



December 12, 2022

City of McKinney  
Planning Department  
221 N. Tennessee St.  
McKinney, Texas 75070

RE: 1544 County Road 362 - One Phase Single Family Subdivision – Submittal: Preliminary Plat  
+/- 12.456 Acres  
City of McKinney ETJ

Dear Planning Department,

On behalf of Small Community Build, Thomas Caliber Engineering (TCE) respectfully submits the attached request for the City of McKinney's review for the Preliminary Plat. The subject property is approximately 12.456 acres located on the southeast corner of Miller Road (County Road 339) and County Road 362.

The proposed development has eight (8) single family minimum 1.0-acre lots and one (1) lot as a proposed amenity and detention area (common area). The lots will be served by septic systems for sanitary sewer and North Collin Special Utility District for water. The owner is also requesting to waive the 20-ft HOA Common Area adjacent to arterial roadways (Miller Road and County Road 362).

Specific Variance Requests include:

1. Waive 20-ft HOA Common Areas adjacent to Arterial roadways. (Please see Variance Letter attached to this submittal package) Owner proposes to address the 20-ft common areas in the Developers Agreement to ensure no structures are constructed, however the proposed area would be included in the residential lots. Landscaping would be provided within the lots acceptable to the City of McKinney.

The following is a write up (in **bold italicized** font) from the owners' attorney, Mr. Arthur 'Art' Anderson, Shareholder of Winstead PC, concerning the Section 142-8 Variance Request:

***The applicant requests a variance or waiver to the City's buffering requirement next to Miller Road and County Road 362 pursuant to Section 142-106 of the City's subdivision regulations. According to Section 142-8 of the subdivision regulations the applicant must show "that there are special circumstances or conditions affecting the property in question, or that enforcement of the provisions of this chapter will deprive the applicant of a substantial property right, and that such suspension, if granted, will not be materially detrimental to the public welfare or injurious to other property or property rights in the vicinity."***

**SPECIAL CIRCUMSTANCES**

***There are significant adverse impacts to the property and the applicants due to the buffer requirement. If the buffer area cannot be included within the residential lots then the lot count will be reduced by one or two lots. In a 9 lot "friends and family" subdivision this reduction constitutes significant damage.***

***In addition this will be a county road and not a city street. It is my understanding that the county does not have a requirement to install a 20' landscape buffer. Further the county does not want a 20' landscape buffer.***


***Finally, the 20' buffer requirement is an unlawful exaction. It does not provide any benefit to the developer and instead is a substantial detriment. Please process this objection as a proportionality appeal under § 212.904 of the Texas Local Government Code.***

**NO HARM TO THE PUBLIC WELFARE**

***The City's intent in requiring those buffers is to "create an aesthetically pleasing corridor" which is not a significant public welfare issue and "reducing noise and glare in neighborhoods." That property is not located within the corporate limits. These are county roads and Collin County does not require buffers. The homeowners in this development have all been identified, and they do not have a concern regarding noise and glare from the adjoining streets. Finally, there is sufficient parkway outside of the paving on each street to address any safety issues.***

We respectfully request consideration by the City Council. Please do not hesitate to call TCE with any additional concerns. My cell number is (214) 679-9801.

Sincerely,  
Thomas Caliber Engineering, LLC  
Texas Board of Professional Engineers Firm Registration #11671



Troy O. Thomas, P.E.  
Principal

Enclosure

Cc: Ramana Kumar, Small Community Build, LLC  
Magesh Tarala, Small Community Build, LLC  
Arthur Anderson, Winstead PC