

MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD FEBRUARY 2, 2010 IN THE WEST JORDAN COUNCIL CHAMBERS

PRESENT: Justin Stoker, Kathy Hilton, Nathan Gedge, David McKinney, Ellen Smith, John Winn, and Jesse Valenzuela.

STAFF: Tom Burdett, Robert Thorup, Greg Mikolash, Scott Langford, Ray McCandless, Greg Davenport, Rodger Broomé, and Julie Davis

OTHERS: Mickey Beaver, Mike Jones, Kevin Orton, Eric Tuttle, Rod Fisher, Jason Williams, Brian Williams, and Ken Olson.

The briefing meeting was called to order by Justin Stoker.

The agenda was reviewed. There was concern expressed that the proposed lines on Item #2 were adjacent to future low density residential. Tom Burdett explained that there is an environmental impact statement that was conducted over a period of 1 ½ years. Several alternatives were considered in the selection. The commission reviewed the alternatives. Scott Langford updated the commission on the progress of the development agreement for Item #3.

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

**1. Consent Calendar
Approve Minutes from January 19, 2010**

MOTION: Nathan Gedge moved to approve the Consent Calendar. The motion was seconded by David McKinney and passed 7-0 in favor.

2. Mona to Oquirrh Transmission Corridor Project; Continued from 1-19-10; approximately 3 miles of transmission lines from approximately 8600 South to 10200 South between the western city boundary and 5900 West; Conditional Use Permit; C-M, A-20, and M-1 Zones; PacifiCorp/Rod Fisher (applicant) [#CUP20090015; 26-11-400-008 and multiple parcels]

Ray McCandless gave an overview of the proposed 345 kilovolt transmission line that runs 145 miles from the town of Mona to the Oquirrh substation in West Jordan. This line will provide additional capacity to the Salt Lake Valley. He reviewed the route map. Alternative D is the preferred route, which will go along 8600 South to U-111 and then to 10200 South to the substation. He reviewed the proposed land uses that run along the line. The lines that are on 10200 South will be on the south side in South Jordan. He showed other proposed routes for the lines, which would run outside of West Jordan. The poles will be between 115 feet to 175 feet tall with 140-145 being the average. The power lines will be constructed in a 150-foot wide easement. The power line along U-111 exists and this will run to the west of that. The use of the property will not change, but the easements could restrict the future uses. Rocky Mountain Power indicated to him that recreational uses such as trails would be an acceptable use as would parking for retail businesses. A condition of approval would allow the future accommodation of improvements for north/south pedestrian walkways or other improvements within the easement. He showed the transportation master plan and said that the existing poles are spaced at 700 to 800 feet apart, so there will be one new pole for every 4 existing poles. A map provided by Rocky Mountain Power shows that the poles shouldn't impact the anticipated transportation corridors. He showed a photo of the view of the Wasatch Front and stated that the proposed location goes against the goals of the general plan regarding protection of view. The proposed poles will be about double the height of the existing poles. He showed a photo of some new power poles in Sandy City and how they compare with the proposal. Rocky Mountain Power offers a Cor-10 finish on the pole that adds a rust color. Staff recommended that the poles be the self-weathering galvanized type. The Cor-10 finish works when the poles are shorter or when they are against the mountains, but these poles will be viewed more against the sky, and the galvanized will fit in more with that. There are only a few things that can be done to mitigate the impact to the view: reduce the height, which might

not be feasible with the required ground clearance; install vegetative screening, which probably wouldn't do much since the poles are so tall; modify the future land use map to put residential further away, and actually this additional easement will push the residential structures an additional 150 feet from the highway and will help to buffer against noise impacts; or, relocating the power lines.

Staff recommended approval, because to place the poles higher on the hillside would just increase the visibility of the poles when there are existing poles on the highway, and it creates another east/west barrier when the property develops.

Based on the findings of fact contained in the report, staff recommended that the Planning Commission grant the requested conditional use permit with the following conditions:

1. To the greatest extent possible, the proposed pole spacing match the pole spacing of the existing transmission line.
2. The proposed pole spacing not interfere with any proposed intersection right-of-way.
3. The transmission line not interfere with any proposed roadways shown on the City's Transportation Master Plan.
4. The transmission line pole spacing accommodates the City's proposed detention area at Barney's Creek and SR-111.
5. The proposed transmission line meet all applicable EMF safety standards.
6. RMP allow the future accommodation of improvements for a north-south pedestrian walkway or other improvements as needed in RMP's easement along the west side of SR-111.
7. That the applicant complies with all items listed in the attached Engineering Memorandum (Exhibit J).

David McKinney wanted to make sure that the easement for these lines won't present an obstacle to widening U-111 highway.

Greg Davenport thought that UDOT owns the complete right-of-way for a full build-out to the design width.

Mickey Beaver, Customer Community Manager with Rocky Mountain Power, 12840 South Pony Express Road, Draper, clarified that when the line comes in to the Oquirrh substation off Old Bingham Highway none of it is in West Jordan. He appreciated the work of city staff. This gateway central transmission build-out has been in the plans for a long time. They had learned over the years that there is a desire by the communities for Rocky Mountain Power to get out in front of growth with the power lines and major infrastructure needed to fuel the future growth on the Wasatch Front. They have been working jointly with West Jordan and other communities with BLM as the lead agency on the project. Between BLM, Kennecott Land, Kennecott Copper, Salt Lake County, South Jordan, and West Jordan the route along U-111 was identified from the collective input as the best route. This will provide very much needed infrastructure.

Justin Stoker asked Mr. Beaver to discuss the different route alternatives and why the proposed one is the best.

Mickey Beaver said initially Rocky Mountain Power and West Jordan preferred the route to the west side of West Jordan that is on a great deal of Kennecott land. However, when they got into the EIS components of the study access became problematic, and there are substantial obstacles in infrastructure with Kennecott's current and future operations, such as underground utilities and pipelines. Bingham Creek cemetery was also an issue. They like to route, if possible, along existing linear corridors. The one on the south side of 10200 South was discussed at length on July 31, 2009 at West Jordan city hall with Tom Burdett, Mr. Wattcott, and Jeremy Nielsen from South Jordan to talk about the concerns. It was agreeable that South Jordan would accept the line on the south side of 10200 South, which was permitted by South Jordan on January 12, 2010. Other alternatives had issues with Bingham Creek open space, parks, and development that brought them to the route on 10200 South. The decisions were complex and discussed at length over a long period of time.

Justin Stoker asked why a shorter segment that also follows U-111 (light blue line on the map) coming from the south that goes to 10200 South was not an option.

Rod Fisher, Director of Community Relations for Transmission Siting, Rocky Mountain Power, said the BLM is in the process of finalizing an environmental impact statement, which is part of the process to evaluate a host of alternatives to get from the Mona substation to Oquirrh. The lines that Commissioner Stoker referred to were other routes that were fully evaluated in the EIS process. But, through the public comment period on the draft EIS and continuing working with the various stakeholders and underlying property owners, local jurisdictions, the BLM determined that the preferred route is the least overall impactful to public and private lands. There had been significant conversations with all entities and the route referred to by Commissioner Stoker was one of the least favorite.

Justin Stoker said that it seemed to him that West Jordan carries an unusually high burden in this plan, and we also currently have a number of large Rocky Mountain Power facilities and transmission lines compared to other cities.

Rod Fisher said he understood and appreciated the comments. They were before the West Jordan City Council last week reviewing all of their projects. There is a future project where they will be tying a terminal substation in the existing corridor to the Oquirrh substation. Out of the past challenges with their projects in West Jordan came a concerted effort on the part of RMP and West Jordan to work together on long-range planning. They coordinated efforts on the West Side Planning Area and identified a line that will tie into the Oquirrh complex. That has put West Jordan in an enviable position in order to develop long-range plan for growth and economic development. While it is painful to receive the infrastructure, these projects are occurring before development.

Further clarification was given of the existing easements that run over the Oquirrh that would be widened to be about 225 feet. There is no existing power corridor through the Butterfield Canyon alternative. The statement shows that the overall environmental impacts for that route were more significant than following an existing corridor, previously disturbed corridor over the Oquirrh mountains. They consider impact on all types of environmental issues such as wildlife, biological, cultural, and existing land uses. There are fairly active Kennecott mining operations almost to the road in Butterfield Canyon. The study will show that it was a significantly greater impact.

David McKinney noted that the proposed alignment has a greater impact on West Jordan with aesthetics and the future development, etc. He would rather that the line travel outside of South Jordan and West Jordan by going south.

Kathy Hilton said it seemed that West Jordan is getting this project because this route is easy to get to and there is infrastructure in place. It concerns her that with the previous action along 7000 South and 9000 South that one day these proposed poles will be replaced with the larger poles, and all this undeveloped prime property is low to very low density residential that will now have 225 feet of transmission lines. She would like to see it go on the other route to the south as it impacts West Jordan less. She didn't see where West Jordan was getting a benefit from the project.

Rod Fisher said this line is being built to bring power from the south to the Oquirrh station. He compared their high voltage loop system to a freeway. They have run out of capacity to the existing 'freeway', and this new line will allow a future substation to be built in the Tooele valley and bringing the power to the main grid in the Salt Lake Valley. At the same time they are building a power line from Downey, Idaho to tie into the terminal substation south of the international airport. They are bringing more power in as the customer load growth is increasing. They are using 26% more power than they did 20 years ago.

Kathy Hilton said they were told this same thing when the 7000 South project was built, but there hadn't been that much growth since then.

Rod Fisher explained that the voltage systems are different. The 7000 South project and other neighborhood substations are generally served by 138,000 volt service and then the substations transform the power to a lower voltage to go into the neighborhoods and homes. At that time, they were playing catch up for the lower voltage. Out of that project they were able to identify future key substations at the lower voltage, one of which was the Oquirrh. They identified the Copperhills and Hoggard substations and acquired the additional property so they didn't have to identify new sites after development had already occurred. As part of the siting process the BLM looked at existing linear corridors that had existing land disturbance, which is why the proposed route was selected. They are pretty certain that the BLM won't be giving permission to bring power in from Butterfield Canyon or from the south. The route to the west remained preferred by Rocky Mountain Power and West Jordan until after the public input was received and the proposed route was selected.

It was confirmed that the pole height will be about twice as high as the existing poles and that they would be spaced approximately one in four poles. Rod Fisher explained that the proposed structures are similar to those in the existing Jordan River corridor and range from 115 to 166 feet tall. The National Electric Safety Code requires that the ground clearance from lowest of the wire and the ground is about 30-35 feet. The existing facilities have a clear zone of 20 feet, but the standards have increased.

David McKinney asked how many gave input at the public comment period that helped to determine the preferred alignment.

Rod Fisher said West Jordan, South Jordan, Salt Lake City, Salt Lake County, Tooele County, Tooele City, Grantsville, a host of public citizens, landowners, agencies, environmental organizations, etc. represented the hundreds of comments that fed into the process for the BLM to make the decision.

David McKinney asked hypothetically if the city were to deny the conditional use permit for this alignment what would happen at that point.

Rod Fisher said there is some painful history with West Jordan on the 7000 South project. Ultimately what is available to Rocky Mountain Power after they exhaust their appeal options with the city is an Electric Facility Site and Review Board, and should it be denied they would look at evaluating options based on what comes out of the record of decision from the BLM. However, they are confident that the BLM will be giving a line that comes in at 8600 South. He reiterated that they brought this project to the city in 2007 and filed their application with the Bureau of Land Management. They hosted a series of community leader briefing meetings where they met with planning staffs, some elected officials, and had dozens of meetings. They knew that there would be a challenge in having a complete consensus of how to get from point A to point B as they got to the more urbanized areas. A working group was formed that met four times about the development of the process, and Tom Burdett was appointed as the West Jordan representative. The BLM was also involved in these meetings. They educated the working group regarding how the route alternatives were weighed, analyzed, evaluated, and ultimately some were discarded. This was presented by the BLM in the draft EIS in May and was open for public comment throughout the summer with the consensus of the group being with the proposal. They are past looking at alternatives that had already been considered and analyzed but had been eliminated because of their environmental impacts. He reviewed the time frame of the process and said they hope to be able to award a contract in the summer and be able to serve customers by the summer of 2013.

David McKinney said this is the first opportunity the commission has had to look at the project, and he would like to have more time to review the background of the application.

Justin Stoker understood Mr. Fisher to say that because the BLM permit will put this at 8600 South, no matter what happens today Rocky Mountain Power will go through the appeals process and ultimately the review board to negate what the commission is doing.

Rod Fisher said that is one avenue that the company would have. They would exhaust any appeals through the city first and depending on the outcome they would have to find a way to make an alternative work, which given the analysis over the last 3 years it would be less doable. They have to look at how they get from one point at West Jordan to South Jordan. It is not their desire to go through the appeals process.

Kathy Hilton asked Mr. Fisher how confident he was that they will get their permits for this alternative when the report comes back.

Rod Fisher said, for this segment, they have a high degree of confidence that it will be this, based on the public comment and that it was the preferred route of the BLM.

Kathy Hilton said her concern was still that these large lines will be going down U-111 through first class housing.

Rod Fisher said he could appreciate the concern. He said the question is do they consolidate the impacts of the transmission lines in one location such as next to highway U-111 or do they put a new corridor further west that is one more bisection that now impacts the view of future development from both sides. The comments have been to consolidate the impacts and then look at the future compatible uses that the corridor can provide. They aren't obtaining the land in fee, so it is up to the underlying landowners to develop the property. However, they can incorporate that 225-foot width corridor for open space, trails, and detention basins that can act as a buffer zone. The EIS is expected to be released to the public any time. They got word it was in Washington today.

Kathy Hilton said she would like to see the report and the exact findings on all the routes.

Rod Fisher said the draft EIS analyzed all the alternatives and issued the findings of the impacts, which were put out to public comment last summer. The BLM addressed the comments in terms of route refinements, the use of the finish, etc. They have been working with the BLM with the public comments and they have a pretty high degree of certainty of the route.

Ellen Smith asked if there are any limitations in the open space uses of the easement.

Rod Fisher said they first want to maintain safety. There is a 30-35 foot ground clearance at mid-span, so they want to protect from trees and structures. They will buy an easement that will allow them to limit the uses. Storage of hazardous materials is not compatible, trees and structures such as lighting, garages and sheds will not be allowed. However, typical open space and recreation uses are okay. Further north of the area in the Sycamores, the developer created a buffer and utilized the existing easement for a footpath and horse trail. They talked to the engineering department about minimizing impacts to any future arterials or roadways, and they will work with the city on engineering detention basins in the Barney's Creek area.

Kathy Hilton said there will be a 225-foot easement to the west of the road right-of-way. She asked if there would be landscaping provided so there isn't just weeds next to the residential.

Rod Fisher said the right-of-way acquisition of the transmission line easement will not change the underlying existing use, which currently is primarily agricultural. That use will continue until the property owner develops the property in the way they choose. Having the line there is not precluding the use of the right-of-way as a buffer, which could be landscaped as long as it doesn't interfere with the clearance. It is not part of their plan or application to invest in landscaping, but it wouldn't be a problem for the property owner to provide it.

Mickey Beaver said the bottom line is that aesthetics is a significant concern. Other compatible uses include trails, green space, recreational fields, soccer fields, and parking for commercial businesses. Along with the aesthetic concerns, he also has an understanding and appreciation for what goes on with the power lines, which drives every aspect of our quality of life. If they get out in front of the development through future planning, the developer can know in advance where these corridors will be and orient their developments to take advantage of the knowledge of where the lines are and how to plan their project. As long as Rocky Mountain Power has access to their facilities there are a lot of things they can talk about for mitigation. He said the poles are visible and problematic, but people will not be looking at the tops of the poles while driving or walking down that road. They are part of the landscape as they continue to grow out the Wasatch Front. They don't want to go to the review board or into any legal situation that will become problematic for all concerned parties. That is why they have been going through this process for more than 2 years.

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

David McKinney said it might not make a difference, but he would like to see the draft EIS report to see how the decision was made. He would be in favor of postponement until they obtain that information.

Kathy Hilton said it was her experience that the only thing that would change being able to move the route is what the BLM report says. She would rather make a motion contingent on the report. If the report supports this alignment there is no sense in spending more time on it.

Justin Stoker agreed. He said this is a horrible scar in the landscape of West Jordan, but looking at the bigger whole it makes sense to use an existing power corridor. He supported the idea of making the approval contingent upon the BLM giving permits at 8600 South. If they don't do that and it opens up other alternatives, then they can address them at that time.

There was further discussion regarding what the preliminary report contained and that it was available at the time of the public comment period. David McKinney would still prefer to see the report and make sure what has been presented is correct. Ellen Smith would have liked to have seen the draft to see who made the comments, but from her experience with this company it doesn't matter what the commission's decision is, because it will be appealed.

MOTION: Kathy Hilton moved to approve the Conditional Use permit for Rocky Mountain Power Mona to Oquirrh Transmission Corridor Project with the contingent of the EIS Report being returned [giving permits at 8600 South]. The motion was seconded by Nathan Gedge.

AMENDED

MOTION: Nathan Gedge amended the motion to include the conditions of approval 1 through 7 as contained in the planning commission packet. The amendment was accepted and the amended motion passed 6-1 in favor with David McKinney casting the negative vote.

The commission took a brief recess at 7:25 p.m.

The meeting reconvened at 7:32 p.m.

3. Wilshire Place, Cadyn Meadows Phase 2 Plat; approximately 6450 West New Bingham Highway; WSPA (HFR), R-1-10E and M-1 Zones; Final Site Plan, Final Development Plan, Preliminary and Final Subdivision Plat for Cadyn Meadows Phase 2, Recommendation on Deferral Agreement for Wilshire Place, and Recommendation on Modification to Design Standards per 8-3A-3 and 14-5-8 to waive park strip landscaping in 6400 West; Wilshire Place, LC and Cadyn LC/Ken Olson (applicant) [#SPCO20090015, SDMA20090004, MISC20090005; parcels 26-03-400-002, 26-02-300-034]

Scott Langford stated that the commission had already given preliminary approvals in September and now they are going over the final details. Staff had met several times since the meeting in December in order to finalize the submittal. The city council will rule on the modification to design standard and the deferral agreement. Approximately 6.5 acres have been added to the Cadyn Meadows Phase 2 Plat. The subdivision plat has been revised to show the construction of 6400 West from New Bingham Highway to the northern throat of the proposed roundabout intersection. From that point a 25-foot driveway into the complex is proposed to connect to the apartment complex. A modification to design standards would defer landscaping in the parkstrip for a portion of 6400 West, because there won't be development in the foreseeable future. The staff would like to have a weed barrier and cobble in the parkstrip in order to keep the maintenance down until development occurs on Parcels C and D. The applicant also proposed to defer construction of 6400 West from the northern throat of the roundabout down to the southern terminus of the development. The second part of the modification request is to waive the requirement to construct the roundabout improvements, which staff does not support. He showed the temporary emergency vehicle access that connects to New Bingham Highway. There have been many discussions with UDOT concerning access to the project. UDOT provided a letter allowing access to New Bingham Highway subject to various conditions, but the preferred alternative is the connection to 6400 West. If 6400 West is not built, UDOT would allow Pemberly Vale Road as a temporary means. However, when 6400 West is connected, that direct connection from New Bingham Highway would have to be removed. Despite UDOT's requirement to have only one access, the applicant continues to show the access from 6400 West and Pemberly Vale Road. Staff recommended that the direct connect be taken off the site plan, but that may cause issues with HUD financing. So the applicant revised the site plan and development plan to have specific notations that the access point will be removed, if constructed, in the future and replaced with landscaping when 6400 West is constructed. There are 534 parking stalls and 70 guest stalls required based on the number of bedrooms and units. Because the site was lacking, the architect added 33 additional stalls next to the clubhouse in order to make 566 stalls, which is just over 2 spaces per unit. When they added the parking, a tot lot and green space were removed, and the tot lot was relocated next to the parking area. The required number of stalls has not been met, but the planning commission has the ability to reduce the number based on certain factors. The applicant studied another very similar project and looked at other municipalities' parking requirements to determine that the reduced number is adequate. Taking into consideration that this type of housing product generally has a 4% – 9% vacancy rate and different work hours staff supports the proposed parking layout.

Preliminary / Final Subdivision Plat-Cadyn Meadows Phase 2:

Staff recommended that the Planning Commission grant final approval of the Cadyn Meadows Phase 2 Subdivision Plat located at approximately 6450 West New Bingham Highway in a High Density, Multi-family Residential (HFR), Light Industrial (M-1), and Single-family Residential (R-1-10E) zoning districts, based on the findings in the report and the following conditions of approval:

Conditions of Approval:

1. A deferral agreement that addresses the comments stated within this staff report (and within the agreement itself) must be approved and recorded prior to or contemporaneous with recording of any subdivision plat. (Option: The applicant may still pursue the option to not accept and sign a deferral agreement; wherein all standards and requirements of the code shall be met upon recordation of any subdivision plat.)
2. City Council must approve a modification of design standards to allow for the construction of 6400 West without fully installing the park strip landscaping as proposed on the Cadyn Meadows Phase 2 Plat

(between New Bingham Highway and the northern throat of the roundabout intersection of Dannon Way and 6400 West).

3. Prior to recording the subdivision plat, the City shall receive written verification from UDOT that states the temporary emergency vehicle access located on Parcel B of the Cadyn Meadows Phase 2 Plat can remain even after 6400 West is constructed.
4. Meet all Engineering, Public Works, and Fire Department redlines.

Modification of Design Standards

Motion #1:

Staff recommended that the Planning Commission forward a positive recommendation to the City Council to modify section 14-5-8 of the municipal code, waiving the requirement to install park strip landscaping in a portion of 6400 West (between New Bingham Highway and the northern throat of the roundabout intersection of Dannon Way and 6400 West) and recommend denial of the request to not construct the roundabout improvements within 6400 West, based on the findings in this report, the City Engineers memorandum (Exhibit J), and the following condition of approval:

1. The applicant/developer shall install an appropriate weed barrier and a minimum 4 inches of cobble in all areas where landscaping within the parkstrips are waived (between New Bingham Highway and the northern throat of the roundabout intersection of Dannon Way and 6400 West).

Motion #2:

Staff recommended that the Planning Commission forward a negative recommendation to the City Council to waive the requirement to install the roundabout improvements as part of the 6400 West road design, based on the findings in this report, the City Engineers memorandum (Exhibit J), and the inclusion of this portion of road in the deferral agreement.

Final Development Plan

Staff recommended that the Planning Commission approve the final development plan for the Wilshire Place Apartment development located at approximately 6450 West New Bingham Highway in a High Density, Multi-family Residential (HFR) zoning district, based on the findings in this report and the following conditions:

Conditions of Approval:

1. Meet all preliminary development plan conditions of approval.

Final Site Plan

Staff recommended that the Planning Commission approve the final site plan for the Wilshire Place Apartment development located at approximately 6450 West New Bingham Highway in a High Density, Multi-family Residential (HFR) zoning district, based on the findings in this report and the following conditions:

Conditions of Approval:

1. Meet all Preliminary Site Plan conditions of approval.
2. The Cadyn Meadows Phase 2 Plat must be approved and recorded prior to building permit issuance (14-3-1).
3. Approval and recordation of a deferral agreement which establishes a timeline for the construction of 6400 West is required. Please note that the subdivision plat listed in condition 2 will not and cannot be recorded until such time that a deferral agreement is approved and accepted by the applicant and City. The deferral agreement shall include an approved financial assurance, which covers the costs (100%) of site revisions (i.e., removal and re-landscaping of the temporary driveway).
4. Approval of a modification to a design standard (the request to waive park strip landscaping in the portion of 6400 West from New Bingham Highway to the northern throat of the proposed roundabout).
5. Approval of at site plan supplying 566 off-street parking spaces (2.04 spaces/unit) for the development.
6. Meet all Engineering, Public Works, and Fire Department redlines.

Deferral Agreement

The City Attorney's Office is currently preparing a draft deferral agreement. City staff requested that the Planning Commission review the main points of the agreement as they have been outlined in this report and then forward a recommendation to the City Council.

Scott Langford clarified that the temporary emergency vehicle access to the west will have to be built initially. However, when 6400 West is connected to either Wells Park Road or when Dannon Way connects, the emergency access will have to be removed. Based on information from the applicant, it is the assumption of staff that the portion of 6400 West from the northern throat to New Bingham Highway will also be built initially.

David McKinney asked if the reduction in green space that occurred because of the addition parking will affect the density allowed.

Scott Langford said there *is* less green space, but they are still well above the minimum of 20%. However, the density is also based on amenities, so staff asked the applicant to replace the tot lot to keep the amenity package intact.

Kathy Hilton identified a possible location next to the basketball court for the tot lot, because the other location seemed to be too close to the parking area.

Nathan Gedge was excused from the meeting at 7:55 p.m.

Eric Tuttle, 1648 East 3300 South, thanked the commission for their time and the prior approvals on the project. They felt that the proposed location for the additional parking worked well in front of the clubhouse. He noted the other existing tot lot and the wet play area in the swimming area and asked that the tot lot in question not be relocated in the very center of the open space, because that can be used for soccer or Frisbee activities. They felt there are already enough play area amenities without having to replace the tot lot and that the requirement for amenities is still met without it.

Kathy Hilton felt that because there were two tot lots on the preliminary plan it should still be included.

Jason Williams, 1467 West Erickson Park Drive, applicant, in response to a question from Commissioner McKinney, stated that the mechanics of the proposed deferral agreement language has been drafted to meet the requirements of what the city wants the developers to do, but they haven't seen the rough draft yet. He understands what staff wants and what they as developers are proposing and he believes they have reached common ground on that.

David McKinney felt like the deferral agreement was a key component of the approvals, so it was important that they have an agreement on the basic outline of the deferral agreement. He read through the main points as listed in Exhibit M.

Comments from the applicant on the points were:

#1: Mr. Williams said from his indication anything that would be built to the south or on LaMar Coon's property or future development to their 11 acres would trigger it or 5 years. However, they would only be able to complete and develop the completion of the road that they own and control, which they put on the design modification request application. The roundabout area would have to be discussed in the deferral agreement and how that would take place. Clarification was made that the trigger was when the improvements to the south went in and not if development occurred.

#2: Mr. Williams said that was his understanding.

#3: Mr. Williams believed that had already been done.

#4: Mr. Williams said that is correct with the understanding that they won't bond for the LaMar Coon property. Greg Davenport said the attorney is asking for a bond for improvements of the LaMar Coon property, but not a bond for the dedication of the property. Jason Williams said until he sees a final draft of the deferral agreement he would like to state that obtaining a bond for land and improvements on land they do not own would be impossible right now. They would be allowed to put up a cash bond, but he hoped the council would understand that already putting forth \$1.3 million in bonds in one form or another for off-site improvements and then to put up another bond for \$100,000 to \$200,000 in cash for the roundabout is pushing their limits even further in being able to bond. He does not know if they would be able to bond for LaMar Coon's property.

#5: Mr. Williams agreed with that.

#6: Mr. Williams agreed with that.

Referring back to point #4, Jason Williams said the bond may not be impossible, but with no financial responsibility for reimbursement from adjacent properties or with no cooperation for the land on that portion of the property it ties their hands to a certain degree. He asked them to understand the financial burden that it will put on their project. Without having the agreement in place, he can't say more than there is common ground.

There was clarification on the location of the proposed road, which is not on Mr. Coon's property. It was also pointed out that the applicant is the one who proposed the roundabout, and not the city. The applicant confirmed that the access from Pemberly Vale Road will not be built, but it was originally shown on the application to HUD, so it is still shown in order not to disturb their financial application. But their intent is to get their access from 6400 West.

Kathy Hilton was concerned that there aren't two main access points.

Justin Stoker pointed out that it shouldn't cause any problems, because there won't be a slowdown of any traffic.

Ken Olson explained that their project will be built all at once within 18 months. At the planning commission and city council the traffic engineer stated that the access could handle double the amount of units that they have, and that was at the access with the left turn, stop situation. The proposed access onto 6400 West will not have a stop situation, so there won't be a bottleneck, and it will handle even more than the other one with ample safety and access. He said he could show examples of 700 units in South Jordan where they have an access this size, or the Santa Fe apartments that have 490 units without even a secondary emergency access. They asked for a waiver of the roundabout, because they feel the project is safe and has proper traffic flow. Also, they won't be getting any payback from the neighbors and the upfront costs are astronomical with the off-site sewer, storm drain, off-site water lines, widening of New Bingham Highway, and the extra wide road across the Orton property. He said right now they will have to bond \$1.3 million, and he didn't know if they can bond 1.5 right now since bonding has changed. If they have to bond over LaMar Coon's property they don't know if it can happen. All the neighboring properties want the project to happen.

Justin Stoker asked if the Pemberly Vale access isn't constructed would the 25-foot driveway from 6400 West be sufficient to serve all the units.

Ken Olson said 25 feet of asphalt is very close to what it would have been at the Pemberly Vale access, but now they won't have the stop situation on a major highway. The traffic engineer testified that it is more than ample since it is a through road. There will be only one general access point for the property in the beginning.

Eric Tuttle stated that another project of theirs was almost identical and was tied in with a condominium project with 400 units and only one exit. This project is only 278 units. Everyone doesn't come and go at the same time, so even if they all left in one hour that would be 3 cars per minute. They are not talking about hundreds of cars leaving instantly. He was not concerned with the amount of traffic at all.

Kevin Orton, 2518 West Kamas Drive, owner of the property that 6400 West will be built on, stated that they agree with the project and to all the terms to put the road on their property. They think it will be a good project.

Brian Williams, 11221 South Aubrey Meadows Circle, one of the property owners, said they had made huge progress on the project. They have their commitment from HUD on the 28th, they have their funds, but the money that is available doesn't help them with the off-sites. They are working together to get the 6400 West master planned road done.

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

It was clarified that UDOT will not allow two access points onto New Bingham Highway. It was either install Pemberly Vale Road or get the access from 6400 West, but once 6400 West was connected to New Bingham Highway the other access was not an option.

Answering Justin Stoker's question, Greg Davenport said that the traffic report prepared by the applicant indicated that one general access point would be safe. He didn't know that it was the ideal situation, which is why ultimately the city wants 6400 West to be built to provide another access, but it would be safe.

There was a brief discussion regarding the width of the 20-foot emergency access and that emergency response for a fire would be coming from all directions.

David McKinney pointed out that the Ridge at Jordan Landing apartment complex is similar in nature to this and it has only one access from a roundabout. He felt that the primary issue is related to the deferral agreement. He asked Mr. Thorup what the options for point #4 of the development agreement are for bonding for improvements on property they don't own or have rights to develop.

Robert Thorup said the only option would be that the city wants them to bond for what they ultimately have to build, because they should be responsible. He said there will be a pioneering agreement in place where the applicant might be able to recover some of the money.

Tom Burdett said 6400 West north of the site constructed by DR Horton adjacent to the Copperfield subdivision was a similar situation where they had to secure half of the right-of-way from the Jones family for half of 6400 West, which ultimately included city assistance.

Justin Stoker asked if the option is on the table where the city might help to obtain the property.

Tom Burdett said that after reasonable due diligence and reasonable offers are made and documented and appraisals are done, if this is part of the roadway system that the city would be willing to go through the process of eminent domain proceedings to take care of the issue.

There was a brief discussion regarding the emergency access and if at some point in the future it could become part of a permanent access when that property develops. However, UDOT would have to give approvals as well.

Kathy Hilton asked if the traffic engineers knew that the entrance to the complex from 6400 West would only be 25' wide when they did the study that said it was adequate.

Greg Davenport thought that the original study only looked at the Pemberly Vale access, which is about 26 feet wide. The nicer part about an access from 6400 West is that when they get to the intersection of New Bingham Highway it will be 45 feet wide instead of 25 feet, so there will be stacking distance and left and right turn lanes, which will make that access safer than the Pemberly Vale access.

Justin Stoker said he lives in a single-family residential neighborhood with approximately 200 units. It has two access points, but he lives next to one of them, and there are never 3 cars together. He felt that the proposed access would be fine. There might be three or four cars at the intersection at peak times, but it shouldn't be bad.

David McKinney said regarding the tot lot that he would still like to see it in the plan. He pointed out a potential location away from the large field and the parking area, but he wasn't too concerned that it was next to the parking.

Justin Stoker said he didn't want it next to the parking area, because it is only ten feet away. He would rather just see it removed considering the amount of amenities that are being provided.

Kathy Hilton said that she still wanted it in the plan.

Ellen Smith said, as a mother, that she would not want to take her children all the way to the south end to play. She would like to see it stay, but she didn't want it next to the parking.

A location west of the new parking area was suggested and supported.

David McKinney asked if the removal of the tot lot would affect the densities.

Scott Langford said that is up to the Commission. If they think it will affect the total amenity package it is at their discretion. Staff suggested moving it to the west of the parking lot, but the applicant preferred the other location. Whatever the commission decides tonight will be what is built.

Justin Stoker said his concern was with the safety of the area, and that they install a knee-high fence for protection if it remains where it is.

David McKinney said they could provide a similar area with a sidewalk like the one to the south to the area west of the new parking.

Regarding the roundabout, David McKinney agreed with the staff's recommendation. John Winn and Kathy Hilton both agreed.

MOTION: David McKinney moved that they approve the Final Subdivision Plat of Cadyn Meadows Phase 2; approximately 6450 West New Bingham Highway; Cadyn LC/Ken Olson (applicant) based on the findings of fact and the testimony and information presented with conditions of approval 1 through 4 in the staff report. The motion was seconded by John Winn and passed 6-0 in favor. Nathan Gedge was absent.

MOTION: David McKinney moved to approve the Final Development Plan for Wilshire Place Apartment Development; approximately 6450 West New Bingham Highway; Wilshire Place LC/Ken Olson (applicant) with condition #1 and adding:

2. The north tot lot play area be moved to an area west of the newly proposed parking expansion.

The motion was seconded by John Winn.

Ellen Smith wanted to clarify what application they were voting on.

David McKinney withdrew the motion.

MOTION: David McKinney moved to approve the Final Development Plan for Wilshire Place Apartment Development; approximately 6450 West New Bingham Highway; Wilshire Place LC/Ken Olson (applicant) with condition of approval number 1 in the staff report. The motion was seconded by John Winn and passed 6-0 in favor. Nathan Gedge was absent.

Ellen Smith said her big concern with the site plan was with the single access to the development. It will probably not be an issue, but they have to think about emergency situations, and she didn't know if a 20-foot emergency road would be adequate to provide access.

Rodger Broomé didn't believe that the fire code restricts emergency access, meaning that if the fire department chose to use it for evacuation they could. However, they probably wouldn't, because they would be more concerned with evacuating people and not cars. So they would probably only use that road for emergency vehicles.

David McKinney asked what would happen if the main access point were blocked by a large accident, if the residents would be blocked in the development, and he also asked if that is the same situation they currently have in other developments of this size.

Rodger Broomé said if there was an accident right in the driveway it could cut off the access if it were something like an auto pedestrian accident with a fatality. He didn't know if they would use the emergency access to New Bingham Highway as a contingency, but he also didn't think the fire code or traffic code would restrict that.

Justin Stoker didn't think this situation was extraordinary, and they could operate just as well as the other similar developments around the city.

David McKinney recognized the concern, but felt that they are within reasonable guidelines to allow it as proposed.

MOTION: David McKinney moved to approve the Final Site Plan for Wilshire Place Apartment Development; approximately 6450 West New Bingham Highway; Wilshire Place LC/Ken Olson (applicant) with conditions 1 through 6 in the staff report adding:

7. The north tot lot be moved to a location west of the adjacent expanded parking area.

The motion was seconded by Justin Stoker.

ROLL CALL VOTE:

Commissioner Stoker – yes

Commissioner Hilton – no

Commissioner Winn – yes

Commissioner Valenzuela – no

Commissioner Smith – no

Commissioner McKinney – yes

The motion failed 3-3.

MOTION: David McKinney moved based upon the findings of fact and testimony provided to forward a negative recommendation to the City Council to waive the requirement to install the roundabout improvements as part of the 6400 West road design. The motion was seconded by John Winn and passed 6-0 in favor of a negative recommendation. Nathan Gedge was absent.

MOTION: David McKinney moved to forward a positive recommendation to the City Council to modify Section 14-5-8 of the Municipal Code waiving the requirement to install parkstrip landscaping in a portion of 6400 West between New Bingham Highway and the northern throat of the roundabout intersection of Dannon Way and 6400 West with the condition number 1 as listed in the staff report. The motion was seconded by Kathy Hilton and passed 6-0 in favor. Nathan Gedge was absent.

There was a brief discussion regarding the deferral agreement. The commission doesn't really have a direct role with the deferral agreement, and there is no requirement for their recommendation. The recommendation regarding the roundabout gives the council guidance as to the commission's feelings.

There was discussion on if the concerns of the site plan could be addressed and given approval tonight. Tom Burdett said the 3-3 vote neither approved nor denied the plan. The commission could identify what changes they desire and ask that it come back to them, there could be an alternative motion with conditions, or they could deny based on findings.

Kathy Hilton was still concerned with the safety issue of only one small access, yet according to staff, UDOT won't grant an access on New Bingham Highway anyway if 6400 West is in place.

David McKinney said his background is as a civil engineer with traffic engineering as part of that, and he felt that the capacity of a two lane entrance is fairly large. An accident that might block the entrance would be a significant inconvenience, but that kind of event is relatively unlikely. He knows of other developments that have a similar singular access point. This project will ultimately have two entrances, and the deferral agreement lists the triggers for that construction.

Scott Langford read from the subdivision ordinance regarding multiple access points, which states that 'a minimum of two points of ingress and egress are required for residential subdivisions unless the fire chief or his or her designee determines that more than one access point is not necessary to protect the public health and safety. The owner/developer may comply with this requirement by platting stub streets which connect to future streets', which the applicant has done. When 6400 West is ultimately built it will be a better scenario for the residents, but staff felt that the application meets the code.

Robert Thorup said that the planning commission approved the preliminary site plan 6-1 with only one access onto New Bingham Highway in addition to the emergency temporary road. If the commission were going to deny the final application having approved only one access point on the preliminary, there would have to be some findings as to what it was that is different that suddenly caused a change. The applicant has relied upon the preliminary approval of the one access and would be entitled to have specific findings as to what else is wrong with the application if it were to be denied.

Ellen Smith explained that she voted for the preliminary plat, but afterward she had wished that she had voted no, partly because of the access and partly because she didn't think this section of New Bingham has the

infrastructure needed to handle this development. Because that road is owned by UDOT, we can approve anything we want, but the street won't be improved unless UDOT does it.

David McKinney pointed out that the traffic engineer said it is adequate, and he didn't know of any facts that refute that.

Justin Stoker said that his subdivision is in a similar situation, and it empties onto a much smaller street than New Bingham Highway.

John Winn stated that this is more adequate than the area east of Jordan Landing.

Ellen Smith said that is an example of where the city has approved things on both sides of the street that isn't owned by West Jordan. If she is forced to change her vote she will, but she stated that Commissioner Hilton was not on the commission when the preliminary vote was taken, so she is free to vote as she wants.

Kathy Hilton said she didn't know what findings of fact they could state now. If the preliminary was okay with one entrance, what has changed so much that they can't allow one entrance now?

Jesse Valenzuela said he voted no on the preliminary because of the access, and his vote will remain unchanged. UDOT is not in favor, and he is not in favor. His background and experience shows that if it is incorrectly done at the start then the problems will follow. He is not emotionally tied to or prejudicial against the project; it is just the way he sees the construction. Given the amount of people in the development and the situation of the emergency access that will be gated and not guaranteed to be clear of snow and vehicles if needed are the reasons he voted no.

It was pointed out that just because someone voted yes on the preliminary it doesn't require a yes vote on the final, but it would require some kind of factual reason or a change in the plan. It was suggested that the item could be continued until there was a full commission. Measurements showed that the preliminary access point at Pemberly Vale Road had 24 feet of asphalt and the new access point from 6400 West has 25 feet of asphalt.

Kathy Hilton stated that she really thought there should be two accesses for safety, but UDOT will not allow New Bingham to have an access, the emergency road can't be used as an access, they can't put a road on LaMar Coon's property, and the preliminary was granted with one access.

MOTION: David McKinney moved based on the findings of fact and the discussion and testimony presented to approve the Final Site Plan for the Wilshire Place Apartment Development; approximately 6450 West New Bingham Highway; Wilshire Place, LC/Ken Olson (applicant) with the conditions of approval 1 through 6 as presented in the staff report, adding:

7. The north tot lot to be moved to a location west of the proposed expanded parking area.

The motion was seconded by Justin Stoker.

ROLL CALL VOTE:

Commissioner McKinney – yes

Commissioner Winn – yes

Commissioner Valenzuela – no

Commissioner Smith – yes

Commissioner Hilton – yes

Commissioner Stoker – yes

Commissioner Gedge – absent

The motion passed 5-1 in favor.

Tom Burdett gave an update on recent City Council actions.

MOTION: David McKinney moved to adjourn. There were none opposed.

The meeting adjourned at 9:43 p.m.

Justin Stoker
Chair

ATTEST:

JULIE DAVIS
Executive Assistant
Development Department

Approved this _____ day of _____, 2010