

**MURRAY PLANNING COMMISSION MINUTES
REGULAR MEETING
TUESDAY, JANUARY 17, 2006**

The Murray Planning Commission met in regular session on Tuesday, January 17, 2006 at 5:00 p.m. in the council chambers of City Hall located at 104 N. 5th Street.

Commissioners Present: Tom Kind, Howard Koenen, Mike Lovins, Marc Peebles, Nelson Shroat, Ed Pavlick and Richard Vanover

Commissioners Absent: Ed Davis, Loretta Jobs and Dave Ramey

Also Present: Candace Dowdy, David Roberts, Sam Perry, Mayor Rushing, Payton Mastera, Mike Pitman, Joe Sons, Kristen Taylor and other public audience

Chairman Vanover called the meeting to order at 5:00 p.m. and welcomed the guests. Mayor H. Thomas Rushing came forward and introduced Payton Mastera, intern from Murray State University, stating that his internship with city administration was the final project for his Master of Science in Public Administration. Chairman Vanover asked for approval of the December 20, 2005 regular meeting minutes. **Ed Pavlick made a motion to approve the minutes as presented. Nelson Shroat seconded the motion and the motion carried by a 7-0 voice vote.**

Review Of Final Plat—Fairfield Subdivision Unit 2—Robertson Road South—D & D Incorporated—Dale Campbell: Candace Dowdy stated that there was 17 lots in the subdivision. There are 30' setbacks in the front, 25' in the rear and 10' on the interior sides. Public utility easements are dedicated throughout the property. A six-month extension was approved in November 2005. Ms. Dowdy stated that the weather has delayed Mr. Campbell in completing the street paving and that sidewalks have been required along the north side of Traci Drive. A letter of credit will be required for the outstanding improvements. Water and sewer installation is completed and gas service has not been requested at this time. Commissioner Shroat asked where the nearest gas main was. David Roberts stated that there was gas service available on the east side of Robertson Road, but that it was not mandatory. Commissioner Pavlick stated that there was some preliminary advertisement being done for the sale of lots in the subdivision because there is a sign up on the property. **Tom Kind made a motion to approve the final plat for Fairfield Subdivision, Unit 2, contingent upon meeting all city regulations. Ed Pavlick seconded the motion and the motion carried with a 7-0 vote.**

Request For Annexation—23.829 Acres—Robertson Road South—D & D Incorporated—Dale Campbell: Candace Dowdy noted the location of Fairfield Subdivision, Unit 2. Ms. Dowdy stated that Mr. Campbell will be developing six more lots, but that they are not currently in the city. Ms. Dowdy stated that the Planning Commission held an advisory meeting to review a site plan for the proposed development of the remaining property as the Vintage Club. Ms. Dowdy stated that only 16 acres were originally requested for annexation and that this is the remaining acreage. Ms. Dowdy stated that the property falls within the Urban Services Area, and it is designated as low density residential. If the Planning Commission votes to move forward with the

annexation, it is the Planning Department's recommendation to set the zoning as R-2, single-family, since that is the nature of the current Fairfield development. Ms. Dowdy noted that Mr. Campbell has submitted a letter requesting annexation. **Mike Lovins made a motion to recommend to the city council to annex the 23.829 acres as requested. Howard Koenen seconded the motion and the motion carried with a 7-0 vote.**

Request For Six-Month Extension On Preliminary Plat For Saratoga Springs, Unit II—Paul Garland: Ms. Dowdy stated that the Planning Commission has reviewed this preliminary plat before. This development is north of Wiswell Road and consists of 81 lots. A 12-month extension was approved in February 2005, contingent upon the developer making the westernmost entrance to the property permanent. Originally, when this was presented to the Planning Commission, it was discussed as a temporary entrance. Five (5) lots were added on the northwest corner of the subdivision on Fontana Street. Other than the addition of the five (5) lots, the preliminary plat is the same as was previously presented. The total is now 86 lots. The streets have been cut and the sewer lines will be installed within the next two weeks. Commissioner Lovins stated that he had seen the opening cut for the western entrance. Commissioner Pavlick asked for the westernmost entrance to be pointed out on aerial photography. Ms. Dowdy pointed out the southwestern corner of the subdivision. Ms. Dowdy stated that the original intention was for a construction entrance. Commissioner Pavlick asked if it was known where the entrance on the very north of the property, near Squire Road, would be. David Roberts stated that the overall original plan showed that one of the roads was included as a through road, all the way to Squire Road. Commissioner Shroat asked why the developers for the proposed items on the agenda tonight were not present. Ms. Dowdy stated that Mr. Campbell was out of town. David Roberts stated that it was a good point, but that often times, the developers rely on planning staff to handle the presentations. Ms. Dowdy stated that Joe Sons, from V.L. Associates was representing the developers and could answer any questions. Commissioner Shroat stated that he felt like it should not be very difficult for the owner/developer to be present for their request. **Ed Pavlick made a motion to grant a six-month extension on the preliminary plat, expiring August 17, 2006, contingent upon the westernmost entrance being made permanent, as was previously granted. Mike Lovins seconded the motion and the motion carried with a 7-0 vote.**

Request For 90-Day Extension On Preliminary Plat For Hunters Pointe Subdivision—Harold McReynolds and Larry Hurt: Candace Dowdy stated that after speaking with the surveyor, Joe Sons, planning staff is now requesting a six-month extension to allow more time for the developer. Ms. Dowdy presented the overall original preliminary plat that was presented to the Planning Commission for Hunters Pointe. When annexation was requested for this property all of the zoning was set as R-2, except for six (6) lots on the southeast corner of the property. Originally, the property owners requested B-2 zoning, and with there being some controversy from the adjoining property owners, it was recommended that the zoning be set as Agriculture for the time being. The property owners will have to start the rezoning process in order to develop it into residential lots. Ms. Dowdy pointed out an entrance off Highway 94 west that was eliminated and an entrance off of Robertson Road North that was eliminated. Ms. Dowdy pointed out that there were several changes to the street and entrance layout.

There is a U-shaped street planned. Phase I and Phase II were granted final plat approval and were recorded last week. A letter of credit is required to cover the outstanding improvements. Commissioner Peebles asked if the commission would be presented a final plat for the remaining portion at a later date. Ms. Dowdy confirmed that they would. **Nelson Shroat made a motion to grant a six-month extension on the preliminary plat for Hunters Pointe Subdivision, expiring June 16, 2006. Mike Lovins seconded the motion and the motion carried with a 7-0 vote.**

Review Of Revised Preliminary Plat For Hunters Pointe, Phase III: Candace Dowdy stated that Phase III would consist of 37 residential lots. Originally, six (6) of the corner lots were to be zoned commercial, but the zoning was ultimately set as agricultural. The rezoning for those six (6) lots will begin soon. Ms. Dowdy pointed out the areas that were different than the original plat. Chairman Vanover stated that this plat would be brought back for review before it is finalized. **Mike Lovins made a motion to grant preliminary approval on the revised plat for Phase III, Hunters Pointe, expiring June 16, 2006, contingent upon the rezoning of the southeast corner from Agricultural to R-2 (Single-Family Residential). Tom Kind seconded the motion and the motion carried with a 7-0 vote.**

Discussion Of Chantilly Place Subdivision: David Roberts stated that Chantilly Place went through the Planned Development Process in 1993, final plat approval was given on the contingency that a letter of credit (LOC) be held for outstanding improvements. The utility improvements were completed, and ultimately the final letter of credit expired in 1999. The parking lot was not included in the engineering cost breakdown submitted with the LOC. A parking lot on lot 35 and a perimeter fence was presented to BZA and Planning Commission as improvements that would be made to the development. An allocation for the establishment of a Homeowner's Association (HOA) was made within the Covenants, Conditions and Restrictions (CC&Rs). The CC&Rs were recorded in a separate document and are on file in the Calloway County Clerk's office. The conditions of the HOA state that lots 1 and 35 were to be maintained by the HOA, after it was formed. That maintenance establishment was made as an exchange for the additional parking that would be provided to the development. It is designated as a striped area on the final plat. The reason that this was brought up is that the adjacent property owner to the southeast questioned the city as to when the parking lot and fencing was going to be completed. The fencing and sidewalk has been completed on the north side, because that is where the majority of the development has been. Habitat for Humanity has bought the remaining lots on the south side. The city has asked John Downs numerous times when he would complete the off-site parking. Mr. Downs' response has been that he graveled the parking area originally and that he has tried on two occasions to get the property owners interested in forming a HOA. The HOA should have already been in place, because that is how it was approved by the Planning Commission. In the mean time, City Council has approved an ordinance that restricts parking on the north side of the street. Legal counsel, Mike Pitman stated that Alpha Omega Corporation, the original developer, is not officially dissolved, but is administratively dissolved, because they have not paid their annual dues to the state of Kentucky, so no corporate activities can be officially conducted. David Roberts stated that the subdivision regulations state that the Planning Commission can induce fines and injunctions as well as restrict building permits if a development is not completed as approved. Mr. Roberts stated that there is action

that the Planning Commission can take to address this issue. Mr. Pitman stated that there was a discrepancy in the CC&Rs between lots 34 and 35, but that he interpreted the intention to be referring to lot 35. Lot 1 has been deeded to Jane Ann Turner by Alpha Omega Corporation. Ms. Turner resides on lot 2 and has no desire to be a part of the HOA. Lot 34 is owned by Habitat for Humanity and lot 35 is still owned by Alpha Omega Corporation. At the time of the final plat approval, John Downs signed as the principal officer of Alpha Omega Corporation. Mr. Pitman reiterated that the Subdivision Regulations do spell out penalty provisions which give three (3) options to the Planning Commission which are: (1) enjoin the developer, i.e. stop construction, (2) deny building permits or (3) implement a fine. David Roberts stated that the parking and the fencing are both concerns that need addressed.

Commissioner Kind asked how many parking spaces each residence had. Candace Dowdy stated that a single-wide driveway was planned for each residence, which should accommodate two (2) vehicles. David Roberts stated that prohibiting parking on the north side helped, but that the problem would grow as development continued on the south side. Commissioner Peebles asked if the city was starting down a slippery slope by enforcing outstanding improvements in a situation where the HOA was never formed or was dissolved. Commissioner Peebles questioned if the city now becomes responsible when the HOA is not formed. Mr. Roberts stated that is a question that staff is seeking a legal answer to, especially regarding the newer subdivisions. Mr. Roberts stated that it is not the desire of the city to maintain private parking areas. Mr. Pitman stated that the city would not be obligated to complete improvements on property not deeded to the city. Chairman Vanover asked if the LOC was released too soon and who was paying the property taxes. Candace Dowdy stated the Mr. Downs was responsible for the taxes. Commissioner Peebles asked where the improvement request originated. David Roberts stated that staff as well as several complaints from the public has initiated this concern. Candace Dowdy stated that the citation officer has had a very difficult time getting lot 35 mowed by the property owner this past summer. Mike Pitman recommended first sending a letter requesting Mr. Downs' presence at a Planning Commission meeting before seeking any penalty actions. Commissioner Kind stated that it is inevitable that Habitat for Humanity will build on the remaining lots, increasing the parking problem even more. Commissioner Peebles asked how many homeowner associations were active in Murray. David Roberts stated that one is planned for Saratoga Springs. Sam Perry stated that the HOA in Spring Creek Oaks was very active. David Roberts stated that Chantilly Place may have been the first attempt of one for Murray, and that this is an issue that many cities are seeking answers to. Commissioner Shroat stated that the HOA should be an agreement between the resident and the developer, not involving the city. Mike Pitman stated that he did not see any scenario where the city would be obligated to complete the parking lot. David Roberts stated that after numerous staff members listened to the meeting tape recording, it is evident that a perimeter fence and parking lot was promised by Mr. Downs. Mr. Roberts stated that it would have been difficult for the city to draw money from the LOC for the parking lot because that item was not included in the cost breakdown. **After discussion, the Planning Commission agreed that a letter be sent to John Downs requesting that he come to the next Planning Commission meeting to answer questions for the Planning Commission regarding Chantilly Place Subdivision.**

Chairman Vanover asked for any questions or comments.

Commissioner Pavlick stated that recently a recurring problem has become evident regarding “spotty” city annexations. This became evident because recently a house burned on North 16th Street that was the only city house in the strip. The 911 call was made from the neighboring house, in the county; therefore dispatch sent the county fire squad which was not able to respond in time. Commissioner Pavlick stated that every time the city annexes just one house into the city, a risk of difficult 911 dispatching is taken. Commissioner Pavlick stated that it would be difficult to know where to draw the line in expanding the annexation, because a call could always come in from just across the line. Commissioner Pavlick stated that he does not like to see the type of annexation that brings in just one house within a strip of houses. Sam Perry stated that this issue needs to be addressed at the state level, because the method of annexation that Kentucky uses is by consent. Mr. Perry stated that confusion like this has existed for some time, but this is one of the first times it has resulted in such a property loss. David Roberts stated that there are reciprocal agreements between the city and county fire departments. Mike Pitman stated that the Planning Commission may want to consider extending boundaries when they are presented with an annexation request in the future. Mr. Roberts stated that the reason the irregularity of the city limits exists is because residents request city utilities and are contiguous to the city, therefore they must be annexed. Mr. Roberts and Commissioner Pavlick agreed that this was an anomaly, but it does need attention.

Being of no further business, Nelson Shroat made a motion to adjourn. Mike Lovins seconded the motion and the motion carried with a 7-0 voice vote.

The meeting adjourned at 6:02 p.m.

Chairman, Richard Vanover

Recording Secretary, Sam Perry