



EAGLE MOUNTAIN PLANNING COMMISSION MEETING MINUTES

June 13, 2023, 5:30 p.m.
Eagle Mountain City Council Chambers
1650 East Stagecoach Run, Eagle Mountain, Utah 84005

COMMISSION MEMBERS PRESENT: Commissioners Jason Allen, Jeremy Bergener, Matthew Everett, Christopher Pengra, and Brent Strong. Alternate Commissioner Robert Fox was excused.

CITY STAFF PRESENT: Steve Mumford, Deputy City Administrator/Community Development Director; Marcus Draper, City Attorney; Todd Black, Wildlife Biologist/Environmental Planner; Robert Hobbs, Planning Manager; David Stroud, Senior Planner; Steven Lehmitz, Planner; and Jed Shum, Planner.

CITY STAFF PRESENT ELECTRONICALLY: Elizabeth Fewkes, Recording Secretary.

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

Commissioner Everett called the meeting to order at 5:36 p.m.

1. Discussion Items

1.A. SUNSET FLATS E CONVERSION

Planning Manager Robert Hobbs introduced the applicant representative.

Applicant representative Norm Avery with Ridgpoint Management Group reviewed the packet materials of their proposal for a Citadel mini storage complex located in Phase E of the Sunset Flats Master Plan. The City requested to extend Aviator Road through their project to connect with Old Airport Road which would require the removal or reduction in size of 5 to 8 residential lots in Phase C of the development. When researching a solution, they found that Eagle Mountain has the lowest number of storage units per capita in the State of Utah. This proposal financially offsets the loss of the lots to provide the road connection by replacing some of the half-acre lots in Phase E with a storage facility. The storage units will be placed along Old Airport Road. Old Airport Road and the utility corridor would serve as a buffer and transition between the power substation and storage facility and the homes. This plan would mitigate the financial impact on the developer and the City as they would not seek compensation from the City for the road improvements. The proposed color scheme and materials for the building would blend in with the community and be aesthetically pleasing.

Discussion explored:

- The lot sizes and the lack of an average lot size requirement in the current agreement;
- The General Plan Future Land Use Map designations for this area, Agricultural/Rural Density Two, and the remainder of the project to the west, Neighborhood Residential One; and

- The possibility of including a clause in a development agreement for the zoning to revert to residential or to restrict commercial uses should the storage facility be permitted but later cease operation.

Commissioner Pengra said that although he appreciates the quality of the appearance of the storage units, he is unsure if this is the appropriate area for them given the intended land use for the benches area despite the power substation being in the vicinity.

Commissioner Everett concurred with Commissioner Pengra, especially where the storage facility would remove or reduce several large lots from the overall project.

Commissioner Allen stated that he approves of the appearance of the units and does not object to having the storage facility near the power corridor. However, the open space between the homes and the units could attract undesirable behaviors and garbage, especially if an enclosed corridor were created by fencing along the residential lots. He encouraged the applicant to be diligent in maintaining those areas.

Mr. Avery explained that the open space buffer was only included because it is required by Municipal Code standards and he is willing to consider other options if permitted.

Commissioner Strong expressed concern with the plan meeting transitioning standards. While he agrees that the storage units look attractive and there is a need for more storage options in the City, residents with half-acre and acre lots generally have sufficient area to store their belongings. A storage facility located near multifamily development would cause him less concern and would better serve the community.

Commissioner Bergener noted that approval of the proposal would require a master development plan amendment, General Plan Future Land Use Map amendment, rezone, and conditional use permit and advised the applicant to have a well thought out explanations and justifications for the changes. The plan could also encounter difficulties with meeting the requirements for transitioning from residential to commercial uses.

Discussion ensued regarding the approvals required for the project and the unlikelihood of the proposal receiving a favorable recommendation from the majority of the Planning Commission.

1.B. DISCUSSION ITEM(S) – CODE AMENDMENT(S)

Planning Manager Robert Hobbs presented proposed changes to Eagle Mountain Municipal Code 17.10.030, 16.50.020, and 16.55.040(E) in response to recent legislative changes in HB 406.

Discussion clarified the State requirements, definitions, and potential applications of lot line adjustments and the benefits of amending Municipal Code to reflect Utah Code even though State statutes automatically govern in cases of conflict.

Commissioner Pengra expressed concerns with 16.55.040(E), “Exception(s): Subdivision amendment approval shall not be required for a lot line adjustment between a single lot and an

adjoining lot or parcel – even if it alters the outside boundary of the subdivision between [the] two properties,” as he is unsure if it was the intent of the State requirements and it would alter the boundaries of recorded plats for the subdivisions without subdivision amendments.

In response to Commissioner Pengra’s concerns, City Attorney Marcus Draper cited, Utah Code 10-9a-103(67)(b), “‘Subdivision amendment’ does not include a lot line adjustment, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.”

Commissioner Everett adjourned the work session at 6:43 p.m.

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

Commissioner Everett called the policy session to order at 6:44 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

4.A. May 23, 2023 Planning Commission Minutes

MOTION: *Commissioner Pengra moved to approve the May 23, 2023 minutes. Commissioner Everett seconded the motion.*

<i>Those Voting Yes</i>	<i>Those Voting No</i>	<i>Those Abstaining</i>	<i>Those Absent</i>
☒ <i>Jason Allen</i>	☐ <i>Jason Allen</i>	☐ <i>Jason Allen</i>	☐ <i>Jason Allen</i>
☒ <i>Jeremy Bergener</i>	☐ <i>Jeremy Bergener</i>	☐ <i>Jeremy Bergener</i>	☐ <i>Jeremy Bergener</i>
☒ <i>Matthew Everett</i>	☐ <i>Matthew Everett</i>	☐ <i>Matthew Everett</i>	☐ <i>Matthew Everett</i>
☒ <i>Chris Pengra</i>	☐ <i>Chris Pengra</i>	☐ <i>Chris Pengra</i>	☐ <i>Chris Pengra</i>
☒ <i>Brent Strong</i>	☐ <i>Brent Strong</i>	☐ <i>Brent Strong</i>	☐ <i>Brent Strong</i>

The motion passed with a unanimous vote.

5. Status Report

Staff reviewed the planning items discussed and voted upon during the June 6, 2023 City Council meeting.

6. Action and Advisory Items

6.A. ACTION ITEM – ORDINANCE/PUBLIC HEARING: AN ORDINANCE APPROVING AN AMENDMENT TO THE CITY'S GENERAL PLAN FUTURE LAND USE MAP AND REZONING OF CERTAIN LANDS KNOWN AS THE EAGLE MOUNTAIN BENCHES

Planning Manager Robert Hobbs presented and reviewed the history of the item. On April 25, 2023, the Planning Commission voted to recommend denial to the City Council on an amended request for a General Plan Future Land Use Map amendment and associated rezone for the eastern portion of their property. However, following input during their May 16, 2023 hearing on the matter, the City Council voted to remand the item to the Planning Commission to consider all the applicants' land equaling about 107.68 acres, including the property to the west that already has an approval for one-acre lot sizes, for a recommendation with a minimum average lot size of between 1.1 to 1.9 acres. Staff suggests the following conditions of approval:

1. As the new addition to the applicants' original application already has a vestiture of 1-acre minimum-sized building lots and the "Residential" Zone is no longer a codified district, Staff recommends that the RD1 Zone be applied to parcels 59:006:0054 and 59:006:0042 as well as a previously not considered portion of parcels 59:006:0046 and 59:006:0055 that lie west of the powerline corridor and to parcels 59:006:0046, 59:006:0047 and formerly considered portions of parcels 59:006:0046 and 59:006:0055.
2. Of primary concern to the City Council is a minimum required building lot average for future build-out of the applicants' overall property. The applicants would prefer the number to be as close to 1.0 as possible. A lot size average of between 1.5 and 1.75 were considered by Council during their May 16th meeting. Council seeks the Planning Commission's recommendation respecting this issue.
3. Staff recommends that the requested waiver of a Conceptual Master Development Plan (MDP) be granted given the nature of this application.
4. Staff withholds any opinion regarding the Lake Mountain land dedication proposal voiced in writing by their representative as the road may be one that would be acquired by forced dedication and improvement anyway in the future at such point in time as the applicants' land is proposed for platting, development, and build-out.

Mr. Hobbs stated that Rocky Mountain Power informed him that they allow structures within the utility corridor that are under 12 feet in height. The applicants have been in communication with City staff regarding plans for a trail through the utility corridor. The property is impacted by a 320-foot-wide powerline corridor easement, additional powerlines to the east, and the Kerns gas lines partially located outside of the originally contemplated utility easement. He believes that the applicants desire to connect the project to the sewer system rather than installing septic tanks.

Applicant Karen Scott spoke about her history with the City and their family's personal struggles that impacted their need to sell the property. The companies they have spoken with are only interested in developing one-acre or smaller parcels.

Applicant representative Dan Landon spoke in support of the Scotts' request and the recommendations presented in the staff report.

Commissioner Everett opened the public hearing at 7:17 p.m.

Commissioner Everett noted that the Planning Commission received emails from Nate Brusik and Nathan Polatis in favor of the item.

Greg Jepson advocated for the land to be developed with five-acre lots in a way that preserves the plant life and wildlife habitat in the area and is in harmony with existing homes. He expressed concern about allowing septic tanks that could endanger the City's water supply.

Commissioner Everett closed the public hearing at 7:24 p.m.

Discussion considered the zoning of adjacent properties, the intent of the City Councils' remanding the item to the Planning Commission, and the restrictions applied to other developments impacted by the powerline corridor easement.

Deputy City Administrator/Community Development Director Steve Mumford stated that the current approval for a one-acre lot minimum on the property west of the powerline corridor combined with the 2.5-acre lot minimum on the property east of the powerline corridor would result in an average lot size for the entire project of approximately 1.76 acres.

Commissioner Everett stated that he has a major concern with the way the application was sent back to the Planning Commission. The responsibility of the Planning Commission is to apply Municipal Code as currently written. At present, the standards lack a zone with an average lot size of 1.1 to 1.9 acres. The zones for lots of one acre or larger exclude an average lot size and those with minimum lot sizes under an acre have average lot sizes of $\frac{3}{4}$ -acres or lower. He is adamantly opposed to writing code during a meeting at anyone's request whether it be an applicant, the City Council, or staff. He is unable to find Municipal Code standards that meet the objective of recommending an average lot size of 1.1 to 1.9 acres. The closest applicable zoning would be the RD1 Zone with a minimum lot size of 1 acre and no average lot size or the RD2 Zone with a minimum lot size of $\frac{1}{2}$ acre and an average lot size of $\frac{3}{4}$ acre.

Mr. Hobbs noted that EMMC 17.90.070, "In order to ensure that future development is compatible with surrounding neighborhoods, and to provide notice to property owners of limitations and requirements for development of property, conditions may be attached to any rezone application approval which restrict or specifically designate the land uses, dwelling unit density, building square footage, lot sizes, or height of structures. The approved conditions will be on record at the city recorder's office. Any deletion of or change to a zoning condition shall be considered a rezone application and shall be subject to the requirements of this chapter," allows some flexibility with approvals.

Mr. Draper explained that where EMMC 17.90.070 does not specify minimum lot sizes, it could be interpreted to allow setting a lot size averages or median.

Commissioner Everett said he is uncomfortable sending a recommendation with a lot size average and would be more comfortable recommending an existing zone. He agrees with concerns regarding septic tank usage and advocated for remaining consistent with the approved General Plan future land use designations. He recommended the RD1 Zone with a restriction that the

powerline corridor easement not be included in any lot parcels to maintain the integrity and usability of the full lot.

Mr. Draper explained that septic systems are generally prohibited and only the City Council or the Chief Building Official can allow them. Nevertheless, the Planning Commission can include their recommendation on whether the approval bodies should allow septic tanks.

Commissioner Bergener said the way the item has come back to the Commission has caused him confusion and he is unsure if they should recommend the RD1 Zone with a lot size average of around 1.76 acres or if they should again recommend denial.

Commissioner Pengra said that while he acknowledges and has compassion for the challenges faced by and impacts of the land use decision on the applicants, the situation has not changed since the previous approvals by the City for the property and he feels that zoning is appropriate. The Planning Commission is tasked with making recommendations based on existent standards in Municipal Code.

Commissioner Allen agreed that nothing has really changed with the application but he would be willing to consider RD1 for the entire parcel and a lot size average around 1.76 acres.

MOTION: *Commissioner Everett moved to recommend approval to the City Council of a rezone of certain lands known as the Eagle Mountain Benches to the RD1 Zone with the following conditions:*

- 1. No property that is within the utility easement shall be included in a residential lot;*
 - 2. No septic tanks shall be permitted on any property within the Eagle Mountain Benches; and*
 - 3. A waiver of the conceptual master development plan shall be granted.*
- Commissioner Bergener seconded the motion.*

Commissioner Everett withdrew the motion to address the General Plan Future Land Use Map amendment prior to the rezone.

MOTION: *Commissioner Everett moved to recommend approval to the City Council of the City's General Plan Future Land Use Map amendment for certain lands known as the Eagle Mountain Benches to Agricultural/Rural Density Two. Commissioner Bergener seconded the motion.*

<i>Those Voting Yes</i>	<i>Those Voting No</i>	<i>Those Abstaining</i>	<i>Those Absent</i>
☒ <i>Jason Allen</i>	☐ <i>Jason Allen</i>	☐ <i>Jason Allen</i>	☐ <i>Jason Allen</i>
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☐ <i>Brent Strong</i>	☒ <i>Brent Strong</i>	☐ <i>Brent Strong</i>	☐ <i>Brent Strong</i>

The motion passed with a vote of 3:2.

MOTION: *Commissioner Everett moved to recommend approval to the City Council of a rezone of certain lands known as the Eagle Mountain Benches to the RD1 Zone with the following conditions:*

- 1. No property that is within the utility easement shall be included in a residential lot;*
 - 2. No septic tanks shall be permitted on any property within the Eagle Mountain Benches; and*
 - 3. A waiver of the conceptual master development plan shall be granted.*
- Commissioner Bergener seconded the motion.*

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☐ <i>Brent Strong</i>	☒ <i>Brent Strong</i>	☐ <i>Brent Strong</i>	☐ <i>Brent Strong</i>

The motion passed with a vote of 3:2.

6.B. ACTION ITEM – PUBLIC HEARING: AMENDING VARIOUS SECTIONS OF TITLE 16, SUBDIVISIONS

Senior Planner David Stroud and Mr. Hobbs reviewed proposed amendments to Eagle Mountain Municipal Code Title 16. Recent State Code changes, including SB 174, require cities to amend their code, if applicable, to remove preliminary plat approval from the review by the City Council. This recent State Code change is only applicable to single-family, two-family, and townhome subdivision plats. Staff is proposing, due to the administrative nature of plats, that all preliminary plats be approved by the Planning Commission. Staff will continue to approve final plats. The changes mandated by State Code have an implementation date of February 1, 2024. The current public hearing held by the Planning Commission is also proposed to be eliminated. If a preliminary plat meets the platting and zoning standards, it must be approved by the City. State code states, "If a preliminary subdivision application complies with the applicable municipal ordinances and the requirements of this section, [10.9a.604.1] the administrative land use authority shall approve the preliminary subdivision application." State Code does not require a public hearing regarding preliminary plat approval.

Staff confirmed that the proposed amendments incorporate legislative changes in SB 174 and HB 406.

Commissioner Pengra stated that where the City is implementing State changes, he is comfortable recommending approval based on staff's proposal.

Commissioner Strong expressed concern about amending the public noticing distance from 600 to 300 feet in EMMC 16.55.040(B)(1) because of the existence of larger lots in the City and inquired regarding the reason for the change.

Staff explained that the recommendation for public notification of property owners within 300 feet of the subject property was not a part of the State changes but is based on practices in other cities, the availability of other forms of communication such as social media, and the impact on staff time that is needed for other projects. Increasing the minimum number of residents contacted from 25 to 30 would help to ensure the impacted residents living in areas with larger lots are contacted.

Mr. Stroud clarified that the appeal panel would consist of one individual chosen by the City, one individual chosen by the applicant, and one individual agreed upon by both parties.

Commissioner Everett opened the public hearing at 8:22 p.m. As there were no comments, he closed the hearing.

Discussion ensued regarding the requirement for the staff report draft to be transmitted to the developer and the Planning Commission not less than four working days before the scheduled meeting and whether the City's practice of providing the packet materials on Friday was in compliance and what timeframe is appropriate and sufficient for public and Commission review.

Mr. Draper explained that "is in the public interest" is being stricken from EMMC 16.20.050(E) because it is an unlawful requirement as State law grants the developers the right to approval if the application meets Municipal Code requirements.

Mr. Stroud confirmed that waterproof tracing cloth is being removed from EMMC 16.25.040(A)(1) because it is no longer used.

Commissioner Everett suggested adding Comcast to 16.25.040(A)(1)(P) or amending the verbiage to reflect the type of utility rather than the specific name of the utility company and adding "or designee" as an approval authority in 16.45.050.

Mr. Draper concurred with the wisdom in using less specific language so that the standards will not require amendments in the cases of utility company name or contract changes.

MOTION: *Commissioner Everett moved to recommend approval to the City Council of an amendment to Eagle Mountain Municipal Code Title 16 Subdivisions with the following changes:*

- 1. Amend 16.25.040(A)(1)(P) to "Signature blocks for approval by the city council, city engineer, city attorney, applicable gas utility provider, electric utility provider, applicable telecommunications utility provider, and applicable cable television provider;*
- 2. Staff shall correct any minor formatting issues;*
- 3. "Or designee" shall be added to instances in Chapter 16.45 Lot Splits that list the Planning Director.*

Commissioner Pengra seconded the motion.

Commissioner Pengra suggested the addition of “and other utility providers as agreed upon or as required by State law,” to 16.25.040(A)(1)(P) and advocated for excluding the applicable cable television provider because they are not required by State law.

AMENDED MOTION: *Commissioner Everett moved to recommend approval to the City Council of an amendment to Eagle Mountain Municipal Code Title 16 Subdivisions with the following changes:*

- 1. Amend 16.25.040(A)(1)(P) to “Signature blocks for approval by the city council, city engineer, city attorney, applicable gas utility provider, electricity utility provider, applicable internet utility provider, and any other private utilities providers as required by State Law or as agreed upon by the City;*
- 2. Staff shall correct any minor formatting issues; and*
- 3. “Or designee” shall be added to instances in Chapter 16.45 Lot Splits that list the Planning Director.*

Commissioner Pengra seconded the motion.

<i>Those Voting Yes</i>	<i>Those Voting No</i>	<i>Those Abstaining</i>	<i>Those Absent</i>
☒ <i>Jason Allen</i>	☐ <i>Jason Allen</i>	☐ <i>Jason Allen</i>	☐ <i>Jason Allen</i>
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☒ <i>Brent Strong</i>	☐ <i>Brent Strong</i>	☐ <i>Brent Strong</i>	☐ <i>Brent Strong</i>

The motion passed with a unanimous vote.

7. Discussion Items of Draft Code Amendments Continued (as needed)

7.A. WORK SESSION ITEMS CONTINUED – CODE AMENDMENT(S)

Mr. Hobbs presented and explained the staff-recommended changes to Eagle Mountain Municipal Code fencing and screening requirements in 17.10.030 – Definitions – Fence and Privacy Screen, Residential, 17.60.110 – Required Buffering Widths and Improvements, 17.60.120 General Fencing Provisions, and 17.60.130 Chain Link Fencing in response to residents complaints regarding the location of chicken enclosures and fencing, to be proactive in preventing concerns with screening heights and fencing materials, and to provide more specific definitions of items.

Commissioner Everett recognized resident Erin Wells and allowed her to comment on the item. She suggested allowing composite panel, metal wire, steel cable, gabion, wood and wire, or wrought iron fencing; allowing wire for animal enclosures; and permitting animals to be seen from the road in certain areas of the City.

Commissioner Pengra noted that the definition of dwelling container references modular home; however, the standards include a definition for a modular building but not a modular home.

Discussion ensued regarding the setback distances for animal enclosures.

Mr. Stroud presented suggested amendments to golf course fencing and netting standards in response to safety concerns and damage to solar panels of adjacent residences caused by golf balls despite existing fencing and netting. The Commission could also require property owners to have insurance policies to cover damage caused by structures intended to protect their property from golf balls if desired.

Discussion considered the benefits and challenges of requiring insurance and determined to exclude an insurance requirement.

Planner Steven Lehmitz presented an update to EMMC 17.70.030(D) in response to SB 174 to clarify that an internal connection to the primary dwelling unit is not required for accessory dwelling units. The City has not previously required a connection.

8. Next Scheduled Meeting

The Planning Commission has been invited by the Eagle Mountain Nature and Wildlife Alliance to attend a tour and luncheon the June 24th. Commissioner Allen said he will attend. As the other Commissioners would be unable to attend, a quorum will not be formed and the event will not need to be publicly noticed.

The next Planning Commission meeting is scheduled for June 27, 2023.

Commissioner Pengra stated that he has given his notice to the Mayor and the next meeting will be his last serving as a Commissioner due to time constraints making it difficult for him to fulfill his professional and Commission duties.

9. Adjournment

MOTION: *Commissioner Pengra moved to adjourn at 9:23 p.m. Commissioner Bergener seconded the motion.*

<i>Those Voting Yes</i>	<i>Those Voting No</i>	<i>Those Abstaining</i>	<i>Those Absent</i>
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☒ <i>Brent Strong</i>	☐ <i>Brent Strong</i>	☐ <i>Brent Strong</i>	☐ <i>Brent Strong</i>

The motion passed with a unanimous vote.

The meeting was adjourned at 9:23 p.m.

Approved by the Planning Commission on June 27, 2023.


Steve Mumford (June 27, 2023 07:17 MDT)

Steve Mumford, AICP
Deputy City Administrator/Community Development Director

06.13.23 PC Approved Minutes not signed

Final Audit Report

2023-06-29

Created:	2023-06-28
By:	Shawna Ellis (sellis@emcity.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAhN2k60XR19xOKa3Wplets24-HcMle-DH

"06.13.23 PC Approved Minutes not signed" History

-  Document created by Shawna Ellis (sellis@emcity.org)
2023-06-28 - 1:12:59 PM GMT- IP address: 104.37.251.18
-  Document emailed to Steve Mumford (smumford@emcity.org) for signature
2023-06-28 - 1:13:19 PM GMT
-  Email viewed by Steve Mumford (smumford@emcity.org)
2023-06-29 - 1:17:13 PM GMT- IP address: 67.186.230.37
-  Document e-signed by Steve Mumford (smumford@emcity.org)
Signature Date: 2023-06-29 - 1:17:25 PM GMT - Time Source: server- IP address: 67.186.230.37
-  Agreement completed.
2023-06-29 - 1:17:25 PM GMT