

State Highway 5 Concrete Batch Plants

Update on Current Status of Code Enforcement Issues

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Background

February 2018:

- Staff began receiving complaints regarding dust/particulate matter, lighting/glare and noise originating from three businesses generally located east of State Highway 5 at the intersection with Stewart Road

Currently:

- Resident concerns include: (1) zoning; (2) hours of operation; (3) noise; (4) particulate matter; (5) lighting; and (6) traffic

Ugly, Dirty, Belching Industrial Plants, Standing SENTRY at the Southern Gateway are a Sight, not a Vision.
These Manufacturing Plants are Routinely Operating at 2 Am in McKinney

The activities of these plants are INTOLERABLE. There have been 16 complaints from residents since March 2 and the residents are begging for a moderate to severe situation. The manufacturing, for any hundreds of residents, is a mobile home park with homes in The Greens of McKinney. The documentation of the residents' reports, showing reports that have not been made.

NO, THESE

- Lhoist North America sale in 2007, the property is a 4 Sunday morning other low area for the storage
- TXI / Martin Marietta noises, that the recycling of oil dust found in the contaminated to recycle concrete
- Cowtown Ready Mix residential noise on all night for dust which drips other cities, by documented 11 times.

This is the Area in the Summer of 2005 --12 years ago, not 20, not 30
McKinney Greens Is Under Construction -- Upper Left

We ask that the city take immediate action to determine what particulate matter is stored in open pits and is escaping from all 3 facilities. Applying this standard, "The open storage and open processing operations, including on-site transportation movements, which are the source of wind or airborne dust or other particulate matter, or which involve dust or other particulate air contaminant generating equipment such as used in paint spraying, grain handling, sand or gravel processing, or storage or sandblasting shall be so conducted that dust and other particulate matter so generated are not transported across the boundary line of the tract on which the use is located in concentrations exceeding four grains per 1,000 cubic feet of air."

We ask that the city enforce every single Noise Ordinance to the fullest and actual intent of the Ordinance. Which means, "... any sound which annoys or disturbs, or which causes or tends to cause an adverse psychological or physiological effect upon, the sensibilities of a reasonable, prudent, adult person; and unreasonably loud or disturbing noise which renders the enjoyment of life or property uncomfortable or interferes with public peace and comfort."

We ask that decibel readings be taken at the boundary lines of each facility during operating hours, both day and night. Please subtract all adjustments as called for in our Ordinance. Our neighborhood meets the qualifications for a Quiet Zone because of proximity and a shared property line with Cowtown Ready Mix.

We ask that the city take any action necessary to stop every activity that creates a noise disturbance if conducted between the hours of 9:00 p.m. and 6:00 a.m. Even if that means that new rules must be written and used to amend both the PD for Cowtown Ready Mix and the Light and Heavy Manufacturing zoning for these plants. Other Cities do not allow activities before 6 Am.

We ask that all excessive lighting be redirected, shielded, disabled and/or removed and that any light that operates during the nighttime hours be justified. No lighting, no glare should be directed or reflected toward homes.

We ask that the intersection of Stewart Road and South McDonald be signalized as soon as possible. Virtual convoys of trucks are using an entrance at an intersection with no traffic signals, no caution lights, no warnings. The east bound visibility is poor due to grade and the dangerous merging of Greenville Rd. and S McDonald. Speed from oncoming traffic from both directions exceeds 50 mph, all day and all night. Tandem dump trucks are making U-turns on S McDonald at Stewart Road during rush hour traffic!

We ask that no more land use of this type be allowed in East McKinney, the property values and quality of life for residents is threatened. The very existence of any quality, affordable housing, so desperately needed in McKinney, is at stake.

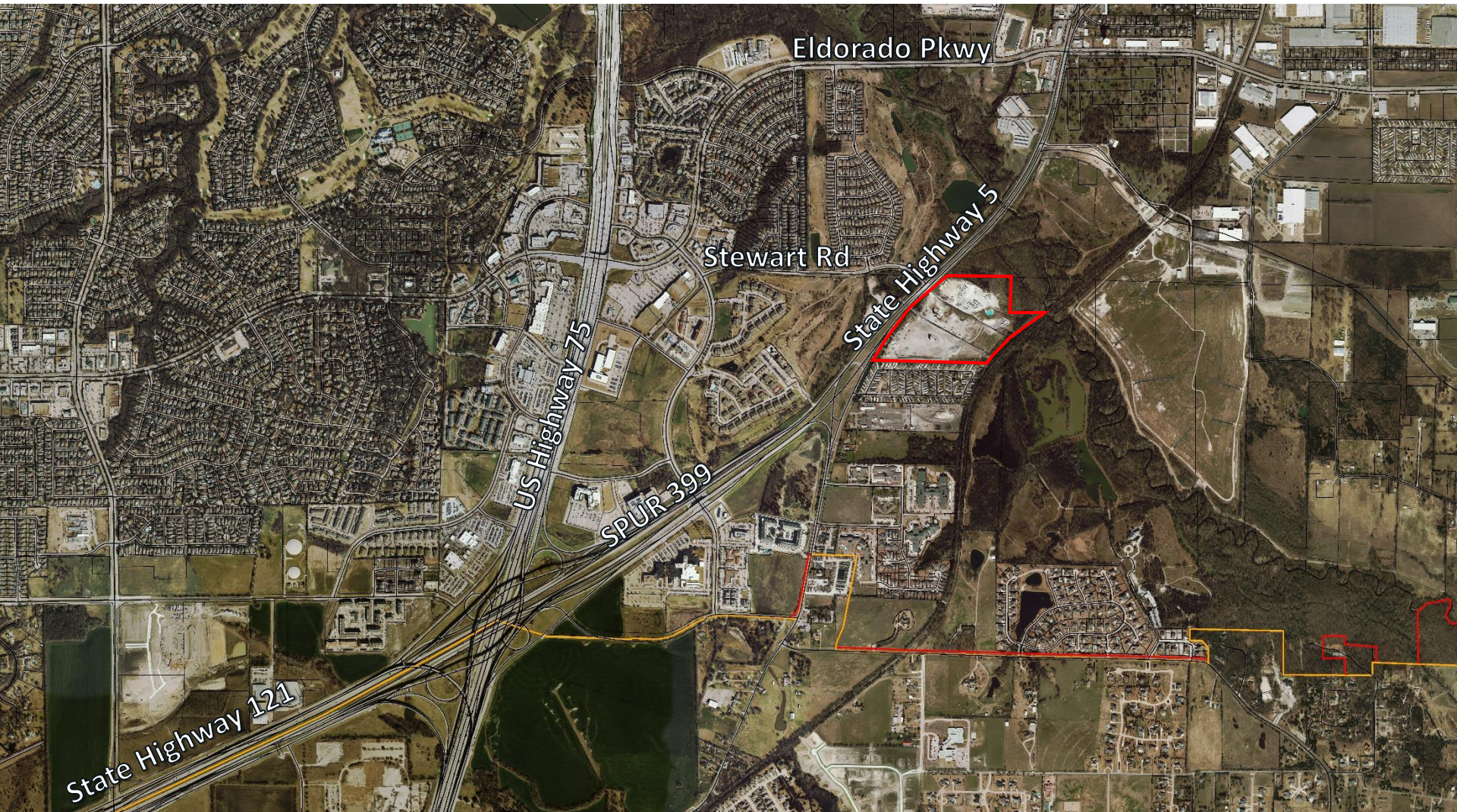
We ask that permanent Sound Abatement Walls be built along S McDonald, in front of all three facilities. The wall should resemble the one built along the southern boundary of Cowtown Ready Mix. It should be at least 10 feet tall, and 2 feet thick, and constructed of monolithic, stacked concrete blocks. The entire length along S McDonald should resemble this sketch. The canopy shade trees required of every other developer should be planted every 30' and watered. The existing corrugated metal screening wall is in deplorable condition and others are non-existent. The maintenance is disgraceful at Lhoist and TXI/Martin Marietta and the image of McKinney presented today is an embarrassing disgrace to the Southern Gateway.

We ask that the waste water contained in the open storage pits on all 3 of these sites be tested for contaminants and that the grading on each site be surveyed to determine that run off and overflow from these pits does not flow onto other properties nor into Wilson Creek.

The City has created Ordinances to protect residents from construction related noise and issues that are temporary. However, if the same exact issues are permanent, we have been told that there is no protection at all. This is a grave mistake that needs to be corrected at all costs.

"Operating or permitting to be operated any gravel pit, rock crusher, or other machinery for the separation, gathering, grading, loading or unloading of sand, rock or gravel within a quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance, if conducted between the hours of 9:00 p.m. and 6:00 a.m."

Regional Context



Local Context



Subject Properties / Businesses



1. Zoning

Current State:

- The “MH” – Heavy Manufacturing District allows concrete batch plant facilities.
- The “ML” – Light Manufacturing District does not allow concrete batch plant facilities but does allow sand and gravel mining/storage with approval of a SUP – Specific Use Permit.
- “PD” – Planned Development District No. 2013-06-059 allows concrete batch plants as a permitted use.
- Legal non-conforming claims may arise when enforcing zoning and may be challenging to disprove as historic records are spotty.



2. Hours of Operation

Current State:

- Complaints of overnight business operations have been received.
- Currently, the City of McKinney has no limitations on hours of operations for permanent concrete batch plant and lime facilities.
- Section 70-120(b)(6) prescribes limitations on the hours of operation (6am – 9pm) for construction/maintenance work. However, because these concrete batch plant and lime businesses are permanent operations and are not technically constructing or maintaining anything, these limitations are not applicable.

Pending Enforcement Action:

- **None as these businesses are in compliance with current hours of operation regulations.**

3. Noise

Current State:

- Complaints of noise exceeding current regulations have been received.
- Section 146-134(1) establishes limitations on the maximum allowable decibel levels for various octave bands.
- The following noises are exempt from City regulations: (1) noises not under the control of the property user; (2) noise from construction during the daytime; (3) noise from safety signals, warning devices, and pressure relief valves; and (4) transient noise from autos, trucks, trains and airplanes.

Pending Enforcement Action:

- **A new sound meter has been purchased and an extensive testing schedule has begun. Weather permitting, this testing should be complete by early June.**

4. Dust / Particulate Matter

Current State:

- Complaints of dust originating from the business operations have been received.
- The majority of air quality regulations, including particulate matter restrictions, are addressed at a state level by the Texas Commission on Environmental Quality (TCEQ).
- To date, all TCEQ air investigation results received by City Staff have shown no violations.

Pending Enforcement Action:

- TxDOT has contacted the property owners regarding the need to clean the travel lanes of State Highway 5 (McDonald St.) of dirt and debris originating from the concrete batch plant operation.
- McKinney Staff have reached out to representatives from TCEQ requesting that they investigate these air quality complaints in more detail. McKinney Staff has since received the TCEQ air investigation results which show no violations.

5. Lighting / Glare

Current State:

- Complaints of lighting and glare exceeding current regulations have been received.
- Chapter 58 of the Code of Ordinances prescribes restrictions for lighting in the City. These regulations only apply to sites constructed after the adoption of the regulations in 1/1/2007. Sites built prior to that time adhere to older, less detailed regulations.

Pending Enforcement Action:

- Foot candle readings have been taken at bounding property lines but no violations have been identified to date.
- Full cutoff fixtures are required by the Chapter 58 and Staff is in communication with the property owners to gain voluntary compliance.
- The Chief Building Official has also sent an official notice via certified mail to each property owner requesting a meeting to discuss voluntary compliance.

6. Traffic

Current State:

- Complaints of increased truck traffic and unsafe vehicular maneuvers have been received.
- It's important to note that State Highway 5 (McDonald St.) is a TxDOT roadway and McKinney's ability to control the roadway and what happens on it is limited.

Pending Enforcement Action:

- City Staff have coordinated with TxDOT representatives and they have determined that based on current traffic volumes and visual observations, signage restricting specific traffic patterns required at this time.

7. Miscellaneous

Other Information:

- There is an agreed final judgement from litigation settled in 2001 governing this property. It requires that certain improvements be made and maintained to the site. It is unclear that these improvements were ever made and historical records from that time are not conclusive or complete. The Chief Building Official has also sent an official notice via certified mail to each property owner requesting a meeting to discuss voluntary compliance.
- Two of the operations on the subject property were issued a Certificate of Occupancy (CO) to operate even though the terms of the agreed final judgement may not have been completely satisfied. This appears to have occurred due to human error resulting from inconclusive and incomplete records in addition to gaps in institutional knowledge.
- A listing of all applicable regulations and the current status of compliance and enforcement has been provided to the City Council as an attachment to this presentation.

Discussion?

