

**MURRAY PLANNING COMMISSION MINUTES  
REGULAR MEETING  
TUESDAY, MARCH 15, 2011**

The Murray Planning Commission met in regular session on Tuesday, March 15, 2011 at 5:00 p.m. in the council chambers of City Hall located at 104 N. 5<sup>th</sup> Street.

**Commissioners Present:** Mary Anne Medlock, Tom Kind, Kevin Perry, Ed Davis, Amber DuVentre, and Richard Vanover

**Commissioners Absent:** Ed Pavlick, Loretta Jobs, Jeremy Boyd, and Marc Peebles

**Also Present:** Peyton Mastera, David Roberts, Warren Hopkins, Reta Gray, Officer Darren McCuiston, Hawkins Teague, Jim Tate, Max Morgan, Lane Schmidt, Jim Ragsdale, Virginia Morgan, Landon Barrow, Michael Morris, Diane Garcia, Sheila Sullivan, Al Katini, and Brad Dublin

Chairman Vanover called the meeting to order and welcomed all guests. Chairman Vanover asked if there were any additions, corrections, or deletions to the minutes from the February 15, 2011 regular meeting.

**Tom Kind made a motion to accept the minutes from February 15, 2011 Planning Commission regular meeting as presented. Ed Davis seconded the motion and the motion carried unanimously.**

**Public Hearing to review a revised planned development project plat – Robertson Road South – The Gates – Jim Tate and Barbara Campbell:** Peyton Mastera used a Power Point presentation to show The Gates, a single family residential Planned Development Project located on Robertson Road South. The developers for this project are Jim Tate and Barbara Campbell. The two year time limitation for completion of this Planned Development Project expired in August 2009 and at this time only five of the thirty-six units have been constructed in Phase I. Mr. Mastera stated that in conjunction with this project, there was initially another phase that would increase the total number of units to 119; however, the developers are not ready to proceed with that phase at this time.

Mr. Mastera said that all utility infrastructure. The streets have been paved in Phase I up through what has been developed and the developers are still in the process of completing the stormwater detention. The developers have indicated that they would like to have a few more residents before they have the entry gates activated. The back entrance will be closed off for emergency access only. The main issue at this time is getting the other units constructed and the streets up to standards. The developers are in discussions with a contractor to construct the next five units; however, they cannot proceed until an extension is granted and any amendments to the plat are approved by the Murray Planning Commission and the Conditional Use Permit is reviewed by the BZA.

The developers have also submitted a revised Planned Development Project plat and would like to deviate from some of the initially approved requirements in 2007. These changes include eliminating the club house and replacing it with one unit plus the addition of two other units on Pillar Drive. The new units will remain the same size but will not have adjoining walls as were in the previous plans; they will all be separate units. The intention is to keep the outside materials all the same in each section and they will be constructed of either brick and vinyl or dryvit. Mr. Mastera stated that the developers will maintain the Home Owner's Association until approximately 80% of the development is occupied and at that time it will be turned over to the residents. Once the Home Owner's Association is transferred to the owners, the responsibility of decision making will also transfer. At this time there is a \$50.00 HOA fee that covers mowing the yards. Initially the owner's actually owned from interior to interior (paint to paint) and the Home Owner's Association was to cover all improvements (e.g. streets, outside repairs, mowing, stormwater, etc.) to the development and maintenance of the exterior to each patio home. Since this is a PDP, streets and street lights are privately maintained. Mr. Mastera said that Mr. Tate had explained to the Planning Staff that there have been some changes to the Kentucky Statues; therefore, the Home Owner's Association will not be responsible for the outside of the units. Each owner will be responsible for the inside and outside of their home. The covenants and restrictions that were previously recorded at the court house have had some changes made to them.

Chairman Vanover opened the public hearing and asked if there was anyone that wished to speak in favor of the extension or proposed changes to the project.

Jim Tate, 16 Gil Lane, Murray, Kentucky was sworn in. Mr. Tate is the developer of the project. Mr. Tate said that they had obviously started the project at the decline of the economy. He added that in the beginning, the models were scaled too high for the Murray area and they have recently revised their units where the cost will be more economically feasible ranging from \$106,000 thru \$170,000. Mr. Tate stated that the new units will be separated from each other and there will be green space between each unit.

Chairman Vanover asked if there was anyone that wished to speak in opposition to the extension or proposed changes to the project.

Max Morgan, 508 Lee Street, Murray, Kentucky was sworn in. Mr. Morgan wanted to know who would be controlling the maintenance of the streets and yards. He also wanted to know if there are any other subdivisions like this one in Murray. Mr. Mastera stated that this is a privately maintained development and that the streets and street lights are controlled by the developers or Home Owner's Association. Mr. Mastera added that each PDP is unique and that this is the first gated community in Murray. Mr. Morgan then questioned the sizes of the proposed units. Mr. Tate replied that they were 1,000 to 2,000 square feet. Mr. Morgan stated that a 1,000 square foot home in his neighborhood would devalue his property. Mr. Morgan suggested that the commissioners look at the houses around this proposed project and see if this development was compatible to the surrounding area.

Lane Schmidt, 507 Lee Street, Murray, Kentucky was sworn in. Mr. Schmidt asked if the city ordinances would apply to the public safety issues and the maintenance of property and streets. Mr. Mastera stated that all rules apply to this project. Mr. Mastera added that the Planning Commission and Board of Zoning Adjustments required 24 foot wide streets and sidewalks to be installed in a development as this and they are to be maintained by the developers or HOA. The development is also subject to the property maintenance code. Mr. Schmidt is concerned that a row of 1,000 square foot houses would only prove detrimental to the integrity of the neighborhood. Mr. Mastera explained that Phase I is currently being reviewed and that the extension into Phase II (if developed) would adjoin Mr. Schmidt's property. Mr. Schmidt wanted to know if Phase II should be developed if the 1,000 square feet units would be amongst the 2,000 square feet units. Mr. Tate said that they would not be mixed; the smaller units will be grouped in sections as would the larger units.

Jim Ragsdale, 2219 Traci Drive, Murray, Kentucky was sworn in. Mr. Ragsdale said that he shared concerns along with Mr. Schmidt concerning the square footage of the proposed units. Mr. Ragsdale was interested in the outside materials that are being proposed for use and thought that needed to be decided before the extension was approved. Chairman Vanover stated the commissioners would not be able to tell Mr. Tate what to build nor what façade to use on the units; however, some subdivision rules and regulations might indicate that.

Mr. Tate said that the developers do not want to do something that would deteriorate property values. He stated that they had millions of dollars already invested in this project and they would not do anything to jeopardize that investment. Mr. Tate said that Dale Campbell lives on Traci Drive and he had plans to continue to build homes in that area; therefore, he would not want to do anything that would bring the property values down. Mr. Tate added that this project would not affect the homeowners in the adjoining subdivisions.

Chairman Vanover closed the public hearing and turned it over to the board for discussion.

Amber DuVentre asked if the stormwater detention had been completed. Mr. Tate stated that there is a natural detention in Phase II at this time and there will be an area for detention added to the back of Phase I in the near future. David Roberts explained that initially the stormwater detention was designed at the back of Phase II but since that phase has been put on hold at this time, the developers were required to have a stormwater detention for Phase I. This detention area is in the process of being designed and will be located at the east end of Phase I. Mr. Mastera asked Mr. Tate to explain why the changes are being made to the development. Mr. Tate stated that the Kentucky Statutes have made changes to condo development and how they are insured. They were previously having problems with insurance concerning who is liable; thus, the change where each homeowner is now responsible for insuring their own unit. Tom Kind asked Mr. Tate if he knew when the Home Owner's Association would be put in place. Mr. Tate replied that the developers will continue as the Home Owner's Association until the majority of the units are sold and then turn it over to the homeowners. Mr. Roberts explained that this particular development is single family and should the developers decide to rent the units, these units can only be rented to single families unlike the R-4 development directly to the north. Mr. Tate stated that in the near future they will have the keypad gates in operation. Mr.

Roberts asked if the existing homeowners are aware of the new conditions of the development or are they still operating under the conditions in which they bought their property. Mr. Roberts suggested that they sign off on a waiver stating that they have read the new covenants and restrictions, that they are aware of the new plat and that they are basically in agreement with it. Commissioner Kind asked if the size of the units had changed from the original approved size. Mr. Tate stated that there were no changes. Mr. Roberts asked if the streets would be completed in each section as each section's construction is completed. Mr. Tate said that is correct and the reason for that is to keep the construction trucks from damaging the streets. Mr. Tate stated that he understands the concerns of the neighborhood; however, this type of living is a way of the future and there is a desire by some to live in this type of neighborhood. He added that these types of homes are already located in prominent neighborhoods where the owners have a different life style such as not having to maintain their own yard. Mary Anne Medlock said that her concern was that the original deadline for the project has come and gone and only five units have been built. She wonders if the developers can complete their development in two additional years. Ms. Medlock then asked why this project had not been brought before the commissioners until this time. Mr. Roberts stated that it took approximately 18 months to complete drawings and get the infrastructure in place before the building ever began. Then since the downfall of the economy, it has been a little over a year since a Certificate of Occupancy has been issued for a unit in the development. Ms. Medlock suggested the time limitation on projects of this magnitude be changed in the Zoning Ordinance updates.

Virginia Morgan, 508 Lee Street, Murray was sworn in. Ms. Morgan said that since this project began, it has been a mess. She stated that she does not want to be back to back with a house that is the size of her garage. Ms. Morgan said that she could not imagine not having a Home Owner's Association and she concluded that she was against this development.

Kevin Perry asked Mr. Roberts if the Planning Commission has the option to ask the developer to scale the development down to something more feasible that could be completed in two years. Mr. Roberts said that Planning Staff had discussed that with the developers and at this time, they would like to proceed as initially planned. Chairman Vanover asked Mr. Tate to come forward and he asked him the possibility of scaling the development down to something that could be completed in a two year span. Mr. Tate stated that he thought everyone was missing the point. He said that they have invested millions of dollars at this time and they feel like they have to proceed with the development and complete Phase I. He added that infrastructure is the highest costs of a development like this and they would like to sell the units as fast as they can in order to recoup some of that money from the infrastructure costs. Mr. Tate said that he is encouraged by having five units under contract because he feels that they have found a market that will fit Murray. Ms. Medlock said that she wonders what would happen if they approved the extension and in two years they were back there again addressing another extension. She also asked Mr. Tate how the commissioners could help. Mr. Tate stated that he has a window between now and December in order to have good working conditions for construction and if the extension is approved, he can get the building permits and get started on the units already under contract. Mr. Tate added that he hopes the project works and moves on or it is just vacant land sitting there costing the developers more money. Mr. Tate said that Phase II may or may not be developed and there is the possibility that it may one day turn into another subdivision. He doesn't know

what will happen at this point. He believes that they are on target for two years and that the economy is making a turn. Mr. Tate said that Murray is in need of single family homes in this price range. He added that when you show a family a new home vs. a used home in the same price range, they are going to choose the new home. He also said that they are amazed to be getting inquiries from clients living in Mayfield on these units. Mr. Tate said that there is a development like this in Paducah and it is thriving.

**Ed Davis made a motion to table the item until the current owners and occupants agree and sign a waiver to the amended restrictions for the development. Mary Anne Medlock seconded the motion and the motion carried with a 6-0 voice vote.**

**Preliminary subdivision plat review – Madison Park Subdivision – Jones-Sparkman Road – Landon Barrow:** Peyton Mastera used a Power Point presentation to show the property on Jones-Sparkman Road where Landon Barrow is proposing to develop Madison Park Subdivision. Mr. Barrow is requesting preliminary plat approval for the 13.24 acre tract of land. This property is located in the county but does lie within the four mile jurisdiction of the City of Murray Subdivision Regulations. The subdivision will consist of 24 lots. All lots must meet the minimum lot size as determined by the Calloway County Board of Health. The plat identifies lot #20 as being reserved for a public water supply. The Homeowners' Association will maintain the water system. Each individual lot will have a private septic system. The street names have been approved by Tonya Robinson with Calloway County 911. Mr. Barrow is proposing to construct the asphalt streets at a width of 24 feet with a one foot shoulder of gravel on each side. Article V, Sec. 5.3 of the City of Murray Subdivision Regulations requires curbs and gutters to be constructed in all subdivisions lying, in whole or in part, within one mile of the corporate city limits. Mr. Barrow is requesting the Planning Commission waive the requirement for curbs and gutters. A ten foot public utility easement is shown along the front of each lot. Kim Oatman is currently working on the stormwater detention plans for this subdivision. Mr. Mastera stated that Mr. Barrow is looking at constructing duplexes on the property. Mr. Mastera added that Jones-Sparkman Road off Robertson Road is approximately 16 feet wide and the further west you go towards the proposed development, the road fluctuates to 13, 14 and 15 feet in width. Mr. Mastera stated one concern at the entrance of the proposed development is the visibility. Mr. Barrow will be clearing some of the trees which may enhance visibility somewhat. There is a standard 10 foot dedicated public utility easement along the front of each lot.

Chairman Vanover asked Mr. Barrow to come forward and explain his proposal.

Landon Barrow stated that this is a proposed residential subdivision and an option will be duplexes. They are targeting either single or multi-family. Mr. Barrow confirmed that they are looking at clearing an opening that Mr. Mastera had pointed out earlier to help in the visibility of the first entrance. They will be leaving a few trees at that location because they will provide shade for the people who run and bike down the road. Mr. Barrow stated that there will be a community well and each individual property will have its own septic system. Commissioner Kind asked if that had been approved by the Health Department. Mr. Barrow said that there had not been a site evaluation done. Commissioner Medlock asked when would the feasibility study be done on the septic system. Mr. Barrow stated that he works for the Health Department and

that he has already looked at the soil; however, he has not had the formal evaluations completed. He stated that he will not personally be doing the site evaluations on this piece of property due to a conflict of interest; that someone else from the department will have to do the evaluation. Commissioner Perry asked if there were future plans where the one street dead ends. Mr. Barrow stated there were not any future plans for the development and that he put the road there as per the request of David Roberts.

Chairman Vanover stated that there was not a public hearing in session; however, he would allow those wishing to speak to do so. He asked if there was anyone that wished to speak concerning the proposal.

Michael Morris, 198 Robertson Road, Murray, Kentucky stated that he was 61 years old and he had lived in the area of the proposed subdivision most of his life. He said that the property was once the Charlie Paschall farm and that the neighbors call that area "crawd hole" because of the standing water. Mr. Morris said that there is a pond nearby the property and water is in the pond and on the road near the entrance all year long. Mr. Morris described this particular piece of property as a low lying wet spot and added that contractors have never shown an interest in purchasing the property because it is not feasible to put houses on. He questioned how a septic system would work with water standing on the property. Mr. Morris said that there is a federal law that a chlorine water system has to be installed for the well; therefore, someone in the community will have to periodically check the chlorine. Mr. Morris said that he has spoken to the County Judge to have a Federal Inspector involved with the case instead of letting Mr. Barrow inspect his own septic system as that could be a conflict of interest. Mr. Morris said that 20,000 feet is required per lot to make the septic system work and the government standards are to have a 3/4 acre lot and Mr. Barrow's lots are only 4/10 acre. Mr. Morris stated that he has lived at his current residence for over 30 years and has had his septic system worked on 4 times. Mr. Morris added that his neighbor has 1½ acres and the septic system covers the entire lot. Mr. Morris addressed electric lines being run to the property and stated if the lines were run above the ground, 25 feet clearance on each side of the poles is required and that will shorten the proposed subdivision property lines.

Diane Garcia, 332 Jones-Sparkman Road, Murray stated that she had lived in her house for 1 ½ years. When she moved in she had her septic tank pumped and also had it pumped a few days prior to the meeting. Ms. Garcia said the septic tank was full of water. She stated that her property is to the north of the proposed subdivision. Ms. Garcia measured the width of the road in front of her house and it was 14 feet. She said that when you meet another vehicle on Jones-Sparkman road, one of the vehicles has to pull over because the road is not wide enough for the two vehicles to pass. Ms. Garcia stated that the college and local high schools use that road for track along with the Bike, Swim and Run Club. She stated that if duplexes were on the lots, that there could be at least three members of a family on each side of the duplex and possibly three cars per duplex. That would be an additional 144 automobiles frequenting Jones-Sparkman Road and the road is already in poor repair. Ms. Garcia is also concerned about one well keeping up all the houses. She wonders if there is going to be enough water for the development or if the other wells in the community could be affected. She stated if duplexes are built and college kids are allowed to live there, that could devalue their property.

Sheila Sullivan, 303 South 6<sup>th</sup> Street, Murray stated the particular piece of property that they are talking about was in her family since around 1893. She said there is currently an old house on the property; however, nothing else has ever been built there because water stands on the property all the time. Ms. Sullivan stated that she had previously owned 58 acres that adjoins this property and when she decided to sell some of it, she subdivided it into 5 acre tracts to avoid having a subdivision developed there. Ms. Sullivan said that she thinks a subdivision of the nature Mr. Barrow has suggested would only decrease the value of the property. Ms. Sullivan stated that when she travels Jones-Sparkman road and meets another vehicle around the entrance of the proposed subdivision, one of the vehicles has to get off the road. Ms. Sullivan said that a neighbor, Mrs. Washer, had told her that she felt threatened by Mr. Barrow. Mr. Barrow wanted Mrs. Washer to allow him to drain his property on her land and in turn, he said that he would leave her trees alone and not cut them; however, if overhead electric lines are run to the property, the trees will have to be cut. Ms. Sullivan concluded by saying that Mr. Barrow had also threatened to put mobile homes in the subdivision.

Al Cutini, 1713 Plainview, Murray stated that he and his wife own 33 acres adjacent to the property. Mr. Cutini said that he had been coming to Murray since 1947 and since that time there has been a pond (always with water in it) located at the site that is being discussed. He added that the property should have been a watershed years ago because it holds so much water. Mr. Cutini said that he understood that Mr. Barrow is not sure what he is going to build on the land or if he is going to put mobile homes there. He wants to know how the commissioners could approve something that they are sure not of.

Chairman Vanover asked for discussion from the Commissioners. Commissioner Perry asked if there were any zoning requirements for the county. Chairman Vanover stated that there were not and he could build anything he wished. Commissioner Perry asked if there were stormwater detention requirements. Mr. Roberts stated they were required to have a detention area because the subdivision falls within the four mile jurisdiction of the City of Murray Subdivision Regulations and if there is any change to the characteristics of the sheet flow to the channelized flow Mr. Barrow will be required to have signed permission from the adjoining property owners. Commissioner Kind asked when the stormwater detention would be addressed. Mr. Roberts stated that it would come between the Preliminary and the Final Subdivision Plat. Commissioner Kind also was concerned about curbs and gutters being installed and wondered if that would help or hurt the drainage issue. Mr. Roberts stated that an engineer would have to answer that question.

Michael Morris came forward again and asked if the city had received any material from Judge Elkins concerning this matter. Mr. Roberts stated that he had received an e-mail and Mr. Elkins was concerned about the additional traffic to Jones-Sparkman Road and the poor shape that the road was already in. *Mr. Mastera read the e-mail out loud.*

**Mary Anne Medlock made a motion to deny the preliminary subdivision plat of Landon Barrow for Madison Park Subdivision on Jones-Sparkman Road. Amber DuVentre seconded the motion and the motion carried with a 6-0 voice vote.**

Brad Dublin, 4554 Stanley Grove, Farmington, Kentucky came forward and asked the Commissioners the reason for the denial. Commissioner Medlock stated that she didn't feel there was enough information brought to the Planning Commission to be able to help the plat move forward. Mr. Barrow asked Commissioner Medlock what other information she would need. Commissioner Medlock stated that she would like to see a feasibility study and a plan for the stormwater detention. Mr. Barrow stated that he brought everything that the Planning Staff had instructed him to bring and he was unaware that he would need any engineering data at this meeting. Mr. Roberts stated that it would be atypical to bring any engineering data before the preliminary plat was approved. Mr. Dublin asked to have the pictures with the water on the property shown again. Chairman Vanover stated that the matter had already been voted on and Mr. Dublin should have come forward and made his comments before the motion was made.

**Update on Zoning Ordinance revisions:** Peyton Mastera said that the Planning Staff had completed all the work with the consultants and they should be submitting something back to the Planning Staff in the coming week. Mr. Mastera asked if there were any questions concerning the updating of the Zoning Ordinance. Chairman Vanover asked if the Commissioners were going to be able to see the proposed changes to the ordinance. Mr. Mastera said they were. Mr. Roberts added that the Planning Commission has to approve changes before they go to the City Council.

**Questions and Comments:** Tom Kind said they received the results of the City Business Survey at the last meeting and that the survey really didn't tell him anything; the survey was too general and didn't give direction. Mr. Mastera said that the Planning Staff would agree. He added that since the survey was compiled of yes and no questions, you wouldn't get the feedback to give you any direction. Mr. Mastera stated that Planning Staff had met with city staff in order to try and come up with some ways to better their scores the next time. Mr. Mastera concluded that they welcome and are open for assistance if anyone has any comments or solutions that would help with these processes.

**Adjournment: Ed Davis made a motion to adjourn. Tom Kind seconded the motion and the motion passed unanimously. *The meeting adjourned at 6:47 p.m.***

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Chairman, Richard Vanover

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Recording Secretary, Reta Gray