

AGENDA ITEM

TO: Planning and Zoning Commission

FROM: Michael Quint, Director of Planning

SUBJECT: Conduct a public hearing to consider and discuss on a request by the City of McKinney to modify Sections 138-429 (Sexually Oriented Businesses); 146-83 (“BN” – Neighborhood Business District); 146-84 (“BG” – General Business District); 146-85 (“C” – Planned Center District); 146-164 (Changes and Amendments); and Chapter 146, Appendix F-4 (Schedule of Uses) of the Code of Ordinances

APPROVAL PROCESS: Final action regarding the proposed amendments will be taken by the Planning and Zoning Commission and City Council at a December 2, 2013 joint meeting.

STAFF RECOMMENDATION: Staff recommends the Planning and Zoning Commission consider and discuss the proposed amendments to Chapters 138 (Sexually Oriented Businesses) and 146 (Zoning Regulations) of the Code of Ordinances.

ITEM SUMMARY: At the October 14, 2013 City Council Work Session and the October 15, 2013 City Council Regular Meeting, the City Council mentioned that several changes to the Code of Ordinances were necessary. These changes generally focused on the issues below:

- Sexually oriented businesses should not be allowed in commercial zoning districts and should only be permitted in industrial zoning districts.
- Multi-family residential uses should not be permitted in commercial zoning districts going forward (not applied retroactively).

In addition to drafting amendments to address these aforementioned issues, Staff has proposed to modify the Zoning Ordinance so a joint meeting between the Planning and Zoning Commission and the City Council is not required in order to adopt changes to the Schedule of Uses (Appendix F-4 of the Zoning Ordinance). This requirement is overly burdensome and significantly impacts the City’s ability to rectify issues with the Schedule in a timely and efficient manner.

At the November 4, 2013 City Council work session, Staff discussed these proposed amendments with the City Council. The City Council provided additional clarification to

Staff but was generally supportive of the proposed amendments. Final consideration and action regarding these amendments will take place at a joint Planning and Zoning Commission and City Council meeting on December 2, 2013.

PROPOSED AMENDMENTS:

- Proposed 138-429 Changes (Location of Sexually Oriented Businesses): This section is being modified to correspond with a change that is being proposed to the Schedule of Uses. Staff is proposing to limit sexually oriented businesses to being allowed only in the “MH” – Heavy Manufacturing District (applied retroactively). Currently, there are no sexually oriented businesses within the City of McKinney’s corporate limits.
- Proposed 146-84 through 146-86 (BN, BG, and C Districts): At the request of the City Council, the Schedule of Uses (Appendix F-4 of the Zoning Ordinance) was amended in May of 2010 to prohibit the construction of multi-family residential uses in commercial zoning districts (applied retroactively). However at that time, the associated district regulations were not amended due to an accidental omission. After discussing this issue with the City Council on November 4, 2013, the City Council indicated that they did not want multi-family residential uses to be allowed in commercial zoning districts going forward but that this mandate should not be applied retroactively. Because the district regulations currently allow the construction of multi-family residential uses, **no changes are being proposed to these sections of the Zoning Ordinance at this time.** The only reason these sections are being discussed is because legal notice announcing the amendment of these sections was sent prior to discussing the issue with the City Council on November 4th.
- Proposed 146-164 Changes (Changes and Amendments): This section is being modified in order to eliminate the need for proposed amendments to the Schedule of Uses (Appendix F-4 of the Zoning Ordinance) to be adopted by the City Council at a joint meeting with the Planning and Zoning Commission. Scheduling these meetings is often very difficult and this requirement serves to unnecessarily slow down the amendment process. Going forward, all amendments to the Zoning Ordinance and its appendices will require a public hearing in front of the Planning and Zoning Commission before a public hearing is held and action is taken at a City Council meeting.
- Proposed F-4 Changes (Schedule of Uses): This appendix is being modified to prohibit the ability to develop sexually oriented businesses in the “BG” – General Business District, the “C” – Planned Center District, and the “BC” – Commercial Business District (highlighted in blue on the attached Schedule of Uses).

Additional amendments to this section include the addition of the ability to construct multi-family uses in the “BN” – Neighborhood Business District, the “BG” – General Business District, and the “C” – Planned Center District. In May

of 2010, the ability to construct multi-family uses in these commercial zoning districts was eliminated at the City Council's direction. This change was applied retroactively as it modified the Schedule of Uses. However, at the November 4, 2013 work session, the City Council indicated that they no longer wanted to prohibit multi-family uses in commercial zoning districts retroactively but only going forward. As such, an asterisk is being added in the "BN", "BG", and "C" columns of the Schedule of Uses (highlighted in yellow on the attached Schedule of Uses) to be consistent with the corresponding district regulations as well as the City Council's direction.

OPPOSITION TO OR SUPPORT OF AMENDMENTS: To date, Staff has not received any comments regarding the proposed amendments.