

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, APRIL 18, 2007
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, April 18, 2007 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

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

Board Members Absent: Andy Dunn

Also Present: Candace Dowdy, Peyton Mastera, Mike Pitman, David Roberts, Dale Campbell, Barbara Campbell, Jim Tate, Ed Gatewood, and Public Audience

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

Approval of minutes from the March 21, 2007 Regular Meeting: Scott Seiber made a motion to approve the minutes with the noted corrections. Darren Jones seconded the motion and it carried with a 6-0 voice vote.

Approval of minutes from the March 28, 2007 Special Meeting: Scott Seiber made a motion to approve the minutes with the noted corrections. Darren Jones seconded the motion and it carried with a 6-0 voice vote.

Compatibility hearing for The Gates residential PDP – Robertson Road South – Barbara Campbell: *Darren Jones recused himself from this item on the agenda.*

Ms. Dowdy explained this is the second time the BZA has reviewed this item for compatibility. At the November 2006 meeting, the BZA granted The Gates compatibility. For this project to proceed, however, text amendments were made that now allow residential PDPs in R-2 zones and the time limitation of 30 days before final review had expired (which has now been extended to 60 days for developers to submit final plans). The Gates development is located on a 10.413 acre tract of land on Robertson Road South and comprised of single family patio homes. There is one main gated entrance into the community. The development will take place in 3 different phases. Ms. Dowdy stated that the Preliminary Plat being reviewed this evening is for Phase I only. The developers are looking to put 36 individual units, not lots, on this tract of land. Ms. Dowdy reminded the BZA members that PDPs are designed for one tract of land with multiple structures – this is not a subdivision.

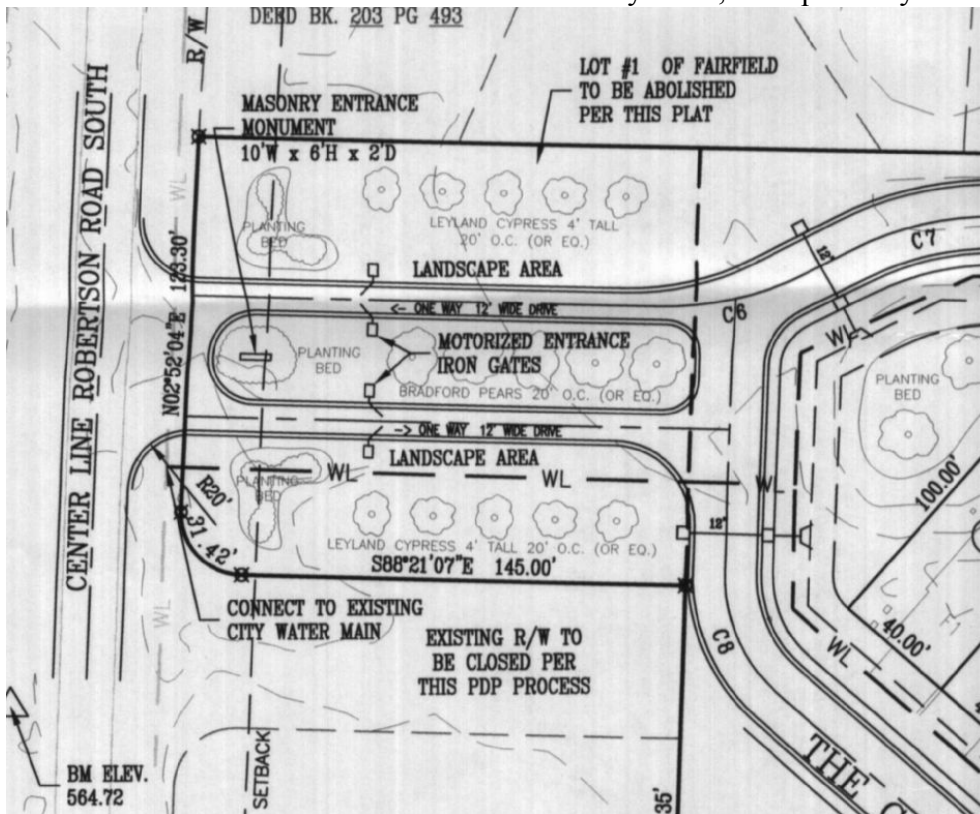
Mr. Seiber commented that he is concerned of traffic issues along Robertson Road and wanted to know if that section of town is being reviewed for possible improvements. Ms. Dowdy stated that there was some recent widening of Robertson Road, but she is not sure of any further plans

to alleviate traffic. Mr. Roberts stated that Robertson Road is under consideration by the fiscal court and contingent upon receiving proper funding.

Scott Seiber made a motion to grant compatibility for The Gates residential PDP, located on Robertson Road South. Ed Davis seconded the motion and it carried with a 5-0 vote.

Public hearing to approve the Conditional Use Permit for The Gates residential PDP –

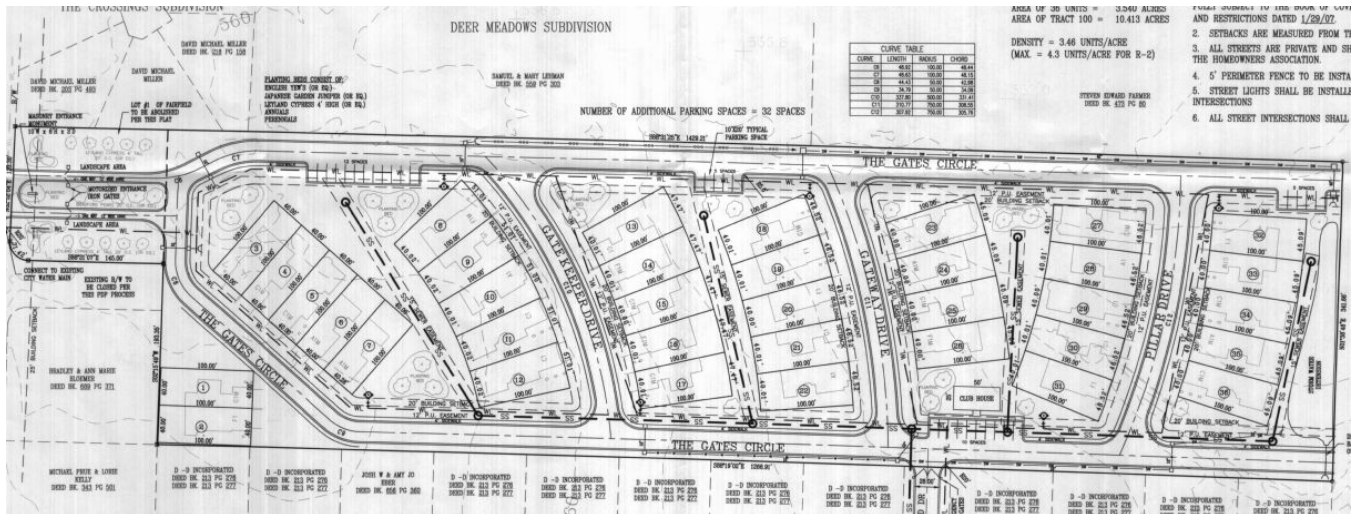
Barbara Campbell: Ms. Dowdy explained that there will be a gated entrance (motorized gates) into the community and a surrounding five foot fence along the exterior of the development. The current location of the proposed entrance is a wooded area. For the entrance to be complete, a minor subdivision plat will need to be submitted to the Planning Department for review and approval abolishing lot #4 of Fairfield Subdivision Unit I; and, the closing of a 50' dedicated right of way in Unit I of Fairfield Subdivision will need to be approved by the City Council as well. The entrance will contain a "Knox Lock System", as required by the Fire Marshal.



Mr. Mastera passed out brochures for The Gates to the Commissioners. Each unit will have a 2 car garage and the driveway will accommodate two cars. Ms. Dowdy also explained that there will be another entrance from Tanglewood Drive that will be used for emergency services and for residents to exit the development. Ms. Dowdy noted that there will be stormwater detention in the back part of Phase I.

In addition to the driveways, this phase of the development will contain an additional 32 off street parking spaces. The Gates will have sidewalks through the entire development. Each

dwelling unit will be joined together by a brick wall that will match the exterior of the buildings. Ms. Dowdy noted that there will be a 5' tall privacy fence around the development.



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. Jim Tate, 16 Gil Lane, and co-developer of The Gates. Mr. Tate explained that the recent plans submitted are revised since November's meeting and it is in more compliance with the city. Mr. Tate explained that The Gates will not be a flat development but will roll naturally with the land, encompassing as much green space as possible. Mr. Tate stated that all units are set in place as to where they are going to be located and their designs; each unit will contain a reserved area for planting of flowers. There will be a club house located on the development which people can reserve through the Home Owner's Association for special occasions. No external storage of merchandise is allowed; everything must be kept inside the garage or fenced in area, including the trash cans. Mr. Tate stated that the covenants and restrictions prohibit any off street parking and that the garages and driveways can each accommodate two vehicles. It was also explained that the roads will be 24' wide with 4' sidewalks, as requested by the city.

Ms. Dowdy asked if the \$150 HOA (Home Owner's Association) fee will cover all costs associated with maintaining the development. Mr. Seiber asked if the cost will cover any disaster situation. Mr. Tate explained that the HOA fee will cover the maintenance portion of the development as well as insuring the property. Mr. Jordan asked how the deductible would be paid. Mr. Tate stated that it would come from the HOA fee.

Chairman Whitaker swore in Ms. Barbara Campbell, 16 Gil Lane, and co-developer of The Gates. Ms. Campbell explained that Mr. Tim Thurmond with All-State is handling the insurance for the HOA and he is in the process of calculating what all replacement costs will be. Mr. Seiber noted the importance of insurance in The Gates because the city will have no liability. Mr. Seiber asked if the each home owner will have a separate policy that covers their units,

different from the HOA insurance policy. Ms. Campbell explained that each resident will have a “content” policy that covers the replacement of carpet, etc., which will be separate from the HOA insurance policy.

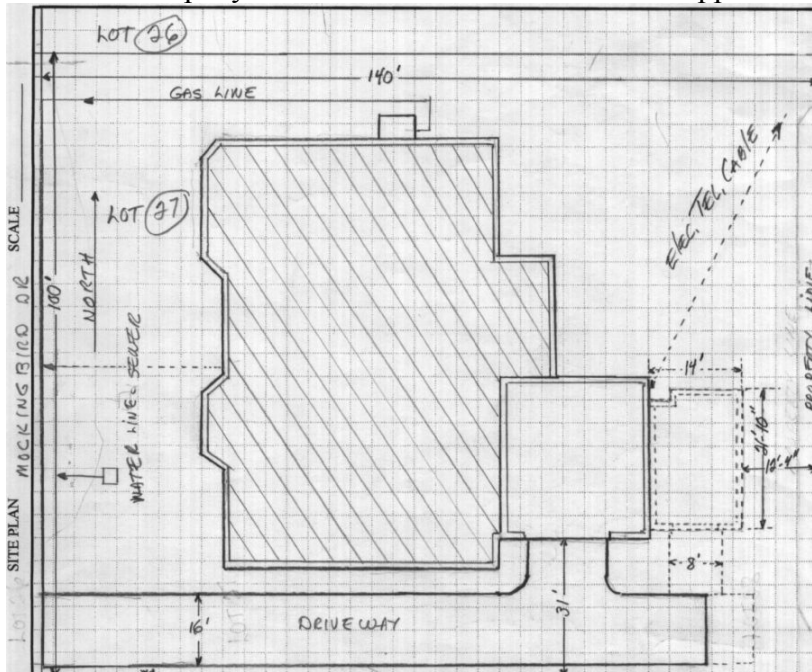
Mr. Seiber asked why the Board has to grant a conditional use permit. Mr. Pitman explained that residential PDPs are now allowed in an R-2 zone, but only as a conditional use.

Ed Davis made a motion approve the conditional use permit for The Gates residential Planned Development Project on Robertson Road South, contingent upon it meeting all city regulations and providing appropriate insurance coverage for the community owned assets and appropriate reserves for maintenance. Scott Seiber seconded the motion and it carried with a 5-0 vote.

Darren Jones rejoined the meeting.

Request for a 12’8” rear setback variance on addition to home – 1545 Mockingbird Drive:

Mr. Mastera explained that Mr. Ed Gatewood lives at 1545 Mockingbird Drive, located in Martin Heights’ Subdivision. Mr. Gatewood would like to make an addition to his home so that he can extend his current garage towards the back property line. It was explained to Mr. Gatewood that there is a 12’ public utility easement that runs along his rear property line, and that at a minimum, his setback request could come no closer than 12’ to his rear property line. The site plan submitted to Planning Staff shows a 14’ addition to his home, placing him 12’4” off his rear property line. Currently Mr. Gatewood is 26’4” off his rear property line. Mr. Gatewood’s current garage is located to the backside of his home and parallel to his driveway. Mr. Mastera noted that there is a cable line that cuts across his back yard at the approximate location of the proposed addition; Mr. Mastera explained that Mr. Gatewood intends on having the cable company redirect the line if the variance is approved.



Mr. Mastera explained that the entire 12' easement is on Mr. Gatewood's property and not split between him and his neighbor. Ms. Spann asked what the subdivision regulations state in regards to building setbacks.

Chairman Whitaker swore in the applicant, Mr. Ed Gatewood, 1545 Mockingbird Drive. Mr. Gatewood described the nature of his application. Mr. Jordan asked how his neighbors feel about him possibly making an addition. Mr. Gatewood stated that he did not know, but would assume they would appreciate having his lawnmower and trailer kept inside, instead of on his driveway.

Ms. Dowdy stated that the covenants and restrictions of Martin Heights' Subdivision are the same as the zoning ordinance in that the primary structure should be setback 25' feet from the rear property line. Mr. Seiber stated that he is unsure how much power the BZA really has when it comes to granting a variance in a subdivision with set covenants and restrictions and sees it more of an issue between Mr. Gatewood and the property owners within Martin Heights. Mr. Gatewood stated that the problem with his garage is that the entrance is turned parallel to his driveway instead of perpendicular. Ms. Dowdy read from the Martin Heights' covenants and restrictions, "Failure to comply with these covenants and restrictions shall result in enforcement by proceeding at law or in equity against any person or persons violating, or attempting to violate said covenants and restrictions." Mr. Jones suggested contacting Mr. Sam Underwood, developer of Martin Heights, in seeing what steps should be taken before proceeding forward. Mr. Pitman explained that it varies by subdivision as far as how many property owners must agree to any variation within a subdivision.

Helen Spann made a motion to table this item until Mr. Gatewood is granted permission from the subdivision owners of Martin Heights' Subdivision to make a 12'8" addition to his home. Ed Davis seconded the motion and it carried with a 6-0 vote.

Ed Davis made a motion to adjourn. Helen Spann seconded the motion and it carried with a 6-0 voice vote. The meeting adjourned at 5:45 p.m.

Chairman, Bill Whitaker

Recording Secretary, L. Peyton Mastera