Planning and Zoning Commission Meeting Minutes of March 28, 2017:

16-337Z Conduct a Public Hearing to Consider/Discuss/Act on a Request to Zone the Subject Property "SF5" Single Family Residential District, Located Approximately 2,200 Feet West of Lake Forest Drive and on the North Side of County Road 123 (Future Bloomdale Road) and the South Side of Baxter Well Road

Mr. Matt Robinson, Planning Manager for the City of McKinney, explained the proposed zoning request for approximate 54 acres. He stated that this item was associated with a pending annexation case that had its first two public hearings held on March 20 and 21, 2017 at City Council meetings. Mr. Robinson stated that this zoning request was scheduled to meet up with the 3rd and final public hearing of the annexation at the April 18, 2017 City Council meeting. He stated that the applicant had proposed to zone the subject property "SF5" – Single Family Residential District, which would allow for a residential density of 3.2 – 3.4 dwelling units per acre. Mr. Robinson stated that Staff recommended approval of the rezoning request as it was in compliance with the City's Comprehensive Plan. He stated that should the annexation and zoning be approved by City Council, prior to development of the property, a plat conforming to the requirements of the City's Subdivision Regulations would be required. Mr. Robinson stated that any associated improvements, such as waterlines, sewer lines, and roadway, that were proportional to the development of the project would be required at the plat stage. He stated that Staff distributed additional letters of opposition and support, beyond those that were included in the Planning and Zoning Commission meeting packet, to the Commission Members prior to the meeting. Mr. Robinson stated that Staff had received

approximately 51 e-mails in opposition to the request and 16 e-mails in support of the request. He stated that a copy of the pending litigation regarding the change in the deed restrictions was also distributed to the Commission prior to the meeting. Mr. Robinson offered to answer questions.

Vice-Chairman Zepp asked if this was in compliance with the City's Comprehensive Plan. Mr. Robinson said yes.

Vice-Chairman Zepp wanted to clarify that the final decision for the zoning and annexation cases would be with City Council. Mr. Robinson stated that was correct.

Commission Member Cobbel asked Mr. Robinson to briefly discuss what phase for the water, sewer, and roadway impacts. Mr. Robinson stated that the zoning is looking at the land use and whether the use is appropriate for this piece of property. He stated that the property would need to be zoned first. Mr. Robinson stated that when the developer decided to develop the property they would need to submit a plat to the City to subdivide the tract of land unto smaller lot sizes. He stated that at that time the developer would be required to extend the water, sewer, or roadway that was proportional to the development being demanded of it. Mr. Robinson stated that with a zoning of "SF5" – Single Family Residential District that they would be able to develop approximately 170 – 180 lots. He stated that in general roadway improvements were required along the portions that the property touches. Mr. Robinson stated that the plat would show how many lots they were proposing and Staff could then determine the demand that would be placed on the City's infrastructure.

Alternate Commission Member McReynolds had questions regarding County Road 123 (future Bloomdale Road). Mr. Robinson stated that a portion of this road had

already been constructed when the Heatherwood subdivision to the south was developed. He stated that this was on the City's Major Thoroughfare Plan.

Mr. Bob Roeder; Abernathy, Roeder, Boyd & Hullett, P.C.; 1700 Redbud Blvd.; McKinney, TX; explained the proposed rezoning request. He stated that this was a land use case. Mr. Roeder stated that this request had nothing to do with what size streets or roads would be located in this area. He stated that those items were determined during the subdivision process. Mr. Roeder stated that just south of this property was the Heatherwood subdivision. He stated that they were requesting a continuation of that single family subdivision. Mr. Roeder stated that this property was originally developed in the early 1980's. He stated that it was a large lot rural subdivision with 10 acre minimums that was controlled by a set of deed restrictions. Mr. Roeder stated that those deed restrictions were amended this past year by a vote of the majority of the landowners. He stated that part of the amendments were to remove the 10 acre minimum requirement, so these properties could now be subdivided into smaller units. Mr. Roeder stated that there was a pending lawsuit regarding whether or not the process to amend the restrictive covenants was done legally. He stated that the lawsuit was still making its way through the court system. Mr. Roeder stated that if the requested zoning is approved for the property and the court upholds the amendment to the restrictive covenants then the development could proceed according to the "SF5" – Single Family Residential District regulations. He stated that if the court overturns the amendment to the restrictive covenants and the 10 acre minimum was still in place, then regardless to what the zoning would allow, the restrictive covenants would trump and the 10 acre minimums would be required. Mr. Roeder stated that the decision regarding the zoning on the property would

have no impact on the outcome of the litigation. He stated that the Commission disregard the litigation comments as a factor to be considered when deciding whether this is an appropriate land use or not for the subject property according to the City's Comprehensive Plan and Zoning Ordinance. Mr. Roeder stated that there had been a lot of discussion regarding the proposed location of the U.S. Highway 380 bypass. He stated that at one time the primary route was going to be along this section of Bloomdale Road. Mr. Roeder stated that it was his understanding that City Council has stated that they are not planning to use Bloomdale Road for the U.S. Highway 380 bypass; however, the exact location had not been resolved by City Council. He stated that regardless of how that issue turns out it was not a land use issue. Mr. Roeder stated that would be a subdivision and transportation issue. He stated that if the U.S. Highway 380 bypass ends up coming down Bloomdale Road, if this property is not developed then this property would have to bear the burden of its share of that road system. Mr. Roeder stated that the subject property was adjacent to the corporate limits of the City of McKinney. He stated that there had been a request to bring the subject property into the city limits. Mr. Roeder stated that the City's Comprehensive Land Use Plan does not show this area as large lot residential uses; however, it shows it as the kind of zoning as they were requesting. He stated that they had tried to meet all of Staff's requirements and suggestions for this property. Mr. Roeder asked the Commission to focus on the land use issue. He stated that Staff did a good job at presenting their opinion that the "SF5" - Single Family Residential District was appropriate here. Mr. Roeder asked for a favorable recommendation for this zoning request and offered to answer questions.

Commission Member Mantzey asked if someone who purchased adjacent property would be reasonable in assuming that over the long term this property would continue to have the same use and stay as 10 acre tracts, not considering the City's Comprehensive Plan or the lawsuit. He stated that sometimes individuals purchase land next to a vacant lot and think that lot will continue being vacant; however, we know it is going to grow. Commission Member Mantzey stated that the subject property was developed, so would it be reasonable with the covenants and having the perception that this would be a long term use. Mr. Roeder stated that not every lot was developed with a residential house on it. He gave a brief history of the property. Mr. Roeder stated that this property was like a lot of rural land developments. He stated that there had been a spurt of development, then it languished, and then there would be another spurt of development. Mr. Roeder believed that the people who voted in favor of modifying the restrictive covenants did not believe that there was a market for their property in the current configuration with the restrictions that were on it. He stated that it was not the highest and best use for the property. Mr. Roeder stated that they see McKinney growing around it. He stated that if this property does not come into the city then you would have "SF5" – Single Family Residential District on both sides and north of it. Mr. Roeder stated that it could end up being an island in the middle of other single family residential developments. He stated that was the reality of a rapidly growing city.

Vice-Chairman Zepp opened the public hearing and called for comments.

The following ten people spoke in opposition to the proposed rezoning request.

Ms. Holly Pry, 6303 County Road 163, McKinney, TX, stated that the Bloomdale Farms plat and restrictive covenants that were attached to the deed of each parcel were

filed with the County in 1982. She stated that the covenants called for a minimum acreage lot size along with other unique by nature features. Ms. Pry stated that they had lived there for approximately 15 years. She stated that she had watched development spring up around her, secure in the knowledge that her neighborhood was protected by their covenants. Ms. Pry stated that a developer got a hold of some of the property owners in their neighborhood that were either absentee, had never developed their property and do not live on it, or others that are older that do not have school age children and apparently not at all invested in the neighborhood. She stated that the destruction of the restrictive covenants was done in secret, without a democratic process, and without a vote. Ms. Pry stated that they did it with a secret petition. She felt that these property owners that were willing to sell their property to the developer stabbed the rest of the property owners in the back. Ms. Pry stated that this lead to the lawsuit. She asked that they property owners that do want to sell go ahead and sell their properties. Ms. Pry stated that she was not opposed to them moving or the development of the properties. She stated that she was opposed to the rezoning of the existing neighborhood and inserting into the heart of it approximately 180 closely packed in houses. Ms. Pry stated that the "SF5" – Single Family Residential District was the most intense zoning possible. She urged the Commission to reject the proposed zoning request. Ms. Pry stated that if rezoning must occur then she felt it made more sense to zone it to something that melds well with the existing family houses. She stated that the current families and children in Bloomdale Farms needed to be considered. Ms. Pry stated that this was a perfect opportunity to foster diverse residential opportunities. She stated that the Heatherwood Subdivision was located across the street. Ms. Pry stated that they do not need a copycat version of

that in the middle of their neighborhood. She stated that residential estate zoning with large acreage lots, such as those that current exist, would be much more in line with the existing neighborhood's character and fabric. Ms. Pry stated that her neighbors will be discussing the dangerous, crumbling roads. She stated that if you add nearby 180 houses, it would be a disaster. Ms. Pry asked if the Commission Members wanted to control the planning of our community or would they let developers call the shots by instilling as dense houses as possible to line their own pockets and overburden the already crumbling roads and the overcrowded schools. She asked the Commission Members to recommend denial of the proposed zoning request.

Mr. Stephan Ware, 5859 Baxter Well Road, McKinney, TX, stated that he plans to live at his property for many years. He stated that he planted 61 trees and 81 Nellie R. Stevens Holly on his property, because he knew growth was coming and he wanted some protection from it. Mr. Ware stated that he submitted a letter of opposition for the annexation request; however, he did not for the proposed zoning request. He explained that he was unaware that the two cases were separate and that he should have submitted two letters of opposition to have it included in the Planning and Zoning Commission packet for this item. Mr. Ware questioned why it was being rushed while there is litigation going on. He stated that he was confused about the process. Mr. Ware briefly discussed ONE McKinney 2040 Comprehensive Plan and how it had been put on hold.

Mr. Matthew Weyenberg, 5861 Baxter Well Road, McKinney, TX, stated that there was a lot of concern about the inadequate roadways in the area, especially Baxter Well Road and County Road 123 (Future Bloomdale Road). He stated that they were narrow roads with thin pavement, potholes, and no shoulder. Mr. Weyenberg stated that there

was a steep intersection where County Road 123 (Future Bloomdale Road) meets Custer Road that was very dangerous. He stated that adding more homes that would cause more traffic would make it even more dangerous. Mr. Weyenberg stated that the developer stands to make millions off of this deal. He stated that the Commission Members needed to figure out if they wanted to value growth and profit more than they value safety. Mr. Weyenberg stated that the proposed zoning request should not be approved until the surrounding roads were improved.

Ms. Tina Marr, 5855 Baxter Well Road, McKinney, TX, stated that she moved there about a year ago and had invested heavily in their property. She stated that she was a local Realtor. Ms. Marr stated that when they found this property for sale they researched and knew that the development and roadways would grow all around them. She stated that she was unaware that a few of her neighbors were plotting to destroy their deed restrictions at that time. Ms. Marr briefly discussed the lawsuit. She stated that there was more to this than a simple zoning case. Ms. Marr stated that this is a platted estate lot subdivision that the developer is asking to destroy by cramming 177 houses where there were currently four houses. She stated that McKinney needed to not set a precedence of destroying platted subdivisions for developers who could talk a few neighbors into selling their properties and destroying deed restrictions that they have lived under for years, especially when there was other greenspace all around. Ms. Marr asked that the City stop adding developments to the northern sector until infrastructure could be improved. She stated that County Road 123 (Future Bloomdale Road) was heavily traveled and dangerous. Ms. Marr briefly discussed other developments in their immediate area. She expressed concerns regarding the increased traffic and impact to

the school system with these increases in population to the area. Ms. Marr stated that the residents that live in this area have no safe way to travel east and west to get to arterial roads like U.S. Highway 75 (Central Expressway), Custer Road, and Dallas North Tollway to do business in McKinney and the surrounding cities. She stated that the school bus has difficulty traveling down the road to pick up and drop off the students safely already. Ms. Marr stated that while there are road improvements planned, they have not started as of yet. She stated that there were no Capital Improvement Projects (CIP) projects for their area within the next five years. Ms. Marr stated that yet 1,000's of new people will be filling these homes and will be here by then. She stated that McKinney needed to start planning for the growth and development by adding infrastructure first before adding additional development. Ms. Marr asked the Commission Members to stop the developer from destroying their neighborhood. She stated that she could sell five and ten acre lots there.

Ms. Stephanie Weyenberg, 5861 Baxter Well Road, McKinney, TX, stated that Bloomdale Farms was a platted neighborhood consisting of nice houses on 5 - 10 acre lots. She stated that a high density subdivision plopped in the middle of high acreage lots will not blend well. Ms. Weyenberg stated that many of them recently moved to the area and sought out specifically the small acreage and restrictive covenants that protected the land. She stated that the developer lead the charge to have the restrictive covenants gutted. Ms. Weyenberg stated that what the developer failed to mention at the last public hearing was that many of the neighbors were left out of the discussion and were completely unaware that it was taking place until after those changes were filed with the County. She stated that if the City truly wants to remain compatible with the existing

adjacent properties, then this land should be zoned for 3 – 5 acre lots and nothing less. Ms. Weyenberg stated that many of the Bloomdale Farms property owners recently moved there and had no intention of selling out. She stated that over the course of the past two months she had pondered what responsible city planning should look like. Ms. Weyenberg stated that last month the City considered running a bypass directly on top of the land in question. She stated that this month the City was tasked with zoning the same land. Ms. Weyenberg stated that she wander if responsible city planning continue to approve hundreds of new houses when there is not infrastructure to support those houses. She questioned if responsible city planning relies on traffic data that was two years old in an area where you are approving hundreds of new houses. Ms. Weyenberg questioned if responsible city planning supported the knocking down of houses in the middle of a neighborhood when there is still open space all around. She asked if responsible city planning should be planning for its citizens or its developers. Ms. Weyenberg stated that at the last public hearing meeting she urged City Council to look at the crumbling infrastructure that is not intended to support its current traffic load. She stated that their students have no safe roads to travel to their schools in Prosper, TX. Ms. Weyenberg stated that last week she witnessed a 17 year old student in an accident at Custer Road and County Road 123 (Future Bloomdale Road). She stated that she had since talked to another mother that her son was in a serious accident at the same intersection. Ms. Weyenberg stated that the only way to make the current roads less safe was to add more vehicles, which was exactly what McKinney was doing at a record setting pace. She stated that McKinney has an opportunity with this zoning request to demonstrate that the lives of your citizen's matter more than the developer's need to make

tremendous profits. Ms. Weyenberg requested that the Commission Members recommend denial of the proposed zoning request or another other new development in the northwest sector until there are safe roads to travel on.

Mr. Trent Patterson, 3604 Foxfield Trail, McKinney, TX, stated that his parents built their dream home on an adjacent property a couple of years ago. He stated that they had the reasonable expectation that there would not be houses pop up over there. Mr. Patterson stated that his parents intended to pass the property down to him and his brother later on. He stated that the decision does not only effect the people currently living there, it also effects the future generations planning to move there.

Ms. Belinda Patterson, 5615 Baxter Well Road, McKinney, TX, stated that she would be one of the closest properties on Baxter Well Road to the proposed development. She stated that the dream house they built faces east and not Baxter Well Road. Ms. Patterson stated that they would be looking out over the proposed 177 single family residential houses if approved. She stated that they grow hay on 12 acres of their property. Ms. Patterson stated that there was a current lawsuit, because they were not told that the developer wanted to change the deed restrictions. She stated that she did not want to look out her front door to see all of the proposed houses. Ms. Patterson stated that the road there was very narrow and crumbling. She stated that they have septic systems on the properties and not sewer. Ms. Patterson stated that it cost them $5,000 to run an electrical line, which they will probably come in for free and steal from them. She requested the Commission Members recommend denial of the proposed zoning request.

Mr. Kevin Voigt, 6290 County Road 123, McKinney, TX, stated that a lot had been said about the growth in the northwest sector during this meeting. He stated that in reviewing the community feedback for the proposed zoning request it would seem that only those in favor of this were the four parties under contract with the developer, couple more parties that would like to be under contract with the developer, and the developer. Mr. Voigt stated that Bloomdale Farms was an approved existing platted subdivision in McKinney. He stated that he felt it was bad policy for the City to a grant zoning request to a developer who trolls senior owners of small acreage properties and causes dissent among neighbors. Mr. Voigt stated that this has been a terrible situation for all involved that was easily avoidable. He stated that 5 of the 13 parcel owners that signed the door-to-door petition to gut the deed restrictions do not even live in Bloomdale Farms. Mr. Voigt stated that they certainly have rights as property owners. He stated that they had not developed their property for decades and had not invested in McKinney. Mr. Voigt stated that the 9 of the 17 residents that have raised families here were opposed to the proposed development. He stated that they did not want to see this kind of high density housing allowed in their subdivision. Mr. Voigt stated that a yes vote of this particular application and all of the noise around it stated that they were in favor of aggressive growth not seen fit by the community; however, seen fit by the developer. He stated that it was disheartening and unbelievable that a subdivision and a unique McKinney asset, like Bloomdale Farms, could be high jacked so easily. Mr. Voigt requested that the Commission Members vote no on this request.

Mr. Will Pry, 6303 County Road 163, McKinney, TX, stated that the Bloomdale Farms residents drive on roads that were not adjacent to the proposed development. He

stated that many of the residents head out west on County Road 123 (Future Bloomdale Road). Mr. Pry stated that there was some questions on who was responsible for the roads near their subdivision and when they might be improved. He stated that 177 additional houses built there would only add to the traffic and it was dangerous. Mr. Pry stated that quality of life was an issue that should be considered. He stated that he had not personally witnessed a deficit in a person's ability to sell a property there. Mr. Pry stated that he had lived there approximate 15 years. He stated that the property owners that oppose the proposed zoning request were not unreasonable people. Mr. Pry stated that some of the property owners were emotional about it. He stated that 13 years ago there was a plan to develop land after the City annexed it that is located to the west of Bloomdale Farms where they were able to work with the developer to get a more desirable development. Mr. Pry stated that had not occurred with the developer on the subject property. He stated that the petition was taped to his gate on his property. Mr. Pry asked the Commission Members to consider a growth pattern that did not disrupt the current Bloomdale Farms property owner's way of life, did not overflow the roads around that area, and was reasonable for all involved.

Ms. Judy Wellborn, 5750 Baxter Well Road, McKinney, TX, stated that they own 15 acres, 3 acres with a house and a 12 acre tract, for approximately 15 years. She stated that the 50 acre tract north of Bloomdale Farms was deeded for 1 acre tract homes. Ms. Wellborn stated that the land to the west of that property was deeded for 10 acre tracts.

The following four people spoke in support to the proposed rezoning request.

Mr. Johnthan E. Dale, 6200 County Road 123, McKinney, TX, distributed documents to the Commission Members. He stated that he was one of the homeowners wanting to sell this property to the developer. Mr. Dale stated that the developer did not come banging on their doors; however, residents had their properties up for sale and was finding it difficult to sell their properties. He stated that they were trying to sell their property for 20 – 30% less than what was across the road from them and still could not sell it. Mr. Dale stated that he had lived in his house for over 20 years. He stated that the Bloomdale Farm subdivision had never been intended for mega houses to be built on the lots. Mr. Dale stated that the initial restrictions only called for a 1,250 square foot modest houses. He stated that only one house was built between 1983 and 1993 due to the land being out of balance and a lot of speculation due to the savings and loan crisis at the time. Mr. Dale stated that many of the lots were defaulted on during that time and went back to the Oliver Daniel Estate. He stated that the lots were resold at a more reasonable price and 12 houses were built in the next eight years. Mr. Dale stated that in the last 16 years only three houses had been built. He stated that development was coming all around them. Mr. Dale briefly discussed the difficulty in selling the properties in this subdivision even at rock bottom prices. He stated that it had been frustrating. Mr. Dale stated that the revised restrictions do not require the people there to change a thing to their properties if they do not want to.

Ms. Shannon Raines, 5601 Pinewood Drive, McKinney, TX, distributed photographs of the road and bridge conditions in the area to the Commission Members. She displayed a video on the overhead screen showing where two buses that were having difficulty making a left turn from County Road 123 (Future Bloomdale Road) onto Custer

Road and all of the traffic there. She stated that a stop light was needed at this intersection. Ms. Raines that that there was one accident after another there. She stated that a lot of the children in the neighborhood were learning to drive and just got their license. Ms. Raines stated that they were terrified to turn off of County Road 123 (Future Bloomdale Road) onto Custer Road. She stated that County Road 123 (Future Bloomdale Road) did not have a shoulder and was dangerous to drive on. Ms. Raines marked that she was in favor of the proposed zoning request on her speaker's card.

Mr. Dan Siciliano, 17943 Windflower Way, Dallas, TX, discussed some of the benefits of the proposed development. He stated that they would be improving the roads adjacent to this development. Mr. Siciliano stated that many of the roads mentioned during the meeting are actually maintained by the County. He stated that many times roads do not get improved until the area develops.

Mr. David Siciliano, 17943 Windflower Way, Dallas, TX, stated that he was the developer for the proposed development on the subject property. He stated that they were developing the last phase of the Heatherwood Subdivision. Mr. Siciliano stated that while working on that subdivision they saw for sale signs in the Bloomdale Farms subdivision and inquired about them. He stated that the property owners told them how they were having trouble selling their properties in Bloomdale Farms. Mr. Siciliano stated that they would work with the property owners if the covenants were changed. He stated that several of the homeowners got together and voted a majority to change the covenants. Mr. Siciliano stated that when the covenants were legally changed, they went forward with the City processes for the proposed development. He stated that now there is a legal challenge to the covenant changes. Mr. Siciliano stated that he was not part of

the covenant changes. He stated that the subject property was the far east side of the subdivision and that they were not placing the proposed development in the middle of Bloomdale Farms. Mr. Siciliano stated that the last lot and to the right was owned by Dr. Zafar who supports the proposed zoning request. He stated that the changes to the deed restrictions does not make the other property owners do anything different to their properties. Mr. Siciliano stated that if they want to stay the way they are that they could. He stated that they would be required to put some infrastructure in as they develop the property. Mr. Siciliano stated that they could not solve all of the County problems. He stated that they do feel this is appropriate for this location. Mr. Siciliano stated that they were trying to bring in better builders. He stated that several of the property owners had not been able to sell their properties for what the land is worth with the old restrictions.

The following six individuals turned in a speaker's card in opposition to the proposed zoning request; however, did not speak during the meeting:

- Mr. David Wellborn, 5750 Baxter Well Road, McKinney, TX
- Ms. Karla Tripp, 5859 Baxter Well Road, McKinney, TX
- Mr. Darin Riggs, 5935 Baxter Well Road, McKinney, TX
- Ms. Jan Clare, 8469 County Road 858, McKinney, TX
- Ms. Lynette Terrell, 8564 County Road 858, McKinney, TX
- Mr. Brett Patterson, 3018 Teal lane, McKinney, TX

The following eleven individuals turned in a speaker's card in support to the proposed zoning request; however, did not speak during the meeting:

- Ms. Vicki Nelon, 5435 Baxter Well Road, McKinney, TX
- Mr. Richard Nelon, 5435 Baxter Well Road, McKinney, TX

- Ms. Sandra Ortega de King, 5513 Baxter Well Road, McKinney, TX
- Ms. Mary Jurado, 5513 Baxter Well Road, McKinney, TX
- Mr. Orlando Ortega, 5513 Baxter Well Road, McKinney, TX
- Ms. Karen Houston, 5513 Baxter Well Road, McKinney, TX
- Ms. Guadalupe Ortega, 5513 Baxter Well Road, McKinney, TX
- Mr. Jeff Mack, 5713 Baxter Well Road, McKinney, TX
- Mr. Jerry Barrow, 6180 County Road 123, McKinney, TX
- Ms. Sharon Barrow, 6180 County Road 123, McKinney, TX
- Ms. Elizabeth Dale, 6200 County Road 123, McKinney, TX

On a motion by Commission Member Mantzey, seconded by Alternate Commission Member McReynolds, the Commission unanimously voted to close the public hearing, with a vote of 7-0-0.

Alternate Commission Member McReynolds asked for clarification regarding when roads were improved when some of them belong to the County and others to the City. Mr. Robinson stated that there were a variety of ways that roads were improved. He stated that in general development drives construction of the roadways. Mr. Robinson stated that the City does have roadways on the Master Thoroughfare Plan. He stated that some of those were slated for Capital Improvements, where the City will actually construct those roadways. Mr. Robinson stated that the roadways outside the City were under the purview of the County. He stated that the County would be responsible for maintenance of those roadways. Mr. Robinson stated that when some parcels are in the City and others were in the County, then the County and City typically have agreements on who will maintain those roadways.

Vice-Chairman Zepp asked if the property shown in the Aerial Exhibit was currently in the City's Extraterritorial Jurisdiction (ETJ). Mr. Robinson stated that the Heatherwood Subdivision was located within the City; however, most of the surrounding land was in the City's Extraterritorial Jurisdiction (ETJ) up to Lake Forest Drive.

Commission Member Smith asked what Capital Improvement Plan (CIP) was planned for the northwest sector. Mr. Brian Lockley, Director of Planning for the City of McKinney, stated that he did not have specifics on the Capital Improvement Plan (CIP) projects and that they were still working on some projects. He stated that there was nobody from the City of McKinney Engineering Department present to speak on it.

Commission Member Smith stated that she felt the County was focused on regional thoroughfares and did not have a priority for the roadways in the area of the subject property. Mr. Robinson stated that it was his understanding that the County was more focused on regional roadways. He stated that the Outer Loop was one of the big items that the County was focused on. Mr. Robinson stated that there was a Capital Improvement Plan (CIP) project from Wilmeth Road to Bloomdale Road to go from two lanes to four lanes. He stated that construction began August 2016 and was scheduled for completion May 2017.

Commission Member Smith asked if roadway improvements typically happen when development occurs. Mr. Robinson said yes.

Commission Member Smith asked if a traffic analysis was done during the development of Heatherwood and if one would be required for the proposed development. Mr. Robinson stated that a traffic analysis would be required for this development. He

stated that Staff was still looking into the information related to the development of the Heatherwood subdivision.

Vice-Chairman Zepp asked if on the traffic impact analysis covers more than the property that the developer was responsible to improve. Mr. Robinson stated that he could not speak to the details of the traffic impact analysis, since that was the purview of the City of McKinney Engineering Department. He stated that would come up during the platting process. Mr. Lockley stated that it would look at the adjacent streets around the development and the intersections that will be impacted by the amount of traffic generated by the development.

Commission Member Cobbel asked if the developer could have other fees beside impact fees. Mr. Lockley stated that the developer could have other fees associated with whatever required improvements were needed.

Commission Member Smith asked if the subject property was in Prosper Independent School District. She asked if Bloomdale was the dividing line for the school districts. Mr. Robinson stated that a portion of Heatherwood subdivision was also located in the Prosper Independent School District.

Commission Member Cobbel asked that if the subject property is annexed and the zoning is approved, then the court denies the recent deed restriction changes, the restrictive covenants would stay in place no matter what zoning was approved for the property. Mr. Robinson stated that was correct. He stated that if the covenants and restrictions that go beyond what the City's zoning requirements were upheld for the property, they would still be applicable but that the City would not enforce those deed restrictions and that it would be a private matter to be sorted out.

Vice-Chairman Zepp asked if Bloomdale Road had been listed on the Comprehensive Plan as a major arterial roadway for some time now. Mr. Robinson stated that was correct and that recently discussion had taken place about it going to a larger classification than a major arterial.

Vice-Chairman Zepp asked if the Future Land Use Plan (FLUP) shows this area as being a suburban module mix and not estate. Commission Member Mantzey asked that suburban mix be defined. Mr. Robinson stated that it was a mixture of residential type uses. Commission Member Mantzey asked if the residential uses were defined. Mr. Robinson stated that the Comprehensive Plan actually has percentages for the certain type of land uses. Commission Member Mantzey asked if it was percentages on the overall area and not certain tracts. Mr. Robinson said yes. He stated that the Northwest Sector Study calls for this to have a diverse mixture of residential products. Mr. Robinson stated that this was in compliance with the Future Land Use Plan (FLUP) that is currently in draft form.

Commission Member Mantzey asked if any residential uses brought forward for this tract would have been in compliance. Mr. Robinson stated that it calls for a mixture, so there is an allowance for different types. He stated that it generally speaks for more density than less density. Mr. Robinson stated that it generally did not call for an agricultural type density of a 10 acre tract or a residential estate district of 2 acres lots. He stated that he did not feel that it would be wholly inappropriate in this area; however, he felt that it generally calls for more of a mixture of the 5,000 – 10,000 square foot residential type development.

Vice-Chairman Zepp asked if the developer would be required to bring sewer and water to the property. Mr. Robinson stated that water, sewer, and other utilities would be required, if they are not already there. He stated that they had signed a facilities agreement as part of the annexation, which says if the City annexes the property that they would be required to extend any of those utilities to serve the development.

Commission Member Cobbel asked if Heatherwood had sewer and water. Mr. Robinson said yes.

Commission Member McCall asked Mr. Roeder why he wants to zone the property when there is a lawsuit. He stated that he had concerns regarding the lawsuit and the road issues. Commission Member McCall asked if he would consider tabling the proposed zoning request until after the lawsuit is finalized. Mr. Roeder stated that to annex property was a lengthy process. He stated that to get the zoning in place with the annexation process, they have to go through this intermediate step. Mr. Roeder stated that he was not one of the attorneys in the litigation. He stated that he heard that there were competing motions for summary judgement in the District Court that people anticipated would have already been acted upon by the judge; however, that has not happened yet. Mr. Roeder stated that the judge could make a ruling in the next few weeks. He stated that to table it would not be what they would request. Mr. Roeder stated that they the items go before City Council on Tuesday, April 18, 2017. He stated that they expect the judge to rule on the summary judgements by that time.

Commission Member McCall stated that development is going north. He stated that he still had concerns about the streets. Mr. Roeder stated that was not a land use matter; however, it was a subdivision matter. He stated that it would be a requirement

before any lot is cut from the property. Mr. Roeder stated that a lot of the earlier comments were regarding where Bloomdale Road insects Custer Road. He agreed that this intersection was a nightmare. Mr. Roeder stated that was a County issue at this point in time.

Vice-Chairman Zepp asked if the Traffic Impact Analysis (TIA) comes back that the roads were inadequate then it would require a substantial amount of funds from the developer to bring the roads into compliance. Mr. Roeder stated that the developer would make a cost benefit analysis at that point in time. He stated that it not only includes the adjacent roads to the development. Mr. Roeder stated that it also includes the intersections that serve the area, which could include intersections far off from this development. Vice-Chairman Zepp asked if it would include anywhere the development would impact the traffic within reason. Mr. Roeder stated that he was not a Traffic Engineer. He stated that he had clients that have made improvements to intersections that were pretty far removed from the development in the past.

Vice-Chairman Zepp stated that it was a difficult decision with the different issues brought up. He stated that the Commission was being asked to look at the land use for the subject property and not the other issues surrounding it.

Commission Member Mantzey stated that he had faith in the City and the system to address traffic issues. He stated that development was going to happen in the area. Commission Member Mantzey stated that the lawsuit was between the parties and not a part of this zoning request. He stated that he had found it unreasonable at times for citizens to say that a property that is adjacent to them should not developed because it had been a green field and there were certain expectations. Commission Member

Mantzey stated that he felt the expectations here were reasonable for these citizens to believe long term that this would be the zoning and look of the area. He stated that it would be a buffer for other residents from “SF5” – Single Family Residential District developments. Commission Member Mantzey stated that he could not support the proposed zoning request.

Commission Member Cobbel stated that she agreed with Commission Member Mantzey’s comments, except that this request seems to follow the City’s Comprehensive Plan for the area. She stated that the lawsuit in general will end up deciding what happens in the long run. Commission Member Cobbel stated that she would be in favor of the proposed zoning request and support Staff’s recommendation.

Alternate Commission Member McReynolds stated that he would agree with Commission Member Cobbel’s comments.

Commission Member Kuykendall stated that she would agree with Commission Member Mantzey’s comments. She stated that this would be one of the components that would be appropriate there; however, she felt that there were other options as well. Commission Member Kuykendall stated that she would not be in support of the proposed zoning request.

Vice-Chairman Zepp stated that all we know at this time there was a lawful vote to change the covenants on the subject property. He stated that they were requesting zoning on an area that is not already zoned. Vice-Chairman Zepp stated that it would be different if the property was located in the center of McKinney, since there would be reasonable exceptions when there is zoning in place. He stated that there is a major

thoroughfare just south of the subject property. Vice-Chairman Zepp stated that it was not an easy decision to make one way or the other.

Commission Member McCall stated that development is going north. He stated that just to zone this property was a start and stop for the developer. Commission Member McCall stated that there were too many red flags for him to recommend approval of the proposed zoning request right away. He stated that it was going to happen in the future.

Commission Member Smith stated that she agreed with a lot of the comments that had been said by the homeowners, applicant, and Commission Members. She stated that this was a difficult request. Commission Member Smith stated that she usually looks to Staff for their professional recommendations. She stated that her records should show that she does not feel that she has to do what every developer wants. Commission Member Smith stated that sometimes decisions are made that homeowners are not happy with, which is not an easy decision. She stated that every case has to stand on its own merit. Commission Member Smith stated that she understood that the Commission was not here to make decisions on the covenants. She stated that what happens to the property will be dictated by the court decision. Commission Member Smith stated that her biggest concern is the road issue and safety of the children. She stated that she drove the area after dark last night. Commission Member Smith stated that it was difficult to navigate with construction improvements and lack of lighting in the area. She stated that they would get the roads as development occurs. Commission Member Smith stated that a lot of the homeowners know that development is coming and that they cannot stop it. She stated that she understands that some of the property owners are upset over what

happened here. Commission Member Smith stated that her parents lived on an estate lot and ended up having a residential subdivision in their back yard. She stated that the Bloomdale Farms development was beautiful and unique. Commission Member Smith stated that she was a public servant. She stated that she was trying to reach out to all of the homeowners to understand their concerns. Commission Member Smith stated that the area was going to ultimately develop. She stated that she had a lot of respect for the applicant. Commission Member Smith stated that the applicant was going by the book and at the end of the day there was a process that must be done. She stated that no matter what vote happens at this meeting, there is not guarantee that all of the homeowners will be happy in the end. Commission Member Smith stated that she was not in support of the proposed zoning request.

On a motion by Alternate Commission Member McReynolds, seconded by Commission Member Cobbel, the Commission voted to recommend approval of the proposed rezoning request as recommended by Staff, with a vote of 3-4-0. The motion failed. Commission Members Mantzey, Kuykendall, McCall, and Smith voted against the motion.

On a motion by Commission Member Mantzey, seconded by Commission Member Cobbel, the Commission voted to recommend denial of the proposed rezoning request, with a vote of 4-3-0. The motion passed. Commission Members Zepp, Cobbel, and McReynolds voted against the motion.

The Commission took a quick break at 7:32 p.m. for 15 minutes.

The Commission came back to session at 7:47 p.m.