

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, APRIL 18, 2012
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, April 18, 2012 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Bill Whitaker, Scott Seiber, Mary Anne Medlock, Brad Darnall, Justin Pounds and John Krieb

Board Members Absent: Steven Reed

Also Present: Candace Dowdy, Justin Crice, David Roberts, Mike Pitman, Reta Gray, Peyton Mastera, Hawkins Teague, Sheila Crouse, Sam Underwood, Daniel Yong

Chairman Whitaker called the meeting to order and welcomed all guests and applicants. Chairman Whitaker asked if there were any changes, additions or deletions to the minutes from the March 21, 2012 regular meeting. *Brad Darnall entered the meeting at 4:31 p.m.*

Scott Seiber made a motion to accept the minutes from the March 21, 2012 Board of Zoning Adjustments regular meeting as presented. Justin Pounds seconded the motion and the motion carried unanimously.

Remove from Table: Dimensional Variance Request for Additional Signage at 1621 Hwy 121 Bypass North – Woodmen of the World – Sheila Crouse: Candace Dowdy stated that the application had been removed.

Mary Anne Medlock made a motion to remove the item from the table. Brad Darnell seconded the motion and the motion passed unanimously.

Public Hearing: Dimensional Variance Request for a Nine (9) Foot Front Setback and Four (4) Foot Height Variance on Free-standing Sign – 1621 Hwy 121 Bypass North – Tommy Miller: Candace Dowdy used a Power Point presentation to show the property at 1621 Hwy 121 Bypass North where Shelia K. Crouse, field representative of Woodmen of the World, has her office. In February 2012, Ms. Crouse requested to add an additional 11 square feet to the existing non-conforming free-standing sign. This request was tabled. Since that time A Cut Above who had shared signage at this location has moved locations to outside the city limits. Planning Staff has been working with property owner Tommy Miller in bringing the signage at this location into compliance with current sign regulations. Ms. Dowdy stated that since having discussions with Mr. Miller he has agreed to take the existing freestanding sign down and put a new one up but due to the new right of way for the widening of Hwy. 121 Bypass, the new sign would be located along side the existing building. Ms. Dowdy said that Mr. Miller has already settled with the state on the acquisition of his property for the right-of-way and expansion of Hwy 121 Bypass. (Justin Crice passed around a copy of the proposed state right-of-way for the board's review.) In considering the best location for a freestanding sign Planning Staff explained to Mr. Miller that he would need to request a nine foot front setback variance and a four foot height variance on the proposed sign. Based on the amount of road frontage for this property Mr. Miller will be allowed to have a 52 square foot sign. The current regulations state that the overall height of the sign shall not exceed ten feet but due to the circumstances Planning Staff feels like Mr. Miller's sign would not be visible from the highway at ten feet because of vehicles being parked in front of the building; therefore, Planning Staff recommends that the board consider granting him a variance for his sign to be fourteen feet in height. Mr. Miller will

have two tenants in this building so they will each be allowed 26 sq. ft. of road signage. Mr. Miller was informed that the new regulations require one square foot of landscaping for every square foot of signage. Planning Staff has allowed Ms. Crouse to temporarily place her 4 x 8 foot sign on the free-standing sign. Chairman Whitaker asked if wall signage would be more suitable for the business. Ms. Dowdy replied that because of all the windows in the building, the tenants are very limited on signage. Mary Anne Medlock stated that it would be proactive to workshop this item with the business owners before a decision is made since the right of way has been established and this will set precedence. Ms. Dowdy questioned how much success they would have by calling a special meeting for the business owners along Hwy 121 Bypass North. Brad Darnall said that this business is a unique situation. Next month they could be dealing with a different business with a different situation. Scott Seiber agreed that the decisions for each individual sign should be made on a case by case situation. Justin Pounds stated that he thinks we are past the "proactive" state.

Chairman Whitaker opened the public hearing and asked if there was anyone that wished to speak in favor of the application.

Sheila Crouse, 1621 State Route 121 Bypass North, Murray was sworn in. Ms. Crouse stated that she appreciated the time that Ms. Dowdy has spent with her trying to come up with a solution to her sign. She added that a sign with good visibility is important to her business.

Chairman Whitaker asked if there was anyone that wished to speak in opposition to the application. There was no one. Chairman Whitaker closed the public hearing and turned it over to the board for discussion.

John Krieb made a motion to approve the Dimensional Variance application for Tommy Miller at 1621 Hwy. 121 Bypass North for a five foot height and a nine foot front setback variance for the new monument sign. The board feels that due to the widening of Hwy. 121 and the additional right of way that was acquired by the state this request would prevent any undue hardship in the property owner providing sufficient signage for his tenants. This variance 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. Justin Pounds seconded the motion and the motion carried with a 5-1 voice vote. Chairman Whitaker voted no. David Roberts and Peyton Mastera entered the meeting at 5:15 p.m.

Compatibility Hearing: Residential Planned Development Project – Cambridge Subdivision Unit III, Lot 49 – Sam Underwood and Hal Perry: Candace Dowdy used a Power Point presentation to show lot 49 in Cambridge Subdivision Unit III that is owned by Sam Underwood and Hal Perry. There is currently one building with four units on the property where Mr. Underwood and Mr. Perry are proposing to construct another four units. Based on the lot size requirements in an R-4 zoning district the lot could accommodate another four (4) units. The proposed units will be one bedroom units as well. The plat shows a 20 ft. shared drive aisle that goes from Princeton Drive back to the proposed units. The length of the drive aisle is approximately 165 feet from the front property line. If this project moves forward Planning Staff will require that the final plat identify a permanent crossover easement on lots 48 and 49 for the purpose of ingress/egress. Stormwater detention will be designed to accommodate lots 48 and 49. The site plan identifies an area at the end of the drive aisle for an enclosed dumpster area for sanitation pickup. This will eliminate the roll out containers used by the current tenants. The Advisory Meeting was held on the previous night with the Planning Commission. The commissioners decided to forward the project on to the BZA for a Compatibility Hearing. Ms. Dowdy stated that if this project goes forward, the developers will be seeking a parking variance. The units are 15 feet off the rear setback line; therefore, a rear setback variance will also be required for 10 additional feet. Ms. Dowdy stated that the Fire Marshal

has approved the project. John Krieb said that during the Planning Commission meeting the previous night, Don Roberson had concerns with Mr. Yong's proposed PDP and wanted to know if this would affect the Underwood/Perry proposal. Ms. Dowdy explained that Mr. Roberson owns property adjoining Mr. Yong's property and Mr. Roberson was requesting the Planning Commissioners to allow a 25 foot side setback between the two properties instead of the normal 10 foot. Ms. Dowdy stated that she and David Roberts had reviewed the plat and if the request is granted, everything on the plat will need to be shifted, the buildings as well as the parking. This will actually shift the drive aisle more on the Underwood/Perry property and could also affect one or two of their parking spaces. Ms. Dowdy said that Mr. Yong's proposal is currently showing the building to be 20 feet off the property line and Mr. Roberson's building is 25 off; thus, there will be 45 feet between the two buildings.

Chairman Whitaker asked if there was anyone that would like to say anything concerning the project.

Sam Underwood, 1557 Whippoorwill Drive, Murray was sworn in. Mr. Underwood stated that Mr. Roberson's building is actually 10 feet from the side setback line. He wants to know if the line is being treated as a side or a rear setback. Mary Anne Medlock stated that she had put the request in the motion the previous night in order to pass the item along to the BZA for review. She added that the proposed buildings will be two stories and would overlook Mr. Roberson's tri-plex; therefore, the additional footage between the buildings could be beneficial. Mr. Underwood added that Mr. Roberson had built his units close to the front of the lot for more economical building costs; therefore, there will probably be 65 to 70 feet between the buildings.

Daniel Yong, 20 Scarlett Drive, Murray was sworn in. Mr. Yong reviewed that Mr. Roberson had concerns originally about the driveway to his proposed units. Mr. Yong and Mr. Underwood came to a shared agreement on the driveway and that accommodated Mr. Roberson by moving the driveway away from his backyard. Mr. Yong continued that they had the building placed on the site plan as far away from the setback as possible in consideration to Mr. Roberson's concern. Mr. Yong stated that he does not see how 5 feet will make any difference from the amount of area they are showing between the two buildings. All codes are being satisfied with the Fire Marshal and if they move any more it will move everything out of line. Mr. Yong said that the proposed driveway will cause both him and Mr. Underwood to lose one parking space but Mr. Yong plans to make that up with additional parking on the left side of the building. Mary Anne Medlock stated that she had only asked the Planning Commission to consider the request that was brought to them. Mr. Yong concluded that he was making all the effort he can in order to accommodate Mr. Roberson.

John Krieb moved that the project is compatible to the area. Justin Pounds seconded the motion and the motion carried with a 6-0 voice vote.

Public Hearing: Review Conditional Use Permit Application for Residential Planned Development Project in Cambridge Subdivision Unit III, Lot 48 – Princeton Drive – Daniel Yong: Candace Dowdy used a Power Point presentation to show the Daniel Yong property, lot 48 in Cambridge Subdivision Unit III. There is currently one building with six units on the property. The lot consists of 0.670 acres (29,185 sq. ft.) and Mr. Yong would like to construct another five units on the property. Based on the lot size requirements in an R-4 zoning district the lot could accommodate another five (5) units. Mr. Yong has submitted a revised preliminary plat showing five additional - two bedrooms units behind the existing six- unit building. The new two story building will be located twenty (20) feet off the west property line facing the east. The revised plat shows a new shared drive aisle that is 20 feet wide between lots 48 and 49. The length of the drive aisle is approximately 165 feet from the front property line and was approved by the Fire Marshal as being sufficient to accommodate emergency access. Planning Staff will require that the final plat identify a permanent crossover easement on lots 48 and 49 for the purpose of ingress/egress. Over all parking spaces required for this development is 33 and 25 are

shown on the site plan requiring an eight (8) parking space variance. Storm-water detention is shown on the north side of the property but no plans have been submitted for review at this time. The site plan identifies an area at the end of the drive aisle for an enclosed dumpster area for sanitation pickup. This will eliminate the roll out containers used by the current tenants. A landscaping plan will be required for review and approval by the Planning Department. This project will be contingent upon an access easement being approved from property owner of lot 49 and drainage easements. Notices were sent to adjoining property owners and a sign posted on the property advertising the date and time of this public hearing.

Chairman Whitaker opened the public hearing and asked if there was anyone that wished to speak in favor of the project. There was no one. Chairman Whitaker asked if there was anyone that wished to speak in opposition to the project. There was no one. Chairman Whitaker closed the public hearing and turned it over to the board for discussion.

John Krieb made a motion to approve the Conditional Use Permit application for Daniel Yong to add an additional five units to the existing Planned Development Project at lot 48 on Princeton Drive contingent upon the necessary easements being approved by the property owner of lot 49 and lot 42 for ingress/egress and stormwater detention. Approval of this conditional use permit is also contingent upon the final plat approval by the Planning Commission and the development meeting all other city regulations. This motion also approves an 8 space parking variance for lot 48. Justin Pounds seconded the motion and the motion carried with a 6-0 voice vote.

Discussion of Conditional Use Permit: Campus Suites Residential PDP – 1421 North 16th Street: Peyton Mastera used a Power Point presentation to show the time line in which the Campus Suites sidewalk review has taken place. Campus Core (previously Campus Suites) is a multi-unit Planned Development Project on N. 16th Street. The BZA approved the Campus Suites' Conditional Use Permit with the condition that sidewalks be constructed through their property to help improve the traffic situation. In working with the developer, the Department of Planning and Engineering did not require sidewalks to be constructed through the property until sidewalks were extended to Campus Suites. In early 2010 the City of Murray was awarded an Energy Efficiency Conservation Block grant in the amount of \$125,000 to construct a sidewalk along N. 16th Street from The Keg Restaurant to Campus Suites. A leveraging tool used for the awarding of this grant was Campus Suites committed sidewalks. The owner at the time, Mr. Henry Morton, was instrumental in the City of Murray receiving the grant by submitting a letter of support for our application. From the onset of receiving the grant the City of Murray worked with Campus Suites in discussing projected timelines and potential partnerships in constructing the sidewalks. When ownership transferred to Campus Core, they too were kept abreast of all project progress and made aware of their construction obligation. Once the grant was finalized, design began. The City of Murray on multiple occasions met with Campus Core representatives and offered to bid this project as one with us completing their design. The City of Murray never received a response so construction began in December 2012. Through the construction phase the City of Murray encouraged Campus Core to begin fulfilling their obligation and even arranged a meeting with the contractor and supplied them with the names of other contractors to contact. Substantial completion has been granted for this project yet the City of Murray has yet to hear back from Campus Core. In accordance with the City of Murray Zoning Ordinance, we felt it was necessary to present these facts to the BZA and decide if a public hearing to review this CUP is necessary.

After discussion among the board members, it was recommended by Attorney Mike Pitman that a letter be sent to the property owner stating a date for review of the Conditional Use Permit and if they would like to avoid the review, they are to contact Planning Staff. This letter would state the repercussions of breach in the Conditional Use Permit that could lead to revoking the Conditional Use Permit.

Brad Darnell made a motion to set a public hearing in June for review of Campus Suites' Conditional Use Permit (now Campus Core) if a satisfactory response was not given to the Murray Planning & Engineering Department. John Krieb seconded the motion and the motion carried unanimously.

Adjournment: Justin Pounds made a motion to adjourn. Brad Darnall seconded the motion and the motion carried with a unanimous vote. *The meeting adjourned at 6:03 p.m.*

Chairman, Bill Whitaker

Recording Secretary, Reta Gray