

15-113Z3 Conduct a Public Hearing to Consider/Discuss/Act on a Request to Rezone the Subject Property from "AG" - Agricultural District, "RS 60" - Single Family Residence District, and "PD" - Planned Development District to "PD" - Planned Development District, Generally for Single Family Residential Uses, Located Approximately 250 Feet East of Graves Street and on the South Side of Rockhill Road, and Accompanying Ordinance

Ms. Samantha Pickett, Planner II for the City of McKinney, explained the proposed rezoning request and briefly went over the modifications to the request since the December 8, 2015 Planning and Zoning Commission meeting presentation. She stated that three additional letters of support had been distributed to the Planning and Zoning Commission prior to the meeting. Ms. Pickett stated that Staff recommended approval of the proposed rezoning request and offered to answer questions.

Chairman Cox asked Staff to explain what was being considered for the proposed development at this meeting. Ms. Pickett explained that the zoning on the property was being considered and the requested changes would allow single family residential detached family uses on the property. She stated that it would generally follow the standards listed in the packet for the development regulations. Ms. Pickett stated that they would be following a "SF5" – Single Family Residential District. She stated that they were requesting a smaller front yard setback of 15 feet, an encroachment zone up to three feet, and higher density of 4.5. Ms. Pickett stated that they were now meeting the mean and median lot size requirement of 7,200 square feet.

Mr. Gary Schell, SC&D, Inc., 7033 Coverdale Dr., Plano, TX, explained the proposed rezoning request. He stated that Mr. Robert Sampsell had stated that 75% of the Chapel Hill Subdivision homes were single-story; however, he had failed to mention that they also allowed a guest room, bath, or bonus room on the second floor. Mr. Schell stated that the predominant scale of the Chapel Hill homes would be single-story at the street to achieve a cottage style street view. He displayed multiple photographs of Chapel Hill homes and garages that appeared to be two-story that would be adjoining this property. Mr. Schell stated that the second stories had windows that look down upon the proposed lots. He stated that Chapel Hill had a higher density that what he was requesting. Mr. Schell briefly discussed the current zonings for the three sections of this property. He stated that he wants to build nice luxury homes that will complement and bring value to the neighborhood. Mr. Schell stated that they would

have a main entrance and a secondary entrance to the development. He did not feel that the proposed development would cause any traffic issues on to Yosemite Place. Mr. Schell felt that if Chapel Hill opened the secondary entrance to their development, that it would help ease some their traffic issues. He stated that he made attempts to speak with some of the Chapel Hill residents. Mr. Schell stated that he corresponded with two through e-mail exchanges. He stated that he offered to schedule a group meeting for further discussion with the Chapel Hill residents. Mr. Schell stated that he was told it was not necessary at this time. He stated that several weeks ago he had a meeting with two of the four Lee Street residents. Mr. Schell stated that one of the Lee Street residents that attended the meeting later gave a support letter for the proposed development. He offered to answer questions. There were none.

Chairman Cox opened the public hearing and called for comments.

Mr. Boone Nerren, 320 Beechwood Ln., Coppell, TX, stated that he was a silent partner in the proposed development. He stated that the proposed development would be in line with the City's history and architecture. Mr. Nerren stated that the proposed would bring value to the area and would be a very attractive overall project.

Mr. David Patterson, 705 Chapel Hill Ln., McKinney, TX, stated that they had been residents of McKinney since 1998. He stated that at the December 8, 2015 Planning and Zoning Commission meeting that he raised some issues related to the proposed density and the entire watershed verses the capacity of the 54-inch pipe. Mr. Patterson stated that he thought after the last meeting that they would see some information regarding these issues; however, he had not seen anything. Mr. Patterson stated that the density of Chapel Hill was 3.5 and would be less dense than Vintage Place. He stated that the Chapel Hill entrance off of Steepleview was restricted by plat and could not be opened unless they revised the plat. Mr. Patterson stated that nobody in the Chapel Hill subdivision wants that entrance opened.

Ms. Betty Patterson, 705 Chapel Hill Ln., McKinney, TX, stated that they moved to McKinney when the population was around 35,000 residents. She stated that McKinney had seen growth since then and would continue to grow, which they expected and wanted. Ms. Patterson stated that they want to make sure it is the right type of growth though. She stated that they have an enclave that they want to make sure

remains wonderful. Ms. Patterson stated that they checked on the references and ventures that Mr. Schell stated he had been involved in and were not able to verify them.

Mr. Robert Young, 1400 Steepleview Ln., McKinney, TX, stated that he concurred with Mr. David Patterson's earlier concerns regarding drainage and traffic. He stated that a drain, under the two properties, was recently repaired. Mr. Young stated that he had drainage issues on the back of his property.

Mr. Joseph Glahn, 716 Chapel Hill Ln., McKinney, TX, stated that he had lived at this location for about four and half years. He stated that they moved to this location because he believed it was safe and quite. Mr. Glahn stated that the Planning and Zoning Commission had been provided various documents showing the checkered past of Mr. Schell, his business ventures, and some of his partners. He stated that 93% of the Chapel Hill residents were opposed to rezoning this property. Mr. Glahn requested a recommendation of denial for this rezoning request.

Mr. Alden Harsch, 1512 Steepleview Ln., McKinney, TX, stated that he knew this land would be developed at some point. He stated that he had concerns regarding there being about a six foot difference in elevation between Chapel Hill and this property. Mr. Harsch stated that currently their backyards were private; however, would not be if two-story houses were built behind them. He stated that Mr. Schell offered to build an eight foot fence between the two developments. Mr. Harsch stated that Mr. Schell had also offered to build single-story houses adjacent to Chapel Hill single-story houses and build two-story houses adjacent to Chapel Hill two-story houses. Mr. Harsch stated that he would like to see that be part of the requirements for this development. He expressed concerns if the proposed development was started and then later could not be finished.

Mr. Greg Griffin, 832 Chapel Hill Ln., McKinney, TX, expressed concerns regarding the elevation difference between Chapel Hill and this property, lack of privacy with two-story houses adjacent to Chapel Hill houses, not knowing what could be built on the property, and Mr. Schell's track record.

Mr. Dean Soderstrom, 808 Chapel Hill Ln., McKinney, TX, stated that Mr. Schell offered to build single-story houses abutting Chapel Hill single-story houses. Mr.

Soderstrom wanted to see that as a written requirement. He thought that there was going to be more detailed plans presented at this meeting showing what was going to be built on the property. Mr. Soderstrom stated that he was not for or against the request without knowing more about what was actually going to be built on the property. He stated that he was one of the homeowners chosen to be a contact with Mr. Schell; however, he had not heard from him until Mr. Soderstrom contacted him.

Ms. Maureen Griffin, 832 Chapel Hill Ln., McKinney, TX, stated that copies of her concerns were distributed to the Planning and Zoning Commission prior to the meeting. She stated that Chapel Hill was a great community that was not deed restricted. Ms. Griffin stated that Chapel Hill residents were typically empty nesters and seniors that had a lot of their equity tied to their property. She stated that she was one of the homeowners chosen to be a main contact with Mr. Schell; however, she had not heard from him. Ms. Griffin stated that at the last meeting at Mr. Schell stated that only 8 to 10 surrounding property owners attended the previous meeting held at the church to discuss the project with the surrounding property owners. She stated that the number of residents he said attended the meeting was incorrect. Ms. Griffin stated that they had a better turnout for that meeting at the church than they do for some of their HOA meetings. She stated that they were all vocal at that meeting and expressed privacy concerns regarding two-story houses possibly being built adjacent to Chapel Hill properties. Ms. Griffin stated that meeting did not go well. She stated that Mr. Schell arranged to meet with several of the surrounding property owners at their houses to discuss their concerns with the project. Ms. Griffin stated that she showed her backyard to Mr. Schell and discussed her privacy concerns. She stated that he was not moved at all. Ms. Griffin stated that at the last Planning and Zoning Commission meeting that Mr. Schell was asked to get in touch with the surrounding property owners. She stated that the only contact she had was an e-mail that had a veiled threat that duplexes could be built on the property.

The following resident filled out a speaker card in support to the request and did not wish to speak during the meeting:

- Mr. James Bresnahan, 2805 Piersall Drive, McKinney, TX

The following residents filled out speaker cards in opposition to the request and did not wish to speak during the meeting:

- Ms. Karen Thomas, 700 Chapel Hill Lane, McKinney, TX
- Ms. Martha LaFerney, 1208 Steepleview Lane, McKinney, TX
- Mr. Dennis Valentine, 1500 Steepleview Lane, McKinney, TX
- Ms. Jane Valentine, 1500 Steepleview Lane, McKinney, TX
- Ms. Pamela Young, 1400 Steepleview Lane, McKinney, TX
- Ms. Lori Erickson, 821 Chapel Hill Lane, McKinney, TX
- Mr. Fred Fink, 904 Chapel Hill Lane, McKinney, TX

Chairman Cox called for questions from the Planning and Zoning Commission.

Commission Member Egan asked for clarification on parkland dedication. Ms. Pickett explained that one acre of dedication was required for every 50 units built. She stated that the McKinney Parks Department typically would not take anything less than 8 to 10 acres and they would therefore pay the dedication. Ms. Pickett stated that dedication amount was based on the Collin County Appraisal District's per acre value.

Commission Member Egan asked if parkland dedication would be required on this property. Ms. Pickett explained that the Parks Department would work with the applicant to pay the fee in lieu of dedicating land.

Commission Member Egan asked what could be built on the property under the current zoning without having to come before the Planning and Zoning Commission and City Council for approval. Ms. Pickett stated that there were three parts to the proposed property. She stated that one part was zoned "RS-60" – Single Family Residence District that would allow single family residential unit(s) to be built depending on the size requirements. Ms. Pickett stated that the middle portion of the property was zoned "AG" – Agricultural District which would allow a house, agricultural, and/or farming uses on the property. She stated that the portion of the property to the south is zoned "PD" – Planned Development District with a base zoning of "RD-30" – Duplex Residence District which would allow duplexes to be built depending on the size requirements.

Commission Member Egan had questions regarding tree preservation for the property in regards to the current rezoning request. Ms. Pickett briefly explained that

there would be a 15' tree preservation zone where this property backs up to an established residential development. She stated that if there was a quality tree within this area that it would need to be protected and maintained. Ms. Pickett stated that the area would need to be preserved for another 15' from a quality tree, which could add up to 30' of protected area from the property line.

Commission Member Egan asked if the quality trees on the property had already been marked. Ms. Pickett stated she believed an overall tree survey to mark trees that were 6" or greater had been completed on the property. Commission Member Egan stated that he drove by the property and there were not a lot of trees taped off on the property. He wanted to clarify that those were not the only trees that were going to be preserved. Ms. Pickett stated that was correct and they had only done a tree survey at this point.

Commission Member Egan asked what impact the proposed development would have on the current drainage issues in the area. Ms. Pickett stated that when this property develops that it would have to meet the City's ordinances. She stated that would be reviewed during the platting process.

Chairman Cox asked at what stage of the process should the issue regarding possibly building two-story houses next to single-story houses be considered. Ms. Pickett stated that an amendment to the development regulations could be made before it goes to City Council. She stated that two-story houses are prevalent in McKinney and we typically see two-story houses back up to other two-story houses. Ms. Pickett stated that she had not actually walked the property and could not weight in on the elevation differences. She stated that there were some mother-in-law suites above garages in the Chapel Hill development. Ms. Pickett stated that those would be allowed with the proposed development as well.

Vice-Chairman Zepp asked if an amendment to the development regulations were approved on this property if it would affect any future development on the property. Ms. Pickett said yes, that it would be tied to the land and not the developer.

Commission Member Kuykendall asked if an amendment to the development regulations could be approved at tonight's meeting or if the request should be tabled

and came back to another meeting with the changes. Ms. Pickett stated that it could be added during this meeting.

Alternate Commission Member Mantzey stated that there was some debate on what was considered single-story versus a two-story residence. Commission Member Cobbel stated that it would make it difficult to add a development regulation at this time. Ms. Pickett stated that it would be difficult to decide if the adjacent house was single-story or not. She suggested that it might be better to tie in a certain number or percentage of homes that would have to be built one-story on this property.

Commission Member Egan asked if it would be possible to restrict the building height of the adjacent home so that it was not taller than the other, taking in the difference in elevations. Mr. Brian Lockley, Director of Planning for the City of McKinney, stated that the site had not been engineering yet, so we do not know what the finished grade will be on the property. Commission Member Egan asked if the final grade would be defined during the final platting of the property. Mr. Lockley said yes. Commission Member Egan asked if a requirement could be added now stating the height restriction be determined after the final grade was set. Mr. Lockley stated that it was a possibility; however, he did not recommend it and gave some examples of why he felt it was a bad idea.

Alternate Commission Member Mantzey expressed concerns regarding being too restrictive on what could be built on this property just because the other development had already been built.

Chairman Cox asked if this was an appropriate time to discuss engineering issues on the project. Mr. Lockley stated that the drainage, access, and infrastructure on the property would take place during the platting process. He stated that if the various requirements could not be met during the platting process then the property could not be developed in the requested manner. Mr. Lockley stated that what was before the Commission tonight was the land use for the property.

Commission Member Egan asked at what platting stage it would come before the Planning and Zoning Commission to have discretionary approval. Ms. Pickett stated that plats that come before the Planning and Zoning Commission are non-discretionary. Commission Member Egan wanted to clarify that the Commission would not be able to

address some of the concerns at that point. Mr. Lockley stated that if the plat met all of the City's requirements then the property could be developed in that manner.

Alternate Commission Member Mantzey asked if the Future Land Use Plan (FLUP) showed this property as single-family residential development. Ms. Pickett believed that it showed low- and medium-density single family residential development for the property.

Vice-Chairman Zepp asked if Staff found the rezoning request compatible to the zoning on the adjacent properties. Ms. Pickett said yes.

Commission Member Egan stated that he still had concerns regarding the height requirement. Vice-Chairman Zepp stated that he had issues with that since the grade had been artificially altered and was not the nature grade. Commission Member Egan stated that the grade was that way when they decided to purchase the house.

Commission Member Cobbel stated that there are positives and negatives to purchasing a house next to undeveloped property. She stated that it was good to check with the Future Land Use Plan (FLUP) to see what the possibilities could be on the undeveloped property.

Chairman Cox called for additional comments. Ms. Maureen Griffin, 832 Chapel Hill Ln., McKinney, TX, asked if she could say one more sentence. Chairman Cox explained that the audience was only allowed to speak once on an item.

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

Chairman Cox asked for comments or questions from the Commission Members.

Vice-Chairman Zepp asked Ms. Griffin what her one sentence was that she wanted to say. Ms. Griffin stated that the Chapel Hill residents would go along with the rezoning request if they offered to build single-story homes along the perimeter of their subdivision. She stated that some of the homes that Mr. Schell showed earlier appear to be two-story; however, they were not. Ms. Griffin stated that her home was a one-and-a-half-story that did not have any windows that looked out to the sides or back of the property. She stated that she did not infringe upon anybody's privacy. Ms. Griffin stated that most of the Chapel Hill houses that had a second-story that the second-story

was located on the front of the houses and not the rear. She stated that some of the Chapel Hill houses were single-story that appear to be two-story. Ms. Griffin expressed concerns regarding the applicant building two-story houses next to Chapel Hill properties that have second story living quarters above the rear garages. She stated that Commission Member Smith remarked at the December 8, 2015 Planning and Zoning Commission meeting that it would look like a canyon.

Commission Member Egan read an e-mail from Mr. Gary Schell to Mr. Dean Soderstrom dated January 26, 2016 at 9:34:57 a.m. where Mr. Schell offered to build an 8' wood privacy fence and was willing to build single-story houses when they butt up to Chapel Hill single-story houses; however, Mr. Schell stated that he could not build all single-story houses. Commission Member Egan asked Mr. Schell if that was his statement and was a correct statement. Mr. Schell stated that was a correct statement when he was trying to reach an agreement with the various homeowners. Commission Member Egan asked Mr. Schell if he was opposed to having a requirement of having single-story houses next to single-story houses. Mr. Schell stated that he was willing to build the 8' fence. He stated that he knew that he would build some single-story houses; however, he could not currently say exactly where they would be built. Mr. Schell stated that there were limitations, since it was on one side of the street and that he had to take into consideration the overall design of the development. He stated that he counted six single-story houses that back up to this property. Mr. Schell stated that there is a difference between a single-story and a story-and-a-half house. He stated that the Vintage Place residents would have the same privacy issues with the Chapel Hill second stories looking down on them. Mr. Schell stated that he was trying to reach an agreement with the surrounding property owners. He stated that you could go to just about any residential development in the area and see single-story houses next to two-story houses and there were not any restrictions on where they could be built.

Vice-Chairman Zepp asked Mr. Schell about what type of garages he planned to build in the development. Mr. Schell stated that he planned to build some detached garages in the rear of the properties; however, the majority would be side-entry garages with a backyard. He stated that he was trying to avoid front-entry garages and trying to get away from the "zero lot line" look. Vice-Chairman Zepp asked if Mr. Schell planned

to build a mother-in-law suite above the detached garages. Mr. Schell stated that they would probably be more like offices or art studios due to the small size.

Commission Member Cobbel asked Staff to explain the difference between the Chapel Hill density of 5.1 given by Staff and the 3.4 mentioned by one of the residents earlier during the public hearing. Ms. Pickett stated that the difference was the net versus the gross and that the gross example including the floodplain and the other number did not include it.

Commission Member Egan wanted to clarify that whether or not the Planning and Zoning Commission recommended this rezoning request to City Council that it would require a supermajority vote to be approved. Ms. Pickett stated that a formal petition had met the requirements to require a supermajority vote by City Council to approve this request.

Commission Member Egan asked if the citizens still had an issue with City Council decision if they could appeal City Council's decision to the Board of Adjustment. Mr. Lockley said no, that City Council's decision would be final. Commission Member Egan wanted to clarify that City Council's decision was not subject to the review by the Board of Adjustment. Mr. Lockley said not on a land use change.

Commission Member Smith stated that she appreciated Vice-Chairman Zepp's comments regarding the properties' grades. She asked Staff to address the development stages and revisit when the Engineering Department would be reviewing the drainage for the property. Mr. Lockley stated that following the land use entitlement stage of this development, the applicant would then need to subdivide or plat the property. He stated that during the platting process there would be various engineering studies completed on the property and that they would have to meet the City's requirements before they could be approved. Mr. Lockley stated that if the applicant did not meet these requirements, then the plat could not be approved.

Commission Member Kuykendall stated that she was looking at what the current zoning allowed and what the rezoning request was proposing to build on the property. She asked to clarify what could currently be built on the property. Ms. Pickett stated that single-family residential uses were permitted on the top section of the property, agricultural uses and one single family house in the middle section of the property, and

duplex units on the bottom section of the property. She stated that the applicant would need to subdivide the bottom section of the property to build more than one duplex unit. Mr. Lockley stated that the current allowed uses would only require a building permit be submitted to the Building Inspections Department to construct.

Commission Member Smith thanked the Chapel Hill residents for bringing their concerns to light. She stated that she drove through the Chapel Hill community and she felt it was lovely. Commission Member Smith appreciated that the applicant had gone back to work with Staff to reduce the density and try to address some of the issues that had been previously raised. She stated that the surrounding property owners concerns would be addressed at the appropriate stage.

Commission Member Smith made a motion to approve the request as recommended by Staff. Commission Member Cobbel seconded the motion. Commission Member Egan stated that Texas Local Government Code Section 211.007 give the Planning and Zoning Commission full discretionary authority on rezoning properties. He stated that it allowed the Commission to add or change whatever they want. Commission Member Egan stated that he did not see why we could not add an additional requirement to match single-story to single-story. He requested that an amendment be added to the "PD" – Planned Development District to include that requirement. Commission Member Egan stated that if the Commission decided not to add that amendment then he would vote against the motion to recommend approval of this rezoning request. Chairman Cox asked Commission Member Egan to clarify his recommended amendment to the current motion. Commission Member Egan stated that he would move to amend the motion made by Commission Member Smith to add a requirement to suggest to City Council to add an amendment to the "PD" – Planning Development District requiring single-family houses adjacent to single-family houses. Vice-Chairman Zepp asked if a single-story house would include a property that had a second-story above a garage. Commission Member Egan stated that he would leave that to Staff to determine that and City Council to decide if they accepted the amendment. Alternate Commission Member Mantzey asked how a lot that covered more than one of the Chapel Hill lots would be addressed, since the two subdivision lots probably would not line up directly. Commission Member Egan acknowledged that was

a good question and suggested 80% adjacency be the determining factor. Chairman Cox asked Commission Member Smith if she accepted the amendment to the motion. Commission Member Smith said no.

On a motion by Commission Member Smith, seconded by Commission Member Cobbel, the Commission voted to recommend approval of the rezoning request as recommended by Staff, with a vote of 6-1-0. Commission Member Egan voted against the motion.

Chairman Cox stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting of February 16, 2016.