



# CITY OF McKINNEY, TEXAS

## Legislation Text

File #: 21-0188Z4, Version: 1

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 and to Allow for a Telecommunications Tower, Located 3109 South Custer Road, and Accompanying Ordinance

**COUNCIL GOAL:** Direction for Strategic and Economic Growth  
(1C: Provide a strong city economy by facilitating a balance between industrial, commercial, residential and open space)

**MEETING DATE:** June 21, 2022

**DEPARTMENT:** Development Services - Planning Department

**CONTACT:** Jennifer Arnold, AICP, Director of Planning  
Caitlyn Strickland, Planning Manager  
Kaitlin Sheffield, Planner II

**RECOMMENDED CITY COUNCIL ACTION:** Staff recommends approval of the proposed rezoning request with the following special ordinance provisions:

1. The subject property shall be zoned "PD" - Planned Development District and shall be subject to the following special ordinance provision:
  - a. The subject property shall develop in accordance with the attached development regulations.

**APPLICATION SUBMITTAL DATE:** December 13, 2021 (Original Application)  
January 31, 2022 (Revised Submittal)  
February 22, 2022 (Revised Submittal)  
March 1, 2022 (Revised Submittal)

**ITEM SUMMARY:** The applicant is proposing to rezone approximately 5.16 acres of land, generally to allow for commercial uses and to allow for a telecommunications tower. As proposed, the telecommunications tower would be of a stealth, monopole design, and would be a maximum height of 100 feet.

### EXISTING ZONING:

Location	Zoning District (Permitted Land Uses)	Existing Land Use
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Subject Property	"PD" - Planned Development District Ordinance No. 2003-02-015 (Office Uses)	Wise-Lee Orthodontics, White Lotus Dental, and Affinity Eye Care
North	"PD" - Planned Development District Ordinance No. 2003-02-015 (Office Uses)	United American Insurance Company, Globe Life
South	"PD" - Planned Development District Ordinance No. 2003-02-015 (Office Uses)	Stonebridge Office Park
East	"PD" - Planned Development District Ordinance No. 2003-02-015 (Office Uses)	United American Insurance Company, Globe Life
West	"C2" - Local Commercial District (Commercial Uses)	Shops on Custer, Custer Village, Pet Supermarket, Supercuts

**PROPOSED ZONING:** The applicant requests to rezone the subject property to "PD" - Planned Development District, generally to allow for commercial uses and a telecommunications tower.

Commercial antennas and antenna support structures are allowed by specific use permit in most non-residential zoning districts if the proposed tower complies with certain requirements set forth in the Zoning Ordinance. The proposed telecommunications tower does not meet all of the requirements and therefore the applicant has requested a rezoning of the subject property.

As proposed, the use and development of the subject property would be as follows:

- Telecommunication Tower Use
  - The applicant is proposing to rezone the subject property to "PD" - Planned Development District with a base zoning of "C2" - Local Commercial District and the allowed use of a telecommunications tower, with a stealth monopole design.
  - Pursuant to Section 146-137 (Communications Antennas, Satellite Dishes and Support Structures/Towers) of the Zoning Ordinance, the proposed tower shall be designed structurally, electrically, and in all respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users.
  - Prior to the Public Hearing process, the applicant was proposing to develop the telecommunications tower with a stealth, bell tower design consisting of stone and stucco. The applicant now requests to remove the bell tower element from the zoning so that they can better coordinate the stealth design elements with the Architectural Review Committee of the Stonebridge Ranch Commercial Association.
  - The applicant is proposing to develop the telecommunication tower as a bell tower. Since the last City Council meeting, the applicant has coordinated with the Stonebridge Ranch Commercial Association Architectural Committee and received approval of a stealth design consisting of fiberglass material made to look like stucco, as shown on the attached elevation exhibit.

- The property is currently zoned and developed with office uses.
- Building and Tower Heights
  - Per the existing zoning, the maximum building height on the subject property is 35 feet. The applicant is requesting a maximum height of 100 feet for the telecommunications tower only. All other uses will follow the maximum building height for “C2” - Local Commercial District, which is 45 feet.
  - For reference, commercial antenna support structures in non-residential zoning districts may typically increase the height of the tower beyond the maximum height of the governing zoning district, as part of the SUP process, if the tower is located at least a distance from any property line equal to three times the height of the structure. A 100’ tower would be required to observe a minimum distance of 300 feet away from any property line in order to be considered as part of the SUP process. The applicant is not able to achieve this with the proposed telecommunication tower height and the unique lot shape and site constraints on the subject property. As proposed, the center of the 100’ tower is a minimum 67 feet from the nearest property line.
  - Given that the proposed telecommunication tower is being proposed within an existing commercial area and is not located adjacent to single family residential uses, staff does not have any objection to the proposed maximum height for the telecommunication tower.
- Minimum Setbacks for the Telecommunications Tower
  - Typically, commercial antenna support structures in non-residential zoning districts are required to observe the setback requirements for the base zoning district.
  - The existing zoning on the subject property requires a front yard of 25 feet and does not require a rear or side yard.
  - As part of this rezoning request, the applicant has proposed that the minimum setback of the proposed telecommunications tower and any property line shall be required to be 67 feet.

With “PD” - Planned Development District requests, projects must provide a feature(s) to ensure exceptional quality or demonstrate innovation. The applicant is proposing to provide a 6ft masonry screening wall as well as evergreen shrubs and evergreen trees on the north, south, and west sides of the enclosure.

As proposed, the telecommunications tower location does not appear to interfere with the day-to-day activities of the adjacent commercial developments and is tucked back adjacent to the existing flood plain on the subject property. The applicant has also provided a fall zone letter to certify the design of the communications tower under extreme conditions. Given these factors, Staff has no objection to the proposed rezoning request. As such, we recommend approval.

**NEW ANTENNAS AND ANTENNA SUPPORT STRUCTURES:** Section 146-137 (Communications Antennas, Satellite Dishes and Support Structures/Towers) of the Zoning Ordinance requires the applicant to demonstrate, to the reasonable satisfaction of the City, that no existing antenna support structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any one of the following:

- a. No existing towers or structures are located within the geographic area, which meet the applicant's engineering requirements;
- b. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements;
- c. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment; or
- d. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

The applicant has provided the attached coverage map and has indicated that the proposed tower is needed to accommodate coverage needs. The applicant has indicated that there are no existing communication towers within the ¼ mile search radius and that the nearest tower is roughly 1 mile from the target coverage area near the intersection of Eldorado Parkway and Independence Parkway. Staff has also found that the closest elevated water storage tank is located at on the Gabe Nesbitt Community Park site, which is approximately 1 mile from the targeted coverage area.

Additionally, the applicant has also provided the attached Site Candidate Summary regarding the sites/locations they have considered for the proposed communication tower.

Based on the information provided by the applicant, it is Staff's professional opinion that the applicant has provided reasonable evidence demonstrating that no existing tower or structure can accommodate their proposed antenna.

If the proposed rezoning request is approved, the applicant would be required to submit a site plan application prior to the issuance of a building permit for the proposed tower, subject to review and approval by the appropriate approval bodies. During site plan review, Staff will ensure conformance to the requirements of the Zoning Ordinance including, but not limited to, landscape buffers, landscaping, screening, and any other additional requirements of the proposed governing planned development ordinance for the subject property. The aforementioned special ordinance provisions will be required in order to develop the subject property as proposed by the applicant.

#### **TELECOMMUNICATIONS ACT OF 1996**

Federal regulations set forth specific limitations on the City's authority to regulate zoning and land use decisions on wireless service facilities, such as the telecommunications tower proposed in this case. Specifically, the City:

- (i) May not unreasonably discriminate among providers of functionally equivalent services.

- (ii) May not regulate in a manner that prohibits or has the effect of prohibiting the provision of personal wireless services.
- (iii) Must act on applications within a reasonable period of time.
- (iv) Must make any denial of an application in writing supported by substantial evidence in a written record.
- (v) May not make local decisions that are based directly or indirectly on the supposed environmental effects and/or health effects of radio frequency (RF) emissions.

**CONFORMANCE TO THE ONE MCKINNEY 2040 COMPREHENSIVE PLAN:** A key aspect of the ONE McKinney 2040 Comprehensive Plan is to provide direction related to desired development patterns in the city and to inform decisions related to the timing and phasing of future infrastructure investments. To assist in guiding these decisions, the plan includes a set of Guiding Principles that provide overall guidance and a Preferred Scenario and Land Use Diagram that illustrates the desired development patterns in the city. The Preferred Scenario and Land Use Diagram are built upon a series of distinctive districts, each with a specific purpose, focus and market. Each district consists of a mix of placetypes that identify the predominate land uses and desired pattern of development for the district.

- Guiding Principles:  
The proposed rezoning request is generally in conformance with the Guiding Principle of “Diversity (Supporting our Economy and People)” established by the Comprehensive Plan. In particular, the proposed request has the potential to provide “diverse economic engines... broaden the tax base, and make the City’s economy more adaptable and resilient”.
- Preferred Scenario and Land Use Diagram Characteristics:  
Per the Preferred Scenario and Land Use Diagram, the subject property is located in the Established Community District and is designated as the Professional Center placetype.

Professional Center generally provides for office uses and jobs that keep people in the city during normal working hours. A Professional Center is typically well landscaped and provides opportunities for small general offices, as well as larger employment uses such as corporate headquarters, institutional facilities and medical campuses. More intense professional uses are typically seen near major transportation corridors, while smaller developments are typically within residential areas and are supportive in nature.

- Land Use Diagram Compatibility:  
When considering land use decisions, the City should determine that a project aligns with the Land Use Diagram and/or meets a majority of the plan’s established criteria to be considered compatible with the Land Use Diagram. The proposed rezoning request **aligns** with the Professional Center placetype of Established Community District, is in conformance with the Land Use Diagram and should be compatible with the surrounding properties.

The ONE McKinney 2040 Comprehensive Plan acknowledges the need for certain public and private infrastructure to support growth and development in the City of McKinney. These types of services and private infrastructure are not defined within any particular district; however, should be a considered a service use throughout the Preferred Scenario. Staff has considered the proposed telecommunications tower on the subject property. It is Staff’s professional

opinion that a telecommunications tower as proposed in the rezoning request would support the intended outcomes of the Preferred Scenario.

- Fiscal Model Analysis: The attached fiscal analysis shows an estimated fiscal benefit of \$309,900 for the 5.16 acre property. This is based on the rezoning of the property from office uses to the “C2” - Local Commercial Zoning District. A key takeaway for this property includes:
  - The proposed rezoning request, while utilizing a commercial zoning district, is to introduce a telecommunications tower to a site that is already developed. As such, the actual realized fiscal benefit may be different than what is projected in the fiscal model analysis due the site constraints and remaining developable area.

**OPPOSITION TO OR SUPPORT OF REQUEST:** Staff has received no letters of opposition or letters of support to this request. Staff has also not received citizen comments through the online citizen portal.

**BOARD OR COMMISSION RECOMMENDATION:** On March 8, 2022, the Planning and Zoning Commission voted 7-0-0 to recommend approval of the proposed rezoning request.

On April 5, 2022, the City Council voted 6-0-0 to continue the public hearing and table the item to the May 3, 2022 City Council meeting.

On May 3, 2022, the City Council voted 6-0-0 to continue the public hearing and table the item to the June 21, 2022 City Council meeting