

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

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

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

**Board Members Absent:** Steven Reed and Brad Darnall

**Also Present:** Candace Dowdy, Justin Crice, Mike Pitman, David Roberts, Reta Gray, Hawkins Teague, Jim Nasso, Mark McClemore, Bobby Deitz, Tony Nolcox, Dale Campbell, Daniel Yong, James Graham and public audience

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 June 20, 2012 regular meeting. There was one correction noted.

**Mary Anne Medlock made a motion to accept the minutes from the June 20, 2012 Board of Zoning Adjustments regular meeting as corrected. Scott Seiber seconded the motion and the motion carried unanimously.**

**Public Hearing: Conditional Use Permit Request for a PDP Located at 440 Utterback Road – Wesley Murray Meadow, Inc.:** Candace Dowdy used a Power Point presentation to show the property at 440 Utterback Road where Wesley Murray Meadow, Inc. is proposing to construct another 20 units on this property along with a clubhouse. The preliminary plat shows adding five (5) quad-plex apartment buildings and a clubhouse. Each unit will be 540 sq. ft. in size per HUD regulations and the clubhouse will be approximately 3,500 sq. feet. There are 31 existing parking spaces at this location originally designated for Wesley of Murray. The site plan shows adding 30 additional spaces for the development of Phase II. The preliminary plat also shows a 35 ft. ingress/egress easement that will need to be established as a permanent crossover easement since the new units and the clubhouse will be on a separate lot. Bobby Deitz with BFW Engineering submitted a revised plat with a couple of the duplexes turned and moved slightly to the north to better accommodate the new stormwater detention area. A dumpster unit location has been designated. Ms. Dowdy said the front and rear setbacks are being met and additional setback variances will be needed. Ms. Dowdy stated that there was some discussion concerning the existing stormwater detention area at the Planning Commission meeting the previous night. Some adjoining property owners were in attendance at the meeting on July 17, 2012. They had indicated that their property had been flooding since the first development by Wesley of Murray. There was also some discussion with a drainage pipe under Utterback Road being an issue. Bobby Deitz with BFW is prepared to address these issues. It was suggested also that the county be contacted concerning these drainage issues before the next month's meeting. Ms. Dowdy stated Wesley Murray Meadow, Inc. is looking for approval of the Conditional Use Permit and everything will be contingent upon the Final Plat being reviewed and approved by the Planning Commission along with notations about the setbacks.

Chairman Whitaker asked how the parking was calculated to the development. Ms. Dowdy stated that they really didn't have any information as to how the parking was calculated in 2001 for Phase I. She said that there are 27 units on site and 31 parking spaces. Not all of the residents have vehicles. Phase II will

have 20 additional units and they have provided 30 parking spaces; thus, based on the current parking situation, the additional proposed parking spaces should be adequate.

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

Jim Nasso, Vice President and Chief Operating Officer of Wesley Housing Corporation of Memphis, 1615 Applng Road, Cordova, Tennessee was sworn in. Mr. Nasso addressed the parking. He said that 31 spaces for a 27 unit development had proven to be adequate. He said that they have added a few extra spaces for this Phase because they are anticipating more participation and visitors with the clubhouse. Mr. Nasso stated that he supports David Roberts having the drainage issue investigated. When the land was first developed, the situation was addressed, but they had not had any issues since then. They are confident with Bobby Deitz's assessment of the situation and the addition of the new stormwater detention area. Commissioner Krieb referred to the previous night and the concerns about the trash blowing from the dumpster onto the adjoining neighbor's property. He asked what would be done about that issue. Mr. Nasso said that they had some conversations concerning this matter and while it was not related to this phase, they would look at making some improvements to it.

Bobby Deitz, 645 Swift Road, Kirksey, Kentucky was sworn in. Mr. Deitz said that they have gone back and looked at predevelopment stormwater figures for this property (440 Utterback Road). He said that the first design was overly conservative and that calculations showed the existing detention pond was properly designed to handle the run-off from 12 acres. The detention system was designed according to the City Ordinance to cover a 25 year storm. The new City Ordinance is now a 10 year storm; therefore, they are adding another detention pond along with this phase of the development that will be located on the northeastern corner of the property and a 30" pipe will connect the two detention ponds where they will work together. After looking over this area again, they are very confident that this development does not impact the adjacent property owner, Ms. Nancy Outland. The outlet on the current detention pond is 18", the drainage pipe under Ms. Outland's driveway is 42" (which should be ample to cover the runoff from either direction), and the pipe that runs under Utterback Road is equivalent to a 48" pipe. John Krieb asked if the culvert that passes under Utterback Road receives flow from the west as well as from the east. Mr. Deitz stated that the water does flow from both directions into it. Mr. Deitz said that BFW will be conducting a study to analyze the cross-drain pipe that goes under Utterback Road, what its capacities are and the cross-drain pipes of the two driveways along with the ditch between the two properties. BFW will analyze all of these components and report their findings.

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.

**Scott Seiber made a motion to approve the Conditional Use Permit for the Residential Planned Development Project for Wesley Murray Meadow, Inc. at 440 Utterback Road. Approval of this conditional use permit is contingent upon the final plat being approved by the Planning Commission, the stormwater detention plans being approved and the development meeting all other city regulations. In addition he moved to approve the project with the building setbacks and parking as shown on the revised Preliminary Plat. John Krieb seconded the motion and the motion carried with a 5-0 voice vote.**

**Compatibility Hearing: Proposed PDP at 1807 College Farm Road – Tony Nolcox:** Justin Crice used a Power Point presentation to show the property at 1807 College Farm Road that Mr. Tony Nolcox is looking to purchase. The property (zoned R-4 Multi-Family Residential) consists of two tracts of land totaling 2.75 acres with density requirements of more than 50 units. One tract fronts College Farm Road and currently has a duplex and a single family house on it. These structures will come down if the project

proceeds. The second tract of land was used as a mobile home park years ago and has a small building located on the south side that will remain on the property for storage purposes. There is an access easement to this tract that leads from North 18<sup>th</sup> Street through a church parking lot to a TVA substation. The property is overgrown with trees and vegetation and would need to be cleared for development. If the property is developed as 40 one or two bedroom units, the parking requirements would be 120 parking spaces. Setback and density requirements were being met as shown. Sanitation plans were not indicated on this site plan. The tract of land on College Farm Road has a shared drive with the property to the east. Mr. Crice added that one suggestion that was made by the Planning Commissioners was to have a bike trail leading off their property toward the deeded access easement off North 18<sup>th</sup> Street. Chairman Whitaker asked Mr. Nolcox to come forward to answer questions.

Tony Nolcox, 1211 Coyote Ridge Road, Cadiz, Kentucky was sworn in. Mr. Nolcox explained that the easement had been in place for a long time and that it is a strip of land that goes from North 18<sup>th</sup> Street to the TVA substation through the church parking lot. He said that they had originally not wanted to use the easement because they didn't want to interfere with the church traffic. Their plan is to fence the entire property and to gate the back entrance to the property off and use it for emergencies only; however, they were very interested in putting in the suggested bike path. Mr. Nolcox he is very interested in making the property as "green" as possible. He would like to replace some of the trees and save as many trees as possible. Mr. Nolcox stated that there is a small building that is structurally sound on the south side of the property that he plans on leaving for storage of maintenance equipment. He added that he has drawn some common areas between the buildings that will be a green buffer space. Mr. Nolcox anticipates having an area on the south side of property for the tenants to wash their vehicles also. Chairman Whitaker asked if they had thought about having the main entrance on the south side of the property. Mr. Nolcox said that they were not opposed to leaving the gate opened on the south side of the development, but realistically all 40 residents are not going to be leaving out the College Farm Road entrance at the same time; therefore, he thought leaving the main entrance on College Farm Road would be acceptable.

**Justin Pounds made a motion to approve the proposed Residential Planned Development Project at 1807 College Farm Road by Tony Nolcox as it is compatible for the area. Scott Seiber seconded the motion and the motion carried with a 5-0 voice vote.**

**Compatibility Hearing: Proposed PDP at 1300 North 16<sup>th</sup> Street – Dale Campbell:** Justin Crice used a Power Point presentation to show the property at 1300 North 16<sup>th</sup> Street (Old Moose Lodge Property) owned by Dale Campbell. The property was previously located in an R-4 zone until approximately 8 years ago when it was rezoned as B-2 Highway Business, based on the fact that the area had changed and B-2 was more in line with the surroundings. (B-2 zone allows residential planned development projects as a conditional use only.) The property is approximately 5 acres in size and does have utilities available. Mr. Crice stated that Mr. Campbell originally submitted a preliminary site plan with over 120 units on the property, but based on density, only 106 residential units will be allowed for this tract of land. The site plan shows 85 two-bedroom units and 21 one-bedroom units. Sizes for these units have been indicated as 17' X 32' for the one-bedroom and 17' X 44' for the two-bedroom. Two entrances are shown off 16<sup>th</sup> Street. The site plan shows 200 parking spaces for this development; 318 parking spaces are required. Angled parking spaces have been shown on this preliminary site plan in some areas but traffic flow has yet to be finalized. The drive aisles do maintain a minimum of a 22' consistency throughout the development which gives adequate space for vehicles to maneuver. Mr. Crice stated that a traffic count was done on this area in 2009 and at that time there were over 6,000 vehicles that traveled North 16<sup>th</sup> in a 24 hour period. He said that there was plenty of site distance looking south towards Lowes Drive; however, visibility is not that good when looking north from the entrance of the proposed development. Ms. Dowdy added that the previous night at the Planning Commission, the Commissioners had stated that they would like to see more green space and that might mean that Mr. Campbell would still have to reduce the number of units or possibly go to two-story units allowing more green space. The Planning

Commission also suggested that Mr. Campbell look at the flow of traffic throughout the development. They felt that there was a need for improvement. Ms. Dowdy said that they had discussed the sanitation pick-up with Don Rogers and they are currently working on a plan. Planning Staff feels with this many proposed units it may be time to do another traffic study for the area. Mary Anne Medlock said that she thought there had been an issue with the previous traffic study being run during a time that the University was not in session, resulting in giving false numbers in the amount of automobiles traveling that street each day. Ms. Dowdy agreed that in order to give a true count, the study should be performed while Murray State University is back in session. David Roberts said that the traffic study that had been conducted in 2006 was a different type of traffic study than typically done. That particular study was to look at the turning patterns and the need for turning lanes through the intersections not to determine how many cars traveled over that road daily. Mr. Roberts added that there is definitely an impact that has been made on North 16<sup>th</sup> Street since the housing market has expanded to that area and there is the need for a three lane road. Ms. Medlock recalled another previous proposal at this location that was considerably larger. Ms. Dowdy said that proposal had an access off Walmart Drive which would alleviate some of the traffic from going to North 16<sup>th</sup> for access. Scott Seiber said that it is going to be impossible for North 16<sup>th</sup> to carry the traffic in 10 or 15 years. Ms. Dowdy said various developers had looked at this particular property with proposals to keep the property from deteriorating since the Moose Lodge left and none have been successful in developing the site as this point. Sidewalks and bike paths have been discussed in the past for developments of this nature for students to better access shopping facilities and the University. Ms. Dowdy said there was an opportunity to connect up to sidewalks that were put in along North 16<sup>th</sup> Street and increase the walking ability in the area.

Chairman Whitaker asked Mr. Campbell to come forward to answer some questions.

Dale Campbell, 2213 Traci Drive, Murray was sworn in. Mr. Campbell stated that they are trying to come up with a way to market the property. He added that it is an expensive piece of property that has been sitting there vacant for a long time. Mr. Campbell said that he was hoping that meeting with Planning Staff would benefit him in possibly coming up with a way to make his property more marketable. Mr. Campbell added that if he cuts the amount of units down too drastically, it will not prove to be economically feasible. At that point, he'll just have to leave the property vacant. Mr. Seiber asked if constructing two-story buildings on the property would be an option and Mr. Campbell replied that it would. He addressed the parking and traffic flow of the development. He had originally drawn the parking places straight and when the plat came back from the engineer the parking was at an angle. Mr. Campbell is flexible in making a change to that.

Chairman Whitaker asked if there was anyone in opposition to the project that would like speak. There was no one. Chairman Whitaker asked the board if they felt the project was compatible.

**Scott Seiber made a motion to approve the proposed Residential Planned Development Project at 1300 North 16th Street by Dale Campbell as it is compatible for the area. John Krieb seconded the motion and the motion carried with a 4-1 voice vote. Bill Whitaker voted no.**

**Compatibility Hearing: Proposed PDP at 907 Coldwater Road – Daniel Yong:** Candace Dowdy used a Power Point presentation to show the property at 907 Coldwater Road. This property is in a B-2 zone and was previously developed as a PDP in 1999 by Steve Tinsley. During that process, the property was approved with two units located on it. Daniel Yong has purchased the property and is proposing to add two additional units on the east side of the existing duplex building. There are two windows on the east side of the building that will have to be relocated. These windows are means of egress to the bedrooms. Ms. Dowdy stated that she and the building official had met on site and revealed this information with Mr. Yong. The new building is shown on the site plan as being 28' from the front property line so a setback variance will be required. The site plan indicates the proposed units will be 17' X 33' and have

four 9' X 18' parking spaces shown in front of them. There are two existing gravel entrances off Coldwater Road to the property. Ms. Dowdy stated that Mr. Yong has indicated that he is willing to make some improvements to the property and also pave a designated parking area if this proposal should go forward. Currently all of the units have roll out containers. Planning Staff has talked to Mr. Yong about putting in an enclosed dumpster area which will eliminate the roll out containers. As far as density, two additional units can be added to the property. Ms. Dowdy reviewed the setback variances that had previously been approved. Ms. Dowdy said that when the project was initially started, a French drain system was put in for stormwater detention. They are not sure if the system is working but Mr. Yong will investigate this further. Ms. Dowdy said that Planning Staff does not have any issues with Mr. Yong proceeding with this project. There was some discussion among the board members about the state possibly closing Coldwater Road. Ms. Dowdy said that she, Peyton Mastera and Mr. Roberts had met with the state earlier and there is a possibility that they could close that end of Coldwater Road; however, they are still looking at all the options for improvements to the Five Points intersection at Murray State University and that there had not been a definitive decision made at this point.

Chairman Whitaker asked Mr. Yong to come forward to answer questions.

Daniel Yong, 20 Scarlett Drive was sworn in. Mr. Yong stated that he bought the property a few months ago. He said that he had done some grading around the French drain and he is still not sure if it is working properly. The drain is located in the gravel parking lot and there is the possibility that traffic running over it daily has damaged it so that it is not working at all. Mr. Yong said that he will be addressing the water issue and also paving the parking area with designated spaces.

Chairman Whitaker asked if there was anyone in opposition to the project that would like speak. There was no one. Chairman Whitaker asked the board if they felt the project was compatible.

**John Krieb made a motion to approve the proposed Residential Planned Development Project at 907 Coldwater by Daniel Yong as it is compatible for the area. Justin Pounds seconded the motion and the motion carried with a 5-0 voice vote.**

**Public Hearing: Dimensional Variance Request for a Sign at 110 South 12<sup>th</sup> Street – Penn Station:** Justin Crice used a Power Point presentation to show the property at 110 South 12<sup>th</sup> Street where Pennso, Inc. owner of Penn Station East Coast Subs is leasing the south tenant space in the new building currently being constructed. The property is owned by Ahmad Razban owner of Domino's. Mr. Crice also showed the proposed signage that the owners submitted for the Penn Station restaurant. Mr. Crice explained that in May of 2011, Mr. Razban requested sign variances for all three tenant spaces which were denied as presented. The Board did grant a 27.5 sq. ft wall sign for the proposed Domino's to be placed on the front of the building facing 12<sup>th</sup> Street. The Board also denied the request for a second sign on the north end of the building because the building does not face a secondary street on the north end. Staff did inform the owners that under Murray's sign regulations Penn Station would be allowed an additional wall sign on the side of the building facing Poplar Street. The Grahams did not think the additional wall sign on the south side of the building would help their business in this case and would be willing to give up the additional sign if the board would grant a request for a 36 sq. ft. wall sign for the front only; thus, they are requesting a variance of 9.7 sq. feet for the one sign on the face of the building that fronts 12<sup>th</sup> Street. Because the south end of the building fronts two streets, Penn Station is permitted one 26.3 sq. ft. wall sign for South 12<sup>th</sup> Street and one sign for the secondary street (Poplar) with square footage based on the length and height of that end of the building.

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

James Graham, 1955 Holt Road, Paducah, KY was sworn in. Mr. Graham stated that he understands that the sign requirements in Murray are 5% of the square footage of the usable space of the building. Penn Station's standard size is 13 feet long x 3.5 feet tall which is almost 12% of the square footage allowed for this building front. Mr. Graham said that he decided to split the difference and ask for a 36 square foot sign which will be 9% of the square footage and make the sign 12 foot long x 3 foot tall. Ms. Medlock asked if this would be a manufactured sign. Mr. Graham said yes, that all of Penn Station's signs are custom made. Ms. Medlock said that since this sign would be custom made, she would have a problem supporting the request. Mr. Krieb asked if the landowner had any objections in Mr. Graham putting up a larger sign than what was required. Mr. Graham replied that he had spoken to Mr. Razban and told him about the company's desire to use a larger sign on the front of the building and Mr. Razban did not object. Mr. Krieb added that if the proposed sign was a standard pre-fabricated sign, he would not object to one of this size; however, since Mr. Graham is going to have the sign constructed, he would not be in favor of the larger sign. Mr. Pounds asked if Mr. Graham's proposal was not approved, would he pursue putting two signs up with the allowable square footage. Mr. Graham answered that was a possibility but he would only have to invest more money if he put up additional signs. Mr. Pounds said that based on the square footage on the south end of the building, Penn Station would be allowed to put up a very large sign. Mr. Graham asked if he put a sign up on the front of the building would he be able put up an additional sign up on the south end. Ms. Dowdy said that he would be allowed that.

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

**Scott Seiber made a motion to approve the Dimensional Variance Application of *Pennso, Inc.-Penn Station* at 110 South 12<sup>th</sup> Street for 9.7 sq. ft. of additional wall signage on the south tenant space only in lieu of a second sign on the secondary street side; 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 a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. Justin Pounds amended the motion to add that this variance will only be granted for the tenant Penn Station. John Krieb seconded the motion. The motion carried with a 5-0 voice vote.**

**Questions and Comments:** Attorney Mike Pitman gave the board an update on the situation that was brought up at the previous month's meeting concerning the non-compliance of John Gray's conditional use permit. Mr. Pitman stated that he had sent a letter on July 16th to Mr. Gray stating the expectations and conditions that the board had put upon the conditional use permit that was granted. Mr. Pitman said that the letter stated that Mr. Gray was to come into compliance immediately or that the conditional use permit could be revoked which would require Mr. Gray to move all of his outside merchandise inside of the building. Mr. Pitman stated that he had copied Candace Dowdy on the letter and that she would be sending a copy to each of the board members.

**Adjournment: Scott Seiber made a motion to adjourn. Justin Pounds seconded the motion and the motion carried unanimously. The meeting adjourned at 6:36 p.m.**

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Chairman, Bill Whitaker

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Recording Secretary, Reta Gray