

City Council  
Agenda Memo



City Council  
Meeting Date: 10/23/2014

**TO: David A. Vela, Interim City Manager**

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

**SUBJECT: First reading on an ordinance for Case No. Z-2014-41, a request from Timothy Smith, to rezone property from RS-12 (Single-Family Residential) to GR (General Retail) zoning, located at 5526 Buffalo Gap Rd; and setting a public hearing for November 6, 2014.**

**GENERAL INFORMATION**

Currently the property is zoned RS-12 and is developed with a home. The surrounding area is developed generally residential uses. A church exists directly to the north. Another church exists close by across Buffalo Gap Rd and to the south. This property has frontage along Buffalo Gap Rd and gains access directly from Buffalo Gap Rd. The applicant is requesting the GR zoning for development of a fitness facility. This would be the 2<sup>nd</sup> fitness facility for the applicant.

The Future Land Use section of the Comprehensive Plan designates the area as low-density residential. The property is not close to a major intersection. The Buffalo Gap Corridor study indicates that retail & commercial zoning is allowable in nodes at intersections of major thoroughfares. The requested zoning would allow for retail & commercial uses, including a fitness facility. The requested zoning would not be compatible with the adjacent uses or the Comprehensive Plan.

**STAFF RECOMMENDATION**

Staff recommends denial.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission recommends approval of a PD zoning with restrictions by a vote of 4 in favor (Bixby, Calk, Ellinger, & Famble) and 2 opposed (McClarty & Rosenbaum).

**ATTACHMENTS**

Ordinance  
Staff Report with Maps

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

October 10, 2014

Item No. 6.4

Disposition by City Council

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

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

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-147 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, 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.

PASSED ON FIRST READING this 23<sup>rd</sup> day of October 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 19<sup>th</sup> day of September, 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 p.m., on the 6<sup>th</sup> day of November, 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 6<sup>th</sup> day of November, A.D. 2014.

ATTEST:

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

\_\_\_\_\_  
MAYOR

APPROVED:

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

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

Exhibit "A"

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

PART 2: Development Specifications. All development in the Planned Development shall be in accordance with any maps, topographical and drainage plans, utility plans, architectural drawings, site plan, plat, and any other required plans filed in connection with this requested Planned Development, which are hereby incorporated by reference and included as part of this ordinance. All use and development within the Planned Development must be in compliance with the general Comprehensive Zoning Ordinance 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, Abilene Municipal Code, part known as the Land Development Code of the City of Abilene, is hereby further amended by changing the zoning district boundaries, as hereinafter set forth: From RS-12 (Single-Family Residential) to PD (Planned Development) zoning.

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"

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

HI-VU ACRES, LOT 1



Location:  
5526 Buffalo Gap Rd

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

EXHIBIT "A"

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

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

- 1) **ADDITIONAL PERMITTED USE:** A physical fitness facility shall be permitted.
- 2) **SITE DEVELOPMENT:** The development shall comply with the requirements of the Land Development Code with the following exceptions and additions:
  - a) The 'hours of operation' restriction in the NR district shall not apply when used as a physical fitness gym.
  - b) No ingress/egress access shall be allowed to the alley.

-END-



For the PLANNING & ZONING COMMISSION

Please call at (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2014-41

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also fax or email your position to the fax number or email address also listed below. All correspondence must include your name and address.

Name: CARTER WILMA N  
Address: 3700 HI-VU DR

Mailing To: Planning and Development Services  
P.O. Box 60, Abilene TX 79604

Fax #: (325) 676-6242  
email: [planning@abilenetx.com](mailto:planning@abilenetx.com)

I am in favor

I am opposed

Additional Comments:

We have too much traffic here now. The previous tenants of the property went up and down our alley at all hours of the day & night. Loud traffic and music disrupted the neighborhood constantly. Trash was constantly blowing into our yard from excess use by the tenants of the property. We sometimes had 7 to 8 minute wait time to enter Buffalo Gap Rd. from Hi-Vu. This new retail business wants to use the alley as a main entrance to the property. we oppose this.

||| 3610 | 073 | ||| 3610 /

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Name: WICKER HAROLD D  
Address: 3602 HI-VU DR

Mailing To: Planning and Development Services  
P.O. Box 60, Abilene TX 79604

Fax #: (325) 676-6242  
email: [planning@abilenetx.com](mailto:planning@abilenetx.com)

I am in favor  conditional

I am opposed

Additional Comments:

That the integrity and appearance does not compromise the residential area where this property is located. This includes signs, etc.

Harold Wicker  
3602 Hi-Vu

# ZONING CASE Z-2014-41

## STAFF REPORT



### APPLICANT INFORMATION:

Timothy Smith

### HEARING DATES:

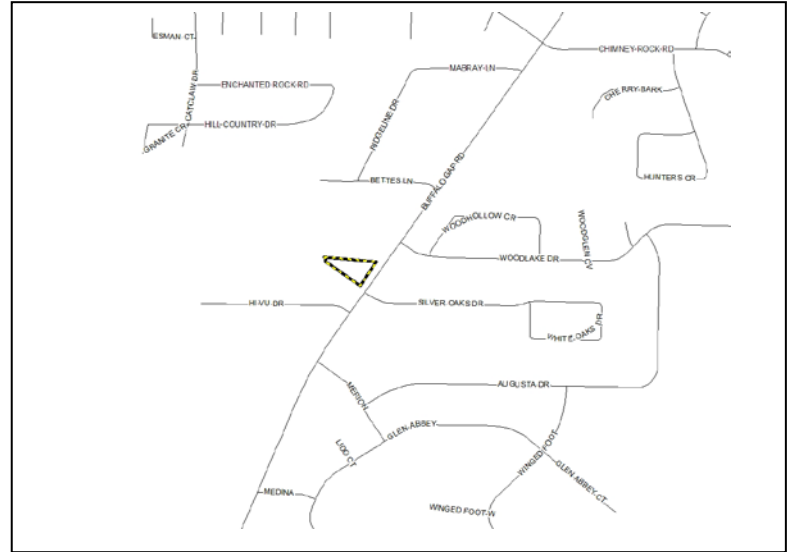
P & Z Commission: October 6, 2014  
City Council 1<sup>st</sup> Reading: October 23, 2014  
City Council 2<sup>nd</sup> Reading: November 6, 2014

### LOCATION:

5526 Buffalo Gap Rd

### REQUESTED ACTION:

Rezone property from RS-12/COR (Single-Family Residential/Corridor Overlay) to GR/COR (General Retail/Corridor Overlay) zoning



### SITE CHARACTERISTICS:

The subject parcel totals approximately 0.87 acres and is currently zoned RS-12/COR. The adjacent properties are zoned RS-12 to the north, south and west. The properties to the east are zoned RS-8/COR (Single-Family Residential/Corridor Overlay). These properties are all within the Buffalo Gap Corridor Overlay.

### ZONING HISTORY:

The property was annexed in 1963 and was zoned RS-12 sometime after.

### ANALYSIS:

- Current Planning Analysis  
Currently the property is zoned RS-12 and is developed with a home. The surrounding area is developed generally residential uses. A church exists directly to the north. Another church exists close by across Buffalo Gap Rd and to the south. This property has frontage along Buffalo Gap Rd and gains access directly from Buffalo Gap Rd. The applicant is requesting the GR zoning for development of a fitness facility. This would be the 2<sup>nd</sup> fitness facility for the applicant.
- Comprehensive Planning Analysis  
The Future Land Use section of the Comprehensive Plan designates the area as low-density residential. The property is not close to a major intersection. The Buffalo Gap Corridor study indicates that retail & commercial zoning is allowable in nodes at intersections of major thoroughfares. The requested zoning would allow for retail & commercial uses, including a fitness facility. The requested zoning would not be compatible with the adjacent uses or the Comprehensive Plan.

**PLANNING STAFF RECOMMENDATION:**

Staff recommends denial.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

The Planning and Zoning Commission recommends approval of a PD zoning with restrictions by a vote of 4 in favor (Bixby, Calk, Ellinger, & Famble) and 2 opposed (McClarty & Rosenbaum).

**NOTIFICATION:**

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

<b>OWNER</b>	<b>ADDRESS</b>	<b>RESPONSE</b>
SMITH TIMOTHY R & PAMELA K	5526 BUFFALO GAP RD	
FIORENZA JOSEPH A REV	5410 BUFFALO GAP RD	
PFEIFER MICHAEL D MOST REV	5458 BUFFALO GAP RD	
5KLM PROPERTIES LP	3297 WOODLAKE DR	
WICKER HAROLD D	3602 HI-VU DR	In Favor
LETH KELLY & MICHELLE MC CARTHY	3542 SILVER OAKS DR	
CARTER WILMA N	3700 HI-VU DR	Opposed
ANTHONY RICHARD S & WANDA J	3642 HI-VU DR	Opposed
FIORENZA JOSEPH A REV	5410 BUFFALO GAP RD	
APOSTOLIC UNITED PENTECOSTAL CHURCH	5535 BUFFALO GAP RD	



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



