

Minutes of the Design Review Committee meeting held on March 23, 2017, at 5:30 p.m. in the Murray Public Services Building Conference Room, 4646 South 500 West, Murray, Utah.

Present: Design Review Committee:
Ned Hacker, Chair
Ray Black, Committee Member
C.J. Kulp, Committee Member
Freddy Pimentel, Committee Member
Jay Bollwinkle, Committee Member
Jared Hall, Community Development Manager
Jim McNulty, Development Services Manager
Stan Hoffman, Dakota Pacific Real Estate Partners
Elliot Setzer, Resident

Mr. Hacker welcomed all to the meeting.

1. APPROVAL OF MINUTES

Mr. Hacker asked for approval of minutes from January 12, 2017. Mr. Black made a motion to revisit the minutes pertaining to the open-ended session. Seconded by Mr. Pimentel.

The minutes were approved unanimously (5-0).

2. BOARD REPORTS

There were no board reports.

3. Excused

All were present.

4. Text Amendment – MCCD, Demolitions of Historically Significant Buildings – Project # 17-39

Jared Hall reviewed the request for consideration of a proposal to amend the text of certain portions of Chapter 17.170 of the Land Use Ordinance. The proposed text amendments are related to requirements for proposals involving the demolition of historically significant buildings. Mr. Hall reviewed the memo that was recently sent to Tim Tingey the Administrative and Development Services Director, explaining the proposed changes. These changes include four different parts.

The First includes definitions for a Master Development Plan and principal street.

Second, is a proposed change to the required elements of the Development Agreement that must be approved by the City Council in order to allow the demolition of historically significant buildings. In this section, we attempt to address the issues of bonding by determining which proposed building or phase of the project is directly replacing the historically significant building.

Third, are changes to the "uses" section by adding language to this section.

Fourth, includes adding a section addressing Residential Building, and Development in Phases which has previously been unaddressed.

Mr. Hall clarified the term "Master Development Plan", and stated it would be used as a definition to outline the requirements to define the phases and control how they will progress. This would make allowances for the vertical and horizontal mixed use elements to count toward the project, as well as give allowances for the City to control the phasing to be assured the appropriate elements will happen especially in cases where a historical building is taken away. Mr. Pimentel recommended that the City use a professional to enforce historic preservation in the City, and a document could be included as part of the application process because currently there is nothing to protect historical buildings. The ordinance allows for the demolition of historic buildings. Mr. Hall stated his concern with having a professional review the city's list of significantly historical buildings includes some sites without buildings located on them anymore. Mr. Bollwinkle stated that he was on the Historical Preservation Board when the list was compiled and each was assigned a historical value. Some of the shabby older looking buildings were given a bit too much credibility even though they did not have a lot of true historical value. Murray had a lot of historical sites that were undevelopable then, and when developers started to look at these places to build. They decided to move on to other cities and it has caused Murray City's downtown district to sit back in time with all these old buildings and no opportunity to develop. We need to get some progression to happen. Mr. Hall suggested that the list be revisited to look at the legitimacy of historical value to each building, and property to see if it will have greater impacts to potential development.

Mr. Pimentel asked if we have a record of historic buildings. Mr. Hall answered that, first of all, the History Advisory Board considers all buildings constructed over 50 years ago to be historic. There aren't special requirements for demolishing or modifying them, but the City asks developers to call us before demolitions so the buildings can be photographed and catalogued. There is an actual list of buildings considered to be historically significant. That list is in the MCCD zoning chapter. That list contains a lot of properties, including some like the Murray First Ward.

Mr. Hall explained "Principal Streets". For the purposes of this chapter we are referencing Vine Street, 4800 South and State Street as they pass through the MCCD Zone and Downtown on both sides of these streets. It is defined so we can discuss lower level commercial requirements for street frontage. The bulk of the main changes are covered in Part 2 as listed in 17.170.070-E, item 5, which explains the requirements that the City Council has to place in a Development Agreement if a historic building needs to be torn down.

For example, if you have a development that requires a building removal, in order to remove that building, the approval process would be first to come to the MCCD DRC and propose your plan. Next, you have the History Advisory Board review, then you go to the City Council for a Development Agreement which includes all the elements listed in these proposed changes A – F for determination.

Mr. Pimentel asked what the process would be like if the History Advisory Board recommends disapproval of a proposed demolition. Mr. Hall answered the project would still move on to the City Council, just with a negative recommendation and then they would make a determination.

Mr. Hall explained that item C relates to the bond, and stated that demolition itself cannot be approved until a building permit has been issued for the proposed building or associated improvements which have been determined under item 17.170.070-E (5)(C) to directly replace or cause the displacement of the historically significant structure. Simply, it would not allow a demolition permit to be issued until a building permit has been issued and it would stop somebody from taking down the building and then not replacing it with a new building.

Mr. Hall explained item E. The project must include all commercial, or a mix of residential and commercial elements equal to the square footage amount of one hundred percent ground floor commercial, and an additional twenty-five percent of commercial on the upper level floors. This applies only when you have the need for the development agreement to allow the demolition of a historic structure, and would insure that commercial areas are planned for. We do not have plans to reduce the amount of commercial requirements for this sections, so we added verbiage that says, commercial square footage provided by other phases may be used to offset the requirement of this section, if those proposed commercial buildings are included in the bond amount required by 17.170.070-E (5b). If a bond is being posted for a single phase, but a developer is using an additional phase to satisfy the required commercial square footage then we would allow it, but we would want a bond for the additional phase or portion of that phase to insure it is completed.

Mr. Hoffman asked why the City is going beyond the first floor as it could create problems. Mr. Hall stated that he understood the difficulty it may cause, but the City is not comfortable with removing this language as we want to ensure the developer will complete the proposed development, and that what it is bringing to the table is appropriate in terms of commercial benefit and security since the development is going to remove a significant historic building. This only applies when the project has the need to remove a historic building.

Mr. Hoffman asked if there is any commercial first floor with upper residential buildings that are successful in Murray, because if the project were very large such as a six floor building. It would be difficult to make it meet the commercial requirements because you don't really see commercial success on the second floor. Mr. Hall commented that's why Murray is allowing commercial to be added to other phases of the project. This would make up for what may be lacking in the first phase, with a bond as security.

Mr. Hall explained that item F does not need any changes.

Mr. Hall explained the changes to the "Uses" section and how they would allow the horizontal mixed-use elements to be phased, and allow the off-site commercial to count towards the project in a different phase that includes two-family dwelling, multiple-family dwelling and apartment high rise dwelling as required under 17.170.110-R.

Mr. Hall explained proposed item Q as it applies to Residential Buildings. Residential buildings fronting principal streets (Vine Street, 4800 South and State Street as they pass through the MCCD Zone and the Downtown on both sides of all of these streets) as identified by this chapter shall have ground floors developed and occupied by non-residential uses. This is not a change, it's already a requirement, but the city is pulling back a little bit from it as it. If used to state that the ground floor for any building development requires commercial. It now states that commercial is only required on the ground floor for residential buildings fronting Vine Street, 4800 South or State Street. If you're not fronting one of the listed streets you still have to do commercial for the building, but you can provide it horizontally on the same parcel.

Mr. Hall explained proposed item R, "Development in Phases", and reads, where development is proposed in phases, a Master Development Plan for the entire site must be approved. The Master Development Plan must delineate the phases of the project clearly, and be submitted simultaneously with an application for review of the development plan for the first phase of the development and must be approved as a condition of approval on the development plan for the first phase. The new requirement must include the phasing plan to be submitted with initial application for permits and COA's. Mr. Hall continues from Section R and reads, a separate development plan must be submitted and approved for each subsequent phase of the development. Each phase shall include a proportionate share of the proposed site and building amenities of the entire development. No single phase may consist solely of residential uses or buildings; each phase must contain commercial or nonresidential components. The City wants to see a mix of residential with commercial elements on State Street.

Mr. Bollwinkle asked if an assisted living facility with commercial elements would be allowed in this area. Mr. Hall answered that the City considers assisted living facilities to be commercial.

Mr. Bollwinkle stated the requirements for commercial fronting State Street is hard to make successful, and used Home2 Suites as an example. Mr. Hall stated that Home2 Suites is almost full now, but it has taken a little time to be completed.

Mr. Hall addressed Center Court and stated that they are located behind State Street and they don't get any advertising exposure and that is why they struggled to bring in business. This is part of the reason why the City does not want to require the ground floor commercial off of a principal street and would allow the horizontal mixed use per the proposal.

Mr. Kulp stated that other developments also struggle with upper level commercial such as City Creek, even with the densely populated area.

Mr. Hall stated that the proposed changes are written to ease some of the struggles by adding the element that this only applies in this area when you are demolishing a historical building and would require only the equivalent of twenty five percent of the upper floors to be commercial.

Mr. Bollwinkle asked to clarify that if the bottom floor is one hundred percent commercial and the building needs an additional twenty five percent than it no longer has to be on

the upper floors of the same building. Mr. Hall affirmed that the additional twenty five percent could be in a different building or in a different phase that may not be scheduled to be completed for another few years, and that's where the need for bonding comes in.

Mr. Hoffman stated he has never torn down a historical building and tries to avoid them as they are difficult. He further stated that he has discovered a few issues with trying to move the Downtown District forward as they are dealing with nine historical buildings in this project. He has spent eight months trying to save, or move some of them and some can't be saved. Mr. Hoffmann estimates the cost at \$2,300,000.00 just to stabilize the Murray First Ward Building. For the historical issue on Harker and State Street he thinks there are solutions in place and the reception from the Historical Committee sounds OK, and they seem encouraged with what we are trying to do.

Mr. Hoffman asked what would happen, hypothetically if they tear down the Merc building and build a Class A, thirty-five million dollar apartment building. When he needs to tear down the building and replace it with two buildings, how is the amount of the bond calculated and what is it based on? Lenders don't loan on a commitment to guarantee a project in the future if the market takes a downward spiral, making it almost impossible to find someone to fund a project with guarantees. We won't build it. Mr. Hall stated that the twenty-five percent calculation for commercial is based on the upper floors of the new buildings and does not necessarily have to be located above, it only applies when a historical building is taken down and it is hard to get support to take them down without any guarantee the project will be completed in full. Mr. Hoffman stated that he understands the need for this guarantee and presented some documents that has language to deal with this type of issue and asked the City to consider it they purchase the land, own it, provide an elevation, agree to demolish a historical building to build a new building, submit the plans to the Historical Committee and draw up a covenant to state that the ground cannot be developed until this element is created on that building. In that case the historical element must be preserved as it runs with the land and it effects the value of the land as well.

Mr. McNulty stated he knows Mr. Hoffman has spent a lot of time with Tim Tingey to work this out and holds some reservations about his changes ordinance. Mr. McNulty recognized the paperwork with the language that Mr. Hoffman has presented in the meeting and agreed to look at it with Tim and City staff, he does not have an answer on this today.

Mr. Hoffman stated in his opinion the new language of the Text Amendment is meant to kill all residential development in the Downtown are, and if that is what the City wants to do we will just let the entire Box Elder project go because he won't buy the ground. Mr. Hoffman further stated that they want to give the City a way to feel secure that this is going to get done and also have a practical way to get it financed.

Mr. Hacker asked if the Text Amendment is meant to be retroactive on projects that are currently in process or is there some kind of Grandfather clause. Mr. Hall answered that this is meant for new projects only and any current projects would be allowed to continue as they are now. The City is trying to write ordinances for the entire city and trying not to consider individual circumstances because that is not how we write code, but there may be some additional concepts that we will be happy to consider.

Mr. Hoffman stated that he believes the City's definition of "Concept" and "Phase" is going to get us all into trouble. Mr. Hoffman further stated he wants to understand what the City is intending, and when he understands the intent he will be able to apply it to everything he is doing and feels that the term Phasing, Concept of Master Plan, bonding and upper commercial is problematic. Mr. Hoffman stated he wants his people to close on the purchase of the DAR Property so he can buy the rest of the block, and go forward with the proposed developments, and if he could have an indication from the City of what the City is trying to do, it would make a difference in the decision that he needs to make.

Mr. Hall stated that the concerns of Mr. Hoffman have been noted and will be taken into consideration. It would be helpful as a group tonight to address the text amendment language and get any further questions and concerns on record, as there is a process to amend a code and it starts with this group.

Mr. Bollwinkle they have had three or four projects come up in Murray and all of them have failed, most likely due to some of these issues as they have found more friendly locations to develop.

Mr. Pimentel stated that he respects the comments of the group and their ability to see a wider perspective because these issues affect us all and we want to see the preservation of the historic elements, but we also want to see the progress of moving forward and not scaring investors from our City.

Mr. Hoffman stated he appreciates the willingness of the City to engage in the process and hear the issues.

Mr. Black stated they don't finance on as big a scale as Mr. Hoffman does, but focus rather on one building and land at a time which makes it a lot easier to get financed. He has never done a development that is pieced out over time. Overall, we work better with financiers because they don't feel pressured and that just works better.

Mr. McNulty stated that the City will have to look at what Mr. Hoffman has presented, but in the long run we need to look out for the City's best interest. It's more of a matter of somebody starting a phase as planned and then the bank won't finance the remainder and the project gets flipped. The proposed text amendment is the best way to cover us.

Mr. Hoffman stated the best way to cover the City is with land covenants.

Mr. Hoffman expressed concerns that the proposed changes did not go far enough to make development likely or even possible if development involved any kind of demolition.

Staff responded to some of the concerns, but continued to recommend that further reductions of requirements might be inappropriate, or result in the loss of historic buildings without proper assurance of the desired development.

Mr. Hacker acknowledged that the developer and the city staff seemed to still be in disagreement about what was appropriate, but stated that he felt the Design Review Committee had done what it could to contribute to the discussion and made a motion to forward the proposed text amendments to the Planning Commission.

Mr. Bollwinkle made a motion to forward a recommendation of approval to the Planning Commission to amend the text of certain portions of Chapter 17.170 of the Land Use Ordinance as proposed.

Seconded by Mr. Black

A Mr. Hacker

A Mr. Pimentel

A Mr. Kulp

A Mr. Black

A Mr. Bollwinkle

Motion passed, 5-0.

5. Items from Staff

No additional items from staff.

Meeting adjourned.



Jared Hall

Community Development Division Manager