

**MURRAY BOARD OF ZONING ADJUSTMENTS  
REGULAR MEETING  
WEDNESDAY, SEPTEMBER 18, 2013  
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, September 18, 2013 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5<sup>th</sup> Street.

**Board Members Present:** Josh Vernon, Scott Seiber, Bobbie Weatherly, John Krieb, Brad Darnall, and Mary Anne Medlock

**Board Members Absent:** None

**Also Present:** Candace Dowdy, Justin Crice, Reta Gray, David Roberts, Mike Pitman, Jennifer Tolley, Hawkins Teague, Officer Starks, Mike Young, Dale Campbell, Bob & Diana Thomason, Janice Hicks, Michael Thompson, Angela & Jeremy McCord, Rick Burgess and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Candace Dowdy swore in new board member Bobbie Weatherly. Chairman Krieb stated that he had submitted a few minor changes and asked if there were any additional changes that needed to be made to the minutes from the August 21, 2013 regular meeting.

**Brad Darnall made a motion to approve the BZA minutes from the August 21, 2013 regular meeting as amended. Scott Seiber seconded the motion and the motion carried unanimously.**

**Public Hearing: Conditional Use Permit Request for a Fraternity House at 911 North 16<sup>th</sup> Street – Alpha Sigma Phi:** Chairman Krieb stated that this item had been tabled during the August meeting and he needed a motion to remove it from the table.

**Scott Seiber made a motion to remove this item from the table. Brad Darnall seconded the motion and the motion carried unanimously.**

Justin Crice used a Power Point presentation to show the property at 911 North 16<sup>th</sup> that is owned by Jason Barnett, an Alpha Sigma Phi Alumni member. Mr. Barnett is proposing to allow the local chapter of Alpha Sigma Phi fraternity to use this property. The property has an existing house on the lot that has been used for residential use for a number of years. The fraternity is looking to temporarily use this house and eventually construct a new fraternity house on the property. The house is currently used by three members of the fraternity. It has an upstairs with three bedrooms and a kitchen. The downstairs is a basement with a separate entrance from the outside. A preliminary fire inspection by the Fire Marshal was given and was noted that if the downstairs is used for assemblies or gatherings, it will require sprinkler installation. The Fire Marshal issued a maximum occupant load of 124 for basement assemblies. Mr. Crice stated that Chapter Advisor, Mike Young is in charge of the housing fund and has indicated this house will be used for small meetings and brotherhood events. Currently the fraternity holds its weekly meetings on Murray State's campus and does not have any plans to change their meeting place. Fraternity or sorority houses are only allowed in an R-4 zoning district as a conditional use permit and require a minimum 15,000 square foot lot size; this property is .906 acre and adequate in size. The City has constructed sidewalks that run along the east side of North 16<sup>th</sup> and will eventually extend to Hwy 121 Bypass North. Mr. Crice continued that Alpha Sigma Phi has made a lot of improvements to the property since it had been purchased. New fencing has been added along the north side of the property along with a gravel area connecting the driveway and the fence. The area that was graveled was originally a drop off filled with debris. The gravel was put there to level that area and widen the driveway making it possible

for two cars to use at the same time. Murray State has a parking lot to the east of this lot that could be accessed for overflow parking by students with the appropriate permits. A parking layout has been proposed and shows 14 spaces on the property; 10 are located in the rear of the house facing the north and 4 are in front of the garage. A minimum width of 22 to 24 feet will be required for the drive that runs along the north side of the property from the front to the back. Section I, Article 3.G. of the City of Murray Zoning Ordinance stated that fraternity houses are supposed to provide *one (1) parking space for every student based on maximum occupancy plus one (1) space for every resident manager and every regular employee on the premises*. Given that this fraternity house will house three members and be used for social and meeting purposes, Planning Staff feels Alpha Sigma Phi would be more in line with the parking requirements of a "Convention Hall, Lodge, Club, Library, Museum or Place of Amusement or Recreation". Based on these requirements the fraternity would have to provide, *one parking space for each fifty (50) square feet of floor area used for assembly or recreation within the building*. The assembly or recreation section of this facility will be approximately 872 square feet and thus require 17 parking spaces. The upstairs would require three parking spaces for the tenants who live there which will bring the total parking needs to 20 spaces. Ms. Dowdy stated that she had met with some of the representatives of the fraternity before the meeting and they had indicated that they may eventually decide to place more parking in the back yard facing the south. At that time they could utilize the drive aisle as a center turnaround that would be helpful while pulling in and out of spaces. Ms. Dowdy explained that if the fraternity decides to make more parking they will be required to present a plan to the Planning Staff before they will be allowed to proceed.

Mr. Crice stated that the fraternity must provide screening to all adjoining properties as specified by the zoning ordinance. Alpha Sigma Phi has already improved the fencing on the north side of the property. Natural barriers separate properties to the south and west. Currently the backyard is fenced in on all sides except the south side. Ms. Dowdy explained that fencing would not be required on the south side because it adjoins another fraternity, Chi Alpha. There are currently two vacant lots between the two fraternities. Mark Randall owns all three pieces of property. Ms. Dowdy continued that they had talked to Mr. Randall previously about adding some additional parking on the two vacant lots. His future plans are to build a new student housing facility.

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

Mike Young, 984 Oaks Country Club Road, Murray was sworn in. This coming October will be the Chapter's 19<sup>th</sup> year at Murray State University and they have been searching for property for 18 years. Mr. Young said that for 15 of those years they have leased a house from the University and have proven to be good stewards. When this property became available, Mr. Young got in touch with an alumni (who acted rather quickly) and purchased the property. In addition to this property being zoned R-4 (which is a zone where fraternity housing is permitted) the location of the property was desirable because of its close proximity to the university and within walking distance. Mr. Young added that there is also parking across the street on the university lots that would provide additional parking as needed for the fraternity. Mr. Young stated that they had cleaned the property up, replaced some of the broken lattice fencing with a new fence and added on to an additional fence. He said that there is room for additional parking in the back while still leaving enough space for it to be functional for events. He explained that they hold their meetings at Mason Auditorium on campus on Sunday nights and have no plans to change that meeting location. The building on North 16th will hold everyone; however, it would not have the best seating options. Mr. Young did say that they planned on using this building for socials or just as a gathering place. There is a big enough backyard for sports activities. Their long term plan is to demolish this house and build a new facility that includes a social hall with ample parking. Mr. Young explained that this is a good start for them and he knows they will take care of the property and be good neighbors. They

currently have 84 active members with a pledge class of 31. Mr. Young added that he had spoken to Mark Randall before the meeting. Mr. Young explained that he thought Mr. Randall might have some issues with a fraternity being next door to his Christian fraternity; however, Mr. Randall had indicated that it was because of whom the group was that he wouldn't have any issues. Mr. Young thought that was an endorsement for his fraternity.

Chairman Krieb explained that in 2005 Pi Kappa Alpha presented a letter written by the University that was submitted to the BZA giving permission for their members of the fraternity to utilize campus parking spaces after hours. He suggested that Mr. Young do the same. Mr. Young replied that he had already spoken to Chief David DeVoss and he has permission to use those spaces; however, he will get that in writing. Mr. Seiber said that as far as parking in the backyard goes, he would rather they maintain as much green space as possible and utilize the MSU parking space that is available. Mr. Young shared that he had a conversation with Mr. Randall about one of the vacant lots between the two fraternities being turned into some sort of joint parking area in the future. Mr. Randall was open to that idea and said that after this procedure was finished, they would discuss the additional parking lot for both of the groups to use.

Chairman Krieb asked if there was anyone that wished to speak in opposition to the application. There was no one. Chairman Krieb closed the public hearing and turned it over to the board for discussion.

**Scott Seiber made a motion to grant a conditional use permit to allow Alpha Sigma Phi fraternity to operate at 911 N. 16<sup>th</sup> Street with the following conditions:**

- **No on-street parking.**
- **Building must meet current fire and building codes as well as zoning codes in the upstairs and basement (basement must be sprinkled).**
- **All screening and landscaping requirements to adjoining properties being met. The Board waived landscaping strip requirements on the north property line if the fencing is maintained. (Screening requirements on south property are not required due to Chi Alpha Fraternity being the adjoining property owner)**
- **Allow a six space parking variance based on the fact Alpha Sigma Phi would like to preserve as much "green space" as possible along N. 16<sup>th</sup> Street**
- **There shall be no on-site parking of anyone other than members of the fraternity except for events sponsored by the fraternity**
- **No more than three individuals of the fraternity may live on site.**
- **Alpha Sigma Phi must obtain a letter from Murray State University stating members can utilize campus parking after hours.**

**Mary Anne Medlock seconded the motion and the motion carried with a 6-0 roll call vote.**

**Compatibility Hearing: Proposed Residential Planned Development Project east of 1300 North 16<sup>th</sup> Street – Racer Villas – Dale Campbell:** Candace Dowdy used a Power Point presentation to show the property east of 1300 North 16<sup>th</sup> Street that is owned by Dale Campbell. This property consists of a 3.38 acre tract of land and is located in a B-2 Zoning District. This property was granted a 40 ft. access easement when the Planning Commission approved a minor subdivision plat for this property in February. An advisory meeting for a proposed residential PDP was held in March and forwarded on to the BZA where it was determined to be compatible to the area; however, the project's preliminary plat was denied at the May 21<sup>st</sup> Planning Commission meeting. Planning Staff has met with Mr. Dale Campbell several times and informed him that if he wanted to move forward with this project he would have to submit

another site plan and start the process over since the Planning Commission denied the previous preliminary plat. Staff informed Mr. Campbell that it would be up to the Planning Commission to determine whether the changes are significant enough to move the project forward to the BZA for compatibility. The previous night the Planning Commission voted to forward the proposed residential planned development project for Racer Villas to the BZA for their consideration on compatibility based on the fact significant changes have been made to the project. The Commissioners also suggested that the developers consider fencing the entire project for privacy. When Mr. Campbell presented his original proposal in 2012 there were over 100 units. In May of 2013 there were 70 one bedroom units and now there are 62 one bedroom units proposed. Parking for this development has been reduced from 140 to 108 parking spaces. A variance of 78 parking spaces will be needed. Building setbacks along the east line are 20 feet and would require a setback variance with this proposal. According to the Sanitation Department both locations on the revised site plan for sanitation pick up are sufficient. Each location has an enclosed dumpster area with one in the northeast and one in the southwest corners of the development. Fire Department access was determined as being sufficient. Ms. Dowdy stated that the stormwater detention basin location was moved to the south side of the property. It now creates a buffer between adjoining properties to the south and should slow traffic because of the slight curve in the drive aisle around the development. The site plan shows widening the green space in between the buildings in the center of the development to 44 feet. The previous preliminary plat showed this area as 26 feet. Mr. Campbell indicated that his intention is to have doors and patios on the back of the units to present a "community atmosphere". The developers wish to market the development as one story - one bedroom units rather than two story units. Ms. Dowdy showed a rendering of the proposed units that had been presented in the PC meeting. The rendering showed a porch-like roof on the front of the units to enhance the overall appearance. Ms. Dowdy explained that the roofs on the front of the buildings will be large enough to place two doors under each roof. The site plan also added a 4 ft. sidewalk to the southwest entrance to the development that would be proposed to extend down to 16<sup>th</sup> Street.

**Brad Darnall made a motion that the proposed residential planned development project for Racer Villas just east of 1300 North 16<sup>th</sup> Street is compatible to the area. Josh Vernon seconded the motion and the motion carried with a 6-0 roll call vote.**

**Public Hearing: Review of Conditional Use Permit – 1907 Larkspur Drive – Marcy Snodgrass:** Candace Dowdy stated that on July 19, 2006, Marcy Snodgrass was granted a conditional use permit to operate as a licensed massage therapist at 1907 Larkspur Drive. Recently Ms. Snodgrass was proposing to come before the board concerning another conditional use permit on a piece of property that she was considering to purchase. It was brought to the attention of the Planning Department that Ms. Snodgrass was no longer providing massage therapy sessions but was offering yoga classes several days a week from her home with multiple people attending each class. Planning Staff spoke to Ms. Snodgrass and reminded her of the conditions placed on her permit. She was told that she must adhere to those conditions in order to be in compliance with the permit and that she could possibly be subject to the revocation of her conditional use permit for non-compliance. Planning Staff received photos of as many as twenty-three vehicles parked in her driveway along Larkspur during a yoga class. Ms. Dowdy used a Power Point presentation to show these pictures. Based on Ms. Snodgrass's website (marcysnodgrass.com), she is currently offering yoga classes from her home one to five days per week with anywhere from one to five classes daily. On September 11, 2013, Ms. Snodgrass notified the Planning Department that she has rented a location on South 12<sup>th</sup> Street for her yoga classes and that she will be moving her business into that location by Saturday, September 21, 2013. Planning Staff informed Ms. Snodgrass that the board would be informed of this and it would be noted in the files. Ms. Dowdy added that since this had all transpired, Ms. Snodgrass withdrew her new application for a conditional use permit. At this point Ms. Snodgrass will not be operating a business from her home. Ms. Dowdy suggested that the board make a motion to revoke the original conditional use permit.

Chairman Krieb opened the public hearing and asked if there was anyone that wished to speak in favor of continuing the conditional use permit. There was no one. Chairman Krieb asked if there was anyone that wished to speak against the permit. There was no one. Chairman Krieb closed the public hearing and turned it over to the board members for discussion.

Ms. Dowdy stated that Planning Staff had received one phone call from Marshall Gordon, the developer of Campbell Estates. Mr. Crice stated that Mr. Gordon was opposed to continuation of the conditional use permit. Attorney Mike Pitman asked if Ms. Snodgrass would be discontinuing the use of her property for any commercial activity. Ms. Dowdy replied that would be correct as of Saturday, September 21st. Ms. Medlock asked if it would be appropriate to terminate the CUP. Mr. Pitman said that he would suggest revoking the conditional use permit (according to the way the statute reads) since she is not in compliance. He continued that if Ms. Snodgrass chose to come back with a new plan at that location, she would have to come before the board again and apply for a new conditional use permit. Ms. Medlock admitted that she is one of Ms. Snodgrass's yoga clients and she was at her home the night that the pictures were taken. Ms. Medlock assured the board members that this was an incredibly unusual situation. She stated that she had been going to the yoga classes for over a year and that was the one night that there was a situation like that and it had not occurred since that time. Ms. Medlock stated that Ms. Snodgrass was professional regarding parking by making announcements and making sure that there wasn't on street parking. Ms. Medlock explained that the first two cars in the parking lot were the Snodgrass's that were being used to carpool. This night happened to be an "event night" that she runs every August that turned out to be more people than anticipated. Ms. Medlock said that Ms. Snodgrass had been working very hard to keep that situation from occurring again and that was the reason that she preferred to use the word "terminate" instead of "revoke". She added that she would be abstaining from voting. Chairman Krieb said that it sounded like over a period of time confusion set in because the conditional use permit clearly states one client at a time and no more than eight per month.

**Josh Vernon made a motion to revoke the conditional use permit for Marcy Snodgrass at 1907 Larkspur Drive beginning September 21, 2013. Scott Seiber seconded the motion and the motion carried with a 5-0 roll call vote. Mary Anne Medlock abstained from voting.**

**Public Hearing: Conditional Use Permit request for 3 non-related persons to occupy the premises in an R-2 Zoning District – 1713 Olive Street – Racer Rentals, LLC:** Justin Crice stated that Planning Staff had received a complaint about the property at 1713 Olive Street possibly being used for multi-family use. This property is in an R-2 Single Family Residential Zoning District and is owned by Bob Thomason of Racer Rentals LLC. Planning Staff followed up with the property owner after receiving the complaint. Mr. Thomason responded promptly and stated he had rented to one tenant in May and had explained the single family zoning to the tenant at that time. Mr. Thomason was unaware the tenant had sub-leased the property out to two other non-related persons and felt like the tenant didn't quite understand what single family zoning meant. Planning Staff informed Mr. Thomason that he could either bring the property into compliance or apply for a conditional use permit to allow up to three non-related persons to occupy the premises. Mr. Thomason indicated that if the conditional use permit was approved, he did not wish to continue it beyond May 2014. Mr. Thomason would like for the board to consider allowing the three women (who are all juniors at MSU) to finish out the lease until the end of May. Mr. Crice stated that Mr. Thomason has stated a willingness to widen the existing driveway to accommodate all three vehicles and has discouraged the current tenants from parking on the street. Mr. Crice used a Power Point presentation to show pictures of the property. There is a one car driveway and the pictures show cars parked in the street as well as on the grass at the residence. Mr. Crice stated that Planning Staff had contacted the Murray Police Department to see if there had been any complaints against the property. There was one parking complaint dated August 6<sup>th</sup> which was around the same time

that Mr. Crice took pictures. Ms. Dowdy pointed out that there had been two other houses on Olive that had applied for conditional use permits in the past and both had been granted. Mr. Seiber asked if any other conditional use permits had been granted in the general area. Ms. Dowdy stated that she did not know. The zoning is split between R-2 and R-4 on 16<sup>th</sup> and 17<sup>th</sup> and most of the streets from College Farm to Main are split as well; thus allowing for some multi-family housing in the area. Mr. Crice added that Planning Staff received one phone call in opposition to the conditional use permit request from an adjoining property owner, Dr. Bill Shell.

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

Bob Thomason, 34 Homer Rice Lane, Gilbertsville, Kentucky was sworn in. Mr. Thomason stated that this had been a misunderstanding. The property was rented to Melissa Skiljan on the 9<sup>th</sup> of May by Diana Thomason, Mr. Thomason's wife. Mr. Thomason said that he heard his wife explaining the lease (over the phone) and that she explained that it was single family. When Mr. Crice contacted Mr. Thomason and informed him about the complaint, Mr. Thomason said that his wife immediately went to check it out. She found out that Melissa had in fact sub-rented the house to two additional Murray State University students which made the property non-compliant since the three girls were non-related. Mrs. Thomason explained again to Melissa that the property is a single family dwelling. Melissa did not understand Mrs. Thomason in the beginning concerning "single family"; therefore, she did not understand that she could not sub-rent the house. Mr. Thomason explained that Mr. Crice told him he could either apply for a conditional use permit or bring the property into compliance. Mr. Thomason said that he had rented to single families in the past and had never had any incidents. He added that he has always tried to keep the property well maintained and to be a good neighbor. Since this incident, Mr. Thomason and his wife have explained to the ladies not to park in the street. He stated that he has plans to widen the driveway where there can be more sufficient parking for his tenants. Mr. Thomason said that to his knowledge the girls have been good neighbors and he was asking the board to allow the girls to stay there until the end of their lease which is May 31, 2014. At that time he plans to only rent to single families. Chairman Krieb asked Mr. Thomason if his lease allows the tenant to sub-rent. Mr. Thomason said that it did, if the tenant contacted him. But his sub-rent clause meant that if the tenant moved out before their lease was fulfilled, they would have permission to sub-rent for the remainder of that said time. He added that he will change the wording in his lease so that it cannot be misinterpreted in the future. Mr. Darnall asked Mr. Thomason if he made periodic checks on the property and if he had noticed the amount of cars that had been parked at the residence. Mr. Thomason stated that he did make periodic visits to mow the yard and at one time there had been only one vehicle parked in the drive. Another time there was no one and even another time there were three automobiles there. This did not alert him to anything because college kids have friends and he just thought friends were visiting.

Chairman Krieb asked if there was anyone that wished to speak against the application.

Janice Hicks, College Terrace Drive, Murray was sworn in. Ms. Hicks asked if the Olive Street residents were notified of the hearing. Ms. Dowdy replied that adjoining property owners are the only ones required to be notified by law; however, Planning Staff also submits a posting in the newspaper. Ms. Hicks said that not everyone receives the newspaper, but that was how she found out about the meeting. Mr. Crice clarified that all properties that are touching this property, butted up to this property on the back side, or adjacent (across the street) are considered adjoining. Ms. Hicks said that she had lived at her current address for 37 years. There are many neighbors that live in modest homes there and they plan on staying in them a long time. There are a lot of additional homes in this block that would be beautiful if they were renovated but this type of circumstance (conditional use) will eventually degrade all the properties. Ms. Hicks said that she had been doing a lot of study on properties in the area (prior to this

application) from College Farm Road to Main and also from 16<sup>th</sup> Street to 18<sup>th</sup> Street. She is not finished with her study at this time; however, she obtained a list of conditional use permits for this particular area and was surprised that there really hadn't been that many granted. She walks by these properties quite often and in doing so has found that there are several properties that are non-compliant within the R-2 zone. She sees numerous vehicles parked at these sites on a regular basis where it seems that the land owner just dumps a load of gravel in the grass to provide additional parking. There are many property owners on Olive that occupy their properties and they are very much opposed to the conditional use permits. Ms. Hicks has found that in the properties that are not occupied by the owners there are 22 of those properties that are owned by 15 corporations. She has tried to find out the actual owners and in some cases, she has found that impossible. Ms. Hicks stated that a lot of the residents have been concerned about the way things seem to be headed in the neighborhood and she would like to see this problem addressed beginning with no new conditional use permits being granted. Several of the single family property owners are renting these houses for \$1200.00 or more to students versus the \$600.00 a month they would get for a single family. (Three or four students can split the cost of renting a house for less than they would pay in the dorm.) Some parents will buy these properties for their children to live in while attending MSU and actually rent out rooms to their friends. Ms. Hicks said that the girls that are renting this property may go by the old saying that "It is easier to ask for forgiveness than to ask for permission". She thinks the girl that sub-rented the house should have to "take her medicine" and move the other girls out. Ms. Hicks said that when she comes before the board, she continues to hear that the neighborhoods are changing. The reason the neighborhoods are changing is because they are being allowed to change one by one with conditional use permits. Ms. Hicks has been by the property on Olive that is being discussed and said that it looks good, but that is not the same story for all the housing in the neighborhood. She volunteered to try to get a list together of all the non-compliant properties in this area for the Planning Staff and urged the board to vote no in order to save their neighborhood.

Michael Thompson, 1712 Olive, Murray was sworn in. Mr. Thompson lives across the street from this property. Mr. Thompson said that he did not mind the three girls living there, but he has a problem with the parking situation. Mr. Thompson has a large truck and when cars are parked in the street across from his driveway, it makes it difficult for him to maneuver his truck into his own driveway. He added that this problem is not with the one car that parks in the street, but it entails several and he presented pictures (*Entered as Exhibit A*). Mr. Thompson said that these pictures were taken in early August when the two additional girls moved in. It was not only in the daytime, but transpired into the evening. He added that some nights there were cars parked on the north side of the street as well. He is not sure that widening the driveway will correct this kind of problem. Typically every day now there are three cars there with an occasional car parked in the street. Mr. Thompson said that he thought when he moved in years ago there was a "No Parking" sign. Ms. Dowdy said that she did not think that there were any signs on Olive at this time. Mr. Thompson said that there is still one on the north side of Olive. Mr. Thompson said when Public Safety was located at 16<sup>th</sup> and Olive there weren't any cars parked on Olive because the officers kept it clear.

Chairman Krieb asked if there was any rebuttal.

Diana Thomason, 34 Homer Rice Lane, Gilbertsville, Kentucky was sworn in. Ms. Thomason said that Melissa had told her that someone had asked them to move cars out of the street at one time and she thought that might have been when sorority recruitment was happening. Melissa had also told Ms. Thomason that she was making an effort not to have that situation happen again. Ms. Thomason explained that they have a standard lease for their single family and multi-family properties together and they mark it appropriately.

Chairman Krieb closed the public hearing and turned it over to the board members for discussion and a motion.

Ms. Medlock stated that it is the board's usual recommendation that the additional non-related individuals leave the premises by the end of the semester because they are non-compliant. Chairman Krieb agreed. Ms. Medlock said that she appreciated the property owners being willing to add additional surface for parking; however, she does not think that will resolve this issue. She added that if there are other non-compliant properties in the area she hopes that the neighborhood moves forward with that so that maybe they can be brought into compliance. Mr. Darnall said that it was important to set precedence in making their decision in situations such as this.

**Mary Anne Medlock made a motion to deny the conditional use permit request for Racer Rentals LLC to allow three non-related person to occupy the premises at 1713 Olive Street. The property owner has until the end of this current semester or December 15, 2013 to bring the property into compliance as the tenant of the property has proceeded to allow the addition of non-related individuals to live on the premises; therefore, becoming non-compliant. Josh Vernon seconded the motion and the motion carried with a 5-0 roll call vote. Bobbie Weatherly abstained from voting.**

**Public Hearing: Conditional Use Permit request to locate an exercise training facility in an Industrial Zone – 700 North 4<sup>th</sup> Street (Intersection of North 4<sup>th</sup> & Solar Drive) – Body Mods Crossfit – Jeremy McCord:** Candace Dowdy used a Power Point presentation to show the property at 700 North 4<sup>th</sup> Street. This property is zoned Industrial and has been used in the past as the Book Oodles warehouse. Rick Burgess is the current owner of the property. Jeremy McCord with Body Mods Crossfit of Murray is looking to lease a portion of this building in which to relocate his exercise training facility. Retail sales and consumer services are permitted only as a conditional use in an Industrial Zoning District. The building is approximately 41,000 square feet and Mr. McCord indicated they will only be using 7,500 square feet of this facility which will be located in the center building. (Mr. Burgess plans to utilize the building on the west end for storage.) Ms. Dowdy was not sure about the access to the building, but said that maybe Mr. Burgess could clarify that later. Parking regulations requires the facility to have 37 parking spaces based on it being a consumer service. The building has 17 spaces off of Solar Drive fronting the entrance to the building. Ms. Dowdy noted that Cleaver Construction is located across the street from this proposed business where vehicles are coming and going throughout the day; therefore, there does not need to be any on street parking on Solar Drive. Mr. McCord had indicated that they had outgrown their facility located at Sunbury Circle and this location would better serve their growing customer base which is limited to 26. The class schedule (which is subject to change) is currently as follows:

- 6:30 & 7:30 a.m. - Monday, Tuesday and Thursday
- 3:30, 4:30, 5:30, & 6:30 p.m. – Monday through Saturday
- 8:00 a.m. & 9:00 a.m. – Saturday
- No class on Friday after 5:30 p.m. and no classes on Sunday

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

Angela McCord, 1965 Pled Wade Road, Puryear, Tennessee was sworn in. Ms. McCord and her husband Jeremy own the business together. Ms. McCord stated that they have been in business for about two years at their current location on Sunbury Circle. They have had so much success with the business that they are looking to expand; thus, the need to find a new facility. Their current location has about 2800 square feet and the proposed site will be around 7500 square feet. This location would allow them to



continue to serve the community of Murray and for their members to improve their health and wellness. Ms. McCord addressed the one complaint that had been reported to the Murray Police Department. She stated that was a miscommunication of sorts. Ron McNutt, one of their neighbors owns an automobile sales lot and has car haulers that frequently come in and out of his facility. Those trucks have to park in the road to load and unload their cars. Body Mods Crossfit was having an event that day so they blocked the cul-de-sac with 6 inch cones with the intentions of no one parking down there except for the car haulers. They actually did that to keep Mr. McNutt's driveway completely opened. No communication took place that day between the two parties before the incident occurred; therefore, it was totally a misunderstanding. Ms. McCord continued that she did not think there would be any issues with the construction company across the street because of their hours of operation. She added that the only time they would be in the street would be if someone was running and she didn't foresee that being a problem. Ms. McCord added that they would not be parking on the street at all as they would have ample parking available.

Rick Burgess, 109 Ginger Drive, Murray was sworn in. Mr. Burgess said that he now has an additional 33 parking spaces available for these tenants. He presented a signed statement from the Universal Athletics owner stating that Body Mods Crossfit can use up to 50 of their designated parking spaces. (*Signed Statement entered as Exhibit B.*) Mr. Burgess also clarified that there are two entrances to access the building, one in the front and one in the back of the building which is blocked at this time. There are 3 PTL trailers parked in the back with inventory in them and once they are unloaded, the trailers will be moved; therefore, you will be able to access the rear entrance to the building.

Chairman Krieb asked if there was anyone that wished to speak in opposition to the application. There was no one. Chairman Krieb closed the public hearing and turned it over to the board for discussion.

**Brad Darnall made a motion to approve the conditional use permit request for Body Mods Crossfit to locate their exercise training facility in an Industrial Zoning District at 700 North 4<sup>th</sup> Street. This is contingent upon additional parking being striped on site and the submitted parking agreement with Universal Athletics being maintained to meet the minimum city parking requirements. Bobbie Weatherly seconded the motion and the motion carried with a 6-0 roll call vote.**

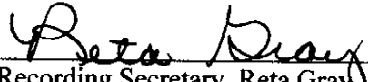
**Questions and Comments:** Chairman Krieb welcomed the newest Board of Zoning Adjustments member Bobbie Weatherly. He then added that the previous night at the Planning Commission meeting the survey was discussed that was mailed to the board members. The deadline was September 18<sup>th</sup> but the Planning Staff would welcome any additional comments for the next several days. Ms. Dowdy stated that one of the gentlemen from Pike Legal came to Murray the previous weekend looking around. She said that he is looking at things that are in the Zoning Ordinance that are not in compliance with KRS and if they need some changing, they will make those. She added that Planning Staff will be talking to them the following week regarding some results and information that has been put together. Then they will be moving forward.

Chairman Krieb said that the position of Code Enforcement Officer is constantly being brought up and he asked Ms. Dowdy if there is a need to have something from the different boards requesting one. Ms. Dowdy stated that it had been put in the budget for the past few years, but hopefully, the next upcoming year that request would be granted. She thinks there are some numbers available that can show the need for one. Mr. Roberts said that Administration is continuing to have discussions and he is hopeful that maybe the next fiscal year, it will actually be approved in the budget. It may not be through the Planning/Engineering Department but he thinks they are working in that direction. Chairman Krieb asked if it would be helpful if the different boards would put their request in writing for that position. Mr. Roberts replied that he thought that would be applicable when the time comes. Chairman Krieb asked

what the appropriate time period would be and Mr. Roberts replied February – May. Ms. Medlock stated that there are cities much smaller than Murray in the region that have Code Enforcement Officers and that is a very important part of how they conduct business. Mr. Seiber said that enforcement seems to work much better if there is an official person assigned that task.

**Adjournment:** Brad Darnall made a motion to adjourn. Josh Vernon seconded the motion and the motion carried unanimously. *The meeting adjourned at 6:43 p.m.*

  
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Chairman, John Krieb

  
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Recording Secretary, Reta Gray

MURRAY BOARD OF ZONING ADJUSTMENTS  
 REGULAR MEETING  
 WEDNESDAY, SEPTEMBER 18, 2013  
 4:30 P.M.

The Murray Board of Zoning Adjustments met in regular session on Wednesday, September 18, 2013 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Josh Vernon, Scott Seiber, Bobbie Weatherly, John Krieb, Brad Darnall, and Mary Anne Medlock

Board Members Absent: None

Also Present: Candace Dowdy, Justin Crice, Reta Gray, David Roberts, Mike Pitman, Jennifer Tolley, Hawkins Teague, Officer Starks, Mike Young, Dale Campbell, Bob & Diana Thomason, Janice Hicks, Michael Thompson, Angela & Jeremy McCord, Rick Burgess and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Candace Dowdy swore in new board member Bobbie Weatherly. Chairman Krieb stated that he had submitted a few minor changes and asked if there were any additional changes that needed to be made to the minutes from the August 21, 2013 regular meeting.

Brad Darnall made a motion to approve the BZA minutes from the August 21, 2013 regular meeting as amended. Scott Seiber seconded the motion and the motion carried unanimously.

Public Hearing: Conditional Use Permit Request for a Fraternity House at 911 North 16th Street — Alpha Sigma Phi: Chairman Krieb stated that this item had been tabled during the August meeting and he needed a motion to remove it from the table.

Scott Seiber made a motion to remove this item from the table. Brad Darnall seconded the motion and the motion carried unanimously.

Justin Crice used a Power Point presentation to show the property at 911 North 16th that is owned by Jason Barnett, an Alpha Sigma Phi Alumni member. Mr. Barnett is proposing to allow the local chapter of Alpha Sigma Phi fraternity to use this property. The property has an existing house on the lot that has been used for residential use for a number of years. The fraternity is looking to temporarily use this house and eventually construct a new fraternity house on the property. The house is currently used by three members of the fraternity. It has an upstairs with three bedrooms and a kitchen. The downstairs is a basement with a separate entrance from the outside. A preliminary fire inspection by the Fire Marshal was given and was noted that if the downstairs is used for assemblies or gatherings, it will require sprinkler installation. The Fire Marshal issued a maximum occupant load of 124 for basement assemblies. Mr. Crice stated that Chapter Advisor, Mike Young is in charge of the housing fund and has indicated this house will be used for small meetings and brotherhood events. Currently the fraternity holds its weekly meetings on Murray State's campus and does not have any plans to change their meeting place. Fraternity or sorority houses are only allowed in an R-4 zoning district as a conditional use permit and require a minimum 15,000 square foot lot size; this property is .906 acre and adequate in size. The City has constructed sidewalks that run along the east side of North 16th and will eventually extend to Hwy 121 Bypass North. Mr. Crice continued that Alpha Sigma Phi has made a lot of improvements to the property since it had been purchased. New fencing has been added along the north side of the property along with a gravel area connecting the driveway and the fence. The area that was graveled was originally a drop off filled with debris. The gravel was put there to level that area and widen the driveway making it possible

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for two cars to use at the same time. Murray State has a parking lot to the east of this lot that could be accessed for overflow parking by students with the appropriate permits. A parking layout has been proposed and shows 14 spaces on the property; 10 are located in the rear of the house facing the north and 4 are in front of the garage. A minimum width of 22 to 24 feet will be required for the drive that runs along the north side of the property from the front to the back. Section I, Article 3.G. of the City of Murray Zoning Ordinance stated that fraternity houses are supposed to provide one (1) parking space for every student based on maximum occupancy plus one (1) space for every resident manager and every regular employee on the premises. Given that this fraternity house will house three members and be used for social and meeting purposes, Planning Staff feels Alpha Sigma Phi would be more in line with the parking requirements of a "Convention Hall, Lodge, Club, Library, Museum or Place of Amusement or Recreation". Based on these requirements the fraternity would have to provide, one parking space for each fifty (50) square feet of floor area used for assembly or recreation within the building. The assembly or recreation section of this facility will be approximately 872 square feet and thus require 17 parking spaces. The upstairs would require three parking spaces for the tenants who live there which will bring the total parking needs to 20 spaces. Ms. Dowdy stated that she had met with some of the representatives of the fraternity before the meeting and they had indicated that they may eventually decide to place more parking in the back yard facing the south. At that time they could utilize the drive aisle as a center turnaround that would be helpful while pulling in and out of spaces. Ms. Dowdy explained that if the fraternity decides to make more parking they will be required to present a plan to the Planning Staff before they will be allowed to proceed.

Mr. Crice stated that the fraternity must provide screening to all adjoining properties as specified by the zoning ordinance. Alpha Sigma Phi has already improved the fencing on the north side of the property. Natural barriers separate properties to the south and west. Currently the backyard is fenced in on all sides except the south side. Ms. Dowdy explained that fencing would not be required on the south side because it adjoins another fraternity, Chi Alpha. There are currently two vacant lots between the two fraternities. Mark Randall owns all three pieces of property. Ms. Dowdy continued that they had talked to Mr. Randall previously about adding some additional parking on the two vacant lots. His future plans are to build a new student housing facility.

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

Mike Young, 984 Oaks Country Club Road, Murray was sworn in. This coming October will be the Chapter's 19th year at Murray State University and they have been searching for property for 18 years. Mr Young said that for 15 of those years they have leased a house from the University and have proven to be good stewards. When this property became available, Mr Young got in touch with an alumni (who acted rather quickly) and purchased the property. In addition to this property being zoned R-4 (which is a zone where fraternity housing is permitted) the location of the property was desirable because of its close proximity to the university and

within walking distance. Mr. Young added that there is also parking across the street on the university lots that would provide additional parking as needed for the fraternity. Mr. Young stated that they had cleaned the property up, replaced some of the broken lattice fencing with a new fence and added on to an additional fence. He said that there is room for additional parking in the back while still leaving enough space for it to be functional for events. He explained that they hold their meetings at Mason Auditorium on campus on Sunday nights and have no plans to change that meeting location. The building on North 16th will hold everyone; however, it would not have the best seating options. Mr. Young did say that they planned on using this building for socials or just as a gathering place. There is a big enough backyard for sports activities. Their long term plan is to demolish this house and build a new facility that includes a social hall with ample parking. Mr. Young explained that this is a good start for them and he knows they will take care of the property and be good neighbors. They

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currently have 84 active members with a pledge class of 31. Mr. Young added that he had spoken to Mark Randall before the meeting. Mr. Young explained that he thought Mr. Randall might have some issues with a fraternity being next door to his Christian fraternity; however, Mr. Randall had indicated that it was because of whom the group was that he wouldn't have any issues. Mr. Young thought that was an endorsement for his fraternity.

Chairman ICrieb explained that in 2005 Pi Kappa Alpha presented a letter written by the University that was submitted to the BZA giving permission for their members of the fraternity to utilize campus parking spaces after hours. He suggested that Mr. Young do the same. Mr. Young replied that he had already spoken to Chief David DeVoss and he has permission to use those spaces; however, he will get that in writing. Mr. Seiber said that as far as parking in the backyard goes, he would rather they maintain as much green space as possible and utilize the MSU parking space that is available. Mr. Young shared that he had a conversation with Mr. Randall about one of the vacant lots between the two fraternities being turned into some sort of joint parking area in the future. Mr. Randall was opened to that idea and said that after this procedure was finished, they would discuss the additional parking lot for both of the groups to use.

Chairman Krieb asked if there was anyone that wished to speak in opposition to the application.

There was no one. Chairman ICrieb closed the public hearing and turned it over to the board for discussion.

Scott Seiber made a motion to grant a conditional use permit to allow Alpha Sigma Phi fraternity to operate at 911 N. le Street with the following conditions:

- No on-street parking.
- Building must meet current fire and building codes as well as zoning codes in the upstairs and basement (basement must be sprinkled).
- All screening and landscaping requirements to adjoining properties being met. The Board waived landscaping strip requirements on the north property line if the fencing is maintained. (Screening requirements on south property are not required due to Chi Alpha Fraternity being the adjoining property owner)
- Allow a six space parking variance based on the fact Alpha Sigma Phi would like to preserve as much "green space" as possible along N. le Street
- There shall be no on-site parking of anyone other than members of the fraternity except for events sponsored by the fraternity
- No more than three individuals of the fraternity may live on site.
- Alpha Sigma Phi must obtain a letter from Murray State University stating members can utilize campus parking after hours.

Mary Anne Medlock seconded the motion and the motion carried with a 6-0 roll call vote.

Compatibility Hearing: Proposed Residential Planned Development Project east of 1300 North le Street — Racer Villas — Dale Campbell: Candace Dowdy used a Power Point presentation to show the property east of 1300 North 16th Street that is owned by Dale Campbell. This property consists of a 3.38 acre tract of land and is located in a B-2 Zoning District. This property was granted a 40 ft. access easement when the Planning Commission approved a minor subdivision plat for this property in February. An advisory meeting for a proposed residential PDP was held in March and forwarded on to the BZA where it was determined to be compatible to the area; however, the project's preliminary plat was denied at the May 21' Planning Commission meeting. Planning Staff has met with Mr. Dale Campbell several times and informed him that if he wanted to move forward with this project he would have to submit

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another site plan and start the process over since the Planning Commission denied the previous preliminary plat. Staff informed Mr. Campbell that it would be up to the Planning Commission to determine whether the changes are significant enough to move the project forward to the BZA for compatibility. The previous night the Planning Commission voted to forward the proposed residential planned development project for Racer Villas to the BZA for their consideration on compatibility based on the fact significant changes have been made to the project. The Commissioners also suggested that the developers consider fencing the entire project for privacy. When Mr. Campbell presented his original proposal in 2012 there were over 100 units. In May of 2013 there were 70 one bedroom units and now there are 62 one bedroom units proposed. Parking for this development has been reduced from 140 to 108 parking spaces. A variance of 78 parking spaces will be needed. Building setbacks along the east line are 20 feet and would require a setback variance with this proposal. According to the Sanitation Department both locations on the revised site plan for sanitation pick up are sufficient. Each location has an enclosed dumpster area with one in the northeast and one in the southwest corners of the development. Fire Department access was determined as being sufficient. Ms. Dowdy stated that the stormwater detention basin location was moved to the south side of the property. It now creates a buffer between adjoining properties to the south and should slow traffic because of the slight curve in the drive aisle around the development. The site plan shows widening the green space in between the buildings in the center of the development to 44 feet. The previous preliminary plat showed this area as 26 feet. Mr. Campbell indicated that his intention is to have doors and patios on the back of the units to present a "community atmosphere". The developers wish to market the development as one story - one bedroom units rather than two story

units. Ms. Dowdy showed a rendering of the proposed units that had been presented in the PC meeting. The rendering showed a porch-like roof on the front of the units to enhance the overall appearance. Ms. Dowdy explained that the roofs on the front of the buildings will be large enough to place two doors under each roof. The site plan also added a 4 ft. sidewalk to the southwest entrance to the development that would be proposed to extend down to 16th Street.

Brad Darnall made a motion that the proposed residential planned development project for Racer Villas just east of 1300 North 16th Street is compatible to the area. Josh Vernon seconded the motion and the motion carried with a 6-0 roll call vote.

Public Hearing: Review of Conditional Use Permit — 1907 Larkspur Drive — Marcy Snodgrass: Candace Dowdy stated that on July 19, 2006, Marcy Snodgrass was granted a conditional use permit to operate as a licensed massage therapist at 1907 Larkspur Drive. Recently Ms. Snodgrass was proposing to come before the board concerning another conditional use permit on a piece of property that she was considering to purchase. It was brought to the attention of the Planning Department that Ms. Snodgrass was no longer providing massage therapy sessions but was offering yoga classes several days a week from her home with multiple people attending each class. Planning Staff spoke to Ms. Snodgrass and reminded her of the conditions placed on her permit. She was told that she must adhere to those conditions in order to be in compliance with the permit and that she could possibly be subject to the revocation of her conditional use permit for non-compliance. Planning Staff received photos of as many as twenty-three vehicles parked in her driveway along Larkspur during a yoga class. Ms. Dowdy used a Power Point presentation to show these pictures. Based on Ms. Snodgrass's website (marcysnodgrass.com), she is currently offering yoga classes from her home one to five days per week with anywhere from one to five classes daily. On September 11, 2013, Ms. Snodgrass notified the Planning Department that she has rented a location on South 12th Street for her yoga classes and that she will be moving her business into that location by Saturday, September 21, 2013. Planning Staff informed Ms. Snodgrass that the board would be informed of this and it would be noted in the files. Ms. Dowdy added that since this had all transpired, Ms. Snodgrass withdrew her new application for a conditional use permit. At this point Ms. Snodgrass will not be operating a business from her home. Ms. Dowdy suggested that the board make a motion to revoke the original conditional use permit.

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Chairman Krieb opened the public hearing and asked if there was anyone that wished to speak in favor of continuing the conditional use permit. There was no one. Chairman Krieb asked if there was anyone that wished to speak against the permit. There was no one. Chairman Krieb closed the public hearing and turned it over to the board members for discussion.

Ms. Dowdy stated that Planning Staff had received one phone call from Marshall Gordon, the developer of Campbell Estates. Mr. Crice stated that Mr. Gordon was opposed to continuation of the conditional use permit. Attorney Mike Pitman asked if Ms. Snodgrass would be discontinuing the use of her property for any commercial activity. Ms. Dowdy replied that would be correct as of Saturday, September 21st. Ms. Medlock asked if it would be appropriate to terminate the CUP. Mr. Pitman said that he would suggest revoking the conditional use permit (according to the way the statute reads) since she is not in compliance. He continued that if Ms. Snodgrass chose to come back with a new plan at that location, she would have to come before the board again and apply for a new conditional use permit. Ms. Medlock admitted that she is one of Ms. Snodgrass's yoga clients and she was at her home the night that the pictures were taken. Ms. Medlock assured the board members that this was an incredibly unusual situation. She stated that she had been going to the yoga classes for over a year and that was the one night that there was a situation like that and it had not occurred since that time. Ms. Medlock stated that Ms. Snodgrass was professional regarding parking by making announcements and making sure that there wasn't on street parking. Ms. Medlock explained that the first two cars in the parking lot were the Snodgrass's that were being used to carpool. This night happened to be an "event night" that she runs every August that turned out to be more people than anticipated. Ms. Medlock said that Ms. Snodgrass had been working very hard to keep that situation from occurring again and that was the reason that she preferred to use the word "terminate" instead of "revoke". She added that she would be abstaining from voting. Chairman Krieb said that it sounded like over a period of time confusion set in because the conditional use permit clearly states one client at a time and no more than eight per month.

Josh Vernon made a motion to revoke the conditional use permit for Marcy Snodgrass at 1907 Larkspur Drive beginning September 21, 2013. Scott Seiber seconded the motion and the motion carried with a 5-0 roll call vote. Mary Anne Medlock abstained from voting.

Public Hearing: Conditional Use Permit request for 3 non-related persons to occupy the premises in an R-2 Zoning District — 1713 Olive Street — Racer Rentals, LLC: Justin Crice stated that Planning Staff had received a complaint about the property at 1713 Olive Street possibly being used for multifamily use. This property is in an R-2 Single Family Residential Zoning District and is owned by Bob Thomason of Racer Rentals LLC. Planning Staff followed up with the property owner after receiving the complaint. Mr. Thomason responded promptly and stated he had rented to one tenant in May and had explained the single family zoning to the tenant at that time. Mr. Thomason was unaware the tenant had sub-leased the property out to two other non-related persons and felt like the tenant didn't quite understand what single family zoning meant. Planning Staff informed Mr. Thomason that he could either bring the property into compliance or apply for a conditional use permit to allow up to three non-related persons to occupy the premises. Mr. Thomason indicated that if the conditional use permit was approved, he did not wish to continue it beyond May 2014. Mr. Thomason would like for the board to consider allowing the three women (who are all juniors at MSU) to finish out the lease until the end of May. Mr. Crice stated that Mr. Thomason has stated a willingness to widen the existing driveway to accommodate all three vehicles and has discouraged the current tenants from parking on the street. Mr. Crice used a Power Point presentation to show pictures of the property. There is a one car driveway and the pictures show cars parked in the street as well as on the grass at the residence. Mr. Crice stated that Planning Staff had contacted the Murray Police Department to see if there had been any complaints against the property. There was one parking complaint dated August 6'11 which was around the same time

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that Mr. Crice took pictures. Ms. Dowdy pointed out that there had been two other houses on Olive that had applied for conditional use permits in the past and both had been granted. Mr. Seiber asked if any other conditional use permits had been granted in the general area. Ms. Dowdy stated that she did not know. The zoning is split between R-2 and R-4 on 16th and 17th and most of the

streets from College Farm to Main are split as well; thus allowing for some multi-family housing in the area. Mr. Crice added that Planning Staff received one phone call in opposition to the conditional use permit request from an adjoining property owner, Dr. Bill Shell.

Chairman Krieb opened the public hearing and asked if there was anyone that wished to speak in favor of the application. Bob Thomason, 34 Homer Rice Lane, Gilbertsville, Kentucky was sworn in. Mr. Thomason stated that this had been a misunderstanding. The property was rented to Melissa Skiljan on the 9th of May by Diana Thomason, Mr. Thomason's wife. Mr. Thomason said that he heard his wife explaining the lease (over the phone) and that she explained that it was single family. When Mr. Crice contacted Mr. Thomason and informed him about the complaint, Mr. Thomason said that his wife immediately went to check it out. She found out that Melissa had in fact sub-rented the house to two additional Murray State University students which made the property non-compliant since the three girls were non-related. Mrs. Thomason explained again to Melissa that the property is a single family dwelling. Melissa did not understand Mrs. Thomason in the beginning concerning "single family"; therefore, she did not understand that she could not sub-rent the house. Mr. Thomason explained that Mr. Crice told him he could either apply for a conditional use permit or bring the property into compliance. Mr. Thomason said that he had rented to single families in the past and had never had any incidents. He added that he has always tried to keep the property well maintained and to be a good neighbor. Since this incident, Mr. Thomason and his wife have explained to the ladies not to park in the street. He stated that he has plans to widen the driveway where there can be more sufficient parking for his tenants. Mr. Thomason said that to his knowledge the girls have been good neighbors and he was asking the board to allow the girls to stay there until the end of their lease which is May 31, 2014. At that time he plans to only rent to single families. Chairman Krieb asked Mr. Thomason if his lease allows the tenant to sub-rent. Mr. Thomason said that it did, if the tenant contacted him. But his sub-rent clause meant that if the tenant moved out before their lease was fulfilled, they would have permission to sub-rent for the remainder of that said time. He added that he will change the wording in his lease so that it cannot be misinterpreted in the future. Mr. Darnall asked Mr. Thomason if he made periodic checks on the property and if he had noticed the amount of cars that had been parked at the residence. Mr. Thomason stated that he did make periodic visits to mow the yard and at one time there had been only one vehicle parked in the drive. Another time there was no one and even another time there were three automobiles there. This did not alert him to anything because college kids have friends and he just thought friends were visiting.

Chairman Krieb asked if there was anyone that wished to speak against the application.

Janice Hicks, College Terrace Drive, Murray was sworn in. Ms. Hicks asked if the Olive Street residents were notified of the hearing. Ms. Dowdy replied that adjoining property owners are the only ones required to be notified by law; however, Planning Staff also submits a posting in the newspaper. Ms. Hicks said that not everyone receives the newspaper, but that was how she found out about the meeting. Mr. Crice clarified that all properties that are touching this property, butted up to this property on the back side, or adjacent (across the street) are considered adjoining. Ms. Hicks said that she had lived at her current address for 37 years. There are many neighbors that live in modest homes there and they plan on staying in them a long time. There are a lot of additional homes in this block that would be beautiful if they were renovated but this type of circumstance (conditional use) will eventually degrade all the properties. Ms. Hicks said that she had been doing a lot of study on properties in the area (prior to this

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application) from College Farm Road to Main and also from 16<sup>h</sup> Street to le Street. She is not finished with her study at this time; however, she obtained a list of conditional use permits for this particular area and was surprised that there really hadn't been that many granted. She walks by these properties quite often and in doing so has found that there are several properties that are non-compliant within the R-2 zone. She sees numerous vehicles parked at these sites on a regular basis where it seems that the land owner just dumps a load of gravel in the grass to provide additional parking. There are many property owners on Olive that occupy their properties and they are very much opposed to the conditional use permits. Ms. Hicks has found that in the properties that are not occupied by the owners there are 22 of those properties that are owned by 15 corporations. She has tried to find out the actual owners and in some cases, she has found that impossible. Ms. Hicks stated that a lot of the residents have been concerned about the way things seem to be headed in the neighborhood and she would like to see this problem addressed beginning with no new conditional use permits being granted. Several of the single family property owners are renting these houses for \$1200.00 or more to students versus the \$600.00 a month they would get for a single family. (Three or four students can split the cost of renting a house for less than they would pay in the dorm.) Some parents will buy these properties for their children to live in while attending MSU and actually rent out rooms to their friends. Ms. Hicks said that the girls that are renting this property may go by the old saying that "It is easier to ask for forgiveness than to ask for permission". She thinks the girl that sub-rented the house should have to "take her medicine" and move the other girls out. Ms. Hicks said that when she comes before the board, she continues to hear that the neighborhoods are changing. The reason the neighborhoods are changing is because they are being allowed to change one by one with conditional use permits. Ms. Hicks has been by the property on Olive that is being discussed and said that it looks good, but that is not the same story for all the housing in the neighborhood. She volunteered to try to get a list together of all the non-compliant properties in this area for the Planning Staff and urged the board to vote no in order to save their neighborhood.

Michael Thompson, 1712 Olive, Murray was sworn in. Mr. Thompson lives across the street from this property. Mr. Thompson said that he did not mind the three girls living there, but he has a problem with the parking situation. Mr. Thompson has a large truck and when cars are parked in the street across from his driveway, it makes it difficult for him to maneuver his truck into his own driveway. He added that this problem is not with the one car that parks in the street, but it entails several and he presented pictures (Entered as Exhibit A). Mr. Thompson said that these pictures were taken in early August when the two additional girls moved in. It was not only in the daytime, but transpired into the evening. He added that some nights there were cars parked on the north side of the street as well. He is not sure that widening the driveway will correct this kind of problem. Typically every day now there are three cars there with an occasional car parked in the street. Mr. Thompson said that he thought when he moved in years ago there was a "No Parking" sign. Ms. Dowdy said that she did not think that there were any signs on Olive at this time. Mr. Thompson said that there is still one on the north side of Olive. Mr. Thompson said when Public Safety was located at 16<sup>h</sup> 11 and Olive there weren't any cars parked on Olive because the officers kept it clear.

Chairman Krieb asked if there was any rebuttal.

Diana Thomason, 34 Homer Rice Lane, Gilbertsville, Kentucky was sworn in. Ms. Thomason said that Melissa had told her that someone had asked them to move cars out of the street at one time and she thought that might have been when sorority recruitment was happening. Melissa had also told Ms. Thomason that she was making an effort not to have that situation happen again. Ms. Thomason explained that they have a standard lease for their single family and multi-family properties together and they mark it appropriately.

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Chairman Krieb closed the public hearing and turned it over to the board members for discussion and a motion.

Ms. Medlock stated that it is the board's usual recommendation that the additional non-related individuals leave the premises by the end of the semester because they are non-compliant. Chairman Krieb agreed. Ms. Medlock said that she appreciated the property owners being willing to add additional surface for parking; however, she does not think that will resolve this issue. She added that if there are other noncompliant properties in the area she hopes that the neighborhood moves forward with that so that maybe they can be brought into compliance. Mr. Darnall said that it was important to set precedence in making their decision in situations such as this.

Mary Anne Medlock made a motion to deny the conditional use permit request for Racer Rentals LLC to allow three non-related person to occupy the premises at 1713 Olive Street. The property owner has until the end of this current semester or December 15, 2013 to bring the property into compliance as the tenant of the property has proceeded to allow the addition of non-related individuals to live on the premises; therefore, becoming non-compliant. Josh Vernon seconded the motion and the motion carried with a 5-0 roll call vote. Bobbie Weatherly abstained from voting.

Public Hearing: Conditional Use Permit request to locate an exercise training facility in an Industrial Zone — 700 North 4th Street (Intersection of North 4th & Solar Drive) — Body Mods Crossfit — Jeremy McCord: Candace Dowdy used a Power Point presentation to show the property at 700 North 4th Street. This property is zoned Industrial and has been used in the past as the Book Oodles warehouse. Rick Burgess is the current owner of the property. Jeremy McCord with Body Mods Crossfit of Murray is looking to lease a portion of this building in which to relocate his exercise training facility. Retail sales and consumer services are permitted only as a conditional use in an Industrial Zoning District. The building is approximately 41,000 square feet and Mr. McCord indicated they will only be using 7,500 square feet of this facility which will be located in the center building. (Mr. Burgess plans to utilize the building on the west end for storage.) Ms. Dowdy was not sure about the access to the building, but said that maybe Mr. Burgess could clarify that later. Parking regulations requires the facility to have 37 parking spaces based on it being a consumer service. The building has 17 spaces off of Solar Drive fronting the entrance to the building. Ms. Dowdy noted that Cleaver Construction is located across the street from this proposed business where vehicles are coming and going throughout the day; therefore, there does not need to be any on street parking on Solar Drive. Mr. McCord had indicated that they had outgrown their facility located at Sunbury Circle and this location would better serve their growing customer base which is limited to 26. The class schedule (which is subject to change) is currently as follows:

- 6:30 & 7:30 a.m. - Monday, Tuesday and Thursday
- 3:30, 4:30, 5:30, & 6:30 p.m. — Monday through Saturday
- 8:00 a.m. & 9:00 a.m. — Saturday
- No class on Friday after 5:30 p.m. and no classes on Sunday

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

Angela McCord, 1965 Pled Wade Road, Puryear, Tennessee was sworn in. Ms. McCord and her husband Jeremy own the business together. Ms. McCord stated that they have been in business for about two years at their current location on Sunbury Circle. They have had so much success with the business that they are looking to expand; thus, the need to find a new facility. Their current location has about 2800 square feet and the proposed site will be around 7500 square feet. This location would allow them to

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continue to serve the community of Murray and for their members to improve their health and wellness. Ms. McCord addressed the one complaint that had been reported to the Murray Police Department. She stated that was a miscommunication of sorts. Ron McNutt, one of their neighbors owns an automobile sales lot and has car haulers that frequently come in and out of his facility. Those trucks have to park in the road to load and unload their cars. Body Mods Crossfit was having an event that day so they blocked the cul-de-sac with 6 inch cones with the intentions of no one parking down there except for the car haulers. They actually did that to keep Mr. McNutt's driveway completely opened. No communication took place that day between the two parties before the incident occurred; therefore, it was totally a misunderstanding. Ms. McCord continued that she did not think there would be any issues with the construction company across the street because of their hours of operation. She added that the only time they would be in the street would be if someone was running and she didn't foresee that being a problem. Ms. McCord added that they would not be parking on the street at all as they would have ample parking available.

Rick Burgess, 109 Ginger Drive, Murray was sworn in. Mr. Burgess said that he now has an additional 33 parking spaces available for these tenants. He presented a signed statement from the Universal Athletics owner stating that Body Mods Crossfit can use up to 50 of their designated parking spaces. (Signed Statement entered as Exhibit B.) Mr. Burgess also clarified that there are two entrances to access the building, one in the front and one in the back of the building which is blocked at this time. There are 3 PTL trailers parked in the back with inventory in them and once they are unloaded, the trailers will be moved; therefore, you will be able to access the rear entrance to the building.

Chairman Krieb asked if there was anyone that wished to speak in opposition to the application. There was no one. Chairman Krieb closed the public hearing and turned it over to the board for discussion.

Brad Darnall made a motion to approve the conditional use permit request for Body Mods Crossfit to locate their exercise training facility in an Industrial Zoning District at 700 North 4th Street. This is contingent upon additional parking being striped on site and the submitted parking agreement with Universal Athletics being maintained to meet the minimum city parking requirements. Bobbie Weatherly seconded the motion and the motion carried with a 6-0 roll call vote.

Questions and Comments: Chairman Krieb welcomed the newest Board of Zoning Adjustments member Bobbie Weatherly. He then

added that the previous night at the Planning Commission meeting the survey was discussed that was mailed to the board members. The deadline was September 18th but the Planning Staff would welcome any additional comments for the next several days. Ms. Dowdy stated that one of the gentlemen from Pike Legal came to Murray the previous weekend looking around. She said that he is looking at things that are in the Zoning Ordinance that are not in compliance with KRS and if they need some changing, they will make those. She added that Planning Staff will be talking to them the following week regarding some results and information that has been put together. Then they will be moving forward.

Chairman Krieb said that the position of Code Enforcement Officer is constantly being brought up and he asked Ms. Dowdy if there is a need to have something from the different boards requesting one. Ms. Dowdy stated that it had been put in the budget for the past few years, but hopefully, the next upcoming year that request would be granted. She thinks there are some numbers available that can show the need for one. Mr. Roberts said that Administration is continuing to have discussions and he is hopeful that maybe the next fiscal year, it will actually be approved in the budget. It may not be through the Planning/Engineering Department but he thinks they are working in that direction. Chairman Krieb asked if it would be helpful if the different boards would put their request in writing for that position. Mr. Roberts replied that he thought that would be applicable when the time comes Chairman Krieb asked

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what the appropriate time period would be and Mr. Roberts replied February — May. Ms. Medlock stated that there are cities much smaller than Murray in the region that have Code Enforcement Officers and that is a very important part of how they conduct business. Mr. Seiber said that enforcement seems to work much better if there is an official person assigned that task

Adjournment: Brad Darnall made a motion to adjourn. Josh Vernon seconded the motion and the motion carried unanimously. The meeting adjourned at 6:43 p.m.

Recording Secretary, Reta Gra