Minutes of the Planning Commission meeting held on Thursday, October 3rd, 2024, at 6:30 p.m. in the Murray City Council Chambers, 10 East 4800 South, Murray, Utah.

A recording of this meeting is available for viewing at http://www.murray.utah.gov or in the Community and Economic Development office located at 10 East 4800 South, Suite 260.

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 was able to submit comments via email at planningcommission@murray.utah.gov.

Present: Maren Patterson, Chair
Lisa Milkavich
Jake Pehrson
Michael Henrie
Michael Richards
Pete Hristou
Zachary Smallwood, Planning Division Manager
David Rodgers, Senior Planner
Ruth Ruach, Planner I
Mark Richardson, Deputy Attorney
Mark Morris, VODA
Members of the Public (per sign-in sheet)

Excused: Ned Hacker, Vice Chair

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 Patterson called the meeting to order at 6:32 p.m.

BUSINESS ITEMS

APPROVAL OF MINUTES

Commissioner Pehrson made a motion to approve the minutes for September 5th, 2024, and September 19th, 2024. Seconded by Commissioner Richards. 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

Commissioner Pehrson made a motion to approve the findings of fact for Erekson State Farm Conditional Use Permit and for Kombustion Motorsports Conditional Use Permit. Seconded by Commissioner Milkavich.

A voice vote was taken with all in favor.

CONDITIONAL USE PERMIT(S) – ADMINISTRATIVE ACTION

Vara Salon Suites - Project # 24-101 - 4770 South 900 East - Conditional Use Permit for Tattoo Use in the C-D Zone

Ian Schwarting of Loris Ventures LLC was present to represent this request. Ruth Ruach presented the application requesting Conditional Use Permit approval to allow a body art studio within the C-D Zone on the property located at 4770 South 900 East. Ms. Ruach discussed the size of the building and lot. She said that body art studios are not specifically listed as a permitted use within the zone, which is why a conditional use permit is needed. She showed the site plan and floor plan for the business. She discussed the access points, which will be shared with other businesses. She said that the applicant has more than the required number of parking stalls. Notices were sent to eleven (11) adjacent property owners. No comments have been received. Staff recommends that the Planning Commission approve the application.

Commissioner Henrie asked if the existing building meets the requirements for ADA access. Ms. Ruach said that it does.

Mr. Schwarting approached the podium. Chair Patterson asked if he had read and could comply with the conditions. He said yes.

Commissioner Henrie and Mr. Schwarting discussed the ADA access for the building. Mr. Schwarting indicated that the building does have ADA access, per building code requirements.

Commissioner Henrie asked if there's a barrier between parking lots. Mr. Schwarting said there's an island.

Chair Patterson opened the public comment period for this agenda item. Seeing none, the public comment period was closed.

Commissioner Henrie asked if they will occupy the whole building or just the suite for the body art studio. Mr. Schwarting said they have the whole building, divided into suites, which they have fully remodeled. Commissioner Henrie asked if the other suites will be sublet to individual businesses. Mr. Schwarting said, yes, all with separate business licenses. Chair Patterson commented that the applicant is here for approval because body art studios require a conditional use permit in this zone.

Commissioner Henrie said that he thought it was the responsibility of each individual business to apply for a conditional use permit. Mr. Smallwood said the conditional use permit is tied to the land itself. Commissioner Pehrson asked if the conditional use permit still applies if the ownership of the

land changes. Mr. Smallwood said that it often still does apply. The new owner would be subject to the same conditions.

Chair Patterson asked if body art studios are an allowed use in any zones. Mr. Smallwood said they are a permitted use in the mixed-use zone.

Chair Patterson asked if the Planning Commission could revise what zones that body art studios are conditional in. She felt that former codes were discriminatory against body art studios. She felt that having an allowed use in some zones would be a good start. Mr. Smallwood said they could look at a text amendment for the C-D zone. Commissioner Pehrson asked Mr. Smallwood to add a discussion item regarding this topic for the next meeting and then prepare a text amendment based on that discussion.

Commissioner Henrie made a motion that the Planning Commission approve a Conditional Use Permit to allow a body art studio at the property addressed 4770 South 900 East, 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.
3. The applicant shall obtain permits for any new attached or detached signs proposed for the business.

Seconded by Hristou. Roll call vote:

A Patterson
A Milkavich
A Pehrson
A Richards
A Henrie
A Hristou

Motion passes: 6-0

SUBDIVISION REVIEW – ADMINISTRATIVE ACTION

93 Woodrow Flag Lot Subdivision - Project # 24-099 - 93 West Woodrow Street - Preliminary and Final Subdivision Review for a Flag Lot Subdivision

Kyle Zack, from 10 Pointe Properties, was present to represent this request. Zachary Smallwood presented the application for Preliminary and Final Flag Lot Subdivision approval for property in the R-1-8 Zone located at 93 West Woodrow Street. Mr. Smallwood showed a picture of the plat. He said there are already two existing homes on the property. He indicated that lot one has a 15-foot rear-yard setback, which is allowed for houses that were built prior to April 7, 1987. He also said that lot two shows a 15-foot rear-yard setback, but they have more than that. He said that it has been confirmed that if the existing homes were demolished, they could meet the current 25-foot rear-yard setback, as well as the 25-foot front-yard setback. Notices of the public meeting were sent to 74 affected entities within 300 feet of the subject property. No comments have been

received. Staff recommends that the Planning Commission grant preliminary and final subdivision approval.

Kyle Zach and Brian Anderson approached the podium. Chair Patterson asked if they've read and can comply with the conditions. They said yes and they do not expect to request any variances.

Chair Patterson said that these properties are currently non-conforming. She asked if they have any plans to bring them into current conforming setbacks. She said that if they have additional plans to accomplish that, they will need to have that approved by the Planning Commission.

Chair Patterson opened the agenda item for public comment. Seeing none, the public comment period was closed.

Commissioner Richards made a motion that the Planning Commission grant preliminary and final subdivision approval for a Flag Lot Subdivision for the proposed 93 Woodrow Subdivision located at 93 West Woodrow Street, subject to the following conditions:

1. The applicant shall meet all requirements of the City Engineer, including the following:
   A. Meet City subdivision requirements and standards – City Code Title 16.
   B. Address all engineering and survey review comments prior to printing the plat to mylar.
   C. Provide grading, drainage, and utility plan – City Code Chapter 16.08.
   D. Meet City storm drainage requirements, on-site retention is required – City Code Chapter 13.52.050
   E. Provide standard front rear and side yard PUE's on lots – City Code Chapter 16.16.100.
   F. Provide separate utilities to proposed lots.
   G. Provide Woodrow Street right-of-way dedication to accommodate future street improvements (asphalt, curb, and gutter & sidewalk) – City Code Chapter 17.76.120.
   H. Provide any required easements and vacate any unused easements within the proposed buildable areas and street - City Code Chapter 16.16.100.
   I. Obtain a City Excavation Permit for work within City roadways – City Code Chapter 12.16.020.
2. The applicant shall prepare a Final Subdivision Plat which complies with all requirements of Title 16, Murray City Subdivision Ordinance.
3. The applicant shall meet all requirements of the Murray City Water Department.
4. The applicant shall meet all requirements of the Murray City Wastewater Department.
5. The applicant shall meet all requirements of the Murray City Fire Department.
6. The applicant shall obtain building permits for any new construction on the property.
7. The Final Plat shall adhere to the requirements for Flag Lot Subdivisions contained in Section 17.76.140 of the Murray City Land Use Ordinance and as outlined in the Staff Report.
8. The applicant shall meet all applicable Building and Fire Codes.
9. The applicant shall provide complete plans, structural calculations and soils reports stamped and signed by the appropriate design professionals at the time of submittal for building permits.
10. The subdivision plat shall be recorded within one year of the final approval or the final plat shall be null and void.

Seconded by Commissioner Henrie. Roll call vote:

A Patterson

A Milkavich
A Pehrson
A Richards
A Henrie
A Hristou

Motion passes: 6-0

LAND USE TEXT AMENDMENT(S) – LEGISLATIVE ACTION

Chapter 17.170.120 of the Murray City Center District - Project # 24-109 - Amending height allowances for properties east of State Street and south of Vine Street

David Rodgers presented the proposed amendments to Chapter 17.170.120 (F) Murray City Center District MCCD Height Regulations. The request allows an additional 15' of height and a change of one additional story to a portion of the zone in the MCCD Zone East of State Street and South of Vine Street. Mr. Rodgers read the text of the original code. He showed the map of the parcels located in the MCCD zone, as well as map of the heights in the lot addressed in the subject properties. He discussed the reason for the text amendment, as the RDA has entered into an agreement with a developer for the old city hall site. He said that there was a measurement issue when heights were being measured from different roads around the property. He said notices were sent to adjacent property owners, with no comments received. He said the proposed changes are in harmony with the multiple aspects of the General Plan. Notices were sent to affected entities for this amendment. As of the date of this report, one sign company inquired about the changes. Staff recommends the Planning Commission forward a recommendation of approval to the City Council.

Commissioner Henrie expressed his concern about the number of stories that was previously approved now being different. Mr. Smallwood said it's acceptable for that to have occurred because the project has not had Land Use approvals yet. He said it will be final once the Redevelopment Agency has entered into an agreement with the developer.

The commissioners had a discussion as to why the height requirements were different for this zone. Commissioner Henrie felt concerned as to why there was a difference with surrounding areas. Commissioner Pehrson said he agreed and that heights should be consistent for the zone. Commissioner Henrie felt that certain sections of the amendment should be removed. Commissioner Pehrson said that the amendment should be approved as it's written.

Commissioner Milkavich discussed the appearance of the city being indecisive in its decision-making and its impact on public trust -- specifically the struggle of balancing the wants of the developer and maintaining trust with the public that their interests are being advocated for. Mr. Smallwood said one reason for the height reduction is due to costs related to parking structures. Commissioner Henrie feels less like they're giving into a developer if they omit the height requirement. Commissioner Pehrson said that what the Planning Commission is doing is reviewing what the RDA envisioned and for them to approve if it can be accomplished. He said the Planning Commission should make the recommended changes that will allow the process to move forward.

Chair Patterson expressed concern that the affected entities were properly notified. Mr. Rodgers assured her that they followed correct procedures in contacting property owners within the

required radius. Mr. Smallwood added that they are also required to post electronic notices to the city's and state's website. He also said that any resident can subscribe to notices on the city's website.

Chair Patterson expressed her frustration that this proposal to reduce the height from ten to seven stories went through originally. She said she doesn't understand why it extends as far south as it does. She thought they zoned a very small part of the MCCD for the potential redevelopment of the old city hall. She doesn't understand why they limited all the properties around it. She feels that her opinion doesn't matter because this is going back to the City Council, who asked for the change to begin with.

Chair Patterson opened the agenda item for public comment. Seeing none, the public comment period was closed.

The commissioners discussed the properties that would be affected by the height change. They discussed the option of striking section (F), which limits the height of buildings in the zone to seven stories. Mr. Smallwood said that some members of the City Council are not in favor of increased heights in many of the zones. They requested that staff work to reduce heights.

Mr. Richardson, the commissioners, and staff discussed the proper parliamentary procedures for making a motion to omit Section (F) and how that affects forwarding a recommendation on to the City Council. Mr. Richardson said that the motion would need to be reworded because if it doesn't pass, then they don't have anything to forward to the City Council. They discussed the implications of making two motions and that it would result in forwarding a negative recommendation.

Commissioner Henrie made a motion that the Planning Commission amend the proposed amendments to Section 17.170.120 (F) within the MCCD zone to strike Section (F) from Chapter 17.170.120.

The motion failed for a second.

Chair Patterson called for another motion.

Commissioner Hristou made a motion to forward a recommendation of approval to the City Council for the proposed amendments to Section 17.170.120 (F) within the MCCD zone, as reviewed in the staff report.

Commissioner Pehrson seconded. Roll call vote:

A	Patterson
A	Milkavich
A	Pehrson
A	Richards
N	Henrie
A	Hristou

Motion passes: 5-1

DISCUSSION ITEMS & TRAINING

Form Based Code Updates - Review of work conducted on the Form Based Code for the City Center Area

Mark Morris from VODA provided an update on the drafting of the form-based code. He said he wanted to provide an opportunity for the Planning Commission to ask questions. He said he wants to make sure that the Planning Commission has the information they need and the opportunity to ask questions ahead of the decision-making process for the form-based code. He said there's one set of requirements for the entire MCCD district that drives decisions. His goal is to change that, so that the context is what drives the decisions for the zone. He presented a map of the MCCD zone, divided into form districts or subdistricts. Each form district determines the requirements. He discussed each form district in more detail, showing a table with each one. He said that the requirements are flexible and open to proposal from a property owner. He said that height of stories, as well as the floor height, are important attributes in the requirements for each form district. He described the proposed height and density for the districts. He discussed the role of the City Hall Plaza in the zone. Physically, it's a catalytic feature, but it's not being used. He said they need to provide reason for the public to be there. He said that the Boulevard Corridor on State Street was previously thought of as the city center, but it has changed, due to the economics of the area. This will need to be a topic of focus. He mentioned using varying heights and setbacks in a form district to blend with existing building.

Chair Patterson asked Mr. Morris about the heights that would be allowed between residential and commercial. He said there is something that's intended to mitigate the height difference. He said that they will generally allow three stories on State Street. Finding ways for projects to get the density they need will need to be addressed.

Chair Patterson and Mr. Morris discussed the parking for the MCCD zone. He said that public feedback indicated that buried parking was desired, but it's not realistic to have all buried parking because it's very expensive. Chair Patterson said that what the public wants seems in conflict because they don't want height in parking structures but want accessible parking that isn't behind State Street. Mr. Morris said it will take finding the right balance of height and placement of parking structures. They discussed how having the form-based code will help to create opportunities for better parking in the zone. Mr. Morris said the construction costs will be a large factor.

Commissioner Henrie asked what the reasoning is behind having such a drastic change in height in the MCCD district. Chair Patterson and Commissioner Milkavich explained that the public wants to see lower heights in parking structures but also wants underground parking. In order to accomplish that, the City Council has to increase density, which adds height. They discussed that there are a couple of buildings that have already been built that don't conform to the desired height for the area, but they need to move forward with reducing height restrictions for future development. Mr. Morris said the zone will have setbacks to transition the heights of historic buildings on State Street with buildings behind it to help blend buildings together better.

Mr. Morris discussed one of the potential districts of the zone that does allow for a minimum of four stories and a maximum of eight stories. This district, located near Intermountain Medical Center, is designed to be a job center and residential center that will be buffered with another district that will

allow for two to three stories of residential. That district will be something like townhomes or row housing.

Chair Patterson asked how access to the interior districts will be developed. Mr. Morris said that a developer will need assemble three or four parcels to create road access.

Mr. Morris said that he had a discussion with the City Council regarding the west side of Center Street, which is currently in the MCCD zone. They are considering moving the district line so that the existing neighborhood isn't in the zone. Per the General Plan, that neighborhood needs to be preserved. Mr. Smallwood said they may rezone that area to R-1-8.

Mr. Morris said there are a total of five proposed districts, as outlined on the slides presented. He described the height requirements and other parameters for each one. He said the floor height for each district is separately regulated. Mr. Morris said the office concentration is designed to be near public transit. He said Mr. Smallwood will send this presentation to the commissioners. He said that the public seems generally supportive of the proposed districts and overall zone changes. He said they also talked with business owners in the area to obtain feedback and suggestions. He said the overarching goals are to adhere to the goals of the General Plan and to create a vibrant and walkable city center.

Commissioner Pehrson asked how the concept of flexible usage works in the zone. Mr. Morris said that once the code is established, the use is often regulated by ground floor and upper floor. There's a reference table for each form district to show approved usage parameters.

A discussion was had regarding conditional uses in the MCCD zone. Mr. Smallwood said that they will be moving away from conditional uses to permitted or not permitted. Mr. Morris said the table of uses is more broad than traditional zoning. Mr. Smallwood said that the city is moving away from using a standard land use code, as most cities don't use that any longer. Commissioner Pehrson asked how specific uses will be approved. Mr. Morris said that form-based code recognizes that specific uses come and go. That's why there will be flexible uses, with certain uses still being highly regulated or forbidden. The focus is on other factures related to the structure and the surroundings.

Chair Patterson asked what the proposed parking regulations for the MCCD zone are. Mr. Morris said that, in form-based code, it involves getting rid of minimums and setting maximums. He said that it's still based on having a certain number of parking stalls per retail square footage. He said that with form-based code the onus is on the property owner or the developer to determine how much parking they need. Form-based code also strongly encourages shared parking based on the hours of the day. He said the shared parking can be a complicated calculation. He said that they will need to continue the conversation about parking another time.

Commissioner Henrie asked if there are downsides to the form-based code. Mr. Morris said that developers who aren't used to using form-based code can be unsure of it. He did point out that more cities are using form-based code, which provides opportunities to learn from and see best practices to implement into the city's code.

Mr. Morris said more developers who are familiar with the new code are seeking out cities who have adopted it. Developers appreciate that the form-based code is more user-friendly than having to interpret municipal code.

Open and Public Meetings Act Training - Yearly training on the Utah State Open and Public Meetings Act

Mark Richardson presented training regarding the Open and Public Meetings Act. He said that this is required annual training for planning commissioners. He said there are no changes in the code for this year. He said the purpose of the code is that the state's business or the political subdivision business be done open and publicly so that the public has a chance to see it and to be involved in the process. He said that "open" means that every portion of a meeting needs to be open to public observation, but that doesn't necessarily mean they have the right to participate in every meeting. He said a "meeting" is defined as a convening of a public body with a quorum present for the express purpose of essentially doing something that the body has authority to act on. He said that if a quorum of a body meets at a social gathering, it is not considered a meeting unless they discuss an agenda item or an item that could come before them. He said a quorum is defined as a simple majority. He said the code requires that they make public notice of a meeting. There must be at least 24 hours' notice given before each meeting with an agenda. He said that in emergency situations, they can do away with that requirement. He said that, at the chair's discretion, a non-agenda item that's brought up can be discussed if needed, but no action can be taken on something that's not on the agenda. He said that agenda items may be moved around at their discretion, if needed. Additional noticed is not required to move items around. He said that there are provisions in the code for holding closed meetings. He couldn't think of a reason that the Planning Commission would need to hold a closed meeting. He said that if electronic meetings are held, there must be an anchor location where some commissioners meet in person. Fully remote meetings can occur in situations where the chair determines that it would place a substantial risk to the health and safety members met in person. The commissioners discussed that it could be acceptable to allow a member to attend virtually to ensure that there is a quorum.

A discussion was had regarding receiving public comments remotely during a live meeting. Mr. Richardson said it isn't a requirement to accept those comments. That was a practice initiated for COVID protocols. Mr. Smallwood said they will move away from it. Staff will work on updating the policy.

Mr. Richardson spoke about willful disruption of public meetings. He said that any action taken in violation of the open public meetings act can be voided by a court. He also said that any member of the public body who knowingly or intentionally violates the open public meeting could be charged with a Class B misdemeanor. An officer can be invited to attend potentially contentious meetings.

A discussion was had regarding outside conversations about agenda items. Mr. Richardson said that any ex parte communications is not acceptable unless everybody hears it. If approached by others, commissioners can invite them to come to the meeting to discuss the item openly. If a conversation is had outside the meeting, it's important for a commissioner to disclose that during the meeting so that everyone has the same information. It is acceptable to talk about the agenda item with planning staff, since the information is already provided in the staff report. They discussed that commissioners should go through planning staff if they have questions. If a commissioner does end up having a conversation outside of a meeting, they should declare a conflict of interest at the meeting.

ANNOUNCEMENTS AND QUESTIONS

The next scheduled meeting will be held on Thursday, October 17th, 2024, at 6:30 p.m. MST in the Murray City Council Chambers, 10 East 4800 South, Murray, Utah.

ADJOURNMENT

Commissioner Hristou made a motion to adjourn the meeting at 8:45 p.m.



Philip J. Markham, Director
Community & Economic Development Department