

Minutes of the Planning Commission meeting held on Thursday, September 1, 2011, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Tim Taylor, Chair
Karen Daniels, Vice-Chair
Jim Harland
Sheri Van Bibber
Jeff Evans
Kurtis Aoki
Chad Wilkinson, Community & Economic Development
Services Manager
Ray Christensen, Senior Planner
G.L. Critchfield, Deputy City Attorney
Citizens

Excused: Ray Black

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

Mr. Taylor opened the meeting and welcomed those present. He indicated that a public hearing will be held for the two applications on tonight's meeting.

APPROVAL OF MINUTES

Karen Daniels made a motion to approve the minutes of July 21 and August 4, 2011. Sheri Van Bibber seconded the motion.

A voice vote was made. Motion passed, 6-0.

CONFLICT OF INTEREST

There were no conflicts of interest for this agenda.

APPROVAL OF FINDINGS OF FACT

There were no Findings of Fact to be approved.

STONEBROOK P.U.D. AMENDED – 5313 South Baker Street – Project #11-74

Brad Grieve was the applicant present to represent this request. Ray Christensen reviewed the location and request for a Planned Unit Development plat amendment for lot #13 addressed 5313 South Baker Street which is located within the R-M-10 zoning district. Municipal Code Ordinance 16.04.050 requires subdivision approval of property by Murray City Officials with recommendation from the Planning Commission. Section 17.60 authorizes the planning commission to approve amendments to planned unit developments. A portion of the lot was previously designated by the Army Corps of Engineers as wetlands on the recorded plat. The Army Corps has now provided a letter stating this lot area does not qualify as a wetland. The applicant plans to construct a swimming pool on the lot on the portion

that was previously designated as wetlands. The amendment to the plat removes the designation of wetlands on this lot #13. The amended plat will need to be recorded at the Salt Lake County Recorders' Office prior to application for a building permit. The applicant is proposing to construct a swimming pool on the lot which must comply with the zoning code requirements. This property will need to be landscaped to meet zoning codes 17.68 for residential zones. The Water and Sewer Department noted to comply with all water and sewer requirements. The City Engineer noted to provide an amended plat meeting the subdivision ordinance requirements. Based on the information presented in this report, application materials submitted and the site review, staff recommends approval subject to conditions.

Brad Grieve, 5313 South Baker Street, stated he has reviewed the staff recommendations and will comply.

Taylor McPherson, contractor, stated he is working with Mr. Grieve in regards to obtaining approvals to install the swimming pool and this is part of that process. He stated that the plat will need to include the easements. He indicated that they wish to dig for the swimming pool by September 20, 2011.

Tim Taylor opened the meeting for public comment.

Astra Campbell, 650 East Vine Street, indicated that she is not opposed to this proposal, but asked for clarification as to how the property is designated as wetlands. Ray Christensen stated originally when this subdivision was approved, there were visible wetlands on the property, but over time that can change based on water table and wetland conditions. The Army Corp of Engineers has reevaluated and has determined that this property is no longer actual wetlands.

Jeff Evans commented that wetlands can be traded out where one wetland area can be mitigated for another location.

Mike Brodsky, 308 East 4500 South, commented that he operated a wetland mitigation property for 10-11 years and one of the primary reasons that the wetlands is not considered as wetlands today is a result of the Supreme Court ruling that occurred 5 years ago that significantly reduced the Corp of Engineers authority on non-titled wetlands. The Corp had jurisdiction on what used to be isolated pockets of aquatic plants and wetland drainages up until the ruling, but they no longer have that jurisdiction. These kinds of pocket areas are no longer considered wetlands because of that ruling.

Tim Taylor closed the public comment portion for this agenda item.

Karen Daniels made a motion to send a positive recommendation to the Mayor for approval of the Stoneybrook P.U.D. plat lot #13 amendment, addressed 5313 South Baker Street and subject to the following conditions:

1. Meet the requirements of the Murray City Engineer for the recording of the plat at the Salt Lake County Recorders Office.

2. Show utility easements on the lot to meet the subdivision ordinance regulations.
3. The project shall meet all applicable building code standards.
4. The project shall meet all current fire codes, meet all Murray water and sewer department requirements, and power department requirements.
5. The plat will need to be recorded at Salt Lake County Recorder's Office prior to the applicant applying for a building permit.

Seconded by Sheri Van Bibber.

Call vote recorded by Ray Christensen.

A _____ Jim Harland
A _____ Sheri Van Bibber
A _____ Tim Taylor
A _____ Karen Daniels
A _____ Kurtis Aoki
A _____ Jeff Evans

Motion passed, 6-0.

SUBDIVISION/P.U.D. REVIEW – Birkhill Apartments Phase 1, Lot 102 Amendment – Project #11-79

Hooper Knowlton and Nick Mingo were the applicants present to represent this request. Chad Wilkinson reviewed the location and request for an amendment to approved plat of for the property addressed approximately 4221 S. Main Street. Municipal Code Ordinance 16.04.050 requires the subdivision of property to be approved by Murray City Officials with recommendation from the Planning Commission. The applicant previously received approval for a subdivision of the property on June 16, 2011. The proposal originally included two lots and two remainder lots. The original approval vacated a portion of the previously dedicated streets and also vacated the original plat. The plat approved on June 16, 2011 has not yet been recorded. Section 16.12.110 requires that major amendments to unrecorded final plats shall go back through the approval process. The proposed amendment would add an additional lot designated as lot 102 and would divide that proposed lot into four condominium units corresponding to a proposed parking garage. The applicant has indicated that the proposed condominium units in the parking garage are a requirement of the Tax Credit Equity investor for the project. Although there is no specific ordinance or statute that would prohibit a condominium division of the parking structure, staff is concerned that the individual units could potentially be sold independent of the apartments that they serve. Therefore, staff is requesting that the Conditions, Covenants and Restrictions (CCR's) for the project include a restriction preventing the parking from being sold independent of the apartment buildings. The City Engineer had indicated that two separate plats will be required for the proposed amendment. Other previous department comments have been addressed in the conditions below. Based on the information presented in this report, application

materials submitted and the site review, staff recommends approval subject to conditions.

Kurtis Aoki asked if there is a comprehensive condominium parking guidelines and/or maintenance agreement. Mr. Wilkinson responded that the C C & R's will be required to be submitted to the city prior to recording of the plat to ensure that the conditions are met. As part of the condominium-type setup, there will be provisions for common maintenance, repair, etc., that occur within condominium type units.

Kurtis Aoki commented that Hooper Knowlton is a friend, but that friendship will not influence his decision on this application.

Hooper Knowlton, 2725 East Parley's Way, stated he is partner in Parley's Partners who are the owners of the Birkhill Apartments. Mr. Knowlton stated that the reason for this application is because the lender is lending on the first phase and the parking structure accommodates both the first and the second phase. Therefore, if a second lender, unassociated or affiliated with the first lender, becomes the lender on the second phase, the first lender needs to be assured that he has adequate parking. Therefore, when the lawyers reviewed the documents, it was determined that the parking be condominiumized. He stated that if they were able to build all four levels at one time, this process would not be necessary. But because of financial constraints they are planning to build the first three levels which adequately accommodate the parking requirement for the first phase. When the second phase is built, they will adequately have additional parking stalls to meet the parking requirements. The project requires 237 parking stalls and at full build out there will be 250 parking stalls. The first phase requires 160 parking stalls and the first phase will actually have 177 parking stalls. It is a legal concern that if another lender participates in the second phase, the first lender must be guaranteed to have adequate parking stalls and this is the direction they have been advised to proceed from their legal counsel.

Mr. Knowlton stated there is only one owner and the owner is the same owner of the apartments that owns the parking. There are only two classes of ownership within the condominium. One is common elements which are the drive aisles and limited common elements which are the parking stalls and the vertical elevators and stairwells. The vertical elevators and stairwells are viewed the same as the drive aisles, meaning anyone can use them and any renter can park anywhere they want. Parking stalls will not be identified for a particular person.

Mr. Knowlton stated this is an affordable housing project and will have a land use restriction agreement which will leave this as an affordable housing complex for 99 years. He clarified that the condominium is to satisfy the lender because the lender has a lien on the property and the lender needs to ensure that the parking stalls are always available to park. He stated that Birkhill Partners owns the parking stalls but Birkhill Partners provides a reciprocal easement for Phase 1 and Phase 2 that any tenant or renter within the apartment project can park in any one of the 250 parking stalls.

Nick Mingo, 2223 Dallin Street, clarified that the condominium technically has two phases; phase one being floors 1, 2 and 3. Phase two is the 4th floor.

Tim Taylor asked Mr. Knowlton if he has reviewed the staff recommended conditions of approval. Mr. Knowlton responded that he has reviewed the conditions of approval and will comply with those conditions. He stated that condition #5, land disturbance, has already been issued for the entire project.

Tim Taylor closed the public comment portion for this agenda item.

Karen Daniels made a motion to send a positive recommendation to the Mayor for the amendment to the approved plat for Birkhill Apartments Phase 1, Lot 102, addressed at approximately 4221 South Main Street subject to the following conditions:

1. Meet the requirements of the Murray City Engineer for the recording of the plat at the Salt Lake County Records Office.
2. The proposal shall be recorded as two separate plats. The first plat (Birkhill Apartments-Phase 1) will establish the proposed lots and the second plat (Birkhill Parking Condominiums) will establish the proposed condominium units. The first plat shall be recorded prior to the second plat.
3. Submit a copy of the Conditions, Covenants and Restrictions (CCR's) for the proposed condominium project for review and approval prior to recording of the plat. The CCR's shall include a provision that restricts the parking structure from being sold independent of the apartment buildings.
4. Show utility easements on all of the lots meeting the subdivision ordinance regulations to the satisfaction of the City Engineer and impacted utilities.
5. A Murray City Land Disturbance Permit (LDP) is required. This permit will need to be issued prior to beginning site work.
6. The applicant shall meet all bonding requirements for on-site and off-site improvements.
7. The proposed right-of-way vacation will require a separate action by the Murray City Council.
8. The project shall meet all applicable building code standards.
9. The project shall meet all current fire codes.
10. Meet all Murray Power Department requirements.
11. Meet all Murray City Water and Sewer Division requirements.

Seconded by Sheri Van Bibber.

Call vote recorded by Ray Christensen.

A _____ Jim Harland

A _____ Sheri Van Bibber

A _____ Tim Taylor

A _____ Karen Daniels

A _____ Kurtis Aoki

A _____ Jeff Evans

Motion passed, 6-0.

TRANSIT ORIENTED DEVELOPMENT MASTER TRANSPORTATION PLAN
AMENDMENT – Dalmore Avenue & Strathmill Lane – Project #11-76

Michael Brodsky was the applicant present to represent this request. This agenda item is a public hearing. Chad Wilkinson reviewed the location and request for modifications to eliminate portions of streets shown on the Fireclay Transportation Master Plan 4200 South and a portion of Strathmill Road north of Gilbride. This change is to accommodate the development of a new medical facility on the site. The proposed layout of the medical facility would preclude the ability to extend the streets as shown in the transportation master plan amendment. A copy of the proposed medical facility site plan and the proposed changes to the street network are attached. In February 2007 the Murray City Council passed a resolution adopting the Fireclay Redevelopment Project Area, Street Network, Circulation Plan, and Street Design Cross Sections as part of the Transit Oriented Development (TOD) District Design Guidelines and Transportation Master Plan. This ordinance specifies, among other things, the road configuration of the Fireclay redevelopment area. The Transportation Master Plan includes a network of proposed streets and pedestrian trails that create a grid pattern in order to encourage pedestrian connectivity. Streets in the plan are required to be constructed as the area develops. Any changes to the Transportation Master Plan, including the street network plan, require recommendation by the Planning Commission and the Redevelopment Agency of Murray (RDA) and consideration by the City Council.

The purpose of the Transportation Master Plan is to provide a predictable network of street and trail connections to encourage pedestrian activity. The location of the proposed development is within the northwest quadrant of the TOD District and is bounded by Big Cottonwood Creek on the north and the Trax light rail line on the west. The street segments proposed for elimination primarily serve the subject property and do not provide through connectivity to any other properties. The trail connection adjacent to the rail will remain and provide connectivity from Gilbride to Big Cottonwood Creek. After an analysis of the proposed Fireclay Transportation Master Plan amendment staff concludes the following:

1. The location of the development is in the north quadrant of the Fireclay area adjacent to the rail and Big Cottonwood creek. Due to the location of the development in relation to where the streets were proposed, a modification to allow more space for the commercial development will not substantially alter the vision of a dense, pedestrian scaled neighborhood. With the changes, staff concludes that this vision is still in line with the principles of transit and pedestrian oriented design, which includes a system of regular and predictable streets.

2. Maintaining the road network not only provides effective vehicular access to and from as well as within the neighborhood, but also enhances the connection of the neighborhood to the surrounding area. Due to the location of the property bounded by the creek and rail line, there will continue to be adequate connections for pedestrians and vehicular traffic.

3. The Fireclay Redevelopment Project Area, Street Network, Circulation Plan, and Street Design Cross Sections as currently adopted enhance the likelihood of developments that adhere to the vision adopted by the RDA and City Council in the Fireclay District. This minor modification to the Transportation Master Plan will allow the owner to utilize their property more effectively and this proposal will enhance the area which will contribute to development of a place of lasting value.

4. The rail-side pedestrian trail connection proposed in the Transportation Master Plan will still be provided, allowing for pedestrian connectivity to the trail proposed adjacent to Big Cottonwood Creek.

Based on the above findings, staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the requested amendment to the Transportation Master Plan Amendment.

Tim Taylor clarified that the site plan presented is not what the Planning Commission is approving tonight, and that the Planning Commission is making a recommendation for the amendment to the Master Transportation Plan. Mr. Wilkinson concurred.

Kurtis Aoki commented that this master transportation plan is based upon the subsequent conditional use permit being approved for the actual project. Mr. Wilkinson responded that in any case, the access to the interior of the property will need to be completed and this will eventually occur. He stated there is not much risk of not having adequate connections at this point and there are various tools in which to get the connection restored should it be necessary in the future.

Mike Brodsky, 308 East 4500 South, Suite 200, Murray, indicated he is representing this proposal. Mr. Brodsky distributed to the Planning Commission a progress report for this property. Mr. Brodsky indicated that the future tenant for this property is a critical care facility with 38 beds. Its use is designed to care for patients have had a severe medical procedure and area in need of extended hospital care. The patients are anticipated to be at this facility from 30-40 days. He stated the anticipated building will only be a one story structure with architecture similar to the adjacent project. Mr. Brodsky stated that this property has been under contract for quite some time. One of the delays for getting the business going is there are special licensing requirements for these types of facilities. The user has acquired those licenses within the last month or so and has started the design process. The building is Medi-Star which is a general contractor out of Houston, Texas who specializes in construction of these types of medical facilities. The user has spent \$300,000-\$400,000 to date between the studies and acquisition of their license and has invested substantial funds to do so and their anticipated closing date for the property is November 10, 2011.

Planning Commission Meeting

September 1, 2011

Page 8

Mr. Taylor opened the public hearing for public comment. No comments were made by the public.

Chad Wilkinson commented that this property is also subject to a Development Agreement between the Redevelopment Agency of Murray and the applicant.

Jim Harland made a motion to send a positive recommendation to the City Council for the proposed Transportation Master Plan Amendment for Dalmore Avenue and Strathmill Lane. Seconded by Karen Daniels.

Call vote recorded by Ray Christensen.

A _____ Jim Harland

A _____ Sheri Van Bibber

A _____ Tim Taylor

A _____ Karen Daniels

A _____ Kurtis Aoki

A _____ Jeff Evans

Motion passed, 6-0.

OTHER BUSINESS

Chad Wilkinson indicated that if any of the planning commission members are interested in attending the Utah APA conference October 6-7, the city is willing to pay the registration fee. Also, there is an Appeal Authority training sponsored by the Utah League of Cities and Towns that is hosted by Murray City on September 22nd.

Meeting adjourned.

Chad Wilkinson, Manager
Community & Economic Development Services Manger