



EAGLE MOUNTAIN PLANNING COMMISSION MEETING

April 12, 2022, 5:30 PM

Eagle Mountain City Council Chambers

1650 East Stagecoach Run, Eagle Mountain, Utah 84005

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

1. Discussion Items

1.A [Priority List of Code Changes](#)

Update on ongoing code changes, and an opportunity to get additional feedback from the Planning Commission

1.B [2022 Legislative Update](#)

A brief update of changes made during the 2022 Legislative Session that impact the City of Eagle Mountain.

1.C [Planning Commission Quasi-Judicial Training](#)

One of the three roles that Planning Commissioner's may act in is the Quasi-Judicial Role, this item provides a brief update of the powers and duties of the planning commission when acting in this role.

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

2. Pledge of Allegiance

3. Declaration of Conflicts of Interest

4. Approval of Meeting Minutes

- 4.A March 22, 2022 Planning Commission Minutes
[PC Minutes 03.22.22 DRAFT](#)

5. Status Report

6. Action and Advisory Items

6.A [ACTION ITEM - Wasatch Wing & Clay](#)

An applicant proposed rezone to add the the Outdoor Shooting Range Overlay Zone to approximately 163 acres of property located on the southwest edge of the "West End" neighborhood of the city that extends between Fairfield and Cedar Fort. (Parcels

59:050:0009, 59:074:0007, and 59:074:0008)

[Submission Narrative](#)

6.B [ACTION ITEM - Austin Variance](#)

A variance request to allow for a 6' privacy fence in the front yard of a property located at 2087 E Sycamore (Parcel 45:459:0540)

[Eagle Mountain Fencing Guidelines](#)

[Variance Request](#)

7. **Discussion Items**

8. **Next scheduled meeting: April 26th 2022**

9. **Adjournment**

THE PUBLIC IS INVITED TO PARTICIPATE IN PUBLIC MEETINGS FOR ALL AGENDAS.

In accordance with the Americans with Disabilities Act, Eagle Mountain City will make reasonable accommodation for participation in all Public Meetings and Work Sessions. Please call the City Recorder's Office at least 3 working days prior to the meeting at 801-789-6610. This meeting may be held telephonically to allow a member of the public body to participate. This agenda is subject to change with a minimum 24-hour notice.



EAGLE MOUNTAIN CITY
PLANNING COMMISSION MEETING
APRIL 12, 2022

TITLE: Priority List of Code Changes

ITEM TYPE: Discussion

APPLICANT: n/a

ACTION ITEM:

No

PUBLIC HEARING:

No

PREPARED BY:

Tayler Jensen, Planning

BACKGROUND:

ITEMS FOR CONSIDERATION:

REQUIRED FINDINGS:

RECOMMENDATION:

ATTACHMENTS:



EAGLE MOUNTAIN CITY
PLANNING COMMISSION MEETING
APRIL 12, 2022

TITLE: 2022 Legislative Update

ITEM TYPE: Discussion

APPLICANT: n/a

ACTION ITEM:

No

PUBLIC HEARING:

No

PREPARED BY:

Tayler Jensen, Planning

BACKGROUND:

ITEMS FOR CONSIDERATION:

REQUIRED FINDINGS:

RECOMMENDATION:

ATTACHMENTS:



EAGLE MOUNTAIN CITY
PLANNING COMMISSION MEETING
APRIL 12, 2022

TITLE:	Planning Commission Quasi-Judicial Training
ITEM TYPE:	Discussion
APPLICANT:	n/a

ACTION ITEM:

No

PUBLIC HEARING:

No

PREPARED BY:

Tayler Jensen, Planning

BACKGROUND:

ITEMS FOR CONSIDERATION:

A Planning Commission may operate in a Quasi-Judicial role when hearing appeals and variances, in Eagle Mountain, it is most likely that you will act in a Quasi-Judicial role while hearing requests for variances. This role is characterized by:

- Decisions that typically enforce Government Regulations
- Must be supported by Ordinance
- Must be supported by Substantial and Factual evidence on the record
- Applicant has the burden to provide that they meet the state criteria for variance in 10-9a-702

REQUIRED FINDINGS:

RECOMMENDATION:

ATTACHMENTS:



EAGLE MOUNTAIN Planning Commission MEETING MINUTES

March 22, 2022, 5:30 p.m.
Eagle Mountain City Council Chambers
1650 East Stagecoach Run, Eagle Mountain, Utah 84005

COMMISSION MEMBERS PRESENT: Jason Allen, Matthew Everett, and Christopher Pengra. Commissioner Erin Wells was excused.

COMMISSION MEMBERS PRESENT ELECTRONICALLY: Jeremy Bergener.

ELECTED OFFICIALS PRESENT: ELECTRONICALLY: Councilmember Colby Curtis, Liaison to the Planning Commission.

CITY STAFF PRESENT: Steve Mumford, Assistant City Administrator/Community Development Director; Robert Hobbs, Planning Manager; Tayler Jensen, Senior Planner; Fionnuala Kofoed, Director of Administrative Services/City Recorder; and Elizabeth Fewkes, Recording Secretary.

5:30 P.M. – Eagle Mountain City Planning Commission Training – Main Conference Room

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

1. Training

1.A. TRAINING ITEM – Open and Public Meetings Act

Director of Administrative Services/City Recorder Fionnuala Kofoed presented the training.

Commissioner Everett recessed the work session at 6:13 p.m.

6:00 P.M. – Eagle Mountain City Planning Commission Work Session – Council Chambers

Commissioner Everett resumed the work session to order at 6:22 p.m.

2. Discussion Items

2.A. DISCUSSION – Street Standards

Planning Manager Robert Hobbs explained that staff desires Commission direction regarding the proposed changes. He presented potential standard amendments for private streets to be held to the same standards as public streets.

Commissioner Everett advocated for private streets to be required to be built to City street standards to facilitate maintenance efforts in the event that the City assumes the responsibility of the road in the future. Although he understands the desire to prohibit private streets, building all

roads to public standards would alleviate most of his concerns. As such, he is not opposed to allowing private roads with heightened standards. He suggested for the 53-foot width standard for local right-of-way neighborhood roads to be increased by five to ten feet to allow for street parking and two-way traffic and safety factors.

Commissioner Allen concurred with the proposals for public road requirements to apply to private roads to ensure all residents benefit from the same standards and quality of life impacts. He researched bump-outs and chokers and would be in favor of utilizing them as traffic calming measures.

Commissioner Pengra expressed concern with the long-term consequences of altering road standards such as the budgetary impact to maintain and repair wider widths of aging roads in the future, especially considering the unique developmental characteristics of Eagle Mountain resulting in a higher-than-average number of lane miles of roads connecting inhabited areas. He thinks that requiring additional asphalt could make the development of larger lots cost-prohibitive. He is against prohibiting all private roads and requested for staff to research and provide additional information regarding the impact of the proposed standard changes.

Commissioner Bergener said he feels that addressing ambiguity and concerns with private and other road standards is important in order for the City to be able to enforce the desired requirements. He has experienced the traffic maneuverability limitations and frustrations due to 53-foot local right-of-way roads; however, he acknowledges the need to consider impact as well as benefit to requiring wider roads.

Commissioner Everett requested for the item to return at a future meeting for further discussion.

Commissioner Everett closed the work session at 6:39 p.m.

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

Commissioner Everett called the policy session to order at 6:40 p.m.

3. Pledge of Allegiance

Commissioner Everett led the Pledge of Allegiance.

4. Declaration of Conflicts of Interest

None.

5. Approval of Meeting Minutes

5.A. March 8, 2022 Planning Commission Minutes

MOTION: *Commissioner Pengra moved to approve the March 8, 2022 minutes. Commissioner Allen seconded the motion. Those voting aye: Jason Allen,*

Jeremy Bergener, Matthew Everett, and Christopher Pengra. The motion passed with a unanimous vote.

6. Status Report

Senior Planner Tayler Jensen reviewed the planning items discussed and voted upon during the March 15, 2022 City Council meeting.

7. Action and Advisory Items

7.A. PUBLIC HEARING/ACTION ITEM – Marketplace at Eagle Mountain Town Center Lot 6 Pad C2

Mr. Jensen presented the item. The application is for a commercial pad building located on approximately .45 acres on lot 6 pad C2 of the Eagle Mountain Town Center Development. EMMC 17.72.030(A) requires a pedestrian connection to the front of the building; staff recommends a pedestrian access be added to connect to the trail along Pony Express Parkway. Trail connectivity was not included in the master site plan. Staff recommends additional features be added to the east elevation to better comply with the requirement for design elements to be used on all four sides of a building. It is the purview of the Planning Commission to determine if the application adheres to the EMMC 17.72.040(F)(2) requirement for buildings to avoid large, panelized products or featureless surfaces. The applicant is proposing 14 parking stalls which meets the minimum parking requirement.

Staff recommends that the Planning Commission motion to recommend approval of the application to the City Council, for the reasons set forth in the staff report and in the meeting with the following conditions:

1. A pedestrian connection is provided to the improved walking path along Pony Express Parkway to the east of the project; and
2. Awnings shall be added to the east elevation.

Applicant representative Bill Gaskill explained that the master plan had consideration for sidewalk connections that were not clearly identified. A pedestrian connection could be added near the drive-through reader board, where the vehicles are stopped, to meet the requirement or to connect to the interior sidewalks as planned.

Commissioner Everett opened the public hearing at 6:57 p.m. As there were no comments, he closed the hearing.

Commissioner Everett noted a precedence in the City to allow for pedestrian accesses crossing the drive-through aisles and thus he supports allowing a similar walkway for this application. He appreciates the applicant's willingness to add an awning on the east elevation.

Commissioner Allen stated he is in favor of the proposed connection, as traffic will be stopping at the menu board, and the addition of the awning.

Commissioner Pengra expressed concern with a pedestrian walkway crossing the drive-through. As he feels that foot traffic will more likely come from the shopping area than the trail on Pony Express Parkway, he would prefer pedestrian connectivity to the west.

Commissioner Bergener said he does not recall that pedestrian access had been required for other businesses in the area and agrees with concerns regarding the usability and utilization of a pedestrian connection from the trail.

MOTION: *Commissioner Bergener moved to recommend approval of the site plan for the Marketplace at Eagle Mountain Town Center Lot 6 Pad C2 to the City Council with the condition that awnings shall be added to the east elevation. Commissioner Pengra seconded the motion. Those voting aye: Jason Allen, Jeremy Bergener, Matthew Everett, and Christopher Pengra. The motion passed with a unanimous vote.*

7.B. PUBLIC HEARING/ACTION ITEM – Rose Ranch

Mr. Jensen presented the item. Rose Ranch was previously called Mae Land, and the Planning Commission held a public hearing on a proposed rezone for this project on February 22, 2022, ultimately deciding to table the item and advised that it return as a master plan as well as a rezone. The resubmittal includes a master development plan, preliminary plat, and a rezone for the 79.85 acres of property.

Since this was last reviewed, some substantial changes have been made including:

- The land swap with SITLA is not going to go forward.
- At the recommendation of staff, RC zoning is proposed on the southern boundary of the project, as an age-restricted product.
- The remaining portion of the development is to be zoned R3, with varied lot sizes.

The Parks and Recreation Director does not wish for a public splash pad in this location, as proposed, and feels it is more costly than the developer anticipates. EMMC 16.35.105(A)(5) requires parks to be visible from the road. The applicant has added parking lots to open visibility near the amenities. Nevertheless, the nature of the Pony Express Regional Trail prohibits visibility from some roads as the trail traverses the City. EMMC 16.35.105 (A)(13) stipulates that no more than 33% of required amenity points may come from parking and trails. The current proposal meets the required number of points; however, 368 points must come from amenities other than trails, and currently, only 287 points are for other amenities resulting in a deficiency of 81 points. A portion of the regional trail is currently being used as the primary construction access road for Facebook. The park cannot be built until construction traffic is rerouted. SITLA supports the rerouting of the construction access.

The project exceeds the minimum connectivity score. However, Mae Lane exceeds the maximum block length of 800 feet and requires a mid-block pedestrian connection to be compliant. The applicant plans show a 47-foot road along the southern edge of the project; however, the road the City only anticipated as a 36 ½-foot residential road. Willard Peak Drive had been projected as a 94-foot major collector, but is not currently on our transportation map,

and is on the draft transportation map as a 77-foot minor collector. An additional 30-feet of right of way is needed to complete the road and no lots may front on Willard Peak Drive; however, the Planning Commission may grant an allowance if all the lots are at least 100-feet wide and have a circular drive.

Staff recommends that the Planning Commission motion to recommend approval of the Rose Ranch rezone, for the reasons set forth in the staff report and in the meeting with the following conditions:

1. The RC Zone shall be age-restricted to occupants 55 years and over; and
2. The open space area shall be rezoned to OS-I.

A recommendation of approval may be made for the Rose Ranch preliminary plat and Master Development Plan for the reasons set forth in the staff report and in the meeting with the following conditions:

1. A 20-foot-wide midblock pedestrian connection shall be added to the east segment of Mae Lane between Apeche Street and Bull Run Drive);
2. An additional 81 non-parking or trail amenity points shall be added to the park plan;
3. The plat shall be redesigned so no lot has access onto Willard Peak Drive;
4. The Facebook construction access shall be rerouted along the north and west edge of the development;
5. The splash pad shall be replaced with more neighborhood appropriate amenities;
6. The southern road shall be reduced to a 53-foot right of way;
7. Willard Peak Drive shall be constructed as a 77-foot minor collector; and
8. An additional east-to-west connection into the SITLA property north of the trail corridor shall be added.

Discussion ensued regarding potential roads to reroute construction traffic and the potential impacts of delaying an alternate road access.

Applicant representative Steve Turley expressed his willingness to work with the City to accommodate the staff recommendations.

Mr. Jensen clarified that the number of and layout for the R3 lots is similar to the previous proposal. The reason for the increase of the total lot count is due to adding the age-restricted, higher-density RC product to the project.

Commissioner Everett opened the public hearing at 7:25 p.m.

Commissioner Everett noted that the City received communication from Elise Erler, a SITLA representative, regarding the project.

Commissioner Everett closed the public hearing at 7:26 p.m.

Discussion ensued regarding proposed changes to the Future Transportation Plan for the City, potential connections to existing roads, and the impact of the construction access road options on current and future traffic plans.

Commissioner Pengra expressed concern that allowing the continued use of the Pony Express Regional Trail as a construction access will decrease the likeliness of the trail being approved and used as intended. As such, he is in favor of rerouting construction traffic; however, he is unsure of the impacts of relocating the access.

Commissioner Allen concurred with Commissioner Pengra. He appreciates the applicant's willingness to amend the amenities and the mix of product offered and is in favor of directing traffic off the minor collector road as the population increases.

Commissioner Bergener thanked the applicant for their willingness to adapt the project to conform with the desires of the City.

Commissioner Everett echoed the appreciation expressed to the applicants. Although the RC Zone is not compatible with the General Plan designation, he thinks it is appropriate as a transition to the area to the south. He thanked the applicant for adding parking to make the park space more open and accessible. He requested that the park plan amendments retain the parking. He agrees with returning the access road to a trail as soon as possible. As such, he is in favor of rerouting traffic to Aviator Avenue to access the development from the north and west side.

Commissioner Pengra requested for staff to research construction access options, construction access standards, and ramifications prior to the discussion with the City Council to determine the best route during their approval.

Commissioner Allen voiced his support of allowing time for additional research to determine the most appropriate construction access.

Discussion ensued regarding the following times:

- Construction route options including fire and safety access requirements;
- Possibly allowing the applicant to pay a fee in lieu and preserve the trail for the City to develop in the future;
- The impact of inflation on the adequacy of the fee in lieu funds to cover the cost of a future park;
- Whether the park in Brandon Park is sufficiently sized and located in close enough proximity to provide amenities for Rose Ranch until the park can be developed should a fee in lieu be allowed;
- The unknown timeframe until the completion of construction for the Facebook project;
- The impact of the construction access location options on residents;
- Potential conditions to address the construction access concerns while allowing the application to move forward to prevent being punitive towards the applicant through additional delays to the project; and
- The entitlements, uses, and density of surrounding properties.

MOTION: *Commissioner Pengra moved to recommend approval to the City Council of the rezone for Rose Ranch with the following conditions:*

1. *The RC Zone shall be age-restricted to occupants 55 years and over; and*
2. *The open space area shall be rezoned to OS-I.*

Commissioner Allen seconded the motion. Those voting aye: Jason Allen, Jeremy Bergener, Matthew Everett, and Christopher Pengra. The motion passed with a unanimous vote

MOTION:

Commissioner Everett moved to recommend approval to the City Council of the preliminary plat and master development plan for Rose Ranch with the following conditions:

1. *A 20-foot-wide midblock pedestrian connection shall be added to the east segment of Mae Lane between Apeche Street and Bull Run Drive;*
2. *An additional 81 non-parking or trail amenity points shall be added to the park plan;*
3. *The plat shall be redesigned so no lot has access onto Willard Peak Drive;*
4. *Construction access shall be rerouted around the edge of this development;*
5. *The park plan shall be reconfigured with appropriate amenities for the neighborhood;*
6. *The southern road shall be reduced to a 53-foot right of way;*
7. *Willard Peak Drive shall be constructed as a 77-foot minor collector;*
8. *An additional east to west connection into the SITLA property north of the trail corridor shall be added; and*
9. *If the construction access is not rerouted around this development, a fee in lieu shall be paid by the applicant to the City for the improved open space.*

Commissioner Pengra seconded the motion.

Discussion ensued regarding amendments to the motion.

AMENDED MOTION: *Commissioner Everett moved to recommend approval to the City Council of the preliminary plat and master development plan for Rose Ranch for the reasons set forth in the staff report and the presentation in the meeting with the following conditions:*

1. *A 20-foot-wide midblock pedestrian connection shall be added to the east segment of Mae Lane between Apeche Street and Bull Run Drive;*
2. *The plat shall be redesigned so no lot has access onto Willard Peak Drive;*
3. *The southern road shall be reduced to a 53-foot right of way;*
4. *Willard Peak Drive shall be constructed as a 77-foot minor collector;*
5. *An additional east to west connection into the SITLA property north of the trail corridor shall be added;*

6. *The parks plan shall be reconfigured to include more neighborhood park appropriate amenities and points;*
7. *If the construction access is not rerouted, the applicant shall pay a fee in lieu for the parks in this development; and*
8. *The applicant shall work with staff to reroute construction access around the development.*

Commissioner Pengra seconded the motion. Those voting aye: Jason Allen, Jeremy Bergener, Matthew Everett, and Christopher Pengra. The motion passed with a unanimous vote.

7.C. PUBLIC HEARING/ACTION ITEM – Saddle Junction

Mr. Jensen presented the item. The application is for a rezone of approximately 1.5 acres to the CC Zone. Several comments have been received from the public preferring the property be zoned as CN rather than CC. Both CN and CC are appropriate under the Future Land Use Plan designation of Community Commercial. The conceptual use in the applicant's proposal of office is a permitted use in both the CC and the CN Zone. The CN Zone may provide better transitioning between residential to commercial uses.

Staff recommends that the Planning Commission recommend approval of the Saddle Junction rezone to either the CN or CC Zone to the City Council for the reasons set forth in the staff report and in the meeting with any conditions determined appropriate.

Applicant representative Conner Atkin said they desire to request the same zoning that had been approved under the lapsed approval. They are concerned with the suggestion to zone the parcel CN due to the height restriction of the zone because interested parties desire a multiple-story office building for the site.

Mr. Jensen verified that the CC zone permits buildings up to 50-feet in height and the CN zone has a building height maximum of 35 feet.

Commissioner Everett opened the public hearing at 8:27 p.m.

Zac Hatch with NAI Commercial Real Estate stated that he is working with the applicant and has groups interested in a two or three-story office building for the site. Road access will allow for shared parking between this parcel and the development to the north.

Commissioner Everett noted that the Planning Commission received emails from Alexis Hicks and Michelle Blackburn regarding the rezone.

Commissioner Everett closed the public hearing at 8:29 p.m.

Commissioner Allen stated that due to traffic concerns in the area, he would be in favor of approving CN zoning as a compromise to allow for a two-story building while mitigating traffic generation and impact.

Commissioner Everett agreed with the preference for the CN Zone as the permitted uses would be more appropriate and a two-story building would be more in harmony with other buildings in the surrounding area.

Community Pengra advocated zoning the parcel to CC to allow for a three-story building due to the lack of professional office space available in the City as it would not be a high-intensity use and would have minimal impact. The access and visibility limitations of the site would be unlikely to attract the undesired uses permitted in the CC Zone to this location.

Discussion ensued regarding options, limitations, and requirements to allow for a taller office building while protecting against undesired and inappropriate uses for the area including a development agreement, zoning the property CC removing some of the permitted uses, or zoning the property CN and permitting a three-story building.

MOTION: *Commissioner Pengra moved to recommend approval to the City Council of the rezone for Saddle Junction to the CC Zone. Commissioner Bergener seconded the motion. Those voting aye: Matthew Everett and Christopher Pengra. Those voting nay: Jason Allen and Jeremy Bergener. The motion failed with a vote of 2:2.*

MOTION: *Commissioner Everett moved to recommend approval to the City Council of the rezone for Saddle Junction to the CN Zone with the condition that a development agreement shall be written to allow a maximum of 50-foot-high structures with all other commercial development standards to apply. Commissioner Pengra seconded the motion.*

Commissioner Allen requested that the motion specify that the 50-foot height allowance be applicable only to office buildings.

Commissioner Everett declined the amendment as he felt other appropriate uses may desire the increased building height.

*Those voting aye: Jason Allen, Matthew Everett, and Christopher Pengra.
Those voting nay: Jeremy Bergener. The motion carried with a vote of 3:1.*

Commissioner Bergener clarified that his dissention was due to perceiving the motion as being too prescriptive.

7.D. ACTION ITEM – Planning Commission Rules of Order and Procedure

MOTION: *Commissioner Bergener moved to approve an amendment to the Planning Commission's Rules of Order and Procedure. Commissioner Allen seconded the motion. Those voting aye: Jason Allen, Jeremy Bergener, Matthew Everett, and Christopher Pengra. The motion passed with a unanimous vote.*

8. Discussion Items

9. Next scheduled meeting

The next Planning Commission meeting is scheduled for April 12, 2022.

10. Adjournment

MOTION: *Commissioner Pengra moved to adjourn the meeting at 8:50 p.m. Commissioner Allen seconded the motion. Those voting aye: Jason Allen, Jeremy Bergener, Matthew Everett, and Christopher Pengra. The motion passed with a unanimous vote.*

The meeting was adjourned at 8:50 p.m.

Approved by the Planning Commission on April 12, 2022.

Steve Mumford, AICP
Assistant City Administrator/Community Development Director



EAGLE MOUNTAIN CITY
PLANNING COMMISSION MEETING
APRIL 12, 2022

TITLE:	ACTION ITEM - Wasatch Wing & Clay
ITEM TYPE:	Rezone
APPLICANT:	Jim Smith & Weston Berry

ACTION ITEM:

Yes

PUBLIC HEARING:

Yes

PREPARED BY:

Tayler Jensen, Planning

BACKGROUND:

On January 18th 2022, the Eagle Mountain City Council approved the Outdoor Shooting Range Overlay Zone (Chapter 17.47). This overlay zone may be applied for on agriculture, industrial and natural open space property that is at least 10 acres in size. Should the overlay zone be approved the applicant shall still be required to meet the development standards in the code and follow codified site plan processes.

ITEMS FOR CONSIDERATION:

The following items shall be considered when making a motion on a proposed rezone:

17.90.060

- A. Compliance with General Plan: All three parcels are shown as Neighborhood Residential One in the Future Land Use Map, however, all three are currently zoned agriculture
- B. Compatibility Determination: All surrounding property is currently zoned Agriculture. The closest residential lot to any of the property included in the rezone is approximately 1,785 feet.
- C. City Services: The proposed development is not anticipated to overburden the City's service capacity.
- D. Traffic Generation: The proposed use is not anticipated to generate significant amounts of traffic, however, if necessary the City Engineer may require a traffic study at the Site Plan stage.
- E. Property Values: The proposed use is not expected to have a significant negative impact on surrounding property values.

17.47.030

- A. Proximity to Residential: The applicant has provided a written

narrative that includes the operational procedures of the proposed range. In addition to the distance between the property in question and the nearest resident the applicant has indicated the shooting ranges will be firing in the opposite direction of homes, and will include designated fire areas, backstops, and safety signage.

- B. Property Size: The proposed rezone is on approximately 163 acres which far exceeds the 10 acre minimum.
- C. Underlying Zoning: All three parcels are currently zoned Agriculture which is an appropriate zone to have the Outdoor Shooting Range Overlay Zone applied to.

REQUIRED FINDINGS:

Rezoning is a legislative decision and is considered valid if reasonably debatable and not illegal. The criteria for a Rezone approval can be found in EMMC 17.90.060. The Outdoor Shooting Range Overlay zone is also required to meet the criteria of 17.47.030 in addition to the standard rezone criteria.

RECOMMENDATION:

We recommend that the Planning Commission recommend approval of the Wasatch Wing and Clay Outdoor Shooting Range Overlay Zone Rezone, to the City Council for the reasons set forth in the staff report and in the meeting, with any conditions the Planning Commission finds appropriate.

ATTACHMENTS:

[Submission Narrative](#)



Wasatch Wing and Clay Rifle Range Operation and Safety

Operation

A. Hours

- a. Tuesday through Sunday 8 am to 5 pm (May change based on use and holidays)

B. Licenses

- a. Wasatch Wing and Clay is a Federal Firearms Licensed Dealer.
- b. All State and Federal business licenses are current.

C. The Range, and Range Officers

- a. At least one Range Officer will be present on the Range or at main club house during operation hours.
- b. Range Officers will complete a Range Officer Training course provided by Wasatch Wing and Clay. This will include proper protocols, range commands, first aid, emergency procedures/communication, fire hazard mitigation and response, as well as range safety.
- c. The Range will be responsible to see that debris, (i.e. paper targets, card board etc.) is contained on the property, and disposed of properly.
- d. The Range will maintain proper receptacles for trash and debris.
- e. Range Officers will supervise property security during the range hours of operation and will secure the facilities at closing.
- f. The Range will maintain bathroom facilities ensuring patron safety and hygiene.

D. Patrons

- a. All patrons will fill out a waiver prior to any activities conducted on the range. These waivers will be maintained in paper or electronic form on range premise or at the main club house.
- b. All patrons will receive a range safety and operation briefing prior to shooting on the range. (See Range Brief for further details)
- c. Range Safety Rules will be posted in an appropriate location.



- d. Patrons will conduct themselves within the established rules or will be asked to leave and may forfeit further access to the range.
- e. Patrons will be responsible for all paper targets and other shooting material disposal. Wasatch Wing and Clay will provide proper receptacles to dispose of trash and debris.
- f. No alcoholic beverages or illicit substances will be allowed on the premise during operating hours. Any violations of this policy will result in immediate removal from the premise, and may forfeit future access to the Range.
- g. Patrons under the age to legally possess a firearm, according to Utah State Law, will be accompanied by an adult of legal age.
- h. Patrons will use designated areas marked and outlined for specific activities. The firing line will be the only place that will allow loaded firearms, unless holstered and carried for self-defense.

Safety/Fire Mitigation

A. Communications Plan/Emergency

- a. A list of Emergency contacts will be displayed in a common area at the range.
- b. Cell phone will be the first line of communication.
- c. Range Officers will immediately assign someone to call 911 in an emergency while they care for the victim.
- d. If cell phones cannot be used a hand-held/ham radio will be tuned to an emergency channel and will be present at all times on the range.

B. First Aid

- a. All employees of Wasatch Wing and Clay will know how to use a tourniquet and tourniquets will be supplied at the range location.
- b. All employees will also receive combat casualty training, to control blood loss and maintain airway. They will also be taught how to treat hot and cold weather injuries.

C. Fire Mitigation Plan

a. Prevention

- i. The Range will maintain vegetation free areas around all steel targets.



- ii. No steel core or tracer ammo will be allowed on the range.
- iii. Range Officers/owners will have the ability to shut range down on high-wind/fire danger days if deemed unsafe.
- iv. Explosive targets will only be allowed by permission of the Range Officer/Owner and will only be used in low fire danger conditions.

b. Response

- i. Range Officer will call an immediate cease fire.
- ii. Emergency services will be notified via cell phone or hand-held/ham radio.
- iii. Range Officers will be equipped with fire extinguisher, shovels and trained on proper use. If safe, the Range Officer will attempt to put out the fire while waiting for emergency services.



Outdoor Shooting Range Overlay Zone

Range Specifications

- A. Projectile Containment/proximity to residential mitigation
 - a. The back stop of the range is the Oquirrh Mountains, with no access to this section of the mountain range for hiking or OHV trails.
 - b. The range will be designed to have parallel shooting lanes, with all shooters firing from East to West.
 - c. The range will have large left and right limit boards constructed with black and white stripes. Shooters will be briefed not to shoot past these markers to the left or right. Violation of this rule will result in the shooter being removed from the range and may forfeit future access to the facility.
 - d. Signage will also be posted around the perimeter displaying "live fire range beyond this point".

Compatibility Statement

- B. Under city ordinance 17.55 Outdoor Shooting Range Overlay Zone. Parcels 59:074:0007, 59:074:0008 and 59:050:0009 (West 13 acres only, see map) will meet the requirements outlined in section 17.55.030.



- a. Proximity to residential. The proposed parcel/s exceed the requirements of State Law.

76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction of specified items -- Penalties.

- (1) (a) An individual may not discharge a dangerous weapon or firearm:
- (i) from an automobile or other vehicle;
 - (ii) from, upon, or across a highway;
 - (iii) at a road sign placed upon a highway of the state;
 - (iv) at communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;
 - (v) at railroad equipment or facilities including a sign or signal;
 - (vi) within a Utah State Park building, designated camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches; or
 - (vii) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:
 - (A) a house, dwelling, or any other building; or
 - (B) any structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.
- (b) It is a defense to any charge for violating this section that the individual being accused had actual permission of the owner or person in charge of the property at the time in question.
- (2) A violation of any provision of Subsection (1) is a class B misdemeanor.
- (3) In addition to any other penalties, the court shall:
- (a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and
 - (b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).
- (4) This section does not apply to an individual who:
- (a) discharges a firearm when that individual is in lawful defense of self or others;
 - (b) is performing official duties as provided in Section 23-20-1.5 and Subsections 76-10-523(1)(a) through (f) and as otherwise provided by law; or
 - (c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:
 - (i) the discharge occurs at a firing range or training ground;
 - (ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (4)(c)(i);
 - (iii) the discharge is made as practice or training for a lawful purpose;
 - (iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and
 - (v) the discharge is not made in violation of Subsection (1).

- b. Parcels 59:074:0007, 59:074:0008 and 59:050:0009 exceeds the 10 acre requirement (See map for further details)

- c. Adjacent Parcels/Compatibility

- i. Direction of the firing line of the range will be to the west. Projectiles will only be shot in that direction. The land to the west is federally owned BLM According to State and Federal law, shooting is allowed on this land. It is not a restricted area.
- ii. The main portion of the range resides on the south side of the property. All residential and planned residential property will be to the north. If properties ever reach the north edge of the designated range area it will still comply with the State Law 76-10-508. (See State Verbatim above) (See maps for distance)
- iii. Wasatch Wing and Clay partners with, the land owners to the east.
- iv. All roads, right of ways, and access points to the main gate of the range are county access road or have permission by owner to use.
- v. The Range will adhere to all Eagle Mountain City noise and nuisance ordinances.



Range Officer Manual/Duties

(full curriculums are maintain at the club house)

A. Duties

- a. Safety
- b. Patron well-being
- c. Range maintenance
- d. Security
- e. Range Operation

B. Qualifications

- a. Range Officer must be over 18 years old, in good standing with the law, be a legal resident, and pass the Range Officer certification program for Wasatch Wing and Clay.

C. Overview of Certification Process

- a. Understand and Display Knowledge of weapons handling and safety and be able to brief all new shooters of range safety rules and operation, including range commands. This course will be taught by a head firearms instructor at the club. They will be required to demonstrate to the instructor that they can handle firearms properly and be able to brief the following to patrons.

i. Safety Rules

1. Treat all firearms as if they are loaded
2. Muzzle Direction- Never point at or cover anything with the muzzle of the gun that you do not wish to put a whole in.
3. Trigger Finger- trigger finger should only be on the trigger when consciously engaged in firing the weapon.
4. Target- Know what you are shooting and what is beyond.
 - a. Any shooter who is caught targeting wildlife during hours of operation without the proper permits will immediately be removed and access to the range revoked.



- b. Range Officers will check ammunition to make sure that it is not steel core, which will not be allowed on the range.
 - c. Shooters will be notified of ranges left and right limits, any shooter caught shooting outside of the limits intentionally or unintentionally will be removed from the range and further access could be denied.
 - d. Exploding targets will only be allowed under low fire condition standards and must be approved by the Range Officer before use.
- 5. All Patrons on the range will be required to wear eye and ear protection. Range Officers have authority to remove any person refusing to comply.
 - 6. The firing line will be the only place that will allow loaded firearms, unless holstered and carried for self-defense.

ii. Range Commands

- 1. Cease Fire - All persons must stop shooting, and place the firearm on the table or hard deck. Shooters are not allowed to handle firearms or other items on or near the firing line. Magazines may be loaded in designated areas.
- 2. Muzzle Direction - If a patron is not following rule number two of weapon safety, the Range Officer will call out the command "Muzzle Direction". If the shooter fails to follow this command, The Range Officer will ask the person to step off the range. The shooter will not be able to access the range until they can prove better handling skills. A weapons handling course will be available to patrons in order to meet this qualification.
- 3. Trigger Finger - If a patron is not following rule number three of weapon safety, the Range Officer will call out the command "Trigger Finger". If the shooter continues to violate this policy, the Range Officer will ask the person to step off the range. They will not be able to access the range until they can prove



better handling skills. A weapons handling course will be available to patrons in order to meet this qualification.

4. Firing Line is Hot – After a cease fire time is over, the Range Officer will double check that all patrons are back behind the firing line and no one is down range. When it is all clear, the call of “Firing Line is now hot”. Shooters may then approach their firearms and resume shooting. If a shooter approaches the firing line before the Range Officer calls the line Hot, the Range Officer will give them a warning. If they again fail to honor the “Cease Fire”, they will be asked to leave.

D. First Aid

- a. All employees of Wasatch Wing and Clay will know how to use a tourniquet and tourniquets will be supplied at the range location.
- b. All employees will also receive combat casualty training, to control blood loss and maintain airway. They will also be taught how to treat hot and cold weather injuries.

E. Communications Plan/Emergency

- a. A list of Emergency contacts will be displayed in a common area at the range.
- b. Cell phone will be the first line of communication.
- c. Range Officers will immediately assign someone to call 911 in an emergency while they care for the victim.
- d. If cell phones cannot be used a hand-held radio will be tuned to an emergency channel and will be present at all times on the range.

F. Facilities Maintenance and Security

- a. Maintenance
 - i. The Range will regularly check and maintain the facilities for cleanliness, and functionality, paying attention to the following:
 1. Debris and garbage
 2. Equipment
 3. Empty Trashcans



4. Restock and clean Bathroom facilities

b. Security

- i. Range Officers will secure range gate when not on the premise and gate codes will not be provided to anyone unless they are Range Officer certified.
- ii. Perimeter fences will be checked bi-monthly to make sure no damage or access other than through the designated gate.

G. Fire Plan

a. Prevention

- i. The Range will maintain vegetation free areas around all steel targets.
- ii. No steel core or tracer ammo will be allowed on the range.
- iii. Range Officers/Owners will have the ability to shut range down on high wind days if needed.
- iv. Explosive targets will only be allowed by permission of the Range Officer/Owner and will only be used in low fire danger conditions.

b. Response

- i. Range Officer will call an immediate cease fire.
- ii. Emergency services will be notified
- iii. Range Officers will be equipped with fire extinguisher, shovels and trained on proper use. If safe, the Range Officer will attempt to put out the fire while waiting for emergency services.
- iv. If the fire grows too big for Range Officer to safety manage, they will help patrons to evacuate the immediate area and wait for emergency services to arrive.



Safety Rules Customer Brief

A. Safety Rules

- a. Treat all firearms as if they are loaded
- b. Muzzle Direction- Never point at or cover anything with the muzzle of the gun that you do not wish to put a whole in.
- c. Trigger Finger- trigger finger should only be on the trigger when consciously engaged in firing the weapon.
- d. Target- Know what you are shooting and what is beyond.
 - i. Any shooter who is caught targeting wildlife during hours of operation without the proper permits will immediately be removed and access to the range revoked.
 - ii. Range Officers will check ammunition to make sure that it is not steel core, which will not be allow on the range.
 - iii. Shooters will be notified of ranges left and right limits. Any shooter caught shooting outside of the limits intentionally or unintentionally will be removed from the range and further access could be denied.
 - iv. Exploding targets will only be allowed under low fire condition standards and must be approved by the Range Officer before use.
- e. All Patrons on the range will be required to wear eye and ear protection. Range Officers have the authority to ask anyone failing to comply to leave the Range.
- f. The firing line will be the only place that will allow loaded firearms, unless holstered and carried for self-defense.

B. Range Commands

1. Cease Fire - All persons must stop shooting, and place the firearm on the table or hard deck. Shooters are not allowed to handle firearms or other items on or near the firing line. Magazines may be loaded in designated areas.
2. Muzzle Direction - If a patron is not following rule number two of weapon safety, the Range Officer will call out the command



"Muzzle Direction". If the shooter fails to follow this command, The Range Officer will ask the person to step off the range. The shooter will not be able to access the range until they can prove better handling skills. A weapons handling course will be available to patrons in order to meet this qualification.

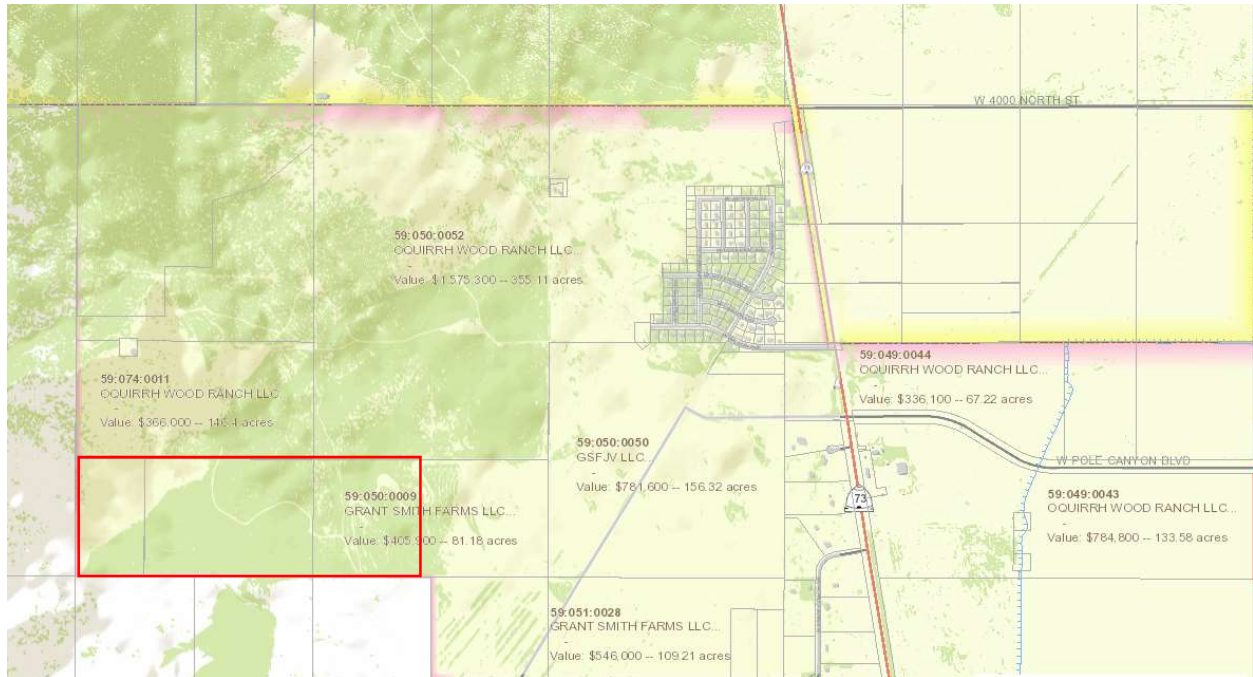
3. Trigger Finger - If a patron is not following rule number three of weapon safety, the Range Officer will call out the command "Trigger Finger". If the shooter continues to violate this policy, the Range Officer will ask the person to step off the range. They will not be able to access the range until they can prove better handling skills. A weapons handling course will be available to patrons in order to meet this qualification.
4. Firing Line is Hot – After a cease fire time is over, the Range Officer will double check that all patrons are back behind the firing line and no one is down range. When it is all clear, the call of "Firing Line is now hot". Shooters may then approach their firearms and resume shooting. If a shooter approaches the firing line before the Range Officer calls the line Hot, the Range Officer will give them a warning. If they again fail to honor the "Cease Fire", they will be asked to leave.

STOP!!!

DID THE CUSTOMER SIGN A WAVIER?



PARCEL MAP

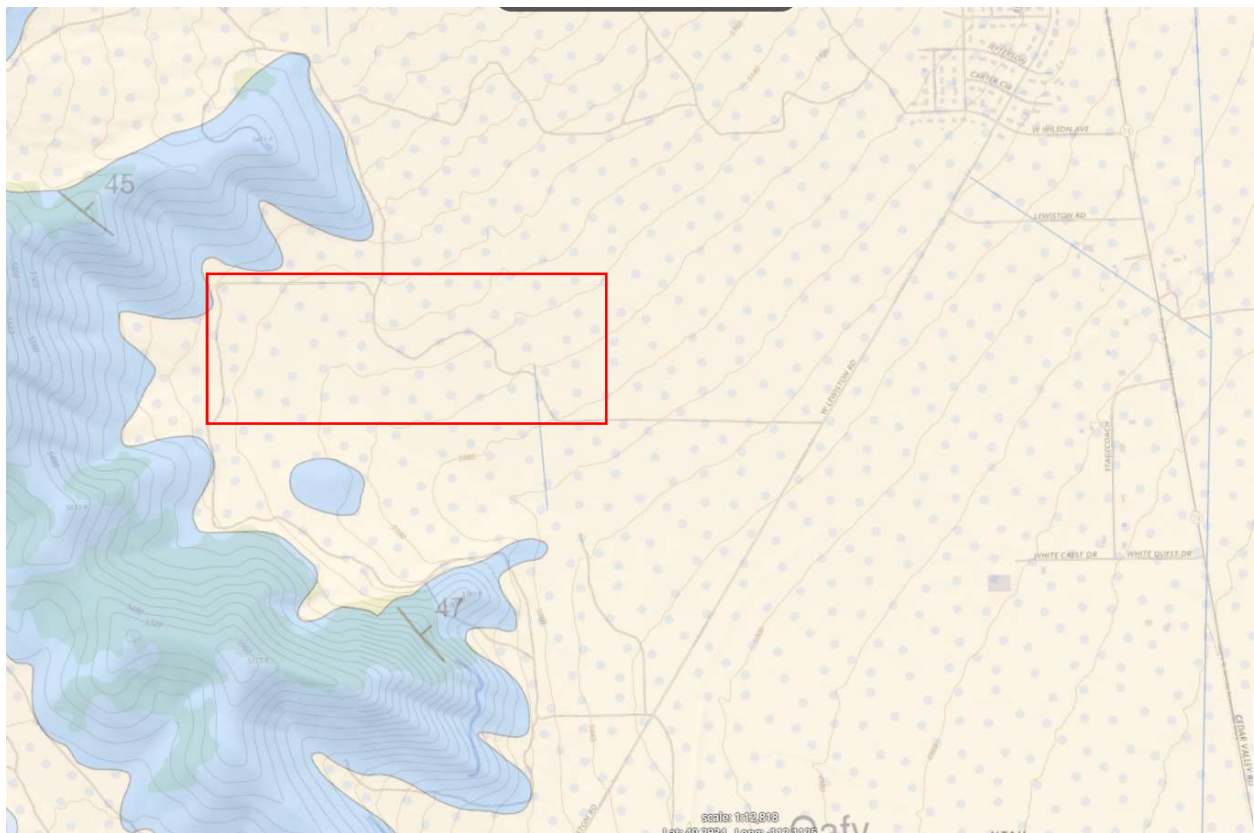




Existing Conditions: Open field with grass, minor contours but for the most part flat. No migration lands or wildlife corridor exist within the limits of the proposed property.

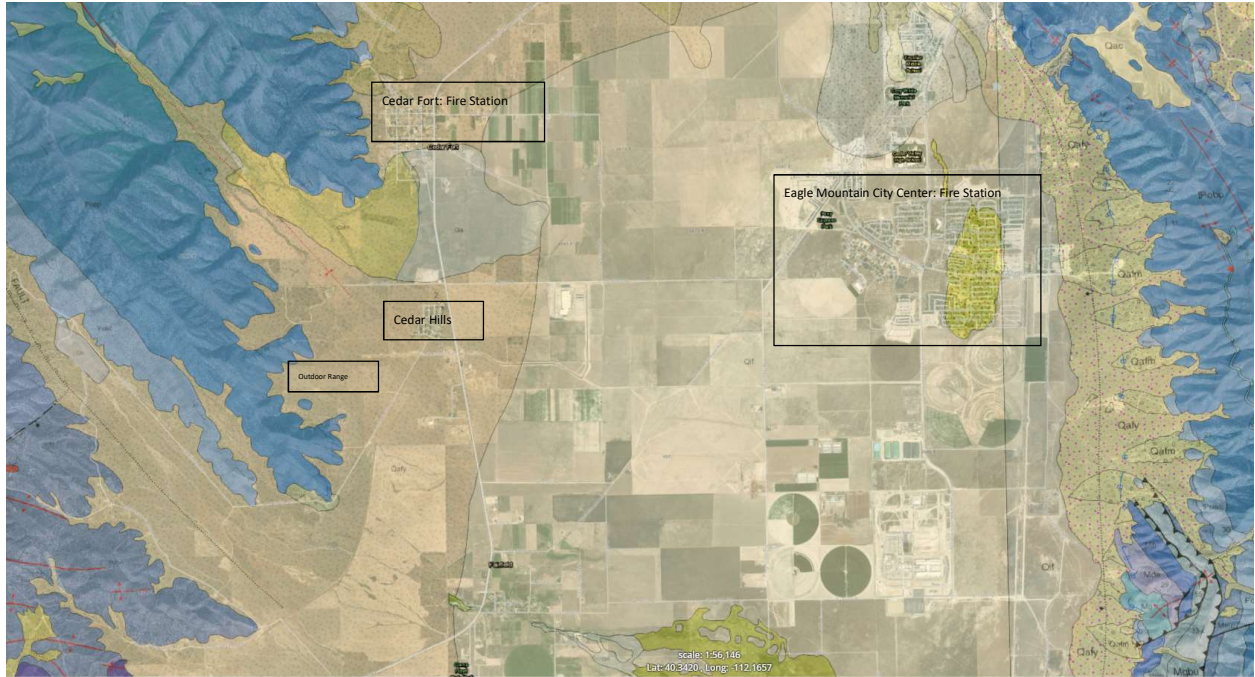
Poorly sorted gravel with sand, silt, and clay; deposited by streams, debris flows, and flash floods on alluvial fans and in mountain valleys; includes alluvium and colluvium in canyon and mountain valleys; may include small areas of eolian deposits and lacustrine fine-grained deposits below the Bonneville shoreline; includes active and inactive fans younger than Lake Bonneville, but may also include some older deposits above the Bonneville shoreline; locally, Qafy spreads out along the wave-cut terraces and abuts Lake Bonneville shorelines, and Qafy also drapes over but does not completely conceal shorelines; thickness variable, to 100 feet (30 m) or more.

Contour lines:





Vicinity Map:



The range is southwest of the Cedar Hills subdivision. There are no structures within 600 ft of the property. There are two fire stations located within 10 minutes from the property. Lewiston Rd is directly to the east of the property and a short distance further east is highway 73.



Land Use:





EAGLE MOUNTAIN CITY
PLANNING COMMISSION MEETING
APRIL 12, 2022

TITLE: ACTION ITEM - Austin Variance

ITEM TYPE: Variance

APPLICANT: Jesse Austin

ACTION ITEM:

Yes

PUBLIC HEARING:

Yes

PREPARED BY:

Tayler Jensen, Planning

BACKGROUND:

The applicant is requesting a variance to allow for a 6' privacy fence to be located in the front yard of his home at 2087 E Sycamore. Per code fencing is not allowed to be taller than 4' in the front yard. The Front yard is shown as being areas between the front wall of a home and the road in the Published Fencing Guidelines.

ITEMS FOR CONSIDERATION:

Variance Criteria

The following sections of the Eagle Mountain Municipal Code (EMMC) state the purpose of a variance:

17.105.020 “to provide a legal method for persons who are seeking relief through the granting of a variance from the specific provisions of the land use regulations that may apply to real property.”

17.105.030 “Variances provide potential relief for landowners whose property may have some special condition or unique physical characteristic whereby a strict enforcement of the title will result in unnecessary hardship and deprive that landowner of privileges, rights, or benefits that are possessed by other properties within the same district. The variance process does not change the zoning of a property but may waive or modify standards contained in this title as applied to the property.”

There are specific criteria that the application must meet in order for the Planning Commission to approve a variance. The approval

criteria are located in **Chapter 17.105.060** and are as follows:

A. Approval Criteria The Planning Commission shall not approve, even with modifications, a variance application unless it finds the following:

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.

The **Utah Property Rights Ombudsman** declares that: *“All five criteria must be found in favor of the variance in order for it to be valid. The unreasonable hardship may not be self-imposed or purely economic, and must arise from conditions unique to the property.”*

Determination of Hardship in determining whether or not enforcement of this title would cause an unreasonable hardship, the Planning Commission may not find an unreasonable hardship unless it alleges that the hardship:

- Is located on or associated with the property for which the variance is sought; and
- Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

Determination of Special Circumstances in determining whether or not there are special circumstances attached to the property, the Planning Commission may find that special circumstances exist only if they:

- Relate to the hardship complained of; and

- Deprive the property of privileges granted to other properties in the same district.

Approval Parameters

- The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- Variances run with the land.
- In granting a variance, the Planning Commission may impose additional requirements on the applicant that will:
- Mitigate any harmful effects of the variance; or
- Serve the purpose of the standard or requirement that is waived or modified.

REQUIRED FINDINGS:

Variances are based upon compliance with State and City code requirements, the requirements for a variance may be found in EMMC 17.105.060

RECOMMENDATION:

If you, the Planning Commission, feel that the proposed variance complies with all five variance approval criteria found in the Code and in this report and as defined by the Utah Property Rights Ombudsman, then the following motion is appropriate:

I move that the Planning Commission approve the variance for a 6' privacy fence in the front yard of a property located at 2087 E Sycamore in Eagle Mountain as it complies with all five of the variance approval criteria.

If you, the Planning Commission, feel the proposed variance **Does Not** comply with the five variance approval criteria, then the following motion is appropriate:

I move that the Planning Commission deny the request for a variance for a 6' privacy fence in the front yard of a property located at 2087 E Sycamore in Eagle Mountain Utah for the following reasons:

ATTACHMENTS:

Eagle Mountain Fencing Guidelines
Variance Request

EAGLE MOUNTAIN CITY

RESIDENTIAL FENCING GUIDELINES

Prepared by the Planning Department
Last Revision: October 4, 2017

For questions regarding this content,
please contact the Planning
Department at 801-789-6617

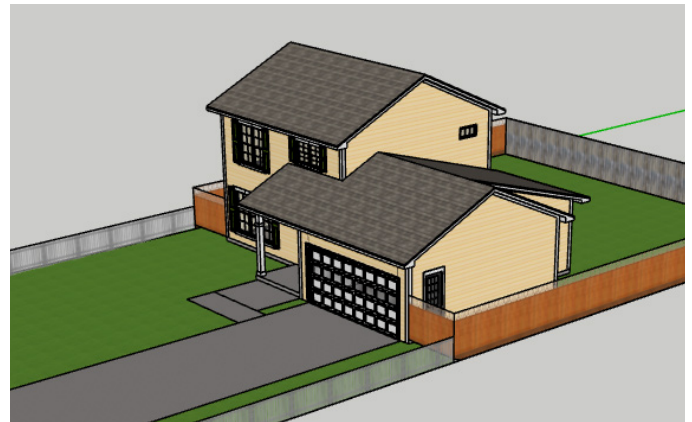


General Guidelines

Property Lines: Fencing should only be installed on owners property. If property lines are not clearly marked, a surveyor should be hired to determine and mark property lines



Retaining Walls: Retaining walls over 4 feet require a building permit. Retaining walls shall not be built on or over Public Utility Easements



Fence Height: Residential fencing shall not exceed 6 feet, and no sight obscuring fence taller than 4 feet may be built in front of the front wall of the house



Sport Courts: Fencing for sport courts may be chain link, and is exempt from the height restrictions of this chapter. Sport court fencing may not be used as exterior property-line fencing

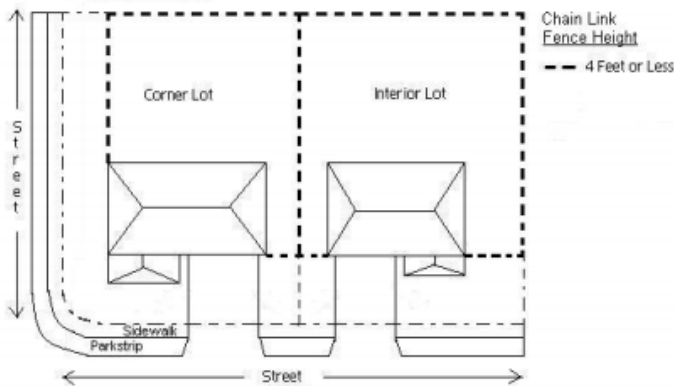
Always contact Blue Stakes prior to installing a fence

Barbed Wire: Barbed wire, or wire fencing shall ONLY be allowed in conjunction with approved animal uses, unless otherwise approved by the Planning Commission. Razor fences shall be Prohibited.



Chain Link Fencing: Chain link fencing is permitted when the recorded covenants, conditions, and restrictions of a property do not prohibit its use. The following are required for Chain Link Fencing:

- Shall not exceed 4 feet
- Rear and side yards only
- Top rail bar is required
- Slats are not allowed
- May not obstruct traffic visibility
- All other fencing standards must be met
- Fencing must be installed with the open cut of fence mesh down to the ground.



Other Guidelines

Alley Fencing: Fencing along alleys or residential service drives may be no higher than 6 feet and must follow clear vision triangle regulations.

Finishing Finished side slats shall be on the street or public view side of the fence railing

Fire Hydrants and Utility Boxes Fire hydrants and utility boxes should not be fenced into a yard. A 3 foot clear space shall be maintained around the circumference of all fire hydrants and utility boxes, even if they are not visible above ground.

Meters: Fencing shall not obstruct access to gas and electric meters. Per 15.70.020 of Eagle Mountain Municipal code all meters shall be installed in front of fencing

Public Utility Easements: Fencing may be installed over a public utility easement, however, retaining walls shall not be installed over a P.U.E.

Clear Vision Triangle

Clear lines of sight shall be provided at intersections by delineating triangular areas adjacent to all intersections, within which No: Parking, building, structures, berming, or landscaping over three feet in height above the street shall be permitted.

Single trunk trees may be planted but only where the tree will be pruned to eliminate all branches and foliage below eight feet.

Driveways are prohibited within the clear vision triangle of local streets unless there is no other feasible placement of a driveway on a lot. Clear vision triangles may not be required if an approved non-sight-obscuring fence is used. The size of the clear vision triangle shall be as follows:

- At the intersection of local streets, the triangle shall be defined by drawing a line between two points that are 30 feet from the intersection.
- Alleys or driveways and local streets shall have a triangle defined by drawing a line between two points that are 15 feet from the intersection along lot lines and 30 feet on the street side.
- Larger clear vision triangles may be required by the City Engineer where local streets enter arterial streets, major collector streets or Parkways.



Special Case Guidelines

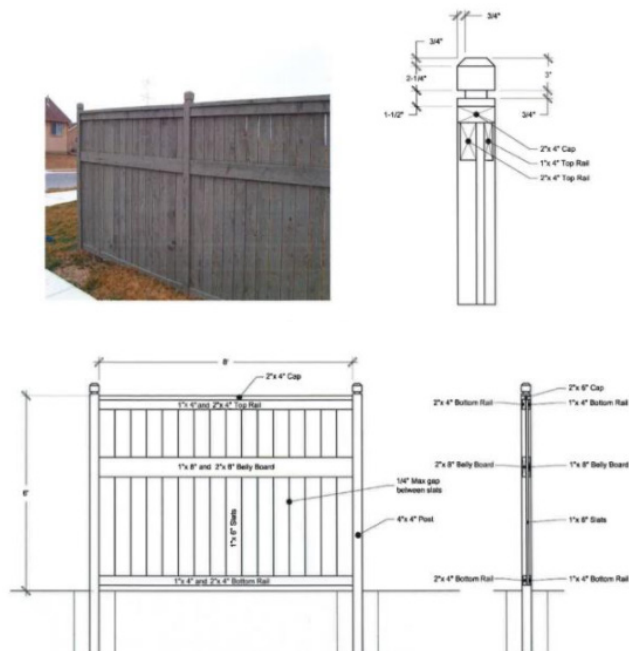
Collector and Arterial Fencing Standards: All new fencing installed along Arterial and Collector Roads shall be consistent with provisions of 17.60.120 which include:

- Six-inch by six-inch cedar posts that are crowned and routed on top
- One-inch by four-inch and two-inch by four-inch nailer board on top and bottom of fence
- Two-inch by four-inch cap board on top
- One-inch by six-inch slats
- One-inch by eight-inch and two-inch by eight-inch nailer board 30 inches below top of fence

Fencing shall be maintained in good repair and consistent manner by property owner.

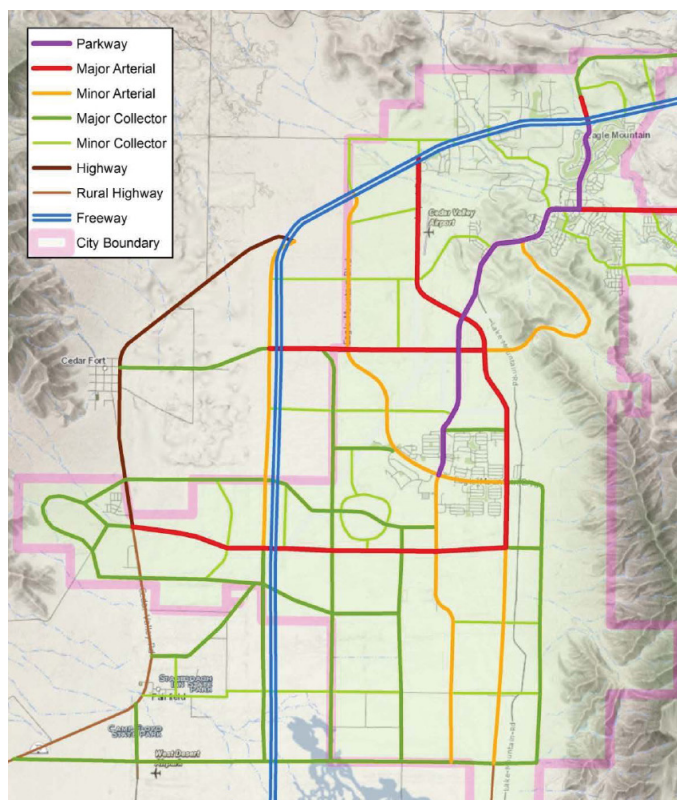
Note:

Existing fencing along collector and arterial roads (including fencing formerly maintained by HOA's) shall be maintained by property owners. Existing non-conforming fencing may be maintained in current form, however, all new arterial and collector road fencing shall comply with the above standards.



Note:

Please contact the City at (801) 789-6617 to confirm road designation for street adjacent fencing prior to installing new fencing.



Future Transportation Map showing Collector and Arterial Road

Glossary of Exhibits:

EXHIBIT 1: FINAL PLAT RECORD

**EXHIBIT 2: LOT PLAN WITH INSTALLED FENCE
LOCATION**

**EXHIBIT 3: REVIEW OF FENCE INSTALLATION
REQUIRMENTS**

**EXHIBIT 4: WRITTEN EXPLANATION OF
QUALIFIED VARIANCE**

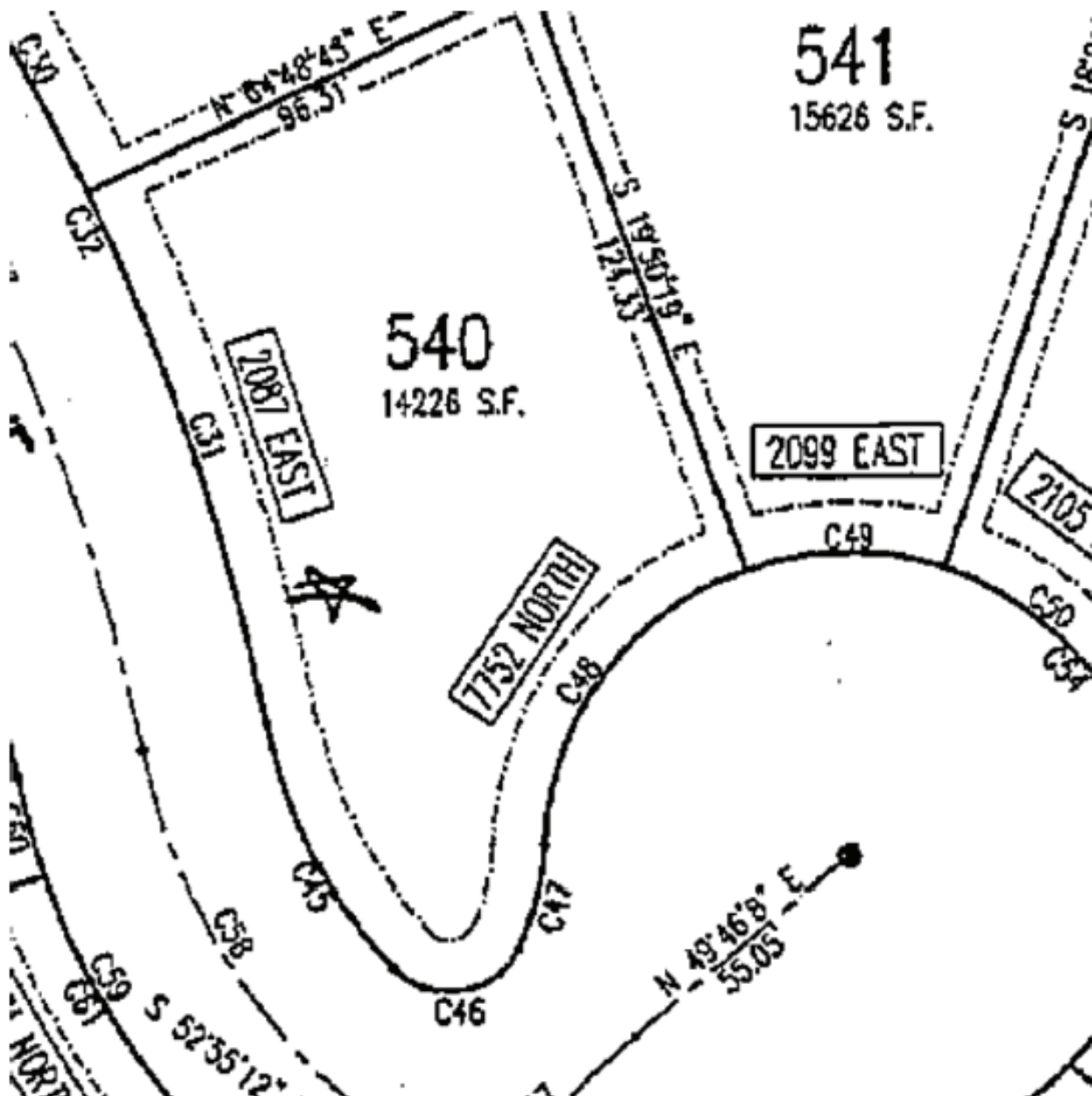
[illegible][illegible]

Exhibit 2. (LOT FENCE LOCATION)

Yellow Highlighted Area



Exhibit 3. (REVIEW OF FENCE INSTALLATION REQUIRMENTS)



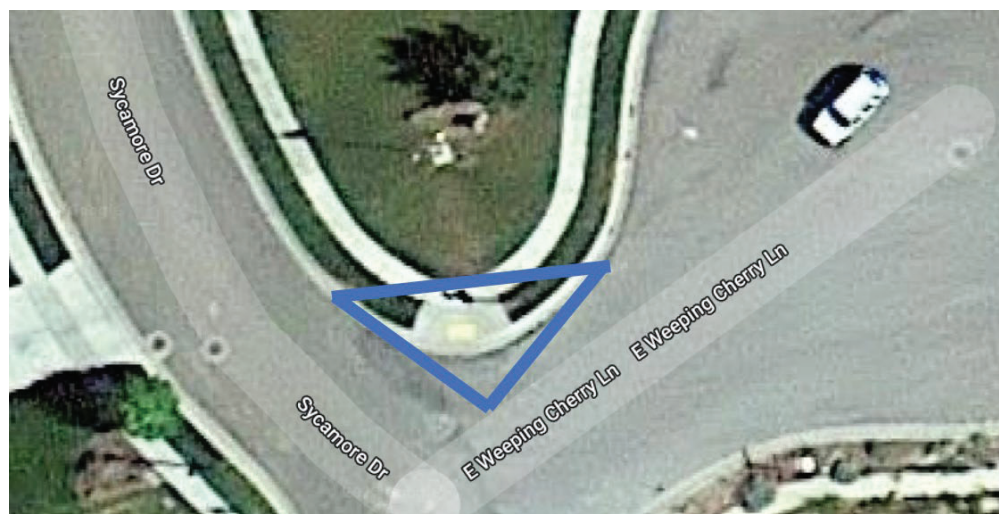
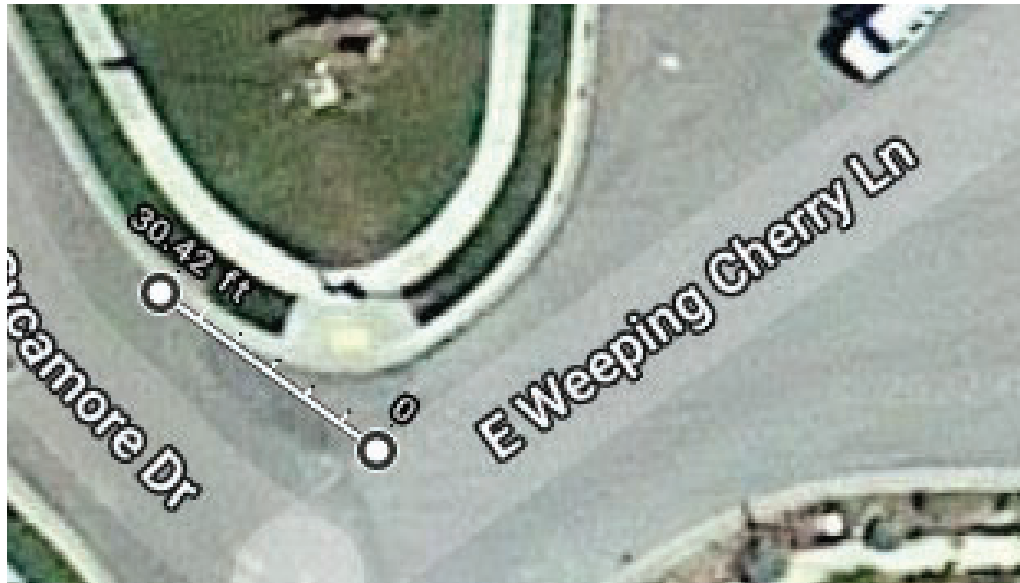
Originally the house was intended to face the cul-de-sac. Address would be 7752 N.

If the original plan was followed there would be a back yard. But the house was built to face Sycamore and now it has no backyard.

Referencing Code 17.60.120 General fencing provisions:

- a. Properties lines = fence has been installed on the property lines = No violation.
- b. Residential Fence Height. “No residential sight-obscuring fence shall be higher than four feet between the front wall of the home and the street.” = 2087 E Sycamore’s argument is that the fence has not been installed between the front wall of the house and the street; the fence is installed in the side of the property.
- c. Residential Alley. = N/A
- d. Commercial Fence. = N/A
- e. Industrial Fence. = N/A
- f. Miscellaneous Property/Uses. = N/A
- g. Public View. Finished side slats shall be on the street side of public view of the fence railing. = The fence installed is a white vinyl fence similar to all new property in the area and thus all sides are finished.
- h. Fire Hydrants and Utility Boxes. There are no fire hydrants or utility boxes located in this fenced area.
- i. Retaining wall. No retaining wall in the area of the installed fence in question.
- j. Sport Courts. N/A
- k. Public Utility Easement. N/A no utilities in this side yard where the fence has been installed.
- l. Meters, Fence shall not obstruct access to gas and electric meters. N/A There are no gas meters in this side yard area.

- m. Clear Vision Triangles. The fence installed does not block the clear view triangle as shown below.



n. Barbed Wire. N/A

o. Razor Fencing. N/A

p. Violation of Homeowners covenants. N/A No homeowners' associations.

q. Refuse Area. N/A

r. Collector and Arterial Fencing. N/A

s. Collector and Arterial Fencing Standards. N/A

Exhibit 4. (WRITTEN EXPLANATION OF QUALIFIED VARIANCE)

Note: “A variance may be granted only if all five of the criteria required by the Utah Code are addressed by the appeal authority, and only if each of the five evaluations support a variance.”

5 Requirements and requested support of said variances:

1. Literal enforcement of the land use ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the ordinance. The property is unique because there is no back yard. The yard is only located on the side of the property. It's a hardship that our family will not enjoy the use of a yard especially the little children if we are required to remove the fence. As a side note only: The fence has already been installed at a high cost. The fence is made from vinyl sheets. Thus, the entire fence must be replaced if the city requires us to change the fence.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district. Special circumstances include the property was built facing the wrong street. Initially it was intended that it face the cul-de-sac. Thus, giving us no back yard. There is no place which provides a large area, besides the side yard, for the children to play safely within a six-foot fence. Referencing 17.105.030

“Variances provide relief for landowners whose property may have some special conditions or unique physical characteristics.”

3. Granting the variance is essential to the enjoyment of the substantial property right possessed by other property in the same zone. The properties around us enjoy large backyards in which their children can play; they set up pools, playgrounds, and other structures. We feel is within our rights to enjoy our property the same as the other properties in our zone.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest. The installation of our fence in no way affects the general plan and in no way affects the public interest.
5. The spirit of the zoning ordinance is observed, and substantial justice is done. There is no way in which the spirit of the zone is affected in a negative way. The spirit of this six-foot ordinance is so that six-foot fencing is not blocking street views from the front of the house. This fenced area is to the side of the home; there is no six-foot fence in front of the home.
Referencing Code 17.60.120 section b.