

SHUPE VENTURA, PLLC
Attorneys and Counselors
9406 Biscayne Boulevard | Dallas, TX 75218

March 1, 2017

McKinney City Council
City of McKinney
c/o Melissa Spriegel, Planner I
221 N. Tennessee Street
McKinney, Texas 75069

Misty Ventura

Re: Zoning Case #16-341Z (the "Pending Zoning Case") - Request to Rezone Property Located Approximately 3,200 Feet South of U.S. Hwy 380 (University Drive) and on the East Side of Lake Forest Drive (the "Subject Property") from SF5 – Single Family Residence District to TH – Townhome Residential District

Dear Mayor and City Council Members:

Carlisle Grace Ltd. ("Carlisle") owns an approximately 33-acre tract of land adjacent to and east of the Subject Property. In response to access concerns raised at the January 10, 2017 Planning and Zoning Commission (P&Z) meeting related to the Pending Zoning Case, the applicant agreed to dedicate any right-of-way needed for Carlisle to develop its property. On February 7, 2017, the applicant provided the attached letter volunteering to dedicate right-of-way to the boundaries of the Carlisle property. Carlisle is relying on its understanding that the applicant will voluntarily dedicate right-of-way to the Carlisle property boundary.

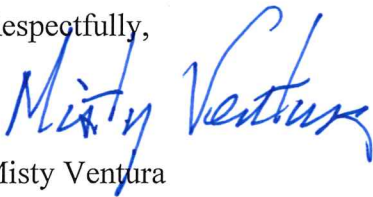
Carlisle remains concerned about the applicant's obligation to extend utilities to Carlisle's property boundary. Section 2.4.1 of the McKinney Water and Wastewater Design Manual requires that water and wastewater lines shall be sized and extended through the limits of a development to provide a connection for ultimate development of adjacent properties. All developers are required to satisfy this requirement; however, the applicant questioned this requirement as an exaction when a preliminary plat for the Subject Property was processed last year. During the January P&Z meeting related to the Pending Zoning Case, the applicant stated that "during the platting stage they would not submit something that did not meet the letter of the law." However, since the P&Z meeting, the applicant has taken the position, both privately and at the February 7, 2017 City Council meeting, that it will not extend utilities to the boundary of the Carlisle property. Carlisle would like written assurances that the applicant will satisfy the code requirement to extend utilities to the boundary of the Carlisle property.

The city staff raised significant concerns regarding the applicant's ability to comply with tree preservation requirements and floodplain requirements. The pending zoning application includes no information demonstrating the Subject Property can be developed in accordance with city code. Because it is a straight zoning application, the city staff was unable to require the information necessary to fully evaluate this zoning request, and the City Council is unable to place conditions on the zoning approval to ensure this is a viable development that can occur in compliance with city code. For the same reasons, Carlisle is unable to confirm that the proposed development will extend utilities to the east. The uncertainties presented with this zoning

request can be resolved if the applicant reapplies for a planned development district zoning classification. Through the PD process, the city can study the environmental issues associated with this site, and can confirm that other requirements, including utility extensions, will be satisfied as shown on a binding PD development plan. Straight zoning leaves many unanswered questions, and provides opportunities for future variance requests and exactions claims during the platting process. Straight zoning also leaves the city without any of the quality assurances the city could obtain by requiring the applicant to seek PD zoning instead of TH zoning. Straight zoning is not in the best interest of the city or the surrounding property owners.

For these reasons, I respectfully request that the city either deny or table this zoning request so that the applicant can submit a revised zoning application seeking a PD zoning classification that adequately addresses the environmental and utility extension concerns, raised by city staff and surrounding property owners.

Respectfully,



Misty Ventura

cc: William Carlisle, Carlisle Grace Ltd.
Arthur J. Anderson, Esq.
Mark S. Houser, Esq.
Alan Lathrom, Esq.

500 Winstead Building
2728 N. Harwood
Dallas, TX 75201

winstead.com

ARTHUR J. ANDERSON

February 7, 2017

Misty Ventura, Esq.
Shupe Ventura, PLLC
9406 Biscayne Blvd.
Dallas, TX 75218

Re: Skorburg Company ("Skorburg"); Zoning Case 16-241Z
26.61 Acres on the East Side of Lake Forest ("Skorburg Property")

Dear Misty:

On behalf of Skorburg, I am responding to your request for written confirmation that, at the time of the final plat approval for the Skorburg Property, an easement/r.o.w. dedication will be made to the City to allow a public street and public utility connection ("Connection") to be made from the easternmost street terminus on the Skorburg Property to the western boundary of the adjacent approximately 33-acre property owned by your client, Carlisle Grace, Ltd. (the "Carlisle Property"). The Connection will cross existing easements on the Skorburg Property and shall be located acceptable to the Carlisle Property owner and the City. The Connection will not adversely impact the public improvements constructed by Skorburg during the development of the Skorburg Property. In the event that Skorburg (or an affiliate or assignee) closes on the Skorburg Property, the owner of the Skorburg Property agrees to this commitment. Skorburg will bear no responsibility to design, construct, or pay to construct, any portion of the Connection. Skorburg's tree preservation plan for the Skorburg Property shall not be adversely impacted in any way by this agreement, and any issues with the City's tree ordinance triggered by development of the Connection or the Carlisle Property shall be solely the responsibility of the Carlisle Property owner. The location, width, elevation and alignment of the Connection will ultimately be determined by the City and will be sufficient to serve as the primary access point for development of the Carlisle Property (as so determined by the City). The location will not adversely impact any of the City's development regulations applicable to the design or construction of the residential subdivision proposed for the Skorburg Property. Skorburg (or an affiliate or assignee) agrees that it will not physically obstruct the Connection with a fence, gate or similar improvement.

Ms. Misty Ventura
February 7, 2017
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Skorburg (and any affiliate or assignee) hereby waives any and all of its legal rights to object to (a) this dedication as an illegal exaction pursuant to federal and state law, including the holdings in *Stafford Estates* or §212.904, Tex. Loc. Govt. Code, and (b) the Carlisle Property Owner's installation of street improvements and/or public utilities in the Connection.

Very truly yours,

A handwritten signature in black ink that reads "Arthur J. Anderson". The signature is written in a cursive style with a large, prominent initial "A".

Arthur J. Anderson

AJA:vb

cc: Mark S. Houser Esq. (*via e-mail*)
Alan Lathrom, Esq. (*via e-mail*)

Sent: Thursday, February 23, 2017 10:30 AM
To: Melissa Spriegel; HOA Board; Contact-Planning; Kathy Wright
Subject: Re: Zoning 16-341Z Lake Forest Townhomes

Ms. Spriegel,

The Creekview Estates OA has meet with the developer for Zoning Case 16-341Z that is on March 7 , 2017 City Council meeting. After the meeting, we are even more opposed to the development than before.

On behalf of the Creekview Owners Association, we strongly ask you deny the request in Zoning for the project and any future consideration of development of this property.

The association represents over 240 voting members that were against the last development and this current one also.

Please let me know if you have any further questions.

Sincerely,

--

Harry J. Hickey

VP

Creekview Owners Association

Melissa Spriegel

From: Randy Jacobs
Sent: Tuesday, January 17, 2017 9:40 PM
To: Melissa Spriegel
Cc:
Subject: Zoning Case 16-341Z

Dear Ms. Spriegel,

Regarding the above zoning case i have a few comments and concerns. First I feel obligated to let you know I hold an MS in Geoscience, and have worked as a consultant in the water and sewage treatment field. I believe that qualifies me to express my concerns.

I would like to begin by pointing out the property in question is frequently flooded during our severe rain events. I only see one way to avoid that in the future, and that is to fill the property to an acceptable level. However there are a couple of concerns that the process raises. Any fill on the property is subject to water saturation during extended severe weather, and we get that situation frequently. Saturated fill has a tendency to turn into liquefaction, a phenomenon whereby a saturated or partially saturated soil substantially loses strength and stiffness in response to an applied stress, in this case the structures on the soil, and becomes essentially liquid. That is not a good situation for any residents. Additionally this property absorbs considerable overflow of water from the creek during these events.

This brings me to my next concern. Taking that away with fill will most likely place stress on the established properties on the other side of the creek. There is already substantial overflow into the Creekview Estates area, with water rising to within a few feet of the properties along the trail and the ponding areas. There is a serious concern about how taking away the overflow would impact the Creekview Estates. Additionally, if the fill on the proposed property is built up higher than the Creekview Estates side additional stress will be placed on the Creekview Estates side and potentially cause flooding of homes in that area.

These are likely problems with the development of this property. It is currently farm property, an orchard, and occasional or frequent flooding is not a problem for that zoning. However residential zoning will become a major problem that I don't believe the city wants to deal with. My recommendation is that this change in zoning be denied and this property not zoned for any type of construction.

Respectfully submitted,

Randall Jacobs
1500 Eastbrook Drive
McKinney, Texas 75071

To: Melissa Spriegel
Subject: FW: Zoning 16-341Z Lake Forest Townhomes

Sent: Friday, January 6, 2017 5:33 PM
To: Contact-Planning <Contact-Planning@mckinneytexas.org>
Subject: Zoning 16-341Z Lake Forest Townhomes

To Whomever It may Concern,

My name is Kate Mize. I am a homeowner in CreekView Estates located Northeast of the proposed "Lake Forest Townhome" project. I am writing in opposition to this proposal as I fear the construction of this project affects a few areas of concern.

1. I believe that this project will require taking more than the recommended percentage of viable trees as set forth by the Tree Preservation zoning ordinance. This was an issue earlier this year when this proposal was brought to the Zoning Board previously.
2. The area is located within a 100 year flood plain. I fear that any changes to the landscape in that area may affect the water flow for our community, located directly east of the proposed construction.
3. Within the last 2 years, our community has experienced various levels of flooding from Wilson creek located just West of the McKinney trail system and our pond/community. I have concerns that any changes to the creek flow will directly affect our location and may generate more flooding in the future, affecting homes instead of just landscape.

My hope is that you take these concerns into consideration during the decision making process for this proposal.

Thank you for your time and consideration.

Kate Mize
Former HOA president, Creekview Estates HOA

Sent: Tuesday, January 3, 2017 5:18 PM
To: Contact-Planning
Subject: Zoning 16-341Z Lake Forest Townhomes

Ms. Wright,

On behalf of the Creekview Owners Association, we strongly ask you deny the request in Zoning for the project and any future consideration of development of this property.

The association represents over 200 members that were against the last development and this current one also.

Please let me know if you have any further questions.

Sincerely,

--
Harry J. Hickey

VP
Creekview Owners Association









DOGS MUST BE ON LEASH
AT ALL TIMES

DOG OWNERS MUST CLEAN
UP AFTER THEIR PETS

ord. #2009-19-070-10-609













**DOG WASTE
STATION**

**PLEASE CLEAN UP
AFTER YOUR DOG**

 
**please clean up
after your dog**
  
dog waste bags
RECYCLED 100%











