

Minutes of the Planning Commission meeting held on Thursday, April 20, 2023, at 6:30 p.m. in the Murray City Municipal Council Chambers, 10 East 4800 South, Council Chambers, Murray, Utah.

The public was able to view the meeting via the live stream at <http://www.murraycitylive.com> or <https://www.facebook.com/Murraycityutah/>. Anyone who wanted to make a comment on an agenda item may submit comments via email at planningcommission@murray.utah.gov.

Present: Lisa Milkavich, Vice Chair
Travis Nay
Ned Hacker
Michael Richards
Maren Patterson
Jeremy Lowry
Susan Nixon, Senior Planner
Zac Smallwood, Senior Planner
Mustafa Al Janabi, Planner 1

Excused: Jake Pehrson, Chair

The Staff Review meeting was held from 6:00 p.m. to 6:30 p.m. The Planning Commission members briefly reviewed the applications on the agenda. An audio recording is available at the Murray City Community and Economic Development Department Office.

APPROVAL OF MINUTES

There were no minutes to be approved.

CONFLICT OF INTEREST

There were no conflicts of interest identified.

APPROVAL OF FINDINGS OF FACT

Commissioner Hacker moved to have the commission approve the findings of facts and conclusions for the Design Review for the Murray Station Townhomes and the Conditional Use Permit for the Rhino Property Management.

Seconded by Commissioner Nay. A voice vote was made, motion passed 6-0.

SUBDIVISION REVIEWS

Waterstone Subdivision – 6566 South Jefferson Street - #22-012

Susan Nixon reviewed the request for a one-year time extension for Final Subdivision approval for the Waterstone PUD Subdivision. The Planning Commission granted final subdivision approval on May 19, 2022. Jacob Ballstaedt, representing Garbett Homes, has requested an additional one-year limit for recording the plat due to the market's drastic changes since this property was approved and the market slowdown has created some delays in starting new construction developments. Staff is recommending the Planning Commission grant the one-year extension subject to meeting the original conditions of approval.

Commissioner Milkavich asked the applicant if they have read the conditions and could comply with those conditions.

Jacob Ballstaedt, applicant representing Garbett Homes, responded yes to both questions and had nothing to add to the staff report.

Public comment was opened. No public comments were made. Public comment was closed.

Jeremy Lowry moved to approve a one-year time extension request for the Waterstone Subdivision Final Approval on the properties addressed 6566, 6562 and 6566 South Jefferson Street, subject to the eight conditions:

1. The applicant shall meet all requirements of the Murray City Engineer, including the following:
 - a. Meet City subdivision and requirements.
 - b. Dedicate right-of-way that extends into Jefferson Street and install sidewalk along Jefferson Street frontage.
 - c. Provide grading, drainage and utility plan and profile drawings.
 - d. Meet City utility standards, provide standard front rear and side yard PUE's on lots – window wells should not extend into PUE.
 - e. Meet City storm drainage requirements, on-site retention of the 80th percentile storm is required. Implement Low Impact Development (LID) practices.
 - f. Walkout basements and final lot grades must have finish elevation of at least 1.5 feet above the Jefferson Detention Basin high water level.
 - g. Obtain a temporary construction easement from Murray City for the storm drain outfall in the Jefferson Detention Basin.
 - h. Eliminate the subdivision gate access into the Jefferson Detention Basin.
 - i. Provide a site geotechnical study based on proposed site grading, LID and building plans. The study should include parameters for the proposed LID, including percolation rate and saturation zone.
 - j. Provide any required easements and vacate any unused easements within the proposed building areas.
 - k. Provide a HOA declaration for the common area maintenance and ownership. Include language in the declaration for HOA maintenance of the on-site stormwater retention/detention system, drainage swales and pipe.
 - l. The driveway on Lot 1 needs to be located on the south or west side of the lot at least 40' from the corresponding street right-of-way line.
 - m. Provide Street lighting, type and locations need to be approved by Murray City Power.
 - n. Provide a subdivision improvement bond prior to recording the plat.
 - o. Develop a site SWPPP and obtain a City Land Disturbance Permit prior to beginning any site grading and construction work.
 - p. Obtain a City Excavation Permit for work within City roadways.
2. The subdivision shall meet the requirements of the Murray City Fire Department. All accesses must meet the requirements of International Fire Code (IFC) 2018 appendix D.
3. The developer shall meet Murray City Wastewater Division requirements.
4. The developer shall meet all requirements of the Murray City Water Division.
5. The developer shall meet all Murray City Power Department requirements.

6. The applicant shall prepare and submit draft Home-Owners Association documents appropriately providing for the continued maintenance and care of commonly held property and improvements in the project for review and approval by City staff.
7. The applicant shall adjust the fencing plans to include an eight-foot (8') fence along the western edges.
8. The subdivision plat shall be recorded within one year of the final approval by the Planning Commission or the subdivision plat approval shall be null and void.

Seconded by Commissioner Richards. Roll Call Vote:

A Milkavich
A Nay
A Patterson
A Hacker
A Richards
A Lowry

Motion Passes 6-0

Murdoch Subdivision – 4580 South Commerce Drive - #22-036

Susan Nixon reviewed the request for a one-year time extension for Final Subdivision approval for the Murdoch Subdivision. The Planning Commission granted final subdivision approval on April 7, 2022. The applicant has been working to obtain signatures on the plat but has not been able to get all the signatures prior to the one-year time limitation. For this reason, they have requested an extension. Staff is recommendation approval of the one-year time extension subject to the original conditions of approval.

Commissioner Milkavich asked the applicant if they have read the conditions and whether they can comply with those conditions.

Carter Maudsley, representing the applicant, responded yes to both questions. He noted the access is currently on Jensen Lane, which is part of the reason for the delay since they are trying to figure out whether Jensen is still owned by Murray City, or if it was vacated. The applicant is accessing the rear property off of Jensen now. In the final plat there was an easement done through Lot 1 to the rear of Lot 2.

Public comment was opened.

Gary Weston (Resident) said he wasn't here for this matter, but asked if this is a prescriptive easement or an easement grant, because you would want to know whether that is a prescriptive easement that needs to be upgraded to a granted easement, or whether it is in fact a granted easement.

Mr. Smallwood was unsure on the easement, typically the city engineer and team deals with that. That is one of the delays is that staff is trying to figure that out. In response to Mr. Weston's question, it is being taken care of but staff doesn't have an answer at this time.

Ms. Nixon noted that the city engineer brought this up a few months ago, but it was decided that the city can't force it; whoever buys Lot 2 will have to work something out, but it will not be on the plat.

Commissioner Patterson asked if the plat is recorded, is there still a way for the owner to get the easement/reciprocal agreement in place after the fact. Ms. Nixon stated the owner could sell the property without an easement, but the buyer would not have access and an access easement could be obtained at a later date, but should be recorded with the Salt Lake County Recorder's office. The city would not approve this type of a situation for a residential lot since they have to have a recorded access easement or part of a lot as a flag lot, but commercial is different and the regulations are not the same.

Commissioner Hacker moved to grant the one-year extension for final subdivision approval for the Murdoch Subdivision on the property addressed 4580 South Commerce Drive, subject to the original final subdivision conditions of approval:

1. The properties shall maintain conformance with the requirements of the M-G, Manufacturing General Zone as contained in Chapter 17.152 the Murray City Land Use Ordinance.
2. The applicant shall prepare a Final Subdivision Plat which complies with all requirements of Title 16, Murray City Subdivision Ordinance.

Seconded by Commissioner Lowry. Roll Call Vote:

A Pehrson
A Nay
A Patterson
A Hacker
A Richards
A Milkavich

Motion Passes 6-0

CONDITIONAL USE PERMIT

Mercantile Towns PUD Subdivision- 861 East Winchester Street - #23-039 & #23-038

Mr. Smallwood presented the application from Scott Verhaaren, of the Boyer Company, to develop the subject property into 109 townhomes. The subject property is made up of nine (9) parcels located on the north side of Winchester Street and the west side of 900 East. The property has been used as RC Willey, a regional furniture store, since the 1970s. The City Council approved a zone change from C-N to R-M-15 in September 2022. The application before the Planning Commission is for a Conditional Use Permit for Planned Unit Development and Preliminary Subdivision approval. If the Planning Commission approves the preliminary subdivision, the applicant will work with the city staff to prepare a final plat to be reviewed and approved by the Planning Commission. After final subdivision approval is granted, the applicant will prepare a final subdivision plat. When the final subdivision plat has been approved and accepted by the City Engineer, it will be circulated for signatures of approval which will allow the recordation of the plat at the Salt Lake County Recorder's Office. Staff is recommending

approval of the planned unit development and granting of the preliminary subdivision approval, subject to conditions.;

Commissioner Patterson asked if they are allowed different fencing for different locations on the property. Mr. Smallwood responded yes. He brought this before the commission to have a discussion about the options and what the planning commission would like to see.

Commissioner Milkavich asked the applicant if they have read the conditions and can comply with them.

Scott Verhaaren, applicant representing The Boyer Company, responding to the fencing question that they typically find that the product type dictates the look of the fencing, and they would like to have the fencing mimic the architecture and they would like to work with staff on that. He discussed what they have done on other projects and how they would consider materials based on the height requested by the commission. Regarding the elevations and height, if they determine they can get a 26-foot width on certain roads they may come back and ask for some building heights exceeding 30 feet, but they understand that would only be done if they could meet the international fire code. The point on the grading and drainage is accurate, their engineers have worked that out so they can match what is currently there; specifically, over by the Framing Establishment which has been a bit of a challenge. Nothing presented is of concern to them, and they think they can work through those issues.

Commissioner Hacker asked what they meant by matching what is currently there. Mr. Verhaaren said the Fame Establishment to the north has asphalt for the parking and he believes they are close to figuring out how to make everything work with the same elevation across the site and having a gradual gain up to the site. He also noted that staff was correct in that they have a lot of fill to either dispose of or use it on-site. They had no idea that much fill was under the site until the slab floor was taken out.

Commissioner Nay noted that a concern constantly raised by residents is the drainage on the west side and the flooding into the neighborhoods seen throughout the years. In the project, they have added a stormwater retention basin, as well as eliminated many of the hard surfaces, and he asked if that should remedy the issues for the neighbors.

Mr. Verhaaren said it should, as they have eliminated a bunch of the impervious surface area and added retention basins designed to city standards. They don't believe there will be any more flooding issues there. There are some downstream issues in the stormwater system itself on the site, so if there is a backup at any time in the future with some of the 90-degree angles he thinks the detention basin should be able to handle that. Regarding the fencing, he stated they will work with staff to ensure it is done to the city's desire; they would just like to have the flexibility, based on the final designs, to make sure everything matches the homes.

Commissioner Milkavich opened the public hearing for comments.

Gary Westin, resident, stated that he lives about four blocks north of this project and all of them in the Southwood Subdivision are very interested in what's going on and how it's being handled. He asked about the southernmost entrance to 9th East, right by the north line of the service station there, is that supposed to be an ingress, or just an egress. He stated it is so close to Winchester, if people are just exiting there they can make a right-hand turn and if it's just a right

turn only that's fine; but, to exit there and try to go north is impossible. He expressed concern when traveling along 9th East between 3:00 in the afternoon and 6:30 in the evening and the traffic backing up there at Winchester and 9th East. He stated there is just no way you can really have traffic coming out of that south entrance and making a left turn. Mr. Westin asked if this project is going to be residential as opposed to commercial. He asked will the developer and Planning Commission be requiring owner-occupied on the 109 units. He expressed concern because a lot has been said in the past that we needed to have subsidized housing in this location. One hundred and nine units of subsidized housing invites non-owner-occupied people buying those units only for investment purposes and rent them out. If this is the case, then there will be a substantial group of people there who do not have a vested interest in the upkeep of the subdivision.

Shawna Nelson, resident, said she is directly behind in the proposed playground area. She stated she is not a huge fan of the plan and would have much rather had a cemetery and homes or duplexes. She stated Spencer Moffatt has been awesome to work with and listen to their concerns. She stated her biggest concern is that the existing fence is a six-foot-high masonry wall or more of a slab. It is six feet high on her side of the fence, but on the other side it is five feet one inch and if a person is taller than five feet two inches, they can see directly into her yard. She asked that whatever fencing is out there, that it be at the highest level, whether it's six or eight feet, just so they can have more privacy. The homeowners west of her fought a little bit harder when RC Willey came around, so their fences are taller, but from her home further east it just goes with the elevation and there is less privacy.

Ken Maxfield, resident, said he has been working with Scott at Boyer about dealing with the easement between their property and the Framing Establishment. They have been willing to work with them and that has been very pleasant. He stated he is concerned about whether the existing foundation for the RC Willey warehouse is going to stay there back along his property. He asked what that elevation is going to look like. Another concern is fencing between residential and commercial property. Thankfully there is a road all along that property line so that's a good thing and a nice fence to isolate the residential from the commercial would be in order along there as well.

Mr. Smallwood noted there was an email received from a resident, Nicole Shepherd, but she asked that it not be read into the record. It will be submitted into the record, but not read. The Planning Commission did receive a copy of it and has already read it.

Mr. Smallwood read an email received from Tanner Webster. *Hello, I wanted to send a short email in support of the Boyer Group's plans for development. I think the concepts look nice and Boyer is a great developer. I believe they will be the best fit for the area and this project. Also, I would love to see the city incentivize for sale development instead of for rent some day. I also hope everyone realizes that at one point someone was likely against their home being developed.*

Another email received from Jamie Truwitt with no address. *The proposal being presented this evening from the Boyer Group for townhomes has my support as an ownership medium density project.*

Public comment was closed.

Mr. Smallwood began addressing concerns from the public. Regarding the 9th East access on the south, currently they are proposing for it to be a full access. However, as one of the conditions state, the applicant does have to go before UDOT to get those accesses approved and they may require a right in, right out. If this was something the city could impose as a condition, staff would have suggested it in their review. Next, this development will only be residential as the R-M-15 only allows residential with few exceptions like a school or communication tower. Regarding owner-occupied, these are proposed for sale but the city, as a government body, cannot dictate owner-occupied versus rental products. Regarding subsidized housing, some of the project can be subsidized housing, but this applicant is not proposing any. There are low-income tax credits, and the city would have to write a letter in support of that as part of the application process; that has not been done for this project. Regarding the fencing, he agrees with the six or eight-foot fence on the highest side, that is something that is allowed in the code. He encouraged the applicant to place the fence on the higher side. He discussed the elevations and how they are shown on the map, noting that the lines on the map do not take into account the building in terms of grading, they are only describing the land underneath. He discussed the access easement and possible previous vacation of the easement, noting that they could have the applicant build a fence along that property line without encroaching in that easement.

Commissioner Lowry asked if there would be curb and gutter on the north portion. Mr. Smallwood responded yes.

Ryan Hales, traffic engineer, reviewed his traffic study included in the meeting packet.

Commissioner Hacker asked for Mr. Hales' thoughts on UDOT's reaction to the access being as close as it is to Winchester. Mr. Hales responded that they will look at it, but he believes their biggest concern will be with the gas station access next to it and they will want to try and combine the two accesses.

Spencer Moffatt, the applicant representative from The Boyer Company, stated they have met with UDOT, and they are excited for the consolidation of accesses to 900 East. Regarding the north access and the Framing Establishment, that will be a shared access so the Framing Establishment can have access to their parking lot. Curb and gutter will start at their building and they intend to do a wall, shielding the view of the storage building behind them. The RC Willey foundation will also be removed in the future and have not had the crews do that yet. He discussed the collaborative process with the nearby residents and discussed the deed overlap with some of the shared property lines. They do not intend to take that space back and will work with the residents to Quit Claim deed that as part of the fencing discussion. They have multiple vendors for the fencing and in the high-traffic areas, they will definitely want a masonry concrete fence for safety.

Commissioner Nay acknowledged a project recently done by Brad Reynolds Construction. His project was required to have an eight-foot fence along his project located further to the west on Winchester Street which is a terrible area to walk along the street. Mr. Nay recommends along 900 East and Winchester that they extend the sidewalk to six feet, in addition to the two feet for the park strip already in place; this would take away from some of the setbacks on some units, but they need to be cognizant of those outside the development as well. He also believes the eight-foot fence is appropriate and beneficial to the residents fronting those roads. Commissioner Lowry supports Commissioner Nay's recommendations.

Commissioner Hacker noted there have been previous discussions about the sidewalks and concessions for the units along both 900 East and Winchester to give more leeway for the setbacks. The commission discussed the current setbacks and what the above changes would mean for those units.

Commissioner Patterson agreed that adding the park strip and wider sidewalk will help prevent issues similar to the gauntlet example, but she also thinks the visual breakup and having things offset will be helpful. She also believes it would be more neighborly to put the fence at the higher grade for the residential neighbors and their privacy.

Mr. Verhaaren asked to clarify the intent of the suggestions regarding the additional footage, will the city be granting them a shorter setback? Commissioner Nay responded yes.

Mr. Verhaaren addressed the comments regarding the uncomfortable experience of walking along the tall fence and noted that these will be residences 20 feet away from the wall. They have found issues with the eight-foot-high fences, as that is the height of their home essentially, and they are unable to see out of the back or see light; in particular. He stated that in the City of Highland, they actually had to go back and re-do fences for those reasons. They have gone away from eight-foot walls for those reasons. They like to have an open feeling and if they are setting these on the existing grade plus eight feet, that would result in a 10-foot wall on the north side.

Mr. Hall shared his feelings about an eight-foot wall around the north and west sections. This is a for-sale product and they have to market it, so he understands that they have to create something they think they can sell. It is imperative to him that there is an eight-foot fence for the existing residents around the project.

Mr. Verhaaren noted that the grading will change, and they are open to the eight-foot fence since the closest fence in those areas would be 55 feet from the residence. They are platting these as individual lots, they have not decided if they are for sale or rent, but both options are on the table. He also added that none of these will be subsidized housing unless the market falls and they have to subsidize them by selling them.

The commission and applicant discussed their final thoughts on the fencing.

Commissioner Milkavich asked for cement or masonry fencing offset from the sidewalk slightly so there is a little space.

Commissioner Nay noted that is only taking more space away from the backyards, as they are already limited in the room available.

Commissioner Milkavich asked the applicant, where possible, to give some extra room next to the sidewalk. Mr. Verhaaren was open to that recommendation.

Commissioner Patterson stated she likes the amenities here, specifically the landscaping, the extra parking, and a few other items that showed this was a well thought through project.

Commissioner Nay discussed the email that was sent in but not read into the record which noted concerns for the mental health of the current residents based on the change in use, weird lights coming into the property, air quality, etc. He responded with examples of how this proposed project affects the items listed and that he didn't feel they were detrimental.

Commissioner Milkavich addressed the applicant deeding the additional four feet to the adjacent property owners, noting that it works great when the neighbors want that four feet. This then puts the burden on the residents to the north to then consolidate and combine those parcels, which can be expensive and cumbersome. The city is now trying to mitigate that, and the commission was not aware prior to this that there was an issue.

Mr. Hall noted that they don't need to include the property line changes because it is a discussion between two property owners. The commission discussed the options for that space and how they would deal with property owners who don't wish to have that additional land deeded to them. The commission asked staff to look at the issue and have recommendations prior to the final approval. Ms. Nixon agreed to that.

Commissioner Nay moved to approve the Conditional Use Permit for Planned Use Development and Preliminary Subdivision approval for Mercantile Towns on the properties addressed 861 East Winchester Street and 6520, 6550, 6580 South 900 East; subject to conditions one through ten as submitted with the addition of conditions 11, 12 and 13:

1. The applicant shall meet all requirements of the Murray City Engineer, including the following:
 - a. Meet City subdivision and PUD requirements. The plat should include street names, unit addresses, PUE's, and common areas.
 - b. Vacate the existing sewer easement that is located on the west end of property and provide sewer easement for the proposed alignment.
 - c. Relocate or accommodate the existing 20 foot right-of-way along the north boundary with 9th East Management LLC.
 - d. Obtain a UDOT site access review and permit for 900 East access.
 - e. Obtain a UDOT approval and City agreement for emergency access to 900 East.
 - f. Provide a UDOT Level 2 Traffic Impact Study and implement recommendations.
 - g. Provide a site geotechnical study and implement recommendations.
 - h. Provide utility and street plan and profile drawings.
 - i. Meet City storm drain requirements. On-site detention with reduced release rate and water quality treatment is required.
 - j. Meet City well protection zone requirements.
 - k. Provide street lighting.
 - l. Replace any damaged curb and gutter and sidewalk along property frontages to both Winchester and 900 East.
 - m. Sidewalks, pedestrian ramps, and crosswalks must meet current ADA Standards.
 - n. Provide stop signs, coordinate markers at all street intersections and no parking signs along the proposed streets.
 - o. Meet AASHTO site distance requirements for accesses onto Winchester Street and 900 East.
 - p. Provide a subdivision improvement bond prior to recording the plat (dedicated improvements only).

- q. Develop a site SWPPP and obtain a City Land Disturbance Permit prior to beginning any site grading and construction work.
 - r. Obtain a City Excavation Permit for work within City roadways.
- 2. The subdivision shall meet the requirements of the Murray City Fire Department including the width of the access drives.
 - 3. The developer shall meet all Murray City Water Division requirements.
 - 4. The developer shall meet all Murray City Wastewater Division requirements.
 - 5. The developer shall meet all Murray City Power Department requirements and meet to discuss planning the new power service.
 - 6. The applicant shall provide detailed elevations of proposed structures prior to final subdivision review.
 - 7. The applicant shall ensure that all buildings are thirty feet (30') or less in height.
 - 8. The applicant shall provide a copy of the proposed CC&Rs to the Planning Division prior to final subdivision review.
 - 9. All units within the subdivision shall comply with the requirements of the R-M-15 Zone as outlined in Chapter 17.120 and Planned Unit Development as outlined in Chapter 17.60 of the Murray City Land Use Ordinance.
 - 10. Application for a Final Subdivision Review must be made within a one-year time period from Preliminary Subdivision, or the preliminary approval will be null and void. The subdivision plat shall be recorded within one year of the final approval by the Planning Commission or the subdivision plat approval shall be null and void.
 - 11. The applicant shall work with staff to propose a masonry fence up to eight feet on the remaining property perimeter.
 - 12. The applicant shall install an eight-foot fence along the residential properties on the north and west.
 - 13. The applicant shall reduce the Winchester and 900 East setbacks to allow for a 16-foot sidewalk and two-foot park strip.

Seconded by Ms. Patterson. Roll Call Vote:

A Pehrson
A Nay
A Patterson
A Hacker
A Richards
A Milkavich

Motion passes 6-0.

ANNOUNCEMENTS AND QUESTIONS

There were no announcements made.

ADJOURNMENT

Commissioner Patterson moved to adjourn the meeting at 7:55 PM. A voice vote was made, motion passed 6-0.

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A handwritten signature in black ink, reading "Philip J. Markham". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Philip J. Markham, Director
Community & Economic Development Department