

## **PLANNING AND ZONING COMMISSION**

**MARCH 24, 2015**

The Planning and Zoning Commission of the City of McKinney, Texas met in regular session in the Council Chambers of the Municipal Building on Tuesday, March 24, 2015 at 6:00 p.m.

City Council Present: Mayor Pro-Tem Travis Ussery

Commission Members Present: Chairman Rick Franklin, Jim Gilmore, Deanna Kuykendall, Dick Stevens, and Cameron McCall - Alternate

Commission Members Absent: Vice-Chairman Matt Hilton, Mark McReynolds, and Eric Zepp

Staff Present: Assistant Director of Development Services Rick Leisner; Director of Planning Michael Quint; Planning Manager Matt Robinson; Planner II Samantha Pickett; Planners Eleana Galicia and Aaron Bloxham; and Administrative Assistant Terri Ramey

There were approximately 25 guests present.

Chairman Franklin called the meeting to order at 6:00 p.m. after determining a quorum was present.

Chairperson Franklin explained the format and procedures of the meeting, as well as the role of the Commission. He announced that some of the items considered by the Commission on this date would be only heard by the Planning and Zoning Commission and others would be forwarded on to City Council. Chairperson Franklin stated that he would advise the audience if the case will go on to City Council or be heard only by the Planning and Zoning Commission. He stated that guests would need to limit their remarks to three minutes and speak only once. Chairperson Franklin 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 from yellow to red and a buzzer will sound. He asked that everyone treat others with respect, be concise in all comments, and avoid over talking the issues.

Chairman Franklin continued the meeting with the Consent Items.

The Commission unanimously approved the motion by Commission Member Gilmore, seconded by Alternate Commission Member McCall, to approve the following four Consent items with a vote of 5-0-0.

- 15-294 Minutes of the Planning and Zoning Commission Regular Meeting of March 10, 2015**
- 15-295 Minutes of the City Council and Planning and Zoning Commission Joint Meeting of March 16, 2015**
- 15-056PF Consider/Discuss/Act on a Preliminary-Final Plat for Lots 2R, 4 and 5, Block A, of the Heights at Westridge Planning Area 1209 Addition, Located on the Southwest Corner of Independence Parkway and Westridge Boulevard**
- 15-050CVP Consider/Discuss/Act on a Request for a Conveyance Plat for Lots 4 and 5, Block A, of the Custer's Bobos Addition, Located on North Side of Virginia Parkway and the West Side of Custer Road**

**END OF CONSENT**

Chairman Franklin continued the meeting with the Regular Agenda Items and Public Hearings on the agenda.

- 15-008Z Conduct a Public Hearing to Consider/Discuss/Act on a Request to Rezone the Subject Property from "PD" - Planned Development District to "PD" - Planned Development District, Generally to Allow for Single Family Attached Residential Uses, Located Approximately 320 Feet South of Eldorado Parkway and on the East Side of Ridge Road (REQUEST TO BE TABLED)**

Ms. Samantha Pickett, Planner II for the City of McKinney, explained that Staff recommends that the public hearing be closed and the item be tabled indefinitely per the applicant's request. She stated that Staff would re-notice prior to an upcoming Planning and Zoning Commission meeting.

Chairman Franklin opened the public hearing and called for comments.

Ms. Christine Jenkins, 3100 New York Avenue, McKinney, TX, stated that she was in favor of the proposed townhomes; however, she expressed concerns about having an automotive care facility located on the property near residential uses. Ms. Jenkins felt that the automotive care facility would be more appropriate in another location within the City. Chairman Franklin explained that the item was being tabled and that she would be allowed to speak again at a future meeting. Ms. Jenkins felt that

more Boardwalk Addition residents would show up for the future meeting to voice their concerns.

On a motion by Commission Member Stevens, seconded by Commission Member Kuykendall, the Commission voted unanimously to close the public hearing and table the proposed rezoning request indefinitely as recommended by Staff, with a vote of 5-0-0.

**14-343Z2     Conduct a Public Hearing to Consider/Discuss/Act on a Request to Rezone the Subject Property from "PD" - Planned Development District to "PD" - Planned Development District, Generally to Modify the Development Standards, Located on the Southeast Corner of Rockhill Road and Wilson Creek Parkway (REQUEST TO BE TABLED)**

Ms. Samantha Pickett, Planner II for the City of McKinney, explained that Staff recommends that the public hearing be continued and the item be tabled to the April 14, 2015 Planning and Zoning Commission meeting due to public hearing notification signs not being posted on the subject property in the timeframe required by the Zoning Ordinance.

Chairman Franklin opened the public hearing and called for comments. There being none, on a motion by Commission Member Stevens, seconded by Alternate Commission Member McCall, the Commission voted unanimously to continue the public hearing and table the proposed rezoning request to the April 14, 2015 Planning and Zoning Commission meeting as recommended by Staff, with a vote of 5-0-0.

**14-190Z2     Conduct a Public Hearing to Consider/Discuss/Act on the Request to Zone a Portion of the Subject Property to "SF5" - Single Family Residential District; and Rezone a Portion of the Subject Property from "AG" - Agricultural District and "CC" Corridor Commercial Overlay District to "SF5" - Single Family Residential District, "C2" - Local Commercial District and "CC" Corridor Commercial Overlay District, Located Approximately 1,110 Feet East of Future Ridge Road and on the North Side of U.S. Highway 380 (University Drive)**

Ms. Samantha Pickett, Planner II for the City of McKinney, explained the proposed zoning/rezoning request. She stated that the applicant was requesting to zone/rezone the property for single family residential and commercial uses. Ms. Pickett stated that the associated annexation case will have its third and final public hearing at the April 7<sup>th</sup> City Council meeting. She stated that Staff recommends approval of the proposed zoning/rezoning request.

Chairman Franklin asked if the applicant was responsible for extending Ridge Road to U.S. Highway 380 (University Drive) as shown on the exhibit included in the Staff report. Mr. Michael Quint, Director of Planning for the City of McKinney, explained that public improvements were triggered during the platting process. He felt the applicant would be responsible for constructing Ridge Road generally along the western boundary line, and also Wilmeth Road along the northern boundary line of the property. Mr. Quint stated that the applicant would not be obligated to make the off-site connection of Ridge Road to U.S. Highway 380 (University Drive) as part of this development.

Chairman Franklin asked who would be responsible for developing that section of Ridge Road. Mr. Quint explained that the property owners located next to that section of Ridge Road would be responsible when they develop the property. He stated that if that property had not developed yet and there was a need for Ridge Road to be extended to U.S. Highway 380 (University Drive), then the City of McKinney would likely shoulder the cost of building it.

Alternate Commission Member McCall asked if the applicant planned to build residential uses along U.S. Highway 380 (University Drive). Mr. Quint stated that residential uses would be allowed on the property along U.S. Highway 380 (University Drive); however, he felt that the topographical contours on the site would prohibit the building of residential uses there.

Commission Member Stevens asked about the property fronting U.S. Highway 380 (University Drive). Mr. Quint briefly explained the proposed zoning/rezoning request. He stated that there could be two or more developers on the property for the residential and non-residential uses.

Mr. Jerry Sylo, JBI Partners, 16301 Quorum Drive, Addison, TX, explained the proposed zoning/rezoning request. He stated that they had been working on this project for three to four years. Mr. Sylo stated that they had worked with various potential developers over the years for the property. He stated that the property had a great perimeter with trees and lakes. Mr. Sylo felt it would have a great entrance off of U.S. Highway 380 (University Drive). He stated that they were excited about the proposed project and felt it would be a great development for McKinney.

Chairman Franklin opened the public hearing and called for comments. There being none, on a motion by Commission Member Stevens, seconded by Alternate Commission Member McCall, the Commission voted unanimously to close the public hearing and recommend approval of the zoning/rezoning request as recommended by Staff, with a vote of 5-0-0.

Chairman Franklin stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on April 7, 2015.

**15-029Z2     Conduct a Public Hearing to Consider/Discuss/Act on a Request to Zone the Subject Property to "PD" - Planned Development District, Generally for Single Family Residential and Commercial Uses, Located on the East Side of State Highway 5 (McDonald Street) and on the South Side of County Road 278**

Ms. Samantha Pickett, Planner II for the City of McKinney, explained the proposed zoning request. She stated that the applicant was requesting to zone the property to "PD" – Planned Development District, generally for single family residential and commercial uses. Ms. Pickett stated that the property would develop in accordance with the general development plan, site plan, and single family architectural standards, all of which were in conformance with the existing, approved pre-annexation agreement. She stated that the associated annexation case will have its third and final public hearing at the April 7<sup>th</sup> City Council meeting. Ms. Pickett stated that Staff recommends approval of the proposed zoning request.

Chairman Franklin asked about the annexation case associated with this request. Ms. Pickett explained that the zoning and annexation cases would meet at the April 7<sup>th</sup> City Council meeting. She stated that the first two public hearings had already been held for the associated annexation case.

Commission Member Stevens asked about the access to the property off of State Highway 5 (McDonald Street). Mr. Michael Quint, Director of Planning for the City of McKinney, stated that Staff had worked with the applicant regarding the access from State Highway 5 (McDonald Street). He stated that when the pre-annexation agreement was negotiated, the traffic congestion, access to the property, and frontage on State Highway 5 (McDonald Street) were discussed. Mr. Quint stated that one of the benefits of entering into a pre-annexation agreement in 2012 was there were certain

thresholds were put in place where the applicant had to build off-site road improvements on State Highway 5 (McDonald Street), intersection improvements at Wilmeth Road and/or Bloomdale Road, and some turn lanes. He did not feel that these improvements would address all of the traffic congestion on State Highway 5 (McDonald Street).

Commission Member Stevens asked about the major road proposed on the property. Mr. Quint stated that the proposed road was planned to extend along the east side of the airport.

Commission Member Gilmore had questions about zoning a property that had not yet been annexed into the City. Mr. Quint explained that the City had negotiated certain entitlements through the pre-annexation agreement, which was authorized through Chapter 212 of the Local Government Code. He stated that this zoning request was in line with the pre-annexation agreement that was approved in 2012.

Mr. James Richey, Petsche and Associates, 2600 Eldorado Parkway, McKinney, TX, stated that they had been working on this project for quite a while. He stated that a traffic study had been completed and showed that the planned improvements that were a part of the pre-annexation agreement should address any additional traffic created by the proposed development. Mr. Richey concurred with the Staff report.

Chairman Franklin opened the public hearing and called for comments. Ms. Sharon Mackenzie turned in a speaker's card in opposition for the request; however, she did not speak during the meeting. She did not list any comments or concerns on the card.

On a motion by Commission Member Kuykendall, seconded by Commission Member Gilmore, the Commission voted unanimously to close the public hearing and recommend approval of the zoning request with the special ordinance provisions listed in the Staff report, with a vote of 5-0-0.

Chairman Franklin stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on April 7, 2015.

**15-042Z2     Conduct a Public Hearing to Consider/Discuss/Act on a Request to Rezone the Subject Property from "PD" - Planned Development District and "CC" - Corridor Commercial Overlay District to "C3" - Regional Commercial District and "CC" - Corridor Commercial Overlay District, Located Approximately 450 Feet West of Hardin Boulevard and on the North Side of U.S.**

**Highway 380 (University Drive)**

Ms. Samantha Pickett, Planner II for the City of McKinney, stated that the applicant was requesting to rezone the property, currently for retail and office uses, to "C3" - Regional Commercial District for regional commercial uses. She stated that the Future Land Use Plan designates the property for commercial uses and the surrounding properties and zoning for non-residential uses; therefore, Staff felt "C3" - Regional Commercial District was appropriate along U.S. Highway 380 (University Drive). Ms. Pickett stated that the applicant had also indicated that if the rezoning request was approved, it was their intention to request a specific use permit for an auto painting/body shop on the property. She stated that Staff recommends approval of the rezoning request.

Mr. Kevin McKibben, Cross Development, 5317 Inverrary Drive, Plano, TX, offered to answer questions regarding the request. There were none.

Chairman Franklin opened the public hearing and called for comments. There being none, on a motion by Commission Member Gilmore, seconded by Commission Member Kuykendall, the Commission voted unanimously to close the public hearing, with a vote of 5-0-0.

Chairman Franklin stated that he had an issue with building a body shop at this location when other uses could be built on this corner in the future. He felt that by building a body shop at this location that it would change the dynamics of what else might be built on that corner. Chairman Franklin stated that he was not in favor of the request. Mr. Michael Quint, Director of Planning for the City of McKinney, stated that Staff struggled with some of the same concerns. He stated that this request is to set up a future request for the auto body shop; however, this request was not for the actual auto body shop use on the property. Mr. Quint stated that under the "C-3" - Regional Commercial District that an auto body or paint shop would require an approval of a specific use permit to be an allowed use. He reiterated that this request was for the rezoning of the property to later allow them to ask for the specific use permit. Mr. Quint stated that a number of uses would be allowed under "C-3" - Regional Commercial District zoning. He reminded the Commission that U.S. Highway 380 (University Drive) was a major regional highway. Mr. Quint stated that knowing there were additional

safeguards in place, Staff felt comfortable recommending approval of this rezoning request.

Commission Member Stevens briefly discussed the current uses on properties near this location. He did not feel that this location would become an upscale retail use. Commission Member Stevens asked what type of uses could go around that location now. Mr. Quint stated that there was commercial zoning in place. Commission Member Stevens asked if this property could currently have a heavier use on it. Mr. Quint said no. He stated that there was some property zoned for industrial and multi-family uses nearby.

Commission Member Stevens asked if Raytheon controlled the southeast and/or southwest corner. Mr. Quint did not think that they controlled either corner.

Chairman Franklin asked what other type of uses were allowed in "C-3" - Regional Commercial District zoning. Mr. Quint gave some examples of bait shop, retail bakery or confectionery, wholesale bakeries, banks, et cetera being allowed uses in a "C-3" - Regional Commercial District zoning. He stated that 14 new zoning districts were created in mid-2014 to replace some older zoning districts. Mr. Quint stated that when an applicant wants to go to a higher intensity use on a property then they have to request the property be rezoned to one of the new zoning districts. He stated that locational criteria had been built in to the zoning districts. Mr. Quint stated that for "C-3" - Regional Commercial District zoning required that the property be on a major regional highway and at an arterial intersection. He stated that this property met all of the requirements to request "C-3" - Regional Commercial District zoning. Mr. Quint stated that some safeguards were put in place, for high intensity uses that may or may not be appropriate, through the specific use permit process. He stated that "C-3" - Regional Commercial District zoning allowed very intense uses and that Staff struggled with recommending approval of this rezoning request. Mr. Quint stated that there were residential uses to the north of this property. He reminded the Commission that a specific use permit must also be approved to allow an auto painting/body shop use on the property.

Commission Member Stevens asked about the allowed uses in a "CC" - Corridor Commercial Overlay District. Mr. Quint stated that the "CC" – Corridor Commercial



Overlay District does not speak to land uses. He stated that it allows higher building heights and modified architectural standards. Mr. Quint stated that the “CC” – Corridor Commercial Overlay District was adopted to allow for corporate office developments to relocate to McKinney.

Commission Member Stevens asked if someone else wanted to develop this property would have to rezone it to something else. Mr. Quint stated that the property was already zoned for commercial uses. He stated that the applicant has a higher intensity use in mind for the property that was not allowed in the current zoning. Mr. Quint stated that another option would be to rezone the property to a “PD” – Planned Development District that allowed this use; however, he stated that Staff tried to discourage applicants from rezoning properties to “PD” – Planned Development Districts unless it was an innovative or exceptional quality development. He stated that Staff did not feel that the proposed development for this property warranted being rezoning to a “PD” – Planned Development District.

Commission Member Gilmore asked if there were previous requests for auto painting/body shops that had been denied. Mr. Quint was unaware of any being turned down. He explained that some of the older zoning districts were put in place back in the 1960’s that allowed a number of uses. Mr. Quint stated that there had been a number of changes to the Planning profession since the 1960’s and how land uses were regulated. He stated that some of the City’s ordinances had not kept pace with those progressions in the Planning field. Mr. Quint explained that the new zoning districts are reflective of what we want in our city now. He stated that the ordinance recognizes that there were some land uses that maybe or may not be appropriate at some intersections, so the specific use permit process was built in to address these concerns.

Commission Member Stevens felt that if the rezoning request was approved then the applicant would most likely come back shortly afterwards to request the specific use permit for the auto painting/body shop use on the property. Mr. Quint agreed.

Commission Member Stevens asked what requirements Staff would seek on the property if the applicant did submit for a specific use permit for an auto painting/body shop use on the property. Mr. Quint stated that if this rezoning request was approved by City Council, the applicant would then need to get a specific use permit approved by

City Council, which was about a two month process, and then the applicant would need to submit their site plan for review. He stated that if there were discretionary measures for noise abatement, visual screening, et cetera that the Commission or City Council wanted implemented then the specific use permit would be the correct process. Mr. Quint explained that special ordinance provisions could be added on to the condition of approval during the specific use permit. He stated that if this rezoning request was approved by City Council that the applicant could not build the auto painting/body shop use in the property without getting a specific use permit approved, which was a different process.

Commission Member Kuykendall stated that knowing these protections were in place made this rezoning request more palatable for her.

Commission Member Stevens asked if this rezoning of the property could damage the value or uses of the surrounding properties. Chairman Franklin felt it would change the dynamics out there.

Chairman Franklin had concerns regarding allowing new uses to the property that were not currently allowed. He stated that Baylor Hospital was already out there. Chairman Franklin felt that there was an opportunity to change things as we go along to allow for office, retail, and medical uses in this area to create a very good corridor.

Commission Member Stevens asked if the current City Council approved the "C3" - Regional Commercial District in the ordinance. Mr. Quint said yes. He explained that it was approved mid-last year and that Staff worked diligently with City Council on the ordinance changes.

Commission Member Stevens stated that if the applicant came back requesting a specific use permit for an auto painting/body shop on the property that he would not be in favor of it unless they came back with a first class development and plenty of screening surrounding the development.

Chairman Franklin felt that the City's Architectural Standards would address the visual look of a possible auto painting/body shop on the property. He stated that he had concerns about the paint booths and various vehicles parked on the property though.

Chairman Franklin asked for some examples of the zoning uses allowed in the current zoning versus the proposed zoning district. Ms. Quint stated that the current

zoning allowed for any non-residential uses permitted in the “BN” - Neighborhood Business district and “O” – Office district. He stated that the current zoning would require specific use permit for higher intensity uses on the property. Mr. Quint asked the Commission if they wanted to table the request to allow Staff to pull a spreadsheet showing the differences. He stated that Staff felt comfortable recommended approved of the rezoning request, considering there were additional safeguards built in for higher intensity uses. Mr. Quint stated that he agreed that a lot of the industrial uses in the area may go away in time. He felt that developers would see the commercial opportunities in this area of McKinney. Mr. Quint stated that the properties zoned for industrial uses would not need to rezone for commercial uses on their property.

Commission Member Gilmore asked if the current zoning on the property would allow for medical offices to be built. Mr. Quint said yes.

Chairman Franklin expressed concerns if this property was rezoning to “C3” - Regional Commercial District that it might trigger other surround properties to request the same zoning on the properties. Mr. Quint stated that Staff asked the applicant why they were not requesting the whole corner be rezoned to “C-3” - Regional Commercial District. He stated that the applicant responded that they only wanted two acres of the property. Mr. Quint felt that more of this property would be rezoned to “C-3” - Regional Commercial District in the future.

Alternate Commission Member McCall stated that he was in favor of the request knowing that they would have to go through the specific use permit process for more intense uses on the property.

Commission Member Gilmore asked if it might be misleading to approve the rezoning request and not intend to approve the auto painting/body shop on the property. Chairman Franklin stated that the Commission had expressed some of their concerns during the meeting, so the applicant should be aware there were concerns regarding a possible auto painting/body shop on the property. Mr. Quint agreed with Chairman Franklin that the applicant should be aware of the Commission’s concern after the comments from this meeting.

On a motion by Commission Member Gilmore, seconded by Alternate Commission Member McCall, the Commission voted unanimously to recommend approval of the rezoning request, with a vote of 5-0-0.

Chairman Franklin stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on April 7, 2015.

**14-331SUP Conduct a Public Hearing to Consider/Discuss/Act on a Specific Use Permit for a Restaurant with Drive-Through Window, Located on the South Side of Eldorado Parkway and Approximately 220 Feet East of Ridge Road**

Ms. Samantha Pickett, Planner II for the City of McKinney, stated that the applicant was requesting a specific use permit to allow for a restaurant with drive-through window on the subject property. She stated that Staff felt the site was appropriate for the proposed use and the applicant had met all of the requirements of the specific use permit. Ms. Pickett stated that Staff recommended approval of the proposed specific use permit with the special ordinance provisions listed in the Staff report.

Mr. Bob Roeder; Abernathy, Roeder, Boyd & Hullett, P.C.; 1700 Redbud Blvd.; McKinney, TX; briefly explained the specific use permit request. He stated that a Chick-fil-A was planned for the site. He stated that the proposed site was about twice the size of one of their normal restaurants to help address traffic concerns. Mr. Roeder concurred with the Staff report.

Commission Member Stevens stated that he wished the landowner had reduced the size of the Chick-fil-A site to make extra room for the proposed Taco Bell site. Mr. Roeder stated that they had a limited amount of frontage to work with on the property. He stated that this was about the only way that they were able to get Chick-fil-A to agree to build at this location. Mr. Roeder felt that restaurants were needed in this area of McKinney.

Chairman Franklin opened the public hearing and called for comments.

Ms. Terry Miller, 6012 Hidden Pine Lane, McKinney, TX, stated that she lives in the Pine Ridge Estates and two doors down from the proposed restaurants. She asked about the plans to screen the restaurants from the surrounding neighborhood to address noise and traffic issues. Commission Member Gilmore felt that her concerns

had more to do with the Taco Bell portion of the property and not this request. Chairman Franklin stated that during the consideration of the Taco Bell request (Case #14-333SUP) that her concerns would be addressed by the applicant and Staff.

Mr. Michael Henke, 6104 Pine Ridge Boulevard, McKinney, TX, stated that the Pine Ridge Homeowners' Association was in favor of the proposed development. He stated that they felt it brought value to the area. Mr. Henke also stated that restaurants were needed in this area.

Ms. Christine Jenkins, 3100 New York Avenue, McKinney, TX, was not opposed to having a restaurant at this location; however, expressed concerns about the amount of traffic Chick-fil-A could create at this intersection.

On a motion by Commission Member Stevens, seconded by Commission Member Kuykendall, the Commission voted unanimously to close the public hearing and recommend approval of the specific use permit with the special ordinance provision listed in the staff report, with a vote of 5-0-0.

Chairman Franklin stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on April 7, 2015.

**14-332SUP Conduct a Public Hearing to Consider/Discuss/Act on a Specific Use Permit Request for a Restaurant with Drive-Through Window, Located Approximately 550 Feet East of Ridge Road and on the South Side of Eldorado Parkway**

Ms. Samantha Pickett, Planner II for the City of McKinney, stated that the applicant was requesting a specific use permit to allow for a restaurant with drive-through window on the subject property. She stated that Staff felt the site was appropriate for the proposed use and the applicant had met all of the requirements of the specific use permit. Ms. Pickett stated that Staff recommended approval of the proposed specific use permit with the special ordinance provisions listed in the Staff report.

Mr. Bob Roeder; Abernathy, Roeder, Boyd & Hullett, P.C.; 1700 Redbud Blvd.; McKinney, TX; briefly explained the specific use permit request. He stated that a Whataburger was planned for the site. Mr. Roeder stated that there will be a solid masonry wall along the southern edge of the restaurant properties. He stated that townhomes are proposed to the south of this property and that rezoning request should

be presented at the next Planning and Zoning Commission meeting. Mr. Roeder stated that a lot of time and attention had been given to the development of the three restaurant sites to address screening, landscaping, traffic, and noise concerns. He briefly discussed the common, parallel, off-site drive to Eldorado Parkway as an alternative to having individual driveways to each restaurant site. Mr. Roeder stated that they plan to route the customers in one way and out another to help with traffic congestion on Eldorado Parkway. He stated that there would be fire lane access from Ridge Road. Mr. Roeder concurred with the Staff report.

Commission Member Gilmore asked to clarify that customers would pull into a frontage road instead of pulling into individual entrances to each restaurant. Mr. Roeder stated that was correct. He stated that the western entrance to these three restaurants would be a common drive with the existing bank on the corner. Mr. Roeder stated that the exit for these three restaurant sites would be on the Taco Bell property.

Commission Member Kuykendall felt this area was pretty quiet and most businesses closed down by midnight. She expressed concerns about having a Whataburger located there that would be open 24 hours a day and the traffic that might be generated from 2:00 a.m. to 3:00 a.m. Mr. Roeder stated that the traffic generated should be along Eldorado Parkway, which is a four lane divided road. He felt that there were other restaurants to the west that stayed open later than midnight. Mr. Roeder questioned whether Whataburger was a destination in itself that would create a lot of traffic late at night at this location. He felt it was more of a convenient location for passersby.

Chairman Franklin opened the public hearing and called for comments.

Mr. Michael Henke, 6104 Pine Ridge Boulevard, McKinney, TX, stated that the Pine Ridge Homeowners' Association was in favor of the proposed development. He stated that they had considered the issue of the Whataburger being open for 24 hours a day. Mr. Henke stated that they felt any lights, noise, or traffic that the Whataburger would generate would be buffered by the restaurant closest to the neighborhood.

On a motion by Commission Member Stevens, seconded by Commission Member Kuykendall, the Commission voted unanimously to close the public hearing, with a vote of 5-0-0.

Commission Member Stevens liked the proposed common, parallel, off-site drive to Eldorado Parkway. He wished that more restaurants provided entrances similar to this to address traffic issues.

Commission Member Gilmore agreed with Commission Member Steven's comments. He felt the applicant did a great job addressing traffic concerns with the proposed common, parallel, off-site drive.

Commission Member Kuykendall stated that she still had concerns about having a 24-hour restaurant near residential properties. She did agree; however, that there was a need for restaurants in that area of McKinney.

On a motion by Alternate Commission Member McCall, seconded by Commission Member Kuykendall, the Commission voted unanimously to recommend approval of the specific use permit with the special ordinance provision listed in the Staff report, with a vote of 5-0-0.

Chairman Franklin stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on April 7, 2015.

**14-333SUP Conduct a Public Hearing to Consider/Discuss/Act a Specific Use Permit Request for a Restaurant with Drive-Through Window, Located on the South Side of Eldorado Parkway and Approximately 700 Feet East of Ridge Road**

Ms. Samantha Pickett, Planner II for the City of McKinney, stated that the applicant was requesting a specific use permit to allow for a restaurant with drive-through window on the subject property. She stated that Staff had concerns that the level of traffic and close proximity of the menu board and drive-thru window on the east side of the building, approximately 70 feet and 65 feet as shown on the exhibit in the Staff report, may negatively impact the adjacent single family residences to the east. Ms. Pickett stated that Staff recommended denial of the proposed specific use permit.

Alternate Commission Member McCall asked what it would take for Staff to recommend approval of the request. Mr. Michael Quint, Director of Planning for the City of McKinney, did not feel that Staff would be comfortable recommending approval of the proposed specific use permit. He did not feel that the proposed drive-thru was appropriate at this location. Mr. Quint suggested possibly moving the drive-thru to the other side of the building; however, acknowledged that would be hard to accomplish.

He also stated that there was not enough room for massive amounts of landscaping and screening on the property to help with noise and traffic concerns. Mr. Quint did not feel that whatever screening device was placed on the property between the restaurant and adjacent single family residences to the east would mitigate the impact of having a drive-thru 75' from residential properties.

Mr. Bob Roeder; Abernathy, Roeder, Boyd & Hullett, P.C.; 1700 Redbud Blvd.; McKinney, TX; briefly explained the specific use permit request and stated that a Taco Bell was proposed at this location. He stated that it would be impossible to move the drive-thru to the other side of the restaurant since it would cause issues with the proposed common, parallel, off-site drive. Mr. Roeder felt that Staff overthought their concerns. He stated that the residential development to the east had a nice brick fence with columns that ran along Eldorado Parkway. He stated that they were required to place a masonry fence between this property and the homeowner's property. Mr. Roeder stated that the developer plans to install a 7' tall fence that looks similar to the other brick fence. He stated that the developer plans to move the sanitary sewer line to the other side of the property to allow for a 10' landscape buffer on the inside of the wall. Mr. Roeder stated that they proposed to plant Eastern Red Cedars on the property. He stated that the homeowners to the east of this property had planted three Eastern Red Cedars on their property that were now are about 20' tall and solid. Mr. Roeder stated that the residential development to the east was an alley loaded subdivision. He stated that an alley serves the surrounding homes and in each situation there was an 18' – 20' driveway, a garage, and then the living quarters on the other side of that setback and garage. Mr. Roeder stated that there were wood screening fences on the properties with some of them having trees and landscaping above the fences. He stated that there was 65' – 70' from the order board to the edge of the alley. Mr. Roeder stated that it was another 30' to get to the residents. He felt that Staff had concerns about the speaker noise from the ordering board. Mr. Roeder stated that the proposed ordering boards had decimal readings that go out from 1' – 32'. He stated that the City of McKinney had a whole set of performance criteria regarding how much noise could be created on the property to the edge of the alley. Mr. Roeder stated that with new technology in ordering boards that the decimal level at the edge of the



property should be less than that of a new washing machine inside a house. He stated that the City allowed for a 76 decimal level at the edge of the property. Mr. Roeder stated that under the manufactures specifications for sound for these systems they showed that it should be 54 decimals at 32' away from the system. He stated that was not even up to the landscaping buffer. Mr. Roeder did not feel that the noise level should be a concern with the newer ordering systems. He felt that Staff's other concern was in regard to the proposed stack lane. Mr. Roeder stated that the drive system was already in place on the property. He stated that the whole 17 acres was currently zoned for commercial uses. Mr. Roeder felt that any use on the property would use the existing drive system and therefore this restaurant would not be creating more traffic noise by placing a stack lane on the property than if there was 17 acres of retail uses generating vehicles going in and out of that location. He acknowledged that the restaurant could create additional traffic at later hours when a commercial center would be most likely closed. Mr. Roeder felt that Staff's concerns were overblown. He felt that the fence would protect the surrounding residential neighbors from all of the trash and the Eastern Red Cedars would protect the neighbors from the noise. Mr. Roeder felt that the Taco Bell was a very compatible adjacent use for the property. He asked for the Commissioners favorable recommendation to the City Council and offered to answer questions.

Commission Member Gilmore stated that the order boards were volume controlled. He asked if the decimal levels given were at the highest or lowest settings. Mr. Roeder stated that the decimal setting was set by the factory; however, they could be adjusted. He stated that the 54 decimal level mentioned earlier was for the louder end of the scale when there were maximum background noises. Mr. Roeder stated that if there was no background noise then the decimal level at 32' would be 36 decimals.

Commission Member Gilmore asked about the daily volume of traffic projected for this development. Mr. Roeder stated that the restaurants would as many cars as they can possibly get. He stated that they were not required to do a traffic impact analysis due to the traffic pattern that they proposed. He stated that they were building a deceleration lane so people could get off of the main traffic on Eldorado and enter onto the internal road.

Commission Member Stevens asked if a restaurant did not go on this site, then what other uses could be built here. Mr. Roeder stated that the three restaurants were a package deal. He stated that they worked with the homeowners association (HOA) early on to try to address their concerns. Mr. Roeder stated that they did not receive any feedback from them regarding noise concerns.

Commission Member Gilmore asked if the homeowners that back up to the property had any noise concerns. Mr. Roeder was not aware of any.

Commission Member Gilmore asked for the hours of operation for the Taco Bell. Ms. Angel Robinson, Guggenheim Retail Real Estate Partners, Inc., 3000 Internet Boulevard, Frisco, TX, stated that Taco Bell was open for breakfast, lunch, and dinner. She thought their hours of operation were from 6:00 a.m. – 2:30 a.m. Ms. Robinson stated that there was a traffic impact analysis completed that the City of McKinney Engineering Department reviewed. She stated that they recommended a deceleration lane and that the City of McKinney Engineering Department was in agreement with the report findings.

Commission Member Gilmore asked about the signage proposed for the restaurants. He expressed concerns that the surrounding neighbors would be in their backyards and the signs would be visible. Ms. Robinson stated that she had not researched into signage at this time. She stated that each tenant would have their own signage and each one would be required to go through the review process with the City for their signage.

Chairman Franklin opened the public hearing and called for comments.

Alternate Commission Member McCall asked if all four of the residents that would be adjacent to the proposed Taco Bell were present at the meeting. Not all four adjacent property owners were present.

Mr. Michael Henke, 6104 Pine Ridge Boulevard, McKinney, TX, stated that he was disappointed in the Staff report. He felt the Staff report just made a statement regarding Staff's noise concerns and did not explain it or provide data to back up the noise concern. Mr. Henke stated that it was hard on the Pine Ridge Homeowners' Association (HOA) to come to an agreement without consulting with the applicant on the issue. He stated that they felt comfortable with the amount of noise that might be

created at the site. Mr. Henke stated that they felt the proposed development for the whole property would be good for the area. He stated that he spoke with as many homeowners as he could and had walked the area. Mr. Henke stated that the main concern from the neighbors was whether or not there would be a wall installed at the edge of the property. He stated that they also have some trash concerns; however, knowing that there would be a wall installed eased their concerns. Mr. Henke stated that the Pine Ridge Homeowners' Association (HOA) was in support of bringing a Taco Bell to this location.

Commission Member Gilmore wanted to clarify that when Mr. Henke stated that the Pine Ridge Homeowners' Association (HOA) was in favor of the request that they formally met as a board to discuss and vote on it. Mr. Henke said yes.

Alternate Commission Member McCall asked if the four adjacent homeowners were on the Pine Ridge Homeowner's Association (HOA) board. Mr. Henke said no.

Alternate Commission Member McCall asked if the Pine Ridge Homeowner's Association (HOA) spoke with these four adjacent homeowners. Mr. Henke stated that he did not speak with all four of the adjacent homeowners; however, he tried to speak with as many people in the area as possible.

Ms. Terry Miller, 6012 Hidden Pine Lane, McKinney, TX, stated that the Pine Ridge Homeowner's Association (HOA) had a Facebook page that notifies the neighbors on important issues and that was how she original found out about the proposed development. She stated that the four property owners on the corner know about the proposed development. Ms. Miller was glad to learn that a wall was being built on the property. She stated that the three restaurants would benefit the neighborhood and was in an excellent location. Ms. Miller stated that she was in favor of the request.

Chairman Franklin asked Mr. Michael Quint to address Staff's concerns. Mr. Michael Quint, Director of Planning for the City of McKinney, appreciated Mr. Henke's thoughts on his disappointment in Staff's recommendation. He stated that unfortunately Staff was not given the decimal levels from the applicant. Mr. Quint explained that Staff measures noise in decimal levels and octave bands per the ordinance. He stated that it was not as easy as saying that 70 decimals were allowed and the noise box was at 50

decimals. Mr. Quint stated that you do not know what octave band the noise is, at 50 decimals. He stated that right now there was ambient noise out there, which residents have become accustomed to. Mr. Quint stated that people notice any time you introduce new noise though. He stated that the City Council dealt with a Downtown Noise Ordinance recently. Mr. Quint gave examples that some of the Downtown restaurants were playing music over speakers and residents heard it a mile away and complained about it. He stated that when the Police officers were responding to those complaints that the restaurants were meeting the City's noise requirements. Mr. Quint stated that just because a business meets the ordinance does not mean that the residents would not hear it. He reiterated that any new noise will be noticed by the surrounding neighbors. Mr. Quint stated that Staff's recommendation was showing deference to those residents.

Ms. Jennifer Colunga, 1413 Fairfield Drive, Plano, TX, stated that she is a student of the University of Texas at Dallas (UTD) and pursuing her Master's in Public Affairs. She explained that she was taking a course in Urban Planning that required the students to attend a Planning and Zoning Commission meeting and to speak on an item. Ms. Colunga stated that she was not familiar with the area of the proposed site. She stated that after listening to the previous discussion that she was in favor of the request, since she felt the applicant had addressed the surrounding residential neighbor's concerns and that the area was in need of restaurants.

Ms. Christine Jenkins, 3100 New York Avenue, McKinney, TX, spoke in opposition of the request. She expressed concerns about possible loud music levels in vehicles at the restaurant's drive-thru in the early hours of the morning and possibly decreasing the home values in the surrounding neighborhood.

On a motion by Commission Member Gilmore, seconded by Alternate Commission Member McCall, the Commission voted unanimously to close the public hearing, with a vote of 5-0-0.

Commission Member Gilmore stated that he felt the surrounding neighbors might be underestimating the potential noise level. He thanked Mr. Roeder for addressing some of the issues, the homeowners for showing up to the meeting, and the Pine Ridge Homeowner's Association (HOA) for reaching out to their residents. Commission

Member Gilmore stated that he visited the Taco Bell on Eldorado Parkway, across the street from Christian Brothers Automotive. He spoke with some employees of Christian Brothers Automotive about the noise from the Taco Bell across the street. Commission Member Gilmore stated that you could hear the noise from the restaurant; however, the employees that he spoke with stated that after a while they got use to the noise and did not notice it. He stated that there would be noise created from the proposed Taco Bell to the surrounding homeowners. Commission Member Gilmore stated that he felt it was a good project since the homeowners had been notified of the possible noise issues, the Pine Ridge Homeowner's Association (HOA) was in favor of the request, and the decimal levels had been provided by the applicant.

Alternate Commission Member McCall stated that since the surround homeowners and the Pine Ridge Homeowner's Association (HOA) were in favor of the request that he would also be willing to vote to recommend it.

Commission Member Kuykendall asked about how vehicles would enter the property when they were driving west on Eldorado Parkway. Mr. Quint gave several examples of how they could enter and exit the property. Commission Member Kuykendall expressed concerns about morning rush hour traffic in that area. Mr. Quint gave an example that if it was difficult to enter the property at the median opening due to traffic that in the future he would probably go to the light at the Eldorado and Ridge intersection and turn there to get to the property.

Alternate Commission Member McCall asked if the southern road was going to be built. Mr. Quint said yes.

Alternate Commission Member McCall asked if the City would consider having a turn only for the exit area on to Eldorado Parkway. Mr. Quint stated that there was a full median opening located there and the City was not in the practice of closing down full median openings, since it would restrict traffic to the surround developments. He stated that if there were accidents or fatalities at that location then the City might consider changing it for safety reasons.

Commission Member Kuykendall stated that there was usually a crossing guard at Ridge Road and Eldorado Parkway to allow the children to cross that intersection to get to the nearby school. She asked if there might be a safety concern for the additional

traffic and the kids trying to get to school in that area. Mr. Quint stated that he was unaware of the school crossing area. He stated that if a school guard was currently located there then he did not see that changing. Mr. Quint briefly discussed traffic patterns with restaurants versus retail development.

Chairman Franklin stated that he initially had a concern with this request; however, he felt that Mr. Roeder and the surrounding residents had addressed his concern. He stated that he was now in favor of the project.

Commission Member Stevens stated that he could not image what else might go on to the property if the proposed development was not built. He stated that since the surrounding homeowners were in favor of the project that he was also in favor of the request.

On a motion by Commission Member Gilmore, seconded by Alternate Commission Member McCall, the Commission voted to recommend approval of the specific use permit per the applicant's request, with a vote of 4-1-0. Commission Member Kuykendall voted against the motion.

Chairman Franklin stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on April 7, 2015.

**15-051SP    Conduct a Public Hearing to Consider/Discuss/Act on a Site Plan for a Use Accessory to the Existing United Parcel Service (UPS) Operations (Driver Training Course), Located on the Northeast Corner of Wilmeth Road and Redbud Boulevard**

Ms. Samantha Pickett, Planner II for the City of McKinney, stated Staff distributed photographs of a driver training course at an existing United Parcel Service (UPS) facility to the Planning and Zoning Commission prior to the meeting. She stated that the applicant was proposing to construct a driver training course with a paved area, small replica houses, and a drop box on the east side of the existing United Parcel Service (UPS) facility. Ms. Pickett stated that typically site plans were Staff approval; however, the zoning on the property required that the site plan be submitted to the Planning and Zoning Commission whose recommendation would be forwarded to City Council for final approval. She stated that the site plan had met all the necessary requirements. Ms. Pickett stated that Staff recommends approval of the proposed site plan as conditioned in the Staff report.

Mr. Shawn Grunewald, United Parcel Service, Inc. (UPS), 3150 N. 31<sup>st</sup> Avenue, Phoenix, AZ, briefly explained the proposed site plan request. He stated that they plan to have training classes in the interior building. Mr. Grunewald stated that they plan to have about 24 drivers a week come in from different areas of the Country that would stay at a nearby hotel and would be shuttled to the training site. He stated that they would attend training classes and afterwards they would walk to the training course for actual experience of what they just learned in the training classes.

Chairperson Franklin opened the public hearing and called for comments. There being none, on a motion by Commission Member Stevens, seconded by Commission Member Kuykendall, the Commission voted unanimously to close the public hearing and recommend approval of the proposed site plan as conditioned in the Staff report, with a vote of 5-0-0.

Chairman Franklin stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on April 7, 2015.

**15-058SUP Conduct a Public Hearing to Consider/Discuss/Act on a Specific Use Permit Request for a Private Club (The Pub), Located on the North Side of Virginia Street and Approximately 128 feet East of Church Street**

Mr. Matt Robinson, Planning Manager for the City of McKinney, stated that the applicant was requesting a specific use permit so the existing restaurant (The Pub) can be utilized as a private club. He stated that the applicant had been operating The Pub restaurant since March 2010 under a mixed beverage permit which allows sales receipts, from the sales of alcohol, to be a maximum of 50% of overall sales. Mr. Robinson stated that the applicant was seeking a private club specific use permit to allow up to 65% of sales to come from the sale of alcohol. He stated that the applicant had met all of the requirements of the specific use permit and that Staff recommended approval of the proposed specific use permit.

Mr. Gabe Whatley, The Pub, 204 W. Virginia Street, McKinney, TX, concurred with the Staff report and offered to answer questions.

Commission Member Gilmore had questions regarding the percentage of food to alcohol sales. Mr. Whatley explained that the Texas Alcohol Beverages Commission (TABC) was requiring them to get a private club specific use permit due to their alcohol

sales being around 62%, while their food sales was around 38%. He stated that their current mixed beverage permit only allowed up to 49% of alcohol sales.

Commission Member Stevens asked if a membership or private card would be required at The Pub if they received the private club specific use permit. Mr. Whatley stated that there would not be charging for a club membership. He explained that there were different ways of handling verifying identification cards and they had not made any decisions on what they plan to use yet.

Chairman Franklin opened the public hearing and called for comments. There being none, on a motion by Commission Member Stevens, seconded by Alternate Commission Member McCall, the Commission voted unanimously to close the public hearing and recommend approval of the proposed specific use permit for a private club, with a vote of 5-0-0.

Chairman Franklin stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on April 7, 2015.

**END OF THE REGULAR AGENDA ITEMS AND PUBLIC HEARINGS**

Chairman Franklin declared the meeting adjourned at 7:46 p.m.

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RICK FRANKLIN  
Chairman