

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, OCTOBER 18, 2006
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, October 18, 2006 at 4:30 p.m. in the council chambers of City Hall at 104 North 5th Street.

Board Members Present: Ed Davis, Darren Jones, George Stockton, Scott Seiber, Helen Spann, and Bill Whitaker

Board Members Absent: Andy Dunn

Also Present: Candace Dowdy, Peyton Mastera, David Roberts, Jimmy Hogancamp, Keith Brandon, Hazel Brandon, Jimmy Hicks, Kristen Taylor, and Public Audience

Chairman Bill Whitaker called the meeting to order at 4:30 p.m., and welcomed the guests and applicants.

Approval of minutes from the September 20, 2006 regular meeting: Ed Davis made a motion to approve the minutes with the noted corrections. Darren Jones seconded the motion and it carried with a 6-0 vote.

Approval of minutes from the October 4, 2006 special meeting: Scott Seiber made a motion to approve the minutes with the noted corrections. Helen Spann seconded the motion and it carried with a 6-0 vote.

Public hearing to review conditional use application to allow three non-related persons to occupy the premises in an R-2 zoning district – 1711 Olive Street – Jimmy L. Hogancamp: Ms. Candace Dowdy began by explaining that this property is in the name of Universal Management Company, a business owned by the applicant, Mr. Jimmy Hogancamp. Mr. Hogancamp purchased this property in 2001 and currently the utilities are in his name. Mr. Hogancamp received a letter sent by the Planning Staff inquiring as to if this house was being used for multi-family use. Mr. Hogancamp responded to the letter and at the time did not know anyone besides one girl was living in the house. Mr. Hogancamp found that two other girls were living at the house and decided to apply for the conditional use permit. Ms. Dowdy then showed a PowerPoint presentation of the property that displayed ample parking and adequate visibility in and out of the driveway. Ms. Dowdy stated she checked with the police department and no complaints have been called to this address. Ms. Dowdy stated that all adjoining property owners were notified of the public hearing. Ms. Dowdy then explained the next two slides on the PowerPoint presentation that displayed the location of the property in relation to zoning boundaries and a list of conditional uses granted in the surrounding area along Olive Street. Mr. Scott Seiber asked Ms. Dowdy if she could go over the specifics of the most recent conditional use granted in June of 2005. The conditional use was granted to Gerri Lashley of 1701 Olive Street, the BZA voted by a count of 3-2 to motion to approve the conditional use permit with the

following conditions: the driveway be expanded to accommodate two car widths; that there be a 10:30 p.m. time limit on any outdoor activity that would raise the noise level in the neighborhood; the conditional use permit shall expire at the time Julia Lashley graduates from Murray State University or is no longer a student, which at that time would revert back to single-family use; and a maximum of three people living on the premises with one to be the daughter. Ms. Dowdy stated that Mr. Hogancamp is in attendance and could explain the living situation with his daughters occupying the premises. Ms. Dowdy stated that no adjoining property owner has contacted the Planning Department in regard to this application. Mr. Seiber asked if the nearby properties were being used for multi-family or single-family use. By looking at the property owner book, Ms. Dowdy explained there are four properties in the general vicinity that have different mailing addresses for the property owners than the address on Olive Street, which is a strong indicator the property is being used for rental purposes.

Mr. Darren Jones asked the status of the potential rezoning to the west of campus and if it would possibly take in this property and change it to R-4 (Multi-Family Residential). Ms. Dowdy stated the potential rezoning would not cross 17th Street and the dividing line is primarily going to be along the rear property line of the houses on the east side of 17th Street. Mr. Seiber asked the reasoning for placing the boundary to the rear property lines instead of using 17th Street. Ms. Dowdy explained that based on the information gathered from the surveys sent out; there was little interest from the property owners on either side of 17th Street in rezoning their property to R-4.

Chairman Whitaker opened the public hearing and invited those to speak in favor of the application first. Chairman Whitaker swore in Mr. Jimmy Hogancamp. Mr. Hogancamp has three girls, all three years apart in age that Mr. Hogancamp intended on them each living at this house during their tenures of college. Mr. Hogancamp stated that he purchased the home with three ideas in mind: safe neighborhood, close to campus, and having two bathrooms. The home has been remodeled and is in good condition. His first daughter lived there for approximately two years before being accepted to pharmacy school. Mr. Hogancamp explained that his middle daughter was to live at this location but was accepted to pharmacy school out of high school and never came to Murray State. Mr. Hogancamp's youngest daughter is a senior in high school and will be attending Murray State starting in the fall of 2007. Since Mr. Hogancamp's middle daughter did not come to Murray State, there was going to be a time period when none of his daughters would be occupying the premises. Mr. Hogancamp stated he was contacted by Alicia Biasey from the Baptist Student Union and was asked if a student could live at Mr. Hogancamp's house. The student's name is Lauren Wilson; upon giving permission to Ms. Wilson to stay at this location, she asked a couple of her friends to move in with her as well. Once Mr. Hogancamp found out there were three people living together, he explained that he met with Ms. Wilson's parents and agreed on terms with the tenants. Mr. Hogancamp's secretary drafted a contract that highlights the following: no more than three people can live in the house, no smoking, no pets, the garbage bin must remain to the rear of the house, the lawn is to be mowed once a week (if the lawn is not mowed, Mr. Hogancamp will charge the tenants what it costs to have it mowed), parking has to be in the driveway. Mr. Hogancamp stated the girl's are timid by nature and did not alert them of the public hearing.

Mr. Seiber asked what Mr. Hogancamp's long term plans are in regards to the property. Mr. Hogancamp stated that his youngest daughter will live in the dorm for one year and then move into the house. Mr. Hogancamp stated he would like to see the current residents stay at this location for the rest of this year and through the next school year before his daughter moves in for three years. Mr. George Stockton asked if Mr. Hogancamp has other rental properties in Murray or elsewhere. Mr. Hogancamp stated he owns a 60 acre farm in Carlisle County that is rented to his brother-in-law, but that is all. Mr. Stockton asked if Mr. Hogancamp was aware of the zoning regulation that does not allow multi-family use in a single family residential zone. Mr. Hogancamp explained that he was unaware of the ordinance but takes full responsibility and does not use that defense as an excuse.

Chairman Whitaker asked if anyone would like to speak in opposition. No person spoke in opposition so Chairman Whitaker closed the public hearing.

Mr. Seiber stated that he sees this as a situation where there is control over the people that live on the property and the investment was made in good faith; Mr. Seiber added that many people try and circumvent the rules by playing negligent but Mr. Hogancamp did not intend to. Mr. Seiber stated this is an ideal situation as long as the current residents continue to maintain their current lifestyle. Mr. Seiber explained if any problems had gone on at this location, surrounding neighbors would be at the public hearing in opposition. Mr. Seiber stated this is a win-win situation for the neighborhood and the kids living there. Chairman Whitaker stated that he agreed and that in this case it appears to be working well now and it is the responsibility of the BZA and Planning Staff to continue to make sure it works out well for the next few years. Mr. Seiber stated he would not be inclined to grant the conditional use beyond the time limit of his youngest daughter living at the location. Ms. Helen Spann asked if there is an annual review placed upon the ruling for the conditional use permit, are there any expenses the applicants must incur. Ms. Dowdy stated that through the zoning ordinance, Planning Staff has the right to inspect the property to make sure all conditions of the permit are being met and then present its findings back to the BZA if they are not being met. If before the annual review there are any complaints or other issues, then the conditional use may be reviewed before the one year time frame. Mr. Mike Pitman stated that if the BZA is inclined, they could make a condition that Mr. Hogancamp submits a brief summary report of who is living there from year-to-year.

Helen Spann made a motion to approve the conditional use permit for 1711 Olive Street under the following conditions: no outdoor activity past 10:30 p.m. that generates noise, maximum of three people occupying the premises, subject to an annual review with report submitted by Mr. Hogancamp to the Planning Staff, no on-street parking, no police complaints, permit would expire in June of 2012, and the last three years one of the residents is to be Mr. Hogancamp's youngest daughter. Scott Seiber seconded the motion and it carried with a 4-2 vote. George Stockton and Ed Davis voted no.

Public hearing to review conditional use application to allow up to four non-related persons to occupy the premises in an R-2 zoning district – 1604 Sunset Drive – Keith and Hazel Brandon: Ms. Dowdy explained that Keith and Hazel Brandon have owned the home at 1604 Sunset Drive since March of 2000. Planning Staff received a noise complaint in regards to the

property. Ms. Dowdy stated that a letter was sent to the property owner; the applicant, Mr. and Ms. Brandon responded to the letter and explained how the home is being used. Ms. Dowdy stated that it was her understanding from Mr. and Mrs. Brandon that two people were living at this location and those residing on the premises had subleased out the home to one additional person. Ms. Dowdy stated the Brandons are requesting for up to four non-related persons to occupy the premises. Ms. Dowdy stated she contacted the police department to inquire about any complaints made on this property. On September 6, 2006 there was a noise complaint called in for 16th and Sunset and on September 8, 2006 there was a complaint of cars being parked on the street, also for 16th and Sunset. Neither of the police reports specified an address. Ms. Dowdy stated there are property owners from both Sunset Drive and Loch Lomond present at the meeting that has submitted a petition in opposition to the conditional use application. *Mr. Peyton Mastera marked the petitions as Exhibit 1 for evidence.* Ms. Dowdy presented a PowerPoint presentation that showed pictures of the property, driveway, and overhead aerial shot showing the property in relation to the zoning boundaries. Ms. Dowdy stated the utilities were in the name of Jonathan Holsapple. Chairman Whitaker asked if there have been any more conditional use permits granted within the area similar to this one. Mr. Mastera explained that the only conditional use permit was for a beauty salon years earlier that would be of no relevance to this case. Ms. Dowdy noted that there were seven other properties along Sunset that have different mailing addresses from the property address. Ms. Dowdy explained that just because they have different mailing addresses from property address, does not mean they are being used for multi-family use; it just indicates that they are probably rental property.

Chairman Whitaker opened the public hearing and asked for those speaking in favor of the application first. Chairman Whitaker swore in Ms. Hazel Brandon. Ms. Brandon explained that she and her husband, Keith Brandon rented out the home to J.J. (Jonathan) Holsapple in May 2006. Ms. Brandon stated that at the time Mr. Holsapple was living alone; during the summer, Mr. Holsapple asked if he could have another roommate by the name of Nathan Henry. Mr. Henry moved in and not long after received a job in Hopkinsville and moved from the home. Mr. Henry has two brothers that would take his place in the home and so they moved in with Mr. Holsapple. Their names are Chris and James Henry. All three are currently living in the home. Mr. Seiber asked Ms. Brandon how long she has owned the property and she replied that they bought the property sometime in 2000. Ms. Dowdy stated that according to PVA records they purchased the home in March 2000. Chairman Whitaker asked if this has always been rental property. Ms. Brandon stated it has always been rental property but they have never rented to college students until Mr. Holsapple; all previous tenants were families. Chairman Whitaker asked if Ms. Brandon knew anything about the two police reports. Ms. Brandon stated she did not know anything about the police reports and has never received a complaint from neighbors. Ms. Brandon stated she has spoken with her tenants and they have never received any complaints. Chairman Whitaker asked when the lease with Mr. Holsapple is up. Ms. Brandon stated it will be in May 2007. Chairman Whitaker asked if any of the renters were here at the BZA meeting. Ms. Brandon explained that she is not sure because she is unaware of all people in attendance. Chairman Whitaker asked if the tenants are full time students. Ms. Brandon stated that she believes they are part time students. Mr. George Stockton asked where Ms. Brandon lives. Ms. Brandon stated she lives at 1604 Keenland Drive. Mr. Stockton asked since the time she has owned the home has she always rented to families. Ms. Brandon stated that she

had only rented to single families in the past. Mr. Stockton asked Ms. Brandon if she was aware of the ordinance which prohibits renting to multiple people of non-blood relation. Ms. Brandon explained that she was aware of the ordinance but when the lease was signed it was for only one person, and not several persons. Mr. Stockton asked if Ms. Brandon gave permission to Mr. Holsapple to have roommates. Ms. Brandon explained that she did not give him permission but was notified by Mr. Holsapple that other people would be moving into the home. Ms. Brandon stated that when she receives a rent check, it is from J.J. Holsapple only and not all three roommates. Ms. Spann asked how many bedrooms are in the home. Ms. Brandon stated the home has three bedrooms and two bathrooms. Ms. Spann asked if all tenants have a car. Ms. Brandon stated she is not sure. Ms. Brandon explained that Mr. Holsapple is going to enlist in the army soon and so she asked the other two roommates of their intentions after Mr. Holsapple is gone, if the BZA decides to deny the request. One roommate indicated he would move in with his girlfriend and the other stated he would find another place to live. Chairman Whitaker noted that technically the two brothers could live there and not be in violation of the ordinance.

Chairman Whitaker asked if anyone would like to speak in opposition. Chairman Whitaker swore in Mr. Terry McCreary. Mr. McCreary explained that he purchased the home at 1602 Sunset Drive in 1990. Mr. McCreary stated the home is a great place to raise children because of the proximity to Robertson Elementary School and it being a dead end street. The homes are well kept and ideal for retirees. The McCreary's now live on Wiswell Road and have rented the home to multiple families since 1996. Mr. McCreary stated that he and his family will consider moving back to this location upon retirement. Mr. McCreary stated that if this property were rezoned either permanently or conditionally, the neighborhood would cease to maintain its form. Mr. McCreary stated that although he could financially benefit from a similar rezoning, he would strongly oppose any kind of change to the neighborhood. Chairman Whitaker asked if there have been any specific problems Mr. McCreary knew of at this location. Mr. McCreary said no but explained that by allowing college students to reside in this neighborhood it would alter the character. Ms. Spann asked if Mr. McCreary was familiar with the other properties with different mailing addresses. Mr. McCreary said he was not.

Chairman Whitaker swore in Brenda Smith. Ms. Smith noted to the BZA she lives at 1605 Sunset Drive and resides at one of the properties that have a different mailing address than the property address. Ms. Smith explained that she lives in Murray for only half of the year and spends the other half of the year in Florida. Ms. Smith stated she would like to keep the property as is and would not like to see multiple cars parked along the street and driveway. Ms. Smith also explained by allowing homes to be rented out it would devalue her home. Ms. Smith also explained that not all the properties called out earlier by Ms. Dowdy are rental properties.

Chairman Whitaker then read the petition submitted by 60 residents of Sunset Drive and Loch Lomond which stated: "We the undersigned property owners and residents of Loch Lomond Drive and Sunset Drive in Murray, Kentucky do petition the Murray Board of Zoning Adjustments to refuse to permit the property located at 1604 Sunset Drive to be occupied by four non-related persons. Sunset and Loch Lomond are quiet dead end streets and have historically and presently been occupied as single family owned dwellings. The houses on these streets have

not been rented to multiple families. This is a precedent that should not be begun nor permitted on these streets and we respectfully request the board to decline the request.”

Ms. Brandon came forward in rebuttal. Ms. Brandon explained that she had spoken with several neighbors to this property and none of them had complaints. Chairman Whitaker closed the public hearing and opened up discussion to the Board members.

Mr. Seiber asked for clarification of the rules of people of blood-relation living together. Mr. Pitman explained that it would be considered a single-family rental if the two brothers were only residing on the premises, but that is a different subject. Mr. Pitman stated the issue at hand is answering the question if people of non-blood relation can occupy the premises. Mr. Pitman stated the board will be looking to make a ruling based on the finding if it will impair the character of this or an adjoining district. Chairman Whitaker stated he does not see a compelling reason to grant the conditional use application; it changes the nature of the neighborhood and does not seem to be a strong demand from the occupants to remain at this residence. Ms. Spann stated that in fairness to Ms. Brandon, when she rented the property it was to only one person, and the Board should grant Ms. Brandon the chance to give proper notice to the tenants. Chairman Whitaker stated he does not understand why you have to give proper notice to tenants that are not actually renting from her. Ms. Spann stated that she does have an agreement with Mr. Holsapple.

Ed Davis made a motion to deny the conditional use application for Ms. Brandon at 1604 Sunset Drive based upon the belief it would impair the character of the neighborhood and adjoining neighborhoods and that a 90 day time limit be given for the current residents to move from the premises. George Stockton seconded the motion and it carried with a 6-0 vote.

Dimensional variance request for additional 37 square feet of wall signage – 800 Chestnut Street – University Motor Company: Ms. Dowdy explained that University Motor Company is located at 800 Chestnut Street and was previously occupied by Murray Nissan. The applicant, Mr. Jim Hicks, is the manager of University Motor Company and is requesting to place a similar sign as shown in the staff report. The sign will be facing Chestnut Street. Allowable wall signage at this location is 59 sq. feet. Mr. Hicks is requesting a 96 sq. ft. wall sign (24' x 4') to be erected; thus, Mr. Hicks is requesting a 37 sq. ft. variance. Ms. Dowdy stated that the BZA approved a similar request in March 2002 for Murray Nissan, granting a 41.25 sq. ft. variance for channel letters to be placed along the face of the building. This proposed sign will be of alucobond material. On the 8th Street side of the business, Mr. Hicks is allowed a wall sign that would be 5% of the surface area of the portion of the building University Motor Company occupies facing 8th Street. Mr. Seiber asked if there is a free-standing sign at this location. Ms. Dowdy explained there is an old pole that still remains from a free-standing sign and possibly a concreted mounted area from a previous sign, but no actual signage.

Chairman Whitaker swore in Mr. Jim Hicks. Mr. Hicks explained that the picture submitted to the Planning Staff and displayed on the PowerPoint presentation is somewhat distorted and the actual sign is not that large. Mr. Hicks stated the only signage University Motor Company

would place along the 8th Street Side would be lettering along the blue awning, which would not include their logo displayed in the proposed picture. Mr. Hicks stated if they decide to put a freestanding sign it will meet all city regulations. Mr. Hicks explained they have made many renovations both to the interior and exterior of the building. Mr. Seiber asked what the logo on the left hand side of the sign states. Mr. Hicks stated it says, "University Motor Company", which he explains is somewhat redundant but they feel it is important to promote the logo. Mr. Seiber asked if it is possible to reduce the size of the lettering to accommodate the size of the sign. Mr. Hicks stated the picture on the PowerPoint does not accurately show what the sign is going to look like and it will not be disproportionate. Mr. Hicks explained that the face of the wall is approximately 62 feet in length and that the sign will be centered, leaving 19' of wall space on each side of the sign.

Chairman Whitaker asked what kind of freestanding sign University Motor Company is planning on using. Mr. Hicks stated that he does not have anything planned at this time but if one is erected it will be of monument style and meet all city regulations. Mr. Stockton asked if other University Motor dealerships have similar signs. Mr. Hicks stated at most locations the signs are larger and have different names. Mr. Stockton stated the white background makes signage look larger than it appears. Mr. Hicks explained that the image on the PowerPoint is computer generated and will not appear as bright in person. Mr. Darren Jones asked how wide the logo portion of the sign is. Mr. Hicks stated approximately seven feet wide.

Ed Davis excused himself from the meeting.

Chairman Whitaker asked why it is important to place "LLC" on the sign. Mr. Hicks stated it is required by the Motor Vehicle Commission, and must be at least nine inches in height. Mr. Pitman stated that attorney's always recommend to clients to place "LLC" in their advertisements to properly identify their business. Ms. Spann stated that she feels a smaller sign appears more elegant. Mr. Hicks stated that he believes he made a mistake in submitting this picture shown on the PowerPoint to the Planning Staff because it shows the sign as disproportionate and does not accurately depict what it is going to look like. Ms. Spann asked if they had thought about doing channel letters. Mr. Hicks stated they had considered it, but there is no electricity running to this area of the building and were not planning on keeping a lighted sign at all times. Mr. Hicks stated there will possibly be a larger renovation of the building in the near future, which would include changing the proposed sign, so University Motor Company is trying to get off as cheap as possible in erecting this sign. Darren Jones asked if they had considered making the sign without the logo. Mr. Hicks explained that it makes it look disproportionate and is important to get the logo in public view. Mr. Hicks stated that on the picture presented, there are seven windows evenly distributed in a row, below the proposed sign. Mr. Hicks explained that the sign will not even cover the length of three windows, which is less than the PowerPoint presentation shows.

Scott Seiber made a motion to approve an additional 37 square feet of wall signage for University Motor Company because it will not be detrimental to the neighborhood and that it will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public and will

not allow an unreasonable circumvention of the requirements of the zoning regulations.

Helen Spann seconded the motion. Chairman Whitaker stated that the picture presented to the Planning Staff is not indicative of the actual sign to be erected. **The motion carried with a 4-1 vote.** George Stockton voted no.

Election of officers: Scott Seiber made a motion to keep the current slate of officers.

Officers: Bill Whitaker, Chairman; Helen Spann, Vice-Chairman; Scott Seiber, Secretary. Darren Jones seconded the motion and it carried with a 5-0 vote.

Ms. Dowdy explained that the next BZA meeting will be on November 15, 2006 at 4:30 p.m. because of the Thanksgiving holiday the following week. Ms. Dowdy asked if the Board members would be available for a special-call meeting on Thursday, November 2nd. It was decided upon that Wednesday, November 1st would be a more convenient time to hold the special-call meeting.

Mr. Stockton thanked the Board members and Planning Staff for their hard work.

Being of no further business, **George Stockton made a motion to adjourn. Scott Seiber seconded the motion and it carried with a 5-0 voice vote.**

The meeting adjourned at 6:20 p.m.

Chairman, Bill Whitaker

Recording Secretary, L. Peyton Mastera