

MINUTES OF THE DRAPER CITY PLANNING COMMISSION MEETING HELD ON THURSDAY, FEBRUARY 8, 2024, IN THE DRAPER CITY COUNCIL CHAMBERS

PARTICIPATING: Andrew Adams, Chair
Lisa Fowler, Vice-Chair
Commission Member Mary Squire
Commission Member Kendra Shirey
Alternate Commission Member Laura Fidler
Alternate Commission Member Shivam Shah

EXCUSED: Commission Member Susan Nixon
Commission Member Gary Ogden

NOT SITTING: Alternate Commission Member Christine Green

STAFF PRESENT: Jennifer Jastremsky, Community Development Director
Todd Draper, Planning Manager
Mike Barker, City Attorney
Spencer DuShane, City Attorney
Brien Maxfield, Senior Engineer Manager
Amie Salazar, Office Manager
Don Buckley, Fire Marshal
Tevai Haunga, City Planner
Maryann Pickering, Planner III

6:30 PM Business Meeting

Chair Andrew Adams called the meeting to order at 6:32 PM.

1. Items for Commission Consideration.

A. Action Item: Approve Planning Commission Meeting Minutes for December 7, 2023. (Administrative Action).

Motion: Commissioner Fowler moved to APPROVE the Planning Commission Meeting Minutes for December 7, 2023.

Second: Commissioner Squire.

Vote: A roll call was taken with the Commissioners voting 5-to-0 in favor of the motion. Commissioners Fowler, Squire, Shah, Shirey, and Fidler voted “Yes”. The motion passed unanimously.

B. Action Item: Approve Planning Commission Meeting Minutes for January 11, 2024. (Administrative Action).

Motion: Commissioner Fowler moved to APPROVE the Planning Commission Meeting Minutes for January 11, 2024.

Second: Commissioner Shirey.

Vote: A roll call was taken with the Commissioners voting 5-to-0 in favor of the motion. Commissioners Fowler, Squire, Shah, Shirey, and Fidler voted “Yes”. The motion passed unanimously.

C. Public Hearing: Automatic Gate Installers, Inc. Home Occupation Conditional Use Permit. (Administrative Action).

On the Request of Todd and Janet Olsen, Representing the Olsen Family Trust 8/30/2018 for a Home Occupation Conditional Use Permit Consisting of a Home Office with Additional Non-Resident Employees and Work Vehicles. The property is approximately .46 acres and is located at approximately 706 East Osborne Estate Circle. Known as Application USE-0068-2023. Staff Contact: Tevai Haunga, 801-576-6522, tevai.haunga@draperutah.com.

City Planner, Tevai Haunga, presented the Staff Report and stated that the matter was continued from the January 11, 2024, Meeting. Vicinity and Aerial Maps of the property were displayed. The land use designation is Residential Low to Medium Density and the current zoning is RA-2. What is proposed is a home office for an automatic gate installation and service business. The hours of operation are Monday through Friday from 8:30 AM to 4:30 PM. The applicants are requesting to have up to two non-resident employees come to the home and they have two work vehicles and equipment parked on the property. The original and updated site plans were presented. Site photos of the home were provided. Staff's concerns with existing and potential negative impacts included the following:

- Non-compliance with residential parking and displacement of vehicles on the neighboring driveway or street; and
- Visual impacts of storage and equipment on site.

Conditions enumerated in the Staff Report were discussed. Mr. Haunga reported that she has been in contact with the applicant about their potential plans but the updated Site Plan was all that was submitted in time to be included in the Staff Report. No public comment was received on the application. A document provided by the applicant the previous Monday after the staff report was written was provided to the Commission Members.

The applicant, Todd Olsen, stated that to comply, they are in the process of moving to a commercial location. He asked that the Commission give them until the end of the year to relocate. He stated that they would like to keep their Draper Business License because they have a 12' x 14' in-home

office that will be used until Mr. Olsen's wife retires. The new commercial location will be for equipment and employees to meet. Until they move into the commercial space, one employee and Mr. Olsen's wife will work from the home. Mr. Olsen clarified that he and his other employees are gone all day. They are at the home only in the mornings and evenings. The one employee parks in Mr. Olsen's garage. Chair Adams confirmed that nothing has changed and the parking will remain as-is for the rest of the year.

Mr. Olsen stated that they have looked at two properties and expect to find something by the summer. He referred to the site photo and identified a truck that he stated was owned by a sprinkler contractor. He stated that his son and daughter-in-law have moved out of the home and they now have three cars and a three-car garage.

Commissioner Squire asked how many work vehicles will be parked on the property. Mr. Olsen stated that one will be in the garage and another outside. She recalled that there was a need for one additional parking spot. They also discussed space in the back that could be utilized to provide parking and potentially alleviate the need to pour concrete. Planning Manager, Todd Draper stated that the one employee will still need an additional parking space for their vehicle. He reiterated that the applicants were asked to come back with plans to show how they will handle the equipment storage and additional parking. They did not provide plans for the excavator and trailer. Mr. Olsen stated that the trailer is his personal vehicle.

Mr. Olsen reported that since the last meeting, his son and daughter-in-law moved out of the home. He now has only one employee who is only on-site during the day. They let one employee go and do not plan to hire another until they have moved to a commercial location. Mr. Draper stated that previously they had reported six personal vehicles, two employee vehicles, and two work vehicles for a total of 10. By removing one employee vehicle and two personal vehicles for those who moved out, they are down to seven vehicles and not six.

The applicant's wife, Janet Olsen, again stated that they now have only three personal vehicles and one employee who comes to the home and takes a work vehicle to jobs. They also have an excavator. When employees are not at the home there are two work vehicles for a total of at least five vehicles. Chair Adams clarified that in the evenings there are three personal vehicles on site and two work vehicles in a three-car garage. The excavator is parked behind the fence, which leaves two spaces for cars in the driveway. He confirmed that there is no on-street parking. Mr. Olsen reported that they are in the process of purchasing a new location and all of the work equipment, including the excavator, will be gone. All that will be there is his personal dump trailer, a travel trailer, and three personal vehicles.

Commissioner Squire asked the applicants about their plan to screen the equipment in the meantime. Mr. Olsen stated that he has a spot in the back of his property that he can utilize. He noted that the standard is that it not be visible from the street. The Staff Report recommended it be behind an eight-foot fence. Commissioner Squire asked if it complies with the Code if it is parked in the back of the property and not visible from the street. Mr. Draper stated that they are looking for mitigation, what Mr. Olsen is now proposing was not part of the proposal submitted to staff. Staff proposed conditions that can be modified if deemed appropriate by the Commission.

Chair Adams asked Mr. Olsen if he could park the excavator behind his camper so that it is shielded. Mr. Olsen stated that he can for now. Chair Adams commented that it would be a shame to pour cement over the small amount of grass in the front of the home.

Community Development Director, Jennifer Jastremsky, suggested that a timeframe be imposed for the applicants to find an alternative location with restrictions on how they can operate until then. That gives Staff the ability to provide enforcement, if necessary. Chair Adams referred to the location of the camper and stated that there is driveway access from the neighboring property. As a possible solution, he stated that the excavator could be placed on the grass behind the camper so as to not be visible from the street. Commissioner Squire commented that the City standard is that it be screened from view from the street. Mr. Olsen stated that the excavator is smaller than the camper.

Commissioner Shah asked if the applicant is required to renew the permit after six months if nothing has changed. Mr. Olsen stated that he will have relocated the business by then. Mr. Draper reported that a Conditional Use Permit runs with the land. Setting timelines will allow the applicant to continue to operate as long as he complies with the conditions. Mr. Olsen will need to renew the Business License every year. It was noted that he has had the current Business License for over 20 years; however, the business has grown and is currently in violation. At this point, to continue in the manner in which he is operating requires a Conditional Use Permit. If Mr. Olsen were to move the equipment off of the property, he would still need it for the next six months. Mr. Draper explained that there are several trailers on the property. The one that Staff is concerned about is not the personal camper trailer but the utility trailer. Mr. Olsen stated that it is his personal trailer. Mr. Draper indicated he was of the belief that it is used in the business to move the excavator.

Mr. Olsen stated that the excavator is in front of the dump trailer. He purchased the dump trailer long before he acquired the excavator. He questioned why he cannot simply utilize the dump trailer for personal hauling as needed. He stated that it is utilized for personal use far more than he uses it for the commercial business. The excavator is tall and will extend over the six-foot fence. Chair Adams proposed the excavator be parked behind the RV so that it is screened. He suggested Mr. Olsen be given six months to comply or be in violation of the Conditional Use Permit. Potential conditions were discussed.

Commissioner Fowler suggested that the vehicles be parked on hard surfaces. Mr. Draper confirmed that that was recommended in the proposed conditions. Commissioner Fowler asked if the RV and the dump trailer are currently parked on a gravel surface. Mr. Olsen stated they were. Commissioners discussed Mr. Olsen's previous statements that the excavator and trailer were parked on dirt. Mr. Draper stated that the applicant could use gravel or rock in the area to create a hard surface. If the utility trailer is considered a personal trailer and not business equipment, Mr. Olsen would not be allowed to use it with the business. Mr. Draper recommended it remain included as part of the application.

Commissioner Fowler commented that with home businesses there is often a lot of crossover between personal and business use. For the City's purposes, they have to look at anything that is used in the business as business-related. If they are looking at a six-month timeline, it should not matter as the excavator is already shielded. If the excavator is already parked on a gravel surface, it may already be in compliance.

Chair Adams opened the public hearing. There was no public comment. The public hearing was closed.

Chair Adams stated that the applicant has requested six months to relocate. Six months will give him enough time to obtain a commercial space. If he does not relocate, he will need to have the cement pad in the front poured. Between now and the six-month mark, the excavator needs to be screened. A solution was suggested. The proposed conditions were reviewed and discussed. Commissioner Fowler suggested that condition number five be modified to specify one employee rather than two. Condition number eight should be modified to a six-month period of time to comply. Condition Number nine should be changed to a six-month period of time to come into compliance and add "...or otherwise screened from view to comply with City Code."

Motion: Commissioner Squire moved to **APPROVE** the Automatic Gate Installers, Inc. Home Occupation Conditional Use Permit as requested by Todd and Janet Olsen representing Application #USE-0068-2023 subject to the following:

Conditions of Approval:

- 1. That all business requirements of the Draper City Engineering, Public Works Building, Business Licensing, Planning, and Fire Divisions are satisfied throughout the operation of the business.**
- 2. A Business License shall be maintained for the life of the business.**
- 3. No customers are allowed to come to the property.**
- 4. The hours of operation for the business remain within the typical business hours of 8 AM to 5 PM.**
- 5. That the number of non-resident employees not exceed one (1).**
- 6. That the number of work vehicles associated with the business not exceed two (2).**
- 7. The minimum required two (2) parking spaces located inside of a garage for the parking of personal vehicles owned and operated by residents of the dwelling continue to be maintained for the residential use. These shall be**

maintained separate from and unimpeded by parking associated with the business.

- 8. A minimum of one (1) additional parking space be added within six months to the west of the current driveway access and be designated for use by the non-resident employees to park onsite when arriving to pick up their work vehicle.**
- 9. That the excavator, utility trailer, and any other equipment associated with the business if stored on the property shall be located behind the front wall plane of the home, and be screened from view with an eight-foot (8') tall opaque fence or otherwise screened from view to comply with City Code. Parking of the utility trailer and other equipment shall be on a hard surface designed to control drainage water on-site in compliance with the parking ordinance requirements for utility trailers. These conditions must be complied with within six months.**
- 10. The applicants shall provide planning staff with an updated scaled and dimensioned floor plan for all floors of the dwelling, including the office space, the attached garage, and any other space utilized for the business in the home.**
- 11. No stock in trade, inventory, or other merchandise to exceed two hundred fifty (250) square feet shall be kept on the premises. No outside storage is allowed.**
- 12. No nuisance may be caused through tools, items, equipment, or activities conducted at the property that are offensive or noxious by reason of the emission of odor, smoke, gas, vibration, magnetic interference, or noise.**
- 13. That the conditional use permit for the business may be revoked if at any time in the future, any of the listed conditions for approval are violated, or vehicles associated with the residence or business are found to be parked in an illegal manner on the street (Osborne Estate Circle).**

Findings for Approval:

- 1. Reasonable mitigation measures can be placed on the conditional use to alleviate anticipated detrimental effects, including parking.**
- 2. The proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.**

3. **The proposed use of the particular location is necessary or desirable to provide a service or facility that will contribute to the general well-being of the neighborhood and the community.**
4. **The proposed use will comply with applicable regulations and conditions specified in the ordinance and will comply with the intent of the City General Plan.**

Second: Commissioner Fowler.

Vote: A roll call was taken with the Commissioners voting 5-to-0 in favor of the motion. Commissioners Fowler, Squire, Shah, Shirey, and Fidler voted “Yes”. The motion passed unanimously.

D. Action Item: Draper TOD Fourth Amended Plat Subdivision – Extension of Approval (Administrative Action).

On the Request of Connor Roberts Representing ICO Multi Family Holdings, LLC and Ivory Innovations, an Extension of the January 12, 2023, Approval of the Draper TOD Fourth Amended Plat Subdivision, located at approximately 663 West Vista Station Boulevard. Application SUBD-86-2022. Staff Contact: Todd A. Draper, 801-576-6335, todd.draper@draperutah.gov.

Mr. Draper presented the Staff Report and stated that the request is for an extension of an approval that was granted about one year ago. A Vicinity Map was displayed and the subject property identified. A slight change was proposed that will only affect one of the easement accesses. If the request is approved, the applicants will have until July 12 to record. Mr. Draper stated that the applicants have outlined their good cause in the Request Letter they provided and have been making progress. They expect to be able to record soon. They are also still working out issues such as the Access Easement.

Motion: Commissioner Fowler moved to APPROVE the extension of the Draper TOD Fourth Amended Plat Subdivision as represented by Connor Roberts Representing ICO Multi Family Holdings, LLC and Ivory Innovations, Application SUBD-86-2022 based on the following:

Conditions of Approval:

1. **That all requirements of the Draper City Engineering, Public Works, Building, Planning, and Fire Divisions are satisfied throughout the development of the site and the construction of all buildings on the site, including permitting.**
2. **All requirements of the geotechnical report are satisfied throughout the development of the site and the construction of all buildings on the site.**

3. **The Access Easements shown on the plat are deeded prior to recordation of the plat, and the book, page, and entry number of that recordings entered onto the plat.**
4. **That the owner's dedication section on the plat be amended to include both lots 119 and 117.**

Finding of Approval:

1. **There is good cause for the vacation or amendment; and no public street, right-of-way, or easement has been vacated or amended.**

Second: Commissioner Shirey.

Vote: A roll call was taken with the Commissioners voting 5-to-0 in favor of the motion. Commissioners Fowler, Squire, Shah, Shirey, and Fidler voted "Yes". The motion passed unanimously.

E. Public Hearing: Raining Hot Coupons, LLC Home Occupation Conditional Use Permit (Administrative Action).

On the request of Sarah Gibbons for a Home Occupation Condition Use Permit for an Assembly and Repair, Limited Home-Based Business. The property is located at approximately 1935 East Stag Hill Circle in the RA2 (Residential Agricultural 20,000 square foot minimum lot size). Application 2023-4587-USE. 2023-4629-MA. Staff Contact: Tevai Haunga, 801-576-6522, tevai.haunga@draperutah.gov.

Ms. Haunga presented the Staff Report and stated that the request is an application for a Home Occupation Conditional Use Permit. Vicinity and Aerial Maps were displayed showing the property located just west of Highland Drive. The Land Use Designation is Residential Low to Medium Density and the current zoning is RA-2. This home-based business classifies the use as limited assembly and repair. The applicant repackages bulk and wholesale shipments of clothing and other articles and the hours of operation are Monday through Friday from 9:00 AM to 7:00 PM.

The applicants reported that they have frequent deliveries and shipments coming to and from the home. They have two to three non-resident employees. The floor plan that was submitted with the application was displayed and includes a home office and an inventory area for shipping. Interior and exterior photos of the home were displayed. Most business takes place in the garage. Staff's concerns with existing and potential negative impacts included increased traffic and parking, noise from deliveries, non-compliance with parking, residential parking inside the garage, displacement of vehicles on the driveway, and the overall scale of the operation overtaking and displacing the primary residential use of the home. Staff included conditions in the Staff Report to help mitigate the impacts including the number of non-resident employees not exceeding two, that a minimum of two parking spaces for the residents of the home be in the garage, and that all deliveries and shipments be made midday between 11:00 AM and 12:00 PM by small and light duty vehicles. Staff received several public comments that were included in the Staff Report as

well as a comment that was received just before the meeting that was provided to the commissioners. The applicant also submitted additional documentation earlier in the day that was not included in the Staff Report.

Mr. Draper reported that Staff made a recommendation for denial but if the Commission is inclined to grant approval there are suggested conditions enumerated in the Staff Report.

A question was raised about the square footage maximum. Mr. Draper stated that square footages and dimensions were not provided on the diagram submitted by the applicant. Staff looked at estimates using the Assessor's data, which is how they came to some of the calculations and conclusions in the recommended conditions, including the area limit of 25%. He noted that the applicants are asking for an area greater than the 25% allowed in the Home Occupation Standards. With the need to return the garage back into the required parking for the residential use, it made more sense to take that amount of area out and limit the business similarly.

Ms. Jastremsky referenced Page 7 of the Staff Report specifies use of up to 25% of the dwelling square footage is allowed by Code. The data received from the Assessor stated that the home is 4,552 square feet in size. As a result, the applicant is requesting more than 25%. She reiterated that staff has suggested a condition to reduce the square footage used to 25% or 1,671 square feet. It was noted that the square footage calculation does not include the garage. The area proposed to be used is equal to approximately 37% of the area of the home.

There was public comment that suggested that the applicants are renters and should not be allowed to operate a business from the home. Commissioner Fowler's understanding was that as a resident they are allowed to request a Conditional Use Permit and need not be the owner. Mr. Draper confirmed that that was the case.

Fire Marshal, Don Buckley, was concerned that in 2021, this business was a commercial business in a commercial space. He referenced the photos included in the staff presentation and stated that it is apparent that this is a commercial business operating out of a home. He had major concerns with that. He noted that typical home occupation is a very small business. That did not seem to be the case here. His initial review was based on the home occupation being such as an office or something slightly larger. He wanted to understand how they plan to mitigate the potential negative impacts and alleviate potential fire hazards. He had not inspected the property but made the determination that there were fire hazards based on the photos. His recollection was that at some point in time, Code Enforcement visited the property. In response to a question raised, Fire Marshall Buckley reported that extension cords cannot be used for permanent power. He also was concerned about getting in and out of a space in the event of a fire without tripping over things.

The applicants, Sarah Gibbons and Tosh Heyes were present. Mr. Heyes referenced a photo and stated that the extension cord is going to a space heater and is not permanent. A pink chair and black table in the photos have been removed. He offered to provide an updated photo showing that there is clear access to the door. They have two or three laptops running as well as a printer. They have gone to mainly drop shipping since they downsized from the warehouse where they were located. He explained that the front area of the garage has been cleared out.

Commissioner Squire asked about the back area with the two long rows of storage. Mr. Heyes stated that it is a shipping desk where items are shipped from. There are daily pickups from the US Postal Service ("USPS") between 9:30 AM and 11:30 AM. The piles shown in the photo are temporary shipping packages. Another aisle was shortened to provide better flow and be less restricted and cluttered.

Commissioner Squire commented that Staff has recommended that they be able to park two vehicles in the garage. She asked if adjustments can be made to accomplish that. Mr. Heyes showed a photo of mobile racks where samples are placed. Another room is where clothing is shown live. There is a stall where an All-Terrain Vehicle ("ATV") was once parked and can now accommodate a vehicle. Mr. Heyes stated that his truck is parked in the garage currently and the mobile racks are brought in and out of the house when the samples are shown live online. In the evenings, they are placed in the aisles but do not block the exit.

Commissioner Shah asked about parking. Mr. Heyes stated that there are four vehicles total between him and Sarah, their employees, Alex and Abel. He showed a photo where all four vehicles are parked as well as a boat and trailer.

Chair Adams referenced an email from a neighbor who indicated that the truck and attached trailer were parked on the street. Mr. Heyes stated that that has happened on a few occasions. He stated that he uses it to transport the UTV. It has been used a lot lately for hauling various items. Chair Adams asked what is parked out front overnight. Mr. Heyes stated that there is a truck with the trailer parked behind the house. The Tesla and the Tacoma are gone in the evenings. Previously, they had four personal vehicles but have sold two. They each now have one vehicle. Chair Adams stated that the neighbors are mindful because they are running a business and there is parking out front on the street because there is no space in the garage.

A question was raised about the number of employees. It was noted that the Staff Report references two to three. Mr. Heyes stated that as the business grows, they plan to move back to a commercial space. A third employee might help them reach their goals. Mr. Heyes confirmed that they need two employees.

The applicant was asked about the staff recommendation to reduce the square footage of the business. Mr. Heyes stated that the 1,600 square feet of space utilized by the business includes the garage. All that is being used inside the home is about 400 square feet. No inventory is kept inside the home for stocking. The blue square shown on the drawing he estimated to be 420 square feet. Mr. Draper stated that the request was to use 1,600 square feet, which currently includes the areas shown in the black and blue squares on the drawing. The garage needs to be restored back to parking for at least two vehicles and that area cannot be used for the business. Two parking stalls at a minimum are 400 square feet, and need to come out of the total area as shown. If the applicants want to put additional square footage elsewhere in the home, they have not indicated where that would be. Staff's primary concern was that the garage be restored to meet the minimum parking requirement. It is a three-car garage, two vehicles in the garage are the minimum. The area for the third car could be business-related and is not unusually based on other conditional use

applications that are in place. With the conditions, they are trying to put something together that makes sense within the standard requirements of a home-based business. Staff, however, did not have additional information about the floor plan or other dimensions as the applicant did not provide them.

Chair Adams asked the applicant if it is possible to relocate the portion of the business that was located in the front part of that garage elsewhere in the residence. Mr. Heyes stated that where the UTV was shown in the photo, he could change the format and use the full double width of the garage as a neutral area where work will not take place. He could then take what is being used for the UTV and personal items and move it to the other end without blocking the door. It was noted that the Staff Report specifies that the area should be limited to 1,138 square feet. Chair Adams noted that the key is to convert the garage back into a garage. It was suggested that the matter be tabled to allow the applicant to revamp the plans and reduce the square footage to 1,138 square feet per the Staff Report. It was also recommended that a second photo be taken for Fire Marshal Buckley. Fire Marshal Buckley asked that in the meantime that the space heater not be plugged into an extension cord, which is not safe. It was recommended that Fire Marshal Buckley come to the home and conduct an inspection.

Commissioner Fowler recommended that the new plans and dimensions be submitted to show how the space is being used with new photos showing how they are using the space. The applicants were encouraged to listen to their neighbors' concerns and how this is a nuisance for them. With regard to the size of the delivery vehicles, Ms. Gibbons stated that they now only have UPS and FedEx deliver to the home. The possibility of packages being delivered personally was discussed. Ms. Gibbons stated that the trucks that come to the home are deliveries only. They typically come every other day and on weekdays and on average they get six to eight packages that are 26" x 18" x 10".

Chair Adams opened the public hearing. There were no public comments. The public hearing remained open to allow for comments at the next meeting.

Motion: Commissioner Fowler moved to CONTINUE Raining Hot Coupons, LLC Home Application 2023-4587-USE until the March 14 Planning Commission Meeting at which time the Planning Commission will review the application with adjustments that the applicant will work on with Staff and the Fire Marshal over the next four weeks.

Second: Commissioner Fidler.

Vote: A roll call was taken with the Commissioners voting 5-to-0 in favor of the motion. Commissioners Fowler, Squire, Shah, Shirey, and Fidler voted "Yes". The motion passed unanimously.

F. Public Hearing: Federal Heights Holdings, LLC Zoning and Land Use Amendments (Legislative Action)

On the request of Marlon Bates, Representing Chris Silvestro, a Land Use Map Amendment from Community Commercial to Neighborhood Commercial and a

Zoning Map Amendment from RA1 (Residential Agriculture, 40,000 square foot minimum lot size) to CN (Neighborhood Commercial) for approximately 1.19 acres located at approximately 11743 South 700 East. Applications TEXTMAP-204-2022 (Zoning) and TEXTMAP-206-2022. Staff Contact: Maryann Pickering, (801) 576-6391, Maryann.Pickering@draperutah.gov.

Planner III, Maryann Pickering, presented the Staff Report and displayed a Vicinity Map of the project. A detailed view of the property was shown. She explained that just one property is proposed to have the land use and zoning changed. Currently, the land use designation is Community Commercial and the applicants are proposing to change it to Neighborhood Commercial. The zoning is RA-1 with a request to rezone to CN to match the two properties to the south. The Planning Commission should make a recommendation to the City Council. If approved, the applicant may improve the existing home and convert it to a commercial property. To do so, some modifications would need to be made to the home as well as a site plan. One call was received from the Sunset Ponds Homeowners Association (“HOA”) who was informed that the zoning will be CN.

The applicant, Marlon Bates, identified himself as an Attorney in Salt Lake City. His client, Federal Heights Holdings, submitted the application. He has represented Federal Heights Holdings and Chris Silvestro for over 10 years. The property is on 700 East, which is an area that is changing from Residential and Agricultural to Commercial. The two properties adjacent to the south have changed in the last year to the zoning being requested. Federal Heights Holdings is purchasing the property at a residential price, land banking it, and holding on to it with it being zoned commercial. The hope was that in time as a developer comes in and buys the properties, Mr. Silvestro can sell the property for a profit. He has no plans to develop it himself.

Chair Adams opened the public hearing.

Annette Gamero, a Sunset Ponds resident, commented that since she moved to Draper three years ago, she has been at numerous City meetings because of all the changes that are proposed for the properties behind her. She wanted clarity on what is proposed and ensure that homes are built there. She commented that 700 East is already very busy and has a lot of traffic. She understood that Mr. Silvestro wants to keep the property in the hopes that he can sell it later, but she wanted the Commission to know that the residents of Sunset Ponds are watching and very concerned.

There was no further public comment. The public hearing was closed.

Chair Adams stated that interested residents can obtain specific information on the City’s website and see what is allowed in a CN zone. Ms. Pickering reported that currently the property is zoned RA-1, which is Single-Family Residential with a one-acre minimum. The applicant is proposing that the property be rezoned CN, which is one of the least intensive Commercial zones. Uses such as schools, churches, and higher education are allowed. A private school would be allowed as a conditional use. Permitted commercial uses include banks. Bars are permitted but would have to be approved through the State. The property is Master Planned as Community Commercial and the applicant is proposing that it be changed to Neighborhood Commercial.

The surrounding lot sizes were discussed. It was noted that this area is in transition. Ms. Pickering stated that the controversial use is self-storage, which is not permitted in the zone. It was noted that 700 East is a Utah Department of Transportation (“UDOT”) controlled street. It was reported that UDOT’s future planning extends the same road section that ends at 11400 South. It will extend it south to 12300 South in the future. They do not have a date currently planned but it is a project that could come in the next 10 to 15 years.

Commissioner Fowler commented that this seems to be the natural progression of the area and she agreed with a less intense commercial use. Currently, the land use is a more intense commercial use and the applicant is asking for a less intense land use and zoning. The request conforms with the properties next to it and she felt it was reasonable and perhaps better for those who are concerned about the proposed use than what was originally anticipated.

Chair Adams commented that the zoning is already CN between Sunset Ponds and the subject property and will have no impact on Sunset Ponds.

Motion: Commissioner Fowler moved to forward a POSITIVE recommendation to the City Council on the Federal Heights Holdings, LLC Land Use Map Amendment, as requested by Marlon Bates representing Chris Silvestro, Application TEXT MAP-206-2022 based on the following:

Findings:

1. The proposed amendment is consistent with the goals, objectives and policies of the City's General Plan.
2. The proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property.
3. The proposed amendment is consistent with the standards of any applicable overlay zone.
4. The proposed amendment should not adversely affect adjacent property.
5. The facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater and refuse collection, are adequate.
6. The proposed land use map amendment complies with DCMC Sections 9-2-020(F) and 9-5-060(D).

Second: Commissioner Shah.

Vote: A roll call was taken with the Commissioners voting 5-to-0 in favor of the motion. Commissioners Fowler, Squire, Shah, Shirey, and Fidler voted “Yes”. The motion passed unanimously.

Motion: Commissioner Squire moved to forward a POSITIVE recommendation to the City Council on the Federal Heights Holdings, LLC Zoning Map Amendment, as requested by Marlon Bates representing Chris Silvestro, Application TEXT MAP-206-2022 based on the following:

Findings:

1. The proposed amendment is consistent with the goals, objectives, and policies of the City's General Plan.
2. The proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property.
3. The proposed amendment is consistent with the standards of any applicable overlay zone.
4. The proposed amendment should not adversely affect adjacent property.
5. The facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater and refuse collection, are adequate.
6. The proposed land use map amendment complies with DCMC Sections 9-2-020(F) and 9-5-060(D).

Second: Commissioner Shirey.

Vote: A roll call was taken with the Commissioners voting 5-to-0 in favor of the motion. Commissioners Fowler, Squire, Shah, Shirey, and Fidler voted “Yes”. The motion passed unanimously.

- G. **Public Hearing: Chick-fil-A Zoning Map Amendment (Legislative Item).**
On the request of Kip Wadsworth, Agent for Wadsworth Bangerter Crossing, LLC, represented by 4G Development and Consulting, a Request for a Zoning Map Amendment for approximately 0.803 acres of a 1.68-acre property located at approximately 13673 South 100 East. Known as application 2023-4605-MA. Staff contact: Todd Taylor, 801-576-6510, or todd.taylor@draperutah.gov.

Mr. Draper presented the Staff Report and stated that the request for rezone is for a proposed Chick-fil-A. The proposed location was shown on a Vicinity Map displayed. The land use is Community-Neighborhood Commercial with the zoning being split between the CO2 and CR zones. The request is for a recommendation to the City Council to change the property from CO2 to CR zone to match the rest of the property.

Kevin Watson was present on behalf of 4G Development who is the Consultant for Chick-fil-A. They are requesting to change the west side of the site to CR to match the zoning of the surrounding properties to permit a restaurant there. Commissioner Fowler was concerned about the next step, which will be the site plan and the traffic pattern. She shops at Harmons frequently and does not want traffic to back up. She asked Mr. Watson to comment on potential traffic patterns. He stated that they are currently working on the site plan and preparing for site plan review and a Traffic Impact Study. He stated that it is important to Chick-fil-A to manage traffic and make sure that it works well for the community and those trying to access other businesses.

Commissioner Fowler asked about Chick-fil-A's relationships with other franchisees. The City has heard from the franchisee of the Chick-fil-A on 12300 South who is concerned about business being pulled away from their site. Mr. Watson stated that that is a concern for Chick-fil-A. He is a consultant and cannot speak for Chick-fil-A in that regard but was aware that conversations were taking place internally and they were working diligently to resolve this concern with the operator of the local store. He asked that they be allowed to address the concern internally within the Chick-Fil-A corporation.

A Commissioner noted that it is not the Planning Commission's job to favor one business over another. This is a zone change and, unfortunately, it is affecting people in the community who do a lot of good things. Those issues are not to be considered by the Planning Commission which should only deal with the matter before them.

In response to a question raised about how the split zoning came about, Ms. Jastremsky stated that the zoning used to match previous property lines. It is rare but happens occasionally. Mr. Draper reported that the property was subdivided. The zoning is both Community Commercial and Neighborhood Commercial. The CO-1 and CO-2 zones are designed to be more of an office zone with more limited uses compared to CR, which is Regional Commercial with a broader list of uses. Chair Adams questioned whether a restaurant or an office generates more traffic. Mr. Draper pointed out that the applicant can build the restaurant on the CR portion that exists currently. That would, however, limit their ability to stack at the drive-thru. For that reason, they would like to rezone the property and move the building to the side of the property. Chair Adams considered traffic to be the primary issue. It was noted that cross-access is required in both zones.

Chair Adams opened the public hearing.

Craig Knight was present representing LD Bowerman Investments who owns Bangerter Crossing. He was concerned about the strip on the corner near the pizza restaurant and Chase Bank. He asked if there is something they can do to open the area up.

There was no further public comment. The public hearing was closed.

The location of a storm drainage facility was identified behind the strip mall. Commissioner Fowler commented that the Commission just looked at another plot and recommended matching the zoning to the one next to it. She saw no way for the Commission to recommend denial as what is proposed is consistent with what is happening around it.

A question was raised as to whether the zoning on the property was changed just one year earlier. Ms. Jastremsky clarified that the applicant got approval for a hotel on the property to the west and an office building on this property in 2020. The applicants did not develop and came back with a Development Agreement to reinstate those approvals after they expired. That was the application that the commissioners had seen. They had not planned to make any changes to the approvals. The Development Agreement was ultimately approved and the applicants now plan to move forward with the hotel and do something other than the office building.

Motion: Commissioner Shirey moved to forward a **POSITIVE** recommendation to the City Council for the Zoning Map Amendment as requested by 4G Development and Consulting, representing Kip Wadsworth and Wadsworth Bangerter Crossing, LLC for the Chick-Fil-Zoning Map Amendment Application Number 2023-4605-MA, based on the following:

Findings:

1. The proposed amendment is consistent with the goals, objectives, and policies of the City's General Plan.
2. The proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property.
3. The proposed amendment is consistent with the standards of all applicable overlay zones.
4. The proposed amendment will not adversely affect adjacent property.
5. Facilities and services intended to serve the subject property are adequate, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater and refuse collection.

Second: Commissioner Fidler.

Vote: A roll call was taken with the Commissioners voting 5-to-0 in favor of the motion. Commissioners Fowler, Squire, Shah, Shirey, and Fidler voted “Yes”. The motion passed unanimously.

H. Public Hearing: City Initiated Draper-Lehi Zoning and Land Use Map Amendment Request (Legislative Action).

On the request of Draper City for a Zoning Land Use Map Amendment to Remove 1,035.49 acres of property from the Draper City Zoning and Land Use Maps. The Properties located at approximately 1950 West 16365 South were part of a Municipal Boundary Line Adjustment with Lehi City in 2022 and are no longer located within Draper City jurisdiction. Applications 2024-0022-MA, 2024-0023-MA. Staff Contact: Jennifer Jastremsky, 801-576-6328, jennifer.jastremsky@draperutah.gov.

Ms. Jastremsky stated that in 2022, the City did a Boundary Line Adjustment with Lehi City and moved just over 1,000 acres into Lehi City. At that time, they also approved a Conservation Easement on the 100 acres on the north portion of the 1,000-acre property. The property is located on the south end of Draper City so the Conservation Easement protects the Maple Hollow neighborhood in Draper. The rest is in Lehi. When the Boundary Line Adjustment was done, the City updated the Land Use and Zoning Map, which requires Planning Commission and City Council review and approval and public hearings. The properties are within the City's A5 Land Use Designation and the Community Commercial and Residential Hillside Low-Density Zoning Designations. The request is to remove the properties from both maps. Because it is within Lehi City's jurisdiction, they will provide the zoning and land use designations. This action will not affect the Conservation Easement that is recorded against the property. Draper City holds the Conservation Easement and the land is privately owned.

Chair Adams opened the public hearing. There was no public comment. The public hearing was closed.

Motion: Commissioner Squire moved to forward a POSITIVE recommendation to the City Council for the Zoning as requested by Draper City for the City-Initiated Draper Lehi Zoning Map Amendment Application 2024-0022-MA.

Second: Commissioner Fowler.

Vote: A roll call was taken with the Commissioners voting 5-to-0 in favor of the motion. Commissioners Fowler, Squire, Shah, Shirey, and Fidler voted "Yes". The motion passed unanimously.

Motion: Commissioner Shirey moved to forward a POSITIVE recommendation to the City Council for the Land Use Map Amendment as requested by Draper City for the City-Initiated Draper Lehi Zoning Map Amendment Application 2024-0023-MA.

Second: Commissioner Fidler.

Vote: A roll call was taken with the Commissioners voting 5-to-0 in favor of the motion. Commissioners Fowler, Squire, Shah, Shirey, and Fidler voted "Yes". The motion passed unanimously.

2. Adjournment.

Motion: Commissioner Fowler moved to ADJOURN.

Vote: The motion passed with the unanimous consent of the Commission.

The meeting adjourned at 8:14 PM.