PLANNING COMMISSION STAFF REPORT

Salt Lake City
Zoning Text Amendment Petition
PLNPCM2009-00422 – Lowland Conservancy Overlay District
May 27, 2009

Planning Division
Department of Community and Economic Development

Applicant
Salt Lake City Corporation

Staff
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Master Plan Designation
City-wide

Council District
City-wide

Review Standards
21A.50.050 Standards for General Amendments

Affected Text Sections
21A.34.050 (3)

Notification
- Notice mailed on May 13, 2009
- Posted on City & State Websites May 13, 2009
- Actual notice mailed to property owners on May 13, 2009

Attachments
A. Proposed Text Amendment
B. Department Comments
C. Arial Map of Lowlands Conservancy Overlay District

REQUEST

On April 8, 2009 Salt Lake City Planning Commission initiated a petition to amend the following section of the Zoning Ordinance.

> Section 21A.34.050 (3) which lists the conditional uses allowed within the limits of a defined water body within the LCOD, Lowlands Conservancy Overlay District.

The purpose of the request is to amend the Lowlands Conservancy Overlay District (LC) regulations to allow underground utility transmission infrastructure to be considered in the LCOD as a Conditional Use.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission review the proposed amendments to the Salt Lake City Zoning Ordinance, conduct a public hearing and consider transmitting a favorable recommendation to the City Council pursuant to the analysis and findings of fact written in this staff report,

Background/ Project Description

UNEV Pipeline, LLC is proposing to construct a 415 mile underground petroleum pipeline from the oil refineries in North Salt Lake to Las Vegas, Nevada. The pipe is 12 inches in diameter and would be buried approximately three to four feet underground. The required temporary construction right-of-way width is 75 feet (generally) and the final permanent right-of-way width is 50 feet.

Approximately 8.5 miles of the pipeline would be located in Salt Lake City and would cross the following zoning districts:

- Agricultural
- Business Park
- Airport
- Light Manufacturing
- Lowland Conservancy Overlay District (LCOD)

The use is classified as a "Public/private utility transmission wires, lines, pipes and poles" as stated in the Salt Lake City Zoning Ordinance, and is allowed in each of these zones except for the LCOD.

In November 2008, the UNEV Pipeline L.L.C. requested that the City Zoning Administrator determine whether or not a pipeline through the LC is a permitted use. The Zoning Administrator responded on December 9, 2008, stating that the pipeline is not permitted in the LC, but that the City's Open Space Plan shows a future trail connection through the area near the location of the pipeline. The trail is called the Transvalley Corridor Trail Connection. The LC zoning regulations state that the Planning Commission may approve roads, bridges or trails as a conditional use. The Use Interpretation letter stated that the proposed pipeline could be approved by the Planning Commission as a Conditional Use if it was proposed as part of the trail connection identified in the Salt Lake City Open Space Plan. As a result, UNEV Pipeline, LLC submitted a Conditional Application in January 2009 for the proposed pipeline and Transvalley Corridor Trail Connection.

On April 8, 2009, the Salt Lake City Planning Commission conducted a well attended public hearing, and denied the Conditional Use application, finding that bird hunting and the proximity of the Salt Lake International Airport would create a safety hazard for trail users that would have a negative impact on both the users and the adjacent properties. The Planning Commission then initiated a petition and directed staff to amend the LC zoning regulations by allowing the proposed pipeline as a conditional use. Further, the Commission declared that UNEV Pipeline, LLC could submit a Conditional Use application for the pipeline and the Planning Commission would review the Text Amendment proposal and Conditional Use application concurrently.

Summary of Proposed Code Change

The following is a short synopsis of the changes proposed (language and redlines attached as Exhibit A):

The proposed change would add a line to Section 21A.34.050 (3) making public/private subterranean transmission infrastructure a conditional use in the LC district. Currently some conditional uses are allowed in the LC zone provided filling, excavating or modifications of existing hydrology are limited. Staff recommends that the Planning Commission insert subterranean utility transmission infrastructure to the list of conditional uses in the LC zone. This would provide the applicant with a means to place the

infrastructure, as well as providing the Planning Commission with an opportunity to mitigate any impacts of the pipeline through the conditional use process.

Affected Sections: Section 21A.34.050 (3)

The Planning Division considered a second option which was to amend the LCOD regulations and add the land use category "Public/private utility transmission wires, lines, pipes, and poles" to the list of Conditional Uses that may be approved by the Planning Commission. This would allow both underground and overhead utility transmission infrastructure to be considered in the LCOD as a Conditional Use. Due to the strong presence of birding and bird hunting in the LCOD and surrounding areas, the option which would allow overhead lines was determined to be less desirable. The introduction of overhead lines, could clutter the visual esthetics of the area, and pose potential conflicts with birding, bird habitat and bird hunting.

Public Participation

Community Council Meeting

Text amendments have the potential to have city wide impacts as such an Open House was held on May 18, 2009. Notice of the Open House was sent to Community Council chairs, mailing list from application, previous conditional use request contacts, and those whose names are on the Planning Divisions List serve. Notice was also posted on the City's website.

Public Comments

The Planning Commission and staff received a significant amount of public comment regarding the previous conditional use permit application. No public comments have been received on this application.

City Department Comments:

Staff sent information regarding the proposed text changes to applicable City Departments. Department responses are included in Attachment B.

Analysis

Standards of Review

21A.50.050 Standards for general amendments.

A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the city council and is not controlled by any one standard. However, in making its decision concerning a proposed amendment, the city council should consider the following factors:

A. Whether the proposed amendment is consistent with the purposes, goals, objectives, and policies of the adopted general plan of Salt Lake City;

Analysis: The purpose of the LC zone is to "promote the public health, safety and general welfare of the present and future residents of the City and downstream drainage areas by providing for the protection, preservation, proper maintenance, and use of the City's watercourses, lakes, ponds, floodplain and

wetland areas." The proposed amendment to the conditional uses in the LC district will allow for the temporary disturbance of drainage areas during the construction of the subterranean utility. However, because the use is conditional and subterranean, the Planning Commission will be able to impose conditions on the project that mitigate the impacts of the use, and limit the disturbance to a confined area. Once the construction has been completed, the area will be returned to its natural state.

Finding: The proposed text amendment is consistent with the purpose, goals, objectives and policies of the general plan of Salt Lake City, all potential impacts of the use on LC zoning areas can be mitigated through careful planning.

B. Whether the proposed amendment is harmonious with the overall character of existing development in the immediate vicinity of the subject property;

Analysis: Because of the unique purpose of the LC zone, there is no existing development in the immediate vicinity. Once the subterranean lines have been installed, the ground surface shall be revegetated and returned to its natural state.

Finding: The proposed amendments allow subterranean utility infrastructure and will not impact the overall character of existing development.

C. The extent to which the proposed amendment will adversely affect adjacent properties;

Analysis: The original application for the subterranean pipeline featured a public trail above the pipeline. The Planning Commission denied the application, finding that the trail would have a negative impact on adjacent uses, as the need to keep trail users safe would interfere with the duck hunting and aviation that is common in the area. The Commission then instructed staff to return with amendments to Ordinance language that would allow underground utility transmission infrastructure as a stand alone conditional use. This would eliminate any negative impacts on adjacent properties that may be caused by trail users and allow the pipeline to be reviewed on its own merits.

Finding: Staff finds that the proposed amendment to the LC zone will not have a negative affect on adjacent properties, as underground utility transmission infrastructure will have no visual or physical effect on adjacent properties. This amendment would allow underground utility infrastructure only as a conditional use. This allows the Planning Commission to require mitigation for detrimental physical impacts.

D. Whether the proposed amendment is consistent with the provisions of any applicable overlay zoning districts which may impose additional standards;

Analysis: The purpose statement of the LC zone states, "The requirements of this District shall supplement other applicable codes and regulations, including State and Federal regulations and the Salt Lake City Floodplain Ordinance." Therefore, no other amendments to the zoning ordinance are required.

Finding: This text amendment is consistent with the provisions of all applicable overlay zoning districts that may impose additional standards.

E. The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreational facilities, police and fire protection, schools, storm water drainage systems, water supplies, and wastewater and refuse collection.

Analysis: The proposed ordinance changes do not relate to provisions governing public facilities and services.

Finding: The proposed ordinance changes should not impact the adequacy of public facilities and/or services.

Notification

On May 26, 2009, the June 10, 2009 Planning Commission agenda was published on the Planning Division's website and listserv, and the State of Utah's Public Meeting Notice website. The proposed changes were published in the Deseret News newspaper on May 22, 2009.

Attached Exhibits

Attachment A – Proposed language
Attachment B – Department Comments

Attachment A
Proposed Ordinance Amendment

21A.34.050 LC Lowland Conservancy Overlay District:

3. **Conditional Uses:** Within the limits of a waterbody, conditional uses shall be limited to those involving only limited filling, excavating or modification of existing hydrology, as listed below:

a. Boat launching ramps;

b. Swimming beaches;

c. Public and private parks including wildlife and game preserves, fish and wildlife improvement projects, and nature interpretive centers;

d. Boat docks and piers;

e. Roads and bridges;

f. Observation decks and walkways within wetlands;

g. Repair or replacement of existing utility poles, lines and towers; and

h. Watercourse relocation and minor modifications.

i. underground utility transmission infrastructure

Within the setback area, conditional uses shall be limited to the following.

a. All uses listed above;

b. Stormwater drainage and detention facilities;

c. Pedestrian paths and trails; and

d. Public and private open space that requires grading or modification of site hydrology.

Departmental Comments:

Airport: A portion of the proposed UNEV pipeline is to be constructed on the western edge of airport owned property. This section of pipeline is within the city's Lowland Conservancy zoning district. The airport has no objection to either of the proposed text amendment options that would allow under ground or above ground utilities. However, any future utility that is constructed in this area will be subject to future airport needs and requirements. Utilities in this area may be required to be relocated for future runway, taxiways, FAA requirements, maintenance, or any other airport purpose.

Transportation: The project notes that "The project will not include any driveways or parking areas nor will the use….impact existing streets." Yet it also states that, "Surface and aerial patrols would occur every other week or at least 26 times a year." Our concern is the defined and controlled access from the public roadway, along with the clean wheel issue of vehicles entering the roadway from a non developed inspection and service road.

Office of Sustainability: The Open Space Program has reviewed the proposed changes to the Lowland Conservancy District and has the following concerns:

The Open Space Program does not support either of these suggested text amendments. However, we do recommend that alternative solutions be considered to see if other options are available. This project does not warrant the potential negative impacts to the areas protected under the LCOD.

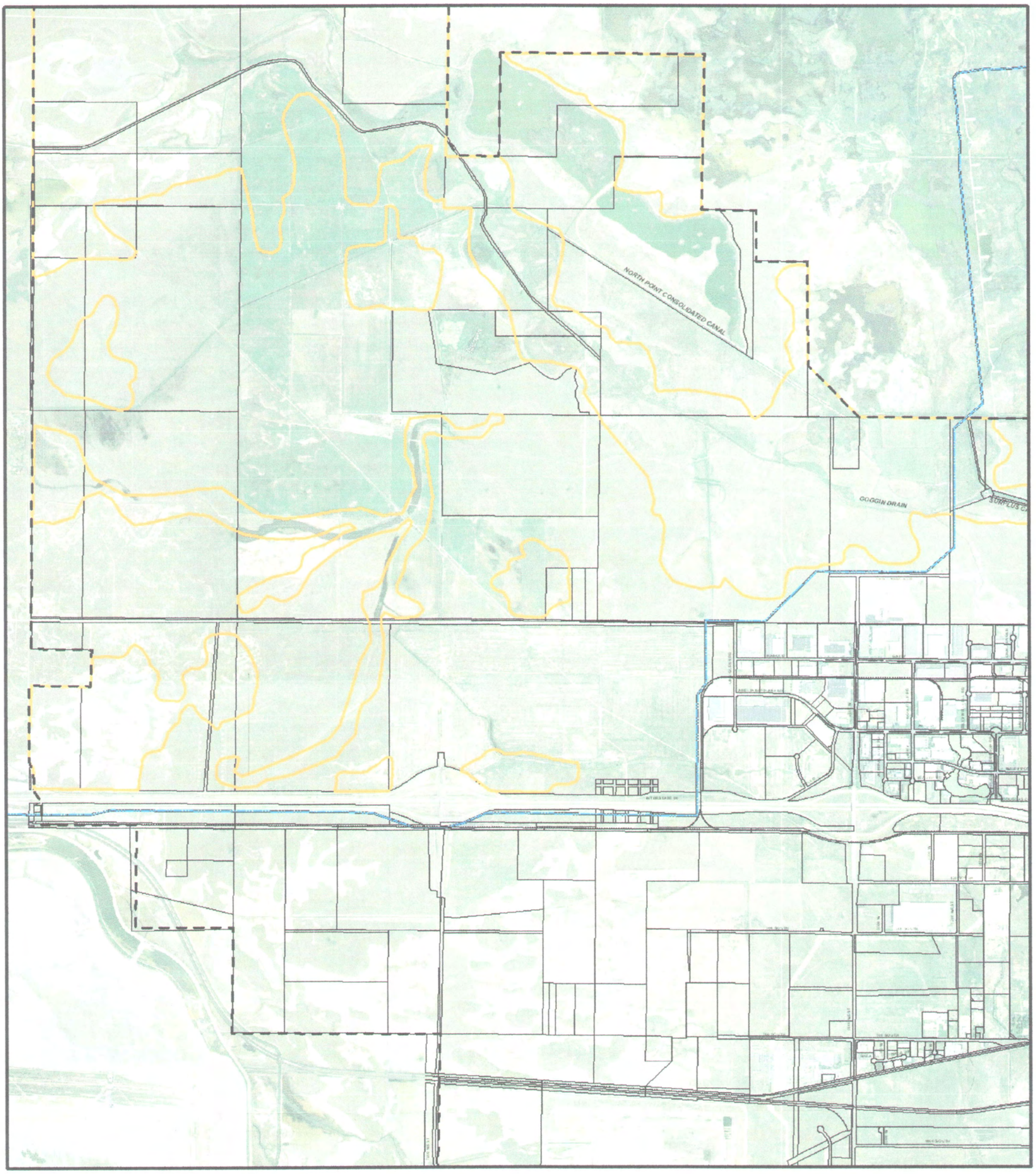
Option 1: Overhead and underground utility transmission infrastructure

The first amendment option could create undesirable impacts if the option to allow overhead and underground utility transmission infrastructure is approved. The Lowland Conservancy Overlay District (LCOD) protects areas consisting of water bodies such as streams, lakes, ponds and wetlands, and also the Jordan River and the Surplus Canal, which would be impacted by activities, roads and management practices associated with above ground utilities. This would impact indigenous species of birds, animals and plant life which is contrary to the purpose of the LCOD. The promotion of the public health, safety and welfare and the protection of downstream drainage areas is the clear purpose of the LCOD and the construction of above ground utilities is directly in conflict with this purpose.

Option 2: Underground utility transmission infrastructure

The second option to only allow underground utilities is the better of the two options if mitigation and long-term stewardship is strictly enforced with associated financial implications. Of the two options, it is the determination of the Open Space Program that option two would have less negative impact on the LCOD areas.

Attachment C
Arial Map of Lowlands Conservancy Overlay District



Map Legend

Lowland Conservancy Overlay District

Proposed UNEV Petroleum Pipeline

Salt Lake City Boundary

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