

**City Council
Agenda Memo**



**City Council
Meeting Date: 4/10/2014**

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 for Case No. Z-2014-06, a request from New Beginnings Church, agent Jonathan Neely, to rezone property from AO/COR (Agricultural Open Space/Corridor Overlay) to MX/COR (Mixed Use/Corridor Overlay) & RS-8 (Single-Family Residential) zoning, located at 5535 Buffalo Gap Rd.

GENERAL INFORMATION

Currently the property is zoned AO with Corridor Overlay and is developed with a church on the front portion of the property. The property to the north and east is zoned RS-8 and is developed as the Silver Oaks residential subdivision. The properties to the south are zoned AO & PD (Planned Development) and developed as residential, including the Fairway Oaks subdivision. The properties to the west are zoned RS-12/COR and is developed with residential uses. There are several churches mixed within the area. The requested MX zoning is to allow for incorporation of a “Day-Care Operation – Center Based” use at New Beginnings Church and would be for the western 500 feet of the property. In the MX district, “any nonresidential use over 5,000 square feet in floor area...shall require a Conditional Use Permit.” The City is recommending that the remainder of the property be rezoned to the RS-8 district to match the existing zoning of the other properties along Silver Oaks Dr.

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 limited retail & commercial uses, including a commercial day care use. The requested zoning would be compatible with the adjacent uses and the Comprehensive Plan.

STAFF RECOMMENDATION

Staff recommends approval as requested and the remaining portion of the property being rezoned to the RS-8 district.

BOARD OR COMMISSION RECOMMENDATION

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

ATTACHMENTS

Ordinance
Staff Report with Maps
Surrounding Property Owners Responses

Prepared by: Name: <u>Ben Bryner</u> Title: <u>Planning Services Manager</u> March 31, 2014	Item No. <u>7.2</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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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 27th day of March, 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 14th day of February, 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 10th day of April, 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 10th day of April, A.D. 2014.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT "A"

Rezone property from AO/COR (Agricultural Open Space/Corridor Overlay) to MX/COR (Mixed Use/Corridor Overlay) zoning.

Legal Description:

The west 500' of: APOSTOLIC UNITED PENTECOSTAL ADDN, BLOCK A, LOT W/PT OF 1, ACRES 5.275



Location:

The west 500' of 5535 Buffalo Gap Rd

-END-

For the PLANNING & ZONING COMMISSION

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

CASE #: Z-2014-06

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: FLENNIKEN BILLY W & CLYDENE
Address: 3350 SILVER OAKS DR

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:

*We need more good
Day Care Centers.*

B. W. Fleniken

For the PLANNING & ZONING COMMISSION

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

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Name: MC DOLE VIRGINIA
Address: 3641 HI-VU DR

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:

*Traffic in this area is already too
congested. Thank you,
Virginia J. McDole*

For the PLANNING & ZONING COMMISSION

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

CASE #: Z-2014-06

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: GREEN FAMILY TRUST &
Address: 46 AUGUSTA DR

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:

*I do not oppose the day care center,
but I do oppose the single family residential.
Robert Green Dr.*

ZONING CASE Z-2014-06

STAFF REPORT



APPLICANT INFORMATION:

New Beginnings Church
Agent: Jonathan Neely

HEARING DATES:

Planning & Zoning Commission: March 3, 2014
City Council 1st Reading: March 27, 2014
City Council 2nd Reading: April 10, 2014

LOCATION:

5535 Buffalo Gap Rd

REQUESTED ACTION:

AO/COR (Agricultural Open Space/Corridor Overlay) to MX/COR (Mixed Use/Corridor Overlay) & RS-8 (Single-Family Residential) zoning



SITE CHARACTERISTICS:

The subject parcel totals approximately 5.275 acres. The property is currently zoned AO & AO/COR and is developed with a church on the front portion of the property.

ZONING HISTORY:

The area was annexed in 1963 and zoned AO at that time. The Buffalo Gap Corridor Overlay was approved in 1995.

ANALYSIS:

• Current Planning Analysis

Currently the property is zoned AO with Corridor Overlay and is developed with a church on the front portion of the property. The property to the north and east is zoned RS-8 and is developed as the Silver Oaks residential subdivision. The properties to the south are zoned AO & PD (Planned Development) and developed as residential, including the Fairway Oaks subdivision. The properties to the west are zoned RS-12/COR and is developed with residential uses. There are several churches mixed within the area. The requested MX zoning is to allow for incorporation of a "Day-Care Operation – Center Based" use at New Beginnings Church and would be for the western 500 feet of the property. In the MX district, "any nonresidential use over 5,000 square feet in floor area...shall require a Conditional Use Permit." The City is recommending that the remainder of the property be rezoned to the RS-8 district to match the existing zoning of the other properties along Silver Oaks Dr.

• 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 limited retail & commercial uses,

including a commercial day care use. The requested zoning would be compatible with the adjacent uses and the Comprehensive Plan.

PLANNING STAFF RECOMMENDATION:

Staff recommends approval as requested and the remaining portion of the property being rezoned to the RS-8 district.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

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

NOTIFICATION:

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

OWNER	ADDRESS	RESPONSE
GAUCH TIMOTHY	5526 BUFFALO GAP RD	
OAKES ARMANDO MICHAEL & DIANA L	3417 WHITE OAKS DR	
KELLY STEVEN K	3426 SILVER OAKS DR	
MYERS ROBERT I & SHELBY A	3402 SILVER OAKS DR	
PRESTON MATTHEW T & SHONA S		
WICKER HAROLD D	3602 HI-VU DR	
JONES LEON D & DELIGHT A	10 MERION	
CHURCHMAN TRAVIS B & LACRETIA J	3341 WHITE OAKS DR	
FLENNIKEN BILLY W & CLYDENE	3350 SILVER OAKS DR	In Favor
KRAUSE MITCHELL & CHRISTINE	3510 SILVER OAKS DR	
REEDY BIRDIE MATTHEWS	60 AUGUSTA DR	
PAYNE KENT L & CARLA	3418 SILVER OAKS DR	
SUBIC NILES M & KERENSA E	3410 SILVER OAKS DR	Opposed
SMITH ROBERT F JR & SHELIA	5618 BUFFALO GAP RD	
GIBSON RUSSELL G & SUE ANN	5619 BUFFALO GAP RD	
COLTON CRAIG A & HWA CHA	3502 SILVER OAKS DR	
SMITH STEWART C & CHARLOTTE R	3401 WHITE OAKS DR	
MAGUIRE ANDREW JAMES	3349 SILVER OAKS DR	
SMITH DONALD R & EDNA B	3518 SILVER OAKS DR	
MC DOLE VIRGINIA	3641 HI-VU DR	Opposed
GALLAGHER JAMES P & SONIA C	5609 BUFFALO GAP RD	
GILLIT RANDY E & CATHY	3350 WHITE OAKS DR	
PHelps SHARON M LAMONTAGNE	3425 WHITE OAKS DR	
ZEGADA LUIS F	3450 SILVER OAKS DR	
ALABDULLAH MUSAAB & NARJES ALAZARGANI	3434 SILVER OAKS DR	
LETH KELLY & MICHELLE MC CARTHY	3542 SILVER OAKS DR	
RIVERS AMUNDA S	3526 SILVER OAKS DR	
WYLIE DIANAN DAWN	42 AUGUSTA DR	
COCO MALCOLM & JUSTY	50 AUGUSTA DR	
GREEN FAMILY TRUST & JOHAN GREEN	46 AUGUSTA DR	Opposed
ALDRIDGE JOSEPH M	48 AUGUSTA DR	
HIBBS JORDAN S & KATHRYN J	54 AUGUSTA DR	

LAW THOMAS L & KIMBERLY A	44 AUGUSTA DR	
NEW BEGINNINGS UNITED PENTECOSTAL CHURCH		
CROSS JAMES MICHAEL & DANNA GAY	52 AUGUSTA DR	
WITEMEYER WAYNE D & HILDA H	56 AUGUSTA DR	
HAAG HARRIETT L	38 AUGUSTA DR	
PRESTON MATTHEW T & SHONA S	40 AUGUSTA DR	
APOSTOLIC UNITED PENTECOSTAL CHURCH	5535 BUFFALO GAP RD	
HAWKS WES & SHERRY	3409 WHITE OAKS DR	
HVIDT ROBERT A & SHARON L	3442 SILVER OAKS DR	
WHITAKER WILLIAM M & MARTHA K	8 MERION	
JACOBS STEPHEN C & MELISSA K	3534 SILVER OAKS DR	
WITEMEYER WESLEY D	58 AUGUSTA DR	

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







