

Minutes of the Hearing Officer meeting held on Wednesday, May 25, 2016 at 12:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Jim Harland, Hearing Officer  
Jared Hall, Manager of Community Development Division  
Brad McIlrath, Assistant Planner  
G.L. Critchfield, Deputy City Attorney  
Applicants

Mr. Harland opened the meeting and welcomed those present. He reviewed the public meeting rules and procedures.

#### CONFLICT OF INTEREST

Mr. Harland stated that he has no conflicts of interest for this agenda. Mr. Harland stated his written decision will be available one week from today, Wednesday, June 1, 2016 after noon at the Community Development office located at the Public Services Building, 4646 South 500 West at that time.

#### Case #1525 – NAMASTE NOW, LLC – 106 West Fireclay Avenue – Project #16-58

Joshua Crawford was the applicant present to represent this request. Brad McIlrath reviewed the location and request for a variance to allow parking in the front setback area of a proposed development for the property addressed 106 W. Fireclay Avenue. Murray City Code Section 17.168.060.F states, "Parking is not permitted in the front setback area of any building." As stated above, parking is not allowed within the front setback of buildings in the T-O-D (Transit-Oriented Development) Zone. The purpose of this development standard is to encourage compact pedestrian oriented mixed uses within close proximity of transit. This requirement encourages walkable urban design with adjacent sidewalks and street furniture; however plazas and courtyards may be used within the front setback and deemed to be part of the front setback for buildings. With the use of these types of urban design features, the Fireclay District is envisioned to provide an active street life for people living, working and visiting this area. The applicant is proposing to construct a five (5) story assisted living facility at this location with parking located under the west portion of the building, the rear of the building, and within the front setback. According to the submitted plans the majority of the parking would be provided within and to the rear of the facility with a drop off area and eleven (11) parking spaces to the front of the building.

The subject property is located in an area of the Fireclay District that requires the completion of 4250 South and a fifty foot (50') building setback from the top bank of Big Cottonwood Creek. Additionally, the area between the creek and the development is required to be developed with a creek side trail. The project will also provide a public plaza area within the front setback of the building and between the parking and 4250 South. With these development constraints and the odd shape of the property, the buildable area for any project is significantly limited. In order to accommodate sufficient resident, customer and visitor parking for proposed uses at this site, sufficient parking would be limited and difficult to accommodate without being located within the front setback of the building. Based upon the analysis of this proposed use and other potential uses for this property, and the existing site constraints, Staff has determined that a variance for this property is appropriate. The applicant has submitted a written narrative by way of the Variance Analysis Form. Notices for this request were sent on Monday, May 16, 2016. As of the date of this report, public input regarding this request has not

been submitted.

Based on review and analysis of the application material, subject site and surrounding area, and applicable Murray Municipal Code sections, the Community and Economic Development Staff finds that the proposal meets the standards for a variance. Therefore, staff recommends approval of the variance request to allow parking within the front setback for the property addressed 106 W. Fireclay Avenue with the following conditions:

1. The applicant shall obtain conditional use permit approval for the proposed assisted living facility.
2. The public plaza shall be developed in conjunction with the front setback parking.
3. The project shall comply with all other applicable development standards of the Murray Land Use Ordinance and the T-O-D Design Guidelines.

Mr. Harland asked about the requirements for parking for this type of use. Mr. McIlrath responded parking is calculated at the rate of one space for every 5 individuals that it is licensed to care for and is based on one person per bed/unit. The proposal is for 140 units which requires 28 parking spaces. In addition to that this type of facility, the parking requires one parking space for every facility vehicle and they have one facility vehicle. The remaining parking is based on the number of employees, and one space is required for each two employees. The facility is anticipated to have a total of 20 employees that would require 10 parking spaces. The total sum required for parking is 39 spaces. With the parking located underneath the building, parking to the rear, and the 11 spaces in the front, the site plan shows 41 parking spaces to be provided. The parking in the front is necessary to meet the minimum required. Mr. McIlrath stated that another possible scenario would be to have underground parking.

Mr. Harland asked for explanation as to how the required parking relates to a type of hardship. Mr. McIlrath responded the existing standards require installation of a 50 foot road, with a 50 foot setback and also a pedestrian trail. With all those requirements, it limits the buildable area on the property. If there were no 50 foot setback requirement, the parking could be accommodated without having the parking in the front setback area. Due to the setback and requirement for the pedestrian trail, it limits the buildable space. The literal enforcement of the code makes it difficult to locate the required parking. The property is odd shaped making it more difficult to meet the setback requirements. Mr. McIlrath explained the proposal does provide for adequate fire access and even underneath the building.

Mr. Harland stated he visited this site yesterday and appreciated the additional photos presented at this meeting helping to clarify the proposal. Mr. Harland clarified that if the variance is granted, the applicants would submit for approval for a Conditional Use Permit.

Josh Crawford, TSA Architects, stated he is the architect for this project. Mr. Crawford complimented staff on the presentation given. He explained this project is low income and market rate senior assisted living. The applicants are trying to fill a need that does not exist in the Utah market. This site is a very difficult site to develop due to the shape and has many restraints. He stated they have been able to work out all the restraints for

this property with the exception of the parking issue which is why they are seeking a variance. He stated they reviewed different orientations of the building and one of key components is being able to take care of the residents and having a good access with a south facing building is important for snow to melt in the winter months.

Mr. Harland asked about the site plan showing a building marked as "future development". Mr. Crawford responded the building market as "future development" shows how the property will be developed at a later time, but will remain open space at this time. The plaza area will have landscaping or a gazebo and is intended to be a public plaza area. He explained the 11 stalls in the front will primarily be visitor and ADA parking stalls. Mr. Crawford stated that they would like to maximize the number of parking stalls so that on holidays they may be able to accommodate as many as possible. He stated this type of facility has less number of staff per resident because of the low income status and this is the least amount of parking for the size of the building.

Mr. Harland asked about the 140 units and if they are set up similar to a hotel room or individual room or apartments. Mr. Crawford responded there are 54 one-bedroom apartments, and 80 studio apartments. Each floor has a smaller kitchen and each floor operates as its own household. He stated there will be no nursing, but they will have medical staff. This application will also be reviewed by the health department for compliance with their requirements. He stated there is ramp in the back that goes down to a garden level for all the service requirements such as commercial kitchen, laundry facilities and amenities for the residents. He stated there are other facilities in the country similar to this, but this model is known as the greenhouse model, which they treat each grouping (10-16 units) as a household.

The meeting was opened for public comment. No comments were made and the public comment portion was closed. It was indicated that no written comments were submitted to the planning division.

Mr. Harland stated he will have his decision available to the applicants in one week on June 1<sup>st</sup>.

CASE #1526 – AUNT LORRETTA'S CHILDCARE – 140 East 5600 South – Project #16-59

Karl Kitchin and Zane Lorretta Bowman were the applicants present to represent this request. Jared Hall reviewed the location and request for a variance to not install a 6 ft high solid masonry wall at the east and south side of the property abutting the R-1-8 (residential single family low density zone) at the property addressed 140 East 5600 South. The property is located within the C-D (commercial development) zoning district. The applicant is also requesting a variance to not install the 10 ft depth of buffer landscaping at the east side of the property because of the driveway location at the east side of the property. Where the site abuts a residential zone, a six foot high solid masonry wall shall be located along the property line and be in compliance with the city fencing ordinance. Murray City Code Section 17.160.100 C. states: "Landscaping adjacent to residential zoning will require a minimum buffer of ten feet." Murray City Code Section 17.160.040. states: "A minimum of 20 feet building setback is required to the boundary line of a residential district." Zane Lorretta Bowman currently operates a business called Aunt Lorretta's Infant/Childcare on the property. Ms. Bowman is planning

to construct a new infant/childcare building on the property to the south of the existing daycare building. A new parking lot is planned to be installed to the south of the new building. The applicant is requesting a variance to not install a solid masonry wall at the east and south sides of the property abutting the residential zone because there is a 20 ft. wide permanent utility easement with a sewer line along the east and south sides of this property, which will prohibit the installation of a masonry wall at the property line. There is an existing circular drive way at the north side of the property and the applicant plans to extend the driveway at the east side of the property to the south to a proposed new parking lot located at the south side of the property. Also, any new building is required to be located a minimum 20 ft. setback from a residential zone boundary at the east and south sides of the property. The existing daycare business building was converted from a single family dwelling to a commercial child care facility in 1997.

As of the date of this report, no public comment has been received regarding this variance request. Based on review and analysis of the application material, subject site and surrounding area, and applicable Murray Municipal Code sections, the Community and Economic Development Staff finds that the proposal meets the standards for variances. Therefore, staff recommends approval of a variance to not install the masonry wall at the east and south sides of the property. Staff also recommends a landscaping variance is granted only for the east side buffer landscaping due to the driveway location, but the 10 ft. depth of buffer landscaping is required at the south side of the property addressed 140 East 5600 South subject to the following condition:

1. The applicant shall work with Murray City staff to provide a site improvement plan that appropriate addresses parking, access, and landscaping according to the variances granted and other applicable standards and practices.

Mr. Harland asked if a conditional use permit will be required for this use. Mr. Hall responded in the affirmative.

Mr. Harland asked if the literal enforcement would cause an unreasonable hardship because of the easement along the east boundary, and the fact that the property owners are not allowed to install the improvements on top of the easement. Mr. Hall responded in the affirmative and stated that the applicants are essentially unable to comply due to the easement on the east property line and that the General Plan would not be affected with this request. The property that the daycare is currently located is in the C-D (commercial development) zoning district.

Karl Kitchin, 2433 East Kentucky Avenue, Holladay, stated they are desirous to expand the existing childcare business. They have also applied to change the zoning on the adjacent property to the east which would allow them to expand even more, however, the zoning request has not been reviewed by the city council at this time. He stated that they will not be able to access their property from Lindon Street per the city's requirement, however, a crash gate will be located at the south end of the property for emergency access from Lindon Street. Mr. Kitchin explained that they are partnering with Headstart and need to expand the business to accommodate the growth. The childcare business will meet government standards for childcare licensing and building requirements. He stated they currently take children from infants to age 12. He stated he ultimately would like to expand onto the adjacent property to the east, if the zoning is changed, but if not they will expand onto the current property to which they are requesting this variance.

Mr. Hall explained the applicants have applied to change the zoning to commercial and amend the general plan on the adjacent property to the east (addressed 144 East 5600 South) to commercial. If the zoning is changed the parking lot would cover the easement and the east boundary would then be able to have the solid wall and landscaping installed. In that case this variance request would not be necessary. Mr. Harland thanked staff and the applicant for explanation of the easement and zone change requests.

Mr. Kitchin stated he has spoken to most of the neighbors directly and they are okay with his request. He stated the neighbors main concern is with the business being able to access Lindon Street which they are not able to do per the city requirements.

The meeting was opened for public comment. No comments were made and the public comment portion was closed for this item.

Zane Lorretta Bowman, 2433 East Kentucky Avenue, Holladay, stated that she has been licensed with the state for childcare services at this location since 1976. She stated she turned it into a daycare center in 1987. They are now in the process of attempting to add onto the business. She stated that the neighbors would prefer to have parking at the back of the property rather than them potentially being able to build duplexes. She stated their business closes at 6:30 p.m. and is quiet in the evening times. She stated they will be a childcare business and school use.

Mr. Harland stated he has all the information he needs to make a decision on this request and his decision will be available on June 1<sup>st</sup> at the Public Services Building located at 4646 South 500 West after 12:00 noon.

The meeting was adjourned at 1: 30 p.m.

  
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Jared Hall, Division Manager  
Community and Economic Development