

Draft Planning and Zoning Commission Meeting Minutes of May 26, 2020:

19-0055Z

Conduct a Public Hearing to Consider/Discuss/Act on a Request to Rezone the Subject Property from "PD" - Planned Development District to "PD" - Planned Development District, Generally to Modify the Development Standards and to Allow Commercial Uses and a Telecommunication Tower, Located on the South Side of Virginia Parkway and on the East Side of Dogwood Trail. Ms. Kaitlin Gibbon, Planner I for the City of McKinney, explained the proposed rezoning request. She stated that she distributed two letters of opposition to the Commission prior to the meeting. Ms. Gibbon stated that there was one letter of opposition included in the meeting packet as well. She stated that the applicant has also provided a binder with supportive information. Ms. Gibbon stated that the applicant is proposing to rezone the subject property to a "PD" – Planned Development District with a base zoning of "C1" – Neighborhood Commercial District, with an allowed use of a telecommunications tower. She stated that the tower would be a stealth, monopole design, and would be a maximum height of 95' with a 4' lighting rod. Ms. Gibbon stated that commercial antennas and antenna support structures are allowed by specific use permit in most non-residential zoning districts, if the proposed tower complies with certain requirements set forth in the Zoning Ordinance. She stated that the proposed telecommunications tower does not meet all of the requirements and therefore the applicant has requested a rezoning of the subject property. Ms. Gibbon stated that under the existing zoning the northern half of the property has a maximum building height of 50' and on the southern half of the property has a maximum building height of 35'. She stated that the applicant is proposing to maintain these maximum height provisions and requesting a maximum height of 95' for the

telecommunications tower with a 4' lighting rod. Ms. Gibbon stated that Staff does not have any objections to maintaining the building height maximums currently allowed on the subject property; however, Staff does have concerns regarding the proposed height of the proposed communications tower in an area that has largely developed for residential and neighborhood-scaled commercial uses. She stated that part of that criteria in the existing ordinance allows for the increased height of the tower beyond the maximum zoning district, if the tower is located at least a minimum setback distance of equal to three times the height of the structure. Ms. Gibbon stated that with this requirement the proposed telecommunications tower typically would be required to be approximately 285' away from the adjacent property. She stated that the proposed telecommunications tower would be located approximately 75' from the nearest adjacent property line. Ms. Gibbon stated that commercial antenna support structures in non-residential zoning districts are required to maintain minimum setback requirements from any residential zoning district boundary line equal to twice the height of the support structure. She stated that based upon the proposed height of the telecommunications tower of 95', the minimum distance that would typically be required between the tower and residential property line is approximately 190'. Ms. Gibbon stated that the applicant is proposing a minimum setback of the proposed telecommunications tower and the adjacent single-family development to be 145'. She stated that with "PD" – Planned Development District requests, the applicant is proposing to increase the required height of the masonry screening wall from 6' to 8'. Ms. Gibbon stated that the applicant is also proposing to provide Texas Shade shrubs on the north and south side of the screening device. She stated that Staff appreciates the applicant's proposal and enhancements for the screening device, concerns remain about the request. Ms.

Gibbon stated that Staff feels as though the proposed telecommunications tower is not compatible with the surrounding areas. She stated that Staff has safety concerns with the potential collapse of tower in a parking lot and within such close proximity to neighborhood-scaled uses and residences could post a risk. Ms. Gibbon stated that given these factors and concerns, Staff was unable to support the proposed rezoning request. She offered to answer questions. Commission Member Haeckler asked if the proposed telecommunication tower was unique to McKinney. Ms. Gibbon stated that they were proposing a stealth, monopole tower design. Ms. Jennifer Arnold, Director of Planning for the City of McKinney, stated that there is a similar tower near Highway 75 (Central Expressway) and Eldorado Parkway. Commission Member Haeckler asked if the other tower met the minimum setback requirements at that location. Ms. Arnold stated that Staff's concern was the proximity to the neighborhood-scaled uses. She stated that Staff might be able to get comfortable with some reductions to the distance from property line to tower setbacks and gave some examples. Alternate Commission Member Woodruff asked if the church owns the property to the east. Ms. Gibbon stated that the subject property and adjacent property have two separate owners. Commission Member McCall asked about the distance between the proposed tower and the adjacent residential properties. Ms. Gibbon stated that that the distance between the tower and the closest residential property line was approximately 160'; however, the applicant was tying down a minimum distance of 145' in the proposed zoning ordinance. She stated that the distance between the tower and the property to the east is approximately 75'. Alternate Commission Member Woodruff asked about the entrance to the tower enclosure. Ms. Gibbon stated that the entrance gate would be positioned towards the east property line. Mr. Bebb Francis, The Francis Law Firm, PC, 112 E. Pecan, San Antonio, TX,

explained the proposed rezoning request and gave a presentation. He stated that he was the attorney for Skyway Towers. Mr. Francis thanked Ms. Arnold and Ms. Gibbon for the great collaborative effort over the past 18 months on this project. He stated that the proposed tower was critical to the area due to T-Mobile experiencing a gap in its wireless service in this area of McKinney. Mr. Francis stated that there is a significant demand of wireless service due to the recent growth of McKinney. He discussed the increase in cell phone usage due to the spread of COVID-19. Mr. Francis gave various examples of E911, telehealth, various alerts, and staying connected with the schools and teachers using cell phones. He stated that the proposed masonry screening wall around the tower would be painted to match the church and would have a wrought iron gate. Mr. Francis stated that they were asked to reduce four parking spaces to allow for landscaping hubs to plant four trees and additional landscaping to soften the look, which Skyway was pleased to do. He stated that they were proposing a unipole with the wires and antennas concealed on the inside. Mr. Francis stated that the proposed tower would accommodate T-Mobile and two additional carriers. He stated that AT&T and Verizon were in discussions with Skyway about placing antennas inside the tower. Mr. Francis stated that the proposed unipole was designed to bend upon itself in an unlikely event as described in the Engineer's letter. He stated that the bend point is set at 71'. Mr. Francis gave examples of where similar tower have withstood various destructive events. He showed some photo simulation of how the tower might appear on the church property. Mr. Francis discussed the justification letter regarding the wireless signal gap for residential and commercial service for this area. He stated that they search for other towers or structures in this area to collocate; however, was unsuccessful. Mr. Francis explained why they chose this site. He stated that according to J.S.

Deepak, India's Telecom Secretary and former Health Communications Specialist with John Hopkins University, stated that cell towers emit less radiation than sunlight and are absolutely safe. Mr. Francis stated that the American Cancer Society stated that "most scientists agree that cell phone antennas or towers are unlikely to cause cancer". He stated that the USDA stated that "no increased health risk due to radio-frequency (RF) energy". Mr. Francis stated that Skyway did an outreach to the community by writing a letter to 33 nearby residents asking them to call with questions and to let them explain why this is a critical site for the proposed tower. He stated that they only received one call. Mr. Francis stated that we need to stay innovative and bring the next generate into these neighborhoods, while providing the basic services. Mr. Francis stated that they believe they meet the intent of the City's code. He offered to answer questions. Commission Member Haeckler asked for clarification on the distance from the proposed tower to the closest residential property. Mr. Francis stated that the distance from the center of the tower to the closest residential property would be 160'. He stated that while speaking with Ms. Gibbon regarding the language for the ordinance that she suggested included the minimum setback should be 145' in the proposed zoning ordinance. Ms. Gibbon stated that would allow a little flexibility if for some reason they would need to move the tower closer. She stated that the tower was currently proposed to be located 160' away from the closest residential property line. Alternate Commission Member Woodruff asked if the property to the east would be affected by the tower being located there be requiring additional setbacks once that property is developed. Ms. Gibbon stated that no, the adjacent property would follow their own setback requirements. Ms. Arnold stated that the development on the adjacent property would not be affected due to the tower on the subject property. Commission Member Haeckler asked if

Staff participated in the search for a location for the proposed tower. Ms. Arnold stated that Staff typically does not direct applicants to other locations. Commission Member Kuykendall stated that she sees the need for the proposed tower to keep up with the demands. She asked if they were not allowed to build at this location if there was a way to see what other locations were available to be able to fill the service gaps. Ms. Arnold stated that a lot of times the companies lease a space on commercial properties to place the telecommunication tower. She stated that Staff would prefer to see the towers located in major commercial area and as far away from residential as possible. Ms. Arnold stated that Staff has concerns regarding the height of the proposed tower and not necessarily the location. She stated that sometimes there were tower enclosed in structures like steeples, so that they were not as visible. Alternate Commission Member Woodruff asked if there was a way to build the proposed tower at a lower height. Mr. Francis stated that the T-Mobile engineer stated that the antenna needs to be located at a 95' height to be able to provide service to the current gaps in this area. He stated that would cause the additional carriers to be at a lower height, which might not meet their needs. Mr. Francis felt that if they try to build the tower at a lower height that they would be back within two years with a new request. Commission Member Haeckler asked what the minimum diameter was at the base of the proposed tower. Mr. Francis stated that the diameter would be approximately 54". Alternate Commission Member Woodruff asked if they considered locating the entrance to the tower towards the church instead of the undeveloped property to the east. Mr. Francis stated that he was not part of the lease agreement for the site. He stated that the Commission could condition that as a requirement and he could get that clarified prior to the City Council meeting. Vice-Chairman Mantzey stated that there is a dumpster located near the proposed

tower location. Commission Member Haeckler asked for the distance between the proposed tower and the closest church structure due to safety concerns. Mr. Francis stated that he was unaware of that being measured. He guessed that it would be approximately 160'. Ms. Gibbon reiterated that the setbacks were to the property line and not existing structures on the property. Ms. Arnold stated that the safety of the church was a good point. She estimated the distance to be between 150' – 160'. Chairman Cox opened the public hearing and called for comments. Mr. Larry Robinson, 2504 Peachtree Lane, McKinney, TX, stated that he lives near the church's parking lot. He stated that he opposes the proposed location for the tower. Mr. Robinson did not feel the site was large enough for a 95' pole however it is designed or looks. He discussed how busy the church and parking lot was. Mr. Robinson expressed safety concerns and gave various bad weather examples that could affect the tower. He expressed concerns about possible unauthorized climbing the tower. Mr. Robinson stated that the tower would also be an eyesore. He also felt it would decrease the value of the adjacent properties. Mr. Robinson requested the proposed rezoning request be denied. Mr. Richard Weaver, 2419 Peachtree Lane, McKinney, TX, turned in a Speakers Card in opposition to the proposed rezoning request; however, did not wish to speak during the meeting. On a motion by Vice-Chairman Mantzey, seconded by Commission Member McCall, the Commission unanimously voted to close the public hearing, with a vote of 7-0-0. Vice-Chairman Mantzey stated that he understands the demand and need for wireless service. He felt the telecommunication towers should be located near commercial developments. Vice-Chairman Mantzey expressed concerns about locating wireless close to residential properties and how it would affect their property values. He stated that it comes down to whether we want to set a precedent on how close we were

willing to allow telecommunication tower near residential properties. Vice-Chairman Mantzey stated that he would support Staff's recommendation for denial of the request. Commission Member Haeckler stated that he understands there is a need for wireless service in the area. He expressed concerns about the 75' setback to the property to the east and the tower being an eyesore. Commission Member Haeckler stated that he also agreed with Staff's recommendation for denial of the request. Commission Member Kuykendall stated that this is a difficult discussion. She stated that during this challenging time we need to make sure we have the infrastructure in place to meet the need. Commission Member Kuykendall stated that there were a lot of different components to this request. She stated that she didn't know how long it would take to bring this online and if not this something else. Commission Member Kuykendall reiterated that it was a difficult decision. Commission Member McCall concurred with the previous Commission's comments. He agreed it this request was a tough one to consider. Alternate Commission Member Woodruff stated that there were pros and cons to the request. Chairman Cox stated that the question seems to not be the need; however, the location. Commission Member Kuykendall questioned if this truly is the only location in this area for the tower, would not approving it negatively impact the need of service in this area. She questioned if there were other location options. Commission Member Haeckler concurred and stated that he was not sure this was the only possible location for the tower. Chairman Cox asked Mr. Francis if there were other location to place the tower. Mr. Francis said no sir. Commission Member Haeckler questioned if this is the only possible location if we would be doing a disservice to the community by not approving it. Commission Member Kuykendall asked if Staff was in agreement that there was not another location where a tower like this could

be placed for service to this area. Ms. Arnold stated that was a difficult question for Staff to answer for various reasons. She stated that Staff has not spoken with property owners and businesses along US Highway 75 (Central Expressway) and Virginia Parkway to know if a tower in that location could be viable. Ms. Arnold stated that Staff does not know the answer to that question. She stated that Staff looks at what the applicant provides and if Staff feels that they have provided enough justification to warrant bringing forward a zoning case based upon the propagation map provided. Ms. Arnold stated that the applicant can speak to whether or not they have approached other possible property owners or locations. Ms. Arnold stated that Staff does not know if other options feel through or what. Commission Member Haeckler stated that he doesn't want to compromise safety. He asked what the setback requirement was for the adjacent property to the east. Ms. Gibbon stated that it was 15'. On a motion by Vice-Chairman Mantzey, seconded by Commission Member Haeckler, the Commission recommended denial of the proposed rezoning request as recommended by Staff, with a vote of 7-0-0. Commission Member Kuykendall stated that she did not feel that she had enough information to go against Staff's recommendation for denial. She felt that there was more information that could be gathered to make a more informed decision. Chairman Cox stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on June 16, 2020.