

# Murray City Municipal Council Chambers Murray City, Utah

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**T**he Municipal Council of Murray City, Utah, met on Tuesday, the 27<sup>th</sup> day of August, 2013 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:

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

Others who attended:

Daniel Snarr,	Mayor
Jan Wells,	Chief of Staff
Jennifer Kennedy,	City Recorder
Frank Nakamura,	City Attorney
Pete Fondaco,	Police Chief
Tim Tingey,	Administrative & Development Services Director
Justin Zollinger,	Finance Director
Doug Hill,	Public Services Director
Blaine Haacke,	General Manager, Power Department
Gilbert Gonzales,	Chief Building Official
Mike Williams,	Court Administrator
Mike Terry,	Human Resources Director
Greg Bellon,	Assistant General Manager
Gil Rodriguez,	Fire Chief
Kayla Chandler,	Library
Chelsea Hoffman,	Library
Teresa McLeod,	Library
Doug Roberts,	Police Lieutenant
Janie Richardson,	ADS
Ted Ayre,	Mayoral Candidate
Blake Murdock,	Murdock Hyundai
Citizens	

### 3. OPENING CEREMONIES

3.1 Pledge of Allegiance- Lt. Doug Roberts, Murray Police Department

3.2 Approval of Minutes

5.2.1 Approval of minutes for July 9<sup>th</sup> and July 16th, 2013.

Mr. Brass asked that the minutes be taken together. No objections noted.

Mr. Stam made a motion to approve the minutes.

Mr. Shaver seconded the motion.

Voice vote taken, all “ayes.”

3.3 Special Recognition:

3.3.1 Murray City Council **Employee of the Month, Teresa McLeod**, Assistant Librarian.

Staff presentation: Kim Fong, Library Director

Mr. Hales invited Ms. McLeod and Ms. Fong to come forward. He said that Ms. McLeod’s name will be placed on the plaque in the Council Chambers. Mr. Hales is excited, as this is a great recognition and has been proven to be a wonderful thing. Mr. Hales presented Ms. McLeod with a certificate and a \$50.00 gift card to the Fashion Place Mall, and extended the Council’s appreciation to her.

Ms. Fong stated that Ms. McLeod has developed a successful on-line story time for the Murray Library’s YouTube channel called ‘Story Tube’. Using her initiative, she learned the technical skills needed for filming these stories and has involved many staff members in reading books for the project. The project also includes ‘Dragon Beat’ which is a series of interviews between community leaders and the Library’s string puppet named ‘Jalapeño’. The puppet was named by one of the youngsters who visited the library through a naming contest which Ms. McLeod initiated.

Beside the Story Tube project, Ms. McLeod conducts numerous activities for children in the Library and at neighboring schools touching the lives of hundreds of children every year. Her enthusiasm, initiative and concern for the children that visit the Murray Library make her a worthy recipient of this award. Ms. Fong congratulated Ms. McLeod.

Ms. McLeod thanked the Council and Ms. Fong for the award and said that she has the pleasure of working at such a great place. So many people say they would

love to work at the Library and she agrees that it is a wonderful place and added that she works with dedicated and supportive people.

Mr. Hales invited Ms. McLeod to introduce her family that is in attendance.

Ms. McLeod introduced her husband and sons.

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

Jerri Jensen, 404 East 6360 South, Murray, Utah

Ms. Jensen stated that she came before the Council in May, 2013 because the residents in the area were upset. They have lived there since 1957 and in that time period never had a car come into the area that didn't belong. All of a sudden they had 60-100 cars parking in their subdivision. This caused a problem; when the sweeper trucks came through, they couldn't sweep the streets. The garbage pick-up changed their hours and they didn't know what would happen when snow removal came. They got very agitated. Ms. Jensen called and found out who the property manager was at the Worker's Comp area and when she talked to him he said it wasn't his problem. Some of the other neighbors called Sutter Medical in Sacramento, California. There was a Steve Chambers there who was in charge and they tried working closely with him.

They called the police to start out with but were informed that there was nothing that they could do because those are public streets unless they are parking illegally. The residents made the City a lot of money because every time they saw someone parked illegally they would call the police. Sgt. Higgins, Mr. Tingey and Mark Boren were all very helpful in assisting the residents with the situation but they, as neighbors, starting getting on the whole situation. They harassed the people who parked there saying they don't belong there. Those people said it was a public street and they are allowed to park there. The residents told them it was a private subdivision. Finally the property manager got involved as there were three weekends when the whole property's asphalt was completely torn up and remarked and restriped. At this point, they have sufficient parking for the 500 employees in that lot. There are still a few stragglers and she spoke with Mr. Chambers who was putting out a letter under Sutter Health Physician Services letterhead that invited people to have a one-on-one with him and asking employees to take the letter to their supervisor to schedule times to meet with him. He was placing these letters on the cars that were still parking in the area. One of the neighbors took one of the letters and someone made a copy of it and they have been putting copies of the letter and placing it on the stragglers cars.

Ms. Jensen stated that it has now stopped because it has been a concerted effort with Murray City and the residents and she wanted to say thank you from all of the residents.

Mark Rosen, 495 Calinas Creek Circle, Murray, Utah

Mr. Rosen stated that the City is preoccupied with the some very important matters today and he would have preferred to wait to speak on this until the Council had more time, but their timeline is very important and they need to ask for help now. He would like to inform the Council about something that involves protecting the neighborhoods.

A court ruled that land planning and adoption of land restrictions constitutes one of the most important functions of local government. This issue affects all Murray residential neighborhoods as a drug and alcohol rehab center can be established in every residential neighborhood, every 660 feet. An application has been made to the City by Robbie Bills to open a sober living home right next to Mr. Rosen's home. They have requested a license for sixteen people plus 24 hour per day staffing at their business. The Code states that they can have four unrelated adults in a residential house. The FHA and ADA apparently states that the City must allow them to operate in a residential neighborhood and the City must make accommodations as: 1. necessary, 2. reasonable, and 3. afford the handicapped persons equal opportunity to use and enjoy housing.

The intent of the law is that the City cannot discriminate against the handicapped but at the same time, a reasonable standard must be established. That it is likely a facility for recovering addicts and alcoholics is coming to the neighborhood is not an issue. The issues are those of reasonable accommodation, necessity and opportunity. Murray's Code says that up to four unrelated adults can live in a single family dwelling. As a residential facility with persons with a disability, it is permitted regardless of the zoning unless it proves it would create a fundamental change in the character of the neighborhood. The applicant has requested that sixteen persons plus at least one 24-hour a day manager be allowed to live in the home. Although there is no explanation in the Code as to how to proceed to measure at what point in excess of zoning, you have changed the character of the neighborhood. The City must have some experience from other safety related situations to qualify this.

Mr. Rosen stated that the neighborhood feels that allowing four times the amount allowed by Code is an unreasonable accommodation and more like capitulation. It seems to some of them that not enough consideration has been given to the unique safety issues of this particular cul-de-sac. There are serious parking and traffic issues. Driving in and out of the cul-de-sac, even while just dropping off persons is a serious safety issue. The exit to Ridge Creek Road is partially blind and on a fairly steep grade. The applicant has also indicated that smoking will be permitted outside. Given the proximity of the neighboring homes, this can create a second-hand smoke issue. Garbage pickup, snow removal, increased risk for children walking to and from school, and the congestion creates potential problems for emergency vehicles. In its application, the management has stated that the problems will be inconsequential. Observation and experience in a similar house managed by this very same group in Cottonwood Heights where they presented the same thing, demonstrated that the City is justified in discounting the representations of this applicant.

After visiting the site, and taking pictures which Mr. Rosen has provided for the Council, and visiting with the neighbors next to the facilities, they usually have at least three cars parked on the street and sometimes up to nine. In addition to the six vehicles parked in the driveway and spilling out to the sidewalk, certainly the experience of the City in other situations is a means for the City to objectively determine the level of approval and that it will change the fundamental character of the neighborhood. The residents feel that this is a very serious problem. A reasonable accommodation would be more like 50% of Code, not 400% of Code. As far as necessity and opportunity, with 186 rehab facilities in Utah, the need here is questionable.

Case law shows that managers of the house bear a burden of proof in each of these three elements. Just as addicts and alcoholics have rights, the residents of the neighborhood also have rights. The City has the responsibility, according to case law, to preserve the character of neighborhoods, securing zones for family values, youth values, the blessings of quiet seclusion and clean area to make the area a sanctuary for people. Reasonable accommodation does not require accommodations that increase the benefit of a handicapped person above a non-handicapped person. As the court noted, the requirement of even handed treatment of a handicapped person does not include affirmative action by which handicapped persons would have greater opportunity than the non-handicapped persons.

They as neighbors are concerned so far that the City representatives have not contact them to learn about any health and safety concerns and that approval of the application may be imminent. How is it that the City can make a decision of reasonable accommodation and preserve the fundamental character of the neighborhood without obtaining any information from those most directly affected, or conducting a study or analysis of the specific safety factors? This forum does not allow for an exhaustive examination of all the issues surrounding the rehab house for addicts and alcoholics. They are asking that the City thoroughly examine this issue and that the request be denied or adjusted to a level that does not change the fundamental character of the neighborhood. Please help them.

Mr. Nicponski asked Mr. Rosen what handicap accommodation do they want to make that would change the nature of the neighborhood.

Mr. Rosen said that they have a house that is approximately 5,000 square feet. They want to put approximately eighteen people into the house-sixteen unrelated adults plus the full time management that has to be there 24-hours per day. To do that, they have to adjust the Code.

Mr. Nicponski asked if they are classifying the alcoholics and addicts as handicapped.

Mr. Rosen said yes. According to the American Civilities Law, the law classifies them as handicapped.

Mr. Shaver pointed out that the law makes that classification and it is not Mr. Rosen who is classifying them as handicapped.

Mr. Nicponski clarified that he is speaking of the body of Mr. Rosen's presentation where he refers to accommodations for the handicapped. What Mr. Nicponski is saying is that Mr. Rosen

is addressing alcoholics and addicts as that is the caption for a handicapped person.

Mr. Rosen said that the law states that alcoholics and addicts are handicapped and therefore fit under the same ADA requirements.

Mr. Nicponski now understands. He thought they were putting in ramps and other accommodations.

Mr. Rosen said that where normally they would only be allowed four unrelated adults in a house, they want sixteen plus the supervisors.

Mr. Hales said that sixteen adults and one or two staff certainly does seem unreasonable. He added that everyone in attendance would agree if they had this issue next to their home they would be up at the podium as well. This is something that the City needs to take very seriously. He understands that it is a protected class but he doesn't think the City should lay down and lie.

Mr. Shaver appreciates Mr. Rosen's courage in stepping forward. Obviously the City has to look at the Federal Mandates but they City will look at this and review it cautiously and carefully before they make a decision. That is the wise thing to do and that is what he intends to do.

Mr. Stam said that they are looking into the accommodations and the amount of persons so that they can see what they can or cannot do. He asked Mr. Nakamura to address this issue.

Mr. Nakamura stated that the law was correctly stated. We are obligated under the Federal Fair Housing Act, which was adopted by the State as well, to reasonable accommodation and the City will look at that. Mr. Nakamura assured them that they will look at Federal law. They will look into this and appreciates Mr. Rosen's comments.

Citizen comment closed

## 5. **CONSENT AGENDA**

5.1 None Scheduled.

## 6. **PUBLIC HEARINGS**

6.1 Public Hearing #1

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

Consider an Ordinance relating to land use; amends the General Plan from Residential Single-Family Medium Density to Commercial Retail and amends the Zoning Map from R-1-6 (Residential Single-Family Medium Density) to C-D-C

(Commercial Development Conditional) for the property located at approximately 4679 South Hanauer Street. (Murdock Hyundai)

Staff presentation: Tim Tingey, Administration & Developmental Services Director.

Mr. Tingey said that this item was brought forward to the Planning Commission on July 18, 2013. There was a Public Hearing and from that the Planning Commission forwarded a recommendation relating to this application.

Mr. Tingey said this is an application for two items; it is a General Plan amendment and also a rezone request. The General Plan is a guidance document that this City has. It is required by State law. It provides broad policy discussions and overall goal and policy recommendations that help decision makers in making decisions on land use issues. The General goes through a variety of different things; it outlines transportation issues related to the whole City, future land use and land use issues, economic development, neighborhood historic preservation, etc. There are a variety of different elements in this. It is a large planning document that is prepared and required by the State to help in the decision making process. In the General Plan, it outlines all of the properties in Murray City and what future land use should be. Whether it is to stay status quo or rezoned to another land use, but it outlines what the future land use should be. Any modifications or changes to that General Plan requires an amendment.

An amendment to the General Plan is being requested from an R-1-6 (Residential Medium Density) to C-D-C which is more of a retail or commercial type of use. The second part of this is a rezone. These two go hand in hand together.

Mr. Tingey showed a PowerPoint Presentation on the request and site. (attached) Based on the analysis of the site, back in 2006 there was a request with three properties to the north of the property for the same change. That went to the Planning Commission who recommended denial and then went to the Council who approved that change. There are properties to the north of this subject property that are part of the C-D-C zone. There is residential property around this area as well as commercial property.

What the Planning Commission looked at, as far as their recommendation, is that the General Plan supports this as staying residential. The issue is that they want to protect and preserve the residential neighborhoods. There were changes that were made in 2006 that weren't anticipated, but this specific property is maintained as residential per the General Plan. Based upon that, staff recommended denial of this request on both the rezone and the General Plan amendment. The Planning Commission also reviewed it and recommended denial as well.

Mr. Shaver said that the northern properties looked like parking from the adjacent large commercial property.

Mr. Tingey said that they are not aware of the specific proposal.

Mr. Shaver clarified saying that the properties to the north of the subject property is parking from the large commercial property and there doesn't look to be any street access.

Mr. Tingey said he believes that there is street access on the side.

Blake Murdock, Murdock Hyundai, applicant.

Mr. Murdock showed a PowerPoint presentation. He stated that Murdock Hyundai has been in Murray for about a year now and have loved it. He has asked Mr. Barr, an associate of theirs who handles all of their land acquisition and development, to speak to this matter.

Mr. Barr thanked Murray City. As they begin to get the mandate to leave South Salt Lake because they needed a new facility, there were two cities to look at. They looked at West Valley City and Murray. Clearly they wanted to be in Murray because of the Miller group. Their facility was going to be vacant and a big box facility like an auto dealership is easy to fill because there isn't a lot of franchise to fill it with. When they had the opportunity to negotiate and purchase that property from Mr. Miller, then lease it back to him for a year until they built their new facility on State, they took it. It was really a compliment to go in there and refill the automotive row that has always been so prominent here in the City.

Mr. Barr thanked Mr. Tingey and his group; when they came and met with the City and talked about what they could do and what they had, they found the City very easy to work with and appreciate that. They were looking for seven acres and there is only five. They needed seven but wanted to be in Murray so they came. Part of what they are going to show in the presentation is that there were three houses incorporated into the plot plan for the Miller Group. They were constantly after the last two pieces to close the street off and divide the retail and have a buffer zone between the retail and the very nice newer neighborhood on the other side of the street. They felt like the precedent had been set and it could be a fairly fundamental approach to get the other property should it become available. The individual living in the home passed away and the property went to probate. The children called them and they said they would absolutely purchase the home for fair market value. They had it appraised and they got it done right away.

Mr. Barr said that first and foremost, the house has already been torn down; they got the permits and they have torn it down and it is now a vacant lot with an open ditch area. Simply, what they want to do is to take the buffer zone that already exists, which is a fence, landscaping, trees, etc. and extend that over the vacant lot and incorporate that lot into 18-20 additional parking stalls. It would finish the row. The house is no longer there and the only thing that would remain on

Hanauer Street would be an 8-plex apartment building. If you look at Hanauer Street and the houses on either side, it is a very nice neighborhood. This house was an older house and is gone now. They are simply asking that the precedent that was set on the other three houses be extended to the Murdock family as extended to the Miller family so that they can try to finish off this block extending the fence line to create the nice buffer zone between the retail and the residential area. What they are planning to do is just extend what was already there so that it all looks alike.

Mr. Barr showed that along the fence line is a white closed fence that you cannot see in to the cars, all you see is the grass and fence and it makes a very nice buffer zone between the retail and a neighborhood that is rejuvenated by all of the homes on the other side that are new and nice.

Mr. Nicponski asked Mr. Barr to repeat what is going to be done with that lot.

Mr. Barr said they want to take the fence line that is there goes all the way down to the end of the property. Where the grass and trees are, they want to take what was approved by the last applicant, the Miller Group, to extend that one more house and finish off that buffer zone. The only thing that would remain would be a rather old 8-plex apartment on the corner. There would be parking that would be accessed through the east part of the property, not from the end. They also realize that with the neighbors, they too are beginning to cause some parking on the streets that they need to try and address. They need another acre of land. Yesterday, they entered into an agreement with the Murdock Family to get a holding lot that would hold 100 vehicles on Redwood Road to try to relieve some of the congestion that they have and some of the issues that the neighbors, rightfully so, have about some of the employee cars being parked on the street. They need to try to get that inside of their property.

Mr. Nicponski asked to read an email from the Goodsell's, who are looking to do something with their property as well.

Mr. Brass said we would get to that in a minute.

Mr. Shaver asked if all that the Murdock's are interested in is that one property.

Mr. Barr said that the Goodsell's had contacted the Murdock Family about a year ago and were accorded by the Miller Group when it was the Honda dealership and if they ever decided to sell, to do so. When the Murdock Family came on, someone approached them and the Murdock's asked them to please allow them to buy the property if it ever came up for sale as it would buffer the entire street off. They have approached them and they had some talks and their interest level at this point would be if it were at fair market value then it would be considered but there have been no discussions as far as negotiations or anything of that nature at this time.

Mr. Shaver asked if it would be their intent to purchase the property should it be fair market value and then make the buffer zone go the whole of the street.

Mr. Barr said they would certainly like to.

Mr. Shaver asked Mr. Tingey what the reason was for the denial from the Planning Commission.

Mr. Tingey stated that the main reason was that the General Plan shows the future use of this property as residential as well as protecting and preserving that Box Elder neighborhood. With those additional properties that were rezoned a few years ago, it changes some of that but that was the main reason. They want to continue to protect that residential neighborhood and having those uses there.

Mr. Shaver asked if Mr. Tingey recalls when they did the changes on the northern properties.

Mr. Tingey believes that it was in 2006.

Public Hearing opened for public comment.

Mr. Brass asked Mr. Nicponski if he would like to read an email from Brad Goodsell.

Mr. Nicponski said no, he had a question pertaining to something in the email.

Mr. Brass stated the Council had received an email from Mr. Goodsell which will be entered into the records. (attached.)

Neil Fortie, 4682 S. Hanauer Street, Murray, Utah

Mr. Fortie stated that he lives directly west of this property on 4682 South. They have spoken to the neighborhood and nobody is against this becoming commercial property. They have already made one section a parking lot anyway. He would like to see them go through with this because the activity that goes on there would be better and it would be good to close it off. A couple of concerns that he does have though is that he would like to see it remain as the same agreement that they made with the Miller Group. There is no business going through the Hanauer side and that the transports do not go down there and unload. That has happened a couple of times and he has spoken to Mr. Murdock about that. Another problem is the parking. They have the whole street taken up and he doesn't know what they are going to do in the winter time because the neighbors will complain if they cannot get the street plowed. One of the people was plowing the snow back into the street once Murray plowed the road up to the

curb. That is their main problem but as long as Murdock keeps up the landscape and such their whole neighborhood is behind them and has no objection to it.

Mr. Shaver asked Mr. Fortie who he means when he says 'they' are parking on the street.

Mr. Fortie said that where the old house was, Murdock made that into a temporary parking lot and they are still parking on the street. Today there were 14 cars in the parking lot and 19 on the street.

Mr. Nicponski asked if Mr. Fortie sees this as something that would absorb the street congestion.

Mr. Fortie said that he doesn't know as the parking lot is already filled now. He wants to know what they are going to do in the wintertime. They are parking in front of the homes, the mail people complain because they can't get to the mail boxes and he himself cannot park next to his curb because of the cars.

Mr. Brass said that in clarification, the Goodsell email does say that they agreed to support the Murdock application if Murdock would support them in having those two properties rezoned. Murdock, at that time, declined and so for that reason the Goodsell's are opposing the application. Mr. Brass feels that if something was worked out on the two properties that would change also.

Mr. Shaver said that the issue tonight deals with only the one property.

Mayor Snarr stated that he feels like he was the instigator in this back in 2005. He met with Jeff Wilkinson who is the current manager of the Larry H. Miller Honda dealership and they had a discussion about their need for additional space. Mayor Snarr knew that a couple of the houses there were rental houses and he had been down there on some code enforcement issues. He met with a lady in the middle house who was very poor; she obviously didn't have the means, was living on a fixed income and to maintain her property was difficult. It needed to have some work done. Fortunately, she was able to have some roof work done on the house. Mayor Snarr looked at this and he understands that it is a sensitive issue. He has been through this for years, but in the end, he went to Mr. Wilkinson and to the Millers and said 'can we enhance the street. He would like to see a landscape buffer put in that would be maintained by the owners of the property (Miller Group) and some shade trees be put in along the property line.' He also suggested that instead of a chain link fence, that a vinyl fence be put in. They agreed to do that.

As a Council, the Mayor feels that it is important for them to realize that in the long run, he feels that it would enhance the neighborhood and bring the property values up as well as eliminate some of the issues of deterioration of the houses and the problems of absentee landlords. In this case, people were very supportive

of doing this because it made a significant improvement to the neighborhood. It helped to overcome some of the challenges that were really hurting the property values along Hanauer Street. Originally the Mayor was hopeful that the rezone would go down to Miller Street. That is what the originally wanted to do but there were some push-backs but he honestly believes in his heart that he knows that you can take down a house and park on there and you cannot deny them the right to park on the property that they own. He believes that the ultimate solution is that if people who own the 8-plex are reasonable, the property should be rezoned all the way down to Miller Street. That would clean up the area and create a nice buffer that is well maintained and well landscaped on the east side of Hanauer Street from there down to the end. That area is all commercial that wraps around Hanauer Street; there is a new residential subdivision that has gone in and the developer of that property says that this has made his property more saleable although he does have a few lots left.

The Mayor reiterated that he supports this and will support other things that he feels are in the best interest of the City in the long run and make the future of our City a great city to live in and clean up the areas that have some challenges. He always supports the businesses here and will be the first to admit that he always tries to find out what they can do to make it a win-win situation.

Public comment closed.

Mr. Nicponski stated that he would really like to see that area cleaned up. He hopes that did not misunderstand Mr. Fortie when he spoke of cleaning up the area. If the Murdock Group accomplishes that and then they move down further to Miller Street and take out that 8-plex, he feels that Hanauer Street would be better. He just can't see any housing going in there that is just not going to happen so this would be the next best thing.

Mr. Nakamura wanted to make sure that it is clear that tonight's Resolution is on a land use issue only. There has been discussion on other issues and what Murdock is going to do, but he wants to make sure that everyone understands that tonight's decision is on whether or not this is an appropriate land use change, that the commercial is a better land use that is consistent with the surrounding areas. He wants to be sure that they are articulating that tonight and they are not here to make sure it is done a specific way or that Murdock is here to agree to do things a certain way. This is only to decide whether or not to change this zone to a commercial use.

Mr. Stam asked Mr. Brass what he remembered about the other three properties when they were rezoned. It sounded like the change was against the General Plan at that time as well and asked if he remembers anything beyond what the Mayor said about the rezoning.

Mr. Brass said that in this case the Mayor spoke properly. That section of Hanauer Street was completely different at the time with most of the homes being built after the decision was made. We had major support from the neighborhood for the zone change at that time and as they are soon to find out, that is unusual sometimes. As he recalls, that is why that decision was made. It solved a problem. If Mr. Brass' memory serves, they had several drug houses down in that area that disappeared and it made a difference to the area.

6.1.2 Council consideration of the above matter.

Mr. Nicponski made a motion to adopt the Ordinance.  
Mr. Shaver 2<sup>nd</sup> the motion.

Call vote recorded by Jennifer Kennedy.

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

Motion passed 5-0

6.2 Public Hearing #2

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

Consider an Ordinance relating to land use; amends the Zoning Map for the properties located at approximately 703, 709, and 753 East Winchester Street, Murray City, Utah from R-1-8 (Single-Family Low Density Residential District) to R-N-B (Residential Neighborhood Business District) (Steven Feder, Roger Knight, Ned & Carolyn Walker, Estate of Edward Collett & Mildred Page Collett Living Trust, Ralph & Elaine McDonald Trust.)

Staff presentation: Tim Tingey, Administration & Developmental Services Director.

Mr. Tingey showed a PowerPoint presentation. (Attached) He stated that this agenda item considered by the Planning Commission on July 18th, 2013. He said that all of the information from that meeting was forwarded on to the Council and included the detailed minutes from that meeting. The comments that were made at that meeting by each individual at that meeting were included in the information that was sent to the City Council. There are a number of letters, emails, etc. that were sent as well as the application.

They had public notices as required by State Law that they conducted for that Planning Commission meeting as well as for this meeting. All of that information has been provided to the City Council for the public's information.

Mr. Tingey stated that this proposal is a little bit different from the last proposal. This proposal is not a General Plan amendment. It is simply a rezone. The Council has the opportunity to maintain the status quo of the existing zoning or to approve the proposed change in zoning. It is not a consideration of the General Plan but he does want to state that with the General Plan, as he mentioned previously, there was a lot of discussion about this area, about 720 East, about Winchester, and the transportation side of things. All of the land uses were considered and evaluated in that process and the future land use that was recommended as part of the General Plan is that this is to go to a Residential Neighborhood Business use. That is what the General Plan stated and that is why they are not considering an amendment to the General Plan as this is what it indicates this is going to as future land use.

Mr. Tingey said that the information that he wants to talk about, and Mr. Nakamura mentioned it also, is that this is simply a rezone discussion. It is changing a zone from R-1-8 (Single Family Residential) to Residential Neighborhood Business. It is important to understand what the implications are for that rezone. There is no consideration of a specific proposal; the proposal on this property, if it is rezoned, could go to a variety of uses including single-family, duplex or commercial. There are a variety of things that can happen. Tonight, one way or another on the decision doesn't mean that any specific proposal that has been looked at would be considered on that site. That would be a separate discussion and it may not even be the proposal that some have seen. He wanted to make sure that everyone understands that this is a rezone. Simply, is there merit in changing the zone from Residential Single-Family to a Residential Neighborhood Business zone.

Mr. Tingey explained what a Residential Neighborhood Business is. Single-Family zone allows for low-density single-family homes and a variety of other accessory type uses that are obviously applicable to a residential neighborhood. In a Residential Neighborhood Business zone the purpose and intent of this is to provide a variety of mixed use, low scale, low intensity residential commercial office and business operations. The zone should share, as stated in the code, the design characteristics of a residential neighborhood and should be evaluated based upon those things. In addition to that, it is to be a buffer zone. Mr. Tingey showed the site on the PowerPoint, that there is an R-N-B zone in close proximity to the proposed zone change site. The General Plan states that it can be changed to R-N-B or be maintained as R-1-8. The Residential Neighborhood Business purpose is also to be a buffer zone; a zone that buffers a neighborhood or provides a buffer to an arterial street. This is a high-intense, arterial street with several lanes that connects neighborhoods to other neighborhoods and there is a lot of traffic in this area. The purpose is to have that low-intensity type zone as a buffer.

How is it buffered? They types of uses that can be utilized in an R-N-B zone can be a single-family, there can be two-family dwellings, types of businesses that can be low-intensity commercial uses like travel agents, florists, optical goods, office, insurance carriers, etc. These are the types of uses that can be in that area. You can also have conditional uses that include bed and breakfast, antique shops, book stores, gift shops and boutiques. Those are just examples of the types of uses. Related to how it can be a buffer and the intensity can be limited, the hours of operation of businesses are limited from 7:00 a.m. to 10:00 p.m., lighting is also limited and must be shut off at certain hours after the business is done with operations, there are intense set-back requirements: 20' set-back requirements on the rear and on the front adjacent to streets has to be that as well as an 8' set-back. There are more intense set-backs and buffer requirements. Landscape is required and a retaining wall is required adjacent to a residential area.

Mr. Hales asked if days of the week have requirements as well as hours of operation.

Mr. Tingey said that no days of the week are set as a requirement, only that they can operate between 7:00 a.m. and 10:00 p.m. In addition, there are fencing requirements that are a big issue. Currently, in residential single-family homes, they allow a building to be 35'; in this zone, it is the lowest height restriction in an R-N-B zone and that is 20' with an additional 10' which is still lower than a residential home. The maximum is 30' which is less than a single-family home. There has to be design considerations, so the building has to have design characteristics that fit into the neighborhood. The parking and landscaping also have to fit into a neighborhood. That doesn't mean it has to look like a neighborhood, but there has to be some consideration for that. It is commercial and is developed like that but there are those considerations. All of this helps to enhance that opportunity for a buffer zone for low-intensity uses and will not really negatively impact the residential neighborhood.

The City has had several examples of this where the Council approved the rezone on in the past several months over on 900 East where the development has been done. Mr. Tingey wanted to make sure that everyone understands what this zone is about because that is what is being considered here tonight. Nothing else is being considered but the rezone of this property.

The Planning Commission considered this and they had some concerns that were brought up by citizens, related to the intersection and traffic as well as some other issues and the Planning Commission provided a recommendation of denial for the application. The recommendation was not unanimous; there were several who had concerns-all but one. One voted against what was stated because he felt that it needed to be rezoned. Mr. Tingey stated that staff recommended approval because they felt that this zone is appropriate for this site, it is an appropriate buffer for this residential neighborhood with all of the limitations that are provided in this zone. There is the buffer, the low-intensity and the impacts on the

neighborhood are felt to be minimal. Based on that, Mr. Tingey is forwarding two recommendations to the Council: the Planning Commission recommended denial and he wants to make sure they understand that staff recommended approval.

Mr. Stam asked if Mr. Tingey would read the Planning Commission meeting motion and what they denied. He feels that they didn't want to deny it as much as they wanted further discussion.

Mr. Tingey said that they did talk about further discussions at that meeting. He read the motion from the minutes: *Mr. Woodbury made a recommendation of denial to this application and forwarded it to the City Council with the suggestion that there be further discussion and input from the citizens for a couple of months. Mr. Markham seconded the motion. Mr. Woodbury clarified his motion that the recommendation that the recommendation be a negative recommendation with a suggestion that there be further discussion amongst the residents. Mr. Taylor commented that his experience over the years, whether.....*

Mr. Tingey added that there was also input later on, where Mr. Woodbury commented on the passion of the citizens and the meeting and believes that the issue deserves further discussion. He also feels that the intersection issue should be further discussed and resolved. These were the things that were involved in the motion.

Mr. Shaver asked Mr. Tingey to again address the defining characteristics. It is specifically stated in the R-N-B as to what the design characteristics are. He feels that he needs a little more clarification. This particular neighborhood is surrounded by General Office and businesses. Right now, Labrum dead-ends against a business that is where that circle ends. When you look down at Silver Shadows, a part of that is right against a C-D-C and right up against a business. When you talk about the characteristics of a design, he would like to know a little bit more about exactly what that means.

Mr. Tingey said that in the Code, these are some of the design considerations: *provide on-site improvements and appropriate buffering to adjacent properties and uses. That includes landscaping type of elements. The development shall have residential character defined by appropriate density, mass, building materials, texture, style and roof lines. Generally, roofs shall be of gable construction to provide a residential feel. Flat and mansard will not be allowed in this zone except by conditional use approval.*

Mr. Shaver asked Mr. Tingey to repeat that last sentence.

Mr. Tingey repeated: *Flat and mansard will not be allowed in this zone except by conditional use approval.*

Mr. Shaver said that they are talking about florists, travel agencies, etc. As a

business, the gabling, and the roof lines would look similar to what a typical home would look like with an A-frame type of appearance. Is that correct?

Mr. Tingey stated that is correct. Some of the other properties that they have seen on 900 East have the gable roofing elements. There are other elements as well. He said that there was something that he needed to mention related to this. Every commercial project in this area requires a conditional use permit. It is not just some, but every new commercial project requires a conditional use permit and they have to come back to the Planning Commission and address those design characteristics and the buffering elements as well.

Mr. Shaver said that the City can be held accountable for what design they create.

Mr. Brass asked what some of the conditions are.

Mr. Tingey said that conditions that can be placed are things such as landscaping including trees, elements relating to parking, design characteristics of the building has to be considered, etc. Those are the types of conditions that have to be looked at as well as any other intersection or traffic type of issues. It is likely that a traffic study would have to be included with a conditional use application or approval.

Mr. Shaver asked about "texture". Would that apply to what the texture on the outside of the building looks like?

Mr. Tingey said it would.

Mr. Shaver said that he knows that they are not discussing what the design characteristic would be but he knows that there are a lot of those who have expressed opinion through both phone calls and emails about what actual structure would go on that site. He knows that they are only addressing one site but it still weighs heavy as to what exactly would be there, knowing that the City would say that they have to come before the City and have very specific requirements for whatever the property is used for in that R-N-B. A general office building that is glass and steel with a flat roof is not something that would fit in this area.

Mr. Tingey said that is correct. In fact, it also talks about presenting building materials, colors, elevations, and buffering schemes for the Planning Commission approval. Bright colors will not be allowed on structures or signs, color shades shall blend in to the neighborhood and unify the development. Those are the kinds of elements that the Planning Commission would look at.

Mr. Stam asked if Mr. Tingey had a copy of the General Plan that shows the future zoning of this street.

Mr. Tingey said he did. He showed, via the PowerPoint, that the General Plan outlines it as a Residential Neighborhood Business in its future use. It is all dependent upon individual applications, people who have residential homes on the sites, etc. They do not have to go to the R-N-B zoning, but they can per the General Plan.

Steven Fedder, Representative for the buyers and developers of the three properties.

Mr. Fedder stated that Roger Knight, developer, and two of the architects from KHG Architecture are present tonight and can answer questions. Mr. Fedder said that they are here to request the rezoning of these three parcels to the R-N-B zone as contemplated by the master General Plan and approved by Council ten years ago. They intend to stay within all of the parameters specified within the R-N-B zone and the requirements within the design guidelines. Their contemplated use of this they deem to be about as soft a use as they could possibly have between the heavy commercial office use on the south and the residential neighborhood to the north.

Although they are specifically discussing zoning tonight, they will discuss some of the thoughts that will go into the design and use of the land as the neighbors have expressed concern with regard to those items.

Mr. Shaver interjected, saying that he understands that Mr. Fedder feels that is really necessary to do, but he recommends that Mr. Fedder address that in the slightest way possible as this is what becomes the heated discussion and they would like to avoid that as this is only on the zone change.

Mr. Fedder stated that they are looking to build a two-level office building within the 30' height restrictions and pushing it as far to the south as possible, away from the residential neighborhood as the code will allow them to. They also have listened to the residents at the Commission hearing and have changed the design of the proposed site plan that they are required to present as part of the application. They have completely eliminated any access from 725 and there will be no ingress or egress on 725. They understand the concern of the neighbors and that is fine with them. All ingress/egress will be at the far east end of the parcel onto Winchester Street only and as far away from the intersection as possible. There will be nothing on 725. With a contemplated office use, the concern of the neighbors on the hours going until 10:00 p.m. seven days a week, an office building eliminates that issue. Most offices are open typically no later than 6:00 p.m. and the evenings and weekends are quiet. You will not have retail trade coming and going all day. Retail could be permitted under the R-N-B zone, which would be a much more commercial use than a professional office building. It is anticipated that there will only be 2 users, one to occupy the upper floor and another on the lower floor. It would not be heavily trafficked. Their intended use of the building falls within the guidelines of the R-N-B zone.

Mr. Feder said that there were comments made at the Commission meeting with regards to the office building. Their parcel is about 38% more in land mass than the Make-A-Wish property that was approved a few years ago by the Council and yet their proposed footprint of the proposed building is smaller than the Make-A-Wish building. Greater land mass but smaller footprint. In understanding what Mr. Tingey had said about all the requirements of the R-N-B zone, they understand these; they will have a masonry wall as required and not a vinyl fence, it will be heavily landscaped all along that wall with substantial sized trees that will screen the property from the residential properties as much as they possibly can with additional screening above the height of the wall itself. They are pushing the building as far south as they possibly can by Code restrictions. It will be heavily and beautifully landscaped along 725 and along Winchester. They feel that this will be an enhancement to the neighborhood beyond what is there now with professional landscaping and maintenance and that it will be a very attractive, complimentary soft approach from the transition of the heavy commercial to the south to the residential to the north. It is the least intrusive construction in development that they could possibly contemplate in the R-N-B zone.

Mr. Feder said that they are being as considerate as they can of the peoples neighborhoods surrounding the property. They ask for the Council's support and to follow what was adopted by the Council ten years ago establishing the General Plan that a smooth transition should occur between the heavily trafficked corridor of Winchester Street and the residential area to the north.

Mr. Stam said that some of the concerns that he has heard from people is the size of the building. Granted, it doesn't have a large height but it does have a fairly wide footprint. Has there been any considerations to breaking the building in two?

Mr. Feder said that it is really hard to break it into two with all of the parking requirements and the one ingress/egress. It also becomes cost prohibitive. The footprint will be smaller than the Make-A-Wish and although they aren't supposed to be talking about designs, the design that is contemplated will be a very attractive design enhancing the neighborhood. The materials that are going to be used are absolutely top grade materials which are very high-end.

Mr. Stam said that he had heard that a week or so ago, that Mr. Feder had tried to hold a meeting with the residents to address this issue a little more, and he was told that meeting never took place.

Mr. Feder said that was correct. One of the neighbors was very kind in offering their property to hold a neighborhood gathering; he had requested it and thought it would be beneficial to reach out. They were doing a lot of one-on-one but the memos were going around and they thought it would be much better to address the questions that were being raised and dispel all of the misconceptions that were being passed around. He received a call the morning of the day that they had

anticipated the meeting to be on, from the neighbor who was helping host this meeting and he advised him that a lot of the people that he spoke to would refuse to come to the meeting and if they did come it wouldn't be with an open mind. He recommended that they not hold the meeting and also withdrew his offer as the location for holding the meeting. In lieu of that what he did was type up a memo addressing what they had learned were the major concerns raised by the neighbors.

Mr. Stam said that he only wanted to clarify that Mr. Feder had tried to hold a meeting and a discussion with the neighbors.

Public Hearing opened for public comment.

Michael Fisher, 740 East Labrum Ave., Murray, Utah

Mr. Fisher stated that his property is adjacent to the McDonald property. He said that the McDonalds and the Collettes are the salt of the earth and the finest people you would ever want to meet. He is sorry that they are gone, they will be missed. That being said, he wanted to address the comment Mr. Feder made regarding holding a meeting. The meeting should have been held long before the Planning Commission ever reviewed this project. That is when the meeting should have been held, not after it was denied and four or five days before this meeting. The fact of the matter is, they can do whatever they want to do but Mr. McDonald had at least two offers to purchase his property and remodel the home to do a residential business. That is what a residential business is and not a commercial office building of 18,000 square feet with 75 parking stalls. That is what a residential office should be. Mr. Fisher told Mr. McDonald that they would certainly like to look at it and work with him on that. The bottom line is that this is not a residential business being proposed, it is a commercial office building. The Planning Commission was responsible in their findings, they did their homework and he would suggest that the Council be responsible and uphold their decision.

Brent McDonald, 539 North 1160 East, Layton, Utah

Mr. McDonald said that in addressing Mr. Fisher's comments regarding getting offers on their property, they have not. They have had their property up for sale for over three years and this is the first offer that they have had and felt good about. Mr. McDonald stated that the things that Mr. Feder has proposed are good and beneficial. In looking at the properties in question, when he grew up on that street it was all residential homes. Now they are down to three homes on that section and their parents are all gone. The homes are deteriorating and they don't have the money to fix them up. The traffic trying to get in and out is horrible and he believes they would all agree with him if they lived there. That whole street from 900 East to 725 is all some type of business except for these three little

properties that is approximately 350 feet and that is all they are talking about. He feels that it is important that the City accept the proposal and changes it to business residential.

Norman Nielsen, 5451 Quaking Aspen Dr., Murray, Utah

Mr. Nielsen said that he spent eight years on the City Council and has been there and done what the Council is doing tonight. His grandson owns the property at 736 Labrum and as you look at the map, his house is ten feet from the commercial property or the rezone. As much as they want to say otherwise, it will be a commercial property. Having a home ten feet from this zone is going to affect that property negatively. He understands that Mr. Hansen has tried to talk to the real estate people who have the property under contract by 30 feet so that it would be ten feet from the property, but as far as he knows he has had no luck in talking to them. He understands that this is a zoning hearing. He has been through a few of them in his life and they can't talk about the alleged development but it is very important. They said that the building will be 30 feet. That is to the gables, not to the top of the roof. The footprint that he has seen would look down into the houses on Labrum Avenue. They would have the windows on the north side and they would see the houses, which is not a good thing to have happen.

Mr. Nielsen stated that he was at the candidates meeting with the Mayoral candidates and Council people. One of the issues that came up at that time was to revitalize downtown Murray. What is happening, if he can make a comment, is when you take the zoning and look at all of the C-D-C, all of the C-D-C that you have in Murray will make it very hard to revitalize downtown Murray because it is easier to buy the property someplace else and put your business there. To paraphrase, what he sees going on with Murray now would be commercial sprawl, sprawl meaning something that is not organized, not proper. You will never revitalize downtown Murray if property like this is available. It is much easier to do this and they won't go downtown. We will have all sorts of problems. Another issue is the fencing. A six foot fence is nothing; if you have a parking lot, most kids can scale a six foot fence and he would recommend that the City think about their fencing ordinance as well. He thinks that the Council should follow the Planning Commission's recommendation and deny this zone and consider these things he spoke about.

Ned Walker, 725 East Winchester St., Murray, Utah

Mr. Walker said that the homes that are currently there are old and run down, especially the one he owns at 703 E. Winchester. The zoning for everything east of McDonalds has already been zoned commercial. The only people who would be willing to purchase these homes would do so on the pretense of having the property rezoned to Residential Neighborhood Business. They have had the properties up for sale for approximately three and a half years. The home was built in 1941 and is a burden to maintain as a rental. He is 70 years old and would

like to sell the property so that he can enjoy his inheritance from this property, rather than spend his time and money maintaining this old home. They have finally had an offer for all three properties on the stipulation that the zoning be changed to R-N-B. This is their inheritance and they want to sell.

Colleen Fisher, 740 East Labrum Ave., Murray, Utah

Ms. Fisher said she has lived there for almost 36 years. They moved in to raise their family and they love Murray. She still does and she knows that the Council does too. When they moved into their home, in 1977 they were that the General Plan stated that the properties on the north side of Winchester would stay residential and they would be the buffer. They bought their house under the assumption that that would be the buffer-residential on the north side and commercial on the south side. In regards to this meeting, when the zone came for Make-A-Wish, Mr. Ivory came and had a meeting before the Commission meeting showing every one of the neighbors the plan for the building. During the process, Ivory knocked on their door at least twice and showed her what the plans were going to be, what the landscape was going to look like and even asked them what they thought about the lamps so that the light wouldn't be an issue. They don't even live that close to the location but he had the courage, the fortitude to actually see how they felt about that.

The next property at 759 was rezoned three years ago. In her zoning letter the applicant had drawn a picture of the house, showed the parking spaces and that is the letter Ms. Fisher got when she went to the zoning meeting. She showed them what it was going to be and they had no problem with that. The property next to her is an R-1-8 next to 759. That is erroneous information-there is a residential property on the east side of 753 and there is residential property behind and also to the west. She knows that they aren't allowed to talk about buildings but it is very difficult to put the zoning out there and not talk about the building. She sees that he has his plans right there and shows his little building. She stands to lose every bit of privacy that she has at her house. She asked someone to address the elevation of how much the land goes up. From her house to Winchester there is a hill. She has called Mike Pfeiffer 20 times to try to get an altimeter to get the elevation.

Mr. Shaver interrupted Ms. Fisher and asked her to address only the Council.

Ms. Fisher said that she would love to have the Council look at that and see what the elevation is. A 30 foot building would probably be at least 35 feet and she would have to have blinds because of that building. You cannot tell her that in this day and age, strangers in your backyard that can look in on every aspect of your life, watching your grandkids playing in the sandbox, is a good thing for Murray to do and she would ask the Council upholds the decision of the Planning Commission.

Sergey Krasovskiy, 739 East Labrum Ave., Murray, Utah

Mr. Krasovskiy said that everyone here understands the situation about the money. The people who bought the properties on Winchester Street many years ago probably paid a little less than other people around because they are on a busy street and they made the decision then to be there and build their houses there and live there. He has been in business many years and knows you can sell anything if it is the right price. The people who want to sell the property now want to sell them, not for a price that people can pay but rather for the price they want to get. This is the problem. They want to do it for our cost; they want our properties to become diminished so that they can rezone it. All of the people who spoke before him who are trying to make this happen are trying to convince the others that they need this buffer, that it would be good for them. It doesn't matter that the people are saying that they don't need it or that they are good without the buffer. These houses were good. It was good before and they still can build residential properties there, just sell it for the right price to the right people with the right architectural design. It is not fair to them to try to get the money they want.

He has known Ms. Fisher and been her neighbor for fifteen years. She is a great lady and has never seen her upset in all that time. Now she is here and crying because she needs to go through this situation because some people want to make more money. It is unfair. The people who want to make this happen should be ashamed.

Jeff Squires, 687 East Winchester Street, Murray, Utah

Mr. Squires stated that he has a different look on this than some of his neighbors. He feels that what they are proposing is a pretty good proposal and that they would be a good neighbor. He works in an office building and they are gone at night and at the weekend and would probably be a better neighbor than some apartments that could go in there or other heavy commercial use. He feels that this would be a good compromise. The only problem that he has with this is the building height and would like to know if they could keep this down to a one-story building. He feels that two stories is too tall and as Ms. Fisher said, the elevation that is planned is taller and slopes off to the north. Even a two-story building will look like a three-story building from Labrum Avenue. If there was a way to make that a one-story building he would be supportive of that. He feels that keeping the access off of 725 is good and he feels that they would be a good neighbor. He doesn't know if a one-story is doable, but if there was a way, that would be great. He works in a one-story old building and maybe in 1960 they could make a profit from a one-story building.

Bruce Pyper, 595 Wilford Ave., Murray, Utah

Mr. Pyper stated that he is a little bit removed from the immediate site but he is one of those people who looked seriously at buying the McDonald property about a year ago. He put a great deal of effort in and invested some money into researching whether or not that would work for him. He is a dentist and wanted to put his dental practice there. He felt that it would be a high exposure area and a good place for him to build his practice. They looked at what it would take to change that from its current residential to a commercial condition and for him to be able to do that, honestly he would have been better off to tear it down and start from the ground up. It was so cost prohibitive to go in and earthquake proof the building, to change all of the trusses and do everything that the building would have required of him. He still looked at seriously until he found out what was required of him as the landowner to meet the requirements for R-N-B and that was too much money for his budget. Putting in a block wall, to put in ten feet of landscaping with mature trees, etc. that all went out of his budget and he had to look at other opportunities.

Interestingly enough, the opportunity that he found was from the same developer who is doing this project. In this project that he is currently in, it has been there for about seven years and it is immaculately built. It is built with fine materials, it has been built to last and it has been built to look nice. From his perspective, he feels that the proposal is a good thing to do. As he looks up and down Winchester Street it seems almost obvious to him that the whole thing is shifting to a commercial kind of application. He looked at the possibility too of renting a portion of that property to a family with small children. As he considered that and spent some time back and forth on the property it really worried him about having those little kids there with four lanes of traffic going like crazy just a few feet away. He personally would not want to live in that condition, he would rather feel safer and away from the traffic at his home. It would not be a place he would consider for his home. Mr. Pyper said that he would be in favor of changing that zone to an R-N-B.

Mike Squires, 1211 East 6600 South, Murray, Utah

Mr. Squires stated that he grew up at the home on Winchester Street and was born and raised here in Murray. He absolutely loves this City. He was a Murray Spartan, a Murray City Police Cadet and even learned Mayor Snarr's obnoxious City poem. He makes every purchase possible in Murray and has so much pride in this community. For those reasons, he really wants to move back here. He knows that this is a difficult topic and sometimes he is glad that he probably never will run for office. He wanted to bring up some points that he has thought a lot about. A blank field, an empty and degraded home is perhaps worse than a property and something that could potentially beautify an area, but he would just ask that laws affect people and these ordinances and zoning affect people. That is why he gets involved with these campaigns and such. It is important to remember that these

things affect people and he would ask the Council to go home and look at their neighborhoods and see what commercial developments could come into their neighborhood. He said that to his knowledge most Councilmembers, including the Mayor, live in a rather quiet, quaint and really beautiful neighborhood. He knows that to a certain extent what has been said is true, they choose where they live. He grew up accepting that freeway noise was normal or that he had to wait ten minutes to get out of his driveway in the morning. He had to run down 725 for cross-country practice too. He is concerned about the long-term effect that this will have and agrees with the Zoning Commission that this should at least be postponed. He worked for the Utah County Relators Association and is not making this effort to come down on private rights. He would ask that they consider this further and ask themselves if this were their neighborhood what would their decision be.

Mr. Brass noted that Mr. Squires worked on his campaign for Mayor and though they had a working relationship, it will not affect his opinion. He wanted to state that for the record.

Mr. Hales added that Mr. Squires had also helped him in his campaign for Council as well, although that was some time ago.

Kristen Fisher, 802 East Silver Shadows Drive, Murray, Utah

Ms. Fisher stated that she has spent a lot of her own time studying anything that she can find in relationship to this zone change. She has read through the Planning and Zoning meetings, the Council meetings and has tried her best to understand the Murray City Code relating to the R-N-B zone. She has visited the Murray City Planning Department and talked to them about the process in which you obtain a permit. She does understand that you have to submit a plan in order to apply for a zone change. She does not believe it is fair for the City to say that they cannot talk about the plan for the property since the plan has to be submitted in order for the zone change to even come about.

Ms. Fisher has also gone to every property in Murray that is currently zoned R-N-B and has looked at all of those properties. She has also read the code and wants to read from the Purpose and Provisions section of that code for residential neighborhood businesses. *Properties should be low scale in intensity and share the design characteristics with residential use, provide a good neighborhood fit and a distinct residential character. It also suggests where possible, existing structures should be preserved and converted.* She also had some quotes that she has found through her reading from City Council and Planning Commission meetings that Councilmembers have said and that people in Planning and Zoning have said in relation to other properties that have been rezoned. One from July 19, 2012: "the uses should all fit in the neighborhood to a distinct residential feel and (blank) mentioned that when he had worked for the City he had heard that low-profile buildings were preferred in this type of zoning to act as a transitional

buffer between a busy street and a neighborhood.” June 19, 2013: “A concerted effort has been made to come up with the R-N-B zone so that the commercial element didn’t impact neighborhoods.” August 13, 2010: “The Council has made a concerted effort to protect residential neighborhoods. The R-N-B was created to prevent large commercial buildings from abutting neighborhoods and preserve the residential areas.” The intention of the zone was to protect the neighborhood. The location of this lot is directly in their neighborhood and most of the properties that have this zone already have used the existing homes or have built in harmony with the intention of the zone. The dental offices that you have referred to, those two buildings combined are not as big as this proposed building to go on this lot.

Ms. Fisher has read the height restrictions but the only restriction on square footage is that they have to have ten parking stalls per 1,000 square feet. She believes that any business that requires all three of those lots and a conditional use permit to build higher will have a negative impact and cause consequences to their neighborhood and does not fit the definition of low-scale and low-density. It does not fit the intention by which the zone was created. She would ask the Council to uphold the Planning and Zoning’s recommendation. That is what they do, that is what they studied and that is what their knowledge is. She believes that the zone was in place to protect them. Putting a large commercial office building behind them is not what the intention of that zone was.

Dennis Ritz, 763 Labrum, Murray, Utah

Mr. Ritz stated that he is near the bottom of Labrum Avenue. As the Council may be familiar with that area, the street and his driveway slope downward. On two different occasions this summer, including this last Saturday, his home was within a few inches of flooding again. As the zoning changes they are putting hard surfaces on all of the areas around Labrum Avenue. You have the R.C. Willey parking lot, the strip mall, Make-A-Wish and now the application is asking to put a hard surface with 77 parking stalls on the end lot. All of the water from that development, all the water from Winchester, all of the water from all of those developments flows down into the storm sewer that runs next to his home. Because of the inadequacy of the storm sewer his home floods as does his neighbors. That is a serious situation for them because it affects their property values. If he discloses that upon the sale of his property, he cannot sell it as nobody is going to be interested in it. He stands in support of those who are asking the Council to uphold the Planning and Zoning decision. He is also looking at this from a different perspective and that is down the street from his house, all of that storm water is going to flood his home again, it is only a matter of time.

The City can only stand behind governmental immunity for so long. Mr. Ritz asked the Council to uphold the recommendation of the Planning and Zoning and asks the Council’s support to deny the application in front of them.

Mr. Shaver asked Mr. Ritz to chat with him after the meeting regarding the storm water challenges.

Mr. Hales noted that Mr. Greenhall submitted a letter similar to what Mr. Ritz stated and they will enter that letter into the record.

Glenn Collett, 10259 South 2460 East, Sandy, Utah

Mr. Collett stated that he has five siblings who own the property at 709 E. Winchester and he is the only one who resides in this state. 72 years ago his parents built the home on Winchester and at that time it was a single-lane dirt road. To the south were alfalfa fields and acres of empty property. To the north were natural springs, horse property and more acres of empty fields. Times change. Today, I-215 is only two blocks from Winchester and housing to the north fills the once vacant lots. Winchester is all commercial property on the south side from 1000 East past 600 East and on the north side from 1100 East up to their property. Winchester is now a four-lane, 40 mph road. Has anyone in this room spent 15 minutes to back out of their own driveway onto a four-lane road at 40 mph? With a light at 700 East, it backs up traffic to Make-A-Wish. It is dangerous. Multiple times he has almost been hit and he doesn't live there anymore. He goes over on Sundays to try and maintain the property. He has done this every Sunday for four years.

Winchester is no longer a safe residential road. For the past four years the owners of these properties, with the help of a real estate agent, have tried to conform with the Murray City Master Plan by finding a satisfactory commercial project that will conform to that plan. The buyers, sellers and agents have spent considerable time, money and effort so that the project would meet the needs of the City and the surrounding neighbors. After four years of work to deviate from the Master Plan and change the rules is unfair to everyone who has worked so hard to fulfill Murray City's requirements. The buyer's commercial project is an attractive, landscaped office building with light traffic from 9:00 a.m. to 5:00 p.m. on weekdays and virtually no traffic on weekends. The building would also help block the noise from Winchester that affects the neighbors to the north. The existing rented homes are deteriorating rapidly and are becoming a blight to the community. All are in need of major repairs, exterior maintenance, landscaping, plumbing, heating and electrical. They need to be torn down and replaced. This project is the best possible use for the benefit of the City and the community.

Davis Hansen, 736 Labrum Avenue, Murray, Utah

Mr. Hansen said that everyone here has brought up good points. He is here because he is pleading with the Council to protect his family. He has three small children and a wife. He travels and if this is rezoned and an office building is put up that looks directly into his house and backyard all day long there is no way that he can stay in his house. What Murray needs right now is young families and you

will lose one if this is rezoned. He doesn't know if that matters to the Council but he does not want to move. He loves this City, grew up here, was a student body officer, played on the basketball team. He has not lived away from Murray longer than ten months since they have been married and he is pleading with the City to protect his family.

Part of the General Plan states that the primary goal of the General Plan is to protect its neighborhoods. This is not protecting the neighborhoods. In no way is this protecting the neighborhood. He has heard all of the discussions about these houses being old and blighted. They could turn into drug houses. He does not think these neighbors would let that happen and for the record, the Collett's have been great neighbors. Mr. Hansen said that he loves this neighborhood and his home which he has put thousands of dollars into which at the time, was blighted. If anyone had seen his home at that time they would know that it was in terrible condition. He fixed it up and made it his home and he would like the Council to please protect it and not change the zone.

Pam Squires, 687 E Winchester Street, Murray, Utah

Ms. Squires stated that she had sent an email to the Council. She doesn't think anyone else in the room has had three cars go through their fence. One on 6400, one on 725 and low and behold, after they put in a brand new beautiful fence. They have a fence all the way around because before they bought their home they got a covenant to the law or something like that. The City approved that they could build a fence on all four sides. She had all her children within five years and had little ones running around. They sunk a lot of money into these fences. She explained in the email about the planter boxes, the silver pineapples along both sides and her husband has filled those boxes with cement. Their hope was that if a car comes along, the boxes would stop the car and not have it come through the fences. Six years ago the last one plucked up all of the chains, broke off the limbs of the pine tree and came flying into her yard. She can't get out on her street and that is why they built a big driveway where they can turn around and head out.

Ms. Fisher had said that there must be a variation height; there was at one time. When they redid the four lanes, it really dropped down off of 6400 near their house. In the summer you could hear the teenagers coming down from Fort Union and you could hear them leave the ground and hydroplane. In the summer it was so hot that their tailpipes would make gouges in the asphalt. When they redid that, they did fix the slope but there still is a slope. It is now less noticeable but when Ms. Fisher said there was a height variation, there really is. Ms. Squires explained to the Council in her email that there is a conditional use, they have heard it all along. She doesn't know if they know but they approached Mrs. Walker before she died if they could buy her property as well as approaching her relator saying they wanted to buy it. So have Rebecca and the Simons' next door. They wanted to buy that property too.

The Fishers would have gone in on buying that property if it was still residential. But to go at the price they were asking was rather steep. If anyone has gone down Highland Drive or 1300 East from Vine Street to Cottonwood High, in there is a cul-de-sac where Ivory tore down the homes and put in a model home with perhaps four homes going in. That could be done here too. Look at Veronica Court on 5900 South; they put up a wall and put in some homes. There are other alternatives. She does not think that it has ever come to surface that neighbors really have tried to buy that property over time. It has not just been totally ignored. Ms. Squires said that she loves her home, it is a historical home and she is on that band where she could stand there and say she wants the zone change but she doesn't. She loves her home.

Danny Linnell, 6466 Castlefield Lane, Murray, Utah

Mr. Linnell has some concerns regarding the zoning. He bought his home about five and a half years ago. When he purchased it he was told that the commercial zone ended at Make-A-Wish. He was also told that another building in the neighborhood was zoned in a certain way and based on the strength of those commitments he purchased his home and paid a lot of money for it in his opinion. Now, as time goes on and this issue comes up on rezoning this building, his concern is from cradle to grave. We are told certain things in certain meetings, about certain things and things are written down and there is discussion but six years down the road things are changed. We have another meeting, another zoning, and his concern is-and he checked with Mr. Tingey to confirm what his interpretation was and what other interpretations were on this previously zoned property-and there was definitely discussion about it. They were all under the same impression but when he goes to the minutes of the meeting he can't put any teeth into that because it wasn't as they were so told.

On this building, whether they zone it or don't, his question to the Council is if they make a decision and the Council tells them what is going to happen and what the R-N-B zoning allows, how do they get this cradle to grave? How do they have the confidence in Murray City that if they say something is going to happen that somebody structures this in a way that they will really do it. He gave additional background: He has known Mayor Snarr since before he was the Mayor as he was in the landscaping business. He also knew Mayor Pett prior to that. When Dan Snarr was running for Mayor he ran into him at a 7-11 and they talked and he had confidence in him. The Mayor has always said that he is concerned about the citizens of Murray. His concern is to have Murray be fiscally sound and the citizens to be happy. Based on the strength of that conversation he was voted in. The problem is that at this point in time Mr. Linnell moved his business and home in based on those strengths. Whatever happens, how do they go to all of these meetings and have any commitment from people who are making the rules? This is cradle to grave or this isn't going to change.

Connie Macherino, 6422 Jones Street, Murray, Utah

Ms. Macherino said that she feels she has some unique experience here. She grew up on 700 East. When her parents moved she bought their home and raised her children there until two of them were in high school. Living on a busy street does have its challenges but she wants them to know that less children are killed on busy streets because their parents watch them closely. As far as the argument of traffic goes and getting out of your driveway on the Winchester properties, there is a light there. There was a light on 2100 South near her home and she may have had to wait a few minutes but she could get out safely. Her daughter lived for three years on that corner of 725 E Winchester Street and has two little girls who played in that driveway and on that property very safely. When she bought the house on 700 East from her parents her mother said to her to “hold on to this property. All along this street is going to be commercial and you are going to make a lot of money.” They lived there for about 15 or 17 years and it never did turn commercial. Homes were repurchased and remodeled. It is a very stable busy street. There are many busy streets in the valley that are residential. If these homes are priced correctly, Murray is a hot area in which to live. People want to live in Murray.

The homes here sit back a ways and homes can be remodeled and purchased there. Don't kid yourselves on this rezoning. Anything can happen in the future. As she looked at the map, a part of her felt like she is a bit buffered. She lives on Jones Street and she doesn't like the fact that they have a square that is going to entice more traffic. There are a lot of kids on Silver Shadow that are going to be affected by this. She feels that it is dangerous to rezone this area and that the homes there are still valid as residential properties.

Adam Hardman, 6372 South 725 East, Murray, Utah

Mr. Hardman stated that he is against this rezoning. The R-N-B classification is too broad, too permissive. He feels that for a residential neighborhood, a two story building is too large and twenty feet to an adjacent property is too close and certainly 80 parking stalls are too much for a residential neighborhood. As long as the R-N-B classification permits such large scale accommodations he would be against buffering any residential neighborhood. Whoever gets the property that is left in the middle will be left with sandwiched in the middle. He would not want to be in that position. As a homeowner it limits the ability to sell the property and it is too small to do anything other than to put in more parking. That point has not yet been brought up. He doesn't know if it is the practice of the Council, but he can see that as a deterrent for the Planning Commission and as to why further discussion was suggested, but it seems like skipping over properties is a bad practice.

The last thing, which was touched on a little bit, is one of the reasons the Planning Commission wanted to discuss this further was that the City Plan is actually quite out of date and in need of revision. It is over ten years old and is slated for revision pending funding. This is the kind of thing that if he were in the Council's position, especially on the Zoning Committee, he would be looking at what the plan for the City is. To the point that was brought up earlier in this meeting that our goal is to revitalize downtown and we shouldn't be pushing our commercial things to the outlying properties. We should be centering our focus on trying to grow downtown.

Charles Cayias, 730 East Labrum Avenue, Murray, Utah

Mr. Cayias said that at the last meeting the question was asked of how do we get involved. He sent emails to the County and he wanted to address one of the responses he received. He sent an email on July 23, 2013 to Assistant Chief Craig Burnett and to Trae Stokes, Engineer. He wrote a paragraph explaining his position on how dangerous this intersection is. Unishippers, before they built their building, had a white house with pine trees. Due to the traffic they ended up putting sidewalks in and put in a left-turn lane. Where you have a left hand turn lane on 700 East, one going both ways, but do not have one on 725 East. If you go further up where R.C. Willey is, there are left-turn lanes at all four intersections. If you go to 7-11, you have left-turn lanes at both intersections as well. People are using this road to get to Midvale. There is a speed issue that has not been addressed. People came out one night since the meeting and they drove around the neighborhood to make themselves present.

The City Engineer responded to him saying: "I got your email, thank you very much. Regarding the south bound left-turn lane intersection at 725 and Winchester Street, adding a left-hand turn lane is a good idea and I think that we will try to do this even if the proposed development doesn't move forward." Now we have an engineer who is trained for what he does telling us that what these people are saying, this building does not fit on this piece of property; we don't even have sidewalks where this house is so people have to walk out in the street. If the City would consider purchasing ten to fifteen feet, making a left-turn lane, putting sidewalks in and making this an intersection like the other intersections that is what he thinks they should do. Once you put in sidewalks, you get a feasibility study on how many cars go up Winchester, how many cars go down 725 East, then you are able to make a decision and say they need to rezone this but not for what they are thinking about as we do not have enough parking stalls to do this.

Terry Steed, 754 Labrum Avenue, Murray, Utah

Mr. Steed stated that his home is essentially the home right behind Make-A-Wish. He became involved with Murray City in 1974 when he was sworn in as a police officer here and he spent roughly 25 years as a police officer and saw many things happen to this city. Most of them good sometimes not so good. The thing about Murray City is that it has always been a City that cares about their people. A couple of others have mentioned that but what he wants to do is make everybody aware of that. What we are looking at with this proposal is for the good of two or three families and the good of thirty to fifty families. It seems to him to be a money issue only. Give the money to the people who are bailing and leaving Murray City or stay with the people who are good, solid citizens here and that are continuing to pay taxes and keep the City as a good place to live. It cannot be plainer than that to him. He would like to see it end at this point. He has been in many of these meetings before. It first started with the Make-A-Wish Foundation; actually it started with Glover Nursery and Cort Furniture-the albatross that does absolutely nothing good for anybody. That has had 30-40 different buildings in there.

With the Make-A-Wish Foundation, Mr. Labrum wanted to sell and continue on with his life. It was a beautiful property before, very well maintained as he was a State Arborist. We successfully fought several different times with different proposals that were brought to the table at that time. When Make-A-Wish came in it was that they were not going to fight the kids and they said let's do that. We were told, and he can say that with all assurity, that this would be the buffer. This is the buffer that was sought and this will be it. Mr. Steed thinks it was Councilmember Dunn that said she understands the emotion that was going on. The south side of 6400 will evolve into all commercial but the north side would be the buffer. She said that they wanted the residential to remain on that side. Then they found out that in 2003 the Master Plan showed it all the way down to 270 East as R-N-B. The people down on Castledale aren't going to sell their end properties. The beautiful homes, the 1800's house, they are not going to want to go commercial. Mr. Steed asked that the City keep in mind that Murray City is a great place to live because it goes along with what the citizens want.

Jerry Nelson, 634 South 560 East, Murray, Utah

Mr. Nelson said that he rises in the probable outcome of the Squires and might end up getting a divorce but he wants to be on record that he is opposed to this. He used to own the property that is right in the middle that is zoned G-O. He bought the property with the intention of building a home there after searching for many months for any property in Murray to bring his family back and build a home so that he could raise his family here. He wanted to be on record that this really is about money and pricing the properties for the correct price.

There are buyers out there who are willing to pay a reasonable price for residential property. The point was made that there are busy streets all over the City and this really is about pricing this correctly. One thing that hasn't been mentioned that he feels is worth consideration is the tax consequence of building this. He sent an email to the Council highlighting the point that the tax revenue generated from this particular building will probably be minimal in respect to efforts of getting a new tenant into the former Sears building in the mall which could generate as much tax as this property in a single day such as Black Friday. You would have enough revenue to cover what this particular property would generate over a year's time.

Murray is a great place to live and he wants to be on the record that he is opposed to rezoning this. He also wants to be on the record that he thinks it is ludicrous for the City Planner to tell them to pretend not to know what is going in there and only consider this a zoning change. He can't even fathom the logic behind that since once the zoning change takes effect, whatever those parameters are, they are stuck with whatever gets built there. To pretend that they don't know what is proposed is ludicrous.

James Carter, 735 Labrum Avenue, Murray, Utah

Mr. Carter stated that he has lived at this address for 37 years. He moved here from outside of the Salt Lake valley. He and his wife were both raised in a different area of Utah and came to Salt Lake to work and picked Murray as the best city in the Salt Lake area to come and love. They feel that at that time the General Plan and everything else in the City was directed towards protecting their safety, their personal life and the happiness and comfort of the home that they built. They believe that you are all elected officials and have to make the decisions. The Council is the decision maker in this incident. We are only talking about a zoning change. That zone change alone will open the door to your fears for the next twenty years until you change the zone again. What is important is what they, the property owners and citizens of Murray, lose when the Council makes it decision. The citizens elected the Council to make those decisions following all of their guidance, activities and everything that has been approved.

The General Plan is a general plan. It does not go into detail but covers the general topics and public safety and all of that is covered. What the citizens are saying is that now it is finally time for a decision on this subject. The Council is going to make that decision. When they make the decision, there are two things that they do. The first things is to make the decision and the second is send a message to the citizens of Murray City. What message do they want to send? If they approve this change they are telling the people in Murray that they don't care about them and they are not listening to the people's comments. If you don't approve this, then the message that the Council is sending to the people is yes, we do care and yes we are doing what is best for the citizen's interest. He raised the question earlier tonight, does the Mayor have the right to veto the Council's

decision tonight? The answer was they don't know. The attorney is going to check it out because it is dealing with land. The point is that the Council are the decision makers. We are the people. Whatever the Council decides is the message that they have sent to them.

John Thornton, 6384 Castlefield Lane, Murray, Utah

Mr. Thornton stated that he appreciates the opinions on both sides of this issue. He has been a neighbor for 25 years. Just down the street on Winchester, he used to live on property that backed up to Winchester. It wasn't a good scene, it was drug infested and it was blighted. He still owns a home that backs up to that property and he welcomes development to that because of the blighted state that area is in. He understands the issues of the neighbors now however, he makes a point of the fact that this is all for money. The fact is, taking the Collett home, it is nearly 2,800 square feet sitting on nearly half an acre of ground. If you move that home inside the neighborhood, he knows that they could get almost \$300,00.00 out of that home. He is not sure what they think is the correct price but what they are saying is that initially the price is affected because it is along Winchester. That needs to be looked at as far as residential properties. The issue here is to determine what is the best use for this property. That is the issue here. He is in favor of this. As a neighbor, he believes it is actually a positive thing for the neighborhood if this building goes through.

That is not the question here but if it does, it sits between 80 and 100 feet away from the adjoining properties. The maximum at the top of the property is 30 feet. If you look at their drawing, the sight line is right at the top of the fence line. It is not hovering over like some neighbors off of Labrum have with two-story houses in their backyards.

Mayor Snarr said that most people are well aware that he has sat in this chair for almost 16 years and has faced a lot of very difficult decisions. He faced people who are angry with him for pulling the trigger on the chimneys. He lobbied hard to get one extra vote to get a Costco in Murray. That has brought the City more money than any other single store in Murray. He didn't make a lot of people happy when he did that. He supported the evolution of 5300 South where Woodrow Street is and Mountain Medical Imaging. Again he did not make people happy with that. There was an issue on Miller Street; he is a commercial property owner in this City and has tried to take care of his property and make it look attractive. On Miller Street, there were three houses; about 50 people came in and were very upset with him when he proposed that the houses go. The people made it clear they would never vote for him.

They Mayor took this job because he cares about the future of this City. He has zero political ambitions, has never had any. He spent a lot of time in his career traveling around this State doing business, either working for Fortune 500 companies or running his own, and has witnessed the evolution of neighborhoods

and how they have changed. His brother lives in Sugarhouse and 25 years ago, Sugarhouse was in shambles. If you take the time to go over there now you will see some fantastic things that have happened and even his brother was educated. There are commercial locations abutting residential areas. People who said they would leave if it happened now have seen the property values go up because it cleaned up the adjoining properties. On Miller Street, they did a pretty good job. The Mayor had said that the houses needed to go, that it was time for them to let the houses go. That area was mostly commercial not R-N-B which has a lot more restrictions to it. The very people that had literally threatened him came back two years later and begged him to do anything he could to go find someone to buy those houses because their property values were trashed. Not only that, but the crime that existed in that neighborhood had substantially increased. He has been through this issue many times, with people who complained about the conditions of properties on 900 East, for the most part the City has been able to transition those out.

The R-N-B Ordinance was originally instituted to accommodate the Greenhouse Foundation and Tarbot Medical which is a dental facility. Most of those neighbors now along 900 East are supportive as the City came up with something reasonable. All the Mayor can say is that he knows this is hard and difficult but there are harder and more difficult challenges down the road if we don't allow the evolution of our City to change to bring nicer developments into neighborhoods, to support the neighborhoods and not to draw the values down. He believes this is all accomplished to improve and enhance our image of the City, where people no longer want to live residentially. He has been very supportive of it. He must be honest with himself and stay true to himself. He is not here as a political perception of a win-setter. He tells people what is in his heart. He has four more months to stay principal to what he believes and he appreciates all of the residents. He spends a lot of time doing his homework and going to meetings and he hopes that the next Mayor carries on making difficult decisions. In the end, you will see that they have made substantial changes to the communities.

Mr. Nicponski asked for clarification on whether proper procedure is to close the public hearing and then go to the Mayor.

Mr. Brass stated that the Mayor was speaking on public comment, not as the Mayor.

Richard Siegar, 734 Labrum Avenue, Murray, Utah

Mr. Siegar stated that he doesn't disagree with the Mayor. R-N-B, in a lot of situations, works out very well. A lot of the properties on 900 East have turned out very well and look very nice and residential. He feels that a lot of issues that people have is the magnitude of this property as compared to other properties that they have done and the proximity to the other residential properties. Even if the building is offset, having parking spots ten feet from some ones yard, that is

where many citizens get concerned. If you look at all of the properties on 900 East, many of those houses are twice as big or more as the houses that are on Labrum Avenue which provides an additional buffer to the R-N-B and the residential houses. He feels that this is something that the City needs to consider. With the magnitude of this development and combining these lots they should think of keeping them as single lots under R-N-B as there may be less opposition to that. The magnitude of this building or what could end up being built there is where the concern comes from. Additionally, people have brought up the fact that some of the residents have tried to purchase these properties; he has not been involved in that but it does hand-tie people if they are only willing to sell it as a three-lot structure.

Public comment closed.

#### 6.2.2 Council consideration of the above matter.

Mr. Brass stated that he was on the Planning and Zoning when a lot of these discussions happened. He remembers Make-A-Wish, as an example. It is the example he uses often when it comes up as to why they don't discuss the project and only want to discuss the zone. The application for that was to change Make-A-Wish from R-1-8 to General Office. The reason they wanted General Office was that it was the only zone available at that time. All of the neighbors said it was a great project and they were ok with it. The Planning Commission, looking at the zone, said no. He has to say that he did not sleep that night. They sat up there and said no and it felt like they were kicking sick and dying children in the teeth. The realty was that if Make-A-Wish didn't raise the money. Anything that could have been built on that property that was acceptable in the G.O. zone could have been built and no one would have had any input past that point. That is why they look at that. The possibility exists that what is proposed doesn't happen. That is why they say that.

Mr. Brass said that someone made the comment as to why does the City insist that the plan be put on the application. He spoke with the City Attorney during the break because it was an interesting question. They will need to look into that one. But, they are not denying anyone the opportunity to speak they are just saying that you never know what is going to happen.

Mr. Brass was around for the aftermath of the rezone of the area that became Mountain Medical Imaging. That was a fun time. In the end, Make-A-Wish did get their rezone and they turned it into a good project. If he remembers correctly, Mountain Medical Imaging was supposed to be a one-story drive-through bank but that one never happened. R-N-B was created, truly, to create a buffer between streets like this and the neighborhoods behind. They did not want to see neighborhoods collapse. The point was made in the General Plan and he was around when the Planning Commission put that plan together, he was on the Council when they voted to adopt it and yes, it says to protect the neighborhood.

That is one of the key elements in that. The Mayor is correct, things change. 6400 South was not always a four-lane speedway and neither was 900 East. We have all lived through them adding lanes to 900 East and that was a fun time. Things do change and the people who came before us and those who will come after us are the challenge. That is why it is very difficult to commit a lifetime on a zone since you don't know what is going to happen and what the best use for a property is. How do we protect the people behind it. We have to weigh all of those things and then we get to live with that for the rest of our lives. Sometimes that is difficult.

This is a tough decision. What Mr. Brass can say is since we have seen drawings that were emailed to the Council he is concerned with the size and scale of it. He doesn't know that it met his intent for R-N-B. R-N-B was envisioned to redevelop a home and keep the home or build something that keeps the home scale on it for a business recognizing that in spite of living on 700 East and enjoying the challenge of getting out of your driveway at 40 mph, there are others who don't want to do that. So what do we do? This is going to be a struggle. We do not have this many people for a budget hearing but you do a land use issue and people show up. To think that this doesn't have an effect on people is wrong. Clearly it does and he just wanted to open with this rambling on why the process is the way it is.

Mr. Shaver agreed with Councilman Brass. It is difficult to guarantee cradle to grave. As you've heard this evening the properties were purchased in the 1940's and are now changing. The properties around them are changing. It used to be farmland. Murray was farmland. To guarantee those farmers that their properties would never be encroached on is just as ludicrous Mr. Nelson. It is going to change. We can do everything we can to stop that tide. Like Mr. Brass, Mr. Shaver is also concerned about the scope of what the project is but that is a different discussion. For him, his study goes back to the founding fathers. Their number one concern was property. That is why property issues create this kind of discussion which he finds healthy. It is marvelous that people are here and he compliments each one of them for taking the time out to come out on a Tuesday evening and look upon the five members of the Council and think they have more wisdom than the citizens. They don't, but the founding fathers very specifically made it a point to protect property rights and to compel someone else to do something against their will or desire is something this country tries very hard not to do.

In the news within the last week, Mr. Shaver heard about a couple who owned a business who were sued because they didn't want to use that business to do something that they didn't believe in. The government is now forcing them to do it. He does not want to force anybody. Mr. Brass alluded to something called the unintended consequences of the choices and decisions they make. He may disagree that it is telling the citizens that we don't care because they do care. We are very passionate about the citizens. On the tax issue, the City collects more revenue from commercial properties than it does from residential properties in

land use. In retail tax, this City suffered heavily in the last three to five years because the sales tax diminished and went away. When it went away we ended up cutting and cutting. One of the things that this Council is struggling with is how to create a solid tax base that doesn't have this arbitrary swing based on how much revenue is created from retail tax. When the car sales dry up, Fashion Place Mall and Costco don't do well, we end up looking at how to pay people which cuts services. The tax issue is part of the equation.

Mr. Shaver said that the last item for him is, when he was first elected, there was a building just off of 5300 South on the south side very much like what has been described. It was square, flat and glass and metal. In his opinion, it is an office complex and it is ugly. The citizens were really not made aware of it. He has empathy for their position because they came in and bought the property and then they built it and expanded it. The City held meetings such as this to keep them from doing so. He is aware of it and he will try to use the best wisdom that he can in making the proper decision that will support whatever it happens to be for our city. That is his commitment, it is the oath that he signed and swore to when he became a Councilman. He has only been here a little over three years and he hopes that they make good decisions. If anyone has comments after this meeting, he wants people to know that his email and phone number are available. He has had several people contact him. He had a conversation with a wonderful citizen today about this very issue and he welcomes doing the same with anyone who would like to talk to him.

Mr. Hales said that he has had three weeks of sleepless nights over this and it is very tough. He has a love for both sides of the issue here and the people on the issues. He wants people to know that his decision on this issue tonight is not based on intimidation, absolutely not. It is based on what he feels is the best thing and he hopes that people will respect that.

Mr. Stam added that he grew up not too far from here. He remembers when the proposal came for I-215. He is sure that everyone here uses I-215 and feel that it is wonderful to use to get downtown or around the valley. I-215 covered his baseball park that he played in growing up and it took out a lot of neighborhoods and areas that he lived in. But the interesting thing was that people didn't want it to come in and delayed the project for almost 20 years. It also raised the cost of putting it in immensely. When it came back to the Council by the State who was putting it in, it cost the taxpayers a lot more money than it should have.

As we look at everything, one of the issues that Mr. Stam has when he looks at it is that as a Council, sometimes it is difficult. Being on the Council he has made friends and he has lost friends because of wanting to be involved and caring about the City. But as they sit there and look at things like this, they have to look at things from a 30,000 foot view and be aware of what it is like in the weeds but look at it to see what is going to be the best overall and help to maintain that neighborhood and the lifestyle they have and live in. One of the concerns that he

has is that he doesn't want things to end up costing the citizens more money either because of wanting to delay things or cause things to take that much longer.

Mr. Brass said that there is a certain irony to what he is going to say. There have been a couple of interesting points brought up. One was in an email that was mentioned by a Councilman. Mr. Greenhome asked that as he couldn't be here, they note his vote and also Mr. Ritz who live next to each other. What was brought up was the effect that the storm we had recently had on their properties and the run off from impervious surfaces and Winchester Street. That is an interesting thing to consider. The other was the depth of the property on Labrum versus the depth of properties on 900 East. Looking at the map that is very easy to see now. Mr. Brass said that in the General Plan, when they look at the entire City, there are 45,000 people live here and there are probably 14,000 – 15,000 properties and you don't see them all. You look at the map and say this makes sense but you can't see them all. He can say that they had a total of eight people comment on all the meetings that they had on the last General Plan. The City is funding a new one but it will probably be a several year process. He would love to see all of the citizens be this passionate when this happens because that is their chance to weigh in on the next go-around.

Even the Planning and Zoning Commission, when they made their motion requested that the Council read what was said and this bears more study. As Mr. Tingey said, they are not asking for a change of the General Plan, it is planned as R-N-B and they are looking for a zone change. Mr. Brass' concern right now is are they ready to change that zone or do they look at it further. The Planning Commission indicated in their discussion and filing of their motion several times that they wanted to look at this more. In light of the interesting information on the storms and the fact that we are having a lot of 100 year storm events it may be worth looking more at this. That is just one person's opinion. As Chair, he cannot make a motion.

Mr. Shaver asked Mr. Nakamura what the process would be and how much time can they give themselves. Is there a time limit or can they take whatever time they want to have further discussion?

Mr. Nakamura said that he would like to have that discussion with Mr. Tingey. Certainly, as far as the ability to continue or table a meeting, the Council has the authority to do that.

Mr. Brass interjected, saying that he is leaning more towards maintaining the status quo with the zone until they can look into these issues. He feels for the property owners and the City needs to make the right decision and he doesn't know if they can do that tonight.

Mr. Nakamura said that as far as setting time limits, he feels that the Council can perceive what they are doing tonight as a denial pending further study. There is no time limit on that and they could set a specific time for it.

Mr. Shaver asked if on the request for the amendment of the zoning, are they under a time limit for that.

Mr. Tingey said that they are. It is a year before they can come back with the same proposal unless there are circumstances determined that the Planning Commission deems warrants certain applications coming back.

Mr. Shaver said that without a decision this evening by the Council, they would have to come back in a year.

Mr. Tingey said that was correct, unless there are certain changes or circumstances.

Mr. Nakamura stated that the Ordinance provides that it is a year unless there are substantial or material changes or information that is before the Council. He is sure that a study, if that is what the Council is seeking, could fit that interpretation. If a study that provides additional information is done, arguably depending on what arises, he feels that they would not have to wait a year.

Mr. Tingey clarified that if a decision of denial is reached tonight, it is that denial that would cause them to have to wait a year. If there is no decision tonight, it would be determined by the Council as to when they would want to consider this again if it is tabled. A decision of denial tonight would cause that denial to be in place for a year unless there are circumstances that are deemed for it to come back to the Planning Commission.

Mr. Shaver asked Mr. Nakamura if they would table the issue or what the procedure would be.

Mr. Nakamura stated that the Council could table the issue but feels that there should be a very short timeline in which these would need to be addressed. That is one alternative. The other alternative would be denial. Those who have property interests would have to work off a denial and they have a project to do. He feels that the Council could go either way but if they do table it the timelines need to be short in terms of any review that they are asking. His recommendation would be that they set specific timelines.

Mr. Shaver said that if they table it, they should put in a specific timeline. One of the issues that they did have and what Mr. Nakamura is addressing is that there was a piece of property on 900 East; the property was very lengthy and what ended up happening is as they looked at it, it went into the residential neighborhood and there wasn't a buffer or anything that said that the commercial property ends here and this is residential. It literally went all the way to the residential area. At that point the Council said no. They came back and said they

would leave a portion of the property residential and do the rest commercial as a means to meet the need of those people who were concerned about it and to meet the needs of the Council for an R-N-B property. That is what he is hearing now on this one.

Mr. Nakamura said that the question is if the Council does table this and want to do a study, what is it that they want studied? One of them would be the storm drain issue from his understanding.

Mr. Shaver said that another part of the issue is that when you look at the plan itself, you see the G.O., then this tiny piece, then almost one piece of property that is squeezed in between those. If you change all three to R-N-B, how does that impact that one piece of property? Do we do all of it R-N-B and how do we do that. He feels that is a part of it.

Mr. Nicponski asked if they want to study the buffer between Labrum and the building.

Mr. Shaver said yes. He also has a concern with the part where there is the G.O., then the R-N-B. It is a flag lot and he wants to know how they can do that and can they leave that portion out of it if it becomes a residential piece. He would also like to see if there is enough acreage there and if they have access to it.

Mr. Nakamura asked if this study would be done internally or externally.

Mr. Shaver said that the comment was made earlier that the City has professionals within the City and he feels that we can do that in-house and have it come back to the Council.

Mr. Tingey said that if that is what the Council would like them to do they can do that. Related to specific site elements, there are issues in our Code that require detention of storm drainage and such that are in place so that as we look at specific projects there would be conditions or issues that would be brought up with certain proposals that come forward. For a general zone change like this, we still look at those issues but some of them would be addressed when you have a specific proposal.

Mr. Nakamura said that this has been said many times tonight, but the issue before us is a land use issue. We are looking at uses. He thinks that when the Council is asking for a study, the City and the internal staff have to be within the confines of land use. Some of these issues border, for example something that the Planning and Zoning would do on a site plan. When the City does these studies we will need to make an effort to confine the information to the land use issues. There are issues with the buffer and other issues. He will really need to think

about the storm drain issue because that is something that is done with Planning and Zoning on a site plan approval and may not be something that we do in conjunction with a rezone. He feels that if they allow staff to look at that, they could negotiate that.

Mr. Stam said that it could have something to do with the rezone simply because if it is residential, there is a lot more green space that absorbs water.

Mr. Nakamura reiterated that the City would have to stay within the parameters when they come back and provide information.

Mr. Shaver asked what they would gain by tabling the motion.

Mr. Brass said that he was not speaking to tabling the motion, but to if they chose as a group to deny as the Planning and Zoning did and the applicant changed the project to be different. He knows that they do not speak to projects but as part of the application there was a change of design which he feels would be a significant enough change to warrant another look at this within the year.

Mr. Tingey said that it is actually a zone change request not necessarily a specific project. It would have to be different from the R-N-B proposal or there has to be something in place that would warrant relooking at the R-N-B.

Mr. Stam said that what Mr. Tingey is saying is that the project would not count.

Mr. Tingey said that was correct. It is about the zone and rezones.

Mr. Shaver asked if it was possible for them to look at the rezone from whatever the property is right now at R-N-B and look at a rezone for all four of those properties. Would that change it enough to do it? Is that something the Council could do without reapplication?

Mr. Tingey said that something like that could be seen as a change to come forward. It is something that the Planning Commission would feel or warrant a need to relook at it.

Mr. Shaver asked Mr. Nakamura if they, of themselves, look at that flag lot and without consideration necessarily look at not just those three properties, but all of it.

Mr. Nakamura said they could but again, the property owner whose interest you will impact has a kind of down zoning in this case. He doesn't think they would be comfortable without the property owner participating in that rezone.

Mr. Brass asked for a motion. Hearing none, he explained that for a lack of a motion it indicates a failure.

Mr. Nakamura agreed.

Mr. Shaver made a motion to deny the Ordinance.  
Mr. Hales seconded the motion.

Call vote recorded by Jennifer Kennedy.

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

Motion was denied 5-0

Mr. Shaver moved that a study be done on this matter to analyze the storm water, buffer and traffic for these properties.

Mr. Hales seconded the motion.

Mr. Tingey said that with these, it would be looking at the R-N-B zone in and of itself to address some of the issues that were brought up. If they are talking about buffering, etc. that is something that will require an amendment to the zoning. The intention is already covered. They require retention of storm drainage on commercial projects.

Mr. Shaver said that the buffer is still part of the zoning change. It gives specific parameters as to the land use, etc.

Mr. Shaver withdrew his motion.

Mr. Brass thanked everyone for handling a very difficult situation so well.

## 7. **UNFINISHED BUSINESS**

7.1 None scheduled.

**8. NEW BUSINESS**

8.1 None Scheduled

**9. MAYOR**

9.1 Mayor's Report

No report given.

9.2 Questions of the Mayor

Mr. Shaver told the people who own those properties discussed tonight, not to give up.

**10. ADJOURNMENT**

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**Jennifer Kennedy, City Recorder**