

EAGLE MOUNTAIN CITY
PLANNING COMMISSION MEETING MINUTES
TUESDAY, AUGUST 9, 2016 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: Wendy Komoroski, Matthew Everett, John Linton, and Daniel Boles. Mike Owens joined by telephone.

CITY STAFF PRESENT: Steve Mumford, Planning Director; Mike Hadley, Senior Planner; Tayler Jensen, Planner; and Johna Rose, Deputy Recorder.

ELECTED OFFICIAL PRESENT: Colby Curtis.

1. Pledge of Allegiance

Commissioner Linton led the Pledge of Allegiance.

2. Declaration of Conflicts of Interest

None

3. Approval of Meeting Minutes

A. July 12, 2016

MOTION: *Wendy Komoroski moved to approve the July 12, 2016 meeting minutes. Matthew Everett seconded the motion. Those voting aye: Matthew Everett, Daniel Boles, Mike Owens, John Linton, and Wendy Komoroski. The motion passed with a unanimous vote.*

4. Action and Advisory Items

A. Muhlestein Barn Variance Request, Public Hearing, Action Item:

Tayler Jensen explained that the applicant is applying for a variance to allow the construction of a barn in the front yard of their home located at 8744 N. West Drive. The applicant is proposing to build the barn in the front yard, due to the location of the home on the property, the existence of geothermal wells, and the Tickville Wash.

The criteria that the application must meet in order for the Planning Commission to approve a variance are as follows:

1. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.

4. The variance will not substantially affect the General Plan and will not be contrary to the public interest.
5. The spirit of the title is observed and substantial justice is done.

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

Avalie Muhlestein, applicant, said that the only feasible solution for a barn on the property would be in the front yard. She explained the reasons her request met all five criteria.

1. Literal enforcement of the land use ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the ordinance.
 - A. Literal enforcement of this land use ordinance would deem the property ineligible to build a barn. As Cedar Pass Ranch is designed to be a rural/agricultural use area, it would cause unreasonable hardship for the family, as they work with cattle and other livestock.
 - B. As the 3+ acre cattle pasture, hitching post, loafing shed and grain field are in the front of the house, but are not the "front yard," the building should be allowed a variance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district: the 14 geothermal wells, Tickville Gulch inlet, 70% of the lot is in front of the house, 500 foot long driveway, house at very back of the lot, and the road frontage is 1028 feet out of 2167 feet total property line (minimum frontage for the subdivision is 100 feet).
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone. City Code recognizes the unique situation of Cedar Pass Ranch and similar areas. They are a rural residential area for agricultural uses. In order to keep their dairy cow they would need to have shelter, water and access to storage space for feed. They have had issues with getting water to their livestock and storing the feed in the winter. The barn would also protect their livestock from the predators that come through the area.
4. The variance will not substantially affect the General Plan and will not be contrary to the public interest (anything affecting the rights, health, or finances of the public at large).
 - A. As the circumstances of their lot are very unique, and the proposed structure is not unusual for the rural neighborhood, granting this variance will not substantially affect the general plan of their community.
 - B. As the building is a private building on a residential acreage, and as the building will be used to house animals and create indoor recreation activities for the family (as others in the neighborhood do), it will not be contrary to the public interest.
5. The spirit of the zoning ordinance is observed and substantial justice is done.
 - A. The spirit of this zoning ordinance is to ensure the beauty of the master-planned city, and to set standards for the neighborhoods that will prevent overcrowding of lots and unsightly structures in front of homes.
 - B. As Cedar Pass Ranch is intended to be a rural/agricultural neighborhood, and the home is placed at the very back of the lot, and as the new structure will be to the side, facing the cul-de-sac, the beautiful structure will not detract from the neighborhood appearance, nor overcrowd the lot. The Cedar Pass Ranch HOA

Architectural Committee has reviewed and approved the location and exterior finishes of the building, and has agreed that they are consistent with the neighborhood standards.

C. Substantial justice is defined as justice to a sufficient degree, especially to satisfy a standard of fairness, justice administered according to the substance and not necessarily the form of the law.

Commissioner Linton opened the public hearing at 6:19 p.m.

Lynnette Rose, resident, felt that the barn variance was appropriate for the area.

Matt Stevens, resident, stated that his property was the closest property to the barn and that he has no opposition to having the barn located there.

Shane Jones, resident, stated that other homes in the neighborhood have barns in the front yard. He wanted to support his neighbor in getting the barn variance.

Kent Price, member of the Board of Trustees for the Cedar Pass Ranch HOA, stated that the barn is in compliance with HOA regulations and the CC&R's.

Mindy Eldridge, resident, is in support of the building being built in the location requested by the applicant.

Marcie Williams, resident, said that her son helps with the applicant's animals. Her son felt that a barn would benefit the animals.

Cynthia Clyde, resident, stated that her property overlooks the applicant's property. She said that the barn would not be an eyesore. She felt that the applicant should have the benefit of using their land to build a barn.

Commissioner Linton closed the public hearing at 6:27 p.m.

Commissioner Linton felt that if the property was addressed off of Cedar Fort Drive then that portion of property should be considered side yard and not front yard. Steve Mumford explained that because the house is at an angle, anything in front of the house would be considered front yard even if the house is addressed off of Cedar Fort Drive.

Commissioner Boles asked if the applicant could explain some of the special circumstances and hardships attached to the lot. Mrs. Muhlestein said one issue was that they were on a septic tank and were required to be 100 feet away from a natural drain (Tickville Wash). The Health Department would not approve a new septic field close to the Tickville Wash. To place the barn behind the home, she would have to reroute her neighborhood's storm drain with City help, which in turn would cause her home to flood. Another issue is that she would have to move a well and propane lines. She would still have the geothermal wells and the Tickville Wash that would need to be dealt with. After doing all that, she would still not have enough room to build a barn behind the house.

MOTION: *Wendy Komoroski moved to approve the Muhlestein barn variance because it meets all five criteria. Daniel Boles seconded the motion.*

Those voting aye: Matthew Everett, Daniel Boles, Mike Owens, John Linton, and Wendy Komoroski. The motion passed with a unanimous vote.

B. Muhlestein Private Community Center Conditional Use Permit, Public Hearing, Action Item:

Mr. Jensen explained that the applicant applied for a conditional use permit to construct a private community center on their residential property located at 8744 N. West Drive. Barns are permitted uses in the Residential Zone on lots over 1 acre in size; however, as the applicant intended to use the structure as a private community center in addition to a barn, a conditional use permit is required.

The applicant proposed constructing a 6,618 square foot barn that would double as a private community center. The proposed structure included the following uses on the main level:

- Two (2) animal stalls (cow & calf stall)
- Milking station
- Milking parlor
- Shop/garage
- Recreation room

The second floor of the structure would include:

- Game room
- Leatherworking room
- Art studio
- Model train room
- Craft room
- Recording studio
- Sewing room
- Ensemble room
- Practice room
- Kitchen

Parking: The proposed facility would be used for many events, groups, and clubs. No on-street parking would be allowed, and the applicant would have to provide detailed parking/traffic circulation plans to City staff.

Community Character: Cedar Pass Ranch is a unique community characterized by 5+ acre ranchettes, and an overall rural look and feel. If approved, the proposed conditional use must not substantially alter the character of the neighborhood, as 17.25.050 states: *“Accessory uses and structures are permitted provided that they are incidental to and do not substantially alter, the character of the principal use or structures.”*

Mrs. Muhlestein stated that their primary goal was to give their children an opportunity to learn self-reliance and stewardship. She would like to give other families in the

community the same opportunity to learn. She said that the groups that use the center would not be charged a fee, they would only be required to help pay the electric bill on the center, buy the supplies for the classes, and clean the building. It would be a building where private groups could meet. She stated that this community center would have less traffic than some of the other home businesses in the area.

Commissioner Linton opened the public hearing at 7:02 p.m.

Kent Price, a member of the Board of Trustees for the Cedar Pass Ranch HOA, asked if the Planning Commission could table the conditional use permit until the Cedar Pass Ranch HOA has time to review the issues and take a position on the community center. He explained that many residents feel that this conditional use permit for a community center would violate the CC&R's requirement that the lot be only used for a single family residence.

Mindy Eldridge, resident, stated that she home schools her children because they have special needs. The things her children are missing out on are the social aspect of public school. She said that her children would benefit from the Canyon Grove Distance Learning Program that would be offered at the community center. She explained that the closest program now is in American Fork.

Warren Clyde, resident, felt that the activities planned for in the community center were no different than a 4H club meeting on the property.

Amber Jensen, resident, stated that she was excited for Canyon Grove School to finally have a location in Eagle Mountain. She felt that families could benefit from this community center. If the community center was not approved, she asked if the City could find another place in the community for Canyon Grove School to use.

Danae Anderson, resident, stated that she was fine with the building of the barn. She explained that the neighbors have tried to keep Cedar Pass Ranch subdivision a rural residential area for years. Alpine School District tried to build a school in Cedar Pass Ranch years ago, and the neighbors had to fight to keep the school from coming into their neighborhood, as well as an LDS Church. She was concerned about the conditional use permit being allowed in the neighborhood. She felt that it would open their neighborhood up to other uses that should not be allowed.

Judy Cotral, resident, said that her children already participated in the clubs being offered by the Muhlesteins. She stated that she has never seen more than five cars on the property at a single time. She wanted the City to know that she liked the Muhlesteins being up front with what they are planning.

Alecia Brazell, resident and Education Specialist for the Canyon Grove Distance Learning Program, said that this community center would benefit many families in the community, and explained that there is no other facility in Eagle Mountain at this time like this center. She would love to see more options come into Eagle Mountain to help these families that have special needs.

Cheryl Car, a member of the Board of Trustees for the Cedar Pass Ranch HOA, stated the Cedar Pass Ranch HOA has not had enough time to consider the proposal. She asked if the Planning Commission could postpone their decision until the Cedar Pass Ranch HOA Board had time to meet, make recommendations and vote on the proposal.

Jeremy Wardle, resident, wanted to point out to the residents of Cedar Pass Ranch that their families had the opportunity to work with animals where other children with special needs did not. He wanted to support the community programs the Muhlestein were offering to the community.

Sarah Hail, resident, wanted to support the Muhlesteins in building the community center. She felt that the Muhlesteins should not be delayed in building the barn because the Cedar Pass Ranch HOA has not made a decision.

Loretta Chase, resident of Saratoga Springs, felt that people had the right to assemble. She said the resident should support a person who gave people a place and a right to assemble.

Brent Muhlestein, applicant, explained that he would love not to charge anyone to use their building. He stated that he was just trying to provide a place for people to meet and hold educational classes. He said that this was not a residential home but a building.

Becky Wardle, resident, explained that the Muhlesteins have already opened their home to families with special need children.

Commissioner Owens asked Mrs. Brazell about what type of special needs services they would be providing. Mr. Brazell explained that the classes were geared towards special needs children, but any special needs services would be provided at their school. Commissioner Owens asked about an IEP, but his comment was inaudible.

Shelly Peterson, resident, explained that the program that was being offered was for parents that home school their children. The parent would be responsible for teaching their children language, art, reading, and math. The program would only be helping with science, social studies, and extra-curricular activities.

Mr. Muhlestein said that the programs would only be run from 10:00 am-3:00 pm, when most people are at work or school. She explained that she was willing to work with her neighbors and the City to make this center work for the community. Her intent was not to upset her neighbors. She wanted to be straightforward with them. She stated that she just wanted to help out her community.

Lynnette Rose, resident, did not feel that this would change or impact the neighborhood.

Commissioner Linton closed the public hearing at 7:45 p.m.

Commissioner Linton stated that people can exercise their homeowner right to use their property as they see fit, so far as it does not infringe on their neighbors' rights. He also explained that HOA CC&R's are more stringent than the City Code. He felt that the item should be held off until a future time to give the residents an opportunity to review the plan.

Commissioner Komoroski felt that this would be a great benefit to Eagle Mountain, but did not know if Cedar Pass Ranch was the right place for the project. She wanted to give the residents more time to review the project.

Commissioner Owens stated that he was home schooled as a child and had spent many hours in his neighbors barn. He said that it should be looked at as a community of home schoolers upgrading a class room setting.

MOTION: *Wendy Komoroski moved to continue the request for a conditional use permit for a private community center to the next Planning Commission meeting. Matthew Everett seconded the motion. Those voting aye: Matthew Everett, Mike Owens, John Linton, and Wendy Komoroski. Those voting nay: Daniel Boles. The motion passed with a vote of 4:1.*

C. Development Code Amendment – Projections into setbacks code 17.25.180. Public Hearing, Action Item, Recommendation to City Council:

Mr. Jensen said that the proposal was to amend table 17.25.180(A) Residential Setbacks to reflect recent changes to setback requirements.

Commissioner Linton opened the public hearing at 7:56 p.m.

None

Commissioner Linton closed the public hearing at 7:56 p.m.

MOTION: *Daniel Boles moved to recommend approval of the amendment to Chapter 17.25.180 of the Eagle Mountain City Municipal Code to the City Council. Wendy Komoroski seconded the motion. Those voting aye: Matthew Everett, Daniel Boles, Mike Owens, John Linton, and Wendy Komoroski. The motion passed with a unanimous vote.*

5. Discussion Items (No Action)

- A. Discussion of potential Code amendments including :
- i. Swimming Pool Regulations

Commissioners' suggestions for above-ground pools:

1. Safety standard (locking fold-up stepladders, deck surroundings, and/or a safety gate around the top of the pool).
2. Fencing and gate standards.
3. Placement of above-ground pools on the property (sloped yard).
4. Clarification between pool sizes (kiddie pool, 3-foot pool, etc.).
5. BOCA requirements.

- ii. Adding ROW illustrations

Commissioners' preferences:

1. Plans must be clear and legible.

2. Show park strips, curbs, and gutters on plans.

iii. Master Site Plans

iv. A Change to the Extractive Industries Overlay Zone

Mr. Mumford explained that the City is looking into removing or changing the Extractive Industries Overlay Zone.

6. Next scheduled meeting: August 23, 2016

7. Adjournment

The meeting was adjourned at 8:36 p.m.

APPROVED BY THE PLANNING COMMISSION ON AUGUST 23, 2016



Steve Mumford, Planning Director