

City Council
Agenda Memo



City Council
Meeting Date: 11/06/2014

TO: David A. Vela, Interim City Manager

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

SUBJECT: APPEALED ITEM - Final reading and public hearing on an ordinance for Case No. Z-2014-44, a request from Caleb Ensor, to rezone property from RS-8 (Single-Family Residential) to NR (Neighborhood Retail) zoning, located at 2126 Campus Ct.

GENERAL INFORMATION

Currently the property is zoned RS-8 and is developed with a home. The surrounding area is developed generally with residential uses to the north, south, & west. The property across Campus Ct to the east is Abilene Christian University. Campus Ct is designated as a 'collector' street. The applicant is requesting the NR zoning for development of a neighborhood retail store, such as a coffee shop. Staff has concerns about the traffic that the potential uses would generate. Typically, retail zoning would be located at intersections or in nodes designated for retail/commercial activity. However being adjacent to the university, this neighborhood has a greater pedestrian population as students walk to and from school. This property is oriented toward Campus Ct. An alley separates it from the adjacent lot to the west. Additionally, there are other properties with similar uses further south on Campus Ct.

The Future Land Use section of the Comprehensive Plan designates this area as 'low-density residential'. The general area on the west side of Campus Ct is developed with single-family homes. Abilene Christian University exists to the east across Campus Ct. This area has seen some mixed-use development on properties further south.

When a written protest against the amendment is signed by the owners of twenty percent (20%) or more of either the area of the lots or land covered by the proposed change, or the area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred feet (200') from that area, a zoning amendment shall not become effective except by the favorable vote of three fourths of all members of the City Council. The opposition from the surrounding property owners equals approximately 58%; therefore, a super-majority vote is required for this item.

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends denial by a vote of 6 in favor (Bixby, Calk, Ellinger, McClarty, Rosenbaum, & Famble) and none opposed.

ATTACHMENTS

- Appeal Letter
- Ordinance
- Staff Report with Maps
- Surrounding Property Owner Responses

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

October 27, 2014

Item No. 7.2

Disposition by City Council

- Approved Ord/Res# _____
- Denied _____
- Other _____

City Secretary

10/16/14

CITY OF ABILENE

To whom it may concern,

I would like to appeal the rezoning decision regarding 2126 Campus Court from residential to neighborhood retail. Thank you for your consideration.

Sincerely,



Caleb Ensor

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 23rd 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 19th 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 a.m., on the 6th 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 6th day of November, A.D. 2014.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT "A"

Rezone property from RS-8 (Single-Family Residential) to NR (Neighborhood Retail) zoning.

Legal Description:

ABILENE HEIGHTS, BLOCK 62, LOT 10



Location:
2126 Campus Ct

-END-

10/16/14

City of Abilene

To whom it may concern,

I kindly request for a delay in the meeting regarding the rezoning decision on 2126 Campus Court. I ask that you please table for a later meeting in December 2014 or January 2015. Thank you for your consideration and I look forward to hearing from you soon.

Sincerely,

A handwritten signature in blue ink, appearing to read "Caleb Ensor". The signature is fluid and cursive, with the first name "Caleb" being larger and more prominent than the last name "Ensor".

Caleb Ensor

ZONING CASE Z-2014-44

STAFF REPORT



APPLICANT INFORMATION:

Caleb Ensor

HEARING DATES:

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

LOCATION:

2126 Campus Ct

REQUESTED ACTION:

Rezone property from RS-8 (Single-Family Residential) to NR (Neighborhood Retail) zoning



SITE CHARACTERISTICS:

The subject parcel totals approximately 0.24 acres and is currently zoned RS-8. The adjacent properties are zoned RS-8 to the north, south, and west. The property to the east is Abilene Christian University and is zoned CU (College University).

ZONING HISTORY:

The property was annexed in 1952 and was zoned RS-8 at that time.

ANALYSIS:

- Current Planning Analysis

Currently the property is zoned RS-8 and is developed with a home. The surrounding area is developed generally with residential uses to the north, south, & west. The property across Campus Ct to the east is Abilene Christian University. Campus Ct is designated as a 'collector' street. The applicant is requesting the NR zoning for development of a neighborhood retail store, such as a coffee shop. Staff has concerns about the traffic that the potential uses would generate. Typically, retail zoning would be located at intersections or in nodes designated for retail/commercial activity. However being adjacent to the university, this neighborhood has a greater pedestrian population as students walk to and from school. This property is oriented toward Campus Ct. An alley separates it from the adjacent lot to the west. Additionally, there are other properties with similar uses further south on Campus Ct.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this area as 'low-density residential'. The general area on the west side of Campus Ct is developed with single-family homes. Abilene Christian University exists to the east across Campus Ct. This area has seen some mixed-use development on properties further south.

PLANNING STAFF RECOMMENDATION:

Staff recommends approval.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommends denial by a vote of 6 in favor (Bixby, Calk, Ellinger, McClarty, Rosenbaum, & Famble) and none opposed.

NOTIFICATION:

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

OWNER	ADDRESS	RESPONSE
CLIFFORD PATRICIA RUTH	649 EN 22ND ST	
CHILDERS JEFFERY W & LINDA D	665 EN 22ND ST	Opposed
PALMER PHILIP D & ELAINE	650 EN 21ST ST	Opposed
HAMBY ELEANOR RUTH	658 EN 21ST ST	Opposed
STRADER REBECCA W	650 EN 22ND ST	Opposed
SCUDDER JAMES M & MANDY	658 EN 22ND ST	Opposed
ABILENE CHRISTIAN UNIVERSITY	666 EN 21ST ST	Opposed
OLIVER WM GARY & DEBORAH S	657 EN 22ND ST	Opposed
HARDEGREE ERIC L & ROBBIN L	666 EN 22ND ST	Opposed
ABILENE CHRISTIAN UNIV	2118 CAMPUS CT	Opposed
REED THOMAS & LISA W & REED SHAYLI	2210 CAMPUS CT	Opposed
ENSOR CALEB	2126 CAMPUS CT	In Favor
ABILENE CHRISTIAN UNIV	1600 CAMPUS CT	Opposed
CAMPUS COURT PARTNERSHIP	2110 CAMPUS CT	
G & H LEWIS HOLDINGS LTD	2102 CAMPUS CT	
SP RENTALS LLC	2202 CAMPUS CT	Opposed

1 in Favor- **Y**
 15 Opposed- **N** (2 outside 200')









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: ABILENE CHRISTIAN UNIV
Address: 2118 CAMPUS 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:

ACU is concerned that this potential rezoning will hurt the residential neighborhood due to lack of parking, increased traffic, increased noise and lighting at night. In addition, it appears that the zoning code of NR could allow a liquor store in this location, which would be undesirable.

CASE #: Z-2014-44

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Name: ABILENE CHRISTIAN UNIV
Address: 1600 CAMPUS 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:

ACU is concerned that this potential rezoning will hurt the residential neighborhood due to lack of parking, increased traffic, increased noise and lighting at night. In addition, it appears that the zoning code of NR could allow a liquor store in this location, which would be undesirable.

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Name: ABILENE CHRISTIAN UNIVERSITY
Address: 666 EN 21ST ST

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:

ACU is concerned that this potential rezoning will hurt the residential neighborhood due to lack of parking, increased traffic, increased noise and lighting at night. In addition, it appears that the zoning code of NR could allow a liquor store in this location, which would be undesirable.

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Name: SCUDDER JAMES M & MANDY
Address: 658 EN 22ND ST

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:

① If he'd like to open a coffee shop, he should purchase Bitsy's Flowers.

② Parking is a major issue on the corner of Campus Court and E.N. 22nd Street, blocking school buses and Citylink.

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Name: SUSAN PIGEON 2200 Campus Ct
Address: 4 CYPRESS POINT ABILENE, TX 79606

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:

SP RENTALS, L.L.C.
Susan Pigeon

Gardening concerns - unknown of what future business will be there? RETAIL

Safety - for cars + walkers -

where do people park?? TO much unknown

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Name: Norma Jean DuBose
Address: 642 E.N. 21ST - Ab, TX 79601

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 believe this would cause too much extra traffic, as well as take extra parking spaces. This area is already heavily travel and home owners in that area will be overrun with too many extra cars, etc. Please consider these long time home owners + oppose this request.

Norma A. DuBose

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Name: OLIVER WM GARY &
Address: 657 EN 22ND ST

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 are concerned about property devaluation, noise parking and safety. Cars parked on Campus Ct near the corner of 6th St make getting out onto Campus Ct. dangerous

Wm Gary Oliver Deborah S. Oliver 10/1/2014

You may attach additional sheets if needed below. All correspondence must include your name and address.

Name: CHILDERS JEFF
Address: 665 EN 22ND ST

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:

The noise, business activity, and traffic would be detrimental to surrounding residences and the neighborhood. Tight spacing around the limited, T-intersection means that additional activity and parking would further limit visibility, disrupt pedestrians, and affect safety in the area. *Jeff Childers*
Linda Childers

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Name: HARDEGREE ERIC L & ROBBIN L
Address: 666 EN 22ND ST

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 have several concerns:
1) The streets in our neighborhood are not suitable to handle the amount of traffic that would be generated. There is not sufficient parking space, nor is the width of the street wide enough to permit two-way traffic when cars are parked on both sides.
2) People of all ages walk, jog and ride bikes up and down our street. The parking problems and excess traffic would pose a danger and increased potential for accidents.
3) Our property values would decrease.
4) This venue would generate loud music, which would be unwelcome to those who would be forced to listen to it. We ask that this request be refused.

For the PLANNING & ZONING COMMISSION

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

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Name: PALMER PHILIP D & ELAINE

Address: 650 EN 21ST ST

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:

Philip D Palmer
650 EN 21st

For the PLANNING & ZONING COMMISSION

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

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Name: ENSOR CALEB
Address: 2126 CAMPUS 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

Bryner, Ben

From: Reports, Planning
Sent: Monday, October 13, 2014 1:11 PM
To: Bryner, Ben
Subject: FW: Rezoning Application Number Z-2014-44

-----Original Message-----

From: D&T Agnew [mailto:txconchfr@sbcglobal.net]
Sent: Thursday, October 2, 2014 3:02 PM
To: Reports, Planning
Subject: Rezoning Application Number Z-2014-44

I am going to start by saying I am opposed to the rezoning of the house at 2126 Campus Ct. to Neighborhood Retail. I am a registered voter living three houses north at 2218 Campus Ct. I am also extremely angry that I did not receive notice of the rezoning application. How would YOU feel if a bar or smoke shop type of business was zoned THREE houses from your home and you were not notified that it was going to happen. To me, this is almost criminal and typically bureaucratic. We in this neighborhood were not notified what business is being planned. Rumors are that it is a coffee shop for ACU students. There is a coffee shop three blocks south in the dorm on Campus Ct. Ambler Blvd. is three blocks north and zoned for business and Judge Ely is one block east and zoned for business. Walmart and all kinds of businesses are one mile east down Hwy. 351. I would venture to say that almost every student has a car or a friend that does. I think that if you take one house from the neighborhood for business, then more will follow. Leave the neighborhood alone for families. I am not able to attend the meeting due to the short notice of the hearing and prior commitments but my neighbors know of this e-mail and I ask that it be read into the record. Again I say that I am strongly AGAINST this rezoning.

Bryner, Ben

From: Reports, Planning
Sent: Monday, October 13, 2014 1:11 PM
To: Bryner, Ben
Subject: FW: Z-2014-44

From: Thomas Reed [mailto:Thomas_Reed@booksarefun.com]
Sent: Friday, October 3, 2014 1:33 PM
To: Reports, Planning
Subject: Z-2014-44

I am opposed to case #Z-2014-44.

Thomas Reed
2210 Campus Ct.
Abilene, TX 79601

Thomas Reed
West Texas Books Are Fun
Sales Representative
806-626-1996

Shop online: booksarefun.com
My rep code is reedtc