



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

July 23, 2012

**CALL TO ORDER**

Chairman McKay called the meeting to order at 6:03 p.m.

**ROLL CALL & CERTIFICATION OF A QUORUM**

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

**Commissioners Absent:** Jane Jan

**Alternates Present:** John Johnson

**Alternates Absent:** Anthony Turuso

**City Staff Present:** Kristen Roberts, Director of Economic and Community Dev.  
Andy Messer, City Attorney  
Ben Wyse, Assistant City Attorney  
Lori C. Knight, Administrative Assistant

Lori C. Knight certified a quorum with all Commissioners present except Jane Jan.

**PUBLIC COMMENTS**

There were no public comments received.

**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 6:05 pm.

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### 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 6:35 P.M. No action was taken.

### 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 25, 2012.
- B. Approval of the Minutes from the Special meeting of July 10, 2012.

### Commission Action

Commissioner King made a request to remove Consent Agenda Item A from the Consent Agenda to Individual Consideration.

Commissioner Merrifield made a motion to approve the Minutes from the Special Meeting of July 10, 2012. Commissioner Hooper seconded motion. Motion passed unanimously.

### INDIVIDUAL CONSIDERATION

1. Approval of the Minutes from the regular meeting of June 25, 2012.

### Commission Discussion

Chairman McKay stated that the Board had been provided an augmentation or variation to the June 25<sup>th</sup> Minutes by the City Attorneys for some explanation on some items that took place. It was requested that they become public record as part of the official minutes.

Andy Messer, City Attorney, briefly went over the items that had been added to the Minutes. A hard copy was provided for the record.

Commissioner Holcomb motioned to approve the revised minutes. Commissioner King seconded the motion. Motion passed 6-0. Commissioner Merrifield abstained from voting on the motion since she was not present at the June 25, 2012 meeting.

2. Hold a public hearing and consider and/or act on the application of **ALLEN AND LOUCKS VENTURE, L.P.** requesting approval to re-plat Lot 7R - Block A – Murphy Marketplace – West Addition being a re-plat of Lots 7 & 8, Block A Murphy Marketplace – West Addition, Volume 2009, Page 195, P.R.C.C.T., Murphy, Texas, applicant being Adams Engineering, on behalf of the property owner, Allen and Loucks Venture, L.L.P.

#### **Staff Comments**

Kristen Roberts stated that the purpose of the re-plat for Lot 7 and Lot 8 in Murphy Marketplace West Addition is to combine the two lots into one. The proposed development would have one building of approximately 9, 524 sq. ft. with multiple tenants and retail. Ms. Roberts stated that staff had reviewed and approved the re-plat.

#### **PUBLIC HEARING OPENED AT 6:42 P.M.**

#### **PUBLIC HEARING CLOSED AT 6:43 P.M.**

#### **Commission Action**

Vice-Chairman Levy made a motion to approve the application of Allen and Loucks Venture, L.P. requesting approval to re-plat Lot 7R – Block A – Murphy Marketplace – West Addition. Commissioner Merrifield seconded the motion. Motion passed unanimously.

3. 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 stated that due to the issues involving the June 25, 2012 Planning and Zoning Commission meeting for this item which resulted in a tie vote, this item will be readdressed tonight by the Planning and Zoning Commission for a final report before any City Council consideration and action.

#### **Public Comments**

Eric Langford with Murphy Marketplace

Mr. Langford stated that he had one central point that he wanted to make. He stated that he and his partners have a position in Murphy Marketplace that they would like to stay in for some time. Mr. Langford knows that the Board is somewhat divided on Del Taco but he strongly believes that in doing Del Taco it would help the center help raise the taxes needed for their incentives, it will help with the traffic in the center and it will help everyone financially.

Bill Dahlstrom – 901 Main Street, Dallas

Mr. Dahlstrom wanted to address a few comments from the last meeting especially the design and quality issues. Mr. Dahlstrom stated that there isn't a standard in the 380 Agreement or the PD Ordinance with regard to quality. The only standard that there is in the agreement is that quality is subject to interpretation. Mr. Dahlstrom stated that Del Taco is a strong restaurant, a quality restaurant that has satisfied the requirements set in the PD Ordinance. He stated that the Agreement does not limit the drive thru to just one drive thru restaurant. Mr. Dahlstrom also stated that at the last meeting he spoke with many of the citizens who were under the impression that the restaurant was going to go at another location and he reassured them that it was not going in the location that they believed it to be.

### **Commission Action**

Commissioner Holcomb made a motion to approve 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. Commissioner Merrifield seconded the motion.

Chairman McKay made a motion to amend the motion considered to include the conditions determined by City Staff in consultation with the applicant, so that the proposed restaurant be designed and constructed in conformance with the Planned Development District Conditions requirements and requirements of the 380 Agreement and the related performance agreements, between Allen & Loucks Venture, L.P., and the City of Murphy, the Murphy Economic Development Corporation and the Murphy Community Development Corporation, which require that the proposed restaurant be "**of such quality or higher quality, as approved by the City**" as described in the agreements. Commissioner Merrifield seconded the motion. Motion passed 5-2.

Chairman McKay made a motion to approve the SUP as amended with considerations stated. Motion passed 5-2.

4. 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 informed the Board that all requested revisions had been addressed and the outstanding landscape plan revisions would be addressed on the construction plans. Ms. Roberts stated that a piece of the property included in the site plan is owned by the City of Murphy. There is a Beautification Easement/Agreement with the City on this property and it is being worked on with the City and the applicant. The details of the agreement will be finalized prior to construction on this property. Ms. Roberts stated that staff recommends to approve the site plan with conditions as determined by City Staff in consultation with the applicant.

### **Commission Discussion**

Commissioner Holcomb asked the applicant if the color of the roof could be changed to a more neutral color or something that would stand the test of time. Mr. Holcomb's concern is that as brands change, the roof would be one of the things that would be hard to change.

Allan Perez, with GHA Architecture, presented the Board with a new exterior plan showing a Del Taco with a copper like roof. Commissioner Merrifield expressed that this was an excellent request and approved of the change.

### **Commission Action**

Commissioner Merrifield made a motion to approve the site plan for a Del Taco with recommendations to change the roof to copper or other similar materials with recommendations and conditions determined by City Staff in consultation with the applicant so that the proposed restaurant be designed and constructed in conformance with the Planned Development District Conditions requirements and the requirements of the 380 Agreement and the related performance agreements, between Allen & Loucks Venture, L.P. and the City of Murphy, the Murphy Economic Development Corporation and the Murphy Community Development Corporation, which require that the proposed restaurant be **"of such quality or higher quality, as approved by the CITY"** for clarification purposes. Commissioner King seconded the motion. Motion passed 6-1.

5. Hold a public hearing and consider and/or act on amendment(s) to PD (Planned Development) District (Ordinance No. 09-02-784) for Retail Uses, including revising the development conditions, plans and specific regulations for the district, including, without limitation, permitted land uses for the district comprised of 74.33 acres, more or less, in the James Maxwell Survey, Abstract No. 582, in the City of Murphy and located at the northeast corner of East FM 544 and North Murphy Road.

### **Staff Discussion**

Kristen Roberts stated that for this submittal that the applicant was the City of Murphy. Ms. Roberts said that City Staff is updating the Ordinance primarily looking at the *permitted uses* that are in Exhibit B and asked the Board to look at those for discussion so that City Staff can forward those to City Council for consideration. Ms. Roberts said that staff is recommending approval of the Ordinance and also to allow City Staff to continue working on the exhibits as it moves forward with City Council for consideration.

### **PUBLIC HEARING OPENED AT 7:19 P.M.**

**Public Comments**

Eric Langford – Murphy Marketplace

Mr. Langford stated that so far he had not been a part of the process in regards to change and what not to change. Mr. Langford asked to be included in that and stated that he would be open to any discussion. He stated that he wanted to be careful on how they go about it but that he did not want to limit his development rights. He stated that he would be sensitive to what the city would like which is tax revenue, sales taxes which is a valid concern but Mr. Langford does not want to give up rights they have negotiated through this arrangement. They, he and his partners, want to be included before any decisions are made.

**PUBLIC HEARING CLOSED AT 7:22 P.M.**

**Commission Action**

Commissioner Merrifield made a motion to postpone agenda item to the August 27, 2012, P & Z meeting regarding the Ordinance No. 09-02-784 for Retail Use so there can be more discussion on the revising of the development conditions, plans and specific regulations for the district, including, without limitation, permitted land uses for the district comprised of 74.33 acres, more or less on property located at the northeast corner of East FM 544 and North Murphy Road. Commissioner Holcomb seconded the motion. Motion passed 7-0.

**AGENDA REQUESTS/STAFF UPDATES**

- The election of officers will be held at the next meeting.

**ADJOURNMENT**

With no other business before the Commission, Chairman McKay adjourned the meeting at 7:27 P.M.

**APPROVED:**

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John McKay, Chairman

Attest:

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Secretary