

CITY COUNCIL MEETING
May 9th, 2013, at 8:30 a.m.

CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
COUNCIL CHAMBERS, CITY HALL

The City Council of the City of Abilene, Texas met in Regular Session on May 9th, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Archibald was present and presiding with Councilmen Shane Price, Joe Spano, Anthony Williams, Robert O. Briley, Stormy Higgins and Councilwoman Miller. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Councilman Spano gave the invocation.

Mayor Archibald introduced Skylar England she is a 5th grader at Lee Elementary School, and she led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

EMPLOYEE SERVICE AWARDS

Brian "Coke" Cokonougher	Sergeant II, Police	20 years
Jeff Bell	Police Officer, Patrol	20 years
Kevin Easley	Police Officer, Patrol	20 years
Gerald Moran	Lieutenant, Police	20 years
Doug Wrenn	Assistant Chief of Police	20 years
Frank Tucher	Firefighter, Tactical Operations	25 years
Steve Taylor	Fire Captain III, Tactical Operations	25 years
Billy Swanzy	Firefighter, Tactical Operations	25 years
Scott Riggins	Firefighter, Tactical Operations	25 years
Bryant Manning	Firefighter, Tactical Operations	25 years
Darrin Black	Firefighter, Tactical Operations	25 years
Jess Madison	Firefighter, Tactical Operations	25 years
Janet Whisenhunt	Supervisor II, Senior Citizens Services	25 years

PROCLAMATIONS

Mayor Archibald presented the following Proclamations:

May 6-12, 2013

National Nurses Week

Susie Cassle, Assistant Vice President of Nursing Hendrick Medical Center accepted the proclamation.

May 2013

National Bike Month

Elisa Smetana accepted the proclamation.

May 10, 2013

Provider Appreciation Day

Cynthia Pearson, Day Nursery of Abilene, accepted the proclamation.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the April 25th regular meeting there being no deletions, no additions, and no corrections. Councilman Williams made a motion to approve the minutes as presented. Councilman Spano seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins and Councilwoman Miller and Mayor Archibald

NAYS: None

CONSENT AGENDA

Councilman Briley made the motion to approve consent item 6.1 as recommended by staff. Councilwoman Miller seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins and Councilwoman Miller and Mayor Archibald

NAYS: None

Oral Resolution:

6.1 **Oral Resolution:** City Council authorized the City Manager to execute the Airside Engineering Services Contract with Garver for Abilene Regional Airport.

On April 25th, airport staff and an Airport Development Board member conducted interviews of three finalist engineering firms that responded to the City's Request for Qualifications for airside engineering services. The panel was impressed with each company's qualifications, but unanimously scored Garver highest. Garver and the City will enter into a contract for airside services to design and manage the airport's capital improvement projects funded by the Airport Improvement Program for a period of approximately five years. Garver has proposed to partner with two local engineering firms to provide various support and testing resources as part of this contract.

REGULAR ITEMS

7.1 Mayor Archibald stated that this item was TABLED from the April 25th meeting. Councilman Spano made the motion to remove this item from the TABLE and Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins and Councilwoman Miller and Mayor Archibald

NAYS: None

Mayor Archibald submitted a conflict of interest affidavit and stepped out of the chambers for the discussion of item 7.1. Mayor Pro-tem Higgins presided over the meeting.

Jon James Director of Planning and Development briefed the council on the Case #Z-2013-04 on a request from Valley Creek Investments, LLC, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) & RS-12 (Single-Family Residential) to RS-8 (Single-Family Residential), PH (Patio Home), & GR (General Retail) zoning, located at 902 ES 27th St.

The property is zoned AO & RS-12 and is undeveloped. The surrounding area is mostly developed with large single-family homes to the north & east. The homes to the east are large estate lots adjacent to Lytle Lake. The Abilene State School is located to the west.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The applicant is requesting a change to allow for single-family residential development, to include patio homes, on the majority of the property. The remaining area is planned for retail development. The residential components of the requested zoning would be compatible with the area as well as the Comprehensive Plan. Although located at the intersection of 2 arterial roads, the retail development is not compatible with the adjacent uses and residential character of the area.

Prior to the P&Z Commission meeting, the applicant amended his request to RS-8 & PH zoning (eliminating the GR zoning). The P&Z Commission voted to deny the request. More recently, the applicant has amended his request to rezone to RS-12 zoning for the entire property.

Original Request: Rezone property from AO & RS-12 to RS-8, PH, & GR

Revised Request #1: Rezone from AO & RS-12 to RS-8 & PH

Revised Request #2: Rezone from AO to RS-12

Revised Request #3: Rezone from AO & RS-12 to PD

Revised Request #4: Rezone from AO to RS-12

Location: 902 ES 27th St

Staff Recommendation: Approval

P&Z Recommendation: Denial of amended request #1 (5-0)

Council and Staff discussion included: 1) Developer Michael Pritchard visited with the council about his request to Zone the property to RS12; 2) deed restrictions as requested by homeowners in the Lytle area. The City can't enforce homeowner deed restrictions; 3) Plan Development; 4) fencing; 5) access points on to Oldham; 6) lot size; 7) super majority needed for a vote due to the opposition; and 7) house square footage.

Mayor Pro-tem Higgins opened the public hearing and the council heard from the following:

- Tony Conder – lives in the area, spoke on behalf of the request from the homeowners in the area and what they would like to see happen in the development.
- Frank Langley – Home Builders Assoc. oppose restrictions on the developer
- Rodney Goodman - discussed having deed restrictions
- Jack Ramsey – request same size lots as Lytle
- Larry Mayfield – against the size of homes being proposed
- Ronny Bryant – request a fence down Oldham to protect neighborhood
- Stan Egger County Commissioner – spoke of support for the developers
- Judy Harris Broker – spoke in support for Michael Pritchard
- Dale Morrison – home builder, talked about the added tax base for AISD. Discussed all aspects of the development.
- Jane Jones – wants the area to stay a good neighborhood
- Steve Savage – spoke for the development
- Jane Beard – talked about fencing in the area
- Dwight Kinard - King's Cross, concern for traffic in the area with the additional of adding another development with a small lot size.
- Rusty Beard – spoke on concern with the development do to lot size and the super majority needed to approve/disapproval of the item before council.

There being no one else present and desiring to be heard the public hearing was closed.

Councilman Williams made the motion to TABLE this Item so that the Developer and the homeowners in the area could work out details of a Plan Development Ordinance and the item will be brought back at the end of the Regular Agenda. Councilman Price seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Councilwoman Miller and Mayor Pro-tem Higgins.

NAYS: None

Council took a short break and then Mayor Archibald called the meeting back to order to resume the rest of the Regular Agenda.

7.2 Jon James Director of Planning and Development briefed the council on the Ordinance for Case **#Z-2013-09** a request from the City of Abilene to rezone property from LI (Light Industrial) to either the GC (General Commercial) or HC (Heavy Commercial) zoning, located along Industrial Blvd between Buffalo Gap Rd and S. Treadaway Blvd.

The City received 2 zoning change requests to rezone property from LI to GC at 2666 & 2701 Industrial Blvd. Industrial Blvd is transitioning into more of a commercial/retail area. Several properties have received a change of zoning recently and have prompted the City to review the zoning for the corridor. The scope of the zoning change requests has been enlarged to include the entire Industrial Blvd corridor between Buffalo Gap Rd and S. Treadaway Blvd. The surrounding area is developed generally with residential & school uses to the north and more traditional industrial uses to the south. Single-family residential homes exist to the north and west of the corridor.

The Future Land Use section of the Comprehensive Plan designates this general area for commercial activity. There are several different businesses operating along the corridor ranging from personal service, office, retail, and commercial uses. Industrial Blvd is transitioning into more of a commercial/retail area. The requested zoning would be compatible with the surrounding uses, and would be more appropriate with the development trends along Industrial Blvd.

Staff Recommendation

Staff recommends approval of GC & HC zoning.

Commission Recommendation

The Planning and Zoning Commission recommends approval as presented except removing 6 properties identified in the meeting by a vote of 6 in favor (Bixby, Glenn, McClarty, Todd, Yungblut, and Famble), and none opposed. One more request to exempt from the zone change has come in since the Planning and Zoning Commission meeting to bring the total to 7 requesting to be exempted.

Mayor Archibald opened the public hearing and there being no one present and desiring to be heard the public hearing was closed.

Councilman Higgins made the motion to approve the ordinance for Case **#Z-2013-09** a request from the City of Abilene to rezone property from LI (Light Industrial) to either the GC (General Commercial) or HC (Heavy Commercial) zoning, located along Industrial Blvd between Buffalo Gap Rd and S. Treadaway Blvd with the exception of the 7 exempt properties. Councilman Price seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald

NAYS: None

Ordinance **#15-2013**

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "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.

7.3 Jon James Director of Planning and Development Services, briefed the council on an Ordinance for Case **#TC-2013-03** on a request from Paceline Collision Center, Agent Charles Williamson, to abandon Central Drive, being a 60-foot right-of-way measuring approximately 220 feet west of S. Clack St.

The applicant is requesting to abandon the street right-of-way (ROW) to be able to utilize the area for expansion of his business. The business desires to add area to his lot for better circulation and temporary storage of vehicles being worked on. The street has not been fully improved and does not provide direct access for adjacent properties. The property to the west is a large, undeveloped property that has been acquired by the applicant. The applicant is requesting to abandon the street ROW in order to expand his business.

Plat Review Committee

The Plat Review Committee recommends approval of the requested street ROW closure with the following conditions:

1. Where existing utilities are located, the applicant is responsible for providing adequate easements for the maintenance of all utilities (60' utility easement) or the applicant will be responsible to move all of the utilities;
2. The applicant must replat within 12 months, at which time all issues regarding access to utilities and relocation of utilities will be resolved. The replat must not create any non-conforming lots.

Staff Recommendation

Staff recommends approval of the requested street ROW abandonment, with the conditions suggested by the Plat Review Committee.

Commission Recommendation

The Planning and Zoning Commission recommended approval per the conditions of the Plat Review Committee by a vote of six (6) in favor (Bixby, Glenn, McClarty, Todd, Yungblut, and Famble) and none (0) in opposition.

Mayor Archibald opened the public hearing and there being no one present and desiring to be heard the public hearing was closed.

Councilman Price made the motion to approve an Ordinance for Case **#TC-2013-03** a request from Paceline Collision Center, Agent Charles Williamson, to abandon Central Drive, being a 60-foot right-of-way measuring approximately 220 feet west of S. Clack St. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald

NAYS: None

Ordinance #16-2013

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF A PORTION OF PUBLIC RIGHT OF WAY; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH ABANDONMENT, AND CALLING A PUBLIC HEARING

7.4 Jon James Director of Planning and Development Services briefed the council on the final reading on the Ordinance to annex and establish zoning on approximately 55.88 acres of land located south of Beltway South (FM 707) and east of the Beltway Park Baptist Church property.

This item originated as a request from Tack Investments, agent David Todd, to have approximately 56 acres of land annexed south of Beltway South (FM 707). The proposed area is adjacent to the Beltway Park Baptist Church.

The proposed area is currently undeveloped with no utilities (water and sewer) and no public facilities to be maintained (streets, drainage facilities, etc.). Police and Fire services will be available. The proposed annexation would present no adverse service impacts to any of the services or facilities offered by the Community Services Department.

Section 2.4.2.1 (c) of the Land Development Code states, "From the time an annexation takes effect until action is completed to zone the land, the initial uses permitted on the annexed property shall be consistent with uses permitted within the AO, Agricultural Open Space, District." Therefore, zoning of any property that is annexed should be AO until such time that a property owner requests some other classification through the normal rezoning process.

Two public hearings were held in the month of March in which no one spoke in support or opposition to the request.

Staff Recommendation

Staff is recommending approval of the request.

Mayor Archibald opened the public hearing there being no one present and desiring to be heard the public hearing was closed.

Councilman Williams made the motion to approve the Ordinance to annex and establish zoning on approximately 55.88 acres of land located south of Beltway South (FM 707) and east of the Beltway Park Baptist Church property. Councilman Spano seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins and Councilwoman Miller and Mayor Archibald

NAYS: None

Ordinance #17-2013

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, PROVIDING FOR THE EXTENSION OF THE BOUNDARY LIMITS OF THE CITY OF ABILENE, TEXAS, AND THE ANNEXATION OF CERTAIN TERRITORY LYING ADJACENT AND CONTIGUOUS TO THE PRESENT BOUNDARY LIMITS OF THE CITY OF ABILENE.

7.5 Presentation: City of Abilene 5-Year Capital Improvements Program (CIP) 2013-2017. *Item pulled prior to the start of the meeting by Staff.*

Council took a recess and then reconvened. Mayor Pro-tem Higgins brought the meeting back to order.

7.1 Councilman Briley made the motion to remove this item off the TABLE. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins and Councilwoman Miller
NAYS: None

Jon James briefed the council on the discussion between the developer and the neighborhood who proposed the following:

1. Lot Area & House Size
 - a. For the first row of lots adjacent to Oldham Lane, the following shall apply:
 - i. Lot size: The minimum lot size shall be 125 feet wide and 147 feet deep.
 - ii. House size: The minimum size of a house (living space) shall be 2,300 square feet.
 - b. For the 2nd row of lots , the following shall apply:
 - i. Lot size: The minimum lot size shall be 120 feet wide and 147 feet deep.
 - ii. House size: The minimum size of a house (living space) shall be 2,300 square feet.
 - c. Within the remaining area of the property, the following shall apply:
 - i. Lot size: The minimum lot size shall comply with the RS-12 standards.
 - ii. House size: The minimum size of a house (living space) shall be 2,100 square feet
2. Fencing/Wall: An opaque cedar wood screening fence with masonry columns composed of stone or brick shall be required along the east and south boundary lines. The fence shall be a minimum 7 feet in height with columns being 6 to 18 inches taller. The columns shall be 30 inches square and spaced every 60 feet. There shall be a concrete footer, or 'mow strip', between columns. The fence along ES 27th Street shall extend from the right-of-way corner at Oldham Lane approximately 475 feet to the boundary of the tree-covered area in the southwest corner of the property.
3. Building Materials: All dwellings shall be constructed of stone, masonry, brick or of a glass building material usually used for outside wall construction to the extent of at least eighty-five percent (85%) of the area of the outside walls. Roofs shall be of a 30-year composition shingle construction or better.
4. Garages/Carports: All dwellings shall include garage space for a minimum of two cars. The garage doors of any house or residence within the subdivision must open to the side or rear of the house. No carports shall be allowed within the subdivision.
5. Block Length: The maximum block length allowed shall be 1,500 feet.
6. Street Connectivity: Only one street shall be allowed to intersect onto Oldham Lane.
7. Homeowners Association: The developer(s) of residential subdivisions within this PDD must create a homeowners association with mandatory participation by lot owners and homeowners within. Adequate documentation confirming the creation of the homeowners association shall be required before any final plat is approved within this area.

Mayor Pro-tem Higgins opened the public hearing and there being no one present and desiring to be heard the public hearing was closed.

Councilman Briley made the motion to approve the Case **#Z-2013-04** a request from Valley Creek Investments, LLC, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) & RS-12 (Single-Family Residential) to a Planned Development with the above stated section 1-7. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins and Councilwoman Miller
NAYS: None

Ordinance **#18-2013**

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-139 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

EXECUTIVE SESSION

Mayor Pro-tem Higgins recessed the Council into Executive Session 1:06 p.m. pursuant to Sections 551.071, 551.074, 551.072 and 551.087 of the Open Meetings Act, to seek the advice of the City Attorney with respect to pending and contemplated litigation, to consider the appointment and evaluation of public officers, to consider the purchase, exchange, lease or value of real property, and to discuss contemplated business prospects and or economic development matters. Councilwoman Miller left during executive session and Councilman Williams and Spano left before council reconvened.

The Council reconvened with Councilman Higgins, Price, Briley and Mayor Archibald from Executive Session at 2:36 p.m. and reported no votes or action was taken in Executive Session in regards to Section 551.072 Real Property and 551.087 Business Prospect/Economic Development.

There being no further business the meeting was adjourned at 2:36 p.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor