

City Council
Agenda Memo



City Council
Meeting Date: 1/14/2010

TO: Larry D. Gilley, City Manager
FROM: Jon James, AICP
Director of Planning and Development Services
SUBJECT: Final reading and public hearing on Ordinance for Case No. Z-2009-19, a request from Danielle Delhomme to rezone property from LI (Light Industrial) to PDD (Planned Develop District) zoning, located at 1901 E. HWY 80.

GENERAL INFORMATION

Currently the property is zoned LI and was recently developed with a research facility. The properties to the east, west, and south are mostly developed with industrial uses. The properties on the north side of E. Hwy 80 are primarily undeveloped. Some single-family residential uses exist farther to the north.

The Future Land Use section of the Comprehensive Plan designates this general area as part of the Gateway/Business-Industrial area and an Enhancement Corridor. This area currently contains older industrial facilities and convenience stores serving interstate travelers. The plan recommends transforming the character of these districts through a combination of aesthetic improvements (such as streetscape landscaping, signage, and lighting), coupled with a concentrated effort by the City to work with property owners to improve the appearance of their properties. Industrial activity along E. Hwy 80 is compatible with the surrounding area as long as aesthetic improvements are included.

STAFF RECOMMENDATION

Staff recommended approval of a PDD

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommended approval of a PDD by a vote of four (4) in favor (Glenn, Todd, Famble, and McClarty) to one (1) opposed (Bixby).

ATTACHMENTS

Ordinance
Staff Report with Maps

Prepared by:		Disposition by City Council
Name: <u>Matt Jones</u>		<input type="checkbox"/> Approved Ord/Res# _____
Title: <u>Planner II</u>		<input type="checkbox"/> Denied
December 24, 2009	Item No. <u>7.1</u>	<input type="checkbox"/> Other _____
		City Secretary _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-129 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 Zoning Ordinance 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 17th day of December A.D. 2009.

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 18th day of November, 2009, 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 14th day of January, 2010, 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 14th day of January, A.D. 2010.

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 District 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 District and are hereby incorporated by reference and included as part of this ordinance.

All use and development within the Planned Development District 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 District shall be constructed in accordance with all pertinent building and construction codes of the City of Abilene.

PART 4: Zoning. That Chapter 23, Subpart E, Abilene Municipal Code, known as the Zoning Ordinance of the City of Abilene, is hereby further amended by changing the zoning district boundaries, as hereinafter set forth: From "I" (Light Industrial District) to "PDD-129" (Planned Development District).

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 PDD is as follows:

TUTT SUBDIVISION, BLOCK 1, LOT 5 & W22.64 LT 4

Location: 1901 E. Highway 80.

M.1 pg.4

PART 6: Purpose. The purpose of the Planned Development District (PDD) request is to allow for industrial development and related activities of a tract.

PART 7: Specific Modifications. The City of Abilene Zoning Ordinance provisions for the LI zoning district apply to the development of this property, except as modified below. The following regulations shall govern the use and development of this Planned Development District.

I. PERMITTED USES:

- A.** Uses permitted in the Light Industrial (LI) district and to include the following uses permitted by right:
1. Mobile Home (permanent security residence) per conditions set forth in Section 23-306.5.B (9)
 2. Vacation Travel Trailer Park per conditions set forth in Section 23-306.5.A (8)

II. SITE DEVELOPMENT

A. Number of Units:

- 1) No more than 1 mobile home for a permanent security residence shall be allowed.
- 2) No more than 6 travel trailers/recreational vehicles shall be permitted.

B. Parking and ingress/ egress:

- 1) All parking areas shall comply with the provisions specified in the Zoning Ordinance.
- 2) Travel trailers and recreational vehicles shall be neatly parked within property lines.

C. Signage:

- 1) Signage within the PDD must comply with the requirements of the City's Sign Ordinance, except as modified by the following:
 - a. Banners: Banners shall only be located flat against the face of a building and shall count toward the maximum allowable wall signage.
 - b. Prohibited signs:
 - i) Portable signs
 - ii) Streamers, pennants, balloons, and similar devices
 - iii) Temporary signs and freestanding banners, except for real estate signs, including a "Coming Soon" sign, and a "grand opening" event within 30 days of the issuance of a Certificate of Occupancy.

PART 10: Development Schedule. If a building permit is not approved within 18 months of the date of this ordinance, the Planning Director may initiate rezoning of the PDD to the previous zoning designation.

- END -

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ZONING CASE Z-2009-19 STAFF REPORT



APPLICANT INFORMATION:

Danielle Delhomme

HEARING DATES:

Planning & Zoning Commission: December 7, 2009
City Council 1st Reading: December 17, 2009
City Council 2nd Reading: January 14, 2010

LOCATION:

1901 E. Highway 80

REQUESTED ACTION:

Rezone property from LI to PDD. The purpose of the PDD is to allow light industrial uses, plus a permanent security residence and vacation travel trailers.



SITE CHARACTERISTICS:

The subject parcels total approximately 3.13 acres and is currently zoned LI (Light Industrial). The parcel was recently developed with a research facility. The adjacent properties have LI zoning to the east and west, HI (Heavy Industrial) zoning to the south, and HC (Heavy Commercial) to the north.

ZONING HISTORY:

The area was annexed in 1957 and zoned LI (Light Industrial) sometime after it was annexed.

ANALYSIS:

- Current Planning Analysis
Currently the property is zoned LI and was recently developed with a research facility. The properties to the east, west, and south are mostly developed with industrial uses. The properties on the north side of E. Hwy 80 are primarily undeveloped. Some single-family residential uses exist farther to the north.
- Comprehensive Planning Analysis
The Future Land Use section of the Comprehensive Plan designates this general area as part of the Gateway/Business-Industrial area and an Enhancement Corridor. This area currently contains older industrial facilities and convenience stores serving interstate travelers. The plan recommends transforming the character of these districts through a combination of aesthetic improvements (such as streetscape landscaping, signage, and lighting), coupled with a concentrated effort by the City to work with property owners to improve the appearance of their properties. Industrial activity along E. Hwy 80 is compatible with the surrounding area as long as aesthetic improvements are included.

Case # Z-2009-19

Updated: December 7, 2009

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PLANNING STAFF RECOMMENDATION:

Staff recommends approval of a PDD.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval of a PDD by a vote of four (4) in favor (Glenn, Todd, Famble, and McClarty) to one (1) opposed (Bixby).

NOTIFICATION:

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

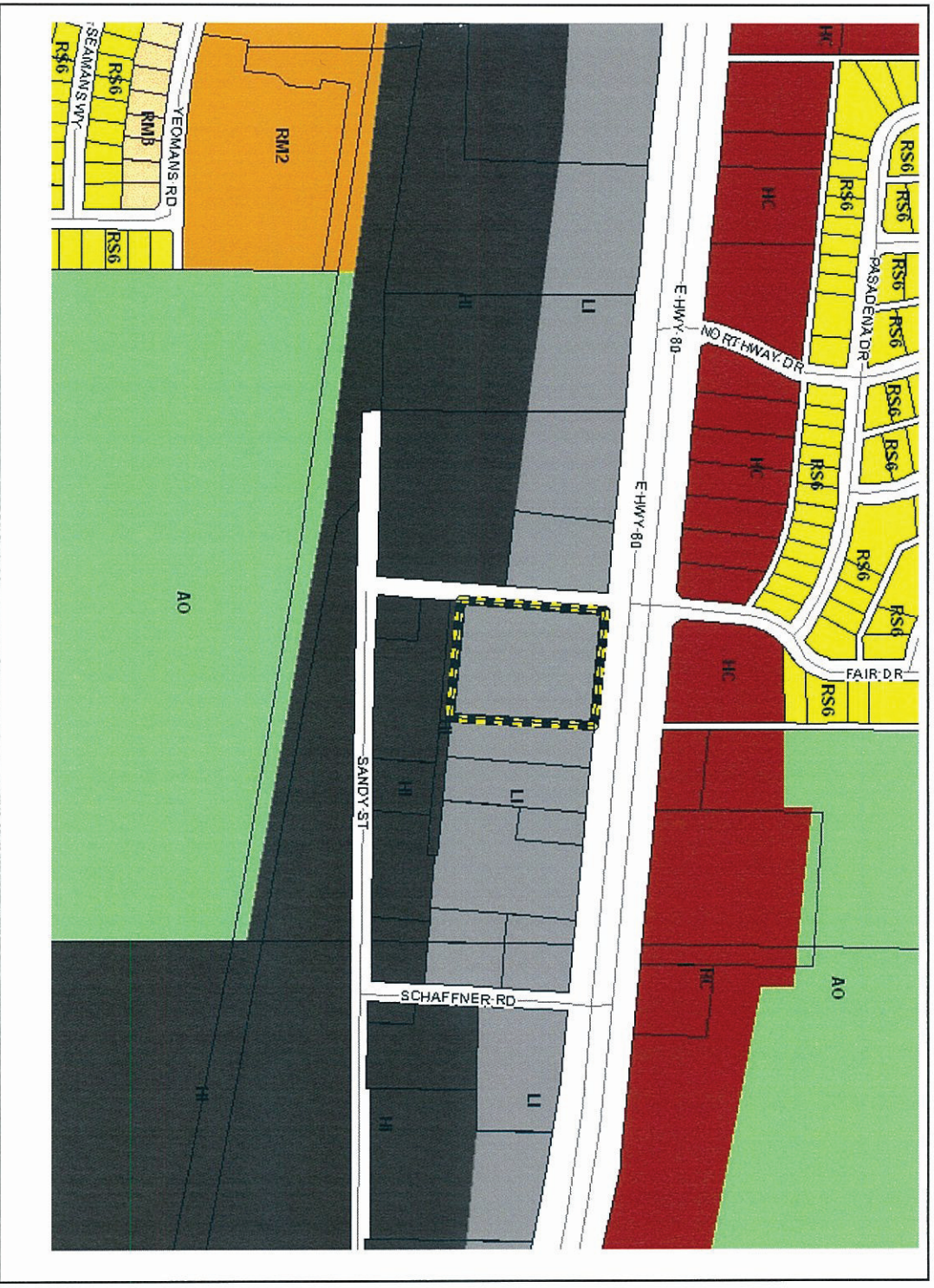
OWNER	ADDRESS	RESPONSE
WHITE RAY	1910 E HWY 80	
TUCKER TIMOTHY F	1909 E HWY 80	
DELHOMME DANIELLE DIANE	1901 E HWY 80	
TUCKER TIMOTHY F	2009 E HWY 80	
ST PAUL I M E CHURCH	1900 E HWY 80	
LINDLEY STUART D &	1802 SANDY ST	
LINDLEY STUART D &		
LINDLEY STUART D &		
CLINTON CHARLES &	1865 E HWY 80	
GENESIS CRUDE OIL L P	1849 E HWY 80	

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



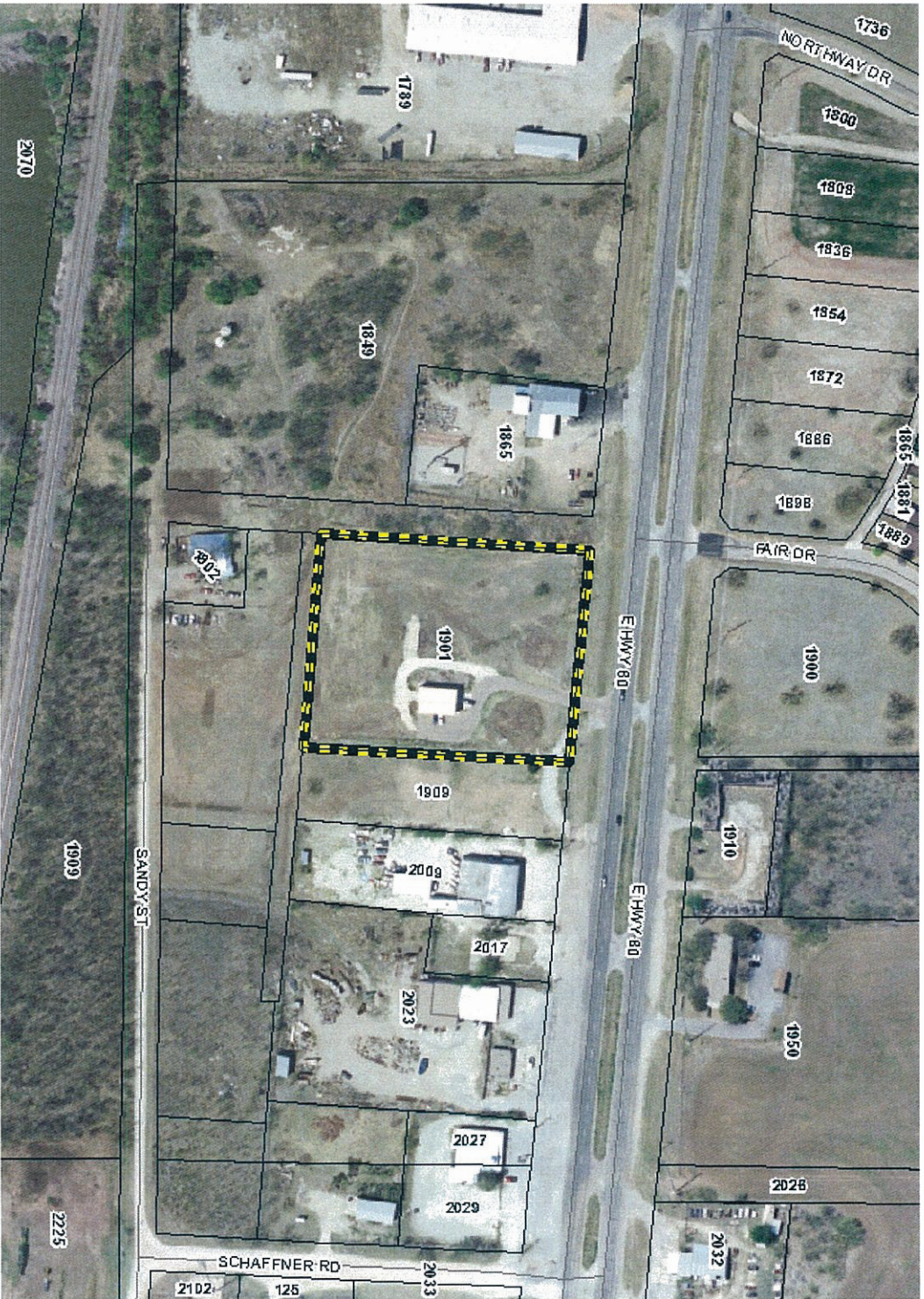
Case # Z-2009-19
Updated: December 7, 2009

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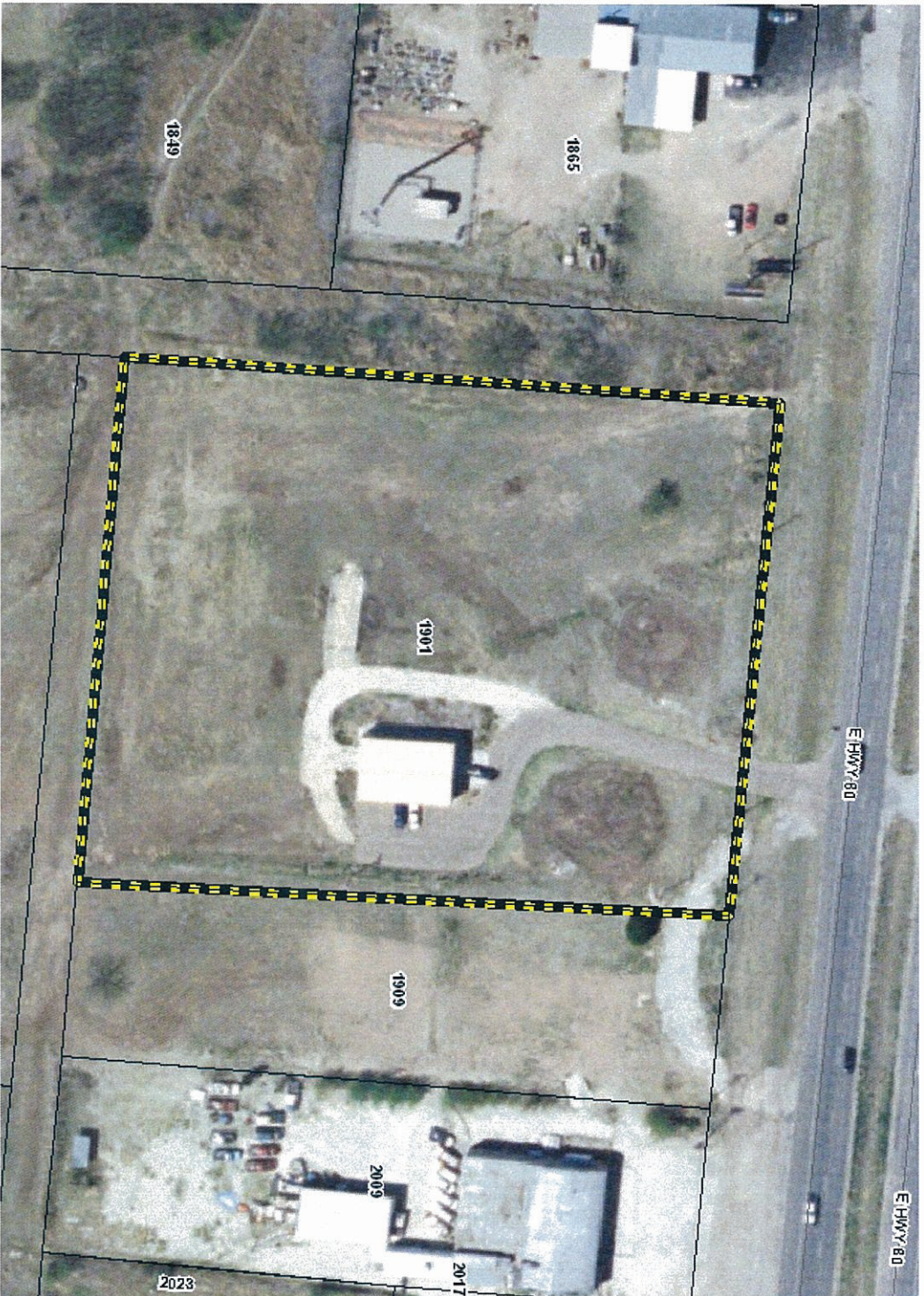
Case # Z-2009-19
Updated: December 7, 2009

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Case # Z-2009-19
Updated: December 7, 2009

H.1 pg. 10



Case # Z-2009-19
Updated: December 7, 2009

M.1 pg. 11



City Council
Agenda Memo

City Council
Meeting Date: 1/14/2010

TO: Larry D. Gilley, City Manager
FROM: Jon James, AICP
Director of Planning and Development Services

SUBJECT: Final reading and public hearing on Ordinance for Case No. Z-2009-20, a request from Harold Cannon to rezone property from RS-6 (Single Family Residential) to RM-3 (Multi Family Residential) zoning, located at 1151 Lullius St. and 2041 N. 12th St.

GENERAL INFORMATION

Currently the properties are zoned RS-6 and have been developed with residential units on the property. There is a mix of single family and multi family developments in the immediate area of the property. The RM-3 zoning is across the alley to the east of the subject property, and the RS-6 zoned properties are to the west.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The requested RM-3 zoning is compatible with the Comprehensive Plan as well as RS-6 zoning. However, there is a prominent division of the RS-6 zoning and RM-3 zoning that runs along the north/south alley to the east of the subject property. With such a defined boundary between the RM-3 and RS-6 zoning, the request would seem to create an encroachment of multi family residential into an area that is clearly intended for single family uses.

STAFF RECOMMENDATION

Staff recommended approval as requested.

BOARD OR COMMISSION RECOMMENDATION

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

ATTACHMENTS

Ordinance
Staff Report with Maps

Prepared by:		Disposition by City Council
Name: <u>Matt Jones</u>		<input type="checkbox"/> Approved Ord/Res# _____
Title: <u>Planner II</u>	Item No. <u>7.2</u>	<input type="checkbox"/> Denied _____
December 24, 2009		<input type="checkbox"/> Other _____
		City Secretary _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," 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 Zoning Ordinance 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 17th day of December A.D. 2009.

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 18th day of November, 2009, 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 14th day of January, 20010 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.

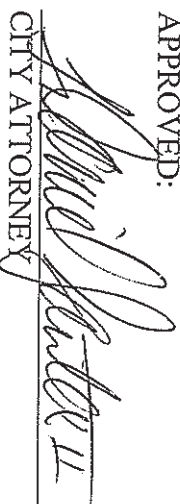
PASSED ON SECOND AND FINAL READING THIS 14th day of January, A.D. 2010.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:



CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT "A"

Rezone property from RS-6 (Single Family Residential) to RM-3 (Multi Family Residential) zoning.

Legal Description:

LAKESIDE ADDN, BLOCK 9, LOT 15 & S45 FT OF 16
LAKESIDE ADDN, BLOCK 9, LOT N5FT OF LT 16 & ALL LT 17

Location:

1151 Lillius St. and 2041 N. 12th St.

-END-

ZONING CASE Z-2009-20

STAFF REPORT



APPLICANT INFORMATION:

Harold Gregory Cannon

HEARING DATES:

Planning & Zoning Commission: December 7, 2009
City Council 1st Reading: December 17, 2009
City Council 2nd Reading: January 14, 2010

LOCATION:

1151 Lilius St. and 2041 N. 12th St.

REQUESTED ACTION:

Rezone property from RS-6 to RM-3

SITE CHARACTERISTICS:

The subject parcels total approximately .42 acres and is currently zoned RS-6 (Single Family Residential). The parcels have been developed with residential units. The adjacent properties have RS-6 zoning to the south and east, RM-3 (Multi Family Residential) and RS-6 zoning to the north, and RM-3 zoning to the west.

ZONING HISTORY:

The area was annexed in 1895 and was zoned RS-6 sometime after it was annexed.

ANALYSIS:

- Current Planning Analysis
Currently the properties are zoned RS-6 and have been developed with residential units on the property. There is a mix of single family and multi family developments in the immediate area of the property. The RM-3 zoning is across the alley to the east of the subject property, and the RS-6 zoned properties are to the west.
- Comprehensive Planning Analysis
The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The requested RM-3 zoning is compatible with the Comprehensive Plan as well as RS-6 zoning. However, there is a prominent division of the RS-6 zoning and RM-3 zoning that runs along the north/south alley to the east of the subject property. With such a defined boundary between the RM-3 and RS-6 zoning, the request would seem to create an encroachment of multi family residential into an area that is clearly intended for single family uses.



PLANNING STAFF RECOMMENDATION:

Staff recommends approval as requested.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

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

NOTIFICATION:

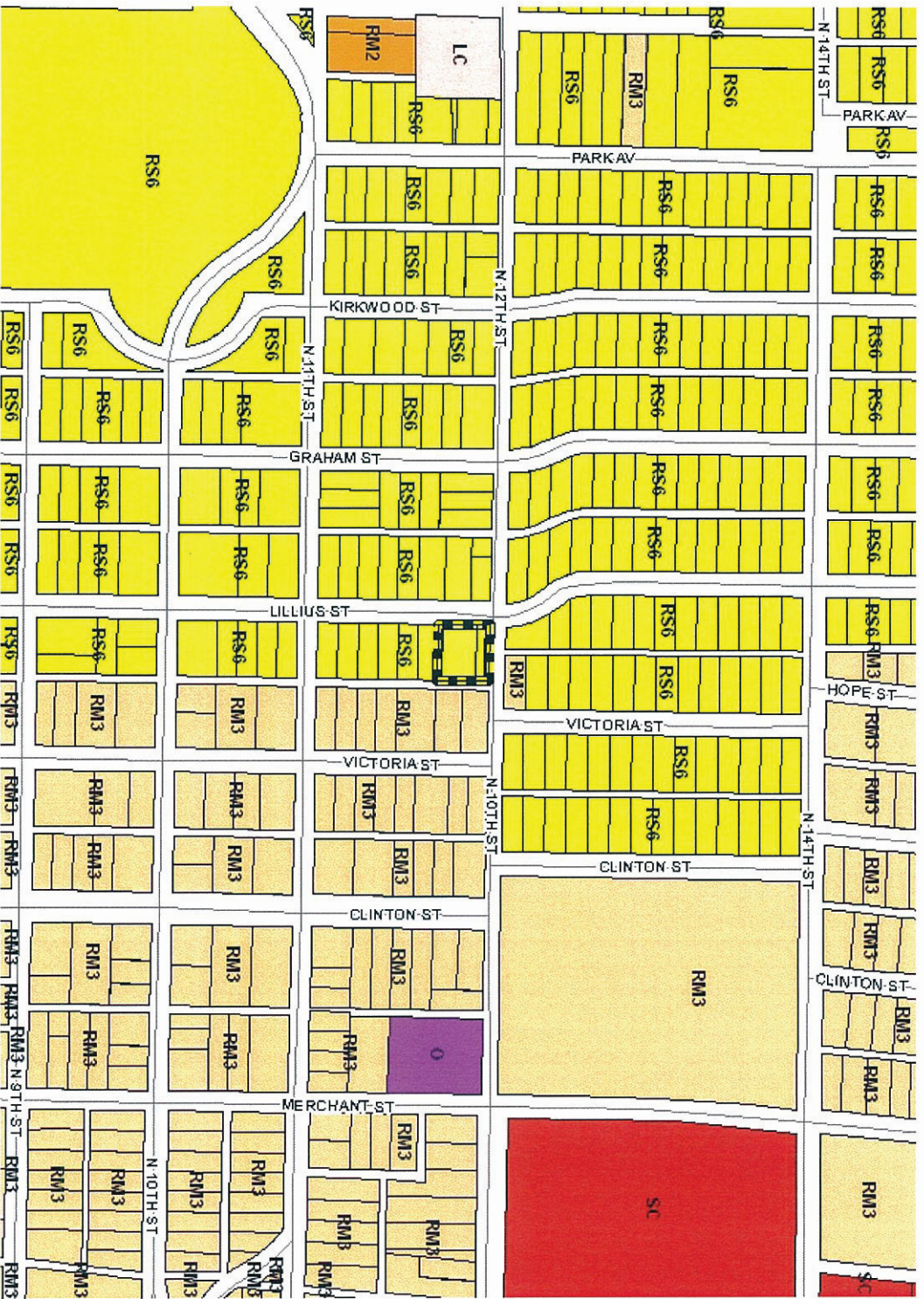
Property owners within a 200-foot radius were notified of the request.

OWNER	ADDRESS	RESPONSE
RAMEY KENNETH DON	1217 VICTORIA ST	
LOPEZ FERNANDO TORRES	1125 LILLIUS ST	
CERVANTES SILVIA M	1166 VICTORIA ST	
HERNANDEZ AGUSTIN L &	1209 VICTORIA ST	
TUDON FRANCISCO	1110 VICTORIA ST	
CHILDERS CLARK LELAND	2131 N 12TH ST	
SANTOS RAMIRO & GLORIA	1117 LILLIUS ST	
RABAGO EFREN & SONIA	1126 VICTORIA ST	
ROLAND BORDEN INC	1201 VICTORIA ST	
HOLDER ROY & DELAINE	1109 LILLIUS ST	
HELMS ROBERT	1118 LILLIUS ST	
CANNON HAROLD GREGORY	1151 LILLIUS ST	
RABAGO EFREN & SONIA	1118 VICTORIA ST	
GARCIA JOSE MARIA & YERNIA M	1141 LILLIUS ST	
BATCHELOR JESSE	1134 LILLIUS ST	
CRUZ OLIVIA D CENICEROS	1150 LILLIUS ST	
CHAVEZ JESSE & TERRY S	1218 VICTORIA ST	
TURNBOW J G	1158 LILLIUS ST	
LOPEZ IGNACIO	1126 LILLIUS ST	
SEGURA BALDOMERO	1150 VICTORIA ST	
GARCIA SANTOS J JR	1210 VICTORIA ST	
ESTES DON W JR	1202 VICTORIA ST	
LOPEZ ELLA G	1133 LILLIUS ST	
HOWETH DANNY RAY	1225 LILLIUS ST	
PATTERSON EDGAR LEE	1218 LILLIUS ST	Opposed
RATLIF INVESTMENTS INC	1202 LILLIUS ST	
RODRIGUEZ FRANCISCO	1210 LILLIUS ST	
CORTEZ ETHEL M	1226 VICTORIA ST	
TAYLOR JOSEPH S	1217 LILLIUS ST	
DALZELL DAVID E	1201 LILLIUS ST	
GONZALES REYNALDO & LUPE	1166 LILLIUS ST	
CANNON HAROLD GREGORY	2041 N 12TH ST	
CASTILLO VIDAL	1142 VICTORIA ST	

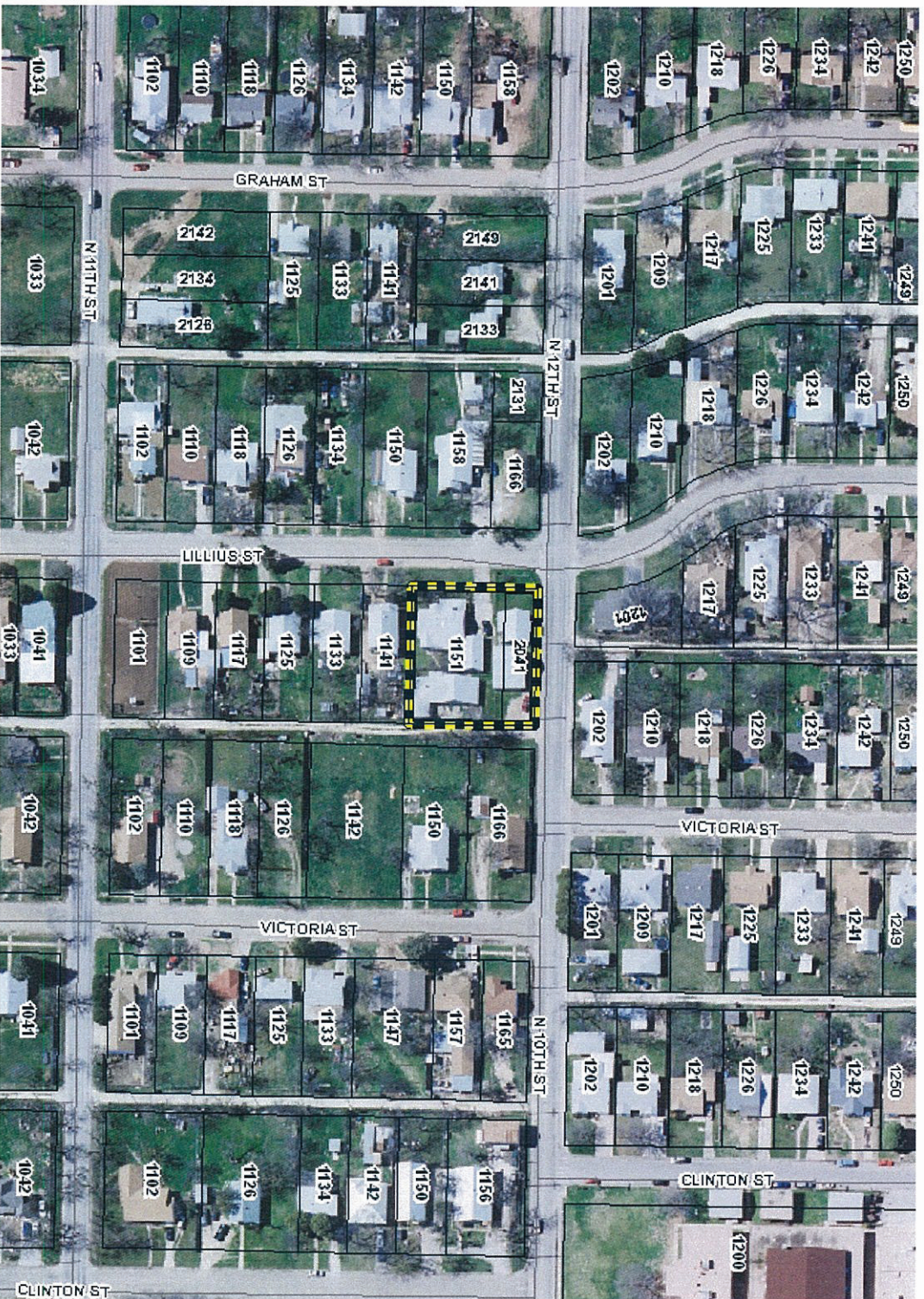
0 in Favor- **Y**
 1 Opposed- **N**

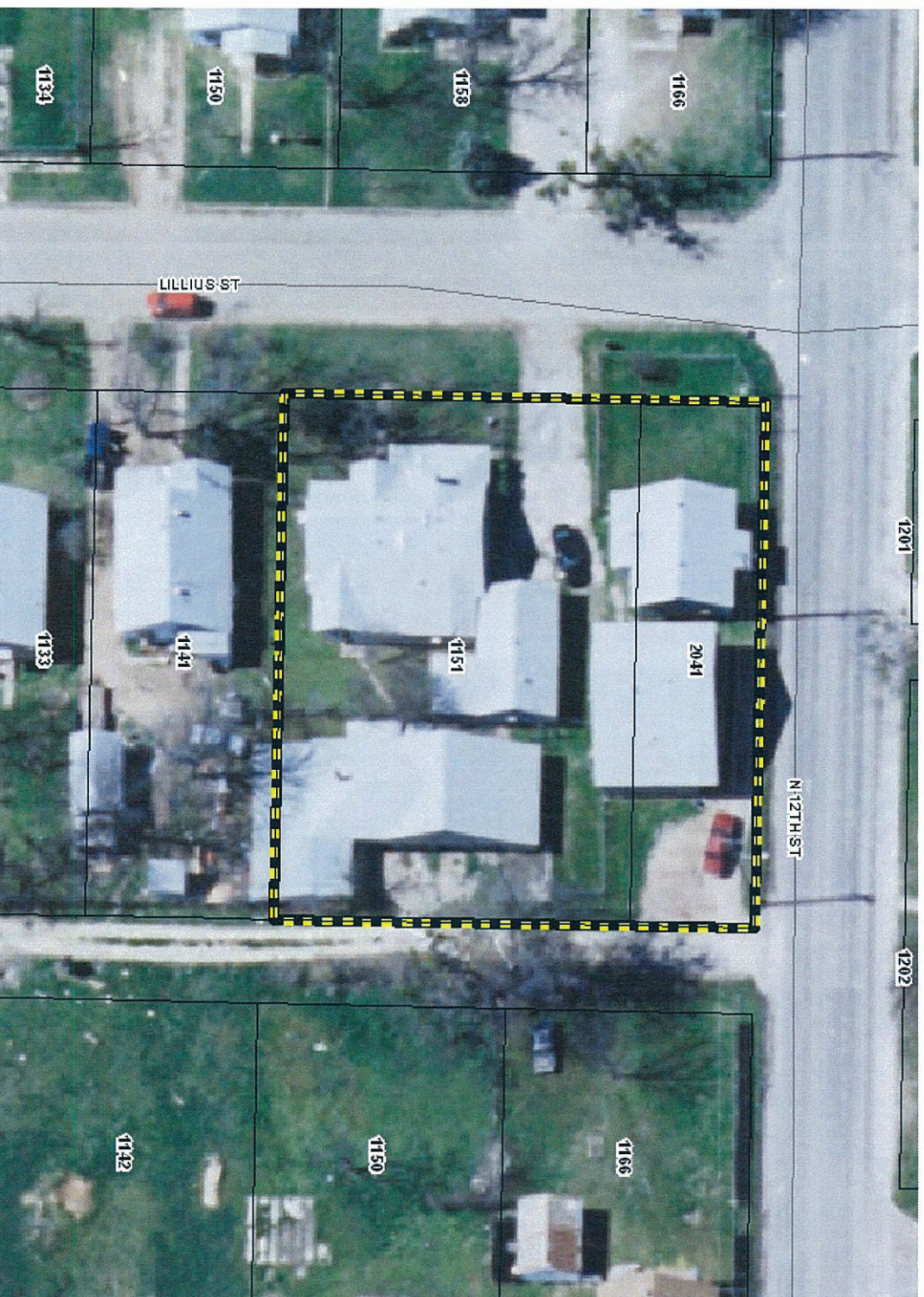


H. 2 pg. 6



H.2 pg. 4





Case # Z-2009-20
Updated: December 7, 2009

H. 2 p 9. 9

City Council
Agenda Memo



TO: Larry D. Gilley, City Manager

City Council
Meeting Date: January 14, 2010

FROM: Mike Hall, Director of Community Services

A handwritten signature in black ink, appearing to read "Mike Hall".

SUBJECT: Consideration of Amendment to Municipal Code Section 22-22(a)

GENERAL INFORMATION

Currently the Code of Municipal Ordinances, Chapter 22, Parks and Recreation, Section 22-2(a), states that "No person shall bring or carry or have in his possession within any public park in the city any intoxicating beverage." This provision effectively prohibits any fundraising events that might be held in a park setting from selling or offering alcoholic beverages as a part of their fundraising events. After study by a subcommittee of the Parks and Recreation Advisory Board it was recommended to the Parks and Recreation Advisory Board that City Council be asked to consider amending this section of the municipal code and Chapter 23.306.5 (H) (13) of the Zoning Ordinance to allow this use in specified locations with a permit from the Parks and Recreation Board. Subsequently the Municipal Golf Advisory Committee also recommended that the Zoning Ordinance Amendment include Golf Courses in addition to the three recommended park locations.

The Parks and Recreation Advisory Board also adopted Guidelines that they would use to accept or reject a request to sell beer and wine, only, in connection with a fundraising event by a non-profit organization. Those guidelines include use of a caterer licensed by the Texas Alcoholic Beverage Commission, restriction to the areas designated in the proposed code amendment, provision of adequate security, limited hours of operation, liability insurance, conformity to all other municipal codes that might apply to this use, and any other conditions the Board may feel appropriate or prudent in the specific instance being requested.

SPECIAL CONSIDERATIONS

The proposed amendment to the Municipal Code Section 22-22(a) and the proposed amendment to the Zoning Ordinance Chapter 23.306.5(H)(13) would both be required to allow this activity with a permit from the Parks and Recreation Advisory Board.

STAFF RECOMMENDATION

Staff recommends approval of the attached ordinance amendment.

BOARD OR COMMISSION RECOMMENDATION

The Parks and Recreation Advisory Board recommends approval

ATTACHMENTS

Ordinance

Parks and Recreation Board Guidelines for the Use and Sale of Alcoholic Beverages in Parks.

Prepared by:

Name: Mike Hall

Title: Director of Community Services

Disposition by City Council

- Approved Ord/Res# _____
 Denied
 Other

Item No. 1.3

City Secretary

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 22 SECTION 22-2 (A) OF THE CODE OF THE CITY OF ABILENE BY AMENDING THE SECTION AS SET OUT BELOW, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, Chapter 22 Section 22-2A of the Abilene Code of Ordinances prohibits the possession of alcohol within any city park, and

WHEREAS, the Parks and Recreation Advisory Board recommends that the ordinance be amended to allow alcohol pursuant to a permit process for non-profit fundraising events specific areas of Nelson Park,

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

PART 1: That Chapter 22, Section 22-2 (a) of the Code of Ordinances, City of Abilene, Texas, is hereby replaced as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

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

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

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

PASSED ON FIRST READING this 17th day of December, 2009.

11.3 pg. 2

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 13th day of December, 2009, 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 14th day of January, 2010, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

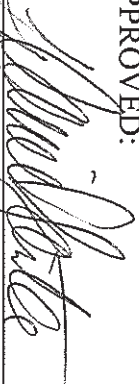
PASSED ON SECOND AND FINAL READING this 14th day of January, 2009.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:



CITY ATTORNEY

4.3 pg. 3

ORDINANCE NO. _____

EXHIBIT "A"

AMEND CHAPTER 22 SECTION 22-2(A)

CHANGE:

- (a) No person shall bring or carry or have in his possession within any public park in the City any intoxicating beverage unless said person is in attendance at a fund raising event and the Parks and Recreation Advisory Board has approved a permit for the event, limited to the following locations:
1. Ablilene Zoological Gardens within the perimeter fence or the Education Building only;
 2. Nelson Park Festival Gardens within the perimeter fence only; or
 3. Nelson Park Adult Softball Complex fields 1-4 within the perimeter fence only.

-END-

7.3 pg. 4

**Park and Recreation Board
Guidelines
For the Use and Sale of Alcoholic Beverages in Parks**

Abilene City Ordinance Section 22-22(a):

- (a) No person shall bring or carry, or have in his possession within any public park in the City any intoxicating beverage unless said person is in attendance at a fund raising event and the Parks and Recreation Board has approved a permit for the event, limited to the following locations:
1. Abilene Zoological Gardens within the perimeter fence or the Education Building only;
 2. Nelson Park Festival Gardens within the perimeter fence only; or
 3. Nelson Park Adult Softball Complex fields 1-4 within the perimeter fence only.

Community Services Administration Policy:

A permit for the sale of beer and wine only at any of the designated location by City Ordinance may be granted by the Parks and Recreation Board if the following conditions are met:

- a. Written notice of a request for permit to sell beer and wine only as part of a fund raising event is submitted by a non-profit organization not less than 90 days prior to the date that the event is to take place.
- b. Organizations requesting said permit must agree to use the services of a caterer licensed by the Texas Alcoholic Beverage Commission to sell beer and wine subject to all applicable rules and requirements established by the TABC.
- c. Both the non-profit sponsor and the licensed caterer must insure that no beer or wine sold under the terms of the permit will be allowed outside the permitted area.
- d. Security must be provided throughout the hours during which beer and wine may be sold. At a minimum, there must be at least one security person on site per 100 occupants in addition to the caterer's personnel. The Parks and Recreation Board may require additional security as a condition of permit issuance.
- e. Hours of operation are limited to the hours that the parks are open and in no event shall the sale of beer and wine occur between the hours of 12:01 a.m. and 5:30 a.m. when the parks are closed. Further hourly restrictions as imposed by the TABC must be complied with, should they be more restrictive.
- f. The applicant must agree to provide the types and terms of liability insurance or other insurance as deemed appropriate by the City of Abilene's Legal and Risk Management Departments for the size and type of event being conducted.
- g. The applicant must agree to abide by all applicable municipal codes and ordinances pertaining to the sale of alcohol including zoning, food

- service establishment, building or other codes. A permit from the Parks and Recreation Board for the purposes herein does not take the place of any other permits required under any other municipal code or ordinance, and the applicant must agree to secure the same prior to the event.
- h. The Parks and Recreation Board may impose other conditions which it deems appropriate or prudent as it pertains to the sale of beer and wine in the park.
 - i. Parks and Recreation Board may deny any permit for this activity if in its judgment the activity is inappropriate to the park setting or may conflict with other events in the park.
 - j. The decision of the Parks and Recreation Board shall be final.



**City Council
Agenda Memo**

City Council
Meeting Date: 1/14/2010

TO: Larry D. Gilley, City Manager
FROM: Jon James, AICP
Director of Planning and Development Services

SUBJECT: Final reading and public hearing on an Ordinance to amend regulations pertaining to "Liquor Store On-Premise Consumption" in the AO Zoning District.

GENERAL INFORMATION

Last year, the Taylor County Expo Center board voted unanimously to allow beer sales at a limited number of publicly ticketed events. However, upon review of the City's regulations, it was determined that the existing zoning for the expo center did not allow for the sale of alcohol.

The zoning on the Taylor County Expo Center property is AO (Agricultural Open Space). The use, "liquor store on-premise consumption", is not a permitted use within the AO zoning district.

Staff proposed an amendment to Section 23-306 in the Zoning Ordinance to allow the use of "liquor store on-premise consumption" within the AO zoning district with the condition that the sale of alcohol be accessory to the following uses: Drag Strip or Commercial Racing; Fairgrounds; Motorcycle Track; Rodeo Grounds; and Stadium. The amendment was approved by City Council on December 18, 2008.

Recently, the Parks & Recreation Board recommended a change to the previously approved amendment regarding alcohol in AO zoning adding the following uses to the list: zoo and park. The Municipal Golf Advisory Committee met after and recommended a change to include golf courses. The zoo and park uses would be restricted to events with a permit approved by the Parks and Recreation Advisory Board.

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendment.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommended approval of the amendment by a vote of five (5) in favor (Bixby, Glenn, Todd, Famble, and McClarty) to none (0) opposed.

ATTACHMENTS

Ordinance
Proposed Amendment to Chapter 22 Section 22-2(a)

Prepared by: Name: <u>Ben Bryner, AICP</u> Title: <u>Planning Services Manager</u> December 24, 2009	Item No. <u>714</u>	Disposition by City Council <input type="checkbox"/> Approved Ord/Res# _____ <input type="checkbox"/> Denied _____ <input type="checkbox"/> Other _____ City Secretary _____
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AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART E, "ZONING," 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 E, "Zoning," 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 Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.



PASSED ON FIRST READING this 17th day of December A.D. 2009.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 16th day of November, 2009, 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 14th day of January, 2010, 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 14th day of January, A.D. 2010.

ATTEST:

CITY SECRETARY

MAYOR
APPROVED: 
CITY ATTORNEY 

ORDINANCE NO. _____

EXHIBIT "A"

AMEND Section 23-306.5.H (f): Conditions for Liquor Store On-Premise Consumption

CHANGE: Add number items 7 through 9

- 23.306.5.H (f) (f) A liquor store shall be allowed within the AO zoning district accessory to the following uses only:
- (1) Amusement Facility (Temporary);
 - (2) Drag Strip or Commercial Racing;
 - (3) Fairgrounds;
 - (4) Motorcycle Track;
 - (5) Rodeo Grounds;
 - (6) Stadium;
 - (7) Golf Course;
 - (8) Zoo, limited to events permitted under City of Abilene Code of Ordinances Chapter 22, Section 22-2(a); and
 - (9) Parks, limited to events permitted under City of Abilene Code of Ordinances Chapter 22, Section 22-2(a).

-END-

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PROPOSED AMENDMENT TO CHAPTER 22 SECTION 22-2(a)

- (a) No person shall bring or carry, or have in his possession within any public park in the City any intoxicating beverage unless said person is in attendance at a fund raising event and the Parks and Recreation Advisory Board has approved a permit for the event, limited to the following locations:
1. Abilene Zoological Gardens within the perimeter fence or the Education Building only;
 2. Nelson Park Festival Gardens within the perimeter fence only; or
 3. Nelson Park Adult Softball Complex fields 1-4 within the perimeter fence only.