

## Rachelle Conner

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**From:** Meg Dudley  
**Sent:** Tuesday, September 30, 2014 12:25 PM  
**To:** \* Mayor / City Council; Troy Walker; alan@guadalahonkys.com  
**Cc:** David Dobbins; Russell Fox; Rachelle Conner  
**Subject:** FW: please forward to council members

Dear Mayor and Councilmembers,

Below is a letter from a citizen for your consideration in regards to an item on the agenda this evening.

Meg Dudley

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**From:** Jill Blanchard [<mailto:jillinzambia@hotmail.com>]  
**Sent:** Tuesday, September 30, 2014 12:07 PM  
**To:** Meg Dudley  
**Subject:** please forward to council members

Dear Draper City Council Member,

My name is Jill Blanchard. I am actually a resident of Riverton but 4 of my 5 children attend school in Draper, specifically at American Preparatory Academy.

I'm sorry to be writing on the day of the City Council Meeting but I hope that you'll not only get this before the meeting tonight but also consider my point of view, even though I realize my knowledge is somewhat limited regarding the traffic issues we currently face surrounding our campus at 11938 S Loan Peak Parkway in Draper.

I'm sure that you are well aware that currently parents, teachers, administrators, students, and any other APA personnel do not have access to our campus from the road just to the south of us. My understanding is that it is a public road but that the reason we as a school don't have access is that there exists a 2 foot "buffer" between the public road and our school that the owner (or alleged owner as there's a dispute between different survey's of the land) will not let us cross. It's disturbing quite frankly from my point of view. It is also my understanding that a law is now in place that will no longer allow the person owning a similar buffer area to deny another access simply by saying they can't cross. Thank goodness for that. That makes so much more sense to me, for our sake and any other land owner from this point forward.

Still, it seems to me that as you consider the request of those who've purchased the land to the south and west of our campus to build a new building, it would be INCREDIBLY helpful if you as a council would consider that your decision tonight regarding the appeal COULD GREATLY IMPACT TRAFFIC FLOW FOR THE BETTER AND GREATLY IMPACT THE FUTURE GROWTH OF THE AREA. It seems to me that many problems could be solved if you as a council would include that as a condition to the approval of this site plan, the city require that ALL of 11950 South be dedicated as a public road where businesses to the north and south of the road would be provided access to and be able to use this road as a way to get to their businesses, place of residences or whatever may be built on that land.

Again, I recognize that there are intricacies I am likely not aware of, but I did want to voice my concern and opinion as well as my hope for a decision that will benefit A LARGE NUMBER of people both at American Prep Academy and the homes or businesses that will be built in this area in the future.

Thank you for your time and consideration!!

Sincerely,

Jill Blanchard  
801-725-3250

September 18, 2014

**VIA HAND DELIVERY**

Draper City Council  
1020 East Pioneer Road  
Draper, Utah 84020

Draper City  
Attn: Office of the Zoning Administrator  
1020 East Pioneer Road  
Draper, Utah 84020

Draper City  
Attn: City Recorder  
1020 East Pioneer Road  
Draper, Utah 84020

SALT LAKE CITY OFFICE  
PO Box 45385  
Salt Lake City, Utah  
84145-0385

36 South State Street  
Suite 1400  
Salt Lake City, Utah  
84111

801 532-1500 TEL  
801 532-7543 FAX  
www.rqn.com

PROVO OFFICE  
86 North University Ave  
Suite 430  
Provo, Utah  
84601-4420

801 342-2400 TEL  
801 375-8379 FAX

Re: Application No. 140707-12044S (the "Application"), Submitted by  
Wasatch Product Development, LLC ("Applicant")

Appeal by Charter Starter 1, LLC ("Charter") of Site Plan  
Approval by the Draper City Planning Commission Dated  
August 28, 2014, Affecting Approximately 7.92 Acres, Located at  
12044 South Lone Peak Parkway (the "WPD Property")

Dear Members of the City Council:

Our firm represents Price Logistics Center Draper, LLC ("PLCD"), an owner of property located in the Lone Peak Business Park in Draper, Utah adjacent to the WPD Property. As you are aware, PLCD is in support of the site plan submitted by Applicant (the "Site Plan") and approved by Draper City. The purpose of this letter is to respond to the appeal by Charter to the Site Plan approval, as filed by Loyal C. Hulme on or about September 11, 2014.

The Charter appeal alleges that: (1) the Site Plan should not have been approved because the WPD Property was illegally subdivided; (2) the Site Plan building orientation violates the Draper City Code (the "Code"); (3) the Site Plan landscaping violates the Code; and (4) the Site Plan violates the Code's street requirements. It is PLCD's position that the allegations of Charter are without merit and do not correctly state the law or the facts. In response thereto we offer the following:

ATTORNEYS AT LAW  
Clark P. Giles  
Narvel E. Hall  
Douglas W. Morrison  
Herbert C. Livsey  
D. Jay Curtis  
Jonathan A. Dibble  
Scott Hancock Clark  
Loren E. Weiss  
James S. Jardine  
Janet Huggie Smith  
Douglas Matsumori  
Larry G. Moore  
Bruce L. Olson  
John A. Adams  
Douglas M. Monson  
Craig Carlile  
Jeffrey W. Appel  
David J. Castleton  
Ellen J. D. Toscano  
Kevin G. Glade  
Lester K. Essig  
Ira B. Rubinfeld  
Stephen C. Tingey  
John R. Madsen  
Michael W. Spence  
Scott A. Hagen  
Mark M. Bettilyon  
Rick L. Rose  
Rick B. Hoggard  
Lisa A. Yerkovitch  
Brent D. Wride  
Michael E. Blue  
Steven W. Call  
Elaine A. Monson  
Mark A. Cotter  
Greggory J. Savage  
Kelly J. Applegate  
Justin T. Toth  
Liesel B. Stevens  
Robert O. Rice  
Arthur B. Berger  
Frederick R. Thaler, Jr.  
John W. Mackay  
McKay M. Pearson  
Mark W. Pugsley  
Matthew N. Evans  
Gary L. Longmore  
John P. Wunderli  
Michael R. Johnson  
E. Blaine Rawson  
Samuel C. Straight  
Matthew R. Lewis  
Paul C. Burke  
Elaina M. Maragakis  
D. Zachary Wiseman  
Michael D. Mayfield  
Brett L. Tolman  
Bryan K. Bassett  
Kamie F. Brown  
Janelle Erick Bauer  
Gregg D. Stephenson  
Kristine M. Larsen  
Gregory S. Roberts  
Christopher N. Nelson  
Angela E. Atkin  
Samuel A. Lambert  
David H. Leigh  
Gavin M. Reese  
Richard H. Madsen, II  
Ryan B. Bell  
S. Brandon Owen  
Charles H. Livsey  
David B. Dibble  
Emily S. Loeffler  
Bryant J. McConkie  
Maria E. Heckel  
Blake R. Bauman  
Michael K. Erickson  
Eric G. Benson  
R. Troy Mollerup  
Matthew M. Cannon  
James A. Sorenson  
Mica McKinney  
Adam D. Wentz  
Robert P. Harrington  
Greg M. Newman  
Adam K. Richards  
Blake R. Voorhees  
James M. Swan  
Beth J. Ranschau  
Aaron K. Olsen  
Kimberly A. Child  
Calvin R. Winder  
A.J. Green  
Katherine E. Priest

OF COUNSEL  
Robert M. Graham  
M. John Ashton  
Gerald T. Snow  
Robert G. Wing  
Katie A. Eccles  
Jordan Christianson  
Jennifer R. Korb  
Jared N. Parrish  
Anjali J. Patel

1. The Site Plan was approved with the condition that the subdivision plat be approved by Draper City. PLCD has submitted a subdivision plat which is presently being reviewed by Draper City.

2. The Site Plan building orientation does not violate the Code. Chapter 9-22 of the Code sets forth the general design guidelines for development. In Section 9-22-020 it specifically states that the design standards and guidelines set forth in Chapter 9-22 do not apply to industrial buildings and uses where a different standard is imposed by requirements of an applicable zoning classification or overlay zone or the requirements are expressly superseded by another provision. The WPD Property is part of the Lone Peak Commercial Special District (the "LPCSD"). The LPCSD design requirements are found in Section 9-18-070 which in part provides: "*The LPCSD provides design guidelines for the buildings, landscaping, parking, lighting and signage located within the district boundaries.*" The LPCSD does not require the building façade to face the principal street.

3. Even if the design requirements of Chapter 9-22 did apply, Section 9-22-030 of the Code gives the Planning Commission discretion to amend some or all of the design standards. The case at hand shows exactly why granting the Planning Commission discretion for the design is necessary. The Site Plan actually benefits Charter by having the building façade face the Charter property rather than the rear of the building or the truck docks.

4. The Site Plan landscaping does not violate the Code. The Charter argument made for landscape buffering is full of misrepresentations of the law and the facts. We are confident that Draper City recognizes this and that it is aware of the following:

(a) Section 9-23-020 of the Code provides that it applies **except** as otherwise provided elsewhere in Title 9 of the Code. The LPCSD requirements are found in Title 9 of the Code and therefore they will trump the landscape buffering provisions of Code Section 9-23-020.

(b) Draper City has the authority to reduce buffer zones and landscape plans that deviate (Code § 9-23-110, § 9-23-030).

(c) Even if Code Section 9-23-020 applied, it is clear that the only use of the property to the north is a school and Charter has expressed an interest in locating a high school on its property. A school is deemed to have a LUI of 5, not 1 (§ 9-27-210(g)(2)) and therefore even Code Section 9-23-020 does not require a 60-foot buffer.

(d) There is also an adjustment to the LUI difference when there is an intervening road, or a drainage or utility easement that separates the two sites, as is the case with the WPD Property.

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18

(e) Code Section 9-23-110(b) states that no land use buffer shall be required between land uses located in the same zone. Therefore no buffer will apply to the east boundary of the WPD Property.

5. The Site Plan does not violate the Code's street requirements. Code Section 17-5-020(b) does not require "building frontage." Charter misrepresents what this section states and what it means. Charter changes the wording to "building frontage" and then uses the definition for "building frontage" found in a different title and chapter of the Code. The WPD property has frontage all along the road and it can be accessed from the road as is intended by Section 17-5-020(b).

6. The proposed subdivision does connect the subdivision to existing streets (11950 South). The Charter allegation that this subdivision's streets must be located for the benefit of the adjacent residential property is faulty because the property to north is already subdivided and there are no streets in that subdivision that line up with the LPCSD.

7. The Charter appeal contains matters that were not addressed in the Charter's written and oral claims previously made to the Planning Commission. For purposes of the appeal of the approval of the Site Plan, the appellate body conducts a hearing based upon the record only, taking no new testimony or new information but relying solely upon the information and final decision of the officer or body from whom the appeal was taken [Code Section 9-5-180(d)(4)]. Charter's original challenge only addressed the need for a subdivision approval and the landscape buffer. The other items set forth in the Charter appeal are not part of the record and therefore should be ignored by the appellate body.

Very truly yours,

RAY QUINNEY & NEBEKER P.C.



David J. Castleton

11/18/14

September 8, 2014

Theron J. Smith  
13530 South 300 East  
Draper, UT 84020

Draper City Council  
1020 East Pioneer Road  
Draper, UT 84020

Reference: Kent and Dorothy Hansen Minor Lot Subdivision, 190 East 13560 South.  
Application #: 140311-192E

Dear City Council,

I have prepared this letter and attached documents on behalf of Kent and Dorothy Hansen's desire to develop two acres of property into a four lot minor residential subdivision. Kent and Dorothy initiated the development in 2004 however due to issues along the way the original development proposal was not completed. March 7, 2014 Kent resurrected the development and again submitted to Draper City a Minor Subdivision Application Packet.

13560 south 150 east to 300 east is nine hundred and thirty feet (930') in length and fifty feet (50') wide. The pavement section is twenty six feet (26') wide with grass and asphalt shoulders. The shoulders are maintained by property owners. The 13560 so frontage of the proposed development is three hundred and five feet (305') in length.

Prior to the incorporation of Draper City, 13560 south, 150 east to 300 east and adjoining properties on the north and south were established and zoned in accordance with Salt Lake County standards at that time. 13560 south was established with a fifty foot (50') width and the adjoining properties were zoned as one half (.5) acre residential properties. With the exception of the Kent Hansen two (2) acre parcel and a one half (.5) acre pasture all other properties (eight) have been developed as residential.

Draper City Community Development, Engineering, Fire Prevention Bureau and all support staff have been very courteous, supportive and straightforward to work with. However they are bound by current city development standards and ordinances one in particular, the requirement to install frontage improvements, curb gutter and sidewalk on 13560 south. As with the 2004 application we are again asking for the city council's consideration and support to grant an exception to this requirement by placing 13560 south, 150 east to 300 east on the city street exception list waiving/grandfathering the requirement for frontage improvements.

Please note during the 2004 process a requested exception from standard development requirements to install frontage improvements was suggested by Community Development Staff. The request was subsequently discussed, reviewed and approved by Draper City Planning and City Council.

The following documentation is referenced or as attachments for your review and kind consideration for waiving frontage improvements along 13560 south.

- June 2004 submitted Minor Subdivision Application Packet for review. (Reference)
- June 29, 2004, after review of preliminary plat by city staff and engineering approval is not recommended. (Reference)

- August 3, 2004 a rejection response letter was drafted to the Draper City Community Development Department, Planning Commission and City Council outlining the objective/goal of this development and requested exception from standard development requirements. (Attachment #1)
- August 17, 2004 after discussion with Mr. Kent Hansen, adjacent property owners along 13560 south a letter with findings and support of the development was prepared to Draper City Planning Commission and City Council. (Attachment #2)
- August 19, 2004 during a scheduled business meeting the Draper City Planning Commission reviewed the subdivision application, page 10, Item 5.0.
  - After discussion a motion was made to not require street improvements.
  - Vote: the roll call vote was unanimous, the motion passed. (Attachment #3)
- September 14, 2004 during a scheduled business meeting the Draper City Council reviewed the subdivision application, page 11, action item 12.0.
  - Councilor Bill Colbert moved that council approve the four-lot minor subdivision.
  - With exceptions the motion passed. (Attachment #4)
- February 10, 2005 Jay Smith was notified by Draper City staff of an apparent conflict with property descriptions and the Utah Department of Transportation (UDOT) that needs to be resolved before the final development plans can be approved. (Attachment #5)
- July 13, 2007 property conflict with UDOT was resolved in favor of Kent and Dorothy Hansen. A Boundary Line Agreement was recorded, entry #10162778. (Attachment #6)
- August 16, 2007 Draper City Community Development was contacted and informed of Mr. Hansen's intent to again start the process and re-submit the development for review and approval. However due to the down turn in the economy particularly residential development Mr. Hansen chose not to proceed with the development at that time. (Attachment #7)
- March 7, 2014 the proposed development was submitted to Draper City Community Development for review and consideration for approval.

Prepared by,



T. Jay Smith



13560 S 300 E

Jay Smith  
1/2-acre  
Pasture

E 13550 S

2-Acre Kent Hansen  
proposed residential  
development

S 200 E

S 300 E

© 2014 Google

Google

1997

40°30'17.02" N 111°53'00.15" W elev. 4451 ft eye alt



Kent & Dorothy Hansen  
192 East 13560 South  
Draper, Utah 84020

Telephone: Cellular 859-9438

August 3, 2004

Draper City  
Community Development Department, Planning Commission, City Council:  
1020 East Pioneer Road  
Draper, UT 84020

Reference: Kent Hansen Subdivision 192 East 13560 South 1.99 acres.

**Objective / Goal:**

1. Develop this existing farm property into four ½ acre residential lots.
2. Design and develop said property to maintain integrity with the existing neighborhood and surroundings.
3. Re-establish cul-de-sac which was removed by Draper City and the Utah Department of Transportation (UDOT) during Bangerter / 150 East construction.

**Requested exceptions from standard development requirements:**

1. **Curb Gutter, Park strip and Sidewalk:** As to be constant with existing neighborhood and surroundings eliminate **Curb-Gutter, Park strip and sidewalk**. To do so maintains integrity with the existing area.
  - It is not the desire or intent of residents / property owners of this area to have curb, gutters, park strips and or sidewalks.
2. **Additional 5' of property acquisition:** The existing 50' width of 13560 south was established as per Salt Lake County standards prior to the incorporation of Draper City. The current (recently revised) Draper City right-of-way requirement for a Local Valley Road is 60' (30' half width) with 10' wide park strips. To request an additional five feet of frontage for this development just to be compatible with current Draper City standards is of no value to the city or the neighborhood.
  - This area is a local residential area of less than twenty lots; the existing pavement section is 25' with 12.5' shoulders all of which are very functional for the neighborhood. The Existing road shoulders consist of grass and asphalt pavement all of which are maintained by homeowners.
  - 13560 South at this location is not essential for the present or future transportation needs of Draper City, however it is very compatible for the local area.
3. **Under grounding of overhead utilities:** This is a pointless requirement for this development.
  - This requirement should be waved and or deferred.

- With the exception of two ½ acre lots one of which is owned by the Utah Department of Transportation (UDOT) this is the last parcel of property in the area that is developable. The only existing overhead utilities in the area are a singlephase power system with cable TV attachments all of which are on the north side of 13560 south.
- The existing overhead facilities are not an issue with the existing property owners / residents.
- Because the majority of the existing properties are already developed, for the city to require burial would burden the city with the bulk of these costs.

4. **Street Tree Landscaping Plan:**

- The street tree-landscaping plan should be amended as to maintain neighborhood integrity and be consistent with the area.
- At present 13560 South does not have curb gutter, sidewalks or park strips. With this in mind there are no trees planted on the road shoulders, all landscaping is provided by the property owners behind property line.

Thank you,

Kent Hansen

Theron J. Smith  
13530 South 300 East  
Draper, UT 84020  
Telephone: 801 571-0500

August 17, 2004

Draper City  
Attention: Planning Commission / City Council  
1020 East Pioneer Road  
Draper, UT 84020

Reference: Proposal for Kent Hansen Subdivision 192 East 13560 South, Application # JS-2004-0295.

I have had the opportunity to talk with Mr. Kent Hansen and review his plans and proposal for a four-lot residential development on two acres of property he presently owns. I have also discussed his proposal with several of my neighbors, myself and these neighbors I have spoken with are very supportive of Mr. Hansen's proposed development.

We base our support on the following.

- For over 30 years this property has been and is still presently zoned as ½ acre residential lots. Mr. Hansen's proposed development is compatible with this zoning.
- Mr. Hansen's proposal is compatible with and constant with the existing neighborhood and maintains integrity with the existing neighborhood.
- This proposed development will also re-establish a cul-de-sac, which was removed by Draper City and the Utah Department of Transportation (UDOT) during the construction of the Bangerter Highway and 150 east.

We ask the Draper City planning commission and city council to support Mr. Hansen's proposal and support the integrity of the neighborhood with the following **variances** from city standards.

1. It is not the desire of this neighborhood to have curb gutter park strips and or sidewalks installed; to do so is of no benefit for this area, the area functions very well with road shoulders, which are maintained by the local residents.
2. Prior to the incorporation of Draper City the present city road right-of-way for 13560 south was established to Salt Lake County standards of 50 ft. which is very adequate for the area. 13560 South is not identified on the city master road plans as an essential thoroughfare for the needs or the well being of Draper City. It is not required and or necessary to acquire additional property from Mr. Hansen just to facilitate the current Draper City road profile of 60' in width. To do so will create a 5' jog in property frontage and will be of no benefit to Draper, City. With the exception of two ½ acre lots one of which is owned by UDOT all other properties in the area are developed.
3. Roadway landscaping should be eliminated and moved to individual properties.

Below is a recent picture of this area, please note the rural old Draper atmosphere which is rapidly vanishing.

Thank you,

T. Jay Smith



2. That the amendment is harmonious with the overall character of existing development in the vicinity; and
  3. That the amendment will not negatively affect the public health, safety and welfare.
- Approval is based on the following condition:
1. That section 9-17-050 (4)(D)(I) be changed to read: "*Rooflines shall be varied in pitch, height, and orientation, to provide visual interest. The majority of all roof pitches shall be sloped at not less than 6:12 in order to provide this variation, and no greater than 12:12.*"

4.12 **Second:** Ms. Parr seconded the Motion.

8:46:58 PM

4.13 **Vote:** Roll call vote was unanimous, with Mr. Young, Ms. Jacobsen, Ms. Davis, Mr. Wade, and Ms. Parr voting "Yes." MOTION PASSED.

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8:47:26 PM

5.0 **PUBLIC HEARING:** The request of Kent & Dorothy Hansen for approval of the Minor Subdivision for the Kent Hansen 4 lot Subdivision, located at 192 East 13560 South on 2.85 acres. (Application JS-2004-0295).

8:48:18 PM

5.1 **Applicant's Presentation:** Mr. Crowell summarized the Staff Report dated August 12, 2004, aided by a PowerPoint presentation. He said that there is a variance request on the curb, gutter and sidewalk, since no one else in the neighborhood has that and no one wants it.

8:54:18 PM

5.2 **Staff Presentation:** Kent Hansen explained this proposal. He said that the trees would be on private property, like the rest of the neighborhood.

8:57:30 PM

5.3 Chairman Rapple opened the public hearing.

8:57:35 PM

5.4 As a resident, T. Jay Smith, 3530 S. 300 E., affirmed that the neighborhood does not want curb, gutter, and sidewalk, that the road cannot connect to Bangerter Highway due to safety issues, and that there is unlikely to be any further development.

9:02:37 PM

5.5 Speaking for the Willow Neighborhood Association, Mr. Smith said that the Planning Commission probably has the minutes of their meeting a couple of months where they recommended approval of this proposal and that Mr. Hansen approach this as a PRD because of the proposed exceptions. Since that time, staff has helped the NA understand that a PRD is not necessary. The NA recommendation was to move the street trees to private property because presently 13560 South has no trees planted on the road shoulders.

9:05:09 PM

5.6 The Chairman closed the public hearing.

9:05:19 PM

- 5.7 Mr. Crowell said that staff saw the recommendation from the City Engineer on the street issues, and it is not being recommended that curb, gutter, and sidewalk be constructed at this time. A deferral agreement is recommended so that if some future point the street were improved, there would be an obligation to construct this portion. The Chairman asked what would happen with the other homes in the neighborhood. Mr. Crowell speculated that there may be a special improvement district, or that it may have to be a City project on the Capital Improvement budget. Chairman Rappleye said that he would not want to treat this parcel differently than the rest of the street.

9:07:13 PM

- 5.8 Ms. Davis asked if UDOT could construct a road through their property and connect a road into 13560 South. Chairman Rappleye said that there would be no reason for them to do that.

9:07:57 PM

- 5.9 Ms. Jacobsen asked where the additional property to be added to the subdivision to meet the minimum lot size (Condition 3) would come from, and Mr. Crowell said that he understood that a portion of Mr. Hansen's existing lot was within the subdivision, and then the subdivision was changed. It seems as if he should be able to configure the lots using .46 acres from the existing lot. If a lot line adjustment to achieve that is not possible, and the 5' dedication is required and it seems like there is no way to make a 4 lot subdivision that meets the minimum lot size requirement, then staff would have a problem with this plan. Staff was looking for a way to make this work and still follow the Engineering Department's recommendations. Staff would like to see the requirement remain for some trees behind the right of way line, which would be behind the gravel shoulder. The subdivision ordinance does allow for street trees in an area which does not have a sidewalk.

9:10:31 PM

- 5.10 **MOTION:** Ms. Parr moved that the Planning Commission recommends that City Council approve the request for a four-lot subdivision for Kent and Dorothy Hansen, located on 2.85 acres at 192 East 13560 South, Application JS-2004-0295, based on the findings listed in the Staff Reported dated August 19, 2004:
1. That this subdivision is compatible with the desired Land Use Density, and the general goals of the General Plan.
  2. The subdivision meets the requirements of the zoning ordinance for which the development is in.
  3. That Section 17 of the Draper City Code allows for the approval of the preliminary subdivision plat of this minor subdivision.
  4. That development of the subject property for a residential subdivision is not contrary to public health, safety or welfare.
  5. That there is adequate infrastructure capacity to accommodate the addition residential units.
  6. That adjacent properties may be developed efficiently without a public street connecting through the Kent Hansen Subdivision
- Approval is subject to the conditions listed in the Staff Report, with the following changes:
1. ~~That the full right-of-way is dedicated for a local street.~~
  2. ~~That the exceptions requested are not granted, except that Planning staff supports deferral agreements for street improvements.~~

- ~~3. That additional property is added to the subdivision to meet the minimum lot size.~~
- ~~4. That a new preliminary plat, meeting all development requirements, including engineering and zoning, be submitted for staff review.~~
5. That staff shall review and approve the new preliminary plat, final plat and final improvement plans as a minor subdivision.
6. That all conditions of the Engineering Department are met, *except for 1-4 above.*
7. That the required public utility easements be noted on the final plat.
8. That the required access and utility easement has a paved all weather surface and is maintained as a private road.
9. That the buildable areas be designated on the final plat.
10. That addresses for each new lot be shown and boxed on each lot on the final plat.
11. That all requirements of the Fire Marshal are met.
12. That a street tree/landscape plan, stamped and approved by a licensed landscape architect, be submitted and adhered to with the final plat *for Lots 1 and 2.*
13. That setbacks are written as a note on plat.
14. *That no front yard fences are allowed on Lots 1 and 2.*

5.11 **Second:** Mr. Young seconded the Motion.

9:12:41 PM

5.12 **Discussion:** Ms. Parr said that the chances of this street ever getting curb and gutter is small until far in the future. It could be handled by a special improvement district at that time, so she sees no reason to require the 5' dedication. The General Plan calls for avoiding walls and fences, which is her reasoning behind Condition 14, plus the fact that there are no sidewalks. It also encourages a relationship between new and existing construction to complement the neighborhood, which is another reason to not require street improvements here. The Chairman and Ms. Davis agreed.

9:14:57 PM

5.13 Ms. Romney clarified the intent of the wording. Mr. Crowell pointed out even with eliminating Conditions 1-4, the minimum lot size would still be met because the 5' dedication is eliminated.

9:16:52 PM

5.14 Ms. Parr asked if there is any chance that the City will remove those barriers at the end of that street. The Chairman agreed that they look bad.

9:17:18 PM

5.15 **Vote:** Roll call vote was unanimous, with Mr. Young, Ms. Jacobsen, Ms. Davis, Mr. Wade, and Ms. Parr voting "Yes." MOTION PASSED.

*(Commissioner Young left at 9:18 p.m.)*

9:18:13 PM

6.0 **PUBLIC HEARING:** The request of John Bowman, representing SunCrest LLC, for approval of the Final (hillside) Plat for Oak Vista 7A at SunCrest, located at approximately 14700 South 1800 East, on 18.72 acres. (Application JS-2004-0296).

9:39:28 PM

**12.0 ACTION ITEM: Consideration of approval for a four-lot minor subdivision located at 192 East 13560 South on 2.01 acres.**

**12.1 Applicant Presentation:** Kent Hansen feels that this fits in with the neighborhood. He does not agree with the Staff Report that curb, gutter, and sidewalk is needed, as only one home in the neighborhood has that and the neighborhood is almost built out.

9:41:52 PM

**12.2 Staff Report:** Current Planner Grant Crowell summarized the Staff Report dated August 12, 2004 and the Request for Council Action dated September 8, 2004, aided by a PowerPoint presentation.

9:45:10 PM

**12.3** Mr. Crowell answered Councils' questions.

9:48:16 PM

**12.4 MOTION:** Councilor Colbert moved that Council approve the four-lot minor subdivision located at 192 East 13560 South on 2.01 acres, based on the findings listed in the Staff Report dated August 12, 2004, and Request for City Council Action dated September 8, 2004:

1. That the General Plan calls for avoiding walls and fences, and encourages relationship between existing and new construction to help the new development complement the surrounding neighborhood.
2. That this subdivision is compatible with the desired Land Use Density, and the general goals of the General Plan.
3. That the subdivision meets the requirements of the Zoning Ordinance for the area which the development is in.
4. That Section 17 of the Draper City Code allows for the approval of the preliminary subdivision plat of this minor subdivision.
5. That development of the subject property for a residential subdivision is not contrary to public health, safety or welfare.
6. That there is adequate infrastructure capacity to accommodate the addition residential units.
7. That adjacent properties may be developed efficiently without a public street connecting through the proposed Kent Hansen Subdivision.

Approval is subject to the following conditions:

1. That staff shall review and approve final plat and final improvement plans as a minor subdivision.
2. That all conditions of the Engineering Department be met, except the exceptions recommended in the Staff Report dated August 12, 2004, specifically that curb, gutter and sidewalk are excluded and 5' of property acquisition is not required.
3. That the required public utility easements be noted on the final plat.
4. That the required access and utility easement has a paved all-weather surface and is maintained as a private road.
5. That the buildable areas be designated on the final plat.
6. That addresses for each new lot be shown and boxed on each lot on the final plat.
7. That all requirements of the Fire Marshal are met.
8. That a street tree/landscape plan, stamped and approved by a licensed landscape architect, be submitted and adhered to with the final plat for lots 1 and 2.
9. That setbacks are written as a note on the plat.
10. That no front yard fences are allowed on lots 1 and 2.

12.5 **Second:** Councilor Larkin seconded the Motion.

9:49:47 PM

12.6 **Discussion:** Councilor Colbert feels that the subdivision maintains the character of the neighborhood and promotes harmony.

9:49:54 PM

12.7 **Vote:** MOTION PASSED on voice vote. Absent: Mayor Smith and Councilor Edwards.

9:50:04 PM

12.8 Mr. Crowell asked if the Motion included the recommendation on the utilities, which was not included in the Request for Council Action. Councilor Colbert asked if it is correct that all the power lines on the street are above ground, and was told that is correct.

9:50:23 PM

12.9 **Motion to Amend:** Councilor Colbert moved to amend the Motion by adding the utility exception.

12.10 **Second:** Councilor Larkin seconded the Motion.

12.11 **Vote:** MOTION PASSED on voice vote. Absent: Mayor Smith and Councilor Edwards.

12.12 **MOTION AS AMENDED:** That Council approve the four-lot minor subdivision located at 192 East 13560 South on 2.01 acres, based on the findings listed in the Staff Report dated August 12, 2004, and Request for City Council Action dated September 8, 2004:

1. That the General Plan calls for avoiding walls and fences, and encourages relationship between existing and new construction to help the new development complement the surrounding neighborhood.
2. That this subdivision is compatible with the desired Land Use Density, and the general goals of the General Plan.
3. That the subdivision meets the requirements of the Zoning Ordinance for the area which the development is in.
4. That Section 17 of the Draper City Code allows for the approval of the preliminary subdivision plat of this minor subdivision.
5. That development of the subject property for a residential subdivision is not contrary to public health, safety or welfare.
6. That there is adequate infrastructure capacity to accommodate the addition residential units.
7. That adjacent properties may be developed efficiently without a public street connecting through the proposed Kent Hansen Subdivision.

Approval is subject to the following conditions:

1. That staff shall review and approve final plat and final improvement plans as a minor subdivision.
2. That all conditions of the Engineering Department be met, except the exceptions recommended in the Staff Report dated August 12, 2004, specifically that curb, gutter and sidewalk are excluded and 5' of property acquisition is not required.
3. That the required public utility easements be noted on the final plat.
4. That the required access and utility easement has a paved all-weather surface and is maintained as a private road.
5. That the buildable areas be designated on the final plat.



6. That addresses for each new lot be shown and boxed on each lot on the final plat.
7. That all requirements of the Fire Marshal are met.
8. That a street tree/landscape plan, stamped and approved by a licensed landscape architect, be submitted and adhered to with the final plat for lots 1 and 2.
9. That setbacks are written as a note on the plat.
10. That no front yard fences are allowed on lots 1 and 2.
11. *That undergrounding of utilities is not required.*

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9:51:04 PM

**13.0 ACTION ITEM: Personnel.**

- 13.1 Ms. Libbert asked the Mayor Pro Tem to suspend the rules so that she could make a statement regarding Item 13.

9:51:22 PM

- 13.2 **MOTION:** Councilor Larkin moved that Council recess to a Closed Session to discuss the character and professional competence or physical or mental health of an individual.

- 13.3 **Second:** Councilor Colbert seconded the Motion.

- 13.4 **Vote:** MOTION PASSED on voice vote. Absent: Mayor Smith and Councilor Edwards.

9:51:30 PM

- 13.5 Ms. Libbert asked that her objection be noted, saying that this was on the published agenda as an action item, not under the Closed Session. She was informed that Council would not be taking any action in the Closed Session and would consider the information she presented earlier. Ms. Libbert asked if Council is planning to take action tonight, and was told that would also be discussed during the Closed Session.

*(Counsel recessed at 9:51 p.m., reconvening at 10:06 p.m.)*

10:06:42 PM

- 13.6 Mayor Pro Tem Davies repeated that Council would not allow Ms. Libbert to comment at this point, since this is an action item. Council has accepted the information she provided, which was all information that Council has previously reviewed.

10:07:13 PM

- 13.7 **MOTION:** Councilor Larkin moved that Council find that, based upon the investigation conducted by the Mayor in accordance with the provisions of the State Municipal Officers and Employees Ethics Act, the Act has been violated by two City employees, Brian Berndt and Glen Goins; that based upon Mr. Berndt's violations of the provisions of the Act, his position as department head, and his at-will employee status, Mr. Berndt be terminated from employment with the City; and that Mr. Goins be disciplined for his actions in accordance with the City's disciplinary policies and procedures to the extent commensurate with his involvement.

- 13.8 **Second:** Councilor Colbert seconded the Motion.

## Jay Smith

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**From:** Amy Rosevear [amy.rosevear@draper.ut.us]  
**Sent:** Thursday, February 10, 2005 10:05 AM  
**To:** Jay Smith  
**Cc:** Grant Crowell; Brian Gish; Nestor Gallo  
**Subject:** RE: Kent Hansen subdivision - legal description

Jay,

As discussed over the phone yesterday, we did some research on the legal descriptions provided in the property title report that was given to us for the Kent Hansen Subdivision. You shared with me yesterday that there has been a discrepancy of approximately 18' to the south of the subject property. After further review of the legal descriptions from our Engineering Department, this discrepancy in the legal description still exists. The legal description provided for the proposed Kent Hansen Subdivision Plat extends beyond what is shown on the County Records. You said yesterday that you believe that the incorrect property description is actually that of UDOT's property. The City doesn't have the authority to decide where the error was made or whose fault it is, however, before the Kent Hansen Subdivision can be completed, this problem needs to be taken care of. The City can't plat over UDOT's property.

There are a number of ways to find a resolve for this. You can meet with UDOT to discuss the ways to overcome the problem. Then once the issue is resolved, if you have the property in question, we can continue with the proposed plat. If you want to continue forward with the subdivision without addressing the issue, you will need to submit a new preliminary plat subdivision application excluding the property in question. You will still be required to meet the guidelines of the ordinance, which is why we will need to start over with a preliminary plat review. You may not get 4 lots as the property square footage will be decreased; however, you always have the option of using some of the property behind Kent's house as was proposed initially.

Please let me know as soon as you and your client (Kent) decide the course you wish to take.

Thank you,  
Amy Rosevear

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**From:** Nestor Gallo  
**Sent:** Tuesday, February 01, 2005 8:40 AM  
**To:** Jay Smith  
**Cc:** Amy Rosevear; Grant Crowell  
**Subject:** RE: Kent Hansen subdivision - legal description

Jay,

Amy and I went over the title report and it shows the legal description as drawn on the plat, with a paragraph describing an area that went to condemnation with UDOT.

Amy is researching the court documents, but I have the feeling that based on the remaining area there is only room for three lots instead of four.

Nestor

---

**From:** Jay Smith [mailto:tjay@pepg.net]  
**Sent:** Tuesday, February 01, 2005 8:23 AM  
**To:** Nestor Gallo  
**Subject:** RE: Kent Hansen subdivision - legal description

Nestor,

Another way to look at the land issue with Kent is to assume his property description was recorded before UDOT and then see who overlaps onto who.

Jay

-----Original Message-----

**From:** Nestor Gallo [mailto:nestor.gallo@draper.ut.us]

**Sent:** Friday, January 28, 2005 4:16 PM

**To:** tjay@pepg.net

**Cc:** Amy Rosevear; Bart Le Cheminant

**Subject:** Kent Hansen subdivision - legal description

Jay,

The legal description for Kent Hansen 4 lot subdivision does not match the city records.

According to our GIS department, the legal description encroaches about 18.5 feet into the south parcel, which is own by UDOT.

Please, look into it and let me know how you are going to fix that. We still have some minimum lot size to keep according to the zoning.

Thanks,

Nestor Gallo, P.E.  
Engineer III  
Engineering Department  
Draper City  
(801) 576 6360

WHEN RECORDED, MAIL TO:  
Utah Department of Transportation  
Right of Way, Fourth Floor  
Box 148420  
Salt Lake City, Utah 84114-8420

Entry # 10162778  
Bk 9490 Pg 7531-7534  
Date 7/13/2007 Time 10:57 A.M.  
Request of Utah St. Dept. of Transportation  
Gary W. Ott, Recorder  
Salt Lake County, Utah  
\$ 0 By KUD Deputy

## BOUNDARY LINE AGREEMENT

Salt Lake County

Parcel No. 0154:53:AQ

Project No. SP-0154(8)0

Affecting Tax ID No.'s 34-06-176-038, 34-06-127-009, 34-06-127-014

**THIS BOUNDARY LINE AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20 \_\_\_\_\_, by and between the UTAH DEPARTMENT OF TRANSPORTATION, at 4501 South 2700 West, Salt Lake City, Utah 84119, Party of the First Part, and Kent L. and Dorothy B. Hansen of 192 East 13560 South, Draper, Utah 84020, County of Salt Lake, State of Utah, Party of the Second Part.

### WITNESSETH:

THAT, WHEREAS The Party of the First Part, is the owner of the following described tracts of land in Draper City, Salt Lake County, Utah, to-wit:

A tract of land as described in that certain Warranty Deed recorded as Entry No. 6563384 in Book 7590 at Page 2887 in the office of the Salt Lake County Recorder, Utah, situate in the E½NW¼ of Section 6, T. 4 S., R. 1 E., S.L.B.&M. The part in dispute being more particularly described as follows:

Beginning at a northwest corner of said tract of land, which point is 1320.00 ft (record, 402.336 meters) north and 1056.00 ft (record, 321.869 meters) west from a monument used as the Center of said Section 6 in some surveys, said monument is 8.82 ft (record, 2.688 meters) N. 1°07'40" W. from the true Center of Section 6; thence East 526.00 ft (record, 160.325 meters) along the northerly boundary line to a northeast corner of said tract.

Continued on Page 2

Boundary Line Agreement (4/4/06)



## PEPG ENGINEERING, L.L.C.

Civil Engineering  
Land Surveying  
Wetlands  
Land Planning  
Environmental  
Construction  
Services  
Landscape  
Architecture

August 16, 2007

Grant Crowell, Planning Manager  
Draper City  
1020 East Pioneer Road  
Draper, Utah 84020

Reference: Kent and Dorothy Hansen Subdivision, 190 East 13560 South, Draper, Utah.

Mr. Crowell,

PEPG Engineering on behalf of Kent and Dorothy Hansen has prepared the following request for your kind consideration.

June 29, 2004, Kent and Dorothy Hansen filed with Draper City for review and approval of a minor four lot subdivision on two acres of property at the above location. The filing followed the Draper City process at that time, staff completed their review, planning completed their review with recommendation, and finally Draper City Council completed their review and approved the development as recommended by staff and planning.

After approval the development went to engineering for plotting and lay out. This is when the 18.4 overlapping conflict was discovered with the adjoining property to the south. With this discovery the development lacked adequate land mass to qualify for the four lot development as designed. With these findings Draper City Staff had no recourse but to place the development on hold until the discrepancy could be resolved. The resolution process has taken several months; recently the issue was resolved with the Utah Department of Transportation (UDOT). Recently UDOT recognized the property as belonging to Kent and Dorothy Hansen. UDOT has executed a Boundary Line Agreement with the Hansen's relinquishing the disputed properties to the Hansen's. With this agreement the development now complies with Draper City minimum requirements of 20,000 ft.<sup>2</sup> for ½ acre development in this area.

With this brief explanation as well as the attached sup-portative documentation PEPG Engineering is asking you to consider the following.

That Draper City Planning Staff review the attached documents as well as the attached updated development plans for compliance with Draper City Standards for a minor development such as this. Then in lieu of total re-submittal and going through the entire process all over again which is costly not only to the Hansen's but also to Draper City, you consider approval of this development by Executive Decision. This request is based on past support and approval by the planning commission and council and the only outstanding issue was with the overlapping property boundaries which are now resolved. May I point out I believe it would be redundant to re-travel the same route to arrive at the same destination.

I thank you for your support with this request, if you have additional questions I can be contacted at the PEPG office or cellular telephone 801 870-8821.

Sincerely,

  
T. Jay Smith, C. M.

P:\6442.0410\cm\planning.doc

421 West 12300 South, Suite 400 - Draper, Utah 84020 - Telephone 801 562-2521, Fax 801 562-2551