



NOTICE OF MEETING  
MURRAY CITY HEARING OFFICER  
MURRAY, UTAH 84107

**\*\*In support of the Governor's "Stay Safe, Stay Home" directive as well as the Salt Lake County and Salt Lake County Health Department order to limit spread of COVID-19, the Hearing Officer meeting will be CLOSED to the general public. However, if you would like to view or participate in the meeting electronically, please contact the Planning Division and you will be provided with a link to do so. You may also submit your comments by email to [planning@murray.utah.gov](mailto:planning@murray.utah.gov) prior to the meeting.\*\***

Meeting Date: September 9, 2020  
Meeting Place: Murray City Municipal Council Chambers  
Staff Meeting: 12:15 p.m. (Conference Room)  
Meeting Time: 12:30 p.m.

**BUSINESS ITEM:**

1. Conflict of Interest

**VARIANCE**

2. Case #1573 – Depot Commercial, LLC  
248 West 4860 South  
Front yard setback variance for new building

Project #20-093

**OTHER BUSINESS**

Special accommodations for the hearing or visually impaired will be upon a request to the office of the Murray City Recorder (801-264-2660). We would appreciate notification two working days prior to the meeting. TTY is Relay Utah at #711.

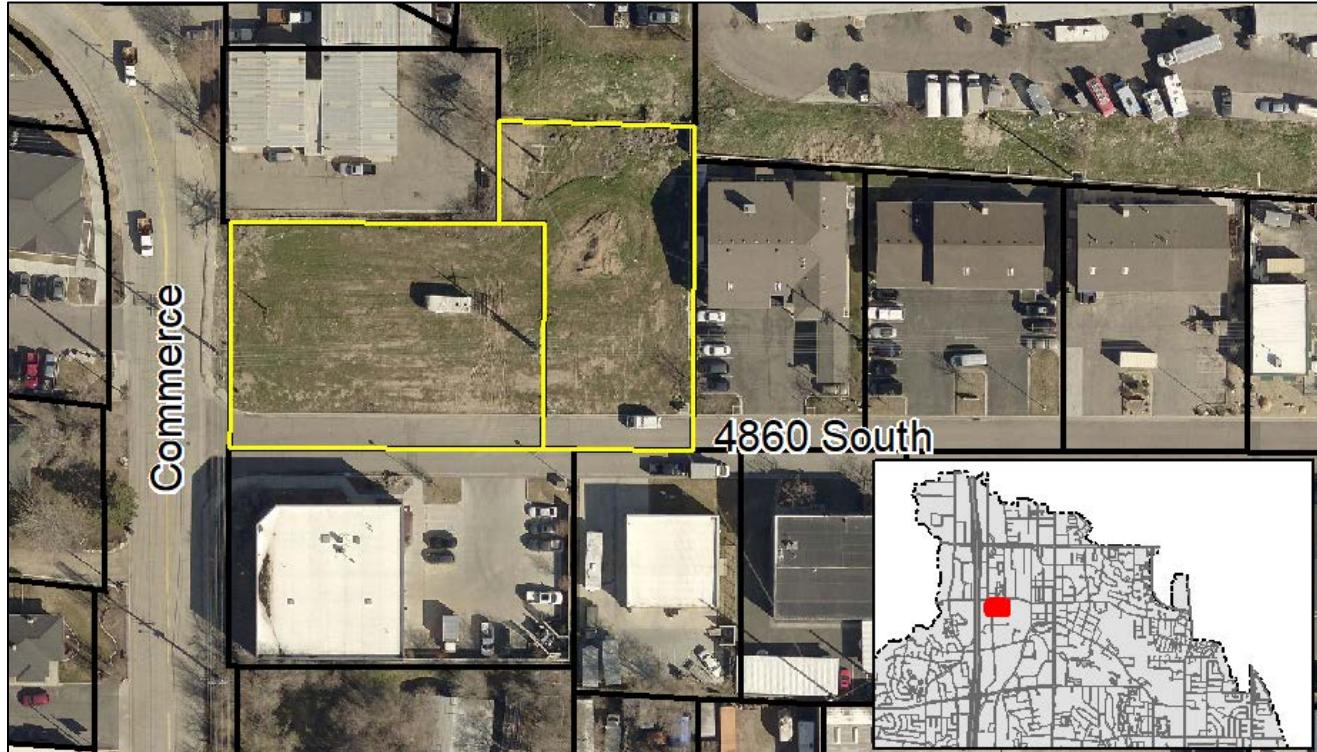
On the 20th day of August 2020, before 5:00 p.m. a copy of the foregoing Notice of Meeting was posted in accordance with Section 10-9a-201 through 209, U.C.A. A copy of this notice was also posted on Murray City's internet website [www.murray.utah.gov](http://www.murray.utah.gov)

  
\_\_\_\_\_  
Jared Hall  
Community Development Supervisor



## AGENDA ITEM #2

ITEM TYPE:	Variance Application		
ADDRESS:	248 & 232 West 4860 South	MEETING DATE:	September 9, 2020
APPLICANT:	Clint Tolman, Gold Stream, LLC	STAFF:	Susan Nixon, Associate Planner
PARCEL ID:	21-12-206-041 & 21-12-206-042	CASE NUMBER:	1573
ZONE:	M-U, Mixed Use	PROJECT NUMBER:	20-093
SIZE:	.84 acres (20,909 ft <sup>2</sup> ) lot ; 14,000 gross ft <sup>2</sup> building		
REQUEST:	The applicant is requesting a variance to the front yard setback requirements for buildings in the M-U Zone as required in Murray Land Use Ordinance Section 17.146.050. The request for variance is in response to the location of existing power lines and easements.		



## I. DESCRIPTION of REQUEST

The applicant, Clint Tolman with Gold Stream LLC, plans to construct a new two-story office building on the subject property. The Mixed-Use (M-U) Zone requires new buildings to be constructed with 0' – 10' front yard setbacks. Because of power lines and easements on Commerce Drive and 4860 South Street, the proposed building cannot be located in conformance with the setback requirements of the M-U Zone. A variance is also being requested to allow parking located between the building and the street, which is also prohibited in the M-U Zone. New development in the M-U Zone requires review and approval by the Planning Commission. The Planning Commission does not have authority to grant approval for projects that do not meet the code, so the applicant is seeking approval for variances from the Hearing Officer.

## II. LAND USE REGULATIONS

### Setbacks, Section 17.146.050(A)

Section 17.146.050(A) of the Murray Land Use Ordinance states: “The front setback for buildings facing public or private streets excepting courtyards and plazas, shall be between fifteen feet (15') and twenty-five feet (25') from the back of curb and gutter.” Public improvements in the M-U Zone include a minimum 7' wide sidewalk and 8' wide park strip, both installed between the back of curb and the property line. The effect of measuring the 15' – 25' setback from the back of curb and then considering the 15' of required public improvement installation is essentially a maximum allowed building setback of 0-10 feet from the property line. The proposed building setback on Commerce Drive is greater than the allowable 10' from property line due to power lines and associated easements and the required building separation from those lines. The development will require a Site Plan Review and approval from the Planning Commission. The applicant is seeking a variance to the setback requirement in order to apply for Site Plan approval from the Planning Commission. The proposed building setback on Commerce Drive is 15' from property line; the proposed setback from 4860 South Street is 62'; the rear setback on the north is 3' and side setback on the east is 72'. The north and east setbacks comply with the M-U regulations.

### Parking Location, Section 17.146.050(K)

Section 17.146.050(K) Requires surface parking to be located to the side of or behind the building. In no case is the parking allowed to be set back from the street less than the building. The proposed building setbacks on Commerce Drive and 4860 South Street are greater than allowed due to power lines and associated easements and the required separation from those facilities.

### III. PROJECT REVIEW

#### Background

The applicant proposes to develop a two-story, 14,000 ft<sup>2</sup> (7,000 per floor) office building in the M-U Zone. The subject property is located on the northeast corner of Commerce Drive and 4860 South Street, within the Woodward Industrial Park that is served by a private, horseshoe shaped road (4860 South Street). In addition to the variances sought under this application, the two properties (232 West and 248 West) will need to be combined in order to meet building codes which do not allow a property line to intersect a building.

#### Applicant's Written Narrative and Materials

The applicant's written narrative response to the variance analysis form is attached. In it, the applicant has indicated that due to the existing overhead power lines and underground power easements, construction of the new building in close proximity to the streets as required by ordinance is not possible. The underground power easement and overhead power lines are facilities of Rocky Mountain Power and Murray City Power that cannot be relocated. The property is crossed by Rocky Mountain power lines along the westerly boundary, Murray City Power overhead lines bisecting the property from west to the east, and by a Murray City Power underground power easement from east to west. The applicant has supplied a site plan showing the power facilities and their attempt to locate the building in a narrow window of possible locations on the two properties. The site plan is attached to this report.

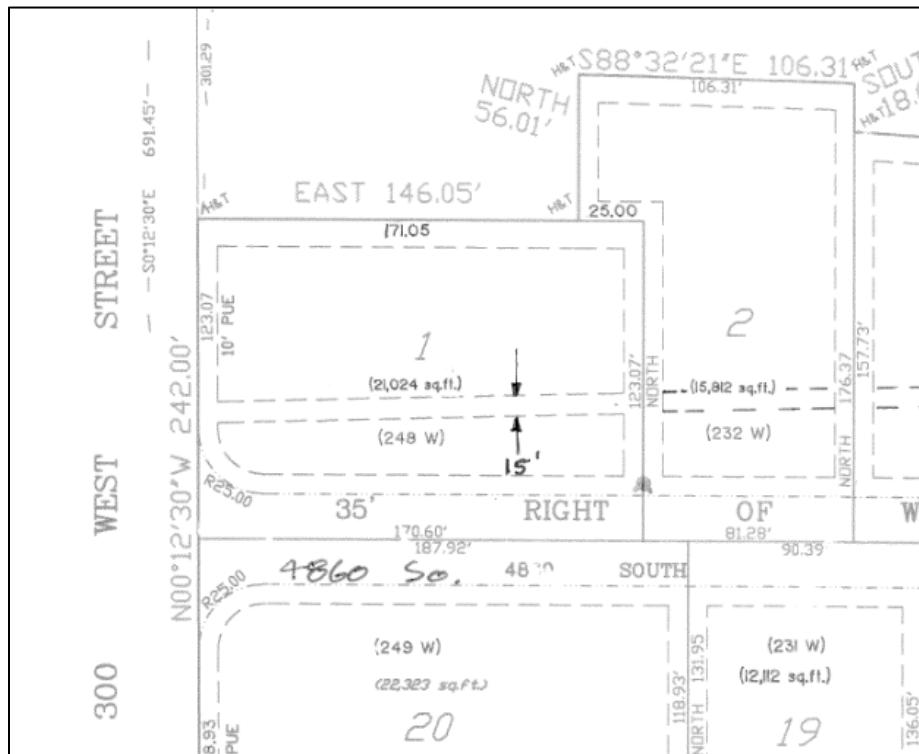


Figure 1: a segment of the plat, showing the utility easement bisecting the property

### Public Input

Notices were sent to all property owners within 300 feet of the subject property. There have been no comments made regarding this application.

## **IV. VARIANCE FINDINGS**

Following are Staff's analysis and findings for how the request complies with the standards for granting a variance (Land Use Ordinance, Section 17.16.050).

**A. The literal enforcement of the Land Use Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinance.**

The proposed development is as close to the standard as possible due to the power lines and easements on the frontage on Commerce Drive and 4860 South Street. The proposed development meets requirements for the north and east setbacks. The literal enforcement of the ordinance is not possible in this case due to the power lines and separation requirements from them. Staff finds that the application meets this requirement for granting a variance.

**B. There are special circumstances attached to the property that do not generally apply to other properties in the district.**

The power lines and easements combined with the M-U zoning district's imposition of a maximum allowed setback rather than minimum setbacks constitute a special circumstance on this property. Staff finds that the application meets this requirement for granting a variance.

**C. Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the district.**

No building can be built in compliance with the setback requirements of the M-U Zone for this land fronting Commerce Drive and 4860 South Street due to the power lines and easements. The development potential of the property represents a substantial property right in this case. Staff finds that the application meets this requirement for granting a variance.

**D. The variance will not substantially affect the General Plan and will not be contrary to the public interest.**

The requested variance would have an impact on the purpose of the M-U Zone, and in the same way would negatively impact the purpose of the Murray City General Plan in maintaining and stabilizing residential neighborhoods. Staff finds that the applicant does meet this requirement for granting a variance.

**E. The spirit of the Land Use Ordinance is observed, and substantial justice done.**

The project as proposed meets other requirements of the M-U Zone. The applicant is only seeking variances to those rules where it is physically impossible to meet them because of the location of the power lines along the west and south boundaries. Staff feels that granting the variance would be in keeping with the spirit of the land use ordinance and finds that the applicant meets this requirement for granting a variance.

## **V. UNREASONABLE HARDSHIP ANALYSIS**

In determining whether enforcement of the Land Use Ordinance would cause unreasonable hardship, the Hearing Officer may not find an unreasonable hardship unless the applicant proves that the alleged hardship:

**A. Is located on or associated with the property for which a variance is sought.**

The hardship is the result of existing power lines and easements on the subject property which create an inability to comply with maximum allowed building setbacks from both Commerce Drive and 4860 South.

**B. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. Special circumstances must: (1) Relate to the hardship complained of, and (2) Deprive the property owner of privileges granted to other properties in the same district.**

The special circumstances in this case are created by the existing power lines and easements and their location on the subject property. Their existing locations directly relate to the hardship, necessitating a variance. Without the variance, the circumstances would deprive the owner of a privilege (development) which does exist in the same district. Most of the other buildings along 4860 South Street in this area were developed under the Manufacturing General, M-G Zone which requires a minimum front setback of 20 feet which have allowed property owners to develop behind the power lines and easements. The applicant cannot avoid the power lines and easements without a variance because of the change in zoning.

## **VI. CONCLUSION / RECOMMENDATION**

Based on a review and analysis of the submitted material, the subject property, surrounding area, and applicable sections of the Murray City Land Use Ordinance, Staff finds that the proposal meets the standards for a variance and recommends **APPROVAL of the requested variance to the setback requirements of the Mixed-Use Zone on the properties located at 248 and 232 West 4800 South subject to the following conditions:**

1. That the two properties be consolidated per Murray City Lot Consolidation review process to the Woodward Industrial Park Subdivision.

# **Attachments**



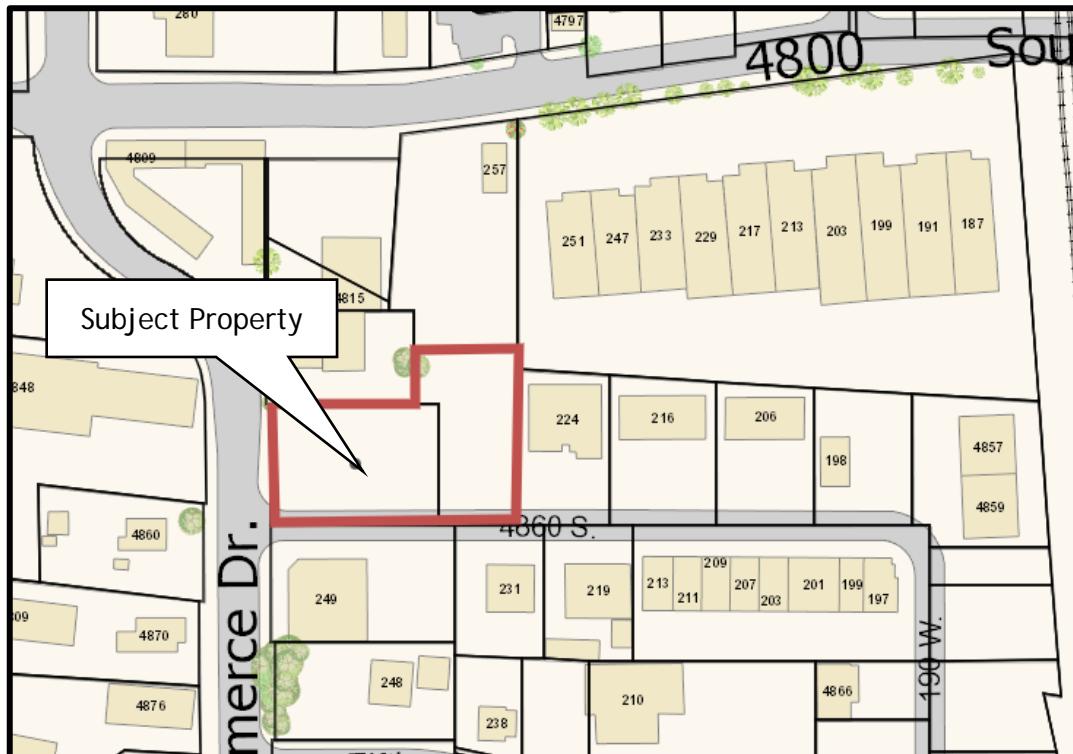
## NOTICE OF PUBLIC MEETING

**PUBLIC NOTICE IS HEREBY GIVEN** that in accordance with Executive Order 2020-5 Suspending the Enforcement of Provisions of Utah Code 52-4-202 and 52-4-207 due to Infectious Disease COVID-19 Novel Coronavirus issued by Governor Herbert on March 18, 2020 and Emergency Executive Order 20-02 issued by the Mayor on April 1, 2020, the Hearing Officer of Murray City, Utah will hold an electronic only regular meeting at 12:30 p.m., Wednesday, September 9, 2020. **The Hearing Officer has determined that due to the continued rise of COVID-19 case counts, meeting with an anchor location presents a substantial risk to the health and safety of those in attendance. No physical meeting location will be available.**

To view or listen to the meeting electronically, please contact the Planning Division at 801-270-2420 or [planning@murray.utah.gov](mailto:planning@murray.utah.gov) so we can make arrangements to accommodate your participation.

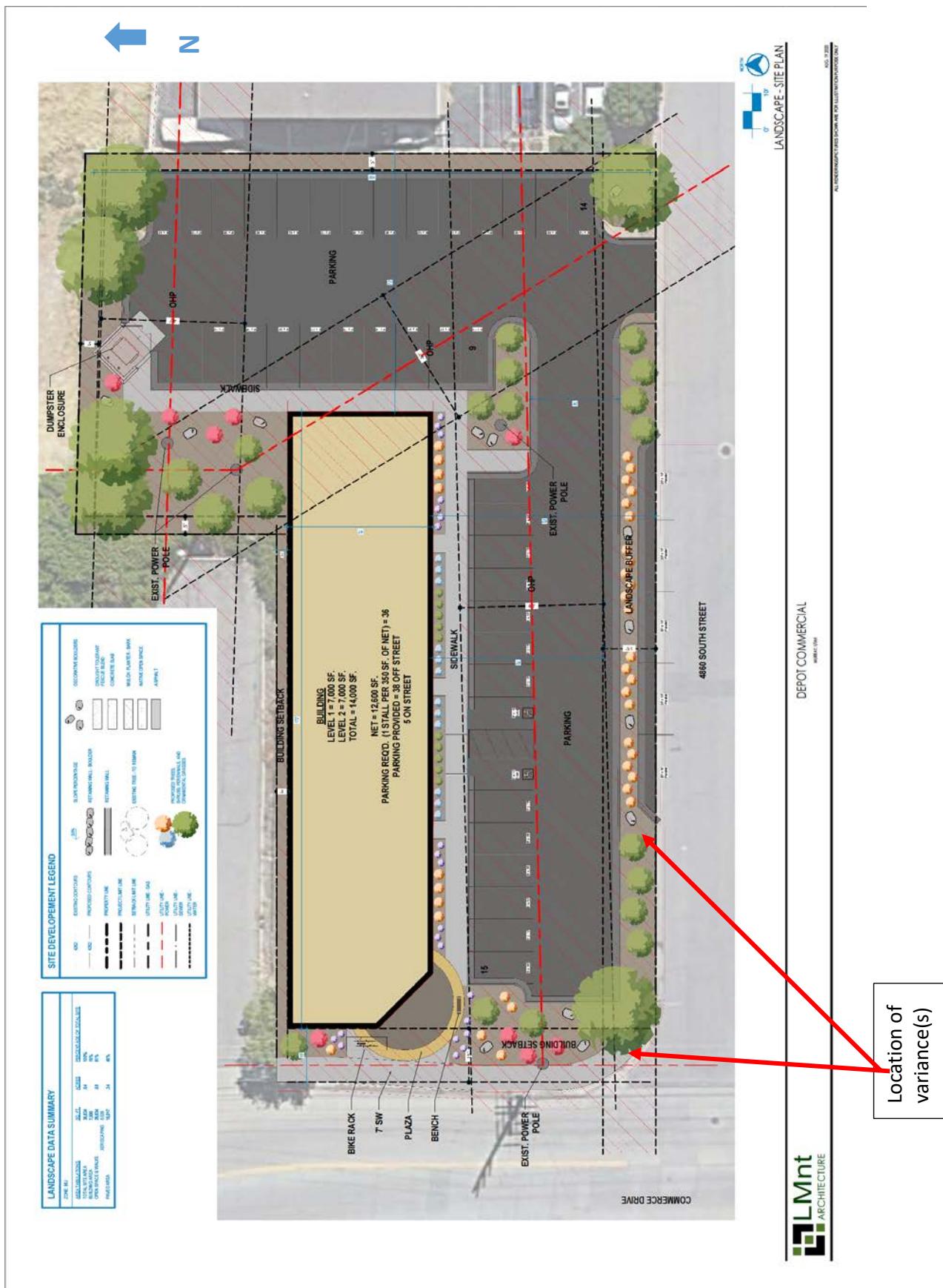
The Murray City Hearing Officer will hold a public meeting Wednesday, September 9, 2020 at 12:30 p.m. regarding the following application:

**Clint Tolman with Gold Stream has made application to the Murray City Hearing Officer requesting a variance for the property at 248 West & 232 West 4860 South for the front yard setback requirements along Commerce Drive and 4860 South Street due to the existing overhead power lines. The requested variance is in order to accommodate a new building. The property is located in the M-U Zone. Please see the attached site plan.**



This notice is being sent to you because you own property within 300 feet of the subject property. If you have questions or comments concerning this proposal, please call Susan Nixon with the Murray City Planning Division at 801-270-2423, or e-mail to [snixon@murray.utah.gov](mailto:snixon@murray.utah.gov).

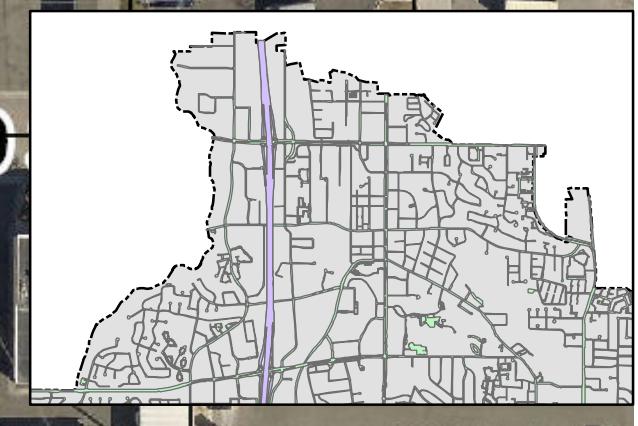
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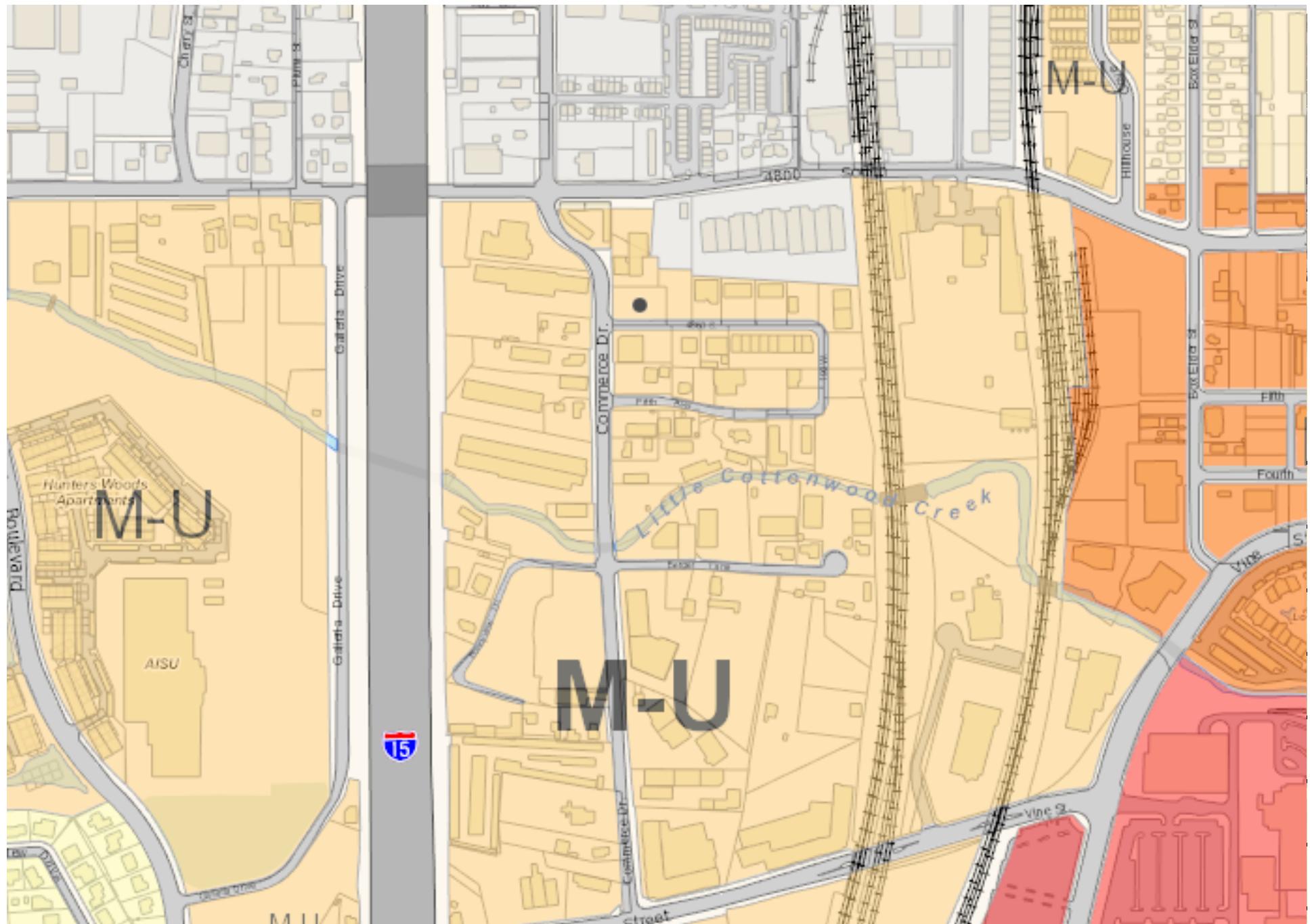
# 248 West & 232 West 4860 South



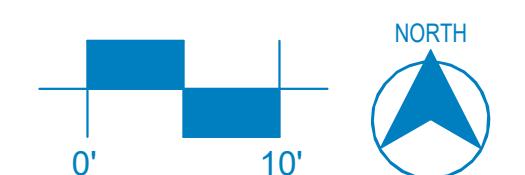
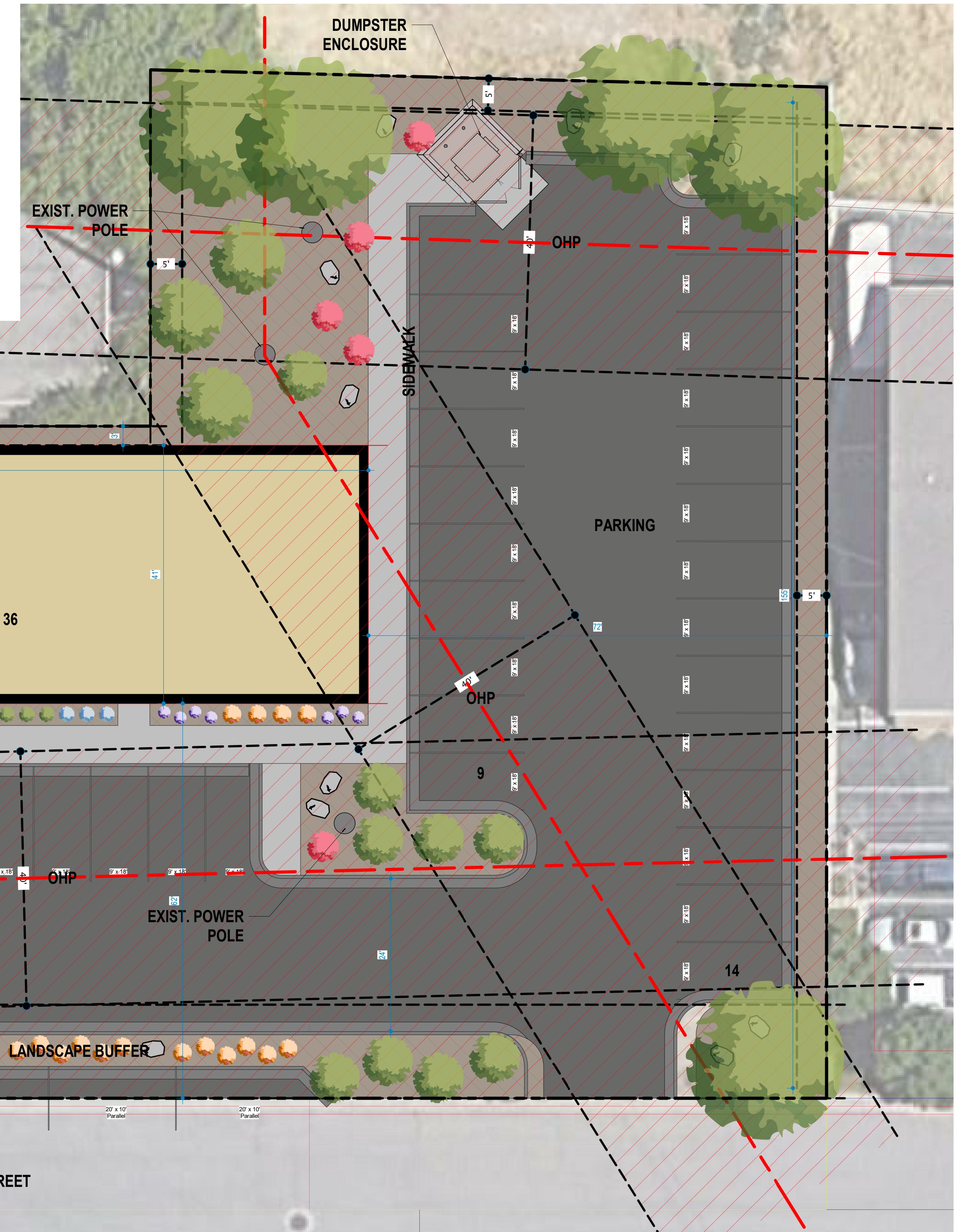
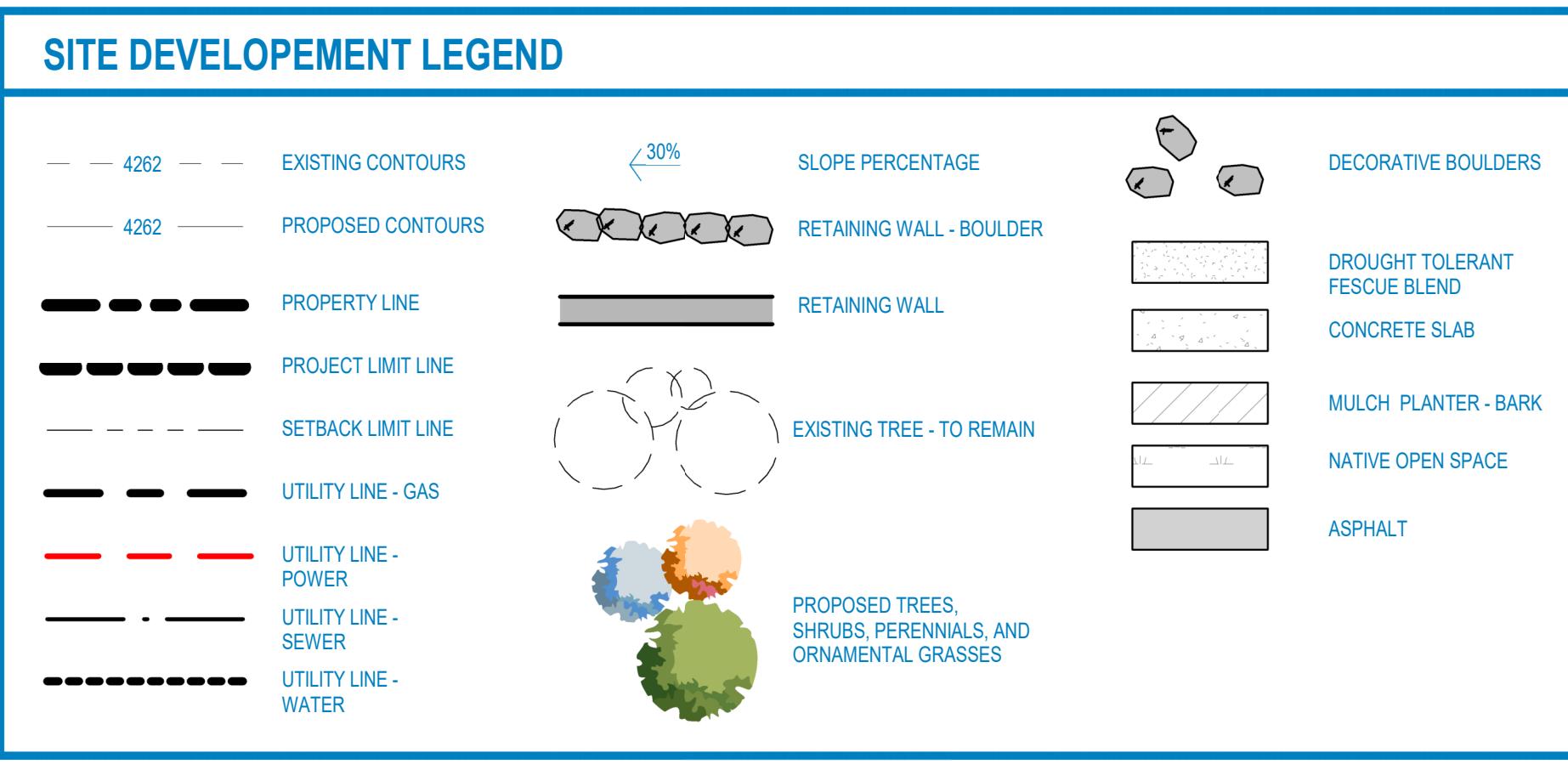
Drone



**248 & 232 W 4860 South**



LANDSCAPE DATA SUMMARY			
ZONE: MU			
AREA TABULATIONS	SQ. FT.	ACRES	PERCENTAGE OF TOTAL SITE
TOTAL SITE AREA	36,834	.84	100%
BUILDING AREA	7,000		19%
OPEN SPACE & WALKS	29,834	.68	81%
XERISCAPING	8,029		
PAVED AREA	15,017	.34	40%



LANDSCAPE - SITE PLAN

# HEARINGS OFFICER APPLICATION

Permit # 20-093

#1523

Type of Application (check all that apply):

Variance

Expansion of Non-Conforming Use

Appeal

Subject Property Address: 248 W 4860 So  
232 W

Parcel Identification (Sidwell) Number: 21-2-206-041+042

Parcel Area (acreage): .84 Acre Current Use: Vacant

Floor Area: 14,000 gross Zoning Classification: m/u

Applicant Name: Clint Tolman

Mailing Address: 197 W 4860 S

City, State, ZIP: Murray, Utah 84107

Daytime Phone #: 801 652 5220 Fax #: \_\_\_\_\_

Email address: Clint@goldstream.us

Business Name (If applicable): Depot Commercial, LLC

Property Owner's Name (If different): D.L. Marian Woodward Rev. trust

Property Owner's Mailing Address: 197 W 4860 S

City, State, Zip: Murray, UT 84107

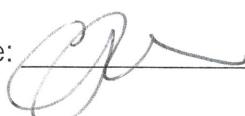
Property Owner Email Address: wardlon78@gmail.com

Daytime Phone #: 801 598 4288 Fax #: \_\_\_\_\_

Type of variance request, exact measurement, and reason for request: Building

Set back due to underground powerlines. landscape  
on east side is 7 feet not 5 feet.

Authorized Signature:



Date: 8/17/20

## VARIANCE ANALYSIS FORM

(To be filled out by the applicant)

Permit # \_\_\_\_\_

1. Is the applicant being deprived of property rights possessed by other property owners in the area?

NU

2. Is the problem caused by actions of the land owner?

No, due to under ground power line.

3. What special circumstances are associated with your property that is different from other properties in your zoning district?

Under ground power line.

4. What special conditions associated with this application constitute a hardship?

Building set back to property because under ground power line thru middle of property.

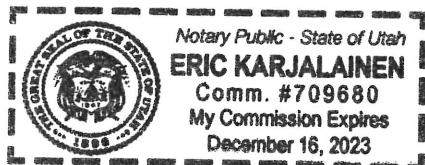
### Property Owners Affidavit

I (we) Brent Woodward & Carol Hackin, Trustees being first duly sworn, depose and say that I (we) am (are) the current owner of the property involved in this application: that I (we) have read the application and attached plans and other exhibits and are familiar with its contents; and that said contents are in all respects true and correct based upon my personal knowledge.

Brent A. Woodward Trustee  
Signature

Carol Hackin, Trustee  
Owner's Signature (co-owner if any)

Subscribed and sworn to before me this 17 day of August, 20 20.



Notary Public  
Residing in 7101 Highland Dr. S.W., UT 84121 Salt Lake County  
My commission expires: 12-16-2023

### Agent Authorization

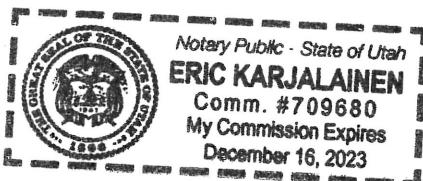
I (we), Brent Woodward, & Carol Hackin, Trustees, the owner(s) of the real property located at Lot 1 + Lot 2, Woodward Industrial Park in Murray City, Utah, do hereby appoint Clint Tolman & Gold Stream LLC, as my (our) agent to represent me (us) with regard to this application affecting the above described real property, and authorize

Clint Tolman & Gold Stream LLC to appear on my (our) behalf before any City board or commission considering this application.

Brent A. Woodward Trustee  
Carol Hackin Trustee  
Owner's Signature (co-owner if any)

On the 17 day of August, 20 20, personally appeared before me

Brent Woodward & Carol Hackin the signer(s) of the above Agent Authorization who duly acknowledge to me that they executed the same.



Notary public  
Residing in Salt Lake City 7101 Highland Dr  
My commission expires: 12-16-2023





Building Perspective - North Elevation



Building Perspective - 4860 South



Building Perspective - East Elevation



Building Perspective - 4860 South w/ Materials

AUG 12 2020

DEPOT COMMERCIAL  
MURRAY, UTAH



Building Perspective - Commerce Drive & 4860 South

AUG 15 2020

DEPOT COMMERCIAL  
MURRAY, UTAH



Building Perspective - East Elevation

DEPOT COMMERCIAL  
MURRAY, UTAH



Building Perspective - North Elevation

DEPOT COMMERCIAL  
MURRAY, UTAH



Building Perspective - Commerce Drive

## Susan Nixon

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**From:** Susan Nixon  
**Sent:** Wednesday, February 12, 2020 8:57 AM  
**To:** Jared Hall  
**Subject:** FW: 248 West 4860 South

**From:** Kelly Peterson <kpeterson@murray.utah.gov>  
**Sent:** Tuesday, February 4, 2020 7:58 AM  
**To:** Susan Nixon <snixon@murray.utah.gov>  
**Cc:** Blaine Haacke <bhaacke@murray.utah.gov>; Bruce Turner <BTurner@murray.utah.gov>  
**Subject:** 248 West 4860 South

Susan,

Yesterday I met with a gentleman regarding the property located at 248 West 4860 South. This property has a 138 KV Transmission Line with a 12.5 KV under build running through the middle it. This is the primary feed to Murray City's Central Substation.

He asked about relocating the line so as to enable him to develop the lot. I informed him that we would not relocate the line under any circumstances. We entered into an agreement with the original property back in the 1970's to construct this line as a primary feed to the substation. I informed that as per that agreement he could build on the property much like the other lots to the East, only if he maintains the proper clearance from the lines. That clearance being 20' from the building to the nearest conductor. He believed he could do that if he could get the proper approvals from Murray City.

Regards

Murray City Power Department

Kelly Peterson  
Senior Utility Planner  
153 West 4800 South  
Murray, Utah 84107  
801-264-2720  
M - 801-558-1184