

**MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD AUGUST 6, 2008 IN THE WEST JORDAN COUNCIL CHAMBERS**

**PRESENT:** Justin Stoker, Nathan Gedge, David McKinney, Nathan Hendricks, Ellen Smith, and John Winn. James Dupaix was excused.

**STAFF:** Tom Burdett, Vicki Hauserman, Greg Mikolash, Robert Thorup, Scott Langford, Ray McCandless, Jennifer Jastremsky, Chris Gilbert, Nathan Nelson, Bill Baranowski, and Reed Scharman.

**OTHERS:** Dr. Joseph W. Cranmer, Doris C. Cranmer, Ruth Curtis, Dan Curtis, Patty Hadley, Nadean Solis, Dee Hadley, David Johnson, Betty Christensen, Kent Harris, Mickie Arvan, Virginia Arvan, Jean Parkinson, Dick Scott, Sophie Stephens, Bill & Jeri Gray, Patrick Trujillo, Judy Molitor, Marilyn Cameron, William Horrocks, Mary Horrocks, Iris Harris, Craig Siggard, Lou & Donna Zitting, Brian Williams, Elisabeth Prause, Bessie Brems, Joan Trujillo, Laura Lowe, Alice Trego, Betty Johnson, LaMar Coon, Kevin Orton, Kirby Watson, Julie Watson, Gary Olsen, Dan Atherley, Bev Atherley, Ray McMillan, Brandon Peterson, Dan Simons, Sue Elliott, Ray Allen, Robert Pulliam, Maureen Pulliam, James Teton, Brent Orton, Larry & Cheryl Brimhall, Ann Cederlof, Ken Olson, Gayle Evans, Chris Gamvroulas, Terry Spencer, Velma Glad, and Laurie Blanchard.

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The briefing meeting was called to order by Justin Stoker.

The agenda was reviewed. If Item #4 is approved, other applications would have to be filed in order to place the gate. Alignment of roadways were briefly discussed for Item #5. An explanation was given for the purpose of the code amendment in Item #6.

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The regular meeting was called to order at 6:00 p.m. by Vice-Chair Justin Stoker.

**1. Consent Calendar**

**A. Approve Minutes from July 16, 2008**

**MOTION:** Nathan Gedge moved to approve the Consent Calendar as listed in the packet. The motion was seconded by John Winn and passed 6-0 in favor.

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**2. Peterson Commons Commercial Subdivision (2 lots); 4878 West New Bingham Highway; Preliminary Subdivision Plat; 6.59 acres; P-C Zone; Peterson Development/Brandon Peterson (applicant) [#SDMA20080005; parcel 2036278022]**

Scott Langford gave an overview of the request to divide the existing single lot into two lots, which is part of the Stone Creek Master Plan. The future development planned for the property is professional office, which can include a variety of office and commercial uses. The site plan approvals will come to the Planning Commission. Road improvements along 4800 West and New Bingham Highway will be required, which includes burying the overhead utilities currently on the frontage of New Bingham Highway. The applicant will also have to fully improve Copper Canyon Way adjacent to the subdivision. He reviewed the access points for the site.

Staff recommended that the Planning Commission grant Preliminary Subdivision Plat approval for the Peterson Commons Subdivision, located at 4878 West New Bingham Highway in a P-C zoning district, subject to the following conditions:

1. Meet all requirements of Title 87 of the Subdivision Ordinance and Title 89 of the Zoning Ordinance, and the requirements of the P-C zoning district.
2. The Peterson Commons Subdivision shall conform to the narrative and subdivision plat dated 7/03/08 as part of this application, except as modified by these conditions.

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3. The approved Preliminary Plat shall remain valid for one year following the date of approval [Section 87-3-108(a)].
4. The Final Plat shall include an instrument which grants reciprocal access between Lot 1 and Lot 2. Said mechanism shall either be a notation included on the Final Plat, a separate document which records an easement, or another approved method approved by the City.
5. As part of the Final Subdivision Plat application, the Applicant shall either submit a letter from the Utah Department of Transportation granting access from the site to New Bingham Highway, or the drive approach to New Bingham Highway be removed from the Final Plat.
6. Planning Commission approvals do not include Fire, Building and Safety, or Engineering approval. Requirements by those departments must be met and plat changes or additions may be required.

Brandon Peterson, Peterson Development, 225 South 200 East #300, said they had been working with a local credit union regarding Lot 1, and they don't foresee any development on Lot 2 at any time in the near future.

Justin Stoker noted that the access points are shown on Lot 2, but they don't foresee development on that lot right away.

Brandon Peterson said they would coordinate with staff regarding access to the credit union, which will be through Lot 2. However, they don't anticipate a building on Lot 2 right away.

Further public comment was closed at this point for this item.

**MOTION: Nathan Gedge moved to approve the Preliminary Subdivision Plat for Peterson Commons Commercial Subdivision; 4878 West New Bingham Highway; Peterson Development/Brandon Peterson (applicant) subject to the conditions 1 through 6 as listed in the Planning Commission packet. The motion was seconded by Ellen Smith and passed 6-0. James Dupaix was absent.**

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3. **Princeton Park; 5001 West 7800 South; Preliminary Site Plan, Preliminary Subdivision Plat, and Preliminary Development Plan; P-C (ZC) Zone; Ivory Development/Brad Mackay (applicant) [#SPCO20080018, SDMA20080008, DP20080002; parcel 20-36-203-004, 005]**

Scott Langford gave a brief history of the subject site, which was at one time part of the Stone Creek Master Plan. The Design Review Committee met on July 8, 2008, to review the project and felt comfortable with it. He showed the proposed layout and design. The project will have a combination of 37 single-family residential lots to the south and 58 townhome units in a variety of configurations to the north. He pointed out the road systems and traffic calming measures. Detention ponds will facilitate storm water. The only active recreation facility in the project is a tot lot. He reviewed the proposed fencing. He showed the proposed elevation options and stated that the Planning Commission could state their preference of materials, etc.

Preliminary Subdivision Plat:

Staff recommended that the Planning Commission grant Preliminary Subdivision Plat approval for the Princeton Park development located at approximately 5001 West 7800 South in a P-C zoning district with the conditions of approval as listed below. Planning Commission approvals do not include Fire, Building and Safety, or Engineering approval. Approvals by these City divisions or departments are required.

Condition of Approval:

1. The approved Preliminary Plat shall remain valid for one year following the date of approval.

Preliminary Site Plan:

Staff recommended that the Planning Commission grant Preliminary Site Plan approval for the Princeton Park development located at approximately 5001 West 7800 South in a P-C zoning district with the conditions of

approval as listed below. Planning Commission approvals do not include Fire, Building and Safety, or Engineering approval. Approvals by these City divisions or departments are required.

Conditions of Approval:

1. Final Site Plan approval is required, which is to be reviewed and approved by the Planning Commission after receiving comments from the Design Review Committee.
2. The Final Site Plan shall include a detailed irrigation plan.
3. The Applicant shall submit with the Final Site Plan a Final Development Plan, which will serve as the visual and textual master plan that sets the foundation for development on the subject site.
4. Preliminary Site Plan approval shall remain valid for one year following the date of this approval.

Preliminary Development Plan:

Staff recommended that the Planning Commission grant approval for the Preliminary Development Plan for the Princeton Park development located at approximately 5001 West 7800 South in a P-C zoning district with the conditions of approval as listed below. Planning Commission approvals do not include Fire, Building and Safety, or Engineering approval. Approvals by these City divisions or departments are required.

Conditions of Approval:

1. A complete Final Development Plan for the entire site shall be submitted at such time the Applicant submits for Final Site Plan approval.
2. The completed Final Development Plan shall be reviewed by the City's Design Review Committee; wherein the Committee shall forward a recommendation to the Planning Commission for final action.
3. The Final Development Plan shall be amended to list all potential home models that could be built on the proposed single-family lots.
4. The completed Final Development Plan shall follow the Planned Community Final Development Plan Checklist and include, but not be limited to the following:
  - a. Introduction to and scope of the project.
  - b. Fencing Plan; including type and placement
  - c. Landscape Plan; including type and placement
  - d. Lighting Plan; including placement and lighting standard designs
  - e. Signage Plan; including all exhibits proposed monument signs
  - f. Exterior elevations for all proposed buildings and; including 4-sided architecture, materials, colors, decorative elements, lighting, etc.

David McKinney asked if the fencing along 7800 South would have individual gates for each walkway.

Scott Langford said there would be openings, but he hadn't seen any gate details. Staff was unsure of the type of fencing that exists along the water tank property.

Chris Gamvroulas, Ivory Development, said they had been working on the project for a number of years and appreciated being before the Commission. He confirmed that the density of 95 units had been approved for the 15 acres. He stated that the standards for this development are similar to those they have for Bloomfield Farms in West Jordan. They have no plans to gate the fence openings on 7800 South. A variety of materials will be offered for the single-family homes, and they will select either a rock or brick exterior for the townhomes.

Nathan Hendricks asked why the entrances to the townhomes face 7800 South.

Chris Gamvroulas said that is the better looking elevation that will be seen from the roads. In the case where they back the water tank they have a front load unit.

Nathan Hendricks said they should give people an option to not park on the busier streets.

Chris Gamvroulas pointed out the parking areas inside the development. He reviewed the price ranges. A two-bedroom townhome with 1300 square feet would likely start in the \$160's, and the largest unit with 2600 square feet will be in the mid \$200's. Single-family homes go from 1200 square feet in the low \$220's and up to the mid \$300's.

Further public comment was closed at this point for this item.

David McKinney said he likes either the brick or stone, but wondered if the code requires a certain percentage of masonry.

Scott Langford said there are certain requirements for stone or brick within the code, which will apply to the development. It doesn't apply to the townhome product at this point, but if the Commission wanted to state a percentage they could.

Tom Burdett said there were no special conditions attached to this development plan regarding the building materials, so it will be reviewed against the code.

Justin Stoker liked the idea of the rear loading layout that will open up the neighborhoods to the larger streets.

Ellen Smith asked if the school district had confirmed that they will be able to handle the extra density for the project.

Scott Langford said that the Jordan School District is aware of the approved densities.

Ellen Smith wanted to confirm that fire access is provided with the 24-foot private drives.

Reed Scharman said they need to get to within 150 feet of any portion of the exterior. Anything labeled as fire department access would have to be maintained.

**MOTION: Nathan Gedge moved to approve the Preliminary Subdivision Plat for Princeton Park Development; approximately 5001 West 7800 South; Ivory Development/Brad Mackay (applicant) with the conditions of approval listed in the Planning Commission packet. The motion was seconded by Nathan Hendricks and passed 6-0 in favor. James Dupaix was absent.**

**MOTION: Nathan Gedge moved to approve the Preliminary Site Plan for Princeton Park Development; approximately 5001 West 7800 South; Ivory Development/Brad Mackay (applicant) with the conditions of approval as listed in the Planning Commission packet. The motion was seconded by John Winn and passed 6-0 in favor. James Dupaix was absent.**

**MOTION: Nathan Gedge moved to approve the Preliminary Development Plan for Princeton Park Development; approximately 5001 West 7800 South; Ivory Development/Brad Mackay (applicant) with the conditions of approval as listed in the Planning Commission packet. The motion was seconded by Nathan Hendricks and passed 6-0 in favor. James Dupaix was absent.**

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**4. Country Park Villas Amended Condition; 2870 West 7000 South; Amended Subdivision and Site Plan Condition: PRD(H)(ZC) Zone; Country Park Villas HOA/Cyril W. Gray (applicant) [#APP20080001; parcel 21-21-354-029]**

Jennifer Jastremsky provided an overview of the history of the development approvals regarding the connection of roadways and the designation of the streets inside the community to be private, but additional traffic calming measures were required and a mechanism put into place that would guarantee access through the development. Speed bumps and a traffic circle were installed, and an access easement was added into the CC&R's. The applicant is requesting the removal of the requirement for the access easement so they can install a gate at the north entrance of Country Park Villas. The homeowners' association of the development removed the language from the CC&R's that required the easement, without prior City approval; this was in anticipation of installing the gates. If the request is approved, the language may remain as it is now. The concerns with installation of the gate are the re-creation of the dead end on 2870 West. That stub street was created with the intention of eventually connecting to future development. Emergency turnarounds are required in all cul-de-sacs greater than 150 feet in length, and 2870 West is at 750 feet while Country Home Lane is at 271 feet. If the gate is installed a turnaround will be required that can serve both developments. She reviewed the City's general plan goals and policies as they relate to streets and access. She reviewed a number of additional processes that would have to take place if the request were approved, which might include providing a turnaround, design modifications for both subdivisions, variances, emergency access, and a text amendment. She noted the additional traffic calming measures that were recommended by the Traffic Engineer. The Fire Department will be able to serve the development if the gate were installed; however, response times may be affected. The Police Department will still be able to service the development if the gate were installed and there would be less jaywalking issues on 7000 South. However, there would be a stipulation that both Police and Fire have full access to the gate. The Public Works department does not recommend the amended condition with the existing on-site conditions as they currently use the traffic circle as a turnaround point for maintenance vehicles servicing 2870 West. The Engineering Department recommended that the conditions of approval remain as they are, based on the fact that there is no turnaround for either Country Home Lane or 2870 West. They also recommended the addition of traffic calming measures. Traffic counts were collected to determine the number of vehicles that travel through that area. She added #3: If the Planning Commission decides to grant the request they do so with the condition that any additional approvals, amendments, or modifications that may be needed be obtained prior to the installation of the gate.

Staff recommended the Planning Commission deny the applicant's request for the Amended Condition of Approval for Country Park Villas at 2980 West Country Home Lane and recommended the applicant work with the Traffic Engineer to improve traffic calming measures in the neighborhood. Per the City Attorney's request in a memorandum dated July 23, 2008, it is also recommended that the following language be added to secure the City's position regarding this matter:

1. With respect to the HOA documents, meaning the CC&R's for the project, the recent change eliminating the public access guaranty was taken out without notice to, or approval by the City – as was required. The City does not recognize these actions as being legally valid.
2. If the Planning Commission denies the application, then the Planning Commission should also direct the applicant to change the CC&R language back to the original wording as a result of the applicant's failure to obtain City approval for the change, and based on the original language serving as the legal basis for the approval of the development.

Ellen Smith asked how the Public Works department serviced the area before Country Park Villas was built.

Jennifer Jastremsky wasn't sure, but she imagined they had to back out of the development.

David McKinney referred Exhibit A #5 that said the average daily weekday traffic was 141 vehicles per day with ten vehicles in the morning peak and 17 per hour in the evening peak. The 85<sup>th</sup> percentile speed was 21.7 mph. The 10 mph pace was between 13 and 23 mph. He asked for clarification on the last statement.

Bill Baranowski explained that the pace is where the majority of the traffic is traveling. The 85<sup>th</sup> percentile speed is what traffic engineers nationwide use to set the speed limit on a street. This street is currently posted at 25 mph. There might have been one during the week recorded at 40 mph, but the majority of the remaining 15% were slightly over 21.7 mph. The hoses were placed in Gai-Land Estates, because that was where they got the best straight of way for data collection. There is no way that those speeds could be reached in the Country Park Villas, because there isn't the necessary straight of way.

David McKinney asked how well the roads within Country Park Villas were performing.

Bill Baranowski said the thing that troubled him with the street design was there was only raised curb on one side of the street. Also, the traffic circle is not a turnaround but is a slow point designed by the developer to slow traffic. He pointed out the bumps installed by the developer that really aren't effective or an approved traffic calming measure by the City. He said that approved speed tables are very effective in slowing traffic to about 20 to 25 mph.

Nathan Hendricks asked if the community were gated would the slow turning point be sufficient to use as a turnaround.

Nathan Nelson stated that the City requires an 80-foot turnaround from curb face to curb face, and this one is about 60 feet.

Bill Gray, 3071 West Leisure Villas Court, President of the Country Park Villas homeowners' association, said Country Park Villas is private property owned by senior citizens. A lot of the residents are handicapped and using wheelchairs and canes, and a lot of them are sight or hearing impaired. The biggest concern is with the safety of the residents. He said the recorded plat for the subdivision only mentions an access for police and fire. Their CC&R's noted the easement, but the City code even states that the City cannot and will not enforce CC&R's. The residents of the community are required to maintain the streets and the grounds. They want to install an SOS system on the gate, which will automatically open the gates when sirens are in use. They didn't feel that it is either right or fair for Country Park Villas to provide a public right-of-way on a public road through the center of the property, which divides the community. Some residents even drive their car to the mailbox, because they are afraid to walk on or across the streets. The residents of the community have every right to change the CC&R's. They have legal counsel and are prepared to pursue the matter as far as necessary. He gave some examples of situations where the pedestrians in the community were in danger of the vehicles and motorists driving through the community as well as being verbally abused by motorists.

Nathan Hendricks asked if there was the possibility of making the slow point larger so it could be an approved turnaround.

Mr. Gray said not without cutting into the property and yards, which is common ground. He showed where there would be a problem expanding that, because there is an access road to homes.

Nathan Hendricks asked if the gate would allow for snowplows.

Mr. Gray said it allows for their snowplows, but not the City snowplows.

Justin Stoker asked what Mr. Gray wished the Commission to do in the most ideal situation.

Mr. Gray said they would like to install the gate on the north entrance. He explained that they counted 387 cars on a different section of the road on the Friday between 6 a.m. and 10 p.m. after they installed the counters. He

said half of the cars were theirs. Semi trucks go through there. People on horses ride on the lawns and gardens. Skateboarders also use the property.

Nathan Hendricks asked if the easement is recorded on the plat.

Robert Thorup said the easement wasn't recorded on the plat, but the minutes of the Planning Commission show that the Commission agreed that the applicant could record a perpetual easement right-of-way in the CC&R's, and the language was negotiated. The Planning Commission was willing to accept that in granting approval of the development.

Nathan Hendricks asked if the HOA had the right to change the CC&R's without City permission.

Robert Thorup explained that the CC&R's are in the nature of a contract with the members being the contracting parties. They can change that in most respects as they vote to do. The City is a third party beneficiary in this situation. The contract was put in place with the intent to benefit the City with a perpetual easement through the property. As a beneficiary that cannot be removed from the contract without the agreement of the third-party beneficiary. Also, the developer gave this assurance and provided the language at the request of the Planning Commission. The City believes it would be inequitable for the development to obtain approval from the City and then after the fact delete unilaterally the very thing that was assured to the City that it would be there as the basis for the approval.

Nathan Hendricks understood then that it was not a mistake that the easement wasn't recorded on the plat, but that they agreed it would be a perpetual easement in the CC&R's instead of on the plat.

Robert Thorup didn't read or hear anything in the discussion of the original meeting of what would or would not be on the plat. It focused very specifically on assuring, perpetual language that they negotiated to be in the CC&R's.

Nathan Hendricks asked if something like that would have usually been shown on the plat.

Robert Thorup said one would expect that it would have been on the plat, but the Planning Commission relied on the language in the CC&R's.

Nathan Hendricks pointed out an area and asked if that were the location of the perpetual easement.

Robert Thorup said that is right. The City ordinance requires two entrances and egresses from any subdivision, so the easement runs between the two required entrances.

Nathan Hendricks asked for the difference between a perpetual easement and an easement.

Robert Thorup explained that there are different types of easements. Two parties can agree to allow an easement or access for a period of time, and once that period of time ends by agreement the easement ends. In this case the Planning Commission was very concerned that this be a perpetual easement and that they didn't ever want it to end. It was intended very explicitly to be a way through this development for the public, and it connected the two entrances and egresses. The other ordinance also required the connection to the stub street at 2870 West. It seems to be against the whole ordinance concept to now ask for a gate that re-creates the stub street. The Planning Commission clearly understood that two points of ingress and egress were required and that they needed to connect to the stub street. The Planning Commission acceded to the desire of the developer not to construct the streets to meet City requirements, in other words there were significant cost savings that were discussed and recognized to the developer to not have to build the streets according to City standards and

to call them private streets. That is why the Commission was concerned that they still connect to the stub street for the public to traverse through that street.

Ellen Smith asked if the gate were to be allowed and the code then has to be changed to no longer require two points of access to a subdivision, could that apply only to this development or would it apply to all construction within West Jordan.

Robert Thorup said if the request to remove the condition is granted tonight, in order to have the gate installed the applicant would have to make a separate application to change the zoning ordinance to not require two separate entrances and exits and they would also have to change the zoning ordinance that requires connection to the stub street. That would play absolute havoc with all of the existing developments, for example the one that was approved tonight. He didn't think that an ordinance could be created to say that a certain subdivision doesn't have to comply. He felt that this project was not designed as a senior living center. The Planning Commission was told it would be condominiums marketed to seniors. Perhaps this was sold to the residents differently than it was presented to the Planning Commission. This application was a subdivision subject to the subdivision ordinance. He also said that if the condition were removed the street would have to be officially abandoned as a public thoroughway.

Robert Pulliam, West Jordan resident, explained that he wasn't in favor of the gate, because he would have to then give up property for the roundabout. It was his understanding at the approval meeting that the road would be public access.

David McKinney asked if he would voluntarily sell a portion of his property for a roundabout if needed.

Robert Pulliam said he would have to make that decision if the time came, but he wouldn't be enthused about doing it. He pointed out his property.

Kirby Watson, West Jordan resident, was against the gate installation. They have a lot of garbage trucks and similar vehicles that would have to back out of the street if it were blocked off. They are concerned with safety in their neighborhood as well. It adds an additional two miles to every trip if they can't come in through 7000 South. The developer told the neighbors that the road would go through. He had lived here for over 30 years and had never been flipped off or honked at like Mr. Gray was describing. He felt that most of the cars go through the development very slowly.

Julie Watson, West Jordan resident, stated that she signed the original paper when the developer came for signatures in support of the project, because she was told there would be a through street. She said that she uses the entrance off of 7000 South in order to stay in West Jordan for her shopping, etc., because it is easier than trying to turn left on 2700 West during rush hour. She hoped she would continue to be able to do so. She said they are aware of the 14 mph speed limit and instructs her visiting children to obey it. She said that most of the people who live on 2870 West are senior age as well and they are very aware of the safety issues. They work very hard to keep everyone safe. She explained how large trucks and vehicles used to have to back out of the street.

Mickie Arvan, West Jordan resident, said when she bought her home her son questioned the little dirt road that ran through. He was assured that it was a construction road. She said she is 82 and disabled, and her son wanted her in a safe and private community. She has been harassed by some of the people who own horses. She had to clean up after a horse. When she told the man that it was private property he told her that he had ridden on the property for 30 years and no old lady is going to tell me that I can't. She can't understand the rudeness and inconsideration. One day she saw one of their residents who had fallen in the street, and she had to block the street with her car until he could be helped up. She doesn't think it should be necessary for them to have to drive to the mailbox. She said that two pickup trucks once came very, very close to her. She is also hard of hearing

and didn't hear the truck until it came around her. They continued to the turnaround and kept going around and around laughing at her. She said the residents are too old to be under the kind of stress that they had been for two years. The builder assured her that that there was no easement on the plat that would make this a public street.

Jean Parkinson, West Jordan resident, said when the plans for Country Park Villas were in the design stages there were talks of traffic calming measures, road width, and other considerations reviewed by planners, but the human element was overlooked. Senior citizens thought they were moving somewhere they could live in safety, and most of them moved there to get away from living on a public road. These residents now have trespassers on their private property with dogs, horses, skateboards, or motorists speeding through telling you to get out of the way. If this had happened on any of the Commissioners' property they would tell them to stop trespassing or they would be arrested and have the right to do so. The residents of this community are no different. The boundary of the community is private property; they maintain and pay for every dime of it. She said people drive on the sidewalk around the speed bumps, the private property signs are ignored as well as the 14 mph speed limit and stop signs. Larger vehicles like motor homes, horse trailers, etc., drive *over* the roundabout. The Planning Commission voted to have the road private with emergency access and thought that only a few cars would come through. The stub road was out of compliance for over 30 years. If it had been planned and designed the way it should have been from the beginning with the senior citizens in mind it would have had a gate and the developer would have born the cost, but now the seniors have to do that.

Patty Hadley, West Jordan resident, explained that she lives just on the side of the roundabout. She explained that every Monday three garbage trucks try to go around the roundabout, but they can't make it so they go into her driveway and back up and do it again. The roundabout is falling apart because of the traffic. She saw a truck going around that seven times while burning rubber and then went out of the complex without stopping at any stop sign. She saw kids on bikes and skateboards that drive on it. If one of the kids gets hurt on it the residents will be sued. She said people with dogs and horses come on their walkways and grass. When they are told it is private property the people respond that the City told them they can come on the property any time they want. A 4-wheeler came through on her grass and around the clubhouse on the grass and back around. She sees these kinds of things every day. She is often told by motorists to get out of the street, but the Country Park Villas residents pay for the road, and they should be able to use it.

Nadean Solis, West Jordan resident, stated that she is legally blind. She bought the property thinking that it would be safe and secure, but it is not. There is through traffic constantly. She said that people from the north who walk their dogs in the neighborhood don't clean up after them. She has to be careful even when walking on the sidewalks because of the large dogs, the skateboards, and bicycles. She felt that the City could buy the property to the north and install the traffic circle to ease the congestion.

Kent Harris stated from the audience that he supported the proposal.

Iris Harris, West Jordan resident, said the housing association made an exemption for senior housing without children. She said it is a safety issue to have children coming through there unsupervised, especially near the pool area. Anytime the Country Park Villas residents have visiting children they have to be supervised.

Joe Cramer, West Jordan resident, said they are asking for a gate for one reason; they want to stay alive. He was in the hospital in California on Saturday, but he came home to attend the meeting. He worked in Colorado for 42 years to return back to Utah to be close to his family. They wanted a safe community to move to, but he was had by a developer. He hoped that in the future if they approve this type of senior development that they ask questions about what is going to be provided to protect the safety and wellbeing of the senior citizens. He felt that the City was incompetent for letting the original dead end road be built in the first place.

Dick Scott, West Jordan resident, said he had been a resident of West Jordan for 40 years and bought a property in Country Park Villas. It is a retirement community and the people who bought property here wanted the safety of a retirement community. He was in favor of the gate. He didn't want this relationship to be adversarial. He said appreciated the work that is done in the City and didn't want to be disrespectful. However, the Utah Ombudsman said three conditions have to exist for the City to refuse the right to install the gate: 1) the property would be isolated if the gate were installed, which it wouldn't be. Everyone that bought property on 2870 West knew it was a dead end street. He said that on three different occasions he watched the intersection where there is a stop sign for three hours, and not one in five cars stop at the stop sign. He said there are some residents that live right behind them that are very courteous, but there are others who live further north who go right through. 2) the gate cannot interfere with a recorded easement on a plot plan. If the City failed to record an easement it is not the residents' fault, and he was advised that if it is not on the plat the easement is not legal. 3) eminent domain. They would have to let people use the area for over ten years. They have only been there for two years.

Betty Johnson, West Jordan resident, stated that she was in favor of the gate. She expressed the idea that this is a senior or retirement community, which needs to be considered. She said that she had seen a West Jordan City truck go through the stop sign. She felt discriminated against for living there, because when they tried to block off the road (which is required twice a year for private roads in order to keep them that way) they were told they would be put in jail if the barricade was not taken down. She said it took a week to get a phone call back from someone at the City, but it only took an hour to send someone out when the barricade was placed. To her that indicated that they are not very important, and this concerned her. She said they weren't allowed to have a counter for reasons that were explained so they took two-hour shifts counting cars themselves. The City told them to take photos of cars, but when they did that word spread and the cars went a different route. She hoped that this could be worked out in a way that would be for the best of the unity of the entire community. She gave the Commission a copy of a letter sent to the City Council.

Betty Christensen, West Jordan resident, spoke from the audience in favor of the gate.

David Johnson, West Jordan resident, knew that none of the current Commission was on the board when Gai-Land Estates was built, but when it was built it seemed that the stub road would eventually connect to 7000 South. When the senior community was being discussed many of the people who lived to the north wanted large lot horse property built and not multiple family senior dwellings. However, the senior community was approved. Unfortunately the road was not designated as a private road and left that way. Because of the way the community was represented they purchased thinking that this was private property and not open to whoever wanted to use it at their discretion. With the easement in place no one believes that it is private property. Their path is used by runners, walkers, dogs, and horses, etc. They have small children going through there on their way to school. They moved from regular public streets so they could avoid the potential conflicts of children in the neighborhood. He didn't believe the counters provided an accurate speed, because they were placed on a curve.

Terry Spencer, representing the residents of Country Park Villas, referred to Section 87-3-107 that address conditions for subdivision approval and that a recordable copy is required and 87-3-109(c) states that CC&R's are private agreements among property owners and are only enforceable by said owners. The City shall not enforce private covenants. The easement in this case must be recorded for it to be enforceable, and that is how they give the public notice. Recording is also required by the State Code 57-8-12, but also by City ordinance 87-3-111. Without the recorded notice the people who bought the property were not on notice, and he felt the City had liability if this were not approved.

Velma Glad, West Jordan resident, said she was originally against the proposal, but she now wants the gate. She said there are many good neighbors to the north who have been very kind and considerate. However, where are all the cars, children, and horses coming from? She appreciates what the City staff had done to try to find solutions, but she doesn't think they are good solutions. She expects respect from the people around her. She

sees teenaged boys going over the wall at 11:00 at night and knows that their community is a playground for other people. She didn't know what the solution was, but a gate would help to protect the senior citizens.

Dan Atherley, West Jordan resident, said his property borders Country Park Villas. He would not willingly sell his property for a turnaround. He was not excited about the community when it was proposed, because he didn't want to see a lot of traffic going through there. However, he was surprised at how minimal the traffic was going past his house. He said that the access through the Villas is convenient, but it also allows him to see some of the people in the Villas that he has grown close to. A gate will isolate the two communities, and he was not in favor of the gate.

Beverly Atherley, West Jordan resident, does not work and she spends a lot of time outside and does not see the traffic, people flipping others off or revving their engines in front of them. When people come down her street she waves and smiles and says hi. A lot of those who walk their dogs in front of her also do not respond to her, but she doesn't care. She waves to those in the Villas, but a lot of them turn their backs on her. She said a lot of times you reap what you sow. She has had children come to visit her who have been stopped and harassed by the people living in the Villas. A lot of the teenagers who are harassing have also been harassed. She said that her grandchildren had developed a good relationship with a lot of the residents in the Villas, but they have been told by some in there to leave and that they are not welcome. Her grandchildren walk respectfully on the sidewalk without hurting anything. By putting up a gate they are isolating the communities and not solving a problem. She doesn't see the problems that have been stated by the others.

Laurie Blanchard, West Jordan resident, said they are the first unit coming in off of 7000 South, and they witness a lot of things that probably a lot in both neighborhoods don't see. She felt that they need a crossing guard four times per day at the entrance. Some of the motorists are aware of the special needs in the community but others are not, and it is very dangerous. There have been many times where they had to go out and help people cross the entrance. She was in favor of the gate.

James Teton, West Jordan resident, stated that the community was marketed as an FHA 55 and older community, and the average age is 72. He lives on the far east end, and he is in favor of the gate. At least once a week he hears screeching tires going around the driveway circle by cars going 25 to 35 mph. He said there was a truck that was on two wheels on the roundabout doing wheelies. He doesn't have any complaints about the neighbors on the border to the north, but he felt that a gate is the most practical and prudent solution.

Further public comment was closed at this point for this item.

The applicant had nothing to add in rebuttal.

David McKinney stated that all of the residents have genuine concerns regarding safety and traffic. It is a difficult situation, because if the request is granted it would require changing the text of the City code, condemning property to build a roundabout, etc. He said the Planning Commission is not a judicial body and not qualified to rule on questions of law, but from a development standpoint he didn't think there was a way to grant the request as it creates far more problems than it solves. There are eyewitness accounts of things that might have happened, and there are traffic counts that show a low volume of traffic.

Nathan Hendricks said he could not see where a usable gate couldn't still be counted as an access.

Robert Thorup said when the code speaks of access and egress it doesn't limit itself to one side of the gate. It is ingress and egress. He didn't think that a gated access would meet the two open entrances and exits that the code contemplated.

Nathan Hendricks asked if a new private development were proposed with two access points would it be conforming to the code.

Robert Thorup said if someone wanted to build a gated senior community in a different configuration such as on a flag lot with one entrance there could be a special zone that would enable that kind of development. But this project was presented as a residential subdivision, which requires two points of entrances and exits and it is required to be connected to the stub street.

Nathan Hendricks was concerned that the easement wasn't recorded on the plat. As he read through the meeting minutes from the original approval it seemed that the biggest concern of the Commission was for fire and police access. This is a private road and he felt that they should be able to make it a gated community. The code doesn't say anything about *public* ingress and egress. He didn't think that the Planning Commission should even vote on this item, because the property owners have the right to do whatever they choose on private property. This issue was decided when the plat was recorded.

Ellen Smith was concerned that there wasn't actual data from the Country Park Villas development itself, even if it were only a count it would have been better than nothing. She asked Mr. Baranowski if he felt some significant progress could be made with different traffic calming measures.

Bill Baranowski said there are absolutely things that could be done to significantly help. Speed tables could be placed in two locations. Anytime you use a stop sign as a speed control measure it fails. The driver doesn't expect to see a stop sign along the major movement of the neighborhood. He would recommend the stop signs on the cul-de-sacs.

Ellen Smith asked if that weren't enough would there be any other options.

Bill Baranowski said no amount of traffic calming measures will make people be nicer to each other. If traffic is traveling less than 25 mph on a local street it is considered a traffic calm street. The counters were placed right at the end of the straight of way to determine the worst case scenario on the street for speeds. They could collect data in the other areas, but those speeds would be even lower than what was already collected.

Ellen Smith was concerned that this community was being divided, and it seemed that there were things happening in Country Park Villas that weren't happening to the north. Even if the gate were placed there it may not solve the issue of kids still wanting to come in to the area. She was horrified with some of the testimony received regarding behavior of neighbors to neighbors, but she had been pleased with some of the testimony of about the neighbors immediately to the north. This Commission wasn't appointed when the development was approved. She didn't know how they could approve this while still remaining within the codes of the City.

John Winn said with hindsight they can see things that might have been done differently. Some of the things they say are happening scare him. He had his doubts about the easement not being recorded, but he didn't know if the gate should be installed now or if that should be a last resort. He didn't know if they had enough information to vote on the issue without trying some other things first. He also would hate to divide the community.

Nathan Gedge could see both views on the item. He was inclined to vote against the gate, because there are other options that could be pursued first. He read from the approval of the development that the road would have a perpetual non-exclusive easement for ingress and egress for public, pedestrian, and vehicular traffic over through and across the private roadway and adjacent sidewalk. That approval meeting was a publicly noticed meeting with public testimony given at the meeting and was voted on. It has been in effect for the last 3 ½ years and he didn't think they should undo that. He hoped the community would come together in some sort of forum to talk about the problems.

Justin Stoker said the Commission is torn between what is in the City code and what was promised both sides. In Section 87-5-106 it says that streets and subdivisions shall connect to existing stub streets from adjacent subdivisions. If adjacent land is undeveloped stub streets shall be provided at reasonable locations to provide convenient access for future development. It also states a minimum of two points of ingress and egress are required for residential subdivisions. If a gate is placed on the north side you limit the two points of access on 2870 West. That street was planned to be a stub street years ago. The easement wasn't recorded on the plat, but they need to consider the safety and wellbeing of the public and the needs of the City. Most of the problems appear to be with traffic. The traffic numbers indicate that the problem originates from 7000 South. If there were a gate on the north entrance it may limit children, dogs, horses, and perhaps some residents. Reason suggests that the teenage kids are coming off of 7000 South and turning around and coming back out. A gate on the north wouldn't completely serve what is intended.

**The meeting recessed for a break at 8:57 p.m.**

**The meeting reconvened at 9:03 p.m.**

David McKinney explained that the role of the Commission is to follow and enforce, to the extent that they have authority, the codes and ordinances of the City. They don't have the authority to decide legal questions. They are faced with a legal interpretation from the City Attorney that said the condition for the perpetual easement is a legitimate position, that the developer knew about it, and it was in the conditions of approval. They have to deal with what the code says. If some higher authority makes a different decision, then so be it, but the Commission has the obligation to rule on the application before them. He was inclined to rule against the application.

Justin Stoker agreed that the Commission can't make a judicial ruling based upon how the easement is enforced. However, an option might be installing a video camera near the subdivision entrance or the clubhouse for purposes of monitoring. Another option would have to be worked out with the city attorney. If there is an egress gate on the south side of the project it would allow everyone from Country Park Villas all the way to 2870 West to leave through the gate and still be able to have the ingress with pass cards for those within the development and those people on 2870 West. He stated that the decision can be appealed to the City Council, who has the authority to interpret or modify the City code.

**MOTION:** David McKinney moved to deny the request for an Amended Condition of Approval for Country Park Villas; 2980 West Country Home Lane; Country Park Villas HOA/Cyril W. Gray (applicant) based upon the information from City Staff and the testimony received tonight and recommend that the applicant work with the Traffic Engineer to improve traffic calming measures in the neighborhood and recommend that the following language be added to secure the City's position regarding this matter:

1. With respect to the HOA documents, meaning the CC&R's for the project, the recent change eliminating the public access guaranty was taken out without notice to, or approval by the City – as was required. The City does not recognize these actions as being legally valid.
2. We direct the applicant to change the CC&R language back to the original wording as a result of the applicant's failure to obtain City approval for the change, and based on the original language serving as the legal basis for the approval of the development.

The motion was seconded by Nathan Gedge.

John Winn said he would vote against the gate, but he did see it as a possibility in the future if the item were brought before them again. However, he would like to see other measures taken before a gate is put in place, such as the camera and other traffic calming measures.

Nathan Hendricks asked that they separate the denial of the application and the additional language. Commissioner McKinney felt that they needed to go as one.

Nathan Hendricks said he would vote against the motion, because the Commission is not a legal body able to tell someone to change their CC&R's. If the motion does not pass he would put forth a motion denying the application without the other language.

**ROLL CALL VOTE:**

Commissioner Stoker – yes  
Commissioner Gedge – no  
Commissioner Winn – no  
Commissioner Hendricks – no  
Commissioner Smith – yes  
Commissioner McKinney – yes  
Commissioner Dupaix – absent

The motion failed 3-3.

**MOTION: Nathan Hendricks moved to deny the request for an Amended Condition of Approval for Country Park Villas; 2980 West Country Home Lane; Country Park Villas HOA/Cyril W. Gray (applicant) based upon the discussion. The motion was seconded by John Winn.**

**ROLL CALL VOTE:**

**Commissioner Hendricks – yes  
Commissioner Stoker – yes  
Commissioner Gedge – yes  
Commissioner Smith – yes  
Commissioner McKinney – yes  
Commissioner Winn – yes  
Commissioner Dupaix – absent**

**The motion passed 6-0 in favor of denial.**

**MOTION: David McKinney moved that the Planning Commission direct the applicant to change the CC&R language for Country Park Villas back to the original wording as recommended in the staff report. The motion was seconded by Ellen Smith.**

Ellen Smith said the Commission is not here as a judge, but she hoped that the residents of that community will continue to seek redress for what is happening. However, given the code and what the previous Planning Commission had decided she didn't have the latitude to vote against it.

Nathan Hendricks said he would vote against the motion for the same reasons he stated before. He felt that the application needed to be taken to a further place and legal issues needed to be worked out.

Justin Stoker said with denying the request to amend the condition of approval it does put the City in jeopardy with the HOA documents. The HOA documents were agreed upon before the project was permitted four years ago, and the language in the documents that allowed for public access on the street was intentionally put in as part of the conditions of approval of the subdivision. By not requiring that to go back to the original language it leaves a very convoluted legal stance until the situation can get resolved. Because the City was a third-party

beneficiary of the easement and because it was agreed upon before the project was permitted it is important that the language be put back in.

Nathan Hendricks said that the City Attorney has the right to enforce anything that is included in the conditions of approval for an application, and that is a better recourse, because he didn't think that the Planning Commission had the purview to require it.

**ROLL CALL VOTE:**

- Commissioner McKinney – yes**
- Commissioner Winn – no**
- Commissioner Hendricks – no**
- Commissioner Smith – yes**
- Commissioner Gedge – yes**
- Commissioner Stoker – yes**
- Commissioner Dupaix – absent**

**The motion passed 4-2 in favor.**

Commissioner Stoker asked that they all work together and with the City to solve the problem peacefully.

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- 5. Cadyn Meadows Land Use Amendment and Rezone; 6400 West New Bingham Highway; General Plan Land Use Amendment for approximately 17 acres from Neighborhood Commercial and Low Density Residential to High Density Multi-family Residential and Rezone from SC-1 (Neighborhood Commercial) and R-1-10E (Single-family Residential 10,000 square foot minimum lots) to HFR (High Density Multi-family Residential); SC-1 and R-1-10E Zone; Cadyn, LC/Ken Olson (applicant) [#ZC20080008 & GPA20080002; parcels 26-03-400-002]**

Chris Gilbert gave a brief overview of the request. Original approvals were given in 2005. The proposed zoning will be within the new West Side Planning Area. He reviewed portions of the General Plan that deal with multi-family zoning that states they should be provided in appropriate areas in order to maintain diversity in the City's housing stock and to provide land use transitions between dissimilar uses. He reviewed the implementation measures. New Bingham Highway is currently a major road but may not remain as one. For that and other reasons it is not appropriate for the area. The HFR category only entitles the project to the base density unless amenities are provided to boost the densities.

**General Plan Amendment:**

Preferred Recommendation

Based on the General Plan analysis within the staff report, this applicant does not meet the general intent of the City of West Jordan's General Plan. Staff recommended that the Planning Commission forward a negative recommendation to the City Council for the request to change the General Land Use Map designation from the present Low Density Residential and Community Commercial Land Use designations to High Density Multi-Family Residential on 17 acres of the 69 acres located within the proposed Cadyn Meadows project.

Alternative Recommendation

Should the Planning Commission decide that it does not agree with the conclusions reached by staff in this report and that this application does meet the intent of City of West Jordan's General Plan, staff then recommended that the Planning Commission forward a positive recommendation to the City Council for the request to change the General Land Use Map designation from the present Low Density Residential and Community Commercial Land Use designations to High Density Multi-family Residential on 17 acres of the 69 acres located within the proposed Cadyn Meadows project.

## **Zoning Map Amendment**

### Preferred Recommendation

Staff recommended, based upon the application not meeting the General Plan intent and the recommendation that the General Plan Map not be changed, that a negative recommendation be forwarded to the City Council on the application to rezone approximately 17 acres of the Cadyn Meadows development from R-1-10E (Single Family Residential) and SC-1 (Neighborhood Commercial) to HFR (High Density Multi-family Residential)

### Alternative Recommendation

Should the Planning Commission approve the General Plan Amendment in its previous motion, staff then recommended, based upon the rezoning application meeting the General Plan intent and all of the required findings, that a positive recommendation be forwarded to the City Council on the application to rezone approximately 17 acres of the Cadyn Meadows development from R-1-10E (Single Family Residential) and SC-1 (Neighborhood Commercial) to HFR (High Density Multi-family Residential)

Ken Olson, Cadyn, LC, showed the layout of the property with the surrounding uses, which are mostly industrial in nature. They are concerned that the current master plan and zoning would result in problems or a blight area in the future. He distributed a proposed layout that would have open space and amenities in order for it to be viable. He didn't feel that the current layout met the goals of the General Plan for transition between uses. It is in close proximity to major employers. Adding more land in the multi-family zoning of the area would allow for more creativity in design. They don't want to have 16 units per acre on the entire area, but they would shift some density by having some multi-family, townhomes, and transitioning into the single-family. They would like to make this area a community, and they can't do that with the existing plan.

David McKinney asked what the lower density level would be where the townhomes are.

Mr. Olson said it would be between 10 and 12 units per acre.

Craig Siggard, West Jordan resident, stated that he is minimally involved in the project. He asked the Commission to very seriously consider the proposal and their desire to make this a good project, which the planners will have a little more control over as well with the new zoning.

Brent Orton, 6352 West New Bingham Highway, said he didn't oppose the zoning, but in 2007 the Orton Family Holdings wasn't noticed, so they didn't feel that they were given their due process.

David McKinney said that final approvals had not been given, so he still had his opportunity to give input.

Chris Gilbert stated that they are still in the final review process, and the applicant is not vested until the final plat is recorded.

Brian Williams, part owner of the property, said that Ken had done a lot of good projects in Utah, and he agreed with everything that had been presented. He felt that the proposal would make a better community.

Lamar Coon, West Jordan property owner, said he had been involved with property development in West Jordan since 1980 and had helped out development in the area. He said he refused to be involved with the roundabout in the proposed location, because they are very dangerous.

Gayle Evans, part owner of the project, said they are eager to get the road going and to get Mr. Coon's business taken care of. She said that Ken Olson had done the best developments in West Jordan. She wanted this project to be part of the 'new West Jordan' where people will want to live, and she felt that the current zoning wouldn't allow for that to happen.

Kevin Orton, Orton Family Holdings, said they don't oppose the plans for Cadyn Meadows.

Further public comment was closed at this point for this item.

David McKinney said the decision to rezone this property in the first place was not a good one, because it is so near the industrial area. There is a General Plan policy against developments in long, narrow strips, but he didn't think this was that narrow.

Justin Stoker felt that the proposal was a good idea since they are taking the property and treating it as a whole, which will give more options for more amenities and a nicer product. He suggested that a condition be added to state there will be a buffer between the apartments and single-family residential.

David McKinney suggested that they should give some proportions of densities. The graphic shown by the applicant suggested 1/3 of the area at 16 units per acre and the other at 10-12 units per acre.

Greg Mikolash said those types of issues will be addressed as part of the WSPA, because we really don't know what they have to offer at this time.

David McKinney said he was torn to a certain extent, because he didn't like the residential in the first place. However, sometimes they need to do the best with what they have.

Ellen Smith asked for clarification on what density they would be on the property and what they would be entitled to with the HFR zoning.

Greg Mikolash said they would be entitled to the base density, which is a little less than the R-3-16 today. The more amenities they provide the density can increase. If they were to do no amenities at all it would be a lower based density, and that could be over the entire area. HFR is 9 units per acre with a maximum of 16 units per acre.

Justin Stoker said a letter was provided by the school district stating that they could provide service for the neighborhood. However, the school that currently services this area already has six portable units. He felt they need to look at how anxious the school district is to provide for portables.

Ellen Smith said that if the district says they can handle the increased student body she would like to how they propose to do it. For example, are they planning to build a school in the next four or five years.

Tom Burdett said they would ask the school district to provide a little more analysis in their request for capacity to serve reports.

Reed Scharman said the road connection will be important for servicing a larger complex with more people.

**MOTION: Nathan Gedge moved forward a positive recommendation to the City Council for Cadyn Meadows Land Use Amendment; 6400 West New Bingham Highway; Cadyn, LC/Ken Olson (applicant) based on the testimony to change the General Land Use Map from Low Density Residential and Community Commercial to High Density Multi-family Residential on 17 acres located within the Cadyn Meadows project. The motion was seconded by Nathan Hendricks and passed 4-2 in favor with Commissioners Smith and McKinney casting the negative votes. James Dupaix was absent.**

**MOTION:** Nathan Gedge moved to forward a positive recommendation to the City Council for Cadyn Meadows Rezone; 6400 West New Bingham Highway; Cadyn, LC/Ken Olson (applicant) based on the testimony to Rezone approximately 17 acres located within the Cadyn Meadows project from R-1-10E and SC-1 to HFR zoning. The motion was seconded by Nathan Hendricks.

**AMENDED**

**MOTION:** Justin Stoker moved to add a condition of approval:  
1. A blended transition be provided up to the 10,000 square foot lots.  
The amendment was accepted by Commissioners Gedge and Hendricks.

Ellen Smith was concerned with the increase in students that the development will create even though the school district provided a letter stating that they could. However, she thought the proposed plan was good.

**VOTE:** The motion passed 4-2 in favor with Commissioners Smith and McKinney casting the negative votes. James Dupaix was absent.

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**6. Text Amendment - Amend the West Jordan Municipal Code establishing a new Title regarding Permit Processing; City-wide; City of West Jordan (applicant) [#TA20080003]**

Based on the findings of fact in the report, staff recommended that the Planning Commission forward a positive recommendation to the City Council to adopt Title 91, Permit Processing as requested.

**MOTION:** David McKinney moved to continue Item #6 to the next Planning Commission meeting. The motion was seconded by Nathan Gedge and passed 6-0 in favor. James Dupaix was absent.

**MOTION:** Nathan Hendricks moved to adjourn.

The meeting adjourned at 10:20 p.m.

Justin Stoker  
Vice Chair

ATTEST:

JULIE DAVIS  
Executive Assistant  
Community Development

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2008