



EAGLE MOUNTAIN PLANNING COMMISSION MEETING MINUTES

July 13, 2021, 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: 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.

Commissioner Wright called the meeting to order at 5:33 p.m.

1. Discussion Items

1.A. DISCUSSION ITEM – Landscaping Completion

Senior Planner Tayler Jensen presented the item. Per EMMC 17.25.050(A) Yard Landscaping, the front and side yards must be improved prior to occupancy of each home in accordance with a yard landscaping plan approved in conjunction with the final plat for the development. Improvements shall include sod, irrigation, trees, and shrubs, and may include some water-wise landscaping. In cases of inclement weather, the builder or property owner may pay a \$2,000 cash escrow per lot to the City and shall complete the landscaping no later than six months after the issuance of the certificate of occupancy. On July 6, 2021, the City Council passed a waiver that units receiving a certificate of occupancy before September 15, 2021, can post a bond to delay landscaping until October 30, 2021, at the latest. Municipal Code does not differentiate between owner builders and developers or between different lot sizes.

Discussion ensued regarding the requirement in EMMC 17.60.100 to install front yard landscaping within a year of occupancy conflicting with the standards listed in EMMC 17.25.050(A). Mr. Jensen confirmed the discrepancy is an erroneous inconsistency that needs to be removed from the standards.

Commissioner Pengra explained he recently learned of the yard installation requirement prior to receiving a certificate of occupancy and requested the discussion. He disclosed the code will impact him personally as he is currently building a home in the City. He will abide by the City rules; however, he feels the rules need to be further clarified.

Discussion ensued regarding ambiguity whether the party responsible for the yard installation is the developer or the homeowner, the insufficiency of the \$2,000 escrow for the City to complete the yard installation should the yard not being completed within the indicated timeframe, and concern that once the certificate of occupancy has been issued the City has less leverage to enforce the landscaping completion.

Commissioner Pengra argued that the \$2,000 does not qualify as an escrow or performance bond because the City does not intend to complete the work if the funds are forfeited due to noncompliance. He expressed concern that the fee is not included in the consolidated fee schedule.

Commissioner Wells stated her husband, as a landscaper, feels that requiring developers to install landscaping results in a lower quality product than homeowner-installed landscaping. She advocated for allowing a mechanism for residents to install their own landscaping.

Commissioner Everett suggested increasing the amount of the escrow, potentially having different requirements based upon lot sizes, and adjusting standards in consideration of drought and climate considerations to encourage appropriate and attractive xeriscaping or water-wise landscape to be better stewards of water resources. He inquired regarding the burden to Code Enforcement and the intended City recourses and penalties to enforce compliance.

Commissioner Bergener expressed concern with the ambiguity and inconsistency in the code. He advocated for clarifying the purpose of the \$2,000 escrow. He concurred with Commissioner Everett regarding water conservation efforts.

Assistant City Administrator/Community Development Director Steve Mumford explained the front and rear landscaping requirements were added in 2005 when the Municipal Code development standards were rewritten. He noted the difficulty in enforcement. Staff approached a previous mayor and City Council regarding enforcement of the standards and were directed to not enforce the standards; nevertheless, to retain the standards to have recourse should an extreme issue merit action by the City. He noted the City is implementing an Administrative Law Judge court process and hearings will begin within the next few months that will provide more enforcement options. The escrow amount was reduced from \$4,000 to \$2,000 in order to be an incentive without being punitive. The funds are not intended to be used by the City to complete the yards but to encourage performance by the homeowner or developer. It is not included in the consolidated fee schedule because it is not intended to be a cash escrow/performance bond rather than a fee; however, if the resident is not refunded the money, it becomes a fee. EMMC 17.60.100 should be removed from the standards and larger lot owners could be given additional time or allowed to improve a smaller portion of the front yard landscaping.

Mr. Jensen explained the difficulty in enforcement and tendency to meet the bare requirements rather than the intention of the standards resulting in poor products not appropriate for the City's climate.

Commission Pengra advocated for the stipulations to be based upon lot size and said he is unlikely to be able to complete his landscaping within six months and does not see the benefit of forfeiting \$2,000. He prefers the one-year timeframe as more appropriate to allow residents to complete the

landscaping during the appropriate season. He clarified he would support requiring small lot builders to complete the front and side landscaping prior to the City issuing certificates of occupancy.

1.B. DISCUSSION ITEM – Detached Accessory Apartments

Mr. Jensen presented the item. Staff has identified several locations in Municipal Code where there are inconsistencies or references to zoning ordinances that no longer exist. Staff proposes updating Municipal Code to remove all references to residential tiers and to clarify that detached accessory dwelling units (ADUs) are permitted on all single-family lots in excess of 8,000 square feet. The maximum size of detached ADUs shall also be clarified as no more than 30% of the finished square footage of the primary dwelling unit.

Mr. Mumford explained that the 8,000 square foot minimum lot size requirement was included at the direction of Council; however, it was unclear which zones the requirement applied to and an amendment to clarify the standards is advisable.

Mr. Jensen stated that the understanding of the 30% percent of finished square footage would exclude unlivable space such as cold storage. If a basement were finished without the proper permits an inspection and permit would be required prior to the square footage being included in the total calculation.

Discussion ensued regarding the interpretation and application and appropriateness of EMMC17.70.060(B), "Floor Area. In no case shall an accessory apartment comprise more than 30% of the building's total floor area (50 percent if located in the basement), or be greater than 800 finished square feet, whichever is greater, unless the residence was constructed or the apartment area was approved prior to the enactment of this title."

Mr. Mumford explained staff desires language to remove ambiguity for the benefit of staff and the residents to clarify whether the square footage calculations include the area of a detached garage and other unclear applications. Generally, the standards have been interpreted to include the square footage of the primary dwelling unit.

Mr. Jensen clarified that most of the standards were adapted for attached project, as detached product has only recently been considered, and issues have arisen to determine how the standards should be appropriately applied to detached units.

Discussion ensued regarding concerns with allowing detached ADUs on 8,000 square foot lots, the growing need for ADUs due to the current housing shortage, separating and defining the standards for attached and detached products, setback requirements for AUDs, potentially adding additional constraints for detached unit placement on smaller lots, utility metering for AUDs, and exploring State resources and standards for ADUs as references for determining appropriate standards.

Mr. Jensen explained that smaller lot owners are more likely to request a tiny home on wheels rather than a permanent structure.

1.C. Concept Plan – Ranches Crossing

This item was moved to policy session and discussed after item 6.B.

Mr. Jensen presented the item. The approximately 3.74 acres of land is located on the northeast corner of Ranches Parkway and Pony Express Parkway intersection. The Future Land Use Plan designated the parcel as Community Commercial. The project is subject to EMMC 17.72 Commercial Design Standards.

Applicant representative Brian Haskell said they have struggled to determine the appropriate mix of uses for the benefit of the businesses and the residents for this property. The prior interest in the area has been from restaurant users but challenges have arisen due to pandemic obstacles and are concerned with the viability of an area with a lower number of housetops and correlating demand. The proposal is a mix of sit-down and fast-food establishments with a larger, flex space to the northwest with a potential for a mixed-use development. Some of the restaurants would potentially have stalls designated for pickup orders rather than drive-throughs. Their primary focus will be to meet the needs of an anchor location and they will make adjustments to the other sites accordingly.

Discussion ensued regarding the traffic volume and flow and parking requirements for several restaurants with drive-throughs especially considering the high usage of other drive-throughs in the City, trash enclosures and other required elements reducing the contemplated parking, an ingress and egress with a left-hand turn onto Ranches Parkway, the distance from the intersection of Ranches Parkway and Pony Express Parkway, concern with a road to the east of the development routing traffic through the residential area, the beneficial and negative impacts of the pandemic on restaurants and accommodating the resulting adaptations of standard operations, masonry wall and/or landscape buffering to separate the development from the pool and clubhouse to the east, potential traffic flow and visibility considerations for the landscaping design, stacking distances for the drive-throughs, providing adequate turn radius for large vehicles off Ranches Parkway, concerns with the distance and location of the parking along the east side of the development and the potential benefit of the parking to a hotel use, mitigating features or a divider for the exit-only access on the southeast, Municipal Code currently excluding mixed-use developments, the potential viability of a hotel in the location, and whether to allow an exemption to the commercial design standard requiring buildings to be located adjacent to the road in order to allow the parking between the street and the southwest building.

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

Commissioner Wright called the policy session to order at 6:31 p.m.

2. Pledge of Allegiance

Commissioner Wright led the Pledge of Allegiance.

3. Declaration of Conflicts of Interest

None.

4. Approval of Meeting Minutes

4.A. June 22, 2021 Planning Commission Minutes

Commissioner Wright requested a correction to the last paragraph on page 2 amending, "In this location, the elevation of the base of the wall is 4,795 feet and the parking lot is between 4,792 and 4,794 feet resulting in *insufficient* buffering," to "In this location, the elevation of the base of the wall is 4,795 feet and the parking lot is between 4,794 feet resulting in *sufficient* buffering."

MOTION: *Commissioner Everett moved to approve the June 22, 2021 minutes as amended. Commissioner Wells seconded the motion. Those voting aye: Jeremy Bergener, Matthew Everett, Christopher Pengra, Erin Wells, and Brett Wright. The motion passed with a unanimous vote.*

5. Status Report

Staff reviewed the planning items discussed and voted upon during the July 6, 2021 City Council meeting.

6. Action and Advisory Items

6.A. PUBLIC HEARING – Oquirrh Mountain Ranch Phase B – APPLICANT HAS REQUESTED TO HAVE ITEM TABLED TO 8-10-2021

Commissioner Wright opened the public hearing at 6:38 p.m.

Bettina Cameron said that the Oquirrh Mountain developers worked with the Eagle Mountain Nature and Wildlife Alliance citizen group to remove the Frisbee golf course from the critical area in the wildlife corridor and the developer expressed willingness to help preserve the petroglyphs.

Tom Spaulding submitted the following email, "I live in the Oquirrh Mountain area and I have a concern about the large development in this area. That concern is water pressure! My daughter lives in the city center area and her water pressure is much, much greater than Mine. The concern I have is this, when I have a sprinkler on watering a flower bed (in the morning before 10am), and the sprinkler is not putting out much water, when there is water being used in the house like the toilet being flushed. The flow to the sprinkler drops dramatically. Now Phase B is coming online What then is going to happen to my meger water pressure? What is the city's plan to INCREASE my water pressure? Thank you for your consideration in this."

Dan Petersen submitted the following email, "We are residents of Eagle Mountain and live in the Lone Tree neighborhood. We received a postcard about the planning commission meeting about Phase B of the Oquirrh Mountain Ranch development. We will be out of town and won't be able to attend the meeting. We just wanted to voice our opinion. As the development enters Phase B we hope the planning commission and city council will uphold the Ridge Line Ordinance. We are

worried about houses going too far up the hill. Also, we are concerned about the wildlife corridor that was just passed. The mountain in between Lone Tree and Oquirrh Mountain Ranch is a major thoroughfare for all types of wildlife. We hope the hill will be preserved as open space. Lastly we hope the remaining petroglyphs will be protected.”

MOTION: *Commissioner Everett moved to table the master development plan and preliminary plat for Oquirrh Mountain Ranch continuing the public hearing until a future meeting. 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.*

6.B. PUBLIC HEARING – Silverlake 31

Mr. Jensen presented the item. This phase is located within Area C of the SilverLake Master Development Plan (MDP). The agreement was last amended in January 2013. The area is designated for single-family, patio, garden court, cluster, and multifamily units. The SilverLake South preliminary plat was approved on October 1, 2019, and includes this area. Multifamily developments require site plan approvals. This proposal includes a total of 24 lots, 18 cluster lots, and 6 townhomes, located on approximately 3.65 acres.

It should be noted that while this approval is strictly for SilverLake Plat 31, many of the issues with parking, open space, and roads are shared with Plat 32. Per EMMC 16.35.090, collector road fencing consistent with existing collector road fencing in SilverLake shall be constructed along the rear and side lot line of any unit that does or will abut Golden Eagle Road or SilverLake Parkway prior to issuance of a certificate of occupancy for those units. With 24 units in Plat 31, eight guest parking stalls are required and seven guest parking stalls are provided which is one stall under this requirement. The total number of units in Phase 31 and 32 is 115 units which require 39 guest parking stalls; currently, 34 parking stalls are provided. Parking requirements for cluster lots have recently changed requiring additional guest parking.

The proposed 40-foot-wide private right-of-way through the project includes 27-feet of pavement and four-foot sidewalks. Staff recommends increasing the right-of-way to 43 feet, which would allow for 28-feet of payment and five-foot sidewalks equal to the 53-foot standard local right-of-way minus ten feet of park strips. The proposed total of 1.46 acres of open space serves SilverLake 31 and 32 and includes benches and picnic tables, 126 trees, a tot lot, and property for the City to add a natural trail. Townhomes are subject to the design standards found in 17.72 of Eagle Mountain Municipal Code. Townhomes have been built throughout the SilverLake development utilizing identical elevations. The rear elevations exclude some of the materials and features used on the front elevations and should be updated to include the same features as the front elevations because they are backing onto improved open space.

Staff recommends the Planning Commission motion to recommend approval of the application to the City Council with the following conditions:

1. Collector road fencing shall be consistent with the existing collector road fencing in SilverLake and shall be constructed along the rear and side lot lines of any unit that does

- or will abut Golden Eagle Road or SilverLake Parkway prior to issuance of a certificate of occupancy;
2. One additional parking stall be required for SilverLake Phase 31 and/or five additional parking stalls shall be provided for SilverLake Phases 31 and 32;
 3. Private right-of-way roads shall be expanded to 43-feet with five-foot sidewalks and 28 feet of pavement;
 4. The amount of the water-wise landscaping shall be increased by replacing turf behind buildings in park strips and other areas that are not usable as play areas; and
 5. Rear and side elevations shall include similar materials as the front elevations.

Mr. Jensen clarified that the water-wise landscape is a staff recommendation and is not currently required in Municipal Code. The lift station will be owned and maintained by the homeowner's association (HOA). Silverlake Parkway will not be extended beyond what is indicated in the rendering. The canal on the eastern border is outside of the boundaries of the project. He verified that a 43-foot right-of-way, without the standard ten feet of park strips, is not contemplated in Municipal Code. The staff recommendation is to allow the roads to remain private as requested by the applicant while increasing the road and sidewalk widths.

Mr. Mumford explained that the City Council recently approved a 43-foot public right-of-way for the Hidden Hollow development. The master transportation plan update will include changes to right-of-way standards.

Applicant representative Bronson Tatton said this will be the fifth and final pod of townhomes in the development. They prefer the narrower right-of-way to be consistent with the other pods and private roads were included on the approved preliminary plat. He requested clarification regarding the parking requirement as they believed the proposal met the requirements. The HOA-maintained lift station will only service Phase 32 and will hopefully connect in the future to the Saratoga Springs system. They are willing to consider water-wise plants. The intention is to use the same reinforced vinyl fencing used in the other phases. The collector road reimbursement agreement includes the dedication of the land beyond their portion of Silverlake Parkway to the City for completion.

Discussion ensued regarding the responsibility of fencing repair.

Mr. Tatton stated that the City has requested elevation changes with each phase of the project and the proposed rear elevations include increased articulation added to Phase 28 due to the units facing private open space like the units in Phases 31 and 32.

Commissioner Wright opened the public hearing at 6:59 p.m. As there were no comments, Commissioner Wright closed the hearing.

Commissioner Everett stated that he has the same issues with this phase of townhomes as he had with other phases. He feels the design is non-compliant with Municipal Code due to the front-loaded garages and inadequate horizontal articulation. He thinks the SilverLake vinyl fence is substandard to the fencing in Evans Ranch and thinks the City Council made a mistake in

approving the vinyl fencing. He expressed concern with the proposed 43-foot right-of-way as it is not contemplated in code.

Commissioner Wright said that the fencing concern is a moot issue as it has been approved by the City Council. He thanked the applicant for addressing the confusion with the guest parking and encouraged the applicant to clarify the standards with staff and adhere to the requirement. He advocated for prohibiting private roads in the City as he believes they create unsafe and congested neighborhoods. However, he recognized that standards currently permit private roads. He expressed concern with the staff-proposed right-of-way due to safety concerns for child pedestrians and visual obstructions caused by street parking due to the elimination of the park strips. He concurred with the recommendation for water-wise landscaping in areas that are not useable play space and the request for increased design standards.

Commissioner Pengra noted that all the other units in the previous phases have private right-of-way roads. Although he concurs with the desire to eliminate private roads, he does not feel it is warranted in this case as it is permitted in code. Although vinyl is not his personal preference, he has no misgivings regarding the proposed fencing.

Commissioner Wells agreed with pedestrian safety concerns regarding the proposal to remove the park strips. She noted the master development agreement (MDA) includes the proposed front elevations; however, as the MDA excludes rear elevations, she feels the staff request for increased rear design standards is appropriate and reasonable.

Commissioner Bergener expressed concern with being consistent in approval requirements for different projects. He has no qualms regarding the elevations.

MOTION: *Commissioner Pengra moved to recommend approval to the City Council of the site plan for SilverLake 31 with the following conditions:*

- 1. Collector road fencing shall be consistent with the existing collector road fencing in SilverLake and shall be constructed along the rear and side lot lines of any unit that does or will abut Golden Eagle Road or SilverLake Parkway prior to issuance of a certificate of occupancy;*
- 2. One additional parking stall be required for SilverLake Phase 31 and/or five additional parking stalls shall be provided for SilverLake Phases 31 and 32;*
- 3. The amount of the water-wise landscaping shall be increased by replacing turf behind buildings in park strips and other areas that are not usable as play areas; and*
- 4. Rear and side elevations shall include similar materials as the front elevations.*

Commissioner Wells seconded the motion. Those voting aye: Jeremy Bergener, Christopher Pengra, and Erin Wells. Those voting nay: Matthew Everett and Brett Wright. The motion carried with a vote of 3:2.

Commissioner Wright dissented because he thinks the City should at least require a 43-foot right-of-way and disapproves of approving private roads.

Commissioner Everett voted against a recommendation of approval because he believes the elevations do not comply with EMMC 17.72.030(C) and feels the project has disproportionately included front-loaded units when the MDA proposed a mix of both rear and front-loaded products.

6.C. Development Code Amendment – Animal Zoning Regulations EMMC 6.10

Commissioner Wright recessed the meeting from 7:44 p.m. to 7:51 p.m.

Mr. Jensen presented the item. Staff was directed by members of the City Council to review EMMC 6.10 and to consider making changes to the maximum number of animals allowed by code. The Planning Commission held a work session on the proposed code amendment. On June 22, 2021, the Planning Commission and the City Council participated in a site visit to a property in the Cedar Pass Ranch neighborhood to review what the existing code allows in practice.

If approved this development code amendment would allow every residential lot in the City to have two horses per half acre with the maximum number of the horses being determined by the lot size and as a result, neighboring properties may be entitled to different numbers of horses. The proposed changes also remove references to the Airpark Zone. Residents would be able to apply for an alternate animal management plan if they desire an exemption to the standards in the chapter. Staff recommends for the Planning Commission to motion to recommend approval of the amendment.

Staff clarified that the item was not advertised as a public hearing because amendments for this chapter of Municipal Code do not include land use ordinances. As such, State statutes do not require a public hearing and the City generally does not hold a hearing. However, the Commission may elect to allow public comment on the item if they so desire. The Commission determined to entertain public comment on the item due to the level of public interest and the numbers of residents in attendance to make statements.

Commissioner Wright invited the public to speak at 8:02 p.m.

Commissioner Wright recognized that the City had received a letter from Mike Boyd and emails from the Cedar Pass HOA and an email and petition from Cedar Pass residents. *The written communications received prior to the meeting are attached to the minutes.*

Steven Francis said animals have destroyed the vegetation resulting in dust and that high water usage due to animals caused his well to go dry requiring him to purchase more water. He requested for the City to limit the number of animals permitted on the lots.

Jody Hooley said she understands the concerns with the number of animals but beseeched the City to do additional research before making a determination regarding the appropriate number of animals. She requested for the Commission to separate citizen complaints not directly related to the code amendment. She said the focus should be on from now forward.

Tiffany Ulmer advocated for the City to move miniature horses to a separate category from regular-sized horses due to the variance in the needs and requirements between the two types of horses. She requested to keep agricultural properties agricultural.

Mike Boyd said the nuisance factor from the animals can be intense. He understood the interpretation of Table 6.10.090 had been that residents are allowed a mix of the maximum number of large animals in each category and not a combination of the number of each animal type. The soil in City is not conducive to animal traffic. He said that code requires the area outside of the corral to be covered with vegetation as denuded areas cause dust. He advocated for increased enforcement of existing Municipal Code requirements rather than creating new standards. Horse trailer traffic, dust, and manure have changed the neighborhood and five acres plots are not large enough to serve as ranches.

John Hubbard said when he purchased his home prior to incorporation into the City, it was sold as a single-family residence with private equestrian rights for a personal hobby farm. The homes were sold without sewer requiring septic systems and water rights for 1.506 acre-feet per lot requiring a well which allowed a water supply for a quarter-acre of grass and water for two large animals per State requirements. The City has been collecting single-family resident property taxes from Cedar Pass Ranch and should the subdivision be declared Agricultural; those taxes should be refunded. In the past few years, people have moved to Cedar Pass Ranch with a different purpose than the existing residents. They are using the property to fund living there. His home is adjacent to several rodeo areas where livestock is boarded and bred and residents sell hay and offer equestrian lessons and riding. There are multiple stockyards without City business licenses. The business activities have increased truck and horse trailers impacting not only Cedar Pass Ranch but also surrounding neighbors with dust, restricted views, insects, odor, and traffic. Most of the properties do not have the water rights for the number of animals on their properties which means there is water theft. He is concerned with his well going dry or being contaminated by animal waste. He spoke against allowing a cumulative total of the animals on the chart and the proposal to add additional horses, noting that many residents are not following current standards. He advocated for clarifying that a total of 12 large animals is the maximum allowance as he believes it is in accordance with the intention for the neighborhood.

Brent Strong spoke regarding his experience and qualifications in raising and trading horses for over 40 years and participating in horse events around the country. They moved from Highland for more space for their horse business. He said they checked to make sure they met all the criteria prior to relocating. The care of animals has a greater impact than the number of animals and proper care mitigates nuisance issues due to dust, flies, and waste. He said he sent a letter to the City on April 26, 2021, detailing the equestrian services they provide for special needs and veterans and said he would resend it. He said that wells are placed deep enough to prevent contaminations and different horses meet different needs.

Charlie Andrews said he thinks that the dust is due to the area and the land rather than the horses. He said that the zoning for Cedar Pass Ranch needs to be determined. He desires to find a compromise.

Mark Lindsay said during his 24 years in the City he had strived to never be at odds with his neighbors. This is the first time that issues have polarized the area. The dust has increased due to his neighbors ten horses tearing up the dirt into a fine dust that cakes their cars and solar panels and they are no longer able to sleep with their windows open. He is concerned with the long-term health implications of constant dust inhalation.

Bettina Cameron emphasized that the nuisance complaints are not the standard flies and smells associated with horses. The complaints began only over the past two years. She believes strongly that the cumulative effect and code enforcement need to be addressed. She advocated for increasing the affordability and simplifying the process to obtain a conditional use permit while ensuring that proper animal management is in place to mitigate nuisance issues with clear and enforced penalties for noncompliance.

Commissioner Wright encouraged the residents to submit public comment to the City Council when they review the item regardless of the requirements for holding a public hearing.

Commissioner Pengra stated he does not think horse rights should be given to all lots over half an acre because the Equine Overlay's purpose is to apply the horse rights to areas with half-acre lots. The City not enforcing the current standards is problematic. He would not support the code as proposed because it needs additional work and research to determine and clarify the appropriate number of each type and the total animals allowed per acre.

Commissioner Bergener said the proposed amendment differs from the previous discussion by the Planning Commission as the Commission had supported retaining the current standards due to the option for residents to apply for a conditional use permit to obtain an exemption. He reiterated his concerns with the cumulative effect and the ambiguity of "a residential property may have a mix of the permitted animals." As he desires clear, unambiguous standards that are not overly prescriptive, he is not in favor of the current proposal.

Commissioner Wells said she is torn on the issue. She has livestock and would never interpret the code in a manner to try to fit the total number of mixed animal types in Table 6.10.090. She desires to protect animal rights for good stewards as many people purchase large lots for the associated uses. She agrees that the way the animals are cared for and their habitation is important. Enforcing non-substantive nuisance issues such as dust and flies is difficult for code enforcement. She agrees with enforcing current standards. Additional amendments to the proposed standards to consider animals sizes and miniature breeds and other issues should be considered.

Commissioner Everett said he thinks the Commission needs to be conscious that changes to the residential standards would impact the entire City not only unique areas like Cedar Pass Ranch. He noted the ambiguity in the zoning of Cedar Pass Ranch makes it difficult to know which zoning standards to apply to the area. He agrees with concerns in the difficulty of addressing every type of possible animal and the potential cumulative impact. However, animals not included in code could be addressed with an alternative management plan application. He suggested reviewing and potentially amending the conditional use permit process. He recommended removing the Air Park zone language from the chapter and retaining the existing code, with the appropriate adjustments

to numbering, and passing the item to the City Council as the amendment is at Councilmembers' request.

Commissioner Wright said that his opinion has not changed since the previous discussion. He has been on both sides of the issue. He desires not to restrict animal rights while allowing a reasonable number of animals. The current code has served the City well for many years. He is not in favor of allowing two horses per half-acre as it is unfair to other animal uses and is problematic. As these standards focus on City-wide residentially zoned properties, he is in favor of prohibiting horses on land under one acre.

Mr. Mumford said he is unaware of any issues in the City due to the cumulative number and mix of animal types other than one complaint about the wildlife rescue on Lake Mountain Road years ago.

Commissioner Wright said that while he recognizes the potential for the cumulative number of animals to become problematic, it is not an issue currently experienced in the residential areas in the City. He recommended retaining the existing number of animals allowed on Table 6.10.090 and highlighting the option of a conditional use permit for an alternative management plan including animals not contemplated in the code. EMMC 6.10.60 referencing the Air Park zone should be removed. He in no way wishes to minimize the issues of nuisances and thinks code enforcement should be more active and advocated for instruction and educating code enforcement to review those circumstances where issues arise. He noted one of the lots with dust issues has eight horses which is below the number contemplated in code. As such, he believes there are other issues that need to be identified and addressed to impose nuisance controls.

Commissioner Pengra said that the residents in attendance at the meeting have likely been negatively impacted by their neighbors' animals or are afraid their animal rights to do what they love is going to be taken away. He said the City will try to determine a solution; however, the truth is that the City's elected and appointed officials are not uniquely qualified to make these decisions. He strongly encouraged those causing issues to talk to their neighbors to try to determine reasonable solutions.

Commissioner Wright suggested adding verbiage to the conditional use permit chapter clarifying the alternative animal management plan application process.

Mr. Mumford clarified that an alternative animal management plan has a \$25 application fee. The application requires a site plan and pictures of the home, yard, and area where the animals will be kept, a letter from the applicant explain the reason for the request, and public noticing to neighbors within 300 feet or a minimum of 25 people with a fee of \$1 per notice, resulting in a total cost of \$50.

MOTION: *Commissioner Pengra moved to table an amendment to Eagle Mountain Municipal Code Chapter 6.10 Animal Zoning Regulations to a meeting in approximately 30 days to allow neighbors time to talk and to give staff time to research amending the entire section. Commissioner Bergener seconded the motion. Those voting aye: Jeremy Bergener and Christopher Pengra. Those*

voting nay: Matthew Everett, Erin Wells, and Brett Wright. The motion failed with a vote of 2:3.

Commissioner Wells suggested recommending the changes in the amendment to the City Council removing the changes to Table 6.10.90 unless the Commission desired to fully rewrite the residential animal standards.

Commissioner Pengra said he is uncomfortable making a recommendation to the City Council as he feels the Commission has not fulfilled their duties and due diligence to recommend what the standards should be. He feels moving the amendment forward would be passing their responsibility to the City Council. He desires to further clarify the verbiage and to make allowances for additional animals not contemplated in the standards based upon the animal size. He advocated against passing Municipal Code amendments that do nothing to solve the existing problems.

Commissioner Wright stated he feels they are being compelled to deal with issues that should not involve the Planning Commission or the City Council to this degree. He feels the City bears some responsibility due to unclear zoning districts and the associated entitled uses. He feels the animal nuisance issues cannot be solved until those issues are resolved.

Discussion ensued regarding the process and responsibility for resolving areas with ambiguous zoning.

MOTION: ***Commissioner Everett moved to recommend approval to the City Council of an amendment to Eagle Mountain Municipal Code Chapter 6.10 Animal Zoning Regulations removing Section 6.10.060 General animal regulations for the airport zone and adjusting the subsequent numbering accordingly, adding the language as presented by staff, and excluding the changes to Table 6.10.080 (after the number adjustments) retaining the maximum number of horse/mule of 0 on one-half to one-acre lots, 4 on one to three-acre lots, and 12 on more than three acres. Commissioner Wells seconded the motion. Those voting aye: Matthew Everett, Erin Wells, and Brett Wright. Those voting nay: Jeremy Bergener and Christopher Pengra. The motion carried with a vote of 3:2.***

Commissioner Pengra said although he does not disagree with the motion, he feels the Planning Commission could have put forth more effort to improve the standards.

Commissioner Bergener dissented due to the amendment not resolving the language issues and cumulative impact concerns.

6.D. MDP, Rezone, GP Amendment – Ault Farms

Mr. Mumford presented the item. The City Council reviewed and remanded the updated project on July 6, 2021, for the Planning Commission's input. The Council has requested to review the project at their next meeting on July 20, 2021. The subject parcel consisting of 752 acres is located on the east side of Pony Express Parkway at approximately 3000 north. The area is currently zoned

Agriculture and is identified in the Future Land Use Map as Foothill Residential, Neighborhood Residential One, Parks and Open Space, and Business Park/Light Industry. Input from previous concept plan reviews at the Planning Commission and City Council in 2019 and 2020 include a focus on General Plan compliance with zone requests that exist within current Municipal Code. An updated master development plan (MDP) has been submitted with reduced proposed densities and includes a mix of residential zones. The plan also includes a rezone, that excludes the southern 214 acres, and a General Plan amendment.

The rezone request contains a mix of FR, R1, R2, R3, RC, MF1, and CN zones as well as open space and a future business park area. The proposed application includes a General Plan amendment, a rezone, and a master development plan.

The master development application was received during the public hearing process of the code amendment to EMMC 16.10. Based upon the filing date, the application should be subject to the new Municipal Code standards. The applicant has submitted a waiver request from the requirements of EMMC 16.10 as allowed by EMMC 16.10.050. The applicant is seeking a waiver from the code requirement allowing a maximum land area of 200 acres for a master development plan. The request states the applicant would like to move forward with the over 550-acre residential component of the development. The applicant notes that comprehensive planning and cohesive design, timing, and amenity offering should be considered with the waiver request.

The application included an exhibit with four separated areas for potential master plan divisions with an Area A of approximately 131 acres, an Area B of approximately 243 acres, an Area C of approximately 162 acres, and an Area D of approximately 214 acres. The phasing map identifies the annual anticipated phase construction beginning in 2022 and ending in 2028.

To approve a waiver the City Council must find one of the following to be true

- The project's concept plan review, pursuant to EMMC 16.15, received feedback from the Planning Commission and/or City Council in regards to reduced master development application requirements.
- The project will not require modification or additions to existing conditions such as zoning designations, land use designations, and roadways.
- The project involves limited developments requirements for infrastructure.
- The strict application of this chapter would result in peculiar or exceptional difficulties, exceptional and undue hardship, or the buildable area of the property is significantly reduced by topography or preexisting easement restrictions.

The road network proposal includes three accesses onto Pony Express Parkway, Tiffany Lane as a minor arterial, and north and south collectors. The applicant is proposing changes to the Master Transportation Plan by adding a south collector, reducing Tiffany Lane to a minor arterial, and reducing Airport Road to a minor arterial. The requested changes are consistent with unapproved draft updates to the Master Transportation Plan. The parks and open space plan includes two square parks, linear parks, trails systems, and opens space within the power corridor. No current designations for potential public facilities such as churches or schools are included in the plan. Any rezone to commercial or residential zoning would allow these uses as either permitted or special uses. The southern approximately 214 acres identified as Tech Campus/Light Industry is

not being requested at this time and will be handled with a future master development plan. The applicant has provided a master plan tabulations document that includes land use by area.

The CN zone is proposed to the north and south of Tiffany Lane along Pony Express Parkway. The multifamily areas were reduced to two areas around Tiffany Lane. All other multifamily housing has been replaced by RC and R3. Per transition code standards, R3 is not appropriate adjacent to MF1. In general, the zoning exhibit does not meet the zoning transitions required in EMMC 17.60.160.

An additional affordable housing element could be considered for near the commercial properties. The northwest corner should be modified to utilize the road along the north property line in the Eagle Village project. The R3 areas adjacent to the MF1 could be modified to be compatible with EMMC 17.60.160 zone transitions. The southern 214 acres should be submitted separately in the future for a master development plan and/or rezone. A possible ten-acre elementary school site should be included in the plan, to be reviewed by Alpine School District prior to the approval of the master development agreement. The parks plan shall be submitted including potential park improvements and example linear park improvements to be approved as an exhibit to the master development agreement. Approval is contingent upon a master development agreement being approved.

The Planning Commission has the option to recommend approval including any necessary changes or conditions of approval, to require the proposal to be split into smaller master development plans/agreements and recommend approval or one or more of the plans, or to recommend denial of the proposal with clear findings of facts and direction to the applicant.

Mr. Mumford verified that the City Council had requested to review the item during their next meeting and respectfully requested for the Planning Commission to not table the item.

Applicant representative Pete Evans noted their significant changes to the plan in the hope to have exceeded the requests of the Planning Commission during their previous review to reduce the multifamily and increased the R1 component. He said although transition standards call for multifamily uses along transportation corridors, they received feedback concerned with the amount of those products in the development and the patio home and condominium products. He said the patio home product has been removed from the plan and Municipal Code. The R2 units were reduced by 978 units and the R1 units were increased by 580. They have been working with the Church of Jesus Christ of Latter-day Saints and Alpine School District (ASD) regarding potential church and school sites but no specific locations have been identified.

Commissioner Everette expressed concern with the note "phasing may change at the discretion of the developer," included on the phasing map due to the developer's nonsequential build-out of the SilverLake area and the resulting construction impact to developed homes.

Mr. Evans said that the likelihood of the smaller lots selling faster than the larger lots and infrastructure considerations may impact the feasibility of constructing phases in sequential order and requested some flexibility in development timing.

Commissioner Pengra said that one of the reasons for the limits on the size of master development agreements is due to the potential for the current developer to sell portions of the development and disputes with new developers adhering to the terms of the original agreement.

Mr. Evans said that the linear parks offer a 100-foot-wide active transportation corridor to create a lifestyle-based community that provides active access to the commercial areas and amenities. He said linear parks are sought after and highly utilized in master-planned communities. Options to reduce the size of Area B to make it under the 200-acre MDP limit would be to add either the foothill areas in phase B8 or phase B1 on the west side of the project to Area A due to the infrastructure build-out schedule. He reiterated their preference would be to be granted the requested waiver to include all four areas in a single MDP.

Commissioner Wright cited an MDP criteria for approval found in EMMC 16.10.070(D)(2), "Public Facilities. Does the proposed development include land designated for public uses, including churches, schools, community centers, etc.?" He asked regarding the number of public facilities contemplated for the development.

Mr. Evan stated development will likely require one elementary school and four church sites of four to five acres each. Mr. Tatton said proposed public facilities locations probably will be included on the preliminary plat.

Commissioner Wright recommended against vesting the proposed density counts due to future public facilities' impact on reducing the currently proposed acreage.

Mr. Evans expressed his willingness to reduce the unit count rather than transfer the density for units lost due to acreage reduction from selling land for institutional uses and is unsure if the plan will include any private roads.

Commissioner Wright verified that the applicant understood that regardless of the unit counts in the tabulations, the applicant would be required to meet the frontage and setback requirements and could not use the unit counts in the tabulation to transfer density lost due to public facilities to develop a denser product than the ones appropriate for the approved zoning designations. He advocated for a proportional reduction in product type due to reduced acreage rather than a high reduction of the larger product due to concern that of the impact of future public facilities potentially being located in the less dense areas.

Commissioner Wright invited the public to speak at 9:51 p.m.

Bettina Cameron said she thinks that it is important to think of open space play area for families in neighborhoods with higher density. She advocated against the pockets of open space in the foothills area and the waiver to allow a single MDP for the full plan. She thinks the plan is still too dense for the General Plan designation for this area of the City and would prefer additional larger lots.

Commissioner Pengra said he is in support of the request for a waiver.

Commissioner Everett respectfully disagreed with approving the waiver request because smaller MDPs help mitigate concerns if part of the development is sold to another developer. Also, he feels the six-year construction timeline is overly ambitious due to the size of the development in relation to the time other, smaller developments have taken to fully build-out. Requiring smaller plans protects the City in the event of an economic downturn or other unforeseen events delaying construction. He prefers implementing either of the applicant's suggestions to reduce the MDP Area B to be closer to the 200-acre maximum.

Commissioner Pengra was excused from the meeting at 10:01 p.m.

Commissioner Wells stated she saw benefits and issues with either approving or declining the waiver request and did not have a strong object to either course of action.

Commissioner Bergener said although he was not strongly opposed to the waiver request, he saw some wisdom in the protections afforded the City in requiring smaller MDPs.

Commissioner Wright expressed his preference to divide the plan into smaller MDPs for the protections it creates.

Commissioner Wells concurred with the staff recommendations to adjust the plan to meet the transition requirements, although she noted the difficulty with transitioning from the MF1 product in the adjacent development to the FR lots due to the number of transition requirements. Although smaller units tend to cost less and might be more affordable, small units do not necessarily qualify as affordable housing, especially in today's housing market. She appreciates the applicant reducing the density due to feedback; however, she feels that multifamily housing would be a more appropriate buffer next to the commercial uses.

Commissioner Wright suggested for the applicant to develop quarter-acre lots, permitted in the FR zone, adjacent to the MF1 with larger lots to the south to meet the half-acre average lots size requirement.

Commissioner Bergener said he appreciates the efforts of the applicant to address feedback by reducing unit count.

Commissioner Wright said requiring the development to be divided into smaller MDPs would reduce concerns regarding nonsequential phasing development of the project. He noted the unit counts in the plan have changed from 136 to 49 R1 units, from 141 to 256 R2 units, from 549 to 604 R3 units, and from 252 to 235 MF1 townhomes. The FR product has remained about the same at 55 units. The 707 MF1 single-family units and the 380 MF2 units have been removed and have mostly been converted to the 509 RC units. His only concern with the numbers is the reduction in the R1 units. He requested for the applicant to consider added more R1 lots along the eastern boundary line. Although he agrees with the need for affordable housing as the definition is not included in Municipal Code standards, he prefers to have a better understanding of the product type contemplated prior to making a recommendation for inclusion of the product to the City Council. He requested to review the affordable housing elements with the project rather than as a

secondary application. He noted the likelihood of resident concerns regarding roads being too small rather than too large.

Commissioner Pengra returned to the meeting at 10:13 p.m.

Commissioner Wells noted the increased cost of maintenance for larger roads. She clarified that the Neighborhood Residential One land use designation allows for R1, R2, and R3 product; those product types combined with the FR units equals approximately 57% of the proposed units meeting the General Plan land use designation. In consideration of transitioning requirements, including for the commercial areas, she mostly supports the proposal, although she feels it could benefit from a few adjustments.

MOTION: *Commissioner Everett moved to recommend approval to the City Council of the General Plan amendment for Ault Farms as presented on the land use map exhibit including the amendment to the Transportation Master Plan. Commissioner Wright seconded the motion. Those voting aye: Jeremy Bergener, Matthew Everett, Christopher Pengra, and Brett Wright. Those voting nay: Erin Wells. The motion carried with a vote of 4:1.*

Mr. Mumford stated that he will review any changes to the proposed Transportation Master Plan that impact this item with the City Council during the discussion of the item during the following City Council meeting.

Commissioner Wells voted against recommending approval as she feels the plan needs additional work. She expressed frustration in being in a position where the City Council has requested the item at the following meeting essentially removing the option for the Planning Commission to table the item with direction to the applicant for further amendments.

Commissioner Wright stated that the option to table was still available to the Commission regardless of the City Council's request.

MOTION: *Commissioner Everett moved to recommend approval to the City Council of the master development plan and rezone for Ault Farms with the following conditions:*

- 1. The development shall be divided into four master development plan areas and Area A shall be increased in size to incorporate a portion of Area B, at the discretion of the applicant, to bring Area A within the 200-acre size limitation;*
- 2. The row of R2 units directly west of the FR zone in phases A4 and B6 shall be zoned as R1; and*
- 3. The remaining zoning shall remain as presented in the zoning map exhibit.*

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

Commissioner Wells explained she voted against the item due to her belief that additional changes were merited prior to recommending the development to City Council.

7. Discussion Items

None.

8. Next scheduled meeting

The next Planning Commission meeting is scheduled for July 27, 2021.

9. Adjournment

MOTION: *Commissioner Everett moved to adjourn the meeting at 10:29 p.m. 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.*

The meeting was adjourned at 10:29 p.m.

Approved by the Planning Commission on July 27, 2021.



Steve Mumford, AICP
Assistant City Administrator/Community Development Director