

**MURRAY PLANNING COMMISSION MINUTES  
REGULAR MEETING  
TUESDAY, July 18, 2006**

The Murray Planning Commission met in regular session on Tuesday, July 18, 2006 at 5:00 p.m. in the council chambers of City Hall located at 104 N. 5<sup>th</sup> Street.

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

**Commissioners Absent:** Ed Davis and Dave Ramey

**Also Present:** Candace Dowdy, David Roberts, Peyton Mastera, Mike Pitman, Mayor Rushing, Matt Mattingly, Sam Underwood, Kristen Taylor, John Downs, Kim Oatman, Demsey Stokes, Carla Stokes, Matt Jennings, Paul Garland, Trent Garland, and audience

Chairman Vanover called the meeting to order at 5:00 p.m. and requested approval of the June 20, 2006 regular meeting minutes. **Nelson Shroat made a motion to approve the minutes as presented. Marc Peebles seconded the motion and the motion carried with an 8-0 voice vote.**

**Public Hearing to set the zoning for proposed annexation of lots 1 and 2 of Cambridge Subdivision, Unit 1 located on Bailey Road – Sam Underwood:** Candace Dowdy reminded the Planning Commissioners that they had reviewed the request to annex lots 1 and 2 of Cambridge Subdivision last month and that the recommendation will be forwarded to the city council at the next meeting. Ms. Dowdy stated that the Commission will need to make a recommendation for the zoning tonight. Ms. Dowdy stated that the request by the property owners is to set the zoning as R-4 (multi-family) residential. Ms. Dowdy stated that the proposed zoning is in line with the future land use map which shows this area as medium density residential.

Chairman Vanover opened the public hearing and asked for those in favor to come forward. Mr. Underwood stated he had nothing to add. Chairman Vanover asked if anyone would like to speak in opposition. Since there was no one in opposition Chairman Vanover closed the public hearing and opened discussion for the commissioners.

**Tom Kind made a motion to set the zoning for the proposed annexation of lots 1 and 2 of Cambridge Subdivision, Unit 1 located on Bailey Road as R-4 as it is in agreement with the City of Murray's Comprehensive Plan and there have also been major changes of an economic, physical, or social nature in the area. Marc Peebles seconded the motion and it carried with an 8-0 vote.** Candace Dowdy reminded the Commissioners that the request to annex was a requirement of the city in order to provide utility services.

**Review of audio proceedings of 1993-1994 Chantilly Place hearings – John Downs:** David Roberts stated the Planning Commission had met in March in regards to Chantilly Place and non-completed work in the development of the Chantilly Place Subdivision.

Mr. Roberts explained that during the March meeting, the Commission decided it would be best to review the audio proceedings and minutes in more detail before bringing it back before the Planning Commission. Mr. Roberts explained that the Planning Department feels that a fence should be constructed on the south side of the development along the Hale property and pave the parking area on lot #35, as it was proposed and shown to the Planning Commission and Board of Zoning Adjustments in the preliminary plat review and the conditional use review, respectively. Mr. Roberts explained that he would play audio proceedings from these meetings in 1993. Mr. Roberts also explained the clarity is not very good because the recording devices at the time were not that great; the minutes were recorded by listening to audio, notes, and recalling from memory.

The first section Mr. Roberts played was on December 14, 1993 and deals with the property owners to the south, owned by Ann Hale, that had questions dealing with the development and fence to be placed adjacent to her property. When listening to a portion of the audio proceedings, Mr. Roberts explained the discussion was in regards to some land swaps of property that were not large enough to support an area of the subdivision and looking to straighten some of the lot lines for property that belonged to Ms. Hale, at the time. Mr. Roberts played a section of audio that had Mr. Downs explaining to Ms. Hale that the proposed fence would not block the view of Ms. Hale as it would only be extending to a point then drop down to 18" height, stopping just short of the right of way. Mr. Roberts then played a section of audio with Don Elias discussing the parking lot. The comments of Mr. Elias were detailing the parking requirements for the parking area because of the concern of off street parking at the time.

Mr. Roberts stated there was a lot of discussion on the Home Owner's Association at previous meetings and that Mr. John Downs contends that it was the responsibility of the Home Owner's Association to pave the parking area; however, because of their lack of interest in joining a Home Owner's Association it was never completed. Mr. Roberts stated that by reviewing the audio proceedings and minutes, the Planning Department has sufficient evidence that Mr. Downs committed to constructing the fence and paving the parking area. Mr. Roberts explained that Mr. Downs had stated in the March 2006 meeting that as the units were originally constructed, the fence was to be constructed as well.

Chairman Vanover asked for Mr. Roberts to clarify what the Planning Department is looking for Mr. Downs to do. Mr. Roberts stated that Mr. Downs should pave and stripe the parking area on lot #35 and to construct a privacy fence along lot #'s 34 and 35 (separating the Hale property and Chantilly Place). Mr. Roberts stated he would like to see, in the future, Home Owner's Associations deal with these issues.

Mr. John Downs came forward to address the Commissioners. Mr. Downs stated it was never the intent of the developer to pave the parking area and does not know where this came about. Mr. Downs explained that they (referring to Alpha Omega Properties) may be responsible for putting up the fence separating Chantilly from the Hale property, but not paving the parking area. Mr. Downs stated that those in the Chantilly Subdivision have refused on multiple occasions to be apart of the Home Owner's Association despite it being required. Mr. Downs reiterated the point he is not responsible for paving the parking area and that others involved feel the same way.

Commissioner Pavlick asked Mike Pitman if Mr. Downs does not pave the parking area, would he comply with the required R-4 parking regulations. Mr. Pitman stated the Commission would have to look at parking available for each lots/bedrooms available. Mr. Pitman explained that the way he understands it, first the Commission must decide if the developers failed to comply with one or more of the plans or conditions of which the Planning Commission set forth in developing the subdivision. If there is a failure to comply, the Planning Commission can take three courses of action: (1) Injunction against developer precluding them from selling any more lots in the subdivision; but, since all properties have been sold in the subdivision, it would not serve a purpose. (2) Preclude building inspector from issuing building permits; Mr. Pitman stated that this would not be applicable. (3) Levying a fine not less than \$10 and no more than \$500 for each conviction; each day it is not in compliance will result in another separate violation. Mr. Pitman stated the issue at hand is deciding if Mr. Downs failed to comply with any portion of the original agreement with the Planning Commission. Mr. Pitman also stated that he is not sure if there is sufficient off-street parking on the premise.

Commissioner Pavlick asked Mr. Pitman if the paving is required in this instance. Mr. Pitman stated he did not think the city ordinance had requirements about off street parking to be paved. Mr. Roberts stated that the zoning ordinance specifies that anything over five parking spaces is to be dustless but is not sure about the specification of the word, "paving." Mr. Downs stated the parking area was originally covered with white rock but no one ever took care of it and weeds had grown through it and that it has been mowed.

Commissioner Jobs inquired about Mr. Elias' remarks about constructing the parking lot and what he was referring to. Mr. Roberts stated that Mr. Elias may not have said it directly, but was detailing the parking requirements of the parking area. Candace Dowdy then read from the "General Regulations for Vehicles" Section of the Zoning Ordinance that says, "In all business multi-family and professional office zones where required parking areas are provided for 5 or more vehicles or contain more than 1800 square feet of area or are enlarged or expanded to provide for more than 5 vehicles they shall be paved with an asphalt, concrete, brick, or other properly bound surface as to be durable and dustless. Each parking space shall be physically delineated on the surface of the paved parking area the developer shall have one year from date of parking lot construction to complete the bound surface."

Mr. Roberts explained that Ms. Hale had concern because people were using her property to park their vehicles and many were getting stuck, rutting up her yard, and there was no fence to distinguish where people could and could not park. Mr. Pitman reiterated that Alpha Omega Corporation had been administratively dissolved by the Secretary of State and that Alpha Omega is still the title owner of lot 35 but before the corporation itself can take action to transfer their standing they must bring themselves in good standing with the Secretary of State before they can sign off on deeds. Mr. Pitman explained the Commission needs to first decide if Alpha Omega failed to comply with regulations. If the answer is yes, then decide what action to take. Mr. Roberts stated that Mr. Downs, under his own admission, feels he should construct the fence. Chairman Vanover asked how well the lot has been maintained. Ms. Dowdy explained the citation officer has been

called quite often and lot 1 has been mowed primarily by Janeann Turner, owner of lot 2. Ms. Dowdy noted that lot 1 has been deeded over to Ms. Turner. Chairman Vanover wanted to know if just putting up the fence would satisfy Ms. Hale. Mr. Roberts stated it would address a huge concern of Ms. Hale.

Mr. Pitman asked about the location of the proposed fence. Mr. Roberts stated Ms. Hale's property extends back to the east side of lot 34 and would assume the fence would cover all the way around to the east side of lot 34 and to the south side of lot 35. Commissioner Lovins stated, the answer to the question at hand is "Yes," that Mr. Downs has failed to comply with the regulations. Mr. Roberts stated this is what the Planning Department feels in that he needs to construct a fence and to decide if the evidence is sufficient enough to say Mr. Downs is responsible for paving the parking and stripping the parking area.

Commissioner Pavlick asked what makes up the subdivision regulations. Mr. Pitman stated that back in 1995 when this subdivision was approved by the Planning Commission, there would have been mention of the subdivision having to comply with the city regulations; but, the commission has to make these findings based upon the evidence presented before making a ruling.

Mr. Roberts also mentioned that this subdivision was developed as a Planned Development Project and a subdivision and did not meet the minimum lot frontage and normal setbacks of typical subdivisions, thus explaining why it had to go before the Board of Zoning Adjustments and resides in a B-2 zone. Commissioner Jobs asked if Mr. Elias had any recollection of the Chantilly Place hearings. Mr. Roberts stated he remembered them but could not recall any specifics of the hearings as it was 11 years ago. Mr. Pitman stated the ruling should be based upon the evidence presented at the current meeting. Ms. Jobs asked if the ruling on the fence and the parking need to be addressed separately. It was explained by Mr. Pitman that the Commission should first rule if Mr. Downs was in compliance or not in compliance, then if he is not in compliance, place requirements on what he must do by a time frame or receive a fine. Commissioner Kind stated that Mr. Downs said he did not comply with the fencing and as far as the paving is concerned did not understand the tapes; however, the regulations Ms. Dowdy had read to the Commission were in place in 1995 and would assume it would bind one to what the Planning Commission approved.

Commissioner Shroat asked what the Home Owner's Association responsibility is in this case. Mr. Pitman stated it would be driven by a few factors. Assuming no Home Owner's Association was formed in all likelihood they have no obligation. If taking the deeds there were stipulations in it, they would be bound by what is stated in the deeds. Mr. Pitman explained the Planning Commission could find the developer failed to comply with one of the plans presented and the Home Owner's Association could take whatever action they want to take either individually or collectively.

**Mike Lovins made a motion that Alpha Omega Corporation was in default of the plan presented to the Planning Commission in 1993-1994 based on reviewing audio proceedings, previous minutes, and Mr. Down's testimony in that Alpha Omega failed to meet the subdivision regulations by not completing the fencing along the**

**south side of lot 35 and east side of lot 34 and the paving and striping of the parking lot on lot 35.** Commissioner Jobs asked if there needs to be a time-frame stipulated in the motion. Mr. Pitman stated there would be another motion to decide how to approach it. **Marc Peebles seconded the motion and it carried with a 7-0 vote.** Nelson Shroat abstained from voting.

Chairman Vanover stated the next step would be to decide how the Planning Commission wants to impose this ruling, whether it is setting up a time-frame, fine, etc. Mr. Pitman explained the Commission would be bound by what the subdivision regulations authorize the Planning Commission to do (injunction, no building permits in subdivision, or levying a fine). Mr. Pitman stated the Commission can decide when the fine should be levied, for instance, issuing the fine after a specified amount of days in which Mr. Downs has to construct the fence and parking lot. Chairman Vanover stated he feels it is best to set a time-frame before issuing the fine, assuming Alpha Omega Corporation does not comply.

**Tom Kind made a motion that Alpha Omega Corporation must construct a fence on the south side of lot 35 and east side of lot 34 and pave the parking lot on lot 35 within 120 days of receiving notification of the Planning Commission's decision; Alpha Omega Corporation will receive a \$100 fine for each day the fence and paving is not completed following the 120 days. Mike Lovins seconded the motion and it carried with a 7-0 vote.** Nelson Shroat abstained from voting.

Commissioner Kind asked how long of a time-frame Mr. Downs should be given. Mr. Roberts indicated that it could be as much as a four-month time span before someone could complete a project. Commissioner Kind suggested making the fine \$100 a day following the end of the time-frame set forth. Ms. Dowdy asked when the 120 days would begin. Mr. Pitman stated it would begin the day Mr. Downs receives notification.

**Review of final plat for Saratoga Springs, Unit II – Paul and Vicki Garland:**

Candace Dowdy gave a brief overview of the acreage and number of lots to be placed in Saratoga Springs, Unit II. Ms. Dowdy stated the sewer and water utilities have been installed, tested, and passed as well as the storm-water drainage has been installed. Ms. Dowdy stated the developer is in the process of putting curb and gutter in but it has not been completed yet and the only other outstanding improvement would be the street paving. The city has received a letter of credit from the developer for asphalt paving and curb and gutter for \$293,000. Ms. Dowdy explained there was a note on the plat regarding the second entrance on Wiswell Road discussed in previous meetings as a temporary entrance until a permanent entrance can be placed along Wiswell Road. Ms. Dowdy stated she is in the process of completing the house numbers for the subdivision and that one street name will need to be changed as well as a list of Home Owner Association guidelines. Commissioner Peebles asked if the letter of credit is tied with all the items on the Home Owner Association, paving, etc. Ms. Dowdy explained the letter of credit would cover the street paving and curb and gutter.

**Marc Peebles made a motion to approve the final plat for Saratoga Springs, Unit II, contingent upon it meeting all city regulations. Ed Pavlick seconded the motion and it carried with an 8-0 vote.**

**Review of preliminary subdivision plat for Riverfield Estates located off of Doran Road South – Matt Jennings:** David Roberts stated this is a single family and multi-family residential development on the south side of Doran road adjacent to Westwood Subdivision. Mr. Roberts explained that this property was formally owned by Clarence Goforth and was Deer Creek Subdivision. Mr. Roberts stated that this is the site where the radio tower used to be. Mr. Roberts stated a portion is R-2, but the majority is R-4. Mr. Jennings wants to construct the subdivision in two units, with Unit I to the north and Unit II to the south. Unit I will consist of 22 lots and the Unit II will have 28 lots, for a total of 50. Mr. Roberts then explained to the Commission where the dividing lines from R-2 and R-4 will be. Commissioner Pavlick asked if the developer, in the first unit, will develop the middle road. Mr. Roberts explained it will be connected back to Ridgewood Drive and will be included in his development. Mr. Roberts stated the Fire Department and Police Department have approved the proposed layout.

Mr. Roberts explained that the water is available already on the north end and will extend over on the east side from Ridgewood. Sewer is already available in the area so Unit I can be served from the west back up to the north and when Unit II is developed there is a sewer line that will be slightly extended a short distance. Natural gas is on the west side of the development so bringing in city services, et al. will not be difficult and not require a significant extension.

Commissioner Shroat asked what the lot sizes were. Ms. Dowdy said they vary but the requirement for an R-2 district has to be a minimum of 10,000 square feet and that the developer does meet the requirement. The R-4 requirement is 7,500 square feet for a single family dwelling and a duplex would require 9,500 square feet. Mr. Roberts explained the minimum lot frontage must be 75 feet and that lots 2 and 3 will require a variance for the lot frontage as they are approximately 69 feet and 62 feet, respectively; however, both lots do meet the 75 feet at the building setback line. According to the subdivision regulations, this is permitted on cul-de-sacs, dead-ends, and curves.

Ms. Dowdy stated the developer may revise the building setback on the lots in the R-2 zoning district because the setback is shown as 25 feet. Mr. Roberts explained it will be corrected on the preliminary plat and final plat because it is required to have a 30 foot setback, therefore no variance will be needed.

Mr. Roberts explained the street centerline bisects the zoning boundary line showing the dividing line between the R-2 (east side) and R-4 zone (west side).

Ms. Dowdy stated Unit I will consist of single family homes only despite having a split zoning boundary.

Commissioner Jobs asked if there was an original plat on the Goforth property. Mr. Roberts explained that Mr. Goforth did own the property over to Martin Chapel Road but that this is the third property owner since then. Commissioner Jobs asked if part of this property was platted beforehand. Mr. Roberts stated the plat was never recorded.

**Marc Peebles made a motion to approve the preliminary subdivision plat for Riverfield Estates, Units I and II, contingent upon it meeting all city requirements. Tom Kind seconded the motion and it carried with an 8-0 vote.**

**Review of minor subdivision plat for Dempsey and Carla Stokes – Hwy. 641 South:**

Candace Dowdy explained that the reason this plat has to be reviewed and approved by the Planning Commission is because it does not have the 75 feet of required road frontage; therefore it does not meet the subdivision regulations. Ms. Dowdy explained that the tract of land is owned by Mr. G.T. Brandon. Ms. Stokes, the niece of G.T. Brandon, is looking to purchase a tract of land to build a home on. The proposed tract of land does not have any frontage along Highway 641 South and the only access is from Mr. Brandon's driveway. Ms. Dowdy stated the Planning Department has received written approval from Mr. G.T. Brandon that he is willing to grant, by deed, a permanent access to this tract of land and that this will be noted on the plat as well.

Ms. Dowdy noted that she had suggested to Mr. and Mrs. Stokes that they might contact Ron Mallay with the Kentucky Department of Highway out of Reidland to see if they would issue another encroachment permit for an additional access along this part of 641 South. Ms. Dowdy stated the Stokes did speak with the highway department and that it would be their preference to use the current access instead of having to construct a new one.

**Marc Peebles made a motion to approve the minor subdivision plat for Demsey and Carla Stokes for 1.377 acres with all the conditions that has been set forth for legal permanent access to the property by the adjoining property owners. Ed Pavlick noted the property will be addressed off Highway 641 South. Loretta Jobs seconded the motion and it carried with an 8-0 vote.**

David Roberts mentioned to the Commissioners that they are probably aware of the fact that there has been some inquiries recently regarding possible developments which are perhaps more dense than the typical R-2 developments, in particular courtyard patio homes that would require less area for development. Mr. Roberts stated that the zoning ordinance requires a certain amount of minimum lot sizes in the R-1 and R-2 zoning districts. Mr. Roberts stated that he does not feel like our ordinance has an appropriate place to accommodate this type of development. Mr. Roberts asked if the Planning Commissioners would start thinking about it or had some thoughts on ways to be able to make these type developments work in an R-2 zoning district.

Mr. Pitman noted the Board of Zoning Adjustments has the authority to grant dimensional variances but Kentucky Revised Statute does not allow them to alter the density in a particular zone. Mr. Pitman noted that Planned Development Projects may give more flexibility with regards to density requirements but currently a PDP is not permitted in an R-2 zone. Mr. Pitman stated that the Commission may want to take a look at amending the current lot size requirements in an R-2 zoning district if they feel like the current requirements are not meeting the overall needs of the City of Murray for this type of development which seems to be the trend for residential living. Mr. Pitman noted that any changes would have to be done through a text amendment to the zoning ordinance.

Candace Dowdy mentioned that some of the Commissioners need some continuing education hours and discussed some possible dates/locations they can attend.

**Nelson Shroat made a motion to adjourn. Marc Pebbles seconded the motion and it carried with an 8-0 voice vote.**

The meeting adjourned at 6:40 p.m.

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Chairman, Richard Vanover

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Recording Secretary, L. Peyton Mastera