

**MINUTES OF THE DRAPER CITY PLANNING COMMISSION MEETING HELD ON THURSDAY, MARCH 28, 2024, IN THE DRAPER CITY COUNCIL CHAMBERS**

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

**EXCUSED:** Commission Member Gary Ogden  
Alternate Commission Member Christine Green

**STAFF PRESENT:** Jennifer Jastremsky, Community Development Director  
Todd Draper, Planning Manager  
Spencer DuShane, Assistant City Attorney  
Amie Salazar, Office Manager  
Paul Geilman, Planning Coordinator  
Reed Reimschuessel, City Engineer

**6:30 PM Business Meeting**

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

**1. Items for Commission Consideration.**

**A. Public Hearing: Newell Zoning Map Amendment (Legislative Item).**

On the Request of Douglas Newell, Agent for DBN Family Partnership, LLC, a Request for a Zoning Map Amendment for Approximately 1.32 Acres located at 12502 South 700 East. Known as Application 2023-4583-MA. Staff Contact: Todd Talor, 801-576-6510, todd.taylor@draperutah.gov.

Chair Adams disclosed that he and Mr. Newell share a neighborhood and have been friends for years.

Planning Manager, Todd Draper presented the Staff Report and displayed Vicinity and Aerial Maps for the subject property. The land use is Residential Medium Density, which is compatible with the requested zone of R3. The property is currently zoned RA1. Site photos were presented as well from the street view. A large portion of the property sits behind the home, which has recently been updated. The applicant would like to subdivide the property into multiple lots.

The applicant, Douglas Newell identified himself as the property owner. He reported that they would like to match the two properties to the south of the existing home. He identified where there is currently a driveway entrance where the street will be to access the two lots. A total of three homes were proposed including two new houses and the existing home.

Chair Adams opened the public hearing. Comments were limited to three minutes.

*Helene Terry* stated that she lives west on 12500 South, which is a dead-end street. She questioned whether this is a safe place for traffic to exit onto 700 East since it is coming over the brow of the hill. The speed limit there is 25 MPH, but the average speed exceeds that and is closer to 45 MPH. She was thrilled with the prospect of only three houses on the lot. She asked about the lot sizes and hoped they would be similar to what is adjoining.

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

City Engineer, Reed Reimschuessel, reported that traffic is not normally considered at the zoning level. He would have to study it further to determine if the proposed access would be appropriate. Chair Adams confirmed that the only access to the two lots would be off 700 East rather than the smaller street to the north. Mr. Reimschuessel confirmed that the homes will not be allowed to be accessed off of 12500 South.

Chair Adams explained that zone changes are first to be heard by the Planning Commission who makes a recommendation to the City Council. The City Council makes the final decision. What is proposed is simply a zone change. It was noted that all of the details are not relevant at this step. Mr. Draper confirmed that 13,000 square feet is the minimum lot size for the zone. He explained that the lot as it is sized could potentially accommodate four homes; however, the applicant intends to keep the existing home and construct two homes on the southern portion.

Mr. Newell reported that to the north of the property on the opposite side of 12500 South at the four-way corner, there are two other homes with streets that enter closer than in the proposed location. Chair Adams stated that there is a blind spot coming from the east.

Commissioner Fidler was very familiar with the property and asked if 12500 South from 700 East traveling west is a City street. She stated that when the property was sold to Mr. Newell it was a disaster in terms of the location of the property lines. She asked specifically where the access points will be. Community Development Director, Jennifer Jastremsky stated that 12500 South changes from public to private depending on the location. She referred to a map and stated that to the west of 700 East is private and to the east is public.

**Motion: Commissioner Fowler moved to forward a POSITIVE recommendation to the City Council for the Zoning Map Amendment as requested by Douglas Newell, Agent for DBN Family Partnership, LLC, Application Number 2023-4583-MA subject to the following:**

**Findings:**

- 1. The proposed Amendment is consistent with the goals, objectives, and policies of the 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:** The motion was seconded by Commissioner Fidler.

**Vote:** Laura Fidler-Yes, Kendra Shirey-Yes, Lisa Fowler-Yes, Mary Squire-Yes, Susan Nixon-Yes, \*Shivam Shah-Abstained. The motion passed unanimously with one abstention.

**\*Note:** Shivam Shah was going to sit at the beginning of the meeting to provide a fifth member and was planning on abstaining on this item. Prior to the meeting starting Kendra Shirey arrived and sat for the meeting and this item. No abstention was needed. The Chair called for Mr. Shah's vote in error. All five sitting members voted.

**B. Public Hearing: Beacon Crest Site Plan Amendment Request (Administrative Item).**

On the Request of Rachel Sorensen, Representing Beecher Walker Architects, Beacon Crest of Draper, LLC, and Beacon Crest Heritage, LLC, A Request for Approval of a Site Plan Amendment Regarding the Addition of Five (5) Semi-Independent Living Units to an Existing Assisted Living Facility, for Approximately 1.57 Acres located at Approximately 591 East Pioneer Road. Known as Application 2023-4596-SP, Staff Contact: Todd A. Draper, (801) 576-6335, todd.draper@draperutah.gov.

Mr. Draper presented the Staff Report and presented Vicinity and Aerial maps of the property. The land use map shows both the High-Density Residential and Residential Medium-Density land use designations. The zoning is Community Commercial ("CC"). The proposed site plan was displayed to show the two existing buildings identified as Buildings A and B. Building C is a single-family residential dwelling unit and Building D includes four residential units. They are intended to be semi-independent units with their own one-car garages and a 20-foot driveway. The expansion would also include additional parking to match what is already down the center drive aisle to provide additional guest and employee parking. The Landscape Plan was presented. One minor change needs to be made to replace the proposed Mugo Pines with a different plant. A condition has been included in the staff report for that change.

The elevation drawings were presented for the four-unit building. Two units will face west and two to the east. The materials will be similar, if not identical, to the ones that are already on the

existing buildings. The elevation for the single unit was presented, which will be on the west side of the property. The floor plans were displayed for the four-unit building. Site photos of the existing assisted living facility were presented as well as the proposed site. The architecture is similar to the new buildings. The existing home will be removed. The area behind the home is currently being used for parking. What is proposed will correct that. Between the buildings, there is a rise and high groundwater, which is part of the problem and the reason the site had to be elevated. The same will be done in the rear as well.

Stone steps and a fence separate the two properties which will be removed when the new buildings are built, and the grade extended. To the north is the large expanse of the neighboring commercial building. Some of the additional landscaping will help soften the visual effect. A view was shown looking south on 600 East toward the corner and west down Pioneer Rd. There is a trash enclosure on the east side. The previous approval was required to be built of the same materials as the building. It did not appear that that had happened, and staff recommended it be part of the approval to ensure that they comply with the original requirement and have it be built of materials to match the new and existing buildings. A fence was of concern in terms of height as it presents a site visibility issue. Mr. Draper next showed a view from the back end of the existing parking where there is a grade drop-off between the two properties. That grade will be extended to the north.

A question was raised about the light fixtures. Mr. Draper stated that the current fixtures are slated at 120 watts. The ordinance specifies that they need to be below 100 watts to be unshielded. With the Building Permit, it will be acceptable for them to either present a new fixture that is shielded or under the 100-watt limit.

Mr. Draper confirmed that the fourplex is on two levels. There is a ground floor in each unit and stairs to the second floor. It was noted that the applicant intends to operate them as semi-independent living units.

The applicant, Rachel Sorensen stated that they are adding to the assisted living. The residents will be semi-independent and get their meals from the main building. The facility is intended for residents who are not quite ready for assisted living. The second floor of the fourplex is intended to serve as guest quarters. It also provides an amenity space in the form of a walking area to the west.

Chair Adams opened the public hearing.

*David Meredith* identified himself as the property owner. He was present a few years ago and at that time they wanted to get a variance for a hammerhead and needed a road next to the wall. In the end, the plan did not make sense. He thought it was better to have the parking lot continue on. They decreased the number of units by one. They were originally looking at six and later decreased that number to five. They wanted to make the access for the entire property work in the park setting that exists in the back, which will benefit the residents of the assisted living. He stated that frequently there are situations where a couple lived in their home for 30 to 40 years and one of the spouses passes away leaving the remaining spouse unable to care for the property. Many are hesitant to relocate to an assisted living facility. This is a way to take a step in that direction,

participate in activities, and be part of the meal plan. It also allows residents to be more independent. The upstairs could be used if the tenants are ambulatory. Mr. Meredith stated that what is proposed are two-bedroom two-bathroom units.

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

Ms. Jastremsky stated that the applicants came in for a landscape deviation 1 ½ years ago in preparation for this application. It was not a site plan but to reduce the landscaping requirements along the north property line given that there is just a brick wall there. Since then, the City updated the Landscape Ordinance so they did not need the deviation, which technically expired.

Commissioner Fowler commented that staff identified the issues that needed to be addressed including the lighting, trash enclosure, and the Landscape Plan revisions.

**Motion: Commissioner Fowler moved to APPROVE the Beacon Crest Site Plan Amendment as requested by Rachel Sorensen representing Beecher Walker Architects, Beacon Crest of Draper, LLC, and Beacon Crest Heritage, LLC, Application 2023-4596-SP 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.
3. All of the subject parcels shall be consolidated into one before the issuance of Building Permits for the new proposed buildings.
4. The minor revisions to the landscape plans shall be identified in the Staff Report and be made prior to planning staff's final approval of the amended site plan drawings.
5. At the time of the Building Permit, updated lighting plans be provided that either utilize porch light fixtures less than 100 watts or that additional details are provided on how the 120-watt porch lights as indicated on the plans reviewed by the Planning Commission will be shielded to comply with ordinance.
6. The trash enclosure shall be reconstructed of masonry faced with the same stone blend proposed for the new buildings including solid metal gates painted the same Antler Velvet color proposed for the buildings.

**Findings:**

1. The proposed use is consistent with uses permitted on the site.
2. Existing uses were permitted when the site plan was approved, and received a Conditional Use Permit.
3. The proposed use and site will conform to the applicable requirements of the zoning code.
4. The proposed expansion meets the approval standards of DCMC subsection 9-5- 090(E).
5. The site can accommodate the change in the number of people on the site and any impacts on surrounding infrastructure

**Second:** The motion was seconded by Commissioner Squire.

**Vote:** Commissioners Fowler, Squire, Nixon, Shirey, and Fidler, voted “Yes.” The motion passed unanimously.

**C. Public Hearing: City-Initiated Landscape Ordinance Update (Legislative Item).**

On the request of Draper City, a Request for Text Amendment to Subsection 9-23-030(C) of the Draper City Municipal Code in Order to Remove Exemptions for Stormwater Management Areas, Public Facilities, Private Schools, and Private Parks from the Limitations on Turf Installation on Slopes and Areas Less than Eight Feet in Width. Known as Application 2024-0077-TA. Staff Contact: Todd A. Draper, (801) 576-6335, todd-draper@draperutah.gov.

Mr. Draper reported that staff is proposing to remove the exemptions listed from the ordinance as they may conflict with State rules from the Division of Water Quality. The Jordan Valley Water District Conservancy District (“JVWCD”) standards that were included in the ordinance left it more vague and specified that an exemption may be needed on a case-by-case basis. Staff tried to make that more specific but the State preferred the exemptions be eliminated.

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

**Motion:** Commissioner Nixon moved to forward a POSITIVE to the City Council for the City-Initiated Landscape Ordinance Update as requested by Draper City, Application 2024-0077-TA subject to 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 furthers the specific purpose statements of the zoning ordinance.**
3. **The proposed amendment is appropriate given the context of the request and there is sufficient justification for a modification to the zoning ordinance.**
4. **The proposed amendment will not create a conflict with any other section or part of this title or the General Plan.**
5. **The potential effects of the proposed amendment have been evaluated and are determined not to be detrimental to public health, safety, or welfare and represent an overall community benefit.**
6. **The proposed text amendment implements the best current, professional practices of urban planning, design, and engineering.**

**Second: Commissioner Shirey.**

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

**2. Training.**

- A. Planning Commissioner Training.** Annually Required Training led by Planning Staff and the Assistant City Attorney.

Assistant City Attorney, Spencer DuShane referenced the Planning Commission powers and discussed legal theory. He explained that anything the government does has to be allowed by law. The theory is that whatever rights we have as a society are inherent in us and whatever rights the government has are defined by laws. For the Planning Commission to act as a governmental body it must have enabling laws, statutes, or ordinances, which are identified in State Code 10-9A-302 and Draper City Municipal Code 35-030. State Code states that the Planning Commission makes recommendations for the General Plan and land use regulations. The Planning Commission can get together in a Planning Commission Meeting and ask staff to look into something because they are specifically authorized by statute to do so. Likewise, staff can come to the Planning Commission and give input. The Planning Commission can choose to make a recommendation to the City Council pertaining to subdivision ordinances and amendments to existing land use regulations. In its legislative capacity, the Planning Commission is largely an advisory body. State statute defines the Planning Commission's powers and duties in an advisory capacity rather than administrative. Anything that is said to the City Council is a recommendation and they are free to disregard it. He recalled that happening once or twice in the 5 ½ years he has been with the City.

He stated that the City Council usually listens to what the Planning Commission has to say because they have been appointed as experts.

Another role of the Planning Commission under the Draper City Municipal Code is to participate in draft recommendations regarding the General Plan. That is typically done every five years and in an advisory capacity since the General Plan is not legislative and cannot be appealed. A General Plan also does not have a lot of teeth and is a hope for the City's future direction.

The Code tasks the Planning Commission with administering applicable provisions of Titles 9 and 17. State Code Section 10-9A-509 requires the Planning Commission to look at each application and determine whether it meets the Code requirements. It lists what the Planning Commission can and cannot do. The State is very prescriptive in that regard. Some basic standards are that if there is an administrative application before the Planning Commission and the Code requires approval upon meeting certain conditions, it should be approved.

With administrative applications, the Code permits the Planning Commission to make a judgment call. That was seen about 1½ years ago with sidewalks that go nowhere. Under the Code, the Planning Commission is allowed to specify that sidewalks are not required in a private multi-family development if it is not going to any units or amenities. The Code allows the Planning Commission to do that but does not require it. It gives discretion but it is an administrative task. If there is a legislative application, it is up to the Planning Commission to forward a positive or negative recommendation to the City Council.

Titles 9 and 17 are in the Draper Code. When looking at Titles 9 and 17 and performing prescribed duties, Section 10-9A-509 of State Code should be the guide of the Planning Commission. Mr. DuShane next addressed the Station Area Plan set forth in the General Plan because it is frequently changed with State legislative directives. He noted that there were changes to the Station Area Plan in the most recent Legislative Session. It was reported that the last General Plan Update was in 2019. In 2022, the City updated its Moderate-Income Housing Plan and makes changes every year or two. In the next two to three years, the City will be adopting a Station Area Plan that is an element of the General Plan.

Mr. DuShane reported that the enabling statute for the Station Area Plan is in State Code Section 10-9A4-3.1. The Station Area Plan applies near public transit stops. The purpose is to ensure that developments around transit stops have affordable housing, there is appropriate density and affordable cost. It is the overarching goal of the State to have affordable living and semi-walkable or semi-public transport so that people do not have to have vehicles to live and work. It also allows them to live close to home or near a means of transportation. There should also be sustainable environmental conditions. Air quality is negatively impacted if the population drives everywhere.

The Station Area Plan should be within a one-half-mile radius of a Trax or FrontRunner station. The statute defines a Fixed Public Transit Area, which ensures that there is a Trax or FrontRunner station nearby. It does not apply to an already developed area surrounding a station. Mr. DuShane referred to the criteria for where a Station Area Plan should be implemented. A video clip from



*The Simpsons* was shown demonstrating the intent of a Station Area Plan and master planning an area. The focus was on where the train was going to stop and let passengers on and off.

Mr. DuShane reported that the City's FrontRunner Station has the most potential for development within the Station Area Plan. There is high-density housing in the area and room for additional development that will typically follow the criteria discussed. The next Station Area Plan Area was identified as the Trax station outside City Hall. Mr. DuShane identified the end of the Blue Line and areas that could be developed. Ms. Jastremsky stated that Station Area Plans need to look at areas that could be redeveloped and not just vacant land.

Mr. DuShane referenced an area of controversy along 11400 South where the south side of the street is in Draper and the north side is in Sandy. He identified the station and stated that the one-half-mile radius extends into Draper City. The area in Draper City is developed but there could be potential redevelopment at some point. He noted that Draper City does not have any jurisdiction to create a Station Area Plan in Sandy City and Sandy does not have jurisdiction to create a Station Area Plan in Draper. There are circumstances under which a municipality can implement extra-territorial boundaries for their Station Area Plan but this is not one of them. He stated that the law is silent on what is to be done in this case. His understanding was that the intent of the law is to come up with a Station Area Plan for the area of Draper City that falls within a one-half mile radius of the station but there is nothing that says they have to do it and nothing that says it is the City's responsibility to do it.

Ms. Jastremsky stated that staff already has a plan in place. Because the radius overlaps with the radius of the Kimball Station, it will be included in the Station Area Plan for Kimball and analyze the areas within that one-half mile. She noted that 99% of the area has already been developed.

Title 9 was next addressed. The enabling Ordinance for Title 9 is 9-5-050. These are standards that are reviewed for manufacturing, commercial, institutional, and multi-family residential uses. For the standards for approval, the entire site needs to be developed all at once unless it is phased in. It needs to conform with the standards of Title 9. It must also meet the intent, goals, and objectives of the General Plan and the purpose of the zone. There must be adequate public facilities to support the development and it must comply with engineering standards.

For Title 17, the enabling ordinance is Section 17-3-040. The Planning Commission needs to determine whether the land use ordinances and the General Plan comply. They also need to make findings identifying any inadequacy in the application. Public hearings are held and the Planning Commission can extend preliminary plat approval.

The reasons for the denial of a preliminary plat were identified as follows:

- It does not meet City ordinances.
- It does not meet sanitary or culinary requirements.

An extension is discretionary and can be extended for up to 12 months. Good cause is required. A video clip was shown from *The Office*. In this context "cause" means a reason, which provides

evidence. Mr. DuShane explained that appeal approvals do not get appealed by the applicant but could be appealed by “interested persons”. The Land Use Management Act (“LUDMA”) gives interested persons standing to appeal and the City Ordinance provides a statute of limitations for appeal. He suggested that when approving an application, the Planning Commission use the term “because” and state a reason. In the event someone does not like the decision, even though it is an approval, it can be appealed.

Mr. DuShane summarized the duties and powers of the Planning Commission which are administrative and legislative. There are standards of approval that need to be looked at and applied.

Commissioner Squire commented that it may be helpful to have language in model motions for approval that leaves room for “because” statements. Often Commission Members read that language when making a motion. Mr. DuShane suggested that the conditions and findings in the Staff Report be referenced in the record.

Chair Adams stated that with denials, if something is to be denied it should be based on it not meeting one or more conditions. He felt that denials were easier because they will have deliberated. Ms. Jastremsky commented that they are also usually listed in the Staff Report. Specific instances were discussed.

### **3. Adjournment.**

**Motion:** Commissioner Squire moved to ADJOURN.

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

The meeting adjourned at 7:42 PM.