



Murphy Planning and Zoning Commission Regular Meeting Minutes
206 North Murphy Road
Murphy, Texas 75094
August 24, 2015

CALL TO ORDER

Chair King called the meeting to order at 6:00 p.m.

ROLL CALL & CERTIFICATION OF A QUORUM

Commissioners Present: Jon King, Steve Levy, Camille Hooper, John Johnson, Lloyd Jones, Don Reilly and Greg Mersch

Commissioners Absent:

City Staff Present: Kristen Roberts, Director of Community Development
Lori C. Knight, Administrative Assistant
Mack Reinwand, Assistant City Attorney

Lori C. Knight certified a quorum. Camille Hooper arrived at 6:04 p.m.

PUBLIC COMMENTS

INDIVIDUAL CONSIDERATION

Chairman King stated that the P&Z Commission would follow the agenda items in this order starting with, Agenda Item 1, Item 3, Item 4, break for Executive Session then continue with Item 2, Item 5 and Item 6.

1. Consider and/or act on the Minutes from the regular July 27, 2015 Planning and Zoning Commission meetings.

COMMISSION ACTION

Vice Chair Levy made a motion to approve the minutes for July 27, 2015. Commissioner Reilly seconded the motion. Motion passed 6-0.

2. Hold a public hearing and consider and/or act on the application of Cindy Boggs owner of Heritage House of Murphy, requesting a Special Use Permit as required by Ordinance 15-06-994, Section 19, Chapter 86, Appendix A-3, Section 86-662 to increase the allowable residents from six to nine in an Assisted Living Facility at a residential zoned property (SF-9) located at 612 Maize Road.

Staff Discussion

Kristen Roberts stated the applicant is the owner of a residential care home for senior individual which is located in the Maxwell Creek subdivision. At the time of the application, the home has five senior individuals residing at the care home. The application has requested a Special Use Permit to increase the allowable six residents to nine residents. Ms. Roberts stated that Fire Chief Mark Lee had submitted a memo in which he stated that he was not in support of the increase of residents due to the fact that they may not be capable of self-evacuation at this location. The memo stated *“Murphy Fire Rescue is not appropriately staffed to provide the necessary evacuation of potentially 9 residents who require evacuation in a safe manner to insure the safety and wellbeing of the residents. This reasonably puts our firefighters and the facility residents at more risk.”*

Kristen Roberts stated that staff recommends denial of the application and that the increase to 9 residents causes an undue financial and administrative burden on the City to provide adequate first responder service to the property.

Cindy Boggs, owner of Heritage House of Murphy-612 Maize

Cindy Boggs stated that she has cooperated with the city since they requested a certificate of occupancy. They have renovated, had additional construction, installed a fire suppression system and an alarm: everything done for the safety of the residents. She is aware of the opposition in the neighborhood for the increase but states that she believes it's the fact that the resident facility is even in the neighborhood that has everyone upset. Mrs. Boggs stated that the house was large enough to house 9 seniors and it is state approved. They would like to provide care for one or two more individuals. She would like to amend the request and ask for less than 9 residents. Mrs. Boggs stated she is not the owner of the residence but has a partner, Tim Jackson. Mrs. Boggs stated that she had two employees scheduled at all times including herself and the manager that are there at any given day.

Commission Discussion

Vice Chair Levy asked about visiting hours and parking. Mrs. Boggs stated that the most visitors stay is about an hour to an hour and a half. She stated that there had never been an issue with parking as she has ample parking space.

There was discussion regarding the Type B business, the house layout and other safety issues

Chairman King asked Mrs. Boggs if she had tried reaching out to the community to help explain the situation. Mrs. Boggs stated that she had sent out an invitation to the surrounding neighbors to come and visit the house and she would answer any questions they had. She stated only two neighbors came by.

PUBLIC HEARING OPENED AT 7:39 PM

1. Wade Hallisey, Attorney who represented about 6 residents who live nearby– Oppose
2. Stephanie Van Sadlers – Oppose
3. Lisa Morton - Oppose
4. Thomas Cain – Oppose
5. Kathleen Cain – Oppose

6. Larry Bolden – Oppose
7. John Uphues – Oppose
8. James Hansen – Oppose
9. Bart Gutter - Oppose
10. Kevin Kelly – Oppose
11. Cindy Boggs - For
12. Brenda Owens - Oppose
13. Glenda Hansen – Oppose

PUBLIC HEARING CLOSED AT 8:03 PM

After some clarification, Mrs. Boggs requested amending her request from nine residents to seven residents.

Commission Action

Commissioner Jones made a motion to deny the application of Cindy Boggs requesting a Special Use Permit to increase the allowable residents from six to nine in an Assisted Living Facility at a residential zoned property (SF-9) located at 612 Maize Road. Commissioner Jones amended his motion.

Commissioner Jones made a motion to deny the application of Cindy Boggs requesting a Special Use Permit to increase the allowable residents from six to seven in an Assisted Living Facility at a residential zoned property (SF-9) located at 612 Maize Road. Commissioner Hooper seconded the motion. Motion to deny passed 7-0.

3. Consider and/or act on the application of property owner McBirney 544 Joint Venture requesting approval of a site plan, landscape plan, building elevations and construction plat for a Denny's restaurant and retail space on property located on the southeast corner of Brand Road and FM 544 at the Murphy Village Addition.

Staff Discussion

Kristen Roberts stated that the applicant had submitted a site plan, landscape plan, elevations and a construction plat that would allow for the development of a Denny's restaurant and retail space. The retail space is being actively marketed with the retail space proposed for a small retail business. The proposed restaurant and retail space are permitted uses. Ms. Roberts stated that the applicant had met all requirements.

COMMISSION ACTION

Vice Chair Levy made a motion to approve the application of property owner McBirney 544 Joint Venture for a Denny's restaurant and retail space. Commissioner Johnson seconded the motion. Motion passed 7-0.

4. Hold a public hearing to discuss the application of Domain Horizon Limited requesting a variance specifically to exterior construction standards (Section 28-131) and landscaping buffer standards (Section 28-156) and consider and/or act on the application of Domain Horizon Limited requesting approval of a site plan, landscape plan, and building elevations for a Best Gymnasium at the NWC of FM 544 and McCreary Road.

Staff Discussion

Kristen Roberts stated that the applicant had submitted a site plan, building elevations and landscape plans that would allow for the development of Best Gymnasium at the northwest corner of FM 544 and McCreary Road. Best Gym is instructional gymnastics and a training facility for youth. The facility would be one story, approximately 16,000 square feet. The proposed use is permitted in the zoning district. Staff recommends a change to the parking. It is recommended to *remove two of the parking spaces located on the east side of the building. The three handicap spaces would shift north and allow for safer vehicular flow in and out of the entrance off of McCreary.* The applicant is also requesting a variance to the required masonry percentage of 80% for exterior construction as well as the allowed accent color for exterior construction. If approved, the south elevation would have 52% masonry and the east elevation would have 59% masonry. Best Gym is asking for a variance to allow their corporate color purple to be used as an accent. Staff is recommending approval. The request is compatible with the surrounding uses and an enhancement to what is already there.

The applicant is also requesting a 5' landscape buffer: the required landscape buffer is 15' for this site. The required landscape coverage for the site is approximately 16.45%, Best Gym is proposing 15%.

There was discussion regarding the landscape and the landscape buffer and the parking ratio.

Jeff Fry, Architect for Best Gym

Jeff Fry stated that the parking ratio is higher than what they actually need. He stated that this balances everything out with the landscape buffer and the parking ratio which leaves them with 85 parking spaces.

Brad Turner, Best Gym

Brad Turner stated that most parents pick up kids and drop them off. Over 50% of the kids are dropped off. The business caters to a younger crowd of 12 years of age and under. He stated that most classes begin at 3:30, usually after school with 6-8 kids per class.

PUBLIC HEARING OPENED AT 6:34 PM

PUBLIC HEARING CLOSED AT 6:34 PM

Commission Action

Secretary Hooper made a motion to approve the application of Domain Horizon Limited as presented with the removal of the two parking spaces and moving up three handicap spaces to the north as recommended by staff. Commissioner Mersch seconded the motion. Motion passed 7-0.

EXECUTIVE SESSSION

In accordance with Texas Government Code, Chapter 551, Subchapter D, the Planning and Zoning Commission will now recess into Executive Session (closed meeting) to discuss the following:

- A. §551.071: Consultation with City's Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act regarding group homes.

The Planning and Zoning Commission convened into Executive Session at 6:38 p.m.

RECONVENE INTO REGULAR SESSSION

The Planning and Zoning Commission will reconvene into Regular Session, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

- A. §551.071: Consultation with City's Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act regarding group homes.
- B. Take Action on any Executive Session Items.

The Planning and Zoning Commission reconvened in regular session at 7:08 p.m. There was no action taken as a result of the Executive Session.

INDIVIDUAL CONSIDERATION (CON'T)

- 5. Hold a public hearing and consider and/or act on the application of Cole Franklin with Skorburg Company, requesting approval of a zoning change from SF-PH (Single Family Residential Patio Home) to a Planned Development District: Single Family Residential – Patio Home and Townhome with a concept plan for Approximately 6.51 acres on property located at the southwest corner of Betsy Road and McCreary Road.

Staff Discussion

Kristen Roberts stated that staff has been working directly with the developers for approximately five months prior of the proposed zoning change request. She stated that the applicant has submitted proposed Planned Development District Conditions and a proposed concept plan for a residential development of 29 townhome lots and 15 patio home lots. The property is currently zoned Single Family Residential – Patio Homes which does not allow the requested addition of town homes or varying lot sizes.

A point of concern has been fencing. The developer has sent out letters to property owners, more specifically Lots 10 through 23 discussing the proposed fencing for the abutting properties. For lots that abut the western property line, the Builder shall be responsible for the removal of the existing six foot privacy fence and installation of a new six foot privacy fence set forth herein pending approval from the property owners adjacent to the western property line.

There are two types of lots proposed: Type A and Type B.

Type A would be a total of 15 lots proposed for patio homes with a minimum lot size of 50' x 110'. The minimum patio home size would be 1800 sq. ft. with the developer proposing 2000-2500 sq. ft.

Type B would be a total of 29 lots proposed for townhomes with a minimum lot size of 25' x 115'. The minimum town home size is 1400 sq. ft. with the developer proposing 1400-1800 sq. ft.

Staff is recommending approval of the planned development standards and concept plan as presented.

Commission Discussion

The proposed setbacks are not in accordance with existing zoning. The rear setback is 20 ft. and the applicant is requesting 10 ft. Commissioner Reilly asked who will be responsible for the maintenance of the fence once it is replaced. Ms. Roberts stated that Murphy Meadows would be responsible for the maintenance of the fences when built.

Cole Franklin, Skorburg Company

Mr. Franklin did a presentation of several of their projects similar to what they want to bring to Murphy and talked about transitional zoning. He also stated that they would have a well maintained fence line. Mr. Franklin stated that the patio home transition to town home would buffer noise from the mobile home park and the neighborhood Wal-Mart. Mr. Franklin stated that this project is intended to accommodate the city's need and desire for diversity of housing choices in order for Murphy to become a full life cycle community. This project will dampen the noise at a busy intersection, and will replace a much needed fence line.

Vice Chair Levy asked why there was a reduced setback on the patio home.

John Arnold, Skorburg Company, Director of Development

Mr. Arnold stated that there was a 10 ft. buffer in the back and then there will be the pad and a 10 ft. backyard. The reason for it is because of the fence in case some of the residents didn't want the fencing, as they would prefer a buffer instead.

PUBLIC HEARING OPENED AT 8:37 PM

1. Cindy Persinger – Oppose
2. Stephanie Van Zanders – Oppose
3. Nicholas White – Oppose

PUBLIC HEARING CLOSED AT 8:41 PM

Commissioner Reilly asked for a masonry wall all around the perimeter, he stated that would make it more feasible. Kristen Roberts stated that staff did not want to have it look like a compound and the property owner wanted to have more green space.

Plus there would be the wall plus the brick wall of the buildings and they wanted a more open space, a space that you can see through providing better visibility on the road.

COMMISSION ACTION

Commissioner Reilly made a motion to approve the request to the zoning change from SF-PH (Single Family Residential Patio Home) to a Planned Development District: Single Family Residential – Patio Home and Townhome with the exception for Type B lots to go from a minimum of 115 down to 108. Commissioner Johnson seconded the motion. Motion approved 6-1 with Steve Levy opposing the motion.

6. Consider, discuss and/or act on an update to the Southeast Study Project.

Staff Discussion

Kristen Roberts stated the temporary moratorium is in place until October 4, 2015 for the southeast component of Murphy. On August 19, 2015, a stakeholder meeting was held with 53 individuals in attendance. The consultants explained to residents about the overlay district with a power point presentation; and the associated district standards. Ms. Roberts explained that the residents were divided into four groups to discuss issues, concerns and opportunities associated with the study and to brainstorm on what they would like to see in terms of development. A representative from each group presented the primary issues of their individual group to all in attendance.

The visual boards that were used at the meeting were shown to the Commission to explain how the residents voted, and what the residents would like to see the area developed as.

Daniel Harrison, Freese & Nichols

Mr. Harrison stated a top ten list of all things heard from residents at the meeting was compiled and as is as follows:

1. Green space and parks was a very passionate theme among the residents
2. Keeping single family west of Maxwell Creek
3. Building something unique
4. Allow commercial uses along FM 544
5. Protect Maxwell Creek and keeping it natural
6. Protect the large trees along Maxwell Creek
7. Include trail amenities along Maxwell Creek
8. Do not connect Maxwell Creek Road to McCreary Road
9. Limit through – traffic
10. Keep city property for a park

A draft concept will be drawn up based on City Council and residents' feedback.

Mark Hansen, 639 Kinney Drive

Mr. Hansen stated communication is key. He believes Maxwell Creek and McCreary Road should not be a cut-through road.

Mike Presz, 501 Kinney

Mr. Presz stated that he believed it would be hard to achieve what the City wanted to achieve without having the cut-through Maxwell Creek. He loves the ideas of the parks.

Ryan Betz, FM 544 & Maxwell Creek

Mr. Betz stated that the ideas presented look good. He stated that fixing the curb on FM 544 and Maxwell Creek is something that makes sense to him from a traffic standpoint and a resident standpoint. He stated that he was pretty happy being involved with the process.

Kristen Roberts reminded the Commission that this item would be coming back to them in September.

ADJOURNMENT

With no other business before the Commission, Chair King adjourned the meeting at 9:12 p.m.

APPROVED:

Jon King, Chairman

Attest:

Secretary