

Minutes of the Planning Commission meeting held on Thursday, November 3, 2011, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Tim Taylor, Chairman  
Karen Daniels, Vice-Chair  
Sheri Van Bibber  
Kurtis Aoki  
Ray Black  
Jeff Evans  
Chad Wilkinson, Community & Economic Development Manager  
Ray Christensen, Senior Planner  
G.L. Critchfield, Deputy City Attorney

Excused: Jim Harland

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.

Tim Taylor opened the meeting and welcomed those present.

#### APPROVAL OF MINUTES

Mr. Aoki made a motion to approve the minutes of October 6, 2011 and October 20, 2011. Second by Ms. Van Bibber.

A voice vote was made. Motion passed, 6-0.

#### CONFLICT OF INTEREST

There were no conflicts of interest for this agenda.

#### APPROVAL OF FINDINGS OF FACT

Ms. Daniels made a motion to approve the Findings of Fact for Pro Auto. Seconded by Ms. Van Bibber.

A voice vote was made. Motion passed, 6-0.

#### WHISTLE STOP - 223 W. Winchester Street – Project #10-106

The business owner of Whistle Stop, Bill Green, was not present. Chad Wilkinson stated that the Planning Commission approved Conditional Use Permit for the Whistle Stop, allowing for a shaved ice/coffee stand on September 2, 2010. As a condition of approval, the planning commission required a solid masonry buffer wall to be installed between the property and the residential property to the south as required by the standards of the R-N-B zoning district. The site had previously received approval of a temporary conditional use permit and a subsequent extension and had been issued business licenses based on these temporary approvals. On March 3, 2011 the City sent a letter requiring the wall to be installed prior to renewal of the business license on the site. The applicant subsequently applied for a variance to the requirement to construct the wall and the Board of Adjustments approved a partial variance on

June 13, 2011. The variance eliminated the masonry wall requirement for the eastern 40 feet of the property. The remainder of the wall was still a requirement and as of to date, has still not been installed. The use has been operating from the site without a business license approval for several months. Section 17.56.090 provides for several options for the Planning Commission in considering a revocation. The commission may: (a) continue the item; (b) modify or rescind any condition or requirement of the conditional use permit; (c) revoke the conditional use permit; or (d) take no action and dismiss the complaint. The use has the potential of impacting adjacent property owners related to commercial noise, lighting and traffic and the buffer wall is a requirement of the code meant to address these specific issues. Based on the lack of compliance up to this point, staff does not recommend that an extension be granted. The City has allowed the use to continue for over a year without complying with the required standards of the ordinance or the required conditions of approval. Staff is concerned that a revised condition allowing for additional time to complete the improvements will not be in harmony with the zoning ordinance which requires conditional use approval and compliance with City standards prior to operation of a use. Staff recommends that the Planning Commission revoke the Conditional Use Permit based on non-compliance with code requirement. The applicant will be required to discontinue the use within 30 days. No land use or business license approvals will be issued for the site until all required improvements have been installed. After the improvements have been installed, the applicant may reapply for Conditional Use Permit approval.

Mr. Evans requested to hear a summary of the time line to hear how the recommendation got to this point. Mr. Wilkinson went over the sequence of events as follows:

- June 18, 2009. Planning Commission approves a six month temporary Conditional Use Permit (CUP) for the property allowing the shaved ice/coffee stand on a temporary basis.
- January 7, 2010. The Planning Commission approves a 6 month extension to the temporary conditional use permit. An expiration date of July 7, 2010 is established.
- August 3, 2010. The applicant was notified of the expiration of the temporary conditional use permit and the need to apply for a permanent conditional use permit for the property.
- September 2, 2010. The Planning Commission approves a permanent Conditional Use Permit with conditions of approval including the installation of a solid masonry wall as required by Section 17.140.110 of the land use ordinance.
- March 3, 2011. The applicant is informed that the business license for the property will not be renewed until the required masonry buffer wall is installed along the south property line.
- March 18, 2011. The applicant applies to the Board of Adjustments for a variance to the required buffer wall. The Board continues the item to the May 9, 2011 meeting and then to the June 13, 2011 meeting.
- June 13, 2011. The Board approves a partial variance for the eastern 40 feet of the wall based on the location of a sewer line on that portion of the property. The remainder of the wall is still required to be installed.

- October 12, 2011. The applicant is notified of the intent to consider revocation of the Conditional Use Permit because of noncompliance with conditions of approval.

Mr. Evans asked if there had been any contact from the applicant since the October 12<sup>th</sup> date. Mr. Wilkinson explained that all notices had been hand delivered to the business per code, but there has been no contact from the Whistle Stop to city staff.

Mr. Taylor asked if anyone from the Whistle Stop was present in the room. There was no response and discussion was then opened up to public comment. No comment was made and public comment section was closed.

Ms. Van Bibber commented that it appears the business has continued to operate without having a valid business license, and additionally, that if the conditional use permit is revoked, the applicant must discontinue the use within 30 days if they do not comply. Mr. Evans noted that for the past two hearings either the business owner or a representative of the Whistle Stop has appeared.

Mr. Black made a motion to revoke the Conditional Use Permit. Motion seconded by Mrs. Daniels. Mr. Wilkinson added that they have 30 days in which to appeal this decision.

Call vote recorded by Ray Christensen.

A \_\_\_\_\_ Ray Black  
A \_\_\_\_\_ Kurtis Aoki  
A \_\_\_\_\_ Tim Taylor  
A \_\_\_\_\_ Karen Daniels  
A \_\_\_\_\_ Jeff Evans  
A \_\_\_\_\_ Sheri Van Bibber

Motion passed, 6-0

SAMOA INK TATTOOS & DESIGNS – 5809 South State Street - #11-94

Mua Fuli and Tina Sperry were the applicants present to represent this request. Ray Christensen reviewed the location and request for a Conditional Use Permit for a tattoo shop at the property addressed 5809 South State Street. Municipal Code Ordinance 17.160.030 allows a tattoo shop use within the C-D-C zoning district subject to Conditional Use Permit approval. Mr. Christensen stated that this property was previously used by Huetter Mill for wood products sales and manufacturing. A pawn shop has recently been granted approval in the unit to the north. There is a vacant warehouse building to the back of the property and a deli-bakery business has recently been reviewed for site plan approval in the building to the north on this property. In a meeting for Conditional Use Permit approval on June 21, 2007, the planning commission required the property owner, David Truong, to combine the properties with recording at Salt Lake County Recorders' office, so that the property boundaries would not go through buildings. The properties have recently been combined and recorded at Salt Lake County Recorder's office. The site has a shared parking lot usage with businesses in the existing buildings. The Murray parking ordinance does not have a specific parking requirement listed for a tattoo business, but the applicant indicated there will be about 4 employees and 4 customers maximum at a time which will require 8 parking stalls. The total required parking

stalls for the proposed tattoo shop use, Big Dog Pawn and the deli-bakery use will require about 29 parking stalls. The site plan will need to be modified to address specific code standards relating to parking stalls and landscaping and with site changes will provide about 32 parking stalls which are adequate for the approved business uses on site. There are other vacant building units on site which may not be leased unless compliance can be met for adequate parking on site. A variance was granted by the Board of Adjustment on October 8, 2007 for the front setback of the buildings on State Street. The plans show the south building is setback 10.5 ft. and the north building is setback 18.5 ft. Portions of the required landscaping has been completed, but the property owner has applied to the Board of Adjustment for the November 14, 2011 meeting for a variance regarding the required landscaping at the east side of the property. Considering the width, it isn't quite wide enough for both landscaping and parking for all businesses currently in operation. Based on the information presented in this report, applications materials submitted and the site review, staff recommends approval subject to conditions.

Mr. Aoki questioned why Samoa Ink is required to have landscaping, but surrounding businesses do not. Mr. Christensen stated that these were older buildings and at the time these buildings were built there were different ordinances. At that time they didn't have the 5 foot landscaping ordinance. The property owner, Truong Properties, has applied for a variance on the landscaping and that will be the order of business at the next Board of Adjustment meeting on November 14, 2011. Mr. Wilkinson confirmed that the landscaping issue will need to be addressed at that meeting.

Mua Fuli, 453 W 200 N, Bountiful, indicated he is the owner of Samoa Tattoos. Mr. Fuli indicated that he had no questions for the board or staff and agreed that he will be able to abide by all conditions.

Tina Sperry with Trong Properties, 1559 West 3860 South, West Valley City, talked about landscaping in front of the building and how they would like to put pavers in so that when people walk over that area, they are not walking on the grass. Mr. Taylor stated that they would have to propose that up as part of the formal landscaping plan and it would be addressed at that time.

The discussion was then opened up to public comment. No comment was made and public comment section was closed.

Ms. Daniels made a motion to approve the Conditional Use Permit for Samoa Tattoos subject to the following conditions:

1. The Murray Building Official requires the structure to comply with building and fire codes.
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 licensing.
4. All exterior trash containers shall be screened as required by Section 17.76.170.
5. Meet all Water & Sewer and Power Dept. requirements for the use.

6. Provide adequate paved and striped parking stalls based on the business uses and compliance to parking ordinance regulations including disabled person parking stalls to meet ADA regulations with signs posted.

7. The applicant will need to repair any damaged curb, gutter, sidewalk and trip hazards to meet the approval of the city engineer.

Seconded by Mr. Aoki.

Call vote recorded by Ray Christensen

A \_\_\_\_\_ Ray Black

A \_\_\_\_\_ Kurtis Aoki

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

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

A \_\_\_\_\_ Jeff Evans

A \_\_\_\_\_ Sheri Van Bibber

Motion passed, 6-0

MOUNTAIN MEDICAL – 5460 South Green Street – Project #11-97

Mike Groth was the applicant present to represent this request. Ray Christensen reviewed the location and request for a Conditional Use Permit for a medical use with patient drug testing with overnight stay at the property addressed 5450 South Green Street. Municipal Code Ordinance 17.160.030 allows medical services within the C-D-C zoning district subject to Conditional Use Permit approval. The applicant proposes an eight bed facility that will provide physician care to monitor patients. The use is consistent with a general medical use which use is allowed in the zone subject to conditional use permit approval. Medical use requires 5 parking stalls per 1,000 sq. ft. for net floor area with at total building net sq. footage of 25,457 sq. ft. The net area with office, storage and the new drug testing facility will require a total of 92 parking stalls and 98 parking stalls are provided on site which meets the parking requirements for the proposed use. The information provided by Mountain Medical indicates there are 54 maximum employees at one shift and the Clinical Research Center of America use will have about 8 employees at one time. If the business expands in the future with additional employees or patients then additional parking may be required to meet zoning regulations. Based on the information presented in this report, application materials submitted and the site review, staff recommends approval subject to conditions.

Mr. Groth, Beecher-Walker Architects, 3115 E Lion Lane, Holladay, reviewed the 8 conditions that were set forth and stated that he was able to abide by those conditions. Mr. Groth stated that the building was originally a music center building and was then bought by Mountain Medical. Mountain Medical has occupied 1/3 of the building for the last few years as a billing office only, no medical. Earlier in 2011 they remodeled the middle 1/3 of the building to extend the billing office. The rest of the building has now been rented to tenant Clinical Research Center of America, which will be performing the clinical research. This will be a change of use from business to medical.

Terry Box, 1779 Mill Lane, Millcreek Township, and Ray Thomason, 1353 Arlington Drive, Salt Lake City, stated that the intended use of the facility is for clinical research trials for pharmaceutical products that are currently in development for the treatment of liver disease, primarily viral hepatitis. They are hoping to expand their research to include overnight stay as part of their research.

The discussion was then opened up to public comment. No comment was made and public comment section was closed.

Ms. Daniels made a motion to approve the Conditional Use Permit for Mountain Medical subject to the following conditions:

1. Adequate parking shall be provided on the site for the business uses to meet Municipal Code 17.72.
2. The project shall meet all current fire codes. Any use of trash containers shall be screened as required by Section 17.76.170.
3. The project shall meet all applicable building and fire code standards.
4. The applicant shall provide plans stamped and sealed by appropriate design professionals to include code analysis at time of submittal for a building permit.
5. Repair or replace of any damaged sidewalk, and curb & gutter along the property frontage. Comply with all Murray Water and Sewer Department requirements.
6. Comply with Murray Power department requirements.
7. The landscaping shall comply with Municipal code 17.68. The landscaping plan shall be approved by the Murray City Forester.

Motion was seconded by Mrs. VanBibber.

Call vote recorded by Ray Christensen.

A \_\_\_\_\_ Kurtis Aoki  
A \_\_\_\_\_ Karen Daniels  
A \_\_\_\_\_ Tim Taylor  
A \_\_\_\_\_ Sheri Van Bibber  
A \_\_\_\_\_ Jeff Evans  
A \_\_\_\_\_ Ray Black

Motion passed, 6-0.

#### OTHER BUSINESS

Mr. Wilkinson stated that the landscaping ordinance is coming up for review at the next meeting. He mentioned issues that have arisen regarding enforcement, particularly in the industrial zone. Mr. Evans asked about the status for an ordinance allowing chickens within the city. Mr.

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Wilkinson responded by saying there will be a citizen task force set up to review that issue at a later date.

Meeting adjourned.

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Chad Wilkinson, Manager  
Community & Economic Development