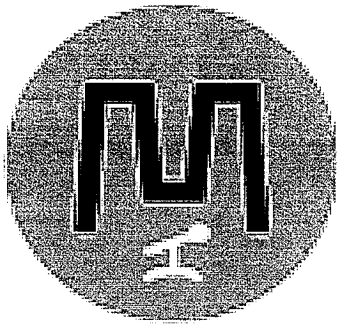
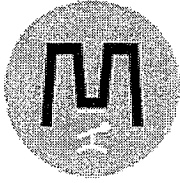




MURRAY
CITY COUNCIL

Council Meeting

April 17, 2012



MURRAY
CITY COUNCIL

NOTICE OF MEETING
MURRAY CITY MUNICIPAL COUNCIL

PUBLIC NOTICE IS HEREBY GIVEN that there will be a meeting of the Murray City Municipal Council on Tuesday, April 17, 2012, at the Murray City Center, 5025 South State Street, Murray, Utah.

5:30 p.m. **Committee of the Whole:** To be held in the Conference Room #107

1. Approval of Minutes

- 1.1 Committee of the Whole – March 20, 2012

2. Business Items

- 2.1 TransJordan Landfill Fee Increase Presentation – Doug Hill and Dwayne Woolley (15 minutes)
- 2.2 Discuss Proposed Amendment to the Fiscal Year 2011-2012 City Budget – Justin Zollinger (15 minutes)
- 2.3 Capital Improvement Program Recommendations and Vehicle Policy Discussion – Brett Hales and Justin Zollinger (30 minutes)

3. Announcements

4. Adjournment

6:30 p.m. **Council Meeting:** To be held in the Council Chambers

5. Opening Ceremonies

- 5.1 Pledge of Allegiance
- 5.2 Approval of Minutes

- 5.2.1 March 20, 2012

5.3 Special Recognition

- 5.3.1 Consider a Joint Resolution of the Mayor and Municipal Council of Murray City, Utah declaring Friday, April 27, 2012 as Arbor Day. (Bruce Turner and Jim Hendrickson presenting.)
- 5.3.2 Recognition and acknowledgement of Jerry Hatt's graduation and certification as a Generation/Substation Technician from the Utah Valley University/Salt Lake Community College. (Blaine Haacke and Charles Crutcher presenting.)

6. Citizen Comments (Comments are limited to 3 minutes unless otherwise approved by the Council.)

7. Consent Agenda

- 7.1 Consider confirmation of the Mayor's appointment of Thomas Halliday to the Murray City Board of Adjustment in an At-Large position for a five-year term to expire April 2, 2017.

8. Public Hearings – Approximately 6:30 p.m.

8.1 Public Hearing #1

8.1.1 Staff and sponsor presentations, and public comment prior to Council action on the following matter:

Consider a resolution approving modifications to prior appropriations of Community Development Block Grant ("CDBG") funds. (Angela Price presenting.)

8.1.2 Council consideration of the above matter.

8.2 Public Hearing #2

8.2.1 Staff and sponsor presentations, and public comment prior to Council action on the following matter:

Consider a resolution allocating the 38th Year Community Development Block Grant ("CDBG") funds for Program Year 2012 – 2013. (Angela Price presenting.)

8.2.2 Council consideration of the above matter.

8.3 Public Hearing #3

8.3.1 Staff and sponsor presentations, and public comment prior to Council action on the following matter:

Consider an ordinance amending Section 16.16.090, 16.16.095 and 17.58.050 of the Murray City Municipal Code relating to the requirement that all newly created single family lots abut a public street. (Tim Tingey presenting.)

8.3.2 Council consideration of the above matter.

9. Unfinished Business

- 9.1 None scheduled.

10. New Business

- 10.1 None scheduled.

11. Mayor

- 11.1 Report
11.2 Questions of the Mayor

12. Adjournment

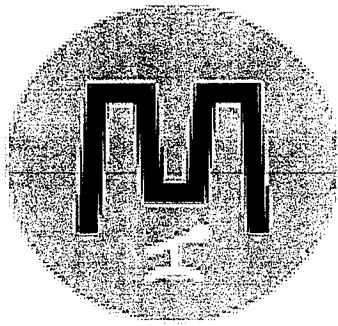
NOTICE

SPECIAL ACCOMMODATIONS FOR THE HEARING OR VISUALLY IMPAIRED WILL BE MADE UPON A REQUEST TO THE OFFICE OF THE MURRAY CITY RECORDER (801-264-2660). WE WOULD APPRECIATE NOTIFICATION TWO WORKING DAYS PRIOR TO THE MEETING. TDD NUMBER IS 801-270-2425 or call Relay Utah at #711.

Council Members may participate in the meeting via telephonic communication. If a Council Member does participate via telephonic communication, the Council Member will be on speaker phone. The speaker phone will be amplified so that the other Council Members and all other persons present in the Council Chambers will be able to hear all discussions.

On Friday, April 13, 2012, at 9:00 a.m., a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Murray City Center, Murray, Utah. Copies of this notice were provided for the news media in the Office of the City Recorder and also sent to them by facsimile copy. A copy of this notice was posted on Murray City's internet website www.murray.utah.gov and the state noticing website at <http://pmn.utah.gov>.

Janet M. Lopez
Office Administrator
Murray City Municipal Council



MURRAY
CITY COUNCIL

Committee of the Whole

Committee of the Whole Minutes



MURRAY
CITY COUNCIL

DRAFT

MURRAY CITY MUNICIPAL COUNCIL COMMITTEE OF THE WHOLE

The Murray City Municipal Council met as a Committee of the Whole on Tuesday, March 20, 2012, in the Murray City Center, Conference Room #107, 5025 South State Street, Murray Utah.

Members in Attendance:

Jim Brass
Dave Nicponski
Darren V. Stam
Jared A. Shaver
Brett A. Hales

Council Chair
Council Member
Council Member
Council Vice Chair
Council Member

Others in Attendance:

Michael D. Wagstaff	Council Executive Director	Dan Snarr	Mayor
Janet M. Lopez	Council Office	Jan Wells	Mayor's COS
Frank Nakamura	City Attorney	Doug Hill	Public Service Director
Tim Tingey	ADS Director	Amber Cypers	Lochner Engineering
Trae Stokes	Public Services	Sally Hofflemeyer-Katz	Citizen
Peri Kinder	Murray Journals	Justin Zollinger	Finance Director
Bill Finch	Citizen	Marc Bowman	UTA
Matt Carter	UTA		

Chairman Brass called the Committee of the Whole meeting to order at 5:30 p.m. and welcomed those in attendance.

Minutes

Mr. Brass asked for corrections or action on the minutes from the Strategic Plan Retreat held on January 30-31, 2012. Mr. Shaver moved approval; Mr. Hales seconded. The motion carried 5-0. Mr. Brass inquired if there were corrections on the minutes from the Committee of the Whole meeting held on February 7, 2012. Hearing none, Mr. Hales moved approval; Mr. Stam seconded. The motion was approved 5-0.

Business Item #1:

Installation of Bike Lanes on 4800 South – Doug Hill/Trae Stokes

Mr. Hill introduced Amber Cypers with Lochner Engineering who was involved with the City in putting together and advising the City on the striping plan. When the City last updated its General Plan, about 2006, the Plan included a trails and bikeways component. It was indicated

that as the City resurfaced streets bike lanes should be added to become more bike friendly as a City. To date that has not been done and actually, some bike lanes have been removed over the last 20 years as repaving and restriping was completed. There have not been many opportunities to add bike lanes; however, 4800 South was identified in the General Plan as being a good candidate for a shared bikeway system. As you know 4800 South was rebuilt last year and the striping will be done this spring. This is a perfect opportunity for the City to look at adding the bike lanes as has been talked about a number of times. Mr. Hill asked for feedback following the presentation as to whether or not it is really something the Council would like to do. The Mayor and staff believe it is something that needs to be done; it is in the General Plan; and it is a policy issue; however, it will have a negative effect for some people who live along 4800 South Street. You cannot always have a bike lane and public parking. There will be public involvement to get comments from the residents on 4800 South; although, at some point a policy decision must be made even if some folks are not in favor of the plan due to the conflict with parking spaces.

Mr. Brass asked why the lanes cannot be shared by both. As a biker, he travels Vine Street that is marked off for parking and generally he is able to bike there and go around cars. That idea would be addressed by Mr. Stokes in the presentation, Mr. Hill added.

Mr. Stokes mentioned that the only part of the rebuild remaining on 4800 South is to apply a one inch layer of asphalt from State Street to Van Winkle and the final striping. This is a good time to get some direction on the striping plan and whether bike lanes should be included.

Mr. Stokes began a power point presentation with the General Plan map showing all sorts of trails, bike routes, and bike lanes. Orange streets designate a separated shared path or trail. Those are typically on the creeks and rivers separated from the roadways. Red streets are on most of the major roadways and those are identified in the Plan as striped bike lanes or signed shared roadways.

Winchester Street has both orange and red, pointed out by Mr. Shaver. Mr. Hill said that when working on the General Plan, the residential business district zone was also being created. The consultant suggested the City should buy the homes on one side of the street to make space for a separated trail and parkway in conjunction with the public traffic.

The blue on Vine Street and 700 West were defined as signed shared roadways, Mr. Stokes continued.

The red on 4800 South indicates bike lanes or signed shared roadways from the river all the way to Van Winkle.

Mr. Stokes moved on to some illustrations showing the proposed configurations along 4800 South. Shared use paths work great, like on the Parkway, and are very popular. They are typically eight feet wide with a center line down the middle to separate traffic. The only negative is the cost for right of way and the cost to construct. They are ideal around creeks and rivers where some easement may be available.

Striped bike lanes are designated by white bike lane signs, pavement markings, striping and are usually five feet wide. The bike lane is for bike usage exclusively and no vehicles or parking are allowed in them. On a wide road you may have room for the traffic lane, a five foot wide bike lane, and parking. Mr. Shaver asked how wide the parking lane must be. Mr. Stokes

replied that using the pan of the gutter (two feet) and usually five and a half feet beyond that provides ample space for parking.

Ms. Cypers said that ideally, from the face of the curb to the outside strip of the bike lane requires about 12.5 feet. This is for parking and bike lanes.

Mr. Stokes commented that on narrower roadways, parking must be eliminated to accommodate the bike lane. On the 4800 South striping plan a combination of these is used.

Mayor Snarr asked what was being done on Sunnyside Avenue near the University of Utah. Ms. Cypers said that bike lanes were removed from Sunnyside due to the need for additional traffic lanes. One lane had been used for the bike lane and there was an outcry for the traffic lane.

Mr. Stokes showed an illustration of a signed shared roadway or a bike route where there is no fixed width and designation is by the green bike route sign. This answers Mr. Brass' earlier question. No striping is required and no other pavement markings are compulsory. Typically, the cyclist shares the shoulder with traffic, parked cars and other obstructions. Avid cyclists do not have an issue with bike routes, working their way through and keeping up with traffic. The family or recreational user that may be going to the parkway struggles with this a little more.

Mr. Stam pointed out that the only difference on this route is the sign to alert people to the bike usage. Mr. Stokes said that is all there is and it is an informational sign, not a regulatory sign. It can have a shoulder stripe. It is a regular roadway and cyclists just avoid parked cars and other hazards. Ms. Cypers said that this does not mean that bikers would use this route more than others.

Mr. Stokes explained that when considering bike lanes three criteria were identified by staff as being important:

- Striped bike lanes on 4800 South from State Street to Van Winkle were desired;
- Maintain as much on street parking as possible. Studies were done to determine the amount of parking on different days, different times and staff counted cars and noted locations. It was found that the majority of parked cars were from State to Atwood.
- Maintaining turn lanes at State, Atwood and Three Fountains was important to keep traffic moving.

These requirements were given to Ms. Cypers and she developed the striping plan that was presented subsequently.

A cross section from State Street to Atwood was shown. It is the widest section of 4800 South at about 50 feet and has parking on both sides of the road, five foot bike lanes on both sides and two 12 foot traffic lanes. It works out very nicely.

Moving east, Mr. Stokes pointed out, between Atwood and Cross Creek the road narrows a little bit. It is not quite wide enough to get on-street parking on both sides of the road. Parking is indicated on the south side of the road, bike lane in each direction (6 foot wide) and two 12 foot traffic lanes. The parking study did not show many parked cars in this area. This is striped.

East of Cross Creek the road narrows to about 36 feet wide. There is no way to accommodate parking on either side of the road. There would be two bike lanes and two traffic lanes. This is the plan all the way to Van Winkle. Street parking is used very rarely in this area. We noticed one home that has routine parking in the street and one of those is a rental with plenty of parking in the driveway. They store it on the road so that other cars do not have to move to allow them in and out, Mayor Snarr commented.

The turn lanes are included in the cross section at State Street, Atwood and Three Fountains, as well as, at Van Winkle.

Approaching Van Winkle the road does widen but there are a lot of turn lanes and no way to include parking in that area. Actually, on street parking is really not necessary there as people park inside the condo facility or in driveways.

For public involvement a packet would be assembled and hand delivered to all businesses and residents on 4800 South. The packet would have the cross section information and a postcard questionnaire with simple questions, such as: Do you support bike lanes? Would they support bike lanes on 4800 South? Would they object to bike lanes if parking had to be removed to accommodate the bike lanes? Additionally, we would create an on-line survey with a few questions and provide a space for comments. That would be collected over about a two week time period and then evaluated before making a final decision. If the feedback is positive then the City would like to move forward. If a lot of people have concerns a plan B can be devised and a date to come back to the Council for discussion would be set.

Mr. Shaver mentioned that the bike lanes will also affect people that live in the neighborhoods just off of 4800 South. He asked if signs could be put up on corners asking people to go to a website to express their opinions on bike lanes. Mr. Hill stated that something like that could be done.

Mr. Stam asked if signing for no parking would be done in the other areas. Mr. Stokes said that they would not have to sign for no parking, as once it is designated as a bike lane that is regulatory. For the areas where parking is allowed, could ticks be added to show parking spaces? Something like that could be done, Mr. Stokes responded.

Mr. Hill stated again, that the biggest issue is the policy decision. There would never be 100% of the people in favor of bike lanes; however, it is something the City needs to be committed to and complete them as roads are rebuilt. Vine Street and 5900 South will both be resurfaced soon. His only concern is if two to three people do not want them, due to the parking loss, then he could not see the City ever doing it. The results will be interesting; however, he feels the City should move forward on it recognizing it is for the betterment of the community as opposed to the few citizens that may be opposed.

Mr. Hill stated that the staff would report back with copies of the results following the resident surveys.

Business Item #2 **UTA Quiet Zone and Safety Upgrades in the Railroad Corridor**
– Marc Bowman & Matt Carter

Mr. Carter stated that his main purpose was to discuss quiet zones for the UTA FrontRunner South project between Salt Lake and Provo and implementation plans going forward with help from City Councils. The plan is to be open by the first or second week of

December 2012 for passenger riding; although, you could start seeing trains moving up and down the corridor in the next couple of months as they start extensive testing procedures to make sure the line operates correctly. The first three months will be one train moving through the corridor checking signals in very small sections and then by September they begin moving full length through the corridor to see if they can maintain a schedule. The commitment to the legislature for funding was to be operational by 2015; however, UTA knew they could beat that deadline.

Mr. Carter explained that the FRA (Federal Railroad Administration) requires that train horns be blown at every grade crossing as a safety feature. That imposes a lot of train noise to those outside the train grade crossing; therefore, in 2005 a rule was enacted for quiet zones to be implemented at grade crossings. In order to do that enough other safety measures must be installed to compensate for the safety of the horn. Knowing that there will be 60 to 70 more trains running through this area a day, UTA is committed to implementing the quiet zones throughout the entire corridor. There is a quiet zone between Salt Lake City and Ogden, which may be the longest continuous quiet zone in the country and once the Provo line is running the quiet zone will be extended another 45 miles. There will probably still be some horns heard; if the operator sees any safety issues at the grade crossing, then he is supposed to blow the horn.

The general safety features implemented by UTA on their quiet zones are lights and gates, which are usually on most grade crossings. Another feature installed is medians, 100 feet long in order to trap a vehicle and make jumping around the gate arms impossible. The addition of "No Train Horns" signage on the advanced warning sign before reaching the grade crossing makes the final safety feature. These features meet the criteria of the FRA for the quiet zone.

Mr. Carter showed some slides of the improvements made within the quiet zone. UTA has also improved the grade profiles going into the crossings to help with the safety. You may hear a term called a SSM (supplemental safety measure). The safety features being implemented for quiet zones are considered SSMs by the FRA.

The best safety measure is a grade separation shown on a slide with an overpass constructed. Utah Department of Transportation funded some betterments in Lehi to build some bridges for UTA and Union Pacific tracks. The other safety feature that qualifies is to close a grade crossing and the picture shown had cul-de-sacs created to divert traffic.

Before going into revenue service, UTA plans to conduct a safety campaign throughout all the cities. It will be "Operation Lifesaver" presented to schools, community groups or any other groups who would like the training. The big push for safety awareness will continue as a reminder for people to stay off the tracks, stay behind the yellow line and pay attention around the tracks. Track safety is looked at in three areas, called the 3Es of safety: education, enforcement and engineering.

Mr. Carter said that many people have a fear of the gate down time, concerned about waiting long periods as they have for Union Pacific freight trains, such as three to four minutes. UTA gate down time is typically less than 60 seconds, similar to a traffic light.

Mr. Shaver mentioned his understanding that the double side trains will not be quite as frequent as the TRAX trains. UTA does not run the headways that TRAX runs. UTA will run 30 minute headways during peak hours and 60 minute headways in off peak hours. That means in the morning you will see two trains every half hour, one each direction. At the Murray station

they will meet, so there you may see two trains really quick and none the rest of the half hour. Off peak you will see two trains every hour, Mr. Carter explained.

There is a process for execution of the quiet zone, beginning with an FRA ranking system to identify what is currently present at the crossing. FRA has a data base for entering this information on safety and a rating will be given. That has been completed. The corridor does qualify for the quiet zone with what has been implemented by UTA at the grade crossings. UTA is not allowed to implement the quiet zone; that must be done by the municipality with jurisdiction.

In the north UTA area, the cities came together and selected one city to be the representing party and submit the entire corridor on behalf of the other cities. Lehi has volunteered to take that responsibility on this line and they have the most crossings on the railroad.

Mr. Hill commented that Murray City took the lead role on the TRAX line. Mr. Carter said that an agreement would be signed by all the cities to give authority to the one lead city and a second agreement was made between the lead city and UTA to work together through the process. The only cities involved are those with grade crossings on the railroad tracks. A draft agreement can be left with Murray for Frank Nakamura to read.

Between April and May UTA hopes to get the agreements with the cities finalized and signed. The next major step is to issue a NOI (Notice of Intent) to all the railroads giving them notice of the plans to implement the quiet zone. They have a 30 day comment period and UTA will address issues related to that. Finally, a NOE (notice of establishment) is sent out to let railroads know that the quiet zone is being established. When the federal regulations are met, it is not necessary to have the FRA give an approval. There is a waiting period and then the quiet zone is implemented.

UTA is hoping to implement the quiet zone prior to the FrontRunner opening. If the schedule is kept, it would go into effect in October. In the north UTA began the process a little later and the quiet zone was implemented about two weeks after the opening. If the trains begin testing in May, then horns will be blown during the months until October. This will be the warning to the citizens that trains are there and Murray may get some calls about that, Mr. Carter stated.

Mr. Shaver asked if any notification would be sent to the citizens. Mr. Carter responded that there is no requirement to send anything out to citizens around the grade crossings. Mayor Snarr mentioned that there would be press coverage and Mr. Carter said that the safety campaigns would be a sort of notification.

Mr. Carter commented that he would be working with the City staff and attorneys on getting the agreements prepared and processed so that they can go through the City Council. Mr. Nakamura asked about the private railroads awareness of this process. Mr. Carter stated that they are fully aware of what UTA is doing and no problems were anticipated. They are specifically concerned about being notified so they are not fined for blowing their horns for no reason in a quiet zone.

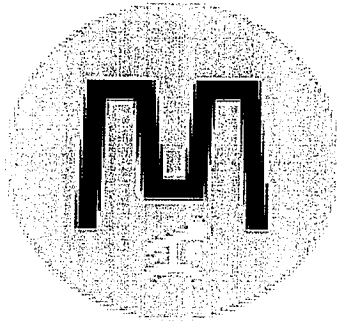
Mr. Brass asked Mr. Wagstaff to address this handbook. He said that the handbook is the collection of the thoughts and discussions that have taken place over the past few years and he asked for feedback from the Council and if they want something more or less included in the handbook. It is an internal document.

Mr. Nicponski asked if the travel policy had been added to the book. Mr. Wagstaff said there is not a travel policy but it could be included. Mr. Nicponski said the handbook would be a valuable asset and things like the travel policy should be incorporated. Looking at the samples provided from a Washington city and South Salt Lake's (or Ogden's) policy, having Mr. Wagstaff develop something in that regard and integrating it is a good place for all these things to come together.

Mr. Shaver suggested putting together the travel policy and making it inclusive, rather than adopting the policy at that time. Others agreed and Mr. Brass advised to get a travel policy on the agenda.

There being no additional business the meeting was adjourned at 6:22 p.m.

Janet M. Lopez
Council Office Administrator



MURRAY
CITY COUNCIL

Discussion Item #1

Murray City Municipal Council

Request for Council Action

INSTRUCTIONS: The City Council considers new business items in Council meeting. All new business items for the Council must be submitted to the Council office, Room, 112, no later than 5:00 p.m. on the Wednesday two weeks before the Council meeting in which they are to be considered. This form must accompany all such business items. If you need additional space for any item below, attach additional pages with corresponding number and label.

1. **TITLE:** (Similar wording will be used on the Council meeting agenda.)
TRANS-JORDAN LANDFILL FEE INCREASE PRESENTATION
2. **KEY PERFORMANCE AREA:** (Please explain how request relates to Strategic Plan Key Performance Areas.)
ENGAGED AND INFORMED RESIDENTS; WELL MAINTAINED, PLANNED AND PROTECTED INFRASTRUCTURE AND ASSETS.

3. **MEETING, DATE & ACTION:** (Check all that apply)

☐ Council Meeting OR ☒ Committee of the Whole

☒ Date requested APRIL 17, 2012

☒ Discussion Only

☐ Ordinance (attach copy)

Has the Attorney reviewed the attached copy? ☐

☐ Resolution (attach copy)

Has the Attorney reviewed the attached copy? ☐

☐ Public Hearing (attach copy of legal notice)

Has the Attorney reviewed the attached copy? ☐

☐ Appeal (explain) _____

☐ Other (explain) _____

4. **FUNDING:** (Explain budget impact of proposal, including amount and source of funds.)
PROPOSED TRANS-JORDAN FEE WILL INCREASE EXPENSES TO SOLID WASTE FUND

5. **RELATED DOCUMENTS:** (Attach and describe all accompanying exhibits, minutes, maps, plats, etc.)
MEMO

6. **REQUESTOR:**

Name: DOUG HILL

Title: PUBLIC SERVICES DIRECTOR

Presenter: DWAYNE WOOLLEY

Title: TRANS-JORDAN LANDFILL

Agency: MURRAY CITY

Phone: 801-270-2404

Date: March 21, 2012

Time: _____

7. **APPROVALS:** (If submitted by City personnel, the following signatures indicate, the proposal has been reviewed and approved by Department Director, all preparatory steps have been completed, and the item is ready for Council action)

Department Director: *Doug Hill*

Date: 3/21/12

Mayor: *Daniel C. Shan*

Date: 3/21/12

8. **COUNCIL STAFF:** (For Council use only)

Number of pages: _____ Received by: _____ Date: _____ Time: _____

Recommendation: _____

9. **NOTES:**

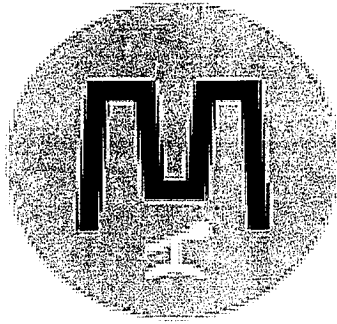


MEMO

To: Mayor Daniel C. Snarr
From: Doug Hill, Public Services Director
Cc: Jan Wells, Chief of Staff
Russ Kakala, Streets and Storm Water Superintendent
Justin Zollinger, Finance Director
Date: March 21, 2012
Subject: Trans-Jordan Landfill Rate Increase

The Trans-Jordan Landfill is proposing to increase the tipping fees for member entities. I am requesting that Dwayne Woolley, General Manager, of Trans-Jordan Landfill present the purpose for this fee increase to the City Council.

Thank you for your assistance.



MURRAY
CITY COUNCIL

Discussion Item #2

Murray City Municipal Council

Request for Council Action

INSTRUCTIONS: The City Council considers new business items in Council meeting. All new business items for the Council must be submitted to the Council office, Room, 112, no later than 5:00 p.m. on the Wednesday two weeks before the Council meeting in which they are to be considered. This form must accompany all such business items. If you need additional space for any item below, attach additional pages with corresponding number and label.

1. **TITLE:** (Similar wording will be used on the Council meeting agenda.)

CONSIDER AN ORDINANCE AMENDIING THE FISCAL YEAR 2011-2012 CITY BUDGET

2. **KEY PERFORMANCE AREA:** (Please explain how request relates to Strategic Plan Key Performance Areas.)
FINANCIALLY SUSTAINABLE

3. **MEETING, DATE & ACTION:** (Check all that apply)

☐ Council Meeting OR ☒ Committee of the Whole

☒ Date requested APRIL 17TH 2012

☒ Discussion Only

☒ Ordinance (attach copy)

Has the Attorney reviewed the attached copy? YES

☐ Resolution (attach copy)

Has the Attorney reviewed the attached copy?

☐ Public Hearing (attach copy of legal notice)

Has the Attorney reviewed the attached copy?

☐ Appeal (explain)

☐ Other (explain)

4. **FUNDING:** (Explain budget impact of proposal, including amount and source of funds.)
SEE ATTACHED MEMOS AND ORDINANCE

5. **RELATED DOCUMENTS:** (Attach and describe all accompanying exhibits, minutes, maps, plats, etc.)
MEMOS FROM JUSTIN & DAN BARR

6. **REQUESTOR:**

Name: Justin Zollinger

Title: Finance Director

Presenter: Justin Zollinger

Title: Finance Director

Agency: Murray City Corporation

Phone: 801-264-2606

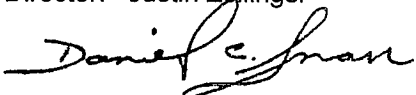
Date: April 4th 2012

Time:

7. **APPROVALS:** (If submitted by City personnel, the following signatures indicate, the proposal has been reviewed and approved by Department Director, all preparatory steps have been completed, and the item is ready for Council action)

Department Director: Justin Zollinger

Date: April 4th 2012

Mayor: 

Date: April 4th 2012

8. **COUNCIL STAFF:** (For Council use only)

Number of pages: Received by: Date: Time:

Recommendation:

9. **NOTES:**



MURRAY CITY CORPORATION
FINANCE & ADMINISTRATION

Date: 4/4/2012
To: City Council Members
From: Justin Zollinger, Finance Director
Subject: Budget Opening

This letter is to request a budget opening for a transfer from the General Fund to the Capital Projects Fund in the amount of 3,000,000. This amount will be used to fund fiscal year 2013 governmental CIP projects and maintenance. The budget accounts and amounts are as follows:

010-0000-394.00-00 3,000,000

010-0410-480.92-11 3,000,000

041-0000-392.10-00 3,000,000

041-4101-490.94-00 3,000,000

Last, the Retained Risk Fund needs additional budget for professional services. The budget accounts and amounts are as follows:

062-0000-394.00-00 100,000

062-6201-620.31-10 100,000

If you need any additional information please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Justin Zollinger'.

Justin Zollinger
Finance Director
Murray City



MURRAY
LIBRARY

Take Me There

From: Dan 
To: Justin
Re: Budget Reopen
Date: 3/26/12

The Library would like to transfer \$10,000 of reserve funds from account 23-0000-394.00-00 to expenditure account 23-2301-471.73-10 in the FY 2012 operating budget.

This is to permit the Library to use a portion of the Anna Wood Endowment principle to support the Centennial Legacy Stained Glass Project. Mr. Lew Wood has agreed to this use of endowment funds (see attached agreement amendment).

Please prepare a resolution requesting this transfer for the consideration of the City Council.

Thank you.

cc: Mike Wagstaff, City Council Executive Secretary
Bruce Cutler, Murray Library Board President

AMENDMENT
TO THE 1998 GIFT AGREEMENT BETWEEN MURRAY CITY AND O. LEW WOOD
AND YVONNE E. WOOD ESTABLISHING THE ANNA J. WOOD MEMORIAL
ENDOWMENT FOR THE MURRAY CITY, UTAH PUBLIC LIBRARY

The Parties, Murray City Corporation ("City") and O. Lew Wood and Yvonne E. Wood, ("Donors") entered into a Gift Agreement ("Gift Agreement") establishing the Anna J. Wood Memorial Endowment for the Murray City Library on December 18, 1998. This Amendment shall amend the Gift Agreement to authorize a one-time exception to the conditions of the Gift Agreement for support of the Murray Library Centennial Legacy Project.

RECITALS

WHEREAS, City and Donors have entered into a Gift Agreement establishing the Anna J. Wood Memorial Endowment for the Murray City, Utah Library; and

WHEREAS, the intent of the Gift Agreement is to have the investment earnings generated by the original endowment used to provide additional library media resources for its patrons' use; and

WHEREAS, pursuant to the Gift Agreement, the City has agreed not to expend the principle of the endowment; and

WHEREAS, the City seeks to raise funds for the Murray Library Centennial Legacy Project, including the design, production, and installation of a stained glass window in the Library; and

WHEREAS, the endowment has not generated investment earnings as originally anticipated due to economic circumstances and low interest rates; and

WHEREAS, the Parties agree that pursuant to the terms and conditions below, a one-time exception may be made to the Gift Agreement, allowing partial funds from the endowment to be used for the Murray Library Centennial Legacy Project; and

THEREFORE, the Parties amend the 1998 Gift Agreement as follows:

AGREEMENT

- A. Donors agree that \$10,000.00 of the principle in the Anna J. Wood Memorial Endowment may be used to support the Murray Library Centennial Legacy Project (the "Project"), including the design, production and installation of a stained glass window in the Library, on the conditions that:
1. An additional \$10,000.00 of outside matching funds must be raised before the principle may be used for the Project.
 2. If \$10,000.00 of outside matching funds is raised, \$10,000.00 of the principle of

the endowment may be used for the Project. If the principle of the endowment is reduced by \$10,000.00 for the Project, no further funds may be expended pursuant to the Gift Agreement until the interest earned replenishes the principle to the original endowment amount of \$25,000.00.

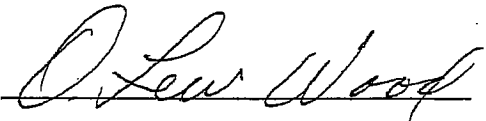
B. All other relevant terms of the 1998 Agreement shall govern this Amendment.

DATED this 16 day of March 2012.

MURRAY CITY CORPORATION

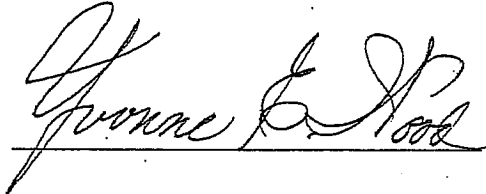
O. Lew Wood

Daniel C. Snarr, Mayor



ATTEST:

Yvonne E. Wood



APPROVED AS TO FORM:

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FISCAL YEAR 2011 - 2012 City Budget

PREAMBLE

On June 21, 2011, the Murray City Municipal Council adopted the City's budget for Fiscal Year 2011 - 2012. It has been proposed that the City amend its Fiscal Year 2011-2012 Budget as follows:

1. Transfer \$3,000,000 from the General Fund Reserves to the Capital Projects Fund.
2. Budget Appropriation of \$100,000 from Retained Risk Reserves.
3. Budget Appropriation of \$10,000 from Library Fund Reserves.

Section 10-6-128 of the Utah Code states that the budget for the City may be amended by the Murray City Municipal Council after considering input from a duly noticed public hearing. Pursuant to proper notice, the Murray City Municipal Council held a public hearing on May 1, 2012 to consider the proposed amendments to the 2011 – 2012 Fiscal Year Budget. After considering public comment, the Murray City Municipal Council wants to amend the 2011 – 2012 Fiscal Year Budget as proposed.

BE IT ENACTED by the Murray City Municipal Council as follows:

Section 1. *Purpose.* The purpose of this Ordinance is to amend the City's 2011 – 2012 Fiscal Year Budget.

Section 2. *Enactment.* The City's 2011 – 2012 Fiscal Year Budget shall be amended as follows:

1. Transfer \$3,000,000 from the General Fund Reserves to the Capital Projects Fund.
2. Budget Appropriation of \$100,000 from Retained Risk Reserves.
3. Budget Appropriation of \$10,000 from the Library Fund Restricted Reserves.

Section 3. *Effective Date.* This Ordinance shall take effect on first publication.

PASSED, APPROVED AND ADOPTED by the Murray City Municipal Council on
May 1, 2012.

MURRAY CITY MUNICIPAL COUNCIL

James A. Brass, Chair

ATTEST:

Jennifer Kennedy
City Recorder

MAYOR'S ACTION: Approved

DATED this ____ day of _____, 2012.

Daniel C. Snarr, Mayor

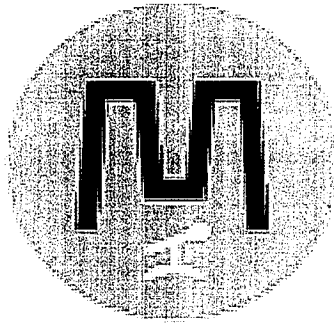
ATTEST:

Jennifer Kennedy, City Recorder

CERTIFICATE OF PUBLICATION

I hereby certify that this Ordinance or a summary hereof was published according to law on the ____ day of _____, 2012.

City Recorder



MURRAY
CITY COUNCIL

Discussion Item #3

Murray City Municipal Council

Request for Council Action

INSTRUCTIONS: The City Council considers new business items in Council meeting. All new business items for the Council must be submitted to the Council office, Room, 112, no later than 5:00 p.m. on the Wednesday two weeks before the Council meeting in which they are to be considered. This form must accompany all such business items. If you need additional space for any item below, attach additional pages with corresponding number and label.

1. **TITLE:** (Similar wording will be used on the Council meeting agenda)
CONSIDER A DISCUSSION RE: CIP RECOMMENDATIONS AND VEHICLE REPLACEMENT POLICY

2. **MEETING, DATE & ACTION:** (Check all that apply)

___ Council Meeting OR ☒ Committee of the Whole

☒ Date requested APRIL 17TH 2012

☒ Discussion Only

___ Ordinance (attach copy)

Has the Attorney reviewed the attached copy? ___

___ Resolution (attach copy)

Has the Attorney reviewed the attached copy? ___

___ Public Hearing (attach copy of legal notice)

Has the Attorney reviewed the attached copy? ___

___ Appeal (explain) _____

___ Other (explain) _____

3. **ATTENDING POLICY:** (This Section is not required until after the City-wide Strategic Plan is completed - toward the end of 2011) (Please explain how request relates to city-wide policy)
WELL MAINTAINED, PLANNED AND PROTECTED INFRASTRUCTURE AND ASSETS

4. **FUNDING:** (Explain budget impact of proposal, including amount and source of funds.)
WILL BE DISCUSSED

5. **RELATED DOCUMENTS:** (Attach and describe all accompanying exhibits, minutes, maps, plats, etc.)
MEMO AND LIST OF RECOMMENDATIONS

6. **REQUESTOR:**

Name: Daniel C. Snarr

Title: Mayor

Presenters: CIP Committee

Title: Administration and City Council Committee members

Agency: Murray City Corp./Council

Phone: 801-264-2606

Date: April 6th 2012

Time: _____

7. **APPROVALS:** (If submitted by City personnel, the following signatures indicate, the proposal has been reviewed and approved by Department Director, all preparatory steps have been completed, and the item is ready for Council action)

Department Director: *Daniel C. Snarr* Date: April 6th 2012

Mayor: *Daniel C. Snarr* Date: April 6th 2012

8. **COUNCIL STAFF:** (For Council use only)

Number of pages: _____ Received by: _____ Date: _____ Time: _____

Recommendation: _____

9. **NOTES:**



**MURRAY CITY CORPORATION
OFFICE OF THE MAYOR**

Daniel C. Snarr, Mayor

Jan Wells, Chief of Staff

801-264-2600 FAX 801-264-2608

MEMO

To: Murray City Council
Michael Wagstaff, Executive Director
From: Mayor Dan Snarr
Date: April 6, 2012
RE: CIP Recommendations and Vehicle Replacement Policy

The CIP Committee has been meeting and would like to discuss the recommendations with you for funding for the 2013 fiscal year. As part of this process, we have reviewed and recommend that a vehicle replacement policy be considered for adoption along with this. Both of these lists are attached.

The Committee is looking forward to the discussion.

Thank you.

**Capital Projects - General Fund
(Worksheet 2013)**

Department	Projects	Dept. Priority	Funding Amount	Recommendations for FY 2013	Budget Reserved for FY 2014
ADS	New City Hall and Parking Structure	1	\$30 million		
ADS	Consultant for General Plan	2	\$ 50,000.00		
Police	Radio System	1	\$500,000 to \$700,000	\$ 250,000.00	
Police	Garage for Swat Vehicles	2	\$ 340,000.00		
Police	City Security Badges	2	\$ 40,000.00	\$ 40,000.00	
PS - Public Works	Radar Speed Signs (20)	2	\$ 120,000.00	\$ 10,000.00	
PS - Public Works	5900 So. - State to 700 W. Design and ROW	1	\$ 100,000.00	\$ 100,000.00	
PS - Public Works	HAWK Ped. Signal	3	\$ 60,000.00	\$ 3,000.00	
PS - Parks and Recreation	Participate on Hillcrest Jr. High	1	\$ 3,500,000.00		
PS - Parks and Recreation	Restroom at Southwood	1	\$ 220,000.00	\$ 220,000.00	
PS - Parks and Recreation	Arts Center Final Plans	1	\$2 million		
PS - Parks and Recreation	Golf Course Irrigation	1	\$2 million	\$ 100,000.00	
PS - Parks and Recreation	Master Plan update	2	\$ 80,000.00	\$ 16,000.00	
			Total Capital Projects	\$ 739,000.00	
IT Capital and Maintenance (M)					
ADS - IT (M)	Replace Selectron IVR	1	\$ 8,500.00	\$ 8,500.00	
ADS - IT	Lease IBM I Series Server	4	\$ 28,500.00	\$ 28,500.00	
ADS - IT	Increase SAN Disk	2	\$ 55,000.00	\$ 55,000.00	
ADS - IT (M)	Server Replacement for VmWare (Police info)	3	\$ 12,000.00	\$ 12,000.00	
ADS - IT (M)	Plotter/Scanner for GIS	5	\$ 9,000.00	\$ 1,000.00	
Police (M)	Storage Server	1	\$ 18,000.00	\$ 18,000.00	
Police	RMS Server	2	\$ 35,100.00		\$ 10,000.00
PS - Parks and Recreation (M)	High Speed Duplicator	1	\$ 10,000.00		\$ 5,000.00

Department	Projects	Dept. Priority	Funding Amount	Recommendations for FY 2013	Budget Reserved for FY 2014
PS - Parks and Recreation (M)	CLASS League Module	2	\$ 5,000.00		
Fire (M)	Zoll upgrade	1	\$ 3,500.00	\$ 3,500.00	
Fire (M)	6 Latitude E6400 XFR	2	\$ 15,000.00		
Fire (M)	Fire Programs Web version	3	\$ 3,000.00	\$ 3,000.00	
Attorney (M)	Shredder	1	\$ 2,500.00	\$ 2,500.00	
			Total Capital Maintenance IT	\$ 132,000.00	
Capital Maintenance - Vehicles and Equipment					
Police	Replace patrol cars (22)	1	\$ 594,000.00	\$ 210,600.00	
Police	Vehicle Equipment (22)	1	\$ 178,200.00		
Fire	Turn out gear (12)	on-going	\$ 36,420.00	\$ 36,420.00	
Fire	Breathing Apparatus	10 yr replacement	\$ 31,000.00	\$ 31,000.00	
ADS - Building Insp.	Replace vehicle	1	\$ 22,000.00	\$ 22,000.00	
ADS - Com. Dev.	Replace vehicle	2	\$ 20,000.00		
PS - Public Works	Bobtail patching truck	1	\$ 115,000.00	\$ 115,000.00	
PS - Public Works	Asphalt recycler	2	\$ 35,000.00		
PS - Public Works	10 wheel dump truck	3	\$ 195,000.00	\$ 195,000.00	
PS - Public Works	Bobtail truck and plow	4	\$ 95,000.00		
PS - Engineering	Replace compact pickup	1	\$ 20,000.00	\$ 20,000.00	
PS - Parks	Replace pickup	1	\$ 20,000.00	\$ 20,000.00	
PS - Parks	Replace Pickup	2	\$ 20,000.00	\$ 20,000.00	
PS - Parks	Deck Mower	3	\$ 60,000.00	\$ 60,000.00	
PS - Parks	Utility Vehicle	4	\$ 8,500.00	\$ 8,500.00	
PS - Parks	Utility Vehicle	5	\$ 8,500.00	\$ 8,500.00	
PS - Parks	5 ft. mower	6	\$ 18,000.00	\$ 18,000.00	
PS - Parks	5 ft. mower	7	\$ 18,000.00		
PS - Parks	Replace pickup	8	\$ 20,000.00		

Department	Projects	Dept. Priority	Funding Amount	Recommendations for FY 2013	Budget Reserved for FY 2014
PS - Cemetery	Mower	1	\$ 17,500.00	\$ 17,500.00	
PS - Golf Course	2 greens electric mowers	1	\$ 11,000.00		
PS - Golf Course	Pickup for irrigation	2	\$ 18,000.00		
PS - Golf Course	Large leaf blower	3	\$ 10,000.00		
PS - Golf Course	Fairway mower	4	\$ 65,000.00		
Fire	Refurbish Engine 81	1	\$ 175,000.00	\$ 175,000.00	
Fire	Ambulance Purchase	2	\$ 200,000.00		\$ 50,000.00
			Total Capital Maintenance Vehicles & Equipment	\$ 957,520.00	
Capital Maintenance - Buildings & Facilities					
ADS	Seal City Hall Windows	1	\$ 10,000.00	\$ 10,000.00	
ADS	Repair roof on City Hall	2	\$ 10,000.00	\$ 10,000.00	
ADS	Replace carpet in City Hall	3	\$ 22,000.00	\$ 11,000.00	
ADS	Office Furniture	4	\$ 3,000.00		
PS - Public Works	SWAPP improvements (mandate)	1	\$ 20,000.00	\$ 20,000.00	
PS - Public Works	Jersey Barrier for yard (mandate)	2	\$ 20,000.00	\$ 20,000.00	
PS - Public Works	Concrete bins(mandate)	3	\$ 25,000.00	\$ 25,000.00	
PS - Public Works	Finish light upgrade	4	\$ 10,000.00	\$ 1,000.00	
PS - Public Works	Patch PS parking lot	5	\$ 23,000.00	\$ 2,000.00	
PS - Public Works	Elevator	6	\$ 80,000.00		
PS - Parks	Playground Hidden Village	1	\$ 30,000.00	\$ 30,000.00	
PS - Parks	Playground Southwood	2	\$ 30,000.00		
PS - Parks	Fall material	3	\$ 9,000.00	\$ 9,000.00	
PS - Parks	Asphalt JR trail	4	\$ 125,000.00	\$ 5,000.00	
PS - Parks	Picnic tables	5	\$ 50,000.00	\$ 10,000.00	
PS - Parks	Amphitheater lights	6	\$ 35,000.00	\$ 10,000.00	
PS - Parks	Amphitheater roof	7	\$ 15,000.00		\$ 5,000.00

Department	Projects	Dept. Priority	Funding Amount	Recommendations for FY 2013	Budget Reserved for FY 2014
PS - Parks	Park Office carpet	8	\$ 15,000.00	\$ 5,000.00	
PS - Cemetery	Road removal	1	\$ 30,000.00		\$ 15,000.00
PS - Cemetery	Niche	2	\$ 17,500.00	\$ 17,500.00	
PS - Cemetery	Road Overlay	3	\$ 150,000.00		\$ 30,000.00
PS - Cemetery	Office building roof	4	\$ 15,000.00	\$ 15,000.00	
PS - Heritage Center	Exercise equipment	1	\$ 2,500.00	\$ 2,500.00	
PS - Heritage Center	Design Work Space	2	\$ 4,000.00		
PS - Heritage Center	Finish entrance	3			
PS - Park Center	Replace water tower stairs	1	\$ 215,000.00	\$ 215,000.00	
PS - Park Center	Replaster pools	2	\$ 75,000.00	\$ 75,000.00	
PS - Park Center	Exercise Equipment	3	\$ 70,000.00	\$ 20,000.00	
PS - Park Center	Backup circulation pump	4	\$ 5,000.00	\$ 5,000.00	
PS - Park Center	CLASS fingerprint scanner	5	\$ 7,000.00		
PS - Park Center	Back up impeller	6	\$ 1,500.00		
PS - Swimming Pool	Outside pool cover	1	\$ 34,858.00	\$ 34,858.00	
PS - Golf Course	Upgrade corner landscape	1	\$ 6,000.00		
			Total Capital Maintenance	\$ 552,858.00	
Capital Maintenance - Streets					
			Streets	\$ 500,000.00	
			Total Streets Maintenance	\$ 500,000.00	
			Total CIP Budget	\$ 2,881,378.00	\$ 115,000.00

Vehicle and Equipment Replacement Policy

DRAFT

Purpose:

To provide a fiscally responsible vehicle and equipment replacement policy that will guide the City to maximize vehicle utilization.

Policy:

Replacement criteria for City-owned vehicles will depend on one of the following: 1) Meeting the minimum mileage/hours requirement in the Category; 2) The vehicle no longer meets the City needs as justified by the Department; 3) On a point system, attached as Appendix "A", which is based upon:

1. Age
2. Miles/Hour Usage
3. Type of Service
4. Maintenance and Repair Costs (not to include preventative maintenance and accident damages)
5. Condition (body, interior and power train)

Point Range Chart Note: The City may decide to retain a vehicle beyond the stated criteria after evaluation of anticipated usage, repairs and operating costs.

Each vehicle has been placed into a category, as listed below, so a replacement standard can be followed:

Category "A"

This category consists of the City's Car Per-Employee Program which includes; Administrative, Detective, and other vehicles that are assigned to employees (excluding Police Department Patrol Vehicles). Since these vehicles are assigned to an employee, it is expected that they will be better maintained, thus the targeted replacement cycle should not be earlier than 120,000 miles or until the required point range has been met.

Category "B"

This category consists of the Police Department's Patrol vehicles, Fire Department ambulances and all other cars and pickups. These vehicles should not be replaced earlier than 100,000 miles or until the required point range has been met.

Category "C"

This category consists of all trucks, including fire engines, with a Gross Vehicle Weight Rating (GVWR) of 26,000 and above. These vehicles should not be replaced earlier than 100,000 miles or 6,000 operating hours or until the required point range has been met.

Category "D"

This consists of heavy off-road equipment (loaders, backhoes, graders, etc.). These pieces of equipment should not be replaced earlier than 6,000 hours or until the required point range has been met.

Category "E"

This category consists of Street Sweepers that are used daily to serve the public. These vehicles should not be replaced earlier than 5,000 hours or until the required point range has been met.

Category "F"

This category consists of other off-road equipment (tractors, mowers, and other small riding equipment). This equipment should not be replaced earlier than 2500 hours or until the required point range has been met.

Category "G"

This category consists of trailers, pumps, generators and other small equipment. This equipment should be replaced when the total maintenance costs exceed the original purchase price.

Appendix "A"

Point Range for Replacement Consideration

<u>Point Scale</u>	<u>Condition</u>	<u>Description</u>
17 points and under	Excellent	Do Not Replace
18 to 22 points	Good	Re-evaluate in next year's budget
23 to 27 points	Fair	Qualifies for replacement this year, if budget allows
28 + points	Poor	Needs priority replacement

Replacement Guidelines

<u>Factor</u>	<u>Points</u>	<u>Description</u>
Age	1	Each year of chronological age
Mileage/ Hours	1	Each 10,000 miles or 250 hours
Type of Service	3	Snow removal use
Use	5	Daily emergency vehicle use/ Police and Fire
Maintenance and repair costs	1	Lifetime repair costs are 21% to 40% of replacement cost
	2	Lifetime repair costs are 41% to 60% of replacement cost
	3	Lifetime repair costs are 61% to 80% of replacement cost
	4	Lifetime repair costs are 81% or more than replacement cost
Condition	1	Drive train/ Operating system is experiencing some issues
	3	Drive train/ Operating system is inoperable
	1	Minor imperfections in body and paint
	2	Minor imperfections in body and paint, rusting is occurring
	3	Poor body and paint, rust holes

Adjournment

Council Meeting

6:30 p.m.

Call to Order

Opening Ceremonies:

Pledge of Allegiance

Council Minutes

DRAFT

**Murray City Municipal Council
Chambers
Murray City, Utah**

The Municipal Council of Murray City, Utah, met on Tuesday, the 20th day of March, 2012 at 6:30 p.m., for a meeting held in the Murray City Council Chambers, 5025 South State Street, Murray, Utah.

Roll Call consisted of the following:

Jim Brass,	Council Chair
Brett Hales,	Council Member
Darren Stam,	Council Member
Jared Shaver,	Council Member
Dave Nicponski,	Council Member - Conducted

Others who attended:

Dan Snarr,	Mayor
Jan Wells,	Chief of Staff
Jennifer Kennedy,	City Recorder
Frank Nakamura,	City Attorney
Pete Fondaco,	Police Chief
Craig Burnett,	Assistant Police Chief
Tim Tingey,	Administrative & Developmental Services
Doug Hill,	Public Services Director
Gil Rodriguez,	Fire Chief
Justin Zollinger,	Finance Director
Dan Barr,	Library Director
Chad Wilkinson,	Division Manager
Dustin Matsumori,	George K. Baum and Associates
Scouts	
Citizens	

5. OPENING CEREMONIES

5.1 Pledge of Allegiance – Girl Scout Troop #2267

5.2 Approval of Minutes for February 7, 2012 and February 21, 2012.

Call vote taken, all ayes.

5.3 Special Recognition

None scheduled

6. CITIZEN COMMENTS (Comments are limited to 3 minutes unless otherwise approved by the Council.)

Bill Finch, 1055 Chevy Chase Drive, Murray Utah

Mr. Finch said that he is still concerned over the zoning of the annexed area; the County Attorney had told him that there is nothing that he can do about it and that Murray City can do what they want to do, so there is a dead end there. Mr. Finch said that Mr. Shurtliff, the State Attorney has promised to look into this and Mr. Finch also has one person up on the hill that researches laws and laws that have gone to court. He has also piqued the interest, up on the hill, of two senators and three House members and he is still very concerned about Murray City honoring properties that were zoned for light commercial, professional and office use and he would like the City to really think about this because it will be coming up at the next Council meeting.

Mr. Finch added that he appreciates Murray City-it is a well-run city; he investigated the city prior to annexing into the city and he feels it has been very well managed and Mayor Snarr and the Council have done an excellent job. He is just very concerned that the city should honor the zoning that they worked hard on for 20 years.

Citizen comment closed

7. CONSENT AGENDA

7.1 None scheduled

8. **PUBLIC HEARINGS**

Staff and sponsor presentations and public comment prior to Council action on the following matter:

8.1 Consider an Ordinance adjusting Murray City Municipal Council District Boundaries.

Staff presentation: Jennifer Kennedy, City Recorder

Ms. Kennedy stated that Utah Code requires that within six months of the Legislature finishing their redistricting, the City is required to finish theirs. We look at our five Council Districts and make sure that the population is distributed evenly among all of them with a 4% variance.

Ms. Kennedy also stated that on February 21, 2012, the Committee of the Whole met and discussed some suggestions, and as you can see from the proposal, this will make the population more equal throughout the Council Districts. The changes that are being proposed are: transfer 1,287 people from District #1 to District #3; 662 people from District #4 to District #5; and 30 people from District #3 to District #4 to get rid of that little finger of area. These are minimal changes that will help to distribute the population equally throughout the districts and are asking for recommendation of this proposal.

Public hearing opened for public comment.

None given.

Public comment continued to April 3, 2012.

Council consideration of the above matter:

Mr. Nicponski asked if this will be approved after the 14 days, on April 3, 2012.
Ms. Kennedy said that yes that is the process.

Mr. Brass made a motion to continue the public hearing to April 3, 2012.
Mr. Shaver 2nd the motion.

Call vote recorded by Jennifer Kennedy.

A Mr. Stam
A Mr. Brass
A Mr. Shaver
A Mr. Hales
A Mr. Nicponski

Motion passed 5-0

Staff and sponsor presentations and public comment prior to Council action on the following matter:

8.2 Consider an Ordinance adjusting Murray City School Board District Boundaries.

Staff presentation: Jennifer Kennedy, City Recorder

Ms. Kennedy stated that the Utah Code states that whenever a school district is contained entirely within a municipal boundary, it is the municipality's responsibility to divide that school district into equal precincts. As with the process for redistricting, they look at all of the five districts; on February 21, 2012, the Committee of the Whole met and came up with the proposal before the Council. The school district was a little bit tricky because in order to keep the voting precincts without splitting-which would have increased the costs for elections for the school district-they ended up shifting things around. The voter precincts remain the same, and it is recommended that this proposal be approved.

Ms. Kennedy showed the precincts, by color, in her presentation, adding that the Granite School District boundaries that fall within the Murray annexed areas cannot be included in the Council redistricting.

Public hearing opened for public comment.

Bruce Cutler, 6051 Mohican Circle, Murray, Utah

Mr. Cutler asked if this impacts any of the current school board members or change their districts.

Mr. Brass explained that it changes all of the districts because but not the members if they continue to reside in that district.

A concern was also noted on how this would change the Murray Library Board, and it was asked if those currently serving on the Library Board would remain until their time is up, or if that would need to be changed as well if they end up not being in the same district that they were in before.

Mr. Shaver said that he thought they would remain until the end of their term and then be reappointed based on the districts.

Mr. Nakamura added that this would take effect, if voted for, after the April 3, 2012 meeting.

Public comment continued to April 3, 2012.

Council consideration of the above matter:

Mr. Shaver made a motion to continue the public hearing until April 3, 2012.
Mr. Stam 2nd the motion.

Call vote recorded by Jennifer Kennedy.

A Mr. Stam
A Mr. Brass
A Mr. Shaver
A Mr. Hales
A Mr. Nicponski

Motion passed 5-0

9. **UNFINISHED BUSINESS**

None scheduled

10. NEW BUSINESS

- 10.1 Consider a resolution approving an Interlocal Cooperation Agreement between Murray City, Bluffdale City, Sandy City, South Jordan City, South Salt Lake City, West Jordan City and West Valley City ratifying the formation and operation of the Metro Fire Agency.

Staff presentation: Jan Wells, Chief of Staff

Ms. Wells stated that in June of 2009, the Metro Fire Agency was formed and it was established to help the cities work together, to create an economy of scale as far as purchasing, training and capabilities; for example, here in Murray, our firefighters are the swift water rescue specialists and they provide that service to the other metro cities, others are the hazmat or bomb specialists. We have used this entity to share services and to have our resources go a little farther; it has been very successful.

The original agreements that were put into place in 2009, for whatever reason, were not all the same; they had also agreed that every three years, they would bring this agreement back to discuss and make sure that everyone was in sync and readopt the resolution. The Board of Trustees has reviewed this and has recommended that there is one document with technical adjustments, and removing Midvale City as they have joined UFA.

Mr. Shaver asked for clarification: it is his understanding that instead of having multiple agreements, they have a singular document. He asked if it would still be ratified every three years.

Ms. Wells said that yes-they want the cities to have the opportunity to have discussions, if there are questions on what is going on with it, and just so that they can keep it fresh. It is one of the things that you worry about when you create an entity like this-that you don't have an opportunity to review and to keep track of what is going on with it.

Mr. Nicponski: this valley-wide emergency operation that is going to be conducted in April-is this an example of participating agencies that will all be participating in that?

Ms. Wells stated that this doesn't really coincide with that, other than the fact that we participate and that is the "Great Utah Shakeout" where the entire state will be participating.

Mr. Shaver asked if there is a budget for this agreement.

Ms. Wells said that there is not-we share time and knowledge.

Mr. Stam asked if the city has an agreement with UFA, since they are not listed in this.

Ms. Wells stated that there is an automatic aid agreement with the fire alliance that all of

the cities belong to; that is a service agreement meaning that we back-fill and help each other out. This one is a little more specific to training and to purchasing-the economy of scale.

It was asked if training would include a facility at some point.

Ms. Wells said that there had been some discussion on this, and this group would really like to have that come to pass; they have looked into some grant opportunities and there could come a time when they may ask for some sort of contribution to help with something like that. Sandy City has some property that they have offered to use for a training tower, but they have not been able to find the other resources yet.

Mr. Shaver made a motion to adopt the Resolution.
Mr. Stam 2nd the motion.

Call vote recorded by Jennifer Kennedy.

A Mr. Stam
A Mr. Brass
A Mr. Shaver
A Mr. Hales
A Mr. Nicponski

Motion passed 5-0

10.2 Consider a Resolution approving the "Murray City Capital Improvement Program Policy".

Staff presentation: Justin Zollinger, Finance Director

Mr. Zollinger stated that this was presented at the last Committee of the Whole, and is here to answer any questions in regards to the policy.

Mr. Stam said that in light of the last meeting, where they had several of these Capital Improvement projects presented to them, and in looking at page 3, third paragraph, it says: "*Capital Equipment; equipment such as vehicles, furniture, technical instruments, etc. which have a life expectancy of more than one year, and a value of over \$2,500. Equipment with a value less than \$2,500 is operating equipment.*" He is wondering if this is a line that they may want to revisit in light of all the things that are there, or does 10% of the list automatically go away and those departments need to reevaluate their requests. Is this something we need to look at adjusting, or is it something we should just adopt and have the departments reevaluate their submittal.

Mr. Zollinger said that he would call those others maintenance, rather than new purchase, but that is his perspective. In speaking for a few people, he doesn't want to put words in other people's mouth.

Mr. Shaver said that part of the thing they want with the CIP is, even when they spoke with the Novak group, they put the numbers in place and we are identifying those numbers. If we can say that this is what we can define at this point, or as we move through that process, or as the CIP committee meets, they may want to come back and say that this needs to be adjusted based on what they are saying. For right now, it is going to be tough to just set some standard that is going to stick forever; he feels that they need to be able to say-here is what we are going to do, let's work it for a year or two and then say eh....and then adjust it.

Mr. Zollinger said that just with inflation, the numbers are going to have to be changed over time.

Mr. Shaver made a motion to adopt the Resolution.

Mr. Stam 2nd the motion.

Call vote recorded by Jennifer Kennedy.

A Mr. Stam
A Mr. Brass
A Mr. Shaver
A Mr. Hales
A Mr. Nicponski

Motion passed 5-0

11. **MAYOR**

11.1 **Mayor's Report**

Mayor Snarr said that Angela Price, from the Community Development office, asked the Mayor to read a proclamation for the Fair Housing Month that is this month. Mayor Snarr read the proclamation and declared April as Fair Housing Month.

"Whereas title 8 of the Civil Housing Act, which guarantees fair housing for all residents in the United States, was signed into law in April, 1968, and whereas April is nationally recognized as Fair Housing Month, and a time to reflect on and reaffirm our national commitment to the ideal that fair housing opportunities are available to everyone in the United States without regard to race, color, religion, national origin, sex, family status, disability and whereas this year's theme "Fair Housing: Live Free without Discrimination" indicates a collaborative effort of HUD and it's housing partners in realizing increased housing opportunities for every individual, and whereas, the State of Utah, which passed its own Fair Housing Act in 1989 recognizing and affirming that all persons in the State of Utah are free to purchase, rent, finance and insure their homes without regard to their race, color, religion, national origin, sex, family status, disability or source of income, and whereas Murray City welcomes this opportunity to reaffirm our

commitment to the principle of fair housing for all and are committed to all efforts that address discrimination in our community, support all programs that will educate the public concerning their rights to equal housing opportunities and to assure every person their right to live free of the fear of housing discrimination."

Mayor Snarr said that he had a great meeting in discussing the appropriateness of when and how he should address public hearings. He feels much more comfortable now of where they are coming from, what is appropriate and the times when it is appropriate for him to speak, and he wanted to let them know that he felt the meeting was very productive. He does not want to make anyone feel uncomfortable-obviously in public hearings, some of us are made uncomfortable with comments that are made and he knows that he is an invited guest at these meetings and appreciates that he is allowed to be there. Sometimes he has some pertinent information that he would like to share and he would appreciate being allowed to do that. He also appreciated Mr. Shaver telling him that he would have been allowed more time if he had spoken during the Council discussion time rather than the citizen comment time, and that wouldn't have put anyone else saying that the Mayor was getting special privileges or what not. He is there because he wants to share some information to help them in their decision making process, and in the RDA for instance, if they think he can raise his hand-he does not want to do something to make the Council feel uncomfortable. At the same time, he thinks there is information that when he is out there driving around or attending seminars and being involved in other situations where he receives what he considers some substantial enlightenment on a particular issue, what is the Council's comfort level on that? He understands public hearings, and will abide by that because it is good that they have that sort of decorum...but recently they have had some pretty interesting items come before the council and they have stepped up to make difficult decisions towards progress...if the Council would tell him what their comfort is as far as his speaking during meetings such as the RDA, he would appreciate it.

Mr. Nicponski said that he respects all that the Mayor does for the City-he does a lot and there is a lot that people are not aware of; he welcomes the Mayor's input at any time and feels that it is valuable-obviously when it is appropriate-and gives him a wide berth.

Mr. Stam stated that he has always believed in the old Indian tradition that the older people are the wise people and the Mayor has the experience behind him that the Council doesn't all have.

Mr. Brass says that as a member of the RDA, the Mayor's opinions are pertinent.

Mayor Snarr said that the Council has a tough job to do; he gets a lot of calls from citizens and businesses and is willing to help out when he can.

Mr. Nicponski said that the Mayor's ability to remain calm and sometimes passive in spite of some of the most derogatory language he has heard addressed to a public official has always impressed him. He feels that they, as a Council, could do a better job in protecting each other-there should be more decorum in this room so that language

doesn't happen; it needs to be polite conversation, public discourse, without the rancor and the animosity that tends to exhibit sometimes, and he will pledge that he will do that when he hears such language, he will curtail it as quickly as he possibly can. It is very difficult to sit there sometimes and listen to it, and he knows that they are required to do so and he is happy to do so, but the Mayor's ability to take it, even when it tends to be very vindictive, he says 'thank you' for that. Inside or outside of this meeting, he believes that the comments are always appropriate and appreciated.

11.2 Questions of the Mayor

None given.

12. ADJOURNMENT

Special Recognition #1

Murray City Municipal Council

Request for Council Action

INSTRUCTIONS: The City Council considers new business items each Tuesday in Council meeting. All new business items for the Council must be submitted to the Council office, Room, 107, no later than 5:00 p.m. on the Tuesday one week before the Council meeting in which they are to be considered. This form must accompany all such business items. If you need additional space for any item below, attach additional pages.

1. **TITLE:** (State how it is to be listed on the agenda)
CONSIDER A JOINT RESOLUTION OF THE MAYOR AND MUNICIPAL COUNCIL OF MURRAY CITY, UTAH DECLARING FRIDAY, APRIL 27th 2012 AS ARBOR DAY

2. **ACTION REQUESTED:** (Check all that apply)

☐ Discussion Only
☐ Ordinance (attach copy)
Has the Attorney reviewed the attached copy? ☐
☒ Resolution (attach copy)
Has the Attorney reviewed the attached copy? ☐
☐ Public Hearing (attach copy of legal notice)
Has the Attorney reviewed the attached copy? ☐
☐ Appeal (explain) _____
☐ Other (explain) _____

3. **WHEN REQUESTED:** (Explain when action on this proposal is needed by and why)
April 17th 2012

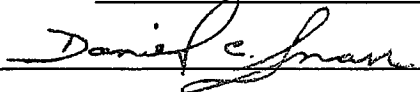
4. **FUNDING:** (Explain budget impact of proposal, including amount and source of funds.)
N/A

5. **RELATED DOCUMENTS:** (Describe all minutes, exhibits, maps, plats, etc., accompanying this proposal and whether or not each is attached)

6. **REQUESTOR:**

Name: Bruce Turner Title: Forestry Division
Presenter: Jim Hendrickson Title: Commission Chairman
Agency: Shade Tree and Beautification Commission Phone: 264-2703
Date: April 4th 2012 Time: _____

7. **APPROVALS:** (If submitted by City personnel, the following signatures are required, and indicate (1) each has reviewed and approved the proposal, (2) all preparatory steps have been completed, and (3) the item is ready for Council action)

Head of Department: Blaine Haacke Date: April 4th 2012
Mayor:  Date: April 4th 2012

8. **COUNCIL STAFF:** (For Council use only)

Number of pages: _____ Number of copies submitted: _____
Received by: _____ Date: _____ Time: _____
Recommendation: _____

9. **NOTES:**

Jim Hendrickson, Chairman of The Shade Tree Commission and Beautification Commission, will be present to receive the signed Joint Resolution.

**A JOINT RESOLUTION OF THE MAYOR
AND MUNICIPAL COUNCIL OF MURRAY CITY, UTAH
DECLARING
FRIDAY, APRIL 27th 2012
AS
ARBOR DAY**

WHEREAS, Arbor Day is observed throughout the nation and the world, as trees, wherever they are planted, are a source of joy and spiritual renewal; and

WHEREAS, no exact value can be placed on a tree, as the true value is in the eyes of the beholder and the psychological-emotional-spiritual relationship between people and trees is far-reaching and complex; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

WHEREAS, in preparing for the future, Murray City is committed to managing the confined spaces along streets and near buildings, so we have a peaceful coexistence between trees, utilities, buildings and people; and

WHEREAS, Murray City's Shade Tree and Beautification Commission has as its prime objective, the beautification of our City, by promoting the planting and care of trees and vegetation that will continually add beauty and value to our community, making it a more enjoyable and desirable place to work and live...**Tree City USA**, now for **35 years** which helps us to remember that: **"There's always More to Murray"**; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and the Municipal Council of Murray City do hereby declare

Friday, April 27th 2012

as

ARBOR DAY

and urge all citizens to support efforts to protect our trees and woodlands, to plant trees that will gladden the heart and promote the well-being of this and future generations, while beautifying our City and to join with us in our annual **ARBOR DAY** celebration held in the Murray Park Amphitheater at NOON.

PASSED, APPROVED AND ADOPTED by the Mayor and Municipal Council of Murray City, Utah this 17th day of April, 2012.

MURRAY CITY CORPORATION

MURRAY CITY MUNICIPAL COUNCIL

Daniel C. Snarr, Mayor

James A. Brass, Chairman, District 3

Dave Nicponski, District 1

Darren V. Stam, District 2

ATTEST:

Jared A. Shaver, District 4

Jennifer Kennedy, City Recorder

Brett A. Hales, District 5

Special Recognition #2

Murray City Municipal Council

Request for Council Action

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1. TITLE: (State how it is to be listed on the agenda)

Special recognition to Jerry Hatt for completing his 4-year apprenticeship program at Utah Valley University/Salt Lake Community College to become a Generation/Substation Technician.

2. ACTION REQUESTED: (Check all that apply)

- ☐ Discussion Only
☐ Ordinance (attach copy)
 Has the Attorney reviewed the attached copy? ☐
☐ Resolution (attach copy)
 Has the Attorney reviewed the attached copy? ☐
☐ Public Hearing (attach copy of legal notice)
 Has the Attorney reviewed the attached copy? ☐
☐ Appeal (explain) _____
☒ Other (explain) Special recognition

3. WHEN REQUESTED: (Explain when action on this proposal is needed by and why)

April 17, 2012

4. FUNDING: (Explain budget impact of proposal, including amount and source of funds.)

5. RELATED DOCUMENTS: (Describe all minutes, exhibits, maps, plats, etc., accompanying this proposal and whether or not each is attached)

6. REQUESTOR:

Name: Blaine Haacke Title: General Manager
Presenter: Charles Crutcher Title: Operations Manager
Agency: Power Department Phone: 264-2730
Date: April 4, 2012 Time: _____

7. APPROVALS: (If submitted by City personnel, the following signatures are required, and indicate (1) each has reviewed and approved the proposal, (2) all preparatory steps have been completed, and (3) the item is ready for Council action)

Head of Department: Blaine Haacke Date: APRIL 4, 2012
Mayor: Daniel C. Jones Date: April 4th 2012

8. COUNCIL STAFF: (For Council use only)

Number of pages: _____ Number of copies submitted: _____
Received by: _____ Date: _____ Time: _____
Recommendation: _____

9. NOTES:



MURRAY CITY CORPORATION
CITY POWER

Daniel C. Snarr, Mayor

Blaine Haacke, General Manager

801-264-2730 FAX 801-264-2731

Memo

To: Mayor Snarr and the Murray City Municipal Council
From: Blaine Haacke, Power General Manager BH
Subject: Request for Council agenda item for April 17, 2012 acknowledging Jerry Hatt's graduation from the Utah Valley University/Salt Lake Community College with his Generation/Substation Technician certificate
Date: April 4, 2012

Jerry has recently completed his Generation/Substation Technician certification after completing a four year apprenticeship program at UVU/SLCC.

Jerry has worked 12+ years for Murray City Power, and in this time with the city he has made a positive impact on the department.

During the April 17th, 2012 City Council meeting, the Power Department would like to acknowledge him for his efforts.

Citizen Comments

Limited to three minutes, unless otherwise approved by the Council.

Consent Agenda

Murray City Municipal Council

Request for Council Action

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1. **TITLE:** (State how it is to be listed on the agenda)
Consider confirmation of the Mayor's new appointment of **Thomas Halliday** to the **Murray Board of Adjustment** in an At-Large position while residing in District 1 for a 5-year term

2. **ACTION REQUESTED:** (Check all that apply)
- ☐ Discussion Only
☐ Ordinance (attach copy) Has the Attorney reviewed the attached copy? ☐
☐ Resolution (attach copy) Has the Attorney reviewed the attached copy? ☐
☐ Public Hearing (attach copy of legal notice) Has the Attorney reviewed the attached copy? ☐
☐ Appeal (explain) _____
☒ Other (explain) Consent Calendar

3. **WHEN REQUESTED:** (Explain when action on this proposal is needed by and why)
April 17th 2012

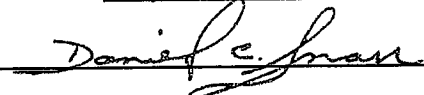
4. **FUNDING:** (Explain budget impact of proposal, including amount and source of funds.)
None

5. **RELATED DOCUMENTS:** (Describe all minutes, exhibits, maps, plats, etc., accompanying this proposal and whether or not each is attached)
Resume attached

6. **REQUESTOR:**
- | | |
|--|------------------------|
| Name: <u>Daniel C Snarr</u> | Title: <u>Mayor</u> |
| Presenter: <u>Daniel C. Snarr</u> | Title: <u>Mayor</u> |
| Agency: _____ | Phone: <u>264-2600</u> |
| Date: <u>April 6th 2012</u> | Time: _____ |

7. **APPROVALS:** (If submitted by city personnel, the following signatures are required, and indicate (1) each has reviewed and approved the proposal, (2) all preparatory steps have been completed, and (3) the item is ready for Council action)

Head of Department: Mayor Dan Snarr Date: April 6th 2012

Mayor:  Date: April 6th 2012 7

8. **COUNCIL STAFF:** (For Council use only)
- Number of pages _____ Number of copies submitted _____
Received by: _____ Date: _____ Time: _____
Recommendation: _____

9. **NOTES:**
Tom will begin serving his 5-year term (immediately) on **April 17th 2012 to April 2nd 2017**. (He is filling Joyce McStotts' position who served well for 5-years and is now caring for her 90 year-old Mother).

Thomas Halliday
4539 South Julep Drive
Murray, Utah 84107
(801) 261-4439
thalliday@gorelms.com

EXPERIENCE

1982-Current

President. Relms. Inc (Salt Lake City).

- President and Co-Founder of Relms, Inc.
- Promotes Energy Conservation through Sub Metering of Utilities (i.e. gas, electric, water, steam)
- Designer of Custom Sub Metering Billing Software
- Promotes Energy Conservation through Sales of Sub Meters on Preexisting Construction
- Promotes and Education Architects and Engineer on Innovative Technologies on Greener Energy Consumption
- Technical Support on Commercial and Industrial Metering
- Production of Building Layouts and Placement of Energy Saving Meters
- Education Concerning Energy Conservation to Both Public and Private Energy Providers
- Affiliate Member of Energy Solutions Center Washington D.C.

1983-2003

Co-Founder and Part Owner of Apartment Laundry Service
Provider of Coin Laundry Equipment in Multi-Housing Environments

COMMUNITY SERVICE

- Millcreek Community Council from 1995 to 1999
- Unincorporated County Board of Adjustments from June 1999 to December 2000
- Salt Lake County CDBG Funding from 1999 to 2003
- Salt Lake County Committee for Burial of Electric Power Transmission Lines 1998
- Valley Mental Health Adult Advisory Council 1999 to 2003

Public Hearing #1

**NOTICE OF PUBLIC HEARING
MURRAY CITY CORPORATION**

COMMUNITY DEVELOPMENT BLOCK GRANT

Under the provisions of the Housing and Community Development Act of 1974, as amended, Murray City participates in the Community Development Block Grant Program administered by Salt Lake County. Community Development Block Grant (CDBG) Funds provided by the U.S. Department of Housing and Urban Development (HUD) are used for eligible projects that benefit qualified areas and citizens in Murray City. The projects undertaken during the program year must meet the identified needs of the neighborhoods and must be within the framework of goals and objectives designed in the Salt Lake County consolidated plan.

The overall program for Murray City is designed to either benefit a majority of lower-income families or aid in the prevention and elimination of blight and deterioration. Key elements in the proposed work program include activities designed for housing improvements, public facility improvements, public services and administration.

Murray City will hold public hearings concerning the following items:

- the proposed use of 2012-2013 Community Development Block Grant Funds and;
- the reallocation of unexpended funds from the 36th program year.

The meeting will be held on:

**TUESDAY, APRIL 17th, 2012, AT 6:35 P.M.
MURRAY CITY MUNICIPAL COUNCIL CHAMBERS
5025 SOUTH STATE STREET, MURRAY, UTAH**

All interested citizens will be given the opportunity to comment on these two items regarding the use of Community Development Block Grant funds which will be considered by the Murray City Municipal Council.

Special accommodations for the hearing or visually impaired will be made upon a request to the Office of the Murray City Recorder (801-264-2660). We would appreciate notification two working days prior to the meeting. Physical access parking and entrance are located on the east side of City Hall. The TDD number is 801-270-2425 or call Relay Utah at #711.

Date of Publication: April 1, 2012
Newspaper Agency



Murray City Municipal Council

Request for Council Action

INSTRUCTIONS: The City Council considers new business items in Council meeting. All new business items for the Council must be submitted to the Council office, Room, 112, no later than 5:00 p.m. on the Wednesday two weeks before the Council meeting in which they are to be considered. This form must accompany all such business items. If you need additional space for any item below, attach additional pages with corresponding number and label.

1. **TITLE:** (Similar wording will be used on the Council meeting agenda)

A Resolution Approving Modifications to Prior Appropriations of Community Development Block Grant Funds

2. **MEETING, DATE & ACTION:** (Check all that apply)

☒ Council Meeting OR ☐ Committee of the Whole

☒ Date requested April 17, 2012

☐ Discussion Only

☐ Ordinance (attach copy)

Has the Attorney reviewed the attached copy? ☐

☒ Resolution (attach copy)

Has the Attorney reviewed the attached copy? ☒

☒ Public Hearing (attach copy of legal notice)

Has the Attorney reviewed the attached copy? ☐

☐ Appeal (explain) _____

☐ Other (explain) _____

3. **ATTENDING POLICY:** (This Section is not required until after the City-wide Strategic Plan is completed – toward the end of 2011) (Please explain how request relates to city-wide policy)

Safe and healthy neighborhoods with varied housing opportunities. This proposal will contribute significantly to this key performance area.

4. **FUNDING:** (Explain budget impact of proposal, including amount and source of funds.)

See attached letter and resolution

5. **RELATED DOCUMENTS:** (Attach and describe all accompanying exhibits, minutes, maps, plats, etc.)

See attached letter, resolution and public hearing notice

6. **REQUESTOR:**

Name: Angela Price

Title: CDBG Coordinator

Presenter: Angela Price

Title: CDBG Coordinator

Agency: COMED

Phone: ext. 2419

Date: 4/17/12

Time: 6:30

7. **APPROVALS:** (If submitted by City personnel, the following signatures indicate, the proposal has been reviewed and approved by Department Director, all preparatory steps have been completed, and the item is ready for Council action)

Department Director: [Signature]

Date: 4/13/12

Mayor: [Signature]

Date: 4/14/12

8. **COUNCIL STAFF:** (For Council use only)

Number of pages: _____ Received by: _____ Date: _____ Time: _____

Recommendation: _____

9. **NOTES:**



**MURRAY CITY CORPORATION
ADMINISTRATIVE &
DEVELOPMENT SERVICES**

Building Division 801-270-2400

Community & Economic Development 801-270-2420

Geographic Information Systems 801-270-2460

TO: Murray City Council

FROM: Angela Price, CDBG Coordinator

DATE: April 2, 2012

RE: CDBG Funding Reallocations

I am writing to propose modifications to our CDBG annual budget for the 2012-2013 program year. The following outlines the proposed reallocations:

Proposed Program/ Project Reallocations (\$19,471)

- **Murray City Housing Rehabilitation (\$10,442)**—Remaining balance of the Housing Rehab contract, recommend reallocating to NeighborWorks Salt Lake;
- **Murray City Administration (\$9,029)**—Remaining balance from the 2012-2013 Administration contract, recommend reallocating to NeighborWorks Salt Lake.

Community and Economic Development staff recommends approval of the attached resolution outlining the proposed funding reallocations.

ATTACHMENT “A”

RESOLUTION NO. _____

A RESOLUTION APPROVING MODIFICATIONS TO PRIOR
APPROPRIATIONS OF COMMUNITY DEVELOPMENT BLOCK GRANT
(ACDBG@) FUNDS.

WHEREAS, in prior fiscal years, the City has allocated Community Development Block Grant (ACDBG@) funds; and

WHEREAS, the City needs to reallocate prior year funds of \$19,471 to the 2012-2013 program year.

NOW, THEREFORE, BE IT RESOLVED by the Murray City Municipal Council as follows:

Community Development Block Grant (ACDBG@) funds from prior years of \$19,471 are reallocated to the 2012-2013 program year for NeighborWorks Salt Lake as follows:

Murray City Housing Rehabilitation (\$10,442). Allocate the remaining balance of the Housing Rehab contract.

Murray City Administration (\$9,029). Allocate the remaining balance from Administration contract

PASSED, APPROVED AND ADOPTED by the Murray City Municipal Council on
this 17th day of April, 2012.

MURRAY CITY MUNICIPAL COUNCIL

James A. Brass, Chair

ATTEST:

Jennifer Kennedy
City Recorder

Public Hearing #2

**NOTICE OF PUBLIC HEARING
MURRAY CITY CORPORATION**

COMMUNITY DEVELOPMENT BLOCK GRANT

Under the provisions of the Housing and Community Development Act of 1974, as amended, Murray City participates in the Community Development Block Grant Program administered by Salt Lake County. Community Development Block Grant (CDBG) Funds provided by the U.S. Department of Housing and Urban Development (HUD) are used for eligible projects that benefit qualified areas and citizens in Murray City. The projects undertaken during the program year must meet the identified needs of the neighborhoods and must be within the framework of goals and objectives designed in the Salt Lake County consolidated plan.

The overall program for Murray City is designed to either benefit a majority of lower-income families or aid in the prevention and elimination of blight and deterioration. Key elements in the proposed work program include activities designed for housing improvements, public facility improvements, public services and administration.

Murray City will hold public hearings concerning the following items:

- the proposed use of 2012-2013 Community Development Block Grant Funds and;
- the reallocation of unexpended funds from the 36th program year.

The meeting will be held on:

TUESDAY, APRIL 17th, 2012, AT 6:35 P.M.
MURRAY CITY MUNICIPAL COUNCIL CHAMBERS
5025 SOUTH STATE STREET, MURRAY, UTAH

All interested citizens will be given the opportunity to comment on these two items regarding the use of Community Development Block Grant funds which will be considered by the Murray City Municipal Council.

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Date of Publication: April 1, 2012

Newspaper Agency



Murray City Municipal Council

Request for Council Action

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1. TITLE: (Similar wording will be used on the Council meeting agenda)

A Resolution Allocating the 38th Year Community Development Block Grant Funds for Program Year 2012-2013

2. MEETING, DATE & ACTION: (Check all that apply)

☒ Council Meeting OR ☐ Committee of the Whole

☒ Date requested April 17, 2012

☐ Discussion Only

☐ Ordinance (attach copy)

Has the Attorney reviewed the attached copy? ☐

☒ Resolution (attach copy)

Has the Attorney reviewed the attached copy? ☒

☒ Public Hearing (attach copy of legal notice)

Has the Attorney reviewed the attached copy? ☐

☐ Appeal (explain) _____

☐ Other (explain) _____

3. ATTENDING POLICY: (This Section is not required until after the City-wide Strategic Plan is completed – toward the end of 2011) (Please explain how request relates to city-wide policy)

Safe and healthy neighborhoods with varied housing opportunities. This proposal will contribute significantly to this key performance area.

4. FUNDING: (Explain budget impact of proposal, including amount and source of funds.)

See attached letter and resolution

5. RELATED DOCUMENTS: (Attach and describe all accompanying exhibits, minutes, maps, plats, etc.)

See attached letter, resolution and public hearing notice

6. REQUESTOR:

Name: Angela Price

Title: CDBG Coordinator

Presenter: Angela Price

Title: CDBG Coordinator

Agency: COMED

Phone: ext. 2419

Date: 4/17/12

Time: 6:35

7. APPROVALS: (If submitted by City personnel, the following signatures indicate, the proposal has been reviewed and approved by Department Director, all preparatory steps have been completed, and the item is ready for Council action)

Department Director: [Signature]

Date: 4/3/12

Mayor: [Signature]

Date: 4/4/12

8. COUNCIL STAFF: (For Council use only)

Number of pages: _____ Received by: _____ Date: _____ Time: _____

Recommendation: _____

9. NOTES:



**MURRAY CITY CORPORATION
ADMINISTRATIVE &
DEVELOPMENT SERVICES**

Building Division 801-270-2400
Community & Economic Development 801-270-2420
Geographic Information Systems 801-270-2460

TO: City Council

FROM: Angela Price, Coordinator, CDBG Program

DATE: April 2, 2012

RE: Community Development Block Grant 2012-2013 Funding Recommendations

As you are aware, the application process for the 2012-2013 Community Development Block Grant program has been initiated. The Community Development Block Grant program is a federally funded program sponsored by the Housing and Urban Development (HUD) Department which provides communities with resources to address a wide range of community development needs. The funded projects must meet identified needs in the community and be within the framework of goals and objectives of the Salt Lake County Consolidated Plan.

The process for selecting funding recipients was very similar to last year with applicants submitting a Letter of Intent to apply for funding in conjunction with a detailed proposal highlighting their funding request. An advisory committee was formed which consisted of staff from the Community and Economic Development Department and Mayor's office. Each applicant had a 15 minute interview where they were had an opportunity to explain their proposal and request for funding. After careful scrutiny and analysis of the applications, the committee concluded the following:

- Each of the applicant organizations provides important and critical services for individuals and families in the area. The services and programs are invaluable to communities in the Salt Lake Valley and you are to be commended for your efforts. With this in mind, the recommendation process was extremely difficult;
- The funding requests total \$405,209. The total funding allocation (including reallocated funds) for hard cost projects is \$175,613, which calls for \$229,596 in reductions.
- The committee evaluated each application to determine the number of Murray residents served and the overall benefit to the community. Specifically, we focused our funding efforts on programs that were located in Murray City or employed Murray residents, and programs that addressed housing. The committee worked to fund as many programs as possible, considering the limited funding resources. In addition to the factors listed above we looked at the organizations' ability to leverage funds from other sources (i.e. other municipalities, foundations, state and federal resources), duplication of services, if the program showed a tie to the Salt Lake County Consolidated Plan, and the number of low-to-moderate income individuals that were served. After weighing all of the aforementioned factors, funding allocations were determined.

Based on our analysis of the applications, the following outlines our proposed recommendations:

Hard Cost Applicant Summary

Organization	Description	Requested Amount	Recommended Funding	Reason for Recommendation
NeighborWorks Salt Lake	Property acquisition, rehab expenses, rehab loans, program delivery	\$90,000	\$43,000*	Partial funding recommended in-order to fund several housing programs. Funding recommendation includes \$19,471 in reallocated funds and \$23,529 in current year funding for a total of \$43,000.

Community Development Corporation of Utah	Down-payment assistance program	\$46,000	\$34,500	Funding will cover six down payment loans and program delivery expenses.
Community Development Corporation of Utah	Green and Healthy Homes Initiative	\$60,000	\$0	Funding was not recommended because of duplication in services and funded another program from the same agency.
Habitat for Humanity	Housing rehabilitation program	\$46,000	\$11,013	Partial funding recommended in-order to fund several housing programs.
ASSIST	Emergency home repair	\$30,000	\$18,000	Partial funding recommended in-order to fund several housing programs
Columbus Community Center	Jones Court remodel	\$13,000	\$8,000	Funding recommended for bathroom accessibility upgrades and lighting replacement.
Boys and Girls Club	Club Enrichment Project	\$50,000	\$22,000	Funding recommended for playground equipment and accessibility upgrades (automatic door openers and chair lift).
House of Hope	Carpet for Douglas St. facility	\$7,109	\$0	Based on overall funding reductions, City funding recommendations were prioritized by housing programs that are located in Murray, or serve an immediate critical need.
Volunteers of America	Adult Detox Center addition	\$8,000	\$0	Based on overall funding reductions, City funding recommendations were prioritized by housing programs that are located in Murray, or serve an immediate critical need.
The Road Home	Bathroom repairs at the men and women's dorm	\$12,000	\$12,000	Full funding recommended for this critical need project which will cover repair costs for the men and women's dorm restrooms.
Valley Services	Emergency handyman program	\$25,000	\$9,000	Partial funding recommended which will cover minor emergency home repairs for seniors.
Murray Program Delivery	Program delivery expenses for the Murray CDBG program	\$22,500	\$22,500	Full funding recommended which will cover staff salaries, staff trainings, and office supplies.
HARD COST TOTAL		\$405,209	\$175,613	

*Annotates reallocated funds

Based on these findings, the advisory committee is recommending approval of the attached resolution. There will be a public hearing on April 17, 2012 at 6:30 in which we will present these recommendations and allow the public an opportunity to comment. In addition, the public will have an opportunity to comment on the proposed funding reallocations from 36th program year (funding reallocation recommendations will be presented in a separate memo). If you have any questions about these recommendations please feel free to contact me directly at 801-270-2419.

ATTACHMENT “A”

RESOLUTION NO. _____

A RESOLUTION ALLOCATING THE 38th YEAR COMMUNITY
DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR PROGRAM YEAR
2012-2013.

WHEREAS, a public hearing on the allocation of CDBG funds for program year 2012-2013 was held on April 17, 2012, pursuant to proper notice; and

WHEREAS, all interested parties were heard at the public hearing on April 17, 2012; and

WHEREAS, the City is anticipating that Salt Lake County will allocate approximately \$175,613 of CDBG funds for program year 2012-2013; and

WHEREAS, the Murray City Municipal Council now wants to allocate the CDBG funds to the applicants for program year 2012-2013;

NOW, THEREFORE, be it resolved by the Murray City Municipal Council that Community Development Block Grant (CDBG) funds in the amount of \$175,613 shall be allocated as specified in the attached schedule for program year 2012-2013 subject to final CDBG appropriation by the United States Congress for program year 2012-2013.

PASSED, APPROVED AND ADOPTED by the Murray City Municipal Council on this 17th day of April, 2012.

MURRAY CITY MUNICIPAL COUNCIL

James A. Brass, Chair

ATTEST:

Jennifer Kennedy
City Recorder

Public Hearing #3

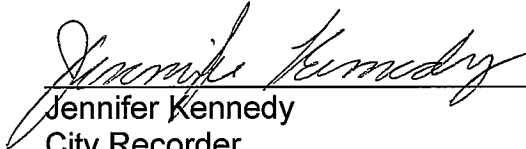
Murray City Corporation

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on the 17th day of April, 2012, at the hour of 6:30 p.m. of said day in the Council Chambers of Murray City Center, 5025 South State Street, Murray, Utah, the Murray City Municipal Council will hold and conduct a hearing to receive public comment concerning an ordinance amending Section 16.16.090 of the Murray City Municipal Code relating to the requirement that all newly created single family lots abut a public street.

DATED this 2nd day of April, 2012.

MURRAY CITY CORPORATION



Jennifer Kennedy
City Recorder

DATES OF PUBLICATION:
PH 12-09

April 5, 2012

A _____ Karen Daniels
A _____ Phil Markham
A _____ Martin Buchert
A _____ Ray Black
A _____ Jim Harland
A _____ Tim Taylor

Motion passed, 6-0.

PRIVATE STREET TEXT AMENDMENTS – Project #11-56

Mr. Wilkinson wanted to give some background to the new commission members on the private streets issue. The City Council in 2007 determined that private streets were not appropriate for development of single family residential subdivisions and required that all future created lots abut a public street. That result came from a task force that was appointed by the City to look at the issue including citizens and developers. The Planning Commission reviewed this issue again in July of 2011 and on July 21, 2011, the Planning Commission recommended denial of the proposal to allow for private streets. At that time, Staff also recommended denial.

On December 6, 2011, the City Council considered the request and directed staff to draft an ordinance for the Planning Commission's consideration and recommendation that would allow private streets in certain limited situations. After input from the Public Services Department, City Fire, Public Safety, Water and Sewer Division, and Power Department staff has drafted an ordinance to allow private streets for residential infill subdivisions with minimum standards to regulate the development. As previously included in reports to the Commission, a task force had been organized in 2006 to look at the issue of private streets along with other issues related to the development of Planned Unit Developments.

The draft drawn up by Staff was taken to the Planning Commission for review. The Planning Commission gave back some comments which were forwarded to the City Council. At the City Council's direction, Staff is presenting an ordinance for the Planning Commission's consideration.

The Planning Commission reviewed a draft proposal on January 5, 2012 and provided feedback to staff. Items discussed by the Planning Commission included:

- How to address the installation of a private gate.
- How the City is to monitor and enforce maintenance of the private street and how that mechanism is going to occur.
- Whether or not maintenance plans should be submitted as part of the approval.
- Recommendation that one side of sidewalk be a requirement on residential infill subdivisions.
- Providing clarity on where to create the lot line and where that would be measured.
- Requiring high back curb and gutters.

- Street width of 20 feet
- Separation between private street and adjacent properties

Staff had a concern on an issue that was talked about at the first meeting with the Planning Commission of locating private streets within easements as opposed to locating them within separate lots or parcels. Mr. Wilkinson gave an example of a shared access easement where a property owner had constructed a fence down that easement. Another example of concern was setbacks where a developer proposed that since the street was a part of their parcel and the parcel extended beyond the street, they should be allowed to measure their setback from the far edge of the street instead of from the near edge of the street.

Staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the requested amendment to subdivision ordinance and residential infill standards related to private streets with the modifications and additional standards proposed by Staff. There is a process on ordinance text amendments as outlined by state law. Whenever there is a land use or subdivision ordinance change, a review is required by the Planning Commission as a recommendation body to the City Council. The Planning Commission can choose to follow Staff recommendations, modify those recommendations or recommend denial.

The proposed ordinance states that private streets would be allowed in certain circumstances, limited to residential infill subdivisions only (subdivisions that are 2 acres or less). There is a minimum paved width of 20 feet, curb and gutter would be required with the specific design to be approved by the City Engineer. Private streets need to be located on a separate lot or parcel and not counted toward lot square footage. Setbacks would be measured from the edge of the private street parcel, which would be treated as the property line to measure those setbacks. Sidewalks and park strips would be required unless they were omitted through the existing process which requires review and recommendation by the city engineer and by the Planning Commission's recommendation. Changes from the discussion on the draft related to issues brought up by this commission are; gates and a standard for them, setbacks from adjacent parcels and extension of streets to adjoining properties.

Mr. Buchert wanted clarification on if Staff was really in favor of approving the amendment of the existing ordinance. Mr. Wilkinson stated that Staff still has concerns and reservations about the ordinance. However, they have received direction from the City Council to move forward with a proposal. For clarification on who "Staff" represents; it is a variety of departments, all of which do not share the same viewpoint on the issue. Those departments include; City Engineer, Fire Department, Police Department, Water Department, Power Department, etc. The Planning Department does still have some concerns and felt that the original position was a good decision, but they have received direction to draft an ordinance for the Planning Commissions review. Mr. Buchert wanted to know why the City Council wanted to revisit this issue again. Mr. Wilkinson made note that the City Council did not vote on whether or not to approve the original proposal, the vote was to remand and for Staff to take another look at it. What we do know is that they would like the Planning Commission to review this issue one more time and give them a recommendation. Mr. Taylor added that the role of the Planning Commission is to

study those issues in depth and make recommendations. Mr. Harland pointed out that Staff has done an excellent job in researching the issue and providing information for the Planning Commission, so that they were able to make an educated recommendation. Mr. Taylor pointed out that there are instances where the space may not be wide enough for a public street, but would work for a private street. Mr. Wilkinson made mention that with the new ordinance there could potentially be consolidation of parcels to create a subdivision. The number of properties that could potentially develop goes up with the current proposal. Mr. Markham wanted a clarification on if this proposal only applies to parcels with two acres or less. Mr. Wilkinson said that was correct for whatever the underlying density or zone may be (i.e. R-1-8, R-1-10).

The meeting was opened for public comment.

Bill Finch of 1055 Chevy Chase Drive was asked by Jim Brass to be on the task force in 2006, made up of two architects, two in construction, two developers and four private citizens. Mr. Finch contacted the eight members on the task force and found that they all had the same question. They all wanted to know why this was coming up again. Mr. Finch explained that the task force met for 14-15 meetings over three months and during that time the only item that was approved by the Planning Commission and made it through the City Council was, Private Streets. At that time everyone was at 100% accord that there could no longer be any private streets in Murray. In addition they had the backing of the Fire Department and Police Department. At that time they went with the minimum of 20 feet plus the gutters, sidewalk and 20 foot setback to the garage. There have been developments since then that haven't followed those recommendations. If there is a private street that cannot be accessed by the fire department you create a disaster by the fire engines not being able to get by parked cars or is unable to turn around.

Mr. Jimmy Nielson of 41 Paula Circle is an architect and the original applicant. His father has a piece of property that can be developed and he would like to give it to his children to build a house on and live there. It is an acre and a half in size. The limited access into the property is because his house was approved in a certain spot when it was built in 1974. Mr. Nielson feels that they can put in a road that meets fire code. He addressed why the City Council may have thrown this issue back and he believes that the City Council saw merit in these properties, but knows that the property just can't support a public road. He says that he has looked into the option of defining a new public road standard so as to not have to require a private street. However, Staff was uncomfortable with any width narrower than what the current standard is (25 feet paved width plus 5 feet of curb and gutter). That is why he is here and asking for a private road. Previous to 2007, the issues of private roads were considered wide open. Conditions have changed. He feels the City has had time to recognize issues that they have had in the past and to deal with those views. The Nielson family has recently met with Staff in formulating the current proposal. He doesn't feel that it is ideal for them or Staff, but after discussing specifics with the engineering department, they feel like it could be made to work. They have the length for a public road, just not the width. Another reason that the issue is coming back to the Planning Commission is that the Nielson's proposed another amendment. They worded the amendment specific to the property so that it would affect the least number of properties as

possible. However, the amendment would have only affected their property and City Council did not feel like that was the best approach, so it was denied. City Council then asked Staff to re-write it so that it would be applicable to the whole city. Mr. Nielson wants to be able to build and live on this property in a responsible manner, but he feels that it will require a road that is narrower than the current standard. Mr. Nielson wanted to make sure that he understood the extension requirement that had been added that a public road extension requirement would not apply to park property. Mr. Nielson acknowledged that there has been varied feedback from the different Staff agencies, but they have also received positive feedback from other areas of the Murray City organization.

Mr. Wilkinson responded to Mr. Nielson's question regarding the public road extension requirement. He clarified that staff was not referring to an extension into a publicly owned park.

Ben Savage of 600 East 4800 South got up and wanted to know who the actual applicant was for this issue. Mr. Harland responded that this was an ordinance text Amendment and Mr. Nielson was the applicant. Mr. Savage wanted to know from Mr. Nielson how many lots were on the subdivision. Mr. Nielson said that they would propose two additional lots to the current lot once the ordinance was approved. Mr. Savage feels that this whole issue is opening up Pandora's Box. He feels that what they are proposing is to take a broad brush for one development just to get it through which then takes the ordinance right back to where they were before they started the task force in 2006. There was a lot of effort put into that issue, it's been voted down once by the Planning Commission, Staff has problems with it and it really becomes a safety issue and it then opens up to anyone that has a two acre parcel or less that they want to develop. If he is reading the ordinance properly, with the discretion of Engineering and Staff, you could end up with a 20 foot wide road including curb and gutter with no sidewalk or planter strip. Mr. Wilkinson corrected him by saying that it would be 20 feet plus the curb and gutter. Mr. Savage went on to try and summarize his understanding of the proposed ordinance by saying that safety becomes the main issue by having a private road. Someone parks a vehicle on the road, the fire engine can't get in, the police can't come on private property to write parking tickets to the violators, then there becomes a Home Owners Association where they have to police parking to try and keep the area safe. There are no sidewalks for the children to walk on, short driveways, snow plowing, garbage pick-up, etc. He is asking that the Planning Commission deny this proposal. Changing this ordinance would affect every small parcel in the City that number as much as 50-100.

Mr. Harland asked Mr. Wilkinson to clarify article "2-g" in the proposed ordinance on whether sidewalks and parks strips could be omitted per the City Engineer and Planning Commission. Mr. Wilkinson made note that sidewalks and park strips are required and it would be at the burden of the applicant to show some reason why they shouldn't be included. It gives a bit of flexibility to the width of the street. The existing residential infill already allows for City Engineer and Planning Commission to consider waiving one or both in certain circumstances.

Mr. Markham needed clarification on whether any other avenue could be pursued other than amending this ordinance in order to allow this applicant to do what they

want to do. Mr. Wilkinson said that it mostly comes down to design. There is an existing home that does constrain the width of any street and Staff hasn't been able to come to an agreement with the applicant on a public street standard that they both feel comfortable with. To answer the question, the applicant feels that if the standard doesn't change to narrow the street width, it will not work for them design wise. Ms. Daniels asked Mr. Wilkinson if he feels that this newly proposed ordinance will impact more than just this applicant. Mr. Wilkinson noted that yes, there was an application put in that initiated this review, but when writing up the proposed ordinance they did not have one particular property in mind. There were two things that were taken into consideration. One, being the concerns of the task force and the second being the impacts it would make throughout the whole city. Mr. Harland wanted to know how many potential properties could take advantage of this. Mr. Wilkinson responded by saying that it could be somewhere in the range of 40+ properties. If property owners would consider the removal of structures that would really open up some possibilities on what could be done.

Marta Nielson of 5495 South Walden Meadows Drive, indicated that she sees this as an opportunity to allow for more housing in Murray and for property owners to utilize their property rights. She feels that the work done by Staff and her family over the past two years has resulted in a solution that would meet the concerns and mitigate the concerns of the City and provide an opportunity for property owners. As property owners she feels that they have a vested interest in the safety of the area and she feels that this proposed ordinance addresses those concerns. She requested a positive recommendation from the Planning Commission.

Public comment was closed.

Mr. Harland reminded everyone that he, Mr. Taylor, Mr. Black and Ms. Daniels are very familiar with this issue as they have been on the Commission for a few years and have had several discussions and meetings in regards to that issue. Knowing that Mr. Buchert and Mr. Markham have been given information to read on past meetings, he still wanted to know if they had any questions. Mr. Buchert wanted to know if the City wants to promote development on these infill parcels. The fact that they have been asked to consider an ordinance change indicates that the City is trying to promote development of these parcels. Mr. Harland explained, as he understands it, since the ordinance was changed in 2007 the City's intent is to have public streets. Both the public streets and infill ordinances that the City has in place have worked very well. His belief is, that if it's working well, why change it. Mr. Buchert understood that to mean that the intended consequence of this change would be to facilitate infill development of undeveloped or low density developed land to promote the tax base. Mr. Taylor interjected by stating that the infill allows for those parcels to be able to be developed on a public street. This proposed ordinance is just an issue of public versus private streets. The City has made its stance known that they do not want private streets for multiple reasons. Mr. Harland made note that the decision that needs to be made at this meeting is whether to add or not add the private street category onto the infill development ordinance. Mr. Buchert wanted to know what the institutional intention of the City in amending the ordinance. Mr. Taylor responded it is to allow for a private street in an infill situation. Mr. Buchert then wanted to know why or why not there are different standards on private roads then for public roads. Mr.

Taylor responded by saying by passing the current ordinance in 2007, the City has made a statement by saying there shouldn't be a difference, they should be all public streets. Mr. Buchert then asked why the City wouldn't want private streets. Mr. Harland pointed out that when the City did allow private streets, it was a mess with all kinds of problems. The private streets had pot holes and were not being maintained and the people that owned them wanted to dump them on the City and have them maintain and pay for them. Because of that, in 2006 the task force was formed. They came up with their recommendations, sent them onto the Planning Commission and from the Planning Commission to the City Council, all parties agreed to no longer allow private streets. Since that time, there has been an improvement. He doesn't feel that if it is working, they should go backwards. Mr. Buchert wanted to what the difference is about a municipal government's interest than a state governments or a federal government's interests in a road or highway that is private or not. Mr. Taylor commented that he wouldn't even begin to compare a small street to a highway when it comes to funding and maintenance. Mr. Harland pointed out that Mr. Black made a comment earlier that sticks out as a concern. At previous commission meetings, developments have come up in the past that wanted private streets and everything that deals with all the related problems of ongoing maintenance. In some instances some of the residences in the development weren't even aware that their road was private. Then when it came time to repair it, they called the city and the city said it wasn't their responsibility. Those were the types of problems that came up and thus generated the need for a review by the task force and resolved through the proper channels of no longer allowing private streets. Murray City Attorney, G.L. Critchfield addressed Mr. Bucherts question by stating that at the federal and state level there is an interest in insuring that interstate commerce flows freely. When you get to the city level, they too want the streets to flow freely, but occasionally there is an instance where someone comes to the city and says, my property doesn't quite fit, so make a concession for me and change the law. Years ago that was done, but when the PUD ordinance came about in Murray in the 1970's there was quite a few people proposing private streets. However, when you are talking about private streets in residential developments, typically you are talking less cost and higher density. If someone can get a narrower street, there isn't as much cost involved and it allows more homes in the development. A few years ago there was a PUD proposal that Mr. Savage was involved in the middle of. A developer came in and proposed 16 lots to go on a private street. He counted the private street towards the square footage requirement. In effect it downzoned without going to the city council. Mr. Savage objected to that, talked to the developer and they agreed on a certain amount of lots. Mr. Critchfield's understanding is that certain people that bought into that development have subsequently asked the city to take that street back and make it public. The public standards are to look at safety, maintenance and how long the road will be in use before it needs repair or replacement. It seems that the private developer's standards might be driven by cost. The problem with that is when the city allows a street to be private the city is precluded from going in and maintaining it because it is private property. Sometimes the developer says that they will form a Home Owners Association (HOA) that will pay fees monthly to pay for maintenance of the street. The city's experience is that the HOA over time fail to keep up to that commitment, so when there is a need to make repairs the money isn't there. That's when they turn back to the city and ask them to take the road back. Generally the city won't take it back, because of the maintenance problems. When there is a narrower street the

plows and garbage trucks have a harder time. The difficulty in this application is that there is a family that wants to develop property, yet the Planning Commission needs to be looking at this as an overall city issue. To eliminate the problems, you need to eliminate the private street option.

Mr. Buchert asked Mr. Wilkinson if he has a sense of how many properties will not be able to be developed because of the existing ordinance that doesn't allow private streets. Mr. Wilkinson responded by stating that he does not have numbers to reflect that. He went on to say that there are so many variables to identify. (i.e. the willingness of a party to remove an existing structure). The proposed ordinance was written not with a specific property in mind, but more as a broad policy issue. Mr. Wilkinson made note that whether or not private streets should be treated differently than public streets is purely a policy issue. The public services department has stated that there are certain widths of streets that they are simply unwilling to maintain.

Mr. Black explained that he has been there through all the changes throughout the years and just by observing what the city has gone through in the past with private streets, it's hard not to have learned something from it. He feels that approving this ordinance for one piece of property, because the owners want that, opens up the flood gates for everyone else. Changing an ordinance for one party which in essence will apply to the whole city is not prudent or logical. He doesn't feel that going back to allowing private streets is a good way to go.

Mr. Taylor commented that upon the City Council's request, Staff has done a great job in presenting this new proposed ordinance for Planning Commission's review. He would recommend several changes be made to the draft of the ordinance;

- Item #9 states signage shall be installed at the entrance. He feels it should read, signage shall be installed and maintained by the HOA.
- Item #11 the second line reads to provide access to undeveloped properties. It should instead say...undeveloped private properties.

Mr. Tingey reiterated that there are reservations from the planning side of things, but when the City Council was provided with the original recommendation, they gave Staff the direction of revision. So that is what has been presented at this meeting.

Mr. Buchert pointed out that in 16.16.095 the numbered/lettered points from "2-a" down doesn't really seem to go along with the City Engineer street plans. Mr. Taylor suggested that "A-1" goes together, but the rest doesn't fall under that category and should be re-numbered/lettered.

Ms. Daniels made a motion to forward a recommendation of denial to the City Council for the requested amendment to the subdivision ordinance and residential infill standards related to private streets with the modifications and additional standards proposed by Staff.

Mr. Black seconded the motion.

Call vote recorded by Chad Wilkinson.

A _____ Karen Daniels
A _____ Phil Markham
A _____ Martin Buchert
A _____ Ray Black
A _____ Jim Harland
A _____ Tim Taylor

Motion passed, 6-0.

OTHER BUSINESS

Mr. Wilkinson reminded the Planning Commission of the training and retreat on March 8, 2012 at 6:00-8:00pm. A dinner will be served while Staff does some training. After that it will be an open forum to discuss any issues or concerns.

Mr. Harland wanted to know if Staff was still working on getting a seventh Planning Commission Board member. Mr. Wilkinson stated that they are still trying to find someone to fill the position and will be glad to take suggestions.

Mr. Buchert offered to obtain a model of intersecting, depreciation and appreciation curves for building developed by Dr. Chris Nelson of the University of Utah. The model can model those points for the city, spatially.

Meeting adjourned.


Chad Wilkinson, Manager
Community & Economic Development

Agenda Item #10

TO: Murray City Planning Commission

FROM: Murray City Community & Economic Development Staff

DATE OF REPORT: February 10, 2012

DATE OF HEARING: February 16, 2012

Re: Ordinance Text Amendment # 11-00000056

BACKGROUND AND DISCUSSION:

On July 21, 2011 the planning commission reviewed a request for a text amendment allowing for development of private streets in conjunction with subdivisions in certain limited circumstances. The planning commission recommended denial of the proposal to the City Council. On December 6, 2011, the City Council considered the request and directed staff to draft an ordinance for the planning commission's consideration and recommendation that would allow private streets in certain limited situations. After input from the Public Services Department, City Fire, Public Safety, Water and Sewer Division, and Power Department staff has drafted an ordinance to allow private streets for residential infill subdivisions with minimum standards to regulate the development. As previously included in reports to the Commission, a task force had been organized in 2006 to look at the issue of private streets along with other issues related to the development of Planned Unit Developments. Several concerns related to private streets were brought up by the task force. These included the following:

- Allowing private streets to count toward minimum lot area which effectively increased density;
- Setback issues from private streets to garages;
- Long term maintenance of private streets;
- Lack of consistent standards for construction.
- Equitable provision of city services including snowplowing, trash collection, lighting, etc.

In order to address these issues, staff has proposed modifications to the applicant's original proposal. The revised ordinance provides minimum construction standards and requirements related to long term maintenance. The standards require the formation of a homeowners' association (HOA) and the creation of Conditions, Covenants and Restrictions (CCR's) to create a mechanism for long term maintenance and regulation of the private street. In addition, staff proposes that private streets be located within separate lots or parcels in order to prevent streets from being counted within the minimum lot area and in order to ensure adequate setback to private streets. The requirement for the private street to be located on a separate lot or parcel will also help in ensuring future maintenance of the street and make it more difficult for the

homeowners association to dissolve in the future as the private street lot will be owned commonly and not part of individual lots. Other concerns related to interpretation of property lines and setbacks for building construction in the subdivision will also be mitigated by requiring the private street on a separate lot or parcel. In contemplating an ordinance to allow for private streets, staff also reviewed several other municipalities' standards. A spreadsheet showing the various standards is attached. While standards vary from city to city, all the surveyed cities require some minimum pavement width along with sidewalks on at least one side of the street. Most of the cities also required some sort of curb and gutter.

The planning commission reviewed a draft proposal on January 5, 2012 and provided feedback to staff. A copy of the minutes from that meeting is attached. Items discussed by the Planning Commission included:

- How to address the installation of a private gate.
- How the City is to monitor and enforce maintenance of the private street and how that mechanism is going to occur.
- Whether or not maintenance plans should be submitted as part of the approval.
- Recommendation that one side of sidewalk be a requirement on residential infill subdivisions.
- Providing clarity on where to create the lot line and where that would be measured.
- Requiring high back curb and gutters.
- Street width of 20 feet
- Separation between private street and adjacent properties

Staff has incorporated items of concern identified by the planning commission into the revised ordinance where not already addressed by the draft proposal. The applicant has provided revised text in response to staff's proposed modifications which is attached to this report.

AUTHORITY:

Utah Code Section 10-9a-503 requires that the planning commission review and make a recommendation on any proposed changes to the Land Use Ordinance which includes the subdivision ordinance (see Section 10-9A-103). The Planning Commission may recommend approval, approval with modifications or denial.

FINDINGS AND CONCLUSION:

- The City Council in 2007 determined that private streets were not appropriate for development of single family residential subdivisions and required that all future created lots abut a public street.
- On July 21, 2011, the Planning Commission recommended denial of the proposal to allow for private streets.

- On December 6, 2011, the City Council directed staff to reconsider the proposal and to draft standards for consideration by the Planning Commission and City Council allowing for the use of private streets in limited situations.
- The proposed ordinance will allow for the use of private streets under limited circumstances and will provide for fundamental fairness in land use regulation in the City.
- The proposed ordinance has been carefully considered and will provide for the health, safety and welfare of present and future inhabitants of the City.
- The ordinance will allow for reasonable development of existing properties in Murray while protecting the rights of current and future residents of the City.

STAFF RECOMMENDATION:

Based on the above findings, staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the requested amendment to subdivision ordinance and residential infill standards related to private streets with the modifications and additional standards proposed by staff.

Proposed Ordinance Text Amendment

16.16.090: ACCESS TO PUBLIC STREETS:

- A. All lots or parcels created by the subdivision of land, for single-family or two-family dwellings, including, without limiting, subdivisions, ~~residential infill developments~~, and planned unit developments, shall abut a public street which is improved to standards established according to this chapter. Lots or parcels created in conjunction with a residential infill subdivision shall abut on either a public street or a private street constructed to the standards established in this chapter.

16.16.095: PRIVATE STREET DEVELOPMENT STANDARDS

- ~~B.A.~~ As part of the preliminary plat review for application of any residential infill subdivision which includes including private streets, the subdivider shall submit for review by the city engineer the following street plans:

1. A private street development plan showing:
 - a. The alignment, width, grades, design, and material specifications,
 - b. ~~A drainage plan,~~
 - c. Utility plans and easements for servicing the lots served by the private street;
2. Private streets shall be constructed to the following minimum standards:
 - a. The private street shall be constructed of asphalt or concrete and shall have a minimum paved width of 20 feet.
 - b. Curb and gutter shall be provided with type and width/depth to be approved by the City Engineer.
 - c. A minimum of eight (8) inches of road base and three (3) inches of asphalt shall be installed over a properly prepared sub-base as approved by the City Engineer. Asphalt must meet APWA standards.
 - d. In accordance with the Single Family Residential Infill standards, a cul-de-sac or alternate turnaround may be considered if approved by the City Engineer and Fire Marshall and planning commission.
 - e. Utility design and installation shall be reviewed and approved by the City.
 - f. Private streets shall not exceed 600 feet in length, measured from the intersection with the public street to the center of the cul-de-sac or turn-around.
 - g. Park strips and sidewalks are required on private streets unless the City Engineer and planning commission determine that they may be omitted as provided in the residential infill standards.
3. Private streets including turnarounds, sidewalks, and park strips shall be located within a separate lot or parcel and shall not be counted toward the minimum lot size of the lots in the subdivision.
4. Required residential building setbacks shall be measured from the boundary line of the private street parcel including the required turnaround. Property lines abutting the private street shall be considered front yard and/or corner lot side yards for the purpose of calculating setbacks.
5. Private streets shall be separated from abutting privately owned properties outside of the proposed development by a minimum of five feet. The five foot area shall be landscaped and maintained by the Homeowners association.

6. The total area served by a private street shall not exceed 2 acres.
7. A plan providing for future ownership and maintenance of the private street together with payment of taxes and other liability thereon. Private streets, including utilities extended to serve lots in a subdivision served by a private street, shall be privately maintained. A homeowners association and Conditions Covenants and Restrictions (CCRs) shall be created. A copy of the proposed CCRs shall be submitted to the City for review and approval prior to final plat and shall be recorded at the time of the recording of the subdivision. A copy of the recorded CCRs shall be provided to the City within one week of recording.
8. A bond shall be required for private street and utility improvements which will be released upon inspection and final approval by the City.
9. Signage shall be installed at the entrance to the public street indicating that the street is privately maintained.
10. Proposed gates on private streets shall require review and approval by the Planning Commission and shall meet the requirements of the City Engineer, City Fire Marshall, Police Department and City Utilities in regard to access, size, and location of the gate.
11. Where extension of streets is required in order to provide access to undeveloped properties beyond the boundaries of a proposed residential infill subdivision, in accordance with Section 16.16.170 A, the City may require the provision of a public street and appropriate temporary turn around.
12. After review and favorable recommendation by the city engineer, the planning commission may include such approved private street plans as part of its recommendations to the mayor. (Ord. 07-42 § 2: Ord. 94-40 § 1: prior code § 30-37).

Chapter 17.58

SINGLE-FAMILY RESIDENTIAL INFILL

17.58.010: PURPOSE:

17.58.020: APPLICABILITY:

17.58.030: CONDITIONAL USE PERMIT REQUIRED:

17.58.040: LAND USES AND DEVELOPMENT:

17.58.050: REQUIRED CONDITIONS:

17.58.010: PURPOSE:

Single-family residential infill development is encouraged to facilitate infill development in areas with existing infrastructure investments as a means of achieving balanced growth with efficient land use and cost effective delivery of urban services. The provisions of this chapter recognize the design challenges inherent in developing successful infill properties, and ensure that new development is consistent in character and scale with established neighborhoods. The specific objectives of this chapter are to:

- A. Provide clear development standards that promote compatibility between new and existing development and promote certainty in the marketplace;
- B. Promote neighborhood preservation and enhancement through redevelopment of underutilized properties;
- C. Stimulate economic investment and development in older established communities;
- D. Encourage efficient use of land and public services in the context of existing communities; and
- E. Implement the goals, objectives and policies of the general plan. (Ord. 07-44 § 2)

17.58.020: APPLICABILITY:

These infill development standards shall apply to all lots and parcels that are adjacent to developed land on two (2) or more sides. "Developed land" means lots and/or parcels that have the following services with adequate capacity at or near the property line: public water, public sanitary sewer, stormwater management facilities, and access to a public street. The planning commission shall not approve any residential infill development that does not include a contiguous arrangement of at least three (3) lots of record and a rational, defined boundary. (Ord. 07-44 § 2)

17.58.030: CONDITIONAL USE PERMIT REQUIRED:

Infill developments may be allowed as conditional uses in all single-family zoning districts by the planning commission. (Ord. 07-44 § 2)

17.58.040: LAND USES AND DEVELOPMENT:

All land uses, structures, and development, including, without limiting, buildings, drives, parking areas, landscaping, fencing, and screening shall be located and developed in accordance with the provisions of the underlying zoning district in which the residential infill development is located, except as modified by this chapter. (Ord. 07-44 § 2)

17.58.050: REQUIRED CONDITIONS:

- A. Area Limitation: No residential infill development shall have an area of more than two (2) acres.
- B. Lot Requirements: Lot area, width and frontage requirements shall be as determined by the underlying zoning district.
- C. Yard Requirements: Residential building lots shall meet the following minimum yard requirements:
 - 1. Front yard and rear yard: Minimum depth shall be twenty feet (20').
 - 2. Side yard and corner lot side yard: Minimum depth shall be as determined by the underlying zoning district.
- D. Sidewalks and Park Strips: The planning commission may recommend that sidewalks and park strips be omitted if the proposed development has an internal pedestrian system, and if the planning commission finds that the public safety is not substantially jeopardized.
- E. Cul-De-Sac Streets: The turnaround at the end of the street may vary from the requirements of subsection 16.16.180C of this code if the development proposal demonstrates to the satisfaction of the city engineer, city fire marshal and planning commission that the turnaround design is conducive to efficient travel, public safety and the protection of property. (Ord. 08-14 § 2)
- F. Private Streets: Private streets may be constructed to serve residential infill development. Private streets shall be constructed to the standards outlined in Section 16.16.095 of this code.

Additional Information

City	Private Street paved width	Private Street Right of Way width	Separate from Parcel	Maximum number of units
West Jordan	25 feet	40-43 feet, sidewalk and curb and gutter required	Separate and distinct from lots	10
Sandy	27 feet	52 feet, sidewalk, park strips, curb and gutter required *	Separate and distinct from lots	No Max
Midvale	20 feet	37 feet, sidewalk and park strips, curb and gutter required	Separate and distinct from lots	No Max
South Salt Lake	25 feet	Sidewalk one side	Separate and distinct from lots	Not specified
Ogden City	Same as Public Street	Same as Public Street	Separate and distinct from lots	Determined upon review of site plan
West Valley City	24 feet of asphalt from curb to curb	Sidewalks on one side, curb and gutter required	Separate and distinct from lots	Max of 30 with single access

*Sandy City – Does not list specific standards for private street development but encourage that developers build to the public street standard

January 5, 2012 Planning Commission Minutes

The public hearing was opened for this meeting to receive public comment. No comments were made by the public.

Mr. Evans made a motion to send a positive recommendation to the city council to adopt the new land use category 4859.1 Recycling and Recycling Sorting (No Land Fill) and include the new use category as a Conditional Use in the M-G-C zoning district. Mr. Harland seconded the motion.

Call vote recorded by Ray Christensen.

A _____ Karen Daniels
A _____ Kurtis Aoki
A _____ Sheri Van Bibber
A _____ Jim Harland
A _____ Ray Black
A _____ Jeff Evans
A _____ Tim Taylor

Motion passed, 7-0.

DISCUSSION ITEM – Use of Private Streets in Subdivision Development

Chad Wilkinson presented the information for this discussion item. He indicated that on July 21, 2011 the planning commission reviewed a request for a text amendment allowing for development of private streets in conjunction with subdivisions in certain limited circumstances. The planning commission recommended denial of the proposal to the City Council. On December 6, 2011, the City Council considered the request and directed staff to draft an ordinance for the planning commission's consideration and recommendation that would allow private streets in certain limited situations. After receiving input from the Public Services Department, City Fire, Public Safety, Water and Sewer Division, and Power Department staff has drafted an ordinance to allow private streets for residential infill subdivisions with minimum standards to regulate the development. Several concerns related to private streets were brought up by the task force previously organized to study the issue. These included the following:

- Allowing private streets to count toward minimum lot area which effectively increased density;
- Residents paying the same property tax rates but not receiving the same services;
- Setback issues from private streets to garages;
- Long term maintenance of private streets;
- Lack of consistent standards for construction.

Mr. Wilkinson stated that comparisons were made with other municipalities. West Jordan has 25 foot width of pavement on private streets and the private street right-of-way section includes sidewalk, curb and gutter making a total of 40-43 feet width. He stated that one of the issues of concern is to have private streets as an easement or to have the streets be a separate parcel. Sandy City has two standards: private lane

which serves one or two parcels and a standard for private streets. Their private street is 27 feet width and a 5 foot sidewalk may be required, but did not specify whether it is a right-of-way or a separate parcel. No maximum number of lots specified. Midvale City requires 20 foot width of asphalt with a 37 foot width which includes sidewalk and park strips, curb and gutter. Midvale did not specify whether the street is a right-of-way or a separate parcel. South Salt Lake requires 25 feet width with a sidewalk on one side and be separate and distinct from the lots in the subdivision. Ogden City standard is that private streets to be built to the same standard as a public street. West Valley City requires 24 feet of asphalt curb to curb, sidewalks on one side with curb and gutter required; and that it be separate and distinct from the lots in the subdivision. No maximum number of lots specified. He stated that when he spoke to West Valley City, that their standard is based on how many accesses there are into the subdivision and adequate ingress and egress to serve a certain number of lots. There are a wide range of standards in the valley. He stated there may be situations where a sidewalk and park strip are not necessarily required but there could be situations where it would be an important design element to be included. He stated that staff feels it is important when creating private streets to have the street be a single parcel. This has been a result of experience where property lines are very important to people and people feel they have rights to that property and sometimes those property lines create conflicts between adjoining properties. Mr. Wilkinson showed photos of an existing situation where a fence has recently been constructed down the middle of an access easement (driveway) creating a very difficult situation for the adjacent property owner. There is a homeowners association with this development and the city has received complaints regarding this particular situation. It is an awkward situation to inform complainants that there is little to nothing the city can do in these types of situations where it involves private easements.

Mr. Wilkinson stated that setback interpretation has been an issue over the years with regards to private streets. This may seem straight forward, but has been challenged over the years. There have been occasions in the past where a developer wanted to include the easement as part of the setback. Making the road a separate parcel will help in defining setback interpretations. There is concern with potentially creating small parcels that can't be used for development and becoming a zoning enforcement issue.

Density was a big concern with some of the previous developments when the street was included in the lot area it effectively increased the density. Kirsty's Court and On the Greens were two developments where this occurred and without including the area of the street, the lots would not have met the minimum lot size. Concerns from neighboring property owners were increasing the density without going through a zone change. Bridges on Vine subdivision had the street as a separate distinct parcel owned by the homeowners association and is a better situation which helped mitigate some of the concerns associated with other subdivisions. By creating a separate parcel for the street it in essence creates a separate entity that would be part of a subdivision owned by the homeowners association and is not owned by a single individual which is a way to help ensure stability over time. The street would have to have taxes paid on it and it would have to be maintained. Where portions of the road are owned by individuals, one individual may maintain their portion and another

individual may not maintain their portion which ultimately creates problems. Code enforcement issues may be logistically difficult if one individual does not allow officials to access the properties.

Mr. Wilkinson commented that one of staffs' concerns is how to address the issues originally discussed by the Task Force Committee in 2006/2007. In order to address these issues, the draft ordinance provides minimum construction standards and requirements related to long term maintenance. In addition, staff proposes that private streets be located within separate lots or parcels in order to prevent streets from being counted within the minimum lot area and in order to ensure adequate setback to private streets. The draft ordinance is for discussion purposes only and input from the planning commission will be used to create a final draft which will be forwarded to the commission for formal review and recommendation at a future hearing.

Ms. Daniels asked other city averages with a 24-25 foot width and the city has had 20 foot width. Mr. Wilkinson responded that the 20 foot paved width was proposed by the applicant.

Mr. Taylor asked if the fire code requires a 20 foot width clear fire area measured curb to curb and if so, technically there could be a paved width of 16 feet and 2 foot gutter widths to meet the minimum fire code requirement. Mr. Wilkinson responded the standard proposed would be 20 feet of asphalt, adding that a 20 foot width does not allow for parking along the street.

Mr. Black stated that if people park on a private street there is no fire safety access available, and the fire department would not be able to access the fire.

Mr. Aoki expressed concerns over a private street having a security gate and no one has a key to the gate or there is a chain across the street and in the event of an emergency it may become an issue. Mr. Wilkinson responded there are a few of those situations in the city and the fire department has to work out those issues and that those issues will need to be addressed in the proposed ordinance.

Mr. Harland expressed concern with the city having the ability to monitor and enforce ordinances and that in the past there have been problems with home owner associations not able to sustain themselves and are unable to maintain the private roads. He commented that even when there have been C C & R's associated with a home owners or a P.U.D. they have not been enforced and do not have much control over the maintenance of the streets and subdivision and it was because of these types of issues that the change in the ordinance occurred a few years ago eliminating private streets all together.

Mr. Black stated he was on the commission in 2006/2007 when the ordinance was reviewed and changed and street maintenance issues for private streets was one of the big issues at that time. He stated that there have been numerous problems such as maintenance, snow plowing, garbage collection, etc., over the years which is why the ordinance was amended a few years ago in an attempt to prevent such problems. He strongly suggested not going back to the old ordinance allowing private streets

and there is no "teeth" for enforcement issues even with homeowners associations or C C & R's with regards to private streets/subdivisions. He stated if the ordinance is amended to allow private streets once again, the city will be headed back to problems once again. He suggested posing the question to those wishing to have private streets, "what type of resolution would they have to keep the street maintained over the years"?

Ms. Van Bibber asked about imposing liens on property if the streets are not maintained.

Kurtis Aoki asked about having an assessment bond or fee for repairs and maintenance for the roads since the home owners associations often times does not maintain and repair the roads. He suggested having the City as a party in the C C & R's in order to help maintain some type of control over the streets and future repair and maintenance. He stated that all roads should be constructed to certain standards that the city is comfortable with. Mr. Wilkinson stated that the city becomes less comfortable with being party to the C C & R's because of liability issues. He stated any proposal would need to include certain standards such as paving depth and that the road base is inspected and laid down to a certain depth to get the street the best possible start. But, once the street would be installed, it would be out of the city's control and would revert to the home owners association for the long term maintenance.

Jeff Evans commented about requiring developers to have a 20 year road maintenance plan as part of the requirements for the homeowners association to incorporate maintenance provisions as part of the approval process. Mr. Harland questioned how this would be enforced and would once again be a private issue. Mr. Wilkinson stated most C C & R's have some provision for maintenance, but could possibly be more detailed. He stated that, in relation to weeds, the city has a policy wherein it inspects the property, sends a violation notice and if necessary has the weeds cut and then liens the property for the value of the costs.

Mr. Harland asked if the city could charge a home owner or homeowners association the cost for repairs of a street and possibly lien their property. Mr. Wilkinson responded that he was unsure if this could be done, but may differ in that the costs could be much greater than weed cutting, and questioned if the city is comfortable doing such a thing for street maintenance.

Ms. Van Bibber expressed concern with having an ordinance that would address all the concerns, but that there were numerous issues with people buying homes in P.U.D.'s and were totally unaware that the homes were even in P.U.D.'s or private subdivisions. She stated that the ordinance was revised a few years ago to help mitigate some of those concerns. She stated that no matter how detailed an ordinance may be, there will always be instances where there are grey areas in the ordinance. She stated that there are remaining parcels of property in the city that are difficult to develop based on the current "black and white" ordinance and does not address the "grey" areas and that the ordinance may need to be revised.

Mr. Black commented that the commission has had numerous experiences with these issues over the years and since the ordinance was amended in 2006/2007 those concerns and issues have significantly been reduced and it has been a significant amount of time to see the results of that revision. He expressed concern with reverting back to the older ordinances that allowed such problems. He stated why fix the ordinance when it isn't broken.

Ms. Daniels suggested that the park strips and sidewalk be required on both sides of the private streets, but allow some discretion by the City Engineer and Planning Commission to possibly not allow the park strips and sidewalk on one side of the streets. She felt strongly about sidewalks being a safety issue. Jim Harland and Ray Black concurred.

Mr. Black commented that a sidewalk on only one side of the street was approved for the Woolley Subdivision and Shawn Bradley subdivision. He stated that on numerous occasions the planning commission has heard concerns from residents where children are forced to walk along the street when there are existing streets that have no sidewalk.

Mr. Taylor asked if the ordinance were to be revised as proposed, do we know how it would affect the 40-50 parcels of property that have been identified as possibly being developed in the future with the revised ordinance. Mr. Wilkinson stated that the proposed ordinance will fundamentally change the analysis done on the 40-50 parcels of property. He stated there are situations where people may assemble small parcels of property to develop a subdivision which was the case of the Woolley Subdivision. He stated for these reasons, staffs' draft ordinance has been drafted on a broader scale in order to potentially address a lot of different circumstances. Not every private street would be along the edge of the property and may be located in the middle of the subdivision where sidewalks would be more of an issue.

Mr. Taylor commented that the staff draft ordinance indicates the private street "shall be located within it" means that the boundaries of that parcel or lot would be the edge of the street. Mr. Wilkinson responded that the boundary would change depending on the ultimate design of the street which could be back of sidewalk or could be back of curb, and possibly the language be more detailed on this issue. Mr. Taylor concurred that the language should be more detailed to spell out where the boundary would align with some portion of the street edge. This would allow an HOA to have the sidewalk and park strip be part of the private street and maintained by the HOA. He stated that the Bradley Subdivision has the private street as its own parcel. He suggested that the boundaries should be specific as the edge of the street. He suggested having a separation between a curb and a wall.

Mr. Black recommended that rolled curb and gutter not be allowed and require a regular curb and gutter. He stated that on 5290 South Street there used to be the rolled curb and recently the city redid the street and installed a regular curb which is a much better situation and the adjacent property owners are much happier with the regular curb. A regular curb and gutter are much better in facilitating drainage issues than is the rolled curb.

Mr. Taylor asked about private lanes (which may be a certain number of lots) verses private streets. Mr. Wilkinson responded that the private lane was differentiated from private streets only in Sandy City that has a private lane of 20 feet width for access for up to 2 homes and more than 2 homes were on a private street which was 27 feet width. He stated that situation is similar to Murray's ordinance for flag lots.

Mr. Taylor asked if curb and gutter are required that there be a minimum street width of 20 feet and if no curb and gutter is required the water would drain down the middle of the street which is adequate in warmer climate areas but not areas such as we live in where there is snow and ice. Mr. Taylor stated that alley ways typically don't have curb and gutter and service a lot of traffic including garbage trucks and are very narrow. Mr. Wilkinson added that the difference between an alley and a street is the street is creating frontage for lots and an alley has frontage in the front of the property with an alley in the back creating a secondary access.

Ms. VanBibber asked if it was mandatory to have a strip of landscape between the sidewalks and gutter. Mr. Wilkinson responded that it wouldn't be mandatory the way it is written right now. Ms. VanBibber noted that more and more people who have a park strip between the sidewalk and gutter are just letting it go and not taking care of the park strip.

Mr. Harland wanted to know if staff has had the opportunity to ask the applicant what type of guarantee they can give the city to keep the street in good condition when it starts to deteriorate. Mr. Wilkinson said the applicant has submitted some ways that they propose to keep up on long term maintenance. Mr. Black noted that at one point the City had a messy problem with this issue and has just finally gotten it cleared up. Before the City goes back to the old program, he would like to hear a really good solution, which he doesn't think has been proposed.

Mr. Tingey stated the proposed draft ordinance can help mitigate those impacts through a home owners association and maintaining that home owners association. From an enforcement standpoint, if the home owners association goes away and the street is not labeled as a separate parcel, then life, health and safety issues related to a road that is not well maintained to allow for fire access will fall on the property owner at that specific location. That is not in the best interest of the other property owners that live down the street as they are all using the private access. Having one do the maintenance while everyone is using the street creates an equity issue. Will having a home owners association solve all the problems of ongoing maintenance? Probably not, but in the opinion of staff it mitigates the issue as much as it can by maintaining the home owners association.

Mr. Black indicated that the idea of having a separate parcel where everyone participates and contributes as a group is a better idea. That way there isn't any confusion as to who pays for what and whose property the maintenance issue is in front of. Mr. Black reiterated that the parcel would be owned by the home owners association. He asked what happens if the home owners association dissolves. Tim Tingey stated that it is still a challenge, but it would still be a separate parcel and not a single individual property owner. Enforcement would fall on everyone that is in that area to get the parcel maintained. That is one of the issues with private streets that in

10, 20, 30 years from now when the parcel needs maintenance. At that point there is nothing the City can do to enforce maintaining that parcel. That is why it is important that there is a home owners association intact.

Doug Hill, Public Services Director, stated that at the recent city council meeting, the city council requested there be further review of potential standards for private streets. The Planning Commission does not have to recommend having private streets, but does need to at least explore options. In his opinion he feels this project works because it is limited to properties under 2 acres and could be viewed as an infill type of development. These smaller parcels of property (under 2 acres) are difficult to develop. From a Public Services standpoint, they are comfortable with the recommendations and he is comfortable with 20 foot wide roads and alternative ways of having sidewalks, curb and gutter. He stated that having private streets does not address the issue of who will be paying for maintenance issues over the years.

Mr. Black stated that the planning commission is comfortable with the infill development regulations and suggested that future infill projects should have public streets simply because of the problems that arise with private streets. Mr. Hill stated that this issue certainly creates a dilemma, but in no way does he want the Planning Commission to feel pressured either way. He stated that the current road standards for infill development are a cumbersome requirement for property owners.

Tim Taylor opened the meeting for public comment.

Marta Nielsen, 5495 S. Walden Meadows Drive, stated her family is wishing to develop their property located on 5300 South. She stated if they are required to have a separate parcel of property for the street it will cut off a section of the lot that is hillside. They need that hillside area to have enough lot area to build their homes. She is proposing that the street be described and recorded with the county so that the boundaries are definite on where the street actually is. This would help in measuring setbacks. She also suggested having a maintenance fund in escrow for the homeowners association for long term maintenance. She stated they prefer not to have curb and gutter and that concrete edging would be adequate for the street. She asked the question of, if the home owners association were to ever dissolve, who actually owns the streets? Does the bank take over the street? Access for code enforcement and non-emergency vehicles should not be a problem as city employees are able to go onto private property to read meters, etc. as it is. This doesn't seem to be any different than that.

Jimmy Nielsen, 41 Paula Circle, Sandy, commented about the issues that have been brought up in the past. He feels that they have done everything that they can to resolve those and have taken those into account with what they would like to see done. If they could be resolved in a different way, such as an easement of ingress and egress versus a separate parcel, could that be a consideration? He wants everyone to keep in mind the size of the lots; maximum of 600 feet/2 acres. After looking at putting in a public road and talking to Doug Hill about narrowing that road, it still put the edge of the public road about 3 feet from an existing house on the property. He does not feel that the road should be any wider than 20 feet. They would be happy to provide concrete edging for drainage and stabilization. They hope there will not be a

requirement to provide a standard curb and gutter on this road as it will add 4-5 feet. He has researched the fire code and it requires 20 feet. If there were unlimited properties that reside on private land then that would need to be reviewed, but as it is, you are keeping it to 600 feet and two acres. He asked if a standard curb, gutter and sidewalk need to be a requirement for a development that serves two lots. They have proposed that the City be allowed to do regular inspections and that an escrow fund be set up that the City can monitor the balance on based on the size of the road. This was all suggested to help reassure the City that the road will be taken care of. Mr. Neilson mentioned that they agree with many points that Mr. Wilkinson has brought up and they appreciate the 20 foot width, but there are a few things that could push this over the edge. The current wording of the proposal could allow for a street or could require a private lane to be over 30 feet, which is what the public requirement is with park strips, sidewalks and curb and gutters. Mr. Neilson asked if after consulting with a land use expert, he could come back with alternate proposals that might resolve issues that Staff has.

The public comment portion of the meeting was closed.

Mr. Wilkinson commented about easement access and having C C & R's in the past didn't work. Staff feels the best solution for that is to have a separate parcel that is jointly owned by the home owners association. At that point the home owners association becomes a party to the subdivision and it isn't individuals with an easement across their lot. He stated that it is very difficult to enforce maintenance and ownership issues for private streets. There have been issues associated with having gates on private streets that prevent other property owners from accessing their property. Mr. Wilkinson stated he has reservations for the ordinance amendment as proposed by the Nielsen family.

Mr. Wilkinson made note of the issues brought up in this meeting:

- The installation of a private gate. Staff needs to look at the issue of gates and how that will be impacted by the ordinance.
- One option was brought up about the City to monitor and enforce maintenance of the private street and how that mechanism is going to occur.
- Another option was brought up that a maintenance plan be submitted as part of the approval.
- Recommended that one side of sidewalk be a requirement on residential infill subdivisions.
- Providing clarity on where to create the lot line and where that would be measured.
- Requiring high back curb and gutters.
- Street width of 20 feet
- Separation between private street and adjacent properties

Mr. Tingey commented that private streets should have a minimum of curb and gutter. The city engineer needs to review required drainage plans for the streets. Mr. Taylor talked about park strips and sidewalks being a requirement, but can be changed based on city engineering and planning commission. Mr. Wilkinson made the comment that the proposed ordinance requires those things with the ability to be

flexible. If they did not require them, then there is no way for the City to enforce that particular provision. Mr. Taylor commented that if the city engineer looks at the drainage plan and decides that based on the plan they really don't need sidewalks and/or curb and gutter, he should have the discretion to make that decision. Mr. Wilkinson had a conversation with the city engineer where they determined that curb and gutter is a requirement with some flexibility. Mr. Aoki requested that there be some separation between the private street and the adjacent properties.

Mr. Taylor commented that there will be no action on this meeting. Mr. Evans commented that there needs to be caution to not make any decisions on an ordinance that would affect the whole city purely based on one incident.

Meeting adjourned.

A handwritten signature in black ink, appearing to read 'CW', is written over a horizontal line.

Chad Wilkinson, Manager
Community & Economic Development

Applicant's Proposed Revisions to Staff Proposal

Chad Wilkinson

From: Chad Wilkinson
Sent: Wednesday, January 04, 2012 5:15 PM
To: Tim Tingey
Subject: Fw: 16.16.090 Nielsen Revisions

----- Forwarded by Chad Wilkinson/murray on 01/04/2012 05:11 PM -----

From: Marta Nielsen <mnelsonnielsen@gmail.com>
To: cwilkinson@murray.utah.gov
Cc: jim.brass@murray.utah.gov, James Nielsen <jnielsen@ffkr.com>, Randy Nielsen <rnielsen2@slb.com>, Andrew Nielsen <andrew@virtualvehicledm.com>, Amy <amychoate@gmail.com>
Date: 01/04/2012 03:06 PM
Subject: 16.16.090 Nielsen Revisions

Dear Chad,

Attached you'll find our revisions to section 16.16.090 of the code. Please pass this along to the Planning Commission. Our changes to your proposed draft are marked in blue and with strikethrough. We hope in the discussion Thursday that the concepts we are proposing will be considered and the language refined as needed. We believe our concepts are sound, and will accomplish the same goals without the negative impacts as requiring private streets to be separate parcels, but we do hope to have input from the City to refine the language.

We appreciate being involved in this process. Please let us know if there is anything further we can do.

Sincerely,

Marta Nielsen

--
Marta M. Nielsen
mnelsonnielsen@gmail.com
801.879.3224



16.16.090 Nielsen
Revisions.do...

16.16.090: ACCESS TO PUBLIC STREETS:

- A. All lots or parcels created by the subdivision of land, for single-family or two-family dwellings, including, without limiting, subdivisions, and planned unit developments, shall abut a public street which is improved to standards established according to this chapter. Lots or parcels created in conjunction with a residential infill subdivision shall abut on either a public street or a private street constructed to the standards established in this chapter.

16.16.095: PRIVATE STREET DEVELOPMENT STANDARDS

- A. As part of the preliminary plat review for application of any residential infill subdivision which includes private streets, the subdivider shall submit for review by the city engineer the following street plans:

1. A private street development plan showing:
 - a. The alignment, width, grades, design, and material specifications,
 - b. A drainage plan. **If curb and gutter is not included on the private street, the drainage plan must show that stormwater can be managed on-site.**
 - c. Utility plans and easements for servicing the lots served by the private street;

2. Private streets shall be constructed to the following minimum standards:

- a. The private street shall be constructed of asphalt or concrete and shall have a minimum of 20 feet of paved, drivable surface ~~paved width of 20 feet.~~
 - b. ~~Curb and gutter shall be provided with type and width/depth to be approved by the City Engineer.~~ **If curb and gutter are not provided, concrete edging that is flush with the road surface shall be provided to stabilize the private street. Edging must be a minimum of ____ inches wide.**
 - c. A minimum of eight (8) inches of road base and three (3) inches of asphalt shall be installed over a properly prepared sub-base as approved by the City Engineer. Asphalt must meet APWA standards.
 - d. In accordance with the Single Family Residential Infill standards, a cul-de-sac or alternate turnaround may be considered if approved by the City Engineer and Fire Marshall and planning commission.
 - e. Utility design and installation shall be reviewed and approved by the City.
 - f. Private streets shall not exceed 600 feet in length, measured from the intersection with the public street to the center of the cul-de-sac or turn-around.
 - g. ~~Park strips and sidewalks are required on private streets except unless the City engineer and planning commission determine that they may be omitted as provided in the residential infill standards.~~
2. **An easement of ingress and egress shall be recorded over the private street, following the boundaries as described in the legal description. Such easement shall provide all property owners on the private street equal right to use the street and guarantee reasonable access.** ~~Private streets (including required turnaround) shall be located within a separate lot or parcel and~~
 3. **The boundaries of the public street shall be included in the legal description recorded with Salt Lake County. Setbacks shall be as required in the infill subdivision, and be measured from the boundaries as described.**
 4. **Lot area shall be determined by infill subdivision requirements. Area of the**

private street, as determined by the boundary description, shall not be included in the total lot area. The area of private streets, as determined by the boundary description, shall not be counted toward the minimum lot size of the lots in the subdivision.

5. Required residential building setbacks shall be measured from the boundary line of the private street ~~parcel including the required turnaround. Property lines abutting the private street shall be considered front yard and/or corner lot side yards for the purpose of calculating setbacks.~~
6. The total area served by a private street shall not exceed 2 acres.
7. A plan providing for future ownership and maintenance of the private street together with payment of taxes and other liability thereon, **and proof of funds held in escrow to provide for the perpetual maintenance of the private street.** Private streets, including utilities extended to serve lots in a subdivision served by a private street, shall be privately maintained by a homeowners association. A homeowners association and Conditions Covenants and restrictions (CCRs) shall be created. **CCRs must prohibit the dissolution of the HOA to guarantee future maintenance of the private street, and include a provision that no individual property owner shall impede the private street or the reasonable access of another member of the HOA.** A copy of the proposed CCRs shall be submitted to the City for approval prior to final plat and shall be recorded at the time of the recording of the subdivision. A copy of the recorded CCRs shall be provided to the City within one week of recording.
8. A bond shall be required for private street and utility improvements which will be released upon inspection and final approval by the City.
9. **Public safety personnel or vehicles may at times require access to properties located on private streets to respond to code enforcement issues or other non-emergency calls that require City services. Property owners shall not block these personnel or vehicles from providing these services.** Signage shall be installed at the entrance to the public street indicating that the street is privately maintained, **and that public safety personnel or vehicles shall be granted access to the private street.**
10. After review and favorable recommendation by the city engineer, the planning commission may include such approved private street plans as part of its recommendations to the mayor. (Ord. 07-42 § 2; Ord. 94-40 § 1; prior code § 30-37)

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Staff and sponsor presentations and public comment prior to Council action on the following matter:

- 5.1 Consider an Ordinance amending Section 16.15.090 of the Murray City Municipal Code relating to the requirement that all newly created single-family lots abut a public street.

Staff presentation: Tim Tingey, Administrative Development Services Director.

Mr. Tingey said that this issue is a difficult one, something that has been on-going for a number of months; the application that was submitted by the Nielson family-they have indicated that they have interest in developing beyond the lot that they have and to create two to four lots that are accessed by a private street, and they want the ordinance changed to accomplish that.

It is a difficult issue-there are a lot of things that have to be considered related to this. The City has communicated to them that the current requirement for an infield street if you are going to do an infield development. This is a proposal that has been brought forward by the Nielson family, but one of the biggest issues related to this is that this ordinance change does not just affect one proposal-it affects the entire city. It is a public policy issue, it is an issue that has ramifications; not just for one property, but a number of properties and that is why staff has had concerns about this, and has prompted the recommendations in the past.

Back in 2006, there was a citizen task force that was assembled by the City Council to address a number of issues. These included the design elements for Planned Unit Developments, building height in single-family areas and the task force also reviewed the public-private street issue for the City. They met nine times, there were nine citizens, there was a citizen put on this committee that represented each one of the council districts, as well as architects, developers and others that participated in that process. They did not deliberate only on public and private streets in the nine meetings, they talked about a lot of different things, but one of the issues was the public and private streets issue and they came forward with a recommendation after the deliberations, that was brought forward to the Planning Commission and ultimately to the City Council, and that recommendation was to eliminate private streets for other than flag lots in single-family home developments. That task force spent a lot of time and a lot of effort in that process.

It also prompted and was part of the new Single-Family Infield Ordinance that we now have; and what that ordinance that was adopted in 2007 did was, it said that there were situations similar to the Nielson's property-and many others out there- where there is property in a standard subdivision, with all the subdivision requirements, and it wouldn't fit for this infield properties. Basically, what it did was narrowed the public street down; instead of a 50' wide public street that included curb, gutter, sidewalk and planter strip, it narrowed it down to a 30' paved access and eliminated the sidewalk, as long as there was

a pedestrian connection. That ordinance was created to address these types of developments and that was adopted by the City Council. As part of the background, the city has met with the Nielson's on numerous occasions, they have interest in developing with a private street; they had a home that was in the back where there was an easement that was granted, that was recognized by the city, back to a home that was actually taken down many years ago, and they had argued that because of that easement, we should allow for access.

There are two main issues here: one is that this is a single-family home and their interested in developing more than that and that home went away and all non-conformity was eliminated at that point. We also spoke to them about the requirement of building a public street, and there have been numerous discussions about that; there are situations that are not ideal on their property for that, and they had several options: one was to develop a public street, or to come forward to you and have you consider a change in the ordinance. One of the things that he communicated to them was that they should probably look at differentiating their proposal in some way, rather than just reversing what the committee studied for so long about, and what you considered. They have done that in their proposal, but once again, it isn't just their proposal that this affects, it's affects a number of properties.

These are some of the issues; they have brought this forward and basically, we have concerns because it affects other properties. The Planning Commission considered this in two separate meetings, there was a lot of public input, and they recommended denial of this request and that is what they are bringing forward to you.

So that you understand the impacts of other property owners, a slide presentation will be shown.

Chad Wilkinson, Division Manager

Mr. Wilkinson stated that he had been asked to analyze the number of properties and the locations which could potentially be impacted by the proposed ordinance change. The way they looked at the lots or properties that could be impacted is that they used the proposed language proposed in the ordinance by the applicant; they used that as the criteria, looking at properties less than 1.5 acres in size, that have limited access to a public road, have an existing private lane or drive that was provided or has access to at least one residential unit, that existed before the current requirement in that section of code, and that had structures in place that establish right-of-way to the rest of the property.

When they first went to the Planning Commission with this, they didn't look at the properties that were currently zoned A-1; the A-1 zoning in the General Plan is proposed to be phased out and replaced with Single-Family. In the particular map shown, they have included a number of those A-1 lots that they felt met those criteria. The number that they found, using a GIS search, in the case of A-1, they used the lowest density residential zone and they are 112 and made sure that those lots would be divisible at some

point.

Mr. Wilkinson showed the slides, explaining the areas and lots, and saying that the purpose of these exhibits is not to say that there is a certain appropriate number that is impacted or not, but to say that they have identified more properties that would potentially be impacted by this proposal.

As they analyzed this potential ordinance change, they identified about 58 properties; they also took into account the properties that immediately surround. Although there are properties that are potentially developable using this ordinance, there are also properties that would be impacted. He showed one property that has ten properties that directly touch the boundaries of the property. There are a number of properties like this that would be impacted by an ordinance change. This is not to say that they are looking at a certain number or threshold of properties that would be impacted, just to say that there are a number of properties citywide that would be impacted.

Mr. Tingey summed up their recommendation: once again, their issue is not about one specific proposal; it is the impact on the community and looking at this as a policy issue that has ramifications not just for one property. They do not have an interest in trying to block development for the Nielson's or other proposals, but they feel that the standards that are in place are important and they were put in not just because a staff person thought it would be a good idea-it was studied significantly. This is a public policy issue and they feel that this policy is sound right now, it is a good public policy, there are options for the Nielson's to develop with a 30' right-of-way, and although it may not be idea, it may require some variances which has occurred with other developments, even in the past year, so there are other options.

In closing, Mr. Tingey stated that they feel that other options are available, and their concerns relate to a few main issues related to this policy. One is that the committee looked at it, evaluated it, code that was adopted-the Single-Family Infield Ordinance-allows a reduction in the standards which can facilitate infield development. They are concerned with rights of future property owners to have a right to public access; these private streets almost always prompt citizens to request the City to take over the private streets, and it is a fact that within the past four months, he has sat down with a number of citizens requesting that in a neighborhood, and it is a concern. In addition, those that may own these properties, maybe not now but in the future, the impact of having a private street and having to take their trash containers hundreds of feet to get it to a public right-of-way, having to maintain that infrastructure if water lines break, having to maintain the properties, these are all issues that the City has complaints on, where people say 'we pay taxes, why don't we get the same services?' They complain about the fact that they are responsible for maintaining their streets. These are all issues of concern to the City. Also, costs of maintaining the infrastructure and the public safety issues are of concern; a private street and having enforcement on certain issues from a public safety and policing standpoint-it is a different issue and there are limitations on private streets for what the police and code enforcement can do. The Fire Department has expressed

some concern that the private streets are maintained adequately; if they are not, there can be a problem for getting fire engines down into these streets, as well as if they are blocked for some reason, the city has no control over that.

For these reasons and issues, the Planning Commission recommended denial, and Administrative and Developmental Services Department is recommending denial. However, they feel that this is sound policy; if the Council does not feel that way, and wants to go in a different direction, it is their prerogative and they are willing to reevaluate the policy. What has been proposed tonight, if the Council does want to go in that direction, would really need to be reevaluated and the Planning Commission would need to give input per state laws; they are willing to look at that but they feel that there are some really important elements to this public policy that prompt their recommendations.

Public Hearing opened for public comment.

Jimmy Nielsen, Sandy, Utah: Sponsor

Mr. Nielsen stated that he grew up here in Murray; the property is owned by his parents. It is an 'L' shaped property with very limited frontage on 5300 South and it is immediately adjacent to the Murray Amphitheater parking lot. He showed a Power Point presentation of the property, saying there is currently a private lane which provided access the homes. One side of that lane borders a retaining wall that drops off into the parking lot, and there is a slope on the other side; as you round the corner, there is significant topography to deal with-slopes on both sides of the road.

Where his aunts home stood, is where they are proposing building two homes; the houses would not really be visible from the park, nor from any neighbors. Due to the topography of the land, their development area is limited; there is a lot of green on the property and they would like to keep as much as they can. In the 1940's, his aunt and uncle purchased the land and built a home at the back of the property-intentionally wanted to be off of 5300 South. In 1974, his aunt gave a portion of the property to his father and he was granted permission to build a house on this lot, and an easement was defined by the the City along the east edge of the property for access into the rest of the property- which is over an acre of property. The location of that house, and the limit to access back into the property was done in cooperation with Murray City in 1974-1975.

What they are proposing is: he and his brother would like to build houses on the property; it is a beautiful place, they are attached to the community, and their parents are getting old and they don't want to take care of it anymore. They would love to build on the land- he is a licensed architect, it would be his dream to design and build his own house on this beautiful plot and his brother feels the same way. They are proposing two houses to be accessed off of 5300 South by a 20' wide private lane with a fire code approved turn-around between the two houses and an operational area for the fire truck; they have also indicated that a new fire hydrant would need to be placed on the site. The exact location of that could be coordinated with the fire department. The question is: why a private

lane? The public standard is 30', and even that is a reduction over the 50' that is typically required; it is 30' minimum, which is a hard number and does not fit this site. They can provide reasonable access, but the 30' just does not work.

Mr. Nielsen continued with the Power Point presentation, stating that with the retaining wall, a 30' width, with curb and gutter, and another retaining wall which would be required on the other side of the road, would leave about four feet of grass in front of his parents house, essentially walking out the front door onto a strip of grass and then the road. A public road requires that parking be allowed, so technically, a car could park right in front of the front door. When it said that a 30' road would work on this property, he has to disagree-a 30' road does not fit on the property, nor is it necessary.

The 20' width that they are proposing is adequate for vehicular traffic in two directions; it leaves a side yard from his parent's house on the east side, and would probably eliminate the need for a retaining wall at that portion because the slope would not have as much grade to make up. That is one reason that the 30' minimum does not work; the public standard cannot be changed-they have met with the City Council and staff to investigate the altering or finding a new standard, and the answer has been that the city is not comfortable with anything less than 30', so a variance to that is not an option. A 20' private lane can safely serve a limited number of houses, and they are not proposing that the changes made a few years ago, when the public road requirement was made, be completely be abolished; they are proposing that the city allow a private lane in very limited circumstances. They are not proposing that anyone in any property would be eligible for a private lane.

Mr. Nielson presented a diagram to show that the biggest fire truck that Murray owns, which is a 95' mid-mount truck, can safely navigate that road-turn around and go back up again. If they build houses there, they want the fire truck to be able to get there and respond to an emergency; they want this to be safe, and a 20' wide road will accomplish that. There are some privacy issues on this site, the immediate proximity to Murray Park is nice-it is wonderful to go for a walk in the park, but at the same time, there are privacy concerns; a public road allows parking on both sides of the road, actually reducing the emergency drive isle to less than 20' and could impede emergency access into the site. A private lane, as proposed, would be posted as a fire lane and kept clear. Mr. Nielson showed an image that was taken on the 4th of July, three hours before the fireworks, and 5300 South was completely lined up with cars, which is something that happens on a regular basis whenever there is anything going on in the amphitheater, and you can see that the next place for those cars to park would be down this dead end street, which they feel would be dangerous.

There are other benefits to defining a 20' right-of-way: first, it meets the International Fire Code; second, it is a more sustainable approach for small sites-it reduces storm water load because it is narrower, it allows for local infiltration of storm water runoff without a curb and gutter, it reduces the urban heat island effect-which is the effect that all the pavement and concrete in the city absorbs heat over time and releases it back into the city, creating a warmer area than what you find out in the country side; it would actually

reduce traffic speed, which would be ideal for this small development and they would be able to retain more of the native vegetation, especially the garden that his parents have maintained for many years. These would apply wherever a 20' lane would be allowed. It is an appropriate option for small infill sites that are permanently landlocked without potential for growth, which is what they have; they do not have the potential to grow this property in any way. It is surrounded by the park and a 25' hill on the other side that is very steep; there is no way that this area is growing and they are very limited in development potential.

They need an amendment because the public standard can't be modified and an amendment is the only way to get anything less than 30' for access into the property. The wording of the proposed amendment is intended to be restrictive, as he mentioned before, as restrictive as possible, limiting it to a few unique properties that could take advantage of a lane such as this. This is not intended to be a complete reversal of the status quo, rather a slight adjustment to allow for sensitive development for unique circumstances.

They proposed an amendment and wrote text; since then, other others and methods of mitigating the City's concerns have come up, but these were the first criteria that came up:

1. Property must be less than 1.5 acres in size and have limited access to a public road. To give an idea of how limited their access is, only 8.2% of their property fronts 5300 South.
2. Property must have had an existing private lane that provides or did provide access to at least one residential unit before the current requirement.
3. Have existing structures in place, previously approved by the City that establish right-of-way to the rest of the property. This is important; that deals with the sequence of development of the property; essentially, it would be required that the property had a house at the back first, then a house was placed on the front under City approval that inherently limited that access. If a property was developed in that way, and the City approved that access, they feel that access should be used. These criteria would eliminate many of the properties that Mr. Wilkinson identified.
4. That are immediately adjacent to a public park or gathering space. If that was added to the amendment, he believes that it would limit it to this single property alone. The reason for that piece of text is that there are privacy concerns related to living next to the park.

There are more points to the amendment, which he will not go through in its entirety; it was intended to speak to the technical merits of the private lane-they would like the private lane to be built to the city standards; they don't want the fire truck to fall through the pavement as it is driving down to the houses. Murray City would be exempt from all services. They would like the turn-around to be considered separately from the lane, to

allow for more friendly set-backs, and Mr. Tingey had mentioned the infill ordinance and they would like to take advantage of those set-backs because it is a good thing; it is just that the access that is provided-they need to modify the access that this allows.

In researching for this presentation and for the amendment, they looked at other cities surrounding Murray and there are currently others who allow for a private lane in some form; not to say that they allow anyone to do whatever they want to, they don't; they all impose limitations on the use of private lanes, and they assume that Murray would want to do the same.

They understand that the main concern is over city services-residents of private lanes come back and ask for city services; aside from the limitations based on the property characteristics that they have included in the amendment, they believe that limiting the scope of the private lane could help. Mitigate that concern over city services, if the length and the number of homes were limited on the private lane, it would be more easily identifiable as a private lane, people would know that they are living on a private lane; he feels that part of the problem is that people move in and don't know that it is a private lane that they are moving onto. If you limit the length of a private lane, a person is able to wheel their garbage cans up to the public road; they are able to clear the snow, pay for the repairs and it is not an overbearing financial burden. Those are some of the considerations. He has made a note that for example, in St. George's City Ordinances, they have limited the length of the lane to 600' and eight homes; West Jordan will allow up to ten homes on a private lane. The private lane that they are proposing would require less than 400' of length; the limited scope would allow people to wheel their garbage cans out and clear their own snow. Private lanes of a limited scope are more easily identifiable as private lanes.

Measures could also be put in place to make sure that residents are not only made aware that they are living on a private lane, but that services will not be provided to that private lane, such as a statement on the subdivision plat that absolutely no services will be provided. They have found language similar to that in the ordinance of Holladay City and in Cottonwood Heights; Salt Lake City ordinances have an extensive section on what would have to be done to a private lane in order for the city to adopt it into a public service. Murray could include something like that- the city's requirements if a private lane was to be adopted and public services provided.

Finally, he would propose that under the street sign for the lane, there would be an actual physical plaque that says: "notice to residents of this lane, City services will not be provided." In conclusion, he feels that all of the concerns that Mr. Tingey mentioned can be mitigated and can be worked around and they are willing to do that. All they want is to provide reasonable access into this property so that they can develop it and live in this place where they grew up and on the land that they love. They feel that this 20' lane could apply to other properties very well, and give property owners the ability to develop property that would not otherwise be developed, which would be a benefit to the city as well.

The key elements to their proposal are:

1. A 20' right-of-way be allowed;
2. An alternate turn-around be allowed, as is currently allowed in the in-fill subdivision set-backs;
3. That the City allow them to build on this land.

Robert Hunsaker, 5333 Knollcrest Drive, Murray

Mr. Hunsaker is a neighbor and character witness to Mr. Nielson, and said that if the City is interested in building up a community of responsible people, this would be the ideal group to have; they are ideal citizens. Sometimes things are not passed or not allowed because they are detrimental to our society, but this is not the case here. If they are allowed to build, they will add to this community and you will be proud to have them here. He urges the Council to adopt this.

Chad Wooley, 347 East 5300 South, Murray

Mr. Wooley stated that he lives just down the road from this property, and although he hasn't been in front of the Council, he has been in front of the Planning & Zoning about 100 times with his property; they have been trying to work out some way to work out their issues and feels that they finally have worked out something in their circumstances. He feels that the City has been great to work with.

He is also an attorney, and has looked at the legal issues surrounding this and would encourage the Council to look at this hard; you can limit this amendment as small as you want to to a point where it only allows them to do it- and from what he has looked at, a private lane, many of the communities feel that they are valuable in some ways. He knows that the staff recommended against it back in the day, but he feels that there are times when it is a good thing and whole-heartedly agrees with Mr. Hunsaker about the character of these people. He would love to have them as neighbors.

He urges the Council to approve this and added that if the Council cannot take this on face value, the way that they have presented it, look at it as an opportunity to strengthen its community.

Marta Nielson, 5495 South Walden Meadows Drive, Murray

Ms. Nielson disclosed that she would be one of the people who lives on this property, if the change were to happen.

Ms. Nielson said that there are not a lot of open spaces in Murray for big developments to go in; most of the land that is available to be developed now are these small in-fill subdivisions, and it is important to recognize that there isn't always one solution that will work for every site. She feels that this is our opportunity to go back and provide a way for some of these properties to be developed in a way that makes sense. Not all

properties are the same and a 30' road doesn't always work; they want Murray to be a good place, they want people to come and live in Murray. She feels that this is very important-to be able to provide opportunities for people to not only utilize their property rights, but to be able to add to the community and make it a better place. She hopes that the Council will seriously consider this option.

Public comment closed.

Council consideration of the above matter.

Mr. Shaver stated that when this issue was first brought to his attention, he visited with the Nielson family on the site, just to see for himself what it was like, as well as the other property issue that will come before the Council this evening. He wanted to see what it was like, what was involved, to be able to make that decision.

He said that this was the first time he had actually read through this amendment, had it explained as it would be, and because of that he does have some concerns; he feels that he needs the time to address them and would like to seriously consider it, look at and see what the ramifications would be.

Ms. Dunn said that she, Mr. Dredge, and Mr. Brass were very involved with the task force on this issue and she thinks that what they came up and what they adopted as a city was very good for the city. However, anytime you make policy or put a law into place, you always find out that there are some unintended consequences or that it negatively impacts something that you really don't want to impact; you find these things quite often. You find grey areas all the time; if everything was black and white, this job would be so easy. Through the years, as they have looked at this, this law has served them very well; they've been able to prevent some things from happening that would have negatively impacted the city, but again, when this issue first came up-her first thought was 'absolutely not, we've already been there.' Then, trying to remain open-minded, she went down and looked at the property; she feels that this is actually a very good project. But again, it doesn't fit within our current law, so it is a dilemma for them because they do not want to negatively impact people, negatively impact people who own property who would like to do something with that property that benefits themselves and their families, but they also don't want to negatively impact the city.

As was mentioned earlier, they have a whole bunch of places in this city that could be impacted by this. Revisiting it could cause a problem in some places where they are trying to solve a problem in this place; because of that-because Murray cannot grow out anymore, they are surrounded by other municipalities and the County, where they can't go anywhere else. If people want to live in Murray, they have to go where there is existing land, and this is one of those spots. While she likes the project, she does not like the amendment because it doesn't take care of all of the city's needs.

Ms. Dunn feels that they should consider looking at this further and directing the staff,

the Planning Commission and the City Council to get involved with this, to schedule some meetings to study this and to see if there is some kind of way to amend this ordinance without negatively impacting the city, but allowing people to use their properties mostly in the way they would like to. She thinks that there are some possibilities-either exploring the private lane issue or looking at allowing two homes on a flag lot; there are some different things that could be considered that maybe would work well in our community, considering we have about 58 of these smaller lots in our City. This is worth looking at because this is going to come up more and more; let's just re-study it. Not that they don't appreciate what that group did, she certainly does, but she thinks that sometimes you have to adjust things to fit where your community is today.

Mr. Stam said that although he was not on the Council at the time, he was asked to serve on that committee and he did spend all those hours in those meetings, and they had some very heated discussions at times over what it should or should not do or be. Going into that, he had a very strong opinion and loved the idea of private lanes; he thought that if he had the money or place or ability, he would have one in a heartbeat. But he came out of there, thoroughly convinced against them and several people that were in that task force were people who lived in a PUD and wanted to know why they couldn't have city services, even though they knew that going into buying the property. It was a difficult decision going through it all and they debated on road widths and all different kinds of things. He agree with what has been said, he hates to negatively impact a single person and yet, they have to look at the ramifications for everyone, which makes it a lot more difficult situation to look at.

They did spend a lot of hours going through this, trying to come up with the best recommendation that they could come up with for the City Council and the interesting thing is that they took almost every recommendation because this was not a group of elected officials, it was a group of citizens looking at what they wanted their community to become. He does agree with what is being said-if there was a way for them to come up with a solution that would resolve....he liked the idea of the two-home flag lots....but if he had to go with the way it stands right now, it would be very difficult for him.

Mr. Dredge agreed with what the others have said so far; they have all been here long enough to realize that when they craft an ordinance, those unintended consequences always happen and he believes this project has merit and these other properties that they perhaps weren't considering when they were looking at the private lanes are very small properties. In order to avoid more unintended consequences, he will agree that they should look for a way to make this happen in the least impactful way possible. He believes that in order to be fair to those who are making the application, they ought to expedite that process.

Mr. Nakamura said that his concern, in listening to this, is that we do not draft ordinances or make land use decisions for a particular project. He knows that there have been references to a project or certain property owners, and that is not what is going to happen. We have to make land use decisions away from whatever project-good or bad- or the property owner. We do not narrowly craft an ordinance just to meet the needs of a

particular property owner. We can narrowly craft ordinances that we know will have general applicability and they are prepared to do that, but he wants to make sure that we are not giving the impression, or on the record, that we are going to do an ordinance just because we want to deal with a specific project or property owner.

Mr. Shaver said that for him, that is the issue; if there is a property, then you also have to look at if there is one, are there two, or ten, or more; how do we deal with that going forward? He would not like to make a decision based on that; how do we craft something that can possibly meet their (the Nielson's) and also serve the city in the future. That is what he would like them to do as a Council-get input on the legal ramifications, about the zoning, about the planning, all of that and then craft an ordinance that would best serve the city. If it meets this particular need, then we are in good shape.

Mr. Brass said that this is in his district, and he is also the one that called for the task force that was created to look at PUD's and the way they determine the size of lots. At the time, a term that he didn't like and still doesn't, is 'monster homes.' When they changed the General Plan, updating the Master Plan for the city, one of the things that they looked at was PUD's; as has been said, the laws of unintended consequences-when they crafted the PUD ordinance, they didn't take into account people buying existing lots with homes on them, tearing them down and cramming as many homes as they can onto a piece of property. That created major issues in his district. Only a few blocks from his house; they felt like they had to address this issue as to how many homes can you cram into a piece of property and still maintain the lifestyle they have come to enjoy here in Murray.

Mr. Brass feels that in doing that, they may have overlooked many of the A-1 zoned lots that they have; his feeling is that after 15, some council will come back and say that we need to address this issue. He is also a firm believer that you never ever look at the project in a zone change; the reason for that is that many times, that project doesn't show up. He thinks that this project is a reason to go and revisit our road standard; we will see this again and it got him to thinking- he has agonized over this, lost sleep over this, it goes against everything he has ever done, but he keeps coming around to the same thing. He feels that this should be revisited; he doesn't know that the ordinance solution that the Nielson's have proposed tonight is the way to go, but as a City, he would like them to direct staff to look at that part of the ordinance again as far as lanes go on this type of property and see what they can come up with.

As was stated, they were inundated with planned unit developments, large ones, coming to them and wanting their streets plowed, we want our garbage collected, we want all this done, and you physically can't get plow trucks or garbage trucks in there and it is impossible for us. You also have a problem with private lanes-they get built and they are built to a very minimum standard and then they deteriorate and the new owners want the city to come in and pave them. If they revisit this, he would look at minimum road construction standards, as far as road base depth, etc., look at how they approach this to see if they can do this and not end up with those problems again. For him, this project has forced him to look at the overall zone and say maybe we ought to take a look at

properties like this.

Ms. Dunn said that maybe in the end, again because they are not just looking at this property, they can't guarantee that the Nielson's are going to get exactly what they want in this; what she is asking for when she makes this motion, is that they look at a way to really look at this 58 or so properties across Murray City, and see if there is a way to re-craft or amend this ordinance to allow people to do a little bit more without negatively impacting the city. It may end up that is not exactly what the Nielson's want, but it is pretty close or whatever; she doesn't want to give them false hope that they will get everything that they have asked for. Most of them, in looking at the amendment that was put before them, probably would not agree to all of the things in there.

Mr. Stam said that being on that task force, one of the main concerns was the amount of homes being crammed into a small amount of property; it wasn't a large piece of property that was adding two homes with a lot of space, so when you look at that, and look at the road widths and the ideas that came out of that, he really doesn't know that the task force at that time addressed two additional homes on a large property-it addressed more the high density, high compact areas, and how much space was required to access them or what was going to happen with city services. He feels that it is a good idea to look at it again.

Ms. Dunn added that this is not an issue of not liking what that group came up with-they absolutely liked what they came up with, but again, they see things along the way and sometimes you have to tweak things.

Mr. Brass said that they are in the process of creating a strategic plan for the city to go forward; as part of that, they did an environmental assessment where they surveyed the city. We are an aging city where the majority of the population is 55 and older and that is not great for keeping a city alive, but we need to provide housing options for those coming back into the city, and we are going to be seeing this more and more. Housing options for Murray is something that they need to build too.

Ms. Dunn made a motion to rather than considering this amendment at this time, that they direct the staff, Council and Planning Commission to agenda, in the very near future, some discussions and meetings to visit this issue and look at amending the ordinance in a different way so that they may address these smaller than 2 acre properties across the City.

Mr. Dredge 2nd the motion.

Mr. Nakamura stated that staff could maybe take a first stab at this.

Ms. Dunn said that she is not limiting what they can do and absolutely encourages them to go at it as soon as possible and look at options; but that they schedule some Committee of the Whole meetings where the Planning Commission can.....

Mr. Nakamura said that maybe they are not prepared to give some essential points that

need to be addressed.

Ms. Dunn said that at the very minimum, she would like to address revisiting the private lane issue, the possibility of allowing more than one home on a flag lot.....

Mr. Brass added construction standards for the lane, and looking at property density of a lot less than two acres. As stated in the Strategic Plan, they are yielding to staff's expertise.

Ms. Dunn said that she includes all of the above in her motion, and her motion now stands.

Mr. Dredge he continues his 2nd of the motion, including all of those items.

Mr. Nakamura stated that essentially this matter is being postponed until such time that they can take a look and see if they can provide some amendments to that.

Call vote recorded by Jennifer Kennedy.

A Mr. Shaver
A Ms. Dunn
A Mr. Dredge
A Mr. Stam
A Mr. Brass

Motion to postpone passed 5-0

(A five minute break was taken at this time)

Staff and sponsor presentations and public comment prior to Council action on the following

FILE COPY

**MURRAY CITY MUNICIPAL COUNCIL
PUBLIC HEARING REQUEST**

Subject: Consider a Text Ordinance Amendment to Municipal Code Title 16 (Subdivisions) regarding the requirement for single-family and two-family dwelling lots abutting a public street.
(Applicant: Randy Nielsen & Jimmy Nielsen)

Date _____
Time _____ p.m.

Planning & Zoning review required? Yes

If, yes, attach following:

- ☒ P&Z application and information packet
☒ Minutes of applicable meeting(s) July 7, 2011 & July 21, 2011 Planning Commission
☐ Mailing list for required notice
☒ Name and address of applicant James Nielsen
41 Paula Circle
Sandy, UT 84070
- ☒ Forward to City Attorney 8/10/11
(Date)

City Attorney's Office

- ____ Reviewed documents
____ Notice of Public Hearing prepared for publication
____ Publication & notice requirements:

If applicable:

- ____ Ordinance attached
____ Resolution attached
____ Other information, if necessary, attached
____ Forward to Recorder's Office
- _____
(Date)

Recorder's Office

- ____ Copies of all documents received from City Attorney
____ Date and time approved by Council Director
____ Copy of notice of publication attached
____ Notice mailed to applicant & affected parties
____ Copies forwarded to Council Director
- _____
(Date)

Council Executive Director

- ____ All documents required
____ Placed on agenda
____ Documents provided Council Members
- _____
(Date)

Motion passed, 4-0.

Mr. Taylor allowed a 5 minute break at this point. The meeting reconvened at 7:17 p.m.

SUBDIVISION ORDINANCE TEXT AMENDMENT – Amendment Regarding the Requirement for Single Family and Two-Family Lots Abutting a Public Street – Project #11-56

Mr. Taylor stated that this agenda item is a continuation from the previous Planning Commission meeting on 7/7/2011. He said that staff will present a report on items contained in the staff report as well as addressing other documents that have been submitted recently. He said that the applicant will then be invited to make some comments and then the meeting will be open for public comments.

Tim Tingey stated that at the prior meeting it was clarified that this issue is a legislative matter that the City Council considered a few years ago, and that modifications to the ordinance were adopted per Council approval. He said that the City Council organized a citizen task force in response to a number of concerns and issues brought forth by citizens and others related to public vs. private roads in residential subdivisions. He stated that the task force included citizens representing various parts of the city and professionals from a number of fields including architects and developers. Mr. Tingey stated that the issue being considered is the change that the City Council made to the city code. He said that staff is seeking a recommendation from the Planning Commission to the City Council. He said that there were opportunities to interpret the code and not require public roads for specific sites. He said that the interpretation has now been made and is not the issue to be discussed at this meeting. He said that the primary issue is public vs. private roads. He said that the City Council is the body that will make the final decision on this item. Mr. Tingey stated that he has met with the applicants on a number of occasions and the feasibility of putting a public road on this site has been discussed.

Chad Wilkinson, Community Development Planner, noted a typographical error on the staff report which should be 1.5 acre rather than 1 acre as referenced. Mr. Wilkinson stated the issue is whether private streets are appropriate, and what is the appropriate way for subdivision development to go forward. He stated there were a number of items raised by staff at the last planning commission meeting. He emphasized those issues were raised in the original review and were concerns of the city council and of the planning commission in 2007. He stated when staff reviewed this request of the Nielsen's, the areas of concern in 2007 are still areas of concern now and are good points raised by the citizen task force, by the planning commission and by the city council. He stated this request is not to be considered on a specific lot and it a text amendment and is policy issue. He stated when staff was reviewing this request, it was reviewed with the idea of how many other properties in the city would or could be affected. He stated that analysis was not meant to indicate there is a certain number that is acceptable or is not acceptable for private streets, but was simply to see what was out there and how many lots could potentially be affected by this proposal. Mr. Wilkinson stated the applicants have proposed revised language from their previous

proposal which was reviewed by staff. He stated the private streets approved in the past also required private maintenance. He stated those developments are now coming forward requesting the city to take over maintenance of those developments. He stated in the past those private street developments were intended to be maintained through home owners associations or conditions, covenants and restrictions (CC&R's) and are required for private maintenance. He stated the revised language presented by the applicant may be applicable only to their property. This is a delicate balance for these types of requests. Staffs' recommendation is that it is not good policy to create a law that applies just to one property. As an example of that situation, there could potentially be a property owner in a single family residential neighborhood request a building height that was 55 feet wherein the zoning limits the height to 35 feet. In approving a code that allows for just that specific situation, staff must look at issues of equity of fairness and the ability of someone in the future to modify the code to be consistent. The decision that was made in 2007 was a broad policy decision that simply did not allow private streets any longer and required that streets be public streets in the future and was a way to address the issue of equity. There were other standards that were adopted during that same time, some of which took longer to be analyzed. One of those standards was the Residential Infill ordinance that was put in place to try to address some of these smaller properties and allows for flexibility in the standards of the code to address such issues that arise.

Mr. Wilkinson stated that based on the issues that were identified in 2007 by the planning commission and city council, staff feels it is still an appropriate policy and is recommending denial of the proposed text amendment.

Tim Taylor stated that he and Ray Black have read through the staff report, minutes and listened to the recording of the planning commission meeting on July 7, 2011 since they were both absent from that meeting. Mr. Taylor stated at the last meeting the applicant had been directed to differentiate their request. Tim Tingey clarified that in his meetings with the applicants he communicated to them the challenges that he felt the applicants would have as they moved through a process for an ordinance change to completely reverse the original proposal reviewed by the planning commission, citizen task force and city council. He indicated at that time to the applicants that he and his staff would not recommend approval of this proposal. He suggested that they look at differentiating their proposal in some way from the original proposal and that differentiation could be a variety of things including lot size. Mr. Tingey stated he is still not comfortable with this proposed change because he feels the policy adopted is sound, has been well thought through, and that it mitigates a lot of the problems that occurred previously that the city council had been hearing about by citizens and others.

Jimmy Nielsen, 41 Paula Circle, Sandy, stated he is representing this application. Mr. Nielsen clarified Mr. Tingey's previous statement indicating that they are attempting to completely reverse the ordinance. He stated that they are not attempting to reverse the current ordinance, and are trying to leave as much of the current ordinance intact as possible. He stated they are wishing to utilize their odd shaped, family owned property since 1940, in a reasonable manner. He stated they have followed the directions of the Community Development office and have narrowed the ordinance down to this proposal. He stated that this does not seem to be the best way to do this

and they ought to be able to work something out that is good for both sides. He stated they started this process a year ago and have put forth all they can. Mr. Nielsen stated the property they are wishing to develop is located at 421 East 5300 South.

Tim Taylor asked Mr. Nielsen to present new information only since this item has been continued from the last meeting held on July 7th. He also stated that he and Ray Black were absent from the July 7th meeting but both of them have listened to the recording of that meeting and have reviewed the materials submitted for the meeting. He asked Mr. Nielsen not to duplicate information that was given on the July 7th meeting.

Jimmy Nielsen had a PowerPoint presentation showing the location of the property, existing vegetation, and proximity to the Murray park. Mr. Nielsen stated an issue that was raised since the last meeting, was a discrepancy about the easement specified for the property. Mr. Nielsen stated the recorded easement is 16 feet. Staff provided minutes' indicating the easement was 25 feet (referring to the planning commission meeting minutes of April 16, 1974). He stated they believe it was ultimately approved at 16 feet and that his father was in compliance when he recorded that. He stated there are two documents which are a plot plan (blue print copy) which was submitted to the city for distribution to all city departments for approval. Tim Taylor asked Mr. Nielsen if he has submitted this document to the city staff. Mr. Nielsen responded he has not submitted this document to the city staff.

Mr. Nielsen stated this "blue print copy" shows a 16 foot right-of-way easement along the east edge of the property. The second document he presented is a Building Inspection Plan Review Record and Worksheet" from the office of Charles D. Clay, City Engineer and Lloyd Dalton, Chief Building Inspector dated August 22, 1974. He said that there is a specific item #4 that lists: "Submit fully dimension plot plan with current and proposed land use" with a check mark to the side of this comment and there are no remarks. Mr. Nielsen stated this was the plot plan his father would have submitted to the city and the check list given to his father. His father was ultimately issued a building permit, the residence was constructed, it was inspected, he has receipts from the inspectors and the home was occupied. He stated that Murray City was fully aware of his father's intentions and the city allowed him to build the house and live in it, indicating that it was in full compliance with the city at that time.

Jimmy Nielsen stated that he called Dennis Hamblin, who was the current planning commission secretary who took those minutes from 1974. Mr. Hamblin indicated to the Nielsen's that 15 feet could have been possible and was not out of the question. He stated that he submitted a Grama request for the records in 1974 time period and that the city has responded to him that there is no documentation associated with the building permit number they have. He stated they also inquired at the Salt Lake County Records office regarding records from 1974, but the county also indicated that the documents are so old they are difficult to come across.

Jimmy Nielsen stated he wished to list some comparables. He said that The Willows Apartments were approved in the 1970's and has a 700-foot long access which varies in width from 16 feet to 18 feet wide. The Nielsen's home was approved

contemporary to this property. A newer development on Gillen Lane was approved in 1994 and was a 25 foot easement but only 20 feet of it was required to be paved. He received this information from Charles Clay. This development on Gillen Lane serves at least 5 houses and a small apartment building and the remaining 5 feet of the easement are inaccessible to vehicles because it is overgrown and there is an existing fence. Another more contemporary development, Forest Creek, has a width entry including the gutter to the edge of the curb that varies from 20-22 feet in width. This development serves over 20 houses and building lots are sold and building continues today. Mr. Nielsen estimates that the Forest Creek development was approved before 2007. He stated that a nearby neighbor, Chad Woolley, recently had a subdivision approved and indicated that Community and Economic Development staff had allowed two non-conforming lots in his subdivision based on existing conditions and without a variance. Mr. Nielsen provided a written letter from Mr. Woolley to the Planning Commission stating this and also urging them to consider the limitations of the Nielsen property. He said that he is requesting that the Planning Commission give his family the same consideration given to Mr. Woolley.

Mr. Nielsen said that he understands the city's commitment to their interpretation of the code, but his intent was to try and find another way for the city to make this approval without modifying the code. He stated that this property was developed starting from the back, which is where his great-aunt built her home for privacy. He said that when his father built his house the city specified an easement along the east edge of the property for access to that house and the rest of the property. He stated that the original home built by his great-aunt has been torn down but the garage remains along with the private lane. Mr. Nielsen reiterated that they are requesting a private lane for access. He said that he has been advised that he must obtain either a code amendment or a variance and that in meeting with the City Engineer there has been no indication that a variance will go anywhere. He said that they have issues with this being a public street due to it's location near the park. Mr. Nielsen said that they are suggesting a 20-foot lane that is fire code approved and has all of the necessary elements. He stated that a few items have been added to the proposed amendment to make it more specific, namely that a property have limited access to a public road, have an existing private lane, and have a home built at the rear of the lot first with an additional home built at the front of the lot later that required the city to establish access to the back. He said that because of privacy issues, it could also be stated that a property would have to be adjacent to a public park or gathering space. Mr. Nielsen said that there was a question in the staff report regarding whether or not the existing lane qualifies as a private lane. He stated that he believes it does meet the definition of being a private road based on Murray City Code, which defines a private road as a right of way of easement, in private ownership, not dedicated or accepted as a public street which affords the principal means of access to two or more sites. He stated that his father's driveway does not connect directly with 5300 South, but rather connects to the private lane which in turn connects to 5300 South. He said that the private lane also served as access to his great-aunt's house. Mr. Nielsen said that according to Mr. Clay, there was no requirement to establish a private lane at that time. He stated that criteria for a private lane must meet the requirements of the International Fire Code for a lane between 150 and 500 feet in length, a width of 20 feet is required and the lane must be posted and kept clear at all times. He stated that Murray City would have no obligation to maintain or service the

road or utilities and that the city would be granted access to read meters or any other purpose they require. He said that it would be the responsibility of the residents to bring the lane up to public standards if they choose to seek city services. He stated that Mr. Wilkinson indicated previously that this has been part of the ordinance so he doesn't understand why there is a problem if the city has exempted itself. Mr. Nielsen said that he asked Mr. Clay if there were problems with private lanes established while he was the City Engineer and he said that he didn't because the residents were held responsible since the road belonged to them. Tim Taylor stated that there are still a number of phone calls to city staff related to this issue. Mr. Nielsen said that this shouldn't overrule sensitive development of a property. He stated that water and sewer lines on the property must be designed and inspected to city specifications. Ms. Daniels stated that this information is the same as presented from the earlier meeting.

Jimmy Nielsen said that a proposed change would read that the area of the lane shall not be included in the overall area of the lot. He stated that there were concerns previously that developers were using part of the lane as the lot area and that he proposes to subtract the area of the lot so that the site is not overbuilt. He said that the development of the property shall meet the requirements for a single family residential infill subdivision, so they are not proposing any new zoning for this site. He stated that staff has indicated that a private road is not in the public interest. He said that the public should not be interested in paying to maintain a 350-foot long dead-end road with no parking and no park access that is surrounded entirely by private property. He stated that a public road in this situation does not make sense. Mr. Nielsen said that his family proposes to use the property that they own in a responsible and sensitive manner, and the proposed lane meets all safety and access requirements and is sensitive to the existing environment. He presented a diagram outlining fire truck access. Mr. Taylor said that this information was presented previously. Mr. Nielsen stated that they are working within current zoning, and that privacy and safety are real concerns with the park next door and trespassing and traffic congestion will endanger property and life safety. He said that less impervious surface reduces storm water runoff and urban heat load and is ultimately better for all. He stated that additionally they will pay taxes. He said that his family is the public, and that this property has been owned by his family for 70 years, which pre-dates the current ordinance. He stated that the shape of the lot hasn't changed. Mr. Nielsen said that his parents are third generation Murray residents, and that properties like this were overlooked when the public road requirement was passed. He said that he understands there was good intent behind the ordinance, but that there are always unintended consequences. He said that he has been told that staff will not recommend approval of an ordinance amendment or a variance, so they are left with the options to do nothing, tear down his father's home for an unnecessarily short and wide road, or to buy a neighbor's house and tear that down instead, or to develop one flag lot which would still be difficult to get approved because it would require 28-foot access.

Mr. Nielsen referred to the Forest Creek P.U.D. and the existing 20 foot width access for the subdivision wherein the entrance varies between 20-22 feet. He stated his family owns an acre of property that the access can be developed in an identical way. He stated he is an architect by profession and he studies space on a daily basis. A

variety of scales and spaces are key to a vibrant community and private lanes have their place. People seek out communities with intimate and established characters and private lanes allow for that. He stated as a property owner, a parent, a lifelong resident of Murray, he wishes desperately for his children to be able to live on this land and to be able to design and build his own home as an architect. He wants to be able to help his parents maintain this large lot. He asked the planning commission support this request in recommending to the city council.

Tim Taylor asked Jimmy Nielsen if he has several people he wished to have comment on this request. Mr. Nielsen responded in the affirmative. He stated that his family is here to express their love for the property they have lived on for many years and their love for the community in Murray. He stated that he would like Don Patton, resident, to speak since he was at the meeting held in 1974 regarding their property. Mr. Taylor asked that there not be duplication of comments made and that facts or supportive material be given in regards to the text amendment and not site specific information. Mr. Taylor stated that there is no doubt in his mind that the Nielsen family has a great love for their property and he is respectful of that, but the issue at hand is a text ordinance amendment.

Don Patton, resident, stated he was Public Service Director in 1974 when this property was approved and that Charles Clay and Lloyd Dalton worked for him. He stated he is aware of the situation as it was at that time. Mr. Patton stated the Nielsen family is a great family. He stated when he was the Director, the city allowed private roadways and there were problems and Alpine & Avalon Streets are good examples of those problems, but there were good developments that resulted as well. He stated the length of the lots through this particular area are deep and was a mistake and the lots shouldn't have been as deep. Mr. Patton stated that he didn't realize that the city had changed its policy regarding private drives and overall he concurs with this policy. This particular situation where property is boxed in by the park and a parking lot, and single family homes to the west where if something isn't done its going to lay dormant and be empty and ultimately will result in a weedy, tree filled patch. He stated that property should be utilized. He stated that the city ought to be sympathetic to the association of grandparents, children and grandchildren being able to live close together and this proposal would be a family plot. He stated the city ought to take care of its citizens. He stated that Jimmy Nielsen is an architect and would design a home and development that would be excellent and the city would be proud of.

Marta Nielsen, 5495 South Walden Meadows Drive, stated she is an urban planner for the city of North Salt Lake and a former youth mayor of Murray City. She stated that she has been frustrated and disappointed with the way they have been treated in the process they have been put through to get to this point. She stated that the city has shown fear and concern about potential unintended consequences and made a great effort to find ways to shut them down. She stated staff has refused to work with them towards a solution and refused to recommend approval of the proposed text amendment. The city code is a living document, meant to grow and adapt to meet the changing needs of citizens and should offer rules and guidelines to shape and promote quality development while respecting private property rights. Changes in the code will inevitably have unintended consequences. This is especially true when the

changes offer extreme solutions such as outlawing all new private streets. Instead of just modifying the code to resolve problems like those on Lincoln Street, the city has chosen an extreme approach that has eliminated the possibility of upscale private neighborhoods that attract established educated people. This consequence could not have been intended. She stated that they are approaching the commission as victims of an unintended consequence and ask the commission to recommend this text amendment. Ms. Nielsen stated they understand that a text amendment is not to be taken lightly and they are not attempting to undo everything that was done in 2007, but they are hoping to resolve one of the problems it created. Ms. Nielsen read a statement written from Randy Nielsen: "Institutions and bureaucracies ultimately prove their worth not by blindly and rigorously enforcing rules, but by judiciously allowing worthwhile exceptions."

Amy Nielsen, 41 Paula Circle, Sandy, stated it is important to note that this is an emotional issue. She stated that she is not originally from Murray, but those in attendance are from Murray and they did not ask people to attend this meeting. She stated those present are concerned citizens about their own property and about the way they would be treated if they were to go through this same process. She stated it is important the proposed ordinance text amendment and is a legislative process and will ultimately be up to the city council, but any support is incredibly valuable. She stated she works in the media profession and many times people approach them because they feel powerless and they feel victimized by a system. She stated that they feel victimized and powerless and the commission has the ability to look at this very real situation for very real people who are just trying to accomplish a dream that they have had for decades.

Tim Taylor stated that comments should reflect new information and not repetitive information.

Judy Nielsen, 5495 South Walden Meadows Drive, stated she is Marta's mother. Ms. Nielsen stated she works with the at risk students in Murray School District. She stated a building lot in Murray City has a huge price tag and any parent would want to be able to give that to their children. She stated that the Nielsen's have been model citizens and a real asset to their neighborhood and community and their children emulate their parents.

Tim Taylor commented that the strength of the Nielsen family is not in question here, the Nielsen family is fantastic, and staff is wonderful and do an amazing job. The task at hand is a difficult task dealing with text in a book that has been put together as a city involving everyone's best efforts. This is an important issue at hand and the ordinance proposal is not a reflection on the Nielsen's character and their ability to develop their property.

Annie Nahoopii, 13162 Cherry Crest Drive, Draper, stated she is the second oldest child of Randy Nielsen. She stated the constant request for facts to be presented at this meeting is somewhat unnerving. She stated this is not a purely objective issue and is very much subjective. Tim Taylor stated that the commission is here to help enforce that the city code is followed and the commission makes recommendations on whether applicants are or are not following the code. The city council is the body

that makes the decision based on other objective things and the planning commission does not have that same ability. For this reason the commission must review facts as they relate to the application being considered, i.e. private streets.

Ms. Nahoopii stated that her facts are less than factual, but are factual to her. She stated that there is confusion that this is a static issue and if the commission denies this proposal that nothing changes and her parents can't keep up their property and eventually the property would be sold to the highest bidder and big road would be constructed down the middle of their property and the most financially advantageous houses will line the road and any green space that could have been retained will be reduced to a minimum as has been seen in current building policies. She stated to her family this property is relative to their past, the present and future.

Dale Fuelling, 480 East 5300 South, stated a couple years ago the Murray Church of Christ wished to build next to his property and he was not opposed to the church proposal but he wasn't very excited about tearing out the landscaping in order to accommodate a parking lot. He stated there was concern regarding the access into the church property where there would be a off-lane where vehicles could get off 5300 South so as not to impede traffic and there was an exception made. The other exception made was regarding the requirement for fire access being within 75 feet; whereas the church was 165 feet from the road and the Murray Fire Department made the decision that they could turn around in the parking lot and therefore only required just one ingress and not an egress access. Mr. Fuelling stated he spoke with the Murray Mayor who indicated that "the city gives special consideration to churches". Mr. Fuelling stated that exceptions have been made in the past and an exception should be made in this case regarding the Nielsen's text ordinance amendment.

Tim Taylor stated that the planning commission cannot make exceptions. He stated that a site plan approval process is reviewed by staff and is different, and in a conditional use permit process the commission does have some flexibility. He clarified that this proposal is different because it is a text ordinance amendment and the commission does not have the ability to make exceptions to ordinances. He stated the commission makes recommendations to the city council, the legislative body, in regards to text ordinance amendments.

Karen Daniels stated that comments from the audience need to be made at the podium and when recognized by the chairman, and that outbursts from the audience are not allowed.

Jimmy Nielsen stated this is an amendment request and they are attempting to provide the commission with all the possible reasons to approve their request. He stated that in his opinion, everything that has been said is applicable.

Jim Harland stated that at the last meeting it was indicated that there is still a way for the Nielsen's to develop their property and it is not a do or die situation. The Nielsen's can still develop their property and have a subdivision with a public street and go to the Board of Adjustment to apply for a variance on the street width. Mr. Nielsen responded that this process does not deter them from applying for a variance but they

have met with the planning staff and the city engineer who have given every indication that they don't feel a road built to the width that his father built will meet any public road standard, and the likelihood of that being approved is very slim. Aside from that there are issues living next to the park and a private lane would take care of those associated issues. Mr. Nielsen asked why the city would want a public road because a private road does not allow parking along the road, and they are willing to plow their snow and bring the garage cans up to 5300 South for collection. Mr. Nielsen stated that they are willing to agree to have their road snow plowed within a time period such as 12 hours so as not to infringe on fire safety access. He asked what sense it makes for the city and the citizens of the city to have the road be public and pay for the road and associated costs where the road would only serve their individual family lots.

Ray Black stated he has owned property for 64 years in another city here in the valley and that he has been in numerous planning commission meetings. He stated that based upon his experience, if the code states specific standards that is the way it is. He stated city took 333 feet of his property and he was not compensated in anyway and at that time the property was going to \$1,000/sq.ft. and there wasn't a whole lot he could do about it because the code regulated it. He stated that he understands the frustration of the Nielsen's and has lived that life. He stated that he has been involved in other pieces of property wherein he has had similar problems. He stated that what he has to do is be smart enough or have enough ingenuity to do the best he can with what he has and he doesn't get his way very often in those cases and he knows how the Nielsen's must feel. Mr. Black stated the commission members do not get paid for dedicating their time on behalf of Murray City and its citizens and they serve at the pleasure of the Mayor. He stated that the planning commission cannot approve the private street, the engineering department can't approve it, nor can the Mayor. It is a policy issue and has to go through this process which ultimately will be decided by the city council. Mr. Black stated that the commission feels at times that they are between a rock and a hard spot. He stated that comments have been made tonight that the commission is not fair and other derogatory comments, but for what they are getting paid, this is not a party and the commission tries to sincerely do the best they can. Jimmy Nielsen responded that the reason they are fighting so hard is that they feel the commission's recommendation is so important, but this is an amendment and goes outside the existing code. He stated that they are proposing a new code. He stated if Mr. Black has had difficult experiences in the past, that he ought to be more inclined to allow for this property to be used in a reasonable manner. Mr. Black responded that he does not agree with that statement because he can see the wisdom in some of the things the city did to his property and he has lived with private streets in Murray City and has been on the commission for 7 years. He stated he was one of the members who wished to get rid of private streets because there were so many problems associated with private street developments and something needed to be done. And, rather than the commission just make a recommendation in that regard, there was a task force committee that studied and worked on the issues and made a recommendation to the commission.

Jimmy Nielsen stated that he is an accredited LEED professional and this project is an example of LEED criteria, and the city is pursuing LEED criteria for its downtown district recently established. He stated that reducing pavement is key to LEED and that is what they are trying to do and are doing so in a way that will be safe or that

would cause the city problems in the future. He stated that since this property has been around for so long, it predates the code and can be developed in a sensitive manner and is a special piece of property and deserves special consideration.

Jim Harland made a motion that the planning commission send a recommendation of denial for the proposed ordinance text amendment, project #11-56, to the city council. Seconded by Karen Daniels.

Call vote recorded by Chad Wilkinson.

A _____ Mr. Harland
A _____ Ms. Daniels
A _____ Mr. Black
A _____ Mr. Taylor

Motion passed, 4-0.

Mr. Taylor commented that this process has been going on for a year and is a very complex and difficult issue and he knows that the city staff has worked really hard and that the residents have put a significant amount of time and effort into this and the commission appreciates that effort.

Meeting adjourned.


Tim Tingey, Director
Community and Economic Development

TO: Murray City Planning Commission

FROM: Murray City Community & Economic Development Staff

DATE July 15, 2011

Re: Ordinance Text Amendment # 11-00000056

The following memo provides a response to several issues raised in the public hearing.

Original Approval

The applicant has indicated several times that the City established a "right of way" of 15 feet through its original approval of a two lot subdivision in 1975. In researching the previous approvals related to the property, staff did confirm that the Planning Commission approved a two-lot subdivision on the property on April 16, 1974. As a condition of approval, the City required a **25-foot** wide access easement for the property to the rear. (See attached minutes). On April 30, 1974 the applicant recorded a warranty deed at Salt Lake County dividing the property, which included a 16-foot wide access easement instead of the 25 feet required by the Commission. (See the attached warranty deed). The resulting subdivision was noncompliant and did not meet the conditions established by the City as a part of the approval process. Had the 25-foot wide easement been established as approved by the city and the home constructed with an appropriate setback from the easement, additional area would be available for construction of a public street. The actions of the property owner in not complying with the condition of approval have created a constraint on the future development of the property.

Section 16.04.110

Staff responded with our interpretation of this section in an e-mail sent to the applicant on June 23, 2011. (See attached). While we understand the applicant does not agree with this interpretation, the City Attorney and outside legal council for Murray City have concurred that this section of Code does not allow the City Engineer and Planning Commission to recommend approval of a private street. It also does not allow the mayor to approve this type of modification which would not adhere with the "spirit and purpose" of the subdivision ordinance.

Variance

As clarification, the previous staff report did not state that a variance would allow for a private street. If the applicant wishes to construct a private street, then an amendment to the Code is necessary. The previous staff report indicates that a variance request can be made for any measurable standard including public street width, setback, building height, etc. There is a distinction between the option to apply for a variance and the willingness of City staff to provide a positive recommendation. City staff has indicated that they would not support a request for a 20-foot wide public street. However, this does not mean that an

applicant could not propose this to the Board of Adjustment for consideration. Additionally, the applicant could provide a variance application to allow for a public street that is larger than 20 feet but less than the 30 feet allowed by the residential infill standards. Because the applicant has indicated that a private street is desirable for other reasons including privacy, an amendment to the text is necessary to approve the request. It should be noted that staff has also indicated that they were not willing to recommend approval of the proposed text amendment. However, this has not prevented the applicant from applying and making a case to the elected and appointed officials. Ultimately the decision to allow private streets is a policy issue. However there are options available to a property owner who wishes to build a public street rather than changing the ordinance.

Proposed Ordinance Language

The proposed language of the ordinance states:

Existing private lanes may be improved to provide access for lots or parcels created by subdivisions, residential infill developments, and planned unit developments for properties less than 1.5 acre in size that:

1. Have limited access to a public road;
2. Have an existing private lane that has provided or does provide access to at least one residential unit that existed before the current requirement in 16.16.090;
3. Have existing structures in place, previously approved by the City that established right of way to the rest of the property.

The proposed language requires that a property must have an existing private lane that can be improved in order to qualify for use of a private lane for additional subdivision of lots. However, the proposed ordinance amendment does not address what constitutes a private lane. While there are a number of previously approved private streets in the City, the proposed ordinance seems to include any private driveway and is not limited to an approved private street/lane. The City recognizes the access to the rear of the applicant's family property as a driveway as both the existing and previous residences on the property have always been addressed from 5300 South and there has never been approval of the existing driveways as private streets/lanes.

In approving the existing home on the front of the property, the city did not establish right of way for future division of the property. The original approval was for a two lot subdivision with an access easement for one lot in the rear. As noted, the access easement provided by the applicant did not meet the required condition at the time of approval. The applicant's choice to place the home in the current location has caused a constraint on future development.

Staff recommends that the planning commission recommend denial of the proposed amendment. The concerns with private streets stated in the previous staff report were not the concerns of staff, but those expressed by the Planning Commission, City Council, and the citizen task force organized in 2006 to look at this issue. It should be noted that the planning commission originally recommended the elimination of private streets to the City Council (See attached minutes from August 16, 2007). The following findings are included in the original staff report, and are restated here for your convenience:

- The City Council in 2007 determined that private streets were not appropriate for development of single family residential subdivisions and required that all future created lots abut a public street.
- The Code already provides alternate standards for development of small residential infill subdivisions that do not require a 50-foot right-of-way.
- The code provides for variances for measurable standards such as street width, setback, and lot width when a unique circumstance exists such as lot shape, topography, slope, etc. subject to approval by the Board of Adjustment.
- Public streets provide equity in provision of public services to all Murray citizens.
- Public streets ensure that development is orderly and appropriate to the surrounding neighborhood.
- Public streets constructed to public standards are necessary to avoid the future expenditure of public funds to correct problems arising from private street development.

TO: Murray City Planning Commission

FROM: Murray City Community & Economic Development Staff

DATE OF REPORT: June 28, 2011

DATE OF HEARING: July 7, 2011

PROJECT TYPE: Ordinance Text Amendment

PROJECT NUMBER: 11-00000056

DESCRIPTION OF REQUEST:

The applicant proposes an amendment to Section 16.16.090 of the subdivision ordinance related to private streets. The proposed ordinance would allow for the development of subdivisions of property using private streets in certain limited circumstances. The applicant proposes to limit the ability to develop a subdivision using private streets to properties meeting following criteria:

- The property is less than 1.5 acres in size;
- The property is accessed by a private lane that provides or has provided in the past access to a residential unit that existed prior to current standards;
- The property is constrained by an existing building that limits the width or size of the street.

The ordinance has been proposed in order to allow development of property belonging to the applicant's family located on 5300 South. The proposed ordinance amendment and minimum development standards for the private lane are attached to this report.

BACKGROUND:

Current subdivision Code requires that all lots created through the subdivision, PUD, or residential infill process abut a public street developed to the standards outlined in the Code. The current requirement was adopted in 2007 and stemmed from recommendations from staff and a citizen task force created by the Council in 2006 to address concerns with private streets associated with Planned Unit Development that was occurring at the time. The task force consisted of 14 members and was made up predominantly of Murray citizens with some members of the development community. The recommendation of staff and the citizen task force was to discontinue private streets and require public streets for all single family residential subdivision development. Some of the concerns expressed by staff and the committee at the time included issues of potential inappropriate use of private streets to increase density without a proper zone change, issues of long term maintenance, and issues of equity for residents paying City taxes but not receiving full city services such as snow plowing, trash removal and maintenance of streets.

ANALYSIS:

One important consideration in amending the subdivision ordinance is the potential impact to other properties in the City. The applicant has proposed changes that would limit the allowance for private streets to certain specific properties. Staff has analyzed

properties in the city in an attempt to identify parcels that would be eligible for possible subdivision using the criteria outlined. Staff has identified 39 properties that are potentially eligible as they are: (1) served by a private drive/lane; (2) less than 1.5 acres but greater than twice the minimum lot size; and (3) constrained by existing development. No specific plans have been analyzed for any of these properties and this analysis is preliminary in nature. The 39 identified properties do not include flag lots which could be interpreted to meet the criteria in some cases, nor does it include any properties zoned for multi-family development that could potentially be divided for a single family development. A number of the properties are within the annexed areas east of 9th East. However, properties that appear to meet the criteria in the ordinance are scattered throughout the City. Detailed analysis may show that some of these properties are not viable for future development and additional properties may be discovered over time that fit the criteria. It is clear that the proposed amendment would impact more than one property, and it is important to consider whether such a departure from previously established policy is warranted particularly when other options are already available for development of small residential infill subdivisions using alternate standards.

Other options for Infill development:

The Code currently contains a standard that allows for flexibility in development of small residential infill lots of less than 2 acres. Section 17.58 allows for development of subdivisions using a street less than the standard 50 feet in width. The Code allows the planning commission and city engineer to recommend the elimination of park strips and sidewalks from the street section in certain circumstances. In addition, Code allows for the use of an alternate turn around in place of standard cul-de-sac turn around. Under these standards, a residential infill subdivision development could potentially use a 30 foot wide public street with a hammer-head or other approved turn around.

The Code also allows for variances to measurable standards after review and approval by the Board of Adjustment. Measurable standards such as street width, setbacks, and lot width can be considered after finding that a hardship exists which is created by a unique circumstance or condition such as slope, topography, lot shape, etc. A recent development was approved on 5300 South to the west that qualified for a variance and was developed using an alternate street design through the residential infill standards.

The Code also allows for the development of Flag Lots through the conditional use permit process. Flag Lots can be utilized for development of residential lots that are very large but have limited access to a public street. The flag lot provisions of the Code allow for an additional lot to be constructed to the rear of a large existing lot and require a 28 foot wide access via a "flag pole" or via a private easement.

Public versus Private

As previously mentioned, the current requirement for all newly created single family lots to abut a public street was the result of recommendations by both staff and a citizen task force. In analyzing the reasons originally given by staff and the task force, staff concludes that public streets are still in the best interest of the City. Public streets provide for equity for citizens related to maintenance, snow removal, and public safety access. In recent weeks, the City has been approached by a group of citizens who live on a private street developed in conjunction with a planned unit development known as "On the Greens" that have requested that the City assume maintenance responsibilities. This presents a very real problem as the street was not constructed to City standards

and is included as a part of the individual lot square footage. Accepting maintenance of this street would require the expenditure of public funds to correct deficiencies in the construction of the street along with creating lots that do not conform to the minimum size and density standards of the ordinance. The City anticipates similar requests in the future. The purposes of the subdivision ordinance as listed in Section 16.04.010 include the following:

A. The purposes of this title are:

1. To promote the health, safety and general welfare of the residents of the city;
2. To ensure the efficient and orderly development of land within the city;
3. To prevent the uncontrolled division and development of real property, which may be done without considering the rights and best interests of adjoining property owners and the city as a whole;
4. To avoid poorly planned developments that:
 - a. Do not comply with the city general plan or ordinances,
 - b. Cannot be adequately served by existing utilities or public services,
 - c. May prove to be dangerous or unsafe,
 - d. May cause an undue burden on existing traffic or transportation services, or
 - e. May require the future expenditure of public funds to correct problems caused by the development;
5. To provide design standards for public improvements, facilities and utilities, to provide for reasonable accesses to public rights of way, to provide for the dedication of land and streets deemed necessary for the proper development of the subdivision, and to provide for easements or rights of way that are necessary to service the property.

Allowing for development using private streets is not consistent with the purposes of the ordinance and could potentially lead to future expenditure of funds to correct problems caused by a development. The original conclusions of the City Council related to this issue were appropriate. Pubic streets provide for orderly development that is appropriate and in context with surrounding properties and provides for the efficient provision of public services.

Findings and Conclusion:

After an analysis of the proposed subdivision ordinance text amendment staff concludes the following:

- The City Council in 2007 determined that private streets were not appropriate for development of single family residential subdivisions and required that all future created lots abut a public street.
- The Code already provides alternate standards for development of small residential infill subdivisions that do not require a 50-foot right-of-way.
- The code provides for variances for measurable standards such as street width, setback, and lot width when a unique circumstance exists such as lot

shape, topography, slope, etc. subject to approval by the Board of Adjustment.

- Public streets provide equity in provision of public services to all Murray citizens.
- Public streets ensure that development is orderly and appropriate to the surrounding neighborhood.
- Public streets constructed to public standards are necessary to avoid the future expenditure of public funds to correct problems arising from private street development.

STAFF RECOMMENDATION

Based on the above findings, staff recommends that the Planning Commission forward a recommendation of denial to the City Council for the requested amendment to subdivision ordinance related to private streets.

Kurtis Aoki made a motion to send a positive recommendation to the City Council for a land use text amendment to Murray Municipal Code Title 17 related to regulating tobacco retailers. Seconded by Sheri Van Bibber.

Call vote recorded by Chad Wilkinson.

A _____ Jim Harland
A _____ Karen Daniels
A _____ Sheri Van Bibber
A _____ Kurtis Aoki
A _____ Jeff Evans

Motion passed, 5-0.

SUBDIVISION ORDINANCE TEXT AMENDMENT – Amendment Regarding the Requirement for Single Family and Two-Family Lots Abutting a Public Street – Project #11-56

James Nielsen and Randy Nielsen were the applicants present to represent this request. Chad Wilkinson reviewed the request for a citizen initiated text amendment to Section 16.16.090 of the subdivision ordinance related to private streets. The proposed ordinance would allow for the development of residential subdivisions using private streets or lanes in certain limited circumstances. Mr. Wilkinson said that state law requires any change to the subdivision ordinance to come before the Planning Commission by way of a public hearing format for a recommendation prior to consideration by the City Council. He said that in this situation the Planning Commission is a recommendation body and the City Council will make the final decision on the ordinance amendment. He stated that the applicant is not proposing a change to Section 16.16.090 paragraph A, but that paragraph B is proposed to read:

"Existing private lanes may be improved to provide access for lots or parcels created by subdivision, residential infill developments and planned unit developments for properties less than 1.5 acres in size that:

1. Have limited access to a public road;
2. Have an existing private lane that has provided or does provide access to at least one residential unit that existed before the current requirement in 16.16.090;
3. Have existing structures in place, previously approved by the city that established right of way to the rest of the property."

Mr. Wilkinson said that the remainder of the proposed ordinance describes the improvements that would be required for a private lane, such as compliance with the International Fire Code, maintenance of road and utilities, water and sewer line specifications, paved surface, additional description of the private lane as an easement, and meeting the requirements of an infill subdivision. He stated that these items are contained in the staff report in greater detail.

Mr. Wilkinson said that the main issue of concern from staff perspective is the public vs. private road. He said that this is a policy decision, and that consideration should be made as to how this change would affect the city as a whole and not just a particular development. He said that staff has reviewed the proposal from a perspective of identifying potential impacts to the city.

By way of background, Mr. Wilkinson explained that the current street requirement was adopted in 2007 and stemmed from recommendations from staff and a citizen task force created by the Council in 2006 to address concerns with private streets associated with Planned Unit Developments (PUD). The task force consisted of 14 members and was made up predominantly of Murray citizens with some members of the development community. The task force met several times to deliberate on recommendations for the City Council related to potential changes to the PUD requirements, and made a specific recommendation pertaining to public vs. private streets. He said that the task force determined that public streets are appropriate for single family residential subdivisions, including PUD's, residential infill and standard subdivisions. Mr. Wilkinson stated that some of the concerns expressed by staff and the committee at the time included issues of potential inappropriate use of private streets to increase density without a proper zone change, issues of long term maintenance, and issues of equity for residents paying city taxes but not receiving full city services such as snow plowing, trash removal and maintenance of streets. He said that staff agrees with the street requirement that was adopted in 2007 and addressed the concerns that existed.

Mr. Wilkinson said that as staff has analyzed the issue of public vs. private streets, they have identified a number of properties that may potentially be impacted by this proposal. Staff has identified 39 properties that are potentially eligible as they are: (1) served by a private drive/lane; (2) less than 1.5 acres but greater than twice the minimum lot size; and (3) constrained by existing development. He stated that this analysis is only preliminary and that topography has not been reviewed nor has each site been reviewed in more detail. He stated that staff has identified 39 properties that meet the proposed criteria, but that this number could be lower or higher if a more detailed evaluation was completed. Mr. Wilkinson said that the purpose of the evaluation was not to determine a precise number of properties, but to simply determine if there are other properties that would be impacted by this ordinance change and where those properties are located. He said that while evaluating the impact of the proposed ordinance on these properties, staff identified ways to develop some of these infill properties in such a way that would not require a change to the code or public policy. He stated that the code allows flexibility of public street width on infill properties that are less than 2 acres. He said that park strips and sidewalks may also be eliminated based on a recommendation by the City Engineer if there are constraints or circumstances that justify the elimination. He stated that the turnaround portion of the street could also be modified with a recommendation from the City Engineer and the Planning Commission. Mr. Wilkinson said that code also allows for variances to measurable standards when an applicant can show that there are unique circumstances that result in a hardship. He stated that recently another residential infill subdivision was developed nearby using an alternative street width, and also obtained variances for lot widths and setbacks. He said that another option for this

site would be a flag lot, although there would only be one additional lot allowed in the rear.

Mr. Wilkinson stated the task force and City Council reviewed the issue of public verses private streets in great length prior to adoption of the existing ordinance and feels the ordinance change adopted in 2007 is appropriate and those concerns voiced at that time were legitimate concerns. Mr. Wilkinson stated that page 3 of the staff report outlines the purposes of the subdivision ordinance. He stated in any policy decisions made by the city council they need to consider what the impact on the adjoining properties will be. One of the purposes of the subdivision ordinance is considering the rights and interests of adjoining property owners in the city. He stated that recently the city has had requests to take over the streets in some of the PUD's that were approved in the past with private streets. This poses a significant problem for the city because the city cannot maintain streets that don't meet the standards. There is concern with regard to how the streets were installed and what is underneath the street. Mr. Wilkinson stated that findings and conclusions are outlined in the staff report, and summarized:

- The City Council in 2007 determined that private streets were not appropriate for development of single family residential subdivisions and required that all future created lots abut a public street.
- The Code already provides alternate standards for development of small residential infill subdivisions that do not require a 50-foot right-of-way.
- The Code provides for variances for measurable standards such as street width, setback, and lot width when a unique circumstance exists such as lot shape, topography, slope, etc. subject to approval by the Board of Adjustment.
- Public streets provide equity in provision of public services to all Murray citizens.
- Public streets ensure that development is orderly and appropriate to the surrounding neighborhood.
- Public streets constructed to public standards are necessary to avoid the future expenditure of public funds to correct problems arising from private street development.

Mr. Wilkinson stated that a letter was sent in response to the staff report, a copy of which was forwarded via e-mail to the planning commission members. He said that staff is recommending that the planning commission forward a recommendation of denial to the city council for the requested amendment to subdivision ordinance related to private streets.

Mr. Harland asked how narrow a city street is allowed to be. Mr. Wilkinson responded that excluding a variance, which may result in an additional width reduction, that a standard city street requires 2½ feet on each side for curb and gutter to equal 5 feet, and a 25-foot wide paved section. The total width with curb, gutter and pavement is to be 30 feet, and if this requirement was met the road could be completed with City Engineer and Planning Commission approval. Mr. Harland asked if the concern with this item relates to the cost of building a public street or if the applicant would just

prefer a private street. Mr. Wilkinson deferred to the applicant to answer this question.

Karen Daniels stated that the letter submitted in response to the staff report will be made part of the public record.

Jimmy Nielsen, 41 Paula Circle, Sandy, stated that he is present to represent his family on this matter. He introduced family members Randy and Eileen Nielsen, Andrew and Marta Nielsen, Rob Nahoopii and Ali Lyddall. He provided a presentation including photographs of the property and a detailed description of his request.

Jimmy Nielsen said that staff has stated that the commission should not consider individual properties but to think of the city as a whole. He stated that his family is present regarding an individual property, and if the proposed amendment is denied his family will not be able to use this property. Mr. Nielsen said that he thinks the planning commission should consider the individual property and the constraints, some of which have involved Murray City. He stated that the property is located at 421 East 5300 South and is an L-shaped parcel adjacent to the Murray Amphitheater. He said that there is a neighboring residence on one side and an undeveloped section of Murray Park is to the north. He stated that there is a private lane on the property, which was intended to access a home that was built by his aunt and uncle in the 1940's. Mr. Nielsen said that this dwelling was demolished following the death of his aunt and uncle, although there is a garage that still exists on the site. He said that his father's home was constructed on the property in 1975 and is east facing, overlooking the amphitheater parking lot. He stated that the private lane exists on the east side of his father's home, and that an agreement was made between his father and Murray City in 1975 regarding access to the rest of the property. He said that at the time, his aunt still owned the 1 acre lot with the total area of the property being 1 ½ acres. Mr. Nielsen stated that the city knew when entering into the agreement that there was room at the back of the property for 4 lots, and lots at that time were 10,000 square foot minimum. He said that the city told his father to leave a 15-foot easement along the east edge of the property, and that he left an extra 5 feet to total 20 feet. He said that from the retaining wall to the edge of the landscaping is 20 feet. Mr. Nielsen stated that in addition to constraints pertaining to width, that there are also topographical concerns as there is sloping on both sides of the lane. He said that widening the lane would be difficult. He stated that his father has a garden on the property, which is in an area proposed to be one of the future lots. Mr. Nielsen said that the subdivision is intended to create 4 new lots for family members and that there is not any intention to sell any of the land or maximize profit. He stated that he is a licensed architect in the State of Utah and that it is his dream to be able to design and build his home. He reviewed the photographs of the site, pointing out that the nearest neighbor is up a steep slope and that the property is landlocked by the park and topography. He stated that the family would like to reduce the amount of paving necessary and retain as much native vegetation as possible.

Jimmy Nielsen stated that the issue to be discussed is the request for a private lane. He stated that the first reason is that the family was told by the Community and Economic Development office that if in fact there is 20 feet available for a road, then the only way to get a road approved is to have it as a private lane. He said that

meetings were held with city staff over the past year to try and work within the existing ordinance, but that he was told that a public standard could not be reached with a 20-foot road without curb and gutter and sidewalk. He said that the family was told that one sidewalk and one park strip could be eliminated, but that there must be curb and gutter. Mr. Nielsen said that a 30-foot road would put the edge of the road at his father's porch and eliminate the setback in front of his house. He stated that because the city approved the access originally to his aunt's house and the rest of the property, that the parties should abide by this approval. He said that he is proposing to improve the original city approval by making the lane 20 feet wide, which meets current fire code standards. He stated that staff advised him that the only option he had was to propose for this text amendment. Mr. Nielsen said that he has e-mails and a meeting transcript to back up this statement. He said that the options given were to not develop the property further, to tear down his father's home to provide adequate width access, to create a single flag lot, or to apply for a text amendment to allow for a 20-foot private lane. He stated that the 30-foot road width is not required by fire code but only by Murray City, and that if a single flag lot was created the value of the property will be reduced to a quarter of what it could potentially be. Mr. Nielsen said that he was told that he would have the best chance of getting the ordinance text amendment approved if he wrote it as specifically to the property as possible. He stated that this conflicts with staff's recent statement to consider the impact on the entire city and not this individual property.

Mr. Nielsen summarized the development of the property, stating that Violet Stevensen's house existed first. He said that in the 1970's, the property was divided, but prior to building his home his father met with the city and a 15-foot easement was approved along the east edge to access the entire piece of property in addition to the existing house. He said that his father proceeded with building his home, and oriented it in such a way as to leave a 20-foot width.

Mr. Nielsen stated that the second issue related to the public street requirement is privacy. He said that the property is adjacent to a main park entrance, the amphitheater parking lot, and undeveloped park land. He stated that traffic congestion occurs regularly during summer events, and traffic and parking on a public street so near the park would endanger property and life safety and restrict emergency access. He said that a posted private lane would prevent such congestion. Additionally, Mr. Nielsen said that another concern relates to unsavory activity in the park. He said that the parking lot and undeveloped area of the park have long been a prime location for illegal activity, and that drug and sexual paraphernalia has been found on their property and in the park. He said that the windows in the Stevensen's original garage have been shot out from the park side of the fence with pellet guns. He said that more recently, the undeveloped area of the park has been used as a paint ball arena. Mr. Nielsen quoted from the letter that his father submitted, "The idea of providing public access through our backyard for fence jumpers, automobile romance, fireworks parking, drug use and general mayhem is truly frightening." He stated that the last time the police were called three men were arrested that had been drinking and swearing for hours just across the fence. He said that all three men had bench warrants and spent the night in jail. Mr. Nielsen stated that the family respects and supports park management, and that they realize that these activities are not a result of any action of theirs but just come with the territory.

He stated that due to all of these reasons, the family feels that a private lane is critical for this property. Mr. Nielsen briefly discussed the slides showing parking and traffic congestion on the 4th of July holiday and explained that there are a number of events each year that result in this type of congestion.

Mr. Nielsen stated that he would like to clear up a misunderstanding pertaining to the current ordinance. He said that the ordinance states "have existing structures in place previously approved by the city that established a right of way to the rest of the property." He said that the ordinance was summarized in the staff report to read "the property is constrained by an existing building that limits the size or width of the street." He said that he believes the wording of the amendment has been overly simplified and that an understanding of the wording will reduce the number of properties affected. Mr. Nielsen said that only properties where the city actually approved a structure which established access to an existing residence and property should be considered. He stated that sites where access into the property was established and a flag lot was subsequently created should not be considered because space was not originally allowed for the required width. He said that the intent of the wording is to apply to properties where the city has previously specified a certain width to access the property. He said that additionally, the property would have to be larger than double the size of the underlying zoning because there must be room for a private lane. He said that they are suggesting, and the ordinance states, that setbacks be taken from the edge of the private lane and not from the center as has been a concern previously. He stated that he is not proposing that a private lane be included as part of the setback.

Mr. Nielsen reiterated that his family is proposing a private lane that meets current fire code standards, and lots that are larger than the underlying zoning in order to accommodate that private lane. He said that the development will meet the building density of the underlying zone. He stated that he has provided a diagram showing how the largest fire truck owned by the city would navigate the lane and that a 50-foot fire truck or other city equipment could access the property. He said that they are not asking for city services, such as garbage pick-up or snow removal, on the property and they are willing to incorporate this clarification into the text amendment. He addressed the "concerns of the Citizen Task Force" which are 1- Potential inappropriate use of private streets to increase density without a proper zone change. The amendment states that "setbacks will be measured from the edge of the private lane. The setbacks will meet the infill subdivision requirements. The allowed building footprint will meet underlying zoning." 2- Issues of longer maintenance. The amendment specifies that "the city has no responsibility for maintenance. The amendment specifies "utilities and paving will meet city standards and can be inspected by the city. 3- A private lane of such scale. He stated that the traffic load will be minimal therefore maintenance will be minimal and maintenance costs will not be excessive for property owners because the lane is so small. 4- Issues for the equity for residents paying city taxes but not receiving full city services. He stated that they are "willing to establish a legal agreement to exempt the city from providing services as long as the road is private."

Mr. Nielsen stated they researched ordinances of other neighboring cities. Cottonwood Heights has a clause which states "whenever a subdivision is approved

with private streets the final subdivision plat shall include a statement that no city maintenance is provided on the private street." He stated he would be willing to include something similar to this for this ordinance amendment that exempt the city from any maintenance.

Mr. Nielsen stated that the development of neighboring property on approximately 347 East 5300 South has fundamental differences. The neighboring property owner in that case wanted a public street and had room for it. The lots in that development will be for sale to the general public and therefore they wanted to provide services for those people. He stated that he was informed by the Community Development office that a variance was not an option, because in order to get the road width they need for the property that the property can accommodate, a variance could not be granted to allow a private lane. And that's the only route they have to go with.

Mr. Nielsen stated the issues of sustainability come into play and with elimination of excess and pervious surface, you in essence reduce the storm water load which seems to be an advantage with the current state of Little Cottonwood Creek, and you reduce the urban heat island affect, and retain native vegetation. He stated that the city is implementing sustainable principles for new downtown developments and the city ought to look at the city more comprehensively.

Mr. Nielsen stated if you compare neighboring municipalities, Sandy City allows for 20 foot lanes for multiple lots and a conditional use permit process for lots that do not have access to public streets. Midvale City allows 20 feet width as permitted by fire code. Cottonwood Heights has a statement of no city maintenance to private streets and net density calculations exclude the area designated to private streets. South Salt Lake City has a clause that can "waive the requirement for lots to abut a public street if an unobstructed recorded easement of right-of-way of ingress and egress exists across the property." He stated the amendment is not fixed and there is still a chance to work on it with the city in order to ensure that it works property.

Mr. Nielsen summarized they are not attempting to "undo" the public road requirement; however, they do not agree with the one size fits all nature of the ordinance. He stated they are proposing a small change that would allow a small unique piece of property with access previously established by the city to be developed in a way better suited to it. The proposed lane will be about the same length as a football field and will serve two houses. It has no potential to become a thru street; it is essentially a long driveway and should be considered as such. The vision for this development is to retain as much of the natural beauty of the land as possible and to create a peaceful place in which to live.

Karen Daniels asked Jimmy Nielsen for clarification because the proposal indicates four lots and the site plan shows two lots. Mr. Nielsen responded there is space for four lots, but they are currently proposing two houses. He stated that he and his brother would like to build houses in the near future on the property. There is space for two more lots that will be given to his two sisters, but they have no immediate plans to build a home at this time and in their case the vacant land will not be sold and will be retained.

Kurtis Aoki clarified that this proposal does have potential to have four lots developed. Jimmy Nielsen responded in the affirmative. Mr. Aoki stated that at the time the width of the existing street was established, the thought of having four new lots in the future may not have even been contemplated and was merely established for the home at the rear of the lot. Mr. Nielsen responded that could have been the intention at that time, but clearly there was an acre of property at that time and the driveway was clearly going to be the only established access to the property.

Mr. Aoki asked if the intent of the Nielsen's is to have four lots or two lots on their property. Jimmy Nielsen responded that the way the proposed amendment is written, it would allow any property that meets this requirement be able to be developed to the maximum number of lots that meet the underlying zoning district. In this case the property is zoned R-1-8 and there is enough for four 8,000 square foot lots, plus the space of the private lane.

Karen Daniels opened the meeting for public comments as it is a public hearing. She stated the letter received by the planning commission was from Randy Nielsen.

Randy Nielsen, 421 East 5300 South, stated he is the owner of the property being discussed. He stated that this issue could have been solved over a year ago in one hour's time with the modifications to the section of the code and the Mayor has the power to do this. The planning department has consistently suggested the modifications cannot possibly apply to a private lane. He stated that they haven't found anyone that agrees with the city's position. He stated they have discussed these same items for a year with Mr. Tingey and Mr. Wilkinson and it's as if they have never heard it, and they are on their best behavior this evening, and they have never showed any good faith on this and never any attempt to come to a compromise. He stated Mr. Tingey and Mr. Wilkinson's solution is to tear down his house and put a big road into the back yard. He stated they have done everything they could and have been turned down on every possible avenue and it was a year ago that the city attorney stated this was the only possibility to do this. He stated there is only one property in the whole city that this ordinance would apply to and that the planning staff has misrepresented their proposal. He stated that he can't think of anything that Mr. Wilkinson has said that was actually true and that's what they have been facing for the past year. He asked that the planning commission help them with this because they have no where else to go.

Sheri Van Bibber asked Randy Nielsen if he was working on this prior to this last year. Mr. Nielsen responded that when Allie and Dave moved back from Spokane, the attempt was to try and get permission to do something and since there was only one child at that time they basically didn't have the funds required and so they gave up. He stated they weren't consulted with the private road amendment and nobody seemed to care that there were people that might be affected directly by it. He stated they took the city in good faith when they said to leave the easement to the back property and it will be adequate. He stated that obviously things have changed since that time and they have done everything they can to meet the current code. He stated a 20 foot road meets the international fire code for four lots. He stated that they hope someday their daughters will want to build there. He stated this has been an extremely difficult task. He stated that they were supposed to have met the city

attorney to establish the language and when they asked to meet with the city attorney, they got a "snarky email back blowing them off". He stated that he talked to Councilman Jim Brass, who has been their only support, and who suggested that they write the amendment themselves and so they did. He stated there are no guarantees that the city attorney will accept this. He stated that the city has been touting that the Chad Woolley development on approximately 347 East 5300 South, has been used as a good example of the planning process and yet took two years waiting for the city to fix their code so that he could develop his property.

Karen Daniels closed the public comment portion for this agenda item. She asked the planning staff to respond to Mr. Nielsen's comments.

Chad Wilkinson stated there is an obvious difference of opinion of the planning staff and the Nielsen's. He stated that the city recognizes that this is a personal issue when discussing someone's property. He stated that the city has rules and laws that need to be followed and that city tries to work with people and help them develop their properties, and routinely is accomplished. Once in a while there are properties wherein difficulties arise and it does take time. He stated that he comes from a development family and his father is a developer and he understands the process on both sides of the spectrum.

Jeff Evans asked Mr. Wilkinson, based on his background, experience and knowledge, what he would do in this situation if he was trying to achieve the same goal as the Nielsen family. Mr. Wilkinson responded that there are other options available, including the residential infill or a variance application. Kurtis Aoki asked if a variance could be obtained for the width of a street. Mr. Wilkinson stated that the existing access was established in 1975 for a single residence located at the rear of the property. He said that at that time there was no application for a subdivision. He stated that standards do change over time as the city continues to grow and that those changes take place through a public process and decision by the City Council. He said that staff evaluated the effect that the proposed change would have on other properties, and there may be some properties that don't precisely fit. Mr. Wilkinson said that in relation to the staff report, a recommendation has been made and that this is a policy decision.

Sheri Van Bibber asked if it's possible to develop a flag lot off of another flag lot. Mr. Wilkinson responded that this is not allowed, although this particular property is shaped similarly to a flag lot with the easement extending through the narrow portion of the lot and accesses the public street.

Jim Harland stated that the planning commission has reviewed a number of subdivisions over the past few years, and he recalls a few of those were 4 lots. He said that all of the subdivisions required public streets, including curb and gutter, although in a few cases the Commission made a recommendation to narrow the street size a little bit. He asked if a variance process could potentially decrease the width of the street to an acceptable size to fit the property. Mr. Harland stated that he understands that a variance will not address the public versus private street issue. Mr. Wilkinson said that there has not been an application for a variance, but that process is an option. He stated that the applicant would need to apply, and that there

and the recommendation for this application was made based on the factors listed in the staff report.

Karen Daniels commented that when considering an ordinance amendment, the planning commission must view the requests based on a city wide basis and not for a specific location and this request must be viewed as to how it would affect other properties throughout the city.

Kurtis Aoki commented that the Nielsen's cannot change what has been adopted by the city council but that the Nielsen's can present their proposal to the city council to attempt to change the existing ordinance. Mr. Wilkinson clarified that this request will go to the city council, regardless of the planning commission's recommendation, for a final decision.

Sheri Van Bibber stated that the Nielsen's property is in her neighborhood and proposal reminds her of the situation with the owners of the Flower Patch property wherein there were gray areas in the ordinance, and this is one instance where the square peg doesn't fit in a round hole scenario. She stated that there needs to be a way to work around this type of a proposal. Karen Daniels commented that when an ordinance text amendment is being made, it affects the entire city and not just one particular situation. She stated that the recommendation made by the planning commission would be forwarded to the city council for final decision.

Chad Wilkinson commented that thus far, the discussions regarding variances have been discussions with staff and what staff feels comfortable in recommending approval of, but there hasn't been a variance application filed. He stated the Board of Adjustment is the body who decides on variances, with staff input, but that it is not the decision of the planning staff. He stated there are options for the Nielsen's and requesting a variance is one of those options.

Karen Daniels stated the planning commission could make a positive recommendation and the city council could deny that; or the commission could make a negative recommendation and the city council could approve it. She called for a motion for this ordinance text amendment.

Jim Harland made a motion that the planning commission forward a recommendation of denial to the city council for the requested text amendment change for Section 16.16.090 of the subdivision ordinance that relates to private streets. This motion died for lack of a second.

Kurtis Aoki asked if the applicants could proceed to the city council without a recommendation from the planning commission. Karen Daniels stated the planning commission is the recommending board to the city council. Tim Tingey concurred. Mr. Tingey explained the options at this point which are send a recommendation of approval, send a recommendation of denial, or continue this item to another meeting for further review.

Sheri Van Bibber made a motion to table this item for further discussion. Seconded by Jeff Evans. Jim Harland questioned what would be the tools for further discussion.

Kurtis Aoki commented that there are two members of the commission absent this evening which may be at the next meeting to assist in further discussion and decision making on this item. Mr. Tingey commented that he is not advocating that this item be tabled, or not, but that there has been additional information submitted this evening by the applicants which the planning commission has not had sufficient time to thoroughly review and may warrant a continuance to another meeting.

Jeff Evans commented that the applicants' information is very thorough and detailed and may warrant further review and discussion by the planning commission.

Tim Tingey suggested if this item is tabled, that the commission indicate a date wherein it would be reviewed. He stated this item could be continued to the July 21st meeting date.

Sheri Van Bibber modified her motion to continue this ordinance text amendment to the July 21, 2011 Planning Commission meeting. Seconded by Jeff Evans.

Call vote recorded by Chad Wilkinson.

A _____ Ms. Van Bibber
A _____ Mr. Evans
A _____ Mr. Aoki
A _____ Mr. Harland
A _____ Ms. Daniels

Motion passed, 5-0.

Karen Daniels commented that this subdivision ordinance text amendment has been continued to the July 21, 2011 planning commission meeting giving the commission members an opportunity to review the information presented.

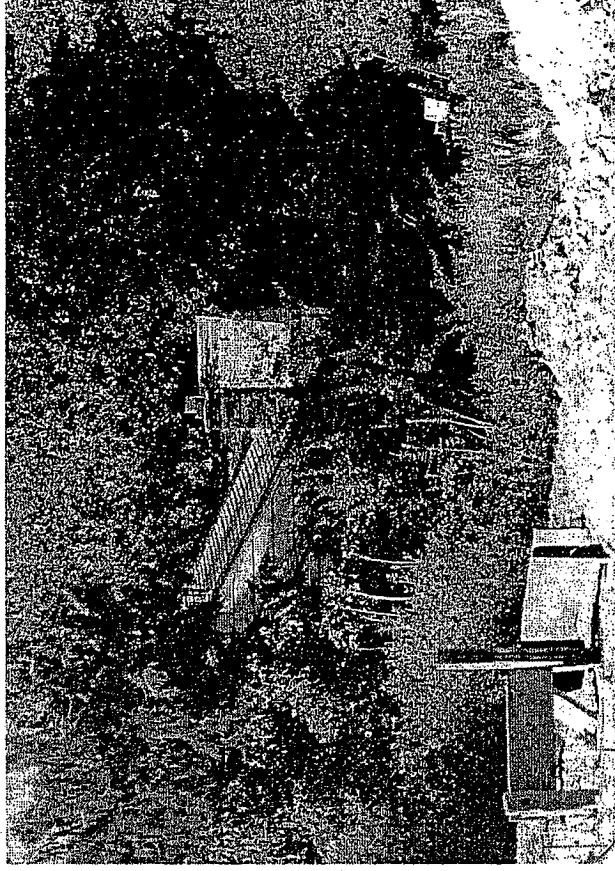
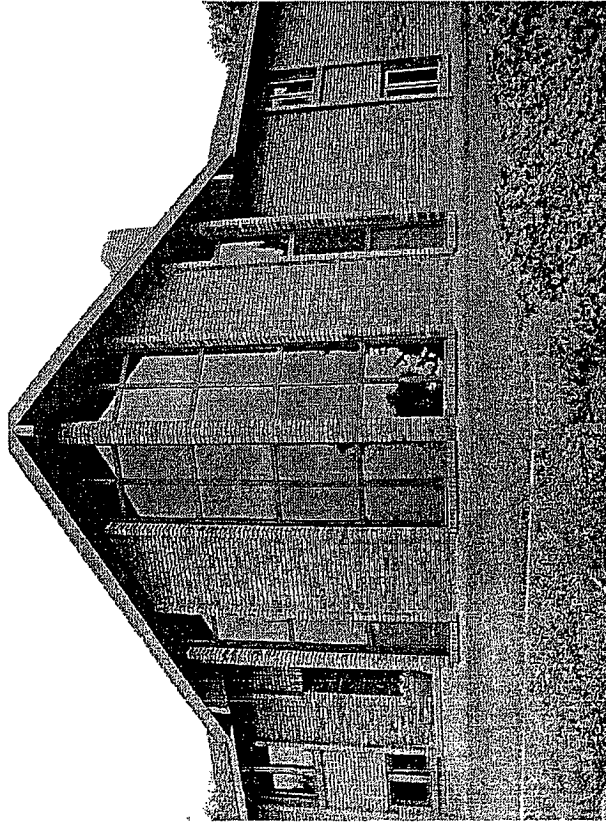
Meeting adjourned.

Tim Tingey, Director
Community and Economic Development

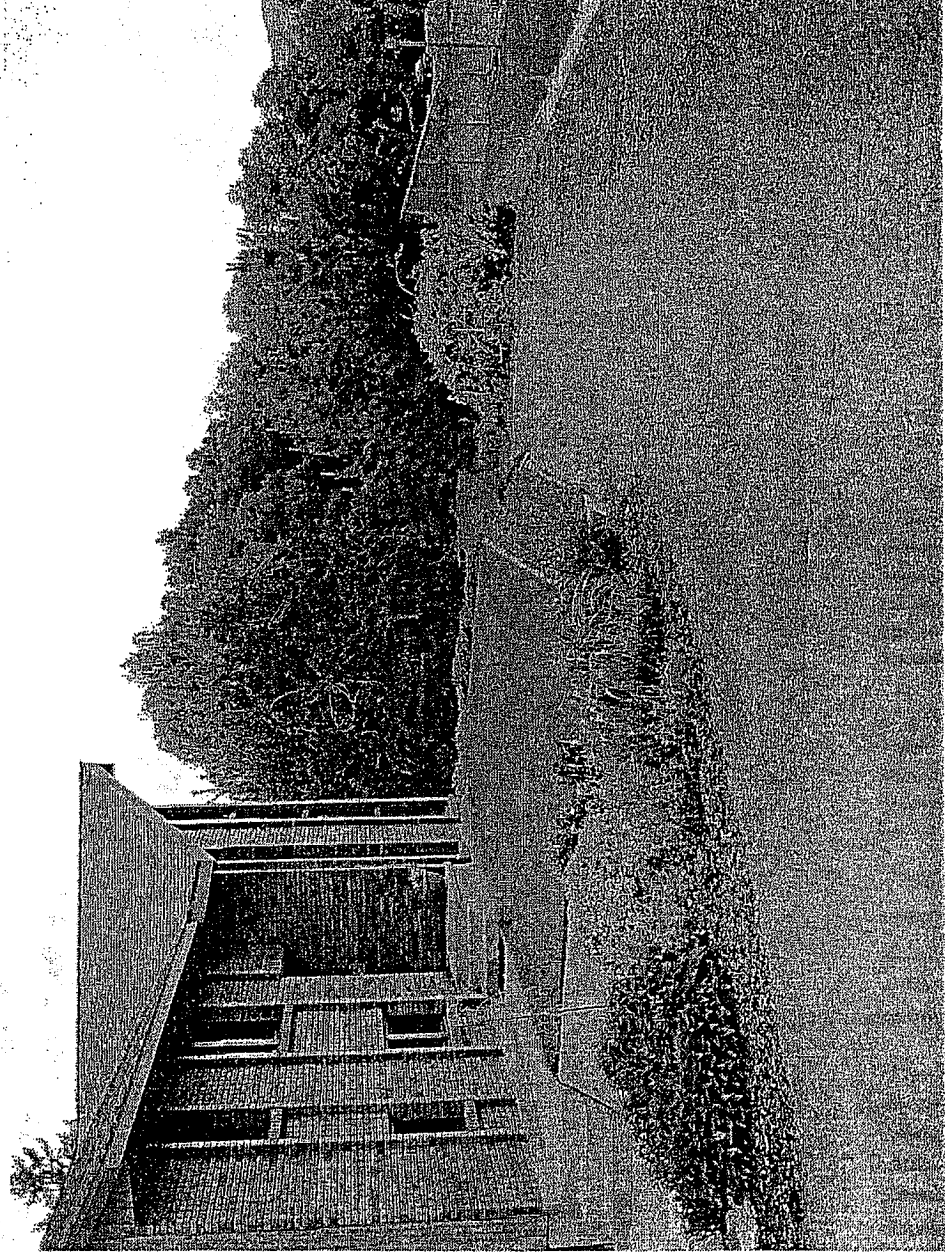


NIELSEN FAMILY PROPOSAL

Nielsen/Stephenson residences



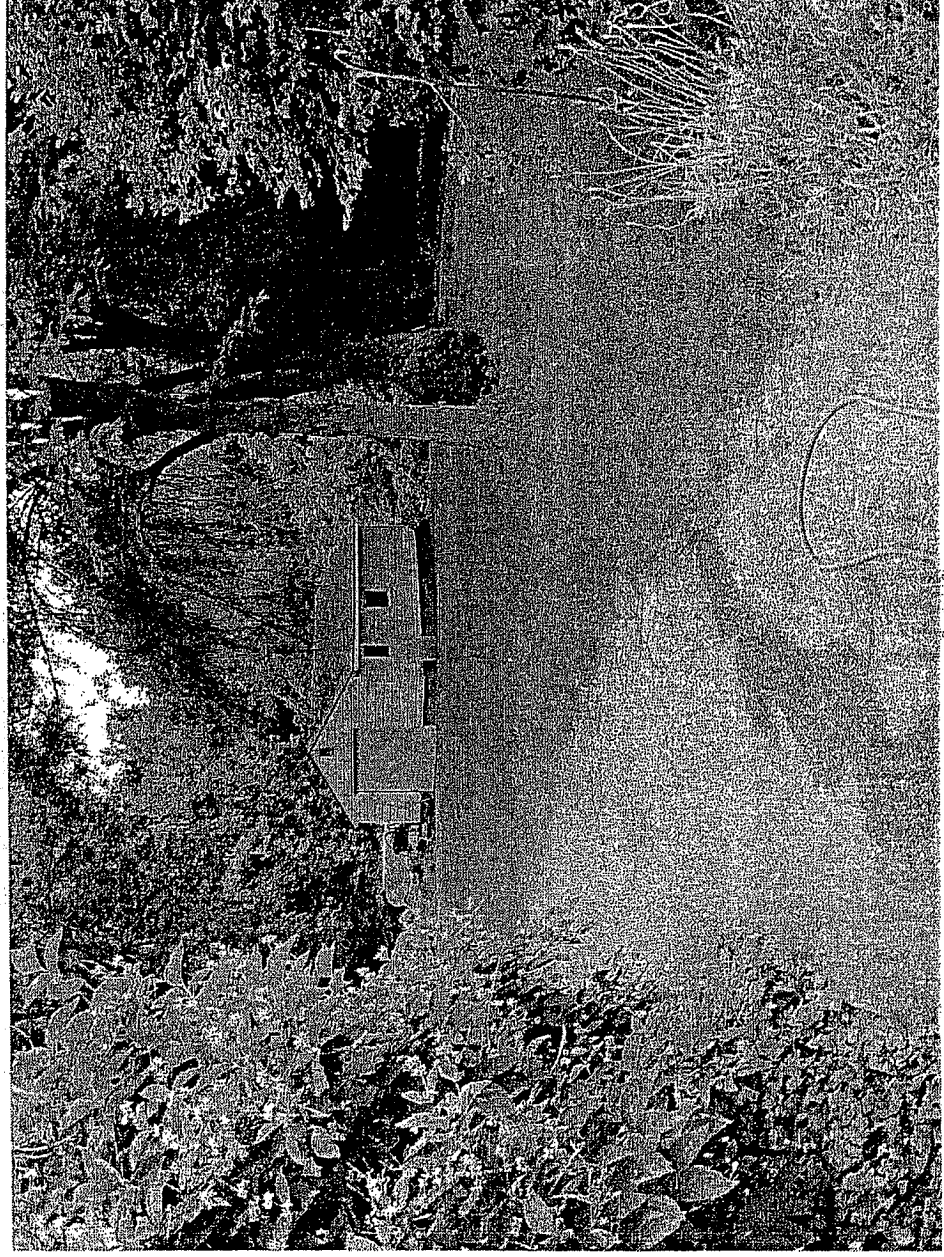
Existing private lane



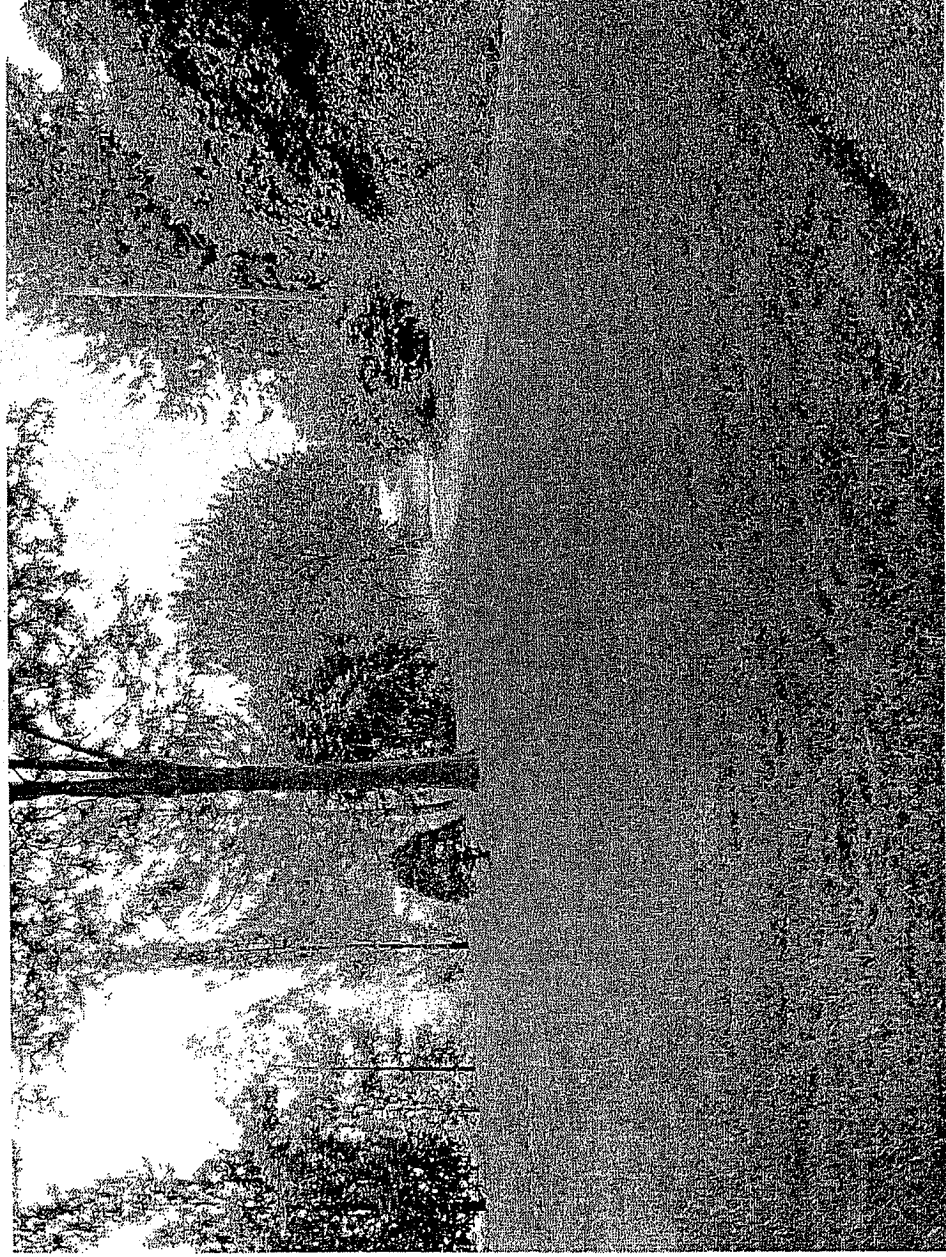
Existing private lane



Existing private lane



Existing private lane



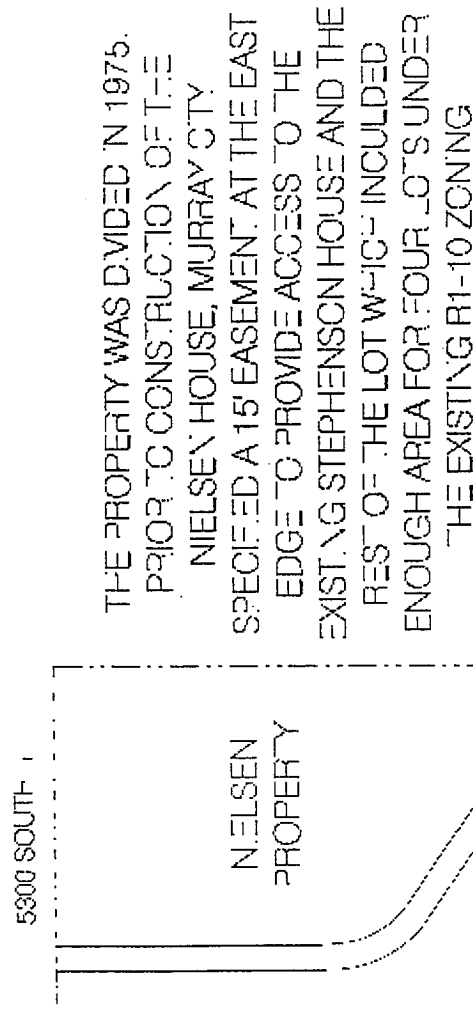
Garden bordering park



Why a private lane?

- Staff report fails to address two issues:
 - ▣ Previously approved access and the reality of the site
 - ▣ Privacy

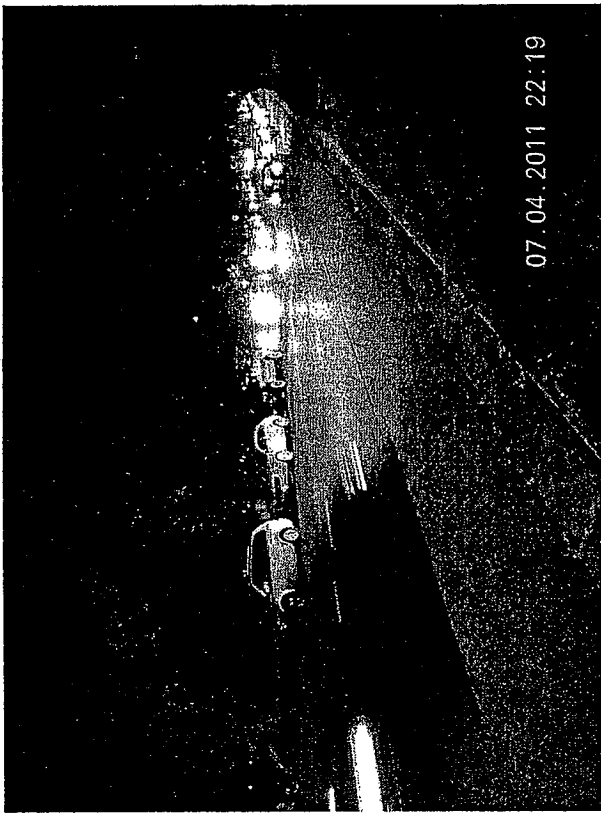
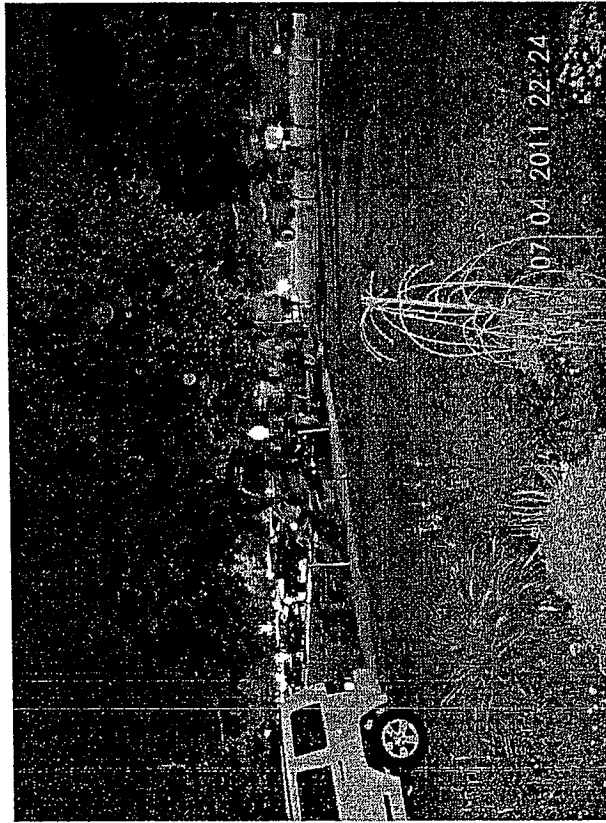
Access



Privacy

- Property is immediately adjacent to a main park entrance (the amphitheater entrance), a parking lot and undeveloped park land.
- Traffic congestion occurs regularly during summer events.
- Traffic/parking on a public street so close to the park would endanger property and life safety and restrict emergency access.
- Unsavory activity in park.

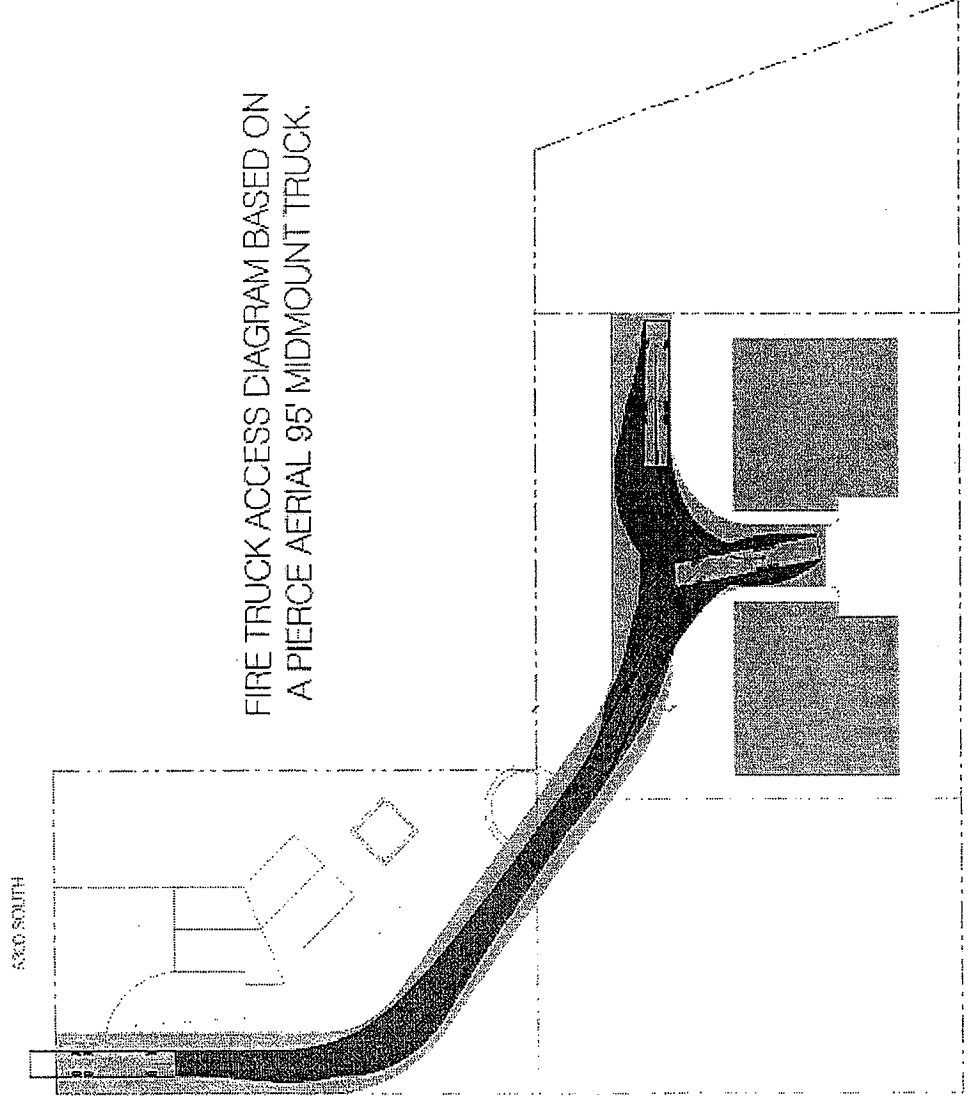
Park-related traffic on 5300 South



Other properties affected

- Only properties where the city established an access width to an existing residence comply.
- Property would have to have area to:
 - Meet underlying zoning
 - Accommodate the width of a private lane that meets International Fire Code
 - Measure setbacks from private lane
- Properties that are simply twice the size of the zoning would not comply.

Fire truck access



Concerns of citizen task force

- “Issues of long-term maintenance”
- Amendment specifies city has no responsibility
- Amendment specifies utilities and paving will meet city standards
- Traffic load will be minimal
- Maintenance costs will not be excessive for property owners

Development of neighboring land

- Property owner wanted a public street and had room for it.
- Lots will be for sale to the general public.
- We discussed variance possibilities with planning department, were told it was not an option.

Comparative municipalities

- Sandy
 - Allows 20' for multiple lots
 - Conditional use permit process.
- Midvale
 - Allows 20' as permitted by fire code.
- Cottonwood Heights
 - Statement of no city maintenance to private streets.
 - Net density calculations exclude private streets.

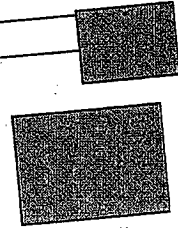
Summary

- We petition your recommendation to:
 - ▣ Honor past access agreement with Murray city
 - ▣ Provide privacy and safety from nearby public gathering place
 - ▣ Allow for a development that is sensitive to the property
 - ▣ Encourage sustainable practice in the city

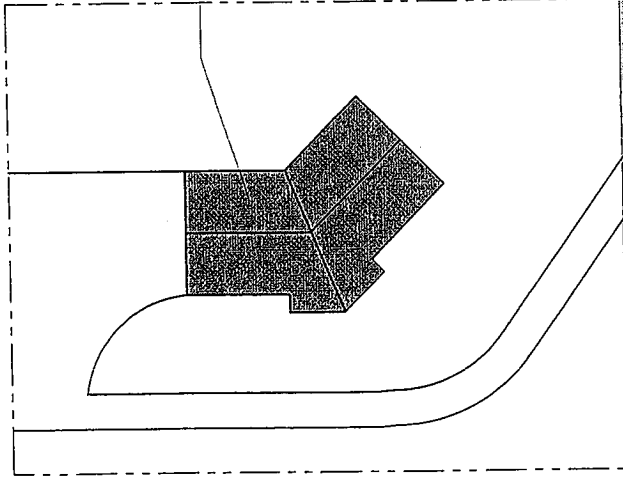
5300 SOUTH ⊕

ORIGINAL STEPHENSON HOUSE
AND GARAGE WERE BUILT AT THE
NORTH EDGE OF THE
SITE IN THE 1940S.

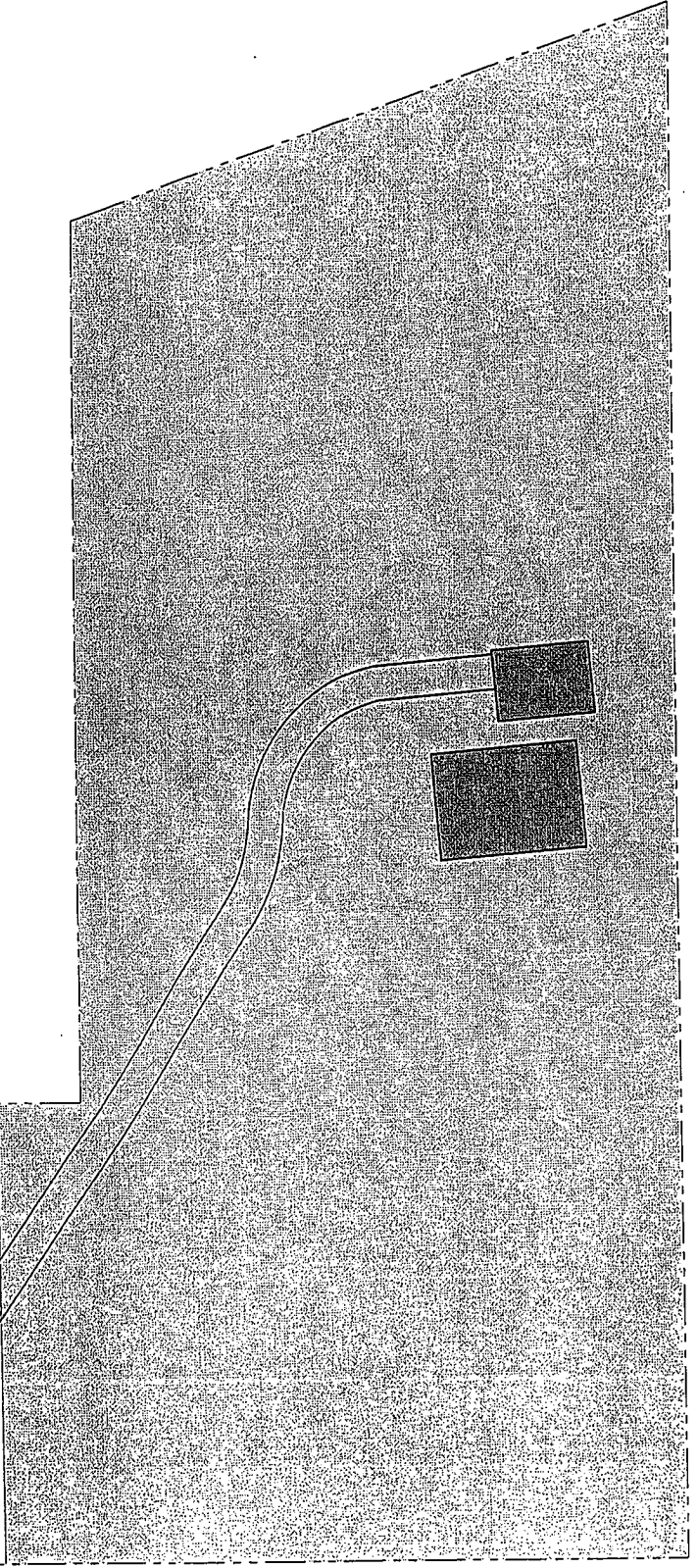
STEPHENSON
PROPERTY
APPROX. 1.5 ACRE AREA



5300 SOUTH ➔



— NIELSEN HOUSE WAS BUILT IN 1975,
THE STRUCTURE ORIENTED TO ALLOW A
20' EASEMENT, 5' IN EXCESS OF WHAT
MURRAY CITY REQUIRED. IF THE CITY
HAD REQUESTED WIDER ACCESS, THE
NIELSEN HOUSE WOULD HAVE BEEN
SITED AT THE REAR OF THE PROPERTY.



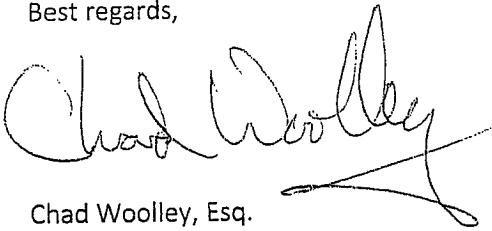
July 18, 2011

To the Murray City Planning Commission:

Although I am unable to attend this hearing tonight, I would like to add my comments to this discussion. About a year ago, I finally was able to receive approval for my project on 5300 South, just west of the Nielsen property. This approval included 2 non-conforming lots, obtained without a variance, due to the existing limitations of my property. Given my understanding of existing limitations with the Nielsen property I would urge the committee to offer them similar consideration, consistent with the details of their property.

Please note also, that errors in the new code resulted in at least a year's delay as the planning department addressed these errors.

Best regards,

A handwritten signature in black ink, appearing to read "Chad Woolley". The signature is stylized with a large, looped "C" and a long, sweeping underline that extends to the right.

Chad Woolley, Esq.

770 S. 5600 W.
P.O. BOX 704005
WEST VALLEY CITY, UTAH 84170
ED.TAX I.D.# 87-0217663

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WWW.DESERETNEWS.COM

PROOF OF PUBLICATION

CUSTOMER'S COPY

CUSTOMER NAME AND ADDRESS	ACCOUNT NUMBER	DATE
MURRAY CITY RECORDER, 5025 S STATE, ROOM 113 MURRAY, UT 84107	9001341938	6/27/2011

FILE COPY

Subdivision
Ordinance
amend
(Nielson)

ACCOUNT NAME			
MURRAY CITY RECORDER,			
TELEPHONE	AD ORDER# / INVOICE NUMBER		
8012642660	0000702575 /		
SCHEDULE			
Start 06/26/2011		End 06/26/2011	
CUST REF NO			
MURRY 061611			
CAPTION			
MURRAY CITY CORPORATION NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN			
SIZE			
32	Lines	1.00	COLUMN
TIMES		RATE	
4			
MISC CHARGES		AD CHARGES	
TOTAL COST			
58.76			

MURRAY CITY CORPORATION
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on the 7th day of July, 2011, at the hour of 6:30 p.m. of said day in the Council Chamber of Murray City Center, 5025 South State Street, Murray, Utah, the Murray City Planning Commission will hold and conduct a Public Hearing on and pertaining to the consideration of a land use ordinance amendment, the Subdivision Code, Section 16.16.090. The purpose of this public hearing is to receive public comment concerning the proposed land use ordinance amendment as described above.

MURRAY CITY CORPORATION
By: Tim Tingey
Community & Economic Development Director
702575-XXXX FAX: 702575-XXXX

AFFIDAVIT OF PUBLICATION

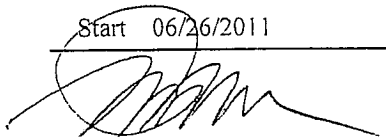
AS NEWSPAPER AGENCY COMPANY, LLC dba MEDIAONE OF UTAH LEGAL BOOKER, I CERTIFY THAT THE ATTACHED ADVERTISEMENT OF MURRAY CITY CORPORATION NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN that on the 7th day of July, 2011, at the hour of 6:30 p.m. of said day in the Council FOR MURRAY CITY RECORDER, WAS PUBLISHED BY THE NEWSPAPER AGENCY COMPANY, LLC dba MEDIAONE OF UTAH, AGENT FOR THE SALT LAKE TRIBUNE AND DESERET NEWS, DAILY NEWSPAPERS PRINTED IN THE ENGLISH LANGUAGE WITH GENERAL CIRCULATION IN UTAH, AND PUBLISHED IN SALT LAKE CITY, SALT LAKE COUNTY IN THE STATE OF UTAH. NOTICE IS ALSO POSTED ON UTAHLEGALS.COM ON THE SAME DAY AS THE FIRST NEWSPAPER PUBLICATION DATE AND REMAINS ON UTAHLEGALS.COM INDEFINATELY.

PUBLISHED ON

Start 06/26/2011

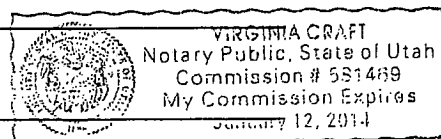
End 06/26/2011

SIGNATURE



DATE

6/27/2011



Virginia Craft

THIS IS NOT A STATEMENT BUT A "PROOF OF PUBLICATION"
PLEASE PAY FROM BILLING STATEMENT

** Private Streets P.H. 2/16/12*

P/C AGENDA MAILINGS
"AFFECTED ENTITIES"
Updated 5/16/11

UDOT - REGION 2
ATTN: MARK VELASQUEZ
2010 S 2760 W
SLC UT 84104

UTAH TRANSIT AUTHORITY
ATTN: PLANNING DEPT
PO BOX 30810
SLC UT 84130-0810

TAYLORSVILLE CITY
PLANNING & ZONING DEPT
2600 W TAYLORSVILLE BLVD
TAYLORSVILLE UT 84118

WEST JORDAN CITY
PLANNING DIVISION
8000 S 1700 W
WEST JORDAN UT 84088

CHAMBER OF COMMERCE
ATTN: SCOTT BAKER
5250 S COMMERCE DR #180
MURRAY UT 84107

MURRAY SCHOOL DIST
ATTN: PAT O'HARA
147 E 5065 S
MURRAY UT 84107

MIDVALE CITY
PLANNING DEPT
655 W CENTER ST
MIDVALE UT 84047

SALT LAKE COUNTY
PLANNING DEPT
2001 S STATE ST
SLC UT 84190

GRANITE SCHOOL DIST
ATTN: KIETH BRADSHAW
2500 S STATE ST
SALT LAKE CITY UT 84115

UTAH POWER & LIGHT
ATTN: KIM FELICE
12840 PONY EXPRESS ROAD
DRAPER UT 84020

QUESTAR GAS
ATTN: KIM BLAIR
P O BOX 45360
SLC UT 84145-0360

COTTONWOOD IMPRVMT
ATTN: LONN RASMUSSEN
8620 S HIGHLAND DR
SANDY UT 84093

JORDAN VALLEY WATER
ATTN: LORI FOX
8125 S 1300 W
WEST JORDAN UT 84084

CENTRAL UTAH WATER DIST
355 W UNIVERSITY PARKWAY
OREM UT 84058

HOLLADAY CITY
PLANNING DEPT
4580 S 2300 E
HOLLADAY UT 84117

COTTONWOOD HEIGHTS CITY
ATTN: PLANNING & ZONING
1265 E FT UNION BLVD #250
CTNWD HEIGHTS UT 84047

SANDY CITY
PLANNING & ZONING
10000 CENTENNIAL PRKWY
SANDY UT 84070

UTOPIA
Attn: TOM MARRIOTT
2175 S REDWOOD RD
WEST VALLEY CITY UT 84119

UTOPIA
Attn: JARED PANTIER
2175 S REDWOOD RD
WEST VALLEY UT 84119

GENERAL PLAN MAILINGS:
(in addition to above)

UTAH AGRC
STATE OFFICE BLDG #5130
SLC UT 84114

GOVERNORS OFFICE OF PLANNING
& BUDGET
ATTN: RICHARD ELLIS, DIR
STATE CAPITOL, E210
SLC UT 84114-2210

WASATCH FRONT REG CNCL
PLANNING DEPT
295 N JIMMY DOOLITTLE RD
SLC UT 84116

April 16, 1974
Planning Commission
Minutes

Minutes of the Planning and Zoning Commission meeting
held Tuesday, April 16, 1974, at 7:00 P.M.

Attendance:

John McDonald
Lynn Jones
Tony Rezac
Jay Hazelgren
Donald Patton
Charles Clay - City Engineer
Dennis Hamblin - Secretary

Doug Layton - Ute Circle and Arrowhead Lane

Mr. Doug Layton met with the Commission on his proposed subdivision. Mr. Layton explained that he would remodel and add to the old Tuft home to make it compatible with the area. Marv Hendrickson, who owns adjacent property, presented a letter to the Commission stating his intent to negotiate with Mr. Layton on squaring the property on Arrowhead Lane. The existing right-of-way was discussed as it affects the proposed subdivision. Jay Hazelgren and Tony Rezac were concerned with lot #6 and felt that the problem should be solved. A motion was made by Jay Hazelgren and seconded by Lynn Jones with the following conditions to be complied with:

1. Would approve lots #1 through #5 with lot #6 to be combined with lot #5.
2. Show proper setback lines for the subdivision.
3. Show existing Tuft home as it sits on lot #5 in relationship to the setback of lot #4.
4. Bring information back to the next Planning Commission meeting.

2 Ayes

2 Nays (Tony Rezac, John McDonald)

Another motion was made by Jay Hazelgren and seconded by Lynn Jones with the following conditions:

1. Approve lots #1 through #5 with lot #6 to be combined with lot #5.
2. Locate Tuft home on lot #5 and how it relates to the other lots.
3. Appear at the next meeting with the required information.

3 Ayes

1 Nay (Tony Rezac)

Ruth Green - 191 West 5900 South

Ruth Green of United Homes, discussed with the Commission plans for apartment units. The Commission stated that the density requirements of 12 units per acre must be complied with. Ruth was told to go ahead and draw up the proposal following the City ordinances. It was the consensus of the Planning Commission to approve of the concept for the project.

Max Schmidt - 5250 South State

Max Schmidt met with the Commission on a temporary sign he has been using at his business. Mr. Schmidt stated he needed a temporary sign for special advertising situations as they come up. It was stated that the sign can handle winds up to 75 M.P.H. The Commission was very concerned with the electrical cord laying on the driveway. Mr. Schmidt stated he had met with the City Electrical Inspector and all was in order from a code standpoint. Tony Rezac stated he was against the flashing lights on the sign. Lynn Jones mentioned there may be O.S.H.A. code violations which should be investigated. A general consensus by the Planning Commission was that the sign could be used on a temporary basis if the following conditions were complied with:

1. Flashing lights eliminated.
2. Electrical portion of the sign to be safe.
3. The pedestal for the sign must be back 20' from right of way.
4. 90 days maximum for temporary signs.

Merlin Larsen - 59 East Miller

Mr. Larsen appeared before the Commission for final approval of his 4-plex project. Mr. Larsen brought with him a plot plan showing the 20' driveway, property descriptions of both parcels and the line of the proposed subdivision drawn on the plot. A motion to give final approval was made by Lynn Jones and seconded by Tony Rezac.

4 Ayes
0 Nays

Randy Nielsen - 425 East 5300 South

Mr. Randy Nielsen discussed plans for subdividing a lot from a piece of ground belonging to Mrs. Stephensen. His proposed lot would front on 5300 South. A motion to approve was made by Tony Rezac and seconded by Jay Hazelgren with the following conditions:

1. Provide a 25' easement on East property line for access to rear property.

2. Describe the two parcels on a warranty deed with the easement included.

4 Ayes
0 Nays

Brent Hilton - 6196 South State

Mr. Hilton made a return appearance with plans for a Midas Muffler Shop. The building has been rotated 90° and positioned on the North property line. There will be a 6' solid fence on the West and North property line as a protection for the residential zone. The existing house to the West will be torn down and removed. When the West portion of the property is developed the curbing and planted area will be extended to the West property line. A motion to give final approval was made by Jay Hazelgren and seconded by Lynn Jones with the following conditions:

1. Install curb, gutter and sidewalk on Creek Drive according to City standards.
2. Maintain planted area where house is now located even after the house is removed.

4 Ayes
0 Nays

Wendell Davis - 4600 South 300 West

Mr. Wendell Davis and Mr. Walter LeFevre presented plans for a storage facility. The buildings will be made of block and will be 10' in height. The largest storage stall will be 10' x 20'. A motion to give final approval was made by Lynn Jones and seconded by Jay Hazelgren with the following conditions:

1. The West end of the property is to be landscaped.
2. Must maintain a minimum buffer on West property line of 3' to protect existing State fence.
3. 1' will be taken off of the West portion of the two South buildings to increase rear driveway area.
4. Curbing of West protection strip to be at least 12" above final grade.
5. 30' approach ways shall be established on 300 West.
6. Put in the 16' approach on Jensen Lane at 300 West.

4 Ayes
0 Nays

April 30, 1974
Warranty Deed

Recorded APR 30 1974 at 1255 m.
Request of Randy Nielsen
JERAM...
S. 320
REF. 9980-96-48 ch 44

WHEN RECORDED, MAIL TO:

447 D 48100

84107

Space Above for Recorder's Use

~~2617375~~ WARRANTY DEED

2627590

VILA T. STEPHENSEN, a woman

, grantor

of Murray, County of Salt Lake, State of Utah,

hereby CONVEY and WARRANT to

RANDY R. NIELSEN and G. EILEEN NIELSEN, his wife as joint tenants with full rights of survivorship and not as tenants in common.

, grantees

of Murray, County of Salt Lake, State of Utah

for the sum of TEN and no/100 DOLLARS,

the following described tract of land in Salt Lake County, State of Utah, to-wit:

Beginning at a point 896.1 feet East and South 00° 04' West 1539.8 feet along the East line of State Street and South 89° 53' East 2491.0 feet along the North line of a 66 foot street known as 53rd South Street from the Northwest corner of the Southwest 1/4 of Section 7, Township 2 South, Range 1 East, Salt Lake Meridian, for the point of beginning; and running thence North 00° 07' East 144.292 feet; thence South 74° 53' East 113.41 feet; thence South 01° 59' West 115 feet to the North line of said 53rd South Street; thence North 89° 53' West 105.8 feet to the place of beginning.

Reserving, however, unto the grantor a right of way over the following described portion thereof: From the above described point of beginning, run S. 89° 53' E. 89.8 ft. for the pt. of beginning of the easement, and running thence North 01° 59' East 119.28 ft.; thence (cont on attached page)

WITNESS the hand of said grantor, this 26th day of April, 19 74

Signed in the presence of

Richard C. Howe

Vila T. Stephensen

STATE OF UTAH,

County of Salt Lake

ss.

On the 26th day of April, 19 74
personally appeared before me Vila T. Stephensen, a woman,

the signer of the above instrument, who duly acknowledged to me that s he executed the same.

Richard C. Howe

Notary Public.

My commission expires 3-2-77 Residing in Murray, Utah

APPROVED FORM — UTAH SECURITIES COMMISSION

FORM 101 - WARRANTY DEED - KELLY CO., 55 W. NINTH SO., S.L.C. L-1108

BOOK 2604 PAGE 387
BOOK 3572 PAGE 148

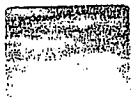
-2-

(continuation of description on attached deed)

South $74^{\circ} 53'$ East 16.42 feet; thence South $01^{\circ} 59'$
West 115 feet; thence North $89^{\circ} 53'$ West 16 feet to
the point of beginning of the easement. Being 16 feet
wide along the east boundary of the first described
lot.

BOOK 3504 PAGE 388
~~BOOK 3572 PAGE 149~~

Staff E-mail
June 23, 2011



Re: Zoning Amendment for Nielsen Property
Chad Wilkinson to: Marta Nielsen

06/23/2011 01:41 PM

Hello Marta,

We are happy to share with you what we find out about other properties in the City that are potentially impacted by the proposed ordinance amendment. We will do that when we provide a copy of the staff report to you about a week before the planning commission meeting with our recommendation. Usually we issue our report on the Friday preceding the Planning Commission meeting.

In relation to section 16.04.110, we discussed this with our City Attorney's office and they interpret this section the same as we do in our office. These potential modifications are spelled out in the Residential in-fill and flag lot ordinance and include such things as alternate turn around, waiving sidewalk and park strip requirements and alternate setback requirements. However, they do not include the ability to allow for private streets in lieu of public streets. In ordinance 07-42 the City Council determined that public streets were required for all future single family residential subdivisions. In adopting the ordinance, the legislative body of Murray has already made the determination that private streets do not meet the spirit and purpose of the subdivision chapter. Therefore, that is not an item that the commission and engineer have discretion to recommend to the mayor to modify.

I did want to mention again that the residential infill standards allow for modifications to the public street section that can potentially eliminate sidewalks and parks strips from one or both sides of the street. This would mean that the overall width would be less than 50 feet. We would rather work through the residential infill option already allowed in the code (17.58) rather than amending the ordinance.

Respectfully,

Chad Wilkinson, AICP
Community Development Planner
Murray City Corporation
4646 South 500 West, Murray, Utah 84123
801-270-2420 Fax 801-270-2414
Direct 801-270-2427
cwillkinson@murray.utah.gov

Marta Nielsen

Mr. Ray and Mr. Wilkinson, We appreciated the...

06/21/2011 12:19:00 PM

From: Marta Nielsen <mnelsonnielsen@gmail.com>
To: rchristensen@murray.utah.gov, cwillkinson@murray.utah.gov
Cc: ttingey@murray.utah.gov, dsnarr@murray.utah.gov, James Nielsen <jnielsen@ffkr.com>, Amy <amychoate@gmail.com>, Andrew Nielsen <acnielsen82@hotmail.com>, "Randy Nielsen (randy_nielsen@hotmail.com)" <randy_nielsen@hotmail.com>, jim.brass@murray.utah.gov
Date: 06/21/2011 12:19 PM
Subject: Zoning Amendment for Nielsen Property

Mr. Ray and Mr. Wilkinson,

We appreciated the opportunity to participate in yesterday's plan review meeting. (assuming we don't get this sent until tomorrow). I'd be grateful to receive any feedback on what was discussed around the table after we left. I have a few thoughts I'd like to share based on your comment about the need to investigate the number of potential properties that might be affected by our

**August 16, 2007
Planning Commission
Minutes**

Minutes of the Planning Commission meeting held on Thursday, August 16, 2007, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Tim Taylor, Vice-Chair
Sheri Van Bibber
Jeff Evans
Ray Black
Karen Daniels
Ray Christensen, Senior Planner
G.L. Critchfield, Deputy City Attorney
Anne von Weller, Deputy Public Services Director
Scott Stanger, City Engineer
Citizens

Excused: Jim Harland, Chair
Kurtis Aoki

There was a Staff Review Meeting from 5:30-6:30 p.m.

Tim Taylor opened the Planning Commission meeting at 6:30 p.m. and welcomed the public.

APPROVAL OF MINUTES

Mr. Taylor asked for additions or corrections of the minutes. Sheri Van Bibber made a motion to approve the minutes of July 19, 2007 with corrections. Karen Daniels seconded the motion.

A voice vote was made. The minutes were approved unanimously (5-0).

ZONING ORDINANCE AMENDMENTS - Planned Unit Developments, Residential Building Height, Streets, Residential Infill Development

Ray Black stated recommendations on these were the most important issues the commission would ever decide.

Anne Von Weller, Deputy Director of Public Services, commented that Doug Hill, Director of Public Services had previously made a presentation of the ordinance amendments at the June 21, 2007 meeting and that she was there to answer questions. Doug Hill has compiled comparisons of the staff recommendations, task force recommendations and existing ordinance regulations regarding planned unit developments, residential infill, building height and streets for review by the commission.

Tim Taylor asked if the staff recommendations had been revised since the prior meeting on these ordinances. Ms. vonWeller responded the only changes were to the definition of building height. She passed out copies of the suggested revision to the commission.

Jeff Evans asked about the building height definition regarding how to establish building height. Anne Von Weller stated the proposed building height ordinance is defined as the vertical distance between the average elevation of the top back of curb abutting the lot, or in the absence of curb and gutter, the average elevation of the center line of the street abutting the lot and the highest part of the building. Staff recommendation was a 35 foot maximum height in residential zones. The task force recommendation was the vertical distance from the existing grade to the

highest part of the building to be 28 feet. The height may be increased by 1 foot for each additional 2 ft. of side yard setback, up to 35 feet.

Karen Daniels commented regarding planned unit developments and the city collecting a bond for infrastructure.

Sheri Van Bibber asked the purpose for changing planned unit developments from 2 acres to 5 acres. Anne von Weller stated the purpose for the change to 5 acres was for better quality developments with large enough area for amenities such as common area open space, parks and recreation facilities. The infill ordinance would apply for residential developments with less than 2 acres and the regular subdivision ordinance could be used in all zones, including on parcels between 2 and 5 acres.

Tim Taylor asked Dave Hunter for the presentation of the Planned Neighborhood Development Task Force committee. Dave Hunter presented a power point review and discussion of the task force recommendations regarding planned unit developments, limiting density, and large homes (monster homes) in residential neighborhoods. Dave Hunter stated the presentation had previously been given to the city council.

Anne von Weller stated the city staff had been working on the ordinance amendments prior to the task force committee review and recommendations. She stated the staff has incorporated the task force recommendations, which could be readily implemented with timely enforcement, but the city staff recommendations have differences regarding specific ordinance changes. She stated density would be limited to the underlying zoning with infill and planned unit developments will be 5 acres or more area.

Bill Finch, 1055 Chevy Chase Drive, stated he is one of the members of the task force committee which met for numerous hours. He said the city staff followed few of their recommendations. He stated the task force recommended a two acre planned unit development minimum, and a bonus density would be provided for developments over 5 acres in size. He stated he has experience working with the Salt Lake County with specific requirements and the proposed P.U.D. ordinance is not well written. He said the proposed ordinance does not address the monster homes issues.

Ben Savage, 600 East 4800 South, and attorney Craig Smith 215 South State, were concerned about density in the residential developments and raised questions about the density allowed with the infill ordinance. Anne von Weller indicated the infill ordinance is based on the underlying zone and requirements for lot sizes. The setbacks are reduced in the infill ordinance to 20 ft. front and rear yard setbacks.

Lou Robbins, 1807 Ann Dell Lane, stated the proposed ordinances submitted by the city were not very well written and he submitted copies of Holladay ordinances. He was concerned with planned unit developments and the density allowed.

Leon Unsworth, 572 East 4500 South, had questions regarding the two lot subdivisions and the infill ordinance.

Tim Taylor asked Anne von Weller to review the ordinance amendment comparisons prepared by Doug Hill with city staff recommendations, and the task force recommendations. Item by item

she went through the table prepared by Doug Hill explaining differences and similarities between staff and task force recommendations including differences in definitions of height and open space. Anne von Weller said the city staff intention was not to increase the densities for planned unit developments or infill developments, but the limitations of underlying zone densities would apply. This information had previously been submitted to the Planning Commission for their review. Anne von Weller said the city staff intention was not to increase the densities for planned unit developments or infill developments, but the underlying zone densities would apply. This information had previously been submitted to the Planning Commission for their review.

GL Critchfield stated one difference with the infill ordinance and a planned unit development is the infill ordinance allows for a narrower street, and side walk is a recommendation of the planning commission and city engineer. He indicated a change for the appeal time has been changed from 14 days to 30 days.

Jeff Evans asked about the details of the combined lots recommendation from the task force committee. Dave Hunter indicated a maximum of two lots can be combined and structures are limited to 35% for the first lot and an additional 17.5 % for the second lot so that the size of the dwelling would be reduced for two combined lots. Anne von Weller stated it would be difficult to track the combining of lots many years in the future.

Commission members discussed various aspects of the task force and city staff recommendations.

A motion was made by Jeff Evans to send a positive recommendation to the city council for the proposed ordinances relating to planned unit developments, infill ordinance, building height and streets with the following recommendations and changes. The building height is changed from 35 feet to 32 feet with exclusions for chimneys, antennas, etc. The building coverage limits a maximum of two lots combined with structures limited to 35% for the first lot and an additional 17.5% for the second lot. The streets will be public with a width of 49 feet, which includes park strip and sidewalk. Access will be required from two streets for more than 30 single or two family units and 100 multiple-family units, and a cul-de-sac radius of 50 feet. The P.U.D. minimum size to be two acres with a bonus density for 5 acres and larger. The P.U.D. density bonus is based on a sliding density scale based on the underlying zone and open space provided per the task force recommendation. Infill development will be 2 acres or less. The planning commission and city engineer may recommend sidewalks and park strips. The setbacks recommended are 25 feet front yard, 20 feet rear yard, 20 feet combined side yard (minimum 8 ft. side yard). For infill development, front and rear yard setbacks may be 20 feet. P.U.D quality standards will be approved by the planning commission. Protection strips will be allowed and the appeal time will be 30 days.

Motion seconded by Sheri Van Bibber.

Call vote recorded by Ray Christensen.

<u> A </u>	Ms. Van Bibber
<u> N </u>	Mr. Taylor
<u> A </u>	Mr. Evans
<u> A </u>	Mr. Black
<u> A </u>	Ms. Daniels

Motion passed 4 Ayes, 1 Nay

SMART VENTURES - 338 East 4800 South

Jerry Mori and Theresa Mori were present to represent this request. Ray Christensen reviewed the location and request for Conditional Use Permit approval for an elderly apartment exclusively for persons and couples 60 years of age and older. This property is located within the R-M-10 zoning district on .326 acre. Density for elderly is calculated based on 10 units/acre. The site has .326 acres which allows 3.26 units on the property. Off-street parking requirements are two parking spaces/unit. The plans show two stalls/unit in provided garage space. The setbacks and height regulations are in compliance as proposed with a 30 foot building height. The City Engineer will require repair for curb, gutter and sidewalk, if needed, and upgrade to an ADA ramp. The Plans Examiner will require a soils report from a geo-technical engineer. The Fire Department will require compliance with fire codes. The Water and Sewer Department will require connection to Murray sewer. The City Forester will need landscape and irrigation plans for approval.

Theresa Mori stated they were building elderly housing so her parents, could live in one of the units. The occupants will be 60 years or older of age.

John Weston, 4844 South Cross Creek Lane, presented written exhibits in opposition to Smart Ventures, LLC's Conditional Use Permit application. The exhibits include the Carriage Lane #2 recorded plat, quit claim deed from Nathan Anderson to Smart Ventures, LLC, and the recorded Declaration of Protective Covenants for Carriage Lane No. 2 Subdivision. He said there is a one foot protection strip at the east side of the lot and a fence installed by the Carriage Lane # 2 Subdivision.

Jerry Mori, 7595 Pebble Springs Court, stated that he was informed of the one foot protection strip and the protection strip taxes were not paid and Nathan Anderson acquired the protection strip and is now owned by Smart Ventures, LLC.

Tatum Aicklen, 334 East 4800 South, stated that he questioned the rental units for elderly housing and the residents have to be 60 years of age or older. She asked what if the units are rented out to persons under 60 years of age.

Steve Martens, 376 East Cross Creek, stated the property is on the corner of Stone Crest Drive and 4800 South. He said there is a fence at the east side of the property and access is restricted into the lot.

David Norton, 4861 Stone Crest Drive, asked about a traffic survey for this location and asked about conditional use permit requirements.

Ray Black asked about the legal issues. GL Critchfield commented that with Conditional Use Permits conditions can be attached with approval. Some legal issues may need to be resolved by the private property owners.

Additional Information Submitted by Applicant

Applicant's Response to Amended Murray City Staff Report, Project Number 11-56, Meeting Date 7/21/11.

I will do my best to be brief, as you have already been overloaded with information. Since staff has raised new issues, I hope to be given sufficient time at the meeting to address them as well as present our amendment. I do appreciate the extra time we were allowed in the last meeting.

Regarding the minutes from April 16, 1974

These minutes came as a shock to us, and have resulted in feelings of frustration and embarrassment. We have claimed throughout this process, in good faith, that Murray City required a 15' easement at the time my Father constructed his house. We have documents that indicate that my father was in compliance with a 16' easement and will provide those documents at Thursday's meeting.

We are doing everything we can to find out how this discrepancy could have occurred. We feel it is extremely unfortunate that over the course of the last year, as we have met with the planning department, that this error was never brought to our attention. We greatly value the planning commission's time, we do not take this process lightly and are working very hard to resolve the concerns raised by the planning department.

Again, we sincerely hoped that issues like this could have been vetted in the past year of discussions rather than so late in the process and after we have already presented our petition to the planning commission. However, we feel confident that a private road is in the best interest of this property and the city and hope that you as the planning commission will give us your support. A private road will allow for appropriate width that is sensitive to existing conditions and the environment, and will provide privacy for a property so close to a large public gathering place.

Regarding the response to section 16.04.110

The commitment to the interpretation of staff and the Murray City attorney's office is clear. We do disagree, since the public road requirement is found within section 16, the same section to which the modifications clause applies.

Regardless of interpretation, please understand that our intent was to find a way to allow the city to approve our proposed site plan without modifying the code. We were trying to make the approval easier for the city. Throughout this process we have tried to find ways to allow the city to help us without affecting any other property.

I've attached our correspondence with Mr. Wilkinson regarding this issue, so that you can understand our intent - see item #1.

Regarding the Proposed Ordinance Language

Again, staff has raised an issue we feel we could have addressed in the last year. Throughout this process we have referred to the existing access to the former Stephenson home as a "private lane". Staff failed to comment on our use of the term until now.

When we were instructed on how to submit an application for an amendment, we were told to indicate our "intent", and that the city would help compose the final wording of the amendment.

This led us to believe that our initial wording would not come under scrutiny, but that we would collaborate with the city toward a final composition. We will be happy to work with the city to establish wording that works for both parties. As stated previously, our goal is to make the amendment as restrictive as possible.

We did in fact email a request to consult with the city attorney's office regarding the wording of the amendment prior to submission of our application. In an email dated 5/5/11, the attorney's office replied *"the drafting of the ordinance will occur during the City's review process including the Planning and Zoning Commission and the City Council. Therefore, we have no comment at this time as to the specific language of your proposed text change."* This response is in line with the application instructions we received. We are confused as to why staff would choose to pick at specific text without first asking us to clarify intent.

For your information, Murray's ordinance defines a private street as:

"Private street" means a right of way of easement in private ownership, not dedicated or accepted as a public street, which affords the principal means of access to two (2) or more sites.

Since the Nielsen driveway does not connect directly to 5300 South, but rather to the Stephenson access, it could be argued that the Stephenson access meets the current definition of a private lane. We have consulted with both Dennis Hamblin (planning commission secretary in 1974 and former city planner) and Charles Clay (city engineer in 1974) and both stated that in 1974, designation of access as a private lane was not required. Pavement, in fact, was not required.

Final Note. Errors in Staff Report:

The wording of the proposed ordinance is once again incorrect in the staff report. The staff report reads:

Existing private lanes may be improved to provide access for lots or parcels created by subdivisions, residential infill developments, and planned unit developments for properties less than 1 acre in size that:

The wording in the amendment as included in our application reads 1.5 acres. A designation of properties less than 1 acre would exclude our own property. This is the second misrepresentation of the proposed amendment in as many staff reports.

Consider if these documents go uncorrected and become part of the public record. 35 years from now, the inconsistencies within them could create confusion, especially a simple typographical error that establishes the criteria at 1 acre rather than 1.5 acres, yet is likely to go unnoticed and uncorrected. Perhaps something similar occurred on April 16, 1974.

We request that both staff reports be corrected before they become part of the public record.

My family appreciates your time and consideration and asks again for your recommendation of approval on Thursday.

Sincerely,

-Jimmy Nielsen

ITEM 1: NIELSEN CORRESPONDENCE
REGARDING MODIFICATIONS
PARAGRAPH 16.04.110

James Nielsen

From: Marta Nielsen [mnelsonnielsen@gmail.com]
Sent: Tuesday, June 21, 2011 12:19 PM
To: rchristensen@murray.utah.gov; cwilkinson@murray.utah.gov
Cc: ttingey@murray.utah.gov; dsnarr@murray.utah.gov; James Nielsen; Amy; Andrew Nielsen; Randy Nielsen (randy_nielsen@hotmail.com); jim.brass@murray.utah.gov
Subject: Zoning Amendment for Nielsen Property

Mr. Ray and Mr. Wilkinson,

We appreciated the opportunity to participate in yesterday's plan review meeting. (assuming we don't get this sent until tomorrow). I'd be grateful to receive any feedback on what was discussed around the table after we left. I have a few thoughts I'd like to share based on your comment about the need to investigate the number of potential properties that might be affected by our proposed amendment.

First, as a property owner who has been negatively impacted by the unintended consequences of a change in the city's code, we understand your desire to fully investigate the impact of the proposed text amendment. I would greatly appreciate it if you would let me know of the properties you find that fall into the same category as my family's.

Second, as we requested in the plan review meeting, please take the necessary time to understand the amendment fully. Based on the criteria we have set, it seems hard to imagine that many, if any, other properties will conform. Again, please let me know if you locate any.

Third, we feel that if another property such as ours exists that meets the criteria of the proposed amendment then the owners of that property should have the right to develop it if they so choose. However, if you are still concerned about the application of this amendment to numerous properties in the city, I just want to suggest one more time that we use section 16.04.110 of the subdivision ordinance. As a reminder, here's what it says:

MODIFICATIONS; PERMITTED WHEN; PETITION FROM SUBDIVIDER:

Whenever the land involved in any proposed subdivision is of such size or shape, or is subject to such title limitations of record, or is affected by such topographical location or conditions, or is to be devoted to such use that it is impossible, impractical or undesirable in a particular case for the subdivider fully to conform to the regulations contained in this title, the planning commission and city engineer may recommend that the mayor permit such modifications as may be reasonably necessary if such modifications are in conformity with the spirit and purpose of this chapter, and will not be detrimental to the public welfare or safety, or injurious to other property in the territory in which the property is situated. (Ord. 94-40 § 1: prior code § 30-28)

We have talked about this numerous times, and Jim and I have even met with the Mayor to discuss it. We've heard over and over again that it is not an option, but we really feel that our property is of such a size and shape and is affected by such topographical location and conditions that make it impossible, impractical, and undesirable to build a public road. We have asked over and over again why we can't apply this section of the code to our property, and the only response we've gotten is that the city is scared of a lawsuit, and that we are misinterpreting this section. Not just as property owners, but as an architect, urban planner, and engineer, we see this option, utilizing section 16.04.110 of the code, as a way to have some flexibility in the code to allow for

a best possible solution, for a design that makes the most sense for this site. It does not undo the work of the citizen's advisory committee, for as everyone at the city has told us, they never intended to prevent projects like ours, but money-hungry developers looking to cut corners and maximize profits by any means. I am amazed that the planning staff has encouraged us to try to add something to the code so specific as to affect only our property rather than going with the solution already allowed by the code. The Mayor did not indicate that he would consider making this modification, but said he would be open to the idea if the planning commission recommended it. Is this a possibility? If not, can you offer any better explanation as to why? I don't claim to be an attorney, but I'm having a really hard time seeing any other interpretation of this section of the code, and can't understand why the city is so worried about a lawsuit when clearly the current code allows for such a modification.

We would really appreciate feedback from today's meeting. Will we receive a copy of the staff report that will be passed along to the planning commission? Can we expect to receive anything from your office before we meet with the planning commission? The details of this process are still a bit fuzzy.

Again, I appreciate your consideration of our application. I'm sure you can understand how much this project means to me and my family, and we are sincerely trying to do everything we can to find a solution.

Best,

Marta Nielsen

--

Marta M. Nielsen
mnelsonnielsen@gmail.com
801.879.3224



Re: Request for Records 
Zachery Fountain to: Jimmy Nielsen
Cc: Andrea Romanczyk

07/18/2011 11:12 AM

Mr. Nielsen -

Thank you for the information. I talked with the Recorder's Office and they are looking into the issue. I have also sent this to Andrea Romanczyk in the Records Office and she will be able to help you with this request.

Sincerely,

Zach

Zachery Fountain
Deputy for Legislation & Communication
Murray City Mayor's Office
zfountain@murray.utah.gov
(801) 264-2604 - Office
(801) 698-8756 - Cell



Fountain_Zachery.vcf

Jimmy Nielsen . Zach, Thanks for your time this morning and for...

07/18/2011 11:03:37 AM

From: Jimmy Nielsen <nielsenjt@gmail.com>
To: zfountain@murray.utah.gov
Cc: AAmy <amychoate@gmail.com>, Marta Nielsen <mnelsonnielsen@gmail.com>, Andrew Nielsen <ilovemartanielsen@gmail.com>, Randy Nielsen <rnielsen2@slb.com>
Date: 07/18/2011 11:03 AM
Subject: Request for Records

Zach,

Thanks for your time this morning and for your help. Just to confirm what I'm after one more time.

I would like to have access to view the following:

-Murray Planning Commission Minutes from 1974.

-Murray City Commission Minutes from 1974 (it is my understanding that in 1974 Murray City had a city commission rather than a city council).

-Any documentation used to obtain building permit number 2596, especially the plot plan that the applicant would have had to submit for city approval. I believe the permit application was submitted in August of 1974 (August 8th perhaps) and the permit was issued later that month. The address associated with the building permit will be 421 E. 5300 S. That address was subdivided off of 425 E. 5300 S. in April of 1974.

If you don't mind, could you confirm that you've received this email?

Please call me if you have any questions, my cell number is 801-910-5202.

Thanks again,

-Jimmy Nielsen

Jimmy Nielsen

(801) 577-4300

informatⁿ about building code

Plot plan from 1974 April

Permit #. 2596

425 E. 5300 S. (1940's)

Subdivision (1974)

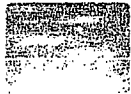
421 E. 5300 S.

1) all minutes from 1974.

2) Plot plan exists?

3) Any documentation from father
(August of 1974). Randy Nielsen
- father's name.

GRAND Request.



RE: Proposed amendment
Chad Wilkinson to: James Nielsen

06/28/2011 04:25 PM

Thanks, Jimmy. Just wanted to make sure I understood the intent. I am working on a staff report and should have something available for you by Friday afternoon.

Chad

James Nielsen

From: James Nielsen <jnielsen@ffkr.com> To: "...

06/28/2011 04:15:50 PM

From: James Nielsen <jnielsen@ffkr.com>
To: "cwilkinson@murray.utah.gov" <cwilkinson@murray.utah.gov>, Marta Nielsen
<mnelsonielsen@gmail.com>
Cc: Randy Nielsen <RNielsen2@slb.com>
Date: 06/28/2011 04:15 PM
Subject: RE: Proposed amendment

Chad,

Yes.

In the case of my father's property, the description on the deed identifies a 16' easement along the east edge which provided access to another house belonging to my great aunt that existed at the north edge of the lot. This access was suggested and approved by Murray City and my father oriented his house in such a way as to accommodate it.

The wording stems from the direction that we received from Tim Tingey to make the amendment as restrictive to our property as possible.

-Jimmy

Jimmy Nielsen, AIA, LEED ^{AP}
FFKR Architects
O: 801-517-4395
C: 801-910-5202
jnielsen@ffkr.com

From: cwilkinson@murray.utah.gov [mailto:cwilkinson@murray.utah.gov]
Sent: Tuesday, June 28, 2011 3:57 PM
To: James Nielsen; Marta Nielsen
Subject: Proposed amendment

Hi James and Marta,

I was just needed a little clarification related to B(3) of the proposed amendment. It reads " Have existing structures in place, previously approved by the city that established right of way to the rest of the property."

I think the intent of this was to limit the ordinance to properties where an existing structure location limits or constrains the size, width, etc, of a potential access to the remainder of the property. Am I reading that right?

Chad

Chad Wilkinson, AICP
Community Development Planner
Murray City Corporation
4646 South 500 West, Murray, Utah 84123
801-270-2420 Fax 801-270-2414
Direct 801-270-2427
cwilkinson@murray.utah.gov

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Property Owner's Statment in response to Staff Report Project #11-00000056
Jimmy Nielsen to: cwilkinson

07/06/2011 12:34 PM

Chad,

Attached is a statement from my father Randy Nielsen responding to the staff report. Please forward it to the commission members as you offered.

-Jimmy Nielsen



Response from Property Owner to Project #11-00000056.pdf

Property owner's response to staff recommendation to deny project # 11-00000056

We are disappointed that after more than a year of proposals and explanations to the Murray City Attorney, the current and past planning directors, and the city engineer, that our proposed amendment was not recommended. We feel the staff report failed to clearly address our proposal, and we would like to rectify this misunderstanding.

In our amendment, item #3 we proposed:

"B. Existing private lanes may be improved to provide access for lots or parcels created by subdivisions, residential infill developments, and planned unit developments for properties less than 1.5 acres in size that:

- Have limited access to a public road;
- Have an existing private lane that has provided or does provide access to at least one residential unit that existed before the current requirement in 16.16.090;
- Have existing structures in place, PREVIOUSLY APPROVED BY THE CITY THAT ESTABLISHED RIGHT OF WAY TO THE REST OF THE PROPERTY."

However, according to the staff report, and in conflict with the intent of our proposal, point 3 of our submission was changed to read:

- The property is constrained by an existing building that limits the width or size of the street.

This change is critical, the city planning department version redirecting the discussion back to the years-old problem of flag lots. This proposal is not about flag lots – it is about Murray City honoring its own previous rulings concerning this property. Over the past year, we have detailed the facts many times. The home (425 East 5300 South) owned by James and Vila Stephenson was built in the 1940's. It was built 220 feet from the main road by choice. This home existed on a private lane for decades before the current home (421 East 5300 South) was built on the frontage on 5300 South in 1975. To be clear, this was not a flag lot property; the property was purchased in 1941 in the shape it is today. The 425 east home existed first. It was not an after-thought, it was located about 220 feet from 5300 south. In 1975, as part of the subdivision and building permit process, the city specified the right of way for the remaining property located behind the portion that was divided off in 1975. The remaining parcel off the street was approximately 1.1 acres, belonging to Vila. At that time zoning requirements for the area specified 10,000 square foot lots – so even in 1975, the rear property could have easily been divided into 4 separate lots. The city was fully aware of this and specified the right of way to this property as a 15-foot-wide easement (right of way). The property was owned by my aunt

and had we not been able to secure this access, we would have built our home in a different area of the property, such that access to the remaining portion was not obstructed or building possibilities limited.

The question addressed by our proposed amendment is simple; does the planning department have the right to unilaterally dismiss previously agreed upon access, particularly when there is no viable alternative?

Comments on the staff report:

Description of request: As I have explained above, we feel this section does not adequately describe what we are proposing. Perhaps this is the result of a miscommunication, but we consider this misrepresentation to be a most serious matter.

Background: The original house on this property was constructed approximately 220 feet north of 5300 South in the 1940's. Murray City specified access for this property in about 1975. The planning department's background starts in 2007 and fails to address this previous agreement with Murray City. The home now located at 421 East 5300 South was constructed as permitted by Murray City. The city required a 15 foot wide easement for access, we wrote 16 feet into the deed, enough to allow 2 cars to pass easily. Given the location of the home, it is possible to have a 20 foot wide road, compatible with the international fire code and still keep the existing home. Every planning department solution would require the home be removed.

Analysis: The planning department has expressed concerns that our proposal might allow comparable projects on other properties. To honor their concern our proposal was carefully written to address only our property – which it does. The 39 other properties “identified” by the planning department do not meet the requirements of our proposal. It is our feeling that if the city did agree to a specified access for any of these properties they should honor their agreements with the property holders. We don't believe any of the 39 properties meet the requirements. I have been placing sandbags recently on many of the properties referred to above 900 East. These properties, for the most part, come nowhere close to meeting the international fire code anyway and are not relevant to this discussion. We feel the information in this section is inapplicable and confuses the intent of our proposal.

Other options for infill development: During our long and difficult negotiations with the planning department, they have never actually confronted the reality of our property. We simply do not have room for a 50-foot right of way, or a 30-foot right of way. When we constructed our home in 1975, we intentionally turned the home on the property to leave space for the city specified right of way (our home faces east rather than south). The home even wraps around the hill to allow clearance. The development used as an example (just west of us

on 5300 South) is another red herring. The owner of that property desired to have his proposed road made public. This property did have room for a public road and is intended to be at least partially a commercial enterprise (some lots would be for sale to those not directly involved in the project), hence the desire for the public road. Extensive delays were caused by problems with the city's code – requiring re-writing provisions that were supposed to apply but did not. The property owner's analysis to us of his final agreement with the city was that he gave up and accepted what he could get. The owner of this property is an attorney. We find it particularly troubling that this same code, littered with mistakes and omissions just a few months ago, is being presented as justification for denying us the use of our property. This section is misleading.

Public verses Private: -As can be seen in our submittal, we have offered the city every assurance we can think of that we will not, ever, ask the city for services not compatible with a private lane. We do not want garbage trucks or snow plows in our back yard for any reason. Our assurances to the city thus far have been dismissed out of hand with "what ifs." We are always treated as if we cannot be trusted or that we will leave the scene immediately after receiving approval, somehow leaving the city with an expensive problem. My grandchildren will be 5th generation residents of the city. We are not going anywhere. This project could be accurately described as a long driveway serving two homes (and at most, four total in the future). I have four children; each will be given an equal share of the property. My two daughters have no plans to build here anytime soon. This is not a commercial venture; the vacant property will not be sold as part of this development. We would be pleased to include in our proposed amendment an absolute prohibition on city services. Our proposed road meets easily the international fire code and as far as we can tell, the fire department agrees.

May I add a comment on the remarkable hypocrisy of this situation, given that we live next to Murray Park? There are hundreds of stories; I will use one as a typical example. I want to be clear, as a taxpayer of the city, I do not expect the city to spend tax dollars to remedy anything — I am only pointing out that it seems to me the city makes reasonable adjustments all the time, for its own benefit.

When the city was developing the Murray Park Amphitheater, the mayor at that time, Larell Muir, approached our family asking that we not oppose the parking lot or the development. We agreed but expressed concern about the already significant amount of foot traffic through our property, to the park. There was no bridge across the creek at that time but still a lot of people were simply wandering through or around in our back yard. We discovered people we didn't know engaging in a variety of activities on our back lawn. With new facilities planned for our side of the creek we asked for a fence as part of the theater. The mayor was happy to agree. The theater was completed and severely vandalized a few days later. A fence, in complete violation of the city fence ordinance, was constructed the next day – only around the theater. It

included 8-foot chain link with three strands of razor wire on top. One evening, a reggae group performed in the theater. The concert group "forgot" to provide security for the evening. Dozens of inebriated young people simply walked through our yard and garden attempting to sneak in the back way, to avoid paying to get in. This wandering group was so impressive; I decided to work on my car until the concert was over, in the driveway, hoping to avoid vandalism or other problems. After the concert, the same group returned, one young man so drunk he urinated on my mailbox while I stood no more than 20 feet from him. I asked about the fence (a new mayor was in place) and was answered – what fence. I went to the city council and explained the agreement with Mr. Muir and they responded, prove it. I was treated as if I was a free-loader expecting "special consideration," similar to the experience I have had in this application process. I tracked down Mr. Muir, living in St. George and asked if he would write a letter (verbal confirmation or my word of the agreement were considered insufficient). The Mayor responded and the city finally agreed to build the fence, after the loss of a few bicycles and other equipment stored in our back garage. Currently, the theater is quite good about closing at 11:00 pm, but the young performers often congregate in the parking lot next to our house after events with a loud party following. Fire protection for the theater does not even approach code. Access is limited to a single, narrow road (13 to 14 feet wide, with a gate providing less than 20 feet of access when open). This road is not even posted for no parking. The nearest fire hydrant is about 840 feet from the far side of the theater, approximately 5 times the maximum distance permitted for a home. I don't know the exact capacity but I guess that this facility regularly serves a thousand patrons a night. Again, we are not asking for any changes to the park, and wish at all costs to maintain good relations with Kim and the park in general. We have to be good neighbors and understand the circumstances. We submit this only as an example of the city adjusting its own rules as the situation warrants. We do not believe that the city intends to put anyone in danger, so, to be honest, what is the difference when the city allows a 14-foot road to provide emergency services to 1,000 people as compared to letting us use a 20-foot road to service less than 20 people? The answer, painfully, appears to be that the 20 people might suddenly request garbage pickup. The fact that this unlikely imposition is considered adequate justification to prevent us from using our property is surreal, but again, it seems perfectly reasonable to the planning department.

The idea of providing public access through our back yard for fence jumpers, automobile romance, fireworks parking, drug use and general mayhem is truly frightening (we would be happy to provide graphic details of any of these events if necessary). The last time we actually did call the police (and we do that very rarely) they arrested the three men who had been drinking and swearing for the previous 12 hours just across the fence — all had bench warrants and spent the night in jail.

We direct your attention to the positive aspects of our proposal. The city claims to be dedicated to the principles of sustainable design, indeed, they are incorporating these concepts in special

zoning codes for new developments in the historic district and Fireclay. A critical component of sustainable design is the minimization of impervious paving — allowing rain water to soak into the soil rather than having it collected and directed to storm systems (reference the current flood conditions). Sadly, when we try to apply the same good practice we are met with a “let’s just pave it all” mentality. My least favorite planning department rule requires 38 feet of access for 2 adjacent flag lots — that’s more than three lanes on I-15 and more than 50 percent more asphalt than the two-way (single lane in each direction) roads used in our national parks for just two homes. Think about that, some of the most heavily traveled highways in America make do with 22 feet of asphalt — two homes on flag lots in Murray city require a 38-foot access. It is not reasonable, and it is bad practice on many levels.

Finally, I think if most cities were given the opportunity to have an accomplished, LEED certified, registered architect design and build his own residence in a city they would consider it a real opportunity to showcase the city as well as current design practice, as opposed to a potential problem.

I sincerely want you to know that my son, Jim Nielsen (the architect for this project), and my daughter-in-law Marta Nielsen (married to my son Andrew), who earned her degree in city planning and now works for North Salt Lake city, have exercised super-human patience in making every possible attempt to gain the approval of the Murray City Planning department. I became so disgusted with the behavior of the planning department staff that I simply stopped attending the meetings. We sadly came to the conclusion some time ago that reaching an agreement was simply not possible, short of your assistance or legal action. We find this remarkable and regrettable given that we are only trying to use our property to build homes for our family.

Given the experiences we have had, we hope you understand the personal nature of our application and implore the planning commission to please consider the merits of our proposal and approve our request. We feel you are our only hope to fulfill this long-time family dream.

Sincerely,

Randy Nielsen

6/21/11 Email from Marta Nielsen to Chad Wilkinson and Ray Christensen:

“...If you are still concerned about the application of this amendment to numerous properties in the city, I just want to suggest one more time that we use section 16.04.110 of the subdivision ordinance. As a reminder, here's what it says:

16.4.110: MODIFICATIONS; PERMITTED WHEN; PETITION FROM SUBDIVIDER:

Whenever the land involved in any proposed subdivision is of such size or shape, or is subject to such title limitations of record, or is affected by such topographical location or conditions, or is to be devoted to such use that it is impossible, impractical or undesirable in a particular case for the subdivider fully to conform to the regulations contained in this title, the planning commission and city engineer may recommend that the mayor permit such modifications as may be reasonably necessary if such modifications are in conformity with the spirit and purpose of this chapter, and will not be detrimental to the public welfare or safety, or injurious to other property in the territory in which the property is situated. (Ord. 94-40 § 1: prior code § 30-28)

We have talked about this numerous times, and Jim and I have even met with the Mayor to discuss it. We've heard over and over again that it is not an option, but we really feel that our property is of such a size and shape and is affected by such topographical location and conditions that make it impossible, impractical, and undesirable to build a public road. We have asked over and over again why we can't apply this section of the code to our property, and the only response we've gotten is that the city is scared of a lawsuit, and that we are misinterpreting this section. Not just as property owners, but as an architect, urban planner, and engineer, we see this option, utilizing section 16.04.110 of the code, as a way to have some flexibility in the code to allow for a best possible solution, for a design that makes the most sense for this site. It does not undo the work of the citizen's advisory committee, for as everyone at the city has told us, they never intended to prevent projects like ours, but money-hungry developers looking to cut corners and maximize profits by any means.

I am amazed that the planning staff has encouraged us to try to add something to the code so specific as to affect only our property rather than going with the solution already allowed by the code. The Mayor did not indicate that he would consider making this modification, but said he would be open to the idea if the planning commission recommended it. Is this a possibility? If not, can you offer any better explanation as to why? I don't claim to be an attorney, but I'm having a really hard time seeing any other interpretation of this section of the code, and can't understand why the city is so worried about a lawsuit when clearly the current code allows for such a modification.”

6/23/11 Response from Mr. Wilkinson:

“In relation to section 16.04.110, we discussed this with our City Attorney's office and they interpret this section the same as we do in our office. These potential modifications are spelled out in the Residential in-fill and flag lot ordinance and include such things as alternate turn around, waiving sidewalk and park strip requirements and alternate setback requirements.

E. Implement the goals, objectives and policies of the general plan. (Ord. 07-44 § 2)

17.58.020: APPLICABILITY:

These infill development standards shall apply to all lots and parcels that are adjacent to developed land on two (2) or more sides. "Developed land" means lots and/or parcels that have the following services with adequate capacity at or near the property line: public water, public sanitary sewer, stormwater management facilities, and access to a public street. The planning commission shall not approve any residential infill development that does not include a contiguous arrangement of at least three (3) lots of record and a rational, defined boundary. (Ord. 07-44 § 2)

17.58.030: CONDITIONAL USE PERMIT REQUIRED:

Infill developments may be allowed as conditional uses in all single-family zoning districts by the planning commission. (Ord. 07-44 § 2)

17.58.040: LAND USES AND DEVELOPMENT:

All land uses, structures, and development, including, without limiting, buildings, drives, parking areas, landscaping, fencing, and screening shall be located and developed in accordance with the provisions of the underlying zoning district in which the residential infill development is located, except as modified by this chapter. (Ord. 07-44 § 2)

17.58.050: REQUIRED CONDITIONS:

A. Area Limitation: No residential infill development shall have an area of more than two (2) acres.

B. Lot Requirements: Lot area, width and frontage requirements shall be as determined by the underlying zoning district.

C. Yard Requirements: Residential building lots shall meet the following minimum yard requirements:

1. Front yard and rear yard: Minimum depth shall be twenty feet (20').

2. Side yard and corner lot side yard: Minimum depth shall be as determined by the underlying zoning district.

D. Sidewalks And Park Strips: The planning commission may recommend that sidewalks and park strips be omitted if the proposed development has an internal pedestrian system, and if the planning commission finds that the public safety is not substantially jeopardized.

E. Cul-De-Sac Streets: The turnaround at the end of the street may vary from the requirements of subsection 16.16.180C of this code if the development proposal demonstrates to the satisfaction

F. No more than two (2) flag lots may be contiguous to each other and abut upon the same public street. Two (2) adjoining flag lots may share a common access strip only if the access strip is thirty eight feet (38') wide or greater and meets the requirements of subsection H of this section. If the access strip is shared with the front lot, access strip landscaping may be adjusted to allow reasonable ingress and egress of the front lot.

G. The minimum lot area of the main body of a flag lot may not be less than 1.25 times the minimum lot area required for a regular lot in the same district.

H. The access strip portion of a flag lot:

1. Shall be at least twenty eight feet (28') wide for its entire length from the street to the point where the access strip adjoins the main body of the flag lot;
2. Shall be paved except for the portion reserved for landscaping;
3. Shall have four feet (4') of landscaping on each side; and
4. Shall front on a dedicated public street or on a private street that existed prior to November 13, 2007.

I. The address of the flag lot dwelling shall be clearly visible from or posted at the abutting public street. (Ord. 08-05 § 2: Ord. 07-30 § 2)

5671596

"THIS IS A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD, SEEK COMPETENT ADVICE."

Recorded at Request of Randy R. Nielsen
at _____ M. Fee Paid \$ _____
by _____ Dep. Book _____ Page _____ Ref.: _____
Mall tax notice to Carantee Address 421 Ea 5300 So murray, Ut
84107

Quit-Claim Deed

Randy R. Nielsen and G. Eileen Nielsen, his wife
of Murray, County of Salt Lake, State of Utah, hereby
QUIT-CLAIM to Randy R. Nielsen and G. Eileen Nielsen, his wife,
As Joint Tenants with full rights of Survivorship
of Murray, grantee, 's

GOOD AND VALUABLE CONSIDERATION
the following described tract of land in SALT LAKE
State of Utah:

for the sum of
DOLLARS,
County,

COM 896.1 FT E & S 0°04' W 1539.8 FT & S 89°53' E 2491 FT FR
NW COR OF SW 1/4 SEC 7, T 2S, R 1E, SL MER, N 0°07' E 144.29
FT; S 74°53' E 113.41 FT; S 1°59' W 115 FT; N 89°53' W 105.8
FT TO BEG. 0.32 AC.

ALSO, COM 896.1 FT E & S 0°04' W 1539.8 FT & S 89°53' E 2491 FT &
N 0°07' E 144.29 FT FR NW COR OF SW 1/4 SEC 7, T 2S, R 1E,
SL MER, S 74°53' E 113.41 FT; N 1°59' E 185 FT; N 89°53' W
360.6 FT; S 22°47' E 141.25 FT; S 89°53' E 190 FT; S 0°07' W
25.71 FT TO BEG. 1.11 AC.

NOTE: THE PURPOSE OF THIS DOCUMENT IS TO CONSOLIDATE COUNTY
TAX RECORDS.

WITNESS the hand of said grantor, this _____ day of
_____, A.D., one thousand nine hundred and _____

DULY EXECUTED AND ACKNOWLEDGED

Signed in the presence of

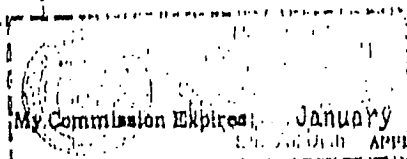
STATE OF UTAH }
COUNTY OF Salt Lake } as,

On the 1st day of December
Randy R. Nielsen and G. Eileen Nielsen

, 19 93, personally appeared before me

, the signers of the within instrument, who

duly acknowledged to me that they executed the same.



Janell Anderson
Notary Public

My Commission Expires January 1, 1994

Residing at: Salt Lake City, Utah

APPROVED FORM - UTAH SECURITIES COMMISSION

EX 6816P61181

Commissioners,

7/15/11

Realizing that you've already received many pages of information regarding this issue, we still felt it important to summarize our response to the specific concerns raised by staff at the meeting held on 7/7/11.

We do not feel that the staff report addresses the reality of the property and its history. The alternative approaches suggested by staff either will not work or were previously denied by the same people (Mr. Tingey and Mr. Wilkinson - see below) now suggesting them. Mr. Wilkinson's insistence that a variance could be used is especially confusing.

We also have concerns about the path we've been forced to take. As you will see below, after meeting over the course of a year with the community development office - primarily Mr. Tingey and Mr. Wilkinson - the only viable option that was given us was to apply for this text amendment. The community development office declared itself unable to work out a solution that could allow more than one new lot within the context of the current city ordinance. We were told to submit for a text amendment, but were also told that our proposal would not be recommended. As you can see, the odds were stacked against us from the start.

We believe the misrepresentations in the staff report, as outlined below, do not give an accurate portrayal of the reality of this property or the proposed amendment to the commission and would lead the commission to recommend denial based on false information. Since this amendment is our one and only option, we feel it absolutely imperative that you understand the facts as they really are.

Please remember that the property will only allow a 20' road. The access to the property is a result of a decision made by Murray City in 1975, when my father built his house. This all important fact is not included in the staff report.

To address some of the alternative approaches suggested by staff at the Planning Commission meeting:

INFILL SUBDIVISION: Our proposed amendment utilizes the infill subdivision zoning and the option for an alternate code approved fire truck turnaround. However, the infill subdivision zoning does not allow for a 20' road.

FLAG LOT: A single flag lot severely limits the value of the property. My brother and I wish to build houses for ourselves in the near future. A single flag lot would not allow us both to build.

VARIANCE: Mr. Wilkinson suggested three times that we might be able to use a variance. This is simply not true. We met extensively with Mr. Tingey, Wilkinson, and Stenger to discuss every option possible. They made it clear to us that they did not believe that a 20' road could meet the public standard. A variance can only allow for modifications within the measurable standard of the public road. Therefore our only

option would be to pursue a private lane, which would allow a 20' width, via a text amendment. Since public vs. private is not a measurable standard, a variance cannot be used to allow a private lane.

Below is a paragraph taken directly from an email we received from Mr. Tingey on 11/18/10, which outlines our options. You will clearly see that a variance for a 20' public road is not an option:

"Therefore, your options are to apply for a flag lot which allows for one additional lot. There are access standards that apply to that type of proposal which we can discuss. The width of a drive access to the secondary flag lot must be 28 feet but you can request a variance to this standard. You may also request a change to the subdivision ordinance to eliminate the requirement for a public street in a subdivision. We will not recommend approval of this because we feel that requirement has been well thought through and analyzed and promotes the public interest. If you desire to pursue a code change, attached is the application to do so."

Based on this statement, you can see that our only option is to pursue the amendment. We disagree that the public road requirement promotes the public interest. We believe properties like ours were overlooked when the public road requirement was passed, and that some revision is necessary to remedy unintended consequences.

To summarize our response to the concerns raised by staff during the meeting:

INCREASED DENSITY W/OUT ZONE CHANGE: The proposed amendment would exclude the area of the private lane from the overall lot area. In order to conform with the amendment, any lot would have to meet the area requirement of the underlying zoning without the area of lane included. An 80' wide lot with the private lane running the width of the lot in an R1-8 zone would have to be a minimum of 9,600 square feet. The lots we show in our proposed site plan are well over 10,000 square feet. Setbacks would be taken from the edge of the lane, not from the center of the lane.

ISSUES OF LONG TERM MAINTENANCE: The proposed amendment will exempt the city from all maintenance for as long as the lane remains private. If future residents desire the city to maintain the road, they will have to upgrade it to public standards at their own cost. We are happy to have CC&R's for maintenance of the road in the meantime, or add a bond if future homeowners (after we die) wish to widen the road, or an easement on the main house held by the owners on the lower property if they wish to tear down the existing house to widen the road. We are open to adding whatever restrictions possible to help the city feel comfortable that at no time will public services be requested or required on this private road.

RESIDENTS NOT RECEIVING CITY SERVICES: Same as above. The amendment will exempt the city from all services until the land is upgraded to public standard at the cost of future residents. The staff report implied that public money could be spent in the future to upgrade this private lane. We will make absolutely sure that public money will

never be spent on this road, and feel that public money should not be spent to upgrade other private lanes.

OTHER PROPERTIES AFFECTED: We believe that the suggestion that there are several other properties that meet our suggested criteria is misleading. Only properties where the city approved a structure that established access to an existing residence and property should be considered. Properties where access into the property was established and a flag lot subsequently created would not be considered.

We feel that if Murray City approved an access width into any property, the City should honor that agreement and not require the property owner to tear down the building limiting the access that was built in good faith. However, we are willing to add text to the amendment to make it more restrictive. We suggest that another criteria be added, requiring that the property be immediately adjacent to a large outdoor public gathering space or park. We feel confident that, if other properties exist that meet the criteria, this added requirement would eliminate most if not all of them. It also serves to address the privacy issues that come with having a property next to a park such as ours. See the updated amendment at the end of this summary.

Finally, for as much concern as staff has that other properties may be affected by this amendment, what concern did they have for our property when the ordinance requiring public roads was passed? We believe that the public road ordinance has merit in certain situations, but also believe that any broad stroke will have unintended consequences that will require remediation. The elimination of anything but a road standard starting at 50' wide is certainly a broad stroke. We are not asking that the ordinance be removed or revoked, we are simply asking for a very small change that would allow us to use our property in a reasonable and responsible way. We truly believe this amendment would only affect our land, especially with the changes suggested above. We also realize the seriousness of amending the ordinance and don't take this measure lightly, but we feel the city code is a living document that needs to reflect the needs of the city and its citizens, and it does not adequately function when it is absolute and concrete. If the code does not allow for flexibility in itself, the city needs to have controlled flexibility to remedy problems that will inevitably arise from its application and unintended consequences.

PRIVACY: The staff report also fails to address the issue of privacy. As we discussed in the meeting, a public road directly adjacent to a main entrance to the park as well as the amphitheater parking lot would create vehicular congestion that would endanger property and life safety and obstruct emergency access. We also feel a private lane is necessary to separate the property from the unsavory activity that occurs in the park.

Below, in red, is the revised amendment. Text underlined in bold has been added.

16.16.090 Access To Public Streets:

A. All lots or parcels created by the subdivisions, residential infill developments, and planned unit developments, shall abut a public street which is improved to standards established according to this chapter.

B. Existing private lanes may be improved to provide access for lots or parcels created by subdivisions, residential infill developments, and planned unit developments for properties less than 1.5 acres in size that:

1. Have limited access to a public road;
2. Have an existing private lane that has provided or does provide access to at least one residential unit that existed before the current requirement in 16.16.090;
3. Have existing structures in place, previously approved by the city that established right of way to the rest of the property.
4. Are immediately adjacent to a public park or gathering space.

Such improvements on an existing private lane may be developed subject to the following requirements:

1. The lane must be upgraded to meet the minimum requirements of the applicable sections of the International Fire Code.
2. Murray City has no obligation to maintain or service the road or utilities located underground. The owners of the property will maintain the water main downstream of a shut off valve to be located as close to the beginning of the lateral line as possible. Murray City will be granted access to read meters or for any other purpose they require.
3. Murray City shall be exempt from all services to the residents of the private lane until the lane is brought to public standards by the residents.
4. Water and sewer lines on the property must be designed and inspected to city specifications.
5. Paved surface required specifically for the fire truck turn around shall be posted as a fire lane and kept clear but shall not be included as part of a private lane.
6. Given that an existing private lane may not be described as a separate parcel and may not be located on the boundary of the property, the right of way may be described as an easement, providing right of way for the private lane. Required setbacks will be measured from the edge of the right of way and the area of the lane shall not be included in the overall area of the lot to meet zoning requirements.
7. Development of the property shall meet the requirements for a single-family residential in-fill subdivision exclusive of the public road requirements as outlined above.

16.16.170 Relation Of New Streets To Adjoining Street System; Access Streets:

As you can see, we are doing everything possible to address the concerns of the community development office. However, they have not responded to our suggestions and continue to voice the same arguments again and again, their primary concern being the possibility that at some point in the future, someone will ask the city to provide services to the private lane.

In conclusion, the question was asked to city staff, "What would you do if this were your property?" No answer was given. This is property that has belonged to our family for generations, and is our parents' home, our former home, and the place to which we have long planned to return to raise our children and assist our parents in maintaining their land. We cannot tear down the home that our father and grandfather built with their bare hands to allow for a wider road. I would ask that each of you please consider this question. What would you do?

Please also ask yourselves, if the concerns of the community development office can be addressed through the ordinance, why continue to require unnecessary paved surface? Issues of sustainability come into play. Reducing the amount of pavement reduces storm water and urban heat load, and retains native vegetation. May we suggest that the city use this property as a study model for sustainable practice? I would encourage each of you to visit the property and see if you think a 50' right of way makes sense.

Remember that the purpose of this development is to build houses for family. Nothing will be for sale. Our only interest is to beautify and maintain the property. My hope is that my children will be able to live within walking distance of their grandparents and will be able to work in the same garden that I did growing up.

Again, I hope it is clear that we have done everything possible to work with the community development office to resolve their concerns and to think of creative solutions to this issue. This is our final option. We, as a family of life-long Murray residents, ask for your positive recommendation to the City Council. We recognize your decision is not the final word and that our petition will appear before the City Council no matter what, but we plead for your support and feel it is absolutely critical to our possibilities for ultimate approval.

Sincerely,

-Jimmy Nielsen

Application Materials

ZONING AMENDMENT APPLICATION

Type of Application (check all that apply):

- ☐ Zoning Map Amendment
- ☒ Text Amendment
- ☐ Complies with General Plan
- ☒ Yes ☐ No

Subject Property Address: 421 East 5300 South

Parcel Identification (Sidwell) Number: 22-07-451-017-0000

Parcel Area: 1.43 acres Current Use: Residential

Existing Zone: R-1-8 Proposed Zone: NA

Applicant Name: James Nielsen

Mailing Address: 41 Paula Circle

City, State, ZIP: Sandy, UT 84070

Daytime Phone #: 801-910-5202 Fax #: _____

Business Name (If applicable): _____

Property Owner's Name (If different): Randy Nielsen

Property Owner's Mailing Address: 421 East 5300 South

City, State, Zip: Murray, UT 84107

Daytime Phone #: 801-815-6678 Fax #: _____

Describe your reasons for a zone change (use additional page if necessary):

Please see attached letter.

Authorized Signature: J. Nielsen Date: 6/16/11

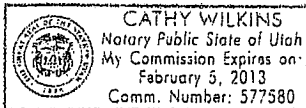
Property Owners Affidavit

I (we) RANDY NIELSEN, being first duly sworn, depose and say that I (we) am (are) the current owner of the property involved in this application: that I (we) have read the application and attached plans and other exhibits and are familiar with its contents; and that said contents are in all respects true and correct based upon my personal knowledge.

Owner's Signature

Owner's Signature (co-owner if any)

Subscribed and sworn to before me this 15th day of June, 20 11.



Notary Public

Residing in Salt Lake City, Utah

My commission expires: 2-5-2011

Agent Authorization

I (we), RANDY NIELSEN, the owner(s) of the real property located at 421 E. 5300 S., in Murray City, Utah, do hereby appoint

JAMES NIELSEN, as my (our) agent to represent me (us) with regard to this application affecting the above described real property, and authorize

JAMES NIELSEN to appear on my (our) behalf before any City board or commission considering this application.

Owner's Signature

Owner's Signature (co-owner if any)

On the 15th day of June, 20 11, personally appeared before me

Randy Nielsen the signer(s) of the above Agent Authorization who duly acknowledge to me that they executed the same.



Notary Public

Residing in Salt Lake City, UT

My commission expires: 2-5-11

We wish to petition the City Council to accept the zoning amendment proposed in this letter and to allow an upgraded private lane to serve new residences at the property located at 421 E 5300 S. The reasoning for our petition is outlined below, the proposed amendment can be found at the end of this summary.

Brief history of the property at 421 E 5300 S:

The lot was owned originally by James and Vila Stephensen (my great uncle and aunt) who built a house in the northeast corner, approximately 300 feet north of 5300 south. It was intentionally built off of the road, behind the hill to provide seclusion, peace, and privacy. A private lane may have existed before the house, but it was certainly in place in the 1940s as part of the access to this location. In 1975 they subdivided the property to allow Randy Nielsen (my father) to build a house for his family. He built the house at the south edge of the lot, bordering 5300 south. That house remains today. After the Stephensens passed away, the property was willed entirely to Randy. At the time of Vila's death, the Stephensen house was in a deteriorated state and was demolished shortly thereafter, however the original, freestanding garage remains and is used to store yard equipment.

Please note that when Randy built his house in 1975, Murray City required a 15' easement to access the Stephensen home, and he sited his house according to the city's request, actually allowing for 20'. He turned his house from its original orientation and wrapped it around the hill to accommodate the access easement on the east. There was no negotiation at that time regarding the 15' width, Randy simply asked the city what was needed for access and complied with their response. When this plan was created and approved, the city understood that based on the size of the lot, future development would occur on it. With this in mind, the requirements specified were deemed reasonable by all parties involved. The home was built in good faith, assuming that the decision of the city would be honored. There was also no indication that the Stephensen home would be removed, and still the city required nothing more than a 15' access.

What we are trying to do:

The property has been owned by our family for some time. Randy Nielsen has maintained the land with the intent of someday giving it to his four children. My brother Andrew and I would like to subdivide my father's 1.4-acre lot in Murray at 421 E. 5300 South and each build modest houses on the land. Each lot will be at least 8,000 SF in accordance with the R1-8 zone in which the properties are located. The remaining property would be divided between the two remaining children.

We wish to provide access to these lots via a 20' wide private lane. It is our understanding that a recent addition to the Murray City development code, in response to the persona grievances of three residents, prohibits private lanes as the means of access to newly subdivided lots and have been told that a public road will be required if two lots are desired. We wish to petition the city for approval of a private lane on the unique merits and characteristics of the property, as described in the proposed zoning amendment.

We would also like to make note that reducing the overall square footage of paved surface will benefit the environment in many ways and fits squarely into the fundamental principles of

sustainable design. We understand that Murray City is interested in sustainable design and will be establishing LEED criteria for future building projects. By decreasing the amount of paved surface in the city, the ever increasing effect of the urban heat island is reduced as is storm water load on local waterways. More vegetation can be retained, resulting in a more humane built environment.

At the same time, we do not wish to compromise emergency access to the new houses. Therefore the proposed lane has been designed strictly to the requirements of the international fire code and will accommodate the largest truck in Murray's fleet. We feel this design represents a good compromise between the City's responsibility to public safety, principles of environmental sustainability, and private property rights.

Our Vision:

It seems important to point out that the goal of this development is to carefully improve an already attractive lot and not to cut corners and make a profit from building and selling houses. The builders will be the owners and long-term residents and so the overall focus will be design rather than profit. At completion of the project, nothing will be for sale.

The vision for the property is first to maintain as much of the existing natural beauty as possible. There are many well-established trees and a large garden that garners praise each year from those visiting the park. Approval of the private lane will be crucial if a truly low impact development is to be realized. The proposed residences will be designed to blend with the landscape, to fit into the site and take advantage of existing topography. They will hardly be visible from the amphitheater parking lot. They will be custom to the land. The project Architect is versed in sustainable design, is LEED accredited and has won design awards from AIA Utah and the regional chapter of the AIA.

Below is the reasoning for our petition and an outline of the unique conditions that we believe make a public road impractical and undesirable:

- City specifications define a public road as having a total width of 50' (road surface + curb and gutter + park strip + sidewalk). Simply put, a paved surface of this magnitude would overwhelm the site. The amount of earthwork required to deal with the sloping topography of the site alone would significantly reduce the beauty of the land and make the project not feasible. We believe that anything more than 20' (the width that International Fire Code requires) is both impractical and undesirable for the residents and impossible to do based on the city-mandated location of the existing Nielsen home. To maintain an appropriate setback, the maximum width of the road is 20'. Even if one sidewalk and park strip are omitted per the flexibility allowed within the infill subdivision code, the road would completely eliminate the front lawn of the existing home, and edge against the front porch.
- LEED guidelines for sustainable sites and water efficiency encourage minimal paving in order to reduce the urban heat island effect as well as storm water runoff while maintaining the maximum amount of native vegetation. It is evident from city council meeting minutes that Murray City is aware of and interested in the LEED program. In this location, a 20' road would accomplish those goals, while providing more than adequate access (see code references below); a 50' road would not.

- Proximity to Murray Park and the Murray Amphitheater has already proven a challenge to the privacy and safety of residents on this lot. Cars frequently mistake the Nielsen's driveway as an alternate entrance to the park/amphitheater. Increased traffic for the Fourth of July and during Amphitheater events will pose a threat to personal property and life safety should vehicles be given free access to what would be a dead end road with no parking (the IFC does not allow parking on either side of even a 26' wide road).

- We understand that in the past the owners of property on private lanes have requested that maintenance be turned over to the city. We also understand that this is a concern the City would have regarding the private lane requested in this petition. In response to this concern we are willing to do any of the following:

- Assign codes, covenants and restrictions to the properties requiring regular maintenance of the private lane.
- Collect HOA fees for an account dedicated specifically to maintenance of the lane.
- Maintain an agreed upon sum of money in an account dedicated specifically to maintenance of the lane. The scale of the lane is small enough that the cost of maintenance will not overwhelm the residents. We estimate that after the base is prepared, it could be paved for less than \$5,000. Beyond this, the maintenance of the existing private lane, with and without a home at its end, has been performed by the property owner without problem or complaint for 70+ years. The current and future residents do not want to turn this responsibility over to the city, and find the prospect of doing so unreasonable and undesirable.

- We also understand that the city is concerned that approval of this lane will set a precedent for future developments in other locations. However, the wording of the proposed amendment has been written to be as restrictive as possible. We are not aware of any other property in Murray city that meets the requirements of the proposed amendment, and hope to work with the planning staff and city attorney to add any language to further restrict the application of this amendment.

- Development on this property is innately limited by the conditions of the R1-8 zone in which it is located. The access lane will never become a through street, as the property is surrounded by Murray Park on the north and east and a steep 25' slope on the west and south. We are proposing to build two houses, but no more than four houses could ever be built on the property, based on the zoning conditions in which it lies.

To summarize, a public road just doesn't make sense in this area. It would go nowhere and provide no parking. It would unnecessarily cover attractive landscaping with pavement, which in turn would contribute to increased heat and storm water load. Murray City would be saddled with the burden and added cost of snow removal, trash removal, and maintenance, and the safety and privacy of the residents would be compromised by park traffic. It provides no other option than to remove the existing family home that Randy built with his father, an option that is unreasonable and undesirable. In effect, the current code denies the property owner reasonable access to the rest of his property, despite the fact that he has enough acreage to subdivide into four lots. The 20' private lane that we are proposing would provide reasonable access, and even be maintained more efficiently and for less money by us, the private owners, than by the city. It would remove the burden of maintenance from the city, and give access to a small and sustainable subdivision of returning Murray residents.

The Proposed Private Lane:

The proposed private lane and fire truck turnaround will conform to the spirit of the City Ordinance and to the specific public safety requirements outlined in the International Fire Code, Section 503 and Appendix D (both sections titled "Fire Apparatus Access Roads"). Please see the drawings attached to this letter for detailed information on the private lane. Code excerpts are also attached. Key points are summarized below:

- The road will maintain a minimum width of 20' along its entire length, as required by the IFC for roads of its length.
- The road will terminate in a turnaround that conforms specifically with a diagram shown in the IFC.
- The road is easily located within 150' of both structures as required by code.
- A hydrant will be installed so that both houses will easily be located within a 150' radius. We have met with Murray City utilities to discuss tapping the water main under 5300 South to supply the hydrant and to provide water to the new residences.
- Murray City would have access to this hydrant should they ever need to fight a fire in the undeveloped park area adjacent to the amphitheater.
- Storm water runoff will flow from the road into the furrows feeding the large garden, no gutters or storm drains are necessary due to the reduction in paved area. The existing paved driveway has functioned in this way for 70 years (since the Stephensen house and access road were built).

The largest aerial fire truck owned by Murray City would easily be able to navigate the lane. In fact, there will be room for two trucks to pass each other on the straighter sections of the lane. That said, since neither house will exceed 30' in height, an aerial truck will not be required should a fire ever occur and the truck responding to the fire would be smaller than an aerial truck (the 30' criteria is also part of the current fire code).

The Proposed Amendment:

Note: As stated before, the wording of the amendment is intentionally restrictive. It is our belief few, if any, other properties in Murray would meet these very specific requirements.

Below is the proposed wording for the amendment:

16.16.090 Access To Public Streets:

A. All lots or parcels created by the subdivisions, residential infill developments, and planned unit developments, shall abut a public street which is improved to standards established according to this chapter.

B. Existing private lanes may be improved to provide access for lots or parcels created by subdivisions, residential infill developments, and planned unit developments for properties less than 1.5 acres in size that:

1. Have limited access to a public road;

2. Have an existing private lane that has provided or does provide access to at least one residential unit that existed before the current requirement in 16.16.090;
3. Have existing structures in place, previously approved by the city that established right of way to the rest of the property.

Such improvements on an existing private lane may be developed subject to the following requirements:

1. The lane must be upgraded to meet the minimum requirements of the applicable sections of the International Fire Code.
2. Murray City has no obligation to maintain or service the road or utilities located underground. The owners of the property will maintain the water main downstream of a shut off valve to be located as close to the beginning of the lateral line as possible. Murray City will be granted access to read meters or for any other purpose they require.
3. Water and sewer lines on the property must be designed and inspected to city specifications.
4. Paved surface required specifically for the fire truck turn around shall be posted as a fire lane and kept clear but shall not be included as part of a private lane.
5. Given that an existing private lane may not be described as a separate parcel and may not be located on the boundary of the property, the right of way may be described as an easement, providing right of way for the private lane. Required set-backs will be measured from the edge of the right of way.
6. Development of the property shall meet the requirements for a single family residential in-fill subdivision exclusive of the public road requirements as outlined above.

16.16.170 Relation Of New Streets To Adjoining Street System; Access Streets:

This is a first draft of the amendment. We are willing to discuss the exact wording and location within the ordinance with Murray City.

Benefits to Murray City:

- No snow removal or garbage collection required on new private lane.
- No maintenance required.
- No increased load to storm sewer systems as all runoff is naturally infiltrated on site.

- Reduced urban heat island effect.
- More native vegetation and established trees remain.
- Addition of custom residences that will retain value.
- Creation of a truly unique and desirable place to live within the city.
- Return of three former Murray residents, who otherwise cannot afford to live in Murray (something the Mayor and City Council support, according to the Deseret News).

Conclusion:

My brother, Andrew, and I are fourth-generation residents of Murray. We grew up in the house at 421 E. 5300 South. After our house was built by our father and grandfather, our family never moved. We went to school at Parkside Elementary, Hillcrest Jr. High, and Murray High. I lived mostly at home while completing a Master's degree in architecture at the University of Utah. Andrew and I can still remember when the amphitheater parking lot was an alfalfa field and Murray park still had dangerous (yet really fun) playgrounds. We worked in our parent's garden every summer, explored the trails in the park, and watched the fireworks bloom on the 4th of July. As a teenager I was employed by Murray City as a park maintenance worker and as a police cadet.

Andrew's wife, Marta, was also raised in Murray, and attended Viewmont Elementary, Riverview Jr. High, and Murray High. She was the youth mayor of Murray City Youth Government at just 16. As a graduate of the University of Utah's College of City and Metropolitan Planning, she also hopes to see this project come to fruition so that she can once again live in this great city, close to her in-laws and her own family who still reside in Murray.

We all feel that the place we were raised had a significantly positive effect on who we ultimately turned out to be. We hope to return and give our children the same opportunity, as well as help our parents continue to maintain a beautiful piece of property.

Thank you for your time,

Jimmy Nielsen, AIA, LEED AP, and Amy Nielsen

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Mayor's Report and Questions

Adjournment