

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, FEBRUARY 21, 2007
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, February 21, 2007 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

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

Board Members Absent: Andy Dunn

Also Present: Candace Dowdy, Peyton Mastera, David Roberts, Mike Pitman, John Gray, Matt Jennings, Larry Tadlock, Bruce Ottway, Cassandra Bolen, Scott Kirk, Kristen Taylor, and Public Audience

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

Approval of minutes from the January 17, 2007 regular meeting: Scott Seiber made a motion to approve the minutes as presented. Ed Davis seconded the motion and it carried with a 6-0 voice vote.

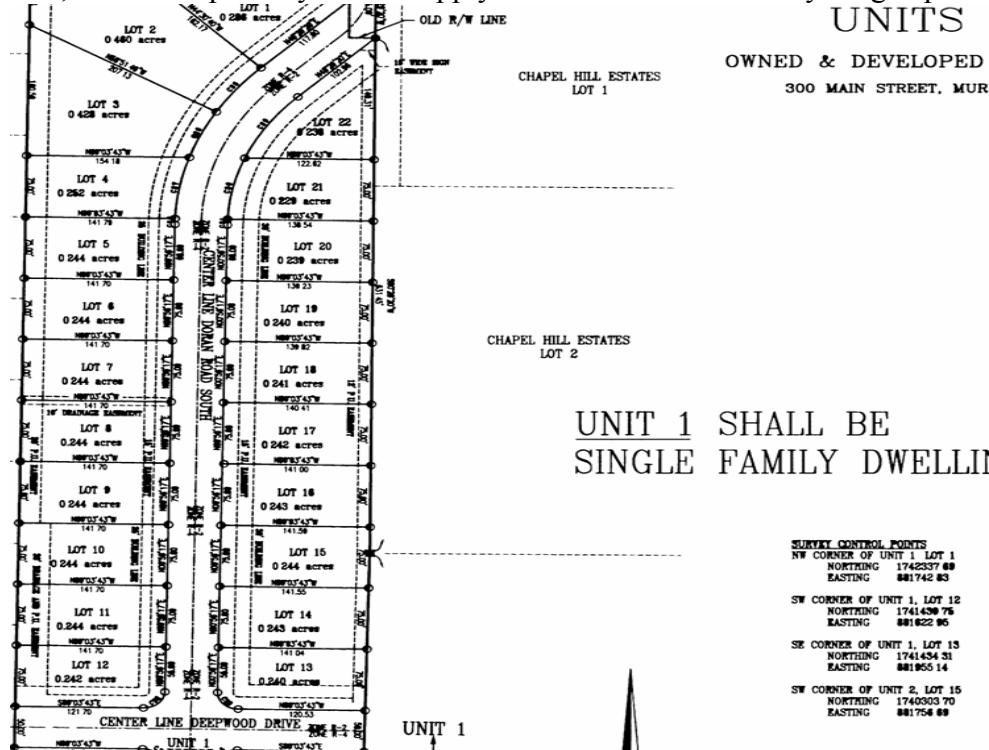
Public hearing to review conditional use application to allow business owners to reside on the premises in a B-1 zoning district – 124 N. 15th Street – Stuart and Gloria Shull:

Chairman Whitaker stated that the applicants could not be in attendance and that this item would need to be tabled until next month's meeting. **Scott Seiber made a motion to table this item until next month's meeting. Darren Jones seconded the motion and it carried with a 6-0 voice vote.**

Dimensional variance request for five (5) foot front setback variance on lots 13-22 of Riverfield Estates – Matt Jennings – Doran Road South: Riverfield Estates is a proposed development located on Doran Road South with split zoning of R-2 and R-4. Ms. Dowdy explained that when the Planning Commission approved the preliminary subdivision plat for Riverfield Estates, the developer was looking to develop Unit I as single family homes and Unit II as multi-family units. Since that time, the developer has put it into the covenants and restrictions that all homes within Riverfield Estates will be used for single family purposes. The final plat was approved the previous night by the Planning Commission. This item is coming before the Board of Zoning Adjustments as a follow up to the Planning Commission's motion the previous night that granted a 5' front setback variance on lots 13-22, which are located in an R-2 zone and in contrast to the rest of the development which is in an R-4 zone. The developer is requesting that the BZA grant 5' foot front setback variance on these lots so that the building line is consistent with the rest of the neighborhood. In an R-2 zoning district, the minimum

setback line is 30'; in an R-4 zone, the minimum setback line is 25'. The developer would like to see all homes setback 25'.

Mr. Seiber asked about the possibility of having the subdivision rezoned to R-2. Ms. Dowdy explained that it is something that could take place in the future but that the covenants and restrictions prohibit anything but single family homes. Mr. Davis stated that the Planning Commission had no problems with the final plat. Chairman Whitaker asked if anything would be built on lot 22. Ms. Dowdy stated that the developer knows that due to its unique shape and size, the developer may have to apply for a variance before anything is placed on lot 22.



Ed Davis made a motion to grant a five (5) foot front setback variance for lots 13-22 of Riverfield Estates as 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 unreasonable circumvention of the requirements of the zoning regulations. Michael Jordan seconded the motion and it carried with a 6-0 vote.

Request for additional wall sign – 1608 HWY 121 N. Bypass – Mason’s Commons: *Helen Spann recused herself from this item on the agenda.* Ms. Dowdy handed out copies of a revised conceptual picture of a wall sign that is being proposed on the south end of Mason’s Commons shopping center, located at 1608 HWY 121 North. The building is perpendicular to the highway and the front of the shopping center faces back to the west. Ms. Dowdy explained that Mason’s Commons has a free-standing sign but it only identifies the shopping center itself and not the businesses within the shopping center. The applicants are requesting that an additional wall sign be allowed that has changeable panels for the businesses within Mason’s Commons. Currently each business has a 3 ½ foot identification sign on their storefronts, but nothing that identifies the businesses of the shopping center for passing traffic. The face of the building, where the wall

sign is proposed to go, is 40' x 15 ½', which would allow for a 35 sq. ft. wall sign. The applicant is requesting that the wall sign be 37 ½' sq. ft., thus requesting a 2 ½' size variance to the proposed wall sign.

Scott Seiber made a motion to approve a two and one half (2 ½) foot variance for an additional wall sign at Mason's Commons, located at 1608 HWY 121 N. Bypass, based on the findings that the shopping center does not face HWY 121 North, but is perpendicular, 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 unreasonable circumvention of the requirements of the zoning regulations. Ed Davis seconded the motion and it carried with a 5-0 vote.

Helen Spann rejoined the BZA members.

Public hearing to review conditional use application to allow four non-related persons to occupy the premises in an R-2 zoning district – 1402 N. 4th Street – Lanette Tadlock: Mr. Mastera explained that the property at 1402 N. 4th Street is owned by Ms. Marjorie Lassiter, but she is being represented this evening by her daughter and her husband, Lanette and Larry Tadlock. The request is for four (4) non-related persons be allowed to occupy the premises in an R-2 zoning district. On February 4, 2007, the residents of 1402 N. 4th Street held a recruitment event, for their fraternity, at this location. It was reported by an adjoining property owner, Mr. John Mahan, that fraternity letters were displayed at the home on February 4, 2007, and he contacted the Planning Department to inquire if fraternity activity were allowed at this location. Planning Staff contacted the realtor for this property (Judy Johnston with Kopperud Realty) and they immediately applied for the conditional use permit. Mr. Mastera explained that a tenant of 1402 N. 4th Street, Mr. Scott Kirk, came by and spoke with Planning Staff about the conditional use permit application. Mr. Mastera stated that Mr. Kirk explained to Planning Staff that his fraternity, Kappa Alpha, erected fraternity letters outside of their home just this one time so potential recruits could identify their home; Mr. Kirk explained to staff that the letters were immediately removed and would not be put up again. Mr. Mastera stated that all adjoining property owners were notified and that the only phone call lending support one way or another was from Mr. Mahan expressing his support for the application, just as long no fraternity activities were taking place. Mr. Mastera explained that the tenants have a lease agreement through May, but is not sure of their intentions beyond that. Mr. Mastera stated there is suitable means to enter and exit the premises.

Chairman Whitaker opened the public hearing and asked for anyone wishing to speak in favor of the application to come forward and be sworn in.

Chairman Whitaker swore in Mr. Larry Tadlock, representative of Ms. Marjorie Lassiter, owner of the property. Mr. Tadlock requested that the board give "favorable consideration" to the current tenants and that they be allowed to maintain their current lease through May and Mr. Tadlock also requested that this home be granted a conditional use permit for rental purposes beyond the current tenant's lease. Mr. Seiber asked Mr. Tadlock if he would like to see this permit be valid until the property is sold. Mr. Tadlock stated that is correct and that the property

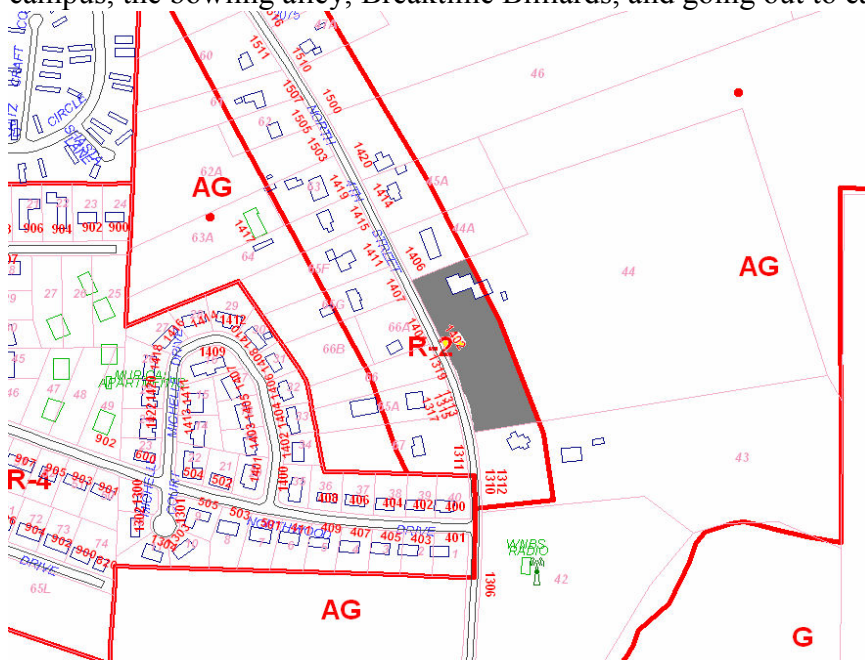
has been for sale for a few years with no purchase, but offers will always be entertained. Mr. Jones asked about the specifics of the house. Mr. Tadlock explained that the home is two stories and approximately 2800 square feet.

Chairman Whitaker asked for anyone else wishing to speak in favor of the application.

Chairman Whitaker swore in Ms. Cassandra Bolen, adjacent property owner (1406 N. 4th Street). Ms. Bolen lives in the property to the north of the applicants and as long as there is no loud noise, she is in support of the application.

Chairman Whitaker asked for anyone wishing to speak in opposition to the application. No person spoke in opposition so Chairman Whitaker closed the public hearing and reopened the discussion to the Board members.

Mr. Seiber asked to speak with Mr. Kirk, tenant of 1402 N. 4th Street. Chairman Whitaker swore in Mr. Kirk. Mr. Seiber asked if prohibiting fraternity activity at this location would be an issue. Mr. Kirk explained that no fraternity activity would ever take place on this property. Mr. Kirk explained that recruitment events will be held at other locations, such as various places around campus, the bowling alley, Breaktime Billiards, and going out to eat.



Michael Jordan made a motion to approve the conditional use permit to allow up to four (4) non-related persons to reside at 1402 N. 4th Street contingent upon the permit be valid for sixty (60) months or until the property is sold; no disruptive behavior or noise complaints; limited to four (4) tenants; and, no fraternity or sorority functions. Helen Spann seconded the motion and it carried with a 5-1 vote. Ed Davis voted no.

Discussion of storage containers as it pertains to the conditional use permit granted to Gray's Flea Market - 609 S. 4th Street: Mr. Pitman explained this item was tabled from the

previous meeting and it would require a motion to bring it back on the floor. **Scott Seiber made a motion to remove this item from the table. Darren Jones seconded the motion and it carried with a 6-0 voice vote.**

Mr. Mastera distributed some handouts with storage container specifications. Ms. Dowdy explained to the Board members that this is a follow up from the previous BZA meeting in which the discussion of Mr. Gray being allowed to place storage containers in his rear yard was tabled until more information was collected (*see BZA minutes from 1-17-07*). Ms. Dowdy stated that since the last meeting, the Fire Marshal, Mr. Dickie Walls, explained that Mr. Gray could not use these storage containers for customers to shop out of. For that to be allowed, the storage containers would have to meet proper fire codes.

Chairman Whitaker swore in Mr. John Gray, owner of Gray's Flea Market at 609 S. 4th Street. Mr. Gray stated that he would be the only person that would access the storage containers to bring in and out merchandise; they will remain locked up at other times. Ms. Spann asked how large his storage containers were. Mr. Gray stated that he is not sure, but believes they are eight feet in width and forty-five feet in length. Mr. Mastera noted that the majority of storage containers he investigated had specifications of forty feet in length. Mr. Seiber explained that he would like to revisit the idea of erecting a fence along the 4th Street side of the business to help shield the view from passing traffic.

Scott Seiber made a motion to allow no more than two storage containers in the rear yard and that Mr. Gray must construct a fence that will block the view from 4th Street and still allow reasonable access to his property as approved by Planning Staff. There was discussion amongst the Board members inquiring if by making this motion, would storage containers now be viewed as accessory structures and any business could use them in rear yards. Mr. Pitman explained that, for now, it would be best to look at allowing storage containers on a case-by-case basis instead of making an established ruling as to if they are permitted as accessory structures. **Scott Seiber amended his motion to include that this is a unique situation by making this motion, it is only intended as an amendment to Gray's Flea Market's conditional use permit and not intended as a motion for other businesses to be allowed to use storage containers. Ed Davis seconded the motion and the vote ended in a 3-3 tie.** Michael Jordan, Helen Spann, and Bill Whitaker voted no.

Mr. Jordan explained that he would be willing to vote for this application if there were a time limitation set on how long these containers could be used.

Michael Jordan made a motion to allow no more than two storage containers in the rear yard and that Mr. Gray must construct a fence that will block the view from 4th Street and still allow reasonable access to his property as approved by Planning Staff; and, this is a unique situation and by making this motion, it is only intended as an amendment to Gray's Flea Market's conditional use permit and not intended as a motion for other businesses to be allowed to use storage containers; and, that there be a twenty-four (24) month time limit on allowing the storage containers. Scott Seiber seconded the motion and it carried with a 4-2 vote. Helen Spann and Bill Whitaker voted no.

Ed Davis excused himself from the meeting.

Darren Jones made a motion to adjourn. Scott Seiber seconded the motion and it carried with a 5-0 vote. The meeting adjourned at 5:45 p.m.

Chairman, Bill Whitaker

Recording Secretary, L. Peyton Mastera