The motion passed 5-1.

Petitions 410-07-21 & 490-07-37, Forest Dale Planned Development— a request by Ty McCartney at 2444 South 900 East for approval of a planned development that will consist of three single-family attached dwellings. The subject property is located in the Low Density Multi-Family Residential (RMF-30) Zoning District. The applicant is also requesting preliminary subdivision approval for the proposal.

(This item was heard at 6:08 p.m.)

Acting Chairperson Wirthlin recognized Nick Britton as staff representative.

Mr. Britton reviewed the request noting that the applicant was requesting planned development and preliminary subdivision approval. Mr. Britton noted that the proposed development met all zoning requirements except for the minimum width of the lot, being 20 feet wide rather than the minimum 25 feet. Mr. Britton noted that staff was recommending approval of the petition based upon the findings and conditions listed in the staff report.

Commissioner Chambless inquired if there were any developments similar to the proposal in the immediate vicinity.

Mr. Britton noted that the applicant would be better suited to answer any architectural inquiries, however the area was zoned RMF-30 and there were duplexes located behind the subject property on Fairmount Circle. Mr. Britton also noted that there was a mix of single and multi-family dwellings along the street in the area.

Chairperson Wirthlin recognized the applicant at this time.

Søren Simonsen was present representing Ty McCartney and noted that there were some recently constructed developments with eight to twelve attached single-family units a block south of the proposal create. Mr. Simonsen noted that the garages were oriented towards some private drives in those developments rather than towards 900 East as suggested in the applicant's proposal, and therefore there was some precedent in the area for the type of development proposed. Mr. Simonsen noted that with regard to the 25 foot minimum lot size, the applicant had reviewed several options early in the development process and the lot would be wide enough to divide into three individual lots, but this would require the orientation of the garages towards the street. He noted that this option would occupy most of the street frontage, creating a 'garage door first floor' from the streetscape.

Mr. Simonsen noted that the predominant pattern in the historic neighborhood would be for the garages to be placed at the rear of the property, accessed either via an alleyway or a driveway from the street to the back of the property. Mr. Simonsen stated that the wish to preserve this aesthetic was the reason the applicant was applying for the reduced lot width, using essentially a private alleyway at the rear of the property to develop a more consistent streetscape with living spaces oriented towards the front.

Commissioner Scott inquired how the south unit garage would be accessed.

Mr. Simonsen noted that the owner of the south unit would need to use multiple turning movements to access the garage, and recognized that this might be somewhat of a hardship, but in conferring with staff it had been decided that this type of access would be preferable in order to achieve some of the goals in terms of site planning. Mr. Simonsen noted that this option seemed more livable to the applicant than other proposals.

Mr. Simonsen also noted that there had been a number of comments regarding the front yard landscaping and noted that Commissioner De Lay had given some thoughtful suggestions during subcommittee such as the use of low walls and xeriscaping, and that this was the intent of the applicant but a full landscaping plan was not available at the time.

Commissioner Wirthlin opened the floor to the public at 6:15 p.m.

There were no Community Council members present to speak to the petition.

Gordon Boun, representing his mother the property owner to the north of the subject parcel, noted that he was concerned regarding the possibility of the applicant seizing his mother's property for their development. Mr. Boun stated that he was also concerned about her safety and quality of living being affected.

Dan Marrow, neighbor to the south, noted that he had concerns with the height of the proposed dwellings as well as traffic increases occurring on all four sides of his property. Mr. Marrow also noted that there was currently a UTA bus stop where the driveway had been proposed.

Commissioner Chambless noted that he understood traffic would be a concern and asked Mr. Marrow if crime was also a concern in this neighborhood. He inquired if increased lighting would alleviate his concerns in any way.

Mr. Marrow noted that improved lighting might help.

Commissioner De Lay noted that the proposal would clean up the neighborhood, but inquired if more lights at night, particularly on the south side, would be welcome to Mr. Marrow.

Mr. Marrow noted that they would not be, as his child's room would be right next to the driveway.

Chairperson Wirthlin invited the applicant back to the table to comment.

Commissioner De Lay noted that the bus stop could be an issue and requested clarification.

Mr. Simonsen noted that driveway could be shifted slightly to the north of the proposed location to address the bus stop if it was an issue. Mr. Simonsen noted that lighting had been discussed in subcommittee as well, and that the applicant was looking at lighting on the garage doors themselves as well as less obtrusive lighting in the rear of the property and along the walkway.

Chairperson Wirthlin closed the public hearing portion and opened the floor to the Commission at 6:21 p.m.

Commissioner De Lay made a motion to approve Petitions 410-06-29 and 490-07-09, based upon the findings and subject to the two conditions listed in the staff report:

- 1. Applicant must meet the requirements outlined in the attached Department and Division Comments.**
- 2. A final plat is required for the subdivision amendment.**

Commissioner Chambless seconded the motion. All voted "Aye", the motion passed unanimously.

Chairperson Wirthlin called for a short recess at this time.

Commissioner Scott was excused from the meeting at 6:25 p.m.

OTHER BUSINESS

Petitions 410-06-29 & 490-07-09, Capitol View Planned Development and Preliminary Subdivision—request for clarification regarding the approval that the Planning Commission granted for this project on June 27, 2007, concerning the proposed average lot size and overall project density.

(This item was heard at 8:19 p.m.)

Acting Chairperson Wirthlin recognized Lex Traughber as staff representative.

Mr. Traughber noted that an appeal had been filed regarding the approval made by the Planning Commission for these petitions. Mr. Traughber noted that in the staff report there had been some misunderstanding perhaps in terms of how the development density was calculated and how it was presented. Mr. Traughber noted that open or common space had not been specifically addressed, however, in the staff report, the density that was proposed was an average overall density for the gross overall acreage of the project site; it was a density that was allowed by the code and did not exceed the density limitation of the zoning district. Mr. Traughber noted that if the developer had wanted to, he could realize nineteen dwellings rather than the seventeen proposed units. Mr. Traughber noted that staff recommended that the Planning Commission reaffirm the decision made on June 27, 2007.

Mr. Shaw noted that there was an original motion made, but wanted to reaffirm that the Commission made the motion based on their awareness of the zoning ordinance and how Planning calculated the density, or if the Commission made a motion based upon the erroneous statement where gross density should have been stated rather than average lot size. Mr. Shaw noted that staff wished to confirm that the Commission was aware of the actual density considerations in the zoning district when the motion was made.

Commissioner Forbis noted that he was not present for the original proceedings, which might make it necessary to reconsider the motion at a later time as there would not be a quorum present for the confirmation of the motion.

Mr. Shaw noted that the ordinance granted the Commission the right to adjust the density; however, clarification was required from the Commission regarding what their understanding of the ordinance was when the original motion was made.

Acting Chairperson Wirthlin noted that the issue at hand was procedural at this point, noting that Commissioner Forbis could not provide any input or vote on the issue, which would leave them without a quorum, given that Commissioner Scott had to leave the meeting early.

Commissioner De Lay inquired if the item would then require tabling.

Acting Chairperson Wirthlin requested clarification from counsel as to whether or not they could proceed.

Commissioner Woodhead noted her concern regarding the phrasing of the motion and inquired if the Commission could rephrase or change the motion to rehear the case based upon their current understanding of the ordinance. Commissioner Woodhead noted that if that was the case, Commissioner Forbis might be allowed to vote as he would be reading the minutes and the motion and make a finding based upon the record, being acceptable or not acceptable.

Mr. Shaw noted that before LUAB (The Land Use Appeals Board) would consider the matter, they may wish for clarification regarding what the Planning Commission had been thinking at the time of the hearing.

Laura Kirwan, City Attorney, noted that they would need a motion, and while it may not need to affirm verbatim what the thought process of the Commission was at the time, she was also not certain whether a quorum would be necessary or not. Ms. Kirwan noted that the Commission would be reaffirming, as a quasi-judicial body, the original decision.

Commissioner De Lay noted that there was not a quorum with Commissioner Forbis' lack of participation in the previous decision.

Commissioner Chambless noted that a quorum was present, and if Robert abstained from the vote they would still be allowed to go forward with a vote, have five members of the Commission present, and requested clarification from counsel.

Ms. Kirwan noted that she thought this might be appropriate.

Mr. Wheelwright noted that he felt it would be appropriate as well.

Commissioner Muir noted that he had been contacted by City Council member Jergensen asking procedure questions about whether or not the Commission intended to rehear the case. Mr. Muir stated that he told Mr. Jergensen that they would have to deliberate the matter.

Mr. Shaw noted that based upon the nature of the appeal, he thought it would be prudent to allow testimony from at least one neighbor regarding their concerns.

Ms. Kirwan stated that without being able to research the issue, she was not one hundred percent positive that the Commission could go forward with a vote as it was not simply a routine matter.

Commissioner De Lay noted that she would be much more comfortable tabling the issue so that all information could be obtained and the issue clarified, and if a motion were made, no public testimony would be allowed.

Commissioner Chambless noted that four Commissioners were absent, aside from Commissioner Forbis' situation.

Mr. Shaw noted that the tabling of the item would delay an appeal before LUAB as well.

Commissioner Muir noted that even if the item went immediately to LUAB, it could be remanded back to the Planning Commission, further delaying the process in any case.

Mr. Traugher noted that this petition had also been scheduled for an HLC meeting on October 3, 2007.

Acting Chairperson Wirthlin noted that he was remiss to delay the item further, but stated that the Commission seemed to be hesitant to move on the issue, given the absence of members who were present for the matter originally.

Ms. Kirwan noted that she would prefer that Deputy City Attorney Lynn Pace be present to address the issue.

Commissioner Woodhead noted her concern that the Commission might hinder the applicant's due process by not just letting the case go to LUAB.

Mr. Shaw again noted that LUAB would require clarification regarding what the original action was, and if that couldn't be provided it would probably be remanded back to the Planning Commission immediately.

Ms. Kirwan noted that it may be preferable to hear from the neighbors regarding their side of the appeal, so that other board members could read the record for further clarification.

Commissioner De Lay noted that the appellants would probably return in either case because they wanted clarification as well. She stated that she still felt very uncomfortable with a motion, but noted that the Commission might make a straw vote to indicate the understanding of those Commission members who were present to make a motion during the original hearing.

Mr. Shaw noted that before they would have a straw vote, he felt it would be necessary to hear testimony from the public to further understand their side of the issue.

Commissioner Woodhead stated that the item was not on the agenda as a public hearing and expressed her concern that the item either be tabled or go to LUAB on the existing record. She also noted her interest in hearing what the applicant had to say regarding the issue as it would effect his right to due process to some extent.

Chairperson De Lay made a motion to table the item. Commissioner Chambless seconded the motion. Commissioners De Lay and Chambless voted "Aye", Commissioners Muir and Woodhead voted against, the motion stood tied at 2-2. Acting Chairperson Wirthlin voted in favor of the motion. The item was tabled.

Commissioner De Lay noted that if they opened the floor to the applicant, they would need to open the floor to the public as well, and did not believe that this was appropriate.

Acting Chairperson Wirthlin noted at 8:37 p.m. that the item was closed.

Mr. Shaw noted that the item would be reheard on October 10, 2007, as it was too late to place it on the next agenda according to noticing requirements.

Acting Vice-Chairperson Muir noted that he wished to withdraw from his recently voted-in post of Vice Chair, stating that he felt the Chair and Vice Chair positions should be experienced by all Commission Members.

Acting Chairperson Wirthlin noted that he wished to re-open the vote.

Mr. Shaw noted that this would be acceptable and the candidates would then be Commissioner Woodhead, an alternate selected by Chairperson McDonough, Commissioner De Lay nominated by Commissioner Forbis, and Commissioner Scott nominated by Commissioner Chambless.

After the second vote was taken and tallied, Mary Woodhead was appointed new Vice Chairperson.

The meeting adjourned at 8:41 p.m.

Cecily Zuck, Senior Secretary