

**Draft Planning and Zoning Commission Meeting Minutes of July 14, 2020:**

**20-0006Z** Conduct a Public Hearing to Consider/Discuss/Act on a Request to Rezone the Subject Property from "C2" - Local Commercial District to "PD" - Planned Development District, Generally to Modify the Development Standards and to Allow Multi-Family Uses, Located on the Southeast Corner of Hardin Boulevard and Virginia Parkway. Ms. Jennifer Arnold, Director of Planning for the City of McKinney, explained the proposed rezoning request, location of the subject property, and discussed the adjacent properties. She explained the applicant's requested modifications to the zoning ordinance. Ms. Arnold stated that this tract of land was designated as Urban Living in the ONE McKinney 2040 Complementation Plan, which would consider multi-family uses. She stated that the Urban Living placetype also calls for local commercial, retail, and services to serve the surrounding neighborhoods. Ms. Arnold stated that Staff has concerns with the proposed use and building heights, given the property's location on a hard corner of two major arterials, and that it was recently rezoned for commercial uses in 2019. She stated that Staff received approximately 20 letters of opposition and five letters of support after the meeting packet was finalized. Ms. Arnold stated that copies of the letters were distributed to the Commission prior to the meeting and would be included in City Council's meeting packet. She offered to answer questions. Vice-Chairman Mantzey asked about Staff's concerns regarding the proposed use. Ms. Arnold stated that the property was recently rezoned for commercial uses and is located at the at the hard

corner of two major arterials. She also stated that City Council has a goal of preserving the commercial tax base. These were the primary reasons Staff was not able to support the request. Commission Member Doak asked if the egress and ingress were all righthand turns and how that could affect the use of the property. Ms. Arnold stated that Staff was not looking at that when reviewing the zoning of a property. She stated that Staff was focused on the proposed use. Ms. Arnold stated that in 2019 there was consideration for this property to develop as commercial. Vice-Chairman Mantzey asked about the density of the proposed units. Ms. Arnold stated that the applicant is seeking 22 units per acre. Vice-Chairman Mantzey asked about the taxability of the proposed multifamily compared to commercial pad sites on the site. Ms. Arnold stated that a Fiscal Analysis was included in the Staff Report and looks at the entire acreage of the tract. She stated that it shows that commercial uses would generate more tax-based revenues for the City. Vice-Chairman Mantzey asked to clarify that the property was originally zoned "AG" – Agricultural District and then in May 2019 it was rezoned to "C2" – Local Commercial District. He asked if that meant that the surrounding residents would not have known the final development plans for the property prior to May 2019. Ms. Arnold stated that was correct. Commission Member Haeckler asked about the surrounding properties. Ms. Arnold stated that a gas station was recently approved at the adjacent hard corner. She stated that a site plan for some commercial sites to the west had been submitted. Ms. Arnold stated that zoning for a memory care facility/senior living concept was approved adjacent to the subject property. Commission Member Haeckler asked about the height restrictions on the senior living development. Ms. Arnold

stated that she believed it was close to 60'; however, there were strong limitations on where that could occur. Commission Member Haeckler asked about the screening requirements. Ms. Arnold stated that multi-family developments were required to be screened on all sides. She stated that generally commercial development was only required to screen when adjacent to residential development; however, there could be variances. Vice-Chairman Mantzey asked if there were any requirements regarding the location of multifamily near residential regarding bedroom windows. Ms. Arnold stated that the applicant is seeking to reduce the typical setbacks from 45' to 30', which would allow the proposed multi-family to develop closer to residential. She stated that with recent changes to State law, Staff would not be able to regulate the window locations anymore. Mr. Bob Roeder; Abernathy, Roeder, Boyd & Hullett, P.C.; 1700 Redbud Boulevard; Suite 300; McKinney, TX; explained the proposed rezoning request and had a slide presentation. He stated that on the outset they were planning to create a multifamily development that would be neighborhood friendly to the adjacent townhome community to the south and proportionate to the area. Mr. Roeder discussed the characteristics of the subject property. He discussed the surrounding properties. Mr. Roeder stated that he made a mistake by requesting a 30' rear-yard setback. He stated that they were fine with the standard 45' rear-yard setback requirement. Mr. Roeder stated that they were planning on conforming to most of the development regulations for "MF-3" – Multifamily Family Residential – High Density District. He explained the exceptions that they were seeking. Mr. Roeder stated that they want to increase the number of units per acre from 20 to 22 units per acre. He stated that the

maximum number of units, based upon gross acre basis, was 277 units. Mr. Roeder stated that they were requesting to modify the parking and enclosed parking requirements. He stated that the biggest disagreement with Staff was the height of the proposed buildings. Mr. Roeder stated that they were seeking to build up to four stories or 55' in height measured from the foundation of the building. He stated that they were proposing three stories, or 42' in height, next to the adjacent townhomes. Mr. Roeder stated that they will be required to have screening walls around the project. He stated that the grade of the property would have the buildings 10' – 20' below Virginia Parkway and Hardin Boulevard. Mr. Roeder suggested that they measure the height of the buildings from the top of the curb at the intersection of Virginia Parkway and Hardin Boulevard. He stated that the buildings could not exceed 45' from that elevation and allow them to build a four-story product; however, it would look like a three story from driving down the road. Mr. Roeder reiterated that there would be a 6' tall screening wall near the property line. He stated that they did a tree survey on the property. Mr. Roeder stated that they propose to have a 30' no build zone, except for utilities. He stated that they proposed to move the screening wall to the north side of the 30' tree zone. Mr. Roeder stated that they also plan to supplement the trees where they may be vacancies in this area to create a good buffer to the south edge of the property. He discussed what he referred to as common myths regarding multi-family developments. Mr. Roeder stated that Kimley-Horn produced a trip generation letter and pointed out the findings of the letter. He discussed the existing multi-family in a two-mile radius of the subject property. Mr. Roeder stated that there is a high demand for multi-family in this area. He stated that he had not

seen any letters of opposition from the Sorrell Terrace residents. Mr. Roeder stated that the proposed development would put traffic on Hardin Boulevard and Virginia Parkway, which were designed to handle the traffic. Mr. Jim Riggs, 7120 E. Kierland Blvd., Scottsdale, AZ, explained the proposed request and why they made a change in their plans since last May. He stated that his firm specialized in commercial corners and infill development. Mr. Riggs stated that they own two of the hard corners at this location, which equal about 26 acres of vacant commercial property, that they were purchased around the same time. He stated that the commercial market has gotten devastated due to COVID-19. Mr. Riggs stated that the reason they rezoned the property from "AG" – Agricultural District to "C2" – Local Commercial District was due to their lender not wanting to make a loan on an agriculturally zoned property. He discussed the characteristics of the site and his opinions on the challenges to development. Mr. Riggs stated that the proposed development would balance the intersection. He discussed why he believed multi-family development was appropriate for this site and his experience in the characteristics of multi-family. Mr. Riggs offered to answer questions. Commission Member Haeckler asked if all of the trees that were 6" or greater would be preserved within the existing tree zone, except where utilities would be installed. Mr. Roeder stated that was right. Commission Member Haeckler stated that utilities require trees to be removed. Mr. Roeder stated that they were not aware of any utilities that would need to go through that area. He stated that most of the utilities should be served off the roads. Ms. Arnold stated that it was a standard provision that the zoning ordinance has in it. Commission Member Haeckler asked if the

traffic evaluation for a 100,000 square foot building was calculated on the buildable area on the property. Mr. Roeder stated that was correct. Commission Member Doak wanted to clarify that Mr. Riggs was planning to sell the property to an apartment developer. Mr. Riggs stated that was correct. Commission Member Doak asked how they could make assumptions when they were not the one building the apartments. Mr. Riggs stated that they have sold a half dozen of these in other areas. He stated that they spoke with the ultimate user for this property and this is the profile of what they do. Commission Member Kuykendall stated that Mr. Riggs stated that the potential residents of the project would be staying at home and not going anywhere, then spoke about how much money they would be spending in the area. Commission Member Kuykendall asked if there were any letters of support from McKinney residents. She stated that the ones she saw were mostly from developers, corporations housed in other states, and one that stated that they were a stakeholder in Sorrellwood Terrace. Mr. Roeder stated that Ms. Michelle Woodard is a resident of Sorrellwood Terrace and submitted a letter of support. He stated that he believed there were several from that subdivision here to address the Commission at this meeting. Commission Member Doak stated that Mr. Riggs is making comments not as the developer and with no guarantees. He stated that one of his concerns was that one of the selling points of saving 30' of existing trees as part of the buffer unless utilities need to go through there. Mr. Roeder stated that there could be a utility that could go in there; however, from a practical standpoint it would be unusual. Commission Member Haeckler asked if additional turn lanes would be a requirement for this development. Ms. Arnold stated that the

Engineering Design Manual does require right turn lanes under certain circumstances. Chairman Cox opened the public hearing and called for comments. The following two residents spoke in favor of the proposed rezoning request:

Ms. Michelle Woodard, 333 Tottenham Court, McKinney, TX

Ms. Annyoli Olivera, 300 Carnaby Court, McKinney, TX

The following six residents spoke in opposition of the proposed rezoning request:

Mr. Michael Harrison, 317 Turtle Creek, McKinney, TX

Mr. Todd Wilson, 2916 Mountain Creek Drive, McKinney, TX

Ms. Jerri Robertson, 336 Tottenham Court, McKinney, TX

Ms. Karen Sowards, 625 Sorrell Road, McKinney, TX

Mr. Larry Anderson, 2912 Mountain Creek Drive, McKinney, TX

Ms. Joy Sorrell Wood, 620 Denton Creek Drive, McKinney, TX

The following two residents turned in speaker cards in support of the proposed rezoning request; however, did not wish to speak during the meeting:

Ms. Wendy Miller, 332 Tottenham Court, McKinney, TX

Ms. Christian Olivera, 300 Carnaby Court, McKinney, TX

The following five residents turned in speaker cards in opposition to the proposed rezoning request; however, did not wish to speak during the meeting:

Ms. Lori Breece, 301 Turtle Creek, McKinney, TX

Ms. Leslie Hemenway, 305 Carnaby Court, McKinney, TX

Ms. Jennifer Rand, 305 Preston Creek Drive, McKinney, TX

Ms. Amanda Wood, 620 Denton Creek Drive, McKinney, TX

Ms. Jennifer Yeager Williams, 325 Turtle Creek Drive, McKinney, TX

On a motion by Vice-Chairman Mantzey, seconded by Commission Member Haeckler, the Commission unanimously voted to close the public hearing, with a vote of 7-0-0. Vice-Chairman Mantzey stated that the applicant provided a study showing that a multi-family development would generate less traffic than a commercial development on the site. He stated that McKinney's school population has declined. Vice-Chairman Mantzey stated that he did some research on property values of two similar developments in the area and that the values consistently increased when the houses were built prior to the multi-family development. He stated that as far as the applicant selling the property to a developer, the City's standards should protect us on what is built on the property. Vice-Chairman Mantzey stated that the adjacent townhomes back up to the subject property; therefore, there are parking garages and not back yards abutting up to this tract. He stated that City Council likes to keep commercial properties; however, there is commercial in the other two corners. Vice-Chairman Mantzey stated that there are commercial properties along Hardin Boulevard and State Highway 380 (University Drive). He felt it would be hard to develop this property as commercial. Vice-Chairman Mantzey stated that considering the setbacks, tree line, and the fact that they would not be driving through any of the nearby neighborhoods that the request fits the area and balances the corners out. He stated that he understood the citizen's concerns; however, currently south of State Highway 380 (University Drive) there are not any projects

that the citizens really like. Vice-Chairman Mantzey stated that he would be voting for the proposed rezoning request. Commission Member Kuykendall stated that she values the neighbor's opinions. She stated that she did not feel that this would be an appropriate location for multi-family development. Commission Member Kuykendall stated that she supports Staff's recommendation for denial of the proposed rezoning request. Commission Member McCall stated that he felt this was a great fit for this location. He stated that a commercial development would generate more traffic. Commission Member McCall felt that multi-family development would be a good buffer. He stated that he was in support of the proposed rezoning request. Commission Member Doak stated that the ONE McKinney 2040 Comprehensive Plan supported multi-family in this area. He stated that his neighborhood did not want to see the other residential developments built when they came before the City for approval. Commission Member Doak stated that all the rezoning requests for this corner has been met with opposition. He stated that six acres of the property would be left with trees. Commission Member Doak stated that the eight acres that would be cut down, would be cut down regardless of commercial or multi-family development occurs. He stated that he also researched into whether adjacent properties lose value and if crime increased when multi-family is developed adjacent to them and found that those theories do not hold water. Commission Member Doak did not believe that "C2" – Local Commercial District development would take place on the property. He stated that multi-family was an excellent option and that he would be in support of the proposed rezoning request. Chairman Cox asked Staff to state some of the allowable uses on the

property under the current zoning. Ms. Arnold mentioned some of the various commercial uses that would be allowed under the current zoning. She stated that there is a height limit under "C2" – Local Commercial District of 45'. Ms. Arnold stated that the applicant is requesting a height limit of 55'. Mr. Roeder stated that given the current condition of the property it would be very difficult to develop unless it was for the highest traffic generator that you could have there, due to the cost of bringing the property up so that it is visible from the street. He stated that under commercial they could build a wall and not save the trees. Ms. Arnold clarified that there are required buffers and the tree zone regardless of use. Vice-Chairman Mantzey asked for clarification on the rear yard setback distance that the applicant is requesting. Mr. Roeder stated that they were removing the request for a 30' rear yard setback. He stated that the rear yard setback would be 45'. Mr. Roeder stated that they propose to have the first 30' of the rear yard setback as the existing tree zone and then they would have another 15' before they could be a building; however, there could be parking in that area. Commission Member Haeckler stated that he understands both sides. He stated that multi-family does not necessarily mean an increase in crime or decreased property values. Commission Member Haeckler stated that he felt the property was prime for commercial. He stated that he would be in support of Staff's recommendation for denial of the proposed rezoning request. Commission Member Taylor stated that he feels the existing zoning is appropriate. He stated that he did not feel that a multi-family development would be appropriate. Commission Member Taylor stated that he would be in support of Staff's recommendation for denial of the proposed rezoning

request. Chairman Cox concurred with Vice-Chairman Mantzey's earlier comments. He stated that he agreed with the change in the zoning for the property. Chairman Cox stated that he was a fan of putting property on the tax rolls and looking at the City as a big picture. He stated that he would be in support of the proposed rezoning request. On a motion by Vice-Chairman Mantzey, seconded by Commission Member McCall, the Commission voted to recommend approval of the proposed rezoning request with the change that the rear yard setback be 45', with a vote of 4-3-0. Commission Members Haeckler, Kuykendall, and Taylor voted against the motion. Chairman Cox stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on July 21, 2020.