

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, MAY 21, 2014
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, May 21, 2014 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Mary Anne McDlock, John Krieb, Linda Scott, Terry Stricter, Josh Vernon, Scott Seiber and Bobbie Weatherly

Board Members Absent: None

Also Present: Candace Dowdy, David Roberts, Reta Gray, Jennifer Tolley, Priyesh Nathu, Rick Johnston, Rick Schuff, Blair and Russell Lencki, Mr. and Mrs. John Randolph and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Candace Dowdy noted one minor change to the minutes. Chairman Krieb asked if there were any additional comments concerning the minutes from April 16, 2014 regular meeting.

Terry Stricter made a motion to approve the BZA minutes from the April 16, 2014 regular meeting as amended. Linda Scott seconded the motion and the motion carried unanimously.

Chairman Krieb stated that the first item on the agenda was to be McDonald's but since there was going to be a slight delay in the McDonald's representative arriving, the public hearing for Springhill Suites was heard first.

Public Hearing: Request for a variance on the height of the building, height of the fence and a parking variance for Springhill Suites at 1512 North 12th Street – Priyesh Nathu: Candace Dowdy used a Power Point presentation to show the property at 1512 North 12th Street which is zoned B-2 (Highway Commercial). This property is adjacent to B-2 zoning in all directions. Priyesh Nathu, Representative of Gopal Investments, LLC is proposing to construct Springhill Suites, a four story hotel with a convention center and a restaurant at this site. The typical prototype building for Springhill Suites is an overall height of 58 foot 4 inches so they are requesting a 23 ½ foot height variance on the building. (Maximum height in B-2 zoning is 35 feet.) The building itself will be 49 feet in height and it will include a bump-up (where the sign on the building is located) that is approximately 51 feet in height. The elevators will go all the way to the rooftop which will bring the overall height to 58 foot 4 inches. Mr. Nathu is requesting a four foot height variance on a privacy/screening fence that they would like to erect along the back property line that separates the property from Riviera Courts. This will provide a means of security as well as a buffer between the two properties. They are proposing to construct a twelve foot faux stone fence along the east property line. Ms. Dowdy stated that the utilities are running along the rear property line and that the property owner is always made aware of the fact that if a fence is installed and the city has to take out the fence for maintenance of utilities that the city would not be responsible for any repairs or replacement of the fence. Ms. Dowdy showed pictures of the proposed fencing that Mr. Nathu had sent her. The fence is faux stone with panels that can be easily removed. The Zoning Ordinance regulations are that a fence height cannot exceed eight feet; however, Ms. Dowdy said that she thought it would be beneficial to both parties for a 12 foot fence to be constructed since there is some residential use on the property to the east. The applicant is also requesting a parking variance for this development. The use of the property as a hotel, convention center and restaurant is a first for Murray so Planning Staff has combined the parking for all three uses. The Nathus own both the Holiday Inn Express and property where the Springhill Suites will be located. They plan on having a shared entrance to the two properties

and will allow cross over parking for both hotels; however, each establishment must provide the required off street parking per site. Ms. Dowdy noted that there will be no parking allowed on frontage road; however, Mr. Nathu could talk to Paul Garland, property owner of Murray Business Center to see if they would be interested in leasing some parking spaces for any overflow parking needed since most of their businesses operate primarily during the daytime hours. The breakdown of the parking requirements is listed below:

- Hotel – (1.5 parking spaces per sleeping room) **129**
- Convention Center - (4010 square feet) (1 parking space for each 50 square feet of floor area used for assembly) **80**
- Restaurant (Minimum 100 seats for alcohol licenses) (1 per three persons within seating capacity plus two spaces for every three employees) **40**

The total parking spaces required based on the proposed use of the building are 249 with the site plan showing a total of 178; a difference of 71 spaces.

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

Priyesh Nathu, 1542 Spring Creek Drive, Murray was sworn in. Mr. Nathu explained that the plan was a prototype that is used by Marriott. He explained that the ceiling height on the first floor of the hotel is 14 feet and the upper three floors are 11 feet each. There is a lot of duct work that goes between the floors and that is the reason for the heights. Some of the additional height on the roof comes from the parapets which are there to hide the heating and air units. There are two elevators in the building that go to the roof; one is structural and the other is code required for roof access. Mr. Nathu said that he had not thought about sharing a parking lot with Murray Business Center, but he would definitely keep that in mind if extra spaces are needed. Mr. Nathu addressed the restaurant. He said that there would be a continental breakfast served daily and once that is over, the restaurant will open. The restaurant will not be a restaurant as such; everything will be pre-cooked and delivered beforehand. He added that he presumed the bar would open around lunch time. There will be several conference rooms available to hold corporate or social events. They will have partition walls allowing the size of the rooms to be altered as needed. Mr. Nathu explained that they would not be doing any food preparation for these types of events and that the food would have to come from outside caterers. Mr. Strieter asked what kind of lighting would be installed around the hotel. Mr. Nathu replied that the lighting would be positioned to either shine on the building or on the parking lot. The lighting will be bright enough for their customers to have adequate visibility to get to their automobiles and allow them to feel safe. Ms. Dowdy explained that items such as lighting would be addressed during the review process.

Rick Johnston, 301 West 13th Street, Benton was sworn in. Mr. Johnston is a representative of BFW. Mr. Johnson explained that the space is tight for the project; the north property line is within a foot of the concrete drive on the adjacent property. He stated that there will either be a curb or a concrete retaining wall between the properties. He added that they have not seen the specs on the proposed fence and they are aware of the utilities running along the back of the lot. Mr. Johnston said that the proposed fence panels are similar to the Eifs (Dryvit) material which are both light weight and would help provide a sound and visibility barrier. The posts between the panels will be structural.

Chairman Krieb asked if there was anyone that wished to speak in opposition to the proposal. There was no one. The public hearing was then closed and the item was turned over to the board for discussion and a motion.

Scott Seiber made a motion to approve the requested variances as presented for Springhill Suites at 1512 North 12th Street on the height of the building, height of the screening fence and the 71 parking space variance based on the following facts: the parking space variance is not out of line due to the proximity to the other facilities (possibly on both sides) where there will be available parking for overflow parking; the height variance is in line with the current thinking in the Comprehensive Plan for Highway Commercial Business and that the zoning ordinance will possibly be changed to reflect that in the not too distant future; and the fence is necessary for the visual of both the residential property as well as the Springhill Suites' property. Josh Vernon seconded the motion and the motion carried with a 7-0 roll call vote.

Public Hearing: Request for front setback variance on the building – 107 North 12th Street – McDonald's: Candace Dowdy used a Power Point presentation to show the property at 107 North 12th Street where McDonald's Restaurant is located. This property is located in a B-2 (Highway Commercial) zoning district and is adjacent to B-2 to the North and South, B-4 to the East, and R-2 to the West. The existing McDonald's Restaurant was built in 1976. At that time the building was approximately 56 feet off the front property line. When 12th Street was widened in the mid 80's additional right-of-way was taken by the state putting the existing building at 33 feet off the front property line. McDonald's is looking to do a scrape and rebuild project at this location. The existing building (3,739 square feet) will be removed and a new 6,185 square foot building with two drive-thru lanes will be constructed. This new layout will go from a current stacking of 6 to 17 cars at the drive-thru. Since the property has frontage on both North 12th and North 13th there will be a 50 foot setback requirement on each street. If the new building was pushed back to the 50 foot setback line it would encroach into the new parking area being created at the back of the lot (which replaces the loss of all the parking spaces on the south side of the property). Ms. Dowdy stated that the property owner is requesting a 14 foot variance on the front setback which will put the new building at 35.8 feet off the front property line (which will be almost 3 feet farther back than it is now). There is currently a "pull forward stall" located in the front of the building to help with the drive-thru wait. McDonald's Corporation owns the property and the building. Mike Love is the franchisee'. He also owns the vacant lot to the north of the McDonald's building. There has always been an agreement in place that McDonald's Corporation has access to Mr. Love's property for parking. Ms. Dowdy continued that they are currently working on a written agreement (20 year long term lease) stating that they will continue to have access to the property for parking. The applicant is to submit a copy of this lease to Planning Staff for their file. Mr. Love also owns the property to the west that he is in the process of selling to McDonald's. Both entrances off North 12th Street for the new layout will remain the same as well as the one entrance off North 13th Street. This project will require some additional underground water detention. Ms. Dowdy said that in speaking to Mr. Love, this is going to be one of the largest McDonald's between here and Indianapolis, Indiana.

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

Rick Schuff, Representative from Stantec Consulting Services, 409 Sims Lane, Franklin, Tennessee was sworn in. Mr. Schuff stated that he was there to answer any questions that the board might have. He began by saying that he honestly did not know how long it would take to rebuild the new McDonald's. Josh Vernon asked if there was any reason why the two drive-thru lanes did not line up with the existing entrance. Mr. Schuff replied that it just worked with the building layout and it was not desired to change the building entrances. He continued that probably corporate wide 70% of McDonald's business goes through the drive-thru. In the newer stores, improved equipment and procedures enabled them to get people through the drive-thru quicker than before. Terry Strieter questioned the need for a setback since they had so much property there to work with. Mr. Schuff replied that the new trend is to set the

buildings closer to the road with green space and plantings in the front and the parking in the rear. The existing building has a basement, but he does not think the new proposed building will have. Mr. Schuff pointed out that the detention area is at the rear of the lot and if they push the building back, that would present a problem. Pushing the building back would also push back the dumpster area towards the residential area and eliminate some of the rear parking.

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

Blair and Russell Lencki, 1302 Farris, Murray were sworn in. Mr. and Mrs. Lencki own the property and the vacant lot just behind McDonald's across North 13th Street. They do not have any issues with the request for variances. They were glad to hear that one of the proposed entrances was eliminated off North 13th. The Lenckis and their neighbors both have small children playing in their yards and they think it would be great if something could be done to further help eliminate the traffic from McDonald's. Mr. Lencki stated that they had lived there for six years and had never seen the entire parking lot full and he questioned why the proposed building was going to be so large. Noise and trash are concerns. They are afraid that another drive-thru would compound these concerns. Currently with one drive-thru they can hear orders being placed over the outside speakers. The Lenckis suggested that McDonald's put some type of retaining wall up to help buffer the noise and help filter the lights from the automobiles going around the building and exiting from North 13th at night.

Ms. Dowdy explained that they could address the traffic situation with the property owner to see if a traffic calming method could be established. She added that noise (volume of the speakers) and trash could be controlled through the City of Murray Ordinances. Ms. Dowdy continued that they could look at some type of screening or hedges along the back of the McDonald's property to act as a barrier. After much discussion amongst the board members about pushing the building back towards North 13th and giving up several parking places in the rear for green space, Ms. Dowdy said that she would be willing to get back with the owner's to see if they could provide more green space to the proposal. This would be eliminating some of the rear parking spaces; thus, the need for a parking space variance would be necessary. Ms. Medlock said that if 70% of the business is dedicated to the drive-thru, she does not know why the typical number of parking spaces is needed. Mr. Schuff came forward again. He stated that he thought that this particular size building was proposed to compensate for the basement (which is currently used for storage). Chairman Krieb said that since the board did not have any specific details of the new building, he felt the board were at a disadvantage to make a call on what size building McDonald's should put on this site. Ms. Medlock said that she was not asking them to resize their building, but she did not see a reason for a variance. Ms. Medlock sees a lot of concrete and no green space shown on the plan. In addition, the area is already congested and she did not think a 14 foot setback variance would improve the overall situation. Mr. Vernon stated that the trend is to put commercial building closer to the street and the advantage to that is the curb appeal. He added that he is not opposed to a variance. Mr. Seiber stated that McDonald's puts in a lot of restaurants in a lot of different places and he hated to see the board get in the business of dictating what a business can and cannot do based on their business model and the space that they need. He added that he is particularly concerned about doing anything that will compromise the stormwater detention. Ms. Weatherly commented that she has seen some of the newer McDonald's and they are more attractive than the current one in Murray. She thinks the new design is to make a larger and more attractive place than is typical of a drive-thru.

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

Josh Vernon made a motion to approve the request by McDonald's Restaurant for a 14 foot front setback variance on the new building to be constructed at 107 North 12th Street based on the fact their request is due to the State Highway Department taking additional right-of-way when 12th

Street was widened in the mid 1980's. The findings are that the new facility will be an improvement over the existing building with regards to the setback and it is also going to solve some of the issues with regards to congestion off of North 12th Street with the double wide drive-thru lane. There is also additional parking available on adjoining property owned by Mike Love. Mr. Vernon included that McDonald's is required to reduce their parking by ten parking spaces (six on the new south parking lot and four on the north parking lot); to provide an adequate buffer area for the residential neighborhood that is adjacent. Efforts should be made and coordinated with the Planning Staff to insure that there is a means of a sound barrier/buffer there for the neighbors. This variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. Scott Seiber seconded the motion and the motion carried with a 5-1 roll call vote. Terry Strieter voted no and Mary Anne Medlock abstained from voting.

Compatibility Hearing: Proposed Residential and Commercial Planned Development Project at 1025 Southwood Drive – John Randolph: Candace Dowdy used a Power Point presentation to show the property at 1025 Southwood Drive that is owned by John Randolph. The property is currently zoned B-2 (Highway Commercial). It is surrounded by B-2 Highway Commercial to the North, West, and South; R-4 (Multi-Family Residential) and Government zoning adjoins this property to the east. The property is approximately 5.19 acres in size with 369 feet of road frontage. Mr. Randolph is proposing to develop the property as a Residential and Commercial Planned Development Project. This item went before the Planning Commission the previous night for Advisory and they voted to forward it to the BZA with a vote of 7-2 for Compatibility Hearing. If it is passed on by the BZA, Mr. Randolph will have 90 days in order to submit a preliminary plat with more detailed information to the Planning Staff for their review and approval. There were several questions and concerns by the commissioners with this property lying so close to the Flood Plain. Ms. Dowdy explained that Mr. Randolph had been approved by the Division of Water to fill in the property up to the flood plain line. (She noted a dotted line on the map that shows where the flood line is located on the property.) There will be no building in the flood plain. There is currently a single family residence on the property where Mr. Randolph resides. Mr. Randolph is proposing to move that house from the north side to the southeastern side of the property in order to construct 29 one-bedroom units with a one car garage and six one-bedroom units without a garage. Mr. Randolph's home would be a four bedroom unit with a two car garage. The development plan shows two entrances off Southwood Drive. Ms. Dowdy explained that all of the units (except for the house) can be accessed through a 6 foot wide interior hallway. The residents will be able to take the hallway to the dining/common area without having to go outside (which would keep from exposing them to inclement weather situations). The condominiums will target any group of people, but Mr. Randolph has indicated that they will be more attractive for independent senior adults; thus, there could be home health services or housekeeping services offered in the commercial spaces to target the elderly needs. The units will be one story and sold as condominiums. There will be a home owner's association that will enforce the rules and regulations. Each unit is self-contained with a kitchen included. There will be a common area where meals will be prepared and served for those residents who choose not to prepare their own meals. There will be an additional room available for family parties in the common area. Ms. Dowdy stated that the commissioners had some concerns about the overall layout of the development. She continued that the Fire Marshal had looked at this proposal and had indicated that there needed to be one more fire hydrant added to the south side of the project site in order to meet their requirements. Mr. Randolph actually designed the plan for this development and sketched it out, but he has since had an engineer/surveyor refine his drawing. This development would meet all city requirements. Chairman Krieb explained that Mr. Randolph had indicated that a trash dumpster is shown on the southwest corner of the property. Each individual would be responsible in getting their trash to the curb and someone would get it to the dumpster from there. Ms. Dowdy explained that each unit is approximately 26' x 44' and will have an

entrance to the hallway. Each unit will have a front entrance from the outside. The units with a garage will have the third entrance leading to the garage. The common area (located on the north end) will connect to an outside porch for all of the tenants use. Mr. Randolph has looked at a lot of safety aspects for this development and the construction will be pretty substantial with concrete block walls and corridors to make the development as storm proof and safe as possible. Ms. Dowdy stated that Mr. Randolph was there to answer any questions that the board may have. Chairman Krieb explained that this is a Compatibility Hearing to see if the proposal was compatible with the area.

Scott Seiber made a motion that the proposed residential and commercial planned development project at 1025 Southwood Drive is compatible to the area. Josh Vernon seconded the motion and the motion carried with a 7-0 roll call vote.

Questions and Comments: None

Adjournment: Josh Vernon made a motion to adjourn. *The meeting adjourned at 6:25 p.m.*

Chairman, John Krieb

Recording Secretary, Reta Gray

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

Blair and Russell Lencki, 1302 Farris, Murray were sworn in. Mr. and Mrs. Lencki own the property and the vacant lot just behind McDonald's across North 13th Street. They do not have any issues with the request for variances. They were glad to hear that one of the proposed entrances was eliminated off North 13th. The Lenckis and their neighbors both have small children playing in their yards and they think it would be great if something could be done to further help eliminate the traffic from McDonald's. Mr. Lencki stated that they had lived there for six years and had never seen the entire parking lot full and he questioned why the proposed building was going to be so large. Noise and trash are concerns. They are afraid that another drive-thru would compound these concerns. Currently with one drive-thru they can hear orders being placed over the outside speakers. The Lenckis suggested that McDonald's put some type of retaining wall up to help buffer the noise and help filter the lights from the automobiles going around the building and exiting from North 13' at night.

Ms. Dowdy explained that they could address the traffic situation with the property owner to see if a traffic calming method could be established. She added that noise (volume of the speakers) and trash could be controlled through the City of Murray Ordinances. Ms. Dowdy continued that they could look at some type of screening or hedges along the back of the McDonald's property to act as a barrier. After much discussion amongst the board members about pushing the building back towards North 13th and giving up several parking places in the rear for green space, Ms. Dowdy said that she would be willing to get back with the owner's to see if they could provide more green space to the proposal. This would be eliminating some of the rear parking spaces; thus, the need for a parking space variance would be necessary. Ms. Medlock said that if 70% of the business is dedicated to the drive-thru, she does not know why the typical number of parking spaces is needed. Mr. Schuff came forward again. He stated that he thought that this particular size building was proposed to compensate for the basement (which is currently used for storage). Chairman Krieb said that since the board did not have any specific details of the new building, he felt the board were at a disadvantage to make a call on what size building McDonald's should put on this site. Ms. Medlock said that she was not asking them to resize their building, but she did not see a reason for a variance. Ms. Medlock sees a lot of concrete and no green space shown on the plan. In addition, the area is already congested and she did not think a 14 foot setback variance would improve the overall situation. Mr. Vernon stated that the trend is to put commercial building closer to the street and the advantage to that is the curb appeal. He added that he is not opposed to a variance. Mr. Seiber stated that McDonald's puts in a lot of restaurants in a lot of different places and he hated to see the board get in the business of dictating what a business can and cannot do based on their business model and the space that they need. He added that he is particularly concerned about doing anything that will compromise the stormwater detention. Ms. Weatherly commented that she has seen some of the newer McDonald's and they are more attractive than the current one in Murray. She thinks the new design is to make a larger and more attractive place than is typical of a drive-thru.

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

Josh Vernon made a motion to approve the request by McDonald's Restaurant for a 14 foot front setback variance on the new building to be constructed at 107 North 12th Street based on the fact their request is due to the State Highway Department taking additional right-of-way when 12th

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Street was widened in the mid 1980's. The findings are that the new facility will be an improvement over the existing building with regards to the setback and it is also going to solve some of the issues with regards to congestion off of North 12th Street with the double wide drive-thru lane. There is also additional parking available on adjoining property owned by Mike Love. Mr. Vernon included that McDonald's is required to reduce their parking by ten parking spaces (six on the new south parking lot and four on the north parking lot); to provide an adequate buffer area for the residential neighborhood that is adjacent. Efforts should be made and coordinated with the Planning Staff to insure that there is a means of a sound barrier/buffer there for the neighbors. This variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. Scott Seiber seconded the motion and the motion carried with a 5-1 roll call vote. *Terry Strieter voted no and Mary Anne Medlock abstained from voting.*

Compatibility Hearing: Proposed Residential and Commercial Planned Development Project at 1025 Southwood Drive — John Randolph: Candace Dowdy used a Power Point presentation to show the property at 1025 Southwood Drive that is owned by John Randolph. The property is currently zoned B-2 (Highway Commercial). It is surrounded by B-2 Highway Commercial to the North, West, and South; R4 (Multi-Family Residential) and Government zoning adjoins this property to the east. The property is approximately 5.19 acres in size with 369 feet of road frontage. Mr. Randolph is proposing to develop the property as a Residential and Commercial Planned Development Project. This item went before the Planning Commission the previous night for Advisory and they voted to forward it to the BZA with a vote of 7-2 for Compatibility Hearing. If it is passed on by the BZA, Mr. Randolph will have 90 days in order to submit a preliminary plat with more detailed information to the Planning Staff for their review and approval. There were several questions and concerns by the commissioners with this property lying so close to the Flood Plain. Ms. Dowdy explained that Mr. Randolph had been approved by the Division of Water to fill in the property up to the flood plain line. (She noted a dotted line on the map that shows where the flood line is located on the property.) There will be no building in the flood plain. There is currently a single family residence on the property where Mr. Randolph resides. Mr. Randolph is proposing to move that house from the north side to the southeastern side of the property in order to construct 29 one-bedroom units with a one car garage and six one-bedroom units without a garage. Mr. Randolph's home would be a four bedroom unit with a two car garage. The development plan shows two entrances off Southwood Drive. Ms. Dowdy explained that all of the units (except for the house) can be accessed through a 6 foot wide interior hallway. The residents will be able to take the hallway to the dining/common area without having to go outside (which would keep from exposing them to inclement weather situations). The condominiums will target any group of people, but Mr. Randolph has indicated that they will be more attractive for independent senior adults; thus, there could be home health services or housekeeping services offered in the commercial spaces to target the elderly needs. The units will be one story and sold as condominiums. There will be a home owner's association that will enforce the rules and regulations. Each unit is self-contained with a kitchen included. There will be a common area where meals will be prepared and served for those residents who choose not to prepare their own meals. There will be an additional room available for family parties in the common area. Ms. Dowdy stated that the commissioners had some concerns about the overall layout of the development. She continued that the Fire Marshal had looked at this proposal and had indicated that there needed to be one more fire hydrant added to the south side of the project site in order to meet their requirements. Mr. Randolph actually designed the plan for this development and sketched it out, but he has since had an engineer/surveyor refine his drawing. This development would meet all city requirements. Chairman Krieb explained that Mr. Randolph had indicated that a trash dumpster is shown on the southwest corner of the property. Each individual would be responsible in getting their trash to the curb and someone would get it to the dumpster from there. Ms. Dowdy explained that each unit is approximately 26' x 44' and will have an

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entrance to the hallway. Each unit will have a front entrance from the outside. The units with a garage will have the third entrance leading to the garage. The common area (located on the north end) will connect to an outside porch for all of the tenants use. Mr. Randolph has looked at a lot of safety aspects for this development and the construction will be pretty substantial with concrete block walls and corridors to make the development as storm proof and safe as possible. Ms. Dowdy stated that Mr. Randolph was there to answer any questions that the board may have. Chairman Krieb explained that this is a Compatibility Hearing to see if the proposal was compatible with the area.

Scott Seiber made a motion that the proposed residential and commercial planned development project at 1025 Southwood Drive is compatible to the area. Josh Vernon seconded the motion and the motion carried with a 7-0 roll call vote.

Questions and Comments: None

Adjournment: Josh Vernon made a motion to adjourn. *The meeting adjourned at 625 p.m.*

Chairman, John Krieb Recording Secretary, Reta Gray
