

**City Council  
Agenda Memo**



**City Council  
Meeting Date: March 22, 2012**

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

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

**SUBJECT: First reading on an ordinance amending “Chapter 6 – Animals” of the City of Abilene Code of Ordinances and setting a public hearing for December 15.**

**GENERAL INFORMATION**

As part of an effort to update and modernize the City Code, as well as bringing city ordinances in line with requirements of State law, City staff began the process of updating Chapter 6 of the City Code of Ordinances related to the regulation of animals within the city. A citizen committee, the Animal Ordinance Review Committee, including general citizens, veterinarians, and representatives from local animal organizations met to discuss the ordinance and review various options for amendments. The attached ordinance represents the consensus recommendation of that group and City staff in Animal Services and Legal.

The primary substantive changes include changes regarding the limitation on the number of animals allowed per household, different permit fees for unsterilized animals, regulation of roosters, cleanup after dogs, setting traps, adequate shelter, tethering of dogs, and the definition, procedures, and requirements for dangerous and aggressive dogs.

Additional information, including some comparisons with peer cities, will be provided in the packet for 2<sup>nd</sup> Reading.

**STAFF RECOMMENDATION**

Staff recommends approval of the proposed ordinance.

**ATTACHMENTS**

- Summary of Major Changes
- Ordinance
- Exhibit A – Chapter 6 - Animals
- Dog Attack Decision Flowchart

Prepared by:

Name: Jon James

Title: Planning Director

Item No. 6.1

Disposition by City Council

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

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

## Summary of Major Changes to Animal Ordinance:

### Limitations on the number of animals per household:

- Current Ordinance: No limit in Animal Ordinance, but Zoning limits to 4
- Proposed Ordinance:
  - Apartments and duplexes limited to 3 dogs/cats
  - Homes on less than ½ acre limited to 4 dogs/cats
  - Homes on ½ acre or more limited to 5 dogs/cats
- Other options considered:
  - No limit
  - Increase or decrease # animals allowed

### Sterilization and Intact Animal Permit:

- Current Ordinance: no requirements
- Proposed Ordinance: higher registration fee (\$25) for unsterilized animal (vs. \$10)
- Other options considered: requiring a separate “intact animal permit” available only to licensed breeders

### Impounded Animals:

- Current Ordinance: no requirements for sterilization for impounded animals (animals adopted out of the shelter must be sterilized, however)
- Proposed Ordinance: Any animal impounded into the shelter would either have to be sterilized or registered as an intact animal
- Other options considered: mandatory sterilization after 2<sup>nd</sup> (or 3<sup>rd</sup>) impoundment and/or a higher impound fee for intact animals

### Roosters:

- Current Ordinance: no restrictions
- Proposed Ordinance: allowed only on lots of at least 1 acre, must be confined in an enclosure at least 50 feet from the property line
- Other options considered: limit roosters to agriculturally zoned areas or prohibit roosters anywhere in the city limits

### Cleanup Requirements:

- Current Ordinance: none
- Proposed Ordinance: dog owners are responsible for cleaning up after their pet when off their property; also additional requirement for owner to carry materials for cleanup, such as plastic bags or scoop (this helps with enforcement issues)
- Other options considered: requiring cleanup, but not requiring materials on hand; no requirements at all

### Traps:

- Current Ordinance: prohibits steel jaw or other spring loaded “killer” traps, except in Agricultural-Open Space zoning
- Proposed Ordinance: prohibits these traps citywide

## Summary of Major Changes to Animal Ordinance:

### Adequate Shelter:

- Current Ordinance: requires three-sided structure with a cover or roof and a floor that keeps the animal dry and provides protection from the weather
- Proposed Ordinance: adds an additional requirement that a dog yard is of sufficient size for the number and size of dogs present and better defines the requirements for a doghouse

### Tethering:

- Current Ordinance: cannot tether in a way that allows the dog off their property; cannot cause injury or pain; must be able to reach food, water, and shelter; and tether must be at least 10 feet in length with swivel ends
- Proposed Ordinance: adds the requirements that a dog may only be tethered in a rear yard, unless the owner is within 10 feet of the animal, and in any case cannot tether for more than 4 hours per day

### Dangerous Dog Determination:

- Current Ordinance: a dog can be deemed **dangerous** if it causes “bodily injury” to a person or “serious bodily injury” or death to a domestic animal (must be unprovoked attack and outside the dog’s own enclosure)
- Proposed Ordinance – Dangerous Dogs: keeps current dangerous definition the same, but adds:
  - A dog is also **dangerous** if there is “serious bodily injury” to a person even if the dog is inside its own enclosure
  - Also can be deemed **dangerous** based on the threat of an attack, per state law
  - Also considered **dangerous** upon 3<sup>rd</sup> action deeming a dog **aggressive**
- Proposed Ordinance – Aggressive Dogs: Adds a new classification for an **aggressive** dog, which can be applied if:
  - It causes “bodily injury” to a domestic animal outside of the dog’s enclosure OR a dog that has shown a propensity or tendency to attack without provocation, to cause injury, or otherwise threaten a domestic animal
- Other options considered:
  - Also considered **aggressive** if the dog causes a person to seek defensive action on 2 occasions within a 3 year period

### Dangerous Dog Procedures:

- Current Ordinance:
  - initial determination by a 5 person committee (4 Animal Control Officers + Animal Services Manager) – majority vote required
  - Appeal to Municipal Court
- Proposed Ordinance:
  - Initial determination by a Dog Attack Committee (makeup of committee is not established in the ordinance, but will be established by policy)
    - Staff and Ordinance Review Committee recommend against a citizen committee due to issues of timing and expertise
  - Appeal to Municipal Court

## Summary of Major Changes to Animal Ordinance:

### **Dangerous Dog Requirements:**

- Current Ordinance:
  - Requires secure enclosure, \$100,000 insurance, microchipping, posted sign, animal on leash and muzzle when outside enclosure, 30 days to comply
- Proposed Ordinance:
  - Same as above, but increases insurance requirement to \$250,000, requires sterilization of animal, and reduced compliance period to 15 days

### **Aggressive Dog Requirements:**

- Current Ordinance: none (currently no “aggressive” designation)
- Proposed Ordinance:
  - Same as for a dangerous dog, except no insurance requirement and no posting of a sign on the property

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

**AN ORDINANCE AMENDING, CHAPTER 6 OF THE CODE OF THE CITY OF ABILENE BY ADOPTING A COMPREHENSIVE REVISION OF CHAPTER 6: ANIMALS AND FOWL; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.**

**WHEREAS**, there is a need to modernize the city code of ordinances, including Chapter 6, Animals and Fowl; and

**WHEREAS**, a citizen committee, the Animal Ordinance Review Committee has worked with city staff to make recommendations regarding the content of an animal ordinance revision;

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

**PART 1:** That Chapter 6 of the Code of Ordinances be amended in its entirety and superseded by the new Chapter 6, as set forth in Exhibit A, attached hereto.

**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 22<sup>nd</sup> day of March, 2012.**

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 8<sup>th</sup> day of April, 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 12<sup>th</sup> day of April, 2012, to permit the public to be heard.

**PASSED ON SECOND AND FINAL READING this 12<sup>th</sup> day of April, 2012.**

ATTEST:

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

\_\_\_\_\_  
MAYOR

APPROVED:

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

Exhibit A

**CHAPTER 6  
ANIMALS**

ARTICLE I. GENERAL.

Sec. 6-1.1 Definitions.

Sec. 6-1.2 Purpose and Scope.

Sec. 6-1.3 Enforcement.

Sec. 6-1.4 Right of Entry.

Sec. 6-1.5 Interference with a City Enforcement Agent.

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ARTICLE II. ANIMAL SERVICES; CITY ANIMAL SHELTERS.

Sec. 6-2.1 State law; local rabies control established and authority designated.

Sec. 6-2.2 Shelters established.

Sec. 6-2.3 Policies and procedures.

Sec. 6-2.4 Quarantine of animals.

Sec. 6-2.5 Impoundment of animals.

Sec. 6-2.6 Redemption of impounded animals.

Sec. 6-2.7 Adoption of animals.

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ARTICLE III. CARE AND TREATMENT OF ANIMALS.

Sec. 6-3.1 Proper restraint; Tethering.

Sec. 6-3.2 Confinement requirements for dogs kept outdoors.

Sec. 6-3.3 Sanitary conditions; maintenance of premises; and excessive noise.

Sec. 6-3.4 Trapping animals.

Sec. 6-3.5 Inhumane treatment and disposition of animals.

Sec. 6-3.6 Seizure of inhumanely treated animals.

Sec. 6-3.7 Application for status hearing.

Sec. 6-3.8 Status Hearing.

Sec. 6-3.9 Prosecution.

#### ARTICLE IV. SPECIFIC REQUIREMENTS FOR PET OWNERS.

Sec. 6-4.1 Vaccination of dogs, cats and ferrets.

Sec. 6-4.2 Authorized registrars.

Sec. 6-4.3 Registration of dogs and cats.

Sec. 6-4.4 Sterilization requirements for dogs and cats; Intact animal permits.

Sec. 6-4.5 Reserved.

Sec. 6-4.6 Sale of pets in general.

Sec. 6-4.7 Sale of dogs and cats, four (4) months of age or older.

Sec. 6-4.8 Limitation on the number of dogs and cats in dwelling units.

Sec. 6-4.9 Defecation of dogs.

#### ARTICLE V. AGGRESSIVE AND DANGEROUS DOGS.

Sec. 6-5.1 Applicability.

Sec. 6-5.2 Definitions.

Sec. 6-5.3 Report.

Sec. 6-5.4 Determination.

Sec. 6-5.5 Appeal hearing.



Sec. 6-5.6 Requirements for aggressive dog and dangerous dog owners.

Sec. 6-5.7 Additional requirements for aggressive dog owners.

Sec. 6-5.8 Additional requirements for dangerous dog owners.

Sec. 6-5.9 Non-compliance.

Sec. 6-5.10 Owner Notification of attacks.

Sec. 6-5.11 Offenses.

Sec. 6-5.12 Affirmative defenses.

Sec. 6-5.13 Exemptions.

#### ARTICLE VI. PROHIBITED AND REGULATED ANIMALS.

Sec. 6-6.1 Prohibited animals.

Sec. 6-6.2 Keeping of roosters.

Sec. 6-6.3 Keeping of swine.

#### ARTICLE VII. VIOLATIONS, AND PENALTIES.

Sec. 6-7.1 Violations; criminal and civil penalties.

Sec. 6-7.2 Additional penalties for dangerous dog owners.

## **ARTICLE I. GENERAL.**

### **SEC. 6-1.1. DEFINITIONS.**

In this chapter:

- (1) **ADOPTER** means a person, eighteen (18) years of age or older, who adopts an animal from a City of Abilene animal shelter.
- (2) **ADOPTION AGENCY** means an animal welfare organization or animal placement group approved by the director to take impounded dogs and cats from animal services for adoption to the public.
- (3) **ANIMAL SERVICES** means the department designated by the director for the purpose of animal care, control and enforcement of this chapter.
- (4) **ANIMAL SERVICES MANAGER** means the person designated by the city manager or designee to supervise all aspects of Animal Services.
- (5) **ANIMAL SHELTER** means a city authorized facility established for impoundment, quarantine, care, adoption, euthanasia, and other disposition of unwanted, stray, diseased, aggressive or dangerous animals.
- (6) **ANIMAL WELFARE ORGANIZATION** means a non-profit organization incorporated under state law, whose principal purpose is to prevent animal cruelty, rescue sick, injured, abused, neglected, unwanted, abandoned, orphaned, lost, or displaced animals and place them through adoption.
- (7) **AUTHORIZED REGISTRAR** means a person that has been approved by the animal services manager to register sterilized dogs and cats in compliance with this chapter.
- (8) **CITY ENFORCEMENT AGENT** means any Animal Services officer or peace officer certified by the State of Texas.
- (9) **CURRENTLY VACCINATED** means vaccinated against rabies by a licensed veterinarian, with a rabies vaccine licensed by the U.S. Department of Agriculture, and:
  - (a) not more than twelve (12) months have elapsed since the animal's most recent vaccination date, if the most recent vaccination was with a one-year rabies vaccine or was the animal's initial vaccination; or
  - (b) not more than thirty-six (36) months have elapsed since the animal's most recent vaccination date, if the most recent vaccination was with a three-year rabies vaccine and the animal is a dog or cat that has received at least two vaccinations.
- (10) **DIRECTOR** means the head of the department designated by the city manager to supervise all aspects of Animal Services.
- (11) **DOMESTIC ANIMAL** means:
  - (a) livestock;
  - (b) dogs;

- (c) cats;
  - (d) ferrets;
  - (e) any bird, other than one in the Falconiforms or Strigiforms Order, that is commonly kept as a human's companion;
  - (f) any "pocket pet," such as a mouse, hamster, gerbil, guinea pig, or rabbit, that is commonly kept as a human's companion;
  - (g) any fish, such as a goldfish or tropical fish, that is commonly kept as a human's companion; and
  - (h) any non-venomous and non-constrictor reptile or amphibian that is commonly kept as a human's companion.
- (12) DWELLING UNIT has the meaning given to it in the City of Abilene Land Development Code, as amended.
- (13) EUTHANASIA means to put an animal to death in a humane manner.
- (14) FENCED YARD means an area that is completely surrounded by a substantial fence of sufficient strength, height, construction, materials, and design, to include properly installed and maintained invisible electronic fences, which prevents:
- (a) any animal confined within from escaping; or
  - (b) the head of a dog confined within from extending over, under, or through the fence.
- (15) FERAL animal means any homeless, wild, or untamed animal.
- (16) HARBOR means the act of keeping or caring for an animal or providing food or shelter at a location to which the animal returns
- (17) KENNEL means any lot, building, structure, enclosure, or premises wherein six (6) or more animals, four (4) months of age or older, are kept or maintained for the purpose of breeding, training, boarding, or raising for profit or pleasure.
- (18) LICENSED VETERINARIAN means a person licensed to practice veterinary medicine within the United States, or an authorized representative under that person's direct supervision.
- (19) LIVESTOCK means any fowl, horse, mule, burro, ass, cattle, sheep, swine, goat, llama, emu, ostrich, camel, or other common farm animal.
- (20) MICROCHIP IMPLANT means a passive electronic device that is injected into an animal by means of a pre-packaged sterilized implanting device for purposes of identification and/or the recovery of the animal by its owner.
- (21) OWN means to have legal right of possession, harbor or to otherwise have care custody, possession, or control of an animal.
- (22) OWNER means a person, 18 years of age or older, that owns an animal.
- (23) PERMITTEE means a person issued an intact animal permit under Section 6-4.4 of this chapter.

- (24) PET means a domestic animal to be kept as a human's companion
- (25) PROHIBITED ANIMAL means any
- (a) high risk rabies carriers, as defined in state law, including bats, skunks, coyotes, raccoons, and foxes;
  - (b) venomous reptiles and amphibians;
  - (c) wild animal whose normal mature weight exceeds forty (40) pounds or
  - (d) "dangerous wild animal" as defined in the Texas Health and Safety Code, as amended.
- (26) PROTECTIVE CUSTODY means the holding of an animal at a City of Abilene animal shelter:
- (a) due to the arrest, eviction, hospitalization, or death of the animal's owner; or
  - (b) at the request of a law enforcement agency.
- (27) RESTRAIN means
- (a) to have an animal under the control of a person by leash;;
  - (b) to confine an animal in a fenced yard or other enclosed structure or
  - (c) to have an animal under control by a competent person's voice command.
- (28) RETAIL PET STORE means a business that regularly sells animals for pet purposes to an ultimate owner. The term includes any owner, operator, agent, or employee of the business.
- (29) SERVICE ANIMAL means the definition given by the Americans with Disabilities Act, as amended.
- (30) STRAY means any unrestrained domestic animal whose owner has not been located.
- (31) WILD ANIMAL means any animal of wild nature or disposition so as to require to be reclaimed and made tame by art, industry, or education, or else must be kept in confinement to be brought within the immediate control of the owner.

## **SEC. 6-1.2 PURPOSE; SCOPE.**

- (1) It is the purpose of this chapter:
- (a) To provide regulations by which the transmission of rabies to human beings and domestic animals can be prevented and controlled in the city;
  - (b) To decrease the number of unwanted and stray dogs and cats in the city;
  - (c) To encourage responsible animal ownership; and
  - (d) To protect the public health, safety and welfare of the city.
  - (e) The provisions of this chapter shall not be construed to authorize the keeping of any animal in violation of any other city ordinance, state or federal statute or law.

**SEC. 6-1.3. ENFORCEMENT.**

It shall be the duty of the city enforcement agent to enforce the provisions of this chapter unless otherwise provided by law or this chapter.

**SEC. 6-1.4. RIGHT OF ENTRY.**

City enforcement agents have the right to pursue and apprehend animals running at large on private property while enforcing the provisions of this chapter.

**SEC. 6-1.5. INTERFERENCE WITH A CITY ENFORCEMENT AGENT.**

A person shall not interfere with, hinder, or molest a city enforcement agent in the performance of official duties.

**SEC. 6-1.6. PARENT'S ULTIMATE RESPONSIBILITY.**

If an animal is in the possession of a minor, the parent or guardian of said minor is responsible for all actions required of an owner in this chapter and shall be liable for any violations of this chapter by the minor.

**SEC. 6-1.7. FEES.**

All fees shall be determined by the city council from time to time and placed on file in the office of the city secretary.

## **ARTICLE II. ANIMAL SERVICES; CITY ANIMAL SHELTERS.**

### **SEC. 6-2.1. STATE LAW; LOCAL RABIES CONTROL ESTABLISHED AND AUTHORITY DESIGNATED.**

- (1) Authority under this Chapter shall be vested in and delegated to the officials and decision-makers designated in this Article I, under the Charter of the City of Abilene, the constitution and laws of the state of Texas, and the this Code. This authority shall be deemed supplemental to any other authority lawfully conferred upon the officials and decision-makers. The omission of a citation in this Chapter to any authority conferred upon the officials and decision-makers under the Charter of the City of Abilene, the constitution or laws of the state of Texas, or the this Code, or the failure to identify in this article authority conferred by other provisions of this Chapter, shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority
- (2) The city council shall establish a local rabies control authority for purposes of Chapter 826 of the Texas Health and Safety Code, as amended, and shall authorize the city manager or designee to perform the duties required of a local rabies control authority under said and under rules adopted by the Texas Board of Health pursuant to that chapter.

### **SEC. 6-2.2. SHELTERS ESTABLISHED.**

The city council shall have the authority to select and establish one or more animal shelters in the city for impoundment, quarantine, care, adoption, euthanasia, and other humane disposition of unwanted, stray, diseased, or vicious animals.

### **SEC. 6-2.3. POLICIES AND PROCEDURES.**

It shall be the responsibility of the director to develop written policies and procedures for all animal services operations, including standards for city animal shelters; the training of animal services personnel; the care, euthanasia, and disposition of animals in the custody of animal services; the form and maintenance of records relating to impounded animals; and the transfer and adoption of dogs and cats or other domesticated animals.

### **SEC. 6-2.4. QUARANTINE OF ANIMALS.**

- (1) The animal services manager or designee is authorized to quarantine an animal as provided in Chapter 826 of the Texas Health and Safety Code, as amended, and the rules adopted by the Texas Board of Health under that chapter.
- (2) Upon notification by the animal services manager or designee that an animal has bitten or scratched a person the owner must either:

- (a) immediately surrender the animal to an animal shelter;
- (b) immediately deliver the animal to a veterinary clinic, approved by the animal services manager, for quarantine at the owner's expense; or
- (c) immediately quarantine the animal in a secure enclosure, approved by the animal services manager, on the owner's property, in the event this option is approved by the animal services manager.

**SEC. 6-2.5. IMPOUNDMENT OF ANIMALS.**

- (1) City enforcement agents are authorized to seize and impound:
  - (a) any unrestrained animal;
  - (b) any trapped cat that does not have a current registration tag, microchip implant or has not been sterilized, when applicable;
  - (c) any animal subject to protective custody;
  - (d) any animal that is being or has been inhumanely treated pursuant to Section 6-3.5, Inhumane Treatment;
  - (e) any animal required to be quarantined pursuant to Section 6-2.4, Quarantine;
  - (f) any animal seized pursuant to a dangerous dog or owner non-compliance complaint, investigation, warrant or court order;
  - (g) any prohibited animal kept in the city in violation of Section 6-6.1, Prohibited Animals; or
  - (h) any animal posing a threat to the public health or safety.
- (2) If an animal described in Subsection (a) is on private property or property of the animal's owner, the impounding city enforcement agent may enter the property for the purpose of impoundment or issuance of a citation, or both.
- (3) If any of the animals named in this chapter are found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such animal in a humane manner until he can notify a city enforcement agent to come and impound such animal. When so notified, it shall be the duty of the city enforcement agent to have such animal impounded as provided in this article.
- (4) No animal impounded at a city animal shelter or in the custody or control of animal services may be sold, released, or otherwise disposed of for research purposes without the permission of the animal services manager or designee.

**SEC. 6-2.6. REDEMPTION OF IMPOUNDED ANIMALS.**

- (1) To redeem an impounded animal from a city animal shelter, the owner of the animal must provide proof of ownership and pay to Animal Services the following applicable fee(s):
  - (a) Impoundment fee;
  - (b) Boarding fee;
  - (c) Rabies vaccination fee for a dog, cat, or ferret if the owner cannot show either:
    1. a current certificate of vaccination for the animal; or
    2. proof that the animal was not vaccinated due to health reasons as verified by a licensed veterinarian;
  - (d) Registration fee for a dog or cat, if the owner cannot show proof of current registration;
  - (e) Microchip implant and initial national registration of a dog or cat, fee unless:
    1. the animal was injected with a microchip implant prior to impoundment; or
    2. a licensed veterinarian certifies that the animal should not be injected with a microchip implant for health reasons; and
  - (f) Sterilization fee for a dog or cat, unless:
    1. the animal was spayed or neutered prior to impoundment;
    2. the animal is under six (6) months of age;
    3. a licensed veterinarian certifies that the dog or cat should not be spayed or neutered for health reasons or is permanently non-fertile;
    4. the animal is a service animal; or
    5. the owner of the animal has, or obtains at the time of redemption, a valid intact animal permit for the animal under Section 6-4.4 of this chapter.
- (2) The redemption period for an animal impounded in the City of Abilene animal shelter, other than for quarantine or pursuant to a court order, is:
  - (a) Three (3) business days after the date of impoundment, unless Paragraph (b) or (c) of this subsection applies to the animal;
  - (b) Seven (7) business days after the date of impoundment if:
    1. the animal is wearing a legible tag or has a microchip implant identifying its owner; or
    2. the animal services manager or designee has reason to believe the animal has an owner; or
  - (c) Seven (7) business days after the date of impoundment if the animal is being held for protective custody.



- (3) The redemption period for an animal impounded pursuant to a court order is the time set forth in the court order or, if no provision is made in the court order, five (5) business days after the owner's time to appeal said order has elapsed.
- (4) The redemption period for an animal impounded for quarantine is three (3) business days after completion of the quarantine period.
- (5) If an animal is not redeemed within the appropriate time period specified in Subsections (2) through (4), the animal will become the property of the city and may be placed for adoption, euthanized, or otherwise disposed of as recommended by the animal services manager or designee.
- (6) An owner of an impounded animal shall not remove or attempt to remove the animal from a city animal shelter without first paying all applicable fees in Subsection (a) of this section.

#### **SEC. 6-2.7. ADOPTION OF ANIMALS.**

- (1) To adopt a dog or cat from a City of Abilene animal shelter, the prospective adopter shall, as required by Animal Services:
  - (a) complete an adoption profile and upon approval;
  - (b) sign an adoption agreement; and
  - (c) pay Animal Services any applicable fees including,
    1. a non-refundable adoption fee for a dog or cat (which includes, but is not limited to, the costs of any required vaccination, microchip implant, initial national registration, and sterilization); and
    2. a registration fee per dog or cat the prospective adopter intends to adopt
  - (d) sign a sterilization agreement for each dog or cat the prospective adopter intends to adopt
- (2) The adoption policies and procedures for all other animals in the possession of Animal Services, shall be determined by the animal services manager and made known to the public in a timely manner.
- (3) The animal services manager may refuse to release an animal to a prospective adopter if:
  - (a) the prospective adopter has previously been convicted of violating a provision of this chapter or has been convicted of animal cruelty as defined by Chapter 42 Texas Penal Code;
  - (b) the animal services manager has evidence that indicates that the health, safety, or welfare of the animal would be endangered by the prospective adopter.

**SEC. 6-2.8. EUTHANASIA AND ERADICATION OF ANIMALS.**

- (1) The animal services manager or designee is authorized to euthanize, or to allow a licensed veterinarian to euthanize any animal if:
  - (a) the animal services manager or designee or a licensed veterinarian determines that euthanasia is necessary to prevent the unnecessary pain and suffering of the animal;
  - (b) the animal services manager or designee or a licensed veterinarian determines that recovery of the animal from injury, disease, or sickness is in serious doubt; or
  - (c) the animal is not redeemed from a city animal shelter within the applicable time period required under Section 6-2.6 of this chapter.
- (2) An animal may only be euthanized by using a barbiturate or derivative substance approved for that purpose by the Federal Food and Drug Administration and administered under the direction of a licensed veterinarian. This section does not apply to action authorized by Subsection (3) of this section.
- (3) The animal services manager or designee is authorized to eradicate, by appropriate and available means, any animal that poses an imminent danger to a person or domestic animal.

## **ARTICLE III. CARE AND TREATMENT OF ANIMALS.**

### **SEC. 6-3.1. PROPER RESTRAINT; TETHERING.**

- (1) An owner shall restrain his animal at all times.
- (2) An owner shall not tether his dog in any place other than a rear yard unless the owner is within 10 feet of the dog at all times. Under no circumstances shall a dog be tethered for more than 4 hours in a 24 hour period.

### **SEC. 6-3.2. CONFINEMENT REQUIREMENTS FOR DOGS KEPT OUTDOORS.**

- (1) An owner that uses a fenced yard or enclosed structure, as the primary living area for his dog or uses as an area for the dog to regularly eat, sleep, drink, and eliminate shall ensure that the area is:
  - (a) a sufficient size for the number and size of dogs present;
  - (b) designed, constructed, and composed of material sufficient to prevent the dog's escape; and
  - (c) designed in a manner that provides the dog access to the inside of an enclosed structure that meets all requirements of Subsection (2) of this section.
- (2) A doghouse or other building or enclosed structure for a dog must:
  - (a) have a weatherproof top, bottom, and sides;
  - (b) have an opening on no more than one side that allows the dog to remain dry and provides adequate shade during daylight hours to prevent overheating or discomfort to the dog;
  - (c) have a floor that is level and dry;
  - (d) be free from cracks, depressions, and rough areas that might be conducive to insects, parasites, and other pests;
  - (e) be of adequate size to allow the dog to stand erect with the dog's head up, to turn around easily, and to sit and lie down in a comfortable and normal position;
  - (f) have sufficient clean and dry bedding material or other means of protection from the weather that will allow the dog to retain body heat when the weather is colder than what a dog of that breed and condition can comfortably tolerate;
  - (g) provide a suitable means for the prompt elimination of excess liquid;
  - (h) be structurally sound, maintained in good repair, and constructed with material that protects the dog from injury; and
  - (i) allow the dog easy access in and out.

**SEC. 6-3.3. SANITARY CONDITIONS, MAINTENANCE OF PREMISES AND EXCESSIVE NOISE.**

- (1) An owner of an animal shall:
  - (a) keep any cage, pen, other enclosed structure, or other area in which the animal is kept in a sanitary condition and
  - (b) remove all animal excreta from the cage, pen, enclosed structure, or other area in which the animal is kept as often as necessary to maintain a healthy environment.
- (2) An owner shall not:
  - (a) In accordance with the public nuisance ordinance section of Chapter 19 of this Code, permit any yard, grounds, premises, or structure belonging to, controlled by, or occupied by him to become nauseating, foul, offensive, or injurious to the public health.
  - (b) Allow an animal that unreasonably barks, howls, crows, or makes other unreasonable noise near a private residence, including more than 15 minutes continuously.

**SEC. 6-3.4. TRAPPING ANIMALS.**

- (1) A person shall not use, place, set, or cause to be set in the city any steel jaw trap, spring trap with teeth or perforated edges on the holding mechanism, snare, or any type of trap with a holding mechanism designed to reasonably ensure the cutting, slicing, tearing or otherwise traumatizing of the entrapped animal.
- (2) A person shall not interfere, remove, alter, damage or otherwise tamper with equipment belonging to or set out by an Animal Services employee.
- (3) It is a defense to prosecution under Subsection (1) that the trap was:
  - (a) specifically designed and used to eradicate common rodents such as rats and mice, and the trap was not placed in a manner or location that would endanger other animals or humans; or
  - (b) specifically designed to humanely trap and was used under the direction of the city enforcement agent, the city environmental health officer, or an agent of another governmental entity authorized by the animal services manager to trap in the city.

**SEC. 6-3.5. INHUMANE TREATMENT AND DISPOSITION OF ANIMALS.**

- (1) Animals shall not be cared for, treated, maintained, or transported in an inhumane manner, including but not limited to:
  - (a) docking an animal's tail or removing dew claws of a puppy over five (5) days of age, or cropping an animal's ears of any age, unless the person is a licensed veterinarian;

- (b) physically removing from offspring from its mother by selling, giving away, delivering, trading, or bartering any dog, cat, ferret, or rabbit less than six (6) weeks old or any other animal that is not yet weaned, except as advised by a licensed veterinarian;
  - (c) abandoning any animal at a location other than an authorized animal shelter or rescue organization facility;
  - (d) overdriving, overloading, driving when overloaded, or overworking any animal, or allowing a dog to participate in a weight pull;
  - (e) torturing, cruelly beating, mutilating, clubbing, shooting or attempting to shoot with any air rifle, bow and arrow, slingshot, or firearm, or by any other means kill or injure any animal, wild or owned;
  - (f) while transporting an animal in a vehicle, failing to effectively restrain such animal so as to prevent the animal from leaving or being ejected from the vehicle during normal operation of the vehicle.
  - (g) owning any animal having a potentially life-threatening infestation of ticks, fleas, or other parasites, any other obvious life threatening illness, or injury, or any other communicable illness transmissible to animal or human, without having sought and obtained proper treatment from a licensed veterinarian for such infestation or illness;
  - (h) failing to provide, at all times, his animal with adequate food, potable water, shelter from inclement weather or veterinary care;
  - (i) raising or kill a dog or cat for the skin or fur;
  - (j) attaching a collar or harness to an animal that is of an inadequate size so that it restricts the animal's growth or causes damage to the animal's skin;
  - (k) placing a poisonous substance that is accessible to a domestic animal; or
  - (l) leaving any animal in a standing or parked vehicle in such a way as to endanger the animal's health, safety, or welfare.
- (2) This section shall not be interpreted to restrict the extermination of rats, mice, insects, other vermin, or any such animal deemed a nuisance by state law, through the use of traps, poisons, or other commercially available means when used in accordance with the manufacturer's directions as long as reasonable precautions are taken to ensure that no human, pet, or wild animal, other than the targeted species, comes into contact with the traps, poisons, or other means and that such use does not violate any other section of this chapter.
- (3) This section shall not be interpreted to restrict hunting, rodeos, 4H Clubs, FFA Club activities and operations provided that same is done in accorded with applicable state and local laws.

### **SEC. 6-3.6. SEIZURE OF INHUMANELY TREATED ANIMALS**

- (1) City enforcement agents shall utilize the authority granted by state laws and section 6-2.5(1)(d) of this Chapter to lawfully seize and impound any animal if the investigating city enforcement agent has reason to believe that an animal has been, or is being cruelly treated.
- (2) Any animal seized and impounded by a city enforcement agent pursuant to section 6-2.5 (1)(d) may be removed from such situation by the quickest and most reasonable means available.
- (3) In the event the animal removed requires veterinary medical attention, the city enforcement agent removing the animal is authorized to take the animal to a licensed veterinarian as soon as practicable for veterinary medical treatment. The owner will be responsible for reimbursing the city for the cost of any veterinary medical treatment, and must pay the bill before redeeming the animal, in the event the animal is allowed to be returned to the owner. If a person other than the owner is found to have violated section 6-3.5, that person will be responsible for reimbursing the city for the amount of the veterinary medical bills. Such reimbursement is required before the animal will be released to the owner.
- (4) If an animal seized pursuant to Section 6-3.6(1) is not in need of immediate veterinary medical attention as provided by Section 6-3.6(3), the animal shall be held by a City of Abilene animal shelter while an investigation is conducted to determine whether there is sufficient evidence to proceed against the owner or other person for a violation of Section 6-3.5.

### **SEC. 6-3.7 APPLICATION FOR STATUS HEARING**

- (1) A city enforcement agent who acts under the authority of Section 6-3.6(1) may, by and through the city attorney or designee, apply for a hearing before any municipal court judge or justice of the peace no later than the 5<sup>th</sup> business day after the seizure.
- (2) Said application be made in writing, state the basis for the animal's seizure and be sent to the owner and/or person alleged to have inhumanely treated the animal in the same manner provided in Section 6-5.4(3).

### **SEC. 6-3.8 STATUS HEARING**

- (1) Upon satisfactory application, the Court in receipt of the application shall set a hearing by no later than the 5<sup>th</sup> business day after the application is filed to:
  - (a) Determine the appropriate disposition of the animal; and
  - (b) Assess the appropriate amount of impound fees and veterinary medical bills required to be paid by the owner or other person found to have violated Section 6-3.5

## **ARTICLE IV. SPECIFIC REQUIREMENTS FOR PET OWNERSHIP**

### **SEC. 6-4.1. VACCINATION OF DOGS, CATS AND FERRETS.**

- (1) All dogs, cats and ferrets, four months of age or older, owned within the city limits must be vaccinated.
- (2) An owner shall show a current proof of vaccination for the dog, cat or ferret upon request by the animal services manager, designee or a peace officer.
- (3) It is a defense to prosecution under this section that the dog, cat or ferret is unable to be vaccinated due to health reasons as verified by a licensed veterinarian.
- (4) A licensed veterinarian who vaccinates a dog, cat or ferret for rabies in the city of Abilene shall issue a current certificate of vaccination to the owner and send a copy of the certificate of vaccination to the animal services manager by the tenth calendar day of the month following the month in which the dog or cat was vaccinated. The certificate of vaccination must contain the following information:
  - (a) name, address, and telephone number of the owner;
  - (b) animal identification, including species, sex, age, size (pounds), predominant breed, and color;
  - (c) vaccine used (including whether it is a one- year or three-year rabies vaccine), producer, expiration date, and serial number;
  - (d) date vaccinated and expiration date of the certificate of vaccination;
  - (e) City registration number; and
  - (f) veterinarian's signature and license number.

### **SEC. 6-4.2. AUTHORIZED REGISTRARS.**

- (1) All registrars of dogs and cats must be approved by the animal services manager.
- (2) The animal services manager, upon receipt of an application, may designate a person as an authorized registrar. The animal services manager may, with cause, deny or revoke the designation of any person to act as an authorized registrar.
- (3) An authorized registrar shall not register a dog or cat without proof that the animal is currently vaccinated or proof that the dog or cat was not vaccinated due to health reasons as verified by a licensed veterinarian in compliance with Section 6-4.1 of this Code.

### **SEC. 6-4.3. REGISTRATION OF DOGS AND CATS.**

- (1) All dogs and cats, four months of age or older, owned within the city limits must be registered.

- (2) All dogs and cats must wear a collar or harness with a current registration tag issued by the animal services manager, designee or an authorized registrar, securely attached to it.
- (3) To obtain a registration receipt and registration tag for a dog or cat, the owner must present the dog's or cat's current certificate of vaccination (or proof that the dog or cat was not vaccinated due to health reasons as verified by a licensed veterinarian) to Animal Services or an authorized registrar and pay any applicable registration fees annually. No refund of the registration fee will be made.
- (4) An owner shall show a current registration receipt or registration tag for the dog or cat upon request by the animal services manager, or designee, or a peace officer or provide Animal Services with proof of either no later than the 5<sup>th</sup> calendar day after the request.
- (5) It is a defense to prosecution under this section that the owner of the dog or cat has provided Animal Services with proof of the fact that he has resided in the city for less than thirty (30) calendar days. All dog or cat owners that have resided in the city for less than 30 calendar days will be given ten (10) calendar days from the request to register his dog or cat.

**SEC. 6-4.4. STERILIZATION REQUIREMENTS FOR DOGS AND CATS; INTACT ANIMAL PERMITS.**

(1) STERILIZATION.

- (a) All dogs and cats over six months of age, owned within the City limits must be sterilized unless:
  1. a licensed veterinarian certifies that the dog or cat should not be sterilized for health reasons or is permanently non-fertile;
  2. the animal is being held for sale by a retail pet store or for adoption by animal services or an animal welfare organization;
  3. the animal is a service animal or police K9; or
  4. the owner holds a valid intact animal permit issued by Animal Services.

(2) INTACT ANIMAL PERMIT.

- (a) A person must complete the designated application to be considered for an intact animal permit.
- (b) An intact animal permit may only be issued for a dog or cat that is:
  1. currently in compliance with the vaccination requirements of Section 6-4.1 of this chapter;
  2. currently in compliance with the registration requirements of Section 6-4.3 of this chapter;
  3. implanted with a microchip implant and registered with a national registry for purposes of identification and/or recovery of the animal by its owner, unless a



licensed veterinarian certifies that the dog or cat should not be injected with a microchip implant for health reasons;

- (c) An intact animal permit may not be issued for a dog that has been deemed dangerous or aggressive.
- (d) The animal services manager may deny or revoke an intact animal permit if the animal services manager or designee determines that the applicant or permittee:
  - 1. failed to comply with any provision of this chapter; or
  - 2. intentionally made a false statement as to a material matter on the intact animal permit application.
- (e) If the animal services manager denies or revokes an intact animal permit, the Animal services manger shall notify the applicant in writing of the action and notify the person of his right to appeal the action to the Director. Appeals must be filed with the Director within five (5) business days of receipt of said notification. Notice must be sent in the same way as prescribed in Section 6-5.4(3).

**SEC. 6-4.5. RESERVED.**

**SEC. 6-4.6. SALE OF PETS IN GENERAL.**

A person shall not sell, exchange, barter, or give away, or offer to sell, exchange, barter, or give away, any pet from:

- (1) public property; or
- (2) property to which the public has access that does not have a valid certificate of occupancy allowing the sale of animals on the property.

**SEC. 6-4.7. SALE OF DOGS AND CATS FOUR MONTHS OF AGE OR OLDER**

- (1) A person shall not sell, exchange, barter, give away, transfer ,offer or advertise for sale, a dog or cat four months of age or older unless the dog or cat is currently vaccinated or cannot be vaccinated due to health reasons as verified by a licensed veterinarian and the person has a current registration receipt and registration tag as required by Sections 6-4.1 and 6-4.3.
- (2) This section does not apply to a person who sells or transfers a dog or cat as a duty of employment and is employed by:
  - (a) Animal Services;
  - (b) a city authorized animal welfare organization; or
  - (c) a city authorized animal adoption agency.

**SEC. 6-4.8. LIMITATION ON THE NUMBER OF DOGS AND CATS IN DWELLING UNITS.**

A person shall not own more than:

- (1) three (3) dogs, cats, or any combination of dogs and cats on the premises of a dwelling unit that shares a common wall with another dwelling unit
- (2) four (4) dogs, cats, or any combination of dogs and cats on the premises of a dwelling unit that shares no common wall with another dwelling unit and that is located on not more than one-half acre of land; or
- (3) five (5) dogs, cats, or any combination of dogs and cats on the premises of a dwelling unit that shares no common wall with another dwelling unit and that is located on more than one-half acre of land.

**SEC. 6-4.9. DEFECATION OF DOGS**

- (1) An owner of a dog shall immediately and in a sanitary and lawful manner remove and dispose of all excreta deposited on public or private property by said dog unless:
  - (a) the property was owned, leased, or controlled by the owner of the dog; or
  - (b) the owner or person in control of the property had given prior consent for the dog to defecate on the property;
- (2) An owner walking a dog on public property, including in street rights-of-way, must possess materials or implements that, either alone or in combination, can be used to immediately and in a sanitary and lawful manner both remove and dispose of any excreta the dog may deposit.
- (3) This section does not apply to:
  - (a) a service dog that is specially trained to assist a person with a disability and that was in the custody or control of that disabled person at the time it defecated or was otherwise present on private property or on property located in a public place.
  - (b) a K9 being used in official law enforcement activities.

## **ARTICLE V. DANGEROUS DOGS AND AGGRESSIVE DOGS**

### **SEC. 6-5.1 APPLICABILITY.**

The general laws of the state, except as specifically provided through proper ordinances and regulations of the city, shall control the handling of dangerous dogs. There is adopted as part of this chapter all of the provisions of Title 10, Chapter 822, Subchapter D of the Texas Health and Safety Code insofar as applicable.

### **SEC. 6-5.2. DEFINITIONS.**

- (1) Except where a term is otherwise defined in Subsection (b) of this section, the definitions contained in Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, are incorporated into this article by reference.
- (2) In this article:
  - (a) **AGGRESSIVE DOG** means:
    1. Any unprovoked dog that, by biting, shaking, or crushing with its mouth, causes bodily injury to a dog, cat, livestock animal, or ferret outside of its enclosure;
    2. Any dog with a known propensity, tendency or disposition to attack without provocation to cause injury to a domestic animal.
  - (b) **BODILY INJURY** means broken skin, or other injury characterized by a bite wound, or other physical pain or impairment resulting from shaking or crushing caused by the dog's mouth.
  - (c) **DANGEROUS DOG** means the definition given in Chapter 822 of the Texas Health and Safety Code as amended and modified by adding the following criteria:
    1. any dog that makes an unprovoked attack on a domestic animal that causes serious bodily injury or death and occurs in a place other than its enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own.
    2. any unprovoked dog that attacks or injures a person and causes serious bodily injury inside of its enclosure.
    3. any dog that has been deemed aggressive on more than two occasions.
  - (d) **SERIOUS BODILY INJURY** means the definition given in Chapter 822 of the Texas Health and Safety Code as amended.
  - (e) **SECURE ENCLOSURE** means a fenced area that is:
    1. locked;
    2. capable of preventing the entry of the general public;

3. prevents the escape or release of a dog; and
  4. meets all other requirements established by Animal Services.
- (f) UNPROVOKED means an action by a dog that is not:
1. in response to being tormented, abused, or assaulted by any person;
  2. in response to pain or injury;
  3. in protection of itself, its food, kennel, immediate territory, nursing offspring;  
or
  4. in response to an assault or attempted assault on a person.

### **SEC. 6-5.3 REPORT**

- (1) Animal Services shall begin investigating a dog attack upon receiving a sworn statement from any person concerning an aggressive or dangerous dog attack as defined by Section 6-5.2, definition of aggressive dog or Chapter 822 of the Texas Health and Safety Code, definition of dangerous dog.
- (2) The animal services manager or designee shall furnish the owner of the dog subject to the investigation, as identified during Animal Services' investigation, with written notice of the fact that an aggressive or dangerous dog attack report has been received in the same manner as Section 6-5.4(3) as soon as practicable. The owner will have two (2) business days from the date the owner is notified of a report to provide the animal services manager with information regarding the allegations.
- (3) An owner of a dog subject to a dog attack investigation shall deliver said dog to the animal shelter or allow a city enforcement agent to seize and impound the dog pursuant to Section 6-2.5(1)(g) immediately upon the request of the animal services manager or designee.
- (4) The Dog Attack Committee (hereinafter referred to as the "Committee") shall review all reports filed under this section and issue sworn findings of fact based on its respective investigations.

### **SEC. 6-5.4 DETERMINATION**

- (1) No later than the 10<sup>th</sup> business day after a dog is seized and impounded by a city enforcement agent pursuant to Section 6-2.5 (5) or delivered to a City of Abilene animal shelter by its owner pursuant to a dog attack investigation, the Committee shall determine, whether said dog is aggressive, dangerous or neither. The Committee may consider additional information it receives from other sources throughout the course of its fact finding process. If the Committee does not make a determination within the period described above, the owner shall not be responsible for the additional boarding fees from the 7<sup>th</sup> business day after the dog is impounded until the day the Committee makes a determination.

- (2) Upon making a determination, the Committee or designee shall provide written notice to the owner regarding same along with the Committee's findings of facts. Said notice to the owner must include a statement regarding the owner's right to appeal said determination.
- (3) Notice to the owner shall be sent via certified mail, return receipt requested, to the owner's last known mailing address, or delivered in person by the Animal Services Manager or designee. If the notice is mailed to the owner and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is deemed delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) business days after the date it is placed in a mail receptacle of the United States Postal Service. Notice that is delivered in person is deemed received on the date of in-hand delivery or on the date that the notice is left firmly affixed on or near the front door of each building on the property at the owner's address.
- (4) An owner, not later than ten (10) business days after the date that the owner is notified of a determination, may appeal said determination to the Abilene municipal court in accordance with Section 6-5.5. An owner may appeal the decision of the municipal court to a county court-at-law, in the same manner as an appeal of a civil case.
- (5) An owner may reclaim his dog upon voluntarily complying with all applicable requirements at anytime throughout the investigation.

#### **SEC. 6-5.5 APPEAL HEARING**

- (1) Upon receipt of a timely filed aggressive dog, dangerous dog or non-compliance determination appeal from an owner, the Abilene municipal court shall set a hearing within five (5) business days of receipt of same, to determine whether the Committee's determination shall be upheld. The hearing must be held not later than the 15th business day after a timely appeal is filed.
- (2) The court shall give written notice of the time and place of the hearing to:
  - (a) the owner;
  - (b) the person who made the initial sworn report; and
  - (c) the city attorney's office.
- (3) Any interested party, including the city attorney, is entitled to present evidence at the hearing.
- (4) The owner shall have the burden of proving that the committee's determination should be overturned.
- (5) The standard of review for said appeal shall be de novo.

## **SEC. 6-5.6 REQUIREMENTS FOR DANGEROUS AND AGGRESSIVE DOG OWNERS.**

- (1) Upon satisfactory compliance with all other applicable aggressive or dangerous dog requirements and payment of an aggressive or dangerous dog registration fee, the animal services manager shall be authorized to register a dangerous or aggressive dog, not later than fifteen (15) calendar days after an owner has been notified by municipal court of its determination or two (2) business days after an owner fails to file a timely appeal.
  - (a) The animal services manager or designee shall issue an aggressive or dangerous dog registration tag. A dangerous or aggressive dog registration shall be valid for one (1) year from the date of issuance.
  - (b) The owner of a registered aggressive or dangerous dog shall attach the tag to the dog's collar, or similar device, and shall place such collar or device on the dog. The owner of a registered aggressive or dangerous dog shall display current registration on the dog in this manner at all times.
  - (c) The dog must reside with the dog owner.
- (2) The animal services manager may, in extraordinary circumstances, allow additional time to complete the requirements for aggressive or dangerous dog owners. All requests for extension shall be in writing. Any extension shall be at the discretion of the animal services manager and confirmed in writing.
- (3) The owner of an aggressive or dangerous dog shall comply with all applicable requirements for the duration of the dog's life.
- (4) An aggressive or dangerous dog owner shall not give, sell, barter or exchange the dog but must return the dog to the city animal shelter if he no longer wishes to own it.
- (5) The owner of a dog that has been deemed aggressive or dangerous in another jurisdiction shall register the dog with the City upon becoming a resident of the City of Abilene. The owner of the aggressive or dangerous dog shall comply with all applicable sections of this chapter no later than the 10<sup>th</sup> calendar day after he or she becomes a resident.

## **SEC. 6-5.7 ADDITIONAL REQUIREMENTS FOR AGGRESSIVE DOG OWNERS**

Not later than fifteen (15) calendar days after a owner is notified of an aggressive dog determination or forty-eight (48) hours after an owner fails to file a timely appeal, the owner shall restrain the dog in an secure enclosure that has been inspected and approved by the Animal Services Manager or designee at all times unless the dog is muzzled and restrained by a substantial chain or leash, no longer than six (6) feet in length, and a capable person is in immediate physical control of the leash, while outside of its enclosed structure. Said dog shall not be tethered to any inanimate object such as a tree, post, building, or other object. The muzzle shall be made in a manner that will not cause

injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or dog.

#### **SEC. 6-5.8 ADDITIONAL REQUIREMENTS FOR DANGEROUS DOG OWNERS**

- (1) Not later than fifteen (15) calendar days after a owner is notified of a final dangerous dog determination or forty-eight (48) hours after an owner's time to perfect his appeal has elapsed , the owner shall:
  - (a) Restrain the dog in a secure enclosure that has been inspected and approved by the animal services manager or designee at all times unless the dog is muzzled and restrained by a substantial chain or leash, no longer than six (6) feet in length, and a capable person is in immediate physical control of the leash, while outside of its secure enclosure. Said dog shall not be tethered to any inanimate object such as a tree, post, building, or other object. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or dog
  - (b) Acquire and maintain liability insurance coverage in an amount of at least two hundred fifty thousand dollars (\$250,000.00) to cover damages resulting from an attack by the dangerous dog and provide proof of the required liability insurance coverage to the animal Services Manager. The owner shall notify the animal services manager immediately if a lapse in insurance coverage occurs or if the coverage ceases or is reduced at any time for any reason. The owner shall include in the policy provisions requiring the insurance provider to provide notice to the animal services manager not less than thirty (30) days prior to cancellation or any material change in coverage;
  - (c) Microchip and register the dangerous dog with national registry that has been pre-approved by the animal services manager. The owner must present proof of dangerous dog registration to the animal services manager or designee in order to meet this requirement.

#### **SEC. 6-5.9 NON-COMPLIANCE**

- (1) An aggressive or dangerous dog owner who cannot comply with Section 6.5-6, 6-5.7, or 6-5.8 as applicable may surrender the dog to Animal Services without penalty..
- (2) If an owner fails to notify Animal Services and deliver said dog to a city animal shelter or allow a city enforcement agent to seize a dog, the court may issue a warrant to seize said dog at any time that the court finds that probable cause to support the fact that non-compliance exists. the court shall order the animal services manager to seize the do and shall issue a warrant authorizing the seizure.
- (3) An owner may appeal the animal services manager's finding of non-compliance in the same manner set forth in Section 6-5.5.

- (4) If the court finds, after notice and hearing as provided by Section 6-5.5, that the owner of an aggressive or dangerous dog has failed to comply with any applicable requirement the court shall order the animal services manager or designee to humanely destroy the aggressive or dangerous dog unless the owner fails to renew compliance within ten (10) calendar days after the dog is delivered or seized or the owner files a timely appeal.

#### **SEC. 6-5.10 OWNER NOTIFICATION OF ATTACKS**

The owner of an aggressive or dangerous dog shall notify the animal services manager of all attacks on humans or domestic animals.

#### **SEC. 6-5.11 OFFENSES**

- (1) A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the animal's enclosure causing bodily injury.
- (2) A person commits an offense if the person is the owner of a dangerous dog or aggressive dog that makes an unprovoked attack on a domestic animal while said dog is outside of its enclosure and the attack causes serious bodily injury or death to the domestic animal.

#### **SEC. 6-5.12 AFFIRMATIVE DEFENSES**

- (1) It is a defense to prosecution under Section 6-5.11 that the person injured was committing or attempting to commit a crime.
- (2) It is a defense to prosecution under Section 6-5.11 that the dog was protecting or defending a person while in the person's control, from an unjustified attack or assault.
- (3) It is a defense to prosecution under Section 6-5.11 that the person injured was teasing, tormenting, abusing, or assaulting the dog or has in the past, been reported to have teased, tormented, abused or assaulted the dog.

#### **SEC. 6-5.13 EXEMPTIONS**

- (1) This Article does not apply to a veterinarian, a peace officer, a person employed by a city authorized animal shelter or facility or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody or control of the dog in connection with that position.
- (2) This Article does not apply to a person that is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes and the attack occurred in connection with the course or scope of the person's employment.



## **ARTICLE VI. PROHIBITED AND REGULATED ANIMALS**

### **SEC. 6-6.1. PROHIBITED ANIMALS**

- (1) A person shall not own any of the following animals:
  - (a) All high risk rabies carriers, as defined in state law, including bats, skunks, coyotes, raccoons, and foxes.
  - (b) Venomous reptiles and amphibians;
  - (c) Any wild animal whose normal mature weight exceeds forty (40) pounds; or
  - (d) Any "dangerous wild animal" as defined in the Texas Health and Safety Code, as amended.
- (2) A person shall not sell, exchange, give away, or transfer a prohibited animal to any person in the city for use, retention, resale, or transfer as a pet or as a human's companion unless the person is:
  - (a) a federal, state, county, or municipal agency or an agent of such an agency acting in an official capacity that:
    1. has all required state and federal licenses and permits; and
    2. is in compliance with all federal, state, and city laws or regulations applicable to the animal;
  - (b) a research facility licensed by the United States Secretary of Agriculture under the Animal Welfare Act (7 U.S.C. Section 2131, et seq.), as amended, that:
    1. has all required state and federal licenses and permits;
    2. is in compliance with all federal, state, and city laws or regulations applicable to the animal; and
    3. has provided Animal Services with a written description identifying each prohibited animal and the location of where each animal will be kept in within the city;
  - (c) a zoo, that:
    1. has all required state and federal licenses and permits;
    2. is in compliance with all federal, state, and city laws or regulations applicable to the animal; and
    3. has on file with the director, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the organization and specifying the location where each animal is kept;
  - (d) transporting an injured, sick, orphaned, or abandoned prohibited animal for care or treatment;
  - (e) a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43

of the Parks and Wildlife Code, as amended, who is temporarily treating or caring for a sick or injured prohibited animal, if the veterinarian, humane society, animal shelter, or rehabilitator:

1. has all required state and federal licenses and permits; and
  2. is in compliance with all federal, state, and city laws or regulations applicable to the animal;
- (f) a transient circus company, if:
1. the prohibited animal is used as an integral part of the circus performances;
  2. the animal is kept within the city only during the time the circus is performing in the city; and the circus:
    - a. has all required state and federal licenses and permits;
    - b. is in compliance with all federal, state, and city laws or regulations applicable to the animal; and
    - c. has provided Animal Services with a detailed list of all prohibited animals kept in the city as well as their respective locations;
- (g) a television or motion picture production company that has temporary custody or control of the prohibited animal during the filming of a television or motion picture production in the city, if the production company:
1. has all required state and federal licenses and permits;
  2. is in compliance with all federal, state, and city laws or regulations applicable to the animal; and
  3. has on file with the director, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the production company and specifying the location where each animal is kept;
- (h) a college or university that owns and has possession, custody, or control of the prohibited animal solely as a mascot for the college or university, if the college or university:
1. has all required state and federal licenses and permits;
  2. is in compliance with all federal, state, and city laws or regulations applicable to the animal; and
  3. has on file with the director, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the college or university and specifying the location where each animal is kept;
- (i) transporting the prohibited animal in interstate commerce in compliance with the Animal Welfare Act (7 U.S.C. Section 2131, et seq.), as amended, and any regulations adopted under that act, if the person:
1. has all required state and federal licenses and permits; and

2. is in compliance with all federal, state, and city laws or regulations applicable to the prohibited animal;
- (j) a person whose only business is to supply nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the United States Secretary of Agriculture under the Animal Welfare Act (7 U.S.C. Section 2131, et seq.), as amended, if:
1. the prohibited animal is a nonhuman primate owned by and in the custody and control of the person;
  2. the person has all required state and federal licenses and permits;
  3. the person is in compliance with all federal, state, and city laws or regulations applicable to the animal; and
  4. the person has on file with the animal services manager, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the person and specifying the location where each animal is kept;
- (k) a participant in a species survival plan of the American Zoo and Aquarium Association for the species of prohibited animal owned by or in the possession, control, or custody of the person, if:
1. the prohibited animal is an integral part of the species survival plan;
  2. the person has all required state and federal licenses and permits;
  3. the person is in compliance with all federal, state, and city laws or regulations applicable to the animal; and
  4. the person has on file with the animal services manager, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the person and specifying the location where each animal is kept; or
- (l) exhibiting a prohibited animal at a special event conducted with written permission from the city, if the person:
1. has all required state and federal licenses and permits;
  2. is in compliance with all federal, state, and city laws or regulations applicable to the animal; and
  3. has on file with the director, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the person and specifying the location where each animal is kept.

## **SEC. 6-6.2 REGULATED ANIMALS**

### **(1) KEEPING OF ROOSTERS.**

- (a) In this section, ROOSTER means the male of a domestic fowl.
- (b) A person shall not own a live rooster on any property that is less than one acre large unless the rooster is:

1. being exhibited at the Taylor County Fair or at a special event conducted with written permission of the city;
  2. owned by a governmental entity or participating in a health, research, educational, or similar program conducted by a governmental entity;
  3. owned by a medical, educational, or research institution operating in compliance with all city ordinances and state and federal laws; or
  4. being held for slaughter in a slaughterhouse or meat packing plant operating in compliance with all city ordinances and state and federal laws.
- (c) A person who owns a live rooster shall:
1. keep the rooster in the enclosed area at all times;
  2. confine the rooster in an enclosure that is wholly or partially located more than 50 feet from any adjacent property line; and
- (d) For the purpose of calculating the distance requirement of Subsection (c)(2) of this subsection, the width of alleys, street rights-of-way, and other public rights-of-way will be used. The distance between a rooster enclosure and an adjacent property line must be measured in a straight line, without regard to intervening structures or objects, from the nearest exterior wall of the enclosure to the nearest property line.

(2) KEEPING OF SWINE.

- (a) No person who is the owner of any swine, or any person who has any swine under his management or control, shall keep the same or allow the same to remain in any pen or in any other place within the city.
- (b) This section shall not apply to or prohibit the keeping of swine by the following:
1. A publicly or privately owned zoo maintained or operated by a nonprofit organization or governmental entity.
  2. Publicly or privately maintained circus, traveling show or rodeo which does not remain in the city longer than thirty (30) days out of each year.
  3. Slaughterhouses.
  4. Any person, persons, organization or corporation keeping swine in an agricultural open space district as provided by the City of Abilene zoning ordinance and said swine is kept no closer than six hundred (600) feet from residential district, church or school.
  5. Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals.

## **ARTICLE VII. VIOLATIONS AND PENALTIES**

### **SEC. 6-7.1. VIOLATIONS; CRIMINAL AND CIVIL PENALTIES.**

- (1) A person who violates a provision of this chapter or who fails to perform an act required of him by this chapter, commits a class C misdemeanor offense.
- (2) A person violating a provision of this chapter commits a separate offense for each day or part of a day during which a violation is committed, continued, or permitted.
- (3) Unless specifically provided otherwise in this chapter, an offense under this chapter is punishable by a fine not to exceed:
  - (a) \$2,000 if the provision violated governs public health or sanitation;
  - (b) the amount fixed by state law if the violation is one for which the state has fixed a fine; or
  - (c) \$500 for all other offenses.
- (4) Prosecution of an offense under Subsection (1) does not prevent the use of civil enforcement remedies or procedures applicable to the person charged with or the conduct involved in the offense.
- (5) In addition to imposing a criminal penalty, the city may, in accordance with Section 54.012(5) of the Texas Local Government Code, bring a civil action against a person violating a provision of this chapter. The civil action may include, but is not limited to, a suit to recover a civil penalty pursuant to Section 54.017 of the Texas Local Government Code, for each day or portion of a day during which each violation is committed, continued, or permitted.

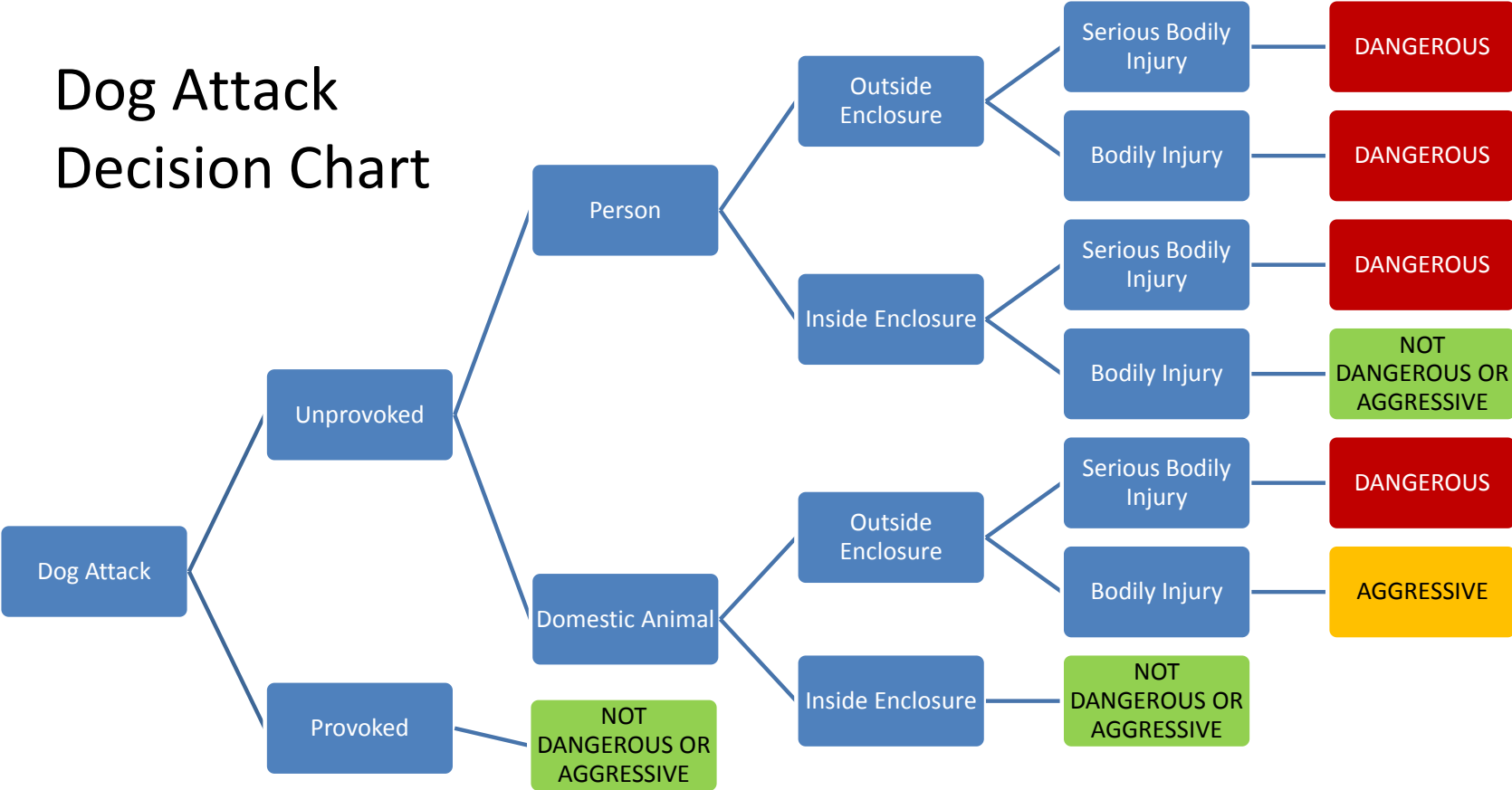
### **SEC. 6-7.2 ADDITIONAL PENALTIES FOR VIOLATIONS OF DANGEROUS DOG OWNERS**

- (1) If a person is found guilty of an offense under Section 6.5-11(1) or 6-5.11(2), the municipal court may order the animal services manager or designee to impound and destroy the animal immediately in addition to other penalties in Article VII.
- (2) If impoundment of a dangerous dog is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner. If an attempt is made to impound a dangerous animal from the premises of the owner and the impoundment cannot be made with safety, the owner will be given twenty-four (24) hours notice that if said animal is not surrendered to Animal Services within said twenty-four (24) hour period, then the animal will be destroyed wherever it is found. After this notice, the dangerous animal may be destroyed during an attempt to impound if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this Section shall be in writing. A written notice left at the entrance to the premise where

the dangerous animal is harbored will be considered valid notice as of the date and time of posting.

- (3) A dangerous dog impounded pursuant to this section and not reclaimed by its owner under the requirements of this section within ten (10) calendar days from the date of notice of impoundment shall be deemed abandoned of the Animal Services Manager, euthanized in a humane manner, upon receiving a court order from a court of competent jurisdiction.

# Dog Attack Decision Chart



**City Council  
Agenda Memo**



**City Council  
Meeting Date: March 22, 2012**

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

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

**SUBJECT: First reading on an ordinance amending Chapter 29.5, "Swimming Pools and Spas" of the City of Abilene Code of Ordinances and setting a public hearing for April 12.**

**GENERAL INFORMATION**

The purpose of this ordinance amendment is to revise the City's regulations regarding swimming pools and spas to add reference to "interactive water features and fountains". This is to accommodate the proposed splash park facility in Nelson Park. Currently the City's ordinance does not reference these types of facilities. This proposed change will add the appropriate references to this type of facility within the City's ordinance and will adopt, by reference, the state standards found in Chapter 265, Subchapter M of the Texas Administrative Code, "Public Interactive Water Features and Fountains".

**STAFF RECOMMENDATION**

Staff recommends approval of the proposed ordinance.

**ATTACHMENTS**

Ordinance

Exhibit A – Chapter 29.5, Swimming Pools and Spas

Prepared by:

Name: Jon James

Title: Planning Director

Item No. 6.2

Disposition by City Council

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

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



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

**AN ORDINANCE AMENDING, CHAPTER 29.5, “SWIMMING POOLS AND SPAS”; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.**

**WHEREAS**, there is a need to update the Swimming Pools and Spas Ordinance to include interactive water features that are utilized by the public; and

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

- PART 1:** That Chapter 29.5, “Swimming Pools and Spas” of the Code of Ordinances, City of Abilene, Texas, is hereby amended 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 22<sup>nd</sup> day of March, 2012.**

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 8<sup>th</sup> day of April, 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 12<sup>th</sup> day of April, 2012, to permit the public to be heard.

**PASSED ON SECOND AND FINAL READING this 12<sup>th</sup> day of April, 2012.**

ATTEST:

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

\_\_\_\_\_  
MAYOR

APPROVED:

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

## Exhibit A

### Chapter 29.5 Swimming Pools and Spas

#### Sec. 29.5-1. Purpose and scope.

The purpose of this chapter is to provide standards for the operation and maintenance of public and restricted access pools, ~~and~~ spas, and interactive water features and fountains, to minimize health and safety hazards, and to regulate the design and construction of all swimming pools, ~~and~~ spas, and interactive water features and fountains. The standards in these sections shall cover public and restricted access pools, ~~and~~ spas, and interactive water features and fountains, ~~and~~ operated by an owner, licensee, or concessionaire, regardless of whether a fee is charged for use, residential aboveground/in-ground swimming pools, permanently installed residential swimming pools and spas, and residential portable spas. Except where cited otherwise, the standards shall apply to those pools/spas/interactive water features and fountains constructed after the effective date of this chapter. This chapter applies within the corporate boundaries of the City of Abilene.

#### Sec. 29.5-2. Design and construction of residential swimming pools.

The National Spa and Pool Institute “Standard for Residential Swimming Pools”, together with a residential swimming pool design and construction pamphlet amending and supplementing those standards, are hereby enacted and adopted by reference as the “City of Abilene Residential Swimming Pool Design and Construction Standards.” The code and the pamphlet are on file with the building official and city secretary.

#### Sec. 29.5-3. Operation, maintenance, design, and construction of public and restricted access swimming pools, ~~and~~ spas, and interactive water features and fountains.

Title 25, Chapter 265, Subchapter L of the Texas Administrative Code, “Standards for Public Pools and Spas,” Chapter 265, Subchapter M of the Texas Administrative Code, “Public Interactive Water Features and Fountains,” together with an operation, maintenance, design, and construction of public and restricted access pools and spas pamphlet amending and supplementing the Code, are hereby enacted and adopted by reference as the “City of Abilene Operation, Maintenance, Design and Construction of Public and Restricted Access Pools and Spas Standards.” The code and the pamphlet are on file with the building official and city secretary.

#### Sec. 29.5-4. Appeal.

Any person, firm, or corporation aggrieved by an interpretation or decision regarding the codes and standards adopted or enacted in this chapter may appeal such interpretation or decision. An appeal regarding design and construction of swimming pools and spas shall be to the mechanical, plumbing, electrical, and swimming pool board of appeals,

established in section 8-391 of this Code. The provisions of Chapter 8, Article V, Division 3, regarding the procedures of the mechanical, plumbing, electrical, and swimming pool board of appeals apply to this section. An appeal regarding the maintenance and operation of public and restricted access pools, spas and interactive water features and fountains shall be to the public health authority and the director of planning and development services, as stated in Part I, Article A, Section 4.4 of the Abilene Swimming Pools and Spas Code pamphlet.

**Sec. 29.5-5. Violations and penalties.**

- (a) Any person who violates any provision of this section shall be guilty of a misdemeanor, punishable by a fine as set forth in section 1-9 of this Code.
- (b) Each day a violation occurs shall constitute a separate offense.

**Sec. 29.5-6. Civil remedies.**

- (a) The city attorney may enforce any regulation, order, or ruling promulgated under this section by injunction, declaratory relief, or other action at law or in equity.
- (b) The city attorney may initiate injunction, mandamus, abatement, or any other action available in law or equity to prevent, enjoin, abate, correct or remove the construction, use, or work done on any swimming pool or spa that is done contrary to the provisions of this chapter.

**City Council  
Agenda Memo**



**City Council  
Meeting Date: 3/22/2012**

**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-2012-06, a request from North Abilene G2K Development Partners, LLC to rezone property from HC (Heavy Commercial) & MD (Medium Density) to GR (General Retail) zoning, located at 836 & 844 Ambler Ave., 2218 & 2226 Hardy St., and 2217 Walnut St; and setting a public hearing for April 12, 2012.**

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**GENERAL INFORMATION**

The property is zoned HC & MD and has been developed primarily with residential uses. The applicant is proposing to remove the existing structures and develop a larger tract of land for a single use, a Family Dollar store. The MD zoning on the northern properties do not allow for retail uses. The applicant is requesting a zoning that would allow for the retail use and be more appropriate for the Ambler Avenue corridor. The adjacent properties along Ambler have been developed other retail and commercial uses. Residential uses remain on the properties to the north.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a Special Activity area that would include a mix of uses. The subject property is also along an Enhancement Corridor for Ambler Avenue. The area currently includes commercial uses, especially along the Ambler frontage. The GR zoning is an appropriate zoning along the Enhancement corridor as it does not allow some of the more intensive heavy commercial uses. 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 four (4) in favor (Famble, Glenn, Todd, & Yungblut) to two (2) opposed (Bixby & McClarty).

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

March 12, 2012

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, 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 22<sup>nd</sup> day of March, A.D. 2012.

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 17<sup>th</sup> day of February, 2012, 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 April, 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 April, A.D. 2012.

ATTEST:

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

\_\_\_\_\_  
MAYOR

APPROVED:

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

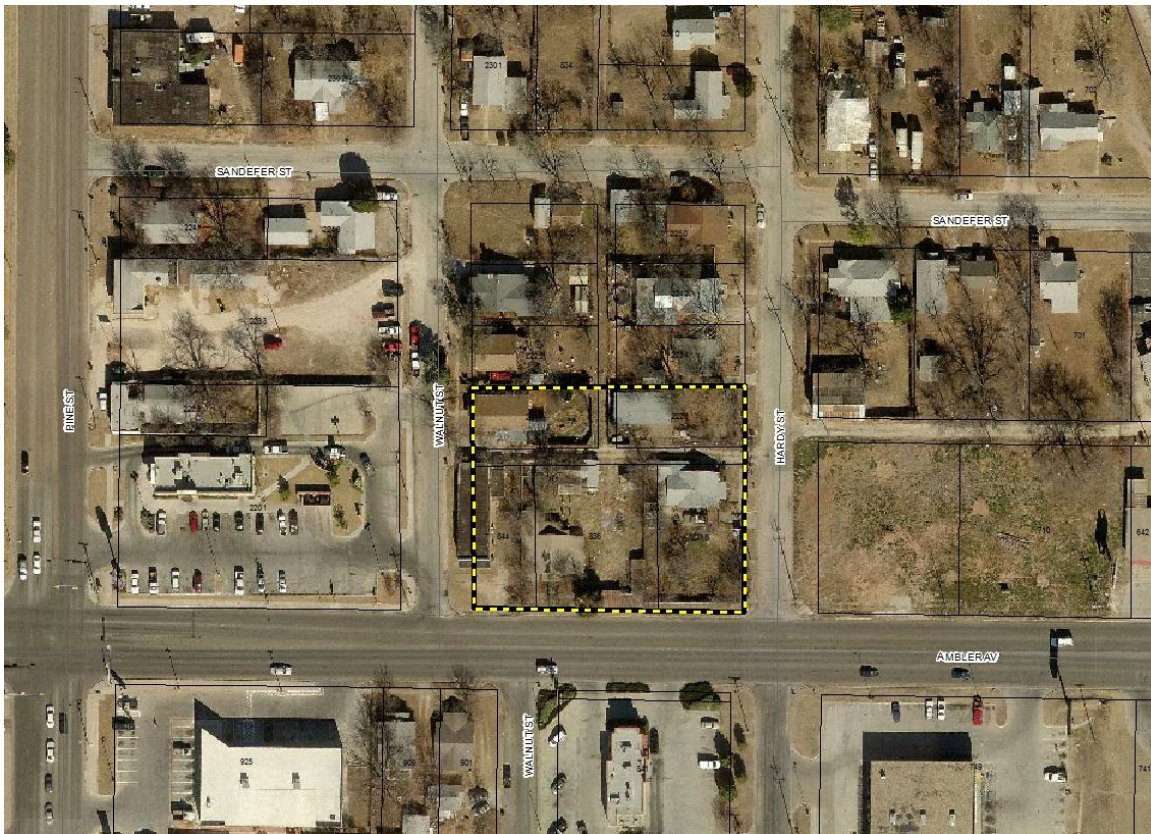
ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

Rezone property from HC (Heavy Commercial) & MD (Medium Density) to GR (General Retail) zoning

Legal Description:

O C HOWELL OF NORTH PK 7,9 & 10, BLOCK 2, LOTS 1-10 & LOT 17



Location:

836 & 844 Ambler Ave., 2218 & 2226 Hardy St., and 2217 Walnut St.

-END-

# ZONING CASE Z-2012-06

## STAFF REPORT



### APPLICANT INFORMATION:

North Abilene G2K Development Partners, LLC

### HEARING DATES:

Planning & Zoning Commission: March 5, 2012

City Council 1<sup>st</sup> Reading: March 22, 2012

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

### LOCATION:

836 & 844 Ambler Ave., 2218 & 2226 Hardy St.,  
and 2217 Walnut St.

### REQUESTED ACTION:

Rezone property from HC & MD to GR



### SITE CHARACTERISTICS:

The subject property is approximately 0.92 acres and is currently zoned HC (Heavy Commercial) and MD (Medium Density). The property had been primarily developed with residential uses. The adjacent properties have HC & GC zoning to the west, MD zoning to the north, and HC zoning to the east and south across the street.

### ZONING HISTORY:

The property was annexed in 1951 and was zoned HC & MD sometime after it was annexed.

### ANALYSIS:

- Current Planning Analysis

The property is zoned HC & MD and has been developed primarily with residential uses. The applicant is proposing to remove the existing structures and develop a larger tract of land for a single use, a Family Dollar store. The MD zoning on the northern properties do not allow for retail uses. The applicant is requesting a zoning that would allow for the retail use and be more appropriate for the Ambler Avenue corridor. The adjacent properties along Ambler have been developed other retail and commercial uses. Residential uses remain on the properties to the north.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area as part of a Special Activity area that would include a mix of uses. The subject property is also along an Enhancement Corridor for Ambler Avenue. The area currently includes commercial uses, especially along the Ambler frontage. The GR zoning is an appropriate zoning along the Enhancement corridor as it does not allow some of the more intensive heavy commercial uses. 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:**

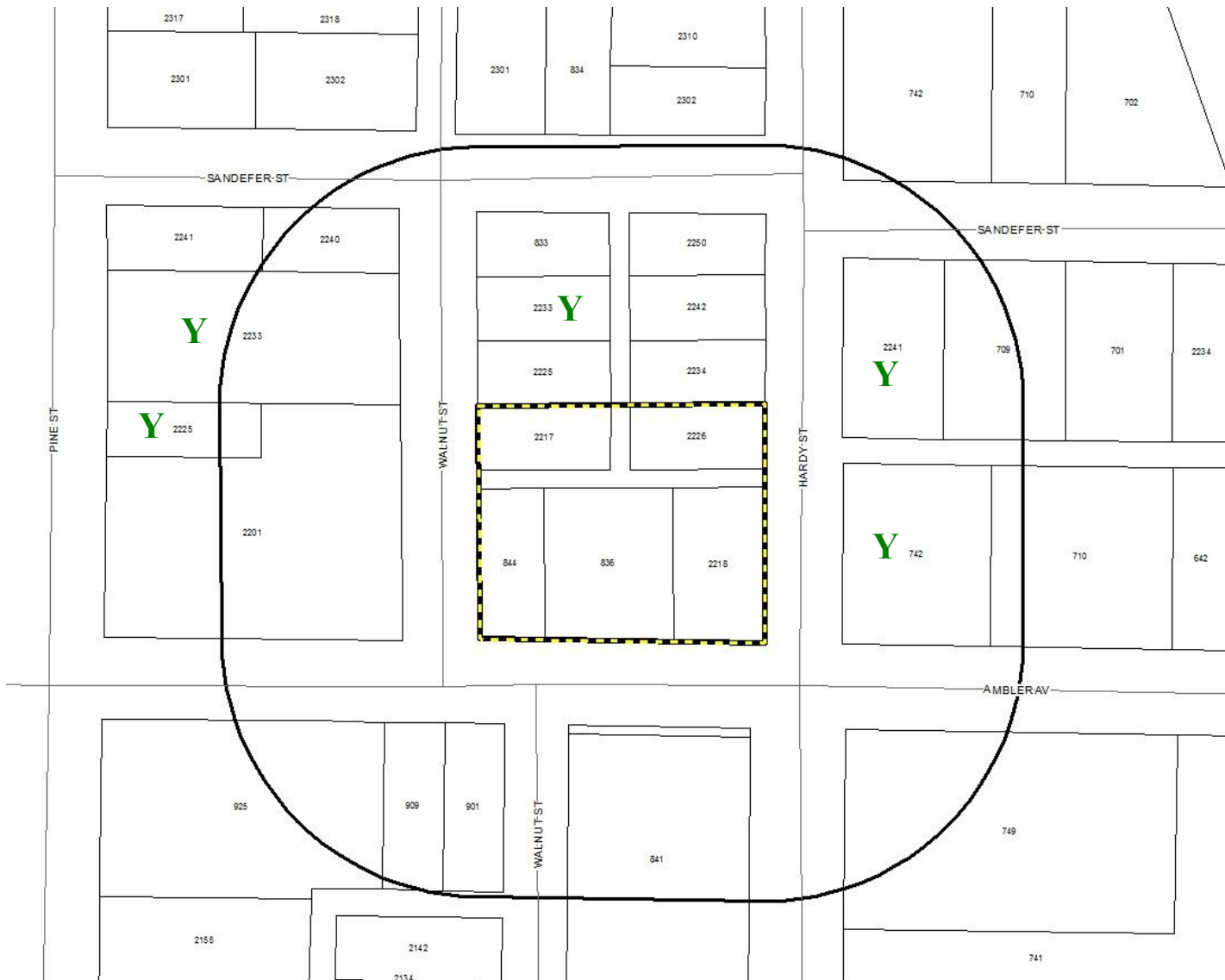
The Planning and Zoning Commission recommended approval by a vote of four (4) in favor (Famble, Glenn, Todd, & Yungblut) to two (2) opposed (Bixby & McClarty).

**NOTIFICATION:**

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

OWNER	ADDRESS	RESPONSE
CRUZ ASUNCION	2234 HARDY ST	
DEANDA JUANITA C	833 SANDEFER ST	
JONES WILLIAM F JR	742 AMBLER AVE	In Favor
ALTMAN GLEN RAY & DOROTHY CAROL ALTMAN DESHAZO	2218 HARDY ST	
MARTINEZ ALFONSO & ANGELA	2225 WALNUT ST	
DEBOSKIE PAULA	709 SANDEFER ST	
AUTOZONE TEXAS LP	925 AMBLER AVE	
BELL RAY ALAN	2241 HARDY ST	In Favor
WILKERSON JEFFERSON WESLEY	2250 HARDY ST	
FIRST NATIONAL BANK OF BAIRD	836 AMBLER AVE	
BACHERINI JESSE & PATRICIA	2217 WALNUT ST	
HARDIN SIMMONS UNIVERSITY	2225 PINE ST	In Favor
JONES WILLIAM F JR	710 AMBLER AVE	
PERALEZ DAVID	901 AMBLER AVE	
CITY OF ABILENE		
QUARTER CIRCLE L TX	841 AMBLER AVE	
BROKERAGE HOUSE INC	2240 WALNUT ST	
ALTMAN JERRY G	2226 HARDY ST	
EUBANK CLIFTON SCOTT	742 SANDEFER ST	
CARRENO VICTOR C	2242 HARDY ST	
GOMEZ MARTIN H & MARTHA R	2233 WALNUT ST	In Favor
PRUITT DONALD	909 AMBLER AVE	
ASH A D	844 AMBLER AVE	
PATTON JOHN R	2241 PINE ST	
HARDIN SIMMONS UNIVERSITY	2233 PINE ST	In Favor
BEWS EDWARD L & SHIRLEY & SMITH BURTON & LARENE	2201 PINE ST	
WSM PARTNERHIP LLP	749 AMBLER AVE	

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









City Council  
Agenda Memo



City Council  
Meeting Date: 3/22/2012

**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-2012-01, a request from North Abilene G2K Development Partners, LLC to abandon the east to west alley right-of-way and a 50' portion of the north to south alley right-of-way between Hardy St. and Walnut St. and between Ambler Ave. and Sandefer St.; and setting a public hearing for April 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, a Family Dollar store. The portion of the alley to be abandoned does not service any residential uses and no longer provides for any refuse collection. There are homes on the adjacent properties to the north but all access and refuse collection is from the streets.

**PLAT REVIEW COMMITTEE**

The Plat Review Committee recommends approval of the closure as requested 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;
2. Provide for cul-de-sac turnarounds where the closures will result in a dead-end or provide an alternate connection to the adjacent street network;
3. 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 as requested, with the conditions suggested by the Plat Review Committee.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission recommended approval by a vote of four (4) in favor (Famble, Glenn, Todd, & Yungblut) to two (2) opposed (Bixby & McClarty).

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

March 12, 2012

Item No. 6.4

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 22<sup>nd</sup> day of March, A.D. 2012.

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 17<sup>th</sup> day of February, 2012, 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 April, A.D. 2012.

ATTEST:

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

\_\_\_\_\_  
MAYOR

APPROVED:

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

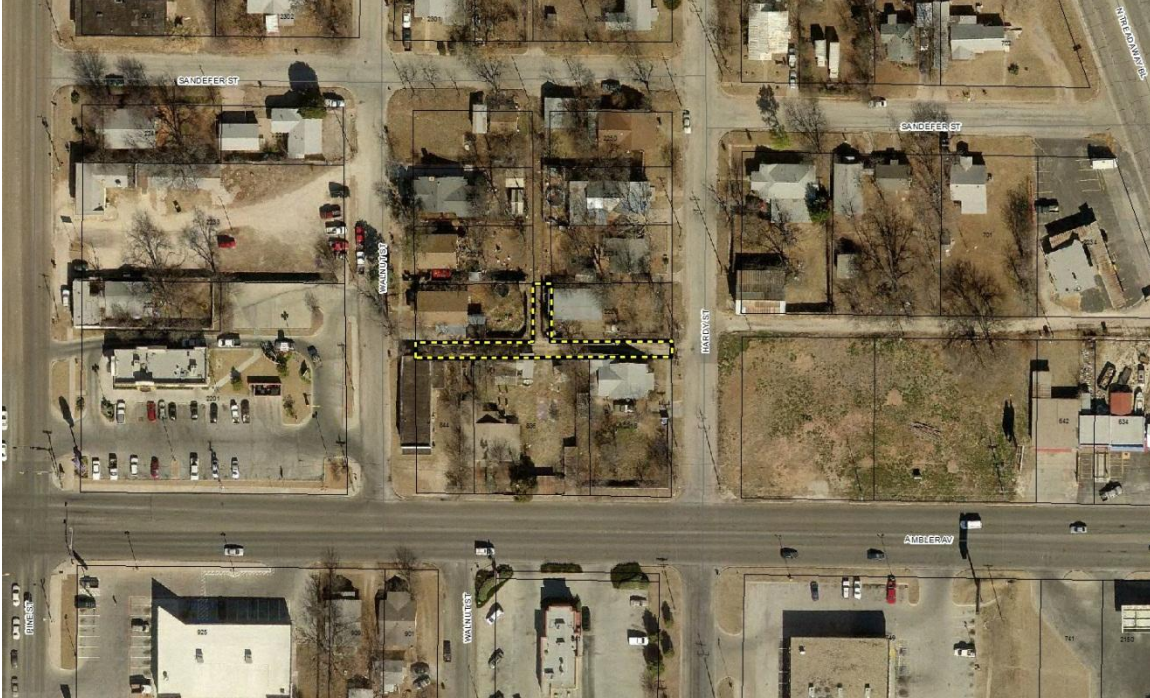
ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

The City of Abilene hereby abandons the following thoroughfares:

Abandon the east to west alley right-of-way and a 50' portion of the north to south alley right-of-way between Hardy St. and Walnut St. and between Ambler Ave. and Sandefer 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;
2. Provide for cul-de-sac turnarounds where the closures will result in a dead-end or provide an alternate connection to the adjacent street network;
3. 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-2012-01

## STAFF REPORT

### APPLICANT INFORMATION:

North Abilene G2K Development Partners, LLC

### HEARING DATES:

Planning & Zoning Commission: March 5, 2012

City Council 1<sup>st</sup> Reading: March 22, 2012

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

### REQUESTED ACTION:

The east to west alley right-of-way and a 50' portion of the north to south alley right-of-way between Hardy St. and Walnut St. and between Ambler Ave. and Sandefer St.



### SITE CHARACTERISTICS:

An alley currently exists along the east to west right-of-way. Improvements have not been made to the existing north to south right-of-way. There are homes on the adjacent properties to the north but all access and refuse collection is from the streets.

### REQUEST ANALYSIS:

The applicant intends to abandon the subject right-of-way to develop a larger tract of land for a single use, a Family Dollar store. The portion of the alley to be abandoned does not service any residential uses and no longer provides for any refuse collection. There are homes on the adjacent properties to the north but all access and refuse collection is from the streets.

### RECOMMENDATIONS:

**Plat Review Committee:** Approval of the requested closure as requested 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;
2. Provide for cul-de-sac turnarounds where the closures will result in a dead-end or provide an alternate connection to the adjacent street network;
3. 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:

Case # TC-2012-01  
Prepared: March 9, 2012

The Planning and Zoning Commission recommended approval by a vote of four (4) in favor (Famble, Glenn, Todd, & Yungblut) to two (2) opposed (Bixby & McClarty).

**NOTIFICATION:**

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

OWNER	ADDRESS	RESPONSE
CRUZ ASUNCION	2234 HARDY ST	
DEANDA JUANITA C	833 SANDEFER ST	
JONES WILLIAM F JR	742 AMBLER AV	In Favor
ALTMAN GLEN RAY & DOROTHY CAROL ALTMAN DESHAZO	2218 HARDY ST	
MARTINEZ ALFONSO & ANGELA	2225 WALNUT ST	
DEBOSKIE PAULA	709 SANDEFER ST	
AUTOZONE TEXAS LP	925 AMBLER AV	
BELL RAY ALAN	2241 HARDY ST	In Favor
WILKERSON JEFFERSON WESLEY	2250 HARDY ST	
FIRST NATIONAL BANK OF BAIRD	836 AMBLER AV	
BACHERINI JESSE & PATRICIA	2217 WALNUT ST	
HARDIN SIMMONS UNIVERSITY	2225 PINE ST	In Favor
JONES WILLIAM F JR	710 AMBLER AV	
PERALEZ DAVID	901 AMBLER AV	
CITY OF ABILENE		
QUARTER CIRCLE L TX	841 AMBLER AV	
BROKERAGE HOUSE INC	2240 WALNUT ST	
ALTMAN JERRY G	2226 HARDY ST	
CARRENO VICTOR C	2242 HARDY ST	
GOMEZ MARTIN H & MARTHA R	2233 WALNUT ST	In Favor
PRUITT DONALD	909 AMBLER AV	
ASH A D	844 AMBLER AV	In Favor
HARDIN SIMMONS UNIVERSITY	2233 PINE ST	In Favor
BEWS EDWARD L & SHIRLEY & SMITH BURTON & LARENE	2201 PINE ST	
WSM PARTNERHIP LLP	749 AMBLER AV	

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







City Council  
Agenda Memo



City Council  
Meeting Date: 3/22/2012

**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-2012-07, a request from VFW, agent Deborah Nevarez, to rezone property from MF (Multi Family) to PD-138 (Planned Development) zoning, located at 825 & 933 Veterans Dr. and 6249 Pueblo Dr.; and setting a public hearing for April 12, 2012.

**GENERAL INFORMATION**

The property is zoned MF and is vacant except for a pavilion in the center of the property. The property is owned by the VFW which is located to the south. The request is to allow for an RV park that would permit members of the VFW to stay on the property for extended periods of time. Currently, the VFW has RV spaces on the north side of their facility. Additionally, the request is proposing to allow for storage units to be developed in the future in the northern part of the property. Properties to the north along Arnold Blvd have GC zoning, which allows for storage units.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a Local Community Center. The property is across from Dyess AFB and near the park at Military Drive. The VFW also provides services to the local area. Arnold Boulevard is a major thoroughfare providing access to Dyess AFB from both the north and south. By complying with the requirements of this PD, 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, Glenn, Todd, Yungblut, & McClarty) to none (0) opposed with a condition that the 'duration of stay' not apply as long as the VFW owns the property and uses it for this purpose.

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

March 12, 2012

Item No. 6.5

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-138 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 22nd day of March A.D. 2012.

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 17th day of February, 2012, 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 April, 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 March, A.D. 2012.

ATTEST:

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

\_\_\_\_\_  
MAYOR

APPROVED:

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

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

EXHIBIT "A"

PAGE 1

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 MF (Multi-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.

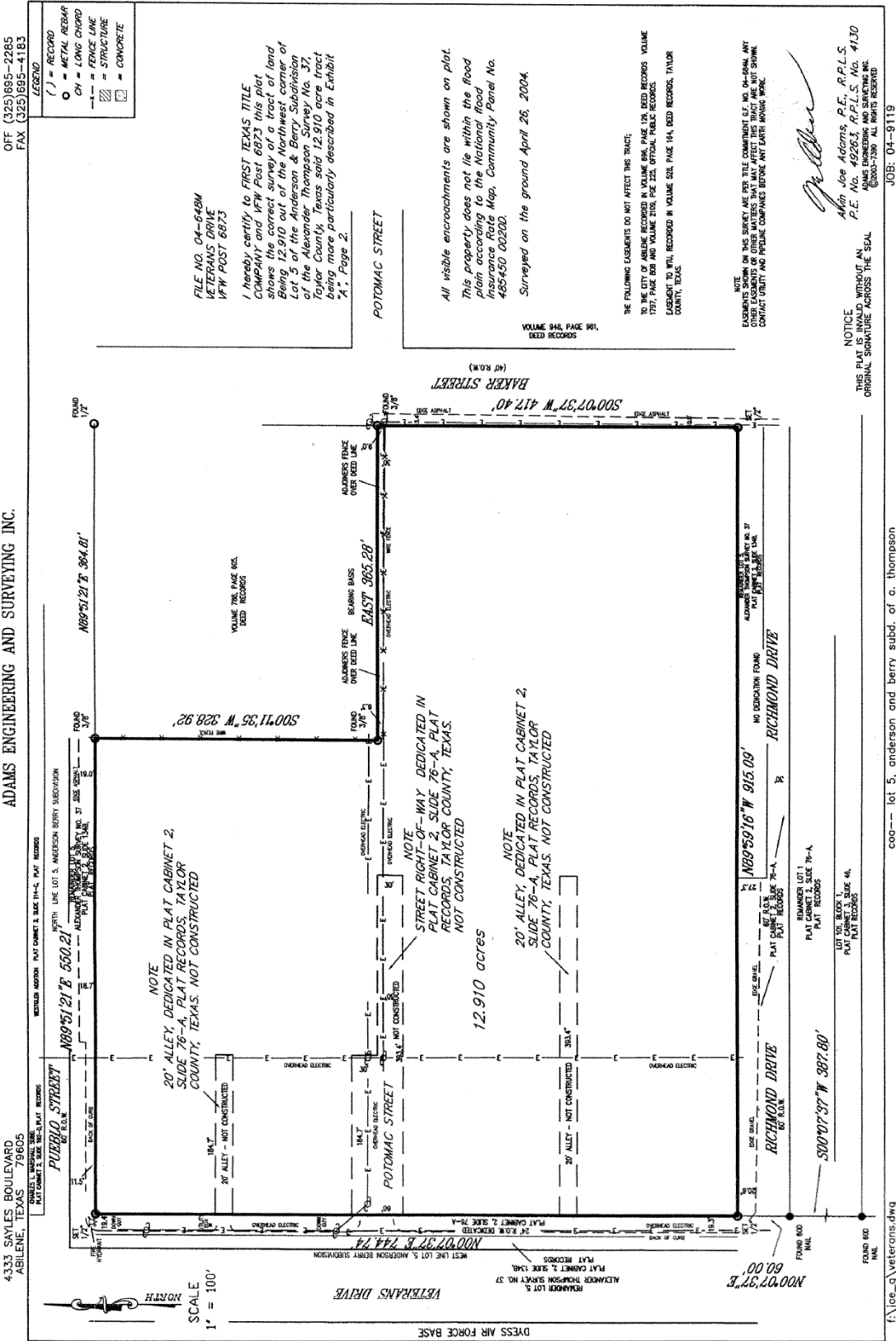


ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

PAGE 2

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



Location: 825 & 933 Veterans Dr. and 6249 Pueblo Dr.

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

EXHIBIT "A"

PAGE 3

PART 6: Purpose. The purpose of the Planned Development (PD) request is to allow for RV park development and related activities for an RV park and self-storage units.

PART 7: Specific Modifications. This Planned Development shall be subject to the requirements of the MF (Multi-Family Residential) zoning district, except as modified below.

**A. PERMITTED USES:**

All uses permitted in the MF (Multi-Family Residential) zoning district listed in the Land Development Code as well as the following uses to be permitted by right:

- RV Park
- Self-Storage facility

**B. SITE DEVELOPMENT**

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

1. The “duration of stay” restriction for RV parks shall not apply to this PD as long as the VFW owns the property and uses it for this purpose.

-END-

# ZONING CASE Z-2012-07

## STAFF REPORT



### APPLICANT INFORMATION:

VFW, agent Deborah Nevarez

### HEARING DATES:

Planning & Zoning Commission: March 5, 2012

City Council 1<sup>st</sup> Reading: March 22, 2012

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

### LOCATION:

825 & 933 Veterans Dr. and 6249 Pueblo Dr.

### REQUESTED ACTION:

Rezone property from MF to PD-138

### SITE CHARACTERISTICS:

The subject property is approximately 12.91 acres and is currently zoned MF (Multi Family Residential). The property is mostly vacant with a pavilion in the center of the property. The adjacent properties have PD zoning to the west across Arnold Blvd, MH & RS-6 zoning to the south, MH & GC zoning to the north, and RS-6 & MH zoning to the east.

### ZONING HISTORY:

The property was annexed in 1959 and was zoned MF after it was annexed.

### ANALYSIS:

- Current Planning Analysis

The property is zoned MF and is vacant except for a pavilion in the center of the property. The property is owned by the VFW which is located to the south. The request is to allow for an RV park that would permit members of the VFW to stay on the property for extended periods of time. Currently, the VFW has RV spaces on the north side of their facility. Additionally, the request is proposing to allow for storage units to be developed in the future in the northern part of the property. Properties to the north along Arnold Blvd have GC zoning, which allows for storage units.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area as part of a Local Community Center. The property is across from Dyess AFB and near the park at Military Drive. The VFW also provides services to the local area. Arnold Boulevard is a major thoroughfare providing access to Dyess AFB from both the north and south. By complying with the requirements of this PD, 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.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

The Planning and Zoning Commission recommended approval by a vote of six (6) in favor (Bixby, Famble, Glenn, Todd, Yungblut, & McClarty) to none (0) opposed with a condition that the ‘duration of stay’ not apply as long as the VFW owns the property and uses it for this purpose.

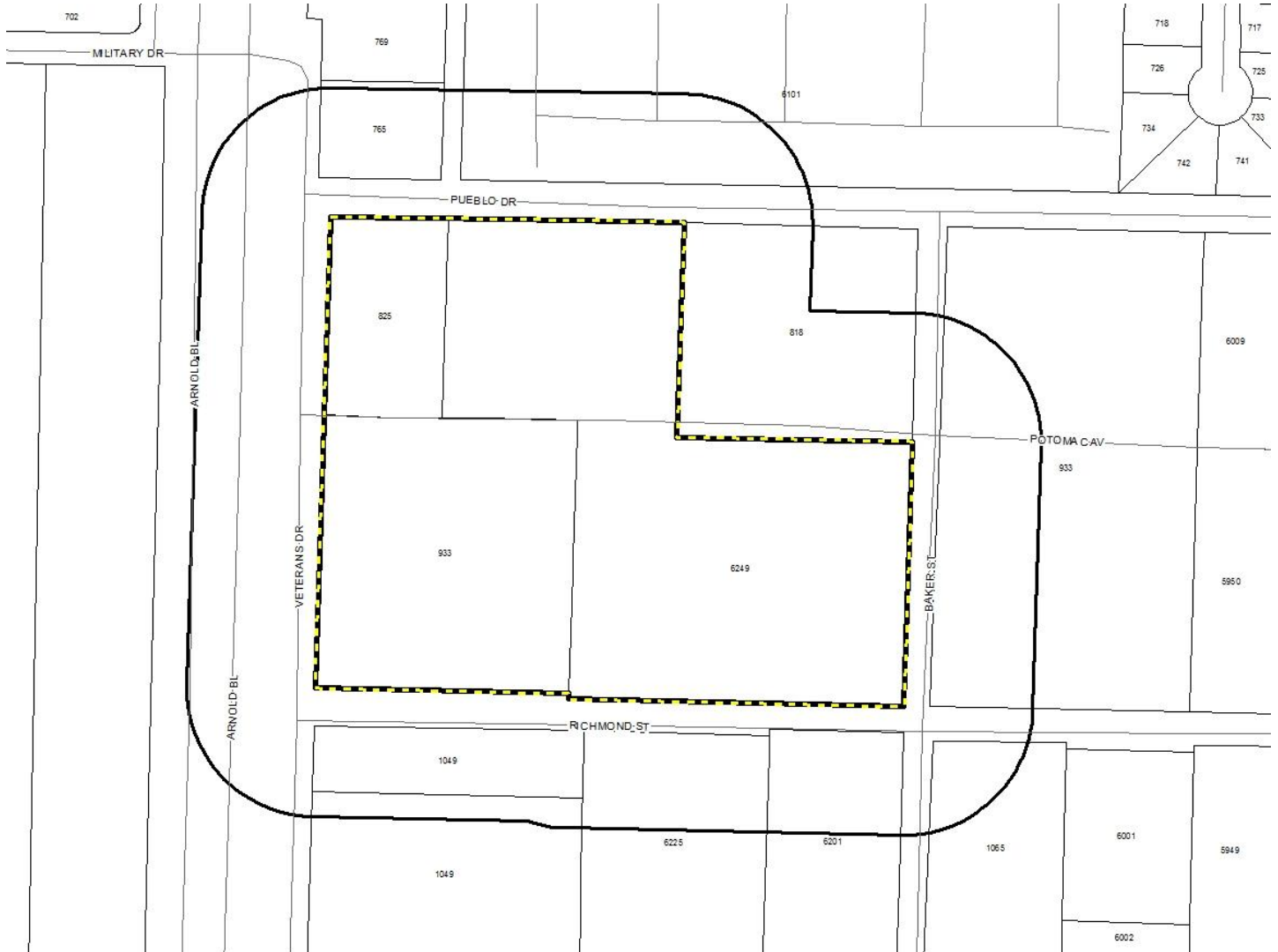
**NOTIFICATION:**

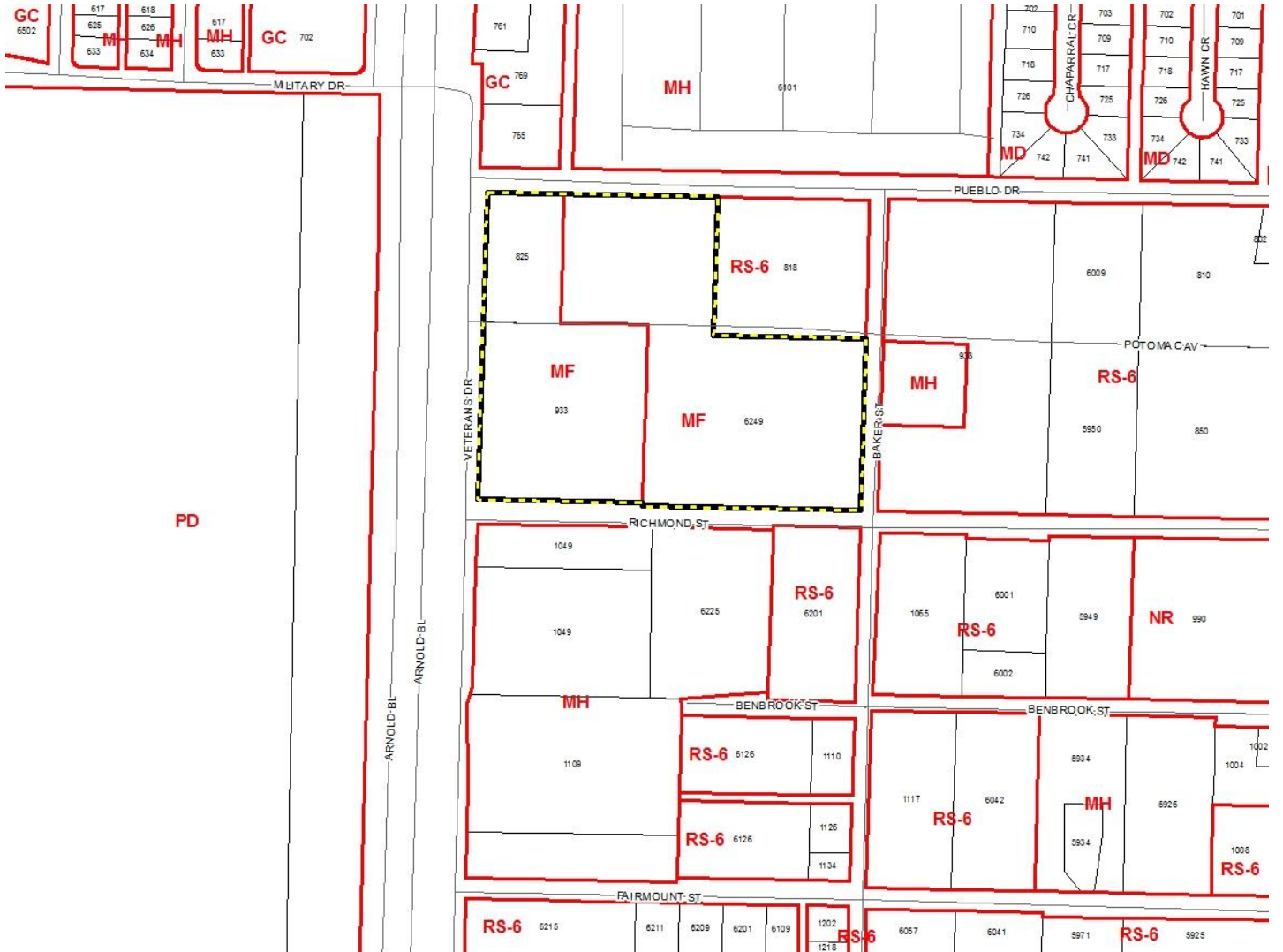
Property owners within a 200-foot radius were notified of the request.

OWNER	ADDRESS	RESPONSE
HUDMAN LINDA M & E VICTOR	1065 BAKER ST	
HANTMAN JOSEPH	6101 S 7TH ST	
VFW POST #6873	825 VETERANS DR	
ALLSUPS CONVENIENCE STORE	765 VETERANS DR	
VFW POST #6873	933 VETERANS DR	
GARCIA SEVERO & MARTA	6201 RICHMOND ST	
GARCIA SEVERO & MARTA	6225 RICHMOND ST	
VFW POST 6873	1049 VETERANS DR	
VFW POST 6873	1049 VETERANS DR	
VFW POST #6873	6249 PUEBLO DR	
THOMSEN BETTY JEAN	818 BAKER ST	
BARBEE CHARLES D	933 BAKER ST	

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

**Y**











City Council  
Agenda Memo



City Council  
Meeting Date: 3/22/2012

**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-2012-08, a request from Randy Voorhees to amend PD-82 concerning signage, located on the east side of Loop 322 at Lone Star Dr; and setting a public hearing for April 12, 2012.

**GENERAL INFORMATION**

The property is zoned PD and has been defined into two tracts: Tract 1 is on the north side of Lone Star Drive and allows a range of uses from residential to retail. The majority of this area has been developed with retail and restaurant uses. Tract 2 is on the south side of Lone Star Drive and allows the same uses as Tract 1 plus some additional uses that are more commercial & service oriented. The primary development in this tract is the Prime Time entertainment facility. The PD allows for free-standing signage; however, only 1 free-standing sign is allowed on Tract 2 and only within the north 250 feet. The request is to allow a 2<sup>nd</sup> free-standing sign, specifically in front of the Prime Time facility. The proposed sign would be 10 feet by 12 feet with a maximum height of 30 feet tall.

The Future Land Use section of the Comprehensive Plan designates the general area at the intersection of Industrial Boulevard and Loop 322 as a Major Commercial/Business Center. Signage plays an important role in identification to the retail, restaurant, educational and entertainment uses that exist in the area. At the same time, development in the Loop 322 corridor has been held to a higher standard to ensure an attractive corridor through development standards and PD's. The proposed PD achieves a balance between allowing additional signage and the aesthetic standards established in the original PD.

**STAFF RECOMMENDATION**

Staff recommends approval as requested.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission recommended approval as presented by a vote of five (5) in favor (Bixby, Glenn, Famble, Yungblut & McClarty) to none (0) opposed.

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

March 12, 2012

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, CONCERNING PD-82 AND ORDINANCE NO. 40-2003, A PLANNED DEVELOPMENT DISTRICT; 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 Ordinance No. 40-2003, 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 22nd day of March A.D. 2012.

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 17th day of February, 2012, 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 April, 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 April, A.D. 2012.

ATTEST:

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

\_\_\_\_\_  
MAYOR

APPROVED:

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

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

EXHIBIT "A"

3rd Amendment to Ordinance No. 40-2003

PART 7: Specific Modifications

ADD: Section D. Signage

Tract 2 (except the north 250')

8. One freestanding sign shall be permitted on the remainder of Tract 2 not to exceed 10 feet by 12 feet in area and not to exceed a height of 30 feet.

-END-

# ZONING CASE Z-2012-08

## STAFF REPORT



### APPLICANT INFORMATION:

Randy Voorhees

### HEARING DATES:

Planning & Zoning Commission: March 5, 2012

City Council 1<sup>st</sup> Reading: March 22, 2012

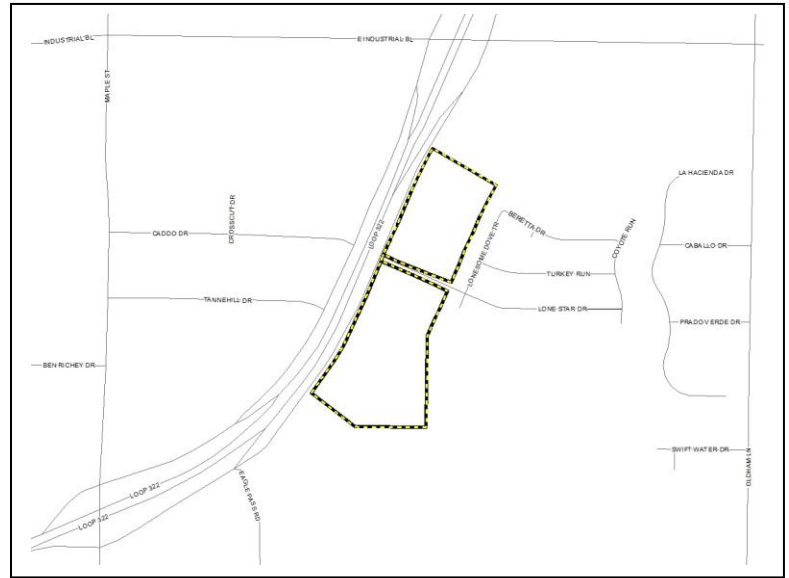
City Council 2<sup>nd</sup> Reading: April 12, 2012

### LOCATION:

The east side of Loop 322 at Lone Star Drive

### REQUESTED ACTION:

Amend PD-82



### SITE CHARACTERISTICS:

The subject property totals approximately 33.74 acres and is currently zoned PD (Planned Development). The property is mostly developed with retail & commercial uses with the exception of the north and south edges of the PD boundary. The adjacent properties have AO & LI zoning to the south, PD zoning to the east, CU & GC zoning to the north, and a mix of LI & HI zoning across the freeway to the west.

### ZONING HISTORY:

The property was annexed in 1968 and was zoned PD in 2003. Two other amendments have been approved in 2005 & 2006.

### ANALYSIS:

- Current Planning Analysis

The property is zoned PD and has been defined into two tracts: Tract 1 is on the north side of Lone Star Drive and allows a range of uses from residential to retail. The majority of this area has been developed with retail and restaurant uses. Tract 2 is on the south side of Lone Star Drive and allows the same uses as Tract 1 plus some additional uses that are more commercial & service oriented. The primary development in this tract is the Prime Time entertainment facility. The PD allows for free-standing signage; however, only 1 free-standing sign is allowed on Tract 2 and only within the north 250 feet. The request is to allow a 2<sup>nd</sup> free-standing sign, specifically in front of the Prime Time facility. The proposed sign would be 10 feet by 12 feet with a maximum height of 30 feet tall.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates the general area at the intersection of Industrial Boulevard and Loop 322 as a Major Commercial/Business Center. Signage plays an important role in identification to the retail, restaurant, educational and entertainment uses that exist in the area. At the same time, development in the Loop 322 corridor has been held to a higher standard to ensure an attractive corridor through development standards and PD's. The proposed PD achieves a balance

between allowing additional signage and the aesthetic standards established in the original PD.

**PLANNING STAFF RECOMMENDATION:**

Staff recommends approval.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

The Planning and Zoning Commission recommended approval as presented by a vote of five (5) in favor (Bixby, Glenn, Famble, Yungblut & McClarty) to none (0) opposed.

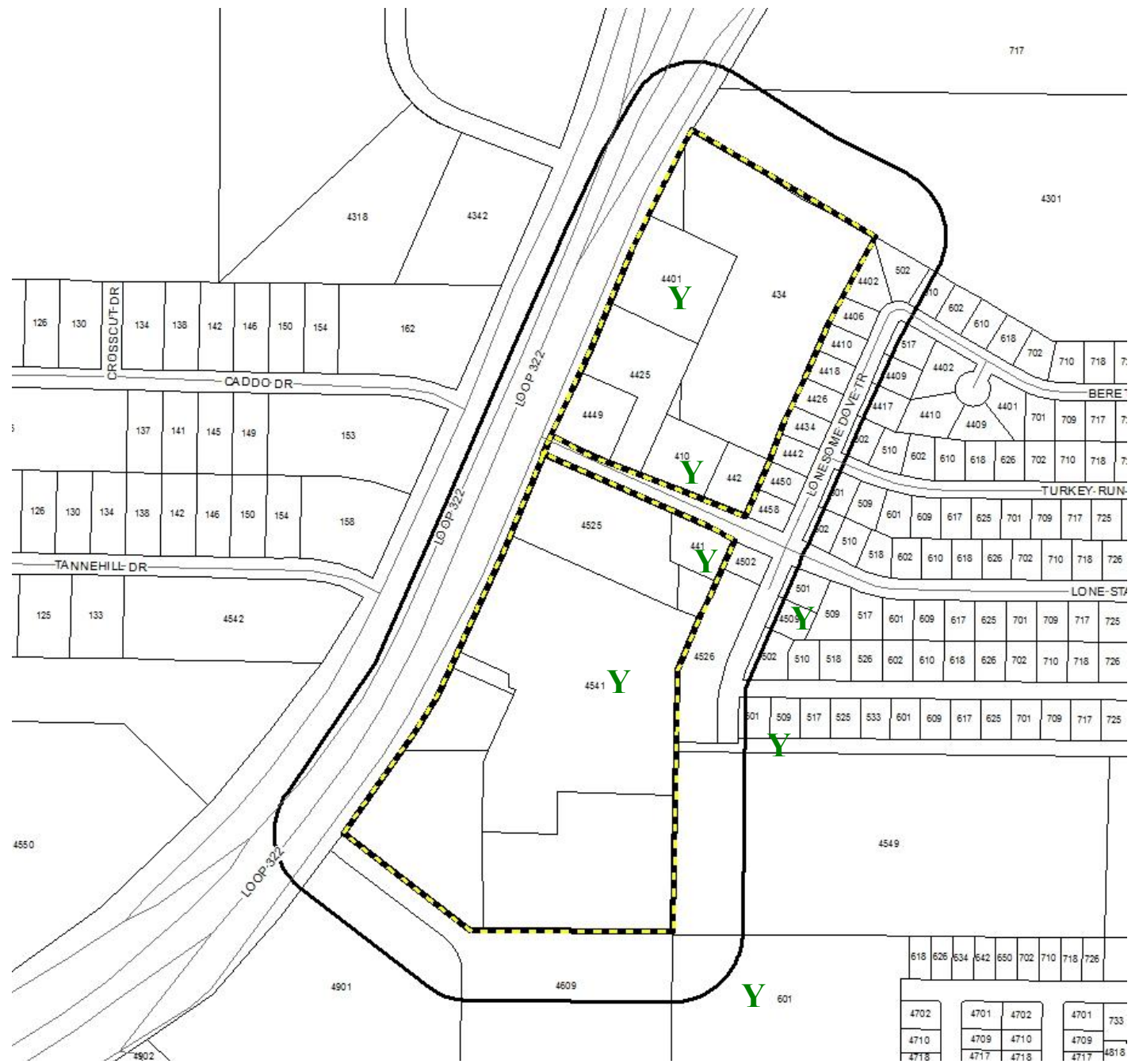
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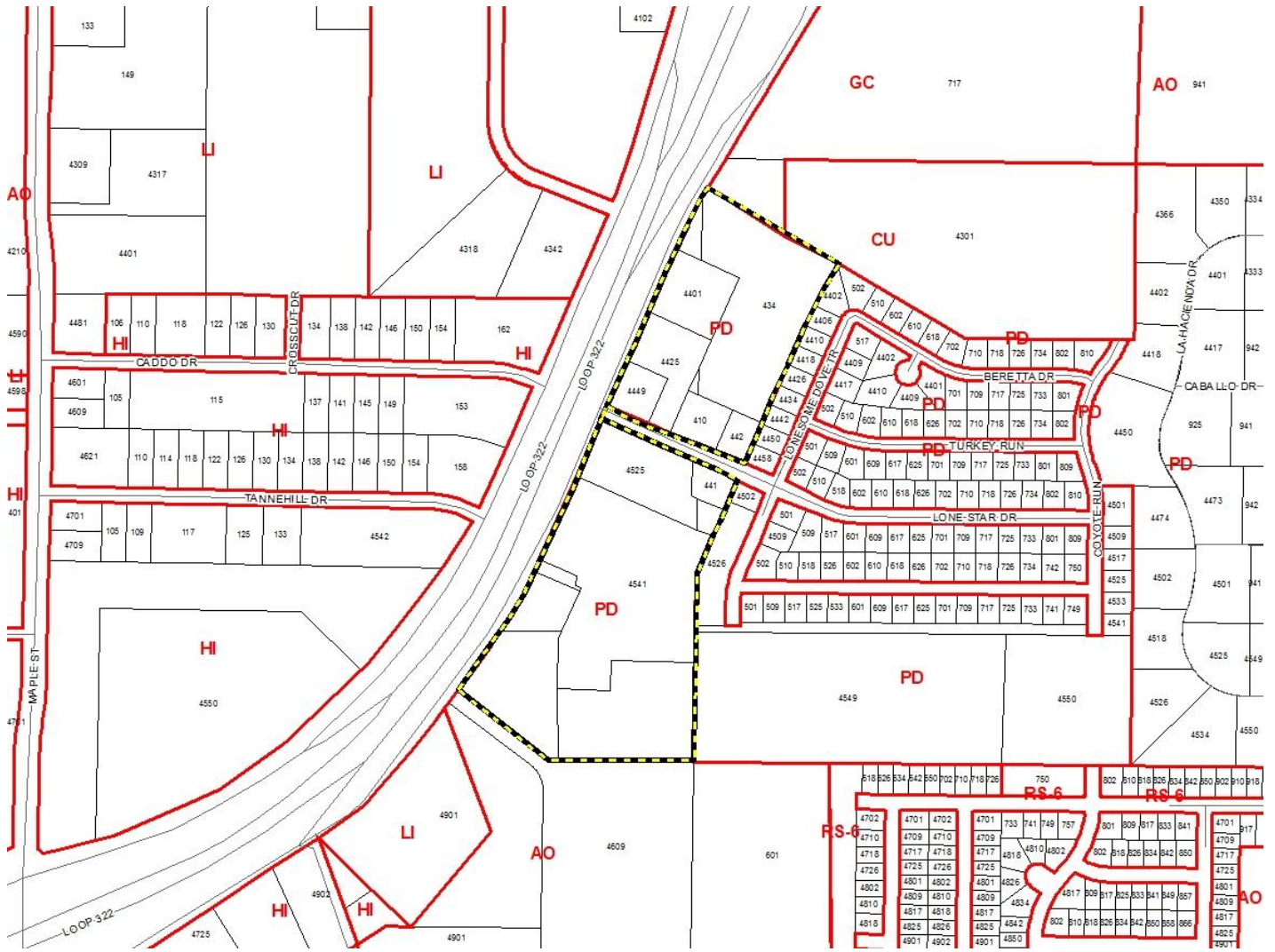
Property owners within a 200-foot radius were notified of the request.

OWNER	ADDRESS	RESPONSE
CISCO JUNIOR COLLEGE	717 E INDUSTRIAL BLVD	
RYKARD COPPER CREEK	4401 LOOP 322	In Favor
MOOSBRUGGER ERIN	502 TURKEY RUN	
WILLIS WESTON W & SHANNA L	502 LONE STAR DR	
CENTRO REAL ESTATE LP	4449 LOOP 322	
CENTRO REAL ESTATE LP	442 LONE STAR DR	
ACME COMMERCIAL PROPERTIES LLC	410 LONE STAR DR	In Favor
BAKER TAMMY L	4410 LONESOME DOVE TRL	
WRISTEN CHARLES W JR	4418 LONESOME DOVE TRL	
CENTRO REAL ESTATE LP		
CENTRO REAL ESTATE LP	4525 LOOP 322	
CLARK KIMBERLY C	4417 LONESOME DOVE TRL	
CENTRO REAL ESTATE LP		
ANDERSON JUSTIN E	517 BERETTA DR	
CENTRO REAL ESTATE LP		
CENTRO REAL ESTATE LP		
MC EACHERN LARRY & ODELIA LITA	4426 LONESOME DOVE TRL	
CENTRO REAL ESTATE LP	434 LONE STAR DR	
COX JAMES L & DELORES ANN	4434 LONESOME DOVE TRL	
D AMICO WALTER F	510 BERETTA DR	
WOMACK JEROD STEWART &	4458 LONESOME DOVE TRL	
GERNEY MICHAEL S & CAROLYN E	4442 LONESOME DOVE TRL	
HUNTER DAVID J & TERESA L	4409 LONESOME DOVE TRL	
MURPHY RODNEY D & SUZANNE	4450 LONESOME DOVE TRL	
CENTRO REAL ESTATE LP		
COSTA ROSSANA	4502 LONESOME DOVE TRL	
GIFFORD TEDDY W &	4509 LONESOME DOVE TRL	In Favor
VOORHEES RANDY		(In Favor)
STOCKARD PERRY & PAMELA	441 LONE STAR DR	In Favor
VOORHEES RANDY	4541 LOOP 322	In Favor
OWEN JANNA SUE	501 LONE STAR DR	

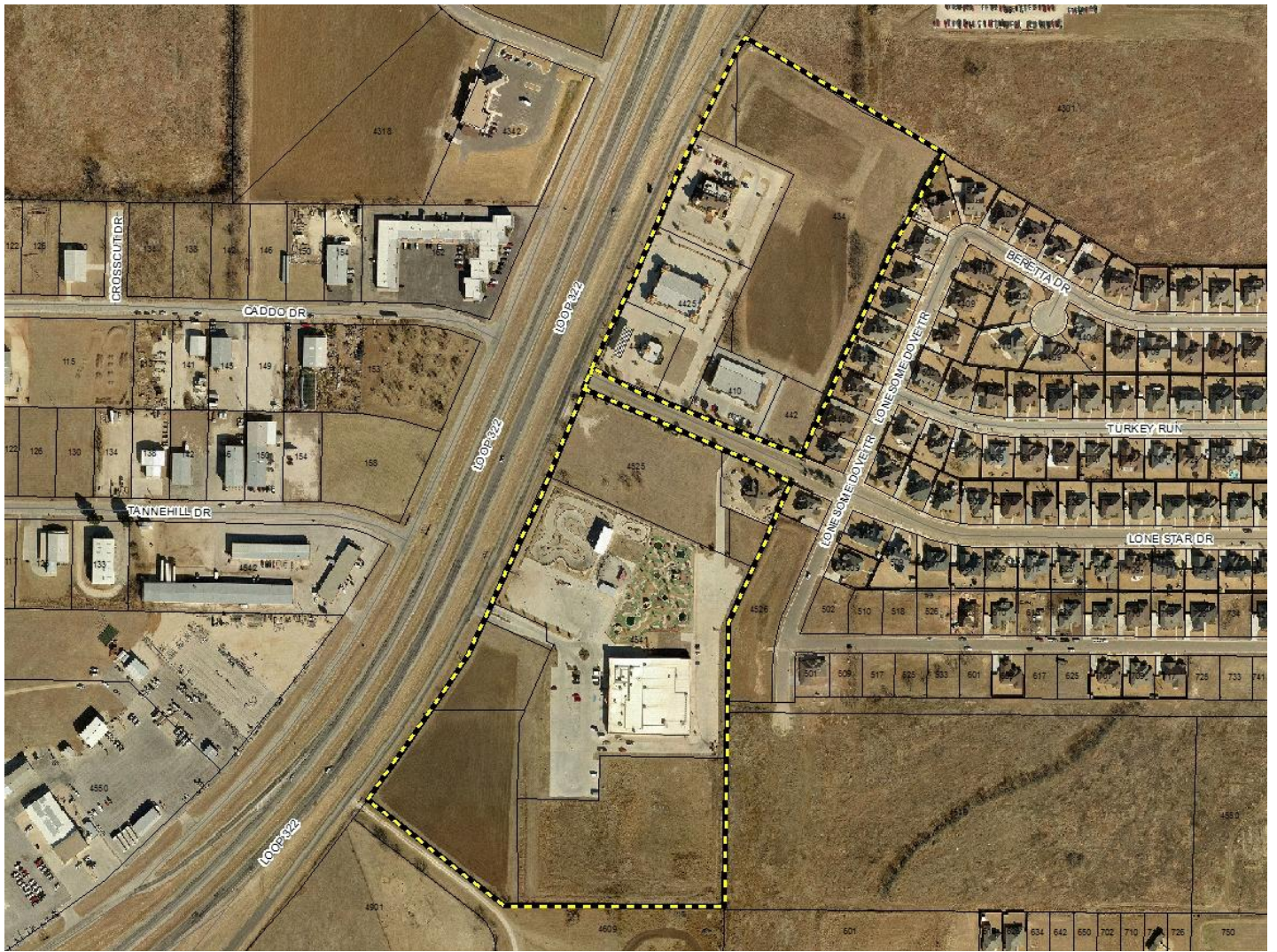
CENTRO REAL ESTATE LP		
STOCKARD INVESTMENTS INC		In Favor
HENDERSON JAMES T	501 TURKEY RUN	
CENTRO REAL ESTATE LP	4425 LOOP 322	
TAYLOR CO SHERIFF POSSE	4609 LOOP 322	
CISCO JUNIOR COLLEGE	4301 LOOP 322	
STOCKARD INVESTMENTS INC	4549 LONESOME DOVE TRL	
Confidential Owner	501 BENELLI DR	
MYERS ROBERT A & MAMIE	4402 LONESOME DOVE TRL	
STOCKARD HOMES INC	502 BENELLI DR	
VODEK CARL J JR & VICKY	502 BERETTA DR	
KING DANIEL S & DIANE HARTLEY	4406 LONESOME DOVE TRL	
DAKOTA SPRINGS LLC	601 SWIFT WATER DR	In Favor
LOCO INC	4901 EAGLE PASS RD	
STOCKARD INVESTMENTS INC	4526 LONESOME DOVE TRL	

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









City Council  
Agenda Memo



City Council  
Meeting Date: 3/22/2012

**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-2012-09, a request from Abilene Development Associates for Musgrave Children's Trust, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to MF (Multi Family) zoning, located on the south side of Hwy 351 at Union Ln.; and setting a public hearing for April 12, 2012.

**GENERAL INFORMATION**

The property is zoned AO and is currently undeveloped. The applicant is proposing to develop the property with a low-income apartment complex. The adjacent properties across Hwy 351 have been developed with a mix of apartments and single-family residential uses. The area adjacent to Hwy 351 is zoned GR and is planned to be developed with retail uses.

The Future Land Use section of the Comprehensive Plan designates this general area as a low density residential. The intersection of Hwy 351 with I-20 is identified as a Major Commercial/Business Center. The City has recently adopted the Highway 351 Development Plan to help define the goals of the corridor. One of the goals of the plan includes: "Encourage the development of mixed income diverse housing including market rate and affordable housing." The request would not have a negative impact on the surrounding properties and would be compatible with the City's plans for this area.

**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, Glenn, Todd, Yungblut, & McClarty) to none (0) opposed.

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

March 12, 2012

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 22<sup>nd</sup> day of March, A.D. 2012.

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 17<sup>th</sup> day of February, 2012, 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 April, 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 April, A.D. 2012.

ATTEST:

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

\_\_\_\_\_  
MAYOR

APPROVED:

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

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

EXHIBIT "A"

Rezone property from AO (Agricultural Open Space) to MF (Multi Family) zoning

Legal Description:

**BEING 6.198** acres of land out of the NW/4 of Section 25 of the Blind Asylum Land Survey, Abstract No. 1007, City of Abilene, Taylor County, Texas and being out of the remainder of that certain tract described as 16.889 acres described in a certain Warranty Deed to Kenneth Paul Musgrave, Trustee of the Musgrave Children's Trust, recorded in Instrument No. 2009-15164 of the Official Public Records of Taylor County, Texas. Said 6.198 acre tract is more particularly described in metes and bounds as follows:

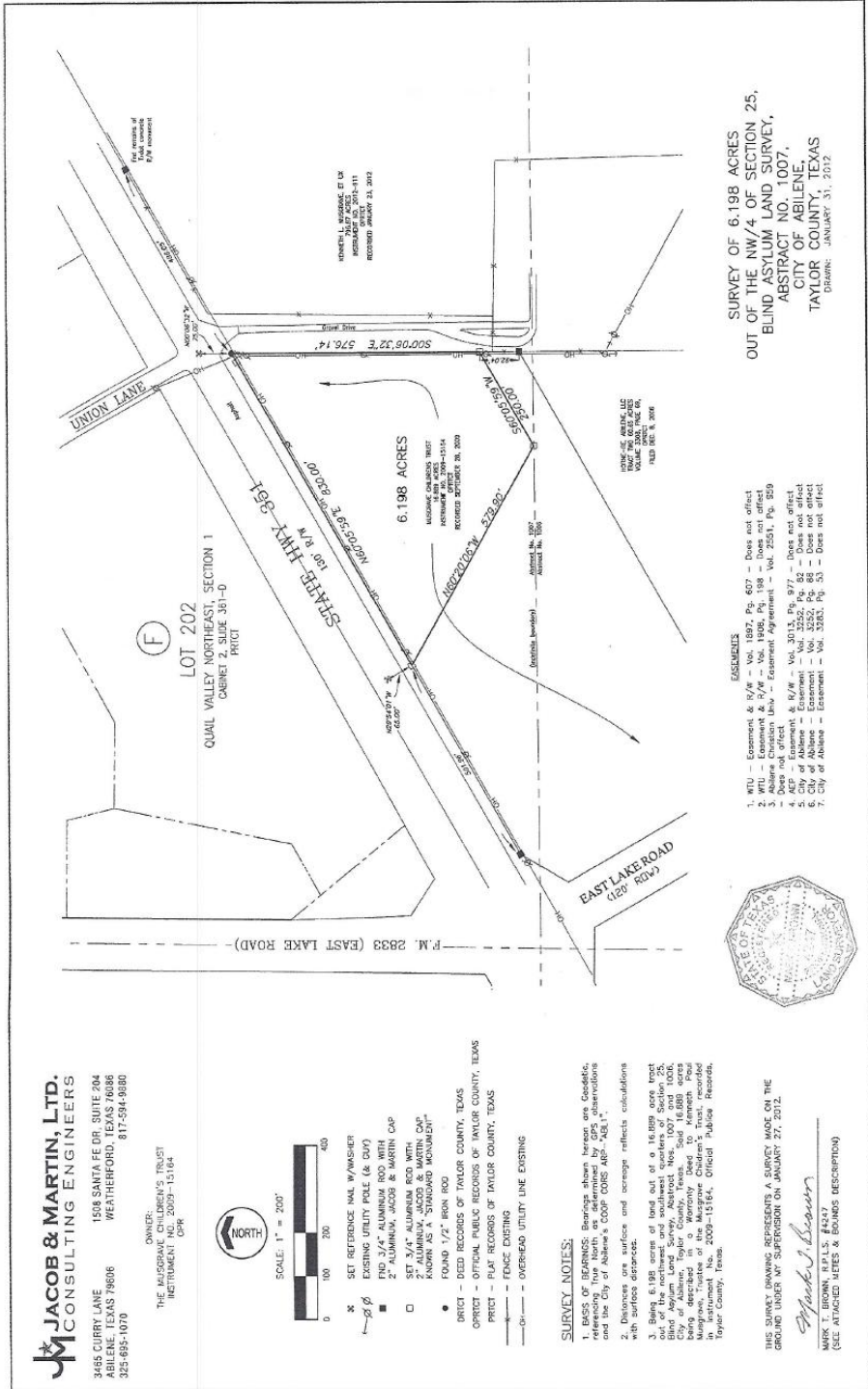
**BEGINNING** at a set ¼ inch aluminum rod with a 2 inch aluminum cap stamped "JACOB & MARTIN" (henceforth called a standard monument) in the southeasterly right-of-way line of State Highway 351 whence a found standard monument in said right-of-way line at the intersection of said right-of-way line with the easterly right-of-way line of East Lake Road bears S60°05'59"W 501.96 feet;

**THENCE** N60°05'59"E feet along said southeast right-of-way line of State Highway 351, at 820.00 feet pass a set standard monument for reference, and continuing a total distance of 830.00 feet to a found 1/2 inch iron rod with cap stamped "J&M 4247" for the northeast corner of said 16.889 acre tract, same being the most northerly, northwest corner of a 796.87 acre tract described in said Warranty Deed recorded in said Instrument No. 2009-15164, and most recently described in a Special Warranty Deed to Kenneth L. Musgrave and Etta D. Musgrave recorded in Instrument No. 2012-911 of said Official Public Records, and from said ½ inch iron rod a 4-1/2 inch steel corner post bears S40°47'36"E 1.03 feet and the remains of a TxDOT concrete right-of-way monument bears N60°05'59"E 486.05 feet;

**THENCE** S00°06'32"E 576.14 feet along the east line of said 16.889 acre tract, same being the most northerly, west line of said 796.87 acre tract, to a standard monument set for the southeast corner of this tract from which a found standard monument at the southeast corner of said 16.889 acre tract bears S00°06'32"E 92.04 feet;

**THENCE** S60°05'59"W 250.00 feet to a set standard monument for the southwest corner of this tract;

**THENCE** N60°20'06"W 579.90 feet to the **PLACE OF BEGINNING** and containing **6.198** acres of land, more or less.



**JACOB & MARTIN, LTD.**  
**CONSULTING ENGINEERS**  
 3485 CURRY LANE  
 1508 SANTA FE DR., SUITE 204  
 WEATHERFORD, TEXAS 76086  
 325-695-1070 817-594-9880

OWNER:  
 THE MARGRAVE CHILDREN'S TRUST  
 INSTRUMENT NO. 2009-13164  
 OPR



SCALE: 1" = 200'

- 0 100 200 400
- ✕ SET REFERENCE NAIL W/ANVILER
- EXISTING UTILITY POLE (6" DIA)
- 1" PING PONG BALL
- 2" ALUMINUM, JACOBS & MARTIN CAP
- SET 3/4" ALUMINUM ROD WITH
- 2" ALUMINUM, JACOBS & MARTIN CAP
- 1/2" ALUMINUM ROD WITH
- 1" SHIRAZO BUSHING
- FOUND 1/2" IRON ROD
- ORIENT - FIELD RECORD OF TAYLOR COUNTY, TEXAS
- ORIENT - OFFICE RECORD OF TAYLOR COUNTY, TEXAS
- FENCE EXISTING
- OVERHEAD UTILITY LINE EXISTING

**SURVEY NOTES:**  
 1. BEARING REFERENCE: Bearings shown herein are Computed, referencing True North as determined by GPS observations and the City of Abilene's COOP COIS ABP, "AB1".  
 2. Distances are surface and acreage reflects calculations with surface distances.  
 3. Being 6.198 acres of land out of a 16.899 acre tract (Abstract No. 1007) of the Blind Asylum Land Survey, Abstract Nos. 1007 and 1008, City of Abilene, Taylor County, Texas, and being 6.198 acres of land out of a 16.899 acre tract (Abstract No. 1007) of the Blind Asylum Land Survey, Abstract Nos. 1007 and 1008, City of Abilene, Taylor County, Texas, recorded in the Public Records of Taylor County, Texas, Instrument No. 2009-13164, Official Public Records, Taylor County, Texas.

- EASEMENTS**
1. WTD - Easement & R/W - Vol. 1897, Pg. 607 - Does not affect
  2. WTD - Easement & R/W - Vol. 1906, Pg. 198 - Does not affect
  3. WTD - Easement & R/W - Estimation Agreement - Vol. 2531, Pg. 359 - Does not affect
  4. AEP - Easement & R/W - Vol. 3015, Pg. 977 - Does not affect
  5. City of Abilene - Easement - Vol. 3252, Pg. 88 - Does not affect
  6. City of Abilene - Easement - Vol. 3253, Pg. 53 - Does not affect
  7. City of Abilene - Easement - Vol. 3253, Pg. 53 - Does not affect



THIS SURVEY DRAWING REPRESENTS A SURVEY MADE ON THE GROUND UNDER MY SUPERVISION ON JANUARY 27, 2012.  
 Mark T. Brown  
 MARK T. BROWN, R.P.L.S. #12427  
 (SEE ATTACHED NOTES & BOUNDS DESCRIPTION)

Location:

836 & 844 Ambler Ave., 2218 & 2226 Hardy St., and 2217 Walnut St.

-END-

# ZONING CASE Z-2012-09

## STAFF REPORT



### APPLICANT INFORMATION:

Abilene Development Associates for Musgrave Children's Trust, agent Tal Fillingim

### HEARING DATES:

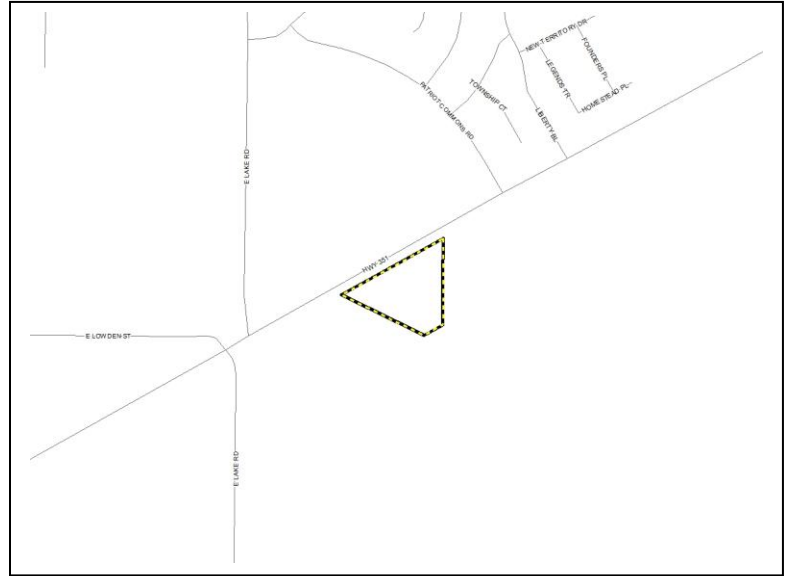
Planning & Zoning Commission: March 5, 2012  
City Council 1<sup>st</sup> Reading: March 22, 2012  
City Council 2<sup>nd</sup> Reading: April 12, 2012

### LOCATION:

The south side of Hwy 351 at Union Ln

### REQUESTED ACTION:

Rezone property from AO to MF



### SITE CHARACTERISTICS:

The subject property is approximately 6.2 acres and is currently zoned AO (Agricultural Open Space). The property is currently undeveloped. The adjacent properties have GR (General Retail) zoning across the street to the north and AO zoning to the east, west and south.

### ZONING HISTORY:

The property was annexed in 1980 & 1982 and was zoned AO as part of the annexation.

### ANALYSIS:

- Current Planning Analysis

The property is zoned AO and is currently undeveloped. The applicant is proposing to develop the property with a low-income apartment complex. The adjacent properties across Hwy 351 have been developed with a mix of apartments and single-family residential uses. The area adjacent to Hwy 351 is zoned GR and is planned to be developed with retail uses.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area as a low density residential. The intersection of Hwy 351 with I-20 is identified as a Major Commercial/Business Center. The City has recently adopted the Highway 351 Development Plan to help define the goals of the corridor. One of the goals of the plan includes: "Encourage the development of mixed income diverse housing including market rate and affordable housing." The request would not have a negative impact on the surrounding properties and would be compatible with the City's plans for this area.

**PLANNING STAFF RECOMMENDATION:**

Staff recommends approval as requested.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

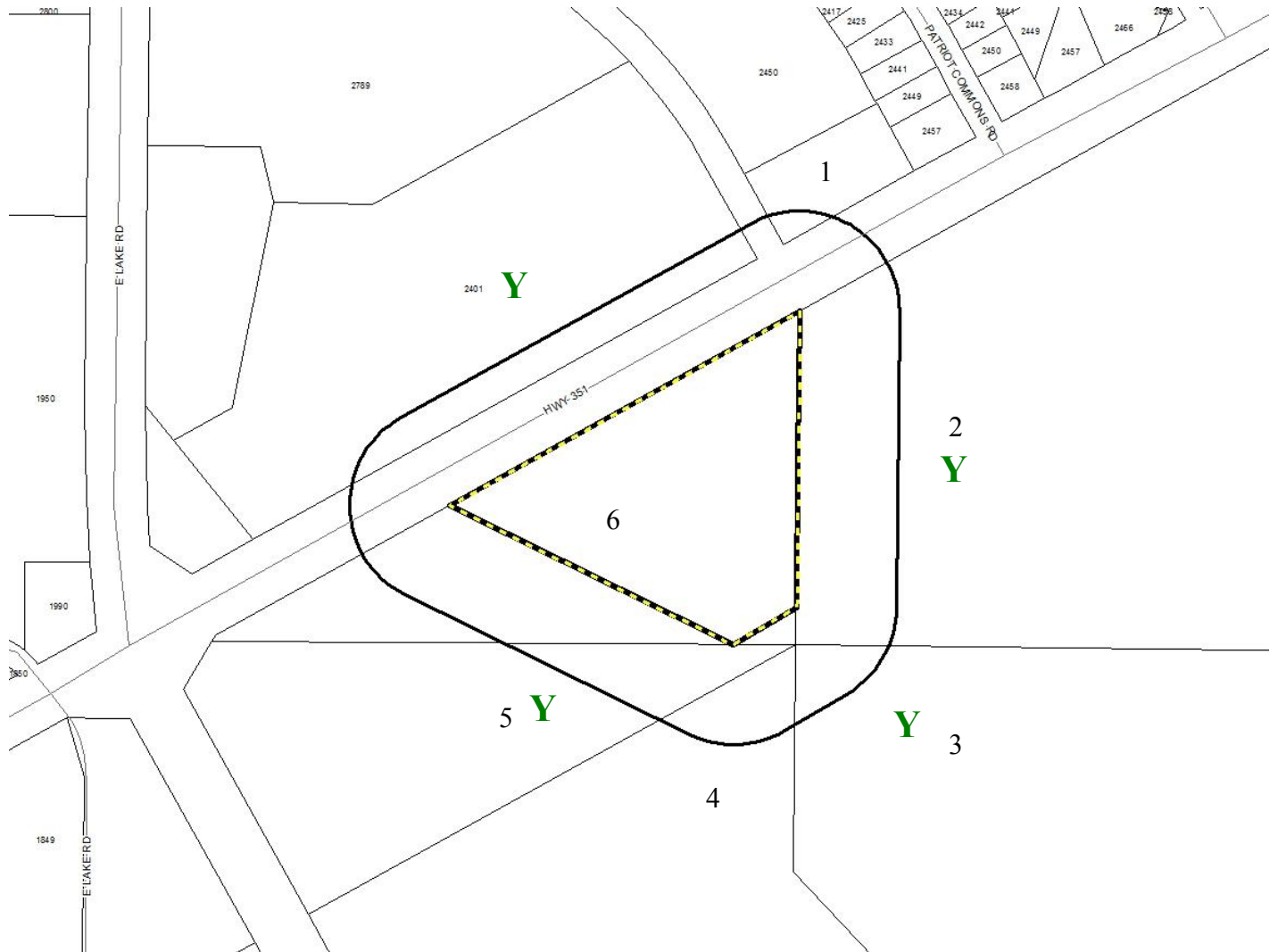
The Planning and Zoning Commission recommended approval by a vote of six (6) in favor (Bixby, Famble, Glenn, Todd, Yungblut, & McClarty) to none (0) opposed.

**NOTIFICATION:**

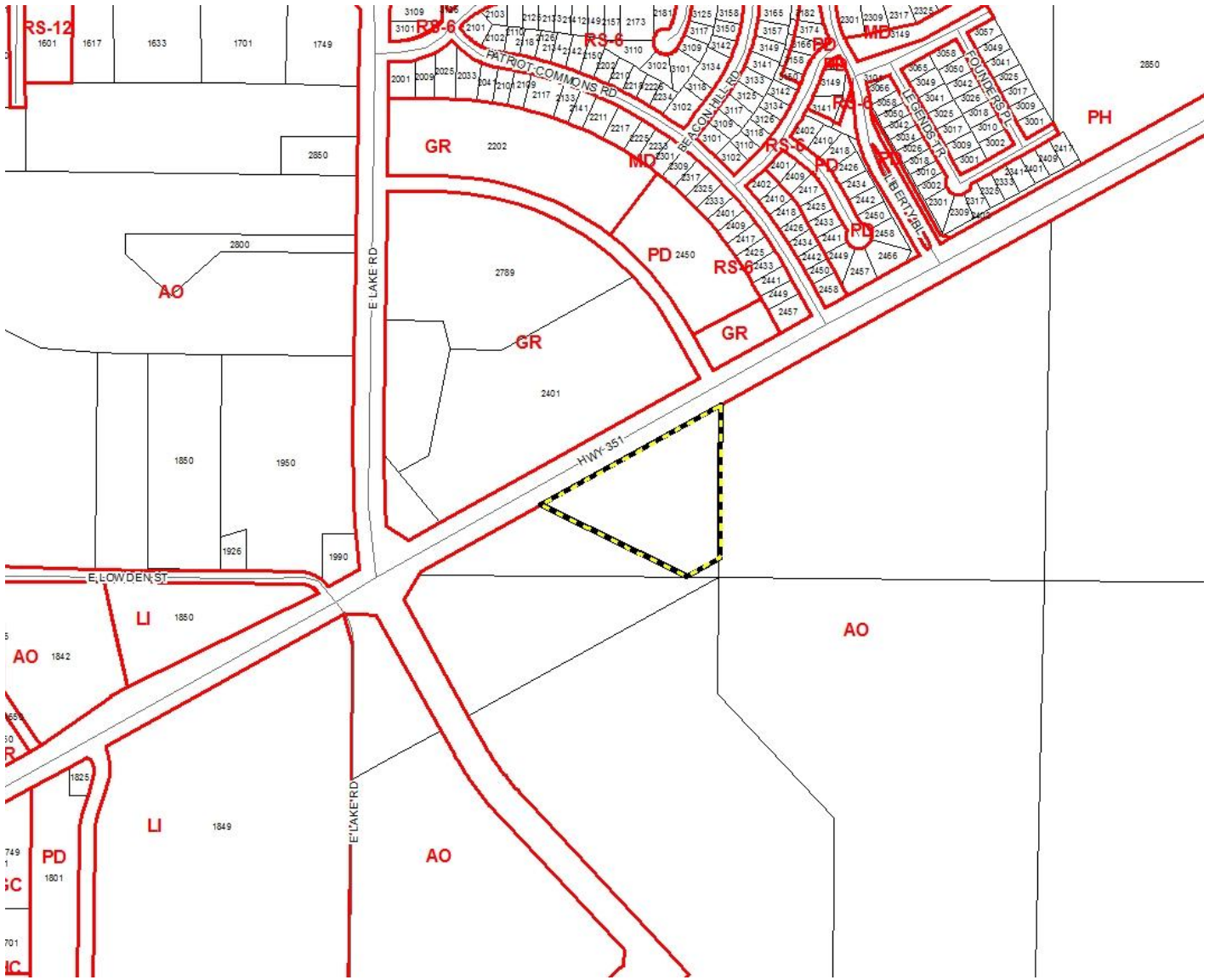
Property owners within a 200-foot radius were notified of the request.

OWNER	ADDRESS	RESPONSE
COACH STANTON INVESTMENTS LLC	#1	
MUSGRAVE KENNETH L & ETTA D	#2	In Favor
MUSGRAVE CHILDREN'S TRUST	#5	In Favor
HORNE RE-ABILENE LLC	#4	
MUSGRAVE KENNETH L & ETTA D	2401 UNION LN	In Favor
MUSGRAVE KENNETH L & ETTA D	#3	In Favor
[No Information]	#6	

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











City Council  
Agenda Memo



City Council  
Meeting Date: 3/22/2012

**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. CUP-2012-01, a request from The Salvation Army, agent Eddie Chase, for a Conditional Use Permit to allow a Social Service Facility on property zoned RS-6 (Single-Family Residential) and MF (Multi Family), located at 1733 Poplar St. and 1342 Westway Dr.; and setting a public hearing for April 12, 2012.

**GENERAL INFORMATION**

Currently the property is zoned RS-6 on the northern part of the property and zoned MF on the southern part. The property has been developed with a gym/chapel on the northern half that has been used by The Salvation Army to provide services to their mission. A house existed on the southern half of the property that was used for office and storage. The building has been removed recently. The surrounding properties to the north and west have been developed primarily with single family residential dwelling units with some multi-family units. This property is 1 block west of Butternut Street which is a major commercial roadway zoned HC.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The applicant plans to develop the southern part of the property with a storage/garage building to store a large service vehicle and supplies. Based on the information provided, staff believes a Conditional Use Permit at this location will be compatible with the surrounding uses as long as the proposed conditions are approved.

**STAFF RECOMMENDATION**

Staff recommends approval as requested with the following conditions:

1. The site must meet required landscaping standards, regardless of whether triggered by a site plan;
2. No new driveway shall be permitted on Poplar;
3. Any proposed fencing/walls shall meet standards for residential fencing.

**BOARD OR COMMISSION RECOMMENDATION**

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

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

March 12, 2012

Item No. 6.8

Disposition by City Council

- Approved      Ord/Res# \_\_\_\_\_  
 Denied  
 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 22<sup>nd</sup> day of March A.D. 2012.

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 17<sup>th</sup> day of February, 2012, 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 April, 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 April, A.D. 2012.

ATTEST:

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

\_\_\_\_\_  
MAYOR

APPROVED:

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

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

EXHIBIT "A"

Approve a Conditional Use Permit for a Social Service Facility on property zoned RS-6 (Single-Family Residential) and MF (Multi Family) zoning.

Location:

1733 Poplar St. and 1342 Westway Dr.

Legal Description:

C B WEBB SUB OF ANDERSON, BLOCK 2, LOTS 9-14

With the following conditions:

- The site must meet required landscaping standards, regardless of whether triggered by a site plan;
- No new driveway shall be permitted on Poplar;
- Any proposed fencing/walls shall meet standards for residential fencing.

-END-

# ZONING CASE CUP-2012-01

## STAFF REPORT



### APPLICANT INFORMATION:

The Salvation Army, agent Eddie Chase

### HEARING DATES:

Planning & Zoning Commission: March 5, 2012

City Council 1<sup>st</sup> Reading: March 22, 2012

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

### LOCATION:

1733 Poplar St. and 1342 Westway Dr.

### REQUESTED ACTION:

Conditional Use Permit to allow a Social Service Facility on property zoned RS-6 (Single-Family Residential) and MF (Multi Family).



### SITE CHARACTERISTICS:

The subject property is approximately 0.91 acres and is zoned RS-6 (Single Family Residential) and MF (Multi Family). The surrounding properties have RS-6 zoning to the west, MF zoning to the north, and HC zoning to the south and west.

### ZONING HISTORY:

The area was annexed in 1951 and was zoned RS-6 & MF sometime after it was annexed.

### ANALYSIS:

#### • Current Planning Analysis

Currently the property is zoned RS-6 on the northern part of the property and zoned MF on the southern part. The property has been developed with a gym/chapel on the northern half that has been used by The Salvation Army to provide services to their mission. A house existed on the southern half of the property that was used for office and storage. The building has been removed recently. The surrounding properties to the north and west have been developed primarily with single family residential dwelling units with some multi-family units. This property is 1 block west of Butternut Street which is a major commercial roadway zoned HC.

#### • Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The applicant plans to develop the southern part of the property with a storage/garage building to store a large service vehicle and supplies. Based on the information provided, staff believes a Conditional Use Permit at this location will be compatible with the surrounding uses as long as the proposed conditions are approved.

### PLANNING STAFF RECOMMENDATION:

Case # CUP-2012-01

Updated: March 9, 2012

Staff recommends approval as requested with the following conditions:

1. The site must meet required landscaping standards, regardless of whether triggered by a site plan;
2. No new driveway shall be permitted on Poplar;
3. Any proposed fencing/walls shall meet standards for residential fencing.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

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

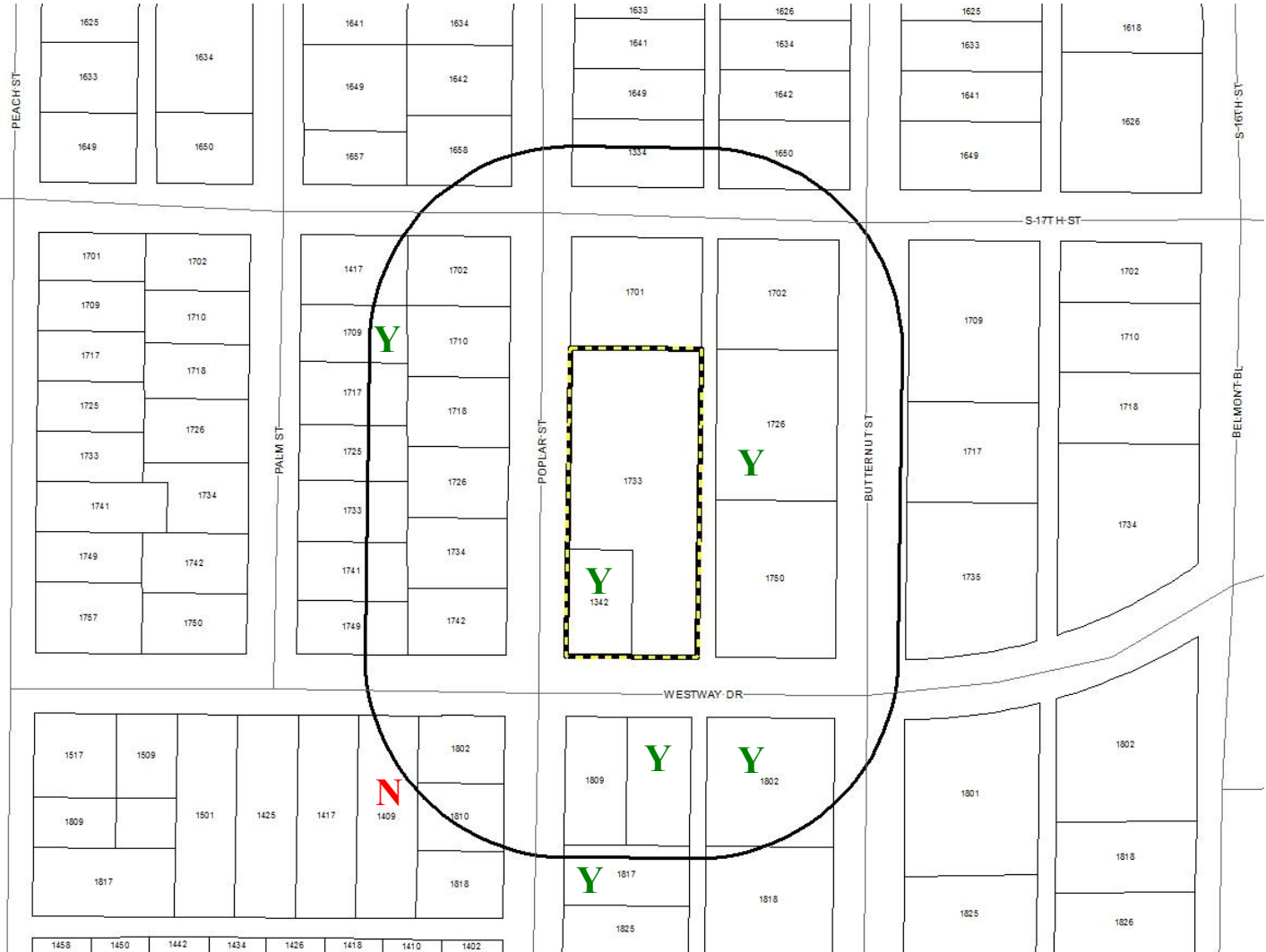
**NOTIFICATION:**

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

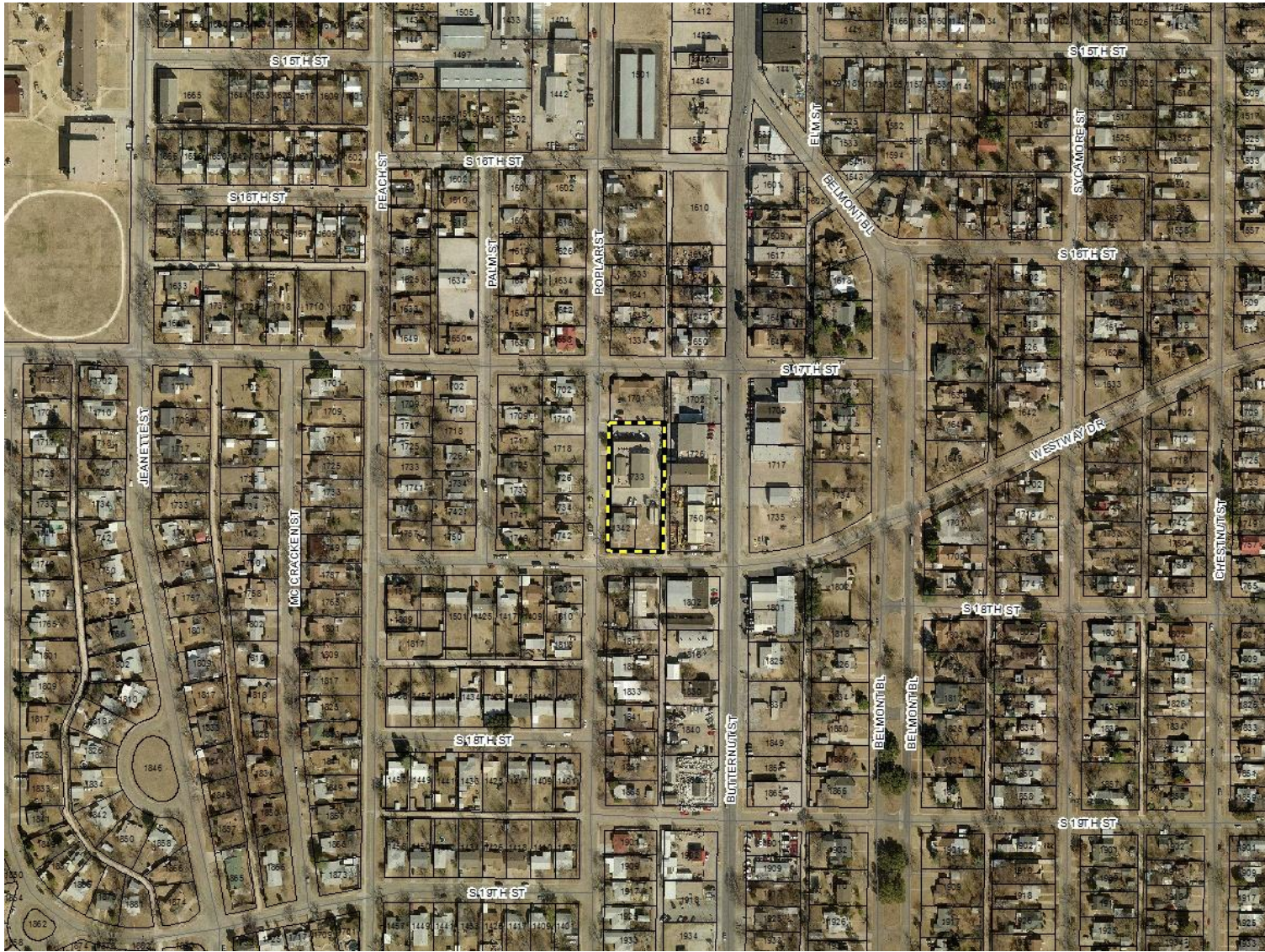
OWNER	ADDRESS	RESPONSE
PHELPS ANGINA E HEDGES	1334 S 17TH ST	
EDINS J W	1749 PALM ST	
HUYCK TERRI	1702 POPLAR ST	
GREEN JERRY O & LAQUITTA	1650 BUTTERNUT ST	
AMAYA ANA MARIA	1710 POPLAR ST	
THE SALVATION ARMY	1342 WESTWAY DR	In Favor
MIRAMONTEZ CARAZON	1742 POPLAR ST	
PAUL TOMMY L	1409 WESTWAY DR	Opposed
NAVEJAS IGNACIO C & HERLINDA P	1717 PALM ST	
SNOW QUIDA & ET AL	1718 POPLAR ST	
KNIGHT DARRELL JAMES	1817 POPLAR ST	In Favor
LINDSEY BOB	1725 PALM ST	
TRAVIS JANICE KATHLEEN	1702 BUTTERNUT ST	
BARLOW JEREMY L & BONNIE C	1709 PALM ST	In Favor
REEDER MARIAN JO TR OF FARREL G	1818 BUTTERNUT ST	
JACKSON RENEE	1802 POPLAR ST	
PEREZ JOE M	1750 BUTTERNUT ST	
HUGHES THEO R	1417 S 17TH ST	
KNIGHT DARRELL JAMES	1802 BUTTERNUT ST	In Favor
JUSTICE DALE	1809 POPLAR ST	
CRANE RICKY L	1733 PALM ST	
HARDIN DONALD DEAN JR	1741 PALM ST	
KNIGHT DARRELL JAMES		In Favor
ARMSTRONG SUE	1658 POPLAR ST	
KRAMER TERRY W	1810 POPLAR ST	
RAYFORD GEORGE	1726 POPLAR ST	
RIVERA MARTIN	1734 POPLAR ST	
SALVATION ARMY THE	1726 BUTTERNUT ST	In Favor
SALVATION ARMY THE	1701 POPLAR ST	



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









**City Council  
Agenda Memo**



**TO:** Larry D. Gilley, City Manager  
**FROM:** Don Green, Director of Aviation  
**SUBJECT:** Construction Contract Award to Crowe Group, Inc.

**City Council  
Meeting Date: March 22, 2012**

**GENERAL INFORMATION**

On February 23<sup>rd</sup>, the City accepted bids for the Airport Snow Removal Equipment Building Construction Project (CB-1217). This building will house the airport's snow removal equipment and supplies, which are currently stored outside. The bid specifications included a base bid with an additive alternate for a hoist crane.

We received three bids. However, the lowest bid, from Thomas Hicks Construction with a base-plus-alternate amount of \$334,596.00, had incomplete items in the bid schedule and the bid items did not add up to the bid amount. Due to these bidding errors, we are recommending that Hicks Construction's bid be rejected and award made to the second lowest bid by Crowe Group, Inc. in the Total Base Bid Plus Alternate amount of **\$404,200.00**.

**FUNDING/FISCAL IMPACT**

This contract is funded 95% by AIP Grants 35 and 40. The city's 5% match is **\$20,210.00**

**STAFF RECOMMENDATION**

Staff recommends that City Council authorize the City Manager to execute the construction contract with Crowe Group, Inc.

**BOARD OR COMMISSION RECOMMENDATION**

The Airport Development Board voted to recommend approval of the contract at its March 14 meeting.

Prepared by:

Name: Don Green

Title: Director of Aviation

Item No. 6.9

Disposition by City Council

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

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

**City Council  
Agenda Memo**



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

**FROM:** Megan Santee, Public Works Director

**SUBJECT:** Procurement of Bus Wash for CityLink

**City Council  
Meeting Date: 03-22-12**

**GENERAL INFORMATION**

The current bus wash system at CityLink was purchased in 1996. It is a moving gantry system with the wash equipment moving along rails the length of the vehicle being washed. Due to the age of the equipment and the many moving parts, the system is often in need of repair. The parts have become difficult to obtain. The system is currently inoperable with an estimated repair cost of \$20,000. Given the age of the system, the difficulty in obtaining parts and the cost of repairs it is more prudent to replace the system than to continue to repair it. Therefore the purchase of a stationary drive through wash system to replace the current system is proposed.

**SPECIAL CONSIDERATIONS**

The purchase will be through the HGAC-Buy program. A Request for Quotes was sent to seven vendors and quotes were received from three vendors: NS Corporation, Washing Equipment of Texas, and Whiting System. Quotes were evaluated on: compliance with specifications, meeting fleet requirements, fitting within the wash bay, cost, and reference checks. The bus wash system from NS Corporation scored the highest on the evaluation, was the only one to fully meet the specifications, and is the lowest cost.

**FUNDING/FISCAL IMPACT**

The City has an FY09 Section 5309 federal grant for purchase of the bus wash system. This is a capital earmark grant for a total project amount of \$70,000 with an 80/20 federal/local split. The local match will use funds from 2006 CO funds designated for improvements to the CityLink facility.

**STAFF RECOMMENDATION**

Staff recommends that the bus wash system be procured through the HGAC-Buy program from the NS Corporation for a total price of \$66,670.66.

Prepared by:

Name: James Condry

Title: Traffic & Transportation  
Administrator

Item No. 6.10

Disposition by City Council

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

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