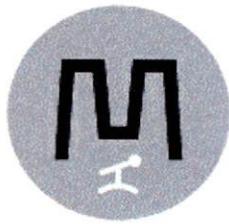




MURRAY
CITY COUNCIL

**Council Meeting
October 18, 2022**



Murray City Municipal Council Notice of Meeting

October 18, 2022

Murray City Center

5025 South State Street, Murray, Utah 84107

Meeting Agenda

5:15 p.m. **Committee of the Whole** – Council Chambers
Kat Martinez conducting

Approval of Minutes

Committee of the Whole – September 20, 2022

Discussion Items:

1. Report from Granite School District on the Population Analysis Study results. – Ben Horsley (20 minutes)
2. Discussion on prepaying for a new fire apparatus. – Brenda Moore. (15 minutes)

Adjournment

The public may view the Council Meeting via the live stream at www.murraycitylive.com or <https://www.facebook.com/Murraycityutah/>. Those wishing to have their comments read into the record may send an email by 5:00 p.m. the day prior to the meeting date to city.council@murray.utah.gov. Comments are limited to less than three minutes (approximately 300 words for emails) and must include your name and address.

6:30 p.m. **Council Meeting** – Council Chambers
Diane Turner conducting.

Opening Ceremonies

Call to Order
Pledge of Allegiance

Approval of Minutes

Council Meeting – September 20, 2022

Special Recognition

1. Murray City Council Employee of the Month, Zachary Smallwood - Jared Hall and Diane Turner presenting.
2. Presentation of a Certificate of Achievement for Excellence in Financial Reporting. – Mayor Hales presenting.

Citizen Comments

Comments will be limited to three minutes, step to the microphone, state your name and

city of residence, and fill out the required form.

Consent Agenda

None scheduled.

Public Hearings

Staff, sponsor presentations and public comment will be given prior to Council action on the following matter.

1. Consider an ordinance amending Chapter 17.16 and sections 17.08.020, 17.36.050, 17.52.150, 17.54.090, 17.54.100, 17.56.080, 17.56.090, 17.56.100, 17.56.110, 17.56.120, 17.56.130, 17.56.140, 17.60.060 AND 17.170.050 and repealing Section 17.12.110 of the Murray City Municipal Code relating to Land Use Appeals and Variance. – Jared Hall and Zachary Smallwood presenting.

Business Items

1. Consider a resolution approving an Interlocal Cooperation Agreement between the City and Salt Lake County for the purpose of cost sharing for the 2022-2028 UPDES Media Campaign – Lynn Potter and Russ Kakala presenting.
2. Consider a resolution approving and authorizing execution of an Interlocal Cooperation Agreement between Murray City Corporation and Salt Lake County for a Contribution of TRCC funds to assist in financing the restoration of the Murray Theater. – Kim Sorensen presenting.

Mayor's Report and Questions

Adjournment

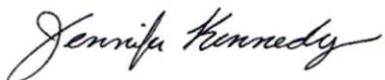
NOTICE

Supporting materials are available for inspection on the Murray City website at www.murray.utah.gov.

Special accommodations for the hearing or visually impaired will be made upon a request to the office of the Murray City Recorder (801-264-2663). We would appreciate notification two working days prior to the meeting. TTY is Relay Utah at #711.

Council Members may participate in the meeting via telephonic communication. If a Council Member does participate via telephonic communication, the Council Member will be on speaker phone. The speaker phone will be amplified so that the other Council Members and all other persons present in the Council Chambers will be able to hear all discussions.

On Friday, October 14, 2022, at 9:00 a.m., a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Murray City Center, Murray, Utah. Copies of this notice were provided for the news media in the Office of the City Recorder. A copy of this notice was posted on Murray City's internet website www.murray.utah.gov and the state noticing website at <http://pmn.utah.gov>.



Jennifer Kennedy
Council Executive Director
Murray City Municipal Council



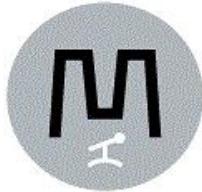
MURRAY
CITY COUNCIL

Committee of the Whole



MURRAY
CITY COUNCIL

Committee of the Whole Minutes



MURRAY MUNICIPAL COUNCIL COMMITTEE OF THE WHOLE Meeting Minutes

Tuesday, September 20, 2022

Murray City Center

5025 South State Street, Council Chambers, Murray, Utah 84107

Attendance:

Council Members and others:

Diane Turner – Vice Chair	District #4
Pam Cotter	District #2
Rosalba Dominguez	District #3
Garry Hrechkosy	District #5

Brett Hales	Mayor	Jennifer Kennedy	City Council Executive Director
Doug Hill	Chief Administrative Officer	Pattie Johnson	Council Administration
Tammy Kikuchi	Chief Communications Officer	Jared Hall	CED Director
G.L. Critchfield	City Attorney	Zack Smallwood	Senior Planner
Seth Rios	City Planner	Brenda Moore	Finance Director
Loran Pasalich	Murray Chamber of Commerce	Brooke Smith	City Recorder
Rachel Morot	Historic Murray 1 st Foundation	Residents	
Amy Thomas	Historic Murray 1 st Foundation		

Excused: Kat Martinez – Chair, District #1.

Conducting: Ms. Turner called the meeting to order at 4:15 pm.

Approval of Minutes:

- MCCD Zone Workshop – August 10, 2022 and Committee of the Whole – August 23, 2022. Ms. Cotter moved to approve both sets of minutes. Mr. Hrechkosy seconded the motion. All in favor 4-0.

Discussion Items:

1. Historic Murray First Foundation:

Vice-President Ms. Morot shared about the 501(c)(3) non-profit organization that advocates for historic preservation in Murray. They believe new construction and new developments are not the only way to redevelop and revitalize Murray communities and that sensitive respect to Murray's history should be part of updating communities. Their hope is to see Murray become a destination hometown for all of the Salt Lake Valley. It was noted that federal, state, and local resources are available to help protect and honor the preservation of historic buildings. Ms. Thomas, President of the Historic Murray First Foundation was invited to give the presentation.

Ms. Thomas said their goal is to create a better city by strategically meeting the desires of the existing community, while addressing future growth to provide a positive city image for future generations. She encouraged Council Members to prioritize historic preservation in Murray and explained how historic preservation creates healthy lifestyles, increases jobs and incomes, efficiently utilizes existing infrastructure, and grows the local economy. Additional benefits like affordable housing, preserved density and existing walkable communities were noted; and data was analyzed regarding economic benefits, local economies, and improved property values when buildings are re-used. Ms. Morot shared various requests in hopes to strengthen community advocacy and liaison between city officials, community members and the organization.

2. Ordinance relating to land use; amends the GP (General Plan) from Low Density Residential and Office to Medium Density Residential and amends the Zoning Map from G-O (General-Office) and R-1-8 to R-M-15 for the properties located at 787 & 825-865 East 4800 South:

Mr. Smallwood said applicants Allie Platt and the Lotus Company made the request in hopes of developing a new housing project. Currently, the existing office complex is nearly vacant and old buildings have reached their economic life.

A map was shared to point out that west of the office complex, property owners purchased a single-family home to accommodate redevelopment. The Future Land Use map was analyzed to confirm that a small portion of the property is categorized low-density residential, but the majority of it is slated as G-O. Both current categories and the existing zone were compared to the desired R-M-15. Mr. Smallwood said the Murray Planning Commission voted 5-0 in support of approval to the City Council on July 7, 2022, findings in the GP support the request and City staff also recommended approval.

Ms. Dominguez said the request was basically to get out of the G-O category. Mr. Smallwood agreed. Ms. Turner expressed concern about amending the GP so often. Mr. Smallwood explained the GP is also utilized to deny requests that are not fitting. When a proposed amendment is favored it is because City planners gave much thought and discussion to a request. Ms. Turner stressed it was the second time landowners requested an amendment and zone change for this property. Mr. Smallwood said it is allowed once a year.

3. Ordinance relating to land use; amends the Zoning Map for the property located at 98 West Winchester Street from R-1-8 to R-N-B:

Mr. Rios shared the Future Land Use map in accordance with the request to rezone the parcel. An aerial map was shown to pinpoint a small vacant corner. The hope is to combine the two lots and extend the parking area for the existing offices and condominiums located there. The small parcel is currently zoned as R-1-8, and it would be impossible to construct any building on it. Photos were displayed of the small vacant parcel. The Murray Planning Commission and City staff recommended approval of the rezone after public notice was given, a public hearing was held, no comments were received, and positive findings confirmed support for the request.

4. Ordinance relating to land use; amends the Zoning Map for the property located at 64 and 72 West Woodrow Street from G-O to R-1-8:

Mr. Rios explained the request was made by the Murray City School District that owns the property. Both parcels are currently zoned for G-O use, but the school district would like to see the zone

changed to R-1-8 residential. This would allow the Murray High construction students to build two single-family homes as part of the school's construction program. Photos were shared of the unused properties and Mr. Rios compared the proposed low-density residential designation to the current G-O use. GP objectives that support the request were reviewed. Both City staff and the Murray City Planning Commission recommended approval to the City Council due to positive findings and a public hearing that was held by the planning commission where no public comment was given.

Adjournment: 5:14 p.m.

Pattie Johnson
Council Office Administrator III

DRAFT



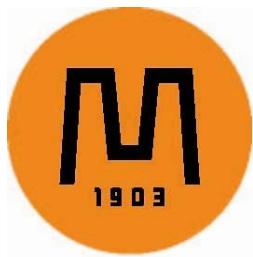
MURRAY
CITY COUNCIL

Discussion Items



MURRAY
CITY COUNCIL

Discussion Item #1



MURRAY

Council Action Request

Meeting Date:

Department Director	Purpose of Proposal
Phone #	Action Requested
Presenters	Attachments
	Budget Impact
Required Time for Presentation	Description of this Item
Is This Time Sensitive	https://www.graniteschools.org/planning/population-analysis-studies/2022-population-analysis-studies/
Mayor's Approval	
<i>Doug Hill</i> Date	

All projections are estimates based on current enrollment trends.



MURRAY
CITY COUNCIL

Discussion Item #2



MURRAY

Council Action Request

Department/Agency

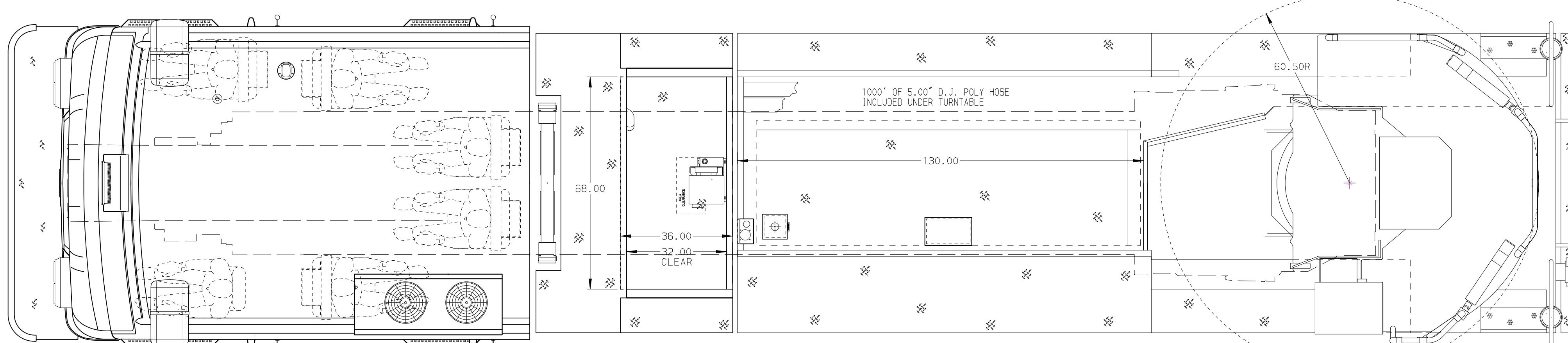
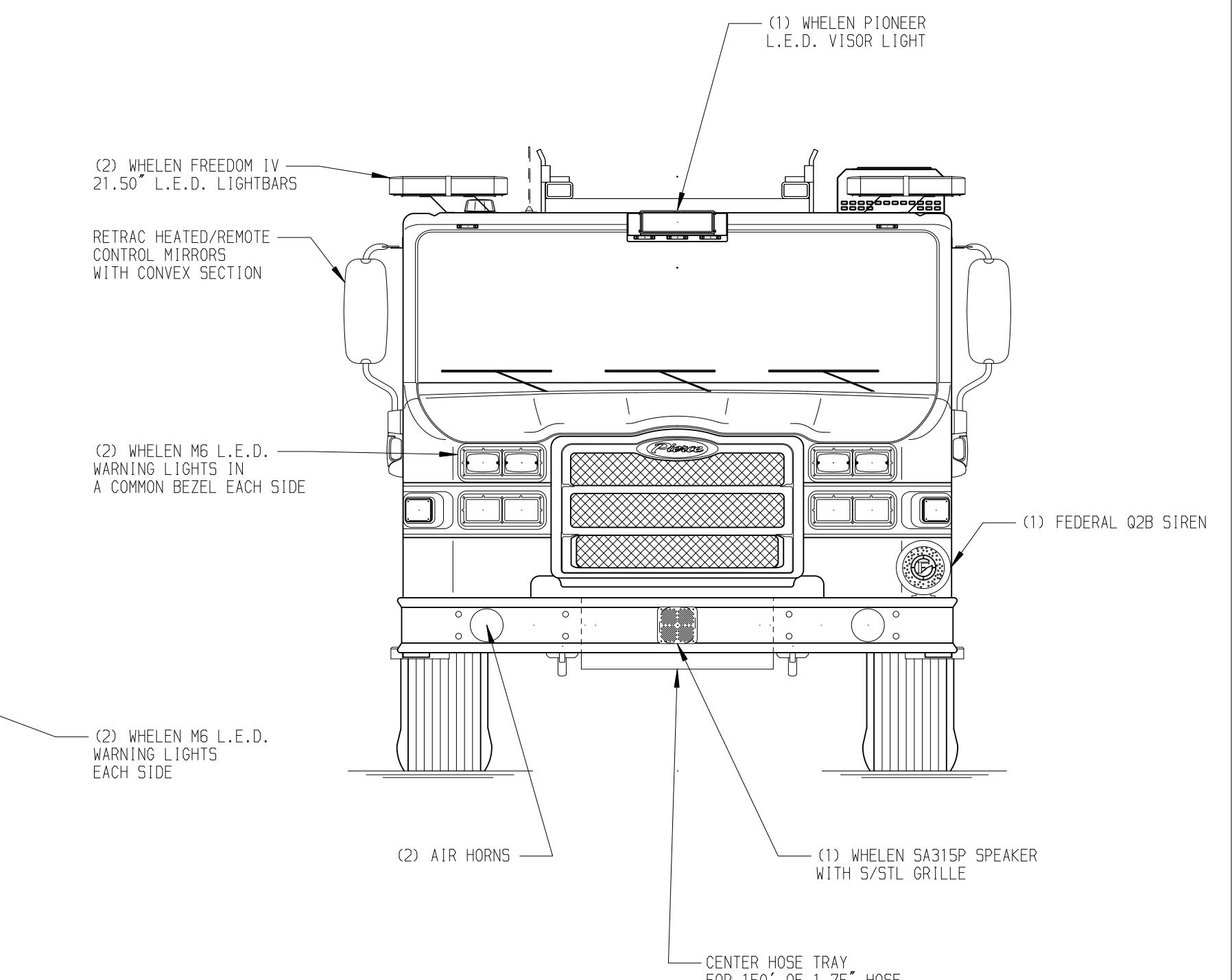
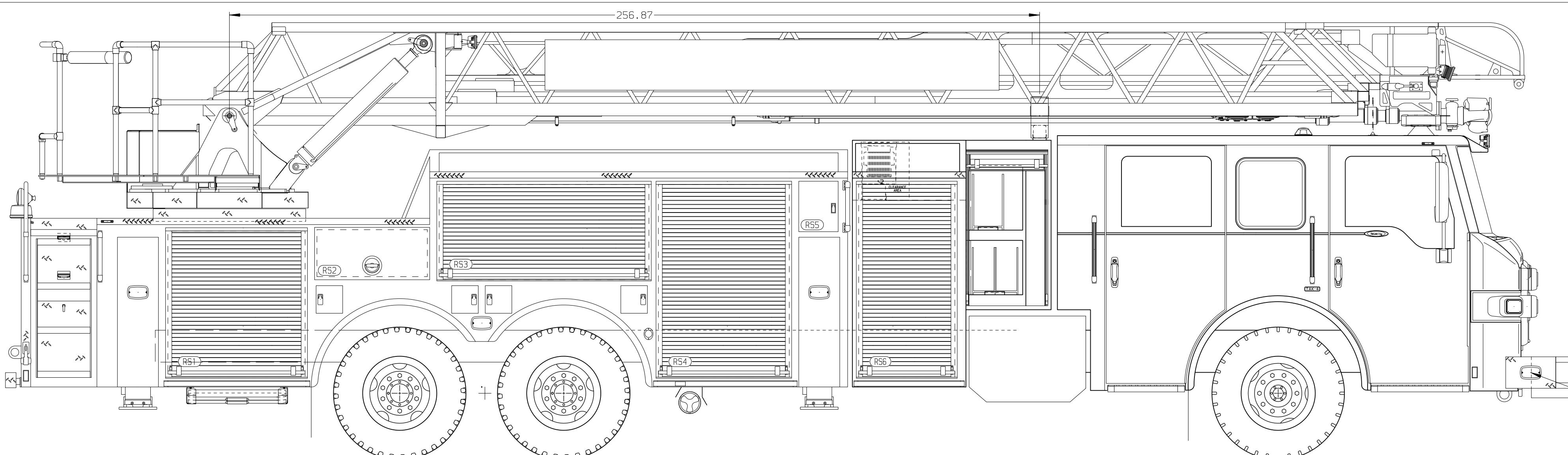
Finance & Administration

Order and Prepayment of Fire Apparatus

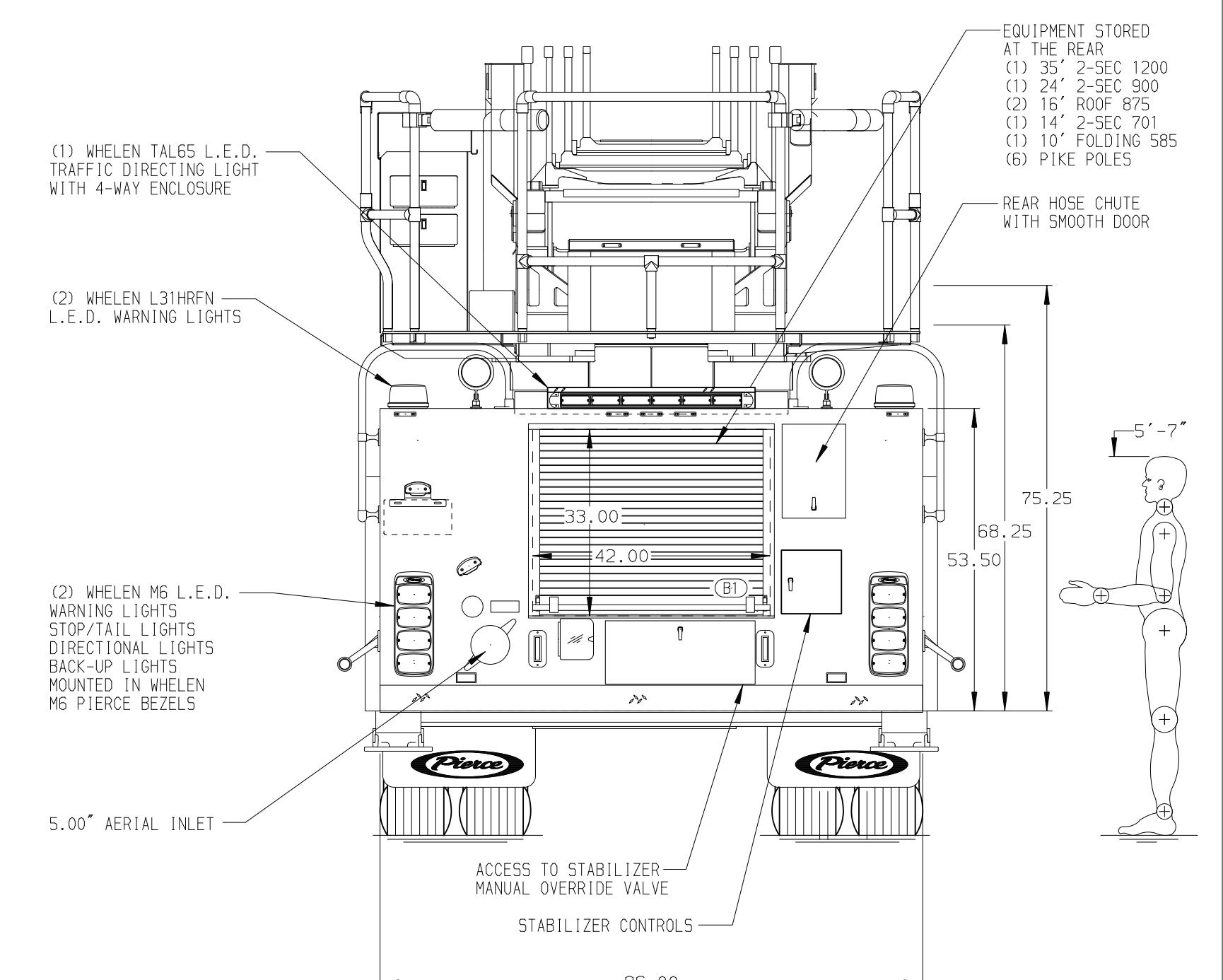
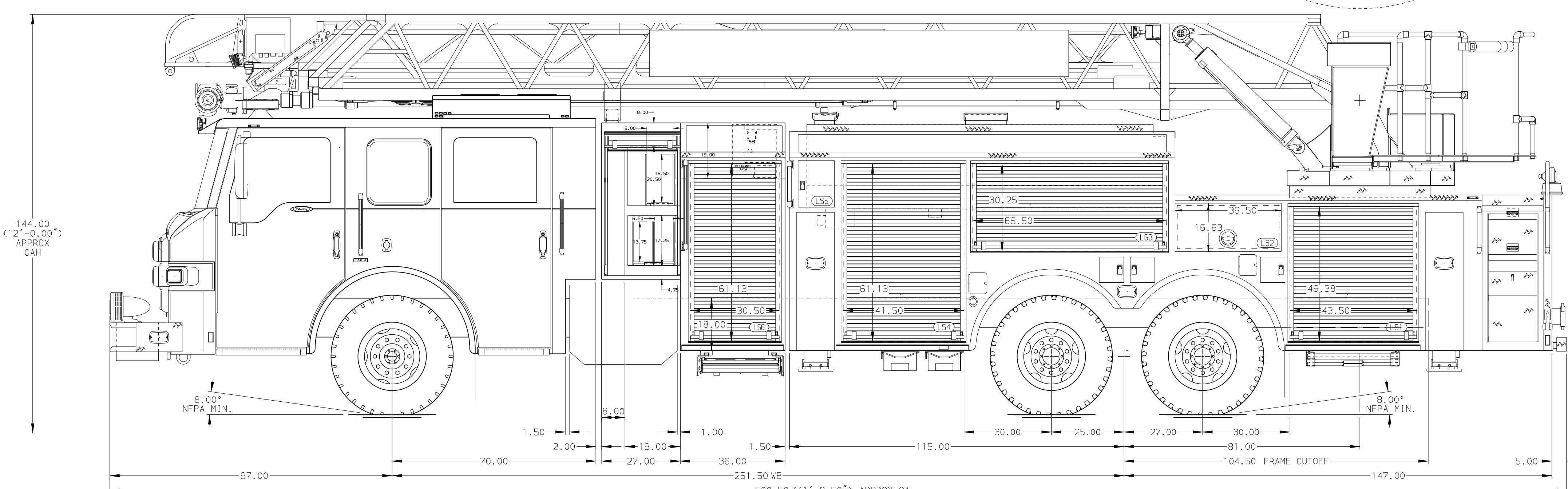
Committee of the Whole

Meeting Date: October 18, 2022

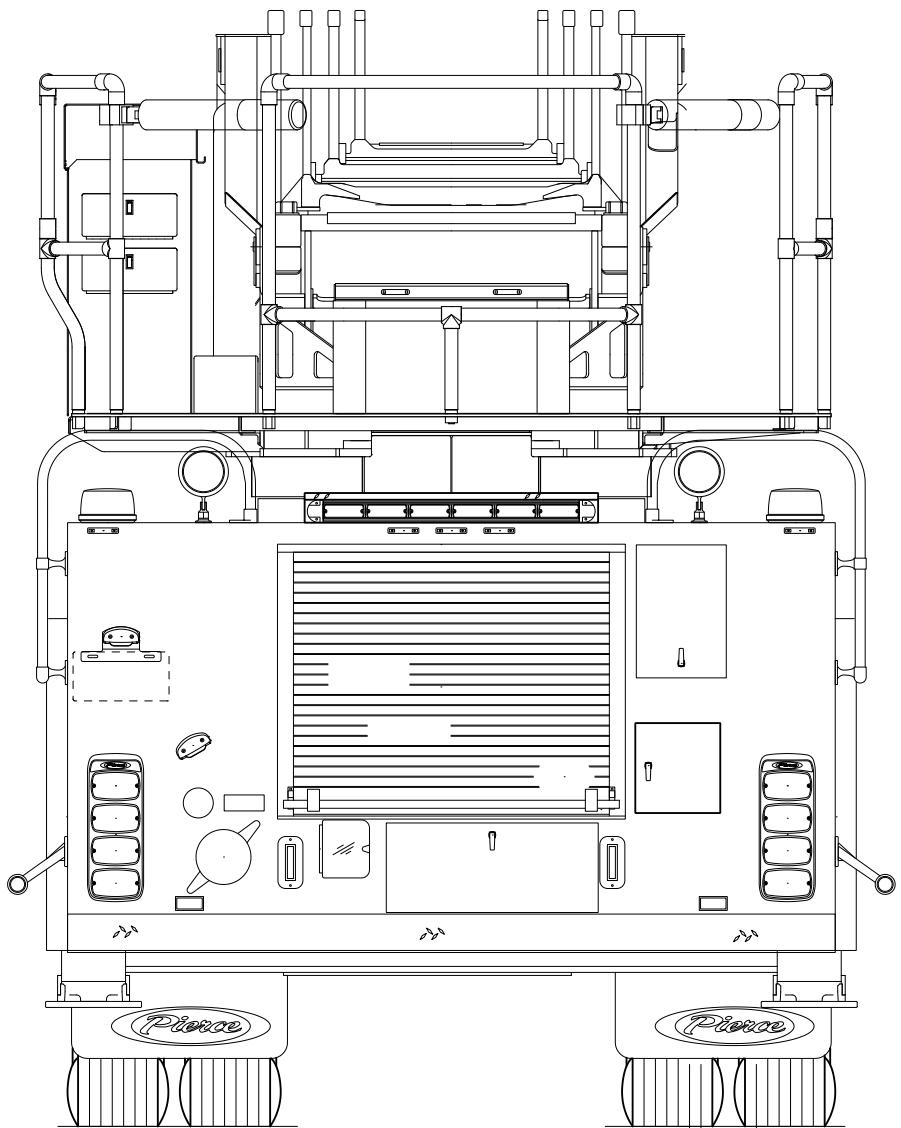
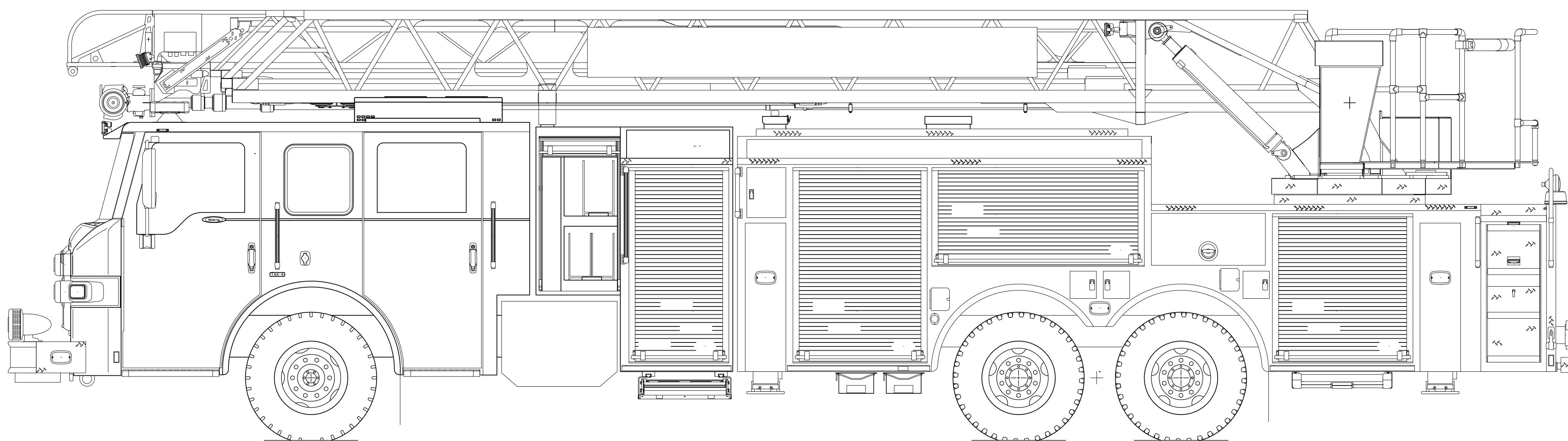
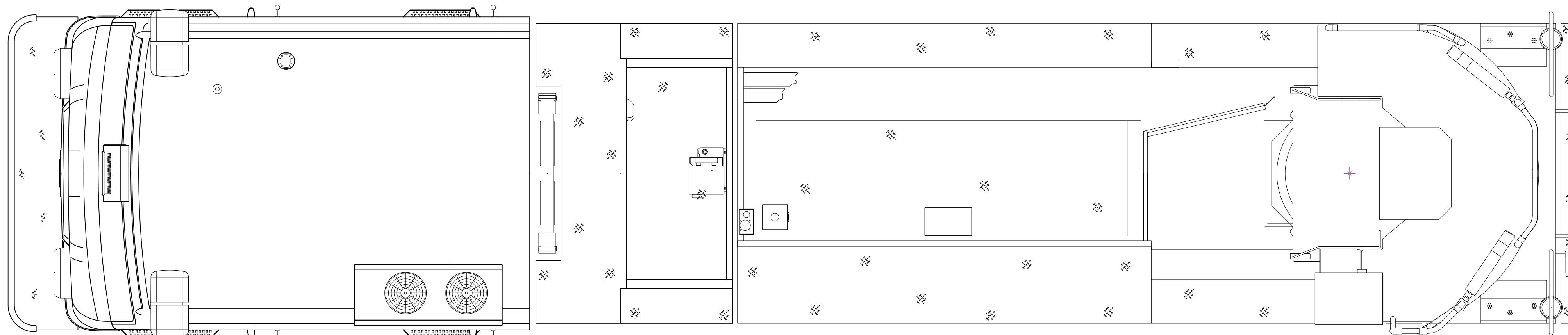
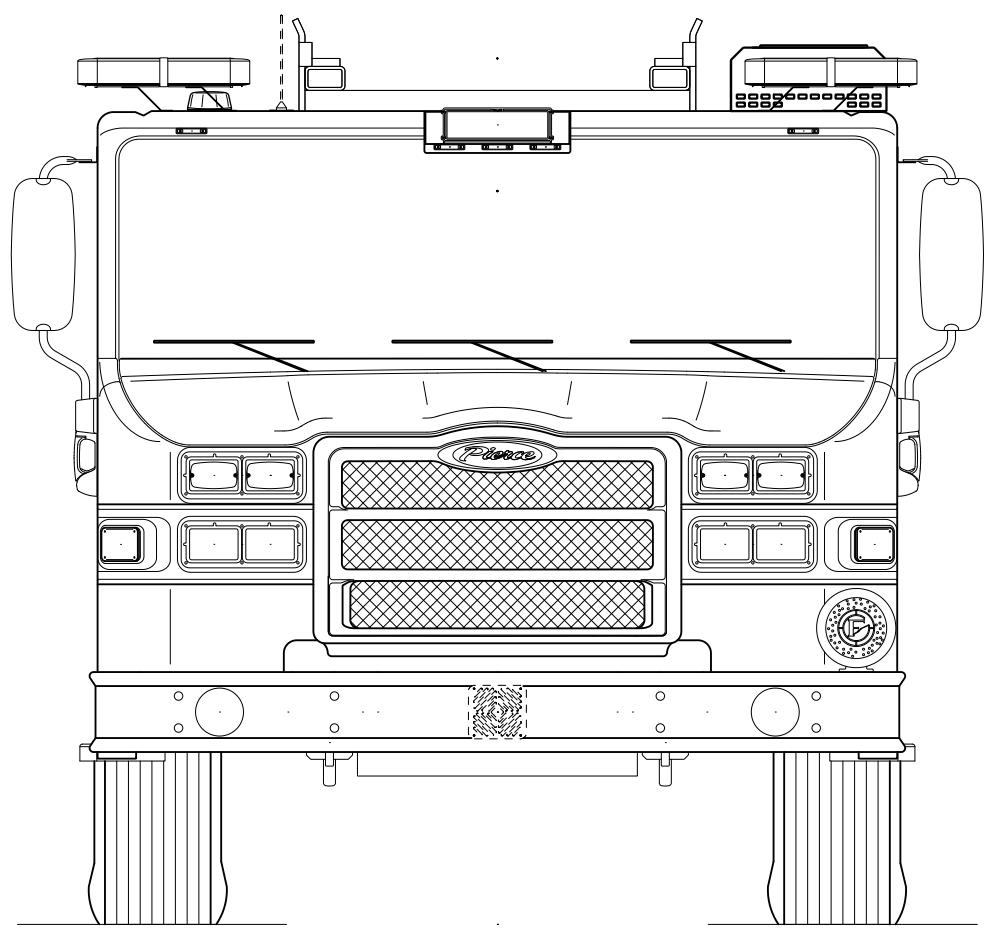
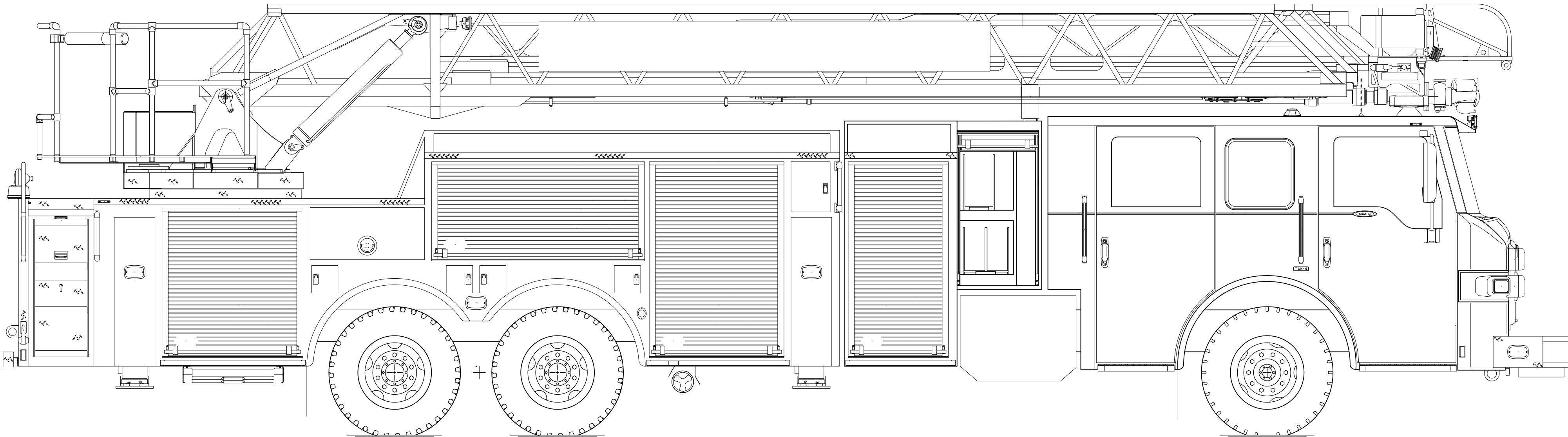
Department Director Brenda Moore	Purpose of Proposal Discussion of the ordering and possible prepayment for a fire aerial truck.
Phone # 801-264-2513	Action Requested Discussion
Presenters Brenda Moore Joey Mittleman	Attachments None
	Budget Impact None in FY2023, will be part of the FY2025 budget
Required Time for Presentation 15 Minutes	Description of this Item The current Aerial truck will be reaching the end of it's 15 year life in FY 2025. The current build time for this type of equipment is 2 years. The company is also anticipating at least two price increases within the next year. The first price increase is for orders placed after November 1.
Is This Time Sensitive No	The fire department has decided on ordering an All-steer ladder truck. It has a 107 foot ladder. This vehicle will be able to access buildings in areas like Fireclay and is tall enough to be effective on the apartment buildings being built within Murray City.
Mayor's Approval <i>Doug Hill</i>	The department is still working on exact specifications. The current estimated cost is \$1.65 million. The company also offers a \$70,000 discount if we prepay.
Date September 23, 2022	



BODY	WATER TANK
107' ASL Tandem Axle Aluminum Body PUC	480 Gallon Notched Poly Water Tank
COMPT, LEFT SIDE FRONT	Foam System
FH/FD Rollup Forward w/o Chute	Husky 3 Single Agent Foam System
COMPT, LEFT SIDE REAR	Foam Cell
FH/FD Rollup and Lift-up Rearward	20 Gallon Foam Cell, Reduced Water, PUC
COMPT, RIGHT SIDE FRONT	
Full Height Rollup Forward	
COMPT, RIGHT SIDE REAR	
FULL Height Rollup and Lift-up Rearward	



CHASSIS Velocity Chassis (Big Block)	CAB 7000 Velocity FR Cab, PUC	AXLE, FRONT, CUSTOM 22,800 lb TAK-4 Axle	TRANSMISSION Allison 6th Gen, 4000 EVS P	PUMPHOUSE Control Zone, PAL/PAP PUC	CROSSLAYS, 1.50" (2) 1.50", Poly Trays, 200'	SPEEDLAYS GENERATOR APPROVED BY: _____	SAFETY Side Roll and Frontal Impact Protection	CUSTOMER APPROVAL	MANUFACTURING INC.	JOB NO. _____	DATE _____
ENGINE 525 HP Cummins X12 Engine	BUMPER 19" Extended Stainless Steel	AXLE, REAR 44,000 lb Meritor Axle		PUMP 1500 GPM Pierce PUC NG	CROSSLAYS, 2.50" (1) 2.50", Poly Tray, 200'	GENERATOR Generator Not Required	APPROVED BY: _____	DATE: _____	SCALE 1:24	DATE 12/14	DATE
NOTE DIMENSIONS SHOWN ARE APPROXIMATE AND ARE SUBJECT TO MINOR DEVIATIONS AS MAY OCCUR OR BE NECESSARY IN CONSTRUCTION. MINOR DETAILS NOT SHOWN.	1. NO LIMITED RETRACTION REQUIRED 2. ONE 1.50 OUTLET WITH 2.00 PIPING AND SWIVEL LOCATED IN CENTER BUMPER TRAY 3. SHORELINE RECEPTACLE WITH KUSSMAUL SUPER AUTO-EJECT LOCATED ON DRIVER SIDE OF THE CAB 4. AIR INLET WITH DISCONNECT COUPLING IN THE DRIVER SIDE STEPWELL 5. BATTERY CHARGER LOCATED PER ORDER 6. BATTERY CHARGE INDICATOR LOCATED NEAR DRIVER SEAT RISER WITH BRACKET 7. ADJUSTABLE SHELVES LOCATED PER ORDER 8. ONE FLOOR MOUNTED SLIDE-OUT TRAY LOCATED PER ORDER 9. 3.00" RAISED AERIAL PEDESTAL 10. LIFTING EYE ROPE RESCUE ATTACHMENT AT AERIAL TIP	11. 1500 GPM HIGH FLOW WATERWAY							DRAWN BY _____	TITLE _____	DATE _____
									CHASSIS DATA TITLE _____	MAKE _____	DATE _____
									PIERCE FOR _____	PIERCE FOR _____	DATE _____
									REV. _____	DATE _____	BY _____
									MODEL _____	DWG NO. _____	SET SIZE _____
									CH. _____	REF. NO. _____	HEET NO. _____



NOTE
LAYOUT AND SIZES PROVIDED BY CUSTOMERS
MAY VARY DUE TO AVAILABLE WORKING SPACE.

COLOR LEGEND	
PINK	LETTERING (VINYL OR REFLECTIVE)
ORANGE	STRIPING (VINYL OR REFLECTIVE)
GREEN	GOLD LEAF
YELLOW	CUSTOMER FURNISHED PRODUCT

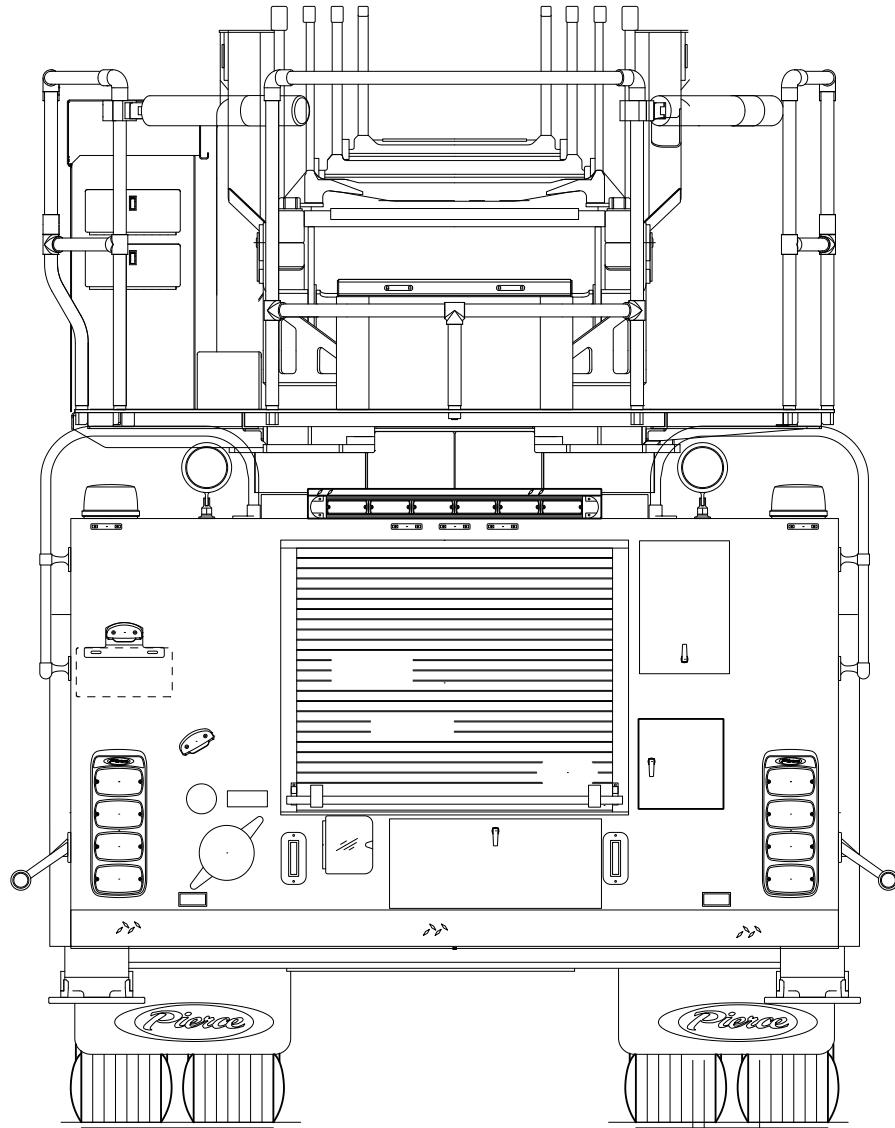
CUSTOMER APPROVAL
APPROVED BY: _____
DATE: _____



MANUFACTURING INC.

JOB NO.	—
SCALE	—
1:24	DATE
DRAWN BY	—
MURRAY CITY FIRE DEPARTMENT	—
CHECKED BY	—
—	—
TITLE	LETTERING, STRIPING, AND PAINTING INSTRUCTIONS
MAKE	—
PIERCE	MURRAY CITY FIRE DEPARTMENT
MODEL	—
REV	DWG NO.
DATE	—
BY	—
CH	—
SHEET SIZE	SHEET NO.
D	1 OF 1

LSP-LP



CUSTOMER APPROVAL

APPROVED BY: _____

DATE: _____

NOTE: PLEASE REVIEW CHEVRON COVERAGE AND DOOR MATERIAL PER PULSE OPTIONS. NON-RELATED OR NON-CRITICAL MINOR DEVIATIONS MAY EXIST.



MANUFACTURING INC.

JOB NO.

—

SCALE

1:24

TITLE	CHEVRON DRAWING —	DRAWN BY —
FOR	Murray City Fire Department —	DATE 19SEP22
DWG NO.	CHEVRON-CD	SHEET SIZE A SHEET NO. 1 OF 1



MURRAY
CITY COUNCIL

Adjournment



MURRAY
CITY COUNCIL

Council Meeting

6:30 p.m.

Call to Order

Pledge of Allegiance



MURRAY
CITY COUNCIL

Council Meeting Minutes

Murray City Municipal Council Chambers

Murray City, Utah

DRAFT

Tuesday, September 20th, 2022

The Murray City Municipal Council met on Tuesday, September 20th, 2022, at 6:30 p.m. (or as soon as possible thereafter) for a meeting held in the Murray City Council Chambers, 5025 South State Street, Murray, Utah.

The public was able to view the meeting via the live stream at www.murraycitylive.com or <https://www.facebook.com/Murraycityutah/>. A recording of the City Council meeting can be viewed [HERE](#).

Council in Attendance:

Kat Martinez	District #1 - Excused
Pamela Cotter	District #2
Rosalba Dominguez	District #3 - Conducting
Diane Turner	District #4
Garry Hrechkosy	District #5
Jennifer Kennedy	Council Director
Patti Johnson	Council Office Administrator III
Crystal Brown	Officer Administrator

Administrative Staff in Attendance:

Brett A. Hales	Mayor
Doug Hill	Chief Administrative Officer
Tammy Kikuchi	Chief Communication Officer
G.L. Critchfield	City Attorney
Brooke Smith	City Recorder
Brenda Moore	Finance and Administration Director
Craig Burnett	Police Chief
Joey Mittelman	Fire Chief
Joe Treadwell	Battalion Chief
Jake Christensen	Fire Captain
Gary Bean	Paramedic/Firefighter
Brian MacNeil	Fire Engineer

Stephen Greenwell	Paramedic/Firefighter
Danielle Rodgers	Paramedic/Firefighter
Sam Pascua	Paramedic/Firefighter
Kim Sorensen	Parks and Recreation Director
Jared Hall	Community and Economic Development Director
Zac Smallwood	Senior Planner
Russ Kakala	Public Works Director
Ben Gray	Sr. IT Technician

Others in Attendance:

Gabby Chavez	Monica Lopez	Celia Figueroa	Frank Cordova
Alba Cordova	Dave Carr	Lindsay Thompson	Steve Wright
Trini Gonzales	Bob Gonzales	Matt Parks	Eva Parks
Jeremy Carver	Reuna E. Zillegas	Eva E. Villegas	Mayra Cedano
Gregorio & children	Flora Flores	Anthony Cordova	Manuel Muñoz
Melody Muñoz	Loran Pasalich	Efren Dominguez	Gil Rodriguez
Matt Boulden	Krystal Walker	Steve Ellefson	Brian MacNeil
Jordan Petersen			

Opening Ceremonies

Call to Order – Councilmember Dominguez called the meeting to order at 6:30 p.m.

The audience was invited to recite the Pledge of Allegiance led by former Fire Chief Gil Rodriguez.

Approval of Minutes

Council Meeting – August 23, 2022

MOTION:

Councilmember Cotter moved to approve the Council Minutes on August 23, 2022. The motion was SECONDED by Councilmember Turner

Ayes: Councilmember Turner, Councilmember Hrechkosy, Councilmember Cotter, Councilmember Dominguez

Nays: None

Abstentions: None

Excused: Councilmember Martinez

Motion passed 4-0

Special Recognition

1. Murray City Council Employee of the Month, Gary Bean, Paramedic/Firefighter

Presenting: Councilmember Dominguez and Fire Chief Mittelman

Councilmember Dominguez introduced Gary Bean as September 2022 Employee of the Month.

Time was turned over to Chief Mittelman to share more information about his contributions to the city.

Joey Mittelman, Fire Chief, shared that Gary Bean was hired in 2016 as a Paramedic/Firefighter. Over the past six years, he quickly advanced into a lead paramedic role as a shift trainer and quality assurance representative. Gary Bean has connected with fellow paramedics and constantly helps improve and teach newly hired paramedics assigned to his shift. Gary Bean also assists with the Murray City Fire Department Cadet Program which has served as an incredible hiring pool of candidates over the past 25 years.

Gary Bean was invited to the podium. He expressed appreciation for the acknowledgment and thanked the council for the recognition. Gary Bean introduced his family and co-workers who were with him tonight.

Councilmembers and the Mayor thanked Gary Bean for his service. He was presented with a certificate and a \$50 gift card. His name will also appear on the plaque located in the Council Chambers.

2. Consider a Joint Resolution of the Mayor and Murray City Municipal Council recognizing National Hispanic Heritage Month in Murray City

Presenting: Rosalba Dominguez, Council District 3

Proposed Resolution # R22-39

Councilmember Dominguez read Resolution #R22-39 into the record. She shared that September is Hispanic Heritage Month, a time to observe, honor, and celebrate the influence and contributions of the American Latinx community. Hispanic Heritage celebrations take place from September 15 to October 15 each year. September 15th and 16th mark the beginning of the National Hispanic Heritage Week and are significant to several Latin American countries as the anniversary of independence for Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. Additionally, the dates coincide with Mexico, Chile, and Belize declaring their independence.

Councilmember Dominguez then recognized several individuals and organizations who have contributed to the community and history of Murray.

MOTION:

Councilmember Hrechkosy moved to approve the Joint Resolution recognizing National Hispanic Heritage Month. The motion was seconded by Councilmember Cotter.

Ayes: Councilmember Turner, Councilmember Hrechkosy, Councilmember Cotter, Councilmember Dominguez

Nays: None

Abstentions: None

Excused: Councilmember Martinez

Motion passed 4-0

Councilmembers and the Mayor thanked the audience for attending the meeting and for their contributions to the city and community.

Councilmember Dominguez announced a five (5) minute recess. The meeting will reconvene at 7:05 p.m.

Citizen Comments

The meeting was open for public comment.

Steve Wright and Lindsey Thompson

Steve and Lindsey introduced themselves to the council. They are opening [High-Point Coffee](#) at 5300 South 700 West. They live in Murray and are excited to have a store presence in the community. They have been operating their Flagship store located in West Jordan for the last 15 years.

Councilmembers shared their excitement about this store opening in Murray City.

No additional comments were given, and the open public comment period was closed.

Consent Agenda

None Scheduled

Public Hearings

1. Consider an ordinance amending the Fireclay Transportation Master Plan for the Fireclay Redevelopment Project Area.

Proposed Ordinance: O22-##

Attachment A: Fireclay Master Transportation Plan Amendment, Chapter 17.160

Jared Hall, Community and Economic Development Director, shared an overview of the ordinance requested to amend the Fireclay Transportation Master Plan for the Fireclay Redevelopment Project Area.

The TOD Zone covers the area of the city commonly known as Fireclay, which surrounds the Murray North TRAX station. The TOD Zone includes a Master Transportation Plan and a map identifying the desired grid of new streets to connect and serve the area. Most of those new streets have been implemented during the development of projects.

The requested amendment is the result of potential development applications on the property located at 4410 South Main Street. The amendment would shift the mapped location for the installation of a new east-west street connecting Birkhill Boulevard to Main Street from the north side of the property to the south.

Citizen Comments

The meeting was open for public comment.

No comments were given, and the open public comment period was closed.

MOTION:

Councilmember Cotter moves to approve an ordinance amending the Fireclay Transportation Master Plan for the Fireclay Redevelopment Project Area. The motion was seconded by Councilmember Hrechkosy.

Roll Call:

Ayes: Councilmember Turner, Councilmember Hrechkosy, Councilmember Cotter, Councilmember Dominguez

Nays: None

Abstentions: None

Excused: Councilmember Martinez

Motion passed 4-0

2. Consider an ordinance amending the City's Fiscal Year 2022-2023 budget.

Presenting: Brenda Moore

Proposed Ordinance: O22-28

Councilmember Dominguez invited Mayor Hales to share additional information about the job description and essential duties of the new Diversity, Equity, Inclusion (DEI) Advisor position that is proposed in the 2022-2023 amended budget. Mayor Hales shared details about his vision and goals for this new position.

Councilmembers thanked the Mayor for the additional information.

Brenda Moore, Finance and Administration Director was invited to the podium. She shared additional information about the proposed ordinance requested to amend the City's Fiscal Year 2022-2023 budget.

Councilmembers thanked the city for the number of grants it has applied for and received.

Citizen Comments

The meeting was open for public comment.

No comments were given, and the open public comment period was closed.

MOTION:

Councilmember Cotter moves to approve an ordinance amending the City's Fiscal Year 2022-2023 budget. The motion was seconded by Councilmember Turner.

Ayes: Councilmember Turner, Councilmember Hrechkosy, Councilmember Cotter, Councilmember Dominguez

Nays: None

Abstentions: None

Excused: Councilmember Martinez

Motion passed 4-0

3. Consider an ordinance related to land use; amends General Plan Chapter Nine related to Moderate Income Housing Strategies.

Presenting: Zachary Smallwood, Senior Planner, and Jared Hall, Community and Economic Development Director

Proposed Ordinance: O22-##

Attachment B: General Plan Amendment to update Chapter 9

Zac Smallwood, Senior Planner, and Jared Hall, Community and Economic Development Director, shared an overview of the ordinance request to amend General Plan Chapter Nine related to Moderate Income Housing Strategies.

Per House Bill 462 (HB462) in 2022, the Utah State Legislature is requiring municipalities to take additional steps to ensure that each municipality is planning and reducing barriers to moderate-income housing. Moderate income is defined as those whose household incomes are less than 80% of the area median income (AMI).

HB462 requires municipalities to include certain strategies in the Moderate Income Housing (MIH) elements of their general plans and provides a list of twenty-four (24) "menu" items to select from. HB462 also requires that cities develop actionable implementation plans for each of those strategies and provide the state with a yearly report on steps the city has made to make affordable housing more attainable.

Through multiple discussions with both the Planning Commission and City Council, the Planning Division has identified five (5) items from the list of HB462 that are most supported and can be most reasonably studied and/or implemented.

The five strategies the department is requesting are:

- 1) Develop and adopt a station area plan in accordance with Section 10-9a-403.1;
- 2) Amend land use regulations to allow for higher density or new moderate-income residential development in commercial or mixed-use zones near major transit investment corridors;
- 3) Demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate-income housing;
- 4) Create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones; and
- 5) Implement a mortgage assistance program for employees of the municipality, an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality.

Discussion

Councilmember Turner asked for an explanation between high-density versus higher-density.

Zac Smallwood responded by reviewing Strategy Three (3), "Amend land use regulations to allow for higher density or new moderate-income residential development in commercial or mixed-use zones near major transit investment corridors."

How the department interprets "major transit investment corridors" in Murray, is around the Trax and Frontrunner lines. An example of "higher density" could be going from an R-1-8 (an 8,000 square foot lot) to an R-1-6 (a 6,000 square foot lot) zone. This strategy allows the department to look at the zoning codes and determine if higher density could be feasible for that area.

Jared Hall added that strategy three (3) allows city staff to evaluate density around major transit corridors.

Citizen Comments

The meeting was open for public comment.

Clark Bullen

Shared that he lives close to the Murray City Center District. He likes the directive from the State Legislature however he has concerns about Strategy Three (3) Action Item One (1) and requested it is removed.

Dave Carr

Asked the council if the city approves higher density what is the city going to do about narrow roadways for citizens and emergency personnel.

No additional comments were given, and the open public comment period was closed.

Discussion

 Councilmember Dominguez asked staff to comment on infrastructure and how it relates to the recommended strategies.

Zac addressed Clark Bullen's comment and then spoke briefly on the infrastructure approval process concerning the proposed Moderate Income Housing strategies.

MOTION:

Councilmember Turner moves to adopt an ordinance related to land use; amends General Plan Chapter Nine related to Moderate Income Housing Strategies. The motion was seconded by Councilmember Hrechkosy.

Discussion:

The council had a brief discussion about the amendment requested earlier.

Councilmember Turner and Hrechkosy are okay with proceeding with the staff recommendations made tonight.

Roll Call:

Ayes: Councilmember Turner, Councilmember Hrechkosy, Councilmember Cotter, Councilmember Dominguez.

Nays: None

Abstentions: None

Excused: Councilmember Martinez

Motion passed 4-0

4. **Consider an ordinance related to land use; amends the General Plan from General Commercial to Residential Medium Density and amends the Zoning Map from C-D (Commercial Development) to R-M-15 (Residential Medium Density) for the properties addressed 861 East Winchester Street and 6520, 6550 & 6580 South 900 East, Murray, Utah.**

Presenting: Jared Hall, Community, and Economic Development Director,

Proposed Ordinance: O22-##

Attachment C: General Plan and Zoning Map Amendment

Jared Hall, Community and Economic Development Director, shared an overview of the ordinance request related to land use; amending the General Plan from General Commercial to Residential Medium Density and amending the Zoning Map from C-D (Commercial Development) to R-M-15 (Residential Medium Density) for the properties addressed 861 East Winchester Street and 6520, 6550 & 6580 South 900 East, Murray, Utah.

The subject property comprises nine parcels, seven of which were used directly by RC Willey for the operations of the large furniture store and associated parking lot.

Altogether the parcels total 9.11 acres. The Boyer Company purchased the property after RC Willey closed operations there in February 2021. Unable to find a suitable commercial tenant for the large property, Boyer Company has requested these zoning and future land use map amendments to allow redevelopment of the properties as townhomes.

The two recommendations are:

REQUEST TO AMEND THE MURRAY CITY GENERAL PLAN re-designating the properties located at 861 E. Winchester Street and 6520, 6550, & 6580 S. 900 East from General Commercial to Medium Density Residential.

REQUEST TO AMEND THE MURRAY CITY ZONING MAP re-designating the properties located at 861 E. Winchester Street and 6520, 6550, & 6580 S. 900 East from the C-D, Commercial Development to the R-M-15, Multi-Family Medium Density Residential Zone.

Citizen Comments

The meeting was open for public comment.

Mark Nielsen

Mark owns a business (Freeway Transmission located at 6530 900 E, Murray, UT 84121) near the requested zoning changes and wondered if his zone or business would be affected.

Jared Hall was invited to respond to Mark's request and went on record that his property was not being rezoned.

No additional comments were given, and the open public comment period was closed.

Discussion

Councilmember Hrechkosy is excited to see this project move forward and this is the option that is best for the area. He believes the city and developers have been very thoughtful in the approach and is thankful for the direction of this proposal.

Councilmember Cotter asked if the units would be rented or sold.

Jared Hall responded that the developers would do a Market Review and determine the best approach after that.

Councilmember Hrechkosy added that he has spoken with the developers, and they have made assurances that the property will stay nice if the development is rented.

Councilmember Dominguez asked for clarification of conditional uses with the zone.

MOTION:

Councilmember Hrechkosy moves to approve the ordinance request related to land use; amending the General Plan from General Commercial to Residential Medium Density and amending the Zoning Map from C-D (Commercial Development) to R-M-15 (Residential Medium Density) for the properties addressed 861 East Winchester Street

and 6520, 6550 & 6580 South 900 East, Murray, Utah. The motion was seconded by Councilmember Cotter.

Roll Call:

Ayes: Councilmember Turner, Councilmember Hrechkosy, Councilmember Cotter, Councilmember Dominguez.

Nays: None

Abstentions: None

Excused: Councilmember Martinez

Motion passed 4-0

Councilmembers thanked staff and the owner of the property for their proposal. They appreciate the developer working with the City and requesting a proposal that works for the community.

Business Item

None Scheduled

Mayor's Report and Questions

Mayor Hales shared:

- An update on the new City Hall project. He will schedule some time to take the council over for a tour in the next few weeks.
- Staff met with Modern Display and that project is moving along in the former Shopko center. They hope to open around October 1.
- Staff met with the owner of Dead City, the owner of the building, and the Fire Chief. After several discussions, it doesn't look like the Haunted House will be able to open this year.
 - Councilmember Hrechkosy shared that the Mayor's office and staff were very thoughtful and transparent in trying to make this work, and he thanked them for their efforts.

Mayor thanked the council for their continued support.

Councilmember Dominguez shared thanks for the Joint Resolution celebrating Hispanic Month.

Adjournment

The meeting was adjourned at 8:15 p.m.

[SEAL]

Brooke Smith, City Recorder

Attachment A:
Fireclay Master Transportation Plan Amendment,
Chapter 17.160

Murray City Council
September 20, 2022

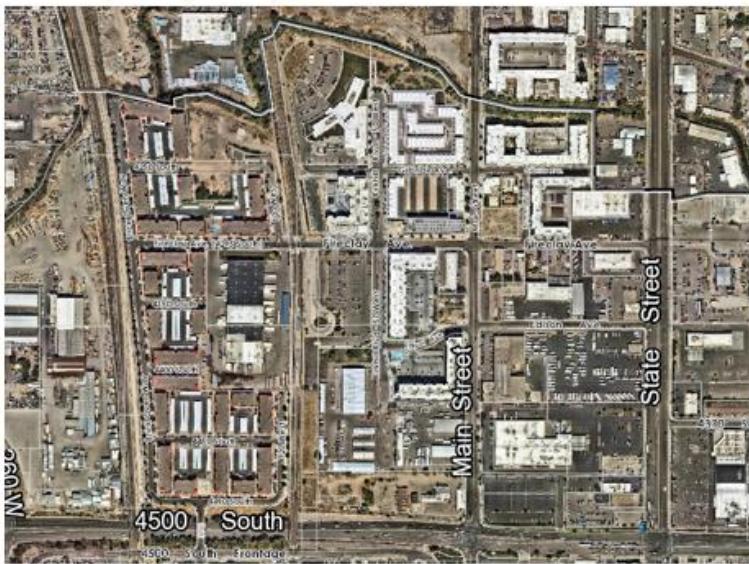


Fireclay Master Transportation Plan Amendment, Chapter 17.160

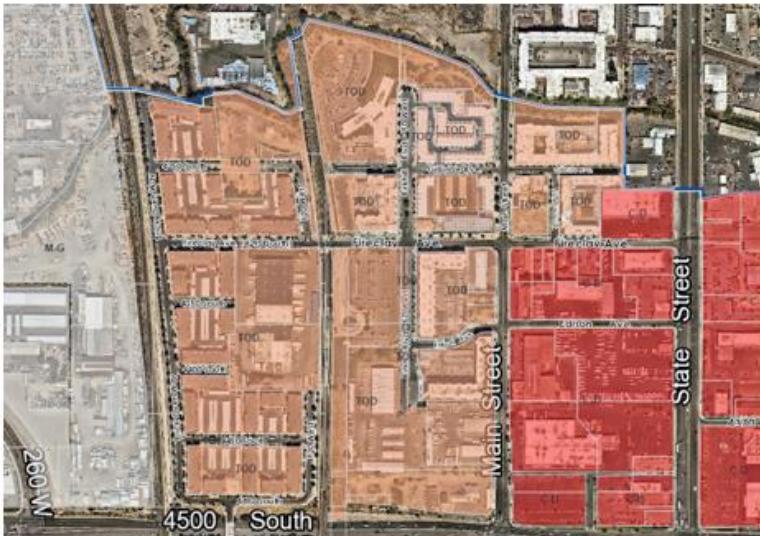
Approximately 4410 South Main Street



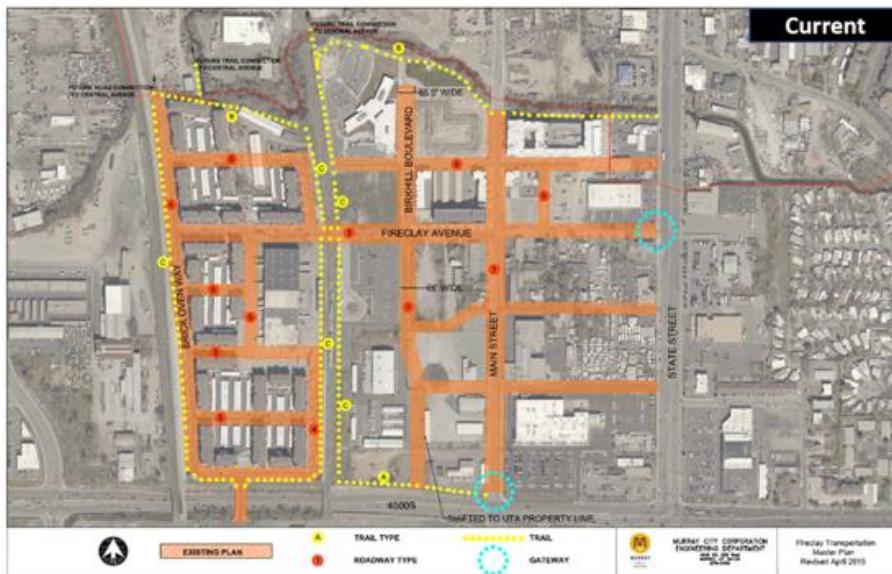
Fireclay Area, Murray North TRAX Station



TOD Zoning



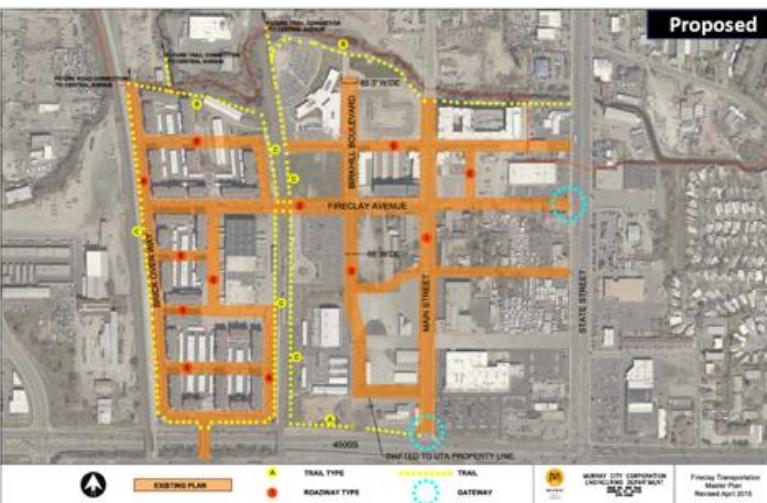
Fireclay Master Transportation Plan



Master Transportation Plan: current and proposed locations of the east-west road connecting Birkhill Boulevard and Main Street



Issues & Benefits



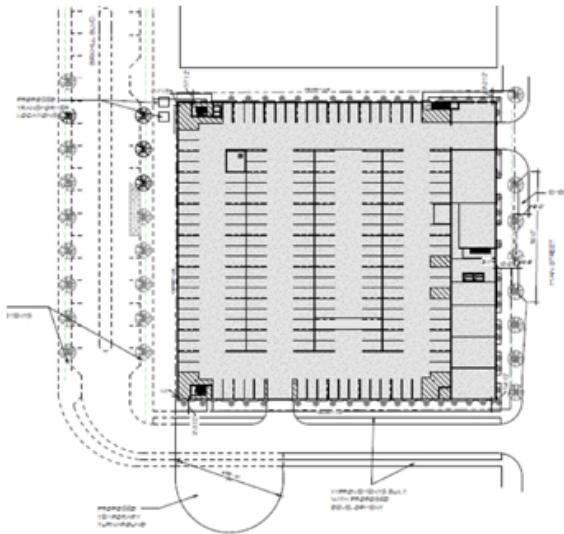
BENEFITS:

Non-conforming Main Street TOD Zone property developed as mixed-use
Extension of Birkhill Boulevard supports mixed-use development of SL County and UTA properties, including better pedestrian access to the TRAX station
Utility extension and looping

ISSUES:

Participation by UTA and SL County
Public and Emergency Service access until installation of new east-west road.

Addressing the Potential Issues



1) The installation involving UTA and Salt Lake County. This is addressed adequately by the letters of support and the future agreement securing the applicant's participation in the improvements.

2) Public service and emergency access for the development can be addressed by the applicant's plan to provide a temporary turnaround and access on the south side of the development at 4410 S. Main until the new proposed road location becomes permanent. The applicant has provided a design for the temporary turnaround working with the Fire Department and City Engineer.

3) Pedestrian access between Main Street and Birkhill Boulevard. The applicant can maintain open space between the proposed development at 4410 S. Main and the existing Metro Phase 2 building and provide a pedestrian walkway between the developments. Other design or building design considerations could also lessen that impact.

Findings

1. The proposed amendment has been carefully considered by planning and engineering staff and with conditions the modified location can maintain acceptable levels of the benefits anticipated by the existing plan.
2. The proposed amendment supports the goals and objectives of the General Plan and the Fireclay Master Transportation Plan by maintaining the smaller block grid and encouraging pedestrian activity and mixed uses.
3. The proposed amendment will facilitate improved mixed-use redevelopment of the Salt Lake County and UTA properties in this area.

Recommendation

Staff and the Planning Commission recommend that the City Council APPROVE the proposed amendment to the Fireclay Master Transportation Plan in Chapter 17.160 of the Murray Land Use Ordinance as presented.



Murray

Attachment B: General Plan Amendment, Update Chapter 9 Moderate Income Housing

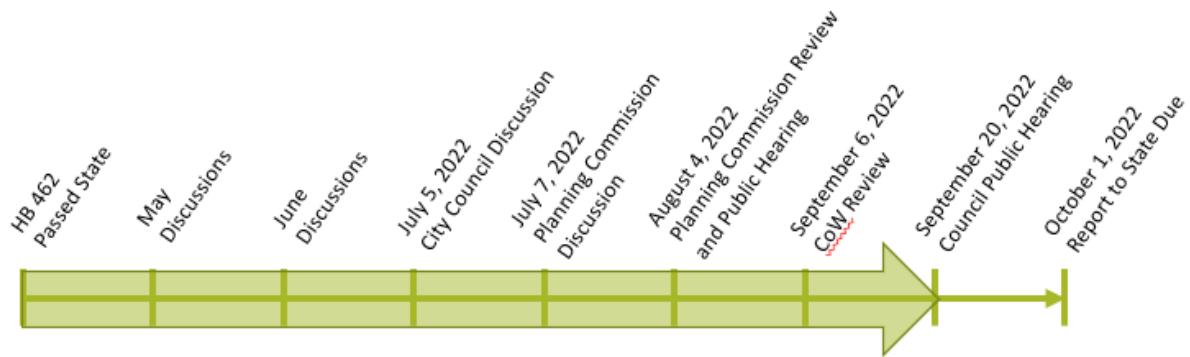
Applicant: Planning Division Staff

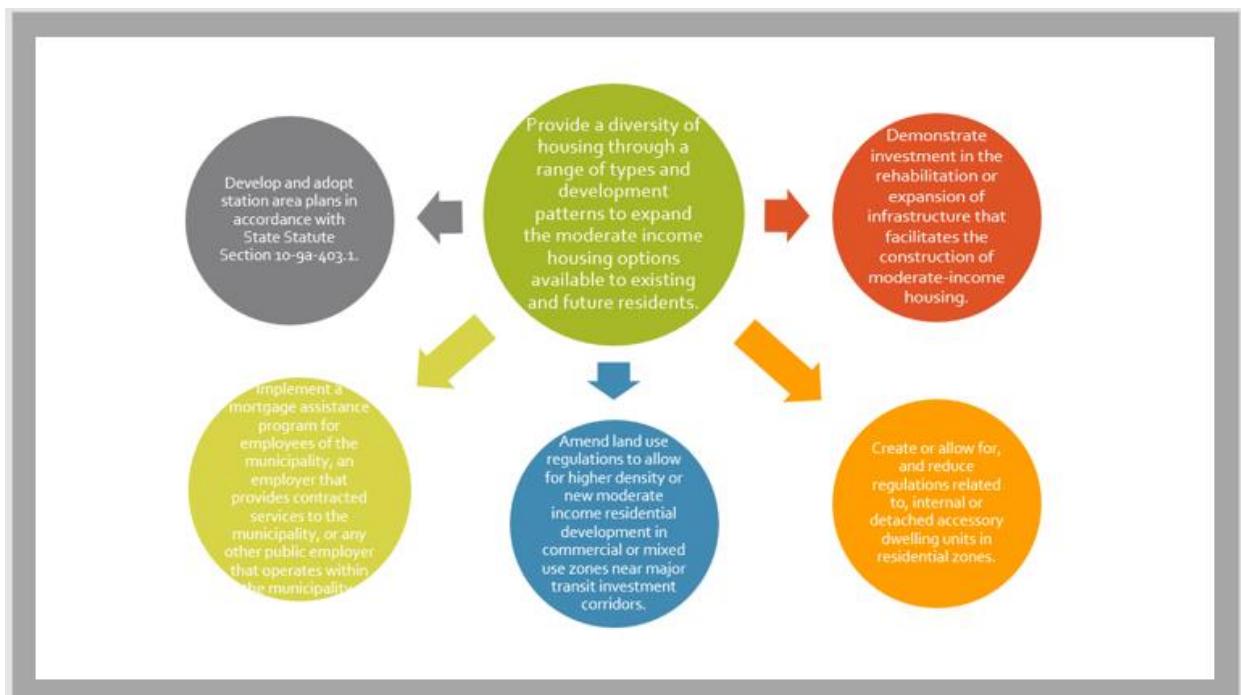
Request: General Plan Amendment to update Chapter 9, Moderate Income Housing to be in line with State requirements

Address: N/A



Where Are We?





Strategy 1

STRATEGY: DEMONSTRATE INVESTMENT IN THE REHABILITATION OR EXPANSION OF INFRASTRUCTURE THAT FACILITATES THE CONSTRUCTION OF MODERATE-INCOME HOUSING

Action Item: The Community and Economic Development will collaborate with the Murray City Water Department to update their masterplan and identify areas of opportunity for increased capacity by December 31st, 2023.

Action Item: The Community and Economic Development Department will collaborate with Murray City Power to create a masterplan and help identify areas of opportunity for increased capacity and other infrastructure improvements by December 31st, 2025.

Action Item: In coordination with Murray City Parks and Recreation, Community and Economic Development Staff will evaluate the 2020 Parks and Recreation Masterplan and provide an update to the City Council on the progress of the 10-year plan by December 31st, 2025.

Action Item: In coordination with the Murray City Engineering Division, Community and Economic Development Staff will evaluate the 2021 Transportation Masterplan and provide an update to the City Council on the progress of the key elements by December 31st, 2026.

Action Item: The Community and Economic Development Department will collaborate with the Murray City Waste Water Division to update their masterplan and identify areas of opportunity for increased capacity by December 31st, 2027.

Strategy 2

STRATEGY: CREATE OR ALLOW FOR, AND REDUCE REGULATIONS RELATED TO, INTERNAL OR DETACHED ACCESSORY DWELLING UNITS (ADU) IN RESIDENTIAL ZONES.

Action Plan: The Community and Economic Development Department by December 31st, 2023 will review regulations to facilitate the construction of additional detached accessory dwelling units, including a review of the following items:

- Determine whether the city should allow a second ADU to be located on residential properties.
- Conduct a review of the setback requirements for detached ADUs and propose changes.
- Consider allowing a second level for appropriately located accessory structures when the second story would be used as an ADU.

Strategy 3

STRATEGY: AMEND LAND USE REGULATIONS TO ALLOW FOR HIGHER DENSITY OR NEW MODERATE INCOME RESIDENTIAL DEVELOPMENT IN COMMERCIAL OR MIXED USE ZONES NEAR MAJOR TRANSIT INVESTMENT CORRIDORS.

Action Item: In conjunction with city leadership, the Community and Economic Development Department will review the Murray City Center District zone by December 31st, 2023 and recommend changes to help facilitate moderate income housing.

Action Item: Murray City Community and Economic Development Department staff will conduct a review of the Murray Central Mixed-Use zone by December 31st, 2024, and propose amendments that would increase the availability and likelihood that moderate income housing would be constructed.

Action Item: Murray City Community and Economic Development Department staff will conduct a review of the Centers Mixed Use zone by December 31st, 2025 and propose amendments that would increase the availability and likelihood that moderate income housing would be constructed.

Action Item: As part of the station area planning process the Community and Economic Development Department staff will conduct research into and draft an appropriate mixed-use zone or zones for use in the Fashion Place West area by December 31st, 2024.

Strategy 4

STRATEGY: IMPLEMENT A MORTGAGE ASSISTANCE PROGRAM FOR EMPLOYEES OF THE MUNICIPALITY, AND EMPLOYER THAT PROVIDES CONTRACTED SERVICES TO THE MUNICIPALITY, OR ANY OTHER PUBLIC EMPLOYER THAT OPERATES WITHIN THE MUNICIPALITY.

Action Item: The Community and Economic Development Department in conjunction with the Murray City Finance Department will scope and determine feasibility for a down payment assistance program by December 31st, 2022.

Action Item: By December 31st, 2023, city staff will present a proposal for a down payment assistance program to be reviewed by city leaders.

Strategy 5

STRATEGY: DEVELOP AND ADOPT STATION AREA PLANS IN ACCORDANCE WITH STATE STATUTE 10-9A-403.1.

Action Item: By December 31st, 2025, in accordance with state statute; Murray City will have adopted Station Area Plans for all currently active light and commuter rail stations.

Action Item: By December 31st, 2023, Murray City will have adopted a Station Area Plan for the Murray North, also known as Fireclay, light rail station.

Action Item: By December 31st, 2024, Murray City will have amended the Murray Central Small Area Plan to reflect the requirements dictated by state statute.

Action Item: By December 31st, 2025, Murray City will have amended the Fashion Place West Small Area Plan to reflect the requirements dictate by state statute.

Planning Commission

- A public hearing was held by the Planning Commission on August 4, 2022.
- 26 notices were sent to affected entities.
- No public comment was received.
- The Planning Commission voted 6-0 to forward a recommendation of approval to the City Council.

Findings

1. The proposed amendments have been carefully considered and provide direction for the city to work towards providing additional moderate-income housing.
2. The proposed amendments support the goals and objectives of the General Plan by facilitating greater collaboration within the city and furthering the development and preservation of affordable housing.
3. The proposed amendments are necessary to ensure compliance with current Utah State Code.
4. The Planning Commission voted 6-0 to forward a recommendation of approval to the City Council on August 4, 2022.

Staff Recommendation

The Planning Commission and staff recommends that the City Council **APPROVE** the requested amendment to Chapter 9, Moderate Income Housing in the 2017 Murray City General Plan as reviewed in the Staff Report.

Draft

Attachment C: General Plan and Zone Map Amendment at 861 East Winchester Street and 6250, 6560, 6580 South, and 900 East

General Plan & Zone Map Amendment:

General Commercial to Medium Density Residential and C-D, Commercial Development
to R-M-15, Medium Density Multi-Family Residential

861 East Winchester Street and
6250, 6560, & 6580 South 900 East



Subject Properties



Current Zoning





Zoning Comparison

	C-D Zone (existing)	R-M-15 Zone (proposed)
Height of Structures	35' max if located within 100' of residential zoning. 1' of additional height per 4' of additional setback from residential zoning	Up to 40' max as approved by the Planning Commission
Parking	Retail – 1 per 200 sf net Medical/Dental Office – 1 per 200 sf net Office – 4 per 1,000 sf net	2.5 per dwelling unit
Front yard setback	20'	25'
Rear Yard setback	None	25'
Side Yard setbacks	None	8' (total of 20')
Corner Yard setback	None	20'

General Plan Considerations

MEDIUM DENSITY RESIDENTIAL

This designation allows a mix of housing types that are single-dwelling in character or smaller multi-family structures, primarily on individual parcels. The designation is intended for areas near, in, and along centers and corridors, near transit station areas, where urban public services, generally including complete local street networks and access frequent transit, are available or planned. Areas within this designation generally do not have development constraints (such as infrastructure or sensitive lands). This designation can serve as a transition between mixed-use or multi-dwelling designations and lower density single-dwelling designations.

Density range is between 6 and 15 DU/AC.

Corresponding zone(s):

- R-1-6, Low/Medium density single family
- R-M-10, Medium density multiple family
- R-M-15, Medium density multiple family



OBJECTIVE 3: ENCOURAGE HOUSING OPTIONS FOR A VARIETY OF AGE, FAMILY SIZE AND FINANCIAL LEVELS.

Strategy: Support a range of housing types, including townhomes, row-homes, and duplexes, which appeal to younger and older individuals as well as a variety of population demographics.

OBJECTIVE 9: PROVIDE A MIX OF HOUSING OPTIONS AND RESIDENTIAL ZONES TO MEET A DIVERSE RANGE OF NEEDS RELATED TO LIFESTYLE AND DEMOGRAPHICS, INCLUDING AGE, HOUSEHOLD SIZE, AND INCOME.

Strategy: Ensure residential zoning designations offer the opportunity for a spectrum of housing types.

Strategy: Simplify the residential zoning district designations.

General Plan Considerations

9.3 MODERATE INCOME HOUSING GOAL, OBJECTIVES & STRATEGIES

MODERATE INCOME HOUSING OVERALL GOAL

Provide a diversity of housing through a range of types and development patterns to expand the moderate income housing options available to existing and future residents.

MODERATE INCOME HOUSING OBJECTIVES & STRATEGIES

OBJECTIVE 1: ENSURE HOUSING AFFORDABILITY TARGETS ARE ACHIEVABLE USING A RANGE OF STRATEGIES.

Strategy: Promote affordable housing options that address the needs of low to moderate income households and individuals and offer options for a range of demographics and lifestyles.

Strategy: Ensure zoning of residential areas does not prohibit compatible types of housing.

Strategy: Continue to support ADUs (Accessory Dwelling Units) in all residential zones.

Strategy: Continue to support the use of density bonuses for constructing affordable housing options.

OBJECTIVE 2: PROVIDE THE OPPORTUNITY FOR AFFORDABLE HOME OWNERSHIP BY OFFERING A RANGE OF HOUSING TYPES FOR PURCHASE, INCLUDING ATTACHED DWELLINGS.

Strategy: Support a range of housing types, including townhomes, row-homes, and duplexes, which appeal to younger and older individuals as well as a variety of population demographics.

Strategy: Review zoning ordinances and make modifications where necessary to allowable housing types, lot size, setbacks and other factors that limit types of housing in a zone.

Findings

1. The General Plan provides for flexibility in implementation and execution of the goals and policies based on individual circumstances.
2. The proposed Zone Map Amendment from C-D to R-M-15 has been considered based on the characteristics of the site and surrounding area. The potential impacts of the change can be managed within the densities and uses allowed by the proposed R-M-15 Zone.
3. The proposed Zone Map Amendment from C-D to R-M-15 conforms to important goals and objectives of the 2017 Murray City General Plan and will allow an appropriate development of the subject property.

Recommendation

REQUEST TO AMEND THE MURRAY CITY GENERAL PLAN

Based on the background, analysis, and findings presented here, Staff and the Planning Commission recommend that the City Council APPROVE the requested amendment to the Future Land Use Map, redesignating the properties located at 861 E. Winchester Street, and at 6520, 6550, & 6580 S. 900 East from General Commercial to Medium Density Residential.

REQUEST TO AMEND THE MURRAY CITY ZONING MAP

Based on the background, analysis, and findings presented here, Staff and the Planning Commission recommend that the City Council APPROVE the requested amendment to the Zoning Map, redesignating the properties located at 861 E. Winchester Street, and at 6520, 6550, & 6580 S. 900 East from the C-D, Commercial Development to the R-M-15, Multi-Family Medium Density Residential Zone.





MURRAY
CITY COUNCIL

Special Recognition



MURRAY
CITY COUNCIL

Special Recognition #1



MURRAY

Council Action Request

**Community and Economic
Development**
October Employee of the Month

Council Meeting

Meeting Date: October 18, 2022

Department Director Jared Hall	Purpose of Proposal October Employee of the Month - Zachary Smallwood
Phone # 801-270-2427	Action Requested Consider the nomination and approval of Zachary Smallwood as Murray City Employee of the Month.
Presenters Jared Hall Diane Turner	Attachments Employee of the Month Form
Required Time for Presentation	Budget Impact None
Is This Time Sensitive No	Description of this Item See Attached EOM form
Mayor's Approval	
Date October 18, 2022	

EMPLOYEE OF THE MONTH RECOGNITION

DEPARTMENT:

Community & Economic Development

DATE:

October 5, 2022

NAME of person to be recognized:

Zachary Smallwood

Submitted by:

Jared Hall

DIVISION AND JOB TITLE:

Planning & Licensing Division, Senior Planner

YEARS OF SERVICE:

4

REASON FOR RECOGNITION:

Zac took on the task of assuring that we came into compliance with the changes required by the State for Moderate Income Housing plans and the new, more robust reporting. He started working immediately, involving both the Planning Commission and the City Council in a full review of the existing plan, detailing the State's new requirements, and taking us all through an examination of our options and what the implications of those options would be. As a result of his approach to the task, Murray is one of the few cities in full compliance; our general plan update is complete, our report is filed, and we are on course to begin fulfilling the next of the State's requirements – to update our station area plans. In addition to doing the work of updating our Moderate Income Housing plan, Zac was able to work with the Wasatch Front Regional Council and Millcreek City staff to apply successfully for a grant that will pay for a station area plan at Murray North station.

More importantly than all that is that Zac approaches all of these tasks with energy, skill, and a sincere love of the work – and planning is not easy to love! It is difficult, complicated, and often misunderstood. I am nominating Zac for employee of the month because this past month he completed this very difficult task, which was very important for the City, but I am also nominating him because he does this kind of quality planning work consistently, on every project he undertakes.

COUNCIL USE:

MONTH/YEAR HONORED



MURRAY
CITY COUNCIL

Special Recognition #2



MURRAY

Council Action Request

Mayor's Office

Certificate of Achievement for Excellence in Financial Reporting

Council Meeting

Meeting Date: October 18, 2022

Department Director Mayor Brett Hales	Purpose of Proposal Murray City was awarded the Certificate of Achievement for Excellence in Financial Reporting
Phone # 801-264-2600	Action Requested Special Recognition
Presenters Mayor Brett Hales	Attachments News Release, Certificates
Required Time for Presentation 5 Minutes	Budget Impact n/a
Is This Time Sensitive No	Description of this Item The Government Financial Officers Association has awarded the Certificate of Achievement for Excellence in Financial Reporting to Murray City for its annual comprehensive financial report for the fiscal year ended June 30, 2021. The Finance and Administration Department also received an Award of Financial Reporting Achievement.
Mayor's Approval <i>Doug Hill</i>	
Date October 5, 2022	



GOVERNMENT FINANCE OFFICERS ASSOCIATION
NEWS RELEASE

FOR IMMEDIATE RELEASE

9/20/2022

For more information contact:
Michele Mark Levine, Director/TSC
Phone: (312) 977-9700
Fax: (312) 977-4806
Email: mlevine@gfoa.org

(Chicago, Illinois)—Government Finance Officers Association of the United States and Canada (GFOA) has awarded the Certificate of Achievement for Excellence in Financial Reporting to **Murray City Corporation** for its annual comprehensive financial report for the fiscal year ended June 30, 2021. The report has been judged by an impartial panel to meet the high standards of the program, which includes demonstrating a constructive "spirit of full disclosure" to clearly communicate its financial story and motivate potential users and user groups to read the report.

The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

Government Finance Officers Association (GFOA) advances excellence in government finance by providing best practices, professional development, resources, and practical research for more than 21,000 members and the communities they serve.



Government Finance Officers Association

**Certificate of
Achievement
for Excellence
in Financial
Reporting**

Presented to

**Murray City Corporation
Utah**

For its Annual Comprehensive
Financial Report
For the Fiscal Year Ended

June 30, 2021

Christopher P. Monell

Executive Director/CEO



The Government Finance Officers Association of
the United States and Canada

presents this

AWARD OF FINANCIAL REPORTING ACHIEVEMENT

to

Finance Department
Murray City Corporation, Utah



The Award of Financial Reporting Achievement is presented by the Government Finance Officers Association to the department or individual designated as instrumental in the government unit achieving a Certificate of Achievement for Excellence in Financial Reporting. A Certificate of Achievement is presented to those government units whose annual financial reports are judged to adhere to program standards and represents the highest award in government financial reporting.

Executive Director

Christopher P. Morrell

Date: 9/20/2022



MURRAY
CITY COUNCIL

Citizen Comments

Limited to three minutes, unless otherwise approved by Council



MURRAY
CITY COUNCIL

Public Hearing



MURRAY

Council Action Request

Community and Economic Development

Text Amendment to streamline appeals and variance processes

Council Meeting

Meeting Date: October 18, 2022

Department Director Jared Hall	Purpose of Proposal Consolidate and clarify processes as it relates to Hearing Officer applications for appeals and variances
Phone # 801-270-2427	Action Requested Zoning Text Amendment
Presenters Zachary Smallwood Jared Hall	Attachments Proposed changes to the Zoning Text, Presentation
Required Time for Presentation 30 Minutes	Budget Impact None Anticipated
Is This Time Sensitive No	Description of this Item The Utah State Legislature has updated a number of items in the Land Use and Management Act (LUDMA) in recent legislative sessions. In coordination with the Murray City Attorney's Office, Planning Staff is proposing changes to the language in Chapter 17.16, Appeal Authority in the Murray City Land Use Ordinance. The proposed changes will streamline many aspects of the Land Use Ordinance by removing differing and conflicting appeal timeframes that are listed in various chapters throughout the title. These proposed changes also reflect updated state definitions on what constitutes an "adversely affected party". This text amendment also cleans up the text to allow for a greater ease of use.
Mayor's Approval 	
Date January 31, 2018	

Murray City Corporation

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on the 18th day of October, 2022, at the hour of 6:30 p.m. of said day in the Council Chambers of Murray City Center, 5025 South State Street, Murray, Utah, the Murray City Municipal Council will hold and conduct a hearing on and pertaining to a text amendment to chapter 17.16 and sections 17.08.020, 17.12.110, 17.36.050, 17.52.150, 17.54.090, 17.54.100, 17.56.080, 17.56.090, 17.56.100, 17.56.110, 17.56.120, 17.56.130, 17.56.140, 17.60.060 and 17.170.050, of the Murray City Municipal Code relating to land use appeals and variances.

The purpose of this hearing is to receive public comment concerning the proposed amendment as described above.

DATED this 20th day of September 2022.



MURRAY CITY CORPORATION



Brooke Smith
City Recorder

DATE OF PUBLICATION: October 7, 2022
PH22-36

Mailed to affected entities - UCA §10-9a-205(2)(a)
Posted on City Website – UCA §10-9a-205(2)(b)(ii)
Posted on the Utah Public Notice Website – UCA §10-9a-205(2)(c)(i)

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 17.16 AND SECTIONS
17.08.020, 17.36.050, 17.52.150, 17.54.090, 17.54.100, 17.56.080,
17.56.090, 17.56.100, 17.56.110, 17.56.120, 17.56.130, 17.56.140,
17.60.060 AND 17.170.050, AND REPEALING SECTION 17.12.110 OF
THE MURRAY CITY MUNICIPAL CODE RELATING TO LAND USE
APPEALS AND VARIANCES

BE IT ORDAINED BY THE MURRAY CITY MUNICIPAL COUNCIL:

Section 1. Purpose. The purpose of this Ordinance is to amend chapter 17.16 and sections 17.08.020, 17.36.050, 17.52.150, 17.54.090, 17.54.100, 17.56.080, 17.56.090, 17.56.100, 17.56.110, 17.56.120, 17.56.130, 17.56.140, 17.60.060 and 17.170.050, and repeal section 17.12.110 of the Murray City Municipal Code relating to land use appeals and variances.

Section 2. Amendment of chapter 17.16 and sections 17.08.020, 17.36.050, 17.52.150, 17.54.090, 17.54.100, 17.56.080, 17.56.090, 17.56.100, 17.56.110, 17.56.120, 17.56.130, 17.56.140, 17.60.060 and 17.170.050 of the Murray City Municipal Code. Chapter 17.16 and sections 17.08.020, 17.36.050, 17.52.150, 17.54.090, 17.54.100, 17.56.080, 17.56.090, 17.56.100, 17.56.110, 17.56.120, 17.56.130, 17.56.140, 17.60.060 and 17.170.050 of the Murray City Municipal Code relating to land use appeals and variances shall be amended to read as follows:

CHAPTER 17.08

17.08.020: TERMS DEFINED:

...
ADVERSELY AFFECTED PARTY: a person other than a land use applicant who: (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or (b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

...
APPEAL AUTHORITY: A land use appeal and variance hearing officer ("hearing officer").

...
LAND USE AUTHORITY: The planning commission, the community and economic development director, or a staff member of the community and economic development division when making any order, requirement, decision or determination in the enforcement of title 16 or 17 of this code, or any other related ordinance.

LAND USE DECISION: an administrative decision of a land use authority or appeal authority regarding: (a) a land use permit; (b) a land use decision; or (c) the enforcement of a land use regulation, land use permit, or development agreement.

SUBSTANTIAL EVIDENCE: the degree of relevant evidence which a reasonable person, considering the record as a whole, might accept as adequate to support a conclusion, even though other reasonable persons might disagree.

CHAPTER 17.16

APPEAL AUTHORITYLAND USE APPEALS AND VARIANCES

17.16.010: DEFINITIONS:

ADVERSELY AFFECTED PARTY: a person other than a land use applicant who: (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or (b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

APPEAL AUTHORITY: A land use appeal and variance hearing officer A list of five (5) ("hearing officers") appointed by the mayor, with advice and consent of the city council, to decide an appeal or request of a land use decision by a land use authority including a request for a variance under title 10, chapter 9a, part 7 of the Utah code. For each appeal or request, the mayor shall assign one hearing officer from the list of five (5) to handle the specific appeal or request.

LAND USE AUTHORITY: The planning commission, the administrative community and economic development services director, or a staff member of the community and economic development division when making any order, requirement, decision or determination in the enforcement of title 16 or 17 of this code, or any other related ordinance. (Ord. 14-10)

LAND USE DECISION: an administrative decision of a land use authority or appeal authority regarding: (a) a land use permit; (b) a land use decision; or (c) the enforcement of a land use regulation, land use permit, or development agreement.

SUBSTANTIAL EVIDENCE: the degree of relevant evidence which a reasonable person, considering the record as a whole, might accept as adequate to support a conclusion, even though other reasonable persons might disagree.

17.16.0210: APPOINTEDMENT OF HEARING OFFICERS:

A. The mayor shall appoint a list of at least three five (5) hearing officers, with advice and consent of the city council, to serve as an appeal authority for requests and appeals of land use decisions by a land use authority including and requests for variances under this title 10, chapter 9a, part 7 of the Utah code. For each appeal or request, the mayor shall assign one hearing officer from the list of five (5) to handle the specific appeal or request.

B. A hearing officer shall be a resident of the city.

C. A ~~h~~Hearing officers shall, as a minimum, have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings regarding land use, land development and regulatory codes dealing with issues related to land use ~~have expertise in land use matters.~~

D. A hearing officer shall be appointed for a term of three (3) years and may not serve more than three (3) consecutive terms. Vacancies occurring during a term shall be filled for the balance of the term. An individual is considered to have served a full term if, due to filling a vacancy, the individual has ~~Term", as used in this section, means serving~~ served for at least twelve (12) months.

E. A hearing officer may be removed from the list by the mayor for any reason. (Ord. 14-10)

17.16.0320: AUTHORITY OF APPEAL AUTHORITY HEARING OFFICER:

A. A hearing officer, ~~acting as the appeal authority,~~ shall hear and decide:

1. Requests for variances from the terms of the city's land use ordinances;
2. Appeals from decisions by a land use authority applying the city's land use ordinances;
3. Appeals from a fee charged in accordance with section 10-9a-510 of the Utah code;
4. Appeals of the denial by a land use authority of a request for a reasonable accommodation; and
5. Any other request or appeal of a decision delegated to ~~the~~ a land use authority by title 16 or 17 of this code.

B. A hearing officer, ~~serving as the appeal authority,~~ shall:

1. Act in a quasi-judicial manner;
2. Serve as the final arbiter of issues involving the interpretation or application of city land use ordinances subject to appeal to the Utah district courts as provided in section 10-9a-801 of the Utah code. (Ord. 14-10)

17.16.0430: APPEAL PROCESS:

A. Parties Entitled to Appeal: The City, a land use applicant, or an adversely affected party may appeal a final written decision of the land use authority.

B. Time to File Appeal:

1. Except as provided in subsection 2, A~~an~~ request or appeal to an appeal authority of a land use decision must be filed, ~~in writing,~~ with the city's community and economic development division, within ten (10) calendar days from the date of a written decision issued by a land use authority. If a written appeal or request is not timely filed as provided in this section, the decision of the land use authority shall be final.
2. An appeal may be filed within thirty (30) calendar days from the date of a written decision issued by a land use authority related to (a) the denial of a request for a reasonable accommodation under chapter 17.36; or (b) for the land use applicant

only, the decision of a historic preservation authority regarding a land use application.

C. Application: A hearing officer may only consider an appeal if the appellant submitted a complete application within the time period provided in subsection B of this section. An appeal application is complete if it includes: B.

1. A completed appeal application form provided by the city;
2. Payment of applicable fee; and
3. A written statement, no more than five (5) pages with one inch (1") margins, 12-point sans serif font, single spaced, that concisely: (a) explains the appellant's standing to appeal; (b) identifies the alleged error in the administration or interpretation of the city's land use ordinances that is grounds for the appeal; and (c) provides reasons the appellant claims the applicable decision was made in error. The written appeal or request must, with specificity, allege the error in any order, requirement, decision or determination made by the land use authority in the administration or interpretation of the city's land use ordinances.

C. On receipt of a timely written appeal or request, the city's community and economic development division shall notify the mayor of the appeal or request. The mayor shall, in a timely manner, assign a hearing officer from the list of five (5) hearing officers, to serve as the appeal authority for the specific appeal or request.

D. Stay of Proceedings: The filing of a written appeal or request does not stay the decision of the land use authority. The appellant may petition the assigned hearing officer to stay the land use authority decision. Upon petition, the assigned hearing officer may order the decision of the land use authority stayed pending review by the assigned hearing officer.

E. Hearing: Upon receipt of a completed appeal application, the matter shall be placed on the next available hearing officer agenda for which the item may be reasonably scheduled. The assigned hearing officer shall proceed to take all steps necessary to review and hear the appeal or request, at a public meeting. The hearing officer shall respect the due process rights of each of the participants.

F. The appellant has the burden of proving that the land use authority erred.

G. The assigned hearing officer shall respect the due process rights of each of the participants. (Ord. 14-10)

17.16.0450: SCOPE AND STANDARD OF REVIEW:

A. The review by the hearing officer, as the appeal authority, of the appeal or request shall be limited to the record of the land use application process resulting in the decision made by the land use authority which is the subject of the appeal or request. The record may include written communications, the land use application, staff reports, meeting minutes and the written land use decision and the written appeal or request.

B. The ~~assigned~~ hearing officer may not hear, accept or consider any evidence outside the record of the land use authority unless that evidence was offered to the land use authority and the ~~assigned~~ hearing officer determines that it was improperly excluded.

C. The appellant has the burden of proving that the land use authority erred.

D. 1. Except as provided in subsection 2, the hearing officer shall determine whether the record on appeal includes substantial evidence for each essential finding of fact.

2. For appeals under the MCCD design review approval process outlined in section 17.170.050, the hearing officer shall uphold the decision so long as the decision was not arbitrary or capricious.

E. The hearing officer shall:

(a) determine the correctness of the land use authority's interpretation and application of the plan meaning of land use regulations, and

(b) interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.

17.16.0560: FINAL DECISION:

A. A decision of a hearing officer takes effect on the date when the hearing officer issues a written decision.

B. An appeal of the decision by the hearing officer may be made to the Utah district court in compliance with section 10-9a-801 of the Utah code.

17.16.0670: VARIANCES:

A. Parties Entitled to Request a Variance: Any person or entity desiring a waiver or modification of a land use requirement of this title as applied to a parcel of property that they own, lease or in which they hold some other beneficial interest may apply to a hearing officer for a variance after receiving a final written administrative decision or interpretation of the land use requirement from a land used authority.

B. Application: a hearing officer may only consider a variance request after a complete variance application and fees have been submitted to the community and economic development division.

C. For the granting of variances, the assigned ~~A~~ hearing officer may grant a variance only if:

1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;

2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and

5. The spirit of the land use ordinance is observed and substantial justice done.

D. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under subsection C1 of this section, the ~~assigned~~-hearing officer may not find an unreasonable hardship unless the alleged hardship:

1. Is located on or associated with the property for which the variance is sought;
2. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood; and
3. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under subsection C1 of this section, the ~~assigned~~ hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.

E. In determining whether or not there are special circumstances attached to the property under subsection C1 of this section, the ~~assigned~~-hearing officer may find that special circumstances exist only if the special circumstances:

1. Relate to the hardship complained of; and
2. Deprive the property of privileges granted to other properties in the same zone.

F. The appellant shall bear the burden of proving that all of the conditions justifying a variance have been met.

G. Variances run with the land.

H. The ~~assigned~~-hearing officer may not grant:

1. ~~grant~~ a use variance;
2. ~~a temporary variance; or~~
3. a variance that is greater than the minimum variation necessary to relieve the unreasonable hardship the applicant can demonstrate.

I. In granting a variance, the ~~assigned~~-hearing officer may impose additional requirements on the appellant that will:

1. Mitigate any harmful affects of the variance; or
2. Serve the purpose of the standard or requirement that is waived or modified. (Ord. 14-10)

17.16.060: FINAL DECISION:

A. Final Decision on Variances.

1. A decision of a hearing officer, ~~serving as the appeal authority~~, on a variance request takes effect on the date when the hearing officer issues a written decision.

B. 2. An appeal of the decision on a variance request by the hearing officer may be made to the Utah district court ~~in~~ in compliance with section 10-9a-708 801 of the Utah code. (Ord. 14-10)

[Chapter 17.36 – Residential Facility for Persons with a Disability]

17.36.050: REASONABLE ACCOMMODATION:

- A. None of the requirements of this chapter shall be interpreted to limit any reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability.
- B. Any person or entity wanting a reasonable accommodation shall make application therefor to the community development director or designee and shall articulate in writing the nature of the requested accommodation and the basis for the request.
- C. The community development director, or designee, shall render a written decision on each application for a reasonable accommodation within thirty (30) days. The decision shall be based on evidence of record demonstrating:
 - 1. The requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability;
 - 2. That, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice; and
 - 3. That equal results will be achieved as between the person with a disability requesting the accommodation and a nondisabled person.

D. If a reasonable accommodation request is denied, the decision may be appealed to the appeal authority within thirty (30) days of the decision denying the request in the manner provided for appeals of administrative decisions set as provided forth in this title. (Ord. 14-10: Ord. 07-30 § 2)

[Chapter 17.52 – Nonconforming Buildings and Uses]

17.52.150: REGISTRATION OF NONCONFORMING USES AND STRUCTURES REQUIRED:

- A. Rights: The rights given to those using or owning property involving a nonconforming use or structure under this chapter are specifically conditioned on the registration of the nonconformity with the community development division. Nonconforming uses and structures so registered shall be deemed lawful uses and structures under the provisions of this code to the extent documented on the registration form.
- B. Registration: Registration shall be required for all nonconforming uses and structures. There shall be no deadline for the registration required by this section. The community development director, or designee, shall establish a process for the registration of nonconformities and shall establish a system for keeping records of the same. The director shall provide registration forms for this purpose.
- C. Verification Required; Appeal: The director shall verify the qualification of a nonconforming use or structure for registration under this section. The director shall refuse to permit the expansion, continuance, repair maintenance or other continuance of nonconforming status for a nonconforming use or structure not registered in accordance with this section. An aggrieved adversely affected party may appeal the director's registration or denial to the appeal authority as provided in this title. The appeal shall be made in writing within thirty (30) days of the director's written decision.

[Chapter 17.54 – Site Plan Review]

17.54.080: APPEALS OF DECISIONS:

~~The applicant and/or property owner of any property for which site plan review has been applied may appeal the decision of the community and economic development department to the appeal authority. An appeal must be presented in writing within thirty (30) days after the date of the site plan review letter.~~ (Ord. 14-10: Ord. 09-20 § 2)

17.54.0890: INSPECTION:

Following approval of site plan review, the community and economic development department shall approve an application for a building permit upon submittal of plans meeting the conditions contained in the site plan review letter. Representatives of the community and economic development department shall inspect the site to ensure that all required improvements meet the conditions of the site plan review and this title before a certificate of occupancy is issued by the building division and/or prior to the issuance of a business license and before an application for permanent or temporary power from the property may be approved by the city power department. (Ord. 09-20 § 2)

17.54.1090: CONTINUING EFFECT:

A site plan review, once approved, affects real property regardless of change in ownership and all subsequent owners are subject to those conditions so long as the site is being operated. If the site or use becomes nonconforming due to a later amendment of this title, the provisions of chapter 17.52 of this title relating to nonconforming buildings and uses shall apply. (Ord. 09-20 § 2)

[Chapter 17.56 – Conditional Uses]

17.56.070: APPEALS OF DECISIONS:

~~Any person for which any application for approval of a conditional use permit has been filed or any person who may be affected by the proposed use shall have the right to appeal the decision of the planning and zoning commission to the appeal authority. An appeal must be presented in writing within thirty (30) days after the date of decision of the planning and zoning commission.~~ (Ord. 14-10: Ord. 07-30 § 2)

17.56.0870: INSPECTION:

Following the issuance of a conditional use permit, the planning office shall approve an application for a building permit upon compliance of construction plans meeting such conditions and requirements as established by the planning commission. Representatives of the code enforcement/community development division shall inspect the project to ensure that all required improvements meet the conditions of the conditional use permit and this title before a certificate of occupancy is issued by the building inspection division and before an application for permanent or temporary power for the property may be approved by the city power department. (Ord. 07-30 § 2)

17.56.0890: REVOCATION:

A. Written Complaint: Upon receiving a written complaint alleging a violation or failure to comply with any condition prescribed in a conditional use permit, the code enforcement/community development division shall investigate the complaint. If the complaint

has merit, and attempts to remedy the complaint fail, the community development division may place the complaint on the agenda of the regular meeting of the planning commission, provided, that the permittee shall have at least fourteen (14) days' notice of the meeting.

B. Hearing Procedure: Permittee shall be given written notice of the exact nature of the complaint and the date and time of the hearing before the planning commission. The hearing shall be held in accordance with customary administrative hearings procedures.

C. Action; Complaint Dismissal: The planning commission, after hearing the evidence presented regarding the complaint, may continue the hearing from time to time, modify or rescind any condition or requirement of the conditional use permit as it deems necessary, revoke the conditional use permit, or take no action and dismiss the complaint.

D. Relief From Order: Any permittee aggrieved by an order entered by the planning commission pursuant to this section may maintain an action for relief therefrom in any court of competent jurisdiction. Action for relief must be filed with the court within thirty (30) days after the order from which relief is sought is made.

E. Notices: All notices required herein shall be provided by personal service or by certified mail.

F. Effective Date And Scope: This section shall apply to all conditional use permits issued after the effective date hereof, regardless of change in ownership or occupancy. (Ord. 07-30 § 2)

17.56.100090: TIME LIMIT:

A. A temporary conditional use permit may be issued by the planning commission for a period of six (6) months. This permit may be renewed by the planning staff for a total of three (3) successive six (6) month time periods, allowing a total of two (2) years for the temporary conditional use permit. Where hardship or unusual circumstances exist, the planning commission may extend the temporary permit for one additional year. These extensions shall be granted in two (2) separate six (6) month increments. A temporary conditional use permit shall not be issued for a use which is not incidental to or directly related to an intended permanent use on the property.

Mobile offices, homes or trailers which are used for business purposes shall only be allowed for a six (6) month time period as authorized by the planning commission. The planning commission may extend the time period for the temporary structure up to one additional year providing that plans for a permanent structure have received commission approval.

Temporary structures shall be removed from the property upon occupancy of the permanent structure. Premanufactured structures which meet all building code regulations and construction trailers shall be exempt from this regulation.

B. A temporary conditional use occupancy permit shall not be issued nor shall the building structure or other facility be occupied until all water, sewer, and electrical permits have been issued and all appropriate inspections performed.

C. Unless there is substantial action under a conditional use permit within a maximum period of two (2) years of its issuance, the conditional use permit shall expire. The planning commission may grant a yearly extension, when deemed in the public interest. (Ord. 07-30 § 2)

17.56.1100: CONDITIONAL ZONES:

Upon the recommendation of the planning and zoning commission and after the public hearing, the city may establish conditional zones within existing zoning districts where it is shown that it

is in the best interests and general welfare of the community. The planning commission may establish and impose such conditions and requirements that are in keeping with the best interest and general welfare of the community. (Ord. 07-30 § 2)

17.56.1210: REAPPLICATION AFTER DENIAL:

Denial of an application for a conditional use permit regarding any parcel of property shall prohibit the filing of another application for a conditional use permit for the same parcel of property or any portion thereof, within one year of the date of the final denial of the previous application unless the planning commission finds that there has been a substantial change in the circumstances or sufficient new evidence as submitted by the applicant in writing since the denial of the previous application to merit consideration of a second application within the one year time period. (Ord. 07-30 § 2)

17.56.1320: CONTINUING EFFECT:

A conditional use permit, once approved, affects real property regardless of change in ownership and all subsequent owners are subject to those conditions so long as that conditional use is being conducted on the property. The conditional use may be conducted either intermittently or continuously, provided, however, that if the conditional use becomes a legal nonconforming use due to a later amendment to this title, the provisions of chapter 17.52 of this title relating to nonconforming buildings and uses shall apply. (Ord. 07-30 § 2)

17.56.1430: REPORTING REQUIREMENTS:

Before February 1 of every year, the owner or occupant of a property which has been approved for the following land use under a conditional use permit shall provide written evidence to the community development division that the property use complies with this title:

1210.1 Supervised youth group home. (Ord. 07-30 § 2)

[Chapter 17.60 – Planned Unit Development]

17.60.060: SCOPE OF PLANNING COMMISSION ACTION:

In carrying out the intent of this chapter, the planning commission shall consider the following principles:

A. It is the intent of this chapter that site and building plans for a planned unit development shall be prepared by a designer or team of designers having professional competence in urban planning as proposed in the application. The commission may require the applicant to engage such a qualified designer or design team.

B. It is not the intent of this section that control of the design of a planned unit development by the planning commission be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this section that the control exercised be the minimum necessary to achieve the purpose of this chapter.

C. The planning commission may approve or disapprove an application for a planned unit development. In approving an application the commission may attach such conditions as it may deem necessary to secure compliance. ~~The action of the planning commission may be appealed to the appeal authority, in writing, within thirty (30) calendar days after the decision is announced on the record, by the planning commission.~~ (Ord. 07-43 § 2)

[Chapter 17.170 – Murray City Center District MCCD]

17.170.050: PROCEDURES:

A. Applications: The Community and Economic Development Department shall receive applications for design review approval as required under section [17.170.040](#) of this chapter. Applications for new construction or major alteration must be reviewed by the MCCD Review Committee, which must forward a recommendation to the Commission. Members of the Planning Commission or MCCD Review Committee may enter, solely in performance of their official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the Commission or Committee may enter any private building without express consent of the owner or occupant thereof.

B. Public Meeting: Prior to action on an application for design review approval, the Commission shall hold a public meeting. The Commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application and shall give the applicant and such owners an opportunity to be heard. A written notice of the proposal shall be sent at least ten (10) days prior to the hearing to the applicant and to owners of property (lots, parcels, or tracts of land) within three hundred feet (300') of the property that is the subject of an application for design review approval.

C. Final Action: The Commission's final action on an application for design review approval for major alterations and new construction shall be by the passage of a motion to take one (1) of the following actions:

1. Grant the design review approval as proposed.
2. Grant the design review approval subject to specific conditions and/or modifications of the proposal presented in the application.
3. Deny the design review approval as proposed or modified.

D. Appeal:

1. Minor Alterations: Minor alterations denied by the administrative staff may be appealed to the Planning Commission by filing written notice of the appeal with the Community and Economic Development Department within thirty (30) calendar days from issuance of the written decision by the administrative staff.

2. Major Alterations And New Construction: Planning Commission decisions on applications for design review approval may be appealed to the Hearing Officer by an aggrieved adversely affected party as provided in this title. ~~Written notice of the appeal must be filed with the Community and Economic Development Department within thirty (30) calendar days from the date of the Commission's decision. The appeal shall be a review of the record to determine whether the decision was so unreasonable as to be arbitrary and capricious.~~ (Ord. 21-21: Ord. 19-40)

Section 3. Repeal section 17.12.110 of the Murray City Municipal Code. Section 17.12.110 of the Murray City Municipal Code relating to land use appeals and variances shall be repealed as follows:

[Chapter 17.12 - Planning and Zoning Commission]

17.12.110: PLANNING COMMISSION APPEALS: [REPEALED]

~~Any applicant or directly aggrieved person has the right to appeal a planning commission decision to the appeal authority. The appeal shall be made in writing within thirty (30) days of the planning commission decision.~~

Section 4. Effective date. This Ordinance shall take effect upon first publication.

PASSED, APPROVED AND ADOPTED by the Murray City Municipal Council on this _____ day of _____, 2022.

MURRAY CITY MUNICIPAL COUNCIL

Kat Martinez, Chair

ATTEST:

Brooke Smith, City Recorder

Transmitted to the Office of the Mayor of Murray City on this _____ day of _____, 2022.

MAYOR'S ACTION: Approved

DATED this _____ day of _____, 2022.

Brett A. Hales, Mayor

ATTEST:

Brooke Smith, City Recorder

CERTIFICATE OF PUBLICATION

I hereby certify that this Ordinance or a summary hereof was published according to law on the ____ day of _____, 2022.

Brooke Smith, City Recorder

ORDINANCE TEXT AMENDMENT – Chapter 17.6 Appeal Authority – Project #22-129

Mr. Smallwood presented a request from Murray City Planning Division Staff, in conjunction with the attorney's office. They have been discussion a text amendment to appeals and variances in the Title 17 Land Use Ordinances. Specifically, most of the changes are in section 17.16, and it is being changed to Land Use Appeals and Variances. This also affects the definition section, and various other sections throughout the code where there were specific timeframes for appeal dates and deadlines; those timelines will be repealed from those sections to bring everything into one easy to read and understand language. A few of the larger changes are the definition changes and unclear descriptions regarding appeal instructions. As Senior Planner, one of his objectives and goals is to go through the land use ordinance and do some clean up, including moving every definition to the Greater Definition section, instead of each chapter having its own definition section. Next, there were unclear directions as to who directly a grieved person was in the code; without a hard definition, anyone could apply to appeal a decision, regardless. The state made a change recently to their code stating that "an adversely affected party is a person who owns real property adjoining the property that is subject to the land use application; or will suffer damage different in kind or an injury distinct from that of the general community as a result of the decision." That definition helped to narrow the field to people having a direct impact from a project.

Mr. Lowry appreciates what's being done and wonders if in the language given by the state above it opens things up and makes it broader for someone to claim emotional/psychological damage. They have had someone in the past claim potential psychological/emotional damage from walking past a building that used to be a cherished memory for them.

Mr. Smallwood that could be a case, but they would have to submit that appeal and staff, the attorney's office and the hearing officer would decide further steps together.

Mr. Lowry noted that maybe there should not be a semicolon after "or land use decision," just a period and it stops there.

Mr. Smallwood said they are just using the state definition, and it has been copied exactly from them.

Ms. Milkavich asked if the state could trump the city if there was an issue, and if so this is a smart practice to follow their lead.

Mr. Smallwood said it is easier to follow them, then to work against them. They also moved the definitions to the appropriate section. They will have clearer text, and he gave examples from a previous section where things were all in one section, but not specific. Hardship tests need to be specific to the appeal, so those were broken out into an appeal process and variance process, to make things more clear. As discussed in the pre-meeting, there were many locations in the code that gave different timelines for appealing a land use decision. Everything was narrowed down into one section, where the timeline is 10 calendar days from the written land use decision; this is the same timeline the state has adopted.

Mr. Nay asked if staff feels like that's giving an aggrieved party enough time to get everything together and make an appeal.

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Mr. Smallwood said the 10 days doesn't start until a written decision is given. For a conditional use permit, that would mean the countdown doesn't start until the commission approves the findings of fact. In theory, that should give them plenty of time to get their appeal completed.

Ms. Milkavich said that in her profession they have 30 days to get things done, and there is always a discussion about whether those are working days; do those days include holidays and weekends, etc. Do they need to be concerned about that clarification regarding which days count against the 10 days.

Mr. Smallwood said the rules specify "calendar days," and that is what the state has defined as well. If someone is wanting to file an appeal, they are usually here at this meeting and they let staff know they want to appeal so staff can discuss the process with them afterwards. They will have to be a little more diligent in that, explaining that they have 10 days instead of 30 to file an appeal.

Mr. Nay asked what happens if the 10 days ends on a Sunday, that would mean they've lost a Saturday and Sunday.

Mr. Smallwood responded that typically they would give them until the Monday, per the legal department

Mr. Farnsworth added that 10 days from a Tuesday is a Thursday, so that 10 days will never fall on a Sunday and will never be a problem.

Ms. Milkavich asked about when a resident is going to appeal, do they just have to turn in a statement with the request to appeal, or the fully developed argument.

Mr. Smallwood said that technically in the code it's laid out exactly what has to be provided, in the redline copy it's Section 17.16.030c, Application.

Mr. Lowry asked if this reduction from 30 days to 10 days will improve administrative capacity, or what the intent is behind the change.

Mr. Smallwood said the first reason is to be in line with the state code, but it also does have the potential to allow staff a little bit more time. This makes people really need to think and make a decision quickly if there is a legitimate issue. Largely, they don't receive many appeals, there has been one in the five years he has been with the city. There was one in the MCCD, but that was wrapping up when he started employment.

Ms. Milkavich is concerned with decreasing the timeframe, as residents who would be interested in appealing may not have the land use knowledge and it might take them more time to gather the information for the appeal. However, if we are in compliance with the state and how they are running things, then she sees why we would want to follow those same processes.

Mr. Smallwood agreed that not everyone has extensive knowledge about land use, but staff is available to discuss those things every day of the week.

Mr. Lowry said that those that are upset and want to file an appeal, usually decide the night of the decision and file the appeal right away. He doesn't want to short change residents, but if a party is aggrieved they will know, and they don't need to think about it for a long period of time.

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Ms. Milkavich said they do need to gain knowledge to state their grievance well, and she thinks it's easy to say the public can go to the planners, but to residents, the city staff may feel more like the other party and not on their side.

Mr. Lowry said that they can only appeal if somehow the planning commission makes a mistake procedurally, for instance, if they voted against a written ordinance, etc. This body takes administrative action, not legislative action, so this is not necessarily a situation where someone can disagree with the land use; that is a city council decision, the planning commission doesn't make those types of decisions.

Mr. Smallwood said that for an administrative body, that is correct, The commission reviews the staff report, public comment, and they discuss the item. Nothing else can be used for the appeal, only the meeting records, which means that when someone files an appeal they can't make or present new claims or evidence. The residents need to do their homework before the planning commission meeting, and if they find something egregiously wrong or something that was missed by staff, that needs to be brought up here. If that changes the commission's perception or decision, and then for some reason someone else points out that the decision wasn't in the commission's scope, there could be situations where it would apply. By the time you get to the hearing officer, it is strictly based on what was presented here.

Ms. Milkavich said there have been two contested discussions about gas stations in the past few years. The first of which, the residents felt they wouldn't be able to insure their homes due to the proximity of the gas station and they felt that was some kind of legality. The commission didn't know, the information wasn't available to them. She asked to put the item on hold so they could investigate that further and see if it was a legitimate concern. When the second gas station came up, that issue wasn't brought up, but to her that seems like something that, if brought to the hearing officer, could be deemed legitimate information presented and ignored.

Mr. Smallwood said that yes, if that had been approved, and the residents appealed and showed the information presented and that they feel the planning commission made an error and shouldn't have approved it, and provided information regarding that, that could have been looked at more.

Mr. Lowry said whether you can or can't get insurance isn't a legal issue, but if there was an ordinance that said a gas station can't be within 500 feet of a residence, and the commission approved one within 400 feet of a residence and someone appealed that, they would probably have a reason to be sent to a hearing officer. It is not incumbent upon the planning commission to run down every piece of information that is shared He wants to be satisfied that they are compliant with all the zoning ordinances. Insurance is a marketplace and there is a price associated with different risks, and it very well may cost more to insure a home with proximity to certain risks, but he can't imagine that would be a legal issue.

Mr. Smallwood said that's why it went nowhere, but if there had been something it could have been brought up.

Mr. Nay brought up the Murray 1st Ward and asked if the people that filed their appeal have standing with this new code.

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Mr. Smallwood said that from his understanding of the appeal, he doesn't believe so as it was only one person.

Ms. Milkavich said that one person could have said they were affiliated with the church.

Mr. Smallwood said it wasn't a church anymore, it was a school. From what he remembers, it was only one applicant. He is not speaking as an attorney, or giving legal advice, but he doesn't believe that resident would have had standing even with the new rule. Staff recommends the planning commission forward a recommendation of approval for the text amendment to Section 17.08, 17.12, 17.16, 17.36, 17.52, 17.54, 17.56, 17.60 and 17.170 as reviewed in the staff report.

Mr. Lowry opened the hearing for public comment. There were no comments in person or submitted beforehand, and the hearing was closed.

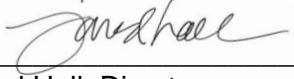
Mr. Richards motioned for the planning commission to make a recommendation of approval to the city council of the proposed text amendment Sections 17.08, 17.12, 17.16, 17.36, 17.52, 17.54, 17.56, 17.60 and 17.170, as reviewed in the staff report. Seconded by Ms. Milkavich.

Roll call vote

<u>A</u>	Richards
<u>A</u>	Milkavich
<u>A</u>	Nay
<u>A</u>	Hacker
<u>A</u>	Lowry

Motion passed 5-0.

Mr. Nay motioned to adjourn the September 1, 2022 Planning Commission meeting at 7:50 p.m. Seconded by Mr. Hacker. A voice vote was made, motion passed 5-0.


Jared Hall, Director



AGENDA ITEM #7

Amendments to Appeal Authority in the Land Use Ordinance

ITEM TYPE:	Text Amendment		
ADDRESS:	Citywide	MEETING DATE:	September 1, 2022
APPLICANT:	Murray City, Community & Economic Development Department	STAFF:	Zachary Smallwood, Senior Planner
PARCEL ID:		PROJECT NUMBER:	22-129
AFFECTED CHAPTERS:	17.08, 17.12, 17.16, 17.36, 17.52, 17.54, 17.56, 17.60, and 17.170		
SIZE:	N/A		
REQUEST:	Planning Division Staff proposes amendments to the sections stated above as they relate to appeals and variances to streamline timing, requirements and make the process clearer.		

I STAFF REVIEW & ANALYSIS

Background

The Utah State Legislature has updated a number of items in the Land Use and Management Act (LUDMA) in recent legislative sessions. In coordination with the Murray City Attorney's Office, Planning Staff is proposing changes to the language in Chapter 17.16, Appeal Authority in the Murray City Land Use Ordinance. The proposed changes will streamline many aspects of the Land Use Ordinance by removing differing and conflicting appeal timeframes that are listed in various chapters throughout the title. These proposed changes also reflect updated state definitions on what constitutes an "adversely affected party".

Proposed Amendments

Staff's proposed amendments are included as an attachment to this staff report. The following review covers the major items that have changed from the existing code.

Definitions

Planning Division Staff will be moving most definitions from individual chapters into Chapter 17.08, Definitions. This seems the most logical place, instead of having individual chapters with their own definition sections. The most important change in the definitions section is an update to the "Adversely Affected Party". This has been changed to reflect state code which limits who may appeal decisions.

Land Use Appeals and Variances

The most significant changes are proposed in Chapter 17.16. It has been renamed from "Appeal Authority" to "Land Use Appeals and Variances". In the review of potential changes, it was decided that the number of hearing officers be reduced from five to three. To date, there have not been more than three appointed hearing officers, and staff has not seen the volume of applications nor had conflicts of interest or scheduling problems to reflect a need for more than two or three. This change reflects the City's current practice and realistic need.

The timing for making an application for an appeal has been updated to reflect state code, which allows for an appeal up to ten days after a written decision has been issued by the planning commission. There are exceptions for an applicant of a land use decision and reasonable accommodation requests, which are left at thirty days. This streamlines the process from multiple sections of the code where there were timelines as long as thirty days and some as short as ten days.

The current code combines the reviews for an appeal and variances. City Staff proposes

separating each into its own section to provide greater clarity when reviewing the standards. This also helps explain to the public when they have questions regarding a variance or an appeal.

The remaining changes are largely grammatical or remove those sections of other chapters that reference specific timeframes and refers the reader to consult the Land Use Appeals and Variance chapter of Title 17.

II. PUBLIC INPUT

Notices were sent to Affected Entities for this Text Amendment. Officials at Sandy City asked to see the draft changes but had no comments otherwise.

III. FINDINGS

Based on the analysis of the proposed text amendments and review of the Murray City General Plan and Land Use Ordinance, staff concludes the following:

1. The proposed text amendments have been carefully considered and provide greater clarity to both city staff and the public.
2. The proposed text amendment addresses conflicts that exist in the Land Use Ordinance and makes the ordinance easier to read for more people.
3. The proposed text amendment is consistent with the Goal and Mission of Murray City to “Guide growth to promote prosperity and sustain a high quality of life for those who live, work, shop, and recreate in Murray” by making updates to the Land Use Ordinance to treat every person fairly.

IV. CONCLUSION/RECOMMENDATION

Based on the background, analysis, and the findings within this report, Staff recommends that the Planning Commission **forward a recommendation of APPROVAL to the City Council for the proposed text amendments to Sections 17.08, 17.12, 17.16, 17.36, 17.52, 17.54, 17.56, 17.60, and 17.170 as reviewed in the Staff Report.**



NOTICE OF PUBLIC HEARING

September 1, 2022, 6:30 PM

The Murray City Planning Commission will hold a public hearing in the Murray City Municipal Council Chambers, located at 5025 S. State Street to receive public comment on the following application made by Murray City Community and Economic Development Staff:

The Murray City Attorney's Office and Planning Division are requesting an amendment to Murray City Code Chapter 17.16, Appeal Authority. This update is to comply with State definitions, simplify, and easier to navigate the code.

The meeting is open, and the public is welcome to attend in person or you may submit comments via email at planningcommission@murray.utah.gov. If you would like to view the meeting online, you may watch via livestream at www.murraycitylive.com or www.facebook.com/MurrayCityUtah/.

Comments are limited to 3 minutes or less, written comments will be read into the meeting record.

If you have questions or comments concerning this proposal, please contact Zachary Smallwood in the Murray City Planning Division at 801-270-2407, or e-mail zsmallwood@murray.utah.gov.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 17.16, _____
OF THE MURRAY CITY MUNICIPAL CODE RELATING TO LAND USE
APPEALS AND VARIANCES

BE IT ORDAINED BY THE MURRAY CITY MUNICIPAL COUNCIL:

Section 1. Purpose. The purpose of this Ordinance is to amend _____ of the Murray City Municipal Code relating to land use appeals and variances.

Section 2. Amendment of _____ of the Murray City Municipal Code. _____ of the Murray City Municipal Code relating to land use appeals and variances shall be amended to read as follows:

CHAPTER 17.08

17.08.020: TERMS DEFINED:

...
ADVERSELY AFFECTED PARTY: a person other than a land use applicant who: (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or (b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

...
APPEAL AUTHORITY: A land use appeal and variance hearing officer ("hearing officer").

...
LAND USE AUTHORITY: The planning commission, the community and economic development director, or a staff member of the community and economic development division when making any order, requirement, decision or determination in the enforcement of title 16 or 17 of this code, or any other related ordinance.

LAND USE DECISION: an administrative decision of a land use authority or appeal authority regarding: (a) a land use permit; (b) a land use decision; or (c) the enforcement of a land use regulation, land use permit, or development agreement.

...

SUBSTANTIAL EVIDENCE: the degree of relevant evidence which a reasonable person, considering the record as a whole, might accept as adequate to support a conclusion, even though other reasonable persons might disagree.

[Chapter 17.12 - Planning and Zoning Commission]

17.12.110: PLANNING COMMISSION APPEALS:

~~Any applicant or directly aggrieved person has the right to appeal a planning commission decision to the appeal authority. The appeal shall be made in writing within thirty (30) days of the planning commission decision.~~

CHAPTER 17.16

APPEAL AUTHORITY LAND USE APPEALS AND VARIANCES

17.16.010: DEFINITIONS:

ADVERSELY AFFECTED PARTY: a person other than a land use applicant who: (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or (b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

APPEAL AUTHORITY: A land use appeal and variance hearing officer A list of five (5) ("hearing officers") appointed by the mayor, with advice and consent of the city council, to decide an appeal or request of a land use decision by a land use authority including a request for a variance under title 10, chapter 9a, part 7 of the Utah code. For each appeal or request, the mayor shall assign one hearing officer from the list of five (5) to handle the specific appeal or request.

LAND USE AUTHORITY: The planning commission, the administrative community and economic development services director, or a staff member of the community and economic development division when making any order, requirement, decision or determination in the enforcement of title 16 or 17 of this code, or any other related ordinance. (Ord. 14-10)

LAND USE DECISION: an administrative decision of a land use authority or appeal authority regarding: (a) a land use permit; (b) a land use decision; or (c) the enforcement of a land use regulation, land use permit, or development agreement.

SUBSTANTIAL EVIDENCE: the degree of relevant evidence which a reasonable person, considering the record as a whole, might accept as adequate to support a conclusion, even though other reasonable persons might disagree.

17.16.0210: APPOINTMENT OF HEARING OFFICERS:

A. The mayor shall appoint a list of at least three~~five~~ (53) hearing officers, with advice and consent of the city council, to serve as an appeal authority for requests and appeals of land use decisions by a land use authority including~~and requests for~~ variances under this title 10, chapter

~~9a, part 7 of the Utah code. For each appeal or request, the mayor shall assign one hearing officer from the list of five (5) to handle the specific appeal or request.~~

B. A hearing officer shall be a resident of the city.

C. ~~A hearing officer shall, as a minimum, have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings regarding land use, land development and regulatory codes dealing with issues related to land use have expertise in land use matters.~~

D. A hearing officer shall be appointed for a term of three (3) years and may not serve more than three (3) consecutive terms. ~~Vacancies occurring during a term shall be filled for the balance of the term. An individual is considered to have served a full term if, due to filling a vacancy, the individual has "Term", as used in this section, means serving served for at least twelve (12) months.~~

E. A hearing officer may be removed from the list by the mayor for any reason. (Ord. 14-10)

17.16.0320: AUTHORITY OF APPEAL AUTHORITY HEARING OFFICER:

A. A hearing officer, ~~acting as the appeal authority,~~ shall hear and decide:

1. Requests for variances from the terms of the city's land use ordinances;
2. Appeals from decisions by a land use authority applying the city's land use ordinances;
3. Appeals from a fee charged in accordance with section 10-9a-510 of the Utah code;
4. Appeals of the denial by a land use authority of a request for a reasonable accommodation; and
5. Any other request or appeal of a decision delegated to ~~the a~~ land use authority by title 16 or 17 of this code.

B. A hearing officer, ~~serving as the appeal authority,~~ shall:

1. Act in a quasi-judicial manner;
2. Serve as the final arbiter of issues involving the interpretation or application of city land use ordinances subject to appeal to the Utah district courts as provided in section 10-9a-801 of the Utah code. (Ord. 14-10)

17.16.0430: APPEAL PROCESS:

A. Parties Entitled to Appeal: The City, a land use applicant, or an adversely affected party may appeal a final written decision of the land use authority.

B. Time to File Appeal:

1. ~~Except as provided in subsection 2, A~~ ~~an request or appeal to an appeal authority of a land use decision must be filed, in writing, with the city's community and economic development division, within ten (10) calendar days from the date of a written decision issued by a land use authority. If a written appeal or request is not timely filed as provided in this section, the decision of the land use authority shall be final.~~

2. An appeal may be filed within thirty (30) calendar days from the date of a written decision issued by a land use authority related to (a) the denial of a request for a reasonable accommodation under chapter 17.36; or (b) for the land use applicant only, the decision of a historic preservation authority regarding a land use application.

C. Application: A hearing officer may only consider an appeal if the appellant submitted a complete application within the time period provided in subsection B of this section. An appeal application is complete if it includes:—B.—

1. A completed appeal application form provided by the city;
2. Payment of applicable fee; and
3. A written statement, no more than five (5) pages with one inch (1") margins, 12-point sans serif font, single spaced, that concisely: (a) explains the appellant's standing to appeal; (b) identifies the alleged error in the administration or interpretation of the city's land use ordinances that is grounds for the appeal; and (c) provides reasons the appellant claims the applicable decision was made in error. The written appeal or request must, with specificity, allege the error in any order, requirement, decision or determination made by the land use authority in the administration or interpretation of the city's land use ordinances.

1.

C. On receipt of a timely written appeal or request, the city's community and economic development division shall notify the mayor of the appeal or request. The mayor shall, in a timely manner, assign a hearing officer from the list of five (5) hearing officers, to serve as the appeal authority for the specific appeal or request.

D. Stay of Proceedings: The filing of a written appeal or request does not stay the decision of the land use authority. The appellant may petition the assigned hearing officer to stay the land use authority decision. Upon petition, the assigned hearing officer may order the decision of the land use authority stayed pending review by the assigned hearing officer.

E. Hearing: Upon receipt of a completed appeal application, the matter shall be placed on the next available hearing officer agenda for which the item may be reasonably scheduled. The assigned hearing officer shall proceed to take all steps necessary to review and hear the appeal or request at a public meeting. The hearing officer shall respect the due process rights of each of the participants.

F. The appellant has the burden of proving that the land use authority erred.

G. The assigned hearing officer shall respect the due process rights of each of the participants. (Ord. 14-10)

17.16.0450: SCOPE AND STANDARD OF REVIEW:

A. The review by the hearing officer, as the appeal authority, of the appeal or request shall be limited to the record of the land use application process resulting in the decision made by the land use authority which is the subject of the appeal or request. The record may include written communications, the land use application, staff reports, meeting minutes and the written land use decision and the written appeal or request.

B. The ~~assigned~~ hearing officer may not hear, accept or consider any evidence outside the record of the land use authority unless that evidence was offered to the land use authority and the ~~assigned~~ hearing officer determines that it was improperly excluded.

C. The appellant has the burden of proving that the land use authority erred.

D. 1. Except as provided in subsection 2, the hearing officer shall determine whether the record on appeal includes substantial evidence for each essential finding of fact.

2. For appeals under the MCCD design review approval process outlined in section 17.170.050, the hearing officer shall uphold the decision so long as the decision was not arbitrary or capricious.

E. The hearing officer shall:

(a) determine the correctness of the land use authority's interpretation and application of the plan meaning of land use regulations, and

(b) interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.

17.16.0560: FINAL DECISION:

A. A decision of a hearing officer takes effect on the date when the hearing officer issues a written decision.

B. An appeal of the decision by the hearing officer may be made to the Utah district court in compliance with section 10-9a-801 of the Utah code.

17.16.0670: VARIANCES:

A. Parties Entitled to Request a Variance: Any person or entity desiring a waiver or modification of a land use requirement of this title as applied to a parcel of property that they own, lease or in which they hold some other beneficial interest may apply to a hearing officer for a variance after receiving a final written administrative decision or interpretation of the land use requirement from a land used authority.

B. Application: a hearing officer may only consider a variance request after a complete variance application and fees have been submitted to the community and economic development division.

C. For the granting of variances, the assigned A hearing officer may grant a variance only if:

1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;

2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and

5. The spirit of the land use ordinance is observed and substantial justice done.

D. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under subsection C1 of this section, the ~~assigned~~ hearing officer may not find an unreasonable hardship unless the alleged hardship:

1. Is located on or associated with the property for which the variance is sought;
2. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood; and
3. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under subsection C1 of this section, the ~~assigned~~ hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.

E. In determining whether or not there are special circumstances attached to the property under subsection C1 of this section, the ~~assigned~~ hearing officer may find that special circumstances exist only if the special circumstances:

1. Relate to the hardship complained of; and
2. Deprive the property of privileges granted to other properties in the same zone.

F. The appellant shall bear the burden of proving that all of the conditions justifying a variance have been met.

G. Variances run with the land.

H. The ~~assigned~~ hearing officer may not grant:

1. ~~grant~~ a use variance;
2. ~~a temporary variance; or~~
3. a variance that is greater than the minimum variation necessary to relieve the unreasonable hardship the applicant can demonstrate.

I. In granting a variance, the ~~assigned~~ hearing officer may impose additional requirements on the appellant that will:

1. Mitigate any harmful affects of the variance; or
2. Serve the purpose of the standard or requirement that is waived or modified. (Ord. 14-10)

17.16.060: FINAL DECISION:

AJ. Final Decision on Variances.

1. A decision of a hearing officer, ~~serving as the appeal authority, on a variance request~~ takes effect on the date when the hearing officer issues a written decision.

B. 2. An appeal of the decision on a variance request by the hearing officer may be made to the Utah district court ~~in~~ compliance with section 10-9a-708-801 of the Utah code. (Ord. 14-10)

[Chapter 17.36 – Residential Facility for Persons with a Disability]

17.36.050: REASONABLE ACCOMMODATION:

- A. None of the requirements of this chapter shall be interpreted to limit any reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability.
- B. Any person or entity wanting a reasonable accommodation shall make application therefor to the community development director or designee and shall articulate in writing the nature of the requested accommodation and the basis for the request.
- C. The community development director, or designee, shall render a written decision on each application for a reasonable accommodation within thirty (30) days. The decision shall be based on evidence of record demonstrating:
 - 1. The requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability;
 - 2. That, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice; and
 - 3. That equal results will be achieved as between the person with a disability requesting the accommodation and a nondisabled person.

C.D. If a reasonable accommodation request is denied, the decision may be appealed ~~to the appeal authority within thirty (30) days of the decision denying the request in the manner provided for appeals of administrative decisions setas provided forth~~ in this title.
(Ord. 14-10: Ord. 07-30 § 2)

[Chapter 17.52 – Nonconforming Buildings and Uses]

17.52.150: REGISTRATION OF NONCONFORMING USES AND STRUCTURES REQUIRED:

- A. Rights: The rights given to those using or owning property involving a nonconforming use or structure under this chapter are specifically conditioned on the registration of the nonconformity with the community development division. Nonconforming uses and structures so registered shall be deemed lawful uses and structures under the provisions of this code to the extent documented on the registration form.
- B. Registration: Registration shall be required for all nonconforming uses and structures. There shall be no deadline for the registration required by this section. The community development director, or designee, shall establish a process for the registration of nonconformities and shall establish a system for keeping records of the same. The director shall provide registration forms for this purpose.
- C. Verification Required; Appeal: The director shall verify the qualification of a nonconforming use or structure for registration under this section. The director shall refuse to permit the expansion, continuance, repair maintenance or other continuance of nonconforming status for a nonconforming use or structure not registered in accordance with this section. An aggrieved adversely affected party may appeal the director's registration or denial ~~to the appeal~~

~~authority as provided in this title. The appeal shall be made in writing within thirty (30) days of the director's written decision.~~

[Chapter 17.54 – Site Plan Review]

17.54.080: APPEALS OF DECISIONS:

~~The applicant and/or property owner of any property for which site plan review has been applied may appeal the decision of the community and economic development department to the appeal authority. An appeal must be presented in writing within thirty (30) days after the date of the site plan review letter.~~ (Ord. 14-10: Ord. 09-20 § 2)

17.54.0890: INSPECTION:

Following approval of site plan review, the community and economic development department shall approve an application for a building permit upon submittal of plans meeting the conditions contained in the site plan review letter. Representatives of the community and economic development department shall inspect the site to ensure that all required improvements meet the conditions of the site plan review and this title before a certificate of occupancy is issued by the building division and/or prior to the issuance of a business license and before an application for permanent or temporary power from the property may be approved by the city power department. (Ord. 09-20 § 2)

17.54.1090: CONTINUING EFFECT:

A site plan review, once approved, affects real property regardless of change in ownership and all subsequent owners are subject to those conditions so long as the site is being operated. If the site or use becomes nonconforming due to a later amendment of this title, the provisions of chapter 17.52 of this title relating to nonconforming buildings and uses shall apply. (Ord. 09-20 § 2)

[Chapter 17.56 – Conditional Uses]

17.56.070: APPEALS OF DECISIONS:

~~Any person for which any application for approval of a conditional use permit has been filed or any person who may be affected by the proposed use shall have the right to appeal the decision of the planning and zoning commission to the appeal authority. An appeal must be presented in writing within thirty (30) days after the date of decision of the planning and zoning commission.~~ (Ord. 14-10: Ord. 07-30 § 2)

17.56.0870: INSPECTION:

Following the issuance of a conditional use permit, the planning office shall approve an application for a building permit upon compliance of construction plans meeting such conditions and requirements as established by the planning commission. Representatives of the code enforcement/community development division shall inspect the project to ensure that all required improvements meet the conditions of the conditional use permit and this title before a certificate of occupancy is issued by the building inspection division and before an application for permanent or temporary power for the property may be approved by the city power department. (Ord. 07-30 § 2)

17.56.0890: REVOCATION:

A. Written Complaint: Upon receiving a written complaint alleging a violation or failure to comply with any condition prescribed in a conditional use permit, the code enforcement/community development division shall investigate the complaint. If the complaint has merit, and attempts to remedy the complaint fail, the community development division may place the complaint on the agenda of the regular meeting of the planning commission, provided, that the permittee shall have at least fourteen (14) days' notice of the meeting.

B. Hearing Procedure: Permittee shall be given written notice of the exact nature of the complaint and the date and time of the hearing before the planning commission. The hearing shall be held in accordance with customary administrative hearings procedures.

C. Action; Complaint Dismissal: The planning commission, after hearing the evidence presented regarding the complaint, may continue the hearing from time to time, modify or rescind any condition or requirement of the conditional use permit as it deems necessary, revoke the conditional use permit, or take no action and dismiss the complaint.

D. Relief From Order: Any permittee aggrieved by an order entered by the planning commission pursuant to this section may maintain an action for relief therefrom in any court of competent jurisdiction. Action for relief must be filed with the court within thirty (30) days after the order from which relief is sought is made.

E. Notices: All notices required herein shall be provided by personal service or by certified mail.

F. Effective Date And Scope: This section shall apply to all conditional use permits issued after the effective date hereof, regardless of change in ownership or occupancy. (Ord. 07-30 § 2)

17.56.~~100090~~: TIME LIMIT:

A. A temporary conditional use permit may be issued by the planning commission for a period of six (6) months. This permit may be renewed by the planning staff for a total of three (3) successive six (6) month time periods, allowing a total of two (2) years for the temporary conditional use permit. Where hardship or unusual circumstances exist, the planning commission may extend the temporary permit for one additional year. These extensions shall be granted in two (2) separate six (6) month increments. A temporary conditional use permit shall not be issued for a use which is not incidental to or directly related to an intended permanent use on the property.

Mobile offices, homes or trailers which are used for business purposes shall only be allowed for a six (6) month time period as authorized by the planning commission. The planning commission may extend the time period for the temporary structure up to one additional year providing that plans for a permanent structure have received commission approval.

Temporary structures shall be removed from the property upon occupancy of the permanent structure. Premanufactured structures which meet all building code regulations and construction trailers shall be exempt from this regulation.

B. A temporary conditional use occupancy permit shall not be issued nor shall the building structure or other facility be occupied until all water, sewer, and electrical permits have been issued and all appropriate inspections performed.

C. Unless there is substantial action under a conditional use permit within a maximum period of two (2) years of its issuance, the conditional use permit shall expire. The planning commission may grant a yearly extension, when deemed in the public interest. (Ord. 07-30 § 2)

17.56.1400: CONDITIONAL ZONES:

Upon the recommendation of the planning and zoning commission and after the public hearing, the city may establish conditional zones within existing zoning districts where it is shown that it is in the best interests and general welfare of the community. The planning commission may establish and impose such conditions and requirements that are in keeping with the best interest and general welfare of the community. (Ord. 07-30 § 2)

17.56.1210: REAPPLICATION AFTER DENIAL:

Denial of an application for a conditional use permit regarding any parcel of property shall prohibit the filing of another application for a conditional use permit for the same parcel of property or any portion thereof, within one year of the date of the final denial of the previous application unless the planning commission finds that there has been a substantial change in the circumstances or sufficient new evidence as submitted by the applicant in writing since the denial of the previous application to merit consideration of a second application within the one year time period. (Ord. 07-30 § 2)

17.56.1320: CONTINUING EFFECT:

A conditional use permit, once approved, affects real property regardless of change in ownership and all subsequent owners are subject to those conditions so long as that conditional use is being conducted on the property. The conditional use may be conducted either intermittently or continuously, provided, however, that if the conditional use becomes a legal nonconforming use due to a later amendment to this title, the provisions of chapter 17.52 of this title relating to nonconforming buildings and uses shall apply. (Ord. 07-30 § 2)

17.56.1430: REPORTING REQUIREMENTS:

Before February 1 of every year, the owner or occupant of a property which has been approved for the following land use under a conditional use permit shall provide written evidence to the community development division that the property use complies with this title:

1210.1 Supervised youth group home. (Ord. 07-30 § 2)

[Chapter 17.60 – Planned Unit Development]

17.60.060: SCOPE OF PLANNING COMMISSION ACTION:

In carrying out the intent of this chapter, the planning commission shall consider the following principles:

A. It is the intent of this chapter that site and building plans for a planned unit development shall be prepared by a designer or team of designers having professional competence in urban planning as proposed in the application. The commission may require the applicant to engage such a qualified designer or design team.

B. It is not the intent of this section that control of the design of a planned unit development by the planning commission be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this section that the control exercised be the minimum necessary to achieve the purpose of this chapter.

C. The planning commission may approve or disapprove an application for a planned unit development. In approving an application the commission may attach such conditions as it may deem necessary to secure compliance. ~~The action of the planning commission may be appealed to the appeal authority, in writing, within thirty (30) calendar days after the decision is announced on the record, by the planning commission.~~ (Ord. 07-43 § 2)

[Chapter 17.170 – Murray City Center District MCCD]

17.170.050: PROCEDURES:

A. Applications: The Community and Economic Development Department shall receive applications for design review approval as required under section [17.170.040](#) of this chapter. Applications for new construction or major alteration must be reviewed by the MCCD Review Committee, which must forward a recommendation to the Commission. Members of the Planning Commission or MCCD Review Committee may enter, solely in performance of their official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the Commission or Committee may enter any private building without express consent of the owner or occupant thereof.

B. Public Meeting: Prior to action on an application for design review approval, the Commission shall hold a public meeting. The Commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application and shall give the applicant and such owners an opportunity to be heard. A written notice of the proposal shall be sent at least ten (10) days prior to the hearing to the applicant and to owners of property (lots, parcels, or tracts of land) within three hundred feet (300') of the property that is the subject of an application for design review approval.

C. Final Action: The Commission's final action on an application for design review approval for major alterations and new construction shall be by the passage of a motion to take one (1) of the following actions:

1. Grant the design review approval as proposed.
2. Grant the design review approval subject to specific conditions and/or modifications of the proposal presented in the application.
3. Deny the design review approval as proposed or modified.

D. Appeal:

1. Minor Alterations: Minor alterations denied by the administrative staff may be appealed to the Planning Commission by filing written notice of the appeal with the Community and Economic Development Department within thirty (30) calendar days from issuance of the written decision by the administrative staff.

2. Major Alterations And New Construction: Planning Commission decisions on applications for design review approval may be appealed to the Hearing Officer by an ~~aggrieved adversely affected party as provided in this title. Written notice of the appeal must be filed with the Community and Economic Development Department within thirty (30) calendar days from the date of the Commission's decision. The appeal shall be a review of the record to determine whether the decision was so unreasonable as to be arbitrary and capricious.~~ (Ord. 21-21: Ord. 19-40)

Section 3. Effective date. This Ordinance shall take effect upon first publication.

PASSED, APPROVED AND ADOPTED by the Murray City Municipal Council on this _____ day of _____, 2022.

MURRAY CITY MUNICIPAL COUNCIL

Kat Martinez, Chair

ATTEST:

Brooke Smith, City Recorder

Transmitted to the Office of the Mayor of Murray City on this _____ day of
_____, 2022.

MAYOR'S ACTION: Approved

DATED this _____ day of _____, 2022.

Brett A. Hales, Mayor

ATTEST:

Brooke Smith, City Recorder

CERTIFICATE OF PUBLICATION

I hereby certify that this Ordinance or a summary hereof was published according to law on the day of , 2022.

Brooke Smith, City Recorder

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 17.16, _____
OF THE MURRAY CITY MUNICIPAL CODE RELATING TO LAND USE
APPEALS AND VARIANCES

BE IT ORDAINED BY THE MURRAY CITY MUNICIPAL COUNCIL:

Section 1. Purpose. The purpose of this Ordinance is to amend _____ of the Murray City Municipal Code relating to land use appeals and variances.

Section 2. Amendment of _____ of the Murray City Municipal Code. _____ of the Murray City Municipal Code relating to land use appeals and variances shall be amended to read as follows:

CHAPTER 17.08

17.08.020: TERMS DEFINED:

...
ADVERSELY AFFECTED PARTY: a person other than a land use applicant who: (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or (b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

...
APPEAL AUTHORITY: A land use appeal and variance hearing officer ("hearing officer").

...
LAND USE AUTHORITY: The planning commission, the community and economic development director, or a staff member of the community and economic development division when making any order, requirement, decision or determination in the enforcement of title 16 or 17 of this code, or any other related ordinance.

LAND USE DECISION: an administrative decision of a land use authority or appeal authority regarding: (a) a land use permit; (b) a land use decision; or (c) the enforcement of a land use regulation, land use permit, or development agreement.

...

SUBSTANTIAL EVIDENCE: the degree of relevant evidence which a reasonable person, considering the record as a whole, might accept as adequate to support a conclusion, even though other reasonable persons might disagree.

[Chapter 17.12 - Planning and Zoning Commission]

CHAPTER 17.16 **LAND USE APPEALS AND VARIANCES**

17.16.010: APPOINTMENT OF HEARING OFFICERS:

- A. The mayor shall appoint a list of at least three (3) hearing officers, with advice and consent of the city council, to serve as an appeal authority for appeals of land use decisions and requests for variances under this title
- B. A hearing officer shall be a resident of the city.
- C. Hearing officers shall, as a minimum, have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings regarding land use, land development and regulatory codes dealing with issues related to land use .
- D. A hearing officer shall be appointed for a term of three (3) years and may not serve more than three (3) consecutive terms. Vacancies occurring during a term shall be filled for the balance of the term. An individual is considered to have served a full term if, due to filling a vacancy, the individual has served for at least twelve (12) months.
- E. A hearing officer may be removed from the list by the mayor for any reason. (Ord. 14-10)

17.16.020: AUTHORITY OF HEARING OFFICER:

- A. A hearing officer shall hear and decide:
 - 1. Requests for variances from the terms of the city's land use ordinances;
 - 2. Appeals from decisions by a land use authority applying the city's land use ordinances;
 - 3. Appeals from a fee charged in accordance with section 10-9a-510 of the Utah code;
 - 4. Appeals of the denial by a land use authority of a request for a reasonable accommodation; and
 - 5. Any other request or appeal of a decision delegated to a land use authority by title 16 or 17 of this code.
- B. A hearing officer shall:
 - 1. Act in a quasi-judicial manner;

2. Serve as the final arbiter of issues involving the interpretation or application of city land use ordinances subject to appeal to the Utah district courts as provided in section 10-9a-801 of the Utah code. (Ord. 14-10)

17.16.030: APPEAL PROCESS:

A. Parties Entitled to Appeal: The City, a land use applicant, or an adversely affected party may appeal a final written decision of the land use authority.

B. Time to File Appeal:

1. Except as provided in subsection 2, an appeal of a land use decision must be filed with the city's community and economic development division within ten (10) calendar days from the date of a written decision issued by a land use authority. If a written appeal or request is not timely filed as provided in this section, the decision of the land use authority shall be final.
2. An appeal may be filed within thirty (30) calendar days from the date of a written decision issued by a land use authority related to (a) the denial of a request for a reasonable accommodation under chapter 17.36; or (b) for the land use applicant only, the decision of a historic preservation authority regarding a land use application.

C. Application: A hearing officer may only consider an appeal if the appellant submitted a complete application within the time period provided in subsection B of this section. An appeal application is complete if it includes:

1. A completed appeal application form provided by the city;
2. Payment of applicable fee; and
3. A written statement, no more than five (5) pages with one inch (1") margins, 12-point sans serif font, single spaced, that concisely: (a) explains the appellant's standing to appeal; (b) identifies the alleged error in the administration or interpretation of the city's land use ordinances that is grounds for the appeal; and (c) provides reasons the appellant claims the applicable decision was made in error.

D. Stay of Proceedings: The filing of a written appeal or request does not stay the decision of the land use authority. The appellant may petition the assigned hearing officer to stay the land use authority decision. Upon petition, the assigned hearing officer may order the decision of the land use authority stayed pending review by the assigned hearing officer.

E. Hearing: Upon receipt of a completed appeal application, the matter shall be placed on the next available hearing officer agenda for which the item may be reasonably scheduled. The hearing officer shall proceed to take all steps necessary to review and hear the appeal at a public meeting. The hearing officer shall respect the due process rights of each of the participants.

17.16.040: SCOPE AND STANDARD OF REVIEW:

A. The review by the hearing officer of the appeal shall be limited to the record of the land use application process resulting in the decision made by the land use authority which is the

subject of the appeal. The record may include written communications, the land use application, staff reports, meeting minutes and the written land use decision.

B. The hearing officer may not hear, accept or consider any evidence outside the record of the land use authority unless that evidence was offered to the land use authority and the hearing officer determines that it was improperly excluded.

C. The appellant has the burden of proving that the land use authority erred.

D. 1. Except as provided in subsection 2, the hearing officer shall determine whether the record on appeal includes substantial evidence for each essential finding of fact.

2. For appeals under the MCCD design review approval process outlined in section 17.170.050, the hearing officer shall uphold the decision so long as the decision was not arbitrary or capricious.

E. The hearing officer shall:

(a) determine the correctness of the land use authority's interpretation and application of the plan meaning of land use regulations, and

(b) interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.

17.16.050: FINAL DECISION:

A. A decision of a hearing officer takes effect on the date when the hearing officer issues a written decision.

B. An appeal of the decision by the hearing officer may be made to the Utah district court in compliance with section 10-9a-801 of the Utah code.

17.16.060: VARIANCES:

A. Parties Entitled to Request a Variance: Any person or entity desiring a waiver or modification of a land use requirement of this title as applied to a parcel of property that they own, lease or in which they hold some other beneficial interest may apply to a hearing officer for a variance after receiving a final written administrative decision or interpretation of the land use requirement from a land used authority.

B. Application: a hearing officer may only consider a variance request after a complete variance application and fees have been submitted to the community and economic development division.

C. A hearing officer may grant a variance only if:

1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;

2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and

5. The spirit of the land use ordinance is observed and substantial justice done.

D. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under subsection C1 of this section, the hearing officer may not find an unreasonable hardship unless the alleged hardship:

1. Is located on or associated with the property for which the variance is sought;

2. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood; and

3. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under subsection C1 of this section, the hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.

E. In determining whether or not there are special circumstances attached to the property under subsection C1 of this section, the hearing officer may find that special circumstances exist only if the special circumstances:

1. Relate to the hardship complained of; and

2. Deprive the property of privileges granted to other properties in the same zone.

F. The appellant shall bear the burden of proving that all of the conditions justifying a variance have been met.

G. Variances run with the land.

H. The hearing officer may not grant:

1. a use variance;

2. a temporary variance; or

3. a variance that is greater than the minimum variation necessary to relieve the unreasonable hardship the applicant can demonstrate.

I. In granting a variance, the hearing officer may impose additional requirements on the appellant that will:

1. Mitigate any harmful affects of the variance; or

2. Serve the purpose of the standard or requirement that is waived or modified. (Ord. 14-10)

J. Final Decision on Variances.

1. A decision of a hearing officer on a variance request takes effect on the date when the hearing officer issues a written decision.

2. An appeal of the decision on a variance request by the hearing officer may be made to the Utah district court in compliance with section 10-9a-801 of the Utah code. (Ord. 14-10)

[Chapter 17.36 – Residential Facility for Persons with a Disability]

17.36.050: REASONABLE ACCOMMODATION:

- A. None of the requirements of this chapter shall be interpreted to limit any reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability.
- B. Any person or entity wanting a reasonable accommodation shall make application therefor to the community development director or designee and shall articulate in writing the nature of the requested accommodation and the basis for the request.
- C. The community development director, or designee, shall render a written decision on each application for a reasonable accommodation within thirty (30) days. The decision shall be based on evidence of record demonstrating:
 - 1. The requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability;
 - 2. That, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice; and
 - 3. That equal results will be achieved as between the person with a disability requesting the accommodation and a nondisabled person.
- D. If a reasonable accommodation request is denied, the decision may be appealed as provided in this title. (Ord. 14-10: Ord. 07-30 § 2)

[Chapter 17.52 – Nonconforming Buildings and Uses]

17.52.150: REGISTRATION OF NONCONFORMING USES AND STRUCTURES REQUIRED:

- A. Rights: The rights given to those using or owning property involving a nonconforming use or structure under this chapter are specifically conditioned on the registration of the nonconformity with the community development division. Nonconforming uses and structures so registered shall be deemed lawful uses and structures under the provisions of this code to the extent documented on the registration form.
- B. Registration: Registration shall be required for all nonconforming uses and structures. There shall be no deadline for the registration required by this section. The community development director, or designee, shall establish a process for the registration of nonconformities and shall establish a system for keeping records of the same. The director shall provide registration forms for this purpose.
- C. Verification Required; Appeal: The director shall verify the qualification of a nonconforming use or structure for registration under this section. The director shall refuse to permit the expansion, continuance, repair maintenance or other continuance of nonconforming status for a nonconforming use or structure not registered in accordance with this section. An adversely affected party may appeal the director's registration or denial as provided in this title.

[Chapter 17.54 – Site Plan Review]

(Ord. 14-10: Ord. 09-20 § 2)

17.54.080: INSPECTION:

Following approval of site plan review, the community and economic development department shall approve an application for a building permit upon submittal of plans meeting the conditions contained in the site plan review letter. Representatives of the community and economic development department shall inspect the site to ensure that all required improvements meet the conditions of the site plan review and this title before a certificate of occupancy is issued by the building division and/or prior to the issuance of a business license and before an application for permanent or temporary power from the property may be approved by the city power department. (Ord. 09-20 § 2)

17.54.090: CONTINUING EFFECT:

A site plan review, once approved, affects real property regardless of change in ownership and all subsequent owners are subject to those conditions so long as the site is being operated. If the site or use becomes nonconforming due to a later amendment of this title, the provisions of chapter 17.52 of this title relating to nonconforming buildings and uses shall apply. (Ord. 09-20 § 2)

[Chapter 17.56 – Conditional Uses]

17.56.070: INSPECTION:

Following the issuance of a conditional use permit, the planning office shall approve an application for a building permit upon compliance of construction plans meeting such conditions and requirements as established by the planning commission. Representatives of the code enforcement/community development division shall inspect the project to ensure that all required improvements meet the conditions of the conditional use permit and this title before a certificate of occupancy is issued by the building inspection division and before an application for permanent or temporary power for the property may be approved by the city power department. (Ord. 07-30 § 2)

17.56.080: REVOCATION:

A. Written Complaint: Upon receiving a written complaint alleging a violation or failure to comply with any condition prescribed in a conditional use permit, the code enforcement/community development division shall investigate the complaint. If the complaint has merit, and attempts to remedy the complaint fail, the community development division may place the complaint on the agenda of the regular meeting of the planning commission, provided, that the permittee shall have at least fourteen (14) days' notice of the meeting.

B. Hearing Procedure: Permittee shall be given written notice of the exact nature of the complaint and the date and time of the hearing before the planning commission. The hearing shall be held in accordance with customary administrative hearings procedures.

C. Action; Complaint Dismissal: The planning commission, after hearing the evidence presented regarding the complaint, may continue the hearing from time to time, modify or rescind any condition or requirement of the conditional use permit as it deems necessary, revoke the conditional use permit, or take no action and dismiss the complaint.

D. Relief From Order: Any permittee aggrieved by an order entered by the planning commission pursuant to this section may maintain an action for relief therefrom in any court of competent jurisdiction. Action for relief must be filed with the court within thirty (30) days after the order from which relief is sought is made.

E. Notices: All notices required herein shall be provided by personal service or by certified mail.

F. Effective Date And Scope: This section shall apply to all conditional use permits issued after the effective date hereof, regardless of change in ownership or occupancy. (Ord. 07-30 § 2)

17.56.090: TIME LIMIT:

A. A temporary conditional use permit may be issued by the planning commission for a period of six (6) months. This permit may be renewed by the planning staff for a total of three (3) successive six (6) month time periods, allowing a total of two (2) years for the temporary conditional use permit. Where hardship or unusual circumstances exist, the planning commission may extend the temporary permit for one additional year. These extensions shall be granted in two (2) separate six (6) month increments. A temporary conditional use permit shall not be issued for a use which is not incidental to or directly related to an intended permanent use on the property.

Mobile offices, homes or trailers which are used for business purposes shall only be allowed for a six (6) month time period as authorized by the planning commission. The planning commission may extend the time period for the temporary structure up to one additional year providing that plans for a permanent structure have received commission approval.

Temporary structures shall be removed from the property upon occupancy of the permanent structure. Premanufactured structures which meet all building code regulations and construction trailers shall be exempt from this regulation.

B. A temporary conditional use occupancy permit shall not be issued nor shall the building structure or other facility be occupied until all water, sewer, and electrical permits have been issued and all appropriate inspections performed.

C. Unless there is substantial action under a conditional use permit within a maximum period of two (2) years of its issuance, the conditional use permit shall expire. The planning commission may grant a yearly extension, when deemed in the public interest. (Ord. 07-30 § 2)

17.56.100: CONDITIONAL ZONES:

Upon the recommendation of the planning and zoning commission and after the public hearing, the city may establish conditional zones within existing zoning districts where it is shown that it is in the best interests and general welfare of the community. The planning commission may establish and impose such conditions and requirements that are in keeping with the best interest and general welfare of the community. (Ord. 07-30 § 2)

17.56.110: REAPPLICATION AFTER DENIAL:

Denial of an application for a conditional use permit regarding any parcel of property shall prohibit the filing of another application for a conditional use permit for the same parcel of property or any portion thereof, within one year of the date of the final denial of the previous application unless the planning commission finds that there has been a substantial change in the circumstances or sufficient new evidence as submitted by the applicant in writing since the denial of the previous application to merit consideration of a second application within the one year time period. (Ord. 07-30 § 2)

17.56.120: CONTINUING EFFECT:

A conditional use permit, once approved, affects real property regardless of change in ownership and all subsequent owners are subject to those conditions so long as that conditional use is being conducted on the property. The conditional use may be conducted either intermittently or continuously, provided, however, that if the conditional use becomes a legal nonconforming use due to a later amendment to this title, the provisions of chapter 17.52 of this title relating to nonconforming buildings and uses shall apply. (Ord. 07-30 § 2)

17.56.130: REPORTING REQUIREMENTS:

Before February 1 of every year, the owner or occupant of a property which has been approved for the following land use under a conditional use permit shall provide written evidence to the community development division that the property use complies with this title:

1210.1 Supervised youth group home. (Ord. 07-30 § 2)

*[Chapter 17.60 – Planned Unit Development]***17.60.060: SCOPE OF PLANNING COMMISSION ACTION:**

In carrying out the intent of this chapter, the planning commission shall consider the following principles:

- A. It is the intent of this chapter that site and building plans for a planned unit development shall be prepared by a designer or team of designers having professional competence in urban planning as proposed in the application. The commission may require the applicant to engage such a qualified designer or design team.
- B. It is not the intent of this section that control of the design of a planned unit development by the planning commission be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this section that the control exercised be the minimum necessary to achieve the purpose of this chapter.
- C. The planning commission may approve or disapprove an application for a planned unit development. In approving an application the commission may attach such conditions as it may deem necessary to secure compliance. . (Ord. 07-43 § 2)

*[Chapter 17.170 – Murray City Center District MCCD]***17.170.050: PROCEDURES:**

A. Applications: The Community and Economic Development Department shall receive applications for design review approval as required under section [17.170.040](#) of this chapter. Applications for new construction or major alteration must be reviewed by the MCCD Review Committee, which must forward a recommendation to the Commission. Members of the Planning Commission or MCCD Review Committee may enter, solely in performance of their official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the Commission or Committee may enter any private building without express consent of the owner or occupant thereof.

B. Public Meeting: Prior to action on an application for design review approval, the Commission shall hold a public meeting. The Commission shall take such action as may

reasonably be required to inform the owners of any property likely to be materially affected by the application and shall give the applicant and such owners an opportunity to be heard. A written notice of the proposal shall be sent at least ten (10) days prior to the hearing to the applicant and to owners of property (lots, parcels, or tracts of land) within three hundred feet (300') of the property that is the subject of an application for design review approval.

C. Final Action: The Commission's final action on an application for design review approval for major alterations and new construction shall be by the passage of a motion to take one (1) of the following actions:

1. Grant the design review approval as proposed.
2. Grant the design review approval subject to specific conditions and/or modifications of the proposal presented in the application.
3. Deny the design review approval as proposed or modified.

D. Appeal:

1. Minor Alterations: Minor alterations denied by the administrative staff may be appealed to the Planning Commission by filing written notice of the appeal with the Community and Economic Development Department within thirty (30) calendar days from issuance of the written decision by the administrative staff.
2. Major Alterations And New Construction: Planning Commission decisions on applications for design review approval may be appealed to the Hearing Officer by an adversely affected party as provided in this title (Ord. 21-21: Ord. 19-40)

Section 3. *Effective date.* This Ordinance shall take effect upon first publication.

PASSED, APPROVED AND ADOPTED by the Murray City Municipal Council on this _____ day of _____, 2022.

MURRAY CITY MUNICIPAL COUNCIL

Kat Martinez, Chair

ATTEST:

Brooke Smith, City Recorder

Transmitted to the Office of the Mayor of Murray City on this _____ day of
_____, 2022.

MAYOR'S ACTION: Approved

DATED this _____ day of _____, 2022.

Brett A. Hales, Mayor

ATTEST:

Brooke Smith, City Recorder

CERTIFICATE OF PUBLICATION

I hereby certify that this Ordinance or a summary hereof was published according to law on the _____ day of _____, 2022.

Brooke Smith, City Recorder

Murray City Committee of the Whole

October 4, 2022



Applicant: Murray City Community and Economic Development and Attorney's Office

Request: Amend the Land Use Ordinance to clarify, consolidate, and streamline multiple chapters of the ordinance pertaining to appeals and variances.

Affected Chapters: 17.08, 17.12, 17.16, 17.36, 17.52, 17.54, 17.56, 17.60, and 17.170

Definition Changes

Previous:

Unclear descriptions of “directly aggrieved person” throughout the code, no single location.

New (from state statute):

ADVERSELY AFFECTED PARTY: a person other than a land use applicant who: (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or (b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

Clearer Text

Previous:

The language regarding appeals and variances were included in section 17.16.050: Standard of Review. This was confusing to people who needed to apply for an appeal or variance and what was required of them.

New:

Appeals have their own section (17.16.030) that streamlines the timeline, who may appeal a decision, application requirements, and hearings.

Variances have also been given their own section (17.16.060). This lays out the state mandated review for granting variances.

Removed Conflicting Language

Previous:

Many sections of title 17 included individual timelines for reviewing an appeal of the Land Use Authority decision, some were 30 days, 30 calendar days, and some were 10 days. The code also had differing “shot clocks” or when the appeal timeframe was in effect.

New:

All appeals have been given a ten (10) calendar day shot clock from the date of the written decision by the Land Use Authority.

There is a thirty (30) calendar day exception for decisions regarding a reasonable accommodation or a historic preservation authority regarding a land use decision.

Findings

1. The proposed text amendments have been carefully considered and provide greater clarity to both city staff and the public.
2. The proposed text amendment addresses conflicts that exist in the Land Use Ordinance and makes the ordinance easier to read for more people.
3. The proposed text amendment is consistent with the Goal and Mission of Murray City to “Guide growth to promote prosperity and sustain a high quality of life for those who live, work, shop, and recreate in Murray” by making updates to the Land Use Ordinance to treat every person fairly.
4. The Planning Commission voted 5-0 to recommend approval to the City Council

Staff Recommendation

Staff and the Planning Commission recommend that the City Council of **ADOPT** the proposed text amendments to Sections 17.08, 17.12, 17.16, 17.36, 17.52, 17.54, 17.56, 17.60, and 17.170 as presented and reviewed in the Staff Report.



MURRAY
CITY COUNCIL

Business Items



MURRAY
CITY COUNCIL

Business Item #1



MURRAY

Council Action Request

PUBLIC WORKS

DEPARTMENT

Salt Lake County Stormwater

Coalition Media

Agreement

Council Meeting

Meeting Date: October 18, 2022

Department	Purpose of Proposal
Director	Interlocal Cooperation Agreement between Murray City and Salt Lake County
Russ Kakala	
Phone #	Action Requested
801-270-2404	Informational only or Actionable. Give short description.
Presenters	Attachments
Lynn Potter	Explanation letter, Interlocal Cooperation Agreement and
Russ Kakala	Resolution.
Budget Impact	Budget Impact
	Murray City Storm Water contribution is 7,700.88 / year and is based on population.
Required Time for Presentation	Description of this Item
	This is an agreement for stormwater public education and outreach, ("WE All Live Downstream")
	Since 1994, the Salt Lake County Stormwater Coalition has worked
Is This Time Sensitive	together to successfully implement a public education and outreach
No	program for increasing the public's awareness and knowledge of the importance of keeping stormwater clean before entering our creeks and lakes.
Mayor's Approval	Murray City has been a long-standing member of the Salt Lake County Stormwater Coalition. Your previous contract to participate
Date	in the Coalition and its media campaign expired June 30, 2022.
October 18, 2022	



Jenny Wilson
Mayor

Catherine Kanter
Deputy Mayor of Regional Operations

Scott R. Baird, P.E.
Director, Public Works and Municipal Services

Kade D. Moncur, P.E., CFM
Director, Public Works Engineering Division

**PUBLIC WORKS
ENGINEERING DIVISION**

Government Center
2001 South State Street
Suite N3-120
Salt Lake City, Utah 84190
T 385-468-6600
F 385-468-6603

September 13, 2022

Lynn Potter
Murray City
4646 S 500 W
Murray, UT 84123

RE: Salt Lake County Stormwater Coalition Media Agreement

Dear Lynn,

Since 1994, the Salt Lake County Stormwater Coalition has worked together to successfully implement a public education and outreach program for increasing the public's awareness and knowledge of the importance of keeping stormwater clean before entering our creeks and lakes.

Murray City has been a long-standing member of the Salt Lake County Stormwater Coalition. Your previous contract to participate in the Coalition and its media campaign expired June 30, 2022. Attached you will find a new contract for participation in the Coalition from 2022 through 2028.

The cost of participation in the Coalition will be \$0.15 per resident per year. This includes contracting a Public Relations (PR) Consultant (a total cost of \$55,000 per year) to assist with dissemination of the "We All Live Downstream" message. The County will continue to administer this contract and program on behalf of the Coalition.

Based on the latest 2020 Census population and housing unit estimates by the United States Census Bureau, Murray City has a population of 50,637. The Coalition has a 2022 proposed budget of just over \$193,000. Your city's contribution of **\$7,700.88** (minimum contribution is set at \$5,000 for Cities with smaller populations) will assist with the expenses of the PR consultant, mainstream media advertising and development of educational materials as required by the UPDES permit.

The funds provided by the partnering cities in the coalition will allow the Coalition to continue to operate at the same level in compliance with its UPDES Stormwater Permit. We look forward to continuing this program by working together and combining resources to successfully implement the program.

Moving forward, it is in the best interest of the Coalition to continue to market the "We All Live Downstream" slogan and Droplet branding to increase the public's knowledge of stormwater pollution and to change behaviors toward activities that keep stormwater clean. In addition, having a unified message and working together is significantly less expensive than each City having their own

public outreach program specifically as it relates to reaching a wider and more diverse audience.

The County looks forward to coordinating and supporting the public outreach and education efforts in the Coalition. Please sign and return the attached agreement to my attention and contact me at 385-468-6642 with any questions.

Respectfully,

Robert B. Thompson

Robert B. Thompson P.G.
Watershed Section Manager

RESOLUTION NO.

A RESOLUTION APPROVING AN INTERLOCAL COOPERATION
AGREEMENT BETWEEN THE CITY AND SALT LAKE COUNTY (“COUNTY”)
FOR THE PURPOSE OF COST SHARING FOR THE 2022-2028 UPDES
MEDIA CAMPAIGN

WHEREAS, Title 11, Chapter 13, of the Utah Code, provides that two or more public agencies may enter into an agreement with one another for joint or cooperative actions; and

WHEREAS, the City and County are “public agencies” as contemplated in section 11-13-101 of the Utah Code, *et seq.* – Interlocal Cooperation Agreement Act; and

WHEREAS, in connection with the Utah Pollutant Discharge Elimination System, hereinafter “UPDES”, permitting process, the parties desire to cooperate with each other in funding a 2022 through 2028 multi-media public information and education campaign; and

WHEREAS, the purpose of the campaign is to increase public awareness about storm water pollution and educate the public about the prevention of storm water pollution in the City and County; and

WHEREAS, the parties desire to enter into an agreement whereby their respective responsibilities concerning the campaign are specifically set forth

NOW, THEREFORE, BE IT RESOLVED by the Murray City Municipal Council as follows:

1. It hereby approves the Interlocal Cooperation Agreement, in substantially the form attached hereto; and
2. The Interlocal Cooperation Agreement is in the best interest of the City; and
3. Mayor Brett A. Hales is hereby authorized to execute the Agreement on behalf of the City and act in accordance with its terms.

PASSED AND APPROVED this ____ day of _____, 2022.

MURRAY CITY MUNICIPAL COUNCIL

Kat Martinez, Chair

ATTEST:

Brooke Smith, City Recorder

County Contract No. _____

County Contract No. _____

D.A. No. _____

INTERLOCAL COOPERATION AGREEMENT BETWEEN
MURRAY CITY AND SALT LAKE COUNTY FOR
2022-2028 UPDES MEDIA CAMPAIGN COST SHARING

THIS AGREEMENT is made this _____ day of _____, 2022, by and
between MURRAY CITY, a municipal corporation of the State of Utah, hereinafter "City," and
SALT LAKE COUNTY, a body corporate and politic of the State of Utah, hereinafter "County."
City and County may be referenced to jointly as the "parties."

WITNESSETH:

WHEREAS, the parties are public agencies and are therefore authorized by the Utah
Interlocal Cooperation Act, section 11-13-101, et seq., U.C.A., to enter into agreements with
each other which will enable them to make the most efficient use of their powers; and,

WHEREAS, In connection with the Utah Pollutant Discharge Elimination System,
hereinafter "UPDES," permitting process, the parties desire to cooperate with each other in
funding a 2022 through 2028 multimedia public information and education campaign
(hereinafter "Campaign") for the purpose of increasing public awareness about storm water
pollution and educating the public about the prevention of storm water pollution in the City and
the County; and,

WHEREAS, the parties desire to enter into an agreement whereby their respective
responsibilities concerning the campaign are specifically set forth.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties

agree as follows:

1. Media Campaign Services. The County will continue to retain the services of a consultant and has developed a plan for the public education and awareness campaign, which will consist of many phases of development for the benefit of all coalition participants.

2. Term. This Agreement shall be in effect from July 1, 2022 through June 30, 2028. The Parties shall meet and confer as needed during the term of this Agreement if the scope of work, budget, payment schedule, or other matters require modification.

3. Budget. The proposed budget for the campaign is \$193,000.00 per year, and includes the components and funding shown on Appendix A which is incorporated as part of this agreement.

4. County Responsibilities. The County shall be responsible for all matters pertaining to administering the campaign and the consultant's contract.

5. City Responsibilities. The City shall pay to the County the sum of \$7,700.88 per year for years 2022-2028. The first payment shall be made within thirty (30) days after receipt of an invoice. The first invoice will be sent by June 30, 2023. Thereafter, payments shall be made no later than September 15 for each year the Agreement remains in effect. This amount may be increased by County each year by the lesser of three percent or the percentage increase, if any, in the latest published "Consumer Price Index, All Urban Consumers." For subsequent annual payments, the County shall submit to City an invoice with the total cost of such services no later than August 15 of each year, which invoice the City shall pay within thirty days.

6. Interlocal Cooperation Act. In satisfaction of the requirements of the Interlocal Act, and in connection with this Agreement, the Parties agree as follows:

(a) This Agreement shall be approved by each Party pursuant to Section 11-13-2025

of the Interlocal Act;

(b) This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Party, pursuant to Section 11-13-202.5 of the Interlocal Act;

(c) A duly executed original counterpart of this Agreement shall be filed with keeper of records of each Party, pursuant to Section 11-13-209 of the Interlocal Act;

(d) Except as otherwise specifically provided herein, each Party shall be responsible for its own costs of any action taken pursuant to this Agreement, and for any financing of such costs; and

(e) No separate legal entity is created by the terms of this Agreement. To the extent that this Agreement requires administration other than as set forth herein, it shall be administered by a joint board of the public works directors of the City and the County, or their designees. No real or personal property shall be acquired jointly by the Parties as a result of this Agreement. To the extent that a Party acquires, holds or disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this Agreement, such Party shall do so in the same manner that it deals with other property of such Party.

7. Termination. Pursuant to Utah Code Ann. 11-13-206(a), the parties agree that this agreement may be terminated (with or without cause) by either party upon at least thirty (30) days prior written notice to the other party, in which event an accounting shall be made of all funds not spent or encumbered as of the date of termination.

8. Applicable Law. The provisions of this agreement shall be governed by and construed in accordance with the laws of the State of Utah.

8. Integration. This agreement constitutes the entire agreement between the parties

pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

9. Amendment. The parties may amend this agreement by a writing signed by the parties. The amendment shall not be effective if it is not in writing or if it is not signed by all the parties.

10. No Agency. Agents, employees or representatives of each party shall-not be deemed to be agents, employees or representatives of the other.

IN WITNESS WHEREOF, the Parties have subscribed their names hereon and caused this agreement to be duly executed on the date and year specified above.

[Signature Page to Follow]

2022-2028 UPDES MEDIA CAMPAIGN COST SHARING INTERLOCAL AGREEMENT
SIGNATURE PAGE FOR THE COUNTY

SALT LAKE COUNTY

By: _____
Mayor or Designee

Date: _____

Administrative Approval:

By: _____
Scott Baird,
Department Director

Date: _____

By: _____
Kade Moncur,
Division Director

Date: _____

Reviewed as to Form:

By: _____
Ryan W. Lambert,
Deputy District Attorney

2022-2028 UPDES MEDIA CAMPAIGN COST SHARING INTERLOCAL
AGREEMENTSIGNATURE PAGE FOR THE CITY

MURRAY CITY

By _____
Mayor or designee

Date _____

ATTEST:

By _____
City Recorder

Date _____

Reviewed as to Form and Legality:

By _____
City Attorney

Date _____

2022-2028 UPDES MEDIA CAMPAIGN COST SHARING INTERLOCAL

Appendix A

Salt Lake County Stormwater Coalition 2023 Budget

Television Advertising
Bus Advertising
Public Opinion Poll
Stormwater Quality Fair
Water Science and Engineering Competition
Design and Distribute Educational Materials
Stormwater Coalition Website Updates and Maintenance
Social Media Management
Public Relations Consultant

Budget Total: \$194,194.93

Note: Some budget items will vary year to year based on permit cycle requirements



MURRAY
CITY COUNCIL

Business Item #2



MURRAY

Council Action Request

Murray Parks and Recreation

Interlocal Agreement with Salt Lake County /TRCC Funds

Council Meeting

Meeting Date: October 18, 2022

Department Director Kim Sorensen	Purpose of Proposal Consider adoption of Resolution accepting TRCC funds for Murray Theater
Phone # 801-264-2619	Action Requested Adoption of Resolution
Presenters Kim Sorensen	Attachments Interlocal Agreement/ Resolution
Required Time for Presentation 10 Minutes	Budget Impact \$3,636,500 contribution to Murray Theater remodel
Is This Time Sensitive No	Description of this Item Salt Lake County to contribute up to \$3,636,500 towards the Murray Theater remodel. Funds to be paid through a reimbursement format.
Mayor's Approval	
Date January 31, 2018	

RESOLUTION NO. _____

A RESOLUTION APPROVING AND AUTHORIZING EXECUTION
OF AN INTERLOCAL COOPERATION AGREEMENT BETWEEN
MURRAY CITY CORPORATION AND SALT LAKE COUNTY FOR
A CONTRIBUTION OF TRCC FUNDS TO ASSIST IN FINANCING
THE RESTORATION OF THE MURRAY THEATER.

WHEREAS, Murray City (the "City") and Salt Lake County ("County") are public agencies as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. §§ 11-13-101 et. seq. (the "Cooperation Act"), and, as such, are authorized by the Cooperation Act to enter into this Agreement to act jointly and cooperatively on the basis of mutual advantage in order to provide facilities in a manner that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, the County receives funds ("TRCC Funds") pursuant to the Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act, Utah Code Ann. §§ 59-12-601 et seq. (the "TRCC Act"). The TRCC Act provides that TRCC Funds may be used, among other things, for the development, operation, and maintenance of publicly owned or operated recreation, cultural, or convention facilities; and

WHEREAS, the City requested TRCC Funds from the County to help it fund the project described in its TRCC Application. More specifically, the City requested TRCC Funds to help finance the restoration of the Murray Theater; and

WHEREAS, the benefits of a remodeled Murray Theater will include a multi-functional cultural arts facility with permanent seating for a performance venue that reflects the Murray Theater's historic use with some alterations conductive to small theater productions and that may be used for city productions and events as well as public events. The County Council appropriated TRCC Funds for this purpose in the 2021 Salt Lake County Budget; and

WHEREAS, the City and the County now desire to enter into the Interlocal Cooperation Agreement attached hereto as **ATTACHMENT A** (the "Interlocal Agreement") wherein the City agrees to abide by the terms and conditions outlined in the Interlocal Agreement and the County agrees to reimburse City with grant TRCC Funds to help fund the Project; and

WHEREAS, the City believes that its use of the TRCC Funds under the Agreement will contribute to the prosperity, moral well-being, peace and comfort of City residents.

NOW, THEREFORE, BE IT RESOLVED by the Murray City Municipal Council that:

1. The Interlocal Agreement between Murray City and Salt Lake County is approved, in substantially the form attached hereto as **ATTACHMENT A**, and that the Mayor is authorized to execute the same.
2. The Interlocal Agreement will become effective as stated in the Interlocal Agreement.

PASSED and APPROVED and made effective this ____ day of _____ 2022.

MURRAY CITY MUNICIPAL COUNCIL

Kat Martinez, Chair

ATTEST:

Brooke Smith, City Recorder

ATTACHMENT A

(Interlocal Cooperation Agreement between Murray City and Salt Lake County)

County Contract No. _____
DA Log No. 22CIV001367

INTERLOCAL COOPERATION AGREEMENT

between

SALT LAKE COUNTY
for its Department of Community Services

and

MURRAY CITY CORPORATION

THIS INTERLOCAL COOPERATION AGREEMENT (this “Agreement”) is entered into by and between **SALT LAKE COUNTY**, a body corporate and politic of the State of Utah, for and on behalf of the Department of Community Services (“County”) and **MURRAY CITY CORPORATION**, a municipal corporation of the State of Utah (“City”). County and City may each be referred to herein as a “Party” and collectively as the “Parties.”

RECITALS:

A. The County is a county existing pursuant to Article XI, Section 1 of the Utah Constitution, and the Department of Community Services is a department of the County pursuant to Salt Lake County Ordinances, § 2.15.010.

B. The City is a municipality and a political subdivision of the State of Utah as provided for in Utah Code Ann. §§ 10-1-201 & 202, 1953 as amended.

C. The County receives funds (“TRCC Funds”) pursuant to the Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act, Utah Code Ann. §§ 59-12-601 *et seq.* (the “TRCC Act”). The TRCC Act provides that TRCC Funds may be used, among other things, for the development, operation, and maintenance of publicly owned or operated cultural facilities

D. The City has requested TRCC Funds from the County —through the County’s Cultural Facilities Support Program—to help finance the restoration of the City’s Murray Theater, as described in the City’s Cultural Facilities Support Program (“CFSP”) Application attached hereto as **EXHIBIT A** (the “Project”). The County Council appropriated TRCC Funds for this purpose in the 2021 Salt Lake County Budget.

E. The Parties are “public agencies” as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. §§ 11-13-101 *et seq.* (the “Cooperation Act”), and, as such, are authorized by the Cooperation Act to enter into this Agreement to act jointly and cooperatively in a manner that will enable them to make the most efficient use of their resources and powers. Additionally, Section 11-13-215 of the Cooperation Act authorizes a county, city, town, or other local political subdivision to share its tax and other revenues with other counties, cities, towns, local political subdivisions, or the state.

F. The Parties have determined that it is mutually advantageous to enter this Agreement and believe that the County's assistance under this Agreement will contribute to the prosperity, moral well-being, peace, and comfort of Salt Lake County residents.

A G R E E M E N T:

NOW THEREFORE, in consideration of the premises and in compliance with and pursuant to the terms hereof and the provisions of the Interlocal Cooperation Act, the Parties hereby agree as follows:

1. COUNTY'S CONTRIBUTION.

A. Contribution of TRCC Funds. The County agrees to contribute one million eight hundred and seventy-nine thousand and twenty-eight dollars (\$1,879,028.00) in 2021 one million seven hundred and fifty-seven thousand and four hundred and seventy-two dollars (\$1,757,472.00) in 2022 on the terms and subject to the conditions of this Agreement.

2. CITY'S OBLIGATIONS AND REPRESENTATIONS.

A. Acknowledgement. The City acknowledges that the TRCC Funds provided to the City under this Agreement are County public funds received pursuant to the TRCC Act and Salt Lake County Code of Ordinances §3.10.030, 3.10.040, and 3.10.051, and therefore must be used for the development, operation, and maintenance of publicly owned or operated recreation, cultural, or convention facilities.

B. Allowable Uses and Limitation on Use.

(i) The City shall use the TRCC Funds provided under this Agreement solely to cover costs incurred by the City for operations and expanded renovation of the Murray Theater as described in **EXHIBIT A**.

(ii) The City shall not expend any TRCC Funds on: (a) fund-raising expenditures related to capital or endowment campaigns, grants or re-grants; (b) direct political lobbying, (c) bad debt expense, (d) non-deductible tax penalties, (e) operating expenses that are utilized in calculating federal unrelated business income tax; or (f) in any other manner that would be inconsistent with the use stated in Paragraphs 2A and 2B of this Agreement.

C. Match Requirement. If the City's CFSP Application attached hereto as **EXHIBIT A** indicates that the City will make a matching contribution toward the purpose for which TRCC Funds will be used by the City under this Agreement, the City shall make the matching contribution so indicated in the amount specified in the City's CFSP Application. If the City fails to make and expend such a matching contribution prior to **September 30, 2024**, the County may require repayment of TRCC Funds from the City for noncompliance with this provision.

D. Request for Reimbursement. For each reimbursement request, City shall furnish to County the TRCC Reimbursement Form, attached hereto as **EXHIBIT B**, together with such invoices or other supporting documentation as County may reasonably require.

E. Deadline to Request Reimbursement of TRCC Funds. All requests for reimbursement under this Agreement shall be made on or before **September 30, 2024**.

F. Reporting Requirements. The Recipient shall submit to the County a completed copy of the TRCC Project Status Report, attached hereto as **EXHIBIT C** no later than **December 31, 2022, December 31, 2023, and December 31, 2024**.

G. Recordkeeping. The City agrees to maintain its books and records in such a way that any TRCC Funds received from the County will be shown separately on the City's books. The City shall maintain records adequate to identify the use of the TRCC Funds for the purposes specified in this Agreement. The City shall make its books and records available to the County at reasonable times.

H. Public Funds and Public Monies:

(i) The City agrees that the TRCC Funds are "public funds" and "public monies," meaning monies, funds, and accounts, regardless of the source from which they are derived, that are owned, held, or administered by the State or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or similar instrumentalities, or any county, city, school district, political subdivision, or other public body. The terms also include monies, funds or accounts that have been transferred by any of the aforementioned public entities to a private contract provider for public programs or services. Said funds shall maintain the nature of "public funds" while in the City's possession.

(ii) The City, as the recipient of "public funds" and "public monies" pursuant to this and other agreements related hereto, expressly agrees that it, its officers, and its employees are obligated to receive, keep safe, transfer, disburse and use these "public funds" and "public monies" as authorized by law and this Agreement for TRCC qualifying purposes in Salt Lake County. The City understands that it, its officers, and its employees may be criminally liable under Utah Code Ann. § 76-8-402 for misuse of public funds or monies. The City expressly agrees that the County may monitor the expenditure of TRCC Funds by the City.

(iii) The City agrees not to make TRCC Funds or proceeds from such funds available to any public officer or employee or in violation of the Public Officers' and Employees' Ethics Act, Utah Code Ann. §§ 67-16-1, *et seq.* (1953, as amended).

I. Right to Verify and Audit. The County reserves the right to verify application and evaluation information and to audit the use of TRCC Funds received by City under this Agreement, and the accounting of such use. If the County requests an audit, the City agrees to cooperate fully with the County and its representatives in the performance of the audit.

J. Noncompliance. The City agrees that the County may withhold TRCC Funds or other funds or require repayment of TRCC Funds from the City for noncompliance with this Agreement, for failure to comply with directives regarding the use of public funds, or for misuse of public funds or monies.

K. Representations.

(i) No Officer or Employee Interest. The City represents and agrees that no officer or employee of the County has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement.

(ii) Ethical Standards. The City represents that it has not: (a) provided an illegal gift in connection with this Agreement to any County officer or employee, or former County officer or employee, or to any relative or business entity of a County officer or employee, or relative or business entity of a former County officer or employee; (b) retained any person to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards in connection with this Agreement set forth in State statute or Salt Lake County Code of Ordinances § 2.07; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, in connection with this Agreement, any County officer or employee or former County officer or employee to breach any of the ethical standards set forth in State statute or Salt Lake County ordinances.

3 . GENERAL PROVISIONS:

A. Entire Agreement. This Agreement and the documents referenced herein, if any, constitute the entire Agreement between the Parties with respect to the subject matter hereof, and no statements, promises, or inducements made by either Party, or agents for either Party, that are not contained in this written Agreement shall be binding or valid; and this Agreement may not be enlarged, modified or altered, except in writing, signed by the Parties.

B. Term of Agreement. This Agreement will become effective immediately upon the completion of the following: (i) the approval of the Agreement by the governing bodies of the County and the City, including the adoption of any necessary resolutions or ordinances by the County and the City authorizing the execution of this Agreement by the appropriate person or persons for the County and the City, respectively, (ii) the execution of this Agreement by a duly authorized official of each of the Parties, (iii) the submission of this Agreement to an attorney for each Party that is authorized to represent said Party for review as to proper form and compliance with applicable law, pursuant to Section 11-13-202.5 of the Interlocal Cooperation Act, and the approval of each respective attorney, and (iv) the filing of a copy of this Agreement with the keeper of records of each Party (the “Effective Date”). This Agreement shall terminate upon the City’s full expenditure of the TRCC Funds received under this

Agreement and upon the City's completion of the associated reporting requirements described in Paragraph 2E above, unless terminated earlier as provided in Paragraphs 3H, 3I, and 3J below. However, the City's obligations in Paragraphs 2F, 2G, 2H, and 2I above and Paragraph 3E below shall survive the expiration or termination of this Agreement.

C. Interlocal Cooperation Act. In satisfaction of the requirements of the Interlocal Cooperation Act in connection with this Agreement, the Parties agree as follows:

(i) This Agreement shall be authorized as provided in Section 11-13-202.5 of the Interlocal Cooperation Act.

(ii) This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney in behalf of each Party pursuant to and in accordance with Section 11-13-202.5 of the Interlocal Cooperation Act.

(iii) A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of each Party pursuant to Section 11-13-209 of the Interlocal Cooperation Act.

(iv) The term of this Agreement shall not exceed fifty (50) years pursuant to Section 11-13-216 of the Interlocal Cooperation Act.

(v) Except as otherwise specifically provided herein, each Party shall be responsible for its own costs of any action done pursuant to this Agreement, and for any financing of such costs.

(vi) No separate legal entity is created by the terms of this Agreement and no facility or improvement will be jointly acquired, jointly owned, or jointly operated by the Parties under this Agreement.

(vii) Pursuant to Section 11-13-207 of the Interlocal Cooperation Act, the County Mayor and an officer vested with the executive power from the City are hereby designated as the joint administrative board for all purposes of the Interlocal Cooperation Act.

D. No Obligations to Third Parties. The Parties agree that the City's obligations under this Agreement are solely to the County and that the County's obligations under this Agreement are solely to the City. The Parties do not intend to confer any rights to third parties unless otherwise expressly provided for under this Agreement.

E. Agency. No officer, employee, or agent of the City or the County is intended to be an officer, employee, or agent of the other Party. None of the benefits provided by each Party to its employees including, but not limited to, workers' compensation insurance, health insurance and unemployment insurance, are available to the officers, employees, or agents of the other Party. The City and the County will each be solely and entirely responsible for its acts and for the acts of its officers, employees, or agents during the performance of this Agreement.

F. Governmental Immunity, Liability, and Indemnification.

(i) Governmental Immunity. Both Parties are governmental entities under the Governmental Immunity Act of Utah, Utah Code Ann. §§ 63G-7-101 *et seq.* (the “Immunity Act”). Neither Party waives any defenses or limits of liability available under the Immunity Act and other applicable law. Both Parties maintain all privileges, immunities, and other rights granted by the Immunity Act and all other applicable law.

(ii) Liability and Indemnification. The County and the City agree to be liable for their own negligent acts or omissions, or those of their authorized employees, officers, and agents while engaged in the performance of the obligations under this Agreement, and neither the County nor the City will have any liability whatsoever for any negligent act or omission of the other Party, its employees, officers, or agents. However, the City shall indemnify, defend, and hold harmless the County, its officers, employees and agents (the “Indemnified Parties”) from and against any and all actual or threatened claims, losses, damages, injuries, debts, and liabilities of, to, or by third parties, including demands for repayment or penalties, however allegedly caused, resulting directly or indirectly from, or arising out of (i) the City’s breach of this Agreement; (ii) any acts or omissions of or by the City, its agents, representatives, officers, employees, or subcontractors in connection with the performance of this Agreement; or (iii) the City’s use of the TRCC Funds. The City agrees that its duty to defend and indemnify the Indemnified Parties under this Agreement includes all attorney’s fees, litigation and court costs, expert witness fees, and any sums expended by or assessed against the County for the defense of any claim or to satisfy any settlement, arbitration award, debt, penalty, or verdict paid or incurred on behalf of the County. The Parties agree that the requirements of this Paragraph will survive the expiration or sooner termination of this Agreement.

G. Required Insurance Policies. Both Parties to this Agreement shall maintain insurance or self-insurance coverage sufficient to meet their obligations hereunder and consistent with applicable law.

H. Non-Funding Clause.

(i) The County has requested or intends to request an appropriation of TRCC Funds to be paid to the City for the purposes set forth in this Agreement. If TRCC Funds are not appropriated and made available beyond December 31 of the county fiscal year in which this Agreement becomes effective, the County’s obligation to contribute TRCC Funds to the City under this Agreement beyond that date will be null and void. This Agreement places no obligation on the County to contribute TRCC Funds to the City in succeeding fiscal years. The County’s obligation to contribute TRCC Funds to the City under this Agreement will terminate and become null and void on the last day of the county fiscal year for which funds were budgeted and appropriated, except as to those portions of payments agreed upon for which funds are budgeted and appropriated. The Parties agree that such termination of the County’s obligation under this Paragraph will not be construed as a breach of this Agreement or as an event of default under this

Agreement, and that such termination of the County's obligation under this Paragraph will be without penalty and that no right of action for damages or other relief will accrue to the benefit of the City, its successors, or its assigns as to this Agreement, or any portion thereof, which may terminate and become null and void.

(ii) If TRCC Funds are not appropriated and made available to fund performance by the County under this Agreement, the County shall promptly notify the City of such non-funding and the termination of this Agreement. However, in no event, shall the County notify the City of such non-funding later than thirty (30) days following the expiration of the county fiscal year for which TRCC Funds were last appropriated for under this Agreement.

I. Termination.

(i) Event of Default. The occurrence of any one or more of the following constitutes an "Event of Default" as such term is used herein:

(a) Failure of the City to comply with any of the terms, conditions, covenants, or provisions of this Agreement that is not fully cured by the City on or before the expiration of a thirty (30)-day period commencing upon the County's written notice to the City of the occurrence thereof.

(b) The City no longer plans to use the TRCC Funds for the purposes and in the manner specified in this Agreement.

(c) The City no longer qualifies for receipt of TRCC Funds under the laws of the State of Utah or under Salt Lake County ordinances or policy.

(d) The County's determination to contribute TRCC Funds to the City under this Agreement was based upon the submission of erroneous information, or the County reasonably determines that any representations made by the City under this Agreement are untrue.

(ii) County's Remedies in the Event of Default. Upon the occurrence of any Event of Default, the County may, in its sole discretion, and in addition to all remedies conferred upon the County by law or equity and other provisions of this Agreement, pursue any one or more of the following remedies concurrently or successively, it being the intent hereof that none of such remedies shall be to the exclusion of any other:

(a) Withhold further contributions of TRCC Funds to the City; and/or

(b) Seek repayment of any TRCC Funds previously paid to the City under this Agreement; and/or

(c) Terminate this Agreement.

(iii) Termination Prior to Disbursement. The County may terminate this Agreement for convenience by providing thirty (30)-day's written notice specifying the nature, extent and effective date of the termination. However, the County may not terminate this agreement once the TRCC Funds have been provided to the City and have been expended by the City for the purposes set forth by this Agreement.

J. Force Majeure. Neither Party will be considered in breach of this Agreement to the extent that performance of their respective obligations is prevented by an Event of Force Majeure that arises after this Agreement becomes effective. "Event of Force Majeure" means an event beyond the control of the County or the City that prevents a Party from complying with any of its obligations under this Agreement, including but not limited to: (i) an act of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods); (ii) war, acts or threats of terrorism, invasion, or embargo; or (iii) riots or strikes. If an Event of Force Majeure persists for a period in excess of sixty (60) days, the County may terminate this Agreement without liability or penalty, effective upon written notice to the City.

K. No Waiver. The failure of either Party at any time to require performance of any provision or to resort to any remedy provided under this Agreement will in no way affect the right of that Party to require performance or to resort to a remedy at any time thereafter. Additionally, the waiver of any breach of this Agreement by either Party will not constitute a waiver as to any future breach.

L. Compliance with Laws. The Parties shall comply with all applicable statutes, laws, rules, regulations, licenses, certificates and authorizations of any governmental body or authority in the performance of its obligations under this Agreement, including, but not limited to, those laws requiring access to persons with disabilities as well as the laws governing non-discrimination against all protected groups and persons in admissions and hiring.

M. Records. Financial records, supporting documents, statistical records and all other records pertinent to this Agreement and the TRCC Funds provided under this Agreement must be kept readily available for review by the County from time to time upon the County's request. Such records must be retained and maintained for a minimum of three (3) years after the end of a budget period. If questions still remain, such as those raised as a result of an audit, records must be retained until completion or resolution of any audit in process or pending resolution. Such records may be subject to the Utah Government Records Access and Management Act, Utah Code Ann. §§ 63G-2-101 *et seq.*

N. Assignment and Transfer of Funds. The City shall not assign or transfer its obligations under this Agreement nor its rights to compensation under this Agreement without prior written consent from the County. The City shall use the TRCC Funds provided pursuant to this Agreement exclusively and solely for the purposes set forth in the Agreement.

O. Amendments. This Agreement may be amended, enlarged, modified or altered only by an instrument in writing signed by both Parties. If the amendment or modification is material, the instrument shall be: (i) approved by the governing bodies of the County and the City, including the adoption of any necessary resolutions or ordinances by the County and the

City authorizing the execution of any amendment, change, modification or alteration of this Agreement by the appropriate person or persons for the County and the City, respectively, (ii) executed by a duly authorized official of each of the Parties, (iii) submitted to an attorney for each Party that is authorized to represent said Party for review as to proper form and compliance with applicable law, pursuant to Section 11-13-202.5 of the Interlocal Cooperation Act, and executed by each respective attorney, and (iv) filed with the keeper of the records of each Party.

P. Severability. If any provision of this Agreement is found to be illegal or unenforceable in a judicial proceeding, such provision will be deemed inoperative and severable, and, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable, the remainder of this Agreement will remain operative and binding on the Parties.

Q. Governing Law and Venue. The laws of the State of Utah govern all matters arising out of this Agreement. Venue for any and all legal actions arising hereunder will lie in the District Court in and for the County of Salt Lake, State of Utah.

R. Warrant of Signing Authority. The person or persons signing this Agreement on behalf of the City warrants his or her authority to do so and to bind the City. The County may require the City to return all TRCC Funds paid to the City based upon a breach of warranty of authority.

S. Counterparts. This Agreement may be executed in counterparts and all so executed will constitute one agreement binding on all the Parties, it being understood that all Parties need not sign the same counterpart. Further, executed copies of this Agreement delivered by facsimile or email will be deemed an original signed copy of this Agreement.

Each Party hereby signs this Interlocal Cooperation Agreement on the date written by each Party on the signature pages attached hereto.

[The balance of this page was left blank intentionally – Signature pages follow]

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR THE COUNTY

SALT LAKE COUNTY

By _____
Mayor Jennifer Wilson or Designee

Dated: _____, 2022

Approved by:

DEPARTMENT OF COMMUNITY SERVICES

By _____
Robin Chalhoub
Department Director

Dated: _____, 2022

Reviewed As To Form

Deputy District Attorney

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR THE CITY

MURRAY CITY

By _____

Name: _____

Title: _____

Dated: _____, 2022

Attest:

_____, City Recorder
Date signed: _____

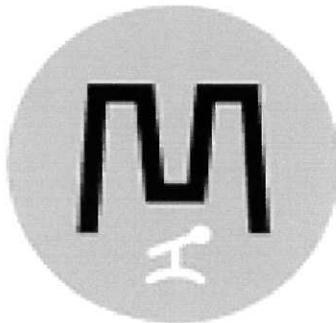
Approved as to Proper Form and Compliance with Applicable Law:

CITY ATTORNEY

By _____

Name: _____

Dated: _____, 2022



MURRAY
CITY COUNCIL

Mayor's Report And Questions



MURRAY
CITY COUNCIL

Adjournment