

MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD MARCH 18, 2009 IN THE WEST JORDAN COUNCIL CHAMBERS

PRESENT: Justin Stoker, David McKinney, Nathan Gedge, Chad Nichols, Ellen Smith, John Winn, Jesse Valenzuela

STAFF: Tom Burdett, Robert Thorup, Greg Mikolash, Scott Langford, Ray McCandless, Jennifer Jastremsky, Nathan Nelson, Rodger Broomé, and Carol Herman.

OTHERS: Kent Harris, Iris Harris, Robert Pulliam, Doris Cranmer, Joe Cranmer, Dan Curtis, David Johnson, Patrick Trujillo, Dan Atherley, Bev Atherley, Gaylean Armstrong, Marilyn Cameron, Cyril Gray, Jeri Gray, Elizabeth Pause, Jim Stewart, Bill Horrocks, Marry Horrocks, Dee & Patty Hadley, Boy Scout Troop 1548, H.L. Thompson, Ann Cederlof, Max & Laura Lowe, Carol Pool, Kirby & Julie Watson, Chris Trusty, James Romero, Elizabeth Romero, Mark Noack, Dan Griffiee, Peggy Griffiee, Leo Florence, Beverlee Dinkelman, Alison Dinkelman, Gary Horton, Brent Birtcher, Nola Bunkall, David Bunkall, Joyce Deiley, Steve Glezos, and Jean Parkinson.

The briefing meeting was called to order by Justin Stoker.

Jennifer Jastremsky updated the Commission on the outcome of the neighborhood meeting held in regards to the charter school adjacent to the subject property in Item #2. The development agreement for that subdivision will be recorded along with the plat in the next couple of days. All bonds have been paid in association with the subdivision. The impact analysis for the rezoning and land use was just delivered, and she will review it. The public hearing does not have to be reopened, but it could be. There was a brief discussion regarding possible access points from 9000 South. A clarification was made on Item #3, and it was recommended for the Consent Calendar. Item #6 was recommended for the Consent Calendar if there are none to speak on the item. A citizen asked about the requirement for a second access on 9000 South. Ray McCandless gave an explanation. Justin Stoker invited him to state his concerns during the public hearing.

The regular meeting was called to order at 6:00 p.m.

1. **Consent Calendar**
Approve Minutes from March 4, 2009

3. **In-N-Out Burger; 7785 Jordan Landing Blvd; Preliminary Site Plan and Conditional Use Permit; SC-3 Zone; In-N-Out Burgers/Mark Noack (applicant) [#SPCO20090006 and #CUPA20090002; parcel 21-29-351-011]**

Preliminary Site Plan:

Staff recommended that the Planning Commission grant Preliminary Site Plan approval of an In-N-Out Burger fast food restaurant located at 7785 Jordan Landing Boulevard in a SC-3 zoning district with the conditions of approval as listed below. Planning Commission approvals do not include Public Safety, Fire, Building and Safety, or Engineering approval. Approval by these City divisions or departments may be required.

Conditions of Approval:

1. The Applicant shall address and adhere to all City of West Jordan Municipal Code standards in effect at the time of this approval.
2. The Final Site Plan shall include a detailed landscape and irrigation plan, which meets all provisions of the zoning ordinance.
3. The Planning Commission shall review Final Site Plan approval per Ordinance 01-18.
4. Obtain Conditional Use Permit approval by the Planning Commission to permit a fast food restaurant in a SC-3 zoning district.

Conditional Use Permit:

Staff recommended that the Planning Commission grant approval of an In-N-Out Burger fast food restaurant located at 7785 Jordan Landing Boulevard in a SC-3 zoning district with the conditions of approval as listed below. Planning Commission approvals do not include Public Safety, Fire, Building and Safety, or Engineering approval. Approval by these City divisions or departments may be required.

Conditions of Approval:

1. The Conditional Use Permit is subject to review and/or revocation according to §89-5-404(f)(1) of the Municipal Code.
2. Meet all the Preliminary Site Plan conditions of approval.
6. **Three Forks Subdivision Phase 2 Rezone; approximately 8600 South 6400 West; Rezone 29.04 acres of property from R-1-10E (Single-family Residential 10,000 square foot lots, minimum 'E' home size) to R-1-10D (Single-family Residential 10,000 square foot lots, minimum 'D' home size); Peterson Development/Vic Barnes (applicant) [#ZC20090001; original parcel 20-35-300-012, all lots within Phase 2]**

Staff recommended that the Planning Commission forward a positive recommendation to the City Council for the Three Forks Phase 2 rezone, rezoning the subject site from the R-1-10E zone to the R-1-10D zone, which is located at approximately 8600 South 6400 West, based upon the positive findings of fact as set forth in the staff report. The Planning Commission approvals do not include Fire, Building and Safety, or Engineering approval. Requirements by those departments must be met and site changes or additions may be required.

MOTION: Nathan Gedge moved to move public hearing Items #3 and #6 to the Consent Calendar and to approve the Consent Calendar. The motion was seconded by David McKinney.

Justin Stoker asked if there were any in the audience who wished to provide input or speak on the application for In-N-Out Burger or Three Forks Subdivision Phase 2 Rezone. There were none from the public in attendance who wished to speak on those items.

VOTE: The motion passed 7-0 in favor.

2. **Williamsburg Park Rezone and Land Use Amendment; Continued from 3-4-09; 9090 South 2200 West; General Land Use Amendment for 4.512 acres from Medium Density Residential to Neighborhood Commercial and 4.296 acres from Medium Density to Professional Office and Rezone 4.512 acres from RE-.5G (Residential Estate half-acre minimum lots) to SC-1 (Neighborhood Shopping Center) and 4.296 acres from RE-.5G (Residential Estate half-acre minimum lots) to P-O (Professional Office) Zones; Land Solutions, LC/Steve Glezos (applicant) [#GPA20080007 & ZC20080013; parcel 27-04-426-008]**

Jennifer Jastremsky gave an overview of the application history and explained that the Planning Commission continued the item in order to get an update on the subdivision of the property for the development of a charter school. The required development agreement was approved by the City Council on February 24, 2009. Signatures are being acquired, and the plat and agreement will be recorded with the Salt Lake County Recorder's office within a couple of days. The City has given official approval for the charter school, and site work has begun. Staff has reviewed different buffering types for the existing residential uses.

Staff recommended that if the Planning Commission agrees with the findings of fact as presented in the staff report, the Planning Commission forward a *positive* recommendation to the City Council for the proposed Land Use Amendments and Rezones with the following modifications and conditions:

1. The *Neighborhood Commercial* Land Use Designation and SC-1 (*Neighborhood Shopping Center*) Zoning District be limited to 3-acres in size.
2. The *Professional Office* Land Use Designation and P-O (*Professional Office*) Zoning District include the remaining site area of 5.81 acres.
3. The applications shall not be scheduled for City Council review until after the applicant has provided city staff with an impact analysis for review.

Alternate 1:

If the Planning Commission affirmatively recommends a land use amendment and zone change, and it finds that the limited types of commercial uses permitted in the SC-1 (*Neighborhood Shopping Center*) zone will not be more adversely impactful on nearby residents due to hours of operation and traffic generation when placed within a larger zone size than the staff preferred 3-acres, staff recommended the Planning Commission forward a *positive* recommendation to the City Council for the proposed amendments as requested by the applicant with the following condition:

1. The applications shall not be scheduled for City Council review until after the applicant has provided city staff with an impact analysis for review.

Alternate 2:

If the Planning Commission affirmatively recommends a land use amendment and zone change, and it finds that the proposed commercial use is detrimental to the existing nearby residential neighborhoods, staff recommended the Planning Commission forward a *positive* recommendation to the City Council to amend the entire subject property to a *Professional Office* Land Use and P-O zoning designation with the following condition:

1. The applications shall not be scheduled for City Council review until after the applicant has provided city staff with an impact analysis for review.

Justin Stoker explained that the public hearing had already been conducted and closed at a prior meeting. They will just resume the Commission discussion unless there is a motion to reopen.

David McKinney said there was one individual who wished to speak on the item.

MOTION: Nathan Gedge moved to reopen the public hearing for this item. The motion was seconded by John Winn and passed 7-0 in favor.

Daniel Griffee, West Jordan resident, stated that his concern still lies with traffic and that the commercial will take away the residential flavor. The developer originally wanted half-acre zoning, and he wanted to know what the rationale is to change it now. He said the average office vacancy rate in Salt Lake County for last year was 12.95% and retail average vacancy without a mall was just under 9%. They City should take a look at all the vacant areas before they turn this area into another 3500 South.

James Romero, West Jordan resident, provided a petition signed by those who oppose this issue. Since the last hearing he spoke to the people who live north of 9000 South in that area in response to comments that no one would want to live backing 9000 South. He said that a lot of the people there said they had been living there for 12 to 15 years, and if they didn't like it there they would have moved already. He asked the Commission to stick to the plan as it is now.

Jim Stewart, West Jordan resident, felt that the request had been presented in a disingenuous way. A sign has been on the property advertising homes, and yet there is a school being built. He didn't mind the school, but did not want it rezoned to commercial. He didn't know what commercial use could be put there that they don't

already have in the area. He preferred residential. He said there are issues living next to commercial with early morning snow and garage removal, with noise, and with clutter.

Nola Bunkall, West Jordan resident, said that they love where they live, but now they are afraid of commercial, because it will change the look of the area and is not what was promised. Commercial brings noise, traffic, and offensive situations.

Joyce Deiley, West Jordan resident, showed a picture of a sign on the property that indicates homes are being built and to ask for a rezoning now is very deceiving. She is against commercial zoning. Her daughter lives just off of 9000 South, and loves it. She also asked other people who live in that area, and they also love the area. Commercial will bring more traffic. The reason they bought there was for the atmosphere, and commercial will devalue their properties.

Brent Birtcher, West Jordan resident, said they liked the large lots when they purchased in the area. The master plan of the property would be half-acre lots, and they are concerned with the change. He doesn't have any objections to the school, but he wondered how the businesses would be compatible with the school. Homes would be compatible to the schools. Traffic will be increased with the school alone. He said the vacancies of existing commercial and office uses don't justify designating more of the same, and it doesn't meet the City's master plan. He thought that the City could buy the property for a park.

David Bunkall, West Jordan resident, agreed with the previous speakers. He lived in West Valley City for 42 years and saw the development along 3500 South and left because of the impact. He didn't want to see 9000 South go that same way. There are a lot of unoccupied commercial properties, and they don't need another mini-mall.

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

Steve Glezos, applicant, 796 East 5900 South, said these are the same comments they had addressed previously and asked if the Commission had any questions of him.

Nathan Gedge said his biggest concern from the first meeting was whether or not the school would be constructed, and that has commenced. He shared the concerns regarding commercial property and was leaning toward the alternate motion for all professional office zoning.

Ellen Smith asked what the generally accepted planning practices were for placing commercial next to a school.

Greg Mikolash said they prefer to have schools near residential areas. He noted that in this situation most of the students won't be walking to the school, so there isn't the chance to cross the street to go to the commercial businesses. Professional office will be a better fit than the strip commercial areas.

Ellen Smith said the General Plan favors commercial areas in nodes, and there is already one at 2700 West and Redwood Road. She didn't feel they needed any more at 2200 West. She was also leaning toward the alternate professional office motion. She felt a lot of them would probably like to leave it residential, but we don't own the property. They have to balance property owner rights with what the surrounding community needs.

David McKinney agreed. He said that property owners have the right to change their mind as long as it is done according to law and rules of government. The owner can seek a zoning change. The fact that there was a sign on the property is something they have to deal with. The vacancy rate of the office buildings is a commercial issue and has to deal with whether or not this development will be successful, which is not a concern that this Commission can directly address. The City's long range plan is a fluid document that can change based on

conditions and changes in the economy. He agreed that the commercial portion does not fit in this area, but professional office would be a good buffer between a busy arterial street and the school and the school and professional office together provide a good buffer to the residential uses.

MOTION: Nathan Gedge moved to forward a positive recommendation to the City Council for Williamsburg Park Rezone and Land Use Amendment; 9090 South 2200 West to amend the entire subject property to a Professional Office land use and P-O zoning designation based on testimony and discussion with the following condition:

1. The application shall not be scheduled for City Council review until after the applicant has provided City staff with an impact analysis for review.

The motion was seconded by Ellen Smith and passed 6-1 in favor with Jesse Valenzuela casting the negative vote.

3. **In-N-Out Burger; 7785 Jordan Landing Blvd; Preliminary Site Plan and Conditional Use Permit; SC-3 Zone; In-N-Out Burgers/Mark Noack (applicant) [#SPCO20090006 and #CUPA20090002; parcel 21-29-351-011]**

[This item was moved to the Consent Calendar and approved.]

4. **Country Park Villas Easement Vacation; 2895 Country Home Lane; vacation and removal of a municipal access easement on 2980 West Street and Country Home Lane as found in the Country Park Villas Subdivision; PRD(H)(ZC) Zone; Country Park Villas/Cyril Gray (applicant) [#APP20080004]**

Jennifer Jastremsky stated that the application is to vacate a municipal access easement in order for them to pursue creating a gated community. The streets are private within Country Park Villas. The City Council has recently adopted a new Gated Communities ordinance, which provides review criteria in order to mitigate potential negative impacts that a gated community may have on adjacent properties. If this request is approved by the City Council the mitigation measures would be reviewed at a future date during the review of a gated community conversion and amended subdivision plat and development plan. A turnaround at 2870 West would be one of those mitigating measures. She showed the location of easements. Some of the easements will remain, such as the emergency access easement.

Staff recommended that the Planning Commission forward a positive recommendation to the City Council for the request stated above, currently located in a PRD (H) (ZC) zoning district with the conditions of approval as listed below, based on the findings of fact as mentioned in this staff report.

Conditions of Approval:

1. Country Park Villas will apply for and obtain a Conditional Use Permit for a gated community conversion.
2. Country Park Villas will apply for and obtain final approval for all necessary applications associated with becoming a gated community, including, but not limited to, an amended subdivision plat, waiver for a dead-end street greater than 450-feet in length, and modifications to design standards, and will provide and build as part of these applications a turnaround in front of any proposed gate at the north entrance to Country Park Villas to serve vehicles using the produced dead-end of 2870 West Street.
3. The 20-foot water line easement located on Country Home Lane and running adjacent to lots 60 and 61 in Country Park Villas is to remain. This easement will be maintained by the city and will require additional easement language to allow West Jordan City on to the site through the private road system. The additional easement language shall be in a form approved by the West Jordan Attorney's Office and grant permanent access rights to the City of West Jordan for the sole purpose of construction and maintenance on the existing water line easement within Country Park Villas.
4. All utilities on site, except for the 20-foot water line easement, are to remain private and are to be

maintained by the HOA.

5. The amended subdivision plat for Country Park Villas must be recorded with the Salt Lake County Recorder's Office prior to the municipal access easement being eliminated.

Ellen Smith asked if this easement vacation is necessary in order for Country Park Villas to continue the process toward being a gated community.

Jennifer Jastremsky said it is a first step, because they can't get approval of the conditional use permit for a gated community with the easement in place. At the same time, the vacation doesn't make sense without a turnaround, but the turnaround will be a part of the gated community ordinance. All of the applications are interconnected. She reviewed the steps needed to complete including approval of easement vacation and appeal to the amended condition of approval, which would allow them to apply for the conditional use permit for a gated community conversion. With that conversion several applications are necessary, including an amended subdivision, amended development plan, amended site plan, and waiver for a dead end greater than 450 feet in length. All of the last items will be reviewed simultaneously, and that is when the turnaround would be reviewed. She showed some typical turnarounds and noted that a modification to the standard may be needed for the turnaround to the north.

Ellen Smith asked if the Commission would also look at the modified design as part of the conditional use permit.

Jennifer Jastremsky said the modification for the turnaround can be approved by the traffic engineer, but it will be part of the subdivision plat and site plan, which will come before the Commission.

David McKinney said it seems the reason for this request is because there is now a gated community ordinance.

Jennifer Jastremsky said yes. The request can now be reviewed against the gated community ordinance. Prior to that ordinance there were no criteria for gates.

David McKinney asked how that ordinance provides for vacation of the easement.

Jennifer Jastremsky said when they initially reviewed the application for amendment of condition of approval there were several traffic concerns with the connection to Country Home Lane and 2870 West. Those concerns can be mitigated in a way that can benefit both communities with the creation of the gated community ordinance and the fact that there is still a turnaround required. Now there are alternate designs for those turnarounds.

David McKinney said unless he can see that it is a doable situation the vacation doesn't make sense.

Tom Burdett said in a retrofit project there are design and legal issues. Those can be approached simultaneously or separately as long as the applicant understands all of the applications that will be necessary. It seemed to him after talking with the City Attorney that there are merits to doing it all at once, but staff felt that they should first make sure that the City Council is willing to address the legal issues before they go onto the design issues. With the condition that with any execution of the easement will not take place until the other steps have been met, staff felt that they could get a read on the legal aspect on what the neighborhood wants to do yet still not get the cart before the horse. Also, staff didn't know that there was an easement that needed vacating until they got that analysis from the attorney's office. The order is also an applicant decision. He felt that it is in the best interest of all concerned to get the other applications before the Commission as quickly as possible.

Ellen Smith asked if the condition as stated will be strong enough to keep the easement in place until the rest is finished.

Tom Burdett said as long as the plat isn't recorded to amend the easement until the rest of the design issues are met, legally it will be reviewed as a package.

Cyril Gray, applicant, 3071 West Leisure Villas Court, said they would like to be a totally gated community eventually, and he understood that this is the first step. He said they have had increased problems since the process started. There are 26 impaired residents in the community, and their priority is the safety and well-being of the residents. It will probably be an inconvenience to the residents on 2870 West, because they would have to return to what they had prior to the development of Country Park Villas. He said the gate off of 7000 South shouldn't be a problem. The easement for public utilities is also not a problem.

David McKinney asked if there were an independent reason to remove the easement.

Cyril Gray said it comes back to the safety of the residents. Just about everyone who bought in the development felt it was a senior community, and several were told that the north entrance would be gated to start with. When they initially began the process their attorney, the County, and the State said the easement is not there because it was not recorded on the plat. They want the easement released so they can proceed to make this a gated community.

Justin Stoker reminded the public that this application is only for the easement vacation. All other items regarding the gate and turnaround will be addressed at a different time.

Iris Harris, West Jordan resident, stated when she bought her property the plat did not show an easement for public access. She does not feel that the easement exists and she didn't think that the turnaround should be the burden of the senior citizens; it should be addressed at another time by other people. They are concerned with the safety of their residents.

David McKinney asked if she received a copy of the Covenants, Conditions, and Restrictions at the time she purchased her property.

Iris Harris said she had a copy of the CC&R's. When she purchased property in Boise she was shown the easement right away, but people would call before using it. This is a public easement that anyone at any time can access the property.

Doris Cranmer, West Jordan resident, said when she was a teacher she taught her students to accept responsibility for their actions and mistakes and not to pass that responsibility on to another person. They are concerned that a great deal of consideration had been given to the residents in Gai-Land Estates and they have had over 30 years to take care of their problem. It is not the responsibility of the senior citizens to take care of the problem of no turnaround. What have those people been doing for 30 years? They have had to jump through hoops with the City and every time there is another hoop to jump through. The residents of Country Park Villas pay taxes for the upkeep of the public roads, but the residents outside of the development don't have to pay for the upkeep of the private roads.

Dr. Joe Cranmer, West Jordan resident, said he had a heart attack 2 ½ years ago and moved back to Utah. They were looking for a senior residence at the time. He said it is not safe for seniors, and he gave some recent examples of near miss situations. There is not a recorded easement on the plat, yet they are asking for the vacation. They would like to enjoy the few years that they have left.

Kent Harris, West Jordan resident, read through the City Comprehensive General Plan that said the City shall consider the functional quality of residential developments to meet the needs of the elderly and physically

challenged. He said removal of the easement from Country Park Villas provides the City with a great opportunity to demonstrate its commitment to meet the spirit and objectives in the plan. Although the staff report was comprehensive and well-written, it does not address the fact that it is a senior community with unique needs and problems. If that type of information were available in 2004 this easement might not have been granted at all. He asked that the City not only remove the easement but also help facilitate any other accommodations and variances that are needed to assist them in becoming a gated community.

David Johnson, West Jordan resident, referred to the background section of the staff report that said these roads were always planned to connect, but he hadn't seen anything on a plan that indicated that. For 37 years the residents to the north were able to use the road as a dead end. He said the easement was a condition of approval, but it was only put in the CC&R's and not on the plat. The CC&R's aren't governed by the City. They have found no other attorney in the state besides the City attorney that felt this easement is valid. He wondered why the easement wasn't designed in such a way that it didn't bisect the property, because their residents are nearly run over on a regular basis. They have been harassed and given unseen gestures. The residents have to maintain the road themselves, yet the non-residents are benefiting.

Kirby Watson, West Jordan resident, said he is opposed to vacating the easement for the same safety concerns. Most of the residents on 2870 West are also senior citizens. They were told over 30 years ago that the road would connect to 7000 South. They don't want to give up their safety either, and it is a major inconvenience to go an extra two miles to get to the same place without the easement.

Max Lowe, West Jordan resident, was surprised that there were no policies or processes that allow this request to proceed. He addressed Commissioner McKinney's comment about being locked in a circle. They have been following the advice of staff and have tried to do all they were asked to do. Whether or not it is in one package or one step at a time until it ends up in one package doesn't make a difference, because they have to come back to the Commission for approval. Staff is recommending the approval of the request with conditions, and with those conditions they can move forward and stop the circle they keep going through. If the Commission doesn't stop it then they are playing the game of bureaucracy in government. This isn't final until all the conditions have been met, and the City can stop it at any time if the conditions aren't being met.

Jean Parkinson, West Jordan resident, said she was one of the first to purchase in Country Park Villas and asked about the CCR's, but she was told they weren't ready yet. It wasn't until she closed on the property that they read about the easement. The road does not meet City code to be a public thoroughfare with the amount of traffic that goes through there. Their CC&R's govern what the residents can and can't do, but the public who uses the easement don't have to follow the rules, which she thinks is wrong. They don't believe there is a valid easement, but they are going through the process so they can live in peace and safety. She said that they love their neighbors and aren't trying to stop them from going anywhere, but there are serious safety issues with traffic. She hoped that the Commission will seriously consider the testimony and vacate the easement.

Robert Pulliam, West Jordan resident, said his main concern was if the property is vacated and a gate placed on the north then part of his and his neighbor's property will have to be taken to make the turnaround, and his house is too close to the road to make the turnaround.

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

John Winn said he recognizes many faces here tonight and realizes the plight of both sides of the issue. He felt that gates divide a community, but there is also no arguing that the residents of Country Park Villas have been swindled by the developer or real estate agents into thinking they would have what they wanted from the beginning. He is in favor of making the neighborhood safer. He wanted to do more the last time they came

before the Commission, but the easement situation had to be cleared up first. He appreciated the City Council and the steps they took to change the code in the City to allow for gated communities.

Nathan Gedge also wished they could have done more last August. His concern was whether or not it is really a valid easement and if they can remove it if it doesn't exist.

David McKinney said it is a difficult situation, and he was also concerned with safety. However, he was concerned that all the information they have says there is an easement, and the Commission is obligated to defer to the legal opinions of the City Attorney, and the decision of whether or not there is an easement and how it applies are legal decisions to be made by some other group. They have to assume the easement exists and is there for the benefit of the public. It was an expressed condition of approval of the development, if it weren't for the easement the development never would have happened. He said it is unfortunate that the developer tried to talk out of both sides of his mouth. He responded to the question of where it says that there is a requirement that the road be connected, which is in the municipal code that requires stub streets be connected when adjacent property is developed. He couldn't find an independent justification to lift the easement; all he could find was that the vacation was to obtain a gated community, and they want the gated community because they don't like the easement. If this isn't approved tonight it could still be done later as a package with all of the other processes, which he felt should be the proper process.

Chad Nichols would be in favor of vacating the easement primarily because it is a private community. He felt badly for the residents to the north who had been using the easement, but they still have two points of access to 2700 West.

John Winn asked if Commissioner McKinney was against the easement vacation or just that it isn't being done all at one time.

David McKinney felt they had the cart before the horse, but he also didn't see any justification for the vacation. He would be more willing to consider it if all the information were together.

John Winn understood Commissioner McKinney's point of view, but his concern was that the citizens felt they had been directed by City staff to take this direction at this time, and it would be wasting their time and energy to not do it now when it is something that the City wants to happen eventually.

Ellen Smith said the problem from the beginning was how it was approved, and now they need to deal with the problem. This is a bit of an experimental effort. Her concern was that the condition that the easement remains until all the conditions are met for the gated community be strong enough to be able to take the time to do this right. She would be in favor of the easement vacation with the assurance that the easement would remain in place until everything had been studied and taken care of for both the safety of the residents of Country Park Villas and Gai-Land Estates.

Justin Stoker asked staff if they should also address the condition that required the easement at this time.

Robert Thorup said that issue is on appeal to the City Council, so it is not before the Planning Commission.

Justin Stoker said if they were to remove the condition of approval then the dispute of the easement would be gone.

David McKinney asked how the Commission could remove a condition of approval.

Jennifer Jastremsky said Country Park Villas already applied for that amended condition of approval, and the Planning Commission heard the request and denied it on August 6, 2008. Country Park Villas then appealed to the City Council who heard it on September 9, 2008 and put it on hold and directed staff to create the gated communities ordinance. The City Council is still reviewing the amended condition of approval, and they also have the authority to approve the easement vacation.

MOTION: Nathan Gedge moved to forward a positive recommendation to the City Council for Country Park Villas Easement Vacation; 2895 Country Home Lane; vacation and removal of a municipal access easement on 2980 West Street and Country Home Lane as found in the Country Park Villas Subdivision; Country Park Villas/Cyril Gray (applicant) based upon the discussion and testimony given with the conditions of approval as listed in the staff report 1 through 5. The motion was seconded by John Winn and passed 6-1 in favor with David McKinney casting the negative vote.

5. Riverview Office Park; 990 West 9000 South; Preliminary Condominium Plat, Preliminary Condominium Site Plan, and Final Condominium Plat for Phase 1; P-O Zone; Triton Group/Leo Florence (applicant) [#SPCD20080003 & SDMA20080016 and SDMA20090001; parcels 27-02-200-005; 27-02-251-011]

Ray McCandless gave an overview of the request for a six phase, six building commercial condominium project. He stated that the topography of the property puts some restraints on how it can be developed. All buildings are proposed to be two stories in height with the exception of Phase 4, which will be determined in the future. He clarified the applications were for preliminary site plan of the overall development, preliminary condominium for the overall development, and final approval of the Phase 1 condominium plat. He noted for the record that final site plan will be reviewed administratively, but each subsequent phase of development will be brought back to the Commission. He showed the site plan and building locations. A secondary access is proposed to cross the canal and will only be used for emergency vehicle access. It is his understanding that UDOT will grant a second access. The fire department is okay with only one primary access provided that all buildings are sprinklered, which they will be, so the secondary access is a bonus. He showed the elevations and color boards. The lights will be located in the interior of the site.

Staff recommended that the Planning Commission approve the preliminary site plan, preliminary condominium plat and Phase 1 condominium plat for the Riverview Office Park Condominium project located at 990 West 9000 South in a Professional Office (P-O) zoning district with the conditions of approval as listed below. Staff also recommended that if the second access is needed, then final approval of Phase 1 can be granted. If a second access is not needed, then only preliminary approval for the Phase 1 condominium should be granted at this time so that the plat can be revised to reflect the changes. Planning Commission approvals do not include Public Safety, Fire, Building and Safety, or Engineering approval.

Conditions of Approval:

1. The condominium plat for Phase 1 not be recorded until after final site plan approval.
2. Approval by the West Jordan City Engineering Division and Fire Department.
3. All overhead power poles under 69kV shall be undergrounded.
4. Final Condominium plats for phases 2 through 6 shall be submitted to the Planning Commission for final approval.

David McKinney asked for clarification on property boundaries and ownership of the canal.

Greg Mikolash said the plat indicates there are easements on the property.

Ray McCandless responded to the question of approvals for a bridge over the canal and said there is an existing bridge over the canal, but they will have to install a retaining wall in order to utilize it. It is a substantial bridge that can handle the weight of a fire truck.

Leo Florence, applicant, 8819 South Redwood Road #C, clarified that there is ample width on the existing culvert, and they have a letter from the canal company as part of the discharge permit where they discuss the use of the culvert bridge as a secondary access, which they approved as long as it wasn't being modified.

David McKinney asked if they would be discharging storm runoff in the canal.

Mr. Florence said yes. There is a pond on the eastern edge. They will discharge above the high water mark, the water will collect into the pond and release at a controlled rate into the canal. They have all the necessary permits to do so. They will have the oil/water separator, and they will riprap the discharge points so there isn't any erosion. He said this is a tough piece of property to develop, but he felt that their project will be one that they and the City can be proud of.

Hershel Thompson, owner of property to the west, asked if they were changing his property to professional office.

Ray McCandless said that property is agricultural, and there is no zoning change on the table for that property. The subject property is already zoned professional office.

Chris Trusty, representing his father-in-law who is a West Jordan property owner, stated that the agricultural piece just pointed out is master planned for professional office. His father-in-law raises race horses that are corralled on the southeast corner of his property, which is right next to the development. He said a six-foot concrete fence is between the two properties, but he doesn't know if that is a retaining wall. He also raises cows, and these animals tend to smell. Even though these animals have been there for years the people moving into the professional office space may complain about them and try to get them removed, which is a concern.

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

Leo Florence said they are aware of the horses and have no issues with them. The six-foot wall will be precast concrete and is not retaining, and it should give adequate protection for the horses and to prevent people from getting bitten. They don't mind the smell of the animals, in fact, they are currently in a similar situation and are used to it.

David McKinney liked the proposal. He clarified that the coloring on the map that Mr. Thompson spoke of is a function of the general plan and shows what could eventually happen in the City. He liked that the site lighting is moved away from the western boundary. He didn't think there would be an issue with the animals as they now exist.

MOTION: Nathan Gedge moved to approve the Preliminary Site Plan, Preliminary Condominium Plat, and Phase 1 Condominium Plat for Riverview Office Park Condominium project; 990 West 9000 South; Triton Group/Leo Florence (applicant) based on the discussion, testimony and findings of fact with the conditions of approval as listed in the Planning Commission packet 1 through 4. The motion was seconded by Ellen Smith and passed 7-0 in favor.

6. **Three Forks Subdivision Phase 2 Rezone;** approximately 8600 South 6400 West; Rezone 29.04 acres of property from R-1-10E (Single-family Residential 10,000 square foot lots, minimum 'E' home size) to R-1-10D (Single-family Residential 10,000 square foot lots, minimum 'D' home size); Peterson Development/Vic Barnes (applicant) [#ZC20090001; original parcel 20-35-300-012, all lots within Phase 2]

[This item was moved to the Consent Calendar and given a positive recommendation.]

Tom Burdett provided an update of recent City Council actions. He noted that with the recent reorganizations within the City that Community Development has changed to the Development Department.

Ray McCandless gave a brief review of the first meeting held of the General Plan Committee, which is expected to meet once per month for one year.

MOTION: Nathan Gedge moved to adjourn.

The meeting adjourned at 8:20 p.m.

Justin Stoker
Chair

ATTEST:

JULIE DAVIS
Executive Assistant
Community Development

Approved this _____ day of _____, 2009