

*Approved minutes May 13, 2021*

**MINUTES OF THE DRAPER CITY PLANNING COMMISSION ELECTRONIC MEETING HELD ON THURSDAY, APRIL 22, 2021 IN THE DRAPER CITY COUNCIL CHAMBERS**

**PARTICIPATING**

**ELECTRONICALLY:** Chairman Andrew Adams, Vice Chairman Craig Hawker, Commissioners Gary Ogden and Mary Squire, Lisa Fowler, John Van Hoff

**ABSENT:** Alternate Commissioners DeLaina Tonks and Tab Bingham

**STAFF PRESENT:** Christina Oliver, Brien Maxfield, Travis Van Ekelenburg, Todd Draper, Don Buckley, Jake Sorenson, and Amie Salazar

**STAFF PRESENT**

**ELECTRONICALLY:** Mike Barker and Spencer DuShane

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**The Agenda will be as follows:**

**6:30 PM Business Meeting**

**1. Electronic Meeting Notice**

- Listen through our website - <https://www.draper.ut.us/95/Agendas-Minutes>
- Email your comments to the project planner listed on the agenda item below by Noon on the day of the meeting. These will become part of the public record.
- If you wish to speak during the Public Comment or Public Hearings portion of the meeting, please send a request for the Zoom Meeting ID to the project planner listed on the agenda item below by noon, on the day of the meeting.

**2. WRITTEN DETERMINATION 2021-24 Pursuant to Utah Code Ann. 52-4-207(4)**

I, Andrew Adams, do hereby determine conducting an electronic meeting of the Draper City Planning Commission with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location and hereby authorize the Draper City Planning Commission to conduct electronic meetings without an anchor location.

B. The foregoing determination is based on the following facts:

- Federal, state, and local leaders, including the Draper City Mayor and City Council, have all recognized a global pandemic caused by the spread of the COVID-19 virus.
- While COVID-19 cases and hospitalizations in Draper show an encouraging downward trend and vaccines are becoming available to a larger segment of the Draper population, vigilance is required so that there is not a rebound in cases and hospitalizations.

- It is difficult, if not impossible, to predict the number of attendees at any meeting and to manage issues regarding social distancing in order to comply with state and local health departments health orders.
- COVID-19 poses a continuing and immediate threat to the health, safety, and welfare of Draper City residents.
- The City has the technological capability to provide means by which the public may hear, or view and hear, the open portions of the meeting and to participate in public hearings.

Chairman Andrews mentioned the applicant of item eight requested to move item eight up ahead of number three.

Commissioner Fowler stated she had seen multiple public submissions on item number eight. She suggested not moving the item, due to some individuals not being able to attend and comment.

Commissioner Squire believed the public submissions had been in reference to the previous agenda item which had already been decided upon by the City Council.

Ms. Oliver directed the Commissioners to one piece of public feedback on page 18, which was concerning the upkeep and maintenance of one of the roads.

Mr. Draper stated as an abundance of caution, they had forwarded all the public comments regarding Big Willow to the Commissioners.

Commissioner Van Hoff believed most of the comments were in reference to high density. The item on the agenda was not addressing density but changing the roads from a thru street to a cul de sac.

Commissioner Fowler added the entire Big Willow project was a controversial issue for many of the neighbors and voiced concern regarding changing the agenda items position in the meeting causing additional contention and frustration.

Mr. Barker clarified it was an administrative action for a plat amendment. If it met the code and the findings were met, the discretion was greatly limited.

Chairman Andrews stated that if he were interested in an agenda item in a meeting, he would plan to attend the meeting from the beginning. He appreciated Commissioner Fowler's concern, but the public comment may be misguided. He suggested putting moving the agenda item to a vote.

**Motion re:** Commissioner Hawker made a motion to move agenda item eight ahead of agenda item number three.

Commissioner Ogden seconded the motion.

**Vote:** A roll call vote was taken with Commissioners voting unanimously in favor of the motion. This item passed with a 5 to 0 vote.

**3. Public Hearing: Big Willow Creek Ph 1A 1<sup>st</sup> Amendment Development and Ph 1B 2<sup>nd</sup> Amendment Plat Amendment (Administrative Action)**

On the request of Bryon Prince, representing Ivory Development LLC for Plat Amendment to Phases 1A and 1B of the Big Willow Creek Subdivision located at 11507 Wildrye Field Way. Application SUBD-1033-2020. Staff contact is Jennifer Jastremsky, (801) 576-6328, jennifer.jastremsky@draperutah.gov.

Todd Draper, Planner, presented the development history. He stated the application was an amendment to phase 1A and second amendment to phase 1B. The land use category was residential medium density. The zoning was R3 and R4. The development agreement and rezone had been approved January 17, 2017, which approved 115 single-family lots on 49.75 acres with one access point to 11400 S and one to Jenson Farms. The preliminary plat was approved July 18, 2017 and the phase one final plat was approved September 18, 2018. He added the first amendment development agreement and rezone was approved April 16, 2019, which approved additional property, phase six, to be added to the development with the R4 and RM2 zone, with a maximum density of nine dwelling units per acre in the RM2 zone.

Then, the phase 1B first amendment was approved November 21, 2019, which approved a small modification to the open space trail area. The second amendment development agreement was approved May 5, 2020, which added additional property, into phase six, and to the development agreement and allowed density of phase six to be allocated across the entire phase six property. The development then included 70.65 acres and 256 dwelling units. On August 27, 2020, the phase two final plat was approved with a street vacation being approved on April 6, 2021. The phase six minor subdivision was approved April 7, 2021, which approved new access road configuration.

Mr. Draper added the third amendment development agreement was heard by the Planning Commission on April 8, 2021 and the City Council on April 20, 2021. The phase 1A first amendment and 1B second amendment plat were the current items on the agenda. The phase 6 plat amendment had not yet been scheduled and there had been no applications received for the phase three through five final plats.

Mr. Draper displayed the existing access road map and explained the connection to 114<sup>th</sup> south. He then displayed the proposed reconfigured access road map. He added there would still be public utilities through the area and Ivory would be granting a private access easement to one owner to reach their property. He displayed an overall layout map and site photos and briefly explained the images. He noted there was a staff recommendation in the staff report, and reviewed the conditions listed. The findings were listed for approval in the staff report. He asked if there were any questions.

Commissioner Van Hoff requested clarification regarding the location of the new road.

Mr. Draper displayed the map and provided clarification that the new road would follow to the east and connect to the rest of the development. The road to the west would end in a cul-de-sac.

Commissioner Fowler questioned how the private property would be accessed and who would be responsible for the upkeep of the private lane.

Mr. Draper responded the road had been a private road and then became a public road when the subdivision plat was initially recorded. Then, with the action of the Council, they approved the vacation of the portion and the recording of the amended plats to vacate the portion of the public road and return them to a private lane. It had not yet been determined who would be responsible for the upkeep and maintenance.

Brien Maxfield believed where it was being returned to ownership, it would be between the two owners to decide how they would handle the road maintenance. He explained Ivory would still own the property under the access easement, but the private property owner would be granted the access easement.

Bryon Prince, applicant, stated the property owner, Mr. Ernest, was aware of the vacation and the situation. Those homes had been on the same private lane and had historically accessed their property from 114<sup>th</sup>.

Chairman Adams asked if there were any other questions, there were not.

Mr. Prince thanked Mr. Draper and Ms. Oliver for the overview. He noted the permanent public right of way needed to be fully constructed, placed into warranty, and inspected by city staff prior to the cul-de-sac plat recordation. He believed Ivory would commence construction within the following two weeks and anticipated completion in the summer.

Commissioner Fowler wanted to verify the letter from Mr. Holly had been received.

Mr. Prince replied he had called Mr. Holly and provided pertinent information to him. He believed there was a clear line of communication.

Chairman Adams opened the public hearing.

Chairman Adams closed the public hearing.

**Motion re:** Commissioner Hawker made a motion to approve Plat Amendment, as requested by Bryon Prince, representing Ivory Development, LLC for Big Willow Creek Phase 1A, first amendment and Phase 1B, second amendment, application SUBD-1033-2020, based on the findings and subject to the conditions listed in the staff report dated April 12, 2021.

Commissioner Squire seconded the motion.

**Vote:** A roll call vote was taken with Commissioners voting unanimously in favor of the motion. This item passed with a 5 to 0 vote.

**4. (Public Hearing): Greg Zitting Fine Art Home Occupation Conditional Use Permit (Administrative Action)**

On the request of Greg Zitting for approval of a Home Occupation Conditional Use Permit. The property is approximately 0.96 acres in size and is located at approximately 13086 S. Green Clover Rd. Application: USE-0033-2021. Staff contact is Todd A. Draper (801) 576-6335 or todd.draper@draperutah.gov

Mr. Draper introduced the application. He displayed an aerial map and explained it was located in the residential low to medium density land use designation with RA1 zoning. He displayed the site plan and explained the business would be conducted in one bedroom of the home, approximately 15' x 11'. The applicant would be the sole employee of the business with no vehicles or customers coming to the property. The painting would take place in their artist studio. He briefly reviewed the conditions listed in the staff report.

Chairman Adams invited the applicant to speak.

Greg Zitting, applicant, stated the application was straight forward. He would paint the paintings and sell them online, or paint commissioned pieces.

Chairman Adams questioned if there would be instruction or lessons.

Mr. Zitting explained if he did any instruction, it would be via YouTube videos.

Chairman Adams opened the public hearing.

Chairman Adams closed the public hearing.

**Motion re:** Commissioner Fowler made a motion to approve the Home Occupation Conditional Use Permit, as requested by Greg Zitting, for Greg Zitting Fine Arts, application USE-0033-2021, based on the findings and conditions listed in the staff report dated April 7, 2021.

Commissioner Van Hoff seconded the motion.

**Vote:** A roll call vote was taken with Commissioners voting unanimously in favor of the motion. This item passed with a 5 to 0 vote.

**5. Public Hearing: Moore Tennis Court Conditional Use Permit (Administrative Action)**

On the request of Tyson Moore for approval of a Conditional Use Permit in the RA2 zone, regarding an increase in fence height to 10-feet for a future tennis court. The property is located at 12041 S. 645 E. Application USE-30-2021. Staff contact is Travis Van Ekelenburg, (801) 576-6522, [travis.vanekelenburg@draperutah.gov](mailto:travis.vanekelenburg@draperutah.gov).

Travis Van Ekelenburg stated the land use map was low to medium density with zoning being RA2 residential agricultural. The tennis court would be constructed at the rear of the property with the proposed black powder coated ten-foot fence being located around the tennis court, inside the six-foot vinyl fence. The distance between the home and the court would be approximately 60 feet. He mentioned two emails in favor of the application being received from the neighbors. The lighting would be addressed separately.

Tyson Moore, applicant, stated they were looking to build a top-of-the-line tennis/pickleball court. He added they hoped to invite the neighbors and have it used as a neighborhood gathering place.

Chairman Adams questioned if the entire property was enclosed with the vinyl fence.

Mr. Moore responded that was correct.

Chairman Adams opened the public hearing.

Chairman Adams closed the public hearing.

**Motion re:** Commissioner Ogden made a motion to approve the Conditional Use Permit, as requested by Tyson Moore, application USE-0030-2021, based on the findings and subject to the conditions listed in the staff report dated April 13, 2021.

Commissioner Squire seconded the motion.

**Vote:** A roll call vote was taken with Commissioners voting unanimously in favor of the motion. This item passed with a 5 to 0 vote.

**6. Public Hearing: Rosee Florals Home Occupation Conditional Use Permit (Administrative Action)**

On the request of Sandy Mataele, for approval of a Home Occupation Conditional Use Permit. The property is approximately 0.23 acres in size and is located at approximately 14636 Snow Leopard Ln. Application: USE-0031-2021. Staff Contact: Todd A. Draper (801) 576-6335 or [todd.draper@draperutah.gov](mailto:todd.draper@draperutah.gov)

Mr. Draper presented the application. He displayed the aerial image and stated it was located in the residential medium density land use designation and the zoning was RM. It was part of the master development agreement for the Hidden Canyon Estates, Mercer

Mountain Estates and Lakeview Heights Properties. The site plan and floor plan showed the kitchen area workspace of approximately 81 square feet. The applicant would be the sole employee and operator of the business. There would be no more than one client per day and the owner would rarely have clients to the home. Some of the work would be done offsite, as well. There would be nothing stored outdoors with no signage on the vehicles. He reviewed the conditions listed in the staff report.

Sandy Mataele, applicant, stated she would like to conduct part time floral design out of her kitchen. She added all the consultations would be virtual. If she needed to meet with the client, it would be at the venue. Most products would be delivered with an occasional pick up. She did not believe it would be disruptive to the neighborhood.

Chairman Adams asked if the Commissioners had any comments or questions. There were none.

Chairman Adams opened the public hearing.

Chairman Adams closed the public hearing.

**Motion re:** Commissioner Squire made a motion to approve the Home Occupation Conditional Use Permit, as requested by Sandy Mataele, for Rosee Florals, application number USE-0031-2021, based on the findings and subject to the conditions listed in the staff report dated April 8, 2021.

Commissioner Van Hoff seconded the motion.

**Vote:** A roll call vote was taken with Commissioners voting unanimously in favor of the motion. This item passed with a 5 to 0 vote.

**7. Public Hearing: Quality Diamond Tools 2 Home Occupation Conditional Use Permit (Administrative Action)**

On the request of Jim and Lois Duncan for a Home Occupation Conditional Use Permit at 12138 S. 800 E. for a home office and assembly and repair, limited business. Application: USE-0019-2021. Staff contact is Jennifer Jastremsky, (801) 576-6328, [jennifer.jastremsky@draperutah.gov](mailto:jennifer.jastremsky@draperutah.gov).

Mr. Draper stated the permit had come before the commission on June 11, 2020 and was denied based on the inability to control delivery vehicles that would comply with conditions, the use of a forklift and the intensity of use of the business. The application had been appealed on August 20, 2020 and the Planning Commission affirmed its decision in totality. This was a reapplication with some altered parameters. The property consisted of two parcels along 800 east and was in residential medium density land use and currently zoned RA2. He reviewed the site plan and mentioned the home office in the main home and a wood shop, garage and two additional trailers that would be used half for the business and half for personal use.

Mr. Draper noted the applicant added a proposed delivery vehicle operation policy that stated there would be no semi-trucks entering the property, deliveries to or from the business would be handled at an off-site dock, incoming deliveries would only occur during the hours of 8 am to 5:30 pm, be limited to no more than two per week and would be by nothing larger than a pick-up or flatbed truck. All outgoing deliveries would be handled by UPS and all operations and traffic would be conducted in a manner to limit disturbances to neighboring properties to the maximum extent possible. They also provided a forklift operation policy which stated the forklift would only be operated during the hours of 8 am to 5:30 pm, no more than one machine-hour per week, would be parked and shut off when not in use and used only to unload palettes or move heavy items. The back-up alarm would be always silenced, and only trained operators would be authorized to operate the forklift. The forklift would be kept clean and free of excess dirt, oil, and grease at all times. All operations and traffic would be conducted in a manner to limit disturbances to neighboring properties to the maximum extent possible.

Mr. Draper reviewed the proposed business area which detailed the amount of square footage to be used by the business. The proposed total storage square feet was 2,040, which was 814% greater than the allowed 250 square feet. He added staff had included suggested conditions of approval which would bring the total storage area down to 1,480 square feet, or 592% greater than the allowed. He referred to a list of existing home-based businesses currently operating in the City with accessory structures. He then reviewed the 19 conditions of approval detailed in the staff report and displayed several photos that had been submitted with the 2020 application.

Commissioner Van Hoff and Mr. Barker questioned if silencing the forklift back-up alarm was allowed by OSHA.

Commissioner Fowler requested education regarding limiting the square footage for home-based businesses.

Ms. Oliver replied the code was in place to mitigate the influence of businesses in residential areas, including traffic, noise, smells, and the like.

Jim Duncan, applicant, stated he purchased the property approximately 18 months prior and had completed multiple projects to improve the aesthetic nature of the property, including removing an 18-foot crane and planting 17 trees. He believed the neighbors felt safe and were pleased with the improvements.

Brent Batemen, Attorney, explained the size of the items the business produced did not equate to the business being intense. He discussed the forklift back-up alarm and stated they would go to OSHA to receive permission to silence the alarm, if necessary.

Chairman Adams questioned if they could remove the requirement of the forklift alarm being silenced. He voiced concern regarding safety and did not think it was wise to silence the alarm.

Mr. Barker stated it would be appropriate in a motion to state the operation of the forklift apply with all OSHA recommendations.

Mr. Duncan agreed it was better to have the alarm. He added there was always a spotter and they utilized the forklift on the side of the property next to a vacant lot to minimize noise transfer to the neighbors.

Ms. Oliver clarified Draper City had not requested the alarm be silenced. That had been included by the applicant in the forklift use conditions.

Commissioner Squire voiced concern regarding the business having been operating without a Conditional Use Permit. She also questioned if the applicant would be willing to comply with all 19 staff recommendations.

Mr. Bateman replied his client would be willing to comply with all staff recommendations. Although, they would prefer to be able to use the forklift until 6:00 pm. He added they had been operating at a very reduced capacity, as it was Mr. Duncan's livelihood. He believed they had been actively seeking approval since the initial denial, through appeals, and preparing for the second application process.

Commissioner Van Hoff inquired regarding Mr. Duncan's other property on Kimball Lane. He questioned if they still ran some of the business operation there.

Mr. Duncan replied they had moved to the new location, as it was required. He still owned the property on Kimball Lane, which his son currently lived in and he stored a fifth wheel trailer and small fishing boat. When he first moved to Draper, he took out a business license and paid the renewal fees every year. He no longer utilized offsite storage.

Commissioner Squire requested clarification that this was his full-time primary residence.

Mr. Duncan replied it was his primary residence and had been since February 2020.

Chairman Adams questioned what the applicant was storing in the Conex containers.

Mr. Duncan responded the Conex containers were primarily used for unboxing crates and organization. He utilized the space to try to keep the area around the buildings neat and tidy.

Chairman Adams opened the public meeting.

Dave Hanson, neighbor, stated the Duncan's had been a great neighbor and had improved the property. He did not see or hear the business activity and did not believe it was a nuisance.

Chairman Adams closed the public hearing.

Chairman Adams suggested the Conex containers not be removed, the forklift be allowed to run according to OSHA standards, including the back-up alarm and the operating hours be moved to 6:00 pm, to allow for summer hours.

Commissioner Hawker agreed with Chairman Adams. He believed the applicant had done everything to upkeep, maintain and improve the property.

Commissioner Van Hoff questioned regarding the fencing around the property.

Mr. Duncan responded there was a fence that bordered the entire property.

Ms. Oliver clarified allowing Conex trailers would be a clear departure from the code.

Mr. Draper added it would not be legal to allow the Conex trailers to remain on the property, which was the reason they were being asked to be removed.

Commissioner Squire voiced concern regarding the size and volume of business. If they were needing the extra space, it could possibly be time to reduce the size of the business or require them to move their business to a commercial space.

Chairman Adams stated his biggest concern previously had been traffic and large delivery trucks, which had seemed to be mitigated.

**Motion re:** Commissioner Hawker made a motion to approve the Home Occupation Conditional Use permit, as requested by Jim and Lois Duncan, for Quality Diamond Tools 2, application USE-013-2021, based on the findings and subject to the conditions listed in the staff report dated April 13, 2021 with modification that item eight, the forklift delivery vehicle policy maintain current and upcoming OSHA standard, and that the hours of operation noted in number four and eight be 8:00 am to 6:00 pm.

Commissioner Fowler seconded the motion.

**Vote:** A roll call vote was taken with Commissioners voting unanimously in favor of the motion. This item passed with a 5 to 0 vote.

**8. Public Hearing: 700 E Draper Medical Site Plan (Administrative Action)**

On the request of Adam Watts, representing Northstar Builders for approval of a Site Plan in the CN zone regarding the construction of a medical office building located at 12188 S 700 E. Application: SPR-0007-2021. Staff Contact: Travis Van Ekelenburg, (801) 576-6522, [travis.vanekelenburg@draperutah.gov](mailto:travis.vanekelenburg@draperutah.gov).

Mr. Van Ekelenburg presented the application. He displayed the land use map and noted the neighborhood commercial zoning designation. The building was on the east end of

the property with parking on the west end. The applicant has proposed an eight-foot solid barrier fence as a land use buffer. The zoning administrator could decrease the standard 20-foot residual buffer with the eight-foot fence. The front of the building would face the west side of the parking lot, rather than the public right of way, as required by code. There was a design standard deviation requested with four of the criteria being met. He briefly reviewed the criteria met. He displayed the conceptual rendering and explained it would be two stories high, maximum of 35-feet, with 7,767 square feet. The applicant also submitted a photometric analysis for lighting, which met code. They also met the parking requirements.

Commissioner Fowler questioned if the entrances to the buildings across the street were in the parking lot.

Adam Watts, applicant, responded the buildings across the streets had their main entrances directed toward the parking lot, as well. They were hoping to match the aesthetic and provide better access for the clients.

Chairman Adams asked if the Commissioners had any questions. There were none.

Commissioner Adams opened the public meeting.

Commissioner Adams closed the public hearing.

**Motion re:** Commissioner Fowler made a motion to approve the deviation request for building placement, as requested by Adam Watts, representing Northstar Builders, application SPR-0007-2021 based on the findings and subject to the conditions listed in the staff report dated April 14, 2021.

Commissioner Ogden seconded the motion.

**Vote:** A roll call vote was taken with Commissioners voting unanimously in favor of the motion. This item passed with a 5 to 0 vote.

**Motion re:** Commissioner Fowler made a motion to approve the site plan, as requested by Adam Watts, representing Northstar Builders, application SPR-0007-2021 based on the findings and subject to the conditions listed in the staff report dated April 14, 2021.

Commissioner Van Hoff seconded the motion.

**Vote:** A roll call vote was taken with Commissioners voting unanimously in favor of the motion. This item passed with a 5 to 0 vote.

**9. Public Hearing: City Initiated State Law Changes Text Amendment (Legislative Item)**

On the request of Draper City for a Text Amendment to amend portions of Titles 9 and 17 of Draper City Municipal Code. This application is known as the City Initiated State

Law Changes Text Amendment. Application: TEXTMAP-0047-2021. Staff Contact: Todd A. Draper, (801) 576-6335, todd.draper@draperutah.gov.

Todd Draper explained in the state legislative session this year there were several bills that dealt with land use regulations and subdivisions. This text amendment was the first to deal with these new regulations and make changes to the Draper City Municipal Code. He mentioned the text of the changes was included in the staff report and asked if the Commissioners had any questions.

Commissioner Adams opened the public meeting.

Commissioner Adams closed the public hearing.

**Motion re:** Commissioner Van Hoff made a motion to forward a positive recommendation to City Council for the text amendment, as suggested by Draper City, for the City initiated state law changes text amendment, application TEXTMAP-0047-2021 based on the findings and subject to the conditions listed in the staff report dated April 14, 2021.

Commissioner Squire seconded the motion.

**Vote:** A roll call vote was taken with Commissioners voting unanimously in favor of the motion. This item passed with a 5 to 0 vote.

Ms. Oliver advised that electronic meetings were going to continue. There was not yet a set date to return to in person meetings.

## **10. Adjournment**

**The meeting adjourned at 8:40 pm.**