

**MINUTES OF THE DRAPER CITY PLANNING COMMISSION MEETING HELD ON  
THURSDAY, DECEMBER 12, 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 Gary Ogden  
Alternate Commission Member Christine Green  
Alternate Commission Member Shivam Shah

**EXCUSED:** Commission Member Mary Squire  
Alternate Commission Member Laura Fidler

**STAFF:** Jennifer Jastremsky, Community Development Director  
Todd Draper, Planning Manager  
Traci Gundersen, City Attorney  
Brien Maxfield, Senior Engineering Manager  
Laura Oscarson, City Recorder  
Brandy Anderson, Fire Inspector

**6:30 PM Business Meeting**

Chair Andrew Adams called the meeting to order at 6:31 p.m. and welcomed those present.

**1. Items for Commission Consideration.**

**A. Action Item: Radnet Corporate Office Building Site Plan and Building Design Deviations Approval Extension Request (Administrative Action)**

On the Request of Brett Harris, Representing Harris Architecture, Wendel and Trudy Gibby, and Radnet Properties, LLC, an extension of the December 7, 2023, Planning Commission approval of a Site Plan and Deviations for Building Design Standards on approximately 2.75 acres of property, located at approximately 39 West 11400 South. Known as Application SPR-59-2021. Staff Contact: Todd Draper, 801-576-6335, todd.draper@draperutah.gov.

Planning Manager, Todd Draper, presented the extension request to the Planning Commission and reviewed slides from the December 7, 2023 presentation of the Site Plan and Deviation requests to the Planning Commission. This item is not a public hearing, just an action item. Model motions were presented on-screen and in the Planning Commissioner Packet. To approve the extension the Planning Commission must find that there is good cause to do so. The applicant's representative, Christine Buxton shared that Dr. Gibby was on humanitarian efforts in Africa and she was available for questions of the Commission. They are currently producing construction drawings. The Commission raised a question regarding the applicants first name being Brett or Brent as it appears differently on different documents. It was confirmed to be Brett.

**Motion: Commissioner Shirey moved to APPROVE the Request for an Extension of Approval for the Radnet Corporate Office Building Site Plan and Building Design Deviations Request, as**

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**requested by Brett Harris, representing Harris Architecture, Wendel and Trudy Gibby, and Radnet Properties, LLC, for Application SPR-59-2021, based on the following:**

**Finding for Approval:**

- 1. Good cause has been shown for the extension of the Planning Commission approval.**

**Second: Commissioner Nixon seconded the motion.**

Note: The meeting system audio recording cut off and was lost after the motion and second were made. A short five (5) minute break was taken as staff restarted the meeting recording and started additional backup recordings. A backup audio recording did capture the first 12 minutes of the meeting.

**Vote on Motion: 5-0 in favor.**

Commissioner	Yes	No	Abstained	Not Participating	Absent
Fowler	X				
Squire					X
Ogden	X				
Nixon	X				
Shirey	X				
Fidler, Alternate					X
Shah, Alternate	X				
Green, Alternate				X	

**B. Public Hearing: Suncrest Reception Center Zoning Map Amendment (Legislative Action)**

On the Request of Adam Koch, Representing Suncrest Reception Center, for a Zoning Map Amendment from the C-2 (Neighborhood Commercial) Zone to the CG (General Commercial) Zone for 1.28 acres of property, located at approximately 2021 East Village Green Circle. Application 2024-0374-MA. Staff Contact: Jennifer Jastremsky, 801-576-6328, jennifer.jastremsky@draperutah.gov.

Community Development Director, Jennifer Jastremsky, presented the Staff Report and explained that the application is for a Zoning Map Amendment. There are three properties associated with the rezone request. She shared a vicinity map and aerial map and pointed out the three properties. The parking lot was originally owned by the City, but there was a land swap last year, and it is now owned by the Royal on Ridge restaurant. The subject property is part of the Suncrest development area and is tied to the 1999 Draper City Municipal Code. She explained that the Development Agreement for Suncrest was approved in 1999, and with that Development Agreement, everything is vested in the 1999 Draper City Municipal Code. The C-2 (Neighborhood Commercial) Zone is an old zoning designation. The request is to rezone the three parcels to the CG (General Commercial) Zone. The Land Use Map is not proposed to be changed at this time.

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The Design Guidelines for Suncrest are included as an exhibit in the Meeting Materials Packet. The guidelines list a few uses, such as retail, office, Homeowners Association (“HOA”) community building, and uses allowed in the C-2 Zone. Ms. Jastremsky looked through the C-2 and CG Zones to determine uses that are similar and uses that are different. In 1999, the code was organized a little bit differently. In the current version of the code, there is a personal care service listed. That includes uses such as a barbershop, hair salon, nail salon, tailor, and so on. In the 1999 version of the code, each of those uses were listed individually with an indication of whether or not that use was allowed in the zone. Similarities between the zones are as follows:

- Public and private schools;
- Funeral homes and mortuary;
- Vehicle sales, rental, and repair;
- Gasoline service station;
- Recreation and entertainment (indoor and outdoor);
- Retail;
- Personal care service;
- Personal instruction service;
- Restaurant/bar;
- Office (general or medical).

Ms. Jastremsky reviewed some of the uses that are different between the two zones. She clarified that the following uses are allowed in the CG Zone but are not allowed in the C-2 Zone:

- Auto, truck, RV, and equipment storage;
- Office warehouse;
- Wholesale and warehousing limited;
- General daycare;
- Reception center;
- Tattoo establishment;
- Manufacturing, limited.

It was clarified that the C-2 Zone has some specific uses listed that would classify as limited manufacturing. For example, carpentry work and an upholstery studio. While there are a handful of uses that would be classified as limited manufacturing, those are narrower compared to what the CG Zone allows today in that category. Ms. Jastremsky offered to answer Commissioner questions. Commissioner Fowler expressed appreciation for the comparison information. She read through the public comments that were submitted in advance and noticed that there were some comments about increased parking. Ms. Jastremsky clarified that the HOA is looking into the addition of a parking lot. Commissioner Ogden asked if there is a zone that matches the C-2 Zone more than the CG Zone does. Ms. Jastremsky reported that there is the CN (Neighborhood Commercial) Zone, which would be a closer match. However, that zone does not allow for a reception center, which is the specific use that the applicant wants to have on the property.

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Chair Adams explained the differences between the City Council and Planning Commission. The City Council will consider this item at their next meeting. The Planning Commission is tasked with forwarding a recommendation to the Council ahead of that meeting. The Commission will either forward a positive recommendation or a negative recommendation. This process allows the applicant to hear initial feedback from members of the public and the Commissioners. Details about the public hearing process were shared. Residents will be allotted three minutes to speak and are asked to state their names clearly for the record. The hearing will be opened shortly.

Ms. Jastremsky shared additional information about the additional HOA parking lot. She pointed out the location on the aerial map. That was also part of the land swap that the City was involved in. It is the HOA that is planning to install that parking, so it is not directly related to this application. Commissioner Shah asked for additional details about the rezone request. Ms. Jastremsky reported that the zoning for the three parcels would be changed with this request. In response to Commissioners questions about why other parcels were included in the request, Mr. Draper explained that there is a minimum area required for this type of zone. To reach that minimum area for the CG zone, all three parcels were needed.

Chair Adams reminded those present that the Planning Commission is looking at the impacts associated with the requested zone change. The Commission is considering the zone change rather than only what the applicant wants to do. Commissioner Shah asked if a zone change is necessary, and wondered whether a Conditional Use Permit might be preferable. Ms. Jastremsky explained that the C-2 Zone does not allow for a reception center, even as a Conditional Use. Commissioner Fowler asked how the applicant can propose that all three parcels be rezoned when only one lot is an issue. Ms. Jastremsky explained that any property owner can request a rezone. The adjacent property owners signed an affidavit to join in with the rezone request. Additional discussions were had about the rezone process. It was noted that the City Council has broad leeway to decide whether to approve or deny a rezone. Something like a Subdivision or Site Plan comes down to whether the application meets the code. If it does, then the City has to approve the application. Chair Adams reminded the Commission that what is currently before them is a rezone request.

The applicant, Adam Koch, introduced himself to the Commission. He noted that he and his wife, the owners of the office building, moved into Suncrest in 2000 and have raised their children in the area. Mr. Koch explained that he has dedicated countless hours to community improvement and has served on the HOA Board for the last seven to eight years. He has allowed the building to be utilized in the past for different reasons at no cost. He stated that he is looking out for the best interests of the community. At the same time, he is looking for a use that works well and makes sense for the space as a commercial business owner. When it comes to the zoning, C-2 is an old zone, but there are numerous businesses that he could open in that zone. Some of the Suncrest residents have expressed concerns about what will happen on the site in the future if he eventually decides to sell the property to someone else. He pointed out that under the current zoning, it would still be possible for an owner to have conditional uses for an animal hospital for large animals, bed and breakfast, hotel, motel, kennel, liquor store, or nightclub. He stated his only intent is to do an event center. He stated that he believed the intent of the construction was that the building would never be owned privately and that it was set up for large mass gatherings.

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Mr. Koch explained that the building does not make sense for use as an office building. He explained that it is approximately 5,000 square feet and there are only five offices in the space. The entire main floor is open. Additionally, there are 41 parking stalls. Mr. Koch reiterated that it was not intended to be used as an office space. Mr. Koch reported that the building was intended to be owned by the HOA, but based on various circumstances, the building was eventually sold to D.R. Horton. It was then put on the market for sale. When it went on the market in 2016, he made an offer and kept ratcheting up his offer. The HOA made an offer also and had an opportunity to buy the building, but they were not willing to pay the price he did to get the building. He owns the building and would like to do something that he feels is beneficial to the community and gives him the opportunity to pay for the cost of the building.

The Meeting Materials Packet were referenced and the submitted concerns of some of the Suncrest residents. Mr. Koch wanted to address some of the comments. Some of the comments expressed concerns about this operating as an event center. The concerns seem to be centered around a few different issues, including fireworks. Mr. Koch explained that this has been operated as a reception center previously and there was one situation where someone used fireworks. He stated his belief that the term “fireworks” can be misleading because he thinks of roman candles or something exploding in the sky. There was one party that simply had a send-off with sparklers and is what is being referred to as fireworks. He restated that it only happened one time. Since then, he has made numerous changes to the business operations. Their contracts now specifically state that there can be no fireworks or fire of any kind permitted on the site. He stated that from now on they will have someone onsite for the entire event.

Another concern that has come up relates to parking. Mr. Koch explained that the building comes with dozens of parking spots. He realizes that some homeowners are unaware that he owns the parking spots that the HOA uses year-round. He stated that he paid \$11,000 in property taxes last year to Salt Lake County for the taxes on the building. He explained that he has never towed or left notes on cars. He felt that if the HOA can approve the parking lot that they want to build, that will take care of the parking issues. The venue itself has never had a parking issue and can handle all of their needs. There have been conversations with the Fire Marshal and communication with the Building Department to determine what kind of occupancy capacity the building can handle. It has been determined that the building capacity is about 81 individuals which is less than they have been doing prior. With a maximum capacity of 81 and 41 parking spaces available, there is no parking issue on the site. He realizes that Suncrest residents do not see it the same way, but parking for their business can be provided. While there is a parking need for the Suncrest residents, that need is not related to his property.

There have been some resident complaints about noise. However, Mr. Koch stated that starting in January 2025, they will no longer be able to access and use the park. That means they won't be setting up tables and chairs for ceremonies in the park and that everything will be done inside their own building. Mr. Koch does not know that the City ever received a formal complaint about noise associated with the events. The purpose of the rezone request is to be a wedding venue and event center. As for the concerns about what will happen to the building in the future, certain uses will work well in the area, and certain uses will not. The location impacts what kind of use can occur. Mr. Koch reiterated his belief that the building was clearly constructed with events and gatherings in mind based on the design. That being said, he is willing to give the HOA first right of refusal if he

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chooses to sell. He noted that if the HOA owned the building it might be used for the same purposes that he proposes to use the building for.

Commissioner Fowler asked how Mr. Koch will manage the 81-person maximum occupancy. Mr. Koch explained that when he purchased the building, he believed there was a 99-person maximum occupancy. Mr. Koch further explained that with all their tables and chairs set up inside the building they can only seat about 70. He also explained that if invitations are limited to between 300 and 350 that he believed statistically only  $\frac{1}{2}$  of them would show up over a 3-hour window with those coming and going. He will make it clear up front that they can only handle so much. Mr. Koch stated that in regards to the C-2 zoning questions is that he didn't think he needed a zoning change as Siempre down the hill at the golf course was in the same zone on the map. He would be happy if he could just request a Conditional Use. The rezone has been requested for the property because it is not possible to obtain a Conditional Use Permit for the use in the existing zone. In response to a request from Commissioner Fowler, the parking locations were indicated on the aerial map.

Commissioner Shah asked whether there are any deals or agreements in place with the HOA for parking. Mr. Koch reported that there is an easement agreement in place that allows homeowners to use the parking. Commissioner Nixon asked if Mr. Koch was aware that a reception center was not an allowed use prior to the purchase of the property. Mr. Koch explained that when he purchased the property, he had no intention of using the space for anything other than a real estate office. Chair Adams mentioned the parking in front of the pool and HOA building. It was clarified that those spaces belong to the HOA. Mr. Koch remarked that the HOA has about 1,400 homes and only 13-14 parking spots, and that as an HOA they have been working to add another parking lot with 30-32 parking spaces. He needs to have access to his parking spots when he holds events.

Mr. Koch reported that this past year, the reception center was on track to hold approximately 40 wedding events. That is less than four events per month. Typically, the wedding events last for three or four hours. His request is to have a business where he can use his own parking when those events take place. It is only a few nights per month that he is asking to use his own parking. The rest of the time, according to the easement agreement the homeowners can use the parking spaces as needed. He hasn't towed, cited, or called the city about any of the parking issues in the past.

Chair Adams opened the public hearing.

*Christine Foster* explained that she is a Suncrest resident. It seems the reception center is used regularly, where use is occurring every single weekend. She can hear the music from her house. At first it was okay, now they play club music outside and if they are approved it will only get worse. Parking is also an issue because people are parking all along Deer Ridge Drive, which makes it difficult for residents. She does not ever use the parking at the reception center. Many residents live in the area and are now dealing with noise and parking issues. She understands that Mr. Koch wants to use the building in this way, but it should not be at the expense of the residents who live nearby. From past experience they will not monitor the guests. After the events take place, there is litter and things tied to trees. Even if the use is limited to the building, people will still come outside at times. The space is small and this means residents will be unable to enjoy the area when events are taking place on the weekend.

*Scott Steadman* lives in Suncrest and explained that he is viewing this application as a resident of the community. He asked the Commission why it is not possible to have a Conditional Use Permit for the use. Mr. Steadman expressed opposition to the proposed rezone application for the commercial property due to potential negative impacts on the community. The current zoning was established to limit commercial impacts, such as increased traffic, noise, and reduced property values. Several high-impact uses are already allowed under the current zoning designation. Expanding to the CG Zone allows several other uses, including businesses that have extended hours, higher traffic, increased parking demands, and noise-generating activities, which could disrupt the residential environment without appropriate safeguards. This is contrary to the intent outlined in the original Master Plan and the current zoning guidelines. The applicant knew it was an illegal operation, it was no accident. The applicant has already been illegally operating a reception center on the property, which he feels demonstrates a disregard for the established zoning rules. Rather than following the regulations, the applicant is now seeking a rezone to accommodate prior unauthorized use. The applicant is aware of the permitted uses and should operate within those uses. While the applicant has claimed ownership of 41 parking stalls, not all parking is on the applicant's property as they stated. He noted that while parcel maps are not always precise, plat maps and surveys indicate that some of the claimed stalls may not entirely fall within the property boundary of the applicant. This should be reviewed further.

As for the shared parking agreement with the Suncrest HOA, based on the information available, it appears that Suncrest owners and guests have the right to use all stalls at their discretion. The HOA pays for all repairs. Mr. Steadman encouraged the Planning Commission to evaluate the agreement thoroughly. He asked the Planning Commission to deny the proposed rezone and preserve the existing C-2 Zone.

*Jeanine Johnson* stated that K2 Realty is a benefit to the community and noted that her comments are not personal. It seems that the C-2 Zone was designed to preserve an intimate community. The zone is intended to benefit the community and she does not believe the proposed rezone would be a benefit to the community. There is already a reception center available to Suncrest residents because the clubhouse has a room that can be rented. It does not accommodate as many people, so there is not a significant traffic impact. Parking is an ongoing challenge, as the roads are narrow, and when parking is along them, they become difficult to navigate. She stated her belief that this use would increase traffic and congestion.

The applicant mentioned that he would give the HOA first rights to purchase the property, which is something Ms. Johnson feels is generous. However, she is uncertain that the HOA could afford to purchase the building in the future. She reiterated that the reception center is not a benefit to the community and hopes there might be some other way for the building to be used. Ms. Johnson asked the Planning Commission to deny the rezone request and maintain the current zone.

*Holly Walther* explained that she is the Community Manager for Suncrest. When it comes to the parking that is planned for the HOA, bids are being considered and the intention is to break ground in the fall. It will be HOA parking for residents only. There might be a gate there to monitor the use. In addition, there is an easement agreement with the applicant. That agreement is financial, so the HOA covers all snow removal, asphalt, curb, gutter, and some landscaping in exchange for use of the parking. While there are approximately 41 parking spots in that area, there are seven to nine spaces

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that are split ownership and not entirely owned by either K2 (the applicant) or the HOA. There are additional similar spaces in split ownership between K2 and the Ridge Restaurant.

*Patricia Cho* stated that parking is a concern as well as noise. When events are taking place, the noise is unbearable. It is difficult to live with that every weekend. There is also garbage, broken glass, and plastic petals in the park after the events take place. It takes time for the cleaning to be done. She stated that there is a Farmers Market once a month and they also park all over the streets. She does not mind when events take place that benefit the community, but the events at the applicants' building are not beneficial. It is frustrating that wedding events are taking place every weekend in the summer.

*Clayton Anderson* believes he lives the closest to the subject property since he is right across the street. He has not had a parking issue. The parking that normally takes place in front of his house is from the HOA and people who come to use the pool. He has not had any issues with noise and he lives closest to the applicant property. He stated that noise from HOA concerts can also be heard in the neighborhood. Mr. Anderson understands that there are a lot of concerns from the Suncrest residents, but he lives nearby and does not share those concerns. In the winter, this site could be beneficial to have the space available so there can be larger family or social gatherings. Mr. Anderson expressed his support for the proposed rezone and the event use.

*Nate Crawther* pointed out the location of his home on the aerial map. He stated that Mr. Koch is a wonderful person and neighbor. When he needed a temporary office, Mr. Koch cleared out one of the offices and allowed him to rent it. It is clear that Mr. Koch is an asset to the community, especially considering the fact that he allows the community to utilize the parking. If the HOA had ultimately acquired the building, it would have been used for large gatherings as well. Mr. Crawther understands the concerns expressed about the park, but if the use is taking place only in the building moving forward, he is not sure how noise will be an issue. He stated that he held a mission farewell for his son at the property and also a wedding reception. Does not see how the use is a problem as long as they don't use the park. He has not experienced noise problems that others have mentioned. There does not seem to be harm in allowing the applicant to continue to use the property in the way he has been using it.

*John Herman* stated that he is present at the Planning Commission Meeting to express his support for the proposed rezone. The property in question is well suited for certain events, understanding that the events must follow the size and scope restrictions. He recently attended an event there. Based on his experience, the use makes sense for events too large to take place in a home. He detailed a time that the building was opened for school kids waiting for the bus in the cold. Mr. Herman wants this location to be run and operated by someone who lives in Suncrest and cares about the community. He appreciates that Mr. Koch has contributed positively to the area. There have been many times where the owner has allowed the use of the parking lot and building to benefit residents. Mr. Koch has a vested interest in Suncrest and that is the reason he supports the rezone.

*Billy Speirs* has lived in Suncrest since 2005. He owns three homes in the area and has known Mr. Koch for a long time. There are not a lot of businesses that can survive in the location, which is the reason he is supportive of the rezone. He recognizes that the owner needs to be able to pay the bills. He does not see harm in the reception center use.

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*Iryna Sharovar* pointed out her house on the aerial map and explained that the park belongs to the HOA. If there are formal events held in the park, then permission needs to be granted by the HOA. Mr. Koch is on the Board of the HOA, so there might be some conflict of interest happening here. The parking spots now have signs stating they are for K1 (K2) parking only. Weddings usually take place during the summer months and it is unlikely that all wedding guests will remain in the building during an event, especially when there is a park nearby. After events, there is often a lot of garbage left in the park and event guests park in the neighborhood. Ms. Sharovar often has to clean garbage off of her property and finds that the events can be loud.

*Patrick Baum* has lived in Suncrest for 14 years and it is a beautiful place. In his experience, most of the issues related to parking have to do with the clubhouse use and the pool. His family visits the park often and it is wonderful. Seeing the weddings take place there has been beneficial to the community. Mr. Baum is a business owner and is always looking for venues where it is possible to hold events and meetings, so he is in favor of the rezone. The rezone will help a lot of small business owners because the event space ensures there is a nearby venue that can be used.

*Loren Dalton* has lived in Suncrest for the last seven years. He asked whether the HOA is under the same zoning as the subject property. He felt that if the same zoning applies, then the HOA has also been holding events illegally. He believes that Mr. Koch is a man of integrity and he is supportive of the rezone request. However, if it is possible to have a Conditional Use Permit instead, that would be preferred.

*Jessica Jiron* explained that other comments have covered many of her concerns. She wondered what would happen if the CG Zone was applied and it created an influx of non-residents in the area. For example, if there would be more vandalism or other issues associated with the rezone. Ms. Jiron reported that there were a number of emails submitted by those who could not be in attendance at the meeting and that most of them were in opposition to the application.

*Neil Rosenberg* stated that he is a Suncrest resident. The City Code asks the Planning Commission to consider three specific criteria when evaluating a request like this. Although he sympathizes with the applicant, the application fails on all three counts. As a result, he feels this application should be rejected. Mr. Rosenberg noted that the Commission must consider whether the application is harmonious with the character of the existing development in the vicinity. He does not feel that it is. The CG Zone should generally be placed along high-traffic corridors that serve commuters and travelers. Based on the Zoning Map, it is challenging to find that zone placed inside a residential area like this. Approving the rezone request would result in an abrupt land use change, which is something the General Plan strives to avoid. The applicant has argued that the reception guests will add to the community feel, but based on comments submitted, that does not seem to be the case. It is also important to consider whether the application is consistent with the goals and objectives of the General Plan. He felt that this proposal is contrary to the goals and objectives of the City General Plan regarding preservation of the high quality of life. It may conflict with some of the economic goals in the General Plan. There seem to be competing goals in this instance.

Another question the Commission must consider is how the application impacts adjacent properties. Mr. Rosenberg believes the noise and congestion risks decrease the property values. There is no

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overwhelming benefit that has been established for the surrounding property owners. Since the application fails to meet the criteria, he feels the Commission must recommend denial.

*Jeffrey Brown* lives near the subject property. He stated that if the rezone is not approved, it will impact one business. There will still be all of the fairs, farmers markets, outdoor weddings in the park, and so on. He has never had an issue with noise or parking related to the subject property. The only parking issues he has experienced have been the result of the community events. Mr. Brown has heard issues about garbage in the park, but he does not feel that will change based on the rezone request. Many other events occur in the park. Mr. Brown is in support of the application as he also is a business owner and stressed the importance of allowing the property owner to use the property fully. He feels that others complaining about the proposal have no financial interest in the property.

*Jennifer Negrete* noted that a lot of her concerns have already been expressed. She is not in favor of the reception center as it brings in outside traffic. She wants something that will more directly benefit the Suncrest owners. Stated that she has a financial interest in the use of the subject property as she pays her HOA fees.

*Mark Runia* has been a Suncrest resident for 20 years and has known Mr. Koch for all of that time. At one time, he owned the applicant building and sold it to Mr. Koch. He interviewed many people who wanted to purchase the building and he chose Mr. Koch, not necessarily because of the money, but because of his integrity. He believes that Mr. Koch is a man of his word, he does what he says, and has an interest in the community. The noise associated with this building is not the issue. He pointed out that the noise associated with various community events, such as the farmers market and movies in the park actually cause the noise. Mr. Runia is in favor of the amendment to the Zoning Map.

*Jamie Pogue* has known Mr. Koch for many years and echoed the comments about his integrity. Jamie mentioned he serves as the Chair of the Draper Trails Committee. Opined that maybe it was not perfect when Adam started but he is trying to address the issues now. It is clear that he is willing to make changes to reduce impacts on the community. Mr. Pogue pointed out that if the business is unable to remain open, the building can be sold, and someone else could shift the use to something else entirely. There are a number of possible uses allowed in the current zone. Mr. Pogue expressed his support for the application and the rezone request and warned others who were in opposition that they should be careful what they wish for. Sometimes, it can be difficult to find events for medium-sized gatherings and this fills that need. He feels the reception center use benefits the neighborhood and will benefit Draper overall.

*Kate Nederostek* stated that she is a resident of Suncrest. Several letters and emails were submitted to the City about this application, including one from the HOA attorney. The attorney strongly opposed the rezoning, because it would be detrimental to the neighborhood. She pointed out where her home is located on the aerial map and explained that there is a difference between a market that ends at 8:00 p.m. and a reception event with dance music into the late evening. When reception events happen, the music is pointed in a different direction and it can be heard in the neighborhood. She mentioned she can hear the music from the venue every weekend. Residents have their own clubhouse to use and will not book his space for their events. The events held by residents on the green have not caused issues. On the weekends, there are now wedding events taking place. As for

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the integrity of the applicant, she felt that it has been shown to be otherwise, as the space is already being used inappropriately. She has complained to the HOA about the trash but nothing is getting better.

*Dustin Erskine* has lived in Suncrest for the last 14 years. He noted that Mr. Koch has been generous with the building and the parking. It is odd that someone would be concerned about noise and parking while being aware that there is a building, clubhouse, and park nearby. Mr. Erskine loves to see the events happening because it creates a lively atmosphere. He mentioned that the restaurant was closed for some time and that was not a good look for the community. He felt that seeing this building be used for events is wonderful and he pointed out that it can benefit local residents as well. He expressed his support for the rezone request and reiterated that this can benefit everyone.

*Bill Maxwell* has lived in Suncrest for the last 13 years. He rents an office from Mr. Koch and is also the current Suncrest Board President. The Suncrest Board has voted to stay neutral in this matter and is neither for nor against the application. Mr. Maxwell realizes that noise was an issue last year. On the back of the applicant building, there are two big speakers mounted on the outside of the building pointed towards the park, and several neighbors complained to him about the noise. There have been discussions with the applicant, who expressed a willingness to move everything inside and turn off the outside speakers. That should alleviate some of the problem. Mr. Koch has been wonderful with the HOA as far as the parking agreement and has been an outstanding community member. He believes an effort will be made to come to an agreement so the HOA and Adam could both use the park, that would blend in with the community as much as possible. That being said, the event use will bring more traffic to the area. He reiterated that the Board has not taken a formal position on this application. He mentioned that there are other negative things could come into the building.

*Ronnie Jiron* expressed his opposition to the application. Mr. Koch has been utilizing the green and HOA equipment for wedding events and there have been chairs and tables out. The fire pit and other Suncrest amenities have also been used. He does not see any benefits to the community with the rezone request. Mr. Koch has stated that there will be monitoring done, but it is unlikely that he will attend every event to make sure it is running appropriately. Mr. Garrone pointed out that every wedding will be different and every scenario will be different, so he is not supportive of the request.

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

Chair Adams thanked everyone who took the time to share comments. He took notes during the public hearing to track some of the questions from residents. The first question was shared:

- Why can this not be a conditional use as opposed to a rezone?

Ms. Jastremsky explained that the Zoning Code has a Use Table. The code designates whether a use is permitted, conditional, or not permitted. If a use is not listed, it is considered not permitted. The code from 1999 does not have a reception center as a listed use. Commissioner Fowler asked whether the recreation center is defined in the code. It was confirmed that the current code and the 1999 version has a definition for recreation and entertainment use indoor and outdoor, which is what the clubhouse would fall under. There are also separate reception center uses. Chair Adams asked what the clubhouse used by the HOA is zoned as. It was stated that it is in the C-2 Zone, which is the same

as the subject property. Chair Adams pointed out that the clubhouse room can be rented for events. Ms. Jastremsky clarified that it is the HOA clubhouse, so it is a recreation and entertainment space for the HOA. It is a private space for residents in the area.

Chair Adams mentioned the Siempre reception center that was previously considered by the Planning Commission. A lot of the same concerns were expressed at that time as far as noise, parking, traffic, and so on. That property is also zoned C-2. Ms. Jastremsky explained that the difference is in the Development Agreement. Siempre is within the South Mountain Master Plan community area. It has a separate Development Agreement and Design Guidelines. The guidelines planned for a golf course and all of the amenities, including a reception center use.

Chair Adams asked another question that was posed during the public hearing:

- If the HOA were to decide to purchase the subject property, what rights and privileges would they have? Could it be used as an extension of the clubhouse?

Ms. Jastremsky explained that the clubhouse was approved as recreational entertainment (indoor and outdoor) and there is a Conditional Use Permit for that use. If that building was eventually incorporated into the HOA, a Conditional Use Permit would be needed. A rezone would not be needed for use as additional clubhouse space. City Attorney, Traci Gundersen, pointed out that what is before the Commission is a Zoning Map Amendment. That is what the applicant is requesting. It was noted that it is not possible to have a Development Agreement in this case. The requested use is not permitted in the C-2 Zone, which is the reason for the rezone application.

Commissioner Nixon pointed out that the Planning Commission is advisory to the City Council. The Commission will forward a recommendation, but will not make the final decision. In this case, the Commission has to look at all of the uses allowed in the new zone. Chair Adams noted that if the building was sold to someone else, there could be a nightclub or other noise-producing use. Additional discussions were had about other uses that could occur within the current zone. Commissioner Nixon reported that there are approximately 1,400 property owners in Suncrest and those who have shared comments are only a small fraction of those owners. It is hard to know whether the majority is in support or against the application. The Commission needs to consider the criteria that has been listed in the Staff Report and make a recommendation based on that.

Mr. Koch addressed some of the comments made during the public hearing. If there are concerns about what will happen if he sells the building in the future, he is willing to give the HOA the first right of refusal. However, he does not understand what would be different if the HOA owned the property. The HOA would be allowing the exact same kind of use that he desires. That means the concerns about noise, garbage, and traffic would remain whether he owns the building or the HOA owns the building. He understands the benefit to homeowners, but that does not eliminate the concerns. Mr. Koch pointed out that he does not currently have access to the park. All of the events will take place within his building. While he does have a patio in the back, there is only room for approximately three tables out there. There will be people who choose to walk through the park, but that should be expected. If the HOA wants to patrol and ticket any non-resident for utilizing the park area, then that is something that should be done year-round. Mr. Koch does not know what people are talking about when it comes to garbage in the park, because after every single event, he has gone

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through to pick up any garbage that is found, even waste that is unconnected to the event. There are a lot of assumptions about noise and garbage, but he feels that those are not tied to his use.

Whenever an issue has been raised by the HOA, that issue has been addressed immediately. Mr. Koch is doing everything possible to be a good neighbor. He understands that Siempre is in a different situation because of the Development Agreement, but noted that it is a very similar use. Mr. Koch wants to work with the HOA and reiterated that events happen only a handful of times per month. Aside from that, it is wide open and everyone is able to use the space and parking. This isn't a business that he can close down immediately, as people have booked important events. The events that took place in the park were done with the permission of the HOA through a reservation. Moving forward, the park will not be used at all, as the use will be inside the building.

Chair Adams suggested that between the Planning Commission Meeting and the City Council Meeting, the applicant speak to some of the neighbors and talk through some of the concerns. The Commission will not get involved in the HOA, but are here to look at the zoning request.

Commissioner Shirey noted that there has been some discussion about the parking. Someone from Suncrest said there was a financial arrangement where the HOA is paying for the maintenance. Mr. Koch confirmed this. Commissioner Shirey asked if there is any restriction in the agreement on the use of the parking when an event takes place at the building. Mr. Koch denied this. He stated that the agreement was entered into in 2017 when he did not anticipate that there would be a reception center. The existing agreement allows HOA parking to take place even when there is an event scheduled in his building. As a result, he has coordinated all of his events so there is no overlap with anything the HOA has scheduled. He has turned away receptions because of overlap with a market or a concert in the park. He does not want to create a situation where parking is a problem.

Commissioner Fowler asked to further review the aerial map and the criteria for Planning Commission approval. Based on the map, she sees a triangle of recreation in the middle of the residential area. It seems like the building and the use fits because similar uses are happening nearby. Commissioner Shah agreed. Commissioner Fowler feels the use is compatible based on the recreational uses that are present. Commissioner Shirey agreed but had concerns that this is not a conditional use that is restricted to this owner. The rezone can impact future uses. She commends the cooperation that has occurred, but the Commission needs to consider what could potentially occur in the future and whether that is consistent with the surrounding uses in the area.

Chair Adams pointed out that if the HOA eventually purchased this building, there would need to be funds for the actual purchase and the maintenance. It would be a costly expense for residents. Commissioner Fowler asked if the CN Zone includes these kinds of facilities. It might be a better zone for this property. Ms. Jastremsky shared the City Code with the Commission and reported that the CN Zone does not allow for reception centers. The table of permitted and conditional uses was reviewed. Discussions were had about the recommendation to forward to the City Council.

Commissioner Ogden does not like the C-2 Zone and feels it is restrictive in this case. Commissioner Shirey would support this application if it could be a conditional use, but that is not an option and is not what is currently before the Commission. Discussions were had about other potential zones. Commissioner Shah reported that he lives next to a religious institution and that can sometimes be

difficult, as people are in his driveway at times. It impacts the way he lives, but he chose to purchase a house next to a religious institution. This is the same sort of scenario.

Commissioner Nixon noted that comments have been made about this being a conditional use and how that decision would be simple. She wondered whether the applicant could suggest a Text Amendment to allow this use in the C-2 Zone as a conditional use. Ms. Jastremsky reported that Suncrest is tied to the 1999 version of the code, so Text Amendments cannot be made.

Chair Adams discussed the design of the building and its limitations. Commissioner Nixon asked about the parking requirements for a reception center that is 5,000 square feet. Ms. Jastremsky explained that she has not done a full parking analysis of the site at this time. Parking calculations will occur later on in the process. Chair Adams suggested considering the worst-case scenarios if the rezone was approved. The nature of the building and the location will prevent some of the more intense uses from taking place. Ms. Gundersen read from 9-8-020C(4) of the City Code:

- The purpose of the CG zone is to provide areas to accommodate commercial uses that are not within shopping centers of integrated design. This zone is intended to apply to existing "strip commercial" developments. The zone should not be used for new commercial development unless integrated shopping center development is not practical or desirable because of difficult size, shape, topography, or similar problems related to land otherwise deemed to be appropriate for commercial use. Typical uses in this zone include offices, retail stores, personal services, heavy commercial, and institutional uses.

Chair Adams asked Commissioners what recommendation should be made to the City Council. Several Commissioners noted that this was a difficult decision to make. Chair Adams believes the building was meant for this kind of use. The highest and best use is to host a certain amount of people, which is the reason the parking was created the way that it was. The reception center use is essentially what the HOA would use the building for if the HOA owned the site. Commissioners continued to discuss the various uses that are permitted within the C-2 Zone.

**Motion:** Commissioner Shah moved to forward A POSITIVE RECOMMENDATION to the City Council for the Zoning Map Amendment, as requested by Adam Koch, representing Suncrest Reception Center for Suncrest Reception Center Zoning Map Amendment, Application 2024-0371-MA, based on the following Findings listed in the Staff Report dated November 26, 2024:

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 will not adversely affect adjacent property.**

4. **There are adequate 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.**

**Second: Commissioner Ogden seconded the motion.**

**Vote on Motion: 4-1 in favor.**

Commissioner	Yes	No	Abstained	Not Participating	Absent
Fowler	X				
Squire					X
Ogden	X				
Nixon	X				
Shirey		X			
Fidler, Alternate					X
Shah, Alternate	X				
Green, Alternate				X	

Following the vote, it was stated that Commissioner Christine Green will replace Commissioner Fowler as a voting member of the Planning Commission for the remainder of the meeting.

**C. Public Hearing: Hidden Canyon Estates – Mercer Mountain Estates Development Agreement 10<sup>th</sup> Amendment (Administrative Action)**

On Behalf of Pratt Dimond, Representing Terra Koa LLC, for an Amendment to the Development Agreement for Mercer Mountain Estates Subdivision. The property is located in the RR-22, RM, and C-3 Zoning Districts and located at approximately 2630 East 15040 South. Application 2024-0337-DA. Staff Contact: Jennifer Jastremsky, 801-576-6328, jennifer.jastremsky@draperutah.gov.

Ms. Jastremsky presented the Staff Report and explained that the application relates to the Mercer Mountain Estates Development Agreement. The application is for a Development Agreement amendment for approximately 25.9 acres located on the east side of Canyon Point Road and Suncrest Drive, at approximately 2635 East 15040 South. The property is currently zoned RR-22, RM, and C-3. The amendment is requested to allow for minor changes. The subject property was originally part of the Suncrest Development Agreement but was removed from that agreement in 2015 with the approval of the initial Hidden Canyon Estates, Mercer Mountain Estates, and Lakeview Heights Properties Development Agreement. The original 2015 Development Agreement approved the Mercer Mountain Estates development as a 50-lot single-family subdivision with a minimum lot size of 12,000 square feet and allowed for a private gated community. Since 2015, there have been nine amendments made to the agreement.

The vicinity map and aerial map were shared for reference. Ms. Jastremsky reiterated that the original agreement took place in 2015 and there have been nine amendments made to the agreement since

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then. Some of the amendments deal with Hidden Canyon Estates and some deal specifically with Mercer Mountain Estates. She highlighted the Fifth and Eighth Amendments:

- 5<sup>th</sup> Amendment (2018):
  - Allows fill to be placed on the City's property adjacent to Canyon Point Road and Suncrest Drive.
- 8<sup>th</sup> Amendment (2019):
  - Modified roadway locations and approved some land swaps between the City and property owner.

Ms. Jastremsky reported that the proposed changes to the Development Agreement are as follows:

- Does not allow any new fill in the 5<sup>th</sup> Amendment fill area, but does state that the City Council can approve additional fill in the future;
- Roadway width reduced from 56 feet to 50 feet:
  - Eliminates a sidewalk on one side of the road;
  - Allows a 4-foot snow storage area in the residual park strip;
  - No reduction in asphalt width.
- Updates roadway location and grade in some areas:
  - 9% for the loop section and 11.2% for other areas.
- Makes minor adjustments to the area of the land swap approved with the 8<sup>th</sup> Amendment.

The right-of-way map was shared. Ms. Jastremsky reviewed some of the changes related to the various amendments. The neighborhood is proposed to be a gated community and she pointed out the location of the gate and some of the land swap areas. Additional proposed changes include:

- Temporary fencing adjacent to City open space during construction;
- Stormwater infrastructure:
  - Restricts discharge rates and requires fencing.
- Water system maintenance:
  - Water system and water quality responsibilities.
- Slope easements:
  - Approves City slope easements for cuts and fills along the proposed roadway.

Ms. Jastremsky reported that there have been some changes in State Law as it relates to stormwater maintenance responsibilities and the need to clarify those responsibilities. The Development Agreement has language to verify what the HOA is responsible for and what the city is responsible for when it comes to the stormwater system and culinary water quality. Commissioner Nixon asked about the percentage of slope on the roads. Senior Engineering Manager, Brien Maxfield, explained that the desired slope for emergency vehicles is 10%. There is a provision in the code to reach 12%, but that is a little more difficult for emergency vehicles. In this case, what is proposed is within the range of allowed slopes. There is comfort with what has been proposed.

Commissioner Shah noted that on one side of the road, there is no sidewalk proposed. Mr. Maxfield reported that the mountain standard is a 56-foot right-of-way with sidewalks on both sides, including

a park strip on both sides. As stated previously, this is a mountainous area. By reducing the right-of-way area and only requiring sidewalk on one side, it reduces the amount of grading. One sidewalk provides adequate pedestrian access to the area. He explained that what was proposed would accommodate the necessary snow storage. The mountain standard was updated in 2008.

The applicant, Pratt Dimond, introduced himself to the Commission. He thanked City Staff for their efforts and everyone else involved in the process so far. He is available to answer questions. There were no questions.

Chair Adams opened the public hearing.

*Peter Garone* stated that he is relatively new to Suncrest. He had a question about the criteria for gated communities and noted that there are no other gated communities in the area. He wanted to know if the gated community would restrict public access for others. Chair Adams explained that questions are not answered during the public hearing, but he will make note of the question.

*Dave Mast*, Property Owner, shared information about another gated community and explained that there is one in the area already. This is the last item for the phases, as there was a delay due to the COVID-19 pandemic. There are a few amendments that are suggested to improve the overall project. He offered praise for Brien Maxwell and his team for their great suggestion to change the road design.

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

Chair Adams noted that there was a question about gated communities posed during the public hearing. That was more about pedestrian access rather than vehicular access. He pointed out that some other gated communities exist. Ms. Jastremsky confirmed this and explained that there are some standards for how gated community entrances should be designed. For example, there needs to be a turnaround before the gate. Pedestrian access cannot be gated.

**Motion:** Commissioner Nixon moved to forward A POSITIVE RECOMMENDATION to the City Council for the Development Agreement 10<sup>th</sup> Amendment, as requested by Pratt Dimond, representing Terra Koa LLC for Hidden Canyon Estates – Mercer Mountain Development Agreement, 10<sup>th</sup> Amendment, Application 2024-0337-DA, based on the following Findings for approval listed in the Staff Report dated December 12, 2024.

1. **The proposed Development Agreement complies with DCMC Section 9-5-200(C) and (D).**
2. **The proposed agreement confirms the maximum area on City property that fill can be placed per the 5<sup>th</sup> Amendment to the Development Agreement.**

**Second:** Commissioner Shirey seconded the motion.

**Vote on Motion:** 5-0 in favor.

Commissioner	Yes	No	Abstained	Not Participating	Absent
Fowler					X
Squire					X
Ogden	X				
Nixon	X				
Shirey	X				
Fidler, Alternate					X
Shah, Alternate	X				
Green, Alternate	X				

**D. Action Item: Vote for the 2025 Planning Commission Chair and Vice-Chair.**

There was discussion about who will serve in the Chair and Vice-Chair positions for 2025.

**Motion:** Commissioner Ogden moved to NOMINATE Andrew Adams to serve as the Planning Commission Chair for 2025.

**Second:** Commissioner Shah seconded the motion.

**Vote on motion:** 5-0 in favor.

Commissioner	Yes	No	Abstained	Not Participating	Absent
Fowler					X
Squire					X
Ogden	X				
Nixon	X				
Shirey	X				
Fidler, Alternate					X
Shah, Alternate	X				
Green, Alternate	X				

**Motion:** Commissioner Shirey moved to NOMINATE Lisa Fowler to serve as the Planning Commission Vice-Chair for 2025.

**Second:** Commissioner Nixon seconded the motion.

**Vote on Motion:** 5-0 in favor.

Commissioner	Yes	No	Abstained	Not Participating	Absent
Fowler					X
Squire					X
Ogden	X				
Nixon	X				
Shirey	X				
Fidler, Alternate					X

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Shah, Alternate	X				
Green, Alternate	X				

**2. Adjournment.**

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

The Chair adjourned the meeting at 8:59 p.m.