

**MEMORANDUM**

February 13, 2014

**TO: City Council**

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

**SUBJECT: Lake Fort Phantom Hill Overlay District – LDC amendment**

-----

**GENERAL INFORMATION**

After a long process involving extensive public involvement and hundreds of staff and volunteer hours, the Lake Fort Phantom Hill (LFPH) Area Plan was approved by the City Council on January 12, 2009. The plan established a vision of the lake area as a unique place within the City that would benefit from customized and higher development standards. The intent of the plan was to integrate and exploit both natural and developed assets of the area in ways that would protect and showcase its future potential.

Since that time, and more specifically over the last few months, the Planning staff has been steadily working to develop an overlay district to implement the standards envisioned within the LFPH Plan. We have provided copies to representatives of the lake's neighborhood association periodically and held meetings with them to obtain their input, concerns, questions and suggestions. These meetings resulted in a number of changes to the document.

The overlay district was composed to put into action provisions discussed in the LFPH Plan. Recommendations contained in Appendix C (Design Guidelines) of the LFPH Plan were the most substantial influence in establishing the proposed ordinance text. The attached ordinance provides clear policy choices that will influence the long-term success and viability of the lake to serve human and natural inhabitants and to balance potentially competing local and broader city/area interests.

It is important to note that the overlay is currently following a two-step process to adoption. This first step is an amendment of the Land Development Code text creating the standards. The next and second step will be the application of these standards to specific area(s) of land. The decision on the overlay district boundary itself will have an equally significant impact on how the area ultimately develops and on the effectiveness/need for various provisions. The two issues are distinct but interrelated.

**BOARD OR COMMISSION RECOMMENDATION**

On January 6, 2014 the Planning and Zoning commission recommended **approval** of the proposed ordinance (5-0, two members absent).

**STAFF RECOMMENDATION**

Staff recommends **approval**.

**ATTACHMENTS**

Ordinance

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 13<sup>th</sup> day of February A.D. 2014.

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 30<sup>th</sup> day of August, 2013, 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 27<sup>th</sup> day of February, 2014, 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 27<sup>th</sup> day of February, A.D. 2014.

ATTEST:

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

\_\_\_\_\_  
MAYOR

APPROVED:

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

EXHIBIT "A"

**AMEND:** Section 5.1.1.3 Definitions

**ADD:** Add definitions for 'Credit Access Business' and 'Marina'.

(47) **Credit Access Business:** Credit Access Business has the meaning given that term in Section 393.601 of the Texas Finance Code.

(111) **Marina:** A facility for personally owned sailboats, yachts and small boats or watercraft, typically offering docking, fuel, supplies, repair, storage, boat chandlers or other related services; sometimes with restaurants or retail sales. A marina typically differs from a private dock in size, scope or scale and is not accessory to a single family dwelling.

**AMEND:** Section 2.3.4.6 Lake Fort Phantom Hill (LFPH) Overlay Zone

**ADD:** Add overlay regulations.

**Section 2.3.4.6 Lake Fort Phantom Hill (LFPH) Overlay Zone**

Activities within this overlay district shall be governed by all regulations of the underlying zoning district, including regulations for site development, landscaping, signs, performance standards, etc, except where modified by the provisions of this Section.

(a) **Purpose.** The primary purpose of this overlay district is to encourage high quality development and redevelopment within the district that meets the goals of the Lake Fort Phantom Hill Land Use Plan.

Development and redevelopment within this district should be compatible with lakeside development and support a unified community image consistent with the design guidelines of the LFPH Land Use Plan. Uses are intended to include residential, retail, restaurants, services, recreational, offices, educational and related uses. Development in the area should be of high quality with well-designed buildings and attractive landscaping in a pedestrian friendly environment. When questions of compatibility arise relating to site design, materials, or landscaping, it is the intent of this provision that the Director should consider the views of owners, residents, professionals or stakeholders in rendering decisions.

(b) **Land Use.** Allowable uses within the overlay district shall be per the underlying zoning district, except as modified below.

(1) The following uses are allowed only with a Conditional Use Permit, which shall only be granted for such uses that are compatible with the development goals of the overlay, including incorporating appropriate conditions to address elements such as building design, landscaping, screening, limitations or prohibitions on outdoor activities, and the like.

- Recreation – Outdoors (active)
- Vacation Travel Trailer Park
- Marina
- Commercial Boat Docks
- Fuel Sales

- Major or minor vessel repair
- Sale and rental of small boats, personal watercraft, boat parts and accessories
- Wind Energy Conversion Systems within 1,320 feet of the shoreline of Lake Fort Phantom Hill (1,636 mean sea elevation (MSL))

(2) The following uses are prohibited within the overlay district:

- Commercial Uses:
  - Animal Shelters, Kennels and Feedlots
  - Pet Grooming
  - Automotive Sales and Services
  - Pawn Shops
  - Payday or Title Lending Services/Credit Access Businesses
  - Tattoo Parlors
- Utilities:
  - Sanitary landfills
- Recreational/Entertainment Uses:
  - Zoo
  - Fairgrounds/Rodeo
  - Motorized Racing
  - Outdoor Gun Range
- Others:
  - Mobile Homes/Manufactured Homes

(c) **Commercial Building Standards.** Standards for building design and materials shall be per the underlying zoning district, in addition to the following:

- (1) Any building shall include both horizontal and vertical articulation in the building design for the front façade.
- (2) Any building shall include visual enhancements providing architectural details such as building offsets and variation in color, texture, and materials. Such building details should be compatible with lakeside development and support a unified community image consistent with the design guidelines of the Lake Fort Phantom Hill Land Use Plan.
- (3) A minimum of fifty (50) percent of the façades of all primary and accessory structures shall be composed of wood, brick, stone, or similar materials.
- (4) The remaining area of the building face shall be limited to glass, stucco, stucco-like finishes, decorative block, concrete tilt-wall panels, or other similar materials.
- (5) Accessory structures shall be constructed of materials similar to that of the primary structure(s) except for marinas and boat storage buildings when located on a lot adjacent to the lake.

(6) Elevation plans shall be submitted with any required Site Plan for review and approval by the Planning Director. Any variation from the design requirements or materials listed above will be subject to review and may be permissible at the discretion of the Planning Director. Appeals shall be to the appropriate board or commission, in accordance with the Land Development Code, as amended.

(d) **Setbacks.** All setbacks shall comply with the underlying zoning district except as modified below:

(1) Lakeside Setbacks: Lakeside development shall meet front setback requirements on lakeside lot lines, measured from the shoreline (1,636 MSL), unless granted a Special Exception by the appropriate board or commission, currently the Board of Adjustment, in accordance with the Land Development Code, as amended.

(e) **Landscaping Requirements.** All landscaping shall comply with the City of Abilene Land Development Code except as modified below:

(1) Residential

- i. All new residential construction and remodeling will be required to plant a minimum of two (2) trees between the home and the lake, and the home and the street. Residential construction without lake frontage will only be required the plantings between the home and the street.
- ii. Existing natural vegetation may be included to satisfy these requirements.
- iii. Appeals shall be to the appropriate board or commission, currently the Board of Adjustment, in accordance with the Land Development Code, as amended.

(2) Commercial

- i. All lakeside lot lines shall have landscaping equal to the required landscaping for commercial lots with street frontage, to include required interior landscaping. The landscape area shall be located on the lot line when possible but in all cases shall be at or above the spillway elevation (1,636 MSL). In case of a Special Exception granted regarding reduced setbacks, an alternative landscaping plan must be submitted for approval by the Planning Director.
- ii. Lakeside landscaping exceeding the minimum required by §(e)(2).i above shall not interfere with the natural view shed of the lake.
- iii. Existing natural vegetation may be included in the Landscape Plan to satisfy these requirements.
- iv. All new landscaping will require a detailed landscape plan to be reviewed by the Planning Director for approval. Use of native plant species is encouraged. Appeals shall be to the appropriate board or commission, currently the Board of Adjustment, in accordance with the Land Development Code, as amended.

(f) **Fence, Screening and Buffering**

(1) Residential

- i. Fencing, walls, landscaping, or related structures between a principal building and the lake shall be at least 50% non-opaque. Solid (100%) opaque screening shall nonetheless be allowed around pool, hot tub, deck, spa or similar outside areas when such screening does not exceed 25% of the lot shoreline (1,636 MSL), distance or does not obstruct more than 25% of the parcel's viewshed as observed from the lake.
- ii. Fencing, walls or related structures shall not exceed six (6) feet in height except where the Planning Director or designee determines natural topographic conditions warrant minor variations
- iii. No fencing shall be constructed upon or protrude over public property.

- iv. All fencing must be consistent with the design guidelines of the Lake Fort Phantom Hill Land Use Plan as determined by the Planning Director.

(2) Commercial

- i. Facilities for power, air conditioning, mechanical equipment, and solid waste handling shall be screened by an opaque wall or fence. Roof-mounted facilities shall be screened using materials that are consistent with the structure to which they are attached.
- ii. Except for subsection i (above), Fencing, walls, landscaping, or related structures between a principal building and the lake shall be at least 50% non-opaque.
- iii. Fencing walls or related structures shall not exceed six (6) feet in height except where the administrative official determines natural topographic conditions warrant minor variations.
- iv. No fencing shall be constructed upon or protrude over public property.
- v. All fencing must be consistent with the design guidelines of the Lake Fort Phantom Hill Land Use Plan as determined by the Planning Director.

(g) **Parking**

(1) Residential

- i. For lots less than ½ acre in size, all driveway surfaces should be constructed of concrete, stamped and colored concrete, exposed aggregate concrete, concrete pavers, or asphalt paving or other bituminous material. The use of gravel is prohibited.
- ii. Two off-street residential parking spaces are required for all single family dwellings.
- iii. Recreational vehicles, trailers, boats, or similar equipment must be parked in an off street location.

(2) Commercial

- i. All driveways and parking lots shall be constructed of concrete, stamped and colored concrete, exposed aggregate concrete, concrete pavers, or asphalt or other bituminous material. The use of gravel is prohibited.
- ii. Parking shall be oriented such that buildings shall be between the parking and the lake shore to the extent feasible. Head-in parking spaces that face toward the lake surface shall be screened by opaque fencing or live plant material achieving a minimum mature height of 3 feet.

(h) **Lighting.** All site lighting shall comply with the performance standards governing exterior illumination in the City of Abilene Land Development Code except as modified below:

- (1) Consistent lighting fixtures shall be used throughout the overlay to enhance the Lake's vision and identity.
- (2) Maximum luminaire height. The maximum permitted luminaire height shall be twenty-five (25) feet in all non-single-family districts, and thirty (30) feet in single-family districts. The height of both the pole and base shall be considered in the measurement of luminaire height.
- (3) Outdoor light output total: Defined as the initial total amount of light, measured in lumens, from all lamps used in outdoor light fixtures. This includes all lights used for external illumination of signs, but does not include lights used to illuminate internal signs or luminous tubing used in neon signs. This excludes any light output from exempt lighting.
  - i. Total outdoor light output shall not exceed one-hundred thousand (100,000) lamp lumens per developed acre.
  - ii. For lamp types that vary in their output as they age (such as high pressure sodium, fluorescent and metal halide), the initial lamp output, as defined by the manufacturer, is the value to be used for calculation. For outdoor fixtures installed under canopies, buildings,

overhangs or roof eaves, those within twenty (20) feet of the nearest edge are to be included in the total as though they produced only one-fifth (20%) of the lamp's rated initial lumen output. Such fixtures more than twenty (20) feet from the nearest edge are not to be included.

(4) New lighting in non-single-family areas shall comply with the lighting standards of this Land Development Code and in addition shall not directly illuminate waterways or the lake surface except that:

- i. Lighting necessary to facilitate safe passage of watercraft near docks during nighttime hours shall be allowed so long as the total site illumination provision in (3)i is not exceeded
- ii. Indirect lighting necessary to provide safe access to and egress from docks, piers and boat slips shall be allowed so long as the total site illumination provision in (3)i is not exceeded.
- iii. Appeals shall be to the appropriate board or commission, currently the Board of Adjustment, in accordance with the Land Development Code, as amended

(i) **Navigability and Protection of Watercourses.** All structures and objects that are to be constructed near or in water shall not have a negative impact on the water quality, natural habitat, scenic beauty and recreational resource of Lake Fort Phantom Hill. Improvements or modifications must satisfy applicable Army Corps of Engineers requirements in addition to any City standards. Where such standards conflict, the more stringent or restrictive shall apply.

(1) Boat Docks. No person shall own or control an abandoned or dilapidated dock, including docks that are hazardous to public safety due to unsecure roofing, decking, floatation or walkways, is submerged, is not floating upright, has decks or floors below the water level, and is in a state of disrepair.

(2) No docks shall extend further than two hundred (200) feet from the shoreline, pose a hazard to navigation or extend further from the shoreline than necessary to allow for boat access to dock in shallow waters. The distance specified above shall be further restricted when applicable such that a dock structure shall never be authorized to extend more than one-third (1/3) of a cove width in which it is placed and in no case shall it be located within 10 feet of the centerline of said cove.

- i. All docks must be securely attached to the shoreline, taking into consideration water depth, lake level fluctuation, and exposure to wind, fast-moving water and wave action.
- ii. Anchor cables for floating docks shall not create a hazard to navigation or block ingress or egress for watercraft, be maintained in good condition and have a minimum working load of one thousand (1,000) pounds, and have thimbles or other chafing protection.
- iii. Flotation. Any flotation material used in floating docks shall be fully encapsulated; suitable for marine use; resistant to puncture, fire, cracking, peeling or loss of pellets; and generally impervious to water or fuel damage.

(3) No Walkway shall be allowed in excess of eight (8) feet in width or to extend to more than one structure.

(4) The minimum setback of a dock structure from a projected side yard line shall be based on the width of the property at the 1,636 MSL line as follows:

<u>Lot width</u>	<u>Side setback</u>
0 to 50 feet	5 feet
More than 50 feet	10 feet

(5) Common Ownership Docks. The regulations for setbacks apply to joint-ownership docks with the exception that docks may be extended over common side-use lines of the co-applicants.

(6) Residential Dock Lighting. The minimum safety lighting allowed under these standards shall adequately define the presence of all structures located on or over the water surface and be lighted so as to clearly identify the walkway and the entire structure. Lighting shall be so located and configured or shielded so as not to present a hazard to navigation.

-END-