

EAGLE MOUNTAIN CITY  
PLANNING COMMISSION MEETING MINUTES

TUESDAY, JANUARY 17, 2012 AT 6:00 P.M.

Eagle Mountain City Council Chambers, 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

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

COMMISSION MEMBERS PRESENT: Scott Langford, Preston Dean, John Linton and Tom Maher

CITY STAFF PRESENT: Steve Mumford, Mike Hadley, Janalyn Washburn, Deputy Dutson and Johna Rose

ELECTED OFFICIAL PRESENT: Ryan Ireland

1. Pledge of Allegiance

Tom Maher led the Pledge of Allegiance

2. Declaration of Conflicts of Interest

None

3. Approval of Meeting Minutes – November 22, 2011

A. November 22, 2011 Planning Commission Meeting Minutes

**MOTION:** *John Linton moved to approve the September 22, 2011, meeting minutes. Preston Dean seconded the motion. Those voting aye: Scott Langford, Preston Dean, John Linton and Tom Maher. The motion passed with a unanimous vote*

4. Approval of 2012 Planning Commission Meeting Schedule

**MOTION:** *No motion was made*

5. Election of 2012 Planning Commission Chair and Vice-Chair

**MOTION:** *John Linton moved to appoint Tom Maher as Planning Commission Chair for the 2012 year. Scott Langford seconded the motion. Those voting aye: Scott Langford, Preston Dean, John Linton and Tom Maher. The motion passed with a unanimous vote.*

**MOTION:** *Tom Maher moved to appoint John Linton as Planning Commission Vice Chair for the 2012 year. Preston Dean seconded the motion. Those voting aye: Scott Langford, Preston Dean, John Linton and Tom Maher. The motion passed with a unanimous vote.*

EAGLE MOUNTAIN CITY  
PLANNING COMMISSION MEETING MINUTES

TUESDAY, JANUARY 17, 2012 AT 6:00 P.M.

Eagle Mountain City Council Chambers, 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

6. Development Items

A. Conditional Use Permit – Hobby Breeder License: Action Item, Public Hearing.

A hobby breeder license is being requested by the applicant, located at 7707 N. Grant Street. The license allows more than four dogs at a residence, with certain restrictions.

Mike Hadley explained that the applicant, William Devlin, proposed to have eight dogs for shows and breeding. He would also be housing other owners' dogs for shows or shipping his dog off around the country for shows and he would possibly have one litter of puppies a year. The type of dog is an American Staffordshire Terrier.

The hobby breeder's license requirements and conditions:

1. All dogs be licensed with Utah County.
2. Proof of rabies certificate required.
3. Dogs are registered with a national registry.
4. Approval is granted by all regulatory authorities.
5. Adequate dog runs.
6. The holder of the permit may keep one litter intact until the dogs reach six month sold; one animal from the litter may be kept until it reaches 12 months old. At no time may there be more than nine dogs over six months of age or more than eight dogs over one year of age.

The Applicant has not complied with all conditions and requirements due to cost, but will comply once approved for the hobby breeders license.

Commissioner Maher asked how much a dog license costs.

Mike Hadley responded \$15.00 for a neutered or spayed dog, \$35 for a dog that is not spayed or neutered. That is through the County, but the license can be purchased at the City Offices.

Mike Hadley explained the four conditions of approval:

1. All dogs need to be licensed with Utah County.
2. Applicant is required to obtain a City business license.
3. Adequate dog run in the back yard.
4. Dogs are registered with a national registry.

Commissioner Dean asked if there were issues related to the conditional list. For example, is there a nuisance issue, etc.?

Mike Hadley responded that none have come up, but that may be added to the list of conditions.

Commissioner Langford questioned how this was brought to the City's attention. He asked if this had come to light due to a complaint.

EAGLE MOUNTAIN CITY  
PLANNING COMMISSION MEETING MINUTES

TUESDAY, JANUARY 17, 2012 AT 6:00 P.M.

Eagle Mountain City Council Chambers, 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

Mike Hadley responded that the applicant had come in August and applied for the hobby breeder license and to his knowledge there was one complaint.

Commissioner Langford asked if all single dwelling homes required a minimum of two parking stalls, how would the requirement be met if kennels are placed in the garage?

Commissioner Dean responded he doesn't believe the City has enforced the requirement that residents use their garage for parking.

Mike Hadley said from the pictures supplied by the applicant, he has one van that is parked in the driveway and only half of the garage would be used for dog kennels.

Steve Mumford said there have been specific projects that this code has affected. For example, the City had a resident that proposed a dance studio in the garage. This application was denied. The Building Department has enforced the code when residents are wanting to convert the garage into living space. Otherwise, we don't make people clean out their garage to provide two spaces.

Commissioner Dean stated that you could not make permanent changes to the garage.

Applicant William Devlin, 7707 N. Grant Street. explained that he does not breed dogs for a business or a profitable gain. He is a dog show handler of 14 years and has lived peacefully in the community for the past two years. This was brought to the City's attention in August when he applied for the hobby breeder's license. To his knowledge there was one complaint in that he had too many dogs. He believes it was more of a concern than a complaint. He knows without the hobby breeder's license he can't pay to have more than two dogs licensed through the County. He explained that one side of the garage is set up for parking and the other has enough space for an 8x8 kennel run plus an additional space for carrier kennels.

Commissioner Maher asked if all the conditions make sense, would he be able to meet the conditions? How long would it take to comply with all conditions?

Applicant William Devlin responded that he is more than happy to comply with the conditions of approval. The City licensing and business licensing should not take much time, The exercise run would take a little bit more time because he is planning on fencing a third of the back yard with chain link that would be inside the wood fence. He explained that it would be an exercise run and not a kennel to keep dogs, that all dogs outside would be supervised at all times. The condition that would be hard to meet would be registering all the dogs with the national registry. Some of the older dogs that are spayed or neutered have had multiple owners and are retired show dogs. He does not have legal rights to the those dogs' paper work due to being only a co-owner of the dog.

Deputy Dutson, Utah County Sheriff's Office Animal Control Division, explained how this was brought to the City's attention. He responded to an anonymous call of too many dogs at the Devlin residence. He explained that the City has adopted the Utah County Animal Control ordinance, which states that residents can only have four animals per residence

EAGLE MOUNTAIN CITY  
PLANNING COMMISSION MEETING MINUTES

TUESDAY, JANUARY 17, 2012 AT 6:00 P.M.

Eagle Mountain City Council Chambers, 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

(example 2 cats and 2 dog or 4 dogs etc.). He advised the applicant to come in and get a breeder's license if he could meet all the requirements. When meeting with Mr. Devlin, he was able to walk through the garage and observe the dogs. He found the garage very clean, the dogs had adequate water and food, they were well behaved dogs and there was no smell.

Commissioner Linton asked if the visit was announced or unannounced.

Deputy Dutson explained that the first time he just showed up and no one was home. He left information and a notice to call him. They arranged an appointment, but Mr. Devlin was not aware at that time he was going to observe the dogs. With a hobby breeders license the county law allows surprise visits and the applicant has to allow the inspection, for the well being of the dogs.

Commissioner Maher asked about the dogs that could not be papered under the national registry.

Deputy Dutson responded that Mr. Devlin's dogs are registered through the AKC (American Kennel Club). He is looking into the codes and laws about the older dogs that have co-ownership. Some of the dogs' papers are private information.

Commissioner Maher asked Deputy Dutson to get with Steve Mumford or Mike Hadley once he finds out on the registry.

*Commissioner Maher opened the public hearing at 6:27 p.m.*

Nick Srogus, 3501 E. Golden Eagle Rd, expressed concern that where the type of dog is a pit bull, the owner should have the proper business insurance. Mr. Devlin is not the property owner of the home, and the owner does not have the proper space for the dogs in the garage.

Daren Edwards, 7733 N. Grant St, was concerned with living in a very populated neighborhood with the majority of the population being small children and then breeding a vicious type of dog in the area.

Tracie Merinos, Rush Valley was concerned with the breed of the dog. She stated that according to the United Kennel Club, the American Staffordshire Terrier is the same dog as the American Pit Bull. She believed that because the homes are so close in the neighborhood and there are so many small children in the area, that this type of business does not belong in this type of neighborhood.

Robert Mortenson, 772 Rose St, shared the same concerns as the other residents. He stated that most of the neighbors are afraid to complain because Mr. Devlin has a very strong personality. There is a yellow lab at the neighbors' home and Mr. Devlin's dogs are always fighting at the fence with the lab, He has seen Mr. Devlin and the neighbor arguing about their dogs many times. He also stated that at night he can hear the dogs barking in the garage

EAGLE MOUNTAIN CITY  
PLANNING COMMISSION MEETING MINUTES

TUESDAY, JANUARY 17, 2012 AT 6:00 P.M.

Eagle Mountain City Council Chambers, 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

and there is a smell from the dogs. Another concern is trying to sell his home when a pit bull breeder's business licensed home is next door.

Holly Thomas, 3708 E. Blackhawk Rd, was concerned that there have been too many loose dogs in the neighborhood. Putting this type of dangerous dog in the neighborhood adds to the problem.

Patrick Hyde, owner of the home, stated that he has two daughters that play with these dogs and has never had a concern with the dogs in the two years Mr. Devlin has lived in the home. They are very well trained dog's and Mr. Devlin always has the dogs on a leash when walking. He believed any dog can attack, no matter the breed, especially if the dog is not trained.

Burgandy Keel, 7708 N. Grant St, was concerned with the number of dogs in a small area, the noise that pit bulls make when breeding, the fact that a pit bull will jump a 6 ft fence if he can smell a female dog in heat, the barking of the dogs, and she also does not believe that small space is best for the welfare of the dogs.

Wendy Francis, 7762 N. Grant St was concerned with the same issues as the other residents that spoke, and will make sure she calls law enforcement with issues to avoid confrontations.

Michelle Pixton, 7691 N Rose St, was also concerned with the same issues about having a hobby breeder in the neighborhood.

Gail Johnson, 7785 N. Grant, explained that she has called animal control and was told they would come out and drive around. She was also told the dogs would have to be barking when the officer was in the area. She felt that this was not a high priority for Animal Control. She wanted the dog run to be concreted in to prevent the dogs from digging under the chain link fence.

Travis Gividen, 7688 Rose St, stated that safety is his main concern. Four dogs on a lot that size is plenty, and a hobby breeder should be on a larger lot.

Teresa Edwards, 7733 N. Grant St, and board member of The Ranches Master HOA explained that they had received a number of calls expressing concern about this hobby breeder's license. She also wanted to let the Planning Commissioners know that a daycare is located directly behind the house in question.

*Commissioner Maher closed the public hearing at 6:48p.m.*

Commissioner Maher questioned Deputy Dutson about the garage space being used for the kennel and asked if a hobby breeder needs special insurance.

Deputy Dutson explained that by County law the hobby breeder needs adequate ventilation, windows, and the kennel has to be big enough for the dog . The kennel size requirement is

EAGLE MOUNTAIN CITY  
PLANNING COMMISSION MEETING MINUTES

TUESDAY, JANUARY 17, 2012 AT 6:00 P.M.

Eagle Mountain City Council Chambers, 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

measured by the dog. The dog's nose has to be 6 inches away from the kennel and the dog has to be able to turn himself around. There is a checklist of requirements that animal control goes through for a kennel license. By law if a dog does any damage to a person or property the dog owner is responsible, but he is not aware of any special insurance a hobby breeder needs.

Commissioner Maher asked Deputy Dutson to explain the safety issues and the requirements for fencing.

Deputy Dutson stated that the number one concern is public safety. He received several calls about this hobby breeder license. The main concern was the breed of the dog. Researching the breed, the dog is a family dog, calm and loves to be around people, but it's very protective and is known for a strong bite. The fence requirements are, if the shoulder length of a dog is 15 inches or smaller a 4 foot fence is required, if the shoulders of the dog are 15 inches or higher the requirement is a 6 foot fence. There are no requirements for having a chain link fence concreted in, or about dogs digging under the fence. When an inspection is done and there is evidence that a dog is digging, the County can have the owner fix the problem. By law nothing can be done until the dog gets out.

Commissioner Dean asked if requirements on the size of the dog are determined by breed.

Deputy Dutson said there are no requirements against a particular breed. There is a public nuisance law which addresses smell, barking, whining, howling, etc. Utah County receives an extremely high volume of calls on barking dogs. The County Animal Control Officer would drive around and check out the dog, but the dog would have to be barking at that time. He would call the owner of the dog and let them know what's going on and that they could be issued a citation.

Commissioner Dean asked if they could revoke the hobby breeder license.

Deputy Dutson responded the license could be revoked on complaints or if the breeder is in violation of any laws. The violation would be brought to the attention of the City to revoke the hobby breeder license.

Commissioner Maher asked if there were issues with the applicant being a renter.

Deputy Dutson responded that would be up to the property owner.

Deputy Dutson wanted to let the residents know that Animal Control response time is slow. Eagle Mountain City only has Animal Control for 6 hours a day out of their 12 hour shift. The other 6 hours is spent in the north end of Utah County. They will still respond if they are out of Eagle Mountain City.

Commissioner Maher asked Mike Hadley to explain the approval of the lot size and the approval of the number of dogs for the hobby breeders license.

EAGLE MOUNTAIN CITY  
PLANNING COMMISSION MEETING MINUTES

TUESDAY, JANUARY 17, 2012 AT 6:00 P.M.

Eagle Mountain City Council Chambers, 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

Mike Hadley explained that there is a difference between a kennel license and a hobby breeders license. There is no lot size restriction for a hobby breeder's license, But a kennel license requires 40 acres of ground. They are two different licenses.

William Devlin felt that the number of dogs was not an issue. The majority of the time the dogs live inside the home, his dogs are always attended while outside, there has never been an issue with one of his dogs in the two years, and the dogs are very well trained.

Commissioner Langford asked how many spayed or neutered dog the applicant has.

William Devlin explained that there were two dogs currently spayed and he would have another female up for spaying once she is retired.

Mike Hadley explained that the applicant has not met all the standards for a hobby breeder license, but the Planning Commission can approve the license as is or add special conditions of approval.

**MOTION:**

*John Linton moved to deny the hobby breeder license because all conditions have not been met. Tom Maher seconded the motion. Those voting aye: Scott Langford, Preston Dean, John Linton and Tom Maher. The motion passed with a unanimous vote (4-0).*

**B. Preliminary & Final Plat – Mid-Valley Road Phase 1: Action Item, Public Hearing.**

This subdivision plat includes the section of Mid-Valley Road that has been constructed, and one building lot located west of Pony Express Parkway along Mid-Valley Road.

Mike Hadley explained that the Mid-Valley Road Phase 1 is a preliminary and final plat that includes a road dedication for a portion of Mid-Valley Road and a 25 acre lot for the building of a middle school. For the first portion of this project, SITLA has been working with the City to install a portion of Mid-Valley Road. On our General Plan Mid-Valley road is a five lane Major Arterial that will run from Hidden Valley to Cedar Valley Freeway on the west side of the City boundary line. The portion of Mid-Valley Road that was required for access to the school site has been constructed and is nearing completion. The swale, street lighting and landscaping will be completed along with the middle school improvements. All the utilities have been extended to the middle school site. Additional asphalt improvements will be made at the intersection of Pony Express Pkwy and Mid-Valley Road to accommodate school bus entrance onto Mid-Valley Road.

Commissioner Langford asked if the road approval includes connection to the sidewalk and trails.

EAGLE MOUNTAIN CITY  
PLANNING COMMISSION MEETING MINUTES

TUESDAY, JANUARY 17, 2012 AT 6:00 P.M.

Eagle Mountain City Council Chambers, 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

Steve Mumford explained that the trail does connect.

Elise Erler with SITLA explained that there is a trail on the north side on Mid-Valley Road and it does connect to Pony Express. The only trail that has not been completed is located on the east side of Pony Express. Also a three way stop will be added where Mid-Valley Road meets Pony Express Parkway, but that will not go in until the school year. Then later on it will turn into a roundabout. SITLA is still working on a punch list from the City. That will have to wait until the weather warms up.

*Commissioner Maher opened the public hearing at 7:27 p.m.*

No public comment was made.

*Commissioner Maher closed the public hearing at 7:27 p.m.*

**MOTION:**            *John Linton moved to approve the preliminary plat and recommend approval to the City Council for the Mid-Valley Road Phase 1 Final Plat. Preston Dean seconded the motion. Those voting aye: Scott Langford, Preston Dean, John Linton and Tom Maher. The motion passed with a unanimous vote (4-0).*

C. Site Plan – Eagle Mountain Middle School: Action Item, Public Hearing.

This is a site plan application for Alpine School District's middle school, to be located along the new Mid-Valley Road.

Mike Hadley explained that the application is for a Site Plan for the Eagle Mountain middle school. The school district is exempt from most of the City's regulations and is not required to go through the approval process, but they asked to follow the City's Site Plan approval process. City staff have been working with the school district concerning utilities, roads, access, etc, and will continue to iron out the details to provide a safe and efficient project. One of the items in discussion is the access on the west side of the middle school to potentially combine with that of the high school.

The Eagle Mountain Middle School will be similar to the Vista Heights Middle School in Saratoga Springs. A high school is also planned to the west of this site. This type of layout allows for a large number of playing and practice fields to be utilized by both the Middle School and the High School with less land and cost to the school district. There is no time line for a High School. The middle school is scheduled to begin construction in March and be open for the 2013-2014 school year. The exact school boundaries have not yet been determined, but the school will serve Eagle Mountain, Cedar Fort and Fairfield.

Commissioner Linton felt that the setback at the junior high school in Saratoga Springs works well for a busy road, and hoped that the middle school out here uses the same plan.

Steve Mumford said he doesn't believe there will be much difference from Vista Heights Middle School except for access to the school.



EAGLE MOUNTAIN CITY  
PLANNING COMMISSION MEETING MINUTES

TUESDAY, JANUARY 17, 2012 AT 6:00 P.M.

Eagle Mountain City Council Chambers, 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

Commissioner Maher asked how the School District and the City are going to accommodate the kids that walk to school.

Steve Mumford explained that the City will meet with the School District and determine the number of crossings.

*Commissioner Maher opened the public hearing at 7:35 p.m.*

No public comment was made.

*Commissioner Maher closed the public hearing at 7:35 p.m.*

**MOTION:**                    *John Linton moved to recommend approval to the City Council for Eagle Mountain Middle School Site Plan. Preston Dean seconded the motion. Those voting aye: Scott Langford, Preston Dean, John Linton and Tom Maher. The motion passed with a unanimous vote (4-0).*

D. Animal Management Plan & Appeal of an Administrative Decision; Action Item. Public Hearing.

The applicant is appealing an interpretation of the Municipal Code concerning animal rights and barbed wire fencing, and has presented a grazing plan for several properties in the City Center.

Steve Mumford stated that there are three questions that need to be answered in this meeting.

1. Are livestock allowed on vacant residential or commercially zoned land?
2. Is the proposed grazing plan acceptable?
3. If approved, are there any conditions that should be placed on the use to protect health and safety of residents?

Steve Mumford explained that the applicants have proposed a grazing plan for seven properties located in the City Center, the details of which are included in the submitted letter, table, and map. The intent of the grazing is stated by the applicants as a method of reducing weed growth, and in order to achieve greenbelt tax status on the properties in order to reduce the owners' tax burdens. The cattle would be placed on the properties for no more than 60 days per year during the winter or spring months. The purpose of the barbed wire fencing is to keep the cattle on the properties, and also to restrict access for liability purposes. The fences have been set back from easements, trails, and roads to avoid conflicts with pedestrians, etc. The applicant has offered a written grazing plan at the City's request. City staff contacted Utah County and the State concerning the formulas used for assessing property as greenbelt, as well as the type of feed located in this area and the number of cattle appropriate for these types of properties, etc. The Farm Land Assessment Act Standards of Practice was researched, and the Grazing AUM's (Animal Unit Months) for the parcels in question were determined using the State and County formula. This formula determines the number of cows that can graze on a certain sized parcel for a month at a time. This research,

EAGLE MOUNTAIN CITY  
PLANNING COMMISSION MEETING MINUTES

TUESDAY, JANUARY 17, 2012 AT 6:00 P.M.

Eagle Mountain City Council Chambers, 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

along with discussions with these groups and others involved with cattle grazing, leads the City to question how 12 cattle will survive off of the type of vegetation that is native to Eagle Mountain for two months on some of the properties without requiring additional feed to be brought in.

The Code Enforcement Officer received about 25 calls from residents about concerns with barbed wire fencing, cows next to their home, smells, etc.

Steve Mumford introduced the three options for approval:

Approval Option 1

I move that the Planning Commission approve the Monte Vista Ranch Grazing Plan and Appeal with the following conditions;

1. The owner shall return to the Planning Commission for any amendments to the grazing plan, including the number of cattle, the number of days of grazing, the months of grazing, the water delivery method, the feed method, and the properties to be grazed.
2. The owner must respond quickly to valid nuisance complaints.
3. Colored streamers or flags shall be placed on the barbed wire fencing in locations that have historically been used by pedestrians or vehicles.

Approval Option 2

I move that the Planning Commission approve the Appeal and Grazing Plan with no conditions, with the following finding of fact:

1. The grazing of livestock on vacant residential or commercial property is permitted according to the Monte Vista Ranch and Eagle Mountain Properties Master Development Agreement, with a maximum of 12 cattle per property.

Denial Option

I move that the Planning Commission deny the Monte Vista Ranch Grazing Plan and Appeal, and require that the barbed wire fencing be removed from the properties, with the following findings of fact:

1. The grazing of livestock on vacant commercial property is not permitted by the Municipal Code.
2. Barbed wire fencing is only permitted in conjunction with approved animal uses.

Commissioner Maher asked, if they applied under their own code, why is the answer not number two?

Steve Mumford explained that the 1997 code was unclear and different interpretations were made on the code.

EAGLE MOUNTAIN CITY  
PLANNING COMMISSION MEETING MINUTES

TUESDAY, JANUARY 17, 2012 AT 6:00 P.M.

Eagle Mountain City Council Chambers, 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

Mike Wren, a resident working with Monte Vista Ranch, explained that there are three different grazing companies with lease agreements. They have lived in Cedar Valley all their lives, they know what the land can support, and when the cattle will graze on the land. There are six thousand acres in these seven properties, and each property can be divided into more parcels if needed. The applicants did not apply under the 1997 code at first. The current code says anything that can be on residential property can also be on commercial property. For tax purposes, they are trying to meet the minimum for the green belt.

Commissioner Linton asked how many years ago properties 2-6 were grazed on.

Mike Wren responded that it's been about ten years.

Commissioner Linton was concerned about the barbed wire being next to residential property.

Mike Wren responded that they pulled the fence back 20 to 50 feet from the property lines and there are no trails along the boundaries. The issue is these properties have been offered to grocery stores at no cost and there have been no offers. During the time these properties have been out of greenbelt the taxes have been over \$500,000. The owner would love to sell the property for commercial use. The owner is hoping this will be just for a short time, because if he can get anyone to buy or if commercial makes a comeback, the cows will be out of there.

*Commissioner Maher opened the public hearing at 8:06 p.m.*

No public comment was made.

*Commissioner Maher closed the public hearing at 8:06 p.m.*

Commissioner Langford felt that once a property was not grazed on for a year the land has been abandoned for that purpose.

Commissioner Dean was concerned that other property owners will come in and try to put their land back into greenbelt for tax purposes.

Commissioner Linton felt property remains the same for years, He didn't believe that each parcel needs to have a house on it to be able to have twelve head of cattle.

Commissioners felt that the City should go back and clarify vacant land use.

**MOTION:**

*John Linton moved to approve Option 2 of the Monte Vista Ranch Grazing Plan and recommend approval to the City Council. Preston Dean seconded the motion. Those voting aye: Preston Dean, John Linton and Tom Maher. Those voting no: Scott Langford. The motion passed with a three to one vote.*

EAGLE MOUNTAIN CITY  
PLANNING COMMISSION MEETING MINUTES

TUESDAY, JANUARY 17, 2012 AT 6:00 P.M.

Eagle Mountain City Council Chambers, 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

7. Discussion Items

A. City Council Action Update

- Wake park was approved, but the applicants are working with the County Health Department. The concession agreement was tabled.
- Guiding principles for the City Council were reviewed.
- Spring Run was discussed, but no action taken.
- New business park zone was approved.
- Home business license code amendments were approved and changed.

B. The General Plan & Development Code Amendments: Discussion Item

Discussion concerning updates to the General Plan document, and potential amendments to the Development Code.

- Put together some health and safety strategies, provided for the Commission's review.
- Review small breed goats in residential areas.

C. Other City Business

8. Adjournment

The meeting was adjourned at 8:43 p.m.

APPROVED BY THE PLANNING COMMISSION ON FEBRUARY 28, 2012.

  
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Steve Mumford, Planning Director