

Planning and Zoning Commission Meeting Minutes of July 24, 2018:

18-0007M Conduct a Public Hearing to Consider/Discuss/Act on a Request by the City of McKinney to Amend Chapter 146 (Zoning Regulations), Section 146-84 (BN - Neighborhood Business District), Section 146-85 (BG - General Business District), Section 146-86 (C - Planned Center District), Section 146-90 (ML - Light Manufacturing District), Section 146-91 (MH - Heavy Manufacturing District), and Appendix F-4 (Schedule of Uses), of the Code of Ordinances. Ms. Samantha Pickett, AICP, Planning Manager for the City of McKinney, explained the proposed amendments to the Zoning Ordinance. She stated that the amendments will remove the residential uses from non-residential districts within the Schedule of Uses and any regulations that pertain to such in these sections. Ms. Pickett stated that with the prevalence of these uses occurring and after discussions with City Council at the June 4, 2018 Work Session, Staff is recommending approval of the proposed amendments. She offered to answer questions. Alternate Commission Member Franklin expressed concerns regarding notifying the property owners affected by the proposed amendments. He stated that he understood why City Council and Staff were recommending the proposed changes. Commission Member Cobbel expressed concerns regarding affecting property owners who currently have residential uses by right, possibly taking away value to their property, and them not knowing about the proposed

changes. Ms. Pickett stated that the City published public notices about the proposed amendments in the McKinney Courier Gazette, Celine Record, on the internet, a notice regarding the Planning and Zoning Commission agenda was sent to individuals who signed up for the Notify Me e-mails for the Planning and Zoning Commission meetings, and the meeting agendas were posted outside the main door of City Hall. Ms. Jennifer Arnold, Interim Director of Planning for the City of McKinney, stated that the City has the right to over notice; however, she explained various issues that she saw with trying to do it. She stated that the City's legal counsel had advised Staff to follow State Law, which does not require individual property owner notices. Commission Member McCall asked if the map that was shown during the Work Session, held prior to this meeting, showed all of the properties being affected by the proposed amendments. Ms. Pickett stated that Staff created the map by interpreting the various parcels with "BN" – Neighborhood Business District, "BG" – General Business District, "C" – Planned Center District, and "PDs" – Planning Development Districts with the "BN", "BG", and "C" districts as the base zoning; however, some properties could have been missed on the map. She stated that the map did not include "ML" – Light Manufacturing District, "MH" – Heavy Manufacturing District, or "PDs" – Planned Development Districts that contain "ML" or "MH" designations, so there are more properties than shown on the map that could be affected by the proposed amendments. Ms. Pickett explained that these

districts were not intended for residential uses; however, there are some loopholes that could allow residential uses in non-residential districts. Commission Member Kuykendall asked if Staff knew the number of properties that could be affected. Ms. Pickett stated that Staff did not know an exact number at this time. Commission Member Kuykendall asked if Staff had received any feedback regarding the request. Ms. Pickett stated that an e-mail opposition to the request was received and distributed to the Commission Members prior to the meeting. Commission Member Kuykendall expressed concerns that only one person responded to the request, when so many people were being affected. Commission Member McReynolds expressed concerns about residents that do not read the McKinney Courier Gazette or Celina Record or receive the Notify Me e-mails not knowing about the proposed amendments. Commission Member Cobbel also expressed concerns regarding the notification process. She stated that this could be a huge right being taken away from property owners. Alternate Commission Member Franklin stated that some of the property owners may not have an issue with the proposed amendments; however, they may have issues if they learn that they had no input regarding the changes. Commission Member Smith asked to clarify that Staff did consult with the City's legal counsel on this request. Ms. Pickett said yes. Commission Member Smith asked if Staff was pursuing this path as a result of how the City would like to see the tax base develop. Ms. Pickett

said yes. Commission Member Smith stated that she understands the comments and concerns regarding notification made by other Commission Members. She stated that she was in support of the proposed amendments as recommended by Staff. Commission Member Kuykendall opened the public hearing and called for comments. Mr. Brent Wicker, 2622 Round Table, Lewisville, TX, stated that he represented the Wilcox Family Partners, Ltd., which owns 61 acres across from the new stadium. He stated that the family has owned the land for a long time. Mr. Wicker stated that the family members do not live in McKinney and only heard about this meeting this morning. He read an e-mail from Mr. Charlie Bush in opposition to the request. A copy of this e-mail was distributed to the Commission Members prior to the meeting. The e-mail expressed concerns regarding lack of notification to the property owners affected by the amendments and the fact that residential uses would not be permitted on their property if this request is approved. He requested that the item be tabled until all affected property owners were given advanced notice and time to share their opinions. Mr. Wicker stated that they have some offers on purchasing the property; therefore, they would hate to lose some of the uses under the current zoning. On a motion by Commission Member McReynolds, seconded by Commission Member McCall, the Commission unanimously voted to close the public hearing. Commission Member McReynolds asked how often Staff felt over

noticing might take place regarding amendments to the Zoning Ordinance. Ms. Arnold stated that administratively that becomes very difficult. She stated that accuracy in the noticing is also an issue. Ms. Arnold stated that the City is following the letter of the law and the advice of our legal counsel. She stated that if City Council wants to give direction to change the way Staff notices such occurrences, then we would be happy to comply. Commission Member McReynolds reiterated his concerns regarding property owners not knowing about the amendments due to not reading these papers or internet postings. Ms. Arnold stated that the notification issue came before the Fifth Circuit Court a couple of years ago. She stated that the court ruled in the favor of cities following State Law for changes to the city's ordinances. Ms. Arnold stated that it was appealed to the Supreme Court who chose not to hear the case and deferred to the lower courts. Commission Member McReynolds stated that he understands Staff's concerns; however, he still does not believe that it is the right path to take. Commission Member McCall asked if there was a way to post on some properties to help notify property owners. Mr. Michael Quint, Executive Director of Development Services for the City of McKinney, stated that he had been responsible for modifying several provisions of the City's ordinances. He stated that for an amendment such as this the City has never posted signage on any property during his 12 years of employment with the City of McKinney. Mr. Quint stated that the noticing completed on this request

is consistent with what has been done in the past, State Law, and what every other community in Texas does as they modify their zoning ordinance. Commission Member Cobble recommended tabling the request to the next Planning and Zoning Commission meeting and to try to get word-of-mouth out about the proposed amendments. She stated that it was not that she does not agree with the proposed amendments. Alternate Commission Member Franklin concurred and commended City Council on taking on the proposed amendments. Commission Member Kuykendall asked Staff about the notification process if the item is tabled to the next available meeting, since the public hearing had already been closed. Mr. Quint recommended that the Planning and Zoning Commission make a motion on the request, vote on it, and send it to City Council. Commission Member Smith stated that Staff is comfortable with the notification process that took place based on prior practice and State Law. Alternate Commission Member Franklin asked if there was a way to re-open the public hearing after it has been closed. Mr. Quint said yes. On a motion by Commission Member McReynolds, seconded by Alternate Commission Member Franklin, the Commission approved the motion to reopen the public hearing, with a vote of 5-1-0. Commission Member Smith voted against the motion to reopen the public hearing. On a motion by Alternate Commission Member Franklin, seconded by Commission Member McReynolds, the Commission approved the motion to continue the public hearing and table the proposed

amendments to the Zoning Ordinance until the August 14, 2018 Planning and Zoning Commission, with a vote of 4-2-0. Commission Members McCall and Smith voted against the motion.