

TREE BOARD

MARCH 22, 2016

The Planning and Zoning Commission of the City of McKinney, Texas met under its authority as the City of McKinney Tree Board per Ordinance # 2001-02-013 in the Council Chambers of the Municipal Building on Tuesday, March 22, 2016 at 5:00 p.m.

City Council Member Present: Mayor Pro Tem Travis Ussery

Commission Members Present: Chairman Bill Cox, Vice-Chairman Eric Zepp, Janet Cobbel, Deanna Kuykendall, Cameron McCall, Brian Mantzey, Pamela Smith, and Mark McReynolds - Alternate

Staff Present: Director of Development Services Michael Quint, Director of Planning Brian Lockley; Director of Engineering Mark Hines, Planning Managers Matt Robinson, Jennifer Arnold, and Samantha Pickett; Planners Eleana Galicia and Aaron Bloxham; Landscape Architect Emily Braht; and Administrative Assistant Terri Ramey

There were approximately 65 guests present.

Chairman Cox called the Tree Board meeting to order at 5:00 p.m. after determining a quorum was present.

Chairman Cox explained the format and procedures of the meeting, as well as the role of the Commission. He explained that the item on the agenda would be heard by the Tree Board and their recommendation would be forwarded on to City Council. Chairman Cox stated that guests would need to limit their remarks to three minutes and speak only once. Chairman Cox explained that there is a timer located on the podium, and when one minute of the speaker's time is remaining the light will switch to yellow, and when the time is up the light will change to red. He asked that everyone treat others with respect, be concise in all comments, and avoid over talking the issues.

Chairman Cox continued the meeting with the Regular Agenda Item and Public Hearing on the agenda.

16-064M Conduct a Public Hearing to Consider/Discuss/Act on a Waiver from Section 146-136 to Reduce the Percentage of Quality Trees that must be Preserved in the 100-Year Fully Developed Floodplain to a Percentage Less than the Current Requirement that 70% of Such Trees be Preserved, Located on the East Side of Lake Forest Drive and Approximately 3,300 Feet North of Virginia Parkway

Ms. Emily Braht, Landscape Architect for the City of McKinney, explained the proposed variance to reduce the percentage of quality trees that must be preserved in the 100-year fully developed floodplain to a percentage less than the current requirement that 70% of such trees be preserved. She stated that additional letters of opposition were distributed prior to this meeting. Ms. Braht stated that Staff recommends denial of the proposed variance due to lack of conformance with Section 146-136 (Tree Preservation) of the Zoning Ordinance. She stated that the applicant was requesting to only maintain 24% of the quality trees within the floodplain on this property, which would eliminate 76% of the quality trees in this area. Ms. Braht explained that this section of the Ordinance originated with a committee of developers and residents over a ten month period that met every week. She stated that the Ordinance was adopted in 2006 after residential and developer feedback with the specific intent to prohibit clear-cutting, protect and increase the value of residential and commercial properties, maintain and enhance a positive image of the City, and protect healthy, quality trees and protect the ecological, environmental, and aesthetic qualities of the City. Ms. Braht stated that was the first variance request to this section of the Ordinance since its adoption. She stated that the site was inundated with mature quality trees within the Wilson Creek corridor with a total of 677 trees of which only 24 trees are considered non-quality trees. Ms. Braht stated that many of these trees were mature pecan trees, planted in 1973. She stated that while the pecan trees were planted as opposed to being forested naturally, the trees were never intended to be for sale, and do not qualify as a tree nursery. Ms. Braht stated that the applicant proposed forty residential lots on the property. She stated that there were 605 quality trees within the floodplain on the subject property with 149 trees were to remain, including four specimen trees of 42 inches or greater in diameter with the total number of quality trees to be removed within the floodplain at 456 quality trees, and the total removal of trees on the subject property at 504 quality trees. Ms. Braht stated that since removal of over 30 percent was not allowed within the Ordinance, there was no mitigation for these trees mentioned within the Ordinance. She stated that the applicant had stated their intent to mitigate this tree removal by providing two canopy trees per lot; however, this was a requirement of the Zoning Ordinance for all single family residential developments, and had to be provided regardless of the tree

preservation status, and was not considered mitigation for the removal of quality trees within the floodplain. Ms. Braht stated that while Staff did recommend approval of the rezoning request for this property, at the time, the applicant had not completed any engineering studies, and it was noted in the Staff report that Staff had concerns regarding the ability of the site to develop given the extensive floodplain and quality trees within the floodplain. She stated that Staff was of the opinion that the removal of such a large number of quality trees was in conflict with the Ordinance and would not only set a precedent for future developments to remove large quantities of protected trees, but would also have negative impacts on the floodplains and natural areas of the City. Ms. Braht stated that it was also in conflict with the City's Hike and Bike Trail system and future City park land. She stated that the 2009 Parks, Recreation and Open Space Master Plan states that one of the most visible natural features in McKinney is the floodplain environment that surrounds Wilson Creek and other creeks and drainage ways across the City. Ms. Braht stated it was primarily these areas that made McKinney Unique by Nature. She stated that through the public input process, a very strong level of support was exhibited for protecting and preserving open space within the floodplain. Ms. Braht stated that preserving environmentally sensitive areas such as natural creek corridors ranks as the most important development strategy in the telephone survey that was conducted. She stated that one of the issues that arose multiple times through the public input process was the importance of better balancing the growth of urban development with the preservation of open space to keep McKinney "green", both literally and figuratively. Ms. Braht stated that one of the draft guiding principles of the ONE McKinney 2040 Policy Direction states that McKinney's trees, open spaces, and natural areas are nurtured, so they contribute to the daily experience of residents and employees throughout McKinney. She stated that the proposed variance was in conflict with the Ordinance, Parks Master Plan, and City's Comprehensive Plan. Ms. Braht stated Staff recommends denial of the variance request due to only 24 percent of trees being preserved.

Mr. Adam Buczek, Skorburg Company, 8214 Westchester Dr., Dallas, TX, stated that they bring high-quality development. He stated that they appreciate the value that quality trees provide. Mr. Buczek stated that this was not a clear cut situation and did

not feel this request would set a precedent. He stated that Ordinance cannot encapsulate every circumstance and every specific piece of property. Mr. Buczek stated that there was a process in place to request a variance through the Tree Board and City Council. He gave a presentation that showed similar projects by the Skorburg Company; the subject property location and current zoning; proposed preliminary-final plat; discussed the waiver request and factors to consider; Tree Preservation Plan and Tree Survey; on-site pecan trees; and floodplain reclamation. Mr. Buczek stated that the landowner approached the City's Parks Department to offer to sell the property to the City; however, they wanted nothing to do with it. He stated that the landowner had been trying to sell the property to multiple parties. Mr. Buczek stated that they requested to have the property rezoned for future development, which was approved by City Council in December 2015. He explained that the rezoning request and variance request were two separate issues. Mr. Buczek stated that they were not trying to change the Ordinance or set a precedent with this variance request. He stated that the landowner felt trapped. Mr. Buczek stated that they were trying to save as many trees as possible on the property. He stated that the property was approximately 25.6 gross acres and currently zoned "SF 5" – Single Family Residential District. Mr. Buczek stated that their proposed project complies with all "SF 5" – Single Family Residential District standards. He showed a proposed preliminary-final plat for the proposed development that showed 40 single-family lots that were typically 60' x 120' or 7,200 square feet, and the proposed open space on the property. Mr. Buczek stated that if the variance was approved then they would submit the proposed preliminary-final plat to the City. He stated that there were factors that the Tree Board needed to consider when deciding whether or not to grant the requested variance. Mr. Buczek stated that they were 1) the literal enforcement could not be accomplished, 2) the extent to which the application met other standards of this section, 3) the positive and negative impact of the proposed project on surrounding properties, and 4) the extent to which the waiver would be mitigated by other proposed or existing landscaping. He stated that approximately 90% of the property was located in the 100-year floodplain. Mr. Buczek stated that the church tried to sell the property to the City of McKinney to be used as a park; however, the City was not interested in purchasing the property. He stated that afterwards the church had been trying to sell the

property to maximize value. Mr. Buczek stated that they were proposing to purchase the property and build high-quality \$500,000 price point residential homes on the property. He stated that they understood when requesting the property to be rezoned that it would be impossible to develop the property unless the proposed waiver was granted. Mr. Buczek stated that they were complying with all other elements of the Tree Ordinance. He stated that the requested a waiver was requesting to reduce the number of trees saved in the floodplain area from 70% down to 24% to allow the property to be developed per the proposed preliminary-final plat. Mr. Buczek stated that they were saving 28% of the quality inches. He stated that the all of the specimen and naturally occurring trees located on the north side of the property in the green area shown on the proposed preliminary-final plat were being preserved. Mr. Buczek stated that the largest trees on the property are along that area. He stated that the proposed development would benefit the City by increasing the ad valorem tax base and provide access to the adjacent property to the east that was currently landlocked. Mr. Buczek stated that property owner had submitted a letter of support for this development. He stated that property owner had also rezoned their property to the same zoning as this property at the same time. Mr. Buczek stated that they would comply with the tree replacement requirement as required by the Ordinance and comply with the existing Ordinance that required a minimum of two 4" caliber trees in the front yards of residential homes. He stated that they had a tree survey completed on the property and submitted it to the City of McKinney. Mr. Buczek pointed out the pecan trees on the tree survey included in the Staff report that were planted by the previous owner in 1973 on the property. He stated that the previous owner wanted at harvesting pecans from the trees; however, gave up due to poor soil conditions. Mr. Buczek stated that they asked a tree arborist what they should expect from a pecan tree that was planted about 40 years ago to be like and they said double the size of these trees. He stated that there was a rock layer less than 15' below the ground; therefore, the pecan trees could never expect to reach their full potential, making them not harvestable. Mr. Buczek stated that the previous property owner gave up maintaining them a long time ago. He stated that without the impact of the planted pecan trees they would not be needing to request the variance. Mr. Buczek stated that a full flood study had been completed on the property that had been submitted

to City Staff on March 16, 2016. He stated that they were trying to preserve the trees along Wilson Creek. Mr. Buczek pointed out the proposed detention area on property. He stated that they had analyzed to minimize dirt disturbance. Mr. Buczek offered to answer questions.

Commission Member Smith asked Mr. Buczek if Cumberland Crossing in Allen, TX was surrounded by raw land prior to being developed. Mr. Buczek said yes and that the City of Allen owned the adjacent park. He offered to deed the proposed green space by Wilson Creek to the City of McKinney.

Commission Member McCall asked if any of the applicant's previous projects were located in a 100-year floodplain. Mr. Buczek said yes. Commission Member McCall asked if they elevated the development area of the property as they were proposing to do here. Mr. Buczek said yes and gave examples of Cumberland Crossing in Allen, TX.

Vice-Chairman Zepp asked that if the applicant did not excavate the dirt on the property to raise the development section of the property, then how much dirt would need to be brought in and how much would it cost. Mr. Buczek stated that they would need to bring in approximate 75,000 cubic yards of dirt. He stated that it would not be feasible to import that much dirt to the property and still be able to develop the property as proposed.

Vice-Chairman Zepp asked how long the church had owned the property. Mr. Buczek said 2004.

Commission Member Mantzey asked if Staff explained the possible difficulties when they first came to the City to discuss developing the property. Mr. Buczek said yes. He explained that they had a pre-development meeting with various City departments to discuss to proposed development and any issues that might arise. Mr. Buczek stated that they knew going in that it would be a detailed process. He stated that they were not given any guarantees and that they were taking a risk. Mr. Buczek stated that they believe that this is the right use for the property and would be great for the community. He stated that the property owners had tried to sell the property to other developers prior without success. Mr. Buczek stated that they had the support of the adjacent property owners to the south, east, and west. He stated that the park property

to the north belonged to the City of McKinney. Mr. Buczek stated that they were willing to give the open space portion of the property to the City of McKinney at no cost. He stated that they love trees; however, 90% of the property being located in the 100-year floodplain causes constraints and topographic challenges. Mr. Buczek felt that they had done a thorough job under the circumstances.

Vice-Chairman Zepp wanted to verify that the property to the east was not going to be part of this residential development. Mr. Buczek stated that the property owner to the east asked if they were interested in purchasing that property to develop; however, the asking price was too high for them to consider it. He stated that the property owner to the east would like to develop the property; however, he did not know what the plans were for it. Mr. Buczek stated that they would be a good neighbor to that property by providing utilities and access.

Chairman Cox opened the public hearing and called for comments.

Mr. Gerald Heisey, 4904 Carolina Cir., McKinney, TX, spoke in opposition to the request. He stated that he represented the 95 homeowners in the Virginia Woods subdivision located to the south of this property. Mr. Heisey briefly discussed the disappointment in seeing the trees that were removed when McKinney Boyd High School was built. He stated that this property has green trees on it that are over 40 years old that lend a certain beauty to the area. Mr. Heisey felt that if this request was approved that it would be setting a precedent that would be cited in future cases similar to this one. He stated that the trees being proposed to be planted would be nice; however, they were not 40 years old like what was being proposed to be removed. Mr. Heisey did not feel that the current property owner was trapped in selling this property. He stated that when the church purchased the property they only desired the property where the church was built; however, the property owner at the time was not willing to subdivide the property when he sold the land to them. Mr. Heisey stated that the church purchased the land knowing this piece of the property was located in the floodplain and would be difficult to develop. He requested that the proposed request be recommended for denial.

Mr. Kevin Standfield, 4405 Moonlight Dr. McKinney, TX, stated that he lives in a development directly behind this property. He expressed flooding concerns in their subdivision with regards to the proposed changes to this property. Mr. Standfield stated

that he had photographs showing where the water in the creek overflowed the banks due to heavy rains. He stated that it sometimes takes about two weeks for the water to go down in the park after it floods in that area. Mr. Standfield stated that currently that was an outlet for the water to go out that side of the creek; however, he questioned where the water would go if they build up that side of the property. He stated that there was a petition with over 330 signatures from the property owners to the east against the removal of the trees and the proposed development of this property. Mr. Standfield stated that the trees on this property was one of the reasons he purchased his property. He stated that it was a beautiful area and various animals made their homes on the property. Mr. Standfield stated that they enjoy looking out to seeing and hearing nature and that it was close to living in the county as they could find within the City. He stated that there were trees currently surrounding their neighborhood that they all loved and did not want to see removed. Mr. Standfield requested denial of the request.

Mr. Steven Hammond, 2700 Cheverny Dr., McKinney, TX, stated that he was a leader at the church that owns the property. He stated that he had mixed emotions about the property. Mr. Hammond stated that the church purchased the property approximately 11 years ago and that the property was a liability for the church. He recognized the surrounding property owners concerns about the trees on the property. Mr. Hammond questioned how to accommodate the growth, surrounding property owners concerns, and the church's needs to make it a win-win for everyone. He stated that he also loved trees; however, questioned where the balance was between saving trees and needing to clear land to build homes to address McKinney's growth. Mr. Hammond suggested that the proposed request be looked at some more to try to address some of the tree concerns.

Mr. John Greer, 2705 Dog Leg Trl., McKinney, TX, stated that he was representing the McKinney Greens neighborhood. He stated that they had a golf course and a lot of green trees. Mr. Greer stated that he loved McKinney for the fact that it is green, unlike a lot of other surrounding cities that had a lot of neighborhoods together. He felt that approving this request to remove the pecan trees would be setting a bad precedent. Mr. Greer stated that trees provide oxygen. He stated that removing trees on a property for income to the City was not a good trade-off.

Ms. Alison Jacobs, 1413 Clearwater Dr., McKinney, TX, stated that she moved to McKinney in 2007 and lives in Creekview Estates just north of this property. She stated that she and her husband looked at the surrounding zoning prior to purchasing their property. She stated that she was not opposed to development. Ms. Jacobs stated that the surrounding greenbelt was one of the reasons that they purchased their property. She stated that they use the trails and love the beauty it brings. Ms. Jacobs stated that she would hate to see the Ordinance change. She briefly discussed some of the wildlife that lives in the area. Ms. Jacobs stated that she appreciated Mr. Hammond wanting to find a middle ground. She stated that she was not opposed to other options for the property. Ms. Jacobs felt approving this request could set a precedent for removing trees.

Mr. Harry Hickey, 1600 Eastbrook Dr., McKinney, TX, stated that he was a member of the McKinney Housing and Finance Corporation Board, the Vice-President of the Creekview Estates Owners Association, and a former Garland City Council member. He requested that the Tree Board follow Staff's recommendation. Mr. Hickey expressed concerns about where the water would go with the proposed excavation on the subject property. He stated that there had been a high water rescue in the area due to flooding and rapid water flow. Mr. Hickey stated that the applicant had not approached the Creekview Estates Owners Association to discuss the proposed development on the property. He felt that approving the proposed request would be setting a precedent. Mr. Hickey stated that the subject property was in a floodplain and would cost the City in the long run.

Ms. Jill Alcantara, 2837 Dog Leg Trl., McKinney, TX, stated that they moved to McKinney for a chance to purchase a home with a view of rolling hills and a forest. She thought the view would be protected by the Wilson Creek floodplain forever. She stated that just upstream from them was a developer that wants to clear cut the property in the floodplain and excavate virtually the entire site. Ms. Alcantara stated that this would create a risk of erosion and flooding downstream. She stated that sanctioned by the City, these variances will open the floodgates to more development. Ms. Alcantara stated that the cities of Frisco, Allen, and Plano cannot offer these resources to their residents. She questioned if 40 additional houses were needed in this area that we

would allow 25 acres to be remade in the flat barren image of Frisco. Ms. Alcantara did not feel that we were not required to give access through a floodplain to another floodplain property just to build nine more houses. She did not feel that the City should forgo thousands of dollars due to the tree mitigation fund. Ms. Alcantara did not feel that developing this floodplain area would be a benefit to the City. She stated that the City was not obligated to create a profit for an owner of an unbuildable piece of property. She stated that when a resident sees a rezoning sign posted on a property that she did not see any reason why they should be concerned that a violation of a City Ordinance was being considered. Ms. Alcantara stated that citizens have a right to assume each and every Ordinance will be applied each and every time. She stated that they should not be required to defensively search the agenda items on Friday nights to check up on their City. Ms. Alcantara stated that the citizens of this City did not want the 100-year floodplain developed or hundreds of desirable trees removed. She stated that the tax payers of this City have a just expectation that all fines and fees will be collected. Ms. Alcantara stated that McKinney residents want and expect that every single Ordinance will be enforced by those hired, appointed, and elected to do so. She stated that we are not prepared to say McKinney was Unique by Nature.

Mr. Robert Nicholson, 4708 Sunlight Ter., McKinney, TX, stated that he lives in Creekview Estates and immediate north of the subject property. He was in opposition to this request. Mr. Nicholson stated that when he purchased his property the name of the street was Low Land Dr. He stated that they built a home in McKinney because it is a beautiful city. Mr. Nicholson stated that you cannot put a price on nature and the beautiful setting that they have in their addition. He stated that it was an honor that McKinney was recognized by Money Magazine in 2014. Mr. Nicholson stated that McKinney being a green city was very significant and what draws people to it. He stated that he did not understand why this request was even being considered. Mr. Nicholson stated that the high water rescue mentioned earlier was right in front of house. He stated that it was terrifying. Mr. Nicholson questioned where the water would go if the proposed development was built. He asked what a reasonable expectation of anybody purchasing this property who then says they are stuck and do not know what to do with it. Mr. Nicholson stated that you take on certain risks and benefits anytime you purchase

something like that. He stated that they love their property, the surrounding nature, walking trails in the area, and their surrounding neighbors. He stated that he had worked in McKinney for 33 years, lived here about four years, and was about to retire. Mr. Nicholson stated that he could have chosen just about anywhere to retire and he choose McKinney. He asked that the request be denied.

Ms. Ivelisse Cook, 1100 Eastbrook Dr., McKinney, TX, stated that every time it rains a lot they have a flood. She stated that they have spoken with Staff from the City Engineering Department about trying to keep the water from their property. Ms. Cook stated that Staff told her there was nothing that they could do. She felt that the proposed request and development would make the flooding issue worse.

Ms. Kate Mize, 4601 Moonlight Dr., McKinney, TX, stated that she was the President of the Creekview Estates Owners Association. She stated that they had yet to be approached by the developer to discuss the proposed plans for the property. Ms. Mize also had flooding concerns with where the water would go if the proposed request was granted. She stated that when the creek and pond in their subdivision floods the flowing water sounds like rapids from her front door of her home. Ms. Mize stated that she was in extreme opposition to the proposed request. She stated that she had a petition with 330 signatures in opposition to the proposed request. Ms. Mize asked how she could officially submit the petition to the City.

Mr. Gary Degard, 1200 Eastbrook Dr., McKinney, TX, asked how many feet the green buffer area had. Chairman Cox stated that they would ask the applicant to answer his question once the Public Hearing was closed. Mr. Degard suggested that the applicant dig out less dirt and bring some in.

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

- Ms. Katie Raboy, 4513 Moonlight Dr., McKinney, TX
- Mr. Jason Raboy, 4513 Moonlight Dr., McKinney, TX
- Mr. Steven Estes, 1312 Creek Crest Dr., McKinney, TX
- Mr. J.L. Alcantara, 2837 Dog Leg Trl., McKinney, TX
- Ms. Ronda Steffen, 2833 Dog Leg Trl., McKinney, TX
- Ms. Donna Lumberson, 2829 Dog Leg Trl., McKinney, TX

- Ms. Donna Degard, 1200 Eastbrook Dr., McKinney, TX
- Ms. Caryn Beelen, 2825 Dog Leg Trl., McKinney, TX
- Ms. Phyllis Greer, 2705 Dog Leg Trl., McKinney, TX
- Mr. Brad Williams, 4705 Forest Cove Dr., McKinney, TX
- Ms. Sheila Rosenberg, 4800 Sunlight Ter., McKinney, TX
- Ms. Amy Durham, 2621 Dog Leg Trl., McKinney, TX
- Mr. Mitch Mendrygal, 2713 Dog Leg Trl., McKinney, TX
- Ms. Shirley Cox, 4704 Sunlight Ter., McKinney, TX

The following individual turned in a speaker's card in support of the proposed rezoning request; however, did not wish to speak during the meeting:

- Mr. Noah Flabiano, 8214 Westchester, Dallas, TX

On a motion by Vice-Chairman Zepp, seconded by Commission Member Cobbel, the Commission voted unanimously to close the public hearing, with a vote of 7-0-0.

Commission Member McCall asked Staff how much development occurs in the 100-year floodplain. Ms. Braht stated that applicants do come in to develop in the floodplain areas in McKinney; however, they work within the limits of City's Ordinances. She stated that this was the first time that someone had asked for variances that needed to come before the Tree Board. Commission Member McCall asked about how many came in for a site this size. Ms. Braht stated that there were not many. Commission Member McCall asked if this was a unique request. Ms. Braht said yes.

Vice-Chairman Zepp asked how Staff determines if a property is a nursery or not. Ms. Braht explained that a nursery had to have a license to sell trees on the property. She stated that the pecan trees on the subject property were not there to be sold. Ms. Braht stated that the previous owner had wanted to sell the pecans from the trees.

Vice-Chairman Zepp asked if it made a difference if the trees on a property were free growing or planted as an orchard. Mr. Braht said no.

Commission Member Cobbel asked if the Tree Preservation Ordinance was put into place in 2006. Mr. Braht stated that this portion of the Ordinance was adopted in 2006.

Commission Member Cobbel asked if the church purchased the property in 2004. Mr. Braht said yes.

Chairman Cox stated that several individuals had asked where the water would go if the proposed development occurs. Mr. Buczek stated that they had researched various options to develop the property since October 2015. He stated that they had done all of the engineering and technical work in good faith. Mr. Buczek stated that they had done a complete flood study on the property and had submitted to City Staff. He stated that the calculations were finite. Mr. Buczek stated that the flow, volume, and concentration of the water will be the same of a post-development basis and it currently is on the property. He stated that he could not speak regarding Creekview Estates in terms of their development plans. Mr. Buczek stated that the flood study of the subject property show the current conditions of this property. He stated that the pink area labeled floodplain reclamation was the proposed excavation area to detain the water. Mr. Buczek state the proposed retention area would hold the water then release it near the creek. He stated that it would not have any additional impact on any downstream, upstream, or across stream property owners. Mr. Buczek gave the example of Sorrellwood Terrace in McKinney being a similar development in a floodplain. He stated that the church purchased the property in 2004 prior to the Ordinance being adopted. Mr. Buczek stated that should factor in the consideration on this request. He stated that they had minimized the surface disturbance area by preserving all of the green on the north side of the property. Mr. Buczek stated that the green area on the exhibit had the largest specimen trees and they were being preserved. He stated that the proposed homes would be a distance of two to three football fields from the creek. Mr. Buczek stated that they were not disturbing the green space beside the creek trail.

Vice-Chairman Zepp asked if any trees would be planted in the excavation area for reclamation. Mr. Buczek stated that they were going to have to replant some trees on the property as dictated by the City's Landscape Architect and some might be able to be planted in this area.

Commission Member Cobbel asked if the pink area shown as the excavation area for reclamation on the display would look more like a pond on the property. Mr. Buczek said yes. He stated that we would not want to take up that area with planting too many trees that might affect the surface area needed for the water detention on the property. Mr. Buczek stated that they had shrunk down that area as much as possible on the

proposed plan. He stated that they could plant trees in the green area without having an impact on the flood study. Mr. Buczek stated that they could also put a tree buffer along Lake Forest, if that was where the City would prefer them to plant the additional trees.

Commission Member Smith asked how much water the proposed detention pond would hold. Mr. Buczek stated that it was about 75,000 cubic yards. He stated that was about how much dirt that they were having to excavate there.

Commission Member Smith asked if the applicant had discussed the rate of flow for the drainage with City Staff. Mr. Buczek stated that the Flood Study shows the rate of flow. He stated that his engineers and City's engineers had been working together on the project. Mr. Buczek stated that the Flood Study had been submitted and accepted by City Staff as complete.

Chairman Cox asked for Staff to address the water retention and runoff concerns. Mr. Mark Hines, Director of Engineering for the City of McKinney, stated that the City's requirement was that the 100-year flood base elevation could not be increased. He stated that the Flood Study for the subject property that was submitted to the City showed that flooding would not be worse if the proposed development was built. Commission Member Cobbel wanted to clarify that the water had somewhere to go. Mr. Hines said yes.

Chairman Cox asked to clarify how the Tree Board's recommendation would affect how City Council would need to vote on the request depending if they recommended approval or denial of the item. Ms. Samantha Pickett, Planning Manager for the City of McKinney, stated that City Council would not need a supermajority vote to approve the request, if the Tree Board recommended denial of the request.

Commission Member Cobbel wanted to clarify that that this request was not changing the Ordinance in any way and that they were only considering a variance on the subject property. Ms. Pickett stated that was correct.

Commission Member Smith stated that she appreciated the attendance at the meeting and the applicant's work on this request. She stated that looking into the factors to be considered and given the negative impact outlined by Staff, then she supports Staff's recommendation of denial on the request.

Commission Member Mantzey stated that he did not believe that we were in need of 40 lots in such a way that we need to take and have this level of excavation within a floodplain. He stated that he goes by that area quite often and it is a beautiful area. Commission Member Mantzey stated that there was no way that he could support override the Ordinance with a variance.

Commission Member McCall stated that he agreed. He stated that the 100-year floodplain was a huge red flag. Commission Member McCall questioned who was to say if there could be future damage to the surrounding structures. He stated that floods can come that cannot be controlled.

Commission Member Kuykendall stated that the City has Ordinances for a reason and purpose to fulfill a vision. She stated that there was a variance process. Commission Member Kuykendall stated that when she reviews variance requests that she wants it to still fulfill the intent of what the City is trying to accomplish and what is in the books. She stated that this particular request was in direct contradiction to what the City is trying to accomplish. Commission Member Kuykendall stated that she was not in favor of this request.

Vice-Chairman Zepp stated that he understood that the church wants to get rid of the liability of that property. He stated that his development company had owned land that backed up to Wilson Creek that they offered to give to the City. Vice-Chairman Zepp stated that the City did not want it for the added liability. He did not believe that the church would have any luck trying to sell this property to the City. Vice-Chairman Zepp stated that not everything can be grandfathered in. He stated that the subject property had a lot of trees located in the floodplain when they purchased the property. Vice-Chairman Zepp stated that since the trees on the property have to follow the Tree Preservation Ordinance, granting this request would set a bad precedent. He stated that he would be in favor of denying the request.

Commission Member Cobbel stated that she felt for both sides on this request. She stated that everybody likes to see trees and that McKinney is Unique by Nature. Commission Member Cobbel stated that the property owner also has a right to use the property. She stated that it would be a hard decision.

Chairman Cox stated that the site from day one had been a challenge. He stated that the City had Ordinances in place, with some being gray and some that are not. Chairman Cox stated that the Ordinance in question was not gray. He stated that he understood property rights and rights that you have as an owner. Chairman Cox stated that this request was not even close to meeting the spirit of the Ordinance. He stated that he struggled supporting the applicant's request.

On a motion by Vice-Chairman Zepp, seconded by Commission Member McCall, the Tree Board voted unanimously to recommended denial of the variance request as recommended by Staff, with a vote of 7-0-0.

Chairman Cox stated that the recommendation of the Tree Board will be forwarded to the City Council meeting of April 5, 2015.

END OF THE REGULAR AGENDA ITEMS AND PUBLIC HEARINGS

On a motion by Vice-Chairman Zepp, seconded by Commission Member Mantzey, the Tree Board voted unanimously to adjourn the meeting at 6:17 p.m., with a vote of 7-0-0.

BILL COX
Chairman