

EAGLE MOUNTAIN CITY  
PLANNING COMMISSION MEETING AGENDA  
TUESDAY, SEPTEMBER 23, 2014 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: John Linton, Miriam Allred, Preston Dean, and Matthew Everett.  
Excused: Wendy Komoroski

CITY STAFF PRESENT: Steve Mumford, Planning Director; Mike Hadley, City Planner; Ken Sorenson, City Planner; and Melanie Lahman, Deputy Recorder.

ELECTED OFFICIAL PRESENT: Adam Bradley

1. Pledge of Allegiance

Commissioner Linton led the Pledge of Allegiance.

2. Declaration of Conflicts of Interest

None

3. Approval of Meeting Minutes

A. August 26, 2014

**MOTION:**

*Preston Dean moved to approve the August 26, 2014 meeting minutes. Miriam Allred seconded the motion. Those voting aye: Preston Dean, Miriam Allred, John Linton and Matthew Everett. The motion passed with a unanimous vote.*

4. Development Items

- A. White Hills Conditional Use Permit – Public Hearing, Action Item The applicant is proposing to use an existing facility located on his property to maintain, park and operate construction equipment, mainly dump trucks. The current facility has been used in the past for this type of use. The property is located at 2909 Highway 73, Eagle Mountain, UT 84005.

Mike Hadley explained that the proposed site is located within the Pole Canyon annexation area. The site currently has a horse arena and a garage/shop on the property. When the property was in the county and the White Hills subdivision was being built, this facility was used to store construction equipment and the shop was used to maintain the equipment. The facility has been remodeled at different times since White Hills was constructed. The horse arena is the only part of this facility that is currently being used.

The applicant would like to use the garage/arena and shop area to store and maintain construction equipment for a local company that is working in the area. The City's General Plan shows the property as Rural Residential/Agricultural. The surrounding properties of the proposed site are agricultural and are currently used for grazing and farming. The access road off of SR-73 is paved into the White Hills Country Estates subdivision for approximately 1200 ft. The city road then turns

into a private drive that provides access to the residence just east of the site. The drive is paved to the driveway of the residence and then turns to gravel/dirt road to the proposed site.

Commissioner Dean asked if the City Code allows storing tractors and equipment within the Agricultural Zone. Mr. Hadley explained that it is allowed to as long as the property owner has an approved conditional use permit.

*Commissioner Linton opened the public hearing at 6:10 p.m.*

Kendall Saunders, resident, read the attached letter (Exhibit A). His main concerns are that construction vehicles would damage the easement and impact the safety of the children that play in the area. He proposed that the applicant install an alternate access to the property.

Lee Brown, applicant, said that the perpetual easement allows him to have ingress and egress to the property. He also explained that the dump trucks would be empty when they leaving in the morning and return in the evening. There would not be a continuous stream of traffic. He stated that the horse arena has more traffic than the construction area. He already has to use the easement to haul in hay for the horse arena and to bring in his farm equipment to be stored. The property has been used for the same purpose before and there was no problem at that time. He also explained that he has talked to UDOT. UDOT wants to eliminate as many access roads onto SR-73 as possibly, so the alternate access is not the best solution.

Commissioner Linton explained that he understands that the easement is Mr. Brown's and that the easement is on Mr. Saunders' property. He asked if Mr. Brown would maintain the easement, making sure that the easement condition be as it is now or better. Mr. Brown said that he is willing to maintain the easement as requested.

James Crandall, resident, was concerned with the state of the road and the safety of the children that play in the area.

Mr. Saunders explained that he doesn't want to be left with empty promises that the road will be maintained, and then have to begin a lawsuit because it was not maintained properly. He explained that the road would be very expensive to repair properly. It would be more cost effective to use the alternate route, because a gravel road would be easier to maintain.

*Commissioner Linton closed the public hearing at 6:43 p.m.*

Commissioner Linton had no concerns about issuing the conditional use permit for what the applicant proposal. His concern was that the applicant would damage someone else's property just because he has an easement on that property.

Commissioner Dean was also concerned with the applicant damaging someone else's property, but did not know if the City had any say in the matter. He was also concerned about maintaining the integrity of the Agricultural Zone. Maybe the City could limit the amount of vehicles or equipment being stored on the property. He asked about the property use being grandfathered in. Mr. Mumford explained that since it was a permitted use by County ordinance, the City would have to allow or permit the same use of the property. He is not aware if the County permitted the storage of construction equipment or if it was just allowed.

Commissioner Linton and Dean felt that the City could issue the conditional use permit because of the

compatibility of the land and the previous use of the site.

**MOTION:**                    *Preston Dean moved to approve the construction yard/shop conditional use permit with the following condition.*

1. *The access road is maintained in the current condition or better throughout the duration of the conditional use permit.*

*John Linton seconded the motion. Those voting aye: Preston Dean, John Linton and Matthew Everett. Those voting nay: Miriam Allred. The motion passed with a 3 to 1 vote.*

- B. Gateway Park – Public Hearing, Action Item A proposal for a rezone, preliminary plat, and master site plan for the Eagle Mountain Business Park, located northwest of SR-73 and Mt. Airey Drive. The rezone makes adjustments to the Industrial, Commercial, and Commercial Storage zones approved for the property in 2013. The preliminary plat includes one 7-acre storage unit parcel, two commercial/multi-family parcels, nine commercial lots, and a 5.26-acre UDOT preservation parcel for future expansion of SR 73. The master site plan depicts a possible layout of each commercial and storage lot, with the understanding that each lot will require a specific site plan approval in the future.

Mr. Mumford explained that these properties were rezoned in 2013 from Industrial to Commercial Storage and Commercial in preparation for a storage unit development and commercial warehouse/office development. A preliminary plat was submitted in late 2013 and was tabled by the Planning Commission in January 2014 at the request of the applicant in order to work out the future of SR-73 with UDOT, MAG, and the City.

Mountainland Association of Governments has now approved money for UDOT to purchase a portion of this property for future right-of-way (ROW) expansion. UDOT is also considering approval of additional funds in October for an additional ROW purchase. The agreed-upon property for ROW expansion is designated on the proposed plans. With the ROW now defined, the applicant is moving forward with plans for development.

The proposed ROW expansion simply requires the project to move to the north, further into the current Industrial Zone. Due to elevation changes and a reconfiguration to comply with UDOT's frontage road access standards, the zones have changed shape as well.

The proposed rezone includes the following changes:

- 2.66 Acres Industrial to Commercial
- 0.6 Acres Industrial to Commercial Storage
- 1.08 Acres Commercial to Commercial Storage
- 0.76 Acres Commercial Storage to Commercial

UDOT is planning to expand SR 73 (aka Cory Wride Memorial Highway) in the next 10 years to become a freeway, similar to the eventual buildout of 2100 North in Lehi, with a freeway in the middle and 2-lane one-way frontage roads along each side.

Two master site plans were submitted that include buildings, parking, access, etc. These layouts are conceptual, and are intended to provide context for the lot layout and lot sizes. One plan is laid out to comply with the City's commercial design standards, with buildings in the front and parking in the back. This would be a good layout, except that it is not as conducive to the planned uses, which would be a contractor style building with the small offices at the front and the warehouse with roll-up doors in the back. The other site plan shows the buildings with the parking in the front and warehouse access in the back.

Since this specific use is different than standard retail or office, there may be a need to consider some alternative parking arrangements. The buildings and lots, for instance, could be redesigned to contain parking on the sides of the buildings rather than the front. This would likely result in two or three larger buildings, rather than five (on lots 102-106). If the Commission approves the master site plan with the parking between the street and the buildings, then it should be clear that the landscaping treatments in this area should be fairly extensive, with shrubs and berms for headlight screening, trees, etc.

Scot Hazard, applicant, explained that he has shown two site plans. One is in compliance with the City commercial design standards and one is more indicative of this type of use. But at this time they are insignificant because each lot will come with its own site plan when the developer is ready to develop the building. Each plan will require its own layout, parking lot design, and landscape plan that would require approval at that time. He also suggested that the City amend Municipal Code Chapter 17.72 Multi-Family and Commercial Design Standards to address office-warehouse uses.

There was a recent shift in UDOT's original plan. UDOT originally requested 250 ft. of corridor to be preserved and is now requesting over 270 ft. to be preserved. The project will be shifted to accommodate the change with very few differences.

*Commissioner Linton opened the public hearing at 7:10 p.m.*

None

*Commissioner Linton closed the public hearing at 7:10 p.m.*

**MOTION:** *Preston Dean moved to recommend approval to the City Council of the Gateway Park Rezone application with the project title changed to Gateway Park. Matthew Everett seconded the motion. Those voting aye: Preston Dean, Miriam Allred, John Linton and Matthew Everett. The motion passed with a unanimous vote.*

**MOTION:** *Preston Dean moved to recommend approval to the City Council of the Gateway Park Master Site Plan application with the following conditions:*

- 1. Individual site plan approvals are required for each lot, including Parcel A and Parcel B. Landscaping and architecture will be reviewed at that time.*
- 2. Plans must be titled "Gateway Park," rather than "Eagle Mountain Business Park."*

*Matthew Everett seconded the motion. Those voting aye: Preston Dean, Miriam Allred, John Linton and Matthew Everett. The motion passed with a unanimous vote.*

**MOTION:**

*Preston Dean moved to recommend approval to the City Council of the Gateway Park Preliminary Plat application with the following conditions:*

- 1. Developer must provide a water model for the project and must comply with any requirements as a result of the water model.*
- 2. Plans must be titled "Gateway Park," rather than "Eagle Mountain Business Park."*
- 3. Parcels A and B must be changed to Lot 111 and Lot 112.*

*Matthew Everett seconded the motion. Those voting aye: Preston Dean, Miriam Allred, John Linton and Matthew Everett. The motion passed with a unanimous vote.*

- C. SilverLake 14 & 15 Concept Plan – Discussion The proposed SilverLake 14 & 15 concept plan is located within the existing SilverLake development south of Phase 8 and east of Woodhaven Boulevard. The applicant is requesting feedback for the community park configuration, road alignment in conjunction with sewer system, and overall subdivision layout.

Mr. Mumford explained that the applicant is requesting feedback from the Planning Commission to aid with the road design for these two phases, which will then determine the site layout. Currently, the sewer pipe that is being constructed for Evans Ranch, southern SilverLake, and the Kiowa Valley area needs to cut through this property. The lift station for the aforementioned areas is being taken off line and the developer would like to take advantage of the 15" sewer line that will run through these two phases. Through the concept plan process, the City and developer will eliminate the need to upsize future sewer infrastructure through this area by determining the best place to tie in and connect the future phases to the sewer system.

The applicant has submitted two different configurations for phases 14 & 15. Both phases are in 'Area B' as indicated on the master development plan. Within this area mixed uses are allowed; this includes cluster homes and multi-family units. 'Area B' allows a total unit count of 400 and includes other phases of SilverLake. One of the concept plans illustrates a total of 120 multi-family units clustered in one area. The 2013 amended and restated master development agreement for SilverLake requires that multi-family residential be distributed throughout the area, in this case 'Area B', and grouped with no more than 65 lots.

The SilverLake Master Development Agreement requires an 11.35 acre community park to be deeded to the City prior to the recordation of the last subdivision plat in 'Area B', in this case SilverLake 15. The park will be accessed through Woodhaven Boulevard and additional dedicated roads through both phases will provide secondary access. The applicant is proposing either 9.5 or 10 acres of improved open space for the community park in each submission. The park is adjacent to Tickville Wash, which will be left as natural open space. The Master Development Agreement states that the 11.35 acre community park will be improved; thus, there is a deficiency of improved open space for the required community park on both concept plans.

Commissioner Linton suggested that trading acres with a higher level of improvement could be a possible solution to the community park. His concern with the development is the density of the project looking like government low income housing and the amount of traffic in the development.

Commissioner Everett was concerned with the density of the project. He was also concerned with the use the Tickville Wash for any kind of improvement. He said that the Tickville Wash is completely unusable for open space. He explained that his concern is flooding in the area with these heavy rain storms. One example is the flooding in Southern Utah of the Santa Clara River and how it wiped out homes and parks. Those City parks that were wiped out have not been repaired.

Mr. Mumford explained that the developer is below the approved density.

Tony Trane, Engineer, explained that the original plan that was approved for this development was about four hundred condos. This current plan is about three hundred town homes and is broken up throughout the development. He said that there are two plans and the first plan's park is away from the Tickville Wash. He also said that at the beginning of the project he was told by the City that he only needed 10 acres for the community park. The City's concern with the first plan is the community park is not visible because you cannot see it from the main road. The developer felt that the park is less visible but is more usable because it's a flat space.

Commissioners reviewed the two development plans and some old plans giving feedback to the developer. They like the idea of the road buffering the park and the houses facing the community park.

- D. Dark Sky Ordinance – Public Hearing, Action Item The hearing is for proposed amendments and the addition of a chapter to the City's Development Code concerning outdoor lighting standards (including but not limited to Chapters 15.70, 17.54.050, 17.55.040, 17.72, 17.80, 17.100.060, 17.100.070 of the Municipal Code).

*Commissioner Linton opened the public hearing at 7:57 p.m.*

None

*Commissioner Linton closed the public hearing at 7:57 p.m.*

Commissioner Linton suggested that the lighting for commercial and residential be allowed to be on until 11:00 pm instead of 10:00 pm due to today's lifestyles.

Commissioner Allred did not agree with the Dark Sky Ordinance and said that she is more concerned with resident safety. She explained that at police reports indicate that lighting discourages theft in residential neighborhoods. She was also concerned with putting more restrictions and regulations on commercial companies. She felt that it would turn new companies away from the Eagle Mountain area. Mr. Mumford explained that other cities in the area are also adopting dark sky ordinances. Mr. Sorenson explained that the Planning Commission could strike the residential lighting from the ordinance.

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**MOTION:**                    *Preston Dean moved to recommend approval to the City Council of the Dark Sky Ordinance with the following conditions:*

1. *The hours of lighting not be restricted in residential areas.*
2. *Commercial property hours be modified to 11:00 pm instead of 10:00 pm. Matthew Everett seconded the motion. Those voting aye: Preston Dean, John Linton and Matthew Everett. Those voting nay: Miriam Allred. The motion passed with a 3 to 1 vote.*

5. Discussion Items

A. Park Standards

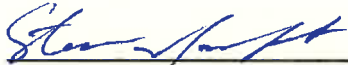
None

Next Scheduled Meeting: October 14

6. Adjournment

The meeting was adjourned at 8:05 p.m.

APPROVED BY THE PLANNING COMMISSION ON OCTOBER 28, 2014.



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Steve Mumford, Planning Director

# **Exhibit A**



Dear Planning Commission Board Members,

Lee Brown, the owner of the riding arena at 2909 N, Highway 73, Eagle Mountain, UT, has applied for a conditional use permit in order to lease his barn and acreage to a construction company for the purpose of accommodating and repairing their vehicles.

Conditional Use Permits are reviewed under the provisions of Chapter 17.95 of Eagle Mountain City code. 17.95.060 outlines standards that are to be used to evaluate conditional use permit applications. It states that conditional use permits shall be granted only when evidence is presented that establishes the five specific criteria noted in the ordinance. The following criteria have absolutely not been met:

A. Desired use- The proposed use of the riding arena as a construction equipment storage and repair facility is unnecessary and undesirable to the community and neighborhood. Neither the neighborhood, nor Mr. Brown's property are zoned for a commercial/industrial enterprise of this nature, nor are they appropriate, as all of the residential properties are very agricultural in nature, and the rest of the surrounding land is greenbelt. This permit is inconsistent with the scale, character, and impact of the area, and could, unfortunately, set a precedent for future zoning. Homes would suffer a decline in property values if rezoned to commercial or industrial, and could lose their current animal rights.

B. Health, safety, and welfare- The construction vehicles would increase danger to the neighborhood children, the majority of whom play frequently on the private driveway, riding bicycles and scooters, pulling wagons, and skating.

Title 17.95.070 further defines the general standards and conditions to be reviewed by the planning commission when evaluating conditional use permits.

A. Adjoining use of land is divided between residential properties with animal rights and greenbelt land, which it would be entirely inappropriate to sandwich commercial/industrial within.

B. The construction vehicles would further damage Whitequest and Stagecoach roads, which are already in poor repair, as well as completely destroy the 300' private driveway belonging to the Saunders family. The private driveway is the easement Mr. Brown currently uses to access the barn. The definition of easement from the Utah Office of Property Rights Ombudsman is a nonpossessory interest in the land of another that entitles the easement holder to limited reasonable use of a specified portion of another's land, usually a road, without interference. The dominant estate refers to the person with a legal right to use the easement and may include the owner of the land across which the easement passes. Because the land crossed by the easement is burdened by the easement, it is referred to as the "servient estate."

Mr. Brown does have legal access to the private driveway, but it was not constructed to withstand the weight of the construction vehicles, nor is it sized appropriately, nor is it placed appropriately, as the private driveway runs close to home it serves, with no fence separating them. Although, Mr. Brown does have a legal right of way, Utah law limits an easements use. Utah code title 57 states that an easements use may not unreasonably interfere with the property rights of the servient estate. What constitutes an

"unreasonable interference" depends upon the circumstances, but would include damages to the easement and the servient estates inability to continue to enjoy use of the easement. An easement also may not be expanded beyond what is expressly stated in the documents creating the easement, or beyond the use that established the easement, in order to protect the servient estate. If it is determined that the servient estate is unduly burdened by an unreasonable use of the easement, the servient estate holder has several remedies, including injunctions to restrict the dominant owner to an appropriate enjoyment of the easement, monetary damages plus repairs to the servient estate, and in some instances extinguishment of the easement... ..Increased traffic resulting from changing a dominant estates purpose constitutes an additional burden on the servient estate.

C. The construction vehicles would add noise, dust, dirt, and damage to both Stagecoach and Whitequest roads, and be detrimental to the neighborhood in many ways, without being of benefit in a single way. As before mentioned, the use and destruction of the private driveway would negatively impact both the children who play on the driveway and the owners of the private driveway.

Finally, Mr. Brown has an acceptable alternate access, which would probably be much less expensive for him to install and maintain than the renovation and maintenance of the Saunders families private driveway. He is the owner of both MMN Investments LLC, which is the riding arena being considered, and 2B Investments LLC, which shares the entire South perimeter of the riding arena, and also adjoins Highway 73, and the property his home is on, which also accesses Highway 73. His driveway, which has a culvert and accesses Highway 73, is gravel and less susceptible to damage from the construction equipment than ours, in addition to being his own property, which he has every right to destroy. Access from his driveway may absolve some of the negative impact on the neighborhood, if Mr. Brown determines to further pursue this conditional use permit.

Please protect the rights of the residents of White Hills Country Estates subdivision.

Thank you for your consideration,

Quinn Webb  
James Randall  
Melissa Randall  
Nellie Bird  
Troy & Jennie Furr