

## PLANNING AND ZONING COMMISSION

JULY 24, 2018

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, July 25, 2018 at 6:00 p.m.

City Council Present: Mayor George C. Fuller, Chuck Branch, and Rainey Rogers

Commission Members Present: Deanna Kuykendall, Janet Cobbel, Cameron McCall, Mark McReynolds, Pamela Smith, and Richard Franklin - Alternate

Commission Member Absent: Chairman Bill Cox and Vice-Chairman Brian Mantzey

Staff Present: Executive Director of Development Services Michael Quint; Interim Director of Planning Jennifer Arnold; Planning Managers Samantha Pickett and Matt Robinson; Planners Melissa Spriegel, David Soto, and Rhys Wilson; and Administrative Assistant Terri Ramey

There were approximately 10 guests present.

Commission Member Kuykendall called the meeting to order at 6:00 p.m. after determining a quorum was present.

The Commission unanimously approved the motion by Commission Member Cobbel, seconded by Alternate Commission Member Franklin, to approve the following three Consent items.

**18-623** Minutes of the Planning and Zoning Commission Regular Meeting of July 10, 2018

**18-0099PF2** Consider/Discuss/Act on a Preliminary-Final Plat for 57 Single Family Residential Lots and 3 Common Areas (Tucker Hill Phase 5), Located Approximately 2,300 Feet North of U.S. Highway 380 (University Drive) and on the West Side of Tremont Boulevard

**18-0171CVP** Consider/Discuss/Act on a Conveyance Plat for Lots 1-4, Block A, of the Bogard Addition, Located Approximately 750 Feet West of State Highway 5 (McDonald Street) and on the South Side of Eldorado Parkway.

END OF CONSENT

Commission Member Kuykendall continued the meeting with the Regular Agenda Items and Public Hearings on the agenda.

**18-0078Z** Conduct a Public Hearing to Consider/Discuss/Act on a Request to Rezone the Subject Property from "PD" - Planned Development District to "PD" - Planned Development District, Generally to Modify the Development Standards, Located Southeast of the Terminus of Adriatic Parkway and Mediterranean Drive. Ms. Melissa Spriegel, Planner I for the City of McKinney, stated that Staff received a letter to withdraw the previously submitted letter of opposition. She stated that a copy of this letter had been distributed to the Commission prior to the meeting. Ms. Spriegel explained the proposed rezoning request. She stated that the applicant is requesting to rezone the subject property generally to modify the development standards. Ms. Spriegel stated that the applicant is proposing to amend the current zoning of the subject property to adjust the district boundaries between the Town Center District and the Villa District to include approximately 0.20 acres currently within the Villa District into Tract F of the Town Center District and make minor modifications to the existing development standards. She stated that given that the proposed modifications are minor in nature and consistent with the existing development, Staff recommends approval of the proposed rezoning request and offered to answer questions. Commission Member Smith asked where we are on the allowed number of condo units in the Adriatica development. Ms. Samantha Pickett, Planning Manager for the City of McKinney, stated that Staff previously checked this and we are still under the 285 cap. Mr. Bob Roeder; Abernathy, Roeder, Boyd & Hullett, P.C.; 1700 Redbud Blvd.; McKinney, TX; explained the proposed rezoning request. He stated that the addition of the lot to Tract F comes with some conditions. Mr. Roeder stated that they want to modify the request to reduce the allowable height to a maximum of 35' on Lot 8R. He stated that the balance of Tract F

would have a maximum 60' height allowance. Mr. Roeder stated that his client intends to build about 30 high-end condominium units on the water frontage in Adriatica. He stated that currently there are 285 residential units permitted under the current zoning on the property and the residential unit number would not be increasing with this request. Mr. Roeder stated that they met with a number of surrounding residential property owners the previous night and there was a consensus that they were in favor of this rezoning request. He stated that the proposed development would be in keeping with what is already developed in the area. Mr. Roeder offered to answer questions. Commission Member Smith asked about the constraints on the property. She stated that Adriatica is an exceptional and desirable development. Commission Member Smith stated that the subject property has sat vacant for a long time. Mr. Roeder stated that there is currently no good access to the waterfront property. He stated that they need to improve the infrastructure for access. Mr. Roeder stated that there is a structured parking garage there; however, it would be almost impossible to have enough parking spaces for a commercial development within Tract F. He stated that it is tucked back with no real view or frontage for your typical retail uses. Mr. Roeder stated that the tenants presently there have done a good job creating their own destination; however, there is a finite amount of retail and restaurants that are capable of doing that in this location. Commission Member Kuykendall opened the public hearing and called for comments. Mr. James McClain, 500 Sea Side Lane, McKinney, TX, stated that he was not opposed to the overall zoning concept. He stated that he applauds the effort to develop this area. Mr. McClain expressed concerns regarding the adjusting of the boundary line. He stated that he was opposed to transferring Lot 8R from the Villa District into Tract F of the Town Center District. On a motion by Commission Member Cobbel, seconded by Commission

Member McReynolds, the Commission unanimously voted to close the public hearing. Commission Member Cobbel asked Staff to address Mr. McClain's concern about the transfer of the property. Ms. Pickett explained that it would replace the Villa District zoning with the Town Center District zoning on Lot 8R. She stated that the adjacency is still fairly similar since they have always been located next to each other. Commission Member Smith stated that normally she would not be favorable to a request similar to this one. She stated that she could see there are constraints on this property causing a marketability issue. Commission Member Smith stated that the property has sat vacant for over 10 years. She stated that given the potential increase in ad valorem tax value this would add to the City and she would be in favor of Staff's recommendation of approval for this rezoning request. She stated that it was in the best interest of the overall development, adjacent property owners, and the City. On a motion by Commission Member Cobbel, seconded by Commission Member McReynolds, the Commission unanimously voted to recommend approval of the proposed rezoning request as recommended by Staff with the additional regulation that the maximum building height allowed on Lot 8R be 35'. Commission Member Kuykendall stated that the recommendation of the Planning and Zoning Commission will be forwarded to City Council for final action at the August 21, 2018 meeting.

**17-180FR** Conduct a Public Hearing to Consider/Discuss/Act on a Facade Plan for a Retail/Office/Hotel and Parking Garage Building, Located at 205 W. Louisiana Street. Mr. Matt Robinson, AICP, Planning Manager for the City of McKinney, explained the facade plan for a retail, office, hotel and parking garage building. He stated that the building is currently under construction. Mr. Robinson stated that facade plans were typically approved by Staff; however, the applicant is requesting a design exception to deviate from the required 65% ground floor transparent

storefront along Church Street. He stated that design exceptions must be considered by the Planning and Zoning Commission. Mr. Robinson stated that the applicant is meeting the requirements along Louisiana Street facade. He stated that the Church Street facade the elevations only had approximately 42% ground floor transparency and not the required 65% transparency. Mr. Robinson stated that the applicant has noted that due to a fire riser room, staircase, and a couple other elements they were not able to meet the 65% transparent storefront requirement. He stated that Staff has reviewed the application and has no concerns with the proposal. Mr. Robinson stated that Staff is recommending approval of the request and offered to answer questions. There were none. Mr. Don Day, 110 E. Louisiana Street, McKinney, TX, explained the facade plan request and the reasons why that facade of the building did not meet the 65% transparency requirement. He requested approval of the facade plan. Commission Member Kuykendall opened the public hearing and called for comments. There being none, on a motion by Alternate Commission Member Franklin, seconded by Commission Member McCall, the Commission unanimously approved the motion to close the public hearing and approve the facade plan as recommended by Staff.

**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 Cobbel 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 re-open 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.

END OF THE REGULAR AGENDA ITEMS AND PUBLIC HEARINGS

Ms. Samantha Pickett, Planning Manager for the City of McKinney, welcomed Ms. Jennifer Arnold to the meeting and announced that Ms. Arnold recently became the Interim Director of Planning.

Commission Member Smith questioned the procedure on how the Commission makes a motion during the meeting and asked Staff address it. She gave the example of how she has pushed the button to make a motion, was recognized by Staff as the first one to do so, only to have another Commission Member speak up first making their motion.

There being no further business, Commission Member Kuykendall declared the meeting adjourned at 6:55 p.m.

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DEANNA KUYKENDALL  
Commission Member