

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, DECEMBER 16, 2009
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, December 16, 2009 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Justin Pounds, Scott Seiber, Tom Auer, and Bill Whitaker

Board Members Absent: Kim Griffo and Mary Anne Medlock

Also Present: Candace Dowdy, Peyton Mastera, David Roberts, Mike Pitman, Warren Hopkins, Gary Waller, Bobby Deitz, William Ridenaer, Murray Police Department Officer, and public audience

Chairman Whitaker called the meeting to order at 4:30 p.m. and welcomed all guests and applicants. Chairman Whitaker then asked for approval of the minutes from the November 18, 2009 regular meeting.

Scott Seiber made a motion to approve the minutes from the November 18, 2009 regular Board of Zoning Adjustments meeting as presented. Justin Pounds seconded the motion and the motion carried unanimously with a voice vote.

Public hearing to review the conditional use permit application for outdoor storage of merchandise and to review the dimensional variance application for a 50 parking space variance – 610 North 12th Street – Shoppes of Murray – Gary Waller Investments, L.P., LTD: Peyton Mastera used a Power Point presentation to show the Shoppes of Murray property at 610 North 12th Street owned by Gary Waller Investments, L.P., LTD. The owner has a potential client looking to occupy the southern space of this shopping center (previously Ricochet's & Goody's). The nature of this business will require a fenced in display area for merchandise. In working with GeoTech, they have submitted a site plan showing the proposed fenced in area; this area will take up 50 parking spaces. The applicant may only do this with a conditional use permit for outdoor storage of merchandise granted by the BZA, as well as a parking space variance, also granted by the BZA to compensate for the required parking spaces taken away by this area. Planning Staff has not received any plans as to what the enclosed area will look like. Noteworthy to this application is the existing parking situation and future development of Zaxby's. (The lot itself will eliminate 71 parking spaces from the Shoppes of Murray.) Presently Shoppes of Murray has 559 parking spaces. In accordance with Murray's parking regulations, Shoppes of Murray is supposed to have 633 parking spaces. Currently the Shoppes of Murray is operating with a deficit of 72 parking spaces.

The northwest section of The Shoppes of Murray (to the north of Cracker Barrel) will be the site of Zaxby's. Zaxby's will be meeting all parking requirements; however, Shoppes of Murray will lose 71 existing parking spaces. This increases the deficit to 143. GeoTech has provided an updated parking plan. This parking plan compensates for lost parking due to the creation of Lot

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A-1 as well as addresses the potential outdoor storage of merchandise through receiving a parking variance. If you subtract 71 parking spaces (from lot A-1), Shoppes of Murray is left with 488 parking spaces. As you can see below there is the potential with "ADDITIONAL SPACES TO BE STRIPED 71 SPACES" and "ADDITIONAL SPACES AVAILABLE 50 SPACES". GeoTech has conveyed that the owner would be willing to provide 61 spaces from the onset. That would leave only a deficit of 10 parking spaces.

LOT A – EXISTING PARKING SPACES:	488 SPACES PROVIDED
SPACES LOST FOR OUTDOOR DISPLAY	50 SPACES
	438 SPACES
ADDITIONAL SPACES TO BE STRIPED	71 SPACES
ADDITIONAL SPACES AVAILABLE (TO BE STRIPED ONLY IF NEED ARISES)	50 SPACES
	<u>559 SPACES</u>
TOTAL SPACES (AVAILABLE)	

TOTAL BUILDING AREA	105,479 SQ.FT.
LESS NICK'S	7,340 SQ.FT.
LESS ASIAN BUFFETT	6,480 SQ.FT.
	<u>13,820 SQ.FT.</u>
NET RETAIL AREA (INCLUDES 38,500 SELF STORAGE)	91,659 SQ.FT.

$91,659 \div 200 = 458.295$ RETAIL SPACES 459 SPACES REQ.

SELF STORAGE AREA 38,500 SQ.FT.
 (5 TOTAL EMPLOYEES – MAX. 2 PER SHIFT) 12 SPACES REQ.
 (10 spaces for U-Haul Rental Storage)

NICK'S SEATING CAPACITY 234
 $234 \div 3 = 78.0$ 78 SPACES REQ.
 15 EMPLOYEES 10 SPACES REQ.
 TOTAL SPACES REQUIRED 88 SPACES REQ.

ASIAN BUFFETT SEATING CAPACITY 198
 $198 \div 3 = 66.0$ 66 SPACES REQ.
 12 EMPLOYEES 8 SPACES REQ.
 TOTAL SPACES REQUIRED 74 SPACES REQ.

RESTAURANT PARKING SPACES 162 SPACES REQ.
 (EQUIVALENT AREA RETAIL REQ. 69 SPACES)

TOTAL PARKING SPACE REQUIRED 633 SPACES REQ.
 TOTAL PARKING SPACE DEFICIT 74 SPACES

In summation, there are 488 parking spaces provided (with the creation of lot A-1). Shoppes of Murray is supposed to have 633 parking spaces.

$$633 - 488 = 145 \text{ parking space deficit}$$

Shoppes of Murray has agreed to stripe 71 parking spaces. This makes up for the parking spaces lost with Lot A-1. These 71 parking spaces would not require any additional expansion to the parking lot.

$$145 - 71 = 74 \text{ parking space deficit}$$

There is room for the Shoppes of Murray to provide an additional 50 parking spaces.

$$74 - 50 = 24 \text{ parking space deficit}$$

IF the BZA approves the conditional use permit for outdoor storage of merchandise, the 74 parking space deficit will be back in place.

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

Gary Waller, Brentwood, Tennessee, was sworn in. Mr. Waller stated that approximately ten years ago he became interested in purchasing the shopping center when it was left near vacant at the time Walmart and Kroger moved. Two years ago Dawahares filed bankruptcy and closed all their stores and then shortly afterwards, Goody's did the same thing. These two tenants which were occupying 40% of the shopping center's space caused Waller Investments to run a significant deficit the past two years. Peebles recently acquired the Goody's name and opened a new store in the shopping center where Dawahares previously occupied and Ricochet moved into the old Goody's location. Mr. Waller stated that unfortunately Ricochet did not last; therefore, their 25,000 square foot space is available. After extensive negotiations, Mr. Waller stated that they now have a letter of intent with Tractor Supply to occupy this location. Tractor Supply currently has locations in Paris, Tennessee and in Mayfield, Kentucky. Tractor Supply is a national company with good stock numbers and is one of the few companies that have had increases in sales in the retail business in the last three or four years. They serve the rural community and offer a comprehensive selection of merchandise for livestock and pet products, maintenance products for agricultural and rural use, hardware and tool products, seasonal products including lawn, garden and power equipment, truck, trailer and towing products and work clothing for the entire family. Their sales generally average better than 2 million dollars a year. Since they have equipment that is designed for outdoor rugged use, they need outdoor space for storage; therefore, their request is that 15,000 square feet of storage is available for that particular use. Mr. Waller stated that their areas are neatly kept and fenced in. He added that their resident manager Les Scott took pictures of the parking lot from the shopping center's roof during peak shopping times (noon and 5:00 p.m.) on Saturday, December 12th. The pictures were conclusive that there were plenty of parking spaces available. The pictures were shown and presented as *Exhibit A*. Mr. Waller noted that every business located in the shopping center with the exception of one was not doing the business that they had hoped to do. Mr. Waller said that the Zaxby's proposal is a land lease and that Waller Investments will continue to own the land; thus will remain a part of the Shoppes of Murray. Mr. Waller proposed that if the property to the

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rear of the site in discussion is needed, that the U-Haul truck service would be discontinued since the business had not deemed profitable. Mr. Waller said that they were also proposing to correct the intersection behind Cracker Barrel. They have spoken with Cracker Barrel and Murray Bank concerning these changes and both are willing to negotiate these changes. Mr. Waller said they have a ten million dollar investment in the property and that they do not want to do anything to jeopardize their investment or to put their tenants at risk or have them move out. They feel that the end space will be a good space for Tractor Supply because it will draw in more people. If Tractor Supply does come to Murray and locate in the Shoppes of Murray, the shopping center will be 100 percent occupied. Tractor Supply will bring in their supplies through the north end of the shopping center behind Office Depot. Mr. Waller said they proposed striping the existing spaces as the Planning Staff has suggested.

Chairman Whitaker stated that when stores were allowed to store things outside, they start off being within the restrictions put upon them by the city; however, as management changes, these restrictions seem to deteriorate resulting in bad situations. Chairman Whitaker asked Mr. Waller to convince him that the outdoor storage would be kept in better condition than other places in Murray that are currently using outdoor storage. Mr. Waller suggested that you could look at any other location of the Tractor Supply to see what the management demands. Tractor Supply has approximately one thousand stores and is adding approximately one hundred a year. He said they are a first class operation and that they keep their area confined by fencing it.

Bobby Deitz, Kirksey, Kentucky, was sworn in. Mr. Deitz is an engineer with GeoTech Engineering that is working on reconfiguring the intersection that is next to Murray Bank. He stated that the original plan was to close the entrance and move it to the rear; however, it couldn't be worked out at the time the bank was constructed. Mr. Deitz stated that currently they have a chance to make the area a straight through to the back of the Murray Bank. He added that no one parks where Zaxby's restaurant is to be built; therefore, by putting Zaxby's between the Murray Bank and Cracker Barrel there would not be an impact on the parking. Mr. Deitz showed the new configuration for the outdoor storage area for Tractor Supply. The proposed fenced in area shown will be moved to provide for 10 additional spaces next to Taco John's. Mr. Deitz stated that the engineers feel like they can add Zaxby's and the outdoor storage space and still have enough parking for the entire shopping center. The board asked several questions concerning coming and going from inside the fenced in area and the access the sales personnel would have to the outside area.

William Ridenauer, Nashville, Tennessee, was sworn in. Mr. Ridenauer is a representative of Tractor Supply. He stated that typically there is a representative within the store that manages the activity in the storage area so there is not a lot of moving items in and out of the store causing a safety concern.

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

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Justin Pounds made a motion to approve the 195 space parking variance for Shoppes of Murray (600 N. 12th Street); this variance will not run with the land and be based upon the current configuration of the usage of the shopping center and be reviewed annually and the 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 nuisance to the public and will not allow an unreasonable circumvention of the requirements of the zoning regulations. Mr. Pounds added that there currently is sufficient parking at the Shopping Center. Scott Seiber seconded the motion and the motion passed with a 4-0 voice vote.

Scott Seiber made a motion to approve the conditional use permit application for outdoor storage of merchandise for the tenant of 610 North 12th Street (Tractor Supply Company). The outdoor storage area shall not exceed 17,500 square feet. 15,000 sq. ft. must be fenced in; 2500 sq. ft. shall be confined to the area designated on the map presented at the meeting 12/16/09 with no other outdoor storage on the premises; this permit is only valid for Tractor Supply and it will be reviewed annually for compliance. Tom Auer seconded the motion and the motion passed with a 3-1 vote. *Bill Whitaker voted no.*

Questions and comments: None

Justin Pounds made a motion to adjourn. Scott Seiber seconded the motion and the motion carried with a unanimous vote. *The meeting adjourned at 6:15 p.m.*

Chairman, Scott Seiber

Recording Secretary, Reta Gray