
M E M O R A N D U M

DATE: July 2, 2009
TO: City Council Members
FROM: Russell Weeks
RE: Proposed Amendment to Zoning Ordinance to Allow as a Conditional Use the Placement of Utilities Underground in the Lowlands Conservancy Overlay District Pursuant to Petition PLNPCM2009-00422
CC: Cindy Gust-Jenson, David Everitt, Frank Gray, Wilf Sommerkorn, Tim Harpst, Jennifer Bruno, Pat Comarell, Mary De La Mare-Schaeffer, Nole Walkingshaw, Dan Bergenthal

This memorandum addresses issues pertaining to Petition PLNPCM2009-00422 initiated by the Salt Lake City Planning Commission. The petition would amend Salt Lake City Zoning Ordinance Section 21A.34.050 (3) to allow underground utility infrastructure – pipelines and other conduits – as a conditional use in the Lowlands Conservancy Overlay District. The district is west of the Salt Lake City International Airport near the Great Salt Lake and Bailey’s Lake.

If the City Council grants the petition and adopts the proposed ordinance accompanying the petition, the most immediate effect would be the Planning Commission’s consideration of a petition by a pipeline company to lay about 2,300 feet of pipe underground along the western edge of the overlay district. Besides forwarding a favorable recommendation for Petition PLNPCM2009-00422, the Planning Commission is allowing the pipeline company, UNEV Pipeline LLC, simultaneously to seek the conditional use that the proposed amendment contemplates. UNEV is jointly owned by the Holly Corporation of Dallas Texas, and Sinclair Transportation Company, a subsidiary of Sinclair Oil Corporation. The Holly Corporation will own a 75 percent interest in the pipeline when it is built, according to a UNEV brochure.

The City Council is scheduled to hear a briefing of Petition PLNPCM2009-00422 on July 7. A public hearing on the petition is scheduled for July 14. After that, the City Council could schedule formal action on the petition at its August 11 meeting.

OPTIONS

- Adopt the proposed ordinance amending Section 21A.34.050 (3).
- Deny Petition PLNPCM2009-00422.
- Adopt the proposed ordinance amending Section 21A.34.050 (3) with any amendments the City Council may wish to make.

POTENTIAL MOTIONS

- I move that the City Council adopt the proposed ordinance amending Section 21A.34.050 (3) pursuant to Petition PLNPCM2009-00422.

- I move that the City Council deny Petition PLNPCM2009-00422.
- I move that the City Council adopt the proposed ordinance amending Section 21A.34.050 (3) pursuant to Petition PLNPCM2009-00422 with the following amendments ... (Council Members may propose amendments to the ordinance.)

KEY POINTS

- Although the proposed ordinance immediately addresses issues pertaining to one company, the amendment would apply to other companies that might seek a conditional use within the Lowlands Conservancy Overlay District in the future.
- The proposed amendment would allow as a conditional use only the construction of underground utility infrastructure in the overlay district. Above-ground pipelines, electrical poles, towers, and transmission lines would not be permitted.
- The length of the pipeline running through the overlay district would be about 2,300 feet (less than one-half mile). The pipe would be 12 inches in diameter and would be buried about three feet to four feet underground. The pipeline also would have a 50-foot-wide easement to allow for periodic inspection and maintenance. During construction the pipeline easement would be 75 feet. Once construction is complete, the area will be returned to its natural state, according to the Administration transmittal.
- The pipeline would be part of a 400 mile long pipeline extending from refineries in North Salt Lake to terminals in Cedar City and North Las Vegas, Nevada. The line will be an interstate, common carrier pipeline operated under the oversight of the U.S. Department of Transportation and Office of Pipeline Safety. It will carry a variety of petroleum products to the terminals in Utah and Nevada. Pipeline company representatives estimate the pipeline has the potential to take about 12,700 long-haul petroleum trucks a year off Interstate 15 between Salt Lake City and the Cedar City terminal. Currently, trucks from a variety of companies haul petroleum products to Cedar City.
- Because the U.S. Department of Transportation and Office of Pipeline Safety will oversee a completed pipeline, UNEV has conducted “extensive” environmental studies to comply with the National Environmental Policy Act (NEPA) and various other federal, state and local regulations, according to a UNEV representative. The company is in the final stage of completing an environmental impact study for the pipeline. The company expects the Bureau of Land Management – the lead federal agency on the project – to send the final document back to Washington in the next couple of weeks. The company expects to receive a notice to proceed from the federal agency by the end of August.

ISSUES/ITEMS FOR CONSIDERATION

- The proposed ordinance carries an effective date of “first publication.” Generally, that is about 10 days after adoption. Given that, it appears that if the City Council adopts the proposed ordinance, it would take effect about the same time UNEV expects to receive a notice to proceed from the Bureau of Land Management.
- According to the Administration transmittal, the purpose of a lowland conservancy overlay district 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.”

- Zoning Ordinance Section 21A.34.050 describes areas protected by a lowland conservancy overlay district as “areas consisting of waterbodies such as streams, lakes, ponds and wetlands, as identified on the zoning map, and also the Jordan River and the Surplus Canal.”
- The proposed pipeline would run near the eastern edge of the conservancy district in what is dry land east of the Goggin Drain and near the Surplus Canal.¹ At the point where the pipeline would cross the canal, the company plans to bore underneath the canal to place the line.
- Besides being required to meet standard conditions for conditional uses, Section 21A.34.050 also requires the following conditions to be met in a lowland conservancy overlay district:
 1. The development will not detrimentally affect or destroy natural features such as ponds, streams, wetlands, and forested areas, nor impair their natural functions, but will preserve and incorporate such features into the development's site;
 2. The location of natural features and the site's topography have been considered in the designing and siting of all physical improvements;
 3. Adequate assurances have been received that the clearing of the site topsoil, trees, and other natural features will not occur before the commencement of building operations; only those areas approved for the placement of physical improvements may be cleared;
 4. The development will not reduce the natural retention storage capacity of any watercourse, nor increase the magnitude and volume of flooding at other locations; and that in addition, the development will not increase stream velocities;
 5. The soil and subsoil conditions are suitable for excavation and site preparation, and the drainage is designed to prevent erosion and environmentally deleterious surface runoff;
 6. The proposed development activity will not endanger health and safety, including danger from the obstruction or diversion of flood flow;
 7. The proposed development activity will not destroy valuable habitat for aquatic or other flora and fauna, adversely affect water quality or ground water resources, increase storm water runoff velocity so that water levels from flooding increased, or adversely impact any other natural stream, floodplain, or wetland functions, and is otherwise consistent with the intent of this title;
 8. The proposed water supply and sanitation systems are adequate to prevent disease, contamination and unsanitary conditions; and
 9. The availability of alternative locations not subject to flooding for the proposed use.
- The kinds of infrastructure already considered as conditional uses in a lowland conservancy overlay district are boat launching ramps, boat docks and piers; swimming beaches, public and private parks; observation decks and walkways within wetlands; the repair and replacement of existing utility poles, lines and towers; and watercourse relocation and minor modifications.
- The City’s Office of Sustainability program manager for the Open Space Lands Program sent the Planning Division the following comments about the proposed ordinance:

The Open Space Program does not support either of these suggested text amendments (one would have allowed overhead transmission structures as well as underground conduits). However we do recommend that alternative solution 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 (lowland conservancy overlay district) ... The second option to 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 LOCD areas.²

BACKGROUND/DISCUSSION

As indicated in the Administration transmittal, the proposed project that resulted in the petition initiated by the Planning Commission had its start when UNEV representatives approached the City in November 2008 for a determination of whether a pipeline was a permitted use in a lowland conservancy overlay district. The City Zoning Administrator determined in December 2008 that a pipeline in that kind of district was not a permitted use.

However, the Zoning Administrator observed that the City's *Open Space Plan* and *Bicycle and Pedestrian Master Plan* show a future trail connection – the Transvalley Corridor Trail Connection – through the area near the proposed location of the pipeline. Given that Section 21A.34.050 allows consideration of roads, bridges or trails as conditional uses, it was suggested that UNEV possibly could get approval for the pipeline if the project was part of the trail connection. As a result, UNEV agreed to construct, at no cost to the City, a 4,455-foot-long, 10-foot-wide, paved, multi-use trail that included three large bridges, according to the City Transportation Division. The company subsequently filed a petition to allow the pipeline and the Transvalley Corridor Trail Connection as a conditional use.³

The Planning Commission held a public hearing on the petition on April 8, 2009. After the public hearing, the Commission voted 6-3 to deny the petition. Commissioner Matthew Wirthlin then made a motion to initiate a text amendment “to include as a conditional use to all transmission pipelines in the lowland conservancy district. The Commission adopted the motion 7-1.⁴

The main issue raised in opposition to the petition was the trail through the conservancy overlay district. Dan Bergenthal of the Transportation Division told the Commission during the public hearing that in 1998 when the City closed 4000 West Street where it ran through Salt Lake City International Airport the Transportation Division had been directed by the Planning Commission and the City Council to work with the Department of Airports to establish a trail around the west side of the airport to remediate the loss of the bicycle route.⁵ City Planner Nole Walkingshaw indicated to the Commission that the trail ended at the start of a hunting club's land.⁶ City Council staff understands that a trail system through the overlay district is part of the draft Northwest Quadrant Master Plan.

As to the pipeline itself, here are some comments by speakers at the April 8 Planning Commission public hearing:

- D. Jay Williams of the Utah Waterfowl Association said in part "...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, a member of a duck club, said he was not opposed to the pipeline; however, he was opposed to the trail.
- Richard West of the south Shore Wetlands and Wildlife Management Inc., said he was not opposed to the pipeline but to the trail ...
- Wayne Martinson of the National Audubon Society said he was not in opposition to the pipeline because the duck clubs support that.
- Cindy Cromer said 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 said 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 said the pipeline should be allowed without the trail on the subject site.
- Joe Poledorin, a member of the Northpoint Fur and Reclamation Company, said he was not against trails or pipelines, only against this trail.
- Steve Early said he opposed the petition because he felt it set a bad precedent, and it was not safe to have trails running through hunting areas.⁷

The Planning Commission held a second public hearing on May 27, 2009, on the petition now before the City Council. According to draft minutes of that meeting, no one spoke at the public hearing, and the Commission voted 8-1 to forward a favorable recommendation to the City Council.

¹ Please see attached photographic maps.

² Please see attached page from Administration transmittal.

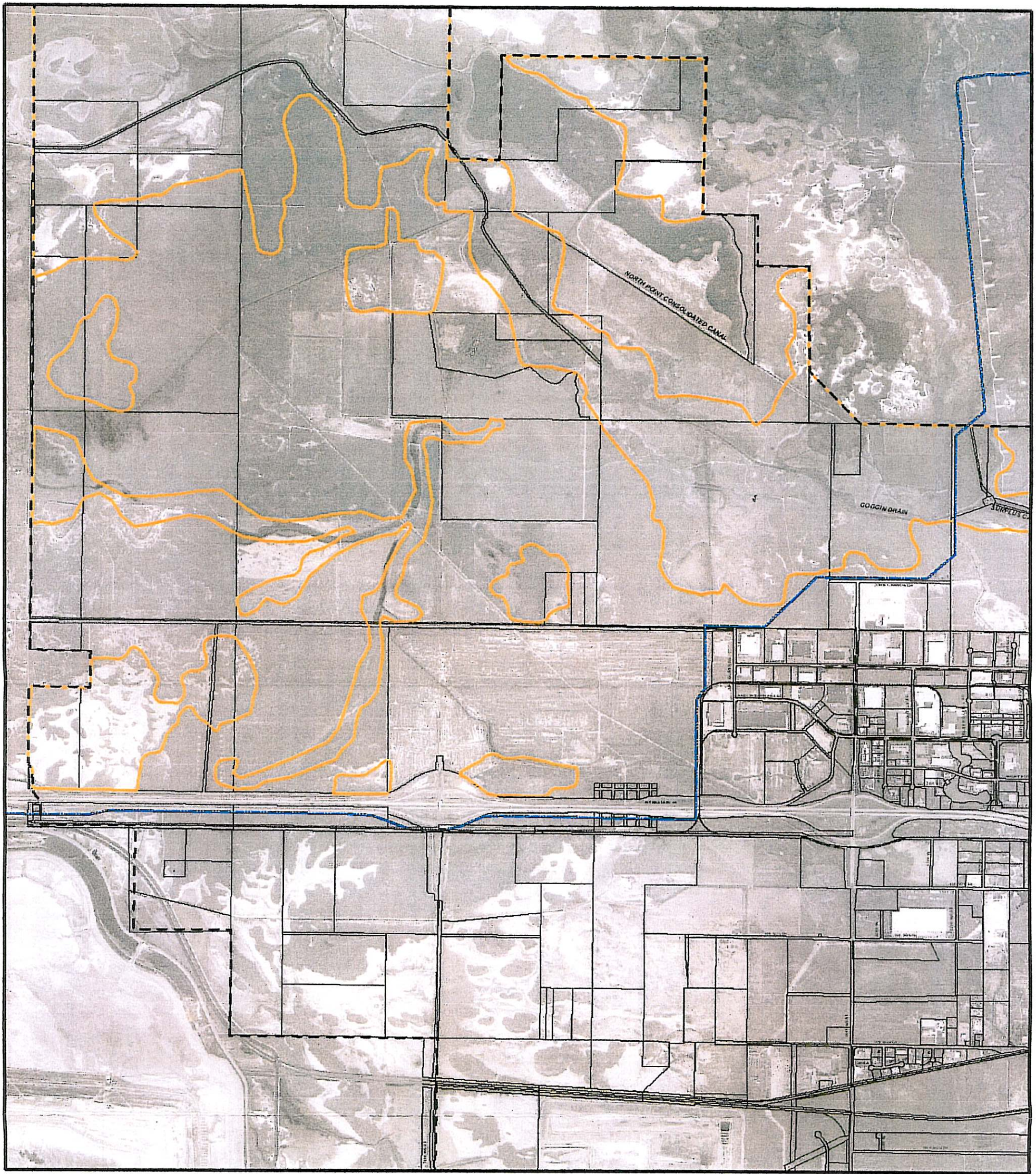
³ Administration transmittal, Pages 1 and 2.

⁴ Planning Commission Meeting Minutes, April 8, 2009, Page 11.

⁵ Ibid, Page 9.

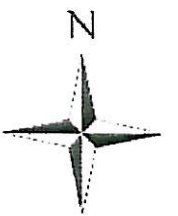
⁶ Ibid, Page 7.

⁷ Ibid, all comments, Pages 5 and 6.



Map Legend

-  Lowland Conservancy Overlay District
-  Proposed UNEV Petroleum Pipeline
-  Salt Lake City Boundary





1 Picture Place Mark

2 Picture Place Mark

3 Picture Place Mark

4 Picture Place Mark

6 Picture Place Mark

8 Picture Place Mark

5 Picture Place Mark

7 Picture Place Mark

9 Picture Place Mark

Image State of Utah

Google

40° 47.563' N 112° 0.904' W

2006

Eye alt 3784 ft

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.

SALT LAKE CITY CORPORATION

FRANK B. GRAY
DIRECTOR

DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT
OFFICE OF THE DIRECTOR

RALPH BECKER
MAYOR

MARY DE LA MARE-SCHAEFER
DEPUTY DIRECTOR

ROBERT FARRINGTON, JR.
DEPUTY DIRECTOR

CITY COUNCIL TRANSMITTAL





David Everitt, Chief of Staff

Date Received:

Date Sent to City Council: 06/23/2009 *dl*

TO: Salt Lake City Council
Carlton Christensen, Chair

DATE: June 17, 2009

FROM: Frank Gray, Community & Economic
Development Department Director

RE: Petition PLNPCM2009-00422: Zoning Text Amendment by Salt Lake City Planning
Division, Zoning Ordinance text amendment to the Lowlands Conservancy Overlay
District

STAFF CONTACTS: Nole Walkingshaw, Senior Planner, at (801) 535-7128 or
nole.walkingshaw@slcgov.com

RECOMMENDATION: That the City Council hold a briefing and schedule a Public
Hearing

DOCUMENT TYPE: Ordinance

BUDGET IMPACT: None

DISCUSSION:

Issue Origin: On April 8, 2009 the Salt Lake City Planning Commission initiated a petition to amend 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 LC as a Conditional Use.

In November 2008, the UNEV Pipeline, LLC 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

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P.O. BOX 145486, SALT LAKE CITY, UTAH 84114-5486
TELEPHONE: 801-535-6230 FAX: 801-535-6005

WWW.SLCGOV.COM/CEO



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.

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 zone 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.

The departmental comments were generally supportive of the amendment with the exception of the Staff comments received from the Office of Sustainability Program Manager Open Space Lands Program which stated, "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."

At this time there are no known unresolved public comments; however, a Rocky Mountain Power representative inquired about the area and the potential for a high voltage power transmission line through the area. They were given information about the coordinates of the LC to see if this would impact their project. At this time no comments have been received from Rocky Mountain Power stating that there will or will not be an impact on the transmission line project.

Master Plan Considerations: The Lowland Conservancy Overlay District (LC) is predominantly located within an area covered by the Salt Lake City Open Space Plan (specifically the Bailey's Lake map area, map 15 of the Salt Lake City Open Space Plan), which was adopted by the City

Council in October of 1992. There are no direct conflicts with the Salt Lake City Open Space Plan. The plan does not discuss utility corridor impacts with respect to open space.

The area is also located in the Northwest Quadrant Master Plan area; the Plan is in draft form at this time. 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 underground transmission infrastructure.

PUBLIC PROCESS:

An Open House was held on May 18, 2009. Notice of the Open House was sent to Community Council chairs, the mailing list from the application, previous conditional use request contacts, and those whose names are on the Planning Divisions Listserve. Notice was also posted on the City's website. No comments were received.

The Planning Commission held a Public Hearing on May 27, 2009. Issues raised at the Public Hearing included a strong recommendation that the utility corridors be subterranean only and that overhead transmission lines be seriously discouraged. The discouragement directly relates to birding activities (Audubon Society) and bird hunting (abutting duck hunting clubs). The Planning Commission passed a motion to forward a positive recommendation to the City Council to adopt the proposed amendment to the Lowlands Conservancy Overlay District. The vote was eight (8) in favor; one (1) opposed.

RELEVANT ORDINANCES:

Amendments to the Zoning Ordinance and Maps are authorized under Section 21A.50 of the Salt Lake City Zoning Ordinance, as detailed in Section 21A.50.050: "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." It does, however, list five standards, which should be analyzed prior to rezoning property (Section 21A.50.050 A-E). The five standards are discussed in detail starting on page 3 of the Planning Commission Staff Report (see Attachment 5B).

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1. CHRONOLOGY

PROJECT CHRONOLOGY
Petition # PLNPCM2009-00422

April 8, 2009	Petition initiated by Salt Lake City Planning Commission
April 10, 2009	Petition Assigned to Nole Walkingshaw, Senior Planner
April 18, 2009	Public Open House held in City and County Building
April 24, 2009	Staff Routing Memorandum Prepared and Routed
May 13, 2009	Notification of Public Hearing, Actual notice given to property owners within the Lowlands Conservancy Overlay District, Posted to City and State Website, and email to City list serve.
May 13, 2009	Staff report posted to public meeting notice websites
May 27, 2009	Planning Commission held public hearing and voted eight (8) in favor and one (1) opposed to recommend approval of petition to City Council.
June 5, 2009	Staff requested draft of proposed ordinance from City Attorney's Office.
June 10, 2009	Planning Commission ratified minutes for January 28, 2009 meeting.
June 10, 2009	Staff received draft of proposed ordinance from City Attorney's Office.

2. ORDINANCE

SALT LAKE CITY ORDINANCE

No. _____ of 2009

(An ordinance amending a portion of Section 21A.34.050
(Zoning: Lowland Conservancy Overlay District) of the *Salt Lake City Code*)

An ordinance amending section 21A.34.050 (Zoning: Lowland Conservancy Overlay District) of the *Salt Lake City Code* pursuant to Petition No. PLNPCM2009-00422 to allow underground utility transmission infrastructure to be considered in the Lowland Conservancy Overlay District (LCOD) as a conditional use.

WHEREAS, the Salt Lake City Planning Commission ("Planning Commission") held a public hearing on May 27, 2009 to consider a request made by the Planning Commission (petition no. PLNPCM2009-00422) to amend section 21A.34.050 of the *Salt Lake City Code* to amend a portion of the text of section 21A.34.050 (Zoning: Lowland Conservancy Overlay District) of the *Salt Lake City Code* to allow underground utility transmission infrastructure to be considered in the LCOD as a conditional use; and

WHEREAS, at its May 27, 2009 hearing, the Planning Commission voted to transmit a positive recommendation to the Salt Lake City Council ("City Council") on said application; and

WHEREAS, after a public hearing on this matter the City Council has determined that the following ordinance is in the City's best interests,

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending text of *Salt Lake City Code* section 21A.34.050. That section 21A.34.050.C.3 of the *Salt Lake City Code* (Zoning: Lowland Conservancy Overlay District), shall be, and hereby is, amended to read as follows:

LEGISLATIVE
VERSION

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.

SECTION 2. Effective Date. This ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah, this _____ day of _____,
2009.

CHAIRPERSON

ATTEST AND COUNTERSIGN:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

Bill No. _____ of 2009.

Published: _____.

HB_ATTU-#8902-v1-Ordinance_amending_text_of_LCOD

SALT LAKE CITY ORDINANCE

No. _____ of 2009

(An ordinance amending a portion of Section 21A.34.050
(Zoning: Lowland Conservancy Overlay District) of the *Salt Lake City Code*)

An ordinance amending section 21A.34.050 (Zoning: Lowland Conservancy Overlay District) of the *Salt Lake City Code* pursuant to Petition No. PLNPCM2009-00422 to allow underground utility transmission infrastructure to be considered in the Lowland Conservancy Overlay District (LCOD) as a conditional use.

WHEREAS, the Salt Lake City Planning Commission (“Planning Commission”) held a public hearing on May 27, 2009 to consider a request made by the Planning Commission (petition no. PLNPCM2009-00422) to amend section 21A.34.050 of the *Salt Lake City Code* to amend a portion of the text of section 21A.34.050 (Zoning: Lowland Conservancy Overlay District) of the *Salt Lake City Code* to allow underground utility transmission infrastructure to be considered in the LCOD as a conditional use; and

WHEREAS, at its May 27, 2009 hearing, the Planning Commission voted to transmit a positive recommendation to the Salt Lake City Council (“City Council”) on said application; and

WHEREAS, after a public hearing on this matter the City Council has determined that the following ordinance is in the City’s best interests,

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending text of *Salt Lake City Code* section 21A.34.050. That section 21A.34.050.C.3 of the *Salt Lake City Code* (Zoning: Lowland Conservancy Overlay District), shall be, and hereby is, amended to read as follows:

FINAL
VERSION

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.

SECTION 2. Effective Date. This ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah, this _____ day of _____, 2009.

CHAIRPERSON

ATTEST AND COUNTERSIGN:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

Bill No. _____ of 2009.

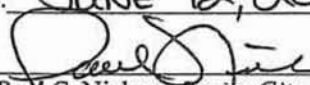
Published: _____.

HB_ATT#8902-v2-Ordinance_amending_text_of_LCOD

APPROVED AS TO FORM

Salt Lake City Attorney's Office

Date: JUNE 12, 2009

By: 

Paul C. Nielson, Senior City Attorney

3. NOTICE OF CITY COUNCIL HEARING

NOTICE OF PUBLIC HEARING

The Salt Lake City Council will hold a public hearing regarding Petition PLNPCM2009-00422 **an action initiated by the Salt Lake City Planning Commission**—requesting the preparation of an ordinance that would amend the City Zoning Ordinance to amend the Salt Lake City Zoning Ordinance. The purpose of the petition is to allow “underground utility transmission infrastructure” in the Lowland Conservancy Overlay District as a Conditional Use.

As part of its study, the City Council is holding an advertised public hearing to receive comments regarding the petition. During this hearing, anyone desiring to address the City Council concerning this issue will be given an opportunity to speak. The hearing will be held:

Date:

Time: 7:00 p.m.

Place: Room 315 (City Council Chambers)*
Salt Lake City and County Building
451 S. State Street
Salt Lake City, UT

*Please enter building from east side.

If you have any questions relating to this proposal or would like to review the petition on file, please call Nole Walkingshaw, Senior Planner, at 535-7128 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday or via e-mail at nole.walkingshaw@slcgov.com.

People with disabilities may make requests for reasonable accommodations no later than 48 hours in advance in order to attend this public hearing. Accommodations may include alternate formats, interpreters, and other auxiliary aids. The City & County Building is an accessible facility. For questions, requests, or additional information, please contact the ADA Coordinator at (801) 535-7971; TDD 535-6021.

4. MAILING LABELS



Epperson Associates, LLC
6905 Geysers Rd.
Geysersville, CA 95441

David M. & Michelle Liechty
643 East 540 North
Centerville, UT 84104

Scott Sabey
Northpoint Duck Club
215 South State Street, Suite 1200
SLC, UT 84111

Kennecott Utah Copper Corporation
4700 W Daybreak Pkwy
South Jordan, UT 84095

Edward L. Gillmor
3819 South 2000 East
SLC, UT 84109

Cullen Battle
Harrison Duck Club
215 South State Street
12th Floor
SLC, UT 84111

Suburban Land Reserve Inc
PO BOX 5611196
Salt Lake City, UT 84151-1196

FedEX National LTL, Inc.
1144 Griffin Road
Lakeland, FL 33805

Elle Sorensen
Audubon Society
3868 S. Marsha Drive
SLC, UT 84128

Diversified Habitats 1LLC
1920 Sheilds Lane
Mt Pleasant, SC 24966

Scott Wangsgard
Rudy Duck Club
American Plaza II
57 West 200 South, Ste. 400
SLC, UT 84101

Ann Neville
Kennecott Nature Preserve
PO Box 6001
Magna, UT 84044

Edward L. Gilmore
2819 S 2000 E
Salt Lake City, UT 84109-3320

Siv J Gilmore
3819 S 2000 E
Salt Lake City, UT 84109-3320

Salt Lake City Corp.
PO BOX 145455
Salt Lake City, UT 84114-5455



Eric McCulley
Legacy Nature Preserve
SWCA Environ. Consultants
257 East 200 South ;Suite 200
SLC, UT 84111

David M. & Michelle Liechty
643 East 540 North
Centerville, UT 84104

Scott Sabey
Northpoint Duck Club
215 South State Street, Suite 1200
SLC, UT 84111

Elliott F. Christensen
8678 Sugarloaf Circle
Sandy, UT 84093

Edward L. Gillmor
3819 South 2000 East
SLC, UT 84109

Cullen Battle
Harrison Duck Club
215 South State Street
12th Floor
SLC, UT 84111

Roberta Schnicher
1236 East Yale Street
SLC, UT 84105

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Lakeland, FL 33805

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Wayne Martinson
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Magna, UT 84044

Richard D. West
2234 Arosa Circle
Sandy, UT 84093

Esther Henrichsen
621 6th Avenue
SLC, UT 84103

Chris Cole
2891 South 2000 East
SLC, UT 84109

5. PLANNING COMMISION

5 A. PLANNING COMMISION

**Original Agenda/Notice
Hearing May 13, 2009**

TAM! HANSEN
2.00 11/18/07

PUBLIC HEARING NOTICE



3VCS 05/15/2009 03:54

Salt Lake City Planning Division
451 South State Street, Room 406
PO Box 145480
Salt Lake City UT 84114

1. Fill out registration card and indicate if you wish to speak and which agenda item you will address.
2. After the staff and petitioner presentations, hearings will be opened for public comment. Community Councils will present their comments at the beginning of the hearing
3. In order to be considerate of everyone attending the meeting, public comments are limited to two (2) minutes per person, per item. A spokesperson who has already been asked by a group to summarize their concerns will be allowed five (5) minutes to speak. Written comments are welcome and will be provided to the Planning Commission in advance of the meeting if they are submitted to the Planning Division prior to noon the day before the meeting.
Written comments should be sent to:

Salt Lake City Planning Commission
451 South State Street, Room 406
Salt Lake City UT 84111

4. Speakers will be called by the Chair.
5. Please state your name and your affiliation to the petition or whom you represent at the beginning of your comments.
6. Speakers should address their comments to the Chair. Planning Commission members may have questions for the speaker. Speakers may not debate with other meeting attendees.
7. Speakers should focus their comments on the agenda item. Extraneous and repetitive comments should be avoided.
8. After those registered have spoken, the Chair will invite other comments. Prior speakers may be allowed to supplement their previous comments at this time.
9. After the hearing is closed, the discussion will be limited among Planning Commissioners and Staff. Under unique circumstances, the Planning Commission may choose to reopen the hearing to obtain additional information.
10. The Salt Lake City Corporation complies with all ADA guidelines. People with disabilities may make requests for reasonable accommodation no later than 48 hours in advance in order to attend this meeting. Accommodations may include alternate formats, interpreters, and other auxiliary aids. This is an accessible facility. For questions, requests, or additional information, please contact the Planning Office at 535-7757; TDD 535-6220.

Government of the State of Utah
Department of Community and Economic Development
2009

5 B. PLANNING COMMISION

Staff Report May 27, 2009

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

Nole Walkingshaw (801)535-7128
nole.walkingshaw@slcgov.com

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. Aerial 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.

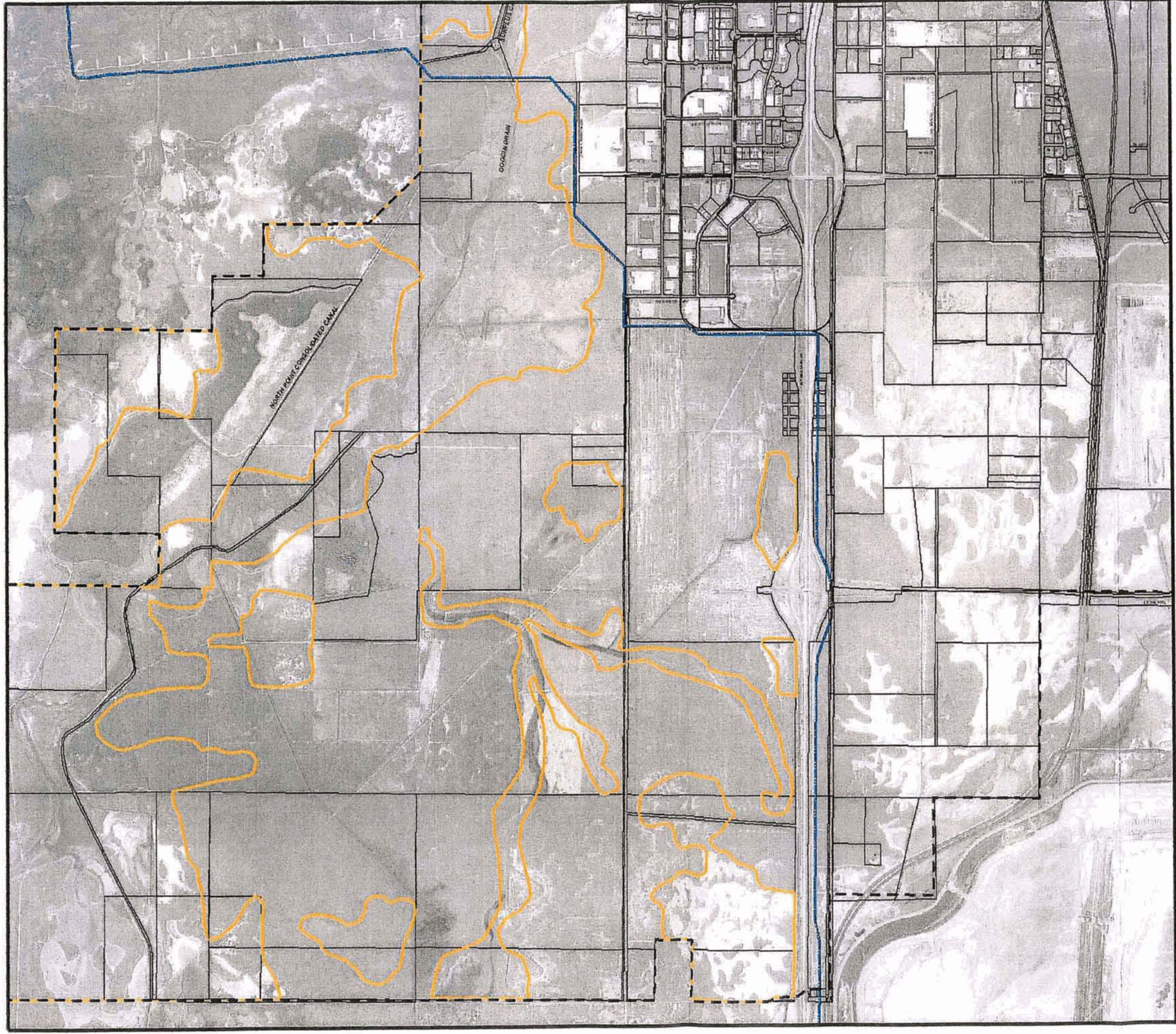
Option 1: Overhead and underground utility transmission infrastructure

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



OPEN HOUSE FACT SHEET

UNEV Pipeline Text Amendment/Conditional Use Petition



Department of
Community
and Economic
Development:
Planning Div.

BACKGROUND

- 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 proposed pipeline is 12 inches in diameter and would be buried approximately three to four feet underground (it may be buried deeper where necessary). 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 proposed pipeline falls within the land use classification of “Public/private utility transmission wires, lines, pipes and poles” as stated in the Salt Lake City Zoning Ordinance.
- “Public/private utility transmission wires, lines, pipes and poles” are permitted uses in the Agricultural, Business Park, Airport, and Light Manufacturing zoning districts; however, they are not allowed in the LCOD.

PREVIOUS CITY ACTIONS REGARDING THE PROPOSED PIPELINE

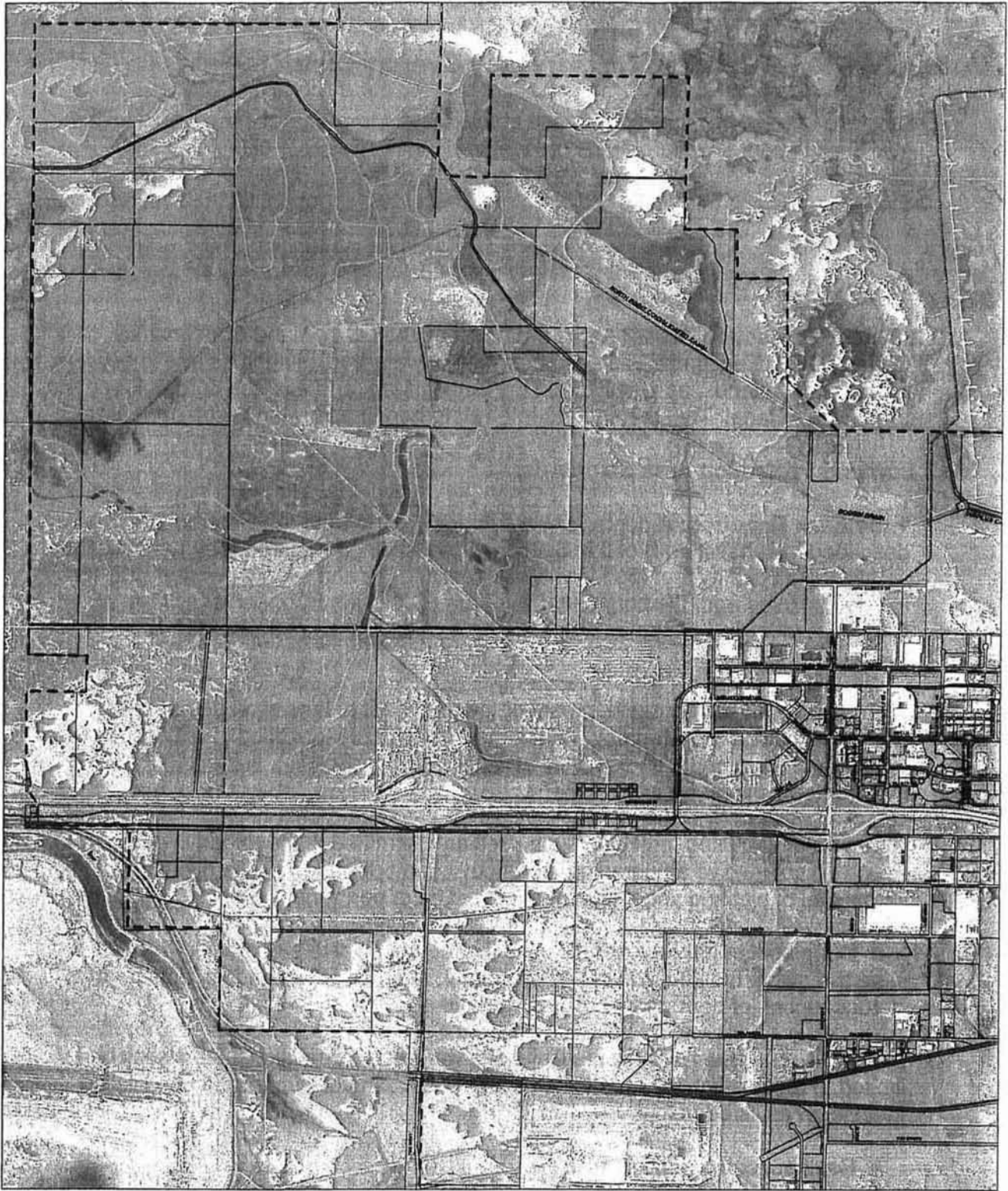
- On December 9, 2008 Salt Lake City issued a Use Interpretation letter stating that the proposed pipeline is not permitted in the LCOD; however, the City’s Open Space Plan shows a future trail connection through the LCOD near the location of the proposed pipeline. The trail is called the Transvalley Corridor Trail Connection. The LCOD 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.
 - UNEV Pipeline, LLC submitted a Conditional Application in January 2009 for the proposed pipeline and Transvalley Corridor Trail Connection.

CURRENT STATUS AND NEXT STEPS

- UNEV Pipeline, LLC has submitted a Conditional Use application for the proposed pipeline in the LCOD.
- The Planning Division is currently developing proposed amendments to the LCOD regulations to allow transmission utilities as a Conditional Use. The Planning Division is also reviewing the Conditional Use application submitted by UNEV Pipeline, LLC.
- The proposed zoning text amendment(s) and Conditional Use application will be distributed to the various City Departments (Engineering, Public Utilities, Transportation, Sustainability, etc.) for their review and recommendation.
- The proposed zoning text amendment(s) and Conditional use application will be forwarded to the Planning Commission for their consideration in a public hearing.
- The Planning Commission will review the proposed text amendment and make a recommendation of approval, approval with changes, or denial to the City Council. The City Council is the final decision making authority on amendments to the text of the Zoning Ordinance. The City Council will review and make a decision on the proposed text amendment through the public hearing process.




The Planning Commission will review the Conditional Use application for proposed pipeline in a public hearing. The Planning Commission is the final decision making authority for Conditional Uses; however, if the Planning Commission approves the Conditional Use application, the approval will not be official until the City Council approves the proposed text amendment to allow the pipeline as a Conditional Use.

Lowland Conservancy Overlay District



Salt Lake City Planning Division
Geographic Information System
April 2009

Map Legend

-  Lowland Conservancy Overlay District
-  Salt Lake City Boundary
-  Proposed UNEV Petroleum Pipeline



21A.34.050 LC Lowland Conservancy Overlay District:

A. Purpose Statement: It is the purpose of this District 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 requirements of this District shall supplement other applicable codes and regulations, including State and Federal regulations and the Salt Lake City Floodplain Ordinance.

B. Lowland Protection Areas: Areas protected by the LC Lowland Conservancy Overlay District encompass areas consisting of waterbodies such as streams, lakes, ponds and wetlands, as identified on the Zoning Map, and also the Jordan River and the Surplus Canal. These areas are referred to herein as lowland protection areas.

C. Lowland Protection Area Standards:

1. Setback Required: A nonbuildable setback area around the waterbodies described in subsection B of this Section above shall be required. The nonbuildable setback shall be fifty feet (50') for nonresidential uses and twenty five feet (25') for residential uses from the boundary line of the LC Lowland Conservancy Overlay District as identified on the Zoning Map, or from the banks of the Jordan River or Surplus Canal.

2. Permitted Uses: No development or improvement to land shall be permitted within the limits of a waterbody. Within the setback area identified in subsection C1 of this Section, permitted uses shall be limited to the following, subject to the other requirements of this District.

a. Agricultural uses, provided such uses are permitted in the underlying district and do not involve any grading, earthmoving, modification of site hydrology, removal of wetland vegetation or construction of permanent buildings/structures;

b. Open space and recreational uses that do not involve any grading, earthmoving, modification of site hydrology, removal of wetland vegetation or construction of permanent buildings/structures.

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;

5. Landscape Plan Required: A landscape plan shall be submitted with each conditional use permit application for development activity within the LC Lowland Conservancy Overlay District and contain the following:

- a. A plan describing the existing vegetative cover of the property and showing those areas where the vegetation will be removed as part of the proposed construction;
- b. A plan describing the proposed revegetation of disturbed areas specifying the materials to be used. The vegetation must be planned in such a way that access for stream maintenance purposes shall not be prevented; and
- c. Such a plan shall be in conformance with the requirements of Part IV, Chapter 21A.48 of this Title.

D. State And Federal Permits Required: A conditional use shall not be granted unless the applicant has first obtained a section 404 permit from the Army Corps of Engineers and a stream alteration permit from the Utah State Department of Natural Resources, Water Rights Division, as applicable.

E. Conditional Use Standards: In addition to demonstrating conformance with the conditional use standards contained in Part V, Chapter 21A.54 of this Title, each applicant for a conditional use within the LC Lowland Conservancy Overlay District must demonstrate conformance with the following standards:

1. The development will not detrimentally affect or destroy natural features such as ponds, streams, wetlands, and forested areas, nor impair their natural functions, but will preserve and incorporate such features into the development's site;
2. The location of natural features and the site's topography have been considered in the designing and siting of all physical improvements;
3. Adequate assurances have been received that the clearing of the site topsoil, trees, and other natural features will not occur before the commencement of building operations; only those areas approved for the placement of physical improvements may be cleared;
4. The development will not reduce the natural retention storage capacity of any watercourse, nor increase the magnitude and volume of flooding at other locations; and that in addition, the development will not increase stream velocities;
5. The soil and subsoil conditions are suitable for excavation and site preparation, and the drainage is designed to prevent erosion and environmentally deleterious surface runoff;

*Include
Minutes*

5 C. PLANNING COMMISSION

**Minutes
Hearing June 10, 2009**

Final minutes may be
inserted once ratified

SALT LAKE CITY PLANNING COMMISSION MEETING

In Room 326 of the City & County Building

451 South State Street, Salt Lake City, Utah

Wednesday, May 27, 2009

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

A field trip was held prior to the meeting. Planning Commissioners present were: Frank Algarin, Tim Chambless, Michael Fife, Kathleen Hill, Susie McHugh, and Mary Woodhead. Staff members present were: Joel Paterson, 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: Wilford Sommerkorn, Planning Director; Cheri Coffey, Programs Manager; Joel Paterson, Programs Manager; Lynn Pace, Deputy City Attorney; Paul Neilson, City Attorney; Robin Zeigler, Senior Planner; Nole Walkingshaw, Senior Planner; Ana Valdemoros, Associate Planner; Ray Milliner, Principal Planner, and Tami Hansen, Planning Commission Secretary.

7:51:10 PM Zoning Text Amendment; Petition PLNPCM2009-00422—The Planning Division is reviewing a petition initiated by the Salt Lake City Planning Commission to amend the Salt Lake City Zoning Ordinance. The purpose of the petition is to allow "Public/private utility transmission wires, lines, pipes, and poles" in the Lowland Conservancy Overlay District as a Conditional Use. The Lowland Conservancy Overlay District is generally located west of the Salt Lake International Airport and north of I-80. This area is located in City Council District One, represented by Carlton Christensen. View: [Staff Report](#)

Chair Woodhead recognized Nole Walkingshaw as staff representative.

Mr. Walkingshaw stated that two months ago the Commission discussed a trail through the Lowlands Overlay Conservancy District and a pipeline beneath that trail. He stated that there was a lot of public concern regarding intrusion into that area, specifically involving the impact on birds and bird clubs. He noted that the issue was not with the pipeline running through the area, but its association with the trail.

Mr. Walkingshaw stated that the Planning Commission initiated this ordinance to amend the ordinance of the Lowlands Overlay Conservancy District to allow pipeline transmission corridors as a conditional use through this area, which had been done. He stated that staff's recommendation was for the subterranean infrastructure, primarily due to the concern that hunting and bird watching activities would be impacted in that area.

Commissioner Muir stated that in the conditional use application, Condition 3 titled Restoration of Disturbed Area, under item two of the findings; implied restoration would extend to any kind of maintenance activity as well, such as having to repair the pipeline, and if the staff reports intent was that after those repairs the landscape would need to be restored.

Mr. Walkingshaw stated that was correct.

Chair Woodhead invited the applicant to the table.

Mr. Jim Townsend (Senior Vice President of UNEV Pipeline Co.) stated that any damage caused to the area by their company during maintenance would be restored.

Commissioner Dean stated that there was a reference to a permanent right-of-way of 50 feet. She inquired about what that would entail.

Mr. Townsend stated that it was an area that was 50 feet wide, or 25 feet on either side of the center of the pipeline that allowed UNEV to maintenance the pipeline.

Commissioner Dean inquired if this was simply an easement and not a sort of surface treatment.

Mr. Townsend stated that was correct.

Commissioner Dean inquired if it would be reasonable to request a type of bond on this re-vegetation work.

Mr. Nielson stated that this was a conditional use, so if a bond was reasonably related then it would be within the Commission's authority to require one.

Mr. Walkingshaw stated that Salt Lake City was not the permitting agency for the work or the inspections; the Federal Department of Transportation was that authority, so there would need to be more discussion because this was located in an overlapping jurisdiction.

Commissioner Chambless stated that he was concerned that the pipeline was placed in a seismic zone and close to a body of water, and inquired if Mr. Townsend saw a problem with this.

Mr. Townsend stated that it was not uncommon to build a pipeline in this type of environment.

8:02:11 PM Public Hearing

Chair Woodhead opened the public hearing portion of the petition. She noted that no one was present to speak and closed the public hearing.

8:03:23 PM Motion

Commissioner Wirthlin made a motion regarding Petition PLNPCM2009-00422, the Salt Lake City Zoning Text Amendment, Lowland Conservancy Overlay District, based on the staff report and

discussion, the Planning Commission recommends to the City Council approval of the zoning text amendment.

Commissioner Gallegos seconded the motion.

Discussion of the motion:

Commissioner Fife stated that in the staff report there were two different wording changes, and inquired if the Commission was only referencing the one regarding the subterranean.

Commissioner Wirthlin stated that was the intent of the motion.

Mr. Walkingshaw stated that attachment A is to add the underground utility infrastructure. He stated that if the Commission would like it to read, *subterranean utility transmission infrastructure* that could be done.

Commissioner Fife stated he was fine with how it currently read.

Chair Woodhead stated that the motion was in reference to attachment A and called for the vote.

Commissioners De Lay, Dean, Chambliss, Hill, Muir, Wirthlin, McHugh, and Gallegos voted, "Aye" and Commissioner Fife voted, "No". The motion passed.

8:06:17 PM UNEV Pipeline Project; Petition PLNPCM2009-00423—The Salt Lake City Planning Division is processing a request for approval of a conditional use by UNEV Pipeline to develop an underground petroleum distribution pipeline. The UNEV Pipeline Project, located at approximately 705 N Wright Brothers Drive and approximately 1070 North 5200 West. The property is zoned M-1 light manufacturing, and portions of the property are within the Lowland Conservancy Overlay District. This application is being processed in conjunction with petition PLNPCM2009-00422. This property is located in City Council District One, represented by Carlton Christensen (Staff contact: Nole Walkingshaw)

8:06:20 PM Motion

Commissioner Wirthlin made a motion regarding Petition PLNPCM2009-00423, based on the findings listed in the staff report, discussion and information received from the applicant and Planning staff, the Planning Commission finds that the general applicable standards are met for this conditional use, subject to the following conditions:

- 1. Approval subject to the adoption of Petition PLNPCM2009-00422 Zoning Text Amendment to the Lowlands Conservancy Overlay District, by the City Council. The purpose of the request is to amend the Lowlands Conservancy Overlay District (LC) regulations to allow only underground utility transmission infrastructure to be considered in the LCOD as a conditional use.**

2. **Construction is subject to the standards of review and inspections as required by the Federal Departments of Transportation, who oversees the following required permits for this section of the line.**
3. **Restoration of the disturbed area with native vegetation and topography consistent with the vegetation and topography in place prior to the disturbance.**

Commissioner McHugh seconded the motion.

Discussion of the Motion:

Commissioner Dean inquired if the Commission wanted to discuss a potential bond for the work.

Commissioner Wirthlin stated that he did not see a need for that.

Commissioners De Lay, Dean, Chambless, Hill, Muir, Wirthlin, McHugh, and Gallegos voted, "Aye". Commissioner Fife voted, "No". The motion passed.

Commissioner Fife stated that the reason he voted in the negative on both petitions was because there seemed to be other ways to get to North Salt Lake City without going through a Lowland Conservancy District.

6. INTERNAL MEMORANDUMS

April 24, 2009 Staff Routing Memo



MEMORANDUM

451 South State Street, Room 406
Salt Lake City, Utah 84111
(801) 535-7757

Planning and Zoning Division
Department of Community and Economic Development

Date: April 24, 2009

To: Peggy Garcia – Public Utilities PO Box 5528
Ted Itchon – Fire PO Box 5471
Craig Smith – Engineering PO Box 5506
Barry Walsh – Transportation PO Box 5502
Larry Butcher – Permits Counter Supervisor PO Box 5471
Lt. Rich Brede – Police PO Box 5497
Paul Nielson – Attorneys Office PO Box 5478
Dan Bergenthal – Transportation PO Box 5502
Emy Storheim – Public Services PO Box 5469
Allen McCandless – Airport PO Box 5550

CC: Mayors Cabinet: Tim Harpst- Transportation Division Director; Jeff Niermeyer- Public Utilities Director; Rick Graham- Public Services Director ; Dennis McKone- Fire Chief; Chris Burbank- Police Chief; Nancy Boskoff- Arts Council Director; Maureen Riley- Airport Director; LuAnn Clark- HAND Director; Lyn Creswell- Management Services Department Director; Frank Gray- Community and Economic Development Director; DJ Baxter- RDA Director; Ed Rutan- City Attorney

From: Nole Walkingshaw, Planning

Re: **Petition PLNPCM2009-00422 Zoning Text Amendment, amending the Lowlands Conservancy District to allow pipelines as a conditional use, initiated by the Planning Commission and PLNPCM2009-00423 Conditional Use for the UNEV Pipeline Project, submitted by UNEV Pipeline, LLC**

BACKGROUND

- 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 proposed pipeline is 12 inches in diameter and would be buried approximately three to four feet underground (it may be buried deeper where necessary). 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)

- Amend the LCOD regulations to allow only underground utility transmission infrastructure to be considered in the LCOD as a Conditional Use.

CURRENT STATUS AND NEXT STEPS

- UNEV Pipeline, LLC has submitted a Conditional Use application for the proposed pipeline in the LCOD.
- The Planning Division is currently developing proposed amendments to the LCOD regulations to allow transmission utilities as a Conditional Use. The Planning Division is also reviewing the Conditional Use application submitted by UNEV Pipeline, LLC.
- The proposed zoning text amendment(s) and Conditional Use application will be distributed to the various City Departments (Engineering, Public Utilities, Transportation, Sustainability, etc.) for their review and recommendation.
- The proposed zoning text amendment(s) and Conditional use application will be forwarded to the Planning Commission for their consideration in a public hearing.
- The Planning Commission will review the proposed text amendment and make a recommendation of approval, approval with changes, or denial to the City Council. The City Council is the final decision making authority on amendments to the text of the Zoning Ordinance. The City Council will review and make a decision on the proposed text amendment through the public hearing process.

The Planning Commission will review the Conditional Use application for proposed pipeline in a public hearing. The Planning Commission is the final decision making authority for Conditional Uses; however, if the Planning Commission approves the Conditional Use application, the approval will not be official until the City Council approves the proposed text amendment to allow the pipeline as a Conditional Use.

Please review the attached information and respond with comments by May 11, 2008. This petition is in the Accela system and your comments can be posted there. If you do not have access to the Accela system, please email me a response. If you have no concerns or issues with the proposed development or amendment, please respond via email indicating your position. If I do not receive a response by this date, I will assume that you have no comments or concerns regarding the proposal. If you have questions or need additional information, please contact me at 535-7128 or nole.walkingshaw@slcgov.com

Thank you.

7. ORIGINAL PETITION

Remarks:

Petition No: PLNPCM2009-00422

By: Salt Lake City Planning Division

**Zoning Ordinance Text Amendment to the Lowlands
Conservancy**

Date Filed: 04/10/2009

Address: Lowlands

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

See pg. 11

Present for the Planning Commission meeting were Chair Mary Woodhead ;
Commissioners Frank Algarin, Tim Chambless, Angela Dean, Babs De Lay, Mi
Scott, and Matthew Wirthlin.

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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. Bergenthal if a bike path already existed on the south side of the airport.

Mr. Bergenthal 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 trail 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.

Go to FTR Gold at <ftp://ftrftp.slcgov.com/FTRPlayerPlusV21.exe> to download the digital recording.

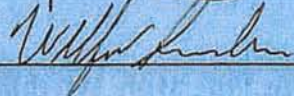
Kathryn Weiler

**COMMUNITY AND ECONOMIC DEVELOPMENT
COUNCIL SUBMITTAL CHECKLIST**

Petition No and Basic Information: PLNPCM2009-00422, Text Amendment for Lowlands Conservancy

Date: June 14, 2009

Supervisor Approval: 

Division Director Approval: 

Contact Person: Nole Walkingshaw

Phone No. 801-535-7128

- Initiated by
- City Council Member
 - Property Owner
 - Board / Commission
 - Mayor
 - Other

Contact Person
Planning Commission

Completed Check List attached:

- Alley Vacation
- Planning / Zoning
- Federal Funding
- Condominium Conversion
- Plat Amendment
- Other

Public Process:

- | | |
|---|---|
| <input type="checkbox"/> Community Council (s) | <input checked="" type="checkbox"/> City Web Site |
| <input checked="" type="checkbox"/> Public Hearings | <input type="checkbox"/> Flyers |
| <input checked="" type="checkbox"/> Planning Commission | <input checked="" type="checkbox"/> Formal Notice |
| <input type="checkbox"/> Historic Landmark Commission | <input type="checkbox"/> Newspaper Advertisement |
| <input type="checkbox"/> HAAB review | <input type="checkbox"/> City Television Station |
| <input type="checkbox"/> Board of Adjustment | <input type="checkbox"/> On Location Sign |
| <input type="checkbox"/> City Kiosk | <input type="checkbox"/> City Newsletter |
| <input checked="" type="checkbox"/> Open House | <input type="checkbox"/> Administrative Hearing |
| <input type="checkbox"/> Other | |

Compatible with ordinance:

Specific Citations: Amendments to the Zoning Ordinance and Maps are authorized under Section 21A.50 of the Salt Lake City Zoning Ordinance, as detailed in Section 21A.50.050: "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." It does, however, list five standards, which should be analyzed prior to rezoning property (Section 21A.50.050 A-E). The five standards are discussed in detail starting on page 5 of the Planning Commission Staff Report (see Attachment 5b).

Approvals / Input from Other Departments / Divisions

<u>Division</u>	<u>Contact Person</u>
<input checked="" type="checkbox"/> Airport:	Allen McCandless
<input checked="" type="checkbox"/> Attorney:	Paul Nielson
<input checked="" type="checkbox"/> Business Licensing:	Robert Lucas
<input checked="" type="checkbox"/> Engineering:	Scott Weiler
<input checked="" type="checkbox"/> Fire:	Ted Itchon
<input checked="" type="checkbox"/> HAND:	Luann Clark
<input type="checkbox"/> Management Services:	
<input checked="" type="checkbox"/> Mayor:	David Everitt
<input type="checkbox"/> Parks:	
<input checked="" type="checkbox"/> Permits / Zoning:	Larry Butcher
<input type="checkbox"/> Police:	
<input type="checkbox"/> Property Management:	
<input checked="" type="checkbox"/> Public Services:	Rick Graham
<input checked="" type="checkbox"/> Public Utilities:	Jason Brown
<input checked="" type="checkbox"/> Transportation:	Barry Walsh
<input checked="" type="checkbox"/> RDA :	DJ Baxter
<input checked="" type="checkbox"/> Zoning Enforcement	Craig Spangenberg

PETITION CHECKLIST

Date	Planner Initials	Supervisor Initials	Director Initials	Action Required
2009 04/27	AM	AMP		Petition Delivered to Planning
2009 4-10	rw	AMP		Petition Assigned to <u>Note W/a/Kingshaw</u>
2009 5/27	rw	AMP		Planning Staff or Planning Commission Action Date
2009 6/10	rw	AMP		Transmittal Cover Letter Followed Template (margins, headings, returns etc)
2009 6/10	rw	AMP		Table of Contents
2009 6/10	rw	AMP		Chronology
	rw	AMP		Ordinance Prepared by the Attorney's Office Include general purpose statement of petition (top of ordinance) Include Strike and Bold -(Legislative Copy) (where applicable) Include Clean Copy (Ensure stamped by Attorney) Include Sidwell Numbers (where applicable) Include Legal Description-review, date and initial (where applicable) Ensure most recent ordinance used Ensure Exhibits (tables etc) are attached
2009 6/10	rw	AMP		Council Hearing Notice Include Purpose of Request Include zones affected (where applicable) Include address of property (where applicable) Include TDD Language
2009 6/10	rw	AMP		Mailing List of Petition and Labels, (include appropriate Community Councils, applicant and project planner) (include photocopy of labels)
5/13 2009	rw	AMP		Planning Commission Notice Mailing Postmark Date Verification (on agenda) Newspaper Notice for Rezoning and Master Plan Amendments (proof of publication or actual publication)
2009 5/27	rw	AMP		Planning Commission Staff Report
2009 6/10	rw	AMP		Planning Commission Minutes and Agenda
2009 4/10	rw	AMP		Yellow Petition Cover and Paperwork Initiating Petition (Include application, Legislative Intent memo from Council, PC memo and minutes or Mayor's Letter initiating petition.)
				Date Set for City Council Action: _____
				Petition filed with City Recorder's Office