

Minutes of the Hearing Officer meeting held on Wednesday, April 13, 2022, at 12:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Jim Harland, Hearing Officer
Jared Hall, Community and Economic Development Director
Susan Nixon, Associate Planner
Briant Farnsworth, Deputy City Attorney
Brent Woodward, Applicant
Chris Layton, Applicant

Jim Harland opened the meeting and welcomed those present. He reviewed the public meeting rules and procedures.

CONFLICT OF INTEREST

Mr. Harland stated that he has no conflicts of interest for this agenda.

CASE #1583 – Woodward Construction Enterprises – 4872 South 190 West – Project #22-037

The request is for a variance to Section 17.146.070 (E) of the Murray Land Use Ordinance which prohibits parking between the building and the street. Jared Hall presented the request. The subject property is a small, commercial lot in an industrially developed area east of Commerce Drive midway between 4800 South and Vine Street. The particular property is located within the Woodward Industrial Park, which was planned and partially developed under the M-G, Manufacturing General Zone, before the area was rezoned M-U, Mixed Use in 2010. The M-U Zone was part of a large revision of mixed-use zones in the city during 2021 and has now been re-titled Murray Central Mixed Use, or MCMU. The applicant has proposed to develop a new commercial/industrial building on the subject property with a 2,808 ft² building located on the interior corner, with parking located between the building and the property frontage on 190 West. The parking as proposed would require a variance because parking between the building and the street is prohibited in the MCMU Zone.

The first test of hardship of *literal enforcement of the Land Use Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinance*. The subject property is located along a private road. Due to the private road, limitations of utility easements, and the large number of previously developed properties, redevelopment in the immediate area has only reflected mixed use principals to a limited degree. The most prevalent principal thus far has been the installation of better public improvements for pedestrians. The subject property has limited frontage, but the applicant will be able to install the required sidewalks and street treatments that are most important in mixed use environments. Staff finds that the application meets this requirement for granting a variance.

The second test *There are special circumstances attached to the property that do not generally apply to other properties in the district*. The location on the interior corner of 190

West and Fifth Avenue results in very shallow depths for the building. The applicant asserts that a viable commercial building cannot be constructed while locating the parking to the rear of the building. Because of backing distances and the shallow lot, parking located to the rear of the building would have to be angled, which then further requires a full vehicular access from the property on both 190 West and Fifth Avenue to accommodate it. Because the development is commercial, delivery is also important. Staff concurs that the size and location of this parcel can be considered a special circumstance as they relate to the requirement for parking to the rear of the building. Staff finds that the application meets this requirement for granting a variance.

The third test *Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the district.* Strict adherence to the requirements for parking location will likely result in a buildable area too small and shallow for commercial use, and with access requirements for that parking that would make delivery to the building impractical if not impossible. While the area is located within the MCMU Zone, the overall development pattern has continued to be for manufacturing and commercial uses allowed in that zone. Staff finds that development of the property at an appropriate commercial/manufacturing scale within the MCMU Zone can be considered a substantial property right and finds that the application meets this requirement for granting a variance.

The fourth test *The variance will not substantially affect the General Plan and will not be contrary to the public interest.* The General Plan identifies this area as mixed use. Several parcels in this immediate area have been redeveloped, but all of them for commercial and industrial uses. The MCMU Zone allows commercial and industrial uses with some limitations for scale and outdoor storage. While the larger area has seen interest in residential and true mixed-use development of properties, this existing industrial park has continued to see interest in those commercial uses alone. The requested variance would have no practical impact upon that pattern of development, which is allowable within the context of the MCMU Zone and thus within the context of the General Plan. Staff finds that the application meets this requirement for granting a variance.

The fifth and final test *the spirit of the Land Use Ordinance is observed, and substantial justice done.* The sidewalks and street treatments can be provided, and the development will be in keeping with other recently redeveloped properties in the area. Staff finds that granting the specific variance will not violate the spirit or intent of the ordinance, and that the application meets this requirement for granting a variance.

Mr. Harland asked why this is zoned as mixed use. The area is highly industrial and manufacturing. Mr. Hall gave some background about the area and zoning. Mr. Harland stated he disagrees with the zoning designation and agrees with the recommendation of the staff.

Applicant, Brent Woodward at 5th Avenue 190 West, stated that there is no other way

around this, and it matches the adjacent property and in character with the surroundings. This will be a construction office and will improve the corner and across the street.

Mr. Harland opened the meeting for public comment. No comments were made, and the comment portion was closed.

He let the applicant know the decision will be formally made next Wednesday April 20, 2022, by noon.

CASE #1584 – Morgan Jewelers – 6102 South State Street – Project #22-049

Susan Nixon presented the application for a variance to Section 17.160.050 of the Murray Land Use Ordinance to reduce the required 20-foot front setback to a 10-foot front setback on both 6100 South and State Street for a new commercial retail and office building. The subject property is currently two adjacent vacant parcels in the C-D, Commercial Development Zone. Morgan Jewelers recently acquired the property and are seeking to build a new office and retail building. Morgan Jewelers vacated their building because the ground lease for their pad site building at Fashion Place Mall was not renewed. They are seeking to construct a new building for their retail store and corporate office. The subject property is located on the south side of 6100 South Street and the west side of State Street. This is the former site of Firestone Auto Care and has been vacant for the past couple of years. The existing drive access on State Street is located close to the intersection with 6100 South. UDOT requires that the new drive access be shifted further south. The two parcels will need to be combined with the proposal of a new structure. UDOT controls a small, .04-acre (15'X17') triangular parcel at the northeast corner of the site which facilitates the intersection signal pole. The proposed building has been designed to accommodate this triangular parcel with the angled courtyard area. The proposed building setback of 10' allows a dumpster location to be at the rear of the property where it is less visible. If the building is pushed back to the southwest, the dumpster would be more visible from State Street or 6100 South and will not meet the intent of Land Use Code Section 17.76.170.F. that states: "No refuse collection area shall be permitted between the street and the front building line except as allowed by the Planning Commission." The front set back is the accommodate green space, alignment of the buildings and PUEs. The constraints of the power line and access relocations will allow for the parking to flow and provide for the dumpster to be located in the back of the property.

Staff finds in support of the first test of *the literal enforcement of the Land Use Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinance*. The subject property is located in the C-D, Commercial Development Zone. The applicant's request is based on the physical constraints of the property, including the required horizontal and vertical setbacks from the power lines and UDOT's requirement to move the accesses on State Street and 6100 South Street to the edges of the property. The applicants have proposed a two-story building in order to decrease the building footprint and accommodate a small building on a prime commercial retail location.

The second test of *Special circumstances attached to the property that do not generally*

apply to other properties in the district is the second test. Development of the property is constrained by the required horizontal and vertical setbacks from the power lines on the west and by the City Engineer and UDOT's requirement to move the accesses on State Street and 6100 South Street as far from the intersection as possible. The purpose for front setbacks encourages structures on a street to line-up, so that one structure doesn't block the views of others and provides uniformity. Setbacks provide a green space that is aesthetically pleasing and allow for access to underground utilities and distance between properties.

These constraints, coupled with the need for adequate parking, site circulation and 20 feet of required setbacks, are the reason that staff supports the proposed application for a variance. If the required setback was enforced, the remaining buildable area would be small enough that a viable commercial business would be difficult to place at an appropriate scale for the prime commercial location. Staff finds that the application meets this requirement for granting a variance.

The third test of *Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the district*. State Street and Fashion Place Mall area is a prime, high traffic retail area. Development of this site has unique constraints imposed by the department of transportation and existing utilities. The power line setback requirements, both horizontal and vertical, require an additional setback from the west boundary adjacent to residential zoning. Moving the building to the northeast corner provides additional buffer from the residential neighborhood and adjacent access road. The requested 10-foot setback meets the aesthetic intent of the land use by meeting the frontage landscaping requirement. The adjacent building to the south does not meet the minimum 10' frontage landscaping requirement. The proposed plan would be an aesthetic improvement to this area. Unless a variance is granted, the property owner will not be able to enjoy the same commercial use for the property. Staff finds that the application meets this requirement for granting a variance.

The variance will not substantially affect the General Plan and will not be contrary to the public interest is the fourth test. The General Plan calls for this area to be developed with high quality commercial, retail, and office uses. Granting the variance will not be contrary to the general plan or the public interest and will give the ability of a long time Murray business to relocate to a prime commercial corner. The proposed location will remove a pole sign and would allow for a better dumpster location. The proposed setback would be closer in line with the existing buildings to the south and north and would create visual continuity. The proposed request will meet the landscaping and parking requirements, while overcoming the physical constraints of the property. The proposed use will contribute to the public interest by offering a high-quality jewelry business and offices in a prime commercial area. The City Engineer and UDOT have reviewed this request and are in support, provided it does not affect the existing public utility easements. Staff feels this request meets then intent of Section 17.160.010: Purpose: "To provide areas in appropriate locations where a mixed use of businesses, commercial, entertainment and related activities may be established and maintained." Staff finds the proposed variance is not

contrary to public interest and does meet this requirement for granting a variance.

The spirit of the Land Use Ordinance is observed, and substantial justice done is the fifth test. The intent of the language in the Land Use Ordinance is that the commercial area allows retail and office uses as a permitted use, provided it meets the regulations of the C-D Zone. This property has limitations, but the proposed project fulfills the intent of the Land Use Ordinance, by providing adequate landscaping, buffers, parking, and visual continuity. Front setbacks exist so that building frontage has some uniformity and one structure doesn't block the views of others. Setbacks provide a green space that is aesthetically pleasing and allow for access to underground utilities, while allowing distance between properties. Staff finds that granting the variance would not violate the spirit of the Land Use Ordinance, and that the application does meet this requirement for granting a variance.

Staff finds that the application meets the applicable standards for a variance, and recommends approval of the requested variance to the requirements of Sections 17.160.050 of the Murray City Land Use Ordinance with the following conditions:

1. The applicant must comply with all other applicable ordinances and comply with all conditions included in the building permit.
2. Site plan approval is required from the Murray City Planning Commission per Land Use Code Section 17.160.070.

Mr. Harland asked about the pole sign and if it was put in before the sign ordinance. Ms. Nixon stated it has been there for a very long time and is legal nonconforming.

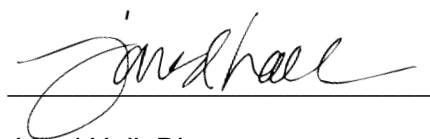
Applicant, Chris Layton of Layton-Davis Architects at 3200 East 3900 South. Mr. Layton stated that the plan seems rational and right for Murray. He expressed his appreciation to staff and Murray City is great to work with.

Mr. Harland stated the request is logical and seems to be a benefit to the city. He explained his official decision will be made next Wednesday, April 20, 2022, by noon.

Mr. Hall confirmed there will be an appeal coming forward to be heard next month.

There was no other business.

The meeting was adjourned at 1:03 p.m.

A handwritten signature in black ink, appearing to read 'Jared Hall', is written over a horizontal line.

Jared Hall, Director
Community & Economic Development Department