

## **PLANNING AND ZONING COMMISSION**

**APRIL 9, 2013**

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, April 9, 2013 at 6:00 p.m.

Commission Members Present: Chairman Robert S. Clark, Vice-Chairman Rick Franklin, George Bush, Jim Gilmore, and Larry Thompson

Commission Members Absent: Matt Hilton and David Kochalka

Staff Present: Assistant Director of Development Services Rick Leinser, Director of Planning Michael Quint, Planning Manager Brandon Opiela, Planners Samantha Gleinser and Leo Bethge, and Administrative Assistant Terri Ramey

There were approximately forty guests present.

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

Chairman Clark 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 could be forwarded on to City Council. Chairman Clark 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 requested that applicants and Staff limit their remarks to ten minutes each and that guests limit their remarks to five minutes and speak only once. Chairman Clark 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.

The Commission unanimously approved the motion by Vice-Chairman Franklin, seconded by Commission Member Thompson, to approve the following three Consent Items with a vote of 5-0-0:

**13-364      Minutes of the Planning and Zoning Commission  
Regular Meeting of March 26, 2013**

- 12-206PF** Consider/Discuss/Act on the Request by Dowdey Anderson & Associates, Inc., on Behalf of Timber Creek Properties, L.L.C. and Forestar (USA) Real Estate Group, Inc., for Approval of a Preliminary-Final Plat for 590 Single Family Residential Lots (Timber Creek), Being Fewer than 209 Acres, Located on the East and West Sides of Future Hardin Boulevard and on the South Side of Future Bloomdale Road
- 13-034PF** Consider/Discuss/Act on the Request by Kimley-Horn and Associates, Inc., on Behalf of CH-B Trinity Falls, L.P., for Approval of a Preliminary-Final Plat for 525 Single Family Residential Lots (Trinity Falls Planning Unit #1), Being Fewer than 188 Acres, Located on the Northwest Corner of F.M. 543 (Weston Road) and Future Trinity Falls Parkway

**END OF CONSENT**

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

- 12-227Z2** Conduct a Public Hearing to Consider/Discuss/Act on the Request by George Town Custom Homes, on Behalf of VNRS INV, Inc., for Approval of a Request to Rezone Less than 2 Acres from "O" - Office District to "BN" - Neighborhood Business District, Located Approximately 500 Feet West of South Ballantrae Drive and on the South Side of Virginia Parkway

Ms. Samantha Gleinser, Planner for the City of McKinney, explained the proposed rezoning request. She stated that this item was heard at the Planning and Zoning Commission Meeting held on January 8, 2013. Ms. Gleinser stated that the applicant brought back the same request with no changes. She stated that Staff recommends approval of the proposed rezoning request.

Commission Member Bush asked if the building could be rebuilt as an office use. Ms. Gleinser said yes.

Vice-Chairman Franklin asked if the applicant chose not to request that the property be rezoned to a "PD" – Planned Development District with this school being an allowed use. Ms. Gleinser stated that the applicant choose not to go that route.

Commission Member Gilmore asked if the applicant planned to keep the same use on the property. Ms. Gleinser stated that the applicant plans to rebuild the daycare for safety reasons.

Ms. Sudeepa Bhattacharya, Good Shepherd Montessori School, 7701 Virginia Parkway, McKinney, TX, explained the proposed rezoning request. She explained that the Good Shepherd Montessori School is a classic Christian Montessori school that is

unique of its kind. Ms. Bhattacharya did not agree with being classified as a daycare and felt that they were a proper private school that teaches toddlers up to 6<sup>th</sup> grade students. She stated that the school had been operating at this location for 17 years and do not operate on Saturdays. Ms. Bhattacharya discussed the proposed elevations. She stated that they plan to preserve the current building that has a chapel. Ms. Bhattacharya stated that they plan to have a single point of entry for security reasons. She stated that the current buildings are scattered over the property. Ms. Bhattacharya stated that they plan to build an improved “U” shaped building for child safety reasons. She also discussed some of the proposed outside recreational areas.

Mr. Vikram Chatterjee, VNRS Investments, Inc., 5748 Gleneagles Dr., Plano, TX, discussed the proposed elevations. He explained that they decided not to request to be rezoned to a “PD” – Planned Development District, since it might not allow them some flexibility when building the new structure or to make changes to the building later on as needed.

Commission Member Gilmore asked if rezoning the property to “PD” – Planned Development District would tie down the proposed elevations where they could not make any changes to it once approved. Mr. Michael Quint, Director of Planning for the City of McKinney, stated that if the land plans and elevations are tied down to a planned development district, they are bound to what those drawings show. He stated that if they decided to make changes to what was approved, then they would have to go back through the zoning process.

Ms. Bhattacharya stated that the school is accountable and held to standards set by the licensing board. She stated that the State of Texas inspects the facilities and sometimes allows for them to increase the number of students at the school. Ms. Bhattacharya stated that they might need to expand their facility to accommodate this growth.

Commission Member Gilmore asked Mr. Quint to explain the difference in a “BN” – Neighborhood Business District versus a “PD” – Planned Development District. Mr. Quint gave a brief example of each zoning district. He stated that a “PD” – Planned Development District is a tailor-made zoning district that meets the specific needs of a development by allowing more flexibility with its development standards and that each

one is different. Mr. Quint stated that a “BN” – Neighborhood Business District is a standard or straight zoning district in the Zoning Ordinance. He stated that the “BN” – Neighborhood Business District’s uses and development standards are defined and uniform across the City of McKinney.

Commission Member Bush asked if Staff could write a “PD” – Planned Development District that could be flexible for the applicant’s needs. Mr. Quint said yes, that a “PD” – Planning Development District can be written with just a use for the property; however, there would not be any assurances that the proposed elevations would be built on the property.

Vice-Chairman Franklin asked if Staff could include some architectural restrictions in a “PD” – Planning Development District. Mr. Quint said yes; however, there could be an issue with interpretation in the wording later on.

Chairman Clark opened the public hearing and called for comments.

The following people spoke in opposition of the proposed rezoning request; however, they did not object to the continued use of a Montessori school being located on the property. These citizens had concerns about the possibility of another use on the property in the future if the property is rezoned to “BN” – Neighborhood Business District, classifying the school as a daycare instead of a private school, possible decrease in surrounding property values, increased noise levels if the school increase in size and accepts more children, and possible increased traffic if it becomes a daycare. They indicated a private school or office use on the property was preferred. Mr. Hendley was disappointed that the applicant was proposing the same rezoning request that was presented at the Planning and Zoning Commission meeting held on January 8, 2013.

- Mr. Jim Garner, 109 Royal Aberdeen Way, McKinney, TX
- Mr. Bill Hendley, 105 Royal Aberdeen Way, McKinney, TX
- Mr. Ran Liu, 103 Royal Aberdeen Way, McKinney, TX
- Ms. Cheri Evans, 109 Royal Aberdeen Way, McKinney, TX

The following people spoke in favor of the proposed rezoning request. These citizens want to keep the school at this location, allow the improvements to the facility,

did not feel that the school was a daycare, stated that the school would not be open on Saturdays, commented that the school was located at this location before the surrounding residential dwellings were built, considered the school a second home for the children that attend the school, and preferred to have a better and safer facility for the children.

- Mr. C.J. Handlogten, 106 Stonehaven, McKinney, TX
- Ms. Jennifer Stevens, 2716 White Wing Lane, McKinney, TX
- Ms. Myrna Toote, 909 Thornapple Drive, McKinney, TX
- Ms. Nicole Woodhouse, 605 Roven Drive, McKinney, TX

On a motion by Commission Member Thompson, seconded by Vice-Chairman Franklin, the Commission voted unanimously to close the public hearing with a vote of 5-0-0.

Ms. Bhattacharya expressed concerns with being classified as a daycare. She stated that the school is a true private Montessori school.

Chairman Clark asked Staff how they classify the school per the Zoning Ordinance. Mr. Brandon Opiela, Planning Manager for the City of McKinney, stated that the Zoning Ordinance defines a private or public school as a school that has curriculum that is generally equivalent to public elementary or secondary schools. He stated that the only use in the Zoning Ordinance for children younger than elementary age would be a daycare.

Chairman Clark asked Staff if there is a difference in where a school versus a daycare can be located. Mr. Quint stated that all of the other Montessori schools located in McKinney have been classified as a daycare use. Mr. Opiela stated that public and private schools are usually allowed in most of the zoning districts.

Commission Member Thompson asked if Staff could restrict "BN" – Neighborhood Business District to include Montessori schools only. Mr. Quint stated that it would be done with a "PD" – Planned Development District.

Chairman Clark asked if a Specific Use Permit could be used for the Montessori school. Mr. Quint said no.

Commission Member Thompson asked the applicant why they did not want to request a “PD” – Planned Development District. Ms. Bhattacharya felt it would be very restrictive and gave examples. Commission Member Thompson asked Staff if that would be true. Mr. Quint stated that a “PD” – Planned Development District has land plans and elevations tied to it that gives City Council assurance that what they are seeing is what would be built. He stated that a “PD” – Planned Development District could tie down a base zoning district and add an allowed use only; however, it would allow the applicant to make significant changes to the structure by right. Mr. Quint stated that the final product might not be up to the standard the Commission, City Council, and surrounding residents were promised though. Vice-Chairman Franklin asked Staff if the building materials could also be tied down in the “PD” – Planned Development District. Mr. Quint said yes. He suggested that the request be tabled and that the Commission make clear recommendations for a “PD” – Planned Development District that allows for the required use with certain assurances that will provide a quality product that the Commission and surrounding homeowners would be comfortable with.

Vice-Chairman Franklin felt that “BN” – Neighborhood Business District was not appropriate in this location.

Chairman Clark felt that “O” – Office District was preferred at this location. He also felt very few people objected to the Montessori school. Chairman Clark felt the best way to please everyone would be rezoning the property to a “PD” – Planned Development District at a time when the applicant knew exactly what they plan to build. Commission Member Bush was in agreement.

Commission Member Thompson asked Staff if the applicant decided to make an addition to the structure in the future if the applicant would need to come back before the Commission for approval. Mr. Quint said yes.

Commission Member Thompson asked if the applicant made interior changes to the building if they would need to come back before the Commission. Mr. Quint stated that they would be allowed to rehabilitate and make interior changes to the building without having to come back before the Commission. He stated that if they change the footprint of the building, then they would need to come back before the Commission.

Mr. Chatterjee stated that they thought they were purchasing a private school that was allowed in "O" – Office District. He stated that they purchased the school and have plans to improve the facilities to make it a nicer and safer place for the children. Mr. Chatterjee expressed concerns about the zoning process and the expense of having an architect draw up a lot of drawings that may or may not get approved. He stated that he requested "BN" – Neighborhood Business District because it was his understanding that a school or daycare use would be allowed. Chairman Clark stated that the surrounding neighbors object to some of the other uses allowed in a "BN" – Neighborhood Business District. Mr. Quint felt that a "PD" – Planned Development District would be the best possible solution. Chairman Clark felt that it would be best to receive a favorable recommendation from the Planning and Zoning Commission prior to going to City Council. Mr. Chatterjee asked if he could proceed forward with the request to rezone to a "BN" – Neighborhood Business District. Mr. Quint explained that the applicant had the right to proceed with this request. He stated that if the Planning and Zoning Commission recommended denial of the request to City Council, then it would take a supermajority of the City Council to approve the request. Chairman Clark and Mr. Quint explained that if City Council denies the request, then the applicant would have to come back with a substantially different request or they would have to wait one year before they could come back with a similar request.

Mr. Chatterjee expressed concerns over spending thousands of dollars for an architect to provide drawings that might not get approved. Mr. Quint explained that the applicant can work with Staff to draft a "PD" – Planned Development District with a base zoning of "O" – Office District, appropriate use needed, and as much or little details about the proposed structure as the applicant feels comfortable requesting. Mr. Chatterjee stated that he had been told that a "PD" – Planned Development District required higher standards. Mr. Quint stated that a "PD" – Planned Development District does have a requirement that the plan have an exceptional quality or innovative design to it. He gave various examples that would qualify. Mr. Quint suggested the applicant request tabling the request and working with Staff to create an appropriate request that could be approved that would not cost much more. Mr. Chatterjee agreed to table the request.

The Commission unanimously approved the motion with a vote of 5-0-0, by Commission Member Bush, seconded by Commission Member Gilmore, to table the proposed rezoning request indefinitely.

Mr. Quint stated Staff will re-notice for an upcoming public hearing.

**13-030Z      Conduct a Public Hearing to Consider/Discuss/Act on the Request by JBI Partners, Inc., on Behalf of D.R. Horton - Texas, Ltd., for Approval of a Request to Zone Fewer than 4 Acres to "PD" - Planned Development District, to Allow for Single Family Residential Uses, Located Approximately 2,200 Feet West of Independence Parkway and Approximately 2,300 Feet South of Virginia Parkway**

Ms. Samantha Gleinser, Planner for the City of McKinney, explained the proposed zoning request. She stated that Staff was unable to support a density of 4.67 dwelling units per acre, since it exceeds the maximum allowed per the Comprehensive Plan. Ms. Gleinser stated that Staff recommends approval of the proposed zoning request with the special ordinance provisions listed in the staff report.

Mr. Jerry Sylo, JBI Partners, 16301 Quorum Drive, Suite 200 B, Addison, TX, explained the proposed zoning request. He stated that their development would be compatible with the surrounding zoning and would not have a negative impact on the on the water, sewer, or street systems. Mr. Sylo concurred with the staff report, with the exception that they requested that the density be 4.67 dwelling units per acre.

Chairman Clark asked Mr. Brandon Opiela, Planning Manager for the City of McKinney, if Staff requests that the density be 3.2 dwelling units per acre for this development. Mr. Opiela explained that Staff recommends the requirements of the Comprehensive Plan be followed for this zoning.

Chairman Clark opened the public hearing and called for comments. There being none, on a motion by Commission Member Bush, seconded by Vice-Chairman Franklin, the Commission voted unanimously to close the public hearing and recommend approval of the zoning request as requested by the applicant with the density being 4.67 dwelling units per acre, with a vote of 5-0-0.

Chairman Clark stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on April 16, 2013.

**13-059SP      Conduct a Public Hearing to Consider/Discuss/Act on the Request by Hudson Crossing #2, on Behalf of Eurick**



**Real Estate, L.L.C., for Approval of a Site Plan for Hudson Crossing Office Condos, Phase 2, Being Fewer than 2 Acres, Located on the West Side of Hudson Crossing and Approximately 600 Feet South of Eldorado Parkway**

Mr. Leo Bethge, Planner for the City of McKinney, explained the proposed site plan. He stated that Staff recommends approval of the proposed site plan as conditioned in the staff report.

Mr. Dayton Macatee, Dayton Macatee Engineering, LLC, 3519 Miles Street, Dallas, TX, did not wish to add additional comment beyond staff's recommendation.

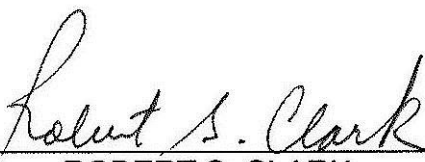
Chairperson Clark opened the public hearing and called for comments. There being none, on a motion by Vice-Chairman Franklin, seconded Commission Member Gilmore, the Commission voted unanimously, with a vote of 5-0-0, to close the public hearing and recommend approval of the proposed site plan as conditioned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

Chairperson Clark stated that the Planning and Zoning Commission is the final approval authority for the proposed site plan.

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

Mr. Michael Quint stated that there would be a Joint Meeting between the Planning and Zoning Commission and City Council on April 22, 2013.

Chairman Clark declared the meeting adjourned at 7:13 p.m.

  
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ROBERT S. CLARK  
Chairman