

**MINUTES OF SPECIAL TOWN COUNCIL MEETING
TOWN OF EAGLE MOUNTAIN, UTAH
1680 E. Heritage Dr.
Eagle Mountain, UT 84043
February 8, 1999**

1. Roll Call:

Bill Chipman called the meeting to order at 7:17 p.m.

Councilmembers Present: Dan Valentine, Diane Bradshaw, Bill Chipman
Cyril Watt arrived at 7:43 p.m.

Town Staff:

Town Administrator: John Newman
Town Attorney: Jerry Kinghorn
Town Engineer: Korey Walker
Town Clerk: Janet Valentine
Recording Secretary: Vada Hunter

Others present: Bob Lynds, The Ranches; Debbie Hooge, The Ranches; Scott Kirkland,
The Ranches

2. Pledge of Allegiance:

Dan Valentine led the Council in the Pledge of Allegiance.

3. Approval of Agenda:

MOTION *Diane Bradshaw moved to approve the agenda as stated. Dan Valentine seconded. Ayes: 3, Nays: 0. Cyril Watt not present yet. Motion passed.*

MOTION *Diane Bradshaw moved to approve Bill Chipman as Mayor Pro-Tem. Dan Valentine seconded. Ayes: 3, Nays: 0. Cyril Watt not present yet. Motion passed.*

4. Consideration to approve the Master Development Agreement with the Ranches, LC:

Mayor Pro-Tem Chipman turned the time over to Jerry Kinghorn, Town Attorney, for the presentation of the Master Development Agreement between the Town of Eagle Mountain, Utah, and The Ranches, L.C. "Developer".

Jerry discussed some of the items that had been holding up getting the final agreement finished. One of the issues was water. He said these had finally been resolved. He also said there needed to be some work done on their Financial Plan.

Jerry Kinghorn introduced the Exhibit List:

Exhibit 1 – Master Development Plan (Map)

Exhibit 2 – Town's Zoning and General Plan (Development Code)

Exhibit 3 – Town Capital Facilities Plan

Exhibit 4 – Schedule of Required Improvements

- 4.1 Master Parks & Trails Plan Map
- 4.2 Park & Open Space Dedication Map
- 4.3 Developed Park Location Map

Exhibit 5 – Open Space Dedication Schedule for Parks and Open Space

Exhibit 6 – Special Conditions

Exhibit 7 – Density Transfer Map

Exhibit 8 – Amendment to the MDP (Application Form)

Jerry Kinghorn then introduced Exhibit 1 – Master Development Plan and gave a brief explanation about the map. He explained that it gave the zoning, the acreage, the density, and the number of units. He said this was approved March 10, 1998.

Scott Kirkland, The Ranches, talked about the changing of the numbering system.

There was a discussion about entitlements and guarantees on the 6,134 residential units.

Jerry Kinghorn said he was using the Development Code dated March 30, 1998.

Korey Walker gave a brief explanation about the Town Capital Facilities Plan.

Jerry Kinghorn asked Scott Kirkland to talk about the Master Parks & Trails Plan Map. Scott said they took a geographic area and planned them out. They set up a schedule to follow on the development of the trails. Jerry said there would be some flexibility as far as when the trails would have to be completely developed. Scott Kirkland said their plan would be to have consistency in the design of their trails so that it all flows together which is different than the Walden plan where each developer puts in his own trail.

Scott Kirkland then talked about the Park & Open Space Dedication Map. He said their total open space is 34%. They talked about the land that would be dedicated to the Town.

Jerry introduced the Open Space Dedication Schedule for Parks and Open Space.

Jerry then talked about the density transfer map. He said this map would not be complete until it had been through the correct process with the Planning Commission and Town Council. Jerry proposed going from 12 to 18 units per acre on a density transfer in a village core. It was then stated that the maximum density was 14 and not 12.

There was a lengthy discussion about density.

Mayor Pro-Tem Chipman asked the Council to go through the Master Development Agreement page by page and make any comments dealing with that page.

Page 1: The amount of the units should be 6,134 and not 6,137.

Page 2: No comments.

Page 3: In the middle of the page, after Exhibit "3", Bob Lynds asked that the wording be changed in the next sentence. It should read: The parties understand that the Capital Facilities Plan may be amended from time to time as changing circumstances concerning the Developer's project require and that the CFP as amended is the governing CFP under this Agreement.

Page 4: The last sentence in the first paragraph should read: Island are defined as property bounded on all sides by the Developer's Land in the Ranches MDP and peninsulas are parcels of land adjoined by at least 60% of the land parcel perimeter by the existing Ranches MDP.

Page 5: 1.9, Town's Development Code: There was a discussion about the correct date to use. The decision was made to use June 23, 1998.

Page 6: 2.2, the sentence after Exhibit "2" should state: which may be amended from time to time as circumstances concerning the Ranches may require.

Page 7: 2.2.2, sentence six shall read: In the event other master Developer's are required to contribute water sources to the Town water system, the Town shall require cost-sharing by other future Master Developers with The Ranches on a ratio of residential units use basis.

There was a discussion about digging wells and who pays the cost.

Page 8: 2.2.2.1 (continued from page 7) the third sentence shall read, All work proposed shall be strictly in compliance with the requirements of the Drinking Water Division of the Department of Environmental Quality of the state of Utah and the Utah Division of Water Rights.

Page 9: 2.2.2.3 Bob Lynds asked that the first sentence read: The Town shall prepare contracts for professional services and construction work in accordance with the mediated settlement provided for above and shall submit all contracts for work on the project to the Developer for review and comment. Then a paragraph was added: If the Developer does not agree with the final decision of the Town Council, the parties agree to submit the disputed contract provisions to binding arbitration under the commercial arbitration provisions of the American Arbitration Association, provided, however that the use of standard Town utility construction specifications and standards for the installation of improvements shall not be a subject of such binding arbitration under this Agreement. Each party shall pay one-half of the cost of the arbitration provided for herein. Each party shall pay its attorney's fees incurred in the arbitration proceeding and shall not seek recovery of fees or costs from the other.

Page 10: 2.2.2.4: The Developer shall deposit with the Town the amount required to fund the first two contracted activities on the agreed scope of work. The last sentence of 2.2.2.4 should read: Phased project contracts shall be funded fully before the project contract is released and a notice to proceed issued.

Page 10: 2.2.2.5 The second sentence should read: Payments shall be applied exclusively to the costs identified in the written scope of work and contracts prepared under the provisions of paragraphs 2.2.2.1 and 2.2.2.2 above.

Page 11: 2.2.3 The second sentence should read: The Town Engineer or a surveyor approved by the Town Engineer to work under his supervision shall determine the required alignment for all roads and other easements and rights-of-way and shall field stake the right-of-way or easements and prepare a legal description which shall be used by the Developer to acquire a title report from qualified title insurance company acceptable to counsel for the Town showing the land ownership of the required easements and rights-of-way.

Page 12: 2.2.3: The last sentence of page 11 should read (continues on page 12): The Developer shall consult with counsel for the town and receive advance approval from counsel for the town of the title insurance company and the instruments proposed by the Developer to acquire rights-of-way and easements for the town in the Developer's project construction. If funds are available in the approved

SID budget, the Developer shall be re-imbursed for easement, right-of-way, and other approved public improvements if and/or when interim warrants or bonds are sold to provide funding for budgeted re-imburement.

Page 12: 2.2.4 The last sentence on page 12 should read: All off-site (non-subdivision) improvements which will become public improvements within the Developer's project shall be designed by an engineer approved by the Town under the supervision of the Town Engineer and constructed under the supervision of the Town Engineer. If SID funding is not used, the improvements may be constructed by the Developer using Town contracts, specifications and inspections by the Town Engineer.

Page 13: 2.2.4: Beginning on page 12, the last sentence should read: Funding for the public improvements required by this agreement shall be provided by the Developer under specific improvement construction agreements between the Town and a Developer to be entered into by the parties prior to the commencement of construction on the proposed improvement. Until the Town has engaged staff counsel and engineers, it is the obligation of the Developer to reimburse the Town for all direct legal and engineering costs associated with the construction of the improvements required in the Developer's project. The second to the last sentence should read: The developer shall be entitled to review and comment on all change orders to construction contracts under this subsection. Objections to a change order shall be in writing addressed to the Town Public Works Director and Town Engineer.

Page 14: 2.2.4: In the last two sentences it should refer to the utilities director as the Public Works Director.

Page 15: 2.3 The third sentence should read: No density transfers shall be allowed which would exceed 14 units per acre until or unless the Development Code is amended to provide for an increased density ceiling per acre with related compatibility standards. The last sentence was stricken.

Page 16: 2.4: The second sentence should read: The Developer acknowledges that the Town does not guarantee that the Developer will be able to properly land plan all of the density entitlement explicit in the approval of the MDP.

Page 16: 2.5: The first sentence should read: In addition to the general rights acquired by Developer pursuant to Paragraph 2.3 above, the Town specifically acknowledges that at build-out Developer shall be entitled to a density of residential housing up to the density specified in the Ranches Master Development Plan provided that the density bonus credits provided for in the Development Code for density credit have been approved for the Developer's project based on improvements which benefit the MDP area or are part of each subdivision or commercial site as required by the Development Code.

Page 17: 2.5.1: The third sentence should read: The parties agree that no density transfer shall be approved which will cause the density within the parcel to violate the provisions of the Development Code as amended.

Page 18: 2.6.1 The second sentence should read: For each phase the Developer or the Class II permit applicant shall dedicate to the Town the proportionate open space, park or other open space in compliance with the approved Master Development Plan at a ration of 31.8% of park or open space to developed area as required by the Ranches MDP according to the defined sequence dedication schedule which is Exhibit "5".

Page 18: 2.6.2 The residential units should be 6,134.

Page 19: 2.6.4 The second sentence should read: Each Class II Development Agreement shall be consistent with this Master Development Agreement.

Page 19: 2.6.5 The first sentence should read: Each separate Class II Development Agreement for a Development Phase shall provide that the applicant for the Development Phase shall dedicate the land required for the public trails.

Page 20: 2.7 The first sentence should read: All of the required park land must be dedicated with the concurrent phase of development and the final acreage shall be transferred at or with the phase of development, which results in final Build-out. The last sentence should refer to Exhibits "1", "4.2" and "4.3".

Page 21: 2.8 The first sentence should read: The land areas on Exhibit "1" approved by the Planning Commission and Town Council as parks shall be dedicated as required set in Exhibit "5", and shall be improved and maintained for a period of five years by the Developer from the date of acceptance of the park.

Page 21: 2.9 The third sentence should read: Infrastructure constructed by the Developer or the Developer's assignees included in the Capital Facilities Plan will qualify for impact fee credit under the Town Impact Fee Ordinance if the facilities for which credit is claimed are included in the Town Capital Facilities Plan for impact fees.

Page 22: No changes.

Page 23: 2.11.3.2 The first sentence should read: . If the application is disapproved by the Town Council and the Ranches does not agree with the reason for disapproval by the Town, the Ranches may elect to arbitrate the questions of whether or not the disapproval is based on sound land use principles, or is arbitrary and capricious.

Page 24: 2.11.3.2 Please add the following sentence to the end of the section: The cost of arbitration and fees shall be allocated as provided in Section 2.2.2.3 above.

Page 25: No changes.

Page 26: 4.0 The Exhibit referred to should be Exhibit 6 and not 5.

Page 27: 5.2 The third sentence should read: Developer shall notify the Town of any proposed assignment with a complete description of the proposed assignee, its financial capacity and development experience.

Page 28: 5.2 The first line on this page should be 30 days and not 15 days.

Page 29: No changes.

Page 30: No changes.

Page 31: No changes.

All of the changes resulted from discussions between the Town Council and The Ranches. The changes will be done by Jerry Kinghorn, Town Attorney, and presented at the next Town Council Meeting.

The item that had the most discussion was the density allowance.

MOTION

Dan Valentine moved to approve the Master Development Agreement between the Town of Eagle Mountain, Utah, and The Ranches, L.C. "Developer" as amended per the discussion tonight, and subject to the review by the Town Attorney, Town Engineer, Town Administrator, and authorize the Mayor to sign upon return. Cyril Watt seconded. Ayes: 4, Nays: 0. Mayor Bateman was absent and William E. Chipman was Mayor Pro-Tem. Motion passed.

Cyril Watt motioned to adjourn at 10:19 p.m.

Approval: Robert E. Bateman Date: 3/9/99
Mayor Robert E. Bateman