

Minutes of the Planning Commission meeting held on Thursday, October 20, 2011, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Karen Daniels, Vice-Chair
Jim Harland
Sheri Van Bibber
Kurtis Aoki
Tim Tingey, Administrative Development Services Director
Chad Wilkinson, Community & Economic Development Manager
G.L. Critchfield, Deputy City Attorney
Citizen

Excused: Tim Taylor, Chairman
Jeff Evans
Ray Black

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

Karen Daniels commented that the Planning Commission members received numerous phone calls and letters from residents regarding the rezoning application of Ivory Development that is scheduled for this meeting and any discussions regarding the application should take place at this meeting and not outside of the meeting.

APPROVAL OF MINUTES

There were no minutes for approval.

CONFLICT OF INTEREST

There were no conflicts of interest for this agenda.

APPROVAL OF FINDINGS OF FACT

Jim Harland made a motion to approve the Findings of Fact for a Conditional Use Permit for Avonlea Townhomes at 639 & 643 East Vine Street, and a Conditional Use Permit for Medistar Corporation 4252 South Birkhill Blvd. Seconded by Sheri Van Bibber.

A voice vote was made. Motion passed, 4-0.

PRO AUTO, LLC – 150 West 4800 South #32 – Project #11-92

Payam Saberin was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for Conditional Use Permit for an auto sales business at unit #32. The property is located within the M-G-C zoning district. The existing building has other office/warehouse units adjoining this business use. The applicant has also applied for a license for auto sales and repair with the business license. The site is limited with the amount of available exterior parking. The information provided by the applicant shows 900 sq. ft. of office space and 2,030 sq. ft. shop space which will require 6 parking stalls for customer and employees. The site plan shows 6 exterior parking stalls assigned for this business use, including 1 disabled parking stall, and 3 customer parking stalls. The applicant stated there will be two persons working at this business use. Adequate paved and striped parking stalls shall

be provided to comply with the parking regulations, including a 16 ft. wide disabled stall with sign posted, to meet Municipal Code Chapter 17.72. Six exterior parking stalls, with signs posted, for customers and employees will need to be designated on the site and not be used for display of vehicles for sale. Due to the limited exterior parking for this business use and in order to meet the minimum parking requirements, the parking of vehicles for sale is limited to vehicles parked only inside the building. Vehicles which are being repaired shall not be parked in the exterior parking lot. Based on the information presented in this report, application materials submitted and site review, staff recommends approval subject to conditions.

Jim Harland asked if this proposal will be for auto repair in addition to auto sales.

Payam Saberin, 150 West 4800 South #32, stated he is planning to have 3-4 vehicles per month and they will also have auto mechanical repair and auto body repair in addition to auto sales. He stated they have 9 parking stalls in front of the building and they can also park 8 vehicles inside the building. Mr. Saberin stated he has reviewed the recommended staff conditions of approval but is unsure about the meaning and requirements.

Kurtis Aoki explained an example of the requirements for building codes such as auto body work may require a welder and any welding needs to be approved by the fire department to meet fire codes and safety. Mr. Saberin stated they will be doing very minimal welding and most of their repairs are on the engine. He stated they will send their vehicles to Galaxy Auto to be painted. He stated they will not exceed having 4 cars at a time for sale.

Sheri Van Bibber asked how many employees will work at this office. Mr. Saberin responded that there will be himself and another employee.

Karen Daniels commented that Mr. Saberin ought to be comfortable with the conditions of approval and if he is unclear regarding any of the conditions he should meet with city staff and work through those concerns.

No comments were made by the public.

Kurtis Aoki made a motion to grant a Conditional Use Permit for Pro Auto located at 150 West 4800 South #32, for auto sales and repair, subject to the following conditions:

1. The project shall meet all applicable building code standards including compliance to building and fire codes for auto repair.
2. The project shall meet all current fire codes.
3. All trash containers on the property shall be screened as required by Section 17.76.170.
4. Adequate parking shall be provided and striped on the site to meet parking ordinance regulations found in Chapter 17.72, including a disabled stall to meet ADA regulations. Six exterior parking stalls, with signs posted will need to be designated on the site for customers and employees and not be used for display of vehicles for sale. Due to the limited exterior parking for this business use to meet the minimum parking requirements, the parking of vehicles for sale is limited to vehicles parked only inside the building. Vehicles which are being repaired shall not be parked in the exterior parking lot.

5. Comply with all Murray Water and Sewer Department requirements including auto repair and detailing.

Seconded by Sheri Van Bibber.

Call vote recorded by Chad Wilkinson.

A _____ Kurtis Aoki

A _____ Karen Daniels

A _____ Jim Harland

A _____ Sheri Van Bibber

Motion passed, 4-0.

JEREMY SUBDIVISION #1 AMENDED – 1881 East Jeremy Drive – Project #11-93

Scott Nielsen was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for an amendment to Jeremy Subdivision. The applicant is requesting subdivision approval to amend lots 5, 6, 7 and 8 within Jeremy Subdivision to create a new .93 acre lot for construction of a new dwelling and accessory building(s). The property is located within the R-1-10 zoning district. A portion of the rear area of the previous lots #7 and #8 will be combined with the former lots #5, and #6 to the east to create the new lot #5A. Murray City Code Title 16 outlines the requirements for subdivision review. The Murray Planning Commission is required by State Code(10-9a-207) to conduct a public hearing and review all subdivisions of property within the City. The Planning Commission's role is to ensure that a proposed subdivision is consistent with established ordinances, policies and planning practices of the City. The Planning Commission acts as an advisory body to the Mayor and shall make investigations, reports and recommendation on proposed subdivisions as to their conformance to the general plan, zoning code and other pertinent documents as it deems necessary.. The plat is then forwarded to the Salt Lake County Recorder's office for review and recording. Based on the information presented in this report, application materials submitted and the site review, staff recommends the Planning Commission send a positive recommendation for subdivision approval to the Mayor subject to conditions.

Scott Nielsen, 6371 South Vintage Oak Lane, Salt Lake City, stated he has reviewed the staff recommendations and will meet those recommendations.

Karen Daniels stated this is a public hearing and opened the meeting for public comment.

Lewis Peterson, 1906 East Jeremy Drive, expressed concern with multi-units going into the area and that he is pleased that this proposal is for a single family dwelling. He asked about the accessory structures on the property. Scott Nielsen responded that the zoning is for single family dwellings and multi family units are not allowed. He stated he plans to construct a single family dwelling and a detached garage in the rear yard.

The public hearing for this agenda item was closed.

Chad Wilkinson clarified that condition #2 has been modified to state "Show utility easements on

all the lots to meet the subdivision ordinance regulations prior to recording the plat.”

Jim Harland made a motion to send a positive recommendation to the Mayor for approval of the Jeremy Subdivision #1 Amended at 1881 East Jeremy Drive subject to the following conditions:

1. Meet the requirements of the Murray City Engineer for an amended plat for recording at Salt Lake County Recorders Office.
2. Show utility easements on all of the lots to meet the subdivision ordinance regulations prior to recording the plat.
3. The project shall meet all applicable building code standards.
4. The project shall meet all current fire codes.
5. The plat will need to be recorded at Salt Lake County Recorder’s Office prior to issuance of a building permit.

Seconded by Sheri Van Bibber.

Call vote recorded by Chad Wilkinson.

- A _____ Kurtis Aoki
- A _____ Karen Daniels
- A _____ Jim Harland
- A _____ Sheri Van Bibber

Motion passed, 4-0.

IVORY DEVELOPMENT – 5786 & 5785 South Erekson Lane & 760 East Vine Street – Project #11-90

Chris Gamvroulas and Nick Mingo were the applicants present to represent this request. Chad Wilkinson reviewed the location and request for a zoning map amendment from A-1 & R-M-10 to R-1-8 for the properties addressed 5785 & 5786 S. Erekson Lane and 760 E. Vine Street. The existing A-1 zoning allows for single family residential along with uses customarily associated with agricultural properties such as keeping of various farm animals. The zone also allows public uses and quasi public uses such as schools, public parks, churches and similar uses. The existing R-M-10 zoning allows for multi family residential at a base density of seven units per acre in addition to other residential and related uses. The proposed R-1-8 zoning is a low density single family residential allowing for single family residences and associated uses, such as schools, parks, and church uses. Single family low density zonings consist of R-1-8, R-1-10 and R-1-12 zoning districts. The General Plan, which was adopted by the city in 2003, provides for flexibility in implementation and execution of the goals and policies based on individual circumstances. The requested change has been carefully considered based on characteristics of the site and surrounding area and policies of the General Plan. The General Plan specifically calls for a phasing out of the agricultural zoning and to be replaced with a single family zoning. The proposed R-1-8 zoning is consistent with the residential single family low density designation as shown on the Murray General Plan Future Land Use Map. The

surrounding zoning to the south is R-1-8 and R-M-10. The zoning to the east is R-1-12 and R-M-20. The zoning to the west is R-1-8 and A-1. The zoning to the north is also R-1-8. Based on the above findings, staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the requested zone map amendment.

Chris Gamvroulas, 978 East Woodoak Lane, stated he is representing Ivory Development for this request. Mr. Gamvroulas stated the last time he was before the planning commission was with a request to take over the Bridges on Vine P.U.D. project. There are currently only two lots remaining in that development. He explained that with this proposal there are two parcels of property currently zoned R-M-10. The parcel to the south of the creek is one of the R-M-10 zoned parcels which potentially could accommodate a five-plex, but they are proposing to have two single family homes and will be accessed by a bridge. He stated this proposal is a land use proposal and the discussion at hand is whether this is an appropriate land use. He stated this proposal is with the intention of developing a project having single family homes. They have purchased the property from Forest Baker who has an option to purchase back the 3 acre center portion of the subject as a homestead for himself. He stated the subject matter tonight is the land use and not the concept plan for the subdivision.

Mr. Gamvroulas indicated that Ivory Development held a neighborhood meeting at Murray High School on October 3rd and invited neighboring residents within 300 feet to attend. The conceptual subdivision plan was presented and input was given by the neighbors. Some of the concerns expressed at that meeting were related to access, safety issues and road patterns. Those issues do somewhat relate to the land use and whether this is an appropriate land use and whether there is an appropriate number of lots. He stated the Murray City General Plan shows a phasing out of the A-1 zoning and becoming an R-1 zoning. He stated that they have met with the city engineering department regarding access and the conceptual plan would work. He stated they have also met with the Murray Fire Department regarding the road widths and safety and will meet those standards. He stated it is the intent to complete Erektion Lane and widen it to a 50 foot right-of-way on the property that Ivory Development owns. The city street has 50 feet of right-of-way and 26 feet of asphalt to the lip of curb and sidewalk and park strip and is consistent with what their proposal will have. He stated Ivory Development did not purchase this property to farm it, but was purchased to develop into lots and to build homes on the lots. He stated that Mr. Baker did not wish to sell the property, but they are helping Mr. Baker in this endeavor and Mr. Baker may exercise his option to purchase back the central 3 acre portion of property. That 3 acre parcel is part of this rezone application. He stated that over the last 3-4 years they have taken over a few developments in Murray and made them into very attractive developments and have added value to the community. He thanked the city staff in working with them on this proposal and previous proposals. He stated this land use proposal will add value to Murray and is appropriate for the area.

Karen Daniels commented that this is a public hearing and comments should be directed to the land use zone change proposal and not to the concept subdivision plans.

Tim Simonsen, 657 East Walnut Brook Drive, indicated that he has been asked to represent a group of residents for this proposal. He stated they are not here tonight to fight the rezone, but they wish to address safety issues associated with this property in question. He stated this property has been the topic of discussion with the planning commission for a couple of decades. There have been various types of subdivisions that have been submitted such as planned unit developments, reception centers, estate lots, multi-family and single family subdivisions. This

application presented by Ivory showing 21 lots in the first phase is completely different than the last application for a private subdivision. He cited comments from a previous hearing on August 2, 2007, "The transaction involving Mr. Bradley has been under unique circumstances where Mr. Baker found someone whom shares his same interest in wanting to develop the property in a fashion that preserves its agricultural rural setting." He stated this is no longer the plan. He stated that once again the residents desire that the developers work with the residents on access points for the proposed subdivision and bring their access for the finished homes, all construction vehicles and demolition off Vine Street for the following reasons: First, there is approximately 500 feet of street frontage on Vine Street. Currently there are 88 residents using the access points off Vine Street and Erekson Lane. Ivory wishes to add 21 residences at this time for an undetermined potential if Mr. Baker were to develop the remainder of his property. Erekson Lane's access to and from Vine Street is currently inadequate and will be more inadequate with 21 plus homes. Regarding the cross section of the street, there are no sidewalks or park strips on Erekson Lane north of Walnut Brook Drive. The Ivory Development is only for a portion of that property and sidewalk and park strips will be difficult to install along the northern portion of Erekson Lane, which is property not owned by Ivory Development. There has been recent construction at the home at 5737 South Erekson Lane, and has a 6 foot high solid masonry wall installed on the corner of Vine and Erekson Lane that has created a bad blind spot for traffic. If a car stops at the corner of Erekson and Vine you cannot see around the fence onto Vine Street and to add additional traffic would only make this a worse situation. He stated Sunny Flower Lane is also a limited size street and has sidewalk only on one side of the street. Ivory's plan shows 7 homes on this same side of the street that does not have a sidewalk or park strip. Without sidewalks on both sides of Sunny Flower Lane, snow plow and safety could be an issue. For the last 23 years that he has lived on Walnut Brook, Murray City has not snow plowed the street west of 675 East.

Mr. Simonsen stated at the 2007 Planning Commission meeting they were told that the Bradley's could not enter their property through Forest Baker's remaining property on Erekson Lane because it was a "historical pioneer road". He asked why the change now? Mr. Simonsen stated there are numerous families that park along Erekson Lane and Walnut Brook and it is difficult for vehicles to drive along these roads at certain times of the day. He stated that the even the existing neighbors need to do what they can to help mitigate this issue.

Mr. Simonsen stated that construction, staging and access and contractor parking all needs to be off Vine Street only. The flowering pear trees along Walnut Brook are to the size where some of the construction trucks cannot access down the road without breaking off some of the tree limbs. The asphalt on Erekson Lane and Walnut Brook is trashed from all the construction traffic. He stated there are two existing curb cuts on the Ivory property along Vine Street. the access on Erekson to Vine Street is an inside corner with no sidewalks on the westerly side of Vine Street from 5600 South to the south portion of the Ivory property to where the sidewalk would begin. He stated they would therefore like to push that traffic further south on the ingress and egress for safety.

Mr. Simonsen requested that Ivory subdivision be self-contained and would like Ivory Development to consider ingress and egress points to be part of their frontage and not run through the existing streets. He requested that adequately size roads be constructed with sidewalks and that Ivory not be allowed to use the infrastructure completed in the past for other developments that was approved on a variance basis. He requested that Ivory Development work within permissible and fair hours and be considerate of the noise issues.

Linda Secrist, 628 East Walnut Brook Drive, stated she is opposed to the zoning request. She stated 4 years ago, the residents were put at ease because once again they were told this property will be one acre zoning. Murray has had a difficult time holding its value. She stated she is in the real estate business and understands values. The general plan may call for R-1-8 zoning, but the reality is that the property wasn't R-1-8 when the Bradley's applied for one acre zoning change in order to build their home. There were choices at that time that affected people's lives and cited an example, where she sold the Daw's home that is on a one acre parcel and the buyer inquired about this property in question. She stated that it does make a difference in what people are thinking and the city shouldn't be too quick to say that everything around this proposal is R-1-8 because the reality is that on Walnut Brook there are 9 homes with small lots and 10 homes that range from .40 acres to 3 acres. She stated that R-1-8 zoning is not necessarily the best thing for the community and people have made a lot of decisions based on larger lot sizes.

Ms. Secrist stated this proposal is premature because there is a legal option for Forest Baker to buy his property back knowing that his property is in the middle of this project. This is a significant issue because even though access is not the item of discussion at this meeting, there is no reason to take each part of this area and make it a separate community. She said that it is wrong to rezone the whole area, including the larger lots, to R-1-8 and that it is time for Murray City to get a handle on development.

Ms. Daniels asked staff to clarify the zoning related to the Bradley's home, which is still zoned A-1 Agriculture. Mr. Wilkinson stated that at that time, the application was for a subdivision and not a zone change. The A-1 zone has existed on this particular parcel for a long time. Ms. Daniels stated that everyone in this neighborhood is zoned R-1-8, and that you can have large lot sizes in this zone because the zone refers only to minimum lot size. Mr. Wilkinson agreed and said that the minimum is 8,000 square feet but that lots can certainly be larger than that. He said that there is some zoning to the west of this area that is still A-1, but R-1-8 zoning is on the north side and a higher density zone of R-M-10 is to the south.

Shawn Bradley, 606 East Sunny Flowers Lane, stated that he would like to clarify some of the zoning questions. He stated that the map displayed does not appear to be up-to-date. He said that in relation to his property, he had to file an application to have the lot zoned R-1, which is a 1-acre lot. He said that the property was previously divided into three, 1-acre lots. He built his home across one of the lot lines, so he then had the property zoned to a single, 3-acre parcel but that the zoning didn't change. Mr. Bradley said that his understanding is that the property is zoned 1-acre residential. Ms. Daniels stated that the zoning did not change, and that Mr. Bradley's property is still zoned A-1.

George Pappas, 5759 Ridgecreek Road, stated that he is in support of Ivory developing this land. He said that Ivory has done good things for the City of Murray by taking over development projects that had been abandoned. He said that it is hard to take over another builder's development and finish it so he commends Ivory for their efforts. Mr. Pappas said that Ivory is the best known home builder in Utah, and they are the best ones to develop this land. He said that the zoning request is consistent with the zones surrounding the property and that the development would enhance the value of the surrounding area.

Chris Gamvroulas stated that he wants to clarify that Mr. Baker will maintain his homestead in the center of the development, which he has a right to do because it is his property. He said that Ivory is purchasing the east portion, which is already zoned R-1-8. He said that in order to have a consistent zone throughout the entire property, they are requesting rezoning on the lower section. He said that there are two points of access to this development, which meets the requirements, and that Ereksen Lane is not the only option. Mr. Gamvroulas stated that he disagrees with suggestions to not allow access from Ereksen Lane, or not allowing access to existing utilities because these things are basic property rights. He said that these are public streets and Ivory has the right to access them and to connect into public infrastructure. He said that one portion of the property is already zoned R-M-10, which means he could build a five-plex unit but that they are proposing two single family lots in that area instead. He said that he has secured the ability to bring construction access through the other properties, and that these issues can be discussed in more detail after the rezone has been completed. Mr. Gamvroulas stated that the portion of the property already zoned R-1-8 will be developed, and in the event that there are problems rezoning the other portion then it would be presented at a later time after the other development is underway, at which time it would be an administrative review and not a legislative review. He said that Ivory strives to communicate with the neighbors and is not trying to hide their intent to develop the site.

Karen Daniels thanked Mr. Gamvroulas for answering to the issues that were presented. As Ms. Daniels prepared to close the public comment section there were comments being made from some of the citizens. She invited them to formally state their concerns for the record.

Nancy Beckstrand, 5653 South 675 East, stated that Mr. Gamvroulas is contradicting himself. She said that it is still not clear if Ivory owns the land or if Mr. Baker is buying it back. She said that driving trucks from 675 East and turning down Walnut Brook will ruin the streets because it is already cracking. She said that there are kids playing in that area, and that when she comes home from work she often has to pull to the side to let another car go by. Ms. Beckstrand says that Mr. Gamvroulas is now threatening that if the rezone isn't approved that Ivory will go ahead and do what they want to anyway. She said that the only reason they don't want to provide access off of Vine Street is so that they can sell another lot.

Tim Simonsen stated that Walnut Brook has been gated and posted with no trespassing signs for a number of years. He said that if it is a public street, then he would like Ivory to take the gates down and allow the street to be used as a public road.

Karen Daniels asked for clarification on this issue. Chad Wilkinson responded that the street will be required to be a public road. He said that the subdivision standard, which is actually not the issue being addressed tonight, states that all lots must have frontage on a public street.

Ms. Daniels closed the public hearing section of this agenda item.

Mr. Aoki stated that he understands the concerns raised about the home on the corner and the related visual and safety issues. He said that this concern should be discussed by the Transportation Committee and suggested that the Planning Commission make this recommendation. He also asked about the location of the gate on Walnut Brook.

Mr. Wilkinson responded that the gate is located at the end of the public right-of-way, and that once development starts a public street will have to be constructed.

Karen Daniels stated that she appreciates the comments from the public at this meeting. She said that if the rezone is approved, then the project has to complete subdivision review and that curbs and sidewalks will be addressed at that time.

Kurtis Aoki made a motion to forward a positive recommendation to the City Council to approve a zoning map amendment for the property at 5785 and 5786 South Erekson Lane, and 760 East Vine Street, from A-1 and R-M-10 to R-1-8. Seconded by Jim Harland.

Call vote recorded by Chad Wilkinson.

A _____ Kurtis Aoki

A _____ Karen Daniels

A _____ Jim Harland

A _____ Sheri Van Bibber

Motion passed, 4-0.

OTHER BUSINESS

Chad Wilkinson stated that he wanted to provide a brief update on some property near 1300 West and Winchester Street. He said that the property was annexed from Taylorsville, and that townhouses had been approved prior to annexation. He said that as building permits were being approved, it appears that some owners were finishing their basement and requested a frame inspection by a Murray City Inspector. He said that unfortunately there was not further zoning approval and a second kitchen ended up being approved. Mr. Wilkinson said that there has been a request from a mortgage lender, which is happening more frequently, to provide a written confirmation that this is a legal kitchen. He said that even though this was approved in error, it is not considered legal non-conforming because it never did apply with the code. He stated that staff would like to discuss this issue in more detail with the Planning Commission. He said that there was recently an ordinance adopted that allows for an accessory dwelling unit, but there have been questions lately about having a second kitchen for purposes of entertaining or having family gatherings but without building another living unit. Mr. Wilkinson said that the Code does not allow for second kitchens and states specifically that a dwelling unit consists of one cooking facility, which means a full kitchen with a stove. He said that there are other communities that do have a second kitchen ordinance, and that staff would like to study this issue in more detail to see if there is something that should be addressed in Murray's ordinance. He explained that in order for something to be considered legal non-conforming, it must have been legal at some point in the past. Jim Harland said that he recalls a circumstance when an accessory dwelling was approved just to have the second kitchen approved. Mr. Harland said that it will be difficult to monitor when someone is building a second kitchen vs. an accessory dwelling. Mr. Daniels stated that she thought this was one of the reasons behind creating the accessory dwelling ordinance. Mr. Wilkinson stated that the ADU ordinance only allows units in single family zones, and that this circumstance occurred in a townhouse which is in a multi-family zone.

Meeting adjourned.