



**Planning & Zoning Commission
City of McLendon-Chisholm, Texas
Regular Meeting Minutes
Tuesday, November 21, 2023**

The Planning & Zoning Commission of the City of McLendon-Chisholm convened in Regular Session on Tuesday, November 21, 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
	Michael Easter	Alternate
	Thomas Hritz	Alternate
	Robert Rohde	Co-Chairman
	Jose Velosquez	Alternate

Absent:	Gyle Dale	Commissioner
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Staff Present:	Shelly Green	City Secretary
	Mike Coker	City Planner

1. CALL TO ORDER

Chairman Kipphut called the meeting to order at 6:34 p.m.

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

Chairman Kipphut voiced the invocation and led the pledges.

3. CITIZEN COMMENTS

Brian Berry, 2 Essex Ct., Heath. Thank you for having us here. I don't believe that the next item on the agenda is a public hearing and certainly don't expect the ability of back and forth here tonight but was unaware that the item on the agenda was for a final plat, that already had or at least stated that site plan approval was already complete as well as preliminary plat. I'm the developer and owner of the property just south of it, 3.85 Holdings LLC and represent the same and just want to express my concern of what is going to be contemplated with the proposed site plan which sounds like has already been looked at. My understanding from the minutes, I was not able to attend the previous meeting, was that they had to start from scratch and seeing in the packet this evening it appears that it had already been accepted and so I'm not sure where that disconnect came from. I'll chalk it as me because of my inability to be in attendance at the previous meeting, but all that to be said is I think we all have a joint effort and desire to tie together with Brookshires when they come forward and I'm expressing a concern

of the proposed fire lane that's going through that's serving as a connector for what's going to be representing 30 to 40% of their parking on the back side of their building, which is on my property. I have a 30 ft. access easement agreement for Brookshires and I have zero intent of building that fire lane if that's what it's going to be used for and I just want to express my concern of that in advance. Would also like to express my concern about TxDOT. They've been wonderful to work with. Mr. Selman out of Kaufman has been very accessible and I don't have any concerns of our inability of accessing the site, either from the east side or the west. But given the distance from 205, it's pretty clear that we're not going to have a right-in right-out, left-in left-out ability for same which is why what we are going to bring to you guys is going to drop the entrance into the site just westward. So, if there is a public hearing forthcoming on that, great. If not and miss that so much as so I just want to express my concern for the same as y'all take that under advisement on that item this evening. Thank you very much.

Anthony Crawford, 104 Lavender Pl., MC. I had some concern about the drive up window, which according to what I saw announcement from the meeting today, still there but it's my understanding it's been taken out so as long as there's not a drive up window that was one of the concerns. The other concern is that I don't see where in the plan, by looking at it, especially if it's a restaurant where they're going to have the ability for the trucks to come in to provide them their goods, where they're going to drop off, how they're going to do that in the parking lot at the present time. The other concern I have is that I wanted to, whatever is the other parts of the, because I've seen some of the other within other locations that this owner has it's a lot of stores that are not consistent with what we've done in the past where we denied Dollar General right across the street simply because there was not going to be a place. We didn't see anybody in the city that would be shopping there so you know anything like discount insurance, or burner phones, or anything like that that would be in there, I would hope that we can look at the contract, you can tell me for sure that Brookshires would have as part of their contract that would dictate what the other stores they can have and can't have so it would be consistent with what Brookshires is trying to bring to us, quality stores. So that's the only concern I have.

Chairman Kipphut closed citizen comments.

4 ITEMS FOR CONSIDERTION

- 4.1 Consideration and approval of a request of MFS Group, LLC. for the approval of a final plat for a one and one-half acre tract of land located at the southeast corner of the intersection of FM 550 and SH 205 identified as Lot 1, Block 1 of SH 205/550. The Rockwall CAD number is 101321.

City Planner Coker presented his report on this item:

APPLICANT: Cameron Slown
TNP, Inc.
825 Watters Creek Blvd, Suite M300
Allen, Texas 75013

PROPERTY OWNER: MFS Group, LLC
2357 Jupiter Road
Plano, Texas 75074

REPRESENTATIVE: Cameron Slown

LOCATION: South quadrant of the intersection of FM 550 and State Highway 205

PLANNING AND ZONING COMMISSION MEETING DATE: November 21, 2023

Note: The Planning and Zoning Commission has three options when considering this final plat:

- Approval;
- Approval with conditions [conditions must be specified];
- or disapproval [if disapproved, the elements where the application fails to comply with the Subdivision Regulations must be specified.]

If you do either one of the two that are conditional, approval with conditions or approval or disapproval and you specify what those are, the applicant has unlimited time to fix it and bring it back to you.

Chairman Kipphut asked him to reiterate that last point so we all understand what you just said.

Mr. Coker explained that two legislative sessions ago, the state legislature amended the regulations to say that you only had three choices when it came to a ministerial function that's a plat and the three choices are approval, and when I recommend approval it usually means I have reviewed everything in the context of our subdivision regulations and that the application is consistent with our requirements. Sometimes I'll make a recommendation for approval with conditions. For instance, there'll be a language down in the surveyor's certificate not for recording and I'll do a condition you have to remove that not for recording because ultimately when this gets through the commission and on the way to council, if the council approves it, then it is the document that gets recorded. So that's a condition

REQUEST:

The applicant is requesting approval of a final plat on a one and one-half acre tract of land located at the south corner of the intersection of FM 550 and SH 205 identified as Lot 1, Block 1 of the SH 205/550 Addition.

STAFF RECOMMENDATION: Approval of the final plat. The final plat conforms to the approved preliminary plat and the approved site plan.

[note: full sized copies of the SUP Site Plan, are available at City Hall for inspection]

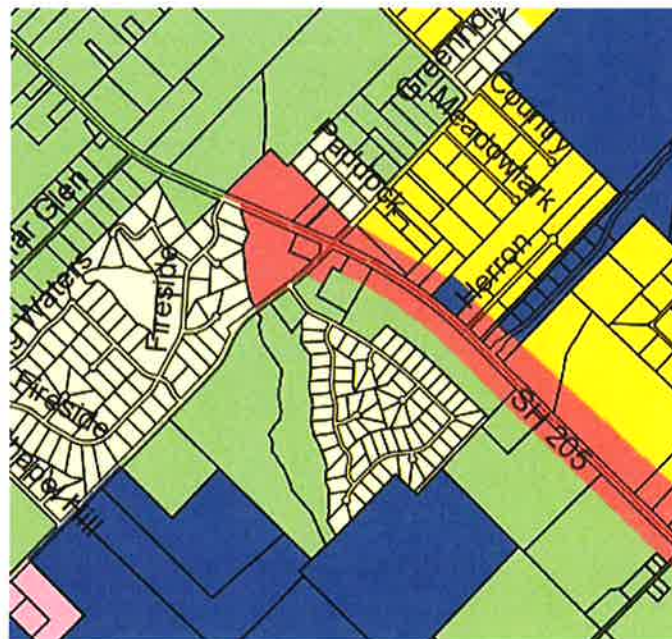
BACKGROUND INFORMATION:

The subject property is a 1.5-acre tract of land located at the south corner of the intersection of SH 205 and FM 550. [Rockwall CAD #101321] The zoning district designation for this property is GB General Business.

Rockwall CAD map showing property



City Zoning map for subject property [Red is General Business Zoning District]



Thoroughfares/streets:

This property fronts both SH 205 and FM 550. Property dedications for the upcoming widening of SH 205 and intersection improvements with FM 550 have been provided. There is an existing access easement providing access to the subject property from FM 550 that is being constructed coincident

MOTION: APPROVE THE FINAL PLAT FOR A ONE AND ONE-HALF ACRE TRACT OF LAND LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF FM 550 AND SH 205 IDENTIFIED AS LOT 1, BLOCK 2 OF SH 205/550.

MADE BY: Commissioner Eoff
SECONDED BY: Commissioner Hirtz

Commissioner Rhode stated, for the record, that based on the February 22, 2023 Council approval of the site plan, that this is approved with no drive up window or pass through window as per direction and statement of the council.

City Planner Coker pointed out this is a motion you can't do because this is not the site plan. The site plan's been approved, and it was approved with what you just said as it relates to the site plan. This is a plat and this plat is consistent with the requirements of the law. An amendment like that is not consistent with the rules that we have for subdivision regulations.

Chairman Kipphut had two questions. In the application, and I'm a stickler about this stuff so I apologize, the application, which was filed on the 31st of October of 23, so 21 days ago, the proposed use of the property was retail building and drive-thru restaurant building. Do you want to explain why that would be on the application given council's prior direction.

Mr. Sloan explained it's just a commercial site at this point since the SUP was denied for a restaurant building.

Chairman Kipphut asked Mr. Coker if the SUP was denied. Mr. Coker answered we had a preliminary plat, then we had a site plan. Then you need to get an SUP because any restaurant requires an SUP. So there was a site plan that showed the restaurant. The one that I put in your packet, that was what was approved and the drive through, the lane where the cars go was approved as part of the site plan. Having the window, in fact I've got a memo here, this was also on the 22nd. Council asked me why a drive-through restaurant being requested on the site plan when the city council was against the drive-through restaurant in 2020 due to its site constraints and potential traffic and congestion. The drive-through part of the restaurant is for pickup only based on phone in and internet orders. There will be no order board, speaker, menu options in or near the drive-through lane. So that's how I was describing and then when the council had considered the site plan itself, not the SUP but the site plan, they denied the drive-thru portion, not the aisle, not where the road is and I think they've amended it to be more consistent with the reality now. But back on February 22nd, council approved the site plan but not the drive thru window.

Chairman Kipphut stated he believes in transparency with government and he also believes in those applying to government should be transparent as well. So in this case when I saw that, I had concerns. Concerns that there's a future desire to try to get around prior council direction and a prior council certainly can change their minds, or I mean a future council can change their minds, but this council made their clear statement about that. So, just a comment not related to the plat.

There was extensive discussion regarding the fire access lane and an amended motion was made:

MOTION: AMEND THE FINAL PLAT FOR A ONE AND ONE-HALF ACRE TRACT OF LAND LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF FM 550 AND SH 205 IDENTIFIED AS LOT 1, BLOCK 2 OR SH 205/550, SUBJECT TO THE COMPLETION OF THE FIRE ACCESS LAND PRIOR TO A CERTIFICATE OF OCCUPANCY FOR THE USES THAT ARE CONTAINED ON THIS PLAT, AND TO REMOVE THE VERBIAGE OF THE DRIVE-THROUGH PORTION OF THE RESTAURANT BUILDING BEING REMOVED FROM THE APPLICATION, IS APPROVED.

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

An audio of these discussions is available on the City Website for anyone wishing to listen to the details.

- 4.2. Consideration and action to recommend to the Mayor and City Council to hold a joint work session with City Council, P&Z and BOA in January to discuss the Comprehensive Plan and related issues to discuss desired growth characteristics/outcomes and to identify necessary future actions.

Chairman Kipphut explained he put that on the agenda because he thinks, based on the last couple of meetings we've had, we're at a pivot point in our city as we move forward. I want to have a clear sensing that everybody's on the same sheet of music in terms of development and compliance with the comprehensive plan and what that entails. And then how to move forward. All I was asking on this one is we can do it either by vote if you feel it's necessary, or just get a consensus from the commission that they agree with the idea of having a joint work session which would be an open meeting. It would involve all members of this commission as well as Board of Adjustment and, of course, City Council. No specific action would be taken in that work session but we'd identify all the things for future consideration.

Commissioner Rohde agreed that this is a valuable tool. We had one of these last year and it was very informative. We got some input from Council and I think it was very helpful and I would encourage us to do that again.

Commissioner Freeze stated that not only all being on the same page, but the spirit of what the public was telling us when they last pushed the comprehensive plan. I'm glad to see it will be public.

The Commission was of a consensus to have the Chairman make this report back to the Mayor who controls the agenda items and that we would like to have that sooner rather than later.

5. Commissioners Reports and Announcements

- 5.1. Chairman Kipphut – Reminded everyone of the community celebration on December 1st with the tree lighting, Santa, and cookies. He encouraged every member of the commission to be there as it's a great opportunity for you to meet folks from the community and have an opportunity to socialize and not worry about talking business.
- 5.2. Co-Chairman Rohde
- 5.3. Commissioner Eoff
- 5.4. Commissioner Freeze
- 5.5. Commissioner Dale
- 5.6. Commissioner Easter (Alternate)
- 5.7. Commissioner Hritz (Alternate)
- 5.8. Commissioner Velosquez (Alternate)

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

No discussion.

7. ADJOURN

MOTION: ADJOURN THE MEETING

MADE BY: Commissioner Freeze

SECONDED BY: Commissioner Rohde

APPROVAL: Unanimous

The meeting was adjourned at 7:27 p.m.

ATTEST:


Rochelle Green, City Secretary

APPROVED:


Mark Kipphut, Chairman

