

Minutes of the Planning Commission meeting held on Thursday, November 16, 2023, at 6:30 p.m. in the Murray City Council Chambers, 10 East 4800 South, Murray, Utah.

The public was able to view the meeting via the live stream at <http://www.murraycitylive.com> or <https://www.facebook.com/Murraycityutah/>. Anyone who wanted to make a comment on an agenda item may submit comments via email at planningcommission@murray.utah.gov.

Present: Jake Pehrson, Chair
Lisa Milkavich, Vice Chair
Ned Hacker
Travis Nay
Michael Henrie
Maren Patterson
Zachary Smallwood, Senior Planner
Mustafa Al Janabi, Planner I
Members of the public per sign-in sheet

Excused: Jeremy Lowry

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 Department Office.

CALL MEETING TO ORDER

Chair Pehrson called the meeting to order at 6:33 p.m.

BUSINESS ITEMS

APPROVAL OF MINUTES

Commissioner Nay made a motion to approve the minutes for October 5, 2023, with small administrative changes. Seconded by Vice Chair Milkavich. A voice vote was made with all in favor.

CONFLICT(S) OF INTEREST

There were no conflicts of interest for this meeting.

FINDINGS OF FACT

There were no findings of fact for this meeting.

CONDITIONAL USE PERMIT(S) - ADMINISTRATIVE ACTION

Cottonwood Security - 79 West 4500 South #24 - Project #23-105
Fabricated Metal Products and Contract Construction Services in the M-G Zone

Mustafa Al Janabi presented the application for a conditional use permit for Cottonwood Security, a metal fabrication and construction contractor, located in the M-G zone. Mr. Al Janabi showed pictures of the property. He noted a private entrance located on 4500 South. He stated there will

be a total of 17 parking spaces, including six parking spaces for the office. The shop will be used primarily for metal fabrication. There will be nine employees on site. There will be one available truck for transportation of goods and employees. The property has an enclosed dumpster. Staff recommends the approval for this conditional use permit based on the four conditions.

Chair Pehrson asked the applicant, Zach French, to approach the podium. He asked if he had read and can comply with the conditions.

Mr. French said he has read and can comply with the conditions.

Chair Pehrson opened the public comment period.

Triston Hughes wished to provide public comment. The reason for his comments is that there are currently a few shops on each side of the building in question. He stated that right now there is not too big of a concern because it's only occasionally that those shops operate during late or very early hours. His concern would be if there is metal work done in those shops during extended hours, or if debris from those shops ends up impacting the surrounding rooftop townhomes where people spend their summers. He is worried that any debris coming from the shop downwind could end up on the rooftop decks.

Chair Pehrson closed the public comment period. He then asked Mr. Smallwood to discuss the noise ordinance.

Mr. Smallwood spoke regarding the noise ordinance and other potential topics of concern. He stated that there are quiet hours in the city from 10pm to 6am. Anything experienced during those hours can always be reported to the city. He acknowledged that 6am is early, but the hours are county regulated. He mentioned that they can have the applicant address what hours of operation he plans on having. As far as debris, he stated that all departments in the city review applications before they reach the Planning Commission. For example, the fire and power departments have already looked at these plans and are aware of them. When the business applies for a license, inspections will happen to ensure the applicant is meeting all fire department requirements including making sure there are no shards of metal flying anywhere. He noted that Cottonwood Security has worked in Murray previously at a different location and is moving back. The city has had a good relationship with them before.

Chair Pehrson asked the applicant back to the podium to address the concerns.

Mr. French stated that their primary product is railing, which includes cutting and welding metal. Their working hours are 8am to 4:30pm, Monday through Friday.

Vice Chair Milkavich confirmed with Mr. Smallwood that any issues concerning potential debris will be addressed before the business license is approved.

Mr. Smallwood said that the application will be thoroughly reviewed by the fire department and other departments as well. He said that Business Licensing does a thorough job at getting sign-off from the appropriate departments.

Vice Chair Milkavich confirmed that if cutting metal causes noise, that needs to be within the county regulations.

Commissioner Patterson moved to approve the conditional use permit to allow the operation of metal fabrication and contract construction services business at the property address of 79 West 4500 South #24, subject to the four conditions:

1. The applicant shall obtain a Murray City Business License prior to beginning operations at this location.
2. The applicant shall obtain any building permits for interior remodeling, or signage.
3. The applicant shall comply with Murray City Power and Fire Department requirements.
4. Metal products shall not be stored outside of the shop or in the parking lot.

Seconded by Commissioner Nay. Roll call vote:

A Pehrson
A Milkavich
A Nay
A Hacker
A Henrie
A Patterson

Motion passes: 6-0

SkinCare, Inc. - 6268 South 900 East - Project #23-107
Massage Therapist and Skin Care Business

Mustafa Al Janabi presented the application for a conditional use permit to allow massage therapy into an existing business, SkinCare Inc, at 6268 South 900 East located the R-N-B zone. The applicant has two rooms for massages, with a total of 110 square feet. Based on the size, one parking space is required. There is an extra parking space across from the office. Staff recommends approval for the conditional use permit based on the three conditions.

Chair Pehrson asked if the reason they have to get this conditional use is because they all have to get their own business licenses.

Mr. Al Janabi said that's correct.

Vice Chair Milkavich stated that she knows the city code is being met – which states that they only need one additional parking. She feels it's a little ridiculous because, between a therapist and their client, there will most likely be two cars. Overall, there are 54 parking spots, so she's not concerned about this application, but finds the parking codes interesting.

Chair Pehrson asked the applicant, Cheryl Edvalson, to approach the podium. He asked if she read the conditions and if she could comply. She indicated that she would be able to comply with them.

Ms. Edvalson stated that the second condition is already taken care. The fire chief came in the other day. She wanted to make it clear that there is only one room, not two. The two massage therapists work separate hours, sharing the one room.

Chair Pehrson open & closed the public comment period, with no comments being made.

Commissioner Hacker made a motion that the Planning Commission approve a conditional use permit to permit to allow a massage therapist business at the property address 6268 South 900. East suite 200. Subject to the following conditions:

1. The applicant shall obtain a Murray City Business License prior to beginning operations at this location.
2. The project shall comply with all applicable building and fire code standards and obtain any necessary permits prior to the operation of the business.
3. The applicant shall obtain permits for any new attached or detached signs proposed for the business.

Seconded by Commissioner Vice Chair Milkavich. Roll call vote:

A Pehrson
A Milkavich
A Nay
A Hacker
A Henrie
A Patterson

Motion passes: 6-0

LAND USE TEXT ORDINANCE AMENDMENT(S)

Land Use Text Amendment - Project #23-103

Amend Sections 17.152.020 and 17.152.030; (M-G Zoning District) to allow Land Use #6600: Contract Construction Services as a Permitted Use instead of Conditional Use

Mr. Smallwood presented the agenda item. The request is to amend sections 17.152.020 and 17.152.030 of the Land Use Ordinance. He started by saying that over the past several years, contractor businesses had been brought before the Planning Commission for approval as conditional use permits. Current and previous Planning Commissioners have said that these are usually straight forward and that there's not a lot that goes into these into contractor uses. He noted that contractors are permitted in nearly every other zone, including the C-D, Commercial Development district. Staff feel that this is a less impactful use than some other uses that are currently permitted in the M-G zone. Mr. Smallwood provided an example, stating that if a cabinet shop came to the city and wanted to operate, they could because it is a permitted use, meaning they don't need to come before Planning Commission. They simply apply for a business license and open their business. However, if they wanted to install the cabinets that they manufacture, they would then need to come before the Planning Commission.

Staff doesn't feel that there is a greater impact when a business takes their product off site to install it, than the impact of manufacturing that product. Staff finds that the proposed text amendment supports the goals and objectives of the general plan by facilitating a mix of uses and appropriate transitions and buffers. The proposed text amendment is consistent with the purpose of the M-G. Zone. It's been carefully considered to provide additional opportunity and a more streamlined process for people that may be moving businesses into Murray City. Staff is recommending that the Planning Commission forward a recommendation of approval to the City Council for the proposed text amendments to Section 17.152.020 and 17.152.030 of the Land Use Ordinance.

Commissioner Henrie asked Mr. Smallwood to relate this request back to the application presented earlier in the meeting.

Mr. Smallwood said the applicant would not have had to come before the commission tonight for approval of a conditional use permit to install the railings that he manufactures. That could be done as a permit through staff.

Vice Chair Milkavich said this proposal sounds straightforward, but wanted to know why was this originally made a conditional use.

Mr. Smallwood said the code was written in about 1982. During this time, the Commission had more leeway in what they could ask applicants to do, and sometimes that meant asking applicants to adhere to unnecessarily stricter guidelines. Conditional Uses were sometimes used as inappropriate means of control. It was a different time, with a different mentality regarding the ordinances. These days, it's a simple administrative action. If it meets the code, the Commission shall approve it.

Commissioner Henrie asked Mr. Smallwood if he is requesting for all business not to be required to get conditional use approval.

Mr. Smallwood clarified that is not what he's asking for. There should be conditional uses for certain things like metal fabrication. Staff feel that contractors in a manufacturing zone don't need to be a conditional use. Contractors are allowed in residential zones, as a major home occupation, that do not have to come before the Commission if they get signatures from their neighbors. Some contractors have come before the Commission because they can't get those signatures. Note that they're allowed in residential zones, and they don't have to do anything or pay an application fee. When their business is a major home occupation, they come before the Commission and explain that they couldn't get signatures. They are required to provide the Commission with a site plan, a floor plan and narrative of their business operations. Then the public hearing process begins. It really delays contractors from starting or moving their business to Murray, Mr. Smallwood said staff have been told numerous times that this process is a deterrent to doing business in Murray.

Chair Pehrson commented regarding other permitted uses, stating that manufacturing is more of an impact to the surrounding area than a contractor would be. Therefore, he doesn't have any issue with adding it. He asked when a conditional use comes before the Commission, like the applicant in this meeting, which included metal fabrication, if that would qualify for multiple conditional uses because they would have had to apply for the contractor or subcontractor.

Mr. Smallwood said, yes, the application presented this evening did include both.

Chair Pehrson asked when there are multiple conditional uses, does the Planning Commission do those as one approval.

Mr. Smallwood said that's correct.

Commissioner Henrie asked about how the process would work for a construction contractor.

Mr. Smallwood stated there's a different land use code for construction, that's manufacturing. Those are permitted uses.

Chair Pehrson opened and then closed the public comment period with no comments being made.

Commissioner Hacker made a motion that the Planning Commission forward a recommendation of approval City Council for the proposed text amendments to sections 17.152.020 and 17.152.030.

Seconded by Commissioner Nay. Roll call vote:

A Pehrson
A Milkavich
A Nay
A Hacker
A Henrie
A Patterson

Motion passes 6-0

Land Use Text Amendment - Project #23-104

Amend Sections 17.144.020, 17.152.020, 17.156.020, and 17.160.020 of the Zoning Ordinance to Remove Land Use #1113: Single-family dwelling, attached to nonresidential

Mr. Smallwood presented this agenda item on behalf of Susan Nixon. This amendment is repealing the Land Use Code #1113, which is single-family attached to nonresidential. This has long been a challenge for the city because there isn't a clear definition of what it means. The way it's been interpreted, for many years, is that it's for a caretaker residence. An example would be a storage facility with a manager living on site to care for the business as well. That's how it had been traditionally interpreted. Over time, applicants have been challenging the interpretation. Where it gets confusing is that there's an ordinance for a live-work residence in the T-O-D zone. That's not what Code #1113 was intended to be. To eliminate the confusion, staff are proposing removing it from the commercial zones.

Commissioner Patterson clarified that applicants were getting confused with home occupation businesses, which are in residential uses, asking if the applicant was in a manufacturing zone and wanting to run a business from a place that they were living.

Mr. Smallwood said that's correct and that's exactly what happened is that somebody was living in one of these manufacturing zones, which the home occupation code says that the home occupation can only be in a residential zone. He admits this can be confusing, given the terminology, but home occupations are only allowed to happen in residential zones.

Commissioner Patterson asked if someone had a house in the M-G zone, that they're living in, are they not allowed to do business from it.

Mr. Smallwood said that's correct. Because that single-family residential use, in this case, is a non-conforming use. That means that the zoning has changed. Because that zone has changed, the city has anticipated that type of use will go away at some point. It's allowed to maintain and be used as a single-family residence for any amount of time, as long as it's continually used. Once the original use is abandoned, which is defined as one year of not being used as a single-

family dwelling, then non-conforming use protection goes away, and the property has to come up to current zoning.

Commissioner Patterson asked what if it was written specifically for caretaker residents.

Mr. Smallwood said he doesn't think the city has any that exists anymore, but if they did, they would be become nonconforming and still allowed to continue, as long as that use is not abandoned.

Commissioner Patterson confirmed that moving forward that's not what they want to continue.

Mr. Smallwood said that's correct. He noted that's not the business model any longer. Storage companies have changed to automatic doors and online bill pay, without the need for someone onsite.

Commissioner Patterson said she was nervous about this amendment at first because it's something she liked about the MCCD zone but then realized the amendment doesn't apply there.

Mr. Smallwood said that's correct. That zone will still have live-work units. This is specifically for the zones that are strictly commercial, such as the G-O, C-D and M-G.

Chair Pehrson said he doesn't think that's a bad thing for a resident to live in the business. He asked where the city currently permits live-work situations.

Mr. Smallwood said it's permitted in all the mixed-use zones, such as TOD, MCCD, and MCMU. Also in any residential zone, R-1-8, R-1-6, and R-M zones, you are allowed to have a home based-business. The confusion is these zones are not meant to have home-bases businesses.

Chair Pehrson asked Mr. Smallwood for a summary of the different types of zones in the city. Mr. Smallwood provided that information.

Chair Pehrson asked what if he wanted to have a neighborhood corner market that sold his fresh bread, or a dress shop, could he not live behind it.

Mr. Smallwood said that's correct.

Chair Pehrson said he doesn't see any reason we shouldn't allow people to live behind their dress shop or their bakery. He doesn't see that as a bad thing.

Mr. Smallwood agreed, stating that he is an advocate of mixed use. The issue is that the land use codes are very particular on how they read and how they're interpreted. The current codes cause a great deal of conflict, which result in appeals. His goal is to eventually eliminate these land use codes.

He cited an example of a potential misinterpretation. The property on the application was a single-family home in the front, with a non-attached shop, like a big storage shed that was being used for a machine shop. The owner wanted to rent out the single-family dwelling, but then keep his machine shop in the back. The land use code doesn't apply that way. It needs to be attached. That's one instance of where it became a problem.

Chair Pehrson stated that he doesn't want to take away people's ability to have a home business and live in the back of it. He's worried, with housing prices being high, this will take away more places people could live. He understands that it's available in other zones but doesn't like the idea of taking it away from zones where it's currently permitted.

Mr. Smallwood said there are multiple reason as to why he wants to amend this code. One of the reasons is that the residence tends to not be well kept, creating bad living situations for people. He said that the Planning Commission has the flexibility to determine what zones this should apply to.

Commissioner Patterson feels the C-D zone could be an appropriate zone. She feels that in the M-G and N-G-O zones, those uses would conflict a bit, and might cause more problems.

Commissioner Henrie said the only one he feels comfortable changing at this time is in the M-G zone only.

Commissioner Nay asked if Mr. Smallwood knows how many non-conforming uses exist in these zones currently.

Mr. Smallwood said he does not, but can research, if that's something the Planning Commission would like to do. He said it is possible to table this discussion until he gathers more data.

Commissioner Henrie asked if they could approve part of it and table the rest.

Mr. Smallwood said yes. He said they could also amend it to remove the M-G zone and then revisit the other zones later. He said they could table it entirely until he has chance to do more research.

Commissioner Henrie said he'd feel more comfortable with approving the amendment if he had a better understanding of what Mr. Smallwood is trying to accomplish.

Mr. Smallwood said it is complex to go over at this point. He said right now the land use code is the law of the land. So that's the framework they have to work within.

Commissioner Henrie asked how other cities handle this kind of land use.

Mr. Smallwood said he's pretty sure they don't allow it but will do more research. He says this is a unique land use code, that he thinks was just intended to address caretaker residence. He doesn't feel this use is seen very often any longer.

Commissioner Henrie said he doesn't agree with that. He can think of several examples where he's seen businesses and residence together.

Chair Pehrson said he's comfortable with voting or changing the amendment. He feels this is a lot of discussion for something that affects so few residents.

Vice Chair Milkavich said that to the few people that affects it matters. She'd appreciate more data showing how many people would be affected.

Commissioner Patterson acknowledged that there may not be a lot of people this applies to but wonders if demand might increase as the city grows.

Commissioner Nay feels they are providing those growth opportunities in the mixed-use zone and feels that's where more intensified use is beginning to happen. It might be where the need arises for caretaker residences.

Commissioner Patterson said maybe the issue should be addressed when and if it arises. She just wants to make sure they aren't stifling residents who would want this.

Commissioner Hacker said he remembers a time when this use was more common but doesn't feel he sees this use in the future. He agrees that it should be addressed if it comes back and on an individual basis.

Chair Pehrson agreed but wants to make sure they aren't taking away the option for residents.

Commissioner Hacker said that all someone would need to do is come before the Planning Commission and make a request.

Chair Pehrson feels there's not enough of an issue to bother changing the code. He is in favor of allowing people to do what they want with their land as much as possible unless it's causing an issue. He feels they shouldn't take away someone's freedom to do with their land what they want unless it's affecting their neighbors or creating another issue. His opinion is based on property rights.

Commissioner Henrie wondered if this is really an issue and wanted to know what is it that needs to be changed.

Mr. Smallwood said that clarity on the use is the biggest issue. Over the past couple of months staff have been dealing with a few residents that tried to challenge how the code is interpreted.

Commissioner Henrie brought up the issue of the applicant who wanted to live in a non-attached building and asked if this applies here.

Mr. Smallwood said it's not allowed. Their business is for outdoor RV storage, which a residence can't be attached to. He said this is where the clarity is needed with the code.

Chair Pehrson said what he'd prefer is to clarify code #1113, instead of removing it.

Commissioner Nay felt tabling the decision until Susan could speak about the topic would be best.

Commissioner Henrie said he's trying to understand if Mr. Smallwood is striving for clarity or if trying to prohibit the use.

Mr. Smallwood said it's a bit of both, but mostly for clarity.

Commissioner Henrie said he's concerned with prohibiting use but is in favor of adding clarify.

Mr. Smallwood feels if there needs to be clarification, as opposed to revocation, he'd prefer to table it and have staff do more research.

Chair Pehrson asked Mr. Smallwood what he'd prefer.

Mr. Smallwood said he'd prefer to table it to be decided on a future date, to be determined.

Chair Pehrson opened and closed the public comment period, with no comments being made.

Commissioner Nay made a motion to table agenda item #7, to amend sections 17.144.020, 17.152.020, 17.156.020 and 17.160.020 of the Zoning Ordinance to Remove Land Use #1113: Single-family dwelling, attached to nonresidential until a future date.

Commissioner Patterson seconded. Roll call vote:

A Pehrson
A Milkavich
A Nay
A Hacker
A Henrie
A Patterson

Motion passes 6-0

ANNOUNCEMENTS AND QUESTIONS

There will be a ULI (Urban Land Institute) training session, hosted by Susan Nixon on Friday, November 17 from 8 a.m. to 1 p.m. in Poplar Conference Room.

The Wasatch Front Regional Council will be holding a session on Monday, November 20th from 4 p.m. to 6 p.m. to discuss housing issues and their vision for 2050.

ADJOURNMENT

The next scheduled meeting will be held on Thursday, December 7, 2023, at 6:30 p.m. in the Murray City Council Chambers, 10 East 4800 South, Murray, Utah.

Commissioner Patterson made a motion to adjourn the meeting at 7:55 pm. Seconded by Commissioner Henrie. A voice vote was taken, with all in favor of adjournment.



Philip J. Markham, Director
Community & Economic Development Department