AN ORDINANCE AMENDING LOGAN MUNICIPAL CODE, 1989, SECTION 17.20.040, “LAND USE TABLE—PRIMARY USES ALLOWED IN SPECIAL PURPOSE DISTRICTS”

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN AS FOLLOWS:

SECTION 1: Logan Municipal Code, 1989, Section 17.20.040 of the Land Use Table—Primary Uses Allowed in Special Purpose Districts—Institutional Uses,” is hereby amended to add the following:

§17.20.040. Institutional Uses.

<table>
<thead>
<tr>
<th>Category</th>
<th>Definition</th>
<th>Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utilities, structures, physical facilities</td>
<td>Publicly-owned utility facility.</td>
<td>PUB</td>
</tr>
<tr>
<td></td>
<td>Permitted Conditional</td>
<td>REC</td>
</tr>
</tbody>
</table>

SECTION 2: Effective Date. This ordinance shall become effective upon publication.

ADOPTED BY THE LOGAN MUNICIPAL COUNCIL THIS 4th DAY OF November 2001, by the following vote:

AYES: [Names]
NAYS: [Names]
ABSENT: None

ATTEST:

Lois Price, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval on the 14th day of November, 2001.

Alan D. Allred, Chairman

MAYOR’S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this 15th day of November, 2001.

Douglas E. Thompson, Mayor
MEMORANDUM TO THE MUNICIPAL COUNCIL

DATE: 1 November, 2001
FROM: Jay L. Nielsen AICP, Director
SUBJECT: AMENDMENT TO THE ZONING MAP AND TO THE TEXT OF THE LAND DEVELOPMENT CODE - POWER PLANT

Summary of Planning Commission Proceedings
On October 25, 2001 the Planning Commission considered the request to rezone the site of the Power Plant to PUB District and to amend the Land Development Code to allow Publicly Owner Utility Facilities within PUB and REC Districts.

The staff presented a series of photographs from similar facilities in Provo, Murray, Bountiful. The photos illustrated proximity of recently upgraded power plants to existing residential neighborhoods.

The staff report (attached) was presented to the Commission which recommended rezone of the property to include 2.48 acres of Board Of Education land to the south making the rezone contiguous with the PUB District of Willow Park. The report also recommended that the text of the Land Development Code be changed to allow “Publicly owned utility facilities” as a permitted use in PUB Districts and as a conditional use in REC Districts.

The Planning Commission asked questions of the proponent, Garth Turley, Logan City Light and Power Department. The questions centered around feasibility of other sites and associated cost implications. The commission also asked if the accessible restrooms would be added to the exterior of the project if this request was approved. Mr Turley said that the possibility may be considered if the rezone was approved by the Council.

Public comment was received by 7 individuals who were opposed to the request for various reasons. One individual expressed support for the request.

The Planning Commission deliberated and recommended the following to the Municipal Council:
1. Rezone the property of the power plant and all additional land south of the plant extending to 400 South. Findings for this action were to include all findings of the staff report excluding findings 8 and 9. Finding 7 was amended as shown in the minutes (pages 6 & 7).
2. Amend the Land Use Table to add “Publicly owned utility facilities”. The Commission recommends that this use should be allowed only as a conditional use in both PUB and REC districts. Findings were included with the action of the Planning Commission as submitted by staff.

Director’s Recommendation
The staff report, as submitted to the Planning Commission, remains the recommendation of the staff. The findings for rezone, which were deleted or modified, are reasonably debatable as findings of fact for a legislative action by the Municipal Council. Those findings deleted by the Planning Commission could justifiably remain as findings for action by the Municipal Council.

Staff recommends that Council approve the text change to allow “Publicly owned utility facility” as a permitted use. Even as a permitted use, the design review process will still address essential protections for surrounding uses and neighborhood.

Attachments:
Applications for Rezone and Text Change
Public Notice Advertisement
Staff Report to the Planning Commission
Minutes of the Planning Commission 25 Oct 01
3 Letters submitted by individuals
Proposed Zoning Map.
PROPOSED AMENDMENT to the Official Zoning Map
MFM to PUB
City of Logan
November 1, 2001
APPLICATION FOR PROJECT REVIEW

☐ Planning Commission  ☐ Board of Adjustments  ☐ Board of Appeals

Date Received: 9/24/01
Received By: DR
Receipt No: PD
Zone: MF1
Application No: 01-077

Type of application (Check all that apply):
- PC: ☑ Subdivision  ☐ Conditional Use  ☐ Design Review  ☐ Zone/Text Change  ☐ Amendment
- ☑ Rezone to PD  ☑ Rezone to X

Project Name:
Logan City Power Plant

Property Address:
305 S. 300 W.

Contact Person:
Garth Turley

Mailing Address, City, State, Zip:
950 W. 600 N.

Applicant: (Must be Listed)
Logan City Light & Power

Mailing Address, City, State, Zip (if different):
950 W. 600 N.

Property owner of record (Must be listed):
Logan City

Mailing Address, City, State, Zip (if different):
255 N. Main

Describe the proposed project as it should be presented to the Planning Commission or Board of Adjustment:
To replace existing diesel generators with modern, more efficient generators. Included are plans to add landscaping and improve overall appearance of the building and surrounding area.

I certify that the information contained in this application and supporting plans is correct and accurate.
Signature of Applicant

I certify that I am the record owner of the subject property and that I consent to the submittal of this project.
Signature of Owner (if different)

Use additional pages if necessary. You must provide the Commission or Board with enough information to make an informed decision.

The Commission has directed Staff to continue projects if the application is not complete.
APPLICATION FOR PROJECT REVIEW

- Planning Commission  □ Board of Adjustments  □ Board of Appeals

<table>
<thead>
<tr>
<th>Date Received</th>
<th>Zone</th>
<th>Application No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/10/01</td>
<td></td>
<td>01-084</td>
</tr>
</tbody>
</table>

Type of application (Check all that apply):
- PC: □ Subdivision  □ Conditional Use  □ Design Review  □ Zone/Text Change  □ Amendment
- □ Rezone to PD  □ Rezone to X  □ Boundary Line Adjustment

Project Name: Power generation facilities

Property Address: Amendment to the LDC - Use Chart EUR zone

Contact Person: Department of Community Development

Mailing Address, City, State, Zip:

Applicant: (Must be Listed)

Mailing Address, City, State, Zip (if different):

Property Owner of Record (Must be listed):

Mailing Address, City, State, Zip (if different):

Describe the proposed project as it should be presented:

See Attachment A #1

Signature of Owner (if different):

Use additional pages if necessary. You must provide the Commission or Board with enough information to make an informed decision.

The Commission has directed Staff to continue projects if the application is not complete.
The Logan City Municipal Council will hold a public hearing to take input on proposed changes to the Land Development Code. The proposed changes affect uses allowed in the Public (PUB) and Recreation (REC) Zoning Districts.

A change is proposed in the Land Use Table 17.20.040 to add "Publicly Owned Utility Facility" to the table in the 'Utilities, structures, physical facilities' category as a PERMITTED USE or CONDITIONAL USE in the PUB and REC Zoning Districts.

If you would like a copy of the proposed changes or have questions, please stop in or call the Department of Community Development at 716-9021. You may also call for estimated time of the public hearing.
PETITION FOR AMENDMENT TO THE
OFFICIAL ZONING MAP
FOR PROPERTY LOCATED AT:
305 South 300 West – TID# 02-039-0009
325 South 300 West - TID# 02-039-0010
331 South 300 West - TID# 02-039-0021

AND

AMENDMENT TO THE LAND DEVELOPMENT CODE TEXT

PROJECT
The Logan Light and Power Department requests to amend the Official Zoning Map to rezone three parcels totaling 1.79 acres from Multi-Family Medium (MFM) to Public (PUB). Also, an amendment is requested in Table 17.20.040 of the Land Development Code to allow ‘Publicly Owned Utility Facilities’ as a permitted use in the PUB zoning district.

Originally this project was processed as a continuation of a legally existing nonconforming use. The City was sued by several citizens who claimed that this project constituted an expansion of a nonconforming use and therefore the City was required to obtain a conditional use permit. At the District Court hearing on this matter the plaintiffs’ attorney argued that the City must either seek a conditional use permit or in the alternative seek a zoning change that would allow this project to move forward.

After considering written and oral arguments from both sides, the judge concluded the following: that the City’s policy was to disfavor the continuation, expansion, intensification, or prolongation of nonconformities; the project prolonged the life of the use and the building; and the increased height of the exhaust stacks and the potential to increase overall operating time of the plant constituted an expansion. The judge ruled that in order to allow the project to continue the City must either obtain a conditional use permit or take other steps required by applicable legal and procedural requirements. In light of the judge’s ruling, the City and Logan Light and Power are seeking this rezone.
DESCRIPTION
The subject property was rezoned from manufacturing (M1) to multi-family medium (MFM) as part of a
major city-wide rezone in 1996. The property includes the site of the City of Logan Power Generation
Plant. The plant has been in existence since 1927 and has operated continuously for 74 years. Logan
City Light and Power Department proposes to continue to use the property for electrical production by
replacing existing diesel generators with more efficient natural gas generation. The purpose of the use at
this site is to provide emergency and peaking power generation capability for the City. Relocating this
use to an alternative site would cost the citizens of Logan millions of additional dollars and would leave
the City without emergency or peaking power generation capabilities for a substantial period of time
while a new facility could be designed and built.

In order to continue this use at the existing site, Logan Light and Power is proposing a zoning change that
would make power generation a permitted use at the site. Two residential properties purchased by the
City immediately south of the plant site are also part of the rezoning request.

Surrounding Land Use and Zoning
Adjoining Property
North: CN: Design West - Vacant – Professional Offices beyond
East: MFH: Intermountain Threading Machines – Industrial nonconforming
West: MFM: JEF Investments – Residential
South: MFM: Logan Board of Education (South Campus)

AGENCY AND DEPARTMENTAL COMMENTS
No departmental comments were received on for this request. Comments were received previously by
Departments for the Design Review Permit. Specific conditions are required in the Design Review
Permit to meet the concerns of city departments in the event of further development of the site.

PUBLIC COMMENTS
Notices were mailed to 10 property owners located within three hundred feet of the subject property.
Also a newspaper advertisement was published as public notice for the proposed amendment to the Land
Development Code. Comments received by the Department of Community Development are attached.

STAFF COMMENTS
Supply and financial conditions which have occurred in the power industry in the last year have caused
the city to take steps to protect the citizens of Logan with more reliable power generation capabilities.
One of these steps is the proposed changes to the Logan Land Use Code.

The zoning change is proposed as public (PUB) which is consistent with the Logan General Plan which
states "...The Public (P) zone is appropriate for publicly owned lands, lands owned by public utilities,
schools, or Utah State University." General Plan 3.1.05. In order to give meaning and effect to this
language it must be interpreted to allow public zones in appropriate locations throughout the city,
including in or adjacent to residential areas.

The parcel of land (2.48 ac.) south of the subject site, owned by the Logan School District, should be
included in the rezone since it is used as the alternative high school, the South Campus. The Logan High
School Campus, northeast of the site, is zoned PUB and the rezone of the South Campus would be
consistent. Inclusion of the South Campus will also connect the proposed rezone to the PUB zoning
district of Willow Park and the Fair Grounds.

The General Plan, in referring to this particular neighborhood, also states that "There is concern about the
appearance of the neighborhood in terms of general building design..." General Plan 3.3.08. This
The proposal will invest substantially in the appearance of the power plant facility which will in turn enhance the neighborhood.

The traffic impact will not exceed the historical levels established over years by the power plant, which impact has been minimal. Often traffic can become a serious factor in evaluating the compatibility of proposals within neighborhoods. This proposal is an ideal neighbor from a traffic generation standpoint and this factor should not be overlooked in the total analysis.

Staff finds that the proposal is consistent with the General Plan and the site is suitable for the proposed zoning district and all permitted uses. The proposed changes to the site and the mitigation measures, coupled with an approved Air Quality Permit make this project appropriate for the area. It will be a significant improvement to the neighborhood in terms of noise, emissions and appearance.

STAFF RECOMMENDATION

Staff recommends two separate motions as follows:

1. Planning Commission approve a motion to recommend that the Municipal Council rezone property involved in PC Docket #01-077 of 1.79 acres from MFM to PUB. Also recommend that the Municipal Council include, in the rezone, the parcel of land owned by the Logan Board of Education currently used as the South Campus (TID# 20-390-012).

2. Planning Commission approve a motion to recommend PC Docket #01-084 that the Municipal Council amend the Land Development Code, Table 17.20.040 Primary Use Allowed in Special Purpose Districts, (page 111) to add a category of “publicly owned utility facilities” as a permitted use as shown below:

<table>
<thead>
<tr>
<th>Utilities, structures, physical facilities</th>
<th>Publicly Owned Utility Facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PUB</td>
</tr>
<tr>
<td></td>
<td>P</td>
</tr>
</tbody>
</table>

RECOMMENDED FINDINGS

The Planning Commission bases its decisions on the following findings supported in the administrative record for this project.

Findings to amend the Official Zoning Map:

1. Proposed amendments to the official zoning map are consistent with the General Plan. The General Plan states in 3.1.05, Public Service areas that, “The Public (P) zone is appropriate for publicly owned lands, lands owned by public utilities,...” The Public zoning designation has been revised in the Land Development Code as Public (PUB).

2. The location of subject property(ies) including the Logan City School District property is compatible with the purpose of the new district. The stated purpose of the Public District is described in Logan Land Use Code 17.19.020. “The Public zoning district is appropriate for publicly owned lands, lands owned by public utilities, schools...”

3. The subject property is suitable for development within the new zoning district without increasing need for variances or special exceptions. No variance or special exception will be required for the site or building façade improvements or for the installation of gas turbines.

4. The subject property is suitable as a location for all of the permitted uses within the district. The permitted uses within the PUB District are parks, open space, safety service, schools, utilities, agriculture, passenger terminals, rail lines, and utility corridors. All of which are legitimate and common uses for publicly owned property.

5. The infrastructure providing access and utility services to the subject property have adequate capacities or a suitable level of service for the permitted uses within the zoning district.
6. The subject property when used for the permitted uses in the district will not be incompatible with adjoining land uses or the purpose of the adjoining districts. The proposed uses will meet all federal, state, and city requirements. A design review permit has been issued which requires full compliance with conditions of the permit including air quality, noise, and visual conditions. The Utah Division of Air Quality has held a public hearing and the permit has been issued for the operation of new gas turbines. The intended use of the property will be compatible with the adjoining districts because of conditions imposed on the development.

7. The power plant has provided power generation at this site for the past 74 years without significant negative impact on the surrounding neighborhood. The proposed upgrades and improvements to the facility will lessen the impacts on the neighborhood even further.

8. Other communities throughout the state have allowed power generation facilities in or adjacent to residential neighborhoods without significant negative impacts.

9. The proposed zoning change will allow the city to provide emergency and peaking power immediately.

Findings for the amendment to Table 17.20.040 of the Land Development Code:

1. Proposed amendment is consistent with the General Plan. The General Plan states in 3.1.05, Public Service areas that, “The Public (P) zone is appropriate for publicly owned lands, lands owned by public utilities,...” The Public zoning designation has been revised in the Land Development Code as Public (PUB).

2. The proposed text change will allow the city to provide essential utility services as a permitted use in Public zones. Providing essential utility services is necessary in providing for the public safety, health, morals and welfare of the citizens of Logan.

3. Publicly owned utility facilities can be made compatible with surrounding uses through the Design Review permitting process.

Respectfully submitted,

Jay L. Nielson, AICP

This staff report is an analysis of the application based on adopted city documents, standard city development practices, and available information. The report is to be used to review and consider the merits of the application prior to and during the course of the Planning Commission meeting. Additional information may be revealed by participants at the Planning Commission meeting which may modify the staff report and become the Certificate of Decision. The Director of Community Development reserves the right to supplement the material in the report with additional information at the Planning Commission meeting.
October 2, 2001

Dear Mr. Nielson,

I am writing to ask that the Planning Commission postpone consideration of two items presently on the agenda for the Oct. 11th meeting. These items are the Logan City Power Plant Rezone request by Logan City and their request to amend Land Use Table 17.20.040, utilities, structures, physical facilities. I am asking for the postponement since my neighbors and I would like to have our attorney, Bruce Baird, present at the meeting to speak on our behalf. He has informed me that he is unable to attend the meeting on the 11th. Please consider this request for a postponement, and let me know as soon as possible.

Thanks for your attention.

Sincerely,

Gordon Steinhoff
198 S. 300 W.
Logan, UT 84321
Dear Planning Commission member,

Logan City is requesting a rezone of 1.8 acres in southwest Logan for the sake of installing new gas-fired generators in the old power plant at 300 S. 300 W. They request a change in the zoning from Multiple Family Medium density (MFM) to Public. They also request a change in land use Table 17.20.040 of the city code to allow utilities, structures, physical facilities as permitted uses in a Public zone. In this letter I wish to express my concerns with these requests.

The zoning of the power plant property and the surrounding neighborhood was changed to MFM just four or five years ago. With this change the power plant became a nonconforming use in the neighborhood. The clear city policy is to phase out nonconforming uses, not perpetuate them by spot rezoning. According to the city code:

"It is the policy of the Municipal Council that as legally existing nonconformities obtain permits or reviews pursuant to this chapter, that the objective is to ultimately replace the legally existing nonconformity with a conforming use or structure" (17.59.010)

The generators the city plans to install in the plant are built to last at least 30 years. The city has indicated no plans to move these generators to another site once they’re installed at the plant. The city’s proposal is not consistent with the above policy to phase out nonconforming uses.

The city gave assurances to Mr. Wegener, Dr. Goble, and residents of the southwest neighborhood that power production at the old plant would be phased out. With this understanding, Mr. Wegener bought and renovated the old Anderson Mill building. He also bought and cleared the lot between this building and the plant. Dr. Goble bought and began remodeling the Logan Coach building. He and Mr. Wegener planned to develop riverside trails and landscape the area between the two buildings. I believe Planning Commission and Municipal Council members are unaware of how extensive their plans were to upgrade the area. My neighbors moved into their new home with the understanding that power production would soon end at the plant. The decision by Logan City to install new generators at the plant is a complete about-face from the direction they set for this neighborhood until just last February. The city’s General Plan states that the purpose of zoning is to allow residents and developers to make plans confident in the development that will be allowed in an area. The “end result” of proper planning, according to the General Plan, is to give “a degree of
certainty that ‘the parcel next door will be developed in a certain way’” (p.1-11). This is an admonition against spot rezoning, zone changes on a “piece by piece basis.” The city’s proposal to spot rezone the power plant property is inconsistent with the direction they set for this neighborhood only a few years ago, it is inconsistent with the policies of proper zoning, and it has hurt our neighborhood. The Logan Coach building is already up for sale. What will happen to this building now? A charter school that had expressed interest in acquiring the property between the plant and the Anderson Mill building has apparently lost interest. We are concerned that the city’s proposal will cause continued blight in the area. No one wishes to locate near a power plant, with its noise and pollution.

The city has compared the noise emitted by the new generators to a "conversation." But this "conversation" will be present for up to 24 hours per day, 7 days per week, 365 days per year. This is far in excess of the frequency of use of the old diesel generators. The noise emitted by the new generators could become a major irritation to those of us who live or work near the plant. The "conversation" will be continually present, hour after hour, day in and day out, possibly through weekends and holidays, and possibly through the night as people are trying to sleep.

We have asked the city to place the generators in an appropriate, industrial area. The city’s original proposal, presented back in February, was to put the new generators into a new building that was to be the size of a 4-car garage. The old plant was to become a museum (they suggested). We agree that the old plant would make a great museum. The city could choose to maintain the plant as a power monitoring and control station. The new generators could be monitored and controlled electronically from the power plant building, as the temporary diesel generators scattered around the city were monitored and controlled electronically from the power plant building. The plant could continue to be used as a central dispatch station. There is no reason to believe that if the generators are placed elsewhere the plant would become a useless, dilapidated old building. The new generators could be placed in their own structure, which could be placed where the increased noise and pollution will not be a nuisance and possible health risk.

The city will request a spot rezone of the power plant property from MFM to Public. According to the current regulations, however, power production is not a permitted use in a Public zone, which may include parks and schools. The city will try to get around this problem by requesting a change in the regulations that govern the uses in a Public zone. On the agenda for the Oct. 11th meeting is their request to amend the city code, Table 17.20.040, so that “utilities, structures, physical facilities” become permitted uses in a Public zone rather than conditional uses. The city assumes that a power plant is included in this category. Apparently, the city is attempting yet again to avoid the conditional use process. They seem to have selected Public because it sounds reasonable and relatively harmless, but with this zone they need the
amendment to allow as permitted the industrial use they really want.

One problem with the city's request is that it is doubtful whether a power plant is included under "utilities, structures, physical facilities." From the description included in the table, this category seems to include structures that are involved in power distribution, not power generation. Power generation seems more appropriate under the industrial use category: "manufacturing and production." These uses are not allowed in a Public zone.

Another problem is that if the requested change in the regulations is approved, utilities structures such as a power plant (assuming a power plant falls into this category) or high voltage power lines could be placed into any area of the city that has been zoned Public without obtaining permission from the Planning Commission, even if these structures are going in next to parks and schools. Protections provided by the conditional use process will be missing. If the Planning Commission approves the city's request, they are agreeing to take themselves "out of the loop" on such decisions. Presumably, in the city code a number of use categories were left as conditional rather than permitted to ensure that the Planning Commission has a vital role to play in planning what goes into different areas of the city, including those areas zoned Public.

For the above reasons I hope that the Planning Commission will consider denying the city's request for a rezone and for the amendment to Table 17.20.040.

Thank you for your attention.

Sincerely,

Gordon Steinhoff
198 S. 300 W.
Logan, UT 84321
October 22, 2001

Planning & Zoning Commission
255 N. Main
Logan, UT 84321

To Whom It May Concern:

The building, historically known as the Old Logan Coach, on 291 South 400 West has made multiple attempts to maintain an industrial ‘zone’ for the benefit of maintaining the intended use of the grandfathered old building. We have repeatedly been in front of the planning & zoning commission, the city council (refer to the rezone minutes in 1998), and as you recall, were denied approval and held to the strictest interpretation of the grandfather clause.

I believe these decisions benefited the neighborhood, but those same decisions have encumbered and devalued the property and the 44,000 square foot building. I have had to live with that, and that is the reason why the building has remained as it has for the past five years. If there is a zone change with regard to the proposed power plant, then in a sense of fairness, I request my arguments reappear.

Please let me know my next step.

Respectfully,

E. Marlowe Goble, M.D.
Minutes of the meeting for the Logan Planning Commission convened in regular session Thursday, October 25, 2001, Chair Virginia Wickwar conducting. The chair called the meeting to order at 5:30 p.m.

Planning Commissioners present were: Eldon Hooper, Eugene Kartchner, Paul Larsen, Gina Wickwar, John Kerr, Jenny Box, Karl Ward

Planning Commissioners absent were: none

Staff present: Jay Nielson, Michelle Mechem, John Weber, Kymber Housley

Minutes as written and recorded from October 11, 2001 were moved to be approved by Mr. Ward and seconded by Mr. Hooper. The vote was unanimously approved.

Tape 1A
Public Hearings
01-077 Continued from the October 11th meeting....LOGAN CITY POWER PLANT REZONE. Rezone. City of Logan, applicant/owner, requests the Planning Commission to recommend approval to the City Council for a rezone of 1.86 acres located at 305 South 300 West from the Multi Family Medium (MFM) zone to Public (PUB) zone. TIN#02-039-0009, 0010, 0021.

01-084 Continued from the October 11th meeting....PUBLIC HEARING. A proposed change to the Land Use Table 17.20.040 to add "power generation facilities" to the table in the 'Utilities, structures, physical facilities' category as a PERMITTED USE in the PUB Zoning District and as a CONDITIONAL USE in the REC Zoning District.

Mr. Nielson presented pictures showing Bountiful City, Murray City and Provo City power plants and surrounding neighborhoods.

STAFF: Staff reviewed the report as written.

Mr. Ward asked about the recommendation to the Municipal Council regarding changing the public utilities use to permitted. It would not allow the Planning Commission to see a conditional use if someone wanted to come in with a coal burning plant or such.

Mr. Nielson wanted the public utilities permitted to address the growing power need of the community.
Mr. Kartchner stated regarding the letters written to the editor, we are here to arrive at a
recommendation to the City Council who is the one who can approve or deny these changes. It
started with the City Council and it will end with the City Council.

PROPOSENT: Garth Turley, Proponent, Logan City Light & Power.

Ms. Box asked if they were putting back in the site plan the handicapped bathrooms.

Mr. Turley stated he hasn't discussed it with Mr. Nielson. If the bathrooms were to be added, it
would have to come back to the Planning Commission for design review.

Mr. Larsen asked Mr. Turley if in the future he foresaw locating the power plant somewhere else
in Logan.

Mr. Turley stated they had thought about it and did several cost analyses. Cost would be
significantly more.

Ms. Box stated the City already had lines at the current plant and would it be better to enlarge it,
double the size if needed?

Mr. Turley stated he could not commit to any future administration.

Mr. Kartchner stated the City Council could determine the needs of the city as a whole; this may
be possible at some time in the future.

Mr. Turley stated he is the project manager and he recommends this project to the City Council.

Mr. Larsen asked Mr. Turley to review the current usage at this location and if it would be possible
to move the generators to a remote location.

Mr. Turley stated anything is possible, but it would be at least a year before that could happen and
the cost would be $175,000 per month that the City would be losing. It is an existing site and
justifies upgrading. Mr. Turley is familiar with Provo as he worked there for 10 years. The plant
was there first, then residential built around it.

Mr. Larsen asked about the response he received in the Provo area.

Mr. Turley stated they still run four diesel generators that are loud and noisy.

Mr. Larsen asked if the City of Logan has received the air quality permit for the power plant.

Mr. Turley stated an intent to permit has been issued.

Mr. Kartchner stated the Planning Commission does not take any cost into consideration during
the course of their decision. When The City as a whole is involved, it belongs to the City Council
who are concerned with the cost.

Mr. Larsen asked about the cost factors.

Mr. Turley stated the spot at the landfill would be a significant cost and time is a factor.
PUBLIC: Gordon Steinhoff, lives one block from the power plant, stated his comments are Tony Wegener’s comments. He couldn’t be at this meeting. Mr. Steinhoff read from a letter.

Beth Saul stated we have been at this for several months now. The City has tried to minimize what this project really is. She has two concerns. Peaking times were asked for 24/7. They were asking to use it maximum when needed. Air pollution is the second concern. It would put out small particulate matter. Logan is the worst in the state for particulate matter pollution.

Mr. Kartchner asked if the EPA was aware that small particulate exists.

Ms. Saul stated she called John Jenks and he said there were no standards. Somewhere down the line there will be a standard and we will already be over the standard. This monitoring was done about 3 blocks from the power plant. There are a lot of unknowns.

Walter Appel stated with respect to Mr. Kartchner’s comments, the Planning Commission should have significant sway towards the City Council. The City didn’t have a plan. They just decided at the spur of the moment to do this project. The request is not going to improve neighborhood integrity. Diversity and people may be desirable but it’s not a virtue of the neighborhood.

Mr. Kartchner stated he is concerned with the grandfathering. What is Mr. Appel’s interpretation.

Mr. Appel is ill prepared to speak of legalities. His perception is that if there is a plan, a power plant is not a normal use. If it is already there, that’s one thing, but there is a possibility of moving it.

Mr. Kartchner stated if it was legal then they should be allowed to continue. Our ordinance does not put a phasing-out period for non-conforming uses.

Mr. Appel suggested the Planning Commission decide whether this is going to become a power plant, then phase out the houses, if it’s a neighborhood, then phase out the power plant.

Sara Reeves stated this building was run down, not being used very often and now there are significant changes and hence a new power plant.

Cortland Lundahl stated you get used to the noise. He has been interested in industrial development. Before the plant they couldn’t get good rates because of the electrical costs. Mayor Lunquist put it in without a Planning Commission. Without that plant, the City would not have the industry in here that it does today. People back then were more interested in the welfare for the community not their specific preferences.

Kathy Hurst stated they have the right to voice their opinions. Regarding grandfathering, this is like a whole new building. It is not maintaining. In the early 90’s they worked to get their neighborhood rezoned. She didn’t believe the power plant should ever be considered at the service center. Other areas are better. East of Bourns the City owns property which would be a better place. The money already spent is not lost, the building would need upgrading anyway. Dr. Goble wanted to buy the power plant building when the City was done with it. It should be in the industrial area. The City could work like gangbusters to get this all moved over there. She challenges someone from the City to explain why this would not work.
Mr. Kartchner stated we are not qualified to discuss that location, not knowing cost, has not seen the site, etc. It would not impact the Planning Commission's decision unless the City was negligent in their duty to evaluate all these options.

Ms. Wickwar stated we need to keep going on the public comment.

Steve Thompson, city council member stated the Mayor, Community Development and legal have been trying to put a round peg in a square hole. They are trying to make this project into an area that he feels does not belong. For months the City has been moving along on this project and would be close to running. In an emergency situation, we are there because they chose to send back the renter generators, the City did it to themselves. Private developers come to the City and ask you to rezone a neighborhood for convenience, for cost, for them to set their project up and running. Would it be any different? Why not consider private utilities along with public utilities. Send it to the City Council with your recommendation to deny the rezone.

Mr. Kartchner asked Mr. Thompson if he would strike that section in the code that deals with legally existing non-conforming use.

Mr. Thompson stated we should be careful about it.

Mr. Kartchner asked if the City should tell the power plant they must discontinue their use?

Mr. Thompson stated the citizens were promised that the plant would go away. Point of argument, light and power wanted to continue the facility when it rezoned in 1996, why wasn’t it left Industrial or rezoned to Public then if they weren’t planning on phasing it out.

Mr. Kartchner stated there is a degree of fairness to allow them to proceed.

Mr. Thompson stated that the vision of the City should be to not have the power plant there.

Gordon Steinhoff stated these are his comments. The City requested a amendment to the Land Development Code making uses permitted and not a conditional use. Just rezoning to Public does not allow the generators. Also it takes the Planning Commission out of the loop. A conditional use permit is more stringent than a design review permit. Non conforming uses are a good thing and a good policy but the City is not abiding by its policy.

Mr. Kartchner stated we would be dealing with the conditional use of expansion, but not the original use.

Mr. Ward stated the ordinance was inconsistent.

Jill Shroeder-Grahms stated it is unfair that the litigants are to be blamed for the costs involved. It is the City’s fault that this is a financial issue. What conditions are required is what the Planning Commission should be looking for. Is it the general plan for the neighborhood. It has to be shown the rezone is consistent and compatible with the area.

Mr. Wickwar stated we will have findings to support our decisions.
Mr. Kartchner stated the Planning Commission takes into account if the project increases the traffic, safety, wellbeing, customer traffic, audible noise, emissions, odors, drainage, all compared to the current use.

Ms. Shroeder-Grahms stated she feels everyone has tried to get around this issue in every way. The City could have done it right and avoided it the first time.

COMMISSION: Mr. Ward stated he wasn't here when the zoning changed to MFM. When the zoning was done, it should have been Public in the first place.

Mr. Housley stated he didn’t think anyone thought about it. If you get a bunch of people together, they would all zone it differently. It wasn’t addressed.

Mr. Ward asked if there was any lobbying to not have this zoned.

Mr. Larsen asked about the home located between the plant and the neighborhood.

Ms. Box asked why the house would be zoned Public.

Mr. Nielson stated the City owns it and it will not be occupied.

Mr. Larsen stated #9 of the conditions shouldn’t be to allow something immediately. Maybe that would be something the City Council should address. What is the logic in having this a permitted use, the design review would give us the latitude. We are not changing it just for this zone, we are changing it for every zone. Is the Planning Commission interested in doing this?

Mr. Kartchner stated there may be some decisions that have a community impact and some that have a neighborhood impact. We mainly decide on neighborhood. Who should the decision makers be when you are making a community decision? The City Council should be because they are accountable.

Ms. Box stated if the Planning Commission makes this permitted, we are saying we never want to be bothered with this.

Mr. Kartchner stated the decisions made for the community as a whole should be the City Council.

Ms. Wickwar stated the Planning Commission does make decisions on the community as whole.

Mr. Kerr stated this is not very complex at all. It is public land, it should be zoned to reflect that. It is not spot zoned. Permitted vs. conditional is clearly a debatable issue. Conditional use is for looking at factors beyond design review. We may not be addressing our role adequately if we take the stance that everything should be shifted to City Council. The City is the property owner and has all the rights of a property owner.

Ms. Box stated if the Planning Commission is going to approve this, we need to take out of the findings that this decision does good to the neighborhood.

Mr. Larsen stated we are acting in an advisory capacity to the City Council. They are relying on our judgement.
Mr. Ward stated we have dealt with similar issues. Dr. Goble's letter was mentioned. What is going to benefit the neighborhood the most? What are the alternatives? Economics and opportunity should be considered.

Mr. Hooper stated what is best for the entire City is what he has always voted. He would have voted differently on projects close to his home. Let's get on with it.

Mr. Kartchner stated #6 of the findings is the only one that mentions impact to the neighborhood.

Ms. Box stated #7 too.

Mr. Kartchner stated when a decision is made it always impacts someone negatively.

Ms. Box stated this project could have been done right. A conditional use permit should have been applied for. Now we are going through a bizarre process to get around the conditional use permit. The City circumvents its own rules. Had the City come for a conditional use, it probably would have passed. Just because something has been there for a long time doesn't make it right. This is not in keeping with the City master plan.

Mr. Housley stated the City needs to defend themselves. The City has never hidden the fact they didn't want the conditional use permit. There was going to be litigation no matter what we did. We took a fair interpretation of the ordinances and code. The judge's findings were regarding an expansion of the power plant. Rezone is a legitimate tool. CAPSA went through a year ago and it is the same situation. The administration is not corrupt. Everyone has different opinions on different issues, that does not make them corrupt. There is no right answer for this issue on what will benefit our citizens.

Mr. Larsen stated the assumption of a conditional use that might come before us and be approved should be considered on its merit and based on the arguments put forth. We respond to the proposal put in front of us.

Mr. Housley stated the judge thought this rezone is a viable alternative.

Ms. Box stated findings 6, 7, 8, and 9 should be stricken.

Tape 1A

MOTION: Moved to recommend approval of PC01-077 with the findings as listed below. The following findings were changed from the staff report: Strike #9 and #8, amend #7.

RECOMMENDED FINDINGS TO AMEND THE OFFICIAL ZONING MAP:

1. Proposed amendments to the official zoning map are consistent with the General Plan. The General Plan states in 3.1.05, Public Service areas that, "The Public (P) zone is appropriate for publicly owned lands, lands owned by public utilities,..." The Public zoning designation has been revised in the Land Development Code as Public (PUB).

2. The location of subject property(ies) including the Logan City School District property is compatible with the purpose of the new district. The stated purpose of the Public District is described in Logan Land Use Code 17.19.020. "The Public zoning district is appropriate for publicly owned lands, lands owned by public utilities, schools..."
3. The subject property is suitable for development within the new zoning district without increasing need for variances or special exceptions. No variance or special exception will be required for the site or building façade improvements or for the installation of gas turbines.

4. The subject property is suitable as a location for all of the permitted uses within the district. The permitted uses within the PUB District are parks, open space, safety service, schools, utilities, agriculture, passenger terminals, rail lines, and utility corridors. All of which are legitimate and common uses for publicly owned property.

5. The infrastructure providing access and utility services to the subject property have adequate capacities or a suitable level of service for the permitted uses within the zoning district.

6. The subject property when used for the permitted uses in the district will not be incompatible with adjoining land uses or the purpose of the adjoining districts. The proposed uses will meet all federal, state, and city requirements. A design review permit has been issued which requires full compliance with conditions of the permit including air quality, noise, and visual conditions. The Utah Division of Air Quality has held a public hearing and the permit has been issued for the operation of new gas turbines. The intended use of the property will be compatible with the adjoining districts because of conditions imposed on the development.

7. The power plant has provided power generation at this site for the past 74 years without significant negative impact. The proposed upgrades and improvements to the facility will lessen the impacts.

[Moved: Mr. Ward Seconded: Mr. Kerr] Passed: 5, 1
Yea: Larsen, Kerr, Hooper, Kartchner, Ward. Nay: Box

Tape 1A
MOTION: Moved to recommend approval of PC01-084 to change use from not permitted to a conditional use in the Public (PUB) zone with the findings as listed below.

RECOMMENDED FINDINGS FOR THE AMENDMENT TO TABLE 17.20.040 OF THE LAND DEVELOPMENT CODE:

1. Proposed amendment is consistent with the General Plan. The General Plan states in 3.1.05, Public Service areas that, “The Public (P) zone is appropriate for publicly owned lands, lands owned by public utilities,…” The Public zoning designation has been revised in the Land Development Code as Public (PUB).

2. The proposed text change will allow the city to provide essential utility services as a permitted use in Public zones. Providing essential utility services is necessary in providing for the public safety, health, morals and welfare of the citizens of Logan.

3. Publicly owned utility facilities can be made compatible with surrounding uses through the Design Review permitting process.

[Moved: Mr. Ward Seconded: Ms. Box] Passed: 5, 0
Yea: Larsen, Kerr, Hooper, Ward, Box. Abstain: Kartchner

Discussion occurred between the Planning Commission and staff on the use chart on determining if the rest of the use chart needs to be adjusted.

01-083 PUBLIC HEARING. A proposed change to the Land Use Table 17.14.020 concerning radio, television, or microwave towers, devices, equipment, machinery, structures or
PROOF OF PUBLICATION

STATE OF UTAH
COUNTY OF CACHE

On this 31st day of October A.D. 2001 personally appeared before me Jean Willmore who being first duly sworn deposes and says that she is the chief clerk of the Cache Valley Publishing Co., publishers of The Herald Journal, a daily newspaper published in Logan, City, Cache County Utah, and that the advertisement

NOTICE OF PUBLIC HEARING FOR PURPOSE OF REZONING PROPERTY

a copy of which is hereto attached, was published in said newspaper for One (1) issue commencing October 31, 2001 and ending October 31, 2001.

Signed

Subscribed and sworn to before me, the day and year above written.

Signed


NOTICE OF PUBLIC HEARING FOR PURPOSES OF REZONING PROPERTY

The Logan Municipal Council will hold a public hearing to consider the following rezone:

a) Logan City Power Plant Rezone The City of Logan, applicant/owner, requests a rezone of 1.86 acres located at 305 South 300 West from the Multi Family Medium (MFM) zone to Public (PUB) zone. TIN #02-039-0008, 0010, 0012, 0021. A public hearing will be held before the Logan Municipal Council on Wednesday, November 14, 2001, not before 6:15 p.m. in the Council Chambers at 255 North Main Street, Logan, Utah.

b) Public Hearing on Land Use Table 17.20.040. Utilities, structures, physical facilities as a Conditional Use or Permitted Use in the Public (PUB) and Recreation (REC) zones.

Lois Price, Recorder

Publication Date: October 31, 2001
PROOF OF PUBLICATION

STATE OF UTAH
COUNTY OF CACHE. . . .

On the .................. day of November ................................ A.D. 2001

personally appeared before me . . . Jean Willmore . . . who being first duly sworn,

deposes and says that she is the chief clerk of the Cache Valley Publishing Co., publishers of The Herald Journal

a daily newspaper published in Logan, City, Cache County Utah, and that the advertisement

a copy of which is hereto attached, was published in said newspaper for . . . One (1) issue . . .


and ending November 20, 2001 . . .

Signed . . . Jean Willmore . . .

Subscribed and sworn to before me, the day and year above written.


LEGAL NOTICE
SUMMARIES OF ORDINANCES amending the Logan Municipal Code, 1989, passed by the Logan Municipal Council are as follows:

1. ORD. 01-83. An ordinance amending the Zoning Map of Logan City, Utah, was passed November 14, 2001 and approved April 15, 2001 rezoning 1.66 acres at 306 South 300 West owned by the City of Logan from Multi Family Medium (MFM) to Public (PUB) for Tax ID Nos. 02-039-0009, 0010, 0012, 0021. Also identified as "Logan City Power Plant Rezone."

2. ORD. 01-86. An ordinance amending Section 17.20.040, "Land Use Table--Primary Uses Allowed in Special Purpose Districts--Institutional Uses" was passed November 14, 2001 and approved November 15, 2001 as follows: In the category "Utilities, structures, physical facilities," Publicly-owned utility facility was designated as a Permitted Use in the Public (PUB) zone and a Conditional Use in the Recreation (REC) zone.

Full texts of the above ordinances may be reviewed at the Office of the Logan City Recorder, City Hall, 255 North Main, during regular business hours.

Lois Price, Recorder
Publication Date: November 20, 2001