

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

PARTICIPATING: Commissioner Lisa Fowler (acting Chairman), Commissioners Gary Ogden, John Van Hoff, Alternate Commissioners DeLaina Tonks, Susan Nixon, and Tab Bingham

ABSENT: Chairperson Andrew Adams, Vice Chairperson Craig Hawker, and Commissioner Mary Squire

STAFF PRESENT: Jennifer Jastremsky, Mike Barker, Brien Maxfield, Spencer DuShane, Amie Salazar, Maryann Pickering, Todd Draper, Don Buckley, Chief Eining, and Heather Baugh

6:30 PM Business Meeting:

Motion: Commissioner DeLaina Tonks motioned to have Commissioner Lisa Fowler Chair the July 22, 2021, Planning Commission Meeting.

Second: Commissioner Gary Ogden

Vote: A roll call was taken with the Commissioners voting 5-0 in favor of the motion. Commissioners Bingham, Van Hoff, Tonks, Ogden, and Nixon voted, "Aye".

1. Public Hearing: K9 Lifeline Conditional Use Permit Request (Administrative Action)

On the request of Heather Beck, representing K9 Lifeline, for a Conditional Use Permit to modify the existing Conditional Use Permits on 1.29 acres of property located at 986 East Draper Parkway for a kennel use. Application USE-100-2021. Staff contact: Jennifer Jastremsky, 801.576.6328, jennifer.jastremsky@draperutah.gov.

Jennifer Jastremsky, Planning Manager, provided an overview of the item indicating that K9 Lifeline desired to modify their existing conditional use permit. She indicated that the first building on their site received the conditional use permit on June 23, 2011, and the second building on May 9, 2019. She noted that denial of tonight's application would not invalidate the existing permits. She pointed out that the property was located near the frontrunner line and within the town center land use designation and zoning designation. She explained that the proposed permit looked at reorienting the onsite outdoor dog potty area and parking. She shared the size of the outdoor areas and that the outdoor areas were fenced with six-foot vinyl and chain-link fencing, any feces are immediately removed, and the outdoor area was sprayed down once a day. Because parking had been removed from the property, she remarked that they have recommend a condition of approval to cap the number of dogs allowed at the site to match the reduction in parking to 34 on-site parking spaces.

Commissioner Susan Nixon asked if they were required to have ADA parking stalls.

Ms. Jastremsky replied there was ADA spaces, but they were not identified on the site plan.

Commissioner Nixon inquired if the dumpsters needed to be enclosed.

Ms. Jastremsky indicated the new code required masonry enclosures with a gate for dumpsters but noted this property was developed prior to that code change.

Commissioner Tonks requested clarification on the limit for dogs on the site being based on the number of parking stalls.

Ms. Jastremsky explained that the building's physical capacity was approximately 190 dogs but the code for parking requires one space for four dogs.

Commissioner Fowler remarked that there were some letters against the proposal and inquired which boundary the letters refer to.

Mike Barker, City Attorney, noted there was ongoing litigation involving the subject site but noted that they could not solve that issue tonight. He noted that the proposed parallel parking was part of the applicant's attempt to stay within their property lines.

Ms. Jastremsky noted that public comments that were sent in had been forwarded onto all the members of the commission.

Commissioner John Van Hoff asked about the location of the fire hydrant.

Don Buckley, Fire Marshal, explained that he had spoken with the property owner, and she was aware that if they needed to access the water hydrant located behind the south building, they would go through her fence to access it. He noted there were two additional hydrants in front of the building.

Heather Beck, representing K9 Lifeline - 1010 East Draper Parkway, clarified that they had the capacity to house 190 dogs, but busy weekends only put them around 140 dogs. She indicated there were two ADA spaces for their site. She shared that they had two dumpsters and were located where they were due to the current litigation. She noted that she operated within several other buildings within Utah with no issues or complaints and ran her business peacefully and legally. She stated they were a high-end facility and required up-to-date vaccinations and a clean fecal test and had strict cleaning procedures. She shared that they took several measures to keep their site quiet and was a unique and needed service in Draper.

Commissioner Fowler opened the public hearing portion of the meeting.

Lynnae Chilcott, Eagle Mountain Resident and Employee of K9 Lifeline, indicated that she felt K9 Lifeline had high standards for cleanliness and care and she has rarely seen other facilities live up to the same standard. She noted that she was continually impressed by the level of care the dogs are given and noted clients come from all over Utah and even out of state to have them care for

their dogs. She remarked that the services K9 Lifeline provided were desperately needed and encouraged them to approve the revisions to the conditional use permit.

Wade Kloos, 478 East Pleasant View Drive, shared that he has been a customer at K9 Lifeline for about 9 months and has been impressed by the services the business provides. He indicated it has changed the quality of life for his dog and his family. He noted that the dogs needed to be included as residents and they need a place to learn to deal with social issues.

Heather Mayo, West Jordan Resident and employee of K9 Lifeline, indicated their top priority was the dogs and they exceeded all guidelines to create a safe and enjoyable space for the dogs and clients. She reviewed some of the actions they take to maintain a clean facility.

Rob Anderson, 11724 South Silver Spur Lane, indicated he was a potential occupant of the event barn building but had several concerns of the northeast side potty area that sits near an entrance including scents. He shared he was also concerned with the lack of access to the southwest portion of the event barn which is being blocked by a fence. He noted that parking was full and was unsure where his clients and employees would park.

Brandy Wishman, Cedar Fort Resident, expressed that they found K9 Lifeline eight years ago and were able to get training for themselves and their dog and was a client for five years before becoming an employee. She reiterated that she was grateful for K9 Lifeline and what they do.

Dave Coccimiglio stated that he owned the property directly east of the subject site. He noted that Draper code indicated all outdoor runs needed to be at least 30 feet from any property boundary line and 50 feet from any building used as a dwelling to not constitute a nuisance to a neighbor. He explained that he did not understand how the potty yard could be allowed where it is. He explained that there were only 23 parking stalls on the applicant's site and several of the proposed parking stalls required access through his property which was currently blocked. He reiterated the concern of having 1,000's of pounds of feces sitting in a dumpster 7 feet from his front door.

Jeff Jaramillo, 11532 Berryknoll Circle, commented that he liked K9 Lifeline and had been a client. He expressed that even though they offered great services he did not feel that they should be able to supersede the law.

Scott Romney indicated he owned the property to the west of the subject site. He expressed support for the work they did at K9 Lifeline but pointed out there was approximately a 1,000 square foot encroachment for a potty yard on his property. He expressed concern that nobody talked about that with him before installing the gravel and bamboo on his property. He inquired if approval would affect him and if he would need to get a permit for future tenants down the road.

Trace Coccimiglio stated he was one of the owners of the building to the east. He indicated the applicant had a fence that sat back on his property about 3-4 feet and was built without their consent. He indicated they have asked for it to be removed and it has not. He emphasized that outdoor dog kennels needed to be 30 feet from the property line and that having the potty area so close to his business created a hardship. He explained that they were at 25% occupancy and several perspective tenants have expressed concern with the smell right next to the front door.

Scott Coccimiglio indicated that he has been in the area three times and has smelled bad odors every time.

Chad Smith, Sandy City Resident, explained that he has been to the subject property on multiple occasions and indicated it was a clean and well-kept facility. He noted that he can smell the bakery in the area much more than the dogs. He asked that they allow for the conditional use permit and indicated it would benefit the residence of Draper. He shared that parking had been reconfigured and there were now 39 spots on asphalt.

Sandy Day, Sandy City Resident, commented that she had been a customer of K9 Lifeline for six years. She shared that the facility was always clean, and the owner was a great person and Draper Business owner.

Nicole Coccimiglio stated she was a part owner of the building to the east. She expressed that they purchased their building as an investment, and they have been unable to lease it due to the noxious odors. She noted that the issue had economically impacted them. She pointed out that garage doors were left open a couple feet on the K9 Lifeline building and the barking from the dogs was loud. She clarified that she was opposed to the proposed conditional use permit.

Ken Anderson, 11974 South 700 West, remarked that he had been a customer for five years and had never experienced a problem with the smell and indicated they were always hygienic and quiet.

Chris Coccimiglio identified himself as an investor with the property to the east. He expressed concern that the applicant did things prior to getting approval and that it was done on property lines that were not correct. He mentioned that the nine parking spaces on the right of the site plan were only accessible by going through his property. He conveyed concern with the fire department having to go through a fenced area with dogs if there was an emergency to access the fire hydrant at the back of the property. He reiterated that he did not want to have a potty yard so close to the entrance of their building.

Breanne Coccimiglio expressed that they wanted K9 Lifeline to be a successful business, but she had an issue with the proposed location of the potty yard.

Commissioner Fowler closed the public hearing portion of the meeting and invited the applicant back up.

Ms. Beck stated that since December they have had to deal with issues with their neighbor to the east including access to their parking being blocked. She explained that this was all being dealt with through litigation and should not be considered. She indicated she believed the neighbors real concern was about not having access across the side of the building. She noted much of the changes happened quickly since they were only given 30 days' notice and were now trying to get into compliance. She pointed out that the code did not restrict how close a potty area could be placed to a commercial property line. She indicated they were doing all they could to mitigate any issues and were willing to take any suggestions on additional mitigation efforts.

Commissioner Ogden inquired why there was a small potty yard on the northeast side of the south building.

Ms. Beck explained that all the dog socialization areas are inside. She indicated they chose that location for the smaller potty area since it was near the socialization area for small dogs and puppies.

Commissioner Ogden asked how many parking stalls they currently had.

Ms. Beck replied they had 34 stalls and the judge has indicated that their neighbors could not block their access to the 9 stalls on the east of their property.

Commissioner Tonks inquired if they should be concerned about the encroachment issue or if that was being dealt with through the litigation process.

Mr. Barker responded that was beyond their ability to determine and there were appropriate courts to establish where the property line is.

Commissioner Ogden asked what the size was of the dog area on the southwest side of the property was.

Ms. Beck stated she believed it was approximately 5,400 square feet. She noted they were working with their neighbor to the west to lease that property and if they are unable to they will put a fence up directly on the property line.

Mr. Barker inquired if there was a required square footage for the outdoor potty area.

Ms. Jastremsky indicated the zoning code did not have minimum square footage requirements for that, but animal control may have requirements based on their commercial permits.

John Eining, Police Chief, indicated he did not know if there was a minimum requirement for animal control, but did know there had been multiple inspections on the site that they have all passed.

Commissioner Van Hoff requested more clarification on ordinance 7-5-260 mentioned earlier.

Ms. Jastremsky replied that was an animal control ordinance. She reviewed the conditions of approval which included condition two which limited the number of dogs to the number of spaces. She explained that this allows the condition to work no matter the outcome of the civil issues and number of stalls they end up with.

Mr. Buckley clarified that the red building adjacent to the subject property was filled with wood and that the size of the structure originally required three hydrants one of which sat behind the K9 Lifeline building. He explained that the building no longer required this since it had a sprinkler system installed inside. He reiterated that he did not feel the location of the fire hydrant was an issue.

Commissioner Nixon inquired if the potty area and dumpster could be moved north, so it was further away from the buildings. She asked how dog pickup and drop off worked.

Ms. Beck explained the dogs were dropped off at both buildings. She noted they were happy to move the dumpster to its previous location, but the area has been blocked off with rebar and cable fencing. She pointed out the north side was a steep area.

Commissioner Van Hoff indicated he was concerned with the potty yards being right next to the property lines. He indicated that he did not like that the applicant was asking for permission after they had already made changes.

Commissioner Nixon asked if the property currently met ordinance 7-5-260 mentioned earlier.

Ms. Jastremsky replied that would be a question for animal control. She noted that she was aware animal control manger conducted an inspection when this application came up and did not see any violations at that time.

Commissioner Tonks commented that moving the small potty yard over to the west might be a compromise.

Commissioner Tab Bingham pointed out there did not seem to be buffers for the potty yards on the east or west.

Ms. Jastremsky noted most of the buildings in this area were built along the property line and did not leave much of a space for a buffer area.

Ms. Beck indicated she would be able to move the potty yard about 10 feet to the west but needed to keep the access to the doorway. She stated that she would be willing to put up a bigger fence along the east as well.

Chief Eining clarified that ordinance 7-5-260 indicated that outdoor dog runs and cages needed to be 30 feet a boundary line and 50 feet from dwelling units. He pointed out that these were not dwelling units but commercial and the code says outdoor cages and runs not potty area. The code does not define outdoor potty areas.

Ms. Beck clarified that the potty areas were not considered dog runs or cages since she was not allowed to kennel dogs outside.

Commissioner Ogden inquired how not granting the conditional use permit would affect the applicant's business.

Ms. Beck indicated it would not be safe since they cannot mix their small dogs and puppies with large ones.

Commissioner Nixon asked if it was possible to have a potty area inside.

Ms. Beck replied that she did not have the space for that, believe it would be sanitary, and may have difficulty getting housetrained dogs to use the bathroom inside.

Motion: Commissioner Nixon motioned to approve the Conditional Use Permit as requested by Heather Beck, representing K9 Lifeline. Application USE-100-2021, based on the findings and subject to the conditions listed in the staff report dated July 9, 2021 with a possible amendment that when the location of the dumpster is solidified that it be enclosed in a solid barrier enclosure.

Second: Commissioner Ogden

Vote: A roll call was taken with the Commissioners voting 4-1 in favor of the motion. Commissioners Bingham, Tonks, Ogden, and Nixon voted, “Aye”. Commissioner Van Hoff voted, “No”.

2. Public Hearing: TriView Apartments Phase II Site Plan Request (Administrative Action)

On the request of Cara Hicks, representing Triago Ventures, for a Site Plan on 8.27 acres of property located in the CR Zone, approximately at 12308 South Pony Express Road. The Site Plan is for three apartment and mixed-use buildings. Application SPR-022-2021. Staff contact: Jennifer Jastremsky, 801.576.6328, jennifer.jastremsky@draperutah.gov.

Ms. Jastremsky presented an overview of the item noting that it was within the community commercial land use designation and the regional commercial zoning designation. She noted there was a development agreement that allowed for several mixed-use buildings and up to 835 dwelling units and required up to 75,000 square feet of commercial space. She pointed out that phase one of the project was currently under construction. She explained that the proposal was for three buildings. Building A was a mixed-use building that was six stories tall consisting of both commercial and residential units. Building B was also six stories with both commercial and residential use. Building C was mixed use with commercial and residential some of which would be short term rental spaces with amenities.

Ms. Jastremsky remarked that parking on all three buildings was at the ground floor with the units built above. She stated that the proposed access on Lone Peak Parkway would be limited to a right-turn in and out and a left turn in only. If the traffic design fails it would have to be modified to a right-turn in only into the development. She announced that the property complied with city code including landscaping standards, and material standards. She noted the proposal complied with the development agreement and exceeded the parking requirements. She explained that there were a few different third parties that the applicant needed to finalize approvals with as well as continued coordination with the City for the design of the road. She noted that the recommended motion was very specific and contained two types of conditions some that had to be met prior to the effective date of the approval and general conditions that had to meet during the general process of developing the property.

Commissioner Van Hoff asked if there was enough parking around each individual building.

Ms. Jastremsky replied that she had not looked at it on an individual building bases since all three buildings were on the same property. She clarified that phase one and phase two had enough parking for each one on their own.

Jory Walker, Applicant Representative, explained that people were more willing to stay at apartments if they had resort style amenities and that is what they planned to do. He noted that he felt comfortable with the retail where it was located since they have a lot of residence on site and have the connection to Lone Peak Parkway.

Chairman Fowler opened the public comment for this item. No comments were made, and the public hearing was closed.

Motion: Commissioner Ogden motioned to conditionally approve the site plan, based on the findings and subject to the specific and general conditions listed in the staff report dated July 15, 2021, as requested by Cara Hicks, representing Triago Ventures for TriView Apartments Phase 2, Site Plan Application SPR-022-2021. Site Plan approval shall become effective upon written notice from the Zoning Administrator that the specific conditions of approval have been met. The Zoning Administrator shall have the authority to determine if the specific conditions of the approval have been met and issue final notice of approval. If the conditions are not met the Site Plan shall not be deemed approved and any changes to the Site Plan must be brought back to the Planning Commission for additional review and approval.

Second: Commissioner Tonks

Vote: A roll call was taken with the Commissioners voting 5-0 in favor of the motion. Commissioners Bingham, Van Hoff, Tonks, Ogden, and Nixon voted, "Aye".

Chairman Fowler called for a ten-minute break.

3. Public Hearing: Scalar Office Expansion Site Plan Amendment (Administrative Action)

On the request of Wes Baker representing Babcock Design, Green Shoot Holdings LLC, and Scalar LLC a request for approval of a Site Plan Amendment to expand, an existing office building on approximately 1.34 acres located at approximately 874 E. Pioneer Rd., Known as application SPR-0016-2021. Staff contact: Todd Draper, 801.576.6335, todd.draper@draperutah.gov.

Todd Draper, City Planner, provided an overview of the proposal to expand an existing office building located in the town center designation of the land use map and town center zoning designation. He presented the site plan which included the removal of some parking on the north to facilitate the expansion on the east and north of the existing building. He shared that landscaping requirements would be met. He noted that the plans were reviewed by the historic preservation committee and forwarded onto the commission without any recommended changes. He pointed out that the applicant was requesting several standard deviations including deviations on setbacks due to a powerline and a deviation from having an entryway or appearance of an entryway on the

east façade. He indicated there was a portion of the building that did not meet the 50% transparency on the ground floor that they were also looking for a deviation on. He shared that they were also looking for a deviation on parking.

Wes Baker, Applicant, commented that they were in support of all the conditions, but would like to discuss the wording of condition number four from the staff report.

Zak Nugent, Building Owner, described how his business functioned noting that his employees were only required to come in two days a week and were not all in the office at the same time. He pointed out that several employees carpooled or used other means of transportation to get to work.

Commissioner Van Hoff expressed concern that there would not be sufficient parking for another business if they were to sell the property in the future.

Ms. Jastremsky explained that the new company would also have to comply with the condition. She stated that the parking study used a trip generation based on the type of office building of 0.78 stalls per employee which equals 50.7 stalls. She clarified that they are proposing 55 stalls which complied with the employee count calculation. She indicated they could reword the condition regarding parking to limit the number of employees at the site at any one time or the number of employees who drive at the site at any one time.

Mr. Baker pointed out the floor plan would make it difficult to put more than 55-65 employees in the building without significant modifications.

Chairman Fowler opened the public hearing on the item. No comments were made, and the public hearing was closed.

Motion: Commissioner Tonks motioned to approve the site development standard modification from front setback as requested by Wes Baker, representing Babcock Design, Green Shoot Holdings LLC, and Scalar LLC for the Scalar Office Expansion, application SPR-0016-2021, based on the findings and subject to the conditions listed in the Staff Report dated July 7, 2021.

Second: Commissioner Nixon

Vote: A roll call was taken with the Commissioners voting 5-0 in favor of the motion. Commissioners Bingham, Van Hoff, Tonks, Ogden, and Nixon voted, "Aye".

Motion: Commissioner Bingham motioned to approve the architectural development standard modification for entry doors as requested by Wes Baker, representing Babcock Design, Green Shoot Holdings LLC, and Scalar LLC for the Scalar Office Expansion, application SPR-0016-2021, based on the findings and subject to the conditions listed in the Staff Report dated July 7, 2021.

Second: Commissioner Van Hoff

Vote: A roll call was taken with the Commissioners voting 5-0 in favor of the motion. Commissioners Bingham, Van Hoff, Tonks, Ogden, and Nixon voted, “Aye”.

Motion: Commissioner Ogden motioned to approve the architectural development standard modification for transparency as requested by Wes Baker, representing Babcock Design, Green Shoot Holdings LLC, and Scalar LLC for the Scalar Office Expansion, application SPR-0016-2021, based on the findings and subject to the conditions listed in the Staff Report dated July 7, 2021.

Second: Commissioner Tonks

Vote: A roll call was taken with the Commissioners voting 5-0 in favor of the motion. Commissioners Bingham, Van Hoff, Tonks, Ogden, and Nixon voted, “Aye”.

Motion: Commissioner Van Hoff motioned to approve the parking deviation as requested by Wes Baker, representing Babcock Design, Green Shoot Holdings LLC, and Scalar LLC for the Scalar Office Expansion, application SPR-0016-2021, based on the findings and subject to the conditions listed in the Staff Report dated July 7, 2021, with the modification that the number of on-site employees be limited to no more than 65 in accordance with the parking study at any given time.

Second: Commissioner Tonks

Vote: A roll call was taken with the Commissioners voting 4-1 in favor of the motion. Commissioners Van Hoff, Tonks, Ogden, and Nixon voted, “Aye”. Commissioner Bingham voted no.

Motion: Commissioner Nixon motioned to approve the Site Plan Amendment as requested by Wes Baker, representing Babcock Design, Green Shoot Holdings LLC, and Scalar LLC for the Scalar Office Expansion, application SPR-0016-2021, based on the findings and subject to the conditions listed in the Staff Report dated July 7, 2021.

Second: Commissioner Van Hoff

Vote: A roll call was taken with the Commissioners voting 5-0 in favor of the motion. Commissioners Bingham, Van Hoff, Tonks, Ogden, and Nixon voted, “Aye”.

4. Public Hearing: Lone Peak Parkway Office Site Plan and Plat Amendment Request (Administrative Action)

On the request of Dan Gould, representing Lone Peak Parkway LLC for approval of a site plan for the construction of a new office building and a plat amendment to combine parcels and relocate a public utility easement. The property is located at approximately 134W. 13100 south in the DC (Destination Commercial) zone. Applications SPR-053-2021 and SUBD-093-2021. Staff contact: Maryann Pickering, 801.576.6391, maryann.pickering@draperutah.gov.

Maryann Pickering, City Planner, presented an overview of the proposal for a new office building of approximately 22,396 square feet at the corner of Lone Peak and 13100 South. She noted the design and layout met all their standards, but the applicant was requesting a parking deviation for one tree diamond. She pointed out that the plat amendment would also combine lots and relocated public utility easements. She shared that the plans met the landscaping and material standards.

Commissioner Tonks asked if the deviation for the diamond was to allow for a charging station.

Ms. Pickering indicated that was correct. She noted that it was also a matter of safety to allow for the proper turning radius for fire trucks to have the diamond instead of the full landscape island.

Chairman Fowler opened the public hearing for the item. No comments were made, and the public hearing was closed.

Motion: Commissioner Tonks motioned to approve the deviation for parking diamonds as requested by Dan Gould, representing Lone Peak Parkway LLC, Application SPR-053-2021 based on the findings and subject to the conditions listed in the staff report dated July 13, 2021.

Second: Commissioner Bingham

Vote: A roll call was taken with the Commissioners voting 5-0 in favor of the motion. Commissioners Bingham, Van Hoff, Tonks, Ogden, and Nixon voted, "Aye".

Motion: Commissioner Bingham motioned to approve the Site Plan Request as requested by Dan Gould, representing Lone Peak Parkway LLC, Application SPR-053-2021 based on the findings and subject to the conditions listed in the staff report dated July 13, 2021.

Second: Commissioner Nixon

Vote: A roll call was taken with the Commissioners voting 5-0 in favor of the motion. Commissioners Bingham, Van Hoff, Tonks, Ogden, and Nixon voted, "Aye".

Motion: Commissioner Van Hoff motioned to approve the Plat Amendment as requested by Dan Gould, representing Lone Peak Parkway LLC, Application SUBD-093-2021 based on the findings and subject to the conditions listed in the staff report dated July 13, 2021.

Second: Commissioner Ogden

Vote: A roll call was taken with the Commissioners voting 5-0 in favor of the motion. Commissioners Bingham, Van Hoff, Tonks, Ogden, and Nixon voted, "Aye".

5. Adjournment

Motion: Commissioner Tonks motioned to adjourn the meeting.

*Approved minutes
Draper City Planning Commission meeting July 22, 2021*

Second: Commissioner Nixon

Vote: A roll call was taken with the Commissioners voting 5-0 in favor of the motion. Commissioners Bingham, Van Hoff, Tonks, Ogden, and Nixon voted, “Aye”.

The meeting adjourned at 9:46 p.m.