

Minutes of the Planning Commission meeting held on Thursday, December 15, 2011, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Tim Taylor, Chair
Karen Daniels, Vice-Chair
Kurtis Aoki
Sheri Van Bibber
Jim Harland
Ray Black
Mayor Dan Snarr
Chad Wilkinson, Community & Economic Development
Manager
Joshua Beach, Assistant Planner
G.L. Critchfield, Deputy City Attorney
Citizens

Excused: Jeff Evans

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.

Mr. Taylor opened the meeting and welcomed those present. Mr. Taylor announced that the Oasis Apartments project has withdrawn from this agenda and will not be reviewed. Those residents who received notices for this item will be re-notified when the item has been rescheduled.

APPROVAL OF MINUTES

Mr. Harland made a motion to approve the minutes of November 17, 2011 as submitted. Seconded by Mr. Black.

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 two Conditional Use permits, one for Colonial House and second for the Utah Center for Oral & Facial Surgery. Seconded by Ms. Van Bibber.

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

DOG CENTRAL – 4427 South Commerce Drive – Project #11-110

Mr. Brad Camp of 1606 East 2700 South, Salt Lake City was the applicant present to represent this request. Joshua Beach reviewed the location and request for Conditional Use Permit for an animal boarding and grooming business for the

property addressed 4427 South Commerce Drive. Municipal Code Ordinance 17.152.030 allows animal boarding within the M-G-C zoning district subject to Conditional Use Permit approval. The animal boarding and grooming business will be at the north side of the existing building. The site plan details show an outdoor fenced dog run area at the north side of the building. This property has multiple-business uses operating in two buildings on the site. The proposed business use will be located in a multi-unit commercial development that has shared parking for the various business uses. The applicant has provided a written description of his business. The information provided by the leasing agent for the property shows a variety of business uses including restaurants, a tattoo business, and retail businesses. The site plan shows a total of 53 parking stalls on site with 3 disabled stalls. Based on the business uses about 36 parking stalls are required on site. The applicant stated there will be one or two employees working at a time for the Dog Central business. The Water and Sewer Department noted the applicant will need to establish house keeping to keep the animal wastes from going down the drain. The applicant will need to work with Central Valley Water Reclamation to comply with their regulations. The City Engineer noted to provide containment around the outside play area to prevent animal waste from entering the Murray City storm drain. The use shall comply with applicable building and fire codes. Based on the information presented in this report, application materials submitted and the site review, staff recommends approval subject to conditions.

Mr. Camp stated that he is willing and able to abide by the conditions. Ms. Daniels asked if Mr. Camp is going to switch out the current fencing. Mr. Camp said that they are going to reinforce the bottom of the fence with additional fencing so that the dogs will not be able to get out. Mr. Harland then asked how many dogs will be at the facility at maximum. Mr. Camp said that they will be no more than 25 and that the facility will only be boarding small dogs.

The meeting was opened for public comment. There were no comments made by the public.

Mr. Black made a motion to approve a Conditional Use permit for an animal boarding and grooming business named Dog Central at 4427 South Commerce Drive, subject to the following conditions:

1. The project shall meet all applicable building code standards.
2. The project shall meet all current fire codes.
3. All trash containers shall be screened as required by Section 17.76.170.
4. Adequate parking stalls shall be paved and striped, including disabled stalls with signs posted, for the business uses.
5. The Water and Sewer Department requires house keeping standards to prevent animal wastes from going down the drain. The applicant will need to work with Central Valley Water Reclamation to comply with

their regulations.

6. Provide containment around the outside play area to prevent animal waste from entering the Murray City storm drain.

Ms. Daniels seconded the motion.

Call vote recorded by Chad Wilkinson.

A _____ Jim Harland

A _____ Tim Taylor

A _____ Ray Black

A _____ Kurtis Aoki

A _____ Karen Daniels

A _____ Sheri Van Bibber

Motion passed, 6-0.

Mr. Taylor again mentioned that the Oasis Apartments item has been postponed and new notices will be sent out when it is back on the agenda.

D M KIMBALL, LLC – 239 & 243 East 5300 South and 5201 South Murray Park Lane
– Project #11-33 & 11-34

David Kimball was the applicant present to represent this request. Chad Wilkinson reviewed the request for an amendment to the Murray General Plan from parks and open space to commercial retail and a zone map amendment from O-S (Open Space) to C-D-C (Commercial Development Conditional) for properties addressed 239 & 243 East 5300 South and 5201 South Murray Park Lane. This proposed general plan amendment and zone change is requested with the intention to provide parking for a hotel use and additional space for the development of the property. The applicant has been working with Salt Lake County representatives to purchase the additional property for the past year. The applicant indicated that a portion of the parking lot area would be sold by Salt Lake County for the hotel use and parking stalls would be replaced to the east where the bleachers will be removed. This parking lot area was changed from R-1-8 to O-S zoning in July, 2001 and several homes were removed to construct a parking lot. Gary Howland, with Eagle Pointe Financial, met with the Murray City Council and the property was approved for an amendment to the General Plan and a zone change from residential to parks & open space to create additional parking for use by Salt Lake County for the ice rink and other recreational facilities. Various permitted uses are allowed in the O-S zone such as parks, sports activities, swimming areas, playgrounds and athletic areas, and government services. Other uses allowed by Conditional Use Permit include uses such as communications, cemeteries, educational services, sports assembly, fairgrounds, riding academies and recreation. A variety of permitted uses are allowed in the C-D-C zone such as retail trade, food stores, shopping centers, hardware supplies, furniture sales, restaurants, finance, insurance, and real estate services, and various office uses. Other uses are allowed by Conditional Use Permit such as hotels, auto sales, education services,

motion picture theaters, dance halls, parks, recreation, and automobile repair services.

The purpose of the General Plan is to provide overall goal and policy guidance related to planning issues in the community. The plan provides for flexibility in the implementation of the goals and policies depending on individual situations and characteristics of a particular site. Chapter 2 of the Murray City General Plan identifies the goals and objectives for land use in the community. The plan also identifies future land use. For instance, construction of the IMC Hospital was an example of a change of circumstances impacting zoning in the area. Because of that change of circumstances it justified looking at the need for additional commercial zoning to support the hospital use. The General Plan for the subject properties has been identified as parks and open space, but the Salt Lake County representatives have indicated they are agreeable to sell property to David Kimball and parking stalls would be replaced with new parking stalls to be located to the east where the bleachers will be removed and relocated and used by patrons of the Salt Lake County ice rink and the soccer field to the north. Mr. Wilkinson stressed that the discussion needs to stay focused on whether or not the recommended change in zoning is appropriate in terms of policies of the General Plan and in terms of the characteristics of the area. Once the zoning is changed there is a whole list of uses that could potentially go there. A full list of these uses is included in the city code. At this meeting there is no intent to recommend any specific use, only to recommend the change in zoning and General Plan Amendment.

The General Plan amendment and zone change for the proposed parcels will allow new commercial development which will benefit the City within the area with a hotel or commercial uses for support of the Intermountain Medical Center and surrounding area.

- i. The General Plan provides for flexibility in implementation and execution of the goals and policies based on individual circumstances.
- ii. The requested change has been carefully considered based on characteristics of the site and surrounding area and policies of the General Plan.
- iii. The uses allowed in the C-D-C zone are compatible with this area with the surrounding uses such as the Eagle Pointe commercial development, Costco, Intermountain Medical Center to the west, the Murray Library and Junior High to the south and the county ice rink and parking area use to the north.

Based on the above findings, staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the requested Murray General Plan amendment and zone change.

Mr. Harland asked if the applicant had already purchased the subject property from the county or if they were still in discussions. Mr. Kimball stated that property had been purchased 4 years ago with the full intent to do a hotel with 125 suites, specifically a Marriott Residence Inn. The subject property is currently under contract. However, in order for them to purchase the subject property they would pay more

than twice the appraisal, so that the county could put in new facilities, take down the old bleachers, purchase portable bleachers in their place and move the parking to the spot where the old bleachers once were. The County Commission approved the sale, subject to getting the zoning change. Mr. Harland wanted to know with the number of rooms planned, how many stories the building would be. Mr. Kimball stated that seven levels and under in accordance with the approved variance. Mr. Aoki asked if a building with seven levels and 125 suites would have self-contained parking. Mr. Kimball responded by saying yes.

Mr. Taylor mentioned that several letters had been sent to the City regarding this item and have been put on record. One was sent to the Salt Lake City Council and the Planning Commission by Colleen Ogrin. In addition, letters from Keith and Roberta Jelovchan and another from Melissa Lyman have also been sent in.

The meeting was opened for public comment.

Mr. Jim Towers of 246 E 5300 South a life-long resident in Murray City wanted to voice his opposition to the proposed change in zoning. His concern is that a change in zoning will destroy the integrity of the neighborhood by taking away open space and further developing an already congested area. He asked that the proposal be denied.

Ms. Colleen Ogrin of 269 E 5300 South is the property owner adjacent to the County property. Ms. Ogrin's concerns are that the proposed zoning change would allow parking in that area to be open 24 hours a day whereas parking in the lot that is there now limits parking to no later than 11pm. The concern goes deeper in that having a parking lot that is open 24 hours a day will promote unwanted activities. Another piece that is concerning is that the grandstands that are currently used for recreation will be demolished and another parking lot will take its place. This brings up issues of lighting, security and privacy to the surrounding residential properties. It is Ms. Ogrin's hope that the board will oppose the rezoning of this area.

Ms. Milissa Lyman 307 East 5300 South is not only representing herself, but roughly ten elderly people that were unable to attend due to various reasons. Ms. Lyman made note that letters regarding this hearing were dated November 30, 2011 and did not give the residents time to prepare or make plans for attendance during the busy holiday season. Therefore, she has requested that this item be postponed or moved to the next meeting date, so that people have ample opportunity to plan or submit a letter. Ms. Lyman's concern is that not enough of the public will have input to cite their positions. Ms. Lyman mentioned that she had a conversation with Trae Stokes, Murray City Engineer, on studies that have been conducted on the traffic flow in that area from 2002. The studies projected in the year 2012 that the rating in the area of 5300 South and State Street will be an "F" in traffic flow. Ms. Lyman sat in the parking lot of the old "Take Five" restaurant and videotaped how the cars don't stop for people in the pedestrian cross walk that is in front of the Library. Not only do they not stop, but most are surpassing the 30 mph posted speed limit. She also mentioned that since Mr. Kimball has stated that he intends to put a hotel on the premises, she decided to look into that need in the area. She went over to the Radisson Inn on 5300 South that after talking to them, said they would be glad to have a shuttle run clients back and forth from the hospital. For the most part, they only run at 50% capacity and

would welcome the business. Inter Mountain Medical Center already has contract with Lost Creek Apartments for 15 units of extended stay for people that need to stay for more than 30 days. Ms. Lyman asked the Board to vote against this new zoning proposal.

Mr. Garrett Pact (Lyman) of 307 East 5300 South started out by asking the Board to look at what they have now...open space, serenity, owls and bald eagles. The bleachers in the open space being considered for tear down are worth over \$2 million, only to be replaced with yet another parking lot. Mr. Pact (Lyman) repeatedly was getting off the agenda. He was asked several times by Mr. Taylor to stay on the topic and wrap it up.

Ms. Roberta Jelovchan of 301 East 5300 South is concerned about vandalism and gang activity escalating in the area should this rezoning get approved. If a hotel were to be built on the subject property, the hotel rooms would be looking right into her front room and back yard taking away any privacy she has now. She asked the Board if they would consider their vote to be against the proposed new zoning.

Mr. Keith Jelovchan of 301 East 5300 South has concerns about all of the above that have been mentioned and is against the proposed zone change.

Ms. Kathleen Ogrin, Ms. Colleen Ogrin's daughter, who also lives at 269 East 5300 South, is concerned about bringing commercial property closer to their house regardless of what the business is. Through the years it has gone from residential, to a parking lot and now the proposed zoning change to C-D-C. She is requesting that the Board deny the rezoning request for this area.

Mr. Mike Newland of 5320 South Alpine Dr. (270 East) agrees with all comments made from the public. He wanted to reiterate how horrendous the traffic is on 5300 South and that he is very concerned about the safety of pedestrians crossing in that area. By allowing a zoning change for more commercial to come into the area would only make it busier and more dangerous. He is requesting that the proposed zoning change not be granted.

Mr. Jack Jensen of 348 East 5300 South, a longtime resident has seen nothing but traffic flow get busier and busier over the years. There are three schools in the area, a library and Murray Park and his main concern is the safety of the youth in the area. His recommendation is to deny the rezoning request.

Ms. Sharon Hayes of 1467 Vintry Circle which is a parcel of land that was annexed in 2001 into Murray. She is in favor of approving the zoning change. She disagrees that the area is busier than any other area that has commercial in or near it. Because zoning changes were approved a few years back, Intermountain Medical Center was able to go in and today is such a valuable asset to the City. The problem is Murray does not provide enough options close to the hospital for people and/or their families that are having long term treatment. Previously being involved in the lodging industry, she noted that the security that comes along with a hotel is far more than any other business that just locks their door at night would have. She also wanted to point out the additional sales tax that will be generated and taken in by Murray City. Ms. Hayes

asked the Board to consider approval of the proposed zoning change. Ms. Jelovchan wanted to point out that wherever there is land zoned commercial, the property values of the residential around it go down.

Mr. Newland wanted to know if Ms. Hayes worked for Mr. Kimball. Ms. Hayes' response was no.

The public comment portion of the meeting was closed and then re-opened to give Mr. Kimball an opportunity to respond.

Mr. Kimball reiterated that the only reason a hotel is being considered for this area is due to the hospital and its need for people to stay for extended periods of time. Commercial properties generate a large tax base and that typically keeps the residential taxes down.

The public comment portion of the meeting was closed.

Mr. Taylor asked if Mr. Wilkinson would like to address the matter of when the public notices get mailed out and are posted. Mr. Wilkinson stated that public notices get mailed out ten days prior to a public hearing to a 500 foot radius of the area. For this particular issue, letters were sent out on November 30, 2011. A list of the addresses of people to whom letters were sent are on file at the Community and Economic Development Department in the Public Services Building. Zone change hearings are also published in the newspaper. This particular hearing was published on December 4, 2011. These notice requirements are state law.

Mr. Harland was trying to find out if the 10 people that Ms. Lyman was referring to that did not receive a notice were outside the 500 feet radius of notices that were sent out. Ms. Daniels made note that what Ms. Lyman was saying is that the notices were received but enough time was not given for those people to make arrangements to attend the meeting. Mr. Harland asked if some of the opposing issues brought up by the public could be addressed. Mr. Taylor stated the issues such as; building height, access, traffic, etc. will all have to be addressed as the applicant submits their final plans. In this meeting the issue that must be addressed is the proposed zoning change for the three parcels listed on the application. Ms. VanBibber asked if a traffic study will be done. Mr. Wilkinson addressed that with stating that the code says that a traffic study can be requested for anything that has more than 100 ADT (Average Daily Trips) produced. There will be some traffic impacts from the proposed use, so it is likely that there will be a study required by the City Engineering Department and can be put in as a condition of approval by the Board that one be done when the site plans come in.

Mr. Harland pointed out that at present this area is 75% commercial use and that would dictate that this property should be used for that same purpose. It is also hard to ignore the tax revenues that this property would bring in and must be considered. Mr. Aoki commented that there seems to be an encroachment with the two larger parcels in this proposed rezoning. The only rezoning he would be in favor of would be the strip on the north side unless by obtaining that strip, that drive would then become wide enough for a street. Mr. Wilkinson clarified that, yes there could possibly be an

entrance to the property there, but no there is no proposal or idea for a street to go in. Mr. Black wanted to know if there was going to be a buffer between the Open Space and the proposed rezoning area. Mr. Wilkinson pointed out on the map that there are two lots owned by the County that will be between the Open Space and residential. Ms. VanBibber made a comment that she works next to the Crystal Inn and yes, there are questionable things that go on, but they also provide security. On the tax revenue side of things, it seems that there are so many places that the city could feasibly build a hotel, but Mr. Kimball has the right to build what the law allows him to build on that property. To her it seems like there has been a lot of "spot zoning" in that area, whereas in other areas of the City the Commission has tried to stay to the General Plan. She does have an issue with the Jr. High being located just across the street, but can see both sides of the argument. Mr. Taylor reiterated that having the opportunity to deal with some of the traffic issues by doing a traffic study on that specific site once the site plans are submitted will be very important in order to protect the health, safety and welfare of the community. Mr. Black asked Mr. Wilkinson, whether this property is expanded to commercial zoning or not, would there be a traffic study done prior to site plan approval. Mr. Wilkinson agreed that most likely there would be one done, depending on the size and nature of the project.

Mr. Taylor addressed Mr. Aoki on the two parcels that are encroaching. Currently the sale of those parcels is pending based on the outcome of this meeting, but he did go on to say that if the rezoning was approved and this particular development wasn't able to finalize an agreement with the County, those parcels will stay a parking lot. However, if the rezoning is approved, then the sale of those two parcels will no longer be pending and will go through. Mr. Harland wanted to reiterate that the Board is only a recommending body and the final approval is by the City Counsel. Mr. Black addressed the question is "why are we here tonight". The answer is zoning. All the information that has been brought up in this meeting is pertinent and close to the heart of those that have spoken, but this isn't the meeting that those issues are to be addressed. At this meeting the Planning Commission is merely looking at a zone change and that is the only thing that they are to make a decision on this evening.

Mr. Harland made a motion for approval for an amendment to the Murray City General Plan from parks and open space to commercial retail and zoning map amendment from O-S (Open Space) to C-D-C (Commercial Development Conditional) for the properties addressed 239 & 243 East 5300 South and 5201 South Murray Park Lane.

Ms. Daniels seconded the motion.

Call vote recorded by Chad Wilkinson.

A _____ Jim Harland

A _____ Tim Taylor

A _____ Ray Black

N _____ Kurtis Aoki

N _____ Karen Daniels

N _____ Sheri Van Bibber

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Motion failed, 3-3.

Mr. Taylor requested a second motion.

Ms. Daniels made a motion to send a recommendation of approval to the City Council to change the general plan from parks and open space to commercial retail and zoning from O-S (Open Space) to C-D-C (Commercial Development Conditional) for the property addressed 5201 South Murray Park Lane. This is the narrower strip of land. This motion also includes a recommendation of denial to change the general plan from parks and open space to commercial retail and zoning from O-S (Open Space) to C-D-C (Commercial Development Conditional) for the property addressed 239 & 243 East 5300 South.

Mr. Aoki seconded the motion.

Call vote recorded by Chad Wilkinson.

N _____ Jim Harland

N _____ Tim Taylor

Y _____ Ray Black

Y _____ Kurtis Aoki

Y _____ Karen Daniels

Y _____ Sheri Van Bibber

Motion approved 4-2.

Other Items of Business:

At the next meeting, January 5, 2012, there will be a discussion on creating a revised private street amendment that would only allow them under limited circumstances.

Meeting adjourned.

The meeting was re-opened:

Mr. Wilkinson made mention that there was another letter from a surrounding property owner, Ryan Butters, in regards to denying Item #6 in the file that he wasn't aware of. The letter will be forwarded onto the City Council as well as the Planning Commission.

Meeting adjourned.

Chad Wilkinson, Manager
Community & Economic Development