

Minutes of the Planning Commission meeting held on Thursday, April 18, 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
Scot Woodbury
Maren Patterson
Lisa Milkavich
Melina Greenwood, Community & Economic Development Director
Jim McNulty, Development Services Manager
Zac Smallwood, Associate Planner
Susan Nixon, Associate Planner
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 4, 2019 Planning Commission meeting. Seconded by Mr. Markham.

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 Twin Peaks, Tekton CrossFit and Fashion Place Mall and Larry Miller Auto Sales. Seconded by Mr. Woodbury.

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

AUTO IMAGE – 4265 South Commerce Drive - Project #19-047

Kevin Northrup was present to represent this request. Zac Smallwood reviewed the location and request to allow for the operation of an Auto Sales business in the M-G Zone on the property located at 4265 South 300 West. Mr. Smallwood explained that the business proposes to occupy 268 Square feet (sq. ft.) of a 6,050 sq. ft. building. The applicant has secured parking spaces within the front yard area of the building for the display of for-sale vehicles and customer parking. Because the parking area is also used by an additional business, Staff has requested that the two employees park in the rear of the property. Landscaping is required to be installed according to current landscaping standards.

Landscaping calculations for a frontage area of 86 feet in the front setback landscaping for this property needs to be revised to include a minimum of three trees (3), four (4) 5-gallon shrubs, and nine (9) 1-gallon shrubs. Based on the analysis of the submitted materials and Land Use Ordinance standards, Staff has determined that the proposed Auto Sales business 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 if the limited number of parking spaces available would warrant any reason to limit the number of cars for sale on the property. Mr. Smallwood stated that adding a condition to limit cars for sale was considered and concluded that the nature of the business did not indicate that the cars for sale at this property would increase. If there were additional cars to be sold in the future, there is ample room in the rear to store them.

Ms. Wilson asked where the ADA Stall will be located. Mr. Smallwood indicated it will be in the northwest corner of the site and that it will be newly striped.

Ms. Milkavich asked if the applicant had indicated where the dumpster will be stored. Mr. Smallwood replied that they have not had that discussion but there is adequate space for it inside or outside and could be enclosed.

Kevin Northrup, 4180 South State Street, stated he had read the conditions of approval and will be able to comply.

Mr. Markham asked how many cars for sale are anticipated to be on the site. Mr. Northrup replied 10 or 15 cars, but they can vary. Auto sales will mainly be conducted via internet and less car storage will be needed. Mr. Woodbury asked if the business model will consist of any washing, vacuuming or detail of cars. Mr. Northrup answered that the cars will be detailed off-site before it is even put up for sale.

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.

Ms. Patterson made a motion to approve a Conditional Use Permit to allow Auto Sales business on the property located at 4265 South 300 West, subject to the following conditions:

1. The project shall comply with all applicable Building and Fire code standards.
2. Building permits shall be obtained for any construction.
3. A minimum of ten (10) parking spaces shall be installed and striped including a van accessible ADA parking space.
4. Vehicle access in and out of the parking area between the building and 300 West shall be maintained clear at all times.
5. The property landscaping shall comply with landscaping standards outlined in Chapter 17.68 of the Murray City Land Use Ordinance. The front setback landscaping along 300 West shall be modified to include the following:
 - (a) Three (3) trees;

- (b) Four (4) 5-gallon shrubs; and
 - (c) Nine (9) 1-gallon shrubs.
6. Any dumpster intended for use on the site shall either be stored inside the building or located within an enclosure meeting the requirements of Section 17.76.170 of the Murray City Land Use Ordinance.
 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 and pay applicable fees. Seconded by Ms. Milkavich.

Call vote recorded by Mr. Smallwood.

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

Motion passed 6-0.

SHAKE SHACK – 6123 South State Street - Project #19-048

Ted Didas was present to represent this request. Zac Smallwood reviewed the location and request for an amendment to the original Conditional Use Permit (CUP) issued for the Fashion Place Mall to demolish an existing fast food establishment and construct a new fast casual restaurant near the northwest boundary of the mall. The subject property is located at 6123 South State Street in the C-D Zone. Mr. Smallwood stated that restaurants are allowed in the C-D zone however, the Fashion Place Mall has been operating under a Conditional Use Permit since the 1970's and this application is treated as an amendment to the CUP. Mr. Smallwood explained that the property previously contained the Applebee's Restaurant which has been demolished. The Shake Shack proposes to construct a new building on the site and then demolish the Taco Bell Restaurant to the north soon after. The site will have 158 new parking stalls and they will be required to remove three of the five existing access points within the parking area. The applicant has provided a landscaping plan that exceed Murray City's current ordinance therefore, condition # 5 is intended to keep landscaping in good condition. In addition to the indoor dining area, a 38-seat outdoor dining area will be provided. Mr. Smallwood described the exterior building materials and stated that they will use grey stucco, green and white metal paneling and hardy board. Based on the analysis of the submitted materials and Land Use Ordinance standards, Staff has determined that the proposed amendment to the original Conditional Use Permit issued for the Fashion Place Mall to demolish an existing fast food establishment and construct a new fast casual restaurant is consistent with 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.

Mr. Woodbury asked if the motion is intended to approve the amended CUP or the restaurant itself. Mr. Smallwood stated that the motion would be intended for the addendum to the CUP and would be motion as usual.

Ted Didas, 8610 Sandy Parkway, # 200, stated he had read the conditions of approval and will be able to comply. Mr. Didas stated that there is future intent to demolish the existing Taco Bell restaurant when the lease is up in August and once the Demotion Permit is approved. Mr. Didas stated that ADA parking is based on a ratio of parking stalls provided as per City Ordinance, but it seems excessive for a restaurant of this size to be required to provide 6 ADA stalls. Mr. Didas mentioned that he will ask Staff if some of the ADA stalls could be moved away from this building to the main mall building where he believes they would be more practical. Mr. McNulty stated that this decision will be addressed by the City Building Official and Engineer. Mr. Woodbury asked if there is any plan to have a pick up area. Mr. Didas answered that he is not aware that there is any pick-up or take-out planned.

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 to allow the proposed restaurant on the property located at 6123 South State Street, subject to the following conditions:

1. The applicant shall meet all the requirements provided by the City Engineer.
 - a) Meet City storm drainage requirements, on-site detention/retention is required. Implement Low Impact Development (LID) practices where applicable.
 - b) Maintenance and repairs of on-site storm drains and detention systems is the responsibility of the owner/tenant. A City Storm Water Inspection and Maintenance Agreement is required.
 - c) Replace any damaged curb and gutter and sidewalk along property frontage.
 - d) Obtain UDOT permits for any site access changes or work within the UDOT right-of-way.
 - e) Develop a site SWPPP and obtain a Land Disturbance Permit prior to beginning site work.
 - f) Obtain a City Excavation Permit for work in the City right-of-way.
2. The applicant shall provide complete stamped plans, calculations and a soils report at the time of Building Permit application.
3. The project shall meet all applicable Building and Fire Codes.
4. The applicant shall clean and service the existing grease trap to meet the requirements of the Public Works Department.
5. A landscape plan meeting the requirements of Section 17.68 of the Murray City Land Use Ordinance is required. All required landscaped areas shall be maintained in good condition at all times.
6. The exterior trash container shall be enclosed within solid barrier enclosures with gates to comply with Code Section 17.76.170.
7. The applicants shall maintain a Murray City Business License in good standing and abide by all associated regulations therein.
8. The applicants shall obtain a sign permit prior to the installation of any attached business

signage.

Seconded by Ms. Milkavich.

Call vote recorded by Mr. Smallwood.

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

Motion passed 6-0.

TRUE NORTH – 604 East Taylor Lane - Project #19-046

Norm Dahle was present to represent this request. Jim McNulty reviewed the location and request to allow the operation of a Group Instruction business in an existing, single-family home, in the R-M-10 Zone on the property located at 604 East Taylor Lane. Mr. McNulty explained that the applicant proposes to teach yoga and wellness classes to small groups in her home. Group instruction is identified as a Conditional Use (CUP) by Murray City Ordinance. The subject property is 1.6 acres and has a single-family home which originally sat on the once larger property that has since been sub-divided and now encompasses the abutting condominium complex. Drive access to the subject property is gained from 5600 South to Springtree Lane, and then to Taylor Lane. Springtree Lane provides access to the existing 104 condominium units within the Springtree Condo development. The Site Plan shows the existing home, detached garage, green house, drive access and parking area. The clientele that would visit the home would utilize the existing drive access that runs to the north and west of the property as well as the parking area in the rear of the home. Fourteen parking spaces will be provided in this area. Additionally, two ADA parking spaces will be provided near the detached garage for a total of 16 parking spaces. The residence is a rambler style home that is being remodeled. The City received written information submitted by Peter Harrison, Legal Council for the Springtree Home Owners Association. Mr. McNulty explained that the document listed the points of objection to the proposed CUP which was read aloud and added to the public comment record. Mr. McNulty recited State Code 10-9a-507, Conditional Uses and stated that item (1)(a), A municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance. (1)(b), A municipality may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law. (2)(a)(i), A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. Based on the analysis of the submitted materials and Land Use Ordinance standards, Staff has determined that the proposed Group Instruction for Yoga, Holistic Health, and Nutrition meets the requirements of the R-M-10 Zone and recommends that the Planning Commission approve a Conditional Use Permit subject to the conditions as outlined in the Staff Report.

Norm Dahle, General Contractor and representation for Ms. Winder, 2675 East Melanie Drive, Holladay, stated he had read the conditions of approval in detail and will be able to comply. Mr. Dahle stated he has been intimately involved in the project for over a year and explained that the property was repossessed by the bank from the previous owner and the home and

property were left in disrepair. Ms. Winder purchased the property with intention to reside in the home. Upon taking possession of the property Ms. Winder began to clean the wooded yard area and home to elevate the fire hazard and vagrant trespassing. A privacy fence has been installed and a security gate will be installed to protect the property. Mr. Dahle stated that the application that was submitted to Murray City was done with a full understanding of the requirements as well as the information that was provided by Ms. Winder is in full compliance. Mr. Dahle address the allegation that there has been no effort on Ms. Winder's part to reach an agreement and stated that there have been several efforts, but Ms. Winder has not come to an accord with the Springtree HOA. Her goal is to come to a reasonable resolution of the issues. Mr. Woodbury asked if Ms. Winder intends to make this home her primary residence. Mr. Dahle replied yes; it will be her primary residence. Ms. Wilson asked for clarification about the interior site plan and wondered where the bedrooms were located. Mr. Dahle stated there are only two bedrooms with bathrooms attached. Ms. Milkavich asked if there is more living space in the basement. Mr. Dahle replied that there is not a basement but there is a small utility room and well house in the basement.

Mr. Hacker recognized that this item is a topic of concern for many Murray City residents and stated that the Planning Commission prides itself on the decorum of its meetings. Mr. Hacker read the Murray City Land Ordinance Section 17.116.030, which states, "allows Group Instruction in Single-Family Dwellings (Land Use #6815) in the R-M-10 Zone subject to Conditional Use Permit Approval." Mr. Hacker explained that the Planning Commission's task is to review the proposal, conditions, approval and take public comment to determine if the projects impacts have been appropriately mitigated. Mr. Hacker asked that those in attendance respect all the people in the room and refrain from disrupting the decorum.

The meeting was opened for public comment.

Peter Harrison, Legal Counsel for Springtree HOA, 1043 South Douglas Street, stated that he believes approval by only mitigating reasonable impacts to the property is problematic because the City will not give an opinion on civil matters. The problem with approving a CUP for the applicant in this manner is that the residents are being impacted because the easement between the two parties is purely residential in nature and does not contemplate a commercial use and there is no way to mitigate the damages. Mr. Harrison asserted that the City is fundamentally changing a contract that exists between the HOA and the land owner as well as creating a civil matter. As well as the preliminary approval of the CUP is based upon the idea that there is some sort of payment scheme in place between the two parties which there is not. The applicant has refused to pay her proportionate share of her use of the easement or engage in any reasonable discussion. It is believed that approval of the CUP will force the HOA to sue Ms. Winder. Mr. Harrison stated that the traffic generation model doesn't accurately reflect the amount of use of the roads by the residents of Springtree Condominiums because they are retirees. Mr. Harrison believes that mitigation to reasonable impacts can't be done for this application.

Peter Guyom, 6562 South 1710 East, stated he is not currently a resident of the Springtree Condos and rents his condo out, but he is in support of Mr. Harrison's comments and added that he believes the CUP actually references Murray City Land Use Code 6815 because it only references Preschools. Mr. Harrison stated that he believes that this ordinance should not apply to Ms. Winder's proposed business and that the Planning Commission does not have the authority to grant approval. Mr. Guyom added that the list of permitted uses is full of educational uses and should only be granted to a school and asked the Planning Commission to deny the application.

Pam Williams, 627 East Springtree Lane, stated she is a resident of Springtree Condos and that she rides her bike and walks on the narrow roads of the Springtree complex. Ms. Williams stated that she is concerned with traffic from the proposed business and that she is not sure, but she believes there is a different road that Ms. Weber should be using to access her property.

Stephanie Hofeling, 617 Taylor Lane, stated that her home is literally in the path of the driveway that Ms. Winder proposes to use. Ms. Hofeling stated that she is not in favor of approving the business because it will occur in areas that residents walk, and on roads that have to be maintained by the HOA.

Mike Skorheim, 5516 South Springtree Lane, Unit B, asked who the representation is for Ms. Winder. Mr. Hacker answered that Mr. Dahle is the General Contractor for Ms. Winder. Mr. Skorheim questioned if Mr. Dahle even has any proof of all the issues that he has been fixing at the home and doesn't believe that the improvements could even contribute to the increased value of homes in the area. Mr. Skorheim stated that he believes the issue with approving the application is that the conditions are not strict enough and wondered why they don't mention that she must live the home, restrict her from being able to come and go from her home at any time she pleases and to control the traffic passing through the neighborhood. Mr. Skorheim called for a recess to convene with the Planning Commission and find out more about what can be done to impose many more restrictions because of his believe that the conditions are vague.

Carol Klein, 617 East Taylor Lane, Unit A, stated she lives near the subject property and last year she observed many types of equipment parking in the condo parking spaces and traveling through the roads. Ms. Klein explained that when dirt and debris was being dropped by the construction trucks it was brought to the attention of Ms. Winder and then it was cleaned up. Ms. Klein stated that she cares about her community and has been on the HOA board for over two years and is on the neighborhood watch.

Sheri Richardson, 611 East Taylor Lane, Unit F, stated that she does not approve of the application because she believes that a business should not be in a residential neighborhood. Also, she does not approve of the use of the private roads by the business or contractors because the HOA is having trouble getting the money to maintain them from the other residents. Ms. Richardson stated that she rents her condo and believes her tenant would also not like the disturbance when he sits on the deck. Ms. Richardson addressed the audience and asked for a show of hands of who is not in support of the application. The Planning Commissioners objected and stated that the motion is not appropriate because the approving vote is not a decision of the public.

Dick Simper, 5570 South Marshwood Lane, Unit A, stated he is happy that Ms. Winder is making the property better because it was overgrown, being used by transients and drug users. As a resident Mr. Simper is totally opposed to having any kind of business run from the subject property that will bring strangers into the community.

Dorte Whitaker, 5482 South Springtree Lane, Unit E, stated that she agrees the work to Ms. Winders property is beautiful. Ms. Whitaker stated that she was an aerobics instructor for 30 years and had to lease a commercial property to conduct business and does not agree with allowing the proposed classes from Ms. Winders residence.

Nancy Larsen, 5520 Springtree Lane, Unit F, stated she is a long time resident and that the signs at the entrance of the community state it is a private property and she does not want people coming in to the neighborhood and looking around with the intention of invading homes. Ms. Larsen stated that they want the neighborhood to be a safe environment and do not want strangers coming in all the time because a lot of the residents are retired.

Karen Warren, 5570 South Marshwood Lane, Unit B, stated that she is not in favor of the proposed application. Ms. Warren asked what would prohibit Ms. Winder from adding additional classes in the future.

Norma Fury, 600 East Marshwood Lane, Unit A, wondered why this application for Conditional Use has come up now because she and the HOA board met with the Mayor of Murray City and he said that Ms. Winder would not be allowed to apply for CUP to run her business until she lives at the property. Ms. Fury believes that Ms. Winder doesn't live at the property currently and that she was under the impression the home was purchased only for Ms. Winder and her four children and there was no mention of conducting a business until a later date. Ms. Fury asked why Ms. Winder is not using the entrance from 5400 South instead because the private streets cannot withstand the large construction vehicles and extra traffic created by the business.

Dwayne Baird, 12241 South 1740 West, Riverton, stated he owns Unit H, at 5520 South Springtree Lane, which he rents out, and that he is aware there is a second easement that exits out to 5400 South that could be used instead and urged the Planning Commission to consider the alternative option.

Jeff Morgeneegg, 637 East Springtree Lane, Unit 13, stated he is the new Chair of the HOA. and that because he is so new to the position, he has not had enough time to understand at which point negotiations started, why and where they fell off with Ms. Winder. Mr. Morgeneegg stated he can't effectively represent the members of the community without more time.

Tim Butler, 592 East Marshwood Lane, Unit G, stated he is a new resident and he purchased the condo because of the ambiance of peace and tranquility. Mr. Butler stated that he believes if this application is approved that it will change the fundamental nature of the community. Mr. Butler stated that if he had known two years ago that this business would apply for a C.U.P he would have never purchased this condo because he enjoys the feeling of security at the Springtree Condos. Mr. Butler is opposed to the approval of this application.

Virginia La Rey, 2736 East Wren Road, Holladay, stated that she is a friend of Ms. Winder and she fully supports the application and the business of a healing center in the home. Ms. La Rey stated that Ms. Winder is trying to create a healing space for people to do yoga and develop healthy habits for wellbeing, she is not trying to do anything negative. Ms. La Rey stated that the property is not being sub-divided and does not believe it will impact people for all the years to come. Ms. La Rey stated that Ms. Winder is cleaning the property up and she will also clean the pond up that is currently full of algae for all the Springtree residents and wildlife to enjoy. Ms. La Rey wondered what the residents of Springtree wanted to see at the property and wondered if Multi-family development could happen if Ms. Winder is not able to acquire the CUP and has to sell the property.

Steve Brightling, 6153 South Carriage Park Circle, stated he owns Unit 13-D, and feels that Ms. Winder should have found out if she could even run a business from this home and worked thorough all the issues before she even purchased the property. Mr. Brightling stated

that he would like to see the subject property remain as a single-family home. Mr. Brightling added that the new fence is not setback into the property, instead it is right on the road and feels very imposing.

Elaine Lauritzen, 600 East Marshwood Lane, stated she is a longtime resident of Springtree and feels safe in her condo and does not want to have a lot of people coming in to the neighborhood, using the private roads, robbing her of the peace, serenity, and quietness. Ms. Lauritzen stated that there is a tendency with the nation that everything is for the next generation and believes that her generation is still strong, the people are still useful, still have desires and are good people who are worthy to have the desires of our hearts fulfilled. Ms. Lauritzen stated she has the right to not have business come into the neighborhood.

The public comment portion for this item was closed.

Mr. McNulty addressed the public concerns and began with Mr. Guyom's concern that the CUP should not be approved because it only applies to Preschools. Mr. McNulty stated that Section 17.116.030, Use 68,15, has two categories. The first definition outlines the preschool allowances and the second definition states that "group instruction in a single-family dwelling only in which at least 9 but not more than 12 people will be receiving instruction" was applied to the application. The CUP tonight does qualify under this Conditional Use category and it was applied correctly by Staff. Mr. McNulty addressed Mr. Skorheim's concerns that the conditions are vague and there should be more restrictions and he stated that the applicant indicated very clearly in the application that she will have 8 session a week in the late morning, afternoons and a few evenings a week. They are not allowed to exceed more than 12 people per session. Mr. McNulty added that the applicant and property owners have freedoms and rights just the same as the owners of Springtree also enjoy. The City does not keep track of our residents when they come and go from their home, although we are aware that they need to abide by quiet hours. Ms. Milkavich stated that there was an additional concern from a resident that this business may have the ability to grow. Mr. McNulty stated that the applicant has given us a full outline for her proposed business hours with up to 8 sessions a week and no more than 12 students per session. Ms. Milkavich asked if the Business License will only allow 9 to 12 people per session and nothing greater. Mr. McNulty answered in the affirmative. Mr. Woodbury added that Condition # 3 clearly outlines the allowed hours, sessions and number of students allowed, which should mitigate the residents concern. Even if she gets very successful, this permit does not allow the applicant to add anymore classes according to the condition. Mr. McNulty stated that Mr. Woodbury's comments are correct and add that Murray City has a lot of home business and many of them offer group instruction such as dance, theatre, singing lessons, preschools and these conditions of approval are listed in every one of them to mitigate impacts. Mr. McNulty stated that the business license process that will regulate the business and will need to be renewed yearly. If it is found that the business is out of compliance the City will have to address the issue. Mr. McNulty addressed Ms. Fury's concern that Ms. Winder does not live in the home currently and that the Mayor had stated that Ms. Winder can't peruse a CUP until she does. Mr. McNulty stated that Ms. Winder has a right to submit a Conditional Use Permit Application and go through this process now. Ms. Winder has indicated that she will live in the home and it will be her primary dwelling when the operation of the business starts. She will not be allowed to operate the business until she is living in the home as her primary residence. Ms. Patterson clarified that Ms. Winder can apply for the Conditional Use Permit now, but it won't go into effect until she lives in the residence. Mr. McNulty replied that is correct, but she will also have to have an approved Business License before she operates the business. Mr. Woodbury wondered if the use of the other easement access from 5000 South was ever

discussed and asked if egress is typically addressed when somebody applies for a remodel Building Permit. Mr. McNulty stated that he is not aware if the easement topic ever came up and that the Applicant would have to address the question. Mr. Smallwood added that when a Building Permit is for an interior remodel, similar to what has been done at this property it usually does not go through a site evaluation and would not have addressed egress and ingress at that time. Mr. Markham wondered if the Staff would address some of the resident concerns about traffic on the private roads. Mr. McNulty stated that the neighborhood has a private street system that has existed for a long time and the subject property does have access to utilize this point of ingress and egress which was put in place in 1977 when the property was subdivided. In a Court of Law, the easement would be considered prescriptive by right because it has existed for more than 40 years. The monetary deal that the Attorney and HOA have discussed is not something the City is a party to, but we can encourage the applicant to work with them as we did in Condition # 5. The City Engineer was able to review the application and address the traffic impacts based on the trips generated as outlined in the conditions. The data gathered by the trip generation shows an increased impact by about 5%. Mr. McNulty addressed the resident security concerns and stated that the clientele that the applicant is proposing to bring to the site is by invitation, people she knows or is affiliated with. Murray City has a very active Police Force and we have a Police Officer in attendance tonight, if the residents have a concern about something suspicious going on, they should call the police. The Community has a neighborhood watch to help with vigilance. Mr. Woodbury stated that the City does not have control over who signs up to take a yoga class and we as a City allow home business and we can't require the business to perform a background check on every client. The City uses Conditional Use Permits to mitigate reasonable impacts and they are the only things we can impose on the applicant. Ms. Milkavich asked if it would be possible to build Multi-Family housing on the property if it were pursued. Mr. McNulty stated that it may be possible to subdivide the property and develop it into Single-Family homes or Multi-Family homes, it would require a review process. Ms. Milkavich asked if her assumption is accurate that this home and business will have a lower traffic impact than could possibly occur if it were redeveloped into a residential neighborhood. Mr. McNulty stated that he believes that her assumption could be correct because average daily trips could be as high as 10 trips per home. Ms. Milkavich asked if there were any restrictions on who could have purchased the property before Ms. Winder did. Mr. McNulty replied that anybody could have purchased the property because it was available for quite some time. It could have even been purchased by the HOA and that would have allowed them to control what happened on the property. Ms. Wilson asked if there is indeed an Easement Agreement in place. Ms. Greenwood replied yes, when the Plat was recorded in 1977 there was an agreement placed on the plat for a general easement.

Mr. Woodbury stated the Staff report indicated that an agreement had been reached with the HOA and asked if there is any agreement in place between the applicant and the HOA. Mr. Smallwood stated that Staff was under the impression that there was a proposal for the road to be rebuilt and the HOA going to inflict a levy on the property owners requiring each property owner to pay a one-time share of the cost. It was also understood that the applicant had made an offer to pay two shares of the cost although the City does believe this to be a Civil Issue. Mr. Dahle clarified that there is not an agreement, nor has there ever been an agreement and nothing has been provided to Ms. Winder to sign. Mr. Dahle explained that Ms. Fury made reference to a meeting that was attended by the then members of the HOA Board, Myself and Ms. Winder. At the meeting it was suggested by the HOA that Ms. Winder should pay for two shares to fix the streets because of the size of her property, which she agreed to. We were told that the group would meet at a later date and an attempt by us to meet again, we were told that the HOA would only work through an Attorney. Ms. Winder's Attorney responded in

writing to the HOA's Attorney that Ms. Winder was still willing to pay the two shares in the verbal offer she made. Technically, there is not an agreement reached but offers have been made verbally and written. Mr. Dahle stated that he wished that they could have a meeting and reach an agreement to clarify what can be done to rectify the issues. Mr. Dahle stated that early on in the process he met with Staff to find out what could be done on the property. An enquiry about Multi-Family residential was made and then understood that only 100 units could develop on a cul-de-sac like this is. Based on the ordinance it was understood that the property would not qualify for anything other than a Single-Family residence which is Ms. Winder's preference. Mr. Dahle addressed the questions about a second easement that may exist and stated he has a copy of the recorded Plat with the easement referenced. The recorded easement referenced as # 8 in the document states that was used only to install a water line. Ms. Winder paid a Title Company and Land Surveyor to take the Legal Description, plot it and search for a recorded easement across the Johansen Property which would allow the access to 5400 South. Hypothetically, if we could reach an agreement to use said easement, we may be able to qualify to legally develop a number of units on the property.

Mr. Woodbury explained that the duty of the Planning Commission is to consider a permitted request, in a private residence, to allow this Conditional Use if we can impose reasonable conditions to mitigate any problems with this business. This Public Hearing has done a good job of vetting the resident concerns and applying the conditions. The use proposed by the applicant is a permitted and if we do not support this, we are exposing ourselves and the City of Murray to further legal action. Because the City does not grant the results that the residents had hoped for does not mean that we do not hear the concerns, we do, and we address them in these hearings. Mr. Woodbury expressed his belief that the Commissioners have thoroughly explored every facet of this application and feels he is comfortable with a vote.

Ms. Patterson stated although, the City receives applications for Home Occupations quite frequently she feels like this application is very unique because the property has been subdivided, has existing easements and has a concentration of people who live around it all. We are trying to find a way to help balance everyone's needs. Ms. Patterson stated that the decision made tonight may not be pleasing to everybody but what should be done by every Citizen of Murray City to help the situation is to be neighborly and try to work with neighbors to come to an agreement from both sides will increase productivity and find a way to make it work for both groups. Anybody who were to purchase this home and want to conduct this type of business would be allowed to do so and we should follow what the statutes that have laid out for home base businesses in Murray. Based on the study by the City Engineer and the conditions that Staff has applied are enough to mitigate the impacts of this business in a home, it's not a commercial business. Mr. Woodbury added that condition # 3 limits does restrict the operation from growing any larger.

Mr. Markham pointed out that the concerns seem to be related to protecting their property, rights, and the environment. It's important to know that this property has the same rights that other property owners have to do whatever is legal and allowed in the community.

Mr. Hacker stated that he agrees with other Commissioners that the residents of this community should sit down together and have some productive discourse.

Ms. Patterson made a motion to approve a Conditional Use Permit to allowing Group Instruction for Yoga, Holistic Health, and Nutrition within the single-family residence located at 604 East Taylor Lane in the R-M-10 Zone, subject to the following conditions:

1. The project shall meet all requirements of Building and Fire Codes.
2. The applicant shall provide and maintain parking for a minimum of twelve (12) vehicles as shown on the Site Plan. No parking is allowed on Taylor Lane or other private roads.
3. No more than twelve (12) students are allowed in any session, and sessions are to be limited to no more than one per day, Monday thru Thursday, and two per day Friday and Saturday as indicated in the applicant's business plan.
4. The applicant shall obtain a Murray City Business License prior to beginning to offer classes on the site.
5. The applicant is encouraged to work with the Springtree Condominium Owners Association to resolve issues and provide for the maintenance of the private roads as indicated to City Staff.

Seconded by Mr. Markham.

Call vote recorded by Mr. Smallwood.

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

Motion passed 6-0.

Mr. Hacker reminded all that this Conditional Use Permit does not provide authorization to have a business on the property yet, it will need to complete the business license process.

ORDINANCE TEXT AMENDMENT - Section 17.160.050, Front Setback for Outdoor Dining,
Project #19-024

Mr. McNulty presented the proposed Text Amendment and stated that Staff previously held a Public Hearing for this item on February 21, 2019, where we received public Comment and continued the item until now. Previously, Prohibition Bar requested the addition of language to the Murray City Land Use Ordinance which would permit an encroachment into the required 20-foot building set-back to allow covered outdoor dining within 10 feet of the property line for restaurants and bars in a designated zone. The applicant's previous proposal was for an area around the mall in which outdoor dining with encroachment into the set-back would be allowed. Staff liked the idea but not exactly the way the proposed wording in the application was formed, and it was recommended that the item be continued to have a discussion with the City Council about possible changes to the proposal. On April 2, 2019 a discussion with the City Council was held, they reviewed the item and they provided feedback that indicated they liked it but wanted the Text Amendment to include the entire C-D zone. Some of the previous concerns that were voiced by the Planning Commission were about ensuring that the patio additions were compatible with the exterior building facade, material, colors, encroachment into parking requirements, and impact to pedestrian safety. The newly proposed text amendment language will outline the criteria that needs to be met to gain

approval to have covered outdoor dining. If a business shares any reciprocal access, they will not qualify. If a property is not able to meet the criteria for design and safety the property will not qualify. All requests will be required to gain Planning Commission approval.

Mr. McNulty explained that the applicants proposed text changes to the Murray Land Use Ordinance Section 17.16.050(A), would allow covered dining areas within ten (10) feet of the required 20' setback, with a 10' landscape buffer being required. The amendment would apply only in a smaller defined geographic area. Mr. McNulty read out loud Staff's proposed changes to the Murray Land Use Ordinance Section 17.160.050(A), Front Yard as outline below. Based on the findings, proposed text and other revisions as outlined, Staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the Staff Alternative proposed text amendment to Section 17.160.050(A) of the Murray City Land Use Ordinance as outlined in the Staff Report.

Terry Wasmer, 15067 South Eagle Crest Drive, stated he has worked with City Staff to achieve a common goal and is very pleased that the text amendment will be opened up to the entire C-D Zone. Mr. Hacker thanked the applicant for bringing this proposal to the City's attention and believes we will have an improved ordinance in place now.

Ms. Milkavich asked if a business is approved to have outdoor covered dining and they move from that location, will the property still hold the approval for the next business owner, and could they be asked to remove the overhang if they do not qualify for the approval. Mr. McNulty replied that it would be likely that a new restaurant would occupy the building and they could still use the covered parking as long as they meet the standards of Section 17.160.050(A). If the use changes it would be likely that they would remove the dining area because they would not have a need for it. It would be a case by case determination. Ms. Milkavich asked if the use were to change to retail, would the business be allowed to display merchandise in the covered patio area. Mr. McNulty stated not in this case.

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.

Ms. Wilson made a motion that the Planning Commission forward a recommendation of approval to the City Council for the Staff Alternative proposed text amendment to Section 17.160.050(A) of the Murray City Land Use Ordinance as outlined below:

Murray Land Use Ordinance Section 17.160.050(A), Front Yard:

- A. The minimum depth of the front yard for main buildings shall be twenty feet (20'). The first ten feet (10') of property except for drive approaches shall be landscaped as herein specified. Covered and unenclosed outdoor dining areas for eating or drinking establishments may be allowed to encroach up to ten feet (10') if the Planning Commission finds that the proposed outdoor dining area meets the following criteria:
- Architecturally compatible with the form, materials, and colors of the main building;
 - Does not result in a violation of minimum parking requirements;
 - Does not negatively impact vehicular or pedestrian safety;
 - Does not impede access to adjoining or nearby properties;
 - Maintains or provides the required ten feet (10') of landscaped setback as herein specified.

Seconded by Mr. Woodbury.

Call vote recorded by Mr. Smallwood.

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

Motion passed 6-0.

OTHER BUSINESS

Mr. McNulty stated that the next Planning Commission meeting will be held May 2, 2019 and Staff will present an item of interest about Indoor Vertical Farming. Mr. Woodbury asked if that ordinance will address the farming of Hemp. Mr. McNulty stated that Hemp will be addressed in a different ordinance and that it is currently being drafted by our Legal Department. Mr. McNulty addressed tonight's agenda item for True North and stated that the Springtree residents and their Legal Counsel is aware they may appeal the decision to our Hearing Officer if they wish. Mr. McNulty commended the Planning Commissioner's on their professionalism while handling the public clamor and unruliness during the hearing. Mr. Markham stated that he was pleased that there was a Police Officer present, even though he did not feel threatened, the Officer was able to clear the room and help to restore order.

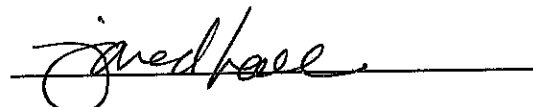
Mr. Markham made a motion to adjourn.

Seconded by Ms. Wilson.

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

Motion passed 6-0.

The meeting was adjourned at 8:43 p.m.



Jared Hall, Supervisor
Community and Economic Development