

Approved 1.17.2017

**MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, JANUARY 3, 2017, IN THE DRAPER CITY COUNCIL CHAMBERS, 1020 EAST PIONEER ROAD, DRAPER, UTAH**

PRESENT: Mayor Troy Walker, and Councilmembers Bill Rappleye, Jeff Stenquist, Alan Summerhays, Marsha Vawdrey, and Michele Weeks

STAFF PRESENT: David Dobbins, City Manager; Mike Barker, City Attorney; Rachelle Conner, City Recorder; Rhett Ogden, Recreation Director; Glade Robbins, Public Works Director; John Eining, Deputy Police Chief; Clint Smith, Fire Chief; Bob Wylie, Finance Director; Maryann Pickering, Planner; and Dan Boles, Planner

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**Dinner**

**1.0 Appeal: Viking Stead Farm Conditional Use Permit, an Appeal of the Planning Commission Approval of a Conditional Use Permit for Viking Stead Farm Located at 11720 South 700 West in the RA1 Zone**

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1.1 Mayor Walker explained this is an appeal of the Planning Commission approval of the Viking Stead Farm conditional use permit. He explained how the appeal process would move forward in this meeting.

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1.2 Mike Barker, City Attorney, explained the Council acts as a quasi-judicial body when hearing appeals. The Council will hear testimony based on information presented to the Planning Commission, and decide whether or not the Commission was correct in its interpretation and application of the land use ordinance. The original application was for a Conditional Use Permit (CUP). Generally, CUPs are approved unless the effects on the neighbors or other interested parties cannot be mitigated by the conditions imposed. After both sides of the appeal are presented, the Council may either deliberate in public or in a closed meeting. A written decision may be issued at a later time. Mr. Barker explained that if something is defined as a conditional use in the Code, it generally means it is a permitted use with conditions that are attached in order to mitigate any potentially negative effects, such as those associated with noise, light, and/or odor.

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1.3 Councilmember Stenquist said in this case animal rights are a permitted use; however, the number of allowable animal units was called into question. Mr. Barker said that was correct. Mr. Barker further explained one animal unit per half acre is permitted in the RA1 zone, whereas additional animal units per acre require a CUP. Mr. Erickson's application requested a total of 17.6 animal units.

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- 1.4 Dennis Workman, planner, explained that on November 17, 2016, the applicant, Mr. Ari Erickson, was granted a conditional use permit from the Planning Commission. He presented an aerial map and identified the subject property, noting it comprises 1.39 acres. The uses that were part of the CUP were for an agricultural business which would allow the applicant to (1) breed animals and sell the offspring, (2) allow the applicant to sell eggs and (3) allow the applicant to have 17.6 animal units on the 1.39 acres. Only three animal units are allowed on the property as per standard zoning requirements

An animal unit is defined as one cow or other similar large domestic animal. However, horses have their own code and Mr. Erickson does not own any horses. An animal unit could also be five, medium-sized animals such as goats or sheep, or, 20 small animals such as chickens or rabbits.

Staff made findings which they felt justified the request for additional animal units, and so they sent a positive recommendation to the Commission. At the meeting held on November 17, 2016, the Commission heard reasoning from staff, the applicant and seven other neighbors; five of whom were opposed, and two of whom supported Mr. Erickson's request. The Commission ended up approving the CUP request on a vote of 3-to-2.

Some neighbors felt 17.6 animal units was too many and would adversely affect the property. Mr. Workman read language in the RA1 zone stating property owners could have one animal unit per half acre; however, if a person wants more a CUP is necessary. However, the language does not have a specified cap amount. Therefore, staff did not feel the additional units were excessive.

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- 1.5 Councilmember Summerhays asked what types of animals were on the property. Mr. Workman recollected Mr. Erickson owned cows, steers, chickens and goats.

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- 1.6 Councilmember Weeks asked for clarification regarding animal units, as was previously explained by Mr. Workman. She and Mr. Workman calculated the max number of animals that would be allowed based on units.

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- 1.7 Brian Barnhill, attorney for the appellant, stated his client was not opposed to Mr. Erickson owning animals. However, they felt there were holes missing in the application. Mr. Erickson's application indicated they were approved for 7.6 units; however, staff's recommendation also allows for ten additional cows, thus bringing the total allowed animal units back up to 17.6. He argued that if Mr. Erickson is allowed those additional cows, then theoretically they should not have goats, sheep or chickens. The application is unclear as to how the units will be divided amongst the number of animals living on the land.

The application needed to contain substantial evidence to justify the approval from the Commission; however, nowhere in the application does Mr. Erickson identify any evidence

to support the claim that a self-sustaining farm is sufficient or advisable on a property of nearly 1.4 acres. Furthermore, the property is in a neighborhood where the demographics are changing. He noted there will be quarter to third acre homes all to the west side of the subject property. An application was also recently submitted to the City for smaller residential homes on the east as well.

Mr. Barnhill said rather than providing the Commission with data to support his proposal, Mr. Erickson provided vague references to different studies, none of which tied specifically to this type of neighborhood. He argued that this warranted a denial from the Commission; instead, the request was approved. The Commission's reasoning for approving the request was to give the applicant a chance to prove himself, since they had never seen anything similar to this done in the past. He said such experimentation was not appropriate in this type of neighborhood.

Because there isn't a specific Draper ordinance addressing self-sustaining farms, he stated the Council should deny the application. Alternatively, the Council has the ability to send the matter back to the Commission for some additional studies. He felt this would be the most appropriate situation.

Mr. Barnhill said his clients provided written statements from the neighbors who opposed the application. He acknowledged that according to the public clamor doctrine the Council cannot overturn a decision simply based on neighborhood opposition. However, he asked the Council to consider what some of the neighbors have expressed in their statements regarding the impact this CUP could have on the neighborhood. Since there is no restriction in place, the Ericksons may change their animal unit from cows to a smaller animal of a higher quantity. He said this is not addressed in the application or in City ordinances.

Once the CUP is approved, Mr. Erickson will become eligible to apply for additional licenses through the State, thus furthering changes to the nature of the neighborhood. Mr. Barnhill said he didn't believe Mr. Erickson's application satisfied the burden in front of the Commission in providing them with substantial evidence to approve the request.

In conclusion, Mr. Barnhill noted the CUP runs in perpetuity with the land. While the Ericksons might be true to their word regarding which animals will be maintained, this guarantee does not exist for future property owners.

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- 1.8 Councilmember Summerhays inquired as to the quantity of each type of animal that will be on the land. Mr. Barnhill said Ericksons have a desire to breed cattle and sell the juveniles, which means the calves would be onsite for a year. He explained that neither the application nor City ordinance provides definition to distinguish adults versus juveniles. He stated the number of animal units that is ultimately approved will run with the land in perpetuity.

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1.9 Councilmember Weeks asked Mr. Barnhill to which ordinances he was previously referring. Mr. Barnhill said nowhere in either the agricultural or residential zones were self-sustaining farms addressed.

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1.10 Councilmember Rappleye asked if Mr. Barnhill's issue was the number defining animal units was too flexible, and Mr. Barnhill answered affirmatively. Additionally, because the City does not have an ordinance addressing self sustaining farms, there was no particular reason to deem them appropriate for the RA1 zone.

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1.11 Ari Erickson, Viking Stead Farm, agreed the City Code had a lot of ambiguity, which was exactly why he requested a CUP; he wanted to know what the City required so he could proceed in maintaining a family farm. He requested 17.6 animal units because he has cows, and in order to get milk out of a cow a breeding cycle needs to be completed. However, he said the Code doesn't address juvenile animals which put him and the animals in a difficult position. He presented his proposal to City staff in order to reach a solution.

The CUP limits what he can do with his animal units. He has 7.6 animal units; three can be large animals, eight can be medium sized animals, and 60 can be small. He agreed the redistributing these numbers to allow 17 cows on 1.4 acres would be horrible for the animals and the land. However, this is not his intent. Rather, he wants to maximize the use of the land and create a breeding system for his animals so he can get milk for his family and make his own cheese. If there is excess, he would then like to be able to sell the products.

Mr. Erickson stated Draper City has placed reasonable restrictions on what he can and cannot do with his CUP. He said the reality is that he will not have 17 large animals on his property. He will have exactly what is stated above, with the inclusion of juvenile animals which will temporarily be on the property prior to their sale. The City has many mechanisms in place to prevent him from abusing his CUP. He said all of these matters were brought forward to the Commission, and were subsequently deliberated. While they should always seek to have more information on an issue, they should not delay progress and infrastructure upgrades. Mr. Erickson noted he was in the process of building his fence, which is allowed in his CUP.

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1.12 Councilmember Summerhays asked Mr. Erickson how many animals there are currently on the property. Mr. Erickson said he has three cows, but the breeding has been delayed. He also has six goats, whereas the permit would allow for eight, and 34 chickens, whereas he would like to have up to 60. They also have a dog. Councilmember Summerhays asked if they sell milk to public. Mr. Erickson stated they pasteurize milk for their own consumption only, as there are too many USDA regulations which oversee the sale of milk. Mostly they sell hard cheeses because they are safe to put on market. Chickens are locked up at night because of wildlife, and their wings are also clipped.

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- 1.13 Councilmember Stenquist asked what kind of volume they expect to produce. Mr. Erickson explained all his business transactions are done formally through a tax ID number. However, the primary intent of the farm is for home consumption. He plans on selling products only if there is excess. There are strict limitations on what he would be able to produce with this small number of animals. His farm is a lifestyle and not a business.

Councilmember Stenquist asked if customers would be coming on site to purchase products. Mr. Erickson explained at most there would be 15 to 18 people with trucks or trailers show up on site in the spring to transport cows or goats, so traffic would be extremely limited. He has no intention of building a farm stand at his primary residence. There are many forums available for selling dairy products elsewhere.

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- 1.14 Councilmember Weeks asked to go over numbers. Mr. Erickson stated he initially requested 17.6 units in his original application. He asked the Commission to define his limits when he requested this extreme amount of animals. The limitations set by the Commission were three permanent cows, with up to nine temporary calves, and eight permanent goats, with up to 20 temporary kids. The CUP limited Mr. Erickson to 60 chickens.

Councilmember Weeks asked Mr. Erickson what he was currently doing to mitigate manure. Mr. Erickson explained if a large animal has more than 2,500 square feet for its pen then spreading may happen onsite. He said this was how they managed animals through the entire spring and summer and they received no complaints. They did not start receiving complaints from the neighbors until a week after public notice for his CUP was given. He explained that moving solid ground is difficult in winter; the situation has been made worse because half of his fence is down and his cows are in a contained area. Once his fence is built he will make sure the manure is deposited into a place that's easy to spread. If the manure cannot be spread onsite it will be removed from his land altogether. He stated all of these conditions are outlined in his CUP.

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- 1.15 Councilmember Stenquist asked if Mr. Erickson also had a pig shelter and bees, and Mr. Erickson answered affirmatively. A CUP is not needed for beekeeping. Councilmember Stenquist asked if pigs would be interchangeable with goats since they are medium-sized animals. Mr. Erickson answered affirmatively, and stated either way he will be limited to eight medium-sized animals.

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- 1.16 Councilmember Weeks asked if any slaughtering would take place on the property. Mr. Erickson said no. According to City Code, slaughtering for commercial purposes is not authorized unless the property is in an industrialized environment. He said he is not a slaughterer and would defer to other professionals in those matters. Slaughter practices are tightly controlled.

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1.17 Mr. Barnhill said Mr. Erickson acknowledged that he does not have all possible data on the matter. He returned to his original premise that at the Commission meeting, Mr. Erickson had the burden to provide all of the evidence to support a self-sustaining farm on 1.4 acres. He doesn't think Mr. Erickson has met that burden. Mr. Barnhill said Mr. Erickson identified that the animal units he was requesting was extreme. Mr. Barnhill did not feel this was the application to approve and an experiment to try at this stage.

With regards to manure, Mr. Barnhill's research shows one cow will produce 50 pounds of manure and urine in one day, and they could theoretically have up to 17 cows at one time on the property. Regarding the spread of manure, Mr. Barnhill explained there were discrepancies between what Mr. Erickson explained tonight versus what is outlined in his application.

The application also states Mr. Erickson would harvest a cow at the end of the year. Mr. Barnhill said while Mr. Erickson has been articulate about the fact he won't sell slaughtered animals, he is planning on some slaughtering taking place for his own personal consumption. He stressed this was a lot of animal activity on a 1.4 acre property in the middle of a developing single family neighborhood.

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1.18 Councilmember Summerhays inquired as to how Mr. Barnhill thought Mr. Erickson would slaughter a large animal on his farm, given there are major restrictions which limit this ability. Mr. Barnhill said according to the application they would harvest a cow for the freezer at the end of the year. However, Mr. Barnhill said he does not know by what method Mr. Erickson would go about slaughtering. That was not a question asked by the Commission.

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1.19 Mayor Walker said the Council would deliberate on this item at the end of tonight's meeting.

\*\* *The City Council took at break at 6:55 p.m.*

## **Study Meeting**

### **1.0 Update: Parks, Trails, and Recreation CIP**

1.1 This discussion will be done at the next City Council meeting.

### **2.0 Update: Animal Control Policies Regarding Feral Cats**

2.1 This discussion will be done at the next City Council meeting.

### **3.0 Council / Manager Reports**

3.1 There were no reports.

## **Business Meeting**

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### **1.0 Call to Order: Mayor Troy K. Walker**

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### **2.0 Thought/Prayer and Pledge of Allegiance**

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2.1 Mavis Glad offered the prayer.

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2.2 John Eining, Deputy Police Chief, led the Pledge of Allegiance.

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### **3.0 Oath of Office and Annual Report: Draper Justice Court Judge Daniel Bertch**

3.1 Rachele Conner, City Recorder gave the Oath of Office to Judge Daniel Bertch.

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3.2 Judge Bertch presented the annual court report for the City Council. The court system has evolved over the years and has transitioned to electronic filing. For alcohol offenses, he is in favor of a first time offense probation. For repeat alcohol offenses related to public intoxication, automobile related offenses, or domestic violence, use of a portable monitor may be necessary. A game changer for substance abuse offenders has been the use of a patch that tracks drug use. Prescription drug addiction and impairment has been more difficult to manage. He has been requiring more interaction from the treating physicians with the court by way of a report from the physician.

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3.3 Councilmember Summerhays asked Judge Bertch if he subscribes to drug court. Judge Bertch explained drug courts. He said the problem at the City level with a part time court is insufficient resources. He has pushed to shorten the time between an offense or a violation of probation and a sanction, as this helps prevent failed efforts at rehabilitation. This is one area in which drug courts are helpful; they move quickly.

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3.4 Councilmember Stenquist asked if Judge Bertch has other concerns in the community. Judge Bertch replied saying that drug abuse is the most recurring offense because it cuts across all levels of society. He also stated that alcohol is the most abused drug. Mental health has also been a big concern. Councilmember Stenquist commented that these issues (drug abuse and mental health issues) may often be at the root of other offenses such as theft. Judge Bertch stated this is often the case.

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3.5 Councilmember Rappleye asked about video arraignments. Judge Bertch explained that face-to-face interactions are more valuable, but some judges have differing opinions on this issue. Councilmember Rappleye agreed with Judge Bertch's sentiments on video arraignments being less effective than in-person, human interactions.

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3.6 Mayor Walker asked how many jury trials they have each month. Judge Bertch reported there have been zero jury trials in the last two years. There were jury trials two to three times per year prior to that time.

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#### 4.0 **Public Comments**

To be considerate of everyone attending the meeting, public comments will be restricted to items not listed on this or a future agenda and limited to three minutes per person. 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.

4.1 No one came forward to speak.

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#### 5.0 **Consent Items**

- a. **Approval of December 20, 2016, City Council Minutes**
- b. **Approval of Agreement #17-01 with Taser International**, for a five-year purchasing agreement for body cameras and all associated software and equipment. The first year's five-thousand dollar obligation will be paid for by a grant and the remaining amount will come from existing budget.
- c. **Approval of Agreement #17-02**, with Project Engineering Consultants, Ltd for Construction Engineering Services on the 13800 South; Bangarter Hwy to 300 East Project. Staff: Glade Robbins
- d. **Approval of Resolution #17-02, Amending the Consolidated Fee Schedule.** Staff: Bob Wylie
- e. **Approval of Resolution #17-03, Appointing Walt Rosemann to the Tree Commission**

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5.1 **Councilmember Summerhays moved to pull Item B from the Consent Agenda. Councilmember Weeks seconded the motion.**

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5.2 **A roll call vote was taken with Councilmembers Rappleye, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.**

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**5.3 Councilmember Summerhays moved to approve Consent Items A, C, D, and E. Councilmember Weeks seconded the motion.**

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**5.4 A roll call vote was taken with Councilmembers Rappleye, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.**

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5.5 Councilmember Summerhays said that seeing as how technology changes very quickly over a course of five years, it may not be prudent to be under contract for that long. He asked what the motive was for doing things this way.

Deputy Chief John Eining explained the advantage of having a five-year contract is that Taser is going to lock them into a price of \$20,000 per year. Every two and a half years they will return all of the Taser cameras that they have and receive updated versions if they have significantly increased in technology. Upgrades are available through this contract. Councilmember Summerhays asked how many upgrades were available. Chief Eining stated there were 38 cameras; furthermore, a big portion of the contract will include storage space for the videos recorded onto the website [www.evidence.com](http://www.evidence.com).

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5.6 Councilmember Stenquist commented that storage is a major issue as well as staying in compliance with changes in State law over time. He opined that the proposed contract allowed the City flexibility. Chief Eining confirmed that this contract keeps up with technology and changes that could occur over the next five years. The contract could potentially save the City both money and time by locking in the price of the product now.

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**5.7 Councilmember Summerhays moved to approve Item B. Councilmember Rappleye seconded the motion.**

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**5.8 A roll call vote was taken with Councilmembers Rappleye, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.**

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**6.0 Public Hearing: Ordinance #1241 and #1242, on the request of Nate Shipp, representing DAI for approval of a Land Use Map Amendment from Neighborhood Commercial to High Density Residential and a Zoning Map Amendment from CO1 (Professional Office) to the RM2 (Multi-Family Residential; 12/du per acre) zone on roughly 1.045 acres at approximately 901 East 12200 South. This application is otherwise known as the *Eastwood Zone Change and Land Use Amendment***

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6.1 Maryann Pickering, Planner, explained this is a request to rezone a property that is at the terminus of 12200 South to the east and adjacent to the UTA TRAX line. She presented an aerial map of the subject property, and explained that the current zoning of the property is CO1 (Professional Office). The applicant is requesting a rezone to RM2 (Multi-Family Residential) which would be the same as the property to the east. The applicant is also requesting a land use change from the current designation of Neighborhood Commercial to High Density Residential. This request is being made so that all three of these parcels can be combined for a town home development. The total acreage is about 2.19 acres. The Planning Commission unanimously forwarded a positive recommendation on this request. She received two emails in opposition which were also forwarded to the Council for review.

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6.2 Councilmember Stenquist asked about plans for a trail passing through the subject property. Ms. Pickering said she was not aware of plans for a trail.

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6.3 Councilmember Weeks asked Ms. Pickering to confirm that the City Council rezoned for 36 units on one access road. Ms. Pickering stated that they have not provided the City with the number of units they would be proposing. Councilmember Weeks asked if the rezone would allow up to twelve units per acre. Ms. Pickering answered in the affirmative. Councilmember Weeks asked if the others were similarly zoned for up to twelve units per acre. Ms. Pickering stated the total acreage of all three parcels would be 2.91 acres.

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6.4 Councilmember Summerhays stated the subject property can be used for 30 family units or 100 multiuse units on the same access road.

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6.5 Councilmember Weeks asked if the homes behind the subject property are one third of an acre. Ms. Pickering confirmed.

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6.6 Nate Shipp, applicant, said he appreciated the professionalism from the staff present. Mr. Shipp said this application would enable him to incorporate the subject property with two other properties he has been working to develop. He is close to finalizing a site plan that would address some of the other questions that have been raised. He said until he knows for sure how the zoning comes together he cannot proceed. To answer the question about the trail passing through subject property, Mr. Shipp said he met with staff regarding options for different potential trail connections. He said he will be able to accommodate the request of connecting the trail, having a trail access from the east all the way down to the trail. He has also met UTA, as they own part of the trail. Part of the plan for subject property is to purchase the part of the trail owned by UTA and parcel it to Draper City.

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6.7 Councilmember Rappleye asked if there is any grade separation on the subject property. Mr. Shipp confirmed there is a hill, and he identified its steepest locations. He said incorporating this property into his other two developments will help him to alleviate some of the grade change issues.

In response to Councilmember Weeks's questions, Mr. Shipp opined that a less intense use of multifamily than commercial is a better way to transition from the single-family neighborhood to what is more intense-use commercial property. He stated the subject request is a better transition than what currently exists.

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6.8 Councilmember Weeks expressed concerns with traffic. She asked if there was any allocation for traffic, as one of the intersections near the subject property is already busy. Mr. Shipp said he was aware of the concern, but he did not have any answers. He said he will be addressing the issue of traffic at a later date.

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6.9 Councilmember Rappleye asked what the limitations are for the three parcels on a dead end street, and wanted to know how many town homes they can have on a single access road. Mr. Shipp explained City Code allows up to 100 units of multifamily or 30 units of single family, which is significantly more than what he is planning for the development.

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6.10 Councilmember Summerhays asked what fencing UTA proposes along their corridor. Mr. Shipp responded that UTA uses a chain link fence, and added that part of his proposal would include a different kind of fence; something more solid and visually appealing than a chain link fence, such as a mason wall or a vinyl fencing to provide privacy.

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**6.11 Mayor Walker opened the public hearing. No one came forward to speak, so Mayor Walker closed the public hearing.**

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**6.12 Councilmember Stenquist moved to approve Ordinances #1241 and #1242. Councilmember Rappleye seconded the motion.**

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6.13 Councilmember Rappleye said the property faced many problems when a railroad was placed nearby. The noise from the trains is an issue for nearby residents, and he is glad something is being done with the subject property.

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6.14 Councilmember Weeks said she appreciated Mr. Shipp's presentation. She said she voted against the other two pieces of property because she thought 12 units were too much per

acre. She said she understands what is intended for subject property, but she takes issue with the density.

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6.15 Councilmember Stenquist said the property is a difficult piece to develop, noting it is currently zoned as commercial. Given the visibility and access, Mr. Stenquist said it is not viable for commercial use. Also, given proximity to railroad tracks and an electrical substation, Mr. Shipp's proposal may be the best possible use of the land.

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6.16 **A roll call vote was taken with Councilmembers Rapple, Stenquist, Summerhays, and Vawdrey voting in favor. Councilmember Weeks voted no. The motion passed 4-to-1.**

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7.0 **Public Hearing: Providing Local Consent for a Limited Service Alcohol License for The Sushi, LLC**

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7.1 David Dobbins, City Manager, outlined the request for a limited service alcoholic beverage license for The Sushi, a new restaurant. Mr. Dobbins pulled up a map of the restaurant on 11400 South, displaying a 600-foot buffer in compliance with City and State law. In terms of background, Mr. Dobbins said the license would allow the owner of the restaurant to sell wine, heavy beer, and beer. Those drinks, under the license, would only be purchased with a food order and 70 percent of the business in total must be from food.

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7.2 **Mayor Walker opened the public hearing. No one came forward to speak, so Mayor Walker closed the public hearing.**

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7.3 **Councilmember Rapple moved to approve the local consent for an alcohol license. Councilmember Weeks seconded the motion.**

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7.4 **A roll call vote was taken with Councilmembers Rapple, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.**

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8.0 **Public Hearing: Providing Local Consent for a Full-Service Alcohol License for The Charleston Café**

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8.1 Mr. Dobbins explained the request for a full-service alcohol license for The Charleston Café located on Pioneer Road. Mr. Dobbins displayed on a map showing the restaurant's proximity to the nearby park. He explained that, according to State law, a restaurant serving

alcohol may not be within 600 feet walking distance of a church, a school, a playground or park. He showed on the map how an individual would walk from the establishment to the park. The walking distance was approximately 1000 feet, and therefore the application was in compliance with local and State laws. He said the difference between the full-service and the limited-service alcohol license is that of also being able to serve liquor. The alcohol license for the Charleston Café again stipulates that alcoholic beverages must be served with a food order, and 70 percent of business must come from the sale of food.

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8.2 Councilmember Summerhays observed that the restaurant in question has six to seven paved stalls. He asked whether the Code required eight paved stalls. Mr. Dobbins replied this code does not apply to historic buildings.

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**8.3 Mayor Walker opened the public hearing. No one came forward to speak, so Mayor Walker closed the public hearing.**

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**8.4 Councilmember Rappleye moved to provide local consent for a full-service alcohol license. Councilmember Vawdrey seconded the motion.**

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**8.5 A roll call vote was taken with Councilmembers Rappleye, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.**

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**9.0 Action Item: Resolution#17-04, for Filing of Eminent Domain on 13200 South, and allowing property owner(s) to make public comment**

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9.1 Glade Robbins, Public Works Director, said they are well into the design of the 13200 South connection from Boulter Street up to Highland Drive. He said he has had to acquire additional right-of-way space from several properties along said streets, and there are three remaining property owners with whom they have not yet reached agreements. In order to advertise construction for this project within the next couple of months, Mr. Robbins said Public Works needs to have occupancy of those properties. He said they would continue to work with the property owners, but in the event they have to acquire the properties through eminent domain they need to begin said process now. The proposed resolution would begin the eminent domain process.

\*\* *Mayor Walker left the meeting at 8:04 pm.*

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9.2 Councilmember Weeks said that no one is supportive of having to use eminent domain. She asked if staff is still working with the residents, and opined that eminent domain should

be used as a last resort just in case negotiations with the property owners cannot be reached. Mr. Robbins confirmed that eminent domain is the last resort.

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9.3 Mayor Pro Tem Rappleye asked Mr. Robbins to explain the eminent domain process for those present. Mr. Robbins said they have to obtain appraisals of the property, which are then given to the property owners as part of the negotiation. If an agreement cannot be reached, eminent domain is the next step. The Judge makes a ruling on whether eminent domain is necessary. Mr. Rappleye asked if residents could provide their own property appraisals. Mr. Robbins answered affirmatively, saying there are negotiations between various appraisals as part of the effort.

[8:05:09 PM](#)

**9.4 Mayor Pro Tem Rappleye opened the meeting for public comment.**

[8:05:22 PM](#)

9.5 Derek Coulter, property owner, said eminent domain should be a last resort, which he did not believe the City was doing. He said the property owners have invited City Councilmembers to come look at the subject intersection. Those who own properties in the neighborhood have a lot of concerns regarding safety, and he pointed out that there is a natural gas relay station that falls within 20 feet of the roadway alignment. He also said there are issues with visibility that have not been addressed. He invited City Councilmembers to come and see the intersection and speak with the nearby property owners who are affected. He opined that there must be less impactful ways of executing proposed plans that have not been discussed. He said that from a legal standpoint, they have a 2005 order from the Administrative Law Judge dealing with closing this intersection until there was a subsequent agreement to reopen it. He said he would like to know when such an agreement was reached to reopen said intersection. He said assuming the City is able to bypass that obstacle, the concerns of the property owners are primarily safety concerns. Traffic speeds are another matter of concern.

\*\* *Mayor Walker returned to the meeting at 8:06 p.m.*

[8:09:00 PM](#)

9.6 Ray Glad, property owner, said his property has been in his wife's family for 153 years. He said the property that would be appropriated via eminent domain is approximately 0.5 acres, and has been in his care for 55 of those years. He suggested these facts be taken into consideration. He said there are some disagreements on the proposed value placed on the property and appraisals. The property owners involved strongly disagree with the idea of eminent domain, and he requests further negotiation on the part of the City be attempted before court action is taken. He was also of the opinion that there is not enough money for the proposed expansion. Mr. Glad echoed previous concerns regarding traffic safety.

[8:12:28 PM](#)

9.7 Mavis Glad, property owner, said she takes issue with the City claiming her driveway as a public road. She mentioned the property owners had to grant permission for a portion of their properties to be used during the construction of Highland Drive. Mrs. Glad was also concerned about the safety of the road.

[8:14:23 PM](#)

9.8 Josh Stika, property owner, expressed concern for the safety of the children in the neighborhood. He said he requested an open forum among the City Councilmembers and the affected property owners for how to make this development as safe as possible. He said he came to the open house and sat down with the Mayor with the intention of achieving such an open discussion. He said there was an off-the-record agreement in 2005 that is not being honored, and he requested actions be taken on the record. He said he spoke many times with a purchasing agent, telling him he did not want to sign anything until he had the chance to talk in an open forum about how to make the road safer. He said he presented many options on how achieve this, but now that such a discussion is taking place, it is being done under the threat of eminent domain. He said he feels unrepresented as a citizen of the City of Draper. He requested the Council table the proposal for the time being so as to allow further discussion.

[8:17:44 PM](#)

**9.9 Mayor Walker closed the public hearing.**

[8:17:58 PM](#)

9.10 Councilmember Stenquist expressed appreciation for the comments made thus far. He said he believes that everyone is in agreement on safety being a priority for everyone involved. He said the City relies on the opinions and recommendations of professionals for the safest way to build. It is very important that the City abides by accepted safety standards for building roads. Councilmember Stenquist said even though the discussion regarding the safety of road designs is important, the priority of this matter should be acquiring the property. No one likes the eminent domain process, but it becomes necessary to meeting project and construction deadlines. Eminent domain is heavy handed, but it is also a very expensive way to acquire property and thus should be avoided if possible. He said negotiation should continue on purchase price and fair property value. In an ideal world, putting a tunnel in would be ideal, but it is not fiscally possible. While safety is a priority, the City has a responsibility to taxpayers to consider cost. He stated that despite disagreements about traffic design, engineers and City Councilmembers have agreed that putting in a stop sign on the subject road would not be the safest option. This discussion regarding eminent domain is simply about being able to move forward on this project. He said there is some flexibility on design such as striping options and placement of the horse trail, but in terms of the amount of property needed, the acquisition of property needs to move forward.

[8:24:02 PM](#)

9.11 Councilmember Weeks stated that she is also not keen on the idea of eminent domain but the City must acquire the property in order to make the street go through. She wanted to

state for the record of being in favor of spending money on a tunnel because the traffic engineers did not say anything against the idea of a tunnel besides the cost. She stated she uses the Porter Rockwell trail a lot, and has observed many other people using it as well, which is why she was in favor of the tunnel.

[8:24:50 PM](#)

9.12 Councilmember Rappleye expressed the importance of deferring to the judgment of engineers in development. As far as eminent domain is concerned, Mr. Rappleye is fully behind property owners receiving fair equity for their property. He said he likes the idea of a tunnel, but one problem he has with the idea of a tunnel is the safety of 1300 East and the park where there is a trail crossing. There is always an inherent hazard when pedestrians interact with the road. He expressed the need to move forward on this project.

[8:27:53 PM](#)

9.13 Councilmember Summerhays stated that he has been involved in the process of eminent domain with the State five or six times. He said this process is not a pleasant one. He suggested that the best course of action is to get a different appraiser than the City, and make sure to receive a fair and equitable price.

[8:30:14 PM](#)

9.14 Councilmember Vawdrey says she will look into the process of how offers for property should proceed. She stated property owners should receive fair compensation. She said that it was not the time to discuss the road design, as it has been discussed many times before.

[8:30:48 PM](#)

9.15 Mayor Walker stated with respect to the process, there was an open house in which the Council listened to the concerns of property owners and the ideas and concepts concerning the road. The concepts have been handed to the engineering department. Mayor Walker also expressed that just because the Council may not agree with what the concerned residents want does not mean their concerns were not heard. With respect to practicality, Mayor Walker said opening this road will be better for traffic and emergency services.

[8:32:11 PM](#)

**9.16 Councilmember Stenquist moved to approve Resolution #17-04. Councilmember Vawdrey seconded the motion.**

[8:32:34 PM](#)

9.17 Councilmember Stenquist said it is the responsibility of the City Council to look out for the long term interest of the entire community at large, and sometimes that has a negative impact on a small number of people. He opined that, in this case, it is in the best interest of the community to have this road connection, because it is a vital road connection for allowing safer traffic flow throughout the City. He expressed the Council is sensitive to this fact, but the Council has a responsibility to look out for the long term interest of the community.

[8:33:36 PM](#)

**9.18** A roll call vote was taken with Councilmembers Rappleye, Stenquist, Vawdrey, and Weeks voting in favor. Councilmember Summerhays voted no. The motion carried with a majority vote of 4 to 1.

[8:33:56 PM](#)

**10.0** Action Item: Approval of Resolution #17-01, adopting a Trail and Open Space Construction Plan for the next 2 years

[8:34:08 PM](#)

10.1 Mr. Ogden said in November there was a discussion in a study session in which there was a disconnect between Council, Staff, and Committees. There have been differing opinions on the number of hiking only, walking only, and bike trails. Taking those discussions into consideration, this resolution was formed for future plans and funding of trails throughout the City. Some of the stipulations of this plan include: making the canyon friendlier to hiking, keeping bikes to the south side in the new area, making sure the trailheads are keeping up with the trails, and keeping a balance in variety of trails. About 82 percent of the City's trails are multi-use. Adopting this plan would, in two years, specialize one quarter of the trails, meaning they will either be hiking, equestrian, or biking only. In 2025, the plan would have 45 percent multi-use with more trails specialized to bike with bike restrictions, more hiking, walking, nature pass, and equestrian. Lastly, Mr. Ogden presented a spreadsheet that was created by staff and the Parks and Trails (PTR) Committee, which prioritized and identified the trails which would be maintained and specialized.

[8:38:29 PM](#)

10.2 Councilmember Weeks thanked Mr. Ogden for educating her on trail priorities and how the trail system is working. She passed along the many compliments she has received on the quality of the City's trails. She said she is pleased with what has been presented for the next two years. She liked that the PTR Committee has chosen to present to the City Council at least once a year to tell them what their plans are, as it helps educate the Council on what is being done with the trail systems.

[8:39:26 PM](#)

10.3 Councilmember Rappleye said one of his big concerns is a balance of trails use. He appreciated that the proposed resolution communicates a need and goal for balance. He then stated he appreciated the quality and amount of data made available by the PTR Committee.

Mr. Ogden said that his Committee would like to have an annual joint meeting with the City Council, and asked if the City Council would want quarterly updates as well. Councilmember Weeks said the more information the better.

[8:41:44 PM](#)

10.4 Councilmember Vawdrey also appreciated the changes made and the direction taken. She liked the idea of meeting once a year with the PTR Committee.

[8:42:13 PM](#)

10.5 Councilmember Summerhays agreed with what has already been said, expressing appreciation for the work Mr. Ogden has done.

[8:42:43 PM](#)

**10.6 Councilmember Weeks moved to approve Resolution #17-01. Councilmember Rappleye seconded the motion.**

[8:43:02 PM](#)

**10.7 A roll call vote was taken with Councilmembers Rappleye, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.**

[8:43:21 PM](#)

10.8 Mayor Walker wanted to commend the Council members. He said he knows of no other City which has invested as much as Draper in preserving open space, and making recreation and the use of the canyon a priority. He said it is commendable and outstanding to spend that kind of money on things which are valuable and widely used.

[8:45:34 PM](#)

**11.0 Adjourn to a Closed-Door Meeting to Discuss the Viking Stead Farm Appeal**

[8:45:49 PM](#)

**11.1 Councilmember Summerhays moved to adjourn to a closed-door meeting to discuss the appeal. Councilmember Vawdrey seconded the motion.**

[8:45:58 PM](#)

**11.2 A roll call vote was taken with Councilmembers Rappleye, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.**

\*\* *The meeting reconvened at 9:36 p.m.*

[9:37:19 PM](#)

**11.3 Councilmember Summerhays moved to deny the appeal of the Viking Stead Conditional Use permit with the addition that no mink or pigs will be allowed on the property. Councilmember Vawdrey seconded the motion.**

[9:38:26 PM](#)

11.4 Councilmember Vawdrey explained to Mr. Erickson that the Council is sympathetic to his desire to have his farm and to raise his animals. She told Mr. Erickson his neighbors are watching him carefully. She advised him to follow the conditions as they have been laid out for him.

[9:39:28 PM](#)

11.5 Councilmember Rappleye asked about the definition of a juvenile. It was then stated for beef a juvenile is 400 to 500 lbs.

[9:40:41 PM](#)

11.6 Councilmember Stenquist said the Council should reference an external standard for that type of information.

[9:40:59 PM](#)

**11.7 Councilmember Rappleye moved to amend the current motion to add a definition of a juvenile animal. Councilmember Weeks seconded the motion.**

[9:42:17 PM](#)

**11.8 A roll call vote was taken on the amended motion with Councilmembers Rappleye, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.**

[9:42:42 PM](#)

**11.9 A roll call vote was taken on the original motion with Councilmembers Rappleye, Summerhays, Vawdrey, and Weeks voting in favor. Councilmember Stenquist voted no. The motion carried with a majority vote of 4-to-1.**

[9:43:05 PM](#)

**11.10 Councilmember Summerhays moved to adjourn to a closed-door meeting to discuss litigation. Councilmember Rappleye seconded the motion.**

[9:43:19 PM](#)

**11.11 A roll call vote was taken on the amended motion with Councilmembers Rappleye, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.**

11.12 The meeting adjourned at 9:43 p.m.