

**MURRAY PLANNING COMMISSION MINUTES
REGULAR MEETING
TUESDAY, SEPTEMBER 20, 2005**

The Murray Planning Commission met in regular session on Tuesday, September 20, 2005 at 5:00 p.m. in the council chambers of City Hall located at 104 N. 5th Street.

Commissioners Present: Ed Davis, Loretta Jobs, Tom Kind, Howard Koenen, Mike Lovins, Ed Pavlick, Marc Peebles, Dave Ramey, Nelson Shroat and Richard Vanover

Commissioners Absent: none

Also Present: Candace Dowdy, Sam Perry, David Roberts, Mike Pitman, Larry Hurt, Harold McReynolds, Pat McReynolds, Greg McReynolds, Sue Spann, Tom Dowdy and other public audience

Chairman Vanover called the meeting to order at 5:03 p.m. and welcomed the guests. Chairman Vanover asked for approval of the August 16, 2005 regular meeting minutes. **Ed Pavlick made a motion to approve the minutes as presented. Howard Koenen seconded the motion and the motion carried by a 10-0 voice vote.**

Review Of Final Subdivision Plat—Hunters Pointe Estates Phase 2—Robertson Road North & Hwy 94 West—Harold McReynolds & Larry Hurt: Candace Dowdy stated that the final plat for Phase 1 was approved the previous month. Phase 2 consists of 25 lots. There are 15' public utility easements along the front of the properties, and 12' public utility easements along the rear. There are 10' drainage easements on lots 33, 84, 85, 86 & 93. A combined letter of credit for both phases has been presented, representing costs of outstanding improvements, for a total of \$227,000. An itemized breakdown has not yet been submitted. The sewer has been installed and tested. The water main has been installed but not tested. The storm sewer has been installed. Approximately 90% of the streets have been graveled and passed the proof roll test. The streets have to be paved and approximately 35% of the curb and gutter has been completed. The 911 addresses have been assigned. Commissioner Peebles asked who would maintain the entrance gates. Ms. Dowdy stated that the developers have decided to form a homeowner's association and that the plat will be changed to reflect this addition. Ms. Dowdy concluded that the city was not responsible for the maintenance of the entrance gate and that the developer had also made a note in the covenants and restrictions regarding the maintenance of the entrance gate.

Director of Planning & Engineering, David Roberts came forward to explain stormwater drainage for the subdivision. Mr. Roberts stated that the zoning ordinance requires a letter from adjoining property owners when the location of runoff to the adjacent property is changed or the type of runoff is changed. The developers were not able to come to an agreement with the adjacent property owners and acquire the letter. The original change in type, in this case, was a change from sheet flow to concentrated flow. Mr. Roberts pointed out on the slides the path of stormwater runoff through the included drainage easements. As a result of not obtaining the letter, the developers have planned a detention area for the subdivision which would convert concentrated flow to sheet flow using a weir drainage system. There will also be detention in underground pipes. Mr.

Roberts explained the natural drainage tendencies using contour lines. Mr. Roberts stated that the professional engineer for the project, Kim Oatman, was present to explain the change in stormwater drainage plans. Mr. Oatman presented Exhibit 1, Stormwater Detention Summary, to the Planning Commission. Mr. Oatman stated that detention will be placed in the area between Hunters Horn and Cornwall Drive which would keep the flow from increasing at all. The original design was no increase in flow, but it was to be channelized. Mr. Oatman stated that the property owners have decided to forgo lot 43 and use it for a detention area. Mr. Oatman explained that the detention area will collect water that has been channelized and turn it into a pond with weir outflow. The outflow will be over level concrete which will flow down to the ground, which has always been sheet flow before. Mr. Oatman stated that by building the detention area and weir outflow structure, there is not a need for a letter of agreement from the adjacent property owner. Mr. Oatman explained that there was about nine (9) feet of elevation change from the highest point to the detention area of the subdivision. Mr. Oatman summarized by saying the current plan stays 30' back off the property line with the outflow, which then flows to the riprap and spreads out before ever going to the adjacent property, which was previously channelized. Commissioner Kind asked if the net flow from the property is staying the same. Mr. Oatman stated that it was less, pointing to the hydrograph, that a 100-year storm event was previously 75.62, and now was 75.27 with the proposed structure.

Commissioner Pavlick asked if Exhibit 1 reflected the latest street names. Mr. Oatman stated that they did not. Candace Dowdy stated that those changes have been made by V.L. Associates. Chairman Vanover asked if there were any further questions. **Tom Kind made a motion to approve the final subdivision plat for Hunters Pointe Estates contingent upon meeting all city regulations. Loretta Jobs seconded the motion and the motion carried with a 10-0 vote.**

Review Of Final Subdivision Plat—Hal Estates—Robertson Road North—Sue Spann: Candace Dowdy explained that Hal Estates was bordered by Murray State property to the north and east, Dixon property to the south and Robertson Road North to the west. The subdivision consists of 45 lots. Ms. Dowdy stated that there were no problems with the covenants & restrictions and passed out copies to the Planning Commission. Ms. Dowdy stated that the covenants & restrictions had not been placed on the final plat yet. Ms. Dowdy stated that she had checked with the county 911 coordinator and the existing city street names and found no problems. Ms. Dowdy stated that 911 addressing has been done, but needs to be added to the plat. Ms. Dowdy stated that there are 15' public utility easements along the front of the lots, 12' public utility easements along the rear of the properties, with the exception of a 10' easement on the property adjacent to the Dixon's property. Ms. Dowdy explained the location and need for 20' stormwater drainage easements, using slides of the plat. Ms. Dowdy pointed out a 30' x 50' area that has been designated for a pumping station. Ms. Dowdy stated that 50' front setbacks on lots facing Robertson Road North were not noted on the plat, but that the houses may be required to face interior streets. Front setbacks for the subdivision lots are 35'. A letter of credit for \$120,000 has been received for the outstanding improvements to the development, which is valid until April 12, 2006. The sewer has been installed and 50% has been tested. The storm sewer has been installed. The water main has been installed and tested. The streets have been cut, they still need graveled and proof-rolled. The curb and gutter still needs to be installed. The electric needs to be

installed. Commissioner Pavlick questioned number seven (7) of the covenants & restrictions regarding “no trailer shall be parked on a lot at any time,” if that was referring to boats and recreational vehicles. Commissioner Pavlick asked if it could be parked on a lot even if it was not used as a temporary or permanent residence. Candace Dowdy stated that these restrictions were identical to Saratoga Springs. Commissioner Pavlick stated that it simply may need to be clarified, whether it is referring to manufactured homes or recreational vehicles. Commissioner Shroat asked for more explanation of whether it was referring to single-wide, double-wide or triple-wide manufactured homes. Tom Dowdy with VL Associates stated that the intent was to prohibit the parking of recreational vehicles in the open, requiring that no matter where they were on the lot, they be in an enclosed building. Chairman Vanover asked for a motion if there were no further questions. **Mike Lovins made a motion to approve the final subdivision plat for Hal Estates contingent upon meeting all city regulations. Loretta Jobs seconded the motion and the motion carried with a 10-0 vote.**

Sign Committee Recommendations Of Possible Amendments To Section III, Article 1, Sign Regulations: Chairman Vanover stated that the sign committee has met twice and is bringing recommendations to the Planning Commission for review. Sam Perry presented the commissioners with the sign committee recommendations put into the form of the zoning ordinance. Mr. Perry stated that the major topics of discussion were temporary signage and nonconforming signs on 12th Street. Mr. Perry stated that the zoning ordinance amendment passed in March 2005, requiring monument-style signs on 12th Street did not address the grandfathering, removal or phasing out of nonconforming freestanding signs. The sign committee is recommending a time frame of ten (10) years from the enactment of this amendment, to phase out the nonconforming, freestanding signs. In order for the time frame to be enforced, there needed to be some repercussions for not removing the sign. The sign committee is recommending that the same regulations requiring the property owner to pay for the removal of a sign, also be extended to signs which have lost legal nonconforming status, namely those exceeding the time frame on 12th Street, which have not been removed in the appropriate time frame. Mr. Perry stated that the sign committee recommended clarifying “overall” instead of “maximum” height in the guidelines for monument-style signage. Mr. Perry stated that the sign committee recommended establishing a guideline for column width due to the measurement for sign area only addressing the center portion, not overall width or depth. The recommended depth and width is 30”. Candace Dowdy stated that there were approximately 105 nonconforming signs along the 12th Street corridor and approximately eight (8) that were conforming, monument-style signs. Ms. Dowdy stated that even some of the new monument-style signs did not conform to the guidelines. Commissioner Lovins asked if those would be grandfathered in. Mr. Perry stated that they would. Commissioner Shroat stated that he does not want the city to become the sign-Nazis of Murray. Commissioner Shroat agreed that there are some signs that need to go and there are some that need to be looked at very closely. Commissioner Shroat recommended that the ordinance be looked at very closely in this process. Mr. Perry stated that a recommendation from the sign committee was one of education to the public. The public is still not aware of the changes to the sign regulations, even though there were numerous informational meetings and public hearings offered. In a tenant/landlord situation, the tenant may not have any idea of the regulation changes. Some type of notification method, possibly the business license renewal, will be used to

notify property owners and business owners of signs in nonconformance. Mr. Perry stated that even if there are no changes to the sign regulations regarding a phase-out of nonconforming signs, business and property owners still will be notified of nonconformance, due to the adoption of the new regulations in March 2005. Commissioner Jobs asked if there were new monument-style signs built within the last 18 months that were not in conformance. Mr. Perry stated that there were some that, although they were monument-style, did not meet the technical requirements for square footage or height. Mr. Perry gave the example of Family Dollar/Movie Gallery: under the new regulations the sign could not exceed 55 square feet, because there are fewer than four (4) businesses in the development. Commissioner Jobs questioned forcing businesses with monument-style signs to have to modify them to meet new requirements. Mr. Perry stated that those in nonconformance were constructed prior to the new regulations which outline the technical requirements for such signs. Candace Dowdy stated that there were many businesses with nonconforming signs, that have been continued to be used, because there have been no attempted modifications. Ms. Dowdy stated that some of the nonconforming monument-style signs were given variances through a negotiation process by the BZA, in exchange for the removal or reduction in other signage. Ms. Dowdy stated that prior to the amendment of the sign regulations in March of this year these newer signs could have been 24' in height. Commissioner Jobs asked if 80 square feet was the maximum size allowed for monument-style signs, even if there were 20 businesses in the development. Staff confirmed yes. Commissioner Jobs stated that 80 square feet was very limiting. Ms. Dowdy stated that there were no new recommendations from the sign committee on the maximum square footage. Commissioner Jobs stated that the regulations seemed discriminatory against some businesses.

Mr. Perry stated that there were other methods for the phase-out of nonconforming signs discussed. One method discussed was that if property ownership changed, the sign would immediately have to come into conformance without waiting the discussed ten (10) years from date of adoption. Mr. Perry stated that ten (10) years is being recommended, regardless of how long the property has been owned, so that everyone is treated the same, and there is not an economic hardship on new buyers. Chairman Vanover stated that the recommended changes do not follow the same code enforcement that applies when new restaurants are required to update building safety codes when the business changes hands, citing Mugsy's Hideout. Mr. Perry stated that code enforcement tends to be different for building and fire safety. Chairman Vanover commented that a ten (10) year old sign is usually ready for replacement anyway, although it is somewhat of a financial burden. Commissioner Shroat commented that ten (10) years is enough time for business owners to save money for the upcoming sign replacement. Commissioner Shroat also commented that there are some signs that are historic elements to Murray. Candace Dowdy stated that there is already text in the zoning ordinance that requires a nonconforming sign advertising a discontinued business to be removed and any new sign to be constructed in conformance with the current ordinance, according to Section III, Article 1, (J) (3). If it is not removed, it can be removed by the zoning official at the owner's expense, with the penalty of a lien being attached to the lot on which the sign was located, according to Section III, Article 1, (A). Ms. Dowdy stated that there are signs along 12th Street that should have been removed a long time ago; the property owners have just never been made to remove them.

Ms. Dowdy updated the commissioners on the status of the attempted maintenance of the Southside Shopping Center sign. Ms. Dowdy stated that the Lillys have been getting quotes from contractors regarding painting the sign and that she has passed on the information of recommended changes that may force a phase-out of the current sign. Ms. Dowdy stated that it is important that business owners know that the monument-style signs do not have to be expensive or elaborate, they could be made with two wooden posts, with a professionally done sign in between, as long as the criteria for the base and landscaping is met. Chairman Vanover asked if the new South Center sign was in conformance. Ms. Dowdy stated that it was. Commissioner Shroat asked if the ESAVZ sign was in conformance. Ms. Dowdy stated that it was put on a pole that has been there for a very long time. Mr. Perry stated that it was given a sign permit, because the policy has always been to allow replacement of signage on existing structures, even if nonconforming. Mr. Perry stated that the new policy, recommended by the sign committee will be to require that the removal of the sign means the entire sign, including the pole, not just the sign area. Ms. Dowdy stated that according to Section III, Article 1, (J) (3), the nonconforming sign has to be removed when the business is discontinued, and that means the entire sign structure. Commissioner Jobs concluded, questioning that when permitted sign size is calculated, the pole and structure are not included, so there is a difference between "sign" and "sign area." Ms. Dowdy confirmed.

Sam Perry presented a recommendation from the sign committee excluding balloons from prohibited signage for business announcements. Mr. Perry stated that there was much discussion in the sign committee meetings, and allowing balloons with a standard temporary sign permit was the conclusion. Commissioner Peebles asked if a sign permit had been issued for the Re/Max hot air balloon during the football game the past weekend. Mr. Perry stated that one had not, but that the planning department had heard about it. Ms. Dowdy stated that a letter will be sent to the business explaining the prohibition of tethered balloons by the zoning ordinance. Commissioner Jobs asked about the size of the balloon. Commissioner Peebles stated that there were discussions in the sign committee meeting regarding what the definition of a balloon was, and the presented changes read much easier, by not being size specific.

Sam Perry presented a recommendation from planning staff regarding construction signs: that they only are permitted if a building permit has been issued. Chairman Vanover asked if that would address the El Patio sign that has been in front of Lowes for four (4) years. Mr. Perry stated that it would. Mr. Perry stated that there have been some problems with signs being erected with no construction going on for months or even years later. It is confusing to the public. There are other cities that use similar text. Commissioner Pavlick asked if the issue with the HeartWalk yard signs had been addressed in the sign committee meetings.

Sam Perry stated that it has been addressed by staff, but only regarding the size of temporary signs in residential zones. Mr. Perry stated that staff has never been presented with requests similar to what HeartWalk wants to do, to be able to put yard signs in numerous yards in Murray, both business and residential. Chairman Vanover asked if a sign permit fee was required for such events. Mr. Perry stated that a sign permit is not required, but a performance bond of \$25.00 is required, which is returned when the sign

is removed. Chairman Vanover asked if the ordinance could be changed so that charitable organizations would not have to put up the performance bond because they usually do not have cash available. Commissioner Peebles asked if there have been any problems with such organizations leaving their signs up after the event. Mr. Perry stated that if so, it was only three (3) or four (4) days. Commissioner Peebles asked if any of the organization's representatives have had trouble coming up with the \$25.00. Mr. Perry and Ms. Dowdy stated that there had not been any problems obtaining the required deposit. Chairman Vanover stated that the Heart Association had informed him that they could not put down the \$25.00 performance bond. Commissioner Pavlick stated that yard sale signs being left on poles seem to be more of a problem. Mr. Perry stated that the commercial corridors are where temporary signs are noticed the most and where it is the biggest problem. Mr. Perry stated that the March 2005 amendment to the sign regulations limit temporary signs for community events to two (2). Chairman Vanover recommended waiving the performance bond requirement for charitable organizations. Commissioner Peebles recommended the 501 (c) (3) status as a validation. Commissioner Lovins stated that simple "non-profit" labeling would take in a large number of community organizations and make it difficult to draw the line. Commissioner Pavlick recommended making a text change that would allow each organization to be taken case by case, to determine if they should put down a performance bond. Commissioner Peebles and Commissioner Kind agreed that it should be no problem for charitable organizations to come up with the performance bond. Legal counsel, Mike Pitman, stated that any number of temporary signs could be put up in residential districts without violating the ordinance. Mr. Perry confirmed and stated that business districts are where the main problem is. Candace Dowdy reminded the commission that some businesses are actually using the signs to advertise their own business name, which could also be viewed as off-site advertising, which is prohibited. Ms. Dowdy stated that the planning department is a supporter of community events, but the commission needs to be aware of these issues. Chairman Vanover stated that it is questionable whether just a business name by itself would be considered advertising. Commissioner Pavlick stated that charitable organizations are going to have hard enough time as it is, with the Hurricane disaster, regardless of the sign issue. The commission agreed to bring these issues to a public hearing.

Commissioner Jobs asked if 14 days was long enough for a community event to advertise. Mr. Perry stated that was a good point, and that the commission should envision yard signs and/or banners in the yards of businesses up and down 12th Street, to determine if that is something they would like to see; or if they would like to allow longer time for banners, and not the smaller yard signs in question. Commissioner Jobs asked if church events fell into the same category. Staff stated that they did fall into the category of community events, because it was an event in the city, open to the public. Mr. Perry stated that there have been no problems with churches coming up with the performance bond. Mr. Perry stated that it brings accountability to the organization, that the sign is maintained and removed properly. Commissioner Jobs stated that there are times when there are multiple fundraisers going on at the same time. Mr. Perry stated that this issue was part of the reason for the Chamber of Commerce sign; so that charitable organizations will have a way to advertise their event when they may not otherwise have a means of advertising.

Sam Perry presented a recommendation from the sign committee regarding new subdivision signs. Mr. Perry stated that subdivision signs are both real estate and construction signs. They have always been allowed under the guidelines for construction signs. The recommendation is to allow 32 square feet for a subdivision sign, to be removed upon the completion of sales of 80% of lots. Commissioner Peebles asked if Commissioner Jobs had any advice as to whether a developer would agree with that. Commissioner Jobs stated that there still was a sign in Murray Estates advertising lots for sale. Mr. Perry stated that a subdivision may sit for many years with one (1) or two (2) lots for sale. Commissioner Kind stated that the sign committee discussed that the residents in the subdivision may not want the sign at all. Commissioner Koenen recommended that these recommendations be sent back to the committee since there was so much discussion and so the commission could better defend its recommendations. Legal counsel, Mike Pitman, stated that there is no formal decision being made tonight. Chairman Vanover recommended that a public hearing be held, to get feedback from the public. Commissioner Koenen questioned if staff had enough personnel to enforce the recommendations in the form of an ordinance. Chairman Vanover stated that there had been good discussion and good points made regarding these recommendations. Commissioner Pavlick asked about scheduling the public hearing. Sam Perry stated that the first uniform cell tower application public hearing would be the next month. The commission agreed that November would be the earliest time to hold the public hearing regarding text changes to the sign regulations. Chairman Vanover asked Mike Pitman if there was any urgency. Mike Pitman stated that there was a citation in court regarding temporary signage that changes to the ordinance could influence. Mr. Perry stated that it had been dismissed by the court. Mr. Pitman stated that the commission does not take the angle of defending the recommendations. The main problem has been that very few people have attended the informational meetings and public hearings.

Ed Davis excused himself from the meeting for a prior engagement.

Follow-Up Of Proposed Amendments To Subdivision Regulations And Zoning Ordinance Regarding Spec Homes In Residential Subdivisions Being Used As A Temporary Sales Office: Chairman Vanover asked for a presentation of the follow-up of information regarding spec homes as temporary real estate offices. Sam Perry stated that Lexington was the only city in Kentucky that has any accommodations for this type of land use. Mr. Perry stated that since the use is of business nature, it is not permitted in residential zoning districts, therefore the zoning ordinance does not address the request recently brought to the planning department. Mr. Perry stated that some of the concerns were time limits, whether to include it in the subdivision regulations, and categorizing in conditional or permitted uses. Mr. Perry read the recommendation as follows, under conditional uses in R-1 and R-2 zoning districts:

“Temporary real estate sales offices in new subdivisions for up to two (2) years from preliminary plat approval, for the sale of lots located only within the subdivision in which said lots are located. Sales to be conducted by owner or a single, designated agent of said owner. Location must be approved by Murray Planning Commission through subdivision approval process.”

Legal counsel, Mike Pitman, stated that the BZA could place more restrictive conditions, such as less than two (2) years on the permit. Chairman Vanover asked if the wording "spec home" should be in the text, to avoid the use of small outbuildings and sheds for this purpose, such as in Murray Estates. Candace Dowdy stated that it could be added. Mr. Perry stated that the zoning ordinance does not allow accessory structures on lots by themselves. The commission, as well as legal counsel, agreed that it could be clarified to read, "spec home." Commissioner Shroat asked if more than one spec home can be built in a subdivision. Staff stated that could be done, only after final plat approval. Ms. Dowdy explained that until final plat is approved, there is technically only one lot of record. Commissioner Jobs asked for a clarification of "designated agent." Mr. Perry stated that it is referring to the person handling the sales of the homes/lots, not necessarily a real estate agent. Commissioner Jobs stated that she has visited much larger subdivisions in Naples, Florida where there were six (6) builders who each had their own designated agent. Commissioner Jobs stated that it complicated things to have more than one (1) builder. Commissioner Pavlick agreed. Staff stated that it can be clarified to reflect the intention of the commission, for one builder/developer to have a spec home/temp real estate office. Commissioner Pavlick stated that there are also lot speculator/builders to be thinking about. Commissioner Jobs stated that she wanted to avoid discriminating against other builders. Mike Pitman stated that the BZA can address those issues in the conditional use permit process. Commissioner Lovins stated that there are builders now that use lot speculation as a means to build and sell lots. Mike Pitman recommended clarifying that it be limited to the original developer/builder, not each individual builder who buys lots to build and sell them. Chairman Vanover asked if an open house was considered a sales office. Mr. Perry stated that it would not be. Commissioner Jobs stated that there could be open house every day. Mr. Perry stated that was probably abusing the interpretation. Commissioner Jobs stated that if this regulation is not limited to one developer, one agency and one builder, then open house every day is sure to happen. Mr. Perry stated that it would not be an issue if there was not excessive traffic, noise or other nuisance to the vicinity. If it was a nuisance, the open houses would have to be stopped. The commission came to the consensus that building spec homes (one or many) was not a problem with the current ordinance, but when a selling agent starts keeping regular hours in one of the spec homes, than it becomes an issue.

Candace Dowdy stated that the covenants and restrictions for Hunters Pointe did not allow buyers of lots, to hold on to lots for more than 12 months. Construction had to be complete within 18 months from the date of the building permit. That restriction reduces the lot speculation tendency. Commissioner Koenen asked why the regulation was needed in the first place. Commissioner Koenen asked what would happen if the regulation was not adopted. Murray has expanded to this point without such a regulation. Ms. Dowdy stated that it was simply a new idea that the commission felt was worthwhile to take a closer look at. Mr. Perry stated that it could make the sales of new lots more efficient for the developer. Commissioner Shroat asked how many builders built Canterbury and all the other subdivisions. The remainder of the commission stated that there were multiple builders. Commissioner Shroat asked if there were sales people representing. Commissioner Pavlick stated that normally there are no sales people. Chairman Vanover asked if there were any other questions or comments.

Being none, and no further business, the meeting adjourned at 6:40 p.m.

Chairman, Richard Vanover

Recording Secretary, Sam Perry