

City Council  
Agenda Memo



City Council  
Meeting Date: 4/24/2014

**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-2014-14, a request from Ken Musgrave, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to GR (General Retail) zoning, being approximately 3.88 acres located on the south side of the 2200 block of Hwy 351; and setting a public hearing for May 8, 2014.

**GENERAL INFORMATION**

Currently the property is zoned AO and is undeveloped. The property to the south and east is zoned AO and used for farming purposes. The property to the west is zoned MF (Multi-Family Residential) and being developed as an apartment complex. The properties to the north are zoned GR, MD (Medium Density), and RS-6 (Single-Family Residential) and are currently developed with residential homes, duplexes, and self-storage warehousing. The requested zoning would allow for retail development.

The Future Land Use section of the Comprehensive Plan designates the area as low-density residential. The requested zoning would allow for retail development. The property is transitioning away from the commercial and retail uses that exist and that are being developed to the west. The Highway 351 Development Plan shows this property to be on the edge of the 'Mixed Use' area transitioning into the 'Residential' area. The apartment complex can be seen as a logical transition between the two areas. By allowing this zoning on the east side of the apartment complexes, additional transitioning would be expected farther to the east. No plans have been discussed for the adjacent property to the east. Therefore, the requested zoning would not be compatible with the Highway 351 Development Plan. Retail development may be appropriate as part of an overall plan for the larger area, but not as a standalone fragmented development.

**STAFF RECOMMENDATION**

Staff recommends denial.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission recommends approval by a vote of 5 in favor (Glenn, McClarty, Rosenbaum, Todd, and Famble), none opposed, and 1 abstained (Bixby).

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

April 11, 2014

Item No. 06-07

Disposition by City Council

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

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

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

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "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, part 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 24<sup>th</sup> day of April, 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 21<sup>st</sup> day of March, 2014, 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 8<sup>th</sup> day of May, 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 8<sup>th</sup> day of May, A.D. 2014.

ATTEST:

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

\_\_\_\_\_  
MAYOR

APPROVED:

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

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

EXHIBIT "A"

Rezone property from AO (Agricultural Open Space) to GR (General Retail) zoning.

Legal Description:

Approximately 3.88 acres out of A1007 SUR 25 B A L NW/4



Location:

The south side of the 2200 block of Hwy 351

-END-

# ZONING CASE Z-2014-14

## STAFF REPORT



### APPLICANT INFORMATION:

Ken Musgrave  
Agent: Tal Fillingim

### HEARING DATES:

Planning & Zoning Commission: April 7, 2014  
City Council 1<sup>st</sup> Reading: April 24, 2014  
City Council 2<sup>nd</sup> Reading: May 8, 2014

### LOCATION:

The south side of the 2200 block of Hwy 351

### REQUESTED ACTION:

Rezone from AO (Agricultural Open Space) to  
GR (General Retail) zoning



### SITE CHARACTERISTICS:

The subject parcel totals approximately 3.88 acres. The property is currently zoned AO and is undeveloped.

### ZONING HISTORY:

The area was annexed in 1982 and zoned AO at that time.

### ANALYSIS:

- Current Planning Analysis  
Currently the property is zoned AO and is undeveloped. The property to the south and east is zoned AO and used for farming purposes. The property to the west is zoned MF (Multi-Family Residential) and being developed as an apartment complex. The properties to the north are zoned GR, MD (Medium Density), and RS-6 (Single-Family Residential) and are currently developed with residential homes, duplexes, and self-storage warehousing. The requested zoning would allow for retail development.
- Comprehensive Planning Analysis  
The Future Land Use section of the Comprehensive Plan designates the area as low-density residential. The requested zoning would allow for retail development. The property is transitioning away from the commercial and retail uses that exist and that are being developed to the west. The Highway 351 Development Plan shows this property to be on the edge of the 'Mixed Use' area transitioning into the 'Residential' area. The apartment complex can be seen as a logical transition between the two areas. By allowing this zoning on the east side of the apartment complexes, additional transitioning would be expected farther to the east. No plans have been discussed for the adjacent property to the east. Therefore, the requested zoning would not be compatible with the Highway 351

Development Plan. Retail development may be appropriate as part of an overall plan for the larger area, but not as a standalone fragmented development.

**PLANNING STAFF RECOMMENDATION:**

Staff recommends denial as requested.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

The Planning and Zoning Commission recommends approval by a vote of 5 in favor (Glenn, McClarty, Rosenbaum, Todd, and Famble), none opposed, and 1 abstained (Bixby).

**NOTIFICATION:**

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

OWNER	ADDRESS	RESPONSE
JACKSON STEVEN J	2457 PATRIOT COMMONS RD	
MORENO RICHARD & VERONICA	2458 PATRIOT COMMONS RD	
COACH STANTON INVESTMENTS LLC		In Favor
MUSGRAVE KENNETH L & ETTA D	2401 UNION LN	
MUSGRAVE & MUSGRAVE LLP		
LA VENTANA APARTMENTS LLC	2109 HWY 351	In Favor

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









