

**MURRAY PLANNING COMMISSION MINUTES  
REGULAR MEETING  
TUESDAY, AUGUST 15, 2006**

The Murray Planning Commission met in regular session on Tuesday, August 15, 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, Marc Peebles, Nelson Shroat, Ed Pavlick, Ed Davis, Loretta Jobs, and Richard Vanover

**Commissioners Absent:** Mike Lovins and Dave Ramey

**Also Present:** Candace Dowdy, David Roberts, Peyton Mastera, Mike Pitman, Kristen Taylor, Mayor Rushing, Paul Garland, Dale Dunlap, and public audience.

Chairman Vanover called the meeting to order at 5:00 p.m. and asked for approval of the July 18, 2006 regular meeting minutes. **Ed Pavlick made a motion to approve the minutes as presented. Loretta Jobs seconded the motion and it carried with an 8-0 voice vote.**

**Review of Final Plat for Saratoga Farms – Squire Road – Paul and Vicki Garland:** Candace Dowdy began by detailing the proceedings from the March Planning Commission meeting when the preliminary plat for Saratoga Farms was approved. Saratoga Farms is located outside the city limits but falls within the four mile jurisdiction of the Planning Commission. Ms. Dowdy stated that originally, water and sewer services were not to be provided by the city, but since approval of the preliminary plat the city has agreed to provide water to Saratoga Farms. Ms. Dowdy explained that sanitary sewer is not available to this property at this time but a note would be placed on the final plat requiring a deed restriction on the sale of each lot allowing the city to annex the property at such time sanitary sewer is available. The subdivision is located off of Squire Road and is approximately 46 acres in size. Ms. Dowdy stated that there are 17 lots in the subdivision and that all but three lots that front Squire Road are three acre tracts. Ms. Dowdy stated that some of the water lines have been installed but is not completed at this time. Ms. Dowdy explained sanitary sewer will not be available until future development takes place to the south. Ms. Dowdy noted that the three acre lots have a 100' building setbacks line and that there is only one street that runs north and south through the subdivision. Ms. Dowdy stated that any future development of Saratoga Springs could possibly connect up with the one access or possible development off Oaks Country Club Road. Commissioner Peebles asked if there was an adequate means of turning around at the end of the road. Ms. Dowdy stated the road will have a 50' temporary turnaround area that will be paved. Commissioner Peebles stated that the pavement on Squire Road is in poor condition and wanted to know if it would be repaved. Mr. David Roberts explained once all construction with heavy equipment is complete, the county plans to repave Squire Road.

Commissioner Jobs asked if each individual property will be annexed into the city as they are sold. Ms. Dowdy explained there will be a deed restriction placed on the properties allowing the city to annex the properties upon notification that sanitary sewer is available.

Commissioner Pavlick asked if this is similar to the situation when the Planning Commission looked to annex an area to the west of town. Ms. Dowdy stated that involved a waiver that the property owner signed when applying for utility services stating they would not be in opposition to annexation if the city chose to annex their property. Mr. Mike Pitman stated that the deed restriction would be a creative way of getting property owners annexed into the city. Mr. Roberts stated that this has precipitated because the sanitary sewer services are not currently available and is contiguous to Saratoga Springs II and III for future development into the city. In exchange for services, properties are normally required to come into the city. Since the services are not yet available, the annexing will be deferred until a later date. Commissioner Pavlick asked if this is considered strictly a deed restriction opposed to a covenant. Mike Pitman explained that the deed restriction will state that the purchasers of the property will be required to come into the city as soon as the sanitary sewer services are available. Mr. Roberts stated the developer has paid for the cost of extending the water service lines out to Saratoga Farms. Mr. Roberts stated the completion of the sanitary sewer will take the longest to complete. Ms. Dowdy noted that there are a few corrections to be made on the plat and that the note referring to the deed restrictions will be placed on the final plat.

Developer of Saratoga Farms, Mr. Paul Garland, then came forward to answer questions from the Commissioners. Mr. Garland stated that in the deed restrictions property owners will be required to be annexed into the city once services are available. Mr. Garland explained that he would rather be able to come into the city currently if the services were available. Commissioner Jobs asked if there would be sidewalks in the subdivision. Mr. Garland explained that although he would like to construct sidewalks, the large acreage of the lots do not allow for sidewalks.

**Marc Peebles made a motion to approve the final plat for Saratoga Farms contingent upon it meeting all city regulations and subject to any deeds of conveyance to purchasers including the requirement they come into the city when services are furnished to the subdivision. Nelson Shroat seconded the motion and it carried with an 8-0 vote.**

**Review of Final Plat for Summerfield Estates – Neale Trail – Dale Dunlap:** Mr. Roberts stated that Summerfield Estates is comprised of 19.5 acres (22 lots) off of Hwy. 121 South alongside Neale Trail, which is in the county and approximately 3.5 - 4 miles from the center of the city. The Planning Commission first reviewed the preliminary plat in December of 2005. Many improvements have been made to the subdivision since the last meeting with the paving of the roads and the water installation being the only outstanding improvements. Mr. Roberts stated there is a letter of credit for the remaining road and water improvements to be made to the subdivision. Mr. Roberts stated the subdivision meets all city regulations with regard to right-of-way width and minimum lot size requirements. The sanitary sewer will be private and require approval from the health department and fiscal court. The subdivision requirement for road-base (width of roads) is 28 feet. Mr. Roberts stated the road base for this subdivision is 19-20 feet wide. Mr. Roberts explained the developer was not aware of the city regulations when he began constructing the roads and was depending upon his engineers and surveyors to provide this information as well as from the city. This information was not delivered in time

before construction began. Mr. Roberts stated that he met with the County Magistrate and the developer, on-site, and the Magistrate does not have a problem with the width of the roads primarily because the roads will be paved instead of gravel. The Magistrate felt it would be a benefit to the subdivision itself and easier for future road maintenance. Mr. Roberts stated that the Planning Department is looking for the Planning Commission to grant a variance in regards to the width of the roads not being 28 feet wide.

Commissioner Pavlick asked why Saratoga Farms would not need approval from the Fiscal Court and Health Department to extend water and sewer services. Mr. Roberts stated there will be a certificate along with Saratoga Farms in which the Fiscal Court and Health Department must sign off. Commissioner Shroat asked if there would be on-street parking. Mr. Roberts stated there should be no need for on-street parking.

Commissioner Shroat stated the roads could be congested since they are only 19-20 feet wide.

Developer of Summerfield Estates, Mr. Dale Dunlap, came forward to address the Planning Commission. Mr. Dunlap explained the houses he will be developing will be equipped with 2 and 3 car garages; so, on-street parking should not be a concern. Mr. Dunlap stated he is looking to sell 7-8 lots and keep the rest for himself.

**Ed Pavlick made a motion to approve the final plat for Summerfield Estates subject to it meeting city regulations with the exception of the width of the road and contingent upon it meeting all county subdivision regulations. Tom Kind seconded the motion and it passed with an 8-0 vote.**

**Discussion of Rezoning west of 16<sup>th</sup> Street:** Peyton Mastera began by explaining that at the June Planning Commission meeting there was discussion of a possible rezoning to the area west of Murray State University. The Planning Department had come up with a preliminary boundary that primarily extended one property line in from North 17<sup>th</sup> Street going east, up to Hamilton Avenue and incorporating four (4) properties along Ryan Avenue. The preliminary boundary would take in a total of 63 properties. Mr. Mastera stated the Planning Commission had requested more information to be collected in the vicinity to gauge the interest of property owners. Mr. Mastera stated that the Planning Department conducted a survey sending letters to 131 property owners in the area. The area surveyed included all properties in the R-2 zoning district west of 16<sup>th</sup> Street to 17<sup>th</sup> Street and from the south side of Main Street from 16<sup>th</sup> to Williams up to Ryan Avenue. The survey explained that the Planning Commission is looking at a possible rezoning of properties on the west side of campus and asked if they would be in favor of or in opposition to R-4 zoning. As of August 8, 2006, 76 people had responded (about 60%). Ms. Dowdy explained the reason the Planning Department sent letters to the property owners on the south side of Main Street is because the Planning Department had received many inquiries from interested parties wanting to rezone after reading the article in the paper following the June meeting. Through researching property owner records and utility records the planning staff noted that all the properties along the south side of Main Street from 16<sup>th</sup> to Williams were being used as multi-family residential except one piece of property which appeared to be owner occupied.

Commissioner Peebles asked if the black boundary is what was proposed at June's meeting and inquired about the four properties on Ryan Avenue that are shown to be

within this boundary. Ms. Dowdy identified the boundary as being the same one as previously presented.

Commissioner Kind asked if there would be an attempt to contact the property owners who had not responded. Ms. Dowdy explained that there would not be any further attempt since the Planning Department provided return envelopes with postage to make it more convenient for the respondents to return them. Ms. Dowdy explained the information presented before the Planning Commission is preliminary and would like the Planning Commission to direct the staff in what direction to go next or what information needs to be collected. Ms. Dowdy reminded the Planning Commission this would require a public hearing before any recommendations would be made. Commissioner Peebles stated across 17<sup>th</sup> Street the property owners have mixed responses and reiterated the notion of using 17<sup>th</sup> Street as a buffer between the proposed boundaries. Ms. Dowdy stated the Planning Department will probably not be looking to extend the boundary line past 17<sup>th</sup> Street. Commissioner Peebles stated that Main Street was not originally intended to act as a buffer as 17<sup>th</sup> Street is. Ms. Dowdy stated that the Main Street properties were sent letters because the properties on the north side are already R-4 and which makes them contiguous.

Mr. Pitman explained that the Planning Commission initiating a possible rezoning would be similar to that of an individual requesting the Planning Commission to consider rezoning their property. Mr. Pitman stated that KRS statute reads that a proposed zoning map amendment can originate with the Planning Commission, the Fiscal Court or Legislative Body or with any owner of the property. Mr. Pitman stated that when the proposed boundary is established there will need to be a motion made and a vote as to what the Planning Commission wants to do as the applicant representing the City of Murray then a public hearing would take place noting the evidence presented in favor of or in opposition to the rezoning. The Planning Commission is then required to make evidentiary findings and a summary of the testimony for your recommendation to be sent to the City Council who can accept it or reject it by majority vote either way. Commissioner Peebles stated that it might be best to stick with the current area before attempting to move south of Main Street.

Commissioner Pavlick asked if there would be any protection provided to residents from College Terrace north. Ms. Dowdy stated the Planning Department can investigate records further and send letters to the properties where it is believed that they are being used for multi-family use and that the property must be brought into compliance or they would need to apply for a conditional use permit. Ms. Dowdy stated that many of these properties have been used for multi-family residential use in excess of 10 years, thus making them legal non-conforming uses (grandfathered-in).

Commissioner Koenen asked why the Planning Department is looking to do this. Commissioner Koenen explained that with the expansion of Murray State University, eventually this property will take care of itself. Commissioner Koenen stated it is a problem that has “festered” over the years and thinks it will stir up controversy if it is attempted to be rezoned and that individuals wanting to be rezoned can do so on an individual basis. Ms. Dowdy stated it is not the policy of the city to do “spot-zoning.” Ms. Dowdy explained that many times an individual will look to purchase property

within this area and inquire as to whether they can build a duplex or four plex something more economically feasible than a single family home. With that being said, they want to know if they can rezone the property.

Commissioner Davis asked if the Planning Department has records of how many conditional use permits have been applied for and accepted or denied within the area. Commissioner Davis stated that by possibly rezoning this land it will ease a lot of tension in having people apply for conditional use permits. Ms. Dowdy stated the Planning Department could go through records and find out this information.

Chairman Vanover asked what the Planning Commission needs to do. Ms. Dowdy asked if the Planning Commission would give staff some direction as to the boundary that needs to be established or if the Commission would like staff to collect additional information before making that decision. Commissioner Davis stated it would be good to do another overlay on the map of the conditional use permits denied and granted through the area. Mr. Mastera explained that on the map from the previous meeting it had listed the conditional use permits granted in the area back to the early 90s but would add those denied to the list as well adding any other additional survey information collected. Commissioner Peebles stated this information needs to be brought before the City Council before getting too involved with the matter. Chairman Vanover asked if the goal here was to make the area more in line with the respondents that live in the area (which are against rezoning) or more in line with those that do not live in the area (which are in favor of rezoning). Mr. Pitman explained that any recommendation would need to be in line with the comprehensive plan and there is no requirement the Planning Commission be the initiating entity and that any rezoning request by property owners could be reviewed on a case-by-case basis. Mr. Pitman stated there would have to be a public hearing before making these types of decisions. Commissioner Davis explained many applicants have come in as of late asking to purchase property within the R-2 zone and requesting a conditional use for their children to live there during the school year. Ms. Dowdy stated the Planning Department is taking into consideration the responses from the property owners in establishing the boundary; extra letters were sent outside the initial boundary to gauge the interest, and it appears they will be against rezoning, as expected. Commissioner Jobs stated it would be interesting to see the properties already grandfathered in on top of the conditional use permits granted. Mr. Pitman stated it would be difficult for the Planning Department to find properties grandfathered in because property owners would have to prove a continuous, non-conforming use for the past 10 years, and the information gathered would require a lot of speculation.

Mr. Roberts asked if the Planning Department needs to include the properties to the south side of Main Street. Commissioner Peebles stated he thinks it is best to deal with the current properties and focus on other areas at a later time. The Commissioners agreed with Commissioner Peebles statement. Commissioner Davis stated when the BZA approves apartment complexes or renting to multiple families in an R-2 zone, there is a required screening that goes along with that; Commissioner Davis inquired if there would be similar screening in this situation. Mr. Roberts stated it would be a pre-existing non-conforming structure and would be difficult to place screening. Ms. Dowdy stated the off-street parking would be something the Planning Department will look into. **The Commissioners agreed another overlay of information with conditional use permits**

**granted, conditional use permits denied, and updated survey results need to be presented at the September meeting before progressing further with this matter.**

Chairman Vanover asked for any questions or comments. Commissioner Jobs asked if there is an ordinance concerning trucks with attached signage sitting along the streets. Ms. Dowdy stated it is an ordinance and part of a recent revision to the Code of Ordinances which states, "Vehicles or trailers, operable or inoperable, which contain advertising and or not used on a daily conduct or business, is prohibited in all zones and districts." Commissioner Shroat asked how many vehicles can be parked at one house at a time. Commissioner Shroat stated there is a house in his neighborhood with several vehicles parked in the driveway, one of which is a broken-down pickup. Ms. Dowdy stated in the property maintenance code there is a requirement that the vehicles must be operable and licensed in order to remain in a driveway. Ms. Dowdy stated that any violations need to be reported to the city citation officer, Captain Jimmy Potts. Mayor Rushing stated there is a Property Maintenance Committee that meets on Friday morning following the City Council meeting at 9:00 a.m. to discuss these issues. Commissioner Jobs stated there is also an ordinance not to have solicitation at street corners and on 12<sup>th</sup> and Chestnut there were collections being made earlier in the day. Commissioner Pavlick explained there have been efforts to improve the appearance of the south side of town, in particular the property across from Dwain Taylor Chevrolet; but, the effort to improve the appearance of that side of town has been held back by situations such as trucks being sold in the Piggly Wiggly parking lot. Mr. Roberts stated there are similar situations on the north side of town and the city tries to contact the property owners to explain this is not allowed.

Ms. Dowdy stated it was brought to the attention of the Planning Commission that they may want to review the conditions set forth against Mr. Downs in regards to the Chantilly Place ruling. If the Commission is requiring Mr. Downs to abide by the conditions to construct the fence and pave the parking lot, there should possibly be a stipulation that a Home Owner's Association be formed in return for Mr. Down's completing the fencing and paving. Ms. Dowdy stated since last month's meeting there has been a request by someone affiliated with Alpha Omega Properties to obtain information related to Chantilly Place. Ms. Dowdy stated the Planning Department has yet to hear back from Alpha Omega as to what action they are planning to take. Commissioner Shroat stated he drove out to Chantilly Place and he is not sure what area is supposed to be paved. Ms. Dowdy explained it is a triangular shaped portion and difficult to see without the property lines being properly indicated.

Ms. Dowdy stated that Mr. Downs left before the ruling was made but the Planning Commission ruled Alpha Omega should be required to provide a fence along the south and east side of lot 35 and pave/stripe the lot. Commissioner Shroat noted that Mr. Downs indicated he would be willing to fence the property, but opposed to paving. Commissioner Shroat wanted the ruling clarified to him because as he explained, there is a lot of vacant land that adjoins the property of which Mr. Downs is to construct the fence and parking lot and was unclear of the exact location to be paved and have a fence around. Mr. Pitman stated the concern was if this comes to fruition and the lot is paved and fenced, then there needs to be some release of Mr. Downs and Alpha Omega from any further responsibility as they would have completed everything required; from this

point forward, it would be the responsibility of the Home Owner's Association to maintain the area, not Mr. Downs or Alpha Omega. Commissioner Jobs asked whose responsibility is it to form the Home Owner's Association. Ms. Dowdy asked if the Planning Department needs to send a letter to the home owner's in Chantilly Place explaining the current situation. Mr. Roberts stated that trying to actually get the home owner's in the subdivision to join a Home Owner's Association is not the responsibility of the Planning Department or Planning Commission. Ms. Dowdy stated the individual that has been obtaining information about the previous Chantilly Place hearings is Mr. Bob Cunningham.

Commissioner Pavlick asked if there could be attached on to the ruling: Maintenance beyond what Mr. Downs and Alpha Omega complete, responsibility then falls in the hands of the homeowner's of Chantilly Place? Mr. Pitman explained the problem is the homeowner's never come forth and said anything and the Planning Commission's ruling was based upon Mr. Down's and Alpha Omega's representation at previous meetings. Mr. Pitman went on to explain the logical outcome would be for the homeowner's in the subdivision to form the association. Commissioner Pavlick added the Planning Commission will not require them to form the Home Owner's Association, but it should be their responsibility to maintain the property once Mr. Downs and Alpha Omega have completed the paving and fencing. Mr. Pitman stated the records show that Alpha Omega still owns the property, not Mr. Downs. Mr. Pitman explained it might be best to put this item on the agenda for next month and that the Planning Department needs to contact all the property owners in the subdivision to explain the situation to them. Mr. Pitman stated that suspending the current ruling against Alpha Omega would have no barring on this situation.

Ms. Dowdy also reminded the Commissioner of the Continuing Education workshop on August 24<sup>th</sup>.

**Being of no further business, made Nelson Shroat made a motion to adjourn.  
Loretta Jobs seconded the motion and the motion carried with an 8-0 voice vote.**

The meeting adjourned at 6:30 p.m.

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Chairman, Richard Vanover

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Recording Secretary, L. Peyton Mastera