

Minutes of the Hearing Officer meeting held on Wednesday, November 28, 2018 at 12:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Karen Daniels, Hearing Officer  
Jared Hall, Community & Economic Development Supervisor  
Briant Farnsworth, Deputy City Attorney  
Applicants

Ms. Daniels opened the meeting and welcomed those present. She reviewed the public meeting rules and procedures.

### CONFLICT OF INTEREST

Ms. Daniels stated that she has no conflicts of interest for this agenda.

### CASE #1561 – PROHIBITION MANAGEMENT LLC – 151 EAST 6100 SOUTH – Project #18-162

Kelly Howard and Terry "Woody" Wasmer were the applicant present. Jared Hall reviewed the location and request for a variance to the front set back of the C-D zone for the subject property located at 151 East 6100 South. The C-D zone requires a minimum building setback of twenty feet (20') from the front property line. The applicant has requested this variance to allow the construction of a permanent open-air pavilion to cover an existing concrete patio in the front yard area of the building. The building is currently located in the appropriate setbacks. Although, the proposed patio would provide a nice shelter for the outdoor dining patio, the issue would be the infringement on the setbacks. Mr. Hall stated that the proposed variance request does not support the first of the two hardships. Although there are patios similar to this in the city, they meet zoning requirements. Mr. Hall reviewed the first test of hardship and explained, that the applicant's request for variance would allow the extension of the building (patio cover) to within four to five feet of the property line. The C-D zone requires a 20-foot building setback with 10 feet of landscaping adjacent to the street frontage in response to the more automobile oriented commercial environment. The setback is applied uniformly throughout the C-D zone which is utilized in high traffic volume corridors like State Street and the properties around it. Mr. Hall reviewed the second test of hardship and explained, that there are no geographic or other physical impediments on the property to cause the need for a variance to the front setback requirement. Staff finds that the request for variance results only from the placement of the building and patio and is not the result of special circumstances attached to the property. Based on review and analysis of the application materials, subject property and surrounding area, and applicable sections of the Murray City Land Use Ordinance Staff recommends denial of the requested variance to the requirements of Section 17.160.050(A) to allow a patio cover within the required twenty-foot (20') building setback for the property located at 151 East 6100 South.

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Ms. Daniels stated that she is aware that the existing patio is within the landscaped area and is considered legal non-conforming and asked if it is allowed because it is not part of the building. Mr. Hall answered that the existing patio is considered as part of the landscaping because it does not have an attached cover.

Kelly Howard, 151 East 6100 South, stated he currently has an existing 3-4-foot attached covered over the patio and he believes it would be considered non-conforming. Mr. Howard stated that the existing cover is not very attractive, and he would replace it, if allowed the variance for the new cover. Mr. Howard also explained that his establishment should not be considered as a drinking bar, in fact it is an upper scale, "speak easy" and eating place. The addition to the patio area on the front of the building would help to improve the image of the club from a dive bar on the exterior of the building to the match the classy interior of the establishment. Mr. Howard presented photos of the nearby Biro Restaurant, Corner Bakery, FedEx, Murray Theatre, Hilton Hotel, Day Murray Music, Twiggs and California Pizza Kitchen and stated they all have patios or covers and that he realized they are in different zones. Mr. Howard added that he wishes to add landscape and exterior paint improvements to make his building more attractive.

Terry "Woody" Wasmer, 15067 Eagle Crest Drive, stated that he understands the appeal process is necessary to keep Murray City beautiful and to regulate people from building things using PVC pipe and a tarp. If the three-season patio was allowed, it would look nice and keep congruent with the structures at Fashion Place Mall. Mr. Wasmer add that a lot of his competition is allowed to build out to the street within in the Fashion Place Mall parking lot and that he does not understand the purpose for the rule that states setbacks must be back 20-feet from the street to have a covered awning. Mr. Wasmer stated that he was able to gather several hundred signatures for people in the community and surrounding businesses in support of the awning without any push back, in fact he believes the only push back he has received is from the Murray City Zoning. Ms. Daniels stated that if they are proposing an open-air cover and she stated that she believes that it will not prevent the rain and cold from coming through. Mr. Wasmer stated the definition of a three-season patio is loose and they want to add fans, heating elements and a fire pit which would help people feel comfortable when they sit outside and also grow their lunch business about nine months out of the year.

The meeting was open for public comment.

Chazz Gustin, 4130 W Mann Way, W.V.C. stated he is a friend of Mr. Wasmer and has been an employee and a longtime patron of this establishment. Mr. Gustin added this is a nice and happy place for people to be and that the Red Iguana in Downtown Salt Lake City has a heating element outside near the street and wished Murray City had similar allowances.

Hayden Wilson, 106 Parramatla Lane, So. S.L.C. stated state he is a Manager at Prohibition and he helped with the written and online petition process. Mr. Wilson added that they are making small improvements to help it fit in with the surrounding area and

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they believe the will bring in patrons from the entire state, out of state and have even had a few celebrities.

The public comment portion was closed.

Mr. Hall addressed some of the concerns presented and clarified that the interior roads at the Fashion Place Mall are not property lines and that the zoning codes applied to the interior business such as the Brio Restaurant, Corner Bakery, Twiggs, California Pizza Kitchen and the Fashion Place Mall Food Court are different because the zoning codes for the Prohibition deals with property lines. Mr. Hall stated that some setbacks become narrower because a structure may exist legally and then a road is widened, and the setback becomes smaller, the property now has a legal non-conforming label on it. Mr. Hall stated that the Murray Theatre, Hilton Hotel, and Day Murray Music are allocated in the MCCD Zone and they are located closer to the streets, Murray City has recreated that type of street frontage for this zone by design. In the MCCD zone would not allow a building to be placed twenty-feet back from the street front. It is possible for a building to be located further back if there is intent to build a patio or plaza out to the street frontage. Mr. Hall addressed the FedEx building and stated he is unaware how that particular building and its setbacks came to be without looking at records. Ms. Daniels stated she is a Murray resident and confirmed the setbacks came to be by a street widening. Mr. Hall closed by stating he commended what they are trying to do, but he can't support it because the code for that zone does not allow it.

Ms. Daniels stated for the record that we received the pictures and the signed petition and thanked those present for their participation in the process.

Ms. Daniels stated she will forward her written decision to the Community Development Office at 4646 South 500 West, by noon on Wednesday, December 5, 2018.

There was no other business.

The meeting was adjourned at 1:05 p.m.



Jared Hall

Community & Economic Development Supervisor