

Minutes of the Planning Commission meeting held on Thursday, August 1, 2019, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present:

Sue Wilson, Vice Chair
Travis Nay
Scot Woodbury
Phil Markham
Maren Patterson
Zac Smallwood, Associate Planner
Susan Nixon, Associate Planner
Briant Farnsworth, Deputy City Attorney
Citizens

Excused:

Ned Hacker, Chair
Lisa Milkavich

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.

Sue Wilson opened the meeting and welcomed those present. She reviewed the public meeting rules and procedures.

APPROVAL OF MINUTES

There were no Minutes to approve.

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 the Ryan Stock Accessory Dwelling Unit. Seconded by Mr. Woodbury.

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

HIDDEN TREASURES – 284 East 4500 South. – Project # 19-096

Dana Williams was the applicant present to represent this request. Zac Smallwood reviewed the location for an amendment to the Murray City Zoning Map for the subject properties from G-O, (General Office) to C-D, (Commercial Development). Mr. Smallwood explained that there are a few medical offices and multi-family housing units in the area and the General Plan calls for those properties to be designated as General Commercial which would also be in harmony with the Commercial Development Zoning. The applicant for the proposed zone change intends to open a Secondhand Antique Store on the property. Some of the past uses have been a residential home, beauty salon, and massage establishment. Based on the background, analysis, and the findings in this report, Staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the requested amendment to the Zoning Map for the subject properties.

Mr. Markham asked what other uses might be allowed in the Commercial Development Zone. Mr. Smallwood replied that the G-O Zone and the C-D Zone allow many similar uses, but the C-D Zone will allow for a stronger retail component while the G-O would allow only office uses.

Dana Williams, 284 East 4500 South, stated she has read the Staff Report and had no additional comments.

The meeting was opened for public comment.

Jim Wickens, 244 East Cottage Glen Lane, stated that most of the lots west of the subject property are very nice residences. Mr. Wickens stated that the subject property is littered with solid waste and hopes that the proposed business will not be approved if they are responsible for the trash on the site. Mr. Wickens stated that he is aware there are some insurance companies, apartments houses, an optical shop, and old homes nearby and does not believe the proposed business is appropriate for this area.

Linda Kessimakis, 4845 South 345 East, stated she has a property owned by a family trust abutting the subject property and her son also owns abutting property. Ms. Kessimakis added that she has issues with the property on the corner (296 East 4500 South) because the properties owners have had junk stored outside and does not want another business in the area that will store a lot of trash outside.

Janet Wall, 296 East 4500 South, stated that she lives in the house on the corner that was previously mentioned. Ms. Wall stated that she has spoken to the applicant who wants to open the business at the proposed location and is aware that there are a lot of items stored on the property, but she said she will keep it clean. Ms. Wall stated that she is in support of the proposal for a zone change.

James Kessimakis, 4520 South Atwood Blvd., asked for clarification about what commercial zoning allows and wondered if the business could operate under the General Office Zoning as a retail shop.

The public comment portion for this agenda item was closed.

Mr. Smallwood addressed the public comments and stated that during a site visit he noticed the items on the property and was concerned as well. Mr. Smallwood added that because this hearing is for a zone change only, that a condition to clean the property can't be added now but a condition for no outside storage can be added when an application comes through for a Conditional Use Permit. The C-D Zone also restricts the use of outside storage. Mr. Smallwood explained that the property located at 284 East 4500 South is zoned General Office and that Staff is aware of the public concerns and will be looking into them. Mr. Smallwood explained that the G-O Zone is strictly office uses and the commercial zone allows for retail uses, which is what the applicant is seeking for her small antique shop.

Ms. Patterson asked if the property was vacant prior to receiving this application. Mr. Smallwood stated that he believes it was vacant and that the applicant is purchasing the property. Mr. Markham added that we are focusing on the potential use of the property, but it is not what can be focused on tonight, we are looking at the re-zoning. The proposed zoning will bring the subject property and the abutting properties in line with the Future Land Use Map. If an application is received for a future business use, many of these concerns will be pre-addressed and there will also be an opportunity for another Public Hearing in which residents can participate again. Mr. Smallwood replied that if this re-zone is approved and the City receives an application for Conditional Use that Staff will review the requirements of the C-D zone for what is allowed to ensure she understands what is expected of her during the Planning Review Meeting.

Ms. Wilson asked if there were a chance that the property might revert to residential rental in the future. Mr. Smallwood replied that he does not believe that would ever be the case because it doesn't make sense since the building and property is completely set up as a commercial store front. Ms. Wilson added that that we are considering re-classifying from one type of commercial use to another.

Dana Williams, applicant, addressed some concerns and stated she is purchasing an empty building and that she has fixed the electrical, plumbing and added some cosmetic upgrades. The business has received donations of broken appliances, which are stored outside and are going to be recycled, which is part of the business plan. The mess that is being commented on by the neighbors is due to us cleaning up. When they first moved in, the weeds were much taller, and vagrants were living in the back yard for past three years. She stated that they immediately installed security cameras to keep the area secure and the weeds will be cleaned up by the time they are in operation. She stated this is just the process in order to get the business ready to operate. They are looking into the possibility of using some sort of storage container to have outside storage. If there any concerns people can stop by, and she will be happy to discuss any concerns.

Mr. Woodbury encouraged all in attendance to place emphasis on the re-zone instead of the intended business use at this time. He stated that even though it has been made aware of the type of business use that is proposed. This re-zone is consistent with the General Plan and the planning commission will have the opportunity to mitigate any issues if a Conditional Use come before them.

Travis Nay made a motion to forward a recommendation of approval to the City Council for the requested amendment to the Zoning Map designation for the property located at 284 East 4500 South from G-O, General Office to C-D, Commercial Development.

Seconded by Ms. Patterson.

Call vote recorded by Mr. Smallwood.

 A Travis Nay
 A Maren Patterson
 A Scot Woodbury
 A Phil Markham
 A Sue Wilson

Motion passed 5-0

ORDINANCE TEXT AMENDMENT– Municipal Code Section 17.82 –Small Wireless Facilities Ordinance – Project #19-098

Zac Smallwood reviewed the proposed, new ordinance regulating the installation of Small Wireless Facilities (SWFs) in the Murray City for Municipal Code Section 17.82. Mr. Smallwood explained that the Federal Government passed an amendment to set additional guidelines for how Municipalities can regulate SWF's. Murray City has added some changes to our ordinances on order to match what the Federal Government is requiring. Some of the proposed changes to the code are; Aesthetics, Shot Clocks and Fees. Mr. Smallwood explained that aesthetics was not originally addressed in the city's design districts at the time. The design districts in Murray City are MCCD, TOD and the Mixed-Use Zone and the change will indicate what color, shrouding, hardware attachments and conduit should look like. Mr. Smallwood explained that a Shot Clock indicates the turnaround time Staff will have to review

an application. The Cities' original code stated that we have thirty (30) days to determine completeness of an application. The Federal Government has now changed the timeline to ten (10) working days to review an application. After the ten days determination time, the City has an additional sixty (60) to ninety (90) days to review up to twenty-five Small Wireless Facilities on one application. The timeline also fluctuates depending if they are co-located or they have a new or replacement utility pole. Lastly, fees guidelines state that instead of a single application fee to be charged it is now based on each SWF, it also removes the Right-Of-Way fee of 3.5 %. Based on the information presented in this report, Staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the proposed text amendment which will keep the Cities Land Use Ordinance in compliance with Utah State and Federal Statutes and will maintain a balance between requires of the wireless industry and General Plan.

Mr. Markham asked if the Small Wireless Facilities applications will be processed through the Planning Commission. Mr. Smallwood stated that he believes they will be handled through Administration Staff only.

Mr. Nay asked where the \$250.00 fee originated. Mr. Farnsworth explained that he believes \$250.00 was originated through State Law. Then Federal Law came out with an order from the Federal Communications Commission that a charge of \$270.00 was a reasonable amount, unless you can justify a higher cost to the Jurisdiction, then it maybe ok to charge differently. Since both entities allow different amounts to be charged, Murray City decided to go with the lower of the two so that we are compliant with both.

The public hearing was opened for public comment. There was no public comment and the public hearing portion was closed.

Mr. Woodbury made a motion to recommend that the Planning Commission forward a recommendation of approval to the City Council for the proposed amendments to the Murray City Land Use Ordinance, Section 17.82, Small Wireless Facilities in the Public Right-Of-Way.

Seconded by Mr. Markham.

Call vote recorded by Mr. Smallwood.

 A Phil Markham
 A Scot Woodbury
 A Maren Patterson
 A Travis Nay
 A Sue Wilson

Motion passed 5-0.

DISCUSSION ITEM – Consideration of Policies and Procedures for submission of materials to the Planning Commission

Mr. Smallwood presented information to facilitate a conversation with the Planning Commission regarding the submission of material by citizens or applicants during a Public Meeting or Hearing. Mr. Smallwood referred to the memo that reads; "Handouts and materials by the applicants and others will be encouraged to be submitted at least 48 hours prior to the meeting. If materials are submitted within 48 hours and the Commission does not have time to adequately review the material, they may decide to postpone a decision to allow

for time to review the material. Staff will make efforts to communicate this standard to applicants and the general public. Public petitions, letters or other material submitted by citizens will be accepted. Community and Economic Development Department staff will make efforts to email this information to the Commission as soon as the item is received. The Commission or staff will summarize the written public input received during the public hearings for the record." Mr. Smallwood explained that in the past applicants or residents have come to the meeting with materials that we have allowed to be passed out. This results in the material being disregarded because there is not enough time to review the newly presented information. If we allow for them to be passed out, it becomes part of the record and if the decision were to be appealed the unvetted materials could possibly affect the outcome. Mr. Markham stated that he was not aware of the potential risk this could cause and is concerned that somebody could submit a hand drawn plan, photograph or written narrative of a particular agenda item and claim the information to be accurate then, we wouldn't have the proper amount of time to review it and find out if it is accurate. This could lead to miss information in our official record. Mr. Nay stated that he recalls a photo being submitted by a resident regarding the Larry H. Miller lot which had a big influence on the outcome of the decision. Ms. Patterson agreed with Mr. Nay and asked since we give the applicant the opportunity to speak, are we going to explicitly state that all materials for consideration must be submitted at least 48 hours prior to the meeting. Part of our process is to ask the applicants and residents who want to speak if they have any information for us, and they may bring materials with them to hand out. Mr. Smallwood stated that is a good question and Staff will address it with Mr. Farnsworth. Mr. Woodbury stated that he believes the applicant should have everything submitted by the existing hard deadline, but the public may arrive to the meeting with materials, unknowingly they won't be allowed to submit them for consideration. There is still a benefit to allow the public to submit a picture during a meeting, but I would discourage the submittal of a 20 page public petition or personal research reports that they expect me to evaluate and digest on the spot, versus the information I have from Staff. Ms. Patterson asked how we plan to notify the public about this because they get a notice, then try to scramble to get information together and they may not know there are deadlines to submit materials. Mr. Smallwood stated that Staff has suggested to put the policy in the public notices. Ms. Patterson suggested that the language must be specific and should state if they want to submit materials to be considered, that they must be submitted in such and such a manner. Mr. Markham stated that it is a tough situation because the public often shows up with materials they want to submit, but the applicant should always be held to the proposed policy rules. Mr. Markham commented that Staff should establish a deadline with no exceptions for the applicant. However, the public should be allowed an open forum to speak and we should consider certain materials to be submitted right up to the time the meeting starts. Mr. Nay stated that if we allow materials to be submitted that an unannotated photo versus reports would be better. Mr. Farnsworth's stated that the main concern is that everything that is submitted becomes part of the record and stated that the reason this came up is because the Public was submitting materials, and there was inconsistent review of those materials by the Commission. It is additionally concerning if an item is appealed and information submitted at Planning Commission becomes part of the record. Without a standard procedure we could end up with misinformation. Mr. Farnsworth added that it would be alright if the Commission feels comfortable submitting materials at the meeting, but it is encouraged that we have a standard set for it. One idea could be to have a recess to consider materials submitted during the meeting. Mr. Woodbury asked if the City Council has any rules for the submittal of materials. Mr. Markham asked what Planning Commissions do in other Cities. Mr. Smallwood replied because as he is on the Midvale City Planning Commission, he is aware that they allow materials to be submitted at any time and don't have any policies for it. Midvale has only had a few pictures submitted in the past and they were

considered but they have not gotten any large reports. Mr. Smallwood stated that he believes a petition is considered as public clamor and does not have to be weighted on an Administrated decision. Ms. Patterson commented that the public has previously shown up with a petition and expects it to have some kind of consideration. Mr. Nay wondered, if petitions are considered public clamor, do we even have to accept them. Mr. Smallwood stated that if it is a zone change petition then the Planning Commission wouldn't have to take it, but City Council could. Mr. Farnsworth added that City Council could consider a petition. Mr. Woodbury suggested that if we did get a petition then we could ask them to hold it for the City Council Hearing. Mr. Woodbury explained that he is comfortable accepting photos, emails, and letters from the public which can be quickly considered during the meeting, but not the large packets of material in which there is not enough time to consider during the meeting. Ms. Wilson wondered if there should be a limit of pages they could be allowed to submit during the meeting. Mr. Woodbury added that there is always the validity of verifying information after it is submitted. The key is that we need to be consistent and agree that we all look at it or that nobody looks at it. It does not seem ideal to take a recess between each item to consider materials submitted during the meeting. Mr. Nay asked how others feel about a 48-hour rule for the public to submit written material and wondered if a picture could be submitted during the public meeting and if we can differentiate between the two. Mr. Farnsworth stated yes, that can certainly be differentiated, and if Commissioners feel comfortable giving the item the time it would require for consideration the we would need to keep a consistent procedure. Mr. Markham stated that he believes consistency is needed for a policy like this. Unfortunately, when people have a vested interest in a position for any reason, it is hard to consider any material submitted for the validity of accurateness, and sometimes information can't be trusted without being vetted first. Ms. Wilson added that in the past we have had information presented to us that was not accurate and concerns about that are valid. Mr. Markham commented that we do need a policy and that he will agree to abide by what the majority decision is among the Commissioners. Mr. Markham suggested the same deadline should be used for the applicant and the public and we need to implement a policy that will allow a single page, unannotated photo that could be reviewed on the spot. Mr. Nay asked what the thought is if a member of the public brings in a USB drive and wants to review the pictures and data on it during the meeting. Ms. Patterson stated that this has happened before. Mr. Woodbury replied that from an I.T. standpoint we don't know what is on the USB drive and it could potentially open our City systems to cyber security risks and only single sheet photos should be allowed. Mr. Smallwood thanked the Commissioners for the valuable suggestions because they are exactly what we are looking for and the entire purpose for holding this discussion.

Public comment was allowed for this agenda item.

Alexander Teemsma, 10 West Miller Street, stated becoming civically engaged can be difficult for the public even if there are clear instructions on the notices. Mr. Teemsma added that he believes putting a deadline on a submission would not be in the best interest of the public because many members of the public struggle just trying to be involved in this process. Putting a deadline on a 20-page report or single page photo shouldn't really matter because it should all be considered by the Planning Commission and that people should be able to submit anything and everything they want up to the time of the meeting. Then the Planning Commission could choose to consider materials at that time or choose to push it out by a maximum of one meeting. If the meeting is pushed out than new information can be presented for the second meeting within a pre-determined set timeline. Ms. Patterson wondered how Mr. Teemsma became aware of this agenda item. Mr. Teemsma replied that he was researching another subject on the City website, got misdirected and stumbled onto

the Planning Commission agenda. Mr. Teemsma added that he is the person who spoke to Staff about allowing Short-Term Rentals and is the catalyst for the discussion that was on the last agenda. The Commissioners stated that they appreciated his attendance and comments.

Mr. Woodbury asked Staff how many days in advance of a meeting do we send the public notices out. Mr. Smallwood replied that notices have to be delivered 10 days prior. Mr. Woodbury stated that the public is already getting advanced notice and that we would could change the verbiage on the notice to be explicit and clear on any policies that we would implement because we don't want to stifle any public participation.

OTHER BUSINESS

Mr. Markham made a motion to adjourn. Seconded by Mr. Nay.

Motion passed 5-0

The meeting was adjourned at 7:29 p.m.

A handwritten signature in cursive script, appearing to read "Jared Hall", is written over a horizontal line.

Jared Hall, Supervisor
Community and Economic Development