CONSENT ITEM #D

REQUEST FOR COUNCIL ACTION

To:	**Mayor & City Council**
From:	**Todd Hammond, Engineering**
Date:	**May 28, 2013**
Subject:	**Agreement #13-159 with Acme Construction, Inc. for the 11800 South Sidewalk Project**
Applicant Presentation:	
Staff Presentation:	**Troy Wolverton, City Engineer**

RECOMMENDATION:
That City Council authorize the Mayor to sign Construction Agreement #13-159 to Acme Construction, Inc. for the 11800 South Sidewalk Project

BACKGROUND AND FINDINGS:
We recommend awarding the contract to Acme Construction, Inc. for the 11800 South Sidewalk Project in the amount of $249,844.90. Contract documents for the project were made available on May 13, 2013 until the bid opening date on May 23, 2013. Four bids were received ranging from $249,844.90 to $309,613.63. The lowest bid was from Acme Construction, Inc.

PREVIOUS LEGISLATIVE ACTION:

FISCAL IMPACT: Finance Review: DS

Contract Amount:
$249,844.90

Funding Source: 11800 South Sidewalk CIP Accounts:
41-53-0241: $144,650 budgeted
41-53-0243: $118,350 budgeted
41-53-0241: ~~$15,000~~ June 18 Amendment $16,500 DS
41-53-0243: ~~$15,000~~ June 18 Amendment $13,500 DS
Total Budget: $293,000.00

SUPPORTING DOCUMENTS:
- **Bid Tabulation**
- **Construction Agreement**

DRAPER CITY

May 23, 2013

11800 SOUTH SIDEWALK PROJECT
BID TABULATION

BIDS OPENED: MAY 23, 2013 AT 11:00 AM

				Engineer's Estimate		Acme Construction, Inc.		S & L, Inc.		M.C. Green & Sons	
Bid Item	Description	Quantity	Unit	Unit Cost	Item Total	Unit Cost	Item Total	Unit Cost	Item Total	Unit Cost	Item Total
Schedule A											
1	Storm Water Pollution Prevention	1	LS	$2,000.00	$2,000.00	$1,110.00	$1,110.00	$4,933.03	$4,933.03	$2,300.00	$2,300.00
2	Traffic Control System	1	LS	$5,000.00	$5,000.00	$9,120.00	$9,120.00	$8,861.33	$8,861.33	$10,116.00	$10,116.00
3	Pothole Utilities	1	LS	$1,500.00	$1,500.00	$1,220.00	$1,220.00	$4,140.00	$4,140.00	$7,000.00	$7,000.00
4	Clearing and Grubbing	1	LS	$15,000.00	$15,000.00	$20,940.00	$20,940.00	$17,635.16	$17,635.16	$8,636.25	$8,636.25
5	Roadway Excavation	1,280	CY	$14.00	$17,920.00	$16.60	$21,248.00	$18.63	$23,846.40	$23.43	$29,990.40
6	Relocate Private Sewer Cleanout	3	Ea	$800.00	$2,400.00	$499.00	$1,497.00	$977.50	$2,932.50	$3,277.00	$9,831.00
7	Relocate Private Water Facilities	1	LS	$2,500.00	$2,500.00	$2,370.00	$2,370.00	$1,169.70	$1,169.70	$9,611.00	$9,611.00
8	Remove Fence	356	LF	$3.00	$1,068.00	$2.95	$1,050.20	$3.45	$1,228.20	$8.50	$3,026.00
9	Relocate Mail Box	10	Ea	$150.00	$1,500.00	$186.00	$1,860.00	$201.25	$2,012.50	$100.00	$1,000.00
10	Remove Sign	1	Ea	$75.00	$75.00	$140.00	$140.00	$115.00	$115.00	$150.00	$150.00
11	Relocate Sign	3	Ea	$200.00	$600.00	$130.00	$390.00	$143.75	$431.25	$225.00	$675.00
12	Remove Concrete Drainage Structure	2	Ea	$500.00	$1,000.00	$533.00	$1,066.00	$533.26	$1,066.52	$450.00	$900.00
13	Remove Drainage Pipe	8	LF	$16.00	$128.00	$61.80	$494.40	$46.00	$368.00	$50.00	$400.00
14	15" Reinforced Concrete Pipe	66	LF	$80.00	$5,280.00	$76.70	$5,062.20	$73.43	$4,846.38	$50.00	$3,300.00
15	Single Grate Hooded Inlet Box	2	Ea	$2,500.00	$5,000.00	$2,190.00	$4,380.00	$2,669.15	$5,338.30	$1,600.00	$3,200.00
16	Double Grate Curb Inlet Box	1	Ea	$3,500.00	$3,500.00	$2,670.00	$2,670.00	$3,940.25	$3,940.25	$3,100.00	$3,100.00
17	Concrete Sidewalk	6,678	SF	$4.00	$26,712.00	$4.00	$26,712.00	$3.99	$26,645.22	$3.96	$26,444.88
18	ADA Ramp (2'x8' Detectable Warning)	1	Ea	$1,400.00	$1,400.00	$1,390.00	$1,390.00	$1,568.03	$1,568.03	$2,100.00	$2,100.00
19	Concrete Flared Drive Approach	2,180	SF	$4.75	$10,355.00	$4.95	$10,791.00	$4.75	$10,355.00	$4.67	$10,180.60

DRAPER CITY

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Bid Item	Description	Quantity	Unit	Unit Cost	Item Total	Unit Cost	Item Total	Unit Cost	Item Total	Unit Cost	Item Total
20	Concrete Driveway Transition	1,710	SF	$4.75	$8,122.50	$5.50	$9,405.00	$4.57	$7,814.70	$4.67	$7,985.70
21	Asphalt Driveway/Shoulder Transition	2,510	SF	$4.00	$10,040.00	$1.95	$4,894.50	$5.16	$12,951.60	$3.15	$7,906.50
22	Gravel Driveway Transition	762	SF	$1.00	$762.00	$0.85	$647.70	$1.67	$1,272.54	$1.25	$952.50
23	Concrete Curb & Gutter	1,327	LF	$18.00	$23,886.00	$17.20	$22,824.40	$17.55	$23,288.85	$17.20	$22,824.40
24	Imported Embankment Fill	162	CY	$10.00	$1,620.00	$31.25	$5,062.50	$29.09	$4,712.58	$21.47	$3,478.14
25	Untreated Base Course	724	CY	$30.00	$21,720.00	$29.65	$21,466.60	$33.73	$24,420.52	$40.00	$28,960.00
26	HMA Surface Course (PG 64-22)	476	Ton	$75.00	$35,700.00	$70.20	$33,415.20	$77.83	$37,047.08	$66.90	$31,844.40
27	Manhole to Finish Grade	4	Ea	$500.00	$2,000.00	$366.00	$1,464.00	$402.50	$1,610.00	$625.00	$2,500.00
28	Pavement Striping and Marking	1	LS	$3,000.00	$3,000.00	$4,590.00	$4,590.00	$2,903.75	$2,903.75	$4,770.20	$4,770.20
Schedule A Subtotal					**$209,788.50**		**$217,280.70**		**$237,454.39**		**$243,182.97**
Schedule B											
29	Irrigation Design	1	LS	$1,000.00	$1,000.00	$525.00	$525.00	$2,323.00	$2,323.00	$2,332.00	$2,332.00
30	Irrigation System Complete	7	Ea	$1,000.00	$7,000.00	$981.00	$6,867.00	$1,092.50	$7,647.50	$2,002.00	$14,014.00
31	Bubbler Irrigation System Complete	2	Ea	$850.00	$1,700.00	$805.00	$1,610.00	$920.00	$1,840.00	$1,320.00	$2,640.00
32	Park Strip Top Soil	44	CY	$30.00	$1,320.00	$19.40	$853.60	$29.54	$1,299.76	$25.52	$1,122.88
33	Park Strip Sod	3,567	SF	$0.50	$1,783.50	$0.40	$1,426.80	$0.56	$1,997.52	$0.50	$1,783.50
34	Park Strip Weed Fabric	2,628	SF	$0.55	$1,445.40	$0.35	$919.80	$0.24	$630.72	$0.26	$683.28
35	Park Strip Rock Mulch	2,628	SF	$1.25	$3,285.00	$0.75	$1,971.00	$1.49	$3,915.72	$0.77	$2,023.56
36	Landscape Edging	14	LF	$12.00	$168.00	$22.50	$315.00	$20.75	$290.50	$22.00	$308.00

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Bid Item	Description	Quantity	Unit	Unit Cost	Item Total	Unit Cost	Item Total	Unit Cost	Item Total	Unit Cost	Item Total
37	Tree	42	Ea	$325.00	$13,650.00	$220.00	$9,240.00	$326.10	$13,696.20	$293.70	$12,335.40
38	Restore Private Landscaping	1	LS	$4,000.00	$4,000.00	$8,260.00	$8,260.00	$10,886.89	$10,886.89	$2,939.20	$2,939.20
39	Install 2-Rail Vinyl Fence	20	LF	$20.00	$400.00	$28.80	$576.00	$29.04	$580.80	$38.50	$770.00
Schedule B Subtotal					**$35,751.90**		**$32,564.20**		**$45,108.61**		**$40,951.82**
Grand Total					**$245,540.40**		**$249,844.90**		**$282,563.00**		**$284,134.79**

4. Lyndon Jones Construction $309,613.63

Project Manager

CONSTRUCTION AGREEMENT #13-159

11800 SOUTH SIDEWALK PROJECT

PART 1. GENERAL

Date: This Contract made this 28th day of May, 2013

1.1 **Contractor**
Name: Acme Construction, Inc.
Address: 9524 Fuelner Park Rd; West Jordan, UT 84081
which is a corporation organized in the State of Utah.
Telephone: 801-280-1232
Contractor's Representative: Buster Hafen
Utah License number: 238430-5501

1.2 **Owner** (herein called "Owner" or "City")

Draper City Corporation, a municipal corporation of the State of Utah. The Draper Engineering Division is located at 1020 East Pioneer Road; Draper, Utah 84020.

Telephone: (801) 576-6546
Fax: (801) 576-6388

1.3 **Project**. This project shall be known as the **11800 South Sidewalk Project** which consists of, but is not limited to, construction of sidewalk and other roadway improvements on 11800 South Street between 300 East and 700 East, more specifically described in the Contract Documents, herein called the "Project."

1.4 **Engineer** means the City's representative and agent for this Construction Contract, or any other person designated to the Contractor in writing by the City Engineer.

1.5 **Construction Contract**. The construction contract shall consist of the following documents: the Invitation to Bid, Bidder Information, Additional Instructions to Bidders, Bid of the Contractor, Bid Bond, Conditional Notice of Award, this Construction Agreement, Notice to Proceed, Insurance Requirements, the City of Draper Engineering Standards and Specifications, Project Drawings, Change Orders or Supplemental Agreements, including the Bid Forms, Addenda to the Drawings and\or Specifications, and Measurement and Payment, collectively referred to as the Contract Documents, all of which are incorporated herein by reference. In the case of conflict in the Contract Documents, the documents shall govern in the order set out in General Conditions.

1.6 **DEFINITIONS.** The definitions of words set out in the General Conditions for Municipal Construction (sometimes herein called the "General Conditions") shall apply throughout this Agreement unless the context clearly indicates otherwise.

1.7 **INSURANCE.** The Contractor shall acquire and maintain during the term of the Contract insurance in the amount specified in **EXHIBIT A** attached hereto. Coverage shall be maintained for one year after the Project Acceptance for Maintenance Date.

1.8 **LIABILITY.** The Contractor shall save, keep and hold harmless the City, its officers, agents, employees and volunteers from all damages, costs or expenses in law or equity, including attorneys fees, that may at any time arise or be set up because of damages to property, bodily injury or personal injury received by reason of or in the course of performing Work which may be occasioned by any willful, negligent or wrongful acts or omissions of the Contractor, any of the Contractor's employees or any subcontractor. The City will not be held liable for any accident, loss or damage to the Work prior to its completion and acceptance.

1.9 **NO DAMAGE CLAUSE.** The Contractor herewith specifically waives claims against the City for damages for any hindrance or delay not caused by the fault of the City. Contractor will, in lieu thereof, be granted extensions of time for delays not the fault of the Contractor, his suppliers, subcontractors, or sub-subcontractors. The Contractor shall not make any claim for damages against the City for any hindrance or delay for claims made until after the City has been notified of the claim and has had 24 hours to respond.

1.10 **PERFORMANCE AND PAYMENT BONDS.** Contractor shall furnish to the City a payment and performance bond satisfactory to the City guaranteeing Contractor's payment and performance, in the amount, for each separately, of 100% of the contract Amount according to the terms of this Agreement. All materials, equipment, parts and labor and any necessary corrections to the Project shall be guaranteed for a period of one year following the date of Project Acceptance for Maintenance, which guarantee shall be covered by the terms of the performance bond.

PART 2. SCOPE OF WORK

2.1 **Generally.**

A. Contractor shall furnish all labor, materials, equipment, bonds, insurance, permits, fees, and all other charges, expenses or assessments of whatever kind or character to complete the Project, consisting of the work described in the Contract Documents.

B. Work shall conform in all ways to the most recent edition of the Draper City Standard Specifications and Details for Municipal Construction, along with all existing ordinances.

C. As required by Section 63G-11-103, Utah Code Annotated (1953 as amended), Contractor certifies it has registered and participates in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the state.

2.2 **Subcontractors.** No part of this contract shall be subcontracted by the Contractor without approval by the Engineer. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by Contractor. The Contractor shall not award work to any Subcontractor in excess of fifty percent (50%) of the contract price, without prior written approval of the City.

2.3 **City's Right to Order Changes in the Work.** Notwithstanding other provisions of this Agreement, the City may, upon written notice to the Contractor, order changes in the work, provided that doing so does not alter the scope of the contract work. If the Contractor believes that any such change cannot be performed within the time allowed for the Project, or for that phase of the Project, or that such a change does alter the scope of the contract work, or that Contractor cannot perform the change except at additional cost, then it shall promptly so notify the Engineer in writing.

2.4 **City's Unilateral Suspension of Work.** Notwithstanding other provisions of this Agreement, the City may, upon written notice to the Contractor, order suspension of the Work for any reason, upon written notice to the Contractor.

2.5 **Differing Site Conditions.** Information provided about the Project construction site is provided by the City or its agents as a convenience to the Contractor and its subcontractors. The Contractor should verify all such information independently unless the parties specifically agree in writing otherwise. In the event that the Contractor encounters site conditions which would have been reasonably foreseeable from a visit to the Project site, and from a review of the materials provided to the Contractor by the City prior to the Contractor's bid submission, then the Contractor shall be responsible for all additional Work, costs and expenses associated with those differing site conditions. If, on the other hand, the Contractor encounters site conditions which would not have been reasonably foreseeable from a visit to the Project site, and from a review of the materials provided to the Contractor by the City prior to the Contractor's bid submission, then the Contractor shall be paid for the reasonable costs and expenses of the Work resulting from the differing site conditions as provided in Section 6.02 of the

General Conditions.

PART 3. MONEY AND TIME

3.1 CONTRACT PRICE

A. The Contract Price includes the cost of the Work specified in the Contract Documents, plus the cost of all bonds, insurance, permits, fees, and all charges, expenses or assessments of whatever kind or character.

B. The schedule of prices awarded as separate items from the bid schedule are as follows:

Bid Item	Description	Quantity	Unit	Unit Cost	Item Total
Schedule A					
1	Storm Water Pollution Prevention	1	LS	$1,110.00	$1,110.00
2	Traffic Control System	1	LS	$9,120.00	$9,120.00
3	Pothole Utilities	1	LS	$1,220.00	$1,220.00
4	Clearing and Grubbing	1	LS	$20,940.00	$20,940.00
5	Roadway Excavation	1,280	CY	$16.60	$21,248.00
6	Relocate Private Sewer Cleanout	3	Ea	$499.00	$1,497.00
7	Relocate Private Water Facilities	1	LS	$2,370.00	$2,370.00
8	Remove Fence	356	LF	$2.95	$1,050.20
9	Relocate Mail Box	10	Ea	$186.00	$1,860.00
10	Remove Sign	1	Ea	$140.00	$140.00
11	Relocate Sign	3	Ea	$130.00	$390.00
12	Remove Concrete Drainage Structure	2	Ea	$533.00	$1,066.00
13	Remove Drainage Pipe	8	LF	$61.80	$494.40
14	15" Reinforced Concrete Pipe	66	LF	$76.70	$5,062.20
15	Single Grate Hooded Inlet Box	2	Ea	$2,190.00	$4,380.00
16	Double Grate Curb Inlet Box	1	Ea	$2,670.00	$2,670.00
17	Concrete Sidewalk	6,678	SF	$4.00	$26,712.00
18	ADA Ramp (2'x8' Detectable Warning)	1	Ea	$1,390.00	$1,390.00
19	Concrete Flared Drive Approach	2,180	SF	$4.95	$10,791.00
20	Concrete Driveway Transition	1,710	SF	$5.50	$9,405.00
21	Asphalt Driveway/Shoulder Transition	2,510	SF	$1.95	$4,894.50
22	Gravel Driveway Transition	762	SF	$0.85	$647.70
23	Concrete Curb & Gutter	1,327	LF	$17.20	$22,824.40
24	Imported Embankment Fill	162	CY	$31.25	$5,062.50
25	Untreated Base Course	724	CY	$29.65	$21,466.60

26	HMA Surface Course (PG 64-22)	476	Ton	$70.20	$33,415.20
27	Manhole to Finish Grade	4	Ea	$366.00	$1,464.00
28	Pavement Striping and Marking	1	LS	$4,590.00	$4,590.00
Schedule A Subtotal					**$217,280.70**
Schedule B					
29	Irrigation Design	1	LS	$525.00	$525.00
30	Irrigation System Complete	7	Ea	$981.00	$6,867.00
31	Bubbler Irrigation System Complete	2	Ea	$805.00	$1,610.00
32	Park Strip Top Soil	44	CY	$19.40	$853.60
33	Park Strip Sod	3,567	SF	$0.40	$1,426.80
34	Park Strip Weed Fabric	2,628	SF	$0.35	$919.80
35	Park Strip Rock Mulch	2,628	SF	$0.75	$1,971.00
36	Landscape Edging	14	LF	$22.50	$315.00
37	Tree	42	Ea	$220.00	$9,240.00
38	Restore Private Landscaping	1	LS	$8,260.00	$8,260.00
39	Install 2-Rail Vinyl Fence	20	LF	$28.80	$576.00
Schedule B Subtotal					**$32,564.20**
Grand Total					**$249,844.90**

GRAND TOTAL IN WRITING: Two Hundred and Forty-Nine Thousand, Eight Hundred and Forty-Four Dollars and Ninety Cents

3.2. **Contract Time, Changes in Contract Time.** The work on this Project shall commence within ten (10) days of receipt of the Notice to Proceed, which will be provided for each schedule. The work for **Schedule A** shall be completed within a maximum of **60 calendar days** of the commencement of the project. The work for **Schedule B** shall be completed within a maximum of **100 calendar days** of the commencement of the project. The parties agree that this is a reasonable time for completion of the work. Work stoppage due to inclement weather conditions and other factors must be approved by the Engineer. The Contractor shall notify the Engineer of a claim of delay due to inclement weather within one (1) week of the days claimed as delayed. Notwithstanding other provisions of this Agreement, the City may, upon written notice to the Contractor, change the time of performance of the Agreement, provided that doing so does not alter the scope of the contract work. If the Contractor believes that any such change cannot be performed except at additional cost or without the extension of time of performance of the contract, or an extension of time for that phase of the contract, then it shall promptly so notify the Engineer in writing. Time is of the essence of this agreement.

3.3 **Punch List Time**

A. Pursuant to Section 5.04 of the General Conditions, the Work will be complete and ready for final payment within thirty (30) days after the date Contractor receives Engineer's Final Inspection Punch List unless exemptions of specific items are granted by Engineer in writing or an exception has been specified in the Contract Documents.

B. Permitting the Contractor to continue and finish the Work or any part of the Work after the time fixed for its completion, or after the date to which the time for completion may have been extended, whether or not a new completion date is established, shall in no way operate as a waiver on the part of the Owner of any of Owner's rights under this Agreement.

3.4 **LIQUIDATED DAMAGES.**

A. **Late Completion: Time is of the essence of the Contract Documents.** Contractor agrees that Owner will suffer damage or financial loss if the Work is not completed on time or within any time extensions allowed in accordance with Section 5.06 of the General Conditions. Contractor and Owner agree that proof of the exact amount of any such damage or loss is difficult to determine. Accordingly, instead of requiring any such proof of damage or specific financial loss for late completion, Contractor agrees to pay the following sums to the Owner as liquidated damages and not as a penalty.

1. **Late Contract Time Completion: One Thousand Dollars ($1,000)** for each day or part thereof that expires after the Contract Time until the Work is accepted as substantially complete as provided in Section 5.03 of the General Conditions, which the parties believe is a fair estimate of the loss the City will suffer due to the difficulty of actually assessing the damages the City will suffer in the event of such a delay, and which the parties agree is not a penalty.

2. **Late Punch List Time Completion: One Thousand Dollars ($1,000)** for each day or part thereof if the Work remains incomplete after thirty (30) days following the time the punch list is delivered to the Contractor, provided that no such damages shall be collected until after the Contract Completion Date. The parties agree that this is not a penalty. The Punch List shall be considered delivered on the date it is transmitted by facsimile, hand delivery or received by the Contractor by certified mail.

B. **Work Sequence Completion:** Time is of the essence of sequenced work. If a work sequence is specified, then for each day or part thereof that exceeds the specified time and until Engineer determines such work sequence is Substantially Complete, the Contractor agrees to pay the following sums per day to the OWNER as liquidated damages and not as a penalty.

C. **Survey Monuments**: No land survey monument shall be disturbed or moved until Engineer has been properly notified and the Engineer's surveyor has referenced the survey monument for resetting. The parties agree that upon such an unauthorized

disturbance it is difficult to determine the damages from such a disturbance, and the parties agree that Contractor will pay as liquidated damages the sum of $1,000 to cover such damage and expense. Only the Engineer's licensed surveyor shall reset the monument, and at the Contractor's sole cost.

D. **Interruption of Public Services**: No interruption of public utility services or damage to public service facilities, defined herein as an interruption to City potable water supply, street lighting, storm water or irrigation systems, herein called Public Service Facilities, shall be caused by Contractor, its agents or employees, without the Engineer's prior approval. Owner and Contractor agree that in the event Owner suffers damages from such interruption, the amount of liquidated damages stipulated above shall not be deemed to be a limitation upon Owner's right to recover the full amount of such damages. Contractor shall immediately notify the owner of the public utility if Contractor, or any subcontractor or other agent or employee of Contractor interrupts or damages Public Service Facilities. In addition, the Contractor shall immediately notify the Engineer of any such interruption, and in the case of an interruption to Public Service Facilities or services, the Contractor shall immediately notify the Public Works Department by the fastest means possible. The Public Works Departments telephone number is 576-6517; the City's emergency dispatch number is 831-4000. The City ENGINEERING or Public Utilities Departments may sometimes also be reached by dialing 911. Contractor shall pay within 30 days of receiving a written statement for any charges for repairs or damages arising out of the damage to or interruption of Public Service Utilities or services.

E. **Deduct Damages from Monies Owed Contractor**: Owner shall be entitled to deduct and retain liquidated damages out of any money which may be due or become due the Contractor. To the extent that the liquidated damages exceed any amounts that would otherwise be due the Contractor, the Contractor shall be liable for such amounts and shall return such excess to the Owner.

3.5 PAYMENT PROCEDURES

A. **Progress Payments**. Contractor shall submit applications for payment, but not more often than once every 30 days. Payment shall not become due or payable for any contract item not provided or installed by Contractor according to the Contract Documents, unless otherwise approved by the Engineer. At no time shall the aggregate amount of money paid to the Contractor in proportion to the Contract Amount be greater than the proportion of the work performed at that point to the total Project work.

1. **Withholding Payment.** Owner reserves the right to withhold payment from Contractor for non-compliance with any provision of the Contract Documents.

B. **Final Payment.**

1. **Submittal.** Final payment shall not be made until the Contractor has delivered and Engineer has accepted the following submittals:

a. A written request for final payment, signed by the Contractor's Representative,

b. An affidavit from the Contractor's Representative, and reasonable evidence that all payments due and owing to subcontractors , laborers, suppliers of equipment and Materials, and all other outstanding indebtedness of the Contractor related to the Project have been fully paid, discharged, or waived by the person owed the money;

c. All Project Material inspection and testing reports,

d. Evidence that the performance bond has been extended for the one year warranty period; and

e. Waiver of Lien, Full and Final Release form.

2. **Evidence of Payment.** The Engineer may, at his sole option, accept evidence by the Contractor that arrangements have been made for such payments based thereon.

3. **Payment to Subcontractors, Suppliers**. If the City reasonably believes that Contractor has failed to pay Subcontractors, suppliers of Materials, or laborers for work on the Project within a reasonable time of when payment is due, then City may, at its discretion, either pay unpaid bills and withhold from the Contractor's payment, or make a claim against any bond for this Project in the amount of the Engineer's estimate of the amount of money he deems sufficient to pay any such lawful claim. The City shall notify the Contractor of any such payment.

4. **Price Adjustments:** City may, in its discretion, make partial payment to the Contractor for certain non-conforming work in advance of any negotiated settlement reached between the Contractor and the City, provided the Contractor requests in writing that this be done, and the Engineer approves it. Contractor agrees that any such payments made by the City are "payments in advance" and that any money which becomes due when the final settlement is negotiated will not constitute payments "withheld" or "retained" under State law.

5. **City Released From Claims**: The payment and acceptance of the final Contract Price due and the adjustment and payment for any Work done in accordance with any alterations of the same, shall release the City from any and all claims of Contractor on account of Work performed under the Contract Documents or any Change Order thereof, except for those claims specifically agreed to as reserved and unresolved by the City.

3.6 **Extra Work.** No money will be paid to the Contractor for any additions, deletions or revisions in the Work as stipulated in the General Conditions, unless a contract for such has been made in writing and executed by the City and Contractor.

3.7 **Bond Releases.** In addition to those remedies allowed the City under Subsection 3.5(B)(3) above, the City may withhold release of a reasonable amount of the payment bond sufficient to cover any outstanding indebtedness or monies owed or claimed by any person who supplied work or materials to the Project, or any uncorrected substandard work, until Contractor supplies a release of the City satisfactory to it signed by all persons who have supplied labor or materials to the Project. The Contractor shall supply to the Engineer within a reasonable time after his request a signed statement verifying all the suppliers, subcontractors and other persons who have supplied labor or materials to the Project.

3.8 **Change Orders.** Any change order which increases the total contract amount must be approved by a written certification by the ENGINEER.

PART 4. DEFAULT

4.1 **DEFAULT EVENTS.** Upon the occurrence of one or more of the following events:

A. **Breach.** If Contractor or any Subcontractor should substantially violate any of the provisions of this contract;

B. **Substantial Failure to Perform.** If Contractor substantially fails to perform any part of this Agreement;

C. **Repeated Failure or Inability to Perform.** If Contractor repeatedly fails or becomes unable to perform the services under this Agreement as required herein, or substantially fails to provide services under this Agreement for a period of 72 hours;

D. **Insolvency, Inability to Pay Debts, Bankruptcy.** If Contractor (i) shall become insolvent in a bankruptcy sense; (ii) shall be generally not paying its debts as they become due, or within a reasonable time thereafter; (iii) shall suffer, voluntarily or involuntarily, the entry of an order by any court or governmental authority authorizing the appointment of or appointing of a custodian (as that term is defined in 11 U.S.C. §101[10]), receiver, trustee, or other officer with similar powers with respect to it or any portion of its property which remains un-dismissed for a period of 90 days; (iv) shall suffer, voluntarily or involuntarily, with or without judicial or governmental authorization, any such custodian, receiver, trustee, or other officer with similar powers to take possession of any part of its property which third party remains in possession for an excess of 90 days; (v) shall suffer, voluntarily or involuntarily, the filing of a petition respecting an assignment for the benefit of creditors which is not dismissed for a period of 90 days; (vi) shall be dissolved; (vii) shall become the subject of any proceeding, suit, or action at law or in equity under or relating to any bankruptcy, reorganization or arrangement of debt, insolvency, readjustment of debt, receivership, liquidation,

or dissolution law or statute or amendments thereto to be commenced by or against it or against any of its property which remains un-dismissed for a period of 90 days; (viii) shall voluntarily suspend substantially all of its business operations; (ix) shall be merged with, acquired by, or otherwise absorbed by any individual, corporation, or other business entity or organization of any kind except for any individual corporation or other business entity or organization which is controlled by, controlling, or under common control with the Contractor; or (x) shall take action for the purpose of any of the foregoing,

Then the City may, after serving ten (10) days' written notice (or such time set out in the notice in the City's reasonable discretion) on the Contractor and its surety of the City's intention to terminate the services of Contractor, and if within such notice period after serving such notice, the violation is not corrected to City's reasonable satisfaction, may take over the work and prosecute it to completion by contract or by any other method it may deem advisable. The Contractor and the bonding company shall be liable to the City for any reasonable cost occasioned by the City in excess of the amount agreed for such work as provided in this Agreement.

4.2 **HEARING.** The Contractor shall be entitled to a hearing before the City's department head responsible for the Project, or his or her designee(s) upon the issue of termination if it submits a written request there for within seven (7) days of the service of the notice of the City's intent to terminate. The Contractor shall be entitled to be heard at such hearing on the issue of termination. The Contractor shall not bring an action against the City, its officers, agents or employees arising out of or relating to the termination of this Agreement before the decision is issued by the City's hearing officer(s).

4.3 **WAIVER.** Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of any provision of this Agreement shall not be construed to be a modification of the terms of this Agreement, unless stated to be such in writing, signed by the City's authorized representative.

4.4 **CONTINUE PERFORMANCE.** The Contractor shall continue the performance of this agreement to the extent not terminated under the provisions of this Part.

4.5 **REMEDIES NOT EXCLUSIVE.** The rights and remedies of the City provided in this part shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

PART 5. MISCELLANEOUS COVENANTS

5.1 ASSIGNMENT NOT BINDING WITHOUT WRITTEN CONSENT

A. City and Contractor agree no assignment of any right or interest in the Contract Documents will be made without the written consent of the City and the Contractor. No assignment will release or discharge the City or the Contractor from any duty or responsibility under the Contract Documents unless specifically authorized in writing.

B. Contractor shall make no assignment of money that is due without the City's written consent (except to the extent that the effect of this restriction may be limited by law or regulation).

5.2 **BINDING TERMS.** City and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

5.3 **CONTROLLING LAW.** This Agreement shall be construed in accordance with and enforced under the laws of the State of Utah.

5.4 **ASSIGNMENT.** The Contractor shall not assign nor transfer any interest in this agreement without the prior written consent of the City, provided however, that claims for compensation due or to become due the Contractor from the City under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment shall be promptly furnished to City.

5.5 **UNENFORCEABLE CONTRACT, WAIVERS.** In the event that any provision of this contract shall be ruled invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same provision by the other party.

5.6 **ENTIRE AGREEMENT.** This contract represents the entire integrated agreement between City and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written modification signed by the parties.

5.7 **WORKING HOURS.** All work performed by the Contractor, its subcontractors, material-men, agents and employees shall be performed during work hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday unless special prior arrangements for other hours have been requested and approved in writing by the Engineer. Contractor shall minimize noise disturbance to the surrounding neighborhood by maintaining efficient noise attenuation devices on all noise generating equipment as determined by the Engineer and Draper City Council.

5.8 **THIRD PARTY RIGHTS.** Nothing herein is intended to confer rights of any kind in any third party.

5.9 **PARTIES' REPRESENTATIVES.** For purposes of notice required or desired by the parties, or communication involving the services under this Agreement, such notice or communication shall be deemed to have been given when personally delivered, or sent by facsimile transmission, or mailed by certified mail, postage pre-paid, to the parties at the following addresses:

Contractor: Contractor's Representative designed at the top of this document, or such other person designated in writing by the Contractor's chief administrative officer, at the Contractor's address set out first above;

Draper City: Engineer, at the address set out first above for the City, or when given to such other person as either of the above representatives shall designate in writing. The designation of any address may be changed by notice given in the same manner as provided in this paragraph.

5.10 **SEVERABILITY**. Should any part of this Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining provisions, which remaining provisions shall remain in full force and effect as if this Agreement had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid. If any provision of this Agreement is held invalid or unenforceable with respect to particular circumstances, such provision shall nevertheless remain in full force and effect in all other circumstances.

5.11 **INTERPRETATION**. The parties hereto acknowledge that the Agreement has been prepared after extensive negotiations and the opportunity for each party to review the Agreement with and obtain advice from their respective legal counsel. In construing the Agreement or any Addendum to it, the fact that one party or the other may have drafted its various provisions shall not affect the interpretation of such provisions.

5.12 **CITY'S GENERAL RIGHT TO TERMINATE.** The City may terminate this Agreement for any reason for its own convenience upon notice to the Contractor, provided that the City shall pay Contractor for Work performed by the Contractor, its subcontractors, and materials supplied according to the Contract Documents. The City shall not owe the Contractor, its subcontractors or sub-subcontractors, any of their officers, employees, or suppliers damages for early termination other than as provided in this paragraph.

5.13 **COMMUNICATIONS, MEETINGS.** Contractor's representative shall promptly and fully respond to communications from the City Representative about the Project work, and shall meet with the City Representative about the Project as often at such times as the City Representative shall request.

IN WITNESS WHEREOF, the parties have entered into this agreement on the day and year set out at the top of this Agreement.

DRAPER CITY

_____
DRAPER CITY MAYOR

ATTEST: _____
DRAPER CITY RECORDER

CONTRACTOR

_____

Type or print: _____

Title: _____

ATTEST: (if corporation)

_____

Title: _____

CORPORATE ACKNOWLEDGEMENT

STATE OF _____)
: ss
County of _____)

On the _____ day of _____, 20____, personally appeared before me _____ and _____, who, being by me duly sworn on oath did say that they are the _____and _____ of _____ corporation, and that the foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors; and said persons acknowledged to me that said corporation executed the same.

_____
NOTARY PUBLIC,

Residing in _____

My commission Expires: _____

EXHIBIT A
INSURANCE REQUIREMENTS

INSURANCE REQUIREMENTS FOR
PARTIES CONTRACTING WITH DRAPER CITY

PROJECT: 11800 South Sidewalk Project
DATE: 28 May 2013

Contracting party shall procure and maintain for the duration of the contract insurance against any claims which may arise from or in connection with the performance of the work hereunder by the contracting party, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contracting party's bid.

A. MINIMUM LIMITS OF INSURANCE

Contracting party shall maintain limits no less than:

1. General Liability: **$1,000,000** combined single limit per occurrence, **$2,000,000** aggregate, for bodily injury, personal injury and property damage. Broad Form Commercial General Liability is required.

2. Automobile Liability: **$1,000,000** combined single limit per accident for bodily injury and property damage. "Any Auto" coverage is required.

3. Workers' Compensation and Employer's Liability: (1) Workers' compensation limits as required by the Labor Code of the State of Utah and (2) Employer's Liability limits of **$ 500,000** per accident.

Contracting party shall provide City with copies of certificates for all policies with an endorsement that they are not subject to cancellation without thirty (30) calendar days prior to written notice to the City. The City, its officers and employees, shall be named as additionally insured on the Contracting party's general and automobile liability insurance.

CONSENT ITEM #E

DRAPER CITY

TO: Honorable Mayor and City Council

FROM: Joe Bryant, City Treasurer/Purchasing Agent

DATE: May 21, 2013

SUBJECT: Surplus Property

RECOMMENDATION

Approve auction of surplus property as listed below via Public Surplus Auction website.

DISCUSSION

The following Desk top computers, scanner, cell phones and digital camera to be sold as surplus property.

Items for Auction:	Estimated Value
4- Dell Optiplex GX 620 Desk Top Computers	$ 200.00
5-Dell Optiplex 160 mini Desk Top Computers	$ 150.00
1-Fujitsu Scanner	$ 50.00
2- Cell phones-Flip Style	$ 20.00
1- Sony Digital Camera 5.1 mega pixels	$ 15.00

FISCAL IMPACT

Proceeds from auction and - $435.00 (Estimated)

Joe Bryant | Finance Department

1020 E Pioneer Rd | Office: (801) 576-6514 | Fax: (801) 576-6389 | joe.bryant@draper.ut.us

AGENDA ITEM #6

ORDINANCE NO. 1045

AN ORDINANCE AMENDING THE DRAPER CITY ZONING MAP CHANGING THE ZONING OF 1.44 ACRES OF PROPERTY LOCATED WITHIN DRAPER CITY, STATE OF UTAH, FROM RA2 TO CN, OTHERWISE KNOWN AS THE QUILTER'S LODGE ZONE CHANGE

WHEREAS, the City has received a request submitted by the authorized agent of the subject parcel requesting certain described real property in Draper City, Salt Lake County, State of Utah, be rezoned; and

WHEREAS, the Planning Commission has reviewed and made a recommendation to the City Council concerning the proposed zoning change and amendment to the Official Zone District Map of Draper City, and the City Council has found the proposed zoning change to be consistent with the City's General Plan; and

WHEREAS, all appropriate public hearings have been held in accordance with Utah law to obtain public input regarding the proposed revisions to the Zone District Map.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH:

Section 1. Zoning Map Amendment. The following described real property located at 12214 and 12244 S. 900 E. within Draper City, Salt Lake County, State of Utah, previously zoned RA2 as shown on the Draper City zone district map, hereinafter referred to as "the property," is hereby rezoned to CN:

Parcel 28-29-306-005
BEG AT NE COR LOT 6, BLK 19, DRAPERVILLE; W 127 FT, S 148.5 FT; E 127 FT; N 148.5 FT TO BEG

Parcel 28-29-306-006
LOT 7 BLK 19 DRAPERVILLE

Section 2. Severability Clause. If any part or provision of this ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this ordinance, and all provisions, clauses and words of this ordinance shall be severable.

Section 3. Effective Date. This ordinance shall become effective immediately upon publication or posting or thirty (30) days after final passage, whichever is closer to the date of final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, ON THIS _____ DAY OF _____, 2013.

ATTEST: **DRAPER CITY**

By:_____ **By:**_____
City Recorder **Mayor**

REQUEST FOR COUNCIL ACTION

To:	**Mayor & City Council**
From:	**Dennis Workman**
Date:	**5-22-13 for 5-28-13 CC hearing**
Subject:	**Quilter's Lodge Zone Change**
Applicant Presentation:	**Leesa Clark-Millerberg**
Staff Presentation:	**Dennis Workman**

RECOMMENDATION:
To approve Ordinance 1045, as recommended by the Planning Commission

BACKGROUND AND FINDINGS:
This is a request for a zone change from RA2 to CN for property located on the southwest quadrant of the intersection of 900 E. and 12200 S. The request consists of two parcels totaling 1.44 acres. Each of the parcels carries the land use designation of Neighborhood Commercial. This rezone application is driven by the owner of the corner parcel, who wishes to establish a business that combines three uses: Retail, Personal Instruction Service, and Bed & Breakfast (the latter requiring a conditional use permit in the CN zone). The business will be known as Quilter's Lodge. The owner of the larger parcel is Capital Premium Financing, which is located on the west-abutting parcel and would like to expand into the subject parcel. The Planning Commission forwarded a positive recommendation with the following findings:

1. That Section 9-5-060 of the Draper City Code allows for the amendment of the City's zoning map.
2. That the proposed amendment is consistent with the goals, objectives and policies of the City's General Plan, which identifies the subject property as Neighborhood Commercial.
3. That all five findings for a zone change, as contained in 9-5-060(e), are satisfied.
4. That adequate facilities and services exist to serve the subject property, including but not limited to roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.
5. That the proposed zone change is harmonious with the overall character of existing development in the vicinity of the subject property.
6. That CN zoning already dominates the city block bounded by 800 and 900 East, and 12200 and 12300 South.
7. That the proposed amendment would not adversely affect adjacent property or the character of the neighborhood.

PREVIOUS LEGISLATIVE ACTION:
May 9, 2013: Planning Commission reviewed and recommended approval of the rezone request.

FISCAL IMPACT: Finance Review: _____
Approving this request will result in additional commercial property, which has the potential for greater revenue generation for the city.

SUPPORTING DOCUMENTS:
- Ordinance 1045
- Staff Report to PC with maps
- Minutes from PC hearing dated May 9, 2013

DRAPER CITY

Community Development Department
1020 East Pioneer Road
Draper, UT 84020
(801) 576-6539 Fax (801) 576-6526

STAFF REPORT
April 26, 2013

To: Planning Commission
Business Date: May 9, 2013

From: Development Review Committee
Prepared by Dennis Workman, Planner II

Re: **Quilter's Lodge Zone Change**

Application No.:	130322-12214S
Applicant:	Leesa Clark-Millerberg
Location:	12214 S. 900 E.
Zoning:	RA2
Parcel Size:	1.44 acres
Request:	Zone change from RA2 to CN

BACKGROUND

This is a request for a zone change from RA2 to CN for property located on the southwest quadrant of the intersection of 900 E. and 12200 S. The request consists of two parcels totaling 1.44 acres. Each of the parcels carries the land use designation of Neighborhood Commercial. Table 9-11-3 of the DCMC states that "if property is master-planned for neighborhood commercial zoning, then zone area can be 10,000 square feet." This rezone application is driven by the owner of the corner parcel, who wishes to establish a business that combines three uses: Retail, Personal Instruction Service, and Bed & Breakfast (the latter requiring a conditional use permit in the CN zone). The business will be known as Quilter's Lodge. The owner of the larger parcel is Capital Premium Financing, which is located on the west-abutting parcel and would like to expand into the subject parcel.

ANALYSIS

General Plan. The land use classification for this parcel is Neighborhood Commercial. When this designation was established in 2005, the following conditions were attached:

1. That future zoning requests and subsequent development proposals recognize in scale, density, and architecture, the residential components which remain in the area.
2. That details such as lighting of future development are addressed with respect to the surrounding neighborhood.

Criteria For Approval. The criteria for review and approval of a zoning map amendment request are found in Section 9-5-060(e) of the Draper City Municipal Code. Approval standards are as follows:

(e) Approval Standards. A decision to amend the text of this Title or the zoning map is a matter committed to the legislative discretion of the City Council and is not controlled by any one standard. However, in making an amendment, the City Council should consider the following factors:

(1) Whether the proposed amendment is consistent with goals, objectives and policies of the City's General Plan;
(2) Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;
(3) Whether the proposed amendment is consistent with the standards of any applicable overlay zone.
(4) The extent to which the proposed amendment may adversely affect adjacent property; and
(5) The adequacy of facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.

City Engineer. In a memo dated April 9, 2013, Carolyn Prickett states:

We have reviewed the subject zone map amendment application and recommend approval. In accordance with the provisions of Section 9-5-060(e)(5) of the Draper City Municipal Code, we speak primarily to the adequacy of facilities and services intended to serve the subject property. The following comments are provided for your consideration:

1. Sanitary sewer facilities appear to be provided to the existing home by South Valley Sewer District. Pending site plan applications will require a commitment to serve from the Sewer District that facilities are adequate to provide service for the proposed uses.

2. Culinary water service is provided by WaterPro/Draper Irrigation Company. Pending site plan applications will require a commitment to serve from the Water Provider indicating that adequate culinary water service and fire flow is available to the proposed use. Existing culinary service is stubbed to the existing property.

3. The property appears to have existing pressure irrigation service provided by Draper Irrigation. Typically, the commitment for pressure irrigation service is provided with the commitment for culinary service. Existing secondary service is stubbed to the existing property.

4. Storm water drainage and piping improvements do not exist fronting the property. On-site detention will be required in accordance with the provisions of the site plan requirements within the Draper City Municipal Code.

Fire Marshal. Don Buckley with the Unified Fire Authority states that "the fire department has no concerns with this zone change at this time but may want to review at time that a building is planned for permit."

STAFF RECOMMENDATION

Staff recommends that the Planning Commission send a positive recommendation to the City Council regarding the Quilter's Lodge zone change request, application 130322-12214S, based on the following findings:

1. That Section 9-5-060 of the Draper City Code allows for the amendment of the City's zoning map.
2. That the proposed amendment is consistent with the goals, objectives and policies of the City's General Plan, which identifies the subject property as Neighborhood Commercial.
3. That all five findings for a zone change, as contained in 9-5-060(e), are satisfied.
4. That adequate facilities and services exist to serve the subject property, including but not

limited to roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.

5. That the proposed zone change is harmonious with the overall character of existing development in the vicinity of the subject property.
6. That CN zoning already dominates the city block bounded by 800 and 900 East, and 12200 and 12300 South.
7. That the proposed amendment would not adversely affect adjacent property or the character of the neighborhood.

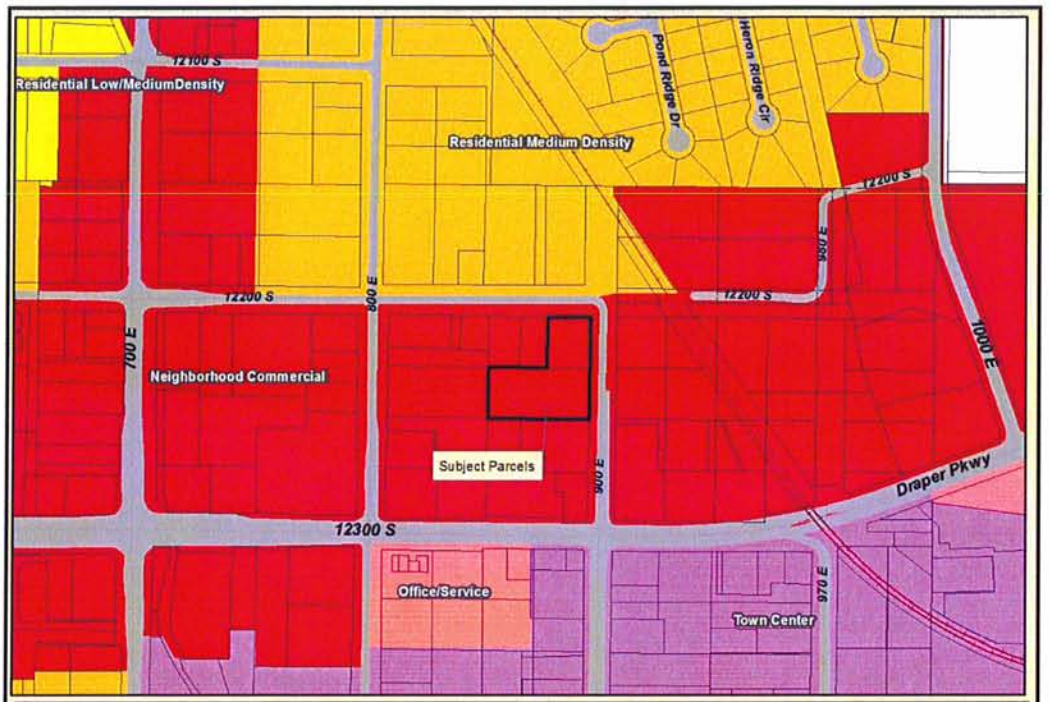
MODEL MOTION

Sample Motion for Positive Recommendation. "I move we forward a positive recommendation to the City Council regarding the Quilter's Lodge zone change request by Leesa Clark-Millerberg, application 130322-12214S, based on the findings listed in the staff report dated April 26, 2013, and the following additional findings:"

1. List additional findings, if any.

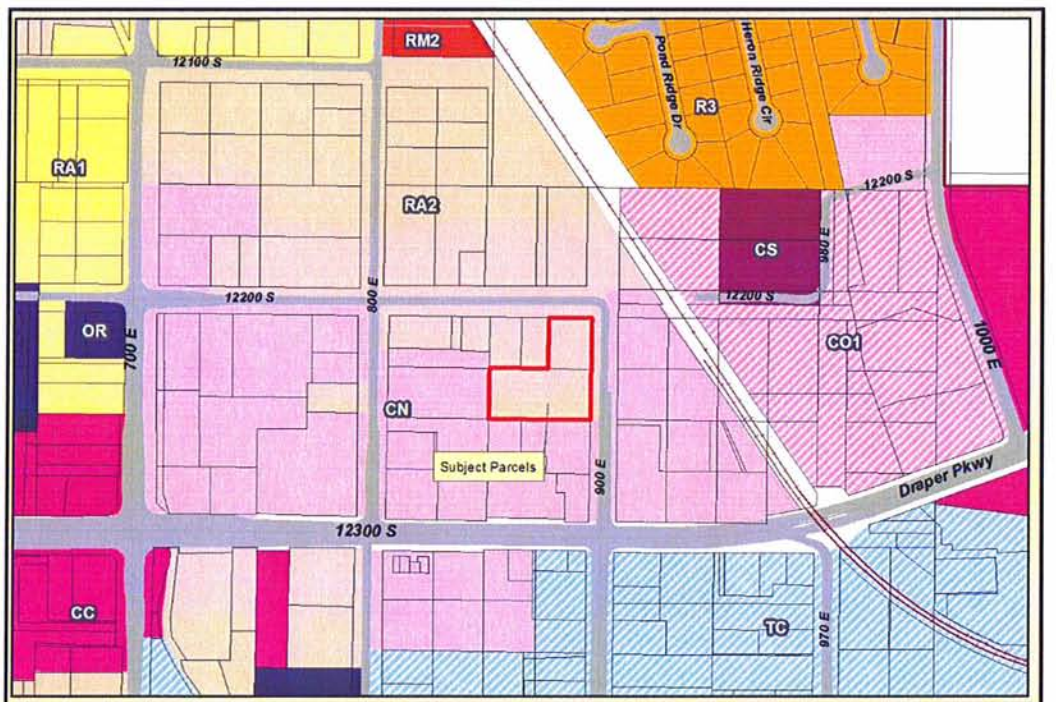
Sample Motion for Negative Recommendation. "I move we forward a negative recommendation to the City Council regarding the Quilter's Lodge zone change request, application 130322-12214S, based on the following findings:"

1. List findings.



Land Use Map for Quilter's Lodge Zone Change

DRAPER CITY



Zoning Map for Quilter's Lodge Zone Change

DRAPER CITY

Aerial Map for Quilter's Lodge Zone Change

DRAPER CITY

Approved 05/23/2013

MINUTES OF THE DRAPER CITY PLANNING COMMISSION MEETING HELD ON THURSDAY, MAY 9, 2013 IN THE DRAPER CITY COUNCIL CHAMBERS

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

PRESENT:	Vice-Chairperson Leslie Johnson; Planning Commissioners Ryan Clerico, Kent Player, and Marsha Vawdrey
ABSENT:	Chairperson Drew Gilliland and Planning Commissioner Jeff Head
STAFF PRESENT:	Russ Fox, Dennis Workman, Carolyn Prickett, and Angie Olsen
ALSO PRESENT:	Roll on File

Study Meeting:

6:16:40 PM
Study Business Items: The Commissioners reviewed the application for the business meeting and addressed questions to staff members.

**** Staff Reports were heard out of order.*

6:19:01 PM
2.0 **Staff Reports:** Staff provided a report regarding the recent action items of the City Council.

Business Meeting:

Vice-Chairperson Johnson explained the rules of public hearings and called the meeting to order at 6:32:35 PM .

6:32:56 PM
1.0 **Public Hearing: On the request of Leesa Clark-Millerberg to rezone 1.44 acres at 12214 South 900 East from RA2 Residential Agricultural zone to CN Neighborhood Commercial zone. The application is otherwise known as the Quilter's Lodge Zone Change, Application #130322-12214S.**

6:33:19 PM
1.1 Staff Report: Using the aid of a PowerPoint presentation and his staff report dated April 26, 2013, Planner Dennis Workman reviewed the details of the proposed application. He reviewed an aerial map to identify the location of the subject property; the entire block is in the neighborhood commercial land use designation and therefore the request to rezone the property for commercial use is in keeping

with the general land use in the area. He stated that 12200 South is the dividing line between long term commercial and long term residential uses. He stated the house currently located on the subject property will remain and be used as part of the business that will locate there. He added that the applicant will seek to purchase property from the City near the corner of the property, which should be allowed by the City Council because the City owns more right-of-way space than is needed in that area. He stated the parcel will be occupied by Capital Premium Financial; they are located on the west-abutting parcel and will expand onto the subject property. He stated the rezone request is in-line with the Master Plan for this area and staff recommends approval of the application based on the findings listed in the staff report.

6:36:20 PM

1.2 Applicant's Presentation: Lori Gabrielson, representing Capital Premium Finance, stated the current office building was previously a house that was remodeled and expanded to the front of the parcel it is located on. She stated they need more room, which is why they are looking to expand to the subject property. She stated she has been in contact with the Rasmussen's who own a piece of property behind the Capital Premium property in hopes of purchasing the property for future expansion and the current building was built with expansion in mind. She stated the acquisition of the piece of property will work very well for the business. She stated she is not absolutely sure what will happen to the house located on the subject property; it may be preserved and used as part of the business.

6:37:37 PM

1.3 Vice-Chairperson Johnson opened the public hearing; there were no persons appearing to be heard and the public hearing was closed.

6:38:03 PM

1.4 Commissioner Player asked to review the aerial photograph of the subject property to orient himself with the building located on the adjacent parcel and how the expansion of the business will happen. He asked what will happen to the parcel to north of the subject property. Mr. Workman stated it will be the future home of Quilter's Lodge, who is a party to the application. He stated that business will be located on the corner parcel of the subject property and it will be necessary for the owner to seek a conditional use permit (CUP) before opening her business. Commissioner Player stated that the new development will follow the development trend on properties located to the south.

6:40:02 PM

1.5 **Motion:** Commissioner Player moved to forward a positive recommendation to the City Council regarding the Quilter's Lodge zone change request by Leesa Clark-Millerberg, application 130322-12214S, based on the findings listed in the staff report dated April 26, 2013. Commissioner Clerico seconded the motion.

Findings:

1. That Section 9-5-060 of the Draper City Code allows for the amendment of the City's zoning map.
2. That the proposed amendment is consistent with the goals, objectives and policies of the City's General Plan, which identifies the subject property as Neighborhood Commercial.
3. That all five findings for a zone change, as contained in 9-5-060(e), are satisfied.
4. That adequate facilities and services exist to serve the subject property, including but not limited to roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.
5. That the proposed zone change is harmonious with the overall character of existing development in the vicinity of the subject property.
6. That CN zoning already dominates the city block bounded by 800 and 900 East, and 12200 and 12300 South.
7. That the proposed amendment would not adversely affect adjacent property or the character of the neighborhood.

6:40:58 PM

1.6 **Vote:** Commissioners Player, Clerico, and Vawdrey voted in favor of forwarding a positive recommendation to the City Council.

6:19:01 PM

2.0 **Staff Reports:** *Staff Reports were heard during the Study Meeting (above).*

6:41:26 PM

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

3.1 **A voice vote was taken with all in favor. The meeting adjourned at** 6:41:26 PM