



**Murray City Hearing Officer Meeting
Notice of Meeting and Agenda**

**Wednesday, October 9th, 2024, 12:30 p.m.
Murray City Hall, 10 East 4800 South
Poplar Conference Room #151**

Supporting materials are available at <https://www.murray.utah.gov/1386/Agendas>.

CALL MEETING TO ORDER

1. Conflict(s) of Interest Declaration

APPEAL(S)

2. Hunters Woods SPE, LLC
4998 South Galleria Drive
Appeal of a Land Use Decision regarding a Master Site Plan Approval (Project 24-083) Project # 24-005

VARIANCE(S)

3. Jacob Hammond
6026 South 600 West
Variance to allow a second story on an accessory structure. Project #24-006
4. Pointe at 53rd
5151 South State Street
Variance to allow greater front yard setback in the CMU Zone. Project #24-007

ANNOUNCEMENTS AND QUESTIONS

ADJOURNMENT

The next scheduled meeting will be held on Wednesday, November 13, 2024, at 12:30 p.m. MST located at Murray City Hall, Poplar Room #151, 10 East 4800 South, Murray, Utah.

Special Accommodations for the hearing or visually impaired will be made upon a request to the office of Murray City Recorder (801-264-2662). We would appreciate notification two working days prior to the meeting. TTY is Relay Utah at #711.

Committee members may participate in the meeting via telephonic communication. If a committee member does participate via telephonic communication, the Committee member will be on speakerphone. The speakerphone will be amplified so that the other Committee members and all other persons present will be able to hear all discussions.

At least 24 hours prior to the meeting, a copy of the foregoing notice was sent to the City Recorder to post in conspicuous view in the front foyer of the Murray City Center, Murray, Utah. A copy of this notice was also posted on Murray City's internet website www.murray.utah.gov and the state noticing website at <http://pmn.utah.gov>.

Dani Cepernich
Direct Dial: 801.322.9264
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September 30, 2024

Scott Finlinson
sfinlinson@onsetfinancial.com

Re: Murray City's Response to Hunter Woods SPE, LLC's Appeal

Dear Scott:

This letter is in response to the August 23, 2024, appeal of Murray City' Planning Commission's Finding of Fact and Conclusions of Law regarding the Cottonwood Galleria (Findings & Conclusions) filed by Hunters Woods SPE, LLC (Hunters Woods). Through its appeal, Hunters Woods raises four challenges to the Planning Commission's Findings & Conclusions: (1) the decision is arbitrary and capricious because (a) it does not "adequately consider some of the most obvious concerns and effects surrounding vehicular traffic and parking should the Development proceed as approved," (b) "there is no indication in the staff report or elsewhere that the buildings will be constructed beyond 100 feet of [the western residential] boundary," and (c) it is unclear whether the proposal applies with applicable lighting requirements because "the lighting plans do not appear to have been attached to the report"; and (2) the Planning Commission did not afford the public adequate time to oppose the application. Hunters Woods additionally requests that the Findings & Conclusions be stayed pending the outcome of its appeal.

The Findings & Conclusions should be affirmed, as the Planning Commission's decision is not arbitrary and capricious. The City does not oppose the requested stay, subject to concerns that may be raised by the applicant, Tyler Morris and Cottonwood Residential (Applicant).

I. THE FINDINGS & CONCLUSIONS ARE SUPPORTED BY SUBSTANTIAL EVIDENCE.

Utah Code Section 10-9a-703(1) authorizes an adversely affected party to appeal a land use authority's decision to the municipality's appeal authority.

The municipality is, by statute, authorized to "designate the scope of review of factual matters for appeals of land use authority decisions." Utah Code § 10-9a-707(a). The City has done so through Murray City Code Section 17.16.040. "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." Murray City Code § 17.16.040(A). "The record may include written communications, the land use application, staff reports, meeting minutes and the written land use decision." *Id.* "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." Murray City Code § 17.16.040(B).

The appropriate standard of review for this appeal is set by Utah statute and Murray City Code. The Hearing Officer must consider “whether the record on appeal includes substantial evidence for each essential finding of fact.”¹ Utah Code § 10-9a-707(3); Murray City Code § 17.16.040(D)(1). “Substantial evidence is that quantum and quality of relevant evidence that is adequate to persuade a reasonable mind.” *Staker v. Town of Springdale*, 2020 UT App 174, ¶ 24 (cleaned up). On appeal, the hearing officer “will consider all the evidence in the record, both favorable and contrary, with the aim of determining whether a reasonable mind could reach the same conclusion as the land use authority.” *Id.* (cleaned up). “In doing so, [the reviewing body] do[es] not weigh the evidence anew or substitute [its] judgment for that of the municipality.” *Id.* (cleaned up).

“The appellant has the burden of proving that the land use authority erred.” Utah Code § 10-9a-705; Murray City Code § 17.16.040(C).

Hunters Woods has not carried its burden of establishing that the Findings & Conclusions are not supported by substantial evidence.

a. Traffic and parking.

Hunters Woods challenges the Findings & Conclusions on the basis the Planning Commission “failed to adequately consider some of the most obvious concerns and effects surrounding vehicular traffic and parking should the Development proceed as approved.” (Appeal at 2.) It has failed, however, to identify any finding that is not supported by substantial evidence. Specifically, it has failed to identify any “requirement[] of the Murray Central Mixed Use Zone and other applicable standards of the Murray City Land Use Ordinance” that has not been met.

i. Traffic study

Murray City Code Section 17.146.060(E) sets out the requirements for an application for master site plan approval within the Murray Central Mixed Use District. Those requirements include a Traffic Impact Study. “The study must be prepared by a licensed traffic engineer and analyze the traffic impacts of the proposed development on surrounding public and private transportation facilities.” Murray City Code § 17.146.060(E)(1). Neither the Murray Central

¹ In its appeal, Hunters Woods indicates the appropriate standard is whether the decision was arbitrary and capricious. The cited provision (Utah Code § 17-27a-801(3)(c)(i)) addresses the standard applied to judicial review of a land use decision made by a county. Section § 10-9a-801(3)(c)(i) is the parallel provision governing judicial review of land use decisions made by a municipality, such as the City. While the statutory definition of arbitrary and capricious is that the “decision is not supported by substantial evidence in the record,” Utah Code § 10-9a-801(3)(c)(i), the appropriate framing for this appeal is that set out in Utah Code Section 10-9a-707(3) and Murray City Code Section 17.16.040(D)(1), quoted above.

Mixed Use District nor other applicable standards requires that the traffic study reveal a particular traffic impact.

Here, the Applicant submitted the 49th Street Galleria TIS and Parking Study prepared by Fehr & Peers (the Study). That study is included at pages 24 through 66 of the Staff Report. Hunters Woods has not disputed that Fehr & Peers is a licensed traffic engineer. Nor have they argued that the study does not analyze traffic impacts of the proposed development. It does. This is evident from a review of the Study, with a described purpose of “provid[ing] a summary of the potential transportation-related impacts from the proposed Galleria development located along Murray Blvd between 4800 South and Vine St in Murray Utah.” (Study at 5.)

Hunters Woods’ unsupported assertions regarding traffic concerns do not alter the fact the Applicant satisfied the requirement of Section 17.146.069(E)(1). While Hunters Woods indicates it intends to present a competing traffic study at the hearing, under Section 17.16.040(B), any such study cannot properly be considered because it was not presented to the Planning Commission. Even if it could, it would not change the fact that substantial evidence exists in the record that the Applicant complied with the requirement of Section 17.162.069(E)(1) by providing the requisite traffic study.

ii. Parking

In addition to a traffic study, Murray City Code requires a parking analysis be submitted with the master site plan application. “The applicant must prepare a parking analysis for the proposed mix of uses, demonstrating that the project’s parking and circulation needs can be accommodated.” Murray City Code § 17.146.060(E)(2). Parking requirements within the Murray Central Mixed Use West Subdistrict in which the property is located are set out at Section 17.146.110(H) and Table F. The Staff Report reproduces those requirements and illustrates the proposed development’s compliance:

MCMU West Subdistrict Required Parking			
	Requirement	Total Units (p1, p2, p3, p4)	Required (p1, p2, p3, p4)
Studio	1.25 space	0	0
1 Bedroom	1.5 spaces	260 (190, 0, 0, 70)	390 (285, 0, 0, 105)
2 Bedrooms	2.15 spaces	230 (160, 0, 0, 70)	495 (344, 0, 0, 151)
3 Bedrooms	2.65 spaces	57 (32, 0, 0, 25)	151 (85, 0, 0, 66)
4 Bedrooms	2.65 spaces	92 (16, 76, 0, 0)	243 (42, 201, 0, 0)
Commercial	1 per 300 ft2	18,900 (0, 13000, 0, 5900)	51 (0, 0, 35, 16)
Total			1,330 (756, 201, 35, 338)

Staff counted approximately 1,350 parking spaces including, 341 in the parking structure and 1,009 in surface parking. This is over the required amount of parking. The applicant has thoroughly addressed all the parking requirements outlined in the code. Staff does not have any issues with the amount of parking proposed.

(Staff Report at 6.)

Hunters Woods has not argued the above count is incorrect. Instead, it appears to merely disagree with the requirements set out in Table F. Any such disagreement with those requirements does not properly raise a challenge to whether there was substantial evidence to support the Planning Commission's finding that the requirements as they currently exist are met.

For these reasons, Hunters Woods has not carried its burden of establishing that the Findings & Conclusions are not supported by substantial evidence with respect to traffic or parking impacts.

b. Building height.

Hunters Woods challenges the Findings & Conclusions on the basis that "there is no indication in the staff report or elsewhere that the building will be constructed beyond 100 feet of [the western residential] boundary" so that they are not limited to 35 feet in height. (Appeal at 4.) The application, however, included a site plan from which staff was able to measure the distance of building from the residential boundary and confirm compliance with the height limitation. (See Staff Report at 67–68.) Indeed, the Site Plan includes as part of the "Site Requirement Summary" under set backs "2 STORY/35' MAXIMUM HEIGHT IF BUILDING IS WITHIN 100' OF RESIDENTIAL BOUNDARY." (*Id.* at 67.) That document is "adequate to persuade a reasonable mind" that the Development is consistent with Murray City Code Section 17.146.080(D)(3). Compliance with that section need not have been specifically called out in the Staff Report for this to be true.

Notably, Hunters Woods has not provided any information that the proposed development does *not* comply with Section 17.146.080(D)(3).

c. Lighting.

Hunters Woods challenges the Findings & Conclusions on the basis that because the lighting plans referenced in the Staff Report "do not appear to have been attached to the report," "it remains unclear whether the proposal complies with applicable law." (Appeal at 4.) The Staff Report, however, did include the "lighting plan," which is also referred to as the "photometric plan." That plan is included at page 86 of the Staff Report. The City apologizes for any confusion caused by the interchanged use of the terms "lighting plan" and "photometric plan."

Hunters Woods has not identified any way in which the Development does not comply with the "requirements of the Murray Central Mixed Use Zone and other applicable standards of the Murray City Land Use Ordinance" (Findings & Conclusions at 2) regarding lighting. Accordingly, Hunters Woods has failed to carry its burden on this point.

II. THE CITY PROVIDED NOTICE THE NOTICE REQUIRED BY THE UTAH AND MURRAY CITY CODES.

Hunters Woods additionally challenges the Findings & Conclusions on the basis “[a]ffected residents were not given sufficient time by the Commission to consider and potentially oppose the Development before it was publicly heard and approved.” (Appeal at 5.)

As an initial matter, Hunters Woods has waived any challenge to the notice provided for the Planning Commission’s consideration of the application. Utah Code Section 10-9a-209 provides, “If notice given under authority of this part is not challenged under Section 10-9a-801 within 30 days after the meeting or action for which notice is given, the notice is considered adequate and proper.” Notice of the Planning Commission Meeting was given under “this part,” Part 2 of the Municipal Land Use, Development, and Management Act (MLUDMA). As set out in the Findings & Conclusions, notice was mailed to property owners within 500 feet of the property on July 19, 2024. More than 30 days have passed since issuance of that notice and Hunters Woods has not challenged that notice through judicial review under Section 10-9a-801. As a result, the “notice is considered adequate and proper.” *Id.*

Even if the Hearing Officer could consider Hunter Woods’s challenge, the notice provided by the City complied with the Utah and Murray City Codes and afforded proper notice of the application.

MLUDMA does not require notice of planning commission review of a design review application to be provided to anyone other than the applicant. *See* Utah Code, Title 10, Chapter 9a, Part 2. Absent such requirement, notice is subject to the requirements of the Open and Public Meetings Act. Under that act, “A public body shall give not less than 24 hours’ public notice of each meeting.” Utah Code § 52-4-202(1)(a)(i). Notice is not required to be given further in advance, as Hunters Woods appears to maintain. Nor is that notice required to include “substantive information” about the agenda items, as Hunters Woods appears to maintain. *See* Utah Code § 52-4-202(1)(b) (requiring the notice include the meeting agenda, date, time, and place).

Although MLUDMA does not require that additional notice of planning commission review of a design review application to be provided to anyone other than the applicant, it does authorize a municipality to “by ordinance require greater notice than required under this part.” Utah Code § 10-9a-201(2). This includes third party notices. *See* Utah Code § 10-9a-206. The City has done so through Section 17.04.140. Under that section, “third party notices required or allowed by this title to be mailed to surrounding property owners regarding rezoning and condition use requests[] shall be sent to all property owners of record within [identified] distances . . . or as deemed appropriate by the planning staff for special/unique situations, but in no case shall notification be less than three hundred feet (300’).”

Here, although the application did not involve a rezone or conditional use, staff determined that it was appropriate to send notice to third-parties within 500 feet of the development. Nothing

in Murray City Code requires that notice to have been sent earlier than it was or to contain additional information.

Because the notice provided satisfies all applicable requirements, even if Hunters Woods could challenge it, there is no basis to determine the notice was inadequate. If every affected property owner could set their own requirements as to what is reasonable under the circumstances based on their interest in the property and view of complexity, there would be no uniform standards under which the City could operate. Such an approach is not tenable or consistent with Utah law.

III. THE CITY DOES NOT OPPOSE THE REQUESTED STAY.

Hunters Woods requested the Hearing Officer stay the design review approval pending resolution of its appeal. The City does not oppose that request, subject to consideration by the Hearing Officer of the objection raised by the Applicant.

IV. CONCLUSION.

For the foregoing reasons, the City requests the Planning Commission's Findings & Conclusions be affirmed.

Sincerely,

SPENCER FANE LLP



Dani N. Cepernich
Lawyer

cc:

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c/o Tyler Morris
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Salt Lake City, UT 84106

APPEAL OF A LAND USE DECISION APPLICATION

Type of Appeal (check one):

Conditional Use Permit _____ Site Plan Review Staff Determination _____ Design Review

Application Information

Project Name: Cottonwood Galleria; Project No. 24-083

Project Address: 4998 South Galleria Drive

Parcel Identification (Sidwell) Number: 21-12-176-016

Parcel Area(acres): 26.07 acre site Zoning District: MCMU

Appellant Information

Name: Hunters Woods SPE, LLC

Mailing Address: 2398 E CAMELBACK RD STE 200 City: Phoenix State: AZ zip: 85016

Phone #: 801-676-1630 Fax #: Email Address: g.wiseman@amcllc.net

Property Owner's Information (If different)

Name: _____

Mailing Address: _____ **City:** _____ **State:** _____ **ZIP:** _____

Phone #: Fax #: Email Address:

Describe the request in detail (use additional pages, or attach narrative if necessary):

Please find included herewith Hunters Woods' written appeal, which details the grounds and reasons for the appeal.

Authorized Signature: - Agent Date: 8-22-24

For Office Use Only	
Project Number: _____	Date Accepted: _____
Planner Assigned: _____	

Property Owners Affidavit

I (we) Greg Wiseman, 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.


Owner's Signature

Owner's Signature (co-owner if any)

State of Utah

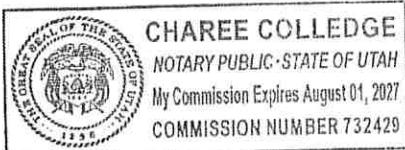
§

County of Salt Lake

Subscribed and sworn to before me this 22nd day of August, 2024.

Charee Colledge
Notary Public

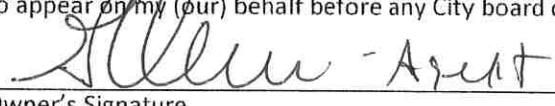
Residing in Salt Lake



My commission expires: 08-01-2027

Agent Authorization

I (we), Greg Wiseman, the owner(s) of the real property located at 4924 Murray Blvd, Murray, UT 84123 in Murray City, Utah, do hereby appoint James W. Anderson and Emma D. Tanner, as my (our) agent to represent me (us) with regard to this application affecting the above described real property, and authorize James W. Anderson and Emma D. Tanner to appear on my (our) behalf before any City board or commission considering this application.


Owner's Signature

Owner's Signature (co-owner if any)

State of Utah

§

County of Salt Lake

On the 23 day of August, 2024, personally appeared before me Greg Wiseman the signer(s) of the above Agent Authorization who duly acknowledge to me that they executed the same.

Shalyssa Meier
Notary public

Residing in: Utah

My commission expires: 04-16-25



ClydeSnow

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Δ ALSO ADMITTED IN FLORIDA
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~ ALSO ADMITTED IN OREGON
= ALSO ADMITTED IN WASHINGTON
tt ALSO ADMITTED IN WYOMING

August 23, 2024

Via Email and Hand Delivery

Phil Markham
Community and Economic Development Director
Murray City Community and Economic Development Division
10 East 4800 South
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pmarkham@murray.utah.gov

**RE: Appeal of Murray City Planning Commission Findings of Fact and
Conclusions
Cottonwood Galleria; Project No. 24-083
Petition to Stay Decision**

Dear Mr. Markham:

This firm represents Hunters Woods SPE, LLC ("Hunters Woods"), the owner and operator of Hunters Woods Apartments located at 4924 Murray Blvd. Hunters Woods has been adversely affected by the recent approval by the Murray City Planning Commission (the "Commission") of Cottonwood Galleria, a proposed 639-unit mixed-use development (the "Development") located at 4998 South Galleria Drive (the "Decision"). Our client hereby appeals the Commission's Decision pursuant to Murray City Code §§ 17.16.030 and 17.16.040 and requests that an appeal hearing take place on the next available hearing officer agenda. Hunters Woods further petitions the assigned hearing officer to stay the Decision pending the outcome of this appeal.

A. Appellant Has Standing to Appeal.

“The City, a land use applicant, or an adversely affected party may appeal a final written decision of the [Commission].” *See* Murray City Code § 17.16.030(A). Here, Hunters Woods owns and operates an apartment complex immediately adjacent to the Development. Hunters Woods is therefore an adversely affected party due to its proximity to the proposed Development, which will greatly affect both its residents and its staff. As an adversely affected party with the right to challenge the Commission’s Decision, Hunters Woods has standing to bring this appeal.

B. Grounds for Appeal and Reasons Decision Was Made in Error.

i. The Decision was Arbitrary and Capricious.

A decision by a land use authority “is arbitrary and capricious if the decision is not supported by substantial evidence in the record.” Utah Code Ann. § 17-27a-801(3)(c)(i). Here, the Decision was arbitrary and capricious because it was based on factually incorrect statements and reports, particularly with respect to the Traffic Impact Study submitted by Tyler Morris and Cottonwood Residential (together, the “Applicant”) in support of the Development. The Decision also fails to adequately incorporate considerations of the Development’s height and light pollution impacts in conjunction with the applicable law.

Traffic Impacts

The Applicant and the Commission have failed to adequately consider some of the most obvious concerns and effects surrounding vehicular traffic and parking should the Development proceed as approved. Hunters Woods estimates that the Development will add at least 2,518 new residents to the area. Cottonwood Residential expects to accommodate these tenants with 1,350 new parking stalls. But with approximately twice as many residents as available parking, not to mention guests, Hunters Woods expects vehicular parking to overflow onto neighboring roads, driveways, and even private vacant lots and fields. Hunters Woods recalls a similar problem arising on Murray’s Main Street at approximately 4500 South following the construction of the Metro at Fireclay and Birkhill Apartments – vehicles have been forced to park bumper to bumper on the main roads, while other residents park wherever they can find space. This has included empty fields and other areas of private property, which are not legally designated as public parking areas.

Utah Transit Authority ("UTA") has also long-recognized the problems that come with high-density living in Utah, particularly with respect to increased vehicular traffic. As a result, UTA has been making efforts to add bus stops along Murray Blvd. to alleviate what is already a frustrating amount of traffic and congestion for those who use the main road to get around. Now, with thousands of added vehicles, Murray Blvd. and neighboring streets are likely to be completely overwhelmed, especially during peak travel hours. This is particularly true given that Murray Blvd. is only two lanes. Given that Murray City has not presented an intention or plan to expand Murray Blvd., and Hunters Woods sees no feasible way to do so, traffic concerns only continue to grow.

Additionally, while the Development expects to provide commercial amenities, the reality is that 20,000 square feet of commercial space can only accommodate so much. Tenants will undoubtably be forced to shop, dine, and recreate elsewhere, and the majority of new residents will commute by car to work and/or school on a daily basis. Because Utah's infrastructure does not yet easily accommodate those without vehicles, the newly added 2,500 people are going to be driving to and from the Development on a near constant basis. These facts seem to have been overlooked, or at least recklessly underappreciated by the Commission.

With the increased traffic and density come additional safety concerns. For example, Horizon Elementary School is located just minutes from Hunters Woods' apartments and the Development. With increasing numbers of children walking to and from school, as well as the added vehicular strains, residents are rightfully concerned about children's safety. This is especially the case for those Hunters Woods residents who recall the stress and frustration surrounding increased foot and vehicular traffic from the International School formerly located at the Development site. Even with thousands fewer people, traffic was a problem for residents and bore safety risks to drivers and pedestrians alike. The Development will only magnify these risks.

Hunters Woods is in the process of obtaining its own traffic study, which will be presented at the upcoming hearing to address this appeal. However, what is convenient for the Applicant is the fact that neither its nor Hunters Wood's traffic study will incorporate increasing traffic from other developments that are not complete but will be before the Development is finished. For example, the nearly complete Focal Apartments are being constructed at 447 West and 4800 South, just north of the Development. Completion of this project will add approximately 400 units to the immediate area, along with another thousand or so tenants with their own vehicles.

Therefore, consideration of the Development's traffic and density impacts under current conditions adds little, if any, value and is ultimately irrelevant and inaccurate. That is, whatever impacts are allegedly expected given current conditions should, in reality, be multiplied to account for the realities of an ever-growing neighborhood. Therefore, the Commission should reassess expected traffic impacts, this time with new developments in mind. Hunters Woods expects that, in doing so, the Commission will realize that the increases in density and traffic from the Development will overwhelm the immediate area and drastically negatively affect the quality of life of those working and living nearby.

Additional Oversight

Of additional concern are the issues of building height and added light pollution. The Murray City Code requires that the Development not exceed 35 feet in building height within 100 feet of the nearest residential boundary. *See* Murray City Code § 17.146.080(D)(3). Residential boundaries neighbor the Development to the west, and there is no indication in the staff report or elsewhere that the buildings will be constructed beyond 100 feet of that boundary. This is especially concerning given that the Development renderings depict at least a six-story complex that Hunters Woods expects will impose on its residents and neighbors.

Further, the staff report addresses the Development's lighting as follows:

Lighting plans have been provided and are attached to this report for your review. Lights provided along Vine Street and Galleria Drive will be reviewed and approved in conjunction with Murray City Power. Site lighting includes parking lot lights, building mounted lights, and bollard lights for use along pedestrian paths and walkways. The full photometric plan has been prepared for review by the City Engineer.

Unfortunately, the lighting plans do not appear to have been attached to the report, and it remains unclear whether the proposal complies with applicable law. If it does not, Hunters Woods expects the added light pollution to affect nearby residents significantly.

ii. The Commission Did Not Afford the Public Adequate Time to Oppose the Decision.

ClydeSnow

Affected residents were not given sufficient time by the Commission to consider and potentially oppose the Development before it was publicly heard and approved. This is particularly troublesome given that Hunters Woods believes the Development is one of the largest to be proposed in state history. Such has essentially done away with the due process rights of everyone who is and will be affected.

Specifically, Murray City did not publish any substantive information about the Development until late Friday, July 26, 2024. The public hearing on the Development was August 1, 2024, less than one week later. This left residents with, essentially, five calendar days to process and analyze a nearly 140-page staff report. In an attempt to mischaracterize this travesty, the staff report notes that ninety-four (94) notices were mailed to property owners within a 500-foot radius of the anticipated Development, and only one email was received requesting a copy of the staff report. However, while Murray City highlights this detail to show disinterest from the local community, it only reflects how little time people were given to process the proposal and formulate their concerns and potential oppositions. Allowing such a significant development to fly under the radar until what is effectively the last second is not acceptable.

C. Conclusion.

For the foregoing reasons, the Decision should be reversed and remanded to the Commission to allow for proper consideration of the Development's density and traffic implications, as well as expected building height and light pollution. The Commission should also provide concerned and affected residents with adequate time to formulate and voice their concerns. Hunters Woods further requests that the assigned hearing officer stay the Decision pending the outcome of this appeal, including the conclusion of a public hearing.

Very truly yours,



James W. Anderson
Emma D. Tanner

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* * OFFICIAL TRANSCRIPTION * *

OF MURRAY CITY PLANNING COMMISSION MEETING

AGENDA ITEM #4

PROPOSAL AND COMMENTS

DATE OF MEETING: AUGUST 1st, 2024

Transcribed by: Amber R. Fraass

- REGISTERED PROFESSIONAL REPORTER -

PROCEDING S

-000-

COMMISSION CHAIR PATTERSON: Now moving on to Agenda Item No. 4, design review and master site plan for Cottonwood Galleria.

Is the applicant here this evening?

Okay. Great. First we will have a report from Zachary Smallwood.

MR. SMALLWOOD: Thank you, Chair.

Yeah. This is a request for Cottonwood Residential for master site plan and design review approval for the property of 4998 South Galleria Drive. It's located here on your map on the corner of Vine Street and Murray Boulevard. It's approximately 26.07 acres.

This used to be the 49th Street Galleria/Utah Fun Dome. It closed in 2005, and became the American International School of Utah, which is AISU, until about 2020, and due to the pandemic closed permanently.

So this is located in the Murray central mixed-use zone -- which it consists of two subdistricts; the East and West distinct. The West subdistrict is anything west of I-15. Anything in

1 the East subdistrict obviously is east of I-15.
2 The West subdistrict has significantly less density
3 allowances, and greater parking requirements, as
4 well as -- actually, that's mostly what those major
5 points are.

6 Moving on to the site plan. This is the
7 proposed site plan for the property. Consists of a
8 total of 639 units. The zoning allows them to go
9 up to 1,040 units, and they have brought it down --
10 so that would be about 40 units per acre. They
11 have brought it down to about 25 units per acre.
12 It's actually 24.5, I think. So I -- I round that
13 up to 25 units per acre.

14 It consists of 382 garden-style, which
15 are kind of like your traditional. You would see
16 this near Hunters Woods, those are garden-style
17 apartments. They're kind of walkup. That would be
18 on these property -- or on these buildings located
19 here are all those garden walkups consisting of
20 382.

21 165 units in the podium. A podium means
22 that there's two stories of concrete parking, and
23 then wood framing apartment building above that
24 located here. So there's 165 units in here. And
25 then there are 92 proposed townhome units.

1 So you have three townhome units -- or
2 three townhome buildings consisting of four units
3 fronting on Murray Boulevard, which then the
4 remainder of those units are located along this
5 side here. So they are required because this is a
6 mixed-use zone to have a commercial component.

7 How we calculate that is based on their
8 property frontage on certain streets. We call
9 those principal streets. In the code that's laid
10 out as Murray Boulevard and Vine Street for this
11 specific property. So you're looking at this
12 street here, and then this street here. And down
13 this way.

14 That -- how we calculate that is it
15 about -- I think it's 75 percent of that property
16 frontage for a depth of 40 feet to get a total
17 square footage requirement, which ends up being 41,
18 760 square feet. Now, the applicant in the code
19 may reduce that commercial component based upon
20 meeting certain criteria.

21 One of those criteria -- so to reduce it
22 up to 45 percent of the required commercial, they
23 have to meet one of three criteria. One of them is
24 a reduction between 15 and 19 units per acre, or a
25 15 percent increase in open space. Or there are

1 some affordability restrictions. I believe it's 20
2 percent of the units at 80 percent air median
3 income, and 10 percent at 60 percent area median
4 income for a term of 50 years.

5 They chose the reduction of 15 units per
6 acre, which -- to bring them down to that 25 max,
7 which allowed them a reduction to 18,792 square
8 feet of commercial requirement. And they are
9 providing 18,900. 13,000 of that will be located
10 here in this building on the north side of the
11 property, and then an additional 5,900 will be
12 located here in the podium near Vine Street and
13 Murray Boulevard.

14 Parking requirements, so parking is based
15 on bedroom count in -- in this zoning district.
16 And there are a mix of one-, two-, three- and even
17 four-bedroom units in this development. I won't
18 break them out for you because that's a long,
19 complicated table.

20 Really what the ultimate parking
21 requirement was was 1,330 parking spaces. They've
22 provided 1,350. This results to agent 2.1 spaces
23 per unit, which is more than a single-family home
24 would be required. Yeah.

25 So moving on from there. So what the

1 planning commission's authority here is this
2 evening is -- is outlined in 17-146.060, which is
3 site plan/master site plan requirements or
4 required. So the planning commission will review
5 applications for conformance to the requirements of
6 this chapter for site plan approval.

7 So what you're looking at are making sure
8 that the requirements of the zone are being met.
9 Staff, that's what our job is is to make sure that
10 we verify all those requirements before this gets
11 to you.

12 So staff did find that the request
13 meets -- or will meet with conditions that are
14 outlined in the staff report, the requirements of
15 the zoning district.

16 A couple things I wanted to go over just
17 to go through some of the high-level items, so
18 building setbacks are required to be between 15 and
19 25 feet from the back of curb. We measured every
20 building and found that they do meet that
21 requirement.

22 Public improvements, there is a
23 requirement for an 8-foot park strip and a 7-foot
24 sidewalk. Now, I marked this in yellow because --
25 and I've already discussed this with applicant, and

1 I think it was stated in the staff report, they
2 were not showing those improvements along vine
3 Street and Murray Boulevard.

4 They did show them along Galleria Drive,
5 but they did say that they would be willing -- or
6 not willing, they are able to meet that
7 requirement. It was just an oversight on -- on
8 their part when they were developing the site plans
9 here. Yeah. So we are conditioning that on there.

10 So creek protection. Little Cottonwood
11 Creek -- so there is a setback -- a 50-foot setback
12 from the top back bank of the creek where no
13 buildings or parking may be located. We also have
14 a plan for a trail that will connect.

15 Currently it goes from the Jordan River
16 up through one development, and then this will
17 continue it almost to the -- almost to I-15.
18 There's one property located right here that
19 prohibits it from actually touching I-15 and then
20 moving up.

21 So they are going to -- and -- and they
22 are aware that we're requiring a conservation
23 easement be placed on -- on that section of land,
24 and then Murray City will actually maintain that
25 trail as one of -- pretty much as our own, but they

1 still retain ownership, we just are maintaining it.

2 Access. There are seven points of access
3 on this property. So it's hard to see because you
4 think Galleria's just one access, but that is a
5 public street. So you have one, two, three, four,
6 five, six and seven points of access going to north
7 to 48th, two points going on to Murray Boulevard.
8 You also have a few on to Galleria that will also
9 access Murray Boulevard.

10 For anything other 100 units we require
11 two access points. And what the city engineer
12 usually requires is that they can get out in
13 multiple areas if for some reason there is an
14 emergency like a fire or something. So you can go
15 left on Murray Boulevard, further down -- you
16 know --

17 I believe this will -- come on. This
18 will be a full access, as well as this. This will
19 be restricted to right-in, right-out. So you do
20 have multiple ways of getting in and out of the
21 project.

22 Moving along, I've already kind of gone
23 over parking. They are meeting that requirement.
24 Density, again, identify reviewed that. Proximity
25 to residential zoning, height is capped at 35 feet

1 max when located within 100 feet of a residential
2 zone. And we did measure that out, and these are
3 set back enough that they do not hit that 100-foot.
4 You can almost see that line right there. I
5 believe that's the 100-foot line.

6 Those are three-story, so I don't believe
7 they are going above -- oh, my gosh. I'm going all
8 sorts of crazy. I don't believe they're going
9 above 35, but they could if -- if they would like
10 to.

11 Building requirements. One entrance on
12 street frontage for every building. As you can see
13 here everything is facing on to a public street if
14 it's not within -- within the project itself, every
15 street frontage has a mix of buildings with -- with
16 street frontages.

17 No blank walls (CHECK) greater than 50
18 percent. This is to allow for additional light and
19 air in the area. And then open space and
20 amenities. 15 percent is required per the code.
21 They're providing 34 percent, which is
22 approximately 9 acres of the 26 -- of the 26 total
23 area. Which is significant. We usually get people
24 at, like, 15.3 percent.

25 So I -- I do commend them for providing

1 quite a bit of open space on their project.

2 They are required to provide six
3 amenities, and they have provided ten. Again,
4 that's listed out in your packet on exactly who
5 those are.

6 Moving along, so planning -- going along
7 the planning commission authority, the next part is
8 the site -- is a master site plan approval. This
9 is required when a property is greater than 3 acres
10 in size. So what that requires is that you have to
11 make sure that the application is meeting, I
12 believe, five criteria, which, A, B and C which are
13 first three build -- building orientation, central
14 feature and outdoor spaces. I'll get to those in
15 just a moment.

16 But the -- D is a development agreement.
17 The required elements of that is allowed phasing of
18 residential and commercial development components,
19 residential densities, parking, buffering of
20 adjacent single-family residential zones, etc.

21 So here before you is their proposed
22 phasing. So you have one here, which is the --
23 largely their garden-style walkup product. In
24 addition to approximately four townhome buildings.

25 Phase 2 would be a portion of the trail.

1 And the remainder of the townhome units. Phase 3
2 would be the commercial component, and Phase 4,
3 which is the last, would be the podium building.

4 In the staff report staff did request at
5 least a conversation on having the trail be
6 included in Phase 1 because it is such an impactful
7 space for the community. So that's a discussion we
8 can have going forward.

9 So going to the building orientation,
10 central feature and outdoor spaces, I wanted to
11 touch on those quickly. Here you can see this is
12 their leadership plan. Their central feature is
13 really this -- this trail going here. This
14 connects the commercial component to the
15 residential overall. And there's multiple ways of
16 getting around on the property.

17 Additionally, there are plenty of open
18 spaces. There's large, green space here. There's
19 a large clubhouse with swimming pools, sport
20 courts, things of that nature. It's really hard to
21 see at this scale some of those more minute things
22 because we're looking at something that's very -- a
23 very large property.

24 Here you have a proposed dog park and
25 also a -- a play area as well.

1 Building orientation, I kind of touched
2 on earlier. All the buildings are -- are formed to
3 create these -- these spaces, especially along this
4 street we're creating a street wall there. A lot
5 of the buildings are facing out on to the street.
6 And -- or in the case of these townhomes, they're
7 facing right out on to this -- this great public
8 trail here, much like the property to the south of
9 it as well.

10 Let's see. Okay. So next -- last part
11 is I will go over is the fifth component, which is
12 the site plan application requirements. So there
13 are four here: There's the traffic impact study
14 and parking analysis, the adequate public utilities
15 and facilities review, and public services review.

16 So I'm reviewing both of the -- one and
17 two together, and three and four together. One and
18 two was conducted as a traffic and parking analysis
19 they submitted by fair and peers. (CHECK) they are
20 a nationally known traffic engineering firm. Very
21 well respected in the -- in -- in the planning and
22 engineering community.

23 As you can see here, in the 2028 -- so
24 what I highlighted in red here is 2028 level of
25 service, which means that -- what the delay is in

1 intersections. If you remember the training we had
2 a few -- a few months ago with the traffic
3 engineer, that just means -- so this number here,
4 the B correlates to a certain number of delay. So
5 you can see 11 seconds at commerce and 48thth south
6 at peak a.m. time. So that's usually from 8:00 to
7 9:00.

8 That -- that doesn't mean that it's going
9 to be 11 seconds all day, every day. So you can
10 see at 2028 your -- your level of service here is
11 pretty -- pretty consistent. As, Bs, Cs. However,
12 when you do consider the podium option, there
13 are -- there are two areas, Murray Boulevard -- the
14 intersection of Murray Boulevard and Galleria
15 Drive, which reduces to a D and E. And I
16 apologize, in the initial it actually is already
17 operating. -- or at 2028 it's considered to be
18 operating at a D.

19 And so it would move down to an E. And
20 on the westbound direction. So they doctor fair
21 and pierce did recommend that that be changed to a
22 right-in, right-out to restrict some of those
23 delay -- that delays (sic), and the city engineer
24 is also requiring as a condition that that be
25 turned into a right-in, right-out access.

1 Okay. This also touched on a parking
2 analysis. Reviewed their parking requirements from
3 Murray City and neighboring cities, as well as
4 national standards. And -- and they do feel that
5 the parking is sufficient for the proposed
6 development. Even by national and nearby cities
7 including West Valley and Salt Lake City.

8 Moving on the utility and facilities
9 review. As the -- as the commission knows, we --
10 we farm out every application to all departments
11 within the city. So that is power, water, fire,
12 waste water, police and they provide us comments
13 back. And each department stated that they have
14 been aware of the project for some time, and are
15 able to accommodate the potential impacts that this
16 could bring.

17 Additional -- additionally in your packet
18 there are specific comments that were included that
19 will help the applicant when moving forward, if
20 this moves forward.

21 Additionally, we don't often require
22 this, but Murray school district was notified and
23 provided a letter that they would be able to --
24 that they do not see an issue with the increased
25 number of students that the residential development

1 would bring.

2 So those are the big, large ticket items
3 for review here. The next part is mostly Zac's
4 unfinished slide here. So ignore that one. So
5 I'll go over some of the elevation and materials
6 for this project. It's a mission of three -- three
7 and four-stories with one seven-story building on
8 the corner of vine and Murray Boulevard, which is
9 that is even pushed back a little bit from Murray
10 Boulevard. It's largely on vine. I'll show you
11 that in a moment.

12 This is one of the garden -- two of the
13 garden-style walkup. This is the three-story
14 building, as you can see it's a mix of hardy board,
15 stone veneer, wood veneer, and then also on this
16 four-story apartment building you have some metal
17 panelling in addition to that.

18 These are the townhome units on top.
19 Three-story. Gabled roof. That -- that -- on --
20 on most of it. And then also this is a different
21 three-story unit that has more hardy board and
22 stone veneer as opposed to the last one that had
23 more wood tones.

24 This is the proposed commercial building.
25 It's a mix of brick and metal panelling with some

1 stucco along the sides. But the front facing area
2 would be brick and metal. So this is the largest
3 building, which is the podium building. So these
4 bottom two floors are meant to be -- if you're
5 familiar with the property, that -- that section
6 along vine and Murray Boulevard is very steep,
7 and -- and the podium is meant to be below grade of
8 Vine Street.

9 So you really won't see this, except for
10 on the backside. Which I'll -- ill show on -- like
11 on this picture here you'll see this five -- the
12 five-story here, and not see the two additional
13 parking decks below that.

14 One -- one of the requirements of the
15 zone is that we require a break in the building at
16 300 feet. And so -- and I didn't show it here, and
17 I apologize, but right through here will be a
18 publically available access that comes down this
19 stairway to connect into the larger development.
20 That was a requirement of -- of the code is that
21 they break that up and it be publically available
22 to go through.

23 That will help reduce walking trips up to
24 the Murray central station.

25 So going back to this, this is the

1 commercial located out on Murray Boulevard. As I
2 said, the -- the -- the podium building actually
3 goes further back because of that requirement of --
4 of 35 feet when located at 100 feet, so this is
5 pushed back further than that.

6 So section 1704.14 notices requires
7 property owners be notified of rezoning or
8 conditional use permit applications. So we
9 don't -- site plan reviews do not require public
10 notice. However, we have traditionally sent notice
11 with regards to site plan applications just for
12 transparency and making sure that the public is
13 aware of those.

14 94 public notices were sent to all
15 property owners within 500 feet of the proposed
16 project, and as of me writing this at four oh
17 clock, there were two e-mails that I will read into
18 the record during the public comment portion.

19 Findings are listed here, as well as in
20 your packet. We do find that the proposed
21 mixed-use development is consistent with the goals
22 and objectives of the Murray City general plan.
23 Land use 1100 housing units are permitted use in
24 the -- the M C M U zone.

25 Horizontal mixed-use developments are

1 allowed subject to master site plan approval by the
2 planning commission. And with the conditions, the
3 proposed development complies with the requirements
4 of the Murray central mixed-use zone.

5 So with that, we are recommending that
6 the planning commission approve the request and
7 master site plan and design review for the
8 Cottonwood gallery and mixed-use project subject to
9 that he has 11 conditions.

10 Questions? Give my jaw a moment. Just
11 kidding.

12 COMMISSION CHAIR PATTERSON: Zac, can
13 you -- I'm sure this is a lot of information that
14 was presented for the audience, but these packets
15 and all this information is posted on line. Can
16 you just remind the audience if they want to go in
17 and look at more detail, all of the plans we've
18 been given --

19 MR. SMALLWOOD: Yes.

20 COMMISSION CHAIR PATTERSON: -- are there
21 for them to review?

22 MR. SMALLWOOD: Yes, they are. If you go
23 to Murray.Utah.gov, and then navigate to the
24 community and economic development page, they are
25 posted on the planning commission section that

1 states agendas and attachments. And the packet
2 is -- is located there.

3 We -- we have another way of doing it,
4 but it -- it broke, and I don't have it posted in
5 that other --

6 COMMISSION CHAIR PATTERSON: But if they
7 wanted to go back and look for closely at a lot of
8 the --

9 MR. SMALLWOOD: Of course.

10 COMMISSION CHAIR PATTERSON: -- plans or
11 paths or --

12 MR. SMALLWOOD: Yep.

13 COMMISSION CHAIR PATTERSON: -- all the
14 things that have been submitted --

15 MR. SMALLWOOD: Correct.

16 COMMISSION CHAIR PATTERSON: -- they
17 could take more time to --

18 MR. SMALLWOOD: Yes.

19 COMMISSION CHAIR PATTERSON: -- review
20 those things?

21 MR. SMALLWOOD: Yep. Exactly. And it's
22 also located on the State's public notice website.
23 I post the packet there as well.

24 COMMISSION CHAIR PATTERSON: Okay.
25 Great.

1 Any questions for staff?

2 COMMISSIONER HENRIE: Could you go back
3 to your zone requirements page that you had early
4 on? The one that had that -- yeah.

5 The park strip, is there a -- is there a
6 park strip requirement -- or what's required on
7 the -- the Vine Street side of the podium building?

8 MR. SMALLWOOD: The -- the same. 8-foot
9 and 7-foot.

10 COMMISSIONER HENRIE: It is required --

11 MR. SMALLWOOD: Yeah.

12 COMMISSIONER HENRIE: -- it is the same?

13 MR. SMALLWOOD: Yep.

14 COMMISSIONER HENRIE: And so that public
15 access area will just open up, walkout right on to
16 that sidewalk over --

17 MR. SMALLWOOD: Correct.

18 COMMISSIONER HENRIE: Okay. Is there any
19 concern with sanitation of anything like that with
20 that playground area right next to the dog park
21 area? Or did I not understand that?

22 COMMISSION CHAIR PATTERSON: I think the
23 dog park is over by the -- I could be wrong.

24 COMMISSIONER HENRIE: I thought the --

25 MR. SMALLWOOD: So there is -- there is

1 an amenity play space --

2 COMMISSIONER HENRIE: Are -- aren't they
3 right together?

4 MR. SMALLWOOD: -- over here, but I -- I
5 don't see where there would be.

6 COMMISSIONER HENRIE: Is there a fence in
7 between them?

8 MR. SMALLWOOD: Oh, yeah. The -- the dog
9 park is going to be fenced.

10 COMMISSIONER HENRIE: Completely fenced?

11 MR. SMALLWOOD: Yes.

12 COMMISSIONER HENRIE: All right. That's
13 not a big deal. Another question, though, on that
14 traffic study, and maybe go to that chart that you
15 had that showed the E- level certain or whatever.
16 Was -- were any of these other conditions
17 reevaluated once the engineer decided to go with
18 that right-in, right-out on galleria?

19 MR. SMALLWOOD: Well, that -- that --
20 that's what they -- excuse me. That's how they
21 decided to -- how they mitigate it. Through --

22 COMMISSIONER HENRIE: Well, I know that's
23 how they mitigated this one. My concern is that
24 they just pushed the problem to a different
25 location.

1 MR. SMALLWOOD: That -- I mean, that -- I
2 don't -- I don't know. Fair and pierce would have
3 to do -- speak to that. All I can say to that --

4 COMMISSIONER HENRIE: Well, and let me
5 (inaudible) --

6 MR. SMALLWOOD: -- that our city
7 engineer --

8 COMMISSIONER HENRIE: -- from -- from our
9 standpoint, the reason I bring it up is that
10 they're required to do a traffic study.

11 MR. SMALLWOOD: That's correct, and it
12 was reviewed --

13 COMMISSIONER HENRIE: (Inaudible) to
14 understand that they --

15 MR. SMALLWOOD: -- by our city
16 engineer -- let -- let me finish. If the city
17 engineer has reviewed it, if he had concerns, he
18 would have requested either one be done by the
19 city, or he would have ask them to reevaluate.

20 COMMISSIONER HENRIE: All right.

21 COMMISSION CHAIR PATTERSON: Any
22 additional questions for staff?

23 Okay. We will have the applicant come
24 forward. And if you could just state your name and
25 address for the record.

1 TYLER MORRIS: I'm Tyler Morris with
2 Cottonwood residential, the applicant. Business
3 address is 1245 brick yard street, suite 250.

4 COMMISSION CHAIR PATTERSON: Great.
5 Thank you.

6 And have you had an opportunity to review
7 the 11 conditions?

8 TYLER MORRIS: I have, yes.
9 COMMISSION CHAIR PATTERSON: And you'll
10 be able to comply with those?

11 TYLER MORRIS: Yeah.
12 COMMISSION CHAIR PATTERSON: Great. Is
13 there any additional information that you'd like to
14 give the commission about this project?

15 TYLER MORRIS: Not particularly. I think
16 Zachary did a good job kind of incorporating the
17 discussions we've had so far. And we've been
18 working on this for about three years now through a
19 number of iterations, and have gotten kind of three
20 or four rounds of feedback from the city that's
21 very helpful in terms of areas of focus and where
22 we needed to tighten the plans up.

23 So I know these take a lot of resources
24 from the city, as well as from ourselves, so we
25 appreciate kind of the amount of time that's gone

1 into it and the amount of guidance we've been
2 given.

3 COMMISSION CHAIR PATTERSON: Great. Does
4 the commission have any questions for the
5 applicant?

6 COMMISSIONER PEHRSON: What are your
7 thoughts on including the Little Cottonwood Creek
8 trail as part of Phase 1?

9 TYLER MORRIS: I think we're open to it.
10 You know, the -- it -- Phase 1 and Phase 2 I think
11 will be pretty close together. It's possible that
12 Phase 2 even gets in front of Phase 1. Phase 2
13 being kind of the townhomes along the creek there.
14 In the -- in the current kind of economic
15 environment, the townhomes make a lot more sense
16 than the garden-style apartments do. So that's
17 anything that's starting in the near term tends to
18 be townhomes.

19 Our expectations is that those townhomes
20 which will be for sale, which is also kind of what
21 makes sense in the current environment. So I
22 think, you know, as -- from us the -- the thing
23 that matters the most is to do it kind of in the
24 cadence of other construction going on, so as long
25 as there's construction in Phase 1 or Phase 2, I

1 think you can kind of role in your -- your
2 landscaping and civil guys to have them attend to
3 that as well.

4 COMMISSIONER PEHRSON: Okay. Thank you.

5 TYLER MORRIS: Uh-huh.

6 COMMISSION CHAIR PATTERSON: Okay. Thank
7 you so much.

8 TYLER MORRIS: All right. Thank you.

9 COMMISSION CHAIR PATTERSON: Okay. At
10 this time we would like to open this agenda item up
11 for public comment. If you would like to make a
12 comment for this agenda item, you may come to the
13 podium and speak into the microphone.

14 Please state your name and address for
15 the record before your comment, and try to keep
16 your thoughts to three minutes. We ask that you
17 offer new information in your comments. Please do
18 not rehash things that have already been stated.

19 After the public comment portion of this
20 meeting, we will address any questions or concerns,
21 either with the applicant or with staff.

22 So I -- is there anything that would like
23 to make a comment on this item? Yeah. Please come
24 up.

25 PUBLIC COMMENTS.

SERGIO CARDENAS: Good evening. My name is Sergio Cardenas, and I live at 5076 South Murray Boulevard, which would be, like, right across the street from those three buildings.

Ten years ago when I bought my house, my wife and I, we used to walk our dogs down the Jordan trail. Even at night. I would like to ask if any of you would do that today. It's pretty bad.

I had my truck destroyed in front of my house. I had the police there because I had a homeless guy pretty much sleeping in my steps down to the street among a lot of other things.

The main thing is, how are we going to protect from all this crime wave that is going to hit us when 2, 000 more people come and live there? You got two chicken coops on galleria and 48th which is going to be, what? 700 people maybe? Maybe a thousand, maybe more? 639 times two, looking at 2, 500 people more (sic).

Maybe 2, 000 cars. The other day I was coming home from work, and between commerce at 5:00, 5:05 between commerce and Murray Boulevard it took me three lights, three green lights to make my left on Murray Boulevard to get into my house.

1 When the school was there, I can tell you they used
2 to park in my driveway waiting for the kids to come
3 out of school.

4 How many accidents did I miss? Hundreds
5 of them. Kids just running across the street. And
6 now with commercial development, families living
7 there, I think it's going to have a big impact. I
8 mean, I have options, you know, I could sell my
9 house for four times the amount that I bought it
10 ten years ago. I have places to go.

11 But it's the kids. Your kids. Your
12 families. They're going to be someday caught in
13 the traffic there. Who knows. Thank you much.
14 (Sic).

15 COMMISSION CHAIR PATTERSON: Thank you.

16 Anyone else that would like to speak to
17 this agenda item? Okay.

18 DIANE LOPEZ: Hi. My name is Diane
19 Lopez, and my address is 5022 Murray Boulevard. I
20 live right on Murray Boulevard where this big
21 project is going to be taking place. I've lived
22 out here in Murray for the last 22 years. And I
23 think it's really deplorable that you -- that
24 this -- something like this can even be planned
25 here.

1 I recently red on line that Murray was
2 the third worst city in Utah to live in. And that
3 was because of crime. I don't want to see crime in
4 my area. I mean, I've seen it already. Murray has
5 changed dramatically from what it was when I first
6 moved here.

7 I mean, at night it's scary. I won't
8 even go throw my trash at night. That's how scary
9 it is living here. And when we put a 600-unit
10 apartment building right across the street, it's
11 going to get 1, 000 times worse. With Murray may
12 become the first worst city in Utah to live in.

13 I think we all got to think about that
14 (sic). I mean, we have one high school. Where are
15 all these kids going to go to school at? Horizon's
16 already overcrowded. The two junior highs that we
17 have, I mean, are packed. Where are these kids
18 going to go to school is what I'd like to know.

19 I think that this is really, really
20 horrible for what used to be a quaint little city
21 to live in. And a safe city to -- to live in. I
22 mean, you can't -- I mean, it stakes you twenty
23 minutes sometimes just to go from Smith's on 54th
24 to my home. I mean, that's ridiculous. Because
25 the traffic on Murray Boulevard is atrocious.

1 So I think this is something we all
2 should be thinking about. Sometimes I really
3 thought it was going to be a waste of time to be
4 here tonight because it always seems like the
5 developers win instead of the citizens who really
6 put up with the city.

7 I don't want to see Murray fall into the
8 first worst city in Utah. So I just think this is
9 something we all need to think about. Thank you.

10 COMMISSION CHAIR PATTERSON: Thank you.

11 Are there any additional comments?

12 MICHAEL TODD: Hi. My name is Michael
13 Todd. I don't think any of the planning
14 commissioners know me, but you will know my
15 business. I own Desert Star Playhouse in Murray,
16 and we've been here for 36 years now.

17 There's a lot more about me that you
18 don't know. My -- before I retired and my wife and
19 I started Desert Star I was the financial advisor
20 to the Intermountain Power Agency, which, as you
21 probably know, Murray City owns the majority
22 interest in.

23 And my partner, the late Jim Matsumori
24 was Murray City's financial advisor. So I've got a
25 long history and connection to Murray City. I

1 don't live in Murray City, but I bet I spend more
2 hours here a week than most of you do, unless you
3 work in Murray City because I'm here every day,
4 pretty much seven days a week. I sleep in another
5 city, but I live in Murray.

6 The reason that I'm here is kind of
7 bizarre. If you -- if you look at this map, do --
8 do you see this on your screens?

9 COMMISSION CHAIR PATTERSON: Uh-huh.

10 MICHAEL TODD: So I don't know how to
11 highlight the property that I own, but if you look
12 at the -- the -- the green -- there we go. Yeah.
13 It's all of that property there.

14 And Desert Star actually owns that
15 property. And we have been completely zoned out of
16 what we intended to use it for. So I've got a
17 piece of property that we bought years ago to --
18 you know, to help desert -- you know, for the --
19 for the growth of Desert Star, which I remind you
20 we started as a public service 36 years ago, and
21 it's -- it's grown into quite a bit more than a
22 public service.

23 But I intended to use it to expand Desert
24 Star, not to another location, but for auxiliary
25 services. And none of those are in the zone now.

1 So I'm -- I'm stuck with a piece of property that
2 I'm afraid is going to end up being an eyesore.

3 And I would -- I'm not opposed
4 fundamentally to any of this. But in -- in my
5 opinion, having been a -- an advisor to cities and
6 to public utilities and the like, to my way of
7 thinking, it's -- I don't mean to tell you how to
8 do your jobs because I don't.

9 But to my way of thinking it's your job
10 to look out for Murray City. And I'm afraid that
11 Murray City is going to end up with a -- you know,
12 what will eventually become a 50-year vacant piece
13 of land because there's not much you can do with it
14 besides incorporate it into this project, which I
15 have wanted to do.

16 I have tried to do, but I haven't been
17 successful at doing it. As many of you probably
18 know, on 4800 South where the podium projects are
19 going up now, there are some people -- I'm assuming
20 who held out, and you've -- there's going to be
21 some problems along that street with -- with land.

22 I don't want this to be another one of
23 them. Because this -- this picture is very
24 deceptive. The -- this picture makes my property
25 look like a small percentage of this overall

1 development. Which it is. But, if you drive down
2 I-15, we own almost all the frontage. We own what
3 you see.

4 COMMISSION CHAIR PATTERSON: That's your
5 time.

6 MICHAEL TODD: Once you get past or
7 property you really don't see it anymore. It -- it
8 disappears from view. So we own what -- we own
9 what the world is going to see. And I don't want
10 that to be a vacant piece of property forever that
11 is covered in weeds or who knows whatever else.

12 So I'm simply asking you to -- as a -- as
13 a planning body, encourage us -- and I'm not -- I'm
14 not opposed to -- to what they're plan -- what
15 they're proposing, but to included somehow in that
16 overall planning process so that Murray doesn't
17 have a problem. That I don't have a problem. But
18 that Murray doesn't have a problem eventually.

19 I want you to know that I have met
20 with -- with Zac and Phil and the mayor about this,
21 respectfully I disagree with what I've been told I
22 can use the property for. I don't think -- I --
23 I -- I mean, I -- I politely listened, but then
24 I've researched it myself, and the -- and the
25 retail uses that the city is indicated that I would

1 be able to use that for, the retail brokers just
2 laughed at. They said there's no way those will
3 work there.

4 So I don't know whether they will or not.
5 I'm not in the retail business when it comes to
6 retail types of real estate, as part of desert star
7 we do lease to H and R block and to a few other
8 retail-type tenants, but I'm certainly no expert in
9 real estate. I was an expert in public power.

10 So I've taken more than my share of the
11 time. I -- I would simply like the opportunity to
12 work with these gentleman to try to master plan it
13 so that when people are driving down I-15 they say
14 all of a great project, not 90 percent of a great
15 project and one big eyesore.

16 So thank you very much for your time. I
17 appreciate it.

18 COMMISSION CHAIR PATTERSON: Thank you.

19 Any other comments?

20 COMMISSIONER MILKAVICH: Madame Chair, I
21 don't think an address was given for the record.
22 Does that matter?

23 COMMISSION CHAIR PATTERSON: It's all
24 right.

25 MICHAEL TODD: Oh, sorry.

1 COMMISSIONER MILKAVICH: Desert Star.

2 State Street. There we go.

3 MICHAEL TODD: I apologize. I'll say it
4 again. Michael Todd, 4861 South State Street,
5 Murray.

6 COMMISSION CHAIR PATTERSON: Thank you so
7 much.

8 Okay, Zac, do you want to read in your --

9 MR. SMALLWOOD: Yeah. Yeah. I can read
10 the two e-mailed comments.

11 First one is from -- and I apologize, I'm
12 going to butcher this name. Annie Egelhoff, I
13 believe.

14 "Hello, my name is Kristin Egelhoff, and
15 I live in the neighborhood where project 24-083 is
16 proposed. I am submitting comments to you today
17 because I am deeply concerned about the impact this
18 will have on the people who live here."

19 "Building 639 residential units with
20 almost 20, 000 square feet of commercial space
21 seems quite frankly untenable. The infrastructure
22 in this neighborhood will likely not accommodate
23 the influx of thousands of people. The traffic and
24 noise during and after construction will be, at
25 best, disruptive, and at worst, destructive."

1 "It is also likely to increase the crime
2 rate, increase utility costs, increase property
3 taxes and increase traffic in an area that cannot
4 sustain it. Resulting in congestion and increased
5 emissions and pollution. All of that, in turn,
6 will greatly increase the impact that we already
7 have on the Jordan liver park way and the wildlife
8 that call it home."

9 "In the 15 years I have lived in Murray
10 and the surrounding areas rent has doubled and
11 salaries have not. Most of us are barely hanging
12 on. Building units like this will result in this
13 area experiencing yet another ridiculous and
14 unjustified market increase, forcing many people
15 out of their homes and potentially into
16 homelessness."

17 "Utah politicians have repeatedly
18 demonstrated that they will not choose what is in
19 the best interest of their citizens, or the
20 environment in which they live, instead choosing
21 their individual best interests, and often their
22 wall lets."

23 "I am begging you to be different and do
24 best for us. Build single-family homes, build a
25 park, but please don't build this. Thank you,

1 Chris tin Egelhoff, 4947 south Murray Boulevard."

2 Okay. The next one. Sorry. Let me
3 just -- okay. Is from James W Anderson and em ma D
4 tanner with Clyde snow, attorneys at law. Slide
5 snow and associates.

6 "Regarding objection to Cottonwood
7 residential mixed-use development design and master
8 site plan review approval, public hearing agenda
9 item No. 4, project number 24-083."

10 "Dear Mr. Smallwood, this firm has been
11 retained by Hunters Woods SPE LLC," and then in
12 parentheses "Hunters Woods," "regarding Murray
13 City's consideration of project number 24-083, the
14 fourth agenda item of today's public hearing."

15 "Hunters Woods presently owns and
16 operates a 324-unit apartment complex that spans
17 either side of Murray Boulevard immediately west of
18 the proposed 639 unit mixed-use development on
19 south Galleria Drive." And they put in the
20 development.

21 "Given the size of the development, as
22 well as the limited amount of time Hunters Woods
23 has had to review and evaluate the 137-page Murray
24 City planning division staff report that was
25 published late Friday, July 26th, 2024, we have

1 been instructed to notify you of our client's
2 concerns prior to today's hearing so that such may
3 be incorporated into the public record, and
4 hopefully meaningful -- meaningfully considered by
5 the city."

6 "Of ut most concern is the heightened
7 density in the area, given that Hunters Woods
8 inquired about adding a mere eight units to its
9 property just last year and was -- was told
10 approval was seriously doubtful due to the city's
11 density concerns."

12 "Our client is justifiably considered
13 that adding over 600 units in the same area will
14 negatively affect the community's health, safety
15 and welfare. Indeed the city's approval of the
16 development given their 2023 suggested denial of
17 Hunters Woods' minor expansion appears to be
18 unequal application of the laws or other unlawful
19 discrimination against Hunters Woods."

20 "Hunters Woods estimates that the
21 development will add approximately 2, 518 residents
22 to the area. With the influx of new rescue
23 resistance, Cottonwood residential expects to
24 accommodate its tenants with 1, 350 new parking
25 stalls. But with multiple occupants and guests per

1 unit, Hunters Woods expects parking to overflow on
2 to neighborhood roads, driveways, and even private
3 vacant lots and fields."

4 "If you recall such was recently an issue
5 on Main Street at approximately 4500 south with the
6 fire clay and best of your recollection hill
7 apartments. Vehicles were parked bumper to bumper
8 on the main roads, and expanded wherever people
9 could find space regardless of legality."

10 "After reviewing the staff report,
11 Hunters Woods notes that Murray City fails to
12 acknowledge that Utah transit authority, UTA, has
13 long -- long recognized the problem that is come
14 with high density living in Utah. Particularly
15 with respect to increased vehicular traffic."

16 "As a result UTA has been making efforts
17 to add bus stops along Murray Boulevard to
18 alleviate what is already a frustrating amount of
19 traffic and congestion."

20 "Now with thousands of -- sorry." "Now
21 with thousands of added vehicles, Murray Boulevard
22 and neighboring streets are likely to be completely
23 overwhelmed. This is particularly true given that
24 Murray Boulevard is currently made up of only two
25 lanes, a detail Murray City appears to have

1 overlooked. In suggesting that Murray Boulevard is
2 actually a four-lane thorough fare in its staff
3 report."

4 "Given that Murray City has not presented
5 an intention of plan to expand Murray Boulevard,
6 and Hunters Woods sees no feasible way to do so,
7 traffic concerns only continue to mount."

8 "With the increased traffic and density
9 come additional safety concerns. For example,
10 horizon elementary school is located just minutes
11 from Hunters Woods apartments, and the development.
12 With so many children walking to and from school,
13 as well as the added vehicular strains during pick
14 up and drop-off times."

15 "Local residents are rightfully concerned
16 about children's safety. This is especially the
17 case for those Hunters Woods residents who recall
18 the stress and frustrations surrounding increased
19 foot and vehicular traffic from the international
20 school that used to be located nearby."

21 "Even with thousands fewer people,
22 traffic was a problem for local residents, and bore
23 safety risks to drivers and pedestrians alike. The
24 development with only magnify these risks."

25 "Of lesser concern to the community at

1 large is the fact that there is a private water
2 line that runs through Hunters Woods' property that
3 Hunters Woods expects will need to be utilized to
4 provide utilities to the development. Depending on
5 what this means for Hunters Woods, it may not be
6 prepared or able to grant outside access of that
7 line. Of course Cottonwood residential and any
8 other owners would require Hunters Woods approval
9 before tapping into that private line. "

10 "Naturally, Hunters Woods desires to
11 obtain independent traffic and other studies so
12 that they can adequately consider the ramifications
13 of the development should it proceed. Therefore it
14 is worth highlighting that Murray City did not
15 publish any substantive information about what may
16 very well be one of the largest developments in
17 state history until late Friday, July 26th."

18 "This left residents with essentially
19 five calendar days to process and analyze a near
20 140-page staff report. As a result Murray City has
21 essentially stripped Hunters Woods and other locals
22 of their ability to meaningfully consider their
23 development and what it means for their community,
24 as well as the ability to be heard on any issues
25 that -- issues they may have."

1 "This letter represents only those
2 concerns Hunters Woods has identified other the
3 last five or so days, and may not be a
4 comprehensive list of every concern or problem that
5 should be addressed prior to the city's approval of
6 the development. Should the city permit the
7 development to proceed, Hunters Woods intends to
8 continue with it's own research and analysis, and
9 is prepared to invoke the law and any available
10 resources if and where necessary to ensure the
11 development's approved and finalized in an
12 appropriate manner."

13 "Very yours truly, James W. Anderson, em
14 ma D. tanner."

15 COMMISSION CHAIR PATTERSON: Did we
16 receive any e-mail comments during the meeting?

17 MR. SMALLWOOD: Let's just double check.

18 I have not received any.

19 COMMISSION CHAIR PATTERSON: Okay. If
20 there are no additional comments. Okay.

21 CARMEN CARDENAS: Hi. My name is Karmen
22 Cardenas. I live at 5076 south Murray Boulevard.
23 I will be right -- right by Galleria Drive.

24 I am all for growth. Utah is busting out
25 of it's seams; right? Because everybody wants to

1 be here in Utah. It's a beautiful state. I chose
2 to live in Murray because I love Murray. It's a
3 small community. I love being here. I walked into
4 my home and that was the place I wanted to be. I'm
5 sorry I'm emotional. This is very emotional for
6 me.

7 I want to retire here in Utah. I want to
8 feel safe in my neighborhood. I want to be able to
9 walk out in the evening hours with our dogs just
10 taking a walk with my husband hand and hand. We
11 can't do that. And now what this large development
12 of 639 or whatever the units are, that's 639
13 rent -- rental units.

14 What happened to homeowner ship? That
15 could have been 600 homes, family homes to live in.
16 Murray's a beautiful small community. It's
17 growing. But this is not growth in a positive way.
18 We don't want to see bricks and sticks build up in
19 large -- large -- a large building like this. Like
20 we're in New York.

21 It's going to feel like a cement -- a
22 cemented neighborhood. And I'm really heartbroken.
23 I did not ever expect this to be here in this small
24 community of Murray. Like I said, I moved here
25 because I was very choosy about where I wanted to

1 be, to retire with my husband, to have our grand
2 kids come and visit, to have our sons and daughters
3 to come to visit. And with this across the street
4 from us, it's going to be very difficult.

5 Again, I know growth is very important.
6 Everybody loves Utah. It's a beautiful state. But
7 it has to be beautiful for everyone. We live here
8 in a small community, in a very nice community that
9 can be kept nice. And instead of having homeowner
10 ship for young families that want to come and live
11 here in Utah or live in -- in Murray, we're not
12 offering that. We're offering them rent.

13 They can get that in California. They
14 can get that downtown. They can get that anywhere
15 if they want to just rent. But homeowner ship,
16 they're not going to have that. And it's going to
17 be beautiful for a few years, yes. Everything new
18 is beautiful. We buy a car, after a few years we
19 change it for another one. Because that's old. We
20 want something new.

21 But these are people 's lives. These are
22 neighborhoods. And we're families. And we want to
23 have safety in our neighborhoods, and we want to
24 have safety where we live. And sent we've been
25 in -- in Utah, and specifically in Murray, again, I

1 love the city of Murray. I had a lot of places to
2 choose to live, and I chose Murray.

3 But with this new development, this is
4 not -- this is not something that's going to be
5 positive for our -- our small community. And like
6 I believe Ms. Lopez indicated, we do have Murray --
7 Murray high school. But they're busting out of the
8 seams as well.

9 The growth is just exponential. And
10 although, again, I love growth, but it has to be in
11 a positive way. Instead of 600 rents, it could
12 have been 600 homes for young families. To live.
13 To grow. To raise their children. To walk. And
14 that wouldn't happen.

15 Thank you.

16 COMMISSION CHAIR PATTERSON: Thank you.

17 Any additional comments? Okay. I will
18 close the public comment portion of this meeting
19 for this agenda item, and bring it back to the
20 commission.

21 **END OF PUBLIC COMMENT SECTION**

22 COMMISSION CHAIR PATTERSON: Well,
23 actually, let's answer some of these questions.
24 Zac, address some of the comments?

25 MR. SMALLWOOD: Yeah. So with regard to

1 crime and homelessness in the area, typically what
2 you see when checking these types of things is
3 open, vacant land that isn't being actively used
4 usually leads to increased activity of -- of crime
5 and homelessness. It's -- it's been proven time
6 and again that homeless people usually just want to
7 be left alone. So they usually go to places that
8 are abandoned or left vacant.

9 So my rebuttal to -- to kind of -- that
10 is that the development of this -- this area will
11 provide additional people, eyes on the street, that
12 type -- type looks. (Sic) people that will be
13 active and engaged in the community.

14 These will be people and families and
15 residents of Murray, just like the people here.
16 And will also want to call this place home as well.
17 So that's addressing those.

18 A couple things I want to address
19 regarding the letter from the attorney. I don't
20 recall anywhere where I've stated, and I double
21 checked this after we received this that I stated
22 that it was a four-lane road on Murray Boulevard.
23 I didn't find that anywhere. So I don't know where
24 that's come from.

25 Additionally, I don't -- and I can't

1 speak to this, but I don't believe any utility will
2 allow them to tie into a public utility. There is
3 very large utility line that is run through
4 galleria already, which I believe they're proposing
5 to tie into. So I don't think they're going to
6 have to tie into anybody's private water lines.
7 And I don't think Murray water or sewer or anybody
8 would allow that any way.

11 MR. SMALLWOOD: Yeah. It would have
12 been. But this came -- this came today. So, yeah.
13 Again, I didn't look over the plans at this time,
14 but I can almost guarantee you that would not be
15 allowed anywhere in the city.

1 COMMISSION CHAIR PATTERSON: Out of
2 district? Yeah.

3 MR. SMALLWOOD: Yeah. Out of district.

4 COMMISSION CHAIR PATTERSON: Yeah. They
5 get it through --

6 MR. SMALLWOOD: Yeah. Out of district.
7 And that's a statement from the -- the school
8 superintendent. And, again, as I showed on my
9 slides, this letter is signed by the superintendent
10 of Murray school district that they are able to
11 accommodate the anticipated students.

12 There was something on here -- oh, UTA.
13 UTA is actually very supportive of housing. And
14 that is correct that they are adding bus stops.
15 This is part of the mid valley connector bus rapid
16 transit line going down Vine Street to Murray
17 Boulevard to 4800 South.

18 So there will be installation of new bus
19 rapid transit stations. And you can see here
20 they've actually called out -- you can't really see
21 it. But it says bus stop located here as part of
22 that station. Where those are pretty significant
23 head ways, I think they're about every 15 minutes.

24 Along 50 -- 45th, they will actually have
25 their own dedicated line -- lane connecting to West

1 Valley, and -- yeah.

2 So --

3 COMMISSIONER HENRIE: I -- I --

4 MR. SMALLWOOD: Yeah.

5 COMMISSIONER HENRIE: I kind of hate to
6 ask this because in your attitude about my other
7 traffic questions, but UTA buses create congestion
8 on streets, especially two-lane streets like this.

9 MR. SMALLWOOD: Sure.

10 COMMISSIONER HENRIE: When they stop, it
11 pretty much stops everything behind them.

12 MR. SMALLWOOD: Yeah, and these
13 actually --

14 COMMISSIONER HENRIE: Is that included in
15 this traffic study?

16 MR. SMALLWOOD: They -- this will
17 actually be -- this BRT will actually pull off,
18 there's a very wide shoulder. It will pull off.
19 And it's supposed to -- it almost acts like tracks
20 on wheels is pretty much what it does.

21 COMMISSION CHAIR PATTERSON: Yeah, you --
22 look up bus rapid transit. It's a really cool
23 program.

24 MR. SMALLWOOD: Uh-huh.

25 COMMISSION CHAIR PATTERSON: It's not

1 like a typical bus. It's a (inaudible).

2 COMMISSIONER HENRIE: When of the
3 comments kind of eluded to the fact you've already
4 got people parking with -- at Hunters Woods along
5 that street.

6 COMMISSIONER MILKAVICH: Is that a
7 parking issue with hunter woods or a parking issue
8 with our new project?

9 COMMISSIONER HENRIE: Well, I'm just --
10 you're going to add more cars into the area, I
11 guess is all I'm saying.

12 MR. SMALLWOOD: Yes. And they do meet
13 the requirements of the underlying zoning.

14 COMMISSION CHAIR PATTERSON: Zac, can you
15 talk about that a little bit more? I know you
16 mentioned it earlier. But one of the comments said
17 that developers win. And I just -- can you
18 address, like, what the code -- and how they are
19 meeting all of their requirements?

20 MR. SMALLWOOD: Sure.

21 COMMISSION CHAIR PATTERSON: And --

22 MR. SMALLWOOD: I'll actually give a
23 little bit of history here --

24 COMMISSION CHAIR PATTERSON: Yeah. Thank
25 you.

1 MR. SMALLWOOD: -- as well.

2 I brought up the zoning map for specific
3 reasons. This area was rezoned in 2010. So about
4 14 years ago to a mixed-use zone. At that time it
5 was allowed up to 80 units per acre, which would
6 have been about 2, 000 homes on this site. And we
7 were getting a lot of -- an influx of applications
8 for mixed-use developments across the city, and
9 were noticing that it -- it was going to have an
10 impact on city services and -- and quality of life
11 standards.

12 And in 2021 the city put in a moratorium
13 on all mixed-use development in the city. And we
14 went through an exhaustive review with the city
15 departments looking at infrastructure capabilities,
16 and allowable uses, and found what the city could
17 support.

18 And that's when this zone was amended and
19 allowed only 40 units per acre, which would have
20 still been about 1000 units on this site. And as I
21 mentioned, they're all -- they are only doing a
22 little over half of that, 639.

23 And I apologize, I don't think I'm
24 addressing what you're asking. What --

25 COMMISSION CHAIR PATTERSON: Well --

MR. SMALLWOOD: Oh, sorry. So, yeah, I remember now. I -- I was off on a train of thought.

And -- and these zone changes were bought before this body in 2021, and they were reviewed by the city council at that time, as well. Back in 2010 when this code was initially adopted, this would have been noticed, just like everything here. And the planning commission at the time would have been -- held a public hearing, just like we are now.

And then whenever we've changed the code, which I know we've changed it multiple times since I've been here, outside of that 2021 change, those same neighbors would have -- and property owners would have been noticed of every zone change. And -- and so the -- the zoning is what the -- what somebody is allow today do with their property. It's a private property rights issue, which is underlying -- which is a fundamental constitutional right in this country are -- are the ownership of property and the ability to do what you'd like on your property.

Zoning was implemented to safeguard that to a degree under the police power, I believe it's

1 the 14th amendment. And so there are restrictions
2 placed on things, and that's what this zoning does.

3 So what you are doing as a body and
4 reviewing and making sure that a project is meeting
5 what is currently allowed in the code. This is not
6 asking for anything outside the code. If anything,
7 they have made concessions by reducing their
8 commercial, by reducing their density, by allowing
9 for -- to allow them to do less commercial on the
10 property.

11 And -- and an increase in open space. So
12 I -- I think that gets to your question. At least
13 I hope it does.

14 COMMISSION CHAIR PATTERSON: Yeah, and
15 I -- I mean, I just want to call out, I was on the
16 commission when that moratorium and review of the
17 mixed-use zones came out. And it was exhaustive to
18 the point that I don't know if you'll notice, but
19 this is the M C M U west zone, which has different
20 requirements than the east zone because of the
21 restrictions of access or things like that to this
22 property.

23 They've changed it -- they were -- they
24 were very comprehensive in -- in these mixed-use
25 zones, and what those ordinances looked like for

1 different places in the city. And it really is not
2 a blanket zone where everything is allowed, and
3 developers can do whatever they want.

4 It was very specific. And I just want to
5 kind of call out also, you know, mixed-use zones
6 maybe seem the same. Someone did mention fire
7 clay --

8 MR. SMALLWOOD: Huh.

9 COMMISSION CHAIR PATTERSON: -- which is
10 a transit oriented zone. And so that zone is
11 completely the -- the ordinances for parking,
12 traffic, all those things are completely different
13 based on where that mixed-use zone is located
14 versus where this mixed-use zone is located.

15 This does not have that transit-oriented
16 zoning is located right next to a Trax Station, and
17 so they did not have the same parking requirements.
18 They -- even the way that they were implemented
19 everything was different then. Since then some of
20 the things that we have learned have now been apply
21 today the ordinances of rezoning -- or rewriting the
22 mixed-use M C M U west zone.

23 Is that fair to say?

24 MR. SMALLWOOD: Yeah. Definitely.

25 COMMISSION CHAIR PATTERSON: Yeah.

1 COMMISSIONER PEHRSON: I think it's
2 important to point out, too, that in 20 -- I
3 believe 2021 we did a transportation plan. Was it
4 2021?

5 MR. SMALLWOOD: Yeah. Master plan.

6 COMMISSIONER PEHRSON: And this property,
7 although the development -- I mean, we didn't know
8 exactly what was going on here. We knew something
9 was going on here. In fact, I think more units
10 were on that transportation plan, were there not?
11 I can't remember --

12 MR. SMALLWOOD: I think it was between 12
13 and 1600.

14 COMMISSIONER PEHRSON: Yeah, so almost --
15 so -- so, yeah.

16 MR. SMALLWOOD: Yeah.

17 COMMISSIONER PEHRSON: So double. And so
18 the city reviewed all that in their transportation
19 plan, and that's why some of that -- why there was
20 conversation around public transportation and
21 reducing the amount of -- the density of these
22 properties.

23 But I -- I feel for everybody that came
24 up here. I've lived in Murray my entire life. If
25 it were up to me, we would build back the 49th

1 Street galleria and make it like it was in 1992
2 where it was a family, you know, oriented
3 establishment. But unfortunately it's not up to
4 me. And our job here is to determine if they're
5 following all the rules of the zone, and we can't
6 unfortunately tell them, Go build single-family
7 homes.

8 COMMISSIONER MILKAVICH: I appreciate you
9 tie that in because I -- I appreciate you giving
10 the history of the zones and why housing zones were
11 developed, and how they're different zones. And
12 then also tying in that our hands are tied.

13 Our job is to make sure the zones are
14 followed. Beyond that, city council's who you
15 should talk to. And be involved in the zoning
16 processes, but.

17 COMMISSIONER HENRIE: History education
18 question. What was this zone or what was in the
19 general plan before 2011 when this was made into a
20 mixed-use zoning district?

21 MR. SMALLWOOD: I don't -- I don't know
22 on this one specifically. I know a little bit
23 further north --

24 COMMISSIONER HENRIE: Well, we -- I mean,
25 we already -- I can't remember when the galleria

1 went in there. But it's -- you've always had
2 apartments and that kind of commercial or --

3 MR. SMALLWOOD: Sure.

4 COMMISSIONER HENRIE: -- higher density
5 kind of planned in that area.

6 MR. SMALLWOOD: Uh-huh.

7 COMMISSIONER HENRIE: It seems like for
8 at least three decades.

9 MR. SMALLWOOD: Yeah. For -- yeah. But
10 I couldn't actually cite what exactly it would be.

11 COMMISSIONER MILKAVICH: Can the city
12 address Mr. Todd's discussion about his little plot
13 of land? The Desert Star property?

14 COMMISSIONER HENRIE: Well, in --
15 maybe -- I don't even know if it's appropriate, but
16 the developer maybe address that also.

17 MR. SMALLWOOD: Well, in -- in -- this
18 ultimately is Mr. Todd's property. If he wants to
19 sell it or leave it vacant to deteriorate, that's
20 up to him. And if he wants to sell it to somebody
21 else, he's more than welcome to. I'm sure there's
22 somebody that would buy it.

23 COMMISSION CHAIR PATTERSON: But that's
24 not really the purview --

25 MR. SMALLWOOD: But -- but -- and that's

1 not --

2 COMMISSION CHAIR PATTERSON: That's,
3 like, two private citizens, right --

4 MR. SMALLWOOD: Yeah. That is not --
5 yeah.

6 COMMISSION CHAIR PATTERSON: -- of how
7 they feel?

8 MR. SMALLWOOD: That's between two
9 citizens; correct. And -- and this body cannot
10 force this applicant to speak to another property
11 owner object their property. I'm not suggesting
12 that, I'm just saying we can't force -- or you as a
13 body cannot force somebody to enter --

14 COMMISSION CHAIR PATTERSON: And it's not
15 part of the plan that we're reviewing --

16 MR. SMALLWOOD: Being presented this
17 evening.

18 COMMISSION CHAIR PATTERSON: -- tonight,
19 so it's hard to have a conversation about that.

20 MR. SMALLWOOD: Correct. Yeah.

21 COMMISSION CHAIR PATTERSON: Any other
22 comments that you'd like the staff to address from
23 the comment portion?

24 Okay. Then I will bring this item back
25 for review discussion or a motion.

1 COMMISSIONER MILKAVICH: Commissioners,
2 were we going to discuss our opinion as well -- if
3 we would like to have the trail amenity added to
4 the first phase, or?

5 COMMISSIONER PEHRSON: I mean, I brought
6 that up, so I'll -- I guess I'll say it. I mean, I
7 think it would be nice. I think I have -- I have
8 some concerns with it not being in the first phase,
9 but I think I'm fine with how this is written. But
10 I'm fine adding it, too.

22 COMMISSION CHAIR PATTERSON: Well, he
23 said that it's maybe flexible about which one's
24 Phase 1, actually. It might be the townhouses any
25 way, so. I think that it would be a great addition

1 to the community at large and the surrounding area,
2 and especially as it's --

3 COMMISSIONER HENRIE: Sure.

4 COMMISSION CHAIR PATTERSON: -- kind of
5 called out in our packet, it's the central feature
6 of kind of what this whole -- you know, this whole
7 project is connecting to the other paths on the
8 Jordan parkway.

9 And connectivity also helps bring about
10 safety because more people using the path also
11 helps more eyes and -- and people on the pathways,
12 and those all help reduce crime.

13 So I -- I think that if safety and crime
14 are one of our concerns, maybe adding the -- the
15 path way in Phase 1 would be a good idea.

16 COMMISSIONER PEHRSON: I -- I could make
17 a motion that way if we're ready for a motion. Or
18 if we want to continue discuss it, that's fine.

19 COMMISSION CHAIR PATTERSON: Is there any
20 further discussion about this agenda item?

21 COMMISSIONER PEHRSON: Okay. I'll make a
22 motion that the planning commission approve the
23 requested master site plan and design review for
24 the Cottonwood gallery and mixed-use project on the
25 property located at 4998 south Galleria Drive,

1 subject to the 11 conditions, with an additional
2 condition that they include the central feature of
3 the little con Cottonwood creek trail as part of
4 Phase 1.

5 COMMISSION CHAIR PATTERSON: I have a
6 motion by commissioner Pearson to approve the
7 requested master site plan and design review for
8 Cottonwood Galleria mixed-use project on the
9 property located at 4998 south Galleria Drive,
10 subject to the 11 conditions as written, with the
11 addition of a 12th condition.

12 Is there a second?

13 COMMISSIONER MILKAVICH: I can second.

14 COMMISSION CHAIR PATTERSON: Okay.

15 Second by Commissioner Milkavich.

16 Is there any discussion on this motion?

17 COMMISSIONER HENRIE: No.

18 COMMISSION CHAIR PATTERSON: Okay. We'll
19 take a rollcall vote.

20 MR. SMALLWOOD: Okay. Commissioner
21 Pehrson?

22 COMMISSIONER PEHRSON: Yes.

23 MR. SMALLWOOD: Commissioner Milkavich?

24 COMMISSIONER MILKAVICH: Yes.

25 MR. SMALLWOOD: Commissioner Henrie?

1 COMMISSIONER HENRIE: Yes. With a note
2 that I have lost total confidence in Murray City
3 traffic study -- or traffic engineering.

4 MR. SMALLWOOD: Okay.

5 Commissioner Richards?

6 COMMISSIONER RICHARDS: Yes.

7 MR. SMALLWOOD: Commissioner Hristou?

8 COMMISSIONER HRISTOU: Yes.

9 MR. SMALLWOOD: And Chair Paterson?

10 COMMISSION CHAIR PATTERSON: Yes.

11 Okay. So the motion is approved, and
12 good luck on your project.

13 Thank you for those that came on for this
14 agenda item.

15 (End of recording.)

16 * * * * *

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TRANSCRIBER'S CERTIFICATE

STATE OF UTAH)
) ss
COUNTY OF SALT LAKE)

I, Amber R. Fraass, a Utah Certified Court Reporter and Registered Professional Reporter, do hereby certify:

That I listened to the recorded PLANNING COMMISSION MEETING and took down in shorthand the foregoing on August 26th, 2024.

That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript of said conversation is a complete, true and accurate transcription of my said shorthand notes taken down at said time, to the best of my ability to hear and understand the audio file.

I further certify that I am not a relative or employee of an attorney or counsel involved in said action, nor a person financially interested in said action.

IN WITNESS WHEREOF, I hereby certify this transcript in the County of Utah, State of Utah, this 3rd day of September, 2024.

Amber R. Fraass
Amber R. Fraass, RPR, CSR

[000 - 8:00]

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Utah Rules of Civil Procedure

Part V. Depositions and Discovery

Rule 30

(E) Submission to Witness; Changes; Signing.

Within 28 days after being notified by the officer that the transcript or recording is available, a witness may sign a statement of changes to the form or substance of the transcript or recording and the reasons for the changes. The officer shall append any changes timely made by the witness.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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MURRAY CITY PLANNING COMMISSION FINDINGS OF FACT AND CONCLUSIONS

PROJECT NAME: Cottonwood Galleria

PROJECT NUMBER: 24-083

APPLICANT: Tyler Morris, Cottonwood Residential

APPLICATION TYPE: Design Review

I. REQUEST:

The applicant is requesting Design and Master Site Plan Review approval to allow the development of a mixed-use project.

II. MUNICIPAL CODE AUTHORITY:

New and redevelopment of properties located in the MCMU Zone shall be reviewed by the Planning Commission for conformance to the requirements of Chapter 17.146. The application before the Planning Commission is for Design and Master Site Plan review. Land Use Code 1100, Household units is designated as a Permitted Use.

III. APPEAL PROCEDURE:

Municipal Code Section 17.16.030 provides details for requesting an appeal of the Planning Commission's decision on a land use application that is heard by the Hearing Officer. An application for appeal must be presented within 10 calendar days after the approval of these findings of fact.

IV. SUMMARY OF EVIDENCE:

A. The basic facts and criteria regarding this application are contained in the staff report, which is attached as **Exhibit A** and is incorporated herein.

B. Notice of the Planning Commission meeting was provided in accordance to Murray City Land Use Ordinance Section 17.04.140 and further described below:

- 1.** Section 17.04.140(A) states that notice be provided "as appropriate by the Planning Staff for special/unique situations, but in no case shall be less than three hundred feet (300')". Design review and site plan applications are not listed as requiring notice. Staff sends courtesy notices for these applications based on

acreage. Because this is over five (5) acres, staff sent notices to property owners within 500' of the property which were mailed on July 19th, 2024.

C. The minutes of the public meeting held by the Planning Commission on August 1, 2024 which are attached as **Exhibit B** summarize the oral testimony presented and are hereby incorporated herein.

V. FINDINGS OF FACT:

Based upon the information presented and oral testimony given the planning commission found that the request meets the standards contained in Section 17.56.060 based on the findings below:

1. The proposed mixed use development is consistent with the goals and objectives of the Murray City General Plan.
2. Land Use #1100, Housing Units are a permitted use in the MCMU Zone.
3. Horizontal Mixed Use developments are allowed subject to Master Site Plan approval by the Murray City Planning Commission.
4. With conditions, the proposed development complies with the requirements of the Murray Central Mixed Use Zone and other applicable standards of the Murray City Land Use Ordinance.

VI. DECISION AND SUMMARY

The Planning Commission **APPROVED** the request for the development of a mixed-use project on the property. The vote was 6-0 with Commissioners Hristou, Pehrson, Patterson, Richards, Henrie, and Milkavich in favor and none opposed. The approval is contingent on the following conditions:

1. The project shall meet Murray City Engineering requirements including the following:
 - a) Meet current City storm drainage requirements. On-site retention of the 80th percentile storm, detention, water quality treatment and Low Impact Development (LID) practices are required.
 - b) Provide a site drainage and LID report.
 - c) Stormwater discharge and work in the floodway will require a Murray Floodplain Development Permit, Salt Lake County Flood Control Permit, and a Stream Alteration Permit from the State of Utah.
 - d) The project frontages to Vine Street, Galleria and Murray Blvd. need to include 8' park strips and 7' wide sidewalks – ROW dedications for sidewalk and park strip will likely be required.
 - e) Westbound left turns will be restricted at the south Galleria connection to Murray Boulevard due to the proximity to the signalized intersection.
 - f) Add pedestrian access near future BRT stop to access.
 - g) Bike path should have crosswalks as well to ensure safe crossing near Galleria Drive entrance.
 - h) Implement all Traffic Impact Study (TIS) recommendations.
 - i) Increase crosswalk spacing on Galleria Drive to 300'. Ensure all crosswalks are visible and have adequate sight distance.

- j) Identify Galleria Drive as a public street.
- k) The dog park cannot drain to the stormwater system or Creek.
- l) Relocate all utilities, including storm drains outside of building footprints.
- m) The existing 24" storm drain line at the southwest corner of the site must be relocated.
- n) The trail crossing at Murray Boulevard will need to align with the trail access on the west side of Murray Boulevard.
- o) Much of the northwest side of the property was filled over many years. Provide a copy of the site Geotechnical Study and implement recommendations. The site geotechnical study should include seismicity, liquefaction assessments, ground water, and infiltration rates at retention locations.
- p) Development will require City Land Disturbance Permit/SWP and Maintenance Agreement.
- q) A City Excavation Permit is required for all work in the public right of way.
- r) Developer will need to repair/replace and damaged, substandard, or broken curb and sidewalk in public ways.

2. The applicant shall meet all Murray City Water division requirements.
3. The project shall meet all Murray City Wastewater requirements.
4. The applicant shall meet all Murray City Power Department requirements and meet with power department staff to plan power service to the new building.
5. The applicant shall meet all Murray City Fire Department requirements as stated in the staff report.
6. The project shall meet all requirements of the Murray City Land Use Ordinance and the Master Site Plan.
7. The applicant shall enter into a development agreement with Murray City that reflects the requirements as stated in the land use ordinance.
8. The applicant shall provide updated plans that shows the correct park strip and sidewalk improvements along Murray Boulevard and Vine Street.
9. The applicant shall draft a conservation easement for the proposed Little Cottonwood Creek Trail in favor of Murray City.
10. The applicant shall obtain appropriate permits for any new signage on the property.
11. The applicant shall ensure any new businesses going into the commercial units obtain a business license prior to conducting operations.
12. The applicant shall incorporate the little cottonwood creek trail into phase 1 of the development.

**VII. FINDINGS OF FACT APPROVED BY THE MURRAY PLANNING COMMISSION
THIS 15th DAY OF AUGUST, 2024.**



Maren Patterson, Chair
Murray City Planning Commission

September 24, 2024

Phil Markham
Community and Economic Development Director
Murray City Community and Economic Development Division
10 East 4800 South
Murray UT 84107
pmarkham@murray.utah.gov

Mr. Markham:

Cottonwood Residential (the “Applicant”) objects to the Appeal and Petition to Stay Decision (the “Appeal”) of Murray City Planning Commission Findings of Fact and Conclusions (the “Approval”) regarding the Cottonwood Galleria; Project No. 24-083 (the “Project”) submitted by Hunters Woods and their legal representation (the “Appellant”) on August 23, 2024. Applicant requests that the Appeal be rejected by the Appeal Officer based on the information provided below.

The Project and related application submitted by the Applicant complies with all applicable zoning standards and relevant requirements for a Master Site Plan Application, as described in Sections VI and VII of the staff report provided by the Murray Planning Department. The Applicant is requesting no variances from these requirements. As such, Approval of the Project was appropriately unanimously recommended by Planning staff and approved by the Planning Commission.

Many of the concerns noted in the Appeal are criticisms of the underlying zoning district, rather than of the Project itself. These items were debated and settled in 2021 when the current zoning and statutory requirements were litigated, approved, and codified. It is not incumbent upon each applicant to reopen these issues every time a project is approved per the guidelines. Further, the Project is actually much less intense than allowed by the applicable MCMU West Subdistrict language, as it only contemplates developing 61% of the potential residential units that are achievable per the same code language.

Applicant recognizes that Hunters Woods Apartments uniquely stands to face direct competition to their business as a result of the Approval and would almost certainly prefer a different use than multifamily housing. That dissatisfaction should not afford Appellant the right to obstruct the established process by submitting anti-competitive appeals based on demonstrably false claims. Appellant makes several exaggerated, unfounded, and easily disproven claims in an effort to impede new competition that will improve the whole area and accommodate and benefit the future residents of Murray, not just insulate the owner of the immediate property.

Detailed responses to the items in the Appeal are below.

(Section below is copied directly from Appeal for reference)

B. Grounds for Appeal and Reasons Decision Was Made in Error.

i. The Decision was Arbitrary and Capricious.

A decision by a land use authority “is arbitrary and capricious if the decision is not supported by substantial evidence in the record.” Utah Code Ann. § 17-27a-801(3)(c)(i). Here, the Decision was arbitrary and capricious because it was based on factually incorrect statements and reports, particularly with respect to the Traffic Impact Study submitted by Tyler Morris and Cottonwood Residential (together, the “Applicant”) in support of the Development. The Decision also fails to adequately incorporate considerations of the Development’s height and light pollution impacts in conjunction with the applicable law.

Traffic Impact Study

- Appellant claims that the Traffic Impact Study is factually incorrect because it doesn’t consider nearby development that is underway, but these projects and their associated impacts are explicitly included in the analysis, as noted in Section 1.2.2 on page 3 of the traffic report (Page 30 of the Planning packet provided as part of the application)
- Appellant claims that “at least 2,518 new residents” will move to the area as a result of this development, which is objectively aggressive, with no supporting documentation or reference materials to back up their estimate.
 - The Project includes 639 residential units, so 2,518 additional residents would equate to 3.94 people per new residential unit. 3.94 people per unit is a high figure for multifamily housing generally but is especially high given that the Project is 77% 1-bedroom and 2-bedroom units.
 - Appellant also conflates their aggressive estimate of total residents with the number of vehicles associated with a given number of residents. The Appeal ignores that a portion of the overall residents will be non-drivers like kids, households that share a single vehicle, and residents who opt to use public transit on the adjacent BRT line or the nearby Murray Central TRAX station.
 - Municipal parking requirements, like those in Murray, are crafted to capture these occupancy nuances by requiring different amounts of parking for different unit types and sizes in order to arrive at an amount of required parking that meets the expected demand without overbuilding unused parking. The Traffic and Impact Study specifically references a number of prominent national and local parking requirements beginning on page 35 of the study and page 62 of the Planning packet as part of their analysis.
 - The Project exceeds the parking required by the MCMU West zoning district code by 5 stalls.
- Appellant references the Metro at Fireclay/Birckhill Apartments near 4500 South and Main Street as a comparable situation where parking for an approved project became a problem for the surrounding area.
 - This project and general area is in a TOD zone, which was applied near transit nodes in order to encourage transit usage and which applies a materially lower parking requirement.

- According to real estate data provider CoStar, this property was built with 400 parking stalls for 340 apartments (1.18 stalls/unit) as compared to the Project's approved total of 1350 stalls for 639 apartments (2.11 stalls/unit).
- Appellant indicates that with approximately twice as many residents as available parking, not to mention guests, they expect vehicular parking to overflow onto neighboring roads, driveways, and even private vacant lots and fields.
 - Recognizing that Hunters Woods is an existing property and isn't required to meet current standards, it still seems relevant to compare their provided parking with what the Project would provide, to gauge whether the Project would operate materially worse than Appellant's own neighboring property.
 - The Hunters Woods property itself is reported to have 700 parking stalls for 324 apartments by online real estate data provider CoStar, which is a parking ratio of 2.16 stalls per unit. Assuming this is accurate, that figure is right in line with the ratio for the Project, particularly given that the unit mix is larger at Hunters Woods with only 57% of the project as 1-bedroom and 2-bedroom units compared to 77% at the approved project.
 - The same current code and parking requirement that applies to the Project would apply to Hunters Woods. Under that requirement, Hunters Woods would be required to provide 730 parking stalls and would not currently meet the requirement. The Project exceeds the requirement by 5 parking stalls.
- Appellant references UTA's concern with traffic. Applicant has worked with Planning staff and UTA to accommodate UTA's upcoming Midvalley Express (MVX) Bus Rapid Transit stop, which is to be located on the Project itself, to further UTA's overall transit plans. UTA specifically identified this corridor as the most appropriate location to focus expanded rider volume and further connect Taylorsville and West Valley with Frontrunner and TRAX at the Murray Central Station. Details of the BRT expansion are available at the following link.
 - <https://legacy.rideuta.com/Rider-Info/Digital-Newsroom/Congressman-Owens-and-UTA-to-officially-kickoff-construction-of-Midvalley-Express>
- Appellant mentions that the residents will need to drive cars in their daily lives and will increase local traffic, which is undeniably accurate, although the same overstated number of 2,500 likely residents is referenced. This increased traffic is the explicit object of the traffic study and the very specific impacts are reflected in great detail therein. At the specific direction of Planning staff, the traffic engineers surveyed a much wider geographic footprint for impact as part of this report than is normally considered. The study follows best practices in the industry by manually measuring baseline performance and using that benchmark to project current performance with the Project included and projecting performance in the future both with and without the impact of the Project.
- Appellant identifies safety for children walking to nearby Horizon Elementary school as a concern. While pedestrian safety is always a concern and a priority, locating additional residential units near enough to schools that the children attending those

schools can walk is generally viewed as a benefit to those families and to the community broadly. From the SW corner of the Project at the intersection of Vine Street and Murray Boulevard, it is less than 0.5 miles to Horizon Elementary. Children walking to school then have two routes to choose from once they cross the signalized Vine/Murray intersection, both of which only require just one more street crossing, which would happen at an intersection immediately adjacent to the school itself.

Additional Oversight

- Appellant incorrectly indicates that there is no detail regarding compliance with the height limitation within the 100' setback from residential zones required by code. This detail is noted in Sheet AS101, page 67 of the Planning packet. The only portion of the property that abuts a residential zone is the section in the SW corner of the project facing Murray Blvd. In this circumstance, the Project has taken additional steps beyond what is required by completely setting the buildings back more than 100' from the residential zone, rather than just limiting the height.
- The appeal incorrectly indicates that no lighting plan was provided. The Photometric Plan, sheet ES101, was provided as page 86 of the Planning packet. This plan was generated by a professional lighting engineer, and it details the proposed impacts across the entire site including the boundary with Hunters Woods.

(Section below is copied directly from Appeal for reference)

ii. The Commission Did Not Afford the Public Adequate Time to Oppose the Decision.

Affected residents were not given sufficient time by the Commission to consider and potentially oppose the Development before it was publicly heard and approved. This is particularly troublesome given that Hunters Woods believes the Development is one of the largest to be proposed in state history. Such has essentially done away with the due process rights of everyone who is and will be affected.

The note in Section IV.B. of the Findings of Fact and Conclusions indicates that the relevant ordinance was followed. Applicant has no additional insight into or control of the timing of the publishing of materials. Any issue the Appellant may have with that requirement and process seems like it would be better legislated in a different venue without involving an individual application. Beyond any issue the Appellant may have with the applicable ordinances, Appellant has now had three additional weeks with the entire published information packet between when the Approval was made and when the Appeal was submitted. That additional time has led to the claims made herein, which are either factually inaccurate, overstated, or irrelevant to the current process. Murray City's standard process was followed per Murray City Code, and the Appellant has failed to show otherwise.

Standard of Review for Appeals Process

The standard of review for a planning commission decision under Utah law, found at *Utah Code Annotated* §10-9a-801, is the same for all administrative decisions. The decision is

reviewed to determine if it conflicts with any applicable law, and whether it is supported by substantial evidence in the record. In discussing an administrative decision by a board of adjustment, the Utah Court of Appeals stated:

The Board will be found to have exercised its discretion within the proper boundaries unless its decision is arbitrary, capricious, or illegal. Further, “[t]he court shall affirm the decision of the board . . . if the decision is supported by substantial evidence in the record.” *Utah Code Ann.* Sec. 17-27-708(6) (1991). Together, these concepts mean that the Board’s decision can only be considered arbitrary or capricious if not supported by substantial evidence. [6] In determining whether substantial evidence supports the Board’s decision we will consider all the evidence in the record, both favorable and contrary to the Board’s decision. See *First Nat’l Bank of Boston v. County Board of Equalization of Salt Lake County*, 799 P.2d 1163, 1165 (Utah 1990); *Grace Drilling Co. V. Board of Review*, 776 P.2d 63, 68 (Utah App. 1989). Nevertheless, our review, like the district court’s review, “is limited to the record provided by the board of adjustment.... The court may not accept or consider any evidence outside the board[‘s] record....” *Utah Code Ann.* Sec. 17-27-708(5)(a) (1991). We must simply determine, in light of the evidence before the Board, whether a reasonable mind could reach the same conclusion as the Board. It is not our prerogative to weigh the evidence anew. See *Xanthos*, 685 P.2d at 1035.

Patterson v. Utah County Bd. Of Adj. 893 P.2d 602, 604 (UT App. 1995). The footnote cited in this citation is as follows:

“Substantial evidence’ is that quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a conclusion.” *First Nat’l Bank of Boston v. County Bd. Of Equalization of Salt Lake County*, 799 P.2d 1163, 1165 (Utah 1990). It is “more than a mere ‘scintilla’ of evidence. . . though ‘something less than the weight of the evidence.’” *Grace Drilling Co. v. Board of Review*, 776 P.2d 63, 68 (Utah App. 1989) (quoting *Idaho State Ins. Fund v. Hunnicutt*, 110 Idaho 257, 715 P.2d 927, 930 (1985)).

Id at f.6. With regard to legality, the burden of proof is also on the Appellant here. *Utah Code Ann.* §10-9a-705. Murray City Code confirms that “the appellant has the burden of proving that the land use authority erred” (*Murray City Code*, Section 17.16.040 (C)). To successfully raise a legal issue, Appellant must specifically cite the applicable code, statute or case law and then show how the decision is inconsistent with that law. The Appeal fails to do so. Under *Utah Code Ann.* §10-9a-509, if an application complies with the law, it must be approved. Appellants must show that the application does not comply with a specific law

and cannot succeed by making policy arguments or general claims about what the law should be. Yet again, the Appeal fails to do so.

One of the statements in the Appeal actually proves our point that the Appellant is shopping for a different decision and wants the appeal hearing officer to substitute its own judgment for that of the planning commission. The Appeal states: “The Decision also fails to adequately incorporate considerations of the Development’s height and light pollution impacts in conjunction with the applicable law.” Such a statement does not address the substantial evidence or how the decision is arbitrary or capricious, but simply wants the hearing officer to “adequately consider” height and light pollution impacts. The planning commission already did so and it is based on substantial evidence in the record. The Utah Supreme Court has made it clear that planning commissions “acting within the boundaries established by applicable statutes and ordinances” are entitled to a “broad latitude of discretion.” *Carrier v. Salt Lake County*, 2004 UT 98, ¶ 28, 104 P.3d 1208 (quoting *Patterson v. Utah County Board of Adjustment*, 893 P.2d 602, 604 (Utah 1995)). The hearing officer thus cannot substitute its own judgment to “adequately consider” an issue that was considered by the planning commission.

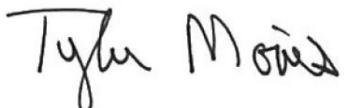
Murray City Code further confirms that “the hearing officer shall uphold the decision so long as the decision was not arbitrary and capricious” (*Murray City Code*, Section 17.16.040 D2).

Substantial evidence was provided in the land use application and planning commission hearing, which was relied upon by the planning commission. The hearing officer does not “weigh the evidence anew” but determines “whether a reasonable mind could reach the same conclusion”. (See *Xanthos*, 685 P.2d at 103). The fact that the decision to approve the Applicant’s petition is very persuasive and a reasonable mind would reach the same conclusion based on the substantial evidence in the record requires that the appeal be denied.

For all of these reasons, we strongly urge the hearing officer to deny the Appeal.

Thank you for your careful review and considerations of these important issues.

Best,

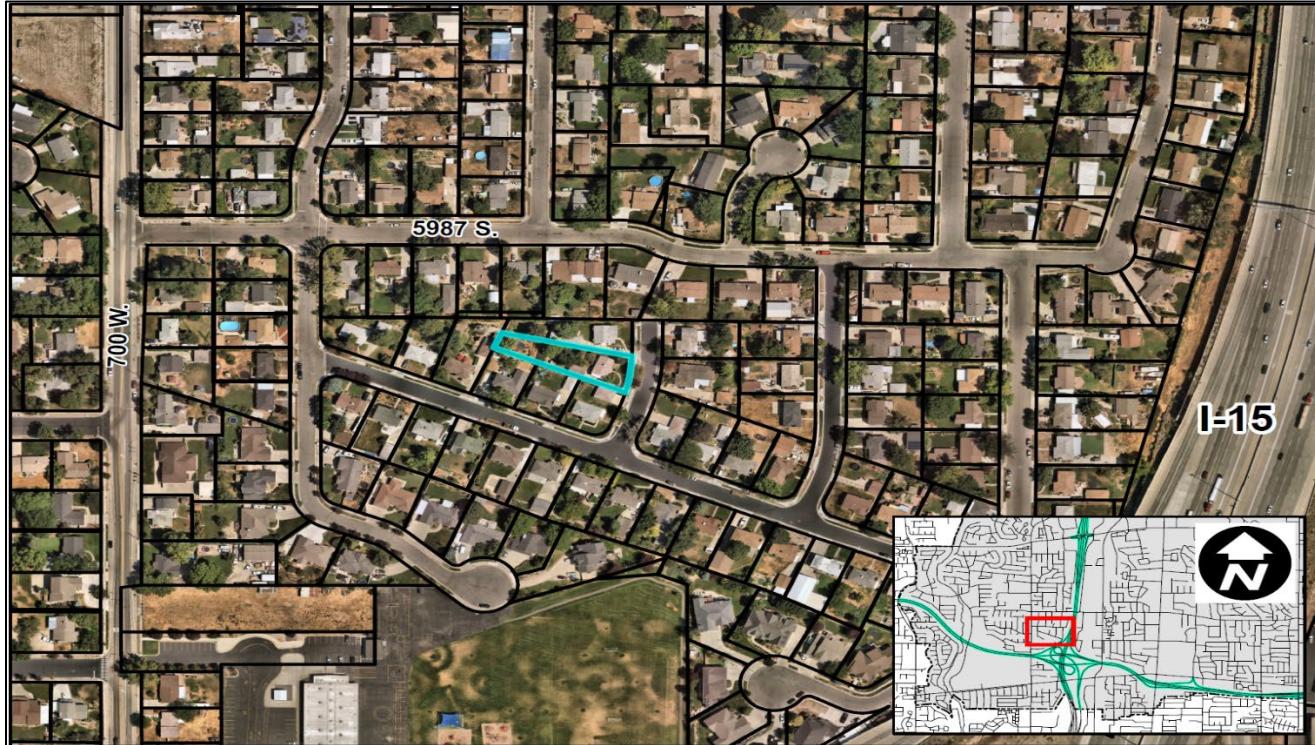


Tyler Morris | EVP, Development
Cottonwood Residential
1245 Brickyard Rd Suite 250 | Salt Lake City, UT 84106
Direct: 801.826.4946
www.cottonwoodres.com



AGENDA ITEM # 03 - Tucker Residence

ITEM TYPE:	Variance Application		
ADDRESS:	6026 South 600 West	MEETING DATE:	October 9, 2024
APPLICANT:	Jacob Hammond	STAFF:	David Rodgers, Senior Planner
PARCEL ID:	21-13-356-009	CASE NUMBER:	1616
ZONE:	R-1-8, Low Density Residential	PROJECT NUMBER:	HO-24-006
SIZE:	.27-acre lot		
REQUEST:	The applicant is requesting a variance to Section 17.100.090(G) of the Murray Land Use Ordinance, which states that an accessory structure may consist only of a one-story building.		



I. DESCRIPTION of REQUEST

The applicant is requesting a variance to a standard in the land use ordinance that requires an accessory structure to consist only of a one-story building. The applicants are requesting the variance to allow them to build a detached garage with a second level. All other land use regulations would apply as normal (setbacks, lot width, etc.).

The subject property is currently a single-family home.

II. LAND USE REGULATIONS

The subject property is located in the R-1-8, Single-Family Low Density Residential Zone. Section 17.100.090(G) of the Murray Land Use Ordinance states that the “an accessory structure may consist only of a one-story building.”

III. PROJECT REVIEW

The subject property is currently a single-family home in the R-1-8 Zone. The intention to build an accessory structure is legal within this area, but the code does not allow an accessory structure to have a second story. Applicant is intending to build a garage that has an Accessory Dwelling Unit (ADU) above it, and so the structure is required to meet ADU setbacks rather than Accessory Structure setbacks.

Looking at the surrounding lots, most of the are a rectangle or square shape, while this lot is much more wedged shape. The applicant indicated to staff that if the lot had been a similar shape to most of the surrounding lots in the area that they would build a garage with a larger footprint to accommodate their needs, but that this is not possible due to the setbacks in the lot.

Applicant's Narrative and Materials

The applicant has provided written responses on the “Variance Analysis Form” which has been attached for review. The applicant has also provided a site plan for the proposed development of the property, showing the space that is intended to be used for the accessory structure and the floor plans of both stories.

Public Input

Fifty (50) notices were sent to all property owners within 300 feet of the subject property. No comments or questions were received as of the date of this report.

IV. VARIANCE FINDINGS

Staff analysis and findings for compliance with standards for a variance as contained in Land Use Ordinance Section 17.16.060 are listed below.

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 R-1-8 low-density residential zone was established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of one-family detached dwellings on individual lots. The Murray City code allows property owners to build accessory structures on their property and ADU's are permitted in this zone. Due to the shape of the lot, the applicant is not able to fit the structure in the footprint permitted and is thus asking for a second story to be able to construct what is buildable on several surrounding lots. 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.

This property has a special circumstance that does not generally apply to other properties in the R-1-8 Zoning District. The shape of this lot is different than most of the surrounding parcels. While most parcels in this area are a semi consistent square shape, this lot is much deeper than it is wide. This prevents building on similar structure on this lot that could be accomplished on surrounding lots.

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.

The Murray City code allows for the development of both Accessory Structures and ADUs in the zone where this parcel is located. Staff finds that the development of an accessory structure that contains an ADU can be considered a substantial property right and 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 General Plan designates this area as "low-density residential" in the Future Land Use Map. The applicant intends to build detached accessory structure that contains a garage and an ADU on the parcel after the variance has been approved. This type of accessory structure is permitted in this zone and would not be contrary to the public interest of this area. Allowing this variance would be a step toward implementing the general plan and will not be contrary to the public interest. Staff finds that the application meets this requirement for granting a variance.

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

The applicant will be able to comply with all other aspects of the Land Use Ordinance and provide a development that is in harmony neighboring properties. Staff finds that granting the specific variance will not violate the spirit or intent of the ordinance, and that the application meets this requirement for granting a variance.

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 alleged hardship is associated with the property for which the variance is sought.

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.

As established in the analyses of the tests of hardship, there are circumstances that arise from the shape of the parcel create a hardship. Staff finds that if the applicant moves forward without the requested variance that it may deprive the property owner of development opportunity similar to the other properties in the area due to the restriction in buildable land on the parcel caused by the shape of the lot.

VI. CONCLUSION/RECOMMENDATION

Based on review and analysis of the application materials, the subject property, the surrounding area, and applicable sections of the Murray City Land Use Ordinance, Staff finds that the application meets all applicable standards of review for the granting of a variance and recommends APPROVAL of the requested variance to the requirements of Section 17.100.090(G) of the Murray City Land Use Ordinance subject to the following conditions:

1. The applicant shall obtain required building permits for the development of the property and construction of the proposed accessory structure.
2. The proposed development shall meet all other applicable requirements of Chapter 17.100 of the Murray City Land Use Ordinance.

VARIANCE APPLICATION

Application Information

Project Name: Garage Shop Accessory Building Tucker Residence

Project Address: 6026 S 600 W, Murray, UT 84123

Parcel Identification (Sidwell) Number: _____

Parcel Area(acres): _____ Zoning District: _____

Applicant Information

Name: Jacob Hammond

Mailing Address: PO Box 17722 City: Holladay State: UT ZIP: 84117

Phone #: (801) 493-5724 Fax #: _____ Email Address: jacob@redresidential.co

Property Owner's Information (If different)

Name: Shane Tucker

Mailing Address: 6026 S 600 W Murray City: Murray State: UT ZIP: 84123

Phone #: (385) 347-9153 Fax #: _____ Email Address: Tuckertowing11@yahoo.com

Describe the requested variance in detail, include exact measurements, and reason for the request:

Authorized Signature: _____ Date: _____

For Office Use Only

Project Number: HO-24-006 Date Accepted: 9/20/24

Planner Assigned: David Rodgers/Ruth Ruach

Property Owners Affidavit

I (we) Shane Tucker, 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.



Owner's Signature

Owner's Signature (co-owner if any)

State of Utah

§

County of Salt Lake

Subscribed and sworn to before me this 9 day of 2024, 2024.

Notary Public

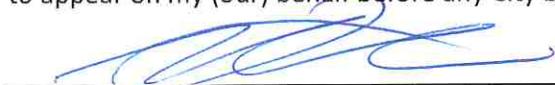


Salt Lake

9/19/24

Agent Authorization

I (we), Shane Tucker, the owner(s) of the real property located at 6026 S 600 W, Murray, UT 84123 in Murray City, Utah, do hereby appoint Jacob Hammond, as my (our) agent to represent me (us) with regard to this application affecting the above described real property, and authorize Jacob Hammond to appear on my (our) behalf before any City board or commission considering this application.



Owner's Signature

Owner's Signature (co-owner if any)

State of Utah

§

County of Salt Lake

On the 20 day of September, 2024, personally appeared before me Judy Mujica the signer(s) of the above Agent Authorization who duly acknowledge to me that they executed the same.

Notary public

Residing in: Salt Lake



9/19/24

Variance Analysis Form
(to be completed by the applicant)

1. Can you describe how the enforcement of the zoning ordinance creates a hardship specific to the land of your property, distinct from personal or economic issues, and not self-imposed?

Due to how narrow the property is there is not a reasonable way to execute a one story variant of the design

2. What unique physical features or circumstances of your property, such as shape or topography, differentiate it from others in the same district and hinder adherence to the zoning ordinance?

The wedge-like shape of the lot restricts the homeowner from building a more practical and efficient rectangular building to meet their needs

3. How does the zoning ordinance prevent you from enjoying a substantial property right that is available to other properties in the same district, and how would the variance rectify this?

Because of the ~~is~~ limits of the property the homeowner would have to create a more obscure layout on their property such as building onto the back of their home and building a garage just to meet code when a neater and more efficient option would be to build the proposed structure

4. How will your requested variance align with the Murray City General Plan and not be contrary to the public interest, while not substantially affecting the general plan?

Every surrounding neighbor has given either written or verbal consent / approval of the proposed design. This would add to the property value of the home-owner and the surrounding lots.

5. How does your request for a variance uphold the spirit of the zoning ordinance and ensure substantial justice, despite not meeting its literal terms?

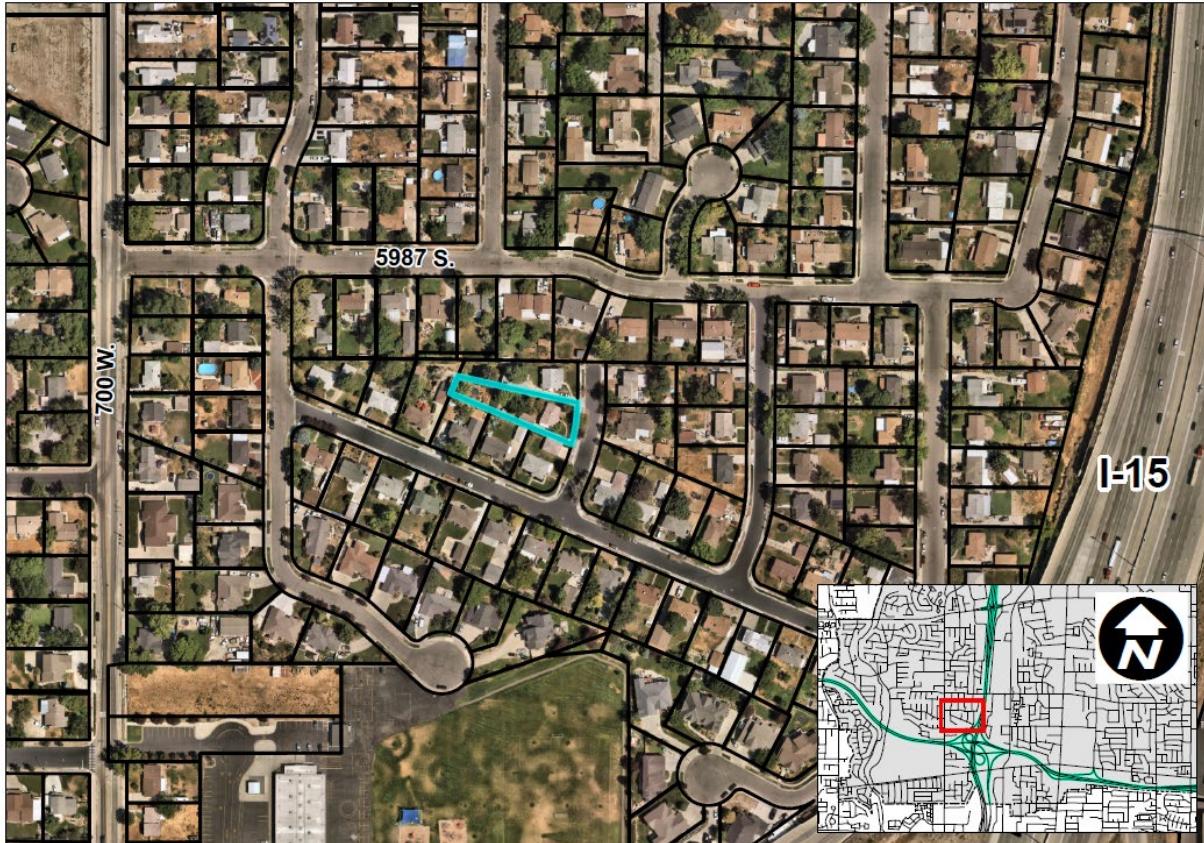
The spirit of the zoning code is to keep continuity and order. This design would allow the homeowner to better maintain their property via neat / clean storage. Likewise Many of the surrounding neighbors have similar garages.



HEARING OFFICER
NOTICE OF PUBLIC MEETING
October 9th, 2024, 12:30 PM

This notice is to inform you of a public meeting scheduled before the Murray City Hearing Officer to be held at Murray City Hall located at 10 East 4800 South, Poplar Conference Room #151. **Jacob Hammond is requesting a variance for the property located at 6026 South 600 West. The request is to allow a second story to a detached accessory structure.** Please see the attached plans. You may attend the meeting in person, or you may submit comments via email at planning@murray.utah.gov.

Comments are limited to 3 minutes or less and will be included in the meeting record.



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 request, please call David Rodgers with the Murray City Planning Division at 801-270-2423, or email drodgers@murray.utah.gov.

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.



C100

TUCKER RESIDENCE
6028 S 680 W
MURRAY, UT



Amy Holden Drafter & Legal Designer
amyholden.drafter@gmail.com
801-750-4000

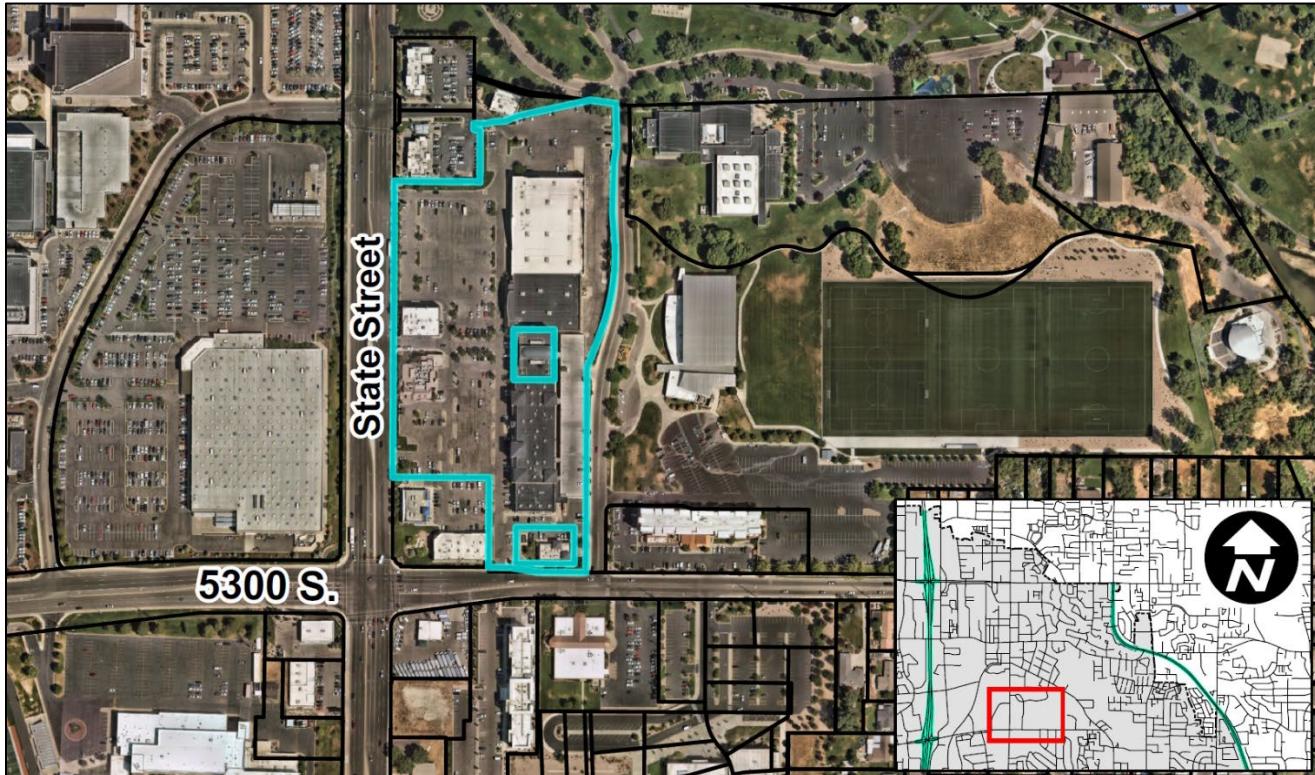
ACCESSORY BUILDING

CH C IN



AGENDA ITEM # 04 - Pointe at 53rd

ITEM TYPE:	Variance Application		
ADDRESS:	5215 South State Street	MEETING DATE:	October 9, 2024
APPLICANT:	Howland Partners, LLC	STAFF:	Zachary Smallwood, Planning Manager
PARCEL ID:	22-07-304-032	CASE NUMBER:	1617
ZONE:	CMU, Centers Mixed Use	PROJECT NUMBER:	HO-24-007
SIZE:	11.01 acres		
REQUEST:	The applicant is requesting a variance to Section 17.162.070(A) of the Murray Land Use Ordinance, which requires 50% of new buildings be located within 12 to 18 feet from the back of curb.		



I. DESCRIPTION of REQUEST

The applicant is requesting a variance to a standard in the land use ordinance that requires new buildings in the Centers Mixed Used (CMU) Zoning District to be located between twelve feet (12') and eighteen feet (18') from the back of curb. The applicants are requesting the variance to allow the construction of a new restaurant on the property. All other land use regulations would apply as normal (setbacks, lot width, etc.).

II. LAND USE REGULATIONS

The subject property is located in the CMU, Centers Mixed Use Zone. Section 17.162.070(A) of the ordinance states that “Building facades will occupy a minimum of fifty percent (50%) of the total linear feet of property frontage on public streets with setbacks between twelve feet (12') and eighteen feet (18') from the back of curb and gutter.”

III. PROJECT REVIEW

The subject property is currently a large multi-tenant commercial center in the CMU Zone. The intention to build a new restaurant is legal within this area, but the code does not allow for a greater than eighteen-foot (18') setback from the back of curb for more than 50% of the building. As part of the applicant’s overall redevelopment plan, they have secured a new restaurant tenant that would like to build a new building on State Street. Due to the existing utilities and easements that are located within State Street and going into the subject property being able to meet the maximum setback would result in an expense that would make redevelopment unreasonable.

Applicant's Narrative and Materials

The applicant has provided written responses on the “Variance Analysis Form” which has been attached for review. The applicant has also provided a site plan for the proposed development of the property, showing the easements and utility lines that prevent the applicant from locating their building closer.

Public Input

Twelve (12) notices were sent to all property owners within 600 feet of the subject property. No comments or questions were received as of the date of this report.

IV. VARIANCE FINDINGS

Staff analysis and findings regarding compliance with the standards for a variance, as contained in Land Use Ordinance Section 17.16.060, are listed below.

- 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 Centers Mixed Use zone was established to consider properties that currently operate as retail areas to provide housing as part of a redevelopment strategy. The CMU code requirement for buildings to be located within 12-18 feet is to encourage a more pedestrian oriented development pattern. The applicant states that to move and vacate existing utilities and easements would cause an unreasonable hardship for reinvesting in the property. State Street is a Utah Department of Transportation (UDOT) road, which limits the ability for vacating easements and utility lines adjacent to the property. 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.

This property has a special circumstance that does not generally apply to other properties in the CMU Zoning District. First, this is the only property in the city that is currently zoned as CMU. It was rezoned in 2021 from the C-D, Commercial Development zone that allowed for greater setbacks. Thus, the applicant was able to grant additional easements for utilities. Now that redevelopment is beginning to occur, the applicant finds that they are not able to meet the maximum setback. 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.

The Murray City code allows for the development of new retail and mixed use projects within the CMU zone where this parcel is located. Staff finds that the redevelopment to allow a new restaurant can be considered a substantial property right and 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 General Plan's vision for the city is to "Guide growth to promote prosperity and sustain a high quality of life for those who live, work, shop, and recreate in Murray." The applicant's request to build a new restaurant on their property is in harmony with the General Plan is permitted in this zone and would not be contrary to the public interest of this area. Allowing this variance would be a step toward implementing the general plan and will not be contrary to the public interest. Staff finds that the application meets this requirement for granting a variance.

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

The applicant will be able to comply with all other aspects of the Land Use Ordinance and provide a development that is in harmony with neighboring properties. Staff finds that granting the specific variance will not violate the spirit or intent of the ordinance, and that the

application **meets** this requirement for granting a variance.

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 alleged hardship is associated with the property for which the variance is sought.

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.

As established in the analyses of the tests of hardship, there are circumstances that arise from the established easements associated with the parcel that create a hardship. Staff finds that if the applicant moves forward without the requested variance that it may deprive the property owner of development opportunity similar to the other properties in the area due to the restriction in setbacks on the parcel.

VI. CONCLUSION/RECOMMENDATION

Based on the review and analysis of the application materials, the subject property, the surrounding area, and applicable sections of the Murray City Land Use Ordinance, Staff finds that the application meets all applicable standards of review for the granting of a variance and recommends APPROVAL of the requested variance to the requirements of Section 17.162.070(A) of the Murray City Land Use Ordinance subject to the following conditions:

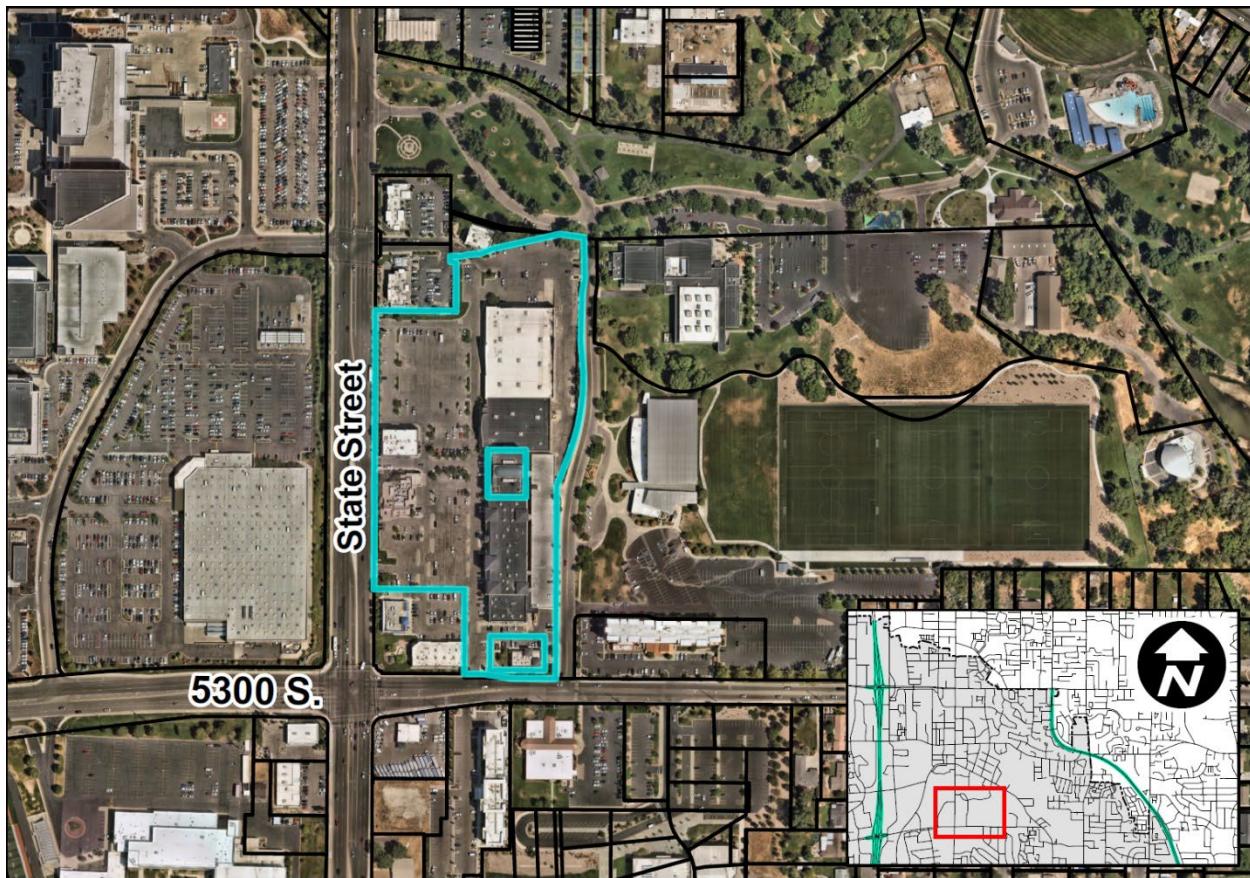
1. The requested variance applies only to the requested building proposed as shown on the site plan attached to this report.
2. The applicant shall submit a site plan prior to any development on the property.
3. The applicant shall obtain required building permits for the development of the property and construction of the proposed accessory structure.
4. The proposed development shall meet all other applicable requirements of Chapter 17.100 of the Murray City Land Use Ordinance.



HEARING OFFICER
NOTICE OF PUBLIC MEETING
October 9th, 12:30 PM

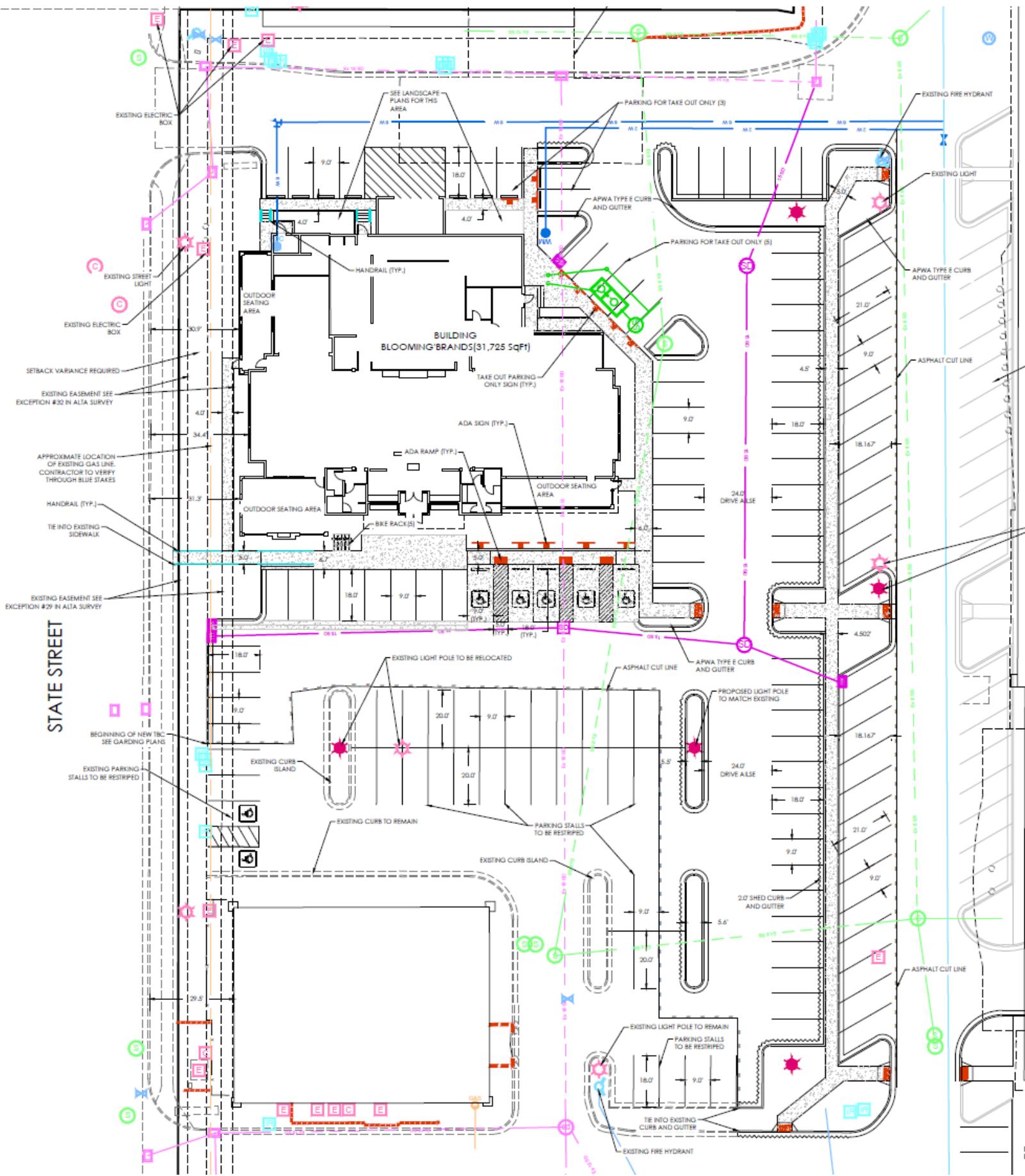
This notice is to inform you of a public meeting scheduled before the Murray City Hearing Officer to be held at Murray City Hall located at 10 East 4800 South, Poplar Conference Room #151. **Representatives of The Point at 53rd is requesting a variance for the property located at 5215 South State Street. The request is to allow for a building to be setback up to thirty-five feet (35') from the back of curb on the west side. This will allow for utility service and uniformity along state street.** Please see the attached plans. You may attend the meeting in person, or you may submit comments via email at planning@murray.utah.gov.

Comments are limited to 3 minutes or less and will be included in the meeting record.



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 request, please call David Rodgers with the Murray City Planning Division at 801-270-2423, or email drodgers@murray.utah.gov.

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.



VARIANCE APPLICATION

Application Information

Project Name: The Pointe @ 53rd - Blooming Brands

Project Address: 5215 South State Street, Murray, Utah 84107

Parcel Identification (Sidwell) Number: 22-07-304-032

Parcel Area(acres): 11.01 Acres Zoning District: CMU

Applicant Information

Name: Howland Partners, Inc.

Mailing Address: 9450 S. Redwood Road City: South Jordan State: Utah ZIP: 84095

Phone #: 801-253-8950 Fax #: 801-253-8951 Email Address: Gary@Howlandinc.com
Tina@Howlandinc.com
Dana@Howlandinc.com

Property Owner's Information (If different)

Name: The Pointe @ 53rd, LC./L&K-403-Enterprises, LLC

Mailing Address: 9450 S. Redwood Road City: South Jordan State: Utah ZIP: 84095

Phone #: 801-253-8950 Fax #: 801-253-8951 Email Address: Gary@Howlandinc.com
Tina@Howlandinc.com
Dana@Howlandinc.com

Describe the requested variance in detail, include exact measurements, and reason for the request:

The CMU Code requires a building setback of between 12' - 18' from the property line. Currently two utility easements (gas and electrical) run within the CMU building setback. As the neighboring existing buildings use the same utility lines and have setbacks of 20' from the property line, The Pointe @ 53rd L.C. is requesting a variance setback of 20' from the property line. This variance will allow the current utilities that service the buildings to remain in the present location and provide a uniform setback of buildings along State Street.

Authorized Signature:

Date:

9/10/2024

For Office Use Only

Project Number: _____ Date Accepted: _____

Planner Assigned: _____

Property Owners Affidavit

I (we), Gary Howland, CEO of Howland Partners, Inc., Manager of The Pointe @ 53rd, L.C.; 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.



Owner's Signature

Owner's Signature (co-owner if any)

State of Utah

§

County of Salt Lake

Subscribed and sworn to before me this 16th day of September, 2024.



Notary Public



Residing in Salt Lake City, Utah

My commission expires: 9/7/2027

Agent Authorization

I (we), Gary Howland, CEO of Howland Partners, Inc., Manager of The Pointe @ 53rd, L.C., the owner(s) of the real property located at approximately 5200 S. State Street, in Murray City, Utah, do hereby appoint Howland Partners, Inc., as my (our) agent to represent me (us) with regard to this application affecting the above described real property, and authorize to appear Gary Howland, Dana Howland, or Tina Franco to appear on my (our) behalf before any City board or commission considering this application.



Owner's Signature

Owner's Signature (co-owner if any)

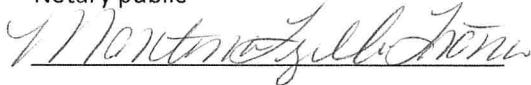
State of Utah

§

County of Salt Lake

On the 16th day of September, 2024, personally appeared before me Gary Howland 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, Utah

My commission expires: 9/7/2027



Property Owners Affidavit

I (we), Dr. Kuan Chen, Manager of L&K - 403 Enterprises, LLC; 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.



Owner's Signature

Owner's Signature (co-owner if any)

State of Utah

§

County of Salt Lake

Subscribed and sworn to before me this 3rd day of September, 20 24.



Notary Public



Residing in Salt Lake City, Utah

My commission expires: 9/7/2027

Agent Authorization

I (we), Dr. Kuan Chen, Manager of L&K - 403 Enterprises, LLC, the owner(s) of the real property located at 5200 S. State Street, in Murray City, Utah, do hereby appoint Howland Partners, Inc., as my (our) agent to represent me (us) with regard to this application affecting the above described real property, and authorize to appear Gary Howland, Dana Howland, or Tina Franco to appear on my (our) behalf before any City board or commission considering this application.



Owner's Signature

Owner's Signature (co-owner if any)

State of Utah

§

County of Salt Lake

On the 3rd day of September, 20 24, personally appeared before me Kuan-Cheng Chen 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, Utah

My commission expires: 9/7/2027



**THE POINTE @ 53RD, L.C.
REQUEST FOR VARIANCE**

1. Can you describe how the enforcement of the zoning ordinance creates a hardship specific to the land on your property, distinct from personal and economic issues, and not self-imposed?

The Pointe @ 53rd is requesting a variance for the building setback to be a minimum of 31' from back of curb and gutter for Blooming Brands' 10,000 square foot restaurant.

The CMU Code states:

17-162-070 Area, Width, Frontage, and Yard Regulations:

- A. Building facades will occupy a minimum of fifty percent (50%) of the total linear feet of property frontage on public streets with setbacks between twelve feet (12') and eighteen feet (18') from the back of curb and gutter.

Questar Gas Company conveyed an Easement, Entry No. 8274056, recorded on 6/25/2002 in Book 8612, Page 6015-6016 for a 16' right-of-way and easement from the 53rd State Street property line for a gas line, which runs north/south of the property line and beyond. With the current CMU setback code, the gas line sits within the required code setback for any planned building. There are three existing buildings north of where the proposed building would sit, which have an approximate 31' setback from the property line and are not within this current utility easement. To adhere to the current CMU Code would entail gaining approval from Questar Gas Company to move its gas line, which may disrupt gas service, not only to tenants in the 53rd Shopping Center ("the Center"), but possibly to the businesses to the north along State Street, as well as create access issues to the Center, as construction would require the sidewalks and driveway to be removed.

Murray City Corporation conveyed an Easement, Entry No. 8179904, recorded on 3/19/2002 in Book 8578, Pages 150-151, for a 15' perpetual easement and right-of-way from the 53rd State Street property line for the installation, continued maintenance, repair, alteration and replacement of underground and/or overhead power lines and appurtenances. As with the Questar Gas easement, to meet the setback requirement for the current CMU Code, these power utility lines would also need to be moved. Having to move these utilities could create a hardship on not only the present businesses in the Center but would affect the owner of the property north while the lines were moved and access to the Center impaired due to this construction.

Approving the variance of the building setback to a minimum of 31' will keep the building setbacks uniform along the Center and prevent the interruption of utility services to the existing tenants along State Street, as well as keeping the access to the Center accessible while Blooming Brands is constructed.

2. What unique features or circumstances of your property, such as shape or topography, differentiate it from others in the same district and hinder adherence to the zoning ordinance?

This property has been developed for over twenty years with commercial buildings, asphalt parking, curb and gutter, sidewalks, and tree wells. Moving the current power and gas lines in the easement for one new building among several existing buildings would create utility alignment issues for not only the property owned by The Pointe @ 53rd but the neighboring lot to the north, as these lines run along and service businesses along State Street. We are asking for a variance to be able to keep a minimum 31' building setback so the utilities can remain as they exist now.

3. How does the zoning ordinance prevent you from enjoying a substantial property right that is available to other properties in the same district, and how would the variance rectify this?

As The Pointe @ 53rd Shopping Center is the only CMU approved zone, approving the zone variance would allow the current utilities to remain in place and allow the proposed building to align with the other existing current buildings in this area.

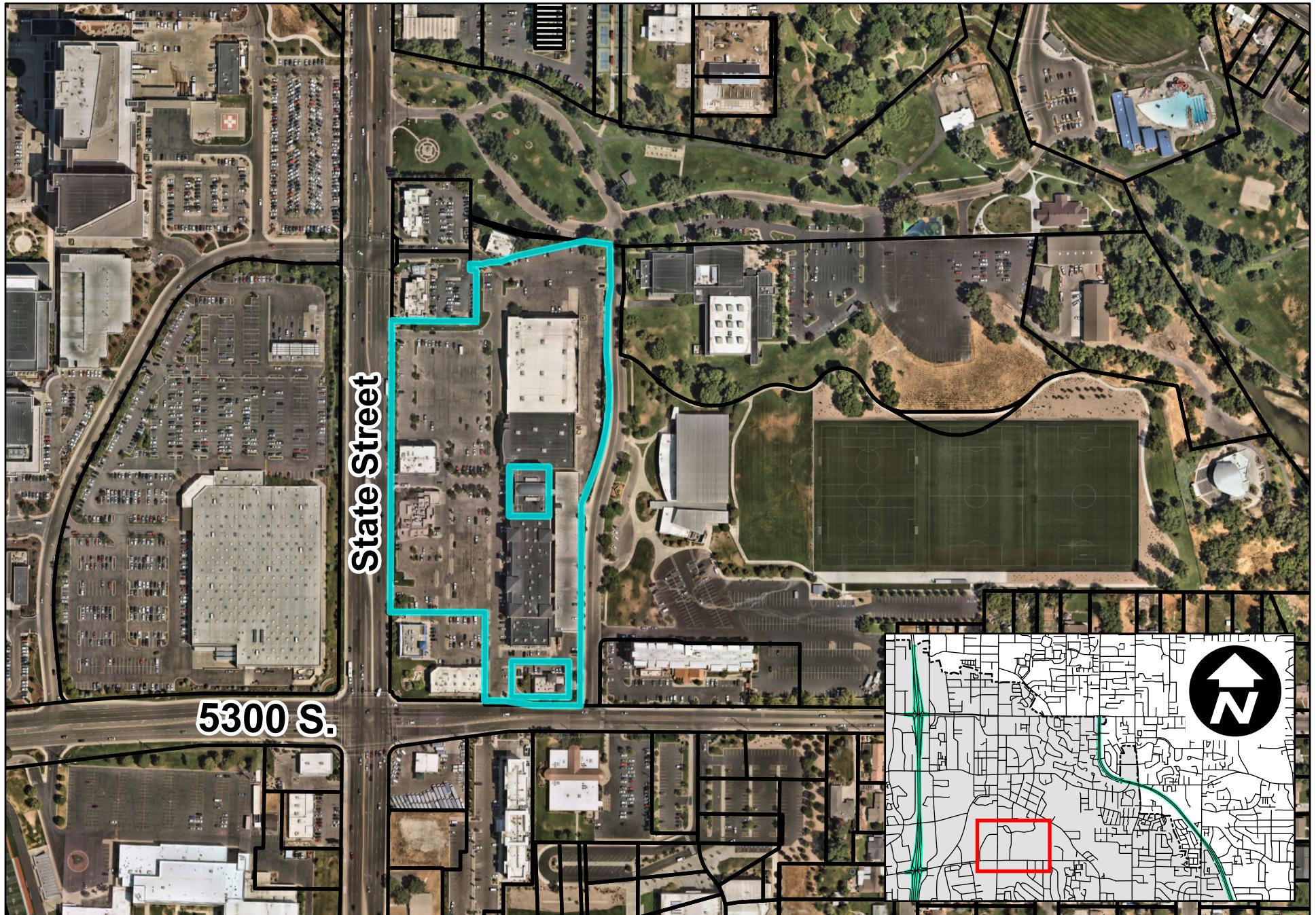
4. How will your requested variance align with the Murray City General Plan and not be contrary to the public interest, while not substantially affecting the general plan?

Providing a variance to change the building a few feet will not be contrary to the Murray City General Plan, public interest, and will not affect the general plan. There are several current buildings that are constructed with the proposed setbacks. This variance will keep the current look of this area without having to move gas and electrical lines.

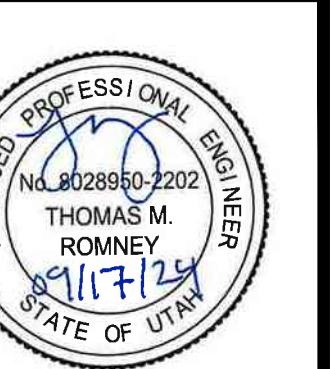
5. How does your request for a variance uphold the spirit of the zoning ordinance and ensure substantial justice, despite not meeting its literal terms?

Approving the variance will keep the spirit of the zoning ordinance by allowing the proposed building to align with the current existing building setbacks, and allow the gas and electric utilities lines to remain in place, as they have for the past twenty plus years.

5212 South State Street



The logo for Focus Engineering and Surveying, LLC. It features a large, bold, black 'E' on the left. Overlaid on the 'E' is a red, multi-pointed starburst or asterisk shape. To the right of the 'E', the company name 'FOCUS' is written in a large, bold, black sans-serif font. Below 'FOCUS', the text 'ENGINEERING AND SURVEYING, LLC' is written in a smaller, black, all-caps sans-serif font. Underneath that, the address '6949 S. HIGH TECH DRIVE SUITE 200' is in a medium-sized black font. Below the address, 'MIDVALE, UTAH 84047' is in a slightly smaller black font. To the right of the address, the phone number 'PH: (801) 352-0075' is in a medium-sized black font. At the bottom right, the website 'www.focus-es.com' is in a medium-sized black font.



BLOOMIN' BRANDS

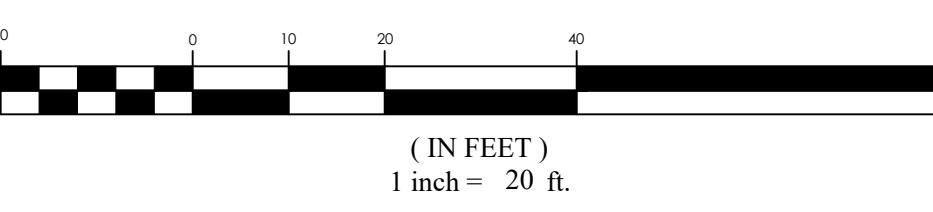
5215 S STATE ST, MURRAY CITY, UT

SITE PLAN

IVAN MURRAY SITE PLAN



GRAPHIC SCALE



SITE PLAN

Know what's below.
Call 811 before you dig.

C3.0

Page 1 of 1

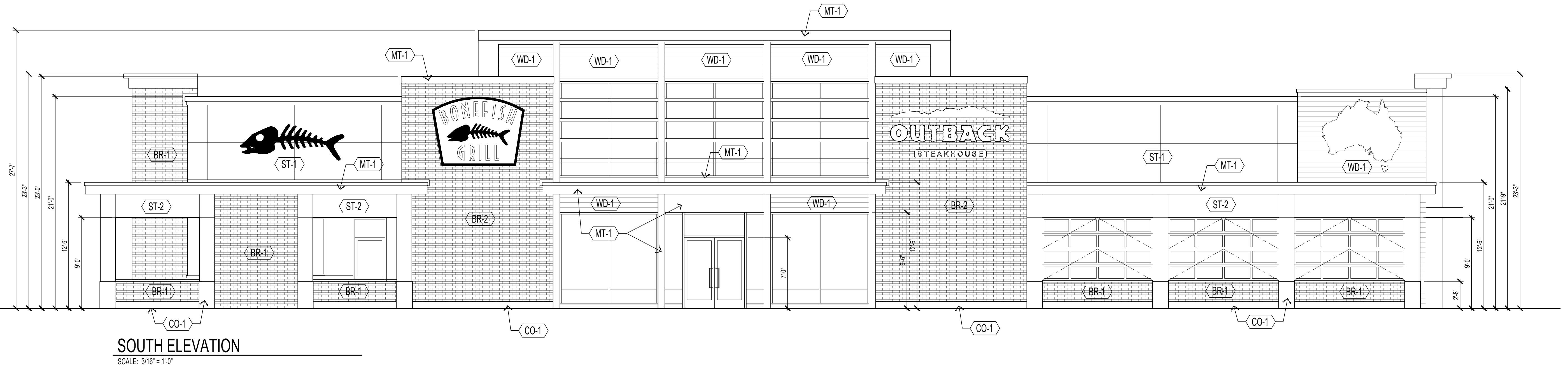
LEGEND

MARKING TABULATION:

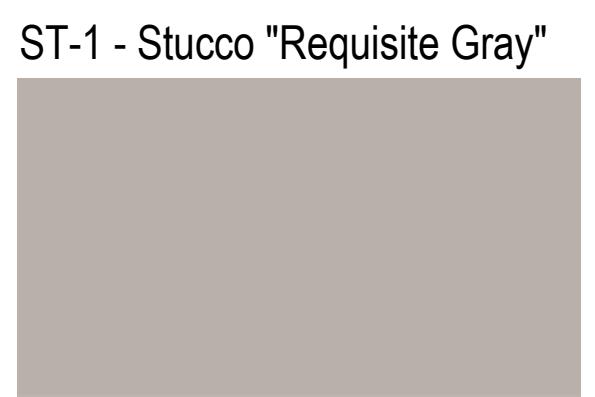
EQ.(1/300SqFt):
UNGLED PARKING STALLS;
PERPENDICULAR PARKING STALLS:
AKEOUT PARKING STALLS:
DA PARKING STALLS:
OTAL STALLS:

REVISION BLOCK			
#	DATE	DESCRIPTION	
1	---	---	---
2	---	---	---
3	---	---	---
4	---	---	---
5	---	---	---
6	---	---	---

<h1>SITE PLAN</h1>	
Scale: 1"=20'	Drawn: AM
Date: 09/17/2024	Job #: 24-0320
Sheet: C3.0	



EXTERIOR ELEVATIONS MATERIALS KEY



BR-2 - Light Brick Blend



ST-2 - Stucco "Peppercorn"



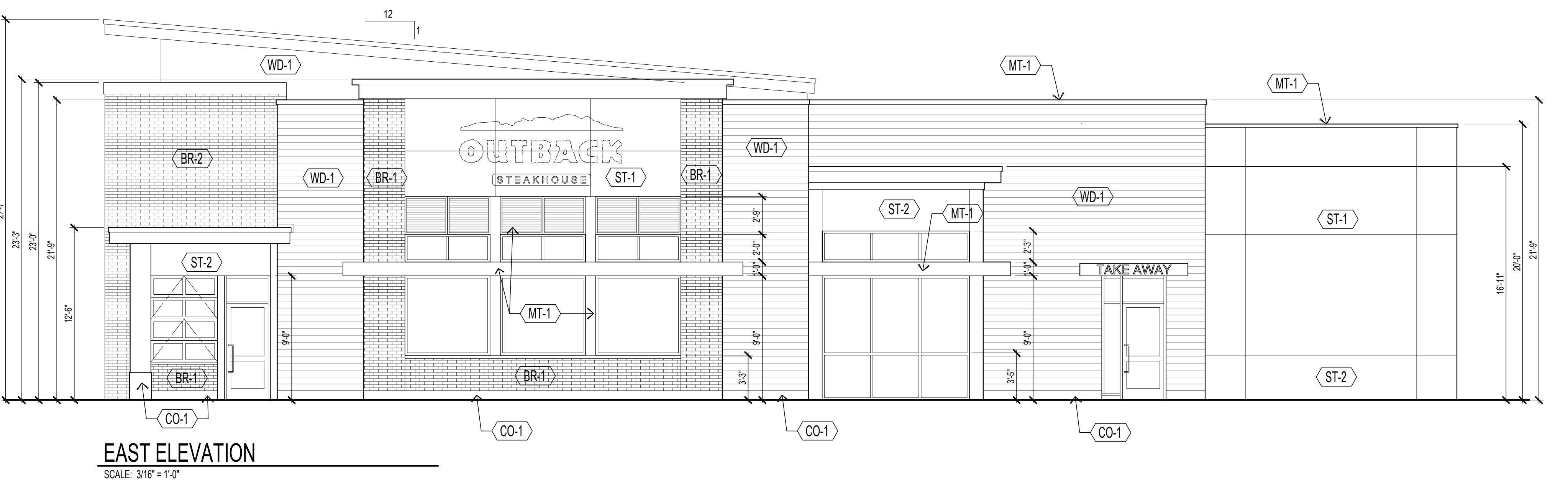
WD-1 - Wood Tone "Summer Wheat"



TR-1/MT-1 - Trim/Metal



CO-1 - Cast Concrete





Dual Store

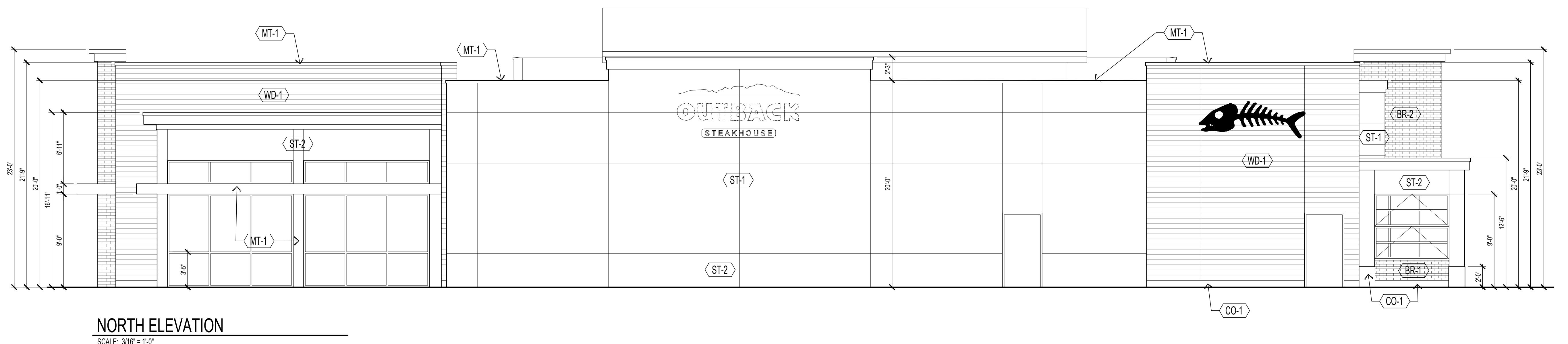
11114 S. State Street
Sandy, Utah 84070

design development

EXTERIOR
ELEVATIONS

drawn by CSC
checked by MDL

8/8/24 Preliminary DD
issued date description

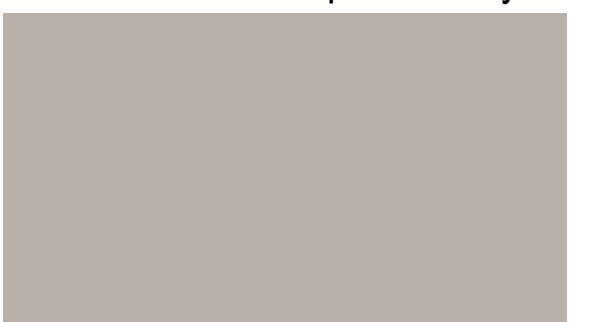


EXTERIOR ELEVATIONS MATERIALS KEY

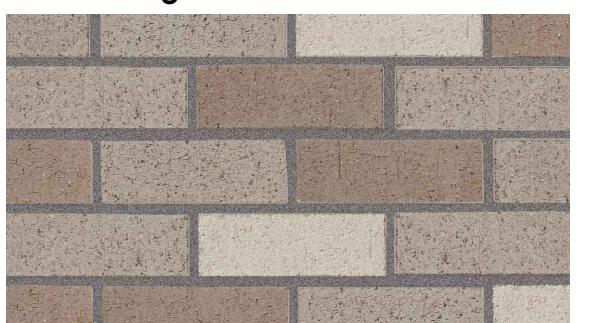
BR-1 - Dark Brick



ST-1 - Stucco "Requisite Gray"



BR-2 - Light Brick Blend



ST-2 - Stucco "Peppercorn"



WD-1 - Wood Tone "Summer Wheat"



TR-1/MT-1 - Trim/Metal



CO-1 - Cast Concrete

