

SALT LAKE CITY PLANNING COMMISSION MEETING

In Room 326 of the City & County Building

451 South State Street, Salt Lake City, Utah

Wednesday, April 8, 2009

Present for the Planning Commission meeting were Chair Mary Woodhead and Vice Chair Susie McHugh; Commissioners Frank Algarin, Tim Chambless, Angela Dean, Babs De Lay, Michael Fife, Prescott Muir, Kathy Scott, and Matthew Wirthlin.

A field trip was held prior to the meeting. Planning Commissioners present were: Frank Algarin, Tim Chambless, Michael Fife, Susie McHugh, Kathy Scott, and Mary Woodhead. Staff members present were: Bill Peperone and Ray Milliner.

A roll is being kept of all who attended the Planning Commission Meeting. Chair Woodhead called the meeting to order at 5:52 p.m. Audio recordings of the Planning Commission meetings are retained in the Planning Office for an indefinite period of time. Planning staff members present at the meeting were: Wilf Sommerkorn, Planning Director; Cheri Coffey, Programs Manager; Paul Neilson, City Attorney; Ray Milliner, Senior Planner; Nole Walkingshaw, Senior Planner; and Kathryn Weiler, Acting Planning Commission Secretary.

[5:52:24 PM](#) **Approval of Minutes from Wednesday, March 25, 2009.**

Vice Chair McHugh made a motion to approve the minutes with noted changes. Commissioner Fife seconded the motion. Commissioners Chambless, Dean, De Lay, McHugh, and Muir voted, "Aye". Commissioners Algarin, Scott, and Wirthlin abstained.

[5:56:22 PM](#) ***Report of the Chair and Vice Chair***

Chair Woodhead noted that neither she nor Vice Chair McHugh had anything to report.

[5:57:02 PM](#) ***Report of the Director***

Mr. Sommerkorn noted that the City Council heard the proposed amendment regarding payday loans and check cashing establishments. He noted that the City Council was prepared, at their next regular meeting, to approve that amendment to the ordinance, adopting a one-half mile radius spacing requirement, the distance recommended by the Planning Commission. The Council was unwilling to impose a one-half mile radius restriction near schools.

Mr. Sommerkorn also noted that the City Council discussed the proposed rezone for The Language of Flowers, but did not take any action on the proposal.

Mr. Sommerkorn stated that the DVD given to each Council Member was from the Mayor's Office. The DVDs were developed by Wasatch Front Regional Council regarding urban design.

Commissioner Fife stated that he had attended a community meeting regarding the City budget. He expressed the support for planning staff to remain intact to accommodate the work load in the Planning Division.

Mr. Sommerkorn acknowledged that the Planning division had been asked to consider cutting approximately ten percent (10%) of its budget next year. He stated that if the department was required to cut that much, then a couple of staff positions would probably have to be eliminated. He reminded the Commission that the Citygate review recommendation was to add two additional staff members to handle the workload. The two additional positions were not filled and with the potential loss of two staff members, the workload would impact the level of service the Division could provide.

Commissioner De Lay suggested that the Chair write a letter to the City Council and that Commissioner Chambless entertain a motion indicating support for keeping planning staff intact.

6:04:42 PM Commissioner Chambless made a motion stating that the American Planning Association had said that seventy to seventy-five percent of local government decisions are planning decisions; short term, long term, fiscal, and strategic planning decisions. If there is a shortfall of Salt Lake City planners, with the recommendation to hire two additional planners, and if two planners were cut, then the City was not serving the public well.

Seconded by Commissioner De Lay.

Commissioners De Lay, Algarin, Dean, Scott, Fife, Muir Wirthlin, and McHugh voted, "Aye". The motion passed unanimously.

Public Hearings

6:06:00 PM PLNPCM2008-00532, North Temple to 600 North and 400 West to 550 West Zoning Map Amendment—The Salt Lake City Planning Commission had initiated a petition to rezone the areas between 600 North and North Temple, and 400 West and 550 West from Light Manufacturing (M-1) to Residential and Mixed Use zoning districts. The decision to initiate the change was based on the recommendations of the Capitol Hill Master Plan, adopted in 2001.

Chair Woodhead recognized Ray Milliner as staff representative. Mr. Milliner requested input regarding the proposed map; specifically any changes to the map that the Commission desired. Mr. Milliner also requested a public hearing where the neighborhood property owners would have an opportunity to express their opinion and offer suggestions regarding the rezone. Mr. Milliner requested that the general public be given an opportunity to comment on the proposal.

6:10:29 PM Public Hearing

Chair Woodhead opened the public hearing portion of the petition.

The following people spoke or submitted a hearing card in *support* to the proposed petition: **Nephi Kemmethmueller** (representing Capitol Hill Community Council) stated that he approved the zoning from manufacturing to residential mixed use. He also stated that as a property owner he expressed general approval of the proposal. **Hank Kauffman** stated that the residential mixed-use zone would be quiet and seemed logical.

The following people spoke or submitted a hearing card in *opposition* to the proposed petition: **Jeff Gochner** (representing SLH Net Investments) stated that the site should be zoned for more density on the south. He stated that SLH Net Investments had a planner on staff to help develop a master plan for the site and asked the Commission to delay any action until their master plan was finalized. The master plan would also include property south of the high school. **Graden Jackson** (May Foundry) stated that his property was located north of the 600 North viaduct, and he believed the change in zoning would negatively impact the value of the foundry. He noted that the foundry operated within regulatory laws, but did make noise and emit exhaust. If a change in zoning allowed residential structures abutting the 600 North overpass, then the neighbors might complain about the foundry and soup kitchen to the north. **Fred Lieber** stated that he owned a light- manufacturing and chemical company, which was approximately ninety-percent of the block. He inquired if the facilities were expanded could warehouses be added in the residential zone; and he was not opposed to zoning change so long as it is a higher density. **Richard W. Evan** (Evans Development Group) stated that their lot was currently vacant and they were anticipating the zoning change. He stated that he would like to see higher density.

Commissioner Muir asked Mr. Gochner what residential limitations existed on the Salt Lake Hardware property, given the close proximity of the railroad; specifically did the recent designation of a quiet zone obviate those concerns.

Mr. Gochner stated that the quiet zone designation had obviated the noise issue and residential housing could be successful. He also stated that it would take six months for his planners to develop a master plan.

Commissioner Woodhead advised the applicant to pay attention to the potential for productive connections to other parts of the City; specifically the north area of the subject property where a location connection between the east and west side of the City could work well. She further stated that the Gateway project had proved to be a disappointment in its ability to connect with the neighborhoods around it.

Commissioner Scott asked staff to discuss plans for the 500 West Boulevard.

Commissioner De Lay directed staff to consider the following: an increase in density, mixed-use, and a special zoning district for the location.

Commissioner Woodhead stated that additional height should be allowed where appropriate.

Commissioner Dean suggested buffering the zone to the north.

Commissioner Muir directed staff to consider a demographic analysis and engagement with potential merchants. He also asked for a more detailed explanation of the impact for property owners and shareholders if the zone was

changed, specifically an analysis of the impact and implications for property owners were the zone to be changed.

Mr. Milliner gave a brief explanation on non-conforming use.

Ms. Coffey noted that expansion would be addressed under a conditional use.

Commissioner Fife expressed support for commercial zoning between 500 to 600 North to transition between light-manufacturing and residential.

Chair Woodhead stated that staff should communicate informally with community councils to get their input.

Chair Woodhead announced a small break at 6:50 p.m.

6:59:15 PM PLNPCM2009-00035, Transvalley Corridor Trail Connection/UNEV Pipeline Project—a request by UNEV Pipeline LLC, represented by Jim Townsend, for a conditional use to construct a pedestrian trail and a subsurface pipeline through the Lowland Conservancy Overlay District. The property is located at approximately 705 North Wright Brothers Drive, including a parcel located at approximately 1070 North 5200 West. The subject property is located in an M-1 Light Manufacturing zoning district and the Lowland Conservancy Overlay District.

Chair Woodhead recognized Nole Walkingshaw as staff representative.

Commissioner Fife stated that impacts to wetlands could interfere with the flow of water in the area.

Mr. Walkingshaw stated that the design would ensure proper water flow and staff was satisfied that the proposal would not negatively impact wildlife.

Commissioner Scott inquired why this mile long trail had no sanitation facilities.

Mr. Walkingshaw responded that restrooms at this site might lead to a negative impact on the site.

Commissioner McHugh questioned the reason that the Commission was expected to review the proposal before the Army Corps of Engineer had a chance to review it.

Mr. Walkingshaw noted that the project was subject to NEPA compliance and required permits from the Army Corps of Engineers.

Mr. Chambless stated that he was concerned with the long term impact on open space in the area, and the future growth plans of the airport.

Commissioner Scott inquired about chemicals added to the canal water and the possible health impacts if hikers were to drink or enter into the water.

Mr. Walkingshaw stated that the chemicals would be regulated by the State of Utah Water Quality Department and that hopefully, no one would be swimming.

Jodi Arrea (CH2M Hill) described several different pipeline/trail routes that were considered and then a final selection was made by the applicant, which was the subsequent proposal.

Mark Valasic (Landmark Design) discussed the master plans and the regional bicycle plan, and stated that the trail would support the trail goals of the master plan.

Commissioner De Lay inquired if the trail was incorporated into the proposal because the ordinance would not allow the pipeline without a trail.

Mr. Townsend stated that this was his understanding that because the City determined that the pipeline was a private utility, it could not be placed on the land without a trail. If they had been considered a public utility no trail would be needed to put that pipeline in.

The following people spoke or submitted a hearing card in *opposition* to the proposed petition: **Jeffrey Hicks** (Utah Airboat Association) stated he was not opposed to a below ground pipeline, but stated that the path was an unnecessary disturbance and was opposed to the trail. **D. Jay Williams** (Utah Waterfowl Association) stated that the trail is short and it dead ends. Airport expansion was planned and the trail would have to either be relocated or abandoned. He also stated that anytime fowl nesting activities were interrupted; there would be negative impact on the wildlife. He stated that both the construction and ongoing maintenance of the pipeline would negatively impact the wildlife and, because of the minimal impact on wildlife and that it would preserve the purpose of the Lowland Conservancy District, the Utah Waterfowl Association would support a variance that would allow a directional pipeline underground. **Scott Sabey** stated that he was a member of a duck club, and was not opposed to the pipeline; however, he was opposed to the trail. He stated that the trail was on a wetland area with no parking lot and was 4500 feet in length, with no interpretive centers. He also stated that the proposed trail crossed three canals, and dead ended against property which had been used for hunting for over 100 years. The master plan showed the trails crossing privately owned duck hunting property. He finalized his comments by stating that the trail endangers the public who might enter an area which was basically a shooting range, and increased the possibility of vandalism. **Richard West** (South Shore Wetlands and Wildlife Management, Inc.) stated that he was not opposed to the pipeline but to the trail, because the trail was not necessary and the future use in pristine lands was ridiculous. **Wayne Martinson** (National Autobahn Society) stated that this project would provide three bridges over significant canals that would allow access into areas north of where the trail would be located. He stated that the Harrison and Ambassador Duck Clubs were important bird areas from the National Audubon Society and Bird Life International, which was recognition provided to areas which provide significant bird habitat documented, from 1999 to 2001. The trail would go through the Ambassador, the Black Hawk, and to the side of the Rudy. He stated that this should not be considered in a short timeframe without fair consideration. He stated that he was not in opposition to the pipeline because the duck clubs supported that. **Cindy Cromer** stated that she was a member of the Planning Commission at the time when the open space master plan was approved, and as she recalled the details were not

worked out at that time. She stated that the trail was an incompatible use and that the City needed to consider the concept of transfer of development rights in respect to trails. She stated that the pipeline should be allowed without a trail on the subject site. **Joe Poledorin** stated that he was a member of the Northpoint Fur and Reclamation Company, and he was not against trails or pipelines, only against this trail. A transfer of money to pay for a different trail was a good idea. **Scott Hess** stated that he supported trails when the opportunity arose. **Dave Iltis** (Salt Lake City Bicycle Advisory Committee) stated that they had not had a presentation on the proposal by the applicant and only received a brief presentation by the Transportation Division. He stated that the Committee would not take a formal position on the proposal as they were not given adequate time to evaluate it. The trail would be wonderful to have because it would help compensate for the removal of the 4000 West trail, but there were other negative factors such as impact on wildlife and reduction of the corridor size by fragmentation. He stated that on a personal level, aligning the trail with 4000 East and allowing the pipeline to follow another path might be a good solution, but he did not have enough information to be certain it was a good solution. **Steve Earley** stated that he opposed the application because he felt that it set a bad precedent and it was not safe to have trails running through hunting areas. **Becky Gillmore Campbell** stated that she felt that the trail should not be tied to the pipeline project.

Mr. Sommerkorn asked if Dan Bergenthal worked with the committee.

Mr. Iltis stated that Mr. Bergenthal did make a small presentation and, as his committee did not meet again until after this hearing, his committee did not have time to follow up and discuss the proposal.

The following people spoke or submitted a hearing card in *support* to the proposed petition: **Lee Peacock** (Utah Petroleum Association) stated that Utah needed the pipeline as it would allow greater utilization of five refineries, and the economic development process and business use of the issue of wise transportation of petroleum products. **Lane Beattie** (Salt Lake Chamber of Commerce) stated that the pipeline was a wonderful necessity and it would minimize exposure to possible hazards resulting from trucking and rail transportation, and would also provide employment within the state. He stated support for trail development in appropriate areas. **Dan Fazzini** (League of American Bicyclists and Commissioner for City of Taylorsville) stated that he supported a trail along the west side of the airport. He noted that future expansion planned for west of the airport would only increase the need for cyclists to get out there. **Natalie Gochnour** (Salt Lake Chamber of Commerce) stated that she recommended a river trail system that would connect the Wasatch range with the Jordan River and beyond to the Legacy Parkway and perhaps something like the Transvalley trail, which is a trail system that connects, Davis, Salt Lake, Tooele, and Utah counties. She stated that this proposal was in the State's best economic interest.

Commissioner De Lay noted that the pipeline would help the company and its ultimate goals, and asked the applicant if the trail was required by the City ordinance in order to allow the pipeline.

Mr. Townsend stated that the company could have been allowed to place a pipeline without a trail by one of three methods: First, they could have been considered a public utility, but that request was denied by the City.

Second, they could condemn a pipeline route that circumvents the Lowland Conservancy District and maintain the right of eminent domain, which would negatively impact the airport. Or the third option would be to drill down 2600 feet with minimal surface disturbances, which was not allowed by the City. The proposal was an attempt to work cooperatively with the City by placing the pipeline in an area that did not interfere with future airport expansions and would comply with the City ordinance.

Commissioner Chambless asked the applicant if he would be opposed to the creation of a trail elsewhere were the pipeline placement would be allowed in the proposed location.

Mr. Townsend stated that he would not be opposed to that.

Commissioner McHugh asked for clarification regarding the pursuit of the public utility status.

Mr. Sommerkorn stated that the public utility exemption was for distribution and the oil company was a transmission facility.

Commissioner McHugh asked what the City's position was regarding whether a safety issue existed with a trail surrounded by a hunting club.

Mr. Walkingshaw responded that the trail terminated at the start of the hunting club's land. He noted that staff did not consider it an extraordinary risk.

Commissioner Scott asked staff if the discussion of transfer of trail had been considered by staff.

Mr. Sommerkorn responded that the city ordinance did not provide a mechanism for such a transfer.

Mr. Walkingshaw stated that underground drilling was not a permitted or conditional use and would be subject to a text amendment.

Mr. Sommerkorn stated that the option of underground drilling was explored, but the proposal was the most favorable one selected by the applicant.

Commissioner Muir asked staff if they had considered the creation of a new utility corridor as future expansion would indicate that one would need to be created.

Mr. Sommerkorn stated that the proposed pipeline would need a maintenance road or trail. The pipeline could not be placed on the property without a trail. If the road was removed from the plan, it would take away the rationale for keeping the pipeline in that location.

Mr. Walkingshaw stated it was a disturbance issue.

Commissioner Scott asked if the airport would be the defendant in an eminent domain action.

Mr. Townsend affirmed that was the case.

Commissioner Fife asked if there were any plans to continue the trail where it dead ends.

Mr. Walkingshaw stated that there was not an immediate plan.

Commissioner Muir asked if there was a possibility to move the trail alongside where the fourth runway might be positioned or in the future, to impose a condition on the applicant to build a trail along the Kerns River when the Kerns River pipeline and power lines were moved. He explained that doing so would cause the trail to align with the utility corridor.

Commissioner Fife asked how the City envisioned extending the trail to connect to Davis County.

Mr. Walkingshaw indicated that the trial ended at the City boundary and jurisdiction. He noted that continuance of the trail was in the master plan.

Chair Woodhead announced a small break at 8:51 p.m.

Chair Woodhead reconvened the meeting at 9:00 p.m.

Chair Woodhead inquired of Mr. Sommerkorn if the Board of Adjustment might be able to grant a variance or a text amendment to make the pipeline a conditional use in the lowland conservancy district.

Mr. Sommerkorn stated that Section 21A.18.050 of the Salt Lake City Ordinance specifically prohibited use variances and that text amendments could take at least six months.

Chair Woodhead then asked for clarification as to why staff had not recommended a text amendment to allow this use in the low-end conservancy district.

Mr. Sommerkorn explained that the process was timely and would take at least six months to complete, and the applicant had rejected that option.

Commissioner McHugh stated that she was under the impression that a text amendment allowing a pipeline in a low-end conservancy district could not be site specific and an amendment for this parcel would allow pipelines on all parcels within low-end conservancy districts in the City.

Mr. Sommerkorn reported that there were no other contiguous parcels of land within the City with this zoning.

The Commission generally agreed that this information would be relevant to the final decision.

Dan Berganthal, Salt Lake City Transportation Division, stated that the trail was on the master plan in 1998 when the 4000 West road was closed. He stated that the road was used heavily by bicyclists in the past. Both the

Planning Commission and the City Council directed the Transportation Division to establish a trail plan to remediate the loss of the bike route.

He also stated that the UNEV pipeline tail ended 600 feet to the west of where an existing power line corridor existed. If the pipeline trail and corridor trails were to be connected, a bike could be ridden to the Legacy Trail from that location and then continue north on existing roads.

Commissioner Dean asked Mr. Berganthal if a bike path already existed on the south side of the airport.

Mr. Berganthal acknowledged the path, but stated that control gates existed on the path and could be locked down at any time and access was denied to anyone without high security clearance. He also added that the route on the north of the airport would be shorter than the existing one on the south.

Commissioner Dean commented that the same conditions might exist for the proposed path, as it also crossed airport property.

Commissioner Chambless expressed concern regarding the lack of Federal government representation at the meeting.

Mr. Walkingshaw stated that the Federal government was given notice of this meeting, and he had engaged in conversation with them, and that they did make comments, which were included in the staff report.

Commissioner De Lay stated that testimony and data presented at this meeting lead to the assumption that the airport would be expanded in the future and the trail would be moved. The directional drilling had no evidence, and in her opinion, the trail was a bad idea because it dead ended in a duck club and presented a public safety concern. She also stated that there were many other options for trails. She suggested that the bicyclists work to update the City bike maps. She supported Ms. Cromer's idea of building the pipeline on the property and then to "trade the trail" for a better location, but acknowledged that the zoning ordinance would not allow a swap.

Commissioner Muir stated that a trail system was an appropriate edge to the urban condition. He supported the trail and the pipeline alignment.

Commissioner Fife expressed the opinion that the trial was not a bad trail, noting its approximation to the existing utility corridor.

Commissioner McHugh stated that it was already established that there were other routes, but the applicant had not chosen to take them. She was not opposed to trails on the west side, but it did not have to be this trail.

Commissioner Dean, asked about the plan along 900 South and along 4800 West which would not intersect along any wetlands or conflict with duck clubs and it could cross the valley. There are good trails yet to be

developed. Trails need to be a priority, but they must be well thought out without the risk of being eliminated in the future through growth and expansion.

Commissioner Wirthlin stated that he and the Commission seemed to be in favor of the pipeline, but he did oppose the trail. The trail was contrived to comply with the ordinance where, if the ordinance had allowed it, a conditional use allowing the pipeline would have been more logical. He acknowledged that the applicant might be facing time constraints, especially if they had gone down a certain path expecting a specific outcome and then been surprised at the last minute. But there were other options, which could have and should have been done, such as a text amendment to the ordinance. He stated that he was torn and did not know how he would vote, as in his opinion, the pipeline was a good thing, but the trail was not in the long term best interest of the City.

Commissioner Algarin agreed that it was a tough issue. The applicant had gone out of his way to be a good neighbor. But the trail did not make sense and was developed for convenience to fit into a law. There were better ways to go about it.

Commissioner Scott agreed that the pipeline was important, that the trail placement was not a good idea. A text amendment should have been proposed to allow the pipeline to be placed in the manner that least disturbed the habitat. In the future the priority would be to begin immediate work on a good trail system, and to require those who need to disturb the wetlands and lowlands conservancy areas to build trails where we do need and want them.

Commissioner Chambless agreed that the pipeline was needed and a good idea. The trail was a good concept, but in the wrong place. He stated that he had major security and safety concerns.

The Chair stated that she was not convinced that the trail was a bad idea. The trail may not be in the best place, but it represented the first opportunity, and perhaps the last opportunity in a long time, to get trails in the Salt Lake City backyard.

[9:20:57 PM](#) **Motion**

Commissioner De Lay made a motion regarding PLNPCM2009-00035, based on the information, testimony, data, public comment offered tonight, the petition is denied.

Commissioner Chambless seconded the motion.

Mr. Nelson counseled the Commission to make the motion to include mitigating reasons if their intent was to make a motion to deny.

Commissioner De Lay amended the motion to state that the detrimental effects which could not be mitigated were:

1. **Public Safety as it was too close to a hunting area;**
2. **Ill conceived plan which was too close to the airport; and**
3. **There was a negative impact on wildlife.**

Commissioner Chambless suggested an amendment to include safety and security concerns.

Commissioner De Lay then stated that the detrimental effects which could not be mitigated were:

1. **The trail dead ends in a hunting area, the effect is the bad public safety; and**
2. **Cannot move the Great Salt Lake or the Salt Lake International airport.**

Commissioners Algarin, Chambless, Dean, De Lay, McHugh, and Scott and voted, “Aye”. Commissioners Fife, Muir, and Wirthlin voted, “No”. The motion passed.

Commissioner Dean applauded the efforts of the applicant.

The Commissioners explained their votes.

Commissioner Wirthlin stated he had intended to vote against the proposal, but when he examined the mitigating factors of requirement, he felt the negative factors could be mitigated.

Commissioner McHugh stated that wildlife disturbance could not be mitigated.

Commissioner Algarin stated he felt the trail was not logical, but the ordinance requirement put the applicant in a weird position, and it was not based upon whether the pipeline was a good idea.

Commissioner Wirthlin asked the City to make a concession to put a text amendment on a fast track.

Commissioner Fife said he believed that a west side trail was a good idea and it would not have caused more damage than grazing cows and people shooting at them.

Commissioner Dean explained that, with possibility that the Airport would close off access in the future, the proposal was not a bonafide transvalley corridor trail. She added that there would be no investment in parking access to make it a functional trail.

Commissioner Scott explained that she voted as she did because she believed it was a good time to explore a Conditional Use text amendment with language that allowed an exchange of where trails were built.

9:30:53 PM Motion

Commissioner Wirthlin made a motion to initiate a text amendment to include as a conditional use to all transmission pipelines in the lowlands conservancy district.

Seconded by Commissioner Scott

Commissioners Algarin, Dean, De Lay, Scott, McHugh, Muir, and Wirthlin voted , “Aye.” Commissioner Fife voted, “Nay.” The motion passed.

9:32:27 PM Motion

Commissioner Wirthlin made a motion to go into closed session to discuss impending litigation.

Commissioner Dean seconded the motion.

Commissioners De Lay, Algarin, Dean, Scott, Fife, Muir Wirthlin, and McHugh voted, “Aye”. The motion passed unanimously.

9:32:58 PM The Commission moved into closed session.

The Planning Commission considered a motion to enter into Closed Session to discuss pending or imminent litigation; in keeping with Utah Code attorney-client matters that are privileged, pursuant to Utah Code Ann. § 78-24-8.

The meeting adjourned at 9:33 p.m.

This document, along with the digital recording, constitute the official minutes of the Salt Lake City Planning Commission held on April 8, 2009.

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Kathryn Weiler