



# HEARING OFFICER MEETING

## MEETING MINUTES

April 9, 2025

12:00 P.M. MST

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

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### CALL MEETING TO ORDER

### PRESENT

Jim Harland, Hearing Officer  
Mark Richardson, Deputy Attorney  
Chad Wilkinson, CED Director  
Zachary Smallwood, Planning Division Manager  
David Rodgers, Senior Planner

Mr. Harland called the meeting to order at 12:00 p.m. MST.

### CONFLICT(S) OF INTEREST

Mr. Harland indicated he did not have a conflict of interest for the item to be considered for this meeting.

### EXPANSION OF NON-CONFORMING USE

Mr. Harland introduced the request for an expansion of a nonconforming use for the property addressed at 210, 220, 238 West Fifth Avenue and requested a presentation of the staff report.

Mr. Rodgers presented the staff report explaining that the applicant, Jeff Harkless, would like to extend a non-conforming use in the Murray Central Mixed-Use Zone to an adjacent property that was recently purchased by the applicant. The adjacent property has a non-conforming single-family home that will be demolished. Section 17.52.040 of the Murray City Land Use Ordinance allows for a building or structure occupied by a nonconforming use, or a building that is nonconforming as to height, area, or yard regulations to be added to, enlarged, or moved to another location on the lot subject to review by the Hearing Officer. The applicant is looking to expand their non-conforming storage business to an adjacent property, and the proposed extension will increase the size of the business area. Section 17.146.170 allows for a nonconforming use to not come into conformance with the standards of the MCMU zoning district if the improvements are less than 50% of the

assessed value of the buildings on the property. The buildings are not being changed, and the lot will be adding a percentage to the business that is less than 50% of the building valuation. The subject property is a non-conforming business located within the Murray Central Mixed-Use Zone (MCMU). The applicant has recently purchased a property next door to the current business and would like to use that lot to expand the business operations. The current boundaries and proposed expansion are attached to this report for review. The applicant does not intend to change the nature of the business, purely use the additional land to grow the current use.

The business is located within the MCMU zone and has been operating longer than that zone has been in place. This business is considered legal nonconforming and when the zone was adopted was allowed to continue operating at its current standard. As such, this use does not conform with zoning requirements.

The non-conforming existing business currently uses 210 and 220 West Fifth Avenue as the sites for an office and storage for Hark Drilling. The applicant recently acquired the parcel at 238 West Fifth Avenue and intends to extend the storage component onto the newly acquired lot. Because the use is non-conforming, they would like an expansion of non-conformity to extend the use onto this property. This expansion is being done in anticipation of the three lots being consolidated into one lot in the future.

Mr. Rodgers noted that the Hearing Officer acting as the Murray City Appeal Authority may authorize approval of an addition, enlargement, or moving of a structure occupied by a nonconforming use or a structure that is nonconforming as to height, area, or yard regulations. Mr. Rodgers noted that staff was recommending approval of the expansion subject to the following findings:

1. The addition to, enlargement of, or moving of the Use will be in harmony with one or more of the purposes of this title.

**Staff Response:** The proposed expansion is in harmony with the following statements that are located in Section 17.04.020(A) and (F), and of the Murray City Land Use Ordinance:

- Encourage and facilitate the orderly growth and development of the city.
- Reinvestment in existing businesses contributes to and encourages the orderly growth and development of the city.
- Foster the city's residential, business, and industrial development.
- The proposed expansion would allow for a local business to grow in an established area of Murray.

2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

**Staff Response:** Staff does not anticipate that the proposed expansion will not impose any burden upon the lands located in the vicinity of the nonconforming structure.

Based on a review and analysis of the submitted material and applicable sections of the Murray City Land Use Ordinance, Staff finds that the proposal meets the standards for an expansion of a nonconforming business and recommends approval subject to the following conditions:

1. The applicant shall maintain an active Business License that contains the correct address of the property while operating.
2. The property owner shall apply for and receive an approval to consolidate the three lots for the business location before the end of 2025.
3. The business extension shall be contained entirely within the proposed area.

Mr. Harland thanked Mr. Rodgers for the report and asked for clarification on the Code. Mr. Harland pointed out that Section 17.52.120 seemed to prohibit the extension or expansion of a nonconforming use to adjoining property. Mr. Wilkinson explained that City staff had attempted to address the prohibition of expansion onto another property by requiring the consolidation of the lots as a condition of approval. He indicated that this was a generous interpretation of the Code and that ultimately staff would defer to the decision of the Hearings Officer. Mr. Wilkinson offered that if the Hearings Officer wished to approve the application, he could require that property consolidation take place prior to making a decision on the expansion application. Alternatively, he could require that the consolidation be handled subsequent to the decision on the application as proposed by staff or could find that the proposed expansion was not in compliance with Code requirements and deny the application. Further discussion occurred related to the nonconforming expansion provision in Chapter 17.52 of Murray Code.

Mr. Harland invited Pedro Rodriguez representing the applicant to come forward. Mr. Rodriguez explained that he was representing the business/property owner and explained that the owner had purchased the property hoping to expand the business. He noted some of the efforts that had been undertaken to clean-up the property including removing debris and clearing of some of the vegetation from the site. Mr. Harland pointed out that it appeared that the business had started to store materials on the site prior to receiving approval of the expansion. Mr. Rodriguez replied that the business owner has instructed them to do some of the work including removing a fence between the two properties and some initial clearing of the property. Mr. Wilkinson pointed out that the land could not be used for business purposes unless the Hearings Officer approved the expansion. He informed Mr. Rodriguez that they would need to cease any work on the property until a decision had been reached.

Mr. Harland asked if there was any public comment. Ms. Kimborlin explained she was the owner of the neighboring property at 4860 South Commerce Drive. She expressed gratitude that the property had been cleaned up by the applicant and asked several questions related to the process.

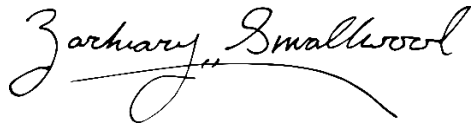
Mr. Harland thanked those in attendance and again expressed concern that the code did not allow for the type of expansion that was requested and indicated that he would not make a decision at that time, but that he would take the matter under advisement. He indicated that he would provide a written decision by the following Wednesday, April 16, 2025.

#### ANNOUNCEMENTS AND QUESTIONS

The next scheduled meeting will be held on Thursday, May 8, 2025, at 12:30 p.m. MST in the Poplar Conference Room #151, 10 East 4800 South, Murray, Utah.

ADJOURNMENT

Mr. Harland adjourned the meeting at 1:00 p.m. MST.

A handwritten signature in black ink, reading "Zachary Smallwood". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

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Zachary Smallwood, Planning Division Manager  
Community & Economic Development Department