

**MURRAY PLANNING COMMISSION MINUTES  
SPECIAL MEETING  
TUESDAY, APRIL 2, 2013  
5:00 P.M.**

The Murray Planning Commission met in special session on Tuesday, April 2, 2013 at 5:00 p.m. in the council chambers of City Hall located at 104 N. 5<sup>th</sup> Street.

**Commissioners Present:** John Krieb, Loretta Jobs, Marc Peebles, Tom Kind, Mary Anne Medlock and Kevin Perry

**Commissioners Absent:** Jeremy Boyd, Ed Davis, and Ed Pavlick

Also Present: Candace Dowdy, Justin Crice, Mike Pitman, Jennifer Tolley, Ryan Stanger, Edward Marlowe, Bobby Deitz, Bill Palmer, Bobby Ann Lee, Mike Betts, Gerald Bell, Roger Haney, Landon Barrow, Chris Jones, and public audience

Chairman Kind called the meeting to order. Candace Dowdy informed the commissioners that the recommendation by the Planning Commission to accept Young Boulevard for maintenance by the city went to the City Council on March 28, 2013. The Council amended the street name to be Robert Young Boulevard. Chairman Kind asked the commissioners if there were any changes, additions or deletions to the minutes from the March 19, 2013 regular meeting.

**Marc Peebles made a motion to accept the minutes from the March 19, 2013 Planning Commission regular meeting as presented. Mary Anne Medlock seconded the motion and the motion carried unanimously.**

**Final Plat Review: Arbor Creek Subdivision located at 1674 State Route 121 North – Ryan Stanger - SSM Properties LLC & West Wind Rentals LLC:** Candace Dowdy stated that the Planning Commission reviewed this project a couple of months ago and approved the preliminary plat but at the same time they wanted some additional information on the final plat before it was brought back for final plat review. The Commission suggested Mr. Stanger show where he was going to provide sanitation pick up for the residents and provide additional parking for visitors. The Commission also stated that they would like for Mr. Stanger to consider connecting the two streets if possible and if not to provide a turnaround at the end of both streets. Ms. Dowdy noted that the review of the final plat was tabled last month because of a lack of quorum. Ms. Dowdy stated this item would need to be removed from the table before discussion.

**Marc Peebles made a motion to remove the item from the table for discussion. John Krieb seconded the motion and the motion carried unanimously.**

Ms. Dowdy used a Power Point presentation to show the property at 1674 State Route 121 North that is owned by Ryan Stanger. The 2.99 acres is located in the county. The property falls within the Urban Service Area and also within a 4 mile radius of the city which requires review by the Planning Commission when there is any subdividing of the land. Mr. Stanger is proposing to divide the property into seven (7) lots which would require it to be reviewed as a major subdivision. He is proposing to construct a six unit building on each lot for a total of 36 units. Lots 1 – 6 are approximately 1/4 to 1/3 of an acre. Lot 7 cannot be used for building purposes and will be used for green space. Due to the topography of the land and given the fact that part of the property lies within a floodplain he is restricted on how he can develop the property. The two streets within this subdivision would be private streets. Lots 4, 5, and 6 would require a 10 foot rear setback variance. The property is served by city water and

sewer, with no extension of utilities being required. The final plat shows a connection between Bower Creek Drive and Arbor Creek Drive. The lots along Arbor Creek Drive will be developed first with a temporary turn-around for emergency purposes and will serve as a temporary dumpster area until Bower Creek Drive is developed. The permanent dumpster area is shown at the end of Bower Creek Drive. An additional 20 parking spaces have been provided with a sidewalk along the western portion of this development leading to the dumpster area. Based on information submitted by BFW Engineering stormwater detention is not required for this project and an exemption to this requirement has been waived by the Director of Planning & Engineering. The final plat also indicates drainage easements where they are needed. Mr. Stanger has placed covenants and restrictions on the final plat as well as notes regarding ingress/egress easements and the future maintenance of the private streets. There is a proposed future recreational area also shown on the final plat. Ms. Dowdy said that Mr. Stanger had spoken to the Kentucky DOT and they had indicated there was enough road frontage on this property to have up to three entrances and that if Mr. Stanger chose to divide this land into less than five lots with each lot having a minimum of 75 feet of road frontage, the commissioners would not be involved with the development of this property. Ms. Dowdy stated that if a minor subdivision plat was submitted to our office and it met all the subdivision regulations it would be approved through our office with the Chairman of the Planning Commission signing off on the plat. Commissioner Jobs asked if there was a time limit for completion of the project and Ms. Dowdy replied there was not. Ms. Dowdy said that Judge Elkins had called her earlier in the day and had indicated that he had spoken to Ryan Stanger concerning the proposal. Judge Elkins said that he has no problems with the development.

Ryan Stanger, 1715 Doran Road South, Murray was sworn in. Mr. Stanger is the developer of the property. Mr. Stanger presented the Commissioners with a copy of the revised plat and a site plan for the proposed buildings. Mr. Stanger stated that his intention is to develop the property in two phases and that he would like to begin the work on Phase I immediately. Arbor Creek Drive and lots 1, 2, and 3 will be developed first along with ample parking being provided for the three buildings and guests. Then upon completion of the first phase, he would construct Bower Creek Drive and the other three buildings with final completion hopefully within one and a half years. Mr. Stanger wants to appeal to the family market; therefore, the plans show two bedroom units with 2.5 baths. He stated these would be a little larger and nicer than the typical rental units around town. Mr. Stanger said that Ron Millay with KY Department of Transportation has approved the encroachment permit for the Arbor Creek Drive entrance. Mr. Stanger pointed out the recreation area where he plans to have a grassy area with picnic tables and park equipment. He stated that he had contacted Tab Brockman, Parks Manager about concerns and costs of playground equipment. At this time there are a lot of unknowns with the recreational area because of insurance and liabilities that he will be looking into. Parking spots available are 107 for the total development. That will be one shy of three spaces per unit. Mr. Stanger said that he had spoken to Judge Elkins previously and the county has no intention of taking over the maintenance of the two private drives in the subdivision. Mr. Stanger stated that if these are private drives then he will have full control over them and he will possibly post 10 MPH speed limit signs and install speed bumps to have some control of the traffic on both private drives and to ensure the safety of others. Commissioner Perry asked if there was going to be a Subdivision Association. Mr. Stanger said that there was not because they did not feel that was appropriate for only 7 lots; however, there are covenants and restrictions listed on the plat. The owner will maintain the road in front of his property and Bower Creek Drive will be maintained equally by all of the owners. Mr. Perry asked what would be done if he owned one of the lots and his

neighbors were not maintaining their part of the road. Mr. Stanger replied at this time he plans to maintain ownership of all the lots; however, should there come a time when that is not the case, they have established covenants and restrictions for the subdivision through the help of an attorney. If a problem should occur, the remaining lot owners would have the ability to have a judgment lien against the property owner according to these restrictions.

Bobby Deitz, 645 Swift Road, Kirksey, Kentucky was sworn in. Mr. Deitz is employed by BFW and is the engineer for the development. Mr. Deitz stated that his office has completed the permit for the entrance off Hwy 121 North, the permit for the Division of Water to construct within a Flood Plain, joint application with the Army Corp of Engineers and TVA to construct in the Flood Plain and they have done the grading plan for the project. They requested an exemption for the stormwater detention. Mr. Deitz explained the basis of design as a difference in time of concentration. He said that it only really works if you are on the banks of a tributary. Mr. Deitz brought a representation of a similar site that indicates the water flow at Bee Creek and the reason for the request for exemption for stormwater detention. The City of Murray requires a 24 hour storm design and basically the peak intensity of the stormwater is within the first 12 hours. Mr. Deitz stated that this is the first time they have asked for an exemption in the City of Murray, but he said that you don't typically get a chance to work right on the banks of a large stream such as Bee Creek. Other cities such as Morristown, TN and Paducah allow this type of exemption to stormwater detention requirements if you can show that water run-off can flow into a tributary stream before upstream peak flow will reach the same point.

Chairman Kind stated that although this is not a public hearing he has been informed that there are people here interested in this project and the commissioners would like to have their input.

Bill Palmer, 277 Country Club Lane, Murray was sworn in. Mr. Palmer presented a petition from his neighbors as well as others in the community who are against the development. (*The petition was entered as Exhibit A.*) He then proceeded to read a letter stating the reasons for the opposition to this project. (*The letter was entered as Exhibit B.*) Mr. Palmer said that for the sake of time there are about ten other regulations that he did not read that the neighbors feel are safety related to this proposal in addition to the flood hazard regulations. He commented that it is interesting that the stormwater detention exemption has never been done in Murray before and he and the neighbors feel that there would have to be formal variances in order to have this happen. (*A list of the other regulations [that the opposition felt warranted variances] was entered as Exhibit C.*)

Bobby Ann Lee, 277 Country Club Lane, Murray was sworn in. Ms. Lee is the spouse of Mr. Palmer. She reviewed some charts displaying the amount of increase in highway related deaths that had taken place in Calloway County. The data was the latest Ms. Lee could find and was dated 2009. Ms. Lee stated that she was pleased to see that Murray has a Comprehensive Plan. She said even though they live in the county, they fall within the four mile jurisdiction for subdivisions and feel very much a part of Murray. The Comprehensive Plan shows the future goal of this property to be used as lower impact uses or single family residence. Ms. Lee said that the community sees the Comprehensive Plan as what they would be going by for future years to come. Ms. Lee stated that Hwy 121 North is an arterial road into Murray where people are driving 55 mph or faster. Other multi-family residences in our area typically have a frontage road or "marginal" road so that subdivision parking doesn't go directly onto the arterial road but they run parallel to the arterial road for safety. Ms. Lee referred to a chart with data showing the actual count of over 11,000 vehicles per day on Hwy 121 North in 2011. She explained that the numbers on the chart show that in a multi-family area, there are many more traffic accidents occurring than in an area with single family residences. This is their exact fear as neighbors. Ms. Lee added that the right-of-

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way regulations will be different for multi-family causing obstacles to the line of sight. She has heard that developments within the city with designated private drives still have abided by the 50 foot right-of-way. Ms. Lee said that 2.99 acres is not very big for a development of this size and based on what Mr. Stanger had stated in the meeting in February, only ½ of the property is developable; therefore, there will be approximately 1.5 acres with six buildings and 107 parking spaces on it. This packed density is beyond her imagination. She added that their petition is really for the Planning Commission to apply the subdivision regulations because this proposed development is within the four mile jurisdiction and it is confusing to them why the regulations would be waived. Their number one concern is safety; however, in addition they are concerned with the issue of stormwater and erosion. Ms. Lee stated that she is Chairman of the Watershed WATCH Program in their area and she is well aware of Bee Creek and some of the issues. According to Mr. Stanger's plan, it looks like some of the roads and parking spaces may be in the Flood Plain. If stormwater detention is waived, she wonders if erosion control will be waived as well. In conclusion, Ms. Lee stated that she thought the facts that this property is on an arterial, highly traveled, 55 MPH road might have been overlooked and they are in hope that the Comprehensive Plan a foresight for Murray in the fact that this area will be considered single family residential or commercial not high density residential in the future.

Mr. Palmer stated that the sight line is less than 1.5 seconds when pulling out of their subdivision onto Hwy 121 North with 2.5 seconds being the acceptable reaction time; therefore, they feel that this development would create a hazardous situation.

Mike Betts, 67 Country Club Lane, Murray was sworn in. Mr. Betts has resided there for approximately nine years. He has two younger sons and is in the process of teaching the younger one to drive. His sons attend Calloway County High School and when attempting to pull out of the subdivision now, it is a trying experience. He added that the amount of college traffic that comes off Bailey Road onto Hwy 121 North is extremely high. Mr. Betts said that they just have a great deal of concern for themselves, their family and their community that this development would increase the volume of traffic and make a very dangerous or fatal situation in the area. This is a very dense proposal and his subdivision has only one in and out entrance; therefore, they have no other option than to use this route. Mr. Betts stated he is a small business owner and he certainly does not want to discourage anyone from investing and developing in the community; however, he would like to make sure that we are doing things that are safe and make good sense for everyone.

Bobby Deitz said in regards to erosion control Mr. Stanger has already submitted a SWPPP Plan to the Division of Water. BFW Engineering did a flood plain study and the line that is shown on their drawings is where the flood plain actually is. Mr. Deitz has talked to the highway department concerning the amount of cars traveling Hwy 121 North and the amount of the cars that will be leaving this development and the highway department indicated that amount will not come close to warranting a traffic study. They looked at this as very minimal traffic for this type of roadway. In regards to sight distance, a minimum of six seconds sight distance is recommended for a road opening or drive and when they looked at this development, it far exceeded the six seconds rule. Mr. Deitz said that they had measured the distance between the development's entrance and the Country Club Drive entrance as 124 feet. When they designed the entrance to the development, they profiled it. It was determined that a car has good visibility in both directions down Hwy 121 and after they determined that everything was safe, they approved that location. The Highway Department does not require a stop sign at this entrance. When they draw up their design, they take safety into consideration, but that is not to say that an accident can't occur there; however, they have done everything that they can to make sure that an accident doesn't happen. Mr. Deitz

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said there had been a lot of discussion concerning the traffic on Hwy 121 North and the only way they are going to keep additional traffic off Hwy 121 is to stop development to the area.

Mr. Palmer came forward and said that he agreed when you are stopped and looking for traffic, you have a six second sight distance, but their situation is not the same situation as the state has calculated. Speed is a factor in the calculation. One vehicle traveling into town may be going at a different speed than one that is leaving town. He said that this is a nice piece of property, but he does not think that that many people could live there. Everywhere you look, there are developments squeezed in a small space and there are safety issues afterwards. Mr. Palmer works with design and it seems to him that the main criterion for the development is to maximize the amount of units on the property.

Attorney Gerald Bell, 121 Graham Road, Murray was sworn in. Mr. Bell stated that he lives directly north of the proposed development. Mr. Bell encouraged the Planning Commission to approve this subdivision. One reason is that there will be restrictions in place as to what can be developed on that property. If the subdivision is not approved, there is no zoning in the county; therefore, Mr. Stanger can put anything that he wishes on the property. He personally prefers to have this apartment complex on the property rather than a trailer park. Mr. Bell said that he has seen the layout and the proposed apartments are very attractive and the owners want to do a good thing. Mr. Bell then spoke about the safety. He stated that he is not an engineer; he is an attorney with a little bit of common sense. He has driven on this road a minimum of four times every day for the past 15 years (the time that he has lived at his residence) and he has owned the property where he lives for 10 or 15 years prior to that and he drove by it frequently then. Mr. Bell said that he pulls in and out onto Hwy 121 every day at least four times a day and never has a problem with traffic. He suspects that it is exactly like the Highway Department says in that it is, not a big deal. The amount of additional traffic will be minimal and pulling out of this entrance will be easier than pulling out on Country Club Lane because it is more open and the visibility is better. Common sense tells Mr. Bell that he is not going to pull out in front of a car that is traveling at 55 MPH.

Mr. Stanger came forward and stated that he agreed with Mr. Bell and he did not think there was any scenario where he would pull out of this property without looking both ways. He thinks that most people would stop before entering Hwy 121, but they fully intend to put up a stop sign at the highway entrance. Mr. Stanger said that he was aware from speaking to Planning Staff that there were some regulations that he was in violation of. He stated that his personal drive-way sits inside the 50 foot street right-of-way within the city limits and that is pretty common practice. As far as density, his development has 12 units per acre and R-4 zoning within the city limits is 19 units per acre. Mr. Stanger said that he could have built all the units on one tract of land and not had to come before the Planning Commission at all. He has spoken to Bobby Deitz with BFW on several occasions regarding safety of the proposal. Mr. Stanger has the traffic counts from the Transportation Cabinet and the count in 2011 was 11,248. In 2010 the count was 10,500. The traffic counts have shown to be pretty consistent over the past several years. Since Hwy 80 opened there has not been a recent study done of the highway.

Roger Haney, 189 Country Club Lane, Murray was sworn in. Mr. Haney stated that he had moved there about a year ago from Sherwood Forest. He came to Murray about 35 years ago. Mr. Haney said as he has traveled from Hwy 641 to his home on Country Club Lane, he has learned when you are pulling onto Hwy 121 you have a limited time to pull out. He is surprised that Mr. Bell doesn't have a problem since he goes to work and comes home when there is generally a lot of traffic. Since Mr. Haney is retired he can avoid the traffic patterns of this area and plan his trips accordingly. It is Mr. Haney's belief that there will be a number of accidents at the entrance of this proposed development if it is approved. Mr. Haney stated that if there was a business development going in at this location he would not be as concerned as

he is with the residential development since he suspects that a residential area will generate more traffic.

Ms. Dowdy stated that Mr. Palmer had mentioned the size of parking spaces that were allocated for this project and she said that the Zoning Ordinance states that a typical parking space is 10 feet x 20 feet; however, the minimum is 9 feet x 18 feet. Ms. Dowdy said that it is rare that there are 10 feet wide parking spaces shown in a development of this nature; 9 feet wide parking spaces are normally shown and this frees up more area for green space. The parking space widths that are shown on the final plat are acceptable. Commissioner Krieb asked Ms. Dowdy to comment on other statements that had been made concerning items that go against the Ordinance. Ms. Dowdy stated that in the subdivision regulations it says that minor streets within a subdivision can be a dead end or a cul-de-sac with no turnaround if that street is less than 500 feet in length. Even though there was discussion from the boards in prior meetings about having a turnaround for each of the streets in the development, it is not required. The subdivision regulations also state that there shall be no private streets plated within a subdivision. Planning Staff discussed this with Mr. Stanger from the onset and they decided to leave that up to the Planning Commission to consider. Ms. Dowdy stated that there is a provision in the regulations for the Planning Commission to consider granting a variance. Ms. Dowdy stated that it seems to be a question in everyone's mind as to whether these are private drives or private streets and based on the definition of a street in the subdivision regulations it would appear to be private streets. She said that the subdivision is outside the city limits; therefore, the City would not be involved with the upkeep to the proposed streets. Mr. Stanger has spoken to the County Judge and it is not the Judge's preference to accept these streets for county maintenance; therefore, the maintenance will be up to the landowner. Commissioner Krieb asked if there was something in the Comprehensive Plan or the subdivision regulations stating that multi-family residences should not have direct access to arterial roads. He also asked about the subdivision regulation concerning a lot which abuts a street which intersects an arterial closer than 75 feet from the intersection. Ms. Dowdy stated that she is unclear to some of the subdivision regulations as they were put in place in 1971; therefore, she could not answer those questions at this time. She would have to review it more. She added that in the Zoning Ordinance there is a 50 foot clear zone disclaimer on a corner lot and basically that means that they do not allow any obstruction of vision within that 50 foot clear zone. Ms. Dowdy said that there is no zoning in the county; therefore, this would not apply to this circumstance. All of this area is within the Urban Service Area which basically means that it is within an area that the city looks at in the future for possible annexation where the city could provide utility services. Ms. Dowdy pointed out that the property is currently shown in the low density area (which is single family residential). She said when they looked at the Urban Service Area they looked at how the property was being used. At that time the property was owned by the property owner to the north; therefore, the property was being used as a single family use. On the Future Land Use Map, the property is designated as commercial use. Ms. Dowdy continued that within the city limits of Murray in the Commercial zoned areas especially the B-2 (highway business) a residential PDP is allowed as a conditional use. The buildings require a 25 foot rear setback; thus, two of the buildings will require a 10 foot setback variance because there is only a 15 foot rear setback showing on the plat. Ms. Dowdy asked Mr. Pitman if he could interpret the subdivision regulation for them concerning the arterial road. Mr. Pitman stated that he thinks that is discretionary with the Planning Commission in that they can require a "collector road" between Hwy 121 and the development. Commissioner Krieb said if they decided to require a "collector road" that would require a significant redesign of the entire development. Chairman Krieb asked if the Planning Commission was allowed to approve direct access of the two streets to the arterial street. Mr. Pitman then clarified that he understood the other part of the subdivision regulation that Mr. Krieb had asked about to read that the development should not begin any closer than 75 feet from the center of Hwy 121. Mr. Krieb explained that it appears that Mr. Stanger is in violation of the 75 foot dimension. Ms. Dowdy explained that David Roberts, Director of Planning and Engineering was out of town, but after much discussion on this project

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Ms. Dowdy said that she did not think that Mr. Roberts thought that applied in this case.

**John Krieb made a motion to table this project proposal to allow the developer additional time to review the details of the points raised in the meeting with Planning Staff and come back with either a revised plat or answers to the various questions that had been raised such as the 75 foot and clarify the arterial access “collector road” issue. Loretta Jobs seconded the motion and the motion carried with a 4-2 voice vote. Marc Peebles and Kevin Perry voted no.**

**Questions and Comments:** The next regular Planning Commission will be April 16<sup>th</sup>.

**Adjournment:** Marc Peebles made a motion to adjourn. Kevin Perry seconded the motion and the motion carried with a unanimous vote. *The meeting adjourned at 7:00 p.m.*

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Vice-Chairman, Tom Kind

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Recording Secretary, Reta Gray