

## PLANNING AND ZONING COMMISSION

**AUGUST 13, 2019**

The Planning and Zoning Commission of the City of McKinney, Texas met in regular session in the Council Chambers, 222 N. Tennessee Street, McKinney, Texas, on Tuesday, August 13, 2019 at 6:00 p.m.

City Council Present: Rick Franklin

Commission Members Present: Chairman Bill Cox, Vice-Chairman Brian Mantzey, Deanna Kuykendall, Cam McCall, Bry Taylor, and Scott Woodruff - Alternate

Commission Members absent: Hamilton Doak and Christopher Haeckler

Staff Present: Director of Planning Jennifer Arnold; Planning Manager Samantha Pickett; Planners David Soto, Kaitlin Gibbon, and Joseph Moss; and Administrative Assistant Terri Ramey

There were two guests present.

Chairman Cox called the meeting to order at 6:00 p.m. after determining a quorum was present.

The Commission unanimously approved the motion by Vice-Chairman Mantzey, seconded by Commission Member McCall, to approve the following two Consent items, with a vote of 6-0-0.

**19-0674** Minutes of the Planning and Zoning Commission Regular Meeting of July 23, 2019.

**19-0072PF** Consider/Discuss/Act on a Preliminary-Final Plat for Lots 1 - 3, Block A, of the Broadstone McKinney Addition, Located on the Northwest Corner of State Highway 5 and Frisco Road.

END OF CONSENT

Chairman Cox continued the meeting with the Regular Agenda Items and Public Hearings on the agenda.

**19-0009M** Conduct a Public Hearing to Consider/Discuss/Act on a Request by the City of McKinney to Amend Certain Provisions of Chapter 146 (Zoning Regulations) of the Code of Ordinances Regarding the Timing and Process to Receive a Determination on Certain Development Applications to Bring Such Provisions into Conformity with New State

Laws Adopted by and through House Bill 3167. Mr. David Soto, Planner I for the City of McKinney, explained the proposed amendments to the Zoning Ordinance. He stated that a couple of weeks ago Staff gave an update on the new house bills that will affect our processes and what we are regulating. Mr. Soto stated that due to these changes that will take effect on September 1, 2019, Staff has proposed several modifications to the Zoning Ordinance to ensure compliance. He stated that these changes are in reference to House Bill 3167, which affects the processing and approval procedures for plats and plans. Mr. Soto stated that while the house bill mainly concerns the Subdivision Ordinance, a few minor changes were needed for clarification in the Zoning Ordinance. He stated that Staff has since determined that the house bill does not affect site plans; however, Staff has provided additional language to denote that site plans, as they are processed by the City of McKinney, derive their authority from the Texas Local Government Code Chapter 211 (Municipal Zoning Authority), not Chapter 212 (Municipal Regulation of Subdivisions). Mr. Soto stated that House Bill 3167 only affects Chapter 212; therefore, it is important to distinguish that site plans are not affected by this new house bill. He stated that in order to assist with the new timeframes within which Staff must review and take action on plats and construction plans, further language has been added to establish the order in which plans should be reviewed. Mr. Soto stated that this is intended to assist applicants through the process and reduce potential issues. He stated that Staff recommends approval of the proposed amendments and offered to answer questions. Chairman Cox asked if the new house bill could affect a current submittal in the system. Ms. Jennifer Arnold, Director of Planning for the City of McKinney, stated that House Bill 3167 is not retroactive. She stated that anybody currently in process would still be subject to the current laws and regulations. Ms. Arnold stated that anybody that submits after September 1, 2019 would

be subject to the new ordinances. Ms. Samantha Pickett, Planning Manager for the City of McKinney, stated that the City's legal team and Staff have determined that site plans are not affected by the 30-day shock clock. She stated that the Planning and Zoning Commission should not be seeing additional site plans coming to the meetings. Ms. Pickett stated that site plans will typically be submitted first, so when they move on to the plat and construction plans, which are regulated by the 30-day shock clock, we should have already cleared most of the major comments to make it cleaner. Commission Member Taylor stated that he understands about the 30 days for action to be taken. He asked if the applicant has an unlimited amount of time after, that could be a year, to resubmit and then Staff has 15 days to review. Mr. Soto stated that was correct. Commission Member Taylor stated that could be difficult for Staff, especially if the applicant waits a year. Chairman Cox stated that was a good point and that it will require Staff to be on-point. Ms. Arnold stated that Staff is trying to make sure that we are prepared for these changes. She stated that Staff experiences those types of gaps from time to time now with resubmittals. Ms. Arnold stated that with the 30-day shock clock going into effect, she expects to see more resubmittals come in. She stated that it is currently a challenge. Chairman Cox opened the public hearing and called for comments. There being none, on a motion by Vice-Chairman Mantzey, seconded by Commission Member McCall, the Commission unanimously voted to close the public hearing and recommend approval of the proposed ordinance amendments as recommended by Staff, with a vote of 6-0-0. Chairman Cox stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on August 20, 2019.

**19-0007M** Conduct a Public Hearing to Consider/Discuss/Act on a Request by the City of McKinney to Amend Certain Provisions of Chapter 146 (Zoning

Regulations) of the Code of Ordinances that Regulate the Building Products, Materials, or Methods Used in the Construction or Renovation of Residential or Commercial Buildings to Bring Such Provisions into Conformity with New State Laws Adopted by and through House Bill 2439. Ms. Kaitlin Gibbon, Planner I for the City of McKinney, explained the proposed amendments to the Zoning Ordinance. She stated that Staff gave a presentation a few weeks ago about the house bills that take effect on September 1, 2019. Ms. Gibbon stated that Staff has proposed several modifications to the Zoning Ordinance to ensure compliance in reference to House Bill 2439, which limits the ability a City has to enforce architectural requirements. She stated that building materials and architectural features cannot be enforced outside of specific areas per the new house bill. Ms. Gibbon stated that in order to align the Zoning Ordinance with the new state law regulations, Staff has modified sections of the ordinance related to applicability and enforcement of architectural requirements. She stated that sections that are no longer enforceable have been removed and additional language has been added to the Zoning Ordinance to clarify where the regulations can be enforced. Ms. Gibbon stated that the term "Historically Significant Area" (HSA) has been added to protect buildings within a "place or area designated for historical, cultural, or architectural importance and significance" as established with House Bill 2439. A map showing the boundary of the "Historically Significant Area" was displayed on the overhead projector. Ms. Gibbon stated that within the "Historically Significant Area" the City can still enforce building materials and architectural features. She stated that Staff recommends approval of the proposed amendments to the Zoning Ordinance and offered to answer questions. Chairman Cox asked about the boundaries of the "Historically Significant Area". Ms. Gibbon stated that the boundaries were basically from US Highway 380 (University Drive), Airport Drive, Wilson Creek Parkway, and US

Highway 75 (Central Expressway). Commission Member McCall wanted to clarify that the City has control of architectural elements and building materials within this designed area. Ms. Gibbon said yes. Chairman Cox stated that part of the boundary goes to Industrial Boulevard. He stated that with that boundary, the properties on the north side of Industrial Boulevard would be held to a higher standard compared to the properties on the south side of the road that do not fall within the "Historic Significant Area". He asked if Staff had given that any thought. Ms. Gibbon stated that within the House Bill 2439 it allows the City to still regulate the architectural requirements within the "Historically Significant Areas". She stated that this outline is the same boundary for the Historic Neighborhood Improvement Zone (HNIZ). Ms. Gibbon stated that since the City will still be allowed to regulate the building materials in this area that is where the boundary is currently shown. Chairman Cox wanted to clarify that the Historic Neighborhood Improvement Zone (HNIZ) was already a set area in the City. Ms. Gibbon said yes. She stated that it encompasses the MTC – McKinney Town Center District, CHD – Commercial Historic Overlay District, H – Historic Preservation Overlay District, TMN – Traditional McKinney Neighborhood Overlay District, the Main Street Program area, and the Historic Neighborhood Improvement Zone (HNIZ) per Chapter 98 of McKinney's Code of Ordinances. Ms. Jennifer Arnold, Director of Planning for the City of McKinney, reiterated that this was not a newly drawn boundary. She stated that it was already existing and met the definition of the house bill. Chairman Cox opened the public hearing and called for comments. There were no comments from the audience. Commission Member McCall asked if this was the only area within the City that met those requirements. Ms. Gibbon said yes. She stated that if there is a historic building located in McKinney, then we could still apply those architectural requirements. Ms. Gibbon stated that if there is a development agreement with architectural

requirements within the agreement, then those still apply. Vice-Chairman Mantzey wanted to clarify that architectural requirements would no longer be enforceable within a PD – Planned Development. Ms. Gibbon stated that was correct. Vice-Chairman Mantzey asked if architectural requirements listed in filed deed restrictions would still be enforceable. Ms. Gibbon said yes. Vice-Chairman Mantzey asked if the architectural requirements within Craig Ranch and Stonebridge would still be controlled by their deed restrictions. Ms. Arnold stated that if any neighborhood has deed restrictions or covenants, conditions, and restrictions (CC&Rs) with restrictions on architectural features would still be applicable. She stated that there are several neighborhood associations within the City of McKinney. Ms. Arnold stated that within the past two weeks Staff emailed known homeowners associations in McKinney notifying them about the changes. She stated that the email let them know if they have been relying on the City's regulations for their neighborhoods, then they may want to go back to revisit their covenants, conditions, and restrictions (CC&Rs), since that authority is no longer available to the City. Ms. Arnold reiterated that any development agreements that have spelled out architectural standards would still be enforceable. She stated that architectural standards included in "PD" – Planned Development Districts would no longer be enforceable. Chairman Cox stated that these are uncharted waters for cities, like McKinney, that have fast growth. He stated that the State of Texas has stepped in to change the way cities does business. Chairman Cox stated that we will have to see how this works and hopefully work through any questions. He wished Staff luck with the changes. Ms. Arnold thanked Chairman Cox. She stated that the proposed amendments to the Subdivision Ordinance would be going before City Council at the Tuesday, August 20, 2019 meeting for their consideration. Ms. Arnold stated that the Subdivision Ordinance does not technically fall under the

purview of the Planning and Zoning Commission. She stated that Staff would be providing a full update to the Planning and Zoning Commission on the procedural impacts of the amendments to the Subdivision Ordinance after City Council considers the amendments. Commission Member Taylor stated that this house bill pains him the most. He stated that he could not believe all of the work that has gone into creating the City's ordinances and developers spending money, that with a swipe of a pen that a lot of it is gone. Commission Member Taylor said it was unbelievable. He stated that the sponsor of the house bill was a real estate developer in a town nothing like McKinney. Chairman Cox stated that we will need to watch property values of adjoining and neighboring areas and what does the exterior finishing materials look like on the buildings. He stated that last year it was something and next year it could be something completely different. Chairman Cox questioned how the City will look going forward. On a motion by Commission Member Kuykendall, seconded by Alternate Commission Member Woodruff, the Commission unanimously voted to close the public hearing and recommend approval of the proposed amendments to the Zoning Ordinance as recommended by Staff, with a vote of 6-0-0. Chairman Cox stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on August 20, 2019.

#### END OF THE REGULAR AGENDA ITEMS AND PUBLIC HEARINGS

Chairman Cox thanked Staff for their hard work.

On a motion by Vice-Chairman Mantzey, seconded by Commission Member McCall, the Commission unanimously voted to adjourn the meeting, with a vote of 6-0-0. There being no further business, Chairman Cox declared the meeting adjourned at 6:22 p.m.

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BILL COX  
Chairman