

**City Council  
Agenda Memo**



**TO: Larry D. Gilley, City Manager**

**City Council  
Meeting Date: 12/15/2011**

**FROM: Danette Dunlap, City Secretary**

**SUBJECT: Ordinance to amend Chapter 28 Solicitation; and calling a public hearing for January 12, 2011.**

**GENERAL INFORMATION**

This Ordinance review and amendment of Chapter 28 Solicitation has been updated by Staff as requested by citizens of Abilene. The citizens are concerned about the following: 1) background checks; 2) increase in permit fees; 3) hours of solicitation; 4) length of time for the permit; 5) allow “no solicitors” signs; and 6) require the solicitor to display permit.

Some key changes to the current ordinance are being proposed. These changes include:

- Adding definitions for canvassers, peddlers, solicitors etc.
- Adding hours of canvassing and solicitation
- Adding making entry upon premises unlawful when signs are posted
- Adding a penalty for violations of the code
- Requiring the permit issued by the City to be displayed
- Expanding the exceptions to the fee requirement
- Providing permit expiration 90 days from the date of issuance

**STAFF RECOMMENDATION**

Staff recommends approval.

**ATTACHMENT**

Ordinance

Prepared by:

Name: Danette Dunlap

Title: City Secretary

Item No. 6.1

Disposition by City Council

- Approved    Ord/Res# \_\_\_\_\_
- Denied        \_\_\_\_\_
- Other            \_\_\_\_\_

\_\_\_\_\_  
City Secretary

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE AMENDING CHAPTER 28, "SOLICITATION," OF THE ABILENE MUNICIPAL CODE AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.**

**WHEREAS**, there is a need to protect the health, safety, and welfare of the citizens of the City of Abilene; and

**WHEREAS**, the current provisions of Chapter 28, "Solicitations", are out of date and no longer adequate to meet the needs of the community;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:**

**PART 1:** That Chapter 28, "Solicitations" of the Code of Ordinances, City of Abilene, Texas, is hereby replaced as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

**PART 2:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

**PART 3:** That any person, firm, or corporation violating the provisions of this Ordinance, shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.

**PART 4:** Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

**PASSED ON FIRST READING this 15th day of December, 2011.**

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on 8<sup>th</sup> day of January, 2012, the same being more than 24 hours prior to a public hearing being held in the Council Chamber

of City Hall in Abilene, Texas, at 8:30 a.m. on the 12th day of January, 2012, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

**PASSED ON SECOND AND FINAL READING this 12th day of January, 2012.**

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

\_\_\_\_\_  
MAYOR

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY

## CHAPTER 28 SOLICITATIONS

### ARTICLE I. IN GENERAL

#### **Sec. 28-1. Purpose of Chapter**

The purpose of this ordinance is to protect against criminal activity, including fraud and burglary, minimize the unwelcome disturbance of citizens and the disruption of privacy and to otherwise preserve the public health, safety, and welfare by regulating, controlling, and licensing canvassers, solicitors and peddlers.

#### **Sec. 28-2. City License Officer**

For the purposes of this chapter, the City Secretary shall act as the city license officer and as such shall administer the provisions of this chapter.

#### **Sec. 28-3. Definitions**

The following words and phrases, when used in this chapter, shall have the meanings ascribed to them by this section:

*Business day* means any calendar day except Saturday, Sunday or any city holiday.

*Canvasser* means any person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, or in the public right of way for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation for money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.

*City Manager* means the City Manager of the City of Abilene or designee.

*Official* shall mean City of Abilene Peace Officers, City Secretary, or City Manager or designee who administers, implements, and enforces the provisions of this chapter.

*Peddler* means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, or upon the public right of way, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale. Peddler does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good, or service that is offered to a resident for purchase at different location or time.

*Peddle and any form of the word* means all activities ordinarily performed by a peddler.

*Solicitation, soliciting, solicited, or any form of the word solicit means any activities ordinarily performed by a solicitor.*

*Solicitor means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, or upon the public right-of-way for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This definition includes any person who, without invitation, goes upon private property, or in the public right-of-way to request contribution of funds or anything of value, or sell goods or services for educational, political, charitable, religious, or other non-commercial purposes.*

#### **Sec. 28-4. Hours of Canvassing, Solicitation and Peddling at Private Residences**

It shall be unlawful for persons, licensed or unlicensed, to canvass, solicit or peddle at private residences between the hours of 8 PM and 8 AM unless otherwise posted by the private property owner or by someone with apparent authority to act for the owner. This provision does not apply where the canvasser, solicitor or peddler is on the property by express, prior invitation of the owner of the property or a person residing on the premises.

#### **Sec. 28-5. Entry upon Premises Unlawful**

It shall be unlawful for any person to canvass, solicit, or peddle upon any private property in the City where the owner, occupant, or person legally in charge of the premises has posted at the entry to the premises, or at the entry to the principal building on the premises, a sign bearing the words "No Peddlers", "No Solicitors", or words of similar import.

#### **Sec. 28-6. Penalty for violation**

Any person, firm, partnership, corporation, association, agent or employee thereof who violates any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not less than \$50.00 nor more than \$500.00 for each offense. Each and every hour that such violation shall continue shall be deemed to constitute a separate offense.

**Sections 28-7 through 28-10 reserved.**

## **ARTICLE II. PERMIT**

### **Sec. 28-11. Permit Requirements and Exemptions**

It shall be unlawful for any person to engage in peddling or solicitation activities within the City without first obtaining a permit issued by the city license officer; provided the following are exempted from the provisions of this section.

- (a) Any solicitation made upon premises owned or occupied by an organization upon whose behalf the solicitation is made;
- (b) Any solicitation in the form of a collection at a regular meeting, assembly, or service of a charitable person;
- (c) A canvasser as defined by the chapter;
- (d) A solicitor or peddler already licensed by the state to engage in the activity.

### **Sec. 28-12. Exhibition of Permit Required.**

- (a) It shall be unlawful for any solicitor or peddler to fail to conspicuously display on or about their person the permit issued by the city.
- (b) "Conspicuously displayed" shall mean displayed to the front and visible to whomever the permit holder is conversing at all times they are engaged in a permitted activity.

### **Sec. 28-13. Permits for Minor Peddlers or Solicitors**

- (a) No person under the age of 18 shall be permitted to engage in peddling or soliciting except as provided in this section.
- (b) A permit shall be obtained by a sponsoring person, company, or organization for the conduct of any peddling or solicitation activities involving in whole or in part a sales force of one or more persons under the age of eighteen years of age.
- (c) The sponsor shall be responsible for supervising and controlling all persons peddling under the sponsor's permit.
- (d) The sponsor shall provide to each individual in its sales force a badge or other easily readable form of identification that identifies the name of the sponsor and the name of the individual. The sponsor shall require all individuals in their

sales force to wear the identification so that it is clearly visible at all times while peddling or soliciting.

**Sec. 28-14. Application.**

Applicants for permits under this chapter must file with the city license officer an application in writing on a form obtained from the license officer and provide the following:

- (a) A valid Texas Driver's License or state issued photo identification.
- (b) The number of the limited sales tax permit issued to the business by the state comptroller's office, if applicable.
- (c) A brief description of the activity or business to be conducted.
- (d) The appropriate fee.
- (e) Proof of status necessary to receive an exception under Section 28-11 or 28-16 of this chapter.

Any application made pursuant to the provisions of this chapter may be presented to the Better Business Bureau of Abilene or the Abilene Police Department for investigation.

**Sec. 28-15. Required fee.**

The fees and charges for permits furnished by the city shall be determined from time to time and placed on file in the office of the city license officer. No application for a permit will be processed until the required fees are tendered to the city license officer. Permit fees are nonrefundable and shall not be prorated.

**Sec. 28-16. Exceptions to fee.**

The payment of the permit fee shall not be held to be applicable to the following organizations, however, all solicitors and peddlers are required to comply with all other applicable provisions of this chapter unless otherwise exempted:

- (a) Any local church or other religious group, or to ministers or agents thereof soliciting funds for the support of such religious group;
- (b) Any established society, association or corporation that is organized and operated exclusively for educational, philanthropic, benevolent, fraternal or charitable purposes, not operated for pecuniary profit, where no part of the net earnings inures to the benefit of any person, private shareholder, or individual, where the solicitation of such organization is:

- (1) Conducted among the members thereof by other members or officers thereof, voluntarily and without remuneration for such solicitation; or
  - (2) In the form of collections or contributions at the regular exercises or services of any society, lodge, benevolent order or fraternity or similar organization, or any branch thereof.
- (c) Vendors of farm produce, poultry, stock or agricultural products in their natural state if raised on land owned or leased by the vendor, or such products may be sold by any member of the owner's or lessee's household.
  - (d) Sales of goods, wares, and merchandise donated by the owners thereof, the proceeds of which are to be used and applied to some charitable, religious or philanthropic purposes.
  - (e) Sales of goods, wares, and merchandise by any bonafide charitable, religious or philanthropic organization.

**Sec. 28-17. Issuance.**

Upon completion and presentation of the application, the city license officer shall issue a permit to the applicant within 5 business days unless grounds for denial exist under Section 28-21.

**Sec. 28-18. Contents.**

- (a) Each permit issued under this article shall show the name of the permitted individual, business address, a description of the type of solicitation, product, or activity, the date of issuance, and the expiration date of such permit.
- (b) The permit shall be numbered and printed in black; except, that the following shall be printed prominently thereon in red: "The issuance of this License is not an endorsement by the City of Abilene, or any of its officers or employees, and expires \_\_\_\_\_."

**Sec. 28-19. Expiration**

All permits issued under the provisions of this article shall expire 90 days from the date of issuance.

**Sec. 28-20. Transfer.**

No permit issued under the provision of this article shall be transferred or assigned.



**Sec. 28-21. Denial.**

An application for permit may be denied to a person under this article for the following reasons.

- (a) Because of a person's conviction of a felony or misdemeanor if the crime directly relates to the conduct of a peddler's business or results from an assault against person.
- (b) An investigation reveals that the applicant falsified information on the application.
- (c) The applicant is a registered sex offender.

**Sec. 28-22. Revocation.**

- (a) Permits issued under the provision of this article may be revoked for any of the following causes by any official of the City of Abilene:
  - 1. Fraud, misrepresentation or false statement contained in the application for permit.
  - 2. Fraud, misrepresentation or false statement made in the course of carrying on his business.
  - 3. Any violation of this chapter.
  - 4. Conviction of a misdemeanor or any felony if the crime directly relates to the conduct of the peddler's business.
  - 5. Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, and general welfare of the public.
- (b) Notice of revocation of a permit shall be given verbally or in writing, and specify the grounds of the revocation.
- (c) When the solicitor receives notice that their permit has been revoked, they shall immediately surrender their permit to the revoking official.

**Sec. 28-23. Appeals**

- (a) An appeal from any act of denial or revocation of any permit shall be filed with the City Manager within five (5) business days from the date of denial or revocation.

- (b) Such appeal shall be taken by filing with the City Manager a written statement setting forth fully the grounds for the appeal.
- (c) The City Manager shall issue a decision on the denial or revocation in writing within 5 business days of receipt of the appeal.
- (d) The revocation or denial is not stayed pending the City Manager's decision.
- (e) The decision and order of the City Manager on such appeal shall be final and conclusive.

**Sections 29-24 through 29-30 reserved.**

City Council  
Agenda Memo



City Council  
Meeting Date: 12/15/2011

**TO:** Larry D. Gilley, City Manager

**FROM:** Jon James, AICP  
Director of Planning and Development Services

**SUBJECT:** First reading on an Ordinance for Case No. Z-2011-32, a request from Shawna Abernathy to rezone property from RS-6 (Single Family Residential) to O (Office) zoning, located at 2526 S. 32nd St; and setting a public hearing for January 12, 2012.

**GENERAL INFORMATION**

Currently the property is zoned RS-6 and has been developed with a residential dwelling unit. The property is currently vacant. The surrounding properties have been developed with an elementary school to the west, and commercial uses to the south and east including banking and medical office uses.

The Future Land Use section of the Comprehensive Plan designates this general area for residential uses. The applicant intends to redevelop the property for office uses. The properties to the south and east have already been developed for the same purpose. The proposed zoning would provide a transitional zoning buffer to the elementary school to the west and act as a "stopping point" for commercial development along S. 32<sup>nd</sup> St. The request would not have a negative impact on the surrounding properties and would be compatible with the existing land uses.

**STAFF RECOMMENDATION**

Staff recommends approval as requested.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission recommended approval by a vote of six (6) in favor (Bixby, Famble, Rosenbaum, Todd, Yungblut, & McClarty) to none (0) opposed.

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

December 2, 2011

Item No. 6.2

Disposition by City Council

- Approved      Ord/Res# \_\_\_\_\_  
 Denied  
 Other

\_\_\_\_\_  
City Secretary

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart E, known as the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING this 15<sup>th</sup> day of December, A.D. 2011.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 16<sup>th</sup> day of November, 2011, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 12<sup>th</sup> day of January, 2012 to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 12<sup>th</sup> day of January, A.D. 2012.

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

MAYOR

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY

ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

Rezone property from RS-6 (Single Family Residential) to O (Office) zoning.

Legal Description:

JONES & LEGGETT, BLOCK 1, LOT E80 W100 S140 LT 5

Location:

2526 S. 32<sup>nd</sup> Street

-END-

# ZONING CASE Z-2011-32

## STAFF REPORT



### APPLICANT INFORMATION:

Shawna Abernathy

### HEARING DATES:

Planning & Zoning Commission: December 5, 2011

City Council 1<sup>st</sup> Reading: December 15, 2011

City Council 2<sup>nd</sup> Reading: January 12, 2012

### LOCATION:

2526 S. 32<sup>nd</sup> St.

### REQUESTED ACTION:

Rezone property from RS-6 (Single Family Residential) to O (Office)



### SITE CHARACTERISTICS:

The subject parcel totals approximately 0.25 acres and is currently zoned RS-6. The property has been developed with a residential dwelling unit. The adjacent properties have RS-6 zoning to the north and west, O zoning to the east, and PD (Planned Development) zoning to the south across S. 32<sup>nd</sup> St.

### ZONING HISTORY:

A portion of the property was annexed in 1951 and another portion later in 1957 and was zoned AO, the property was later rezoned to RS-6 sometime after.

### ANALYSIS:

- Current Planning Analysis

Currently the property is zoned RS-6 and has been developed with a residential dwelling unit. The property is currently vacant. The surrounding properties have been developed with an elementary school to the west, and commercial uses to the south and east including banking and medical office uses.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area for residential uses. The applicant intends to redevelop the property for office uses. The properties to the south and east have already been developed for the same purpose. The proposed zoning would provide a transitional zoning buffer to the elementary school to the west and act as a “stopping point” for commercial development along S. 32<sup>nd</sup> St. The request would not have a negative impact on the surrounding properties and would be compatible with the existing land uses.

**PLANNING STAFF RECOMMENDATION:**

Staff recommends approval as requested.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

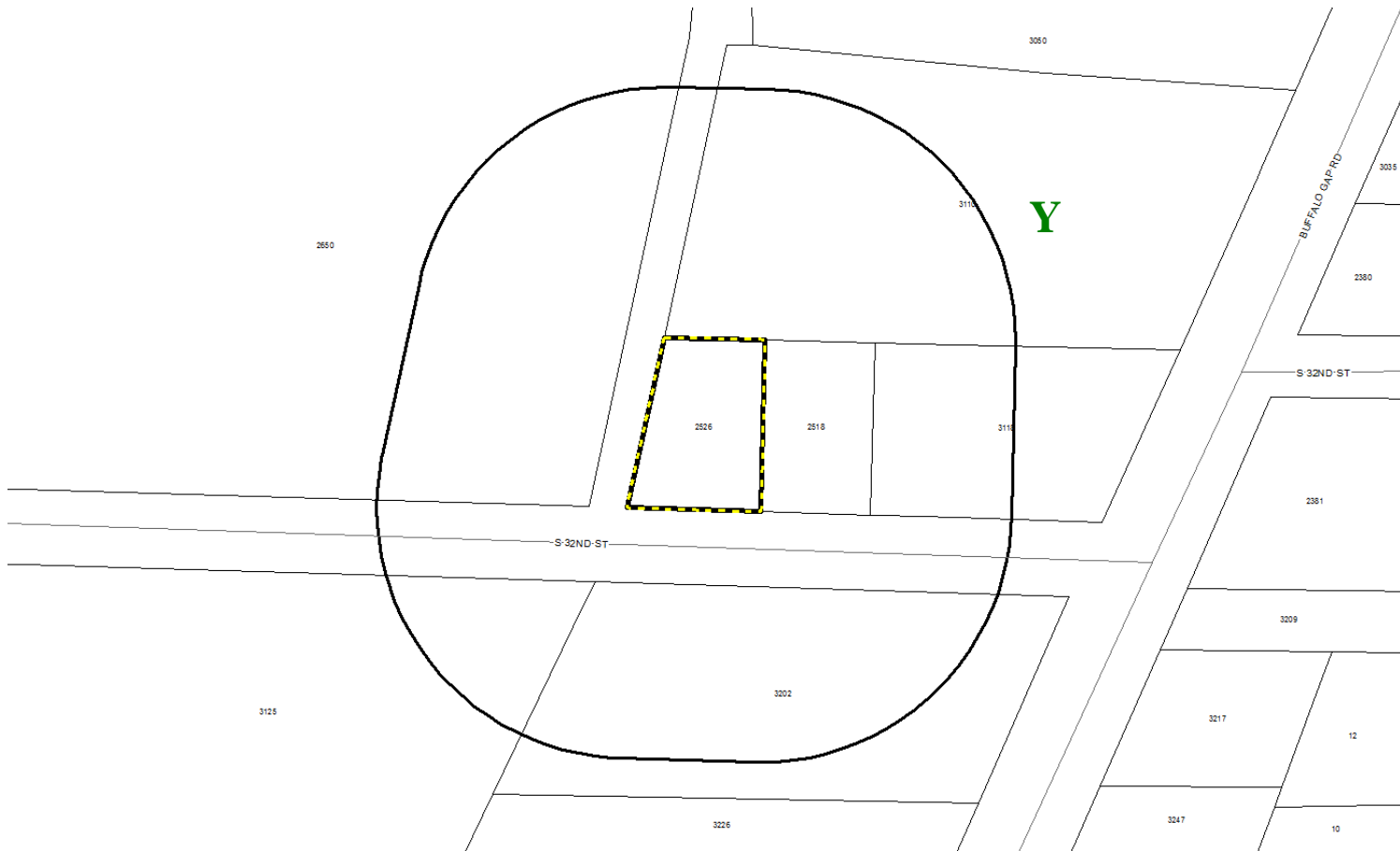
The Planning and Zoning Commission recommended approval by a vote of six (6) in favor (Bixby, Famble, Rosenbaum, Todd, Yungblut, & McClarty) to none (0) opposed.

**NOTIFICATION:**

Property owners within a 200-foot radius were notified of the request.

OWNER	ADDRESS	RESPONSE
ABILENE IND SCHOOL DIST	2650 S 32ND ST	
HULTZ RANDY	2526 S 32ND ST	
KENMAR RESIDENTIAL SERV	3110 BUFFALO GAP RD	In Favor
COLTON HWA CHA	2518 S 32ND ST	
SD & BR INVESTMENTS LP	3118 BUFFALO GAP RD	
HASKELL NATIONAL BANK	3202 BUFFALO GAP RD	
CITY OF ABILENE	3125 S 32ND ST	

1 in Favor- **Y**  
0 Opposed- **N**











City Council  
Agenda Memo



City Council  
Meeting Date: 12/15/2011

**TO:** Larry D. Gilley, City Manager

**FROM:** Jon James, AICP  
Director of Planning and Development Services

**SUBJECT:** First reading on an Ordinance for Case No. Z-2011-33, a request from Timothy Smith to rezone property from RS-12 (Single Family Residential) to GR (General Retail) zoning, located at 3518 S. 7th St; and setting a public hearing for January 12, 2012.

**GENERAL INFORMATION**

Currently the property is zoned RS-12 and has been developed with a commercial building. The property is currently vacant. The surrounding properties have been developed with single family dwellings to the east, north, and south and commercial buildings to the west. The most recent use for the property was an adult day care facility.

The Future Land Use section of the Comprehensive Plan designates this general area for low density residential. The applicant intends to open a fitness facility. The request for GR would also allow for some more intensive uses that are not compatible with the adjacent residential properties. Although this property seems to be suited for commercial uses, a less intensive zoning such as NR (Neighborhood Retail) would be more compatible with the surrounding residential uses.

**STAFF RECOMMENDATION**

Staff recommends approval of a less intensive zoning district that is compatible with single family residential such as NR, or PD (Planned Development) zoning with some conditions that would be compatible adjacent to RS-12 zoning.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission recommended approval of a PD to allow NR uses and eliminating the hours-of-operation restriction for a physical fitness use by a vote of six (6) in favor (Bixby, Famble, Rosenbaum, Todd, Yungblut, & McClarty) to none (0) opposed.

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

December 2, 2011

Item No. 6.3

Disposition by City Council

Approved Ord/Res# \_\_\_\_\_

Denied \_\_\_\_\_

Other \_\_\_\_\_

\_\_\_\_\_  
City Secretary

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-137 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart E, known as the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 15th day of December A.D. 2011.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 16th day of November, 2011, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 12th day of January, 2012, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 12th day of January, A.D. 2012.

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

\_\_\_\_\_  
MAYOR

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY

ORDINANCE NO. \_\_\_\_\_

Exhibit "A"

PART 1: Land Title. Title to land not dedicated to public use and services or for utility purposes and not otherwise designated for development purposes shall remain in possession of the owner thereof, his heirs, assigns, lessees and successors in interest and shall not be the responsibility of the City of Abilene for any purpose.

PART 2: Development Specifications. All development in the Planned Development shall be in accordance with any maps, topographical and drainage plans, utility plans, architectural drawings, site plan, plat, and any other required plans filed in connection with this requested Planned Development, which are hereby incorporated by reference and included as part of this ordinance. All use and development within the Planned Development must be in compliance with the general Land Development Code of the City of Abilene except as otherwise specifically provided herein.

PART 3: Building Specifications. All structures in the herein said Planned Development shall be constructed in accordance with all pertinent building and construction codes of the City of Abilene.

PART 4: Zoning. That Chapter 23, Subpart B, Abilene Municipal Code, known as the Land Development Code of the City of Abilene, is hereby further amended by changing the zoning district boundaries, as hereinafter set forth: From RS-12 (Single-Family Residential) to PD (Planned Development).

That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

PAGE 2

PART 5: Legal Description. The legal description of this PD is as follows:

A0321 SUR 36 JOHN TUMLINSON

Location: 3518 S. 7<sup>th</sup> Street

ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

PAGE 3

PART 6: Purpose. The purpose of the Planned Development (PD) request is to allow for neighborhood retail development and related activities for re-use of a building.

PART 7: Specific Modifications. This Planned Development shall be subject to the requirements of the NR (Neighborhood Retail) zoning district, except as modified below.

**A. PERMITTED USES:**

All uses permitted in the NR (Neighborhood Retail) zoning district listed in the Land Development Code.

**B. SITE DEVELOPMENT**

The development shall comply with the requirements of the Land Development Code with the following exceptions and additions:

1. The 'hours of operation' restriction in the NR district shall not apply when used as a physical fitness gym.

-END-



# ZONING CASE Z-2011-33

## STAFF REPORT



### APPLICANT INFORMATION:

Timothy Smith

### HEARING DATES:

Planning & Zoning Commission: December 5, 2011

City Council 1<sup>st</sup> Reading: December 15, 2011

City Council 2<sup>nd</sup> Reading: January 12, 2012

### LOCATION:

3518 S. 7<sup>th</sup> St

### REQUESTED ACTION:

Rezone property from RS-12 (Single Family Residential) to GR (General Retail)



### SITE CHARACTERISTICS:

The subject parcel totals approximately 1.2 acres and is currently zoned RS-12. The property has been developed with a commercial building. The properties to the east, north, and south have been developed with residential dwelling units and are zoned RS-12. The adjacent properties to the east have been developed with commercial uses and are zoned GR. The subject property has been used in the past for a fire house as well as an adult day care facility.

### ZONING HISTORY:

A portion of the property was annexed in 1927 and the remainder was annexed in 1950 and were zoned AO, they were later rezoned to RS-12 sometime after.

### ANALYSIS:

- Current Planning Analysis

Currently the property is zoned RS-12 and has been developed with a commercial building. The property is currently vacant. The surrounding properties have been developed with single family dwellings to the east, north, and south and commercial buildings to the west. The most recent use for the property was an adult day care facility.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area for low density residential. The applicant intends to open a fitness facility. The request for GR would also allow for some more intensive uses that are not compatible with the adjacent residential properties. Although this property seems to be suited for commercial uses, a less intensive zoning such as NR (Neighborhood Retail) would be more compatible with the surrounding residential uses.

**PLANNING STAFF RECOMMENDATION:**

Staff recommends approval of a less intensive zoning district that is compatible with single family residential such as NR, or PD (Planned Development) zoning with some conditions that would be compatible adjacent to RS-12 zoning.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

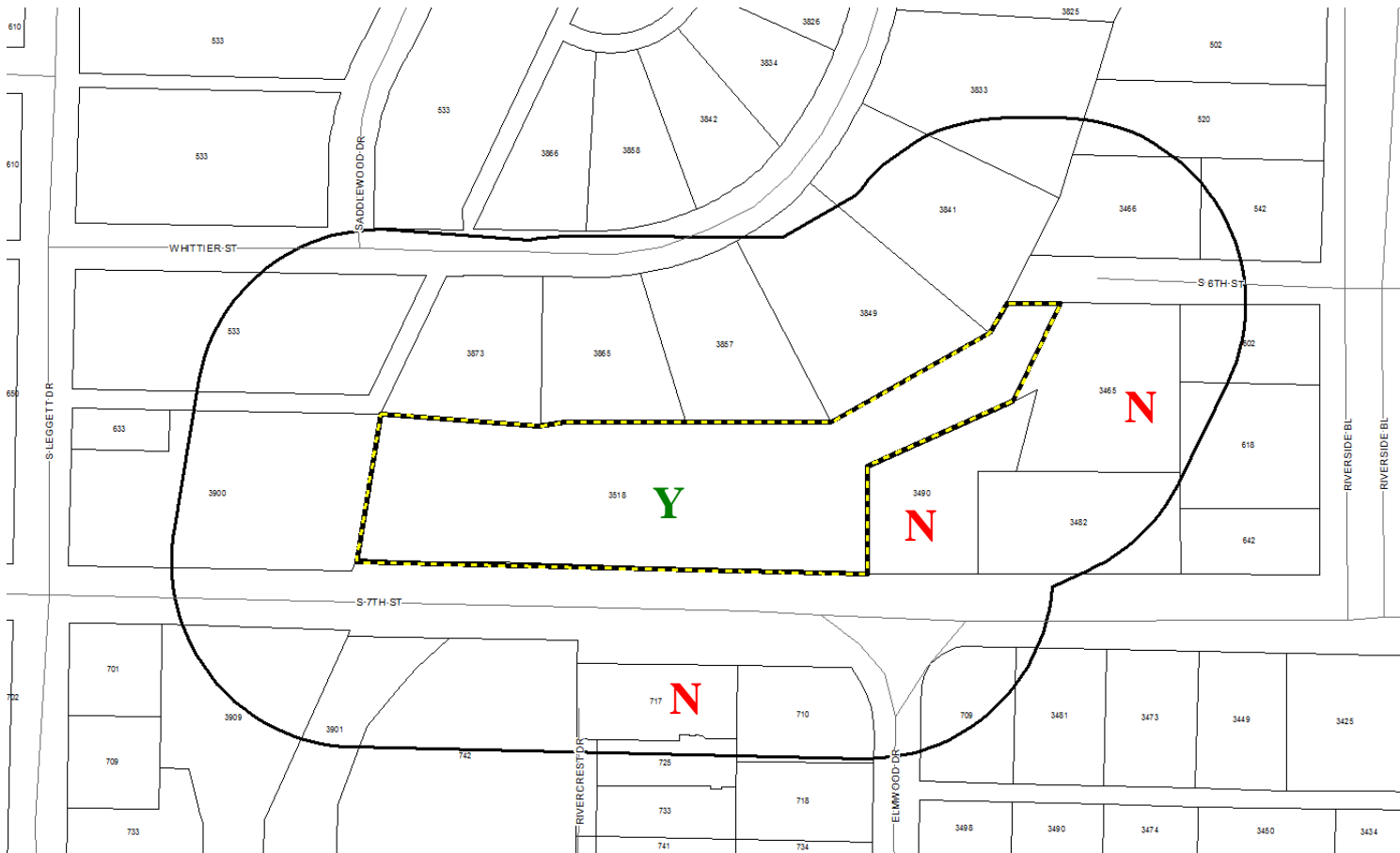
The Planning and Zoning Commission recommended approval of a PD to allow NR uses and eliminating the hours-of-operation restriction for a physical fitness use by a vote of six (6) in favor (Bixby, Famble, Rosenbaum, Todd, Yungblut, & McClarty) to none (0) opposed.

**NOTIFICATION:**

Property owners within a 200-foot radius were notified of the request.

OWNER	ADDRESS	RESPONSE
TEEKOY PROPERTIES LLC	533 S LEGGETT DR	
908 MLK LLC	3900 S 7TH ST	
BADGETT JIMMIE L &	542 RIVERSIDE BL	
ROBERTS HERBERT M	3833 WHITTIER ST	
GREINER DIETRICH &	3865 WHITTIER ST	
PULLIN GARY CARL	3481 S 7TH ST	
HATCHETT JIM R JR	3909 S 7TH ST	
MC MINN DONNA MAE	3849 WHITTIER ST	
BECK JOE E & PAMELA T	3873 WHITTIER ST	
GOFF BERNIECE P &	3857 WHITTIER ST	
HUDSON MARK W & CHERI D	520 RIVERSIDE BL	
MOORE JACOB A & ANGELIQUE M	3466 S 6TH ST	
WILKINSON M LYNN	709 ELMWOOD DR	
LOVELAND LAWRENCE R JR & MELODY J	3841 WHITTIER ST	
SHELTON JOHN D JR & SUSAN B &		
WEST HERBIE FAY	3465 S 6TH ST	Opposed
CLEVENGER ARTHUR F & SARA	618 RIVERSIDE BL	
BERGERON HELEN F	602 RIVERSIDE BL	
	3901 S 7TH ST	
SMITH TIMOTHY R & PAMELA K	3518 S 7TH ST	In Favor
WEST ANDREW EVAN	3490 S 7TH ST	Opposed
GUITAR PHILIP E	742 RIVERCREST DR	
SHELTON SUSAN BATJER	725 RIVERCREST DR	
REDDEN MIKE & GAIL	710 ELMWOOD DR	
CHAUDHRY SAJJAD GRAFOOR	3482 S 7TH ST	
AKIN W ORLAN & JOAN R	717 RIVERCREST DR	Opposed

1 in Favor- **Y**  
3 Opposed- **N**









City Council  
Agenda Memo



City Council  
Meeting Date: 12/15/2011

**TO:** Larry D. Gilley, City Manager

**FROM:** Jon James, AICP  
Director of Planning and Development Services

**SUBJECT:** First reading on an Ordinance for Case No. Z-2011-34, a request from SMR Acquisitions to rezone property from MD (Medium Density Residential) to NR (Neighborhood Retail) zoning, located at 1774 State St; and setting a public hearing for January 12, 2012.

**GENERAL INFORMATION**

Currently the property is undeveloped. The surrounding properties have been developed with residential dwelling units to the north, south, and west and a commercial building to the east along Grape Street.

The Future Land Use section of the Comprehensive Plan designates this general area for low density residential. The request is also part of a thoroughfare closure that would result in the subject property being along an Enhancement Corridor. NR zoning is compatible with residential uses, therefore the request does not seem to have any negative impact on the surrounding properties and is compatible with the surrounding land uses.

**STAFF RECOMMENDATION**

Staff recommends approval as requested.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission recommended approval by a vote of six (6) in favor (Bixby, Famble, Rosenbaum, Todd, Yungblut, & McClarty) to none (0) opposed.

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

December 2, 2011

Item No. 6.4

Disposition by City Council

- Approved      Ord/Res# \_\_\_\_\_
- Denied      \_\_\_\_\_
- Other      \_\_\_\_\_

\_\_\_\_\_  
City Secretary

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart E, known as the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING this 15<sup>th</sup> day of December, A.D. 2011.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 16<sup>th</sup> day of November, 2011, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 12<sup>th</sup> day of January, 2012 to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 12<sup>th</sup> day of January, A.D. 2012.

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

MAYOR

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY



ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

Rezone property from MD (Medium Density Residential) to NR (Neighborhood Retail) zoning.

Legal Description:

W G CANNON ADDN, LOT S/PT OF 1, ACRES 1.88

Location:

1774 State Street

-END-

# ZONING CASE Z-2011-34

## STAFF REPORT



### APPLICANT INFORMATION:

SMR Acquisitions

### HEARING DATES:

Planning & Zoning Commission: December 5, 2011

City Council 1<sup>st</sup> Reading: December 15, 2011

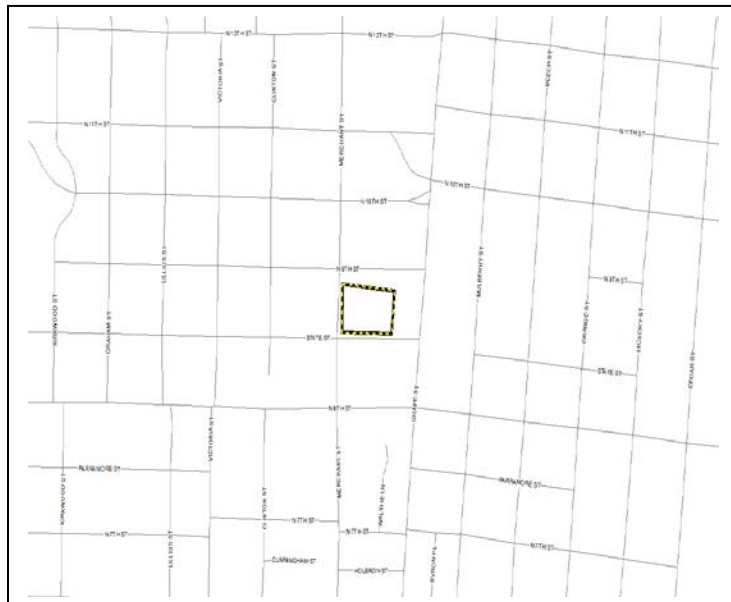
City Council 2<sup>nd</sup> Reading: January 12, 2012

### LOCATION:

1774 State St.

### REQUESTED ACTION:

Rezone property from MD (Medium Density Residential) to NR (Neighborhood Retail)



### SITE CHARACTERISTICS:

The subject parcel totals approximately 1.9 acres and is currently zoned MD. The property is currently undeveloped. The adjacent properties have MD zoning to the south, north, and west and NR zoning to the east.

### ZONING HISTORY:

The property was annexed in 1895 and was zoned AO, and was later rezoned to MD in 1985.

### ANALYSIS:

- Current Planning Analysis

Currently the property is undeveloped. The surrounding properties have been developed with residential dwelling units to the north, south, and west and a commercial building to the east along Grape St.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area for low density residential. The request is also part of a thoroughfare closure that would result in the subject property being along an Enhancement Corridor. NR zoning is compatible with residential uses, therefore the request does not seem to have any negative impact on the surrounding properties and is compatible with the surrounding land uses.

### PLANNING STAFF RECOMMENDATION:

Case # Z-2011-34

Updated: December 6, 2011

Staff recommends approval as requested.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

The Planning and Zoning Commission recommended approval by a vote of six (6) in favor (Bixby, Famble, Rosenbaum, Todd, Yungblut, & McClarty) to none (0) opposed.

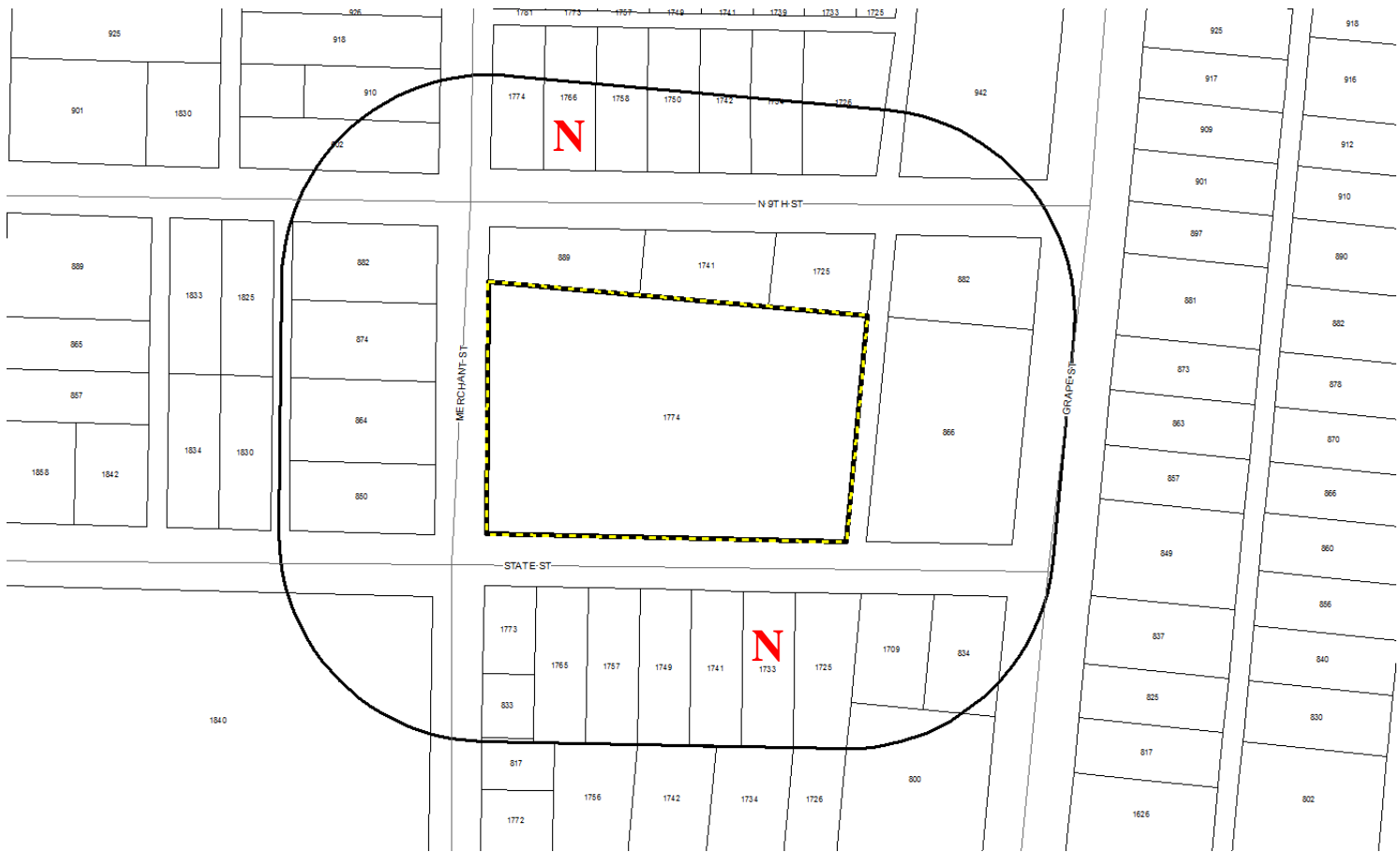
**NOTIFICATION:**

Property owners within a 200-foot radius were notified of the request.

OWNER	ADDRESS	RESPONSE
PRIBBLE ROBERT T	1766 N 9TH ST	Opposed
HERNANDEZ PEDRO JR	1734 N 9TH ST	
REESE U V	882 MERCHANT ST	
GRANADO ARMANDO &	1757 STATE ST	
MARTINEZ GRACIANO & ADELFA	874 MERCHANT ST	
BLANTON RANDY	1741 STATE ST	
STOVALL STEVEN B & W JUANITA	817 MERCHANT ST	
BOATRIGHT LARRY & SHANNON	1742 N 9TH ST	
SECOND BAPTIST CHURCH	1840 N 8TH ST	
JUSTICE DALE	1750 N 9TH ST	
HERNANDEZ MANUEL	1756 N 8TH ST	
ROBINSON WAYNE & DIXIE R ET AL	1734 N 8TH ST	
DE LA CRUZ JUANITA &	1765 STATE ST	
DUQUE MARIA G	833 MERCHANT ST	
JUSTICE DALE	1774 N 9TH ST	
BEASLEY DAINE EDWARD	1758 N 9TH ST	
AGUERO JOE RUDY	864 MERCHANT ST	
GARCIA BERTHA A	1726 N 9TH ST	
MENDOZA ISMAEL JR &	1773 STATE ST	
SCALES VICKIE & MICKIE & RICKIE	910 MERCHANT ST	
PARIS-HOOPER SALLY E	850 MERCHANT ST	
BLANTON RANDY	1749 STATE ST	
HUFF ADA & ORAN W LIFE EST	1733 STATE ST	Opposed
CALDWELL GLENN W &	1726 N 8TH ST	
WYLIE OIL CO INC	800 GRAPE ST	
HOLLIS CALVIN	942 GRAPE ST	
RST HOMES LLC	902 MERCHANT ST	
GIBSON BETHA FAYETTE	1742 N 8TH ST	
GERARDI ROBERT	1725 N 9TH ST	
WHARTON DAVID MARSHALL	889 MERCHANT ST	
MC MANAWAY STEVE	834 GRAPE ST	
PRESCOTT LISA MARIE	1741 N 9TH ST	
CORTEZ BLANCA	882 GRAPE ST	
SHERMAN LEM & KERI	1709 STATE ST	

FORTE MANAGEMENT LLC	866 GRAPE ST	
PRITCHARD COMMERCIAL PROPERTIES	1725 STATE ST	
FORTE MANAGEMENT LLC	1774 STATE ST	

0 in Favor- **Y**  
 2 Opposed- **N**









City Council  
Agenda Memo



City Council  
Meeting Date: 12/15/2011

**TO:** Larry D. Gilley, City Manager

**FROM:** Jon James, AICP  
Director of Planning and Development Services

**SUBJECT:** First reading on an Ordinance for Case No. TC-2011-04, a request from SMR Acquisitions to abandon a portion of the north to south alley right-of-way between N. 9th St. and State St. and between Grape St. and Merchant St.; and setting a public hearing for January 12, 2012.

**GENERAL INFORMATION**

The applicant intends to abandon the subject right-of-way to develop a larger tract of land for a single use. The portion of the alley to be abandoned does not service any residential uses or provide for any refuse collection. There are no improvements on the adjacent properties and the abandonment does not have a negative impact on vehicular or pedestrian maneuverability.

**PLAT REVIEW COMMITTEE**

The Plat Review Committee recommends approval of the closure as requested with the following conditions:

- Where existing utilities are located, the applicant is responsible for providing adequate easements for the maintenance of all utilities or the applicant will be responsible to move all of the utilities
- Proper fire apparatus access for all structures within the closure area.
- Provide for cul-de-sac turnarounds where the closures will result in a dead-end.
- The applicant must replat within 12 months, at which time all issues regarding access to utilities and relocation of utilities will be resolved. The replat must not create any non-conforming lots.

**STAFF RECOMMENDATION**

Staff recommends approval with the conditions suggested by the Plat Review Committee.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission recommended approval with removal of the 3<sup>rd</sup> condition from the Plat Review Committee by a vote of six (6) in favor (Bixby, Famble, Rosenbaum, Todd, Yungblut, & McClarty) to none (0) opposed.

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

December 2, 2011

Item No. 6.5

Disposition by City Council

- Approved      Ord/Res#  
 Denied      \_\_\_\_\_  
 Other

\_\_\_\_\_  
City Secretary



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF A PORTION OF PUBLIC RIGHT OF WAY; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH ABANDONMENT, AND CALLING A PUBLIC HEARING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the following described portion of a Public Right of Way, as described on Exhibit "A," attached hereto and made a part of this ordinance for all purposes, be, and the same is hereby abandoned, vacated and closed insofar as the right, title or easement of the public is concerned, subject to conditions as stated in Exhibit A.

PART 2: That said portion of a Public Right of Way is not needed for public purposes and it is in the public interest of the City of Abilene to abandon said described portion of a Public Right of Way.

PART 3: That the abandonment provided for herein shall extend only to the public right, title and easement in and to the tracts of land described in Part 1 of this ordinance, and shall be construed only to that interest the governing body of the City of Abilene may legally and lawfully abandon.

PASSED ON FIRST READING this 15<sup>th</sup> day of December, A.D. 2011.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 16<sup>th</sup> day of November, 2011, the same being more than twenty-four (24) hours prior to the time designated for said hearing. After such opportunity for the public to be heard, said ordinance was passed on second and final reading.

PASSED ON FINAL READING THIS 12<sup>th</sup> day of January, A.D. 2012.

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

\_\_\_\_\_  
MAYOR

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY

ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

The City of Abilene hereby abandons the following thoroughfares:

Abandon a portion of the north to south alley right-of-way between N. 9th St. and State St. and between Grape St. and Merchant St.

All Public Right of Way as indicated and shown in the map below within the dashed area:



With the following conditions:

1. Where existing utilities are located, the applicant is responsible for providing adequate easements for the maintenance of all utilities or the applicant will be responsible to move all of the utilities, proper fire apparatus access for all structures within the closure area.
2. The applicant must replat within 12 months, at which time all issues regarding access to utilities and relocation of utilities will be resolved. The replat must not create any non-conforming lots.

-END-



# THOROUGHFARE CLOSURE CASE TC-2011-04

## STAFF REPORT

### APPLICANT INFORMATION:

SMR Acquisitions

### HEARING DATES:

Planning & Zoning Commission: December 5, 2011

City Council 1<sup>st</sup> Reading: December 15, 2011

City Council 2<sup>nd</sup> Reading: January 12, 2012

### REQUESTED ACTION:

A portion of the north to south alley right-of-way between N. 9<sup>th</sup> St. and State St. and between Grape St. and Merchant St.



### SITE CHARACTERISTICS:

Improvements have not been made to the existing right-of-way. There are no improvements on the adjacent properties.

### REQUEST ANALYSIS:

The applicant intends to abandon the subject right-of-way to develop a larger tract of land for a single use. The portion of the alley to be abandoned does not service any residential uses or provide for any refuse collection. There are no improvements on the adjacent properties and the abandonment does not have a negative impact on vehicular or pedestrian maneuverability.

### RECOMMENDATIONS:

*Plat Review Committee: Approval of the requested closure as requested with the following conditions: where existing utilities are located, the applicant is responsible for providing adequate easements for the maintenance of all utilities or the applicant will be responsible to move all of the utilities, proper fire apparatus access for all structures within the closure area. Provide for cul-de-sac turnarounds where the closures will result in a dead-end. The applicant must replat within 12 months, at which time all issues regarding access to utilities and relocation of utilities will be resolved. The replat must not create any non-conforming lots.*

*Staff Recommendation: Approval of the requested abandonment, with the conditions suggested by the Plat Review Committee.*

### PLANNING AND ZONING COMMISSION:

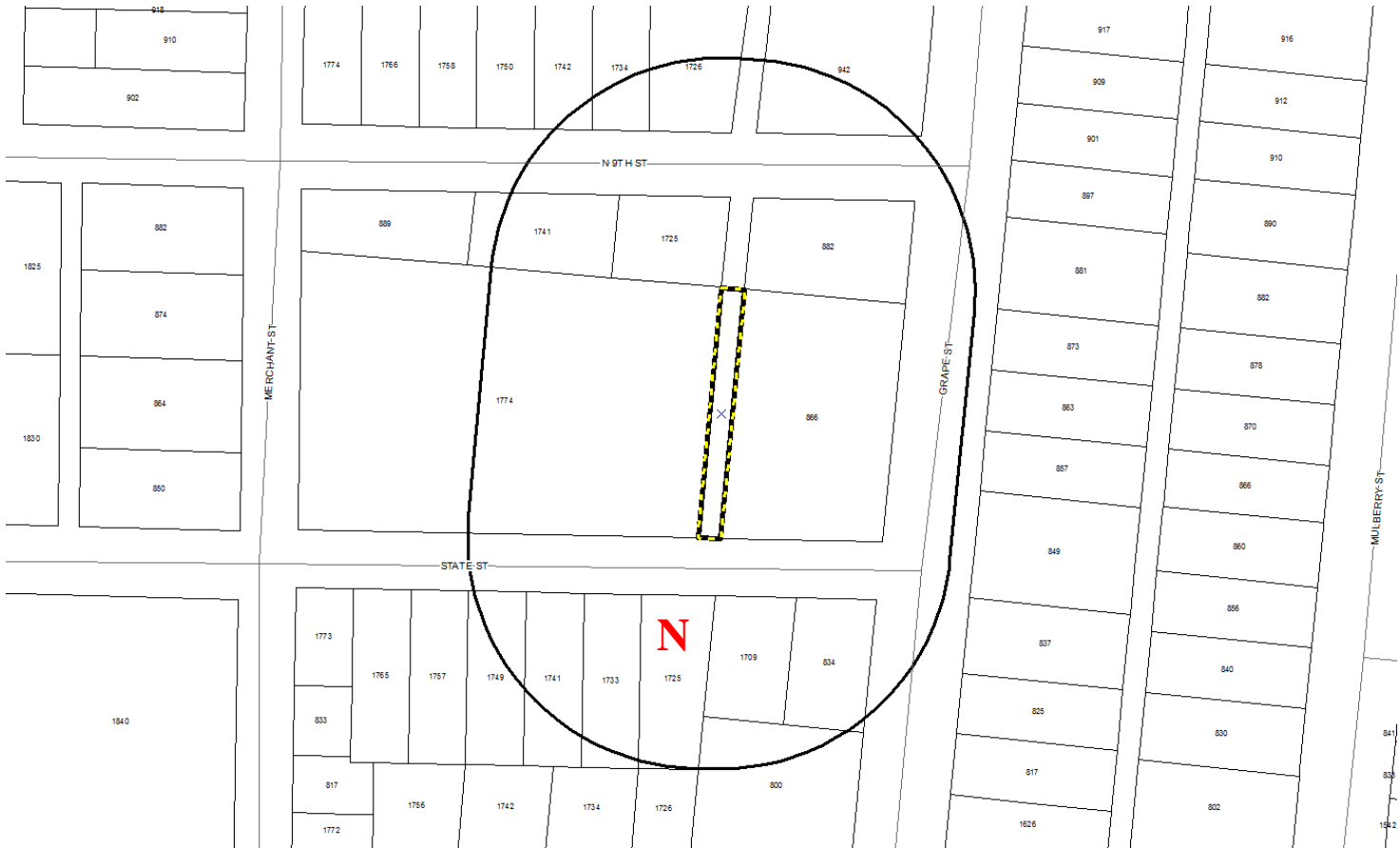
The Planning and Zoning Commission recommended approval with removal of the 2<sup>nd</sup> condition from the Plat Review Committee by a vote of six (6) in favor (Bixby, Famble, Rosenbaum, Todd, Yungblut, & McClarty) to none (0) opposed.

### NOTIFICATION:

Case # TC-2011-04  
Prepared: December 6, 2011

Property owners within the 200' of the subject rights-of-way were notified.

0 in Favor- <b>Y</b>
1 Opposed- <b>N</b>



OWNER	ADDRESS	RESPONSE
HERNANDEZ PEDRO JR	1734 N 9TH ST	
BLANTON RANDY	1741 STATE ST	
BOATRIGHT LARRY & SHANNON	1742 N 9TH ST	
GARCIA BERTHA A	1726 N 9TH ST	
BLANTON RANDY	1749 STATE ST	
HUFF ADA & ORAN W LIFE EST	1733 STATE ST	Opposed
CALDWELL GLENN W &	1726 N 8TH ST	
WYLIE OIL CO INC	800 GRAPE ST	
HOLLIS CALVIN	942 GRAPE ST	
GERARDI ROBERT	1725 N 9TH ST	
MC MANAWAY STEVE	834 GRAPE ST	
PRESCOTT LISA MARIE	1741 N 9TH ST	
CORTEZ BLANCA	882 GRAPE ST	
SHERMAN LEM & KERI	1709 STATE ST	
FORTE MANAGEMENT LLC	866 GRAPE ST	
PRITCHARD COMMERCIAL PROPERTIES	1725 STATE ST	
FORTE MANAGEMENT LLC	1774 STATE ST	





City Council  
Agenda Memo



City Council  
Meeting Date: 12/15/2011

**TO:** Larry D. Gilley, City Manager

**FROM:** Jon James, AICP  
Director of Planning and Development Services

**SUBJECT:** First reading on an Ordinance for Case No. Z-2011-35, a request from Harriet Bass to rezone property from RS-12 (Single Family Residential) to RS-12/H (Single Family Residential with Historic Overlay) zoning, located at 3435 S. 9th St; and setting a public hearing for January 12, 2012.

**GENERAL INFORMATION**

Currently the property is zoned RS-12 and has been developed with a residential dwelling unit. The house, the Jones House, was built in 1940 by Morgan Jones for Morgan Jones Jr. The style of the home exemplifies the Ranch style of architecture that was prominent during the 1940-1960 era. The ranch house is noted for its long, close-to-the-ground profile, and minimal use of exterior and interior decoration, creating an informal living style. This house embodies many ranch style features; single-story, long, low roofline with a side gable, sliding glass patio doors, large windows, with shutters, and deep overhanging eaves. The Colonial touch at the entrance is expressed with Ionic Greek columns.

The Future Land Use section of the Comprehensive Plan designates this general area as low-density residential. The requested zoning is an overlay zoning that would not affect the underlying residential zoning and would be compatible with the surrounding land uses. One other property in the area has received the overlay, but this request could encourage other properties to seek the Historic Overlay zoning.

**STAFF RECOMMENDATION**

Staff recommends approval as requested.

**BOARD OR COMMISSION RECOMMENDATION**

The Landmarks Commission recommended approval by a vote of six (6) in favor to none (0) in opposition.

The Planning and Zoning Commission recommended approval by a vote of six (6) in favor (Bixby, Famble, Rosenbaum, Todd, Yungblut, & McClarty) to none (0) opposed.

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

December 2, 2011

Item No. 6.6

Disposition by City Council

- Approved      Ord/Res# \_\_\_\_\_
- Denied      \_\_\_\_\_
- Other      \_\_\_\_\_

\_\_\_\_\_  
City Secretary



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart E, known as the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING this 15<sup>th</sup> day of December, A.D. 2011.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 16<sup>th</sup> day of November, 2011, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 12<sup>th</sup> day of January, 2012 to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 12<sup>th</sup> day of January, A.D. 2012.

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

MAYOR

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY

ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

Rezone property from RS-12 (Single Family Residential) to RS-12/H (Single Family Residential with Historic Overlay) zoning.

Legal Description:

ELMWOOD ADDN, BLOCK 9, LOT 4-6, OUT LOT 4

Location:

3435 S. 9<sup>th</sup> Street

-END-

# ZONING CASE Z-2011-35

## STAFF REPORT



### APPLICANT INFORMATION:

Harriet Bass

### HEARING DATES:

Planning & Zoning Commission: December 5, 2011

City Council 1<sup>st</sup> Reading: December 15, 2011

City Council 2<sup>nd</sup> Reading: January 12, 2011

### LOCATION:

3435 S. 9<sup>th</sup> Street

### REQUESTED ACTION:

Rezone property from RS-12 to RS-12/H



### SITE CHARACTERISTICS:

The subject property is approximately 0.60 acres and is currently zoned RS-12 (Single Family Residential). The property has been developed with a residential dwelling unit. The adjacent properties have RS-6 zoning to the north with RS-12 (Single Family Residential) zoning to the east, west and south.

### ZONING HISTORY:

The property was annexed in 1927 and was zoned RS-12 sometime after it was annexed.

### ANALYSIS:

- Current Planning Analysis

Currently the property is zoned RS-12 and has been developed with a residential dwelling unit. The house, the Jones House, was built in 1940 by Morgan Jones for Morgan Jones Jr. The style of the home exemplifies the Ranch style of architecture that was prominent during the 1940-1960 era. The ranch house is noted for its long, close-to-the-ground profile, and minimal use of exterior and interior decoration, creating an informal living style. This house embodies many ranch style features; single-story, long, low roofline with a side gable, sliding glass patio doors, large windows, with shutters, and deep overhanging eaves. The Colonial touch at the entrance is expressed with Ionic Greek columns.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area as low-density residential. The requested zoning is an overlay zoning that would not affect the underlying residential zoning and would be compatible with the surrounding land uses. One other property in the area has received the overlay, but this request could encourage other properties to seek the Historic Overlay zoning.

**PLANNING STAFF RECOMMENDATION:**

Staff recommends approval as requested.

**LANDMARKS COMMISSION RECOMMENDATION:**

The Landmarks Commission recommended approval by a vote of six (6) in favor to none (0) in opposition.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

The Planning and Zoning Commission recommended approval by a vote of six (6) in favor (Bixby, Famble, Rosenbaum, Todd, Yungblut, & McClarty) to none (0) opposed.

**NOTIFICATION:**

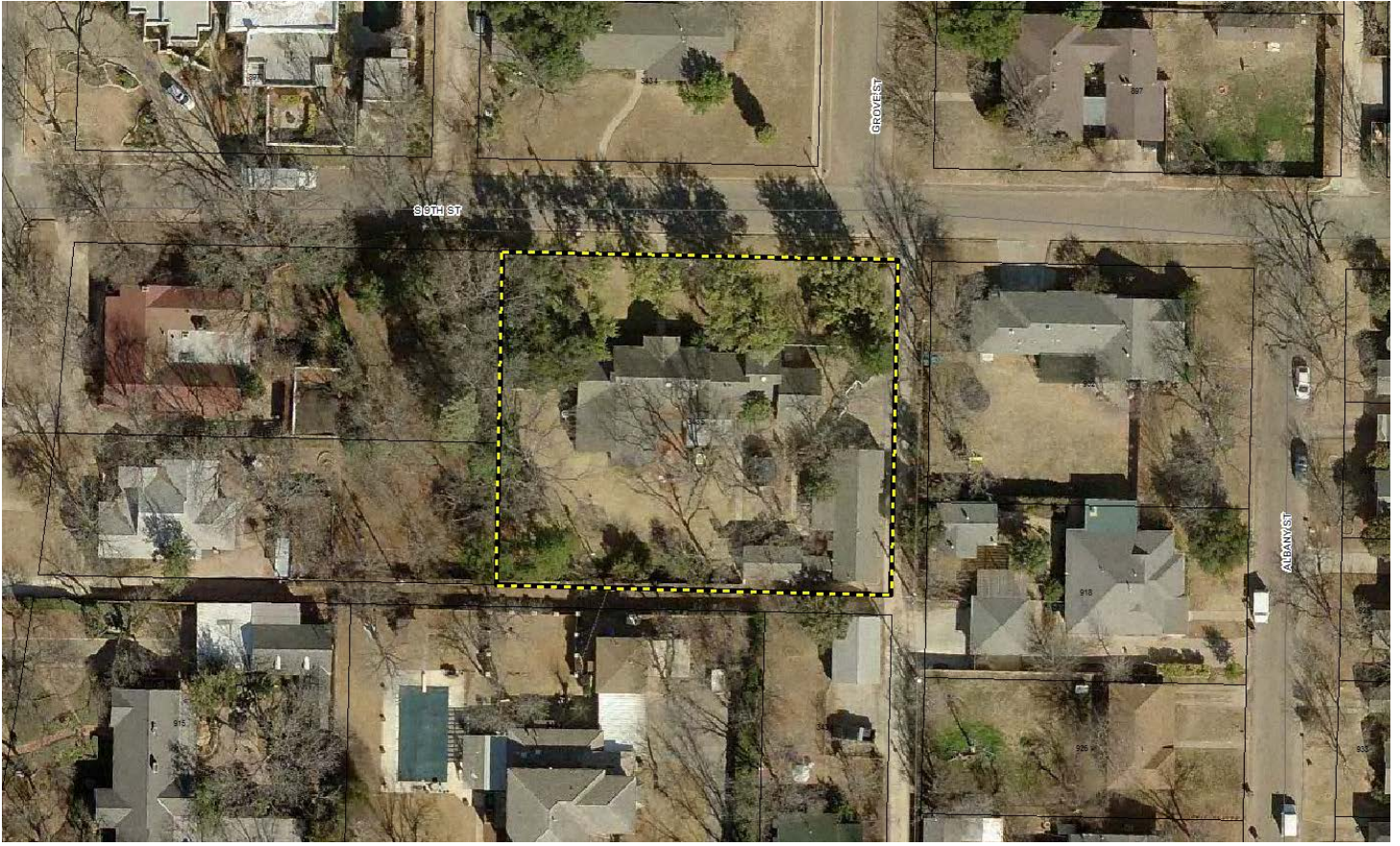
Property owners within a 200-foot radius were notified of the request.

OWNER	ADDRESS	RESPONSE
YOST SHARON	3434 S 9TH ST	
BROWDER TERRY L & LAURA H	897 ELMWOOD DR	In Favor
WARD KELLY R	901 ALBANY ST	
JONES MARY WHATLEY ESTATE	3435 S 9TH ST	In Favor
CARROLL MARCUS T & AMANDA M	918 ALBANY ST	
NEWMAN JEFFREY W	909 ALBANY ST	
WEATHERS LINDLEY L & SHARON K	934 ALBANY ST	
DUBOSE MALVOLENE M	909 ELMWOOD DR	
WILLIAMS WILLIAM M JR & SHIRLEY	925 ALBANY ST	
SMITH JERRELL MATTHEW & RACHEL E	933 ALBANY ST	
PROPST JEFFREY & APRIL	881 GROVE ST	
EYSSEN TIMOTHY D	3434 S 10TH ST	In Favor
RADCLIFFE JUSTIN C & DARCY J	901 ELMWOOD DR	
EYSSEN TIMOTHY & JOAN	915 ELMWOOD DR	In Favor
RIOS MICHAEL & RUTH	902 ALBANY ST	
ALLEN PATRICE	926 ALBANY ST	
BARR JAMES A	889 ELMWOOD DR	
KENDRICK WILLIAM R	894 GROVE ST	
ZINN PAUL M & JUANITA	897 GROVE ST	
SUNIGA SUSAN M & RUBEN	889 GROVE ST	
WILEY ROBERT D & ANGIE	3442 S 10TH ST	

4 in Favor- **Y**  
0 Opposed- **N**











City Council  
Agenda Memo



City Council  
Meeting Date: 12/15/2011

**TO:** Larry D. Gilley, City Manager

**FROM:** Jon James, AICP  
Director of Planning and Development Services

**SUBJECT:** First reading on an Ordinance for Case No. Z-2011-36, a request from Kelly Thompson to rezone property from RS-8 (Single Family Residential) to RS-8/H (Single Family Residential with Historic Overlay) zoning, located at 1710 Belmont Blvd.; and setting a public hearing for January 12, 2012.

**GENERAL INFORMATION**

Currently the property is zoned RS-8 and has been developed with a residential dwelling unit. The house, the Rhodes/Connally House, was built in 1941. This house was designed in the Tudor Revival style of the mid 1900's. It embodies the key components of the style: one or two-stories, steep roof, asymmetrical design, cross-gables, decorative half-timbered exterior, arched entryway, quoins in patterned brick cladding and tall chimney with chimney pots. It is a contributing structure to the neighborhood with several other historic homes.

The Future Land Use section of the Comprehensive Plan designates this general area as low-density residential. The requested zoning is an overlay zoning that would not affect the underlying residential zoning and would be compatible with the surrounding land uses. Other properties in the area have recently received the overlay and this request could encourage even more properties to seek the Historic Overlay zoning.

**STAFF RECOMMENDATION**

Staff recommends approval as requested.

**BOARD OR COMMISSION RECOMMENDATION**

The Landmarks Commission recommended approval by a vote of six (6) in favor to none (0) in opposition.

The Planning and Zoning Commission recommended approval by a vote of six (6) in favor (Bixby, Famble, Rosenbaum, Todd, Yungblut, & McClarty) to none (0) opposed.

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

December 2, 2011

Item No. 6.7

Disposition by City Council

- Approved Ord/Res# \_\_\_\_\_
- Denied \_\_\_\_\_
- Other \_\_\_\_\_

\_\_\_\_\_  
City Secretary

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart E, known as the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING this 15<sup>th</sup> day of December, A.D. 2011.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 16<sup>th</sup> day of November, 2011, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 12<sup>th</sup> day of January, 2012 to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 12<sup>th</sup> day of January, A.D. 2012.

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

MAYOR

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY

ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

Rezone property from RS-8 (Single Family Residential) to RS-8/H (Single Family Residential with Historic Overlay) zoning.

Legal Description:

BELMONT ADDN, BLOCK 8, LOT 2

Location:

1710 Belmont Boulevard

-END-

# ZONING CASE Z-2011-36

## STAFF REPORT



### APPLICANT INFORMATION:

Kelly Thompson

### HEARING DATES:

Planning & Zoning Commission: December 5, 2011

City Council 1<sup>st</sup> Reading: December 15, 2011

City Council 2<sup>nd</sup> Reading: January 12, 2011

### LOCATION:

1710 Belmont Boulevard

### REQUESTED ACTION:

Rezone property from RS-8 to RS-8/H



### SITE CHARACTERISTICS:

The subject property is approximately 0.23 acres and is currently zoned RS-8 (Single Family Residential). The property has been developed with a residential dwelling unit. The adjacent properties have RS-8/H zoning to the north, RS-8 (Single Family Residential) zoning to the east and south, and HC (Heavy Commercial) zoning to the west.

### ZONING HISTORY:

The property was annexed in 1926 and was zoned RS-8 sometime after it was annexed.

### ANALYSIS:

- Current Planning Analysis

Currently the property is zoned RS-8 and has been developed with a residential dwelling unit. The house, the Rhodes/Connally House, was built in 1941. This house was designed in the Tudor Revival style of the mid 1900's. It embodies the key components of the style: one or two-stories, steep roof, asymmetrical design, cross-gables, decorative half-timbered exterior, arched entryway, quoins in patterned brick cladding and tall chimney with chimney pots. It is a contributing structure to the neighborhood with several other historic homes.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area as low-density residential. The requested zoning is an overlay zoning that would not affect the underlying residential zoning and would be compatible with the surrounding land uses. Other properties in the area have recently received the overlay and this request could encourage even more properties to seek the Historic Overlay zoning.

**PLANNING STAFF RECOMMENDATION:**

Staff recommends approval as requested.

**LANDMARKS COMMISSION RECOMMENDATION:**

The Landmarks Commission recommended approval by a vote of six (6) in favor to none (0) in opposition.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

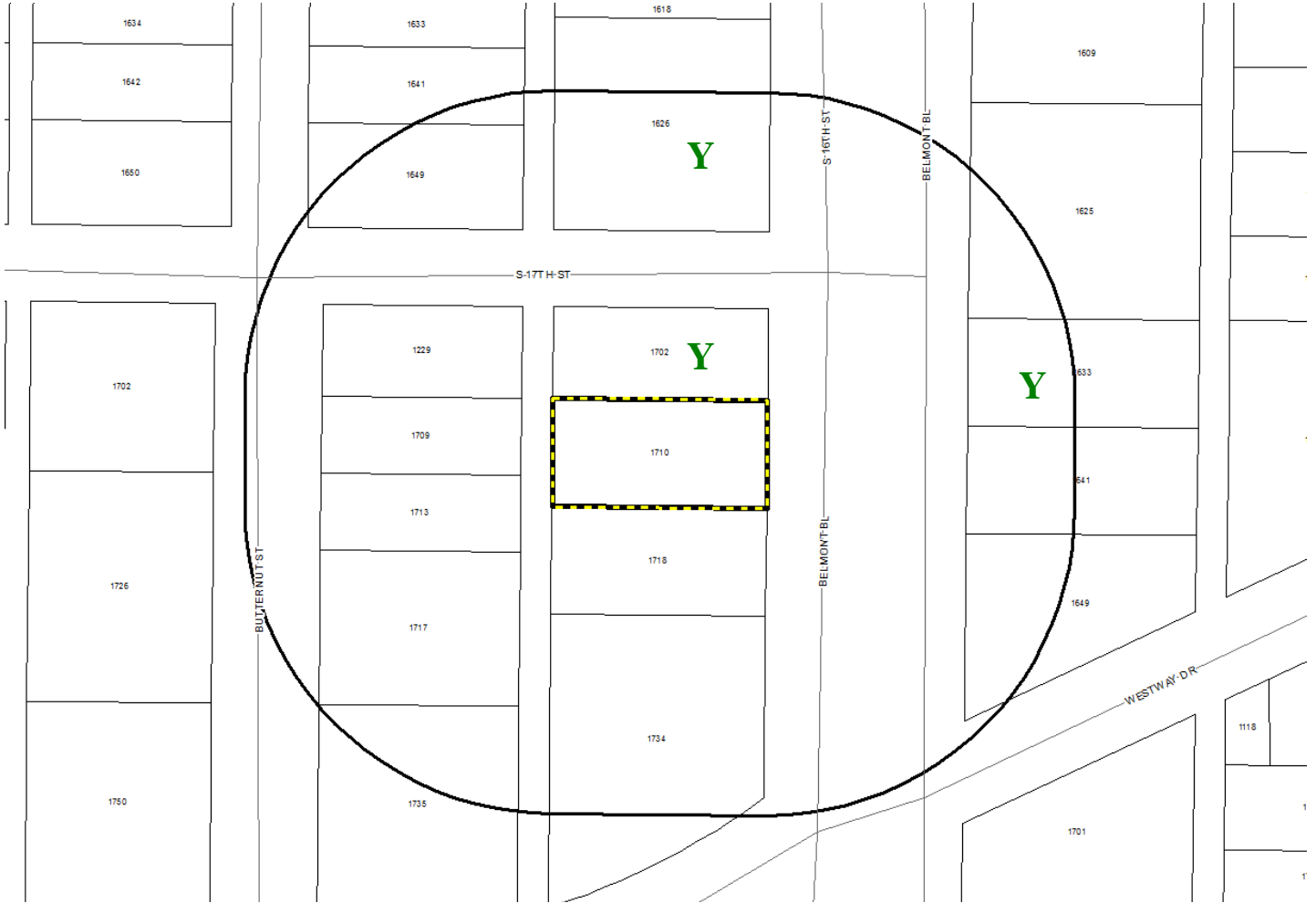
The Planning and Zoning Commission recommended approval by a vote of six (6) in favor (Bixby, Famble, Rosenbaum, Todd, Yungblut, & McClarty) to none (0) opposed.

**NOTIFICATION:**

Property owners within a 200-foot radius were notified of the request.

OWNER	ADDRESS	RESPONSE
THORNTON MIKE	1641 BUTTERNUT ST	
BLACKSTOCK ROLAND B & KATHLEEN	1717 BUTTERNUT ST	
CAMPBELL ROYCE FRANK	1633 BELMONT BLVD	In Favor
HERRERA RAYMOND R & AMELIA	1641 BELMONT BLVD	
THAXTON ERIC & JANLYN	1625 BELMONT BLVD	
LEWIS DARRELL K	1734 BELMONT BLVD	
SALVATION ARMY THE	1709 BUTTERNUT ST	
CORPIAN GARY LEE & MARILU LEE	1649 BUTTERNUT ST	
THE SALVATION ARMY	1229 S 17TH ST	
SALVATION ARMY THE	1713 BUTTERNUT ST	
GRIFFITH BILLY W & SHERRY	1735 BUTTERNUT ST	
HARRISON EDDIE & REBECCA	1626 BELMONT BLVD	In Favor
CHAMBERS MATHEW JOHN & ANNETTE MARIE	1649 BELMONT BLVD	
WOODY MILDRED M	1718 BELMONT BLVD	
JAMES JON & THERESA W	1702 BELMONT BLVD	In Favor
LANGFORD KELLY ELANIE	1710 BELMONT BLVD	

3 in Favor- **Y**  
0 Opposed- **N**











**City Council  
Agenda Memo**



**City Council  
Meeting Date: 12/15/11**

**TO: Larry D. Gilley, City Manager**

**FROM: Jon James, Director  
Planning and Development Services**

**SUBJECT: Revisions to the Land Development Code (LDC) regarding Wind Energy Conversion Systems (WECS)**

**GENERAL INFORMATION**

During the approval of the Land Development Code (LDC), Staff noted that the new provision in the ordinance allowing Wind Energy Conversion (WEC) systems might require additional modifications in the future to make these systems more easily accessible. In response, the Council directed the staff to research the issues and bring back an ordinance change if we found the standards to be overly restrictive. Staff has completed our review and determined that several changes are warranted both in terms of clarification as well as regulation.

Staff is proposing to allow certain WEC's by right in certain zoning district so long as they meet specific regulations to mitigate potential negative impacts. This would, for the first time, allow a qualifying WEC system to be installed with a building permit thus avoiding the need for a special approval or public hearing. WEC's with greater potential for negative impacts would require approval of a Special Exception (SE) by the Board of Adjustment (BOA). The BOA process would provide nearby property owners the opportunity to note their concerns. The Board could then add appropriate conditions if needed or deny installations found to be incompatible, with the area.

This resolution will allow City Staff move forward with the project so that we can design and begin obtaining all necessary permits and clearances. No reimbursement is available for any work done prior to the enactment of this agreement. The City will be providing design, engineering, and construction letting for this project.

**BOARD OR COMMISSION RECOMMENDATION**

On December 6, 2011 the Planning and Zoning commission recommended **approval** of the proposed ordinance (5-1-0, one member absent).

**STAFF RECOMMENDATION**

Staff's originally submitted draft of this ordinance included all zoning districts. The P&Z recommendation removes "residential" zoning districts and districts designed to be in close proximity to residential areas. Staff supports **approval** the current proposal and would also support adding additional zoning districts should the council find this to be appropriate.

**ATTACHMENTS**

Ordinance  
Magazine Article. "Wind electric systems simplified"

Prepared by:  Name: Edward S. McRoy Title: Assistant Director, Planning and Development Services	Item No. <u>6.8</u>	Disposition by City Council <input type="checkbox"/> Approved Ord/Res# <input type="checkbox"/> Denied <input type="checkbox"/> Other  _____ City Secretary
---	---------------------	---

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART B, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart B, "Land Development Code," of the Abilene Municipal Code be amended as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 15<sup>th</sup> day of December A.D. 2011.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 16<sup>th</sup> day of November, 2011, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 12<sup>th</sup> day of January, 2012, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 12<sup>th</sup> day of January, A.D. 2012.

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

\_\_\_\_\_  
MAYOR

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY

EXHIBIT "A"

**AMEND:** Section 2.4.7 Wind Energy Conversion Systems (WEC)

**REPLACE:** Replace with the following.

**Division 7 WIND ENERGY CONVERSION SYSTEMS (WEC)**

**Section 2.4.7.1 Purpose**

It is the purpose of these regulations to foster the development and use of Wind Energy Conversion systems, enhance both energy production and security, as well as enhance the choices for clean, reliable, and affordable energy to the residents of the City of Abilene while providing minimum protective measures to mitigate against negative impacts to nearby residents and properties that might limit the use and enjoyment of same.

**Section 2.4.7.2 Definitions**

- a. **Wind Energy Conversion System (WEC):** A wind energy conversion system consisting of a wind turbine/rotor (blades), a tower (freestanding, engineered, monopole structure only upon which the wind turbine/generator is mounted-no lattice-type or guyed tower structures allowed), and associated control or conversion electronics, that has a rated capacity of not more than 100kW output at any given time, and that is intended for on-site production of electricity in order to reduce consumption of commercial utility power.
- b. **Wind Energy Conversion System, Large (LWEC):** A wind energy conversion system that has a rated capacity of more than 10kW, but not more than 100kW, output at any given time, and that is intended for on-site production of electricity for a residence, agricultural structure or business.
- c. **Wind Energy Conversion System, Small (SWEC):** A wind energy conversion system that has a rated capacity of not more than 10kW output at any given time, and that is intended for on-site production of electricity for a residence, agricultural structure, or small business.
- d. **Wind Energy Tower Height:** The height above grade of the fixed portion of the tower (i.e., to the center of the hub), excluding the wind turbine itself.
- e. **Wind Energy Turbine/Generator:** The blades and associated mechanical and electrical conversion components mounted on top of the tower.
- f. **Fall Radius:** The Wind Energy Tower Height (d above) plus the blade length.

**Section 2.4.7.3 Requirements**

- a. **WEC Systems Allowed with Building Permit (By Right):** One SWEC system per lot shall be allowed with the approval of a building permit as an accessory use when **ALL** of the following apply:
  - 1) When a SWEC system is certified by the Small Wind Certification Council (SWCC) for noise generation of no more than 45 decibels (Db) when the wind energy turbine/generator will be less than 300' from an adjacent property or no more than 50 decibels (Db) if 300' or greater.

- 2) When a SWEC system is setback a minimum of 105% of the fall radius from any habitable structure, right-of-way, overhead utility line or other tower structure.
  - 3) When a SWEC system is located outside of any floodplain or drainage way.
- b. Wind energy conversion systems not qualifying under 2.4.7.3 a (above) shall require a Special Exception.
  - c. **Minimum lot size:** There shall be no minimum lot size required for a small wind energy conversion system (SWECS.) Large wind energy systems (LWECS) shall be located on a lot having a minimum lot size of five (5.0) acres.
  - d. **Application Requirements.** An accurately drawn-to-scale survey/site plan is required with a Special Exception application and shall include the following:
    - (1) Applicant, landowner and operator name, address and telephone number.
    - (2) Property lines and physical dimensions of the property,
    - (3) Location, dimensions, setbacks and types of existing major structures on the property,
    - (4) Location of the proposed wind system tower, and setbacks/dimensions from all existing structures on-site, from all property lines, and from structures on adjacent properties,
    - (5) Locations and dimensions/setbacks from all public rights-of-way that are contiguous with the property,
    - (6) Overhead utility lines, and approximate locations/canopy coverage of large existing trees on the property,
    - (7) Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type, rated kW output, noise certifications from SWCC or, an equivalent manufacturer's noise certification detailing the unit's noise performance at various operating speeds. (8) Tower foundation blueprints or drawings,
    - (9) Tower blueprint or drawing,
    - (10) Elevation drawings showing the design and height of the proposed energy system, and any screening that will be provided to screen the system/tower from public view.
  - e. **Floodplain.** Wind towers and generators proposed to be installed within the 100-year floodplain shall also have approval of the City's Engineer and, where applicable, the U.S. Army Corps of Engineers. Such tower sites shall take such measures, as required by the City's Engineer, to protect the sites from damage from potential flooding. The City's Engineer shall require a floodplain permit and a licensed engineer's certification that the tower/generator will not pose a threat or safety hazard due to flood conditions.
  - f. **Location.** No portion of a wind energy system, including the tower, shall be located within any required front, side or rear yard otherwise specified in the Special Exception standards. The tower and all its appurtenances shall be located behind (i.e., not in front of) the main building. No portion of a system may protrude over a property line without acquisition of an easement for the encroachment from the adjacent property owner(s). No portion of a system may protrude over an easement without proper written release from the utility provider or entity that owns or controls such easement.
  - g. **Accessory Use.** A wind energy system may exist only as an accessory use, and it may not be constructed/installed until a primary structure exists on a property. A wind energy system may only supply power to structures on the lot/parcel where the system is located This provision is

not intended to prevent “net metering” or “aggregate billing” whereby a property owner feeds energy back into the grid and receives a credit or compensation for said production.

- h. **Height.** For property sizes less than or equal to five (5.0) acres in area, the tower height shall be a maximum of sixty-five (65.0) feet. For property sizes greater than five (5.0) acres in area, the tower height shall not exceed one hundred (100.0) feet. Blade clearance shall be a minimum of twenty (20.0) feet above the ground.
- i. Wind energy conversion systems must comply with applicable Federal Aviation Administration (FAA) regulations, including any necessary approvals for installations close to airports, the City's Airport Zoning regulations in Section 2.4.5.1, and must also comply with applicable ASHTO engineering standards.
- i. **Controls and Brakes.** All wind energy systems shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.
- k. **Safety and Security Measures.**
  - 1) A clearly visible warning sign that states “Caution, High Voltage” must be placed at the base of all pad-mounted transformers and substations.
  - (2) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
  - (3) The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 12 feet from the ground.
  - (4) All towers shall be of a monopole design without lattice work or guy wires (5) All access doors to wind energy systems and their appurtenances (e.g., cabinets, junction boxes, etc.) shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
  - (6) All electrical wires associated with a wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- l. **Noise and Vibration.** Except during short term events such as severe storms, power outages and severe wind events, wind energy conversion systems shall be required to comply with Performance Standards and requirements contained within the City's Land Development Code, Chapter 4, Division 9.
- m. **Visual Appearance.**
  - (1) A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
  - (2) The wind tower and generator shall remain painted or finished in the neutral white, light grey or silver non-reflective color applied by the manufacturer. Refurbished blades and parts must meet the manufacturer's specifications as applicable.
  - (3) All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a wind energy system, shall be prohibited. Such signs as described above shall be no larger than four (4.0) square feet in size, and shall be located near the base of the tower.
  - (4) No flags, pennants, banners or similar materials may be displayed on or attached to any portion of a wind energy system, including its tower.

n. **Nuisance Prevention.**

- (1) **Shadow Flicker and Blade Glint.** Wind energy systems shall be sited, to the greatest extent practical, to minimize the impact of shadow flicker or blade glint upon any inhabited structures (except for the owner's) or public roadways. Systems found to be a nuisance or a traffic hazard shall be shut down until the flicker or glint problem is remedied.
  - (2) **Signal Interference.** Wind energy systems shall comply with all applicable Federal Communications Commission (FCC) rules, and shall not cause static noise interference with other individuals' television reception or with private or public telecommunications (e.g., public safety communications, 911 dispatch, etc.).
- o. **Roof-Mounted System.** No wind energy system shall be placed or constructed on the roof of any existing structure unless such structure is/was designed and constructed to structurally accommodate and support a roof-mounted wind energy system. Certification by a structural engineer shall be required for any roof-mounted system. No roof-mounted WEC shall exceed a maximum tower height of sixty-five (65.0) feet, as measured from the lowest ground level elevation point of the structure or when applicable, 25' above the building roofline when the building exceeds 40' in height.

#### **Section 2.4.7.4 Building Permit Required**

- a. A building permit shall be required for the installation of a wind energy system:
- (1) The owner shall submit an application to the Building Official. The application shall be accompanied by standard drawings of the wind turbine structure, a line drawing of the electrical components, and two copies of the site plan for the wind energy system, and any fee the City requires for an accessory use or building.
  - (2) No permit for a wind energy system shall be issued until evidence of written approval has been given to the City that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator, and the utility company has expressed written approval for the system. Off-grid systems shall be exempt from this requirement.
  - (3) Building permit applications for wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base and footings. An engineering analysis of the tower showing compliance with the City's Building Code, and certified by a licensed professional engineer, shall also be submitted. This analysis is frequently supplied by the manufacturer.
  - (4) Building permit applications for wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the City's Electrical Code. This information is frequently supplied by the manufacturer.
  - (5) A building permit issued for a wind energy system shall expire if the system is not installed, functioning and passed City inspection within six (6) months (i.e., 180 calendar days) following the date the permit is issued.

#### **Section 2.4.7.5 Maintenance and Abandonment**

a. **Required Maintenance.**

The owner and operator of a wind energy unit must maintain the unit to manufacturer's standards at all times and ensure the unit complies with City's performance measures for noise, structural integrity and other performance standards. All required periodic maintenance must be performed as recommended by the manufacturer.

**b. Abandonment.**

- (1) A wind energy system that is out-of-service for a continuous 6-month (i.e., 180 calendar days) period will be deemed to be abandoned. Nonfunction or lack of operation may be proven by reports from the interconnected utility or other site related information. The owner/operator and successors shall make available to the administrative officer all reports to and from the purchaser of energy from the wind energy conversion system if requested. The Building Official (or designee) shall issue a written notice to the owner(s) of a wind energy system that is deemed to have been abandoned. The owner(s) shall have the right to respond to the notice within 30 calendar days from the date it was mailed to the owner. The Building Official (or designee) shall cease abandonment proceedings if within 30 days the owner provides sufficient information in writing demonstrating the wind energy system has not been abandoned, that it is operational, and that it is in compliance with the City's regulations for WECs.
  
- (2) If the wind energy system is determined to be abandoned, the owner of the wind energy system shall remove the wind generator and tower structure (including all its appurtenances) from the property at the owner's sole expense within 120 calendar days after the notice of abandonment was sent to the owner. If the owner fails to completely remove the wind generator, tower and any associated appurtenances, the Building Official (or designee) may pursue a legal action to have the wind generator and tower structure removed at the owner's expense. Failure to remove an abandoned wind energy system shall be a violation of this ordinance with each day being considered a separate offence.
  
- (3) **Right Of Entrance:** By the acceptance of a special exception the owner/operator grants permission to the City of Abilene to enter the property to remove the wind energy conversion system pursuant to the terms of the special exception and to assure compliance with the other conditions set forth in the permit.

**Section 2.4.7.6 Subdivision**

- a. Future subdivision of any property upon which a wind energy system is located shall only be allowed if the WEC is a legally conforming use/structure, and if all setback, height and other requirements for WECs (as such exist at the time of such future subdivision) remain in compliance.

**AMEND:** Section 1.4.4.1 Special Exceptions

**CHANGE:** Add item #14 to the list of Special Exceptions.

**Section 1.4.4.1 Special Exceptions.**

(d) Special Exceptions Outlined (Add the following)

- (14) Installation of a small wind energy conversion system (SWEC) not qualifying by right in conformance with Section 2.4.7.3.a or installation of a large wind energy conversion system (LWEC).

**AMEND:** Section 2.4.2.1 Land Use Matrix



**CHANGE:** Amend Chart for ‘Wind Energy Conversion System’ in the All Zoning Districts

LEGEND: P-Permitted, Blank-Not Permitted, C-Conditional Use Permit, TP-Requires a Temporary Permit, ☒-Conditions Apply See Ch.2 Art.5 Div.3

Permitted Uses	Agricultural Open Space	Rural Residential RR-5 & RR1	Residential Single-Family	Residential Single-Family Patio Home	Residential Townhouse	Residential Medium Density	Residential Multi-Family	Manufactured/Mobile Home	College & University	Neighborhood Office	Office	Neighborhood Retail	General Retail	Medical Use	Central Business	Mixed Use	General Commercial	Heavy Commercial	Light Industrial	Heavy Industrial	Parking Requirements (also refer to Chapter 4, Article 2, Division 1)
	AO	RR	RS	PH	TH	MD	MF	MH	CU	NO	O	NR	GR	MU	CB	MX	GC	HC	LI	HI	
<b>Accessory &amp; Incidental Uses</b>																					
Wind Energy Conversion Systems ☒	P/SE								P/SE		P/SE		P/SE	P/SE	P/SE	P/SE	P/SE	P/SE	P/SE	P/SE	

-END-

# Wind-Electric Systems

# SIMPLIFIED

Ian Woofenden

©2005 Ian Woofenden

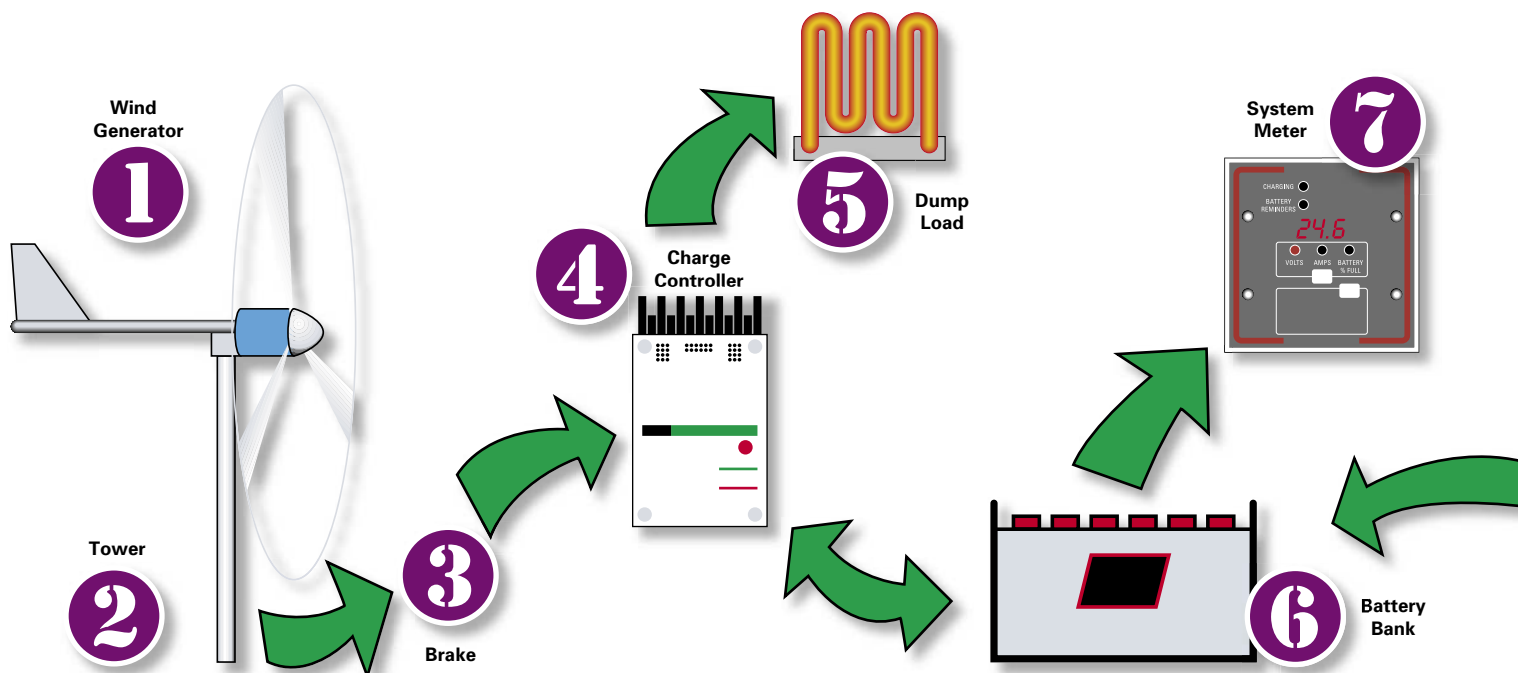
Wind-electric systems may be the most captivating of the three main renewable electricity technologies. Most of us just love to watch a wind turbine spin. But these systems are also the most prone to problems, and can be more complicated and expensive to install.

To get you started down the right road in using wind energy, this article will outline the basic system components and types. It will help you understand the systems better, so you will make better choices if you decide that wind energy is right for you.

## OFF-GRID WIND-ELECTRIC SYSTEM

Off-grid wind-electric systems are battery based. People generally choose these systems because their home or other energy use is not connected to the grid, and connection would be expensive. Others prefer the independence of off-grid systems, or live where utilities and governments make it difficult to tie a renewable energy system to the grid.

Off-grid systems are limited in capacity by the size of the generating sources (wind turbine, solar-electric array, fuel-fired generator, etc.), the resources available, and the battery bank size. Off-grid homeowners have to learn to live within the limitations of their system capacity.



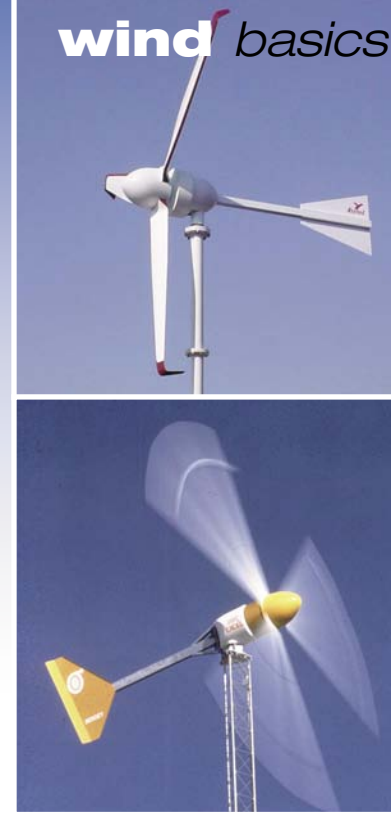
# 1 Wind Generator *AKA: wind genny, wind turbine*

The wind generator is what actually generates electricity in the system. Most modern wind generators are upwind designs (blades are on the side of the tower that faces into the wind), and couple permanent magnet alternators directly to the rotor (blades). Three-bladed wind generators are most common, providing a good compromise between efficiency and rotor balance.

Small wind turbines protect themselves from high winds (governing) by

tilting the rotor up or to the side, or by changing the pitch of the blades. Electricity is transmitted down the tower on wires, most often as three-phase wild alternating current (AC).

It's called "wild" because the voltage and frequency vary with the rotational speed of the wind turbine. The output is then rectified to direct current (DC) to charge batteries or to be inverted for grid connection.

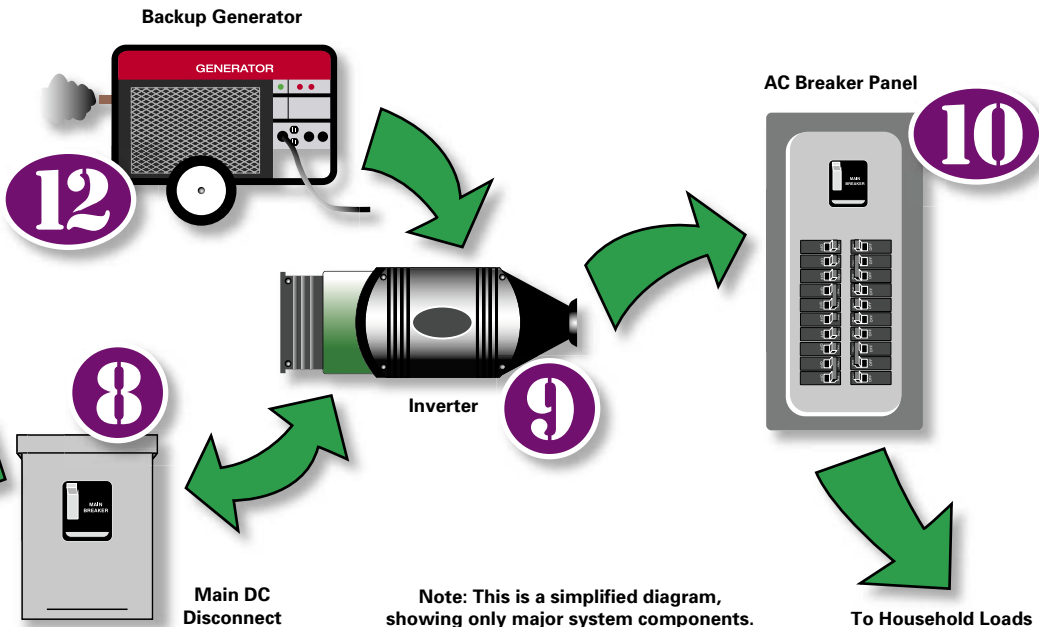


# 2 Tower



A wind generator tower is very often more expensive than the turbine. The tower puts the turbine up in the "fuel"—the smooth strong winds that give the most energy. Wind turbines should be sited at least 30 feet (9 m) higher than anything within 500 feet (152 m).

Three common types of towers are tilt-up, fixed-guyed, and freestanding. Towers must be specifically engineered for the lateral thrust and weight of the turbine, and should be adequately grounded to protect your equipment against lightning damage. See my article "Wind Generator Tower Basics" in *HP105* for information about choosing a tower.



### 3 Brake

AKA: emergency shutdown mechanism

Most wind turbines have some means of stopping the turbine for repairs, in an emergency, for routine maintenance, or when the energy is not needed. Many turbines have "dynamic braking," which simply shorts out the three electrical phases and acts as a disconnect. Others have mechanical braking, either via a disc or drum brake, activated by a small winch at the base of the tower. Still others have mechanical furling, which swings the rotor out of the wind. Mechanical braking is usually more effective and reliable than dynamic braking.

### 4 Charge Controller

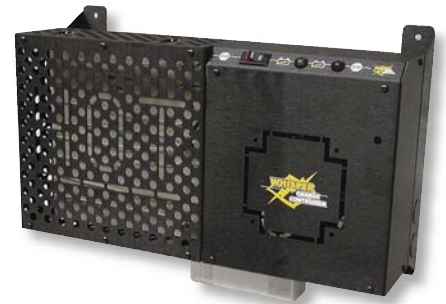
AKA: controller, regulator



A wind-electric charge controller's primary function is to protect your battery bank from overcharging. It does this by monitoring the battery bank—when the bank is fully charged, the controller sends energy from the battery bank to a dump (diversion) load.

Many wind-electric charge controllers are built into the same box as the rectifiers (AC-to-DC converters). Overcurrent protection is needed between the battery and controller/dump load.

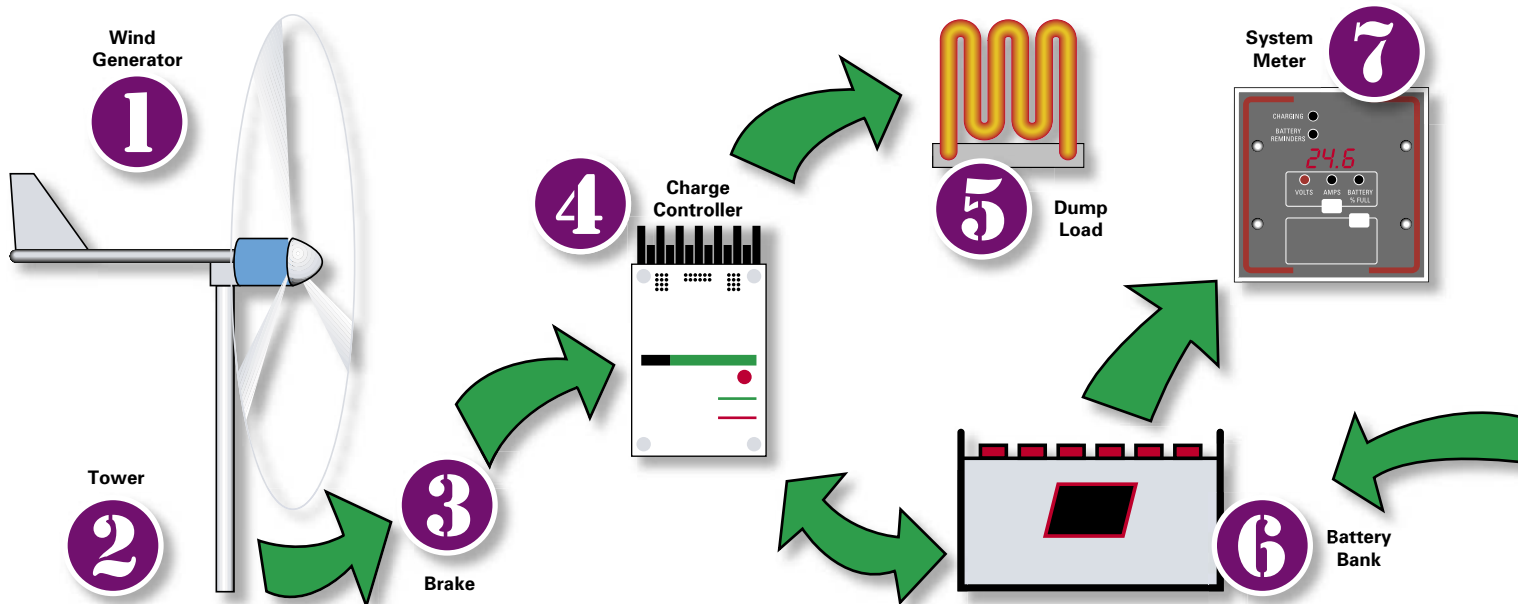
In batteryless grid-tie systems, there is no controller in normal operation, since the inverter is selling whatever energy the turbine is generating. But there will be some control function in the case of grid failure, and there may be electronics before the inverter to regulate the input voltage.



## GRID-TIED WIND-ELECTRIC SYSTEM WITH BATTERY BACKUP

Connecting a wind-electric system to the utility grid with battery backup gives you the best of both worlds. You have the unlimited capacity of the grid at your disposal, and you can send your surplus wind energy to the grid. When the grid is down, you can still use your system, within the

limitations of the battery bank and turbine. Wind-electric systems can be a much better match for utility backup than solar-electric systems, since many grid outages are caused by high winds. The drawback is that this is the most expensive type of wind-electric system you can install.



## 5

**Dump Load** AKA: *diversion load, shunt load*

Solar-electric modules can be turned off—open circuited—with no damage. Most wind generators should not run unloaded. They will run too fast and too loud, and may self-destruct. They must be connected to a battery bank or load. So normally, a charge controller that has the capability of being a diversion controller is used. A diversion controller takes surplus energy from the battery bank and sends it to a dump load. In contrast, a

series controller (commonly used in PV systems), actually opens the circuit.

A dump load is an electrical resistance heater, and it must be sized to handle the full generating capacity of the wind generator used. These dump loads can be air or water heaters, and are activated by the charge controller whenever the batteries or the grid cannot accept the energy being produced.

## 6

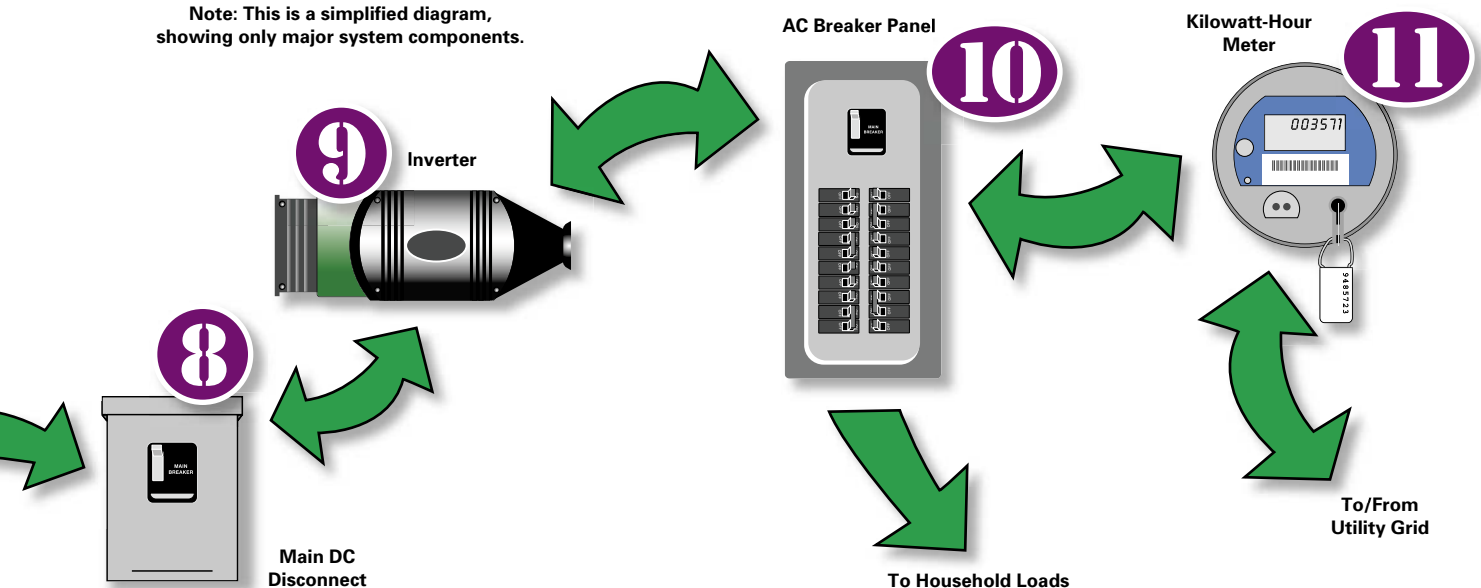
**Battery Bank** AKA: *storage battery*

Your wind generator will produce electricity whenever the wind blows above the cut-in speed. If your system is off grid, you'll need a battery bank—a group of batteries wired together—to store energy so you can have electricity when it's not windy. For off-grid systems, battery banks are typically sized to keep household electricity running for one to three calm days. Grid-intertied systems also can include battery banks to provide emergency backup during blackouts—perfect for keeping critical electric loads operating until the grid is up again.



Use only deep-cycle batteries in wind-electric systems. Lead-acid batteries are the most common battery type. Flooded lead-acid batteries are usually the least expensive, but require adding distilled water occasionally to replenish water lost during the normal charging process. Sealed absorbed glass mat (AGM) batteries are maintenance free and designed for grid-tied systems where the batteries are typically kept at a full state of charge. Sealed gel-cell batteries can be a good choice to use in unheated spaces due to their freeze-resistant qualities.

Note: This is a simplified diagram, showing only major system components.



7

## System Meter

AKA: battery monitor, amp-hour meter, watt-hour meter

System meters can measure and display several different aspects of your wind-electric system's performance and status—tracking how full your battery bank is, how much electricity your wind generator is producing or has produced, and how much electricity is in use. Operating your system without metering is like running your car without any gauges—although possible to do, it's always better to know how much fuel is in the tank.



8

## Main DC Disconnect

AKA: battery / inverter disconnect

In battery-based systems, a disconnect between the batteries and inverter is required. This disconnect is typically a large, DC-rated breaker mounted in a sheet metal enclosure. This breaker allows the inverter to be quickly disconnected from the batteries for service, and protects the inverter-to-battery wiring against electrical fires.

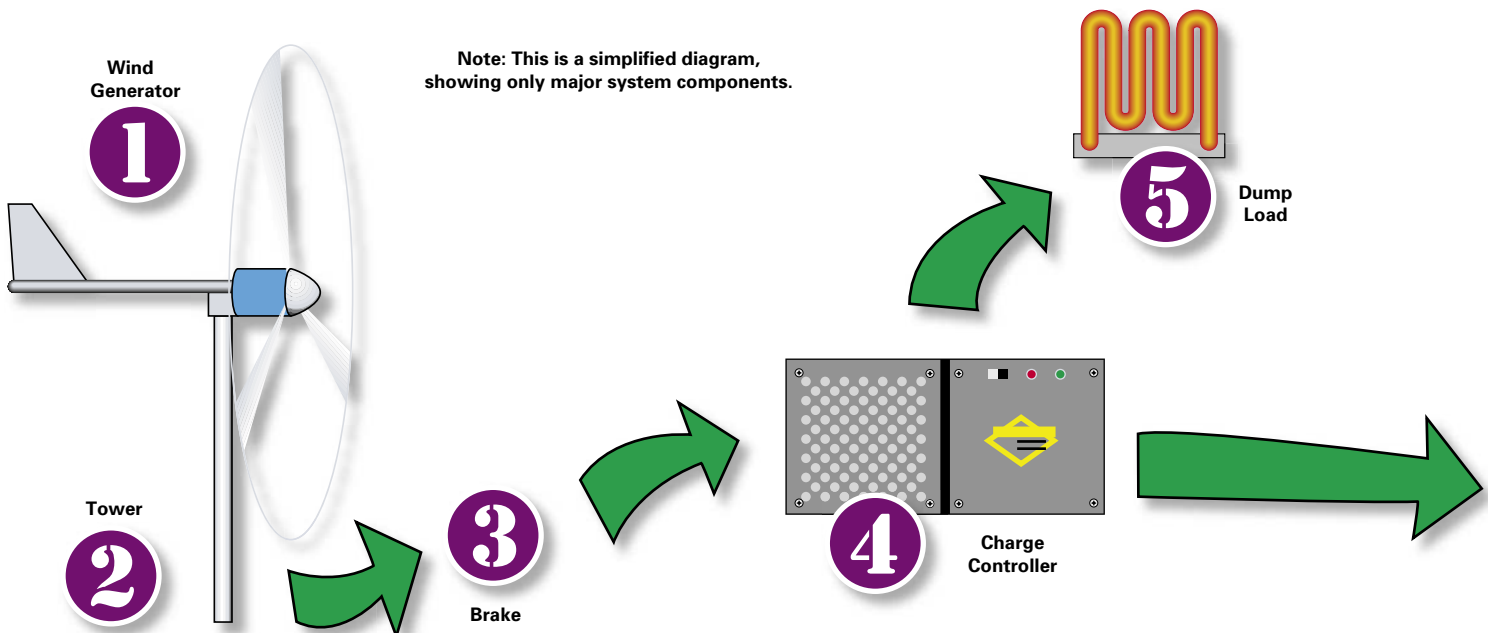


# BATTERYLESS GRID-TIED WIND-ELECTRIC SYSTEM

Connecting to the grid without batteries is the most cost-effective and environmentally friendly way to go. You eliminate batteries, which are costly, require maintenance, and carry a significant efficiency penalty. The only drawback of batteryless systems is that when the grid is down, your system shuts down. But in most grid-serviced areas, utility outages are only a few hours a year—a small inconvenience to endure for the efficiency, environmental friendliness, and thriftiness of these systems.

Batteryless grid-tie systems may see increased performance (sometimes dramatically) from the wind turbine compared to battery-based systems. This is because the inverter's electronics can match the wind's load more exactly, running the turbine at optimum speed, and extracting the maximum energy.

Note: This is a simplified diagram, showing only major system components.



# 9 Inverter

AKA: DC-to-AC converter



Inverters transform the electricity produced by your wind generator into the AC electricity commonly used in most homes for powering lights and appliances. Grid-tied inverters synchronize the electricity they produce with

the grid's "utility grade" AC electricity, allowing the system to feed wind electricity to the utility grid.

Grid-tie inverters are either designed to operate with or without batteries. Battery-based inverters for off-grid or grid-tie systems often include a battery charger, which is capable of charging a battery bank from either the grid or a backup generator during cloudy weather.

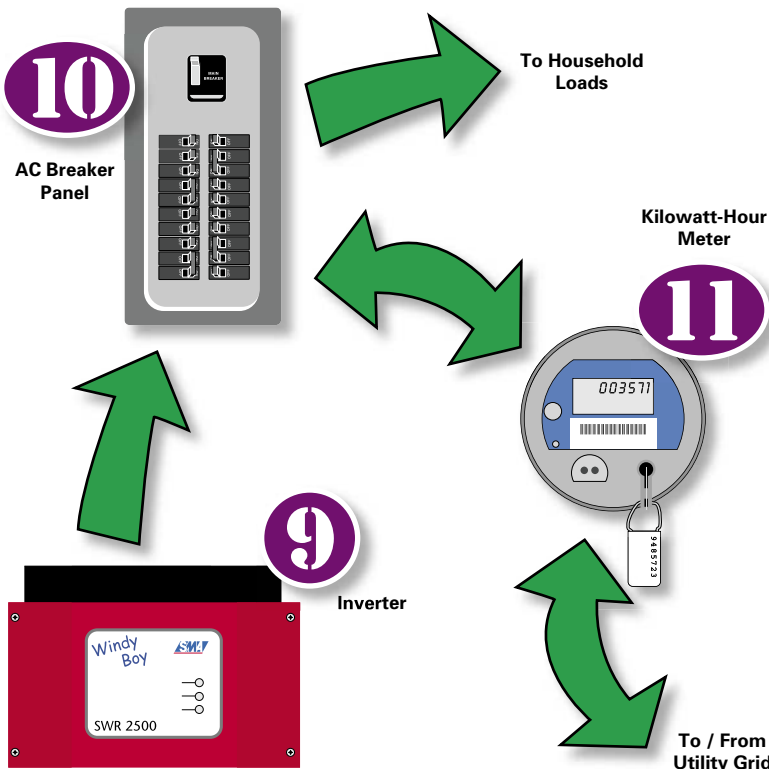


# 10 AC Breaker Panel

AKA: mains panel, breaker box, fuse box

The AC breaker panel, or mains panel, is the point at which all of a home's electrical wiring meets with the "provider" of the electricity, whether that's the grid or a wind-electric system. This wall-mounted panel or box is usually installed in a utility room, basement, garage, or on the exterior of the building. It contains a number of labeled circuit breakers that route electricity to the various rooms throughout a house. These breakers allow electricity to be disconnected for servicing, and also protect the building's wiring against electrical fires.

Just like the electrical circuits in your home or office, an inverter's electrical output needs to be routed through an AC circuit breaker. This breaker is usually mounted inside the building's mains panel. It enables the inverter to be disconnected from either the grid or from electrical loads if servicing is necessary. The breaker also safeguards the circuit's electrical wiring.



# 11 Kilowatt-Hour Meter

AKA: KWH meter, utility meter

Most homes with a grid-tied wind-electric system will have AC electricity both coming from and going to the electric utility grid.

A bidirectional KWH meter can simultaneously keep track of how much electricity you're using and how much your system is producing. The utility company often provides intertie-capable meters at no cost.



# 12 Backup Generator *AKA: gas-guzzler, "the Noise"*

Off-grid wind-electric systems can be sized to provide electricity during calm periods when the wind doesn't blow. But sizing a system to cover a worst-case scenario, like several calm weeks during the summer, can result in a very large, expensive system that will rarely get used to its capacity, and will run a huge surplus in windy times. To spare your pocketbook, go with at least two sources of

energy. Wind-PV hybrid systems are often an excellent fit with local renewable resources. But a backup, fuel-powered generator still may be necessary.

Engine-generators can be fueled with biodiesel, petroleum diesel, gasoline, or propane, depending on the design. Most generators produce AC electricity that a battery charger (either stand-alone or incorporated into an inverter) converts to DC energy, which is stored in batteries. Like most internal combustion engines, generators tend to be loud and stinky, but a well-designed renewable energy system will require running them 50 to 200 hours a year or less.



## DIRECT-DRIVE BATTERYLESS WIND-ELECTRIC SYSTEM

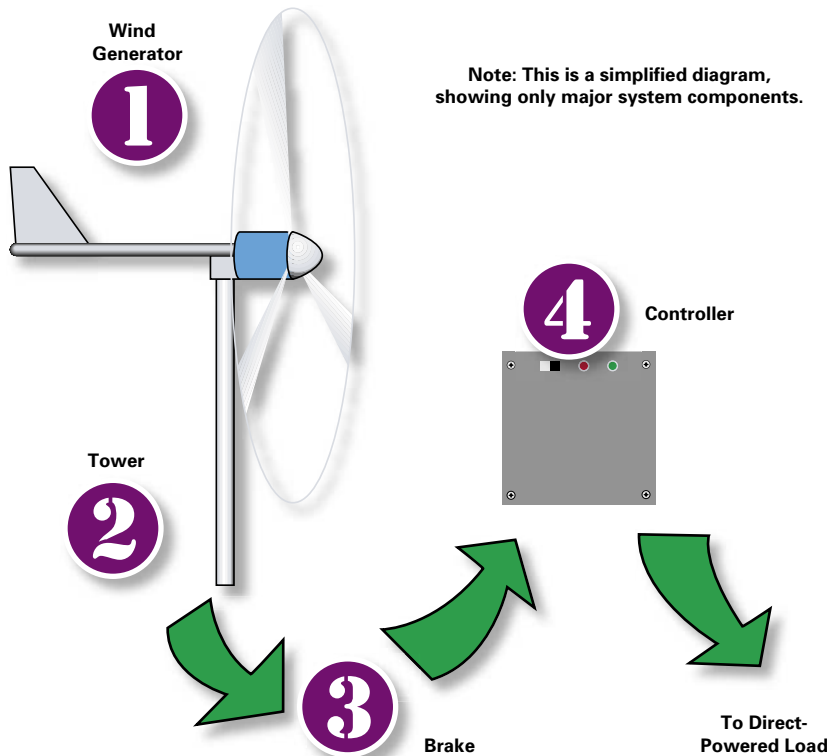
These are the least common wind-electric systems, typically used for water pumping. A turbine is matched to a pump, often through an electronic controller. When the wind blows, water is pumped to an elevated tank, a stock-watering tank, or directly to the land to irrigate. These systems can be simple and cost effective in the right situation. Direct-drive systems are also used for heating, which can be a good match, since it's normally colder when it's windy. But heating is a big load, so large turbines are needed.

## Do It Right & Harvest the Wind

If you want a simple, reliable, maintenance-free renewable electricity system, buy solar-electric modules. Wind-electric systems are not for the faint-of-heart, and will probably never be a simple "appliance" that you can install and forget about. These are spinning machines in a very harsh environment. You don't expect your car to operate without maintenance, and you choose and drive it carefully to avoid accidents. The same is true of wind-electric systems—the renewable energy systems that take the most maintenance, and have the highest potential for problems. Wind-electric systems are very satisfying when they work, but very disappointing (and visible) when they don't.

Don't buy cheap equipment, and do buy a tall tower! Buy the best turbine for your site, regardless of price, and put it on the tallest tower possible. Investing in quality up front will pay off in the long term. Almost all of the disappointment I hear about from wind energy users is related to buying lightweight equipment for heavy-duty sites, or installing equipment on towers that are not well above surrounding obstructions.

If you do it right, wind energy can be the most satisfying of the renewable energy technologies. There's nothing quite like watching a wind generator spinning, filling up your battery bank or sending energy to the grid. When the wind blows, you may need to button up your overcoat, but you'll get a warm feeling, knowing that the wind is working for you.



### Access

Ian Woofenden, PO Box 1001, Anacortes, WA 98221 • [ian.woofenden@homepower.com](mailto:ian.woofenden@homepower.com)





**City Council  
Agenda Memo**



**City Council  
Meeting Date: 12/15/11**

**TO: Larry D. Gilley, City Manager**

**FROM: Richard Burdine, Assistance City Manager for Economic Development**

**SUBJECT: Renewal of Contract with National Development Council**

**GENERAL INFORMATION**

The City of Abilene is renewing its contract with the National Development Council (NDC) to provide professional services to assist the City in accomplishing its community and economic development objectives. NDC is a private nonprofit corporation that specializes in economic development technical assistance, project development and affordable housing development. NDC will provide technical assistance to the City in the following areas: comprehensive program development, downtown revitalization, and economic development project review. In addition, NDC will provide development services toward specific, residential project development in a neighborhood targeted for revitalization. The total contract amount is \$72,000.

**SPECIAL CONSIDERATIONS**

There is no approved allocation from the FY2011/2012 Community Development Block Grant (CDBG) for CDBG administration due to a lack of available funds. The National Development Council Foundation approved this year a reinvestment fund grant for \$12,000, which means the City would pay \$60,000 of the \$72,000 contract amount. The remaining funding will be contributed by the DCOA through the Department of Economic Development and the General Fund.

**FUNDING/FISCAL IMPACT**

Funds will be paid out of the FY2012 budgets for General Fund Special Services (\$20,000) and Economic Development (\$40,000).

**STAFF RECOMMENDATION**

Staff recommends approval by written resolution.

**BOARD OR COMMISSION RECOMMENDATION**

None.

**ATTACHMENTS**

Resolution  
Contract is available for review in the City Secretary's office.

Prepared by:

Name: Kim Tarrant \_\_\_\_\_

Title: Business Services Mgr \_\_\_\_\_

Item No. 6.9 \_\_\_\_\_

Disposition by City Council

- Approved      Ord/Res# \_\_\_\_\_
- Denied      \_\_\_\_\_
- Other      \_\_\_\_\_

\_\_\_\_\_  
City Secretary

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING THE FY 2011-2012 CONTRACT BETWEEN THE CITY OF ABILENE AND THE NATIONAL DEVELOPMENT COUNCIL.

WHEREAS, it is desirable and in the public interest that the City of Abilene renew the contract between the City of Abilene and the National Development Council (NDC); and,

WHEREAS, the primary objective of the Community Development Program is to develop a viable urban community, including decent housing and a suitable living environment, and to expand economic opportunities principally for persons of low- and moderate-income. Consistent with the primary objective, the Federal assistance provided in the Community Development Program is for the support of the community development goals, objectives, and strategies which are eligible under applicable Federal regulations; and,

WHEREAS, NDC is a qualified sole-source provider because they are the only organization with the range of services and the necessary experience and capacity to provide a complete set of technical assistance, training, and financial services made available exclusively to city, state, and federal agencies and non-profits; and,

WHEREAS, NDC has been and continues to provide the technical assistance for all legal documents necessary for the City to effectively engage in the HUD Section 108 Loan Program and New Market Tax Credits programs. There is no other entity that combines technical assistance and has an SBA 7(a) small business lending company license dedicated solely to economic and community development; and,

WHEREAS, the continuity in services provided by NDC is critical for the successful completion of the downtown historic preservation; the elimination of slum/blight, and continued economic and community development projects; and,

WHEREAS, that the NDC contract be paid from the following funding: the Department of Economic Development (\$40,000); and the General Fund (\$20,000) and not to exceed the contract total of \$72,000.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

- Part 1. That the contract between the CITY OF ABILENE and the NATIONAL DEVELOPMENT COUNCIL for FY 2011-2012 in the total amount of \$72,000 is hereby approved. Funding of \$60,000 is approved to cover the shortfall left after a \$12,000 National Development Council Foundation grant is applied.
- Part 2. That the City Manager, or his designee, is hereby authorized to sign said application and any and all appurtenant documents on behalf of the City.

Part 3. That this resolution shall take effect immediately from and after its passage.

ADOPTED this the 15th day of December 2011.

ATTEST:

\_\_\_\_\_  
Danette Dunlap, City Secretary

\_\_\_\_\_  
Norm Archibald, Mayor

APPROVED:

\_\_\_\_\_  
T. Daniel Santee, City Attorney

City Council  
Agenda Memo



City Council  
Meeting Date: 12-15-11

**TO:** Larry Gilley, City Manager  
**FROM:** T. Daniel Santee, II, City Attorney  
**SUBJECT:** Reappointment of Assistant Municipal Court Judge

**GENERAL INFORMATION**

The Charter allows for the appointment of Assistant Municipal Court Judges who may preside over court in the event Judge Barton is unavailable or must recuse himself from hearing a case. I am requesting the Council reappoint the Assistant Municipal Court Judge set forth in the attached resolution effective December 1, 2011 to coincide with the term for Judge Barton. He is only compensated for the time he serves in a judicial capacity.

**SPECIAL CONSIDERATIONS**

None.

**FUNDING/FISCAL IMPACT**

None, position is presently budgeted.

**STAFF RECOMMENDATION**

Approval.

**ATTACHMENTS**

Resolution

Prepared by:

Name: T. Daniel Santee, II

Title: City Attorney

Item No. 6.10

Disposition by City Council

Approved Ord/Res# \_\_\_\_\_

Denied \_\_\_\_\_

Other \_\_\_\_\_

\_\_\_\_\_  
City Secretary

RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPOINTING AN ASSISTANT MUNICIPAL COURT JUDGE TO ACT IN THE ABSENCE OR UNAVAILABILITY OF THE JUDGE OF THE MUNICIPAL COURT

WHEREAS, there are occasions when the Judge of the Municipal Court is temporarily unable to serve; and,

WHEREAS, the Charter of the City of Abilene provides for the appointment of Assistant Municipal Court Judge to act when the Municipal Court Judge is unavailable; and,

WHEREAS, the Judge of the Municipal Court has contracted Evan Rutledge, qualified and competent attorney, who has agreed to serve in the absence of the Judge and recommends his reappointment as Assistant Municipal Judge, in accordance with the City Charter of the City of Abilene; now, therefore;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the City Council of the City of Abilene hereby approves of the appointment of Evan Rutledge as Assistant Municipal Court Judge of Abilene, Texas, and hereby authorizes the Mayor to appoint Evan Rutledge for a term of two (2) years beginning December 01, 2011 and continuing through December 01, 2013.

PART 2: That Evan Rutledge shall be paid only for the actual time that he serves as Assistant Municipal Court Judge.

PART 3: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 15<sup>th</sup> day of December, 2011.

ATTEST:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor

APPROVED:

\_\_\_\_\_  
City Attorney