

Minutes of the Planning Commission meeting held on Thursday, January 2, 2014, at 6:32 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Karen Daniels, Chair  
Tim Taylor, Vice-Chair  
Jim Harland  
Maren Patterson  
Vicki Mackay  
Chad Wilkinson, Community Development Manager  
Brad McIlrath, Assistant Planner  
G.L. Critchfield, Deputy City Attorney  
Citizens

Excused: Scot Woodbury  
Phil Markham

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

Karen Daniels opened the meeting and welcomed those present. She reviewed the public meeting rules and procedures.

#### APPROVAL OF MINUTES

Ms. Patterson made a motion to approve the minutes from December 19, 2013 as presented. Seconded by Mr. Taylor.

A voice vote was made. Motion passed, 5-0.

#### CONFLICT OF INTEREST

There were no conflicts of interest for this agenda.

#### APPROVAL OF FINDINGS OF FACT

There were no changes made to the Findings of Fact. Mr. Taylor made a motion to approve the Findings of Fact and Conclusions for David & Heather Hatch.

Seconded by Ms. Mackay.

A voice vote was made. Motion passed, 5-0.

#### DESERT STAR PARKING LOT – 4861 South State Street & 148 East 4800 South – Project #13-189 – Public Hearing

Tom Suchoski was the applicant present to represent this request. Brad McIlrath reviewed the location and request for a Certificate of Appropriateness for modifications and improvements to the parking lot serving a significant building located at 4861 S. State Street. Municipal Code Section 17.170.050 outlines the process for review of applications located within the Murray City Center District (MCCD). Site modifications, which includes alterations to the site, landscaping, and

parking improvements within the M CCD requires the issuance of a Certificate of Appropriateness by the Planning Commission after the project receives review and recommendation from the Design Review Committee. A public hearing is required prior to issuance or denial of the Certificate of Appropriateness. The applicant proposes to refurbish the existing parking lot area for the Desert Star Theater. The refurbishment will include repaving and formally striping an area and providing additional landscaping and a new masonry wall along the south perimeter of the property. The proposal also includes installation of new parking lot lighting and improvements for drainage of the parking lot. This project was previously approved by the planning commission on March 17, 2011, but the approval expired on March 31, 2013 and the applicant has reapplied. There will be no modifications to the Desert Star Theater or other buildings adjacent to the parking lot. The proposed parking and striping plan indicates that there will be a total of 230 parking spaces provided. For every 201-300 total parking spaces, a minimum of 7 spaces shall be designated as ADA parking spaces. The plans indicate that there will be a total of 10 ADA spaces provided and will therefore meet the minimum requirement for disabled parking. There is not a shared parking agreement between the Desert Star Theater and other adjacent properties, so all of the parking spaces are provided for the theater. The current structure will continue to meet all setback requirements of the M CCD zoning district. The primary access on 4800 South will be modified and widened as an improvement to the parking lot. There is a secondary access off of Center Street by way of Division Lane. There will be no modifications to the access via Division Lane. The south portion of Division Lane was vacated by the City Council in 2003. As a result of the street vacation, the south property lines have become interior property lines. Landscaping and fencing are allowed in these areas subject to the ordinance standards. However, City approval of this proposal does not authorize encroachment on any existing private easements nor does the approval remove any existing private cross access or maintenance agreements. Based on the information presented in this report, application materials submitted and the site review, staff recommends approval of the Certificate of Appropriateness subject to conditions.

Tom Suchoski, 10969 Topview Road, stated he is representing Desert Star. Mr. Suchoski stated that he is working with Desert Star for the purpose of renewing and getting site plan approval for approval of the refurbishment of the parking lot. He mentioned that most of the plans had been previously approved and submitted and reviewed by staff. Mr. Suchoski stated that they are looking forward to completing this project and be able to provide lighting for the parking area and to improve the surface areas of the parking lots.

Ms. Daniels asked Mr. Suchoski if he has had an opportunity to read the ten conditions of approval and if he can comply with them. Mr. Suchoski responded in the affirmative. Ms. Daniels asked if the project has been started. Mr. Suchoski stated that they are ready to start the project and be able to move ahead come spring when temperatures allow.

The meeting was opened for public comment.

Bruce Parsons, 5634 Hillside Drive, expressed his opinion with Mike Todd's latest request in closing off access to Court Avenue and to construct a 6-foot high concrete fence. A similar request was discussed 10 years ago in a Planning Commission meeting. Mr. Parsons stated that if Mr. Todd's request is granted, that he will be

forced to chain off his property at 4837 S. State Street which will then eliminate the State Street entry to Mike Todd's parking lot. The only in and out entrance to this parking lot would then be about 140 E. 4800 South along with the limited access at Division Lane and his private alley at 122 E. 4800 South. Mr. Parsons stated that if Mike Todd's request is approved this will also create safety concerns to police and fire vehicles and also apartment and business patrons.

Terry Siebert, 4891 S. State Street, stated that Mike Todd's plans were previously approved, but times have changed, as well as the area. The commercial right of way that has existed for over 100 years will be shut down. By closing the right of way, the traffic after an event at the Desert Star Playhouse will be bumper to bumper on Center Street. The existing exit on 4800 South is very dangerous when people are parked on the South side. Emergency vehicles will be hampered by trying to get in on 4800 South. Any commercial vehicle or RV's will have no option but to back out onto Court Avenue. He stated that his business has worked on 18-wheelers, car haulers, fifth wheel RV's, motorhomes, dump trucks and construction equipment for 32 years at this location.

Tom Schneider, stated he owns the property at 155 E Court Ave. Mr. Schneider stated that he appreciates the efforts of the improvements to the parking lot however, the plan of constructing the fence violates Mr. Schneider's rights as a property owner as it land locks his property. Mr. Schneider stated that he has a 4,000 square foot warehouse that only accesses Division Lane, when Division Lane was vacated it was agreed that it would not be restricted. The vacation order specifies that all right of ways and easements currently in place were not to be vacated. He stated that he has a right of way for that property as it has been there for decades, which is the only access point in or out. Mr. Schneider reiterated that things have changed in the last few years, because the Hilton Hotel and the apartment building are all using Court Avenue, which really isn't a street, it's a parking lot, all the business traffic gets diverted to the parking area just south of the Desert Star parking lot and there is nowhere to turn around; and that drivers that go in, have to back out. He also stated that he will do everything he can to stop this fence from going up.

Mr. Suchoski stated that as far as the access to the site, he has worked with staff and have been able to address this issue by widening the 4800 South access and the Division Lane access exiting, it does meet all the requirements, from the stand point of needing access for traffic through Mr. Siebert's parking area. Mr. Suchoski stated he is not aware of any significant impacts to the area following the release of traffic from the show house as a result of what's occurring through the two locations and that the existing traffic that goes through the area is not anticipated to significantly impact that traffic in any significant way. From the stand point of the prior approval it's already gone through and gone through an appeal process that was upheld by the Board of Adjustments. He stated that Mr. Todd has the right to improve and close off the Division Lane access, therefore there is no reason to deny this request at this time.

The public comment portion of the meeting was closed.

Mr. Harland asked staff to show a picture of Mr. Schneider's property to see how his property will be landlocked. Mr. Wilkinson showed the picture of the property and

showed that Mr. Schneider's property is not land locked. Mr. Schneider stated that the property is landlocked as they do not own the property just west of the building, and that piece of property is owned by Murray City. He questioned what Murray City will do with that property. Mr. Schneider stated that without owning the property, the only way to get into his garage is from Division Lane.

Ms. Mackay asked Mr. Schneider how he usually comes in to the property. Mr. Schneider responded that they come in from Court Avenue to Division Lane. He stated that Division Lane is not vacated south of Mr. Todd's property so they come in from the south or onto Division Lane from the east.

Ms. Daniels asked Mr. Wilkinson since Murray City owns the property next to Mr. Schneider's property; could Mr. Schneider get an easement with the City to go across their property? Mr. Wilkinson stated that there are no current plans for the property and there is currently access to the property and if there was any change to the status to that property, there would be some type of public process that would take place. The property does have frontage along Court Avenue to the south, and it is not a land locked parcel and it does touch public right of way. Mr. Wilkinson stated that with condition #10, the City's vacation of Division Lane back in 2003 did not affect any private easements or private access agreements, those are civil matters that would need to be taken up through a civil action to resolve those.

Mr. Schneider stated that he has attempted to get an easement with the City in the past so that in the chance that if there is a change in the property, they would be protected and the City has refused this request numerous times, leaving us unable to get an easement.

Ms. Mackay asked Mr. Siebert why is the access blocked for his business, it seems like it is still accessible. Mr. Siebert explained how his customers come in and out of his property.

Ms. Patterson made a motion to grant a Certificate of Appropriateness for modifications and improvements to the parking lot serving a significant building located at 4861 S. State Street subject to conditions 1-10 as listed:

1. The project design shall incorporate all of the design elements recommended by the design review committee and approved by the planning commission.
2. The project shall meet all applicable building code standards.
3. Plans shall be submitted to the building official that are stamped and sealed by appropriate design professionals.
4. The project shall meet all current fire codes.
5. A drainage plan and Storm Water Pollution Prevention Plan shall be submitted to the City Engineer for review and approval.

6. A formal landscaping plan meeting the requirements of Chapter 17.68 of the Murray Municipal Code shall be submitted and approved by the Community Development Department and installed as approved prior to occupancy.
7. Re-stripe the parking lot in accordance with the approved plan.
8. The access on Division Lane to the east shall not be gated or chained and shall remain open for fire and public safety access at all times.
9. The trash container shall be screened as required by Section 17.76.170 and as shown on the plans.
10. Note: City approval of this proposal does not authorize encroachment on any existing private easements nor does the approval remove any existing private cross access or maintenance agreements.

Seconded by Mr. Harland.

Call vote recorded by Chad Wilkinson.

A \_\_\_\_\_ Maren Patterson

A \_\_\_\_\_ Tim Taylor

N \_\_\_\_\_ Jim Harland

A \_\_\_\_\_ Karen Daniels

A \_\_\_\_\_ Vicki Mackay

Motion passed, 4-1.

OXFORD CREEK SUBDIVISION - PHASE 2 – 5786 South Erekson Lane – Project #13-181 & 13-182

Nick Mingo was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for a preliminary and final subdivision approval for a nine lot subdivision and Conditional Use Permit approval for a flag lot in the Oxford Creek Subdivision Phase 2 at the property addressed 5786 South Erekson Lane. Municipal Code Ordinance 16.04.050 requires the subdivision of property to be approved by Murray City Officials with recommendation from the Planning Commission. The new subdivision plat is amending Oxford Creek Subdivision lots 107, 111, and 120. All of the lots comply with the lot area and lot width requirements of the R-1-8 zone. The flag lot complies with the drive access, lot width and area requirements. All of the dwellings shall be required to comply with the setback requirements of the R-1-8 zone. Based on the information presented in this report, application materials submitted and the site review, staff recommends the planning commission forward a recommendation of approval to the mayor for preliminary and final subdivision approval for Oxford Creek Phase 2 and grant conditional use permit approval for the flag lot subject to conditions.

Nick Mingo, 978 E Woodoak Lane, stated he is representing Ivory Development for this proposal. He stated that this project has now developed in phases and a lot of comments that will be heard tonight will probably relate to that phase development,

ideally it would have been designed and constructed as one large project but unfortunately the property owner wanted to hold onto these last three acres and didn't want to sell until just recently. Ivory purchased this from the property owner and they want a consistent look throughout the neighborhood. This plan represents six new lots to the subdivision. Mr. Mingo stated that he has read through the fifteen conditions of approval and they will comply with them. Ms. Daniels clarified that there are just six new homes going in.

The meeting was opened for public comment.

Steve Erickson, 678 E Walnut Brook, stated that he is representing the three neighbors adjacent to the flag lot. Mr. Erickson stated he is not opposed to the subdivision, but has concerns regarding the flag lot. He stated that the biggest concern is that the plat shows an 8-foot side yard which puts the home close to the back of these properties. He stated the original plan submitted last November showed a 25-foot separation, and they are trying to prevent what happened with lot 119, which was in the first phase. He stated that there is an opportunity to make these corrections and they would like to see that setback pushed back to 25-feet and not the 8-feet off the property line. He indicated that Ivory Homes is trying to maximize their development which is good for them, but bad for the neighbors. Another concern is for the Hampton Family that is directly north of the proposed flag lot, where there is proposed a driveway between lots 203 and 204. They would like to see that pushed back to the original plans. They would like the flag lot to have a 6 to 8-foot masonry wall between the homes. He indicated that the homes are raised up because of the water table and so they would be looking into the backyards. Ms. Daniels asked Mr. Erickson a question regarding the Miller home setback.

Rob Koenig, 5799 Oxford Hollow Court, stated that his property is a lot that backs up to the pond. Mr. Koenig stated that when they purchased the property they were quite enamored by the view and pond, at the time that they first put money down on this property back in April of 2012 there was no mention by any Ivory Representative pertaining to this additional property that could occur. Mr. Koenig stated that he asked several times, if you read back in the minutes from Planning Commission meetings from January of 2012, Mr. Mingo admitted that Ivory owned all of that property and Mr. Baker had the right to buy it back. Mr. Koenig stated that he is not really in favor of the driveway being in back on his side yard.

Sha Koenig, 5799 South Oxford Hollow Court, stated that Ivory had not disclosed any of this information to any of the property owners at any point in time. Ms. Koenig stated that there is wildlife on the pond and very old trees where Ivory is wanting to build these new homes. Mr. and Ms. Koenig expressed the concern that Ivory Development did not communicate what their plans were for these homes. Mr. Koenig would like to have a condition that Ivory will have to take care of walls with existing fencing and take into consideration with landscaping.

Bonnie Erickson, 678 E Walnut Brook Drive, stated she is concerned that there could be a side yard in her backyard and a home could be within eight feet from the fence. Ms. Erickson stated that the neighboring home could be built ten or fifteen feet higher than her home and it would leave her with no sun in the winter in her backyard. She

also expressed that there are big trees in her back yard and Forest Baker had taken down about three of those trees because the big cottonwood trees root systems are very shallow, as they get bigger and bigger and with weather conditions they have a tendency to fall down. One of the trees has already fallen on her home. She stated that these three trees are still in her backyard and this should be a concern for the developer as well. Ms. Erickson stated she knows the developer has the option of making those side yards the way that they want but she hopes that as they continue with this project that they will be considerate of the neighbors that are there.

The public comment portion of the meeting was closed.

Nick Mingo stated that at a previous meeting he was called a liar. Mr. Mingo stated that Ivory purchased all ten acres and Forrest Baker had an option to re-purchase back these three lots, which he did, that's just the way the contract went, and there was never any intention of Mr. Baker selling all ten acres. Mr. Mingo stated that he disclosed that information in the past and he is disclosing again. With the disclosures, there was nothing else to disclose. He stated there was no intention from Ivory of buying the property. Mr. Mingo stated that Ivory knew this property would eventually be developed; they just weren't sure how soon it would be developed. Ivory spent a lot of money developing around Mr. Baker's home and his property with the assumption that it would not be purchased from Mr. Baker. However, when Mr. Baker decided to sell the property and as soon as Ivory purchased the property from Mr. Baker, a letter was sent out to the neighbors informing of them what was going to happen. Mr. Mingo stated that originally the flag lot did have the driveway through the pond on the west side of this phase. Mr. Mingo stated that he went out with Phil Roberts, Murray Fire Marshal, and Mr. Roberts didn't like it and wanted it moved to where it is currently. He stated that Ivory will save what trees they can, but if the trees are dead or dying or in a building area they will come out. The cottonwood trees along the north property line will be evaluated, if they need to be removed for safety reasons that will be addressed.

Mr. Harland asked Mr. Mingo if he would be willing to change the eight foot setback to the 12 foot setback. Mr. Mingo agreed. Mr. Harland also asked if Mr. Mingo would be willing to put a wall along the property line to give the neighbors some privacy. Mr. Mingo stated that with the flag lot, when the home plan comes in for building permit it is required that a flag lot provide a landscape plan. Mr. Mingo expressed that he thinks that landscaping will help address the headlights coming down the lane better than a concrete wall; he suggests that a note be made to address this with the landscape plan when applying for the building permits.

There was discussion clarifying what Mr. Harland and Mr. Mingo discussed regarding changing the setbacks and adding a wall of some sort to block out head lights.

Mr. Harland made a motion that the planning commission forward a recommendation of approval to the Mayor for preliminary and final subdivision approval for Oxford Creek Phase 2 and grant conditional use permit for the approval for the flag lot subject to conditions 1-15 as listed in the staff report adding a condition 16 a requirement to provide a six foot solid fence to be placed along the north property line

of lot 201 also adding condition 17 a requirement to have a minimum twelve foot setback on the north property line of lot 201:

1. Meet the requirements of the Murray City Engineer and city departments for subdivision and platting requirements.
2. Show utility easements on all of the lots to meet the subdivision ordinance regulations.
3. The project shall meet all applicable building and fire code standards. Provide a stamped and sealed soils report from geo-technical engineer. Elevation certificates are required for lots and structures located in the flood plain.
4. The project shall comply with Murray Fire, Power and Murray Water and Sewer Department requirements.
5. A landscaping plan shall be submitted with the building permit for flag lot #201 to comply with flag lot landscaping requirements.
6. Obtain a Salt Lake County Flood Control Permit and provide 20' maintenance easement along the top bank of creek.
7. Obtain a State Stream Alteration Permit for any work planned in the floodway.
8. Obtain Cottonwood Improvement District approval for the sewer line relocation and vacation of easements.
9. Show top of creek bank and 100 year floodplain on the plat and grading plan.
10. Obtain irrigation company approval for termination and removal of irrigation piping.
11. Provide an updated geotechnical study that addresses the proposed 10' of fill on lot 202 and the roadway fill.
12. Update the site Foundation Sub-drain Plan to include the proposed lots.
13. Update the subdivision drainage calculations and verify that the existing system will convey the increased runoff. Upsize pipes as required.
14. Adjust the new road connection to Erekson Lane to avoid utility conflicts.
15. Provide 15' radius at the road right-of-way connection to Erekson Lane.
16. Provide a six-foot solid fence to be placed along the north property line of lot 201.
17. A minimum twelve foot setback, shall be provided on the north property line of lot 201



Seconded by Ms. Mackay

Call vote recorded by Chad Wilkinson.

A \_\_\_\_\_ Maren Patterson

A \_\_\_\_\_ Tim Taylor

A \_\_\_\_\_ Jim Harland

A \_\_\_\_\_ Karen Daniels

A \_\_\_\_\_ Vicki Mackay

Motion passed, 5-0.

CLARUS VISION SUBDIVISION – 6358 South 900 East – Project #14-02

Stephanie Jones, representing Clarus Vision was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for a preliminary and final subdivision approval to subdivide the property into two lots at the property addressed 6358 South 900 East. Municipal Code Ordinance 16.04.050 requires the subdivision of property to be approved by Murray City Officials with recommendation from the Planning Commission. The west portion of the property is zoned R-1-8 (single family low density residential). The residential property, Lot #2, complies with the lot width and area requirements of the R-1-8 zone. The zoning for Lot #1 is R-N-B (residential neighborhood business). The applicant plans to sell the residential property to the west to a developer for future single family dwellings. All dwellings shall comply with the zoning code setback requirements. The minimum front and rear yard setback depth for single family residential infill development shall be 20 feet. Based on the information presented in this report, application materials submitted and the site review, staff recommends the planning commission forward a recommendation of approval to the mayor for preliminary and final subdivision approval subject to conditions.

Mr. Taylor asked Mr. Wilkinson if the subdivision boundary include the property obtained from the County. Mr. Wilkinson responded in the affirmative. Ms. Daniels clarified lot lines on pictures that were shown.

Stephanie Jones, representing Clarus Vision, 6412 South 900 East Suite 101, stated that their request is to subdivide the lot into residential and commercial and explained that they already have two people interested in the residential portion of the lot, one potential buyer is here at the meeting and the other is Murray School District.

Ms. Daniels asked Ms. Jones if she has had an opportunity to review the seven conditions of approval and if she can comply with them. Ms. Jones responded in the affirmative.

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

Mr. Taylor made a motion that the planning commission forward a recommendation of approval to the mayor for preliminary and final subdivision approval for a two lot subdivision for Clarus Vision located at 6358 South 900 East subject to conditions 1-7 as listed:

1. Meet the requirements of the Murray City Engineer for the recording of the plat at the Salt Lake County Recorder's Office.
2. Dedicate the one foot protection strip along Southwood Drive to the City. Dedicate the protection strip along Glen Oaks Street to the City or include it in Lot #2.
3. The project shall comply with Murray Water & Sewer, Power and Fire Department requirements.
4. Meet Murray City subdivision requirements.
5. Provide U.D.O.T. approval document for Lot #1 access on 900 East Street.
6. Show utility easements on the lots to meet the subdivision ordinance regulations.
7. Obtain irrigation ditch company approval for easements and ditch relocation work

Seconded by Ms. Patterson.

Call vote recorded by Chad Wilkinson.

A \_\_\_\_\_ Maren Patterson

A \_\_\_\_\_ Tim Taylor

A \_\_\_\_\_ Jim Harland

A \_\_\_\_\_ Karen Daniels

A \_\_\_\_\_ Vicki Mackay

Motion passed, 5-0.

#### OTHER BUSINESS

Jim Harland was thanked for nine years of service on the Planning Commission.

Meeting adjourned at 7:40 p.m.

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Chad Wilkinson, Manager  
Community & Economic Development