

City Council
Agenda Memo



City Council
Meeting Date: 9/12/2013

TO: Larry D. Gilley, City Manager

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

SUBJECT: Final reading and public hearing of an ordinance for Case No. Z-2013-25, a request from Jack Easterling to rezone property from RS-12 (Single-Family Residential) to PD (Planned Development) zoning for residential use, located at 4110 Concord Ct.

GENERAL INFORMATION

Currently the property is zoned RS-12 and is developed with an accessory building only. The applicant previously owned the property located adjacent to this lot at 4116 Concord Court as well, which has a house built on it. Since the 2 lots were under the same ownership, the applicant was allowed under the practices at that time to construct an 1199 sq. ft. accessory building on the adjacent lot located at 4110 Concord Court. The accessory building was built in 1990. It was considered an accessory building at the time and was allowed to be constructed at the 3' distance from the rear property line. The minimum rear building setback for a home in RS-12 zoning is 30'. The applicant has since sold the lot at 4116 Concord Ct with the primary structure/house on it. The applicant has since requested a water meter and is wishing to convert the accessory structure into a primary structure. A water meter cannot be issued as the structure does not meet the setback requirement. The Land Development Code also does not allow for accessory buildings on a lot without a primary structure, in this case a house. The applicant went to the Board of Adjustment seeking a variance to the 30' rear setback requirement. However, the variance was denied as the criteria for granting a variance was not met. The remaining options are to either construct a house on the property or rezone the property with allowance for a 3' rear setback. It appears that there is sufficient area to construct a primary structure on the lot without affecting the accessory structure.

The Future Land Use section of the Comprehensive Plan designates this general area as a low density residential. The requested zoning would maintain the single-family use which is compatible with the adjacent uses as well as the Comprehensive Plan.

STAFF RECOMMENDATION

Staff recommends **denial** based on the reduced setback and the ability to build a home that complies with the RS-12 standards.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Glenn, McClarty, Rosenbaum, Todd, Yungblut, and Famble) and none opposed.

ATTACHMENTS

Ordinance
Staff Report with Maps
Surrounding Property Owner Responses

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

August 30, 2013

Item No. 7.8

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, 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, 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 22nd day of August A.D. 2013.

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 19th day of July, 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 5:30 p.m., on the 12th day of September, 2013, 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 September, A.D. 2013.

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 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 (Residential Single Family) 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:

RICHLAND ACRES, BLOCK A, LOT 33 LESS 2,089 SQ FT.



ORDINANCE NO. _____

EXHIBIT "A"

PAGE 3

PART 6: Purpose. The purpose of the Planned Development (PD) request is to allow for residential development and related activities of a tract, which generally has not developed under present zoning and development procedures.

PART 7: Specific Modifications. This Planned Development shall be subject to the requirements of the RS-12 (Residential Single Family) zoning district, except as modified below.

A. SITE DEVELOPMENT

1. Building Setbacks:

- a. **Rear:** The minimum rear setback shall be 3 feet.

-END-

ZONING CASE Z-2013-25

STAFF REPORT



APPLICANT INFORMATION:

Jack Easterling

HEARING DATES:

Planning & Zoning Commission: August 5, 2013

City Council 1st Reading: August 22, 2013

City Council 2nd Reading: September 12, 2013

LOCATION:

4110 Concord Ct

REQUESTED ACTION:

RS-12 to PD zoning



SITE CHARACTERISTICS:

The subject parcel totals approximately 0.34 acres and is currently zoned RS-12 (Single-Family Residential). The subject property is currently developed with an accessory building only. The adjacent properties in all directions are zoned RS-12 and are developed with homes.

ZONING HISTORY:

The area was annexed in 1957 and zoned RS-12 sometime after.

ANALYSIS:

- Current Planning Analysis

Currently the property is zoned RS-12 and is developed with an accessory building only. The applicant previously owned the property located adjacent to this lot at 4116 Concord Court as well, which has a house built on it. Since the 2 lots were under the same ownership, the applicant was allowed under the practices at that time to construct an 1199 sq. ft. accessory building on the adjacent lot located at 4110 Concord Court. The accessory building was built in 1990. It was considered an accessory building at the time and was allowed to be constructed at the 3' distance from the rear property line. The minimum rear building setback for a home in RS-12 zoning is 30'. The applicant has since sold the lot at 4116 Concord Ct with the primary structure/house on it. The applicant has since requested a water meter and is wishing to convert the accessory structure into a primary structure. A water meter cannot be issued as the structure does not meet the setback requirement. The Land Development Code also does not allow for accessory buildings on a lot without a primary structure, in this case a house. The applicant went to the Board of Adjustment seeking a variance to the 30' rear setback requirement. However, the variance was denied as the criteria for granting a variance was not met. The remaining options are to either construct a house on the property or rezone the property with allowance for a 3' rear setback. It appears that there is sufficient area to construct a primary structure on the lot without affecting the accessory structure.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area as a low density residential. The requested zoning would maintain the single-family use which is compatible with the adjacent uses as well as the Comprehensive Plan.

PLANNING STAFF RECOMMENDATION:

Staff recommends denial based on the reduced setback and the ability to build a home that complies with the RS-12 standards.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

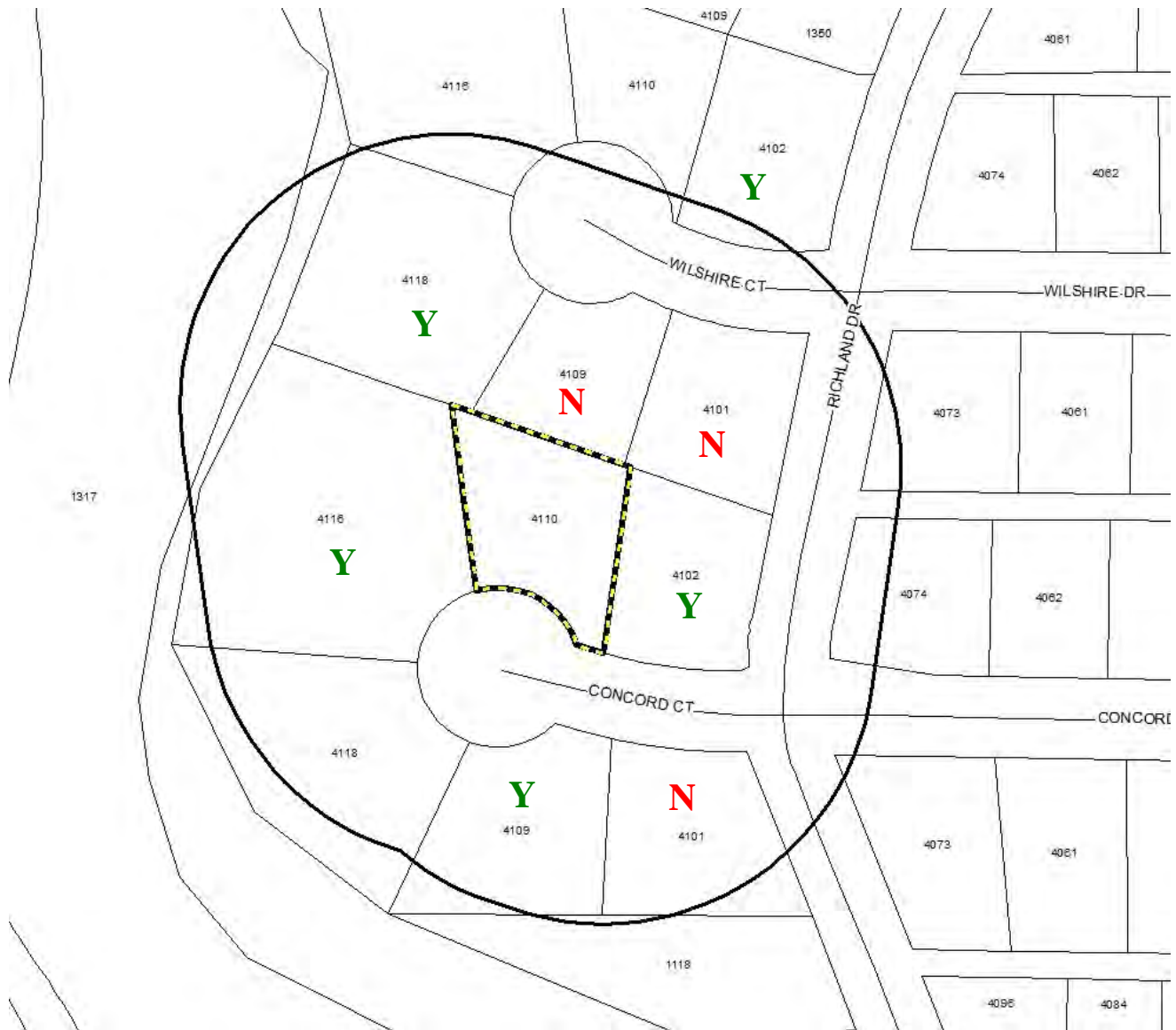
The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Glenn, McClarty, Rosenbaum, Todd, Yungblut, and Famble) and none opposed.

NOTIFICATION:

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

OWNER	ADDRESS	RESPONSE
NAYLOR FAMILY REV LIV TR	4074 CONCORD DR	
HIGHTOWER GEORGE A & LETICIA S	4073 WILSHIRE DR	
WILLIAMS LAWRENCE & SUSAN R	4109 WILSHIRE CT	Opposed
CITY OF ABILENE	1317 N PIONEER DR	
RICHARDSON CHARLES G & CHARLENE M	4102 CONCORD CT	In Favor
SCREWS CHARLES B	4116 WILSHIRE CT	
GREEN ROBERT E	4102 WILSHIRE CT	In Favor
CHANDLER TIMOTHY B & GINGER S	1118 RICHLAND DR	
WATERS OLIN B & LYNDLE P	4101 WILSHIRE CT	Opposed
CATINGTON WILLIE	4073 CONCORD DR	
NELSON DEAN A	4110 WILSHIRE CT	
SCOTT MAX E & DONNA L	4101 CONCORD CT	Opposed
JEWELL DIANA	4118 WILSHIRE CT	In Favor
STITES LOUIS D & MARY E	4109 CONCORD CT	In Favor
HICKERSON EDWARD L & KANDY L	4118 CONCORD CT	
MC BAIN WILLIAM R	4116 CONCORD CT	In Favor
EASTERLING JACK	4110 CONCORD CT	

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









For the PLANNING & ZONING COMMISSION
Please call at (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2013-25

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: WILLIAMS LAWRENCE & SUSAN R
Address: 4109 WILSHIRE CT

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

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

I am in favor

I am opposed

Additional Comments:

7/31/13 - This is the second request and we've reviewed
as still NO! The building was built under protest
originally, as a garden/pap shack. It was never meant
to be a single family dwelling. It is on our property line!
Susan Williams

For the PLANNING & ZONING COMMISSION

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

CASE #: Z-2013-25

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: RICHARDSON CHARLES G &
Address: 4102 CONCORD CT

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

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

I am in favor

I am opposed

Additional Comments:

Please make whatever changes are necessary to let Mr. Easterling have
a water meter at 4110. Mr. Easterling has gone to personal expense & work to improve
this property, both the building & the landscaping. Without a source of water this
property will lapse into ruin, and hurt all surrounding property values.
Charl Richardson
9/30/13