EAGLE MOUNTAIN PLANNING COMMISSION MEETING MINUTES

June 11, 2024, 5:30 p.m.
Eagle Mountain City Council Chambers
1650 East Stagecoach Run, Eagle Mountain, Utah 84005

COMMISSION MEMBERS PRESENT: Commissioners Rod Hess, Robert Fox, Brent Strong, and Craig Whiting; and Alternate Commissioner Bryan Free. Commissioner Jason Allen was excused.

ELECTED OFFICIALS PRESENT: Councilmember Brett Wright, Liaison to the Planning Commission.

CITY STAFF PRESENT: Evan Berrett, Economic Development Director; Brandon Larsen; Planning Director; Marcus Draper, City Attorney; David Stroud, Senior Planner; Steven Lehmitz, Planner; and Elizabeth Fewkes, Recording Secretary.

5:30 P.M. – Eagle Mountain City Planning Commission Work Session

Commissioner Hess called the meeting to order at 5:34 p.m.

1. Discussion Items

1.A. DISCUSSION ITEM – Bonnell Lot Split – Concept Plan

Planner Steven Lehmitz presented the item. The property located at 9286 N. 3277 E., in the Meadow Ranch neighborhood, is being proposed for a lot split. The property is 2.28 acres and the applicant is proposing to divide the current lot in such a way as to have one of the new lots be at least one acre in size. The current zoning is Base Density and the Future Land Use map designates the Meadow Ranch neighborhood as Agriculture/Rural Density Two. The zoning requirements include a minimum lot size of half an acre and 60 feet of frontage in a cul-de-sac. If the lot were to front on Harvest Lane to the north, the frontage width would be sufficient.

Applicant Josiah Bonnell stated that they had approached the City about the lot split previously, have completed the survey, and are now ready to proceed. He inquired about the feasibility of paving a trail to be a frontage road to access the site from the south.

Commission discussion and feedback:
- Addressed access options from the cul-de-sac to the south or Harvest Lane to the north of the parcel;
- Confirmed that a one-acre lot size should not face setback issues;
- Emphasized the need for 60 feet of frontage and consideration of paving part of the dirt road;
- Verified that the concept plan meets the necessary criteria for consideration of a lot split; and
- Recommended that the process should proceed with necessary approvals from the Planning Commission and City Council.

Commissioner Hess adjourned the work session at 5:46 p.m.

6:30 P.M. – Eagle Mountain City Planning Commission Policy Session

Commissioner Hess called the policy session to order at 6:30 p.m.

2. Pledge of Allegiance

Commissioner Hess led the Pledge of Allegiance.

3. Declaration of Conflicts of Interest

None.

4. Approval of Meeting Minutes

4.A. May 14, 2024 Planning Commission Minutes

MOTION: ***Commissioner Fox moved to approve the May 14, 2024 minutes. Commissioner Free seconded the motion.***

Jason Allen	**Absent**
Robert Fox	**Yes**
Rod Hess	**Yes**
Brent Strong	**Yes**
Craig Whiting	**Abstain**
Bryan Free	**Yes**

The motion passed with a vote of 4:0.

5. Status Report

Planning Director Brandon Larsen reviewed the planning items discussed and voted upon during the June 4, 2024 City Council meeting. He announced that the City is beginning work on a General Plan update and will be meeting with consultants to prepare and distribute a resident random sample survey.

6. Action and Advisory Items

6.A. ACTION ITEM/PUBLIC HEARING – Tract Development Agreement

City Attorney Marcus Draper presented the item. Tract is a data center land acquisition and development company. Tract acquires and entitles land for data center construction and commissioning. It then completes the infrastructure necessary for the construction of the data centers. The parties have negotiated a development agreement for approximately 672 acres of land distributed among two different parcels. One of the parcels is located near the Meta, Google, and QTS sites. The other parcel abuts Industrial Planning Area 2 of the Firefly development in the southwestern portion of the City. The parties have included in this agreement certain approved uses, exceptions, entitlements, incentives, and infrastructure upgrades that they deem necessary for the success of the project. A municipal energy tax reimbursement incentive is listed in the development agreement.

Applicant representative Tract Vice President of Engineering Coury Morris presented background information about the company and their process and provided a project overview and timeline.

Project Support and Benefits:

- The location, size, and topography of the sites are ideal for master-planned data center campus projects;
- Tract has received letters of support from Economic Development staff due to the significant community benefits anticipated to result from the project;
- Tract acquired 60 acre-feet per annum (AFA) of Central Utah Water Conservancy District (CUWCD) water through purchase from Eagle Mountain City; and
- The total investment on these parcels will be greater than $7 billion in real property and $62 billion in personal property at full-build out over a 20-year time frame, generating material tax revenue.

The Development Agreement:

- Includes both parcels – north and south
- Provides for phasing of property development for data center uses consistent with the RTI Overlay

- Allows for accessory uses that support the primary data center use, including energy generation and transmission
- Provides for administrative approval of certain development processes like utility connections
- Set forth specific project approvals that will be needed
- Vests zoning and certain site-specific standards
- Provides for specific water, sewer, and road improvements
    - Internal improvements to each parcel
    - Two sewer connection options, depending on the timing of improvements by neighboring development
    - Additional specificity for sewer and water service to be set forth in separate Water and Sewer Agreement

Favorable Water Intensity Comparisons: The proposed water intensity for cooling the Tract campus is far less than residential use and similar to the water use for a single large fulfillment/distribution center. Tract believes you could fit at least six fulfillment centers on 670 acres.

Tract Proposed Water Use:

- 670 Acres
- About 20 water-efficient data centers
- 40-60 acre-feet annually (AFA) water for cooling

Residential Use:

- 670 Acres
- 0.26 acres/HH (per household)
- 3.19 people/HH
- 169 domestic gallon/capita/day
- More than 1,500 acre-feet AFA water

Single Amazon Fulfillment Center:

- 800,000 square feet
- 1,500 employees
- Average 22-gallon/employee shift
- 37 AFA water for cooling

Mr. Morris stated that they have received a substantial amount of interest in the project but have not contracted with any users. Their target demographic is a wholesale, hyper-scale data center end user such as Microsoft, Google, or Amazon. They have partnered with a solar developer, Silicon Ranch, and may buy green credit through Rocky Mountain Power to use renewable energy to power the site. The power needed will exceed rooftop solar capacity.

Commissioner Hess opened the public hearing at 6:54 p.m.

Bettina Cameron expressed concerns about the Tract development agreement. Although she supports the development itself, she questioned the 40-year duration and the lack of specific benefits for the City. She mentioned that the agreement allows Tract to expand beyond the initial 670 acres without public hearings and highlighted the City's significant infrastructure investment with minimal guaranteed returns. She noted the high energy needs for the data centers and inquired why terms for water and sewer were excluded from the initial agreement, comparing it unfavorably to previous agreements like the one with Facebook.

Commissioner Hess closed the public hearing at 6:59 p.m.

Commissioner Fox expressed concerns about the agreement's length and concessions. Drawing from his previous experience on the Lehi City Council, he felt this agreement was unusually demanding on the City. He questioned the negotiation process and ultimately stated he could not support the agreement in its current form. He objected to the investment and reimbursement expectations placed on the City. He compared it unfavorably to past agreements with Meta, arguing that the current terms seemed overly generous and unnecessary to attract business.

Commissioner Hess inquired about the potential consequences if the City did not approve the agreement as stated. He questioned whether the company would leave or be willing to renegotiate to more favorable terms for the City. He concurred with the concerns about the long-term nature of the agreement and the allowance in Section 4.14 for the use of eminent domain to secure utility easements. He recommended limiting the amount of additional land that could be acquired under the agreement and advocated for including specific progress benchmarks.

Commissioner Whiting noted the absence of a required start date in the contract, expressing concern that the company could delay indefinitely without facing consequences, especially since the end users have yet to be secured. He also raised the issue of adjacent land acquisition, how it might affect City zoning and control, and the amount of property that could potentially be purchased and implemented into the agreement. He recommended striking Section 4.12 from the agreement or requiring that the underlying land has RTI zoning.

Commissioner Strong agreed with the need for benchmarks within the 40-year agreement to ensure progress. He also expressed concerns about potential extensive solar farm development on the site or other areas, which could impact the City's landscape and aesthetics.

Mr. Draper noted that the incentive terms of the agreement are scaled-down compared to Meta and other previous agreements and are in line with the terms for agreements with other data centers including adjacent land acquisition. The City is under obligation to treat various companies similarly. The project entails economic investment in the City resulting in substantial tax revenue and job creation. He clarified that infrastructure improvements are being done by Tract, not the City. The long build-out time justifies the 40-year length, with tax incentives lasting only 20 years. He acknowledged the potential for logistical delays to development but stressed that the vested rights doctrine requires the company to proceed with reasonable diligence. As Tract has already closed on the land, the project will proceed without delays due to land acquisition. The ability to exercise eminent domain to secure utility easements to make the project viable would be subject to applicable statutes and at the discretion of elected officials accountable to voters. The City could discuss possibly adding clauses limiting land acquisition to parcels with specific zoning and including benchmarks with the applicants. He explained that the RTI Zone agreements are designed to ensure responsible development, dictate the height standards, and allow for a company representative to serve on the Development Review Committee.

Mr. Morris presented data comparing the participation agreement terms of their contract with agreements between Eagle Mountain City and other data centers. The participation agreement includes transferable tax increment reimbursement (TIR) and Municipal Energy Tax (MET) for future investors. The Tract agreement offers a lower real property TIR (55%) compared to Meta (80%), Google (67.5%), and QTS (61%). For personal property TIR, Tract provides 55%, which is lower than Meta (100%) Google (100%), and QTS (74%). The MET reimbursement for Tract is 35%, which is lower than Meta's combined base and renewable MET at 50% and Google's at 80%. QTS does not offer any MET reimbursement. The 20-year period for MET reimbursement starts at the certificate of occupancy per building, and each building must be at least 100,000 square feet to qualify. The agreement is contingent upon approval by the following interlocal taxing agencies: Eagle Mountain City Redevelopment Agency (City Council), Alpine School District, Unified Fire Service Authority, Utah County, and Central Utah Water Conservancy.

Mr. Morris mentioned the practical constraints in developing digital infrastructure, including the lengthy timeline to procure essential equipment and the substantial time required to construct each building. The 40-year sunset clause is necessary due to these timelines. Any additional land acquired would still be subject to the underlying base zoning. The Developer Review Committee (DRC) process is standard, allowing for representation but not control by the developer. Solar development is not a viable use for the land due to high costs and better alternatives for power supply. Power generated offsite could be run to the project. The company would cover all infrastructure costs without relying on City financing, except for standard oversizing reimbursements.

Commissioner Free emphasized the importance of ensuring that all considerations are addressed in the agreement. He acknowledged Eagle Mountain's efforts to attract diverse developments, making the City unique with a more diverse economy compared to other communities in Utah that lacked the necessary land and resources. He expressed optimism about Tract's development and the City's willingness to support it, highlighting the need to address a few concerns. He supported including provisions in the agreement to prevent the indefinite acquisition of land by Tract and incorporating benchmark dates to review progress to ensure the project moves forward as expected.

Tract Corporate Counsel Keely Ambrose stated that they are amenable to amending Section 4.12 to specify that additional land acquisitions would be required to have RTI zoning.

MOTION: ***Commissioner Hess moved to recommend approval to the City Council of the Tract Development Agreement with the addition to Section 4.12 Additional Property to limit land acquisitions to parcels with industrial or RTI zoning and adding benchmarks for completion of portions of the project to Section 4.11 Timing and Rate of Development agreeable to the City and the applicant. Commissioner Free seconded the motion.***

Jason Allen	**Absent**
Robert Fox	**No**
Rod Hess	**Yes**
Brent Strong	**No**
Craig Whiting	**No**
Bryan Free	**Yes**

The motion failed with a vote of 2:3.

MOTION: ***Commissioner Strong moved to recommend denial to the City Council of the Tract Development Agreement. Commissioner Whiting seconded the motion.***

Jason Allen	**Absent**
Robert Fox	**Yes**
Rod Hess	**No**
Brent Strong	**Yes**
Craig Whiting	**Yes**
Bryan Free	**No**

The motion passed with a vote of 3:2.

6.B. ACTION/ADVISORY ITEM – Locke Pet Sitting Expansion

Mr. Lehmitz presented the item. The applicant inquired about avenues to increase the number of dogs allowed to be on their property while operating a short-term pet-sitting home business. The address is 2322 E. Hawk Lane and is 1.26 acres. The City issued a short-term pet-sitting license to the applicant on February 13, 2020, that is still valid. The applicant is currently permitted to have no more than 8 dogs on their property at any time. The applicant is requesting approval from the Planning Commission to have up to 30 dogs on the property at any given time. Staff is of the opinion that the applicant's request to have up to 30 dogs on their property at any given time is excessive. Staff recommends no more than 10 dogs be allowed on the property. For perspective, EMMC Table 6.05.260(a) permits 12 dogs on lots of 10 acres or more. Staff also recommends this approval run with the owner's license and not the land.

Applicant Melanie Locke provided an overview of her pet-sitting business, Eagle Mountain Dog Boarding and Grooming, which has been in operation since March 2019. She highlighted aspects of her facility, noting that it is training-based, which helps to minimize noise through proper dog behavior correction and schedules to exercise and care for the dogs, setting it apart from traditional kennels. Addressing odor control, she mentioned immediate feces removal and daily yard cleaning using enzymes and professional disinfectants. She assured the Commission that increasing the number of dogs would not significantly impact traffic, as most of her clients are long-term boarders. She referenced letters of support from neighbors directly across from and adjacent to her property that had been provided to the City. The neighborhood comprises large lots, primarily horse properties. She detailed her waste disposal process, which includes double-bagging waste and utilizing ACE disposal services. To mitigate noise, Ms. Locke explained the implementation of sound control measures such as extra insulation and sound foam in the barn. They provide daytime pet sitting and overnight boarding and add-on grooming and training services for dogs in their care. Most of the additional slots would be for overnight care to increase capacity, especially for holidays and peak times. Responding to questions about licensing, she clarified that she currently operates under a pet-sitting license and noted the challenges in acquiring the 40 acres required for a kennel license.

Mr. Larsen clarified that the request is an allowance or exception, not a variance, due to specific State Code criteria for variances. The applicant can have up to 8 dogs on the current property size and any increase needs to be approved by the Planning Commission.

Commissioner Fox said the business appears well-organized and professional. His primary concern with the number of dogs is noise. He sought clarification regarding the reasons for and intent of the standards limiting the number of dogs.

Commissioner Strong concurred with concerns about eliminating noise issues. He mentioned a previous case where a boarding facility was shut down for not complying with City regulations.

Commissioner Free voiced hesitation to approve an exception, expressing concern that it could set a precedent for other businesses despite the need for individual approvals. Additionally, allowing 30 dogs would increase the operation to a commercial scale rather than a home-based business.

Commissioner Hess stated that although there is an allowance for increasing the number of dogs, he supports adhering to the existing ordinance, which suggests a maximum of 12 dogs for properties over 10 acres. He supported approving up to 10 dogs as recommended by staff as a compromise.

Commissioner Whiting noted that the only guidance for the number of dogs is the next tier and the property barely meets the one-acre requirement. As such, he concurs with Commissioner Hess and with the consideration of limiting services in a residential area to a home-based business size rather than commercial.

Discussion ensued regarding the number of dogs allowed per acre, the uncertainty about whether the limit was due to odor, noise, or other concerns, previous issues with dog service businesses in the City, and the ability to monitor or revoke permission for additional dogs through business licenses and City standards.

MOTION: ***Commissioner Free moved to approve the Locke Pet Sitting Expansion with the change from 30 dogs to up to 10 dogs. Commissioner Hess seconded the motion.***

Staff confirmed that the exception would apply to the business license rather than the property.

Jason Allen	**Absent**
Robert Fox	**Yes**
Rod Hess	**Yes**
Brent Strong	**Yes**
Craig Whiting	**Yes**
Bryan Free	**Yes**

The motion passed with a unanimous vote.

7. Discussion Items

8. Next Scheduled Meeting

The next Planning Commission meeting is scheduled for June 25, 2024.

9. Adjournment

MOTION: ***Commissioner Whiting moved to adjourn at 8:12 p.m. Commissioner Strong seconded the motion.***

Jason Allen	**Absent**
Robert Fox	**Yes**
Rod Hess	**Yes**
Brent Strong	**Yes**
Craig Whiting	**Yes**
Bryan Free	**Yes**

The motion passed with a unanimous vote.

The meeting was adjourned at 8:12 p.m.

Approved by the Planning Commission on June 25, 2024.

Brandon Larsen
Planning Director