

MINUTES OF THE DRAPER CITY PLANNING COMMISSION MEETING HELD ON THURSDAY, MARCH 14, 2024, IN THE DRAPER CITY COUNCIL CHAMBERS

PARTICIPATING: Andrew Adams, Chair
Commission Member Susan Nixon
Commission Member Gary Ogden
Commission Member Kendra Shirey
Commission Member Mary Squire
Alternate Commission Member Christine Green

EXCUSED: Lisa Fowler, Vice-Chair
Alternate Commission Member Laura Fidler
Alternate Commission Member Shivam Shah

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

6:30 PM Business Meeting

Chair Andrew Adams called the meeting to order and welcomed those present.

1. Items for Commission Consideration.

- A. Action Item: Approve Planning Commission Meeting Minutes for February 8, 2024 (Administrative Action).**

Motion: Commissioner Squire moved to **APPROVE** the Planning Commission Meeting Minutes from February 8, 2024.

Second: Commissioner Ogden.

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

- B. Action Item: Approve Planning Commission Meeting Minutes for February 22, 2024 (Administrative Action).**

Motion: Commissioner Nixon moved to **APPROVE** the Planning Commission Meeting Minutes from February 22, 2024, as written.

Second: Commissioner Squire.

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

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

On the request of Sarah Gibbons for a Home Occupation Conditional 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) zone. Application 2023-4587-USE. Staff contact is Tevai Haunga, 801-576-6522, tevai.haunga@draperutah.gov. This item was continued from the February 8, 2024, meeting.

Planner I, Tevai Hauga presented the Staff Report and stated that the request is for approval of a home occupation for Sarah Gibbons on property zoned RA2. The use is a limited assembly and repair home-based business with online sales and three (3) non-residential, non-family employees. The property is part of the Hunter Ridge At Draper subdivision and the home was built in 2005. The home-based business application was originally filed in June of 2023 as a result of City Code enforcement actions where the applicant was cited for operating without a Business License. Resolution of the citation regarding the lack of a Business License is currently pending in a separate court case. The applicant reportedly did not appear at the previous two court dates. The business is operating outside of the permitted use standards for home occupations and may not receive a Business License to continue operating without first obtaining a Conditional Use Permit. The application for Raining Hot Coupons was first presented to the Planning Commission on February 8, 2024, and was continued to the March 14, 2024 meeting. The applicant was given time to submit accurately scaled and dimensioned floor plans and to propose mitigating conditions with regard to the current non-compliance with required residential parking, Fire Code violations, and displacement of the primary residential use by the overall scale of the operation. The applicants were emailed a list of the documents needed for re-submission but did not provide the requested information prior to the Staff Report being written. The applicants met with the Fire Marshall for a Fire Inspection to resolve fire concerns.

Staff recommended denial of the Conditional Use Permit as there are detrimental impacts to the neighborhood that are not able to be mitigated through the imposition of reasonable conditions. The development standards were enumerated in the Staff Report.

Chair Adams opened the public hearing.

David Wertz, a neighborhood resident, reported that he works in the real estate industry. It was his opinion that the proposed use should not be in this high-end neighborhood and has an impact.

Carol Erikson, a neighborhood resident, was also surprised by the business. She stated that they are running a very productive business from the home.

There were no further public comments. The public hearing was closed.

Planning Manager, Todd Draper, stated that enforcement is of concern as this is a commercial business. It was noted that the applicants committed to only allow deliveries between 11:00 AM and 2:00 PM.

Chair Adams stated that it will be necessary to ensure that the use is not a nuisance.

City Attorney, Mike Barker, reported that the criteria for receiving a Conditional Use Permit is to identify potential detrimental effects and use the Code standards to provide reasonable mitigation and decide whether they can be reasonably mitigated. He was concerned that they were discussing garbage but asked if anyone had quantified how much business is generated by the business. To simply state that there is excessive garbage is subjective and needs to be quantified. Mr. Barker recommended that if the Planning Commission approve the request, that it not be approved until all of the documents have been submitted with a complete application.

Parking issues were discussed. It was noted that no Parking Plan has been submitted. It was acknowledged that the points outlined in the Staff Report are important and need to be addressed. The duty of the Commission is to ensure that they are addressed and mitigated to the extent possible. Commissioner Ogden stated that having the applicants describe what they plan to do is not the same as providing a Parking Plan. He did not think a determination could be made until that is provided.

The applicants, Tosh Heyes and Sarah Gibbons were present. Mr. Heyes stated that the two employees will park in front of the garage and not in tandem. There are four stalls total. They own two vehicles and two would be used by their employees. Mr. Heyes reported that a floating option for parking works better than having to shuffle cars. It was noted that a trailer is used for trash. They also no longer have semi-trucks come to the home. All items are sent via the US Mail and they are on the same pick-up schedule as their neighbor who sells pickleball racquets.

Community Development Director, Jennifer Jastremsky noted that the parking involves more than Mr. Heyes simply stating where the parking will occur because there is the potential to block resident access to the garage. Parking options were discussed. The applicants were asked to provide the specifics in a Parking Plan to be submitted to the City as requested. It was noted that home businesses can be a nuisance. The vehicles that are to be at the home should be specified in the Parking Plan along with the size of the cars to confirm that they meet the size requirements set forth in the ordinance.

Mr. Heyes explained how deliveries are being dealt with. Outgoing shipments are picked up at the same time each day and they are on the same schedule as their neighbor. Daily deliveries are made by US mail each day and UPS on their regular schedule. He estimated that there are two to three deliveries each week. The business was moved from a commercial to a residential space because the business model was 90% in-house and 10% drop shipping. That has since been reversed and they are moving toward more drop shipping. Mr. Heyes explained that the business model has changed from when they were operating from a commercial facility.

In response to a question raised, Mr. Heyes stated that merchandise pickup is not offered as an option to customers. Outstanding issues were identified. It was noted that the application is incomplete. Mr. Barker stated that approving a request when there is an incomplete application creates an enforcement nightmare. 19 outstanding items remained to be addressed by the applicants. The importance of documentation was stressed. Chair Adams suggested that the applicants address the 19 items and work with staff to rectify each.

Ms. Jastremsky reported that two previous public hearings have been held on the matter. As a result, the potential to hold another at the next meeting when the matter is addressed would be at the discretion of the Planning Commission.

Motion: Commissioner Squire moved to CONTINUE Application 2023-4587-USE to the April 25, 2024, Planning Commission Meeting.

Second: Commissioner Ogden.

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

D. Public Hearing: Trailside Townhomes Plat Amendment (Administrative Item).

On the request of David Tillotson, Representing IKON Development a Request to Amend the existing Maple Hollow Phases 10, 11, and 13 at Suncrest Plat to consolidate the six parcels owned by the applicant into one large parcel. The property is approximately 19.37 acres in size and located at 2142 East Brookings Drive in the RR-11 (Rural Residential), RR-43 (Rural Residential, and RM (Multiple Family) Zones. Application: 2023-4653-SUB. Staff contact is Maryann Pickering, 801-576-6391, maryann.pickering@draperutah.gov.

Planner III, Maryann Pickering presented the Staff Report and presented a Vicinity Map showing the six existing parcels. The land use designation is Residential Medium-Density with three zoning designations on the property consisting of RM, RR-22, and RR-43. The proposed subdivision includes a Street Tree Plan. The request was initially approved by the Planning Commission in July 2022. The applicant obtained a six-month extension in May that expired in January 2024 due to not being recorded. The proposal remains the same and is to consolidate the six lots into one. Because the City’s Landscape Ordinance was updated last year, modifications need to be made to the street trees along the public street. That has been updated with the current plat. The applicants are also submitting an amended site plan application for development of the townhomes. The architectural style had to be changed and will be approved at the staff level. The project includes 149 townhomes. The proposed Street Tree Plan was found to meet the new standards that were adopted last year by the City Council.

The applicant, David Tillotson, reported that they initially came to the Planning Commission in July 2022 for the plat consolidation and plat approval. They were also seeking site plan approval with deviations they were requesting that were denied. He explained that the site plan is still approved and active. The plat expired because it was approved in July and the site plan was approved in November.

They are currently proposing a site plan amendment. Because the property is part of Suncrest, after they were granted approval, they had to go back and work with Suncrest on the proposed roof design. A change was made that impacted the drainage coming off of the buildings and necessitated a site plan amendment. Other issues included rising interest rates, which created a difficult environment for new development. They are now ready to proceed and have posted the required bonds.

Chair Adams opened the public hearing. There were no further public comments. The public hearing was closed.

Motion: Commissioner Nixon moved to APPROVE the Trailside Townhomes Plat Amendment as requested by David Tillotson, representing IKON Development subject to the following:

Conditions:

1. All requirements of the Draper City Engineering, Public Works, Building, Planning, and Fire Divisions shall be 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 shall be satisfied throughout the development of the site and the construction of all buildings on the site.
 - a. Prior to obtaining a Land Disturbance Permit addressing the following: TG recommendation No. 2, in the December 13, 2021, TG Geotechnical Engineering Review No. 2 (TG, 2021), is implemented by the City: “Before commencement of mass grading, the City requires a project meeting to review grading and earthwork requirements.”
 - b. Prior to obtaining a Building Permit: Summary of CMT Earthwork Recommendations and Summary of CMT Geotechnical Recommendations for Plan Review in the December 13, 2021, TG Geotechnical Engineering Review No. 2, (TG, 2021), are implemented during Plan Review by the City.
 - c. Prior to obtaining a Land Disturbance Permit address the following: On page 2 of the June 27, 2022, CMT document, CMT states:
 - “We also understand that a storm brick system will be constructed at the site to collect and convey stormwater. The storm brick system will discharge water to a couple locations at the fill slope face and water will not be allowed to drain into the ground below the system.”
 - Based on a review of Sheet C3.0, Grading and Drainage Plan, and Sheet C7.3, Construction Details, Trailside Townhomes, prepared by Kimley Horn, dated June 6, 2022, it appears the proposed “stormbrick” system will allow water to drain into the ground below the stormwater system.

- If the “stormbrick” system is used as part of the development storm drainage plan, before final permit approval by the City, TG recommends the City REQUIRE CMT to update their global stability analyses of the affected slopes to include seepage pressure derived from the drainage water infiltrating the slope.
- d. Prior to obtaining a Building Permit address the following: Under review comment (2) in the July 11, 2022, TG review letter, TG stated:
- “Should CMT rely on the Geopier/stone column specialty contractor for the design analysis of the Geopiers/stone columns, TG recommends the City request the specialty contractor provide the design analysis for review.”
 - In response to the comment, the July 12, 2022, CMT response letter stated:

“We understand that a specialty contractor will provide settlement analysis for Geopiers/stone columns.”
 - Before final building plan permit approval, TG recommends the City REQUIRE CMT to provide the settlement and bearing design analysis for the Geopiers/stone columns for review.
3. All hydrants and a form of acceptable temporary Fire Department Access to the site shall be installed and APPROVED by the Fire Department prior to the issuance of any Building Permits. If at any time during the building phase, any of the hydrants or temporary Fire Department Access becomes non-compliant any and all permits could be revoked.
4. No combustible construction shall be allowed prior to hydrant installation and testing by the water purveyor. All hydrants must be operational prior to any combustible elements being received or delivered to the building site.

Findings:

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 Ogden, Squire, Nixon, Shirey, and Green voted “Yes”. The motion passed unanimously.

E. Public Hearing: Windsor Mill Townhomes Site Plan and Deviation Request (Administrative Action).

On the request of David Jenkins, Representing Olsen and Associates, for a Site Plan for 30 Townhomes and a Deviation to Building Material Standards for 3.77 Acres of Land located in the RM2 Zone. The property is located at approximately 11450 South 820 West. Applications 2023-0239-SP, 2024-4660VA. Staff contact is Jennifer Jastremsky, 801-576-6328, jennifer.jastremsky@draperutah.gov.

The above item was continued.

Motion: Commissioner Squire moved to CONTINUE agenda item 2E to the April 25, 2024, Planning Commission Meeting.

Second: Commissioner Shirey.

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

2. Adjournment.

Motion: Commissioner Ogden moved to ADJOURN.

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

The meeting adjourned at 7:57 PM.