



AGENDA
PLANNING & ZONING COMMISSION REGULAR MEETING
TUESDAY, JUNE 20, 2023
1371 WEST FM 550 - McLENDON-CHISHOLM, TEXAS 75032
7:00 PM

	Page
1. CALL TO ORDER	
2. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS	
3. CITIZEN COMMENTS	
4. APPROVAL OF MINUTES	
4.1. May 16, 2023	2 - 6
Minutes 05.16.23	
5. ITEMS FOR CONSIDERATION AND ACTION	
5.1. Consider approval of a preliminary plat for a little over 16 acres of land for the development of a 25-lot residential subdivision with 9 open space/HOA lots.	7 - 22
Application	
Staff Recommendation	
6. ADJOURN	

As authorized by Section 551.071(1) of the Texas Government Code, this meeting may be convened into closed Executive Session in order to seek confidential legal advice from the City Attorney on any agenda item herein.

I, Rochelle Green, do hereby certify that the above Notice of Meeting of the Planning & Zoning Commission of McLendon-Chisholm, Texas was posted or before 6:00 p.m., June 16, 2023 on the outside bulletin board at City Hall, a place convenient and readily accessible to the public at all times.



**Planning & Zoning Commission
City of McLendon-Chisholm, Texas
Regular Meeting Minutes
Tuesday, May 16, 2023**

The Planning & Zoning Commission of the City of McLendon-Chisholm convened in Regular Session on Tuesday, May 16, 2023, at McLendon-Chisholm City Hall, 1371 W FM 550, McLendon-Chisholm, Texas, with the following members present:

Members Present:	Lesley Schwalje	Chairman
	Robert Rohde	Commissioner
	Brad Martin	Commissioner
	Mark Kipphut	Commissioner
	Daniela Swindoll	Commissioner
Staff Present:	Konrad Hildebrandt	City Administrator
	Shelly Green	City Secretary
	Mike Coker	City Planner

1. CALL TO ORDER

Chairperson Schwalje called the meeting to order at 7:00 p.m.

2. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS

Chairperson Schwalje voiced the invocation and led the pledges.

3. CITIZEN COMMENTS

Trudy Woessner, 43 Fireside Drive. Thank you all for attending tonight's meeting. As you know, your position on P&Z is to make a decision on Zoning for Trilogy tonight. Daniela Swindoll and Brad Martin, at the last meeting, you made a motion to table the Trilogy item. I hope you have come prepared to make a decision tonight.

I watched the last meeting and your conversations about this item had nothing to do with your decision about Zoning for Trilogy. Please get back on task and come to a decision. You're here for zoning.

You may not be aware, but each time you table an item it costs the city approximately \$400.00. Please stop spending taxpayer money on tabling the items. Daniela and Brad, unless you are prepared to personally pay this \$400 fee, you will need to deny or approve the items on the agenda. If you are not prepared to make this decision, please let council know, they need committee members that will read the packets, investigate the issue, and come prepared to make a decision, not just table it.

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Everyone here needs you to make a decision. Know you need to make a decision and do this without costing the city any more money than needed. Your role as a P&Z member is a privilege many would like to have. Do the job you've been chosen for and make a recommendation to approve or deny.

Thank you.

Citizen comments were closed.

4. APROVAL OF MINUTES

4.1. Consider approval of the Minutes of the April 18, 2023, Planning & Zoning Meeting

MOTION: APROVE MINUTES AS CORRECTED.

MADE BY: Commissioner Swindoll

SECONDED BY: Commissioner Rohde

APPROVAL: Unanimous

5. ITEMS FOR CONSIDERATION AND ACTION

5.1. Discussion and action regarding approval of the application of MC Trilogy Texas, LLC, requesting initial zoning of "PD" Planned Development District and updating the Comprehensive Plan and Zoning Map for two tracts of land to be annexed into the City of McLendon-Chisholm: an approximately 441.818-acre tract of land and an approximately 133.325-acre tract of land generally located north of FM 550 and east and west of Pullen Road and situated in the J. Simons Survey, Abstract No. 202, the W.W. Ford Survey, Abstract No. 80, and the A. Rodriguez Survey, Abstract No. 231, in Rockwall County, Texas, identified by county ID Numbers 115324 and 115325, and also being a portion of the property described in a deed to Hodges Ranch Partners, Ltd., as recorded in Volume 3828, Page 322 as Document Number 00319510 in the Official Public Records of Rockwall County, Texas.

MOTION: A MOTION TO RECOMMEND TO THE MC CITY COUNCIL APPROVAL OF THE APPLICATION PER ITEM 5.1 FOR THE TWO TRACTS OF LAND, ONE FOR APPROXIMATELY 441.818 ACRES AND ONE FOR APPROXIMATELY 133.325 ACRES, WITHIN THE J. SIMONS SURVEY ABSTRACT NO. 202 AND THE A. RODRIGUEZ SURVEY ABSTRACT NO. 231 IN ROCKWALL COUNTY, IDENTIFIED BY THE COUNTY ID NUMBERS 11534 AND 11535 AND FURTHERMORE RECOMMEND APPROVAL OF THE DRAFT ORDINANCE AS PRESENTED.

MADE BY: Commissioner Kipphut

SECONDED BY: Commissioner Rohde

City Planner Coker presented his staff report:

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APPLICANT: Colin Huffines
MC Trilogy Texas, LLC
8200 Douglas Avenue
Suite 300
Dallas, Texas 75225

LOCATION: The property is generally bounded on the north by Rabbit Ridge Road, on the west by FM 550 as shown on the attached approved concept plan.
Rockwall Parcel ID# 115324 and 115325.

Owner: MC Trilogy Texas, LLC
8200 Douglas Avenue
Suite 300
Dallas, Texas 75225
Representative: Colin Huffines, Project Manager

PLANNING AND ZONING COMMISSION MEETING DATE: March 21, 2023

REQUEST:

1. The applicant is requesting approval of a planned development district on 575.143 acres of land currently in the City's Extra Territorial Jurisdiction. The subject property is part of an existing development agreement and an approved preliminary plat.
-

STAFF RECOMMENDATION: Approval. These zoning regulations are consistent with the approved Concept Plan, the Development Agreement [DA] and the Subdivision regulations as amended by Exhibit E of the DA.

BACKGROUND INFORMATION: In October 2021 the City of McLendon-Chisholm entered into a development agreement with MC Trilogy Texas, LLC for the future development of a quality, master-planned, mixed-use community providing parkland, open space, and other public and private amenities that will benefit and serve the present and future citizens of the City. This agreement establishes Governing Regulations for the development of all the property located within the boundary of MC Trilogy Texas. Approximately 179 acres of Trilogy are located within the City limits. In December 2021 the City Council approved the zoning ordinance for the In-City property. The remainder property is currently in the Extra Territorial Jurisdiction of the City.

Approved Concept Plan

Exhibit C Concept Plan

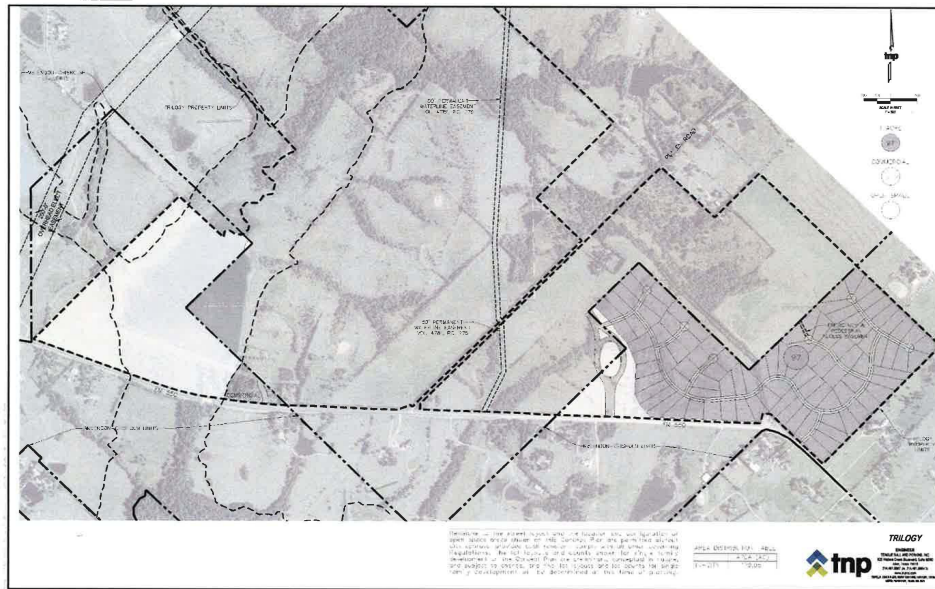


Exhibit C – Page 1

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The Planned Development District and supporting documents are available for review at McLendon-Chisholm City Hall.

Phillip Huffines, 8200 Douglas Avenue, Dallas. Made a presentation of Trilogy Project.

Commissioner Kipphut presented his comments on this item:

- The question is “do we recommend approval of the applicant’s request for a zoning of Planned Development District (PD)?
- The answer is yes for six statutory reasons:
 - The two tracts under consideration have been formally annexed into the city as requested by the landowner
 - The applicant’s request is consistent with the MC Future Land Use Map, page 38, Comp Plan. Zoning applications must comply with and follow the Future Land Use Map.

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- By state law, zoning must be compliant with the Future Land Use Map. Furthermore, by state law we are unable to amend the Future Land Use Map without first amending the Comprehensive Plan.
- The acreage has been incorporated into the city limits and is currently zoned agricultural and the zoning for PD supports the applicants plans previously presented to the city.
- That the city has entered into a developer's agreement with the developer specifying specific land use and development for these two tracts of land.
- This commission previously approved unanimously the preliminary plat for the development that is consistent with the developer's agreement and the draft ordinance.
- The only other option is to recommend denial which I strongly oppose because to do so exceeds the authorities of this commission.
- Through incorporation and zoning the city retains the most leverage to ensure development is done consistent with the developer's agreement and city development and construction standards.

Chairperson Schwalje called for a vote:

APPROVAL: Unanimous (5-1)

6. ADJOURN

The meeting adjourned at 7:42 p.m.

ATTEST:

APPROVED:

Shelly Green, City Secretary

Lesley Schwalje, Chairperson



**CITY OF McLENDON-CHISHOLM
PLAT APPLICATION**



Application Date: 6/6/23

Items Submitted. Check all that Apply:

- ☒ Preliminary Plat: \$175 per lot + \$10 per acre (acreage rounded to the nearest whole acre) + ALL Consultant Costs
- ☐ Final Plat: \$150 per lot + \$10 per acre (acreage rounded to the nearest whole acre) + ALL Consultant Costs
- ☐ Replat/ Amended Plat: \$150 per lot + \$10 per acre (acreage rounded to the nearest whole acre) + ALL Consultant Costs
- ☐ Digital Copy of Submitted Plat/Plan (required)
- ☐ Site Plan
- ☐ Concept Plan
- ☐ Planned Development
- ☐ Vacation of Plat

General Information:

Addition Name (if platted): Meraki Phase 1A (Proposed) Current Zoning: N/A - ETJ

No. of Acres: 16.048 No. of Lots: 25 Proposed Zoning: N/A - ETJ

General Location of Property: Intersection of FM 548 and Mann Road

Proposed Use for Property: Single Family Residential

Applicant Name: Colton Smith

Company: Spiars Engineering and Surveying, Inc.

Address: 765 Custer Road City, State, Zip: Plano, TX 75075

Phone(s): 4697661778 Email: colton.smith@spiarsengineering.com

Owner Name: Tellus-Mann, LLC Contact: David Blom; Jutin Craig

Address: 130 N Preston Road, Suite 130 City, State, Zip: Prosper, TX 75078

Legal Description of the Property: Ruth Peckum, 183.0 Acres; Ruth Peckum, 222.123 Acres; Ruth Peckum, 3.71 Acres, & House

County Parcel ID: 11030, 10984, 11029

Other Information: _____

Development Fees

The City recognizes that professional guidance is necessary when undertaking any land use project including platting, zoning or Board of Adjustment applications. Therefore, the City will provide a one-hour or 2 one-half hour complimentary professional consultation with the City Planner and/or City Engineer. These complimentary consultation(s) will be arranged by City Staff. Limit of one complimentary consultation per property.

The applicant must pay the actual fee (very small & simple projects) or deposit the estimated fee with the City prior to consultant review of any application. Should the actual consultant cost exceed the estimate, the applicant will be invoiced for amounts owed. Unused deposit monies will be refunded to applicant within 60 days of project conclusion.

ALL Consulting Costs - Includes City Planning, City Engineer, City Attorney and any other outside consultant costs incurred by the City. All outstanding fees must be paid by the applicant prior to their application being placed on the agenda of the Planning & Zoning Commission, City Council or BOA. Consultants invoice the City monthly after work is completed, so it is possible for plat applicants to receive notice of outstanding fees after a plat has been considered. The City will invoice for any remaining consulting charges. Building permits be not be issued with fees outstanding.

I hereby certify that I am the owner, or duly authorized agent of the owner, for the purpose of this application. All information submitted herein is true and correct and the application fee of \$ 4,535 to cover the cost of this application, and an initial deposit of \$ 3,000 for consulting fees has been paid to the City of McLendon-Chisholm on this 9th day of June, 2023

Further, I hereby certify that I understand and agree to the development and consulting fees and costs as stated above and agree to pay all outstanding fees and costs to the City prior to the application being placed on the agenda for consideration by the Planning & Zoning Commission and/or City Council.

Signature of Applicant: _____

Justin Gray
Rochelle Green

(Seal)

City Secretary: _____



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Plat Application Revised 01/28/2020



PLANNING AND ZONING COMMISSION – CITY OF MCLENDON-CHISHOLM, TEXAS

DATE: June 15, 2023

APPLICANT: Colton Smith
Spiars Engineering and Surveying, Inc.
765 Custer Road
Plano, Texas 75075

PROPERTY OWNER: Tellus-Mann, LLC.
130 N. Preston Road
Suite 130
Prosper, TX 75078

REPRESENTATIVE: Colton Smith

LOCATION: 16.048 acres of land located at the intersection of Mann Road and FM 548 Kaufman County, McLendon-Chisholm ETJ. Parts of KCAD PID# 11030, 10984, 11029

PLANNING AND ZONING COMMISSION MEETING DATE: June 20, 2023

This application is located within the extra territorial jurisdiction of McLendon-Chisholm.

The Planning and Zoning Commission has one of three possible recommendations to make: Approval; Approval with conditions [the conditions must be specific citing the portion of the Subdivision Regulations with which the application fails to comply; or disapproval. [If disapproved, the specific sections of the Subdivision Regulations not complying with the code must be cited].

REQUEST:

The applicant is requesting approval of a preliminary plat for a little over 16 acres of land for the development of a 25-lot residential subdivision with 9 open space/HOA Lots.

STAFF RECOMMENDATION: Approval with conditions:

- Revise to comply with Interlocal Agreement [attached] between the City and Kaufman County. The Kaufman County Thoroughfare Plan calls for Mann Road to have an 80 foot right of way. The preliminary plat only shows a 60 foot right of way.

[note: full sized copies of the preliminary plat are available at City Hall for inspection]

This is the first of many plat applications the City expects to receive on the Tellus-Mann Project.

Thoroughfares/streets:

The map shows the University Drive corridor in Austin, Texas. Key streets include University Dr, Valley View Rd, Neal Rd, Reeder Rd, Windmill Farms Blvd, Gateway Blvd, and FM 548. The map also shows the location of the University of Texas at Austin and the proposed light rail line. The map is color-coded to show different types of roads and transit routes. A dashed line indicates the proposed light rail alignment, which runs along University Drive and FM 548. The map also shows the location of the University of Texas at Austin and the proposed light rail line. The map is color-coded to show different types of roads and transit routes. A dashed line indicates the proposed light rail alignment, which runs along University Drive and FM 548.

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Kaufman County Thoroughfare Map Legend



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Applicant letter of transmittal



765 CUSTER ROAD, SUITE 100 | PLANO, TEXAS 75075
972.422.0077 | FAX 972.422.0075
TBPE NO. F-2121 | TBPLS NO. F-10043100

May 24, 2023

City of McLendon-Chisolm
1371 W FM 550
Rockwall, Texas 75032

Re: **Preliminary Plat Letter of Transmittal**
Meraki Phase 1A
McLendon-Chisolm ETJ
Kaufman County, Texas
SEI Project No. 22-211

To Whom It May Concern,

This letter of transmittal accompanies a preliminary plat submittal for Meraki Phase 1A, a proposed development located in McLendon Chisolm ETJ, Kaufman County, Texas. The proposed development contains 16.048 acres and includes 25 residential lots and 8 open space lots.

The proposed improvements will consist of concrete curb and gutter roads with underground storm infrastructure. Subsurface conditions vary across the site with potential vertical movement ranging from 5 inches to 9 inches. Sanitary sewer service will be provided via a proposed wastewater treatment plant to be owned and operated by Ledbetter Freshwater Supply District No. 1 of Kaufman County. The site is currently within Highpoint's CCN, but alternate options for water through the City of McLendon-Chisolm in partnership with Terrell are being explored.

Sincerely,
Spiars Engineering, Inc.

A handwritten signature in black ink, appearing to read 'Colton Smith'.

Colton Smith, P.E.
765 Custer Road
Plano, TX 75075

CC: Justin Craig
Tellus Group
130 N Preston Road, Ste. 130
Prosper, TX 75078

**INTERLOCAL COOPERATION AGREEMENT BETWEEN
ROCKWALL COUNTY AND THE CITY OF MCLENDON-
CHISHOLM FOR SUBDIVISION REGULATION WITHIN THE
EXTRATERRITORIAL JURISDICTION OF THE CITY OF
MCLENDON-CHISHOLM**

THIS INTERLOCAL COOPERATION AGREEMENT ("Agreement") executed by and between Rockwall County, Texas, a political subdivision of the State of Texas (hereinafter referred to as "County"), and the City of McLendon-Chisholm, a municipal corporation of the State of Texas (hereinafter referred to as "City"), dated Nov. 12, 2013, is made pursuant to Tex. Loc. Gov't Code Ch. 242.

WHEREAS, the Agreement is in accordance with the requirements of Tex. Loc. Gov't Code Chapter 242, which requires that the City and the County enter into a written agreement pertaining to regulation of subdivision plats in the Extraterritorial Jurisdiction ("ETJ") of the City; and

WHEREAS, the City and the County believe it is in the best interest of both entities to combine their respective procedures into one seamless operation with each retaining certain responsibilities as hereinafter provided in this Agreement; and

NOW, THEREFORE, in order to carry out the intent of the Parties as expressed above, and for and in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both Parties, the County and the City agree as follows:

Article I. PURPOSE

- 1.01** The purpose of this Agreement is to establish and clarify each Party's obligations, costs, and the manner and method of approving subdivision plats for real property located within both the County and the ETJ of the City.
- 1.02** The ETJ of the City may fluctuate from time to time during the term of this Agreement as a result of City Council action. The City agrees to notify the County in writing within 10 days of any and all City Council action that changes the ETJ during the term of this Agreement thereby affecting subdivision platting for real property within the boundaries of the County.

Article II. TERM OF AGREEMENT

- 2.01** This Agreement shall be effective on January 1, 2014 and shall have an initial termination date of December 31, 2014. Thereafter, the Parties shall renew the Agreement on an annual basis. The annual renewal shall be automatic upon the expiration of the preceding one (1) year term unless one of the Parties gives the other Party written notice of its desire not to renew

the Agreement at least ninety (90) days prior to the expiration of the then current term.

- 2.02** Any notice of intent to terminate must be delivered by deposit in the United States mail, certified, return mail receipt requested, to the other Party at the addresses set out herein. Upon termination of this Agreement, neither party will have any obligations to the other party under this Agreement, except with respect to payment for services already rendered under this Agreement, but not yet paid.

Article.III. COUNTY RESPONSIBILITIES

- 3.01** The County assigns and delegates to the City the County's authority to approve subdivision plats and to issue related permits under Tex. Loc. Gov't Code Chapters 212 and 232 within the ETJ of the City, pursuant to Tex. Loc. Gov't Code Section 242.001(d), so that, except as otherwise provided in this Agreement, the City has exclusive jurisdiction to regulate subdivision plats and approve related permits in the City's ETJ utilizing the City's subdivision procedures.
- 3.02** The County will continue to administer and enforce County on-site sewage facility regulations in proposed and platted subdivisions in the City's ETJ; provided, however, that the County will reject as incomplete any application for an on-site sewage facility which is not accompanied by a plat application accepted by the City or a statement that the application is not associated with any development activity requiring approval of a subdivision or development plat.
- 3.03** This Agreement does not affect flood plain enforcement outside of the City Limits. The County will continue to be responsible for floodplain enforcement within the ETJ according to the County's Subdivision Rules and Regulations.
- 3.04** The County will continue to be responsible for accepting all public improvements that are located in the ETJ and are to be maintained by the County. The dedication and acceptance of the public improvements by the County must adhere to the County's Road Acceptance Procedures set forth in the County's Subdivision Rules and Regulations and the Unified Regulations attached hereto as Exhibit "A" and incorporated by reference herein.
- 3.05** The County agrees that it will not accept for filing any applications for plat approval for land within the City's ETJ following the effective date of this Agreement.

Article IV. CITY RESPONSIBILITIES

- 4.01.** The City will enforce its subdivision regulations and Unified Regulations, including design and construction standards, within its ETJ.
- 4.02.** The City and the County agree that the Unified Regulations shall be applied exclusively in the review of proposed plats in the City's ETJ. If either party wishes to propose revisions in the future to the Unified Regulations, the proposing party will notify the other party of the proposed change(s). The parties will cooperate in determining the need for the changes, and will adopt any change agreed to by amendment of the Agreement, as amended, by their respective governing bodies.
- 4.03.** The City agrees to require developers to dedicate public right-of-way pursuant to the Rockwall County Transportation Plan ("County Plan"), as currently adopted or as may be amended in the future, subject to applicable constitutional and statutory limitations for subdivisions. When it appears to the City that a requirement for dedication of right-of-way pursuant to the County Plan may exceed an applicable constitutional or statutory limitation, or if there is a conflict between the County Plan and the City of McLendon-Chisholm Thoroughfare Plan, the City will notify the County, and the parties will cooperate to determine the extent of right-of-way dedication to be requested, or an alternative method of securing the needed right-of-way.
- 4.04.** Where a dedication or construction requirement is to be imposed, the City, in consultation with the County, will make an initial determination of proportionality. If the applicant appeals the proportionality determination in accordance with procedures set out in the City's subdivision regulations, the City will make the final determination, again, in consultation with the County.
- 4.05.** The City will notify the County upon the filing of all applications for approval of final plats. A copy of the final plat and any engineering plans will be sent to the County within ten (10) days of filing with the City for the County's review and comment. The City will make every reasonable effort to notify the County of the final action taken by the City on the application, whether approved or denied, within three (3) working days, but no later than fifteen (15) days of the City's action.
- 4.06.** If an applicant requests an exception from any standard in the City's subdivision regulations, the City will bring the request before the County for review. Any variance from the City's subdivision regulations to be enforced in the ETJ must receive approval by the Commissioners Court prior to the City taking action on the plat application. Plat approval also shall be conditioned on: 1) formation of property owners associations for maintenance of any facilities not normally maintained by the County; and 2) upon provision of security instruments assigned to the County in the event

that the applicant seeks final plat approval before construction and acceptance of capital improvements.

- 4.07. The City will deliver two copies of all recorded plats for subdivisions within the City's ETJ to the County within ten (10) working days of the recording of the subdivision plat. For all subdivisions containing more than five (5) lots, the City will also provide to the County a digital file of the subdivision plat including at least two (2) ground control GPS points in a format approved by the County.
- 4.08. The City will confer with the Rockwall County 911 addressing Division in determining street names prior to final plat approval.
- 4.09. The City and County inspectors will have access to construction sites of subdivisions within the ETJ and the City will timely submit copies of all road design materials and road construction test results to the County during road construction. City inspectors will have inspection and approval authority over the road construction, storm water drainage construction, and on non on-site wastewater facility construction within the right-of-way and easements. The County may request that the City issue a stop-work notice if the applicable construction standards are not being met. The City will take all reasonable actions, including a stop-work order, to ensure that applicable construction standards are met, as deemed necessary by the City. The City will notify the County when construction of public improvements is completed for final acceptance by the County.
- 4.10. The City will collect all fees and charges involved with the approval of subdivision plats, including but not limited to engineering reviews, inspections of public improvements, but not including costs associated with applications for variances or exceptions to on-site sewer facilities to be reviewed and permitted by the County, under this Agreement.
- 4.11. As an attachment to this Agreement, the City will provide a current map defining the legal boundaries of its corporate limits and areas of ETJ. The City will notify the County of any changes to the City's ETJ within ten (10) days of the effective date of the change, and the area covered by this Agreement will be amended accordingly. A change in the area covered by the Agreement will not, however, affect any rights accrued under Tex. Loc. Gov't Code Chapter 245 prior to the effective date of the change.
- 4.12. The plats which will be subject to this Agreement are those that will be filed after the effective date of this Agreement. If the ETJ is expanded or reduced, plats must be filed with the party who has jurisdiction as defined by this Agreement.

Article V. GENERAL PROVISIONS

- 5.01. General Administration:** The County and the City will designate their respective representatives for the general administration of this Agreement.
- 5.02. Alteration, Amendment or Modification:** This Agreement may not be altered, amended, or modified, except in writing and signed by all parties to this Agreement.
- 5.03. Notice:** All notices sent pursuant to this Agreement will be in writing and must be sent by registered or certified mail, postage prepaid, return-receipt requested.

Notices sent pursuant to this Agreement will be sent to the Rockwall County Judge's Office at the following address:

*County Judge
Rockwall County Judge's Office
101 Rusk Street, Room 202
Rockwall, Texas 75087*

Notices sent pursuant to this Agreement may be delivered or sent to the City at the following address:

*Mayor
City of McLendon-Chisholm
1248 S. Hwy 205
McLendon-Chisholm, Texas 75032*

When notices sent pursuant to this Agreement are mailed by registered or certified mail, notices will be deemed effective three (3) days after deposit in a U.S. mail box or at a U.S. post office.

- 5.04. Severability:** If any provision of this Agreement is found to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect the remaining provisions of this Agreement.
- 5.05. Breach:** The failure of either party to comply with the terms and conditions of this Agreement will constitute a breach of this Agreement. Either party will be entitled to any and all rights and remedies allowed under Texas law for any breach of this Agreement by the other party.
- 5.06. Non-Waiver:** The waiver by either party of a breach of this Agreement will not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision. Nothing in this Agreement is intended

EXHIBIT A

UNIFIED REGULATIONS FOR REVIEW OF PLATS IN
ETJ OF CITY OF MCLENDON-CHISHOLM

1. The standards and procedures contained in the City of McLendon-Chisholm Subdivision Regulations duly enacted by the City, as amended before or upon the Effective Date of the Agreement, and which hereby are incorporated by reference for all purposes, shall apply exclusively to the review of all plat applications in the City's extraterritorial jurisdiction, with the exceptions contained in paragraph 2 of these Unified Regulations.
2. The following additional provisions, which are derived from the Rockwall County Subdivision Rules and Regulations, enacted by Order of May 29, 2007, as amended before or upon the Effective Date of the Agreement, and which hereby are incorporated by reference for all purposes, shall apply:
 - a. **Road specifications for residential streets by lot size.**
 - (1) Residential streets, where all lots are 1.5 acres or greater in size, shall have a minimum right-of-way of sixty (60) feet, unless additional right-of-way is needed for maintenance or drainage purposes; and a minimum pavement width of twenty-six (26) feet.
 - (2) Residential streets, where any lot is less than 1.5 acres but greater than .75 acres in size, shall have a minimum right-of-way of seventy (70) feet, unless additional right-of-way is needed for maintenance or drainage purposes; and a minimum pavement width of thirty-six (36) feet.
 - (3) Residential streets, where any lot is .75 acres in size or less, shall have a minimum right-of-way of seventy-five (75) feet, unless additional right-of-way is needed for maintenance or drainage purposes; and a minimum pavement width of forty-four (44) feet.
 - b. **Minimum lot size.** For development relying upon on-site sewage facilities for wastewater disposal, the minimum lot size shall be 1.5 acres. This minimum lot size shall not include any right-of-way, drainage easement, utility easement, or floodplain area. The minimum lot frontage shall not be less than one hundred fifty (150) feet at the building line.
 - c. **Building set-back.** Building and setback lines shall be fifty (50) feet from the edge of the right-of-way on all streets and roads. No buildings shall be constructed closer than fifteen (15) feet from side

or rear property lines. Building and setback lines shall be shown on both the preliminary and final plats.

3. The design and construction standards and guidelines contained in the City of McLendon-Chisholm Standards of Design and Construction, duly enacted and as heretofore or hereafter amended, which hereby are incorporated by reference for all purposes, shall apply exclusively to the review of all plat applications and construction plans in the City's ETJ, with addition of the following sections to the Standards derived from Rockwall County specifications:

a. **Residential Streets in the ETJ.** The following standards apply to residential streets in the City's ETJ:

- (1) Where all lots are 1.5 acres or greater in size, the minimum right-of-way shall be sixty (60) feet, unless additional right-of-way is needed for maintenance or drainage purposes; and minimum pavement width shall be twenty-six (26) feet, with six (6) inches of 3600 psi reinforced concrete, as per City standards. Subgrade shall be stabilized with seven percent (7%) lime to a depth of six (6) inches, thirty (30) feet in width.
- (2) Where any lot is less than 1.5 acres but greater than .75 acres in size, the minimum right-of-way shall be seventy (70) feet, unless additional right-of-way is needed for maintenance or drainage purposes; and minimum pavement width shall be thirty-six (36) feet, with eight (8) inches of 3600 psi reinforced concrete, as per City standards. Subgrade shall be stabilized with seven percent (7%) lime to a depth of six (6) inches, forty (40) feet in width.
- (3) Where any lot is .75 acres in size or less, the minimum right-of-way shall be seventy-five (75) feet, unless additional right-of-way is needed for maintenance or drainage purposes; and minimum pavement width shall be forty-four (44) feet, with eight (8) inches of 3600 psi reinforced concrete, as per City standards. Subgrade shall be stabilized with seven percent (7%) lime to a depth of six (6) inches, forty-eight (48) feet in width.

b. **Road Acceptance in ETJ.** All conditions of the Final Plat must be met. Acceptance of streets and alley improvements shall be evidenced by approval of the City of McLendon-Chisholm Engineering Department and by an instrument approved by the Rockwall County Commissioners Court in accordance with the Rockwall County Subdivision Rules and Regulations.

No acceptance will be considered by the County until the County's Designated Agent receives a certificate from the City of McLendon-Chisholm Engineering Department, certifying that all improvements have been completed in accordance with the approved construction plans. All costs associated with furnishing the necessary certificate shall be borne by the Subdivider.

c. Storm Drainage in the ETJ.

(1) Roads with Side Ditches.

- a. Side road ditches shall be designed to carry the 100-year developed flow and shall have a maximum side slope of 5:1.
- b. Cross road culverts shall be designed to carry the 100-year developed flow.
- c. Drainage channels shall be designed to carry the 100-year developed flow.
- d. The entire subdivision shall be designed so that no flooding of buildings or parking lots shall occur with the 100-year developed flow. The finished floor of buildings are to be a minimum of two (2) feet above the 100-year ultimate (developed) floodplain elevation. Parking lots shall be a minimum of one (1) foot above the 100-year ultimate (developed) floodplain elevation.

(2) Drainage Easements.

- a. The area identified as a drainage easement shall be subtracted from the raw lot size in determination of acceptable lot size for construction.
- b. Drainage easements shall generally be located along the existing drainage way.
- c. Open channels with top widths from zero (0) to fifty (50) feet require top width plus twenty-five (25) feet.
- d. Open channels with top widths greater than fifty (50) feet require top width plus twenty-five (25) feet per side.
- e. Enclosed pipes require twenty (20) feet minimum width.
- f. All easements shall be so designed to allow maintenance equipment to enter the easement for performance of necessary work.

- (3) Lots in floodplains.** For subdivisions that are located in a flood zone, as shown on the current Flood Insurance Rate Map (FIRM) for Rockwall County, the applicable minimum lot size shall be calculated by subtracting from the proposed lot size any land in the floodplain. Neither the City nor the County shall have

responsibility to provide and maintain drainage for the purpose of flood damage reduction on individual private lots located in the floodplain.

d. Private Utilities in ETJ.

(1) Size and Location: Utility easements shall be a minimum of fifteen (15) feet in width, and normally located along a property or lot line. It shall be the duty of the Subdivider to insure that all easements are of the proper width and location to serve the using utility companies. Utility lines crossing a road shall be installed a minimum of thirty-six (36) inches below the ditch line. All lines must be encased in steel pipe or concrete a minimum of two (2) feet beyond ditch line.

(2) Private Mailboxes.

a. Community Mailboxes. For purposes of public safety, use of clustered or community mail facilities should be used whenever possible to reduce collision hazards.

b. Mailbox Placement. Mailboxes shall be set a minimum of three (3) feet from the edge of the pavement. When placement of a mailbox outside the three-foot minimum is not possible, a mailbox of "break-away design" shall be used.

c. Mailbox Requirements. All mailboxes within the road right-of-way shall meet the current Texas Department of Transportation (TXDOT) standards on streets with speed limits in excess of forty (40) miles per hour. All mailboxes must satisfy Post Office requirements and shall be erected in a place and manner that does not impede visibility. In the TXDOT and Post Office standards for mailboxes conflict, the more stringent standard shall apply.

4. The standards and procedures contained in Rockwall County Subdivision Standards, Article Ten, On-site Wastewater Rules, enacted by Order of May 29, 2007, as amended before or upon the Effective Date of the Agreement, and which hereby are incorporated by reference for all purposes, shall apply exclusively to the review of all applications for on-site sewage disposal within the City's ETJ. Where proposed developments require or seek centralized wastewater services, the City of McLendon-Chisholm Subdivision Regulations and related main extension policies, standards and procedures shall exclusively apply.