

**RESOLUTION NO. 2019-12-145 (R)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, REQUESTING THAT THE BOARD OF ADJUSTMENT OF THE CITY OF MCKINNEY, TEXAS CONSIDER AMORTIZATION OF A NONCONFORMING CONCRETE BATCH PLANT USE (TXI OPERATIONS, LP / MARTIN MARIETTA REDI-MIX), LOCATED AT 2005 SOUTH MCDONALD STREET AND THE ESTABLISHMENT OF A COMPLIANCE DATE IN CONFORMANCE WITH SECTION 146-40 (NONCONFORMING USES AND NONCONFORMING STRUCTURES) OF THE ZONING ORDINANCE OF THE CITY OF MCKINNEY**

- WHEREAS**, the City Council of the City of McKinney, Texas adopted the ONE McKinney 2040 Comprehensive Plan in October 2018 to promote the sound development and the public health and general welfare within the Ultimate Planning Area of McKinney, including the planning of land uses, thoroughfares, parks, utilities and related matters; and
- WHEREAS**, the adopted Code of Ordinances of the City of McKinney, Texas also provides for the protection of the public health and general welfare of the people of the City of McKinney; and
- WHEREAS**, heavy industrial uses, including concrete batch plants on the property located at 2005 South McDonald Street ("Subject Property") are not in conformance with the adopted ONE McKinney 2040 Comprehensive Plan; and
- WHEREAS**, in April 2019, the City Council of the City of McKinney, Texas approved a city-initiated rezoning of the Subject Property primarily for office uses in order to bring it into alignment with the ONE McKinney 2040 Comprehensive Plan; and
- WHEREAS**, following the rezoning of the Subject Property, the concrete batch plant use is a nonconforming use subject to the provisions of Section 146-40 (Nonconforming Uses and Nonconforming Structures) of the adopted Code of Ordinances; and
- WHEREAS**, it is the declared purpose of Section 146-40 (Nonconforming Uses and Nonconforming Structures) of the adopted Code of Ordinances that nonconforming uses be eliminated and be required to comply with the regulations of Chapter 146 (Zoning Ordinance) of the City of McKinney, Texas, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area; and
- WHEREAS**, beginning in 2017, the City of McKinney has received, investigated and documented numerous health and nuisance incidents on the Subject Property; and
- WHEREAS**, the City Council of the City of McKinney, Texas has considered the compatibility of the nonconforming batch plant use to the surrounding area; and
- WHEREAS**, the City Council of the City of McKinney, Texas has also considered the adverse effect of the nonconforming use on nearby properties and community welfare; and
- WHEREAS**, beginning in 2018, the City of McKinney, Texas has attempted partnership solutions with the Operator (TXI Operations, LP / Martin Marietta Redi-Mix) of the batch plant use on the Subject Property to address the nonconforming status and adverse effects on the nearby properties and general welfare of the city, but has not been able to reach an agreed solution; and

**WHEREAS,** it is in the best interest of the citizens of McKinney that the City of McKinney consider the amortization of the nonconforming use and the establishment of the compliance date on the Subject Property.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:**

Section 1. The City Council of the City of McKinney, Texas hereby requests that the City of McKinney Board of Adjustment consider the amortization of the concrete batch plant use located at 2005 South McDonald Street and the establishment of a compliance date for the Subject Property.


Section 2. This Resolution shall take effect immediately from and after the date of passage and is so resolved.

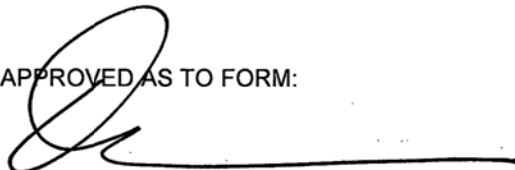
**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 3<sup>RD</sup> DAY OF DECEMBER, 2019.**

CITY OF MCKINNEY, TEXAS

  
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GEORGE C. FULLER  
Mayor

ATTEST:

  
\_\_\_\_\_  
EMPRESS DRANE  
City Secretary  
LISA SEWELL  
Deputy City Secretary

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
MARK S. HOUSER  
City Attorney