



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

April 23, 2012

**CALL TO ORDER**

Chairman McKay called the meeting to order at 6:08 p.m.

**ROLL CALL & CERTIFICATION OF A QUORUM**

**Commissioners Present:** John McKay, Steve Levy, Jon King, Ty Holcomb, Jane Jan and Camille Hooper

**Commissioners Absent:** Stephanie Merrifield

**Alternates Present:**

**Alternates Absent:** Anthony Turuso and John Johnson

**City Staff Present:**

Kristen Roberts, Director of Economic and Community Dev.  
David Young, Building Official  
Ben Wyse, Assistant City Attorney  
Lori C. Knight, Administrative Assistant

Lori C. Knight certified a quorum with all Commissioners present except Stephanie Merrifield, John Johnson and Anthony Turuso.

**PUBLIC COMMENTS**

There were no public comments received.

**CONSENT AGENDA**

All consent agenda items are considered to be routine by the Planning and Zoning Commission and will be enacted by one motion. There will be no separate discussion of these items unless a Commissioner so requests, in which event the item will be removed from the Consent Agenda and voted on separately.

A. Approval of the Minutes from the regular meeting of March 26, 2012.

### **Commission Action**

Vice-Chairman Levy moved to approve the Consent Agenda as presented. Commissioner Hooper seconded the motion. Motion passed 6-0.

### **EXECUTIVE SESSION**

In accordance with Texas Government Code, Section 551.001, *et seq.*, the Planning & Zoning Commission of the City of Murphy will recess into Executive Session (closed meeting) in accordance with the authority contained in:

A. § 551.071. CONSULTATION WITH 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: to receive legal advice regarding planning and zoning issues regarding city development regulations, standards and conditions, or city zoning regulations and related issues.

The Planning and Zoning Commission convened into executive session at 6:12 pm.

### **RECONVENE INTO REGULAR SESSION**

In accordance with Texas Government Code, Section 551.001, *et seq.*, the Planning & Zoning Commission of the City of Murphy will reconvene into Regular Session to take any action necessary regarding the following:

A. § 551.071. CONSULTATION WITH 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: to receive legal advice regarding planning and zoning issues regarding city development regulations, standards and conditions, or city zoning regulations and related issues.

The Planning and Zoning Commission reconvened into regular session at 7:31 pm. No action was taken.

### **INDIVIDUAL CONSIDERATION**

2. Consider and/or act on the application of **ALLEN AND LOUCKS VENTURE, L.P.** requesting approval of a site plan for a Del Taco on property zoned PD (Planned Development) District No. 09-02-784 for Retail Uses on property located at 102 N. Murphy Road, NE corner of FM 544. **(ZF 2012-02)**

### **Staff Comments**

Kristen Roberts reminded the Commissioners that this item had been presented to the Board on March 26<sup>th</sup> and was not approved. Ms. Roberts informed the Commission that revisions and reviews had been going back and forth between the applicant and staff and still there

were engineering items that had not been addressed. Staff is recommending denial of this item.

Eric Langford, the applicant, stated that he was not aware of any engineering matters that were still outstanding and is adamant they covered everything. He strongly advocates that the Commission approve this item because of the following:

- Del Taco is a strong national brand
- It will bring traffic to the area/shopping center
- It will bring in more jobs
- This will generate a lot more sales tax

Ted Murday, the engineer for this project, said he was not aware of any outstanding issues. Mr. Murday said that the only item he knew of that had changed and was approved was the fire lanes which will be extended. He stated that Cpt. Elliot was in agreement with this extension.

Bill Dahlstrom, attorney for Del Taco, strongly believes that this item is in line with the 380 agreement that the City has with the developer. Mr. Dahlstrom strongly agrees that they comply with all the codes: height, site plan, utilities in reference to location, exterior construction materials, architectural details and service areas.

#### **Commission Discussion**

Commissioner Holcomb stated that the legalities of the 380 agreement was not on the table. Mr. Holcomb stated that the definition of higher end drive thru was pretty vague and that the rendering of the building does not adhere to the city's requirements nor does the signage and the color of the building and roof.

Commissioner Jan stressed to the applicant to work out the communication issues that it was having with staff.

Chairman McKay stated that he felt the Commission had incorrect information and an incomplete site plan and that this was not a good way to conduct zoning matters. Mr. McKay said that he showed 3 out of 9 items that the City Engineer has addressed that had yet to be corrected.

#### **Commission Action**

Commissioner Holcomb made a motion to postpone the application of Allen and Loucks Venture, L.P. requesting approval of a Site Plan for a Del Taco on property zoned PD (Planned Development) District No. 09-02-784 for Retail Uses on property located at 102 N. Murphy Road, NE corner of FM 544 until the next Planning and Zoning Commission Meeting, June 4, 2012.

Commissioner Jan seconded the motion. Motion passed 6-0.

- 1. This item was continued from the March 26, 2012 Planning & Zoning meeting to this meeting. And, the Public Hearing for this item was continued and postponed to this meeting.** Continue a public hearing and consider and/or act on the application of **ALLEN AND LOUCKS VENTURE, L.P.** requesting approval of an SUP (Specific Use Permit) to allow a Drive-thru window for a Del Taco on property zoned PD (Planned Development) District No. 09-02-784 for Retail Uses on property located at 102 N. Murphy Road, NE corner of FM 544. (ZF 2012-02)

### **Commission Action**

Chairman McKay moved to postpone Agenda Item No. 2 and **continue** the public hearing on the application of Allen and Loucks Venture, L.P. requesting approval of an SUP (Specific Use Permit) to allow a Drive-thru window for a Del Taco on property zoned PD (Planned Development) District No. 09-02-784 for Retail Uses on property located at 102 N. Murphy Road, NE corner of FM 544 until June 4, 2012.

Commissioner Jan seconded the motion. Motion passed unanimously 6-0.

- 3. This item was continued and postponed from March 26, 2012 Planning & Zoning meeting to this meeting. The Public Hearing for this item was closed at the prior meeting.** Consider and/or act on the application of **HELEN PICKARD/ CVS PHARMACY** requesting a change in zoning of approximately 10.844 acres from SFR (Single Family Residential) to a PD (Planned Development) District for Retail Uses with conditions on property located at SWC FM 544 and McCreary Road.

### **Staff Comments**

Kristen Roberts reminded the Commission that there were a couple of edits that were identified at the last meeting that have since been clarified and that staff has continued to review the PD conditions and have since had more recommended edits. There has been discussion with the applicant regarding those recommendations.

### **Public Comments**

Barry Knight, Orange Development, Dallas-Texas

Mr. Knight presented the Commission with a brief power point presentation mainly to address the staff edits and comments. Mr. Knight showed the Commission the phasing that was recommended with the first phase showing the CVS in the corner and the second phase depicting a proposed retail pad with a large retailer in the back. The second phase will be dictated by the market. Mr. Knight stated that the second phase is just a concept plan.

Mr. Knight noted that he is aware of staff recommending a 15 ft buffer around the perimeter of the property. On the south and west side of the property they will be have the 15 ft buffer

however he notes that on the north and east sides of the property there is a driveway that divides the property. They would like to leave it that way and have it viewed as an integrated development.

Regarding the PD Conditions, Mr. Knight would like staff to define the language on No. 9 K. Open Space All pedestrian areas and open space must be located away from vehicular traffic areas.

Mr. Knight respectfully requested that this zoning case be approved.

### **Commission Action**

Chairman McKay made a motion to recommend approval on the application of Helen Pickard/CVS Pharmacy requesting a change in zoning of approximately 10.844 acres from SFR (Single Family Residential) to a PD (Planned Development) District for retail uses contingent upon the following considerations be changed from the PD Conditions:

- Deleting all reference to 'and 15 ft. from other property lines'
- Section J Signage and Graphics will be reworked with verbiage agreeable to both parties by the City in regards to phasing 1 and 2
- Number 9, more clarity will be given to Section K open space between staff and applicant.

Commissioner Holcomb seconded the motion. The motion passed unanimously, 6-0.

### **ADJOURNMENT**

With no other business before the Commission, Chairman McKay adjourned the meeting at 8:45 p.m.

### **APPROVED:**

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John McKay, Chairman

Attest:

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Secretary