

Minutes of the Planning Commission meeting held on Thursday, June 7, 2018, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Travis Nay, Chair
Phil Markham
Maren Patterson
Sue Wilson
Lisa Milkavich, Vice Chair
Ned Hacker
Jared Hall, Community & Economic Development Supervisor
Jim McNulty, Development Services Manager
Zac Smallwood, Associate Planner
Briant Farnsworth, Deputy City Attorney
Citizens

Excused: Scot Woodbury

The Staff Review meeting was held from 6:00 p.m. to 6:30 p.m. The Planning Commission members briefly reviewed the applications on the agenda. An audio recording is available at the Murray City Community and Economic Development Division Office.

Travis Nay opened the meeting and welcomed those present. He reviewed the public meeting rules and procedures.

APPROVAL OF MINUTES

Mr. Hacker made a motion to approve the minutes from the May 17, 2018 Planning Commission meeting. Seconded by Ms. Milkavich.

A voice vote was made, motion passes 6-0.

CONFLICT OF INTEREST

There were no conflicts of interest.

APPROVAL OF FINDINGS OF FACT

Mr. Markham made a motion to approve the Findings of Fact for Kangaroo Zoo, and Red Desert Painting. Ms. Wilson seconded the motion.

A voice vote was made, motion passes 6-0.

MTS UTAH AUTO SALES – 411 West Winchester Street - Project #18-59

Spencer Petersen was present to represent this request. Zac Smallwood reviewed the location and request for a Conditional Use Permit to allow a Vehicle Sales business on the property addressed 411 West Winchester Street in the M-G zone. Mr. Smallwood stated that the property has two different warehouse spaces. Iron Horse Concrete & Construction and Ace Cleaning currently occupy the spaces. Iron Horse is building an addition from which they plan to operate, allowing them to lease out the space that they currently occupy to MTS Utah Auto Sales. During a site visit to the property the traffic in the parking lot was heavy, therefore; condition number 3 will require all auto sales and vehicle storage to be conducted inside the warehouse only, no outside display of vehicles. Based on the information presented in this report, application materials submitted and the site review, Staff

recommends approval of a Conditional Use Permit for the auto sales business at the property addressed 411 West Winchester Street, subject to conditions.

Spencer Petersen, 1193 West 8830 South, West Jordan, stated he has reviewed the conditions and will be able to comply.

The meeting was opened for public comment.

Scott Romney, representing the landlord, stated there is additional parking located on the east side and he believes the site has adequate parking space available. Mr. Romney stated they believe that MTS Utah Auto Sales would be a great tenant in the complex.

The public comment portion was closed.

Ms. Milkavich made a motion to approve a Conditional Use Permit for the proposed auto sales business at the property addressed 411 West Winchester Street, subject to the following conditions:

1. The project shall comply with all applicable building and fire code standards.
2. The applicant shall obtain Murray City building permits for any remodeling, including a change of use analysis and adhere to all recommendations of the analysis.
3. All storage and display of vehicles shall be located within the warehouse area of the building, no for sale vehicles shall be stored in the parking area or on the public right of way.
4. The hours of operation are established as outlined in the staff report, Monday thru Friday 8:00 am to 5:00 pm, or by appointment after hours.
5. The applicant shall obtain permits for any new attached or detached signs proposed for the business.
6. The applicants shall obtain a Murray City Business License and pay applicable fees prior to commencing operations at the facility.

Seconded by Ms. Patterson.

Call vote recorded by Mr. Hall.

 A Lisa Milkavich
 A Maren Patterson
 A Sue Wilson
 A Phil Markham
 A Ned Hacker
 A Travis Nay

Motion passed 6-0.

LEGACY RARE COINS – 4449 South Commerce Drive - Project #18-62

Gary Laramie was present to represent this request. Zac Smallwood reviewed the location and request for a Conditional Use Permit to allow a Pawn Shop business on the property addressed 4449 South Commerce Drive in the M-G zone. Mr. Smallwood stated Legacy Rare Coins wishes to expand their current business into the north end of the adjacent building in a small retail center near several other businesses. Mr. Smallwood stated since the time the original landscaping was initially installed years ago, the Murray City landscaping requirements have been updated. Based upon the site visit, the current landscaping does not meet the minimum requirements, and will require the planting of additional shrubbery. Mr. Smallwood added that condition number 6 prohibits the display of any items for sale outside of the building or along any public right of way. Mr. Nay asked if that would include A-Frame signage. Mr. Smallwood answered yes, it does. Only Building signs would be permitted. Based on the information presented in this report, application materials submitted, and the site review, Staff recommends approval of a Conditional Use Permit for the proposed pawn shop business at the property addressed 4449 South Commerce Drive, subject to conditions.

Mr. Markham mentioned that during the pre-meeting it was discussed that to the best of our knowledge this business does not have any concerns from the Murray City Police Department. Ms. Milkavich asked if the public will have access to the restrooms at this facility. Mr. Smallwood answered that when this business applies for a building permit to remodel the interior they will be required to have public access to the restrooms.

Gary Laramie, 1752 South 1100 West, stated he has reviewed the conditions and will be able to comply. Mr. Laramie stated he is unsure what the landscaping requirements are. Mr. Smallwood displayed a site map and explained in which area the shrubs should be installed and what quantity. Mr. McNulty additionally explained when the City has a new use come into a building the property must meet the current landscape requirements as part of the Conditional Use Permit. Mr. Laramie stated he understands and will work with the landlord to make the landscape changes. Ms. Milkavich asked if the burden of landscaping will be on the property owner or the tenant. Mr. Nay answered, it is a shared responsibility but, whoever does it is alright as long as it gets done.

The meeting was opened for public comment. There were no comments and the public comment portion was closed.

Ms. Patterson made a motion to approve a Conditional Use Permit for the proposed pawn shop business at the property addressed 4449 South Commerce Drive, subject to the following conditions:

1. The project shall comply with all applicable building and fire code standards.
2. The applicant shall obtain Murray City building permits for any remodeling, including a change of use analysis and adhere to all recommendations of the analysis.
3. The hours of operation are established as outlined in the staff report, Monday thru Friday, 9:00 a.m. to 6:00 p.m. and Saturday, 10:00 a.m. to 5:00 p.m.
4. The applicant shall work with Community Development staff to develop and implement

a landscaping plan for the frontage on 4500 South to meet the requirements of Section 17.78 of the Land Use Ordinance, including the installation of nine (9) five-gallon shrubs and nineteen (19) one-gallon shrubs to come into compliance.

5. The applicant shall ensure that there is adequate off-street parking for patrons and employees during operating hours.
6. The applicant shall not store or display any items for sale outside of the building or along any public right of way.
7. The applicant shall obtain permits for any new attached or detached signs proposed for the business.
8. The applicants shall obtain a Murray City Business License and pay applicable fees prior to commencing operations at the facility.

Seconded by Mr. Markham.

Call vote recorded by Mr. Hall.

 A Maren Patterson
 A Phil Markham
 A Sue Wilson
 A Lisa Milkavich
 A Ned Hacker
 A Travis Nay

Motion passed 6-0.

COSTELLO ESTATES – 1222 West Bullion Street - Project #18-60

Blaine Gough was present to represent this request. Jared Hall reviewed the location and request for Preliminary Subdivision approval for a 15-lot subdivision to be developed on the property addressed 1222 West Bullion Street, or approximately 5705 South Walden Glen Drive (1190 West) in the R-1-10 zone. Mr. Hall stated this application will create 15 separate lots on two cul-de-sacs and the remainder of the lots will front on Walden Glen Drive. Lot "A" on the site plan is not developable because there is a grade change and restrictions related to the Jordan River. All the proposed lots are larger than the minimum 10,000 sq. ft. requirement and will be able to site a single-family home well. Mr. Hall explained that there was a traffic study conducted when the Ivory homes subdivision was taken to the PC and it included up to 16 potential lots on the Costello land. That traffic study was applied in this case and no changes were needed. Mr. Hall stated that because of the proximity to the river there will be a need for Flood Control and Stream Alteration Permits. The City Engineer is working with the applicant to make sure all the necessary Permits are obtained. Mr. Hall stated the issue of fencing needs to be addressed before Final Subdivision review, and explained that Mr. Kemker, the adjacent owner, had some concerns that the future fence would not be adequate to buffer his horse properties. Mr. Nay asked which lots will be affected by the need for special fencing. Mr. Hall stated that the exact lots and fence line will be determined in the future but would likely be in the area of lot 112 and will require solid fencing. The north half would have visibility towards the river and Staff may recommend some type of open fencing. Staff will work with the applicants to determined what fencing needs are required. Based on the information presented in this report, application materials

submitted and the site review, Staff recommends approval of Preliminary Subdivision approval for a 15-lot subdivision to be developed on the property addressed 1222 West Bullion Street, or approximately 5705 South Walden Glen Drive (1190 West), subject to conditions.

Mr. Markham asked if the City Engineer has looked at lots 101 and 102 to determine if there will be any potential issues with driveway accesses to Walden Glen Drive. Mr. Hall answered that the corner lot will have potential access to Walden Glen but they may end up restricting the location of it or restricting it all together. This will be determined during the Final Subdivision phase.

Blaine Gough, Gough Construction, stated he has reviewed the conditions and will be able to comply. Mr. Hacker asked what the plans are for the ditch. Mr. Gough answered they will pipe the ditch. The large irrigation ditch that runs to the north side will be piped with a 36-inch pipe from Bullion Street all the way to the Jordan River with a head wall or gate.

The meeting was opened for public comment.

Ralph Kemker, 1170 West Bullion Street, stated he is concerned about the fence, health, safety and wildlife habitat. Mr. Kemker explained that a lot of wildlife visits his property and suggested a solid fence be installed all the way down the property line to protect the wildlife habitat and pond. Mr. Kemker stated that the area where Staff is suggesting to install a visible fence along the river is the same area he wished to have a non-visible fence. Mr. Kemker stated that South Jordan requires a minimum six-foot-tall, decorative, masonry fence between incompatible uses, or where large animals are on the property in an A-1 Zone. Mr. Kemker concluded by recommending that a six-foot solid fence around the entire development.

Jeff Evans, 5574 Walden Glen Drive, stated his concerns are about infrastructure on his street, construction happening simultaneously with the Ivory project, and construction traffic on his street.

Danielle Cardona, 1227 Cove Park Circle, stated she is a homeowner on the corner and she requested to know the elevations of the proposed homes because she does not want her view to be obstructed from her deck. Ms. Cardona suggested that a rambler be built across from her that would have a lower elevation.

The public comment portion was closed.

Mr. Hall addressed the public concerns and stated there is same elevation changes towards the river, but the area is mostly flat. It would not be appropriate to limit the size or height of any of the proposed homes, other than the zoning requirements that are in place, and that allows for 35 feet to the peak of the roof. Mr. Nay added that this area has standard property rights in an R-1-10 zone and the lot owners can build a house of their choosing as long as it meets City standards. Mr. Hall addressed fencing and stated Mr. Kemker is correct that there needs to be fencing between the uses. Murray does not have similar language in our ordinance that South Jordan uses; however, Staff will be taking this information into consideration when they develop a fencing plan. Mr. Hall addressed construction traffic and stated; it is likely that both the Ivory and Gough subdivisions may have homes under construction at the same time, and we will have continued construction for some time. Mr. Nay commented that Ivory Homes has two more phases to develop. Mr. Hall stated that the

details of the traffic study that was previously conducted should be addressed by the City Engineer and the traffic engineers that conducted the study. There were no changes recommended as a result of the study. Mr. Hall addressed construction access and stated he is not entirely sure, but could foresee the two cul-de-sacs being used for construction access. There is no other way to get to the sites. Ms. Wilson asked if the construction vehicles will be required to enter in off Bullion Street, or if they will they be allowed to come down Walden Glen Drive. Mr. Hall stated that the City has not addressed access yet, it will be addressed during the Final Subdivision approval. Mr. McNulty added Staff can work with the City Engineer on the access points, construction traffic, and vehicle size. After that, the City can develop a plan and keep an eye out for violations as this is being built. Mr. Hall stated he would like to work with the City Engineer and the traffic engineer to figure out what is best, then bring it back during final.

Mr. Gough spoke about the elevation of homes going towards the east. The drop off is close to 5-feet, then comes back up to the river height, so the road will have to have some elevation remediation, but be kept at a minimum grade. Mr. Gough added if somebody wanted to build a two-story home, it would be hard to say no because it is allowed. We offer several rambler plans and we will always abide by the City Code when we build our homes. Mr. Gough explained that there is no way for this subdivision to tie into the infrastructure without going into the street, but they usually try to go through the street with all 3 utilities and stub in. It is estimated that this process could take about two weeks. Mr. Gough stated he does not have any access off of Bullion Street and does not really know at this point how he would direct his construction traffic. Mr. Gough added that the fencing has been a recognized issue and is glad Mr. Kemker pointed it out because it is a safety issue. Mr. Gough added that there is an entire area down toward the river, behind the homes that will not be disturbed and will remain the same. Mr. Gough closed by stating he is very open to working with Staff to come to a conclusion that works for everybody.

Mr. Markham made a motion to grant Preliminary Subdivision approval for the proposed Costello Estates Subdivision on the property addressed 5705 South Walden Glen Drive, subject to the following conditions:

1. The project shall comply with the following Murray City Engineering requirements:
 - a. The applicant shall meet City Subdivision requirements and standards.
 - b. The applicant shall meet City storm drain requirements.
 - c. The applicant shall meet City utility requirements and provide standard PUE's on all lots.
 - d. The applicant shall provide a site soils study and meet recommendations.
 - e. The applicant shall obtain all required County and State Permits related to the Jordan River meander corridor.
 - f. The applicant shall obtain approval and pipe the existing NJIC overflow channel along the north side of the site, and shall obtain any required State and County permits.
 - g. The applicant shall provide a Salt Lake County maintenance easement along the Jordan River.
 - h. All lots adjacent to or backing the Jordan River shall be required to maintain a 75-foot setback from the Jordan River floodway. The required 75-foot setback line shall be shown on the plat.
 - i. The applicant shall obtain Irrigation Company approval and pipe the active irrigation ditches on the site. Abandon / plug any unused irrigation system boxes and pipes.

- j. The applicant shall develop a site SWPPP and obtain a City Land Disturbance Permit prior to beginning any site work.
 - k. The applicant shall obtain a City Floodplain Development Permit for any work in the Jordan River floodway.
 - l. The applicant shall obtain a City Excavation Permit for work in the City right-of-way.
2. The project shall meet all applicable building and fire codes.
 3. The applicant shall provide complete plans, structural calculations and soils reports, stamped and signed by the appropriate design professional upon submittal for building permits. The applicant shall also provide stamped engineering drawings for any required retaining walls.
 4. The project shall provide adequate numbers of fire hydrants with adequate fire flow.
 5. The applicant shall work with staff to appropriately place street lights for the subdivision on Walden Glen Drive, Costello Court, and Hickman Cove.
 6. The project shall meet all requirements of the Murray Power Department.
 7. The project shall meet all requirements of the Murray City Water and Sewer Division.
 8. The applicant shall work with staff to provide a fencing plan for the subdivision.

Seconded by Ms. Milkavich.

Call vote recorded by Mr. Hall.

 A Phil Markham
 A Lisa Milkavich
 A Ned Hacker
 A Maren Patterson
 A Sue Wilson
 A Travis Nay

Motion passed 6-0.

SOUTH COTTONWOOD HEIGHTS SUBDIVISION AMENDED, Amending Lots 5 & 6 –
5347 S Kenwood Drive, Amended Subdivision Plat and Flag Lot Subdivisions - Project #18-
45 & 18-46

Jeff Kruckenberg was present to represent this request. Jared Hall reviewed the location and request for two Flag Lot Subdivisions of Lots 5 & 6 of the South Cottonwood Heights Subdivision at the property addressed 5347 South Kenwood Drive in the R-1-8 Zone. Mr. Hall explained the property was previously used for a large, single-family home built across property lines. The home has since been demolished and now two single family lots remain. Both lots are now under review for a flag-lot subdivision that would result in an amendment of a subdivision plat to allow four buildable lots. A flag lot would be created to the rear of both lots that front on Kenwood Drive. The City does not allow subdivisions on private roads, only on public rights-of-way. Kenwood Drive provides the public-right-of way. The access easement to each rear lot would include 20 feet of pavement and 4 feet of landscaping on

either side. Mr. Hall explained the amendment to the plat and stated; because this is an existing subdivision and the lots are being split, it is considered an amendment to an existing subdivision plat and it is subject to rules under State Code. Staff has reviewed this application under Titles 16 and 17 and it meets all the requirements of both. The South Cottonwood Heights subdivision was recorded in 1946 and was recorded with a setback line that was different from zoning. Setbacks for the front yards were indicated as 35 feet generally and 40 feet around the curve. The amendment to the subdivision would allow for two Flag Lots subject to the current R-1-8 setbacks. Kenwood Drive does not have a sidewalk, but the public right-of-way for Kenwood Drive includes an additional 10 feet extending beyond the curb and gutter. As a result, if the building setback requirement is 25 feet from the property line, the actual physical building setback will be 35 feet from the curb and gutter on Kenwood Drive. The Public Works Department does not have any current or future plans to install sidewalk on Kenwood Drive. The Utility plan shows a power line that crosses the rear portion of the property outside of the existing easement. The easement that was recorded in 1946 is 5 feet wide along the rear of the property line that is located at the bottom of an extreme slope. No buildings are proposed in this area. The applicant worked the Murray Power Department to propose a new easement that would run along the top of the slope and bury the powerlines in the new easement. In the R-1-8 zone the lot area requirement is 8,000 square feet. Lots on Kenwood Drive average just over 15,000 square feet. The average lot size in the proposed subdivision is over 13,000 square feet, far exceeding the minimum requirement and keeping the proposed future lots in line with the existing density of the area. The rear lot in a flag lot subdivision is required to be at least 125% of the lot area requirement in the zone. Mr. Hall stated that the notice sent to the property owners included an illustration that was intended to clearly demonstrate there are four future proposed lots and not to be confused with a formal proposal or development plan. Mr. Hall explained that Staff is proposing that the lots that directly face Kenwood Drive be deed restricted. Lot 104 shall have a driveway no more than 16-feet wide and Lot 101 shall only allow access for a driveway from the new proposed 28-foot access. Based on the information presented in this report, application materials submitted and the site review, staff recommends that the Planning Commission forward a recommendation of Amended Subdivision Plat, and Preliminary and Final Flag Lot Subdivision Approval to the Mayor for the property located at 5347 South Kenwood Drive, Lot 5, and for the property located at 5347 South Kenwood Drive, Lot 6.

Ms. Patterson asked about how the original house built on this lot. Were there always two lots. Mr. Hall answered that City Staff's understanding is that the Salt Lake County Recorder's Office had tax ID's that were combined, but the lot lines were never formally combined and Lots 5 and 6 had always existed. Ms. Patterson clarified that this property is not going from 1 lot to 4 lots, it was always 2 lots and that is what allows each to potentially become a flag-lot creating 4 lots. Mr. Hall agreed with Ms. Patterson.

Mr. Nay asked Staff to explain what the historic designation means for this area. Mr. Hall explained that the Hillside Historic District includes Kenwood Drive, Avalon Drive, Knollcrest Drive and Hillside Drive, and was recognized in 2014. The designation recognizes the area as an important example of how development occurred in those years, but it does not require any standards for new development, or tie to the City's ordinances in any way. Mr. Nay asked if this designation impedes the ability to alter a structure or remove a home. Mr. Hall answered, no it does not.

Mr. Nay asked Staff to address the resident concerns that illegal demolition has occurred with the removal of the home on the lots. Mr. Hall stated there was a Demolition Permit

issued for the home on May 10, 2018. On the same day there was also a Land Disturbance Permit issued for the property. There was some question about whether or not any environmental processes had been followed for the demolition to occur. Mr. Hall explained there was a pre-demolition permit review conducted by the Salt Lake County Division of Environmental Quality, and that Air Quality had reviewed and approved the asbestos removal. The City has the documents on file in the Building Division for verification. Mr. Markham asked if there is a public notice process required for a demolition permit. Mr. Hall answered no, there was no public notice process for a home demolition in this case.

Jeff Kruckenberg, Allan Kruckenberg Construction, 6782 South 1300 East, stated he has reviewed the conditions and will be able to comply. Mr. Kruckenberg thanked the Planning Commission for hearing this application and stated Allan Kruckenberg Construction has been before the Planning Commission many times, and built several projects and over 50 new homes in Murray. Mr. Kruckenberg stated that he is aware zoning allows for the Flag Lots. Mr. Kruckenberg stated they are not requesting a rezone and are working within the existing zone. Mr. Kruckenberg added that they will work with Staff to meet all zoning and subdivision requirements, which they fully understand in the 10 conditions as outlined in the report.

Mr. Nay asked how the layout was developed to have the two rights-of-way and the third stand-alone driveway as opposed to running a centralized driveway up the centerline of the properties or two dedicated rights-of-way up the center of the properties with the driveways coming off from there. Mr. Kruckenberg answered that they have had many meetings with staff. If the project were to utilize a central driveway, it would be 38-feet wide and all 4 residences would access from it. Their belief is that it may look like a mini PUD, which does not fit the aesthetics of the neighborhood or the beautiful homes on Kenwood. They wished to maintain the historic nature with the look of the larger, single-family detached home. Mr. Kruckenberg explained that the stand-alone driveway allows for added flexibility because if you were to deed restrict both lots to have access only from the right-of-way there is a potential for issues with neighbors driving back and forth along the flag lots to access the road.

Mr. Nay stated that the Planning Commission has reviewed every letter received on this topic. Mr. Hall stated for the benefit of the record that he would read into the record some letters received by the City, but to be clear the reading of these letters does not represent the actual number of letters received, because he is only reading aloud the letters which contained a request to be read aloud into the record.

The public meeting was opened for public comment.

Mr. Hall read a letter by Jessica McClellan that outlined concerns that the house that was built over two lots many years ago was allowed, but it would not be allowed by today's standards and feels that the lots should be treated as one parcel now. Ms. McClellan also had concerns about trip generation, and traffic.

Mr. Hall read a letter from David Klein, 5304 South Avalon Drive, that outlined concerns that adding more homes will only add to the existing problem of poor water pressure. Mr. Klein indicated he is opposed to any changes to the current setback requirement for the subdivision.

Mr. Hall read a letter by Kristen Longhurst, 5387 Kenwood Drive, that outlined concerns

about allowing a decrease to the minimum setback from the street for the proposed construction for 4 new houses on the two parcels. Ms. Longhurst requested the builder of the homes respect the articles of construction set forth for the subdivision, to save green space in the area, and to maintain the 40-foot setback for building the houses on the front two parcels.

Jim Towers, 246 East 5300 South, stated that he is speaking on behalf of himself and the Towers Family and stated members of the family have lived and loved the home for over 45 years. Mr. Towers added that this is a very personal issue to the Towers Family and gave a brief historic background of the home. Mr. Towers also noted that from the time the home was built, it has always been serviced as one lot, with one power, garbage, sewer and water bill by Murray City, as well as it has been assessed with a single property tax number and has only one address as assigned by the US postal Service. Mr. Towers asserted that a blatant disregard and disrespect of this property has occurred by Murray City and the applicant. Mr. Towers is opposed to all of the proposed changes of this application.

Coleen Erickson, 5549 Kenwood Drive, stated that if the 4 homes are allowed to be built with the allowed setback, it will negatively affect the values of all the homes in the subdivision. Ms. Erickson asked for a compromise and asked for the 40-foot setback, only 2 frontage homes with a center driveway leading to a cul-de-sac and only 1 rear home.

Shauna Jackson Wilde, 5501 Kenwood Drive, stated that she is the person who sent the letter about the missing permits, and explained she recently found out that permits were actually issued. Ms. Wilde added she is worried that if this flag-lot is allowed, then this type of development will never stop and the entire neighborhood will be full of flag lots and she disapproves of them.

Kozette Tanner, 5420 Kenwood Drive, stated she asked for a permit from Murray City to build a garage because the one on her home had been converted to a living space. Ms. Tanner further explained that it was allowed but it could not be built out further than the porch lines of the surrounding homes. Ms. Tanner wondered why the proposed homes can have a setback of 25-feet from the curb, but she could not have an extra 4 or 5 feet for her project. Ms. Tanner asked that this application be denied as she is opposed.

Maren Otten, 5344 Kenwood Drive, stated she chose to live in this area because she wanted a large lot in a low-density neighborhood and is opposed to the 4 houses, and the Commission should say no to small setbacks, no to the amendment. And she believes the neighborhood is in peril.

Dale Fuelling, 480 East 5300 South, stated he is concerned that he was not notified properly by the City and does not know what the 10 conditions of approval are.

Rachel Hummert, 5364 South Kenwood Drive, stated she respects the right of the developer to build houses, but she is concerned about the blind corner of the curve and is worried about the increase of traffic. Ms. Hummert is opposed to the approval of this development.

Claudia Downs, 5337 South Kenwood Drive, stated she is an active, current Murray City resident and believes Murray City is special. Ms. Downs stated the character of the neighborhood is extremely important to her, and feels the builder has not shown any good will. Ms. Downs stated that she believes the intent of the Historic Designation was established to allow large lots, open spaces and larger homes. She is opposed to the

development.

Maurice Baker, 5351 Kenwood Drive, stated he lives directly south of the proposed lots and the proposed driveway would be next to his bedroom. Mr. Baker stated he wished to keep the neighborhood in its original character, is against the flag lots, and against the driveway on the corner by his bedroom. Mr. Baker wondered what the proposed fence would be like and is concerned about its future location. Mr. Baker is also concerned about the location of the proposed buried utilities. Mr. Baker asked who owns all the steep property that is behind the Towers property.

Barbara Hall, 5341 South Kenwood Drive stated she represents a group of people and thanked the Planning Commission for considering the neighborhood's best interest and recommended they deny the application and encouraged the developer to build only two or three homes. Ms. Hall stated the neighborhood is in agreement that dividing the Towers property into two lots as it states on the plat is appropriate now that the house is gone. She encourages well designed homes, with a front and back yard and respecting the original setbacks would be acceptable. Ms. Hall believes that the Murray City Codes were established to address only typical requests and should only allow a flag lot as long as the Planning Commission determines that impediments, or property configurations hamper the effective and efficient use of the property. Ms. Hall stated she believes the property is most effectively used for only 2 homes and is opposed to what the developer has proposed for 4 homes. Ms. Hall added, she has concerns about safety, visual appeal, noise, open space, impact on current residents, and devalued property.

Jim Beeson, 5344 Kenwood Drive, stated he is OK with the home being demolished and building one or two more homes, but is concerned that due diligence has not been conducted in the neighborhood, on the land, or with the residents. Mr. Beeson inferred the developer has not conducted an honest business practice.

John Eicholtz, 5341 South Kenwood, stated he is representing the group that coordinated the passing of a petition. They collected 96 signatures opposing this subdivision approval. Of the 96 signatures, 82 are from the subdivision and 14 from other Murray residents. Mr. Eicholtz believes the City should impose reasonable conditions upon the builder in addition to what is imposed by City Code. Mr. Eicholtz offered a copy of his petition to the Planning Commission and stated he is opposed to the development and wished the City would have asked the opinions of the neighbors to find out what type of lot layout they would prefer.

Nicholas Skolmoski, 5470 South Kenwood Drive, stated he is concerned with safety because an excavator used by the developer had an accident with another vehicle parked on the street. Mr. Skolmoski requested that the street be limited to a one-way road or vehicle parking on only one side of the street. Mr. Skolmoski asked what kind of traffic and safety measures are being put into place to avoid a possible deadly accident.

Chuck Oliver, 5517 South Avalon, stated he is concerned with traffic because of another close development. The addition of 4 more homes, and the high speeds of traffic moving through the neighborhood is a concern. Mr. Oliver was concerned with density and stated he is opposed to increasing it, removing the easement, and removing the green space.

Brett Zewackie, 5419 Kenwood Drive, stated he chose to live in Murray specifically because of this neighborhood and its appearance. Mr. Zewackie stated, that even though the Code allows 8,000 square foot lots he doesn't believe it should apply to this neighborhood and the

City should not just blindly allow development even if the City Code allows it. Mr. Zewackie stated he does not understand how the City can allow a property owner to cut down the trees on their own property and asked if there will be a geotechnical report involved with the burying of power lines. Mr. Zewackie added that he personally knows of residents in this area who are now going to sell their lots if this is approved.

Steve Jacobsen, 5494 Avalon, stated he is proud of this area and chose to move from an area that allowed the same type of developments. Mr. Jacobsen believes that once this type of development is allowed, it will open the gate for further undesirable development.

Erin Kenyon representing Mark Tetzlaff, 5307 South Avalon, indicated Mr. Tetzlaff served on the Murray 2K Board which is concerned with improving Murray City. Mr. Tetzlaff believes that allowing the addition of 4 new homes on 2 flag lots will not improve the neighborhood or property value. Mr. Tetzlaff is opposed to the development.

Julie Steinmetz, 5478 South Kenwood Drive, stated this area is very special and amazing. She encouraged the Planning Commissioners to visit the area and see for themselves.

Roxanne Tea, 5326 Avalon Drive, stated she was concerned with the historic aspect and believes the look and feel of the neighborhood is important and she does not want it to change.

Keith Jorgensen, 5493 Avalon, stated he is jealous of Kenwood Drive because it is so beautiful. Mr. Jorgensen believes that the decision to build flag lots is purely based on the desire to make more money, and asked the Planning Commission not to allow the developer to build what is proposed just so that he can make money.

Lorraine Christensen, 5540 Kenwood, stated she is concerned about the safety on the street because it is narrow and asked for a sidewalk to be installed. Ms. Christensen stated she is also representing a friend and stated that the friend wishes for a compromise where the developer could construct three homes instead of four with a different layout.

David Lewis, 5746 Ridge Creek Road, stated he wants the City to explain why they are proposing to add three driveways and this lot configuration. He wondered if the developer is open to other types of recommendations.

The public comment portion was closed.

Mr. Hall addressed the public concerns and stated that this is not a high traffic road by transportation standards. The 3 additional homes would not impact the service level. The lots are on a curve, and the City Engineer reviewed the layout and he does not have any concerns about visibility or safety. Mr. Hall addressed the issue with the configuration and stated the City Staff did not choose the configuration, but considered the proposed configuration acceptable. The applicant worked with the City on several different ideas, one of them including 4 individual driveways. Mr. McNulty stated the applicant proposed several different configurations, which is called a concept review. The different concepts were reviewed by Staff and the proposed concept is what the applicant chose to submit as a preliminary plat. Ms. Milkavich asked if it was chosen by the applicant. Mr. Hall and Mr. McNulty concurred. Mr. Hall stated that Staff's role is to insure a proposal does not violate any standards of the Ordinance. Mr. Hall addressed the concerns about the character of the neighborhood and asked if any of the Planning Commissioners were familiar with the

neighborhood. Several Commissioner stated they were familiar with the area. Mr. Hall stated that this is a unique area that has a certain feel. He pointed out that the property is on a curve so you're not seeing a straight line of homes with a uniform set back because of the curve. The proposed front homes would be setback effectively 35 feet from the edge of the curb and gutter. The existing homes on adjacent properties are set back 36 and 37 feet back from the curb. There will only be a difference of less than 4 or 5 feet. Mr. Hall addressed the density and stated that the average lot size on Kenwood was calculated and that the proposed subdivision is still about the same density. Two lots within 185 feet of frontage is normal for Kenwood Drive. Some public comments even concurred that 2 homes would look normal on Kenwood. A person would only see the 2 front homes on Kenwood, and this is a bigger, deeper property than all the others on Kenwood at 1.24 Acres. Staff finds nothing in the ordinance to point to this area individually and recommend that the City deny a subdivision request based on the community's concern. Staff has reviewed this proposal thoroughly and stands by the recommendation.

Mr. McNulty made reference to State Code and notice requirements specifically in relation to vacating or amending a subdivision plat and stated Murray City has exceeded the requirements of section 10-9a-608, which indicates that the Land Use authority shall provide notice of the petition by mail, email, or other effective means to each effected entity that provides a service to an owner of record of the portion of the plat that is vacated or amended at least 10 calendar days before the Land Use authority may approve the vacation or amendment of the plat. Mr. McNulty added that Murray City sent notice out to every owner within the entire plat, not just a small portion of residents. The effected entity refers to utility companies, school districts, etc. Mr. McNulty continued and said the City did not want to take chances, therefore, we chose to be cautious and notify all property owners within the plat. There may be some property owners adjacent to this property outside of the subdivision, but according to State Code we are not required to notify them.

Mr. Hall addressed the concerns of construction mitigation and stated during construction we have rules about when they can build, and how long they can work, how much noise they can make, and SWPP protection. The City enforces all of those concerns. Mr. Hall stated that when the issue came up about the Demolition Permit, Land Disturbance Permit and SWPP plan in place, the applicant did go beyond what was allowed when removing additional trees and vegetation. The City did go out and stop the work and the developers were cooperative about it. Mr. Nay asked if there is any way to dictate parking areas where contractor vehicles can park when they are not in use. Mr. Hall answered yes, it could be done as part of the permit process. Something could be worked out and the Building Department will have to be cognizant of that issue because of the narrow street. Mr. Nay stated the street becomes so narrow because people park on both sides of the street allowing only 1 car to go through at a time.

Mr. McNulty addressed the concern about grading and grubbing that was occurring under the demolition permit. The City Engineer, to his credit, stopped them as quickly as he could. Since then we have not seen work occurring. We want to know if someone is going beyond the limits of their permit, we want to correct those issues.

Ms. Wilson asked if the City has a copy of the current County plat map for this parcel and wondered if because the parcel I.D.'s were combined on lots 5 and 6, are there still 2 Sidwell numbers. Mr. Hall answered that the Sidwell numbers are the Parcel I.D.'s, but technically there are two lots. He stated that staff recognized that 68 years is a long time, and for all intents and purposes it was one house on two lots. He stated that Staff

understands how most people would not be aware of this, but in spite of the appearance of the property, the County records show the 2 individual lots. Mr. McNulty added that it is common for people who own multiple properties to have a single tax I.D. number to simplify things. The City has to apply standards according to the recorded plat. The recorded plat identifies a lot 5 and a lot 6. The recorded plat shows 2 legal lots.

Mr. Markham stated it is clear that what has been proposed is allowed under City Ordinances and asked Staff to explain what responsibilities the City and Planning Commission have pertaining to a decision that can or cannot be made. Mr. Hall explained that the Planning Commission and Community Development Staff have similar responsibilities. While we understand these types of issues with well-established neighborhoods, we are tasked with reviewing the application presented to us against the codes and ordinances we have. Staff has done that and found that it meets those codes and regulations and should be recommended for approval; therefore, Staff has made that recommendation. The task of the Planning Commission is also to make a recommendation. Staff has found this meets requirements and the only proper course of action is to recommend approval. Ms. Milkavich added she has her own personal opinion about flag lots and setbacks, but realizes she is expected to enforce the standards that have been established, and not her own personal belief. The City does a great job encouraging the Community to participate in the process for development standards and ordinances. Ms. Milkavich asked what the process is for people to get involved. Mr. Hall replied to get involved in committees and organizations, and talking to the City Council. Diane Turner is the City Council rep for this area. Mr. McNulty stated there is a process to file a petition for the City to consider change, it may be through a Text Amendment process.

Ms. Patterson stated that the developer appears to be within their legal right to have a flag lot on this property, but it is obvious the neighborhood wants a different plan for this development. Ms. Patterson explained that she understands because she is on the Planning Commission. The wording in the Staff report says that the flag lots match the feel of the neighborhood and that this is allowed and legal. Ms. Patterson wondered if there a possibility that the flag lots concept could change. Mr. Hall stated it is a possibility, and explained that the purpose of flag lots is to allow infill development of this kind. The flag lots can be done in two ways: with a 20-foot paved access and 4 feet of landscaping on either side, or both lots to the rear can be served by a 30-foot wide paved access with 4 feet of landscaping on each side. You can opt for the single driveway, but it is 30 feet of pavement, and in some ways the wider driveway could have a bigger visual impact. The discussion with the developer looked at different schemes and in the end, Staff gave some suggestions of preferred layouts. The developer then submitted the layout that has been presented to the Planning Commission.

Ms. Milkavich asked if the minutes to tonight's meeting are available to everybody. Mr. Hall answered that once they are typed, reviewed, and approved by the Planning Commission the minutes are posted on the City website and available to everybody including the City Council and the Mayor.

Ms. Patterson asked if a cul-de-sac could be possible instead of the proposed layout. Mr. Hall answered they could have proposed a cul-de-sac, with a dedicated public right-of-way and subdivided the property that way but they did not propose that. If a cul-de-sac was proposed they could divide lots as small as 8,000 square feet which could increase the density significantly.

Ms. Patterson wondered once a proposal is submitted to the City, and it meets all ordinances and is deemed legal, is there any way for it to be denied or stopped from moving forward. Mr. Hall answered that staff did not believe denial was defensible, and that is why Staff has made a recommendation of approval. Ms. Milkavich asked if the City had to put up a defense against this proposal would the City have to use the City tax dollars to do it. Mr. McNulty answered yes, it would, and Staff included findings in the Staff report and a recommendation with the conditions of approval. We also make those findings because they have been determined to meet the City's requirements and ordinances. Based on the findings we have to recommend approval, it's not defensible to recommend otherwise. Ms. Patterson wondered what happens if they approve this even if the neighbors are opposed to it. Mr. Hall stated it's forwarded to the Mayor and he can accept your recommendation the way it is, approve it differently, or deny it. Ms. Patterson asked if the developer could still submit a different proposal at this point. Mr. Hall answered yes, the developer could work with the neighbors and come up with a different plan, if he had the desire.

Mr. Markham commented that the Planning Commission could continue this item and that would give the developer some time to digest the public comments, and perhaps come up with a compromise. Ms. Milkavich agreed with Mr. Markham and stated it seems that the community has not been given the opportunity to communicate with the developer. Mr. Markham pointed out that there is not a formal process to do that and that it is not required. Ms. Wilson stated that she loves Kenwood Street and understands the developer's rights as well. Ms. Wilson added that these types of applications are tough on the Commissioners and they are not pre-decided to recommend or deny before the meetings, but that we do have to decide based on what is allowed. Mr. McNulty suggested that the developer be given a moment to speak and give his opinion about whether or not he would be willing to meet with the neighbors and possibly change his plat before we decide to continue the meeting.

Alan Kruckenberg, 6782 South 1300 East, stated there were several plans submitted to Staff. You have a 30-foot right-of-way serving 4 homes, it can be considered common area and it is owned by all 4 homeowners. When that is the case, a home-owner's association needs to be created to maintain the street. In effect that creates a PUD, and Murray does not allow a PUD on properties less than 2 acres. It would become a forced PUD and that's not a good situation and planning staff agreed. Mr. Kruckenberg commented that to continue the case and meet with neighbors who just don't want the project doesn't make sense because it won't make 90 people happy. Mr. Kruckenberg stated he is intending to build 2 houses that are one level out on the street to match the character of the neighborhood, and possibly 2-level homes in the rear, but it's not yet decided. When the homes are sold they will be sold to nice people who will be happy to live in Murray and be proud to be neighbors of the people who are there now. When new homes are built in an older subdivision it brings the property values up, not down. The proposed homes will be expensive and will help the values. Many people have tried to buy a home in the area and they are not often available. This will bring in 4 new families who really want to be there.

Ms. Patterson asked for clarification about the lots being flag lots or a PUD. Mr. Kruckenberg stated it would still be flag lots even with the single shared driveway, but it can cause problems between 4 owners. Mr. Hall added that it creates the look and feel of a PUD and the shared driveway could create the need to have an HOA. Mr. McNulty stated it is like a private lane so each of the home owners would have a partial interest in it. The City does not maintain private drives and the 4 homeowners would have to figure out who maintains it. Ms. Milkavich asked if a center driveway were to be used, would the houses face each

other. Mr. Nay stated the houses could be side loaded. Mr. Kruckenberg stated with the center driveway you could still face the 2 front lots towards the street, but it creates more driveways with the shared one in the center and one for each rear house. Ms. Patterson replied that this concept is allowed and it should be considered for the benefit of the residents. Ms. Milkavich stated it's not the place for the Planning Commission to tell the developer which plan to use, only which plan is legal.

Mr. Nay stated he feels comfortable with removing the third drive and making each flag lot dependent on their own individual drives because it would be one less driveway onto the curve. Mr. McNulty then clarified that this would allow for one driveway that accesses lots 104 and 103, and another driveway that accesses lots 101 and 102 on the north and south ends of the project. Mr. Nay commented that the Code allows the proposed setbacks and if we try to make a change we would be taking a property right away from the developer. They are legally entitled to that right. There is not much we can do about the setbacks.

Ms. Milkavich asked if the discussion is still up to be continued. Mr. Markham replied that the developer spoke and indicated he does not have the desire to meet with the neighbors or change his plat. It seems he is willing but feels it won't satisfy all the people or accomplish anything. Ms. Patterson stated she agrees with Mr. Markham because the neighbors have only two plat options and they don't really want either one. Mr. Markham stated the neighbors are leery of how these houses will look and feel, but because this stage of the approval process does not require any visual images of the homes it's hard to imagine how it will look. Mr. Markham continued to say that all of the previous developments that the Kruckenbergs have done have been very nice up to this point. All we can do is fall back on what is legal and consider what the property rights of the developer are, and what grounds we may or may not have to deny this. Mr. Nay added that unless we have a legal reason to deny this request, this request is allowed. Even though Mr. Kruckenberg has indicated his intentions are to build one-story homes on the frontage there is nothing to legally make him do that, and he is allowed to build a home that is 35 feet tall.

There were suggestions that residents contact the City Council Representative, Diane Turner and Mayor Camp about future concerns.

Mr. Nay suggested modifying condition number 4 to limit the drive restriction on lots 101 and 104, to read similarly to condition number 3.

Ms. Wilson made a motion to forward a recommendation of Amended Subdivision Plat, and Preliminary and Final Flag Lot Subdivision Approval to the Mayor for the property located at 5347 South Kenwood Drive, Lot 5, with the amended condition number 4, to include a deed restriction that shall be applied to lot 104, restricting driveway access to be solely from the 20-foot required paved portion of the access easement granted to the rear lot and other conditions as noted 1-10.

Seconded by Ms. Patterson.

Call vote recorded by Mr. Hall.

 A Sue Wilson
 N Maren Patterson
 N Ned Hacker
 A Phil Markham
 N Lisa Milkavich

A Travis Nay

Motion fails 3-3.

Mr. Nay stated that he believes that if this motion moves forward tonight, the residents will have already contacted the City Council and the Mayor, and the resident's concerns will have been heard.

Mr. Markham stated he believes Murray City needs to treat people the same throughout the community. These ordinances are in place and they apply to everything in the community. Yes, Kenwood is a special place but that doesn't mean that it's any more special than anybody else's street and the ordinances apply to all of us. If there were a special historic designation that set the Kenwood neighborhood apart, we would have something to work with, but we don't have that. Mr. Markham stated he is trying to not expose the Planning Commission or Murray City to a potential law suit.

Mr. Nay stated he knows and loves the Kenwood neighborhood. This is eye opening to what is allowed in the neighborhood and encouraged residents to get involved if they want to make changes so this does not happen in the future. By attending this meeting, the residents have already started the process.

Ms. Wilson made a motion to forward a recommendation of Amended Subdivision Plat, and Preliminary and Final Flag Lot Subdivision Approval to the Mayor for the property located at 5347 South Kenwood Drive, Lot 5, with the amended condition number 4, to include a deed restriction that shall be applied to lot 104, restricting driveway access to be solely from the 20-foot required paved portion of the access easement granted to the rear lot and other conditions as noted 1-10.

Seconded by Mr. Markham

Call vote recorded by Mr. Hall.

 A Sue Wilson
 A Phil Markham
 A Maren Patterson
 A Lisa Milkavich
 N Ned Hacker
 A Travis Nay

Motion passed 5-1

Ms. Wilson made a motion to forward a recommendation of Amended Subdivision Plat, and Preliminary and Final Flag Lot Subdivision Approval to the Mayor for the property located at 5347 South Kenwood Drive, Lot 6, subject the following 10 conditions, with the amended condition number 4, to include a deed restriction that shall be applied to lot 104, restricting driveway access to be solely from the 20-foot required paved portion of the access easement granted to the rear lot and other conditions as noted 1-10.

Seconded by Mr. Markham

Call vote recorded by Mr. Hall.

 A Sue Wilson

A Phil Markham
A Maren Patterson
A Lisa Milkavich
N Ned Hacker
A Travis Nay

Motion passed 5-1.

1. The applicant shall meet all requirements of the Murray City Engineer including the following:
 - a. The applicant shall prepare a final plat meeting all City Subdivision and Flag Lot standards.
 - b. The applicant shall meet City storm drain requirements.
 - c. The applicant shall provide grading, drainage and utility plans accompanying the plat to meet City standards.
 - d. The applicant shall provide a site geotechnical study.
 - e. The applicant shall provide an easement for the existing overhead power lines and standard Public Utility Easements on all lots.
 - f. The City Engineer recommends sharing flag lot driveways to minimize curb cuts and driveways on Kenwood.
 - g. The applicant shall develop a site SWPPP and obtain a City Land Disturbance Permit prior to beginning any site demolition or grading work.
 - h. The applicant shall obtain a City Excavation Permit for work in the Kenwood Drive right-of-way.
 - i. The applicant shall assure that utility cuts in Kenwood Drive are repaired and restored to maintain the new condition.
2. The applicant shall prepare a Final Subdivision Plat which complies with all requirements of Title 16, Murray City Subdivision Ordinance and with Section 10-9a-608 of the Utah State Code for amending plats.
3. A deed restriction shall be applied to Lot 101 restricting driveway access to be solely from the 20' required paved portion of the access easement granted to the rear lot.
4. A deed restriction shall be applied to Lot 104 restricting driveway access to be solely from the 20' required paved portion of the access easement granted to the rear lot.
5. The Final Plat shall adhere to the requirements of Section 17.76.140 of the Murray City Land Use Ordinance as outlined in the staff report.
6. The subdivision shall meet all applicable Fire and Building Code standards.
7. The applicant shall provide a minimum 20' width of hard surface (asphalt or concrete) for emergency access prior to any combustible construction for both flag lots.
8. The applicant shall provide complete plans, structural calculations and soils reports stamped and signed by the appropriate design professionals at the time of submittal for building permits
9. The subdivision shall meet all Murray City Water and Sewer Division requirements, and

shall assure that no water or sewer lines shall be located beneath driveways.

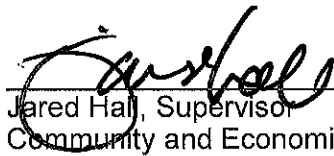
10. The applicant shall meet all Murray City Power Department requirements and provide for the relocation of the existing overhead power lines and an acceptable easement for such relocation.

OTHER BUSINESS

Mr. McNulty stated that we need to get a picture of each Planning Commissioner tonight, if possible. Mr. McNulty reminded the Commissioners that the next meeting date is scheduled on July 5th, and the Commissioners must let us know if they will be present. Mr. Nay, Ms. Wilson, Mr. Markham, Ms. Patterson, Mr. Hacker, and Ms. Milkavich indicated they would all be present unless an unforeseen issue arises.

Mr. McNulty thanked the Planning Commissioners for the hard work they do for the City.

The meeting was adjourned at 9:25 p.m.



Jared Hall, Supervisor
Community and Economic Development