

MINUTES OF THE DRAPER CITY PLANNING COMMISSION MEETING HELD ON THURSDAY, JUNE 25, 2015 IN THE DRAPER CITY COUNCIL CHAMBERS

“This document, along with the digital recording, shall constitute the complete minutes for this Planning Commission meeting.”

PRESENT: Chairperson Drew Gilliland, Planning Commissioners Andrew Adams, Traci Gundersen, Craig Hawker, Jeff Head, Scott McDonald, and Kent Player

ABSENT: Vice-Chairperson Leslie Johnson

STAFF PRESENT: Neil Lund, Keith Morey, Dan Boles, Dennis Workman, Jennifer Jastremsky, Brien Maxfield, and Angie Olsen

ALSO PRESENT: Roll on File

Study Meeting:

[6:11:18 PM](#)

Study Business Items: Chairperson Gilliland referenced item two on the agenda and asked if there is any requirement that there be a certain number of instructors based on the number of children at the facility. Planner Jennifer Jastremsky answered no, but indicated when the Building Department reviewed the application they had concerns regarding life and safety and the children’s ability to evacuate safely on their own and that is why they have recommended the teacher to child ratio included in the staff report.

Chairperson Gilliland then referenced item four on the agenda and reviewed the format by which the public hearing will be conducted. Ms. Jastremsky added that today the City received a letter from Sandy City Council and it has been provided to all Planning Commissioners; it expresses their concerns and requests that the Planning Commission be thoughtful in making a decision regarding the application. She noted that the main concern expressed by the several residents who submitted letters for tonight’s meeting packet center on slope stability on the subject property. The City has received a geotechnical study indicating that the project can be built on the subject property as long as certain conditions are met. Chairperson Gilliland clarified that this is a site plan application and the zoning of the property has already been approved. Ms. Jastremsky agreed and added that the site plan meets the standards contained in the Draper City Municipal Code (DCMC). Commissioner Head asked if the City has received conflicting geotechnical reports regarding the project. Ms. Jastremsky stated that a group of residents hired their own consultant and she received a copy of their report just five minutes before this meeting began; she provided it to the City’s geotechnical consultant for him to review prior to the business meeting and she is hoping to have his response before the meeting begins. She noted the City’s consultant will not be in attendance this evening. Commissioner Adams stated that the citizens have spent a significant amount of money on the study and he

wondered if it would be more appropriate to continue the item until the next agenda to allow an adequate response from the City's consultant. Community Development Manager Morey noted that is an option, but he had a substantial conversation with the City's geologist yesterday and he indicated that he feels the citizens' geologist overstepped his bounds; he did not review the City's study and made some high level comments. When questioned by the City's geologist he indicated that his company does not typically perform studies such as the one they were commissioned to perform. He noted the City's geologist concluded that the study completed by the firm hired by Liberty Point was adequate and addressed all concerns based on their understanding of the worst case scenarios that could occur on the subject property. He noted that it is widely understood that Draper City likely has the toughest geology ordinance in the State of Utah and it was adopted to prevent slope problems that have occurred in other cities. He added staff is diligent in ensuring that applications meet the requirements of the ordinance and that the geology and needed mitigation is appropriate. Ms. Jastremsky added that the Planning Commission has the option of conditioning approval of the application on the City's consultant reviewing the study provided by the private consultant. Mr. Morey agreed, but added that has already been done and the private consultant has not provided any new information that the City's consultant has not already considered. Commissioner Head stated he is hopeful the City's consultant has provided a written response to the private consultant's report in order for the Planning Commission to use it in response to the many public comments that will be made tonight. Ms. Jastremsky stated she is hopeful she will receive his response before the business meeting begins.

Chairperson Gilliland referenced item five, which is a City initiated rezone. Commissioner Gunderson inquired as to the reason for the application. Mr. Morey explained there was a brief period of time where the City's GIS system contained misinformation and a resident contacted the City during that time to find out the zoning assigned to the subject property. He noted the incorrect zoning information was provided to the resident and, though the misinformation was later corrected in the City's GIS system, it created a problem for the resident that was given bad information. City staff felt that the City has some culpability and should fix the error by proceeding with the City initiated rezone.

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Commissioner Adams again referenced item three on the agenda and stated that he is confused as to why a landslide issue in North Salt Lake has been referenced for the purpose of considering the agenda item. Mr. Morey noted that the land slide was used as an example of the type of problems that have occurred in other jurisdictions when cities have not prevented construction on hillsides. He added that North Salt Lake either had no geological ordinance or the ordinance they had was not stringent enough to ensure construction on the hillside was or was not appropriate.

Staff Reports were heard out of order.

[6:21:29 PM](#)

7.0 **Staff Reports:** Mr. Morey reported that the City will create an advisory committee to work on the General Plan update process and he asked if any members of the Planning Commission would be willing to serve on that committee; he specifically asked Chairperson Gilliland and Commissioner Player to serve on the committee and both agreed to do so. Mr. Morey then reported on the recent actions of the City Council.

Business Meeting:

Chairperson Gilliland explained the rules of public hearings and called the meeting to order at [6:38:30 PM](#).

[6:38:57 PM](#)

1.0 **Action Item: Approval of the minutes from the May 14, 2015 and May 28, 2015 Planning Commission meetings.**

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1.1 **Motion:** Commissioner Head moved to approve the minutes of the May 14, 2015 and May 28, 2015 meetings. Commissioner McDonald seconded the motion.

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1.2 **Vote:** A voice vote was taken with all in favor of the minutes being approved.

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2.0 **Public Hearing: On the request of Emily Barclay for approval of a Home Occupation Conditional Use Permit (CUP) to operate a preschool on approximately 0.23 acres in the RM1 (Multi-Family Residential) zone at 12122 S. Sunset Slope Cove. This application is otherwise known as the Wonder Academy Home Occupation CUP Request, Application #150521-12122S.**

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2.1 **Staff Report:** Using the aid of a PowerPoint presentation and her staff report dated June 15, 2015, Planner Jennifer Jastremsky reviewed the details of the proposed application. She noted the applicant is requesting a Home Occupation Conditional Use Permit (CUP) for an in-home preschool for autistic children. The home is situated on 0.23 acres located in the Sunset at Draper Ridge Phase 2 Subdivision, at approximately 12122 South Sunset Slope Cove; the property is currently zoned RM1 (Multi-family Residential). She noted the preschool would be located within the home's basement and have two classes per day, with up to four students per

class. She noted the preschool meets the standards set with in the Zoning Ordinance, including a limitation on number of employees (1), number of classes per day (2) and number of students per class (4). The Building Division is placing a condition on the permit that there shall be at least one teacher for every two students. This is due to the students being autistic, which could hinder their capacity to evacuate the home if needed. She added class hours would be 9:30 am to 12:30 pm and 1:00 pm to 4:00 pm. She then reviewed photographs of the home and the basement within the home, noting that the basement can be accessed by an exterior stairwell on the side of the home. She added the home has parking for three vehicles in the driveway and two directly in front of the home and the applicant plans to have each student escorted into and out of the home during drop-off and pick-up times; due to the low number of students staff does not anticipate a traffic impact on the neighborhood. She concluded staff recommends approval of the application based on the findings and subject to the conditions listed in the staff report.

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2.2 Applicant's Presentation: Emily Barclay stated she has nothing to add to Ms. Jastremsky's presentation, but is willing to answer any questions the Planning Commission may have regarding her application.

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2.3 Commissioner Head disclosed that he personally knows Ms. Barclay, but that will not impact his ability to fairly consider the application.

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2.4 Chairperson Gilliland opened the public hearing; there were no persons appearing to be heard and the public hearing was closed.

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2.5 Motion: Commissioner Gundersen moved to approve the Home Occupation CUP Request by Emily Barclay for the home based preschool, application #150521-12122S, based on the findings and subject to the conditions listed in the Staff Report dated June 15, 2015. Commissioner Adams seconded the motion.

Conditions:

1. The business shall meet all requirements of DCMC Section 9-34-040, except as provided by this permit.
2. Parking associated with or caused by the home occupation shall be located within the private drive-way or directly in front of the home on the public right-of-way.
3. All requirements of the Unified Fire Authority and Draper City Building Official shall be satisfied throughout the operation of the home occupation on the property.

Conditions continued to the next page.

Conditions Continued:

4. There shall be at least one teacher for every two students at any given time.
5. All employees shall park on the driveway.
6. A building inspection and fire inspection shall be required with the business license application review.
7. Obtain the necessary sign permits prior to installation of any proposed signage.
8. The home occupation shall continually maintain a valid Draper City Business License throughout its operation.
9. The home occupation is required to maintain approval and adequate licensure from any and all State and County agencies prior to receiving a business license.

Findings:

1. The proposed development plans meet the intent, goals, and objectives of the Draper City General Plan.
2. The proposed development plans meet the requirements and provisions of the Draper City Municipal Code.
3. The proposed development plans will not be deleterious to the health, safety, and general welfare of the general public nor the residents of adjacent properties.
4. The proposed development conforms to the general aesthetic and physical development of the area.
5. The public services in the area are adequate to support the subject development.

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- 2.6 **Vote:** A roll call vote was taken with Commissioners Gundersen, Player, Adams, Head, and McDonald voting in favor of the Home Occupation CUP.

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- 3.0 **Public Hearing: On the request of Karl Tobler for a Site Plan approval of a single story in-line retail center on 0.71 acres in the DC (Destination Commercial) zone at 195 W. Pony Express Road (13526 S.). This application is otherwise known at the Lone Peak Retail Site Plan Request, Application #150513-13526S.**

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- 3.1 **Staff Report:** Using the aid of a PowerPoint presentation and his staff report dated June 25, 2015, Planner Dennis Workman reviewed the details of the proposed application. He explained the subject property is the north parcel of Cazco Industrial Park Phase 2; the property owner wishes to demolish the car wash that is currently on the site and construct a single story retail center with a gross floor area of 9,084 square feet. He reviewed the site plan and noted the development will

have access from 13490 South and 200 West and all parking will be on the north side of the building. He reviewed the landscaping plan for the project, noting landscaping will cover 5,975 square feet, or 20% of the site; of that number, 18% will be in the parking lot. He noted both of these percentages meet the minimum requirement in Draper City Municipal Code (DCMC). He added the landscape plan shows 24 trees lining the perimeter of the site, 17 of which are preexisting from the previous site plan, and seven of which will be new. He then reviewed the parking plan, noting that DCMC calls for a parking ratio of 2.5/1,000 square feet for retail, which puts the required number of parking spaces at 23 (based on building footprint of 9,084 square feet). He added the applicant's first submittal showed a total of 36 parking stalls, which exceeded the allowed 25% overage by seven stalls; staff informed the applicant that he must either provide a parking study justifying the extras stalls or revise the site plan showing seven fewer stalls. He indicated the applicant chose the latter option, and now the site plan shows a total of 29 stalls, two of which will be ADA accessible; the decrease in number of parking spaces has resulted in an increased amount of landscaping. He briefly touched on the architectural design of the project, noting the design meets all requirements of DCMC and staff is pleased. He then reviewed the lighting plan for the site, noting there are currently three pole lights on the site and the applicant plans to relocate these to fit the new site layout; there are no plans to add any new poles. He concluded staff has reviewed the site plan thoroughly and confidently recommends approval of the site plan based on the findings and subject to the conditions listed in the staff report.

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- 3.2 Applicant's Presentation: Ryan Daw, 12755 S. Bolter Street, stated he is the developer and contractor for the project; he and Karl Tobler purchased the property approximately a year and a half ago and it needs a lot of attention. He reiterated some of Mr. Workman's comments regarding the size and layout of the proposed retail center and noted that it is 100 percent leased already. He stated he feels it is a destination area that lends itself to the furniture category due to its close proximity to Ikea and RC Willey. He noted the project will be completed in late fall if everything goes according to plan and he requested approval of the site plan.

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- 3.3 Chairperson Gilliland opened the public hearing; there were no persons appearing to be heard and the public hearing was closed.

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- 3.4 Chairperson Gilliland asked the City Attorney to provide the Commission with the items they should be considering when reviewing a site plan application; he asked if a site plan must be approved as long as it complies with DCMC or if the Commission should consider public clamor. Acting Deputy City Attorney Neil Lund stated that public clamor should not play a role in the Commission's decision on a site plan application and it is appropriate to approve a site plan if it meets the

requirements of DCMC. He stated the Commission can welcome public comment, but should base their decision on the merit of the application.

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- 3.5 **Motion:** Commissioner McDonald moved to approve the Lone Peak Retail Site Plan as requested by Karl Tobler, application 150513-13526S, based on the findings and subject to the conditions listed in the staff report dated June 12, 2015. Commissioner Player seconded the motion.

Conditions:

1. That all requirements of the Draper City Engineering Division are satisfied throughout development of the site, particularly those contained in the engineering review memo contained in this report.
2. That all requirements of the Draper City Public Works Department are satisfied throughout development of the site.
3. That all requirements of the Unified Fire Authority are met throughout development of the site.
4. That a building permit is issued prior to construction.
5. That signage is not approved with this site plan approval. All signage requires separate permits and is required to comply with Chapter 9-26 of the Draper City Municipal Code.
6. That the monument sign shall be set back a minimum of 15 feet from the back of the curb to allow for park strip and sidewalk.
7. That the outdoor garbage collection container is screened from view using the same materials as the building, and that it is surrounded as much as possible by landscaping to further soften its visual impact.
8. That a deadman (concrete wheel stop) is placed on any parking stall that abut a portion of sidewalk less than seven feet wide.
9. That the landscape plan is amended to show landscaping on the west side of the building where seven parking stalls will be eliminated.
10. That after Planning Commission approval, the applicant submits 12 sets of plans to be stamped "Approved for Construction." Six of these shall be 24x36 in size and six shall be 11x17. Each of these sets shall contain all sheets previously submitted for review stapled together.

Findings:

1. That the proposed site plan is consistent with the goals, objectives and policies of the City's General Plan.
2. That the proposed site plan will not adversely affect adjacent property.
3. That adequate facilities and services exist to serve the subject property, including but not limited to roadways, police and fire protection, storm water drainage systems, water supplies, and waste water and refuse collection.
4. That all site plan drawings were developed in accordance with the standards contained in Draper City's zoning ordinance.

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- 3.6 **Vote:** A roll call vote was taken with Commissioners McDonald, Player, Gundersen, Adams, and Head favor of approving the site plan.

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- 4.0 **Public Hearing: On the request of David Abraham, representing Cowboy Partners for a Site Plan approval on 8.97 acres in the CC (Community Commercial) zone for a mixed use building containing commercial uses and up to 100 dwelling units at approximately 12227 S. Draper Gate Drive. This application is otherwise known as the Liberty Point Site Plan Request, Application #150220-12227S.**

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- 4.1 **Staff Report:** Using the aid of a PowerPoint presentation and her staff report dated June 16, 2015, Planner Jennifer Jastremsky reviewed the details of the proposed application. She noted that the property owner obtained a Conditional Use Permit (CUP) for a mixed-use building with up to 100 dwelling units on December 4, 2014 and before the Commission tonight is a request for approval of the site plan for the mixed-use development with 5,000 square feet of retail space. She noted the property is located within the Growth Area land use designation, which supports a mix of uses, including multi-family developments; the zoning district CC (Community Commercial) includes planned retail and office development and limited medium to high density residential uses. She added a portion of the property is located within the Open Space zoning district and that portion is not covered by the application being considered tonight. She added the site would include a six story building with a 79,393 square foot footprint; a total of 83.2% of the site will be in open space or landscaping, with 31.6% being undisturbed and considered undevelopable due to slope grade. She added that given the grade of the property the overall building height is 52'-3", which meets the maximum height that was approved with the CUP. She then reviewed the site plan and identified the location of residential space, retail space, amenity space, and open space. She noted there will be 187 parking spaces within the building for residents and visitors and on-street retail parking will be provided on Draper Gate Drive. She refocused on the landscaping plan for the site, noting the overall lot coverage of the developed area of the site is 48.4% including the building and all paved surfaces. She indicated landscaping along the front of the building will include small planting beds and parking lot landscaping; along Draper Parkway the landscaping will expand to include a heavily landscaped area and at the rear of the building, adjacent to the hillside there will be a large patio running the length of the building and located above the structured parking garage, which will serve as the primary outdoor amenity space for residents. She added there will be a trail way running along the lower portion of the hillside providing a walking path for residents. She reported the landscape plan includes 44 trees along the rear of the building, as required within buffer areas between multi-family residential uses and single-family residential

uses; buffer trees include Paperbark Maples, Spring Snow Flowering Crab Apple, Radiant Flower Crab Apple, October Glory Red Maple, Norwegian Sunset Maple, and Canada Red Chokecherry. She added that 21,613 square feet of native seed mix will be placed along the hillside around the trail way and the remaining portions of the hill side will not be disturbed. She concluded it is the expectation of the applicant that the building will provide shelter for the hillside and allow for the existing plants to flourish within the undisturbed portions. She then reviewed the architectural design of the building, noting the building is contemporary in nature, with a long and narrow shape which hugs the side of the hillside; there will be four stories of apartments over two stories of retail and garage space. She reviewed elevation renderings, with a focus on height calculations; the proposed height is just under 52 feet 3 inches, which is just under the approved maximum height of 52 feet 6 inches; height is measured from the average finished grade to the average point in the roof peak. She added that given the steep slope of the ground this results in four stories exposed on the northwest side of the structure and six stories exposed on the southwestern side of the structure. She reported the applicant provided a Geo-technical Report and a Slope Stability Analysis and the City's consultant Taylor Geo-Engineering, LLC has reviewed both document and determined that they are adequate for the site. She noted the slope stability analysis limits vertical cuts into the hillside to 20-feet and the plans show a maximum vertical cut of 15-feet. She added the study also will require shoring of the hillside during construction and the staff report includes a recommended condition of approval that will require all standards found within the Geo-tech Report and Slope Stability Analysis be followed. She added these requirements will be reviewed again with a building permit and during site construction. She then reviewed photographs of the site, after which she referenced the traffic study completed for the site. She noted the study indicates that the level of service for Draper Parkway and 1300 East will not be negatively impacted by the development; both roads are considered arterial streets within the City. She concluded staff recommends approval of the site plan based on the findings and subject to the conditions listed in the staff report.

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4.2 Chairperson Gilliland clarified that the application meets the Draper City Municipal Code and the applicant has not requested any deviation from strict compliance to the DCMC. Ms. Jastremsky stated that is correct.

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4.3 Commissioner McDonald asked Ms. Jastremsky for clarification regarding the traffic study. He stated that Ms. Jastremsky stated that the project would not impact Draper Parkway and 1300 East, but he asked if she meant to say that traffic associated with the project would not cause traffic counts to exceed acceptable limits for traffic on the road. Ms. Jastremsky stated that is correct and noted that the traffic study determined that the existing level of service for the roads would not change as a result of the development. Commissioner McDonald asked how the City determines the acceptable impact for additional growth. Engineering

Department representative Brien Maxfield noted that in general if a specific development impacts a road to the point that it creates a failure, an increase in delay or danger, or potential conflicts, that problem must be mitigated to prevent those issues. He reiterated that the traffic study conducted regarding this project did not raise any concerns about increased delays or negative impacts to the overall service level.

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- 4.4 Commissioner Gundersen indicated that the staff report communicated that the applicant is required to provide 243 parking spaces, 225 for the residential and 18 for the commercial. She noted that the amount of parking spaces included on the site plan is 33 short of that requirement, but that a parking study has been provided showing that 194 stalls for the residential units would be adequate and the 23 surface parking spaces are sufficient for the retail and office space being proposed. She asked for more information about that. Ms. Jastremsky stated that according to the DCMC the parking being provided is sufficient; the DCMC allows for a natural deviation of 25% plus or minus the standard requirement; this means the range of allowed parking for the site is 183-303 parking spaces and the amount of parking provided by the applicant falls within that range. She noted the parking study concluded that shared parking will be adequate for the site because of the mix of uses contained on the site.

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- 4.5 Commissioner McDonald stated it is his understanding that the zoning of the property was changed quite some time ago and the height restrictions in the zone have remained constant since 2002. He asked for more information regarding the height restriction on the proposed building. Ms. Jastremsky stated the height restriction for the zone is 45 feet, but the applicant applied for a CUP and requested additional height, which is allowed according to DCMC. She noted upon approval of the CUP the maximum building height was increased from 45 feet to 53 feet.

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- 4.6 Chairperson Gilliland called for a ten minute recess to provide Planning Commission members time to read a letter provided to them regarding the geotechnical study for the subject property.

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- 4.7 Chairperson Gilliland called the meeting back to order and explained the Commissioners were reading a letter submitted by Taylor Geotechnical dated June 25, 2015 in response to an email from Ms. Heather Scott, a Sandy City resident.

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- 4.8 Applicant's Presentation: Doug Tim stated he is with Architectural Nexus and he introduced additional members of his group present this evening: Max Chang, Owner; David Wilding, Geotechnical Engineer; and Joe Perin, Traffic Engineer.

He stated he feels Ms. Jastremsky did a great job in communicating information about the project and noted that his group is very excited about the opportunity to develop a high quality, upper-scale development; the intent is to nestle a mixed-use building in a transitional zone between lower density residential and commercial uses. He discussed the number of parking stalls at the project and noted that he arrived at a number by considering the DCMC and the results of the parking study, but also the market and he is comfortable from a market standpoint that both the commercial and residential parking capacities will be adequate. He referenced the earlier discussion regarding the traffic analysis and he noted that same issue was discussed last December when he appeared before the Planning Commission for the CUP; the traffic analysis was conducted shortly before that time and he feels it is fairly current information.

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- 4.9 Commissioner McDonald referenced the maximum building height restrictions for the property according to its zoning designation; he noted the applicant has asked for an additional eight feet in building height, but he wondered how long the property's zoning designation has been in place and how long that zoning class has called for a maximum building height of 45 feet. Mr. Tim stated he does not know the history of the zoning of the property. Mr. Chang noted that when a special improvement district was created in the area and he donated a portion of his property for the road in the area, the property was rezoned to its current land use designation; that was in the early 1990s. He added that a portion of his property was annexed to Sandy at that same time. Commissioner McDonald asked Mr. Chang if he had to appear before Draper City regarding his application to rezone the property. Mr. Chang stated he was not involved in the business as much at that time, but the application did come before Draper City.

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- 4.10 Chairperson Gilliland reiterated to those in attendance of the advice provided by Mr. Neil regarding the fact that the Planning Commission should not base its decision regarding a site plan on public clamor. He stated the Commission should consider whether the site plan meets the requirements of DCMC. He noted the Commission has read the comments that have been submitted to the City and they are well aware of the concerns regarding traffic, building height, noise, and view obstruction and he recommended that the comments be directed towards how the site plan does not meet the DCMC rather than an expression of whether they are for or against the project for personal reasons. He then opened the public hearing.

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- 4.11 Julie Park, 12188 Bluff View Drive, read a letter she submitted to the Commissioners during the meeting:

“We are pleased that Cowboy Partners has joined in with this project as their professional reputation in the community is positive. We would hope the company would not participate in a project that they did not assure that all aspects of the

slope stability, building plan, engineering, traffic studies, parking, fire, and environmental concerns were not properly addressed and then perform to the highest standards. As a neighborhood, we understand that we are impacted by the project. A group of us have reviewed the application summary and have valid concerns and issues that need to be addressed. In light of the recent slides in North Salt Lake, Draper, and Utah County we just want to make sure that the complexity of the slope of the project and the stability of the sandy soil is addressed during the building process as well as later. We are not angry citizens trying to pick a fight at this point, but rather we want to minimize the impact during the construction process and the buildings that will ultimately have an impact on our neighborhood and its residents. Tonight we would like to hear from Sylvana Frederickson, Vickie Lee, Chris Valentine, Steven Johns, Heather Scott, and Steve Fredrickson. I want to talk about noise pollution; we do not see anything about noise pollution in the studies that have been conducted so far; studies have been completed regarding that issue and we would expect that the City would consider the issue of noise pollution to mitigate the impact through different noise pollution controls. We would anticipate requirements will be put in place to mitigate the additional sound from the construction process through the final build-out and even with the courtyard and balconies in the residential units upon completion. The noise pollution coming from the existing occupied business is extremely detrimental to our quality of life standard and is concerning at this point for those along the perimeter of our neighborhood. To that extend, we want to make sure that the right things are put in place including regulations on the heavy equipment delivery that is done in the middle of the night and wakes everyone; we want to make sure that is done during regular business hours. We do want to have a good relationship with this group of residents and that is why we are here.”

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4.12 Chairperson Gilliland noted that the Planning Commission does not address the issue of noise pollution during the construction of a project. Commissioner McDonald stated that the City has existing noise ordinances and all residents are protected by those ordinances. He stated he understands the concerns regarding noise as he has dealt with noise issues at his current home and at a previous home and he reiterated there are current ordinances in place to protect residents. He noted Chairman Gilliland is trying to keep the discussion germane to what is before the Planning Commission tonight; the body must act within the scope of what they are allowed to do and they are not allowed to deny an application based on concerns like noise or condition approval on mitigation of those issues. He stated the Planning Commission must decide if the application meets the requirements of DCMC; if it does not, the body will deny it. He added if the application is approved, the residents of Draper and a neighboring community may have the opportunity to mitigate certain issues through established mechanisms. Ms. Park asked if that means the residents are supposed to call the police any time there is a disturbance at the property. Commissioner McDonald stated he does not want to encourage

debate, but he answered yes. Chairperson Gilliland stated he will not allow debate between the Commission and residents during the public hearing.

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- 4.13 Christopher Valentine, 12247 Nicholas Road, thanked some of the members for raising concerns about the traffic analysis for the project. He stated the number of units that would be located on the subject property will have a direct impact on the traffic and parking in the area. Chairperson Gilliland stated that the zoning and CUP for the subject property has already been approved and the body should not be considering traffic this evening. Mr. Valentine reiterated that the number of unit is related to traffic. Chairperson Gilliland stated the number of units was already approved when the CUP was approved. Mr. Valentine stated he realizes the Planning Commission has a legal obligation to approve the site plan if it complies with DCMC, but he wants to suggest that it would be reasonable to delay approval in order to consider some of the concerns of the residents. He again referenced the traffic study and stated that the residents want the opportunity to independently analyze the traffic study and look at what factors were taken into consideration; he does not take issue with the fact that the subject property borders a couple of arterial roads and he does not doubt that those arterial roads has the capacity to carry the volume of cars, but his question is if the incline and curvature of the road was taken into consideration. He stated it is necessary for 'us' to look at the service level of the arterial roads as well as the nature and elevation of the road. He stated that the parking allowances are very tight on the site and he thinks that there could be some mitigation associated with approval of the site plan that would require right-in and right-out only turns at the ingress/egress points at the site. He stated he realizes the Planning Commission is obligated to approve the application if it complies with DCMC, but he also feels they have an obligation to examine the safety of the project. He stated he and other residents want to be good neighbors, but he again asked for the opportunity to delay the application to independently analyze some of the potential impacts the project could have on the area.

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- 4.14 Heather Scott, 11979 Nicholas Road, stated she and other concerned residents contacted an independent geotechnical firm, IGS, to review the geotechnical reports from Wilding Engineering and Taylor Geotechnical. She stated a copy of the independent report was submitted to Draper City today; the IGS has concerns that the characterization of the slope is incomplete. She summarized the independent report by reading the introduction and conclusion of the report into the record and added that the information, much like the previously mentioned parking and traffic studies, should be considered before taking action on the pending site plan application:

“At your request IGS has reviewed geotechnical investigation report analyses and site development plans prepared to support design and construction of the Liberty Point mixed-use development located at 12227 S. Draper Gate Drive in Draper, Utah. The purpose of our review were to assess the field and laboratory

investigation of site soils and subsurface conditions performed by Wilding Engineering and to specifically comment on the slope stability analysis and its completeness with respect to the current standard of care for geotechnical engineering services in Draper, Utah. Draper City provides a thorough third-party review of all geotechnical and geologic reports prepared within their City; therefore, prior to writing this letter, IGS had a telephone conversation with Draper City's geotechnical reviewer, Alan Taylor with Taylor Geotechnical, to gather additional clarification of their review of the geotechnical report for this site and also items related to slope stability in their previous reviews of developmental submittals. The conclusions state. . .while we recognize the limitations that likely prevented boring and drilling exploration to obtain samples above or on the slope, it is our opinion that some effort should be made to document stratigraphy on the sparsely vegetated slope, i.e. surface observation, hand exploration, and test fit in order to justify application of shear strength test results and unit weight to the idealized slope. We are not suggesting this level of effort should be mandatory for smaller slopes on other proposed developments within Draper City; however, considering the size of the slope and potential for instability to impact multiple existing structures, it is our opinion that this site should be more carefully studied. Off property conditions must be considered, including upslope to the top of adjacent ascending slopes. City standards to allow for exceeding minimum requirement at some sites. Considering the complexity inherent with performing slope stability analyses additional effort beyond the minimum standards may be required at some sites to adequately address slope stability. The minimum standards do not relieve consultants of their duty to perform additional geologic or engineering analyses they believe are necessary to assess the stability of slopes at a site. It is our opinion that additional documentation materials on sparsely vegetated slopes would not be an unreasonable requirement of the geotechnical engineer at this site."

7:27:30 PM

- 4.15 Steven Johns, 12151 Bluff View, submitted a letter to the Commissioners which he read aloud.

"With landslides occurring in North Salt Lake and Draper City together with those along the benches in Utah County, which has similar aggregate material and percentage slope to that of the Liberty project, our awareness of the potential for a hillside failure event is heightened with the development of this project. As the design document demonstrates, the development company proposes to over-excavate the toe of the slope, which will destabilize the slope and increase the landslide potential considerably. In the North Salt Lake landslide there has been a significant amount of finger pointing about who is responsible for the damage caused by the event, but the homeowners are left with lower or non-existent home values in the immediate area with deflated and stigmatized market conditions. There has been a geotechnical report completed, but there are significant elements in those studies that raise cause for concerns for the homes and neighborhood located above the site. If there is a destabilization and a slide event on the hillside that negatively affects the property or homes above the construction site, we would

expect the development company and Draper City to indemnify the affected homeowners as to the damages. There has been nothing mentioned in the application about this issue; at the very least, the City and the applicant should provide themselves and our homes with some type of insurance that will alleviate this concern, potential liability, and eliminate the potential risk to the adjacent property owners.”

[7:29:32 PM](#)

- 4.16 Will Ashby, no address given, stated that the slope on the subject property was cut back and reseeded and ‘we’ have seen how successful that has been. He stated he hopes the owner will do a better job in the future. He noted that since the other points he was concerned about have been covered, he has nothing to add.

[7:29:59 PM](#)

- 4.17 Steve Fredrickson, 12246 S. Bluff View Drive, stated he understands the Planning Commission’s frustration about the residents continuing to express the same points. Chairperson Gilliland stated there is no frustration and the residents have a right to make comments, but some of them are not helpful. Mr. Fredrickson stated that the residents of the Bluff understands the CUP and zoning for the property have been approved and a project will move forward, but they are hopeful that the developer makes some consideration about protecting the residents somewhat. He addressed landscaping of the site; in the last 10 years since he has lived on the Bluff he has had seen that the owner has tried hydro seeding that has not worked. He would refer the developer to another property at 9400 South where they have a similar hillside that has been revegetated and irrigated. He stated he understands the applicant has indicated he will provide some landscaping, but he wondered how the entire hillside will be addressed. He also referenced the sidewalk included on the plan at the back of the property and noted it leads nowhere; he recommended that the sidewalk tie in to another walkway so that it is usable by residents.

[7:31:40 PM](#)

- 4.18 Chairperson Gilliland disclosed that he knows Mr. Frederickson and his wife personally, but that will not impact his ability to consider this application fairly.

[7:32:02 PM](#)

- 4.19 Silvana Fredrickson, 12246 S. Bluff View Drive, stated her home is located directly above the site and each evening she has a perfect view of the parking area; she feels the parking does impact the residents and the proposed development. She stated that after reviewing the CUP summary for the project she has determined the applicant does not have a shared parking plan in conjunction with the number of residential units; also, it was mentioned in the staff report that an approved shared parking plan does not exist and is still pending. She offered photographs taken on a recent Thursday evening at 8:00 p.m. and highlighted the fact that all parking stalls are filled to capacity and some double-parking was occurring on the dirt area of the site. She noted this is a common occurrence on the subject property and although the

proposed underground parking proposed for the site seems to be ample for the residents it is not ample for the current or future needs for the commercial retail tenants. She stated that because of these parking issues and the fact that she does not believe the project should be granted a parking deviation as was recommended in the staff report, she suggests that the Planning Commission allow the residents to perform their own independent traffic study. She stated she believes the residents have a right to do that and it would take no longer than 30 days to complete. She stated she believes such a report is needed in order to make a decision on the application.

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4.20 Stephen Smith, 1549 Shallows End Circle, Sandy, Utah, stated he wants to make three particular points: in the initial CUP application City staff mentioned that the property containing slopes of 30 percent or greater may not be developed and only those areas with less than 30 percent slope may be considered in the density calculation for the site. He stated the geotechnical report indicates there will be cuts into the toe of the slope up to 30 feet; when overlaying the map that was provided with the initial CUP application showing the slopes onto the site plan, it is clear that the developer will be cutting into a 30 percent slope on the eastern side of the property, which is in violation of the City's ordinance with respect to the site plan. He stated the second thing he wished to discuss is storm water; the Environmental Protection Agency (EPA) has recently made significant changes to storm water requirements relative to retaining water on site and this particular development will obliterate the storm water surcharge basin currently existing on the property and it is unclear from the site plan how that will be mitigated. He stated he does not know if there is a storm water management plan in place to deal with a 100-year storm run-off that will come down the mountainside; especially concerning is if the run-off hits the north side of the development and creates significant erosion compromising the hillside. He stated the third issue deals with the public improvements along Draper Parkway between the development and the border of Sandy City; the landscape plan includes trees, but it is unclear whether it includes sidewalk. He noted that the sidewalk in Sandy City currently ends at the border between the two cities and he feels that the scope of the project should include the installation of sidewalk to provide connectivity.

[7:36:50 PM](#)

4.21 Vicki Lee, 12028 Nicholas Road, stated she is concerned about fire protection; although there has been a review by the Unified Fire Department there is nothing mentioned in the report about a fire starting on the property or plaza below existing homes. She noted that if a fire does start and it is necessary to fight it expeditiously from below the bluff she wondered how the fire fighters will save homes above the project when the building and the planned retaining wall will essentially block fire access. She stated that this needs to be addressed and as a partial solution there should be property landscape irrigation similar to the Corey Bend development on 9000 South to protect the land from creating vegetation producing significant fire

hazards. She noted that Sandy City has a fireworks restriction in place due to the extreme fire hazard and, at the very least, Draper City needs to enact a similar fireworks prohibition.

7:38:08 PM

4.22 Steve Sevenhar, 11967 Noel Road, stated that 25 years ago when he moved to his property all of the original homeowners in his neighborhood were assessed a \$1,000 fee for the improvements to the hillside around the bluff and he was told by the developer that the property below him would never be developed. He stated he is wondering why the property is now being developed. He also wondered where Sandy City ends and Draper City begins.

7:39:00 PM

4.23 Chairperson Gilliland asked if there were any additional comments; there were none and the public hearing was closed.

7:39:13 PM

4.24 Commissioner Gundersen asked the applicant to address the concerns regarding landscaping, surface water and drainage, ingress/egress and other applicable standards that were referenced during the public comment portion of the public hearing. Mr. Abraham first addressed the landscaping requirements and noted that the landscape plan for the project does meet the DCMC landscape requirements; the landscape plan incorporates irrigated landscaping. He addressed surface water comments and noted that he was required to submit a storm water management plan for the project; he is aware the project is at the base of a slope and there is a need to address storm water. He noted the preliminary analysis of storm water needs on the site was submitted at the time the CUP application was considered. He added Draper City has a fairly robust submission requirement for a site plan review and applicants are required to submit all necessary documentation before the application is forwarded to the Planning Commission. He then addressed traffic and parking concerns and noted that throughout the process of designing the project several traffic and parking configurations have been considered; the final points of entrance for the project were established by a traffic engineer and he asked Joe Perrin to address the process that was followed for this project. Mr. Perrin stated that his firm did the traffic study for the project. He addressed the suggestions to require right-in and right-out ingress/egress on the site and noted that type of configuration is typically not any safer than traditional ingress/egress. He stated that if everyone must go the same way to get in and get out of the site, all traffic will be forced back through the intersection near the subject property and there would be more of a traffic impact in that regard. He added the road adjacent to the property is a circulation road that serves the properties abutting it; it is not a larger collector road upon which right-in and right-out ingress/egress makes sense.

[7:43:00 PM](#)

4.25 Chairperson Gilliland asked staff to respond to claims that the developer will be “cutting into the 30 percent slope” on the property. Ms. Jastremsky stated she does not believe the developer will be cutting into the 30 percent slope area. She added, however, that DCMC does give the Planning Commission discretion to allow an applicant to cut into a slope upon modified requirements and if three specific findings can be met: no significant harm will result; the proposed modifications will result in a more function and improved plan; and the builder/developer agrees to comply with any conditions or requirements imposed by the Planning Commission to mitigate any adverse effects which may result from the proposed modification.

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4.26 Community Development Director Keith Morey referenced Section 9-16-20 of the DCMC, which contains the regulations regarding the 30 percent slope and noted that the regulation applies to all lands located within the Hillside Sensitive Lands Overlay Zone, which is not the subject property. He stated that suggestions have been made to apply a standard to the property that was not intended for the zone in which the property is located. Commissioner Adams stated he would still like to know if the development will cut into the 30 percent slope of the hillside on the subject property. Mr. Morey stated that regulation does not apply to the subject property; it was designed for properties above Highland Drive. He added that he does not want anyone to get the impression that staff is not sensitive to the slope issues on the property; he noted that the geologist that reviewed the application was very thoughtful about the issue and felt that the project improves the stability of the hillside rather than compromise it. He added that during the construction process, the head Building Official for the City will ensure that proper shoring mechanisms have been put in place to make sure the hillside is not compromised through completion of the project.

[7:46:08 PM](#)

4.27 Mr. Maxfield commented regarding sidewalks; the City is requiring the applicant to construct a sidewalk on the entire length of the subject property. He noted there is an additional parcel between the subject property and the Sandy City border that is owned by Draper City and that property does not have sidewalk. He then addressed the comments regarding storm water and noted that the developer will remove an open basin and construct an underground detention basin; they are not adjusting the storm water detention capacity, but simply changing the location of the detention facility.

[7:46:45 PM](#)

4.28 Commissioner McDonald stated he had heard from independent sources that Draper City has one of the strictest geologic ordinances in the State of Utah and he asked if that is true. Mr. Morey indicated he has not done a line by line comparison of the City’s ordinance and ordinance used in other jurisdictions, but he has been told by many sources that Draper has the model ordinance for geological review in the

State; a high standard has been adopted and that is because the City did not want to be in a position similar to those that have occurred in other cities in the State. He noted it is important that developers understand that they will be allowed to build on their property, but they must mitigate whatever geological issues may exist on their property. Commissioner McDonald then clarified that the fact the application complies with the geotechnical ordinance means that the developer has met the bar for landslide mitigation and prevention. Mr. Morey reported that is correct and Mr. Maxfield added that is verified through a third party reviewer. Commissioner McDonald asked if he is correct in assuming that what the Commission has been told about cutting into the slope and reconstructing the slope with concrete actually increases the structural integrity of the base of the slope. Mr. Morey stated that is what the geologist suggested. He clarified that Draper City doesn't have a geotechnical engineer on staff and, instead, the City uses third party firms that review and respond to applications; he feels this creates a healthy 'arms-length' relationship to ensure staff has no influence over things they should not have influence over.

[7:49:09 PM](#)

4.29 Commissioner Head asked if someone could review the letter submitted by Taylor Geotechnical in response to the citizens' independent review of the geotechnical report. Mr. Morey stated that Alan Taylor is a consultant that the City uses to review the engineering work that has been done by the developer's engineer. He summarized Mr. Taylor's letter and indicated that he did not feel the comments provided by IGS had standing; they had made some assumptions that were not the normal standard practice for engineering firms. He stated Mr. Taylor indicated that he had a direct conversation with the engineer that performed the analysis and questioned him about why he would make the suggestions that they did and whether those suggestions complied with their own personal level of standard and the engineer responded that they did not. He referenced Mr. Taylor's response to the claim that the geotechnical engineer did not take enough soil samples at the hillside; Mr. Taylor responded that was a fair comment, but that there was enough exposed hillside that it was possible to thoughtfully evaluate the makeup of the materials and feel justified in their professional engineering opinion that the mitigation standards addressed concerns. He stated that Mr. Taylor found some areas where the citizens' engineer's comments were factual, but the work that the geologist had done in other areas addressed concerns sufficiently to meet the third party review and mitigate problems.

[7:52:12 PM](#)

4.30 Commissioner Player stated there is a lot of concern about slope stability and many of the Planning Commissioners attended a conference recently where one of the major discussions dealt with geologic hazards and studies and some of the people that have been mentioned in this discussion were presenting at the conference. He stated that Mr. Taylor declared that everyone is subject to geologic hazard and there is no safe place. He stated that he lives on a hillside and it may give way or it may

collapse; others living in Draper live near areas with water and there is no safe place. He stated the City does the best it can to mitigate and preserve safety and building structure.

[7:53:33 PM](#)

4.31 Commissioner Adams addressed parking on the site and asked if it is correct that staff is not recommendation a deviation from strict compliance relative to parking. Ms. Jastremsky answered yes. She noted the site plan considers the uses contained on the subject property and not the other uses within the overall center; it is her understanding that the rest of the development meets the City's parking standards. Commissioner Gundersen agreed there is a parking issue related to the existing uses on the site, but clarified that the Planning Commission is only charged with considering the parking accommodations for the property encompassed within the site plan. Ms. Jastremsky stated that is correct. Commissioner Adams stated that the comment was made during the public hearing that the site plan does not meet the parking standards within DCMC and he simply wanted to confirm that it does meet the standards. Ms. Jastremsky again confirmed it does meet the standards.

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4.32 Commissioner Gundersen stated that she appreciates the comments that were made this evening and she understands that the residents are concerned, but one comment that was made is that the development should be constructed to the highest standard and while she would like to do that she understands the Planning Commission can only hold the developer to the legal standard; at this point she feels the applicant has met all legal standards and she does not know what else the Planning Commission can require of them.

[7:56:11 PM](#)

4.33 **Motion:** Commissioner Head approve the Site Plan Request by David Abraham, representing the Cowboy Partners for the mixed use building, application #150220-12227S, based on the findings and subject to the conditions listed in the Staff Report dated June 16, 2015. Commissioner Player seconded the motion.

Conditions:

1. That all requirements of the Draper City Engineering and Public Works Divisions are satisfied throughout the development of the site and the construction of all buildings on the site, including permitting.
 - a. Sequencing of demolition of existing detention basin and construction of proposed basin shall be coordinated so that care is given to the site discharge, especially the area around the Cliff House, of any storm events during construction.
 - b. Grading plans do not include recommendations provided in the geo-tech report for excavation in the existing hillside. Please add recommendations onto the plans.
2. That all requirements of the Draper City Building and Planning Divisions

- are satisfied throughout the development of the site and the construction of all buildings on the site, including permitting.
3. That all requirements of the Unified Fire Authority are satisfied throughout the development of the site and the construction of all buildings on the site.
 4. That all requirements of the Geotechnical Report and Slope Stability Analysis are satisfied throughout the development of the site and the construction of all buildings on the site.
 - a. Basement construction is limited to 20 feet below finish grade due to potential long term slope instability. Temporary shoring will be required during construction.
 - b. All compaction for interior and exterior backfill adjacent to the building should be verified by the geotechnical engineer.
 5. Provide will serve letters from South Valley Sewer District and WaterPro.
 6. Obtain a building permit for all retaining walls.

Findings:

1. The proposed development plans meet the intent, goals, and objectives of the Draper City General Plan.
 - a. The Growth Area designation supports a mix of land uses, including multi-family.
2. The proposed development plans meet the requirements and provisions of the Draper City Municipal Code.
3. The proposed development plans will not be deleterious to the health, safety, and general welfare of the general public nor the residents of adjacent properties.
4. The applicant has provided supporting reports and analysis showing that the development can be built without negative effects on the hillside.
5. The proposed development conforms to the general aesthetic and physical development of the area.
6. The public services in the area are adequate to support the subject development.

[7:56:35 PM](#)

- 4.34 Commissioner Head said that based upon what the Planning Commission is charged with considering relative to a site plan application, he does not feel any issue has been brought to light tonight that has not already been mitigated.

[7:56:58 PM](#)

- 4.35 Commissioner Adams added that there are many things he likes about the development and he feels that noise issues will be mitigated due to the improvements to the design since the project was initially considered in December of 2014.

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- 4.36 **Vote:** A roll call vote was taken with Commissioners Head, Player, Adams, Gundersen, and McDonald voting in favor of the Site Plan approval.

[7:58:10 PM](#)

- 5.0 **Public Hearing: On the request of Draper City for approval of a Zoning Map Amendment on approximately 0.97 acres at about 12938 South 1300 East from RA1 (Residential Agricultural 40,000/sf lots) to RA2 (Residential Agricultural 20,000/sf lots). This application is otherwise known as the City Initiated Rezone Re: Harrington, Application #150513-12938S.**

[7:58:35 PM](#)

- 5.1 **Staff Report:** Using the aid of a PowerPoint presentation and her staff report dated June 15, 2015, Planner Jennifer Jastremsky reviewed the details of the proposed application. She explained this application is a request for approval of a Rezone for approximately 0.97 acres located on the west side of 1300 East, at approximately 12938 South 1300 East; the property is currently zoned RA1 (Residential Agricultural, 40,000 square foot lot minimums) and the request is for approval of a rezone to change the designation to RA2 (Residential Agricultural, 20,000 square foot lot minimums). She noted the City is initiating this rezone request due to an error in our mapping system which lead the City issuing a Zoning Verification Letter to the owners stating the property was in the RA2 zoning district; the requested rezone will rectify the error. She explained the property is essentially landlocked and is located within the Residential Low-Medium Density land use designation, which supports up to two dwelling units per acre and includes very large lot single-family neighborhoods. She indicated the purpose of the RA1 zone is to foster low density development. She reviewed photographs of the property and identified access points, after which she concluded staff recommends approval of the application based on the findings listed in the staff report.

[8:00:43 PM](#)

- 5.2 Chairperson Gilliland opened the public hearing.

[8:00:58 PM](#)

- 5.3 James Harrington stated that he is the current owner of the property; he noted that in 2006 or 2007 he made a query to the City about the zoning of the property and he was told it was zoned RA2 and since that time he has been operating under the assumption that it was zoned RA2. He stated that just recently he discovered it is zoned RA1. He added it is currently listed for sale and he would like to have the RA2 zoning to improve the marketability of the property; it is bordered on the south by the Fox Crossing Subdivision and he does not feel the zoning would create detrimental impacts to adjacent properties.

[8:02:36 PM](#)

5.4 Chairperson Gilliland asked if there were any additional comments; there were none and the public hearing was closed.

[8:02:46 PM](#)

5.5 **Motion:** Commissioner Player moved to forward a positive recommendation to the City Council for the City Initiated Rezone Re: Harrington Request by Draper City for the purpose of rezoning the property from RA1 to RA2, application #150513-12938S, based on the findings listed in the Staff Report dated June 15, 2015. Commissioner Head seconded the motion.

Findings:

1. The proposed development plans meet the intent, goals, and objectives of the Draper City General Plan.
 - a. The General Plan calls for both the RA1 and RA2 zones as preferred zoning designation for the Residential Low-Medium Density land use designation.
 - b. The Residential Low-Medium Density land use designation supports 0-2 dwelling units per acre.
2. The proposed development plans meet the requirements and provisions of the Draper City Municipal Code.
3. The proposed development plans will not be deleterious to the health, safety, and general welfare of the general public nor the residents of adjacent properties.
4. The proposed development conforms to the general aesthetic and physical development of the area.
5. The public services in the area are adequate to support the subject development.

[8:03:32 PM](#)

5.6 **Vote:** A roll call vote was taken with Commissioners Player, Head, Gundersen, McDonald, and Adams voting to forward a positive recommendation to the City Council.

[8:03:50 PM](#)

6.0 **Public Hearing: On the request of Jim Allred, representing Triumph Construction for approval of a Site Plan on 4.975 acres in the CR (Community Commercial) zone at approximately 166 E. Highland Drive regarding a mixed use building containing commercial uses and up to 120 dwelling units. This application is otherwise known as the Draper South Point Mixed Use Site Plan Request, Application #150318-166E.**

[8:04:16 PM](#)

- 6.1 Commissioner McDonald disclosed he lives directly east of the subject property, but he feels he can be objective and that there is no conflict.

[8:04:30 PM](#)

- 6.2 Staff Report: Using the aid of a PowerPoint presentation and her staff report dated June 16, 2015, Planner Jennifer Jastremsky reviewed the details of the proposed application. She explained a Conditional Use Permit (CUP) for a mixed use building with up to 120 dwelling units was approved by the Planning Commission on January 23, 2014 and the applicant is not seeking site plan approval for the project, which also includes 8,514 square feet of retail space. She noted the General Plan calls for the Community Commercial and Open Space/Parks Land Use designations; the Community Commercial designation supports the full scope of commercial land uses that are destination oriented and the section of property located within the Open Space/Parks designation will not be developed. She added the property is zoned CR (Regional Commercial) which calls for a combination of destination-oriented businesses, retail commercial, entertainment and related uses. She reviewed the architectural design of the building, explaining it is contemporary in nature, with a stepped design which follows the slope of the hillside; this stepped design gives the impression of two separate building structures, one at the front of the property along the street, which will contain four to five stories and a rear portion that will contain three to four stories. She noted the plaza and underground parking connect the two sections into one building with retail space to be located on the ground floor along the private street. She indicated the building height allowed within the CR zone is 45-feet and the proposed height for each section of the building is 38'-6" to 40'-6". She reported height is measured from the average finished grade to the average point in the roof peak. She reviewed the parking plan for the site noting that parking for the retail portion of the project will be located along the private street with resident parking located in the private building. She added approval is conditioned upon providing a connection to Chandler Point Way; the access is considered to be a secondary emergency access for the subject property as well as the nearby Chandler Point Subdivision; the applicant has the option to gate the access if they so choose. She then reviewed the landscape plan and indicated the site will be heavily landscaped along the sides and rear of the building, with the upper half of the property remaining undisturbed; native seed mix will be provided along the hill side and incorporated into the planting design. She noted no landscape buffer is required as the adjacent residential development is also multi-family. She reported a private plaza area will be located within the center of the building; this plaza will include amenity space such as the swimming pool, barbeque areas, and raised planters. She added the applicant provided a geotechnical report for the project; that report has been reviewed and approved by the City's third-party consultant with no additional requirements. She concluded by reviewing photographs of the site and indicated staff recommends approval of the application based on the findings and subject to the conditions listed in the staff report.

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6.3 Commissioner McDonald asked that Ms. Jastremsky review the slide that included a computerized rendering of the project overlaid on the photo of the hillside. He referenced the height of the proposed building and stated he is trying to gain an understanding of where the tallest point of the building will hit the hillside; he inquired as to the maximum building height allowed. Ms. Jastremsky reiterated the height restriction is 45 feet according to the standards of the CR zone. She noted the tallest point of the proposed building is 40.5 feet. Commissioner McDonald inquired as to the length of time the CR zone has been assigned to the property and how long the height restriction has been in place. Ms. Jastremsky noted the property was rezoned in 2012. Commissioner McDonald concluded that means in 2012 the City would have held a public hearing regarding the rezone request and the height restrictions for the property would have been contemplated at that time as well. He asked if that was before or after homes were built on the adjacent property. Chairperson Gilliland stated it was after the homes were built. Commissioner McDonald noted he is simply asking these questions because he is sensitive to the people that built their homes with the understanding that the height restrictions on adjacent property were different than they are today.

[8:12:12 PM](#)

6.4 Applicant's Presentation: Jim Allred, Triumph Construction, noted he is happy to be at this point as it has taken a long time to work through this process; he is hopeful he is viewed as a better neighbor as a result of eliminating the back portion of the building to create more open space and orient the buildings forward. He stated he has worked very hard on the project and he thanked City staff who has spent countless hours ensuring the project meets the City's development standards. He then introduced Corey Solum of Think Architecture and noted he is the architect for the project.

[8:12:59 PM](#)

6.5 Commissioner McDonald disclosed he has an affiliation with Think Architecture, but he did not feel it would impact his voting abilities.

[8:13:21 PM](#)

6.6 Mr. Solum reiterated he has been working on this project for several years and he has made several adjustments to the design of the project, such as removing one story from the building, to address concerns that have been expressed by City staff and adjacent property owners. He stated he considers this to be an executive class apartment project with a mixed-use component; it will be much higher end than much of the valley has seen. He stated he is willing to answer any questions about the project.

[8:15:07 PM](#)

6.7 Commissioner McDonald asked for more information regarding the removal of one of the building stories; he asked if that resulted in a reduction of the building height,

to which Mr. Solum answered yes. Commissioner McDonald asked if the relocation of the building on the site also resulted in an increase of the setback from the existing neighborhood. Mr. Solum stated that the entire site was tightened up and all components were condensed; the building was moved forward somewhat and reoriented, which pulled away the perceived mass of the building as it related to the projects to the south of the subject property.

[8:16:12 PM](#)

6.8 Chairperson Gilliland opened the public hearing.

[8:16:25 PM](#)

6.9 Christopher Kelly stated he is a new homeowner in the area and he has reviewed the computer rendering overlaid on a photograph of the hillside that Commissioner McDonald referenced and in looking at the tallest point of the building and the location of the top unit in the building he believes that the residents in that unit will be looking down into a bedroom and the living room of his home. He added a significant portion of his valley view will be restricted. He stated that during the January 23, 2014 meeting Jim Allred stated the building would not exceed 45 feet in height and that he would provide beautiful views of the valley making it a desirable place to live. He stated that Mr. Allred did not say that would be at the expense of the views of the existing residents in the area. He reiterated the height restriction for the property is 45 feet and an average building story is 10 feet in height, but the proposed building is seven stories, which would equal 70 feet or nearly double the maximum building height allowed. He stated the developer plans to build one building, the height of the building should be addressed; if he plans to build two buildings, he should be required to include retail space under both buildings. He stated he feels that some of the concerns he has could be mitigated by either dropping the height of the building, shifting the orientation of the building laterally to the northeast side to remedy the fact that it blocks his view. He stated the graphic that has been provided to the Planning Commission tonight is new and has never been reviewed or discussed during previous meetings regarding this project and it is confusing to follow the chain of events regarding the project; zoning was denied one month and approved the next and he would like to see the zoning of the property re-addressed and the issues of building height and view obstruction discussed at more length. He stated that it is obvious that Mr. Allred feels the view from the property will be a selling point for his residential units, but he reiterated that detracts from the view he has from his property.

[8:19:33 PM](#)

6.10 Chairperson Gilliland disclosed that he personally knows the next person that has requested time to speak, but that will not impact his ability to consider this application objectively. Commissioner McDonald stated he also knows Mr. Brown, but stated he will also still be able to consider the application objectively.

[8:19:35 PM](#)

6.11 Eric Brown stated that Commissioner McDonald alluded to the history of the zoning of the property and the length of time that the maximum building height standard had been in place and he noted that there was no building height requirement in the past for the majority of the property because it was zoned OS open space. He stated it was a rude awakening for the existing property owners to find that the property was rezoned from OS to the zoning currently assigned to the property. He stated that Mr. Allred said during the last meeting regarding this project that from the basement level of the closest neighboring residential unit the owners will be able to see over the top of this project and, therefore, their views of the valley will not be impacted. He stated that is no longer the case according to the elevation renderings indicating the height of the rooftops of the project. He stated he was concerned about mitigating the traffic problems associated with the project; he met with Ms. Jastremsky and the City's traffic engineer recently and discussed the requirement for a secondary access to the project. He noted that he does not see the access included in the drawings for the project and he wondered if the property owner below had dedicated an easement for the access point. He also reiterated Mr. Kelly's comments about the building height and his question whether there are two buildings or one building and whether retail space is required for both buildings. He stated he is concerned about the allowance for a rolling height rather than contiguous height measured from the base of the building to the top. He stated there are many other issues that impact the neighborhood, but they may be subjective; the two main concerns he has are the requirement for the second access and the building height.

[8:23:07 PM](#)

6.12 Chairperson Gilliland asked if there were any additional comments; there were none and the public hearing was closed.

[8:23:19 PM](#)

6.13 Chairperson Gilliland asked for more information regarding the requirement for the secondary access. Ms. Jastremsky again reviewed the site plan and identified the location of the secondary access, reiterating it serve Chandler Point Townhomes and the subject property. She added that there is another road planned for the future that will serve as a third access point to the property. Chairperson Gilliland noted that one of the recommended conditions of approval is that the secondary emergency access be provided as referenced by Ms. Jastremsky. Ms. Jastremsky stated that is correct.

[8:24:10 PM](#)

6.14 Commissioner Adams asked Ms. Jastremsky to address the comments regarding the maximum building height for the project. Ms. Jastremsky stated the applicant plans to build one structure and the height is measured from the average finished grade to the average point in the highest peak; given the slope and the layout of the project on the property, staff has measured each section separately and she reviewed

renderings and identified the points from which measurements were taken. Commissioner Gundersen asked if the structure is considered one building since it is joined underneath by the parking structure, to which Ms. Jastremsky answered yes.

[8:25:35 PM](#)

6.15 Commissioner Adams inquired as to the measurement from the plaza to the tallest point of the rear building. Ms. Jastremsky stated she does not have that measurement as it is not one of the distances she calculated in her analysis of the application. Community Development Director Keith Morey added that single family homes are measured in a similar manner to the measurement practice that was used for this project; many homes on sloped properties are allowed to be 45 feet in height, but if they were measured from their underground basement level to the highest point they may be over 50 feet in height. He stated that is why the Draper City Municipal Code (DCMC) allows for the City to take an average when considering the building height.

[8:26:57 PM](#)

6.16 Ms. Jastremsky noted the subject property is located within the sensitive hillside overlay zone; her staff report does not discuss approval of a modification to allow for construction within 30 percent slopes, but after considering the discussion that took place about another project this evening, she feels that a portion of the proposed building on the subject property may be within the 30 percent slope and it may be necessary to include a modification standard in findings supporting approval of the project if that is how the Commission chooses to proceed. She suggested that the Commission consider a second motion to approve the modification. Commissioner Gundersen asked if that is allowed since it has not been publicly noticed. Ms. Jastremsky stated there is no requirement to notice that issue.

[8:28:24 PM](#)

6.17 **Motion on the Site Plan:** Commissioner Player moved to approve the Site Plan Request by Jim Allred, representing the Triumph Construction for the mixed use building, application #150318-166E, based on the findings and subject to the conditions listed in the Staff Report dated June 16, 2015. Commissioner Gundersen seconded the motion.

Conditions:

1. That all requirements of the Draper City Engineering and Public Works Divisions are satisfied throughout the development of the site and the construction of all buildings on the site, including permitting.
 - a. Permission from adjacent property owner(s) shall be required to construct improvements across property lines of different ownership.
2. That all requirements of the Draper City Building and Planning Divisions are satisfied throughout the development of the site and the construction of

- all buildings on the site, including permitting.
- a. The CUP approval set the maximum number of residential units at 120.
 - b. The site shall meet screening of mechanical equipment standards as found in DCMC section 9-22-040(d)
 - c. All illumination standards shall meet DCMC Section 9-20-070 and 080.
3. That all requirements of the Unified Fire Authority are satisfied throughout the development of the site and the construction of all buildings on the site.
 - a. With unique projects such as this one, we require a very detailed written Fire Engineering analysis (technical opinion and report), stating the challenges and where the building cannot meet the prescriptive parts of the fire code and why. Then a point by point description of what modifications are proposed to overcome the prescriptive portions of the code and how the performance based proposals will meet the intent of the code as well as it shows that “such modification do not lessen the health, life and fire safety requirements”.
 - b. The conditions listed under the Unified Fire Authority Review, as well as the Fire Engineering Analysis, shall to be submitted or addressed in the technical opinion and report prior to any permits being released.
 4. That all requirements of the Geotechnical Report are satisfied throughout the development of the site and the construction of all buildings on the site.
 - a. Prior to the placement of concrete, a letter from the geotechnical engineer should be provided to Draper City that indicates subgrade for footing and floor slab support was prepared in accordance with the geotechnical report and ready for the placement of concrete.
 - b. All import materials should be approved by Geotechnical Engineer.
 - c. All compaction for interior and exterior backfill adjacent to the building should be verified by the geotechnical engineer.
 5. Connection to Chandler Point Way shall be required as it serves for secondary emergency access for both Chandler Point Subdivision and Draper South Point Mixed Use development. If the access is gated, it shall conform to the Gate Ordinance found in DCMC Section 9-27-200. Because both Chandler Point and the subject property are privately owned an agreement for shared emergency cross access will be required.
 6. Provide an extension of the existing south point trail through the development to a public road.
 7. Provide will serve letters from South Valley Sewer District.
 8. Obtain a building permit for all retaining walls.

Findings:

1. The proposed permit plans meet the intent, goals, and objectives of the South Pointe Master Plan.
 - a. It would be appropriate to incorporate second floor residential within any of these buildings in this [walkable commercial] sub area, though this condition is not a pre-requisite. Page 8

Findings are continued to the next page.

Findings Continued:

2. The proposed permit plans meet the intent, goals, and objectives of the Draper City General Plan.
 - a. Well-sited mixed-use districts that integrate residential, retail, office, and other uses in specific areas supported by compatible infrastructure. Pg 173
 - b. Encourage infill development in close proximity to existing facilities to promote orderly growth while reducing the cost and extent of public services. Pg 174
 - c. Support the physical integration of residential uses with offices and retail uses to provide opportunities for pedestrian oriented development. Pg 175
 - d. Allow for a diversity of residential uses and supporting services that provide for the needs of the community. Pg 176
3. The proposed development plans meet the requirements and provisions of the Draper City Municipal Code.
4. The proposed development plans will not be deleterious to the health, safety, and general welfare of the general public nor the residents of adjacent properties.
5. The proposed development conforms to the general aesthetic and physical development of the area.
6. The public services in the area are adequate to support the subject development.
7. The stepped nature of the building shown in the plans allows the building to utilize the slope of the mountain side and conform to the existing topography in the area thus reducing its negative effects on the surrounding natural and building environments.

[8:29:04 PM](#)

6.18 Commissioner Player stated the Planning Commission has discussed development of this site several times and he feels the current design is better than any of the past designs. He stated that he understands the concerns about existing residents having their view obstructed, but he has experienced similar circumstances at his own property.

[8:29:49 PM](#)

6.19 **Vote on the Site Plan:** A roll call vote was taken with Commissioners Player, Gundersen, Adams, and Head voting in favor of the Site Plan approval. Commissioner McDonald abstained from voting based on advice to do so from the Acting Deputy City Attorney.

[8:30:34 PM](#)

6.20 Ms. Jastremsky advised the Planning Commission of the findings that must be met in order to approve a modification regarding cutting into the 30 percent slope of the hillside. She added the geotechnical report for the project includes cutting into the

30 percent slope. Commissioner Head confirmed that approving the modification will not result in putting the hillside at risk. Ms. Jastremsky stated that is correct and noted the City's consultant has reviewed and signed off on the geotechnical report.

[8:31:42 PM](#)

6.21 **Motion on the Modification Re: 30% Cut in Slope:** Commissioner Head moved to approve the modification to the Site Plan Request by Jim Allred, representing Triumph Construction to allow for the building to cut into the 30 percent slope as set forth in the site plan approved for the project, based on the following findings. Commissioner Gundersen seconded the motion.

Findings:

1. No significant harm will result.
2. The modification will result in a more functional and improved plan.

[8:32:24 PM](#)

6.22 **Vote on the Modification Re: 30% Cut in Slope:** A roll call vote was taken with Commissioners Head, Gundersen, Adams, and Player voting in favor of approving the modification. Commissioner McDonald abstained from voting based on advice to do so from the Acting Deputy City Attorney.

[6:21:29 PM](#) & [8:32:52 PM](#)

7.0 **Staff Reports:** ***Staff Reports were heard during the study meeting above.***

[8:32:51 PM](#)

7.1 Chairperson Gilliland reported he met with Mr. Morey recently regarding the possibility of discussing future planning rather than only being reactive to situations that can arise throughout the community. He stated they determined to add an item to one meeting each month to discuss future planning. There was a brief discussion regarding whether such proceeding would be public or private, with Mr. Morey noting they will be public since there are very specific reasons for closing a meeting and it is not very likely that the Planning Commission will convene in a closed session. General discussion regarding the intent of the proposed planning agenda item ensued, with Mr. Morey clarifying that it may not be a good idea to discuss any issue that comes to mind and, instead, it may be necessary to have focused discussions so that it is possible to advertise the scope of potential discussions for the purposes of the Open and Public Meetings Act (OPMA).

[8:39:35 PM](#)

7.2 Commissioner Adams referenced a planning conference members of the Planning Commission attended in St. George and noted that he heard someone say that as part of the application process an applicant is required to use fly-over renderings for a project that exceeds a certain size. Mr. Morey stated the City could require such

application materials, but it could be very costly and may deter some property owners from proceeding with development of their property. Commissioner Adams agreed, but added that the such a rendering is very helpful, especially when considering projects such as the Liberty Point project that was on tonight's agenda.

[8:42:22 PM](#)

7.3 Discussion then refocused on the concept of adding a general planning item to one meeting agenda per month, with the Planning Commission concluding to begin the practice in August. Chairperson Gilliland asked that any member of the Commission forward to him planning issues they would like to discuss.

[8:44:03 PM](#)

8.0 **Adjournment:** Commissioner Player moved to adjourn the meeting.

8.1 **A voice vote was taken with all in favor. The meeting adjourned at [8:44:06 PM](#).**