



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

June 25, 2012

**CALL TO ORDER**

Chairman McKay called the meeting to order at 6:00 p.m.

**ROLL CALL & CERTIFICATION OF A QUORUM**

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

**Commissioners Absent:** Stephanie Merrifield

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

**Alternates Absent:**

**City Staff Present:** Kristen Roberts, Director of Economic and Community Dev.  
David Young, Building Official  
Andy Messer, City Attorney  
Lori C. Knight, Administrative Assistant

Lori C. Knight certified a quorum with all Commissioners present except Stephanie Merrifield.

**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 June 4, 2012.

**Commission Action**

Vice-Chairman Levy made a motion to approve the Consent Agenda. Commissioner Jan seconded the motion. Motion passed unanimously.

### 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 6:03 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 6.42 pm. No action was taken.

### INDIVIDUAL CONSIDERATION

1. Hold a public hearing and consider and/or act on the application of **George Parker** requesting a variance to the *Uses allowed as home occupations* as described in the Murphy, Texas Code of Ordinances Sec. 86-904 to include use of the property located 11 and 15 Maxwell Lane, Murphy, Texas as a tree service occupation.

### Staff Comments

Kristen Roberts informed the Commission that the resident, George Parker, was currently using his residence as a commercial tree service business. Ms. Roberts informed the Commission that Code Compliance had been working with Mr. Parker on this issue since this business is not an allowed use in the Code of Ordinances. Ms. Roberts stated that staff had numerous concerns with this home based business such as the commercial traffic on a private residential street, the fire department had concerns with wood, brush, fuel among other things. This business does not meet any of the home based businesses allowed.

**PUBLIC HEARING OPENED AT 6:45 P.M.**

**Public Comments**

Mark A. Walsh; 7600 San Jacinto Place, Plano, Tx. 75024

Mr. Walsh is an attorney who is representing several of the property owners located near Mr. Parker's residence. Mr. Walsh passed out envelopes of photographs to the Commission showing Mr. Parker's property with all the commercial trucks on it. Mr. Walsh stated that this business has been going on for well over a year. He stated that the property was an eyesore with piles of debris all over the place. Mr. Walsh stated that even though Mr. Parker has been fined before that he continues to flagrantly violate the ordinance that has been put in place. Mr. Walsh would like to see the City enforce the ordinance.

**PUBLIC HEARING CLOSED AT 6:49 P.M.**

**Commission Action**

Secretary Levy made a motion to deny the application of George Parker requesting a variance to the *uses allowed as home occupations* as described in the Murphy, Texas Code of Ordinances Sec. 86-904 on property located at 11 and 15 Maxwell Lane for a commercial tree service business. Secretary King seconded the motion. Motion passed unanimously.

- 2. This item was postponed and continued from the March 26, 2012, April 23, 2012 and the June 4, 2012 Planning & Zoning meetings to this meeting. And, the Public Hearing for this item was continued 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**)

**Staff Comments**

Kristen Roberts is recommending approval of the SUP application with conditions of upgrading the type of facility so that the proposed restaurant is designed and constructed in conformance with the Planned Development District and the agreements that are in place. Ms. Roberts stated that if the Commission chooses to, they can delegate that authority to City staff to define what those conditions are with the applicant.

**PUBLIC COMMENTS**

Eric Langford; Murphy Marketplace

Mr. Langford said he would certainly work diligently with staff to make it look like a first class facility. He believes it would generate a lot of sales tax, retail traffic and jobs. Mr. Langford wants to comply with the PD and all the agreements.

Bill Dahlstrom

Mr. Dahlstrom stated he believes that the location is an excellent location for a Del Taco. He stated that there is no residential impact. Mr. Dahlstrom stated that the circulation was pretty good and the economic benefits were great. He believes there are things they can do to the building to address some of the issues staff has raised.

**PUBLIC HEARING CLOSED AST 6:56 P.M**

Commission Action

Vice Chairman Levy stated that he felt that a decision needed to be made tonight instead of continuing to postpone the item.

Vice Chairman Levy made a motion to approve the application of Allen and Loucks Venture, requesting approval of an SUP to allow a drive-through window for a Del Taco on property zoned PD District No 09-02-784 for retail uses with the following considerations: that representatives of Allen and Loucks meet with the City of Murphy staff to look at making changes that the City deems necessary to meet the requirements of higher quality as approved by the City as described in the 380 agreements. Commissioner Johnson seconded the motion. Motion was at a tie with Vice Chairman Levy, Commissioners Holcomb, Turuso, and Johnson in favor of the motion. Chairman McKay, Secretary King, Commissioner Jan and Commissioner Hooper opposed the motion.

Commissioner King made a motion to deny the application of Allen and Loucks Venture requesting approval of an SUP to allow a drive-through window for a Del Taco on property zoned PD District No. 09-02-784 for retail uses on property located at 102 N. Murphy Road. Commissioner Hooper seconded motion. Motion was at a tie with Commissioner Hooper, Commissioner Jan, Secretary King and Chairperson McKay agreeing with the motion to deny. Commissioners Holcomb, Johnson, Turuso and Vice Chairman Levy opposed the motion.

Commissioner Holcomb requested some discussion prior to adjourning.

Chairman McKay made a motion to adjourn for ten minutes.

**MEETING TEMPORARILY ADJOURNED AT 7:08 P.M.**

**MEETING RECONVENED AT 7:33 P.M**

Commissioner Johnson excused himself from dias.

3. **This item was also postponed as in Item 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.

**Commission Action**

Chairperson McKay made a motion postponed Agenda Item 3 until the next Planning and Zoning Meeting scheduled for July 23, 2012. Commissioner King seconded the motion. Motion passed unanimously.

4. Consider and/or act on the application of **CVS PHARMACY** requesting approval of a construction plat on property zoned PD (Planned Development) District No. 12-06-915 for Retail Uses located at SWC FM 544 and McCreary Road

**Staff Comments**

Kristen Roberts stated that staff recommended approval of the proposed Construction Plat pending approval of all outstanding Engineering related items. Ms. Roberts stated that staff has met directly with applicant's engineer to work out these items.

**Commission Action**

Chairman McKay made a motion to approve the application of CVS Pharmacy requesting approval of a construction plat on property zoned PD (Planned Development) District No. 12-06-915 for Retail Uses located at SWC FM 544 and McCreary Road. Commissioner Jan seconded the motion.

Chairman McKay made an amendment to his motion that the applicant work out all engineering issues with City staff. Commissioner Holcomb seconded the motion. Motion passed unanimously.

Chairman McKay made a motion to approve agenda item number 4 as stated. Motion passed unanimously.

5. Consider and/or act on the application of **CVS PHARMACY** requesting approval of a site plan on property zoned PD (Planned Development) District No. 12-06-915 for Retail Uses located at SWC FM 544 and McCreary Road.

**Staff Comments**

Kristen Roberts stated that the proposed site plan would allow for a development of a CVS on the site. She stated that staff recommended approval of the proposed site plan, landscape plans and elevation plans pending approval of all engineering related items.

### **Commission Action**

Commissioner Holcomb made a motion to approve the application of CVS Pharmacy requesting approval of a site plan, landscape plans and elevation plans on property zoned PD (Planned Development) District No. 12-06-915 for Retail Uses located at SWC FM 544 and McCreary Road pending approval of engineering related items. Vic Chairman Levy seconded the motion. Motion passed unanimously.

6. Hold a public hearing and consider and/or act on the application of **Forestar (USA) Real Estate Group, Inc.** requesting approval of a SUP (Specific Use Permit) for a Hospital Facility and Professional Offices and approval of a Concept Plan on the property zoned NS (Neighborhood Service) District and located at the northeast corner of FM 544 and Heritage Parkway.

### **Staff Comments**

Kristen Roberts clarified to the Commission that although the request for an SUP was for a Hospital Facility and Professional Offices as stated in the agenda, the professional offices component is already allowed, so the request is for the Hospital Facility only. Ms. Roberts stated that since February, the applicant has met with City staff, Windy Hills HOA Board and HOA members to address concerns. They are not asking for variances as this time.

### **Public Comments**

#### **Dudley Carpenter; Applicant**

Mr. Carpenter stated that he met with the community and City staff in February to discuss concerns regarding this project. Mr. Carpenter presented the Commission with a computer animation of what the proposed facility would look like with all the changes and improvements they have done, to show the enhancements and what they will look like. Mr. Carpenter addressed the traffic concerns and stated that they had done a traffic impact analysis even though one had not been asked from them. Mr. Carpenter also said that he wanted to upgrade the entry signs and install landscaping surrounding it for the homeowners. He stated that they have increased the landscape buffers. Mr. Carpenter also said that the fence at the school is leaning and they would like to work with the school in fixing it or replacing it at no cost. They would like to work with the homeowner to put up a masonry wall to the east of the proposed site. Mr. Carpenter said they would address the noise concerns with the ambulance. He said that they would write it in the ambulance contract that no sirens be audible for 1000 ft. Mr. Carpenter also stated that they no longer were interested in having the helipad. Mr. Carpenter also stated that the second floor, he hoped, would be filled with Baylor filled offices.

**PUBLIC HEARING OPENED AT 7:58 P.M.**

**Public Comments**

Kimberly Zech; 221 Sheila Ave, Murphy, Texas

Mrs. Zech is a member of the Windy Hills Farms HOA and stated that she wanted to come forward in favor of this request. Mr. Zech believes them, Emerus, to be an asset to the community.

**PUBLIC HEARING CLOSED AT 7:59 P.M.**

**Commission Action**

Commissioner Holcomb made a motion to approve the application of Forestar Real Estate Group, Inc. requesting approval of a SUP (Specific Use Permit) for a Hospital Facility and Professional Offices with conditions to limit the use to exclude trauma facilities as defined by the state and to limit the area to 40,000 sq ft overall maximum.

City Attorney stated that he did not hear the Concept Plan being mentioned in the motion.

Commissioner Holcomb amended the motion to include the Concept Plan. Secretary King seconded the amendment. Motion to amend passed unanimously.

Commission Hooper seconded the motion to approve the SUP and the Concept Plan with conditions to limit the use to exclude trauma facilities as defined by the state and to limit the area to 40,000 sq. ft. overall. Motion passed 6-1 with Secretary King opposing the motion.

**ADJOURNMENT**

With no other business before the Commission, Chairman McKay adjourned the meeting at 8:41 p.m.

**APPROVED:**

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John McKay, Chairman

Attest:

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Secretary