



AGENDA
PLANNING & ZONING COMMISSION REGULAR MEETING
TUESDAY, SEPTEMBER 19, 2023
1371 WEST FM 550 - McLENDON-CHISHOLM, TEXAS 75032
6:30 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. Consider approval of the Minutes of August 15, 2023 Planning & Zoning Meeting
[Minutes 08.15.23](#) 3 - 16
5. PUBLIC HEARING
 - 5.1. Continue a Public Hearing to receive public comments regarding a request by Oak National Development LLC. to change the existing planned development district on approximately 149.25 acres of land from the current zoning district classification of Planned Development District [Triple Creek] to a new Planned Development District [Legacy Park] containing 335 single-family residential lots and a city park. The Rockwall Central Appraisal District Property identification numbers are: 11447 and 11438.
 - 5.2. Hold a public hearing to receive public comment regarding a request by Greenbriar Homes to change the existing SF 2.5 [Single Family Zoning district requiring a minimum lot size of two and one-half acres of land] and a GB [General Business] Zoning District on approximately 20 acres of land to a Mixed-Use Planned Development District providing for three five-acre single-family residential lots and one five-acre lot for a mini-warehouse facility. This property generally fronts on League Road east of the intersection of League Road and State Highway 205. The Rockwall Central Appraisal District Property identification numbers are 11404, 11408, and 11417.

6. ITEMS FOR CONSIDERATION AND ACTION

- 6.1. Discussion and action regarding the request for approval of the application of Aaron Parker (owner/applicant) for a final plat for a 1.5-acre tract of land to create a building site. Rockwall County requires a minimum lot size of 1.5 acres of land for an on-site sanitary sewer facility. 17 - 21
[Parker Plat Application](#)
[Staff Recommendation](#)
- 6.2. 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 as submitted by Tellus-Mann, LLC. The property is located at the intersection of Mann Road and FM 548, Kaufman County, McLendon-Chisholm ETJ. KCAD PID# 11030, 10984, and 11029. 22 - 29
[Application](#)
[Staff Recommendation](#)
- 6.3. Discussion of educational information regarding the standards and requirements for implementing a moratorium. 30 - 38
[Information Memo](#)
- 6.4. Consideration of future agenda items and guidance for staff.

7. ADJOURN

As authorized by Section 551.071(2) 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 5:00 p.m., September 15, 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, August 15, 2023**

The Planning & Zoning Commission of the City of McLendon-Chisholm convened in Regular Session on Tuesday, August 15, 2023, at McLendon-Chisholm City Hall, 1371 W FM 550, McLendon-Chisholm, Texas, with the following members present:

Members Present:	Mark Kipphut	Chairman
	Robert Rohde	Co-Chairman
	Terry Eoff	Commissioner
	Chris Freeze	Commissioner
	Gyle Dale	Commissioner
	Michael Easter	Alternate
	Thomas Hritz	Alternate
	Jose Velosquez	Alternate

Staff Present:	Shelly Green	City Secretary
	Mike Coker	City Planner

1. CALL TO ORDER

Chairman Kipphut called the meeting to order at 6:30 p.m.

2. INVOCATION AND PLEDGES TO U.S. AND TEXAS FLAGS

Chairman Kipphut voiced the invocation and Commissioner Freeze led the pledges.

3. CITIZEN COMMENTS

Mike Hatcher, 175 E FM 550, McLendon-Chisholm. The only question I had, this looks like a great neighborhood, one acre lots, all that. The side yard setbacks, 10 foot is pretty, I mean, that means houses could be up to 20 only 20 feet apart, that's pretty close for one acre. I am just curious why the developer would ask for a 10-foot side setback.

4. APPROVAL OF MINUTES

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

MOTION: APPROVE THE MINUTES OF THE JULY 28, 2023, PLANNING & ZONING MEETING

MADE BY: Commissioner Dale
SECONDED BY: Commissioner Freeze
APPROVAL: Unanimous

5. STATEMENT REGARDING DEVELOPMENT PROCESS

- Take this opportunity to explain provisions that exist which prevent unsustainable development
- MC is a General Law City. Most of the actions Planning and Zoning takes are governed by Chapter 211-213 of the Texas Local Code and our city ordinances. All our actions and decisions concerning zoning and plating must be rooted in these two sources.
- For any development, there is no acceptable solution that does not involve negotiations and tradeoffs to achieve best outcomes. For P&Z members it is critical our review and decisions be based on the Texas Code, our Comprehensive Plan and City Ordinances. Inside the city limits, the city has control. In the ETJ outcomes are based on the Texas Code, Interlocal Agreements and our Code of Ordinance.
- For new development, everything starts with the Comprehensive Plan which provides the vision for how our citizens have expressed their desires for how our city will develop. The Comprehensive Plan conveys who we are and what we want. It provides the guidelines for development and redevelopment.
- The purpose of the Comprehensive Plan as defined by Texas Code is to:
 - Provide sound development
 - Promote and protect public health, safety, and welfare.
 - Preserve the characteristics that are valuable to our community while creating a vision for development.
 - To help guide the community toward its future envisioned state.
- The specific objectives of the Comprehensive Plan are to:
 - Identify desired public and essential services.
 - Encourage development using public and private investment strategies.
 - Manage growth.
 - Guide future land use.
 - Minimize potential conflicts between existing and future land use.
 - Ensure data drive decisions and rational that benefit the overall community.
- Within the Comprehensive Plan, the Future Land Use Plan depicts how the city should develop:
 - Commercial and residential

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- Mobility and roads
 - Topography, landscaping/vegetation, and floodplain
 - Desired density
 - Each area if depicted, including Zoning or the use of Master Planned Communities or Planned Development
- A comprehensive plan does not constitute zoning regulations or establish zoning district boundaries.
 - Zoning regulations, as defined under Texas Code, must be adopted in accordance with a comprehensive plan and must be designed to:
 - lessen congestion in the streets;
 - secure safety from fire, panic, and other dangers;
 - promote health and the general welfare;
 - provide adequate light and air;
 - prevent the overcrowding of land;
 - avoid undue concentration of population; or
 - facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.
 - Zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the municipality.
 - Zoning guides the boundaries for development by zones. This includes purpose, infrastructure, and other physical features.
 - Zoning is the specific definition for land use by category or activity.
 - No building is permitted without an approved plat and no plat can be approved without appropriate zoning. Development is a process starting with the Comp Plan to Zoning to Platting. The sole exception is for a homestead of 5+ acres.
 - Plats are legally binding documents filed with the County Clerk – Chapter 10 of our Subdivision Regulations govern the process. Compliance with this ordinance is how we make recommendations to City Council for approval, approval with conditions or denial.
 - Plats are approved in two steps, the Preliminary Plat that includes a description of the purpose, existing features, and new features. For a subdivision this includes roads, water, wastewater, storm runoff, easements, and a number of other physical features, including the number of swelling units. In most cases the Preliminary Plat is the most important to review.
 - The Preliminary Plat once approved is good for six months and then expires unless the applicant requests an extension for another six months.
 - The Final Plat governs construction and includes all the final design features. It is valid for one year, can be extended for one year.
 - The final plat does not become a final record until the construction is complete, has passed all inspections and is accepted by the city.

- For new development, this includes Fire Suppression and fighting infrastructure which must be operational prior to construction of residential or commercial structures.
- The topic that is front of mind for our community is currently water, more important adequate water to service the homes being constructed. As part of the Platting Process the developer provides certification and modeling analysis to the city from the applicable water supplier which demonstrates the supplier's ability to provide adequate water.
- Occupancy by new residents is not allowed until the water lines are in place and potable water compliant with TCEQ standards can be provided.
- Because our city currently depends on three private corporations to deliver water, we are dependent on the water provider to fully inform the city staff, our citizens, and developers of their capabilities to service any new development or construction. We can also make certain current residents and businesses will not be harmed by the increase in service demand, should a conflict arise, we will need the support of city staff to detail and impacts. The Planning & Zoning Commission, along with City staff, should be skeptical and thoroughly examine new requests. However, our doubts alone do not constitute legal basis to deny an application if the developer is confident, they have a pathway. We need to require the developer provide the facts and data to support their plans.
- Development takes years to complete, so at step the plans, and eventually the status, of infrastructure need to be understood, in the initial zoning applications, the presence or absence of infrastructure is not a consideration. As zoning process to development plans, platting and ultimately construction, the requirements for proven infrastructure and service become key elements.
- In summary, existing Texas Code and our city ordinances provide sufficient oversight and controls to ensure all future developments inside the city limits are thoroughly vetted to ensure compliance with our Comprehensive Plan, proper land usage, necessary infrastructure (including utilities) and conform to building standards.

City Planner Coker added comments and fielded comments/questions from the Commissioners.

6. PUBLIC HEARINGS

- 6.1. Consider approval of an application requesting a zoning district change from the AG Agriculture Zoning District that provides for a lot size of two and one-half acres to a planned development district [Ridge Pointe Estates] for the development of 83 single-family residential lots with a minimum lot size of one-acre of land. The property location is 99.544 acres of land located generally across FM 550 from McLendon-Chisholm City Hall, 1371 West FM 550, McLendon-Chisholm, Texas. Rockwall CAD Property ID #10767.

This item was listed on the agenda in error – No Discussion and No Action

7. ITEMS FOR CONSIDERTION AND ACTION

- 7.1. Consider approval of an application requesting a zoning district change from the AG Agriculture Zoning District that provides for a lot size of two and one-half acres to a planned development district [Ridge Point Estates] for the development of 83 single-family residential lots with a minimum lot size of one-acre of land. The property location is 99.544 acres of land located generally across FM 550 from McLendon-Chisholm City Hall, 1371 West FM 550, McLendon-Chisholm, Texas. Rockwall CAD Property ID #10767.

City Planner Coker presented his report on this item:

APPLICANT: Ricardo Dol, PE
Petitt-ECD
1600 N. Collins Boulevard
Suite 3300
Richardson, Texas 75080

PROPERTY OWNER: Terrel 178 Partners, LLC
PO Box 818
Terrell, Texas 75160

REPRESENTATIVE: Ricardo Dol

LOCATION: 99.544 acres of land located generally across FM 550 from McLendon-Chisholm City Hall 1371 West FM 550 [McLendon-Chisholm City Hall] McLendon-Chisholm, Texas. Rockwall CAD Property ID #10767.

PLANNING AND ZONING COMMISSION MEETING DATE: August 15, 2023

REQUEST:

The applicant is requesting approval of a zoning district change from the AG Agriculture Zoning District that provides for lot sizes of two and one-half acres to a planned development district [Ridge Pointe Estates] for the development of 83 single-family lots each with a minimum lot size of one-acre of land.

STAFF RECOMMENDATION: Approval. This application conforms to the Comprehensive Plan.

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Concept Plan for Ridge Pointe Estates Planned Development District



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Proposed development standards

EXHIBIT B

RIDGE POINTE ESTATES SUBDIVISION

PLANNED DEVELOPMENT DISTRICT DEVELOPMENT STANDARDS

For Approximately 99.54 Acres

City of McLendon-Chisholm, Rockwall County, Texas

1. Purpose and Intent

This Planned Development District provide for the development standards for a planned subdivision containing 83 single-family residential lots with a minimum lot size of one acre of land and two community owned common area lots. This development is approximately 99.54 acres of land generally located near intersection of McLendon Rd (FM 550) and Chapel Hill Ln.

2. Special Provisions

This Exhibit includes the PD Development Standards and the Concept Plan both of which are included and made a part of the ordinance adoption the Planned Development District.

a. Minor Amendments to the PD, including minor amendments to an approved Concept Plan or Development Plan, shall satisfy the following standards:

- i. Does not increase density;
- ii. Does not change the maximum structure height, reduce setbacks or parking requirements, or reduce the size of any residential lots.

Requests to amend the PD or the Concept or Development Plans that fail to satisfy the standards of i. ii. Above shall be considered as a change in zoning and shall be required to satisfy the requirements of an original request for a change in zoning.

b. Minor amendments amendment to the PDD including approved Concept or Development plans may be approved by the Mayor and the City Administrator No action is required by the Planning and Zoning Commission or the City Council.

c. Requests for minor amendments shall be made in writing and shall justify the reason or reasons for the requested amendment.

3. Development Plan

Prior Development of any portion of this planned development district, the City Council shall consider a development plan upon recommendation from the Planning and Zoning Commission. Any development plan shall conform to the Concept Plan that has been approved and made a part of this ordinance.

This development may be constructed in phases. However, if constructed in phases, each phase shall have a development plan reviewed and recommended by the Planning and Zoning Commission and reviewed and approved by the City Council prior to any construction in that phase.

4. Development Standards

Lot layout shall conform to the Concept Plan that has been adopted and is part of this ordinance.

- a. This is a single-family zoned district.
- b. Permitted uses. In this zoning district, no building or land shall be used, and no building shall be constructed, reconstructed, altered or enlarged, unless otherwise permitted in accordance with section 3-1. Use of land and buildings of the City of McLendon-Chisholm Zoning Ordinance as shown for the SF 1.5 Residential District.
- c. Area requirements. Minimum residential lot size one acre.
- d. Setbacks.
 - Front yard – 50 feet
 - Side yard – 10 feet
 - Back yard – 20 feet

Front yard setbacks shall be consistent for the entire block face. Side yard setbacks shall be consistent for the entire block face.

e. Lot width. Minimum lot width is 135 feet.

For lots fronting on a cul-de-sac or eyebrow, the minimum lot width shall be measured at the front setback line. Corner lots may have the 15-foot side yard adjacent to the side street.

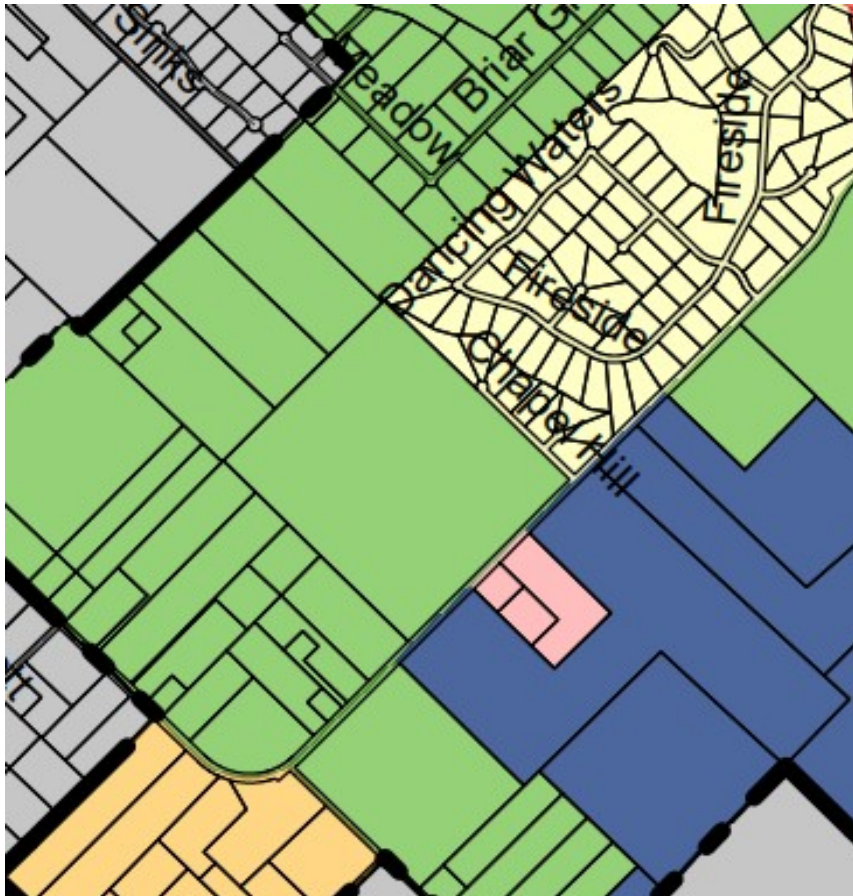
- f. **Lot depth: 215 feet**
- g. **Minimum Dwelling size: 2,300 square feet**
- h. **Lot coverage: 20 percent**
- i. **Maximum Height: 36 feet**
- j. **Off-street parking: Shall conform to section 6-7, Off-street parking and loading requirements of the McLendon-Chisholm Zoning Ordinance.**
- k. **Accessory structures: Shall conform to the requirements of section 6-3 of the McLendon-Chisholm Zoning Ordinance.**

Concept Plan

BACKGROUND INFORMATION:

Current Zoning: The request is to change the zoning district designation from AG Agriculture [Shown as green in the map below] to a planned development district for the development of 83 single-family residential lots and two HOA [homeowner association] lots.

Current Zoning Map

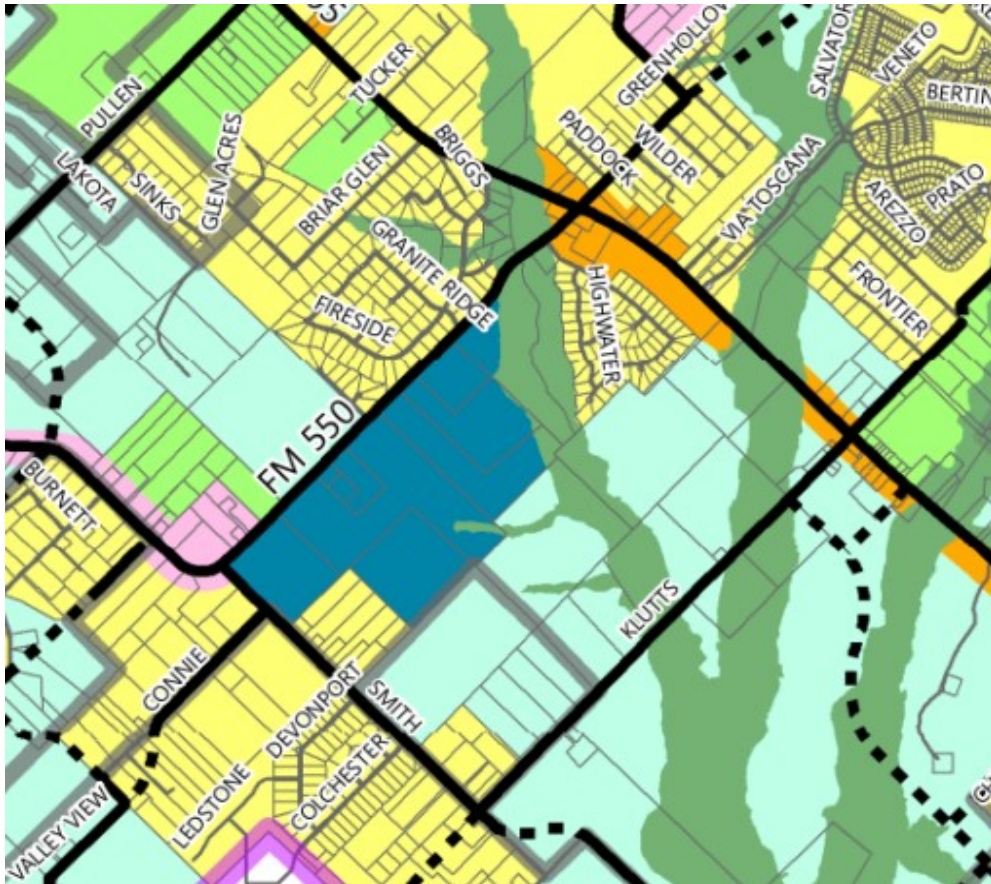


Additional background information:

This property backs up to the Heritage Subdivision that has access from Pullen Road. The Concept Plan for this new planned development district has a potential roadway connection to the Heritage Subdivision at Settlement Lane. Heritage Subdivision is currently having homes constructed.

Comprehensive Plan: Zoning must conform to the Comprehensive Plan.

Future Land Use Plan Map



The Future Land Use Plan shows the area fronting on FM 550 to be “Master Planned Community”.

The Comprehensive Plan describes a Master Planned Community as follows:

This Future Land Use Designation is for areas anticipated to develop as planned developments or master planned communities of varying sizes, types, and uses.

Anticipated Land Uses:

- Conservation development with primarily single-family residential uses with one or more neighborhood centers for gathering space, parks, and/or low-intensity commercial uses;
- Some limited areas of mixed-use development (combinations of residential, office, restaurant/retail, entertainment, and/or arts/culture) with a rural/country feel; and/or
- Farming or agrihood-type uses.

Desired Development Characteristics:

- Minimum lot size of one acre for residential uses, exclusive of floodplains and rights-of-way. Drainage areas and waterways should be within HOA-maintained common areas and not included on individual lots where applicable.
- Minimum 150-foot lot width for residential uses;
- Preserved open space integrated into the neighborhood, including use of floodplains and existing greenbelts to create attractive common areas that showcase a rural feel;
- Where commercial uses are included, at least 90 percent of gross land area per development should be residential and/or green space/floodplain/park;
- Peaceful and quiet design that portrays a retreat from urban life through various elements, such as water features, calm colors, sophisticated architecture, and luxurious “off spots” for informal sitting and dining;
- Development that Diversifies the Tax Base and provides areas for people to enjoy Grassroots Community Events or entertainment where the noise or activity can be appropriately distanced from residential uses;
- Shaded, lighted, and landscaped trail system to connect destinations and neighborhoods.
- One story typical with two stories maximum.

This property is located across FM 550 from City Hall and the City Fire Station.

NOTE: The minimum lot size for a residential lot with on-site sanitary sewer facilities is one-acre of land within the City of McLendon-Chisholm.

Thoroughfares/streets:

FM 550 is shown on the McLendon-Chisholm Thoroughfare Plan to be an existing principal arterial adjacent to the applicant's property. A principal arterial is proposed to be a four-lane divided thoroughfare with 100 to 150 feet of right of way. Adjacent to the subject property FM 550 is a two-lane undivided thoroughfare with 60 feet of right of way. At the time of platting, it is the City's policy to acquire one half of the deficit right of way from the applicant. The City has been acquiring additional right of way along FM 550 to widen the right of way from 60 feet to 100 feet. That usually means a dedication of 20 additional feet of right of way adjacent to the applicant's property.

Property legal description:

FIELD NOTE DESCRIPTION

Being a 99.544 acre tract of land situated in the LESTER EASTERWOOD SURVEY, ABSTRACT No. 79, Rockwall County, Texas, being all of a called 99.544 tract of land described in deed to Terrell 176 Partners LLC, recorded in Volume 2021, Page 25176, Official Public Records of Rockwall County, Texas (OPRRCT) and being more particularly described as follows:

Beginning at 1/2-inch iron rod found for the south corner of said 99.544 acre tract, also being the east corner of a called 15.95 acre tract of land described in deed to Callie Sue and Zachary Steven Hamilton recorded in Instrument Number 20190000014746 (OPRRCT);

THENCE North 45°12'32" West, with the common line of said 99.544 acre tract, said Hamilton tract, a distance of 1054.27 feet to a 3/4-inch iron pipe found for corner;

THENCE North 44°59'42" West with the common line of said 99.544 acre tract, and said Hamilton tract, passing at 388.31 feet a 1/2-inch iron rod with cap stamped "RSCI RPLS 5034" found for the north corner of said Hamilton tract and the east corner of a called 17.059 acre tract of land described in deed to Liechty Ranch, LLC, recorded in Instrument Number 20210000005014, (OPRRCT), continuing with the common line of said 99.544 acre tract and said Liechty Ranch Tract, a total distance of 776.35 to a 3/8-inch iron rod found for the north corner of said Liechty Ranch Tract, and the east corner of a tract of land described in deed to Fred and Vivian Kay McCurley, recorded in Instrument Number 20040000297696 (OPRRCT);

THENCE North 44°59'25" West, with the common line of said 99.544 acre tract, and said McCurley tract, a distance of 387.11 feet to a 1/2-inch iron rod found for the west corner of said 99.544 acre tract, from which an axle found bears South 45°41'30" West a distance of 15.35 feet, said 1/2-inch corner also being the north corner of McCurley tract and being the south corner of a called 73.896 acre tract of land described in deed to Oak National Development LLC, recorded in Instrument Number 20210000011007 (OPRRCT);

THENCE North 44°24'28" East, with the common line of said 99.544 acre tract and said Oak National tract, a distance of 1281.54 feet to a 1/2-inch iron rod with cap stamped "O'Neal 6570" found for corner;

THENCE North 44°39'27" East, continuing with said common line of a distance of 655.35 feet to a 1/2-inch iron rod with cap stamped "O'Neal 6570" found for the south corner of a called 24.617 acre tract of land described in deed to Prairie Hill LLC recorded in Instrument Number 20210000029472, (OPRRCT);

THENCE North 45°38'24" East, with the common line of said 99.544 acre tract, and said Prairie Hill tract, a distance of 19.62 feet to a 1/2-inch iron found for the north corner of said 99.544 acre tract, and the west corner of Chisholm Crossing Phase II, an addition to the City of McClendon-Chisholm, Rockwall County, Texas according to the Final Plat thereof recorded in Cabinet G, Page 91, Plat Records of Rockwall County, Texas (PRRCT);

South 45°08'19" East, with the common line of said 99.544 acre tract and said Chisholm Crossing, a distance of 2208.41 feet to a 5/8-inch iron rod with cap marked "PETITT-ECD 6134" set in the north right-of-way line of Farm to Market Road 550, from which a 1/2-inch iron rod found bears South 08°34'13" West a distance of 8.16 feet;

THENCE South 45°08'19" West, with the common line of said 99.544 acre tract and the northern right-of-way line of Farm to Market Road 550, a distance of 1958.24 feet to the POINT OF BEGINNING, containing 99.544 acres of land, more or less.

RIDGE POINTE ESTATES

**83 RESIDENTIAL LOTS
2 NON-RESIDENTIAL LOTS
BEING A 99.544 ACRE TRACT OF LAND
IN LESTER EASTERWOOD SURVEY
ABSTRACT NO. 79
CITY OF McLENDON-CHISHOLM
ROCKWALL COUNTY, TEXAS**

PETITT - ECD

CIVIL ENGINEERING SURVEYING CONSTRUCTION ADMINISTRATION
TBPELS FIRM REGISTRATION

ENGINEERING FIRM #001145 - SURVEYING FIRM #10194792

1500 N. COLLINS BLVD
SUITE 3300
RICHARDSON, TX 75080
214.221.9955
DATE: MAY 2023

JOB NO. 08829-00

201 WINDCO CIRCLE
SUITE 100
WYLIE, TX 75098
972.941.8400
SCALE: NA

F:\00 PEGOLP Projects\08829-00\PRELIM\0882900 Prelim Plat.dwg
May 24, 2023 - 9:39am

Russell Phillips, 521 Moraine Way, Heath. Thanked Commission for the opportunity to talk to them tonight to discuss the project they propose. He stated he wants to put their minds at ease regarding the water situation. He explained they are right across the street from City Hall and right now High Point serves this area. They have already been to them and we've already had a study done. They can supply the water and they have plenty of water to be able to supply the development. We will get this in our preliminary plat so you have hands on it and you know that it can be served. He also pointed out that there will not be a 10-foot side yard. It should be 25 feet on each side and we're happy to make that change.

Commissioner Rohde stated that he had made a comment to city staff a number of times. Historically, since I've been on P&Z, we received preliminary plats as well as final plats where we're ask to approve and send on to the City Council. It has a number of conditions and I really hate to see plats come in with all of these conditions where we have to prove this thing with a condition based on this and this. I'm not saying that your plats will have that, but I encourage you to make it very complete so that we don't come in when we see this and we have to pass it along to City Council that says we approve this plat if this condition, this condition, this condition, with this condition. Mr. Coker and I have had some serious discussions about this. We differ on some of these opinions, but I'm encouraging you to have your plat complete as much as possible so that we don't have to consider all these conditions and all these conditions because then that puts extra burden on our city engineer, on our city staff to follow up to make sure these conditions are met. It also puts responsibility on City Council and so I'm asking you please, when you submit your plat, minimum amount of conditions that we have to approve. We would like to see a plat and not five to seven conditions. If it has too many conditions, if I can find an ordinance or something, I will vote to disapprove it and you'll have to go back and do it again. I'm tired of seeing all these plats with all these conditions.

Commission Freeze stated he agreed with his statements. He makes his decisions based on facts that are presented to us within the law that governs us. The more data you get to us, the more that we can make those kinds of intelligent decisions and we can work together because I think that's the point that we want to be developed and to move forward but at the same time we want to make sure that we safeguard to make sure that if he is being best served and having the data available to make those decisions intelligently, remove that kind of bias that one might have for emotional reasons. So, you work with us to work with you.

MOTION: APPROVE A ZONING DISTRICT CHANGE FROM AG, WHICH IS AGRICULTURAL ZONING DISTRICT, THAT PROVIDES FOR A LOT SIZE OF TWO AND ONE-HALF ACRES, TO A PLANNED DEVELOPMENT DISTRICT [RIDGE POINT ESTATES] FOR THE DEVELOPMENT OF 83 SINGLE-FAMILY RESIDENTIAL LOTS WITH A MINIMUM LOT SIZE OF ONE-ACRE OF LAND WITH A MODIFIED SIDE LOT DISTANCE OF 25 FEET.

MADE BY: Commissioner Rohde
SECONDED BY: Commissioner Freeze
APPROVAL: Unanimous

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7.2. Consideration of future agenda items and guidance for staff.

Commissioner Freeze asked the status of several items from the last meeting:

- Request for the attorney to attend the next meeting. A memo for the tools or options of development laterally and in the ETJ
- City Planner was to provide recommendations for chapter 10 ordinance changes in Texas legislation.
- City Planner to provide information Mthe subdivision regulations and what is the thoroughfare plan for that.
 - Mr. Coker answered that on the subdivision regulations, he has drafted a series of amendments to the subdivision regulations. He explained that part of his responsibility is to cue those with our comprehensive plan. One of the recommendations of the comprehensive plan is for our subdivision regulations to be coincident with the comprehensive plan. There is one recommendation that takes the visuals for the thoroughfare plan out of the last comprehensive plan and inserts them into the modified new comprehensive plan. I'm doing that now so you'll probably see that set of recommendations at your next Planning & Zoning Commission meeting.
 - Chairman Kipphut stated he will contact Mr. Halla and express what we're looking for.
 - Request City Engineer to attend the next meeting.

8. ADJOURN

MOTION: ADJOURN THE MEETING

MADE BY: Commissioner Freeze

SECONDED BY: Commissioner Rohde

APPROVAL: Unanimous

The meeting was adjourned at 7:40 p.m.

ATTEST:

APPROVED:

Rochelle Green, City Secretary

Mark Kipphut, Chairman



**CITY OF McLENDON-CHISHOLM
PLAT APPLICATION**

Application Date: 6/28/23

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): PA Bill's Parker addition Current Zoning: residential

No. of Acres: 0.15 No. of Lots: 1 Proposed Zoning: residential

General Location of Property: 499 Stevew Rd Rockwall TX 75082

Proposed Use for Property: Home site

Applicant Name: Aaron Parker

Company: PA Bills Hills

Address: 1628 Luckenbach Dr City, State, Zip: Forney TX 75126

Phone(s): 214-243-7830 Email: atp7829@yahoo.com

Owner Name: PA Bills Hills

Address: 1628 Luckenbach Dr City, State, Zip: Forney TX 75126

Legal Description of the Property: _____

County Parcel ID: 29177

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 \$ 193.60 to cover the cost of this application, and an initial deposit of \$ 600.00 for consulting fees has been paid to the City of McLendon-Chisholm on this 28th day of June, 2023.

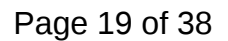
Further, I hereby certify that I understand and agree to the development and consulting fees and costs as stated above and agree to pay all outstanding fees and costs to the City prior to the application being placed on the agenda for consideration by the Planning & Zoning Commission and/or City Council.

Signature of Applicant: _____

City Secretary: _____

(Seal)







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

DATE: July 13, 2023

APPLICANT: Aaron Parker
1628 Luckenbach Place
Forney, Texas 75126

PROPERTY OWNER: PA Bills Hills
1628 Luckenbach Place
Forney, Texas 75126

REPRESENTATIVE: Aaron Parker

LOCATION: 1.5 acres of land located at 499 Stevens Road, McLendon-Chisholm ETJ.
Rockwall CAD PID#29177

PLANNING AND ZONING COMMISSION MEETING DATE: July 18, 2023

Note: Full sized copies of the preliminary plat are available at City Hall for inspection.

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].

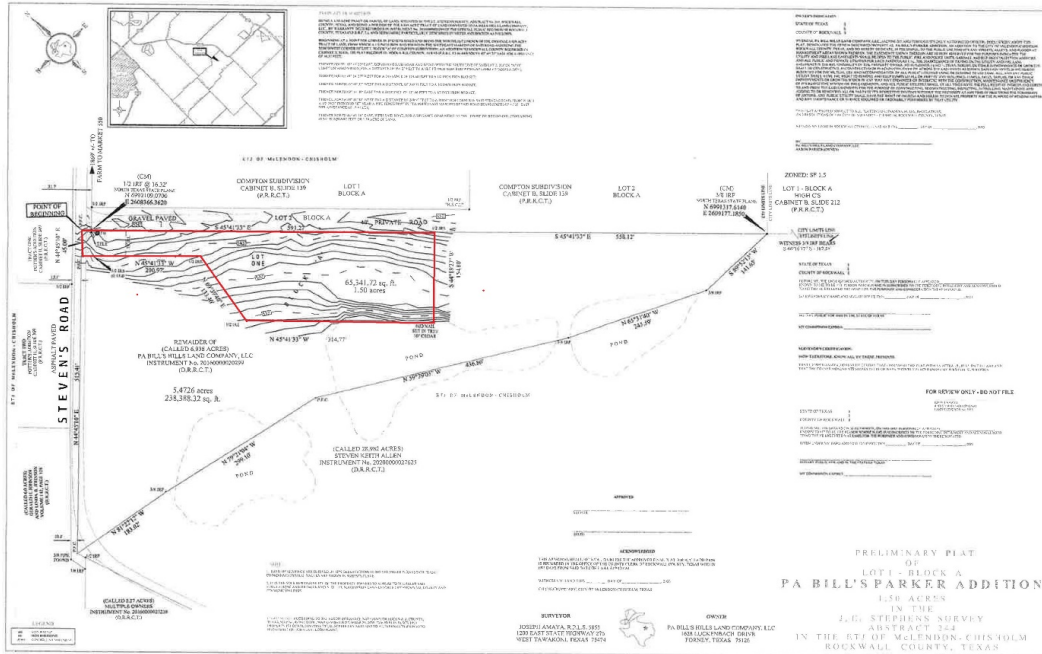
REQUEST:

The applicant is requesting approval of a preliminary plat for a 1.5 acre tract of land to create a building site. Rockwall County requires a minimum lot size of 1.5 acres of land for an on-site sanitary sewer facility.

STAFF RECOMMENDATION: Approval

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

Proposed Preliminary Plat [NEW LOT OUTLINED IN RED]



BACKGROUND INFORMATION:

Thoroughfares/streets:

Stevens Road is local street.

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**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: _____



Page 2 of 2

Plat Application Revised 01/28/2020



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

DATE: September 14, 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: September 19, 2023

NOTE: The preliminary plat for this subdivision was recently approved by the City Council with the condition that the main entry for the subdivision that commences at the intersection of FM 548 and Mann Road and the roadway conform to the requirements of the Interlocal agreement between McLendon-Chisholm and Kaufman County. The Owners' attorney sent a letter [included at the end of this memorandum] advising that a new state law became effective on September 1, 2023 that did not allow the City to require dedication of the roadway width required by the Kaufman County Thoroughfare Plan. The applicant requested withdrawal of the already approved preliminary plat, which was approved and the applicant submitted a new application for the same requested preliminary plat.

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: Disapproval, the proposed plat does not comply with the requirements of the City of McLendon-Chisholm subdivision regulations, specifically: Section 10.02.006, subsection (7)(A) Residential streets. Requires residential streets to have a minimum right of way width of 60 feet.

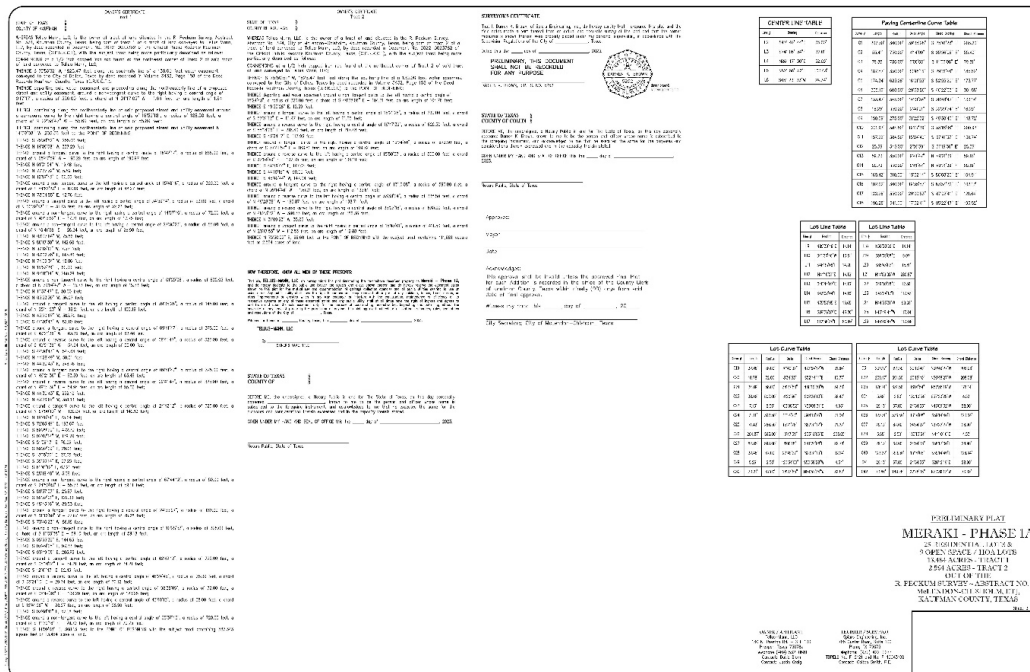
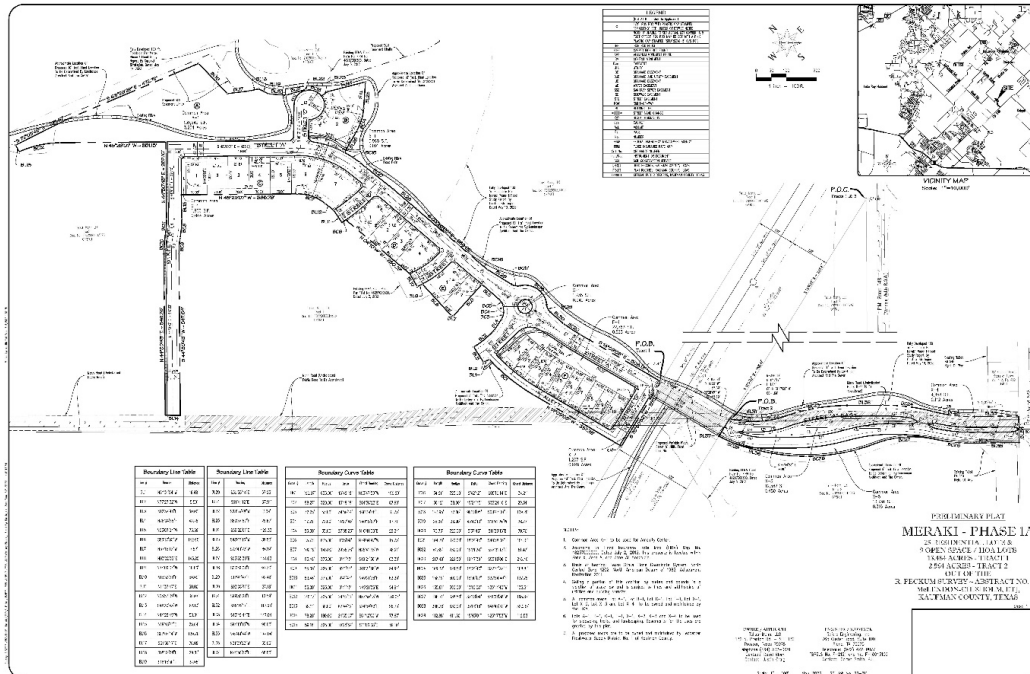
Given the operational characteristics of the proposed roadway, I recommend that the right of way width be no less than 70 feet because the proposed entry and main transportation artery will operate as a major collector.

The proposed preliminary plat does not define how fire apparatus access roadways conform to the Fire Code as adopted by the City. Street A [the main entry and roadway] purports to use Street B to provide a fire apparatus access road continuation to the original Mann Road right of way. However, the preliminary plat shows that Mann Road is to be abandoned. The applicant must describe how fire apparatus will operate in accordance with 2018 IFC as adopted by the City during construction and post development and construction of this phase.

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

Proposed Preliminary Plat



BACKGROUND INFORMATION:

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

The subject property is a 16.048 acre tract of land in Kaufman County, McLendon-Chisholm ETJ.

Thoroughfares/streets:

The main entrance to the subdivision is a divided 60 foot right of way with 30 feet of right of way on both sides of the entrance/exit to the subdivision. As the proposed main entry roadway progresses to the north and west, the right of way is no longer separated and is reduced to 50 feet. The McLendon-Chisholm Subdivision Ordinance requires a minimum width of right of way for a local street to be at least 60 feet. Section 10.02.006, subsection (7)(A) Residential streets. Requires residential streets to have a minimum right of way width of 60 feet.

While the applicant has designed the main entrance to this subdivision as a residential street with a substandard right of way width, the actual operation of this roadway will operate like a major collector. The McLendon-Chisholm Comprehensive Plan identifies Major Collector: "Major Collectors provide both land access service and traffic circulation around and between residential neighborhoods and commercial areas and can also provide main "to and through" in large developments or subdivisions. They differ from the Arterial system in that Collectors distribute trips from the arterials to the local street system and vice versa. Conversely, Collectors also take traffic from local streets in neighborhoods and channel it into the Arterial system. Collectors should accommodate short trip lengths, and do not typically extend across Arterial thoroughfares, except in certain circumstances, or carry a high percentage of through trips. These roadways can serve as a "relief valve" when the Arterial system is congested."

This proposed development is a large development and this roadway is the main transportation spine to that development. The concept plan for the development is included below. At full development the subdivision is proposed to contain no less than 2,761 homes, schools and retail. This roadway should be redesigned to conform to the standards for a collector street as defined in Section 10.02.006 (7)(B)Collector Streets having a minimum right of way width of 70 feet.

Section 10.02.004 of the McLendon-Chisholm Subdivision Ordinance provides the "Purpose, authority and jurisdiction" of the City to regulate, among other things, "adequate provision for traffic, light, air, recreation, transportation, water, drainage, sewage, and other facilities". I do not believe that a residential street provides for the adequate provision of traffic and transportation for a subdivision with the potential for over 2,700 homes, each home contributing 9.69 vehicle trips per day to the transportation system [roughly 26,000 trips per day].



meraki
FOURNEY, TEXAS

conceptual master plan
05/16/23

TELLUS



766

Scale: 1" = 100'

North Arrow

Legend



Meraki Product Summary									
Lot Type	Ph 1	Ph 2	Ph 3	Ph 4	Ph 5	Ph 6	Ph 7	TOTAL	
55' x 90'	-	70	-	77	-	65	86	231	
48' x 60'	133	156	78	205	36	194	39	864	
30' x 130'	98	184	115	174	171	139	47	928	
60' x 120'	107	94	82	76	82	68	30	597	
70' x 150'	7	0	22	-	28	13	-	70	
TOTAL	368	512	297	527	330	517	232	2,780	

SHUPE VENTURA, PLLC
Attorneys and Counselors
9406 Biscayne Blvd. | Dallas, TX 75218

September 1, 2023

City of McLendon-Chisholm
Attn. Konrad Hildebrandt
City Administrator
1371 West FM 550
McLendon-Chisholm, TX 75032

Misty Ventura
214.328.1101
misty.ventura@svlandlaw.com

Re: Tellus Plat

Dear Mr. Hildebrandt,

This law firm represents Tellus-Mann, LLC in connection with the platting of the Meraki project in the City's extraterritorial jurisdiction. Enclosed is a new preliminary plat application. The enclosed application is not a resubmittal of a prior application, and as a new application, it is governed by the laws in effect on September 1, 2023, including HB 3699 (88th Texas Legislature). HB 3699 amends Chapter 212, Texas Local Government Code, and includes the following provision that prohibits the City from requiring Kaufman County's preferred right-of-way dedication on the enclosed plat application, as shown on the Kaufman County thoroughfare plan:

SECTION 12. Section 212.010, Local Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) The municipal authority responsible for approving plats may not require the dedication of land within a subdivision for a future street or alley that is:

(1) not intended by the owner of the tract; and

(2) not included, funded, and approved in: (A) a capital improvement plan adopted by the municipality; or (B) a similar plan adopted by a county in which the municipality is located or the state.

The enclosed plat complies with applicable requirements, and is required to be approved in accordance with law. Please contact me with any questions regarding this matter.

Sincerely,



Misty Ventura

cc: Mike Coker, City Planner
Michael Halla, City Attorney



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

DATE: September 14, 2023

Discussion item: Moratoria

PLANNING AND ZONING COMMISSION MEETING DATE: September 19, 2023

Background:

The Chairman of the Planning and Zoning Commission has requested a discussion item on the September 19, 2023 agenda to discuss issues related to the potential implementation of a moratorium.

The standards and requirements for implementing moratoria are contained in Chapter 212 of the Texas Local Government Code, Subchapter E. Moratorium on Property Development in Certain Circumstances.

Following is the text of Subchapter E:

SUBCHAPTER E. MORATORIUM ON PROPERTY DEVELOPMENT IN CERTAIN
CIRCUMSTANCES

Sec. 212.131. DEFINITIONS. In this subchapter:

(1) "Essential public facilities" means water, sewer, or storm drainage facilities or street improvements provided by a municipality or private utility.

(2) "Residential property" means property zoned for or otherwise authorized for single-family or multi-family use.

(3) "Property development" means the construction, reconstruction, or other alteration or improvement of residential or commercial buildings or the subdivision or replatting of a subdivision of residential or commercial property.

(4) "Commercial property" means property zoned for or otherwise authorized for use other than single-family use, multifamily use, heavy industrial use, or use as a quarry.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 1, eff. September 1, 2005.

Sec. 212.132. APPLICABILITY. This subchapter applies only to a moratorium imposed on property development affecting only residential property, commercial property, or both residential and commercial property.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.133. PROCEDURE FOR ADOPTING MORATORIUM. A municipality may not adopt a moratorium on property development unless the municipality:

(1) complies with the notice and hearing procedures prescribed by Section [212.134](#); and

(2) makes written findings as provided by Section [212.135](#), [212.1351](#), or [212.1352](#), as applicable.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.134. NOTICE AND PUBLIC HEARING REQUIREMENTS. (a) Before a moratorium on property development may be imposed, a municipality must conduct public hearings as provided by this section.

(b) A public hearing must provide municipal residents and affected parties an opportunity to be heard. The municipality must publish notice of the time and place of a hearing in a

newspaper of general circulation in the municipality on the fourth day before the date of the hearing.

(c) Beginning on the fifth business day after the date a notice is published under Subsection (b), a temporary moratorium takes effect. During the period of the temporary moratorium, a municipality may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property.

(d) One public hearing must be held before the governing body of the municipality. Another public hearing must be held before the municipal zoning commission, if the municipality has a zoning commission.

(e) If a general-law municipality does not have a zoning commission, two public hearings separated by at least four days must be held before the governing body of the municipality.

(f) Within 12 days after the date of the first public hearing, the municipality shall make a final determination on the imposition of a moratorium. Before an ordinance adopting a moratorium may be imposed, the ordinance must be given at least two readings by the governing body of the municipality. The readings must be separated by at least four days. If the municipality fails to adopt an ordinance imposing a moratorium within the period prescribed by this subsection, an ordinance imposing a moratorium may not be adopted, and the temporary moratorium imposed under Subsection (c) expires.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.135. JUSTIFICATION FOR MORATORIUM: SHORTAGE OF ESSENTIAL PUBLIC FACILITIES; WRITTEN FINDINGS REQUIRED. (a) If a municipality adopts a moratorium on property development, the moratorium is justified by demonstrating a need to prevent a shortage of essential public facilities. The municipality must issue written findings based on reasonably available information.

(b) The written findings must include a summary of:

(1) evidence demonstrating the extent of need beyond the estimated capacity of existing essential public facilities that is expected to result from new property development, including identifying:

(A) any essential public facilities currently operating near, at, or beyond capacity;

(B) the portion of that capacity committed to the development subject to the moratorium; and

(C) the impact fee revenue allocated to address the facility need; and

(2) evidence demonstrating that the moratorium is reasonably limited to:

(A) areas of the municipality where a shortage of essential public facilities would otherwise occur; and

(B) property that has not been approved for development because of the insufficiency of existing essential public facilities.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.1351. JUSTIFICATION FOR MORATORIUM: SIGNIFICANT NEED FOR PUBLIC FACILITIES; WRITTEN FINDINGS REQUIRED. (a) Except as provided by Section [212.1352](#), a moratorium that is not based on a shortage of essential public facilities is justified only by demonstrating a significant need for other public facilities, including police and fire facilities. For purposes of this subsection, a significant need for public facilities is established if the failure to provide those public facilities would result in an overcapacity of public facilities or would be detrimental to the health, safety, and welfare of the residents

of the municipality. The municipality must issue written findings based on reasonably available information.

(b) The written findings must include a summary of:

(1) evidence demonstrating that applying existing development ordinances or regulations and other applicable laws is inadequate to prevent the new development from causing the overcapacity of municipal infrastructure or being detrimental to the public health, safety, and welfare in an affected geographical area;

(2) evidence demonstrating that alternative methods of achieving the objectives of the moratorium are unsatisfactory; and

(3) evidence demonstrating that the municipality has approved a working plan and time schedule for achieving the objectives of the moratorium.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.1352. JUSTIFICATION FOR COMMERCIAL MORATORIUM IN CERTAIN CIRCUMSTANCES; WRITTEN FINDINGS REQUIRED. (a) If a municipality adopts a moratorium on commercial property development that is not based on a demonstrated shortage of essential public facilities, the municipality must issue written findings based on reasonably available information that the moratorium is justified by demonstrating that applying existing commercial development ordinances or regulations and other applicable laws is inadequate to prevent the new development from being detrimental to the public health, safety, or welfare of the residents of the municipality.

(b) The written findings must include a summary of:

(1) evidence demonstrating the need to adopt new ordinances or regulations or to amend existing ordinances, including identification of the harm to the public health, safety, or welfare that will occur if a moratorium is not adopted;

- (2) the geographical boundaries in which the moratorium will apply;
- (3) the specific types of commercial property to which the moratorium will apply; and
- (4) the objectives or goals to be achieved by adopting new ordinances or regulations or amending existing ordinances or regulations during the period the moratorium is in effect.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.136. EXPIRATION OF MORATORIUM; EXTENSION. A moratorium adopted under Section [212.135](#) or [212.1351](#) expires on the 120th day after the date the moratorium is adopted unless the municipality extends the moratorium by:

- (1) holding a public hearing on the proposed extension of the moratorium; and
- (2) adopting written findings that:
 - (A) identify the problem requiring the need for extending the moratorium;
 - (B) describe the reasonable progress made to alleviate the problem; and
 - (C) specify a definite duration for the renewal period of the moratorium.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.1361. NOTICE FOR EXTENSION REQUIRED. A municipality proposing an extension of a moratorium under this subchapter must publish notice in a newspaper of general

circulation in the municipality not later than the 15th day before the date of the hearing required by this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.1362. EXPIRATION OF MORATORIUM ON COMMERCIAL PROPERTY IN CERTAIN CIRCUMSTANCES; EXTENSION. (a) A moratorium on commercial property adopted under Section [212.1352](#) expires on the 90th day after the date the moratorium is adopted unless the municipality extends the moratorium by:

- (1) holding a public hearing on the proposed extension of the moratorium; and
- (2) adopting written findings that:
 - (A) identify the problem requiring the need for extending the moratorium;
 - (B) describe the reasonable progress made to alleviate the problem;
 - (C) specify a definite duration for the renewal period of the moratorium; and
 - (D) include a summary of evidence demonstrating that the problem will be resolved within the extended duration of the moratorium.

(b) A municipality may not adopt a moratorium on commercial property under Section [212.1352](#) that exceeds an aggregate of 180 days. A municipality may not adopt a moratorium on commercial property under Section [212.1352](#) before the second anniversary of the expiration date of a previous moratorium if the subsequent moratorium addresses the same harm, affects the same type of commercial property, or affects the same geographical area identified by the previous moratorium.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.137. WAIVER PROCEDURES REQUIRED. (a) A moratorium adopted under this subchapter must allow a permit applicant to apply for a waiver from the moratorium relating to the property subject to the permit by:

(1) claiming a right obtained under a development agreement; or

(2) providing the public facilities that are the subject of the moratorium at the landowner's cost.

(b) The permit applicant must submit the reasons for the request to the governing body of the municipality in writing. The governing body of the municipality must vote on whether to grant the waiver request within 10 days after the date of receiving the written request.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.138. EFFECT ON OTHER LAW. A moratorium adopted under this subchapter does not affect the rights acquired under Chapter [245](#) or common law.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.139. LIMITATION ON MORATORIUM. (a) A moratorium adopted under this subchapter does not affect an application for a project in progress under Chapter [245](#).

(b) A municipality may not adopt a moratorium under this subchapter that:

(1) prohibits a person from filing or processing an application for a project in progress under Chapter [245](#); or

(2) prohibits or delays the processing of an application for zoning filed before the effective date of the moratorium.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.