



EAGLE MOUNTAIN CITY PLANNING COMMISSION MEETING MINUTES

September 24, 2019, 5:30 p.m.
Eagle Mountain City Council Chambers
1650 East Stagecoach Run, Eagle Mountain, Utah 84005

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

COMMISSION MEMBERS PRESENT: Matthew Everett, Rich Wood, DeLin Anderson, and Brett Wright. Commissioner Jared Gray was excused.

ELECTED OFFICIALS PRESENT: City Councilmembers Donna Burnham and Melissa Clark.

CITY STAFF PRESENT: Steve Mumford, Community Development Director; Michael Hadley, Planning Manager; Jessa Porter, Planner; and Lianne Pengra, Recording Secretary.

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

1. Discussion Items

1.A. Review of Upcoming Agenda Items

Planning Manager Michael Hadley explained there are three upcoming agenda items to be discussed. The first is the Stratton Estates preliminary plat, which has previously been presented to the Planning Commission. The applicant has submitted a revised plan for review. Transitioning has been adjusted and the applicant is working with the Utah Division of Wildlife Resources (DWR) for wildlife corridor preservation. The final location of that corridor has not been determined at this time.

Scot Hazard, Stratton Estates representative, explained this application was submitted approximately two years ago. He stated this is a sensitive and he did not want to bring the application back to the Planning Commission until he exhausted all options regarding traffic and connectivity. There is a dedicated right-of-way connecting to Cedar Drive that has been in place since the application was first submitted; this is the only legal access to this project. He has worked with staff and neighboring property owners to find options that would divert traffic away from Cedar Pass Ranch. The property to the north and west of this project is owned by the LDS church. They researched multiple options including purchasing, trading, and leasing property for access through the LDS church's property, but tax constraints due to their non-profit status prevented any feasible solutions. He stated at the last Design Review Committee meeting earlier this year, the Fire Marshal said he will not approve the plan unless the project connects at Cedar Drive, unless the City issues a letter to Unified Fire Authority indemnifying UFA and the Fire Marshal, as the City would be acting against the City's own fire code and against the Fire Marshal's instruction.

One change Mr. Hazard made to the plan was to move the density much farther away from the large lots in Cedar Pass Ranch to allow for more transitioning. Another change to address traffic

concerns was made to the road. Instead of having straight roads, he redesigned the plan to have roads that meander with curves and elbows. Once the traffic signal is in place at Lone Tree Parkway and Pony Express Parkway, that will likely be the preferred route, versus through Cedar Pass Ranch.

Mr. Hazard explained he is working with the DWR but has received very little direction regarding details of the wildlife corridor. The DWR representative stated he will research the issue and inform Mr. Hazard of solutions that currently exist in other similar situations. Community Development Director Steve Mumford explained that the City is working with multiple property owners regarding wildlife corridor preservation. The DWR has tracked the route that deer take through the City; they are decreasing the time for each GPS ping to only twenty minutes apart in order to better determine the deer's migration route. The City is also working with the DWR regarding coverage, including foliage, and fencing options.

Commissioner Wood stated the preliminary plat does not comply with the City's General Plan. Mr. Hazard explained his application was submitted two years ago and is working with City staff and the Mayor. He said the General Plan is a guiding document and stated that 2.5-acre lots are prohibitive and are not economically feasible. This plan complies with the City's current transition requirements, not the requirements from when the application was submitted.

Commissioner Wood suggested the applicant increase the size of the smaller lots on the west side of the project. He stated that the transition does not need to go all the way down to the size of adjacent lots and said this plan will likely receive pushback. Mr. Hazard explained the smallest lots in Stratton Estates are twenty percent larger than the adjacent lots in the Lone Tree subdivision.

Commissioner Wright expressed concerns regarding the potential rezone and if the property will comply with the City's updated zones. Commissioner Wood stated the plan will not comply with the updated zones and stated Mr. Hazard should work with staff regarding items such as frontages.

Commissioner Wright said the connection to Cedar Pass Ranch is beneficial and necessary, even if it is not in his own best interest. He likes the circular route the roads take within the subdivision.

Mr. Hadley explained the Parkway Crossroads site plan is located along Pony Express Parkway near Ranches Parkway. The plan includes commercial units with residential units on top of the buildings. The applicant will request a perpetual use easement for parking on the powerline corridor. The applicant will also deed property to the City for future expansion of Pony Express Parkway.

Scot Hazard, owner of Parkway Crossroads, explained a concept plan for Parkway Crossroads was presented to the City Council earlier this year. He informed the Planning Commissioners of the history of the property which resulted in a property swap with the City. He was told that a portion of his property will be required for future expansion of Pony Express Parkway. Instead of the City purchasing this expansion area, Mr. Hazard stated he is proposing the City allow a

perpetual use easement for parking on land the City owns behind his site, and he will give the expansion property to the City. The property behind the City's property is the Rocky Mountain Power powerline corridor. The only permanent structure Mr. Hazard intends to build on this easement area is a potential shade structure with picnic tables and garbage receptacles to accommodate the food truck patrons. This will clean the area up and Mr. Hazard will maintain the property.

Mr. Hazard explained his plan is to include fourteen apartments above the commercial units, but not above the restaurant pad. They will have full separation between the uses so no sound transfer will exist. The residential units will have their own private access. The apartments will be one-bedroom one-bathroom units that are approximately 700 square feet. The units will have a maximum occupancy of two people with an exception for a third occupant for a six-month period. He will meet with the Postmaster on site to determine the best location for the mail box.

Mr. Hazard stated he has a conditional approval from Rocky Mountain Power to use their easement. The only restrictions are excavation around the existing tower and the height of any structure that will be built on the property. Once the City approves Mr. Hazard's use, Rocky Mountain Power will provide an official approval.

Mr. Hadley explained the Jeppson Auto site plan has been revised and the new site is in the Ranches at the corner of Half Mile Road and Ranches Parkway. The applicant will continue to update the plan. One change is to relocate an entrance to the site, as the current location is too close to the intersection of Half Mile Road and Ranches Parkway.

Commissioner Wood stated that this location does not have a zone and asked if this use would be allowed. Mr. Hadley explained that the City Attorney has stated this property is zoned Village Core, so the property will need to be rezoned to Commercial. This use is a conditional use in the Commercial zone.

Speaking as a representative for Jeppson Auto, Scot Hazard explained they will submit a rezone application to for this site from Village Core to Commercial, as the Village Core zone is obsolete with the dissolution of The Ranches Master Homeowners Association. They will also submit an application for a conditional use permit. They have adjusted the entry points and have added landscaping for a buffer along Ranches Parkway.

Commissioner Wood stated the City's zones are in review, so the applicant should not move forward until the zones are finalized, as it will be a waste of the applicant's time.

Commissioner Wright asked how the property will accommodate parking. Mr. Hazard explained they have more parking stalls than the City requires. There is a walled off area for overnight storage of customers' vehicles. This provides security and shielding to surrounding properties. This site is better proportioned for this use.

6:00 P.M. – Eagle Mountain City Planning Commission Policy Session

Commissioner Everett called the policy session to order at 6:09 p.m.

2. Pledge of Allegiance

Commissioner Everett led the Pledge of Allegiance.

3. Declaration of Conflicts of Interest

None.

4. Approval of Meeting Minutes

None.

5. Action and Advisory Items

5.A. Development Code Amendments – Public Hearing

Mr. Mumford explained staff is beginning the process of updating the commercial, business park, and industrial zones, as well as creating open space and mixed use/transit-oriented zones. The intent is to implement the 2018 General Plan goals and strategies, as was done recently with the residential zones. Some zones will be updated, while some changes may be large enough to require new zones. The zones will be presented one at a time once staff has met with the City Administrator and Mayor Westmoreland. They may have a small committee with members of the City Council and Planning Commission to discuss possible major changes.

Commissioner Everett asked that staff inform the Commission of what zones are under review by City staff so Commissioners can research the zone types alongside staff.

Commissioner Wood expressed concern with the transit-oriented development zone, as the transportation plan needs to be updated first. He said the commercial and industrial zones should be reviewed first. Commissioner Wright agreed with this sentiment.

Commissioner Everett opened the public hearing at 6:14 p.m.

Commissioner Everett stated he will continue the public hearing until they have material the public can comment on.

Commissioner Everett continued the public hearing at 6:14 p.m.

MOTION: *Commissioner Everett moved to table the Development Code amendment item. Commissioner Wood seconded the motion. Those voting aye: Matthew Everett, DeLin Anderson, Brett Wright, and Rich Wood. The motion passed with a unanimous vote.*

5.B. Harshberger Variance – Public Hearing

Mr. Hadley explained the request is to allow a flag lot on parcel 58:044:0030 with a variance to the lot frontage requirement. The property is landlocked with the Cory Wride Memorial Highway to the north and residential lots to the south, east, and west. Rather than accessing the property from Cory Wride Memorial Highway, the applicant would like to access this property by providing a 20-foot wide access through the west portion of an adjacent lot the applicant owns in the Cedar Pass Ranch subdivision. He showed the current design of the future Cory Wride Memorial Highway expansion and stated this property is not affected by the expansion.

He explained the Commission should consider access to the property, possible negative effects of surrounding properties, and if the application meets the variance criteria. The following are the five required criteria for approval:

1. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the title is observed and substantial justice is done.

Applicant representative Scot Hazard explained that the variance does not make the lot buildable; that would require a rezone and further consideration from the City. They have been granted access to Cory Wride Memorial Highway from UDOT, but access through the residential road would be a safer route. The property owner lives out of state and may eventually move back to Eagle Mountain, and a rezone application may come in the future to allow for a residence on this lot. This lot is not included in the Cedar Pass Ranch subdivision. The access would be a private drive, not a public road.

Commissioner Everett asked if placing a road over the horse trail easement would be a concern. Mr. Hazard said equestrian trails cross roads, so it is not unusual.

Commissioner Everett opened the public hearing at 6:22 p.m.

Commissioner Everett stated he received emails from Mariann Burningham, Greg Whiting, and Bettina Cameron.

Karen Stanley expressed concerns regarding the driveway location adjacent to her property and potential future uses of the property.

Michael Carr, president of the Cedar Pass Ranch Homeowners Association, said the road will also require a variance approval from the HOA.

Bettina Cameron read a letter from the Cedar Pass Ranch HOA attorney that stated the HOA has not granted an easement for the road and requested the City require HOA approval as a condition of approval of the variance. She expressed concern regarding safety of pedestrians and horses and regarding possible future uses of the property.

Jason Heidel said the lot is 2.6 acres, which is half the size of the surrounding lots. While the application is not for a rezone, he believes the owner will attempt to rezone in the future. A rezone creates a hardship for the City and the community. If Cory Wride Memorial Highway is expanded, it will cost more in taxpayer dollars to purchase the improved property.

Mariann Burningham said the Cedar Pass Ranch HOA can force a stoppage of the easement. She said the lot is not landlocked and can access the property through the property owner's other lot. She requested the variance be denied.

Commissioner Everett closed the public hearing at 6:34 p.m.

Commissioner Wood said the equestrian path dispute is a private matter between the Cedar Pass Ranch HOA and the property owner, as is any dispute of the easement. Regarding compatible use, this property may be compatible with a rezone to the RA-2 zone. This application tasks the Planning Commission with determining if the variance for the lot frontage requirement meets the required criteria.

Commissioner Anderson stated the access road may affect water flow and drainage.

Mr. Mumford said the City ordinance does not prohibit the applicant from putting a driveway along their property. The variance is for the lot frontage requirement. If the variance is denied, the applicant is still able to install a driveway to that property. If the variance is approved, it does not make the lot buildable; a rezone is still required.

Commissioner Everett explained all five criteria listed in the Municipal Code must be met in order to allow the variance.

Commissioner Wright said there is a reasonable access to the property; therefore, not granting the variance does not cause unreasonable hardship for the applicant (criterion number one). He stated there is no purpose for the variance without a rezone application, as the frontage requirement does not apply to the Agriculture lot.

Regarding the second criterion, Commissioner Wright said the property does not have special circumstances that do not generally apply to other properties in the district.

~~Commissioner Everett said as the property is currently zoned, the applicant does not need the variance for the enjoyment of a substantial property right, which is criterion number three.~~

Regarding the last criterion, Commissioner Wright stated the road could impede the equestrian trail, which could be contrary to the public interest. The trails were put in their locations in order

to be in non-developed areas to accommodate horses. Mr. Mumford explained horse trails in Cedar Pass Ranch, Meadow Ranch, Overland Trails, and North Ranch cross asphalt roads.

Discussion ensued regarding potential residential zones for this lot.

Commissioner Wood said the lot has an easement to access and use the property for its current zone designation.

Commissioner Everett explained the Planning Commission is the decision authority for variances and the City Council is the appeal authority.

MOTION: *Commissioner Wood moved to deny the Harshberger variance for the following reasons:*

1. *The variance does not meet criterion number one as stated in Municipal Code: Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title; and*
2. *The variance does not meet criterion number two as stated in Municipal Code: There are special circumstances attached to the property that do not generally apply to other properties in the same district.*

Commissioner Wright seconded the motion. Those voting aye: Matthew Everett, DeLin Anderson, Brett Wright, and Rich Wood. The motion passed with a unanimous vote.

5.C. John Walden Clubhouse Site Plan & Conditional Use Permit – Public Hearing

Mr. Mumford explained the proposed clubhouse is intended to serve the Eagle Mountain Communities Master Association. The building will include office space, health and fitness use, preschool space, and reception space. The reception use requires a conditional use permit. He presented plans for the site and explained the applicant has aligned the entry points along Stagecoach Run to the entry points to City Hall. He said the dumpster enclosure has been located near the kitchen area, which will require garbage truck access off of the roundabout to the west of the site. The applicant has proposed two curb cuts to allow garbage trucks to pull into the property from the roundabout and exit to Trailhead Road. The City Engineer has worked with the applicant and reduced the access to a one-way drive through and is comfortable with the proposal. He explained stucco cannot exceed 50% of the building material, which the applicant has said the building complies with.

Mr. Mumford explained Stagecoach Run has never been dedicated or deeded to the City as a public right-of-way, and the applicant has expressed affability to dedicating this to the City. The project also will require streetlights.

Commissioner Wood expressed concern that forty-five parking stalls will not be sufficient and that the street may not be wide enough for on-street parking. Mr. Mumford said the City looked

at parking requirements for reception centers when the parking code was amended and that requirement was increased.

Applicant representative Angie Poulsen stated Garden Near the Green has a similar number of parking stalls. Mr. Mumford confirmed that Garden Near the Green has a capacity of approximately 100 to 150 people.

Ms. Poulsen explained the intent of the preschool space is to offer space for in-home preschools to hold classes. Residents within the master homeowners association will be able to use the facilities free of charge, and nonresidents will be able to rent space. The trash enclosure was located in its current place to accommodate garbage from the school and reception center.

Commissioner Wood stated he would prefer a safer location for the trash enclosure that does not allow traffic to access the site from the roundabout.

Chad Spencer, applicant representative, explained an additional reason the location of the trash enclosure was chosen is to allow catering companies to unload at the back of the building, versus taking up parking stalls.

Commissioner Wright expressed concerns that the trash enclosure will be at the perceived entrance to City Hall and recommended locating it at the back of the property. Mr. Spencer explained the other possible location would be adjacent to the preschool and playground area, which they would like to avoid. They have integrated the enclosure into the building, so it will not be an eyesore.

Commissioner Everett opened the public hearing at 7:09 p.m. As there were no comments, he closed the hearing.

Commissioner Wright stated the building elevations are very attractive. He said the roundabout is designed to continuously move traffic and an access point there does not meet the road's intent; it will prevent the continuous flow.

Commissioner Wood stated traffic is not supposed to stop in the middle of the roundabout and said an entry point at this location will violate Municipal Code.

Commissioner Everett expressed similar concerns regarding the roundabout and stated screening will be required for headlights. He likes the design of the building, and stated the facility will be beneficial to the City.

The Commissioners agreed that the main point of concern is the access to the property from the roundabout.

Commissioner Wood asked if there is a required distance for driveways. Mr. Mumford said intersections must be 200 feet apart. Driveways are required to be 50 feet from intersections, but that distance can be adjusted, if needed. The architectural requirements state trash enclosures must be oriented away from public view. The Site Plan chapter of the Municipal Code states

access onto public rights-of-way shall not be closer than 100 feet from an intersection or another driveway on the same side of the street. When a parcel has less than 200 feet of frontage along a public right-of-way, all necessary efforts shall be made to work collaboratively with adjacent property owners to share a common access point.

MOTION: *Commissioner Wood moved to approve the John Walden Clubhouse conditional use permit. Commissioner Anderson seconded the motion. Those voting aye: Matthew Everett, DeLin Anderson, Brett Wright, and Rich Wood. The motion passed with a unanimous vote.*

MOTION: *Commissioner Wood moved to recommend approval to the City Council of the John Walden Clubhouse site plan with the following conditions:*

- 1. The location of the entrance to the kitchen and trash receptacles shall be changed to comply with Eagle Mountain Municipal Code Chapter 17.100.060(D) and 17.100.050(C); and*
- 2. The applicant shall dedicate Stagecoach Run to the City by deed or road dedication plat prior to obtaining a building permit for this project.*

Commissioner Anderson seconded the motion. Those voting aye: Matthew Everett, DeLin Anderson, Brett Wright, and Rich Wood. The motion passed with a unanimous vote.

5.D. B & H Land Holdings General Plan Amendment – Public Hearing

Mr. Hadley explained the property is located west of the Brylee Estates development and north of the Brandon Park subdivision. The property is approximately 162 acres and is currently zoned Agriculture. The current General Plan designation is a combination of Employment Center/Campus and Neighborhood Residential One. The proposal is to change the General Plan designation to include Neighborhood Residential 1, Agriculture Rural Density 2, Neighborhood Residential 3, and Commercial. Mr. Hadley presented a possible layout of the property and stated items the Commissioners should consider are the proposed freeway that runs through this property and if the development is consistent with surrounding areas that are currently being built.

Applicant Andy Flemm said they have submitted updated plans that reflect the recent changes made to the residential zones. Commissioner Wood stated he does not want to change the General Plan until the commercial, industrial, and business park zones are updated. He also wants staff to determine how to transition between different zone types.

Commissioner Wright stated the volume of each requested use may not be appropriate, depending on future transitioning requirements between zone types.

Mr. Flemm stated they planned the site to align with Brandon Park and Brylee Estates. The property owner was not notified of the update to the General Plan and purchased the property with the understanding that the property was designated for residential use. He expressed concern with the current layout of commercial designations and future roads.

Commissioner Wood stated they do not know what will be allowed in the future commercial zone. He said the applicant should wait to pursue this project until the new zones are updated. Mr. Flemm asked removing the commercial section of the application and leaving it as agriculture until the commercial code is updated would alleviate Commissioner Wood's concerns. Commissioner Wood stated he will not change the General Plan until the zones are updated.

Commissioner Everett opened the public hearing at 7:35 p.m. As there were no comments, he closed the hearing.

Commissioner Wood asked if the Commission should table the item until the updated zones are implemented. Mr. Mumford stated it is not reasonable to table the item for that long of a period, as the property owner has due process.

Commissioner Everett said if Campus is removed from the General Plan and replaced with Residential use, it should be added in another area of the City.

Commissioners Wright and Wood stated there may be too much multifamily in this proposal.

MOTION: *Commissioner Wood moved to recommend denial to the City Council of the B & H Land Holdings General Plan amendment. Commissioner Wright seconded the motion. Those voting aye: Matthew Everett, DeLin Anderson, Brett Wright, and Rich Wood. The motion passed with a unanimous vote.*

5.E. Available Storage Site Plan & Conditional Use Permit – Public Hearing

Planner Jessa Porter explained the proposal is for a site plan and conditional use permit for a storage facility located along Pony Express Parkway just north of the Community Development Building on seven acres within the Sweetwater Industrial Park. The applicant will be required to submit a phasing plan to ensure compliance with the Fire Marshal's requirements. Pony Express Parkway right-of-way includes a 20-foot park strip that includes an 8-foot asphalt trail, so the site plan and landscape plans shall be revised accordingly.

Commissioner Wood asked if the design provides sufficient screening adjacent to the Community Development Building. Mr. Mumford said this will provide improved privacy for the City's storage in the back of the property.

Commissioner Wright asked about the facility's parking. Ms. Porter stated the City Code allows the Commission to determine parking requirements.

Applicant representative Jesse Reynolds explained the office will also serve as a residence and an individual will be on site twenty-four hours a day; that person will park inside the facility and will not utilize customer parking.

Owner Dustin Aldridge said parking stalls on the south side will be used for customers to return moving trailers. They will have set hours and the on-site manager will work with customers to ensure the moving trucks are stored inside the facility. They have not determined the location inside the facility where the vehicles will be stored. They have been discussing a partnership with U-Haul to offer moving vehicles to patrons. They will have indoor storage as well as outdoor self-storage units with rolling doors. The plan is to also include indoor and outdoor boat and recreational vehicle storage units.

Mr. Aldridge explained the property will be landscaped, and that the perimeter fence will be the actual storage buildings; they do not build additional masonry walls around the storage units. They want to honor the "handshake easement" the original property owner has with Arrow Engineering. Arrow Engineering was told they can continue to use the road on the south end of Mr. Aldridge's property to access the Arrow Engineering property. The City Engineer has stated a road eventually will be installed on the west side of this site. Once that road is completed, they will construct storage units on the road Arrow Engineering is using, which will be a part of phase three. Their intent is to install a black chain link fence in areas where the storage units are not constructed until future phases are complete; they would like to start phase two within three years.

Commissioner Wood expressed concerns that three sides of the facility will be open until future phases are completed, and the possibility that the project will not move past phase one. He stated chain link fence is not allowed.

Commissioner Wright stated the perimeter walls should be included in phase one in order to avoid a property that is not aesthetically pleasing.

Mr. Aldridge said that since the City's property along Pony Express Parkway has chain link, they believed they would be allowed to install the same type of fence.

Mr. Mumford said vinyl coated chain link fence up to eight feet tall is permitted in industrial areas; the Planning Commission may require solid screening fence.

Mr. Aldridge stated they are confident that all phases will be completed, but they are not involving outside investors, which is why they are starting with phase one. The wall is approximately \$200 per linear foot; economically it does not make sense to construct the entire perimeter in phase one. They will make the frontage road aesthetically pleasing and the goal is to include the units, or walls, along three sides of the property in phase two, leaving the access open for Arrow Engineering.

Commissioner Everett opened the public hearing at 8:02 p.m. As there were no comments, he closed the hearing.

Commissioner Everett stated this facility will be utilized by residents, but expressed concerns with the limited parking for U-Haul trailers and with chain link fencing.

Commissioner Wood said the City has had applicants with good intentions, but that their projects did not come to fruition. He wants finished projects, so if the project fails, it is screened and not an eyesore. Chain link fences do not provide screening; a fence that complies with the City's Municipal Code needs to be installed.

Commissioner Anderson said the parking stalls do not look large enough for moving trailers.

Commissioner Wright said a six-foot tall fence is not high enough to store recreational vehicles behind and suggested a height of eight feet. Additionally, there is not enough room to park six moving trailers.

Mr. Mumford explained that conditional use permits that do not comply with conditions of approval may be revoked. If the Commission approves this conditional use permit with conditions of approval related to the moving trailers, and the conditions are not complied with, there is a process to correct the violations or revoke the permit.

Discussion ensued regarding the number of allowed moving vehicles in front of fencing, as well as requirements of the conditional use permit.

Commissioner Wright expressed concerns regarding requiring screening on the south side of the property, as it would block Arrow Engineering from accessing their property. He asked if the entity that sold Mr. Aldridge this property could offer an alternate access. Mr. Aldridge said he can work with the other entities to determine if an alternate access is possible. Mr. Hadley explained the approved Sweetwater Industrial Park has future planned roads. Those will be constructed as businesses are developed in the project.

Commissioner Wood informed Mr. Reynolds that the perimeter should include a six-foot solid fence. Commissioner Wright stated the Commission should require an eight-foot masonry wall around the perimeter in phase one. Mr. Reynolds reiterated that the ten-foot tall masonry wall in the proposal is the actual building, not a fence. These buildings sit on a concrete foundation, which will be very costly to install around the entire property.

Mr. Mumford explained if the Commissioners' concern is the view from the public right-of-way, the first phase will mitigate that concern. There is nothing existing on the west side of the property.

Commissioner Wood said the Municipal Code requires moving vehicles to be behind a six-foot tall privacy fence. Mr. Mumford explained the outside buildings would serve as the privacy fence. He said Eagle Mountain Storage and Sunset Storage both built in phases; the chain link fencing at those locations was not visible as the phases were completed. He said screening the south side of the property under discussion is not as important, as it is the City's property.

Commissioner Wright disagreed and stated screening is important on all four sides of the property, and that the Municipal Code needs to be applied uniformly.

Mr. Aldridge explained they have analyzed the project comprehensively. He asked why the City's building is allowed to have chain link, but he would not be. Commissioner Wood stated the City's use is different than this application.

Mr. Mumford stated to address the Planning Commission's concerns, the approvals can require conditions that mitigate screening concerns, and may include an updated phasing plan with screening and a prohibition on utilizing areas of the property that are not screened.

MOTION: *Commissioner Wood moved to approve the Available Storage conditional use permit with the following conditions:*

- 1. The use shall comply with Eagle Mountain Municipal Code Chapter 17.40.040(L): "The following conditional uses and such uses as the planning director and planning commission may recommend as similar and consistent with the scale, character and impact of the area will be considered: self-storage or mini-storage";*
- 2. The use shall comply with the Eagle Mountain Municipal Code Chapter 17.40.040(R): "The following conditional uses and such uses as the planning director and planning commission may recommend as similar and consistent with the scale, character and impact of the area will be considered: moving and storage facilities and businesses";*
- 3. The site shall comply with Eagle Mountain Municipal Code Chapter 17.40.090(E): "Screening Requirements. A wall, fence and/or landscaping of acceptable design shall effectively screen the borders of any commercial or industrial lot, which abuts an agricultural or residential use. Such a wall, fence or landscaping shall be at least six feet in height, unless a wall or fence of a different height is required by the city council in consideration of a prior recommendation by the planning commission as part of a site plan review. Such wall, fence or landscaping shall be maintained in good condition with no advertising thereon, except as permitted by the city's signage regulation."; and*
- 4. The site shall comply with Eagle Mountain Municipal Code Chapter 17.40.090(F): "Moving and Storage Facilities Standards. A maximum of three moving vehicles may be displayed outside of a building or in front of a six-foot privacy fence or wall. All vehicles must be parked upon an improved parking area within designated parking stalls. Up to 10 additional rental vehicles may be placed inside a structure or behind a minimum of a six-foot privacy fence or wall."*

Commissioner Wright seconded the motion. Those voting aye: Matthew Everett, DeLin Anderson, Brett Wright, and Rich Wood. The motion passed with a unanimous vote.

MOTION: *Commissioner Wood moved to recommend approval to the City Council the Available Storage site plan with the following conditions:*

- 1. Concerns about phasing and perimeter fencing are communicated to the City Council;*
- 2. The applicant shall submit a phasing plan;*
- 3. The applicant shall submit a specification sheet for lighting that complies with the City's dark sky ordinance; and*
- 4. A second access shall be provided with the appropriate phase, to be approved by the Fire Marshal.*

Commissioner Anderson seconded the motion. Those voting aye: Matthew Everett, DeLin Anderson, Brett Wright, and Rich Wood. The motion passed with a unanimous vote.

5.F. West Side Theatre Company Temporary Site Plan

Mr. Hadley stated this application is for a temporary site plan to allow a temporary performance structure, storage units and necessary facilities to be installed on land just east of the SilverLake amphitheater. The land is owned by the City and is currently unimproved. The site will include a 40 foot by 60 foot structure where performances will be held, portable restrooms, trash and recycling containers, shipping containers for storage and canopies from the tent to the restrooms and to the shipping containers. An executed memorandum of understanding indicates that Eagle Mountain City intends to lease this property to the West Side Theatre Company for construction of a center for the arts building to be built and operated by the theatre company for the benefit of Eagle Mountain City residents.

Commissioner Wood asked if the applicant would be responsible for surrounding landscaping. Mr. Hadley stated they are not proposing landscaping at this time, but have submitted a potential phasing plan for future development. The applicant has been working with the City Council on this project.

Applicant Hannah Farr explained a horticulturist is on their team and they will install what the City deems necessary. The first phase will allow the theater company to have a building in which to perform. Commissioner Wood stated the facility needs to look attractive. Ms. Farr said they do not have the capability to landscape the entire six-acre parcel, but will ensure the area around their site is attractive. She stated they will initially use the dirt parking area to the west of the building site and would like to install more permanent parking after the first year of operation. The initial building will serve as a permanent outdoor area, with a smaller permanent theater center in the next two years. This structure will have offices, the box office, and a lobby. They can function with the outdoor theater and temporary small offices for a long period of time, but the goal is move to a permanent structure soon.

Commissioner Wright asked for the company's history. Ms. Farr stated they have been in operation for three years and are only limited by the lack of a permanent location. They have performed at Garden Near the Green, at parks throughout Eagle Mountain, and at the SilverLake amphitheater. Their website westsidetheaterco.org and their Facebook page have photos and videos of previous events. This piece of land previously was going to be used by the Eagle

Mountain Arts Alliance, but their director stepped down and the alliance did not pursue the opportunity. The former director approached Ms. Farr about this location and West Side Theatre Company received a memorandum of understanding for the property use. They have performers from all over the area, and plan on offering stipends to performers once they have a permanent location. Their goal is to offer a facility similar to the Orem Hale Center Theater.

Ms. Farr stated the spring tent company has provided tents to similar groups and for festivals in the area. The tent can be removed during the off season, if required by the City, but will hold the snow load over the winter. She stated they are flexible and will comply with City requirements.

Commissioner Wood stated this property is an eyesore and expressed concerns that people will see tents and storage containers upon entering the City. Ms. Farr explained spring tents are very aesthetically pleasing if done right. The shipping containers will be wrapped and will not look like shipping containers. Another option is to increase the tent size and remove the shipping containers; this is their preference.

Commissioner Everett asked what the long-term vision is for the location. Ms. Farr explained they would like to install a permanent structure at this site, if allowed. They want to ensure that the facilities can be removed if the venture is not successful, so the City has minimal risk. They plan to do three performances, two weekends each, over the first year. They would like to extend that to three weekends and add additional performances as they grow.

Ms. Farr explained they performed an informal traffic study on a Friday night at 7:00 p.m. They had a group of people turning left from Pony Express Parkway into the site for thirty minutes. The longest time wait was six seconds, with the longest stack of cars at three. They had 100 cars enter during this thirty-minute period. They typically have 100 people at their shows, and will not likely ever have 100 vehicles parked in the lot during performances. They will work with the City to ensure their performances do not conflict with City events, and they would be willing to allow other organizations to use the space; they have spoken with the Eagle Mountain Arts Alliance regarding utilizing the facility.

Ms. Farr explained the productions are indoor and typically start at 7:00 p.m. and are finished by 10:00 p.m. Practices are typically in the evenings and on Saturdays. Rehearsals also usually end by 10:00 p.m. Rehearsals will not utilize speakers until the week before performances. They can inform residents in the area of upcoming rehearsals and performances.

Commissioner Wood asked if this use would require a rezone and stated concerns regarding storage containers and tents at the entrance to the City. Mr. Hadley explained the use is governed by the memorandum of understanding.

Commissioner Wright said he is not opposed to a temporary structure that is aesthetically pleasing and asked if the City has liability in allowing this use on City property. Mr. Mumford said the City Attorney will address liability issues with the lease.

Commissioner Wood stated the site plan should be more complete. Commissioner Wright said the memorandum of understanding needs to be more specific.

Applicant representative Melanie Perry said the facility will be beautiful and will accentuate the natural area. A member of their team has designed theater buildings as well as other temporary structures. He will be in attendance at the City Council meeting to answer more specific questions.

Commissioner Everett said he attended the Broadway at SilverLake event and enjoys the arts. His concern is aesthetics, but the fact that the structures are temporary is beneficial to the City and mitigates risk. He said he would be comfortable with an approval with the condition that the approval is reviewed in one year.

Commissioner Wood asked if there are lighting requirements for the parking area. Mr. Mumford explained there are no requirements for temporary site plan parking lighting.

MOTION: *Commissioner Wright moved to recommend approval to the City Council of the West Side Theatre Company temporary site plan with the following conditions:*

- 1. The approval is reviewed one year from the date of the City Council approval;*
- 2. Lighting that complies with the dark sky ordinance shall be required in the parking areas; and*
- 3. The applicant shall connect to power, versus utilizing generators.*

Commissioner Anderson seconded the motion. Those voting aye: Matthew Everett, DeLin Anderson, Brett Wright, and Rich Wood. The motion passed with a unanimous vote.

Commissioner Everett recessed the meeting at 9:24 p.m. and reconvened at 9:28 p.m.

5.G. SilverLake South Preliminary Plat

Mr. Mumford explained on July 23, the Planning Commission reviewed the SilverLake South preliminary plat and held a public hearing. The application was tabled until the developer included a road connecting to Silver Creek Way and provided additional parks and open space information. The main change in this version of the plat is the addition of a connection over Tickville Wash at Silver Creek Way. Also, the church and school site has been moved to the east from Area C to Area D.

One concern staff has is connectivity. In reviewing the project against the City's connectivity ordinance, two roads in the northwest corner are too long without an additional pedestrian crossing. These are designed similarly to approved areas in Evans Ranch. Another potential concern is regarding cluster homes. They are defined as homes generally located on a small lot or clustered near other detached homes, and generally include a park, courtyard, or additional improved open space within the immediate neighborhood. It is up to the Planning Commission and City Council to determine if the cluster homes in this project have improved open space within the immediate neighborhood. The applicant has included some cluster homes as a

transition to the single-family lots. Some design constraints have also required the layout provided.

The plan provided contains more than the 8.752 acres of improved open space. The applicant indicated that Alpine School District will do their best to have the western school access be the main student drop-off area, while the drive aisles off of Golden Eagle Road will be intended to be used for kindergarten drop-off and buses.

Mr. Mumford staff recommends approval of the preliminary plat to City Council with the conditions that the applicant pay a cash escrow to the City of \$2,810.40 per lot at plat recording; detailed landscape plans, including the design and amenities (point calculations), for the parks shall be submitted for approval by the Parks Director and Planning Director along with the associated final plat; a detailed landscape plan shall be submitted for approval by the Planning Commission prior to approval of any final plats north of Golden Eagle Road; fencing along collector roads (SilverLake Parkway and Golden Eagle Road) shall match the collector road fencing approved for the Silverlake South area; and the road connection to Silver Creek Way (across Tickville Wash) shall be built prior to recording any plat in the north area.

Commissioner Everett asked if the road that connects to Silver Creek Way will continue to be designated Silver Creek Way. Applicant Bronson Tatton explained that Plat 18 has been recorded, but the name can be changed. Mr. Mumford stated that until the connection is made, it may be confusing to have two separate roads designated Silver Creek Way.

Mr. Tatton explained that even though trails are not included in the open space calculations, they are still well over the open space requirements.

Commissioner Wright said the master development agreement states pocket parks should be at least 0.5 acres and should be within 0.25 mile of homes. He asked if the power corridor parks are pocket parks and said the future west pocket park is less than 0.5 acre. Mr. Tatton explained that they have provided a map with radius markings showing distances from every park. Commissioner Wright asked that Mr. Tatton provide that map when the landscape plan returns to the Planning Commission. Mr. Tatton explained they can remove those pocket parks from the amenity calculations and the plan will still be above the required improved open space acreage.

Commissioner Wood said the SilverLake Master Development Agreement requires the developer to improve the open space along the powerline corridor. He said if the improved area is counted in the park calculations, it must be at least 0.5 acre.

Commissioner Wright stated he does not believe the parks plan meets the requirements stated in the master development agreement.

Commissioner Wood asked if pedestrian paths can be included in the areas where the City's connectivity ordinance would require them, and stated the homes south of the elementary school will not have access during school pick up and drop off times, which is happening at Brookhaven Elementary School.

Pete Evans with Flagship Homes explained that Brookhaven Elementary School is a single-facing school on a residential sized road. The school location in this plat has a wider road with turn lanes, and also faces two roads. The school district agreed to have drop off and pick up locations on the western side of the school. He said they can remove the western access on Golden Eagle Road from the residential area and include a connection from that residential area to SilverLake Parkway farther south.

Regarding parks, Mr. Evans explained that they are well over the improved open space requirement. They can remove the three parks that are under 0.5-acre in size and still be over the requirement. They are also in compliance with the distance requirements noted in the master development agreement.

Commissioner Wright asked how the cluster homes meet the distance to parks requirement. Mr. Evans showed the Commissioners the locations of parks in the cluster homes areas.

Commissioner Everett opened the public hearing at 10:05 p.m. As there were no comments, he closed the hearing.

MOTION: *Commissioner Wood moved to recommend approval to the City Council of the SilverLake South preliminary plat with the following conditions:*

- 1. Applicant shall pay a cash escrow to the City of \$2,810.40 per lot at plat recording;*
- 2. Detailed landscape plans, including the design and amenities (point calculations), for the parks shall be submitted for approval by the Parks Director and Planning Director along with the associated final plat;*
- 3. A detailed landscape plan shall be submitted for approval by the Planning Commission prior to approval of any final plats north of Golden Eagle Road;*
- 4. Fencing along collector roads (SilverLake Parkway and Golden Eagle Road) shall match the collector road fencing approved for the SilverLake South area;*
- 5. The road connection to Silver Creek Way shall be built prior to recording any plat north of Harvest Crop Drive;*
- 6. The southeast section of the plat, south of the new elementary school, shall eliminate the northwest entrance to Golden Eagle Road and relocate the entrance to SilverLake Parkway; and*
- 7. Silver Creek Way shall continue its name to its termination at the south end of the property.*

Commissioner Wright seconded the motion. Those voting aye: Matthew Everett, DeLin Anderson, Brett Wright, and Rich Wood. The motion passed with a unanimous vote.

6. Discussion Items

None.

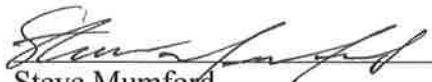
7. Next scheduled meeting

October 8, 2019.

8. Adjournment

MOTION: *Commissioner Wood moved to adjourn the meeting at 10:17 p.m. Commissioner Anderson seconded the motion. Those voting aye: Matthew Everett, DeLin Anderson, Brett Wright, and Rich Wood. The motion passed with a unanimous vote.*

Approved by the Planning Commission on October 8, 2019.


Steve Mumford
Community Development Director

To: The Planning Commission/ City Planners:

From: Bettina Cameron, 2871 E Cedar Dr, Eagle Mountain

Date: 09/24/2019

Subject: Harshberger Variance

I know there may be written letters and people speaking tonight why the Harshberger variance doesn't meet all 5 criteria to grant a variance, but I wanted to point out how the Cedar Pass Ranch (CPR) Covenants, Conditions, and Restrictions (CC&Rs) need to **also** be factored into your decision. Cedar Pass Ranch CC&Rs also connect the CPR Development to a City Ordinance.

City Ordinance 17.25.110 Section G:

G. Open Space and Trail Requirements. There is no minimum open space requirement for base density residential developments. This does not exempt owners or developers from complying with other provisions that may require public improvements including, but not limited to, drainage facilities or other minimum standard infrastructures. Pedestrian trails along collector or arterial roads shall be a required improvement when the subdivision is being developed without sidewalks. **Equestrian trails that adjoin each lot shall be a required improvement when the subdivision is designed to accommodate horse raising and keeping.**

Cedar Pass Ranch CC&Rs relevant to this variance request, since there is a CPR equestrian trail/easement **between** Mr. Harshberger's CPR residence and his "flag lot".

SECTION 5.02. **Equestrian Trails.** The rearmost ten (10) feet of each Lot and some designated sides of Lots are dedicated as non-exclusive easements as an Equestrian Trail (which may include underground utility locations). Where two Lots adjoin, the Equestrian Trail is twenty (20) feet wide. **These trails are for the exclusive use of members, tenants, and their accompanied guests and invitees. The trails shall be maintained by the Homeowners' Association. Lot Owners shall not place fencing, structures, or any obstructions in these areas.** Electric fences are permitted but must be sufficiently marked so as to ensure that horse riders, and other passers-by will recognize the need for caution.

SECTION 5.03. **Motorized Vehicles.** **No motorized vehicles (autos, trucks, motorcycles, ATVs, etc.) shall be permitted on trails or riding ring area except for Board-approved maintenance.** Bicycles may be ridden on equestrian trails, but must yield to horses.

SECTION 5.04. **Supervision and Responsibilities.** **There is no supervision of the common areas or their prescribed uses. These shall be used at the sole risk and responsibility of the members and their guests, invitees and tenants. Any damage to any homeowner or association property or personal injury shall be the**

responsibility of the individual causing such. In the case of damage caused by any member, tenants, guests, or invitees of the member, the member is responsible.

City Ordinance section 17.25110 Section G and Section 5 of Cedar Pass Ranch CC&Rs, in my opinion, hold both the City and CPR legally liable to assure this equestrian trail is safe for both humans and animals. As you may know, Cedar Pass Ranch was developed as an equestrian community. Even our very first CC&Rs were written to address the care and protection of this easement/trail. This was not an add on to our current CC&Rs. **Having a driveway/road and motorized vehicles going in/out of the flag lot is prohibited by CPR CC&Rs.**

If you refer to Utah County Land Records for Mr Harshberger's flag lot, you will see a document recorded on 10/17/2017 giving the CPR Home Owners Association the right to protect the south side of this property.

SECTION 10.01. Membership. **Every Lot Owner shall be a member of the Cedar Pass Ranch Homeowners' Association.** Membership shall be appurtenant to and may not be separated from ownership of any Lot within Cedar Pass Ranch. Ownership of such Lots shall be sole qualification for membership.

SECTION 10.03. Organization and Purpose. The Association is a nonprofit Utah corporation created for the purposes, charged with the duties, and invested with the powers prescribed by law or set forth in its Articles and By-Laws or in this Declaration. Neither the Articles nor By-Laws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. In the event of a conflict between the provisions of the Articles of Incorporation and this Declaration, the Articles shall control, and in the case of any conflict between this Declaration and the By-Laws, the terms and provisions of this Declaration shall control. The Association shall be charged with the administration of Cedar Pass Ranch and the terms and provisions of this Declaration. **Further, the Association shall be responsible for the maintenance and operation of any open space or easements and any improvements on such open space or easements within Cedar Pass Ranch owned by the Association.**

SECTION 10.04. Specific Powers of the Cedar Pass Ranch Association. A. Right of Entry and Enforcement. The Association may enter, after twenty—four (24) hours written notice without being liable to any Owner, onto any Lot for the purpose of enforcing by peaceful means the provisions of this Declaration. The Association may also, in its own name and behalf or in the name and behalf of any Owner who consents thereto, commence and maintain actions and suits to enforce by mandatory injunction or otherwise, or to restrain and enjoin any breach or threatened breach of the provisions of this Declaration.

I hope you find this information useful in your decision making.

Thank you for all you do and your service to our City. If you have any questions or comments, please feel free to contact me.

Bettina Cameron
385-375-9197

1. Literal enforcement of the code would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the code (“this title”).

The applicant acquired this parcel with the clear understanding of the undevelopable nature of this parcel given its location in a 5-acre zone. Because of that, a hardship does NOT exist. Further, no changes to city code have occurred that otherwise created a hardship for the subject. The applicant states that the lot size is consistent with other large lots in the area, but in actuality the subject is about half of the needed size per the city’s zoning requirements. The applicant is able to use the property precisely as understood when the applicant acquired the property. As such, NO hardship exists.

The applicant states an easement exists from his parcel immediately to the south that already grants access to the subject property, thereby undermining the applicant’s own point of experiencing hardship due to SR-73.

2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.

If this parcel met the minimum 5-acre requirement AND had access issues that other properties did not have, THEN a special circumstance would indeed apply that the city should give serious consideration to. However, this property doesn’t meet the current zoning requirements that would allow it to be a stand alone lot. So that it has an access situation different than the other parcels in the area is completely irrelevant, as the subject does not enjoy a buildable right that the other parcels qualify for. When this parcel was initially created, it was known at the time that it would not be a buildable lot. Again, the ONLY special circumstance that would apply here is IF the lot were 5 acres in size AND had access issues.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.

This parcel has PRECISELY the SAME property rights as afforded to EVERY PARCEL IN THIS ZONE: if the property has at least 5 acres, a residence can be built. If not, then the parcel can be used for animal rights, outbuildings, gardening/orchards, sports courts, etc! There are a significant amount of rights afforded to the property owner. If the applicant’s argument holds ANY weight with the city (i.e., a home can’t be built on it, therefore it’s essentially useless, so the city needs to grant a variance), imagine that same argument being used for any number of other odd sized parcels in the city! This is a DANGEROUS precedence to set. What we’re essentially considering here is a case of a parcel not meeting the zoning size for the area, even though the applicant has positioned this as an access issue. The applicant is NOT under a hardship and DOES still have significant property rights. The TRUE issue at hand is if the city grants a variance here, what kind of precedence does that set when other property owners come forward with parcel sizes smaller than the minimum zoning, and want to build residences on those properties?

At the heart of this issue is the applicant wants to build a home on a property that is about HALF of the minimum required size. This shouldn’t even come close for any consideration by the city.

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

The variance IS contrary to the public interest because of the dangerous precedence it sets. The parcel in no way, shape, or form, comes close to meeting the requirements of a building lot. Approving a parcel for building that doesn't remotely qualify for a building lot, sets this very dangerous precedence in the city, very much against the public interest.

5. The spirit of the title is observed and substantial justice is done.

Substantial justice is this: the applicant acquired the parcel with a clear understanding of its rights and limitations within the current zoning. The city has done NOTHING to reduce those rights. If the city had enacted recent changes that otherwise limited the applicant's ability to use the parcel, the applicant may have standing. However, that has not happened and the applicant is able to use the parcel precisely as when it was acquired.

I own a real estate brokerage and have closed hundreds of transactions. I've represented developers over the years and attended many city meetings. What I can tell you is this: cities RARELY grant variances. I even had a circumstance in Cottonwood Heights where the applicant owned the land prior to that city incorporating, and when the city incorporated the minimum lot frontage became stricter, disqualifying the lot from building. Even in that circumstance, where the frontage was just smaller than required, the city still did NOT grant a variance, even though the city changes created the issue. That lot was something within 5' of the required frontage. So, prior to incorporation he could have developed it; afterwards he couldn't, and the city wouldn't grant the variance. Here we're talking about a situation where the lot size is HALF of the required zone, and the applicant wants to build a home on it. The city shouldn't even remotely consider this request.

Approving this application provides a VERY dangerous precedence in this city, not in line with the public good. The applicant does NOT have a hardship and acquired the property with a full understanding of its rights and limitations. The applicant still enjoys significant property rights and uses within the zone. The applicant fails to qualify on any of the 5 points above.