

**MURRAY PLANNING COMMISSION MINUTES
REGULAR MEETING
TUESDAY, SEPTEMBER 19, 2006**

The Murray Planning Commission met in regular session on Tuesday, September 19, 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, Marc Peebles, Nelson Shroat, Ed Davis, Loretta Jobs, Mike Lovins, and Dave Ramey

Commissioners Absent: Richard Vanover and Ed Pavlick

Also Present: Candace Dowdy, David Roberts, Peyton Mastera, Mike Pitman, Kristen Taylor, Mayor Rushing, Margot McIntosh, Josh Tabers, Huong Kelly, Tom Lang, Stephanie Carpenter, Matt Mattingly, Donald Gibbs, Catherine Chambers, Ann Herring, and public audience

In the absence of Chairman Richard Vanover and 1st Vice-Chairman Ed Pavlick, 2nd Vice-Chairman David Ramey chaired the meeting. Chairman Ramey called the meeting to order at 5:00 p.m. and asked for approval of the August 15, 2006 regular meeting minutes. **Nelson Shroat made a motion to approve the minutes with the noted corrections. Tom Kind seconded the motion and it carried with an 8-0 voice vote.**

Annexation request – 225 King Richard Drive – Dwain and Margot McIntosh.

Candace Dowdy began by explaining where the property was located. Lot 3 and 4 of Sherwood Forrest is owned by Dwain and Margot McIntosh and is an adjacent property to the recent annexation on the southwest side of town. The proposed annexation would take in 1.036 acres which includes both lots and the right-of-way on King Richard Drive. The city has already extended a water line down King Richard Drive and the property is contiguous to the city limits. Ms. Dowdy stated that Mr. and Mrs. McIntosh were informed that in order to receive city utility services their property would need to be annexed into the city. Commissioner Jobs asked about the other adjacent properties to 225 King Richard Drive and the possibility of annexing them. Ms. Dowdy first explained to the Commissioners that when the southwest properties were being surveyed, three properties were mistakenly left off of the annexation plat; the McIntosh, Haney and Arnold properties. When the survey was sent out to the property owners, these properties either responded in opposition to being annexed, or had no opinion. Ms. Dowdy noted the property owner to the south was contacted after the McIntosh's made their request to be annexed and they had no interest in being annexed into the city at this time. Ms. Dowdy also noted that the properties along the dead end part of King Richard Drive were not part of the original southwest annexation proposal because they were not interested in annexation and the city was not able to provide sanitary sewer to this area.

Tom Kind made a motion to recommend to the City Council that 225 King Richard Drive (lots 3 and 4 of Sherwood Forrest) owned by Dwain and Margot McIntosh, be annexed into the city. Loretta Jobs seconded the motion and it carried with an 8-0 vote.

Discussion of Chantilly Place Subdivision ruling. Ms. Dowdy reminded the Commissioners that during the July meeting, the Planning Commission reviewed audio proceedings from previous Planning Commission and BZA meetings in regard to the development of Chantilly Place. At the July meeting, the Planning Commission found Alpha Omega Corporation (developer of Chantilly Place Subdivision) in default of the plan presented to the Planning Commission from 1993-1994 based upon listening to previous minutes, audio proceedings, and Mr. Down's testimony in that Alpha Omega failed to meet the subdivision regulations of not completing the fencing along the south side of lot 35 and east side of lot 34 as well as the paving and striping on lot number 35. Ms. Dowdy added that a letter was sent to Mr. Down's following July's meeting explaining the findings of the Planning Commission and the subsequent ruling. At the August Planning Commission meeting, a few of the Planning Commissioners wanted to revisit the ruling and determine who would be responsible for maintenance and upkeep of the parking and fencing once it is completed by Mr. Downs and Alpha Omega Corporation. Ms. Dowdy explained there is no Home Owner's Association in the Chantilly Subdivision and hopefully one could be formed to cover the burden after Alpha Omega Corporation is released from their obligation. The Planning Commission requested the Planning Staff contact all property owners in Chantilly Subdivision and notify them of September's meeting so that the ruling and forming of a Home Owner's Association could be discussed with them. Mike Pitman reiterated Ms. Dowdy's comments on forming the Home Owner's Association in that it would properly release Mr. Downs from any future obligations to the upkeep of the fencing and paving. Mr. Pittman explained the overhead slide that had a zoomed in picture of lots 34 and 35 and showed the members of the Chantilly Subdivision, that were in attendance, what is to be paved and fenced by Alpha Omega Corporation. Mr. Pitman stated that the original documents that were put together as part of the subdivision would require a Home Owner's Association be formed so each home owner would have an ownership interest in lot 35 and be responsibility for any maintenance whether it is resurfacing the asphalt or fixing the fence.

Chairman Ramey asked for any members of Chantilly Subdivision to come forward and speak if they would like to testify. Chairman Ramey swore in Mr. Donald Tibbs, 406 Chantilly Drive. Mr. Tibbs asked how much of a monetary burden there would be on the home owners in upkeep of this property. Ms. Dowdy stated that the city will not get involved with the residents of Chantilly Subdivision in forming the Home Owner's Association. In the covenants and restrictions, it is stated when the Home Owner's Association is formed, lots 1 and 35 were to be deeded over to the residents of Chantilly Place Subdivision. Lot 1 has a "Chantilly Place Subdivision" identification sign placed on the property and lot 35 was to be established for additional, off-site parking. Ms. Dowdy stated that in the establishment of by-laws for the Home Owner's Association, there would be a set dollar amount residents are to contribute, possibly on an annual basis, for maintenance of these lots. Mr. Tibbs stated that with the Habitat for Humanity homes being constructed in the subdivision, he is concerned these residents may not be able to financially contribute to the Home Owner's Association. Ms. Dowdy explained that is something the city will have no involvement in as to how money is collected and suggested that an attorney possibly develop the by-laws. Commissioner Shroat stated he does not think it would cost the residents that much money to maintain the parking lot. Mr. Pitman stated that when the improvements to lot 35 are made, it would be transferred

into the Chantilly Place Home Owner's Association and that there would probably be a start-up cost in setting up the association but everyone could go together and get an attorney to help set it up. Mr. Tibbs stated the parking lot is needed because of current on-street parking in the subdivision.

Chairman Ramey swore in Ann Herring, 516 Chantilly Drive. Ms. Herring lives at the far end of Chantilly Place Subdivision and stated she has had many problems with Alpha Omega Corporation. In the developing stages of her home, the supplies used to build her home were placed on the adjoining property. Ms. Herring stated the property is owned by Habitat for Humanity and not maintained very well; it has been reported to the city on multiple occasions. Ms. Herring explained there is a large bus sitting on the property and feels it should not be allowed with the subsequent zoning of the subdivision and that by forming the Home Owner's Association it would be a sound means of regulation in the subdivision. David Roberts explained that under the covenants and restrictions each home owner would have an obligation to comply with the Home Owner's Association. Mr. Roberts explained that in regards to zoning and cleaning of the property adjoining Ms. Herring, the city has hauled off a lot and made an effort to keep it clean, but there is still work to be done. Mr. Roberts continued by explaining if a Home Owner's Association is formed, there would be a certain degree of "policing" of the subdivision, depending on how the home owners want to draft their by-laws. Mr. Roberts stated a primary concern is not having enough parking in the subdivision; this is a big reason the Planning Commission brought in the Chantilly Place residents to see if there would be interest in forming the Home Owner's Association, especially if Alpha Omega Corporation chooses to complete the paving and fencing. Ms. Herring asked if lot 35 would add to property taxes. Ms. Dowdy stated the property was assessed at \$200, so it would not cost that much in taxes. Mr. Pitman asked Ms. Herring if she believed the home owner's in Chantilly Place Subdivision would be interested in forming the association. Ms. Herring stated that she believes with the problems they have had in the subdivision, she feels the residents would in favor of the association to make the subdivision look better. Mr. Pitman explained that he agreed with Ms. Herring and that by forming the Home Owner's Association some of the original goals, such as maintaining the parking lot and property upkeep, would be met. Mr. Pitman explained that is why the Planning Commission wanted to bring in the residents and explain the situation so that when Alpha Omega does complete the paving and fencing, there needs to be an entity established that will maintain it. Commissioner Shroat stated he feels it would be to the advantage of the Chantilly residents to form a Home Owner's Association so they can devise their own covenants and restrictions to regulate the subdivision.

Chairman Ramey swore in Michelle Chambers, 404 Chantilly Drive. Ms. Chambers asked if the Home Owner's Association is not formed, is Mr. Downs responsible for paving the parking lot. Ms. Dowdy explained that Mr. Downs has received a letter and time limit as to how long he has to construct the parking lot before a fine is assessed to Alpha Omega. Mr. Pitman stated the Planning Commission has directed Alpha Omega Corporation to complete the fencing and paving, but the city can not make a guarantee he will complete it. Ms. Chambers asked why the home owners within Chantilly were not asked about placing Habitat for Humanity homes, in their subdivision, because it is her understanding these homes depreciates the value of the other houses. Ms. Dowdy

explained that she does not know the guidelines for building a Habitat for Humanity home, but they would be required to meet the same building setbacks and guidelines as any other home owner in the subdivision. Ms. Dowdy stated the Habitat for Humanity homes are for single-family use, which is what the subdivision was developed for, and does not believe they can regulate where they are built. Mr. Roberts stated if the Home Owner's Association had been formed earlier, then the Habitat homes would have to meet all the requirements of the association. Ms. Chambers inquired about lot 1. Ms. Dowdy explained that the way the plat reads, once there are ten residences occupied in the subdivision, a Home Owner's Association was to be formed and Alpha Omega would deed over lots 1 and 35 to the residents. Ms. Dowdy explained that lot 1 has been deeded over to Jane Ann Turner as she has always maintained the property. Ms. Dowdy stated she is not sure what will happen with the property if a Home Owner's Association is formed. Ms. Dowdy read from the subdivision plat, "Lot's #1 and #35 are to be conveyed to Home Owner's Association and are not to be sold except to adjoining property owners."

Chairmen Ramey asked what the next step should be. Mr. Pitman stated that the best step would be for the home owners to get together and form a comfortable plan and report back to the planning staff before the next meeting if the residents are interested in forming a Home Owner's Association; then they could go as a group and speak with an attorney that deals with real-estate matters that can help with the process of forming the association. If there is an interest, it is something the Planning Commission can take into consideration when trying to move forward with this situation. Mr. Pitman explained that it is the intent of the Planning Commission to get this situation worked out so that this subdivision can get going and the residents can receive the benefits they were to receive upon living in the area. Commissioner Peebles asked if this would delay the ruling given to Mr. Downs. Mr. Pitman stated it would not.

Public Hearing to review rezoning request for property located at intersection of Poor Farm Road and Opportunity Drive from AG (Agriculture) to B-2 (Highway Business District) – Bruce Barber – 5.175 acres: Ms. Dowdy stated the tract of land owned by Mr. Bruce Barber is located on the southwest corner of Poor Farm Road and Opportunity Drive. The 85 acre tract of land was originally owned by Eurie Garland. It was annexed into the city in 1996 and zoned Agriculture based on the fact the surrounding area, at that time, was being used for agriculture purposes. Mr. Barber is requesting that a 5.175 acre portion along the north part of his land (with a depth of 225 feet) be rezoned to B-2. Mr. Barber has potential clients interested in constructing a business on the property. Ms. Dowdy explained the property is contiguous to the B-2 zoning district across the street, on the north side of Poor Farm Road (Howard Brandon's property). Mr. Barber has no plans for development on the remainder of his property at this time. Mr. Barber would like to keep that section of that property zoned AG.

Chairman Ramey opened the public hearing and asked for anyone in favor of the request to come forward and speak. Chairmen Ramey swore in Josh Tabers, a colleague of Mr. Barber. Mr. Tabers stated there are plans for a new development going in at this location and that they are under a time limit as to when they can get this business up and going in order to keep them from going somewhere else. Mr. Tabers explained there could possibly be other businesses go in along Opportunity Drive, which runs alongside the

possible rezoned area. Ms. Dowdy stated that Mr. Tabers is representing Mr. Barber and has set in on meetings concerning this matter.

Chairman Ramey asked for anyone in opposition. There was no opposition, so Chairman Ramey closed the public hearing.

Commissioner Peebles asked if all adjacent property owners were notified. Ms. Dowdy stated they were all notified. Only one person responded to the notification, and it was from the Futrell property, but they were not in opposition to the rezoning. Commissioner Shroat asked how many residents were adjacent to the property. Ms. Dowdy stated there were ten or eleven adjoining property owners. Ms. Dowdy explained that not all of the property owners notified adjoin the portion to be rezoned but because this is still one tract of land we went ahead and notified the property owners surrounding the entire tract. Mr. Roberts stated the property is not currently served with water and sewer services and it will require extensions from the south off of Utterback Road to get a waterline to it but there is a 12" ductile iron water main available and if need be the city can extend this to the south property line. There are also sewer services available on Utterback Road which can serve the property. The city is trying to find a way to extend this service so it will be provided on the north end of the property, but that is something being discussed currently with the developer. Mr. Pitman suggested that if the Planning Commission decides to recommend rezoning to this property, they make it contingent upon a minor subdivision plat being prepared and recorded so there is not one tract of land with two different zones.

Mr. Roberts asked Ms. Dowdy if the comprehensive plan for future land use showed this for commercial. Dowdy stated it shows industrial. Mr. Roberts explained there was mixed zoning across the area including the property across the street, which is B-2. Mr. Pitman stated that on a map amendment, it must be found it is in agreement with the comprehensive plan or absent such an agreement that the existing zoning classification is inappropriate and the proposed rezoning is appropriate as there have many major changes in the economic, physical, or social nature that were not anticipated when the current comprehensive plan was adopted. Ms. Dowdy explained that when she was reviewing the property as to what findings were stated in zoning it AG, it was due to the fact at the time, there was no present use for the property and surrounding property was used for agricultural purposes. Ms. Dowdy stated that she felt it was zoned AG with the intention that at some point in the future it would have to be rezoned for development. Ms. Dowdy stated that when the property was annexed Highway 80 construction had not begun and this would constitute a major change to the area.

Nelson Shroat made a motion to recommend to the City Council that a 5.175 acre tract of land located at the intersection of Poor Farm Road and Opportunity Drive be rezoned from AG to B-2 because of the changes in the social and economic situation of the area and that it is contiguous to the B-2 zone to the north and contingent upon the property owner having a minor subdivision plat prepared making this a separate tract of land. Mike Lovins seconded the motion and it carried with an 8-0 vote.

Annexation request – 10.647 acres located on Gibbs Store Road – Sean and Huong Kelly: Ms. Dowdy stated that this property is located along Gibbs Store Road, and is owned by the Sean and Huong Kelly. The property is contiguous with the recent southwest annexation area. Ms. Dowdy explained that at the time the annexation surveys were sent out, the prior property owner was in opposition to being annexed. Ms. Dowdy stated that the Kelly's will have two means of access to their property; one from Kingswood Drive located in Southwest Villa and the other from Spindletop Drive located in Saddle Creek Subdivision. The Kelly's have requested utility services, which are already available to the property. Ms. Dowdy explained that as part of the process they would have to request to be annexed into the city before receiving utility services. Ms. Dowdy stated that the city would also be annexing a 0.355 portion of right-of-way along Gibbs Store Road. Ms. Dowdy noted that with this request, Southwest Villa and Saddle Creek Subdivisions will be contiguous leaving open the possibility for it to be annexed in the future. Commissioner Shroat asked if the adjoining properties were in the city. Ms. Dowdy stated the properties to the north and south is in the county (Saddle Creek and Southwest Villa). Ms. Dowdy stated that the proposed zoning for the Kelly property will be R-2 (single family residential) the same as the property across the street.

Loretta Jobs made a motion to recommend to the City Council that they annex a 10.647 acre tract of land (11.002 acres with the county right-of-way) located along Gibbs Store Road, owned by Sean and Huong Kelly. Ed Davis seconded the motion and it carried with an 8-0 vote.

Advisory meeting for proposed Planned Development located on N. 16th Street – College Suites – Tom Lang: Loretta Jobs recused herself from this item on the agenda.

Ms. Dowdy began by passing out brochures given to the Planning Staff by Campus Suites which explains the makeup of their student housing complex with a breakdown of the layout of the rooms and facility.

Ms. Dowdy explained that the site for the proposed Planned Development Project is the old Charette property located on North 16th Street and currently owned by Howard Brandon. The property is located just north of University Heights Subdivision. The adjoining property to the north is owned by Murray State University. Ms. Dowdy stated that Mr. Tom Lang with Campus Suites is in attendance at the meeting if the Planning Commission has any questions for him. The property was rezoned to B-2 back in April 2001, so this residential PDP would be allowed as a conditional use. The property is a approximately 45 acres. Ms. Dowdy noted that Campus Suites indicated they would be interested in leaving a four acre tract of land on the southwest corner available for some possible commercial development. Ms. Dowdy stated that in discussions with the developers it was noted that the Planning Commission would probably require two means of egress into the development. Mr. Lang stated that they typically have two means of ingress for all their developments; one entrance for the residents and one as a service road for emergency use. Utility services are available to this site. Ms. Dowdy then presented a powerpoint presentation showing pictures of the property. Ms. Dowdy noted that Planning Staff is working with developers to determine where the best location for an entrance would be because of site issues on this property. Ms. Dowdy explained that the conceptual drawing shows this as a gated development with five buildings and a club

house. It was also noted that many of their developments provide a transit service for college students. It is not yet known if the transit service will be provided in Murray. Ms. Dowdy explained that she has spoken with the Fire Chief and Fire Marshal, and they both agree there will need to be another means of ingress/egress onto 16th Street. Ms. Dowdy noted that the number of parking spaces shown on the conceptual drawing meets the city's parking requirements. Commissioner Shroat asked if all the units would be three or four bedroom units. Ms. Dowdy stated they would be.

Tom Lang, President of Campus Suites, explained to the Planning Commissioners that they have complexes similar to the proposed Campus Suites in Tallahassee, FL., Columbia, SC., Murphysboro, TN., Bowling Green, KY., and Oxford, OH. Mr. Lang stated the trademark of Campus Suites is that they provide a private bath with every bedroom. Mr. Lang explained that his business is very sensitive to parking issues and that they try to provide adequate spaces for parents and visitors. Mr. Lang stated the outside amenities displayed on the conceptual diagram may have some modifications because of the climate. Mr. Lang mentioned the entrance issues and feels Campus Suites would probably use the southern end of the commercial property for an alternative entrance. Commissioner Shroat asked Mr. Lang what kind of timeline they were working on. Mr. Lang indicated it would be a year from next fall (August 2008) before the complex would be complete. David Roberts asked Mr. Lang if the bus transportation for the residents was still a possibility. Mr. Lang explained, with the exception of their Tallahassee location, Campus Suites provides a private bus service for students. Campus Suites will go to the local transit system to see if they can economically deal with them and provide the service for their students. Commissioner Peebles asked if Campus Suites could provide references from other cities. Mr. Lang stated he would provide references, probably from Bowling Green, KY and Murphysboro, TN because of proximity. Commissioner Peebles asked how long Campus Suites has been in existence. Mr. Lang stated he and his partner, Mr. Henry Morton, have been dealing with conventional apartments for ten years and have been doing student housing for the past five years.

Ms. Dowdy stated everything at this time is preliminary, Campus Suites and the Planning Staff have discussed the possibility of traffic studies, sidewalks, turn lanes, having to acquire additional right-of-way, etc. Commissioner Kind asked about the additional turn-lane and if it would include a widening of 16th Street. Mr. Roberts stated they are going to look at the possibility of a left-turn lane from 16th Street into the complex; there is a sixty foot right-of-way, presently at the location. Having to obtain additional right-of-way is a possibility. Mr. Roberts stated that the city is still hopeful that the Department of Transportation will provide needed improvements to 16th Street. There are many issues with site and width of the road that will have to be addressed in the future. Mr. Roberts stated this topic will go before the BZA on the following night for a compatibility hearing.

Discussion of rezoning west of 16th Street. Peyton Mastera presented the Commissioners with an updated report on the information gathered from the surveys sent out to the property owners concerning the rezoning west of 16th Street. From the previous Planning Commission meeting, the Commissioners requested an additional overlay of information showing conditional uses approved and denied within the 63 properties as well as any other survey information collected. Mr. Mastera noted a

mistake at 1632 Hamilton which was supposed to show a conditional use permit being denied and at 1633 Hamilton which was supposed to show a conditional use granted. Mr. Mastera stated that Planning Staff had received around a 70% response rate from the 63 properties (45/63). Ms. Dowdy reminded the Planning Commission that this is strictly a discussion of the proposed rezoning and that the Commissioners asked to have this additional information. On Ryan Avenue, one conditional use permit had been revoked because the property owners were not meeting the conditions of the permit. Ms. Dowdy stated that Planning Staff is looking to the Planning Commission for direction as to whether to move forward with the proposed rezoning or not. Commissioner Davis asked if the Planning Commission would hold a public hearing on the matter. Ms. Dowdy stated there would be a public hearing. Ms. Dowdy noted that a letter had been dropped by the office from Ms. Stephanie Carpenter requesting it be read at the Planning Commission meeting as well as a letter from Mr. Durwood Beatty. Ms. Dowdy stated that she had spoken with Mr. Pitman, attorney representing the Planning Commission prior to the meeting and he indicated that it would be best to wait until the public hearing to read these letters. Commissioner Peebles asked if Commissioners receive a letter, similar to this one, are they not supposed to read it or consider it before a public hearing. Chairman Ramey explained it was at the request of those sending the letters to have them read into the records of the general public and that Mr. Pitman does not feel it is necessary to be read unless it is a public hearing. If a letter is received by a Commissioner, it is not to be discussed until the Planning Commission meeting.

Commissioner Shroat asked if there would be any ramifications if the Planning Commission decides not to move forward with the issue. Ms. Dowdy stated if there are complaints about properties being used for multi-family use, then staff will follow-up with a letter to the property owner and possibly require them to apply for a conditional use permit if they are in violation. Commissioner Davis, speaking as a Board of Zoning Adjustments member, stated he would be in favor of moving forward with the proposed rezoning because it would relieve staff and the Board of Zoning Adjustments from dealing with this issue so often. Commissioner Koenen asked how much of a burden the Board of Zoning Adjustments is experiencing since there has only been 10 conditional use permits applied for over the past 10 years. Ms. Dowdy stated Planning Staff receives many inquiries on a weekly basis from people wanting to purchase property in this area and use it for multi-family use. Ms. Dowdy noted that the process of applying for a conditional use permit is explained to potential buyers quite frequently and feels it deters many people from applying for more conditional uses. Commissioner Jobs noted there is a block of properties between Olive Street and Miller Street which appear to be owner occupied and wants to know if that information could be collected. Chairman Ramey asked when the comprehensive plan was done, how many in the R-2 zone were being used for multi-family use at the time, compared to the current information. Ms. Dowdy explained it would be difficult to determine, on an individual basis, if these properties have been used for multi-family use or single-family use. Ms. Dowdy noted the property at 1633 Hamilton responded they would be against rezoning despite receiving a conditional use permit for an additional, non-related person to occupy the premise.

Commissioner Davis suggested possibly holding a special meeting to hold a public hearing as there may be many people wanting to speak on this matter. Mr. Roberts stated compiling the list of property owners and getting together a letter for them should not be

much of a problem, but putting together a map with a legal description may take some time. Mr. Roberts also stated that the Planning Staff will have to take into consideration how much is on the agenda for next month's meeting. Ms. Dowdy explained that there has to be a two week notification given to adjacent property owners prior to a public hearing. Commissioner Ramey stated he thinks it most fair to hold a special meeting sometime between the October and November meeting.

Mike Lovins made a motion that the Planning Staff set a date for a public hearing to be held, at their discretion, to discuss the possible rezoning of 63 properties to the west of 16th Street. Ed Davis seconded the motion and it carried with a 6-2 vote. Howard Koenan and Nelson Shroat voted no.

Being no further business, Nelson Shroat made a motion to adjourn. Ed Davis seconded the motion and it carried with an 8-0 voice vote.

The meeting adjourned at 6:18 p.m.

Chairman, Dave Ramey

Recording Secretary, L. Peyton Mastera