CITY OF McKINNEY, TEXAS

Legislation Text

File #: 19-0012M2, **Version:** 1

Conduct a Public Hearing to Consider/Discuss/Act on a Request by the City of McKinney to Amend Sections 70-58 (Duty of owner, occupant to cut and remove weeds, brush, and unsightly matter), 142 -5 (Approval required), 146-7 (Zoning district map), 146-40 (Nonconforming uses and nonconforming structures), 146-84 (Neighborhood Business District), 146-99 (REC regional employment center overlay district), 146-131 (Off-street loading), 146-132 (Fences, walls, and screening requirements), 146-139 (Architectural and site standards), 146-162 (Administrative official) 146-164 (Changes and amendments), 146-165 (Board of adjustment), of the Code of Ordinances; and accompanying ordinance

COUNCIL GOAL: Operational Excellence
(2C: Identify opportunities for internal efficiencies and continuous improvement to effect a high performing organizational culture)

MEETING DATE: November 5, 2019

DEPARTMENT: Development Services - Planning Department

CONTACT: Aaron Bloxham, Planning Manager
Alek Miller, AICP, Planner I

RECOMMENDED CITY COUNCIL ACTION:

- Staff recommends approval of the proposed amendments.

ITEM SUMMARY:

- Staff proposes several simple modifications to improve the processing of common variances as well as the overall usability of development regulations in the McKinney Code of Ordinances. Specifically, these changes would modify standards to allow administrative approval of common variances to screening and loading space requirements which currently require approval by the Planning and Zoning Commission; set a process for the Board of Adjustment to set a date to bring a nonconforming use into conformity; clarify the meaning of certain provisions; and would remove several typos or other minor errors in the Ordinances.

BACKGROUND INFORMATION:

- The development code update that is underway is intended to bring the zoning and subdivision ordinances into closer alignment with the ONE McKinney 2040 Comprehensive Plan that was adopted in October 2018.
- Several areas have been identified where the code could be improved through simple amendments would improve the clarity, usability, or implementation of the Code of Ordinances. The proposed amendments fall into the following two categories:

- "Process Improvement": These amendments would create an administrative approval process for common variances, but would leave the current variance process as an option for when it is more appropriate. The proposed amendments provide a simplified process for requests that do not rise to the level of a variance, specifically for screening of commercial properties and the orientation of bay doors and loading spaces. Two amendments are proposed to establish a process to set a date for a nonconforming use to come into compliance with the Zoning Ordinance with the approval of the Board of Adjustment.

- "Clean-Up": Amendments to eight sections of the Subdivision and Zoning Ordinances would either correct typos or modify text in order to eliminate confusing or conflicting standards. In any case where the meaning of a section is proposed to be changed, the proposed language was derived from an existing standards that has already been codified and typically is being applied in practice today.

- As the development code update proceeds, additional amendments will be brought forward for a recommendation as part of the process of aligning the City's regulations with the ONE McKinney 2040 Comprehensive Plan.

PROPOSED AMENDMENTS:

The following amendments are proposed:

- Amend "Fences, walls, and screening requirements" section of the Zoning Ordinance to provide a mechanism for the Director of Planning or his/her designee to approve a living plant screen on a commercial property if he or she finds that the living screen would provide sufficient screening based on its proposed location and that it would not be detrimental to adjacent properties. The Director may also refer the request to the Planning and Zoning Commission. The proposed amendment establishes certain conditions in which this type of request may be improved based on the types of uses being screened and sets standards for the plant sizes being planted. In all other instances, a living screen may be approved by the Planning and Zoning Commission or City Council in conjunction with other entitlement requests. Currently, any applicant that wishes to utilize a living plant screen, rather than a wall, must obtain a variance from the Planning and Zoning Commission or City Council. The proposed change retains the option to apply for a variance;

- Amend "Fences, walls, and screening requirements" section of the Zoning Ordinance to provide a mechanism for a waiver of the screening requirement if certain conditions can be met. A waiver can be approved by the Director of Planning or the Planning and Zoning Commission or City Council (depending on the final reviewing authority for the proposed project) for the following four reasons: sufficient screening exists on the adjacent property; the subject property contains a wooded area to be maintained by the property owner; the portion of the property to be screened is adjacent to a floodplain. The amendment also exempts properties from the screening requirement if the portion of the property to be screened is adjacent to a public park. The current process involves seeking a variance from the Planning and Zoning Commission or City Council, which would remain an option;

- Amend "Off-street loading" section to specify that in instances where a property has multiple

street frontages, bay doors must be oriented away from the widest street; in cases where the streets are of equal width, bay doors shall be oriented away from the front of the property. This change provides greater clarity for applicants with properties with multiple frontages. The variance process for relief from screening and orientation requirements would remain available and will continue to require approval from the Planning and Zoning Commission or City Council;

- Amend sections relating to nonconforming land uses in order to establish the authority of the Board of Adjustment to set a date for mandatory compliance for a nonconforming land use at the request of a majority of the city council. The proposed amendments include factors to be considered when setting a compliance date with a focus on the effect of the nonconforming use on nearby properties. There is currently no process in the Code of Ordinances identifying a specific authority to set a compliance date for nonconforming uses;

- Amend public notice requirements to require applicants with projects that require a public hearing to submit a time-stamped photo of the on-site posted notice signs at the time of posting in order to ensure that sufficient on-site notice is provided to the public. This change would affect the notice requirements for public hearings for all zoning changes or amendments, including zoning, rezoning, amendments to planned developments, meritorious exceptions to the architectural standards (as provided for in section 146-139), specific use permits, and the like;

- Amend the section identifying the requirement to maintain an official zoning district map to clarify that the official copy of the zoning map is maintained by the planning department and that the official map may be represented through electronic format such as Geographic Information Systems (GIS). Currently, the Code of Ordinances states that the City shall maintain multiple paper copies of the map. However, maintaining the official zoning map in electronic format is more accessible for the public and is more efficient for updating the map to reflect ongoing changes;

- Providing clarification where sections of the Ordinances conflict; and

- Correct typographical errors or unclear wording.

All proposed amendments are provided as attachments to this report in redline and clean formats.

FINANCIAL SUMMARY:

- N/A

BOARD OR COMMISSION RECOMMENDATION:

- On October 22, 2019, the Planning and Zoning Commission voted 7-0-0 to recommend approval of the proposed Zoning Ordinance amendments. The minutes of the October 22, 2019 Planning and Zoning Commission are provided as an attachment. After the Planning and Zoning Commission's review, two minor clarifications were added: First, Section 146-164 was modified to state that examples of acceptable verification photos may be found in the zoning/rezoning application checklist packet provided by the Planning Department. Second, Section 146-132 was edited to fix a typo that incorrectly stated that properties adjacent to

public parks were exempt from the screening requirement. The exemption applies only to public parks.