

**DRAFT - Planning and Zoning Commission Meeting Minutes of November 8, 2016:**

**16-280SUP Conduct a Public Hearing to Consider/Discuss/Act on a Specific Use Permit Request to allow for Additional Fueling Pumps for a Service Station with a Convenience Store (7-Eleven), Located on the Southwest Corner of Wilmeth Road and Lake Forest Drive**

Ms. Eleana Galicia, Planner I for the City of McKinney, explained the proposed specific use permit to allow for additional fueling pumps for a service station with fueling pumps and a convenience store. She stated that three additional letters of opposition were distributed to the Planning and Zoning Commission prior to this meeting. Ms. Galicia stated that the existing zoning on the subject property limits motor vehicle fuel sales to no more than four vehicles at one time regardless of the location of the pumps. She stated that it also permits up to eight vehicles to fuel at one time if the pumps are within 350' of two major arterials. Ms. Galicia stated that in order to allow for additional fueling pumps on the subject property a specific use permit must be granted. She stated that the applicant was allowed four pumping stations by right that allowed eight vehicles to be fueled at one time since the subject property is located within 350' of two major arterials. Ms. Galicia stated that the applicant was requesting approval of two additional pumping stations to allow for up to 12 vehicles to pump fuel at the same time through the specific use permit. She stated that Staff had concerns with the proposed fuel pump increase in such close proximity to single-family residential uses located south of the subject property. Ms. Galicia stated that the closest proposed fueling pump to the southern property line was approximately 64'. She stated that the underground storage tanks are located approximately 18' from the southern property line. Ms. Galicia stated that in Staff's opinion the orientation of the building and the location of the fueling pumps and

associated storage tanks do not mitigate the potential impacts of the use, such as noise and visibility. She stated that although the subject property is zoned for commercial uses, the Neighborhood Business District was intended for low intensity, neighborhood commercial uses. Ms. Galicia stated that the subject property was more suitable for neighborhood scale retail next to single-family residential uses and should be limited in the number of fueling pumps. She stated that Staff recommends denial of the proposed specific use permit to allow for additional fueling pumps on the subject property. Ms. Galicia stated that the applicant proposed additional landscaping and screening for the site. She stated that the applicant proposed to build an 8' masonry wall along the southern property line, instead of the minimum required 6' screening wall. Ms. Galicia stated that the applicant also proposed to plant canopy trees for every 24 linear feet, as opposed to the City's requirement which is one canopy tree for every 40 linear feet. She offered to answer questions.

Vice-Chairman Zepp wanted to clarify that the proposed use was acceptable on the property and that the additional number of pumps was why they were requesting the specific use permit. He also asked if there was any regulations on how far the storage tanks needed to be located on the property line. Ms. Galicia stated that currently the Zoning Ordinance does not have a requirement on where the fueling pumps or underground storage tanks can be located on a property. She stated that when a specific use permit is submitted, Staff evaluates how the layout is mitigating the impacts of the use. Ms. Galicia stated that Staff looks to see if the applicant is improving the site design to reduce the impacts of the use.

Alternate Commission Member McReynolds asked what was located directly to the west of the subject property. Ms. Galicia stated that the property to the west was

zoned “BN” – Neighborhood Business District and was currently undeveloped. She also pointed out where the nearby residential development was located on the overhead.

Commission Member McCall wanted to clarify that what being considered for this specific use permit was only the two additional pumping station on the subject property. Ms. Galicia said yes. She also stated that if this specific use permit was approved, then the proposed layout of all of the proposed pumps would be approved.

Commission Member McCall asked if the specific use permit was not approved how far the nearest pump would be located to the southern property line. Ms. Galicia stated that by right the applicant could build up to four pumping stations on the subject property. She stated that the Planning Staff could not dictate exactly where the pumps could be located on the property.

Commission Member Mantzey asked if Staff felt that there could be a better alignment to the store and then Staff would be fine with the six pumping stations. Ms. Galicia stated that Staff felt that there could have been a better design to the site and gave an example of another location for the building and the fueling. She stated that the building could have been an additional buffer to the nearby residential uses located to the south.

Alternate Commission Member McReynolds asked if Staff had discussed this other option with the applicant. Ms. Galicia said yes; however, the applicant preferred this layout.

Commission Member McCall wanted to clarify that a specific use permit would still be required for the additional two pumps even if they had relocated the building on the south end of the property. Ms. Galicia said yes.

Mr. Tariq Mahadin, CEI Engineering Associates, 3030 LBJ Freeway, Dallas, TX, explained the proposed specific use permit request and gave a Power Point presentation.

He stated that the additional fueling pumps would create less traffic waiting to fuel their vehicles. Mr. Mahadin stated that they looked at other possible layouts for the development; however, the others did not work for the site. He stated that if the back of the building was oriented towards the south property line then there would be approximately 20' – 30' of dark space, which could create some security issues. Mr. Mahadin stated that the storage tanks had originally been proposed for the north side of the property; however, the Fire Department did not approve that location due to the fire lane on the property. He stated that they met with the homeowners association (HOA) for the residential property to the south of the subject property on November 3, 2016. Mr. Mahadin stated that there were seven residents present at the meeting and they expressed concerns regarding the security system, privacy, possible loitering, and lighting distribution. He stated that he felt that they had addressed their concerns. Mr. Mahadin stated that they proposed to build an extended 8' masonry wall along the southern property line for additional screening and propose to build it further west than originally planned to address some of the privacy concerns. He stated that they were proposing additional canopy trees to increase the screening, and address privacy and noise concerns. Mr. Mahadin displayed some architectural elevations for the proposed building on the overhead. He stated that they had a photometric study done to illustrate the lighting distribution and showed examples from that study on the overhead. Mr. Mahadin stated that they were proposing lighting fixtures that could be controlled, so that the surrounding residents were not disturbed. He stated that 7-Eleven spent \$40,000,000 on their security system and that included cameras with a 360 degree angle view. He stated that the subject property will be highly managed and maintained and that there should not be any loitering. Mr. Mahadin offered to answer questions.

Commission Member McCall asked Mr. Mahadin to explain why they were proposing the current layout. Mr. Mahadin stated that there was not enough space to flip the layout to have the fueling pump stations on the north side of the property and the building on the south side of the property. He stated that having the building located there also created some additional security concerns.

Alternate Commission Member McReynolds questioned why the layout could not be switched to face the other direction. Mr. Mahadin explained the spacing issues with the other layout.

Chairman Cox opened the public hearing and called for comments.

The following residents spoke in opposition to the request.

Ms. Helga Needham, 2904 Kirkwood Drive, McKinney, TX, stated that she was unaware that a service station with a convenience store was allowed on the property. She stated that she thought they might have a say in what could be built on the property. Ms. Needham expressed concerns regarding devaluing home values and various safety concerns. She stated that she preferred to see a medical office on the property, since they were located near a hospital.

Mr. Ben Bowden, 5009 Old Oak Drive, McKinney, TX, stated that he did not want to see a gas station located on the property. He expressed various health concerns from the gas leaking into the soil, ground water contamination, and the chemicals being inhaled. Mr. Bowden stated that there were a lot of children that lived nearby and they were especially susceptible to such things. He expressed concerns about a decrease in surrounding property values. Mr. Bowden distributed a handout regarding vapor intrusion of volatile organic chemicals to the Planning and Zoning Commission.

Mr. Richard Steinfield, 5005 Old Oak Drive, McKinney, TX, stated that he concurred with the two previous speakers. He stated that he was unaware that a

convenience store with fuel pumps could be located at this site. Mr. Steinfield expressed safety and crime concerns. He requested that a gas station not be allowed to develop on the subject property. Mr. Steinfield stated that he would welcome retail uses on the property; however, not a gas station.

Mr. Joseph Catanese, 5013 Diamond Peak Court, McKinney, TX, stated that he concurred with the previous speakers. He stated that he was unaware that a service station with a convenience store could be developed on the subject property. Mr. Catanese stated that he lived within 300' of the proposed gas station. He stated that according to what he read in the Department of Housing and Urban Development (HUD) Guidelines, it would be very difficult to receive a Federal housing Administration (FHA) or Veterans Administration (VA) loan when a property is located this close to a gas station. He stated that this could decrease the number of buyers for a property located near a gas station. Mr. Catanese also expressed concerns regarding health issues. He stated that of the four homeowners association (HOA) concerns that the applicant listed in their presentation, he was shocked that health concerns was not listed as their number one concern. Mr. Catanese read the following from Scientific American's website that stated gas stations can still pose significant hazards to neighbors, especially children and some of the perils include ground-level ozone caused in part by gasoline fumes. He stated that there are a lot of children that live on his block.

Mr. Elliot Neph, 5000 Diamond Peak Court, McKinney, TX, expressed concerns regarding decreased property values for adjacent properties, noises at night due to the facility being open 24 hours a day, and noises made during fuel and supply deliveries. He stated that his bedroom window would be approximately 35' – 40' from the underground fuel tanks.

Ms. Nina Bengé, 5016 Diamond Peak Court, McKinney, TX, stated that she did not purchase her property with the knowledge that a convenience store could be located behind her property. She stated that she thought the property was originally zoned for small business, small medical office, or daycare uses. Ms. Bengé expressed concerns that her property values will decrease if the proposed development is built on the subject property. She stated that this was going to be their retirement home in a beautiful neighborhood and city. Ms. Bengé stated that putting a convenience store in her backyard greatly distresses her.

Mr. Tom Hamilton, 9603 Custer Road, Plano, TX, turned in a speaker card in favor of the request; however, did not speak during the meeting.

On a motion by Commission Member Mantzey, seconded by Commission Member Kuykendall, the Commission unanimously voted to close the public hearing, with a vote of 7-0-0.

Alternate Commission Member McReynolds wanted to clarify that the only thing being considered with this specific use permit was the two extra fueling pumps. Ms. Galicia said yes.

Alternate Commission Member McReynolds stated that they can build a convenience store with four fueling pumps under the current zoning. Ms. Galicia said yes.

Alternate Commission Member McReynolds and Ms. Galicia discussed the setbacks on the property. Alternate Commission Member McReynolds questioned whether or not the layout could be adjusted to having the convenience store located near the southern property line and the gas pumps located towards the northern property line to move them further away from the surrounding residential properties. Ms. Galicia stated that it would need to be discussed with the applicant and drawn out to see if it was

possible. Commission Member Cobbel stated that the applicant stated that the Fire Marshal had nixed the fueling pumps on the north end of the property. Ms. Galicia stated that the only comment from the Fire Marshal was that he typically does not like the underground storage tanks to be located in the fire lane, since they could interfere with fire access.

Commission Member Cobbel stated that the southern boundary line is not straight, which might affect the setback area.

Vice-Chairman Zepp wanted to clarify when the current zoning was approved on the subject property. He stated that it appeared to have been zoned back in 2003. Ms. Galicia briefly stated that was correct and briefly explained the zoning on the property. She stated that the subject property had its current zoning prior to the surrounding residential properties being developed.

Vice-Chairman Zepp wanted to clarify that this was one of the many allowable uses under the current zoning and that the specific use permit was only looking at whether there could be two additional pumps added to the property. Ms. Galicia stated that was correct.

Mr. Mahadin stated that the developer was present if the Planning and Zoning Commission wished to ask him any questions.

Alternate Commission Member McReynolds stated that he could not think of any gas stations adjacent to residential uses in McKinney. He felt that there was usually some form or buffer that separated the fuel tanks from the residential properties.

Mr. Mahadin stated that they initially tried to locate the underground fuel tanks on the north end of the property; however, the Fire Marshal quickly replied that they would not allow it. He stated that there were also issues with the setbacks, so that layout did not work.



Chairman Cox stated that redesigning the layout of the proposed development was not appropriate at this meeting. He asked if anybody had a copy of the Fire Marshals comments. Ms. Galicia stated that she believe that the applicant had originally proposed the underground storage tanks in the fire lane, which is why the Fire Marshal commented that they could not have that layout with the storage tanks in that location. She stated that if the applicant could move the underground storage tanks further north and outside of the fire lane, then that might be a possibility.

Commission Member Cobbel wanted to clarify that if the specific use permit was denied that the applicant could still develop a service station with four pumps and a convenience store on the subject property. Ms. Galicia said yes.

Commission Member McCall asked if the two additional pumps were not approved, where the four pumps would be built on the subject property. Ms. Galicia stated that would be a question for the applicant. She stated that the Zoning Ordinance does not have a distance requirement.

Commission Member Cobbel wanted to clarify that Staff's main concern was the location of the underground storage tanks. Ms. Galicia stated that since the applicant was requesting a specific use permit to allow for two additional pumps, staff believes that there could have been a better layout design to better mitigate the impacts of the use. She stated that since you are adding additional pumps, you are adding additional traffic, noise, and nuisances to the residential uses located to the south of the subject property.

Commission Member McCall asked if the specific use permit was not approved, if the proposed canopy over the pumps would remain the same size as shown in this request. Ms. Galicia stated that the recommendation of the Planning and Zoning Commission would go to City Council for a final decision on December 6, 2016. She stated that if the specific use permit was approved by City Council, then the subject

property would be constructed as shown per the proposed layout. She stated that if the specific use permit was denied by City Council, then the applicant would only be allowed to construct four fueling pumps on the subject property and they would then need to submit a site plan to the City. Ms. Galicia stated that the applicant could then show the fuel pumps at any location on the site.

Commission Member Mantzey stated that he agrees with Staff's recommendations. He stated that this is maximizing the space for presentation to Lake Forest and was detrimental to the residents located behind it. Commission Member Mantzey stated that the current zoning allows for four pumps and we cannot take that away. Commission Member McCall, Commission Member Kuykendall, and Alternate Commission Member McReynolds concurred with Commission Member Mantzey's comments.

On a motion by Alternate Commission Member McReynolds, second by Commission Member McCall, the Commission unanimously voted to recommend denial of the proposed specific use permit as recommended by Staff, with a vote of 7-0-0.

Chairman Cox stated that the recommendation of the Planning and Zoning Commission will be forwarded to the City Council meeting on December 6, 2016.