

EAGLE MOUNTAIN CITY
PLANNING COMMISSION MEETING MINUTES
TUESDAY, May 12, 2009, AT 6:00 P.M.
Eagle Mountain City, 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

Commissioner Tom Maher called the meeting to order at 6:00p.m.

Roll Call

Tom Maher, John Linton, Karleen Bechtel, Bonnie ElHalta, Preston Dean

Staff Present

Steve Mumford, Planning Director
Mike Hadley, Senior Planner
Lianne Pengra, Planning Coordinator

Others Present

Terrell Budge, Design Workshop
Sergeant Eric McDowell, Utah County Sheriff
Deputy Dutson, Utah County Sheriff
Jennifer Edwards, Lake Mountain Road
Kathy Nuttal, West Jordan
Marcy Taylor, Lake Mountain Road
Roland Hooley, Lake Mountain Road
Jennifer Morse, West Jordan
Greg Jeppson, 5134 Lake Mountain Road
Kim O'Donnell, Friends in Need
Karen O'Donnell, Friends in Need

1. Pledge of Allegiance

2. Declaration of Conflicts of Interest

None

3. Approval of Minutes

A. April 28, 2009 Planning Commission Meeting Minutes

MOTION: *Commissioner Linton moved that the Planning Commission approve the April 28, 2009 Planning Commission Meeting Minutes.*

Commissioner Dean seconded. Ayes: 5, Nays: 0. Motion passed.

4. Development Items

A. Parks and Open Space Master Plan - Action Item

Mr. Mumford said that the Parks and Open Space Master Plan is combined with the City's General Plan to guide overall parks and open space development throughout the City.

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Terrell Budge, Design Workshop. Mr. Budge said that this plan has been in the works for about a year.

Mr. Budge explained that the Planning Context section of the plan shows the geography and demographics of Eagle Mountain, as well as the process that has been used to create this plan. He said the second section explains existing conditions and facilities, and what facilities will be needed in the future at a presumed build out. He said that the presumed build out of Eagle Mountain is 190,000 people.

Mr. Budge showed a chart of each classification of park and went over what they entail and what organization builds and maintains them. He explained the necessity of having each type of park.

Mr. Budge discussed trail classifications and the descriptions and uses.

Mr. Budge said the plan then discusses how many of each type of park will be needed at build out and at what population increment new parks are needed. Commissioner Maher asked if the Planning Department will track this. Mr. Mumford said that they would. Commissioner Maher explained to the audience that developments are required to either put in parks, or pay a fee in lieu for the City to install parks at a later date. Mr. Mumford said that impact fees are also used to fund parks.

Mr. Budge explained that the plan will need ongoing reevaluation as the city grows to ensure the facilities that are used are built, rather than outdated ones.

Mr. Budge said that the plan also addresses the location of the parks, as well as the number of each park. He showed the locations of the additional recommended regional parks. He showed the plan that shows the general locations of the other types of parks. He explained that they are conceptual, not specific recommended locations.

Mr. Budge showed the existing trails in the City and what the plan recommends adding.

Commissioner Maher asked what the planned additions of parks based on population increments was based on. Mr. Budge said it is based on national standards and on Eagle Mountain City's development patterns. He said that the national standards are planning standards and are based on larger cities. He explained that this will leave the City low on parks, so they used a mixture of other master planned cities' master parks plans as well.

Mr. Budge said that the plan goes over what plants can survive in Eagle Mountain City's conditions.

Commissioner ElHalta asked about funding for irrigation. Mr. Mumford said they get water rights as development is put in. Mr. Budge said that the plan suggests the only irrigated turf

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areas are in places that are heavily used in order to minimize water use. He said that the plan recommends native plants.

Mr. Budge said the plan goes over the costs of parks per square foot in today's dollar value and ways to fund parks. He said that maintenance is also discussed.

MOTION: *Commissioner Linton moved that the Planning Commission table the Master Parks and Open Space Plan to get hard copies of the plan.*

Commissioner Bechtel seconded. Ayes: 5, Nays: 0. Motion passed.

B. Friends in Need Conditional Use Permit Amendment – Public Hearing

Mr. Mumford said that the Friends In Need is located at 5555 Lake Mountain Road. He said that this was originally approved on February 10, 2004 by the Planning Commission and was appealed to the City Council and approved with 21 conditions on May 18, 2004.

Mr. Mumford said that due to complaints, staff met with the applicants and discussed the original conditions. He said that the applicant was given the options to fully comply with all conditions, have the permit revoked, or bring the application back to the Planning Commission to amend the approval conditions.

Mr. Mumford showed the original site plan from 2004 with the then-current locations of buildings and planned future facilities.

Mr. Mumford said that the first condition the applicant requested to be changed is the number of dogs allowed in the facility. He said they are requesting fifteen dogs, rather than nine to be allowed currently, with thirty dogs total once the planned facilities are built. He explained that staff's recommendation earlier was to only allow nine dogs unless the applicant supplied information that warranted the change to fifteen dogs, but they are changing that recommendation to allow for fifteen dogs based on a kennel inspection done by the Utah County Sheriffs. The sheriff who did the inspection told Planning Staff that he feels the facility could hold fifteen dogs as it stands now, so staff's recommendation is to allow the fifteen dogs.

Mr. Mumford explained that the applicant's requested changes to condition number five removed a statement that additional conditions could be applied and clarified that the Planning Commission may review the Conditional Use Permit, but didn't necessarily have to.

Mr. Mumford explained that condition number six was basically in regards to the new buildings; this was to use construction techniques to mitigate the barking. He explained that the applicant added that the noise must comply with the current city ordinance on noise levels. He said that staff recommends removing "excessive and constant" from the condition, as it is up for too much interpretation.

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Commissioner Linton said that constant barking, below the noise ordinance level, can still be a cause for concern. Mr. Mumford said that the sheriff's office goes out on nuisance barking complaints and if the situation becomes a consistent problem, staff will start the notices and violations.

Commissioner Dean asked if the nuisance ordinance restricts the times of day, as well as the noise level. Commissioner Linton said that the construction noise ordinance has a set time of day, but he could not find anything regarding time of day on the nuisance ordinance. Mr. Mumford said that the time restrictions are for construction noises.

Mr. Mumford said that condition number eight currently restricts the number of dogs in the exercise yard to six and the applicant is requesting nine be allowed. He said that since the dogs have different temperaments, not all of the dogs are outside at the same time. He explained that staff recommends removing this condition all together since the noise levels will be monitored though other conditions.

Mr. Mumford said that condition number ten required the fence to be vinyl and the applicant would like to change that to be a privacy fence, rather than vinyl. He said that the privacy fence the applicant has proposed fits will in the area and staff recommends changing the condition as proposed.

Mr. Mumford said that the proposed change to number twelve is to add "as necessary" to the landscaping, berming and adding of trees to mitigate noise. He explained that there are trees onsite currently, and if it proves necessary, more could be added.

Commissioner Dean asked if any of the noise complaints have shown that the kennel is out of compliance according to the noise ordinance. Mr. Mumford said that they have not.

Mr. Mumford said that condition number thirteen requested the removal of "attracting wild animals" to the kennel being a cause for license revocation. He explained that staff agreed with that change.

Mr. Mumford said that condition number sixteen was in regards to a PowerPoint presentation given at the previous meetings. He said that the presentation is in the file; staff feels the presentation has been included in the conditions.

Mr. Mumford said that condition number seventeen has been changed to remove the use of bark collars, and instead use training to mitigate barking. He explained that dogs will bark at times, and if it leads to nuisance barking, the sheriff's office will be called and the nuisance barking conditions will be enforced.

Mr. Mumford said that the requested change to condition eighteen is to remove the stipulation that dogs must be removed from the property by motor vehicle to leave the property. He said that this has been interesting to interpret and enforce and is unclear. He said that staff added that

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each person walking dogs on city streets may only walk one dog at a time and staff feels this addresses the safety issues.

Commissioner ElHalta asked if every concern brought to the Planning Department should be addressed by the Planning Commission. Mr. Mumford said that the condition states the Planning Commission may review the application, but the intent of the condition is that not every complaint that applies to the conditions is brought back; only when an issue is unresolved will the application come back to the Planning Commission.

Commissioner ElHalta asked how the privacy perimeter fence will be built as far as aesthetics and the view from the street is concerned. Mr. Mumford said that the fence that is currently under construction is adjacent to the road.

Commissioner ElHalta asked if there is a radius limitation similar to the group home code, and if not, should one be considered. Mr. Mumford said that the city code was modified after the original approval to allow for kennels this size on lots of 40 acres or more.

Sergeant Eric McDowell, Utah County Sheriff, said that Deputy Dutson conducted the recent kennel inspection. Deputy Dutson said that he and Deputy Nez did the inspection based on the Utah County standards. He said they checked to ensure the license is and all animal records are current. He said that everything was organized and up to date. He said that they checked each dog and kennel for sanitation, food and water. He said that they make sure there are areas for the dogs to run inside and outside. He said that they also check the cages to ensure they are well built. He said that basement is open for dogs and there are three kennels in the garage. He said that the large open space outside was clean and free of feces; there was one pile that was to be disposed of, as they had just cleaned out another area. He said that they check to ensure the food and water are fresh and that there is sufficient ventilation. He said that one thing they needed to return for was that emergency numbers need to be posted by the front door and in the home. He said they returned the next day and the numbers were posted.

Commissioner Linton asked when the applicant was made aware of the inspection. Deputy Dutson said that the inspections are surprise inspections.

Deputy said that there are thirteen dogs onsite; the County license does not limit the number of dogs allowed. He said that they just make sure the dogs are not overcrowded.

Commissioner Linton asked if there were other farm animals. Deputy Dutson said that there are other animals and all are well taken care of.

Commissioner Maher asked for clarification on the number of dogs allowed. Deputy Dutson said that the kennels at this location fit two dogs per kennel; it is an available facility issue, not an Animal Kennel issue. He said that he does feel this facility can accommodate fifteen dogs as it currently stands.

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Sergeant McDowell clarified that nuisance barking can happen any time during the day; it isn't exclusively enforced at night. He said it is a subjective standard. If the officer is there and hears that the barking is continual and is causing a disruption in the neighborhood, customarily, the owner will be verbally warned and then be progressively disciplined.

Commissioner Linton asked if the County can take position over the City in the issue of noise. Sergeant McDowell said that is correct. He said that they have received complaints regarding violations of the Conditional Use Permit, but since there is not a State or County statute to back up the permit, the sheriffs can't cite for those issues. He said that the City currently is not set up through the court process to issue citations.

Commissioner Maher opened the public hearing at 7:21p.m.

Jennifer Edwards, Lake Mountain Road. Ms. Edwards said that she is requesting no conditions be modified. She said that they are not in compliance with bark collars, with walking the dogs off the property, and with having large animals on the property. She said that they have been told about their violations but have not corrected them. She also said that it is a safety issue because she has almost been attacked by the dogs.

Kathy Nuttle, West Jordan. Ms. Nuttle said that the conditional use permit allows the dogs to be removed off the property by a motor vehicle, so they are in compliance when walking the dogs on City streets. She said that bark collars are controversial and she doesn't see anyone else walking dogs with bark collars. She doesn't think it should be an issue. She said that she trains high school-aged students to be veterinary technicians and they volunteer at the Friend in Need Animal Rescue; if the dogs were aggressive or violent, she wouldn't allow her students to volunteer here. She said that the dog running to Ms. Edwards' family was actually running to see someone he recognized and was excited to see a familiar face. She said the farm animals are rescue animals being taken care of at the facility.

Marcy Taylor, Lake Mountain Road. She said that they were very worried when this came to the Planning Commission previously. She said that they have been very good neighbors. She said that she does hear dogs bark, but they are not the Friends in Need dogs. She said that she and her husband are okay with what has been proposed. She said that she likes to be able to walk her dogs and she doesn't believe it would be harmful if they walked their dogs. She said that she also believes they should be allowed to have their farm animals. She said that they have a good program to learn how to take care of animals.

Roland Hooley, Lake Mountain Road. He said that he has had more trouble with the dogs across the street than he has had with the dogs at the Friends in Need kennel. He said that he has never seen one of the shelter dogs growl at his family when walking on City streets. He said that they take their grandkids to the center to see the animals. He said that there are many other people who come from other areas of the City who take the dogs to Lake Mountain Road to run off leashes.

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Jennifer Morse, West Jordan. Ms. Morse said that the dog that ran after Ms. Edwards lived in the O'Donnell's home with the previous owners before the O'Donnells moved in. She said that she has a young child and is completely comfortable with him around the animals. She said that the Friends in Need shelter is a perfect center for children with special needs to help with the farm animals. She said when volunteers come to walk the dogs, they check the leashes before going out.

Greg Jeppson, 5134 Lake Mountain Road. Mr. Jeppson said that he had a problem when this first came to the Planning Commission. He had concerns that they would hear dogs barking at all hours and for his six children as well. He said that he sees the volunteers come in and sees the animals that they are taking care of and likes the facility. He said that his six- and seven-year-olds go over there and he is completely comfortable with that. He said that they don't allow people to go in with the new animals; they are completely safe. He said that dogs bark, but nothing lasts more than five minutes and he is the closest neighbor to the center. He appreciates having them there. Commissioner Linton asked if Mr. Jeppson knew how many dogs were on the premises. He said that he's never seen more than a few dogs outside at one time.

Kim O'Donnell, Friends in Need Animal Rescue, said that they appreciate the support shown. He said that they try to do good things and they feel they are offering a public service. He said it is not just about the animals; they help special needs children, eagle scouts and children doing community service. He said that what they do now is easy to manage; they won't have a large facility at this location. He said that they want to leave the area as a livable home in case they want to move eventually. He said that the dog, named Gage, which the Edwards family thought was attacking them, lived with the previous owner and was excited to see the Edwards family; Gage tried to go visit them. He said that they also would like to offer animal control services to the County once they build their new facility.

Commissioner Maher asked what farm animals are on the property. Mr. O'Donnell said that all of the animals are rescue animals, not for adoption. He said they have two emus, ten horses, turkeys, chickens, goats, rabbits, and pigs. He said that every animal is fixed and are personal animals. They are only used for education purposes.

Commissioner Maher asked how people find Friends in Need. Karen O'Donnell said it is mainly through word of mouth.

Commissioner Bechtel asked if the dogs are out at night. Mr. O'Donnell said that the dogs sleep inside; the barking at night is not from their dogs.

Commissioner ElHalta asked about the perimeter fence. Mr. O'Donnell said that the fence is a vinyl fence through a chain link fence. It is an industrial fence designed specifically for animal use. Mrs. O'Donnell showed the location of the fences and where the dog runs are located.

Commissioner Maher closed the Public Hearing at 7:48p.m.

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Commissioner Maher asked about the number of dogs allowed. Mr. Mumford said that if the Utah County Sheriffs and Animal Control feel that they have enough room for fifteen dogs, he feels it would be okay to have fifteen rather than nine.

Commissioner Maher said that the bark collar does not seem practical. Mr. Mumford agreed.

Commissioner Maher asked if the farm animals are part of the kennel. Mr. Mumford said that the farm animals are not part of the kennel and that the applicant complies with the animal section of the zoning code.

Commissioner Dean said that the conditions that address landscaping and berming to mitigate barking and noise are redundant because there is an ordinance in City code to address nuisance barking. Commissioner Maher agreed and said that they will strike condition number twelve.

MOTION: Commissioner Linton moved that the Planning Commission approve the Friends in Need Animal Rescue and Sanctuary Conditional Use Permit, subject to the following conditions:

1. That the facilities meet all the requirements of the Utah County Animal Control Department for a kennel license.
2. The number of dogs permitted in the existing facility is limited to a total of fifteen, including rescue dogs and personal dogs. When the proposed facility is completed, no more than 30 dogs will be allowed or such lesser number as may be housed in the completed proposed facility in the opinion of the Utah County Animal Control Department.
3. That the application fee is paid and that the business license is renewed annually.
4. That the animal excrement is properly disposed of in covered containers daily and not buried on the premise.
5. That all conditions of approval be applied to the project as long as the Conditional Use Permit is in operation. If the Planning Department receives a complaint which expresses a legitimate concern as to compliance with these conditions, the Planning Commission may review the Conditional Use Permit at a hearing as provided for in Section 17.95.090 of the Eagle Mountain Municipal Code. Failure to comply with these conditions may result in violation notices, fines and/or the Conditional Use Permit being revoked.
6. That excessive and constant barking, whining and other noise from the operation are mitigated by construction techniques as proposed by the applicant. The proposed facility shall include: double paned windows, double studded walls, cork insulation, and sound reducing paint. Noise levels must at all times comply with the requirements of Chapter 8.15 of the Eagle Mountain Municipal Code.

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7. Only horses owned by the applicant are allowed to be kept on the property. No horse boarding is allowed. The number of all farm animals shall be in compliance with current City standards.
8. That sani-kennel septic tank is installed (separate from the residential septic tank) and that this improvement is approved by the County.
9. That a privacy fence is installed around the perimeter of the property to screen the kennel.
10. That proof of funding to complete the kennel is provided before a building permit can be issued.
11. That dogs escaping the kennel will cause a review and possible revocation.
12. The limit of liability insurance shall be set in an amount determined by the City to be comparable to similar facilities in other areas. Evidence of liability insurance shall be provided within thirty (30) days.
13. That the Planning Department be authorized to work with applicant to carry out the conditions of approval.
14. That the applicant train all dogs so as to prevent nuisance barking. Noise levels must at all times comply with the requirements of Chapter 8.15 of the Eagle Mountain Municipal Code.
15. All dogs outside the existing fenced area (including the public street) shall be kept on a leash under the control of a person twelve (12) years of age or older capable of controlling the dog on a leash. No one person may control/walk more than one dog at a time.
16. All future construction on the property, including fencing, shall be submitted to the Eagle Mountain City Planning Department for architectural review to retain the existing residential character of the property.
17. The applicant shall obtain a kennel license from Eagle Mountain City within ten (10) days after kennel licenses are available from the City; the license will contain a prohibition on the burial of dogs on the property.
18. All of the conditions and restrictions applicable to security, leashed animals, the use of fencing apply to dogs that are owned by persons living on the property as well as rescue dogs because it is not practical to distinguish between personally owned dogs and rescue dogs when dogs are barking or being walked outside the security fencing on the property. The conditions applied to personal dogs would not normally be required of property

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owners not operating a kennel where the unique circumstances present here require conditions to assure compatibility of the applicant's use with surrounding properties.

Commissioner ElHalta seconded. Ayes: 5, Nays: 0. Motion passed.

C. Annexation Policy Plan Amendment -- *THIS ITEM HAS BEEN REMOVED FROM THE AGENDA AT THE APPLICANT'S REQUEST*

5. Other Items

Commissioner Linton and Commissioner Maher said that the buffering memo from the last meeting should be considered as it is a thoughtful argument. Mr. Hadley said that the buffering memo was sent to Mr. Kinghorn for review.

Commissioner ElHalta asked when the Planning Commissioners would have the Parks and Open Space Master Plan. Discussion ensued on what the Commissioners would like included. Mr. Mumford said they would have the plans this week.

6. Adjournment

Commissioner Maher adjourned the meeting at 8:20p.m.