

16-308Z Conduct a Public Hearing to Consider/Discuss/Act on a Request to Rezone the Subject Property from "AG" - Agricultural District to "PD" - Planned Development District, Generally for Mixed Uses Including Commercial, Retail, Office, Multi-Family Residential and Open Space, Generally Located North of the Intersection of U.S. Highway 75 (Central Expressway) and Laud Howell Parkway

Mr. Aaron Bloxham, Planner I for the City of McKinney, explained the rezoning request. He stated that a letter of support was received today and copies of it were distributed to the Commission prior to the meeting. Additionally, Staff received a letter of opposition that was included within the packet. Mr. Bloxham stated that the Northwest Sector Study that City Council adopted in 2015 highlighted this intersection as a major retail component. He stated that the current zoning, "AG" – Agricultural District, on the subject property did not allow for retail use. Mr. Bloxham stated that the applicant was proposing a "PD" – Planned Development District to establish a form-based code to create a mixed-use regional environment on the subject property. He stated that the proposed development regulation patterns were patterned after the McKinney Town Center development regulations. Mr. Bloxham stated that the proposed "PD" – Planned Development District creates sub-districts and development standards. He stated that the standards and regulating plan help to establish how the development shifts as you move from U.S. Highway 75 (Central Expressway) which allows for more intense uses, to more of a pedestrian environment through the middle, and to a suburban development when you move out to the adjacent properties. Mr. Bloxham stated that Staff feels that the proposed development regulations and regulating plan should create an adaptive and quality regional, mixed-use environment that furthers the goals and objectives in the

Comprehensive Plan. He stated that Staff recommends approval of the rezoning request and offered to answer questions.

Commission Members Zepp, Mantzey and Smith asked how the letter of opposition, included in the packet, related to this rezoning request. Mr. Bloxham suggested that the applicant address this question.

Commission Member Cobbel stated that this was just a rezoning request and did not include a site plan or any platting. Mr. Bloxham stated that was correct and that it was just a zoning case.

Chairman Cox asked if the letter of opposition was more applicable when a site plan was being considered instead of during the rezoning portion. Mr. Bloxham stated that the applicant would be able to address these concerns. He stated that the applicant did make some changes to the regulating plan that addressed some of the concerns stated on the letter of opposition; however, some of their concerns could still apply.

Mr. Larry Good, GFF Planning, 2808 Fairmount Street, Dallas, TX, stated that they were very pleased to bring this rezoning request to the Commission. He stated that this had been a vision of the City of McKinney for some time. Mr. Good stated that it was one of the last best places to create a highly walkable, urban, mixed-use environment of regional importance. He stated that there was a significant amount of frontage along U.S. Highway 75 (Central Expressway). Mr. Good stated that the visibility and accessibility that the highway provides, the major thoroughfare network, and the adjacency to a significant amount of open space and trail system makes this very special. He stated that they do not own all of the land in this district. Mr. Good stated that they worked with Staff

to tee up the plan using best practices, creating a forward-looking master plan, and tee it up for the others that come along behind them.

Mr. Brian Moore, GFF Planning, 2808 Fairmount Street, Dallas, TX, explained the proposed rezoning request and gave a PowerPoint presentation showing images of how the development might appear when completed. He stated that this was a form-based code. Mr. Moore stated that they worked closely with City Staff over the past nine months. He stated that their team was present at the meeting to answer questions.

Commission Member Mantzey asked Mr. Moore if he was aware of the letter of opposition. Mr. Moore said yes. Commission Member Mantzey how the Commission should take the concerns noted in this letter of opposition. Mr. Moore stated that the regulating plan speaks to the access points from the piece of property that the Wilson District is not a part of. He stated that at one point they had access points that were transitioning from Trinity Falls Parkway and from Laud Howell Parkway into the property. Mr. Moore stated that they were making assumptions on access points that they do not control. He stated that City Staff acknowledged that they could not dictate certain elements within the form-based code when they do not control those elements. Mr. Moore stated that it was pretty obvious where the access points would be located along Trinity Falls Parkway and Laud Howell Parkway. He stated that it seems logical that there would be a median break at certain strategic locations, and based the access points on this information. Mr. Moore stated that the letter of opposition was addressing that they were showing access points that were crossing over onto their property. He stated that they were acknowledging that those access points were not a part of this project.

Vice-Chairman Zepp asked Mr. Moore if the development was contingent upon those three access points. Mr. Moore stated that they have a sufficient number of access points that do not include those three access points. He pointed out the other access points that they do have on the property.

Commission Member Smith stated that she did not see where Staff provided a revised regulating plan that removed those three access points. She asked if there were any other zoning documents that show the proposed off-site access.

Chairman Cox asked Mr. Moore if he read the Staff report and was in agreement with Staff's recommendations. Mr. Moore said yes and stated that they concur with Staff's recommendations.

Chairman Cox opened the public hearing and called for comments.

Ms. Melissa Lundelow; Shupe Ventura, PLLC; 500 Main Street; Ft. Worth, TX; stated that she represented the adjacent property owner (Central & Fannin Wilson 155, LLLP) to the east and had submitted the letter of opposition. She stated that when they received copies of the proposed "PD" – Planned Development District they noticed that there were off-site access points running through their property. Ms. Lundelow stated that they spoke with City Staff regarding their concerns about the access shown on their property. She stated that Staff work with them on it and the applicant promptly removed it. Ms. Lundelow stated that they still have concerns since the regulating plan assumes and implies that access will continue on to their property. She asked what other purpose the proposed roads would have if they just terminated on their property line. Ms. Lundelow stated that they have concerns that there is implied access at those points and might create issues in the future. She asked if the proposed plan was approved, if Staff

would try to force them to grant access to the subject property if they develop prior to them developing their adjacent property. Ms. Lundelow stated that the applicant may already be satisfying the minimum number of access points at other locations; however, she questioned if they would have dead-end roads or drives at their property boundary. She stated that they were in discussions with the property owner to try to sort out these issues. Ms. Lundelow stated that it would be in everybody's benefit if they work it out. She stated that their property was located in the City's ETJ (Extraterritorial Jurisdiction) under a development agreement. Ms. Lundelow stated that when they negotiated that development agreement with the City, the City was adamantly opposed to any multi-family residential uses at this location. She stated that they were surprised to see that now Staff was in support of multi-family residential zoning for the subject property next door to them. Ms. Lundelow stated that the proposed multi-family residential uses would be along their property line. She stated that if multi-family residential uses were approved at this location then they should meet all of the multi-family residential design standards and amenity requirements that are listed in the general Zoning Ordinance. Ms. Lundelow stated that might be the intent of the "PD" – Planned Development District; however, she felt it is was still unclear. She stated that they would like to see some more controls on the multi-family residential component, especially since it was located next door to their property. Ms. Lundelow suggested doing an "SUP" – Specific Use Permit requirement. She requested that the whole project will go through the general McKinney site plan and facade plan processes that apply to all multi-family residential and commercial projects. Ms. Lundelow stated that under their development agreement, they were limited to 180' in height with a staggered height limit of 90' within 150' of any roadway, since Staff wanted

them to stair step a project and not have a big presence with a tall building on the right-of-way. She stated that in contrast, their project was proposed at 270' up to setbacks. Ms. Lundelow stated that she would like some attention paid to that as well.

Commission Member Smith asked how long ago Staff spoke in opposition to multi-family residential in this area. Ms. Lundelow stated that it was approximately five years ago. She stated that she did not have the development agreement in front of her to say for sure. Ms. Lundelow stated that there was adamant opposition for any kind of residential uses at that time.

Chairman Cox asked Mr. Bloxham to show on a diagram where the three access points in question had been removed. Mr. Bloxham stated that there had been some dash lines on the previous Proposed Regulating Plan that showed where a potential roadway might continue onto the other property. He stated that it was not uncommon for a development to show stub-outs to adjacent properties. Mr. Bloxham stated that there were regulations within the development regulations that allows for minor adjustments without having to go back before the Planning and Zoning Commission or City Council for approval to realign some of the proposed roads. He stated that the development agreement with the adjacent property was done in 2013. Mr. Bloxham stated that at that time this whole area showed to be for office uses on the City's Comprehensive Plan. He stated that at that time the City was not looking to have any type of multi-family residential uses at this location. Mr. Bloxham stated that was why Staff made that recommendation at that time. He stated that since then, Staff had worked on the Northwest Sector Study, which helped change Staff's position on the development for this area.

Commission Member Cobbel asked if the development agreement on the adjacent property spelled out that they could not have multi-family residential uses on their property or that they would have to go through the zoning process. Mr. Bloxham stated that he was unsure on the specifics of that development agreement.

Commission Member Mantzey asked if the allowable uses were a considerable change of what the adjacent neighbor thought could be developed in this area. Mr. Bloxham stated that multi-family residential uses were not being considered acceptable in this area at that time. He stated that there had been a change since the development agreement was done back in 2013.

Mr. Bloxham stated that any development regulations not listed fall back on the City's Zoning Ordinance. He stated that the City has a vertical mixed-use portion of the multi-family architectural standards.

Mr. Roy Wilshire, Kimley-Horn and Associates, 12750 Merit Drive, Dallas, TX, stated that he also represented the applicant. He discussed the proposed access points for the development. Mr. Wilshire stated that one of the access points ties into an existing driveway that connects to Trinity Falls Parkway. He stated that this access point was not located on the property that Ms. Lindelow represents. Mr. Wilshire stated that the connection to the west shown on the Proposed Regulating Plan ties into a road shown on the adjacent property's development plan. He stated that there had been discussion between the property owners on how to make that happen. Mr. Wilshire stated that they had arranged for a hooded south bound left turn into the subject property, in case the other access was delayed or did not happen. He stated that they felt the access to the property had been accounted for properly. Mr. Wilshire stated that they felt there was an

opportunity for both parties to benefit from a great connection with signal lights and access from the adjacent property.

On a motion by Vice-Chairman Zepp, seconded by Commission Member Smith, the Commission unanimously voted to close the public hearing, with a vote of 6-0-0.

Vice-Chairman Zepp wanted to clarify that this was only a rezoning request and the Proposed Regulating Plan was not being included. Mr. Bloxham stated that this was a rezoning request; however, the Proposed Regulating Plan was also being adopted that lays out a potential street network and sub-districts.

Vice-Chairman Zepp asked if the Proposed Regulating Plan would show that certain pieces of property were for specific types of development. Mr. Bloxham stated that they were breaking up the properties to show certain uses allowed for each section shown on the Proposed Regulating Plan, instead of rezoning the whole property for certain uses. He stated that this was not uncommon for a "PD" – Planned Development District.

Commission Member Cobbel asked if you could move the sections around on the subject property as long as the basic acreages remained the same. Mr. Bloxham said yes, that there are minor modifications allowed through the development regulations that allow shifting in some of these districts.

Commission Member Cobbel asked if these minor modifications could be approved at the Staff level. Mr. Bloxham said yes.

Commission Member Smith asked if major modifications would need to come back before the Planning and Zoning Commission and City Council for approval. Mr. Bloxham said yes.

Vice-Chairman Zepp asked if there were any development standards or architectural standards defined in this rezoning request. Mr. Bloxham stated that they do have some architectural standards in this document. He stated that they relate more or less to the commercial developments. Mr. Bloxham stated that anything else would fall back on the City's Zoning Ordinance.

Vice-Chairman Zepp wanted to clarify that they were being asked to approve the Proposed Regulating Plan that was included in the packet. Mr. Bloxham said yes.

Commission Member Cobbel asked if the Proposed Regulating Plan matched what the applicant showed in his presentation. Vice-Chairman Zepp stated that it was slightly different. Mr. Bloxham stated that they showed an illustrative conceptual plan with buildings on it. Commission Member Cobbel asked if the roads were shown at the same locations during their presentation. Mr. Bloxham stated that it was the same basic framework.

Vice-Chairman Zepp stated that he wanted to make sure that we were not encumbering another property owners rights with approving this request. He stated that we could approve the existing plan and exhibit, with the knowledge that they could live without those access points if it comes to that. Mr. Bloxham said yes.

Vice-Chairman Zepp asked if the height restrictions set for the adjacent property were based on old data as well. Mr. Bloxham stated that it was based on their planned development that they negotiated as part of their development agreement. Vice-Chairman Zepp asked when the negotiation was held. Mr. Bloxham stated that it was back in 2013. Vice-Chairman Zepp asked if the adjacent property owner could reapply

to have the height restrictions changed on their property without having basic objections from Staff. Mr. Bloxham stated that might be possible.

Commission Member Smith asked if the Northwest Sector was currently at 7.72% multi-family residential uses and the target was 10%. Mr. Bloxham stated that was what he thought was listed in the Staff report. Commission Member Smith asked how the potential multi-family residential uses in this development would change the total multi-family percentage in the Northwest Sector. Mr. Bloxham stated that he had not done that calculation; however, he believed that it would still be below that percentage due to the large acreage of the area. Commission Member Smith asked for clarification on whether or not the City was tied to the 10% in the Northwest Sector and if the adjacent property owner might be allowed to build a multi-family residential development. Ms. Pickett stated that when it is vertical mixed-use it does not count towards the Multi-Family Policy percentage. She stated that if someone in the area came in to rezone to traditional a multi-family residential development, then there would still be available room to do so.

Chairman Cox asked the applicant if he wished to add anything to the consideration of the access points. Mr. Moore stated that they did not feel that major alterations needed to be made on the Proposed Regulating Plan when it comes to the location of some of the stubs. He stated that we have a good idea of where the median breaks would be located. Mr. Moore stated that they did not feel that they needed to remove certain drives within the property.

Vice-Chairman Zepp stated that he felt in general it was an excellent development. He stated that he did not want to forcibly, by this request or pressure later by how the subject property develops, encumber someone else's property against their will. Vice-

Chairman Zepp stated that it would be like eminent domain if that happens. He stated that this was a big concern of his, since the other property owner has raised concerns about how this request could affect their property. Vice-Chairman Zepp stated that as long as he could be assured that would not happen, then he would be willing to vote in favor of this request.

Commission Member Cobbel asked Staff if they saw this as binding the adjacent property owner, specifically regarding to the two roads. Mr. Bloxham stated that he did not believe that it would necessarily could bind them; however, it could. He stated that a lot of times on a site plan they show stub outs to adjacent properties. Mr. Bloxham stated that the adjacent properties do not necessarily have to follow them. He stated that here they were trying to show on the Proposed Regulating Plan that they were trying to show the possible connectivity. Mr. Bloxham stated that the applicant was trying to work with the adjacent property owners to provide access points.

Chairman Cox stated that this is an important part of McKinney and one of the last large tracts of land that we have a hand in developing. He stated that he felt that the two property owners would be able to work through any outstanding questions. Chairman Cox stated that it was too important of an area for someone to control it when there is another person aware of the situation. He stated that he felt it would be a great development.

Commission Member Smith stated that she liked the concept and proximity to U.S. Highway 75 (Central Expressway). She felt that communication between the property owners would work out the details. Commission Member Smith stated that by the time a site plan was submitted, these details would be resolved.

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

Chairman Cox stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on March 7, 2017.