



**Planning & Zoning Commission
City of McLendon-Chisholm, Texas
Regular Meeting Minutes
Tuesday, September 19, 2023**

The Planning & Zoning Commission of the City of McLendon-Chisholm convened in Regular Session on Tuesday, September 19, 2023, at McLendon-Chisholm City Hall, 1371 W FM 550, McLendon-Chisholm, Texas, with the following members present:

Members Present:	Mark Kipphut	Chairman
	Terry Eoff	Commissioner
	Chris Freeze	Commissioner
	Gyle Dale	Commissioner
	Michael Easter	Alternate
	Thomas Hritz	Alternate
Members Absent:	Robert Rohde	Co-Chairman
	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 Eoff led the pledges.

3. CITIZEN COMMENTS

No Citizen Comments

4. APPROVAL OF MINUTES

- 4.1. Consider approval of the Minutes of the August 15, 2023, Planning & Zoning Meeting

MOTION: APPROVE THE MINUTES OF THE AUGUST 15, 2023, PLANNING & ZONING MEETING

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

5. PUBLIC HEARINGS

- 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.

Chairman Kipphut opened the public hearing at 6:33 p.m.

Gina Manis, 107 Chaney Pl., McLendon-Chisholm. We are very much against any homes that are built on less than one acre per the comprehensive plan. We live across the street, just over there and I do not want more traffic. We do not want crowds at ballfields. I absolutely do not want any kinds of fields whether they be lacrosse, chess, baseball, soccer, so we just don't want any of that. We just encourage you to stick to the comprehensive plan as you have stated already. I understand the plan was brought back the last time from the area around McLendon-Chisholm City Hall and it had not changed. It is not taking the homes and adding in the property of the fields and saying it is coming out to an average of one home per acre. No, if the lot size is anything under one acre for a home, absolutely not. That does not go by the comprehensive plan. I just encourage you to hold that standard as you have so well done and any developers need to go by that and abide by that and don't come to us unless it's that. We don't want the traffic, we don't want the noise, we don't want people coming in from all areas and I think I've made my point. Thank you for listening.

Anthony Crawford, 104 Lavender Pl., McLendon-Chisholm. My concern again is the same as the comprehensive plan would not be met by this development. One reason we moved out here was because of the comprehensive plan. We read it, you know we built on our lot which is an acre and a half. For that reason and we see developments by the same developer north of us that are one acre lots and west are an acre and a half and then there's going to be another development right across the street with one acre lots. So I don't understand the need to kind of cram homes in on this much acreage. The roads can't handle it right now, 550 is bad enough. We've already had a couple of wrecks. Just the last couple of times in fact we were up here last week at the council meeting there's a wreck on 550. So my concern is the use of it, the amount of traffic, the number of people that will be created there. Because of that and because of the traffic. The other thing is the ballfields. Everybody I've talked to in my neighborhood that have young kids have all said they all play soccer somewhere else. They have stated themselves even with kids that play soccer that they are against having ball fields, especially lighted ballfields. That it creates a lot of traffic again. I've had experience with ballfields in Dallas on my job and there's a lot of trash. You can have someone say that they'll take care of it, but that usually falls through and it turns into a fiasco. So, again, I don't think we can handle the traffic right now at this point in time and I would very much like to see the comprehensive plan followed by the book. Thank you.

Jay Webb. You know we wanted our town to benefit from tax revenue that way. In McLendon-Chisholm we've developed Kensington Park, we built all the homes in that subdivision. Additionally Altura built homes in Sonoma Verde, and Chisholm Crossing. Altura recently opened Heritage Estates on Pullen Road. We've purchased the property around the city hall. We're proposing donating approximately 40 acres, we value it at two million dollars to development McLendon-Chisholm's first city park. We've met with the city and attempted to design a neighborhood with a park acceptable to the city which complies with the spirit of the comprehensive plan. We revised our concept plan for the subdivision 44 times in response to city input. The property is part of the Heritage Center on the comp plan and among its anticipated uses are parks, trails, open green space, ponds and creeks. All these are included in our concept plan. Approximately half the property would be parks, trails, and open space including almost two miles of trails designed to connect to future developments. We will plant over 700 trees on the lots and green spaces and subdivisions. Our concept is to donate the park land to the city, develop a residential community that can pay for the park improvements. In order for the new neighborhood to be able to pay for the park, it's necessary to have density greater than one acre. The park would not impact the city budget, park maintenance would be paid by local youth sports clubs using the park's playing fields. There'd be landscape berms separating the residential areas from the park primarily to the entrance of the subdivision off 550 would be the landscape boulevard with upgraded signage. The property is served by High Point water supply and they've confirmed that they have a capacity to serve the subdivision. We believe that Legacy Park will contribute to building a sense of community in our town by providing trails that allow neighbors to meet while exercising, a community pavilion, an open space for city and community events, athletic fields, athletic courts, ponds for fishing that provide for town's children and adults to play and not be on their phones. So space for friends, family and neighbors to picnic and they can get to know each other. We ask for your support.

David Black, 1419 Siena Ln., McLendon-Chisholm. I just note that we've heard this before. Mr. Webb has spoken eloquently including his grandchildren and other things about how nice the parks are and the trails, but it is still not in the comprehensive plan whether it's called Heritage Park or not that you have a residence lots less than one acre. There's a reason for that for the community wants that. I just hope that there's not going to be some trade between this great free park we're getting and then the traffic that's going to happen because of the park and because of the high density lots. That's it.

Chairman Kipphut closed the public hearing at 6:45

- 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-ware 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.

City Planner Coker gave a brief overview of the request.

Chairman Kipphut opened the public hearing at 7:07 p.m.

Ryan Webb, owner of Greenbriar Homes, presented his plans for this property and the reason for the proposed changes.

Brent Cornish, 250 League Rd., Rockwall. My road frontage is almost, but not quite, the same as Mr. Webb's, he's right across the street from me. I have no problem with the homes going in, I don't have a bit of problem with that at all. But, I'd like to object to switching from a single family to a commercial property. Mini storages, and I'm not disputing what Mr. Webb is saying, but mini storages around here have a habit of turning into an individual business for each garage or storage area. If you look at some of them on 276 and 205. So, I'm asking you folks if you will please not allow the first five acres that he's talking about to go from single family to commercial. Thank you.

James Adcox, 654 English Rd., Rockwall. My two sons live at 212 and 280 Adcox Lane in McLendon-Chisholm right off League Road. I also own the corner of League and 205 which those five acres we're discussing are the mini storages exactly directly behind my property. I looked at the comprehensive plan when we first bought and I saw the word you know country feel, green spaces and restaurants, all the different uses and mini storage fits nothing about living in the country. You don't go down a farm road and see a mini storage facility. We build a barn, we throw all our stuff in it. That's how it works in the country. So I'm adamantly opposed to mini storage. You want to build some nice houses on five acre lots, fantastic. Mini storage, terrible. I just met with my architect Friday and had plans to build a restaurant, a little patio, maybe a beauty salon and some stuff upstairs and I'm not sure what I'm going to do now. If there's a mini storage, nobody's going to want to sit on the patio and look at that and there was also something in the comprehensive about lighting, how we don't want lighting pollution and mini storage has a lot of lights in it. It's just cement. Going down League Road it looks like you're in the country. It's bad enough that we've got these subdivisions surrounding us. Tate Farms will be sold here in the next six months and that'll be a subdivision. That's exactly next door to where my two sons live. We don't need any more commercial mini storage facilities. I personally tried to purchase that acreage before it even went on the market. I just wanted the acre behind there so I could have some green space and maybe host some community events and they said no, we'd rather sell five acres and so I said I'll buy the whole five acres behind there, I just need the green space. They didn't take my offer and I offered them exactly what they asked. So now somebody bought it and are advertising five acre lots which it's not zoned for five acre lots yet and then one sign has contract pending. How can there be a contract pending, it's not even approved and who is that contract? Is that the mini storage facility and who's going to own it and operate it? It just seems like it was backwards. But I'm willing to invest in this community. We're raising our kids and grandkids in this community. We don't need a mini storage facility. It's not country, it's not a green space, it's nothing that this comprehensive plan calls for. I would urge you to please, you know, keep our community feeling like it's country and not put in any storage facility. Thank you so much.

Judy Moss, 525 League Rd., McLendon-Chisholm. I didn't object when the housing addition, Sonoma Verde came over the hill and is encroaching upon my land. I think that I can speak for our group that we are not an HOA but we are our neighborhood and we know each other. When this first started, you know when Sonoma Verde first started, that strip down the left-hand side of the entry was supposed to be for commercial use. But somehow it's turned into residential. Well we are a residential area, we don't want commercial coming in because once that is built, I wouldn't want to build a house next to it. I don't care how many trees you put up, I don't care how many fences you put up, I wouldn't want to be next to a commercial area. None of you want that at the entrance to your residential, your HOA. I'm going to call ours an HOA, it's our country HOA. That's just the way we were. At one time there was going to be a Dollar Store that wanted to come into our community but we didn't want that because it wasn't what we wanted for our community. We weren't that kind of community. Well, I think that this would also be something I don't want. We aren't that kind of a community where we live. I know we don't live in the big, fancy houses, well some of us do, but you know we just don't live like that. We live like the place everybody came to live, the wide-open spaces. The country feel. We're going to lose all that. I just think that once one property goes in and it has that kind of commercial designation, the next one would want to be a commercial designation. I'm not here to argue with people and I wish him all the luck in the world to find a place for his building, but you know 205 is full of areas where that can be built, that it's already designated as commercial property. I would like to just say I don't want to think I'm fighting a losing battle. I want to think I'm here to maintain the kind of place we all have lived in for so long and that 3,500 people have come to live in the way we want to live. So I know y'all are here to make smart decisions and I please ask you, don't do this. This is wrong. It's wrong for us. It would be wrong for your residential area where you live. Thank you.

Linda Fite, 1150 Frontier Trail. I agree with all my neighbors here. We moved here in 2004, we love the neighborhood and I don't think that a mini storage fits in with our residential area. On that property I totally support the five-acre homes. Frontier Meadows was made for a home environment and we want to keep it that way. So, I just want to give my support to everyone else that feels the same way I do. Thank you.

James H. Adcox, 212 Adcox Lane, McLendon-Chisholm. So to echo what my neighbors are saying, we purchased our property back in 2016, built our home on our 11 acres. Really that was the point of coming out here was to have the space, to spread out, to have the freedom to you know raise our own cattle, to you know do different types of projects, to garden, to you know maintain the land, to you know make it better to keep it preserved. There's so much development that constantly goes on around us. Part of my concern with having a commercial property like a mini storage facility is, just as Mr. Webb stated, you have RVs, you have boats, you have trailers, all these things that are going to a road that already has access issues to put it nicely. On any given day there can be three or four potential accidents just because the road access in that corner is so narrow that it's a hard time for just two passenger vehicles to get through there, let alone add a boat or a trailer or you know any sort of size of RVs that would be coming in and out of there. So, to me, it just presents a hazard on top of not living up to the community you know we all abide by. The five-acre homes sounds lovely. You know we went for property for the very same reason that those type of people would be looking to come out to the country and live that lifestyle. I have a hard time imagining that anyone

would want to be neighbors with a mini storage facility, especially if there's 24/7 access to it. You know, people coming in in the middle of the night to hook up their boats to go on a family vacation is nice but do you really want to hear somebody hooking up a trailer in the middle of the night to get on the road at a decent time. Other than that, thank you for your time.

Kevin Fite, I live right down League Road. I've lived down League Road since the late 90s. I don't want to echo what everybody said, I think we've got our point across there. I think one thing we haven't said is when you drive through McLendon-Chisholm now there's not much there. You know there's the old city hall there, we've got the Country Store. Right now it's kind of basic and doesn't have anything going. Take it driving down like 276, you get into Blackland and you see all these trashy buildings on both sides of the road. It's not developed well, it looks like crap. I really don't want to see that coming in McLendon-Chisholm. I think it'll be nice to eventually find a way to develop that's got boutiques and things that people want to go to. You know, not driving through really kind of the focal part of our town and what we see is mini storage. I mean I'm pretty sure anybody who's been here a very long time, that's not something they want to see for the future of what we see when we go through town. So I just wanted to add that.

Chairman Kipphut closed the public hearing at 7:07 p.m. He did note that on this notice for the zoning change, we mailed out 13 notices, ten were signed for by the property owners, and five were returned, all were opposed, and then there are nine additional outside of the 200 foot notice area that submitted and they are also opposed.

6. ITEMS FOR CONSIDERTION 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 site of 1.5 acres of land for an on-site sanitary sewer facility.

City Planner Coker presented his report on this item:

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:

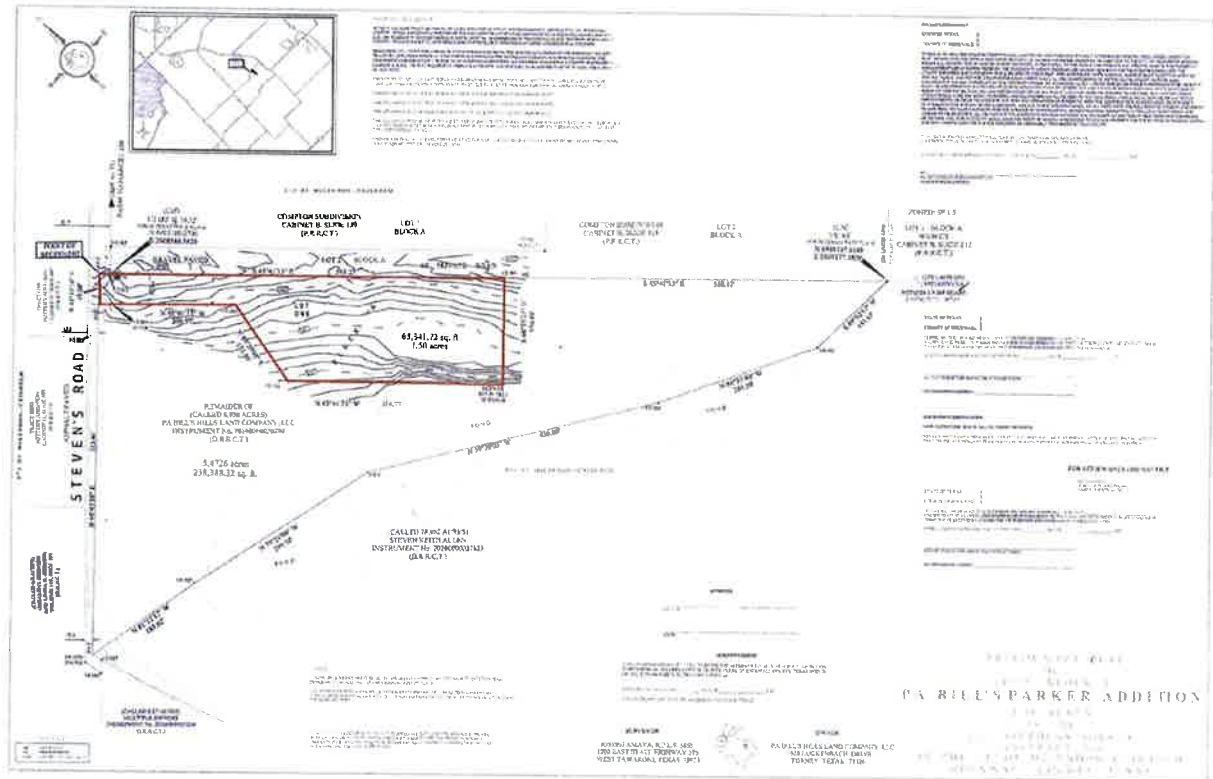
The applicant is requesting approval of a preliminary plat for a 1.5-acre tract of land to create a building site. Rockwall County requires a minimum lot size of 1.5 acres of land for an on-site sanitary sewer facility.

STAFF RECOMMENDATION: Approval

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

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Proposed Preliminary Plat [NEW LOT OUTLINED IN RED]



BACKGROUND INFORMATION:

Thoroughfares/streets:

Stevens Road is a local street.

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MOTION: APPROVE 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

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

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.

City Planner Coker gave his staff report:

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.

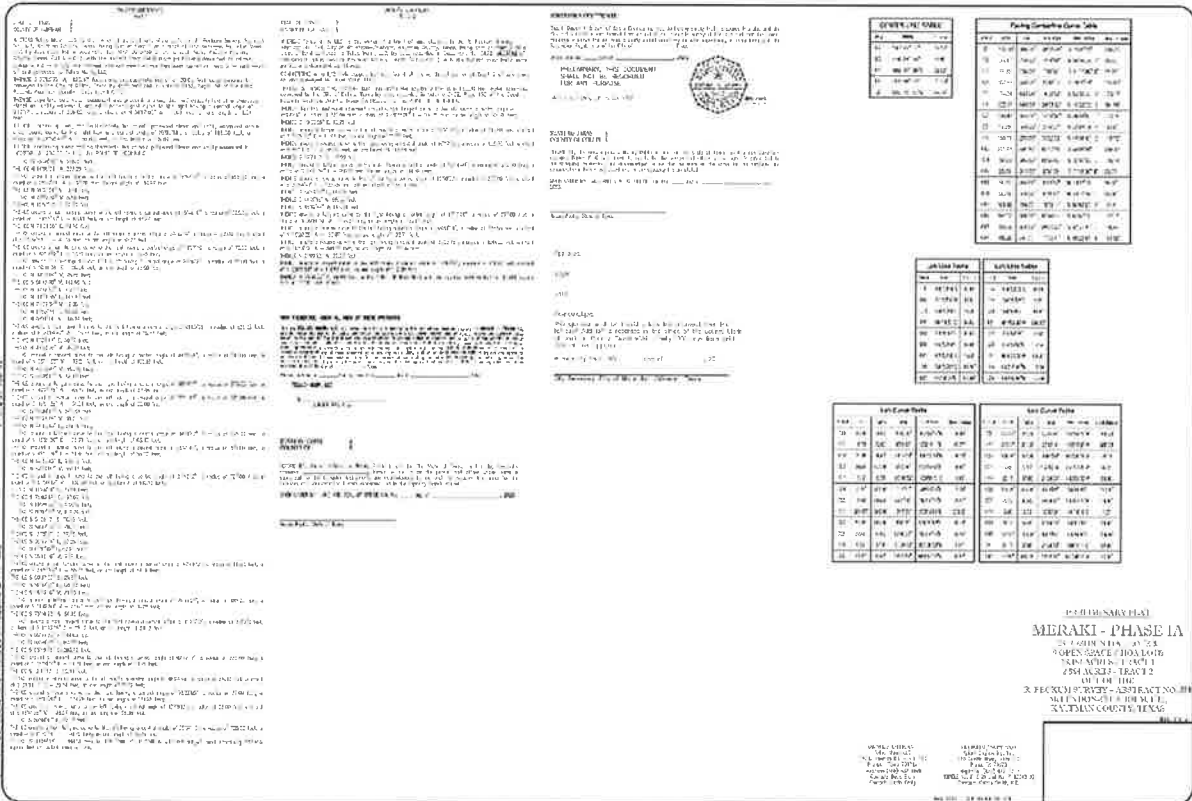
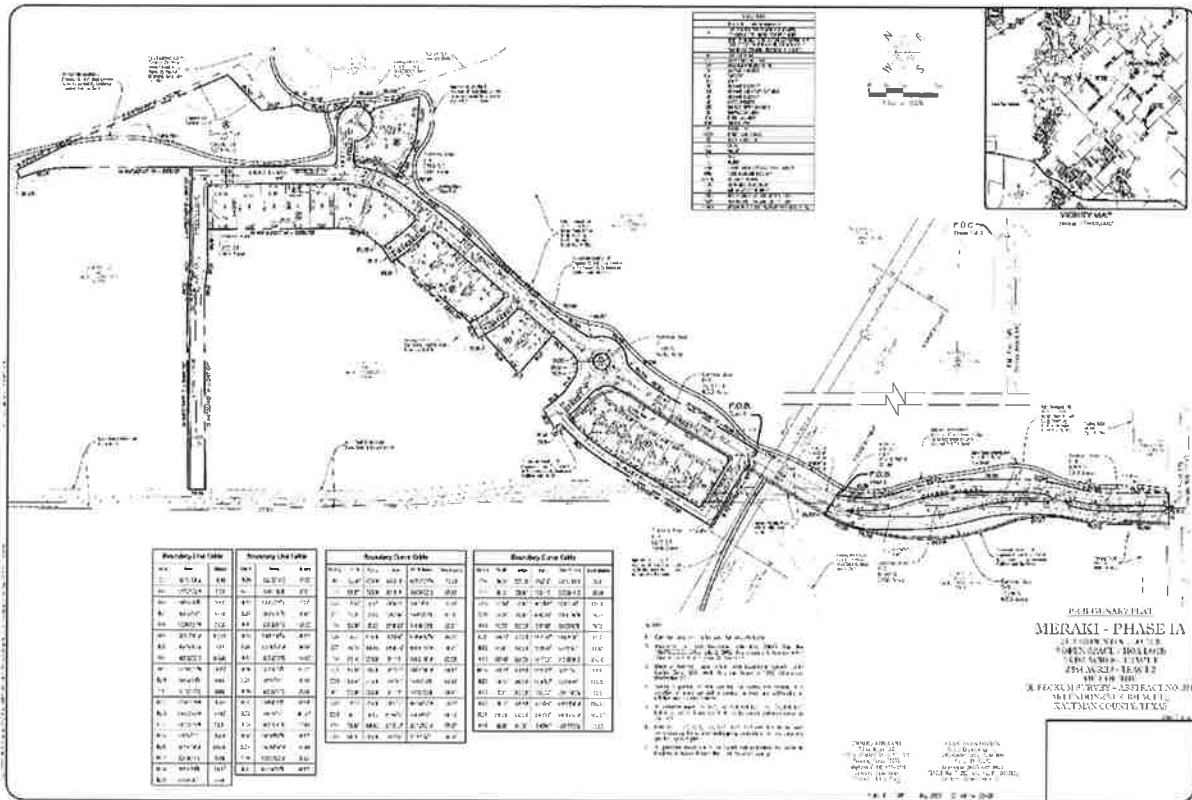
Given the operational characteristics of the proposed roadway, I recommend that the right-of-way width be no less than 70 feet because the proposed entry and main transportation artery will operate as a major collector.

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:

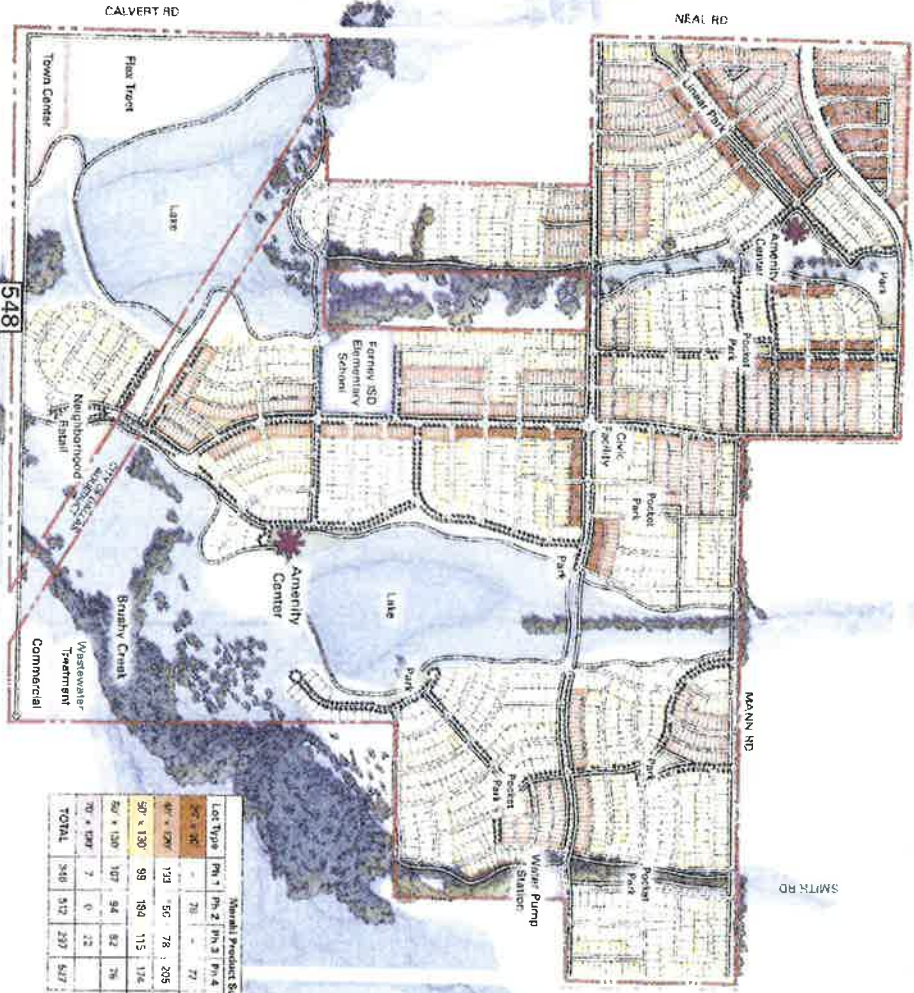
The main entrance to the subdivision is a divided 60 foot right of way with 30 feet of right of way on both sides of the entrance/exit to the subdivision. As the proposed main entry roadway progresses to the north and west, the right of way is no longer separated and is reduced to 50 feet. The McLendon-Chisholm 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].

conceptual master plan
05/16/23



Meraki Product Summary							
Lot Type	Ph 1	Ph 2	Ph 3	Ph 4	Ph 5	Ph 6	Ph 7 TOTAL
20' x 40'	-	70	-	71	-	65	206
40' x 120'	123	50	78	205	36	106	598
50' x 130'	99	184	115	174	121	139	632
60' x 150'	107	94	92	76	62	69	509
70' x 160'	7	0	12	30	13	-	62
TOTAL	346	512	297	547	310	317	2,789

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

MOTION: APPROVE 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.

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

6.3. Discussion of educational information regarding the standards and requirements for implementing a moratorium.

Chairman Kipphut presented an information memo:

Due to the impacts of the RCH imposed STAGE 5 EMERGENCY WATER SHORTAGE AND RESULTING WATER RESTRICTIONS, there have been a few calls by local residents to implement a building moratorium. The purpose of this agenda item is not to act on any such request but to discuss the terms and conditions under which a moratorium should be considered and the process to imposing one. As we discussed last month, emotions are running high and we should be very careful in any deliberation for imposing a moratorium because of the significant impact it would have on our city. As we discussed last meeting, we have several tools in our toolbox to rigorously review any proposed development to ensure any proposal brought forward is fully vetted.

Overall, we remind ourselves that McLendon-Chisholm is a Type A, General Law City and therefore must comply with Texas State Municipal Code Chapter 212, Local Government Code, Subchapter E, for implementing a Moratorium on Property Development. In the packet Chapter 212, Subchapter E was provided for your review.

A moratorium is just one way for cities to address specific municipal shortfalls created by development. Moratoriums can be used to allow a city to gain some “breathing room” to evaluate shortfalls while concurrently review, respond, and update land use regulations.

The justification for a moratorium must be based on a shortage of essential public facilities. The city must provide written findings explaining this shortage and explaining its impact. If a municipality adopts a moratorium on property development, the need must be clearly stated and evidence must be provided to demonstrate the extent of need beyond the estimated capability of existing essential public facilities and how this issue will be negatively impact the city’s ability to provide those services, and if the moratorium is not imposed, overcapacity would be detrimental to the health, safety and welfare of the residents of the municipality. The city must also demonstrate that alternative methods do not alleviate the problems that are the underlying motivation for imposing a moratorium. Geographic boundaries must be established for where the moratorium will be applied and how the shortfalls that are the basis for establishing a moratorium can be resolved.

A key point codified in code is, that out of an apparent concern that cities may overreach in their use of moratoriums, the Texas Legislature heavily regulates the use of a building moratorium as noted in Chapter 212.

For example, the Legislature has imposed stringent notice and hearing requirements on cities that seek to impose moratorium on development, including public hearings by Planning and Zoning and by the City Council.

Before the city can impose a moratorium on property development, it must conduct public hearings that provide municipal residents and affected parties the opportunity to be heard. The city must publish notice of the City Council hearing in a newspaper of general circulation.

Beginning on the fifth day after the city publishes notice, a temporary moratorium can be implemented and during the period of the temporary moratorium, the city may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property to which the moratorium applies. The public hearing is used to allow citizen feedback before the council acts. The Code clearly implies that a municipality should take on a moratorium as a last resort after all other remedies have been exhausted.

By law, the council must act within 12 days after the date of the first public hearing, to make its final determination on the imposition of a moratorium. The Council must pass an ordinance to adopt a moratorium. This ordinance must be given at least two readings by Council. 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.

A moratorium expires 120 days after implementation unless an extension is made by the City Council that follows the same pathway as used to create the original moratorium.

With that said, I would like to open the discussion to the commission and allow Mr. Hildebrandt and or Mr. Coker to answer any questions. Thank you.

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

No discussion.

7. ADJOURN

MOTION: ADJOURN THE MEETING

MADE BY: Commissioner Freeze

SECONDED BY: Commissioner Dale

APPROVAL: Unanimous

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

ATTEST:



Rochelle Green, City Secretary

APPROVED:



Mark Kipphut, Chairman

