

Minutes of the Planning Commission meeting held on Thursday, February 2, 2017, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Buck Swaney, Chair  
Phil Markham, Vice-Chair  
Maren Patterson  
Travis Nay  
Sue Wilson  
Jared Hall, Community & Economic Development Manager  
Brad McIlrath, Assistant Planner  
G. L. Critchfield, Deputy City Attorney  
Citizens

Excused: Scot Woodbury

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 Division Office.

Buck Swaney opened the meeting and welcomed those present. He reviewed the public meeting rules and procedures.

#### APPROVAL OF MINUTES

Mr. Nay made a motion to approve the minutes from January 19, 2017. Seconded by Mr. Markham.

A voice vote was made, motion passed 5-0

#### CONFLICT OF INTEREST

There were no conflicts of interests for this agenda.

#### APPROVAL OF FINDINGS OF FACT

Mr. Markham made a motion to approve the Findings of Fact for Car2Seek. Mr. Nay seconded the motion.

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

#### SYNERGY POWER – 602 West Confluence Avenue – Project #17-16

Chad Hofheins was the applicant present to represent this request. Brad McIlrath reviewed the location and request for a conditional use permit for a solar panel contractor for the property addressed 602 West Confluence Avenue located within the M-G Zoning District and subject to conditional use permit approval. The proposed use is to operate a solar installation company from a 7,582 square foot office/warehouse unit of this development. The office/warehouse tenant space includes two restrooms and four offices measuring approximately 632 gross square feet and a large warehouse space measuring approximately 6,950 gross square feet. The warehouse space will be used to for the storage of panels and installation equipment and is accessed by two bay doors at the north side of the building. The applicant has indicated that no manufacturing of solar equipment will take place at this location and that the tenant space will be used for administration and storage of supplies. The majority of workers will be performing

installation work on site throughout the day with no more than eight employees anticipated to be at the business location at any given time. The parking lot striping has faded and two of the four ADA parking spaces are not located near an entrance. Therefore, Staff recommends that the parking lot be restriped with all ADA spaces located adjacent to the building. Staff determines that there is sufficient parking for this use. Landscaping for this site is well maintained with sufficient interior landscaping that includes trees, shrubs and grass. A dumpster is currently located on the property located in the rear of the building and if it is visible from the street it will need to be either relocated out of view or be put into a dumpster enclosure which could be addressed in the conditions. Based on the information presented in this report, application materials submitted and the site review, staff recommends approval of the proposed solar panel installation use at the property addressed 602 West Confluence Avenue subject to conditions.

Chad Hofheins, 602 West Confluence Avenue, stated he has reviewed the conditions and will be able to comply. Chad Hofheins stated that he is leasing the space and the dumpster does not belong to him, and that it belongs to the neighbor and will ask them to move it and asked the owner to restripe the parking lot who will comply when the weather permits.

Mr. Nay asked if the conditions cover the owner and neighbor who need to make the changes and not the tenant, who is Mr. Hofheins. Mr. McIlrath responded that the CUP is not just for the solar panel business but any contractor business use that may want to occupy this building space in the future would need to comply as the CUP runs with the property as well. Mr. McIlrath stated that a parking lot deferral could be enforced by the business license application process.

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

Mr. Nay made a motion to grant Conditional Use Permit approval for a solar panel contractor for the property addressed 602 West Confluence Avenue 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. The parking lot shall be restriped with all ADA parking spaces located nearest the entrances and provided with signage as required by Section 17.72.070 of the Murray Municipal Code.
4. The applicant shall obtain a Murray City Business License and pay the associated fees.
5. The trash container at the west end of the property shall be located behind the building or be screened as required by Section 17.76.170.

Seconded by Mr. Markham.

Call vote recorded by Mr. McIlrath.

   A Travis Nay  
   A Phil Markham  
   A Maren Patterson

A   Sue Wilson  
  A   Buck Swaney

Motion passed 5-0.

DEAD CITY – 5425 South Vine Street – Project #17-15

Tim Riggs was the applicant present to represent this request. Jared Hall reviewed the location and request for a Conditional Use Permit to allow a Haunted House walk-through attraction for the property addressed 5425 South Vine Street in the C-D zone. The property has been used temporarily in the past as such an attraction, and was previously a large, popular themed restaurant called the Wagon Master. The Stillwater apartments are directly abutting the property to the south, the Murray Cemetery to the west and various businesses to the east. The building is largely open on the main floor, just over 23,000 square feet. There is a smaller mezzanine area of 5,345 square feet above portions of the main floor. Much of the mezzanine would remain unused, or be used as break and preparation areas for the employees that are acting in the operation of the attraction. The applicant describes his attraction as a "walk-through attraction" and proposed to make modifications to the building by erecting temporary walls to create corridors and rooms for the guests to navigate which would need to pass inspection by the Fire Department and Building Department and will need to meet all building and fire codes for emergency exits, emergency lighting and sprinklers.

Entrance to the building will be from the west, patrons will come in to a waiting area to purchase tickets, then through a small photo booth, and a queue area which splits people into groups and sent through the maze and exit to the south. The City has a large concern for safety and exits for this type of attraction and the plan shows several exits, but the principal exit is at the southeast corner, adjacent to the largest parking area. There are wall mounted lights on the building, but the parking lot is not lighted. Because the site will be in operation during late hours, the wall mounted lights may not be sufficient for safety and security. Staff recommends that the applicant work with city planning and engineering staff to determine an appropriate lighting plan for the parking area as a condition of approval. The building is surrounded by a single parking field. Some portions of the parking field will need to be restriped for visibility. There is no parking standard in Section 17.72 which directly correlates with the proposed use. In those cases, the Planning Commission is to determine a standard based on a nearest comparable standard. With 293 stalls, the facility is parked at a ratio of 1 space per 77 square feet of net usable floor area as directed by Section 17.72. The applicant's data for other attractions he operates shows the most intense use occurs on Friday and Saturday nights on the three weeks leading up to Halloween. On those nights, peak attendance is a maximum of 200 guests per hour. Attractions and events typically see an average of three attendees per vehicle, indicating that this site would still significantly over-perform for parking. Staff does not foresee a parking issue. The site is serviced by a single 40 foot wide access from Vine Street. Planning staff had considered recommending a traffic impact study. However, after consulting with the City Engineer it was determined that all impacts to the surrounding streets and properties from traffic generated by this proposed use will occur off peak hours and will be limited by an operation season as well. In response to staff's initial concerns about traffic, the applicant had a site specific, overall traffic analysis performed. After consulting with the engineer and considering the information in the traffic analysis provided by the applicant, it is staff's opinion that no significant impacts to traffic will arise from this proposed use. Landscaped areas on the property are in general disrepair. The themed landscaping currently around the building can stay on site however staff recommends that the applicant should be

required to refurbish the frontage landscaping to comply with the standards of Section 17.68.

Mr. Hall reviewed the conditions of approval and further stated condition number one and two relate to building and fire codes for safety issues and will all need to be met before a business license will be issued. Condition number three is a standard engineering requirement if there are improvements in excess of five thousand dollars they need to replace and repair the curb, gutter or sidewalk that is damaged on Vine Street. Condition number four is for parking. The applicant shall provide an additional seven ADA compliant parking stalls, 2 of which should be van accessible. Condition number five is to mitigate the impact on the site, based on the information given by the applicant hours of operations are to be limited to 7:00 p.m. and close at 10:30 p.m. on Monday through Thursday and 7:00 p.m. to midnight on Friday and Saturday, closed Sunday with operation days during certain weekends in September and throughout October then finish up in the beginning of November. Condition number six would require the applicant to refurbish the landscaping especially the area along Vine Street to comply with standards of Section 17.68. The seventh condition, liability insurance, would be required for this type of event. Based on the information presented in this report, application materials submitted and the site review, staff recommends that the commission approve a conditional use permit allowing the operation of a haunted house attraction on the property located at 5425 South Vine Street, subject to conditions.

Mr. Markham asked if anyone from the City Cemetery or the Parks Department was consulted about this application. Mr. Hall stated that only police, fire building, engineering, water and sewer departments were consulted.

Mr. Swaney expressed concern about the out building shed harboring visibility for safety in and around the area. Mr. Hall stated that the main exit is near the shed and it would be appropriate to address the concern in a condition.

Ms. Patterson stated the parking plan that was submitted by the applicant does have the building outlined, and asked if Mr. Riggs proposes to demolish the building to add additional parking. Mr. Hall said he is not aware of any plan to tear it down.

Mr. Nay asked if the building is actually on the property. Mr. Hall answered that the building is on the property. Mr. Nay commented that there are only two "no parking" signs on the stretch of road along Vine Street and stated that this type of attraction is a popular type for a parent to drop off children and then park and wait in front and he asked what could the city do to add additional "no parking" signs or would it be up to the applicant. Mr. Hall stated the city would be responsible to do that if it were necessary or it could put up temporary barricades as an option but would not encourage barricades that might block the bike lane or the cemetery and suggested that additional signage be installed instead, if the commission felt it as needed.

Mr. Markham commented that the parking issue would be limited to the east side of the street only. Mr. Nay commented that the bike lane is used at all times of the day and night.

Mr. Swaney had a concern that the cemetery is in close proximity to the proposed haunted house attraction and people might cross the road to enter into the cemetery to cause mischief. Mr. Hall stated that Joe Tarver from the Murray City Police Department had expressed a similar concern, but did not recommend denial based on that fact alone and did recommend approval.

Mr. Nay asked if the bond covers only on site incidents. Mr. Hall stated that the bond would not cover the cemetery and that we ask for liability insurance with the city as an additional insured party.

Mr. Swaney asked about the renewal process and stated he would like to see the Conditional Use Permit be required each year. Mr. Hall asked Mr. Swaney to clarify if he was suggesting that the Conditional Use Permit to be a temporary permit as opposed to a permanent permit. Mr. Swaney stated that he would recommend that the Conditional Use Permit be a one year temporary permit so that the impacts of the site could be assessed before an additional year was granted for use and asked if this type of allowance is different than a Conditional Use Permit. Mr. Hall answered yes that is different than a Conditional Use Permit and that it would be more similar to a temporary event permit but the application has been submitted for a CUP because it is required to operate this type of event in this zone whether it is allowed on a temporary or permanent basis.

Mr. Nay asked if the business license will need to be renewed each year. Mr. Hall answered that it is renewed yearly. Mr. Nay asked what type of factors could block a business license renewal. Mr. Hall stated that inappropriate operation and if the conditions can't be met or it is unsafe. Mr. Nay stated that it seems we do have the opportunity to review this on an annual basis. Mr. Swaney commented he wants this issue to be effectively legislated for return before the Planning Commission for review next year. Mr. Hall stated that this type of request would need to be handled in a different forum than the one tonight and further stated that staff would be able to monitor the business license renewal and make a decision based on prior operations of the business of whether or not to renew the license. Mr. Nay stated that he agreed with the approval or denial for further operation privileges to be managed by the business license renewal process. Mr. Hall stated that staff could make findings to disapprove the business license renewal by way of declaring a nuisance or safety issues. Mr. Swaney stated that in many cases of haunted house attractions the buildings are often painted with graphic artwork such as demon faces and asked if the applicant has any intent to decorate his building with similar artwork. Mr. Hall answered that he is not aware of this type of artwork to be displayed, but instead uses animatronic type artwork inside the building and stated that graphic artwork maybe inappropriate in regard to the proximity of the city cemetery and would suggest that a condition of approval be added for this issue. Mr. Nay asked Mr. Critchfield if anything could be done by the city to prevent automobiles from parking on the private property of this site and idling while waiting for patrons to attend this attraction. Mr. Hall stated that he is not familiar with the specifics of the laws for idling. Mr. Nay asked if the applicant could voluntarily put the signs up and hope for people to obey them.

Tim Riggs, 1931 West 4960 South, stated he has reviewed the conditions and will be able to comply. Mr. Riggs stated that he would like to address the Conditional Use Permit and would be personally financing several hundred thousand dollars into the property and the idea that he would have to come back year after year for CUP approval would make him shy away from the project of upgrading the building and property and he wants to be a good neighbor and for his own liability sake and does not want undesirables on or around the property. he stated that he would like to be on this property year after year and will work with the city and the licensing to ensure safety but must have the yearly commitment to ensure his investment in the property. Mr. Riggs addressed the operation hours and stated the general hours are 7:00 p.m. to 10:00 p.m. on the weekdays but there are a few days they open a bit later such as U.E.A. holidays on Thursday would be open to 11:30 p.m. and if Halloween is on a weekday they would stay open

to 11:30 as well as the day prior, on Saturdays may open earlier, and Friday the 13<sup>th</sup> weekends, and operate at spring break weekend. He stated the total operation is open less than forty-five days in a year with no plans to operate year around. Some traffic would be generated by workers who would come and go occasionally for construction re -theming at various times of the year. A typical haunted house attraction would admit patrons until 10:30 p.m. or midnight then shut the line off and some would exit after the midnight hour and plans to model similar hours of operation. He stated a search light is planned to be used in attracting patrons to this location, and plans to use a smaller search light that shines a narrow beam upward, moves about 90 degrees and would sweep back and forth which would be installed on the roof for the building at an angle toward the 5300 South off ramp that would not shine toward the apartment building instead of towards the cemetery. Mr. Riggs stated the he may desire to add a second search light in the future facing toward the shopping center toward 700 east and would have a limited sweeping motion not over any residential areas and asked if it would cause any concern.

Mr. Swaney urged Mr. Riggs to continue with his answers and they will address it at the end. Mr. Riggs addressed the appearance of the building and requested to put a 20 foot tall character on the front of the building in the sage brush area that would be a pumpkin headed vine creature made out of bent rebar, steel leaves and vines meant as a sign to be displayed year round and hoped it would project the spirit of fun. Animatronics would be used as an art for this business and plans on installing a temporary reaper figure over the front entrance above the side walk that would be removed after each use. Mr. Nay asked if the reaper figure would be holding anything dead. Mr. Riggs answered it has a staff that swings downward.

Mr. Markham asked if there will be amplified music, screens, or special effects outside the building. Mr. Riggs answered the reaper character has a sound track that speaks to the customers in line in a low voice and is placed on the side of the building that does not abut any residents and feels it would not be of any disturbance to the surrounding neighborhood.

Mr. Nay asked who would be hired for the security. Mr. Riggs stated that he hires an off duty officer from Tooele that he has worked with for a long time and is his Chief Security Coordinator and has various people they okay and choose from that have also worked with for a long time. Two or three security officers would be placed near the entrance line for observation and they look for any potential patrons that may be intoxicated or cause problems and would deny them entrance.

Mr. Nay asked if the security officers ever bring security vehicles on site to show that security is present and how are they are dressed. Mr. Riggs stated they have uniforms that have the word security on them and speculates that beginning attendance is fairly low and takes several seasons to gain attendance that would create any type of crowd control issues but does hold security at a top priority in this location. Mr. Nay commented that he likes security and police officers as a deterrent to potential problem patrons on site and further stated that he lives near the cemetery which has some security issues without the presence of a haunted house nearby. Mr. Riggs mentioned that he operated a haunted house at this location twenty years ago and had a similar concern from the city but did not have any issues then and when traffic attendance does get larger in the coming years he would have traffic attendants that would wave and direct traffic into the parking lot and keep patrons away from the cemetery area, and this type of an event does not typically have patrons hang out after the walk through.

Mr. Nay stated that the cemetery will have some issues even if the haunted house is not

present. Mr. Riggs stated that he would like to preserve the current desert motif that includes sand, sagebrush and Joshua Trees, but would renovate the property as the conditions state. Mr. Riggs addressed the detached smaller building in question that is located in a corner of the property and is not on his property. Mr. Swaney clarified that the building in question is actually a different building that resembles a shed.

Mr. Riggs stated that it is a ten foot metal storage container. Mr. Swaney stated that it would need to be moved for egress safety and would like to apply a condition that the area would need to be cleared for visibility safety purposes. Mr. Riggs asked if it would be alright to move it to the far back corner. Mr. Swaney stated that would be a sufficient move. Mr. Riggs stated that he does not project more than a third of cars to fill the back parking lot due to low attendance in the first start up years.

Mr. Swaney asked if any of the members had additional questions. Ms. Patterson asked what the attraction to this particular location is for Mr. Riggs to open a haunted house as it is somewhat random and a ways from freeway access. Mr. Riggs stated that he is looking for a place in his own community as he will be traveling back and forth from his residence in Taylorsville and likes the access to the property, but it is less desirable as it is not near a major thoroughfare but is centrally located in the valley and will draw a large population. Mr. Riggs stated that even though it is somewhat less desirable he feels that the location which is not being used now that he would renovate and make improvements upon is the right size to accommodate this particular use and hopes to become the best haunted house in Utah and compete with other long standing competitors by contributing his personal funds and developments.

Mr. Nay asked how the drop off and pick up traffic would be handled. Mr. Riggs stated that his attractions are typically visited by people who are on dates but some do get dropped off and the traffic flow has a circular pattern around the building and would be directed in to the front and then around the back to exit. He stated if a driver wanted to idol their car, that they really can't control that.

Ms. Wilson asked if this haunted house will feature artistic graffiti on the exterior of the building. Mr. Riggs stated that he may have skeletons on the building climbing up or other fun images, but does not intend to paint the front of the building. He stated he would like to use a go-go light on the building at night that would shine images or words as it would light the building up at night, but during the day it would look like a normal building. He would like to paint the walkway that leads to the front door. Ms. Wilson stated she had a concern that the art work is not attractive for the remainder of the year and asked if egress accesses throughout the building have crash bars on them that would remain unlocked from the inside. Mr. Riggs answered that they do have the bars on them and that he would follow the codes and regulations for this type of attraction which is similar to the previous operation of the building. Mr. Riggs stated that he will submit plans to the city that will outline the occupancy load, and have the egress exits and building codes reviewed by an architect. Mr. Hall stated that the fire and building department review these types of venues very carefully for all safety aspects. Ms. Wilson stated she wanted to make sure the operator is aware they are not allowed to lock the crash doors in the case of an emergency. Mr. Riggs stated that he is in the haunted house business and knows the emergency exits are crucial for safety as he visits annual trade shows where they learn about what's going on and safety is always discussed and he wants to make sure his business is always safe for years to come as all of the emergency exits will all have lighted exit signs and

an emergency system that is battery backed and triggers bug eye lights that illuminate the entire building and silence any conflicting noise. The emergency system turns on as well as staff and actors go through emergency training drills which is standard procedure.

Mr. Swaney asked if the commission members would like to add additional conditions of approval. Mr. Nay stated that he would like to add a condition for lighting. Mr. Swaney wanted to add a condition that the container be moved and to specify that only one search light be permitted. He asked Mr. Riggs if he would be able to comply with the conditions. Mr. Riggs asked if he would be permitted to use a second light if it were to point straight back towards 700 East at a ninety degree angle. Mr. Swaney said they will provide an answer after the commission has discussed the topic. Mr. Nay asked to clarify what is meant by a ninety degree angle. Mr. Riggs stated that the light sweeps back and forth at a controlled upward angle. Mr. Riggs asked that the hours of operation be loosened slightly which would allow him to remain open on a specific Thursday night until 11:30 p.m. and if Halloween falls on a weekday being allowed to remain open until 11:30 p.m. and the day before as well, being able to open earlier for a less scary event on a Saturday from 5:00 p.m. to 7:00 p.m.

Mr. Swaney stated that the staff report indicated the business would run from mid-September through October to mid-November but does not see them listed in the conditions and asked staff to address it. Mr. Hall stated that staff does not have any concerns with the kinds of hourly operation changes that differ from the ones listed, seasonally we anticipated the operations from September through October and could write them into the conditions as it is only planned for less than forty five days a year.

Mr. Markham asked if the business could operate year round the way it is written now. Mr. Hall responded yes, it could and suggested a change to the condition. Mr. Nay asked if it would be better to suggest a number of days and then a few extra that would provide Mr. Riggs an opportunity to be open throughout the year depending on the number of day in a calendar year. Mr. Markham commented that if he is allowed to have the business then he should be allowed to have the business and operate it during days and times he chooses as the conditions should not regulate him against operating his business. Mr. Nay stated that the conditions would be difficult to police. Mr. Nay stated that it would be hard to maintain a viable business that is open three hundred days a year as there is not enough clientele to do so. Mr. Swaney asked to clarify if the commission is suggesting to not enforce a forty-five day limit on this business. Mr. Markham stated that we should not limit the business operation days.

Mr. Swaney asked what the final design of advertising would be in regard to the painting or decorating the front of the building. Mr. Hall answered that painted signs on the building are considered advertising and they are limited by the standard sign regulations. Ms. Patterson asked if signage regulations still apply if it was painted as a theme similar to the Nightmare on 13<sup>th</sup> Haunted House. Mr. Hall answered that the buildings has any painting of an emblem, figure or symbol that is designed to attract attention or convey a message then it is signage as defined by our sign code and would be limited by the number of square feet per linear frontage, but the sign regulations also allow temporary signage, for example during the season if he wanted to paint skeletons playing tennis on the building, then take it down after a temporary permit expires it would be allowed. Mr. Swaney asked if the permanent figures that Mr. Riggs stated he would install on the property would be allowed. Mr. Hall said the permanent pumpkin man could be regulated under a detached sign code and it would be allowed but painting the building with a bunch of skulls or eyes would not be approved and would be controlled by land

use ordinances. Mr. Swaney asked about the detail of painting that would be allowed on the building. Mr. Hall answered that the building could be painted with multiple colors but not with emblems or symbols. Ms. Patterson asked if the temporary lighting would be a problem. Mr. Hall stated that the temporary go-go lighting would be allowed and is considered temporary signage and preferable to painting on the building.

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

Mr. Markham stated that he feels this type of business is extremely offensive and out of place across the street from the Murray City Cemetery as families that visit the cemetery will be emotionally tenuous as they enter from Vine Street and see the haunted house directly across the street. Mr. Markham stated that in his opinion he feels this proposal is in poor taste and disregards people that access and operate the cemetery. Mr. Markham further stated that he had spoken to the cemetery superintendent who said that he was not personally aware of this proposal and is firmly opposed to the use and further stated that the prior time the haunted house was located here on Halloween night he had every person of his staff in the cemetery until 2:00 a.m. shooing out over one hundred kids that continued to enter the ground as relayed by Mr. Markham. Mr. Markham stated that he feels that kids and their dates will continue to enter the cemetery grounds if the haunted house is allowed back and further stated that he does not feel the haunted house is appropriate next to the apartment complex for health and welfare reasons. Mr. Markham emphasized that he does not have anything against this business but still feels that the location across the street from the cemetery is inappropriate and does not want it there.

Ms. Patterson stated that she agrees with Mr. Markham and feels that it is an odd and out of place location, even though it is in the C-D zone and is disappointed that this application has been submitted now as it conflicts with planned future small area zoning and along the same block has apartments on one corner, businesses on another corner, retail on the other side and a cemetery across the street even though it would be awesome to have a haunted house in Murray.

Mr. Markham added that he wanted to articulate his basis for denial and stated in his opinion he believes there are not any conditions that can be appropriately applied to this application that will mitigate all of the problems and does not think this particular use is necessary or desirable and does not provide a service that will contribute to the general well-being of the community of the neighborhood; instead is detrimental to the health and safety of the residents residing in the vicinity namely the apartment units with the type and hours of operation.

Mr. Nay stated that he understands the sensitivity to the site and has been involved in these types of operations over the years and feels that Mr. Riggs is doing it the correct way by trying to avoid displaying offensive signage, and using whimsical figures as opposed to gory sides of Halloween and if it is allowed to go in there should be little to no permanent signage facing the cemetery out of respect and does not feel he would be offended by the pumpkin man figure but might be offended by the reaper character. Mr. Nay stated that the site is large enough to keep the bulk of the people behind the business but does worry about the sound from the exiting patrons who will have a scare and potential scream at the end of the haunted house and is next to the residential property. Ms. Wilson stated that she is in favor of free enterprise but is not in favor of this site and the traffic flow during the hours of operation near the residential

community. Mr. Swaney stated in his opinion Mr. Riggs seems like the type of person who would responsibly run and organize this type of attraction and does share the same concerns as Mr. Markham and feels this use does not meet the desired standard that Murray City wants to obtain for redevelopment in the area as well as the sensitivity of the proximity to the cemetery is not appropriate.

Mr. Riggs addressed the appearance of the building and asked if the character was removed from the front and did not dress the building up throughout the year and used only temporary signage would it address the concern of sensitivity to the Cemetery. Mr. Markham replied that would not change anything in his opinion as the cemetery is used 365 days a year and further stated that his application is wonderful and complete but does still feel very strongly that the location is inappropriate and would not want to mitigate the approval with a large amount of conditions that might limit the success of the business in the process. Mr. Riggs mentioned the past issue of kids in the cemetery on Halloween and asked if staff normally is in the cemetery on Halloween. Mr. Markham answered that he is sure that they do however the problem was articulated from the cemetery superintendent who has been there for about thirty- five years that he had to have the entire staff due to the incidents that they had dealt with leading up to Halloween so they stayed until 2:00am on that particular year in 1997 when the haunted house was last there. Ms. Wilson stated that the problem is not with the kids who just walk around the cemetery instead the damage that occurs. Mr. Nay stated in the defense of Mr. Riggs that regardless what business goes in across the street kids will still be on the cemetery grounds as he know personally from living at the Spring Tree Apartments for seven years with a unit that looked directly at the cemetery. Mr. Markham stated that he does not want to approve an application tonight that would encourage kids in the cemetery.

Mr. Markham made a motion to deny a Conditional Use permit approval for a Haunted House walk-through attraction for the property addressed 5425 South Vine Street mainly for reasons A and B in the land use ordinance standards review.

This motion died for lack of a second.

Ms. Wilson stated that she has a concern about the art work on the building and is not a fan of gory Halloween art work but is ok with whimsy or art work on building in general unless it is a beautiful mural and would rather the proposed characters be temporary except when the building is actively used. Ms. Patterson recalled the statement from Mr. Riggs that he would consider leaving the building looking as it is and use signing that is either temporary or lighted and personally feels that if the property were located on the other side of 900 east but it is in an odd location. Mr. Hall asked the commission if there is a lack of information that they would like in order to further consider because other options exist outside of denial or approval tonight. Mr. Swaney asked if the Chairman is allowed to second a motion. Mr. Critchfield replied that he does not believe the chairman is allowed to second a motion but was not sure. Mr. Swaney stated that he will not second the motion and stated that in his opinion the application lacks a clear understanding of what the outcome of the visual aspects are. Mr. Hall offered to prepare a further analysis with the applicant that could be presented at a later time. Mr. Critchfield stated that if you choose to go forward tonight the applicant is entitled to a decision, seconding a motion does not mean you agree with the motion it just means you second it to be able to be able to have a vote and encouraged the commission to have a vote. Mr. Swaney reiterated the purpose of having a seconded motion. Mr. Markham stated that he is aware of the individual concerns of each commissioner and feels that if they can't articulate a condition that address

the concerns in a satisfaction manner then he does not believe it should be allowed to go forward. Mr. Swaney stated the he agrees with Mr. Markham and would like to see the applicant have a place in Murray to do what he wants to do but feels that this site does not support the dynamics of the things that are required by the land use ordinances. Mr. Critchfield suggested to clarify specifically the objections of the commission such as noise near the egress, figures on the building, cemetery objections and hours and allow the applicant to address concerns then to make a decision or push it to the next meeting. Mr. Markham commented that he had previously done that. Mr. Markham stated that his basic objection to the application is the theme of the business at the proposed location in relation to the cemetery and believes that making death an entertaining activity is not appropriate for the people who will be utilizing the cemetery for the purpose that it was constructed over a hundred years ago as the only entrance to access the cemetery is off of Vine Street which is unfair to subject those people to this type of activity and adds that he feels it does not enhance the health, safety and welfare of the apartment residents who abut this venue with ambient noise coming from the activity and the crowd late into the night. Mr. Critchfield ask that additional clarity be added about the theme being visually on the building or just a general awareness that the building is a haunted house. Mr. Markham stated that everybody knows. Mr. Critchfield asked if the issue of denial was with building just being a haunted house even if by passers were not able to identify it by just passing by. Mr. Markham stated his reason for denial is based on the fact it is a haunted house in an inappropriate location. Mr. Swaney added that review standard A is that the proposed use of the particular location is necessary, and does not personally think the proposed use of this location is necessary or desirable and does not provide a use that contributes to the general wellbeing of the community and does not meet the use of standard A and according to standard B is very concerned this would result in misuse and damage to the cemetery especially while events are very busy unless full time enforcement were in place and questioned who would fund it and who would be responsible to enforce it. Mr. Critchfield asked Mr. Swaney to clarify standard A regulations necessary or desirable and is that based on the fact that it is a haunted house. Mr. Swaney stated that he believed it factually speaking. Mr. Critchfield commented that the reason for bringing it up is that if you look at it from land use and you look at the piece of ground and look at the building that's all we can do is look at it, if another business comes in to the building and physically it does not look any different from the way it looks now if there were nothing on the outside of the building and asked if what was being said is the denial based on the theme of a haunted house in that location? Mr. Swaney stated it is based on the nature of the use.

Ms. Patterson made motion to approve a Conditional Use permit to allow a Haunted House walk-through attraction for the property addressed 5425 South Vine Street subject to the following conditions:

1. The applicant shall provide architect stamped plans with egress analysis upon submittal for building permits, and the project shall meet all applicable building codes.
2. The project must meet all provisions of the 2015 International Fire Code, and provide fire alarms, emergency lighting, appropriate egress, building sprinkling, the use of fire rated materials and a code analysis performed by an architect.
3. If site improvements exceed \$5,000.00 the owner or applicant shall repair or replace any damaged curb, gutter and sidewalk on the Vine Street property frontage.

4. The applicant shall provide 7 additional ADA compliant parking stalls, to include a minimum of 2 van accessible stalls per the standards outlined in Chapter 17.72. The parking area shall be repaired and restriped as needed per review by the Zoning Enforcement Officer before receiving a Murray City Business License.
5. Hours of operation shall be limited to between approximately 7:00 p.m. and 10:30 p.m. Monday through Thursday, and 7:00 p.m. and 12:00 a.m. Friday and Saturday. The attraction will not be in operation on Sunday.
6. The applicant shall refurbish the landscaping areas on the site generally and upgrade the landscaping on the frontage of Vine Street to comply with the standards of Section 17.68.
7. The applicant shall provide proof of liability insurance for the operation of the attraction in amounts of 1 Million / 3 Million and naming Murray City as an additional insured.

Seconded by Mr. Nay.

Call vote recorded by Mr. McIlrath.

  A   Maren Patterson

  A   Travis Nay

  N   Sue Wilson

  N   Phil Markham

  N   Buck Swaney

Motion denied 3-2.

#### OTHER BUSINESS

The Community and Economic Development department submitted applications for two grants for two small area plans if both grants are awarded we could move forward as soon as the General Plan is adopted by the City Council. The General Plan should be on the City Councils agenda for adoption on the first meeting in March. Mr. Swaney asked if small area plans are in consideration for adoption would the city halt development proposals in that area. Mr. Hall stated that the process has not been finalized but the city could adopted a temporary zoning ordinance for the area while it is under study. Mr. Swaney stated it would be useful to do so as to limit applications that might be submitted at the last minute and compromise the small area plan intentions. Mr. Hall agreed and stated the best place to start would be by identifying any problematic uses then setting limitations on them by adopting a TZO which could last about six months.

Meeting adjourned at 8:03 p.m.



Jared Hall, Manager  
Community and Economic Development