



HEARING OFFICER MEETING

MEETING MINUTES

January 14, 2026

12:30 P.M. MDT

Poplar Conference Room #151, 10 East 4800 South, Murray, Utah

CALL MEETING TO ORDER

PRESENT

Jim Harland, Hearing Officer
Mark Richardson, Deputy Attorney
Chad Wilkison, CED Director
Zachary Smallwood, Planning Division Manager
David Rodgers, Senior Planner
Hyrum Bosserman, legal representation for appellant Gary Howland
Dani Cepernich, Murray City legal council
Members of the public, per the sign-in sheet

Mr. Harland called the meeting to order at 12:30 p.m. MDT.

CONFLICT(S) OF INTEREST

There are no conflicts of interest for this meeting.

APPEAL OF LAND USE DECISION(S)

Jim Harland introduced the case for appeal – Project # 26-001, Case #1623 – The Pointe at 53rd LC, legal address of 5171 South State Street. He said this is an appeal of the Planning Commission's approval of a shared parking agreement.

Zachary Smallwood, Planning Division Manager, made a brief presentation of the case. He shared the events that lead to appeal. He said that Chick-fil-A had not previously received Planning Commission approval for their use of off-site parking to meet the minimum requirement of the Murray code. Mr. Smallwood outlined the steps taken by staff to remedy the situation. He provided reports and findings in the packet, including the signed parking agreement. He noted that parking access meets City code.

Hyrum Bosserman, legal representative for Gary Howland of The Point @ 53rd LC, presented the appeal. He stated that he has requested that a decision on the appeal be deferred until the ombudsman's office can issue a written advisory opinion. He said that Chick-fil-A removed a significant amount of parking from their parcel without proper Planning Commission approval. Once it was discovered, they sought retroactive approval for shared parking usage without coordinating with Mr. Howland. He claimed they ignored the parking requirements and ignored the shared parking usage requirements of the code. He says that when this was brought to their attention, they said they did have sufficient parking, which is not the case. Mr. Bosserman says the city has approved the agreement post hoc and justified that decision. He asserted that no analysis of the parking situation was provided by staff. Mr. Howland has appealed the decision of the Planning Commission. Mr. Bosserman said the Planning Commission failed to satisfy a critical condition for shared parking, which relates to parking use intensities, and requires an analysis of usage to be performed. He said this poses a challenge during peak hours of use, as the restaurants in the plaza have the same hours of operation. This doesn't comply with typical shared parking arrangements, where businesses have alternate hours and parking usage. He pointed out that the code requires shared parking use approval. Mr. Bosserman said that off-street parking was also not addressed properly. He said that off-street parking can only be used by who it's designated for. He said that having excess parking is irrelevant because the businesses using the spaces have similar hours of operation and peak hours, so they will be competing for excess parking at the same time. He claims that the 200-foot requirement of distance for pedestrian route is not calculated correctly by the city – it is not measured from the shortest pedestrian access. He presented Google Earth images to show the measured distance.

Dani Cepernich, outside counsel for the city, presented the counterargument. She clarified the applicable standards of review: factual determinations are reviewed for substantial evidence, while interpretation of land use regulations is reviewed for correctness, with regulations interpreted to favor the land use application. Ms. Cepernich stated this was an off-site parking approval, not a shared parking usage approval requiring intensity analysis. She explained that shared parking usage provisions only apply when one parking stall must simultaneously meet two different parking requirements. She said the staff report shows 278-282 excess parking stalls when both parcels are considered together, meaning the spaces are not serving a dual function. She argued the shared parking usage analysis was not required, and the Planning Commission only needed to verify the distance requirement and impose reasonable conditions for off-site parking. On the 200-foot measurement issue, Ms. Cepernich argued the code requires measuring from parking space to the parcel line, not to the building entrance or sidewalk as Mr. Bosserman suggested. She said pedestrians can walk through the parking lot without obstructions, and the staff report shows at least 38 parking spaces within 200 feet of the parcel line, exceeding Chick-fil-A's need for 11-15 spaces. She characterized Mr. Bosserman's interpretation as a policy disagreement rather than what the code actually requires. Ms. Cepernich stated the code does not require exclusive parking designations for off-site parking. She explained that disputes about stall designations between easement agreement parties are private matters beyond the Planning Commission's authority. Regarding the mixed-use development, she said concept plan applications don't create entitlements that the Planning Commission could consider. She concluded that Chick-fil-A was entitled to review under current code and facts, the approval was supported by substantial evidence and requested the Planning Commission's approval should stand.

Mr. Harland asked Mr. Bosserman if he wished to respond.

Mr. Bosserman presented his rebuttal. Mr. Bosserman responded that the city is attempting to re-characterize the decision after the fact. He stated the written decision, application, and staff report all explicitly approved shared parking usage, yet the city now claims the Planning Commission determined it was inapplicable. He said this argument only appeared for the first time on appeal and asked where in the decision it states shared parking usage wasn't required. He argued the Planning Commission erred in granting shared parking usage without considering the required conditions. Mr. Bosserman rejected the City's argument that shared parking usage only applies when stalls count toward two different requirements. He said the code contains no such limitation. When multiple businesses are using the same stalls, shared parking usage provisions must be followed. He said there's no exception for excess parking, and the code requires patrons to occupy their designated stalls, which is impossible when ten businesses simultaneously occupy the same spaces without proper shared parking approval. Regarding the staff report's table showing excess parking, Mr. Bosserman clarified it represents parking throughout the entire shopping center, not within 200 feet of pedestrian access to the property and therefore isn't relevant evidence. On the measurement issue, he emphasized the code requires measuring along the shortest pedestrian route of access to the property. He said there's only one pedestrian access point, visible in aerials showing retaining walls, and this requirement was never properly considered. Mr. Bosserman questioned Ms. Cepernich's count of 38 parking stalls, noting that many aren't marked or currently used as parking, and this wasn't presented to the Planning Commission. He said there was no analysis of how many stalls are already required for or designated to other businesses like Zupas.

Ms. Cepernich clarified that the hearing officer's role is to determine the correct interpretation of city code. She said the shared parking usage provision doesn't apply unless one parking stall is being used to satisfy two different requirements, which is evident from how the code section is structured. She explained the staff used the code's calculation requirements to determine total parking needed and available, showing there's more than enough parking to meet all needs without any stall serving double duty. Ms. Cepernich noted that both Utah code and Murray City code require ambiguities to be resolved in favor of the application. She said the hearing officer must interpret regulations to favor Chick-fil-A's application for off-site parking unless restrictions plainly limit it. Regarding the 200-foot measurement, Ms. Cepernich said the code requires measuring to the parcel of land to be served, which means the parcel boundary – not an interior point, the front door, or anywhere else inside the parcel. She acknowledged there may be policy arguments for a different measurement point, but that's not what the current code says, and Chick-fil-A is entitled to review under the code as written. She said even with retaining walls, the measurement is to the parcel line. She also clarified she counted 38 actual vehicles in the image presented to the Planning Commission, not 38 parking stalls.

Mr. Harland opened the meeting for public comment.

Brian Watt from Troutman Pepper, outside counsel for Chick-fil-A, stated the question is whether the Planning Commission correctly approved the reciprocal easement agreement as a shared parking agreement allowing Chick-fil-A to offset its parking deficit by using spaces in the adjoining shopping center. Mr. Watt explained the reciprocal easement agreement was executed in 2014 when Chick-fil-A opened, granting perpetual, non-exclusive rights for vehicular and pedestrian access and parking over the shopping center. These rights vested in 2023 when Best Buy closed. Regarding changes during COVID, he said drive-through demand surged and Chick-fil-A made site changes to accommodate increased traffic, not to evade oversight. Some parking was lost so more drive-through stacking could occur on their property instead of spilling into the shopping center.

When the issue was brought to their attention, they sought Planning Commission approval of the easement agreement as a shared parking agreement, which the Commission granted based on sufficient spaces within 200 feet. Mr. Watt said The Point's appeal has four grounds, none with merit. On how the 200-foot distance should be measured, he said the argument is contrary to common sense and moot. The code simply ensures people using off-site parking can walk from their car to the premises. He stated The Point waived this argument because their objection letter used "200-foot radius" six times without raising measurement concerns. Regarding the easement language, Mr. Watt said it's plain and broad with no restrictions. If The Point can designate any space as exclusive to other tenants, it would eviscerate Chick-fil-A's property rights negotiated in 2014. He said easement rights aren't subject to the grantor's whim, and taken to its extreme, The Point could designate every space as exclusive and deprive Chick-fil-A of all rights, which isn't how easements work under Utah law. He said disputes over exclusive parking signs are for another day. The Planning Commission determined there is sufficient parking within 200 feet to offset the deficit.

Mr. Harland allowed Mr. Bosserman to offer a brief response.

Mr. Bosserman made three points in response. First, he stated Chick-fil-A is attempting to characterize this as approval of a parking agreement, but there is no provision in the code for the Planning Commission to approve parking agreements. He said approval of a shared parking agreement requires going through the shared parking usage provisions, and there is no distinction between the two. Second, he addressed the waiver argument regarding the 200-foot measurement issue. He said there is no requirement in Murray City code that an aggrieved party must raise every possible argument before the Planning Commission in order to raise errors on appeal. He noted that aggrieved parties frequently don't know about hearings or permits that have been issued. He said they never agreed that the calculation should be solely from the parcel line and were responding to arguments made before the Planning Commission. Third, he provided additional context on parking usage. He said Chick-fil-A has directed their 30 employees to park off-site in these stalls before patrons arrive. He stated that while Chick-fil-A needs 11 stalls, they are using approximately 50. He said the agreement with Chick-fil-A was based on understanding that the code requires shared parking approval with evidence that uses and intensities won't be the same. He concluded it was a shared parking usage determination, clear from the record and written decision, and was not supported by substantial evidence.

Mr. Harland closed the public comment period. He said he'd provide a decision in writing by Wednesday, January 21st, 2026.

ANNOUNCEMENTS AND QUESTIONS

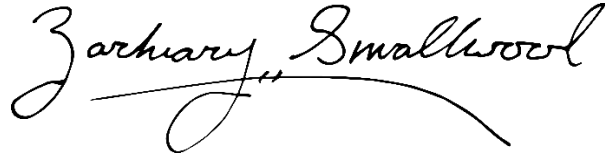
The next scheduled meeting will be held on Wednesday, February 11, 2026, at 12:30 p.m. MDT in the Poplar Conference Room #151, 10 East 4800 South, Murray, Utah.

ADJOURNMENT

Mr. Harland adjourned the meeting at 2:16 p.m. MDT.

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.

A handwritten signature in black ink that reads "Zachary Smallwood". The signature is written in a cursive style with a long horizontal flourish underneath the name.

Zachary Smallwood, Planning Manager
Community & Economic Development Department