



Planning Division  
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April 17, 2019

Joseph Huey  
Lennar Homes  
9781 S Meridian Boulevard, Suite 120  
Englewood, CO 80112

**Re: Initial Submission Review - Murphy Creek Filing No 8 - Vacation**  
Application Number: **DA-1250-43**  
Case Number: **2004-3069-01**

Dear Mr. Huey:

Thank you for your initial submission, which we started to process on Monday, February 25, 2019. We reviewed it and attached our comments along with this cover letter. The first section of our review highlights our major comments. The following sections contain more specific comments, including those received from other city departments and community members.

You need to work with Real Property to complete the easement release process. Once that is complete, an administrative decision can be made. However, several members of the public have requested that this vacation be considered at a public hearing.

Note that all our comments are numbered.

If it is determined that a public hearing is not required, your estimated administrative decision date is still set for Wednesday, May 22, 2019. If it is determined that this should be considered at a public hearing, we will work with you to schedule the date.

As always, if you have any comments or concerns, please give me a call. I may be reached at (303) 739-7184.

Sincerely,

Heather Lamboy, Planning Supervisor  
City of Aurora Planning Department

cc: Mindy Parnes, Planning Department  
Bill Mahar, Norris Design 1101 Bannock Street Denver, CO 80204  
Scott Campbell, Neighborhood Liaison  
Mark Geyer, ODA  
Filed: K\SDA\1250-43rev1.rtf



## *Initial Submission Review*

### **SUMMARY OF KEY COMMENTS FROM ALL DEPARTMENTS**

- Continue to work with Andy Niquette on the easement release for the 90' utility easement.
- Members of the public have requested that this plat vacation be considered at a public hearing.

### **PLANNING DEPARTMENT COMMENTS**

#### **1. Community Questions Comments and Concerns**

**A.** Name: Margaret Sobey

1403 South Addison Court, Aurora CO 80018

Email: [msobey@mcgneighbors.org](mailto:msobey@mcgneighbors.org)

Comment 1: Sections of Aurora's Municipal Code dealing with subdivisions and resubdivisions seem to indicate that this application to vacate all lots, tracts, platted easements and dedicated rights-of-way is in conflict with the code.

Section 147-15 states in part, "...the redivision of any lots, tracts or parcels or the relocation of roads within a subdivision shall require re-subdivision in accordance with the subdivision plat procedures of section 147-12".

The referenced Section 147-12 (e) (2) indicates that the subdivision plat must be "...consistent with all approved plans for the site, including without limitation any general development plan, preliminary development plan, framework development plan, or site plan that has been approved in accordance with previously approved plans." The FDP for this area was approved many years ago, and the replatting would result in significant differences from what has already been approved.

Section 147-19 (b) specifies what are considered violations of the subdivision ordinance. One violation involves developing or subdividing the land in any way that does not comply with the subdivision ordinance. The other violation involves transferring title to any lot, tract or land parcel before a required subdivision plat has been filed with the county.

Because I believe this application is inconsistent with the stated sections of the Municipal Code, I am hopeful it will be denied. At the very least, I am requesting a public hearing instead of an administrative decision.

Thank you for the opportunity to comment.

**B.** Name: Margaret Rash

1555 S De Gaulle Way, Aurora, CO 80018

Email: [gwhizzco@comcast.net](mailto:gwhizzco@comcast.net) Phone: 303-358-9729

Comment 1: Allowing this request to vacate FILING 8's existing plans is another means for a developer who has already TAKEN from this community's residents and burden them a myriad of new issues. These plans were approved and recorded since the early 2000's. The information for South of Jewell were used as part of the SALES pitch to home buyers indicating the future COMMUNITY. There are rules that were in place in regards to how this community would be completed and to allow these approved plans to just be trashed so that another developer can start anew is a travesty. When someone buys a home and does research on their property and is given a "picture" of what it will become, they should be able to rely upon that information and the city to ensure that those plans get implemented IAW the presented plans...the Development standards allow for minor changes to lot lines...but I see this request to vacate as blatant disregard to requirements and replaced with a new series of filings seems to me.



Comment 2: Governing rules must be followed. This Request to vacate the approved and filed information for MC Filing 8, changes more approximately 50% of our "PLANNED" community that was sold to us when I purchased my home over 13 years ago. This needs much more scrutiny than just an Administrative ... ok to vacate. This is NOT acceptable.

Comment 3: It is NOT in the community's (District's) best interest to allow this filing to be vacated...it should only be allowed to be adjusted in accordance with agreed to Development standards used to approve Filing 8 and build the community north of Jewell.

**C. Name: Bill O'Connor**

1148 S Duquesne Cir Aurora, CO 80018

Email: [wjoc71@aol.com](mailto:wjoc71@aol.com) Phone: 716-510-3856

Comment: It is very disappointing when obvious issues exist with development are not presented for public comment. Do we have planning board members with conflict of interests???

**D. Name: Paula Smolen**

24011 E Hawaii Place Aurora, CO 80018

Email: [pmsmolen@yahoo.com](mailto:pmsmolen@yahoo.com) Phone: 720-532-1088

Comment: I STRONGLY OBJECT TO ANY ADMINISTRATIVE APPROVALS FOR THIS PROPOSED DEVELOPMENT. It is my belief that this developer is doing whatever he/she can to keep us in Murphy Creek out of the loop on what they are attempting to get through Planning process. I request a public hearing on anything they put forth as, in the past, proposed development on properties using the name "Murphy Creek" have been objectionable and non consistent with the area.

**2. Completeness and Clarity of the Application**

A. Please continue to work with Andy Niquette on the utility easement vacation process. This process can take up to 6 weeks to complete, and the vacation cannot be approved prior to the easement being vacated.

**REFERRAL COMMENTS FROM OTHER DEPARTMENTS AND AGENCIES**

**3. Civil Engineering** Kristin Tanabe / (303) 739-7306 / [ktanabe@auroragov.org](mailto:ktanabe@auroragov.org)

A. No comments.

**4. Life Safety**

William Polk / 303-739-7371/ [wpolk@auroragov.org](mailto:wpolk@auroragov.org) / See blue redlines

A. No comments.

**5. Real Property** Darren Akrie / (303) 739-7331 / [dakrie@auroragov.org](mailto:dakrie@auroragov.org)

A. Continue to work with Andy Niquette on the utility easement vacation process.

**6. Traffic Engineering** Brianna Medema / (303) 739-7336 / [bmedema@auroragov.org](mailto:bmedema@auroragov.org)

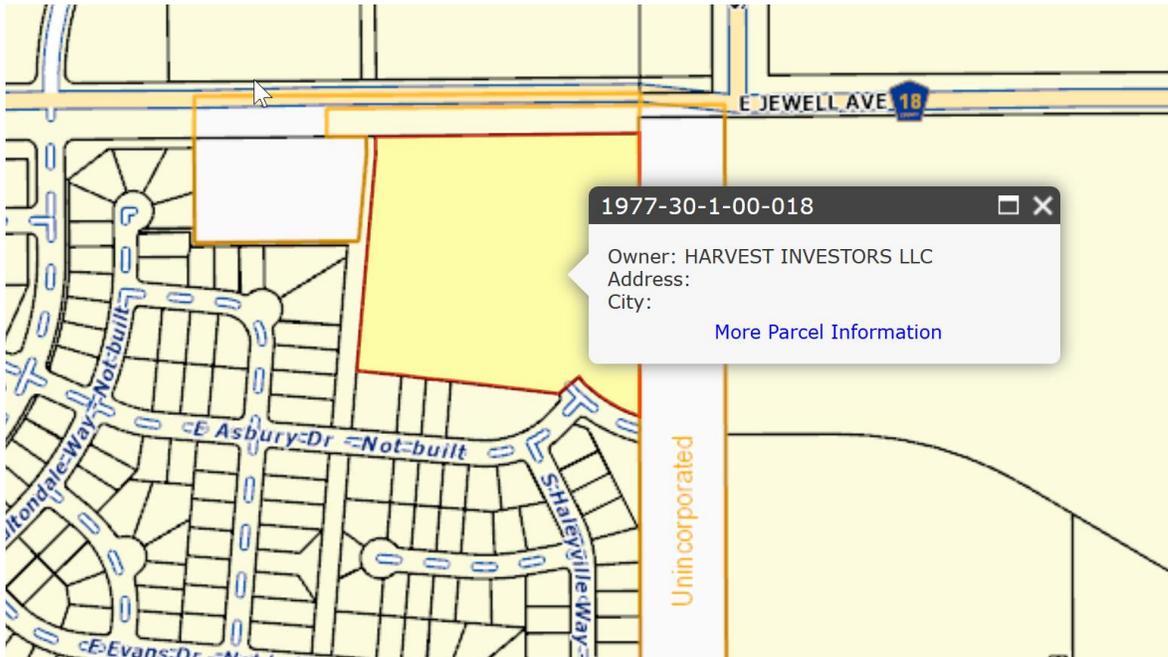
A. No comment.

**7. Utilities** Tony Tran / 303-739-7376 / [ttran@auroragov.org](mailto:ttran@auroragov.org)

A. The 90-foot utility easement must be vacated prior to approval of the plat vacation.

**8. Xcel Energy** Donna George / [donna.george@xcelenergy.com](mailto:donna.george@xcelenergy.com) / 303-571-7586

A. There is no conflict with the vacation of Murphy Creek Subdivision Filing No. 8 in its entirety, as it will be replaced by Murphy Creek East Subdivision Filing No. 1.



That Part Of The Ne 1/4 Of Sec 30-4-65 Desc As Beg 210 Ft W & 70 Ft S Of The Ne Cor Of Sd Ne 1/4 Th W 654.41 Ft Th Se 46.77 Ft Th Sw 537.59 Ft Th Se 506.41 Ft Th Ne 64 Ft Th Alg Curve To Left 178 Ft M/L Th N To Beg Tog With M/R's On The E 210 Ft Of Sd Ne 1/4 Sec 30-4-65. – (Legal from Arapahoe County Assessor- Parcel ID 1977-30-1-00-018)



I do not believe that the request for easement release refers to the proper Legal Description (Arapahoe county 1977-30-1-018). AS you can see the Block indicated in Yellow above is how the county identifies that parcel. I believe that the block just north of that parcel belongs to the city and is not an easement & that particular piece of property is meant to expand & widen E Jewell to the East. Are they requesting to vacate an easement that does not belong to the developer? Are they requesting to vacate a responsibility to perform a commitment a developer may have to make necessary improvements to E Jewell?

How can East Jewell be widened if a portion of the Reed's property (which may very well be a Public Access easement) extends to what would be halfway into an extended/widened E Jewell Avenue? Does it change the access for the Reed's property, who are just to the west of the referenced property along the south side of Jewell...as you can see there looks to be planned path/road? to access their property from the east side of the resident's property, which is in unincorporated Arapahoe county.



I've inserted the white line in the picture above to show approximately where the south side of a widened/extended E Jewell avenue would need to go in relation to the development on the proposed development. Please note that the Private entry road from the west side of the Reed's property would disappear. I believe that the Original MC Filing 8

addressed the loss of this entry...and provided a road/access from the east side of their property. The Newly proposed development seems to put a portion of that road in but removes the south access that may? have been provided via E Asbury as originally planned/approved.



December 13, 2018

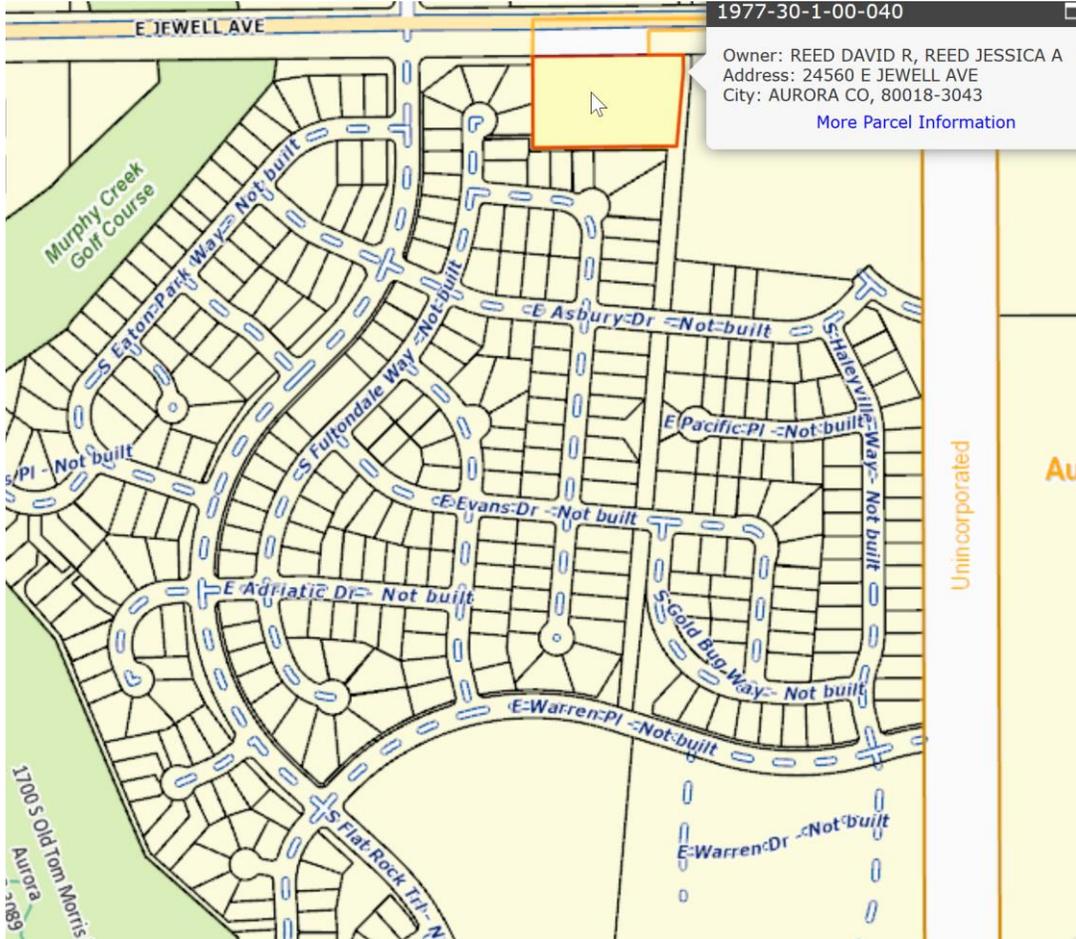
City of Aurora  
Real Property Services Division  
15151 E. Alameda Parkway, 3<sup>rd</sup> Floor  
Aurora, CO 80012-1555

**RE: Subdivision Plat Vacation Application  
Murphy Creek Subdivision Filing No. 8**

To Whom it may Concern:

On behalf of Murphy Creek, LLC (9335 East Harvard Avenue, Denver, CO 80231) and Harvest Investors, LLC (9335 East Harvard Avenue, Denver, CO 80231), CVL Consultants of Colorado, Inc. is requesting the vacation of Murphy Creek Subdivision Filing No. 8, in its entirety. Vacation to include all lots, all tracts, all platted easements and all dedicated rights of way. Murphy Creek Subdivision Filing No. 8, was recorded November 4, 2005 under Reception No. B5167282 in the records of the Arapahoe County Clerk and Recorder. While Filing 8 was rough graded the subdivision infrastructure was not constructed.

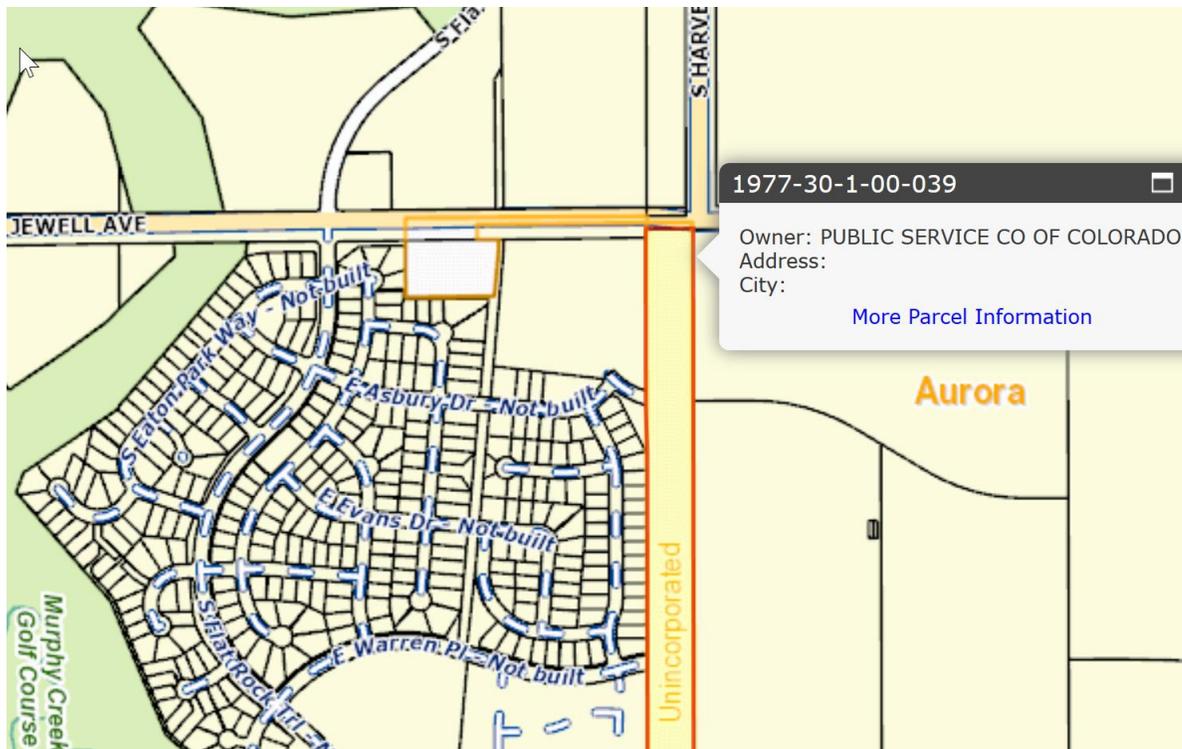
**NOTE: The last sentence from the clip above is NOT as a whole a true statement. PORTIONS of the subdivision's infrastructure were constructed.** It is believed that when Metro District #4 was dissolved the cost associated with the partial/pieces of infrastructure that have been built got rolled into Bond Debt for Metro District #3. Please note that the property for Murphy Creek East Filing 1 and other areas surrounding it (south of E Jewell) were part of Metro District #3 when there was No Metro District #4.



AURORA is NOT being a good neighbor (should they approve vacating Filing 8 and starting anew with MC EAST Filing 1) to the Reed's. What was previously approved and platted to be 30 single family homes immediately to the South or West of their property is now proposed to become **59** residences. Only one SHORT of being TWICE as many homes in that same footprint. To the best of my knowledge **52** of those 59 homes are going to be **3 story, VIEW BLOCKING**, high density buildings. Prior plans gave space for the Reeds to have a chance to see between the previously planned density. The three story buildings will take up another floors worth of air space and are essentially twice as dense as what was previously approved.

<b>Full Owner List:</b>	Reed David R, Reed Jessica A	2009/20
<b>Ownership Type:</b>	Joint Tenancy	2007/20
<b>Owner Address:</b>	24560 E Jewell Ave	2005/20
<b>City/State/Zip:</b>	Aurora, CO 80018-3043	Complete Neighborh Sales Information Hist
<b>Neighborhood:</b>	1420 Luc Ne Aurora/Unic Arap	Tax District Lev
<b>Neighborhood Code:</b>	2290.00	
<b>Acreage:</b>	2.5000	
<b>Land Use:</b>	Single Family	
<b>Legal Desc:</b>	That Part Of The Ne 1/4 Of Sec 30-4-65 Desc As Beg At The Ne Cor Of Tract A Blk 1 Murphy Creek Sub 8th Flg At A Pt On The S Row Line Of E Jewell Ave Th S 260 Ft Th E 409.1 Ft Th Ne 214.28 Ft & 46.77 Ft To A Pt On Sd S Row Line Th W 428.47 Ft To Beg Sec 30-4-65	

**NOTE that the Reed's property description includes a Reference to Murphy Creek Subdivision (not Murphy Creek East) Filing 8**



This new plan has 2 roads (E Asbury Dr & E Warren Pl) continuing to the East out of the development through Property that is NOT currently in Aurora. The 210' wide strip of property just to the west of the Future Harvest Rd on their proposal belongs to Public Service Co of Colorado, which per county records is currently in Unincorporated Arapahoe county.

**NOTE:** In the Master Declaration of Covenants, Conditions, and Restrictions of Murphy Creek (On file with Arapahoe County – Dated 6-04-2001 as B1086813), please reference: Article XIV. GENERAL PROVISIONS, Section 6. Subdivision or Replatting of Lots, it states: The Master Declarant hereby reserves the right to subdivide or replat any Lot(s) owned by the Master Declarant in the Community. Without limiting the generality of the foregoing, the Master Declarant reserves the right to move any Lot line(s) on Lot(s) owned by the Master Declarant, for the purpose of accommodating Improvements which are constructed or are to be constructed; provided that such Lot line adjustments, if any, shall not change the number of Lots in the Community at the time each such Lot line adjustment is approved by the applicable governmental entity. The rights provided for in this Section shall terminate automatically upon termination of the Special Master Declarant Rights, as provided in Article I, Section 29 hereof. No Lot may be further subdivided from that existing at the time such Lot becomes subject to this Master Declaration, except by Master Declarant.

**To the best of our Knowledge that the Termination of Special Master Declarant rights as related to Murphy Creek Master HOA ended around October of last year (2018).**

**I am not sure that this filing (since it's been approved and recorded) can be vacated without it having an approval of the Architectural Review Committee**

In the MURPHY CREEK Development Standards (Dated November 22, 1999; Revised May 11, 2000) it states:

Murphy Creek Community Development Standards are Intended to establish regulations for the Development of a Master Planned Community within the City of Aurora, Arapahoe County, Colorado. ... The Standards and Appendix are regulatory ....

The **NOTE above** clearly states the number of lot line adjustments **SHALL NOT** change the number of lots in the community....

It is NOT in the community's (District's) best interest to allow this filing to be vacated....it should only be allowed to be adjusted in accordance with agreed to Development standards used to approve Filing 8 and build the community north of Jewell.

Respectfully submitted for Murphy Creek Metro District #3

Maggie Rash

Board Vice-President