

Minutes of the Planning Commission meeting held on Thursday, May 2, 2019, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Ned Hacker, Chair  
Sue Wilson, Vice Chair  
Phil Markham  
Lisa Milkavich  
Maren Patterson  
Scot Woodbury  
Jared Hall, Community & Economic Development Supervisor  
Zac Smallwood, Associate Planner  
Jim McNulty, Development Services Manager  
Briant Farnsworth, Deputy City Attorney  
Citizens

Excused: Travis Nay

The Staff Review meeting was held from 6:00 p.m. to 6:30 p.m. The Planning Commission members briefly reviewed the applications on the agenda. An audio recording is available at the Murray City Community and Economic Development Division Office.

Ned Hacker opened the meeting and welcomed those present. He reviewed the public meeting rules and procedures.

#### APPROVAL OF MINUTES

Mr. Woodbury made a motion to approve the minutes from the April 18, 2019 Planning Commission meeting. Seconded by Ms. Milkavich.

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

#### CONFLICT OF INTEREST

There were no conflicts of interest.

#### APPROVAL OF FINDINGS OF FACT

Mr. Markham made a motion to approve the Findings of Fact for True North, Auto Image and Shake Shack. Seconded by Mr. Wilson.

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

#### EOS FITNESS – 5550 South 900 East - Project #19-052

Arthur Babcock was present to represent this request. Zac Smallwood reviewed the location and request to allow a Fitness Club in the C-D Zone on the property located at 5550 South 900 East. Mr. Smallwood explained that the proposed location is a 47,494 Square Foot (sq. ft.) gym that will operate 24 hours a day, 7 days a week, except some holidays. The landscape plan that was submitted by the applicant does not meet the Murray City Landscape Ordinance and the applicant will be required to work with City Staff to develop an acceptable plan. The applicant proposes to remove the turrets from the building exterior to lessen the appearance of the castle like features currently on the building. A condition of approval will require the dumpster to be enclosed. The proposed floor plan will consist of a 24,000 sq. ft. open gym area, large indoor pool, half court basketball court, cardio room, and a small

daycare facility for gym members. Based on the analysis of the submitted materials and Land Use Ordinance standards, Staff has determined that the proposed Fitness Club meets the requirements of the C-D Zone and recommends that the Planning Commission approve a Conditional Use Permit subject to the conditions as outlined in the Staff Report. Upon request from the Planning Commission Mr. Smallwood read conditions 10 through 12 as they were not included in the presentation.

Arthur Babcock, EOS Fitness, 1 East Washington, Phoenix, AZ, stated he had read the conditions of approval and will be able to comply.

The meeting was opened for public comment. There was no public comment for this agenda item and the public comment portion for this item was closed.

Mr. Markham stated he is pleased that this vacant building will be utilized for a beneficial use for our community again.

Ms. Patterson made a motion to approve a Conditional Use Permit to allow a Fitness Club on the property located at 5550 South 900 East subject to the following conditions:

1. The applicant shall keep the mezzanine level of the building closed off to all persons that are not maintenance crews for HVAC. No storage or gym activity is allowed.
2. The applicant shall provide written documentation that the property owner will be able to accommodate the 169 required parking spaces required for this use. Additionally, the applicant and/or the property owner shall stripe at least seven (7) ADA accessible parking spaces located adjacent to the building entrance.
3. The applicant shall meet the requirements of the City Engineer listed below:
  - a) Install sidewalk along the frontage of 5600 South.
  - b) Repair/replace any damaged sidewalk along the frontage of 900 East.
  - c) Obtain UDOT access review and any required permits for site access changes or work in within the UDOT right-of-way.
  - d) Obtain a City Excavation Permit for work in the City right-of-way.
  - e) Develop a site SWPPP and implement prior to any site work.
4. The applicant shall submit complete stamped and signed plans for review at the time of Building Permit Application.
5. The project shall meet all Building and Fire Codes.
6. The applicant shall maintain the fire sprinkler system, to meet Fire Department requirements.
7. The applicant shall monitor the alarm system in the building, to meet Fire Department requirements.
8. The applicant shall contact Cottonwood Sewer District to verify whether an "interceptor" is required and provide documentation at the time of Building Permit submittal.
9. A dumpster enclosure with a solid gate is required to comply with Section 17.76.170

of the Murray City Land Use Ordinance.

10. The property shall comply with landscaping standards outlined in Chapter 17.68 of the Murray City Land Use Ordinance. The applicant and property owner shall work with Planning Division Staff to provide and implement an approved Landscape Plan.
11. The applicants shall obtain a sign permit prior to the installation of any attached business signage.
12. The applicants shall obtain a Murray City Business License including a building inspection as part of the process and pay applicable fees prior to commencing operations at this location.

Seconded by Mr. Woodbury.

Call vote recorded by Mr. Hall.

  A   Maren Patterson  
  A   Scot Woodbury  
  A   Phil Markham  
  A   Sue Wilson  
  A   Lisa Milkavich  
  A   Ned Hacker

Motion passed 6-0.

RENAISSANCE SERVICES – 6170 South 380 West, # 200 - Project #19-052

Barney Boyinton was present to represent this request. Zac Smallwood reviewed the location and request to allow an Asphalt Contracting sales office to be located on the property addressed 6170 South 380 West, Unit #200, within the M-G Zone. Mr. Smallwood explained that the proposed business office will occupy unit #200. All of the contracting equipment and vehicles associated with this business are stored off site, and outside of Murray City. Staff requested that the property owner provide a dumpster enclosure and upgrade some of the landscaping. Mr. Woodbury remarked that one of the pictures showed construction equipment stored in an ADA Parking stall at the business. Mr. Smallwood stated that the concern can be addressed in conditions if the Commission wished to add a condition that addressed the concern. Based on the analysis of the submitted materials and Land Use Ordinance standards, Staff has determined that the proposed Asphalt Contracting Sales Office is consistent with requirements of the M-G Zone and recommends that the Planning Commission approve a Conditional Use Permit subject to the conditions as outlined in the Staff Report.

Mr. Markham wondered why a contracting sales office is required to come before the Planning Commission. Mr. Smallwood explained that due to the nature of the business they are considered a contracting business per our Code. The Murray City Land Use Table designates that contractors are a Conditional Use and does not have an office only contractor allowance.

Barney Boyinton, 6170 South 380 West, stated he had read the conditions of approval and will be able to comply. Mr. Boyinton stated he is working with the property owner to get the Conditions of Approval completed. Mr. Boyinton added that he would address the parking of equipment in the ADA stalls.

The meeting was opened for public comment. There was no public comment for this agenda item and the public comment portion for this item was closed.

Mr. Woodbury made a motion to approve a Conditional Use Permit allowing for an Asphalt Contracting sales office on the property addressed 6170 South 380 West, Unit # 200, subject to the following conditions:

1. The project shall meet all applicable Building and Fire Code standards.
2. The property owner shall stripe the parking area with twenty-two (22) parking spaces, including one (1) ADA compliant van accessible space.
3. The applicant shall obtain Murray City Building Permits for any interior remodeling or changes to the building.
4. A dumpster enclosure with a solid gate is required to comply with Section 17.76.170 of the Murray City Land Use Ordinance.
5. The property shall comply with landscaping standards outlined in Chapter 17.68 of the Murray City Land Use Ordinance. The applicant and property owner shall work with Planning Division Staff to implement an appropriate Landscape Plan.
6. The applicant shall not store any materials within the unit, and no outdoor storage is allowed.
7. The applicants shall obtain a sign permit prior to the installation of any attached business signage.
8. The applicants shall obtain a Murray City Business License including a building inspection as part of the process and pay applicable fees prior to commencing operations at this location.

Seconded by Ms. Milkavich.

Call vote recorded by Mr. Hall.

  A   Scot Woodbury  
  A   Lisa Milkavich  
  A   Maren Patterson  
  A   Sue Wilson  
  A   Phil Markham  
  A   Ned Hacker

Motion passed 6-0.

ORDINANCE TEXT AMENDMENT – Standard Land Use Code and Land Use Ordinances  
Text to allow Vertical Indoor Farming to Sections 17.08 Definitions; 17.160, C-D, and 17.152,  
M-G Zone, – Project #19-037

Mr. Hall presented the proposed Text Amendment and stated that the amendment was

generated from a request by Chihan Kim who wants to conduct indoor vertical farming in Murray City. The City Code does not currently have any categories to allow indoor farming in the City. The process includes creating a definition, then discussion with the Planning Commission and City Council to see if they are willing to allow indoor farming, and then decide which zones this use will be appropriate for. Mr. Hall explained that indoor vertical farming is essentially indoor agriculture that could be achieved in many different ways. Mr. Kim has proposed to rent or lease a large empty warehouse where he would grow mostly lettuce and other common produce utilizing recycled water, LED lighting, and hydroponic watering systems. Vertical Farming tolerates the omittance of soil, herbicides or pesticides. Benefits of indoor farming are less strain to the environment, production ability, production of fresh foods year around and availability to people who may not have access to transportation or grocery stores. A positive aspect of indoor farming is that vacant, or older buildings and warehouses can be repurposed for this use and gives the City a chance to encourage improvements to properties where the ordinance applies. Mr. Kim proposes to provide produce for restaurants, grocers and to run a farmer's market store from the building. Staff is recommending to create an allowance for indoor farming as a Conditional Use in the Commercial Development (C-D) Zone, Manufacturing General (M-G) Zone, Mixed Use( M-U) Zone, Transit Oriented Development (T-O-D) Zone and the Business Park (B-P) Zone. This type of business has the potential to become popular because it will be located close to populated areas of growth in the City. Mr. Hall read Staff's proposed definition for the Land Use Code, # 8121: Indoor Vertical Farming and stated that it, "Includes crops grown wholly indoors for commercial distribution to other locations and/or retail sale on-site". Mr. Hall added that Staff did not feel it was necessary to add conditions that would control height, pesticide use, water usage, electrical use, etc. because the Conditional Use Permit will review these concerns and could vary depending on the scale and scope of the operation. Staff findings in support of this Text Amendment includes adaptive reuse, reducing the necessity of trips, reduces produce food miles, positive impact on public health and our local economy. Based on the analysis of the submitted materials and Land Use Ordinance standards, Staff has determined that the proposed Text Amendment for Indoor Vertical Farming and recommends that the Planning Commission approve a Conditional Use Permit subject to the proposed definition and zones as outlined in the Staff Report.

Mr. Hacker noticed that the MCCD Zone was not included in the proposed zones. Mr. Hall stated the reason that it is missing from the MCCD Zone is because our downtown zone should be more retail than any other zone, and zoning requirements have the potential to create complications because of the nature of the design guidelines. Mr. Markham hypothetically asked what if a restaurant were to locate in the MCCD and grow their own produce in doors. Mr. Hall replied that growing vegetables in back of the restaurant is not an issue, it is the mass scale of indoor farming that could be an issue. Mr. Hall stated that Salt Lake City, South Salt Lake and Sandy do not have any codes that prohibit people from doing indoor farming, so it would be potentially allowed in every zone in those cities. Mr. Hacker suggested that a business could grow vertical food in a detached parking garage in those cities. Ms. Milkavich added that they could also grow on a roof top. Mr. McNulty added that this is something that Staff can look at it later if necessary, then and come back with any revision we may need as different types of uses come in.

Chihan Kim, 158 East 4500 South, stated he had read the conditions of approval and will be able to comply.

Mr. Woodbury asked Mr. Kim if he has done this type of business in any other area. Mr. Kim replied that he has not, but he has studied the topic in great length. Mr. Kim added that he will

collect all the material to build the facility and that he refers to it as an indoor plant factory and plans to grow vegetables and some fruits like strawberries that will benefit from the omittance of herbicides.

The meeting was opened for public comment. There was no public comment for this agenda item and the public comment portion for this item was closed.

Mr. Woodbury made a motion that the Planning Commission forward a recommendation of approval to City Council for a text amendment adding Land Use Category #8121, Indoor Farming to the Murray City Standard Land Use Code, and adding Land Use #8121 to Sections 17.146.040, (M-U, Mixed Use Zone), 17.152.030, (M-G, Manufacturing General Zone), 17.160.030, (C-D, Commercial Development Zone) 17.168.050 F, (TOD, Transit Oriented Development Zone), and 17.173.030 (B-P, Business Park Zone) of the Murray City Land Use Ordinance as proposed by Community Development Staff in this report.

Seconded by Mr. Markham.

Call vote recorded by Mr. Hall.

  A   Scot Woodbury  
  A   Phil Markham  
  A   Maren Patterson  
  A   Sue Wilson  
  A   Lisa Milkavich  
  A   Ned Hacker

Motion passed 6-0.

SUNNY VINES – 770 East Vine Street, Zone Map Amendment from R-1-8 to R-1-6, – Project # 19-051

Bryan Muriel was present to represent this request. Jared Hall reviewed the location and request for an amendment to the Murray City Zoning Map for the property located at 770 East Vine Street from R-1-8, Single Family Residential to R-1-6, Single Family Residential. Mr. Hall explained that the property has a legal non-conforming duplex in the front and behind the duplex there is a rear building. The property owner has requested to use the rear building for a rental unit. Unfortunately, Staff is unable to support the request. However, the applicant wished to formally submit the request contrary to Staff's recommendation. The rear building was previously constructed as a garage or residence and was not built with any approvals or permits. The City can't establish it as a legal non-conforming residence. The applicants initially thought if they were able to subdivide the property by way of a Flag Lot Subdivision, they could use it legally as a residence. Staff informed them that there are too many variances required to appropriately subdivide it into a Flag Lot. The applicants then suggested that if they are able to rezone it to R-1-6 there would be a reduction in the number of variances needed. Again, Staff informed them that a rezone would not bypass the need for all of the variance previously mentioned. The immediate properties that abut the subject property are zoned R-1-8, but some R-1-6 zoning does exist nearby. The Future Land Use Map supports R-1-8 and R-1-6 Zoning but, if R-1-6 Zoning were to be allowed for this property, Staff would consider it as spot zoning because the property would represent an isolated zone in between a different zoning designation. Therefore, it is believed that the R-1-6 is less than the R-1-8 zone in this case. In addition, the proposed rezone conflicts with the purpose of the General

Plan in that the purpose of a Low-Density Zone in this area is to create and preserve the existing, detached, single-family feel of the neighborhood. In contrary, the intent of the proposed zone change is to create a situation where a third building on the same lot becomes usable, where the lot is already legal non-conforming. Mr. Hall further explained that several variances would still be needed to support the zone change and why Staff can't support the proposed application. Mr. Hall stated firstly, that the existing non-conforming duplex sits right against the south property line and would still require a variance even if the zone was changed. Secondly, if the intent is to create a Flag Lot, the rear building would be required to be located directly behind the duplex, because it is not, this proposal would require a variance as well. Thirdly, if a Lot Line adjustment were to be done to place the rear building on it's own lot, it would require a rear yard variance, a side yard variance on the north side and a front yard variance because it is too close to the dwelling unit in front of it. In summary, even if a zone change were granted for this property, it would still be out of compliance with the proposed zone and need several variances to grant the use of the rear building as a residence. Based on the information presented in this report, application materials submitted and the site review, Staff recommends that the Planning Commission forward a recommendation of Denial to the City Council for the requested amendment as outlined in the Staff report.

Mr. Woodbury referenced a picture on the overhead monitor and asked if residential properties are permitted to have a dumpster like the one shown and if so, should it be screened. Mr. Hall replied, typically residential properties are not allowed to have a dumpster for everyday use, and since the dumpster is not allowed, screening it would not make any difference. Mr. Woodbury asked if there is a commercial use on the property due to the large building or garage shown in the picture. Mr. Hall stated that he is not aware that there is a commercial use happening on the property and is not aware when or for what purpose the building originated. Mr. Markham asked if the lot was adjusted to separate the buildings would the utilities need to be separated as well, and are they currently separated or together. Mr. Hall answered yes, utilities would need to be separated if they are different lots. The applicant can address how the utilities are currently arranged.

Bryan Muriel, 1819 East 2100 South, stated he has briefly read Staff's findings and recommendations. Mr. Muriel wondered if this application gets denied now, what would the City like him to do with the property. Mr. McNulty replied that at this time we are only able to address the rezone proposal, not what could possibly be developed on the property. Mr. Muriel stated that the back building has separate metering and gas connections and believes when the previous owner built the building, the intent was to split it into a top and bottom duplex. Mr. Hall stated that the request of what can be done on the property can't be addressed by the Planning Commission, but the City does not necessarily have a specific request for what should be developed. We do want the property to be in compliance and if there were a way for us to go through a zone change that would allow the request and make it compliant, Staff would support it; however, this isn't the case. Hypothetically, if the zone change were approved by the Planning Commission and City Council, in no way would the approvals make it any easier to allow the property to be subdivided. The property would still need six variances. None of which would qualify for a hardship under State Codes rules. We have to find that there is something unique about the geography of this property that would not allow them to meet setback requirements. Hardships can't come from the built environment for reasons like the home was built too close, or a home was built that was not supposed to be built. Staff would have to recommend denial on each of the variances and it is assumed that the Hearing Officer would as well, it is not foreseeable that a Flag Lot could ever be approved here. In the situation that we are in now, the building needs to be an accessory structure to

the duplex, or it needs to be abandoned and removed. Acceptable accessory uses include a garage, storage or shop space.

Ms. Wilson stated that she referenced the County Accessors website and that the rear building was never delineated on the property by the County. Mr. Hall stated that's because there is no permit for it and the county is not aware of it. Thus, the building was built without a permit and required inspections.

The meeting was opened for public comment.

Allan DeMann, 5693 South 675 East, stated he procured land from a neighboring property that he is currently cleaning up and making it better for the neighborhood. Mr. DeMann stated he is aware that the buildings are on the property lines and thinks the property is a bit of an eyesore. Mr. DeMann does not support a higher density, but would like to see some improvements made to clean up the property and addressed in a long-term situation.

The public comment portion for this item was closed.

Mr. Markham stated that it is clear that this property has a lot of issues and rezoning it may only address one or two of the multitude. Rezoning is not appropriate because it will impact the residential neighborhood even further.

Ms. Patterson made a motion to forward a recommendation of denial to the City Council for the requested amendment to the Zoning Map designation for the property located at 770 East Vine Street from R-1-8, Single-Family Residential to R-1-6, Single-Family Residential.

Seconded by Mr. Markham.

Call vote recorded by Mr. Hall.

  A   Maren Patterson  
  A   Phil Markham  
  A   Scot Woodbury  
  A   Sue Wilson  
  A   Lisa Milkavich  
  A   Ned Hacker

Motion passed 6-0.

Mr. Hacker explained that the recommendation has been denied and will go to City Council for further review and suggested that the applicant continue to speak to the neighbors about cleaning up the property and City Staff to see what else could be done with the property.

#### OTHER BUSINESS

Mr. McNulty stated that the next Planning Commission meeting will be on May 16, 2019.

Mr. Markham made a motion to adjourn. Seconded by Ms. Woodbury.

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

The meeting was adjourned at 7:21 p.m.

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Jared Hall, Supervisor  
Community and Economic Development