



EAGLE MOUNTAIN PLANNING COMMISSION MEETING MINUTES

September 28, 2021, 5:30 p.m.
Eagle Mountain City Council Chambers
1650 East Stagecoach Run, Eagle Mountain, Utah 84005

COMMISSION MEMBERS PRESENT: Jeremy Bergener, Matthew Everett, Christopher Pengra, Erin Wells, and Brett Wright.

ELECTED OFFICIALS PRESENT: Councilmember Donna Burnham, Primary Liaison to the Planning Commission.

CITY STAFF PRESENT: Steve Mumford, Assistant City Administrator/Community Development Director; Tayler Jensen, Senior Planner; and Elizabeth Fewkes, Recording Secretary.

CITY STAFF PRESENT ELECTRONICALLY: Jessa Porter, Planner; and Embret Fossum, UFA Battalion Chief.

Commissioner Wright called the meeting to order at 5:34 p.m.

5:30 P.M. – Eagle Mountain City Planning Commission Work Session

Commissioner Wright called the meeting to order at 5:34 p.m.

1. Discussion Items

1.A. DISCUSSION ITEM – Skyline Ridge Phase 2 Plat 6

Senior Planner Tayler Jensen presented the item. Skyline Ridge Phase 2 Plat 6 currently has approved construction plans to develop 23 lots. After developing Phase 2 Plat 5 the applicant is requesting to redesign Plat 6 to reduce the amount of hillside that needs to be removed to build the project. The applicant's concept decreases the number of units in the development to 14, moves the lots off the hill and closer to the road, and reduces the amount of infrastructure and land being disturbed. The applicant is requesting feedback on their proposal and the likelihood of being granted alternative design standards for lot frontages.

Discussion ensued regarding the buildable and unbuildable portions of the lots due to the natural grade percentages and if blasting or reduced setbacks would be required to develop the lots.

Commissioner Wells arrived at 5:42 p.m.

Applicant representative Brandon Ames with Bach Homes said they purchased Skyline Ridge to finish Phase 3 and build Phases 4 through 6. During construction, they discovered that more earthwork was necessary than expected. Plat 5 required the removal of over 65,000 cubic yards of material and Plat 6 would require the removal of twice that amount of material. They are also

concerned about constructing adequate retaining walls and addressing drainage from the wash into one of the lots. They contracted a new engineering firm to determine a better use of the natural layout of the land. They are requesting reduced frontages in exchange for fewer lots and less excavation, material removal, and truck traffic and an increase in the amount of unimproved open space dedicated to the City. The proposal reduces the export materials from 130,000 cubic yards to 33,000 cubic yards. The lines on the topographical map are at one-foot contour intervals. They will use a hydraulic hammer rather than blasting. He confirmed that portions of the development will require significant retaining walls, including lots 3 through 6; some of the material from those lots will be utilized as fill for lots 10 through 14; the remaining fill will be transported to one of their other developments outside of the City. A six-to-seven-foot curb cut with basement-loaded garages will provide retention. They are requesting a variance for a minimal reduction in the frontage widths on lots 10 through 13.

Assistant City Administrator/Community Development Director Steve Mumford clarified that the existing approved plat has several units with 75-foot frontages. The natural average slope of the lots is required to be under 25% in order for the lot to be buildable. The lot lines can be adjusted but the lot cannot be graded to bring the natural grade within the standard requirement.

Commissioner Wright encouraged the applicant to modify the plan to bring the lots with a natural slope average in excess of 25% to be in compliance with code. He thanked the applicant for amending the plan to be more desirable.

Commissioner Everett said he did not have any major concerns with the reduction of the frontage widths as the product would still be desirable to the City. He appreciates the applicant's willingness not to blast as previous blasting in the City, and the resulting truck traffic, has been a concern for him and other residents. He suggested slightly adjusting the lot lines to bring the slope averages under 25%.

1.B. DISCUSSION – Citywide Rezone #1 & #2

Mr. Mumford presented the item. A number of master development agreements (MDA) have expired and new zones have been adopted. The City is beginning the process to rezone existing properties in the City to match current zones in Municipal Code. The process will occur in stages over several months. The areas will be reviewed by the Planning Commission and discussed in work sessions prior to notifying property owners and presenting rezones in public hearings.

Current properties and homes noncompliant with the standards for a new zoning designation are legal nonconforming uses in accordance with Utah Code 10-9a-511 standards including:

- “Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.”
- “A municipality may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.” To be considered abandoned, the home must have been unoccupied for a minimum of six months.

- Abandonment: “A majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use.”

Regulations required per Utah Code 10-9a-509:

- “(4)(a) Except as provided in Subsection (4)(b), for a period of 10 years after the day on which a subdivision plat is recorded, a municipality may not impose on a building permit applicant for a single-family dwelling located within the subdivision any land use regulation that is enacted within 10 years after the day on which the subdivision plat is recorded.”
- “(4)(b) Subsection (4)(a) does not apply to any changes in the requirements of the applicable building code, health code, or fire code, or other similar regulations.”

Setbacks listed on a recorded plat would continue to apply, no matter the setbacks in the zone in Municipal Code, unless the City found a countervailing public interest for applying the new setbacks. Accessory structure setbacks in Municipal Code would apply, but nonconforming structures would be “grandfathered.”

The first area in the City in consideration of rezoning is located in the southeast City Center area and includes the Eagle Point, Eagle Village, and Sweetwater developments. The expired master development plan (MDP) had zoning for Residential, Mixed-Use Residential/Commercial, Parks and Open Space, Commercial C-1, Commercial C-2, and Town Center (Commercial C-3). The Future Land Use Map in the General Plan designates the areas with Neighborhood Residential Two, Neighborhood Residential One, Foothill Residential, Parks and Open Space, and Community Commercial. The proposed zoning under the most applicable current standards based upon lot sizes, lot frontages, and land uses that would provide the most uses to the properties resulted in a mixture of CC, MF1, RC, OS-I, R3, and R2.

The RC zone has a minimum lot size of 4,500 square feet and a minimum lot frontage of 58 feet. Setback minimums for the RC zone are 15-foot front, eight-foot side, and ten-foot garage side, and 22-foot garage. The majority of the lots in the Sweetwater, 80 lots of 239/33%, are 4,400 feet with some as small as 3,700 feet. Most of the lots have 40 to 50-foot frontages. The setbacks are 15 feet on the front, five feet on the side, and a 20-foot garage. Eagle Village has an average lot size of 5,947 square feet and the smallest lot is 4,553 feet. Six lots have a frontage greater than 58 feet, the majority of the lots have a 55-foot frontage, and five lots have a 50-foot frontage. All homes have a front setback of 15-feet and a 22-foot garage setback.

The R3 zone has a minimum lot size of 6,500 square feet and a minimum lot frontage of 62 feet. Eagle Point B has lots equal to or greater than 6,999 square feet and the majority of the lots have a frontage over 70 feet. Eagle Point C has lots over 7,000 square feet and nearly all the lots have 70-foot frontage. Eagle Point E smallest lot size is 6,912 square feet and nearly all the lots have a frontage over 70 feet. The R2 zone has a minimum lot size of 8,000 square feet and a minimum lot frontage of 80 feet. Eagle Point A has lots equal to or greater than 8,000 square feet and only one lot has a frontage below 80 feet. The majority of the homes are built at a front setback of 15 to 20 feet.

The CN zone is intended for smaller scale, neighborhood uses with minimal impacts on adjacent neighborhoods. The CC zone is intended for retail, office, services near transportation hubs and major intersections and is designed to buffer neighboring residential areas. CN and CC are both appropriate adjacent to RC and MF1.

Discussion ensued regarding the benefits of rezoning City properties to minimize the difficulties in appropriate zoning for areas adjacent to existing properties in consideration of the required staff time and resource allocation and the differences between the previous and current zoning systems, the timeframe for completion of the project and obstacles arising from a partially completed project, the difficulty in applying the new standards to neighborhoods with different lot sizes, and preventing the subdivision of lots.

Mr. Mumford explained staff prepared a City map based upon minimum lot size with the intention to rezone solely based upon lot size; however, the result would be spot zoning creating a checkboard of different zones in the same neighborhood. Further examination resulting in including minimum frontage requirements and setback standards considerations in the rezoning process.

Commissioners Everett, Bergener, and Wright advocated for moving forward with the project despite the length and difficulty as a worthy use of time due to the benefits of having a zoning map to facilitate determining appropriate zone adjacencies for new development.

Mr. Mumford clarified that the Planning Commission would discuss the rezone for each area of the City during a work session to resolve concerns prior to noticing the impacted residents of the rezone. He feels a rezone effort to resolve concerns and questions about expired zones and master development agreements is valuable and merits the time and resource investment, especially because it is difficult to apply the zone transitioning requirements to previous zoning standards.

Commissioner Wright stated rezoning existing development will clarify property rights and standards for residents.

Mr. Mumford said the next steps for the rezone of the proposed areas is to review the plan with the City Attorney, notice the rezone, and inform the impacted residents then bringing the rezone to a future policy session for a public hearing and vote.

Commissioner Wright adjourned the work session at 6:28 p.m.

6:30 P.M. – Eagle Mountain City Planning Commission Policy Session

Commissioner Wright called the policy session to order at 6:34 p.m.

2. Pledge of Allegiance

Commissioner Bergener led the Pledge of Allegiance.

3. Declaration of Conflicts of Interest

Although not a conflict of interest, for transparency, Commissioner Wright disclosed that he lives in close proximity to the La Petite Grooming Salon, the applicants for item 6.B.

4. Approval of Meeting Minutes

4.A. September 14, 2021 Planning Commission Minutes

MOTION: *Commissioner Pengra moved to approve the September 14, 2021 minutes. Commissioner Wells seconded the motion. Those voting aye: Matthew Everett, Christopher Pengra, Erin Wells, and Brett Wright. Those voting nay: None. The motion carried with a vote of 4:0. Commissioner Bergener abstained as he was not in attendance at the September 28, 2021 meeting.*

5. Status Report

Mr. Jensen reviewed the planning items discussed and voted upon during the September 21, 2021 City Council meeting.

Commissioner Wright acknowledged that the Planning Commission received a public comment with no content from Joanna Gurney and request for Ms. Gurney to contact staff with the comment.

6. Action and Advisory Items

6.A. PUBLIC HEARING – Fire Station 251 Rezone

This item was discussed after item 6.E.

Fire Station 251 is currently located near City Hall in an aging facility. This proposal would allow for the construction of a new facility and would shift operations to this new location. The Future Land Use Plan (FLUP) designates this property as Community Commercial. Staff believes the Public Facilities (PF) is an appropriate zone within this designation.

The following criteria found in EMMC 17.90.060 shall be considered when making a recommendation for rezone applications:

- Compliance with the General Plan EMMC 17.90.060(A): The request to add the PF zone is compliant with the General Plan which designates the area for Community Commercial.
- The adjacent parcels are designated Community Commercial and Neighborhood Residential 2 in the FLUP, thus the application complies with this provision.
- Compatibility Determination EMMC 17.90.060(B): The proposed rezone allows for public facilities which are appropriate adjacent to both Residential and Commercial developments, therefore it is the opinion of staff that the proposal is compatible with neighboring properties and complies with this provision.

- City Services EMMC 17.90.060(C): The proposed use is not anticipated to overburden City Services.
- Traffic Generation EMMC 17.90.060(D): The use is not anticipated to generate significant traffic thus it complies with this provision.
- Property Values EMMC 17.90.060(E): The proposed use is not expected to have a significant negative impact on surrounding property values therefore it complies with this provision.

Staff recommends that the Planning Commission motion to recommend approval of the rezone to the City Council, for the reasons set forth in the staff report and in the meeting with any conditions the Planning Commission finds appropriate.

Commissioner Wright opened the public hearing at 7:05 p.m. As there were no comments, Commissioner Wright closed the hearing.

Commissioner Pengra expressed concern with rezoning the property for a public facility use if it results in the abandonment of the current Station 251 after significant funds had been spent in restoring the building.

Applicant representative Steve Simmons with AJC Architects explained the current Station 251 building is not seismically sound, United Fire Authority only owns a portion of the building, and the location cannot be staffed for the growing needs of the City. The new prototype facilities have spaces that increase the overall health and meets the needs of the firefighters.

Commissioner Everett stated that he supports the rezoning of the parcel as appropriate with recognition that the existing facility is substandard and the new facility will better meet the needs of the first responders and the growing City. He encouraged a positive recommendation to City Council. Commissioner Wells concurred.

Commissioner Bergener noted that the new location has more land available to create a better facility for the City.

Commissioner Wright said due to the application meeting Municipal Code requirements he is in favor of moving the application forward.

MOTION: *Commissioner Wells moved to recommend approval to the City Council of the rezone for Fire Station 251. Commissioner Everett seconded the motion. Those voting aye: Jeremy Bergener, Matthew Everett, Christopher Pengra, Erin Wells, and Brett Wright. The motion passed with a unanimous vote.*

6.B. PUBLIC HEARING – La Petite Grooming, Salon, and Short Term Pet Sitting (Conditional Use Permit)

Mr. Jensen presented the item. The applicant is applying for a conditional use permit (CUP) and has applied for a short-term pet sitting license for a dog grooming and short-term pet sitting business to allow for up to 35 dogs to be on-site at a time, up to 20 dogs for grooming and up to

15 dogs for short-term pet sitting. La Petite Grooming has been reviewed a number of times by different bodies in Eagle Mountain.

A brief timeline of actions with the business are described below:

- The first home business license for La Petite Grooming Salon was issued in April of 2015.
- In 2016 the City received a number of anonymous complaints but found the project to be in compliance with conditions of approval.
- In December of 2018, the City received a signed complaint detailing nonpermitted dog boarding, which also complained about noise, smell, and the number of visitors to the site. An investigation by the City found the site to be out of compliance and the owners were advised to bring the business into compliance with their approvals and to get necessary building permits for the building in which the business was being operated.
- In January 2019 the applicant expressed their desire to acquire a CUP to allow them to offer overnight boarding, but this application was placed on hold as the City was already in the process of amending the Municipal Code to allow for pet sitting without a CUP.
- Once adopted, the applicant applied for a pet sitting permit, which was placed on hold waiting for a resolution to the building permit issues.
- A site visit in October 2019 revealed that wastewater was improperly being discharged into the wash.
- La Petite Grooming's business license expired in April 2020. Utah County Health Department signed off on improvements to a septic system in July of 2020.
- On September 1, 2020, a cease and desist order was issued by the Utah County Sheriff.
- A new business license was applied for on September 8, 2020. On September 17, 2020, the City received a nuisance complaint, and the issue of a business license was referred to the Eagle Mountain Planning Commission.
- On October 13, 2020, the Eagle Mountain Planning Commission approved a 90-day home business license to give the applicant time to relocate their business. The applicant appealed the Planning Commission's approval to the City Council.
- November 17, 2020, the City Council approved La Petite Grooming at the site for one year and gave staff direction that no additional business licenses should be issued for the address.
- On Tuesday, September 7, 2021, the City Recorder and City Administrator made an unannounced site visit to the current La Petite Grooming site, based on a recent complaint, at approximately 7:40 p.m. On-site was a puppy and a friend's dog, and the inspection revealed that the site was clean, quiet, and there was no evidence of overnight boarding. It was determined the site was operating within the bounds of the approval by the City Council.
- La Petite has submitted a renewal for business license renewal the Recorder's Office has not processed it due to their last approval.

The applicant is making this CUP application in accordance with the November 17, 2020 approval and is seeking to move the business to a new location per the Council's approval. The applicant is proposing that this use be for a lot within the Deer Haven project, which received preliminary plat approval from the City Council on July 6, 2021. The final plat has not yet been

submitted, nor has the plat been recorded. The zoning for lot 10 is Agriculture, and the Wildlife Corridor Overlay Zone applies to the back of the parcel.

The Wildlife Corridor Overlay Zone covers the easternmost 330 feet of the project. No dog runs, animal fencing, or buildings should be permitted in this area. In addition to these restrictions, staff is concerned that allowing up to 35 dogs will spook the deer and result in them not utilizing the corridor in this location. The maximum permitted number of dogs by lot size and in the Agriculture Zone per Table 6.05.260(a) for lots from 10 to 20 acres in size is up to 12 dogs with a short-term pet sitting license, unless additional dogs are approved by the Planning Commission. The applicant is proposing to construct the salon at the front of the lot, with a home located at the rear of the property. This places the salon accessory structure in the front yard of the lot, and moves the salon closer to lots 8, 9, 11, and 12. The salon and grooming and dog-sitting business appear to become the primary use of the property, with the residence as the secondary use. Per EMMC 17.20.100, accessory structures in the Agriculture Zone shall not be located within any front yard. Home businesses are not allowed to have more than one on-premises employee who is not a member of the family or household; hours of operation are from 7:00 a.m. to 9:00 p.m.; and no more than 12 clients per hour or 24 clients per day are permitted. Any exceptions to these standards shall be clearly stated in any motion of approval. According to EMMC 17.65.050, minor exceptions to home business standards may be approved administratively, if the exception does not adversely impact surrounding residents or affect the residential characteristics of the neighborhood, or significantly increase traffic or the demand on utilities. Any other petition for an exception from the standards in this chapter requires approval by the planning commission before the license may be issued or renewed.

Short-term pet sitting requirements include the applicant proving proof of a valid business license; a signed notarized letter indicating that at no time will the applicant have more animals on-site, including owned pets, than the maximum number permitted by the Planning Commission; no dog may be watched for more than 14 days at a time; the applicant shall require proof of rabies certificates and all other state-required vaccines for all boarded dogs; the dogs must be provided code-compliant, external dog runs; and no dog nor the premises may be deemed to be a nuisance as defined in EMMC 6.05.130.

Should the Planning Commission determine to approve the conditional use permit for the reasons set forth in the meeting and the staff report, staff recommends the following conditions:

1. The approval is conditional on the recording of the plat for Deer Haven;
2. No building is permitted within the Wildlife Corridor Overlay Zone;
3. No dog may be watched for more than 14 days at a time;
4. All boarded dogs must provide evidence of rabies certificates as well as all other state-required vaccinations;
5. Business may only be conducted in buildings that have received building permits and certificates of occupancy;
6. The salon shall be located in a rear or side yard;
7. The business must comply with all standards and requirements of the business license and short-term pet sitting license;

8. Any changes to generally applicable standards for home-based businesses per EMMC 17.65.060, such as hours of operation, clients permitted, and number of employees permitted shall be detailed;
9. The number of dogs permitted is specified;
10. The applicant shall provide a notarized letter indicating that at no time will they have more animals on-site, including pets, than the maximum number approved by the Planning Commission; and
11. Any condition that mitigates the presence of dogs in close proximity to the Wildlife Corridor.

The Planning Commission may determine to table the application to allow the applicant time to update the plans to comply with the Municipal Code including moving the salon to the side or rear yard and any other issues the Commission feels are appropriate.

The Planning Commission may determine to deny the conditional use permit based upon the following findings of fact:

1. The salon, an accessory structure, is located in the front yard in violation of EMMC 17.20.100; and
2. The Planning Commission does not believe more than 12 dogs are appropriate on the lot.

Mr. Jensen clarified that Municipal Code allows kennels in the Agricultural and Industrial Zone on lots 40 acres or larger.

Applicant Michael Izatt said the salon is 3,200 square feet and the home is 4,200 square feet. The placement of the salon in relation to the home is due to the topography of the property and to reduce the impact on their neighbors and the wildlife corridor. They plan to have four additional or six total employees. They are open from 8:00 a.m. to 6:00 p.m. The requested number of dogs is the minimum number necessary to support the facility and relocation costs. The dogs with grooming appointments will be kept inside the building and the facility is being engineered with considerations of sound mitigation, safety, and sanitization factors. Staffing is staggered with four groomers working at a time. The exterior yard area will be enclosed on two sides by the building and will be designed for up to 15 dogs at a time. The fenced sides will have trees and sound-reducing vegetation buffering. Each grooming appointment takes approximately two to three hours. They do not provide long-term kenneling services over 14 days. Clients fill out the applicable paperwork for the desired services and pick up and drop off during business hours for grooming or pet sitting.

Applicant Emma Izatt explained the grooming appointment process. They contact the owners 30 minutes prior to completing the services to overlap drop-off and pick-up times to reduce the number of dogs on the premises at one time. The groomers alternate grooming steps with two dogs to allow breaks during the process to reduce anxiety for the animals while maximizing service time and efficiency.

Commissioner Pengra stated that the process the Izatts described is a commercial process; however, the request is for the business to be located in a residential area.

Mr. Izatt said the Agricultural zone is the only zoning that allows for pet sitting activities at a primary residence in the City. He feels Municipal Code has flaws regarding allowances for kenneling and pet sitting definitions that he would be willing to help address.

Ms. Izatt said boarding facilities that leave the dogs unattended overnight are more prone to injuries, accidents, dogs escaping, or other issues. Having the salon near their home, allows them to monitor the dogs and respond quickly to issue or emergencies. Their clients board with them for the increased safety and they are unable to pay an employee to remain overnight at a facility in a commercial area.

Commissioner Wright opened the public hearing at 7:43 p.m.

The City received the following emails regarding the item:

Planning Commission,

I am DeLin Anderson, 2320 East Cedar Dr (Cedar Pass Ranch)

We bought our property in 1994 and built our home in 1998-1999. Absolutely love the city and especially "The Ranches" for its openness, quiet peacefulness, and great neighbors just to name a few. We have seen and heard of many different types of businesses try to get conditional use permits to operate within residential zones, neighborhoods over the past 23 years. La Petite...offering boarding "pet sitting" has been denied many many times. This time of business needs to be considered commercial and thus located in commercial zones.

This location and the fact it is in residential subdivision has a vast Negative impact on all those living within ear shot...let alone within eyesight of the business. This wonderful valley we enjoy carries sound a vast distance. I hear dogs barking as far away as the West side of Sage Valley Subdivision next to Airport Rd (Easily 1-2 miles away). A boarding operation to introduce 15 potential dogs would inevitably create an environment of dogs howling, barking and thus chain reaction stirring up all the neighborhood dogs to chime in. Can you imagine the "Noise Pollution" that will be created? Who would ever think it's a smart idea to live or build next to that? Remember how peaceful this valley is? We must preserve this!!!

The Wildlife Corridor is such an important aspect of our city, that it needs to be recognized, preserved and protected for long term. How are we accomplishing this by locating this type of business in such close proximity? Our Wildlife and their safety and migrations are too important in this unique area. The "Noise Pollution" alone will affect the natural state of our wildlife of which we are going to great lengths to protect.

I have witnessed 1st hand the amount of traffic that comes into Cedar Pass Ranch to do business at La Petite. These customers of La Petite have no vested interest in our neighborhood and show it thru excessive speeding, running thru stop signs ...and have on multiple occasions come close to hitting children on our roads. Now instead, they must drive thru Lone Peak with streets that are more narrow and many many more children to be avoided???

Last of all is the impact that this type of commercial business will have on property values of those all around? Also the precedent that will be set for others to do the same in another subdivision like (Ivory Homes - Overland Estates).

This must be viewed as a commercial business and this owner and all the other future business owners need to respect and plan that it should be located in the correctly zoned areas. I'm aware that it doesn't become convenient for these owners to just step out of their house to check on their business.....but its negative impact on the quality of everything & everyone around is massive and critical!

PLEASE DENY THEIR CONDITIONAL USE PERMIT

PLEASE REMEMBER & PRESERVE OUR WONDERFUL, PEACEFUL VALLEY.

Sincerely,
DeLin Anderson
Cedar Pass Ranch

This is a statement in opposition to the conditional use permit by La Petite Dog Grooming. We currently live about a half mile from the dog grooming business that was set up in our neighborhood, which was against our HOA and against city laws. This is a thriving business, with many cars coming and going all day. I can attest to this because I drive by their house at least once or twice a day and there are always cars coming and going. To put this kind of business in a neighborhood setting is all kinds of wrong. The noise that the neighbors have had to deal with for the past five or more years should never have been allowed to happen. But not only did the city not close them down when they found out about their business, but they were given an extension to continue doing what they were doing. It is great that they have a thriving business, but have them put it in a business use area where they will not jeopardize the peace and quiet of the country feel we have here in Eagle Mountain and which we especially have here in Cedar Pass Ranch. The area they now want to move to is just over the hill from us. I don't know if we would be able to hear the barking of the dogs, but I am sure the neighbors who will be purchasing the lots surrounding it will be able to. This is not just a dog grooming business, but also a dog boarding business where they board dogs overnight. As everyone can presume, the dogs bark all night. Do not let this burden be placed on another neighborhood.

Thank you,
Terrie Hymas
2286 E Cedar Dr.
Eagle Mountain City, UT

Dear Planning Board,

My Name is Larry Christensen, First I would like to Thank You for making the right ,fair and intelligent decision you made last October to give the Izzat's ninety days to move their Business.

I have been the next-door Neighbor of La Petite Grooming for approximately five years. The first couple years was not that bad as far as dog barking, traffic and the customers the business brought into out Neighborhood. As La Petite grew to what it is today it became a tremendous nuisance with 50 plus dogs barking nonstop with customers coming and going around the clock every day of the year, Holidays and Weekends was the worst. The next three years was terrible with many complaints to the City both formal, anonymous and emails with little to no success. Many calls to the Utah County Sheriffs department with both warning and citations.

For a period of time La Petite Grooming was under a cease and desist order from the Utah County Sheriffs department. The Izzat's did not cease and desist for even one day. I filled formal complaints to the City with audio video proof they was still in operation with no action taken by the City. The Izzat's have clearly time and time again proven they have no respect for their Neighbors, Laws, Law Enforcement, Federal State and Local laws. They have proven they have no respect for City codes or City Officials.

In Januarys City Council meeting the Council and the Mayor in the Mayors words (show mercy to the Izzat's) and extended their currant license for nine more months. During that extension I have filled many formal complaints that the Izzat's was operating out of City code complaints.

The City ran a traffic study on Cedar Pass Drive that showed excessive traffic with one vehicle going 80 MPH. La Petite bring in 50 plus dogs a day, each dog is four vehicle trips two for drop off and two for pick up. 50X4= 200 a day, 200X30= 6,000 a month. The Izzat's have always claimed they have no control over their clients driving. This statement could not be any further from the truth. If La Petite was moved to a commercial development where they belong there would be no traffic in a residential neighborhood.

Living next door to this type and size of this Business for the last three years unfortunately makes me a unwanted expert in this matter.

I would highly recommend you our planning board do not approve a Business Licenses for La Petite Grooming and Boarding in Deer Heaven or any other Residential Neighborhood.

Dear Planning Commissioners:

We wish to congratulate Mike and Emma Izatt, who have successfully created a thriving commercial-level business providing dog grooming to approximately 5,000 clients. The problem is they have done so in the quiet Cedar Pass Ranch neighborhood, and now they seek to relocate that business in close proximity to even more private homes than their current location.

La Petite Grooming Salon is currently surrounded by large lots, most of which are 5+ acres, and the Izatts' business has created many problems in Cedar Pass Ranch. If the Izatts were to move their business to Deer Haven, they would be closer to even more residences than in their current location. As a result, more property owners will be subjected to the potential barking of 35 dogs and even more traffic than plagued this area of Cedar Pass Ranch. From our home here on Cedar Drive, with two hills between Lone Tree and us, we can hear dogs barking in Lone Tree and Sage Valley. We are sure Lone Tree, Sunset Flats, Sage Valley, and the west side of Cedar Pass Ranch will hear the dogs in the Izatts' business when they bark since EMMC requires the animals to have access to outdoor exercise areas. Therefore, allowing this business in the requested location will not only negatively impact the peaceful and residential nature of these neighborhoods, but it will also negatively impact property values by proximity to this commercial business and the traffic and noise it brings. **We believe the City has a legal duty to protect our property values and consider any negative impact on them when making their decision.**

The City Council generously gave the Izatts until October of this year to relocate their business. The Izatts have not pursued a commercial or non-residential location for their business even though both permanent and temporary opportunities have been available to them to do so, and it **appears the Izatts have no intention of relocating their business by the October deadline.** We feel the City has an affirmative obligation to inquire of the Izatts' plans to relocate their business by the October deadline and to enforce such deadline. **Now they come before you, at this 11th hour, asking you to approve a conditional use permit on an unrecorded lot that has not yet received approval from the City.** As we recall, the preliminary plat approval by Council was **dependent** upon the developer's presentation and the Council's acceptance of the conservation easement (which is still in negotiation between the developer and the City) and the CC&Rs intended to protect the Wildlife Corridor in this sensitive area. At the very least, **we see this application as premature**, especially considering the early stage of the **proposed** Deer Haven development. Realistically, they cannot move their business from Cedar Pass Ranch to Deer Haven before time expires on the extraordinary and merciful extension given to them by Council. **We can reasonably expect it to be at least another 12-24 months or more before they could conceivably relocate to Deer Haven, given the time needed to finish the entitlement process, install horizontal infrastructure, obtain construction financing, and then build vertically.** Further, the City should require proof of the Izatts' ability to obtain the necessary financing, and review the feasibility of any conditions or assumptions indicated in the lender's preapproval letter.

We have lived in Cedar Pass Ranch in Eagle Mountain for more than 23 years. We have first-hand knowledge of and experience with La Petite Grooming and the resounding success they made of their business. We watched it grow from a small and appropriate in-home business into a full-blown **commercial success** that put unprecedented pressure upon our neighborhood's streets, character, and safety. The barking dogs, high traffic volume, and speeding drivers should never have been allowed in a quiet residential neighborhood. Please consider that every client's grooming appointment means **four vehicle trips** through the Lone Tree and Deer Haven

neighborhoods for each client appointment. Contrary to what was portrayed by the Izatts to their business clients, it was not just “one crazy neighbor” who had negative experiences and concerns. The Cedar Pass Ranch HOA Board and other neighbors have spoken up in a public comment on these issues as well.

The Izatts’ have historically ignored regulations when they felt justified in doing so, and their lackadaisical attitude toward the impending October relocation deadline provides further proof of brazen non-compliance. Therefore, we should expect the same behavior in their proposed new location if the rules are contrary to their personal needs and desires. **Also, please consider the additional complication that, once the CUP is approved, “no dog nor the premises may be deemed a nuisance” as defined in EMMC 6.05.130 and the staff report.** Let’s remember Mr. Izatt’s own words in a public hearing when he was asked why he did not comply with the “Cease and Desist Order” served upon them. He responded that he had to provide for his family. From that statement and their demonstrated history, we should all be aware that **we should not expect their compliance with the codes and restrictions placed upon them. He has shown who he is and how he views our laws and regulations. We should believe what he has shown us.**

We are addressing you personally as residents of Eagle Mountain. However, we believe the potential negative impact of so many dogs and the business traffic upon the Wildlife Corridor poses a significant and long-term threat to the success of the Corridor. We cannot imagine what “mitigation” could take place to lessen the negative impact of 35 dogs on the premises at one time and the higher traffic volumes the business would bring to this sensitive and critical portion of the Wildlife Corridor. The difficulty of mitigation is particularly true considering the historical record of the Izatts’ failure to comply with City codes and regulations. **Once the Izatts buy the property and have an approved CUP, imagine the difficulty we all will face should their personal needs and desires again outweigh compliance!** Therefore, we ask that you also consider the financial viability of this business in this location. Before considering any approval of this CUP, **we believe your due diligence should include a review of financial statements and income projections to determine, to the degree possible, if they could financially succeed within the codes and restrictions placed on them.** Public records have also made us aware that the Izatts are facing numerous criminal charges that are still pending in the courts. **The final disposition of those charges could have a significant negative impact on their finances and their ability to conduct business; therefore, these charges’ final disposition should be considered as part of your approval process.**

We have stated some of the reasons we believe allowing their business in the proposed location would be inappropriate and create numerous issues for nearby neighborhoods and the Wildlife Corridor. As former clients of La Petite, we recognize the need for the quality service they provide, and we understand their popularity with their clients. However, they have developed a thriving commercial business that is entirely inappropriate in the proposed location directly adjacent to residential neighborhoods and inside the Wildlife Corridor. **Their business should rightfully be located in a commercial zone and not in such close proximity to residences and the Wildlife Corridor.** Let’s be honest. The Izatts run a commercial business, and a commercial business is not an allowed CUP use in our code. They are asking for another home business license and, yet, what they are asking for is beyond what EMMC considers a home business to be. **The Izatts are experiencing a hardship of their own making simply because they have refused to consider relocating their business to an appropriate business zone.** To approve this CUP at this time or to allow them to continue operating their business from their current location past the October deadline would be to put their interest above all those residents who would be adversely affected.

Undoubtedly, many of the Izatts’ clients will come forward with speech favorable to the Izatts’ business or even their character. However, these clients have likely not lived adjacent to the Izatts’ business. None have been affected by the traffic and noise nuisances their business produces in a residential area. Indeed, the voices favoring the Izatts’ business further prove this business will succeed in a commercial area where it belongs. **The decision today is not whether**

this business should exist, but *where* it should exist. Any voices favoring this business have no applicability to the discussion matter at hand. Denying the CUP doesn't deny the business, but rather the business's requested location. We know from a good authority there are a number of viable and appropriate options for them in Eagle Mountain.

To date, the Izatts do not appear to have accepted any personal responsibility whatsoever for their failures to comply with the regulations, and this is what has led to their current situation. They have instead chosen to point fingers of blame at their neighbors. They have publicly disparaged and blamed the Planning Commission, our dedicated City staff, and the very City Council members who granted them mercy in the first place. This behavior gives us no reassurance they can or will change their demonstrated careless disregard of City codes and the negative impact conducting their business in such a setting has had on residents. Lastly, we refer you to the site plan and plans for their kennel. Does this even remotely resemble a home business to you? For these primary reasons, we respectfully ask the Planning Commission to deny the requested Conditional Use Permit and invite the Izatts to find an appropriate setting in Eagle Mountain for their commercial business.

Sincerely,

Kevin and Mare Burningham

Kevin Burningham said he is a resident next to the property. The proposed location is a mile from the current property and the same problems will develop at the new site and impact more neighboring residents due to the lots in Deer Haven being in closer proximity than the properties in Cedar Pass Ranch. They are requesting approval to run their business with the number of animals they are servicing at their current location, without approval, which causes excessive traffic. Homes in Deer Haven and Lone Tree would be impacted by the traffic increase as Deer Haven can only be accessed by traveling through the Lone Tree subdivision. He requested for the Commission to consider the number of attempts required for Jeppson Auto to receive approval, including denial for a commercially zoned property, due to concerns with traffic and the proximity of the business to homes.

Bettina Cameron spoke on behalf of the Eagle Mountain Nature and Wildlife Alliance citizen group said their group reached out to Shane Hill with the Department of Wildlife Resources for a statement regarding the impact of the use on the wildlife corridor and read a statement she had received from Shane Hill.

Commissioner Wright closed the public hearing at 7:59 p.m.

Commissioner Pengra stated that no legal property exists to apply the CUP to as a plat has not been recorded for the property. The approval of the CUP on the property would imply approval for continued use and operation at the same capacity at the current facility for an extended period until the proposed lot becomes a legal property which would likely exceed a year timeframe.

Discussion ensued regarding the unfeasibility of applying the CUP to a legally nonexistent and unrecorded property.

Commissioner Wells said although she appreciates the applicants' efforts to mitigate impacts, they are requesting a commercial business in a residential area and there are reasons businesses are required to be located in commercial zones. Commissioner Pengra concurred.

Commissioner Wright agreed that the request is for a commercially scaled business desiring to operate as a home-based business. Operation at a level appropriate for a home-based business would require restrictions that the applicants do not desire. He cited EMMC 17.65.060 requirements regarding home businesses to be secondary to the residential use, floor plan size restrictions, employee numbers, and traffic generation limitations that the proposed plan fails to meet.

Commissioner Pengra agreed with the comments of the other Commissioners. He appreciates the Izatts' approach to their business and their care for their clients and the clients' pet. However, there is a clear conflict with Eagle Mountain Municipal Code. He is unable to favor allowing the use as requested in part due to concerns with the use being applied in other areas of the City resulting in unfavorable outcomes. The purpose of the Wildlife Corridor Overlay is to preserve open space for posterity and provide a safe route for wildlife to travel through the City. When approving the recent application for Deer Haven, the City determined not to connect Deer Haven to Cedar Pass Ranch in part due to concerns the traffic would discourage wildlife use of the corridor. He believes allowing the use in this area would be a disruption to the wildlife as he has observed negative wildlife impacts from four dogs on a single property.

Commissioner Bergener said EMMC Chapter 6 defines pet sitters as those that have obtained a permit and limits the number of dogs allowed on the property per Table 6.05.260(a). Municipal Code standards do not differentiate between the number of dogs on a premise for grooming versus the number of dogs present for short-term dog sitting. Granting the CUP prior to understanding the plan for the whole area is premature and the uses requested are on the scale of a commercially sized business.

Commissioner Wright said he desires to see the Izzats' business thrive; however, he feels the location requested is inappropriate and that the request as presented is something that is not contemplated in Municipal Code.

MOTION: *Commissioner Pengra moved to deny a conditional use permit for La Petite based upon the following findings of fact:*

- 1. The salon, an accessory structure, is located in the front yard in violation of EMMC 17.20.100;*
- 2. The Planning Commission feels more than 12 dogs on the property is inappropriate;*
- 3. No legal property exists to apply the conditional permit to;*
- 4. The use is not in the best interests of the wildlife corridor;*
- 5. The proposal is not in compliance with EMMC 17.65.060(A) Floor Area, (B) Employees, and (K) Traffic Generation; and*
- 6. The home business is not the secondary use of the property as required by EMMC 17.65.020.*

Commissioner Bergener seconded the motion.

Discussion ensued to determine the appropriate findings of fact to include in the motion to offer explanation and provide direction to the applicants.

Commissioner Everett suggested tabling the item given the property does not legally exist and to allow the applicant time to have the property recorded and amend their application.

Commissioner Wells agreed that although tabling the application would be an appropriate course of action, given the unlikelihood of the Planning Commission approving the request had the property been platted the denial is more appropriate.

Discussion ensued regarding the clarity provided by the proposed motion and the associated value to the applicants to inform their decisions moving forward.

Those voting aye: Jeremy Bergener, Christopher Pengra, Erin Wells, and Brett Wright. Those voting nay: Matthew Everett. The motion carried with a vote of 4:1.

Commissioner Everett clarified his dissention was because he believes tabling the item would have been the more appropriate action as the property does not legally exist.

6.C. PUBLIC HEARING – Spring Run Phase D

Mr. Jensen presented the item. Spring Run Phase D was approved for 178 single-family units. Plats 1, 2, 3, and 4 have been built with 114 units and 68 units are proposed for plats 5 through 7. The total number increased by 4 to 182. Staff requested the road connection to be revised which is where this change started. Spring Run MDA was approved on May 5, 2021, for up to 1,016 units. The MDA was amended July 29, 2015, for up to 951 dwelling units and further amended on October 18, 2016, for up to 621 dwelling units.

The proposal is for changes in parcels 1, 2, 5, 6, and 9 of the MDA comprising 69.96 acres and allowing up to 268 units for an overall density of 3.83 dwelling units per acre. The proposed plat is for 68.55 acres with 182 dwelling units and a density of 2.72 dwelling units per acre.

Cul-de-sacs are discouraged in the connectivity code and are generally prohibited in the R1, R2, R3, and RC zones per EMMC 16.30.090(C)(3) unless there is clear and convincing evidence that a cul-de-sac is necessary due to reasons such as topography. EMMC 16.30.090(C)(4) requires hard surface pedestrian connections between cul-de-sacs, the application is proposing to not put pedestrian connections between the two cul-de-sac in Plat 5 due to topographical concerns.

Staff recommends that the Planning Commission motion to recommend approval of the application to the City Council for the reasons set forth in the staff report and in the meeting with any conditions that the Planning Commission find appropriate.

Applicant representative Jim Allred said they have been striving to comply with the requirements to connect to the east at great expense recognizing the importance of connectivity for the City. The density has changed but will not exceed the approved density for the project.

Commissioner Wright opened the public hearing at 8:34 p.m.

Rob Stoddard submitted the following email:

Concern 1 - Housing Density within MCA Subzone A of Camp Williams Joint Land Use Agreement (2012) - About half of the proposed area is within subzone A, which recommends a maximum housing density of 2 dwellings per acre. The current density in this region is ~2.60 DU/AC. What justification does the city have to further ignore the MCA's recommendation by continuing to increase the density within MCA Subzone A? The portion of the proposed area within subzone B (max 6 DU/AC) is not included in this concern.

Concern 2 - Steep Slopes along Spring Run Parkway - Proposed Lots 414, 415, 416, & 417 indicate the presence of steep slopes along the backside of properties that currently contain utilities within their easements. The developer should be responsible for installing the necessary retaining wall along Spring Run Parkway to prevent erosion of soil from these properties into the asphalt walking trail along this road. Depicted slopes suggest that this wall will be in excess of 10 feet tall and may require utility repositioning. Requiring the developer to complete the retaining wall will ensure the safety of pedestrians and bikers on the trail by enforcing proper engineering and construction. It is unlikely that the future property owners will have the resources to complete such extensive landscaping across 3+ properties on their own.

Concern 3 - Excessive Slopes along Spring Mountain Drive - Similar concerns exist for lots 525, 524, 519, and 518 whose properties border the asphalt trail along the future segment of Spring Mountain Drive. These lots propose a 30%-40% grade prior to placing houses. After houses are built, the grade will be even greater. To prevent erosion onto the walking path, these properties will likely need 1 or more retaining walls excess of 15 feet tall. The developer should be required to install retaining walls along this road to ensure pedestrian and biker safety.

Concern 4 - Open Space buffer to adjacent property on the East - Without a perimeter walking trail along the Eastern edge of the residential area, what plans are there to ensure that there is a transition buffer between the residential and commercial properties?

Commissioner Wright read an email to the Commission from Mr. Mumford in response to Mr. Stoddard's comment:

Commissioners,

Just a quick note in response to a question in the public comment for the Spring Run project. The Camp Williams Joint Land Use Study was completed after the Spring Run Master Development Plan was already approved. The Spring Run master development plan application was submitted in 2009, and was approved prior to the Camp Williams Joint Land Use Study, which was completed near the end of 2012. So, while I agree that the density should be lower near the border of Camp Williams, unless we or the Camp are willing to purchase development rights, the Spring Run project should be allowed to continue development based on their master development plan approval.

Let me know if you have any questions. Thanks.

Commissioner Wright closed the public hearing at 8:37 p.m.

Mr. Allred said that some residents have requested a delay in fencing installation to allow them time to install retaining walls on their properties. Retaining walls are not necessary but may be installed by the residents for the purpose of leveling their yards.

Commissioner Wright inquired if the lot count increase impacted the open space acreage requirements. He said the applicant could pay a fee-in-lieu rather than altering the plans should additional open space requirements arise.

Mr. Jensen said he would verify the open space requirements are met.

Commissioner Pengra noted the open space requirements are outlined in the MDA for the project and the new lot count would be subject to those requirements.

Mr. Allred said the project includes approximately 30 acres of open space and a trail system and the second park is larger than the original approval. They desire to meet the terms of the MDA, create a beautiful community, and be one of the best developers in Eagle Mountain.

MOTION: *Commissioner Wells moved to recommend approval to the City Council of an amendment to the master development plan and preliminary plat for Spring Run Phase D with the condition that the appropriate amount of open space as required per the master development agreement is provided. Commissioner Wright seconded the motion. Those voting aye: Jeremy Bergener, Matthew Everett, Christopher Pengra, Erin Wells, and Brett Wright. The motion passed with a unanimous vote.*

6.D. PUBLIC HEARING – Mochila Rezone ITEM REMOVED FROM AGENDA AT APPLICANTS REQUEST

This item was removed from the agenda at the request of the applicant.

6.E. Action Item – Skyline Ridge Phase 2 Plat 4 Extension Request

This item was discussed prior to item 6.A.

Mr. Jensen presented the item. Skyline Ridge Phase 2 Plat 4 received a final plat approval (notice of decision) on September 9, 2019. According to EMMC 16.25.100, final plat approvals shall expire one year from the date of approval. An applicant may request an extension of time by making a request in writing to the Planning Director, who may approve an extension if the letter was received prior to the expiration date of the project as listed in the notice of decision. The applicant has made a written request for an extension of the notice of decision expiration date, but the written request was received after the expiration date of September 20, 2020, thus the Planning Director was not able to approve the extension. EMMC 16.25.100(C) allows an applicant to appeal the Planning Director's denial to the Planning Commission for consideration.

The applicant's request details the reasons for the delay, including difficulties related to the global pandemic, and highlights the good faith work the applicant has been making since starting construction in June of 2020, prior to the notice of decision expiring. The project is owned by a new developer/owner, who was unaware the approval expired until months after the expiration date. The Skyline Ridge Plat 4 development is rocky and requires significant grading work, and the developer has already installed the public infrastructure, including utilities and roads, and is preparing to record the plat within the next few weeks. The applicant has complied with all requirements of the existing notice of decision and has been working with staff on ways to reduce the amount of grading and the number of disturbances on future phases of Skyline Ridge. Staff is comfortable with the applicant's progress and believes it is reasonable to grant a short extension of time for Plat 4.

Staff recommends that the Planning Commission approve an extension of time for Skyline Ridge Phase 2 Plat 4 extending the approval through November 1, 2021, for the reasons in the staff report and in the meeting.

Mr. Jensen verified the extension was denied because it was received after the expiration date rather than due to concerns with the request.

Applicant representative Brandon Ames with Bach Homes said they purchased the property as-is and did not have the amount of information they would normally have for a project. They became aware they were out of compliance when they received an email and letter from staff informing them of the expiration. They are attempting to go through the correct process to rectify the situation. The phase is completed and awaiting the final inspection.

Commissioner Wright expressed concern that additional slope retention is needed for the north and south ends of the development and requested for staff to evaluate if the retaining walls are sufficient.

Commissioner Pengra said although he is sympathetic to the applicant, Municipal Code does not authorize the Planning Commission to grant an extension on an expired final plat approval.

Mr. Jensen said that the applicant may appeal to the City Council or refile the application for half the fee should the Planning Commission deny the extension.

Discussion ensued regarding the Municipal Code requirements regarding the criteria of approving an extension per EMMC 16.25.100(B) "Criteria for Approving Extensions of Time. It is the responsibility of the applicant to request an extension of time prior to a project's expiration. The city is not responsible to remind applicants of expiration dates. The planning director shall approve or deny a request for an extension of time within a reasonable period of time after receiving the request. The planning director may grant up to a single one-year extension of time to any project that meets one of the following criteria: 1. The applicant must have shown a good faith effort to initiate the project by systematically completing predevelopment conditions. 2. The applicant's initiation of development activities is based on an action by the city or other public agency which has not taken place or was delayed, resulting in a time delay beyond the permit holder's control."

Commissioner Bergener noted that EMMC 16.25.100(D) allows for the applicant to resubmit an expired project.

Mr. Jensen clarified that the applicant appealed the Planning Director's decision within 15 days as required.

Commissioner Wright said he had come prepared to act differently; however, Commissioner Pengra was correct in that the powers and authority of the Planning Commission exclude granting an extension on a plat after expiration and they need to act lawfully and within their authority in accordance with Municipal Code.

Commissioner Everett said that the applicant has the right to appeal to the City Council, if desired, and the outcome might be different based upon the advice of the City Attorney. He requested for the City Council to consider waiving the reapplication fee should the appeal be denied.

The Commission expressed their willingness to have allowed an extension on the final plat approval, given the extenuating circumstances, had they had the authority to do so.

MOTION: *Commissioner Everett moved to deny the Skyline Ridge Phase 2 Plat 4 extension request for the reasons noted in EMMC 16.25.100. Commissioner Pengra seconded the motion. Those voting aye: Jeremy Bergener, Matthew Everett, Christopher Pengra, Erin Wells, and Brett Wright. The motion passed with a unanimous vote.*

7. Discussion Items

8. Next scheduled meeting

The next meeting is scheduled for October 12, 2021.

Commissioner Wells informed the Commission that she will not be in attendance at the October 12, 2021 meeting.

9. Adjournment

MOTION: *Commissioner Everett moved to adjourn the meeting at 8:46 p.m. Commissioner Bergener seconded the motion. Those voting aye: Jeremy Bergener, Matthew Everett, Christopher Pengra, Erin Wells, and Brett Wright. The motion passed with a unanimous vote.*

The meeting was adjourned at 8:46 p.m.

Approved by the Planning Commission on October 12, 2021.


Steve Mumford (C:\1-2-2021 13:13 MDT)

Steve Mumford, AICP
Assistant City Administrator/Community Development Director

1488_001

Final Audit Report

2021-10-13

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By:	Shawna Ellis (sellis@emcity.org)
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-  Document created by Shawna Ellis (sellis@emcity.org)
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-  Document emailed to Steve Mumford (smumford@emcity.org) for signature
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-  Document e-signed by Steve Mumford (smumford@emcity.org)
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