



CITY COUNCIL AGENDA

Notice is hereby given that the Draper City Council will hold a **Business Meeting** beginning at **5:30 p.m.** on **Tuesday, June 18, 2013** in the City Council Chambers at 1020 East Pioneer Road, Draper, Utah.

(Timings listed for each item on the agenda are approximate and may be accelerated or delayed)

The Agenda will be as follows:

STUDY MEETING

- 5:30 p.m. 1.0** Budget Study Session
- 6:00 p.m. 2.0** **Adjourn to Closed Meeting** to discuss litigation, property acquisition, and the character and professional competence or physical or mental health of an individual.

BUSINESS MEETING

- 7:00 p.m. 1.0** **Call to Order:** Mayor Darrell Smith
- 7:00 p.m. 2.0** **Comment/Prayer and Flag Ceremony:** to be announced
- 7:10 p.m. 3.0** **Presentations**
a. Michael Wilde, Photographer, Presenting Photo to Draper City
- 7:30 p.m. 4.0** **Citizen Comments:** *To be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comments will be restricted to items not listed on the agenda and limited to three minutes per person per item. A spokesperson who has been asked by a group to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits should be submitted in writing to the City Recorder prior to noon the day before the meeting. Comments pertaining to an item on the agenda should not be given at this time but should be held until that item is called.*
- 7:45 p.m. 5.0** **Consent Items**
a. Approval of Minutes of June 4, 2013, and June 11, 2013 City Council Meetings
b. Agreement #13-112, Appointing an Appeals and Variance Hearing Officer

- c. Real Estate Purchase and Sale Agreement with ReNac P. Ballard Trust and Real Estate Purchase Contract for 1514 East Pioneer Road and Accompanying Addenda
 - d. **Resolution #13-31**, Amending the Consolidated Fee Schedule regarding Police Fees
 - e. **Resolution #13-32**, Amending the Consolidated Fee Schedule regarding Rental Fees for the Day Barn
 - f. **Ordinance #1050**, Amending Draper City Municipal Code Title 5-10 Regarding Rental of City Hall and Use of City Facilities.
- 7:35 p.m. 6.0 Public Hearing: Resolution #13-30**, Amending the 2012-2013 Fiscal Budget. Staff Presentation by Danyce Steck.
- 8:00 p.m. 7.0 Public Hearing: Resolution #13-39**, Adopting the 2013-2014 Fiscal Budget. Staff Presentation by Danyce Steck.
- 8:10 p.m. 8.0 Public Hearing: Ordinance #1049**, Vacating 11.25 Feet of the Public Right of Way on 900 East and 11.25 Feet of Public Right of Way on 12200 South, at the Southwest Corner of 900 East and 12200 South. Otherwise Known as the Quilter's Lodge Street Vacation. Staff Presentation by Dennis Workman
- 8:20 p.m. 9.0 Public Hearing: Ordinance #1048**, Amending the Draper City Zoning Map to Change the Zoning of Approximately .82 Acre of Property Located at Approximately 12825 South Fort Street from RA1 to RA2. Otherwise Known as the Greenwood Phase 3 Zone Change. Staff Presentation by Dennis Workman
- 8:30 p.m. 10.0 Public Hearing: Ordinance #1051**, Amending the Draper City Zoning Map to Change the Zoning of Approximately 2.62 Acres of Property Located at Approximately 12955 South Boulter Street from RA1 to RA2. Otherwise Known as the Pedersen Zone Change. Staff Presentation by Dan Boles.
- 8:40 p.m. 11.0 Public Hearing: Local Consent for WingNutz**. Located at 12300 South 121 East, for a Full Service Restaurant Alcoholic Beverage License. Staff Presentation by David Dobbins
- 8:50 p.m. 12.0 Action Item: Ordinance #1052**, Amending Draper City Municipal Code Title 6-6 Regarding Fireworks. Staff Presentation by Don Buckley.
- 9:00 p.m. 13.0 Action Item: Agreement #13-183** with Think Architecture, Inc. for Construction of Addition to City Hall. Staff Presentation by David Dobbins.
- 9:30 p.m. 14.0 Council/Manager Reports**

PUBLIC HEARING PROCEDURE AND ORDER OF BUSINESS

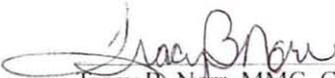
In compliance with the American with Disabilities Act, any individuals needing special accommodations including auxiliary communicative aides and services during this meeting shall notify Tracy Norr, CMC, City Recorder, 576-6502 or, tracy.norr@draper.ut.us, at least 24 hours prior to the meeting. Meetings of the Draper City Council may be conducted by electronic means pursuant to Utah Code Annotated Section 52-4-207. In such circumstances, contact will be established and maintained by telephone and the meeting will be conducted pursuant to Draper City Municipal Code 2-1-040(e) regarding electronic meetings.

- 15.0 Adjourn** to Redevelopment Agency Meeting, Municipal Building Authority Meeting, and Traverse Ridge Special Service District Meeting
- 16.0 Adjourn** to Closed Meeting to discuss litigation, property acquisition, and the character and professional competence or physical or mental health of an individual. (If needed)

SALT LAKE COUNTY/UTAH COUNTY, STATE OF UTAH

I, the City Recorder of Draper City, certify that copies of the agenda for the **Draper City Council** meeting to be held the **18th day of June, 2013**, were posted on the Draper City Bulletin Board, Draper City website www.draper.ut.us, the Utah Public Meeting Notice website at www.utah.gov/pmn, and sent by facsimile to The Salt Lake Tribune, and The Deseret News.

Date Posted: 06/14/2013
City Seal


Tracy B. Norr, MMC, City Recorder
Draper City, State of Utah



PUBLIC HEARING PROCEDURE AND ORDER OF BUSINESS

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CONSENT

ITEM #A

DRAFT MINUTES

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, JUNE 4, 2013, IN THE DRAPER CITY COUNCIL CHAMBERS 1020 EAST PIONEER ROAD, DRAPER, UTAH.

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

PRESENT: Mayor Darrell Smith, Councilmembers Bill Rappleyc, Troy Walker, Alan Summerhays, Jeff Stenquist, and Bill Colbert.

STAFF PRESENT: Russ Fox, Tracy Norr, Bryan Roberts, Troy Wolverton, Rhett Ogden, Garth Smith, Joe Bryant, Glade Robbins

Study Meeting

1.0 Tour of Corner Canyon/Proposed Reservoir

5:30 p.m.

1.1 The Council traveled to Corner Canyon and viewed the proposed site for WaterPro’s reservoir. Dave Gardner of WaterPro explained the location for the dam, pointed out the water levels which were staked, and discussed the re-routing for the trails and roads

Business Meeting

1.0 Call to Order

7:19:26 PM

1.1 Mayor Smith called the meeting to order and welcomed those in attendance. He said the council was late getting started because of the field trip to Corner Canyon. He noted there was a race going on in the canyon. He excused City Manager David Dobbins. He also introduced Glade Robbins, the city’s new Public Works Director.

2.0 Comment/Prayer and Flag Ceremony

7:20:34 PM

2.1 Councilmember Jeff Stenquist offered the prayer. Garth Smith led the pledge of allegiance.

3.0 Presentations

3.1 Award of CMC to Angie Olsen – UMCA Presidency

7:21:58 PM

3.2 Tracy Norr, Utah Municipal Clerk’s Association president, acknowledged the work Angie Olsen has done in her role of deputy city recorder in obtaining the Certified

Municipal Clerk designation. She noted the requirements and the training that has been accomplished. Finn Kofoed, City Recorder from Eagle Mountain, presented a plaque to Angie Olsen and Joy Johnson, Deputy City Recorder from Riverton, presented flowers to her. Mayor Smith and the council congratulated Mrs. Olsen for her accomplishment.

3.3 Michael Wilde, Photographer, Presenting Photo to Draper City

3.4 This item was postponed.

3.5 Day Dairy Barn – Historic Preservation Commission

7:34:28 PM

3.6 Rob Perry, chairman of the Historic Preservation Committee, introduced Katie Shell, Todd Shoemaker, Tod Wadsworth, Frank Lewis, and LaRayne Day. He explained how the Historic Preservation was able save the barn. He thanked Brad Jensen, Rhett Ogden, and Gary Martinson for their staff help. He thanked the city for the place for the barn to sit, the landscaping, and the support of the council. He then presented a document to transfer the barn to Draper City. He then said the next project will be the Park School. Mayor Smith said the city began with barns and schools, and the spirit of the past is the strength of the future. He thanked the Historic Preservation Committee for their work. Councilmember Summerhays said he is glad to see the finished product. Councilmember Rappleye added that the barn as it now is fits with what the city stands for.

4.0 Citizen Comments

7:45:10 PM

4.1 There were no citizen comments.

5.0 Consent Items

- a. **Approval of Minutes of May 28, 2013, City Council Meeting**
- b. **Agreement #13-160 with WCEC Engineers, Inc. for the 2013 School Cross Walks Warrant Analysis**
- c. **Acceptance of Right of Way Deed of Dedication for Tuscany Crossing at 12000 South and 700 East.**
- d. **Resolution #13-28, Appointment to Prison Relocation Board**
- e. **Agreement #13-173, with Project Engineering Consultants, LTD, for traffic signal and Roadway Improvements at Lone Peak Parkway and 11950 South.**

7:47:19 PM

5.1 A motion to approve the consent items was made by Councilmember Stenquist and seconded by Councilmember Colbert.

7:47:28 PM

5.2 A roll call vote was taken with Councilmembers Stenquist, Colbert, Rappleye, Walker and Summerhays voting in favor. The motion carried.

6.0 Public Comments: Draper City, Redevelopment Agency, Traverse Ridge Special Service District, and Municipal Building Authority 2013-2014 Fiscal Budget.

7:47:44 PM

6.1 Shawn Benjamin said he found the Youth Council budget. He said next year's event for the Youth Council have not been determined, so he hopes there will be an opportunity to adjust the budget as needed after the Youth Council meeting this week.

7:50:23 PM

6.2 Councilmember Colbert said it is amazing that the most important item gets the least attention. Councilmember Summerhays said he hears about it but people do not come to the meeting. Councilmember Stenquist said it reflects the trust of the citizens. Mayor Smith said when he was a councilmember there were a few who commented, and it was generally the same people.

6.3 No other comments were given.

7.0 Request by DAI (Cinnamon Ridge Subdivision) for a Sanitary Sewer Easement for South Valley Sewer District (SVSD).

7:52:49 PM

7.1 Troy Wolverton showed the location for the subdivision and said the subdivision was conditionally approved and a development agreement was approved. The subdivision requires that the sanitary sewer pipeline from it crosses Draper City open space between the parcel and the Traverse Ridge Road right of way. The developer has requested the easement, but the easement will be granted to South Valley Sewer District. He noted that language is included in the easement to protect the utilities in case of future road changes. Mr. Wolverton recommended an easement valuation of \$1,825, based on the Salt Lake County Assessor's assessed value of \$1.16 per square foot reduced by 50% which is typical for easement valuations.

7:56:56 PM

7.2 Councilmember Stenquist questioned the options for compensation and asked if discussion should be held in closed door. Councilmember Colbert said the easement is going to a public utility so he feels a reasonable price should be established.

7:59:36 PM

7.3 A motion was made by Councilmember Stenquist to approve the sanitary sewer easement for South Valley Sewer District, including the compensation amount recommended by staff. The motion was seconded by Councilmember Summerhays.

8:00:07 PM

7.4 The motion carried unanimously.

8.0 Ordinance #1047, Amending Draper City Municipal Code Chapter 18-4 Pertaining to Land Disturbance Activities and Restoration and Revegetation Guarantees.

8:00:18 PM

- 8.1 Troy Wolverton said the proposed amendment is to clarify language related to bonds and guarantees. It also clarifies when the guarantee is released for public right of ways. He showed the language being removed from the ordinance and reviewed the proposed amendment. It also establishes time frames and extensions as well as the value for revegetation and an option for release of the guarantee of revegetation. He noted the value set in 1997 is sufficient. The warranty elements are established, and acceptable forms of the guarantee are spelled out. Enacting this ordinance will allow the guarantee agreements to be cleaned up to meet the ordinance. Discussion was held about certification of seed mix to be used. Councilmember Colbert asked about the success of revegetating gamble oaks. Mr. Wolverton said the survival rate is very low.

8:12:03 PM

8. **A motion to adopt Ordinance #1047, Draper City Municipal Code Chapter 18- 4 pertaining to land disturbance activities and restoration and revegetation guarantees, was made by Councilmember Rappleye and seconded by Councilmember Summerhays.**
8. **A roll call vote was taken with Councilmembers Rappleye, Summerhays, Walker, Colbert and Stenquist voting in favor. The motion carried.**

9.0 Council/Manager Reports

8:13:46 PM

- 9.1 Councilmember Stenquist said he has had communication with some residents who live on Canyon Vine Cove. They would like to install a gate on their road due to the traffic that drives on their street. They have expressed interest in bearing some of the cost. They have also expressed a concern about trespassing on the private property. Councilmember Stenquist said he has recommended that the residents go through a process to convert the road. Councilmember Colbert said it is a private road and people drive on that road to see the view and the large homes. He noted that he lives in a gated community, but it was that way when he moved there. Councilmember Summerhays agreed that the difference for Councilmember Colbert is that Councilmember Colbert's subdivision was planned to be a private street whereas Canyon Vine Cove was not. Councilmember Stenquist said he believes there are about 10 homes on the street. He said there is a circumstance in this case that other neighborhoods don't have. Councilmember Colbert said he voted against the gates in his community. Doug Ahlstrom said there is an ordinance that establishes the process to change the public street to private. When staff looked at this about a year ago, staff was not able to determine how a gate could be installed. Chief Roberts said he would be glad to send police enforcement for the trespassing issues. Councilmember Rappleye said there is a similar problem on Willow Springs because people park in the middle of the road and walk along

the ditch to see the ducks. His concern is that gating the road will be access to the trail. The gate will cause a parking problem below the gate. Councilmember Stenquist said there is a church parking lot nearby. He added that the trail access does not appear to be used. Russ Fox asked that the citizen contact him to review the issues.

8:24:26 PM

9.2 Councilmember Rappleye said he took pictures at the aquarium this morning. Curbing in the parking lot is being done. Councilmember Summerhays said the aquarium in New Orleans looked very nice. Councilmember Rappleye noted that the traffic signal at 12300 South and 300 East had been replaced. Councilmember Stenquist said there is a berm on I-15 that hides the building.

8:27:16 PM

9.3 Councilmember Colbert said the high school is selling commemorative pavers as a fund raiser. He suggested a paver for the city council with a city logo. The consensus was to order a paver. Councilmember Colbert also expressed a concern because some lots in the Suncrest area have geotechnical constraints but the purchaser of some of those lots may be selling those lots to unsuspecting buyers. Councilmember Summerhays said it should be on the plat. Discussion was held about the geotechnical problems. Russ Fox said there are 14-20 lots that have been platted. The issue comes in at the time of the building permit. The city requires compliance with the building code. Mayor Smith suggested putting this on a future agenda. He said we are covered as far as the issue but that doesn't protect unsuspecting people.

8:36:52 PM

9.4 Russ Fox said he met with Engracia Dougherty who lives in Parkstone. She has requested some ways to mitigate the view of the water tower and structure over the rail car. He suggested purchasing some trees for her. The consensus of the council was to look at the situation. Russ Fox also said a meeting was held with residents of Tallwoods Subdivision. This was supposed to be a gated community, but the purchaser of the majority of the lots, D.R. Horton, does not want to market it as a gated community. One of the residents said they are willing to forego the gate if the city will take over the streets. He said the streets were developed to city standards.

8:40:22 PM

9.5 Chief Roberts informed the council that the police department will be escorting the Special Olympics torch through the city on June 13. He invited the council to a gathering at 9:30 for this fund raising event.

8:42:18 PM

9.6 Rhett Ogden said notice has been given to residents around the amphitheater listing the dates when the amphitheater events go beyond 10:00 p.m. He also invited the councilmembers to the activity on June 7. Mayor Smith said the concert in the park was very good.

8:44:18 PM

9.7 Troy Wolverton said Jennifer Vance called relating to the fence issues along 700 East and Golden Pheasant. They are moving forward with the precast fence on their own. They will survey the property line and work with Blue Stakes. She called about a potential need to shift the fence in the right of way. He noted the property has not been dedicated to the city by the school district and the school district has not been willing to work with them because they don't want to preclude the city's acceptance of the right of way in the future.

8:46:17 PM

9.8 Mayor Smith said he met with Mr. Peterson, a Draper resident, about the need for more cemetery space. He would like this put back on the agenda. Mayor Smith also said Glen Sisan has brought up placing a letter on the mountain. It cannot be done on federal land. Councilmember Summerhays said they tried to put a "D" on the mountain years ago and it was not allowed by the Forest Service. Most of the communities who have letters on the mountain were placed in the 1940's or 1950's. Mayor Smith suggested this be a discussion item on the next meeting. Councilmember Colbert said it could be put on Steep Mountain. The big issue is that the letter on the mountain are from communities where the high school name is the same as the city. Councilmember Summerhays said letters could be put along Corner Canyon Road by the sand pit. Mayor Smith said there was discussion at the Council of Government meeting about the support for the homeless shelters. The requested amount is \$.35 per resident of the community, which amounts to about \$15,000. An interlocal agreement will be presented at a future agenda. Councilmember Colbert said he got an e-mail from Dave Dobbins about rail passes for the employees. He said he felt he would like to try it for one year. Mayor Smith suggested surveying the employees to see if they would be used.

10.0 Adjournment

8:54:45 PM

10.1 A motion to adjourn was made by Councilmember Stenquist and seconded by Councilmember Walker. The motion carried unanimously.

DRAFT MINUTES

**MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY,
JUNE 11, 2013, IN THE DRAPER CITY ADMINISTRATION CONFERENCE ROOM
AT 1020 EAST PIONEER ROAD, DRAPER, UTAH.**

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

PRESENT: Mayor Darrell Smith, Councilmembers Bill Rappleyc, Troy Walker, Jeff Stenquist, and Bill Colbert.

STAFF PRESENT: David Dobbins, Doug Ahlstrom, Russ Fox

1.0 Adjournment to Closed Meeting

7:38 p.m.

1.1 A motion to adjourn to a closed meeting to discuss litigation, property acquisition, and the character and professional competence or physical or mental health of an individual was made by Councilmember Rappleyc and seconded by Councilmember Colbert. The motion carried unanimously.

1.2 Following the closed meeting, a motion to adjourn was made by Councilmember Walker and seconded by Councilmember Stenquist. The meeting adjourned at 8:10 p.m.

Return to Agenda

CONSENT
ITEM #B

REQUEST FOR COUNCIL ACTION

To:	Mayor & City Council
From:	Joe Bryant
Date:	June 11, 2013
Subject:	Appeals and Variance Hearing Officer Services Agreement # 13-112
Applicant Presentation:	
Staff Presentation:	Joe Bryant
RECOMMENDATION: Recommendation to award contract for Appeals and Variance Hearing Officer Services. Initial term of this agreement is for a period of approximately one (1) year with four (4) additional one (1) year renewal options.	
BACKGROUND AND FINDINGS: Compliant to Draper City Municipal Code Section 3-3-080: Proposals were solicited through a competitive Request for Proposal process for Professional Appeals and Variance Hearing Officer Services. Four proposals were received from firms who offer appeals and variance hearing officer services with Armknecht and Cowdell P.C. being selected as the highest scoring proposer.	
PREVIOUS LEGISLATIVE ACTION:	
FISCAL IMPACT: Finance Review: <u>JTB</u>	
<ul style="list-style-type: none">• Funding for services is available in the following account # 11-73-2401 .	
SUPPORTING DOCUMENTS: <ul style="list-style-type: none">• Proposal received from Armknecht and Cowdell, P.C.• Request for Proposal• Bid Tabulation	

Project Name: RFP# 13-112 Appeals and Variance Hearing Officer

**AN AGREEMENT FOR PROFESSIONAL APPEALS AND VARIANCE HEARING OFFICER SERVICES
BETWEEN DRAPER CITY AND ARMKNECHT AND COWDELL, P.C.**

THIS AGREEMENT made and entered into this _____, 2013, by and between DRAPER CITY, a municipal corporation (hereinafter referred to as "City", and ARMKNECHT and COWDELL, P.C., a professional state corporation (hereinafter referred to as "Consultant").

The City and Consultant agree as follows:

1. **RETENTION AS CONSULTANT**

City hereby retains Consultant, and Consultant hereby accepts such engagement, to perform the services described in Paragraph 2. Consultant warrants it has the qualifications, experience and facilities to properly perform said services.

This agreement is not intended and shall not be construed to create any right or impose any duty, expressly or by implication, in favor of any person or entity who is not a direct party to this agreement. All services and extra services to be performed by Consultant hereunder will be performed for the exclusive use and benefit of City, and no other person or entity may or is entitled to use or rely upon any such services or the information or reports generated by Consultant as a result of such services.

2. **DESCRIPTION OF SERVICES**

The services to be performed by Consultant are as follows and generally described in Section VI Scope of Work in RFP 13-112:

Provide professional services:

- Task 1 – Hearing and appeals from zoning, variance and special exceptions related issues.
- Task 2 – Determine the existence, expansion, or modification of nonconforming uses.
- Task 3 – Designate and establish guidelines by which routine and uncontested matters may be decided by the Draper City Zoning Administrator.

Please see **Attachment A**, the scope of work taken from RFP.

Consultant has the right to decline to perform any services or extra services requested by the City without liability. Professional services provided by the Consultant under this Agreement will be performed in a manner consistent with that level of care and skill ordinarily exercised by members of the Consultant's same profession currently practicing in the same locality under similar conditions. No other representation, warranty or guarantee, express or implied, is included or intended in this Agreement, or in any report, opinion or document.



3. **COMPENSATION AND PAYMENT**

Except for authorized extra services (pursuant to Paragraph 4), the total compensation payable to Consultant by City for the services described in Paragraph 2 shall be earned on an Hourly basis of one hundred and twenty five dollars (\$125.00) per hour that shall be billed in fifteen (15) minute increments. Rate shall include all secretarial and/or other staff labor, travel time, mileage, printing and office supplies needed to produce any and all findings, rulings and reports as needed.

All payments shall be made within thirty (30) calendar days after the Consultant has provided the City with written verification of the actual compensation earned, which written verification shall be in a form satisfactory to the City. Invoices shall be made no more frequently than on a monthly basis, and should describe the work performed, including a list of man-hours by personnel classification, if billing is on a per hour basis. The City agrees to pay a finance charge of 1 1/2% per month on past due accounts, or the maximum allowed by law if such maximum is less than 1 1/2% per month.

4. **EXTRA SERVICES**

City shall pay Consultant for those extra services authorized or requested in writing in addition to the services described in Paragraph 2, in such amounts as mutually agreed to in advance. Unless the City and Consultant have agreed in writing before the performance of extra services, no liability and no right to claim compensation for such extra services or expenses shall exist.

5. **SERVICES BY THE CITY**

City will make available for Consultant's review all available information regarding project conditions or requirements that may be relevant to or affect the services to be performed under this Agreement, including, but not limited to, information City knows, assumes or may suspect with respect to hazardous or potentially hazardous substances or wastes. City will immediately transmit to Consultant any new information concerning the project that becomes available to it, either directly or indirectly, during the performance of this Agreement. City agrees to render reasonable assistance as requested by Consultant so the performance of the services under this Agreement may proceed without delay or interference. Consultant will not be liable for any advice, judgment or decision based on inaccurate or incomplete information furnished by City, and the Consultant shall not be required to investigate or evaluate the accuracy or completeness of any information furnished by City.

6. **PROGRESS AND COMPLETION**

Consultant shall be ready to commence work on an "as needed basis" with hours that will vary depending upon type and frequency of the applications. City makes no guarantees as to how often such services will be needed.



7. **OWNERSHIP OF DOCUMENTS**

All drawings, designs, data, photographs, reports and other documentation, including duplication of same prepared by Consultant in the performance of these services, shall become the property of City upon completion of the discreet tasks or termination of the consulting services pursuant to this agreement and upon payment in full of all compensation then due Consultant, but may be used only in conformance with all terms of this agreement.

8. **PERSONAL SERVICES/NO ASSIGNMENT/SUBCONTRACTOR**

This Agreement is for professional services, which are personal services to the City. The following person is deemed to be a key member or employee of the Consultants firm, and shall be directly involved in performing or assisting in the performance of this work:

Tracy Scott Cowdell, Esq.
Partner and Attorney
32 E. Main, Sandy, UT 84070
801-550-9864
tcowdell@me.com

Should this individual be removed from assisting in this contracted work for any reason, the consultant will provide qualifications of a suitable replacement and a work plan detailing how tasks will be reassigned. If the City finds the replacement unacceptable the City may terminate this Agreement.

This Agreement is not assignable by Consultant or City.

9. **HOLD HARMLESS**

Consultant agrees, to the fullest extent permitted by law, to indemnify and hold the City harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by the Consultant's negligent acts, errors or omissions in the performance of professional services under this agreement.

The City agrees, to the fullest extent permitted by law, to indemnify and hold the Consultant harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by the City's sole negligent acts, errors or omissions and for anyone for whom the City is legally liable, arising from the professional services under this agreement.

The Consultant is not obligated to indemnify the City in any manner whatsoever for the City's own negligence.

City hereby agrees, to the fullest extent permitted by law, that Consultant's total liability to City for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to any services or this Agreement, from any cause or causes, including but not limited to Consultant's negligence, errors, omissions, strict liability, breach of contract, or otherwise, will not exceed \$1,000,000.00, per claim and in the aggregate. In no event shall Consultant be liable for exemplary or punitive damages.



10. **INSURANCE**

Consultant shall, at Consultant's sole cost and expense and throughout the term of this Agreement and any extensions thereof, carry:

- (1) Workers compensation insurance adequate to protect Consultant from claims under workers compensation acts, and
- (2) Professional errors and omissions insurance in the amount of \$1,000,000, per claim and in the aggregate.

Understanding that the Consultant uses personal vehicles in the performance of professional services under this agreement, the Consultant agrees to maintain reasonable automobile insurance on the vehicle.

All insurance policies shall be issued by a financially responsible company or companies authorized to do business in the State of Utah. Consultant shall provide City with copies of certificates (on the City certificate form) for all policies with an endorsement that they are not subject to cancellation without thirty (30) calendar days prior written notice to City. The City, its officers and employees, shall be named as additional insured on Consultants professional liability insurance.

11. **RELATIONSHIP OF THE PARTIES**

The relationship of the parties to this Agreement shall be that of independent contractors and that in no event shall Consultant be considered an officer, agent, servant or employee of City. The Consultant shall be solely responsible for any workers compensation, withholding taxes, unemployment insurance and any other employer obligations associated with the described work.

12. **TERMINATION**

The City, by notifying Consultant in writing, may upon ten (10) calendar days notice, terminate any portion, or all of the services agreed to be performed under this Agreement. In the event of such termination, Consultant shall have the right and obligation to assemble, in a reasonable time, work in progress for the purpose of winding up the job. All compensation for actual work performed and charges outstanding at the time of termination shall be payable by City to Consultant within thirty (30) calendar days following submission of final statement by Consultant.

The Consultant, by notifying City in writing, may upon ten (10) calendar days notice, terminate any portion, or all of the services agreed to be performed under this Agreement. In the event of such termination, Consultant shall have the right and obligation to assemble, in a reasonable time, work in progress for the purpose of winding up the job. All compensation for actual work performed and charges outstanding at the time of termination shall be payable by City to Consultant within thirty (30) calendar days following submission of final statement by Consultant.



13. **ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE**

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release to City from all claims and liabilities for compensation to Consultant for anything done, finished or relating to the Consultant's work or services. Acceptance of payment shall be any negotiation of the City's check or the failure to make a written extra compensation claim within thirty (30) calendar days of the receipt of that check.

However, approval or payment by the City shall not constitute nor be deemed a release of the responsibility and liability of Consultant, its employees, subcontractors, agents and consultants for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by the City for any defect or error in the work prepared by Consultant, its employees, subcontractors, agents and consultants.

14. **WAIVER; REMEDIES CUMULATIVE**

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party and no such waiver shall be implied from any omission by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this Agreement, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

15. **ATTORNEYS FEES**

Should either party to this Agreement bring suit to enforce this Agreement, it is agreed that the prevailing party shall be entitled to recover its costs, expenses and reasonable attorney's fees. A prevailing party is a party that shall have obtained a final judgment or order no longer subject to appeal. In the event of a settlement before final adjudication, both parties shall bear their own respective costs, expenses and reasonable attorney's fees, unless otherwise agreed. Any obligation set forth in this Agreement requiring one party to defend, indemnify and hold the other party harmless shall include payment by the indemnifying party of the indemnities' reasonable attorneys fees when and as incurred. Notwithstanding anything to the contrary, the City shall be fully liable for all collection fees or expenses incurred by the Consultant to collect any outstanding invoices.

16. **CONSTRUCTION OF LANGUAGE OF AGREEMENT**

The provisions of this Agreement shall be construed as a whole according to its common meaning and purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa.



17. **MITIGATION OF DAMAGES**

In all situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

18. **GOVERNING LAW**

This Agreement, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of Utah.

19. **CAPTIONS**

The captions or headings in the Agreement are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the Agreement.

20. **AUTHORIZATION**

Each party has expressly authorized the execution of this Agreement on its behalf and bind said party and its respective administrators, officers, directors, shareholders, divisions, subsidiaries, agents, employees, successors, assigns, principals, partners, joint ventures, insurance carriers and any others who may claim through it to this Agreement.

21. **ENTIRE AGREEMENT BETWEEN PARTIES**

Except for Consultants proposals and submitted representations for obtaining this Agreement, this Agreement supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering of services, and contains all of the covenants and agreements between the parties with respect to said services. Any modifications of this Agreement will be effective only if it is in writing and signed by the party to be charged.

22. **PARTIAL INVALIDITY**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

23. **TERM OF AGREEMENT**

Unless sooner terminated as provided for herein, this agreement shall be effective from June 19, 2013, to June 30, 2014. After June 30, 2014, this agreement may be renewable for up to four (4) successive one year periods under the same terms and conditions, unless amended, with the written consent of Consultant and the City. Further extension may be negotiated if it is in the best interest of the City to do so.



24. **NOTICES**

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in this United States mail, postage prepaid, and addressed as follows:

TO CITY: DRAPER CITY
Attn: David Dobbins, City Manager
1020 East Pioneer Road
Draper, Utah 84020

TO CONSULTANT: Armknecht and Cowdell, P.C.
Tracy Scott Cowdell, Esq.
Partner and Attorney
32 E. Main, Sandy, UT 84070
801-550-9864
tcowdell@me.com

In concurrence and witness whereof, this Agreement has been executed by the parties effective on the date and year first above written.

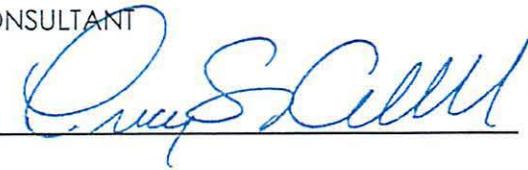
DRAPER CITY

Darrell H. Smith, Mayor

ATTEST:

Tracy Norr, City Recorder

CONSULTANT

By: 

Its: Tracy Cowdell, Esq.
Partner and Attorney



CONSULTANT ACKNOWLEDGMENT

STATE OF UTAH)
)
:SS.
COUNTY OF SALT LAKE)

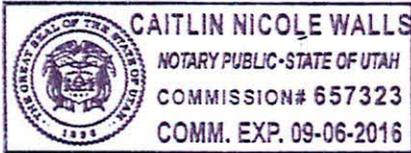
On the 10th day of June, 2013, personally appeared before me TRACY S. CAWCOCK
 who being by me duly sworn did say that (s)he is the PARTNER of
Americhat & Coconac, Inc. an UTAH corporation, and that the foregoing instrument was signed
 in behalf of said corporation by authority of a resolution of its Board of Directors; and they
 acknowledged to me that said corporation executed the same.

Caitlin Walls

Notary Public
Residing at:

Lindan, UT

My Commission Expires:



**Draper City
RFP TABULATION**

1020 E. Pioneer Road, Draper UT 84020
Phone (801) 576-6500

PROJECT NAME: Appeals and Variance hearing Officer -RFP 13-112

DATE OF OPENING:

May 15, 2013

TIME OF OPENING:

2:00 PM

Proposer	ADDENDUM ACKNOWLEDGE	PROPOSAL RECEIVED
Phillips Associates, Inc	N/A	YES
Mark E. Kleinfield	N/A	YES
Armknecht & Cowdell, P.C.	N/A	YES
James T. Dunn, P.C.	N/A	YES
	N/A	

AWARD TABULATION: Armknecht & Cowdell, P.C.

ARMKNECHT & COWDELL, P. C.

ATTORNEYS AT LAW

TRACY S. COWDELL

RICHARD F. ARMKNECHT

CHAD L. WOOLLEY

32 East Main, Sandy, Utah 84070

Telephone: 801-550-9864, Facsimile: 800-388-7054, Email: tcowdell@me.com

May 15, 2013

VIA HAND DELIVERY TO:

Attn: Joe Bryant
Draper City Finance Department
1020 East Pioneer Road
Draper City, Utah 84020

RE: Request for Proposals, Appeals and Variance Hearing Officer

Dear Mr. Bryant:

I am writing to express my desire to provide my professional services as an Appeals and Variance Hearing Officer for Draper City. As you review my proposal and resume, I hope you will take note of not only my exceptional qualifications for the position of Hearing Officer, but also of the uniquely well-rounded perspective and experience in the area of land use law I will bring to the position.

I am a Brigham Young University Law School graduate and long-time member of the Utah State Bar. At ARMKNECHT & COWDELL, PC, the firm at which I am a partner, my focus has always been on representing governmental entities. In my ongoing representation of governmental entities, including Sandy Suburban Improvement District, South Valley Water Reclamation Facility, and Taylorsville City, my practice has required an in depth knowledge of such relevant law as substantial and procedural land use law, GRAMA, the Utah Open Meetings Act, the Employee Ethics Act, the Utah State procurement code, municipal codes and ordinances, and other governmental regulations. Representation in state administrative hearings requiring a substantial knowledge of administrative purposes, procedures, and decisions has also been a large part of my practice.

I invite you to contact my clients about the quality of representation I have provided for them. I appreciate your time in reviewing my application, and hope it will be favorably considered. My signature on this cover letter signifies my intent to comply with the terms, specifications, and conditions set forth in the Request for Proposals.

Yours Truly,

ARMKNECHT & COWDELL, P.C.



Tracy Scott Cowdell, Esq.
Partner and Attorney

**PROPOSAL FOR DRAPER CITY APPEALS AND VARIANCE HEARING OFFICER
POSITION**

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I. EXECUTIVE SUMMARY AND COMPLIANCE WITH TERMS OF THE AGREEMENT

I propose to fulfill the Appeals and Variance Hearing Officer position for an hourly rate of \$125.00. I have carefully examined the requirements outlined in the Request for Proposals, and this rate will allow me to actively provide exceptional services, fulfilling the needs of the City while remaining cost effective for the bottom line. I have a unique set of skills and experiences that, I submit, make me the perfect fit for this position. Included in this proposal are some of my general qualifications, as well as my relevant, specific experiences for your review. Also included are my resume and a list of references. I encourage you to carefully review my qualifications and contact the references provided.

In preparing this proposal, I studied the Master Agreement for the Appeals and Variance Hearing Officer. I understand the Agreement, and hereby certify that I will agree to each term contemplated in the Agreement. I also reviewed sections of the Draper City code, including Title 9, *Land Use and Development Regulations*. I certify that I understand the code and am highly qualified to interpret and apply it in this position.

II. PROPOSED PRICING/COSTS/FEEES

My proposed hourly rate is \$125.00 per hour. My time will be recorded in 15 minute increments. I will not bill for secretarial and/or other staff labor or travel time. Additional costs, if any, will be approved for reimbursement before any expenditure.

III. RELEVANT EXPERIENCE AND QUALIFICATIONS

A. Professional Background:

I am a member in good standing of the Utah State Bar,¹ having been an integral part of the same law firm, Armknecht & Cowdell, P.C., for more than twelve (12) years. Armknecht & Cowdell, P.C. is a small law firm with a broad background in providing legal services to a variety of governmental entities. We have offices in Sandy City, The City of Taylorsville, and Sanpete County.

Since 2001, I have represented municipalities, interlocal entities, special service districts, and local businesses involved in land use, contract negotiations, contract disputes, collection claims, and general litigation matters. I have practiced in City, County, State, and Federal Courts. And, while I currently focus exclusively on providing legal services for governmental entities, previous experience in representing private clients, including land developers, contractors, and builders, has placed me in the unique position of understanding the interests and goals of both governmental entities and private land developers in matters pertaining to land use.

This unique understanding and ability to see a more informed perspective on land use will be invaluable in applying the law and knowing when the interests of Draper City and its residents will be best served by either allowing or denying a land use variance in the manner prescribed by, and according to, the considerations provided in the City's ordinances.

¹ My resume is included under section VII of this proposal.

Through literally thousands of hours of courtroom experience I have developed extensive legal proficiency, all the while demonstrating sound judgment, integrity, and a keen ability to not only interpret state and city code, but to properly apply that code to a set of facts in a case before a court, balancing government interests with the rights of individuals. Unlike many who practice in the law, I have both appeared before several administrative law judges during my career and myself served on several decision-making bodies before which others would appear. My experience and abilities on either side of the bench make me an excellent choice as one who is considering the assertions and purposes of both appellants and Draper City in light of the law.

My ability to not only make sound judgments and decisions, but to articulate in written form the *reasoning* behind those decisions has been both proven and honed through much of my academic work, starting with degrees in political science and sociology from the University of Utah, where I graduated summa cum laude (top 1 percent), and continuing through my time at and graduation from Brigham Young University.

B. Specific Qualifications/Experiences:

1. Legal/Attorney Experience. For nearly a dozen years I have represented governmental entities on the very matters that would come before me as the Appeals and Variance Hearing Officer. Two of these clients are Sandy Suburban Improvement District and South Valley Water Reclamation Facility, for whom I weekly read, comprehend, and interpret applicable law. I also advise these clients regarding municipal and state law. They depend on my analysis, recommendations, and application of the law to their work. On the other side of the legal coin, I have also written several opinions and orders for judges and other decision-making bodies. My experience in the roles and processes of both an advocate *and* a decision-maker will bring a uniquely broad and highly informed perspective to the position of Appeals and Variance Hearing Officer.
2. Member of the Board of Adjustment. I have four years of experience hearing the same matters that I would hear as the Appeals and Variance Hearing Officer. Although Sandy City does not have an appeals or variance officer, The City does appoint volunteers to serve on a Board of Adjustment. I served on Sandy City's Board of Adjustment for four years. The matters that came before the Board were often complex, given the nature of the undeveloped property in Sandy City. As a Board, we regularly served as an appellant body, hearing appeals from other staff decisions. Other matters that came before the Board included special exceptions and variances.
3. Represented Clients Before Administrative Law Judges, Appeals and Variance Officers, and Boards of Adjustment. I have appeared before numerous judges and appellate panels. In the interest of brevity, I will share just one experience. I was retained by a Murray resident who wanted to develop a flag lot behind his home. He owned a half-acre of property and two homes. His homes were older. They were legal, but non-conforming. I successfully argued and presented facts. My client received several variances for the three parcels regarding the side-yard and other setback requirements. Not only was my client was happy, but the City's interest in developing otherwise unusable property was also fulfilled.

4. Municipal Prosecutor. My firm has municipal prosecution contracts for several Utah cities, including the City of Taylorsville. As a prosecutor, I have an ethical duty to ensure that the decisions are fair and equitable. Every single case requires that I make decisions based exclusively on the principles of applicable laws and justice. My prosecutorial work has allowed me to develop and practice several skills that will be essential to effective decision-making as an administrative officer. The City entrusts me to act ethically and assimilate large amounts of evidence and information in order to not only act in the pursuit of justice, but to also act in the best interest of the City. Exercising discretion will be essential to carrying out the powers and duties assigned to the Draper City Appeals and Variance Hearing Officer. As outlined in the Draper City Code, the Hearing Officer must not only be able to effectively apply the zoning, land use, and other relevant Code found in Title 9² to the facts of each case at issue in deciding “appeals from zoning decisions,”³ but must also be adept at *exercising discretion* in the consideration of the City’s interests in allowing “exceptions”⁴ and “variances”⁵ to the same. I have over ten (10) years of experience practicing law in this area and the wisdom in exercising discretion that comes with such extensive experience.

5. Elected Official. I have over five (5) years of experience presiding over public meetings as the president of the Canyons Board of Education. In this capacity I have presided over many difficult matters and hearings. There is nothing more emotional or delicate than hearing matters related to the children of our community. I have had to make difficult decisions and cast unpopular votes. I have also been part of applying several successful and creative solutions wherein the law and policy were applied in a way that provided relief for fellow citizens. I have been with the District since its inception, and it has been my responsibility as President to plan, organize, and effectively conduct meetings and hearings to be held in the public forum. As an elected official, I also know how it feels to have my name printed on the front page of the newspaper. From this perspective, I understand the inner workings of a governmental entity that other applicants cannot fully appreciate.

6. Experience Working for Elected and Appointed Officials. Not only am I an elected official, I have also worked for other elected and appointed officials for nearly a decade. I know how to review the decisions of others, as well as to interact with and report to those under whom I have responsibility. This is a significant advantage for me in serving as your Appeals and Variance Hearing Officer because I work well within a municipal government structure. The City of Taylorsville was so please with my work for them that they presented me with their “Service Provider of the Year” award during my firm’s first year of prosecuting for their city. In honoring me with this award, Mayor Russ Wall commended me for bringing order to a broken system and thanked me for making his job easier.

² Draper City Code Ann. Title 9.

³ *Id.* at § 9-4-050(c)(1).

⁴ *Id.* at § 9-4-050(c)(2).

⁵ *Id.* at § 9-4-050(c)(3).

7. Record Keeping/Organizational Skills. For the last twenty (20) years, I have managed to maintain a complex personal and professional schedule. I have a talent for staying organized. My firm shares the priority I place on organization. Because we process over 1000 cases per month we cannot function without an extensive and structured file system, and have created a custom online scheduling system to supplement our organizational needs. This custom online database will be made available for use in this position. City staff and I can freely upload and track hearing calendars free of charge. Other staff in the City could also access it anytime to check the status of a case or the date of a hearing. This system is completely optional, but will be available for use in conjunction with my services to Draper City at no additional cost.

8. Other Experience. I have other volunteer experience that will help me significantly in as Hearing Officer. I understand our community and culture, exercise consistent and sound judgment, and have experience deciding matters in a both adversarial and non-adversarial settings.

I know this position requires the ability to exercise discretion in determining what zoning and land use matters are sufficiently “routine and uncontested . . . that may be decided by the Zoning Administrator”.⁶ The Officer must also work out the establishment of “guidelines by which [these] matters shall be decided.”⁷ These duties will require me to weigh the City’s interests in not only land use, but also in consistent and ethical application of its codified law. These duties will again utilize my experience and skill in matters requiring discretionary determinations and decisions.

Additional related experience is detailed in my resume.

IV. SCHEDULE/AVAILABILITY

In reviewing the city code, I understand that the Appeals and Variance Hearing Officer meets on the Wednesday immediately following the first Tuesday of each month.⁸ I certify that I can meet during this day every month and I have a flexible schedule to set hearings between 9:00 am and 5:00 pm when the City offices are open for business, Monday through Friday. I also live in close proximity and am therefore available for emergency hearings and short sets.

V. NO CONFLICTS OF INTEREST

I certify that I have no known conflicts of interest for this position. I do not represent any private sector clients within the City of Draper corporate limits that would be in conflict with any matter in Draper, and I do not foresee any future conflicts in serving as the Appeals and Variance Hearing Officer for Draper City.

⁶ *Id.* at § 9-4-050(c)(5).

⁷ *Id.*

⁸ *See Id.* at 9-4-050(b)(2).

VI. OTHER DUTIES AS ASSIGNED BY THE CITY

I am willing to perform any and all responsibilities the City would like me to perform as part of my role as the Appeals and Variance Hearing Officer. In addition to the scope of work outlined in your Request for Proposals, my proposed contract includes, but is not limited to, the following:

1. Quality Communication with Staff and City. This approach separates my application from other applicants. I strongly encourage you to check my references. My customer service skills are strong, an essential for this type of position.
2. 24 Hours a Day, 7 Days a Week Availability. My schedule works well with the City's requirements. If appropriate, I am also available 24/7 to code and law enforcement and all city officials for any questions they may have about the city code.
3. All Legal Research Materials and Books. As part of the contract and with no additional charge, I will provide all periodicals, research materials, and software necessary for this position.
4. Legal Training. As part of the contract, I will pay for all continuing education requirements of any lawyers and staff that assist me in the execution of my duties as Appeals and Variance Hearing Officer.
5. Training to Staff. My practice involves representing governmental entities. I am happy to provide regular training to members of the staff regarding the applicable city and state code.

This concludes the main body of my Proposal for the position of Draper City Appeals and Variance Hearing Officer. My resume and references are included in the pages that follow. I hereby commit to perform my duties in this position in the manner stated above. Thank you for your consideration of my Proposal.

Yours Truly,

ARMKNECHT & COWDELL, P.C.



Tracy Scott Cowdell, Esq.
Partner and Attorney

VII. RESUME TRACY SCOTT COWDELL

32 EAST MAIN STREET, SANDY, UTAH 84070 • cell: 801.550.9864 • home: 801.566.4287
e-mail: tcowdell@me.com

PROFESSIONAL EXPERIENCE:

Partner, *ARMKNECHT AND COWDELL, P.C.*, Sandy, Utah (2001-Present)

- Areas of emphasis include: all areas of representation of governmental entities
- Represented public and elected officials in their official capacity
- Daily experience with negotiation, collaboration, and problem solving
- Practice includes GRAMA, Utah Open Meeting Act, Employee Ethics Act, land use, the state procurement code, prosecution, and other government-related regulation
- Clients include: Sandy Suburban Improvement District, South Valley Water Reclamation Facility, and Taylorsville City.

Chief Operations Officer, *Advanced IT Solutions, Inc.*, Sandy, Utah (1998-2001)

- Co-founder and Principal
- Proficient in MS Office, the Internet, LAN/WAN management, and other technology applications
- Liaison between company management and technical support team

EDUCATION AND CREDENTIALS:

Juris Doctorate, (2001) *J. Reuben Clark Law School, Brigham Young University*

- Faculty Award for Meritorious Achievement and Distinguished Service
- Extern in Chief Judge Dee Benson's Office, U.S. District Court
- Trained in mediation, negotiation, and meeting facilitation
- Member of the Alternative Dispute Resolution Society

Bachelor of Science, (1997) *summa cum laude, University of Utah*

- Political science and sociology (double major) certified in criminology and corrections
- GPA 3.93 (top one percent)
- Sociology Scholar and Scholarship
- Alpha Kappa Delta sociology honors
- Member of Golden Key and Phi Beta Kappa Honors Societies
- Research, writing, and publishing experience

PUBLIC AND VOLUNTEER SERVICE:

Member, *Canyons School District Board of Education*, Sandy Utah (2008-Present)

- President, *Canyons School District Board of Education*, Sandy Utah (2008-2012)
- Key member in creating Utah's first new school district in 100 years

- Strategic planning, including the hiring of the district's first superintendent; planning for successful passage and implementation of \$250 million construction bond, and developing programs that enhance the academic performance for all students
- Community building, developed key partnerships between school district, city and legislative leaders and business community
- Skilled diplomat, collaborator, negotiator and communicator

Vice President, *Jordan School District Board of Education*, Sandy Utah (2007-2009)

- Daily interaction with public as an elected official
- Leadership of a sizeable organization (the largest school district in state at the time)
- Instrumental in bringing stakeholder groups together

Chairperson, *Sandy Elementary School Community Council*

- Leadership at a school level, heading committee of parents, teachers, and principal
- Oversight of fundraising
- Worked to identify and close the school's gaps in student achievement
- Increased community engagement and parental involvement at the school

Chairperson, *Sandy Elementary School Trust Land Committee*

- Implemented sound fiscal policy in prioritizing needs of school
- Maximized efficient use of resources to promote excellence in teaching and learning
- Participation with others in planning and decision-making

Director, *Community Mediation Center*, Provo Utah (2000-2001)

- Co-founder and director
- Oversaw daily operations of the center
- Facilitated meetings, group presentations, strategic planning, goal setting, and fund raising
- Taught dispute resolution and conflict management
- Member, Board of Directors (2000-2004)

Member, Board of Adjustment, Sandy City (2004-2008)

- Served on quasi-judicial Board hearing complex land use matters
- Issued findings regarding variances, special exceptions, etc.

Member, CDBG Sandy Citizen Committee, Sandy City, Sandy, Utah (1997-2004)

- Reviewed grant applications for Sandy City Council
- Recommended allocation of Community Development Block Grant funds

ADDITIONAL EXPERIENCE AND VOLUNTEER SERVICE:

Stake President, Sandy Utah West Stake, Sandy Utah (2009-Present)

LDS Bishop, Sandy Utah West Stake, Sandy Utah (1997-2004)
Campaign Manager, Sandy City Council members (1993 and 1997)
Assistant Coordinator, Historic Sandy Neighborhood Watch (2002-Present)
Institutional Head, Boy Scouts of America Troop 1231 (1997-2004)
Member and General Counsel, Sandy Museum Foundation (2003-2004)
Board Chair and General Counsel, Gateway to Canine Partnerships (2005-2006)
General Counsel, Ute Conference Football League (2009-Present)
Internship, Hinckley Institute of Politics, *Sandy City* (1997)

AWARDS:

Sandy City's Outstanding Elected Official Award (2010)
Service Provider of the Year, City of Taylorsville (2011)
Sandy City's Outstanding Service Award (2012)

AFFILIATIONS:

Utah Association of Special Districts
Parent Teacher Association and Parent Teacher Student Association
J. Reuben Clark Law Society
Salt Lake County Bar Association
Utah Bar Association
Utah Prosecution Council
BYU Alumni Association
Utah Alumni Association
Utah School Boards Association
Canyons Education Foundation

SKILLS AND INTERESTS:

Technology, the arts, HARLEY-DAVIDSON® motorcycles, and Muscle cars.

VIII. REFERENCES AND CLIENTS

John Inch Morgan
Taylorsville City Administrator
2600 West Taylorsville Boulevard
Taylorsville, Utah 84118
Phone: 801-963-5400
Fax: 801-963-7891

Jerry L. Knight
Board Chairman
South Valley Water Reclamation Facility
7495 South 1300 West
West Jordan, UT 84084
(801) 561-7662
jknight@sandysid.com

Mark E. Hurst
Board Member
Sandy Suburban Improvement District
8855 South 700 West
Sandy, Utah 84070
(801) 842-7716
hurstme@me.com

Tess Falkner
Taylorsville Clerk of the Court
2600 West Taylorsville Boulevard
Taylorsville, Utah 84118
Phone: 801-963-5400
Fax: 801-963-7891

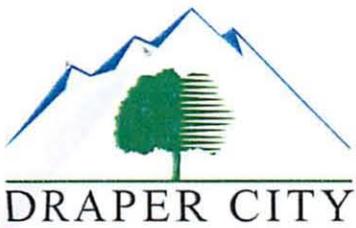
Russ Wall, Director
Public Works & Regional Development
Salt Lake County Government Center
2001 South State Street N2100
Salt Lake City, Utah 84114
385 468-7000
(801) 502-7001

David Doty, JD, PHD
Superintendent, Canyon School District
Administration Building
9150 South 500 West
Sandy, UT 84070
(801) 826-5000
DAVID.DOTY@canyonsdistrict.org

IX. JUDICIAL REFERENCES

Honorable Marsha Thomas
2600 West Taylorsville Boulevard
Taylorsville, Utah 84118
(801) 963-0268
mthomas@taylorsvilleut.gov

Honorable Michael Kwan
2600 West Taylorsville Boulevard
Taylorsville, Utah 84118
(801) 963-0268
mkwan@taylorsvilleut.gov



**DRAPER CITY
FINANCE DEPARTMENT
1020 EAST PIONEER RD
DRAPER, UTAH 84020**

TELEPHONE: (801) 576-6514

FACSIMILE: (801) 576- 6389

www.draper.ut.us

REQUEST FOR PROPOSALS

Draper City

APPEALS AND VARIANCE HEARING OFFICER ADDENDUM #1

RFP #13-112

DUE DATE: MAY 15, 2013 @ 2:00 p.m.

QUESTIONS DUE: MAY 10, 2013 1p.m.

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I. INTRODUCTION

Draper City is currently seeking an individual experienced in land use matters to serve as the Draper City Appeals and Variance Hearing Officer. The qualified individual will have training or experience in fields relating to land use law preferably including but not necessarily limited to acceptance to the bar of the State of Utah. Furthermore, a qualified individual will have experience in conducting administrative or quasi-judicial hearings utilizing land use and other regulatory codes.

Copies of the RFP Documents may be obtained from the Finance Department at no cost or on the Draper City web site at www.draper.ut.us. Please submit a written copy of your proposal; electronic proposals cannot be accepted at this time.

II. PROJECTED SCHEDULE FOR THE RFP PROCESS

Draper City reserves the right to modify the following schedule at their discretion:

<u>Activity</u>	<u>Date</u>
Final day to submit questions	May 10, 2013
Proposal Due Date	May 15, 2013
Committee Meeting	May 20, 2013
Proposer Interviews	May 23, 2013
Anticipated Notice to Proceed	June 5, 2013

III. DEADLINE FOR PROPOSAL SUBMISSION

Your sealed proposal will be accepted until **2:00 PM on Wednesday May, 15, 2013** at the Finance Department, 1020 East Pioneer Road Draper City, Utah 84020. **No proposals will be accepted after the closing date and time.**

IV. TERM OF AGREEMENT

It is the intent of Draper City to enter into an agreement with the successful Proposer for a one (1) year term. The agreement may be renewed for Four (4) additional one (1) year terms under the same terms and conditions. Further extension may be negotiated if it is in the best interest of the City to do so.

V. BACKGROUND

Draper City is a municipal entity of the third class organized and operating under the authority of the State of Utah. Draper City is currently seeking an individual experienced in land use matters to serve as the Draper City Appeals and Variance Hearing Officer. The qualified individual will have training or

experience in fields relating to land use law preferably including but not necessarily limited to acceptance to the bar of the State of Utah. Furthermore, a qualified individual will have experience in conducting administrative or quasi-judicial hearings utilizing land use and other regulatory codes.

VI. SCOPE OF WORK AND TASKS TO BE COMPLETED

The Appeals and Variance Hearing Officer will be required to carry forth the following tasks during a meeting to be held on an "as needed basis" with hours that will vary depending upon type and frequency of the applications:

- A. Hear and decide appeals from zoning decisions applying the provisions of the Draper City Municipal Code.
- B. Hear and decide special exceptions from the terms of the Draper City Municipal Code.
- C. Hear and decide variances from the terms of the Draper City Municipal Code.
- D. Determine the existence, expansion, or modification of nonconforming uses within Draper City limits.
- E. With the consent of the Draper City Council, designate and establish guidelines by which routine and uncontested matters may be decided by the Draper City Zoning Administrator.

VII. PRICING/COSTS/FEES

Respondents shall propose billing rates, inclusive of travel, per diem and all other out-of-pocket expenses.

VIII. QUALIFICATIONS OF RESPONDENT

It is explicitly stated that the candidate will be required to disclose if they are currently working for any private sector clients within the City of Draper corporate limits. Any work or recent work within or for clients within the City of Draper may disqualify the individual from consideration. Finally, the selected individual will be required to enter into a contract with Draper City that will prohibit any consultation work within Draper City during the contract period.

The profile of the proposers should provide general background information. This should include:

A. Proposer's Qualifications

- i. Describe a recent experience relating to the type of administrative decision making and hearing an Appeals and Variance Hearing Officer would conduct.
- ii. If others are to assist the applicant in a clerical or supportive capacity, those individuals should be required to provide similar information.

- iii. A knowledge of the following theory, principles, and practices:
 - a. Training or experience in conducting administrative or quasi-judicial hearings utilizing land use and other regulatory codes.
 - b. Expertise and experience in city planning or other associated land use matters.
 - c. Knowledge or experience in environmental sciences, law, architecture, economics or engineering.

OR

- d. Admitted to the bar in the State of Utah.
 - e. Development organizations, municipalities, governmental entities or private developers.
 - f. Proven experience in environmental and land use law, municipal planning or land use management.
- iv. Ability to do the following:
 - a. Plan, organize, and effectively conduct meetings hearings to be held in a public forum.
 - b. Read, understand, and interpret adopted municipal and state law.
 - c. Analyze situations accurately and properly apply applicable laws.
 - d. Render fair and equitable decisions, which will affect individuals and organizations, based exclusively on the principles of applicable laws.
 - e. Write decisions from which appeals may be made to the district court. Therefore, such decisions must be clear, coherent, and include the legal standard on which it is based.

IX. PROPOSAL FORMAT

All proposals shall be formatted according to the following specifications:

- A. Page Limit: proposals cannot be more than 10 pages.
- B. Page Numbering: proposals shall contain page numbers.
- C. Table of Contents: proposals shall contain a table of contents with references to page numbers.
- D. Copies: Please submit Five (5) copies of your proposal + one (1) unchanged electronic (CD) copy in a doc. or pdf. format to the Draper City Finance

Department Attn: Joe Bryant, 1020 East Pioneer Road Draper City, Utah 84020

- E. Sealed and Marked Packaging: proposals shall be sealed and clearly marked "Hearing Officer" on the outside of the package and on the body of the proposal. All copies shall be put into **one** envelope or box and sealed; do not put each proposal copy in a separate sealed envelope.

- F. Cover Letter: The proposal shall have a cover letter indicating the Proposer willingness to enter into an agreement with Draper City. A person legally authorized to bind the Proposer to the proposed project must sign this letter. Proposals will include the full name, legal status (corporation, state of incorporation, partnership, proprietorship, etc.), business address of the Proposer, and telephone number. Please include one or two **e-mail addresses for notification of an interview**.

The proposal must be signed in ink by a principal of the business who is authorized to execute any subsequent contract. The name of the principal and his/her business title will be included in the signature element in either type or print. Penciled signatures or notations will not be accepted.

X. QUESTIONS

For questions or for Information concerning the Request for Proposal procedures and regulations (i.e., submission deadline and forms required, etc.), or Americans with Disabilities (ADA) accommodations, interested parties may contact Joe Bryant, Draper City Purchasing Agent at: joe.bryant@draper.ut.us deadline for questions submission which is May 10, 2013 at 1:00 pm. Questions may also be submitted through www.bidsync.com ("Bid Sync") until the deadline. Bid Sync will then e-mail the answer to all Proposer that have expressed an interest in the RFP.

Do not contact the department, or other Draper City officers or employees.

XI. EVALUATION AND SCORING CRITERIA

Proposals will be evaluated, scored, and ranked by a Selection Committee. Attachment B is a sample score sheet, which each Committee member will complete for each proposal. The Selection Committee may invite up to the top three (3) ranked proposals for an interview/demonstration. The purpose of the interview/demonstration is clarification and verification of the written proposal. The Selection Committee may re-score the proposal after the interview/demonstration, but may not re-score pricing/costs/fees, unless the Committee requests a best and final offer. A recommendation will then be presented to the City Council for consideration and approval. Proposals will be evaluated, scored, and ranked on the following criteria:

- 30% Proposed Pricing/Costs/Fees.** Please submit an hourly rate. Time shall be recorded in 15 minutes increments. Travel time and associated costs will not be compensated.
- 50% Relevant Experience and Qualifications.** Provide a brief description of your training and experience. In addition to these qualifications, please indicate your familiarity with administrative law; including process and recordkeeping. Finally, identify your experience with municipal ordinances and policies.
- 20% Schedule.** Ability to schedule hearings between 9 am and 5 pm when City offices are open for business Monday through Friday at a conference room at Draper City Hall (1020 E. Pioneer Rd., Draper UT 84020)

XII. WRITTEN AGREEMENT REQUIRED

The selected Proposer must be willing to enter into a written agreement with Draper City and agree to all the terms set forth in the Standard Form RFP Agreement, attached to this RFP as "Attachment A." **IF YOU WISH TO ALTER ANY OF THE TERMS OF THE STANDARD FORM AGREEMENT AND/OR THE RFP INCLUDING EXHIBITS, ATTACHMENTS, AND ADDENDA, THE TERMS MUST BE SPECIFICALLY IDENTIFIED IN YOUR PROPOSAL WITH REASONABLE ALTERNATIVES PRESENTED.** Proposers are advised that Draper City is not bound by the terms of the RFP until a written agreement is fully executed and any activity taken by Proposer prior to a written agreement being fully executed is done at the Proposer's sole risk.

Return to Agenda

CONSENT

ITEM #C

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (the "Agreement") is made and entered into as of this ____ day of _____, 2013, by and between **RENAE P. BALLARD TRUST**, (hereinafter referred to as "Ballard Trust") and **DRAPER CITY**, a Utah municipal corporation (hereinafter referred to as the "City").

RECITALS:

A. Ballard Trust owns residential property at 13177 South Fort Street in Draper, Utah, Tax Parcel Number 28-32-327-880 (hereinafter referred to as the "Ballard Trust Property" or "the Property." The Property includes a 2,346 square foot (main and basement levels) single-family residence constructed in 1950. Site improvements include irrigated sod, trees, shrubs, and planted beds, concrete driveway and walks, fencing, and root cellar. The Property is a corner lot at the northeast intersection of 13200 South Street and Fort Street. The Property measures 113 feet along Fort Street and 140 feet along 13200 South Street, and is 15,919 square feet or 0.365 acres, based on the deed plot.

B. City, as one of its public purposes, maintains a transportation network of streets and related facilities to serve the public interest. In the maintenance of City's transportation system, City desires to widen 13200 South Street and to install turn lanes at the intersection of 13200 South Street and Fort Street, which road construction requires City to obtain the Ballard Trust Property in full.

C. Pursuant to Utah law, City possesses the power of eminent domain and may exercise eminent domain authority for the acquisition of property necessary for the construction of public streets.

D. City is in the process of acquiring or has acquired a residential property at 1514 Pioneer Road in Draper, Utah (hereinafter referred to as the "Pioneer Road Property." Ballard Trust has inspected that property and finds it suitable to its needs, subject to certain repair work and upgrades as defined herein.

E. Ballard Trust is willing to deed its Property to City and City is willing to deed its Pioneer Road Property to Ballard Trust in even trade, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Sale and Purchase Price.** Ballard Trust hereby sells and City does hereby purchase the Ballard Trust Property described in Exhibit "A," and City hereby sells and Ballard Trust does hereby purchase the Pioneer Road Property described in Exhibit "B." in even and equal trade, subject to the terms and conditions of this Agreement. No money will exchange hands between the parties. The purchase and sale of the properties shall be in accordance with all of the provisions of this Agreement.

2. **Closing and Conveyance.** The following provisions shall govern the closing of this transaction:

a. **Closing Date.** The sale and purchase of the properties shall be consummated through a closing conducted at Draper City Hall, 1020 East Pioneer Road, Draper, Utah 84020 on or before October 31, 2013 ("Closing Date"). The Closing Date may be extended by mutual agreement of the parties.

b. **Ballard Trust's Obligations at Closing.** Ballard Trust shall pay all taxes owing on the Ballard Trust Property up to and through the Closing Date. On or before the Closing Date, Ballard Trust shall deliver to the City a satisfactory deed and certification of payment of applicable tax liability for and covering the property described in Exhibit "A." All taxes and assessments assessed on the property after the Closing Date shall be paid by City. The deed shall be duly executed and acknowledged in recordable form conveying to City fee simple title to the property, together with any other documents required by City.

c. **City's Obligations at Closing.** City shall pay all taxes owing on the Pioneer Road Property up to and through the Closing Date. On or before the Closing Date, City shall deliver to Ballard Trust a satisfactory deed and certification of payment of applicable tax liability for and covering the property described in Exhibit "B." All taxes and assessments assessed on the property after the Closing Date shall be paid by Ballard Trust. The deed shall be duly executed and acknowledged in recordable form conveying to Ballard Trust fee simple title to the property, together with any other documents required by Ballard Trust. Purchase of title insurance shall be at Ballard Trust's discretion and at Ballard Trust's sole cost and expense.

d. **Escrow Fees and Other Costs.** The costs of any title insurance desired by either party shall be borne by the respective purchaser. City shall pay the recording costs for both of the deeds.

3. **Contingencies.** This Real Estate Purchase and Sale Agreement is contingent upon the approval of the terms of this Agreement by the Draper City Council.

4. **City Repair Obligation to Pioneer Road Property.** It is understood City is acquiring or has acquired the Pioneer Road Property to consummate a trade for the Ballard Trust Property. City shall repair or cause to be repaired certain items on the Pioneer Road Property prior to the trade occurring at the Closing Date. The certain items of repair are for plumbing for master bath and laundry, water heater, hose bibs, kitchen sink leak repair, bedroom work, flue, furnace and air conditioning units and work, roof repair, and installation of electrical outlets above the kitchen counter, for freezers, and for washer and dryer hookups, all as specified on the three bid proposals attached hereto as Exhibit "C." No other work to the Pioneer Road Property is contemplated or required by the parties hereto.

5. **Possession.** Possession of the Pioneer Road Property shall be delivered by City to Ballard Trust on the Closing Date. Possession of the Ballard Trust Property shall be delivered by Ballard Trust to City thirty (30) days thereafter.

6. **Encumbrances.** The parties agree that conveyance of the properties to the other shall be free and clear from all liens and encumbrances, except those accepted by each party in writing. Neither party shall create liens or encumbrances on the properties after the date of this Agreement. Each party hereby agrees to hold the other party and its agents and officers harmless from any and all liens and encumbrances and any claims arising therefrom.

7. **Notices.** Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

Ballard Trust: ReNae P. Ballard Trust
13177 South Fort Street
Draper, UT 84020

City: Draper City
1020 East Pioneer Road
Draper, UT 84020

Any party may change its address or notice by giving written notice to the other party in accordance with the provisions with this Section.

8. **Default.** If any party shall fail to comply with the terms of this Agreement, the non-defaulting party shall send written notice and provide a reasonable opportunity to cure, but not less than thirty (30) days.

9. **Time.** It is agreed that time is of the essence of this Agreement.

10. **Successors and Assigns.** This Agreement shall bind each of the parties hereto and their respective heirs, personal representatives, successors and assigns.

11. **Entire Agreement.** This Agreement, with any exhibits incorporated by reference, constitutes the final expression of the parties' agreement as a complete and exclusive statement of the terms of that Agreement. This Agreement supersedes all prior or contemporaneous negotiations, discussions and understandings, whether oral or written or otherwise, all of which are of no further effect. This Agreement may not be changed, modified or supplemented except in writing signed by the parties hereto.

12. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective duly authorized representatives as of the day and year first hereinabove written.

“BALLARD TRUST”

ReNae P. Ballard, Trustee

“CITY”

DRAPER CITY

ATTEST:

By _____
Darrell H. Smith, Mayor

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On the ____ day of _____, 2013, personally appeared before me ReNae P. Ballard, Trustee of the ReNae P. Ballard Trust, who being duly sworn, did say that she signed the within and foregoing instrument in behalf of said Trust.

Notary Public

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On the ____ day of _____, 2013, personally appeared before me Darrell H. Smith and Tracy Norr, who being duly sworn, did say that they are the Mayor and Recorder respectively of **DRAPER CITY**, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said Darrell H. Smith and Tracy Norr acknowledged to me that the City executed the same.

Notary Public

Exhibit A

Ballard Trust Property Description

Exhibit B

Pioneer Road Property Description

Exhibit C

**Repair Work on Pioneer Road Property
Bid Proposals**



A. SETTLEMENT STATEMENT (HUD-1)
 Utah Mountain Title & Escrow
 7390 S.Creek Rd. Suite #203
 Sandy, UT 84093
 (801) 545-7600

B. TYPE OF LOAN
 1. FHA 2. RHS 3. CONV. UNINS.
 4. VA 5. CONV. INS.
 6. ESCROW FILE NUMBER: 00068292-001 KRS 7. LOAN NUMBER:
 8. MORTGAGE INSURANCE CASE NUMBER:

ESTIMATED figures are subject to change

C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(P.O.C.)*" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. NAME OF BORROWER: DRAPER CITY
ADDRESS OF BORROWER:

E. NAME OF SELLER: RUSSELL S. PAGE
ADDRESS OF SELLER: 1514 EAST PIONEER ROAD
 DRAPER, UT 84020

F. NAME OF LENDER:
ADDRESS OF LENDER:

G. PROPERTY LOCATION: 1514 EAST PIONEER ROAD
 DRAPER, UT 84020
 Salt Lake County 28-28-376-001

H. SETTLEMENT AGENT: Utah Mountain Title and Escrow (801) 545-7600
PLACE OF SETTLEMENT: 7390 S.Creek Rd. Suite #203, Sandy, UT 84093

I. SETTLEMENT DATE: 6/28/2013 **PRORATION DATE:** 6/28/2013 **DISBURSEMENT DATE:** 6/28/2013

J. SUMMARY OF BORROWER'S TRANSACTION		K. SUMMARY OF SELLER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER:		400. GROSS AMOUNT DUE TO SELLER:	
101. Contract Sales Price		401. Contract Sales Price	199,900.00
102. Personal Property		402. Personal Property	
103. Settlement charges to Borrower (line 1400)		403.	
104.		404.	
105.		405.	
ADJUSTMENTS FOR ITEMS PAID BY SELLER IN ADVANCE:		ADJUSTMENTS FOR ITEMS PAID BY SELLER IN ADVANCE:	
106. City/Town Taxes		406. City/Town Taxes	
107. County Taxes		407. County Taxes	
108. Assessments		408. Assessments	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
113.		413.	
114.		414.	
115.		415.	
120. GROSS AMOUNT DUE FROM BORROWER:		420. GROSS AMOUNT DUE TO SELLER:	199,900.00
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:		500. REDUCTIONS IN AMOUNT DUE TO SELLER:	
201. Deposit or earnest money		501. Excess deposit (see instructions)	
202. Principal amount of new loan(s)		502. Settlement charges to Seller (line 1400)	6,297.00
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first mortgage loan	
205.		505. Payoff of second mortgage loan	
206.		506. OWNERS POLICY PREMIUM	1,278.00
207.		507.	
208.		508.	
209.		509.	
ADJUSTMENTS FOR ITEMS UNPAID BY SELLER:		ADJUSTMENTS FOR ITEMS UNPAID BY SELLER:	
210. City/Town Taxes		510. City/Town Taxes	
211. County Taxes		511. County Taxes 01/01/13 to 06/28/13	775.69
212. Assessments		512. Assessments	
213.		513. EST FINAL ASSESSMENTS	150.00
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY/FOR BORROWER:		520. TOTAL REDUCTIONS IN AMOUNT DUE SELLER:	8,500.69
300. CASH AT SETTLEMENT FROM TO BORROWER:		600. CASH AT SETTLEMENT TO/FROM SELLER:	
301. Gross amount due from Borrower (line 120)		601. Gross amount due to Seller (line 420)	199,900.00
302. Less amount paid by/for Borrower (line 220)		602. Less reduction in amount due Seller (line 520)	8,500.69
303. CASH (<input type="checkbox"/> FROM) (<input type="checkbox"/> TO) BORROWER:		603. CASH (<input type="checkbox"/> FROM) (<input checked="" type="checkbox"/> TO) SELLER:	191,399.31

The Public Reporting Burden for this collection of information is estimated at 35 minutes per response for collecting, reviewing, and reporting the data. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. No confidentiality is assured; this disclosure is mandatory. This is designed to provide the parties to a RESPA covered transaction with information during the settlement process.

L. SETTLEMENT CHARGES

ESCROW BILL NUMBER: 00068292-001 KRS

700. TOTAL REAL ESTATE BROKER FEES: P.O.C.		PAYED FROM BORROWER'S FUNDS AT SETTLEMENT	PAYED FROM SELLER'S FUNDS AT SETTLEMENT
DIVISION OF COMMISSION (LINE 700) AS FOLLOWS:			
701.	\$2,998.50 to UTAH HOMES NETWORK		
702.	\$2,998.50 to RCMAX MASTERS		
703.	Commission paid at settlement		5,997.00
704.	"LESS EM RECVD \$2000.00" to "SELLING BKR"		
705.			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN: P.O.C.			
801.	Our origination charge \$0.00 (from GFE #1)		
802.	Your credit or charge (points) for the specific interest rate chosen \$0.00 (from GFE #2)		
803.	Your adjusted origination charges (from GFE #1)		
804.	Appraisal fee (from GFE #3)		
805.	Credit report (from GFE #3)		
806.	Tax service (from GFE #3)		
807.	Flood certification (from GFE #3)		
808.			
809.			
810.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE: P.O.C.			
901.	Daily interest charges (from GFE #10)		
	from to @ \$ /day % (days)		
902.	Mortgage insurance premium for month(s) (from GFE #3)		
903.	Homeowner's insurance for year(s) (from GFE #11)		
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER:			
1001.	Initial deposit for your escrow account (from GFE #8)		
1002.	Homeowner's insurance months @ \$ per month		
1003.	Mortgage insurance months @ \$ per month		
1004.	City property taxes months @ \$ per month		
1005.	County property taxes months @ \$ per month		
1006.	months @ \$ per month		
1007.	months @ \$ per month		
1008.	months @ \$ per month		
1009.	months @ \$ per month		
1100. TITLE CHARGES: P.O.C.			
1101.	Title services and lender's title insurance (from GFE #4)		
1102.	Settlement or closing fee to Utah Mountain Title and Escrow		300.00
1103.	Owner's title insurance (from GFE #5)		
1104.	Lender's title insurance		
1105.	Lender's title policy limit		
1106.	Owner's title policy limit \$199,900.00 1278.00		
1107.	Agent's portion of the total title insurance premium \$0.00		
1108.	Underwriter's portion of the total title insurance premium \$0.00		
1109.			
1110.			
1111.			
1112.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES: P.O.C.			
1201.	Government recording charges (from GFE #7)		
1202.	Deed \$20.00 Mortgage \$0.00 Release \$0.00		
1203.	Transfer taxes (from GFE #8)		
1204.	City/County tax/stamps Deed \$ Mortgage \$		
1205.	State tax/stamps Deed \$ Mortgage \$		
1206.			
1207.			
1300. ADDITIONAL SETTLEMENT CHARGES: P.O.C.			
1301.	Required services that you can shop for (from GFE #6)		
1302.			
1303.			
1304.			
1305.			
1306.			
1400.	TOTAL SETTLEMENT CHARGES (Enter on line 103, Section J - and - line 502, Section K)		6,297.00

SELLER'S AND/OR PURCHASER'S/BORROWER'S STATEMENT

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

The Seller's and Purchaser's/Borrower's signatures hereon acknowledge their approval and signify their understanding that tax and insurance proration and reserves are based on figures for the preceding year or supplied by others or estimated for the current year, and in the event of any change for the current year, all necessary adjustments will be made between Purchaser/Borrower and Seller directly. Any deficit in delinquent taxes or mortgage payoffs will be promptly reimbursed to the Settlement Agent by the Seller.

I hereby authorize the Settlement Agent to make expenditures and disbursements as shown above and approve same for payment.

Borrower(s)/Purchaser(s)

Seller(s)

DRAPER CITY Date
By:
Its:

RUSSELL S. PAGE Date

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

Settlement Agent: _____ Date: _____

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details, see: Title 18 U.S. Code Sections 1001 and 1010.

ESCROW CLOSING INSTRUCTIONS

Date: June 28th, 2013
Order No. 00068292

1. LEGAL ADVICE NOTICE:

LLC pursuant to instructions from buyer(s) and seller(s) (or both) may have prepared and furnished certain documents in connection with the purchase and sale, or mortgage of said property. Including, but not limited to, Deeds, Escrow Instructions, Contracts of Sale, Bills of Sale, Security Agreements and Trust Deeds or Mortgages, in connection with this transaction and that buyer(s) and seller(s) is hereby advised by Escrow Officer of the advisability of seeking legal counsel in connection with this transaction and the documentation prepared by Escrow Officer and Utah Mountain Title and Escrow.

2. TAX PRORATION DISCLAIMER:

The undersigned buyer(s) and seller(s) do hereby understand and agree that the proration for general property taxes was calculated based on taxes for the preceding or estimates of the current year. Accordingly, the buyer(s) and seller(s) do hereby hold Utah Mountain Title and Escrow, harmless from any liability or damages caused by an inaccurate proration for general property taxes resulting from any variation of difference in the actual general property taxes assessed for the current year. Both buyer(s) and seller(s) agree to make the proper proration as may be required subsequent to closing.

3. UTILITIES AGREEMENT:

It is hereby acknowledged and understood that any and all service charges or assessments levied by all utility companies will be paid by the buyer(s) and seller(s) directly. All final charges to date of closing will be paid directly to utility companies by said seller(s), on or before said buyer(s) takes possession of the property. It is understood and agreed that Utah Mountain Title and Escrow, shall not be liable for the failure of any one party involved herein in any particular manner, disagreements, changes, and/or additional agreements between parties.

4. ACKNOWLEDGMENT OF RECEIPT OF TITLE COMMITMENT:

The undersigned buyer(s) do hereby acknowledge that they have received a copy of and have reviewed the contents of that Commitment for Title Insurance issued by Utah Mountain Title and Escrow, in connection with the above referenced transaction and do hereby agree that, in addition to the Standard Exceptions shown as exceptions 1-6 of said commitment, the following Special Exceptions, as shown on said commitment, shall remain and be shown in the Policy of Title Insurance to be issued by Utah Mountain Title and Escrow, subsequent to closing.

Special Exceptions:

Buyer(s) wish to take title as set forth on Warranty Deed. Please initial here _____.

5. INSURANCE INSTRUCTIONS:

- Fire insurance policy has been or will be taken care of by the buyer(s) or their lender, and Utah Mountain Title and Escrow, is not responsible for obtaining said fire insurance policy. Home warranty Plan will /will not be issued to the buyer(s).

6. RECORDING DOCUMENTS AND DISBURSEMENT OF FUNDS:

The buyer(s) and seller(s) have read and approved all documents prepared or presented in connection with the closing of this escrow, and hereby direct and instruct the Escrow Officer and Utah Mountain Title and Escrow, to close and record this transaction. Upon receiving good funds, Utah Mountain Title and Escrow, is instructed to disperse funds pursuant to said settlement statement approved by the undersigned, unless other instructions are given to the Escrow Agent under section 7 following.

7. ADDITIONAL INSTRUCTIONS:

The undersigned buyer(s) and seller(s) instruct Escrow Officer to make the following changes, deletions, or additions necessary to close the transaction.

BUYERS:

DRAPER CITY
BY:
Its:

SELLERS:

RUSSELL S. PAGE

Daytime phone: _____

Daytime phone: _____

New

Wiring Instructions:

Utah Mountain Title
7390 South Creek Road, Suite 203
Sandy, Utah 84093
Phone (801) 545-7600 Fax (801) 545-7601

Grand Valley Bank
1245 Deer Valley Drive
Park City, UT 84060

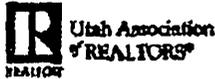
ABA Routing: 102105353

For Credit to the Account of:
Utah Mountain Title Trust Account

Account No.: 216001131

Please Reference:

File No. 108292
File Name Page / Draper City



REAL ESTATE PURCHASE CONTRACT



This is a legally binding Real Estate Purchase Contract ("REPC"). Utah law requires real estate licensees to use this form. Buyer and Seller, however, may agree to alter or delete its provisions or to use a different form. If you desire legal or tax advice, consult your attorney or tax advisor.

OFFER TO PURCHASE AND EARNEST MONEY DEPOSIT

On this 16th day of April, 2013 ("Offer Reference Date") Draper City ("Buyer") offers to purchase from Russell S. [Redacted] ("Seller") the Property described below and delivers to the Buyer's Brokerage with this offer, or agrees to deliver no later than four (4) calendar days after Acceptance (as defined in Section 23), Earnest Money in the amount of \$2,000.00 in the form of check. After Acceptance of the REPC by Buyer and Seller, and receipt of the Earnest Money by the Brokerage, the Brokerage shall have four (4) calendar days in which to deposit the Earnest Money into the Brokerage Real Estate Trust Account.

Buyer's Brokerage: REMAX Associates - Sugarhouse Phone: 801-930-6700
Received by: _____ on _____ (Date)
(Signature above acknowledges receipt of Earnest Money)

OTHER PROVISIONS

1. **PROPERTY:** 1514 E Pioneer Rd also described as: MLS #1148029 and Tax I.D. #28-28-376-001 City of Draper, County of Salt Lake, State of Utah, Zip 84020 (the "Property"). Any reference below to the term "Property" shall include the Property described above, together with the Included Items and water rights/water shares, if any, referenced in Sections 1.1, 1.2 and 1.4.

1.1 **Included Items.** Unless excluded herein, this sale includes the following items if presently owned and in place on the Property: plumbing, heating, air conditioning fixtures and equipment; ovens, ranges and hoods; cook tops; dishwashers; ceiling fans; water heaters; light fixtures and bulbs; bathroom fixtures and bathroom mirrors; curtains, draperies, rods, window blinds and shutters; window and door screens; storm doors and windows; awnings; satellite dishes; affixed carpets; automatic garage door openers and accompanying transmitters; security system; fencing and any landscaping.

1.2 **Other Included Items.** The following items that are presently owned and in place on the Property have been left for the convenience of the parties and are also included in this sale (check applicable box): washers dryers refrigerators water softeners microwave ovens other (specify) Dishwasher, Disposal, Range

The above checked items shall be conveyed to Buyer under separate bill of sale with warranties as to title.

1.3 **Excluded Items.** The following items are excluded from this sale: Dryer, Refrigerator, Washer

1.4 **Water Service.** The Purchase Price for the Property shall include all water rights/water shares, if any, that are the legal source for Seller's current culinary water service and irrigation water service, if any, to the Property. The water rights/water shares will be conveyed or otherwise transferred to Buyer at Closing by applicable deed or legal instruments. The following water rights/water shares, if applicable, are specifically excluded from this sale: None

2. **PURCHASE PRICE.** The purchase price for the Property is \$199,900.00. Except as provided in this Section, the Purchase Price shall be paid as provided in Sections 2(a) through 2(d) below. Any amounts shown in 2(b) and 2(d) may be adjusted as deemed necessary by Buyer and the Lender.

- \$2,000.00 (a) Earnest Money Deposit. Under certain conditions described in the REPC, this deposit may become totally non refundable.
 - \$-0- (b) New Loan. Buyer may apply for mortgage loan financing (the "Loan") on terms acceptable to Buyer. If an FHA/VA loan applies, see attached FHA/VA Loan Addendum.
 - \$-0- (c) Seller Financing (see attached Seller Financing Addendum)
 - \$197,900.00 (d) Balance of Purchase Price in Cash at Settlement
- \$199,900.00 PURCHASE PRICE. Total of lines (a) through (d)

3. SETTLEMENT AND CLOSING.

3.1 **Settlement.** Settlement shall take place no later than the Settlement Deadline referenced in Section 24(d), or as otherwise mutually agreed by Buyer and Seller in writing. "Settlement" shall occur only when all of the following have been

Page 1 of 6 Buyer's Initials DHD Date _____ Seller's Initials [Signature] Date 4/18/13

completed: (a) Buyer and Seller have signed and delivered to each other or to the escrow/closing office all documents required by the REPC, by the Lender, by the title insurance and escrow/closing offices, by written escrow instructions (including any split closing instructions, if applicable), or by applicable law; (b) any monies required to be paid by Buyer or Seller under these documents (except for the proceeds of any new loan) have been delivered by Buyer or Seller to the other party, or to the escrow/closing office, in the form of cash, wire transfer, cashier's check, or other form acceptable to the escrow/closing office.

3.2 Prorations. All prorations, including, but not limited to, homeowner's association dues, property taxes for the current year, rents, and interest on assumed obligations, if any, shall be made as of the Settlement Deadline referenced in Section 24(d), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The provisions of this Section 3.2 shall survive Closing.

3.3 Special Assessments. Any assessments for capital improvements as approved by the HOA (pursuant to HOA governing documents) or as assessed by a municipality or special improvement district, prior to the Settlement Deadline shall be paid for by: Seller Buyer Split Equally Between Buyer and Seller Other (explain)

N/A. The provisions of this Section 3.3 shall survive Closing.

3.4 Fees/Costs/Payment Obligations. Unless otherwise agreed to in writing, Seller and Buyer shall each pay one-half (1/2) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Tenant deposits (including, but not limited to, security deposits, cleaning deposits and prepaid rents) shall be paid or credited by Seller to Buyer at Settlement. Buyer agrees to be responsible for homeowners' association and private and public utility service transfer fees, if any, and all utilities and other services provided to the Property after the Settlement Deadline. The escrow/closing office is authorized and directed to withhold from Seller's proceeds at Closing, sufficient funds to pay off on Seller's behalf all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. The provisions of this Section 3.4 shall survive Closing.

3.5 Closing. For purposes of the REPC, "Closing" means that: (a) Settlement has been completed; (b) the proceeds of any new loan have been delivered by the Lender to Seller or to the escrow/closing office; and (c) the applicable Closing documents have been recorded in the office of the county recorder. The actions described in 3.5 (b) and (c) shall be completed within four calendar days after Settlement.

4. POSSESSION. Seller shall deliver physical possession of the Property to Buyer as follows: Upon Closing; 48 Hours after Closing; ___ Calendar Days after Closing. Any contracted rental of the Property prior to or after Closing, between Buyer and Seller, shall be by separate written agreement. Seller and Buyer shall each be responsible for any insurance coverage each party deems necessary for the Property including any personal property and belongings. Seller agrees to deliver the Property to Buyer in broom-clean condition and free of debris and personal belongings. Any Seller or tenant moving-related damage to the Property shall be repaired at Seller's expense. The provisions of this Section 4 shall survive Closing.

5. CONFIRMATION OF AGENCY DISCLOSURE. Buyer and Seller acknowledge prior written receipt of agency disclosure provided by their respective agent that has disclosed the agency relationships confirmed below. At the signing of the REPC: Seller's Agent Brent T. Andersen, represents Seller both Buyer and Seller as a Limited Agent; Seller's Brokerage Utah Homes Network, represents Seller both Buyer and Seller as a Limited Agent; Buyer's Agent J. Tim Alexander, represents Buyer both Buyer and Seller as a Limited Agent; Buyer's Brokerage RE/MAX Associates - Sugarhouse, represents Buyer both Buyer and Seller as a Limited Agent.

6. TITLE & TITLE INSURANCE.

6.1 Title to Property. Seller represents that Seller has fee title to the Property and will convey marketable title to the Property to Buyer at Closing by general warranty deed. Buyer does agree to accept title to the Property subject to the contents of the Commitment for Title Insurance (the "Commitment") provided by Seller under Section 7, and as reviewed and approved by Buyer under Section 8. Buyer also agrees to accept title to the Property subject to any existing leases, rental and property management agreements affecting the Property not expiring prior to Closing which were provided to Buyer pursuant to Section 7(e). The provisions of this Section 6.1 shall survive Closing.

6.2 Title Insurance. At Settlement, Seller agrees to pay for and cause to be issued in favor of Buyer, through the title insurance agency that issued the Commitment (the "Issuing Agent"), the most current version of the ALTA Homeowner's Policy of Title Insurance (the "Homeowner's Policy"). If the Homeowner's Policy is not available through the Issuing Agent, Buyer and Seller further agree as follows: (a) Seller agrees to pay for the Homeowner's Policy if available through any other title insurance agency selected by Buyer; (b) if the Homeowner's Policy is not available either through the Issuing Agent or any other title insurance agency, then Seller agrees to pay for, and Buyer agrees to accept, the most current available version of an ALTA Owner's Policy of Title Insurance ("Standard Coverage Owner's Policy") available through the Issuing Agent.

7. SELLER DISCLOSURES. No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents in hard copy or electronic format which are collectively referred to as the "Seller Disclosures":

(a) a written Seller property condition disclosure for the Property, completed, signed and dated by Seller as provided in Section 10.3;

Buyer's Initials D.H.S. Date _____ Seller's Initials R.P. Date 4/19/13

- (b) a Commitment for Title Insurance as referenced in Section 6;
- (c) a copy of any restrictive covenants (CC&R's), rules and regulations affecting the Property;
- (d) a copy of the most recent minutes, budget and financial statement for the homeowners' association, if any;
- (e) a copy of any lease, rental, and property management agreements affecting the Property not expiring prior to Closing;
- (f) evidence of any water rights and/or water shares referenced in Section 1.4;
- (g) written notice of any claims and/or conditions known to Seller relating to environmental problems and building or zoning code violations; and
- (h) Other (specify) None

8. BUYER'S CONDITIONS OF PURCHASE.

8.1 DUE DILIGENCE CONDITION.

Buyer's obligation to purchase the Property: IS IS NOT conditioned upon Buyer's Due Diligence as defined in this Section 8.1(a) below. This condition is referred to as the "Due Diligence Condition." If checked in the affirmative, Sections 8.1(a) through 8.1(c) apply; otherwise they do not.

(a) **Due Diligence Items.** Buyer's Due Diligence shall consist of Buyer's review and approval of the contents of the Seller Disclosures referenced in Section 7, and any other tests, evaluations and verifications of the Property deemed necessary or appropriate by Buyer, such as: the physical condition of the Property; the existence of any hazardous substances, environmental issues or geologic conditions; the square footage or acreage of the land and/or improvements; the condition of the roof, walls, and foundation; the condition of the plumbing, electrical, mechanical, heating and air conditioning systems and fixtures; the condition of all appliances; the costs and availability of homeowners' insurance and flood insurance, if applicable; water source, availability and quality; the location of property lines; regulatory use restrictions or violations; fees for services such as HOA dues, municipal services, and utility costs; convicted sex offenders residing in proximity to the Property, and any other matters deemed material to Buyer in making a decision to purchase the Property. Unless otherwise provided in the REPC, all of Buyer's Due Diligence shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Seller agrees to cooperate with Buyer's Due Diligence. Buyer agrees to pay for any damage to the Property resulting from any such inspections or tests during the Due Diligence.

(b) **Buyer's Right to Cancel or Resolve Objections.** If Buyer determines, in Buyer's sole discretion, that the results of the Due Diligence are unacceptable, Buyer may either: (i) no later than the Due Diligence Deadline referenced in Section 24(b), cancel the REPC by providing written notice to Seller, whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller; or (ii) no later than the Due Diligence Deadline referenced in Section 24(b), resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence.

(c) **Failure to Cancel or Resolve Objections.** If Buyer fails to cancel the REPC or fails to resolve in writing any objections Buyer has arising from Buyer's Due Diligence, as provided in Section 8.1(b), Buyer shall be deemed to have waived the Due Diligence Condition.

8.2 APPRAISAL CONDITION. Buyer's obligation to purchase the Property: IS IS NOT conditioned upon the Property appraising for not less than the Purchase Price. This condition is referred to as the "Appraisal Condition." If checked in the affirmative, Sections 8.2(a) and 8.2(b) apply; otherwise they do not.

(a) **Buyer's Right to Cancel.** If after completion of an appraisal by a licensed appraiser, Buyer receives written notice from the Lender or the appraiser that the Property has appraised for less than the Purchase Price (a "Notice of Appraised Value"), Buyer may cancel the REPC by providing written notice to Seller (with a copy of the Notice of Appraised Value) no later than the Financing & Appraisal Deadline referenced in Section 24(c), whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller.

(b) **Failure to Cancel.** If the REPC is not cancelled as provided in this section 8.2, Buyer shall be deemed to have waived the Appraisal Condition.

8.3 FINANCING CONDITION. Buyer's obligation to purchase the property: IS IS NOT conditioned upon Buyer obtaining the Loan referenced in Section 2(b). This condition is referred to as the "Financing Condition." If checked in the affirmative, Sections 8.3(a) and 8.3(b) apply; otherwise they do not. If the Financing Condition applies, Buyer agrees to work diligently and in good faith to obtain the Loan.

(a) **Buyer's Right to Cancel Before the Financing & Appraisal Deadline.** If Buyer, in Buyer's sole discretion, is not satisfied with the terms and conditions of the Loan, Buyer may cancel the REPC by providing written notice to Seller no later than the Financing & Appraisal Deadline referenced in Section 24(c), whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller.

(b) **Buyer's Right to Cancel After the Financing & Appraisal Deadline.** If after expiration of the Financing & Appraisal Deadline referenced in Section 24(c), Buyer fails to obtain the Loan, meaning that the proceeds of the Loan have not been delivered by the Lender to Seller or to the escrow/closing office as required under Section 3.5 of the REPC, then Buyer or Seller may cancel the REPC by providing written notice to the other party, whereupon the Earnest Money Deposit, or Deposits, if applicable (see Section 8.4 below), shall be released to Seller without the requirement of further written authorization from Buyer. In the event of such cancellation, Seller agrees to accept as Seller's exclusive remedy, the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages. Buyer and Seller agree that liquidated damages would be difficult and impractical to calculate, and the Earnest Money Deposit, or Deposits, if applicable, is a fair and reasonable estimate of Seller's damages in the event Buyer fails to obtain the Loan.

Buyer's Initials DHS Date _____ Seller's Initials [Signature] Date 4/19/13

8.4 ADDITIONAL EARNEST MONEY DEPOSIT. If the REPC has not been previously canceled by Buyer as provided in Sections 8.1, 8.2 or 8.3(a), then no later than the Due Diligence Deadline referenced in Section 24(b), or the Financing & Appraisal Deadline referenced in Section 24(c), whichever is later, Buyer: WILL WILL NOT deliver to the Buyer's Brokerage, an Additional Earnest Money Deposit in the amount of \$N/A. The Earnest Money Deposit and the Additional Earnest Money Deposit, if applicable, are sometimes referred to herein as the "Deposits". The Earnest Money Deposit, or Deposits, if applicable, shall be credited toward the Purchase Price at Closing.

9. ADDENDA. There ARE ARE NOT addenda to the REPC containing additional terms. If there are, the terms of the following addenda are incorporated into the REPC by this reference: Addendum No. _____ Seller Financing Addendum FHA/VA Loan Addendum Lead-Based Paint Disclosure & Acknowledgement (in some transactions this disclosure is required by law) Other (specify) _____

10. HOME WARRANTY PLAN / AS-IS CONDITION OF PROPERTY.

10.1 Home Warranty Plan. A one-year Home Warranty Plan WILL WILL NOT be included in this transaction. If included, the Home Warranty Plan shall be ordered by Buyer Seller and shall be issued by a company selected by Buyer Seller. The cost of the Home Warranty Plan shall not exceed \$N/A and shall be paid for at Settlement by Buyer Seller.

10.2 Condition of Property/Buyer Acknowledgements. Buyer acknowledges and agrees that in reference to the physical condition of the Property: (a) Buyer is purchasing the Property in its "As-Is" condition without expressed or implied warranties of any kind; (b) Buyer shall have, during Buyer's Due Diligence as referenced in Section 8.1, an opportunity to completely inspect and evaluate the condition of the Property; and (c) if based on the Buyer's Due Diligence, Buyer elects to proceed with the purchase of the Property, Buyer is relying wholly on Buyer's own judgment and that of any contractors or inspectors engaged by Buyer to review, evaluate and inspect the Property.

10.3 Condition of Property/Seller Acknowledgements. Seller acknowledges and agrees that in reference to the physical condition of the Property, Seller agrees to: (a) disclose in writing to Buyer defects in the Property known to Seller that materially affect the value of the Property that cannot be discovered by a reasonable inspection by an ordinary prudent Buyer; (b) carefully review, complete, and provide to Buyer a written Seller property condition disclosure as stated in section 7(a); and (c) deliver the Property to Buyer in substantially the same general condition as it was on the date of Acceptance, as defined in Section 23, ordinary wear and tear excepted. The provisions of Sections 10.2 and 10.3 shall survive Closing.

11. FINAL PRE-SETTLEMENT WALK-THROUGH INSPECTION.

11.1 Walk-Through Inspection. No earlier than seven (7) calendar days prior to Settlement, and upon reasonable notice and at a reasonable time, Buyer may conduct a final pre-Settlement walk-through inspection of the Property to determine only that the Property is "as represented," meaning that the items referenced in Sections 1.1, 1.2 and 8.1(b)(ii) ("the items") are respectively present, repaired or corrected as agreed. The failure to conduct a walk-through inspection or to claim that an item is not as represented shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented. If the items are not as represented, Seller agrees to cause all applicable items to be corrected, repaired or replaced (the "Work") prior to the Settlement Deadline referenced in Section 24(d).

11.2 Escrow to Complete the Work. If, as of Settlement, the Work has not been completed, then Buyer and Seller agree to withhold in escrow at Settlement a reasonable amount agreed to by Seller, Buyer (and Lender, if applicable), sufficient to pay for completion of the Work. If the Work is not completed within thirty (30) calendar days after the Settlement Deadline, the amount so escrowed may, subject to Lender's approval, be released to Buyer as liquidated damages for failure to complete the Work. The provisions of this Section 11.2 shall survive Closing.

12. CHANGES DURING TRANSACTION. Seller agrees that from the date of Acceptance until the date of Closing, none of the following shall occur without the prior written consent of Buyer: (a) no changes in any leases, rental or property management agreements shall be made; (b) no new lease, rental or property management agreements shall be entered into; (c) no substantial alterations or improvements to the Property shall be made or undertaken; (d) no further financial encumbrances to the Property shall be made, and (e) no changes in the legal title to the Property shall be made.

13. AUTHORITY OF SIGNERS. If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person signing the REPC on its behalf warrants his or her authority to do so and to bind Buyer and Seller.

14. COMPLETE CONTRACT. The REPC together with its addenda, any attached exhibits, and Seller Disclosures (collectively referred to as the "REPC"), constitutes the entire contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties whether verbal or otherwise. The REPC cannot be changed except by written agreement of the parties.

15. MEDIATION. Any dispute relating to the REPC arising prior to or after Closing: SHALL MAY AT THE OPTION OF THE PARTIES first be submitted to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute
Page 4 of 8 Buyer's Initials DAS Date _____ Seller's Initials [Signature] Date 11/11/12

must agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and share equally in the cost of such mediation. If mediation fails, the other procedures and remedies available under the REPC shall apply. Nothing in this Section 15 prohibits any party from seeking emergency legal or equitable relief, pending mediation. The provisions of this Section 15 shall survive Closing.

16. DEFAULT.

16.1 Buyer Default. If Buyer defaults, Seller may elect one of the following remedies: (a) cancel the REPC and retain the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages; (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Buyer to specifically enforce the REPC; or (c) return the Earnest Money Deposit, or Deposits, if applicable, to Buyer and pursue any other remedies available at law.

16.2 Seller Default. If Seller defaults, Buyer may elect one of the following remedies: (a) cancel the REPC, and in addition to the return of the Earnest Money Deposit, or Deposits, if applicable, Buyer may elect to accept from Seller, as liquidated damages, a sum equal to the Earnest Money Deposit, or Deposits, if applicable; or (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Seller to specifically enforce the REPC; or (c) accept a return of the Earnest Money Deposit, or Deposits, if applicable, and pursue any other remedies available at law. If Buyer elects to accept liquidated damages, Seller agrees to pay the liquidated damages to Buyer upon demand.

17. ATTORNEY FEES AND COSTS/GOVERNING LAW. In the event of litigation or binding arbitration to enforce the REPC, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be awarded for participation in mediation under Section 15. This contract shall be governed by and construed in accordance with the laws of the State of Utah. The provisions of this Section 17 shall survive Closing.

18. NOTICES. Except as provided in Section 23, all notices required under the REPC must be: (a) in writing; (b) signed by the Buyer or Seller giving notice; and (c) received by the Buyer or the Seller, or their respective agent, or by the brokerage firm representing the Buyer or Seller, no later than the applicable date referenced in the REPC.

19. NO ASSIGNMENT. The REPC and the rights and obligations of Buyer hereunder, are personal to Buyer. The REPC may not be assigned by Buyer without the prior written consent of Seller. Provided, however, the transfer of Buyer's interest in the REPC to any business entity in which Buyer holds a legal interest, including, but not limited to, a family partnership, family trust, limited liability company, partnership, or corporation (collectively referred to as a "Permissible Transfer"), shall not be treated as an assignment by Buyer that requires Seller's prior written consent. Furthermore, the inclusion of "and/or assigns" or similar language on the line identifying Buyer on the first page of the REPC shall constitute Seller's written consent only to a Permissible Transfer.

20. INSURANCE & RISK OF LOSS.

20.1 Insurance Coverage. As of Closing, Buyer shall be responsible to obtain casualty and liability insurance coverage on the Property in amounts acceptable to Buyer and Buyer's Lender, if applicable.

20.2 Risk of Loss. If prior to Closing, any part of the Property is damaged or destroyed by fire, vandalism, flood, earthquake, or act of God, the risk of such loss or damage shall be borne by Seller; provided however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the Purchase Price referenced in Section 2, either Seller or Buyer may elect to cancel the REPC by providing written notice to the other party, in which instance the Earnest Money Deposit, or Deposits, if applicable, shall be returned to Buyer.

21. TIME IS OF THE ESSENCE. Time is of the essence regarding the dates set forth in the REPC. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in the REPC: (a) performance under each Section of the REPC which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" and "calendar days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement (e.g. Acceptance). Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to the REPC, except as otherwise agreed to in writing by such non-party.

22. ELECTRONIC TRANSMISSION AND COUNTERPARTS. Electronic transmission (including email and fax) of a signed copy of the REPC, any addenda and counteroffers, and the retransmission of any signed electronic transmission shall be the same as delivery of an original. The REPC and any addenda and counteroffers may be executed in counterparts.

23. ACCEPTANCE. "Acceptance" occurs only when all of the following have occurred: (a) Seller or Buyer has signed the offer or counteroffer where noted to indicate acceptance; and (b) Seller or Buyer or their agent has communicated to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

Buyer's Initials BHS, Date _____ Seller's Initials RSB Date 4/19/13

24. CONTRACT DEADLINES. Buyer and Seller agree that the following deadlines shall apply to the REPC:

- (a) Seller Disclosure Deadline April 30, 2013 (Date)
- (b) Due Diligence Deadline May 10, 2013 (Date)
- (c) Financing & Appraisal Deadline N/A (Date)
- (d) Settlement Deadline May 31, 2013 (Date)

25. OFFER AND TIME FOR ACCEPTANCE. Buyer offers to purchase the Property on the above terms and conditions. If Seller does not accept this offer by: 5:00 [] AM [X] PM Mountain Time on April 19, 2013 (Date), this offer shall lapse; and the Brokerage shall return any Earnest Money Deposit to Buyer.

Darrell H. Smith April 17, 13, Mayor of Draper City
 (Buyer's Signature) (Offer Date) (Buyer's Signature) (Offer Date)

Draper City
 (Buyer's Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)

 (Buyer's Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

[] ACCEPTANCE OF OFFER TO PURCHASE: Seller Accepts the foregoing offer on the terms and conditions specified above.

COUNTEROFFER: Seller presents for Buyer's Acceptance the terms of Buyer's offer subject to the exceptions or modifications as specified in the attached ADDENDUM NO. ONE

[] REJECTION: Seller rejects the foregoing offer.

[Signature] 4/19/13
 (Seller's Signature) (Date) (Time) (Seller's Signature) (Date) (Time)

Russell S. [Signature] Page
 (Seller's Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)

 (Seller's Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 27, 2008. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.

Buyer's Initials DHS Date _____ Seller's Initials RSP Date 4/19/13



ADDENDUM NO. ONE
TO
REAL ESTATE PURCHASE CONTRACT



THIS IS AN ADDENDUM COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 16th day of April, 2013 including all prior addenda and counteroffers, between Draper City as Buyer, and Russ Page as Seller, regarding the Property located at 1514 E. Pioneer Rd., Draper, UT 84020. The following terms are hereby incorporated as part of the REPC:

1. See Settlement Deadline referenced below.

2. Seller on Title is: Russell Page

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN SECTION 24 OF THE REPC (CHECK APPLICABLE BOX): REMAIN UNCHANGED ARE CHANGED AS FOLLOWS: Settlement Deadline: On or before JUNE 29, 2013. (SEE ATTACHED: REAL ESTATE BROKERAGE COMMISSION-ESCROW INSTRUCTIONS)

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. Seller Buyer shall have until 11:30 AM PM Mountain Time on April 24, 2013 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

[Signature] 4/19/13 5:32
 Buyer Seller Signature (Date) (Time) Buyer Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

ACCEPTANCE: Seller Buyer hereby accepts the terms of this ADDENDUM.

COUNTEROFFER: Seller Buyer presents as a counteroffer the terms of attached ADDENDUM NO. 1

[Signature] 4/16/13 8:15 pm
(Signature) Mayor (Draper City) (Date) (Time) (Signature) (Date) (Time)

REJECTION: Seller Buyer rejects the foregoing ADDENDUM.

(Signature) (Date) (Time) (Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 5, 2003. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.



ADDENDUM NO. Two
TO
REAL ESTATE PURCHASE CONTRACT



THIS IS AN ADDENDUM COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 16th day of April, 2013 including all prior addenda and counteroffers, between Draper City as Buyer, and Russ Page as Seller, regarding the Property located at 1514 E Pioneer Rd., Draper, UT 84020. The following terms are hereby incorporated as part of the REPC:

Due Diligence Deadline to be extended to May 17, 2013

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN SECTION 24 OF THE REPC (CHECK APPLICABLE BOX): REMAIN UNCHANGED ARE CHANGED AS FOLLOWS: See above modification

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. Seller Buyer shall have until 3 : 00 AM PM Mountain Time on May 10, 2013 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

X Harrell H. Smith 5-9-13
 Buyer Seller Signature (Date) (Time) Buyer Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

ACCEPTANCE: Seller Buyer hereby accepts the terms of this ADDENDUM.

COUNTEROFFER: Seller Buyer presents as a counteroffer the terms of attached ADDENDUM NO. _____

[Signature] 5/14/13 3:16 [Signature]
(Signature) (Date) (Time) (Signature) (Date) (Time)

REJECTION: Seller Buyer rejects the foregoing ADDENDUM.

(Signature) (Date) (Time) (Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 5, 2003. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.

Buyer's Initials DAS

Seller's Initials RP



REAL ESTATE BROKERAGE COMMISSION - ESCROW INSTRUCTIONS



The following are ESCROW INSTRUCTIONS for the payment of real estate brokerage commissions on a real estate transaction described in an Earnest Money Sales Agreement dated the 16th day of April, 2013, by and between Russ Page as Seller and Draper City as Buyer of the real property described as follows: 1514 E. Pioneer Rd., Draper, UT 84020

LISTING/SELLING BROKERAGE INFORMATION

Utah Homes Network 12490 S. 1700 E. 801-403-4400
Listing Brokerage Business Address Phone
ReMax Associates-Sugarhouse 675 E. 2100 S.#270, SLC, UT 84106 801-930-6700
Selling Brokerage Business Address Phone
Brent Andersen 801-403-4400 J. Tim Alexander 801-573-6585
Listing Agent Phone Selling Agent Phone

BROKERAGE COMMISSION

To the extent these ESCROW INSTRUCTIONS modify any prior agreements between the Buyer or Seller and the Listing and/or Selling Brokerages, regarding the payment of a real estate brokerage commission or fee, the terms of these Escrow Instructions shall supersede those prior agreements. The total real estate brokerage commission to be paid in this transaction is \$ 5997, which represents 3% of the agreed sales price of \$ 199900. The undersigned authorize and direct the closing office to disburse the brokerage commission directly to the Listing and Selling Brokerages in the following manner: \$ 2998 to the Listing Brokerage; \$ 2998 to the Selling Brokerage; Other (explain):

The undersigned agree to the terms above.

Handwritten signatures and dates for Listing Broker (4/19/13) and Selling Broker (4/22/13)

SIGNATURE(S) OF INDIVIDUAL(S) PAYING THE COMMISSION (BUYER OR SELLER) ARE REQUIRED ONLY IF THIS AGREEMENT MODIFIES A PRIOR COMMISSION AGREEMENT.

Handwritten signature and date for Buyer (4/23/13)

Return to Agenda

CONSENT

ITEM #D

REQUEST FOR COUNCIL ACTION

To:	<u>Mayor & City Council</u>
From:	<u>Chief Bryan Roberts</u> <i>BR</i>
Date:	<u>June 13, 2013</u>
Subject:	<u>Police Officer/Sergeant Outside Employment Services</u>
Applicant Presentation:	<u>NA</u>
Staff Presentation:	<u>NA</u>
RECOMMENDATION: Staff requests approval to adopt the proposed \$42/hour fee for outside employment per police officer and \$59/hour per sergeant for public safety, traffic control and security purposes. This fee would fall under the Police Department section (Number 28) of the Consolidated Fee Schedule.	
BACKGROUND AND FINDINGS: Summary: The City's current Consolidated Fee Schedule reflects a rate of \$35 an hour for a police officer to perform traffic and pedestrian control (item #46 of fee schedule document). The rate was adopted in 2005 and does not off-set the cost recovery for the service in 2013. The cost recovery rates are recalculated and are determined to be \$42 an hour for a police officer and \$59 an hour for a police sergeant. The rates include salary, benefits and the use of the police vehicle. Staff recommends that Council adopt the proposed fee changes. Background: The police department is frequently requested to provide police services at functions for vendors. Vendors can include private businesses, special events, the school district and others. Private parties also seek special event permits through Draper City to host functions. The permits are reviewed by the police department to determine if public safety staffing is necessary. When appropriate, uniformed police officers are staffed at the events and are compensated at their overtime rate. The current fee charged for these services is \$35 an hour. The fee does not off-set the actual hourly costs of the police services. The police officer fee listed in the Consolidated Fee Schedule was last adjusted in 2005. The fees need to be adjusted to \$42 an hour for an officer and \$59 an hour for a police sergeant to cover the cost of the services. Please find attached copies of the current and proposed changes of the Consolidated Fee Schedule for the police department for your review and consideration. Conclusion: Draper City Police Department respectfully requests your support and approval of this proposal.	
PREVIOUS LEGISLATIVE ACTION: NA	
FISCAL IMPACT: Finance Review: _____ Officers/Sergeants will be paid for the appropriate rate/hour for Outside Employment Services; increase of revenue to Draper City.	
SUPPORTING DOCUMENTS: <ul style="list-style-type: none">• Current and Proposed Consolidated Fee Schedule• Resolution 13-31	

RESOLUTION NO. 13-31

A RESOLUTION AMENDING THE DRAPER CITY CONSOLIDATED FEE SCHEDULE BY ADOPTING SECTION 28-F) UNDER POLICE DEPARTMENT: POLICE OFFICER/SERGEANT OUTSIDE EMPLOYMENT SERVICES, DELETING SECTION 46 ENTIRELY AND RENUMBERING SUBSEQUENT SECTIONS (47-51).

WHEREAS, the City of Draper's current Consolidated Fee Schedule, Section 46 Traffic and Pedestrian Control was last revised in 2005 to increase the rate to \$35 per hour per office for traffic and pedestrian control services; and

WHEREAS, there is a need and request for police public safety, traffic enforcement and security services at school functions, sporting events, fundraisers and for various local businesses; and

WHEREAS, there is currently a high level of outside employment occurring within our sworn police officer staff on an off-duty basis for the above mentioned services and while outside employment provides additional income to our police officers, it also creates liability potential to the City; and

WHEREAS, there is on occasion the need for a Sergeant or higher ranking sworn official to supervise a large event that requires supervision of a number of sworn officers, planning and coordination of an event and event holder requesting the services described herein; and

WHEREAS, the Draper City Police Department determined that the cost recovery rate for Police Officer Outside Employment Services is \$42/hour and \$59/hour per Police Sergeant (or higher rank); and

WHEREAS, in the best interest of the City of Draper, its inhabitants, event holders and our sworn police staff regarding outside employment, liability and public safety, we propose to add fees for Police Officer/Sergeant Outside Employment Services to Section 28 Police Department, delete Section 46 entirely, and renumber subsequent Sections (47-51) of the current Consolidated Fee Schedule described hereunder.

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

SECTION 1. Section amended. Draper City Consolidated Fee Schedule Section 28 is hereby amended to read and provide as follows:

28. POLICE DEPARTMENT

- A) Case Reports-----\$10.00 each
- B) Fingerprints per card -----\$10.00 each
- C) Clearance Letters-----\$10.00 each
- D) Photographs Digital CD-----\$15.00
- E) Sex Offender Registry-----\$25.00 annually
- F) Police Officer Outside Employment Services (per hour/per officer)-----\$42.00
- G) Sergeant Outside Employment Services (per hour/per officer)-----\$59.00

SECTION 2. Section repealed.

~~46. TRAFFIC AND PEDESTRIAN CONTROL~~

~~(i) Traffic and Pedestrian Control — Per Hour Per Officer ----- \$35.00~~

SECTION 3. Subsequent sections 47-51 renumbered.

SECTION 4. Effective date. This resolution shall be effective immediately upon posting after final passage.

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

ATTEST:

DRAPER CITY

By: _____
City Recorder

By: _____
Mayor

Return to Agenda

CONSENT ITEM #E

REQUEST FOR COUNCIL ACTION

To:	Mayor & City Council
From:	Rhett Ogden
Date:	June 12, 2013
Subject:	Day Barn Indoor Pavilion Use Fees
Applicant Presentation:	
Staff Presentation:	Rhett Ogden, Recreation Director
RECOMMENDATION: Adoption of Resolution 13-32 which addresses Day Barn fees and rental days/times	
BACKGROUND AND FINDINGS: Since its opening over a year ago, the Day Barn has been a successful asset of the City's but also creates a larger demand of staff time and resources. It is determined that by increasing the rental use fee's as found in the Consolidated Fee Schedule will assist in covering staff time, utilities, wear and tear, maintenance and cleaning as well as serve as a better revenue stream for the City. Further by changing the allowed times of rentals on weekends to one rental a day will assist in scheduling and cleaning conflicts and decrease overtime rates. This schedule change is supported by Parks, Recreation and Facilities to better manage the facility and its needs. All costs are currently being covered at current rates, but as staff we feel we could increase the rates, still be competitive and maintain a steady level of rentals.	
PREVIOUS LEGISLATIVE ACTION: No Related Legislative Actions	
FISCAL IMPACT: Greater revenue to cover City costs as well as provide greater revenue to City.	
SUPPORTING DOCUMENTS: <ul style="list-style-type: none">• Resolution 13-32	

RESOLUTION NO. 13-32

A RESOLUTION OF THE DRAPER CITY COUNCIL AMENDING THE CONSOLIDATED FEE SCHEDULE REGARDING RENTAL FEES FOR THE DAY BARN INDOOR PAVILION AND WEEKEND RENTAL AVAILABILITY

WHEREAS, the Mayor and City Council wish to update the Park and Recreation fees shown in the Draper City Consolidated Fee Schedule to be more specific regarding actual costs to Draper City and to ensure the City is able to recoup all costs associated with providing the Day Barn to renters, as well as to provide revenue; and

WHEREAS, the Council finds it in the best interest of the City to protect City-owned assets as well as recoup actual and future costs of repair, maintenance, and wear-and-tear caused by participants of outside agency events and private use; and,

WHEREAS, the Council wishes to establish a fair and equal user fee for “exclusive use” rights to rent and use its publicly-owned facilities; and,

WHEREAS, the Day Barn Indoor Pavilion is a popular and successful facility and is thus identified as capable of providing a revenue stream; and

WHEREAS, it has become necessary to keep up with popular weekend demands for the facility such that only one reservation per day on all weekend days (Friday/Saturday/Sunday) shall hereafter be allowed;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Approval. The City Council hereby amends Section 25 of the Consolidated Fee Schedule to read:

25. PARK RESERVATIONS

G) DAY BARN RENTAL FEES

Rentals ~~blocks~~ will be available for 2 time blocks; 9am-3pm or 4pm-10pm for the WEEKDAY rental days of Monday, Tuesday, Wednesday and Thursday. For WEEKEND rentals, only one reservation will be allowed on the day of Friday, Saturday and Sunday. WEEKEND rental times are 9am-10pm. Rentals include use of building, restrooms, 12 66” circular tables, 96 chairs and 2 6ft banquet tables.

- (i) Rental rate per each block for RESIDENT/DRAPER BUSINESS on weekdays ----- ~~\$150.00~~ \$175.00
- (ii) Rental rate per each block for NON-RESIDENT/NON-DRAPER BUSINESS on weekdays ----- ~~\$200.00~~ \$225.00
- (iii) Rental rate for each weekend day (Fri, Sat, Sun) for RESIDENT/DRAPER BUSINESS ----- \$400.00

(iv) Rental rate for each weekend day (Fri, Sat, Sun) for NON-RESIDENT OR BUSINESS-----\$500.00

(v) Security/Cleaning Deposit per rental (refundable)----- \$200.00

Section 2. Severability. If any section, part, or provision of this Resolution is held invalid, or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution, and all sections, parts, and provisions of this Resolution shall be severable..

Section 3. Effective Date. This Resolution shall become effective on the date of passage.

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

ATTEST:

DRAPER CITY

Deputy City Recorder

Mayor

Return to Agenda

CONSENT

ITEM #F

ORDINANCE NO. 1050

A DRAPER CITY ORDINANCE AMENDING DRAPER CITY MUNICIPAL CODE SECTION 5-10-010, RENTAL OF CITY HALL, SECTION 5-10-020, COLLECTION – DEPOSIT, AND SECTION 5-10-030, USE OF CITY FACILITIES.

WHEREAS, the City of Draper has adopted provisions governing the rental of city property and the use of city facilities; and

WHEREAS, upgrades need to be made to the city code provision to allow staff to exercise discretion in room rentals and to more closely govern the appropriateness of the displays and posters that are placed in the central foyer; and

WHEREAS, the law governing electioneering is covered under Utah Code Ann. 20A-3-501 and does not apply to the rental of city property;

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

SECTION I. Amendment. Draper City Municipal Code Section 5-10-010 is hereby amended to read:

Section 5-10-010 Rental of City Hall. Rooms in City Hall not being ~~rented or~~ used by the City will be available to ~~those~~ organizations sponsored by Draper City on a priority basis at no charge. All other users will be rented to on a first-come, -first-served basis. Rental rates shall will be as established in the Consolidated Fee Schedule. ~~All uses will be coordinated with the central receptionist located in City Hall. Use of the facility will be at the discretion of the City Manager or the Manager's designee.~~

SECTION II. Amendment. Draper City Municipal Code Section 5-10-020 is hereby amended to read:

Section 5-10-020 Collection - Deposit. The City Treasurer or designee shall have the responsibility of collecting all such fees for concessions ~~and or~~ rentals, or someone who has been delegated that authority in the City Treasury's office. ~~by the City Council.~~ All such sums as are collected for park concession and rental fees shall be deposited within seven (7) days after receipt in the appropriate designated bank account.

SECTION III. Amendment. Draper City Municipal Code Section 5-10-030 is hereby amended to read:

Section 5-10-030 Use of City Facilities.

(a) City buildings and facilities other than City Hall may be used by City commissions, boards and committees at no charge on a first-reserved basis. City buildings and facilities may also be used for all City-sponsored functions.

(b) Private individuals or groups may use City buildings and facilities other than City Hall for community or private events only on a reservation-by-fee basis.

~~(c) Citizens may distribute flyers to the public and may post posters in City Hall only in the central foyer. Such distribution shall not disrupt on-going meetings in City Hall. Posters and documents hung or distributed shall clearly bear the name of the author and sponsor and the date of posting. Such items may not necessarily reflect the official position of the City.~~

~~(d)~~ Electioneering shall not occur within 150 feet of any City building or facility being used as a polling place.

SECTION IV. Effective Date. This Ordinance shall become effective upon recording by the City Recorder, and 20 days after publication or posting or 30 days after final passage by the City Council, whichever is sooner.

PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, ON THIS 18TH DAY OF JUNE, 2013.

ATTEST:

DRAPER CITY

City Recorder

Darrell H. Smith, Mayor

Return to Agenda

ITEM #6

This information will be provided prior to the meeting.

[Return to Agenda](#)

ITEM #7

This information will be provided prior to the meeting.

[Return to Agenda](#)

ITEM #8

REQUEST FOR COUNCIL ACTION

To:	Mayor & City Council
From:	Dennis Workman, Planner II
Date:	6-10-13 for 6-18-13 CC Hearing
Subject:	Vacation of 11.25 feet of the public right-of-way on 900 East, and 11.25 feet of the public right-of-way on 12200 South, at the southwest corner of 900 East and 12200 South
Staff Presentation:	Dennis Workman
Applicant Presentation:	Leesa Clark-Millerberg

RECOMMENDATION: To vacate approximately 3100 square feet of the public right-of-way, as requested by the applicant.

BACKGROUND:

Over the past several months, the applicant has been in discussions with city staff regarding a concept to develop the southwest corner of 900 East and 12200 South. The business would be called Quilter's Lodge, and it would combine the uses *Personal Instruction Service, Retail, and Bed and Breakfast*. At her request, the City Council recently rezoned the subject property to CN which allows these uses. At 0.43 acre, the property is not quite large enough to accommodate the building she envisions. As such, she is requesting the City Council to vacate approximately 3100 square feet of city-owned right-of-way. Exhibit A of this report shows the location of the property under consideration. The Draperville plat from the late 1800s provided street widths of 82.5 feet, which is 22.5 feet wider than the current width requirement for a local road, or 11.25 feet on each side. In a memo dated June 3, 2013, Carolyn Prickett with the City Engineering Division stated: "We have reviewed the subject request for the street vacations of an 11.25' wide by 127' long section of 12200 South and 11.25' wide by 148.5' long section of 900 East and recommend approval. The requested street closures are located in the Draperville Plat adjacent to the north and east boundaries of the corner property at 12214 South 900 East. The Draperville Plat dedicated an 82.5' public right of way. The City's standard right of way width for a local road is 60'. Given the absence of need for the extra street widths, we recommend vacating these 11.25' sections of 12200 South and 900 East streets. Any proposed improvement to the property will be addressed with the site plan application."

Utah Code 10-9a-609.5 and Draper City Municipal Code Chapter 17-9 regulate street closures and outline the parameters for review. The Council must hold a public hearing after notifying abutting property owners and consider two factors:

1. That neither the public interest nor any person will be materially injured by the proposed vacation; and
2. That there is good cause for the vacation.

PREVIOUS LEGISLATIVE ACTION:

May 28, 2013: City Council rezoned the subject property from RA2 to CN

FISCAL IMPACT: Finance Review: _____

The applicant will offer to purchase the vacated right-of-way at an amount arrived at through real estate comparisons and fair market value.

SUPPORTING DOCUMENTS:

- Ordinance 1049
- Exhibit A
- Applicant's Letter of Request

ORDINANCE NO. 1049

AN ORDINANCE VACATING 11.25 FEET OF THE PUBLIC RIGHT-OF-WAY ON 900 EAST, AND 11.25 FEET OF THE PUBLIC RIGHT-OF-WAY ON 12200 SOUTH, AT THE SOUTHWEST CORNER OF 900 EAST AND 12200 SOUTH

WHEREAS, the City has received a request submitted by an abutting property owner requesting certain described real properties be vacated as a public street; and

WHEREAS, the City Council has reviewed the request for the street vacation and has found that there is not a current demand for the right-of-way; and

WHEREAS, the proposed street vacation set forth herein has been reviewed by the City Council, and all appropriate public hearings have been held in accordance with Utah law to obtain public input regarding the proposed public interest in the section of street.

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

Section 1. Findings: The City Council finds that neither the public interest nor any person will be materially injured by the vacation and there is good cause for the vacation.

Section 2. Street Vacation. The following described portions of 900 East and 12200 South no longer serve a public purpose and can be vacated as a public right of way:

See EXHIBIT A

Section 3. 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 4. Effective Date. This Ordinance shall become effective after final approval has been given for a new right-of-way alignment and recordation with the County Recorder.

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

ATTEST:

DRAPER CITY

By: _____
City Recorder

By: _____
Mayor

EXHIBIT A

12200 S

11.25' Area of Vacation

127'

12214 S 900 E

148.5'

900 E



Vacation Area



1 inch = 50 feet

Quilter's Lodge Street Vacation



DRAPER CITY
Date: 5/22/2013

April 26, 2013

Dennis Workman
Draper City
Community Development Department
1020 East Pioneer Road
Draper, Utah 84020

Re: Street Closure Application

Dear Dennis:

I am interested in purchasing land from Draper City that is adjacent to my property at 12214 S 900 E. The area I would like to purchase begins at the Northeast corner and is 11.5 North of the North property line and running 127.0 feet west from the Northeast corner.

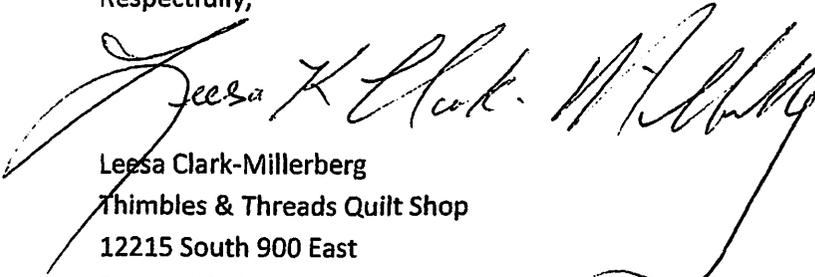
If I need to, the other area I would purchase begins at the Northeast corner of 12214 S 900 E and is 11.5 feet East of the East property line and running 148.5 feet south from the Northeast corner.

The addition of this property would enable me to build a 6000 square foot structure and meet the 30% maximum coverage of the property. I would also be able to meet the parking requirement on my own property and still have on street parking on the East that would match the existing on street parking south of my parcel on 900 E.

Attached is the Street Closure application and the \$500.00 application fee.

Please let me know if there is any other information you require.

Respectfully,



Leesa Clark-Millerberg
Thimbles & Threads Quilt Shop
12215 South 900 East
Draper, Utah 84020
801-381-3788

[Return to Agenda](#)

ITEM #9

ORDINANCE NO. 1048

AN ORDINANCE AMENDING THE DRAPER CITY ZONING MAP CHANGING THE ZONING OF APPROXIMATELY 0.82 ACRE OF PROPERTY LOCATED WITHIN DRAPER CITY, STATE OF UTAH, FROM RA1 TO RA2, OTHERWISE KNOWN AS THE GREENWOOD PHASE 3 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

WHEREAS, the City Council has found that the proposed zone change is consistent with the City's General Plan, that it is harmonious with the overall character of existing development in the area, and that it will not adversely affect adjacent property; 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 12825 S. Fort Street within Draper City, Salt Lake County, State of Utah, previously zoned RA1 as shown on the Draper City Zone District Map, hereinafter referred to as "the property," is hereby changed and rezoned to RA2:

Beginning at a point on the south line of the property deeded to Salt Lake County for the Willow Creek Right-of-Way said point being South 89°59'58" West 2549.84 feet along the section line and South 1430.56 feet from the Northeast Corner of Section 32, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and running:

thence South 2°29'13" East 120.65 feet; thence North 87°58'30" West 294.26 feet;
thence North 0°12'00" East 120.71 feet to the south line of Willow Creek;
thence South 87°58'30" East 299.08 feet along the south line of said Willow Creek to the point of beginning. Contains 35,792 square feet. 0.822 acres.

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:	<u>Mayor & City Council</u>
From:	<u>Dennis Workman</u>
Date:	<u>6-10-13 for 6-18-13 CC hearing</u>
Subject:	<u>Greenwood Phase 3 Zone Change</u>
Applicant Presentation:	<u>Boyd Brown</u>
Staff Presentation:	<u>Dennis Workman</u>

RECOMMENDATION:
To approve Ordinance 1048, as unanimously recommended by the Planning Commission

BACKGROUND AND FINDINGS:
This is a request for a zone change from RA1 to RA2 on a portion of a 2.4-acre parcel located on the east side of Fort Street south of the Greenwood Phase I and II subdivision currently under construction. The Willow Creek Trail abuts the subject property on the north. Approximately one-third of the parcel already has RA2 zoning on it—the result of a rezone request in 2006 that was done in contemplation of the Derby Shire subdivision. (Derby Shire was never approved, but of course the zoning for it remains.) Running concurrently with this application is the Greenwood Phase 3 subdivision, which will be a five-lot subdivision if the zone change is approved, and a four lot subdivision if the zone change is not approved. The Planning Commission recommended approval with the following findings:

1. That Section 9-5-060 of the DCMC 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 in this area provides for RA2 zoning, or two units per acre.
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 the proposed amendment would not adversely affect adjacent property or the character of the neighborhood.
7. That approximately one-third of the parcel has already been rezoned to RA2—a change which took place in 2006 in contemplation of the Derby Shire subdivision (which was never approved).
8. That pre-existing RA2 zoning abuts on the east, and a residential project with the density of RA2 is directly north.

PREVIOUS LEGISLATIVE ACTION:
June 6, 2013: Planning Commission reviewed and recommended approval of the rezone.

FISCAL IMPACT: Finance Review: _____

- This rezone anticipates the creation of one additional building lot, requiring typical City services.

SUPPORTING DOCUMENTS:

- Ordinance 1048
- Staff Report to Planning Commission, with maps
- Exhibits A and B
- Minutes from Planning Commission hearing of June 6, 2013



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

STAFF REPORT

May 24, 2013

To: Planning Commission
Business Date: June 6, 2013

From: Development Review Committee

Prepared by: Dennis Workman, Planner II
Community Development Department

Re: **Greenwood Phase 3 Zone Change**
Application No.: 130508-12825S
Applicant: Boyd Brown
Location: 12825 S. Fort Street
Zoning: RA1
Parcel Size: 0.82 acre
Request: Zone change from RA1 to RA2

BACKGROUND

This is a request for a zone change from RA1 to RA2 on a portion of a 2.4-acre parcel located on the east side of Fort Street south of the Greenwood Phase I and II subdivision currently under construction. The Willow Creek Trail abuts the subject property on the north. Approximately one-third of the parcel already has RA2 zoning on it—the result of a rezone request in 2006 that was done in contemplation of the Derby Shire subdivision. (Derby Shire was never approved, but of course the zoning for it remains.) Running concurrently with this application is the Greenwood Phase 3 subdivision, which will be a five-lot subdivision if the zone change is approved, and a four lot subdivision if the zone change is not approved.

ANALYSIS

General Plan and Area Master Plan. The Land Use Plan designates this property as Low Density Residential, which has a density range of 0-2 units per acre; both RA1 and RA2 zoning are within this range. But the question at hand is whether or not RA2 zoning on the subject property would sustain the existing character of the neighborhood. The Conservation Area Master Plan, adopted by the Draper City Council on February 1, 2000, provides the following recommended actions pertaining to the future character of the Fort Street Sub-area:

1. Retain the unique character of the sheep farms and associated manors and preserve these buildings by providing incentives to the property owners.
2. Encourage existing trees, both along the street and on private property, to be retained and enhanced with new plantings.
3. Permit new subdivision developments south of 13200 South and limit it to large lots and agricultural uses, e.g., hobby farms.
4. Encourage clustering, if large-scale residential development occurs, so as to complement and retain the preferred agricultural uses.
5. Retain the open feeling of Fort Street.

The Conservation Area Master Plan also discusses the historical pattern of development along Fort Street and how different it is, and should remain, from the pattern of development in the foothills. To that end, it recommends that “the scale of new residential infill shall be consistent with both the size and scale of existing structures and also consistent with both the setting and density of the established neighborhoods.” It further states that large lots and open spaces should be part of the residential pattern in the Fort St. area.

Criteria For Approval. The criteria for review and potential approval of a zone change request is found in Section 9-5-060(e) of the Draper City Municipal Code. The 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.

Planning Staff. Zoning on the east side of Fort Street in this area is an even mix of RA1 and RA2. Accompanying this report is a zoning map, identified as Exhibit A, showing the relative lot sizes in the immediate area. Staff has reviewed this request against the standards listed above and feels that RA2 zoning on the subject property is in harmony with the character of existing development in the area, and that it would have no adverse affect on adjacent property.

Other Recent RA1 to RA2 Rezones in the Fort Street Area. The City Council has acted on a number of RA1 to RA2 zone change requests in the Fort Street area over the past several years, with differing outcomes. See Exhibit B that accompanies this report.

Engineering Review. In a memo dated May 23, 2013, Robert Markle states: “We have reviewed the proposed zone change for Greenwood Phase 3 and have no engineering concerns.”

Fire Marshal. In a memo dated May 28, 2013, 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.”

Large Animal Rights. Horses are a permitted use on properties having a minimum lot size of 20,000 square feet, which is what the RA2 designation signifies. The applicants understand this, and will market the newly created parcels accordingly.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission send a positive recommendation to the City Council regarding the Greenwood Phase 3 zone change request, application 130508-12825S, 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 in this area provides for RA2 zoning, or two units per acre.
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 the proposed amendment would not adversely affect adjacent property or the character of the neighborhood.
7. That approximately one-third of the full parcel has already been rezoned to RA2—a change which took place in 2006 in contemplation of the Derby Shire subdivision (which was never approved).
8. That pre-existing RA2 zoning abuts on the east, and a residential project with the density of RA2 is directly north.

MODEL MOTION

Sample Motion for Positive Recommendation. "I move we forward a positive recommendation to the City Council regarding the Greenwood Phase 3 zone change request by Boyd Brown, application 130508-12825S, based on the findings listed in the staff report dated May 24, 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 Greenwood Phase 3 zone change request, application 130508-12825S, based on the following findings:"

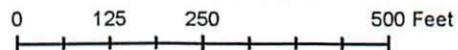
1. List findings.



Greenwood Ph 3 Subdivision Rezone

Aerial Map

1 inch = 250 feet

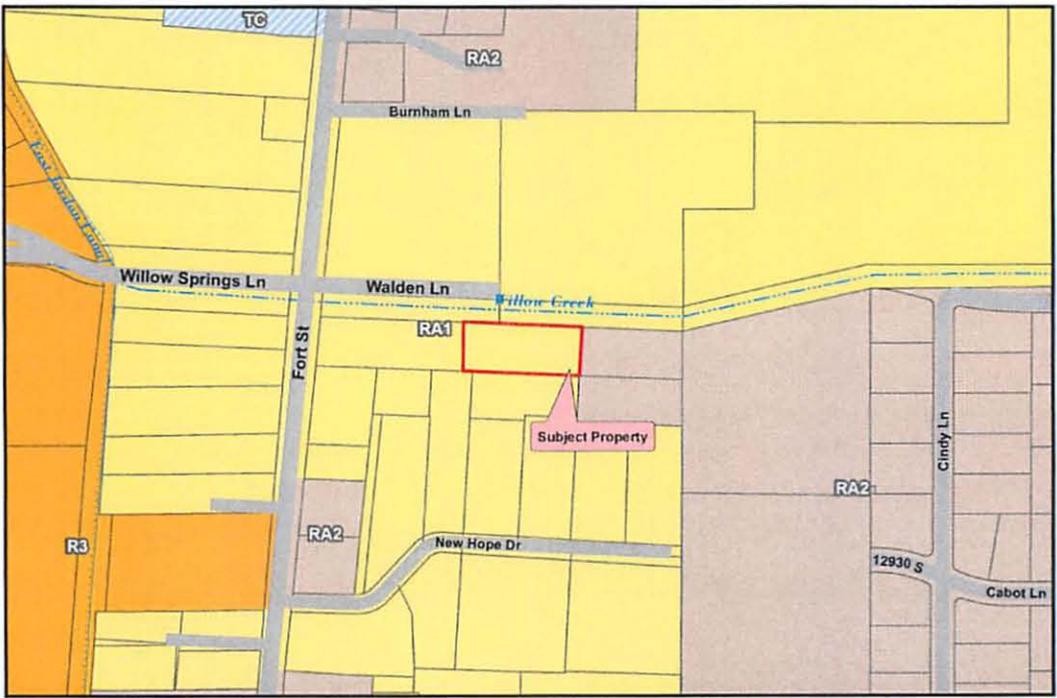


DRAPER CITY

Date: 5/29/2013

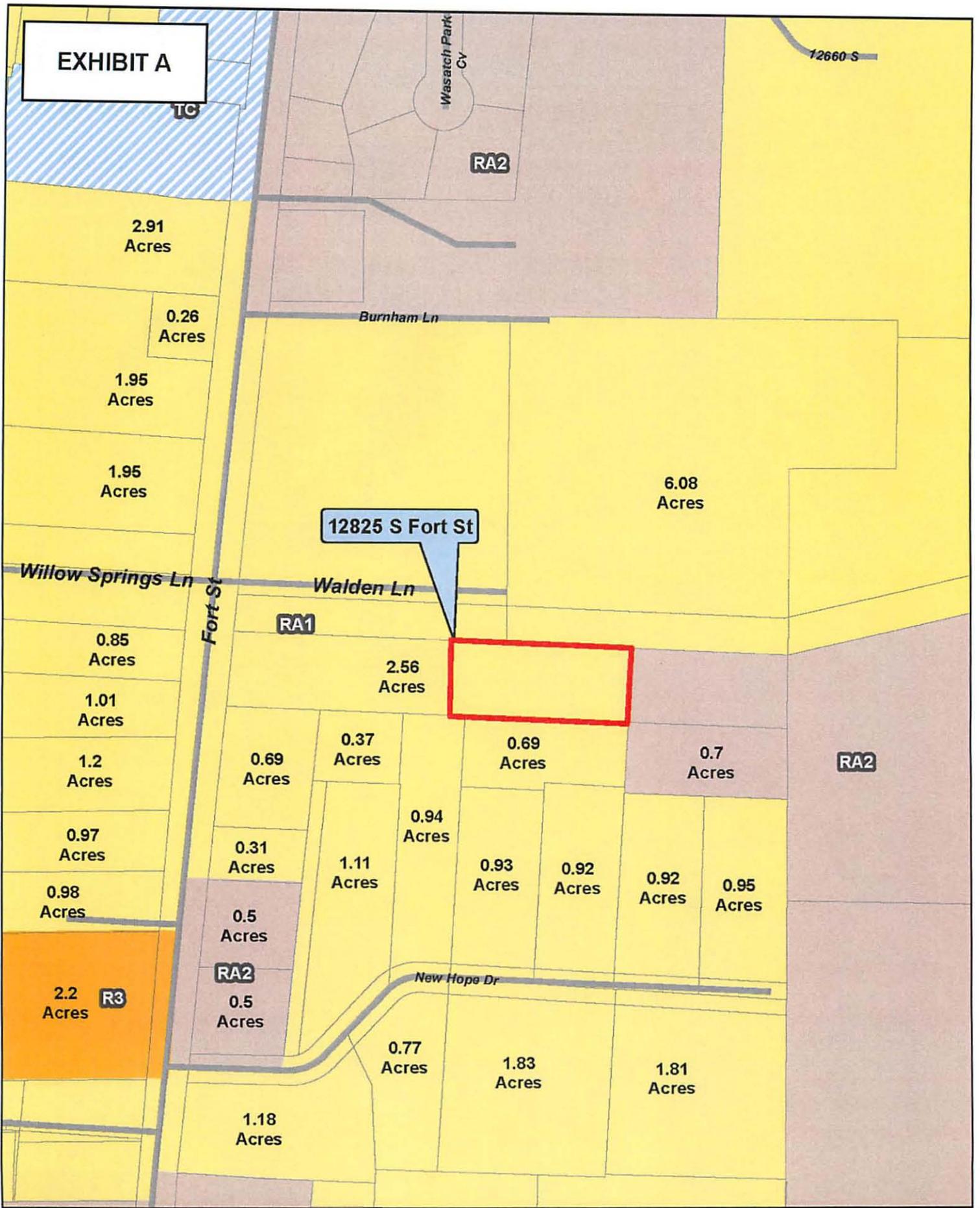



Greenwood Ph 3 Subdivision Rezone
 Landuse Map
 1 inch = 250 feet
 0 125 250 500 Feet

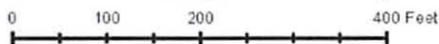
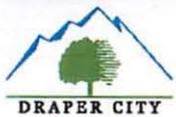




Greenwood Ph 3 Subdivision Rezone
 Zoning Map
 1 inch = 250 feet
 0 125 250 500 Feet


EXHIBIT A



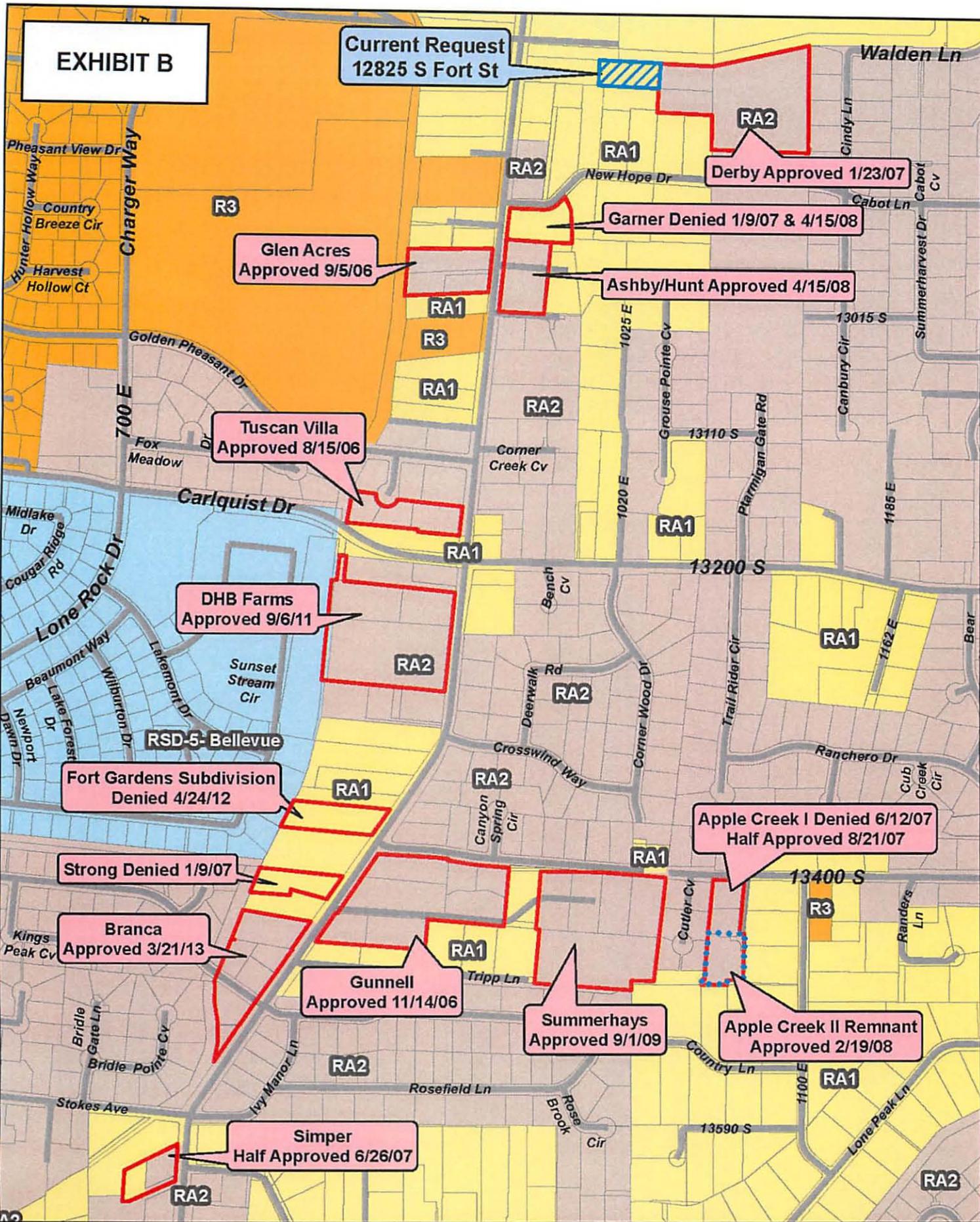
Greenwood Ph 3 Subdivision Zone Change RA1 to RA2
Surrounding Parcel Acreage



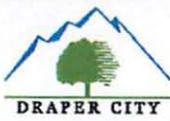
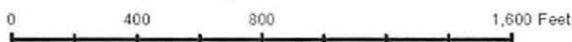
Date: 5/22/2013

EXHIBIT B

Current Request
12825 S Fort St



Recent RA1 - RA2
Zone Change Requests Near Fort Street



Date: 5/22/2013

7:33:00 PM

- 4.0 **Public Hearing: On the request of Boyd Brown for approval of a Zoning Map Amendment of 0.90 acres from RA1 to RA2. The subject property is located at 12825 S Fort Street. This application is otherwise known as the Greenwood Phase 3 Zone Change, Application #130508-12825S.**

7:33:25 PM

- 4.1 **Staff Report:** Using the aid of a PowerPoint presentation and his staff report dated May 24, 2013, Planner Dennis Workman reviewed the details of the proposed application. He stated this is a request for a zone change for a 0.9 acre portion of a 2.4 acre parcel; the property is located south of Greenwood Phases I and II, which is currently under construction. Staff recommends approval of the application based on the fact that the land use plan supports the zoning and development of half-acre lots. He stated part of the parcel was zoned for RA2 use approximately six years ago and this 0.9 acre portion constitutes approximately one third of the total parcel size; that will allow the developer to gain one additional lot when the subdivision is developed. He stated the developer can meet all lot configuration requirements for the parcel. He reviewed the land use map and highlighted the surrounding property uses in the area and he indicated the desired property use is appropriate. He stated the Greenwood Phase I and II subdivision is zoned RA1, but it does have RA2 development entitlements and that is an additional reason that the requested density is appropriate. He then reviewed the potential development plan for the parcel and noted that there could be three or four new lots on the property.

7:36:55 PM

- 4.2 Commissioner Player asked if the property will be accessed from Walden Lane. Mr. Workman answered yes. Commissioner Player stated that there was discussion in a recent Parks and Trails Committee meeting about the trail along the stream and providing gates in the area where the trail crosses the road in order to protect people from walking onto the road. Mr. Workman stated that is a good request. He then stated staff recommends approval of the application based on the findings and subject to the conditions listed in the staff report.

7:38:03 PM

- 4.3 **Applicant's Presentation:** Boyd Brown stated he does not have much to add to Mr. Workman's presentation, but he noted this is a unique property in that a portion had already been rezoned RA2. He stated the lot that will front Fort Street will be a full acre and his experience with zoning on Fort Street has been that the Council preferred to keep larger lots on Fort Street. He then stated the proposed layout is not only being proposed to yield more lots, but he truly felt that having a full acre lot on the private lane would be detrimental because it may not be as well maintained as two half-acre lots.

7:39:45 PM

4.4 Acting-Chairperson Clerico opened the public hearing.

7:39:55 PM

4.5 Colleen Down stated she is here to represent the neighbors living on New Hope Drive. She stated their biggest concern is how the property will be accessed and how that will impact the trail. She stated the trail is vital to Draper and there are many children that use it to access the nearby park. She asked if the children will not have to cross the street on the trail. Commissioner Player answered yes, but there will be some gating to make people stop and take note of the traffic on the street before crossing. Ms. Down then stated that she will continue to fight for horse property in Draper; she likes agriculture properties and they are dwindling. She stated there are several horse properties surrounding this property and this is one of the few areas left that allows horses and open space. She stated that people using the trail like the feel of that area and the residents of New Hope Drive will continue to fight to maintain this section that represents the old Draper.

7:41:55 PM

4.6 Vincent Simmons stated he is the owner of the property and he has lived in Draper since 1979. He stated he has restored the Victorian home three times and it is a beautiful piece of property. He then stated that relative horse property, his pasture extends from Fort Street all the way to New Hope and there is not one horse against that property line.

7:42:34 PM

4.7 There being no additional persons appearing to be heard, Acting-Chairperson Clerico closed the public hearing.

7:42:42 PM

4.8 Acting-Chairperson Clerico clarified that horses are allowed in the RA2 zone.

7:43:01 PM

4.9 **Motion:** Commissioner Head moved to forward a positive recommendation to the City Council regarding the Greenwood Phase 3 zone change request by Boyd Brown, application 130508-12825S, based on the findings listed in the staff report dated May 24, 2013. Commissioner Vawdrey 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 in this area provides for RA2 zoning, or two units per acre.
3. That all five findings for a zone change, as contained in 9-5-060(c), 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 the proposed amendment would not adversely affect adjacent property or the character of the neighborhood.
 7. That approximately one-third of the full parcel has already been rezoned to RA2—a change which took place in 2006 in contemplation of the Derby Shire subdivision (which was never approved).
 8. That pre-existing RA2 zoning abuts on the east, and a residential project with the density of RA2 is directly north.

7:43:22 PM

- 4.10 Commissioner Player stated he feels this is a reasonable plan; the property may be unique and it may be difficult to provide access to it, but the applicant has presented a plan that will work. He added that for most people a half-acre lot is big enough. Acting-Chairperson Clerico stated that the fact that horses are allowed in the RA2 zone will allow the feel of the neighborhood to continue.

7:43:59 PM

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

[Return to Agenda](#)

ITEM #10

REQUEST FOR COUNCIL ACTION

To:	Mayor & City Council
From:	Dan Boles, AICP, Senior Planner
Date:	June 13, 2013
Subject:	Pedersen Property Zoning Map Amendment
Applicant Presentation:	Boyd Bradshaw, representing Westmark Property
Staff Presentation:	Dan Boles

RECOMMENDATION:

To approve the request for a Zoning Map Amendment, as unanimously recommended by the Planning Commission, as per the staff report dated May 28, 2013, and as reflected in Ordinance #1051, including its Exhibit "A".

BACKGROUND AND FINDINGS:

This recommendation is 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.
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 approval of the zoning request will not introduce a new standard in the neighborhood.
7. That the proposed amendment would not adversely affect adjacent property or the character of the neighborhood.

The applicant is requesting that his property be rezoned from RA1 to RA2. Though the subject property does not front Boulter but is stubbed in by Salz Way it is still addressed from Boulter Street adding to the feel along Boulter Street. This application consists of only one parcel which is 2.62 acres in size and is located at 12955 South. There is one home and several accessory buildings on the property. At issue with this application is the degree to which the requested zone change would affect the existing character of the area. Approving this request will likely result in a subdivision of up to five lots. It appears that the property owner has enough land to meet all of the requirements for such a subdivision though that will have to be determined through a subdivision review should this proposal be approved.

The applicant currently gains access to the property through a private lane that extends from Boulter Street. It appears that a more feasible route to a future subdivision would be via Salz Way, a public street that stubs to the property from Cherry Creek Lane.

General Plan and Zoning. The Land Use Map of the General Plan calls for the Residential Low/Medium Density land use designation for the subject property. This category "includes areas of very large lot single-family neighborhoods and ranchettes." It also states that "Low density residential allows for enhancement of the rural character of Draper, and the buffering and transitions around existing low density single-family residences. Such buffers and transitions may consist of open space/retention areas, lots that are pie-shaped or otherwise designed to be larger than standard sized lots within the subdivision or a combination of these and other appropriate

design techniques. This may include allowing the inclusion of existing homes into a proposed development.” The property has been assigned the RA1 Residential zoning classification, supporting approximately one dwelling unit per acre. The RA1 and RA2 Residential zoning designations are identified by the General Plan as preferred zoning classifications for the Residential Low/Medium Density land use designation. RA-1 zoning abuts the subject property on the north, and RA-2 abuts on the south and west. The railroad tracks form the boundary on the east side with RA2 beyond the tracks.

Conservation Area Master Plan. The Boulter and Relation Street subarea states one of the purposes of the preservation of the character and image of Boulter and Relation Streets. Further, it states one of its purposes is to accommodate infill development with appropriate rural character through the use of flag lots, country lanes, private lanes and other features that maintain the dominant pattern of development.

Zoning in the Vicinity. The subject property is entirely surrounded by properties with the RA1 zoning classification. There are however, considerable amounts of RA2 zoning in the vicinity. Along Boulter Street are fifty-two lots. Of the fifty-two lots along Boulter, 20 are zoned RA1, 27 are zoned RA2 and five are zoned R3. The greatest number of lots along the street is RA2. Further, of the 21 RA1 lots, ten do not meet the minimum size requirement of 40,000 ft² leaving only 11 of the 52 lots that meet RA1 square footage standards. Finally, 17 of the 52 lots (or 33%) along Boulter Street are less than the 20,000 ft² required under the guideline of the RA2 zone. It does not appear that by approving the zoning request, a new standard would be introduced in the neighborhood along Boulter Street.

The subject property does not abut Boulter Street directly as it is tucked in at the terminus of Salz Way. The property is surrounded by RA2 with the exception of the property to the north. If the zone change is approved, once a subdivision is submitted for approval, that application will be evaluated for items such as impervious surface, storm water, frontage improvements, etc.

Recently, on a separate rezone request in the vicinity, the question was asked by the Council about what impact changing the zone would have on drainage and storm drain in the area by increasing the density. In an effort to answer that question, the Engineering Division reviewed the storm drain master plan and model for the area and has stated that this zone change would not have a significant impact on the existing or future storm drain needs.

PREVIOUS LEGISLATIVE ACTION:

- No previous legislation has taken place on the subject property.

FISCAL IMPACT: Finance Review:

- Rezoning the property from RA1 to RA2 should not have a fiscal impact on the City.

SUPPORTING DOCUMENTS:

- Ordinance #1051 with Exhibits
- Staff Report with Supporting Documentation
- Zoning, Land Use & Aerial Maps
- Planning Commission Minutes – June 6, 2013

ORDINANCE NO. 1051

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF DRAPER CITY FOR APPROXIMATELY 2.62 ACRES OF PROPERTY FROM RA1 RESIDENTIAL TO RA2 RESIDENTIAL, LOCATED AT APPROXIMATELY 12955 SOUTH BOULTER STREET WITHIN DRAPER CITY, OTHERWISE KNOWN AS THE PEDERSEN ZONING MAP AMENDMENT.

WHEREAS, pursuant to State law, Draper City has adopted a Zoning Ordinance and Zoning Map to guide the orderly development and use of property within the City; and

WHEREAS, from time to time it is necessary to review and amend the Zoning Map to keep pace with development within the City and to ensure the provision of a variety of economic uses; and

WHEREAS, the proposed zone change set forth herein has been reviewed by the Planning Commission and the City Council, and all appropriate public hearings have been held in accordance with Utah law to obtain public input regarding the proposed revisions to the Zoning Map; and

WHEREAS, the Planning Commission has reviewed and made a recommendation to the City Council concerning the proposed amendment to the official Zoning Map of Draper City, and the City Council has found the proposed zone change to be consistent with the City's General Plan.

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

Section 1. Zoning Map Amendment. The following described real properties located at approximately 12955 South Boulter Street within Draper City, Salt Lake County, State of Utah, previously zoned RA1 as shown on the Draper City Zoning Map, as depicted in Exhibit "A" hereto, are hereby changed and rezoned to RA2:

BEG 483 FT N & 1751.1 FT E FR W 1/4 COR SEC 33, T 3S, R 1E, S L M; S 89° 46' E 559.5 FT TO W LINE OF RR R OF WAY; NWLY ALG CURVE TO L 229 FT M OR L; W 490.8 FT; S 216.3 FT TO BEG. 2.62 AC M OR L.

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 20 days after publication or posting, or 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.

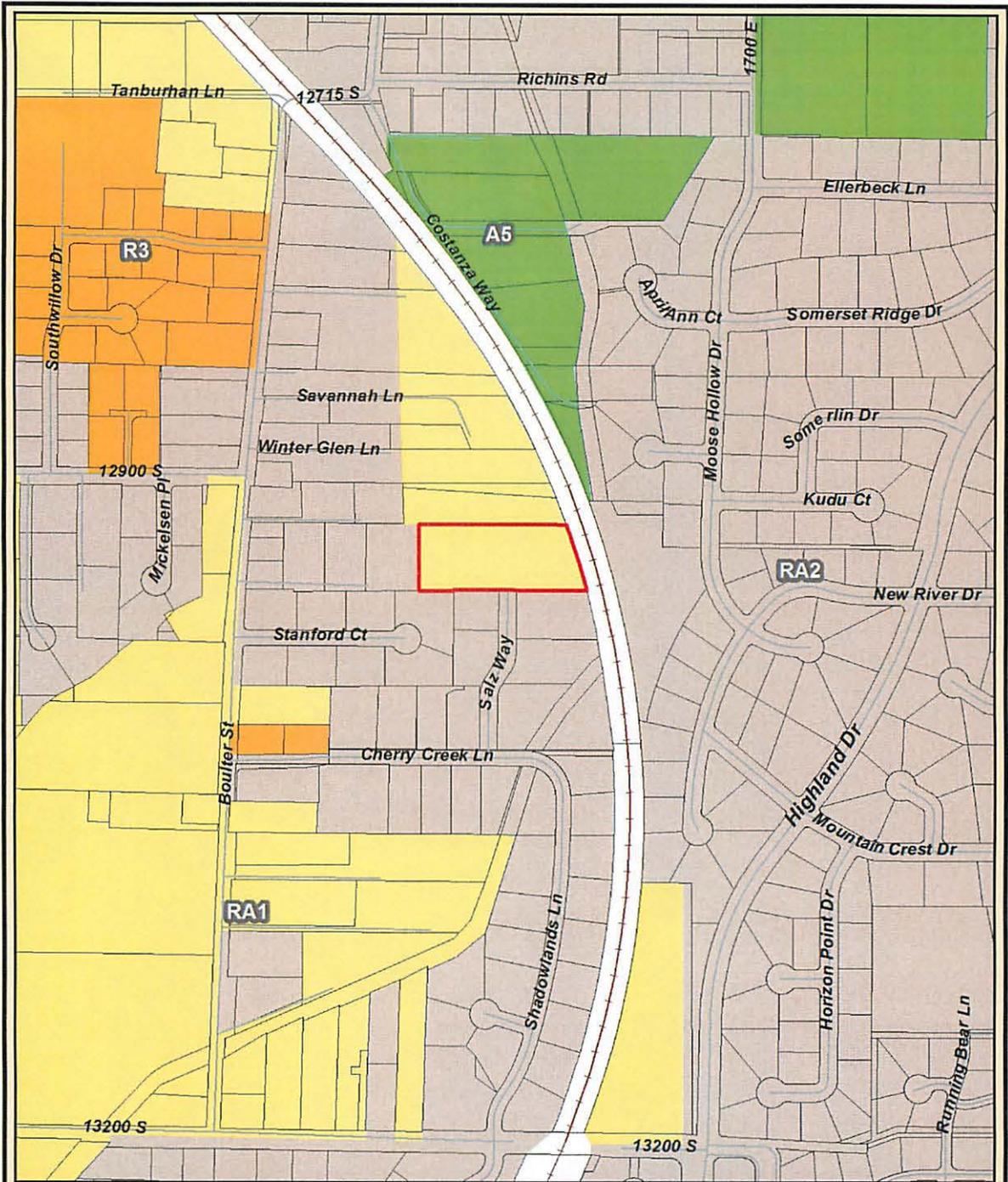
ATTEST:

DRAPER CITY:

By: _____ By: _____
City Recorder Mayor

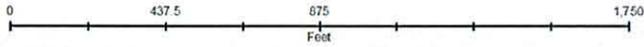
EXHIBIT A

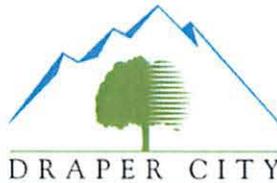
PEDERSEN ZONING MAP AMENDMENT



Pedersen Property Zoning Map Amendment

Zoning Map





Development Review Committee

1020 East Pioneer Road
Draper, UT 84020
(801) 576-6539

STAFF REPORT

May 28, 2013

To: Draper City Planning Commission
Business Date: June 6, 2013

From: Development Review Committee

Prepared By: Dan Boles, AICP, Senior Planner
Planning Division
Community Development Department

Re: **Pedersen Property – Zoning Map Amendment Request**
Application No.: 130506-12955S
Applicant: Boyd Bradshaw, representing Westmark Property
Project Location: Approximately 12955 South Boulter Street
Zoning: RA1 Residential Zone
Acreage: 2.62 Acres (Approximately 114,127 ft²)
Request: Request for approval of a Zoning Map Amendment in the Boulter Street area to amend the official zoning map from RA1 to RA2.

SUMMARY & BACKGROUND

The applicant is requesting that his property be rezoned from RA1 to RA2. Though the subject property does not front Boulter but is stubbed in by Salz Way it is still addressed from Boulter Street. This application consists of only one parcel which is 2.62 acres in size and is located at 12955 South. There is one home and several out buildings on the property.

At issue with this application is the degree to which the requested zone change would affect the existing character of the area. Approving this request will likely result in a subdivision of up to five lots. It appears that the property owner has enough land to meet all of the requirements for such a subdivision though that will have to be determined through a subdivision review should this proposal be approved.

The applicant currently gains access to the property through a private lane that extends from Boulter Street. It appears that a more feasible route to a future subdivision would be via Salz Way which is a public street which stubs to the property.

ANALYSIS

General Plan and Zoning. The Land Use Map of the General Plan calls for the Residential Low/Medium Density land use designation for the subject property. This category “includes areas of very large lot single-family neighborhoods and ranchettes.” It also states that “Low density residential allows for



enhancement of the rural character of Draper, and the buffering and transitions around existing low density single-family residences. Such buffers and transitions may consist of open space/retention areas, lots that are pie-shaped or otherwise designed to be larger than standard sized lots within the subdivision or a combination of these and other appropriate design techniques. This may include allowing the inclusion of existing homes into a proposed development.” The property has been assigned the RA1 Residential zoning classification, supporting approximately one dwelling unit per acre. The RA1 and RA2 Residential zoning designations are identified by the General Plan as preferred zoning classifications for the Residential Low/Medium Density land use designation. RA-1 zoning abuts the subject property on the north, and RA-2 abuts on the south and west. The railroad tracks form the boundary on the east side with RA2 beyond the tracks.

Conservation Area Master Plan. The Boulter and Relation Street subarea states one of the purposes of the preservation of the character and image of Boulter and Relation Streets. Further, it states one of its purposes is to accommodate infill development with appropriate rural character through the use of flag lots, country lanes, private lanes and other features that maintain the dominant pattern of development.

Zoning in the Vicinity. The subject property is entirely surrounded by properties with the RA1 zoning classification. There are however, considerable amounts of RA2 zoning in the vicinity. Along Boulter Street are fifty-two lots. Of the fifty-two lots along Boulter, 20 are zoned RA1, 27 are zoned RA2 and five are zoned R3. The greatest number of lots along the street is RA2. Further, of the 21 RA1 lots, ten do not meet the minimum size requirement of 40,000 ft² leaving only 11 of the 52 lots that meet RA1 square footage standards. Finally, 17 of the 52 lots (or 33%) along Boulter Street are less than the 20,000 ft² required under the guideline of the RA2 zone. It does not appear that by approving the zoning request, a new standard would be introduced in the neighborhood along Boulter Street.

The subject property does not abut Boulter Street directly as it is tucked in at the terminus of Salz Way. The property is surrounded by RA2 with the exception of the property to the north. If the zone change is approved, once a subdivision is submitted for approval, that application will be evaluated for items such as impervious surface, storm water, frontage improvements, etc.

Criteria For Approval. The criteria for review and potential approval of a Zoning Map Amendment request is found in Sections 9-5-060(e) of the Draper City Municipal Code. This section depicts the standard of review for such requests as:

- (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.



REVIEWS

Planning Division Review. The Draper City Planning Division has completed their review of the Zoning Map Amendment submission and has issued a recommendation for approval for the request.

Engineering and Public Works Divisions Review. The Draper City Engineering and Public Works Divisions have completed their reviews of the Zoning Map Amendment submission and have issued a recommendation for approval for the request without further comment.

Unified Fire Authority Review. The Unified Fire Authority has completed their review of the Zoning Map Amendment submission and has no issues with the change but will make further comments should a subdivision of the property be submitted.

Noticing. The applicant has expressed a desire to rezone the subject property and to do so in a manner which is compliant with the City Code. As such, notice has been properly issued in the manner outlined in the City and State Codes.

STAFF RECOMMENDATION

Staff recommends approval of the request for a Zoning Map Amendment by Boyd Bradshaw, representing Westmark Property, application 130506-12955S, 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.
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 approval of the zoning request will not introduce a new standard in the neighborhood.
7. That the proposed amendment would not adversely affect adjacent property or the character of the neighborhood.

MODEL MOTIONS

Sample Motion for a Positive Recommendation – "I move we forward a positive recommendation to the City Council for the Pedersen Property Zoning Map Amendment Request by Boyd Bradshaw, representing Westmark Property to change the zoning designation on the subject property from RA1 to RA2, application 130506-12955S, based on the findings and subject to the conditions listed in the Staff Report dated May 28, 2013 and as modified by the conditions below:"

1. List any additional findings and conditions...

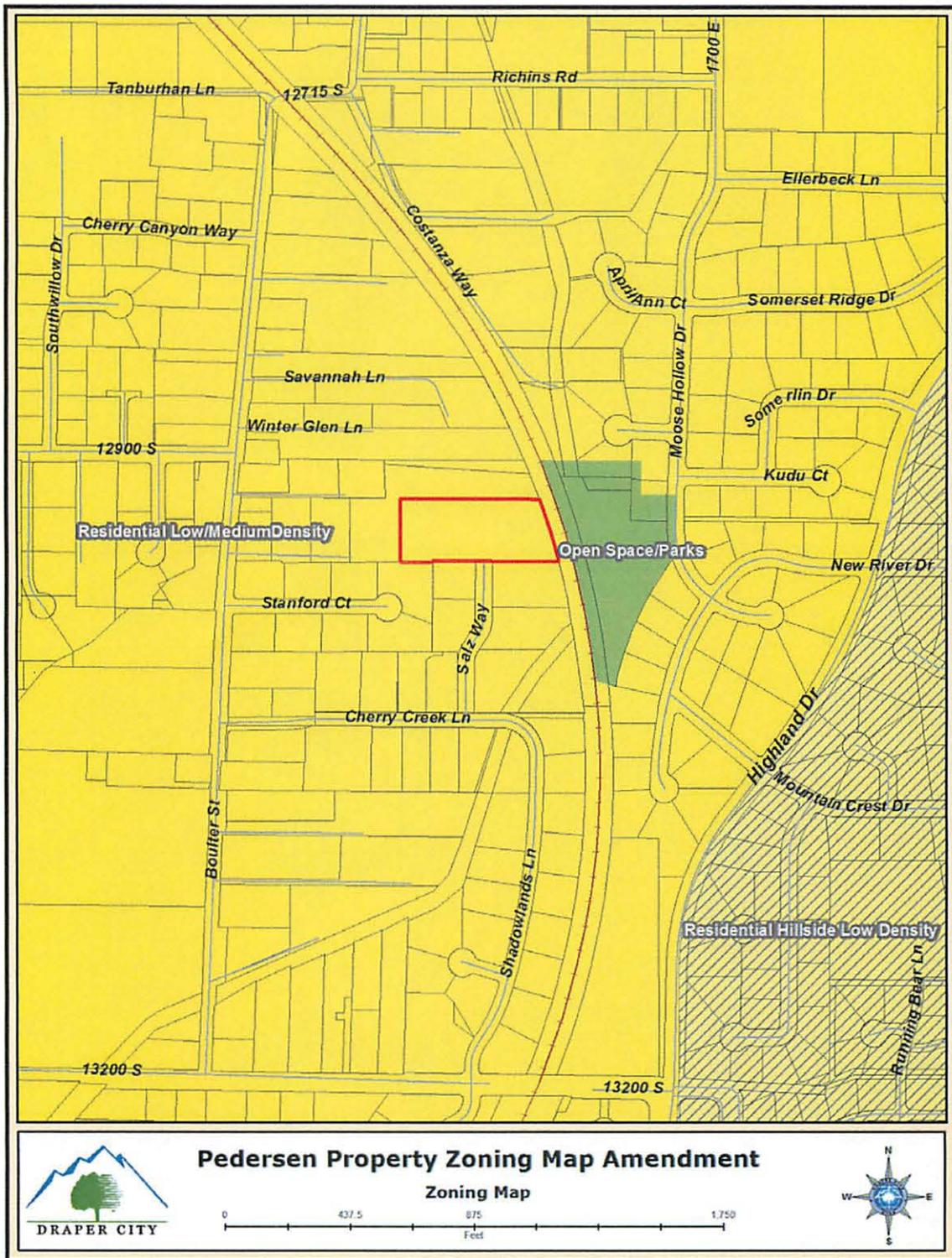
Sample Motion for a Negative Recommendation – "I move we forward a negative recommendation to the City Council for the Pedersen Property Zoning Map Amendment Request by Boyd Bradshaw, representing Westmark Property to change the zoning designation on the subject property from RA1 to

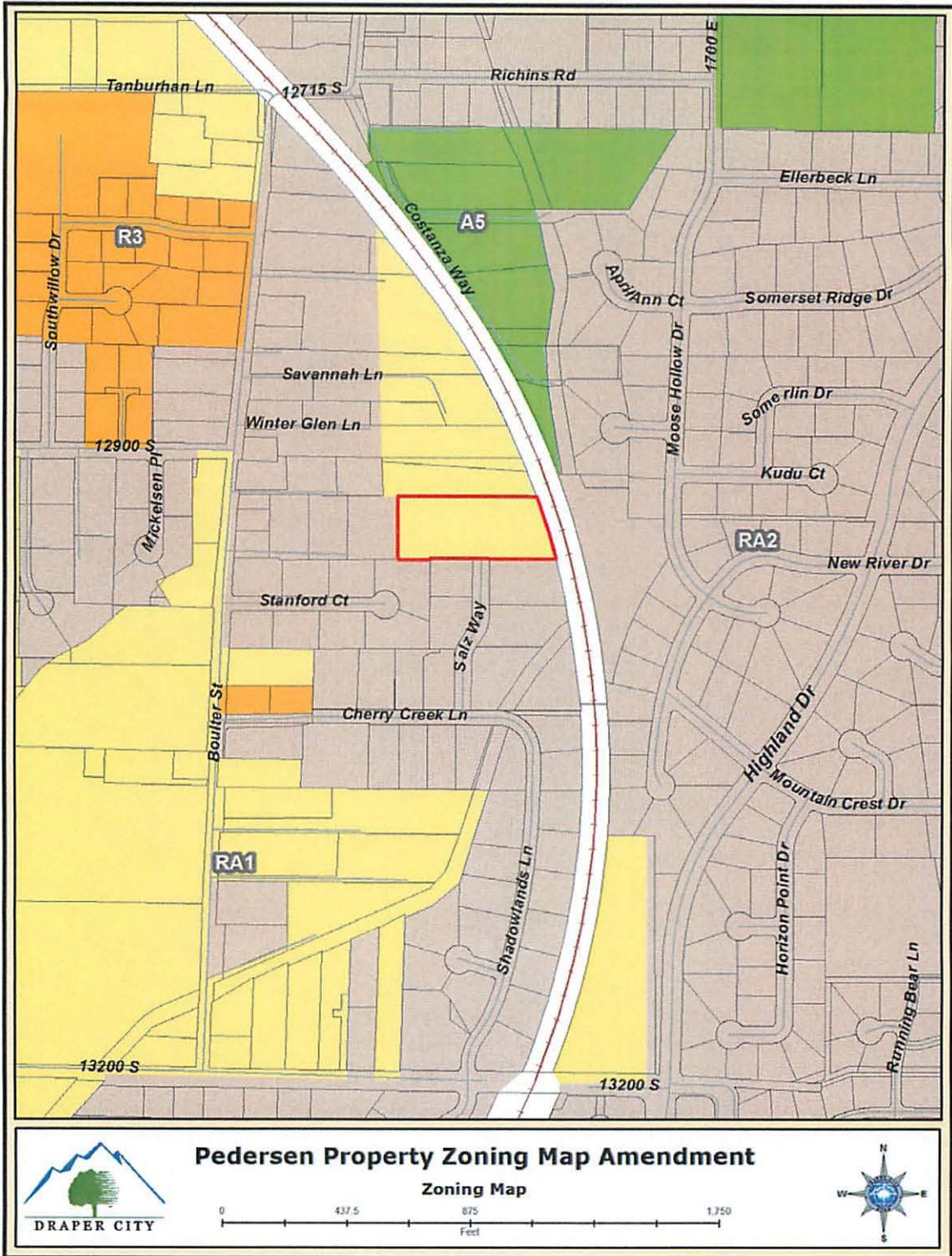


RA2, application 130506-12955S, based on the following findings:"

1. List any additional findings...







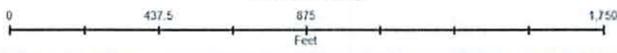


Pedersen Property Zoning Map Amendment

Aerial Map



DRAPER CITY



0 437.5 875 1,750
Feet

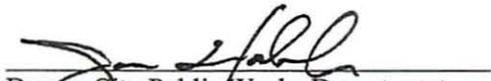



DEVELOPMENT REVIEW COMMITTEE ACKNOWLEDGEMENT

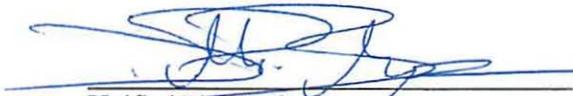
We, the undersigned, as duly appointed members of the Draper City Development Review Committee, do acknowledge that the application which provides the subject for this staff report has been reviewed by the Committee and has been found to be appropriate for review by the Draper City Planning Commission and/or City Council.

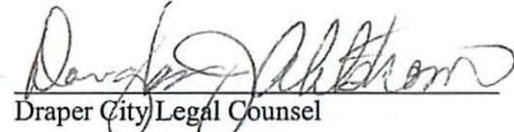

Draper City Engineering Division


Draper City Building Division


Draper City Public Works Department


Draper City Planning Division


Unified Fire Authority


Draper City Legal Counsel

6:35:04 PM

- 3.0 **Public Hearing: On the request of Boyd Bradshaw, representing Westmark Property for approval of a Zoning Map Amendment of 2.62 acres from RA1 to RA2. The subject property is located at approximately 12955 S Boulter Street. This application is otherwise known as the Pedersen Property Zoning Map Amendment, Application #130506-12955S.**

6:35:32 PM

- 3.1 **Staff Report:** Using the aid of a PowerPoint presentation and his staff report dated May 28, 2013, Planner Dan Boles reviewed the details of the proposed application. He explained the applicant is requesting his property be rezoned from RA1 to RA2; though the subject property does not front Boulter but is stubbed in by Salz Way it is still addressed from Boulter Street. He reviewed the zoning map for the area surrounding the subject property, noting the presence of RA2 and RA3 zoning in the area. He explained the minimum lot size in an RA1 zone is 40,000 square feet, 20,000 square feet in an RA2 zone, and 13,000 square feet in an RA3 zone. Mr. Boles then reviewed the land use map for the area and noted it is the first document staff references when considering a rezone application for property in the City; the land use map calls for the area to be residential in nature with low to medium density. He noted the general plan calls for the property to be zoned RA1 or RA2 and it is up to the Planning Commission to decide which zoning is more appropriate. Mr. Boles then reviewed an aerial photograph of the property and referenced various properties and landmarks in the area. He noted there are a couple of buildings on the subject property, but it is vacant for the most part.

6:39:24 PM

- 3.2 Acting-Chairperson Clerico asked if access to the project would come from Salz Way if development occurs. Mr. Boles stated that is likely as it would make the most sense for the project. He then continued his report explaining if the rezone application is approved the applicant will likely seek to subdivide the property in the future; if RA2 zoning is granted the property could be divided into four or five lots.

6:40:26 PM

- 3.3 **Applicant's Presentation:** Boyd Bradshaw stated Mr. Boles has done a great job of explaining the intent behind his rezone application. He stated he feels the project will fit well with the area and he has support of the current owner of the property.

6:41:04 PM

- 3.4 Acting-Chairperson Clerico opened the public hearing. He stated one visitor filled out a comment card stating they did not wish to speak, but they wanted the record to show that they felt the density being requested is too high for the area.

6:41:27 PM

- 3.5 Kent Mortensen, 12939 Salz Way, stated his home is located directly south of the subject property. He asked if the applicant has explained to the City that he is trying to subdivide 2.62 acres of property. He stated his understanding that the current property owner will keep his home that is located on .62 acres of the property, which leaves two acres for subdividing. He stated that his own property is close to an acre and his surrounding neighbors have one to two acres of property. He stated he is not opposed to half-acre lots, but he has a problem with smaller lots; there should only be three lots permitted on the subject property with consideration given to the needed roads and infrastructure. He stated if the applicant is telling the City that the property is 2.62 acres in size, but they are only planning to subdivide two acres, they are not providing the City with all pertinent information.

6:42:48 PM

- 3.6 Acting-Chairperson Clerico stated the zone change application applies to the entire parcel of property and the subdivision of the property is not being considered this evening.

6:43:18 PM

- 3.7 Orla Pedersen stated he and his wife own the subject property. He stated they moved to the area in 1974 and the entire City was a farming community and there were hardly any houses in the area. He stated the residents at that time wanted for the area to remain a farming community, but the City could not stem the tide of progress and he has seen some great changes in the years that he has lived in the City; Draper has become a progressive City and there are new subdivisions all around his property. He stated he loves where he lives and had hoped to build another home on his property, but that would only be possible if the property is rezoned to allow lot sizes of half-acre rather than one acre. He stated the developers have built several large, nice subdivisions in the City and he is confident they have the experience and skill to build a first class development to meet the updated ordinances of the City. He stated the infrastructure will also be first class. He stated there will be a lot more traffic on Salz Way and he had some worry about whether that road can handle the traffic so he is hopeful the developer will improve the road and install sidewalks. He stated he wants his neighbors to be happy with the change because it will affect them as much as it will affect him. He stated he is supportive of the zoning change, though he can understand the concerns of his neighbors.

6:46:06 PM

- 3.8 Richard Deere stated his wife owns the property that wraps around Mr. Pederson's property to the north and west. He stated he has a few questions; he is concerned about the road in the area going through versus being a cul-de-sac. He asked if that issue is part of the rezone application. Acting-Chairperson Clerico answered no. Mr. Deere stated the other concern he has is that the City make sure the infrastructure in the area is sufficient to

accommodate the development. He added the last concern he has is relative to his property; he has horses and he has lived on his property for 30 years. He stated he is concerned about overcrowding that will result in pushing out the horses and horse owners.

6:47:33 PM

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

6:47:54 PM

3.10 Mr. Boles stated that when the applicant submits an application for the subdivision he will be required to subtract any right-of-way from the property size. He stated the lot size is calculated after the right-of-way is eliminated from the total subject property size. He then referenced Mr. Deerc's comment regarding the cul-de-sac and noted the Fire Department will likely required that the road be a cul-de-sac, but it may be possible to complete that work in a manner that will allow for the road to be stubbed through in the future. He then stated horses are allowed in the RA2 zone and people moving into the area will need to realize that horses will continue to be allowed.

6:49:47 PM

3.11 Commissioner Player stated that the applicant, property owner, and concerned neighbors need to understand this is the first step in the process to develop the property.

6:50:13 PM

3.12 **Motion:** Commissioner Player moved to forward a positive recommendation to the City Council for the Pedersen Property Zoning Map Amendment Request by Boyd Bradshaw, representing Westmark Property to change the zoning designation on the subject property from RA1 to RA2, application 130506-12955S, based on the findings listed in the Staff Report dated May 28, 2013. Commissioner Head 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.
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 approval of the zoning request will not introduce a new standard in the neighborhood.
7. That the proposed amendment would not adversely affect adjacent property or the character of the neighborhood.

6:51:42 PM

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

Return to Agenda

ITEM #11

REQUEST FOR COUNCIL ACTION

To: Mayor & City Council
From: Vivien Pearson
Date: June 12, 2013
Subject: Full Service Restaurant Alcoholic Beverage Application for WingNutz.
Applicant Presentation: William Owens, Business Owner
Staff Presentation: Russell Fox

RECOMMENDATION:

City Council approval of Full Service Restaurant Alcoholic Beverage License for WingNutz, 12300 S 121 E.

BACKGROUND AND FINDINGS:

Applicant William Owens and William Miller are requesting a Full Service Restaurant Alcoholic Beverage License WingNutz, 121 E 12300 S. 10 Full Service Restaurant Licenses have been issued. The applicants will be applying for a Full Service Restaurant Alcoholic Beverage License with the Department of Alcohol Beverage Commission. Local Consent form is attached.

PREVIOUS LEGISLATIVE ACTION:

Alcohol on Premise, Non Tavern License was approved on October 20, 2009.

FISCAL IMPACT: Finance Review: ____ (if applicable)

- N/A
-

SUPPORTING DOCUMENTS:

- Full Service application and receipt in amount of \$600.00 to cover application fee
- Copy of Business License application
- Surety Bond in the amount of \$10,000.00
- Background check on applicant William Owens and William Miller.
- Map showing location to be more than 600 feet and 200 feet from nearest park, church, school, etc. as required by ordinance.
- Diagram of interior of store showing location beer storage.

Dept. Review: ____
City Manager Review ____



DRAPER CITY
1020 East Pioneer Road
Draper UT 84020
(801) 576-6530, Fax (801) 576-6526

ALCOHOLIC BEVERAGE LICENSE APPLICATION

Business Name: CMAE, LLC Wing Nutz Telephone: 801-518-8345
Business Location: 12300 S 121 E Draper, Draper, Utah 84020

Mailing Address: 6477 W Ralph H Circle City: Herriman State: UT Zip: 84096

Property Owner, if leasing or renting: Inland Diversified. Telephone: _____
Property Owner's Address: 15961 Collections Center Drive Bldg # 65012
Chicago, IL 60693

Business Owner: William Owens Telephone: 801-518-8345
Home Address: 6477 Ralph H. Circle City: Herriman State: UT Zip: 84096
e-mail address: william@bakedwingsarebetter.com

Type of License: Off Premise Full Service Limited Service
 Club (Please specify type): _____ On Premise, Non-Tavern Manufacturer License

I am applying for Local Consent to obtain a Full Service Restaurant license at the Department of Alcoholic Beverage Control.
 I am not applying for Local Consent.

Date business will begin: 6/25/13

I (we) hereby apply for a license to conduct the above described business within Draper City and as such, do hereby acknowledge and fully understand all Ordinances of Draper City that shall apply and agree to fully comply with all such Ordinances, including but not limited to, Business Licensing, Health and Land Use Regulations. I, _____, hereby authorize Draper City to request a background check be completed by the Draper City Police Department or other law enforcement agency in connection with the foregoing application. If my application is for an On Premise Consumption License, I further hereby agree to permit any authorized representative of the Department of Alcoholic Beverage Control, Draper City, Draper Police, or Salt Lake Valley Health Department unrestricted right to enter the business.

The information in this application is governed by Utah State Government Records Access and Management Act (GRAMA). You are required to furnish the information on this form for the purpose of identification and to provide background information to properly assess your application and expedite processing. This information will be used only so far as necessary for evaluating your application. Failure to provide the information may result in the process taking longer or, in some cases, your application may be impossible to process. If you are an "at-risk government employee" as defined in Utah Code Ann. § 63-2-302.5, please inform the city employee accepting this application. Draper City does not currently share private, controlled or protected information with any other person or government entity.

[Signature]
Signature of Business Owner or Agent by written authorization

Date: 6/11/13

Off premise Consumption	<input type="checkbox"/>	_____
On Premise Consumption	<input checked="" type="checkbox"/>	_____
Total Fee	\$	<u>600.00</u>

Approvals: (Office Use Only)	
<input type="checkbox"/>	City Council Approval Date: _____
<input type="checkbox"/>	Fees Received



DRAPER CITY

1020 E Pioneer Rd
Draper, UT 84020
801-576-6500
onlinepayments@draper.ut.us

Transaction detail for payment to DRAPER CITY

Date: 06/11/2013 - 4:34:05 PM

Transaction Number: 20737827XA
eCheck - Checking — XXXXX0506
Status: Successful

Account #	Item	Quantity	Item Amount	Extended Amount
	Business License (New) PRINT-1001	1	\$600.00	\$600.00
			TOTAL:	\$600.00

Billing Information

Wingnutz-Draper Wingnutz-
Draper
UT 84121

Transaction taken by: vivien

Payment Service Provided By www.xpressbillpay.com

Copyright © Xpress Bill Pay 2013 - All Rights Reserved

License No.

LN-2010-0030

Draper City Business License

Draper City

1020 East Pioneer Road
Draper, Utah 84020
Telephone: (801) 576-6500

Expiration Date: 12/31/2013

Date Issued: 01/01/2013

Issued To:

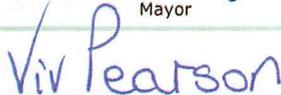
**WINGNUTZ DEV. LLC
WINGNUTZ-DRAPER
121 E 12300 SOUTH P-5
Draper City, UT 84020**

Type of Business:

RETAIL/RESTAURANT/FAST FOOD/TAKE OUT



Mayor



Business License Official/Designated Official

This license is granted to the named company to do business in Draper City at the named address.

This license is not transferable between owners.
This license is valid only for type of business stated.



THIS LICENSE IS NOT TRANSFERABLE - THIS LICENSE SHOULD BE POSTED IN A CONSPICUOUS PLACE

UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1625 S 900 W • PO Box 30408 • Salt Lake City, UT 84130-0408 • Phone (801) 977-6800 • Fax (801) 977-6889

"RESTAURANT LIQUOR BOND"

BOND # 61713353

KNOW ALL PERSONS BY THESE PRESENTS:

That Principal, CMAE LLC,

a restaurant liquor licensee, doing business as Wing Nutz Draper,

and Surety, WESTERN SURETY COMPANY, a corporation

organized and existing under the laws of the state of South Dakota and authorized to do business in Utah, are held and bound unto the Utah Department of Alcoholic Beverage Control in the sum of \$10,000, for which payment will be made, we hereby bind ourselves and our representatives, assigns, and successors firmly by these presents.

Dated this 10th day of June, 2013.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the above principal has made application to the Utah Alcoholic Beverage Control Commission for a restaurant liquor license pursuant to the provisions of 32B-5-204, Utah Code.

NOW, THEREFORE, if said principal, its officers, agents and employees shall faithfully comply with the provisions of Title 32B, Utah Code, and the rules and directives of the Utah Alcoholic Beverage Control Commission and the Utah Department of Alcoholic Beverage Control, then this bond shall be void; but, if said principal, its officers, agents and employees fail to comply with the provisions of the laws, rules and directives or orders as the commission or department may issue, then this bond shall be in full force and effect and payable to the Utah Department of Alcoholic Beverage Control. This bond shall run for a continuing term effective June 10th, 2013 unless canceled by service of written notice upon the Utah Department of Alcoholic Beverage Control, which cancellation shall be effective 30 days after receipt of such notice; provided however, that no part of this bond shall be withdrawn or canceled while violations, legal actions or proceedings are pending against said licensee / principal.

WESTERN SURETY COMPANY

Surety

Paul T. Bruflat

Attorney in fact Paul T. Bruflat,
Vice President

CMAE LLC DBA Wing Nutz Draper

Principal / Licensee

William Miller

Authorized signature

William Miller Manager
Name / Title



STATUTORY AFFIDAVIT FOR CORPORATE SURETY

STATE OF: SOUTH DAKOTA

COUNTY OF: MINNEHAHA

On the 10th day of June, 2013, personally appeared before me,
Paul T. Bruflat, Vice President, who, being by me duly sworn, did
say that he / she is the attorney in fact of WESTERN SURETY COMPANY,
Surety, and that said instrument was signed in behalf of said surety by authority, and acknowledged to me
that he / she as such attorney in fact executed the same.



Notary Public Signature & Seal



My Commission Expires August 11, 2016

Note: Corporate surety's own affidavit also acceptable



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/10/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Jed Miner & Associates Ins. Svcs. Inc. 1524 E 1110 N Orem, UT 84097	CONTACT NAME: Debby D. Kallinikos
	PHONE (A/C, No, Ext): 801-455-1044 FAX (A/C, No): 801-226-0986 E-MAIL ADDRESS: debby.kallinikos@gmail.com
INSURED CMAE, LLC DBA Wing Nutz Draper 121 East 12300 South Draper, UT 84020	INSURER(S) AFFORDING COVERAGE NAIC #
	INSURER A: Valley Forge Insurance Company
	INSURER B: Travelers Indemnity Insurance
	INSURER C: Continental Casualty Company
	INSURER D:
	INSURER E:

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	<input checked="" type="checkbox"/>	<input type="checkbox"/>	B4017991465	01/15/2013	01/15/2014	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B4017991465	01/15/2013	01/15/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTIONS 10,000	<input type="checkbox"/>	<input type="checkbox"/>	B4017991546	01/15/2013	01/15/2014	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N Y N/A if yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/>	<input type="checkbox"/>	UB-8A648875	01/15/2013	01/15/2014	<input type="checkbox"/> WC STATUTORY LIMITS <input checked="" type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Liquor Liability	<input type="checkbox"/>	<input type="checkbox"/>	B4017991465	01/15/2013	01/15/2014	\$ 2,000,000
A	Tenant Betterments & Improvements	<input type="checkbox"/>	<input type="checkbox"/>	B4017991465	01/15/2013	01/15/2014	\$ 100,000
A	Business Personal Property	<input type="checkbox"/>	<input type="checkbox"/>	B4017991465	01/15/2013	01/15/2014	\$ 53,060

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Restaurant with Alcohol sales located at 121 East 12330 South #P5, Draper, UT 84020.

Certificate Holder is listed as Additional Insured.

CERTIFICATE HOLDER **CANCELLATION**

Utah Department of Alcoholic Beverage Control Attn: Stefanie P.O. Box 30408 Salt Lake City, UT 84130-0408 Fax: 801-977-6889	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Debby D. Kallinikos



Department of Public Safety

D. LANCE DAVENPORT
Commissioner

Receipt No: 2013129127

State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

Criminal History Report

This is an official Utah Computerized Criminal History Report for the following person:

Name: WILLIAM ROBERT OWENS	Date of Birth: 10/13/1976
Other Names Used: No other names exist.	
Other Dates of Birth Used: No other birth dates exist.	

NO CRIMINAL RECORD FOUND

This report reflects the criminal history as of: **06/10/2013**

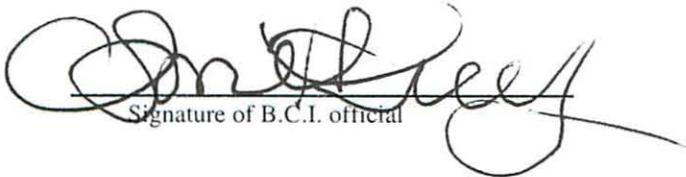
The Bureau of Criminal Identification did not find a match for this individual in the Utah computerized criminal history database.

The database was searched by name only. If there had been a record it would have been verified by fingerprint comparison.

This is a report of search results from the Utah computerized criminal history file only. It does not preclude the existence of juvenile arrests, arrests in other states, or arrests not reported to the Bureau of Criminal Identification.

This report is not valid without the official seal of the State of Utah embossed in the box to the right.

I hereby certify that the information contained in this document is true and correct.


Signature of B.C.I. official





Department of Public Safety

D. LANCE DAVENPORT
Commissioner

Receipt No: 2013129121

State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

Criminal History Report

This is an official Utah Computerized Criminal History Report for the following person:

Name: WILLIAM JON MILLER	Date of Birth: 03/18/1962
Other Names Used: No other names exist.	
Other Dates of Birth Used: No other birth dates exist.	

NO CRIMINAL RECORD FOUND

This report reflects the criminal history as of: **06/10/2013**

The Bureau of Criminal Identification did not find a match for this individual in the Utah computerized criminal history database.

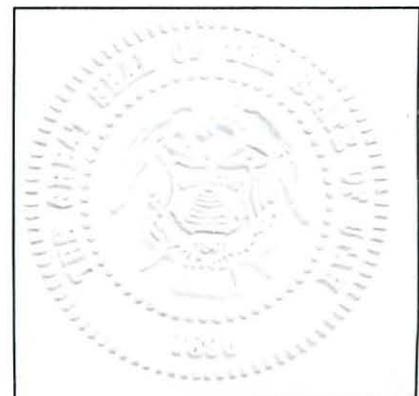
The database was searched by name only. If there had been a record it would have been verified by fingerprint comparison.

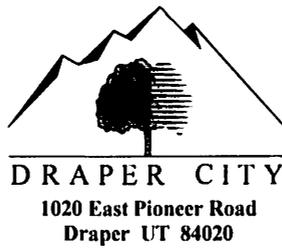
This is a report of search results from the Utah computerized criminal history file only. It does not preclude the existence of juvenile arrests, arrests in other states, or arrests not reported to the Bureau of Criminal Identification.

This report is not valid without the official seal of the State of Utah embossed in the box to the right.

I hereby certify that the information contained in this document is true and correct.

Signature of B.C.I. official





**LOCAL CONSENT
FULL SERVICE RESTAURANT LIQUOR LICENSE**

Date: _____

Utah Department of Alcoholic Beverage Control
Licensing and Compliance Division
1625 South 900 West
P.O. Box 30408
Salt Lake City UT 84130-0408

To Whom It May Concern:

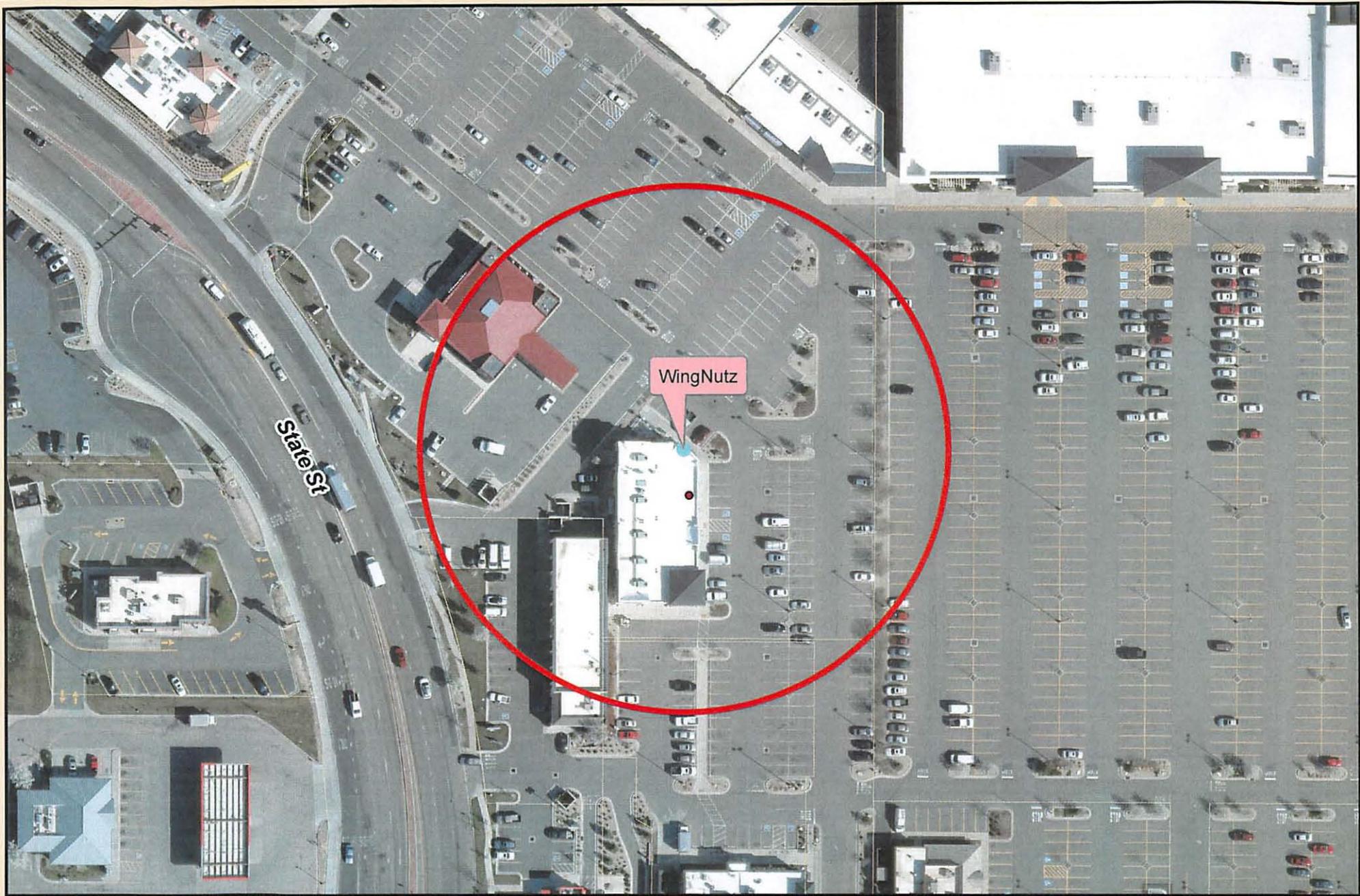
Draper, Salt Lake County _____ (City)(Town)(County) hereby grants its consent to the issuance of a Full Service Restaurant Beer License to:

WingNutz
121 E 12300 S

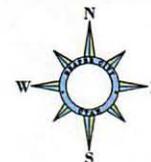
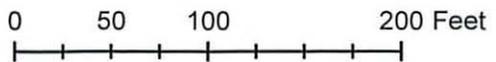
pursuant to the provisions of Section 32A-4, Part 1 Utah Code for the purpose of sale, storage and consumption of beer on the premises. Furthermore, the applicant has met all ordinances and requirements relating to issuance of a local business license.

Very truly yours,

Mayor, City of Draper

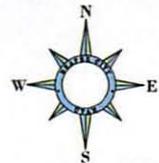
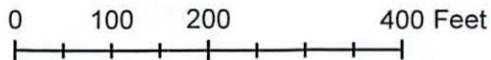


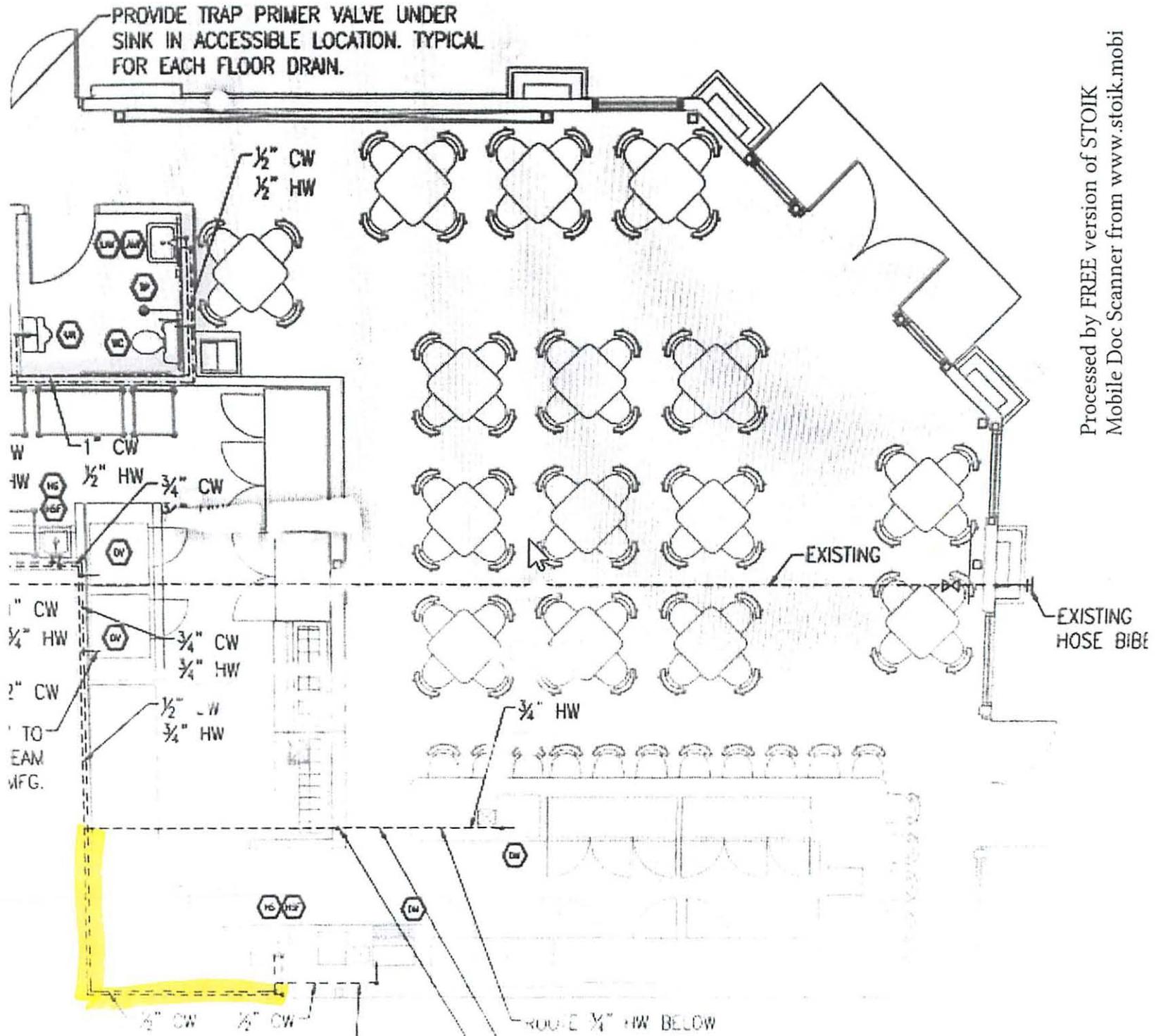
WingNutz, 121 E 12300 S Suite 5, 200' Buffer





Wing Nutz, 121 E 12300 S Suite 5 600' Buffer





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Mobile Doc Scanner from www.stoik.mobi

[Return to Agenda](#)

ITEM #12

ORDINANCE NO. 1052

AN ORDINANCE OF THE DRAPER CITY COUNCIL AMENDING DRAPER CITY MUNICIPAL CODE SECTION 6-6-020, SALE, DISCHARGE AND POSSESSION OF FIREWORKS RESTRICTED, BY PROHIBITING SKY LANTERN FIREWORKS IN ALL LOCATIONS OF THE CITY; AND MAKING TECHNICAL CORRECTIONS

WHEREAS, Section 310.8 of the International Fire Code allows the legislative body of a municipality to prohibit the discharge of fireworks and other ignition sources in specified areas if the local fire code official determines that hazardous environmental conditions exist; and

WHEREAS, the State Fire Marshal has declared that hazardous environmental conditions exist in all areas of Draper City as pertaining to the discharge of "sky lantern" fireworks because the firework is allowed to float away as the air inside the lantern rises in temperature, and it has the ability to travel up to one mile in a lit condition which threatens the mountainous, brush-covered, and forest-covered areas of wildland urban interface areas; and

WHEREAS, fires must be attended by a person at all times until they are completely extinguished; and

WHEREAS, the council finds it is in the best interest of the City and the general health, safety and welfare of the public to prohibit the discharge of "sky lantern" fireworks in all areas of the City;

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

SECTION I. Amendment. Draper City Municipal Code Section 6-6-020 is hereby amended to read:

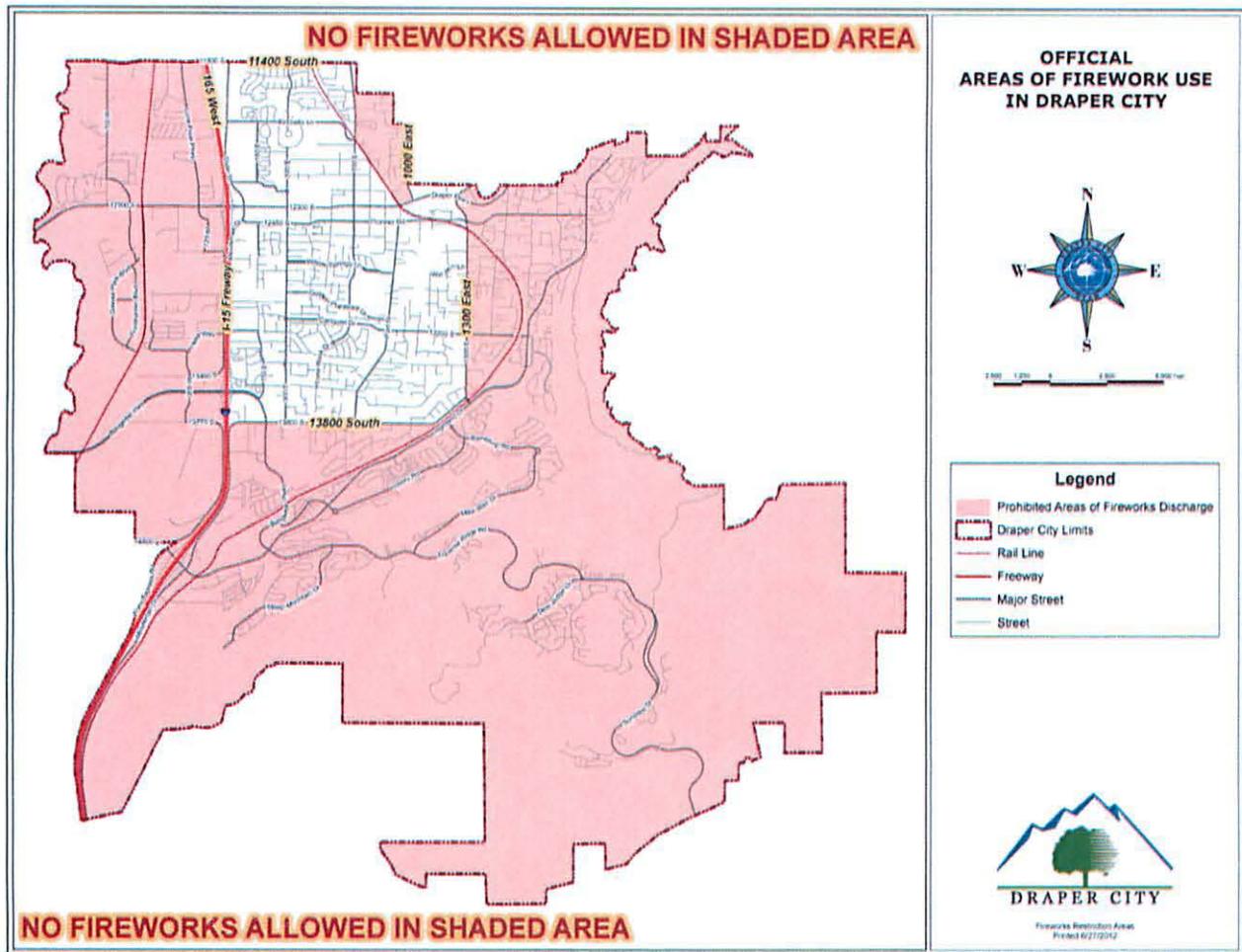
Section 6-6-020 Sale, Discharge and Possession of Fireworks Restricted.

(a) It is unlawful and shall constitute a class "B" misdemeanor for any person to sell or offer for retail sale any fireworks without first obtaining a license from the City and paying the required regulatory fee as set forth in the City's Consolidated Fee Schedule.

(b) It is a class "B" misdemeanor for any person to sell, offer for retail sale, discharge, or have in their possession any fireworks in Draper City, other than class C common state approved explosives as authorized by Utah Code Ann. 53-7-201 et seq., as amended, the rules adopted by the Utah Fire Prevention Board pursuant thereto, and this chapter, except as otherwise permitted by state law.

(c) It shall be unlawful to discharge any fireworks within 20 feet of any residence, dwelling, or structure.

(d) Due to perennial extreme hazardous fire conditions in certain portions of Draper City, the discharge of fireworks is prohibited east of 1300 East Street, south of 13800 South Street, west of Interstate 15, and in the area from 12300 South running north along 1000 East Street to the north City boundary, then following the City boundary west to 700 East Street, then south to the UTA TRAX line, then following the TRAX line to 12300 South Street, to be known as the Mehraban Wetlands Area, all as shown on the following map:



(e) It is unlawful and shall constitute a class “B” misdemeanor for any person to discharge display fireworks, special effects, or flame effects performances, without first receiving a Draper City permit therefor. Evidence shall also be provided that the display operator, special effects operator, or flame effects operator who will set up and discharge the display has received a license from the State Fire Marshal Division, Department of Public Safety. The operator shall also provide a certificate of insurance in the minimum amount of \$2,000,000 and which names the City as an additional insured.

(f) It shall be unlawful and shall constitute a class B misdemeanor for any person to discharge or launch a “sky lantern” or similar type of unmanned fire. “Sky lantern” means a small unmanned hot air balloon with an opening at the bottom where a fire is suspended. “Sky

lanterns” are sometimes called “Chinese lanterns,” “sky candles” or “fire balloons” and usually consist of a wire frame with a paper shell and a candle or other fuel, by which the burning candle or fuel creates hot air that makes the lantern float and glow.

SECTION II. Repealer. Ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION III. Effective Date. This ordinance shall become effective upon recording by the City Recorder, and 20 days after publication or posting or 30 days after final passage by the City Council, whichever is sooner.

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

ATTEST:

DRAPER CITY

City Recorder

Darrell H. Smith, Mayor

UNIFIED FIRE AUTHORITY FIRE PREVENTION BUREAU

Sky Lanterns

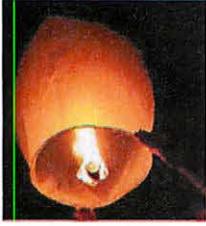
6-12-13



[This document provides general guidance for the process of regulating the use of sky lanterns that are not allowed in the UFA jurisdiction.]

Sky Lanterns

Sky Lanterns are basically a small unmanned hot air balloon. The lantern is a wire frame with a paper shell. It has a candle or other fuel in a holder at the bottom of the balloon. The burning candle creates the hot air that makes the lantern float and it adds a glow to the lantern as it floats through the air. These can travel up to a mile or more depending upon the air conditions.



Sky lanterns are **not** allowed within the Unified Fire Authority jurisdiction. The International Fire Code states that all Recreational Fires must be attended by a person at all times until they are completely extinguished. Since a sky lantern is allowed to float away as the air inside the lantern rises in temperature, the flame inside the sky lantern cannot be constantly attended by a person until it is extinguished. The sky lantern is free to float to where ever the air currents take it; this is why **they are not allowed**.

Worst case scenario is that it may become caught in a tree or on a house or other object and spread it's fire to whatever it gets caught in. This could be a tragic event caused by something that seemed so harmless. Whoever launched the sky lantern would be held responsible for damages caused by their sky lantern.



2012 International Fire Code References

Recreational fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition. [2012 IFC 307.4.2]

Open burning; bonfires, recreational fires and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with Section 906 with a minimum 4-A rating or other *approved* on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization. [2012 IFC 307.5]

No person shall throw or place, or cause to be thrown or placed, a lighted match, cigar, cigarette, matches, or other flaming or glowing substance or object on any surface or article where it can cause an unwanted fire. [2012 IFC 308.1.2]

Use of Chinese Lanterns

As traditional sky lanterns contain a flame, there is the danger that they can cause a fire when landing on flammable ground, or structures. They can achieve quite a height and launching them in strong winds is not recommended. After the balloon lands, the leftover thin wire frame may present a hazard to any animal tempted to swallow it. (This has been reported to be a significant problem with cattle and may be considered an environmental hazard)

International Fire Code, 305.4 Deliberate or negligent burning. *It shall be unlawful to deliberately or through negligence set fire to or cause the burning of combustible material in such a manner as to endanger the safety of persons or property.*

International Fire Code, 308.1.1 Where prohibited. *A person shall not take or utilize an open flame or light in a structure, vessel, boat or other place where highly flammable, combustible or explosive material is utilized or stored. Lighting appliances shall be well-secured in a glass globe and wire mesh cage or a similar approved device.*

International Fire Code, 308.1.5 Location near combustibles. *Open flames such as from candles, lanterns, kerosene heaters and gas-fired heaters shall not be located on or near decorative material or similar combustible materials.*

International Fire Code, 308.1.6.2 Portable fueled open-flame devices. *Portable open-flame devices fueled by flammable or combustible gases or liquids shall be enclosed or installed in such a manner as to prevent the flame from contacting combustible material.*



11 Jul 2011

A family was forced to flee their home after a Chinese sky lantern set fire to their roof, in the latest accident caused by the so-called "floating fireworks". Anne-Marie Cobb, 40, and her children Samuel, eight, and Amelia, six, were asleep when the lit paper lantern landed on top of their family home.

A fire quickly took hold in the timber frame house, lighting up the insulation in the roof and spreading to within two feet from where the youngest child was sleeping.

Fortunately a neighbor spotted the flames, dialed 911 and helped evacuate the family.

Chinese Lanterns

During July 2011, CFOA were asked by various media contacts to provide information on incidents caused as a result of Chinese or Sky Lanterns.

- 42 Fire and Rescue Services (FRSs) responded to the call for information (70%)
- Out of the 42 FRSs that responded, 30 said they had had incidents/call outs caused by Chinese Lanterns (71%)

There were a number of news stories that featured parts of our [position statement](#). Iain Cox, CFOA Prevention and Protection Director, was also interviewed on Channel 5 News.

The One Show and Country file also featured the issue of Chinese Lanterns in programs that aired in July and August 2011.

The [National Farmers Union \(NFU\) is calling for an outright ban on Chinese lanterns.](#)



UNIFIED FIRE AUTHORITY MEMORANDUM

TO: ALL CITY LIAISONS
FROM: FIRE PREVENTION DIVISION
SUBJECT: FIREWORKS AMENDMENT
DATE: May 29, 2013

Recommended action on House Bill 289 – Fireworks Amendments

Explanation:

The amendment (IFC 310.8) allows the legislative body of a municipality to prohibit the discharge of fireworks and other ignition sources in specified areas if the local fire code official determines that hazardous environmental conditions exist. This can be done by resolution or by ordinance.

Code Amendment

IFC, Chapter 3, Section 310.8

"When the fire code official determines that hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials:

- (i) the legislative body of a municipality within which the hazardous environmental conditions exist may prohibit only the ignition or use of the ignition source in mountainous, brush-covered, or forest-covered areas or the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose; and
- (ii) where the hazardous environmental conditions exist in unincorporated areas that meet the description in Subsection (1)(c)(i), the state forester may prohibit the ignition or use of the ignition source in all or part of these areas, after consulting with the county fire code official having jurisdiction over that area.

Recommended action from UFA:

For legislative bodies considering areas in which to prohibit use of ignition sources (fireworks, sky lanterns, etc.) for the 2013 fire season Unified Fire, as the Fire Code Official, finds that the same topological and environmental conditions continue to exist

and, additionally, that it is a year of below average precipitation. Accordingly, the Unified Fire Authority would recommend that the public safety and sound fire prevention and suppression practices dictate the following actions by affected Unified Fire jurisdictions:

- Keeping the same fireworks restricted areas in place from last year, add sky lanterns and consider other ignition sources to the resolution or ordinance.
- Consider adopting language prohibiting fireworks and sky lanterns year-round or for an extended period in designated high hazard areas.

Restricted areas for 2012:

The interactive map showing the fireworks restricted areas for 2012 can be found at: <http://www.slcoem.org/maps/Fireworks/index.html>

(Go to our website www.unifiedfire.org and click on “Fireworks and Open Burning Information” on the left hand column. Then click on “Click here for the 2012 Fireworks and Open Burning Restrictions Interactive Map”. This will take you to the interactive map showing the restrictions for 2012.)

Smoking Materials:

In consideration of smoking material restrictions, it will be up to the legislative body to prohibit this activity in fire hazard areas based on the criteria set forth in IFC 308.10, or educate citizens of the danger of improperly disposing of smoking material in these areas.

Responsible parties will be liable for all fire suppression costs for any negligently or intentionally caused fire.

Time Frame:

Discharge of Class C common fireworks approved by the State are allowed to be discharged beginning July 1st at 11am. An ordinance or resolution prohibiting fireworks and other ignition sources in accordance with IFC 310.8 as amended, would need to be in place prior to July 1st.

[Return to Agenda](#)

ITEM #13

Project Name: Programming, Design and Construction Administration of City Hall
Police Department Addition

**AN AGREEMENT FOR PROFESSIONAL CONSULTING, ENGINEERING and DESIGN SERVICES
BETWEEN DRAPER CITY AND THINK ARCHITECTURE**

THIS AGREEMENT made and entered into this 18th day of June, 2013, by and between DRAPER CITY, a municipal corporation (hereinafter referred to as "City" and Think Architecture Inc., a Utah corporation (hereinafter referred to as "Consultant").

The City and Consultant agree as follows:

1. **RETENTION AS CONSULTANT**

City hereby retains Consultant, and Consultant hereby accepts such engagement, to perform the services described in Paragraph 2. Consultant warrants it has the qualifications, experience and facilities to properly perform said services.

This agreement is not intended and shall not be construed to create any right or impose any duty, expressly or by implication, in favor of any person or entity who is not a direct party to this agreement. All services and extra services to be performed by Consultant hereunder will be performed for the exclusive use and benefit of City, and no other person or entity may or is entitled to use or rely upon any such services or the information or reports generated by Consultant as a result of such services.

2. **DESCRIPTION OF SERVICES**

The services to be performed by Consultant are as follows:

Provide professional architectural services by licensed Architects and Engineers:

Programming Services

Task 1 – Programming

Task 2 – Schematic Design

Design, Construction Documents, Bidding Services

Task 3 – Construction Documents

Task 4 – Bid Packages and Award Process

Construction Management Services

Task 5 – Construction

Task 6 – As-Built Documents

Task 7– Project Closeout

Consultant has the right to decline to perform any services or extra services requested by the City without liability. Professional services provided by the Consultant under this Agreement will be performed in a manner consistent with that level of care and skill ordinarily exercised by members of the Consultant's same profession currently practicing in the same locality under similar conditions. No other representation, warranty or guarantee, express or implied, is included or intended in this Agreement, or in any report, opinion or document.

3. **COMPENSATION AND PAYMENT**

Except for authorized extra services (pursuant to Paragraph 4), the total compensation payable to Consultant by City for the services described in Paragraph 2 shall be earned on a Lump Sum Fee of \$10,000.00 for programming services, Seven percent (7.0 %) for Design, Construction Documents, and Bidding Services, and Five Percent (5.0%) for Construction Management Services based upon the following formula: Cost Budget + Contingency + FF&E x 7% + 5% % = \$ Total Fee. Additional pre-approved services if any shall be negotiated.

All payments shall be made within thirty (30) calendar days after the Consultant has provided the City with written verification of the actual compensation earned, which written verification shall be in a form satisfactory to the City. Invoices shall be made no more frequently than on a monthly basis, and should describe the work performed, including a list of man-hours by personnel classification, if billing is on a per hour basis. The City agrees to pay a finance charge of 1 1/2% per month on past due accounts, or the maximum allowed by law if such maximum is less than 1 1/2% per month.

4. **EXTRA SERVICES**

City shall pay Consultant for those extra services authorized or requested in writing in addition to the services described in Paragraph 2, in such amounts as mutually agreed to in advance. Unless the City and Consultant have agreed in writing before the performance of extra services, no liability and no right to claim compensation for such extra services or expenses shall exist. Extra services shall be charged at the same hourly rates as described in APPENDIX A as the agreed-upon services.

5. **SERVICES BY THE CITY**

City will make available for Consultant's review all available information regarding project conditions or requirements that may be relevant to or affect the services to be performed under this Agreement, including, but not limited to, information City knows, assumes or may suspect with respect to hazardous or potentially hazardous substances or wastes. City will immediately transmit to Consultant any new information concerning the project that becomes available to it, either directly or indirectly, during the performance of this Agreement. City agrees to render reasonable assistance as requested by Consultant so the performance of the services under this Agreement may proceed without delay or interference. Consultant will not be liable for any advice, judgment or decision based on inaccurate or incomplete information furnished by City, and the Consultant shall not be required to investigate or evaluate the accuracy or completeness of any information furnished by City.

6. **PROGRESS AND COMPLETION**

Consultant shall commence work on the discreet tasks to be performed within a reasonable period of time after receiving a request from the City. Upon receipt of a request for services from the City, Consultant shall promptly notify the City of expected time to complete the task. Consultant shall then work diligently to complete the task in the expected time frame.

It is understood that time is of the essence in the performance of requested tasks.

7. **OWNERSHIP OF DOCUMENTS**

All drawings, designs, data, photographs, reports and other documentation, including duplication of same prepared by Consultant in the performance of these services, shall become the property of City upon completion of the discreet tasks or termination of the consulting services pursuant to this agreement and upon payment in full of all compensation then due Consultant, but may be used only in conformance with all terms of this agreement.

8. **PERSONAL SERVICES/NO ASSIGNMENT/SUBCONTRACTOR**

This Agreement is for professional services, which are personal services to the City. The following person is deemed to be a key member or employee of the Consultants firm, and shall be directly involved in performing or assisting in the performance of this work:

Tim Soffe/Jim Allred	- Principal-in-charge
Scott Wilkinson	- Project Architect
Scott Wilkinson	- Design Architect
Corey Solum	- Interior Design
To Be Determined	- Civil Engineer
Troy Sanders	- Site Design/Landscape Architect

Should this individual be removed from assisting in this contracted work for any reason, the consultant will provide qualifications of a suitable replacement and a work plan detailing how tasks will be reassigned. If the City finds the replacement unacceptable the City may terminate this Agreement.

This Agreement is not assignable by Consultant or City.

9. **HOLD HARMLESS**

Consultant agrees, to the fullest extent permitted by law, to indemnify and hold the City harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by the Consultant's negligent acts, errors or omissions in the performance of professional services under this agreement.

The City agrees, to the fullest extent permitted by law, to indemnify and hold the Consultant harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by the City's sole negligent acts, errors or omissions and for anyone for whom the City is legally liable, arising from the professional services under this agreement.

The Consultant is not obligated to indemnify the City in any manner whatsoever for the City's own negligence.

City hereby agrees, to the fullest extent permitted by law, that Consultant's total liability to City for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to any services or this Agreement, from any cause or causes, including but not

limited to Consultant's negligence, errors, omissions, strict liability, breach of contract, or otherwise, will not exceed \$1,000,000.00, per claim and in the aggregate. In no event shall Consultant be liable for exemplary or punitive damages.

10. **INSURANCE**

Consultant shall, at Consultant's sole cost and expense and throughout the term of this Agreement and any extensions thereof, carry:

- (1) Workers compensation insurance adequate to protect Consultant from claims under workers compensation acts, and
- (2) Professional errors and omissions insurance in the amount of \$1,000,000, per claim and in the aggregate.

Understanding that the Consultant uses personal vehicles in the performance of professional services under this agreement, the Consultant agrees to maintain reasonable automobile insurance on the vehicle.

All insurance policies shall be issued by a financially responsible company or companies authorized to do business in the State of Utah. Consultant shall provide City with copies of certificates (on the City certificate form) for all policies with an endorsement that they are not subject to cancellation without thirty (30) calendar days prior written notice to City. The City, its officers and employees, shall be named as additional insured on Consultants, general liability, auto liability and professional liability insurance.

11. **RELATIONSHIP OF THE PARTIES**

The relationship of the parties to this Agreement shall be that of independent contractors and that in no event shall Consultant be considered an officer, agent, servant or employee of City. The Consultant shall be solely responsible for any workers compensation, withholding taxes, unemployment insurance and any other employer obligations associated with the described work.

12. **TERMINATION**

The City, by notifying Consultant in writing, may upon ten (10) calendar days notice, terminate any portion, or all of the services agreed to be performed under this Agreement. In the event of such termination, Consultant shall have the right and obligation to assemble, in a reasonable time, work in progress for the purpose of winding up the job. All compensation for actual work performed and charges outstanding at the time of termination shall be payable by City to Consultant within thirty (30) calendar days following submission of final statement by Consultant.

The Consultant, by notifying City in writing, may upon ten (10) calendar days notice, terminate any portion, or all of the services agreed to be performed under this Agreement. In the event of such termination, Consultant shall have the right and obligation to assemble, in a reasonable time, work in progress for the purpose of winding up the job. All compensation for actual work performed and charges outstanding at the time of termination shall be payable by City to Consultant within thirty (30) calendar days following submission of final statement by Consultant.

13. **ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE**

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release to City from all claims and liabilities for compensation to Consultant for anything done, finished or relating to the Consultant's work or services. Acceptance of payment shall be any negotiation of the City's check or the failure to make a written extra compensation claim within thirty (30) calendar days of the receipt of that check.

However, approval or payment by the City shall not constitute nor be deemed a release of the responsibility and liability of Consultant, its employees, subcontractors, agents and consultants for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by the City for any defect or error in the work prepared by Consultant, its employees, subcontractors, agents and consultants.

14. **WAIVER; REMEDIES CUMULATIVE**

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party and no such waiver shall be implied from any omission by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this Agreement, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

15. **ATTORNEYS FEES**

Should either party to this Agreement bring suit to enforce this Agreement, it is agreed that the prevailing party shall be entitled to recover its costs, expenses and reasonable attorney's fees. A prevailing party is a party that shall have obtained a final judgment or order no longer subject to appeal. In the event of a settlement before final adjudication, both parties shall bear their own respective costs, expenses and reasonable attorney's fees, unless otherwise agreed. Any obligation set forth in this Agreement requiring one party to defend, indemnify and hold the other party harmless shall include payment by the indemnifying party of the indemnities reasonable attorneys fees when and as incurred. Notwithstanding anything to the contrary, the City shall be fully liable for all collection fees or expenses incurred by the Consultant to collect any outstanding invoices.

16. **CONSTRUCTION OF LANGUAGE OF AGREEMENT**

The provisions of this Agreement shall be construed as a whole according to its common meaning and purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice

versa, and the masculine gender shall include the feminine or neutral genders or vice versa.

17. **MITIGATION OF DAMAGES**

In all situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

18. **GOVERNING LAW**

This Agreement, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of Utah.

19. **CAPTIONS**

The captions or headings in the Agreement are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the Agreement.

20. **AUTHORIZATION**

Each party has expressly authorized the execution of this Agreement on its behalf and bind said party and its respective administrators, officers, directors, shareholders, divisions, subsidiaries, agents, employees, successors, assigns, principals, partners, joint ventures, insurance carriers and any others who may claim through it to this Agreement.

21. **ENTIRE AGREEMENT BETWEEN PARTIES**

Except for Consultants proposals and submitted representations for obtaining this Agreement, this Agreement supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering of services, and contains all of the covenants and agreements between the parties with respect to said services. Any modifications of this Agreement will be effective only if it is in writing and signed by the party to be charged.

22. **PARTIAL INVALIDITY**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

23. **TERM OF AGREEMENT**

Unless sooner terminated as provided for herein, this agreement shall be effective from June , 2013, and shall run for a reasonable period of time needed to complete the project as defined in scope of work.

24. **TERMINATION FOR CONVENIENCE**

City reserves the right to terminate this contract, in whole or in part, at any time during the term or any additional terms whenever City determines, in its sole discretion that it is in the

City's interest to do so. If City elects to exercise this right, City shall provide written notice to the vendor at least thirty (30) days prior to the date of termination. Upon such termination, the vendor shall be paid for all services up to the date of termination. Vendor agrees that the City's termination for convenience will not be deemed a termination for default nor will it entitle the vendor to any rights or remedies provided by law or this contract for breach of contract by the City or any other claim or cause of action.

25. **TERMINATION FOR CAUSE**

The City reserves the right to cancel the contract upon written notice to the vendor for unauthorized substitution of product, excessive delays poor quality or failure to perform as outlined in the specifications of this solicitation for material breach of any term or condition of this contract, or other event of default. Termination for cause may be immediate; or alternatively, the City may provide written notice of the default with a period in which the vendor may cure the default.

26. **NON-AVAILABILITY OF FUNDS**

It is understood that if the department fails to receive sufficient appropriation of funds or authorization for the expenditure of sufficient funds to provide for the continuation of the contract or the lawful order issued in or for any fiscal year during the Term of this contract, the contract and all lawful orders issued shall terminate on the date said funds are no longer available without any termination charges or liability incurring to the City. Non-Availability of Funds or failure to receive authorization for the expenditure of sufficient funds as used herein means a level of funding that result in less funding than that which was allocated to the department in the immediately preceding fiscal year.

27. **NOTICES**

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in this United States mail, postage prepaid, and addressed as follows:

TO CITY:	DRAPER CITY Attn: David Dobbins, City Manager 1020 East Pioneer Road Draper, Utah 84020
TO CONSULTANT:	Think Architecture, Inc. Attn: Tim Soffe & Jim Allred 5151 S. 900 E. #200, Salt Lake City, UT 84117

In concurrence and witness whereof, this Agreement has been executed by the parties effective on the date and year first above written.

DRAPER CITY

Darrell H. Smith, Mayor or designee

ATTEST:

Tracy Norr, City Recorder

CONSULTANT

By: _____

Its: _____

Think Architecture

CONSULTANT ACKNOWLEDGMENT

STATE OF UTAH)
)ss.
COUNTY OF SALT LAKE)

On the ____ day of _____, 2013, personally appeared before me _____ who being by me duly sworn did say that (s)he is the _____ of _____, Inc., an _____ corporation, and that the foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors; and they acknowledged to me that said corporation executed the same.

My Commission Expires:

Notary Public
Residing at:
