

PASCO COUNTY, FLORIDA
INTEROFFICE MEMORANDUM

TO: Development Review Committee DATE: 6/8/10 FILE: ZN10-233

FROM: Debra M. Zampetti
Zoning/Code Compliance
Administrator

SUBJECT: Class I, Commercial Development
Review - Murphy Oil USA, Inc.,
Variance Request
(Project No. IPR07-112)
DRC: 6/24/10, 1:30 a.m., NPR
Recommendation: Approval

REFERENCES: Land Development Code,
Section 316, Variance
Requests;
Comm. Dist. 5

It is recommended that the data herein presented be given formal consideration by the Development Review Committee (DRC).

Commission District:	The Honorable Jack Mariano
Project Name:	Murphy Oil USA
Developer's Name:	Murphy Oil USA, Inc.
Location:	On the east side of U.S. 19, approximately two-thirds mile north of S.R. 52, Section 03, Township 25 South, Range 16 East.
Parcel ID No.:	03-25-16-0030-03000-0050
Land Use Classification:	ROR (Retail/Office/Residential)
Zoning District:	C-2 General Commercial
Acreage:	.77-Acre Project Site
Number of Units:	1
Type of Unit:	Gas Station with 8 Pumps
Size of Unit:	591 Square Feet
Water/Sewage:	Pasco/Pasco
Transportation Impact Fee (TIF) Zone:	1
Transportation Analysis Zone:	127
Certificate of Capacity:	Initial, expired 2/20/10

DEVELOPER'S REQUEST:

The applicant for Murphy Oil USA is requesting a variance from the Pasco County Land Development Code as provided for in Section 316, Variances, as follows:

Section 402.6 Concurrency Management Exemptions and Section 402.10 Special Transportation Concurrency Review and Procedures for U.S. 19 Urban Infill and Redevelopment/Concurrency Area

BACKGROUND:

1. On April 8, 1986, the Board of County Commissioners (BCC) approved Resolution No. 86-158 approving the Bayonet Point Mall Development of Regional Impact (DRI) on the subject site. The approval was for 205,557 square feet of enclosed mall in Phase I on 29.78 acres and 25,352 square feet in three commercial out-parcels in Phase II on 3.17 acres. The development order was subsequently amended on July 7, 1987, by Resolution No. 87-220, to add a 2,524-seat movie theater in Phase I and was further amended on March 15, 1988, by Resolution No. 88-142, to substitute a 20,000-square-foot, 900-seat dinner theater for the movie theater. On May 9, 1989, Resolution No. 88-142 was rescinded and Resolution No. 89-166 was approved, changing the proposed dinner theater back to a 24,000-square-foot, 1,975-seat, freestanding movie theater.

2. As of November 28, 2000, a 205,557-square-foot mall facility had been constructed, but had been vacated in 1989. Of the 205,557 square feet built, a total of 120,780 square feet had been issued Certificates of Occupancy (CO) upon payment of the applicable TIFs. The movie theater had not been constructed, and no development had occurred on any of the three out-parcels.
3. On November 28, 2000, the BCC adopted Resolution No. 01-062, which approved the abandonment of the Bayonet Point Mall DRI with conditions. After this approval, Resolution No. 01-062 was recorded in the Public Records and became effective on February 15, 2001 (Official Record Book 4538, Page 1120).
4. On September 24, 2003, the initial preliminary/construction site plans for Wal-Mart Store No. 5266-00, NSC, on the subject site were submitted to Pasco County for review.
5. On July 15, 2004, the Development Review Committee (DRC) denied the initial preliminary/construction site plan.
6. The DRC denial was subsequently appealed by Wal-Mart Stores East, Inc., on September 2, 2004, through its attorney, Glen Smith. Wal-Mart Stores East, Inc. subsequently requested that the appeal be stayed to allow submission of a second preliminary/construction site plan.
7. The second preliminary/construction site plan for the above-subject project was prepared for Wal-Mart Stores East, Inc., by Kimley-Horn and Associates, Inc., and consists of 55 sheets dated October 13, 2004; the sheets were last revised on May 5, 2005. The plans were originally received by the Development Review Division (DRD) on November 22, 2004, and final revisions were received on May 13, 2005.
8. The Traffic Impact Study for the above-subject project was prepared by Kimley-Horn and Associates, Inc. The study was last revised on December 22, 2005. The plans were originally received by the consultant in September 2005.
9. The site plan consists of the demolition of the existing 205,557-square-foot abandoned, mall structure; reconstruction of the site; the construction of a new 203,007-square-foot retail structure with garden center; and one out-parcel for a 0.77-acre gas-station/pump lease lot.
10. The access to the reconstructed site is from two driveways connecting to U.S. 19 (one directional and one right-in/right-out) and one right-out only driveway connecting to Beacon Woods Drive.
11. U.S. 19 is a six-lane, divided Federal highway with access regulated by the Florida Department of Transportation (FDOT). Beacon Woods Drive is a two-lane roadway with access regulated by Pasco County.
12. On February 20, 2006, the DRC approved the Wal-Mart (Hudson) Preliminary Plan/Construction Site Plan (DR06-886).
13. On January 28, 2009, the Development Director approved a Class I preliminary/construction site plan, stormwater management plan and report for the above-referenced site (DR09-306).

FINDINGS OF FACT:

1. Presently, the subject site is an unimproved proposed out parcel of Wal Mart.
2. The subject property is located in Flood Zone "A13" and "B". Development is subject to the requirements of the Land Development Code (LDC), Article 700; Flood Damage Prevention.
3. The surrounding area is characterized by commercial and residential uses.
4. The preliminary/construction site plan and Stormwater Management Plan and Report for the above-subject project were prepared for Murphy Oil USA, Inc., by Kimley-Horn & Associates, Inc., and consist of 14 sheets dated July 24, 2007; the sheets were last revised on December 1, 2008. The plans were originally received by the DRD on August 24, 2007, and final revisions were received on December 11, 2008.
5. Access to the property is from U.S. 19 a Florida Department of Transportation (FDOT) maintained road, which has approximately 232 feet of right-of-way.

6. On June 27, 2006, the BCC adopted the Corridor Preservation Tables in the Transportation Element of the Comprehensive Plan necessitating the preservation of right-of-way along certain roadways. In accordance with Corridor Preservation Table 7-4a, U.S. 19, a FDOT-maintained right-of-way, has been designated an eight-lane collector facility with a proposed width of 235 feet.

VARIANCE REQUEST:

The applicant/developer has requested a specific variance from the following provision of the LDC:

1. Section 402 Concurrency Management System

Subsections 402.6 Concurrency Management Exemptions and Section 402.10 Special Transportation Concurrency Review and Procedures for U.S. 19; Urban Infill and Redevelopment/Concurrency Area

Relief is being sought pursuant to the LDC, Section 316.1.A (5), as the purpose for the variance which reads as follows:

“The intent and purpose of the land development regulation and related land development regulations and Comprehensive Plan provisions is met.”

1. The applicant states:

“Applicant seeks a variance from Land Development Code Sections 402.6 and 402.10, which impose certain limitations on the extension of Certificates of Capacity for transportation concurrency purposes.

Applicant’s proposed project consists of a one-story, 591-square-foot gas station with eight (8) pumps to be developed on .77 acres, depicted on Exhibit A attached hereto. The project was approved for development pursuant to the Class I Commercial Development Review – Murphy Oil USA, Inc., Preliminary/Construction Site Plan and Stormwater Management Plan and Report, Project Number IPR07-112 (“Murphy Preliminary Plan”). The subject project received its Initial Certificate of Capacity in March 2006, in connection with the Class II Commercial Development Review – Wal-Mart (Hudson) Preliminary/Construction Site Plan, Project Number IIPR05-001, providing for capacity for a three-year period through March, 2009.

On February 23, 2009, the Initial Certificate of Capacity was renewed for an additional one-year period, expiring on February 20, 2010. A copy of the renewal is attached hereto as Exhibit B. Applicant requests an additional one-year extension of the Initial Certificate of Capacity as to transportation concurrency to February 20, 2011.

The proposed project would provide economic benefit to the taxpayers of Pasco County, by providing jobs, services, and an increased tax base as to the site, which is undeveloped currently. The transportation impacts of the proposed development would be de minimis in nature, capturing trips from the adjacent Wal-Mart project.

The granting of the variance would be consistent with, and not in conflict with, the Goals, Objectives, and Policies of the Comprehensive Plan, as evidenced by Resolution No. 09-269, approved by the Pasco County Board of County Commissioners in 2009, providing for a two-year extension of all Pasco County concurrency certificates in recognition of the 2009 real estate market conditions and other matters cited in such Resolution. The Applicant is requesting only a one-year extension, rather than a two-year extension, of the Certificate of Capacity associated with transportation concurrency for the subject site.

Development of the project has been delayed due both to market conditions and an issue affecting the site as a result of a condition imposed in connection with the Murphy Oil Preliminary Plan conditions and conditions imposed on the Wal-Mart site. Applicant is seeking concurrently an amendment to the Class I Murphy Preliminary Plan conditions which will resolve that issue. But for these issues, development would have commenced prior to the February, 2010 expiration of the Initial Certificate of Capacity. The Applicant now intends to commence development of the project within the next few months.”

RECOMMENDATION:

The Zoning and Site Development Department recommends approval of the variance as the intent of Section 402 has been met based on the following:

1. The original traffic impact study was conducted for 4,838 PM Peak Hour trips which included a Wal-Mart and a gas station with 8 gas pumps. The build out date of the traffic study was 12/31/2007.
2. All improvements identified as a result of the traffic impact study have been completed.
3. Existing PM Peak Hour traffic data was compared against the trips assumed in the original traffic impact study to assess if traffic volumes analyzed in the original traffic study are consistent with current traffic counts and the mitigation identified in the original traffic study adequately addressed the current traffic conditions. It was determined that with the proposed gas station, there will not be any significant impact on the surrounding roadways that has not already been mitigated for through the original traffic impact study. In fact, when a comparison of the trip generation was made between the current PM Peak Hour traffic volumes plus the gas station volume to the trips that were analyzed in the original traffic study, it was determined that the traffic impact study was done for a higher number of trips. The current PM Peak Hour traffic volume plus the gas station equals 4,699 trips (4,677 existing volume + 22 gas station volume) which is lower than the 4,838 trips that were originally analyzed and mitigation identified.
4. The applicant failed to apply for the two year concurrency extension per Pasco County Resolution 09-269. If the applicant would have applied for the two year extension, they would have a valid concurrency certificate valid until 2/20/2012.
5. Pasco County Attorney's Office is in the process of presenting a resolution to the Board of County Commissioners for an additional two year extension to concurrency based on the Senate Bill 1752, which was recently approved by the Governor.

CONDITIONS OF APPROVAL:

1. The developer acknowledges that any provisions of Pasco County ordinances and any rezoning conditions of approval not specifically waived shall be in full force and effect, including all impact fee ordinances.
2. The developer acknowledges that an appeal may be filed against the decision of the DRC within 30 days of the date of this approval. Any development that takes place within the 30-day appeal deadline shall not establish vested rights with respect to construction of the project.

The DRC's approval of this variance request constitutes a finding by the DRC that the variance request, as conditioned, is consistent with those Goals, Objectives, and Policies of the Comprehensive Plan and those provisions of the LDC that are applicable to variance request approvals. This action is based on the office review of the plans, supporting documentation, and certifications of the Engineer of Record.

APPLICANT'S ACKNOWLEDGMENT:

The applicant acknowledges that it has read, understood, and accepted the above-listed conditions of approval.

_____ Date

_____ MURPHY OIL USA, INC.

STATE OF FLORIDA
COUNTY OF _____

_____ Title

The foregoing instrument was acknowledged before me this _____ (date),
by _____ (name of corporation
acknowledging) a _____ (State or
place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or
who has produced _____ (type of identification) as identification.

Seal:

_____ NOTARY

ATTACHMENTS:

- 1. Location Map
- 2. Site Plan
- 3. Variance Request and Exhibits

DMZ/CR/ecm/drc62410/murphyoilusazn10233

DEVELOPMENT REVIEW COMMITTEE ACTION: