

Minutes of the Planning Commission meeting held on Thursday, June 2, 2011, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Karen Daniels, Vice-Chair
Sheri Van Bibber
Jim Harland
Jeff Evans
Ray Black
Tim Tingey, Community & Economic Development Director
Ray Christensen, Senior Planner
G.L. Critchfield, Deputy City Attorney
Citizens

Excused: Tim Taylor, Chair
Kurtis Aoki

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.

Ms. Daniels opened the meeting and welcomed those present.

APPROVAL OF MINUTES

Sheri Van Bibber made a motion to approve the minutes of May 19, 2011 as written. Seconded by Jeff Evans.

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

Jeff Evans made a motion to approve the Findings of Fact for Conditional Use Permits for Extra Space Storage, Atlas Travel Quest, and the Costco fuel tank from the May 19, 2011 meeting. Seconded by Sheri Van Bibber.

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

MINI OF MURRAY – 4761, 4763, 4769, 4771 South State Street & 4760, 4764, 4766 & 4768 South Brown Street, Project #11-45

John Firmage was the applicant present to represent this request. Ray Christensen reviewed the location and request for a Conditional Use Permit for a new building addition with a new showroom and offices for auto sales use. The existing auto repair and service building and parts building will remain on site for the properties addressed 4761, 4763, 4769, 4771 South State Street and 4760, 4764, 4766, 4768 South Brown Street. The new automobile sales showroom and offices building will be used for Mini of Murray at the west side of the existing auto repair, service, and parts buildings. A recent amendment to land use regulations requires new buildings which front State

Street located to the South of 4600 South and extending to the MCCD zone district to be located on the front property line or to be located 10 ft. back from the front property line. The proposed new building will be located on the property line on the State Street frontage. There are existing parcels of property on this site which will need to be combined and a plat recorded at Salt Lake County Recorder's Office so that the buildings will not cross over property boundary lines. The east boundary of the property borders the residential zone and a masonry buffer wall is required to meet ordinance requirements, but a variance was granted by the Board of Adjustment on October 13, 2008. The parking calculations provided by the applicant shows there are 51 total parking stalls provided, including 3 disabled stalls, with a total of 45 parking stalls required. The information shows the total retail showroom area contains 4,116 sq. ft. which requires 10 stalls, the office area shows 263 sq. ft. requiring one parking stall, there are also 9 service bays which requires 3 stalls per service bay for a total of 27 stalls, and the parts building has 5,246 sq. ft. which requires 7 stalls for a total of 45 parking stalls. The total of 51 parking stalls complies with the ordinance requirements for the business uses. The buildings comply with the setback requirements for the C-D-C zone at this location. A landscaping plan has been submitted for the site, but there will need to be changes to the plan prior to application for a building permit to comply with landscaping standards described in Municipal Ordinance Chapter 17.68. The ordinance requires 10% of the total site to be landscaped within the C-D-C zone. The site plan will need to be revised to show a minimum 10 ft. depth of frontage landscaping at the State Street south frontage area and the strips of landscaping at the north and south sides of the property will need to be changed from 4 ft. depth to 5 feet depth of landscaping excluding the curbs. Access to the site is from State Street and Brown Street. The plans will need to be revised to show the 2 drive accesses comply with Municipal Ordinance 17.72.100.C. and UDOT approval for a minimum 25 ft. width between the curbs for two-way traffic flow at the front State Street property boundary. Based on the information presented in this report, applications materials submitted and the site review, staff recommends approval subject to conditions.

Mr. Harland asked which buildings are going to remain at the site. Mr. Christensen stated that the parts building, which is closer to Brown Street will remain and the service building closest to State Street will also remain.

John Firmage, 4700 South State Street, Murray, stated that he met with his architect today regarding this project. He said that the 25-foot drive to the north is his only concern at this time as the plan allows for only 24 feet. Ms. Daniels said that the 25-foot access is a requirement in order to meet the code. Mr. Firmage responded that he thinks he will be able to meet the 25-foot requirement, and confirmed that he will also comply with the other conditions. He asked about using a portion of the 4-foot landscaping on the north side of the building to reach the 25-foot driveway requirement. Tim Tingey stated that there is a requirement for 5 feet of landscaping adjacent to parking areas, but the north-west side of the site being discussed further west is not a parking area. He said that the entire site requires 10% of the area to be landscaped. Mr. Firmage thanked staff for clarifying this issue.

There were no comments from the public related to this item.

Ray Black made a motion to approve a Conditional Use Permit for a new building addition for Mini of Murray, located at 4761, 4763, 4769, 4771 South State Street, and 4760, 4764, 4766 and 4768 South Brown Street, subject to conditions:

1. The Murray Building Official requires the structure to comply with building and fire codes. The applicant is required to provide plans which are stamped and sealed by appropriate design professionals to include a code analysis and egress plan. Also, provide a stamped and sealed soils report from geo-technical engineer at time of submittal for a building permit
2. The project shall meet all current fire codes as required by the Fire Department.
3. A formal landscaping plan meeting the requirements of Chapter 17.68 of the Murray Municipal Code shall be submitted for approval by the Murray City Forester and be installed as approved prior to occupancy. A landscaping plan has been submitted for the site, but there will need to be changes to the plan prior to application for a building permit. The ordinance requires 10% of the total site to be landscaped within the C-D-C zone. The site plan will need to be revised to show a minimum 10 ft. depth of frontage landscaping to the South State Street frontage area and the strips of landscaping at the north and south sides of the property will need to be changed from 4 ft. depth to 5 ft. depth excluding the curbs.
4. The trash containers shall be screened as required by Section 17.76.170.
5. Meet all Water & Sewer and Power Dept. requirements for the project.
6. Provide adequate paved and striped parking to meet the land use ordinance regulations, including disabled person parking stalls, to meet ADA regulations with signs posted. Designate customer and employee parking on the site with signs.
7. Provide the Murray City Engineer a formal drainage plan for review and approval. The applicant will need to repair any damaged curb, gutter, and sidewalk. UDOT approval is required for the drive accesses change on the State Street frontage. A minimum 25 ft. is required for drive access width to meet code.
8. All fencing shall comply with Municipal Code Chapter 17.64.
9. The properties will need to be combined together to meet the approval of the Murray City Engineer and city officials and be recorded at Salt Lake County Records office so that the buildings do not cross over boundary lines prior to applying for a building permit.

Seconded by Jim Harland.

Call vote recorded by Ray Christensen.

A _____ Ray Black

A _____ Jim Harland

A _____ Karen Daniels

A _____ Jeff Evans

A _____ Sheri Van Bibber

Motion passed, 5-0.

Ms. Van Bibber thanked Mr. Firmage for all that he does for Murray City.

MURRAY HERITAGE CENTER – 10 East 6150 South – Project #11-47

Susan Gregory was the applicant present to represent this request. Tim Tingey reviewed the location and request for a Conditional Use Permit for a new vestibule entrance at the Murray Heritage Center. He said that the vestibule will be located to the north of the existing building and adjacent to a right-of-way which has been used primarily to access this site. He said that the site is in the R-1-8 zone, and per Municipal Code Ordinance 17.100.030 senior center use is allowed within this zone with Conditional Use Permit approval. Mr. Tingey stated that the Heritage Center has done a lot of work with grant requests and fundraising in order to complete this expansion and he commended their efforts. He said that the right-of-way will need to be vacated prior to starting construction on this project, and that county information indicates that an additional property line currently runs through the building. In order to correct this situation staff recommends that the parcels be combined. Mr. Tingey stated that resolution of these issues is contained in the conditions recommended by staff. He said that staff is recommending approval.

Mr. Harland asked why the parcels were not combined prior to the building being constructed. Mr. Tingey responded that he doesn't know how this happens but that staff sees this situation occasionally.

Susan Gregory, 10 East 6150 South, stated that she is the Director of the Heritage Center. She said that she is looking forward to getting the new entrance under construction. She confirmed that she has reviewed the conditions recommended by staff and that she will meet the requirements.

Mr. Harland commended Ms. Gregory for raising the funds necessary to complete this project.

There were no comments from the public pertaining to this item.

Jim Harland made a motion to approve the Conditional Use Permit for a new vestibule for the front entrance of the Heritage Center, located at 73 West 6100 South and 10 East 6150 South, subject to conditions:

1. The project shall obtain a building permit and shall meet all applicable building code standards.

2. The project shall meet all current fire codes.
3. Prior to building permit, the applicant shall obtain approval of the proposed vacation of a portion of 6150 South.
4. Prior to building permit, the parcels shall be combined to eliminate the property lines currently running through the building and in order to meet setback requirements.

Seconded by Ray Black.

Call vote recorded by Ray Christensen.

A Ray Black
A Jim Harland
A Karen Daniels
A Jeff Evans
A Sheri Van Bibber

Motion passed, 5-0.

SHAUNNA MUIR – 5577 South Walden Meadows Drive – Project #11-48

Shaunna Muir was the applicant present to represent this request. Ray Christensen reviewed the location and request for a Conditional Use Permit for an accessory dwelling unit (ADU). Municipal Code Ordinance 17.78.030 allows an accessory dwelling use within the R-1-8 zoning district with Conditional Use Permit approval. The standards for accessory dwelling units require an additional 2 off-street parking spaces besides those required for the principal unit, and in no case shall be less than 4 spaces. Mr. Christensen stated that the submitted plan shows adequate space available for off-street parking to accommodate the required 4 spaces. The ADU will be within the existing dwelling unit basement and will contain 2 bedrooms, a kitchen and dining area, and bathroom. The unit will be 800 square feet with stairway access from the interior and rear of the existing dwelling. He said that the ordinance was amended about a year ago to allow ADU's within the R-1-8 zone. Mr. Christensen said that the dwelling meets the required setbacks for the zone except for the northeast corner of the dwelling is nonconforming and has approximately a 6-foot setback. The information from Salt Lake County Recorders office indicates that the existing residence was constructed in 1979. He said that the property owner must live in one of the units at the site and an affidavit to that effect must be recorded at Salt Lake County. Staff is recommending approval of the application as the standards have been met.

Karen Daniels asked if having smoke and carbon monoxide detectors interconnected applies to the entire structure. Mr. Christensen confirmed that they need to be interconnected so that if a fire starts in the upper level, the alarm will also sound in the basement apartment.

Shaunna Muir, 5577 South Walden Meadows Drive, stated that she received the staff report just before coming to this meeting. She said that she has reviewed the

conditions and will comply with them. She stated that she has been a long time resident of Murray City and had ancestors that settled here. She said that she wants to make positive contributions to the community, and that there are other residential units in the neighborhood. Ms. Muir said that she has only encountered one bad situation that occurred while she was out of state, and that for the last few years she has had good renters. She stated that she recently cleaned up her yard, and that the complaining neighbors need to look at their own yards. She said that she intends to cooperate in every way and that she has obtained bids to hard-wire the home.

Mr. Harland asked if there are two utility meters at this site. Ms. Muir responded that there is only one.

Ms. Daniels stated that two letters have been received from adjacent property owners outlining concerns about this request. Those letters are from Jonathan & Laurie Russell, Robert & Christine Murray. She said that both neighbors object to a Conditional Use Permit for an ADU, and that she is considering the letters part of the record. Ms. Daniels opened the meeting for public comments.

Joel Kjar, 5589 South Walden Meadows Drive, stated that he is the neighbor to the south of Ms. Muir. He asked the Commission to deny this application based on ordinance research he has done. He said that this ADU has been, is currently, and will continue to be out of compliance with existing codes. He said that the Commission is required to not authorize a Conditional Use Permit unless certain evidence is established, and referred to a document he compiled outlining the applicant's failure to comply with the code. Mr. Tingey recommended that Mr. Kjar verbally state his points as the Commission would not be able to review Mr. Kjar's entire document in the time available. Mr. Kjar stated that the site is not in compliance because there are more than two apartments being rented. He said that ADU is not to be occupied by more than two adults, and he has seen three different groups of renters in the home at one time. He said that Ms. Muir has previously rented out the entire home and did not reside there herself. Mr. Kjar said that the renters have never parked in the driveway, and always park on the street and in front of his home. He said that part of the evidence to be established is that the proposed use of the location must be desirable and provide a service or facility that will contribute, and he does not think that the proposed use fits these criteria. He said that a use is not to be detrimental to the health, safety or welfare of persons residing or working in the vicinity, or injurious to property or improvements. Mr. Kjar said that the proposed use has already been detrimental and injurious to his property when some renters took down his fence and moved it to a location on the rental property. He said that the standard states that a use should stress quality development and that this project does the opposite. He stated that there are market considerations as well. He referred to Municipal Code 17.56.60 and stated that the standards of this section are not being met by Ms. Muir and that the Conditional Use Permit should not be approved by the Planning Commission. Mr. Kjar stated that he likes Ms. Muir and that previous problems have not been with her but with prior renters.

Chris Murray, 5565 Walden Meadows Drive, stated that she lives directly to the north of Ms. Muir and that she agrees with everything stated by Mr. Kjar. She said that this is not a personal problem with Ms. Muir. She stated that the concern is with previous renters and the way prior incidents have been handled. She said that her fence was torn down and was not repaired for two years. Ms. Murray said that there are noise

issues, property upkeep and damage, parking concerns and that property values are lowered as a result. She stated that she hopes the Planning Commission denies this application, and thanked Mr. Kjar for doing research into this situation.

Jaymie Cushing, 5608 South Walden Meadows Drive, stated that she lives on the corner of the street. She said that her main concern relates to the number of vehicles parked along the street and the various people that are coming and going. She stated that she has young children and tries to be aware of who is in the neighborhood. Ms. Cushing said that she has seen a number of different people checking the mailbox, and she isn't sure if they are people that should be accessing the mailbox since she has had mail stolen from her mailbox. Ms. Cushing said that as neighbors they want to watch out for one another. She said that there are people accessing the back of the structure, but also a number of people who enter through the front of the structure which leads her to believe that additional rooms are being rented out.

Jeff Evans asked staff if there is a Conditional Use Permit in place at this property currently. He was advised that there is not. He said that if there is a Conditional Use Permit in effect, then concerned neighbors have more tools available to ensure that rules and regulations are being met. Mr. Harland stated that the ordinance was enacted to address these types of problems by clarifying the responsibilities of the property owners.

Tim Tingey said that the neighbors have posed good questions. He said that the R-1-8 zone does not allow for rental apartments. He said that it specifically allows only ADU's, which means a property owner can rent a portion of their home to family or for supplemental income. He said that the intent of the ordinance is to maintain the residential character of the single family neighborhood. Mr. Tingey stated that the ordinance standards must be met or a Conditional Use Permit can be revoked. He said that this application came about due to code enforcement complaints related to the renters. He said that the standards regarding the ADU having 2 bedrooms, number of adults, and the title to the home must be adhered to and that the owner is required to sign an affidavit confirming that the standards will be met. He said that in the event a standard is not being met, code enforcement will take place and revocation may occur. Mr. Tingey said that in regards to the proposal contributing to the residential neighborhood, it is shown to not have separate entrances and does not alter the single family nature of the dwelling. He said that it is unfortunate that past events have been problematic for neighbors, but that the ADU being detrimental to health, safety and welfare is addressed through adhering to the standards. He stated that quality development means that landscaping must be maintained and the building design must appear as a single family home. Mr. Tingey said that this building is not designated as a rental unit, that it is a single family, owner occupied home with an accessory dwelling unit.

Ms. Daniels asked Ms. Muir about having additional renters than those allowed in the 2 bedroom ADU. Ms. Muir responded that her daughter is going to be living with her and will pay rent. She said that she grew up in a family of 16 kids, and that she doesn't see parked cars as a problem. She stated that if it is required that the renters park in the driveway then she will see that they do so. Ms. Daniels asked about property upkeep and prior property damage. Ms. Muir said that she is not aware of any damage and that she had an old fence on the boundary between her home and the Murray's home that had deteriorated and she fixed it on her own. She said that

she is not aware of any fence being taken down. Ms. Daniels said that the neighbors' concerns relate to safety and parking and that Ms. Muir needs to make sure the renters are parking in the driveway.

Mr. Harland asked if there are 2 bedrooms in the basement that will be rented. Ms. Muir confirmed that there is and said that the second bedroom is accessed from the first one.

Ms. Van Bibber asked if any of the neighbors had previously reported their concerns to the city.

Ms. Daniels asked Ms. Muir if she understands that she must follow the guidelines to obtain a Conditional Use Permit, and that if she doesn't then the permit can be revoked.

Mr. Black asked Ms. Muir to explain why the neighbors on both sides claim that their fences have been torn down. She responded that the fence on the south side was the one that was damaged, and the one on the other side was taken out by her renters because there was already an existing fence. She said the fence was taken out without her knowledge. She said that the property is not an eyesore and explained that her elderly father lived with her for a little while to help her out financially and stored some of his yard equipment in the backyard. Ms. Muir said that her father's belongings have been removed from the backyard, and that she has always kept up the lawns.

Ms. Daniels asked if Ms. Muir was living at the property when the renters took down the fence. Ms. Muir responded that this occurred a number of years ago when she was living out of state and had rented out the entire home. Ms. Muir confirmed that she is now living in the home and will sign the affidavit confirming that status.

Anne Kjar, 5589 South Walden Meadows Drive, stated that she lives to the south of Ms. Muir. She said that she has contacted the city previously with her concerns. She said that currently there are renters both upstairs and downstairs in the home and a number of cars coming and going. Ms. Kjar said that she has contacted the police regarding an unlicensed vehicle and trailer. She said that Ms. Muir has asked previous renters to say that they are her relatives. She stated that the driveway is very steep and she doesn't think that renters will be able to park in the driveway, and that she's afraid they will start to block the sidewalk with cars. Ms. Kjar stated that Ms. Muir did not want to discuss the fencing issues and told her to talk directly to the renters.

Chris Murray clarified that the fence between her home and Ms. Muir's was torn down by a dog that was chained on the other side of the fence, and that it was repaired but it took two years. Ms. Murray stated that she offered to replace the fence if Ms. Muir was willing to pay half the cost, and Ms. Muir stated that she couldn't.

Ms. Daniels closed the public comment portion of the meeting.

Ms. Daniels said that it sounds like there were a number of issues with previous renters. She said that she understands the concerns of the neighbors, and asked Ms. Muir if she currently has additional renters in the home. Ms. Muir said that her father

has been renting from her, and her daughter is going to start renting from her along with her sister-in-law, who is renting and helping with her bills. Ms. Muir said that she is the only person living upstairs. Ms. Daniels said that the ADU should only be rented to 2 adults. Ms. Muir confirmed that will be the case. She said that she is selling one of her cars and will have an additional parking space in the garage. Ray Black said that the story seems to be different from each person that speaks, and said that Ms. Muir indicates there have not been children living there, yet the neighbor said there had been children living there. Ms. Daniels said that it seems like those comments applied to previous renters, and that by signing an affidavit Ms. Muir is committing to meeting the standards. Jeff Evans stated that he is also confused by the information provided and asked if the kitchen upstairs is a shared space. Ms. Muir said that previously her father lived in the bedroom upstairs. She said that her nephew has stayed overnight, and that she has Sunday dinners that result in a lot of cars.

Ms. Daniels asked Mr. Tingey how rental units are considered when the renters are family members. Mr. Tingey stated that the 800 square foot area is the ADU that can be rented out to either related or unrelated individuals. He said that the rest of the home, including upstairs, is part of the main dwelling and that family members can share that space.

Jeff Evans said that the Planning Commission is bound by land issue law, and that if the ADU meets the requirements then the Commission is obligated to approve it. Mr. Evans said that now all of the neighbors know the requirements, and that if those are not met then the permit can be revoked. He said that the city has a Code Enforcement officer that can be contacted if the requirements are not met.

Mr. Harland made a motion to approve a Conditional Use Permit for an Accessory Dwelling Unit, at the property addressed 5577 South Walden Meadows Drive, subject to conditions:

1. The project shall meet all applicable building code standards and shall meet all current fire codes. Accessory Dwelling Units shall meet requirements of 2009 IRC Section R302.3, 314, 315, etc. as determined from plans submitted for review and a site visit from a Murray City Building Inspector before the issuance of the permit. All smoke and carbon monoxide alarms shall be hard wired and interconnected.
2. The applicant shall submit evidence that the property is their principal residence and shall submit an affidavit stating that they are the owner of the property and that they will live in either the primary or accessory unit as their principal residence. The affidavit shall also indicate that the second unit is an accessory unit and that a future purchaser of the property will be required to reauthorize the accessory dwelling in order to continue the use. Once the affidavit has been approved by City staff, it shall be recorded against the property. A copy of the recorded affidavit shall be provided to Community and Economic Development staff.
3. Separate utility meters shall not be allowed.

4. Meet all Murray Power Department and Water and Sewer Department requirements.
5. The project shall meet all current fire codes.

Seconded by Jeff Evans.

Call vote recorded by Ray Christensen.

A ___ Ray Black

A ___ Jim Harland

A ___ Karen Daniels

A ___ Jeff Evans

A ___ Sheri Van Bibber

Motion passed, 5-0.

OTHER BUSINESS

Tim Tingey said that staff has copies of a land use training handbook from a recent conference that Jim Harland and Chad Wilkinson attended. He said that there is valuable information and provides updates on code changes. He stated that there will be another training opportunity this fall that will be held in Murray City. Mr. Harland said that the handbooks have good information about Conditional Use Permits, public meetings and hearings, and Robert's Rules of Order. Mr. Evans said that Murray hosted a similar training a number of years ago that was very informative.

Meeting adjourned.

Tim Tingey, Director
Community and Economic Development