

MINUTES  
EAGLE MOUNTAIN PLANNING COMMISSION MEETING

May 11, 2010

Eagle Mountain City Council Chambers, 1650 East Stagecoach Run, Eagle Mountain, Utah 84005

COMMISSION MEMBERS PRESENT: Karleen Bechtel, Preston Dean, Bonnie ElHalta and Tom Maher.

ELECTED OFFICIAL PRESENT: Donna Burnham, City Council

CITY STAFF PRESENT: Steve Mumford, Planning Director; Mike Hadley, Senior Planner; Jenalee Harper, Deputy Recorder.

Planning Commission Chair Tom Maher called the meeting to order at 6:00 p.m.

1. Pledge of Allegiance
2. Declaration of Conflicts of Interest

None

3. Approval of Minutes

- A. April 27, 2010 Planning Commission Meeting Minutes

Karleen Bechtel asked that her comments from page 4 of the minutes read that she felt SR73 was inadequate.

**MOTION:**            *Preston Dean moved to approve the April 27, 2010 minutes subject to the change Mrs. Bechtel requested. Bonnie ElHalta seconded the motion. Those voting aye: Karleen Bechtel, Preston Dean, Bonnie ElHalta and Tom Maher. The motion passed with a unanimous vote.*

4. Development Items

- A. Pro-Backdoor Verizon Wireless Cell Tower—Public Hearing, Action Item

Mike Hadley explained that Verizon has submitted an application to build a 100 foot high monopole and 250 square foot equipment shelter to be located just off of SR73 on the south side, west of Sage Valley and Airport Road. He explained that the applicant had proposed chain link fencing to surround the area but that the City preferred that it be a wood fence. He stated that the applicant agreed to build a wood fence. He explained that UDOT has permitted access to the site and that the Fire Department has also given their approval of the project. He said that the FFA has no issues with the tower because it is not within 5 miles of any airport.

Tom Maher asked if this was an appropriate area for the cell tower to be located.

Mr. Hadley explained that the general plan classifies the area as a commercial zone therefore allowing things such as cell towers to be put in the area.

Mr. Hadley said that administration approved of this plan but that they recommended that towers like these be placed on City property.

Steve Mumford explained that the City Administrator has worked in previous Cities in which cell towers are located on City property so that everyone can benefit instead of just one property owner. He said that this is not something that the City is currently pursuing but that it may be something to look into in the future.

Mr. Maher asked what the height of previous cell towers has been.

Mr. Hadley stated that the one by Sweetwater is 80 feet high and that he was unsure of the height of the other towers.

Mr. Maher asked if anything could be done to make the site more attractive because it is right next to SR 73.

Bonnie ElHalta asked how this cell tower would affect the commercial area.

Mr. Maher explained that it is fairly common to see cell towers in commercial areas.

Mr. Hadley explained that it's 100 feet from SR73 and that in the future as the commercial area is developed they may be able to renegotiate with applicant to come up with a more aesthetically pleasing design.

Mrs. ElHalta asked if the same requirements can be made for other cell towers such as the no chain link fence requirement. She does not want to see chain link fences because they collect tumble weeds and are unattractive.

Doug Kofford, a representative of Verizon Wireless, stated that the cell tower is needed because Verizon needs more coverage. He explained that with the new smart phones coming out and all of the data downloads the current towers can't handle it all. He said that this location was chosen because of the engineering design of the tower. He said that additional carriers can also locate on the pole if they choose to. He explained that they had originally proposed a chain link fence so that if maintenance on the tower needs to be done at night the maintenance people can shine their vehicle lights through the fence to see. He said that they will make a change to a wood fence at the City's request.

Mr. Maher asked how much population one tower can handle.

Mr. Kofford explained that he couldn't answer that question because antennas only work as someone is on a call driving by. He said that it also depends on how many Verizon customers in the area use their cell phones. He also went on to explain that it is recommended that the cell tower is not painted and just left the way that it comes from the manufacturer. He gave an example of a cell tower in Cache County that had been painted six times at the request of a City until they finally decided to leave it alone. He

explained that studies have proven that if the pole is left unpainted the brilliance from the metal will eventually fade and it ends up looking more aesthetically pleasing in the long run.

*Tom Maher opened the public hearing at 6:15 p.m.*

No comments were made.

*Tom Maher closed the public hearing at 6:15 p.m.*

**MOTION:**            *Preston Dean moved to approve a conditional use permit application for the Verizon Wireless cell tower subject to the following conditions:*

- 1. PERMISSION. That the applicants submit evidence that the property owner is in agreement with the application.*
- 2. BUILDING PERMIT. That a building permit is obtained from the building department.*
- 3. E-FILE. That the e-file for the easements and site be submitted for verification and addressing of the site.*
- 4. UTILITIES. The applicant contract through the City for design of site.*
- 5. ADDITIONAL CARRIERS. As additional carriers want to install antennas the plans must be reviewed by the planning director or designee.*

*Bonnie ElHalta seconded the motion. Those voting aye: Karleen Bechtel, Preston Dean, Bonnie ElHalta and Tom Maher. The motion passed with a unanimous vote.*

**B. Harmony Preliminary Plat-- Public Hearing, Action Item**

Mr. Mumford explained that the Harmony Preliminary Plat is a 772-acre project located southwest of the Overland Trails Subdivision and west of Sweetwater Road. He said that the project contains 2,137 single family lots, 182 alternative design block units, 92 acres of future multifamily property with a potential of 1,935 units, 27 acres of commercial land, 36 acres of parks and improved open space, 6 church sites, and a junior high school site. He said that the applicant expects this to be a 25 to 30 year plan. He reviewed the general plan map and the plat map with the Planning Commission.

Mr. Mumford reminded the Commission that this project can be processed under the 1997 code or the current code. He highlighted the following important aspects of the 1997 code:

- A parks requirement of 2.5 acres per 400 proposed dwelling units.
- No minimum frontage requirement for single-family lots.
- Alleys are required for development of 4 units/acre and above.

- Architectural design review standards, including the requirement of garage doors not facing the street unless the garage is set back 75 feet or more from the front property line.
- Storm detention basins may be counted in the park requirement.

He explained that several past applications have been reviewed under a hybrid 1997/current code and given special allowances which created some negative aspects to current subdivisions. He said that the applicant has asked that this project be reviewed under the 1997 code with allowance for 40 foot lot frontages, parks calculation under the 1997 code, no alley requirement and no architectural design review requirements. Mr. Mumford explained that these allowances have been approved in past projects.

Mr. Mumford explained that this project will have four alternative design blocks that will be designed in the future as a single-family detached courtyard or green court. He said that the homes/lots fronting onto a green court may have a minimum frontage of 35 feet, and the homes/lots fronting a public street may have a minimum frontage of 40 feet with no garages facing the public street. He explained that staff feels that the 10.3 units per acre is too high. He said that it would be almost impossible to fit the number of units shown in an attractive single-family courtyard or green court design. He said that the City recommends that the maximum units per acre be changed to 8.5.

Mr. Mumford stated that a preliminary plat approval vests the applicant with lot layout, street configuration and density. He said that the standard for developers is to get vested with as much density as they can.

Mr. Mumford said that several of the multi-family areas are located immediately across the street from single-family lots. He feels that the multi-family areas should be designed with appropriate transitions from the lower, medium and high-density areas. He said that staff would like to see these areas designed according to the future City Code at the time of site plan application.

Mr. Maher asked if a preliminary plat has an expiration.

Mr. Mumford said that there is no expiration of preliminary plats and that the developer is vested in density if a preliminary plat is approved.

Mr. Mumford explained that a traffic study showed poor levels of service along Eagle Mountain Boulevard and SR73, eventually. He explained that the developer may be required to pay for road widening if the level of service on the road becomes a level of service of D and that development would be put on hold until the road is widened.

Mr. Mumford said that the 1997 code requires 2.5 acres of open space for every 400 units/lots. He said the applicant has included 35.96 acres of improved open space which consists of landscaped detention basins, parks of various sizes, and some decorative landscaped areas.

Mr. Mumford explained that the current code only requires that 75% of the building exterior materials consist of masonry materials. He said that staff has had some concern

with corner lots in this project and that staff is recommending that all corner lots contain a corner cutoff setback to allow for proper distance for gas and electric utilities to round the corners of a lot.

Mr. Mumford explained that some changes will be needed for some street names.

Mr. Mumford explained that in the past water right documentation has been required at the preliminary plat stage. He said that the applicant has stated that they have sufficient water rights for the first 5 years of development and that they expect to use the City's CWP water for the remainder of the project. He explained that no documentation has been submitted so the City does not have assurance that there will be enough water rights. He stated that the City Attorney has advised that a process needs to be agreed upon for allowing developers to "sign up" for CWP water rights and how those will be distributed. He also explained that the CWP water is pending litigation that the City hopes will be resolved shortly but until then the City does not know what the requirements for obtaining approval of using CWP water will be at this point.

Mr. Mumford said that the City is looking at doing a development agreement for this project. He stated that staff recommends that this item be tabled to the June 15, 2010 Planning Commission Meeting.

Mr. Maher asked how the water rights would be coordinated for 30 years.

Mr. Mumford stated that 15,000 acre feet of water could potentially allow for 25,000 homes to be built. He said that applicants can sign up for the CWP water but cannot use it until the current litigation is over.

Mr. Dean asked if the developer could sell back the water rights if they became more valuable than land and decided not to develop their project.

Mr. Mumford explained that a policy has not yet been created for the CWP water shares and that he was unsure if this would be a possibility.

Mike Wren, a consultant to the developer, explained that the multi-family is not being approved at this time and that it will have to come back to the Planning Commission in the future. He said that anything submitted after 2017 will be submitted under the current code at that time. He stated that it is in the City's best interest to overstate the number of units allowed for engineering purposes so that there aren't potential intersection problems and storm drainage issues. He said that they have proposed to the City that they not be vested in water for this project. He said that it will take approximately 1750 acre feet of water to complete this project and that they currently have 1450 acre feet of water. He said that they would like to see the City not require them to be vested in water. He said that Pony Express Park will eventually be a full sized park and that it will add to the Harmony project. He said that he is certain that the majority of the multi-family units will not be developed under the 1997 code and that they will come in under the future code. He stated that he was opposed to the 75% masonry material restriction. He asked that wainscoting be added to the list of masonry materials permitted. He asked that the masonry material restriction only be for the front of the house.

Mr. Mumford explained that the requirement of 75% masonry materials was not discussed with the applicant but was included in the staff report. He said that because of the concerns the Planning Commission had back in September regarding this project staff decided to include this recommendation in the staff report.

Mr. Wren stated that he was not opposed to trying to work something out regarding the building materials.

Mr. Maher asked why Eagle Mountain Properties is coming forward with this project at this current time.

Mr. Wren explained that the developer wants this plan approved so that potential buyers and residents can see what is going to be built in the future.

Mr. Maher stated that he is concerned with approving 1,000 single family homes in a "race track" type of design. He feels that there is no flexibility with design.

Mr. Wren feels that this will avoid patchwork transportation by approving this type of plan. He said that a lot of effort was put into the plan and feels that it will be a good place to live.

Mr. Mumford said that all of the lots located along the trail systems are between 6,500 and 9,100 square feet with the majority of them being approximately 8,000 square feet. He said that there are large lots next to the Overland Trails subdivision transitioning down to smaller lots.

Mr. Wren said that the old code required 26 acres of open space and they are providing approximately 37 acres. He said that it is very common to have detention ponds used as parks and that it is very unlikely that nuisance water from storms generally will not back up. He stated that they raised the portion of the ponds containing the playground equipment up and put the soccer fields down in the lower areas.

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

Cliff Murk, 1378 E Springwater Way, said that he would like the Planning Commission to follow the Council's recommendations and not approve any preliminary plats until the water situation is resolved.

Nikki Wickman, 2766 Fort Hill Road, said that the City is changing a lot and would like to see the current code being used. She does not want to see any more projects being grandfathered in under old codes. She asked if there was a requirement that a certain number of homes had to be filled before the following phases of the project could be built. She stated that the condos in the ranches has garbage and parking issues and asked who is responsible for taking care of these things 20 years down the road. She asked if the developer could build without the water rights.

Alan McFarland, Rock Creek Condos, stated that the higher density areas need to have parks and areas for the children to play. He said that from his experience there is never enough area for children to play and asked that the developer take this into consideration when developing this project. He also asked that all landscaping, and everything on the plans be completed before the bond is released back to the developer.

McKay Edwards, SITLA, said that SITLA was happy to see that the Pony Express Trail corridor is being preserved. He said that the transportation elements of the plan meet SITLA's needs. He explained that on the west side of the project there is an intersection that the City may want to have that road carry more traffic than it is anticipating. He feels that there is not an adequate amount of open space for the density that is being proposed. He feels that there needs to be more open space because a lot of the homes will have little to no backyards.

Mrs. Bechtel stated that she agreed with Mr. Edward's comments regarding open space.

Mr. Dean asked if there was any room in the proposed master plan to obtain a regional park and community parks.

Mr. Mumford explained that one of the parks in the south east area is approximately 13 acres in size but that there is no area for a regional park. He said that the Pony Express Regional Park is next to the proposed development and will provide some regional park requirements for part of the project.

Mr. Dean asked if the total amount of open space being provided by the developer includes open space requirements for the future multi-family areas.

Mr. Mumford explained that the open space does not include the multi-family area but that in the future when a plan comes forward for the multi-family area the developer will be required to provide some useable open space.

Mr. Wren agreed with Mr. Mumford's comments.

*Tom Maher closed the public hearing at 7:59 p.m.*

Mr. Wren stated that this project will have an HOA because it is impossible to enforce CC&R's without one. He said that the regional park for this project already exists and that it is the Pony Express Regional Park. He explained that all of the trails will connect to the parks. He explained that water rights are paper, and that wet water is water within wells. He said that in the past the City was behind on their infrastructure which caused the wet water issue. He said that there are enough water rights and therefore the developer is happy to not have the project be tied to a specific amount of water rights. He explained that the developer felt that the smaller neighborhood parks were needed to provide children with areas close to home where they can play.

Mr. Mumford said that a performance bond and bonds for all public infrastructure are required. He stated that those bonds are kept until they are complete, have been inspected and have exited their warranty period. He explained that the developer in Rock

Creek had left and gone under which is why they have experienced a lot of issues with common area and parks within the development. He said that there are some legal issues with requiring bonds on private amenities.

Mr. Dean asked if builders were required to have construction bonds.

Mr. Mumford stated that a \$5,000 construction bond is required per builder but that it only covers things like broken sidewalks during construction. He said that these bonds have been used before to fix things that have been safety hazards but that typically that money is not used to improve areas. He said that bond is not required up front with a preliminary plat.

Mrs. ElHalta said that she does not want to see pods because the City has many problems with them. She is concerned with how much traffic Eagle Mountain Boulevard will be able to handle. She also wants to see people using the parks but is more concerned with traffic rather than parks. She wants to make sure that all of the road will match up with future plans so that there aren't transportation problems in the future.

Mr. Mumford said that the school will alter roads and traffic but that there is not much the City can do other than try to plan around it.

Mrs. ElHalta explained that she does not want to see Eagle Mountain Boulevard turn into the next SR73 right through town.

Mr. Mumford stated that the future land use and transportation corridor map can always be updated to accommodate future growth. He said that impact fees are also collected to widen roads. He also stated that if Eagle Mountain Boulevard reaches a level of service D, development will be put on hold and the City and the developer will be required to widen the road, after which the developer will be reimbursed.

Mr. Dean asked if density within the project can be transferred if they cannot make it fit within the current layout.

Mr. Mumford explained that under the development agreement they may be allowed to transfer density.

Mr. Dean stated that he liked the idea of the alternative design blocks to give variety to the project. He would like to see the masonry materials issue discussed and resolved.

Mrs. Bechtel asked if water rights were an issue.

Mr. Mumford explained that the City feels that the water issue should be fixed before this project is approved. He said that in the future there will be something in place where the developer has to purchase water from the City for their project or sign an agreement saying they will purchase a certain amount required for their project.

Mr. Maher asked why water was an issue when the developer already has almost enough water rights for the entire project.



Mr. Mumford said that currently there is litigation going on with the developers water rights. He explained that if the developer can provide documentation proving that they have water, the City then can approve parts of the developments that would have water rights.

**MOTION:** *Preston Dean moved to table the Harmony Preliminary Plat to the June 15, 2010 Planning Commission Meeting to give the City ample time to create a policy for the CWP water and for the City and applicant to create a development agreement that resolves the issues as stated in the staff report or if Eagle Mountain properties can prove that they have enough water rights to proceed without it. Karleen Bechtel seconded the motion. Those voting aye: Karleen Bechtel, Preston Dean, Bonnie ElHalta and Tom Maher. The motion passed with a unanimous vote.*

## 5. Other Items

### A. Small Wind & Solar Energy Conversion Systems—Discussion Item

Mr. Mumford explained that the State is now giving rebates for small wind and solar energy conversion systems. He said that staff is proposing that solar energy be permitted as an accessory use so that it does not have to go to Planning Commission or City Council. He stated that they would not be able to be higher than the roof ridge line and would have to lay flat with the slope of the roof. He explained that the code has a location priorities section that gives direction on where to put the solar panels. He said that several City departments will inspect and review these panels to make sure they comply with code.

Mr. Dean asked if the LDS Church approached the City regarding their “Green” church located on Eagle Mountain Boulevard.

Mr. Mumford said that they have spoken to the City about doing some sustainable things within the building but they have not discussed the solar panels.

Mrs. ElHalta asked if it was required for panels to be placed according to the location priorities.

Mr. Mumford explained that at this point it is just a guide for people wanting to have solar energy and that the City won’t be able to enforce where individuals place the panels.

Mr. Dean suggested that you could have a restriction that doesn’t allow the panels to cover more than 30% of the surface of the home.

Mrs. ElHalta stated that the City needs to decided to go green or not to because if you restrict people to much then they can’t go green all the way.

Mrs. Bechtel feels that the guide should be in place even though it can't necessarily be enforced.

Mr. Mumford said that solar energy will be a permitted use and that wind energy will be a conditional use because it typically has more of an impact. He stated that windmills will be permitted on ½ acre to 5 acre lots at 45 feet or less in height. He said that with 5 acre lots and higher they will be permitted at 65 feet or less. Mr. Mumford reviewed other proposed code specifications from the code. He said that windmills will be required to have a safety feature that slows the windmill if the speed gets too fast. He said that roof mounted wind systems will be permitted in commercial and industrial zones and will not be allowed to project more than five feet above the roofline of buildings.

Mrs. ElHalta asked if it was reasonable to have the same decibel restriction on one windmill in a residential area as well as several windmills on one building in a commercial area.

Mr. Mumford stated that he would have to look further into the issue. He also reviewed photographs of areas within the City.

Mr. Dean feels that people can't be restricted according to what is built on their neighbor's lot.

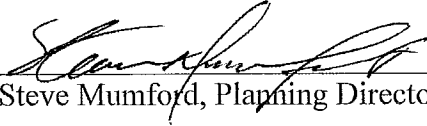
Mr. Mumford said that there is a 50% distance on each lot and feels that this should cover the spacing issue. He said that with larger windmills the wind should be studied for at least a year to determine if it is worth installing several windmills to produce energy.

Mr. Maher feels that the lot size is restrictive enough and that the setbacks are appropriate.

## 6. Adjournment

Tom Maher adjourned the meeting at 9:05 p.m.

APPROVED BY THE PLANNING COMMISSION ON MAY 25, 2010.

  
Steve Mumford, Planning Director