

Approved 06.06.2013

**MINUTES OF THE DRAPER CITY PLANNING COMMISSION MEETING HELD ON THURSDAY, MAY 23, 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 Kent Player, and Marsha Vawdrey

ABSENT: Chairperson Drew Gilliland and Planning Commissioners Ryan Clerico and Jeff Head

STAFF PRESENT: Russ Fox, Dennis Workman, Dan Boles, Doug Ahlstrom, Don Buckley, and Angie Olsen

ALSO PRESENT: Roll on File

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**Study Meeting:**

[6:19:32 PM](#)

**Study Business Items:** The Commissioners reviewed the application for the business meeting and addressed questions to staff members.

**Business Meeting:**

Vice-Chairperson Johnson explained the rules of public hearings and called the meeting to order at [6:32:33 PM](#).

[6:33:14 PM](#)

1.0 **Action Item: Approval of minutes from the April 25, 2013 and May 9, 2013 Planning Commission meetings.**

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1.1 **Motion.** Commissioner Vawdrey made a motion to approve the minutes of the Planning Commission meetings held on April 25 and May 9, 2013 as presented. Commissioner Player seconded the motion.

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1.2 **Vote.** A roll call vote was taken with Commissioners Player, Vawdrey, and Johnson voting in favor of approving the minutes.

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- 2.0 **Public Hearing: On the request of Shon Allen, representing Wyngate Commons HOA for approval of a Conditional Use Permit (CUP) in the RM1 Residential Multifamily zone to allow gates in the community located at approximately 11620 South 700 East. The application is otherwise known as the Wyngate Commons Gate CUP, Application #130417-11620S.**

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- 2.1 Vice-Chairperson Johnson reported the Planning Commission has received some letters and comments relative to this application and she assumes comments will be made during the public comment portion of the meeting for this item. She stated Fire Marshall Don Buckley is present to address concerns regarding emergency access and traffic issues that have been brought to the attention of the Planning Commission; Mr. Buckley will be given time to speak following the staff report from Planner Boles.

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- 2.2 **Staff Report:** Using the aid of a PowerPoint presentation and his staff report dated May 14, 2013, Planner Dan Boles reviewed the details of the proposed application. He explained the application is a request for a Conditional Use Permit (CUP) to allow three gates at the Wyngate Commons development located at 11620 South 700 East. He reviewed a plat of the general area of the property and identified the subject property and noted 11620 South is a private drive that was installed at the time that Wyngate Commons was developed; the fact that it is a private road needs to be taken into consideration approval of gating. He then pointed out various developments and land uses surrounding the subject property. He highlighted the areas on the subject property of the proposed gate locations. He then reviewed photographs of the subject property and he identified current access points for the development. He then stated he would like Mr. Buckley to provide his input regarding the application.

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- 2.3 Mr. Buckley stated he is aware that the largest concern regarding this application has been relative to gates and emergency access. He reviewed a map of the area and explained one of the biggest concerns right now is the existence of jersey barriers in the area; those jersey barriers should be eliminated from the development regardless of whether the Planning Commission grant the CUP. He stated they impede emergency vehicle access; gates do not impede emergency vehicle access, though they can slow emergency vehicles to a certain extent. He noted the applicant is requesting three gates: a main gate, and two secondary gates. He noted one set of secondary gates would be installed where jersey barrier is currently located. He explained secondary gates must have a knox box or knox lock that can only be opened by the Fire Department; a fire fighter would need to exit his vehicle to unlock the secondary gate in order to gain access to the development. He stated the subdivision does not need secondary access, meaning secondary access is

required when there are more than 30 homes and this subdivision does not meet that requirement. He stated Auburn Fields and another development to the south would need secondary access, but this development does not. He stated this Wyngate Commons meets the intent of the code in requesting gates; the main gate is required to have an opened that can be a siren or the opticom on top of the fire trucks and engines. He stated that when the fire truck is within a certain distance and directional towards the gate, the driver can hit the siren and the gate will begin to open. He compared the function to that of a garage door opener. He stated this type of operation has replaced Knox boxes on main gates due to an action of the City Council to increase emergency response times. He then discussed what would happen during power failures. He noted the gate will fault open during those types of events so that in the case of an emergency the Fire Department could gain access to the development. He stated the Fire Department would also be able to open the secondary gates. He stated that the Fire Department would also work out an agreement with the Home Owners Association (HOA) to provide for 'daisy-chaining' the locks on the secondary gates; this provides everyone the ability to get through the gates. He stated he is aware there have been questions regarding pedestrian access. He stated the Draper City Municipal Code (DCMC) regarding gates does require pedestrian access at the main gate and the main gate only. He stated from the point of view of the Fire Department jersey barriers are bad because they impede emergency vehicle access. He stated that if the Planning Commission decides to grant the CUP to allow the developer to install gates, that will not impede emergency access and the Fire Department will work with the applicant to ensure all requirements relative to access are met.

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2.4 Commissioner Player asked if pedestrian access is optional for the secondary gates even though it is not required. Mr. Buckley stated it is not a requirement. Mr. Fox stated it is optional.

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2.5 Mr. Ahlstrom asked Mr. Buckley if the application complies with the Fire Code. Mr. Buckley answered yes and noted it complies with the International Fire Code. Mr. Ahlstrom asked Mr. Buckley if he has any concerns regarding emergency response to Wyngate Commons if the gates are installed. Mr. Buckley answered no. Mr. Ahlstrom asked Mr. Buckley if he has concerns about the gates' impact on emergency response for Auburn Hills. Mr. Buckley answered no and stated the gates would not affect emergency response to Auburn Hills or to the subdivision to the south of Auburn Fields or to the Harmon's development.

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2.6 Applicant's Presentation: Shon Allen stated he is the president of the HOA at Wyngate Commons and he noted the jersey barriers were put in place by Rimrock Construction in response to a request to help control construction traffic in the area. He noted there was a lot of heavy equipment and vehicles driving on the roads in

Wyngate Commons and the jersey barriers were a means to block that traffic. He noted Rimrock is now working to patch the area between the two developments and the jersey barriers could come down soon. He then stated there is no agreement requiring access to Harmon's from Wyngate Commons, though there is a gentleman's agreement that provides for it. He stated the primary reason the HOA would like to add the gate is in order to beautify the community and he provided a rendering of what the gate would look like. He stated it is the same product that has been used in other locations throughout the City, such as at the City's skate park. He noted a secondary issue is safety; in the past eight weeks there have been two attempted burglaries in the development and he has heard there was a successful burglary in Auburn Fields. He stated adding the gate will add value, beauty, and safety to the community and the HOA is willing to comply with the DCMC and the International Fire Code.

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2.7 Commissioner Player stated gates are a mixed blessing; he has some mountain property in a gated community and gates do not always work as planned. He stated it is necessary for someone to maintain and monitor the gates and someone must always be available in case of any kind of problem. He stated it is much more complex than some may think. He stated there are some benefits to gates, but there are also some negative aspects to consider. He added they are also expensive to install and maintain. Mr. Allen stated the HOA is prepared to handle those issues; there will be several people on-call to respond to any problem with the gate to make sure all residents can get in or out of the development if needed. He stated the gate system has some fail safes built into it; for example, if there is a power outage the gate will operate on batteries until power can be restored. He added if batter back-up is not sufficient there is an option to use solar power. He noted there will also be a contract with a maintenance company and all residents will have contact information for that company.

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2.8 Commissioner Vawdrey stated she read letters from some residents expressing concerns about pedestrian access through the gates. She asked if residents are able to gain access to the Porter Rockwell Trail from the development. Mr. Allen stated there is not access to the Trail from the development. He stated pedestrian access is on 11620 South and there will be a pedestrian gate in that area that will meet American with Disabilities Act (ADA) requirements as requested by the City staff. Commissioner Vawdrey stated she is trying to understand the concerns expressed by residents about accessing the trail through the community. Mr. Allen stated that the community will be able to access the Harmon's development through a gate, but there will be no other pedestrian access from Auburn Fields because Wyngate Commons is a private community.

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2.9 Vice-Chairperson Johnson opened the public hearing. She stated the Planning Commission received a couple of letters regarding this application and they will be added to the record for this meeting.

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2.10 Jordan Close stated he is a resident of Auburn Fields and he lives on a south-facing lot that faces the jersey barrier. He stated he does not mind a gate being installed in the proposed location, but when he bought his home three months ago he was told by his realtor there would be parking space built on the spot because there is very limited parking in Auburn Fields. He stated several people have actually had their vehicles towed because of limited parking access. He stated that is his main concern. He then noted there have been several car accidents on 700 East because the road is a single lane road, so one thing he does to access his home safely is use the road prior to Auburn Fields because it is a double lane road, but a gate would make that practice difficult.

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2.11 There being no additional persons appearing to be heard, Vice-Chairperson Johnson closed the public hearing.

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2.12 Mr. Boles stated he reviewed the Auburn Fields plat and according to that record there are no future plans for adding additional parking areas to the development. He added the area referenced by Mr. Close is considered an emergency access area and parking would not be allowed in the area regardless of whether a gate is installed. Mr. Ahlstrom stated the City cannot be responsible for a promise a realtor made to a client. Mr. Boles added that if the Auburn Fields HOA felt they needed additional parking areas and they can find space in the development for those areas, the City would be willing to consider that as part of a site plan amendment. He stated that would be a separate application for the Planning Commission to consider. He added the development met the DCMC parking requirements when it was considered. He then referenced Mr. Close's comments regarding access onto 700 East and stated the Wyngate Commons development is private property, as was mentioned by Mr. Allen, and people should not consider the roads in the development to be public roads. He stated there are other access opportunities in the area.

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2.13 Commissioner Player asked Mr. Boles if all the roads in the area are private or if some of them are City streets. Mr. Boles stated they are all private and he identified the extent of the private road system on the plat for the area. Commissioner Player asked when 700 East will be improved in that area. Mr. Boles stated he is not sure when that will happen. Mr. Fox stated that 700 East is a Utah Department of

Transportation (UDOT) road and they have plans for the road to be widened to 106 feet, but he does not know when that will happen.

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2.14 Vice-Chairperson Johnson asked if the gate could potentially have an impact on safety on 700 East. Mr. Boles stated he has not seen the reports of traffic accidents on 700 East that Mr. Close referenced, but it would be hard to determine whether the gates would cause a negative impact on travel on that road, though he does not anticipate that would be the case. He reiterated Auburn Fields residents should not be using the roads through Wyngate Commons as public streets. Vice-Chairperson Johnson asked if the Planning Commission can take Mr. Boles' comments to mean that the concerns regarding access and safety on 700 East are not relevant to this application. Mr. Boles answered yes.

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2.15 Mr. Buckley stated he wanted to add for the record that both secondary gates should have signs placed on both sides indicating no parking and emergency vehicle access only. Vice-Chairperson Johnson stated that should probably be added as a condition of approval. Mr. Boles referred the Planning Commission to page six of the staff report containing the Unified Fire Authority review and he noted item 1a talks about the appropriate signage to be installed for all three gates if approval of the CUP is granted.

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2.16 Vice-Chairperson Johnson stated the Planning Commission appreciates the concerns that have been addressed in the letters and in the comments made during the public hearing and she wanted those concerned residents to know that the only legal reason for denying this CUP is if it would create detrimental circumstances that could not be mitigated.

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2.17 **Motion:** Commissioner Player moved to approve the Conditional Use Permit Request by Shon Allen, representing the Wyngate Commons HOA to allow gates, application 130417-11620S-2, based on the findings and subject to the conditions listed in the Staff Report dated May 14, 2013. Commissioner Vawdrey seconded the motion.

Findings:

1. The proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.
2. That the proposed gate will help reduce the amount of outside traffic and secure the development.

Findings Continued:

3. That the development will comply with the requirements of section 9-27-200 which regulates gating a subdivision.

Conditions:

1. That all requirements of the Draper City Engineering and Public Works Divisions are satisfied.
2. That all requirements of the Draper City Building Division are continually satisfied.
3. That all requirements of the Unified Fire Authority and Police Department are continually satisfied.
4. That section 9-27-200 of the Draper City Municipal Code which regulates gating of subdivisions is continually adhered to and met.
5. That the plans that were submitted and attached to this staff report are met and adhered to except where the plans may conflict with requirements of the code or department review.

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- 2.18 **Vote:** Commissioners Player, Vawdrey, and Vice-Chairperson Johnson voted in favor of approving the CUP.

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- 3.0 **Public Hearing: On the request of Brad Mackay, representing Ivory Development to amend the Sunset at Draper Ridge Phase 2 Plat by removing Parcel A and amending all notes pertaining to Parcel A. The subject property is located at approximately 12100 S Aiden Ridge Drive in the RM1 and R3 zones. The application is otherwise known as the Sunset at Draper Ridge Phase 2 Plat Amendment, Application #130409-12091S.**

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- 3.1 **Staff Report:** Using the aid of a PowerPoint presentation and his staff report dated May 13, 2013, Planner Dennis Workman reviewed the details of the proposed application. He explained the Sunset at Draper Ridge Phase II subdivision received final plat approval in March of 2006 and last February the 8.75 acres of ground located to the west of the Sunset at Draper Ridge received preliminary plat approval; the applicant was seeking final plat approval from the City Council a couple of weeks ago and staff realized there is a small item of business that needs to be taken care of, which is an amendment of the Sunset plat to incorporate a sliver thin piece of property – identified as parcel A – within the Sunset at Draper Ridge Phase 2 subdivision into the Galena plat. He stated staff is not sure if the sliver was meant to be a protection strip or if it was not included in the plat by mistake, but regardless of the reason it is necessary to correct it because it does not comply with DCMC subdivision requirements. He then reviewed the Galena plat and

highlighted the area in question and explained a note will be added to the plat to read as follows:

PARCEL A AS SHOWN ON THE RECORDED PLAT CALLED SUNSET AT DRAPER RIDGE SUBDIVISION PHASE 2 IS HEREBY AMENDED PER THIS PLAT. THE PROPERTY FORMERLY CONTAINED IN SAID PARCEL A IS NOW PART OF LOT 13 AND THE GALENA GROVE WAY RIGHT-OF-WAY IN THE GALENA GROVE SUBDIVISION. THE NOTES ON THE SUNSET AT DRAPER RIDGE PHASE 2 PLAT PERTAINING TO PARCEL A ARE ALSO AMENDED AND NO LONGER APPLY TO PARCEL A.

He then stated if the Planning Commission approves this plat amendment it will be forwarded to the City Council for consideration at their next meeting and it will then be possible to proceed with final approval of the Galena Grove subdivision plat. He then concluded by stating staff recommends approval of the application based on the findings and subject to the conditions listed in the staff report.

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- 3.2 Commissioner Player asked if this is a result of a surveying error or a recording error. Mr. Workman answered yes. Commissioner Player asked if the recommended action is basically correcting that deficiency. Mr. Workman answered yes.

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- 3.3 Applicant's Presentation: Brad Mackey stated he is representing Ivory Development and he wanted to offer one point of clarification. He stated the parcel of property in question was never deeded to the Homeowners Association (HOA), though the plat reflected plans for it to be deeded to the HOA. He stated in the State of Utah plats to not convey title to property and that can only be done with deeds. He noted Goff Construction, LLC never deeded the property to the HOA and he has been paying the property taxes for it since 2006 until last year when he deeded the property to Ivory Homes. He stated the property was never landscaped and it is basically a strip of raw ground. He added he is not sure how the surveying error was made, but the plat had a different curve radius than the abutting road radius and that lent itself to the problem.

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- 3.4 Vice-Chairperson Johnson opened the public hearing.

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- 3.5 Jared Fields, 12091 Draper Ridge Drive, stated he lives in the built out portion of Sunset at Draper Ridge Phase II subdivision and he works as an attorney. He stated there are two concerns he would like to express to the Planning Commission: one is that he does not think it is as clear as has been stated that the ownership of the parcel is settled in the name of the HOA; the plat for the subdivision did say that an HOA was going to be formed to own and maintain parcels A, B, and C and while

this strip is only six inches wide at its widest point the HOA has had the obligation to maintain the park-strip, which is part of the road section on the plat map. He stated that for the past three years since control of the common areas was turned over to the HOA, the HOA has been maintaining the park-strip. He reviewed photos of the property and highlighted the location of the six inch strip north of a sidewalk. He stated the property has been maintained as the entrance to the subdivision for as long as the HOA has been functioning. He stated he understands Goff Construction never deeded the parcel of property to the HOA and they have paid property taxes, but the HOA has been maintaining the park-strip that accompanies the strip of property and he would argue that the HOA has equitable title to the strip and Goff Construction conveyed property they no longer owned due to the formation of the HOA. He stated if the HOA does own the property it is problematic for the City to eliminate that ownership right via a plat amendment without exercising eminent domain authority and the process that accompanies that action. He then stated his second concern is relative to a bizarre triangle piece of property in the area where Sunpeak Lane meets Galena Parkway; it is identified as parcel 3 on the plat and the item being proposed by staff tonight would eliminate the strip of property while “sticking” the HOA with a small triangle parcel that essentially holds a stop sign. He stated he does not understand why the property was platted in this manner and his subdivision was never given notice of this proposed action and he only became aware of it when he happened upon a notice regarding potential final approval of a previous plat with the City Council. He then stated the next concern he has is the fact that the new subdivision is being created without any obligation to create an HOA, which was a condition for the creation of the Sunset at Draper Ridge Phase II subdivision. He stated the common area dues for the HOA are \$120 per year because there are only two park-strips that are maintained by the HOA. He noted no one living in the subdivision wants an HOA, but it was a condition of approval, while the new development is being approved with an express statement that an HOA is not needed because the neighboring property has an HOA and the residents there are paying for common area maintenance at the entrance to the subdivision. He stated a number of people in the neighborhood have expressed concerns about the fact that the new subdivision is not required to have an HOA.

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- 3.6 Melissa Leavitt, 516 Suncrest Way, stated she is also the owner of record of 498 Suncrest Way. She stated she agrees with the concerns expressed by Mr. Fields and she asked to review the Ivory Homes plat. She stated that she has some concerns about the configuration of some of the roads on the plat and if they were reconfigured this entire problem would be alleviated. She added that the second concern she that the sprinkler clock and power meter are located in the strip of property and the sprinkler main manifold is located directly across the street and no one can understand why Goff Construction installed the utilities in that manner. She stated that if the Planning Commission decides to grant this application, the HOA would ask that Ivory relocate the utilities to the side of the road where the

sprinkler manifold is currently located. She reiterated she would strongly suggest a reconfiguration of the roads in the subdivision so that none of this is necessary. She added she is also concerned about the triangle parcel of property referenced by Mr. Fields and noted it should be added to the Ivory development if this application is granted.

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3.7 Devin Scheel, 12054 S. Draper Ridge Drive, stated most of his concerns have been addressed by the previous two speakers. He noted the park strip that will divide the neighborhood from Galena Park Boulevard should be added to the Ivory Homes development for them to maintain if this application is approved. He stated he would rather not have another entrance from his neighborhood into the Ivory development and he feels it should be accessed through Galena Park or 700 West. He stated he has safety concerns relative to the children living in the subdivision and this will force them to navigate another road crossing. He stated that he is concerned by the fact that when the HOA was established three years ago they owned and maintained parcels A, B, and C and the residents were paying common area maintenance dues. He stated Goff Construction has not been paying dues on the lots they own that have not yet been built upon. He stated that if this application is approved he would like the Planning Commission to address his safety concerns.

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3.8 Racheall Martin, 11979 Draper Ridge Drive, stated she is the current HOA president for Sunset at Draper Ridge and she wanted to reiterate everything the three previous speakers have said. She stated there is a concern among the neighbors about adding an additional entrance due to safety and traffic in the neighborhood and they are questioning why the access must be onto Sunpeak Lane rather than Galena Park Boulevard. She stated Mr. Scheel was correct in his statement that since Goff Construction turned the property over to the HOA in 2006 they have not paid any maintenance fees for the common areas. She stated that if this application is approved she would also like for the rectangle parcels to be deeded to Ivory Homes as well and they can be responsible for maintaining them. She stated the HOA has the responsibility to maintain the other side of the road; they do not find it fair that they will be bearing the cost of the maintenance for something that will benefit another development. She stated that another concern is that the property continues to be referred to as a six inch wide strip of property, but it will cut into the park-strip, which is a bigger area.

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3.9 There being no additional persons appearing to be heard, Vice-Chairperson Johnson closed the public hearing.

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3.10 Mr. Fox stated that the park-strip and sidewalk are both contained within the public right-of-way and the six inch strip of property is not part of that public right-of-way.

He stated the DCMC dictates it is the responsibility of an adjacent property to maintain the park-strip. Commissioner Player asked if that includes the park-strip across the street. Mr. Workman answered no and reviewed the plat to identify which property owners would be required to maintain the park-strip areas. He stated one staff recommendation is that Sunset Ridge and the Ivory development work together to determine how to handle the maintenance of the sprinkler system. He then stated that relative to the comments regarding additional access the curve radius or the distance from the intersection prevents the use of the access point suggested by the residents.

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- 3.11 Vice-Chairperson Johnson stated that at the time that this plat was approved, that would have been the time to talk about the concerns that were expressed during the public hearing. She stated the property is zoned for multi-family use, but the density was diminished substantially to accommodate the sensitivity of the parcel. She stated she understands the concerns with access, but she feels the neighborhood is in a good position when considering the adjoining property could have been developed into apartments. She then stated there are some other interesting concerns regarding the HOA common maintenance dues and that is not something for the Planning Commission to address tonight. She asked staff if those concerns are completely irrelevant to the application and, instead, should be worked on between the HOA, Goff Construction, and Ivory Homes.

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- 3.12 City Attorney Ahlstrom stated he appreciates the comments made by the public this evening. He stated Mr. Fields indicated the HOA was formed to maintain parcels A, B, and C and the HOA requirements are established with the original subdivision development in the form of a contract recorded against the lots in the development. He stated Mr. Fields argued that the HOA has equitable title to the strip of property because they have been maintaining the property over the years; that may be the case, but that is not an issue for the Planning Commission to consider. He stated it is a civil issue to be resolved by the HOA and Ivory homes. He stated the Planning Commission can only be expected to rely on the title report received and he reviewed that report before this application was forwarded to the body. He stated Mr. Fields also indicated the City should condemn the property via eminent domain, but according to the title report Ivory Homes owns the property free and clear and there is nothing for the City to condemn until a court rules otherwise. He referred to the comments made regarding the triangle piece of property where the stop sign is located and stated that is a problem the original developer created for this subdivision; it should not be that way and it is hope that the HOA can work with Ivory Homes to have the obligation transferred. He stated that as the development is currently recorded, the property is the responsibility of the HOA. He stated they could let the property go un-maintained, but that would cause a mess for everyone and no one wants that to happen. He stated it is important for the public to understand that the City does not design subdivisions; they are designed

by the developer and if the design meets the DCMC, the Planning Commission and City Council must approve them. He stated the location of the streets in the development meet the DCMC and the development cannot be denied on that basis; the City cannot force the developer to reconfigure their roads. Mr. Ahlstrom then referenced Ms. Leavitt's comments regarding the location of the sprinkler manifold on the north side of the road and it is obvious to him that it should be located on the south side of the road in the area that is maintained by the HOA and it his hope Ivory Homes will work with the HOA to make that change. He stated Mr. Scheel commented that he did not want the residents of the Ivory development to gain access to their homes through his neighborhood. He stated the streets in the Sunset at Draper Ridge subdivision are public streets and the term "our neighborhood" must be shared because it is everyone's neighborhood. He stated he is concerned about the fence on the corner lot abutting lot 12; the property owner has the right to fence his backyard at a height of six feet and if the fence extends all the way to the corner of Galena Grove Way, that will be a problem. He stated he is hopeful Galena Grove Way will include park-strip and sidewalks, which should provide enough room for sight distance for children riding their bikes in the area. He stated the area was not planned well by the original developer, but the City is now "stuck" with it and the City cannot force any changes upon the area. He reiterated all the Planning Commission can do is approve the plan if it meets the code, which it does. He stated the body has no basis for denying the application.

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3.13 Commissioner Player stated one of the speakers mentioned the fact that the new development will not be required to have an HOA. He stated he thought developments were required to provide for that. Mr. Ahlstrom stated there is no requirement to create an HOA unless there are private areas within the development that require maintenance that is outside the scope of maintenance the City provides. He stated the new development has no private areas. Commissioner Player asked if that has always been the case. Mr. Ahlstrom answered yes. Commissioner Player stated he thought the developer was required to make provisions for an HOA whether one was actually required or not. Mr. Ahlstrom stated that is not the case. He noted the only requirement is for an HOA, if one is created, to submit their covenants, conditions, and restrictions (CC&Rs) to the City though the City is not responsible for enforcing them.

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3.14 Mr. Fox referenced the aerial photograph of the Sunset at Draper Ridge subdivision and noted the stop sign that was referenced by the residents is actually located within the park-strip, which is part of the public right of way.

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3.15 Vice-Chairperson Johnson stated the concerns that have been raised tonight are very valid and working through those issues with the developers of the property in the area would be wise of the HOA.

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- 3.16 Mr. Mackey stated he wanted to let the Planning Commission know that he has been exchanging emails with the HOA of the Sunset at Draper Ridge subdivision and he has committed to meet with their landscapers to determine the operation of the sprinkler system in the area and the appropriate way to relocate sprinkler lines in the areas referenced. He stated that with regards to the triangle piece of property, it is not Ivory Homes' right to take that piece of property from Goff Construction, but Goff Construction can choose to convey the property to Ivory Homes. He stated Goff Construction still owns parcels B and C; they have not deeded any of those properties to the HOA. He stated that if Goff Construction wants to deed parcel C to Ivory Homes they will accept it and make it part of the abutting lot. He stated the note on the original plat stated an HOA would be created to maintain the landscaping on the parcels, but parcels A and C were never landscaped, though the adjoining park-strip was landscaped. Vice-Chairperson Johnson stated that is another issue for another day.

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- 3.17 Commissioner Player stated he is glad to see that Ivory Homes has been working with the HOA and with Goff Construction to resolve some of these issues because there is really nothing the City can do to address the concerns.

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- 3.18 **Motion:** Commissioner Vawdrey moved to forward a positive recommendation to the City Council for the Sunset at Draper Ridge Plat Amendment as outlined in this staff report, application 130409-12091S, based on the findings and subject to the conditions listed in the staff report dated May 13, 2013. Commissioner Player seconded the motion.

Conditions:

1. That the final mylar is consistent with all Draper City Municipal Codes governing the creation of a final subdivision plat.
2. That a mylar is signed and recorded at the Salt Lake County Recorder's office.
3. That all Draper City ordinances and requirements are met and continually adhered to.
4. That the Galena Grove mylar is revised to show all changes outlined in this staff report.

Findings:

1. That the proposed plat amendment is consistent with the General Plan and meets all requirements of the zoning ordinance.
2. That neither the public nor any person will be materially injured by the proposed vacation, alteration, or amendment.
3. That there is good cause for the vacation, alteration or amendment.

Findings Continued:

4. That the proposed plat amendment will not be detrimental to the health, safety, or general welfare of persons or property in the area.
5. That Chapter 17-9 of the Draper City Municipal Code provides for the amendment of a subdivision plat.

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- 3.19 Commissioner Vawdrey stated she appreciated the discussions that took place this evening regarding this application and she is hopeful the issues raised can be amicably resolved. Commissioner Player agreed and stated he does not see many options for the City. Vice-Chairperson Johnson added there is no legal basis for the Planning Commission to deny this application.

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- 3.20 **Vote:** Commissioners Player, Vawdrey, and Vice-Chairperson Johnson voted in favor of forwarding a positive recommendation to the City Council.

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- 4.0 **Staff Reports:** Staff provided a brief summary of the recent actions of the City Council as well as a review of pending items to be added to upcoming Planning Commission meetings.

[7:45:34 PM](#)

- 5.0 **Adjournment:** Commissioner Player moved to adjourn the meeting.

- 5.1 **A voice vote was taken with all in favor. The meeting adjourned at [7:45:42 PM](#)**