

JOINT MEETING

NOVEMBER 5, 2012

The City Council and the Planning and Zoning Commission of the City of McKinney, Texas met in a joint session in the Council Chambers of the Municipal Building on November 5, 2012 at 5:30 p.m.

Council Present: Mayor Brian Loughmiller, Mayor Pro-Tem Travis Ussery, Council members: David Brooks, Geralyn Keever, Don Day, Ray Ricchi, and Roger Harris. Absent: Council member David Brooks.

Planning and Zoning Commission Present: Chairman Robbie Clark, Vice Chairman Rick Franklin, Commissioners: Larry Thompson, Matt Hilton, and George Bush. Absent: Commissioner Dave Kochalka.

Staff Present: City Manager Jason Gray; Deputy City Manager Rob Daake; City Attorney Mark Houser; City Secretary Sandy Hart; Executive Director of Development Services Barry Shelton; Director of Planning Michael Quint; Planning Managers – Brandon Opiela and Ross Altobelli; Parks, Recreation, and Open Space Director Lemuel Randolph; Assistant Director of Development Services Rick Leisner; Help Desk Technician Clif Carnley; and McKinney Community Development Corporation Executive Director Cindy Schneible.

There were 7 guests present.

Mayor Loughmiller called the City Council meeting to order at 5:38 p.m. after determining a quorum present.

Chairman Clark called the Planning and Zoning Commission to order at 5:38 p.m. after determining a quorum present.

12-078M3 Mayor Loughmiller and Chairman Clark called for a Public Hearing to Consider/Discuss/Act on the Request by the City of McKinney, to Amend Section 138-429 (Location - Generally) of the Code of Ordinances Pertaining to Sexually Oriented Businesses; to Amend Sections 5 (Approval Required), 8 (Variances and Appeals), 9 (Definitions), 73 (General Development Plan), 74 (Preliminary-Final Plat), 75 (Preliminary-Final Replat), 76 (Record Plat), 77 (Minor Plat), 78 (Minor Replat), 79 (Amending Plat), 81 (Conveyance Plat), 99 (Lots), 106 (Screening and

Buffering of Certain Residential Lots Adjacent to Streets), and 157 (Conveyance of Land Requirements) of the Subdivision Ordinance (Chapter 142 of the Code of Ordinances); to Amend Sections 40 (Nonconforming Uses and Nonconforming Structures), 41 (Specific Use Permits), 42 (Temporary Uses), 44 (Access Management Plan Approval), 45 (Site Plan Approval), 46 (Definitions), 67 (AG - Agricultural District), 68 (RED-1 - Residential Estates District), 69 (RED-2 - Residential Estates District), 70 (RS 120 - Single Family Residence District), 71 (RS 84 - Single Family Residence District), 73 (RS 60 - Single Family Residence District), 74 (RS 45 - Single Family Residence District), 75 (RD 30 - Duplex Residence District), 77 (RG 25 - General Residence District), 78 (RG 18 - General Residence District), 79 (MF-1 - Multi-Family Residential - Low Density District), 80 (MF-2 - Multi-Family Residential - Medium Density District), 81 (MF-3 - Multi-Family Residential Medium-High Density District), 83 (NC - Neighborhood Convenience District), 84 (BN - Neighborhood Business District), 85 (BG - General Business District), 86 (C - Planned Center District), 87 (O-1 - Neighborhood Office District), 88 (O - Office District), 89 (BC - Commercial Business District), 90 (ML - Light Manufacturing District), 91 (MH - Heavy Manufacturing District), 95 (MTC - McKinney Town Center District), 96 (CHD - Commercial Historic District), 130 (Vehicle Parking), 131 (Off-Street Loading), 132 (Fences, Walls, and Screening), 133 (Accessory Buildings and Uses), 134 (Performance Standards), 135 (Landscape Requirements), 137 (Communications Antennas, Satellite Dishes and Support Structures/Towers), 139 (Architectural and Site Standards), 162 (Administrative Official), 164 (Changes and Amendments), 165 (Board of Adjustment), Appendix C (Historic District Maps), Appendix F-1 (Schedule of Yards and Setbacks), Appendix F-2 (Schedule of Heights, Areas, and Densities), and Appendix F-4 (Schedule of Uses) of the Zoning Ordinance (Chapter 146 of the Code of Ordinances); to Create

Sections 42 (Dormancy and Approval Expirations) and 82 (Administratively Complete) of the Subdivision Ordinance (Chapter 142 of the Code of Ordinances); to Create Sections 102 (RS SM - Single Family Residence District) and 141 (Residential Development Design Standards) of the Zoning Ordinance (Chapter 146 of the Code of Ordinances); and to Modify Section 138-429 (Location - Generally) of the Code of Ordinances Pertaining to Sexually Oriented Businesses, and Accompanying Ordinance. Director of Planning Michael Quint stated that at the October 1, 2012 Planning and Zoning Commission and City Council Joint Meeting, the Commission and Council expressed concerns regarding the proposed modifications to the Schedule of Uses (disallowing currently allowed land uses) and the proposed landscape (3 canopy trees per lot rather than 2 trees), architectural (stucco as an approved masonry material), and subdivision design standards (unclear application, too restrictive regarding open spaces, needs flexibility) for single family residential uses. Subsequent to this meeting, Staff reviewed the proposed amendments and made modifications in an attempt to address the Commission's and Council's concerns. Staff has also proposed modifications to further distinguish the differences between assisted living, independent living, and multi-family residential uses by adding a new use/definition (senior multi-family residential), new parking standard to correspond with this new use, and new row in the Schedule of Uses detailing where the new use will be allowed. Staff was proposing to modify the landscaping requirements for single family residential lots which would have resulted in three canopy trees being planted on each lot in order to increase the residential quality rather than the existing requirement for two canopy trees to be planted. Subsequent to considering the Council's and Commission's concerns regarding this change, Staff has modified the amendments so that an increase in required landscaping is no longer proposed. The existing standard which

requires two canopy trees be planted on each lot will remain untouched. Mr. Quint stated that at the previous Joint Meeting there was discussion that it was not clear what developments the subdivision design standards would apply to and that the requirement for additional pocket open spaces was overly burdensome given the existing requirement for parkland dedications. Subsequent to considering these concerns, Staff modified the proposed subdivision design standards so that it's clear which standards will apply to which size developments. Also, Staff is proposing to remove the requirement that 250 square feet of pocket open spaces be provided for every single family residential lot. Parkland dedications will still be required in accordance with the requirements of the Subdivision Ordinance. Mr. Quint stated that another concern was that the residential design standards should allow for more flexibility and stated that staff has gone back in and allowed the Planning and Zoning Commission to approve increases in the size of a neighborhood by 20 percent with plat approval and that would take the minimum or maximum acreage from 50 acres to 60 acres or the maximum lot count from 175 to 210. He stated that if additional flexibility is needed the meritorious exception process is there and it is a process that can be approved as part of the plat. Mr. Quint stated that there was concern that the architectural standards for single family duplex residential should apply to elevations rather than per walls and stated that staff has modified the proposals to be judged based on an elevation basis rather than a per wall basis. Staff was not proposing to allow stucco as an acceptable masonry finishing material. Subsequent to considering the Council's, the Commission's, and the public speakers' concerns regarding not allowing stucco as an acceptable masonry finishing material, Staff has modified the amendments so that stucco is now included in the listing of masonry finishing materials. That being said, Staff is also proposing to limit the amount of stucco that is provided on each elevation to 50%. Also, Staff

has modified the required amount of masonry per elevation to be as follows: 100% on the front elevation, 75% on the side elevations, and 50% on the rear elevation (75% overall). Prior to 10/1/12, the proposed amendments called for 85% masonry (not including stucco) to be required on each wall. There was also some discussion of whether or not hardi-plank should be included and stated that the proposed standards only include stucco as masonry material. If the Council and the Planning and Zoning Commission see fit to include hardi-plank in that, it would be an easy fix and staff would be happy to make that change. Staff has also proposed modifications to further distinguish the differences between assisted living, independent living, and multi-family residential uses by adding a new use/definition (senior multi-family residential), new parking standard to correspond with this new use, and new row in the Schedule of Uses detailing where the new use will be allowed. Council member Day stated that he would like to take the senior housing out completely so that there is a separate section just for senior housing, for example, they don't need as much parking and so why would they be required to build 3 times the parking spaces. He stated that he has an issue with height restrictions as well. There are areas that he is not comfortable with. He stated that he had concerns with the farmers market and senior multi-family definitions, the parking amendments, loading amendments, the architectural standards amendments, and changes to the town center and historic district parking and appeals. Council member Kever stated that she has concerns on Section 146-139 relating to architectural standards and there is a lot of information in Section F-4 (Schedule of Uses) to go through. Council member Ricchi stated that he agrees with what has been said and he would like for apartments to be pulled out of the same zoning as town home, condominiums, and a clear definition of what defines an apartment is created. Parks, Recreation, and Open Space Director Lemuel Randolph

stated that the parkland dedication change references the relative cost of flood plain land that the city has purchased versus the adjacent out of flood plain land. He stated that in the current scenario a developer that is donating out of flood plain land is at a disadvantage with a developer that is donating flood plain land because of the discrepancy of land cost and the idea is to level out the playing field. Mr. Quint stated that the effective date of these Ordinance changes (if adopted tonight) would be November 12, 2012. He stated that if the PD – Planned Development District has specific uses specified then they would be allowed to retain those now disallowed uses but if a PD-Planned Development District calls out a base zoning district but doesn't speak to specific uses then the allowable uses would also change. Mayor Pro-Tem Ussery stated that he is not in agreement with that. Mayor Loughmiller stated that his concern with the architectural standards are just going to create more potential for meritorious exceptions. He explained that more meritorious exceptions are inevitably going to occur when we adopt regulations where none currently exist. Mr. Michael Quint explained the time frame to appeal and stated that in Section 142-A, there is an existing 21 day limitation on when you can file an appeal and stated that he has shortened that under the proposal down to 14 days. He stated that that due to how Council meetings occur in the scheduling, they didn't feel it was appropriate to include a time limitation. Commissioner Franklin expressed his concerns regarding the right to appeal a plat to the City Council. Mr. Quint stated that verbiage could be created that addresses the legal issue appeal. Mayor Loughmiller called for public comments.

The following individual spoke about the proposed changes:

Mr. Bob Roeder, 1700 Redbud #300, McKinney, stated that he likes the approach they are taking now because many of the issues that have been identified here are those upon which they need to have more discussion and he will save his discussion for those times.

Planning and Zoning Commission unanimously approved the motion by Commissioner Larry Thompson, seconded by Commissioner Rick Franklin, to close the public hearing. Council unanimously approved the motion by Council member Keever, seconded by Mayor Pro-Tem Ussery, to close the public hearing.

Planning and Zoning Commission unanimously approved the motion by Commissioner Larry Thompson, seconded by Commissioner Matt Hilton, to recommend to the City Council to approve an Ordinance amending Section 138-429 (Location - Generally) of the Code of Ordinances pertaining to Sexually Oriented Businesses; Sections 5 (Approval Required), 8 (Variances And Appeals) to include a 45 day timeline for appeal action and limitations regarding what issues may be appealed, 9 (Definitions), 73 (General Development Plan), 74 (Preliminary-Final Plat), 75 (Preliminary-Final Replat), 76 (Record Plat), 77 (Minor Plat), 78 (Minor Replat), 79 (Amending Plat), 81 (Conveyance Plat), 99 (Lots), and 106 (Screening and Buffering of certain residential lots adjacent to streets) of the Subdivision Ordinance (Chapter 142 of the Code of Ordinances); Sections 40 (Nonconforming Uses and Nonconforming Structures), 41 (Specific Use Permits), 42 (Temporary Uses), 44 (Access Management Plan Approval), 45 (Site Plan Approval), 67 (AG - Agricultural District), 68 (Red-1 - Residential Estates District), 69 (Red-2 - Residential Estates District), 70 (RS 120 - Single Family Residence District), 71 (RS 84 - Single Family Residence District), 73 (RS 60 - Single Family Residence District), 74 (RS 45 - Single Family Residence District), 75 (RD 30 - Duplex Residence District), 77 (RG 25 - General Residence District), 78 (RG 18 - General Residence District), 79 (MF-1 - Multi-Family Residential - Low Density District), 80 (MF-2 - Multi-Family Residential - Medium Density District), 81 (MF-3 - Multi-Family Residential - Medium-High Density District), 83 (NC - Neighborhood Convenience District), 84 (BN - Neighborhood

Business District), 85 (BG - General Business District), 86 (C - Planned Center District), 87 (O-1 - Neighborhood Office District), 88 (O - Office District), 89 (BC - Commercial Business District), 90 (ML - Light Manufacturing District), 91 (MH - Heavy Manufacturing), 95 (MTC - McKinney Town Center District), 96 (CHD - Commercial Historic District), 132 (Fences, Walls, and Screening), 133 (Accessory Buildings And Uses), 134 (Performance Standards), 137 (Communications Antennas, Satellite Dishes And Support Structures/Towers), 162 (Administrative Official), 164 (Changes And Amendments), 165 (Board of Adjustment), Appendix C (Historic District Maps), Appendix F-1 (Schedule of Yards and Setbacks), And Appendix F-2 (Schedule Of Heights, Areas, and Densities) of the Zoning Ordinance (Chapter 146 of the Code of Ordinances); creating Sections 42 (Dormancy and Approval Expirations) and 82 (Administratively Complete) of the Subdivision Ordinance (Chapter 142 of the Code of Ordinances); and creating Section 141 (Residential Development Design Standards) of the Zoning Ordinance (Chapter 146 of the Code of Ordinances).

Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Harris, to approve an Ordinance amending Section 138-429 (Location - Generally) of the Code of Ordinances pertaining to Sexually Oriented Businesses; Sections 5 (Approval Required), 8 (Variances And Appeals) to include a 45 day timeline for appeal action and limitations regarding what issues may be appealed, 9 (Definitions), 73 (General Development Plan), 74 (Preliminary-Final Plat), 75 (Preliminary-Final Replat), 76 (Record Plat), 77 (Minor Plat), 78 (Minor Replat), 79 (Amending Plat), 81 (Conveyance Plat), 99 (Lots), and 106 (Screening and Buffering of certain residential lots adjacent to streets) of the Subdivision Ordinance (Chapter 142 of the Code of Ordinances); Sections 40 (Nonconforming Uses and Nonconforming Structures), 41 (Specific Use Permits), 42 (Temporary

Uses), 44 (Access Management Plan Approval), 45 (Site Plan Approval), 67 (AG - Agricultural District), 68 (Red-1 - Residential Estates District), 69 (Red-2 - Residential Estates District), 70 (RS 120 - Single Family Residence District), 71 (RS 84 - Single Family Residence District), 73 (RS 60 - Single Family Residence District), 74 (RS 45 - Single Family Residence District), 75 (RD 30 - Duplex Residence District), 77 (RG 25 - General Residence District), 78 (RG 18 - General Residence District), 79 (MF-1 - Multi-Family Residential - Low Density District), 80 (MF-2 - Multi-Family Residential - Medium Density District), 81 (MF-3 - Multi-Family Residential - Medium-High Density District), 83 (NC - Neighborhood Convenience District), 84 (BN - Neighborhood Business District), 85 (BG - General Business District), 86 (C - Planned Center District), 87 (O-1 - Neighborhood Office District), 88 (O - Office District), 89 (BC - Commercial Business District), 90 (ML - Light Manufacturing District), 91 (MH - Heavy Manufacturing), 95 (MTC - McKinney Town Center District), 96 (CHD - Commercial Historic District), 132 (Fences, Walls, and Screening), 133 (Accessory Buildings And Uses), 134 (Performance Standards), 137 (Communications Antennas, Satellite Dishes And Support Structures/Towers), 162 (Administrative Official), 164 (Changes And Amendments), 165 (Board of Adjustment), Appendix C (Historic District Maps), Appendix F-1 (Schedule of Yards and Setbacks), And Appendix F-2 (Schedule Of Heights, Areas, and Densities) of the Zoning Ordinance (Chapter 146 of the Code of Ordinances); creating Sections 42 (Dormancy and Approval Expirations) and 82 (Administratively Complete) of the Subdivision Ordinance (Chapter 142 of the Code of Ordinances); and creating Section 141 (Residential Development Design Standards) of the Zoning Ordinance (Chapter 146 of the Code of Ordinances). Caption reads as follows:

ORDINANCE NO. 2012-11-056

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF

McKINNEY, TEXAS, AMENDING SECTION 138-429 (LOCATION – GENERALLY) OF THE CODE OF ORDINANCES PERTAINING TO SEXUALLY ORIENTED BUSINESSES; AMENDING SECTIONS 5 (APPROVAL REQUIRED), 8 (VARIANCES AND APPEALS), 9 (DEFINITIONS), 73 (GENERAL DEVELOPMENT PLAN), 74 (PRELIMINARY-FINAL PLAT), 75 (PRELIMINARY-FINAL REPLAT), 76 (RECORD PLAT), 77 (MINOR PLAT), 78 (MINOR REPLAT), 79 (AMENDING PLAT), 81 (CONVEYANCE PLAT), 99 (LOTS), AND 106 (SCREENING AND BUFFERING OF CERTAIN RESIDENTIAL LOTS ADJACENT TO STREETS) OF THE SUBDIVISION ORDINANCE (CHAPTER 142 OF THE CODE OF ORDINANCES); AMENDING SECTIONS 40 (NONCONFORMING USES AND NONCONFORMING STRUCTURES), 41 (SPECIFIC USE PERMITS), 42 (TEMPORARY USES), 44 (ACCESS MANAGEMENT PLAN APPROVAL), 45 (SITE PLAN APPROVAL), 67 (AG – AGRICULTURAL DISTRICT), 68 (RED-1 – RESIDENTIAL ESTATES DISTRICT), 69 (RED-2 – RESIDENTIAL ESTATES DISTRICT), 70 (RS 120 – SINGLE FAMILY RESIDENCE DISTRICT), 71 (RS 84 – SINGLE FAMILY RESIDENCE DISTRICT), 73 (RS 60 – SINGLE FAMILY RESIDENCE DISTRICT), 74 (RS 45 – SINGLE FAMILY RESIDENCE DISTRICT), 75 (RD 30 – DUPLEX RESIDENCE DISTRICT), 77 (RG 25 – GENERAL RESIDENCE DISTRICT), 78 (RG 18 – GENERAL RESIDENCE DISTRICT), 79 (MF-1 – MULTI-FAMILY RESIDENTIAL – LOW DENSITY DISTRICT), 80 (MF-2 – MULTI-FAMILY RESIDENTIAL – MEDIUM DENSITY DISTRICT), 81 (MF-3 – MULTI-FAMILY RESIDENTIAL – MEDIUM-HIGH DENSITY DISTRICT), 83 (NC – NEIGHBORHOOD CONVENIENCE DISTRICT), 84 (BN – NEIGHBORHOOD BUSINESS DISTRICT), 85 (BG – GENERAL BUSINESS DISTRICT), 86 (C – PLANNED CENTER DISTRICT), 87 (O-1 – NEIGHBORHOOD OFFICE DISTRICT), 88 (O – OFFICE DISTRICT), 89 (BC – COMMERCIAL BUSINESS DISTRICT), 90 (ML – LIGHT MANUFACTURING DISTRICT), 91 (MH – HEAVY MANUFACTURING), 95 (MTC – MCKINNEY TOWN CENTER DISTRICT), 96 (CHD – COMMERCIAL HISTORIC DISTRICT), 132 (FENCES, WALLS, AND SCREENING), 133 (ACCESSORY BUILDINGS AND USES), 134 (PERFORMANCE STANDARDS), 137 (COMMUNICATIONS ANTENNAS, SATELLITE DISHES AND SUPPORT STRUCTURES/TOWERS), 162 (ADMINISTRATIVE OFFICIAL), 164 (CHANGES AND AMENDMENTS), 165 (BOARD OF ADJUSTMENT), APPENDIX C (HISTORIC DISTRICT MAPS), APPENDIX F-1 (SCHEDULE OF YARDS AND SETBACKS), AND APPENDIX F-2 (SCHEDULE OF HEIGHTS, AREAS, AND DENSITIES) OF THE ZONING ORDINANCE (CHAPTER 146 OF THE CODE OF ORDINANCES); CREATING SECTIONS 42 (DORMANCY AND APPROVAL EXPIRATIONS) AND 82 (ADMINISTRATIVELY COMPLETE) OF THE SUBDIVISION ORDINANCE (CHAPTER 142 OF THE CODE OF ORDINANCES); AND CREATING SECTION 141 (RESIDENTIAL DEVELOPMENT DESIGN STANDARDS) OF THE ZONING ORDINANCE (CHAPTER 146 OF THE CODE OF ORDINANCES); ESTABLISHING PRESUMPTIONS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

Chairman Clark adjourned the Planning and Zoning Commission at 7:10 p.m.

Mayor Loughmiller recessed the meeting into executive session at 7:10 p.m. per Texas Government Code Section 551.071 (2). Consultation with City Attorney on any Work Session, Special or Regular Session agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said items (as needed) and Section 551.087 Discuss Economic Development Matter as listed on the posted agenda. Mayor Loughmiller recessed to the open session at 8:50 p.m. Council member Ricchi left the meeting at 8:40 p.m.

Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Kever, to adjourn.

Mayor Loughmiller adjourned the meeting at 8:50 p.m.

BRIAN LOUGHMILLER
Mayor

ROBBIE CLARK
Chairman

ATTEST:

SANDY HART, TRMC, MMC
City Secretary