

**MURRAY PLANNING COMMISSION MINUTES  
REGULAR MEETING  
TUESDAY, MARCH 18, 2014  
5:00 P.M.**

The Murray Planning Commission met in regular session on Tuesday, March 18, 2014 at 5:00 p.m. in the council chambers of City Hall located at 104 North 5<sup>th</sup> Street.

**Commissioners Present:** Kevin Perry, Ed Pavlick, Marc Peebles, Jeremy Boyd, Robin Zhang, Mary Anne Medlock, John Krieb, Ed Davis, Loretta Jobs and Tom Kind

**Commissioners Absent:** None

Also Present: Candace Dowdy, David Roberts, Reta Gray, Jennifer Tolley, Attorney Mike Pitman, Hawkins Teague, Councilman Danny Hudspeth, Officer Todd Clere, Justin Phillips, Carol & Bobby R. Falwell, John Crofton, Joe Gupton, Bill Adams, Tung Dinh, Attorney Trevor Coleman, Andy Gupton, Johnny Miller, Robert Pilgrim, Lynn Watson, James “Nat” Rassi, Janice Hicks, Bill Wells, Aaron Dail, Daniel Yong, Gustavo Leon, Ramone Lopez, Helen Spann, Rick Johnston, Bobby Dietz, and public audience

Chairman Pavlick called the meeting to order and welcomed all guests and applicants. Chairman Pavlick asked the commissioners if there were any changes, additions or deletions to the minutes from the February 18, 2014 regular meeting. Candace Dowdy noted a few changes.

**John Krieb made a motion to accept the minutes from the February 18, 2014 Planning Commission regular meeting as amended. Tom Kind seconded the motion and the motion carried unanimously with a voice vote.**

**Public Hearing: Request to set zoning as R-2 (single family residential) for a 14.939 acre tract of land located on Robertson Road South to be annexed into the city limits – Justin and Stephanie Phillips:** Ms. Dowdy used a Power Point presentation to show the 14.939 acre tract of land owned by Justin and Stephanie Phillips located on the east side of Robertson Road South just south of Quail Creek Drive and north of Falwell Drive. The property is in the process of being annexed and the property owners have requested that the property be zoned R-2 (single family residential). The requested zoning is consistent with the current zoning of the adjacent property to the south that is located within the city limits and the proposed use of the property is consistent with the surrounding area. This property is identified as low density residential use on the Future Land Use Map. Ms. Dowdy stated that the recommendation to annex this property was reviewed by the City Council the previous Thursday. The recommendation was approved and the City Attorney will now draft an ordinance to be considered at the next City Council meeting. Ms. Dowdy explained that the commissioners’ job tonight is to recommend the proper zoning for the property and then forward that recommendation on to the City Council for approval.

Chairman Pavlick opened the public hearing and asked if there was anyone that wished to speak in favor of the zoning request.

Justin Phillips, 1160 Beane Road, Murray was sworn in. Mr. Phillips stated that he is in the apartment business and he knew that it would be an unreasonable request to ask for R-4 zoning for this particular piece of property. In light of wanting to put a subdivision on this property, Mr. Phillips feels that the property is better suited as R-2 since the surrounding properties are R-2 as well.

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Chairman Pavlick asked if there was anyone that wished to speak in opposition to the zoning request. Carol Falwell, 1334 Wiswell Road West, Murray was sworn in. Ms. Falwell stated that she is a representing member of Falwell Estates Development. She referred to the Comprehensive Plan as it is a guide to the continued growth and development of the city. She said that the Future Land Use states that lower density residential has a maximum of 4.3 dwellings per acre with the majority of lower density property lying primarily in the southern and southwestern portion of the planning area. (This particular property is located in that area.) Ms. Falwell referred to the nearby subdivision developments of Gatesborough, Saratoga I & II, Timber Trails and Briarcrest where the lots are quite a bit larger than this proposal. Originally this property was platted as Newton Heights Subdivision (which was never developed) and the lots were drawn larger to coincide with the other subdivisions in the area. Ms. Falwell stated she was confused over the difference between R-1 and R-2 zoning. She said that according to the R-1 description she thought that there were larger dimensional requirements for the lot size and based on that, she wanted to know why Falwell Estates wasn't zoned as R-1. Ms. Dowdy explained that both the R-1 and R-2 zones are for single family use and only allows a single family dwelling unit as a permitted use. She stated that both of these zoning districts are considered low density residential. The basic difference in the two zones is the lot size requirements. The R-2 zone requires a minimum 10,000 square feet for the lot with a minimum 75 feet of road frontage. The setbacks are 30 feet in the front, 25' in the rear and 10' on the sides. The R-1 zone requires a minimum of 15,000 square feet for the lot with a minimum 100 feet of road frontage. The setbacks are 40 feet in the front, 25' feet in the rear and 15' on the sides. Ms. Dowdy continued that there are only two subdivisions that are zoned R-1 in Murray and that both of them were platted and approved prior to being annexed into the city limits. She added that the developers of Falwell Estates could have requested R-1 zoning when they developed their land based on the size of the lots. Typically most developers request the R-2 zoning to keep from having to meet the minimum requirements of the R-1 zone. Ms. Falwell said that Tom Dowdy had platted their property to coincide with the lot sizes of surrounding properties. The neighborhood is concerned with the compatibility of the proposed development. Ms. Dowdy replied that those types of concerns would be addressed at future meetings if the property is annexed and zoned.

John Crofton, 940 Robertson Road South, Murray was sworn in. Mr. Crofton's property is immediately adjacent to the said property and he is located inside the city limits. Mr. Crofton explained that when he and his wife moved into the city about eight years ago, they felt that living in the city would provide them with property and police protection. In addition they thought that people that lived in the city and paid city taxes deserved to have their property values protected. The R-2 zoning with minimum requirements does not provide Mr. Crofton and his neighbors with the protection that they need. Mr. Crofton concluded that he realized that most of the surrounding area is zoned R-2; however, he thinks that by zoning this property R-1 the surrounding landowners will be provided with a degree of protection.

Chairman Pavlick asked if there was any rebuttal.

Justin Phillips came forward and stated that it is his desire to have the property annexed into the city in order to receive city utilities. Mr. Phillips bought the property a few years ago with the intent of developing it. If the property is not annexed, he could build apartments or storage units on it. Mr. Phillips stated that he understood the neighbor's concerns, but he hoped that he had built a good enough reputation from past projects to diminish those concerns. Mr. Phillips concluded that he thinks the property is best suited for R-2.

Bobby R. Falwell, 1334 Wiswell Road West, Murray was sworn in. Mr. Falwell explained that before he developed Falwell Estates he spent a lot of time with surrounding developers discussing how his property

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should be developed. It was a common consensus that it be developed similar to the properties that surrounded it for compatibility and sensibility. Mr. Falwell said that since his development was finalized and signed off by the city, he has spent an additional \$20,000 to \$30,000 on drainage issues. Mr. Falwell continued that the amount of projected water that would run across his property was under estimated. He referred to several neighboring residents and their drainage issues. Mr. Falwell would like a guarantee that he will not inherit additional water problems if a subdivision of this proposed density is developed on the property. He concluded that there was not one person that lives in the surrounding area that will be willing to support this proposal as it is. Mr. Falwell stated that his surrounding neighborhood and the city of Murray mean something to him and if Mr. Phillips is willing to build something compatible to the area, he would not be in opposition.

Ms. Dowdy addressed some of the issues that Mr. Falwell had mentioned. She explained that R-1 and R-2 zoning are referred to as single family low density residential zoning. A 15 acre tract of land in an R-1 zoned area could have as many as 43 lots permitted; an R-2 zoned area could have as many as 64 lots. Ms. Dowdy said that according to the Comp Plan, high density numbers are anywhere from 12.9 units per acre to 15.8 units per acre where 4.3 units per acre is the single family low density number for R-1 and R-2 zoning. This proposal meets the R-2 requirements. In reference to the water issues, since 2001 the city has had regulations in place where anyone developing a piece of property with over 7500 square feet of impervious area is responsible for providing stormwater detention to make sure there is no additional water runoff to the adjoining property owners than what was there prior to the development. Mr. Phillips is proposing single family land use and that is compatible to the surrounding area. Ms. Dowdy stated that the city has attempted more than once to annex the properties in this area in order to address some of the issues that have been brought up tonight such as water and drainage issues, road improvements and zoning protection and that while all of this area is within the four mile jurisdiction of the City of Murray for subdivision review the city is limited in the services that can be provided to the residents in this area because the property is located in the county.

Carol Falwell came forward. Ms. Falwell compared this proposal to Riverfield Estates where there are small houses on small lots. She quoted the dimensions of the lots in Falwell Estates in comparison to the proposed subdivision. She then asked Ms. Dowdy to show the pictures she had taken of the water issues that are currently in Falwell Estates. (*These pictures were entered as Exhibit A.*) Since all the vegetation was removed from Mr. Phillips property there has been more water coming across their property; thus, there is more erosion. This is also true to neighboring properties. Ms. Falwell said that no one is disagreeing that Mr. Phillip's proposal of developing 41 houses on a 15 acre tract falls within the requirements; however, with that many houses (with drive-ways, sidewalks and roofs as hard surfaces) there will be a significant increase in the volume of water run-off.

Joe Gupton, 2223 Edinborough Drive, Murray was sworn in. Mr. Gupton revealed that he did not come to the meeting to speak for or against this issue; however, after he heard others speaking about the water issues, he felt inclined to speak. Mr. Gupton said that water is a serious issue in this particular area. When Timber Trails Subdivision (This subdivision is not within the city limits; however, it was approved by the commissioners.) was approved, there were water retention ponds shown on the plat. When the development was completed, the retention ponds had been deleted. Mr. Gupton cautioned the commissioners to make sure that they kept that in mind.

Chairman Pavlick closed the public hearing and turned it over to the commissioners for discussion and a motion.

**Tom Kind made a motion to forward a recommendation to the City Council to set the zoning as R-2 (single family residential) for the 14.939 acre tract of land located on Robertson Road South owned by Justin and Stephanie Phillips based on the fact the R-2 zoning is consistent with the zoning of the property to the south and the single family use is consistent with the properties within the surrounding vicinity. Kevin Perry seconded the motion. The roll call vote was 5-5 which meant that the motion was defeated since there was a tie vote. Jeremy Boyd, Ed Davis, Loretta Jobs, Mary Anne Medlock and Ed Pavlick voted no.**

**Public Hearing: Review of preliminary plat for Commercial Planned Development project at 633 North 4<sup>th</sup> Street – Greg Williams:** Ms. Dowdy used a Power Point presentation to show the property at 633 North 4<sup>th</sup> Street that is owned by Greg Williams. She stated that the Planning Commission had reviewed this item the previous month for Advisory and the BZA had reviewed it for Compatibility. This project is now back before the commissioners for Preliminary Plat review as a Commercial PDP and if approved will be reviewed by the BZA as a conditional use in the B-2 zone. The property is a little over three acres in size and is located in a B-2 (Highway Commercial) zoning district. In August 2011, Mr. Williams applied for a building permit to construct a 17,550 square foot commercial building consisting of six office/warehouse units and twelve storage units, on the north side of the property. Mr. Williams is now proposing to construct additional buildings in Phase 2 and Phase 3 of this development. Upon approval of the project Mr. Williams will begin Phase 2 with another 17,550 square foot building, identical to the existing building in size. The Preliminary Plat shows a future building in Phase 3 along the front portion of the property. Mr. Williams has indicated that he may or may not construct the third building depending on the need. He also indicated that the size and configuration of the building could change but it would remain compatible with the existing use of the property. The Preliminary Plat has been reviewed by the Fire Marshal and the Sanitation Department for compliance. There is one entrance off North 4<sup>th</sup> Street. The drive area between the existing building and the proposed building in Phase 2 will be put into a hard surface during the construction process with a minimum of nine striped parking spaces in front of each building. The required stormwater detention for this development was put in place during the construction of Phase 1. A ten foot rear setback variance will be needed for the two buildings in Phase 1 and 2. Ms. Dowdy stated that Bill Adams from Bill Adams Construction was present to represent Mr. Williams.

Chairman Pavlick opened the public hearing and asked if there was anyone that wished to speak in favor of the project.

Bill Adams, 1506 Hermitage Place, Murray, KY was sworn in. Mr. Adams said that Ms. Dowdy had very well described the entire project. He noted that the second building would be a mirrored image of the first with a slightly different layout configuration. Mr. Adams added that whether Mr. Williams decides to build the third building or not, they will be meeting all setbacks and the use of the building will be compatible to the existing use of the property.

Chairman Pavlick asked if there was anyone that wished to speak in opposition to the project. There was no one. He then closed the public hearing and turned the item over to the commissioners for discussion and a motion.

**Jeremy Boyd made a motion to approve the preliminary plat for the 4<sup>th</sup> Street Storage and Office Planned Development Project at 633 North 4<sup>th</sup> Street as presented contingent upon the BZA approving the project as a conditional use and with the necessary building setback variance. Also any future construction and use of the building in Phase 3 shall remain consistent with the existing**

**use of the property unless reviewed and approved by the Planning Commission. John Krieb seconded the motion and the motion was approved with a 10-0 roll call vote.**

**Final Plat Review: Residential Planned Development Project at 807 and 809 Coldwater Road – Tung Dinh:** *Marc Peebles recused himself from review of this agenda item.* Candace Dowdy stated that Tung Dinh is requesting Final Plat approval on his proposed Residential Planned Development Project at 807 and 809 Coldwater Road. The Planning Commission approved the Preliminary Plat in January and the BZA approved the Conditional Use Permit as well. The approval by both boards was contingent upon Mr. Dinh moving forward with the planting of Leyland Cypress trees on the south side of the property adjoining the R-2 zoning district within 30 to 60 days. Mr. Dinh was also requested to identify a play area somewhere on the property and show some landscaping along the front of the property off Coldwater Road. Due to the extreme weather conditions that we have had during the months of February and March, Mr. Dinh informed Planning Staff that he would have to wait until the ground dried up some in order for his landscaper to plant the trees. He is still hoping to have that completed the end of March or the middle of April. Ms. Dowdy used a Power Point presentation to show the Revised Final Plat. The one story apartment building that was shown on the back of the property with eight one bedroom units has been eliminated. Mr. Dinh has added one additional two bedroom unit to building #1 and two additional two bedroom units to building #3. This brings his overall number of units down from 28 to 23 and reduces the number of beds by two. The Final Plat now shows the back area as a play/picnic area and there has been some landscaping added to the front of the property. Staff will work with Mr. Dinh on a more detailed plan of what he is proposing out front. Kim Oatman, Engineer for the project, will be submitting plans for the additional stormwater detention needed for this project. A minor subdivision plat consolidating the two lots will need to be submitted to the Planning Staff for approval prior to any building permits being issued.

Chairman Pavlick asked the commissioners if they had any comments. Commissioner Perry and Commissioner Boyd showed concerns with all the changes that were made to the plat and then it being presented to them as a Final Plat when they had never seen the particular configuration before. Ms. Dowdy explained that Planning Staff did not have a problem with the Revised Final Plat since the one story building that backed up to the R-2 zoning was eliminated. She said that they would certainly have brought it back before the commissioners if he had been adding buildings to the project. Commissioners Krieb and Davis stated that they felt like Mr. Dinh had actually made the changes that they had suggested at the time the Preliminary Plat approval was made and they were comfortable with the Revised Final Plat.

**Mary Anne Medlock made a motion to approve the Revised Final Plat for the proposed residential planned development project for Tung Dinh at 807 and 809 Coldwater Road contingent upon the project meeting all city regulations. Ed Davis seconded the motion and the motion carried with a 9-0 roll call vote.** *Marc Peebles re-entered the meeting at 6:25 p.m.*

**Public Hearing: Request to rezone the properties at 1401, 1403, 1405, 1407, 1409, 1415 Poplar Street, 201, 203 and 205 South 15<sup>th</sup> Street and a vacant lot that is located south of Poplar Street and north of Vine between Woodlawn and S. 15<sup>th</sup> Street from R-2 to R-4 – Andy Gupton:** *John Krieb recused himself from this part of the meeting at 6:26 p.m.* Ms. Dowdy used a Power Point presentation to show the ten tracts of land that are involved in the rezoning request and what the surrounding properties are zoned. She stated that Andy Gupton had approached the Planning Staff and indicated that the property owners were interested in rezoning each of these properties from R-2 to R-4. At that time he also indicated that he was interested in purchasing several of these properties himself for future

development. (He either owns or is in the process of purchasing four of the ten tracts at this time.) The applicant's request is based on the fact that eight out of ten of these properties are identified on the 2009 Future Land Use Map of the Comprehensive Plan as Medium Density Residential Use and that the existing zoning classification is inappropriate and that the proposed R-4 zoning is appropriate. The properties at 1401 and 1403 Poplar Street are still identified as Low Density Residential. The house that was at 1401 Poplar Street burnt in 1997 and the lot has been vacant since. All of the properties are contiguous to the R-4 zoning either to the north or to the west. The applicants claim that all of these properties are currently being used as rental property with the majority of them being used as multi-family; therefore, the request for R-4 zoning would be more appropriate. There have been no conditional use permits issued for any of these properties. Ms. Dowdy stated that typically Planning Staff does not know whether a particular property is being used in non-compliance of the R-2 zoning regulations unless they receive complaints. She said that there are no letters or anything on file indicating a complaint for any of these properties. Ms. Dowdy added that in looking through some property owner information it appeared that along the north side of Poplar Street from 13<sup>th</sup> to 15<sup>th</sup> Street there appeared to be only five pieces of property in the R-4 zone that is still owner occupied and the rest are rental properties. Commissioner Jobs gave a brief history of some of the properties and stated that the landlocked parcel was once owned by the property owner at 1405 Poplar and that during recent years, a property owner on Woodlawn had purchased that piece of property.

Chairman Pavlick opened the public hearing and asked if there was anyone that wished to speak in favor of the rezoning request.

Trevor Coleman, 408 Main Street, Murray, KY was sworn in. Mr. Coleman stated that he represents Mr. Andy Gupton as his attorney. Mr. Gupton displayed some charts that show the five lots that he now owns or has under contract to purchase. Mr. Coleman explained that Mr. Gupton's primary goal is to develop the property and they feel that the R-4 zoning is more appropriate and the best economic use of this property. Mr. Coleman stated that the issue before the Commissioners today is simply put in KRS 100.213 and that they have to prove that the existing R-2 zoning is inappropriate and that the property really is being used as R-4 use and it should be used as R-4 because that is what most appropriately fits. Mr. Coleman alluded that the Comprehensive Plan shows the future use of all of this property with exception of 1401 and 1403 Poplar as Medium Density which lines up with the proposed request of R-4 zoning. Mr. Gupton has gone to great lengths to clarify that none of these properties are owner occupied. Over time the once single family homes have become rental units. Mr. Coleman said that Mr. Gupton has spoken to a great many of the property owners that are adjoining these properties and he has found no negative response from anyone with most of the responses being in favor of this request. Mr. Coleman stated there could be someone here tonight that Mr. Gupton didn't speak to that would object to the request but for the most part everyone was in favor of the rezoning. Mr. Coleman submitted approximately 25 signed affidavits from the adjoining property owners with some of them being property owners that are part of this rezoning request. It basically says that they are aware of what Mr. Gupton is doing and they support him and have no objections to the rezoning. (*The list of signed affidavits was submitted as Exhibit A.*) Mr. Coleman said that Ms. Dowdy previously explained that between 1950 - 1958 when the property originally came into the city there was no R-4 zoning available to be applied for and apparently the R-1 zoning was the rule of thumb. Then sometime between 1963 - 1969 the zoning classification of R-4 was born and if the R-4 had been available when it was originally zoned it could have easily fallen within that zone. Mr. Coleman stated that this property is the exact same mirror image of the property to the south that Blondie McClure developed into an eight plex. Mr. Coleman stated that the idea and vision that Mr. Gupton has to build a nice big set of units that will be aesthetically pleasing

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allows him the possibility of putting a nice entry way into the development which would eliminate the issue of having a landlocked piece of property.

Andy Gupton, 199 Cooper Road, Murray was sworn in. Mr. Gupton stated that he has already closed on three of the properties and by the end of next week will have closed on the other two that he is purchasing. Mr. Gupton stated that he and his wife are both from Murray and as small business owners in Murray it is important for them to blend in with the community and to respect the existing property owners and that is what he has tried to do prior to this meeting. He stated that he has attempted to talk to all the property owners involved and is yet to receive any negative comments. He stated that he has actually had overwhelming support from several that have signed affidavits that are not a part of the rezoning. His overall plan is to tear down the older units and build a new development. A rendering of the proposed development was passed around for the commissioners to see. (*The rendering was submitted as Exhibit B.*) Mr. Gupton said that he has no desire to build just a concrete parking lot; he plans on having a large amount of green space along the front of the property once the old units are removed and an abundant amount of trees with this development. Mr. Gupton explained that there would be a primary entrance and a secondary entrance, but he has no final plans to reveal at this time. Everything that he has revealed is basically preliminary at this point. As this project progresses Mr. Gupton stated that he would be hiring an architect, civil engineer and landscaping designer.

Johnny Miller, 2216 Carol Drive, Murray was sworn in. Mr. Miller owns property at 1409 Poplar Street where his daughter and granddaughter reside and have for over ten years. He stated that he had talked to Mr. Gupton a great deal about this proposal and he agrees with him 100 percent. Mr. Miller said that if the property is rezoned, there will be more requirements to be met which would prove to be beneficial to the entire neighborhood. *Chairman Pavlick declared a short recess in order for the tape to be changed for recording purposes.*

Robert Pilgrim was sworn in and he stated that he owns the property at 208 Woodlawn where his son resides. Mr. Pilgrim said that Woodlawn is R-2 zoned and he thinks that fair use of R-2 is a good thing. Having an empty lot behind their property is nice; however, he feels like turning that property into medium density housing is great. He believes in live local, work local and shop local. This proposal will be within walking distance of a lot of businesses and restaurants. Mr. Pilgrim has noticed a lot of R-4 development in the out skirts of town and he thinks that it would be nice to convert some other properties (such as this one) into R-4 when the opportunities arise. Mr. Pilgrim said the current trend is moving towards smaller communities where costs of living expenses are reduced especially for those on a fixed income. With the main entrance of this proposal being off Poplar Street, Mr. Pilgrim does not think that this will affect them in any way on Woodlawn. He would welcome the replacement of the derelict buildings with a new medium density development. He said that it couldn't be anything but an improvement.

Chairman Pavlick asked if there was anyone that wished to speak in opposition to this rezoning request.

Lynn Watson, 1107 South 16<sup>th</sup> Street, Murray was sworn in. Ms. Watson owns property at 211 South 15<sup>th</sup> Street. Ms. Watson was curious as to what was going to happen with the empty space that is landlocked. Mr. Gupton came forward and showed her a rendering of the development that he would be proposing. Mr. Gupton explained that it is not his goal to pack as many units on this property as he can. His goal is to have a nice well landscaped development. This is important to him. Chairman Pavlick explained that this is only a rezoning request at this time and whatever Mr. Gupton decides to do with the property will be under the guidance and restrictions of the city. Ms. Watson said that this property is behind her

property and she just wanted assurance that water was not going to be dumped on her property. Mr. Gupton replied that was not his intention and that the city would not allow him to do that anyways. He explained that the amount of green space that he was going to leave would really help alleviate that potential problem.

Chairman Pavlick closed the public hearing and turned it over to the commissioners for discussion and a motion.

**Loretta Jobs made a motion to forward a recommendation to the City Council to rezone the properties at 1401, 1403, 1405, 1407, 1409, 1415 Poplar Street and 201, 203, 205 South 15<sup>th</sup> Street and the vacant tract of land identified as PVA parcel 04-4-4A from R-2 to R-4. This zoning map amendment request is based on the findings of fact as presented during the public hearing and that the existing zoning classification of R-2 is inappropriate and that the proposed R-4 zoning is appropriate and has been for a long time. Kevin Perry seconded the motion and the motion carried with a 9-0 roll call vote. John Krieb re-entered the meeting at 7:09 p.m.**

**Public Hearing: Review revised Preliminary Plat for The Keys Residential Planned Development Project located on North 16<sup>th</sup> Street and Lowes Drive – Nat Rassi:** Ms. Dowdy used a Power Point presentation to show the property on North 16<sup>th</sup> and Lowes Drive. She stated that a Preliminary Plat was reviewed the last month by the Planning Commission for The Keys Residential PDP. The motion to approve the plat and send the project to the BZA for their consideration of a conditional use permit was defeated by a 2 to 6 vote. The next day Mr. Rassi called Planning Staff and asked if he would be allowed to resubmit a revised plat for consideration if he made some revisions to the overall layout of the project. He wished to provide some mix of commercial and residential use and reduce the number of beds being proposed. (These changes were made after considering some of the comments and suggestions that had been made by the commissioners.) Staff informed him that if there were significant changes, he would be allowed to resubmit a plat to be reconsidered by the Planning Commission. Mr. Rassi is now proposing the following:

- Unit density not to exceed the requirements of R-4 zoning (19 units/acre)
- No more than 268 bedrooms
- Two commercial spaces of approximately 1450 square feet each

Configuration of the buildings with the commercial space on the south end of the property is subject to change based on the demand of the market and the specific requirements of the potential tenants. This could further reduce the number of beds for the project. Due to the additional ceiling height requirement in the commercial space, a four foot height variance would still be required along with a parking variance. The revised plat still has two means of ingress/egress as previously shown but the one entrance on North 16<sup>th</sup> Street has been moved a little farther to the south to better accommodate the commercial traffic generated by the retail/restaurant use. There is now a trash compactor site located on the property where tenants can dispose of their garbage as they leave the property. The plat shows 76 units with 268 beds; 20 beds less than the previous plat. They are now proposing a mix of two and four bedroom units. The one building that encroached into the 50 foot front setback has been reduced in size; therefore, no building setback variance will be required. Ms. Dowdy added that Mr. Rassi is also proposing the following parking calculation:

1 parking space /1.25 bedrooms (0.8 spaces/bedroom)  
 1 parking space for every four units for visitor parking



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1 parking space for every 200 square of retail/commercial use  
1 parking space for every 100 square feet for restaurant use

Ms. Dowdy referred back to pictures that were shown the previous month where David Roberts was holding a 16 foot pole 4 feet off the ground to show the approximate height of a 20 foot tall building in regards to this proposal blocking the view of other businesses located to the northeast. It was determined that even a building of 10 feet in height would shadow any building that is to the north and east of this property.

Chairman Pavlick opened the public hearing and asked if there was anyone that wished to speak in favor of the project.

Nat Rassi, #1 Hedge Row Court, Monticello, Illinois was sworn in. Mr. Rassi thanked the commissioners for allowing him to come back before them with an amended proposal that is better than before. He stated that he took into consideration the concerns and suggestions that had been brought up at the previous month's meeting and went back to redesign the proposal. Mr. Rassi stated that one of the reasons they were able to improve the overall design of the project was that shortly before the last meeting they were instructed to move one of the vehicle entrances onto 16<sup>th</sup> Street off Lowes Drive. They are excited to add retail spaces for mixed use to the project. Mr. Rassi stated that he failed to mention some of the economics at the previous meeting that this project would generate. They will be spending \$11 million to start building this project where 92 percent of that money will stay in Murray. They do not know at this time what kind of retail businesses will go in the designated spaces, but they can speculate around \$3 million to be generated annually from them. Mr. Rassi noted that another favorable aspect of this project is its walkability. It is in close proximity to MSU as well as restaurants and retail businesses. Mr. Rassi continued that they have already had conversations with Murray Transit about a bus stop at the project. In addition, the Transit is going to be offering the opportunity to advertise on their buses and that is exciting to the developers as well. Mr. Rassi said that their main goal is to create something beautiful that will bring life to this site. He stated that this property has remained dormant and unproductive for the last 15 years. Commissioner Krieb asked Mr. Rassi if all the buildings would need a height variance. Mr. Rassi replied that the development is designed to look like a street scape but they are not far enough along with the design to know the exact height of each of the buildings; thus, they are asking for the height variance in case it is needed. There is actually a 20 foot slope to the property and with the ground elevations being different there is that possibility that they will exceed the allowable 35 feet in height. Mr. Rassi added that the buildings will look better with a taller pitched roof. The commercial buildings will need a higher ceiling; therefore, the roofs will be taller on those buildings.

Janice Hicks, 1661 College Terrace, Murray, KY was sworn in. Ms. Hicks stated that she only wanted to ask a question. She asked if the development would have handicap accessible/universal dwellings. Ms. Hicks said that she had a family member that is a student at MSU that is wheelchair bound and he is having difficulty in finding an apartment that meets his needs. Mr. Rassi replied that there would be handicap accessible units. He continued that they are required to have a minimum amount of units that meet both the state and federal ADA requirements. Commissioner Medlock said that building codes also require that developments comply with ADA requirements providing handicap accessibility.

Bill Wells, 1527 London Drive, Murray, KY was sworn in. Mr. Wells stated that he is on the Economic Development Corporation Board and he had asked Mark Manning for some information about the economic impact of the student housing development to this area. According to Mr. Manning's notes the total project would be approximately 10.6 million dollars. Mr. Wells reviewed projected revenues in

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construction materials, sales tax, property tax per year, special district taxes for the city and school, direct construction jobs including payroll, indirect jobs from construction, permanent employment jobs, and utilities. He also mentioned that the initial impact of this construction is conservatively estimated at 6 million dollars and that the impact will be even greater if the company uses local banks. The annual impact after construction is conservatively estimated at approximately 650 thousand dollars.

Aaron Dail, 1316 Vine Street, Murray, KY was sworn in. Mr. Dail spoke as a Chamber of Commerce representative. Mr. Dail stated that this project provides retail space (that the chamber is seeing a lack of within Murray) with the added opportunity of mixed use which is trending across the country at this time. They are interested in seeing this occur but more importantly they will be proud to fill the retail spots. This will help solve a need for the Chamber to help recruit businesses while it will allow the tenants to live in a more beautiful environment.

Chairman Pavlick asked if there was anyone that wished to speak against the project.

Daniel Yong, 20 Scarlet Drive, Murray, KY was sworn in. Mr. Yong owns the property to the north of the proposal and he is speaking for all of his tenants that couldn't be at the meeting. Mr. Yong stated that loss of visibility is the primary reason that he is against this project. Mr. Tim Thurmond (tenant in Mr. Yong's building) has voiced concerns over future parking issues. He indicated to Mr. Yong that he is a landlord and that often his tenants will use parking spaces that belong to someone else. He suspects that tenants from this development might use Los Portales, August Moon's or any of the other tenant's parking spaces without actually being a paying customer. Mr. Thurmond is also concerned that the number of calls the Murray Police Department receives on the weekends for issues located within the former Campus Suites and Murray Place developments. Mr. Yong stated that they certainly do not want "blue lights" in their commercial area. He has been at his current location for eight years and he totally disagrees with the comments that have been made at this meeting about lack of retail space in Murray. Mr. Yong said that he has had retail space available for years and the Chamber of Commerce has plenty of retail spaces available on their website. He revealed that it took him four years to rent the space where Thurmond Insurance is now located. He continued that if there is a lack of retail space, then this proposed site should be left available for retail space. Mr. Yong said that his business at August Moon has dropped significantly since Hampton Inn built their second floor because of lack of visibility. He has voiced this to Ms. Dowdy and David Roberts in the past. Certainly this proposal will completely block the visibility to Mr. Yong's building on North 16<sup>th</sup> and possibly on Hwy 121 Bypass North as well. This proposal is primarily apartments and not commercial retail. Mr. Yong does not feel like the proposal is appropriate for this site. He said that he understands that it will certainly bring a lot of dollars to Murray, but thinks that it should be located at another site. When Mr. Campbell made a proposal for apartments behind Mr. Yong's business, Mr. Yong was not opposed simply because he felt it was an appropriate location for the project and he has not opposed the apartments across North 16<sup>th</sup> for the same reason. Mr. Yong stated that he can see that the rental prices have been falling on apartments across Murray because of the competition. He thinks that the market is saturated at this time. Mr. Yong said that approximately three years ago he had an offer to sell his property in front of August Moon to an agent for apartments. The name of the company was not disclosed to him. He turned the offer down immediately because it was not appropriate for apartments. He said that this location may be good for the developers, but it would be detrimental to the surrounding properties if the Preliminary Plat is approved.

Gustavo Leon, 1402 Garland Court, Murray, KY was sworn in. Mr. Leon is one of the Los Portales partners. He stated that there is no question that the proposed project is beautiful, but he agrees with Mr. Yong. He does not feel that they will benefit any in revenue from the project. If this project had already

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been located at the proposed site, Mr. Leon said that they would have thought twice before they proceeded to build a new restaurant there. Mr. Leon stated that they are investing a lot of money in their new restaurant and they would like to see more retail businesses located on that site instead of apartments. It is Mr. Leon's opinion that Lowes Drive will require three lanes before long because of the additional traffic that will be generated if this project is allowed.

Ramone Lopez, 1403 Garland Court, Murray, KY was sworn in. Mr. Lopez stated that he agreed with Gustavo and Daniel. He is not against the project, but he is against the proposed location. Mr. Lopez would like to see development of commercial businesses on the site.

Helen Spann, 846 Old Salem Road, Murray, KY was sworn in. Ms. Spann stated that this plan presents even more issues than the plan that was voted down during the previous meeting. She said that the entrance off North 16th Street is closer to the creek in this site plan and when they widen 16<sup>th</sup> Street and Hwy 121 Bypass North, she sees potential for a more hazardous intersection. She also thinks that they have now created a thoroughfare and from the nature of the way that people drive, they will be cutting thru the middle of the project to get on Lowes Drive. In addition she sees a traffic hazard with the layout having a lot of people walking back and forth. Ms. Spann said that when Mr. Roberts held the pole to represent where 20 feet in height would be, that was only half the height of what the buildings would be at the lowest point. With a 20 foot grade to the property, the buildings will completely tower over Mr. Yong's and Los Portales' businesses. The parking is another issue. She said that everyone that has rental property is aware that one parking space per bedroom doesn't work. Ms. Spann continued that Mr. Rassi had discussed having a bus stop in this development and she thinks if the transit will stop at this proposed site, they will stop it a little farther out at another location. The renderings show a fantastic looking project, but it's just not the right location. Murray's commercial property is so limited and even though these five lots have been sitting there for fifteen years, it was part of the original development that is commercial and also part of the Comprehensive Plan. Ms. Spann stressed that it is important that this property be kept commercial because there just isn't any more commercial land available. Ms. Spann said that she appreciated very much what Mr. Wells had to say about the money that this project would generate for Murray; however, she thought that his comments were a little bit of undue influence to the commissioners since they are there under his appointment. She challenged the commissioners to look at what they were appointed for; for the betterment of Murray, the people and economics of Murray. Ms. Spann asked the commissioners to listen to the current merchants that have already put up their money to start their businesses. They live and work here for the people of Murray every day. She concluded that the economics of this project could bring Murray just as much money if the project is at another location.

Chairman Pavlick asked if there was anyone that wished to rebut.

Mr. Wells came forward and said that this is a college town and "there is a party going on". He disputed the fact that the MPD is called to student complexes as much as had been previously stated, but he would check with Chief Lyles to verify that. Mr. Wells stated that he still thinks that Murray is one of "The Friendliest Cities". He continued that for fifteen years there has been no interest in this particular property. The city thought this area was important enough to make this a safe area; so they extended sidewalks all the way out on North 16<sup>th</sup> because of the college students. Mr. Wells said that he did not appoint all of the commissioners, but he was happy with them. He said that the economic part of this proposal had to be mentioned and that was what he did and he thinks that rebuttal was needed for some of the shots that the city took.

Mr. Rassi came forward and reiterated that this development is purpose built off campus student housing. Their goal is to provide a quality product with great service. He said that he had heard a lot of unsubstantiated opinions in which it was implied that visibility is a right. Mr. Rassi said that visibility is not a right; it is a risk you take as a developer. Anything that is built on these lots will block someone's view. He said that with five separate lots, you are taking a chance that there will be five different buildings with five different entrances and five different detention ponds and five different dumpsters. As separately developed properties, each will have a front side as well as a rear side. This proposed development will be combining the lots and only have a minimum of one entrance where all sides will be aesthetically pleasing. Mr. Rassi encouraged the commissioners to look at the parking situation in the other two similar properties in this same market. He said that 50% of the spaces were empty all the time. Mr. Rassi added that he does not think a big percentage of Murray Police Department calls are going to these type developments on the weekends as was stated earlier. If he owned a restaurant and he heard that 300 college students were going to be living across the street, he would be ecstatic. Mr. Rassi said that if someone could show him a five acre site that is two blocks from the campus, he would be all over it. He concluded that if this was a suitable retail site there would be retail on it right now.

Daniel Yong came forward. Mr. Yong said that the property owner west of Bootleg Lounge has talked to him several times about building commercial rental spaces as Mr. Yong has built. Mr. Yong said that he had told this gentleman that it took him four years to rent all the spaces. That gentleman decided not build additional space because of Mr. Yong's experience. The proposed retail spaces will be smaller than Mr. Yong has to offer and they will be mostly for the tenants to patronize those businesses. Once again Mr. Yong said that he is not against the project, just the location and he concluded that he does not think we are lacking for retail space in Murray.

Helen Spann came forward. Ms. Spann asked the commissioners to note how many businesses had been built in this surrounding area in the last two years. She said that this property and maybe one or two other tracts are all that are left in commercial property.

Mr. Rassi came forward. He said if there are only five lots left in an undesirable location, a developer will not buy them. Mr. Rassi said that he is convinced that his proposal is the best use for this land. Commissioner Jobs asked Mr. Rassi if they had looked at other properties. Mr. Rassi said that they had but they would not consider anything that was not walkable to campus and this property was the only property available that fell into that category.

Chairman Pavlick closed the public hearing and turned it over to the commissioners for discussion and a motion.

**John Krieb made a motion to approve the Preliminary Plat for The Keys Residential Planned Development Project contingent upon the Board of Zoning Adjustments approving the conditional use permit and all needed variances, stormwater detention plans being approved by the city and the project meeting all other city regulations and that the project not exceed the proposed 76 units with 268 beds maximum in the residential portion of the project. Tom Kind seconded the motion. The motion carried with a 7-2 roll call vote. Ed Davis abstained. Jeremy Boyd and Loretta Jobs voted no.**

**Questions and Comments:** Commissioner Perry stated that he was a little disappointed that Justin Phillips' request to zone his property as R-2 was voted down. Commissioner Boyd said that he still thinks that the zoning is ridiculous at times. He said if we have an R-1 zone and never use it, he didn't

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see the point of having it. He thinks if this is an applicable spot for a particular zoning, then it should be used. David Roberts thanked the commissioners again for their patience, attentiveness and their concerns.

**Adjournment: Marc Peebles made a motion to adjourn. Tom Kind seconded the motion and the motion passed unanimously. *The meeting adjourned at 8:18 p.m.***

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Chairman, Ed Pavlick

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Recording Secretary, Reta Gray