



APPEALS AND VARIANCE OFFICER AGENDA

Tuesday, March 31, 2026, 11:00 AM
1020 East Pioneer Road
Draper, UT 84020
Council Chambers

1. Approval of Previous Meeting Minutes

1.a Approval of January 9, 2026 Meeting Minutes

2. Items for Consideration

2.a Chris Gardner Variance

On the request of Chris Gardner for a variance to the rear yard setback standards for a detached accessory building and the distance requirement from buildings located upon an adjoining lot on the property located at 11674 South Douglas Vista Dr. in the R3 (Single-family Residential) zone. Application 2026-0024-VAR. Staff contact is Jennifer Jastremsky, 801-576-6328, jennifer.jastremsky@draperutah.gov.

3. Adjournment

I, the City Recorder of Draper City, certify that copies of this agenda for the **Draper Appeals and Variance Officer** meeting to be held **March 31, 2026**, were posted at Draper City Hall, Draper City website www.draperutah.gov, and the Utah Public Notice website at www.utah.gov/pmn.



Nicole Smedley, CMC, City Recorder
Draper City, State of Utah

In compliance with the Americans with Disabilities Act, any individuals needing special accommodations or services during this meeting shall notify Nicole Smedley, City Recorder at (801) 576-6502 or nicole.smedley@draperutah.gov, at least 24 hours prior to the meeting.

MEMO



To: Appeals and Variance Officer

From:

Date: 2026-03-31

Re: Approval of January 9, 2026 Meeting Minutes

Comments:

ATTACHMENTS:

[010926 Draper Variance Hearing Draft.pdf](#)

MINUTES OF THE DRAPER CITY PLANNING APPEALS AND VARIANCE HEARING OFFICER MEETING HELD ON FRIDAY, JANUARY 9, 2026, IN THE DRAPER CITY COUNCIL CHAMBERS

PARTICIPATING: Tim Pack of Clyde, Sessions & Snow
Jenna Ayre
Michael Ayre

STAFF: Jennifer Jastremsky, Community Development Director
Spencer DuShane, Assistant City Attorney
Todd Draper, Planning Manager
Todd Taylor, Planner
Lori Stout, Executive Assistant

10:00 AM Business Meeting

Appeals and Variance Hearing Officer Tim Pack called the meeting to order at 10:00 a.m.

1. **Approval of Previous Meeting Minutes.**
 - A. **Approval of September 23, 2025, Meeting Minutes.**

Mr. Pack reviewed the Meeting Minutes from September 23, 2025, and found them accurate.

Mr. Pack APPROVED the Meeting Minutes from September 23, 2025.

2. **Items for Consideration.**
 - A. **12640 South Relation Street Appeal.**

On the Request of Jenna and Michael Ayre, for an Appeal of an Administrative Decision Concerning the Status of the Property at 12640 South Relation Street as a Corner Lot. The Property is 0.25 Acres in Size and Located in the RA2 Zoning District. Application 2025-0290-APPL. Staff Contact: Jennifer Jastremsky, 801-576-6328, jennifer.jastresmsky@draperutah.gov.

Mr. Pack introduced the agenda item and explained that it relates to 12640 South Relation Street. This appeal was filed by Jenna Ayre and Michael Ayre. He has reviewed all of the materials and will ask questions after the appellant's presentation. Ms. Ayre reported that their rebuttal will explain why the city's reasoning cannot be sustained under the Draper City Code and Utah Administrative Law review. As stated in the city's Ayre Appeal Response document, in Section 3(A), "the appellant must show that the Zoning Administrator's interpretation was arbitrary and capricious, which means a failure to meet the substantial evidence standard." To demonstrate that the Zoning Administrator's interpretation was arbitrary and capricious, three different points will be presented during the hearing.

Ms. Ayre mentioned the subdivision standards in Title 17. The city theory assumes that the Bakers Cove Subdivision approval in 2000 converted this parcel from an interior lot to a corner lot when June Circle was approved. That conversion could not lawfully have occurred while bypassing the Title 17 mandatory corner lot and developability standards. The subdivision approval, as implemented, did not satisfy those standards and should not have been approved in its current form. Therefore, the parcel's lawful classification should remain an interior lot unless and until the city identifies a code mechanism that lawfully converts it while satisfying the Title 17 mandatory standards.

Ms. Ayre shared information about the uniform application. Utah Administrative Law requires the consistent application of land use standards. The city has attempted to exclude consideration of similarly situated properties to avoid scrutiny of how Draper applies corner lot rules in practice. Inconsistent application cannot be insulated from review by simply narrowing what the interpretation discusses.

Ms. Ayre stated that if the parcel had been a corner lot since 2000, the city's position would have been clear and consistently communicated during the due diligence process before the purchase of this property. Instead, the record reflects clear uncertainty, internal disagreement, and the need for an interpretation. Had the parcel been identified and treated as a corner lot with dual front setbacks, the appellants would not have purchased the parcel. Given that the city's interpretation was arbitrary and capricious, the request is that the corner lot determination not be sustained, and the parcel be treated and recorded as an interior lot with interior lot setbacks (30-foot front setback on Relation Street, 12-foot side yards, 20-foot rear setback). It is requested that the city classification be reflected consistently in City records and aligned with County records so the property can be reasonably improved.

Under 9-5-180(D)(4) in the Draper City Municipal Code, the question is whether the interpretation is supported by substantial evidence and whether it correctly applies the plain meaning of the code when the code is read as a coherent whole, not in isolated fragments. The appellants agree that the only issue on appeal at this time is whether the parcel was correctly classified as a corner lot under Draper City Code. The appellants do not appeal the determination that the parcel and structure are legally non-conforming. This is a code-interpretation appeal, not a dispute over the physical facts.

Section 3(A) of the city's Ayre Appeal Response was further discussed. Under Section 9-5-180(D)(4), there is language that states that the Appeals and Variance Hearing Officer shall:

- Determine whether the record on appeal includes substantial evidence for each essential Finding of Fact;
- Determine the correctness of the officer or body's interpretation and application of the plain meaning of the land use regulations and thereafter affirm or reverse, wholly or in

part, the lower decision, modify that decision, or impose any conditions needed to conform the matter appealed to applicable approval standards; and

- Interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.

In response to the appeal, the city cited *OutFront Media, LLC, versus Salt Lake City Corporation* (2017, Utah). The Utah Supreme Court distinguishes two separate bases for reversal:

- A decision is illegal if it rests on an incorrect interpretation or application of the law; and
- A decision is arbitrary and capricious if it is not supported by substantial evidence.

This appeal focuses on whether the interpretation correctly applies the Draper City Code when read as a whole and whether the city's asserted corner lot rule can be supported by the record and applied consistently. Ms. Ayre expressed a concern about the city's presentation in the appeal response. She felt the written response was dismissive, and at times, condescending, implying that the appellant's position barely merits consideration. She stated that the city created uncertainty, changed its position, and then asserted after the fact that there was clarity all along. The city cannot credibly claim the issue has been settled for decades when the city's process reflects uncertainty and reinterpretation.

Ms. Ayre noted that the city references in the appeal response do not resolve the legal question at hand. There is no dispute that the parcel physically abuts the June Circle corridor, the ordinary meaning of the word "abut," or the geometric relationship between June Circle and Relation Street. She explained that the issue is whether abutment alone compels corner lot classification when the Draper City Code is read as a whole, including the subdivision standards outlined in Title 17.

The three main points were expanded on. Ms. Ayre reported that the first point concerns the Title 17 consequences of the city conversion theory. She read the following language: "When June Circle was established in the plat, the subject property became a corner lot." The city argues that the Bakers Cove Subdivision Plat excludes the subject parcel and therefore cannot serve as the baseline for corner lot status. Appellants agree that the plat did not directly reclassify this parcel. However, the relevance of the 2000 approval arises from the city's asserted theory that when June Circle was established in the plat, the subject property became a corner lot. Under the city theory, the 2000 Bakers Cove Subdivision approval is treated as converting the subject parcel from an interior lot to a corner lot, thereby triggering corner-lot consequences that must be evaluated under Title 17.

If the 2000 subdivision approval converted the subject parcel from an interior lot to a corner lot, then that approval imposed new dimensional and developability consequences on the parcel. Under the Draper City Code, that kind of conversion could not lawfully occur without satisfying the mandatory standards applicable to corner lots. Title 17 requires that residential

corner lots be platted wider to accommodate increased setbacks. In addition, it states that subdivision approvals result in lots that are developable and capable of reasonable improvement. Ms. Ayre said that the Bakers Cove Subdivision approval did not widen the parcel, did not reconfigure the parcel, and did not ensure that it remained developable if treated as a corner lot. If the current position of the city is accepted, the subdivision approval creates a non-conforming, impractical, and undevelopable corner lot condition. She pointed out that this outcome is not permitted under Title 17.

Ms. Ayre stated that the assertion that the parcel became a corner lot when June Circle was approved does not resolve the appeal, but underscores the problem. Either the subdivision approval failed to comply with Title 17 at the time it was granted, or the parcel was never lawfully converted into a corner lot. In either case, the current City interpretation cannot be sustained. Ms. Ayre reported that the city suggested in its rebuttal to the appeal that the parcel is developed simply because a structure exists on it, but this misunderstands the purpose of Title 17 and the protections for legal non-conformity. Title 17 exists to ensure that lots remain capable of reasonable improvement over time. The city Code does not authorize interpretations that lock a parcel into its existing condition and strip it of meaningful redevelopment potential decades after plat approval.

Mr. Pack referenced 17-5-020(F) – Corner Lots. He asked whether the appellants' position is that when the Bakers Cove Subdivision was platted, the city determined whether the property was a corner lot. Ms. Ayre explained that this is what the city has asserted in its appeal response. Mr. Pack asked about June Circle before it was platted. Ms. Ayre reported that it was land before, and there was no right-of-way. The city has stated that the plat automatically converted their property to a corner lot. However, nothing was done to lawfully convert the property from an interior lot to a corner lot. When the plat was established, no review was conducted to assess the implications or consequences for the subject property. Mr. Pack understands that the city's position is that there was no formal determination that this lot was a corner lot at the time, but because of the plat, the appellant's lot was converted into a corner lot. Ms. Ayre confirmed that this is her understanding of the city's position. She continued to present information related to the appeal.

The city has claimed the word “abutment” as reasoning for their interpretation. Ms. Ayre explained that the question is whether abutment alone compels corner lot classification without reconciling the result with the mandatory standards in Title 17. The city's argument rests almost entirely on the word “abutment.” The city states that because this parcel abuts June Circle, and because June Circle meets the broad definition of a street, the parcel must automatically be a corner lot. That reasoning is flawed, because abutment alone has never been sufficient to determine lot classification under Draper City Code. An interpretation that turns abutment into a universal trigger for corner lot status creates internal conflict within the ordinance and cannot be sustained under Utah law. She stated that abutment may be a necessary condition for a corner lot, but it has never been a sufficient one.

Ms. Ayre next discussed uniform application. Utah Administrative Law requires the consistent application of land use standards. The city objects to the appellant's discussion of similarly situated properties because those properties were not cited in the Zoning Administrator's interpretation and therefore must be excluded under 9-5-180(D)(4). The appellants do not dispute the record-only review and do not offer the comparables as new factual evidence regarding the subject parcel. The comparables are cited for a legally permissible purpose: evaluating whether the city's stated interpretation can be lawfully and uniformly applied. The appellants agree on the governing rule. This is a record-based appeal under 9-5-180. She clarified that the appellants are not asking the Appeals and Variance Hearing Officer to accept new testimony, make new factual findings, or consider facts that were unavailable to the Zoning Administrator. That being said, the city's position goes further than the code allows—the restriction in 9-5-180 limits new facts, not legal argument.

Mr. Pack understands the distinction between new evidence and legal argument, but if a comparison to a map is made, that could be considered new evidence. He asked if there could be a legal argument made without showing him that evidence. Mr. Pack stated that he will allow the appellants to present their case without restriction and will later rule on what can be admitted. There will be a determination in the written ruling. Ms. Ayre stated that even if the submitted articles are excluded, the finding still fails because it fails to reconcile Title 9 with Title 17.

Ms. Ayre explained that excluding facts in the administrative interpretation would effectively limit the appellant's review to only the facts and comparisons the Zoning Administrator chose to discuss. This would insulate inconsistencies from review by omission. If accepted, the narrower the interpretation a Zoning Administrator wrote, the narrower the scope of appeal would be, regardless of whether the city applied the same ordinance differently elsewhere. In this case, the city's interpretation is that being adjacent to a right-of-way constitutes a street and that when June Circle was established in the plat, the subject property became a corner lot. The appellant relies on the similarly situated properties test to determine the legal consequences of that interpretation. The record reflects that Draper has not applied the rule in that manner to other recent approvals, including projects that are currently under construction. An interpretation that appears to be used flexibly in the context of larger development approvals but rigidly to an individual homeowner raises concerns.

In the appeal application, the appellants identified multiple recently approved residential parcels that, under the city definition of street, similarly abut more than one right-of-way. These examples are not offered to challenge those approvals or introduce new facts, but to test the city's interpretation for internal consistency. Under the interpretation advanced here, each of those parcels would be required to carry dual 30-foot front setbacks as corner lots. The record reflects that they were not treated that way and were still approved for construction. Ms. Ayre

explained that this contrast illustrates that the city has not applied abutment alone as an automatic trigger for corner lot classification.

Ms. Ayre presented additional information about the third point. The appellants acknowledge reasonable reliance is not determinative under 9-5-180 of the Draper City Code and do not offer it as an independent basis for reversal. It has relevant context for the city's claim that the parcel has been a corner lot since 2000. The city asserts that the parcel became a corner lot when June Circle was approved in 2000; the issue was not ambiguous, and the remedy should have been pursued by a predecessor. She pointed out that if this had truly been settled for 24 years, the city would have consistently communicated corner lot setbacks. There would have been no internal uncertainty, and no need for a formal interpretation now. During pre-purchase due diligence, the appellant architect and contractor both contacted the city to confirm buildability and setbacks.

On August 28, the appellants received a written message from the contractor relaying the setbacks provided to him by the city. The setbacks received corresponded to an interior lot, not a corner lot. If the parcel were a settled corner lot, the city would have described dual front setbacks along both Relation Street and June Circle to the architect and contractor. She read the city's language.

During the due diligence process, Ms. Ayre contacted the city to confirm the lot status in writing, specifically noting the property's relationship to Relation Street and June Circle. If the corner lot status were settled, as the city claims in its rebuttal, it would have been readily communicated. Instead, City Staff expressed uncertainty and directed her to file for an administrative interpretation. After doing so, it was revealed that internal views diverged between City Planning Officials and the City Attorney. Three different deadlines for providing a ruling response were missed. It took the city over a month to decide whether the parcel was an interior or corner lot. That sequence is inconsistent with the city's narrative that there has been clarity on this matter since 2000.

The city's indecision has caused concrete financial harm. The appellants incurred substantial due diligence costs before purchase, have carried the capital costs of a vacant property for months, have experienced delays in architectural and construction planning, and now face additional costs and time associated with the appeal. Had the parcel been identified as a corner lot during due diligence, the appellants would not have purchased the property. If the city's interpretation is upheld and the parcel is finalized as a corner lot, the severely constrained building envelope will preclude reasonable modern residential development and materially diminish the property's value, resulting in further financial harm. Under 9-5-180(D)(4), the record does not sustain the corner lot determination made by the Zoning Administrator. Ms. Ayre reiterated the arguments made during the presentation.

Mr. Pack noted that one issue is whether June Circle is a street, as the definition of "street" seems broad. He asked whether the appellants dispute that June Circle is a street. It was noted that, according to the code, it is a street. Mr. Pack believed the appellant argues that the city effectively changed an interior lot to a corner lot when the plat was recorded. Ms. Ayre explained that the city has not provided any mandatory mechanisms for changing lot classifications. There has been no zoning action or variance ruling, so nothing has been provided to show how this was legally changed from an interior lot to a corner lot. Mr. Pack asked whether there is a mechanism under the city Code for formally designating a lot as an interior lot or a corner lot. Ms. Ayre reported that she has done substantial research, but has not found a mechanism for this.

Mr. Pack asked whether the city's position is that the Baker's Code Subdivision approval and recordation effectively changed the property's status from an interior lot to a corner lot. This was confirmed. Assistant City Attorney Spencer DuShane stated that it would be impractical to create a legal mechanism to convert interior lots into corner lots, other than to have the code's definition apply as the plain-language meaning. Otherwise, the city would need to regularly review every single lot and parcel in the city to follow through with a procedural mechanism. That is why there is no mechanism in the Draper City Municipal Code to convert an interior lot to a corner lot, as it is not practical. He explained that something is, by definition, a corner lot if two streets intersect and abut the lot or parcel at an angle of 135 degrees or less.

Mr. Pack referenced 17-5-020(F) – Corner Lots and read the following language:

- Corner lots for residential use should be platted 10 feet wider than interior lots to facilitate conformance with the required street setback requirements of the zoning ordinance.

Mr. Pack understands that when platting a subdivision, this applies to the lots within that subdivision and not lots outside of that subdivision. He asked what happens when a plat that transforms an interior lot into a corner lot does not comply with the requirement. Mr. DuShane reported that the Zoning Administrator does not have jurisdiction to hear matters related to Title 17. He pointed out that Title 17 was not raised in the original request for the Zoning Administrator's interpretation. For that reason, he would object to any kind of inclusion in the Title 17 discussion, as it is new evidence. However, to address the Title 17 issue, the city is required to comply with engineering standards. The Engineering Department reviews plats and ensures they are compliant. The standards can only be applied to the property that is included within the plat. Property outside of the plat is not considered when those standards are considered. The owner of the parcel in question at the time that June Circle was created specifically left this parcel out. He explained that the subdivider was the owner of the appellant property as well as the property within the plat. The assumption is that certain decisions were made with a full awareness of what would happen to the subject property.

Mr. DuShane reported that the city's argument is in plain language. Land Use, Development, and Management Act ("LUDMA") requires that jurisdictions read the plain language of their own code and LUDMA and apply that. The definition of "corner lot" reads that it is a lot or parcel that abuts two streets within an intercepting angle of 135 degrees or less. He confirmed that this is less than 135 degrees. The plain-language argument is that there is a parcel that abuts two streets, and those streets intersect at an angle less than 135 degrees. As a result, it is a corner lot by definition. If it is a corner lot, then it needs to meet the corner lot setbacks. The Bakers Cove Subdivision Plat was reviewed. Mr. DuShane pointed out June Circle on the plat document. Before the plat was recorded, it was not a street. It was part of either the parcel in question or the neighboring parcel, but once June Circle was created, there were two streets. The corner lot is a result of that shift.

It was reiterated that the city's argument is the plain language argument. As for the argument that the city failed to consider other lots and apply the same standards, that does not necessarily render the decision on the appellant property arbitrary and capricious. Mr. DuShane explained that "arbitrary and capricious" means the substantial evidence standard cannot be met. Based on the information in the Zoning Administrator report, the substantial evidence standard is met. Whether the corner lot standard has been enforced against other properties in the city previously has no bearing on whether it can be done now. He referenced several relevant cases as examples. If there was a prior failure to designate a lot or parcel as a corner lot and to treat it as such, that does not necessarily render the decision to identify the subject parcel as a corner lot arbitrary and capricious.

Under the plain language meaning of the term "corner lot" and the plain language meaning of the term "street," the appellant property is a corner lot. Mr. DuShane stated that the Zoning Administrator's decision was not incorrect and should be upheld.

It was determined that there would be a short break before the discussion about 12640 South Relation Street continued.

Ms. Ayre wanted to know why comparable properties that have not been treated as corner lots are not being considered. Mr. Pack explained that he does not plan to restrict the appellant's presentation in any way, but there is an ordinance that restricts what he can consider. After further reviewing that ordinance and examining the evidence, he might agree with Ms. Ayre's arguments, or he might not. He reiterated that the presentation will not be restricted at this time. Mr. Pack noted that cities and counties sometimes enforce their own codes inconsistently. That is not usually a basis for having the city or county deviate from their own code in a different instance.

Ms. Ayre explained that she wants to address Title 17 and the issue that was raised by the city. She clarified that it is not new evidence as claimed, because it was cited in the original request for Zoning Administrator interpretation and was referenced in the city's interpretation. The

original filing and interpretation were shared with the Appeals and Variance Hearing Officer. Mr. DuShane stated that the objection is not because Title 17 is considered new evidence, but because it is outside the scope of the authority given to the Appeals and Variance Hearing Officer. He explained that Title 17 is outside the jurisdiction of both the Appeals and Variance Hearing Officer and Zoning Administrator.

Mr. Pack stated that the question before him is essentially whether the property is a corner lot. That is an issue under Title 9. The city has cited Title 17, so he will allow the appellant to argue Title 17, how it applies and relates to Title 9, and that this is a corner lot. Ms. Ayre explained that the appellants say that Title 17 is not optional when the city relies on the 2000 approval. The city cannot argue that the parcel became a corner lot because of the subdivision approval and then disclaim the standards that govern the legal consequences of that approval. If the city theory is correct, then the 2000 action imposed new dimensional and developability consequences. Title 17 expressly requires that corner lots be platted wider and that subdivision approvals result in lots capable of reasonable improvement. She pointed out that none of that occurred in this instance. The city has identified no code provision to allow for an automatic conversion that bypasses the requirements.

Ms. Ayre explained that Title 17 matters because the city theory relies on the action as the event that allegedly converted the parcel into a corner lot. If that action imposed new corner lot consequences, then those consequences must comply with the standards that govern subdivision outcomes, including developability and corner lot configuration. Ms. Ayre clarified that the appellants are not challenging or re-opening the Bakers Cove approval, but are responding to the city's reliance on it in its interpretation. She added that no request is being made to adjudicate other approvals. The references were offered to test the city's interpretation for internal consistencies. An interpretation that varies across materially similar parcels raises a concern about uniform application.

The code defines a corner lot as a parcel that abuts two intersecting streets. Ms. Ayre pointed out that this is what the city is relying upon, and there is agreement that the subject property abuts Relation Street and June Circle. This definition is unambiguous, and no further analysis is required. When June Circle was approved in 2000, the subject property abutted two streets and became a corner lot, according to the city's argument. However, the city asks that the entire rest of the code be ignored. It was reiterated that the code must be read as a coherent whole. A definition cannot be applied in a way that nullifies mandatory standards elsewhere. If abutment alone automatically converts a parcel into a corner lot, then that conversion must still comply with the standards governing corner lots.

If the Appeals and Variance Hearing Officer determines that Title 17 is irrelevant to the case and the factual circumstances of the adjacent properties are unrelated, the city's interpretation still fails under Title 9. Under Title 9, the city must still identify a lawful mechanism by which this parcel classification changed. Title 9 defines terms, but does not authorize automatic

reclassification of lots without an implementing action or standard. Even without Title 17, the city has already determined the parcel is legally non-conforming. That status exists to prevent later interpretations from imposing new restrictions that eliminate reasonable redevelopment, which is what this interpretation does.

Mr. Ayre stated that the city was asked about the setbacks before the parcel was purchased. The appellants were informed that it was an interior lot based on the provided interior lot setbacks. If the city stated from the beginning that this was a corner lot, it would not have been purchased. He reiterated his frustration that the city did not state before the purchase that it was a corner lot.

Ms. Ayre emphasized that the interpretation fails under Title 9, Title 17, and the arbitrary-and-capricious standard. She noted that the Zoning Administrator's interpretation is not supported by substantial evidence and does not reflect the correct understanding and application of the land use regulations when read as a whole. It assigns decisive legal consequences to the 2000 Bakers Cove action without analyzing whether those consequences were lawful then or are lawful now. Even setting aside the contested exhibits, the defects are apparent from the existing record.

Mr. Pack reported that he will not make a ruling at this time but will issue a written ruling on this matter. He pointed out that cities and counties change their land use codes all the time. Setback and lot width requirements can change, allowing non-conforming lots to be created. Cities and counties typically have mechanisms to address inconsistencies and irregularities. He explained that the question before him is essentially whether this is a corner lot. That is something that he will consider before the written ruling is created and shared.

Mr. Pack closed the hearing and reported that the written ruling will be issued next week.

3. Adjournment.

The meeting adjourned at 11:17 a.m.