

**MURRAY PLANNING COMMISSION MINUTES
REGULAR MEETING
TUESDAY, MARCH 21, 2017
4:30 P.M.**

The Murray Planning Commission met in regular session on Tuesday, March 21, 2017 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Commissioners Present: Robin Zhang, Tom Kind, Martin Milkman, Marc Peebles, Ed Pavlick, John Krieb, Loretta Jobs, Jordan Smith and Jim Foster

Commissioners Absent: None

Also Present: Gerald Gilbert, Maurice Thomas, David Roberts, Attorney David Perlow, Linda Demrow, Mason Cook, Austin Cohoon, Regina Manis and public audience

Chairman Kind called the meeting to order and welcomed all guests and applicants. He then asked if there were any changes to the minutes from the February 21, 2017 regular meeting.

Marc Peebles made a motion to approve the minutes from the February 21, 2017 Planning Commission regular meeting as presented. Ed Pavlick seconded the motion and the motion carried unanimously.

Street Acceptance: Recommendation to accept Octane Drive for maintenance by City of Murray: Gerald Gilbert (Planning Manager) introduced himself and then gave a brief review of this item. Octane Drive runs east and west between US 641 and 4th Street near the intersection at Utterback Road and is part of the Kennedy Layne Subdivision. The subdivision's Preliminary Plat was approved by the Commission on June 21, 2016 and the Final Plat was approved on August 16, 2016. The map has been recorded and the site has been graded. The street has been completed. It consists of a fifty foot right-of-way and is approximately 449 feet in length. The improvements consist of curb, gutter and two 14-foot drive lanes with an overall roadway section of 32 feet. City code requires that prior to accepting a street dedication and releasing the associated security bond, two main conditions must be met. First is written verification from a registered engineer or land surveyor certifying that the street has been constructed in conformance to the approved street plan and profile requirements outlined in § 155.47 Final Plat Required (B). Secondly, the City would need to inspect the roadway improvements to determine if the street has been constructed to City requirements. BFW Engineering and Testing has submitted the required verification letter that the street improvements have been inspected and are in conformance to the approved plans as well as all other City requirements. Therefore, the Planning Staff believes that the Commission can recommend the acceptance and dedication of Octane Drive to the City Council.

Jordan Smith made a motion to recommend approval to the City Council to accept the dedication and improvements of Octane Drive into the City's public street system based on the following facts and findings:

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- **The testimony presented in this public hearing has shown written certification from a registered professional engineer/land surveyor that all street construction and other improvements incidental thereto have been constructed in accordance with the previously approved street plan and profile drawings as required under § 155.47 Final Plat Required (B) have been received and accepted; and**
- **The City has determined that all improvements have been properly installed; the final plat has been approved; and all applicable requirements of the subdivision regulations and zoning code have been met.**

John Krieb seconded the motion and the motion carried with a 9-0 roll call vote.

Public Hearing: Set zoning to R-2 for 255 King Richard Drive – Roger Haney: Mr. Gilbert gave a brief background of the property. The Planning Commission forwarded a request to the City Council to annex this property into the city limits primarily due to the request for city services. The annexation request was approved by the City Council on March 9, 2017. To amend the jurisdictional zoning map the Commission must find that the amendment request is in agreement with the underlying Comprehensive Plan. Adjacent properties are zoned R-2 (Single Family Residential District) and the existing home is a permitted use in the R-2 zone. The R-2 zone is considered an appropriate zone for the Low Density Residential land use designation. Based on the facts that the subject site is identified as Low Density Residential Use on the Comprehensive Land Use Map and is within the Urban Services Area, Planning staff believes that consistency findings can be made for the proposed rezone.

Chairman Kind opened the public hearing and asked if there was anyone that wished to speak in favor or opposition to the proposal. There was no one that spoke either in favor or opposition; thus, the public hearing was closed and the item turned over to the Commissioners for discussion and a motion.

John Krieb made a motion to recommend approval to the City Council the zone amendment request to R-2 (Single Family Residential) for the 0.485 acre tract of land located at 255 King Richard Drive based on the following findings of fact: the testimony presented in this public hearing has shown that the amendment request to the jurisdictional zoning map is in agreement with the underlying Comprehensive Plan; the subject site is identified as Low Density Residential Use on the Comprehensive Plan Land Use Map and is within the Urban Services Area; the R-2 zone is considered an appropriate zone for the Low Density Residential land use designation and the existing residence is a permitted use in the R-2 zone. Jordan Smith seconded the motion and the motion carried with a 9-0 roll call vote.

Public Hearing: Set zoning to R-4 for 20 acres of land located on Brinn Road (North 16th Street) for City West, LLC – Matt Jennings: Mr. Gilbert explained that the applicant has requested the subject property which fronts Brinn Road to be zoned R-4 (Multi-Family Residential). This request is necessary due to the Commission's action and City Council's approval (March 9, 2017) to annex this property into the City limits. Mr. Gilbert described the current zoning of the adjacent properties. The proposed R-4 (Multi-Family Residential) zone allows single family and multiple family residents up to four-units and is not considered a

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consistent zone with the underlying Low Density Residential land use designation. To approve the zoning amendment request the Commission must find that the request is in agreement with the underlying Comprehensive Plan (listed in §156.063). During its deliberations the Commission would need to make one of the two following findings in order to approve the R-4 zone amendment request.

- The existing zoning classification given to the property is inappropriate and the proposed zoning classification is appropriate.
- There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted Comprehensive Plan and which have substantially altered the basic character of such area.

Mr. Gilbert then explained the difference in R-2 and R-4 zoning to the Commissioners. The R-4 zone will allow (with a Conditional Use Permit) a variety of land uses including: fraternity and sorority houses, convalescent, nursing, rest and retirement homes, day care and nursing schools, commercial offices and personal service uses (such as barber and beauty shops). The zone also allows the use of the PDP (Planned Development Project). Basically R-4 is a pretty wide open zone and much more intense than what the Comprehensive Plan calls for. The subject site is identified as Low Density Residential Use on the Comprehensive Plan Land Use Map and is within the Urban Services Area. If the Commission chooses to approve the R-4 zoning as requested, the Comprehensive Plan would need to be amended as well. This action would need to be included as part of the Commissioner's decision.

The question was asked if there had been a traffic study conducted of the area. Mr. Gilbert replied that in his experience, area wide analysis is done of segments and intersections. Even though a traffic study is a fairly common feature that is done, the City has the ability to ask for one, but they do not require one. However, if they felt like there was an overall intensity with this development, they would ask for one.

Chairman Kind opened the public hearing and asked if there was anyone that wished to speak in favor or opposition to the request.

David Roberts made a note for the record that City West was notified of the meeting and that there was not a representative present to speak in favor of this request. The following people came forward in opposition and were sworn in individually:

Linda Demrow and her husband have resided on Brinn Road (adjacent to the subject property) for approximately 20 years. She stated between 7 and 8 am and 3 and 4 pm traffic is so excessive on North 16th Street/Brinn Road from existing apartments and school traffic to the point that she can't even get out of her driveway. She was under the assumption that R-2 zoning protected their large investment in a home; however, with the recent R-4 crowding within close proximity, she feels threatened that her property values could go down. Ms. Demrow explained that she had taken pictures of the R-2 areas in her neighborhood as well as some of the newly constructed R-4 buildings. (*These pictures were entered as Exhibit A.*) Ms. Demrow is very concerned about what these apartments will look like in 20 years. The front yards for these multi-housing units are a concrete parking lot. There is practically no green space. She

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anticipates that noise will be an issue with that many additional vehicles and people if this proposal is approved for multi-family. She continued that her neighborhood is the most harmonious place that she has ever lived and she does not want that atmosphere to change. Ms. Demrow also presented a petition with 29 neighboring signatures that object to this rezoning. She added that there was only one home that she went to that did not want to sign the petition. Their reason for not signing was because they rent the property from Matt Jennings. (*The petition was entered as Exhibit B.*)

Mason Cook has lived at his residence for 17 years. The Cooks bought this particular property because it was zoned residential. It's a quiet neighborhood and convenient in closeness to Walmart, restaurants and gas stations. Mr. Cook explained that on Friday and Saturday nights there are young people congregated at one of the housing developments south of this property and there is a lot of noise where police are summoned at least 3-4 times each night. He fears the same problem in his neighborhood will occur if the subject property is rezoned. Mr. Cook concluded that if this property is rezoned to R-4, they will be forced to sell their property and relocate somewhere else.

Austin Cohoon is originally from Murray. He and his wife have moved to other cities and countries for work. He recently had the opportunity to live anywhere he wanted and still work for the same company. He chose to move back to Murray to start a family. He bought his home on Brinn Road with that in mind; however, he will not continue to live there if an apartment complex is constructed at this site. Matt Jennings lives at the lake next to Mr. Cohoon's parents. Mr. Cohoon doesn't think that Mr. Jennings would want to buy or live in his home if apartment buildings were constructed next to it. North 16th/Brinn Road is not that wide and that contributes to lots of accidents on this road. Mr. Cohoon indicated that an additional R-4 complex could have a serious impact on the residents of this neighborhood and he could foresee an increase in accidents on the road.

Regina Manis and her husband currently own approximately 24 acres on the corner of Brinn & Poor Farm Road. (They previously had a total of 50 acres; but sold some of the property for residential family dwellings.) Ms. Manis believes that Brinn Road is not wide enough and constantly sees where vehicles have run off the road. She added that police are frequently running up and down this road at night and she is afraid to think of how bad it will be with another apartment complex added to the area. It is her belief that this proposal would ruin their property value; therefore, she is against it. Ms. Manis did state that if Mr. Jennings should decide to put residential (R-2) single dwelling homes there, she would not be in opposition to that.

The public hearing was closed and the item turned over to the Commissioners for discussion and a motion. The question was asked if this item could be tabled until City West could send a representative to speak in favor of this request. Attorney David Perlow reminded the Commissioners that there had been no one that came forward to speak in favor of the proposal and that City West was made aware of the meeting and didn't send a representative. Mr. Roberts clarified that the first reading of the annexation of this property is on March 24th; thus, the property is actually not in the City limits at this point. It takes two readings for the annexation process to be complete. He added that if the Commissioners should deny this request for R-4 zoning, they could also make another motion with a recommendation for a more appropriate zone.

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John Krieb made a motion to recommend denial to the City Council the zone amendment request to R-4 (Multi Family Residential) for the 20.01 acre tract of land located on Brinn Road because the testimony presented in this public hearing has shown that amendment request to the jurisdictional zoning request is not in agreement with the underlying Comprehensive Plan land use designation of Low Density Residential and a variety of other concerns expressed by the citizens of the area. Robin Zhang seconded the motion and the motion carried with a 9-0 roll call vote.

Marc Peebles made a motion to recommend to the City Council that the zoning be set for the 20.01 acre tract of land located on Brinn Road as R-2 (Single Family Residential) based on the fact that this zone will be in agreement with the Comprehensive Plan. John Krieb seconded the motion and the motion carried with a 9-0 roll call vote.

Questions and Comments: Commissioner Pavlick now serves as the County representative for the Planning Commission. He explained that he has asked Judge Elkins to replace him on the Planning Commission. He said that he is currently the oldest member serving on this committee and he feels that he needs to be replaced by some “younger blood”. Commissioner Pavlick expressed that it had been an honor to serve as a Commissioner. He added that he will continue to serve until the Judge makes a recommendation. Chairman Kind thanked Mr. Pavlick for his service.

Commissioner Zhang was concerned with the number of gas stations that are being built. She referenced Casey’s and continued that someday they will close and then there will be a gas tank underground on that property. Mr. Roberts said that we cannot prohibit things that fit the zone. Attorney Perlow explained that there are regulations in place for underground gas tanks.

Ms. Demrow thanked the Commissioners for their decision tonight on the Brinn Road property. Chairman Kind said that the Commissioners only make recommendations and the City Council makes the final decision. Ms. Demrow again voiced her appreciation for the Commissioners efforts. Mr. Roberts explained that the neighbors were welcomed to attend the City Council meeting when this item is added to their agenda. The agenda will be posted on the City website prior to the meeting. It was also explained that if anyone wishes to be speak at the City Council meeting, they have to contact the Mayor’s office the day before the meeting to make that request.

Ed Pavlick made a motion to adjourn. Loretta Jobs seconded the motion. Chairman Kind adjourned the meeting at 5:25 p.m.

Chairman, Tom Kind

Recording Secretary, Recta Gray

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Commissioners Absent: None

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Jordan Smith made a motion to recommend approval to the City Council to accept the dedication and improvements of Octane Drive into the City's public street system based on the following facts and findings:

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- The testimony presented in this public hearing has shown written certification from a registered professional engineer/land surveyor that all street construction and other improvements incidental thereto have been constructed in accordance with the previously approved street plan and profile drawings as required under § 155.47 Final Plat Required (B) have been received and accepted; and

- The City has determined that all improvements have been properly installed; the final plat has been approved; and all applicable requirements of the subdivision regulations and zoning code have been met.

John Krieb seconded the motion and the motion carried with a 9-0 roll call vote.

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Chairman Kind opened the public hearing and asked if there was anyone that wished to speak in favor or opposition to the proposal. There was no one that spoke either in favor or opposition; thus, the public hearing was closed and the item turned over to the Commissioners for discussion and a motion.

John Krieb made a motion to recommend approval to the City Council the zone amendment request to R-2 (Single Family Residential) for the 0.485 acre tract of land located at 255 King Richard Drive based on the following findings of fact: the testimony presented in this public hearing has shown that the amendment request to the jurisdictional zoning map is in agreement with the underlying Comprehensive Plan; the subject site is identified as Low Density Residential Use on the Comprehensive Plan Land Use Map and is within the Urban Services Area; the R-2 zone is considered an appropriate zone for the Low Density Residential land use designation and the existing residence is a permitted use in the R-2 zone. Jordan Smith seconded the motion and the motion carried with a 9-0 roll call vote.

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deliberations the Commission would need to make one of the two following findings in order to approve the R-4 zone amendment request.

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