

Draft Planning and Zoning Commission Meeting Minutes of June 22, 2021:

21-0004SUP Conduct a Public Hearing to Consider/Discuss/Act on a Specific Use Permit to Allow for an Outdoor Amusement Facility (Tupps Brewery), Located at 402 East Louisiana Street. Mr. Joe Moss, Planner for the City of McKinney, explained the proposed specific use permit for outdoor uses with a brewery onsite. He stated that a revised Staff Report was distributed prior to the meeting and briefly discussed the changes. Mr. Moss stated that a site is bounded by residential uses to the east and south. He explained the proposed development of the property. Mr. Moss stated that since there are residential uses in close proximity; therefore, Staff is recommending that the proposed specific use permit be conditionally approved with some additional considerations to mitigating against potential frequency of outdoor events on neighboring uses. He stated that the outdoor events on the subject property would be limited to six days per month or a total of 72 per year and shall only occur on the following days: designated federal holidays, during City-sanctioned special events, and/or Friday and Saturday. Mr. Moss gave some examples. He stated that enclosed, indoor spaces would not follow these regulations. Mr. Moss stated that indoor amusement was permitted under the zoning district; therefore, they would not require a specific use permit. He stated that a special event permit for the site would count towards the annual maximum total of events on the site. Mr. Moss stated that with the proposed mitigations, the frequency, and the enhanced screening, Staff recommends approval of the request with the conditions listed in the revised Staff Report. He offered to answer questions. Commission

Member Haeckler asked how Staff decided upon limiting the outdoor events to 6 days per month or 72 events per year. Mr. Moss stated that Staff looks at what the applicant was requesting. He stated that McKinney Economic Development Corporation (MEDC) has contractually worked with Tupps Brewery to secure access to the site for approximately 30 days per year to allow for City sponsored outdoor events. Mr. Moss stated that Staff felt that the 6 days per month was a good compromise and would provide some relief from a high number of events for the neighboring uses while still permitting outdoor uses at the site. Commission Member Haeckler asked if the City sponsors events would be included in the total of 72 events per year. Mr. Moss said yes, they would count towards the total amount of events allowed per year. Alternate Commission Member Woodruff asked how the City defines an event. Commission Member Kuykendall asked about the noise ordinance when adjacent to residential uses. Mr. Moss stated that within 500' of residential uses there are enhanced performance standards for commercial properties. He stated that there are decibel caps at night of 58 decibels at the residential property line. Mr. Moss stated that Staff worked with the Tupps team to make sure that they were fully aware of all the noise requirements. He stated that Tupps submitted a letter that they intend to work with some sound engineers to address noise concerns. Mr. Moss stated that Tupps was confident that they could meet the performance standards. He stated that they did not provide a sound study given that the structure has not been built yet. Commission Member Kuykendall asked about the outside event operating hours. Mr. Moss stated that the hours were determined by the day of the week. He stated that the quiet hours on Friday and

Saturday night were between 11:30 p.m. – 7:00 a.m. Mr. Moss stated that for the rest of the week the quiet hours were from 10:00 p.m. – 7:00 a.m. He stated that the daytime maximum decibel level was 65 and the nighttime hours maximum decibel level was 58 at the property line. Alternate Commission Member Woodruff asked if Tupps agreed with the Staff's proposed outdoor event limitations. Mr. Moss stated that Tupps submitted a letter stating that they were aware of the noise ordinance requirements and that they felt they could meet them. He stated that Staff worked with Tupps on the recommended number of days for the outdoor events. Commission Member Kuykendall asked about the enforcement of the noise ordinance. Mr. Moss stated that the City's Code Enforcement team would address those concerns. He stated that there is a process to cite people for repeated violations. Commission Member McCall asked if there were any parking regulations with the proposed request. Mr. Moss stated that zoning is part of the "MTC" - McKinney Town Center District that has a provision that they can use publicly striped parking spaces within 200' of the site to satisfy up to 100% of the parking requirement. He stated that there is a proposed public parking lot within 200's of the subject property that will more than meet the minimum parking requirement for this project. Vice-Chairman Mantzey stated that the adjacent residents would be protected by the City's noise ordinance. He asked why an outdoor event was another layer of protection. Mr. Moss stated that the governing zoning requires that specific use permit to avoid conflicts between uses. He stated that Staff tried to make compromises with the recommended conditions of approval that were good for Tupps Brewery, the City, and adjacent residential uses. Vice-Chairman Mantzey expressed concerns

that the proposed number of outdoor events was not sufficient. Commission Member Doak asked if there was anything in writing defining an event. Mr. Moss stated that the City has a definition for outdoor amusement uses. He stated that the paid admission component is part of the City's outdoor amusement definition. Mr. Moss stated that restaurant in Downtown McKinney typically require event permits when they have a band playing at their patio. Commission Member Kuykendall asked if there were any other examples in McKinney with similar conditions. Mr. Michael Quint, Director of Development Services for the City of McKinney, acknowledged that Tupps Brewery's proposed project is something that the City wants. He stated that Staff feels that it will expedite redevelopment in this area. Mr. Quint stated that the City of McKinney does have noise protections. He gave examples of some past noise issues and how they were addressed. Mr. Quint was not aware of a previous example of something like proposed development in McKinney. He stated that this is a very unique development. Commission Member Haeckler asked who would keep up with the number of events to verify that they did not go over 72 per year. Mr. Moss stated that if the City found out that they held more events than what was permitted it would then become a Code enforcement issue due to being in violation of the specific use permit (SUP) terms. Alternate Commission Member Woodruff asked if "DART" – Dallas Area Rapid Transit would run near this location. Mr. Moss stated that "DART" – Dallas Area Rapid Transit runs adjacent to the parking lot. Commission Member Kuykendall asked how the City was going to keep track of the number of events held at this location. Mr. Quint stated that knowing that the City will have a good partnership with Tupps Brewery for a long time,

we could ask them to proactively report the events. He gave an example of a noise complaint being called in to the Police Department. Mr. Quint stated that the responding police officer would not know the conditions of the specific use permit (SUP) and would just ask them to keep the noise down. He stated that typically they comply to the officer's request. Mr. Quint stated that he was only aware of one noise citations being issued since in the past 15 years. He stated that the City has that ability to issue citations; however, the City prefers to work with property or business owners. Mr. Quint stated that compliance will likely be a challenge over time. Alternate Commission Member Woodruff inquired about traffic and large crowds on non-event days. Mr. Quint stated that we want activity at this location, so that it is a vibrant place. He stated that the City also wants to preserve the residential area. Mr. Quint stated that the noise ordinance would still be in effect. He stated that automobiles, trains, and airplanes were exempt for the City's noise ordinance. Commission Member McCall asked if Tupps Brewery has a history of receiving noise complaints. Mr. Moss was not aware of any noise issues at their existing site. Commission Member Haeckler asked about the height of the proposed buildings that could mitigate some of the sound. Mr. Moss stated that the proposed brewery would be approximately 58' tall. He stated that the Mills structure was tall and would not be changing. Mr. Moss stated that they were also proposing a single-story addition at the site. He stated that currently there were no structures planned for the east side of the property. Mr. Moss stated that they were proposing some screening and gave examples.

Alternate Commission Member Woodruff asked which way the proposed stage would face. Mr. Moss stated that it would face toward the backside of the brewery building. Mr. Keith Lewis, Tupps Brewery, 721 Anderson Street, McKinney, TX, explained the proposed request. He stated that they had come to some compromises to realize the dream and be sensitive to the local residents. Mr. Lewis stated that they will have a stage inside the building where performances will be held. He stated that they host yoga outside on Sunday mornings and they like to play music. Mr. Lewis stated that they already plan on tracking the days outdoor events are held. He expressed concerns on where 72 outdoor events would be adequate with the special events being held with the City. Mr. Lewis stated that they would have a lot of events inside their new building. Vice-Chairman Mantzey asked if the outdoor yoga would be counted towards the 72 outdoor amusement events allowed each year. Mr. Moss said yes since they charge admission to it. Mr. Lewis stated that they might have to move yoga inside. The Commission raised concerns about what is considered an outdoor event, how it was tracked, and when it could be held at the site. They felt the special ordinance provisions would made it confusing. Mr. Quint stated that Staff felt that their recommendation was appropriate for the site. He stated that Staff worked with the property owner to come up with a reasonable compromise for the proposed special ordinance provisions. Mr. Quint stated that the Commission had the right to modify Staff's recommendation and/or make their own recommendation. Mr. Lewis stated that he was willing to work within the established perimeters. He stated that the proposed special ordinance provisions were good to get

going; however, would need to evolve over time. Mr. Lewis stated that he liked the City's definition of an outdoor event. Alternate Commission Member Woodruff asked if it would be more flexible to have outdoor events on different days just beside Fridays and Saturdays. Mr. Lewis stated that he would like to see an accommodation for different days where outdoor events could take place. He expected corporate events to take place and they may want to hold them on different days of the week. Mr. Lewis stated that he did not understand why the days of the week was being restricted. He felt that the noise level at the property line should be the only restriction. Mr. Lewis stated that he did not want to be held back on the project. He stated that there are not residential properties surrounding their current location. Mr. Lewis discussed some of the ways they plan to keep the sounds down at the site. He stated that they have made efforts to work with the neighbors. Commission Member Haeckler asked if a formal sound study have been completed on the site. Mr. Lewis said no, since the large sound deadening building is not built yet. He stated that they hired a consultant to look at the site and make recommendations. Mr. Lewis discussed how new speaker technology can direct sound down to specific spots. Commission Member Haeckler stated that it would take some time for the proposed landscaping near the fence to grow. He asked if there was a minimum size at time of planting. Mr. Lewis stated that it was determined by the architect and Planning Staff. He stated that there were some things that they could do to mitigate the sound and gave an example of installing large concrete blocks. Mr. Moss stated that he had worked with the City's Arborist on the screening requirements. He stated that Staff was recommending enhanced landscaping for the site in order to help the

adjacent residential uses. Chairman Cox opened the public hearing and called for comments. Ms. Jackie Brewer, 2705 Stonepointe, McKinney, TX, stated that she was the Chairman of the McKinney Economic Development Corporation. She stated that this project needs to get done and not delayed. Ms. Brewer stated that City events should not count towards the number of outdoor events allow at this site. She stated that she did not believe that the noise ordinance applied to outdoor citywide events. Ms. Brewer felt that Mr. Lewis would be bringing the largest draw of people to the City event that would not just be for his benefit. She felt that only allowing outdoor events on Friday and Saturday was too limiting. Ms. Brewer stated that corporate events could bring additional tax dollars to the City, part of which gets reinvested back into the city. Chairman Cox called for a brief recess at 6:59 p.m. to allow City Council to come back into the Chamber to adjourn their meeting. Chairman Cox call the Commission back to order at 7:02 p.m. to continue this meeting. Mr. David Kelly, 801 N. Church Street, McKinney, TX, stated that he was a McKinney Economic Development Corporation Board Member and, on the subcommittee, working with Tupps Brewery on this project. He stated that the subcommittee meets every two weeks. Mr. Kelly concurred with Ms. Brewer's comments. He stated that Tupps Brewer deserves to operate this site with as much flexibility as possible. Mr. Kelly stated that we would not find a better partner for this proposed development. He stated that Mr. Lewis was doing outreach and was sensitive to the surrounding community. Mr. Kelly felt that Mr. Lewis was desperate and would agree to any limitations from the City just to get the project done. He stated that Tupps Brewery's success would also be the City's and McKinney

Economic Development Corporation's success. On a motion by Vice-Chairman Mantzey, seconded by Commission Member Kuykendall, the Commission unanimously voted to close the public hearing, with a vote of 7-0-0. Mr. Dominick Cannizzaro, 800 Green Street, McKinney, TX, requested to speak on this request. On a motion by Commission Member Kuykendall, seconded by Commission Member Doak, the Commission unanimously voted to reopen the public hearing, with a vote of 7-0-0. Mr. Cannizzaro discussed some of the issues he had seen over the past 10 years of being homeless in various cities. Mr. Cannizzaro was in favor of the request. On a motion by Commission Member Kuykendall, seconded by Commission Member Haeckler, the Commission unanimously voted to close the public hearing, with a vote of 7-0-0. Vice-Chairman Mantzey stated that he appreciated Staff's and the applicant's work on this request. He stated that this was a very unique project. Vice-Chairman Mantzey stated that there was some confusion on what defines an outdoor event. He suggested that the Commission's recommendation should strike the specific days where an outdoor event would be allowed under the special ordinance provisions to allow more flexibility to operate during the week. Commission Member Doak concurred with Vice-Chairman Mantzey's comments. He stated that the proposed project would be wonderful, and Tupps Brewery would be a great partner with the City. Commission Member Doak stated that there was a balancing issue with the adjacent residential uses and what will be a fun and loud outdoor venue. He felt that the noise ordinance would be enough regulation for the site. Commission Member Doak did not feel that restricting the number of days per year that outdoor events could take place on the site was appropriate.

Commission Member Kuykendall concurred with Commission Member Doak's comments. She stated that the noise ordinance was in place to protect the citizens. Commission Member Kuykendall questioned if the City dictates when and how other businesses could operate. She was in favor of striking the proposed special ordinance provision # 2, since it brought a lot of confusion. Alternate Commission Member Woodruff concurred with the three previous member's comments. He also felt that the proposed special ordinance provision # 2 should be stricken from the recommendation. Commission Member Haeckler agreed. He stated that the proposed special ordinance provision # 2 would be too hard to enforce and was too restrictive. Commission Member Haeckler stated that additional landscaping should be planted to help screen the site. Commission Member McCall also wanted to strike the proposed special ordinance provision # 2. He stated that Tupps Brewery did not have a history of noise complaints where they currently are located. Commission Member McCall stated that he is looking forward to the development of this site. Vice-Chairman asked Staff if striking the proposed special ordinance provision # 2 if it would require the applicant to apply for a permit for every outdoor event. Mr. Moss stated that if the proposed special ordinance provision # 2 was stricken from the Commission's recommendation, then they would not be required to get special use permits and there would not be any restrictions on the number of days that they could hold events on the site. He clarified that if Tupps Brewery obtained a special event permitting then that event would be exempt from the noise ordinance. Mr. Moss stated that if they did not go through that process, then they would be subject to the noise ordinance. Chairman Cox clarified that if proposed

special ordinance provision # 2 was stricken from the Commission's recommendation, then Tupps Brewery would not be required to get a permit for any event and would be allowed to hold outdoor events seven days per week. He stated that if they brought in someone that might be above the noise ordinance, then they should apply for a special event permit. Mr. Moss stated that was correct. On a motion by Commission Member Haeckler, seconded by Alternate Commission Member Woodruff, the Commission unanimously voted to recommend approval of the proposed request as recommended by Staff except for removing the proposed special ordinance provision # 2, that limited the number of days outdoor events could take place on the site, with a vote of 7-0-0. Chairman Cox clarified that the Commission was recommending the proposed special ordinance provisions number 1 and 3 in their recommendation. He stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on July 20, 2021.